

WAGANAKISING ODAWAK STATUTE 1999005

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 (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 on February 18, 1910, and as clarified by Durant’s corresponding field notes.

B. Membership Criteria. The membership on the Little Traverse Bay Bands shall consist of all persons who are one-fourth (1/4) or more Indian blood quantum, at least one half (1/2) of which (1/8 of their total blood quantum) is traceable (direct lineal descentance) 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
Shawwawnegwnaybe - 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 whose name appears on the Durant Roll who resided within the Reservation at that time.

3. 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 in V(B)(1) at the time the payrolls were written.

4. All persons listed on the Durant Roll 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.

SECTION VI. ENROLLMENT APPLICATION REQUIREMENTS

To apply for membership, a person must:

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

B. 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; and
6. Marriage Licenses.

SECTION VII. 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.** The file shall be prepared and assigned a designated application number.
- C.** If there is a specified time for enrollment then all applications must be submitted and postmarked on or before that date.
- D.** The Tribal Office will have 120 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 IX. 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 compiled.

SECTION VIII. 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 of the Enrollment Commission shall be selected by the members of the Commission.
- C.** 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. 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.

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

E. 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 to the Enrollment Commission if the Tribal Council determines that further review is necessary before certifying or denying certification.

F. Upon certification the Enrollment Staff shall assign a membership number and prepare a membership card for the individual. forthwith notify the individual of membership and forward

the membership card with an acceptance letter.

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

H. Upon completion of the certification process, the individuals named shall be placed on the Tribal Roll.

I. 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 IX. APPOINTMENT OF CERTIFIER

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

SECTION X. PROCEDURE IN DECLINATION OF APPLICATIONS FOR MEMBERSHIP

A. If an applicant's eligibility cannot be documented by either the applicant or the Enrollment Staff, the applicant shall be notified by certified mail 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 and submitted to the Tribal Office.

B. If an applicant appears to be ineligible, the Enrollment Staff shall make a report to the Tribal Council indicating the appearance of ineligibility. The Tribal Council shall have the responsibility of reviewing the report and file if he/she so desires. The Tribal Council has the authority to reject a recommendation pursuant to Section IX. If the Tribal Council accepts the

recommendation of the Tribal Officer, the individual will be notified by certified mail.

SECTION XI. DISENROLLMENT

A. Any enrolled member of the tribe who applies for and becomes an enrolled member of any other federally recognized Indian Tribe, 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 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 Council along with a report.
4. If the Council determines that the disenrollment report is proper, the certification of disenrollment shall be entered.
5. Upon entering of the certification of disenrollment, the Tribal staff shall inform the individual of the Tribe's action.

SECTION XII. 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. But in such event the minor may re-apply, within the five (5) year period, or upon reaching the age of seventeen, and the incompetent's relinquishment may be corrected by proving competency.
4. If a person is competent, the Tribe may not refuse a member the right to relinquish.
5. 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 XIII. 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) calendar 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 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 XIV. 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 nine (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; and
- g. Signature and date for verification.

2. Once a year the Tribal 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 XV. 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 XVI. 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 XVII. 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 XVIII. 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 nonworking 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 XIX. 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 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 may be 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 whom 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 provisions 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 an order of the Tribal Court upon showing of good cause.
5. A list of enrolled member's names and addresses may be included in a Directory prepared by the Enrollment Officer in accordance with Section XII of this Statute. The Directory of members' names and addresses may be provided to any Tribal member or employee of the Tribe requesting of copy.

SECTION XX. 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 XIX(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. Accountings of all disclosures of a record shall be made available to the individual to whom the record pertains at his/her request.

SECTION XXI. 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 XXII. PREPARATION OF TRIBAL MEMBERS DIRECTORY

A. The Enrollment Officer is authorized to prepare a Directory of Tribal members. The Directory shall 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 know address of each adult member of the Tribe eighteen (18) years of age 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 Tribal members upon request. The Enrollment Department may charge a nominal fee to cover its costs.

SECTION XXIII. SEVERABILITY

If any section, subsection, paragraph, sentence, phrase or portion of this 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 XXIV. 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 May 23, 1999, at which a quorum was present, by a vote of 6 in favor, 0 opposed, and 0 abstentions as recorded by this roll call.

	In Favor	Opposed	Abstained	Absent
George Anthony	<input checked="" type="checkbox"/>	_____	_____	_____
Frank Ettawageshik	<input checked="" type="checkbox"/>	_____	_____	_____
Dorothy Gasco	<input checked="" type="checkbox"/>	_____	_____	_____
Barry Laughlin	<input checked="" type="checkbox"/>	_____	_____	_____
Shirley Oldman	<input checked="" type="checkbox"/>	_____	_____	_____
Rita Shananaquet	_____	_____	_____	<input checked="" type="checkbox"/>
Alice Yellowbank	<input checked="" type="checkbox"/>	_____	_____	_____

Date: 6-4-99

Frank Ettawageshik, Tribal Chairman

Barry Laughlin, Tribal Secretary