

0785
COMMISSION OF INDIAN AFFAIRS

**RULES
OF
THE TENNESSEE COMMISSION OF INDIAN AFFAIRS**

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ADMINISTRATIVE HISTORY

Original chapter 0785—1 filed July 3, 1990; effective August 17, 1990.

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**CHAPTER 0785—1
RECOGNITION CRITERIA FOR NATIVE AMERICAN INDIANS**

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0785—1—.01 DEFINITIONS. The following definitions shall apply to these regulations:

- (1) “Commission” means the Tennessee Commission of Indian Affairs.
- (2) “State” means the state of Tennessee.
- (3) “Enrollment” means being recognized as a Native American Indian by the state of Tennessee.
- (4) “Roll” means the official list of recognized Native American individuals in Tennessee.
- (5) “Disabled person” means any person determined to be in need of partial or full supervision, protection, and assistance by reason of mental illness, physical illness or injury, advanced age, developmental disability or other mental or physical incapacity.

Authority: T.C.A. §4-34-103. *Administrative History:* Original rule filed July 3, 1990; effective August 17, 1990.

0785—1—.02 PURPOSE. To establish criteria and procedures to provide for legal recognition by the state of Tennessee of Native American Indians presently existing in Tennessee.

Authority: T.C.A. §4-34-103. *Administrative History:* Original rule filed July 3, 1990; effective August 17, 1990.

0785—1—.03 RECOGNITION CRITERIA FOR NATIVE AMERICAN INDIAN NATIONS, TRIBES, OR BANDS.

- (1) The petitioning group has been identified on a substantially continuous basis as Native American Indians throughout the history of their race; and
- (2) A substantial portion of the petitioning group inhabits a particular geographic area or lives in a community viewed as Native American Indian and distinct from all other populations in the geographic area, and that its members are descendants of an Indian tribe which has historically inhabited the same geographic area; and
- (3) The petitioning group has maintained tribal political influence or other authority over its members, or is able to demonstrate their existence as a continuous, distinct cultural entity capable of self-regulation, throughout their history until the present; and
- (4) A copy of the group’s present governing document is provided and/or a statement describing in full the membership criteria and the procedures through which the group governs its affairs and members; and

(Rule 0785—1—.03, continued)

- (5) A list of all known current members of the group and a copy of any available list of former members, based on the tribe’s own defined criteria, shall be submitted. The membership must consist of individuals who have established descendency from a tribe that existed historically; and
- (6) The membership of the group is composed principally of persons who are not members of any other North American Indian tribe.

Authority: T.C.A. §4-34-103. **Administrative History:** Original rule filed July 3, 1990; effective August 17, 1990.

0785—1—.04 RECOGNITION CRITERIA FOR NATIVE AMERICAN INDIAN ORGANIZATIONS.

- (1) The petitioning group shall have as its primary purpose the promotion of education, economic, or social advancement or self-sufficiency of Native American Indians, and as a secondary purpose the promotion and preservation of Native American Indian culture. The charter and by-laws of the organization must clearly document such purposes; and
- (2) The petitioning group shall be legally established, with appropriate charter, articles of incorporation, by-laws, and/or constitution, in accordance with state laws, and copies of the above-mentioned documents shall be provided; and
- (3) The petitioning group shall provide a statement describing membership criteria and a list of all known current members, including identification of Native American Indian members, based on the group’s own defined criteria of ancestry recognition. A membership ratio must be maintained consisting of a majority of Native American Indians to non-Indian members; and
- (4) The petitioning group shall be controlled by a governing board and officers, the majority of which are Native American Indians.

Authority: T.C.A. §4-34-103. **Administrative History:** Original rule filed July 3, 1990; effective August 17, 1990.

0785—1—.05 RECOGNITION CRITERIA FOR NATIVE AMERICAN INDIAN INDIVIDUALS IN TENNESSEE.

- (1) All applicants must have maintained a permanent residence in Tennessee for at least six (6) months prior to their date of application.
- (2) Individuals may be enrolled with the state by satisfying any of the following means of documentation:
 - (a) The applicant has a roll number or certificate of Indian blood from a federally-recognized tribe; or
 - (b) The applicant’s birth certificate shows the applicant or applicant’s parent(s) to be Native American Indian; or
 - (c) The applicant has a family tree which shows a direct ancestor of the applicant to appear on a roll of a federally recognized Native American Indian tribe. All family trees will be subject to verification by professional genealogists at the applicant’s expense; or
 - (d) The applicant signs an affidavit stating he/she is a Native American Indian. If the applicant has a living relative at least ten years older than the applicant, the relative must also sign the affidavit. In addition to the affidavit, the applicant shall provide at least one of the following:

(Rule 0785—1—.05, continued)

1. A family Bible or hymnal showing that the applicant and/or the applicant's direct ancestors were Native American Indian.
2. Death records of the applicant's direct ancestor(s) showing the ancestor(s) to be Native American Indian.
3. Records of direct ancestor(s) from the Indian Court of Claims.
4. School, church or health records, or other compelling documentation which shows the applicant to be Native American Indian.

Authority: T.C.A. §4-34-103. **Administrative History:** Original rule filed July 3, 1990; effective August 17, 1990.

0785—1—.06 PROCEDURES FOR PETITIONING FOR RECOGNITION.

- (1) Applications for recognition are available on request from the Tennessee Commission of Indian Affairs.
- (2) Applications for minors and disabled individuals may be filed by the parent, next of kin, recognized guardian, or other person responsible for the care of the minor or incompetent individual.
- (3) Complete applications and supporting documentation are to be sent to:
Director
Tennessee Commission of Indian Affairs
Department of Environment and Conservation
701 Broadway
Nashville, TN 37243-0435
- (4) The Director of the Tennessee Commission of Indian Affairs shall review all applications and supporting documentation.
- (5) If the application and required documentation are complete, the Director will present the information to the Commission for the Commission to review. The applicant(s) will be notified in writing of the Commission meeting when the application will be reviewed.
- (6) The Commission will either approve or deny the application. The Commission may request additional information from the applicant if necessary.
- (7) The Commission will notify each applicant in writing of the Commission's decision.

Authority: T.C.A. §4-34-103. **Administrative History:** Original rule filed July 3, 1990; effective August 17, 1990.

0785—1—.07 CHANGES IN MEMBERSHIP ROLLS.

- (1) Nations, tribes, or bands recognized pursuant to the rules herein contained shall notify the Tennessee Commission of Indian Affairs of any changes in enrollment criteria and subsequent additions or deletions of members.
- (2) Organizations recognized pursuant to the rules herein contained shall submit updated membership rolls on a biennial basis for renewal of recognition certification.

(Rule 0785—1—.07, continued)

- (3) Upon receipt of a death certificate or other evidence of death acceptable to the Commission, the name of the deceased person shall be removed from the roll.
- (4) Any recognized individual may terminate his or her enrollment by submitting written notice to the Director of the Commission.

Authority: T.C.A. §4-34-103. **Administrative History:** Original rule filed July 3, 1990; effective August 17, 1990.

0785—1—.08 APPEALS.

- (1) Any group or individual whose application for recognition has been denied may file an appeal to the Commission.
- (2) The appeal shall be made in writing and shall be received by the Commission with thirty (30) days of the date of the Commission meeting when the application was denied.

Authority: T.C.A. §4-34-103. **Administrative History:** Original rule filed July 3, 1990; effective August 17, 1990.