

Notice of Revised Enrollment Ordinance

At the direction of the Southern Ute Indian Tribal Council, the Tribe's Legal Department is seeking comments on a proposed Revised Enrollment Ordinance. A copy can be seen here: <https://members.southernute-nsn.gov>.

Essential Information:

- The Tribal Constitution, in Article II, Section 2, authorizes the Tribal Council to enact ordinances governing future membership and loss of membership.
- Currently, there is no administrative or legislative process that addresses enrollments that occur due to administrative or clerical errors. There is also no legislative or administrative process for addressing a tribal member's request to relinquish tribal membership, i.e. voluntary removal from the tribal membership rolls.
- Tribal Council is not proposing any changes to the enrollment requirements in the Constitution.
- Under the draft Ordinance, the sole basis for disenrollment is incorrect enrollment due to a clerical or administrative error.

Summary of draft ordinance: The Tribal Council formed a committee to prepare a disenrollment ordinance and, based on feedback received during the previous Tribal Member comment period, the current Enrollment Ordinance, Ordinance No. 2000-01, has been revised to include a draft disenrollment ordinance. The proposed revised enrollment ordinance does not change the requirements for tribal membership established by the Constitution. Additionally, the application requirements for tribal membership are the same requirements that are listed in the current Enrollment Ordinance. Sections 2 and 3 of the proposed Ordinance are the exact same as sections 1 through 8 of the current Enrollment Ordinance.

Under the draft Ordinance, the sole basis for disenrollment is incorrect enrollment due to a clerical or administrative error. Persons who may have been enrolled in the Tribe based on a clerical or administrative error are entitled to a comprehensive process that includes an investigation by the TIS Department, an administrative hearing before the Administrative Appeals and Hearings Office, and a deliberation period by Tribal Council. These procedures are intended to ensure that a Tribal Member is given adequate due process before being removed from the tribal membership roll. If a tribal member is deemed ineligible for tribal membership at the conclusion of the processes described in the draft Ordinance, he or she may be disenrolled from the Tribe if enough members of Tribal Council vote in favor of disenrollment. If a tribal member is ultimately not disenrolled at the conclusion of this entire process, the member's benefits will be reinstated.

Under the draft Ordinance, Tribal Members 18 years of age or older may request relinquishment of their tribal membership for any reason. Such requests are subject to Tribal Council review on a case-by-case basis and the decision to grant such requests is solely within Tribal Council's discretion. To decide whether to grant the request, Tribal Council may request any information from the Tribal Member seeking relinquishment

Tribal Council will set an effective date for the proposed Ordinance after it is approved by the Secretary of the Interior. The proposed Ordinance does not apply to clerical or administrative errors that occurred before the effective date.

Key Provisions: Key provisions of the proposed ordinance are listed and summarized below.

1. Disenrollment may only occur as a result of a clerical or administrative error, which is defined as "An error resulting from negligence, mistake or inadvertence of one or more employees or officials of the Tribe." Examples include a typographical error, a mathematical miscalculation, including a miscalculation in determining the proper blood quantum, or a failure to properly review all documentation in the possession of the Tribe at the time a decision is made.

2. The clerical or administrative error may only be as to :
 - a. Whether the Tribal member had the requisite blood quantum
 - b. Whether the Tribal member was a member of another federally recognized tribe at the time of enrollment
 - c. Whether the Tribal member was the child of an enrolled member at the time of enrollment.
3. The proposed Ordinance will not cause the disenrollment of any Tribal Member due to a clerical or administrative error who was enrolled before the effective date of the Ordinance. It only affects those future members who may be enrolled after the effective date.
4. It establishes an impartial process for determining disenrollment through AAHO. The burden of proof is on the Tribe to prove the clerical or administrative error. The AAHO's opinions are advisory only.
5. The Tribal Council has the authority to review the AAHO's decisions.
6. The Tribal Council may suspend benefits pending completion of the disenrollment process and benefits may be reinstated if a person is ultimately not disenrolled.
7. The Tribal Council may recover past benefits if the Tribal Member or his or her parent or guardian contributed to the incorrect enrollment through fraud.
8. A tribal member 18 years or older may request relinquishment, i.e. voluntary removal from the tribal membership roll, for any reason. Tribal Council will review those requests on a case-by-case basis. The decision to grant a relinquishment request is solely within Tribal Council's discretion.
9. The Ordinance includes a section on the consequences of disenrollment and relinquishment. Descendants of a person who is disenrolled may not count the disenrolled person's Southern Ute blood quantum in the calculation of their blood quantum for purposes of obtaining and maintaining tribal membership. Descendants of a person who relinquishes their tribal membership may only count the relinquished person's Southern Ute blood quantum if they are enrolled in the Tribe on the date the person is relinquished from the tribal membership roll and they met the eligibility requirements for membership when they were enrolled in the Tribe.
10. Decisions of the Tribal Council pursuant to the Ordinance are final, except if an enrollment decisions results from a clerical or administrative error or the Tribal Council grants a request for Relinquishment (i.e. voluntary removal from the tribal membership roll) that complies with the Ordinance.

Deadline for submission of written comments: Please provide any written comments on the draft code by Monday, October 7, 2019. Please submit your comments by one of the following methods:

- E-mail: comments@southernute-nsn.gov
- Mail: Enrollment Ordinance Committee, c/o Legal Department, Southern Ute Indian Tribe, P.O. Box 737, Ignacio, Colorado 81137.
- Hand delivery: Legal Department, Leonard C. Burch Tribal Administration Building, Ignacio, Colorado, 81137.
- Phone: (970) 563-4705; select the second option (7902) to comment on the Revised Enrollment Ordinance.
- Tribal Member Portal: <https://members.southernute-nsn.gov>