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WAGANAKISING ODAWAK STATUTE 1999013

TRIBAL ENROLLMENT

SECTION I. STATEMENT OF PURPOSE

The purpose of this Statute is to establish Tribal enrollment procedures, policies and guidelines.

SECTION II. TITLE

This Statute shall be designated as the Enrollment Statute of the Little Traverse Bay Bands of Odawa Indians.

SECTION III. AUTHORITY

The Tribal Council of the Little Traverse Bay Bands of Odawa Indians has the authority for the enactment of this Statute in accordance with the Tribal Constitution.

SECTION IV. REPEAL OF PREVIOUS LEGISLATION

By enactment of this Statute, the Tribal Council of the Little Traverse Bay Bands of Odawa Indians repeals and replaces the Tribal Enrollment ordinance as adopted on January 22, 1995 and amended on February 19, 1995, May 7, 1995, June 4, 1995, and August 27 1995 and May 23, 1999 (Waganakising Odawa Statutes 1995001, 1995002, 1995010, 1995011, 1995013). Waganakising Odawak Statute 1995018 of October 22, 1995 is hereby affirmed. Waganakising Odawak Statute 19915018 deleted Section 4 of the previous Tribal Enrollment Ordinance entitled "Tribal Enrollment: Base Roll."

SECTION V. ELIGIBILITY FOR MEMBERSHIP

A. Definitions. For purposes of this section "Reservation" means the areas referenced in Public Law 103-324, 25 U.S.C. 1300k-2(b)(A) as "the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs 'third' and 'fourth' of the Treaty of 1855, 11 Stat. 621." "Durant Roll" means the Durant Roll of 1908 as approved by the Secretary of the Interior of February 18, 1910, and as clarified by Durant's corresponding field notes.

B. Membership Criteria. The membership of the Little Traverse Bay Bands shall consist of all persons who are one-fourth (1/4) or more Indian blood quantum, and at least (1/2) of which (1/8 of their total blood quantum) is traceable (direct lineal descendants) to a person or persons identified in one or more of Sections V (B) (1-3) and who are not currently enrolled in any other Federally recognized Indian Tribe or Band:

- 1 All persons listed on the Durant Roll under the following chiefs or areas of residency:

Nawwemaishcotay - Cross Village
Shawwawdayse - Charlevoix
Shawwawnegwannaybe - Bay Shore
Louis Micksawbay - Charlevoix
Awmegwawbay - Petoskey
Nawogemaw - Good Hart/Middle Village
Simon Keywawdezhick - Harbor Springs
Joseph Waybwaydum - Burt Lake
Daniel Nesawwawquot - Harbor Springs
Payzhickwaywedung - Beaver Island
Nawoquaygawbowe - Manistique
Kawgegaypenayse - North Shore
2. All persons listed on the 1836 to 1870 Annuity payrolls of Ottawa & Chippewa Indians of Michigan and referenced in the 1850 through 1920 Federal Population Enumeration (Census Records) who resided within the Reservation or areas of residency listed Section V (B)(1) at the time the payrolls were written.
3. All persons listed on the Durant Roll/Supplemental Roll/1870 Annuity Payroll who resided within the reservation or areas of residency listed in Section V (B)(1) at the time the payrolls were written shall be considered full blood Little Traverse. Persons of mixed blood will be determined in accordance with section VI.

SECTION VI. COMPUTATION OF TRIBAL BLOOD

The 1870 Annuity Pay roll of the Little Traverse Bay Bands of Ottawa & Chippewa of Michigan under chiefs listed in Section V (B.1) blood calculation is as follows:

Durant Roll Calculations

Little Traverse Bay Band Blood

- A. **Persons listed on the 1908 Durant roll** who are exclusively Little Traverse Bay Band blood will be upgraded to full Little Traverse.

Listed on Durant Roll

Example: DR#5335 Jane Doe =3/4 LTB=3/4
(revised May 23, 1999) DR#5335 Jane Doe =4/4 LTB=4/4 (Change)

Mixed Blood

B. Persons who are Little Traverse Band blood and have other Native American blood lines will be upgraded. The Little Traverse Bands blood will be increased however the other Native American blood lines will not change.

Example: DR#7265 Jane Doe =1/4 LTB, 1/4 GTB=1/2
(revised May 23, 1999) DR#7265 Jane Doe =3/4 LTB, 1/4 GTB=4/4 (Change)

Listed on Durant Roll

1. Adopted Persons Definition: One whose natural parents' parental rights have been terminated by a court order and given to another.

2. Adopted persons with confidential files held at Bureau of Indian Affairs shall not be effected by Section V(B-3) unless supported documentation is provided by the applicant. The applicant is responsible for providing the supporting documentation.

SECTION VII. ENROLLMENT APPLICATION REQUIREMENTS

To apply for membership, a person must:

A. File a written application for membership with the Little Traverse Bay Bands Enrollment Office.

Provide evidence of blood quantum and ancestry to determine eligibility pursuant to Section V of this Statute. Such evidence may include, but need not be limited to:

1. Birth certificates
2. Death certificates
3. Notarized Affidavits
4. BIA records
5. Baptismal records and other church documents
6. Marriage License(s)
7. Divorce Decree(s)

SECTION VIII. ENROLLMENT PROCEDURE

Enrollment of individuals shall be conducted in the following manner:

- A. An application and appropriate supporting evidence are submitted to the Tribal Enrollment Office.
- B. If the file has supporting evidence and meets the enrollment criteria the file is then assigned a designated application number.
- C. If there is a specified time for enrollment then all applications must be submitted and approved by Tribal Council on or before that date.
- D. The Tribal Enrollment Office will have 180 days to act in either accepting or rejecting the application, or request more information in extraordinary situations.
- E. Upon receipt of the application, the Enrollment Office will investigate and make a recommendation of the individual's eligibility pursuant to Section V of this Statute. All applications based in whole or in part on notarized affidavits will be referred to the Enrollment Commission and the Enrollment Commission shall make its recommendation to the Tribal Council as Certifier pursuant to Section XI. The Enrollment staff shall refer all other applications to the Enrollment Commission when the Enrollment staff is not confident that conclusive proof of eligibility has been complied.

SECTION IX. CREATION AND ROLE OF THE ENROLLMENT COMMISSION

- A. A seven (7) person Enrollment Commission shall be appointed by the Tribal Council. This Commission shall consist of enrolled Tribal members. The Enrollment officer or one (1) member of Enrollment office staff will be present at meetings of the Enrollment Commission. The Chairperson and Secretary of the Enrollment Commission shall be elected by the members of the Commission.
- B. The Enrollment Commission shall:
 - 1. Advise the Enrollment Officer and other pertinent staff as to how the enrollment process may be made as fair and equitable as possible.

2. Review all applications that are based in whole or in part on affidavits. They shall also review all applications referred to it by the Enrollment Officer because of difficulties in confirming eligibility. The Enrollment Commission will then make a recommendation to the Tribal Council based upon its review of all the information submitted by the applicant and compiled by the Enrollment Staff of the Enrollment Office. If an elder member of the Commission has signed an affidavit on behalf of an applicant, the elder shall refrain from voting on the recommendation. The elder shall, however, be permitted to provide the Enrollment Commission with testimony as to the applicant's eligibility.
3. Be able to enlist the aid of other Tribal elders to help substantiate an applicant's eligibility.
4. Review all applications referred to help substantiate whether an applicant is eligible or not eligible in accordance with membership requirements.
5. Review, at least once a month, on a random basis two (2) or three (3) applications that have been denied. The purpose of the review is to ensure that the Enrollment Staff is properly implementing the criteria for membership. If an error is found in an application during the monthly review all applications reviewed since the last review date shall be reconsidered by the Enrollment Staff of the Tribal Enrollment Office.

C. The Enrollment Commission shall meet at least once a month or as often as necessary. The Chairperson shall call all special meetings when the Enrollment Staff informs the Chairperson that there is a need for the meeting.

D. If an applicant appears to be eligible for membership, the Enrollment Officer shall make a report to the Tribal Council which includes: parents names, blood quantum, date of birth and roll number. The Tribal Council shall have the responsibility of reviewing this confidential report at the meeting where it is presented. This report shall be immediately returned to the Enrollment Officer following review. After reviewing this confidential report, the Tribal Council shall either certify the individual as a member deny certification, or refer an application back to the Enrollment Commission.

E. Upon certification the Enrollment staff shall notify the individual with a membership card and acceptance letter.

F. A copy of all correspondence, and the membership card shall be maintained in the applicant's file by the enrollment staff.

G. Upon completion of the certification process, the individuals named shall be placed on the Tribal roll.

H. The Tribal Council shall set compensation for the Enrollment Commission. The Enrollment Commission shall be bound by the Commission, Boards and Committees Procedures Statute (Waganakising Odawak Statute 1998012) unless inconsistent with an explicit provision of this Statute. Commission members may be removed for the reasons and following the procedures set out in the Removal of Commissioners and Nepotism Statute (Waganakising Odawak Statute 1997005), or such successor statute as the Tribal Council may enact.

SECTION X. ENROLLMENT COMMISSION TERMS

The Term of Office for seven(7) Enrollment Commissioners shall be staggered terms which shall be one, two, three and four years.

2. Effective Date - The date approved by Tribal Council
3. Thereafter - Each term shall be 4 years

Appointment. Immediately upon appointment the Tribal Court shall administer the Oath of office which includes a commitment to uphold the Constitution and laws of the Little Traverse Bay Bands of Odawa Indians.

Reappointment. If an Enrollment Commissioner wishes to be reappointed at the end of their term this may be granted and reappointments are unlimited. The reappointed Enrollment Commissioner's oath of office is still valid.

Duties. The Chairperson of the Enrollment Commission shall chair all Enrollment Commission meetings and record of all terms. The Secretary shall take minutes and provide the Tribal Council with quarterly reports.

Resignation. An Enrollment Commissioner may resign provided that the resignation is in writing.

SECTION XI. APPOINTMENT OF CERTIFIER

The Tribal Council shall be the official certifier of membership of the Little Traverse Bay Bands of Odawa Indians.

SECTION XII. PROCEDURE IN DECLINATION OF APPLICATIONS FOR MEMBERSHIP

Declination lack of documentation. If an applicant's eligibility cannot be documented by either the applicant or the Enrollment Staff, the applicant shall be notified by certificate of mailing and given the opportunity to provide additional information to establish eligibility. The applicant shall be given sixty (60) days to present the information. A thirty (30) day extension can be granted, if requested no later than the due date of the information. Such requests must be made in writing or by phone and the enrollment staff will document the 30 day extension on the applicant's activity sheet.

Declination. If an applicant appears to be ineligible, the Enrollment Staff shall make a report to the Tribal Council after being reviewed by the Enrollment Commission indicating the appearance of ineligibility. The Tribal Council shall have the responsibility of reviewing the report and file if they so desire. The Tribal Council has the authority to reject a recommendation pursuant to Section XI. If the Tribal Council accepts the recommendation of the Tribal Enrollment Officer, the individual will be notified by certified mail.

SECTION XIII. DISENROLLMENT

A. Any enrolled member of the tribe who applies for and becomes an enrolled member of any Federally recognized Indian Tribe otherwise, Band or group subsequent to their enrollment in The Little Traverse Bay Bands of Odawa Indians, shall thereby forfeit membership in the Little Traverse Bay Bands of Odawa Indians. Upon notice of such enrollment in another federally recognized Tribe, Band or group, the Tribal Enrollment office shall:

1. Contact the member and state the provision of this Section.
2. Provide the individual with the right to respond within 30 days.
3. After 30 days if there is no response, and the subsequent enrollment is verified by documentation the Enrollment Staff shall submit a certificate of disenrollment to the Tribal Council along with a report.
4. If the Tribal Council determines that the disenrollment report is proper, the

certification of disenrollment shall be entered.

5. Upon entering of the certification of disenrollment, the enrollment staff shall inform the individual of the action.

B. Erroneous Enrollment. Enrolled members of the Tribe who are found by the Tribe to have been enrolled based upon deficient, erroneous or fraudulent evidence shall be subject to disenrollment by the Tribe.

SECTION XIXV. RELINQUISHMENT OF MEMBERSHIP

A. "Relinquishment" is defined as voluntarily and officially giving up the right of tribal membership. It is an action that can be taken only by an individual member and not by the Tribe. An individual may relinquish membership by:

1. Submitting a written and signed notarized statement requesting that his or her name be removed from the membership roll.
2. Once an individual has relinquished membership, that individual is banned from re-applying for a period of five (5) years.
3. Membership of a minor or incompetent may be relinquished by the parents or legal guardian. The minor may re-apply, within the five (5) year period, or upon reaching the age of eighteen and the incompetent's relinquishment may be corrected by proving competency.
4. The membership of a child who becomes a ward of a state or tribal court shall remain in effect. In the event that parental rights are terminated to a child whose membership has been relinquished, the tribal or state court may petition the Tribe for reinstatement of the child's membership.

SECTION XV. APPEAL OF ENROLLMENT DECLINATION OR DISENROLLMENT

A. Any person who has been rejected for enrollment or disenrolled has a right to file an appeal with the Tribal Court. The burden of proof at the appeal process is on the applicant.

B. All appeals shall be in writing. An applicant shall have sixty (60) calender days from the date of the declination or disenrollment notice to file an appeal in writing with the Tribal Court.

C. The sole purpose of the Appeals Process will be to determine if there has been a clear error in a declination or disenrollment of the applicant based on the evidence and documentation provided by the applicant to the Enrollment Department. The Tribal Court shall only overrule the declination or disenrollment if the evidence cannot reasonably be construed to support the action of the Enrollment Department. The Tribal Court will not consider additional or supplemental documentation or evidence. Applicants who gather additional documentation or evidence after declination may reapply for membership, or supplement their initial application, using such additional information.

SECTION XVI. AFFIDAVITS

A. A minimum of three (3) notarized affidavits from Tribal elders, who are not related to the applicant, are an acceptable offer of proof of either ancestry or blood quantum (of either the applicant or a claimed ancestor) along with other information that may be taken into consideration. Each applicant who is informed of the right to submit an affidavit shall also be informed that affidavits will be considered along with all other information, and that the reviewing body is free to assign whatever authority it feels is appropriate to any affidavits submitted.

B. Only notarized affidavits submitted by a Little Traverse Bay Band tribal elder are valid offers of proof. An elder is defined to be a tribal member who is fifty-five (55) years old or older, living on or off the reservation. The affidavit should allege facts that establish the basis of the knowledge that the elder claims to have of the applicant's eligibility. All applicants notified of the right to submit an affidavit shall be informed of these requirements.

SECTION XVII. REPORT REQUIREMENT

A. It is the responsibility of all adult tribal members and non-member guardians of minor or incompetent tribal members, on behalf of themselves and any minor or incompetent tribal members under their care, to report all status changes to the Tribal Enrollment Department including change of address, deaths in the family, and change of name. Such reports shall be submitted within ninety (90) days of the occurrence.

1. Such reports shall be addressed to the Tribal Enrollment Office and contain the following information:
 - a. Legal name of member
 - b. Membership number

- c. Current address
 - d. Telephone number
 - e. Social Security number
 - f. Date of birth
 - g. Signature and date for verification
2. Once a year the Enrollment Officer shall submit a report to the Tribal Council, which shall contain:
- a. The total number of members;
 - b. Births and deaths during the reporting period;
 - c. A complete updated roll;
 - d. The date filed;
 - e. A list of undeliverable addresses;

SECTION XVIII. CONFIDENTIALITY: RECORDS SUBJECT TO CONFIDENTIALITY PROVISIONS

As used in this Statute, "records" or "enrollment files" means any item, collection, or grouping of information about or collected from individuals, including, but not limited to, birth certificates, genealogy reports, or other documents that contain the individual's name, or identifying particulars assigned to the individual, such as photographs, which information is collected for the purpose of determining the eligibility for enrollment in the Tribe of an individual or members of an individual's family. The names and addresses of Tribal members are not confidential.

SECTION XIX. USE OF INFORMATION

Each person who supplies or is asked to give information about such person's family shall be informed of the use or uses to which the information may be put and what the consequences, if any, are of not supplying the information.

SECTION XX. NOTICE OF USE OF INFORMATION

- A. At minimum, the notice to the person must state the
- 1. Authority which authorizes the solicitation of the information and that the disclosure of such information is voluntary;

2. The principal purpose of such information is to determine the eligibility of that person and/or that person's relations for enrollment in the tribe;
3. The information may also be used to determine the eligibility of that person and/or that person's relations for benefits available from the tribe, local, state or federal government which are made available to persons of certain Indian blood quantum;
4. The effect on that person's relations, if any, of not providing all or part of the requested information;
5. The steps which will be taken to keep such information and the procedure for authorizing disclosure or information to persons not authorized to access such information under this Statute.

SECTION XXI. ASSURING INTEGRITY OF RECORDS

A. The following shall apply to all manual enrollment files:

1. Areas in which the records are maintained or regularly used shall be posted with an appropriate warning stating that access to the records is limited to authorized persons.
2. During working hours, the area in which the records are maintained or regularly used shall be occupied by authorized personnel or the access to the records shall be restricted by their storage in locked cabinets or a locked room.
3. During non-working hours, access to the records shall be restricted by their storage in locked cabinets or a locked room.

B. Records maintained on computer, will have limited access to only those staff or personnel with written authority of the Tribal Council or Tribal Administrator as designated by Tribal Council. When maintained in computerized form, enrollment files and records shall be maintained, in a minimum, subject to safeguards based on those recommended in the National Bureau of Standards booklet "Computer Security Guidelines for Implementing the Privacy Act of 1974" (May 30, 1975), and any revisions of or supplements thereto, which are adequate and appropriate to assuring the integrity of records in the system.

SECTION XXII. CONDUCT OF EMPLOYEES

A. The following persons are authorized pursuant to subsection (C) of this section to review and handle enrollment files upon being sworn to taking an oath of confidentiality.

- 1.** Enrollment Officer
- 2.** Authorized Enrollment Staff
- 3.** Members of the Enrollment Commission
- 4.** Authorized Judicial members
- 5.** Members of the Tribal Council

B. All of the above individuals listed, whose duties require handling of records are subject to this Statute and at all times shall take care to protect the integrity, security, and confidentiality of all enrollment files and documentation.

C. No records contained in enrollment files maybe disclosed by any means of communication to any person, or another agency, except pursuant to a written request by, or with the prior written consent of the individual to who the record pertains, except:

- 1.** for purposes of the U.S. Bureau of the Census for planning or carrying out a census or survey or related activity pursuant to the provision of Title 13 of the United States Code.
- 2.** To a recipient who has provided the enrollment officer, or other person responsible for the record system in which the documents contained in the enrollment files are maintained, with advance adequate written assurance that the records will be used solely as a statistical research or reporting record, and the records are to be transferred in a form that is not individually identifiable.
- 3.** To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to last known address of such individual.
- 4.** Pursuant to the order of the Tribal Court upon showing of good cause.
- 5.** A list of enrolled members' names and address may be included in a Directory prepared by the Enrollment Officer in accordance with Section XXV of this Statute. The

Directory of members' names and addresses may be provided to any Tribal member or employee of the Tribe requesting a copy of such Directory.

SECTION XXIII. RECORD OF DISCLOSURES

A. Maintenance of an Accounting record. Where a record is disclosed to any person, or to another agency, under any of the specific exceptions provided by Section XXII, (C), an accounting shall be made. The accounting shall record who requested the disclosure, the date, nature and purpose for each disclosure, and of the person or persons of whom the disclosure was about.

B. Access to accountings. Accounting shall be recorded, the date and time of all disclosures of a record shall be made when records are accessed.

SECTION XXIV REQUEST FOR ACCESS TO RECORDS

Any request for access to records contained in enrollment files shall be made in writing to the Enrollment Officer. The Enrollment Officer shall advise the individual or agency requesting the record as to where and when the records are available for inspection or as to when and where copies will be made available. Any decision denying a request for access, in whole or in part, shall be in writing and shall state the basis for denial of the request. The decisions shall also contain a statement that the denial may be appealed to the Tribal Council no later than twenty (20) days after the date of denial. The Enrollment Officer shall set and collect reasonable fees for collecting and/or copying records.

SECTION XXV. PREPARATION OF TRIBAL MEMBERS DIRECTORY

A. The Enrollment Officer is authorized to prepare a Directory of Tribal members. The Directory may include the name and address of each adult member of the tribe, unless they decline inclusion under subsection (B) below.

B. The Enrollment Officer shall send written notice regarding the preparation of the Tribal Member Directory to the last known address of each adult member of the Tribe eighteen (18) years or older. Such notice shall inform each adult Tribal member that a Directory containing Tribal members' names and addresses will be published not less than sixty (60) days after the date of such notice, which will include the member unless the member notifies the Enrollment Officer that he/she does not wish to have his/her name and/or address included in such Directory.

C. A copy of the Tribal member Directory shall be provided to the Tribal members upon request. The Enrollment Department may charge a nominal fee to cover its cost.

D. The Tribal Directory may not be quoted from, published, reproduced, or displayed, in whole or in part, without the written permission of the holder of the original copy. This copy may not be sold or given to other persons.

SECTION XXVI. SEVERABILITY

If any section, subsection, paragraph, sentence, phrase or portion of this Ordinance Statute is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION XXVII. EFFECTIVE DATE

This Statute takes effect immediately upon its enactment. Enactment of this Statute shall have no effect on the membership status of any Tribal members enrolled by the Tribe under previous legislation.

Certification

As Tribal Chairman and Tribal Secretary, the undersigned certify that this Statute was duly enacted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on December 19, 1999 at which a quorum was present, by a vote of

5 in favor 1 opposed, and _____ abstentions as recorded by this roll call.

	In Favor	Opposed	Abstained	Absent
George Anthony	<input checked="" type="checkbox"/>	_____	_____	_____
Gerald Chingwa	<input checked="" type="checkbox"/>	_____	_____	_____
Dorothy Gasco	<input checked="" type="checkbox"/>	_____	_____	_____
Rita Shanananquet	_____	<input checked="" type="checkbox"/>	_____	_____
Janet Shomin	<input checked="" type="checkbox"/>	_____	_____	_____
Susan Wysocki	_____	_____	_____	<input checked="" type="checkbox"/>
Alice Yellowbank	<input checked="" type="checkbox"/>	_____	<input checked="" type="checkbox"/>	_____

Date: 1/23/00

Gerald Chingwa, Tribal Chairman

Dorothy Gasco, Tribal Secretary