

CODE
OF FEDERAL
REGULATIONS



TITLE 25

Revised as of January 1, 1958

CONTAINING A CODIFICATION OF DOCUMENTS OF GENERAL APPLICABILITY AND
FUTURE EFFECT AS OF JANUARY 1, 1958.

With Ancillaries and Index

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interest, and prescribe a time limit within which such action shall be taken. If the board fails to take such action within the period prescribed, the case shall be reported to the business committee. The business committee may direct the board in writing to take the action which it deems necessary to protect the loan. In the event the board fails to take such action within 10 days after receipt of the business committee's directive, the business committee may take any action which the board could have taken.

§ 93.20. Authority of general council.
 (a) The functions of the business committee as set forth in the regulations in this part may be exercised in whole or in part by the Klamath General Council. The Klamath General Council may, by resolution, authorize a special committee composed of not less than seven adult enrolled members of the tribe to exercise the functions of the busi-

committee as set forth in the regulations in this part. If the Klamath Tribes adopt a constitution and bylaws approved by the Secretary of the Interior or his authorized representative, the general council may, by resolution, authorize the governing body of the Klamath Tribes to exercise the functions of the business committee as set forth in the regulations in this part.

(b) The general council may command any instructions or taken by the business committee, or the governing body of the Klamath Tribes, under the regulations in this part, provided that any action taken by either the board or the superintendent acting under authority from the business committee, a special committee, or the governing body of the Klamath Tribes prior to such authority having been overruled or countermanded by the general council, shall have full force and effect.

SUBCHAPTER J—FISCAL AND FINANCIAL AFFAIRS

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Part 101—Annuity and Other Per Capita Payments

- Sec.
 101.1 Persons to share payments.
 101.2 Enrolling non-full-blood children.
 101.3 Payments by check.
 101.4 Election of shareholders.
 101.5 Future payments.

AUTHORITY: §§ 101.1 to 101.6 issued under R. S. 16; 5 U. S. C. 22.

SOURCE: §§ 101.1 to 101.5 appear at 22 F. R. 10540, Dec. 24, 1957.

§ 101.1 Persons to share payments. In making all annuity and other per capita payments, the funds shall be equally divided among the Indians entitled thereto share and share alike. The roll for such payments should be prepared on Form 5-322, in strict alphabetical order by families of husband, wife, and unmarried dependent minor children. Unless otherwise instructed, (a) Indians

of both sexes may be considered adults at the age of 18 years; (b) deceased enrollees may be carried on the rolls for one payment after death; (c) where final rolls have been prepared constituting the legal membership of the tribe, only Indians whose names appear thereon are entitled to share in future payments, after-born children being excluded and the shares of deceased enrollees paid to the heirs if determined or if not determined credited to the estate pending determination; and (d) the shares of competent Indians will be paid to them directly and the shares of incompetents and minors deposited for expenditure under the individual Indian money regulations.

CROSS REFERENCES: For regulations pertaining to the determination of heirs and approval of wills, see Part 10 and §§ 11.30-11.32C of this chapter. For individual Indian money regulations, see Part 104 of this chapter.

Forms may be obtained from the Commissioner of Indian Affairs, Washington 25, D. C.

§ 101.2 Enrolling non-full-blood children. Where an Indian woman was married to a white man prior to June 7, 1897,

and was at the time of her marriage a recognized member of the tribe even though she left it after marriage and lived away from the reservation, the children of such a marriage should be enrolled—and, also in the case of an Indian woman married to a white man subsequent to the above date but who still maintains her affiliation with the tribe and she and her children are recognized members thereof; however, where an Indian woman by marriage with a white man after June 7, 1897, has, in effect, withdrawn from the tribe and is no longer identified with it, her children should not be enrolled. In case of doubt all the facts should be submitted to the Bureau of Indian Affairs, Washington, D. C., for a decision.

§ 101.3 Payments by check. All payments should be made by check. In making payments to competent Indians each check should be drawn to the order of the enrollee and given or sent directly to him. Powers of attorney and orders given by an Indian to another person for his share in a payment will not be recognized. Superintendents will note in the "Remarks" column on the roll the date of birth of each new enrollee and the date of death of deceased applicants.

§ 101.4 Election of shareholders. An Indian holding equal rights in two or more tribes can share in payments to only one of them and will be required to elect with which tribe he wishes to be enrolled and to relinquish in writing his claims to payments to the other. In the case of a minor the election will be made by the parent or guardian.

§ 101.5 Future payments. Indians who have received or applied for their pro-rata shares of an interest-bearing tribal fund under the act of March 2, 1907 (34 Stat. 1221; 25 U. S. C. 119, 121), as amended by the act of May 18, 1916 (39 Stat. 128), will not be permitted to participate in future payments made from the accumulated interest.

Part 102—Regulations for Pro-Rata Shares of Tribal Funds

- Sec.
 102.1 Fee-simple patented.
 102.2 Applicants who have received neither fee-simple patents nor certificates of competency.
 102.3 Applicants who are mentally or physically incapable of managing their affairs.

See:
 102.4 Interests in pro-rata shares not vested rights unless application approved.
 102.5 Basis of distribution; pro-rata shares.
 102.6 Disposition of pro-rata share in event of applicant's death.
 102.7 Pro-rata shares of minors.

AUTHORITY: §§ 102.1 to 102.7 issued under sec. 2, 34 Stat. 1221, as amended; 25 U. S. C. 121.

SOURCE: §§ 102.1 to 102.7 appear at 22 F. R. 10549, Dec. 24, 1957.

CROSS REFERENCES: For regulations pertaining to the determination of heirs and approval of wills, see Part 10 and §§ 11.30-11.32C of this chapter.

§ 102.1 Fee-simple patentees. When the applicant has been granted a patent in fee or certificate of competency, that fact will be accepted as prima facie evidence of his competency, but in forwarding applications of this class the agent will give the date on which the patent was issued, report whether in his judgment the patentee has made proper use of his privileges and would make good use of his share of the tribal funds if paid to him, and make a specific recommendation for approval or disapproval of the application.

§ 102.2 Applicants who have received neither fee-simple patents nor certificates of competency. In the case of an applicant who has received neither a fee-simple patent nor a certificate of competency, the application must be accompanied by evidence which will establish the fact that he is capable of managing his own affairs. In forwarding applications of this class the superintendent will report fully, as follows:

(a) Is the applicant living on his allotment? If so, is he making reasonable efforts to cultivate his land and to support himself and family? If he is not living on his allotment, what is his occupation?

(b) Is any part of his allotment leased? If so, to what extent does he depend upon the rent therefrom to support himself and family?

(c) Has the applicant been given the privilege of leasing his own lands? and if so, with what result?

(d) Has he an interest in any inherited land? If he has sold or leased any inherited land, how has he managed the proceeds?

(e) Is the applicant of good moral character?