

# GABRIELINO/TONGVA NATION CITIZENSHIP ACT OF 2009



## Section 1 **Citation**

This law may be cited as the Gabrielino/Tongva Nation Citizenship Act of 2009.

## Section 2 **Authority**

The Gabrielino/Tongva Nation Citizenship Act, the Department of Citizenship and committees established thereunder, are hereby enacted by the Gabrielino/Tongva Peo'tskome under authority delegated by Article III, Section 2 of the Constitution as ratified on February 17, 2007.

## Section 3 **Purpose**

The Gabrielino/Tongva Nation Constitution, Article III provides for the terms upon which citizenship in the Gabrielino/Tongva Tribal Nation will be granted or relinquished. Accordingly, the Peo'tskome finds it in the best interest of all citizens and potential citizens to provide the following rules and regulations, which shall govern the procedure to be used in determining citizenship.

The Gabrielino/Tongva Nation Department of Citizenship is established to provide services including but not limited to the following:

- (a) Develop regulations and forms for the process and review of citizenship Applications;
- (b) Create the:
  - (1) Roll of Citizens or Federal Recognition Roll (Base Roll); and
  - (2) Roll of Citizenship
- (c) Provide Gabrielino/Tongva government offices with information regarding citizenship;
- (d) Provide the authority to develop regulations for the dispersal of a Nation Passport;
- (e) Ensure the protection, security and privacy of Applicants' and Citizens' records as set forth in Article XV of the Constitution.

All enrollments into the Nation shall take place under the provisions of this section.

## Section 4 **Definitions**

- (a) “**Applicant**” means any person who has applied, pursuant to this Act, to the Department of Citizenship for Enrollment in the Gabrielino/Tongva Tribal Nation prior to approval or denial of the Application.
- (b) “**Application**” means the official Application for Citizenship in the Gabrielino/Tongva Nation.
- (c) “**Bureau of Indian Affairs (BIA)**” means the United States Department of the Interior, Bureau of Indian Affairs.

- (d) “**Board**” means the five (5) citizens appointed to the Enrollment Board by the Peo’tskome, pursuant to Section 5 of this Act.
- (e) “**Citizen**” means any person duly enrolled in the Gabrielino/Tongva Tribal Nation.
- (f) “**Citizenship**” means inclusion on the Roll of Citizenship of the Gabrielino/Tongva Tribal Nation, and the ability to exercise all constitutional rights derived there from.
- (g) “**Constitution**” means the Constitution ratified by the Gabrielino/Tongva Tribal Nation on February 17, 2007.
- (h) “**Courts**” means the Gabrielino/Tongva Nation District and/or Supreme Courts.
- (i) “**Days**” means all calendar days. However, when any deadline date established by this subsection falls on a Saturday, Sunday, or any day designated a legal holiday by state, federal, or tribal law or by tribal administrative action, the deadline shall be extended to the next tribal work day following the Saturday, Sunday, or holiday.
- (j) “**Department**” means the Gabrielino/Tongva Tribal Nation Department of Citizenship.
- (k) “**Enrollment Officer**” means the person appointed by the Peo’tskome to direct the operations of the Citizenship Department for Gabrielino/Tongva Tribal Nation.
- (l) “**Enrollment**” means the process for recording and recognizing the citizenship in the Gabrielino/Tongva Tribal Nation by the procedure for Enrollment set forth below.
- (m) “**Nation**”, “**Tribe**”, or “**Tribal Nation**” means the Gabrielino/Tongva Tribal Nation.
- (n) “**Peo’tskome**” means the Tribal Council of the Nation.
- (o) “**Roll of Citizens**” or “**Federal Recognition Roll**” (Base Roll) is the initial listing of individuals who meet the criteria for citizenship in the Nation and is subject to ratification pursuant to Article III Section 5 of the Constitution, which for purposes of Federal Recognition shall consist of those Applicants who possess the appropriate BIA Documentation.
- (p) “**Roll of Citizenship**” means a current list of Citizens as identified in Article III, Section 4 of the Constitution.
- (q) “**Supporting Documentation**” means those documents as identified in Article III, Section 3, Subsection 2 in the Constitution.

Section 5 **The Enrollment Board**

- (a) The **Board** shall consist of five (5) **Citizens** of the **Nation** who are **BIA** documented and are 25 years of age or older.
- (b) **Board** members shall be appointed by majority vote of the **Peo'tskome** and **Peo'tskome** members shall not concurrently serve on the **Board**.
- (c) **Board** members shall serve at the discretion of the **Peo'tskome**.
- (d) Immediate family members, as defined in Article IV Section 4 of the **Constitution**, shall not serve on the **Board** at the same time.
- (e) The **Board** shall elect a Chair, Vice-Chair, and Secretary from amongst its members.
- (f) The Chair shall preside over meetings of the **Board**, or in his or her absence, the Vice Chair. All meetings of the **Board** shall be conducted according to Robert's Rules of Order, as amended, and shall include a written record of the minutes by the Secretary that shall be forwarded to the **Peo'tskome**.
- (g) A quorum shall be defined as four (4) members of the **Board**. A quorum of the **Board** is required to vote on each Application.
- (h) The **Board** shall have the discretion to meet quarterly. The **Board** shall review all **Applications** in executive session.
- (i) Upon review of an **Applicant's** file, the **Board** shall vote to approve or deny **Citizenship**. **Citizenship** in the **Nation** will be conferred on an **Applicant** by a majority vote of the **Board** to approve **Enrollment**.
- (j) The **Board** has the authority to approve or deny **Citizenship** for the **Nation** only. It has no administrative responsibility over the day to day affairs of the **Department**.
- (k) An **Applicant** who's **Enrollment** has been denied may appeal the decision in accordance with the provisions of this Act.
- (l) All **Citizens'** documents shall be protected, and secured in accordance with Article XV of the **Nation's Constitution**.

## Section 6 **Enrolled Member of Another Indian Nation, Tribe, or Band**

The **Department** shall develop procedures to implement Sections 3.7 through 3.10 of the **Constitution** regarding prohibition of **Enrollment** of individuals who are enrolled members of any other Indian nation, tribe, or band; such procedures shall ensure the authenticity of all documents submitted pursuant to this Act.

## Section 7 **Verification of Parental Lineage**

Where a dispute exists as to the parental lineage of an **Applicant**, the **Department** may require a blood test or any other reliable test as approved by the **Board** in order to make a determination regarding the identity of the natural parent(s) of the **Applicant**.

## Section 8 **Court Petitions**

The **Department** or the **Board** may petition any court to obtain information necessary to make decisions they are required to make under this Act.

## Section 9 **Burden of Proof and Standard of Proof**

The burden of proof shall be upon the **Applicant** to establish all elements of the **Applicant's** entitlement to **Citizenship** under the **Constitution** and rules and regulations of this Act, unless otherwise specifically stated herein. Any matters required to be proven under this Act unless otherwise specifically stated, must be proved to the satisfaction of the **Board** by evidence as set forth in Article III Section 3 of the **Constitution**.

## Section 10 **Application for Enrollment**

- (a) Upon written request, the **Department** shall make available an **Application** to person(s) who wish to gain **Citizenship** in the **Nation**. A comprehensive list of the kinds of evidence and data utilized by the **Nation** to make decisions on **Enrollment** shall be provided to the prospective **Applicant**.
- (b) The **Application** will have the **Applicant's** verified signature, stating that he/she has submitted a complete and accurate **Application** with all **Supporting Documentation** to the **Nation**.
- (c) When the **Applicant** is a minor or deemed legally incompetent, the **Application** shall be signed by a parent, legal guardian or other legal representative.
- (d) **Applicant** shall submit a signed, dated, and completed **Application** along with any **Supporting Documentation**. The signature of the **Applicant** will attest that, to the best of his/her knowledge, the **Application** is complete and all submitted **Supporting Documentation** is unaltered.
- (e) The **Department** shall acknowledge receipt of the **Application** to the **Applicant**.
- (f) Departmental review of an **Application** shall not begin until the **Application** is complete.
- (g) Upon verification of the completed **Application** the **Enrollment Officer** shall forward the **Applicant's** file to the **Board** for review.

## Section 11 **Roll of Citizens**

- Living persons in the following categories whose completed applications are filed with the **Department** shall be eligible for immediate inclusion on the **Roll of Citizens**:

- (a) Any individual: (i) whose name appears on one or more of the official rolls of California Indians:
  - The Act of May 18, 1928
  - The Act of May 24, 1950
  - The Act of September 21, 1968And (ii) who is unequivocally designated as being of Gabrielino/Tongva descent on the roll(s) upon which his or her name appears.
- (b) Any individual with a Certificate of Degree of Indian Blood (CDIB) issued by the **BIA**, which CDIB attests to the Gabrielino/Tongva heritage of the named individual.
- (c) Non-Eligibility. Pursuant to Section 6 above, no individual who is otherwise eligible for inclusion on the **Roll of Citizens** shall be included on such if he or she is an enrolled member of any other Indian tribe, band, or nation.

## Section 12 **Ratification of “Roll of Citizens”**

The eligible voters of the **Nation** shall vote to ratify the **Roll of Citizens** at an election held for that specific purpose and governed by the **Nation**.

## Section 13 **Roll of Citizenship**

The **Department** shall prepare a **Roll of Citizenship**, which lists all persons who are enrolled as **Citizens** of the **Nation** after the date of the ratification of the **Roll of Citizens**.

## Section 14 **Department Review Process**

- (a) After establishment of the **Roll of Citizens**, pursuant to Section 11 above, **Applicants** shall submit completed **Applications** to the **Department**. The **Department** shall, within ninety (90) **Days** of receipt of the **Applicant’s** file, review the file for completeness.
- (b) The **Department** shall forward the **Application** to the **Enrollment Officer** for review. The **Enrollment Officer** may consult with the **BIA**, and/or utilize the services of an ethnographer or genealogist for purposes of verification.
- (c) **Citizenship** to the **Nation** shall be approved by majority vote of the **Board**.

## Section 15 **Denial of Application**

Once **Citizenship** has been denied by the **Board**, the applicant may:

- (a) Re-submit with substantial or new credible **Supporting Documentation** to the **Department**; or
- (b) Appeal the **Board's** decision, as provided in Article III Section 2 of the **Constitution**.

### **Section 16 Grounds to Appeal Denied Citizenship**

The only grounds to appeal a decision to deny **Citizenship** under this section shall be:

- (a) The decision of the **Board** is unsupported by the facts; or
- (b) The **Board** has, by its actions or inaction(s), violated the **Constitution** or any section (s) of this Act.

### **Section 17 Effective Date of Citizenship Rights**

A person approved as a **Citizen** of the **Nation** shall be entitled to exercise his/her Constitutional rights immediately.

### **Section 18 Tribal Court Jurisdiction--Limited Waiver of Sovereign Immunity**

The **Courts** of the **Nation** shall have exclusive jurisdiction to hear all appeals or **Enrollment** decisions in the manner set out in this Act. No jury shall be allowed in **Enrollment** matters.

To the extent necessary for the hearing of appeals under this Act, and as limited by this Act, the **Nation** hereby makes a limited waiver of its immunity from suit in the **Nation** Courts for the sole purpose of hearing appeals from **Enrollment** decisions of the **Board** and issuing judgment as provided in this Act and the **Constitution**.

### **Section 19 Form of Procedure and Time Limit**

Appeals from denials of **Enrollment** by the **Board** shall proceed in the **Nation** Courts. No appeal may be brought under this section unless it is filed within one (1) year of the **Board** decision to deny **Enrollment**.

### **Section 20 Remedies**

The only remedies which the **Courts** may order in matters appealed under this section are declaratory or injunctive requiring **Enrollment**.

### **Section 21 Presumption**

There shall be in all appeals under this Act a presumption, rebuttable by the appellant, that the **Board** has acted properly, consistent with this Act and the **Constitution**.

## Section 22 Standard of Proof--Statutory Construction

Appellants shall have the burden of proving their case by clear and convincing evidence. The **Court(s)** in ruling on an appeal shall strictly construe provisions of this Act.

## Section 23 Court Costs, Attorney Fees

Each party shall bear his or her own expenses.

If the **Court(s)** finds that the **Nation**, the **Board**, its employees, or its agents acted in bad faith, the **Court(s)** shall be permitted to order the **Nation** to reimburse the appellant for court related costs.

## Section 24 Maintenance of the Roll of Citizenship

- (a) The **Department** shall periodically add and update the **Roll of Citizenship**.
- (b) **Citizens** who voluntarily relinquish their **Citizenship** in the **Nation** shall have their name(s) deleted from the **Roll of Citizenship**.
- (c) The names of deceased **Citizens** shall not appear on **Roll of Citizenship**.
- (d) The **Department** shall maintain and archive the **Roll of Citizenship**.

## Section 25 Conferral of Citizenship Upon Birth

Following the Ratification of the **Roll of Citizens**, **Citizenship** in the **Nation** shall confer to all lineal descendants listed on the **Federal Recognition Roll**. An **Application** and an official copy of the birth certificate of the newborn **Applicant** shall be submitted to the **Department**.

## Section 26 Conferral of Citizenship Upon Proof of Direct Descent

After ratification of the **Roll of Citizens**, **Citizenship** in the **Nation** shall confer on any person who is a direct descendant of a **Citizen** listed on the **Roll of Citizenship**, provided the person requests and submits an **Application** along with documentation showing proof of descent from a **Citizen**.

Upon a dispute or question of paternity the burden of proof shall be upon the applicant.

## Section 27 Citizenship Identification

The Peo'tskome may direct the **Department** to develop procedures to issue a **Nation** identification card. At minimum, the identification card shall contain the following information:

- (a) Name of the **Citizen**
- (b) Photograph
- (c) **Citizen's** Address (must be kept current by the **Citizen**.)
- (d) **Citizen's** **Nation** ID number, which shall not be the same as the BIA number
- (e) An expiration date



**Section 28 Nation Passport**

The **Peo'tskome** may direct the **Department** to issue **Nation** passports.

**Section 29 Possession and Use of Roll of Citizenship Nation Records**

All agencies and offices in possession of any **Nation** records are hereby officially notified that copies of such are to be reviewed, copied, dispersed, or otherwise handled in conformance with Article XV of the **Constitution**.

**Section 30 Amendments**

This Act, or any section herein, may be amended by majority vote of the **Peo'tskome** at a duly called meeting or in accordance with the referendum process set forth in Article XIII of the **Constitution**.

**Section 31 Severability**

Should any part of this Act be determined to be unconstitutional by a **Court**, the remainder of this Act shall continue to be given full force and effect and shall survive such determination.