



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

JUL 24 2014

Ms. Leah Brady
Chairperson, Western Shoshone
Education Trust Fund
Administrative Committee
1706 6th Street
Elko, Nevada 89701

Dear Ms. Brady:

Thank you for your letter to Secretary Sally Jewell dated July 10, 2014, and for your continued communications with staff members in the Bureau of Indian Education (BIE), Bureau of Indian Affairs (BIA), and the Office of the Solicitor regarding the Revised Western Shoshone Education Trust Fund Administrative Committee (WSETF-AC) bylaws and other documents.

The WSETF-AC first submitted the bylaws for approval on February 26, 2013. A number of conference calls were held between WSETF-AC and various Department of the Interior (Department) officials. It was agreed that WSETF-AC would revise and resubmit the bylaws to comply with the statutory requirement that WSETF-AC must:

Develop written rules and procedures, subject to the approval of the Secretary that cover such matters as:

- (i) Operating procedures;
- (ii) Rules of conduct;
- (iii) Eligibility criteria for receipt of funds under subsection (b)(2)(B)(i);
- (iv) Application selection procedures;
- (v) Procedures for appeals to decisions of the Committee;
- (vi) Fund disbursement procedures; and
- (vii) Fund recoupment procedures.

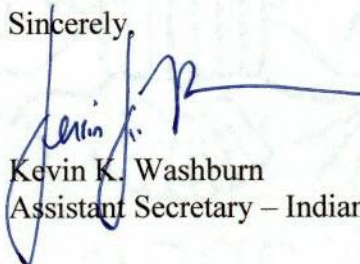
Accordingly, WSETF-AC submitted revised versions of the bylaws on August 15, 2013, and September 17, 2013.

The Department has completed its review of the September 17, 2013 submission of the revised bylaws. I am pleased to report that the revisions satisfy the statutory requirements. Enclosed are the approved bylaws.

I would like to note that, although the application form associated with the revised bylaws does not require my approval, Federal law requires BIA or BIE to obtain the Office of Management and Budget (OMB) approval of the form prior to use. The OMB approval is required by law because it is expected that a Department official will receive the application and use it to check the eligibility status of the applicant for the Committee.

We appreciate your diligence and patience during the review process. Should you have questions concerning your next steps, please contact Mr. Jim Hastings, Arizona South Education Line Officer, by telephone, at (602) 265-1592 or by email at Jimmy.Hastings@bie.edu. You may also contact Mr. Gregory Anderson, BIE Chief of Staff, at gregory.anderson@bie.edu.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin K. Washburn", with a long horizontal flourish extending to the right.

Kevin K. Washburn
Assistant Secretary – Indian Affairs

Enclosure

7/11/2013

**BYLAWS
OF THE
WESTERN SHOSHONE EDUCATIONAL TRUST FUND
- ADMINISTRATIVE COMMITTEE**

PREAMBLE

We, the Western Shoshone Educational Trust Fund - Administrative Committee, are organized in accordance with Public Law 108-270, adopted July 7, 2004, to oversee the distribution of educational assistance for the Western Shoshone people appearing on the judgment roll and their lineal descendants.

ARTICLE I — NAME AND LOCATION

- 1.1 **Name.** The name of this Committee shall be the Western Shoshone Educational Trust Fund - Administrative Committee, hereinafter "the Committee," in these Bylaws.
- 1.2 **Headquarters.** Committee Headquarters is located at the Bureau of Indian Education office, Sacramento, California office.

ARTICLE II — AUTHORITY

- 2.1 These Bylaws are created pursuant to the authority granted by the Western Shoshone Claims Distribution Act, Public Law 108-270, hereinafter "the Act," that established the Western Shoshone Educational Trust Fund - Administrative Committee (Section 4) and that shall control the resolution of all matters arising out of the operation of a trust fund established by the Secretary in the Treasury of the United States for the benefit of Western Shoshone members. Said trust fund, known as the "Western Shoshone Educational Trust Fund", consists of:

- (A) the Western Shoshone joint judgment funds, section 2(2)(A)(B); and
(B) the funds added under section 3(c)(4) "Unpaid Funds".

Nothing in this section or Bylaws shall be construed as consent to the waiver of sovereign immunity of any participating Shoshone, Shoshone-Paiute or Paiute-Shoshone Tribes.

ARTICLE III — DEFINITIONS

- 3.1 For the purpose of these Bylaws:
- (A) **COMMITTEE.**—The term "Committee" means the administrative committee established under section 4(c)(1).
- (B) **WESTERN SHOSHONE JOINT JUDGMENT FUNDS.**—The term "Western Shoshone joint judgment funds" means—
- (1) the funds appropriated in satisfaction of the judgment awards granted to the Western Shoshone Indians in Docket Numbers 326-A-1 and 326-A-3 before the United States Court of Claims; and
- (2) all interest earned on those funds.

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- (C) **WESTERN SHOSHONE JUDGMENT FUNDS.**—The term “Western Shoshone judgment funds” means—
 - (1) the funds appropriated in satisfaction of the judgment award granted to the Western Shoshone Indians in Docket Number 326-K before the Indian Claims Commission; and
 - (2) all interest earned on those funds.
- (D) **JUDGMENT ROLL.**—The term “judgment roll” means the Western Shoshone judgment roll established by the Secretary under section 3(b)(1).
- (E) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.
- (F) **TRUST FUND.**—The term “Trust Fund” means the Western Shoshone Educational Trust Fund established under section 4(b)(1).
- (G) **WESTERN SHOSHONE MEMBER.**—The term “Western Shoshone member” means an individual who—
 - (1) (a) appears on the judgment roll; or
 - (b) is the lineal descendant of an individual appearing on the roll; and
 - (2) (a) satisfies all eligibility criteria established by the Committee under section 4(c)(4)(D)(iii);
 - (b) meets any application requirements established by the Committee; and
 - (c) agrees to use funds distributed in accordance with section 4(b)(2)(B) for educational purposes approved by the Committee.
- (H) **IMMEDIATE FAMILY.** Immediate family shall mean a child, spouse, parent, sibling, grandchildren or blood relation living in the same household.

ARTICLE IV — ESTABLISHMENT OF WESTERN SHOSHONE EDUCATIONAL TRUST FUND - ADMINISTRATIVE COMMITTEE

4.1 General

Western Shoshone Educational Trust Fund - Administrative Committee, hereinafter referred to as “the Committee,” is hereby established as an “administrative” committee to oversee the distribution of educational grants and assistance under section 4(c) and as defined in section 2(7) of the Act and shall have the authority to carry out the objectives of the Committee and the provisions of these Bylaws.

4.2 Membership

Pursuant to Section 4 (c) (2) of the Act, the Committee shall be composed of 7 members, as follows:

- (A) 1 member shall represent the Western Shoshone Te-Moak Tribe and be appointed by that Tribe;
- (B) 1 member shall represent the Duckwater Shoshone Tribe and be appointed by that Tribe;
- (C) 1 member shall represent the Yomba Shoshone Tribe and be appointed by that Tribe;
- (D) 1 member shall represent the Ely Shoshone Tribe and be appointed by that Tribe;
- (E) 1 member shall represent the Western Shoshone Committee of the Duck Valley Reservation and be appointed by that Committee;
- (F) 1 member shall represent the Fallon Band of Western Shoshone and be appointed by that Band; and
- (G) 1 member shall represent the general public and be appointed by the Secretary.

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4.3 Terms.

In general, each member of the Committee shall serve a term of four (4) years. To prevent all terms from expiring at the same time, the initial Committee shall recommend appointment of three current (3) members for an additional term of two (2) years and (4) members for a term of four (4) years. Current committee members may be eligible for a possible reappointment.

4.4 Vacancy.

Pursuant to Public Law 108-270 section 4, (c)(3)(B), if a vacancy remains unfilled in the membership of the Committee for a period of more than 60 days -

- (i) the Committee shall appoint a temporary replacement from among qualified members of the organization for which the replacement is being made; and
- (ii) that member shall serve until such time as the organization (or, in the case of a member described in paragraph (2)(G), the Secretary) designates a permanent replacement.

4.5 Resignation.

A Committee member may resign at any time, either in person by giving written notice of resignation to the Committee Chairperson or other officer of the Committee. Resignation shall be effective at the time specified.

4.6 Conflicts.

No member of the Committee shall vote on an application of an immediate family member as defined in Article 3.1(H). Where an immediate family member's application is up for consideration, that Committee member shall recuse him or herself from the Committee's discussion of such action and shall not vote or participate in any decision on such action.

ARTICLE V — COMMITTEE DUTIES AND POWERS

5. 1 Duties and Powers.

The Committee shall exercise the following duties and powers in the administration of the Western Shoshone Educational Trust Fund:

- (A) distribute interest funds from the Trust Fund under subsection (b)(2)(B)(i) of the Act;
- (B) for each fiscal year, compile a list of names of all individuals approved to receive those funds;
- (C) ensure that those funds are used in a manner consistent with this Act;
- (D) develop written rules and procedures, subject to the approval of the Secretary, that cover such matters as—
 - (1) operating procedures;
 - (2) rules of conduct;
 - (3) eligibility criteria for receipt of funds under subsection (b)(2)(B)(i) of the Act;
 - (4) application selection procedures;
 - (5) procedures for appeals to decisions of the Committee;
 - (6) fund disbursement procedures; and
 - (7) fund recoupment procedures;
- (E) carry out financial management in accordance with paragraph (6) of the Act; and

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- (F) in accordance with subsection (b)(2)(C)(ii) of the Act, use a portion of the interest funds from the Trust Fund to pay the reasonable and necessary expenses of the Committee (including per diem rates for attendance at meetings that are equal to those paid to Federal employees in the same geographic location), except that not more than \$100,000 of those funds may be used to develop written rules and procedures described in subparagraph (D) of the Act.
- 5.2 The Committee shall have the authority to develop and approve administrative policies and procedures necessary for the efficient and effective administration of the Western Shoshone Educational Trust Fund.
- 5.3 The Committee shall delegate administration of any contract between the Committee and an outside entity, to the Chairman. The Committee, on recommendation of the Chairman, shall have authority to modify, reauthorize and renegotiate any contract. The Committee shall have authority to initiate termination of any such contract for cause, on recommendation of the Chairman or on their own action, pursuant to the terms of any such contract and these Bylaws.
- 5.4 Carry out financial management in accordance with paragraph (6)(A) of the Act; employ an independent certified public accountant to prepare a financial statement for each fiscal year that discloses
- (A) the operating expenses of the Committee for the fiscal year; and
 - (B) the total amount of funds disbursed under sub-section (b)(2)(B)(i) of the Act for the fiscal year.
- 5.5 Provide to the Secretary, to each organization represented on the Committee, and, on the request of a Western Shoshone member, to the Western Shoshone member, a copy of—
- (A) the financial statement prepared under subparagraph (A) of the Act; and
 - (B) the list of names compiled under paragraph (4)(B) of the Act.
- 5.6 Amounts in Trust Fund.—
With respect to amounts in the Trust fund—
- (A) the principal amount:
 - (1) shall not be expended or disbursed; and
 - (2) shall be invested in accordance with section 1 of the Act of June 24, 1938 (25 U.S.C. 162a); and
 - (B) all interest income earned on the principal amount after the date of establishment of the Trust fund—
 - (1) shall be distributed by the Committee:
 - (a) to Western Shoshone members in accordance with this Act, to be used as educational grants or for other forms of educational assistance determined appropriate by the Committee; and
 - (b) to pay the reasonable and necessary expenses of the Committee (as defined in the written rules and procedures of the Committee); but
 - (2) shall not be distributed under this paragraph on a per capita basis.

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- 5.7 Ensure that under Public Law 108-270, section 3,(c)(4) of the Act, Unpaid Funds shall be added to the Western Shoshone joint judgment funds held in the Trust Fund under section 4(b)(1) -
- (A) all per capita shares (including interest earned on those shares) of living competent adults listed on the judgment roll that remain as of the date that is:
 - (1) 6 years after the date of distribution of the Western Shoshone judgment funds under paragraph (1); or
 - (2) in the case of an individual described in paragraph (2)(D) of the Act, 6 years after the date on which the individual reaches 18 years of age; and
 - (B) any other residual principal and interest funds remaining after the distribution under paragraph (1) is complete.

ARTICLE VI — COMMITTEE OFFICERS

- 6.1 **Officers.** Officers of the Committee shall consist of a chairperson, vice-chairperson, secretary and treasurer, elected from among the members of the Committee (WSETFC).
- 6.2 **Election of Officers.** The Committee shall elect a chairperson, a vice-chairperson, secretary and treasurer from the Committee.
- 6.3 **Terms.** Upon approval of the Bylaws, the terms of officers shall be the same as Committee members (Article IV, section 4.3).
- 6.4 **Vacancy/Resignation.** From time to time appointments to fill a vacancy/resignation, caused by other than expiration of a member's regular term, may be necessary and shall be only for the unexpired part of the term, in accordance with Article IV.

ARTICLE VII — DUTIES OF OFFICERS

- 7.1 **Chairperson** - The chairperson of the Committee shall preside over all meetings regarding the administration of the Educational Trust Fund. He/she shall perform all duties of a chairperson and exercise any authority delegated to him/her by Committee.
- 7.2 **Vice Chairperson** - The vice chairperson of the Committee shall assist the chairperson when called upon so to do and in the absence of the chairperson he/she shall preside. When so presiding, he/she shall have all the rights, privileges, and duties as well as responsibilities of the chairperson.
- 7.3 **Secretary** - The secretary of the Committee shall be responsible for all Committee correspondence and keep a complete and accurate record of all matters transacted at Committee meetings in an efficient manner.
- 7.4 **Treasurer** - The treasurer of the Committee in cooperation with the U.S. Department of the Interior, Office of the Special Trustee for American Indians, shall accept, receive, receipt for, reconcile, preserve, report and safeguard all funds, receipts and expenditures in the custody of the Committee.

ARTICLE VIII — MEETINGS

- 8.1 Regular Meetings.** Regular meetings of the Committee, whether that be in person or technologically enhanced, shall be held at least bi-annually or as often as necessary. Notice of regular meetings of the Committee shall be prearranged annually based upon critical financial aid time-lines for the Fall and Spring semester or tri-semester schedules and reminders received by Committee members at least ten (10) calendar days in advance of the meeting date, shall be made orally or in writing, and shall state the time, date, place and agenda of the meeting at the member's address of record.
- 8.2 Special meetings.** Special meetings and agenda of the Committee may be called by, at the request of the Chairperson of the Committee or by a majority of Committee members and shall be held at a location as the Committee may decide, by consensus.
- 8.3 Order of Business -** The following order of business is established for all Meetings:
- I. Call to order by the chairperson
 - II. Roll call
 - III. Establish quorum
 - IV. Reading of the minutes of last meeting
 - V. Adoption of the minutes by a vote or common consent
 - VI. Financial Reports
 - VII. Unfinished business as outlined in meeting agenda
 - VIII. New business as outlined in meeting agenda
 - IX. Adjournment.
- A flexible agenda will be approved at the commencement of each meeting.
- 8.4 Minutes.** Minutes shall be recorded and approved by consensus of the committee. A record of approved minutes shall be maintained by the Committee.
- 8.5 Quorum.** A quorum for the transaction of business at any meeting of the Committee shall be a majority of the Committee members established by these Bylaws. In the absence of any Committee officer, a quorum may select another Committee member to preside over a regular or special meeting of the Committee by majority vote of the members present.
- 8.6 Compensation.** In accordance with Public Law 108-270, subsection (b)(2)(B) of the Act, Committee members shall use a portion of the interest funds from the Trust Fund to pay the reasonable and necessary expenses of the Committee (including per diem – rates for attendance at meetings that are equal to those paid to Federal employees in the same geographic location), except that not more than \$100,000 of those funds may be used to develop written rules and procedures described in subparagraph (D).
- 8.7 Accountability.** The Committee shall be responsible to the members of the participating Tribes with eligible Western Shoshone members and shall provide them with an annual report.

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ARTICLE IX - CONSULTATION AND REGULATION

- 9.1 Consultation and Regulation.** The U.S. Department of the Interior, Office of the Special Trustee for American Indians, shall consult with the Committee on the management and investment of the funds distributed under the Act and may promulgate such regulations as are necessary to carry out this Act.

ARTICLE X - APPEALS

- 10.1** The Committee has the discretion to review an application that has been denied due to factors beyond the student's control.
- 10.2** Late applications will not be considered.
- 10.3** The Committee will appoint a minimum of three (3) non-committee persons, knowledgeable of the WSETF-AC Bylaws and policies, to an Appeals Board.
- 10.4** The WSETF Appeals Board will be convened upon receipt to the Committee of a requested appeal.
- 10.5** Applicants have ten (10) calendar days from the date of the certified mailing to request an appeal. The appeal must be in written form and postmarked within ten (10) calendar days.
- 10.6** The WSETF Appeals Board will convene within ten (10) calendar days upon receipt of the written appeal and respond to the applicant within ten (10) calendar days.
- 10.7** The decision of the WSETF Appeals Board will be final.

ARTICLE XI - AMENDMENTS

- 11.01 Amendments.** These Bylaws may be amended by majority vote of the Committee.

ARTICLE XII - PARLIAMENTARY AUTHORITY

- 12.1** The rules contained in the current edition of ROBERT'S RULES OF ORDER NEWLY REVISED shall govern the Western Shoshone Educational Trust Fund - Administrative Committee in all cases to which they are applicable and in which they are not inconsistent with the Bylaws and any special rules of order the organization may adopt.

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ARTICLE XIII – REASONABLE AND NECESSARY EXPENSES

13.1 DEFINITION

Reasonable and necessary expenses are Administrative Committee travel reimbursement for WSETF-AC meetings, supplies, equipment and preparation costs of meeting documents, financial audits, and committee communication costs. Scholarship grants are a separate expense as noted in the adopted budget. Other expenses may be required to carry out the functions of the Western Shoshone Education Trust Fund. All expenditures must be pre-approved by the WSETF-AC.

13.2 GRANT PAYMENT VOUCHER

The authorized payment voucher/purchase order form will be used to pay vendors (i.e. schools, institutions, businesses, etc.) against the Western Shoshone Educational Trust Fund – Administrative Committee Income Account.

13.3 OUT-OF-POCKET PAYMENTS

If a WSETF Administrative Committee member and/or selected volunteer incurs a pre-approved out-of-pocket expense, the individual should seek reimbursement by attaching the receipt(s) to the WSETF-AC payment voucher. Out-of-Pocket expenses payment must adhere to the WSETF Purchase Voucher Codes.

13.4 TRAVEL REIMBURSEMENT

GSA rates will apply to all pre-approved travel expenses submitted by members, staff and their designated alternates of the WSETF Administrative Committee.

*Travel rates are applicable for mileage, meals & incidentals and lodging.

13.5 FINANCIAL REPORTS

In order to comply with Section 4(b)(2)(A & B) of the Public Law 108-270:

- a. The WSETF-AC will receive monthly operating expenditure report from the WSETF-AC Treasurer.
- b. The WSETF-AC will receive a monthly accounting report from the Office of the Special Trustee of the investment management for the Trust Funds.
- c. The WSETF-AC will receive an annual accounting report of assets and expenditures from the Office of the Special Trustee of the Trust Funds.

