

ENROLLMENT REGULATIONS

Regulation # R200-01:EC-04

Chapter 4. Processing Children's Protection Code and Juvenile Code Cases

Section 1. Purpose; Authority.

1-1. *Authority.* In accordance with Articles VI and XI of the Enrollment Ordinance, # 04-200-01, the Enrollment Commission hereby promulgates these rules for processing applications that involve children who may be eligible for enrollment and fall under the Indian Child Welfare Act (ICWA) of 1978, the Michigan Family Preservation Act (MIFPA) of 2012, the Children's Protection Code, Ordinance # 98-900-01, and the Juvenile Code, Ordinance # 99-900-02.

1-2. *Findings.* The Enrollment Commission recognizes that there is no resource that is more vital to the continued existence and integrity of Tribe than its children. Oftentimes, Tribal children and parents are not enrolled and Tribal families are broken up by the removal of their children by non-tribal public and private agencies.

1-3. *Purposes.* The purposes of this regulation are to govern verifications of enrollment and processing applications for enrollment of children who may be eligible for enrollment in the Little River Band of Ottawa Indians and who fall under ICWA, MIFPA, the Children's Protection Code, or Juvenile Code proceedings and if eligible, process the applications of the children's parent(s), guardian(s), or other persons having custody.

Section 2. Definitions.

2-1. *General.* For purposes of this Chapter, certain terms are defined in this section. The word shall is always mandatory and not merely advisory.

2-2. *Child custody proceeding.* Pursuant to ICWA and MIFPA, as amended, child custody proceeding shall mean and include the following:

- a. Foster care placement shall mean any action removing an Indian child from its parents or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;
- b. Termination of parental rights shall mean any action resulting in the termination of the parent-child relationship;
- c. Pre-adoptive placement shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and
- d. Adoptive placement shall mean the permanent placement of an Indian child for

adoption, including any action resulting in a final decree of adoption.

2-3. *Juvenile Code Proceedings.* Juvenile Code proceedings involve all cases that occur within the nine (9) county area involving status and non-status offenses alleged to have been committed by a Tribal member who is a minor.

2-4. *Children's Protection Code Proceedings.* Children's Protection Code proceedings involve all cases included in Articles V of the Children's Protection Code.

Section 3. Enrollment Verifications.

3-1. *Proceedings covered.* This Chapter shall apply to children who are involved or about to become involved in child custody proceedings pursuant to ICWA, MIFPA, the Children's Protection Code, and juvenile proceedings as defined in the Juvenile Code who may be eligible for enrollment as a member of the Little River Band of Ottawa Indians.

3-2. *Requests.* If there is reason to believe that a child is involved in a proceeding that may be a member of this Tribe, the Tribal Prosecutor's Office or the Tribal Family Services Department may submit a request to determine if a child is an enrolled member or eligible for membership in the Tribe. Any requests made by an outside agency or court shall be referred to the Prosecutor's Office. All such requests shall be forwarded to the Enrollment Department and shall state:

- a. The child's name and date of birth;
- b. The Indian parent(s) name and date of birth; and
- c. Any other information regarding the child's Indian ancestry.

3-3. *Verification.* The Enrollment Coordinator shall immediately verify whether the child is an enrolled member of the Tribe or if the child is eligible for membership. The information must also include verification of the tribal member parent.

3-4. *Forwarding Information.* The Enrollment Coordinator shall send a statement to the person who requested the information immediately following the Enrollment Coordinator's verification. This statement shall include:

- a. If the child is an enrolled member of the Tribe, a certification of the enrollment number of the child;
- b. If the child is eligible to enroll as a member of the Tribe, a certification that the child is eligible for enrollment in the Tribe;
- c. If the child is not an enrolled member of the Tribe and if the child is not eligible for membership in the Tribe, then a letter informing the agency or office of the child's status; or

- d. If the child is not an enrolled member of the Tribe and if there is not enough genealogical information provided at that time to determine if the child is eligible for enrollment, then a letter informing the agency or office that there is not enough genealogical information to determine enrollment eligibility.

Section 4. Requests and Processing Applications.

4-1. *Processing Applications.* In the event that the Enrollment Coordinator determines that the child is not an enrolled member of the Tribe, but is eligible for membership, it shall automatically be presumed that the request is to provide an enrollment application for the child. The Enrollment Coordinator shall prioritize applications that fall under this regulation and process the application as soon as possible. If information is missing, the Enrollment Coordinator shall make every effort to obtain the necessary information to process the application.

4-2. *Enrollment Commission Presentation.* At the next regularly scheduled meeting of the Enrollment Commission, the Enrollment Coordinator shall present the child's application for the Enrollment Commission to review and approve or deny membership in the Tribe. If the application is not complete, the Enrollment Coordinator shall inform the Enrollment Commission that a request has been filed under this regulation, the status of the enrollment application, and when the completed application will be presented to the Enrollment Commission.

4-3. *Forwarding Information.* The Enrollment Coordinator shall send a statement to the person who requested the information immediately following the Enrollment Commission meeting in which the decision regarding the application was made. This statement shall include:

- a. If the child is an enrolled member of the Tribe, a certification of the enrollment number of the child;
- b. If the child is eligible to enroll as a member of the Tribe, a certification that the child is eligible for enrollment in the Tribe;
- c. If the child is not an enrolled member of the Tribe and if the child is not eligible for membership in the Tribe, then a letter informing the agency or office of the child's status; or
- d. If the child is not an enrolled member of the Tribe and if there is not enough genealogical information provided at that time to determine if the child is eligible for enrollment, then a letter informing the agency or office that there is not enough genealogical information to determine enrollment eligibility.

Section 5. Adoption; Amendment; Repeal.

5-1. *Adoption.* This Chapter is approved by the Enrollment Commission on July 24, 2002, and approved by the Tribal Council on July 31, 2002 by adoption of resolution # 02-0731-03.

5-2. *Amendment.* This regulation may be amended by the Enrollment Commission in accordance with the Constitution and any rules set forth governing amendment of regulations of the Little

River Band of Ottawa Indians. Provided that, any amendments must approved or adopted in the same manner as set forth in section 5-1.

5-3. *Severability Clause.* If any provision of this regulation or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are severable.

5-4. *Compliance.* In regards to compliance with this regulation, substantial compliance with the spirit of this regulation rather than complete compliance is acceptable.

5-5. *Sovereign Immunity.* Nothing in this Regulation shall provide or be interpreted to provide a waiver of sovereign immunity from suit of the Tribe or any of its governmental officers and/or agents.

5-6. *Effective Date.* This Regulation shall take effect upon approval by Tribal Council.