



# Penobscot Nation Policy

## Governing Tribal Distributions

**1. Definition of Tribal Distribution:** Any financial payout allocated to all Tribal citizens; including, but not limited to, Trust Fund allocations, Oxford allocations and litigation settlements. A special distribution based on the Trust Fund alone shall be made to Penobscot Nation citizens who have attained the age of sixty (60).

Any Tribal distribution shall be made in accordance with this policy, and shall not be considered the property or entitlement of any citizen. No citizen shall have any right or title to, or any legal interest in, any such Tribal distribution until disbursement is actually made in accordance with this policy. A Tribal distribution shall be deemed to have been made when a check is sent to a citizen or a deposit is made in a special tribal account for the benefit of a citizen.

## **2. Administration**

Whenever a Tribal distribution is approved and directed by the Tribal Council or the General Meeting, the distribution shall be made by the Finance Department, in accordance with this policy and the roll of citizens established pursuant to the Penobscot Nation Tribal Census Maintenance Procedure. As such, The Finance Department is charged with being good stewards of the Tribal distributions and responsible for ensuring these funds are well protected.

## **3. Tribal Citizenship**

For the purposes of any Tribal distribution to Penobscot Nation citizens, except as otherwise expressly provided in this policy, disbursement shall be made to or for the benefit of every person who: (1) appears on the official census roll of the Nation, at any time prior to such disbursement, with the exclusion of those persons adopted after December 1, 1980, and (2) was living at any time during the fiscal year (October 1<sup>st</sup> to September 30<sup>th</sup>)

preceding such distribution. All Tribal distributions are pro-rated based on the number of months the Tribal Citizen was active. For qualifying citizens deceased at the time of distribution, any accumulated pro-rated amounts will be disbursed to the person(s) designated in the citizens' probated will. When a citizen does not have a will, all accumulated funds for that Tribal citizen shall be paid out as follows: the entire amount to the living spouse; in the event there is no living spouse, it shall be paid to the citizens' living children in equal shares; in the event there are no living children, it shall be paid to the citizens' parents in equal shares; in the event there are no living parents, it shall be paid to the citizens' living siblings in equal shares; in the event there are no living siblings, it shall revert back to the Tribe.

#### **4. Removal from Census**

Any citizen who is being processed by the Census Committee for REMOVAL shall not be eligible for any subsequent Tribal distribution(s) from the first day of the fiscal year when posted by

the Census Coordinator.

Once a citizen has been removed from the Nation census rolls, any accumulated per capita amounts held for their benefit, including interest, shall be paid out to the removed citizen.

In the event a citizen reports in after removal from the Nation census rolls, that citizen may be reinstated on the census rolls pursuant to applicable tribal policy and that citizen's per capita shall be prospective only and that citizen shall have no claim to any Tribal distributions, other than any eligible funds accumulated while still a Tribal citizen, until reinstated.

## **5. Disbursement**

Tribal disbursement shall be made by check or direct deposit. Checks will be made payable to and mailed to each qualifying citizen at the address on file with Finance. Direct deposit will be deposited into the Tribal citizens' bank account. Any check sent to such an address but returned to the Nation will be held no longer than ninety (90) days. If the check is not claimed, the amount of the returned check will be deposited in an interest bearing

account for benefit of the citizen indicated. Checks which are lost or not returned will be void after ninety (90) days from the date of the check, and the check amount will be held in an interest bearing account for the tribal citizen. Amounts will be held for the benefit of a citizen for as long as a person remains a citizen except as otherwise expressly provided in this policy. Interest earned by the account will be allocated to each participating citizen on an annual basis, and will be included in the annual allocation payout.

## **6. Attachments**

Finance is mandated by Council in accordance with this policy to hold all forms of Trust distribution payments due any citizen, be it minor or adult, in the event any monies are owed to any department, or owed to an individual Tribal citizen pursuant to a Penobscot Nation Tribal Court order. This includes but is not limited to: Tribal court unpaid fines, unpaid Penobscot Nation Tribal Court generated child support orders, Penobscot Nation Child Care arrearages, and any rental arrearage through the

Penobscot Nation Housing Department. For purposes of this section, the Departments will provide to Finance all relevant attachment information; including, without limitation, applicable court orders, signed service contracts, or lease agreements.

**7. Qualifying citizens less than Eighteen (18) years of age or lacks Legal Capacity**

Tribal disbursement to any qualifying citizen who is less than eighteen (18) years of age shall be made as follows:

- a.** When Married. Any qualifying citizen who is married shall be treated as an adult for all purposes under this policy.
- b.** When Emancipated. Any qualifying citizen who has been emancipated by virtue of a court order shall be treated as an adult for all purposes under this policy.

Parental Rights and Responsibilities Established by Court Order. If parental rights and responsibilities of a qualifying minor citizen have been established by court order, the minor citizen's Tribal disbursement check will be made payable to the parent who has been allocated the responsibility of maintaining

the minor citizen's primary physical residence. "Primary physical residence" means the residence of the parent of a minor citizen where the minor citizen is to reside the majority of the year as designated by court order. Both biological parents, whether Tribal citizen or non-citizen, must agree on the minor citizens' Tribal disbursement regardless of who has primary residence. There is a minor citizens' Tribal disbursement form available for notarized signatures for this purpose. In the event neither parent is a Penobscot Tribal Citizen, and the minor Citizen is on our census by way of other lineage, that minors' disbursements shall stay in holdback until they reach the age of 18.

**c. Parental Rights and Responsibilities under Common Policy.**

If parental rights and responsibilities have not been established by judicial decree, and the qualifying minor citizen has resided with both of his or her parents during the fiscal year in which they became qualified, the minor citizen's per capita disbursement check shall be made

payable to the parent, or parents jointly when there are two such parents, "for the benefit of [the name of the minor citizen]" unless the parent(s) elect to have the minor citizen's distribution retained in the special interest bearing account. However, if Finance is aware that a qualifying minor citizen is not living with both parents, or that the parents of a qualifying minor citizen are not living together, Finance shall withhold the disbursement until a court order establishing the minor citizen's primary physical residence with either parent is issued. Any funds thus withheld shall be maintained in a special interest bearing account until disbursement. When Finance receives a copy of the court order, the disbursement shall be made payable to the citizen parent who has been allocated the primary physical residence of the minor citizen child "for the benefit of [name of the minor citizen] and on condition that both parents are agreeable to the disbursement."

## **8. Minor Citizens in Foster Care.**

The Tribal distribution for any qualifying minor citizen who is or was in foster care or any non-parental custodial care at any time during the fiscal year preceding such distribution shall be deposited in a special interest bearing account and shall not be disbursed until the citizen reaches the age of eighteen (18).

## **9. Adopted Citizen Children.**

The Tribal disbursement for any qualifying minor citizen who has been legally adopted shall be deposited in a special interest bearing account and shall not be disbursed until the citizen reaches the age of eighteen (18).

**10. Surviving Citizen Children.** If a citizen parent dies and is survived by qualifying minor citizen children and such children are placed in the custody of a non-citizen parent or any non-citizen custodian, any Tribal distribution intended for such children shall be deposited in a special interest bearing account

and shall not be disbursed until the citizen reaches the age of eighteen (18).

**11. Adopted Children Whose Residence is Unknown.**

When the Nation is aware that a qualifying minor citizen has been adopted, but his or her place of residence is unknown, the sum allotted for Tribal disbursement attributable to such citizen shall be maintained in a special interest bearing account until the citizen reaches the age of forty (40). If the citizen has not notified the Nation of his or her residence by that time, any accumulated Tribal disbursements held for their benefit, including interest, shall revert to the Nation for future distribution to all other eligible citizens. Subsequent notification by such person shall have a prospective effect only and shall not entitle the citizen to any distribution which has reverted to the Nation under this section.

**12. Any Obligation on Behalf of Minor Citizen Child.**

Tribal distributions made payable to a parent of a minor citizen for the benefit of such minor citizen shall not be

considered in establishing or fulfilling a parent's child support obligation.

### **13. Guardianship or Conservator Established by Court**

#### **Order.**

Tribal disbursement for any qualifying citizen eighteen (18) years of age or older, who has been under the guardianship or conservatorship of another by virtue of a court order during a fiscal year preceding such distribution, shall be made by means of a check made payable to the legal guardian or conservator "for the benefit of [the name of the qualifying citizen]."

### **14. Relinquishment of a Minor Tribal Citizen.**

Should citizenship in the Nation be relinquished for a minor tribal citizen by a citizen parent and if there is a balance in that minor tribal citizen's Tribal disbursement account then that former tribal citizen may obtain that balance once they reach the age of eighteen (18). Such claim must be accompanied by sufficient documentation to prove such claim. Finance refers to

and follows Trust Services procedures in that when a parent requests a minor citizen be removed from our census, there is a hearing conducted by the Trust committee for final determination.

### **15. Centralized Accounting**

All accounts and accounting records pertaining to Tribal distributions shall be maintained by or under the direction of Finance in accordance with this policy in a centralized account. Finance shall direct the creation and maintenance of such accounts and records as are reasonably necessary to preserve the financial integrity of the funds allocated to Tribal distributions, and to reasonably assure the appropriate disbursement to each qualifying citizen. Upon written request, a citizen shall be provided with an accounting of disbursements made on their behalf.

### **16. Federal Taxation Requirements**

Whenever any portion of a Tribal distribution is required by policy to be reported by the Penobscot Nation to the Internal

Revenue Service, no disbursement shall be made to any qualifying citizen until the Penobscot Nation is provided with any information concerning the qualified citizen required under polices or regulations of the Internal Revenue Service.