TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

REPRODUCTION OF REGULATIONS

Chapter I of Title 25 is republished to read as set forth below. Since its original codification, there have been numerous amendments and additions to the chapter. To facilitate the use of this material, the various amendments and additions are brought together in their entirety and the chapter has been arranged on a functional rather than alphabetical basis.

The numbers of the parts in this chapter have been adjusted to conform with its revised arrangement. The effective date of these numbers shall be the date of this republication. Existing delegations of authority, forms and other legal or administrative documents which refer to former part numbers of Chapter I are continued in effect and shall be construed to refer to the new part numbers until modified or revoked. A listing of the respective new and former part numbers is set forth below.

It is the intent of the Department in preparing this republication to make no substantive changes in the regulations and this republication is approved accordingly.

FRED A. BAILEY,
Secretary of the Interior.

DECEMBER 6, 1957.

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Notes: The regulations in this part are applicable on Indian reservations subject to the provisions of § 11.1, and the following exceptions:

All sections which follow bearing the symbol "CA" at the end of the number are applicable only to the Cœur d'Alene Indians.
All sections in Part 11 not heretofore mentioned in this note are applicable to the Cœur d'Alene Indians.
or until the indebtedness is assumed by heirs or other parties in accordance with instructions of the Commissioner.

§ 93.18 Responsibility of superintendent. The superintendent shall not make disbursements on any loans which are in violation of the regulations in this part. A superintendent shall take the following action with reference to board matters:

(a) Return to the board any application acted upon favorably by the board in accordance with § 93.7 (a) which are in violation of the regulations in this part, and advise the board in writing of the section violated.

(b) Advise the board in writing of any application approved by the board in accordance with § 93.7 (b) which, although not in violation of the regulations in this part, does not indicate, in his opinion, reasonable assurance of repayment to the fund. He shall state the reasons for his opinion. Disbursements on such loans may be withheld pending reconsideration by the board.

If, after reconsideration, the board again approves such loan, and the superintendent is still of the opinion that it does not indicate reasonable assurance of repayment to the fund, he shall advise the board in writing of his opinion and the facts in the case. Disbursements on such loan may be withheld until it also receives the approval of the business committee.

(c) Advise the board in writing of the action which should be taken on any loan delinquent for a period longer than 30 days, in payment of either principal or 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 business committee as set forth in the regulations in this part. If the Klamath General Council adopts 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 Tribe to exercise the functions of the business committee as set forth in the regulations in this part.

(b) The general council may countermand any instructions given or taken by the business committee, a special committee formed under the Act or the Klamath Tribes, under the regulations in this part, provided that any action taken by either the board or the superintendents 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

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 101.5 issued under § 103 of 8 U.S.C. 22.

§ 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 and share alike. The roll of eligible persons for such payments is to be prepared on Form 5-3251, 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, and (b) deceased enrollees may be carried on the rolls for one payment after death; (c) where final rolls have been prepared containing 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 their direct andindirect shares of incompetent and minors deposited for expenditure under the individual Indian money regulations.

Cross Reference: For regulations pertaining to the determination of heirs and intestates, § 11.20 of this chapter, and §§ 11.20-11.32C of this chapter. For individual Indian money regulations, see Part 104 of this chapter.

§ 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 as a white woman, 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 June 7, 1897, 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 prior to 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 either to him 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 annuitants.

§ 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 their full 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. 129), 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 patentees.

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.

102.4 Interests in pro-rata shares not vested rights unless application approved.

102.5 Basis for distribution; pro-rata share.

102.6 Disposition of pro-rata share in event of applicant's death.

102.7 Pro-rata shares of minors.


Cross Reference: For regulations pertaining to the determination of heirs and intestates, §§ 11.20-11.32C 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 the bundle specified in either fee-simple patents or 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 applica-
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§ 102.4 Interest in pro-rata shares not vested rights unless application approved. On November 6, 1958, the Secretary of the Interior notified the defendant Trustee in this action that the interest of an Indian in a pro-rata share of a tribal fund does not vest in the Indian an inheritance right until his application has been approved by the Secretary. The certificate that an application is approved by the Secretary and an order signed by him segregating it from the tribal fund. Application for shares of funds under this act may be made at any time, but in view of the Secretary's policy of equalization, applications should be forwarded to the Bureau of the Superintendent as soon as they are completed and filed with him. Applications from those who are blind, deaf, etc., must be made special and forwarded to the Bureau of Indian Affairs, Washington, D.C., as soon as possible.

§ 102.5 Basis of distribution; pro-rata shares. In determining the pro-rata share of an individual, the annuity pay-roll roll will be taken as a basis of distribution. Where no payment has been made within one year–the last census, if taken within the year, will be the basis. If no payment is made, the last annuity roll will be used.

§ 102.6 Disposition of pro-rata share in event of applicant's death. In the event of the death of an applicant after approval of his application and the signing by the Secretary of the Interior of an order for the segregation of his share, but before payment is made, his share will descend to his legal heirs and should be deposited to the credit of the estate pending formal disposition thereof.

Cross Reference: For regulations pertaining to the determinations of heirs and approval of the heirs, see Part 15 and §§ 11.32 and 11.350 of this chapter.

§ 102.7 Pro-rata shares of minors. The shares of minors will not be withdrawn except when necessary for their own benefit. The application should be made by the parent or guardian and transmitted to the Bureau by the Superintendent with his recommendation as in other cases and a full explanation of the circumstances which justify the withdrawal. Such shares will be deposited to the credit of the minors subject to expenditure under the individual Indian money regulations. The term "minor," as used in this section, shall be interpreted in conformity with the State law.

Cross Reference: For individual Indian money regulations, see Part 104 of this chapter.

PART 104—INDIAN MONEY ACCOUNTS

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104.2 Osage Agency.

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104.12 Superintendent; appeals.

Authority: §§ 104.1 to 104.12 issued under R. S., 1861 § U. S. C. 22.

§ 104.1 Definitions. Whenever used in this part the terms defined in this section shall have the meaning stated:

(a) "Commissioner" means the Commissioner of Indian Affairs.

(b) "Area Director" means the officer in charge of an area office for the Bureau of Indian Affairs.

(c) "Superintendent" means the superintendent or other officer in charge of an Indian reservation, agency of establishment.

(d) "Minor" means an individual who has not reached the age of 21 years as defined by the laws of the state of his domicile.

(e) "Indian Money Accounts" are those accounts under the control of superintendents of disbursing agents for the purposes of payment of balances and other accounts, in excess of the funds of the individual.

§ 104.2 Osage Agency. The provisions of this part do not apply to funds the deposit or expenditure of which is subject to the provisions of Part 22 of this subchapter.

§ 104.3 Individual accounts. Individuals shall have the right to noncompensated funds in their Indian money accounts and upon their request the Superintendent shall disburse the funds to them at such convenient times and places as the Superintendent may designate, except as otherwise provided in this part.

§ 104.4 Minors. Funds of a minor may be disbursed for the minor's support, health, education, or welfare to parents, state-appointed guardians, fiduciaries, or to persons having the control and custody of the minor. The Superintendent may disburse such funds approved by the Superintendent, or directly to the minor upon such conditions as the Superintendent may prescribe, in such amounts as he may deem necessary in the best interests of the minor. Superintendents are authorized to require modification of an approved plan whenever deemed in the best interest of the minor.

§ 104.5 Adults under legal disability. The funds of an adult who is noncompensated or under other legal disability may be disbursed for his benefit for such purposes deemed to be for his best interest and welfare in the discretion of the Superintendent, or the funds may be disbursed to a state-appointed guardian or curator under such conditions as the Superintendent may prescribe.

§ 104.6 Voluntary deposits. Voluntary deposits shall not be accepted, but those who require banking service shall be encouraged to utilize commercial facilities. If in any case it is the judgment of the Superintendent that an exception to this prohibition should be made to avoid a substantial hardship, he