

RESOLUTION OF THE TOHONO O'ODHAM COUNCIL
(Amending Enrollment Ordinance)

RES. NO. 262-86

1 WHEREAS, the qualified voters of the Tohono O'odham Nation did
2 on January 18, 1986, adopt a new Constitution for the
3 Nation which provides that any existing ordinances
4 previously enacted by the Papago Tribe shall remain in
5 full force and effect to the extent that they are
6 consistent with the Constitution ; and
7 WHEREAS, Section 3 of Article II of the Constitution provides
8 that
9 Membership in the Tohono O'odham Nation
10 and all rights deriving therefrom shall
11 be lost or relinquished if a person is
12 or becomes enrolled as a member in
13 another Indian nation, tribe, community
14 or band, provided such person shall
15 first be given an opportunity to relin-
16 quish membership in such other nation,
17 tribe, community or band.
18 WHEREAS, the Constitution consequently mandates that enrolled
19 members of this Nation who are also enrolled as members
20 in another Indian nation, tribe, community or band must
21 be given an opportunity to elect whether they wish to
22 relinquish their membership in such other nation,
23 tribe, community or band, or either relinquish or lose
24 their membership in this Nation; and
25 WHEREAS, the existing ordinance does not provide a procedure
26 which gives dual enrollees the opportunity to make such
27 election and mandates that those who fail or refuse to
28 relinquish their membership in such other nation,
29 tribe, community or band must either relinquish or lose
30 their membership in this Nation; and
31 WHEREAS, it is necessary to add such a procedure to the existing
32 enrollment ordinance; and
33 WHEREAS, the membership roll of the Tohono O'odham Nation is
34 nearly completed and, upon completion of the roll, the
35 final installment of per capita distributions payable
36 under Section 8(c)(3)(iii) of the Act of January 3,

1 1983, P.L. 97-408, 96 Stat. 2038, will be distributable
2 to all enrolled members of the Nation; and

3 WHEREAS, the Council finds that such per capita distributions
4 should not be made until all members of this Nation who
5 are also enrolled in another nation, tribe, community
6 or band have either relinquished their membership in
7 such nation, tribe, community or band or have had their
8 names removed from this Nation's roll.

9 NOW, THEREFORE, BE IT RESOLVED by the Council that it does
10 hereby amend the existing enrollment ordinance, Papago
11 Enrollment Ordinance No. 5-81, by adding thereto the
12 attached new Article IX, entitled RELINQUISHMENT AND
13 LOSS OF MEMBERSHIP; by renumbering the existing Article
14 IX, entitled MISCELLANEOUS; CERTIFIED COPIES; PENAL-
15 TIES, as Article X; and by changing the references
16 therein from "Papago" to "Tohono O'odham," from "Tribe"
17 to "Nation," from "Papago Indian blood" to "Papago-
18 Tohono O'odham Indian blood," and from the "Papago
19 Constitution" to "Constitution of the Tohono O'odham
20 Nation."

21 BE IT FURTHER RESOLVED that all dual enrollees be advised forth-
22 with of their rights under the new Constitution and the
23 enrollment ordinance as amended, and that the final
24 installment of per capita distributions payable under
25 Section 8(c)(3)(iii) of the Act of January 3, 1983,
26 P.L. 97-408, 96 Stat. 2038, be deferred until their
27 enrollments have been reviewed and acted upon accord-
28 ingly.

29 The foregoing resolution was passed by the Tohono O'odham Coun-
30 cil on the 8th day of MAY, 1986, at a meeting at which
31 a quorum was present with a vote of 902.5 for; 568.5 again-
32 st; 169.0 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)

1 on March 6, 1986, pursuant to Section 16 of the Act of June 18,
1934 (48 Stat. 984).

2 TOHONO O'ODHAM LEGISLATIVE COUNCIL

3
4 Harriet Toro
Harriet Toro, Legislative Chairperson

5 _____ day of May, 1986.

6 ATTEST:

7
8 Ophelia F. Campillo
Ophelia F. Campillo, Legislative
9 Secretary

10 _____ day of _____, 1986.

11 Said Resolution was submitted for approval to the office of the
12 Chairman of the Tohono O'odham Nation on the _____ day of
13 _____, 1986, at _____ o'clock, _____ .M., pursuant to
14 the provisions of Section 5 of Article VII of the Constitution.
15 It will become effective upon his approval or upon his failure
16 to either approve or disapprove it within 48 hours of submittal
17 and upon the further approval of the Secretary of the Interior,
18 or his authorized representative, as required by Section 8(c)(1)
19 of the Act of January 3, 1983, P.L. 97-408, 96 Stat. 2037.

17 TOHONO O'ODHAM LEGISLATIVE COUNCIL

18
19 Harriet Toro
Harriet Toro, Legislative Chairperson

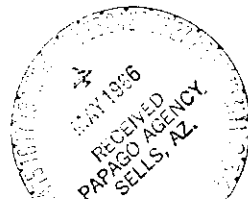
20 APPROVED) on the 13 day of May,
21 DISAPPROVED) 1986, at 11:00 o'clock, P..M.

22
23 Josiah Moore
JOSIAH MOORE, Chairman
TOHONO O'ODHAM NATION

24 Returned to Legislative Secretary on the _____ day of
25 _____, 1986, at _____ o'clock, _____ .M.

26
27 Ophelia F. Campillo
Ophelia F. Campillo, Legislative
28 Secretary

29 APPROVED this _____ day of _____, 1986,



Superintendent of the Sells Agency
pursuant to delegated authority con-
tained in _____

1 ARTICLE IX - RELINQUISHMENT AND LOSS OF MEMBERSHIP

2 Section 1 Relinquishment of Membership

3 A member of the Nation may relinquish his membership
4 in the Nation by submitting a written statement clearly
5 expressing an intent to relinquish his membership
6 to the Council, a copy of which must be served on the
7 committee. The written statement must be signed by
8 the person wishing to relinquish his membership or,
9 if a minor or incompetent, by the parent(s), guardian
10 or other person legally authorized to act on his behalf.
11 Relinquishment does not require the approval of
12 the Council, but is effective upon receipt of the
13 statement by the Council and cannot be subsequently
14 denied. Upon recognition by the Council that the
15 individual has renounced his membership, his name shall
16 be deleted from the membership roll.

17 Section 2 Loss or Abandonment of Membership

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

33 (A) Notice of Hearing

34 Whenever the committee recommends that the Council
35 declare a membership to be lost or abandoned as
36 hereinabove provided, written notice shall be
37 given before a final determination is made by the
38 Council. The notice shall (1) advise the person
39 of the committee's recommendation; (2) fix a time
40 and place for the Council to hold a hearing and
41 make its final determination; (3) indicate that
42 the person may appear before the Council at the
43 time and place fixed for such hearing to show
44 why his membership in the Nation and all rights
45 deriving therefrom should not be determined to be
46 lost or abandoned. The notice shall be given to
47 such person or, if a minor or incompetent, to his
48 parent(s), guardian or other person legally auth-
49 orized to act on his behalf, at least 20 days
50 prior to the time fixed for the Council to hold
51 a hearing to make its final determination, and
52 shall be served by certified mail, return receipt
53 requested, or by personal service by a member or
54 agent of the enrollment committee who shall veri-
55 fy service of a copy of the notice by endorsing
56 his name and date of delivery upon another copy

1 thereof, and by having the person served acknow-
2 ledge receipt of a copy thereof by signing his
3 name thereon. Where it appears that the notice
4 required under this Section was deposited in a
5 United States Post Office box more than thirty
6 (30) days prior to the time fixed for the Council
7 to hold its hearing and such notice was sent by
8 certified mail as provided herein, it shall be
9 presumed that such notice was received by the
10 addressee more than twenty (20) days prior to the
11 time fixed for the hearing by the Council.

12 (B) Council Determination and Notice

13 The Council shall review the recommendation of the
14 committee and determine whether the person is a
15 member of the Nation and is or has become enrolled
16 as a member in another Indian nation, tribe, com-
17 munity or band. Such person shall have the burden
18 of proof of establishing to the satisfaction of
19 the Council that he is not a member of such other
20 Indian nation, tribe, community or band, and the
21 determination of the Council shall be final unless
22 a timely appeal is made in accordance with the
23 appeals procedures in Subsection C of this Section.
24 Notice of the Council's determination shall be
25 given promptly; shall be sent by certified mail,
26 return receipt requested, addressed to such per-
27 son or his parent(s), guardian or other person
28 legally authorized to act on his behalf; and shall
29 advise that the determination may be appealed to
30 the Tohono O'odham Courts in accordance with the
31 appeals procedures in Subsection C of this Section.
32 The notice shall indicate the time within which
an appeal must be commenced and the procedure for
commencing such appeal.

(C) 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 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 com-
plete record pertaining to the determination.
The burden of proof upon such person shall be to
show that the Council acted arbitrarily, unreason-
ably or contrary to the law in making the deter-
mination. The Court will consider the record as
presented, together with any legal authority that
it may consider pertinent, and the Court may, in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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.

MOVED: HENRY RAMON

SUBJECT: AMENDING ENROLLMENT

SECOND: ANGELO JOAQUIN, SR.

ORDINANCE

DATE: MAY 8, 1986

RESOLUTION OR ORDINANCE #262-86

DISTRICTS	REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 138	1. Elliott Lewis (Eugene F. Jose) 2. Nicklos Jose (Letitia Garcia)	69.0 69.0	X X			
SELLS 257	1. Andrew M. Patricio (Nora Alvarez) 2. Fred Stevens (Dennis E. Jose)	128.5 128.5	X X			
SCHUK TOAK 105	1. Joseph Juan () 2. Julie Carrillo (Jo Ann Francisco)	52.5 52.5	X		X	
SAN XAVIER 126	1. John B. Nunez (Austin Nunez) 2. Tony Felix (Carmelita Mattias)	63.0 63.0		X X		X
BABOQUIVARI 241	1. Joann Garcia (Edward N. Kisto) 2. Kenneth Chico, Sr. (Frances Miguel)	120.5 120.5		X X		
GU ACHI 158	1. Angelo J. Joaquin, Sr. (Jonas R. Robles) 2. Fernando Joaquin (Fred Adams, Jr.)	79.0 79.0	X X			X
PISINEMO 116	1. JEROME ANTOINE CHESTER ANTOINE (SYLVES) (MANUEL) 2. Johnson Jose (Edward D. Manuel)	58.0 58.0			X	
SAN LUCY 85	1. John Reno () 2. Max P. Jose (Dewey I. Ortega)	42.5 42.5		X X		
GU VO 117	1. Cross Antone (Fern E. Salcido) 2. Virgil Lewis (Roy Montana)	58.5 58.5			X	
HICKIWAN 128	1. Henry A. Ramon (Pablo Baptisto) 2. Lloyd Francisco (Eleanor Santos)	64.0 64.0	X X			
CHUKUT KUK 169	1. Rosemary Lopez (Anita C. Clark) 2. Harriet Toro (Marvin J. Thomas)	84.5 84.5	X X			
TOTALS		1640.0	902.5	568.5	169.0	-02-