

## Bureau of Indian Affairs, Interior

## § 82.1

(1) When required and granted, the authorizing officer shall furnish a tribe with written approval of constitutional actions. In the absence of an election challenge, the approval shall be issued promptly following the expiration of the contest period. Copies of his/her written approval, the Certificate of Results of Election, and the text of the material voted upon shall be transmitted to the Commissioner of Indian Affairs, 18th and C Streets, NW., Washington, DC 20245.

(2) When a proposed constitution or charter action is rejected by the voters, the authorizing officer shall indicate in writing to the tribe his/her awareness of the election results and send to the Commissioner of Indian Affairs in Washington, DC, copies of the communication, the Certificate of Results of Election and the text of the material voted upon.

(3) When the authorizing officer disapproves a constitutional action, he/she shall in writing promptly notify the tribe of the determination and furnish the Commissioner of Indian Affairs in Washington, DC, a copy of the communication along with the Certificate of Results of Election and the text of the material voted upon.

(b) Where Secretarial approval of proposed constitutional and charter actions is required in conjunction with authorization of an election, copies of the formal approval shall immediately be furnished the Commissioner of Indian Affairs in Washington, DC, by the authorizing officer and be followed in accordance with paragraph (a)(1) of this section by copies of the Certificate of the Results of Election and the text of the material voted upon as soon as it is available.

### **PART 82—PETITIONING PROCEDURES FOR TRIBES REORGANIZED UNDER FEDERAL STATUTE AND OTHER ORGANIZED TRIBES**

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AUTHORITY: 5 U.S.C. 301, and 25 U.S.C. 2, 9, 473a, 476, 477 and 503.

SOURCE: 46 FR 1675, Jan. 7, 1981, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

### **§ 82.1 Definitions.**

As used in this part:

(a) *Area Director* means the Director of the Bureau Area Office having administrative jurisdiction over the petitioners' tribe.

(b) *Bureau* means the Bureau of Indian Affairs.

(c) *Charter* means a charter of incorporation the Secretary may issue to a recognized tribe pursuant to a Federal Statute.

(d) *Commissioner* means the Commissioner of Indian Affairs or his/her authorized representative.

(e) *Constitution* or *Constitution and Bylaws* means the written organizational framework of any tribe for the exercise of governmental powers.

(f) *Eligible, entitled, or qualified voter* means the status achieved by a tribal member who meets the requirement of a tribal constitution or election ordinance to vote in a tribal election; provided, that where a tribe has reorganized pursuant to a Federal Statute, to be an entitled or a qualified voter for purposes of this part, the tribal member must be at least 18 years of age and be eligible to register for voting in a Secretarial election (see part 81 of this chapter).

(g) *Federal Statute* means one of the following: (1) The Act of June 18, 1934, 48 Stat. 984, as amended (Indian Reorganization Act), (2) the Act of June 26, 1936, 49 Stat. 1967 (Oklahoma Indian Welfare Act), or (3) the Act of May 1, 1936, 49 Stat. 1250 (Alaska Native Reorganization Act).

(h) *Local Bureau Official* means the Superintendent, Field Representative, or other line officer of the Bureau of Indian Affairs who has local administrative jurisdiction over the tribe concerned.

(i) *Local Bureau unit* means the Bureau office having local administrative jurisdiction over the tribe concerned.

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(j) *Member* means any person who is duly enrolled in a tribe, who meets a tribe's written criteria for membership, or is recognized as belonging to a tribe by the local Indians comprising that tribe.

(k) *Organized tribe* means any tribe that has adopted a constitution outside of a Federal Statute.

(l) *Reorganized tribe* means any tribe that has adopted a constitution pursuant to a Federal Statute.

(m) *Secretarial election* means an election held within a tribe pursuant to regulations prescribed by the Secretary (as distinguished from *tribal* elections which are conducted under tribal authority (See *Cheyenne River Sioux Tribe v. Andrus*, 566 F.2d 1085 (8th Cir., 1977), *cert. denied* 439 U.S. 820 (1978)).

(n) *Secretary* means the Secretary of the Interior or his/her authorized representative.

(o) *Spokesman for the petitioners* means the authorized voter of a tribe initiating a petition or designated by the initiators of a petition to speak on their behalf.

(p) *Tribe* means any Indian entity that is listed or is eligible to be listed in the FEDERAL REGISTER pursuant to § 83.6(b) of this chapter as recognized and receiving services from the Bureau that has adopted a constitution approved by the Secretary or the Commissioner.

### § 82.2 Purpose and scope.

The purpose of this part is to provide uniformity and order in the formulation and submission of petitions requesting the Secretary or the Commissioner to call elections to amend tribal constitutions, to issue charters pursuant to a Federal Statute, and for such other purposes where constitutions and charters provide for petitioning to effect action by the Secretary or Commissioner.

### § 82.3 Applicability to tribal groups.

The regulations in this part apply:

(a) To any tribe which provides in its constitution for petitioning the Secretary or the Commissioner to call elections to amend the tribal constitution;

(b) To any tribe whose constitution or charter provides for petitioning to

effect any other action by the Secretary or Commissioner; and

(c) To those tribal members at least 18 years of age who, pursuant to a Federal Statute, may wish to petition the Secretary to issue a charter to their tribe.

### § 82.4 Entitlement to petition.

All members eligible to vote in elections conducted by a tribe shall be entitled to sign petitions to effect actions by the Secretary or Commissioner within the scope of § 82.2; provided, that where a tribe is reorganized pursuant to a Federal Statute, only persons eligible to register for Secretarial elections may petition.

### § 82.5 Sufficiency of a petition.

(a) The numerical sufficiency of any petition submitted pursuant to this part shall be based upon a number determined by the local Bureau official:

(1) By consultation with the tribal governing body regarding the current number of tribal voters; or

(2) For reorganized tribes, the number of members considered eligible to register for a Secretarial election and who are at least 18 years of age.

(b) The number shall be made available to the spokesman for the petitioners upon request along with a cut-off date when, for purposes of the petition, no further names will be added.

### § 82.6 Petition format.

Petitions may consist of as many pages as are necessary to accommodate the signatures of the petitioners. However, each sheet of a petition must set forth at least a summary of the objectives of the petitioners and must show the date upon which the petition was signed by each individual as well as the current mailing address of each signer.

### § 82.7 Notarization of petition signatures.

(a) Signatures to a petition must be authenticated in one of the following ways:

(1) Through having each signer subscribe or acknowledge his/her signature before a notary public;

(2) Through having the collector of signatures appeal before a notary and sign, in his/her presence, on each sheet