

**01 NCAC 15 .0209           PROCEDURE FOR RECOGNITION**

The procedure to be followed for recognition shall be:

- (1) Petitioner shall submit a Notice of Intent to Petition, as set out in Rule .0207 of this Section, to the Commission of Indian Affairs.
- (2) The Commission shall acknowledge receipt of the Petitioner's Notice of Intent to Petition and shall explain procedure to Petitioner;
- (3) Upon receipt of the Notice of Intent, the Commission shall notify, in writing, the following interested parties:
  - (a) State recognized Indian tribes and organizations; and
  - (b) local and county governments within a 25 mile radius of the Petitioner's geographic area;
- (4) All petitions and responses to petitions must be received at least 10 days prior to the meeting at which they are to be considered.
- (5) The Petitioner shall provide an original and at least five copies when submitting petitions, responses to petitions, or other supplementary information to the Commission during the petition process.
- (6) The Petitioner shall complete and submit a fully documented petition to the Recognition Committee, including current membership rolls as defined in Rule .0202 of this Section and all past membership lists of the group. The failure to submit these membership rolls is sufficient grounds to deny the petition.
- (7) The Petitioner may submit additional petition documentation and materials throughout the petition process until such time as a recognition decision is made by the full Commission, as described in this Rule.
- (8) The Recognition Committee shall conduct initial review of petition and shall notify Petitioner of preliminary findings and deficiencies.
- (9) Upon receipt of the Recognition Committee's preliminary findings, Petitioner shall have 180 days in which to respond, in writing, to any deficiencies in the petition noted by the Recognition Committee. Not less than 30 days prior to the expiration of the initial response period, Petitioner may request and be granted an additional 180 days to respond. If requested, the additional response period shall commence on the 181st day after the receipt of the Recognition Committee's preliminary findings. No further requests for additional time shall be granted.
- (10) The Recognition Committee shall conduct a hearing to consider the petition, including Petitioner's responses to all deficiencies initially noted.
- (11) The Recognition Committee shall introduce its recommendation at the next Commission meeting. Further Commission action shall not take place until the second Commission meeting after the Recognition Committee's decision.
- (12) If the Recognition Committee's recommendation is against recognizing the Petitioner, within 30 days following the receipt of that recommendation the Petitioner may request and be granted a hearing before the full Commission. If a request for a hearing is made, the hearing shall not take place prior to the next regularly scheduled quarterly Commission of Indian Affairs meeting. In the event that a Petitioner does not request a hearing within 30 days, the petition is deemed withdrawn.
- (13) At a subsequent meeting after the Recognition Committee's recommendation is introduced, the Commission may, as permitted by these rules, request additional information, conduct additional hearings, approve or deny the petition, or return the petition to the Recognition Committee if it has received additional information.
- (14) A decision by the full Commission regarding State recognition shall be rendered by a majority of members present and voting (abstentions not counted) at a duly constituted meeting.
- (15) If the Commission's decision is for recognition, the group is recognized as an American Indian tribe by the State. Thereafter, the Commission shall explain all services available to the tribe through the Commission.
- (16) If the decision is against recognition, the Petitioner may appeal to the Office of Administrative Hearings for a hearing pursuant to G.S. 150B-23.
- (17) A Petitioner may withdraw from the petition process at any time prior to the decision of the full Commission. After a petition is withdrawn, the Petitioner may not initiate a new petition until one year from the date of the withdrawal.

- (18) During the petition process, any such other material or documents the Recognition Committee or Commission may request are relevant to the Commission's decision. Any additional materials or documents shall be:
  - (a) relevant to the recognition decision; or
  - (b) shall be directly related to recognition requirement deficiencies as outlined by the Recognition Committee or the full Commission.
- (19) The Commission shall issue a public notification to the news media in the Petitioner's area, giving notification of the group's status as a State recognized American Indian tribe.

*History Note:* Authority G.S. 143B-406; 150B-23  
Eff. February 11, 1980;  
Amended Eff. February 1, 2006; April 1, 1999;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.