

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Amending Enrollment Ordinance No. 5-81, Article IX - Relinquishment and Loss
of Membership)

RESOLUTION NO. 02-460

1 WHEREAS, the Legislative Council is vested with the power to “enact laws and ordinances
2 governing . . . the relinquishment and loss of membership” (Constitution of the
3 Tohono O’odham Nation, Article VI, Section 1(h)); and

4 WHEREAS, Article IX of the Enrollment Ordinance, Ordinance No. 5-81 (as amended), provides
5 for the loss of membership in the Tohono O’odham Nation on grounds of dual
6 enrollment; and

7 WHEREAS, Article IX of the Enrollment Ordinance does not currently provide for revocation of
8 membership that was based upon incorrect or omitted information; and

9 WHEREAS, the Rules Committee, in consultation with the Enrollment Committee, has developed
10 amendments to Section 2 of Article IX which would provide for revocation of
11 membership when enrollment was based upon incorrect or omitted information; and

12 WHEREAS, the Rules Committee recommends that the below amendments to Section 2 of Article
13 IX of the Enrollment Ordinance be adopted.

14 NOW, THEREFORE, BE IT RESOLVED by the Tohono O’odham Legislative Council that
15 Article IX, Section 2, of the Enrollment Ordinance is hereby amended as follows:

16 ARTICLE IX - RELINQUISHMENT AND LOSS OF MEMBERSHIP

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18 Section 2 Loss or Abandonment of Membership

19 (A) Dual Enrollment

20
21 Membership in the Nation and all rights deriving therefrom shall be lost or
22 abandoned if a person is or becomes enrolled as a member in another Indian nation,
23 tribe, community or band. Whenever the committee determines that a person who
24 is a member of the Nation or qualifies for membership in the Nation is or becomes
25 enrolled as a member of another Indian nation, tribe, community or band, the
26 committee shall notify such person that he must either relinquish his membership
27 in such other Indian nation, tribe, community or band, or relinquish or lose his
28 membership in the Tohono O’odham Nation. If such person fails or refuses to
29 relinquish his membership in such other Indian nation, tribe, community or band,
30 the committee shall recommend to the Council that his membership in the Nation be
31 declared lost and abandoned.

32 (B) Enrollment Based Upon Incorrect Information

33 Membership in the Nation and all rights deriving therefrom shall be lost if

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1 enrollment is based upon information which was mistaken, fraudulent, deceitful,
2 deceptive, misrepresented or falsified. Membership shall also be lost if information
3 is omitted that would have resulted in ineligibility for membership. Whenever the
4 Enrollment Committee determines that membership approval was based on mistake,
5 fraud, deceit, deception, misrepresentation, falsification or omission, the Committee
6 shall first give such person an opportunity to relinquish his membership in the
7 Nation. If such person refuses to relinquish his membership, the Committee shall
8 recommend to the Council that such person's membership in the Nation be lost.

9 **(AC) Notice of Hearing**

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11 **(BD) Council Determination and Notice**

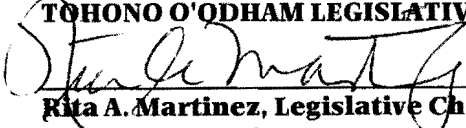
12 The Council shall review the committee's recommendation of the committee and,
13 based upon presentations and evidence presented at an enrollment revocation
14 hearing, determine whether (1) the person is a member of the Nation and is or has
15 become also enrolled as a member in another Indian nation, tribe, community
16 or band, or (2) the enrollment in the Nation was based upon mistake, fraud,
17 deceit, deception, misrepresentation, falsification or omission. Such person If
18 the enrollment committee establishes the existence of dual enrollment, the
19 member shall then have the burden of proof of establishing to the satisfaction of
20 the Council that he is not a member of such other Indian nation, tribe, community
21 or band. If the enrollment committee establishes that enrollment was based upon
22 mistake, fraud, deceit, deception, misrepresentation, falsification or omission,
23 the member shall then have the burden of establishing that enrollment was not
24 based upon such information or lack of information. and tThe determination of
25 the Council shall be final unless a timely appeal is made in accordance with the
26 appeals procedures in Subsection E of this Section. Notice of the Council's
27 determination shall be given promptly; shall be sent by certified mail, return
28 receipt requested, addressed to such person or his parent(s), guardian or other
29 person legally authorized to act on his behalf; and shall advise that the
30 determination may be appealed to the Tohono O'odham Courts in accordance
31 with the appeals procedures in Subsection E of this Section. The notice shall
32 indicate the time within which an appeal must be commenced and the procedure
33 for commencing such appeal.


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(CE) Appeal from Final Determination

Any person whose membership in the Nation has been revoked by a final determination of the Council that his membership was lost or abandoned based upon the grounds identified in this Section because such person is or has become enrolled as a member of another Indian nation, tribe, community or band, may appeal such determination to the Tohono O'odham Courts. To commence an appeal such person must clearly express an intent to appeal such determination to the Tohono O'odham Courts, a copy of which must be served on the Council, before the close of business on the 30th day after the notice was received by such person unless such notice is delivered to an address outside the Continental United States in which case there shall be 60 days rather than 30 in which to file such an appeal. Upon an appeal being commenced, the Council shall transmit or make available to the Court the complete record pertaining to the determination. The burden of proof upon such person shall be to show that the Council acted arbitrarily, unreasonably or contrary to the law in making the determination. The Court will consider the record as presented, together with any legal authority that it may consider pertinent, and the Court may, in its own discretion, allow oral argument to be made. The decision of the Tohono O'odham Courts on appeal shall be final and conclusive and written notice of the decision shall be given to such person.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 07TH Day of OCTOBER, 2002 at a meeting at which a quorum was present with a vote of 2,417.5 FOR; -0- AGAINST; -0- NOT VOTING; and [02] ABSENT, pursuant to the powers vested in the Council by Section 1 (h) 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

Rita A. Martinez, Legislative Chairwoman
8th day of October, 20 02

ATTEST:

Julianna Saraficio, Acting Legislative Secretary
07th day of October, 20 02.

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Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 8th day of October, 20 02 at 2:42 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL



Rita A. Martinez, Legislative Chairwoman

APPROVED

on the 9th day of October, 20 02

DISAPPROVED

at 11:06 o'clock, A.M.


EDWARD D. MANUEL, Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 07th day of

October, 20 02, at 12:34 o'clock, P.M.


Julianna Saraficio, Acting Legislative Secretary

ACTION: AMENDING ENROLLMENT ORDINANCE NO. 5-81, ARTICLE IX - RELINQUISHMENT AND LOSS OF MEMBERSHIP

MOVED: COUNCILWOMAN SHIRLEY MOLINA

SECOND: COUNCILWOMAN FERN SALCIDO

DATE: OCTOBER 07, 2002

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 317.7	1. FRANCES MIGUEL ()	158.85	X			
	2. FRANCES G. ANTONE (Lucilda Norris-Valenzuela)	158.85	X			
CHUKUT KUK 248.1	1. KENNETH WILLIAMS (Juanita Homer)	124.05	X			
	2. DAVID GARCIA (Mary Audrey Juan)	124.05	X			
GU ACHI 230.7	1. CAMILLUS LOPEZ ()	115.35	X			
	2. JEROME JOAQUIN ()	115.35	X			
GU VO 188.3	1. FERN SALCIDO ()	94.15	X			
	2. EMILIO LEWIS (Michael Flores)	94.15	X			
HICKIWAN 167.3	1. SHIRLEY MOLINA ()	83.65	X			
	2. SANDRA ORTEGA ()	83.65	X			
PISINEMO 174.7	1. BARBARA SALVICIO (Alex Antone)	87.35	X			X
	2. PATRICIA CRUZ (Johnson Jose)	87.35	X			
SAN LUCY 160.7	1. ALBERT MANUEL, JR. (John W. Lawson, Sr.)	80.35	X			X
	2. GLORIA RAMIREZ ()	80.35	X			
SAN XAVIER 184.7	1. FELICIA NUÑEZ ()	92.35	X			
	2. DENNIS RAMON ()	92.35	X			
SCHUK TOAK 144.5	1. MARY FLORES ()	72.25	X			
	2. AMBROSE ENCINAS (Frances B. Conde(Francisco))	72.25	X			
SELLS 416.1	1. DENNIS E. JOSE ()	208.05	X			
	2. EVELYN JUAN ()	208.05	X			
SIF OIDAK 184.7	1. ISIDRO LOPEZ ()	92.35	X			
	2. RITA MARTINEZ (Nicholas Jose)	92.35	X			
TOTAL		2,417.5	2,417.5	-0-	-0-	[02]

**PASSED VOTES