

twenty days after the publication of the notice by the Secretary in the Federal Register as required by subsection (b) of this section.

**(d) Eligibility determination; final roll**

(1) The Secretary shall make determinations of eligibility of applicants under this section and publish in the Federal Register the final Settlement Roll of such persons one hundred and eighty days after the date established pursuant to subsection (c) of this section.

(2) The Secretary shall develop such procedures and times as may be necessary for the consideration of appeals from applicants not included on the roll published pursuant to paragraph (1). Successful appellants shall be added to the Settlement Roll and shall be afforded the right to elect options as provided in section 1300i-5 of this title, with any payments to be made to such successful appellants out of the remainder of the Settlement Fund after payments have been made pursuant to section 1300i-5(d) of this title and prior to division pursuant to section 1300i-6 of this title.

(3) Persons added to the Settlement Roll pursuant to appeals under this subsection shall not be considered in the calculations made pursuant to section 1300i-3 of this title.

(4) For the sole purpose of preparing the Settlement Roll under this section, the Yurok Transition Team and the Hoopa Valley Business Council may review applications, make recommendations which the Secretary shall accept unless conflicting or erroneous, and may appeal the Secretary's decisions concerning the Settlement Roll. Full disclosure of relevant records shall be made to the Team and to the Council notwithstanding any other provision of law.

**(e) Effect of exclusion from roll**

No person whose name is not included on the Settlement Roll shall have any interest in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Tribe, the Hoopa Valley Reservation, the Yurok Tribe, or the Yurok Reservation or in the Settlement Fund unless such person is subsequently enrolled in the Hoopa Valley Tribe or the Yurok Tribe under the membership criteria and ordinances of such tribes.

(Pub. L. 100-580, § 5, Oct. 31, 1988, 102 Stat. 2928; Pub. L. 101-301, § 9(1), (2), May 24, 1990, 104 Stat. 210; Pub. L. 102-572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court” in two places.

1990—Subsec. (a)(2). Pub. L. 101-301, § 9(1), inserted at end “Children under age 10 on the date they applied for the Settlement Roll who have lived all their lives on the Joint Reservation or the Hoopa Valley or Yurok Reservations, and who otherwise meet the requirements of this section except they lack 10 years of Reservation residence, shall be included on the Settlement Roll.”

Subsec. (d)(4). Pub. L. 101-301, § 9(2), added par. (4).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

**§ 1300i-5. Election of settlement options**

**(a) Notice of settlement options**

(1) Within sixty days after the publication of the Settlement Roll as provided in section 1300i-4(d) of this title, the Secretary shall give notice by certified mail to each person eighteen years or older on such roll of their right to elect one of the settlement options provided in this section.

(2) The notice shall be provided in easily understood language, but shall be as comprehensive as possible and shall provide an objective assessment of the advantages and disadvantages of each of the options offered. The notice shall also provide information about the counseling services which will be made available to inform individuals about the respective rights and benefits associated with each option presented under this section. It shall also clarify that on election the Lump Sum Payment option requires the completion of a sworn affidavit certifying that the individual has been provided with complete information about the effects of such an election.

(3) With respect to minors on the Settlement Roll the notice shall state that minors shall be deemed to have elected the option of subsection (c) of this section, except that if the parent or guardian furnishes proof satisfactory to the Secretary that a minor is an enrolled member of a tribe that prohibits members from enrolling in other tribes, the parent or guardian shall make the election for such minor. A minor subject to the provisions of subsection (c) of this section shall, notwithstanding any other law, be deemed to be a child of a member of an Indian tribe regardless of the option elected pursuant to this subchapter by the minor's parent. With respect to minors on the Settlement Roll whose parent or guardian is not also on the roll, notice shall be given to the parent or guardian of such minor. The funds to which such minors are entitled shall be held in trust by the Secretary until the minor reaches age 18. The Secretary shall notify and provide payment to such person including all interest accrued.

(4)(A) The notice shall also establish the date by which time the election of an option under this section must be made. The Secretary shall establish that date as the date which is one hundred and twenty days after the date of the publication in the Federal Register as required by section 1300i-4(d) of this title.

(B) Any person on the Settlement Roll who has not made an election by the date established pursuant to subparagraph (A) shall be deemed to have elected the option provided in subsection (c) of this section.

**(b) Hoopa tribal membership option**

(1) Any person on the Settlement Roll, eighteen years or older, who can meet any of the enrollment criteria of the Hoopa Valley Tribe set out in the decision of the United States Court of Claims in its March 31, 1982, decision in the Short case (No. 102-63) as “Schedule A”, “Schedule B”, or “Schedule C” and who—

(A) maintained a residence on the Hoopa Valley Reservation on October 31, 1988;

(B) had maintained a residence on the Hoopa Valley Reservation at any time within the five year period prior to October 31, 1988; or

(C) owns an interest in real property on the Hoopa Valley Reservation on October 31, 1988, may elect to be, and, upon such election, shall be entitled to be, enrolled as a full member of the Hoopa Valley Tribe.

(2) Notwithstanding any provision of the constitution, ordinances or resolutions of the Hoopa Valley Tribe to the contrary, the Secretary shall cause any entitled person electing to be enrolled as a member of the Hoopa Valley Tribe to be so enrolled and such person shall thereafter be entitled to the same rights, benefits, and privileges as any other member of such tribe.

(3) The Secretary shall determine the quantum of "Indian blood" or "Hoopa Indian blood", if any, of each person enrolled in the Hoopa Valley Tribe under this subsection pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of *Jesse Short et al. v. United States*, (Cl. Ct. No. 102-63).

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Yurok Indian Reservation or the Yurok Tribe or in the Settlement Fund.

#### (c) Yurok tribal membership option

(1) Any person on the Settlement Roll may elect to become a member of the Yurok Tribe and shall be entitled to participate in the organization of such tribe as provided in section 1300i-8 of this title.

(2) All persons making an election under this subsection shall form the base roll of the Yurok Tribe for purposes of organization pursuant to section 1300i-8 of this title and the Secretary shall determine the quantum of "Indian blood" if any pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of *Jesse Short et al. v. United States*, (Cl. Ct. No. 102-63).

(3) The Secretary, subject to the provisions of section 1407 of this title, shall pay to each person making an election under this subsection, \$5,000 out of the Settlement Fund for those persons who are, on the date established pursuant to subsection (a)(4) of this section, below the age of 50 years, and \$7,500 out of the Settlement Fund for those persons who are, on that date, age 50 or older.

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation or the Hoopa Valley Tribe or, except to the extent authorized by paragraph (3), in the Settlement Fund. Any such person shall also be deemed to have granted to members of the Interim Council established under section 1300i-8 of this title an irrevocable proxy directing them to approve a proposed resolution waiving any claim the Yurok Tribe may have against the United States arising out of the provisions of this subchapter, and granting tribal consent as provided in section 1300i-8(d)(2) of this title.

#### (d) Lump sum payment option

(1) Any person on the Settlement Roll may elect to receive a lump sum payment from the Settlement Fund and the Secretary shall pay to each such person the amount of \$15,000 out of the Settlement Fund: *Provided*, That such individual completes a sworn affidavit certifying that he or she has been afforded the opportunity to participate in counseling which the Secretary, in consultation with the Hoopa Tribal Council or Yurok Transition Team, shall provide. Such counseling shall provide a comprehensive explanation of the effects of such election on the individual making such election, and on the tribal enrollment rights of that persons<sup>1</sup> children and descendants who would otherwise be eligible for membership in either the Hoopa or Yurok Tribe.

(2) The option to elect a lump sum payment under this section is provided solely as a mechanism to resolve the complex litigation and other special circumstances of the Hoopa Valley Reservation and the tribes of the reservation, and shall not be construed or treated as a precedent for any future legislation.

(3) Any person making an election to receive, and having received, a lump sum payment under this subsection shall not thereafter have any interest or right whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation, the Hoopa Valley Tribe, the Yurok Reservation, or the Yurok Tribe or, except authorized by paragraph (1), in the Settlement Fund.

(Pub. L. 100-580, §6, Oct. 31, 1988, 102 Stat. 2929.)

#### § 1300i-6. Division of Settlement Fund remainder

(a) Any funds remaining in the Settlement Fund after the payments authorized to be made therefrom by subsections (c) and (d) of section 1300i-5 of this title and any payments made to successful appellants pursuant to section 1300i-4(d) of this title shall be paid to the Yurok Tribe and shall be held by the Secretary in trust for such tribe.

(b) Funds divided pursuant to this section and any funds apportioned to the Hoopa Valley Tribe and the Yurok Tribe pursuant to subsections (c) and (d) of section 1300i-3 of this title shall not be distributed per capita to any individual before the date which is 10 years after the date on which the division is made under this section: *Provided, however*, That if the Hoopa Valley Business Council shall decide to do so it may distribute from the funds apportioned to it a per capita payment of \$5,000 per member, pursuant to the Act of August 2, 1983 (25 U.S.C. 117a et seq.).

(Pub. L. 100-580, §7, Oct. 31, 1988, 102 Stat. 2931.)

#### REFERENCES IN TEXT

Act of August 2, 1983, referred to in subsec. (b), is Pub. L. 98-64, Aug. 2, 1983, 97 Stat. 365, known as the "Per Capita Act", which enacted sections 117a to 117c of this title and repealed section 117 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 117a of this title and Tables.

<sup>1</sup> So in original. Probably should be "person's".