

**TITLE 6 – TRIBAL ASSISTANCE PROGRAMS
PART I – GENERAL PROVISION
CHAPTER 1-1 – GENERAL WELFARE POLICY**

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*Legislative History: Enacted on October 7, 2004 by Resolution No. C10-179-04 & Ordinance No. 8.
Recodified on August 9, 2006 by Resolution No. C08-313-06.*

SUBCHAPTER A GENERAL PROVISIONS

Section 10 Definitions (6 PYTC § 1-1-10)

For purposes of this Chapter, the following words and phrases shall have the meanings set forth below:

- (A) “Approved Program” - Any program or programs approved by the Tribal Council to provide assistance intended to qualify for treatment under the General Welfare Doctrine.
- (B) “Assistance” - Benefits or payments under an approved program, which are paid to or on behalf of a beneficiary pursuant to this chapter, and which shall be treated as a loan to the member in the event of forfeiture.
- (C) “Beneficiary” – An enrolled member of the Pascua Yaqui Tribe entitled to receive welfare assistance pursuant to this chapter.
- (D) "Chapter" - This General Welfare chapter.
- (E) “Code” - The Internal Revenue Code of 1986, as amended.
- (F) “Council” - The duly elected governing body of the Pascua Yaqui Tribe, a federally recognized Indian tribal government.
- (G) “General Welfare Doctrine” - The doctrine, as recognized by the Internal Revenue Service, permitting a sovereign to provide assistance to tribal members on a non-taxable basis.
- (H) “Selection Committee” – A committee consisting of the Education Division Director and two additional employees or non-elected officials of the Tribe selected by the relevant Tribal Council Oversight Committee that shall be responsible for determining beneficiaries’ eligibility, approving assistance, and, if necessary, forfeiting such assistance.
- (I) “Yaqui Professionals Program” – A legislatively authorized approved program providing full-time post-secondary education assistance and on the job training to tribal members designed to increase on-reservation employment opportunities, promote economic development, provide increased post-secondary educational opportunities, improve tribal members’ and families economic status, or promote self-determination on the Pascua Yaqui Reservation.

Section 20 Preamble (6 PYTC § 1-1-20)

The Internal Revenue Service, through its General Welfare Doctrine, has recognized the sovereign right of governments to provide financial assistance to individuals under certain circumstances on a non-taxable basis. The Pascua Yaqui Tribe, a federally recognized tribal government, provides certain financial assistance payments to Tribal members, and desires to affirm its sovereign right to do so on a non-taxable basis. The purpose of this chapter is to establish financial need guidelines that must be satisfied by tribal members applying for financial assistance payments from the Tribe and to establish procedures that will be used in determining eligibility for general assistance benefits.

Section 30 Ratification of Prior Acts; Intent of Legislation (6 PYTC § 1-1-30)

- (A) The Tribal Council, acting as the legislative body of the Tribe and acting through its duly-elected members, has traditionally exercised the Tribe’s sovereign right to provide financial assistance to members of the Tribe in order to promote the welfare and best interests of the Tribe.
- (B) The enactment of this chapter shall not be construed in a manner to invalidate the prior acts and exercises of the sovereign legislative body of this Tribe providing financial assistance prior to the effective date of this chapter, and the Tribal Council hereby ratifies its prior acts in establishing and funding the Yaqui Professionals Grant Program.
- (C) The Tribal Council hereby further directs that all such need based financial assistance provided to promote the general welfare of the Tribe is, and has been, intended to reflect the sovereign act of this legislative body under the General Welfare Doctrine.
- (D) This chapter, therefore, does not create or establish welfare assistance rights, which are hereby declared to be an inherent right of sovereignty vested with the Council. Rather, this chapter is intended to confirm, clarify, and codify the procedures used in awarding such assistance.

Section 40 General Welfare Doctrine (6 PYTC § 1-1-40)

The Internal Revenue Service recognizes that payments by a tribal government to tribal members under a legislatively provided social benefit program for the promotion of the general welfare of the Tribe are excludable from the gross income of those tribal members who receive such payments. The financial assistance payments authorized by this chapter are intended to qualify for favorable tax treatment under the General Welfare Doctrine to the fullest extent permitted at law. All amounts budgeted by the Tribe for assistance shall remain general assets of the Tribe until such payments are disbursed; the welfare assistance payment arrangement authorized by this chapter shall be an unfunded arrangement, and shall be limited to funds appropriated at the discretion of the Council.

Section 50 Non-Resource Designation (6 PYTC § 1-1-50)

Payments hereunder are made from assets of the tribal government. All payments are therefore subject to the availability of budgeted tribal government funds and the Tribe does not guarantee any payments hereunder. Benefits paid hereunder on the basis of need shall not be treated as a resource of the member for any purpose. The Council reserves the right to cancel or revoke any such benefits that are treated as a resource of the Tribal member.

Section 60 Governing Law; Sovereignty (6 PYTC § 1-1-60)

All rights and liabilities associated with the enactment of this chapter, or the assistance payments made hereunder, shall be construed and enforced according to the laws of the Tribe. Nothing in this chapter or the related policies or procedures, if any, shall be construed to make applicable any laws or regulations which are inapplicable to the Tribe or from which the Tribe is entitled to exemption because of its sovereign status.

SUBCHAPTER B GENERAL WELFARE PROGRAM GUIDELINES

Section 70 Council Approved Programs (6 PYTC § 1-1-70)

The Tribal Council shall designate those programs which will receive budget approval for each fiscal year, consistent with the purposes of this chapter. Said approved programs shall include the Yaqui Professionals Program and any additional approved programs that are designated by Tribal Council resolution, and shall be consistent with the General Welfare Doctrine as to purpose, eligibility, and funding.

Section 80 Purpose (6 PYTC § 1-1-80)

Approved programs shall be limited to purposes consistent with treatment under the General Welfare Doctrine. Such purposes may include, for example, assistance for medical care, shelter, and subsistence benefits. Any approved program must be established and operated to promote the general welfare of the Tribe, including programs designed to enhance the promotion of health, education, self-sufficiency, self determination, tribal image and the maintenance of culture and tradition, entrepreneurship, and the employment of tribal members.

Section 90 Eligibility and Application Procedures (6 PYTC § 1-1-90)

Assistance intended to qualify for General Welfare Doctrine treatment shall be limited to enrolled members of the Pascua Yaqui Tribe. Each approved program shall set forth the specific eligibility rules and limitations applied to that program. The Education Division of the Tribe, or other designated division, department, or program, shall present program descriptions, which include eligibility rules and limitations, along with application forms and procedures, for approval by the Tribal Council in accordance with Section 130 of this chapter. Only those descriptions, application forms and procedures that are so approved by the Council shall be in force and effect.

Section 100 Limited Use of Assistance Payments (6 PYTC § 1-1-100)

All assistance disbursed pursuant to this chapter must be used for the purpose stated in the approved program description and in the beneficiary's application for the applicable assistance. In the event that assistance payments are used or pledged for a purpose inconsistent with the purpose set forth in the applicable approved program or the beneficiary's application, the Council shall require the repayment of the assistance payment. The Council is authorized to offset any other payments owed to a Tribal member, if such an offset is necessary to secure repayment of an assistance payment in accordance with this section.

Section 110 Needs Basis; Eligibility Certification (6 PYTC § 1-1-110)

All assistance disbursed pursuant to this chapter shall be needs based and available solely to beneficiaries whose income is at or below the national family median income level in effect at the time assistance benefits are paid. The Education Division shall be responsible for providing proposed Tribal Income and Need Guidelines and providing them to the Council for approval. A beneficiary must certify his or her financial needs, and that the assistance benefits do not exceed the amount of the beneficiary's financial need. Unless the Council designates a different tribal department or program by resolution, the Education Division shall adopt procedures for certifying a beneficiary's eligibility for assistance under the general Tribal Income and Need Guidelines. After an initial certification, each beneficiary shall be required to report any material change in financial circumstances and shall, in that case, be re-evaluated for continuing eligibility. Each beneficiary will be required to certify upon each application for assistance whether he or she has experienced any material change in financial circumstances since his or her last needs evaluation. All beneficiaries must also be re-evaluated annually.

Section 120 Tribal Income and Need Guidelines (6 PYTC § 1-1-120)

The Tribal Council shall establish minimum standards of living and income guidelines for purposes of determining a beneficiary's qualification for needs based benefits hereunder based upon the Education Division's recommendations. The Council may look for guidance to federal guidelines such as the federal poverty levels and federal earned income credit levels. However, the Council, as the sovereign government of the Pascua Yaqui Tribe, shall retain ultimate authority in establishing minimum standards of living on the Pascua Yaqui Reservation and in other Pascua Yaqui communities. In doing so, the Council may take into account such issues as the number of dependants in a household, the level of household income, and household expenditures, the average and median incomes in the Beneficiary's community, municipality or county, and financial matters unique to the Pascua Yaqui Reservation.

Section 130 Tribal Council Approval of Standards and Guidelines (6 PYTC § 1-1-130)

If the Council does not reject, approve, or amend standard of living and income or any other guidelines required by this chapter within 30 days after such guidelines are submitted in writing by the Education Division, such guidelines shall be deemed approved by the Tribal Council.

Section 140 Limitations on Welfare Assistance Payments (6 PYTC § 1-1-140)

The Council shall adopt guidelines establishing the maximum assistance payments to be made to Tribal members for certain specified purposes. Such guidelines shall also include factors to be used in determining whether the Council should deviate from the payment limitations in certain circumstances and limitations with respect to the frequency of applications for assistance.

Section 150 Annual Budgeting; Unfunded Program (6 PYTC § 1-1-150)

The Council shall annually designate those funding sources that are available for the payment of assistance benefits hereunder in as part of the annual budgeting process. Sources that may be considered shall include those from the Pascua Yaqui Tribe. Notwithstanding anything to the contrary, the assistance payments authorized hereunder shall be “unfunded” for tax purposes and no beneficiary shall have an interest in or right to any funds budgeted for or set aside for assistance payments until paid. Assistance benefits shall remain assets of the Tribe until distributed, and the approved programs shall be administered at all time to avoid the doctrines of constructive receipt and/or economic benefit.

Section 160 Forfeiture (6 PYTC § 1-1-160)

Notwithstanding anything herein to the contrary, the Selection Committee may forfeit assistance benefits to any Beneficiary who is found by the Selection Committee to have violated the terms of this chapter, or the policies and procedures for any approved benefit program. The Selection Committee may also forfeit assistance benefits should said benefits be treated as a resource detrimental to the Tribe or a Beneficiary. In the event of any such forfeiture, all assistance provided to the beneficiary pursuant to this chapter shall be deemed a loan and shall be enforceable as such.

Section 170 Anti-Alienation (6 PYTC § 1-1-170)

A tribal member’s rights to apply for welfare assistance payments under this chapter are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the Tribal member or his or her beneficiaries.

SUBCHAPTER C ADMINISTRATION

Section 180 General (6 PYTC § 1-1-180)

The Education Division shall be charged with the responsibility and authority to administer the welfare assistance program called for by this chapter. All powers and duties conferred on the Education Division shall be exercised or performed by the Education Division in the exercise of its discretion regardless of whether the provision conferring such power or imposing such duty specifically refers to the Education Division’s discretion. All decisions of the Education Division upon all matters within the scope of its authority shall be binding and conclusive upon all persons.

Section 190 Program Guidelines (6 PYTC § 1-1-190)

In addition to the Yaqui Professionals Grant Program, the Education Division shall develop program guidelines for other education-related welfare assistance that shall, at a minimum, satisfy the requirements of this chapter and further provide that:

- (A) Each beneficiary must be an enrolled member of the Pascua Yaqui Tribe;
- (B) Assistance shall not represent compensation for any services (past, present, or future);

- (C) Beneficiaries shall be required to work for the Tribe following successful completion of, and during break periods of more than one week of a professional degree program, provided that the beneficiary shall be fully compensated for all services rendered at a rate no less than a tribal employee in a similar position who is not a beneficiary; and
- (D) Assistance shall be awarded based upon financial need.

DISPOSITION TABLE

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