

LEGISLATIVE ORDER OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Adopting Rules of Procedure for Hearings concerning persons whose membership in the
Tohono O'odham Nation is lost or abandoned by virtue of membership in another (other)
Indian nation(s), tribe(s), community(ies) or band(s))

LEGISLATIVE ORDER NO. 01-124

1 **WHEREAS, the Legislative Council previously adopted¹ "Rules of Hearing and Procedure**
2 **Hearings on Disenrollment of Dual Enrollees ", a copy of which is attached and**
3 **incorporated herein by this reference ("Rules"); and**

4 **WHEREAS, the Rules Committee in consultation with the Enrollment Committee has reviewed**
5 **and finds such Rules require revision; and**

6 **WHEREAS, Article II §3 of the Constitution and Article IX of the Enrollment Ordinance addresses**
7 **lost or abandoned membership in the Tohono O'odham Nation; and**

8 **WHEREAS, upon the recommendation of the Rules Committee, the Legislative Council desires**
9 **that by adoption of these Rules, any and all prior resolutions or legislative orders**
10 **concerning the matter are rescinded.**

11 **NOW, THEREFORE, BE IT ORDERED BY THE TOHONO O'ODHAM LEGISLATIVE COUNCIL THAT:**

12 **The following Rules of Procedure For Hearings concerning persons whose**
13 **membership status in the Tohono O'odham Nation is lost or abandoned by virtue of**
14 **membership in another Indian nation, tribe, community or band are hereby adopted**
15 **and all prior resolutions or legislative orders concerning this matter are rescinded.**

16 **INTRODUCTION AND EFFECTIVE DATE: Unless required otherwise by these rules, the Legislative**
17 **Rules of the Tohono O'odham Legislative Council are applicable and govern hearings concerning**
18 **persons whose membership in the Tohono O'odham Nation has become lost or abandoned by**
19 **virtue of membership in another (other) Indian nation(s), tribe (s), community (ies) or band(s) .**
20 **These rules are effective upon adoption and such future hearings shall conform to these rules.**

21 **(1) Scheduling. Hearing dates before the Legislative Council to review matters**
22 **concerning persons, whose membership in the Tohono O'odham Nation has**
23 **become lost or abandoned by virtue of membership in another (other) Indian**
24 **nation (s), tribe (s), band (s) or community (ies), will be held on days and at**
25 **times scheduled by the Chairman of the Council in consultation with the**
26 **Enrollment Committee.**

27 **(2) Site of Hearing. The hearing shall be held in the chambers of the Legislative**

¹ The resolution or legislative order could not be located.

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the Clerk:

“Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?”

The Clerk shall make a sound recording of all witness testimony as presented in 13 below, and such recording shall constitute a record of witness testimony. The Clerk shall retain a copy of such recording for at least one (1) year following the conclusion of the hearing.

(11) Rules of Evidence/ Objections. All testimonial and documentary evidence must be relevant. Any other rules of evidence applicable in other judicial proceedings shall not apply. Decisions on limitation of testimony, how testimony is presented, the form and extent of questioning, and any procedural matters are solely within the discretion of the Presiding Officer.

(12) Appearance. On the day set for the hearing, the business of the Council shall be suspended except as otherwise ordered by the Council, and the Council shall convene the hearing. The Presiding Officer shall call the person whose membership status in the Tohono O'odham Nation is at issue, the Enrollment Committee members and Enrollment Office Director to appear before the Council, and the Clerk shall record their appearance. If such member fails to appear, the Clerk shall record the absence and the hearing shall be conducted as though the absent member is present.

(13) Procedure. The Presenting Officer may make an opening statement not to exceed five minutes. The person whose membership status in the Tohono O'odham Nation is at issue may then make an opening statement not to exceed five minutes. Thereafter, the Presenting Officer and such member shall, in turn and as called by the Presiding Officer, may present its case in the following order:

(a) Presenting Officer's presentation. On or before the hearing commences, the Presenting Officer shall file with the Clerk,

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introduce into evidence and enter into the record a packet for each person whose membership status in the Tohono O'odham Nation is at issue which shall consist of the following:

- (i) proof of membership in the Tohono O'odham Nation;**
- and**
- (ii) proof of membership in the other (s) Indian nation, tribe, band or community;**
- (iii) a copy of the Notice of Hearing Regarding Loss or Abandonment of Membership in the Tohono O'odham Nation and proof of service of such notice;**
- (iv) proposed resolution entitled Declaration of Loss or Abandonment of Membership, the contents of which shall conform to the requirements of Article IX of the Enrollment Ordinance; and**
- (v) a copy of these rules.**

The Presenting Officer shall provide such person whose membership status is at issue a copy of the packet 10 calendar days prior to hearing. The Presenting Officer shall provide the Council an oral summary of its recommendation. Upon completion of the presentation which shall not exceed thirty minutes per person, the Presenting Officer shall rest. Then the Presenting Officer shall be subject to questioning by such person whose membership is at issue and then Council members.

(b) Member's presentation. The person whose membership status in the Tohono O'odham Nation is at issue may file with the Clerk, introduce into evidence and enter into the record testimony and documentary evidence showing that such person is not enrolled as a member of another (other) Indian nation (s), tribe (s), community (ies) or band (s) as alleged by the Enrollment Committee. Such person shall provide copies

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1 of any such documents to each member of Legislative Council
2 and the Presenting Officer through the Clerk prior to the start
3 of the hearing. Upon completion of the person's presentation
4 which shall not exceed thirty minutes per person, such person
5 shall rest. Then the person shall be subject to questioning by
6 the Presenting Officer and then Council members.

7 (c) At any time, the Presenting Officer upon the majority vote of
8 the Enrollment Committee may withdraw a recommendation
9 to declare a membership lost or abandoned if the Committee
10 finds that such member is not or is no longer a member of
11 another (other) Indian nation (s), tribe (s), community(ies) or
12 band (s). Thereafter, the hearing will conclude and the person
13 whose membership status in the Tohono O'odham Nation was
14 at issue will continue to be a member of the Nation.

15 (d) Closing arguments shall follow the presentation of all evidence
16 and shall not exceed ten minutes per side. Closing arguments
17 shall be presented by the Presenting Officer, and then by the
18 person whose membership status in the Tohono O'odham Nation
19 is at issue.

20 (e) At the conclusion of closing arguments, the Presiding Officer will
21 excuse everyone from Council chambers except the Legislative
22 Council and authorized Legislative personnel or agents. Once the
23 chambers has been cleared, no one may be recalled to appear
24 before Council, and all motions shall be made before the
25 deliberation process begins.

26 (14) **Scope of Cross Examination of Witnesses.** Only one person per party may
27 examine each witness. The scope of the questioning referred to in 13 (a) and
28 (b) above shall be limited to the testimony given.

29 (15) **Instructions.** At any time, the Presiding Officer may request instructions from

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1 the Council on any procedural matters not addressed by these rules or
2 interpretations of these rules.

3 **(16) Maintaining Order.** The Presiding Officer shall have the power to preserve
4 order and to make all lawful orders that may be necessary for that purpose.
5 Persons in attendance of the proceedings shall, at the direction of the
6 Presiding Officer, be ejected from the Council chambers by the Marshall if they
7 are under the influence of drugs or alcohol, or in any way interrupt, disrupt or
8 interfere with the proceeding.

9 **(17) Deliberation on Applicant's Eligibility.** Once the Council chambers has been
10 cleared, discussion and deliberation by the Council shall begin. Upon the
11 conclusion of the discussion and deliberation, the resolution to declare a
12 person's membership in the Tohono O'odham Nation lost or abandoned as
13 defined in 13 (a) (i-v) above will be submitted to a vote of the Council without
14 the requirement of a motion or second. If the resolution passes by majority
15 vote, the applicant will be deemed no longer eligible for membership
16 according to the provisions of Article IX of the Enrollment Ordinance and
17 Article II § 3 of the Constitution and shall be disenrolled. If such resolution
18 fails, the applicant will be deemed still eligible for membership according to
19 Article IX of the Enrollment Ordinance and Article II § 3 of the Constitution only
20 if the Council finds by majority vote that the member is not enrolled in another
21 Indian nation, tribe, band or community. The Council shall not table the
22 consideration and vote unless the Council does so by unanimous vote.

23 **(18) Upon conclusion of the hearing,** each Council member shall seal each packet
24 as described in 13 (a) (i - v) above and return it to the Clerk who shall verify
25 with the Presiding Officer that all packets have been collected and accounted
26 for. The Clerk shall return each packet to the Presenting Officer. The
27 Presenting Officer shall preserve at least one copy of each packet and file it
28 with the Enrollment Office Director. In the event a person whose membership
29 is declared lost or abandoned, files an appeal of a final determination under

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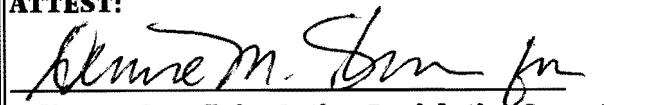
Article IX § 2 (C) of the Enrollment Ordinance, the Enrollment Office Director shall provide a copy of the packet to the Chairman of the Council upon request.

The foregoing Order was passed by the Tohono O'odham Legislative Council on the 09TH. Day of MARCH, 2001 at a meeting at which a quorum was present with a vote of 2,165.5 FOR; -0- AGAINST; -0- NOT VOTING; and [04] ABSENT, pursuant to the powers vested in the Council by Section 3 of Article II and Section 1 (k) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Dennis Ramon, Legislative Chairman

ATTEST:


Julianna Saraficio, Acting Legislative Secretary

ACTION: ADOPTING RULES OF PROCEDURE FOR HEARINGS CONCERNING PERSONS WHOSE MEMBERSHIP IN THE TOHONO O'ODHAM NATION IS LOST OR ABANDONED BY VIRTUE OF MEMBERSHIP IN ANOTHER (OTHER) INDIAN NATION(S), TRIBE(S), COMMUNITY(IES) OR BAND(S)

MOVED: COUNCILWOMAN EVELYN JUAN

SECOND: COUNCILMAN DENNIS JOSE

DATE: MARCH 09, 2001

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 171.8	1. MARY ANN ANTONE (Darlene Andrew)	85.9	X			
	2. RITA MARTINEZ (Nicholas Jose)	85.9	X			
SELLS 372.7	1. DENNIS E. JOSE ()	186.35	X			
	2. EVELYN JUAN ()	186.35	X			
SCHUK TOAK 133.4	1. MARY FLORES ()	66.7	X			
	2. AMBROSE ENCINAS ()	66.7	X			X
SAN XAVIER 165.9	1. TONY BURRELL ()	82.95	X			
	2. DENNIS RAMON ()	82.95	X			
BABOQUIVARI 286.5	1. FRANCES MIGUEL ()	143.25	X			
	2. FRANCES G. ANTONE (Edward N. Kisto)	143.25	X			X
GU ACHI 209.6	1. CAMILLUS LOPEZ ()	104.8	X			
	2. ALEX J. RAMON ()	104.8	X			
PISINEMO 156.8	1. BARBARA SALVICIO (Alex Antone)	78.4	X			
	2. JOHNSON JOSE ()	78.4	X			
SAN LUCY 128.1	1. ALBERT MANUEL, JR. ()	64.05	X			X
	2. GLORIA RAMIREZ ()	64.05	X			
GU VO 160.0	1. FERN SALCIDO ()	80.0	X			X
	2. GLORIA MONTANA (Phillip Antone)	80.0	X			
HICKIWAN 158.1	1. SHIRLEY MOLINA ()	79.05	X			
	2. LLOYD FRANCISCO (Susan Sam)	79.05	X			
CHUKUT KUK 222.6	1. KENNETH WILLIAMS ()	111.3	X			
	2. DAVID GARCIA (Mary Audrey Juan)	111.3	X			
TOTAL		2,165.5	2,165.5	-0-	-0-	[04]

**PASSED VOTES