

**ENROLLMENT COMMITTEE Q&A:**  
Enrollment Decisions Following the Independent Audit,  
and Appeals from Adverse Enrollment Decisions.

May 2022

The Enrollment Committee is issuing this memorandum to all enrolled members and temporarily enrolled members of the Modoc Nation to answer common questions about the enrollment audit and review of enrollment applications by the Enrollment Committee

**1. What is a temporary membership?**

Under the Modoc Constitution and the Tribal Enrollment Code, the Tribal Registrar investigates the records supporting an enrollment application to determine whether s/he believes the applicant is qualified for membership in the Modoc Nation. The Tribal Registrar's approval of the application grants the applicant temporary membership in the Modoc Nation.

Temporary membership means that you have not been officially enrolled as a member of the Modoc Nation by the Enrollment Committee or by the Tribal Council.

**2. When does my temporary membership become full enrollment?**

The Enrollment Committee will consider a recommendation by the Tribal Registrar that you should be enrolled as a member of the Modoc Nation. A temporary membership becomes full enrollment if the Enrollment Committee approves your enrollment application.

If the Enrollment Committee disapproves your enrollment application, your temporary membership may become full enrollment if the Tribal Council approves your enrollment application on appeal.

**3. What information will the Enrollment Committee consider when deciding to approve or disapprove an enrollment application?**

The Enrollment Committee will consider information that you provided to the Tribal Registrar when deciding to approve or disapprove your enrollment application. The Enrollment Committee will not accept additional information from you.

The Enrollment Committee will first verify that your enrollment application is complete. The Enrollment Committee will review the Tribal Registrar's conclusion that you provided documented proof of ancestry tracing your ancestry to a person listed on the most current roll or the 1878 Quapaw Agency Modoc Census of Subsistence and Ration list. The Enrollment Committee will not seek additional information from you or from the Tribal Registrar. However, the Enrollment Committee may conduct its own investigation to validate the lineal conclusion(s) presented by you and/or the Tribal Registrar.

The Enrollment Committee may vacate the Tribal Registrar's temporary enrollment if it finds that the Tribal Registrar did not properly process the enrollment application. The Enrollment Committee will remand the enrollment application to the Tribal Registrar for proper processing. Reasons the Enrollment Committee may remand the enrollment application to the Tribal Registrar include (1) the enrollment application was not complete, and (2) the Tribal Registrar did not conduct an independent review and investigation of your claimed descent.

**4. How will the Enrollment Committee consider an enrollment audit when deciding to approve or disapprove my enrollment application?**

An enrollment audit will provide the Enrollment Committee with information about whether the Tribal Registrar followed procedures to investigate an applicant's proof of ancestry, to ensure that enrollment applications are complete, and to reach a final recommendation to the Enrollment Committee. The enrollment audit will assist the Enrollment Committee in determining how extensively it should review a recommendation for enrollment by the Tribal Registrar.

If, based on the enrollment audit, the Enrollment Committee determines that the Tribal Registrar failed to follow adequate procedures for processing enrollment applications before issuing a recommendation to the Enrollment Committee, the Enrollment Committee may remand the enrollment application to the Tribal Registrar for further investigation.

**5. Why would the Enrollment Committee remand my enrollment application to the Tribal Registrar instead of disapproving it?**

In circumstances where the Enrollment Committee determines that the Tribal Registrar did not correctly process your enrollment application the Enrollment Committee may remand your application to the Tribal Registrar instead of disapproving it. A remand benefits you because you will be able to work with the Tribal Registrar to investigate any questions about whether you are qualified for membership in the Modoc Nation based on the application materials you submitted.

If the Enrollment Committee had instead disapproved your enrollment application, you would only be able to re-apply if you discover new evidence that clearly demonstrates your qualification for enrollment in the Modoc Nation.

**6. What happens to my temporary membership if my enrollment application is remanded to the Tribal Registrar?**

If the Enrollment Committee vacates the recommendation of the Tribal Registrar and remands the enrollment application for further investigation, your temporary membership will be rescinded until the Tribal Registrar makes a new recommendation to the Enrollment Committee.

**7. When can the Enrollment Committee disapprove an enrollment application?**

The Enrollment Committee may only disapprove an enrollment application when the applicant has not demonstrated that s/he is qualified to be an enrolled member of the Modoc Nation, as

described in the Constitution. The Tribal Enrollment Code places the burden of proof on the applicant to prove eligibility for enrollment in the Modoc Nation.

#### **8. How will the Enrollment Committee consider my enrollment application?**

The Enrollment Committee will notice a public meeting to consider an enrollment recommendation by the Tribal Registrar. You may be present at the public meeting. However, because the Enrollment Committee will not consider additional evidence from you or the Tribal Registrar, you will not be allowed to present additional information to the Enrollment Committee at the public meeting.

The Enrollment Committee will decide whether you presented sufficient documentation for the Enrollment Committee to conclude that you are legally the descendant of an enrolled member of the Modoc Nation, or of a person listed on the 1878 Quapaw Agency Modoc Census of Subsistence and Ration list.

#### **9. How will I be notified of the Enrollment Committee's decision?**

After the Enrollment Committee considers your application in a public meeting, it will issue a written decision to you that will be the Enrollment Committee's final decision. If the Enrollment Committee disapproves your enrollment application, the written decision will state the reasons for its disapproval.

#### **10. What happens if my enrollment application is disapproved?**

If the Enrollment Committee disapproves your enrollment application, your temporary membership is terminated. You may re-apply to the Tribal Registrar for enrollment if you have additional information that proves your descent from an enrolled member of the Modoc Nation, or of a person listed on the 1878 Quapaw Agency Modoc Census of Subsistence and Ration List.

If you believe that the Enrollment Committee incorrectly determined that you are not legally a descendant of a qualifying person based on the information you provided to the Tribal Registrar, you may appeal the decision of the Enrollment Committee to the Tribal Council.

#### **11. How do I appeal a decision by the Enrollment Committee to disapprove my enrollment application?**

If the Enrollment Committee disapproves your enrollment application, you must submit a notice of appeal to the Elected Council within 10 days of the Enrollment Committee's written decision. Your notice of appeal must include the following:

1. A copy of your completed application.
2. A copy of the Enrollment Committee's written decision.
3. A statement that you are appealing the Enrollment Committee's decision that (a) your enrollment application was not complete, (b) the information in your enrollment application legally proves that you are a lineal descendant from a previously enrolled

member of the Modoc Nation or from a person on the 1878 Quapaw Agency Modoc Census of Subsistence and Ration list, (c) the Enrollment Committee failed to consider information that was included in your enrollment application, or (d) other grounds provided by tribal law or federal law.

4. A short and concise statement describing the legal support for the grounds upon which you have appealed.

The Elected Council will provide you an opportunity to submit a brief that provides legal support for the grounds upon which you appeal the decision of the Enrollment Committee. The Elected Council or the Chief will notice a Special Meeting of the Tribal Council to consider your appeal.

### **12. How will the Tribal Council evaluate my enrollment application if I appeal?**

The Tribal Council consists of all of the fully enrolled members of the Modoc Nation. The Tribal Council will review a decision by the Enrollment Committee to disapprove your enrollment application based on the information you provided to the Tribal Registrar. The Tribal Council will not consider new evidence that you are qualified for membership in the Modoc Nation. However, the Tribal Council may provide you with an opportunity to present why the documents you provided show that you are legally the descendant of an enrolled member of the Modoc Nation or a person on the 1878 Quapaw Agency Modoc Census of Subsistence and Ration list.

### **13. If my enrollment application is disapproved, can I re-apply for enrollment?**

If you discover new information that was not considered by the Tribal Registrar and the Enrollment Committee and that clearly shows you are qualified for enrollment in the Modoc Nation, you may re-apply for enrollment. Your re-application will be considered in the order it was received by the Tribal Registrar.

If the Enrollment Committee issued a decision for more than one person from the same purported lineal descent, and denied the enrollment applications of more than one such person on the basis of a single incorrect or unsubstantiated ancestral link, all such persons applying for enrollment may re-apply in a single application that provides additional documentation that substantiates or corrects the ancestral link. Each individual's disapproved application must be attached to the joint re-application. Processing of such joint re-application shall be expedited by the Tribal Registrar.

### **14. What effect will the enrollment audit have on me if I am already a fully enrolled member?**

The enrollment audit includes all temporary and fully enrolled members of the Modoc Nation. However, the Enrollment Committee does not have an enrollment application pending before it for fully enrolled members. The Enrollment Committee will prioritize the consideration of enrollment applications that were pending at the time the enrollment audit was ordered.

If you were enrolled in the Modoc Nation after 2003, your enrollment is based upon the constitution and the policies and procedures in effect at the time of your enrollment except where those policies or procedures were changed by adoption of the 2007 Constitution.

After review of pending enrollment applications, the Enrollment Committee will consider any findings and/or recommendations of the independent audit with regard to fully enrolled members of the Modoc Nation. If the enrollment audit raises questions about your qualifications, the Enrollment Committee will refer your enrollment to the Tribal Registrar for further review.

The Tribal Registrar will work with you to research your ancestry and to ensure that you are qualified for enrollment in the Modoc Nation according to our Constitution. You will have no more than one year to conduct research and demonstrate to the satisfaction of the Enrollment Committee that you are qualified for enrollment. During the review period, your enrollment in the Modoc Nation will not change unless there is clear evidence presented by the Tribal Registrar to the Enrollment Committee that you are not qualified for enrollment.