

PETERS FIRST NATION

**DISTRIBUTION POLICIES AND
PROCEDURES 2019**

Version 1-2019

Adopted: 31 Dec 2019



“Absentee Member” means an Entitled Member who meets all of the following criteria: 1) their contact Information is not current, 2) reasonable efforts to contact the individual have been attempted, and 3) the Entitled Member has not received or endorsed a Distribution Payment for a period of 18 months;

“Application Form” means the form completed by Eligible Members to become Entitled Members.

“Band Resolution” means the binding resolution of the PFN Council at a duly convened meeting.

“child in care” has the meaning given to that term in the Child, Family and Community Service Act, R.S.B.C. 1996, c. 46.

“Community Coordinator” means the person identified or holding the functional responsibility for the liaison function with Members.

“Member” means a Peters First Nation member registered on the Band Membership List.

“Eligible Member” means all individuals that are registered Peters First Nation (PFN) members, on the official Band Membership List, and with a valid certificate of Indian Status will be eligible to apply for enrollment in the Peters First Nation Distribution Program.

“Entitled Member” means and Eligible Member that has completed a valid Application to Enrol in the Peters First Nation Distribution Program.

“Contact Information” means a mailing address designated by the Member at which the Member will receive correspondence sent by the Peters First Nation.

“custody” includes physical care, control and guardianship of a Minor.

“Debt” means any amount owing by a Member to the Peters First Nations, including but not limited to debts arising in respect of unpaid rent, loans for household improvements or otherwise, repayment of education monies, or debts arising from the application of the PFN Financial Administration Policy;

“Disentitlement Date” means the date an Entitled Member is no longer entitled to receive a Distribution Share.

“Distribution” means a distribution of monies by the Peters First Nation to Entitled Members.

“Distribution Date” means any date or dates upon which, as approved from time to time by Band Resolution, Distribution Shares become due and payable to Members;

“Distribution Payment” means a cheque, or electronic transfer made, in the name of a Member representing payment of the amount of a Distribution Share owing to the Member on a Distribution Date.

“Distribution Point” means a location or locations designated by Council Motion from time to time where a Member may receive a Distribution Payment by cheque in person.

“Distribution Share” means the pro rata interest of a Member in a Distribution payable on a Distribution Date and the sum of any such payments held in Trust.

“Entitlement Date” means, with respect to a Member, the date his or her Application Form is completed

“Governmental Agency” means any aboriginal, including, for certainty, the Peters First Nation, federal, provincial, state, municipal, county or regional government or governmental or regulatory authority, domestic or foreign, and includes any department, commission, bureau, Band, administrative agency or regulatory body of any of the foregoing;

“Council Motion” means a motion approved at a duly convened meeting of Council where quorum is established by a simple majority of 50% plus one of those present and voting at that meeting.

Applicable law

- 1.1 This Policy will be governed and construed according to the laws of Peters First Nations, the province of British Columbia and the laws of Canada applicable in British Columbia, including all limitation periods but excluding all conflicts of law rules that would apply the laws of another jurisdiction.

Division of Policy

- 1.2 This Policy is divided into the following divisions represented by the number or letter as indicated in ascending order:

1. PARTS.

1 section.

(a) subsections.

(i) paragraphs; and

(A) subparagraphs.

PART 2 - PAYMENT OF DISTRIBUTION SHARES

Form of payment

2.1 A Distribution Share may only be paid by Distribution Payment unless otherwise directed by Council Motion.

Name on payment

2.2 Subject to section 2.4, a Distribution Share will only be paid in the name on the original application.

Obtaining payment

- 2.3 (a) A Distribution Payment may only be paid to a Member
- (i) by cheque delivered at a Distribution Point,
 - (ii) by electronic bank transfer into a bank account in the name of the Member,
 - (iii) by mail sent in accordance with the Member's Contact Information unless otherwise directed by the Band resolution from time to time.
- (b) A Member who wishes to have another person collect a Distribution Payment on his or her behalf on occasion must complete a pick-up authorization form and arrange for the pick-up authorization to be filed with the Community Coordinator on or before the Distribution Date.
- (c) A Pick-Up Authorization under this section is valid for one Distribution Date only.

No Advance

2.4 No Member will, under any circumstances, receive a Distribution Payment in advance of the Distribution Date.

Identification required

- 2.6 (a) A Member must, at the request of the Community Coordinator, or designate, produce his or her acceptable photo identification prior to receiving his or her Distribution Payment.
- (b) An individual who, in accordance with section 2.4, has been designated by a Member to receive a Distribution Payment on the Member's behalf must, at the

request of the Community Coordinator or his or her designate, produce acceptable photo identification prior to receiving the Distribution Payment on behalf of that Member.

Safety of Distribution Payment

- 2.7 A Member is responsible to ensure that their Distribution Payment is safeguarded against loss and, in the event of loss, a replacement Distribution Payment will not be issued by PFN for a period of thirty (30) days after the receipt by PFN of what the PFN decides is reasonably satisfactory proof that the original Distribution Payment was lost or destroyed.

Unclaimed and retained Distribution Shares

- 2.8 (a) PFN will not be responsible to ascertain why a Member has not claimed his or her Distribution Payment after each Distribution Date and the PFN will issue via postal mail all unclaimed cheques to the address on file after 10 days following the Distribution Date.
- (b) The PFN will not be liable for unclaimed Distribution Payments. Any unclaimed Distribution Payment will be held valid for six months following the Distribution Date, following which the PFN may, in its sole and absolute discretion, cancel said payment and return the funds to the PFN operating account.

Interest and income

- 2.9 Unless otherwise provided for in this Policy, a Member is not entitled to any income or interest on a Distribution Share.

PART 3 - ENTITLEMENT TO PAYMENT OF DISTRIBUTION SHARES

Entitlement to Distribution Share

- 3.1 (a) Subject to this Policy, an Eligible Member is entitled to receive his or her Distribution Share on a Distribution Date that occurs after his or her Entitlement Date as long as he or she is a Entitled Member.
- (b) A Member, or an individual that ceases to be a Member, is not entitled to a Distribution Share on a Distribution Date that is
- (i) before that Member's Entitlement Date, or
 - (ii) after that individual's Disentitlement Date.

- (c) For certainty but subject to section 3.2, an individual who is removed from the Membership Register ceases to be entitled to receive any Distribution Shares as of the applicable Disentitlement Date.
- (d) By and upon picking up or endorsing a Distribution Payment, a Member or other individual represents and warrants to the Peters First Nations that they are entitled to receive that Distribution Payment, either on their own behalf or on behalf of a Member, and in the event that individual or other Member is not entitled to receive that Distribution Payment, that individual or Member agrees to pay a sum equal to the total of all the Distribution Payments they receive that he or she is not entitled to and until that total amount is repaid in full, the portion of the amount that remains unpaid constitutes a debt owing to the Peters First Nation that is immediately due and payable.
- (e) By and upon receiving a Distribution Payment, a Member or individual referred to in subsection (d) agrees to indemnify and save harmless Peters First Nation against and for all claims, demands, actions, suits or other proceedings, judgments, damages, penalties, fines, costs, liabilities costs (including legal costs on a solicitor and own client basis), liabilities, losses and sums paid, howsoever arising and relating to the Distribution Payment.
- (f) By accepting a Distribution Payment, each Member that receives a Distribution Payment agrees to the terms of this Policy as if this Policy were a contract between the Member and Peters First Nations.

Payment of Debt to Peters First Nations

- 3.2 (a) Unless directed otherwise by Council Motion, Peters First Nation must withhold the Distribution Shares of a Member with an unpaid Debt to the Peters First Nations and will apply toward the Member's Debt the Distribution Shares of the Member until that Debt is paid in full.

Payment under Court order

- 3.3 Despite any other provision of this Policy, the Band Manager must pay a Member's Distribution Share on a Distribution Date as directed in a court order made under the Family Maintenance Enforcement Act, R.S.B.C. 1996, c. 127.

PART 4 - Members

Member who is an Absentee Member

- 4.1 (a) An Absentee Member is not eligible, and will not receive, a Distribution Share or Distribution Payment.
- (b) An Absentee Member may become an Entitled Member upon the completion of an Application Form.

Locating an Absentee Member

- 4.2 (a) Peters First Nation may make reasonable efforts to locate an Absentee Member, and obtain current Contact Information for an Absentee Member.
- (b) Any expense incurred by the Peters First Nation under this section may be charged against future Distribution Payments if the Absentee Member becomes an Entitled Member.

Member who is a Patient

- 4.3 A Distribution Share for a Member who is a Patient must be paid in the name of the Patient and delivered to the person who, in accordance with the Patients Property Act, R.S.B.C. 1996, c.349 has, on the Distribution Date, the legal right to administer the estate of the Patient.

Member who is a Minor

- 4.5 Subject to sections 4.7, the Distribution Share of a minor must be held by PFN in trust for that minor on the terms set out in Part 5 until the minor turns 18 years of age.

Distribution Share belonging to a deceased Minor

- 4.6 If a minor dies before becoming 18 years of age, a Distribution Payment or Payments held by the PFN under section 4.5 must be paid to the minor's estate.

Minor in care

- 4.7 If a minor is a child in care or is taken into protective care by any Governmental Agency, the PFN must hold that minor's Distribution Share in trust for that minor on the terms set out in Part 5 and must not make any payment from that Distribution Share to any person as long as that Minor is a child in care or is in the protective care of any Governmental Agency.

Newborn Minor

- 4.8 If a Member has recently had a newborn child, the child is not automatically eligible for Distribution Share. The guardian must apply for that child to be enrolled and listed as an Entitled Member. No funds will be disbursed if the date of the minor's eligibility is after the disbursement date. Once the newborn minor is an Entitled Member, proceeding funds will be held in trust for that Minor.

PART 5 - TERMS OF HOLDING

Standard of care for PFN

- 5.1 If the PFN holds a Distribution Share for a Member under this Part, the PFN must perform the duties and may exercise the powers of a trustee regarding that Distribution Share and, in holding that Distribution Share, the PFN must act honestly, in good faith and in the best interests of the Member for whom the Distribution Share is held and must exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Distribution Shares held for a minor Member under this part will earn interest income at the deposit savings account interest rate from the Canadian Bank in which the funds are held.

Segregated account

- 5.2 If Peters First Nation holds a Distribution Share for a Member under this Part, that Distribution Share must be held in a Peters First Nation bank account segregated from all other PFN bank accounts.

Records

- 5.3 For each Member with a Distribution Share held under this Part, PFN must keep or cause to be kept accurate and detailed records of all investments, receipts, income, expenses, disbursements and other transactions for that Member and must make those records available for inspection or audit by Band Council or the Parent / Guardian of the minor at all reasonable times.

Payments to Guardian or Member on 18th birthday

- 5.4 If the PFN holds a Distribution Share for a Minor when that Minor turns 18 years old, PFN must pay the Distribution Share with accrued income up to that Member's 18th birthday, less allowable expenses, to that Member within 90 days of that birthday but only after receiving a completed Application Form for that Distribution Program from that Member.

Payment of any income and capital of a Distribution Share held under this Part to which the Member is entitled constitutes a full and sufficient discharge of the Peters First Nation for that income or capital of that Distribution Share and the Peters First Nation is not required to see to the application of that payment.

Professional advice

- 5.5** Peters First Nation may retain the legal counsel, chartered accountants, investment managers, investment consultants, administrative assistants, agents or other advisors qualified in the field that the PFN decides is necessary or advisable for the purpose of discharging the PFN duties under this Policy, and to pay the advisor's reasonable expenses and compensation out of the Distribution Shares held in accordance with this Part.