

ENROLLMENT CODE

CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION

STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION

As Amended through Resolution No. 23-045 (May 22, 2023)

ENROLLMENT CODE

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CHAPTER 1. GENERAL PROVISIONS

SECTION 1.01. TITLE

This Code shall be entitled the Enrollment Code of the Confederated Tribes of the Umatilla Indian Reservation, hereinafter referred to as the “Confederated Tribes.”

SECTION 1.02. AUTHORITY

This Enrollment Code is authorized by Article IV of the Constitution and Bylaws of the Confederated Tribes.

SECTION 1.03. PURPOSE

The purpose of this Code shall be to:

- A. Preserve the viability and integrity of the Confederated Tribes;
- B. Strengthen the independence and sovereignty of the Confederated Tribes;
- C. Provide for an efficient and fair determination of enrollment eligibility of any person; and
- D. Ensure that the Confederated Tribes preserves and protects the rights of the past, present and future members.

SECTION 1.04. DECLARATION OF POLICY

The Confederated Tribes hereby finds and declares:

- A. That there is no resource more vital to the continued existence and integrity of the Confederated Tribes than the children;
- B. That the enrollment laws shall protect the best interests of the Confederated Tribes and the individual Indians enrolled in or eligible for enrollment in the Confederated Tribes;
- C. That Tribal enrollment laws shall promote the stability, viability and security of the Confederated Tribes by reflecting the cultural values and traditions of the Confederated Tribes; and
- D. That determinations of eligibility for Tribal membership shall be conducted in a manner that is fair and removed from the political process.

SECTION 1.05. JURISDICTION

The Confederated Tribes, pursuant to its inherent authority under its Constitution and By-Laws, shall have exclusive jurisdiction to determine membership in the Confederated Tribes as provided in this Enrollment Code.

SECTION 1.06. ENROLLMENTS APPROVED PRIOR TO MARCH 28, 1991

Any enrollment approved by the General Council of the Confederated Tribes pursuant to Article IV of the Constitution of the Confederated Tribes prior to March 28, 1991, shall remain valid for the lifetime of such enrollee, subject to the rights of relinquishment in Section 2.06 of this Code.

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SECTION 1.07. DEFINITIONS

- A. “Applicant” means a person who is being considered for enrollment in the Confederated Tribes.
- B. “Blood Quantum” means a measurement of one (1) or more types of Indian blood combined to determine membership eligibility.
- C. “Commission” or “Enrollment Commission” means the entity formed by the General Council and Board of Trustees and assigned responsibility for overseeing the Confederated Tribes’ enrollment appeal and disenrollment procedures.
- D. “Confederated Tribes” means the Confederated Tribes of the Umatilla Indian Reservation.
- E. “Days” means calendar days.
- F. “Disenrollment” means involuntary removal from tribal membership, including termination of tribal benefits.
- G. “DNA Test” means deoxyribonucleic acid test, a genetic test that is used to determine parentage.
- H. “Enrollment” means admission to and/or membership in the Confederated Tribes.
- I. “Enrollment Officer” means the person employed by the Confederated Tribes to direct the operations of the Tribal Enrollment Office.
- J. “Grandparent” means a parent of an individual’s mother or father.
- K. “Immediate Family Member” means an individual’s father, mother, son, daughter, wife, husband, domestic partner as defined in the Family Law Code, sister, brother, grandmother, grandfather, stepfather, stepmother, stepdaughter, stepson, father-in-law, mother-in-law, son-in-law, daughter-in-law, or sibling-in-law, or any other person residing within one’s residence.
- L. “Member” or “Enrolled Member” means any person whose name appears on the official Tribal Membership Roll of the Confederated Tribes.
- M. “Minor” means any person under the age of eighteen (18).
- N. “Parent” means natural or biological parent.
- O. “Relinquishment of Membership” means the voluntary, total withdrawal from membership with the Confederated Tribes.
- P. “Tribal Benefits” means any right, preference or benefit, financial or otherwise, that is granted, held or due solely based on membership with the Confederated Tribes.
- Q. “Tribal Membership Roll” means the official list of enrolled members of the Confederated Tribes.

CHAPTER 2. ENROLLMENT CRITERIA AND PROCEDURES

SECTION 2.01. ENROLLMENT CRITERIA

Upon enactment of this Code, the membership of the Confederated Tribes shall consist of:

- A. Persons enrolled with the Confederated Tribes prior to March 28, 1991 in accordance with Article IV of the Constitution and Bylaws of the Confederated Tribes as ratified and approved

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on December 7, 1949, shall remain valid for the lifetime of such enrollee or until the enrollee chooses to relinquish membership as provided in Section 2.06.

- B. Effective for all applications for membership in the Confederated Tribes filed after November 23, 1993, the membership of the Confederated Tribes shall consist of persons who:
 - 1. Has one parent or grandparent who is an enrolled member of the Confederated Tribes; and;
 - 2. Possess at least one-fourth (1/4) degree of Indian blood from any federally recognized Indian Tribe within the United States.
- C. Any person eligible for enrollment under subsection (B) of this section shall be automatically enrolled by the Tribal Enrollment Officer upon submission of the proper documentation as provided in Sections 2.03 and 2.04 of this Code.
- D. For purposes of this Section only, "parent" and "grandparent" shall include those persons who were originally enrolled with the Confederated Tribes but later relinquished that enrollment.

SECTION 2.02. NO NEW SECTION C ENROLLMENT

The General Council approved of constitutional amendment number 3 on November 27, 1990, which states that "No new applicants for membership in the Confederated Tribes under Article IV(c) shall be enrolled."

SECTION 2.03. TRIBAL ENROLLMENT OFFICER

- A. There is hereby established the position of the Tribal Enrollment Officer. The Enrollment Officer shall be responsible for preparing enrollment application forms and for distribution of the same. The Enrollment Officer shall prepare instructions to accompany each enrollment application form which shall describe the documentation requirements that will be necessary to act upon the Tribal enrollment application.
- B. Any complete enrollment application for membership with the Confederated Tribes that is submitted with all necessary documentation as required by the Enrollment Officer, shall be acted upon within sixty (60) calendar days of the filing of the completed application. Within ten (10) days of receiving an enrollment application, the Enrollment Officer shall notify the applicant in writing in the event that the application does not contain needed documentation. The notice should specifically identify the needed documentation. The sixty (60) day time requirement to act upon enrollment applications shall begin to run when the enrollment application and all necessary documentation has been filed. Any decision by the Enrollment Officer upon an application for Tribal enrollment shall be in writing and shall be sent to the applicant by certified mail.
- C. Any challenge to an enrollment decision made by the Enrollment Officer shall be subject to the appeal process as set forth in this Code.
- D. The Enrollment Officer shall also be responsible for the following duties:
 - 1. To review and verify the accuracy of all information provided by applicants and to determine if applicants meet the requirements for enrollment, approving those who qualify and disapproving those who do not qualify for enrollment with the Confederated Tribes;
 - 2. Maintain a file on each enrolled Tribal member, in which a copy of the enrollment application, the original birth certificate, and, if applicable, other proof of parentage to determine eligibility, and a copy of the General Council minutes for enrollments prior to September 1991, and/or Enrollment Officer decision from that date forward shall be kept;

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3. To maintain and keep current a list of persons enrolled in the Confederated Tribes;
 4. To report biannually to the Board of Trustees and General Council the number of persons enrolled, relinquished, disenrolled and deceased;
 5. To keep and to protect the confidentiality of all records pertaining to applicants' and enrolled members' eligibility;
 6. To assist and advise the Enrollment Commission and attend Enrollment Commission meetings; and
 7. To assist applicants for membership in locating, researching, and presenting in a proper form all information and supporting documentation required for a complete application. The burden of proof is on the applicant to provide proof of eligibility for enrollment.
- E. Conflicts of Interest. The Enrollment Officer shall recuse themselves from any decision regarding the enrollment eligibility of their immediate family member. In such instances, enrollment eligibility will be delegated to the Administrative Office Manager for the Enrollment Office. If the Administrative Office Manager also has a conflict of interest, the eligibility determination shall be made by the Deputy Executive Director.

SECTION 2.04. ENROLLMENT APPLICATIONS

- A. Enrollment applications may be obtained from the Enrollment Office.
- B. Enrollment applications may be completed by a parent, legal guardian, or relative of an eligible child, or by the applicant if over eighteen years of age.
- C. Applicants shall submit, at a minimum, the following information:
 1. Name, address, and Social Security Number of the applicant;
 2. Indian, maiden or other name by which applicant is known;
 3. Date and place of birth of the applicant;
 4. Original state issued birth certificate, or state certified birth certificate;
 5. Must present original Social Security Card (Enrollment Officer will make a copy);
 6. If the applicant is a minor or incompetent, the name, address, and relationship of the person making the application;
 7. The name and Tribal enrollment number of the applicant's parent(s) or grandparent(s) who are enrolled with the Confederated Tribes;
 8. An original certified family tree or certificate degree of Indian blood from the other Tribe(s) must be provided in order to show proof of Indian blood from other tribes. The name, address, and degree of Indian blood, if any, both Tribal and total, (as verified by the Enrollment Officer in accordance with official records,) of each parent and grandparent of the applicant must be provided on the application;
 9. Certification by applicant or his agent that the information given is true, and if found fraudulent in any way will be grounds for removal of the applicant's name from the membership roll;
 10. Certification by Enrollment Officer that the applicant is not already enrolled with another tribe where the applicant may be eligible for enrollment.

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- D. Other supporting documents such as historical records or other documents that are related to applicant's enrollment eligibility may be submitted to supplement an enrollment application.
- E. Proof of parentage: Documents that demonstrate proof of parentage shall include, but are not limited to, certified birth certificates, DNA test results signifying the probability of parentage, paternity affidavits executed by both parents, a valid court decision determining paternity, or probate determination by an Administrative Law Judge. If a parent does not believe he or she is the biological parent of a child being considered for enrollment, he or she may petition to the Enrollment Officer for DNA testing. The DNA testing in this situation would be paid for by the parent challenging the court decision.
- F. Upon submission of an enrollment application, the Enrollment Officer shall notify the applicant in writing within ten (10) days of receiving an enrollment application that the application was received and whether the applicant provided all needed documentation for a complete application. If the applicant did not provide all the needed documentation, the notice will specifically identify the needed documentation for a complete application.
- G. Upon approval, the applicant will be assigned a roll number and placed on a roll page that shall be transmitted to the Bureau of Indian Affairs for their records. The applicant shall be notified of enrollment with the Confederated Tribes, via certified mail.
- H. Any application that is denied shall be returned to the applicant with a written explanation of the reason for the denial. Any re-application shall be governed by Section 2.08 of this Code.
- I. The burden of proving eligibility for enrollment shall be upon the applicant, or the person(s) acting for the applicant.

SECTION 2.05. DUAL ENROLLMENT

No person may be enrolled in the Confederated Tribes if that person is enrolled in another federally recognized Indian Tribe within the United States. Any person applying for membership with the Confederated Tribes shall relinquish membership such person holds in another Tribe as a condition of enrollment with the Confederated Tribes.

SECTION 2.06. RELINQUISHMENT OF CONFEDERATED TRIBES MEMBERSHIP

- A. Relinquishment by Adults.
 - 1. Adult Defined – An adult is anyone eighteen years of age and over.
 - 2. Procedure – Any adult Tribal member may relinquish membership in the Confederated Tribes. The withdrawal must be in writing and submitted to the Enrollment Officer for consideration. The enrollee will also be required to complete and sign relinquishment forms with the Enrollment Officer. The Enrollment Officer shall have the authority to act on a member's relinquishment request and will not refuse relinquishment of membership unless the enrollee is legally incompetent or has debts owing to the Confederated Tribes or any of its programs. Relinquishment shall be effective upon the date the Enrollment Officer grants the request. Written notice of the effective date of the relinquishment shall be sent to the person requesting relinquishment.
 - 3. Relinquishment of Incapacitated Adults - The Tribal membership of adult members of the Confederated Tribes may be relinquished by the legal guardian of the incapacitated adult member.
 - 4. Re-Application of Incapacitated Adults - The membership of an incapacitated adult may be relinquished by the legal guardian; provided, however, that the incapacitated adult may re-apply for membership in the Confederated Tribes upon reaching full capacity.

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- B. Relinquishment By or on Behalf of a Minor Child.
1. Minor Child Defined - A minor child is anyone under eighteen years of age.
 2. Authority to Relinquish - The membership of a minor child may be relinquished by the minor's parents and/or legal guardians, subject to the following limitations:
 - a. All persons having legal guardianship or parental rights over the child must consent in writing to the relinquishment;
 - b. If the minor child is over twelve years of age, the child must consent in writing to the relinquishment; and
 - c. No relinquishment shall be granted for any child who is the subject of a "child custody proceeding" as defined in the Indian Child Welfare Act, 25 U.S.C. § 1903, or has been the subject of such a proceeding in the past two years.
 3. Re-application rights - A minor whose rights were relinquished by a parent or legal guardian may re-apply for membership with the Confederated Tribes upon reaching the age of eighteen.
- C. Termination of Entitlement to Tribal Benefits. Any person who relinquishes membership with the Confederated Tribes shall not be entitled to any individual or Tribal benefits accruing subsequent to the relinquishment available to members of the Confederated Tribes as a result of tribal membership.
- D. Except for Section C members applying for membership in the Confederated Tribes under this Code, and except as provided in subsection (A)(4) and (B)(3) above, no member of the Confederated Tribes who relinquishes Tribal membership in the Confederated Tribes shall be entitled to reapply for Tribal membership.
- E. No relinquishment will be accepted until all debts and/or services owed to the Confederated Tribes are satisfied.

SECTION 2.07. TERMINATION OF TRIBAL BENEFITS

- A. Termination of Benefits upon Relinquishment: In accordance with Section 2.06(C) of this Code, any person relinquishing membership with the Confederated Tribes shall not be entitled to any individual or Tribal benefits available to members of the Confederated Tribes as the result of Tribal membership accruing subsequent to the relinquishment of membership in the Confederated Tribes.
- B. Termination of Tribal Benefits upon Death: With the exception of the Tribal Burial fund, all Tribal benefits entitled to any individual will terminate at midnight on the date of death of that individual. These benefits include any other source of income distributed to the Tribal member from the Confederated Tribes except for dividend payments which are addressed in Section 2.07(D).
- C. Burial Fund: The Tribal Burial fund benefit will terminate upon disbursement of a one-time payment to the funeral service provider.
- D. Dividends/Per Capita Payments: Consistent with the CTUIR Gaming Revenue Allocation Plan, Confederated Tribes members living on the last day of each calendar year quarter shall be entitled to per capita payments on the day of eligibility as determined by the Board of Trustees or other policy.

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SECTION 2.08. RE-APPLICATION

- A. Any person whose enrollment application has been denied may reapply if new information establishing their eligibility for enrollment is submitted.
- B. If a minor was denied enrollment or disenrolled due to a parent's failure to consent to DNA testing, the minor may reapply for enrollment after submitting to DNA testing and providing proof that they meet the qualifications for enrollment with the Confederated Tribes.
- C. Any person who was disenrolled due to dual enrollment, administrative error or DNA results may reapply for enrollment if providing evidence demonstrating that the reason for disenrollment no longer exists. Any adult who is disenrolled due to their providing false information or forged documents shall be barred from applying for enrollment in the future. In the event that fraudulent information was presented on behalf of a minor child and the minor child is disenrolled, that person may reapply for enrollment upon turning 18, provided the person submits information proving their eligibility for enrollment with the Confederated Tribes.

SECTION 2.09. ELIGIBILITY OF ADOPTED CHILDREN

Children adopted by tribal members, non-members or non-Indians may be enrolled if they meet the requirements for enrollment. Records of adoptions that took place in the State of Oregon can be opened by the Enrollment Officer and are to be used only for the purpose of enrollment. All costs incurred to open the adoption records shall be paid by the applicant or person(s) acting on the behalf of the applicant. If adoption records are confidential in nature, or the adoption took place outside of the State of Oregon, a statement by the Confederated Tribes' Department of Children and Family Services issued to the Enrollment Office or Agency Superintendent certifying the identity of at least one of the child's natural parents or grandparents may be used to determine the adopted child's eligibility for enrollment.

SECTION 2.10. PUBLICATION

All additions, deletions and corrections of the Tribal enrollment roll shall be compiled by the Enrollment Officer on a biannual basis and presented to the Board of Trustees. Information will include the names of new members, and information on the number of applications denied, relinquished members, and deaths of members. This information will be made available to the General Council or published at the discretion of the Board of Trustees. The Enrollment Officer and Enrollment Commission Chairman shall be available to report to the Board of Trustees and the General Council on Tribal statistics and changes to the Tribal enrollment rules and procedures as requested.

SECTION 2.11. DISENROLLMENT

- A. Any person may involuntarily have his or her name removed from the membership roll of the Confederated Tribes by disenrollment in accordance with the provisions of this Code.
- B. The only grounds for disenrollment actions shall be:
 - 1. Dual enrollment as proscribed by Section 2.05 of this Code;
 - 2. Enrollment based on false information, a forged document, or administrative error; or
 - 3. Failure to submit to DNA testing when parentage is challenged.
- C. All disenrollment actions shall be initiated by the Enrollment Officer and decided by the Enrollment Commission. Individual Tribal members may present documentation showing grounds for disenrollment to the Enrollment Officer. The standards for Enrollment Commission hearings on disenrollment actions are set forth in Chapter 3 of this Code.

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- D. If a person listed as a parent does not believe he or she is the biological parent of a person who is an enrolled member of the Confederated Tribes, and the child would be ineligible for enrollment if he or she is not the child's biological parent, he or she may petition to the Enrollment Officer for DNA testing. The DNA testing in this situation would be paid for by the parent challenging parentage. In the event a parent refuses to have the child DNA tested, that child will be subject to disenrollment proceedings as set forth in this Code only if the Enrollment Office does not have on file a valid court decision certifying paternity. Children disenrolled due to a parent's failure to consent to DNA testing are subject to the reapplication rights set forth in this Code.
- E. If a person is disenrolled due to having obtained enrollment by fraudulent action for which he or she is culpable, the Confederated Tribes shall have the right to recover all benefits associated with tribal enrollment paid to the disenrolled person during the term of their enrollment with the Confederated Tribes.

CHAPTER 3. ENROLLMENT COMMISSION

SECTION 3.01. ESTABLISHMENT AND COMPOSITION

- A. There is hereby created the Enrollment Commission.
- B. The Enrollment Commission shall be comprised of five (5) members.
- C. The Enrollment Commission shall select from among its members a Chair, Vice-Chair, and Secretary at its first meeting in each calendar year. The officers' duties shall be as follows:
 - 1. Duties of the Chair. The Chair shall preside over Commission meetings and shall only vote in the event of a tie. The Chair shall report to the General Council and Board of Trustees as set forth below.
 - 2. Duties of the Vice-Chair. The Vice-Chair shall assist the Chair when called upon to do so. In the absence of the Chair, the Vice-Chair shall preside over Commission meetings and when doing so shall have all the rights and duties of the Chair.
 - 3. Duties of the Secretary. The Secretary shall be responsible for assuring the timely and proper production, distribution and storage of all written records of the Commission, including administrative and financial documents. The Secretary shall keep informed about the Commission's expenditures and budget.

SECTION 3.02. QUALIFICATIONS AND APPOINTMENT

- A. Members of the Enrollment Commission shall possess and demonstrate as minimum qualifications:
 - 1. Enrolled member in the Confederated Tribes of the Umatilla Indian Reservation;
 - 2. Eighteen years of age or older;
 - 3. Having no Gross Conflicts of Interest, as defined below;
 - 4. Willingness and ability to comply with the Ethical Duties of Commission Members, as defined below;
 - 5. Willingness and ability to perform the Commission's duties in compliance with the Confederated Tribes' Treaty, Constitution, and statutes;
 - 6. Knowledge of the Enrollment Code;
 - 7. Familiarity with the Confederated Tribe's enrollment history;

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8. Knowledge, experience or familiarity with blood degree and blood quantum;
 9. Having the time available to actively fulfill the duties of membership;
 10. Willingness to receive orientation and training regarding the duties of the Commission;
- B. The Enrollment Commission shall be selected from among the Tribes' General Council membership. Two (2) members shall be appointed by the Board of Trustees and three (3) members shall be appointed by the General Council. When a position is open on the Enrollment Commission, interested General Council members shall submit a completed application to the front desk of the Nixyáawii Governance Center. Depending on the nature of the vacancy, completed applications will be brought forth to either the General Council at a meeting called for such purpose or to the Board of Trustees at a regular meeting to vote on applications.
- C. Appointments to the Commission shall be for a period of four (4) years, except that of the terms of the initial members, two shall be for (2) years (positions 1 and 2), two for three (3) years (positions 3 and 4) and one for four (4) years (position 5), which shall result in staggered appointments and provide continuity within the Commission. Positions 1 and 2 shall be appointed by the Board of Trustees, while the remaining members shall be appointed by the General Council. Commissioners may be re-appointed for one or more successive terms.
- D. Gross Conflicts of Interest.
1. No person may be appointed to the Enrollment Commission who:
 - a. Is employed in the Enrollment Office of the Confederated Tribes;
 - b. Is engaged in litigation against the Confederated Tribes in a matter related to the subject matter of the Commission; or
 - c. Has a similar interest that would necessarily grossly conflict with the impartial performance of a Commissioner's duties.
 2. The General Council and BOT's determination whether an applicant is barred from appointment by a gross conflict of interest (or must be removed from the Commission due to a gross conflict of interest) is final.
- E. Ethical Duties of Commissioners. Enrollment Commissioners are expected to comply with the following ethical requirements. Violations of these ethical duties may be considered neglect of duty or gross misconduct, requiring the removal of a Commissioner, depending on the severity and/or frequency of the violation.
1. Commissioners shall comply with their oath of office and shall generally avoid the appearance of impropriety.
 2. Commissioners shall not attempt to exceed the authority granted to Commissioners by this Code.
 3. Commissioners shall recognize that the authority delegated by this Code is to the Commission as a whole, not to individual Commissioners. As a result, the powers of the Commission may only be exercised by the Commission, acting through the procedures established by this Code.
 4. Except when authorized by the Commission, no individual Commissioner may take action on behalf of the Commission.

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5. Commission members shall not involve the Commission in any controversy outside the Commission's duties.
6. Commissioners shall hold all confidential information revealed during the course of Commission business in strict confidence. Commissioners may only discuss or disclose such information to persons who are entitled to the information, and only for the purpose of conducting official Commission business.
7. Conflict of Interest.
 - a. When a matter before the Commission directly and specifically affects a Commissioner's own interests, or the interests of his or her immediate family, that member has a "conflict of interest." Except as described below, a Commissioner shall not act in an official capacity when he or she has a conflict of interest.
 - b. A Commissioner must inform the Commission of any conflict of interest immediately upon becoming aware of the conflict.
 - c. In all other cases, immediately after disclosing the conflict. A Commission member shall recuse himself or herself from discussion of, and voting on, any matter concerning the conflict. Commissioners shall not discuss or vote on the matter in the presence of a Commissioner that has a conflict of interest.
 - d. It is not a violation of this provision for a Commissioner to disclose a conflict about an issue, suggest that the Commission take action on the issue, and then recuse him or herself from the Commission discussion and voting on the issue.
 - e. If an apparent conflict of interest exists, but the Commissioner with the conflict refuses to comply with these procedures, then the Commission shall table the matter until such time as the Commissioner leaves or the dispute is otherwise resolved. A Commissioner's refusal to comply with these procedures may constitute neglect of duty and/or gross misconduct justifying removal from the Commission.
- F. Oath of Office. Each appointee to the Enrollment Commission shall take an oath of office prior to assuming the duties of Commission membership. The oath shall be administered by an officer of the Umatilla Tribal Court and shall be as follows:

I, [state name], do solemnly swear [or affirm] that I will carry out faithfully and impartially the duties of a member of the Enrollment Commission to the best of my abilities, and that I will promote and protect the best interests of the Confederated Tribes of the Umatilla Indian Reservation in accordance with the directives of the Board of Trustees and the statutes and Constitution of the Confederated Tribes.
- G. Removal. An Enrollment Commissioner may be removed for (1) failure to meet the minimum qualifications set forth above, (2) having a gross conflict of interest as defined above, or (3) having committed neglect of duty or gross misconduct. A Commissioner may be removed only after a hearing held before the General Council or Board of Trustees, depending on which entity appointed the Commissioner in question. At least five days before the hearing is held, the General Council Chair, or Board of Trustees Chair, as appropriate, shall provide notice of the hearing to the Commissioner whose conduct is the subject of the hearing. The notice shall include a written statement of the charges against the Commissioner. At the hearing, the Commissioner shall have the opportunity to appear before the General Council or Board of Trustees and answer all charges against him or her before the General Council or Board of Trustees votes. The Commissioner shall represent his or her self and shall not be represented by an attorney. The decision of the General Council or Board of Trustees shall be final.

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SECTION 3.03. DUTIES AND POWERS

The Enrollment Commission shall administer the provisions of this Code consistently with the Confederated Tribes Constitution and By-Laws and shall have all powers necessary therefore. In exercise of its duties, the Commission shall:

- A. The Commission Chair will establish meeting dates and times in coordination with the Enrollment Officer.
- B. Have the authority to remove from Tribal membership any person subject to disenrollment under Section 2.11 of this Code after holding a hearing as described in Section 3.04.
- C. The Commission is responsible for conducting hearings on:
 - 1. Appeals of denied enrollment applications; and
 - 2. Disenrollment actions.
- D. Render a written decision based on all information gained during the course of Commission investigation in appeal and disenrollment matters presented for review.
- E. The Commission is responsible for reviewing this Code at least annually with the Enrollment Officer to determine whether it needs to be modified or amended and shall make recommendations to the Board of Trustees on any modifications or amendments the Commission feels the Board of Trustees should adopt.
- F. The Commission Chair is responsible for presentations of enrollment matters to the General Council and Board of Trustees in coordination with the Tribal Enrollment Officer.
- G. The Commission is responsible for maintaining confidentiality with respect to enrollment matters.
- H. Budget. The Enrollment Commission's budget and the availability of stipends for Enrollment Commissioners shall be determined by the Board of Trustees as part of its annual budget process.

SECTION 3.04. HEARINGS

The following standards shall apply to Enrollment Commission hearings concerning appeals of denied enrollment applications and disenrollment actions:

- A. Appeals of Denied Enrollment Applications.
 - 1. An applicant who is denied enrollment may appeal to the Enrollment Commission for review of the Enrollment Officer's decision.
 - 2. An applicant must file a request for appeal within ninety (90) days of receipt of the Enrollment Officer's decision. The request for appeal must state the grounds upon which the appeal is based.
 - 3. The Enrollment Commission may only decline to hear an appeal if the applicant fails to state grounds for appeal which, if true, would entitle the applicant to enrollment.
 - 4. A hearing date and time will be scheduled for approved hearings not less than thirty (30) days and not more than ninety (90) days after the request for hearing has been approved by the Enrollment Commission.
 - 5. The applicant will be notified by certified mail of the hearing date and time at least ten (10) days prior to the scheduled hearing.

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6. The Enrollment Commission Chair may reschedule a hearing upon a showing that circumstances exist which require an extension of time. Any request for extension of time shall be made to the Enrollment Officer which shall immediately refer the request to the Enrollment Commission Chair who shall grant or deny in writing the request for extension of time within five (5) days of receipt of the request from the Enrollment Officer.
7. At the hearing, the applicant shall have the right to present evidence, to be heard on his or her own behalf and to examine witnesses. The applicant may be represented by legal counsel at his or her own expense. The burden of proof shall be on the applicant to show that their enrollment application and supporting evidence requires a finding that the applicant is eligible for enrollment.
8. Upon reviewing the evidence presented by the applicant and the basis for the Enrollment Officer's denial of enrollment, the Enrollment Commission by majority vote may:
 - a. Uphold the Enrollment Officer's original decision;
 - b. Remand the matter to the Enrollment Officer for reconsideration; or
 - c. Overturn the Enrollment Officer's decision and order the Enrollment Officer to enroll the applicant.
9. The Enrollment Commission shall only remand the matter for reconsideration upon a finding that the Enrollment Officer failed to consider all of the evidence submitted by the applicant that would prove the applicant is eligible for enrollment. In its remand decision document, the Enrollment Commission will clearly identify what evidence the applicant submitted in their application that the Enrollment Officer failed to consider. In the event that the Enrollment Commission remands the matter, the Enrollment Officer shall issue a new eligibility determination to the applicant within fourteen (14) calendar days.
10. The Enrollment Commission shall only overturn the Enrollment Officer's decision upon a finding that, based on the evidence submitted by the applicant, the Enrollment Officer's decision to deny enrollment was clearly erroneous.
11. If the applicant fails to appear for the scheduled hearing, the Commission shall, by default, uphold the Enrollment Officer's original decision.
12. The applicant shall be notified in writing by the Enrollment Commission of its decision within fourteen (14) days of the conclusion of the hearing.
13. An Enrollment Commission decision upholding the Enrollment Officer's original decision to deny an enrollment application may be appealed to the Umatilla Tribal Court. Appeals must be filed within ninety (90) days of the person's receipt of the Enrollment Commission's decision. The Confederated Tribes' Office of Legal Counsel shall represent the Confederated Tribes in any such proceeding. The standard of review of enrollment application denials shall involve a de novo review of questions of law and factual determinations shall be reviewed under an arbitrary and capricious standard. The decision of the Umatilla Tribal Court on appeals of enrollment application denials shall be final, but an applicant who has reapplied for enrollment pursuant to Section 2.08(A) shall not be barred from appealing solely because a prior application denial was upheld by the Court.

B. Disenrollment Actions.

1. The Enrollment Commission shall hold a disenrollment hearing when it receives notice from the Enrollment Officer requesting a person to be removed from Tribal

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enrollment. The Enrollment Commission shall only hold such a hearing if the notice alleges facts that, if true, would constitute grounds for disenrollment under Section 2.11.

2. A hearing date and time will be scheduled for approved hearings not less than thirty (30) and not more than ninety (90) days after the request for hearing has been approved by the Enrollment Commission.
 3. The person subject to disenrollment will be notified by certified mail of the hearing date and time at least ten (10) days prior to the scheduled hearing.
 4. The Enrollment Commission Chair may reschedule a hearing upon a showing that circumstances exist which require an extension of time. Any request for extension of time shall be made to the Enrollment Officer which shall immediately refer the request to the Enrollment Commission Chair who shall grant or deny in writing the request for extension of time within five (5) days of receipt of the request from the Enrollment Officer.
 5. At the hearing, the person whose enrollment is challenged shall have the right to present evidence, to be heard on his or her own behalf, and to examine witnesses. The person whose enrollment is challenged shall have the right to be represented by legal counsel at his or her own expense.
 6. The Enrollment Officer shall have the burden of proving by clear and convincing evidence that grounds for disenrollment exist.
 7. Upon reviewing the evidence presented by the Enrollment Officer and any evidence presented by the person subject to disenrollment challenging the Enrollment Officer's allegations, the Enrollment Commission by majority vote may:
 - a. Deny the Enrollment Officer's request and order that the person remain enrolled; or
 - b. Order that the Enrollment Officer remove the person from Tribal enrollment, if clear and convincing evidence establishes that grounds for disenrollment exist.
 8. The enrollee shall be notified in writing by the Enrollment Commission of its decision within five (5) working days after it is rendered by the Enrollment Commission.
 9. A person whose disenrollment is ordered by the Enrollment Commission pursuant to this section shall have the right to appeal to the Umatilla Tribal Court. Appeals must be filed within ninety (90) days of the person's receipt of the Enrollment Commission's decision. The Enrollment Officer shall not remove a person from Tribal enrollment until the appeal of the Enrollment Commission's disenrollment decision is resolved, during which time the person shall continue to receive all applicable benefits associated with Tribal membership. The Confederated Tribes Office of Legal Counsel shall represent the Confederated Tribes in any such proceeding. The standard of review of disenrollment decisions shall involve a de novo review of questions of law and factual determinations shall be reviewed under an arbitrary and capricious standard. The decision of the Umatilla Tribal Court on disenrollment decisions shall be final.
- C. Confidentiality of Proceedings. All hearings before the Enrollment Commission shall be closed and recorded. A transcript of the hearing shall be prepared within thirty (30) working days of completion of the hearing. Such transcripts and recordings shall be made available only to the Enrollment Commission, Enrollment Office staff, the parties to the hearing and their legal counsel, and the Umatilla Tribal Court.

APPENDIX A

LEGISLATIVE HISTORY

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ENROLMENT CODE

LEGISLATIVE HISTORY

Enrollment Prior to Enactment of the Constitution. The first census of members of the Confederated Tribes was conducted by the federal government in 1870. It consisted of a simple tally of members of each of the three tribes. In the following years, the federal government conducted many censuses of the membership. Many of these collected a variety of data about members, including their tribal affiliation, their relationship to each other, their blood quantum their land and possessions. Frequency and format of these censuses varied widely from decade to decade, reflecting differences in federal Indian policy. Records exist of federal censuses of the tribal membership for the following years. 1870, 1873, 1877, 1878, 1879, 1884, 1886, 1887, 1889, 1991, 1892, 1894, 1896, 1898, 1900, 1903, 1904, 1905, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935 changes to 1934 census, 1936 changes to 1934 census, 1937, 1938 changes to 1937 census, 1939 changes to 1937 census, 1940 changes to 1937 census, 1941 changes to 1937 census, 1942 changes to 1937 census, 1943 changes to 1937 census, 1946 (incomplete).

Enrollment Under the Original Text of the Constitution (1949) The Confederated Tribes' Constitution and Bylaws took effect on December 7, 1949. Article IV of the Constitution and By-Laws of the Confederated Tribes defines those persons who are eligible for membership in the Confederated Tribes. As originally enacted, Article IV provided three ways for a person to become a member of the Confederated Tribes.

The first basis for tribal membership was listed under Article IV, Section (a). "All persons of Indian blood whose names appear on the official census roll of the Confederated Tribes as of July 1, 1949" were automatically members of the Confederated Tribes (although corrections to that roll could be made for up to five years from the enactment of the Constitution). Unfortunately, no record exists of any July 1, 1949 census roll of the Confederated Tribes. Apparently, when the text of the constitution was being drafted and debated in early 1949 it was anticipated that such a roll would be created, but it never was.

Faced with the dilemma that Article IV, Section (a) of the constitution bases tribal membership on a non-existent census roll, tribal enrollment officials have used as a substitute the 1957 Tribal census roll developed for the payment of settlement monies for the loss of Celilo due to the flooding of the Dalles Dam Reservoir. This roll is used because it is the most thoroughly documented roll from this period. Because significant funds were to be distributed to all tribal members as a result of the Dalles Dam settlement, the question of who was and who was not entitled to be listed on the 1957 roll was carefully scrutinized by tribal and federal officials. Likewise, the 1957 roll is the complete census closest in time (eight years) to the 1949 date of the constitution. By comparison, the only copy of the 1946 roll is missing the last third of its pages. Prior to that, the most recent complete census was in 1937 – eleven years prior to the adoption of the constitution.

The second basis for tribal membership is contained in Article IV, Section (b) of the constitution. A child could automatically qualify for enrollment in the Confederated Tribes if the child had "at least one quarter (1/4) degree of blood of the Confederated Tribes" and both of the child's parents were members of the Confederated Tribes. If the child met the blood quantum requirement but only one parent was a member of the Confederated Tribes, the child could only become a member if the General Council voted to admit the child.

The third and final basis for tribal membership was provided by Article IV, Section (c). Section (c) provided a catch-all basis of membership, whereby any person "of blood of the Confederated Tribes" could become a member of the Confederated Tribes, so long as they applied for membership and a majority of the General Council voted to approve their application. Membership under Section (c), however, did not provide the full set of rights enjoyed by Tribal members enrolled under Sections (a) or (b). Section (c) members could vote and hold office in the Tribal government, but they could not exercise the treaty rights of Tribal members or receive compensation for the loss of such rights.

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Amendments to the Enrollment Article of the Constitution. Article IV of the Constitution has been amended three times.

The first of these amendments was Amendment Two to the Constitution, which was adopted by the General Council on November 27, 1990. Amendment Two changed Section (b) of Article IV of the Constitution. Amendment Two changed the blood quantum requirement to require "at least one-fourth (1/4) degree of Indian blood *from any federally recognized Indian tribe within the United States.*" It also eliminated the condition that children who only have one parent enrolled in the Tribes can only become enrolled if the General Council approves their enrollment.

On the same date the General Council approved Amendment Three to the Tribes' Constitution. Amendment Three amended Section (c) of Article IV. Amendment Three stated simply, "No new applicants for membership in the Confederated Tribes under Article IV(c) shall be enrolled."

On November 23, 1993, the General Council approved Amendment Seven to the Constitution and By-Laws. This amendment further amended Section (b) of Article IV of the Tribes' Constitution, by allowing any person who met the blood quantum requirement to become a member of the Tribes so long as the person had a parent "or grandparent" who was a member of the Confederated Tribes.

Enactment of the Enrollment Code. Until 1991, the Tribes' enrollment functions were administered by the Tribal Enrollment Committee. The Constitution makes no mention of an Enrollment Committee. Apparently, no document ever defined the powers and procedures of the Committee. See Board Resolution No. 91-27 (May 2, 1991), which states: "Tribal enrollment functions have traditionally been administered by a Tribal Enrollment Committee, which Committee was not established by a tribal ordinance, nor were its powers and procedures set forth in such an Ordinance".

This lack of authorization, guidance or procedures for the Enrollment Committee led to a host of problems. The Board of Trustees listed some of those problems in Board Resolution No. 91-27 (May 2, 1991). In that resolution, the Board stated: "the Confederated Tribes would benefit from an Enrollment Ordinance that removes politics from the process leading to tribal enrollment, minimizes discretion in persons reviewing enrollment applications and makes enrollment in the Confederated Tribes a matter of right to any applicant who possesses and can document the lineage and blood quantum required for tribal membership." The Board also stated that "the children of members of the Confederated Tribes would benefit by an Enrollment Ordinance that clearly sets forth the authority of an Enrollment Clerk and the procedures to be followed by an applicant for tribal membership."

To implement the enrollment changes required by Constitutional Amendments Two and Three, and to correct the administrative problems associated with the Tribal Enrollment Committee, the Board of Trustees enacted the Enrollment Ordinance in Resolution 91-30 (May 3, 1991). Section 9 of the new Enrollment Ordinance abolished the Tribal Enrollment Committee.

In Resolution 91-53 (November 6, 1991), the Board adopted enrollment application and instruction forms as well as a procedure for revising those forms, but did not incorporate those forms into the code.

The Board enacted a revised Enrollment Ordinance in Resolution No. 93-26 (June 2, 1993).

The Board enacted a second revised Enrollment Ordinance in Resolution No. 97-66 (November 19, 1997).

In the *Statutes of the Confederated Tribes of the Umatilla Indian Reservation, July 1999 Compilation*, two minor editorial changes were made to the second revised Enrollment Ordinance: the name was changed to "Enrollment Code", and an out-of-date internal citation contained in Section 11(G) was updated. The Board of Trustees approved these changes in Board Resolution No. 99-63 (July 28, 1999).

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After publication of the *July 1999 Compilation*, the Board of Trustees amended the Enrollment Code three times: in Resolution No. 00-44 (May 30, 2000), Resolution No. 00-45 (May 30, 2000) and Resolution No. 00-98 (October 16, 2000).

In Resolution 10-054 (June 21, 2010), the Board of Trustees created the Enrollment Code Review Temporary Committee (Temporary Enrollment Committee) and tasked its members with reviewing the Confederated Tribes' Enrollment Code and proposing any recommended changes. The Temporary Enrollment Committee developed several proposed amendments to the Code to (1) establish a permanent Enrollment Commission tasked with the function of hearing appeals of denied enrollment applications and disenrollment actions; (2) clarify the duties of the Enrollment Officer; (3) clarify the enrollment application, reapplication, and relinquishment processes; and (4) provide for the disenrollment of individuals who do not meet the constitutional enrollment criteria or who are enrolled in more than one federally recognized tribe. The General Council voted to recommend approval of the Temporary Enrollment Committee's proposed amendments on May 12, 2011. The Board of Trustees subsequently adopted the amendments, and a version of the Code reformatted to fit the Confederated Tribes' standard code formatting, in Resolution 11-052 (June 6, 2011).

Upon recommendation of the Enrollment Commission and Enrollment Officer, in Resolution 14-036 (July 7, 2014), the Board of Trustees enacted a set of technical amendments to the Enrollment Code. These amendments did not substantively alter enrollment procedures of the Confederated Tribes, but were instead aimed at clarifying language and correcting clerical errors.

In Resolution 21-110 (December 27, 2021), the Board of Trustees approved a set of amendments that had been recommended by the Enrollment Commission. These amendments expand the conflicts of interest policies applicable to the Enrollment Commission and Enrollment Officer, changed the Enrollment Officer schedule for reporting to the Board of Trustees and General Council from quarterly to biannually, and added a specific timeline for the Enrollment Officer to respond to remand decisions issued by the Enrollment Commission with respect to eligibility appeals.

In Resolution 23-045 (May 22, 2023), the Board of Trustees amended the Enrollment Code to remove the re-application limitations in Section 2.08(A). A person whose enrollment application has been denied may now reapply at any time, so long as new information establishing their eligibility for enrollment is submitted. Formerly, an applicant would need to wait six months from denial of their application and could not reapply after being denied three times. The Board approved corresponding changes to Section 3.04(A) concerning appeals of denied enrollment applications, such that an applicant may appeal Enrollment Commission decisions regarding denied enrollment applications to the Umatilla Tribal Court without having been denied three times.

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