



Pokégnek Bodéwadmik
POKAGON BAND OF POTAWATOMI
EDUCATION

Department: Education	Document ID: EDU-
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Purpose

The purpose of this Pokagon Indiana Education Fund Program (“**Program**”) is to implement Section 18 of the Class III Gaming Compact (“**Compact**”) between the Pokagon Band of Potawatomi Indians (“**Band**”) and the State of Indiana (“**State**”), relating to the Pokagon Indiana Education Fund (“**Fund**”).

Compact

The Fund was established pursuant to the Compact, under which:

- The Band will make an initial annual payment of \$1,000,000 to the Fund and, in each in subsequent year, will make an annual payment to the Fund in an amount that replenishes the Fund balance to \$1,000,000 (subject to the provisions of the Compact).
- The Fund will be used “to provide funding for public postsecondary and vocational education for Band citizens . . .”
- The Fund will “be used solely to make payments directly to Indiana public institutions of higher learning or workforce development and training programs approved by the Indiana Department of Workforce Development for eligible Band citizens for direct costs and expenses, such as tuition, on-campus room and board, and other direct education expenses.”
- To be eligible for the Fund, “a Band citizen must (i) be enrolled in the Band prior to benefiting from any payment; and (ii) meet the education or workforce provider admission requirements.”

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- Priority under the Fund will “be given to Band citizens who are legal residents of the State of Indiana as of the date of their application for benefits.”

Educational Institutions

Consistent with the Compact, the following institutions and programs will qualify under this Program (“**Educational Institutions**”):

- “Indiana public institutions of higher learning”, which means any institution, including those identified on Exhibit A – Postsecondary Institutions (as may be amended), which meets the following requirements (“**Postsecondary Institutions**”):
 - Is located in the State;
 - Is receiving funding from the State;
 - Is post-high school; and
 - Is accredited to award two and four-year degrees.
- “Workforce development and training programs”, which means any such program approved by the Indiana Department of Workforce Development, including those identified on Exhibit B – Vocational Institutions (as may be amended) (“**Vocational Institutions**”).


The Department will update Exhibit A – Postsecondary Institutions and Exhibit B – Vocational Institutions not less than annually.

Any person who is unsure whether an institution or program qualifies as an Educational Institution should contact the Pokagon Band Department of Education (“**Department**”) for a determination.

Any person who is required to complete continuing education to maintain a license or certification for a trade or profession may be eligible for the Education Benefits under this Program, subject to all the requirements of this Program.

Eligible Citizens

To be eligible for this Program, a person must:

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- Be a Band citizen;
 - Be admitted to the Educational Institution;
 - Be attending the Educational Institution;
 - Be pursuing an associate, bachelor, master, or doctorate degree (“**Degree Level**”) at the Postsecondary Institution or certificate at the Vocational Institution;
 - Complete application required by the Department for this Program (“**Application**”) for each period included in the Educational Institution’s billing cycle, whether based on the quarter, trimester, or semester, as applicable (“**Billing Cycle**”);
 - Grant the Department access to the student’s online account at the Educational Institution, including by completing any necessary forms, unless prohibited by the Educational Institution;
 - Apply with the Free Application of Federal Student Aid (“**FAFSA**”);
 - Apply for all eligible Educational Institution based financial aid;
 - Not be ineligible for this Program, including due to suspension from this Program; and
 - Provide the Department with satisfactory proof of eligibility for this Program, as determined by the Department.

To remain eligible for this Program, a student must:

- Continue to meet all eligibility requirements set forth in this Program.
- Attend the Educational Institution(s) specified on the Application and award letter.
- Not transfer between Educational Institutions during a quarter, trimester, or semester, but after a student has completed a quarter, trimester, or semester, the student may transfer to another Educational Institution with prior notice to the Department, which notice will include a credit audit and course requirements from the new Educational Institution.

- Immediately report to the Pokagon Band Enrollment Office any change in name, address, and contact information; and
- Submit a new application for each Billing Cycle in accordance with this Program.

Priority

The Department will award funding under this Program on a first-come-first-served basis, which will be determined based on the date a completed Application is received by the Department, provided that the Department will grant priority to participate in this Program as follows:

- First, to Band citizens who are legal residents of the State on the date a completed Application is received;
- Second, to Band citizens other than those described below; and
- Third, to Band citizens who have earned a degree at a Degree Level that was funded under this Program and seek to participate in this Program in connection with obtaining a degree at same Degree Level within seven (7) years of the date of the earned degree.


The Department will maintain separate lists for each priority level for completed Applications received, and will make priority determinations for each funding period, whether based on a quarter, trimester, or semester, as applicable.

Application:

Any person who seeks to participate in this Program, including any student who is participating in the Program, must complete and submit to the Department an Application not earlier than forty-two (42) or later than twenty-one (21) calendar days before the due date stated on the Billing Cycle statement from the Educational Institution (“**Billing Statement**”).

In addition, except as stated below, the following documentation must be completed and submitted to the Department with each Application:

- A copy of the Billing Statement (a screen shot from the student’s online account is acceptable);

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- A copy of the current unofficial transcript, high school diploma, or General Equivalency Diploma (within fourteen calendar (14) days of Application submission);
 - A copy of a valid government issued photo identification (Pokagon Band I.D., driver's license, etc.);
 - A copy of official class schedule from Educational Institution; and
 - Proof that applicant applied for FAFSA, provided that such proof is only required once per academic year.

Any failure to follow all requirements of this Program may result in an Application being delayed or rejected, as determined by the Department.

The Department 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 brought by Band citizens involving this Program will be governed by the Band's Grievance Procedure, but any person who disagrees with the determination to reject an Application, or who otherwise believes that an Education Benefit was not paid in accordance with this Program, must deliver a Membership Grievance Form to the Government Manager within ninety (90) days of the date of the Application, otherwise the person will be deemed to have waived any claim to payment of such Education Benefit under this Program.

Education Benefits

Consistent with the Compact, subject to the limitations of this Program, the Program will only pay direct costs and expenses for attending an Educational Institution, which are limited to ("**Education Benefits**"):

- Tuition and fees;
- On-campus room and board; and

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- Other direct education expenses, such as books and/or materials.

All payments of Education Benefits under the Program will be made directly to the Educational Institution. Under no circumstances will any such payment be made to any other person, including to reimburse costs and expenses already paid. An Education Benefit cannot and must not be assigned, transferred, pledged, or encumbered in any manner whatsoever.

Department Responsibilities

The Department must ensure that the Program is administered in accordance with the Compact, including:

- Ensuring that participation is limited to Band citizens;
- Priority is granted to Band citizens residing in the State;
- Funding is paid only to Educational Institutions;
- The Fund is established and maintained in a separate interest bearing account at a financial institution that is subject to State law and located in the State; and
- The Fund is subject to an annual independent audit that includes all payments and payees, with the attestation required by the Compact, and the audit is delivered to the State in accordance with the Compact.

The Department is responsible for day-to-day administration of the Program, including:

- Reviewing applications;
- Making determinations on applications;
- Making determinations on whether an institution or program qualifies as an Educational Institution;
- Notifying persons of determinations; and
- Causing the Education Benefit to be paid.

Nothing in this Program will diminish the authority of the Director of the Department.



Communication

Any student who is eighteen (18) years of age or older is solely responsible for communicating with the Department concerning this Program, unless the student gives written authorization (in a form required by the Department) 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 is solely responsible for communicating with the Department concerning this Program, provided that nothing in this Program prevents the Department from communicating with the student.

Notwithstanding any other provision of this Program, as between a student or parent and the Department, the student or parent, as applicable, is solely responsible for complying with the requirements of this Program, including ensuring the completeness, accuracy, and timeliness of the Application.

Suspension

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 (for which any Education Benefit was received under the Program) without the prior approval of the Department.
- Fails to notify the Department 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 this Program.

A suspended student will be eligible for the one (1) time reinstatement after one full academic year from suspension from the Program.

If a student shows a pattern of dropping credits or disenrolling after Education Benefits have been paid under the Program, then the student will be suspended from the Program and will not be eligible for the one (1) time reinstatement.



Reimbursement

A student must notify the Department 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 must 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 this Program and based on such information, the student received the Education Benefit.


A student who is required to reimburse the Band must 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 may deduct the amount owed from future payments to the student under this Program.

All reimbursements will be credited to a Department account to offset the cost of administering this Program.

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 a Band citizen; (2) this Program is administered under this written Program; (3) this 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 requirements of this Program (subject to budgetary constraints); (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 the requirements 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 this 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 this Program; (2) this Program specifies how Band citizens may qualify for the Education Benefit; (3) the Education Benefit is available to any Band citizen who meets the requirements of this Program (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) this 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. 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, 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.

Limitations

The Band retains the right to amend this Program at any time without notice. Although the Band does not anticipate a funding shortage, the Education Benefit is not guaranteed and is subject to available funding in the Fund.

The Band has structured this Program with the intent that the Education 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 Education Benefit, or any portion thereof, to be taxable, the parent or student, as applicable, will be solely responsible for any taxes, interest and penalties owed from receipt of the Education Benefit.

Nothing in this Program will waive the sovereign immunity of the Band or any of its officials or employees.



EXHIBIT A
POSTSECONDARY INSTITUTIONS



EXHIBIT B
VOCATIONAL INSTITUTIONS