



United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
Eastern Oklahoma Region
Eastern Oklahoma Regional Office
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To: Agency Superintendents
Choctaw Tribal Relations Specialist
Cherokee Nation Registrar
Tribal Government Officer

From: Regional Director, Eastern Oklahoma Regional Office *EU SK*

Subject: Eastern Oklahoma Region – Issuance of Certificate of Degree of Indian Blood Policy

A CDIB is certification that an individual has a specific quantum of Indian blood of a federally recognized Indian tribe. An Agency Superintendent, Choctaw Tribal Relations Specialist, or Cherokee Nation Registrar, as the official in charge and the custodian of all official records, is authorized to sign, as an Issuing Officer, certified copies of official books, records, papers and documents within his/her custody; this includes the authority to issue and, in certain cases, to amend a Certificate of Degree of Indian Blood (“CDIB”).

Notwithstanding the foregoing, the following are discretionary decisions of the Bureau of Indian Affairs and may only be made by an Agency Superintendent or the Deputy Regional Director (hereinafter “Authorized Official”), based on evidence submitted by the individual applicant and any other records or information before the Authorized Official when such a determination is made:

1. A decision that an individual is not eligible to receive a CDIB;
2. A decision that an individual’s blood degree may not be calculated based on lineage to any particular enrollee listed on the individual’s application;
3. A decision to deny a requested change to a CDIB;
4. A decision to amend a CDIB that is contrary to the interest of the certificate holder;
5. A decision to revoke a CDIB.

Section I: Obtaining a CDIB

A. Burden of Proof.

The burden of proof is on the individual applicant to establish, by a preponderance of the evidence, his/her lineage from ancestors of maternal or paternal lineage (or both) listed with a degree of Indian blood on one of the following specified rolls of Indian Tribes under the administrative jurisdiction of the Eastern Oklahoma Regional Office:

Cherokee, Delaware, Shawnee and United Keetoowah Band – *The Index and Final Rolls of Citizens and Freedmen of the Cherokee Tribe* in Indian Territory and approved by Act of June 21, 1906, 34 Stat. 325.

Choctaw and Chickasaw – *The Index and Final Rolls of Citizens and Freedmen of the Choctaw and Chickasaw Tribes* in Indian Territory approved by Act of June 21, 1906, 34 Stat. 325.

Muscogee (Creek), Alabama-Quassarte, Kialegee, Thlopthlocco and Seminole – *The Index and Final Rolls of Citizens and Freedmen of the Creek and Seminole Tribes* in Indian Territory approved by Act of June 21, 1906, 34 Stat. 325.

Osage – Certified Roll of Osages in Oklahoma and approved by Act of June 28, 1906, 34 Stat. 539 and the Roll of the Osage Tribe prepared as of April 19, 1921 and the Roll of the Osage Tribe prepared as of June 1, 1953, as appropriate.

Eastern Shawnee – Official Census Roll of the Eastern Shawnee Tribe as of January 1, 1938 and the 1910 Quapaw Indian Competency Commission Report.

Miami – Official Census Roll of the Miami Tribe dated January 1, 1938 and the 1910 Quapaw Indian Competency Commission Report.

Modoc – Direct lineal descendant of a Modoc Indian removed to Indian Territory (now Oklahoma) in November 1878, pursuant to the Act of March 9, 1909, 34 Stat. 751, and who did not return to Klamath, Oregon and the 1910 Quapaw Indian Competency Commission Report, as construed by the October 14, 1981 Memorandum of the Acting Deputy Assistant Secretary – Indian Affairs (Operations).

For the purposes of identification and association, those individuals listed on the final roll of the members of the Klamath Tribe of Indians as published in the Federal Register of May 13, 1955, (20 F.R. 3269), pursuant to Section 3 of the Act of August 13, 1954, (69 Stat. 718).

Ottawa – Official Census Roll of the Ottawa Tribe of January 1, 1940, or the Official Roll of the Ottawa Tribe dated August 3, 1956 and the 1910 Quapaw Indian Competency Commission Report.

Peoria – Official Census Roll of the Peoria Tribe dated January 1, 1937, or the Official Membership Roll of the Peoria Tribe as of August 3, 1956 and the 1910 Quapaw Indian Competency Commission Report.

Quapaw – The 1910 Quapaw Indian Competency Commission Report and the 1940 Quapaw Census Roll.

Seneca-Cayuga – Official Census Roll of the Seneca-Cayuga Tribe dated January 1, 1937 and the 1910 Quapaw Indian Competency Commission Report.

Wyandotte – Official Census Roll of the Wyandotte Tribe dated January 1, 1937 and the 1910 Quapaw Indian Competency Commission Report.

A CDIB does not, in and of itself, constitute membership in a Tribe nor eligibility for membership in a Tribe.

B. Primary Documents for Proving Lineage

To apply for a CDIB, the applicant (or in the case of a minor, his or her parent or legal guardian) should fully complete the Application for a Certificate of Degree of Indian Blood. Every application must include information sufficient to positively identify the specific enrollee(s) or CDIB holder(s) through whom the applicant claims his/her lineage. Because many individuals have the same or similar names, every application should identify the enrollee(s) by roll number and/or the full name(s) of the CDIB holder(s). In addition, the applicant must submit evidence of direct lineage sufficient to satisfy the burden of proof discussed hereinabove. The following Primary Documents should be submitted as evidence of lineage:

1. An original or certified reproduction of a **State-Issued Birth Certificate** showing the person's parentage and containing the State Seal, State Registrar's signature and the State File Number is the best evidence of lineage. A birth record or certificate issued by a hospital, county, city or the Bureau of Census is not a substitute for a State-Issued Birth Certificate. Photocopies will not be accepted.
2. An original or certified reproduction of a **Delayed Certificate of Birth** showing the person's parentage and containing the State Seal, State Registrar's signature, and the State File Number. Photocopies will not be accepted. State regulations cover the requirements for issuing a Delayed Certificate of Birth. A delayed birth record may be issued years after birth and, as a result, is of lesser evidentiary value than a standard Birth Certificate. For this reason, a Delayed Certificate of Birth should be accompanied by one or more of the **Recommended Secondary Documents** listed in Section I(C) below.
3. If the applicant was born outside the United States, he or she may submit a **Record showing that the applicant or the applicant's ancestor was born outside the United States**. This may be a certified copy of the official U.S. Department of State record of birth or a certified copy or a certified translation of the record of birth on file with the foreign agency responsible for recording vital records. An FS-240 (*The Consular Report of Birth Abroad*) can be obtained from the Department of State for births outside the United States. If the Department of State record is not available, the applicant may submit the Department of State's Notice of No Record on File and a certified copy or certified translation of the record of birth on file with the foreign agency responsible for recording vital records.
4. If no Birth Record is available, an original or certified reproduction of a **Certificate of Death or a Delayed Certificate of Death for the Applicant's Lineal Ancestor** may be submitted. An official document of death should show the ancestor's parentage and contain the State Seal, State Registrar's signature, and the State File Number is required.

Photocopies will not be accepted. In those cases where an ancestor of an applicant is deceased, was not enrolled, had no Birth Certificate, and there is no legal determination of heirs of the Indian parent, a void exists in proving relationship. The Death Certificate of such an individual will provide information as to parentage and when no other information is available to prove such parentage, a Death Certificate may be acceptable; however, all other avenues of information should be investigated prior to accepting a Death Certificate. A Death Certificate is of limited evidentiary value and the applicant should also submit one of the Recommended Secondary Documents listed in Section I(C) below.

C. Recommended Secondary Documents

If an applicant submits a Delayed Certificate of Birth, a Certificate of Death and/or a Delayed Certificate of Death as the Primary Document for his/her lineal ancestor, the applicant is strongly recommended to submit one of the following secondary documents:

1. **A Determination of Heirship** by a court of competent jurisdiction in a proceeding wherein a determination of heirship is necessary to a resolution of the case and all appropriate parties have been provided notice and an opportunity to be heard (e.g. a probate, estate administration, quiet title with a determination of heirship, or determination of heirship proceeding. Note that any determination of degree of Indian blood in such proceeding is considered dicta and is not binding for purposes of a CDIB.
2. **Hospital Birth Certificate.** A record of birth, not necessarily parentage, used to support a primary document.
3. **Birth Certificate issued by the Bureau of Census.**
4. **Proof of Death and Heirship Record.**
5. **Federal Census Records, Tribal Census Records or Social Security Records.**
6. **Marriage License.**
7. **School Enumeration from the county courthouse where the school district is located.**
8. **Affidavit.** An Affidavit supplies information not otherwise available and is made under oath before a Notary Public. An Affidavit should include a statement that the affiant has personal knowledge of the facts or events stated in the Affidavit, and a statement advising the affiant that he/she is subject to criminal penalties for knowingly filing false or fraudulent information to an Agency of the United States Government. *An Affidavit is acceptable only if executed by a party other than the applicant.* An Affidavit may be used for the following:
 - a. To Clarify Identification. To certify that one person goes by two names or that two or more names actually refer to the same person.

- b. To Clarify Discrepancies in Name. If identification is not questioned, minor variations, such as in spelling of names, may not require further proof.
- c. To Corroborate a Relationship.

D. Child Born Out of Wedlock.

This subsection only applies if the applicant or one of applicant's ancestors was born out of wedlock. For purposes of blood degree computation, an applicant can prove the identity of his/her birth father or his/her ancestor's birth father if the applicant can provide any of the following for each person born out of wedlock:

1. The person's State-Issued Birth Certificate listing the name of the father (as described in Section I(A)(1) above);
2. A written document in which the birth father acknowledged paternity of the person born out of wedlock, that was:
 - a. filed in a Tribal Court Child Custody proceeding as defined by tribal law; or
 - b. filed in a State Court Child Custody proceeding as defined by the Indian Child Welfare Act, 25 U.S.C. § 1903; or
 - c. recorded with an Office of Vital Statistics or other State Agency authorized by law to receive Paternity Acknowledgments in the State where the person was born;
3. A final Court Order that contains a finding establishing paternity. The Court issuing the Order must have jurisdiction in a paternity determination, child support case, parental rights termination, adoption or other judicial proceeding in which paternity is an essential element;
4. A Final Decision of an Administrative Law Judge in an Indian Probate proceeding filed under 43 C.F.R. Part 4; or
5. A DNA or Genetic Marker Test (obtained at the requester's sole expense) determining the probability that the father through whom Indian blood is claimed is the natural father of the applicant to be no less than 95%. DNA or Genetic Marker results must be presented in conjunction with a final Court Order establishing paternity.

E. Adoption

Indian blood is calculated from the natural parent(s) even though an adoption has taken place. An adoptive parent(s) is not a lineal ancestor(s) and blood degree(s) cannot be derived from an adoptive parent(s). *A CDIB cannot be issued to a non-Indian child adopted by an Indian parent(s).* If one of the Primary Documents listed in Section I (B) above is not available to establish the natural parentage of the individual, it is recommended that the following documentation be submitted:

1. An original or a certified reproduction of the **State-Issued Replacement Birth Certificate due to Adoption** showing the adoptive parents and a certified copy of the **Final Decree of Adoption** establishing the identity of the natural parents.
2. If the Final Decree of Adoption is not available or does not establish the adoptee's relationship to the relevant natural parent(s), then one or more of the following documents should be submitted:
 - a. Documents from the Court under the Indian Child Welfare Act, 25 U.S.C. § 1951 that adequately identify the adoptee's natural parent(s);
 - b. A certified copy of a document that identifies the adoptee and the adoptee's natural parent(s), filed with the Court in the adoption case, such as a Consent to Adoption, a Consent to Termination of Parental Rights, or an Order Terminating Parental Rights;
 - c. Any statement, letter or other document provided and executed by an official of the court that entered the Final Decree, upon request of the adoptee, which identifies the adoptee, the adoptee's natural parents and the tribal affiliation of the adoptee's natural parent(s), as authorized by the Indian Child Welfare Act, 25 U.S.C. § 1917; or
 - d. A certified copy of a document that identifies the adoptee by his/her original name that was filed with the court in the adoption case together with one of the following:
 - i. An original or a certified reproduction of the state-issued birth record established at the adoptee's birth; or
 - ii. A hospital Birth Certificate listing the names of the adoptee's natural parents.

Adoption records are considered confidential information and strict precautions should be taken to ensure their confidentiality. Personnel should not divulge information surrounding the issuance of a CDIB.

Section II. Amending a CDIB

- A. This Policy may not be applied retroactively to decrease a certificate holder's blood degree. Without a written request from a certificate holder, a CDIB may only be amended if there was an error in computing the degree of Indian blood which results in an increase of the certificate holder's blood degree. For example, if the mother's CDIB shows her degree of Indian blood as 4/4, the father's CDIB shows his degree of Indian blood as 3/4, and the certificate holder's CDIB shows his/her degree of Indian blood as 5/8, the Authorized Official may issue a decision that the certificate holder's degree of Indian blood be increased to 7/8.

- B. Upon a certificate holder's written request, a CDIB may be amended by an Authorized Official under the following circumstances:
1. When the certificate holder establishes, by a preponderance of the evidence, that his/her degree of Indian blood should be amended based on direct lineage to additional enrollees of maternal or paternal lineage (or both) listed with a degree of Indian blood on one of the rolls of Indian Tribes under the administrative jurisdiction of the Eastern Oklahoma Regional Office. Additional enrollees are those enrollees for whom there is no prior decision which was identified as final for the applicant and that specific enrollee.
 2. The request cites a mathematical error on the base roll or a substantial error related to the determination of his/her degree of Indian blood accompanied by any necessary supporting documentation.

Section III. Voiding or Revoking a CDIB

- A. A CDIB cannot be voided or revoked based upon retroactive application of this or any prior Bureau Policy. However, a CDIB that was issued without authority in the first instance or based upon fraudulent information may be revoked by an Authorized Official, provided that due process and appeal rights are or have been previously afforded to the certificate holder or, if the certificate holder is a minor, to his/her parent or legal guardian.
- B. When an Authorized Official determines that a CDIB was issued based on fraudulent information presented by the certificate holder, the Authorized Official may work with the Field Solicitor's Office to gather and assemble the evidence of such fraud and refer the matter to the Office of the Inspector General, the Federal Bureau of Investigation, or other appropriate federal investigative office.
- C. If an Authorized Official is presented with a civil judgment or criminal prosecution of an individual from a court of competent jurisdiction that found the certificate holder was issued a CDIB or tribal membership based on fraud or if the investigation referenced in Paragraph B above establishes that a CDIB was issued based on fraud, an Authorized Official may revoke the subject CDIB.
- D. Except as provided in this Section, a certificate holder who was issued a CDIB that was later voided is still a certificate holder and should be reissued a CDIB.

Section IV: Notice of Decision and Appeals

- A. When an Authorized Official makes a decision to deny, amend or vacate a CDIB, the applicant or certificate holder, or in the case of a minor or incompetent, his/her parent or legal guardian (hereinafter the "aggrieved party"), must be notified in writing of a decision setting forth the basis for the decision. The decision must also:

1. Include a statement that the decision may be appealed pursuant to 25 C.F.R. Part 62 – Enrollment Appeals;
 2. Identify the Official to whom the aggrieved party may appeal; and
 3. Include a copy of 25 C.F.R. Part 62 – Enrollment Appeals.
- B. The Authorized Official's decision must be delivered to the aggrieved party by Certified Mail – Return Receipt Requested, at the aggrieved party's address of record or last available address, or the decision may be delivered in person. If the decision is delivered in person, the aggrieved party must sign and date an acknowledgment that he/she received the notification along with a copy of 25 C.F.R. Part 62 – Enrollment Appeals. The Authorized Official will provide the applicant or certificate holder with a copy of the acknowledgment as a receipt.
- C. In accordance with 25 C.F.R. Part 62—Enrollment Appeals, if the aggrieved party disagrees with a decision made under this Section, the aggrieved party may file an appeal, or may authorize a sponsor, including an attorney, to file an appeal on his/her behalf.
- D. Once the appeal is received by the Authorized Official, the appeal shall be forwarded to the Regional Director for action together with any relevant information or records.
- E. The Regional Director shall make a decision on the appeal which shall be final for the Department and which shall so state in the decision, or the Regional Director may waive his/her right to make a final decision and forward the appeal to the Assistant Secretary for final action. The appellant or sponsor will be notified in writing of the decision.
- F. Once the Regional Director's decision is received by the Authorized Official, he/she shall notify the Tribe.

Section V: Combining Blood Quantum on a CDIB

- A. The blood quantum for an applicant whose Indian blood is derived from more than one of the Five Civilized Tribes may be combined on a CDIB by an Issuing Officer. Expeditious cooperation between the Agencies and Tribes will be required to provide the requesting Authorized Official with a copy of the required information for certification to combine the Indian blood. When a CDIB is issued which reflects the blood quantum of more than one tribe of the Five Civilized Tribes, each respective Agency and Tribe shall receive a copy of the CDIB.
- B. An applicant whose Indian blood is derived from one of the Five Civilized Tribes and any other federally recognized Indian tribe may not be combined on a CDIB. The applicant will need to contact the other Indian tribe to obtain a CDIB that confirms his/her degree of Indian blood specific to said Indian tribe.

Section VI: CDIB Standard Form

- A. A CDIB is the official document that certifies that an individual possesses a specific degree of Indian blood of a federally recognized Indian tribe.
- B. A CDIB issued under the Eastern Oklahoma Region administrative jurisdiction shall contain the full name of the individual as it appears on the individual's original or certified reproduction of the state-issued birth record, replacement birth certificate, or as it appears on a court-ordered name change. A CDIB shall not be changed to reflect a woman's married name.
- C. A CDIB shall be placed on Bureau of Indian Affairs letterhead and must be signed by the Authorized Official with delegated administrative jurisdiction for the federally recognized Indian tribe(s) from which the applicant's Indian blood is derived. An electronic signature is not permitted.
- D. All CDIBs issued under the Eastern Oklahoma Region administrative jurisdiction shall be substantially in the following form:

CDIB Issued Date	<u>CDIB</u>
This is to certify that pursuant to the Final Rolls of the _____ closed _____, by the Act of _____, _____ (Stat. _____) _____ born _____ is of _____ degree _____ Indian blood. The lineal ancestors of the above-named are as follows:	
NAME _____	ROLL NO. _____
DEGREE _____	TRIBE _____
Father: Mother:	
Pat. Grandfather: Pat. Grandmother:	
Pat. Gr. Grandfather: Pat. Gr. Grandmother: Pat. Gr. Grandfather: Pat. Gr. Grandmother:	
Mat. Grandfather: Mat. Grandmother:	
Mat. Gr. Grandfather: Mat. Gr. Grandmother: Mat. Gr. Grandfather: Mat. Gr. Grandmother:	
VERIFICATION:	
_____ Certifying Officer	
ANY ALTERNATION IN THE ABOVE CERTIFICATE AUTOMATICALLY RENDERS IT NULL AND VOID	

- E. The original CDIB shall be maintained in the Issuing Official's office files. For convenience, an individual may be issued a CDIB card in place of the CDIB. The card shall contain the individual's full name as it appears on his/her original or certified reproduction of the state-issued birth record or replacement birth certificate, the individual's date of birth, the individual's documented blood degree, the name(s) of the federally recognized Indian tribe(s) from which the individual's blood degree is derived, the base roll utilized, the Issuing Official's signature (or electronic replica thereof), the issuing office and address, and the following statement shall be placed on the CDIB card: "This card does not constitute membership in the referenced tribe(s)."

Section VIII: Miscellaneous

- A. It is apparent that errors exist on the final approved Rolls of the Five Civilized Tribes, the Base Rolls of the Tribes under the immediate jurisdiction of the Miami Agency, and the 1906 Final Rolls of the Osage Indians. In such cases where there is no question that the blood degree ascribed to an individual on a specified Roll is in error, an Agency Superintendent, Choctaw Tribal Relations Specialist, or the Cherokee Nation Registrar is authorized to trace an individual's blood quantum to the farthest removed enrolled ancestor and issue a CDIB to reflect a person's total degree of Indian blood.
- B. When a CDIB is issued for an individual deriving blood from one of the Five Civilized Tribes based upon a calculation from an ancestor other than the nearest enrolled ancestor, the blood degree of the individual should additionally be calculated to the nearest enrolled ancestor and this calculation must be prominently noted on the face of the CDIB. This information will be used solely for the purpose of determining restricted land status pursuant to the Acts applicable to the allotted lands of the Five Civilized Tribes and must be provided to the Field Solicitor's Office upon request. This information need not be shown on the CDIB card.

This policy replaces the policy memorandum dated July 27, 1989. Questions regarding this policy may be directed to Diane Jobe, Tribal Government Officer, at (918) 781-4685.