

RESOLUTION 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))

RESOLUTION NO. 01-129

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10 **concerning the matter are rescinded.**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 RESOLVED 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15 **and all prior resolutions or legislative orders concerning this matter are rescinded.**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.**

¹ The resolution or legislative order could not be located.

RESOLUTION NO. 01-129

(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))

Page 3 of 9

1 **outside of the chambers. The Presiding Officer shall be responsible for making**
2 **appropriate scheduling arrangements in advance with the Police Department.**

3 **(8) (a) Clerk of Hearing. The Secretary of the Legislative Council shall serve**
4 **as Clerk of the hearing and shall administer the oath to all witnesses,**
5 **keep the minutes of the hearing and perform all other duties**
6 **assigned by the Presiding Officer. The Presiding Officer may appoint**
7 **an assistant Clerk if necessary.**

8 **(b) Interpreter. The Enrollment Committee and Enrollment Office**
9 **Director shall provide interpretation services for the hearing at their**
10 **expense. Trilingual, O'odham, Spanish and English, interpreters are**
11 **preferred but bilingual O'odham/English and Spanish/English**
12 **interpreters may be used. Any member of the Nation whose**
13 **enrollment status is at issue desiring interpretation services from**
14 **the Enrollment Committee or Enrollment Office Director shall make**
15 **appropriate scheduling arrangements in advance, preferably ten**
16 **working days prior to hearing. If such member declines to utilize the**
17 **interpretation services provided by the Enrollment Committee or**
18 **Enrollment Office Director, such member may provide such services**
19 **at his own expense.**

20 **(9) Legal Counsel. The person whose status as a member of the Tohono O'odham**
21 **Nation is at issue shall have the right to be represented by an attorney or other**
22 **representative at the hearing at such member's expense. An attorney from the**
23 **Nation's Office of Attorney General shall be available to represent the**
24 **Enrollment Committee and Enrollment Office. The Enrollment Committee and**
25 **Enrollment Office Director shall make appropriate scheduling arrangements**
26 **in advance, preferably 30 calendar days or more before any hearing, with the**
27 **Nation's Attorney General. The Council may utilize its contract attorney or in**
28 **house legal counsel to provide legal representation to the Council for the**

1 **hearing at the request of the Presiding Officer.**

2 **(10) Oaths and Sound Recording of Witness Testimony. Before any witness gives**
3 **testimony, the witness shall subscribe to the following oath as administered by**
4 **the Clerk:**

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

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

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

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

25 **(13) Procedure. The Presenting Officer may make an opening statement not to**
26 **exceed five minutes. The person whose membership status in the Tohono**
27 **O'odham Nation is at issue may then make an opening statement not to exceed**
28 **five minutes. Thereafter, the Presenting Officer and such member shall, in**

RESOLUTION NO. 01-129

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Page 5 of 9

1 **turn and as called by the Presiding Officer, may present its case in the following**
2 **order:**

3 **(a) Presenting Officer's presentation. On or before the hearing**
4 **commences, the Presenting Officer shall file with the Clerk,**
5 **introduce into evidence and enter into the record a packet for**
6 **each person whose membership status in the Tohono**
7 **O'odham Nation is at issue which shall consist of the following:**

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

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

27 **(b) Member's presentation. The person whose membership status**
28 **in the Tohono O'odham Nation is at issue may file with the**

RESOLUTION NO. 01-129

(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))

Page 6 of 9

1 **Clerk, introduce into evidence and enter into the record**
2 **testimony and documentary evidence showing that such**
3 **person is not enrolled as a member of another (other) Indian**
4 **nation (s), tribe (s), community (ies) or band (s) as alleged by**
5 **the Enrollment Committee. Such person shall provide copies**
6 **of any such documents to each member of Legislative Council**
7 **and the Presenting Officer through the Clerk prior to the start**
8 **of the hearing. Upon completion of the person's presentation**
9 **which shall not exceed thirty minutes per person, such person**
10 **shall rest. Then the person shall be subject to questioning by**
11 **the Presenting Officer and then Council members.**

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

20 **(d) Closing arguments shall follow the presentation of all evidence**
21 **and shall not exceed ten minutes per side. Closing arguments**
22 **shall be presented by the Presenting Officer, and then by the**
23 **person whose membership status in the Tohono O'odham Nation**
24 **is at issue.**

25 **(e) At the conclusion of closing arguments, the Presiding Officer will**
26 **excuse everyone from Council chambers except the Legislative**
27 **Council and authorized Legislative personnel or agents. Once the**
28 **chambers has been cleared, no one may be recalled to appear**

RESOLUTION NO. 01-129

(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))

Page 7 of 9

1 before Council, and all motions shall be made before the
2 deliberation process begins.

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

6 **(15) Instructions.** At any time, the Presiding Officer may request instructions from
7 the Council on any procedural matters not addressed by these rules or
8 interpretations of these rules.

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

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

RESOLUTION NO. 01-129

(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))

Page 9 of 9

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TOHONO O'ODHAM LEGISLATIVE COUNCIL

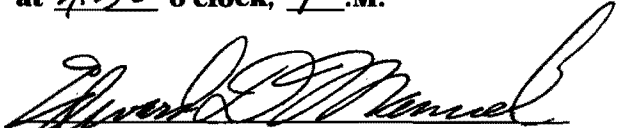

Dennis Ramon, Legislative Chairman

APPROVED

on the 21st day of March, 20 01

DISAPPROVED

at 4:50 o'clock, P.M.


EDWARD D. MANUEL, Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 21 day of

March, 20 01, at 5 o'clock, P.M.


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 MARY ANN ANTONE

SECOND: VICE CHAIRMAN AMBROSE ENCINAS

DATE: MARCH 20, 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			
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			
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	
	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	1,766.1	111.3	288.1	[01]

**PASSED VOTES