



Code of Federal Regulations

25

Indians

Revised as of April 1, 1980

**CONTAINING
A CODIFICATION OF DOCUMENTS
OF GENERAL APPLICABILITY
AND FUTURE EFFECT**

AS OF APRIL 1, 1980

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through whom the claim is traced had Osage Indian blood acquired either from an allottee or from a common ancestor of an allottee and the distributee.

§ 112.7 Notice of orders to claimants and distributees.

Notice of an Order of Distribution shall be mailed, on the date of issuance of such order, to the allottee whose share is being distributed if living, but if not living, to (a) each distributee named therein, (b) each claimant whose claim asserts entitlement to a portion of the allottee's share, and (c) each person who had not filed a claim on the date of issuance of such order but is in that order determined by the Superintendent to be ineligible to receive a portion of the allottee's share. Such notice shall be accompanied by a copy of the Order of Distribution and shall contain instructions for filing an appeal in accordance with paragraphs (a) or (b) and (c) of § 112.8.

§ 112.8 Appeal from an Order of Distribution.

(a) An Order of Distribution of the share of an allottee living on the date the order is issued shall become final 3 days from the date thereof unless an appeal is filed by an interested party with the Superintendent before the expiration of those 3 days.

(b) An Order of Distribution of the share of an allottee who is deceased on the date the order is issued shall become final 30 days from the date thereof unless an appeal is filed by an interested party with the Superintendent before the expiration of those 30 days.

(c) Each appeal must contain a statement of the reasons that the appellant considers the Order of Distribution to be subject to error, and each appellant must, at the time of filing his appeal, mail a copy thereof to each person named as a distributee in the Order of Distribution. The Superintendent shall furnish a copy of the appeal to each other interested party to whom a copy of the Order of Distribution was mailed.

(d) The Regional Solicitor, Tulsa, is authorized to determine appeals from

Orders of Distribution in accordance with the act and the regulations in this part. The Regional Solicitor's decision thereon shall be final on the date of the issuance of his decision and shall constitute the final action of the Department of the Interior in connection with such appeal.

(e) The Superintendent may, in his discretion for good cause shown, order partial distribution of any undisputed segment of any share for which an appeal is pending when such distribution will not be affected by the appeal decision on the disputed portion of the share.

[38 FR 9163, Apr. 11, 1973, as amended at 39 FR 41707, Dec. 2, 1974]

§ 112.9 Disbursement of distributed shares.

When an Order of Distribution, either as issued or as amended by decision on appeal, has become final, the Superintendent shall either disburse to distributees the amounts distributed to them or deposit such amounts to appropriate accounts, in accordance with the following guidelines:

(a) When the amount distributed to any heir is less than \$20, the amount shall be segregated in a special account for that heir until all Orders of Distribution have become final, at which time the sum of all amounts thus segregated to such account shall be disbursed or redeposited as provided in paragraphs (b), (c), (d) and (e) of this § 112.9, if such sum equals or exceeds \$20. When such sum is less than \$20, such sum in each of such accounts, and all unclaimed shares, and all amounts awarded to distributees which remain unclaimed for 6 months after the Order of Distribution has become final, shall, subsequent to April 27, 1974, be deposited to the account of the Osage Tribe as sums which have reverted to it.

(b) Living allottees having certificates of competency shall have their distributions disbursed directly to them.

(c) Living allottees not having certificates of competency shall have their distributions deposited to their accounts, subject to withdrawal by them at their request.

(d) Heirs of Osage Indian blood who are at least 18 years of age and are not under guardianship shall have their distributions disbursed directly to them.

(e) Heirs of Osage Indian blood who are under guardianship shall have their distributions deposited to their accounts, subject to disbursement to the distributees or their guardians or other persons on their behalf on such terms and conditions as the Superintendent shall consider to be in their best interests during their legal disability, after which the remaining portion shall be disbursed to such distributees.

(f) Heirs of Osage Indian blood who are under 18 years of age shall have their distributions deposited to their accounts, with the funds represented by such deposits invested at favorable rates of return for prudent investments, to be disbursed with earnings thereon only when the respective distributees for whom they are held shall attain the age of 18 years.

§ 112.10 Miscellaneous provisions.

(a) Powers of attorney, assignments, and orders given to another person by anyone entitled to share in the payment will not be recognized.

(b) None of the funds distributed are subject to Federal or State income taxes.

(c) Claimants are hereby notified that criminal penalties are provided by statute (18 U.S.C. 1001) for knowingly filing fraudulent information.

PART 112a—MANAGEMENT OF OSAGE JUDGMENT FUNDS FOR EDUCATION AND SOCIOECONOMIC PROGRAMS

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AUTHORITY: 66 Stat. 1295.

SOURCE: 43 FR 37175, Aug. 22, 1978; 43 FR 55759, Nov. 29, 1978, unless otherwise noted.

§ 112a.1 Purpose and scope.

(a) Pub. L. 92-586, enacted October 27, 1972, makes provision whereby the sum of \$1 million, together with other funds which revert to the Osage Tribe, "may be advanced, expended, invested, or reinvested for the purpose of financing an education program or other socioeconomic programs of benefit to the Osage Tribe of Indians of Oklahoma, such programs to be administered as authorized by the Secretary of the Interior."

(b) The purpose of the regulations in this part is to set forth procedures and guidelines to govern the use of such funds. Included are: (1) Application requirements and processes for use of the funds for educational purposes by eligible persons; and (2) procedures whereby the funds may also be used for socioeconomic programs of benefit to the Osage Tribe.

§ 112a.2 Definitions.

(a) "Act" means Pub. L. 92-586 enacted October 27, 1972 (86 Stat. 1295).

(b) "Secretary" means the Secretary of the Department of the Interior.

(c) "Assistant Secretary" means the Assistant Secretary for Indian Affairs.

(d) "Superintendent" means the official in charge of the Bureau of Indian Affairs Osage Indian Agency.

(e) "Reverted funds" means the unpaid portions of the per capita distribution funds, as provided by the Act, which were not distributed because they were: (1) Unclaimed within the period specified by the Act; or (2) for an amount totaling less than \$20 due an individual from one or more shares of one or more Osage allottees. The Act provides that such unpaid funds revert to the Osage Tribe and upon their reverting thereto are to be used together with the \$1 million fund for education or other socioeconomic programs of benefit to the Osage Tribe.

(f) "Allottee" means a person whose name appears on the roll of the Osage Tribe of Indians approved by the Secretary of the Interior on April 11, 1908, pursuant to the Act of June 28, 1906 (34 Stat. 539).

(g) "Osage Tribal Education Committee" means the committee selected to administer the provisions of this part as specified by § 112a.5.

(h) "Other socioeconomic programs" means activities, other than educational, for which funds may be used, as specified by § 112a.7.

(i) "Educational programs/purposes" means those endeavors or activities for which funds governed by this part may be used to advance the formal academic education or vocational/technical training of eligible persons.

(j) "Point system" means a set of specific conditions appropriate to an application for educational assistance for which a specified number of points are awarded to an application for each condition met. Such point system provides the basis for rating and ranking all applications for use of funds under this part.

(k) "Rating applications" means the method, or procedure, by which each and all applications are individually evaluated against the point system to determine (1) which, if any, of the conditions for which points are awarded, have been met by the applicant; and, (2) the total number of points earned by each applicant.

(l) "Ranking applications" means the process by which all applications, after having been rated, are placed in a descending order according to the total number of points awarded each.

§ 112a.3 Principal to be invested, interest only to be expended.

(a) The principal sum of \$1 million and reverted funds shall be invested and reinvested at the highest available rate of interest by the Bureau of Indian Affairs on behalf of the Osage Tribe. Expenditures for the purposes of this part shall not be made from either the \$1 million principal sum or reverted funds. Rather, expenditures shall be made against only the interest generated from such principal and reverted funds.

§ 112a.4 Eligible applicants.

(a) Any person of Osage Indian blood who is an allottee or a descendant of an allottee is eligible to apply for use of funds for the purposes prescribed by, and, in accordance with, the provisions of this part. All applicants for assistance shall, as a part of the application process, identify his allotment number if he or she is an original allottee; or, if applicant is a descendant of an allottee, then, the allottee through whom eligibility is claimed shall be identified.

§ 112a.5 Establishment of Osage Tribal Education Committee.

(a) In an effort to provide the Osage Tribe maximal opportunity to exercise their right to tribal self-determination, an Osage Tribal Education Committee shall be established to perform the responsibilities and provisions of this part.

(b) The committee shall perform all duties and responsibilities as set out in § 112a.6.

(c) The committee shall be selected and convene their first meeting on a date early enough to enable awards to begin with the second semester of the 1979-80 academic year.

(d) The Osage Tribal Education Committee shall be composed of seven members and shall include two (2) education staff members of the Bureau; and five (5) persons of Osage Indian blood who are allottees, or, descendants of original allottees. Of the five Osage members, at least three shall be legal residents of, or live within a 20-mile radius of one of the three Osage Indian villages. Of these, at least one shall reside within the specified radius of the Pawhuska Indian village; one, at least, within the specified radius of the Hominy Indian village; and, at least one within the specified radius of the Greyhorse Indian village. The remaining Osage committee members may include residents living in other parts of Oklahoma or the United States.

(e) Selection of the five Osage committee members shall be made by the Assistant Secretary in accordance with the following procedures and provisions.

(1) *Eligibility.* Any adult person of Osage Indian blood who is an allottee, or a descendant of an allottee is eligible to serve on the education committee.

(2) *Applications and nominations.* Formal application or nomination for committee membership shall be required. In accordance with the provisions of the following paragraph, any eligible person may make application for committee membership by submitting a brief statement requesting that he/she be considered a candidate for such committee and the reasons for desiring to serve on the committee; and, their qualifications; or, any Osage organization, including the Osage Indian village committees, may submit the name(s) and address(es) of eligible persons as their nominee(s) for the education committee. Nominees shall submit a statement expressing their willingness to serve on the committee. Applications and nominations shall be made by registered mail, within 45 days after these regulations become final, to:

Assistant Secretary—Indian Affairs, Attention: Director of Indian Education Programs (Osage Tribal Education Committee), 1951 Constitution Avenue NW., Washington, D.C. 20245.

(3) *Personal interview of applicants and nominees.* (i) Following the expiration date for receiving applications and nominations, the Bureau shall arrange for an initial review and screening of all applications/nominations. Thereafter, arrangements shall be made for personal interviews with all applicants or nominees who have been screened for consideration for committee membership. The personal interview shall be the primary method for selecting committee members, for, under controlled conditions, it can provide an objective process for selection of the most competent and effective persons to perform committee responsibilities in a fair and reasonable manner.

(ii) Each interview session shall utilize a standard interview instrument developed by an independent, experienced arbitration agency. The instrument shall be designed to measure the interviewees' responses to hypothetical problems which might be encoun-

tered in the administration of grant or scholarship programs. All interviews shall be conducted by the same arbitration agency responsible for the interview instrument.

(iii) Interviews shall be conducted at locations throughout the Nation which are central and in reasonably close proximity to applicants for the committee. Applicants shall not be compensated or reimbursed for expenses incurred as a result of interviews.

(iv) No portion of the \$1 million fund shall be expended for purposes of the interview and/or selection of the Osage Tribal Education Committee.

(4) *Selection of committee members.* Upon completion of the interview, the arbitration agency shall recommend a reasonable number of applicants or nominees from which the Assistant Secretary for Indian Affairs shall select five Osage persons to serve on the Osage Tribal Education Committee. The Assistant Secretary shall also appoint two Bureau persons to the committee and shall notify all persons of their selection or appointment, and, shall also notify all applicants and nominees of the final selection. Thereafter, the Bureau shall arrange for the committee to begin assumption of duties and responsibilities.

(5) *Committee vacancies.* Any vacancy shall be filled in the same manner described by this section for the selection of committee members. The period of time for receiving applications shall not exceed 30 days with the expiration date to be announced by the Assistant Secretary. The Assistant Secretary may appoint an individual to serve for a temporary period of time until vacancy is filled. However, such appointment shall not exceed 45 days.

[43 FR 37175, Aug. 22, 1978; 43 FR 55759, Nov. 29, 1978, as amended at 44 FR 70140, Dec. 6, 1979]

§ 112a.6 Duties and responsibilities of the education committee.

(a) In order to (1) provide maximal use of the limited funds, (2) accommodate the anticipated large number of applications, and, (3) insure prompt, efficient, and fair treatment of all applications, a sound and equitable system for administering the program

is imperative. In this regard, therefore, and consistent with the policy of Indian self-determination, the Osage Tribal Education Committee shall develop an overall plan, including a systematic, sequential process for selecting awardees which avoids a "first come, first serve" method; and, instead, insures that all applications received prior to the specified closing date, shall be ranked simultaneously to enable equal competition for funds by all applicants.

(b) The procedure shall provide that (1) no funds shall be awarded until all applications have been ranked; and, (2) applications shall not be ranked until all have been rated against the point system.

(c) Specifically, the overall plan shall include:

(1) *Procedures for receiving and reviewing applications.* Such procedures shall set out the following:

(i) Beginning and closing dates for accepting applications;

(ii) Office and address from which application forms may be obtained;

(iii) Address to which applications are to be submitted; and any special method by which they are to be submitted, i.e., certified, registered, or regular mail;

(iv) Date by which all applicants shall have been notified by the committee of the decision relative to their application;

(v) Process by which applications shall be reviewed for completeness; and, how additional information shall be requested and received.

(2) *A point system for rating and ranking applications.* (i) The point system is, perhaps, the most important part of the overall plan as required by this section. It shall serve as the standard basis for rating and ranking each and all applications for financial assistance under this part, in an identical, objective manner. The point system shall set out specific conditions, or criteria, appropriate to an application for financial assistance, for which a specified number of points shall be awarded to those applications meeting the condition or conditions. For example, an applicant's scholastic achievement or grade average for the preceding semester could be one condi-

tion for which points would be awarded. In this regard, it could be determined that 5 points would be awarded an applicant who maintains a 2 grade point average. Each application shall be evaluated against the conditions specified by the point system to determine (A) which, if any, of the conditions applicant has met; (B) the total point value of the application, as derived from the conditions applicant has met; and (C) the value of each application in relationship to all applications, for ranking purposes. A fair point value of each condition set out by the point system shall be determined by the education committee.

(ii) In addition to those conditions for which the Osage Tribal Education Committee determines points are to be awarded, the point system shall include provisions whereby points shall also be awarded to those applications, wherein the applicant:

(A) Meets a specified Osage blood quantum as determined and established by the Osage Tribal Education Committee. The specified quantum shall be considered only for the purposes of the point system, and, shall not, in any way, affect or determine eligibility, as any person who meets the requirements of § 112a.4 is eligible to make application for aid under this part.

(B) Establishes that financial assistance is necessary, and that without such assistance the applicant's educational or career objectives would not be attainable. The financial information required shall be established by the Osage Tribal Education Committee.

(C) Provides evidence that other available financial resources have been applied for, and indicates whether or not such application(s) has been approved, and, if so, the amount approved; or, otherwise indicate the status of such application(s). The financial resources information required shall be determined by the Osage Tribal Education Committee. The number of points to be awarded for each of the foregoing conditions shall be determined by the Osage Tribal Education Committee. After all applications have been rated according to the point system, they shall be ranked

according to the total number of points awarded. Applications receiving the greatest number of points shall be first in line to receive financial aid as provided by this part. The point system shall specify whether applications are to be rated upon their receipt; at periodic intervals, or, after the specified closing date for receiving applications.

(3) *Procedures for awarding funds.* This shall include:

(i) Determinations as to whether awards are to be for a fixed amount, or, whether the amount is to be based upon the applicant's established individual need; and, a formula for affixing amounts.

(ii) The process and date by which applicants shall be notified as to whether or not they are to receive an award, and, how awards are to be announced or published.

(iii) Determinations as to whether payment of awards are to be made directly to the student, or to the educational institution which the respective applicant shall be attending. In addition, the education committee shall:

(A) Establish the time and place for convening regular committee meetings; conditions and procedures for convening special meetings; and, the procedures for notifying members of both regular and special meetings.

(B) Establish a procedure for the selection/election of a committee chairman and other officers considered appropriate.

(C) Develop a standard application form.

(D) Prepare an official document which sets out the overall plan established by the committee in compliance with the provisions of this part for submission to the Assistant Secretary for Indian Affairs for approval.

(E) Notify the Osage people, through appropriate media, of the procedures, processes, etc., set out by the overall plan for administering the \$1 million fund within a reasonable time after these regulations become final.

(F) Any other responsibilities necessary and/or appropriate to effective performance of committee tasks.

Inasmuch as the overall plan encompasses the full amount of operating

procedures, requirements, etc., to be used in administering the fund, the Assistant Secretary for Indian Affairs' approval of such plan shall be required. Any revisions of the approved overall plan shall require strong justification, and, shall also require approval of the Assistant Secretary for Indian Affairs. The approved overall plan shall be printed in its entirety and made available to persons requesting applications; and, upon request, to persons eligible for aid under this part.

§ 112a.7 Other socioeconomic programs.

(a) Applications for financial assistance for socioeconomic programs shall be in the form of a narrative proposal which provides a full description of the proposed program.

The narrative shall include (1) program objectives; (2) methods for attaining objectives; (3) staff requirements, i.e., number and qualifications; and, (4) program budget.

(b) Applications for socioeconomic program funding shall be considered only if the Osage Tribe is not eligible for participation in other programs which have the same objectives as those proposed by the application.

(c) The Osage Tribal Education Committee shall establish a procedure for considering such applications.

(d) The Osage Tribal Education Committee shall establish a maximum percentage to be used for funding socioeconomic programs. Such percentage shall not exceed 15 percent of the total funds available during any given year.

(e) Applications approved by the Osage Tribal Education Committee shall also require the approval of the Assistant Secretary—Indian Affairs.

§ 112a.8 Use of funds for committee administrative costs.

(a) A reasonable portion of funds available for expenditure may be used by the Osage Tribal Education Committee in the performance of their duties and responsibilities.

(b) The committee shall prepare and submit for the Assistant Secretary's approval, a budget for each calendar year. The budget may, at the discretion of the committee, provide for

travel and per diem of committee members. The amount used for program administration shall not exceed 5 percent of the total amount available, except, with the special approval of the Assistant Secretary.

§ 112a.9 Regulations to apply for indefinite period of time.

These regulations shall cease upon determination of the legal and appropriate body to administer the fund, and, upon the establishment of succeeding regulations.

§ 112a.10 Appeals.

The procedure for appealing any decision regarding the awarding of funds under this part shall be made in accordance with 25 CFR, Part 2, Appeals from administrative action.

PART 113—ALASKA NATIVE FUND

Sec.

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AUTHORITY: Sec. 25 and 31, Pub. L. 92-203, 85 Stat. 715, as amended by Pub. L. 95-178, 91 Stat. 1370 (43 U.S.C. 1624, 1628).

SOURCE: 43 FR 20003, May 10, 1978, unless otherwise noted.

§ 113.1 Scope and purpose.

(a) The regulations in this part shall apply to all future distributions of the Alaska Native Fund pursuant to section 6 of the Alaska Native Claims Settlement Act (43 U.S.C. 1605), except money reserved for the payment of attorney and other fees as provided in section 20 of the Act (43 U.S.C. 1619).

(b) These regulations are not intended (1) to alter the distribution formula of section 6 of the Act (43 U.S.C. 1605), or the redistribution formulas of sections 7(j) or 7(m) of the Act (43 U.S.C. 1606(j), (m)); or (2) to require the distribution of money in the Fund when not authorized by the Act, or

when the money has been set aside in an escrow or reserved account pursuant to an order of a court of competent jurisdiction.

(c) The regulations in this part are intended to implement section 31 of the Act (43 U.S.C. 1628) which authorizes the Secretary to recognize validly executed assignments of a Regional Corporation's rights to receive payments from the Fund.

§ 113.2 Definitions.

As used in the regulations in this part.

Act means the Alaska Native Claims Settlement Act, as amended (Pub. L. 92-203, 85 Stat. 715, 43 U.S.C. 1601 et seq.; Pub. L. 95-178, 91 Stat. 1370).

Assignee means the person or entity receiving from a Regional Corporation an assignment of certain of the corporation's future interests in the Fund.

Assignor means a Regional Corporation which has assigned to another certain of its future interests in the Fund.

Assistant Secretary means the Assistant Secretary for Indian Affairs, U.S. Department of the Interior, or his authorized representative.

Fund means the Alaska Native Fund created by section 6 of the Act (43 U.S.C. 1605).

Payee means the recipient of a distribution from the Fund. The payee must be a financial corporation such as a bank, credit union, or savings and loan association which is insured under the Federal Deposit Insurance Corporation, the National Credit Union Administration, or the Federal Savings and Loan Insurance Corporation, respectively. The payee must be capable of receiving payment through the United States Treasury's Financial Communication System.

Regional Corporation means an Alaska Native Regional Corporation established under the laws of the State of Alaska in accordance with the provisions of the Act.

Secretary means the Secretary of the Interior.

§ 113.3 Payment of shares of the Fund in the absence of recognition of an assignment.

(a) All money in the Fund shall be distributed by the Assistant Secretary at the end of each three months of the fiscal year among the Regional Corporations on the basis of the relative numbers of Natives enrolled in each region.

(b) Except as otherwise authorized in the regulations in this part, a Regional Corporation's quarterly share of the Fund shall be made payable to the Regional Corporation through a payee designated by the Regional Corporation.

(c) A Regional Corporation may designate a payee of its quarterly share at any time, and may change that designation at any time, provided that the Assistant Secretary receive written notification of any such designation or change in designation at least ten (10) days before the quarterly distribution date. Any such designation must include the name and address of the payee and the identifying American Banking Association number.

§ 113.4 Recognition of assignments.

(a) Upon application of a Regional Corporation, as provided in paragraph (c) of this section, the Assistant Secretary shall recognize a validly executed assignment of that portion of a future interest in the Fund not subject to the redistribution provisions of sections 7(j) and 7(m) of the Act. A future interest which is not subject to those redistribution provisions shall be referred to in this section as an "assignable future interest" or the "assignable portion of a quarterly distribution."

(b) Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to subsections (j) or (m) of section 7 of the Act.

(c) Upon recognition of such an assignment, the Assistant Secretary shall distribute the amount assigned to the payee designated by the parties to the assignment, and shall continue to pay the amount assigned to that payee, except as provided by §§ 113.6(b) and 113.9.

(d) A Regional Corporation's application for recognition of an assignment of a future interest in the Fund (1) shall be addressed to the Assistant Secretary for Indian Affairs, Attn.: Assistant Director, Financial Management, Bureau of Indian Affairs, U.S. Department of the Interior, Washington, D.C. 20240; (2) shall specifically request that the Assistant Secretary recognize an assignment of a fixed sum to which the Regional Corporation may be entitled from the Fund; (3) shall designate a payee of the amount assigned; (4) shall be accompanied by a duly-adopted resolution of the Board of Directors of the Regional Corporation, which resolution authorizes the making of the assignment and the application for recognition of that assignment by the Secretary of the Interior, or evidence of stockholder approval when required by Alaska state law; and (5) shall be accompanied by one executed copy and three facsimile copies of a validly executed assignment of all or a portion of the Regional Corporation's assignable future interest in the Fund, which assignment shall contain the following language:

(i) The parties to this assignment agree to seek recognition of this assignment by the Secretary of the Interior, as authorized by section 4 of the Act of November 15, 1977, Pub. L. 95-178 (91 Stat. 1369, 1370).

(ii) It is understood by the parties to this assignment that in the event the Secretary of the Interior recognizes this assignment, the United States reserves the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has, or may have, against the Assignor Corporation.

(e)(1) An assignment may provide that: (i) All of the assignable portion of each quarterly distribution be paid to the payee designated in the application for recognition of assignment;

(ii) A fraction of the assignable portion of each quarterly distribution be paid to the designated payee; or that

(iii) The assignable portion of each quarterly distribution, up to a stated maximum amount, be paid to the designated payee.

(2) Other formulas for assignment of assignable future interests may be recognized if (1) such a formula clearly identifies what portion of each affected quarterly distribution is to be paid