



HO-CHUNK NATION CODE (HCC)
TITLE 4 – CHILDREN, FAMILY, AND ELDER WELFARE CODE
SECTION 8 – CHARITABLE REQUEST ACT

ENACTED BY LEGISLATURE: JANUARY 11, 2001

LAST AMENDED AND RESTATED: February 7, 2017

CITE AS: 4 HCC § 8

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1. Authority.

a. Article V, Section 2(a) of the Constitution grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.

b. Article V, Section 2(r) of the Constitution grants the Legislature the power to protect and foster Ho-Chunk religious freedom, culture, language, and traditions.

c. Article V, Section 2(s) of the Constitution grants the Legislature the power to promote public health, education, charity, and such other services as may contribute to the social advancement of the members of the Ho-Chunk Nation.

d. The Ho-Chunk Nation Tribal Aging Unit (TAU) Advisory Board By-Laws provides the TAU Board the power and the duty to review and to make recommendations on proposals relating to Elder Assistance Fund matters prior to approval by the Legislature.

2. **Purpose.** This Policy regulates the funding, management, and use of the following funds.

a. The Elder Assistance Fund was established to benefit and enrich the lives of the Nation's Elders by providing for their health, care, and welfare.

b. The Youth Assistance Fund was established to benefit and promote the welfare of the Nation's children.

c. The Charitable Contributions Fund was established to benefit and promote programs, activities, and services that contribute to the social advancement and general welfare of the Ho-Chunk Nation.

3. **Scope.** This policy applies to only the funds under the control of the Legislature. The Department of Business has its own budget line item for promotions, sponsorship, and donations to non-profit organizations.

4. **Definitions.** Terms used in this policy have the following meaning.

a. "Charitable Contribution" means a financial gift made by the Legislature to an individual or organization for the overall benefit of the Nation.

b. "Child" means a person who is an enrolled member of the Nation or eligible for enrollment and less than eighteen (18) years old, except for Tribal members eligible for education assistance pursuant to paragraph 5c(2), below.

c. "Disabled/Handicapped" means any Tribal member unable to engage in any substantial gainful activities by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months.

d. "Elder" means any person who is sixty (60) years of age or more and has been an enrolled member of the Ho-Chunk Nation for a minimum of five (5) years.

e. "Elite Elder" means any person who is seventy (70) years of age or more and has been an enrolled member of the Ho-Chunk Nation for a minimum of five (5) years.

f. "Emergency" means a situation involving a direct threat to the health, safety, or welfare of a Tribal member of the Ho-Chunk Nation or that person's immediate family, which requires an immediate response. This does not include situations that are chronic or recurring.

g. "Grant" means financial or other assistance provided by the Nation to enhance the health, safety, or welfare of a Tribal member without obligation of repayment by the Elder, the child's family, or the disabled/handicapped member.

h. “Lease” means an agreement, which gives rise to a relationship between a lessor and a lessee for real or personal property. It is a contract for exclusive possession of property for a defined term where the owner has the absolute right to retake, control, repossess, or use the property.

i. “Nation” means the Ho-Chunk Nation.

5. Declaration of Policy.

a. Each of the funds shall be used as the payer of last resort. Applicants for grants and financial assistance shall have completely exhausted all other available resources to be eligible for assistance using these funds.

b. Elder Assistance Fund. The Elder Assistance Fund shall be reserved to only fund grants and other types of assistance benefiting the Nation’s Elders.

(1) For the purpose of group activities, at least fifty-one (51) percent of the participants must be Elders to qualify for the grant or financial assistance.

(2) The Tribal Aging Unit (TAU) Advisory Board (“Board”) shall have oversight of the Elder Assistance Fund.

(3) All reasonable requests necessary for the health and welfare of Elite Elders shall be honored as a matter of policy.

(4) Elder Tax Assistance Program. This program provides Elite Elders with financial assistance to pay property and personal income taxes.

(a) Available Assistance. Assistance will be given to pay property and/or income taxes. Each qualified Elite Elder is eligible for a grant of up to \$3,000 total for tax assistance each tax year. In addition to the current tax year, back taxes within the preceding three (3) tax years can be paid within the \$3,000 yearly cap. This assistance is only available for taxes owed by the Elite Elder. Tax bills and income tax returns must be in the name of the eligible Elite Elder.

(b) Application. Elite Elders shall be eligible to apply for this assistance by completing an application available through the Department of Treasury. Application must include a list of all income and a copy of the tax bill or income tax return for which the Elite Elder is requesting assistance for.

(c) Program Administrator. The Department of Treasury shall administer this program. It shall develop and publish the necessary application forms and instructions necessary to implement this program.

(d) Payment. Unpaid tax assistance shall be paid by the Department of Treasury directly to the taxing authority (county, state, or federal). For taxes

already paid, the Elite Elder may be reimbursed by the Nation's Department of Treasury, subject to the yearly cap, and based upon evidence of payment made to the applicable taxing authority, pursuant to Section 5.b.(4)(a).

(e) Income. The financial assistance received by an Elite Elder under this program shall be considered taxable income if the Elite Elder's income exceeds the limit permitted for the size of the household pursuant to federal guidelines available from the Program Administrator.

(5) The Legislature retains final decision-making authority for the use of the Elder Assistance Fund and may use this authority for discretionary spending that is in the best interest of the Nation's Elders.

c. Youth Assistance Fund. The Youth Assistance Fund shall be reserved to fund grants and other types of assistance benefiting the Nation's children.

(1) All funding requests for youth events shall be submitted to the Legislature at least ninety (90) days prior to the event.

(2) Educational Assistance. The Youth Assistance Fund may be used for grants to students, up to the age of twenty-three (23) years, in an accredited program to assist with student fees provided that the student is a full-time student and is sponsored by the Ho-Chunk Nation Department of Education. Further, the student must meet the school's minimum Grade Point Average (GPA) for completion of work.

d. The Charitable Contribution Fund shall be reserved to fund grants and other types of donations for Tribal members and for the sponsorship of events and activities benefiting the Nation that are not funded through donations from the Department of Business.

e. Disabled/Handicapped Members.

(1) Special Equipment.

(a) Members with disabilities may request special equipment not otherwise provided by federal, state or other public programs, or other Tribal programs or resources.

(b) Requests shall be made through the Department of Health and Social Services and shall include a statement from a physician stating the extent of and the permanence of the disability. The Department shall confirm the degree of the disability and the necessity for the requested equipment and make a recommendation to the Legislature.

(c) Equipment purchased from charitable funds and provided to a Member shall remain the property of the Nation under the control of the Department of

Health and Social Services and shall be leased to the Member. The equipment will be returned to the Nation when no longer used or required by the Member. The Member may be held liable for damage or loss of the equipment.

(d) Special equipment as used in this section does not include motor vehicles.

(2) Special Needs and Services. Disabled/handicapped members with special needs or services not provided for by federal, state, or other Nation programs may make application to the Legislature for consideration.

f. The Elder Assistance Fund, Youth Assistance Fund, and Charitable Contribution Fund shall not be used to provide funds for the following:

(1) Local, state, or federal taxes, which includes property, income, or sales tax, except that qualified Elders may use up to \$3,000 annually pursuant to paragraph b(5), above.

(2) Utility expenses, rent, mortgage, educational loans, medical, dental, personal expenses, or obligations in arrears.

(3) Damage or loss due to fire.

(4) Vehicle purchases or repairs.

(5) Purchase of household appliances or luxury items such as televisions, stereos, etc.

(6) Moving expenses, except as follows:

(a) The Elder Assistance Fund may be used to fund up to \$700.00 for a onetime permanent relocation of an Elder.

(b) A grant of \$700.00 for a one-time permanent relocation of a disabled/handicapped Tribal member.

(7) Modeling fees.

(8) Child custody and divorces.

6. Fund Revenue Sources. The Youth and Elder Assistance Funds and the Charitable Contribution Fund shall be an annual appropriation by the Legislature.

7. Procedures for Requesting Funds.

a. Requests from Tribal members for personal financial assistance, except for the Elder Tax Assistance Program (see paragraph 5b (5)), shall be submitted in writing to the Legislature. Requests must be accompanied by all documentation justifying the request. This documentation includes denial letters from governmental agencies from which assistance had been sought and denied. See paragraph 5b (3) for special provisions when requesting funds for Elders with disabilities. No requests, except for emergencies, during the period two (2) weeks prior to and two (2) weeks after per capita payments.

b. A Legislative staff member shall review the District Request Form. If there is a determination that the request does not meet the requirements of this Policy or the laws of the Nation, the request shall be denied by the Legislative staff member and a denial notice provided to the person making the request.

c. All requests for donations or sponsorship from non-profit organizations not affiliated with the Nation, as determined by the Legislature upon receipt, shall be referred to the Department of Business.

d. All requests for donations or sponsorship from Tribal members or Tribal affiliated organizations shall be submitted in writing to the Legislature. Written justification is required. The justification shall include a statement of other sources of funding requested and the amounts granted.

8. Legislative Action.

a. Prior to deliberation by the Legislature, all requests shall be screened by Legislative staff members to ensure proper justification and eligibility for a grant or other financial assistance. Incomplete requests shall be returned for additional information.

b. The TAU Board shall be consulted on non-emergency requests for assistance by an Elder or the Elder's family.

c. Approved requests are not final until the minutes of the Legislature are ratified at the next duly called meeting of the Legislature.

9. Payment of Funds.

a. Grant payments shall be made only to the vendor or service providers, unless expressly specified or exempted in the official Legislative Meeting minutes.

b. Payment vouchers involving equipment shall clearly state that the equipment or property is to be purchased in the name of the Nation and shall remain under Nation control, unless specifically exempted by the Legislature.

10. Reconciliation of Charitable Contributions. The expenditure of funds provided as charitable contributions for sponsorship of events shall be subject to reconciliation. Within fifteen (15) days after the sponsored event, the individual or organization that received the contribution shall provide receipts and vouchers for all expenditures to the Legislative staff member. The individual or organization shall be responsible to the Nation for reimbursement of all unused funds.

11. Tax Liability. The Nation shall determine on the basis of each grant and existing legal guidance whether to report any grant as a taxable event on Form 1099 or to treat the grant as qualifying as non-taxable. Notwithstanding the position which the Nation takes on taxability, any individual or organization receiving a financial grant or sponsorship from the Nation is responsible for paying all Federal and State taxes that may be finally assessed on the grant. The Nation shall not be held liable for unpaid taxes by grantees or charitable contributions from the Nation.

12. Record Keeping. Legislative staff members shall maintain a record by individual or organizations within their respective Districts receiving grants or donations under this policy.

Legislative History:

06.20.00	TAU Advisory Board reviews draft Elder Slot Fund Policy.
06.26.00	Vice President requested a Charitable Request Policy.
07.12.00	Draft Charitable Request Policy reviewed by Administration Committee and tabled for further review.
07.19.00	Reviewed by TAU Advisory Board.
09.13.00	Administration Committee forwards to full Legislature for 45-day Public Review.
01.11.01	Enacted by Legislative Resolution 01/11/01A.
02.06.02	Amended and Restated by Legislative Resolution 2/6/02B to amend para 5e (1) (elder over 80exception).
02.21.02	Amended and Restated by Legislative Resolution 2/21/02A adding the Elder Tax Assistance Program and deleting the District Request Form.
04.02.02	Amended and Restated by Legislative Resolution 4/2/02E clarifying the definition of disability (para 4c), funding of motor vehicles for the disabled (para 5e), and changing the Policy to an Act.
01.20.04	Amended and Restated by Legislative Resolution 1/20/04A adding paragraph 5c (2) providing for student educational grants funded from the Youth Slot Fund.
07.20.04	Legislature places amending draft out for 45-Day Public Review.

- 09.08.04 Amended and Restated by Legislative Resolution 9/8/04E reducing the age of Elite Elder to 70 and adding provisions for disabled/handicapped members.
- 11.02.04 Amended and Restated by Legislative Resolution 11/2/04C changing names of Elder and Youth Slot Funds to the Elder Assistance Fund and the Youth Assistance Fund, respectively.
- 08.04.09 Legislature places Charitable Request Act out for public review and comment by adoption of Resolution 8-04-09D.
- 08.23.11 Legislature adopts Resolution 8-23-11D, creating Legislative Workgroup to review the Charitable Request Act and update the law.
- 11.04.14 Legislative Resolution 11-04-14A Quick Passage Procedure to Amend the Charitable Contribution Act – Defeated.
- 11.04.14 Legislative Resolution 11-04-14B adopted, placing the Charitable Contribution Act out for forty-five day public review.
- 11.07.16 Legislature places Charitable Contribution Act out for forty-five day public review and comment, by motion.
- 02.07.17 Legislature adopts Resolution 2-07-17Y approving amendments to Section 5.b (4) of the Act.