

THE CODE OF FEDERAL REGULATIONS

OF THE
UNITED STATES OF AMERICA

*Having General Applicability and Legal Effect
in Force June 1, 1938*



FIRST EDITION

Published by the Division of the Federal Register, the National
Archives, Pursuant to Section 11 of the Federal Register
Act as Amended June 19, 1937

TITLE 22—FOREIGN RELATIONS
TITLE 23—HIGHWAYS
TITLE 24—HOUSING CREDIT
TITLE 25—INDIANS

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON, 1939

Subchapter S—Moneys, Tribal and Individual

CROSS REFERENCE

Credit to Indians: See Parts 21–28.

PART 221—INDIVIDUAL INDIAN MONEY REGULATIONS

Sec.	Sec.
221.1 Individual Indian moneys.	221.21 Unauthorized credit.
221.2 Authority.	221.22 Claims against decedents.
221.3 Authority limited.	221.23 Repaying Government expenditures.
221.4 General allowances.	221.24 Signature of illiterates.
221.5 Competent adults' funds.	221.25 Thumb mark.
221.6 Competent Indian funds.	221.26 Endorsements by others.
221.7 Payment for medical services.	221.27 Personal property.
221.8 Improvement expenditures.	221.28 Minors' rentals restricted lands.
221.9 Funeral and probate expenses.	221.29 Deceased Indians' funds.
221.10 Pupils' expenses; nonreservation boarding schools.	221.30 Withdrawal of individual funds.
221.11 Minors' funds transferred.	221.31 Registering authority for expenditures.
221.12 Disbursement of minors' funds.	221.32 Taxes and insurance.
221.13 School expenses.	221.33 Purchase orders.
221.14 Funds of runaway pupils.	221.34 Payments for deserted dependents.
221.15 Funds of married minors.	221.35 Purchase tombstones.
221.16 Funds of minors under school age.	221.36 Advances to heirs.
221.17 Funds of minors for farming operations.	221.37 Surplus funds; Osage Agency.
221.18 Disposition of inactive accounts.	221.38 Statements.
221.19 Disposition of voluntary deposits.	221.39 Funds accruing from other governmental agencies.
221.20 Payment of debts.	

CROSS REFERENCES

Regulations pertaining to the determination of heirs and approval of wills: See Part 81 and §§ 161.30–161.32C.

Section 221.1 Individual Indian moneys. Individual Indian moneys are funds, regardless of derivation, belonging to individual Indians which come into the custody of a disbursing agent.*† [Sec. 1]

*§§ 221.1 to 221.39, inclusive, issued under the authority contained in R.S. 161; 5 U.S.C. 22.

†The source of §§ 221.1 to 221.39, inclusive, (except for amendments noted in the text,) is Individual Indian money regulations, Secretary of the Interior, Jan. 30, 1928.

221.2 Authority. Requests for authority to draw checks against individual money should be made in triplicate on Form 5–139,⁵ carefully prepared for the approval of the Commissioner of Indian Affairs except that the date of approval and the number should be left blank. All requests for authority must show clearly the necessity for the proposed expenditure and, where it is intended to pay directly to the depositor for unrestricted use, his competency to handle without supervision the amount requested.*† [Sec. 2]

221.3 Authority limited. Such an authority lapses at the end of the fiscal year.*† [Sec. 3]

⁵ See footnote on page 27.

*†For statutory and source citations, see note to § 221.1.

221.4 General allowances. Whenever necessary, Superintendents are hereby authorized to draw checks for monthly allowances of not to exceed \$50 in favor of minors or adult Indians. This section should be cited as authority therefor. Specific authority must be obtained for larger amounts.* [Sec. 4, Regs., Jan. 30, 1928, as amended Dec. 1, 1930]

221.5 Competent adults' funds. Disbursing agents are hereby authorized to turn over without restriction to reasonably competent adult Indians not to exceed \$500 in any one year, this section to be cited as authority therefor. The purpose of such payments to adult Indians not incapacitated by age or physical or mental infirmity is that they may be encouraged to assume personal responsibility and to acquire that self-reliance and practical business experience which will enable them to become independent and progressive members of the community.* [Sec. 5, Regs., Jan. 30, 1928, as amended Dec. 1, 1930]

221.6 Competent Indian funds. Authority is hereby granted disbursing agents, in their discretion, to turn over to any Indian who has received a patent in fee to all of his allotted land any individual funds then on deposit to his credit or which may accrue to his credit at any future time. Whether inherited lands owned by any particular Indian are covered by trust or fee patents, shall have no bearing on the payment of his funds as provided for in this section.* [Sec. 6, Regs., Jan. 30, 1928, as amended Dec. 1, 1930]

221.7 Payment for medical services. Authority is hereby granted disbursing agents to draw checks against the accounts of adult and minor Indians, living or dead, in amounts not exceeding \$500 in any one case to cover medical, surgical, and hospital treatment, including nurses' services.* [Sec. 7, Regs., Jan. 30, 1928, as amended Dec. 1, 1930]

CROSS REFERENCES: For medical regulations, see Part 84. For hospitalization regulations, see Part 85.

221.8 Improvement expenditures. Authority is hereby granted disbursing agents to make expenditures of not to exceed \$3,000 per annum from the accounts of adult Indians for seed, implements, livestock, and other agricultural purposes; and for the construction, repair, and equipment of houses, barns, outbuildings, fences, corrals, wells, and other necessary structures on their allotments.* [Sec. 8, Regs., Jan. 30, 1928, as amended Dec. 1, 1930]

221.9 Funeral and probate expenses. Authority is hereby granted disbursing agents to draw checks against a decedent's account for payment of actual funeral expenses not to exceed \$250. Funeral expenses in excess of \$250 from a decedent's account may be allowed in exceptional cases when the value of the estate clearly justifies, but only upon the specific approval of the Department. When there are not funds to the credit of the decedent and funeral expenses are borne by relatives or heirs, the amount expended from the account of any one Indian shall not exceed 10 percent of the amount on deposit to his credit and the total amount so expended in payment of funeral expenses shall not exceed \$250. Authority is also granted covering pay-

ments of probate fees required by the Act of January 24, 1923 (42 Stat. 1185; 25 U. S. C. 377), as follows:

Probate Fees:

\$250 and not exceeding \$1,000.....	\$20
Over \$1,000 and less than \$2,000.....	25
\$2,000 and not exceeding \$3,000.....	30
Over \$3,000 and not exceeding \$5,000.....	50
Over \$5,000 and not exceeding \$7,500.....	65
Over \$7,500.....	75

*[Sec. 9, Regs., Jan. 30, 1928, as amended Dec. 1, 1930]

CROSS REFERENCE: For probate procedure and for further information concerning fees, see Part 81.

221.10 Pupils' expenses; nonreservation boarding schools. A disbursing agent at a nonreservation Indian boarding school who has in his custody individual money belonging to pupils is hereby authorized to make payments therefrom in sums not exceeding \$250 yearly and to pay from individual funds to a pupil about to return home on vacation, or permanently, such amount as may be necessary to defray the expenses of the trip.* [Sec. 10, Regs., Jan. 30, 1928, as amended Dec. 1, 1930]

221.11 Minors' funds transferred. During any one year not more than \$350 of the funds of a minor may be transferred by a reservation disbursing agent to the Superintendent of a nonreservation Indian boarding school.* [Sec. 11, Regs., Jan. 30, 1928, as amended Dec. 1, 1930]

221.12 Disbursement of minors' funds. Disbursing agents are hereby authorized to disburse for the benefit of a minor of school age in regular attendance at school or who has been excused therefrom on account of physical disability or other good reason, not more than \$50 in any one month or \$100 in a single year.*† [Sec. 12]

221.13 School expenses. Authority is hereby granted Superintendents to disburse individual Indian money in conformity with the school rules from the funds of minors or their parents who have ample financial resources in such amounts as may be required for their tuition or other expenses in a Government, public, private, or mission school, not to exceed \$250 a year.* [Sec. 13, Regs., Jan. 30, 1928, as amended Dec. 1, 1930]

CROSS REFERENCE: For regulations pertaining to the education of Indians, see Parts 41-47.

221.14 Funds of runaway pupils. Disbursing agents having individual Indian money in their hands belonging to runaway pupils not returned to the school shall transmit such funds to the Superintendent of the reservation where the pupil resides after having reimbursed the school for any expense incurred in attempting to return such pupils to the school. If, in the judgment of the Superintendent, the circumstances justify charging the pupil with the cost of clothing, etc., the facts should be reported to the Indian Office with appropriate recommendation.*† [Sec. 14]

221.15 Funds of married minors. Disbursing agents are hereby authorized to consider married minors, regardless of age, the same as adults and to disburse their funds in conformity with the regulations in this part.* [Sec. 15, Regs., Jan. 30, 1928, as amended Dec. 1, 1930]

*†For statutory and source citations, see note to § 221.1.

221.16 Funds of minors under school age. Authority is hereby granted Superintendents to disburse not to exceed \$25 in any quarter nor \$100 in a single year from the accounts of minors under school age when actually needed for the proper care and direct benefit of such minors.*† [Sec. 16 (A)]

221.17 Funds of minors for farming operations. Authority is hereby granted disbursing agents to use funds of minor children not to exceed \$200 yearly in any one family for the purchase of seed or farming implements when the parents do not have funds that can be used for such purposes and the Superintendent is satisfied that such action is necessary.* [Sec. 16 (B), Regs., Jan. 30, 1928, as amended Dec. 1, 1930]

221.18 Disposition of inactive accounts. Where an adult Indian's account is \$100 or less and is not likely to be increased, authority is hereby granted disbursing agents to pay the entire balance to the depositor for his unrestricted use; and where such an Indian lives permanently away from the jurisdiction, to transfer sums in excess of \$100 to the Superintendent nearest to whom the Indian resides. This section applies only to "dead" accounts and should not be involved where periodic deposits are made from rentals, annuity payments, or per capita payments or other sources.* [Sec. 17, Regs., Jan. 30, 1928, as amended Dec. 1, 1930]

221.19 Disposition of voluntary deposits. A disbursing agent who has in his custody moneys belonging to adult Indians earned by their own efforts and voluntarily placed by them in his hands for safekeeping is hereby authorized to make payments therefrom at any time and in any amount not to exceed the total deposit upon the request of the depositor. The words "voluntary deposit" should be noted in the account covering such expenditure.*† [Sec. 18]

221.20 Payment of debts. Debts of Indians will not be paid from funds under the control of the United States, including individual Indian moneys, unless previously authorized by the Superintendent except in emergency cases necessitating medical treatment or in the payment of last illness or funeral expenses as elsewhere herein provided and any other exceptional cases where specific authority is granted by the Indian Office.*† [Sec. 19]

CROSS REFERENCE: For payment of judgments from individual Indian moneys, see §§ 161.26, 161.26C.

221.21 Unauthorized credit. Persons who extend unauthorized credit to Indians do so at their own risk and must look to the debtors themselves for payment. However, all Indians should be urged to pay their just and legitimate debts so far as they may be able. For this purpose Superintendents may upon request of the depositor turn over to any competent adult Indian not to exceed the sums specified in § 221.5, which should be cited as authority in such cases.*† [Sec. 20]

221.22 Claims against decedents. Claims against the estates of deceased Indians may be paid (a) if previously authorized, (b) if for last illness or funeral expenses, (c) if just and the heirs agree to or request payment, (d) if elsewhere herein authorized. Any other debts of decedents should be presented to the examiner of inheritance

and by him transmitted to the Indian Office with Superintendent's recommendation for consideration.*† [Sec. 21]

CROSS REFERENCE: For regulations pertaining to the duties of the examiner of inheritance in determination of heirs and approval of wills, see Part 81.

221.23 Repaying Government expenditures. Authority is hereby granted disbursing agents to draw checks against individual funds in all cases where the Indian has signed an agreement to repay the Government therefrom for expenditures in his behalf and specifically authorizing the Superintendent to do so. Discretion should be used in the exercise of this authority to the end that the Indians be not left destitute thereby. This does not apply to purchases from reimbursable funds and agreements thereunder.*† [Sec. 22]

221.24 Signature of illiterates. Every Indian who can not read should be required to indorse checks payable to his or her order and sign receipts and other documents by making an imprint of the ball of his right thumb (or the left if he has lost his right) after his name. This imprint should be clear and distinct (showing the central whorl and striations) and witnessed by two reputable persons whose addresses and occupations should be given opposite their names. If an Indian who can not write has lost both thumbs, his signature may be made by the mark "X" before two witnesses.*† [Sec. 23]

221.25 Thumb mark. Before any thumb mark is recognized the Indian shall have made his thumb mark signature for record (Form 5-416)⁵ before two witnesses and certified by the disbursing agent, farmer, or other employee personally acquainted with him before an officer authorized by law to administer oaths.*† [Sec. 24]

221.26 Endorsements by others. If an Indian because of legal disability, such as insanity, etc., can not give a proper quittance or for physical reasons can not sign his name or make his thumb mark, or is a minor, the Superintendent, fully explaining the circumstances, will recommend to the Commissioner of Indian Affairs that the head of the family, if such there be, or if not the disbursing agent, be authorized to indorse checks payable to his order. The form of the signature should be: "John Doe, by Charles Thomas, Supt. and S. D. A., ex officio guardian." The disbursing agent should note the authority therefor on the ledger account of the Indian. This does not apply to checks for interest on Liberty bonds, which is covered by bookkeeping and accounting regulations.*† [Sec. 25]

221.27 Personal property. If a disbursing agent receives authority to draw a check against individual Indian money for a specific purpose he must not disclose the extent of the authority to any dealer or other interested third person before securing quotations or bids. When personal property, such as horses, wagons, implements, etc., is purchased for an Indian, singly or in the aggregate of a value of \$50 or more, the Superintendent shall take a bill of sale therefor in his name as vendee expressly in trust for the Indian. Where the State law provides for the recordation of bills of sale, the original should be filed permanently in the agency records; where the State law requires

⁵ See footnote on page 27.

*†For statutory and source citations, see note to § 221.1.

the filing of the original a copy should be kept at the agency. If property held under a bill of sale is wrongfully in the hands of a person other than the Indian owner the Superintendent will make demand for its return and in the event of refusal at once notify the proper United States attorney, inclosing a copy of the bill of sale and asking that steps be taken to recover the property.*† [Sec. 26]

221.28 Minors' rentals of restricted lands. Unless otherwise provided moneys derived from the rental of restricted lands belonging to minors shall be deposited by the Superintendent as "individual Indian money" and credited to the accounts of the allottee on the agency records. The term "minors" as used herein shall include all males under the age of 21 years and all females under the age of 18 years, except as elsewhere herein otherwise provided.*† [Sec. 27]

221.29 Deceased Indians' funds. The funds of a deceased Indian should be carried on the records to the credit of the estate until the heirs have been legally determined, when, after the payment of all proper claims against the estate, including reimbursable and other debts due the United States, the balance (if any) will be transferred in the correct proportions to the individual accounts of the heirs. Except as herein elsewhere otherwise provided, the disbursing agent shall not turn over or pay to any person the funds of an Indian prior to the determination of the heirs without specific authority from the Commissioner of Indian Affairs.*† [Sec. 28]

CROSS REFERENCES: For regulations pertaining to the determination of heirs and approval of wills, see Part 81 and §§ 161.30-161.32C.

221.30 Withdrawal of individual funds. If the necessity arises for withdrawing individual funds except as herein provided, the disbursing agent shall submit a full explanation of the circumstances with a request in duplicate on Form 5-139⁵ for authority to draw checks against the account. Requests submitted under this section shall be approved by the Commissioner of Indian Affairs, the Assistant Commissioner of Indian Affairs, or Acting Commissioner of Indian Affairs.*† [Sec. 29]

221.31 Registering authority for expenditures. Upon receipt of each authority for the expenditure of individual Indian money disbursing agents should give a serial number thereto which, together with the date of the authority, should be noted on the vouchers covering the transaction. A new series of numbers should be maintained for each fiscal year.*† [Sec. 30]

221.32 Taxes and insurance. Authority is hereby granted Superintendents to draw checks against the accounts of minor and incompetent adult Indians to cover taxes legally assessed against unrestricted property owned by such Indians and for the payment of premiums on property insurance.*† [Sec. 31]

221.33 Purchase orders. Authority is hereby granted Superintendents in their discretion to issue orders to Indians who have funds to their credit and who are incompetent or extravagant, such orders to cover purchase of necessary supplies such as food, clothing, imple-

⁵ See footnote on page 27.

ments, seeds, etc. These orders are to be headed "To any dealer" and the total sum to be expended should be clearly shown and notation added to the effect that no cash is to be given to the Indian under any circumstances. No order should be issued where the Indian has no funds to his credit. Superintendents will be held personally responsible for the indebtedness if these instructions are disregarded. If an Indian is in need and is expecting funds from land sale, rentals, or annuity payments, etc., such case should be reported to this office.*† [Sec. 32]

221.34 Payments for deserted dependents. Disbursing agents are hereby authorized to disburse from the account of any adult Indian who has deserted his or her family such sums, not to exceed \$50 per month, as may be absolutely necessary for the support of his or her minor child or children in cases where neither the deserted parent nor children have funds.* [Sec. 33, Regs., Jan. 31, 1928, as amended Dec. 1, 1930]

221.35 Purchase tombstones. Disbursing agents are hereby authorized to expend not to exceed \$100 from accounts of deceased Indians in the erection of suitable monuments at their graves upon request of heirs or near relatives. Also, to permit individual adult Indians to expend from their accounts not exceeding \$100 for such purposes provided their bank balances are sufficient to justify such expenditure.* [Sec. 34, Regs., as added Dec. 1, 1930]

221.36 Advances to heirs. Disbursing agents are hereby authorized to disburse in their discretion not to exceed \$100 from a decedent's estate to each probable heir prior to the formal determination of the heirs to the estate provided the disbursing agent is satisfied beyond a reasonable doubt that the recipient will eventually be declared an heir to the estate, and provided that the value of the estate is sufficient to safely justify such payments.* [Sec. 35, Regs., as added Dec. 1, 1930]

CROSS REFERENCES: For regulations pertaining to the determination of heirs and approval of wills, see Part 81 and see also §§ 161.30-161.32C.

221.37 Surplus funds; Osage Agency. Authority is hereby granted the disbursing agent of the Osage Agency to disburse upon application of the Indian and subject to approval of the Superintendent or other official in charge surplus funds of individual Indians in amounts not exceeding \$1,000 at any one time.* [Sec. 36, Regs., as added Dec. 1, 1930]

221.38 Statements. Superintendents or disbursing officers are hereby instructed to furnish semiannually to each Indian under their jurisdiction who has an individual Indian money account a statement of receipts and disbursements similar to the periodic statements furnished by banks. Instructions are also given that there be posted in the agency office and in the substations, a similar semiannual statement covering tribal funds.* [Sec. 37, Regs., as added Dec. 1, 1930]

221.39 Funds accruing from other governmental agencies. Superintendents and disbursing officers are hereby authorized to deposit as "individual Indian money," funds received from the Veterans' Administration or other Governmental agency in pursuance of the Act of February 25, 1933 (47 Stat. 907; 25 U.S.C. 14), and which are due

*†For statutory and source citations, see note to § 221.1.

incompetent adult Indians or minor Indians for whom no legal guardian or other fiduciaries have been appointed; such funds to be handled and accounted for, and disbursed for the use and benefit of such beneficiaries, in accordance with existing law and the regulations in this part. In view of the nature of these funds, Superintendents should keep their records in such manner that they will be prepared to submit detailed reports either to this Office or to the Veterans' Administration or other Federal agency upon request.* [Sec. 38, Regs., as added May 12, 1933]

PART 224—ANNUITY AND OTHER PER CAPITA PAYMENTS

- | | | | |
|-------|------------------------------------|-------|---------------------------|
| Sec. | | Sec. | |
| 224.1 | Persons to share payments. | 224.4 | Election of shareholders. |
| 224.2 | Enrolling non-full blood children. | 224.5 | Future payments. |
| 224.3 | Payments by check. | | |

Section 224.1 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 5-322⁵ 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.**† [Sec. 1]

**§§ 224.1 to 224.5, inclusive, issued under the authority contained in R.S. 161; 5 U.S.C. 22.

†The source of §§ 224.1 to 224.5, inclusive, is Annuity and other per capita payment regulations, Secretary of the Interior, Jan. 30, 1928.

CROSS REFERENCES: For regulations pertaining to the determination of heirs and approval of wills, see Part 81 and §§ 161.30-161.32C. For individual Indian money regulations, see Part 221.

224.2 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

⁵ See footnote on page 27.