

## Bureau of Indian Affairs, Interior

## § 61.10

as the control numbers of the forms and the date furnished. Instructions for completing and filing applications shall be furnished with each form. The form shall indicate prominently the deadline for filing application forms.

(b) Among other information, each application form shall contain:

(1) Certification as to whether application form is for a natural child or an adopted child of the parent through whom eligibility is claimed.

(2) If the application form is filed by a sponsor, the name and address of sponsor and relationship to applicant.

(3) A control number for the purpose of keeping a record of forms furnished interested individuals.

(4) Certification that the information given on the application form is true to the best of the knowledge and belief of the person filing the application. Criminal penalties are provided by statute for knowingly filing false information in such applications (18 U.S.C. 1001).

(c) Application forms may be filed by sponsors on behalf of other persons.

(d) Every applicant or sponsor shall furnish the applicant's mailing address on the application form. Thereafter, the applicant or sponsor shall promptly notify the Director or Superintendent of any change in address, giving appropriate identification of the application, otherwise the mailing address as stated on the form shall be acceptable as the address of record for all purposes under the regulations in this part 61.

### § 61.7 Filing of application forms.

(a) Application forms filed by mail must be postmarked no later than midnight on the deadline specified. Where there is no postmark date showing on the envelope or the postmark date is illegible, application forms mailed from within the United States, including Alaska and Hawaii, received more than 15 days and application forms mailed from outside of the United States received more than 30 days after the deadline specified in the office of the designated Director or Superintendent, will be denied for failure to file in time.

(b) Application forms filed by personal delivery must be received in the office of the designated Director or Su-

perintendent no later than close of business on the deadline specified.

(c) If the deadline for filing application forms falls on a Saturday, Sunday, legal holiday, or other nonbusiness day, the deadline will be the next working day thereafter.

(d) The provisions of this section shall not apply in the preparation of the rolls under paragraphs (r), (s), (w), (x), (y) and (z) of § 61.4.

### § 61.8 Verification forms.

If the Director or Superintendent is preparing a roll of Indians by adding names of eligible persons to and deleting names of ineligible persons from a previously approved roll, and individuals whose names appear on the previously approved roll are not required to file applications for enrollment, a verification form, to be completed and returned, shall be mailed to each previous enrollee using the last address of record. The verification form will be used to ascertain the previous enrollee's current name and address and that the enrollee is living, or if deceased, the enrollee's date of death. Name and/or address changes will only be made if the verification form is signed by an adult enrollee, if living, or the parent or guardian having legal custody of a minor enrollee, or an authorized sponsor. The verification form may also be used by any sponsor to notify the Director or Superintendent of the date of death of a previous enrollee.

### § 61.9 Burden of proof.

The burden of proof rests upon the applicant or tribal member to establish eligibility for enrollment. Documentary evidence such as birth certificates, death certificates, baptismal records, copies of probate findings, or affidavits, may be used to support claim of eligibility for enrollment. Records of the Bureau of Indian Affairs may be used to establish eligibility.

### § 61.10 Review of applications by tribal authorities.

(a) If tribal review is applicable, the Director or Superintendent shall submit all applications to the Tribal Committee for review and recommendations or determinations; except that, in the cases of adopted persons where the

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Bureau of Indian Affairs has assured confidentiality to obtain the information necessary to determine the eligibility for enrollment of the individual or has the statutory obligation to maintain the confidentiality of the information, the confidential information may not be released to the Tribal Committee, but the Director or Superintendent shall certify as to the eligibility for enrollment of the individual to the Tribal Committee.

(b) The Tribal Committee shall review all applications and make its recommendations or determinations in writing stating the reasons for acceptance or rejection for enrollment.

(c) The Tribal Committee shall return the applications to the Director or Superintendent with its recommendations or determinations and any additional evidence used in determining eligibility for enrollment within 30 days of receipt of the applications by the Tribal Committee. The Director or Superintendent may grant the Tribal Committee additional time, upon request, for its review.

(d) Acceptance of an individual for enrollment by the Tribal Committee does not insure the individual's eligibility to share in the distribution of the judgment funds.

### **§61.11 Action by the Director or Superintendent.**

(a) The Director or Superintendent shall consider each application, all documentation, and when applicable, tribal recommendations or determinations.

(b) The Director or Superintendent, when tribal recommendations or determinations are applicable, shall accept the recommendations or determinations of the Tribal Committee unless clearly erroneous.

(1) If the Director or Superintendent does not accept the tribal recommendation or determination, the Tribal Committee shall be notified in writing, by certified mail, return receipt requested, or by personal delivery, of the action and the reasons therefor.

(2) The Tribal Committee may appeal the decision of the Director or Superintendent not to accept the tribal recommendation or determination. Such appeal must be in writing and must be

filed pursuant to part 62 of this chapter.

(3) Unless otherwise specified by law or in a tribal governing document, the determination of the Director or Superintendent shall only affect the individual's eligibility to share in the distribution of judgment funds.

(c) The Director or Superintendent, upon determining an individual's eligibility, shall notify the individual, parent or guardian having legal custody of a minor, or sponsor, as applicable, in writing of the decision. If an individual files applications on behalf of more than one person, one notice of eligibility or adverse action may be addressed to the person who filed the applications. However, the notice must list the name of each person involved. Where an individual is represented by a sponsor, notification of the sponsor of eligibility or adverse action shall be considered to be notification of the individual.

(1) If the Director or Superintendent determines that the individual is eligible, the name of the individual shall be placed on the roll.

(2) If the Director or Superintendent determines that the individual is not eligible, he/she shall notify the individual's parent or guardian having legal custody of a minor, or sponsor, as applicable, in writing by certified mail, to be received by the addressee only, return receipt requested, and shall explain fully the reasons for the adverse action and the right to appeal to the Secretary. If correspondence is sent out of the United States, registered mail will be used. If a certified or registered notice is returned as "Unclaimed" the Director or Superintendent shall remail the notice by regular mail together with an acknowledgment of receipt form to be completed by the addressee and returned to the Director or Superintendent. If the acknowledgment of receipt is not returned, computation of the appeal period shall begin on the date the notice was remailed. Certified or registered notices returned for any reason other than "Unclaimed" need not be remailed.

(d) Except as provided in paragraph (c)(2) of this section, a notice of adverse action is considered to have been