

§ 82.2

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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

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of the petition, a statement attesting that the signatures were affixed on the dates shown and by the individuals whose names appear thereon, and that to the best of his/her knowledge the signatories are eligible, entitled, or qualified voters.

(b) Only an eligible, entitled, or qualified tribal voter shall be recognized as a valid collector of petition signatures.

§ 82.8 Filing of petitions.

All petitions submitted pursuant to this part must be filed with the local Bureau official having administrative jurisdiction over the tribe. No petitions will be accepted until a spokesman for the petitioners declares that he/she wishes to make an official filing. Once a declaration of the official filing is made and the petition is given to the local Bureau official, that official shall immediately enter on the petition the date of receipt (this date becomes the date of official filing) and shall inform the spokesman for the petitioners that no additional signatures may be added and that no withdrawal of signatures will be permitted. The local Bureau official shall also acknowledge, in writing, receipt of the petition, indicating the exact number of signatures which are attached and the official filing date. Upon this written acknowledgment of the petition, the local Bureau official shall publicly post at the local Bureau unit serving the tribe a statement of the matter proposed in the petition. This statement shall remain posted for a period of 30 days from the official filing date.

§ 82.9 Challenges.

(a) Once an official filing has been made, the local Bureau official shall immediately have copies made of the petition and its signatures. The local Bureau official shall keep these copies at the Agency or field office for 15 days following the date of official filing, during which time they shall be available for examination by authorized voters of the tribe upon request. During this 15-day period, challenges of signatures may be filed with the local Bureau official.

(b) Challenges will be considered on the following grounds:

- (1) Forgery of signatures; and
- (2) Lack of proper qualifications of a signer.

No challenge will be considered which is not accompanied by supporting evidence in writing. In the event that an individual's name appears on a petition more than once, all but one of the names shall be stricken.

§ 82.10 Action on the petition.

(a) Within 30 days after the official filing date, the local Bureau official shall forward to the Area Director, or when the Area Director is the local Bureau official, directly to the Commissioner, the original of the petition and its accompanying signatures, together with recommendations concerning challenges and conclusions concerning:

- (1) The validity of the signatures;
- (2) The adequacy of the number of signatures; and
- (3) The propriety of the petitioning procedure.

(b) The Area Director or the Commissioner, as the case may be, shall within 45 days after the official filing date decide upon each challenge and the sufficiency of the petition and announce whether the petition shall be acted upon. If a decision is reached that the petitioning action is for any reason insufficient, the spokesman for the petitioners and the governing body of the tribe will be so informed and given the reasons for the decision. If a petitioning action warrants action by the Secretary or Commissioner, the spokesman for the petitioners and the governing body of the tribe concerned will be so informed. The decision in such matters shall be final. The procedures for implementing any action initiated by the acceptance of a petition will be determined in accordance with pertinent directives and regulations.

§ 82.11 Duration of petition.

Any petition submitted under this part, shall be considered only for the purpose stated therein. Once a petition has been acted upon, it shall not be used again.