

## Bureau of Indian Affairs, Interior

## § 62.1

made and computation of the appeal period shall begin on the earliest of the following dates:

- (1) Of delivery indicated on the return receipt;
- (2) Of acknowledgment of receipt;
- (3) Of personal delivery; or
- (4) Of the return by the post office of an undelivered certified or registered letter.

(e) In all cases where an applicant is represented by an attorney, the attorney shall be recognized as fully controlling the application on behalf of the applicant and service on the attorney of any document relating to the application shall be considered to be service on the applicant. Where an applicant is represented by more than one attorney, service upon one of the attorneys shall be sufficient.

(f) To avoid hardship or gross injustice, the Director or Superintendent may waive technical deficiencies in applications or other submissions. Failure to file by the deadline does not constitute a technical deficiency.

### § 61.12 Appeals.

Appeals from or on behalf of tribal members or applicants who have been denied enrollment must be in writing and must be filed pursuant to part 62 of this chapter. When the appeal is on behalf of more than one person, the name of each person must be listed in the appeal. A copy of part 62 of this chapter shall be furnished with each notice of adverse action.

### § 61.13 Decision of the Assistant Secretary on appeals.

The decision of the Assistant Secretary on an appeal shall be final and conclusive and written notice of the decision shall be given the individual, parent or guardian having legal custody of a minor, or sponsor, as applicable. The name of any person whose appeal has been sustained will be added to the roll. Unless otherwise specified by law or in a tribal governing document, the determination of the Assistant Secretary shall only affect the individual's eligibility to share in the distribution of the judgment funds.

### § 61.14 Preparation, certification and approval of the roll.

(a) The staff officer shall prepare a minimum of five copies of the roll of those persons determined to be eligible for enrollment. The roll shall contain for each person a roll number, name, address, sex, date of birth, date of death, when applicable, and when required by law, degree of Indian blood, and, in the remarks column, when applicable, the basic roll number, date of the basic roll, name and relationship of ancestor on the basic roll through whom eligibility was established.

(b) A certificate shall be attached to the roll by the staff officer or Superintendent certifying that to the best of his/her knowledge and belief the roll contains only the names of those persons who were determined to meet the qualifications for enrollment.

(c) The Director shall approve the roll.

### § 61.15 Special instructions.

To facilitate the work of the Director or Superintendent, the Assistant Secretary may issue special instructions not inconsistent with the regulations in this part 61.

## PART 62—ENROLLMENT APPEALS

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AUTHORITY: 5 U.S.C. 301, 25 U.S.C. 2 and 9.

SOURCE: 52 FR 30160, Aug. 13, 1987, unless otherwise noted.

### § 62.1 Definitions.

As used in these regulations:

*Assistant Secretary* means the Assistant Secretary of the Interior for Indian Affairs or an authorized representative acting under delegated authority.

## § 62.2

*Bureau* means the Bureau of Indian Affairs of the Department of the Interior.

*Commissioner* means the Commissioner of Indian Affairs or an authorized representative acting under delegated authority.

*Department* means the Department of the Interior.

*Director* means the Area Director of the Bureau of Indian Affairs area office which has administrative jurisdiction over the local field office responsible for administering the affairs of a tribe, band, or group of Indians or an authorized representative acting under delegated authority.

*Secretary* means the Secretary of the Interior or an authorized representative acting under delegate authority.

*Sponsor* means any authorized person, including an attorney, who files an appeal on behalf of another person.

*Superintendent* means the official or other designated representative of the Bureau of Indian Affairs in charge of the field office which has immediate administrative responsibility with respect to the affairs of a tribe, band, or group of Indians or an authorized representative acting under delegated authority.

*Tribal committee* means the body of a federally recognized tribal entity vested with final authority to act on enrollment matters.

*Tribal governing document* means the written organizational statement governing a tribe, band or group of Indians and/or any valid document, enrollment ordinance or resolution enacted thereunder.

*Tribal member* means a person who meets the requirements for enrollment in a tribal entity and has been duly enrolled.

### § 62.2 Purpose.

(a) The regulations in this part are to provide procedures for the filing and processing of appeals from adverse enrollment actions by Bureau officials.

(b) The regulations in this part are not applicable and do not provide procedures for the filing of appeals from adverse enrollment actions by tribal committees, unless:

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(1) The adverse enrollment action is incident to the preparation of a tribal roll subject to Secretarial approval; or

(2) An appeal to the Secretary is provided for in the tribal governing document.

### § 62.3 Information collection.

In accordance with the Office of Management and Budget regulations contained in 5 CFR 1320.3, approval of the information collection requirements contained in this part is not required.

### § 62.4 Who may appeal.

(a) A person who is the subject of an adverse enrollment action may file or have filed on his/her behalf an appeal. An adverse enrollment action is:

(1) The rejection of an application for enrollment by a Bureau official incident to the preparation of a roll for Secretarial approval;

(2) The removal of a name from a tribal roll by a Bureau official incident to review of the roll for Secretarial approval;

(3) The rejection of an application for enrollment or the disenrollment of a tribal member by a tribal committee when the tribal governing document provides for an appeal of the action to the Secretary;

(4) The change in degree of Indian blood by a tribal committee which affects a tribal member when the tribal governing document provides for an appeal of the action to the Secretary;

(5) The change in degree of Indian blood by a Bureau official which affects an individual; and

(6) The certification of degree of Indian blood by a Bureau official which affects an individual.

(b) A tribal committee may file an appeal as provided for in § 61.11 of this chapter.

(c) A sponsor may file an appeal on behalf of another person who is subject to an adverse enrollment action.

### § 62.5 An appeal.

(a) An appeal must be in writing and must be filed with the Bureau official designated in the notification of an adverse enrollment action, or in the absence of a designated official, with the Bureau official who issued the notification of an adverse enrollment action;