

CHAPTER 1 - GENERAL PROVISIONS

Section 19-1-1. Policy.

A. Compliance with IGRA. This Title shall comply with the Indian Gaming Regulatory Act of 1988 [25 U.S.C. 2701 *et seq.*] and all other applicable federal law.

B. Tribal Government and Tribal Economic Development. The Flandreau Santee Sioux Tribe shall use revenues generated by tribal gaming primarily to strengthen the tribal government, tribal self-sufficiency and to support tribal economic development. The Tribe shall ensure that tribal government and tribal economic development shall receive the necessary financial support from net gaming revenues prior to distributing such revenues for other purposes.

C. Preservation and Strengthening of Flandreau Santee Sioux Society, Economy and Culture. The Tribe shall work to reverse the lasting effects of the termination policy of the 1950s and 1960s which promoted migration away from the Reservation in an effort to encourage and expedite assimilation of Indian people into non-Indian society. The Tribe is committed to strengthening its Reservation community socially, economically and culturally in its continuing efforts to realize its goal of self-determination. Tribal members residing on the Flandreau Santee Sioux Reservation or within the two-county area that includes Moody and Minnehaha counties in South Dakota contribute daily to the advancement of the Reservation's society, economy and culture. The Tribe recognizes that increased personal daily contributions of Tribal members to the advancement of the Reservation society, economy and culture will have the long term effect of enhancing the Tribe's survivability. The Tribe shall encourage Tribal members to return to live and contribute socially, economically, and culturally to the Reservation community and shall provide incentives to Tribal members in an effort to realize the goals of this policy.

D. Caring for Future Generations. The Tribe also retains the inherent sovereign right to determine the best interests of its qualified minor tribal members by providing for their future welfare by placing monies into trust for the benefit of those minor tribal members. The Tribe shall provide for the future of qualified minors while encouraging tribal member parents to provide for the immediate living needs of their children, as is their responsibility. In cases of hardship or for other reasonable justification, the Tribe shall allow for payment of living necessities and education of minor tribal members from any trust income held for qualified minor tribal members.

E. Internal Matter. The determination of those qualified members of the Flandreau Santee Sioux Tribe entitled to share, and the manner in which they share, Tribal gaming profits is strictly an internal tribal matter and an inherent power of the Tribe. In light of its policy to encourage the continued strengthening of its Reservation community, the Tribe retains the inherent sovereign right to determine the best interests of tribal members and to prioritize the allocation of its limited resources in a manner that best satisfies the needs of tribal members living within the Reservation community as that term is defined in this Title.

Section 19-1-1.1. Definitions

A. Confirmation of Residency – A document issued by the Flandreau Santee Sioux Tribal Executive Committee or its designee that confirms that a tribal member has met the residency and other requirements to be eligible for per capita payments.

B. Flandreau Santee Sioux Reservation – Any territory as may now be held or hereafter acquired by or for the Flandreau Santee Sioux Tribe under any laws of the Tribe or the United States.

C. IGRA – Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2701 *et seq.*

D. In-patient Treatment – Means intensive residential rehabilitation treatment in which a patient is provided with 24 hour care at a facility for addiction.

E. Per Capita Payment – Means those payments made pursuant to the terms of this Title to Qualified Members. No other commonly accepted or used definition of the term “per capita” affects the use of the term within this Title.

F. Physical Residence – Physical residence shall mean at a minimum, actual physical presence and maintenance of a residence within the Reservation community with the intent to make said residence the individual's permanent home and primary residence. A hotel or other transitory address shall not be considered a residence.

G. Qualified Member or Qualified Tribal Member – For the purposes of this Title, means those individuals who are duly enrolled in the Flandreau Santee Sioux Tribe, eighteen (18) years of age, and who reside within the Reservation community, and who meet the other residency requirements described in Chapter 3 of this Title.

H. Reservation community – Means the Flandreau Santee Sioux Reservation and the counties of Moody and Minnehaha in South Dakota.

Section 19-1-2. Allocation of Net Gaming Revenue.

The Executive Committee hereby distributes the net revenues derived from Class II and Class III Gaming as follows:

1. Tribal Economic Development	35%
2. Individual Per Capita Payment	40%
3. Minors Trust Fund	5%
4. Tribal Government Operations	15%
5. Community Assistance Fund	4%
6. Higher Education Fund	1%

The funds hereby allocated to the aforesaid categories shall be expended in accordance with the provisions provided in this Title.

Section 19-1-3. Annual Budget Appropriations.

Prior to the beginning of each fiscal year, the Executive Committee shall review the allocations set forth herein and make a determination whether the allocations should be modified.

The Executive Committee shall prepare budgets for the following categories prior to the beginning of each fiscal year:

1. Community Fund;
2. Tribal Government Operations;
3. Economic Development;

Budgets set by this section may be modified by Resolution of the Executive Committee.

Section 19-1-4. Repeal of Inconsistent Legislation.

Notwithstanding any previously applicable or inconsistent provisions of tribal law, which are hereby repealed and rescinded, this Title shall govern the allocation of available net revenues from tribally owned gaming establishments including per capita distribution to qualified tribal members of the available proceeds of the gaming businesses of the Flandreau Santee Sioux Tribe.

Section 19-1-5. Severability.

If any section of any part of this Title or the application thereof to any party, person, or entity or, in any circumstances, shall be held invalid for any reason whatsoever by a court of competent jurisdiction, or by the Department of the Interior, the remainder of the Title shall not be affected thereby and shall remain in full force and effect as though no part thereof has been declared to be invalid.

Section 19-1-6. No Waiver of Sovereign Immunity.

Nothing in this Title shall mean or be interpreted to provide a waiver of the Tribe's or any of its governmental officers' and or agents' sovereign immunity from suit except to the limited extent such waiver is explicitly expressed herein.

Section 19-1-7. Amendment or Repeal of Title.

This Title, and any word, provision, part may be amended or repealed only by a resolution vote of the Executive Committee in regular session and subsequent approval by the Secretary of the Department of Interior or his designee.

Section 19-1-8. Per Capita Committee – Establishment; Composition; Authority.

A. Creation. There is hereby established a Per Capita Committee. The Per Capita Committee is established by the Flandreau Santee Sioux Tribe specifically to provide fair and unbiased direction in the administration of Per Capita payments.

B. Composition; Vacancies; Eligibility; Removal. The Per Capita Committee shall be composed of five (5) members, appointed to the Committee by the Executive Committee. Each Per Capita Committee member shall be appointed by the Executive Committee and shall serve a (4) four-year term. To be eligible to serve on the Per Capita Committee, the office holder(s) must be a Qualified Tribal Member as that term is defined in this Title. The Executive Committee may remove any committee member for neglect of duty, dishonesty, misconduct in office, or two consecutive unexcused absences, or any other matter that has a substantial and adverse effect on the Committee member’s ability to perform the duties of office. Notice of removal, written charges and an opportunity to be heard must be provided prior to removal.

C. Authority. The Per Capita Committee is empowered by the Flandreau Santee Sioux Tribal Executive Committee to ensure that the distribution process for per capita is fair and equitable. The primary responsibility of the Committee is to ensure that Title 19 policies and procedures are carried out by the Per Capita Office in accordance with this Title. The Per Capita Committee is authorized to:

Determine eligibility for per capita payments based on the criteria established by this Title.
Hold one meeting per month to conduct the business and duties of the Per Capita Committee. Other meetings may be held as determined necessary by the Per Capita Committee or its designee.

Conduct other duties related to per capita benefits as determined by the Executive Committee.

Section 19-1-9. Per Capita Office – Establishment; Authority

A. Creation and Composition of Office. There is hereby established a Per Capita Office. The Per Capita Office is established by the Flandreau Santee Sioux Tribe specifically to administer the provisions of Per Capita payments pursuant to this Title. The Per Capita Office shall be staffed by a Membership Services Clerk. The Membership Services Clerk may staff the Per Capita Office with a Secretary or an Assistant if needed, and as permitted by available tribal funds. Individuals employed in the Per Capita Office are tribal employees.

B. Authority and Duties.

Relationship and Responsibilities – Executive Committee. It is the responsibility of the Per Capita Office to carry out the provisions of this Title pursuant to the authority delegated to it by the Executive Committee.

Relationship and Responsibilities – Per Capita Committee. It is the responsibility of the Per Capita Office to facilitate and execute eligibility determinations made by the Per Capita

Committee, and carry out other provisions of this Title pursuant to the authority delegated to it by the Per Capita Committee.

Relationship and Responsibilities - Tribal Members. With respect to tribal members, the Per Capita Office receives, reviews, and evaluates applications in accordance with this Title.

Section 19-1-10. Hearing and Appeals.

A. Limited Waiver of Sovereign Immunity. In the event a member is given an adverse decision under any provision in this Title, the individual may bring an action in Tribal Court to seek review of such determination after the administrative remedies have been exhausted. The Executive Committee hereby waives its sovereign immunity for the limited purpose of allowing judicial review of any adverse determination relating to the eligibility status of members pursuant to the terms of this Title. This waiver shall not include authority for the Tribal Court to enter any order other than a declaration of eligibility and shall specifically exclude the issuance of all other relief.

B. Process. Any individual who has received an adverse decision involving per capita (ex: denial of eligibility or termination of per capita benefits) has the right to an appeal and hearing in FSST Tribal Court. The individual desiring a hearing must request one within 5 business days after being notified of the adverse decision. The five (5) days shall begin from the date of personal service on the individual, the date of the individual's signed receipt of the certified notice of the decision, the date of the individual's refusal of the certified notice of the adverse decision, the date the certified notice of the adverse decision is returned as unclaimed after a second notice, or a certified notice returned for reason of an improper address if the improper address was provided by the applicant. The burden is on the applicant to provide the Per Capita Office with a current address for certified notices and to accept any certified notice attempted by the Per Capita Office. If no hearing request is received within the five (5) day timeframe, the adverse decision shall become final.

All appeals shall be to the Tribal Court. At the hearing, the individual shall be entitled to present evidence regarding his or her case and may be represented by counsel at his/her own expense. The Per Capita Committee shall be present at the hearing in order to present the grounds for its decision.

C. Notice. When an individual requests a hearing under 1-19-10, the FSST Tribal Court shall provide written notice of the hearing to the individual by certified mail, not less than fifteen (15) days before the hearing. The notice shall contain the reason for the hearing, describe evidence to be presented, and shall advise the participant of the right to be represented, and to present witnesses in his/her defense.

D. Final Decision on Appeals. The decision of the Tribal Court on an appeal shall be final.