



TSAWWASSEN FIRST NATION
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Tsawwassen First Nation
Procedures for Eligibility and Enrolment of Members

December, 2017

Tsawwassen First Nation Procedures for Eligibility and Enrolment of Members

1. Authority

The authority for these procedures is found in section 44 of the *Membership Act*, which provides that the Tsawwassen Enrolment Committee may determine its own schedule, place, procedures and the method of conducting its meetings.

2. Purpose

The purpose of these procedures is to outline the protocols necessary for the Committee to effectively manage the enrolment of new Members of Tsawwassen First Nation in accordance with the *Membership Act*. These procedures also set out the duties and responsibilities for the Committee in accordance with sections 38-47 of the Act.

This policy is complemented by the Enrolment Procedure Manual.

3. Definitions

In these procedures

- (a) **“Act”** means the *Membership Act*;
- (b) Unless specifically provided otherwise in these Procedures, other terms used have the same meanings as in the Act.

4. Duties of the Enrolment Registrar

- i. The Enrolment Registrar is appointed by Executive Council pursuant to section 13 of the Act. Under the direction of the Committee, the Enrolment Registrar will provide outreach and support to applicants for Membership in Tsawwassen First Nation. Additionally, the Registrar will provide clerical support to the Committee.
- ii. In the event that the appointed individual is unable to carry out the duties of the Enrolment Registrar as defined by the Act, the Committee will ask the Executive Council to appoint an interim Enrolment Registrar who will carry out these duties until such time that the appointed individual is able to resume the duties of the Enrolment Registrar, or until the appointed individual is removed by Executive Council and a new Registrar appointed.

4.1. Tsawwassen Enrolment Register

Pursuant to the Act, the Enrolment Registrar is responsible for maintaining the Tsawwassen Enrolment Register, entering and removing names from the Enrolment Register, and establishing required forms and notices.

4.2. Enrolment Applications

- i. The Enrolment Registrar will ensure that application forms are made readily available, and are provided to any individual upon request. This includes, but is not limited to, sending forms to

individuals via mail or email upon request, making forms available on the TFN website, making forms available at community meetings, and providing copies of forms for pick-up at the Administration office.

- ii. The Enrolment Registrar will respond to enquiries from applicants about the enrolment application process in a timely manner. The Registrar will also make every reasonable effort to provide support to applicants who require assistance with filling out the application form and/or obtaining the appropriate supporting documentation.
- iii. The Enrolment Registrar will notify the Committee in a timely manner when complete applications for enrolment are received.

4.3. Incomplete Applications

- i. If an application is judged by the Enrolment Registrar to be incomplete when it is received, the Enrolment Registrar will make every reasonable effort to notify the applicant in a timely manner of what additional information or documentation is required for the application to proceed.
- ii. If the application is judged by the Enrolment Registrar to be incomplete when received
 - a. and the applicant fails to provide the necessary information and/or documentation within 90 days of being notified of what is required, or
 - b. the Registrar is unable to contact the applicant within 90 days of the receipt of the application,

the Enrolment Registrar will forward the application to the Committee with a note that details what, in the Enrolment Registrar's opinion, is missing from the application.

- iii. The Registrar cannot advise applicants about whether the evidence of eligibility that they provide is sufficient or valid; the Registrar can only help with ensuring that an application is complete.

4.4. Data Entry and Maintaining Records

- i. The Enrolment Registrar is responsible for creating an application file for each new application, and for maintaining all files for pending, approved, and refused applications for enrolment in accordance with approved Tsawwassen laws, regulations, policies, procedures, and standards.
- ii. The Enrolment Registrar will ensure that mailing and contact information for applicants and enrolled Members is updated in a timely manner when new information is provided.
- iii. The Enrolment Registrar is responsible for maintaining minutes of the meetings of the Committee.

5. Roles and Responsibilities of the Tsawwassen Enrolment Committee

This section provides the process by which the Committee shall fulfill its responsibilities under Part 6 of the Act.

5.1. Enrolment Application Forms

- i. The Committee is responsible for approving the format and content of the application forms for adult applicants and minor/dependent adult applicants. The approved forms are attached to these procedures as Schedules A and B.
- ii. A post office box will be maintained for the exclusive purpose of receiving enrolment applications. This box will be checked regularly by the Enrolment Registrar.

5.2. Review of Enrolment Applications

- i. Complete enrolment applications, as well as applications forwarded to the Committee pursuant to sections 4.3(ii) and 5.6(iii)(b) of these procedures, will be reviewed by the Committee; decisions on those applications will be based on the eligibility criteria set out in the Act.
- ii. An applicant must provide information in every section of the application form (other than those sections marked as “optional”) for the application to be considered complete.
- iii. In addition, an application must include sufficient identity and/or other documentation to support the information provided by the applicant in the application form.

5.3. Eligibility

- i. It is the applicant’s responsibility to prove eligibility.
- ii. In order to prove three generations of Tsawwassen First Nation ancestry along a single matrilineal or patrilineal line, applicants must provide evidence of both:
 - a. descent from the three generations of individuals cited in the application, and
 - b. that those three generations of ancestors are or were
 - Tsawwassen Members; or
 - eligible to be Members at some point in their lives under the laws in force at the time
- iii. The three generations do not have to be consecutive.

5.4. Evidence acceptable to the Committee

- i. In determining whether an individual is descended from the three generations of individuals cited in the application, the committee may take into consideration evidence from primary documents, including, without limitation
 - a. original or certified copies of birth certificates, marriage certificates, name change documents,
 - b. court orders declaring parentage, or
- ii. In determining whether an individual is adopted by an individual eligible to be a Tsawwassen Member, the committee may take into consideration original or certified copies of official adoption documents.
- iii. In cases where individuals are unable to provide the documents listed in subsections i and ii, the committee may consider secondary documents including
 - a. non-certified copies of primary documents such as birth certificates;
 - b. other documents such as hospital records; and

- c. statutory declarations,

however, the Committee will require at least two (2) secondary documents and/or statutory declarations in support of each element of the application, and the Committee may require more than two.

- iv. In determining whether the three generations of ancestors cited in an application were Tsawwassen Members or were eligible for Tsawwassen membership, the committee may consider
 - a. evidence that the ancestor is/was registered as a Status Indian on any historic membership list for the Tsawwassen First Nation, or that the ancestor is/was enrolled on the Tsawwassen Enrolment Register;
 - b. statutory declarations; or
 - c. historical documents such as census records.

However, due to inconsistencies in historical records, a single historical record on its own may not be sufficient proof that an individual was a Tsawwassen Member or was eligible for Membership. The Committee will determine whether the evidence provided by an applicant is sufficient and may ask the applicant to provide additional evidence.

5.5. TFN records

- i. TFN's Membership records are confidential.
- ii. The Committee may use personal information in its custody or under its control for the purpose of determining an applicant's eligibility for membership.
- iii. If the Committee uses personal information that is in its custody or under its control pursuant to subsection (ii), it will
 - a. ensure that any document that was used to determine an applicant's eligibility is copied, and that the copy is stamped with the words "not disclosable" and placed in that applicant's file; and
 - b. if the document copied pursuant to subsection (a) is an original or certified copy, ensure the copy that is to be placed in the applicant's file is also certified.
- iv. An applicant who believes that Tsawwassen First Nation has information in its custody or under its control about the applicant or the applicant's ancestors may ask the Committee to confirm that it has that personal information.
- v. The Committee or the Enrolment Registrar may inform an applicant if they have personal information in their custody or under their control (for example, they may tell an applicant that they have a copy of that applicant's ancestor's birth certificate); however, the Committee or the Enrolment Registrar may not disclose that personal information except in accordance with the provisions of the Freedom of Information and Protection of Privacy Act. (For example, the Committee or the Enrolment Registrar could not provide the applicant with a copy of an ancestor's birth certificate without the ancestor's written consent.)
- vi. The Committee or the Enrolment Registrar are not required to find or to confirm information in their custody or under their control; and the fact that the Committee or the Enrolment

Registrar do not confirm that they have personal information does not mean that the personal information is not in their custody or under their control.

- vii. For greater certainty, the Committee, Tsawwassen First Nation or its employees, including the Enrolment Registrar, may have access to personal information about an applicant that they are not entitled to use for the purpose of determining an applicant's eligibility for membership.

5.6. Decisions on Enrolment Applications

- i. An application must be stamped or marked with the
 - a. date an application is received;
 - b. date an application is complete, as judged by the Enrolment Registrar;
 - c. date a request for more information or documentation is issued pursuant to section 4.3 (ii); and
 - d. date an application is approved or refused.
- ii. For greater certainty, in cases where an applicant is enrolled in, or is a member of, another treaty, land claims agreement, band, tribe, First Nation in Canada or a Foreign Indigenous Entity, the application will not be stamped as complete until after the applicant has submitted confirmation in writing that the applicant is released from the other treaty, land claims agreement, band, tribe, First Nation or Foreign Indigenous Entity.
- iii. The Committee will convene a meeting as soon as is possible after being notified by the Enrolment Registrar that
 - a. a complete application for enrolment has been received;
 - b. an application for enrolment has been received from an individual who is enrolled in or is a member of another treaty, land claims agreement, band, tribe, First Nation or Foreign Indigenous Entity and that application is complete except for evidence of withdrawal from the other entity;
 - c. an application that the Enrolment Registrar judges to be incomplete has been received and the applicant has failed to provide the necessary information and/or documentation within 90 days of being notified of what is required, or
 - d. an application that the Enrolment Registrar judges to be incomplete has been received and the Registrar has been unable to contact the applicant within 90 days.
- iv. A decision regarding a given enrolment application must be made within 30 days of the application being forwarded to the Committee.
- v. The Committee will ensure that any decisions made concerning the approval or refusal of applications for enrolment are recorded in the minutes of the Committee's meetings; minutes will be maintained by the Enrolment Registrar.
- vi. The Committee must attempt to make decisions regarding the approval or refusal of an application for enrolment by consensus, but if consensus is not possible, such decisions must be agreed upon by a majority of Committee members. Subject to the applicant's right of appeal, decisions of the Committee are final unless new information related to the application is provided.

- vii. If an applicant submits new information regarding a refused application prior to the applicant commencing an appeal of the refusal, the Committee may review such information and may adjust its decision in the matter on the basis of the new information.

5.7. Approval of Applications for Enrolment

- i. Applicants will be notified by the Enrolment Registrar in writing that their application has been approved within 30 days of the approval date.
- ii. The Enrolment Registrar, under the direction of the Committee, will advise Executive Council, the Finance Department, and other TFN departments as required via email that the application has been approved, and the date upon which the completed application was received.
- iii. When the Committee is satisfied that all conditions for enrolment have been met and all required documentation received, it will direct the Enrolment Registrar to enter the names of approved applicants into the Tsawwassen Enrolment Register.

5.8. Refusal of Applications for Enrolment

- i. The Committee shall refuse an application for enrolment if it is deemed that an applicant has failed to demonstrate that they meet the eligibility criteria for enrolment as set out in the Act.
- ii. Additionally, an application shall be refused if:
 - a. the application is incomplete when received and the applicant fails to provide the necessary information and/or documentation within 90 days of being notified of what is required; or
 - b. the application is incomplete and the Enrolment Registrar is unable to contact the applicant within 90 days of receipt of the application form; or
 - c. the applicant is enrolled under another treaty, land claims agreement, band, tribe, or First Nation in Canada or a Foreign Indigenous Entity at the time of their application, and fails to provide the Committee with satisfactory evidence of their intention to withdraw from the other treaty, land claims agreement, band, tribe, or First Nation or Foreign Indigenous Entity.
- iii. Applicants will be notified in writing by registered mail that their application has been refused within 30 days of the refusal; such notification must clearly explain the reason for refusal of their application, and must provide the applicant with information on how to file an appeal with the Tsawwassen Enrolment Appeal Board.
- iv. In the event that an application is refused on the basis of insufficient or incorrect information, and/or lack of required documentation, the application may be re-evaluated by the Committee, and the Committee may amend their decision in the matter, if the applicant is able to re-submit the application with the required information and/or documentation prior to filing an appeal with the Tsawwassen Enrolment Appeal Board.

5.9. Transfer

- i. Applicants who are enrolled in, or are members of, another treaty, land claims agreement, band, tribe, First Nation in Canada or in a Foreign Indigenous Entity as defined in the Act, but

who otherwise meet the eligibility criteria for Membership in Tsawwassen First Nation, must withdraw from the other treaty, land claims agreement, band, tribe, First Nation or Foreign Indigenous Entity prior to becoming enrolled as a Tsawwassen First Nation Member.

- ii. Such applicants must provide a written release to document their withdrawal from the other entity prior to their name being entered into the Tsawwassen Enrolment Register.
- iii. The Committee may advise such applicants in writing that they qualify for enrolment with Tsawwassen First Nation, and that their application will be considered complete, and will be approved, once the Committee receives confirmation, in writing and satisfactory to the Committee, that the applicant is released from the other treaty, land claims agreement, band, tribe, First Nation or Foreign Indigenous Entity.
- iv. The Committee will meet to consider the written release provided by the releasing entity and, if satisfied that an applicant who has been advised that they otherwise qualify for enrolment pursuant to subsection 5.9(iii) has withdrawn from enrolment/membership in the other treaty, land claims agreement, band, tribe, First Nation or Foreign Indigenous Entity, will give final approval to the application and direct the Registrar to enter the name of the applicant on the Tsawwassen Enrolment Register.

5.10. Eligibility of Newborn and New Members for Distributions

Newborn applicants and other new applicants may become eligible for Member distributions and other benefits in accordance with the process set out in the *Financial Management Policy*.

5.11. Publishing Eligibility Criteria and Application Procedures

The Committee is responsible for ensuring that eligibility criteria and application procedures for enrolment are published and readily available to all those who may wish to apply for enrolment. This includes, but is not limited to, publishing procedures and forms on the TFN website, and making hardcopy forms and procedures available at the TFN Administration Office.

5.12. Tsawwassen Enrolment Register

For the purposes of section 3 of the Act, the Enrolment Registrar will maintain an electronic database that will serve as the Tsawwassen Enrolment Register and will be the authoritative Membership List for all TFN departments. The Enrolment Registrar, under the direction of the Committee, will ensure that accurate information for all Members is entered into and maintained in the database.

5.13. Collection, Use, and Disclosure of Personal Information

- i. Subject to subsections (ii) and (iii), the Committee shall keep confidential all information provided by and about applicants for enrolment or re-enrolment.
- ii. In accordance with section 24(2) of the Tsawwassen *Freedom of Information and Protection of Privacy Act*, personal information collected by the Enrolment Committee may be provided to other TFN Government departments where such information is required by departments to carry out their duties and responsibilities in relation to Members. This includes, but is not limited to, determining eligibility for and contacting Members about distribution payments,

Minors' Trust account payments, Elders' benefits, or other Member benefits; producing voters lists for elections or other voting opportunities; confirming Membership for matters related to property ownership; and communicating with Members about Tsawwassen Government initiatives or other official Tsawwassen Government business.

- iii. For non-Members who have a familial relationship with one or more Tsawwassen Members, including non-Member parents and/or spouses of Members, the Enrolment Registrar may only retain personal information that is required for official Tsawwassen Government business.

6. Withdrawal from Membership in Tsawwassen First Nation

- i. In the event that a Member wishes to withdraw their membership in Tsawwassen First Nation, that individual must send notification in writing to the Enrolment Registrar using the approved Withdrawal from Enrolment Form, attached hereto as Schedules F (Adult) and G (Minor). The Enrolment Registrar must notify the Committee that the request has been received, and the Committee must provide the individual with written confirmation of their un-enrolment within 30 days of receiving such notification. The Enrolment Registrar will then remove the individual's name from the Tsawwassen Enrolment Register.
- ii. The Registrar, under the direction of the Committee, will advise Executive Council, the Finance Department, and other TFN departments as required via email that the withdrawal application has been approved.

7. Referendum Co-ordination

In the event that a referendum is called pursuant to the Tsawwassen First Nation *Constitution Act*, the Committee is responsible for coordinating the referendum process in accordance with Tsawwassen laws, regulations and procedures.