

Section:	Governance	Policy No.	GOV.1.02.BC
	Policy Manual Governance	Drafted:	Mar. 30, 2016
Subject:	SECTION 12 MEMBERSHIP TRANSFER	Approved:	Sept. 25, 2017
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1 PURPOSE

- 1.1. The purpose of this Policy is to establish procedures for obtaining the consent of Chief and Council pursuant to section 12 of the *Indian Act* for the admission to membership in the Okanagan Indian Band of any person who:
- (a) is entitled to be registered under section 6 of the *Indian Act*, but not entitled to have his or her name entered in the OKIB Membership List, or
 - (b) is a member of another band.
- 1.2. This Policy establishes the circumstances in which:
- (a) Chief and Council may consent to the admission of a person to the OKIB Membership List under section 12 of the *Indian Act* without a Community Vote; and
 - (b) Chief and Council will refer an application for admission to the electors of OKIB for a Community Vote prior to consenting to the admission of a person to the OKIB Membership List under Section 12 of the *Indian Act*.

2 SCOPE

- 2.1. This Policy applies to registered status Indians under section 6 of the *Indian Act* who wish to transfer to the OKIB Membership List in accordance with section 12 of the *Indian Act*.

3 DEFINITIONS

- 3.1. **Administration Fee** means a one-time, non-refundable fee of \$750.00 for the purpose of administering a Community Vote.
- 3.2. **Applicant** means a person seeking Chief and Council's consent under this policy to become a Band Member, pursuant to section 12 of the *Indian Act*.
- 3.3. **Band Member** means a person on the OKIB Membership List.
- 3.4. **Chief and Council** means the elected Chief and Council of OKIB.
- 3.5. **Community Vote** means the non-binding vote by eligible OKIB electors in person, at a vote called by Chief and Council, on whether or not an Applicant should be added to the OKIB Membership List.
- 3.6. **Filing Fee** means a one-time, non-refundable processing fee of \$250.00 dollars to be paid before OKIB processes an application under this Policy.
- 3.7. **INAC** means the Ministry of Indigenous and Northern Affairs Canada and any successor ministry or department.

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- 3.8. **Indian Registry Administrator** means the OKIB staff person responsible for maintaining a list of Band Members for the Indian Registrar and registering status Indians on behalf of INAC.
- 3.9. **Majority Vote** means a simple majority of **fifty** percent plus **one** of the OKIB electors in attendance at a Community Vote.
- 3.10. **OKIB Ancestry** means a connection by line of descent to a current or former Band Member.
- 3.11. **OKIB Membership List** means the Band List of the Okanagan Indian Band maintained under section 8 of the *Indian Act*.
- 3.12. **OKIB** means the Okanagan Indian Band.
- 3.13. **Spouse** means either of **two** persons who have entered into a legal marriage in good faith or have been living in a conjugal relationship for a period of at least **twelve** continuous months.
- 3.14. **Statutory Declaration** means a solemn declaration that meets the requirements of section 41 of the *Canada Evidence Act*.
- 3.15. **Supporting Documents** means all documents submitted by the Applicant and the documents listed in section 7 of this policy.
- 3.16. **Syilx Ancestry** means a connection by line of descent to a current or former member of one or more of the Colville Confederated Tribes, Lower Similkameen Indian Band, Osoyoos Indian Band, Penticton Indian Band, Upper Nicola Band, Upper Similkameen Indian Band and Westbank First Nation.
- 3.17. **Well-Established Community Residence** means a person has been living on one of the OKIB Reserves for at least **five** consecutive years.

4 POLICY

Applicants with OKIB or Syilx Ancestry

- 4.1. The Chief and Council may, by band council resolution, consent to the admission of an Applicant to the Membership List without a Community Vote where the Applicant is registered under section 6 of the *Indian Act* and:
- (a) was formerly registered as a Band Member and was involuntarily transferred to the membership of another band, including transfer as a child;
 - (b) was formerly registered as a Band Member and voluntarily transferred to the membership of another band;
 - (c) is of OKIB ancestry and has provided evidence satisfactory to the Chief and Council of OKIB Ancestry; or

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- (d) is of Syilx Ancestry and has provided evidence satisfactory to the Chief and Council of Syilx Ancestry, Well-Established Community Residence and current familial and community ties to the OKIB.

Other Applicants

- 4.2. Chief and Council may, by band council resolution, refer an application to a Community Vote where an Applicant:
- (a) does not meet the criteria in section 4.1 of this Policy;
 - (b) is a registered Indian under section 6 of the *Indian Act*;
 - (c) has provided some evidence of Well-Established Community Residence; and
 - (d) has provided some evidence of current familial and community ties to OKIB.
- 4.3. Subject to section 4.4, Chief and Council may, by band council resolution, consent to the admission of an Applicant to the Membership List where the Applicant:
- (a) does not meet the criteria in section 4.1 of this Policy;
 - (b) is a registered Indian under section 6 of the *Indian Act*;
 - (c) has provided evidence satisfactory to the Chief and Council of Well-Established Community Residence; and
 - (d) has provided evidence satisfactory to the Chief and Council of current familial and community ties to OKIB.
- 4.4. Chief and Council will consider the results of a Community Vote under section 4.2 in deciding whether to grant consent under section 4.3.
- 4.5. For greater certainty, Applicants under section 4.3 may include a spouse, parent or step-child of an OKIB member.

Denial of Admission to Band Membership

- 4.6. Chief and Council will, by band council resolution, deny the admission of Applicants to the OKIB Membership List who do not meet the criteria in at least one of sections 4.1 and 4.3.
- 4.7. OKIB understands and complies with its obligation not to discriminate on the basis of criminal convictions for which a pardon has been granted or in respect of which a suspension of record has been ordered. However, to the extent it is permitted by the *Canadian Human Rights Act*, Chief and Council may deny the admission of an Applicant to the OKIB Membership List who has been deemed by Chief and Council to pose a risk to the safety and social well-being of OKIB Band Members because of criminal activity.

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- 4.8. Chief and Council may deny the admission of an Applicant to the OKIB Membership List who holds a Certificate of Possession for lands on the reserve of another band or who owes outstanding debts to another band.
- 4.9. An Applicant who applies to the OKIB Membership List and is denied may not re-apply to the OKIB for at least **five** years following the Applicant's last application, except if the Applicant is able to provide new evidence of OKIB Ancestry or Syilx Ancestry.
- 4.10. Any Applicant wishing to appeal a decision of Chief and Council under this Policy may submit a protest to the Indian Registrar under section 14.2(1) of the *Indian Act*.
- 4.11. The OKIB will take reasonable steps under section 14.2(1) of the *Indian Act* to remove from the OKIB Membership List a person admitted based on false or incorrect information.

Admission of Minors and Dependent Adults

- 4.12. A parent, trustee or legal guardian may apply for consent to transfer membership under this policy on behalf of an Applicant who is under the age of **eighteen** years or a dependent adult.¹
- 4.13. In giving consent to the admission of an Applicant who is under the age of **eighteen** years or a dependent adult, Chief and Council makes no determination as to whether the parent, trustee or legal guardian has the legal authority to act on behalf of the Applicant. The parent, trustee or legal guardian may have to provide proof of such authority to INAC before the Applicant's membership can be transferred.²

5 RESPONSIBILITY

- 5.1. The Indian Registry Administrator is responsible for providing recommendations to Chief and Council with complete applications and all Supporting Documents.
- 5.2. Each Applicant is responsible for providing the Indian Registry Administrator with the documents required by this policy. Incomplete applications will not be processed.

6 PROCEDURE

Applicants with OKIB or Syilx Ancestry – Application Requirements

- 6.1. Where an Applicant applies under section 4.1:
- (a) The Applicant must submit a signed, dated Membership Transfer Application and Filing Fee to the Indian Registry Administrator accompanied by the following documents:

¹ Policy Amendment – approved by Band Council at a duly convened meeting on November 14, 2017

² Policy Amendment – approved by Band Council at a duly convened meeting on November 14, 2017

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- (i) A photocopy of the Applicant's current Indian registration card;
 - (ii) The Applicant's original long form birth certificate; and
 - (iii) If the Applicant is a member of a band governed by section 10 of the *Indian Act*, a signed letter or band council resolution from the originating band confirming the Applicant is a member.
- (b) Applicants **eighteen** years of age or older must provide the following additional information:
- (i) Criminal Record Check;
 - (ii) Signed letter from the originating band stating the Applicant does not hold a Certificate of Possession on any of the band's lands; and
 - (iii) Signed letter from the originating band stating the Applicant does not have any outstanding debts to that band.
- (c) The Applicant may submit evidence of OKIB Ancestry, if applicable, including any one or more of the following:
- (i) Full form birth certificate;
 - (ii) Full form baptismal certificate;
 - (iii) A Statutory Declaration of **one or more** parents or grandparents of OKIB Ancestry declaring that person's knowledge or belief as to the OKIB Ancestry of the Applicant;
 - (iv) Statutory Declarations of **three** other persons of OKIB Ancestry declaring their knowledge or belief as to the OKIB Ancestry of the Applicant; or
 - (v) Any other evidence satisfactory to the Chief and Council of an Applicant's OKIB Ancestry.
- (d) The Applicant may submit evidence of Syilx Ancestry, if applicable, including any one or more of the following:
- (i) Full form birth certificate;
 - (ii) Full form baptismal certificate;
 - (iii) A Statutory Declaration of **one or more** parents or grandparents of Syilx Ancestry declaring that person's knowledge or belief as to the Syilx Ancestry of the Applicant;
 - (iv) Statutory Declarations of **three** other persons of Syilx Ancestry declaring their knowledge or belief as to the Syilx Ancestry of the Applicant; or
 - (v) Any other evidence satisfactory to the Chief and Council of an Applicant's Syilx Ancestry.
- (e) The Applicant may submit evidence of Well-Established Community Residence, if applicable, including any one or more of the following:

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- (i) Tenancy agreement, lease or other agreement of purchase or occupation in the name of the Applicant for an address on an OKIB reserve;
 - (ii) Driver's licence or other government-issued photo identification showing an address on an OKIB reserve;
 - (iii) Utility bills, or mail from a bank or government agency addressed to the Applicant at an address on an OKIB reserve;
 - (iv) Statutory Declarations of **two** Band Members declaring their knowledge as to the Applicant's Well-Established Community Residence; or
 - (v) Any other evidence satisfactory to the Chief and Council of an Applicant's Well-Established Community Residence.
- (f) The Applicant may submit evidence of current familial and community ties to OKIB, if applicable, including any one or more of the following:
- (i) Full form birth certificate;
 - (ii) Marriage certificate;
 - (iii) Statutory Declarations of **two** Band Members declaring their knowledge as to the Applicant's current familial and community ties to OKIB; or
 - (iv) Any other evidence satisfactory to the Chief and Council of an Applicant's current familial and community ties to OKIB.
- (g) The Indian Registry Administrator will review the complete applications and submit a recommendation including all Supporting Documents to Chief and Council.
- (h) Upon receipt of the Indian Registry Administrator's recommendation at a duly convened Council meeting, Chief and Council will, by band council resolution, give or deny their consent to the Applicant becoming a Band Member.
- (i) Chief and Council's decision under subsection 6.1(h) is effective as of the date of the band council resolution.

Other Applicants – Application Requirements

6.2. Where an Applicant applies under section 4.3:

- (a) The Applicant must submit a signed, dated Membership Transfer Application inclusive of the Filing Fee and the Administration Fee to the Indian Registry Administrator accompanied by the following documents:
 - (i) A photocopy of the Applicant's current Indian registration card;
 - (ii) The Applicant's original long form birth certificate;

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- (iii) If the Applicant is a member of a band governed by section 10 of the *Indian Act*, a signed letter or band council resolution from the originating band stating the Applicant is a member; and
 - (iv) A 100-word biography for the mail-out to Band Members;
- (b) Applicants **eighteen** years of age or older must provide the following additional information:
- (i) Criminal Record Check;
 - (ii) Declaration from originating band stating the Applicant does not hold a Certificate of Possession for any of that band's reserve lands.
 - (iii) Declaration from the originating band's accounting department stating the Applicant has no outstanding debts.
- (c) The Applicant may submit evidence of Well-Established Community Residence including any one or more of the following:
- (i) Tenancy agreement, lease or other agreement of purchase or occupation in the name of the Applicant for an address on an OKIB reserve;
 - (ii) Driver's licence or other government-issued photo identification showing an address on an OKIB reserve;
 - (iii) Utility bills, or mail from a bank or government agency addressed to the Applicant at an address on an OKIB reserve;
 - (iv) Statutory Declarations of **two** Band Members declaring their knowledge as to the Applicant's Well-Established Community Residence; or
 - (v) Any other evidence satisfactory to the Chief and Council of an Applicant's Well-Established Community Residence.
- (d) The Applicant may submit evidence of current familial and community ties to OKIB including any one or more of the following:
- (i) Full form birth certificate;
 - (ii) Marriage certificate;
 - (iii) Statutory Declarations of **two** Band Members declaring their knowledge as to the Applicant's current familial and community ties to OKIB; or
 - (iv) Any other evidence satisfactory to the Chief and Council of an Applicant's current familial and community ties to OKIB.
- (e) The Applicant must provide all required documents and evidence by the first day of August in order to be considered for a Community Vote in that calendar year.
- (f) The Indian Registry Administrator will review the complete applications and submit a recommendation including all Supporting Documents to Chief and Council.

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- (g) Upon reviewing the recommendation of the Indian Registry Administrator, Chief and Council will decide whether to refer the application to a Community Vote under section 4.2.
- (h) Applicants who require a Community Vote to be admitted to the OKIB Membership List must pay an Administration Fee of \$750.00

Other Applicants – Community Vote

- 6.3. Subject to section 6.4, a minimum of **five** Applicants deemed qualified by Chief and Council under section 4.2 is required to proceed with a Community Vote.
- 6.4. A Community Vote will be held every **two** years when the minimum number of Applicants required by section 6.3 is met. When the minimum number of Applicants is not met, the vote will take place **five** years from the date of the last Community Vote, unless the Applicant is willing to pay the full cost of the Community Vote, in which case a Community Vote may be held sooner than five years.
- 6.5. The Community Vote will meet the following notice and scheduling requirements:
 - (a) Chief and Council will direct the Indian Registry Administrator to publish notice of the intent to hold a Community Vote not less than **30** days prior to the vote;
 - (b) A list of Applicants will be published on the OKIB Website on a membership only webpage **30** days prior to the Community Vote;
 - (c) A list of Applicants will be mailed to Band Members, including the biography of 100 words or fewer provided by each Applicant, not less than **30** days prior to the Community Vote;
 - (d) A community meeting will be held **two** weeks prior to the Community Vote to provide Band Members with information about the Community Vote;
 - (e) In a year in which a Community Vote is held, it will occur in the second week of September; and
 - (f) The OKIB will hold the Community Vote between the hours of 12:00pm and 8:00pm.
- 6.6. The Indian Registry Administrator will conduct the Community Vote pursuant to this Policy by a confidential process that maintains the anonymity of the vote and follows the following procedure:
 - (a) The list of Applicants on the ballot for membership consideration will include the following information for each Applicant:

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- (i) The full name of the Applicant inclusive of any applicable alias;
- (ii) The Applicant's current band membership; and
- (iii) If the Applicant so chooses, the name of the Applicant's parents and grandparents.

(b) The ballots will include a "yes" or "no" option for each Applicant to be added to the OKIB Membership List.

6.7. The Indian Registry Administrator will provide Chief and Council a final report within **14** days of the Community Vote at a duly convened council meeting.

6.8. After receiving the Indian Registry Administrator's report under section 6.7, Chief and Council will, by band council resolution, give or deny their consent to the Applicant becoming a Band Member in accordance with sections 4.3 and 4.4.

NOTICE OF DECISIONS ON BAND MEMBERSHIP

6.9. After a final decision on an application has been made by Chief and Council, the Indian Registry Administrator will send a formal letter to each individual Applicant stating:

- (a) whether the Applicant's application was approved or denied;
- (b) Chief and Council's reasons for approving or denying the application; and
- (c) the effective date of the approval or denial.

6.10. Where an application has been approved, the Indian Registry Administrator will also send a formal letter to the originating band of each successful Applicant giving notice that the Applicant's transfer to OKIB has been approved.

6.11. The results of any Community Vote will be posted in the Sen'klip newsletter and on the OKIB website.

7 ATTACHMENTS

Band Transfer Request-Statement of Consent Form
Statement of Consent for Transfer of a Minor (Under 18 years of age)
Statement of Consent for Transfer of a Dependent Adult
Statement of Consent for Transfer of an Adult
Membership Transfer Application (OKIB, Syilx and All Other Applicants)

8 REPEALS

Membership Transfer Policy approved October 6, 2010