

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Adopting Procedures for Processing Enrollment Applications
Subject to the Provisions of the Indian Child Welfare Act)

RES. NO. 142-90

1 WHEREAS, the public policy of this Nation and other jurisdictions
2 protects the confidentiality of certain information in
3 preadoption and blood quantum determination proceedings,
4 such as evidence submitted in a blood quantum
5 determination conducted by the Enrollment Committee of
6 this Nation in a closed hearing pursuant to Section 4(F)
7 of Article V of the Enrollment Ordinance; and
8 WHEREAS, the Legislative Council wishes to honor such public policy
9 when possible and also to provide for the flow of
10 sufficient information in order to assure the enrollment
11 and to protect the rights of persons who are the
12 biological children of members of, and qualify for
13 membership in, this Nation; and
14 WHEREAS, Sections 107 and 301 of the Indian Child Welfare Act, P.L.
15 95-608, 25 U.S.C. §§1917 and 1951, provide a mechanism for
16 making available and subject to disclosure to Indian
17 tribes certain information in state adoptive placements
18 which may be protected and made confidential under state
19 law, such as the names and addresses of the biological
20 parents; and
21 WHEREAS, the Enrollment Committee of the Tohono O'odham Nation was
22 established in order to receive and make recommendations
23 upon applications for enrollment and adoption into
24 membership of the Nation, and to make determination of
25 blood degree of applicants and members; and
26 WHEREAS, it is the intention of the Legislative Council to honor,
27 as far as possible, the public policy of this and other
28 jurisdictions which protects and makes confidential the
29 identities of biological parents of children in adoptive
30 placements, provided that sufficient evidence of the
31 child's parentage and other circumstances of birth are
32 provided which will satisfy the Enrollment Committee that
the child is eligible for membership in this Nation.

1 NOW, THEREFORE, BE IT RESOLVED by the Legislative Council that:

2 1. The Enrollment Committee is delegated exclusive
3 jurisdiction on behalf of the Legislative Council to make
4 (1) the membership determination of whether an applicant
5 for membership in the Nation meets the membership
6 requirements set by Section 1(b) of Article II of the
7 Constitution, or (2) the degree of blood determination of
8 whether an applicant for adoption into membership of the
9 Nation meets the blood quantum requirements for adoption
10 set by Section 2 of Article II of the Constitution, in all
11 cases involving:

12 (a) state court adoptive placements subject to
13 Section 301 of the Indian Child Welfare Act, 25 U.S.C.
14 §1951, requiring a state court to disclose to and by the
15 Secretary of the Interior of such information as may be
16 necessary for the enrollment of an Indian child in the
17 tribe in which the child may be eligible for enrollment,
18 and

19 (b) applications for membership or adoption into
20 membership of the Nation in which the applicant was the
21 subject of an adoptive placement by a state court which
22 is subject to Section 107 of the Indian Child Welfare Act,
23 25 U.S.C. §1917, requiring a state court to inform an
24 Indian applicant who has reached the age of eighteen of
25 the applicant's tribal affiliation, of the identity of the
26 applicant's biological parents, and of such other
27 information as may be necessary to protect any rights
28 flowing from the applicant's tribal relationship.

29 2. In processing the applications referred to in
30 Section 1 above, the Enrollment Committee shall assure
31 itself that it has received all of the information which
32 is available pursuant to Sections 301 and 107 of the

1 Indian Child Welfare Act and which is necessary to
2 establish that the applicant is eligible for membership
3 or adoption into membership of the Nation. Upon
4 certification of the Enrollment Committee, noticed in
5 accordance with the provisions of Section 2 of Article VI
6 or Section 1 of Article VII of the Enrollment Ordinance,
7 that it has received all of the information which is
8 available pursuant to Sections 301 and 107 of the Indian
9 Child Welfare Act and that an applicant is either eligible
10 or ineligible for membership under Section 1(b) of Article
11 II of the Constitution or for adoption under Section 2 of
12 Article II of the Constitution, the Legislative Council
13 will accept such certification and will issue a final
14 determination based thereon in accordance with the
15 provision of Section 1(C) of Article VIII of the
16 Enrollment Ordinance.

17 3. Only the Enrollment Committee's certification and
18 the degree of Tohono O'odham/Papago or other Indian blood,
19 as certified by the Enrollment Committee or ascribed by
20 the Tohono O'odham Courts upon appeal pursuant to Section
21 3 of Article VIII of the Enrollment Ordinance, shall be
22 made public. No other information, testimony, evidence,
23 files, records, reports and papers, including information
24 obtained by the Enrollment Committee pursuant to Sections
25 301 and 107 of the Indian Child Welfare Act, produced
26 before or in possession of the Enrollment Committee, the
27 Legislative Council or the Tohono O'odham Courts shall be
28 made public; shall be admitted in evidence or used in any
29 manner in any other proceedings; or shall be released to,
30 or disclosed by any person, agency or court, except to the
31 applicant, or the applicant's sponsor or attorney, and to
32 the Tohono O'odham Courts for the purpose of an appeal

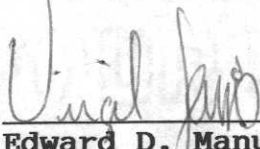
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pursuant to Section 3 of Article VIII of the Enrollment Ordinance. Upon issuance of a final determination by the Legislative Council pursuant to Section 1(C) of Article VIII of the Election Ordinance, or by the Tohono O'odham Courts pursuant to Section 3 of Article VIII of the Election Ordinance, all files, records, reports and other papers in the possession of the Enrollment Committee or the Tohono O'odham Courts may be released to, or disclosed only (1) to an applicant upon filing of a written consent signed by the applicant's biological mother or upon filing of a certificate of death of the applicant's biological mother, and (2) to the lineal descendants of an applicant upon filing of certificates of death of both the applicant and applicant's biological mother.

C E R T I F I C A T I O N

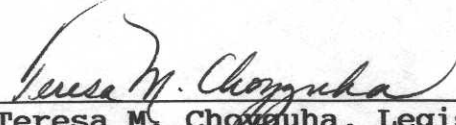
The foregoing Resolution was passed by the Tohono O'odham Council on the 8th day of May, 1990 at a meeting at which a quorum was present with a vote of 1,540.0 for; 184.0 against; -0- not voting; 05 absent, pursuant to the powers vested in the Council by Section 1 (h) of Article VI of the Constitution 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



Edward D. Manuel, Legislative Chairman
10th day of May, 1990.

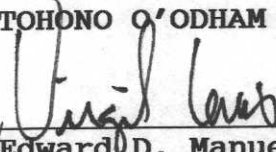
ATTEST:



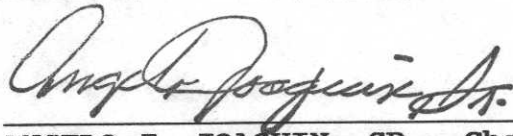
Teresa M. Choyguha, Legislative Secretary
10th day of May, 1990.

1 Said Resolution was submitted for approval to the office of the
 2 Chairman of the Tohono O'odham Nation on the 14th day of
May, 1990, at 1:23 o'clock, P.M.,
 3 pursuant to the provisions of Section 5 of Article VII of the
 4 Constitution and will become effective upon his approval or upon
 his failure to either approve or disapprove it within 48 hours of
 submittal.

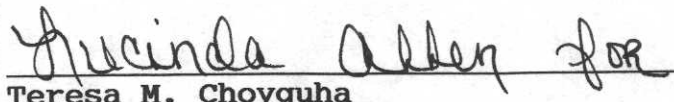
TOHONO O'ODHAM LEGISLATIVE COUNCIL

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 6 
 7 Edward D. Manuel, Legislative Chairman

8 [] APPROVED) on the 16 day of May, 1990,
 9 [] DISAPPROVED) at 9:06 o'clock, A.M.

10 
 11 ANGELO J. JOAQUIN, SR., Chairman
 12 TOHONO O'ODHAM NATION

13
 14 Returned to the Legislative Secretary on the 16th day of
 15 May, 1990, at 9:56 o'clock, A.M.

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 17 Teresa M. Choyguha
 18 Legislative Secretary

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MOVED: Lloyd Francisco

SUBJECT: Adopting Procedures for Processing

SECOND: Earl Francisco

Enrollment Applications Subject to the

DATE: May 8, 1990

Provisions of the Indian Child Welfare Act

RESOLUTION NO. 142-90

DISTRICTS	REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 229.0	1. Earl A. Francisco (Kenneth Chico, Sr.) 2. Joann Garcia (Frances Miguel)	114.5 114.5	X X			
CHUKUT KUK 163.0	1. Rosita Ruiz (Rosemary Lopez) 2. Kenneth G. Williams (Harriet Toro)	81.5 81.5	X X			
GU ACHI 166.0	1. Percy Lopez () 2. Alex J. Ramon (Fernando Joaquin)	83.0 83.0	X X			
GU VO 114.0	1. Cross Antone (Juan Joe Cipriano) 2. Virgil Lewis (Michael Flores)	57.0 57.0	X	X		
HICKIWAN 125.0	1. Lloyd Francisco (Billy C. Manuel) 2. Lenora Montana ()	62.5 62.5	X X			
PISINEMO 119.0	1. Johnson Jose () 2. Edward Manuel (Alex Antone)	59.5 59.5	X X			X
SAN LUCY 106.0	1. Albert Manuel, Jr. (Max P. Jose) 2. John Reno ()	53.0 53.0	X X			X
SAN XAVIER 127.0	1. Eugene Enis. Sr.** (Michael Rios) 2. Joanne C. Preston (Carmelita Mattias)	63.5 63.5		X X		
SCHUK TOAK 107.0	1. JoAnn Francisco (David Valenzuela Sr.) 2. Joseph Juan (Frances Francisco)	53.5 53.5	X X			X
SELLS 310.0	1. Joseph T. Joaquin (Larry Garcia) 2. Andrew Patricio (Daniel Lopez)	155.0 155.0	X X			X
SIF OIDAK 158.0	1. Mary Ann Antone (Nina Jose) 2. Willard Juan, Sr. (Melissa Gregorio)	79.0 79.0	X X			X
	TOTAL	1,724.0	1,540.0	184.0	-0-	05

**PASSED VOTES