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## PART 5—PREFERENCE IN EMPLOYMENT

Sec.

5.1 Definitions.

5.2 Appointment actions.

5.3 Application procedure for preference eligibility.

5.4 Information collection.

AUTHORITY: 4 Stat. 737, 25 U.S.C. 43; 22 Stat. 88, 25 U.S.C. 46; 28 Stat. 313, 25 U.S.C. 44; 24 Stat. 389, 25 U.S.C. 348; and 48 Stat. 986, 25 U.S.C. 472 and 479.

### § 5.1 Definitions.

For purposes of making appointments to vacancies in all positions in the Bureau of Indian Affairs a preference will be extended to persons of Indian descent who are:

(a) Members of any recognized Indian tribe now under Federal Jurisdiction;

(b) Descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation;

(c) All others of one-half or more Indian blood of tribes indigenous to the United States;

(d) Eskimos and other aboriginal people of Alaska; and

(e) For one (1) year or until the Osage Tribe has formally organized, whichever comes first, effective January 5, 1989, a person of at least one-quarter degree Indian ancestry of the Osage Tribe of Indians, whose rolls were closed by an act of Congress.

[43 FR 2393, Jan. 17, 1978. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 54 FR 283, Jan. 5, 1989]

### § 5.2 Appointment actions.

(a) Preference will be afforded a person meeting any one of the standards of § 5.1 whether the appointment involves initial hiring, reinstatement, transfer, reassignment or promotion.

(b) Preference eligibles may be given a Schedule A excepted appointment under Exception Number 213.3112(a)(7). However, if the individuals are within reach on a Civil Service Register, they may be given a competitive appointment.

[43 FR 2393, Jan. 17, 1978. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 49 FR 12702, Mar. 30, 1984]

### § 5.3 Application procedure for preference eligibility.

(a) Proof of eligibility must be submitted with the person's application for a position.

(b) In order for a person to be considered a preference eligible according to the standards of § 5.1, they must submit proof of membership, descendancy or degree of Indian ancestry as indicated on rolls or records acceptable to the Secretary.

[43 FR 2393, Jan. 17, 1978. Redesignated at 47 FR 13327, Mar. 30, 1982]

### § 5.4 Information collection.

The Office of Management and Budget has informed the Department of the Interior that the information collection requirements contained in part 5 need not be reviewed by them under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

[54 FR 283, Jan. 5, 1989]

## SUBCHAPTER B—LAW AND ORDER

### PART 10—INDIAN COUNTRY DETENTION FACILITIES AND PROGRAMS

Sec.

- 10.1 Why are policies and standards needed for Indian country detention programs?
- 10.2 Who is responsible for developing and maintaining the policies and standards for detention and holding facilities in Indian country?
- 10.3 Who must follow these policies and standards?
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- 10.5 Where can I find the policies and standards for the administration, operation, services, and physical plant/construction of Indian country detention, community residential, and holding facilities?
- 10.6 How is the BIA assured that the policies and standards are being applied uniformly and facilities are properly accredited?
- 10.7 Where do I find help or receive technical assistance in complying with the policies and standards?
- 10.8 What minimum records must be kept and reports made at each detention, community residential, or holding facility in Indian country?
- 10.9 If a person is detained or incarcerated in an Indian country detention, community residential, or holding facility, how would they know what their rights, privileges, safety, protection and expected behavior would be?
- 10.10 What happens if I believe my civil rights have been violated while incarcerated in an Indian country detention or holding facility?
- 10.11 How would someone detained or incarcerated, or their representative, get the BIA policies and standards?

AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2, 9, 13, 2417, 2453, and 2802.

SOURCE: 61 FR 34374, July 2, 1996, unless otherwise noted.

#### **§ 10.1 Why are policies and standards needed for Indian country detention programs?**

Policies and standards are required to ensure that all Bureau of Indian Affairs (BIA) and tribal entities that receive Federal funding for the operation, maintenance, design and construction or renovation of detention facilities, community residential, or holding facilities are supporting con-

stitutional rights and are complying with the Indian Law Enforcement Reform Act of 1990. Self-governance tribes and tribes with limited jurisdiction are encouraged to follow the regulations in this part, and other BIA manuals and handbooks. The provision for funding tribes for detention programs under the Indian Alcohol and Substance Abuse Prevention and Treatment Act, Public Law 99-570, (25 U.S.C. 2453) requires standards and procedures for such facilities.

[61 FR 34374, July 2, 1996; 61 FR 65473, Dec. 13, 1996]

#### **§ 10.2 Who is responsible for developing and maintaining the policies and standards for detention and holding facilities in Indian country?**

The Director, Office of Law Enforcement Services who reports to the Deputy Commissioner of Indian Affairs, BIA, establishes policies, procedures, and standards for the operations, design, planning, maintenance, renovation, and construction of detention programs in the BIA and by tribal contract under Indian Self-Determination and Education Assistance Act, Public Law 93-638, as amended, 25 U.S.C. 450.

#### **§ 10.3 Who must follow these policies and standards?**

You must follow these minimum policies, standards, and guides if you are part of the BIA or tribal detention or rehabilitation program receiving Federal funding. Self-governance tribes and tribes with limited jurisdiction are encouraged to follow the regulations in this part, and other BIA manuals and handbooks. Detention officers, guards, cooks and other staff conducting business in the facilities must meet minimum standards of law enforcement personnel as prescribed in 25 CFR part 12, subpart D, "Qualifications and Training Requirements." Those tribal programs not receiving Federal funding under the Indian Self-Determination and Education Assistance Act (Public Law 93-638, as amended) who wish to be accredited are encouraged to use the policies and standards in that