

**WHITE MOUNTAIN APACHE**  
**ENROLLMENT CODE**

**WHITE MOUNTAIN APACHE TRIBE  
ENROLLMENT CODE**

**TABLE OF CONTENTS**

**CHAPTER ONE  
GENERAL PROVISIONS**

|               |                                    |   |
|---------------|------------------------------------|---|
| SECTION 1-101 | Constitutional Provisions .....    | 1 |
| SECTION 1-102 | Definitions .....                  | 1 |
| SECTION 1-103 | Notice .....                       | 3 |
| SECTION 1-104 | Right to Counsel .....             | 3 |
| SECTION 1-105 | Failure to Appear at Hearing ..... | 3 |
| SECTION 1-106 | Confidentiality .....              | 4 |

**CHAPTER TWO  
MEMBERSHIP**

|               |                              |   |
|---------------|------------------------------|---|
| SECTION 1-201 | Membership Criteria .....    | 5 |
| SECTION 1-202 | Tribal Membership Roll ..... | 5 |

**CHAPTER THREE  
ENROLLMENT COMMITTEE AND OFFICE OF VITAL RECORDS**

|               |  |   |
|---------------|--|---|
| SECTION 1-301 | Appointment of Enrollment Committee .....          | 6 |
| SECTION 1-302 | Powers and Duties of Enrollment Committee .....    | 6 |
| SECTION 1-303 | Powers and Duties of Office of Vital Records ..... | 6 |

**CHAPTER FOUR  
APPLICATION FOR ENROLLMENT**

|               |  |   |
|---------------|--|---|
| SECTION 1-401 | Application Form; Filing .....                   | 8 |
| SECTION 1-402 | Application Identification Number and Date ..... | 8 |

**CHAPTER FIVE  
PROCESSING OF APPLICATION**

|               |  |    |
|---------------|--|----|
| SECTION 1-501 | Review by Office of Vital Records .....  | 9  |
| SECTION 1-502 | Compilations to be prepared by the Office<br>of Vital Records; Notice to Applicant ..... | 9  |
| SECTION 1-503 | Action by the Tribal Council .....   | 10 |
| SECTION 1-504 | Notice to Applicant .....  | 10 |
| SECTION 1-505 | Publication and Posting .....  | 10 |

**CHAPTER SIX  
DUAL ENROLLMENT**

|               |  |    |
|---------------|--|----|
| SECTION 1-601 | Dual Enrollment Prohibited .....                               | 11 |
| SECTION 1-602 | Notice of Dual Enrollment;<br>Request for Relinquishment ..... | 11 |

**CHAPTER SEVEN  
REMOVAL FROM MEMBERSHIP**

|               |   |    |
|---------------|---|----|
| SECTION 1-701 | Removal .....                             | 12 |
| SECTION 1-702 | Relinquishment .....                      | 12 |
| SECTION 1-703 | Effect of Relinquishment; Finality .....  | 12 |
| SECTION 1-704 | Disenrollment .....                       | 13 |
| SECTION 1-705 | Grounds for Disenrollment .....           | 13 |
| SECTION 1-706 | Notice of Disenrollment Action .....      | 13 |
| SECTION 1-707 | Disenrollment Hearing .....               | 13 |
| SECTION 1-708 | Scheduling of Disenrollment Hearing ..... | 14 |
| SECTION 1-709 | Conduct of Hearing; Burden of Proof ..... | 14 |

SECTION 1-710 Decision of Enrollment Committee ..... 14

**CHAPTER EIGHT  
REVIEW BY THE TRIBAL COUNCIL**

SECTION 1-801 Right of Review ..... 15  
SECTION 1-802 Scheduling of Review Hearing ..... 15  
SECTION 1-803 Record of Supporting Statement and Date ..... 15  
SECTION 1-804 Review Record ..... 16  
SECTION 1-805 Burden of Proof ..... 16  
SECTION 1-806 Decision of the Tribal Council ..... 16

**CHAPTER NINE  
PRIOR ENROLLMENT ORDINANCES**

SECTION 1-901 Prior Enrollment Ordinances and  
Enrollment Committees Repealed and Extinguished ..... 17

**CHAPTER TEN  
SEVERABILITY**

SECTION 1-1001 Severability Clause ..... 17

**WHITE MOUNTAIN APACHE TRIBE**

**ENROLLMENT CODE**

**CHAPTER ONE**  
**GENERAL PROVISIONS**

[HISTORICAL NOTE: The Enrollment Code has been revised by Ordinance No. 187, enacted 9/8/94]

**SECTION 1-101     CONSTITUTIONAL PROVISIONS**

Article II of the Constitution of the White Mountain Apache Tribe provides:

**ARTICLE II - MEMBERSHIP**

**Section 1.     Requirements.** The membership of the White Mountain Apache Tribe shall consist of:

- (a) All persons who were qualified for and were accepted into membership in the White Mountain Apache Tribe under the membership requirements as of the date of enactment of this constitution.
- (b) All persons of one-half (1/2) degree or more Indian blood, of a federally recognized Indian tribe or tribes, Provided, that the person is at least one-fourth (1/4) degree White Mountain Apache blood.

**Section 2.     Enrollment Ordinance.** The Council shall have the power to pass ordinances which are consistent with and pursuant to this constitution governing future membership, loss of membership, and all other necessary procedures of enrollment.

**Section 3.     Membership Roll.** The membership roll of the White Mountain Apache Tribe shall be kept current by adding thereto the names of persons who qualify for membership and by deleting therefrom the names of persons who have relinquished in writing their membership in the Tribe. Upon receipt of death certificates of deceased members or other evidence of death satisfactory to the Tribal Council, the names of these deceased members shall be removed from the roll.

**SECTION 1-102     DEFINITIONS**

(A) **Applicant:** A person who seeks enrollment in the White Mountain Apache Tribe of Arizona and whose name appears on the application.

(B) **Blood Quantum:** A specific blood degree of White Mountain Apache Indian blood (degree of Indian blood) required to meet membership requirements.

(C) Burden of Proof: The necessity or duty of affirmatively proving a fact or facts in dispute on an issue raised between parties in a cause; the obligation of persuading someone that something is true or not true; and the obligation of producing evidence to that end.

(D) Direct Lineal Descendants: One who is in a line of descent from the ancestor and a direct line from the other, as from father or grandfather to son or grandson, or mother or grandmother, to daughter or granddaughter, or between the same person and his or her son or daughter, grandson or granddaughter, great grandson or great granddaughter, and so downward in the direct descending line.

(E) Due Process: A course of legal proceedings according to those rules and principles which have been established by tribal law for the enforcement and protection of private rights; the essential elements of which are notice and opportunity to be heard and to defend in an orderly proceeding adapted to the nature of the case; to be heard by testimony, or otherwise, and to have the right of controverting, by proof, every material fact which bears on a question of right in the matter involved.

(F) Enrollment Document: An application, birth certificate or a certified copy of hospital, clinic, doctor's or midwife's records, baptismal certificate, affidavit signed by relatives, friends or doctors, or other written data submitted by a member or applicant for membership, to the Office of Vital Records, to establish or meet the requirements for membership.

(G) Office of Vital Records: Those persons employed by the White Mountain Apache Tribe who are responsible for the administration of the Office of Vital Records.

(H) Paternity Acknowledgement or Statement: A document, under oath, signed by the father of a child born out of wedlock, which states that he is the father. Paternity statements issued by other members of the immediate family are not recognized for enrollment purposes. A judicial determination of paternity shall be recognized for enrollment purposes.

(I) Petitioner: A person who seeks review of an enrollment decision.

(J) Relinquishment of Membership: The voluntary, total withdrawal from membership with an Indian tribe, including the White Mountain Apache Tribe, by a tribal member. The withdrawal must be in writing and is effective upon resolution of the Tribal Council of the White Mountain Apache Tribe. The Tribe cannot refuse relinquishment of membership unless the enrollee is legally incompetent.

(K) Sponsor: A person who has filed an application for enrollment on behalf of another person.

(L) Tribal Council: The Tribal Council of the White Mountain Apache Tribe.

(M) Tribal Law: Consists of the White Mountain Apache Constitution, the enactments of the Tribal Council, and tribal common law. Tribal common consists of the decisions of the Tribal Court and Tribal Court of appeals and the customs and traditions of the White Mountain Apache people.

(N) Tribal Membership Roll: The official list of enrolled members of the White Mountain Apache Tribe certified annually by the Tribal Council.

#### **SECTION 1-103 NOTICE**

(A) Any notice to any person which is required to be or may be given under the provisions of this code shall be given in writing by certified mail, return receipt requested. Service of such notice shall be deemed effective five (5) days after deposit in the United States mail.

(B) In the event a return receipt is not signed and returned within ten (10) days after mailing, or if returned in such a manner as to indicate that the person entitled to receive notice may no longer reside at the address stated, the Office of Vital Records shall use its best efforts to determine the address or location of said person and give actual notice as may be appropriate.

(C) Any person giving notice under this Section shall execute a proof of service certifying in writing as to each notice, the date, place, method of delivery and upon whom it was made.

(D) Nothing contained in this Section shall in any way operate to change or be deemed to affect the time limitations hereafter set forth in this code.

#### **SECTION 1-104 RIGHT TO COUNSEL**

Any applicant for enrollment or any person affected by an enrollment decision shall have, at all stages of the decision making process, the right to representation by legal or other counsel at his or her own expense.

#### **SECTION 1-105 FAILURE TO APPEAR AT HEARING**

Failure of a petitioner or other affected person to appear at a duly scheduled hearing shall in no way affect the power of the Enrollment Committee to conduct said hearing. such failure shall be deemed to be a waiver of the right of personal appearance and the Enrollment Committee shall conduct the hearing and issue a final decision based on the record and evidence properly presented.

**SECTION 1-106      CONFIDENTIALITY**

(A) The Tribal Council, Office of Vital Records and Enrollment Committee shall maintain the highest degree of confidentiality and integrity of all enrollment information as is consistent with full performance of all duties and responsibilities prescribed by this code.

(B) All meetings of the Enrollment Committee regarding enrollment shall be closed to the public except as provided in this code.

(C) All computer enrollment programs shall be restricted and access shall be by the Office of Vital Records only or by the Tribal Council by resolution.

(D) An alphabetical listing of enrolled members may be made available for access by other departments only upon written permission granted by the Tribal Council. All requests shall be submitted in writing to the Office of Vital Records, shall clearly set forth the uses to which the listing will be put and shall justify the need for primary access. The Office of Vital Records shall make a written recommendation thereon to the Tribal Council concerning each request.

(E) **Records:** All permanent enrollment records shall be kept secured in a locked fireproof cabinet and to the extent feasible in a fireproof room.



**CHAPTER TWO**  
**MEMBERSHIP**

**SECTION 1-201     MEMBERSHIP CRITERIA**

(A) The membership of the White Mountain Apache Tribe shall consist of those persons specified in Article II of the Constitution of the White Mountain Apache Tribe and their direct lineal descendants, who qualify for membership provided that any applicant for membership must be a citizen of the United States.

**SECTION 1-202     TRIBAL MEMBERSHIP ROLL**

(A) A Tribal membership roll shall be maintained containing the names of all enrolled members of the White Mountain Apache Tribe, arranged in alphabetical order. The roll shall also indicate each member's enrollment number, sex, date of birth, degree of Indian and tribal blood, and a column for remarks indicating date of enrollment, the name of the person's parents and any other pertinent information.

(B) The Office of Vital Records shall keep the Tribal Membership Roll current and the Tribal Council shall annually certify said Tribal Membership Roll. The names of all persons who are deceased and all persons who have relinquished in writing their membership in the White Mountain Apache Tribe or any other tribe shall be noted on the roll, and the names of all persons whose applications for enrollment have been approved by the Tribal Council shall be added to the roll.

(C) In accordance with Article II of the Constitution of the White Mountain Apache Tribe, corrections may be made to the Tribal Membership Roll subject to the approval of the Tribal Council.

(D) An enrolled tribal member listed on the Tribal Membership Roll who disagrees with his or her blood quantum listed therein may file an application to correct same by following the procedures in Chapters 4 and 5 of this code. In any proceeding to change or correct the blood quantum on the Tribal Membership Roll the burden of proof shall be on the applicant, unless the Office of Vital Records initiates the change or correction, in which case the burden of proof shall be on the Tribe.

**CHAPTER THREE**  
**ENROLLMENT COMMITTEE AND OFFICE OF VITAL RECORDS**

**SECTION 1-301     APPOINTMENT OF ENROLLMENT COMMITTEE**

(A) The Tribal Council shall by resolution establish an Enrollment Committee of seven (7) members who shall serve staggered terms as follows:

- 1 - 4 year term
- 2 - 3 year term
- 2 - 2 year term
- 2 - 1 year term

The Enrollment Committee so appointed shall select a Chairperson from within its membership.

(B) The Tribal Council by resolution shall establish an Office of Vital Records vested with the powers and responsibilities set forth in this code and shall make such other additional provisions concerning the Office of Vital Records as are deemed necessary.

**SECTION 1-302     POWERS AND DUTIES OF ENROLLMENT COMMITTEE**

(A) The Enrollment Committee shall have the authority to review all enrollment matters, including, but not limited to, eligibility for membership, dual enrollment and disenrollment, and changes or corrections to blood quantum records of the Tribal Membership Roll.

(B) The Enrollment Committee shall render a written decision based on all information gained during the course of committee investigation in each enrollment matter presented for review.

(C) All enrollment matters which have been reviewed and decided by the Enrollment Committee shall be presented without undue delay to the Tribal Council.

(D) The Chairperson of the Enrollment Committee or the Director of the Office of Vital Records shall be responsible for presentation of all enrollment matters to the Tribal Council.

**SECTION 1-303     POWERS AND DUTIES OF OFFICE OF VITAL RECORDS**

(A) The Office of Vital Records shall review, research and make written recommendations to the Enrollment Committee on the eligibility of applicants for membership or other enrollment matters. Recommendations concerning eligibility shall be based solely upon the criteria contained in Section 1-201 of this code.

(B) Recommendations made by the Office of Vital Records shall be based on documents provided by the applicant or member and such other information as may be obtained by the Office of Vital Records in the normal course of inquiry concerning enrollment matters.

(C) The Office of Vital Records shall be responsible for handling all written and oral communications relating to enrollment matters.

(D) The Office of Vital Records shall be responsible for the maintenance of all enrollment records.

(E) The Office of Vital Records shall be available to lend appropriate assistance to the Enrollment Committee in all enrollment matters.

(F) The Office of Vital Records shall render a written decision based on all information gained during the course of its investigation in each enrollment matter presented for investigation and review.

(G) All enrollment matters which have been reviewed and decided by the Office of Vital Records shall be presented without undue delay to the Enrollment Committee.

(H) The Chairperson of the Enrollment Committee or Director of the Office of Vital Records shall be responsible for presentation of all enrollment matters to the Tribal Council for final approval.

**CHAPTER FOUR**  
**APPLICATION FOR ENROLLMENT**

**SECTION 1-401     APPLICATION FORM; FILING**

(A) Application for enrollment as a member of the White Mountain Apache Tribe shall be filed with the Office of Vital Records in writing on a form approved by the Tribal Council.

(B) Application for enrollment may be made by any person on his or her own behalf or may be made by a sponsor on behalf of the following:

- (1) a minor;
- (2) a deceased person;
- (3) An incapacitated, incompetent or other person otherwise in need of assistance;
- (4) a member of the armed services or other service of the United States Government who is stationed outside the Continental United States;
- (5) any person by a member of his or her immediate family.

**SECTION 1-402     APPLICATION IDENTIFICATION NUMBER AND DATE**

Upon receipt of an enrollment application, the Office of Vital Records shall record the date of receipt and assign such application an identification number.

**SECTION 1-403     FALSE STATEMENTS/CONCEALMENT OF FACTS**

[Historical Note: Section 1-403 is derived from Ordinance no. 205, enacted July 10, 1996]

A. It shall be unlawful for any person, in any document required by the Office of Vital Records, to be published or kept as part of the record of any applicant for enrollment or disenrollment purposes, to commit any of the following acts:

1. Make any false statement or representation of fact, knowing it to be false.
2. Knowingly conceal, cover up, alter, or fail to disclose any fact, the disclosure of which is required to verify, explain, clarify or check for accuracy and completeness, any enrollment document.
3. Knowingly fail to disclose any information concerning pending applications for enrollment with any other Indian tribe.

B. Any person found to be in violation of Section 1-403(A) after a hearing before the Enrollment Committee, may be subject to denial of his or her enrollment application, and/or disenrollment, subject to review by the Tribal Council pursuant to Chapter 8 of this Enrollment Code.

**CHAPTER FIVE**  
**PROCESSING OF APPLICATION**

**SECTION 1-501      REVIEW BY OFFICE OF VITAL RECORDS**

(A) The Office of Vital Records shall review each enrollment application, and shall, as appropriate, research, interview, and request in writing from the applicant, or any other interested person, any additional information deemed pertinent in establishing the applicant's eligibility for membership. An applicant shall have the burden of coming forward with evidence supporting eligibility.

(B) The Office of Vital Records shall, based upon its review, make a written recommendation concerning the eligibility of the application for enrollment, citing the reasons therefore.

(C) All applications received by the Office of Vital Records and the recommendations thereon by the Office of Vital Records shall be presented to the Enrollment Committee at the next regularly scheduled meeting of the Enrollment Committee after receipt of the application. An application received less than thirty (30) days prior to a regularly scheduled meeting may be presented at the next subsequent regularly scheduled meeting, provided that nothing herein shall prohibit a special Enrollment Committee meeting for such purposes.

(D) All applications received and approved by the Enrollment Committee shall be presented by the Office of Vital Records or the Chairperson of the Enrollment Committee to the Tribal Council for final approval.

**SECTION 1-502      COMPILATIONS TO BE PREPARED BY THE OFFICE OF VITAL RECORDS; NOTICE TO APPLICANT**

(A) The Office of Vital Records shall compile a list of applicants who are determined eligible for membership by the Office of Vital Records. The Director of the Office of Vital Records shall without undue delay transmit such list to the Tribal Council in the form of a proposed resolution and shall make available to the Tribal Council all application files. The Office of Vital Records shall also compile and maintain a list of persons who have requested or who have relinquished membership in the Tribe. Requests for relinquishment shall be presented by the Director of the Office of Vital Records or the Chairperson of the Enrollment Committee to the Tribal Council in the form of a proposed resolution.

(B) Notice of the Enrollment Committee's decision on eligibility shall be given to the applicant within three (3) working days of the date of the decision. The notice shall state, at minimum, the decision of the Enrollment Committee, the basis for the decision, the fact that the Tribal Council makes the final determination of eligibility and that the applicant will be given reasonable opportunity to have a hearing before the Tribal

Council, if requested by the applicant. In any such hearing, the Director of Vital Records or the Chairperson of the Enrollment Committee, or both, shall receive notice thereof and attend said hearing.

**SECTION 1-503      ACTION BY THE TRIBAL COUNCIL**

(A) The Tribal Council shall review and consider the proposed resolution presented by the Director of the Office of Vital Records or Chairperson of the Enrollment Committee. The Council shall approve or disapprove an application for enrollment or relinquishment by acting upon the proposed resolution presented by the Director of the Office of Vital Records or Chairperson of the Enrollment Committee.

(B) The decision to approve or disapprove an application for enrollment shall be subject to review as set forth in Chapter 8 of this code. Applications for relinquishment shall be subject to the procedures in Chapter 7 of this Code.

**SECTION 1-504      NOTICE TO APPLICANT**

(A) Each applicant approved for enrollment by the Tribal Council shall be given written notice by the Office of Vital Records, indicating such approval, the authority for enrollment, the resolution number and the date of adoption of said resolution.

(B) Upon determination by the Tribal Council that an applicant is not eligible for membership, the applicant shall be given a written Notice of Rejection by the Office of Vital Records that the applicant failed to meet the Constitutional requirements for membership. The notice shall further advise the applicant of the review procedures set forth in Chapter 8 of this code.

**SECTION 1-505      PUBLICATION AND POSTING**

Each resolution passed by the Tribal Council concerning the enrollment status of named individuals shall be published by the Office of Vital Records in a newspaper of general circulation on the White Mountain Apache Indian Reservation at least once (1) during the fifteen (15) day period following the date of passage of the resolution. Each such resolution shall be posted at the Tribal Office of Vital Records. Said posting shall be made within five (5) days following date of passage of the resolution.

**CHAPTER SIX**  
**DUAL ENROLLMENT**

**SECTION 1-601     DUAL ENROLLMENT PROHIBITED**

Names of persons enrolled as members of any other tribes, bands or groups of Indians shall not be included on the Tribal Membership Roll.

**SECTION 1-602     NOTICE OF DUAL ENROLLMENT; REQUEST FOR RELINQUISHMENT**

(A) Any person found to be enrolled with the White Mountain Apache Tribe and any other tribe shall be notified in writing by the Office of Vital Records of such dual enrollment. The Office of Vital Records shall provide a copy of said notice to the chairperson of the Enrollment Committee.

(B) Any person found to be dually enrolled shall be allowed sixty (60) days from the effective date of notice of dual enrollment to furnish the Office of Vital Records with satisfactory proof of relinquishment or initiation of relinquishment of membership with any tribe other than the White Mountain Apache Tribe. Failure to furnish such proof within the allowed sixty (60) days will result in initiation of disenrollment proceedings pursuant to Chapter 7 of this code.

(C) Any person found to be enrolled with the White Mountain Apache Tribe and any other tribe shall be immediately suspended by the Enrollment Committee from the membership roll of the White Mountain Apache Tribe pending final resolution of the dual enrollment issue. While suspended from the membership roll under this Section, no person shall be entitled to any privilege, right, interest, or claim based on membership in the White Mountain Apache Tribe.

**CHAPTER SEVEN**  
**REMOVAL FROM MEMBERSHIP**

**SECTION 1-701     REMOVAL**

Any person may voluntarily or involuntarily have his or her name removed from the Tribal Membership Roll of the White Mountain Apache Tribe.

**SECTION 1-702     RELINQUISHMENT**

(A) Any person may voluntarily have his or her name removed from the Tribal Membership Roll of the White Mountain Apache Tribe by relinquishing membership in the White Mountain Apache Tribe.

(B) Relinquishment of membership shall be accomplished by submitting to the Office of Vital Records a notarized statement of relinquishment on a form required and provided by the Office of Vital Records.

(C) Requests for relinquishment of membership shall be processed in the manner specified for enrollment applications in Chapter 5 of this Code.

(D) In the case of a minor child under the age of eighteen years, the relinquishment statement must be signed by the guardian or both parents, if married, or if separated or divorced, by the parent given permanent physical custody of said child; provided, that if the minor child is fifteen years of age or older, and is otherwise competent, the child must also sign a notarized statement of relinquishment required by Section 1-702 (B).

(1) If a child fifteen years of age or older refuses or fails to sign a statement of relinquishment and is otherwise competent, and advises the Tribal Council, after being given the opportunity to be heard, of a desire to remain enrolled with the White Mountain Apache Tribe, the parents or guardians request to relinquish said child's enrollment shall not be granted unless the Tribal Council concludes that relinquishment would be in the best interest of the child.

(E) If an enrolled member over eighteen (18) years of age relinquishes membership in the White Mountain Apache Tribe, said person shall be prohibited from reenrollment in the Tribe; provided, however, that if the enrolled member was under eighteen (18) years of age at the time of relinquishment, said person may reapply for enrollment in the White Mountain Apache Tribe upon reaching the age of eighteen (18).

**SECTION 1-703     EFFECT OF RELINQUISHMENT; FINALITY**

(A) Once a request for relinquishment is submitted to the Tribal Council of the White Mountain Apache Tribe and accepted by resolution of the Tribal Council,



relinquishment of membership in the White Mountain Apache Tribe shall be total and irrevocable. No right of review shall exist and the person's name shall be deleted from the Tribal Membership Roll.

(B) Any person whose membership in the White Mountain Apache Tribe is relinquished shall remove his or her livestock and all other personal property from the Fort Apache Indian Reservation within ninety (90) days after the resolution date accepting relinquishment of membership. Any livestock or other personal property that is not removed from the Fort Apache Indian Reservation within said ninety (90) days shall become the property of the White Mountain Apache Tribe.

#### **SECTION 1-704     DISENROLLMENT**

(A) Any person may involuntarily have his or her name removed from the membership roll of the White Mountain Apache Tribe by disenrollment in accordance with the provisions of this Chapter.

(B) All disenrollment actions shall be approved by the Enrollment Committee and be brought by the Office of Vital Records. The disenrollment action may be commenced by request of any Tribal member or on the initiative of the Office of Vital Records with approval of the Enrollment Committee.

#### **SECTION 1-705     GROUND FOR DISENROLLMENT**

The grounds for disenrollment shall be:

(A) Dual enrollment as proscribed by Section 1-601 of this code.

(B) Enrollment based on false information, a forged document, or administrative error.

#### **SECTION 1-706     NOTICE OF DISENROLLMENT ACTION**

Any person who is the subject of a disenrollment action shall be served written notice by the Office of Vital Records of the pendency of such action and the facts alleged to support the action.

#### **SECTION 1-707     DISENROLLMENT HEARING**

A hearing before the Enrollment Committee shall be conducted in any disenrollment action.

**SECTION 1-708      SCHEDULING OF DISENROLLMENT HEARING**

(A) The notice required by Section 1-706 shall specify a hearing date and time not less than twenty (20) nor more than fifty (50) days after mailing of the notice unless the notice is mailed to an address outside the Continental United States, in which case the hearing date shall be set not less than fifty (50) nor more than sixty-five (65) days from the date of mailing.

(B) The Enrollment Committee Chairperson may reschedule a hearing upon a showing that circumstances exist which require an extension of time. Any request for extension of time shall be made to the Office of Vital Records which shall immediately refer the request to the Enrollment Committee Chairperson who shall grant or deny in writing the request for extension of time within three (3) days of receipt of the request from the Office of Vital Records.

**SECTION 1-709      CONDUCT OF HEARING; BURDEN OF PROOF**

(A) At the disenrollment hearing before the Enrollment Committee, the person who is subject of the disenrollment action shall have the right to present evidence, to be heard on his or her own behalf and to examine witnesses.

(B) The Enrollment Committee shall consider any matter or information relevant and material to the circumstances alleged to be grounds for disenrollment.

(C) The burden of proving grounds for disenrollment shall be on the party who initiated the disenrollment proceeding.

(D) All disenrollment hearings before the Enrollment Committee shall be either taped or recorded by a court reporter. A transcript of the hearing shall be prepared within ten (10) working days of completion of the hearing.

**SECTION 1-710      DECISION OF ENROLLMENT COMMITTEE**

(A) The Enrollment Committee shall consider the record and evidence presented at the hearing and shall by resolution decide the question of disenrollment.

(B) A decision on disenrollment shall be subject to review as set forth in Chapter 8 of this Code.

(C) The person that is the subject of a disenrollment action shall be notified in writing by the Office of Vital Records of the disenrollment decision within three (3) working days after it is rendered.

**CHAPTER EIGHT**  
**REVIEW BY THE TRIBAL COUNCIL**

**SECTION 1-801     RIGHT OF REVIEW**

Any affected or interested party shall be entitled to a review hearing before the Tribal Council with respect to any enrollment decision made by the Enrollment Committee, excluding acceptance of relinquishment.

**SECTION 1-802     SCHEDULING OF REVIEW HEARING**

(A) Each Notice of Rejection required to be served in accordance with Section 1-504 (B) of this Code, shall specify a date and time for a review hearing before the Tribal Council of the issue of the applicant's eligibility for membership. The review hearing shall be conducted not less than thirty (30) nor more than sixty (60) days after the Notice of Rejection is mailed, unless the Notice of Rejection is mailed to an address outside the Continental United States, in which case the hearing shall be set not less than sixty (60) nor more than ninety (90) days from the date of mailing.

(B) Any person entitled to review of an enrollment decision, for which no review hearing date and time has been specified, may file with the Office of Vital Records a written request for a review hearing on that decision. The Office of Vital Records shall advise the person of the right of review and all time deadlines. No hearing shall be set and the person shall be deemed to have waived any right to review of the enrollment decision unless the written request is received by the Office of Vital Records no later than thirty (30) days after the date of mailing of notification of the decision, or not later than sixty (60) days after the date of the mailing, if the notification is mailed outside the Continental United States. Upon the timely filing of a written request, the Office of Vital Records shall notify the Tribal Council. The Tribal Council shall conduct a review hearing not less than twenty (20) nor more than fifty (50) days after the date the request is received by the Office of Vital Records. Notice of such hearing shall be served upon the petitioner, not less than ten (10) days prior to the hearing date.

(C) The Tribal Chairman may reschedule a review hearing upon a showing that circumstances exist which require an extension of time. Requests for extension of time shall be directed to the Office of Vital Records or the Enrollment Committee Chairperson, which or who shall immediately refer the request to the Tribal Chairman. The Tribal Chairman shall respond in writing granting or denying the request for extension of time within three (3) days of receipt of the request from the Enrollment Committee Chairperson or the Office of Vital Records.

**SECTION 1-803      RECORD OF SUPPORTING STATEMENTS AND DATA**

(A) Any affected or interested party, other than the person who is the subject of an action, shall be required to specify in writing the reasons for challenge of an enrollment decision and shall submit all data in support thereof. Such written statement and data shall be submitted to the Office of Vital Records no later than ten (10) days prior to the hearing date set.

(B) The Office of Vital Records shall serve notice upon all affected parties of the filing of such written statement and supporting data and shall further advise of the availability of these materials for examination at the Office of Vital Records.

(C) Any party may obtain a copy of the record prepared by the Office of Vital Records at its own expense at copying rates established and set by the Office of Vital Records.

**SECTION 1-804      REVIEW RECORD**

(A) Upon the setting of a time and date for a review hearing, the Office of Vital Records shall transmit to the Tribal Council copies of the complete record pertaining to the enrollment decision.

(B) Tribal Council review shall be limited to the record established and a party or person shall not be allowed to submit any additional evidence or testimony other than oral argument unless such is newly discovered evidence which by due diligence could not have been discovered earlier or is being presented by a petitioner who had no opportunity to participate in the action prior to review.

(C) A party or person may at his or her own expense be represented by an attorney or lay advocate at the review hearing before the Tribal Council.

**SECTION 1-805      BURDEN OF PROOF**

(A) In any action challenging eligibility or other enrollment decision, the burden of proof shall be on the challenger.

(B) In any action challenging a decision of the Enrollment Committee to disenroll, the burden of proof shall be upon the White Mountain Apache Tribe.

**SECTION 1-806      DECISION OF THE TRIBAL COUNCIL**

(A) In reaching a decision, the Tribal Council shall consider the record presented, such additional evidence that is deemed admissible and any oral presentation or argument made.

(B) If evidence presented for the first time on review forms a basis for the decision reached, the Tribal Council shall so state.

(C) The Tribal Council shall issue findings of fact for each petition.

(D) The decision of the Tribal Council on review shall be final and conclusive. There shall be no review and the Office of Vital Records shall make changes to the Tribal Membership Roll in accordance with the decision of the Tribal Council.

(E) The challenger and affected parties shall be notified in writing by the Office of Vital Records of the Council's review decision within three (3) working days after it is rendered.

## CHAPTER NINE PRIOR ENROLLMENT ORDINANCES

### **SECTION 1-901**     PRIOR ENROLLMENT ORDINANCES AND ENROLLMENT COMMITTEES REPEALED AND EXTINGUISHED

All statutory provisions formerly enacted regarding the subject matter of this code are hereby repealed. The provisions of this code supersede all such formerly enacted Codes and sections.

## CHAPTER TEN SEVERABILITY

### **SECTION 1-1001**     SEVERABILITY CLAUSE

The provisions of the White Mountain Apache Enrollment Code shall be severable and if any phrase, clause, sentence or provision of the code is found to be contrary to Tribal Law or is held to be invalid, the validity of the remainder of this code shall not be affected and shall remain in full force and effect.