



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #TUL-13-002

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### **TITLE: Supporting the Bureau of Indian Affairs Proposed Reform of the Federal Recognition Process**

**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, during the 2012 Annual Conference of the NCAI in Sacramento, California, Assistant Secretary - Indian Affairs Kevin Washburn addressed both the NCAI General Assembly stating that a major priority for the BIA was the reform of the Federal Acknowledgment Process; and

**WHEREAS**, on March 19, 2013, Assistant Secretary - Indian Affairs Kevin Washburn testified before the Senate Committee on Indian Affairs, acknowledging the criticism that the Federal Acknowledgment Process has become “expensive, inefficient, burdensome, intrusive, less than transparent and unpredictable,” further indicating that the Bureau of Indian Affairs (BIA) was “reviewing our existing regulations to consider ways to improve the process to address these criticisms”... and to promote transparency, timeliness, efficiency, and flexibility; and

**WHEREAS**, on June 21, 2013, Assistant Secretary - Indian Affairs Kevin Washburn announced a discussion draft of potential changes to the Department of the Interior’s “Part 83” process for federal acknowledgment of tribes, with the BIA subsequently conducting a series of consultations and hearings, receiving both oral and written testimony regarding that draft; and

**WHEREAS**, the NCAI was founded to protect and advance Tribal Governance and Tribal Sovereignty in direct response to termination and assimilation policies that the United States had and continues to sponsor; and

**WHEREAS**, the NCAI recently reaffirmed and broadened the eligibility for membership of tribes not yet listed by the BIA as federally recognized, thereby affirming that NCAI 's mission implicitly includes advancing the interest of those member tribes; and

**WHEREAS**, while the FAP established a framework to document justification of tribal status, recent proceedings have raised the threshold for documented petitions beyond the few hundred pages initially required to approaching get 200,000 pages, and then only after federal court intervention following 30 years of administrative delay; and

**WHEREAS**, the United Nations Declaration on the Rights of Indigenous Peoples states that Indigenous peoples have the right (inter alia) of self-determination, self-government in matters relating to their internal and local affairs [Article 4], the right to “distinct political, legal, economic, social and cultural institutions” [Article 5], “the right to the recognition, observance, and enforcement of treaties, agreements and other constructive arrangements concluded with the States or their successors and to have States honour and respect such treaties agreements and other constructive arrangements” [Article 36] and that States shall “take the appropriate measures, including legislative measures, to achieve the ends of this Declaration” [Article 38]; and

**WHEREAS**, the August 30, 2012 addendum on the situation of indigenous peoples in the United States of America in the Report of the Special Rapporteur, James Anaya, on the rights of indigenous peoples to the United Nations General Assembly mentions the inequities of the federal acknowledgment process and how it has left many tribes “especially disadvantaged” and reports the opinion that “it is not a system that is working under any stretch of the imagination;” and

**WHEREAS**, the proposed reform is consistent with NCAI Resolution # PHX-08-055 “NCAI Policy on Federal Recognition of Indian Tribes,” which cited the inequities of the Federal Acknowledgment Process (FAP), asserting that the FAP has “severely deteriorated since its beginning, with unreasonable decades-long delays in considering applications, irrational documentation requirements that defy historical and cultural realities, and [there are] legitimate questions about the fairness and integrity of the process” and that the FAP “has strayed from its original intentions, and has become a barrier to federal recognition, rather than a fair process for facilitating recognition of tribes who meet the criteria” and that the NCAI “strongly urges the Department of Interior to repair the administration of the FAP process to ensure that applications are considered in a reasonable time, that the documentation requirements for the criteria are fair and allow applicants to address gaps in the historical record, and that the integrity of the process is restored.”

**NOW THEREFORE BE IT RESOLVED**, that the NCAI supports the current process of the BIA to reform the “Part 83” federal acknowledgment process and that the NCAI supports, as a matter of long overdue justice and fairness, the BIA’s efforts to review, address, and modify the particular areas of the regulations that have wrongfully become an obstacle to the recognition of legitimate tribes; and

**BE IT FURTHER RESOLVED**, that the NCAI calls on the BIA to ensure that the reform of the Part 83 regulations results in a fair and just process for the acknowledgment of Indian tribes unjustly left off of the list of federally recognized tribes; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.


### CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2013 Annual Session of the National Congress of American Indians, held at the Cox Business Center from October 13 - 18, 2013 in Tulsa, Oklahoma with a quorum present.



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President

**ATTEST:**



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Recording Secretary