

§ 81.22 Contesting of election results.

Any qualified voter, within three days following the posting of the results of an election, may challenge the election results by filing with the Secretary through the officer in charge the grounds for the challenge, *together with substantiating evidence*. If in the opinion of the Secretary, the objections are valid and warrant a recount or new election, the Secretary shall order a recount or a new election. The results of the recount or new election shall be final.

§ 81.23 Posting and certifying election results.

(a) The results of the election shall be posted in the local Bureau of Indian Affairs office, tribal headquarters, and at other appropriate public places determined by the election board.

(b) The election board shall certify the results of the election on the following form and transmit them to the local unit of the Bureau of Indian Affairs:

Certificate of Results of Election

Pursuant to a Secretarial election authorized by the (title of authorizing officer) on (date), the attached Constitution and Bylaws (Amendment, Charter or Charter Amendment) of the (name of tribe) was submitted to the qualified voters of the tribe and on (date), was duly (adopted) (ratified) (rejected) or (revoked) by a vote of (number) for and (number) against and (number) cast ballots found spoiled or mutilated in an election in which at least 30 percent (or such "percentages" as may be required to amend according to the constitution) of the (number) members entitled to vote, cast their ballot in accordance with (appropriate Federal statute). Signed: (By the chairman of the election board and board members.)

Date: _____

§ 81.24 Approval, disapproval, or rejection action.

(a) Action to approve or disapprove constitutional actions will be taken promptly by the authorizing officer following receipt of the original text of the material voted upon and the original of the Certificate of Results of Election from the officer in charge.

(1) When required and granted, the authorizing officer shall furnish a tribe with written approval of constitutional actions. In the absence of an election

challenge, the approval shall be issued promptly following the expiration of the contest period. Copies of his/her written approval, the Certificate of Results of Election, and the text of the material voted upon shall be transmitted to the Commissioner of Indian Affairs, 18th and C Streets, NW., Washington, DC 20245.

(2) When a proposed constitution or charter action is rejected by the voters, the authorizing officer shall indicate in writing to the tribe his/her awareness of the election results and send to the Commissioner of Indian Affairs in Washington, DC, copies of the communication, the Certificate of Results of Election and the text of the material voted upon.

(3) When the authorizing officer disapproves a constitutional action, he/she shall in writing promptly notify the tribe of the determination and furnish the Commissioner of Indian Affairs in Washington, DC, a copy of the communication along with the Certificate of Results of Election and the text of the material voted upon.

(b) Where Secretarial approval of proposed constitutional and charter actions is required in conjunction with authorization of an election, copies of the formal approval shall immediately be furnished the Commissioner of Indian Affairs in Washington, DC, by the authorizing officer and be followed in accordance with paragraph (a)(1) of this section by copies of the Certificate of the Results of Election and the text of the material voted upon as soon as it is available.

PART 82—PETITIONING PROCEDURES FOR TRIBES REORGANIZED UNDER FEDERAL STATUTE AND OTHER ORGANIZED TRIBES

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AUTHORITY: 5 U.S.C. 301, and 25 U.S.C. 2, 9, 473a, 476, 477 and 503.

SOURCE: 46 FR 1675, Jan. 7, 1981, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 82.1 Definitions.

As used in this part:

(a) *Area Director* means the Director of the Bureau Area Office having administrative jurisdiction over the petitioners' tribe.

(b) *Bureau* means the Bureau of Indian Affairs.

(c) *Charter* means a charter of incorporation the Secretary may issue to a recognized tribe pursuant to a Federal Statute.

(d) *Commissioner* means the Commissioner of Indian Affairs or his/her authorized representative.

(e) *Constitution or Constitution and Bylaws* means the written organizational framework of any tribe for the exercise of governmental powers.

(f) *Eligible, entitled, or qualified voter* means the status achieved by a tribal member who meets the requirement of a tribal constitution or election ordinance to vote in a tribal election; provided, that where a tribe has reorganized pursuant to a Federal Statute, to be an entitled or a qualified voter for purposes of this part, the tribal member must be at least 18 years of age and be eligible to register for voting in a Secretarial election (see part 81 of this chapter).

(g) *Federal Statute* means one of the following: (1) The Act of June 18, 1934, 48 Stat. 984, as amended (Indian Reorganization Act), (2) the Act of June 26, 1936, 49 Stat. 1967 (Oklahoma Indian Welfare Act), or (3) the Act of May 1, 1936, 49 Stat. 1250 (Alaska Native Reorganization Act).

(h) *Local Bureau Official* means the Superintendent, Field Representative, or other line officer of the Bureau of Indian Affairs who has local administrative jurisdiction over the tribe concerned.

(i) *Local Bureau unit* means the Bureau office having local administrative jurisdiction over the tribe concerned.

(j) *Member* means any person who is duly enrolled in a tribe, who meets a tribe's written criteria for membership, or is recognized as belonging to a tribe

by the local Indians comprising that tribe.

(k) *Organized tribe* means any tribe that has adopted a constitution outside of a Federal Statute.

(l) *Reorganized tribe* means any tribe that has adopted a constitution pursuant to a Federal Statute.

(m) *Secretarial election* means an election held within a tribe pursuant to regulations prescribed by the Secretary (as distinguished from *tribal* elections which are conducted under tribal authority (See *Cheyenne River Sioux Tribe v. Andrus*, 566 F.2d 1085 (8th Cir., 1977), cert. denied 439 U.S. 820 (1978)).

(n) *Secretary* means the Secretary of the Interior or his/her authorized representative.

(o) *Spokesman for the petitioners* means the authorized voter of a tribe initiating a petition or designated by the initiators of a petition to speak on their behalf.

(p) *Tribe* means any Indian entity that is listed or is eligible to be listed in the FEDERAL REGISTER pursuant to § 83.6(b) of this chapter as recognized and receiving services from the Bureau that has adopted a constitution approved by the Secretary or the Commissioner.

§ 82.2 Purpose and scope.

The purpose of this part is to provide uniformity and order in the formulation and submission of petitions requesting the Secretary or the Commissioner to call elections to amend tribal constitutions, to issue charters pursuant to a Federal Statute, and for such other purposes where constitutions and charters provide for petitioning to effect action by the Secretary or Commissioner.

§ 82.3 Applicability to tribal groups.

The regulations in this part apply:

(a) To any tribe which provides in its constitution for petitioning the Secretary or the Commissioner to call elections to amend the tribal constitution;

(b) To any tribe whose constitution or charter provides for petitioning to effect any other action by the Secretary or Commissioner; and

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(c) To those tribal members at least 18 years of age who, pursuant to a Federal Statute, may wish to petition the Secretary to issue a charter to their tribe.

§ 82.4 Entitlement to petition.

All members eligible to vote in elections conducted by a tribe shall be entitled to sign petitions to effect actions by the Secretary or Commissioner within the scope of § 82.2; provided, that where a tribe is reorganized pursuant to a Federal Statute, only persons eligible to register for Secretarial elections may petition.

§ 82.5 Sufficiency of a petition.

(a) The numerical sufficiency of any petition submitted pursuant to this part shall be based upon a number determined by the local Bureau official:

(1) By consultation with the tribal governing body regarding the current number of tribal voters; or

(2) For reorganized tribes, the number of members considered eligible to register for a Secretarial election and who are at least 18 years of age.

(b) The number shall be made available to the spokesman for the petitioners upon request along with a cut-off date when, for purposes of the petition, no further names will be added.

§ 82.6 Petition format.

Petitions may consist of as many pages as are necessary to accommodate the signatures of the petitioners. However, each sheet of a petition must set forth at least a summary of the objectives of the petitioners and must show the date upon which the petition was signed by each individual as well as the current mailing address of each signer.

§ 82.7 Notarization of petition signatures.

(a) Signatures to a petition must be authenticated in one of the following ways:

(1) Through having each signer subscribe or acknowledge his/her signature before a notary public;

(2) Through having the collector of signatures appeal before a notary and sign, in his/her presence, on each sheet of the petition, a statement attesting that the signatures were affixed on the

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dates shown and by the individuals whose names appear thereon, and that to the best of his/her knowledge the signatories are eligible, entitled, or qualified voters.

(b) Only an eligible, entitled, or qualified tribal voter shall be recognized as a valid collector of petition signatures.

§ 82.8 Filing of petitions.

All petitions submitted pursuant to this part must be filed with the local Bureau official having administrative jurisdiction over the tribe. No petitions will be accepted until a spokesman for the petitioners declares that he/she wishes to make an official filing. Once a declaration of the official filing is made and the petition is given to the local Bureau official, that official shall immediately enter on the petition the date of receipt (this date becomes the date of official filing) and shall inform the spokesman for the petitioners that no additional signatures may be added and that no withdrawal of signatures will be permitted. The local Bureau official shall also acknowledge, in writing, receipt of the petition, indicating the exact number of signatures which are attached and the official filing date. Upon this written acknowledgment of the petition, the local Bureau official shall publicly post at the local Bureau unit serving the tribe a statement of the matter proposed in the petition. This statement shall remain posted for a period of 30 days from the official filing date.

§ 82.9 Challenges.

(a) Once an official filing has been made, the local Bureau official shall immediately have copies made of the petition and its signatures. The local Bureau official shall keep these copies at the Agency or field office for 15 days following the date of official filing, during which time they shall be available for examination by authorized voters of the tribe upon request. During this 15-day period, challenges of signatures may be filed with the local Bureau official.

(b) Challenges will be considered on the following grounds:

(1) Forgery of signatures; and

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(2) Lack of proper qualifications of a signer.

No challenge will be considered which is not accompanied by supporting evidence in writing. In the event that an individual's name appears on a petition more than once, all but one of the names shall be stricken.

§ 82.10 Action on the petition.

(a) Within 30 days after the official filing date, the local Bureau official shall forward to the Area Director, or when the Area Director is the local Bureau official, directly to the Commissioner, the original of the petition and its accompanying signatures, together with recommendations concerning challenges and conclusions concerning:

- (1) The validity of the signatures;
- (2) The adequacy of the number of signatures; and
- (3) The propriety of the petitioning procedure.

(b) The Area Director or the Commissioner, as the case may be, shall within 45 days after the official filing date decide upon each challenge and the sufficiency of the petition and announce whether the petition shall be acted upon. If a decision is reached that the petitioning action is for any reason insufficient, the spokesman for the petitioners and the governing body of the tribe will be so informed and given the reasons for the decision. If a petitioning action warrants action by the Secretary or Commissioner, the spokesman for the petitioners and the governing body of the tribe concerned will be so informed. The decision in such matters shall be final. The procedures for implementing any action initiated by the acceptance of a petition will be determined in accordance with pertinent directives and regulations.

§ 82.11 Duration of petition.

Any petition submitted under this part, shall be considered only for the purpose stated therein. Once a petition has been acted upon, it shall not be used again.

PART 83—PROCEDURES FOR ESTABLISHING THAT AN AMERICAN INDIAN GROUP EXISTS AS AN INDIAN TRIBE

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AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2 and 9; 43 U.S.C. 1457; and 209 Departmental Manual 8.

SOURCE: 59 FR 9293, Feb. 25, 1994, unless otherwise noted.

§ 83.1 Definitions.

- As used in this part:
- Area Office* means a Bureau of Indian Affairs Area Office.
- Assistant Secretary* means the Assistant Secretary—Indian Affairs, or that officer's authorized representative.
- Autonomous* means the exercise of political influence or authority independent of the control of any other Indian governing entity. Autonomous must be understood in the context of the history, geography, culture and social organization of the petitioning group.
- Board* means the Interior Board of Indian Appeals.
- Bureau* means the Bureau of Indian Affairs.
- Community* means any group of people which can demonstrate that consistent interactions and significant social relationships exist within its membership and that its members are differentiated from and identified as distinct from nonmembers. *Community* must be understood in the context of the history, geography, culture and social organization of the group.
- Continental United States* means the contiguous 48 states and Alaska.