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**Purpose:**

The Pokagon Band of Potawatomi Indians (“Band”) is a sovereign, federally recognized Indian tribe. Under the Band’s Constitution, the Tribal Council, as the governing body of the Band, is responsible for promoting and protecting the general welfare of the Band. In approving this Program Policy (“Guidelines”), the Tribal Council establishes the Higher Education Assistance Program (“Program”), as a general welfare program, to provide financial aid (“Education Benefit”) to eligible students. The Program shall be governed by these Guidelines and administered by the Band’s Department of Education (“Department”).

**Non-Taxable**

The Tribal Council intends for the Education Benefit to be non-taxable under the Tribal General Welfare Exclusion Act (“TGWEA”), 26 U.S.C. 139E, because: (1) the Education Benefit is an “Indian general welfare benefit” (as defined in the TGWEA) paid to or on behalf of an enrolled Band member (“Band Citizen”); (2) the Program is administered under these Guidelines; (3) the Program does not discriminate in favor of the Tribal Council members; and (4) the Education Benefit is: (a) available to any Band Citizen who meets the guidelines; (b) for the promotion of the general welfare; (c) not lavish and extravagant; and (d) not compensation for services. The above conclusion is supported by the TGWEA, including without limitation, the requirement that: (1) any ambiguities in the TGWEA be resolved in favor of the Band; and (2) the IRS defer to the Band in regard to the Program which is authorized by the Tribal Council and administered by the Department to promote the general welfare of the Band.

The Tribal Council also intends for the Education Benefit to be non-taxable under the first safe harbor set forth in IRS Revenue Procedure 2014-35 (“Revenue Procedure”), because: (1) the Education Benefit is provided under the Program; (2) these Guidelines specify how Band Citizens may qualify for the Education Benefit; (3) the Education Benefit is available to any Band Citizen who meets these Guidelines (subject to budgetary constraints); (4) the distribution of the Education Benefit does not discriminate in favor of Tribal Council members; (5) the Education Benefit is not compensation for services; (6) the Education Benefit is not lavish or extravagant under the facts and circumstances; and (7) the Program is a qualifying educational program identified in the Revenue Procedure.

A Band Citizen who receives, directly or indirectly, the Education Benefit may receive IRS Form 1098-T (“Form”) from the Educational Institution (as defined below). The Form may include qualified scholarships (those that do not exceed tuition and required fees), which are not taxable income. The Form may also include non-qualified scholarships (those that exceed tuition and related expenses, e.g. amounts used to pay optional fees, room, board, travel, personal expenses), which may be taxable income. The student should carefully review each Form to ensure that it does not improperly list the amount of the Education Benefit received as a non-qualified scholarship. If it does, the amount remains non-taxable and should not be included in gross

income.

## **Educational Program**

To qualify for the Program, a Band Citizen must be:

- enrolled in an accredited college or university (“Educational Institution”); and
- pursuing a vocational certificate, Associates, Bachelors, Master’s or Doctorate degree.

Any person who is unsure whether a college or university is an Educational Institution should contact the Department for a determination.

## **Eligibility**

To be eligible for the Program, except as otherwise expressly stated in these Guidelines, a person must:

- be a Band Citizen;
- be accepted to (new students only) or enrolled in an Educational Institution;
- submit a Free Application of Federal Student Aid;
- submit the Student Aid Report to the Department;
- apply for the Michigan Indian Tuition Waiver if the person:
  - is a Michigan resident;
  - has a blood quantum of  $\frac{1}{4}$  or more from a Michigan tribe; and
  - is attending a public Educational Institution in Michigan;
- apply for all eligible campus-based financial aid;
- have and maintain a minimum cumulative GPA of 2.0 on a 4.0 scale (undergraduate students);
- have and maintain a minimum cumulative GPA of 3.0 on a 4.0 scale (graduate students);
- if on probation, must follow and adhere to any Academic Improvement Plan;
- apply for direct deposit; and
- cause the Band to be an authorized payment request user.

To remain eligible for the Program, a student must:

- attend the Educational Institution specified on the application and award letter, subject however, to the following relating to transfers:
  - students may not transfer between Educational Institutions during the semester or trimester, provided that after a student has completed a semester or trimester, the student may transfer to another Educational Institution with prior notice to the Higher Education Resource Specialist;
  - students who transfer to a different Educational Institution to pursue a Bachelor’s Degree after earning an Associate’s Degree, may only attend a maximum of three (3) different Educational Institutions while earning an Associate’s Degree and Bachelor’s Degree; and
  - students who do not transfer to a different Educational Institution to pursue a Bachelor’s Degree after earning an Associate’s Degree, may only attend a maximum of two (2) different Educational Institutions while earning an Associate’s Degree and Bachelor’s Degree.
- immediately report to the Pokagon Band Enrollment Office any changes in name, address and contact information; and

- within two (2) weeks after each semester or trimester, either: (1) submit an unofficial copy of transcripts from Educational Institution to the Department; or (2) grant the Department permission to access such transcripts or grade reports providing login information.

## **Application**

Any person who seeks to participate in the Program, including current students, shall complete and submit to the Department an application by the following deadlines:

- August 1<sup>st</sup> (Fall)
- December 1<sup>st</sup> (Winter or Spring)
- May 1<sup>st</sup> (Summer)

In addition, the below required documentation shall be completed and submitted to the Department by the above deadlines:

- Direct Deposit Form;
- copy of unofficial transcript, high school diploma, or General Equivalency Diploma;
- proof of registration or class schedule from Educational Institution;
- copy of current lease, mortgage statement or other acceptable supporting documentation (if seeking Housing Assistance).

Any failure to adhere to the above deadlines may result in the application being delayed or rejected, as determined by the Department.

The student should submit the Financial Aid Verification Form to the Educational Institution's Financial Aid Office as soon as student registers for classes to help eliminate any delay by the Educational Institution.

The Higher Education Resource Specialist and Higher Education Specialist will:

- review each application for completeness and eligibility and will endeavor to contact each applicant with any deficiencies; and
- notify each applicant within thirty (30) days of the determination of whether the application has been accepted or rejected, including the reasons for any rejection.

Disputes by Band Citizens involving the Program shall be governed by the Band's Grievance Procedure, provided that any applicant who disagrees with the determination to reject an application, or who otherwise believes that an Education Benefit (as defined below) was not paid in accordance with these Guidelines, must deliver the Membership Grievance Form to the Government Manager within one hundred eighty (180) days of the date of the application, otherwise the applicant shall have waived any claim to payment of such Education Benefit under these Guidelines.

## **Funding**

Subject to these Guidelines, eligible students shall receive up to the following education benefits (each an "Education Benefit"), as determined by the Department based on "Unmet Need", which shall mean the difference between the cost of attendance and student resources, as listed on the Financial Aid Verification

Form completed by the Educational Institution.

Book and Material Assistance:

- shall be awarded each semester or trimester, subject to the requirements of these Guidelines, including without limitation, continued eligibility;
- shall be paid directly to the student each semester or trimester;
- shall be classified as a student resource when calculating Unmet Need (unless not listed on the Financial Aid Verification Form); and
- shall be awarded according to the following schedule:

Associate's Degree	\$150/Class
Bachelor's Degree	\$150/Class
Master's Degree	\$300/Class
Doctorate Degree	\$300/Class

Housing Assistance:

- shall be used to pay the student's mortgage, rent or boarding, etc.;
- shall not be used to pay rent, directly or indirectly, to any parent, custodian or guardian of the student unless the rental unit is wholly self-contained (completely separate amenities – kitchen, bathroom, etc.) and the parent, custodian or guardian does not reside at the rental unit;
- may be used to pay rent to a family member other than a parent, custodian or guardian;
- shall be classified as a student resource when calculating Unmet Need (unless not listed on the Financial Aid Verification Form); and
- shall be awarded at the fixed rate of \$250 per month (excluding part-time students)

Unmet Need Assistance

- shall be awarded each semester or trimester, subject to the requirements of these Guidelines, including without limitation, continued eligibility;
- shall be paid directly to the Educational Institution each semester or trimester, unless the Educational Institution will not accept payment, in which case, payment will be made directly to the student; and
- shall be awarded based on the lesser of the student's Unmet Need or the eligible award according to the following schedule:

Associate's Degree	\$200/Credit Hour
Bachelor's Degree	\$400/Credit Hour
Master's Degree	\$600/Credit Hour
Doctorate Degree	\$800/Credit Hour

Vocational Scholarship

Tuition	\$3000/Year
Supplies	\$3000/Year

An Education Benefit:

- shall be used solely to pay for tuition, fees, books and eligible housing;
- shall not be used, transferred, pledged or diverted for any other purpose whatsoever, including without limitation, based on an expectation of reimbursement through other funds; and
- shall not be assigned, transferred, pledged or encumbered in any manner whatsoever.

## **Responsibilities**

Higher Educational Specialist and Higher Education Resource Specialist shall be responsible for day-to-day administration of the Program, including without limitation: (1) reviewing applications; (2) making determinations on applications; (3) notifying students of determinations; (4) causing the Benefit to be paid; and (5) evaluating student eligibility to ensure compliance with these Guidelines. Nothing in these Guidelines shall diminish the authority of the Director of the Department.

Any student who is eighteen (18) years of age or older shall be solely responsible for communicating with the Department concerning the Program, unless the student gives written authorization for another individual to communicate with the Department on behalf of the student.

The parent, guardian or custodian of any student who is not eighteen (18) years of age or older shall be solely responsible for communicating with the Department concerning the Program, provided that nothing in these Guidelines shall prevent the Department from communicating with the student.

Notwithstanding any other provision of these Guidelines, as between a student or parent and the Department, the student or parent, as applicable, shall be solely responsible for complying with these Guidelines, including without limitation, ensuring the completeness, accuracy and timeliness of the application.

## **Academic Requirements**

The following minimum academic requirements will be used to determine initial and continued eligibility for the Program:

### Associate and Bachelor's Degree

- Full-time student: must earn a minimum of twelve (12) credit hours or more each grading period with a cumulative GPA of 2.0 on a 4.0 scale.
- Part-time Student: must earn a minimum of six (6) credit hours or more each grading period with a cumulative GPA of 2.0 on a 4.0 scale.
- Summer Student: must earn a minimum of six (6) credit hours or more each grading period with a cumulative GPA of 2.0 on a 4.0 scale.

### Masters/Doctorate Degree

- Full-time student: must earn a minimum of six (6) credit hours or more each grading period with a cumulative GPA of 3.0 on a 4.0 scale.
- Part time student: must earn a minimum of three (3) credit hours or more each grading period with a cumulative GPA of 2.0 on a 4.0 scale.

Notwithstanding the above minimum credit hours, if the Educational Institution classifies a student as a “full-time student”, then such classification shall control.

### Academic Probation and Suspension

Students who do not meet the minimum academic requirements set forth above for one (1) semester or trimester will receive an Academic Probation Notification Form along with an Academic Improvement Plan from the Department, indicating that the student has been placed on academic probation for the following semester or trimester and setting forth requirements for continued eligibility.

Students who have been placed on academic probation will be suspended and ineligible for the Program if the student is unable to raise GPA to 2.0 within two (2) semesters or three (3) trimesters.

Once a student has been suspended from the Program, the student will not be eligible to participate in the Program until the student earns a minimum of twelve (12) credit hours (over any time frame), and a GPA of 2.0 or better (on a 4.0 scale) for undergraduate students or 3.0 or better (on a 4.0 scale) for postgraduate students.

A student may only be reinstated one (1) time. Upon reinstatement, if the student fails to adhere to any requirement of these Guidelines, the student may be automatically suspended and rendered ineligible for future assistance under the Program, as determined by the Department.

A student will be automatically suspended and rendered ineligible for the Program (with no probationary period, but subject to one (1) time reinstatement) if the student:

- fails to complete the grading period without the prior approval of the Higher Education Resource Specialist;
- fails to notify the Higher Education Resource Specialist within five (5) working days after withdrawing or dropping any class;
- is suspended or dismissed from the Educational Institution; or
- provides any false information to the Department relating to the Program.

### **Reimbursement**

A student shall notify the Higher Education Specialist in writing within five (5) working days after:

- withdrawing or dropping any class; or
- withdrawing or being suspended or dismissed from the Educational Institution.

A student shall reimburse the Band:

- the portion of the Education Benefit received which corresponds to any class from which the student has withdrawn or dropped; and
- the entire Education Benefit received if:
  - the student withdraws or is suspended or dismissed from Educational Institution; or
  - any false information was provided to the Department relating to the Program and, based on such information, the student received the Education Benefit.

A student who is required to reimburse the Band shall immediately contact the Department to arrange for payment of the amount owed. If a student fails to reimburse the Band the amount owed, the Department may pursue all available legal remedies and, without limitation, may deduct the amount owed from future payments to the student under the Program.

## **Limitations**

The Band retains the right to amend these Guidelines at any time without notice. Although the Band does not anticipate a funding shortage, the Benefit is not guaranteed and is subject to available funding.

The Band has structured the Program with the intent that the Benefit be non-taxable under the TGWEA and the Revenue Procedure. Nonetheless, the IRS may disagree with such determination. In the event the IRS deems the Benefit, or any portion thereof, to be taxable, the student shall be solely responsible for any taxes, interest and penalties owed from receipt of the Benefit.

Nothing in these Guidelines shall waive the sovereign immunity of the Band or any of its officials or employees.