

Confederated Tribes of Siletz Indians  
Minor/Disabled Elder Trust - Early Distribution Policy  
[Trust Officer Guidance]

The TRIBAL MEMBER DISTRIBUTION ORDINANCE; Siletz Tribal Code § 4.100 et seq. states as follows:

§4.103 DISTRIBUTIONS TO MINORS, ADULTS UNDER A LEGAL DISABILITY, AND TO DECEASED TRIBAL MEMBERS

(e) Interim Disbursement of Funds Held in Trust for Minors or Adult Under a Legal Disability.

(1) Monies held in trust pursuant to this section on behalf of a minor or adult under a legal disability are not available to or for the benefit of the beneficiary until the beneficiary ceases to be a minor or legal incompetent, except for disbursements that may be made only at times and in such amounts as are necessary for the health, education, or welfare of the minor or legal incompetent, as determined for extraordinary purposes by the Trust Officer in his or her discretion to a parent, guardian, conservator, or other person or entity with legal custody of the minor or adult to meet specific needs of the minor or legal incompetent. **The Trust Officer shall develop regulations** *[emphasis added]*, subject to approval by the Tribal Council, setting out the purposes for which funds may be disbursed under this subsection, and an application process by which requests for disbursement of funds may be made to the Trust Officer. [Amended by Resolution No. 2018-146, 5/5/18].

This policy document addresses the above ordinance-mandated development of regulations, to guide the CTSI Trust Officer, in exercising her/his fiduciary discretion when considering applications for “extraordinary purposes” disbursements on behalf of minor or disabled adult tribal members, out of those members’ trust accounts.

**POLICY**

The Trust Officer, in determining what an “extraordinary purpose” is for authorizing an interim distribution in advance of a minor reaching the age of majority; or for a distribution to an adult under a legal disability, shall use a “reasonable person” standard in making that determination. Black’s Law Dictionary defines reasonable as fair, proper, just, moderate and suitable under the circumstances; not immoderate or excessive.

The reasonable person standard relative to §4.103(e) of the Ordinance would thus allow the Trust Officer to grant interim distributions, reasonably necessary to advance the health, education, or welfare of the affected tribal member, or to meet the immediate health, education and welfare needs of the minor or adult legal incompetent. Some specific examples of situations or circumstances where the Trust Officer may use her/his reasonable discretion in authorizing “extraordinary purposes” distributions from trust accounts, include, but are not limited to, the following:

- 1) An “End of Life” exception exists to create an explicit allowance for distribution is under this policy by the Trust Office, in her/his fiduciary discretion, where the minor or adult legal incompetent is diagnosed with a terminal condition and distribution of the funds may be necessary in order for the trust beneficiary to enjoy a reasonable quality of life, aided by the release of trust funds for her/his health, comfort and welfare during last days.
- 2) The requested distribution shall not be one which involves an excessive sum of money under the circumstances at hand, as those are shown by the application for distribution; it must reflect what a reasonable cost would be for the desired objective;
- 3) Other options shall have been explored or exhausted prior to requesting an interim disbursement. For example:
  - a. Other Tribal resources are available for education such as scholarships or other forms of aid available from CTSI;
  - b. Tribal health benefits available to members to meet the purposes of the proposed distribution shall be shown as unavailable;
- 4) Trust Funds may be distributed to a minor or adult legal incompetent’s family member or friend, only where that disbursement shall benefit the well-being of the minor or legal incompetent. Some examples of these situations, without specific limitation, follow:
  - a. Paying for or reimbursing the legitimate travel expenses for a friend or relative to accompany the minor or adult legal incompetent on a trip, so that the minor or incompetent adult may engage in authorized travel, e.g. an “End of Life” situation;
  - b. Paying for or reimbursing the legitimate travel expenses for a family member or friend, to attend a Tribal cultural event, like the Annual Pow Wow in Siletz, or a Tribal Youth Symposium or other tribal or cultural event. Such expenses shall be afforded both for the minor beneficiary and her/his friend or family member.
- 5) Decisions on disbursement requests made for adult legal incompetents for extraordinary purposes would be inherently less stringent given that they are disabled adults, and would typically have more financial needs in their activities of everyday living as disabled adults, than would a minor trust beneficiary.

### **Denials**

The following requests for interim distributions would generally be denied Trust Officer approval (barring any evidence surrounding the circumstance that might otherwise warrant such disbursement under the reasonable person standard, such as an end of life allowance):

- 1) Down payment on a house;

- 2) Purchase of a motor vehicle;
- 3) Purchase of a watercraft or motorcycle;
- 4) Ordinary vacation expenses not benefitting the member's participation in CTSI cultural events or enrichment opportunities.

The Trustee has the sole discretion to approve or deny requests as they see fit and as set forth under this Policy.

**PROCEDURE:**

A standard distribution request form shall be used in applying for a distribution under this Policy including that:

- 1) the application shall be specifically marked as an interim request; and
- 2) a written explanation shall be attached to the interim request form, documenting and describing the nature of the interim request in factual detail.

If a denial is issued by the Trust Officer, the parent, guardian or conservator of the minor or adult legal incompetent may petition CTSI Tribal Court for review of the Trust Officer's exercise of fiduciary discretion under this Policy.