

**RINCON BAND OF LUISEÑO INDIANS
RINCON INDIAN RESERVATION, CALIFORNIA**



**RINCON DESCENDANT EDUCATION
SCHOLARSHIP PROGRAM ORDINANCE
RINCON TRIBAL CODE § 17.150**

Adopted January 18, 2018

RINCON DESCENDANT EDUCATION SCHOLARSHIP PROGRAM

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§ 17.150 FINDINGS AND PURPOSE

(a) The combination of the extremely troubled history of Indian education, forced cultural assimilation in government-run boarding schools, chronic under funding by the federal government to Indian education programs and persistent generational poverty have resulted in substantial deficits in educational attainment of Rincon Tribal members and their Lineal Descendants relative to mainstream United States populations.

(b) Historically, Rincon Tribal Members and Lineal Descendants have had low levels of access to quality pre-school programs, primary, secondary and post- secondary educational systems and, as a result, low levels of educational attainment.

(c) To address the historical effects on access to quality education and improve educational performance and achievement of Tribal Members and Lineal Descendants, this Ordinance shall establish an educational program to fund Tribal Government educational benefits for Eligible Lineal Descendants. For ease of administration, a separate, companion program is established under Rincon Tribal Code §17.100 for Eligible Tribal Members.

(d) The Rincon Education Scholarship Program ("RESP") shall fund the participation of Eligible Tribal Members and Eligible Lineal Descendants in an educational or Vocational program, including the provision of tools, equipment, materials and supplies to support educational endeavors, tuition, room and board and transportation costs for college or university attendance, Vocational or technical education, adult, continuing and alternative education as further defined and permitted by Ordinance and written implementation procedures.

§ 17.151 DEFINITIONS

(a) **“Accredited”** means an Eligible Educational Institution (university, college or post-secondary educational or Vocational institution) licensed, endorsed and or approved by an internationally, nationally, or regionally recognized accreditation association, board, agency, industry or trade group.

(b) **“Application Contents”** means all of the Lineal Descendant documents enumerated in Section D of the RESP Manual to apply for RESP Funds.

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(c) **“Application Fee Reimbursement”** means RESP Funds disbursed as reimbursement for one application fee, per degree or per program, paid by the RESP Recipient to an Eligible Educational Institution that accepted and enrolled the RESP Recipient.

(d) **“Band”** means the Rincon Band of Luiseño Mission Indians of the Rincon Reservation, California, a federally recognized Indian tribe exercising jurisdiction over the Rincon Reservation in Valley Center, California.

(e) **“Band Member”** means any enrolled member of the Band and shall be have the same meaning as Tribal Member.

(f) **“Cultural Enhancement Course”** means any course directly related the enhancement of knowledge of Luiseno culture.

(g) **“Education Coordinator”** means the Tribal Government representative designated by the Tribal Administrator to execute administrative functions of the RESP as required by this Ordinance.

(h) **“Educational Commitment Essay”** means a written statement by an Eligible Lineal Descendant that describes his or her educational interests and ultimate goals and submitted in accordance with the RESP Manual instructions.

(i) **“Educational Endeavor”** means course work by an RESP Recipient that leads to and achieves (i) a Vocational, technical, trade, craft, professional certification, or certification that leads to employment opportunities, or (ii) a college, university or other post-secondary degree (including an associate, bachelors, masters or doctoral degree).

(j) **“Educational Supplies”** means books.

(k) **“Eligible Educational Institution”** means an Accredited (i) public, private, proprietary, non-profit or for-profit university, college or post-secondary institution eligible for participation in student aid programs administered by the United States Department of Education or (ii) Vocational school or program.

(l) **“Eligible Lineal Descendant”** means (i) a Lineal Descendant of the age eighteen (18) or older, or (ii) a Lineal Descendant with a high school diploma, G.E.D. or the equivalent.

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(m) **“Fiscal Year”** means the calendar year commencing January 1st and ending December 31st each year.

(n) **“Full-time Student”** means an RESP Recipient that is enrolled in an Eligible Educational Institution and attends either: (i) twelve (12) or more units per quarter or semester, or (ii) six (6) to eight (8) hours per day.

(o) **“G.E.D.”** means General Equivalence Diploma.

(p) **“Good Standing”** means a Tribal Member, Lineal Descendant or Guarantor who (i) is in compliance with all applicable Tribal Laws, and (ii) owes no financial debts to the Band or has made arrangements for repayment of any debts owed to the Band subject to the satisfaction of the Tribal Council.

(q) **“Guarantor”** means the Band Member who (i) is the parent, grandparent great-grandparent, aunt, uncle or cousin of an Eligible Lineal Descendant, and (ii) agrees to be subject to the Rules of Reimbursement pursuant to Section 17.155 for the RESP Loan provided to his or her Lineal Descendant.

(r) **“Lineal Descendant”** means a person who is a direct descendant of, and in a blood relationship with, a Band Member following downwards to the remotest degree, such as his or her children, grandchildren and great-grandchildren.

(s) **“Ineligible Costs”** means costs that are not Reasonable Educational Costs as defined in §17.151(x), including Past Educational Debt, eligible for disbursement or reimbursement of RESP Funds as further described in the RESP Manual; Transportation Costs; and, Room and Board.

(t) **“Part-time Student”** means an Eligible Lineal Descendant who is enrolled at an Eligible Education Institution and attends (i) less than twelve (12) units per quarter or semester, or (ii) less than four (4) hours per day.

(u) **“Past Educational Debt”** means educational debt incurred to a Tribal Member or Lineal Descendant that is not eligible for RESP Funds.

(v) **“Per Capita Payment”** means those payments made or distributed to Eligible Tribal Members and Guarantors of the Band pursuant to the Ordinance Prescribing Allocation and Distribution of net Revenues from Tribal Gaming Activities for the Band, RTC § 6.300.

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(w) **“Proof Resident Status”** means written proof of residency for RESP Recipients who receive RESP Funds for Room and Board.

(x) **“Reasonable Educational Costs”** means Application Fee Reimbursement, Tuition, Educational Supplies (as defined in §17.151(j)), Educational Fees and Tuition.

(y) **“Recreational Course”** means recreational instruction that is part of an Educational Endeavor, the course units of which are counted toward a certificate or degree program.

(z) **“Release of Information”** means written statement(s) of permission, the form of which is usually provided by the educational institution, signed by an RESP Recipient authorizing RESP representatives to access individual educational records to verify enrollment and resident status and educational performance of RESP Loan recipients.

(aa) **“RESP”** means the Rincon Education Scholarship Program.

(bb) **“RESP Applicant”** means an Eligible Lineal Descendant who is applying for RESP funds for the first time, and who has not been a RESP Recipient.

(cc) **“RESP Application”** means the forms and supporting documents referred to in the RESP Manual that are required from an Eligible Lineal Descendant for participation in the RESP.

(dd) **“RESP Funds”** means either an RESP Grant, pursuant to Section 17.156, or an RESP Loan pursuant to Section 17.155(a).

(ee) **“RESP Grant”** means the RESP Recipient has attained the diploma, certification or degree associated with his or her Educational Endeavor and the RESP Loan provided to the RESP Recipient is not subject to the repayment pursuant to Section 17.155.

(ff) **“RESP Loan”** means RESP Funds that may be provided to an RESP Recipient to achieve an Educational Endeavor subject to the following maximum amounts each Fiscal Year: (i) up to five-thousand dollars (\$5,000) to an Eligible Lineal Descendant.

(gg) **“RESP Manual”** means the procedural instructions and forms provided to RESP applicants seeking to apply to the Tribal Government for RESP Funds.

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(hh) “RESP Recipient” means an Eligible Lineal Descendant who has received or is currently receiving RESP Funds pursuant to the RESP.

(ii) “Room and Board” means either (i) the amount charged by the college or university for the student to live on campus while enrolled as a full-time student, or (ii) a proportionate percentage of rental housing and utilities payments for a Lineal Descendant under the age of twenty-one (21), provided that monthly maximum amount does not to exceed one-thousand dollars (\$1,000) and provided further that maximum monthly food allowance for non-dormitory rental units or rooms, does not exceed three-hundred dollars (\$300), and provided further that the RESP Recipient is enrolled in no more than one (1) on-line educational course per quarter, semester or term.

(jj) “Transcripts” means written evidence of the RESP Recipient’s academic performance from an Eligible Educational Institution to which RESP Funds were disbursed pursuant to the RESP.

(kk) “Transportation Costs” means reasonable transportation expenses incurred by an RESP Recipient to travel to and from the educational institution in which he or she is enrolled, including, but not limited to, parking permits, bus or rail passes (mileage, gas and rental car fees are not Transportation Costs).

(ll) “Tribal Administrator” means the Tribal Administrator appointed by the Tribal Council to execute administrative functions on behalf of the Tribal Government.

(mm) “Tribal Council” means the elected Rincon Business Committee of the Band, which exercises the executive powers of the Band pursuant to Section 6 of the Articles of Association.

(nn) “Tribal Government” means the Rincon Tribal Government, its arms, agencies, departments, committees, instrumentalities, entities and enterprises.

(oo) “Tribal Laws” means laws, ordinances, codes, resolutions, policies and procedures enacted by the Tribal Council.

(pp) “Tribal Member” means any enrolled member of the Band and shall be have the same meaning as Band member.

(qq) “Tuition” means the educational fee for course work and enrollment at an Eligible Educational Institution whether it is either (i) paid by the Tribe to an Eligible

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Educational Institution directly from RESP Funds on a quarter, semester or annual basis, or (ii) paid by the RESP Recipient to the Eligible Educational Institution on a quarter, semester or annual basis, and reimbursed from RESP Funds to the RESP Recipient upon submission of proof of payment to the Eligible Educational Institution.

(rr) “**Vocational**” means an Educational Endeavor provided by an Eligible Educational Institution that results in certification that leads to employment opportunities, such as a certified nursing assistant, certified welder, certified computer technician, etc.

§ 17.152 **RESP ELIGIBILITY**

To be eligible for RESP Funds, a Lineal Descendant must be eighteen (18) years of age or older unless a Lineal Descendant has a high-school diploma, G.E.D., or the equivalent.

§ 17.153 **RESP FUNDING PRIORITIES**

RESP Applicants shall be considered for RESP Funds on a first-come, first-served basis. The date of receipt of the initial RESP Application shall be evidenced by a date stamp affixed by the Education Coordinator to each complete RESP Application submitted to the Tribal Government.

(a) **Order of Priority:** Subject to Section 17.154, all RESP funding shall be in the following order of priority:

- (1) RESP Recipients who are continuing their education with an Eligible Educational Institution;
- (2) RESP Applicants ages eighteen (18) (or with a high school diploma, G.E.D. or the equivalent) to thirty (30) years of age; and
- (3) RESP Applicants under eighteen (18) (or with a high school diploma, G.E.D. or the equivalent) and over thirty (30) years of age.

§ 17.154 **RESP FUNDS APPLICATION AND DISBURSEMENT PROCESS**

(a) **Application Requirement - New Students.** To receive RESP Funds for attendance at an Eligible Educational Institution for a specific Educational Endeavor, RESP

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Applicants (new students) must submit an initial written application for RESP Funds as further described and in accordance with the requirements set forth in the RESP Manual.

(b) Certification Requirement – Returning Students. To continue to receive RESP funds for attendance at an Eligible Educational Institution, RESP Recipients (returning students) must certify their continuing qualification for RESP funds as further described and in accordance with the requirements set forth in the RESP Manual.

(c) Good Standing Requirement. Eligible Lineal Descendants and Guarantors must be in Good Standing with the Band at the time of application and for the duration of any RESP Loan.

(d) Verification of Applicant Requirements. Subject to applicant compliance with Sections (a), (b) and (c) above, the Education Coordinator shall notice the applicant, Tribal Administrator, or designee, and Tribal Council when the application process is complete.

(e) Release of Information/Proof of Resident Status/Transcripts. Prior to disbursement of RESP Funds, an RESP Recipient must submit one or more of the following, as applicable, to the Tribal Administrator, or designee:

- (1) Completion of all necessary forms to effectuate a Release of Information from an Eligible Educational Institution;
- (2) Written proof of payment of Tuition to an Eligible Educational Institution;
- (3) Written proof of resident status and/or cost information in support of requests for Room and Board (including off-campus room & board where applicable);
- (4) Written proof of the Application Fee paid to the Eligible Educational Institution at which the RESP Recipient is enrolled;
- (5) Written proof of costs for Educational Supplies;
- (6) Written proof of Transportation Costs;

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- (7) Submittal of Transcripts or grade(s) report within ten (10) days of the date of disbursement or reimbursement of RESP Funds; and
- (8) Pursuant to RTC §§ 6.304(c) and 17.155, written consent by Guarantor to garnish his/her Per Capita for repayment of all RESP Loan funds.

§ 17.155 NATURE OF RESP FUNDS DISBURSEMENT

(a) **RESP Loan and Requirement of Repayment.** Subject to Sections 17.156 and 17.157, any and all disbursements of RESP Funds to an RESP Recipient shall constitute an RESP Loan, one-hundred percent (100%) of which shall be subject to repayment by the RESP Recipient and the Guarantor pursuant to the rules and procedures governing Per Capita Payments under RTC § 6.300 *et seq.*, and any policies and procedures then in effect at that time, if the RESP Loan is not converted into an RESP Grant pursuant to Section 17.156.

(b) **Circumstances Triggering Loan Repayment.** The requirement to repay a RESP Loan shall be effective in any of the following circumstances:

- (1) the RESP Recipient fails to attain the diploma, certification or degree associated with his or her Educational Endeavor;
- (2) the RESP Recipient fails to complete a quarter, semester or term in which he or she is enrolled; or
- (3) the RESP Recipient does not maintain the minimum grade point average required for continued enrollment at the Eligible Educational Institution.

§ 17.156 RESP GRANT

An RESP Loan shall be converted into an RESP Grant, which is not subject to repayment under Section 17.155, when the RESP Recipient attains the diploma, certification or degree associated with his or her Educational Endeavor.

§ 17.157 RESP LOAN LENIENCY

Once the Education Coordinator requests reimbursement of RESP funds, an RESP Recipient with a good faith belief that one or more of the circumstances set forth in

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Section 17.155(b)(1-3) was or were beyond the RESP Recipient's reasonable control may apply in writing to the Tribal Administrator, or designee, for leniency with respect to the repayment requirement for an RESP Loan. All written applications for RESP Loan leniency shall be evaluated by the Tribal Council. Unless reasonable grounds for leniency exist, in the Tribal Council's sole discretion, a RESP Recipient or Guarantor shall repay the Band for the RESP Loan pursuant to Section 17.155(a) and shall not be eligible for future participation in the RESP until the RESP Loan amount is repaid in full.

§ 17.158 RESP REPORTING

(a) Internal Reporting to Tribal Council. The Education Coordinator shall prepare an annual report for the Tribal Council which summarizes the mandatory and optional annual reporting required from RESP Recipients pursuant to the RESP Manual. In addition, the Tribal Administrator, or designee, shall prepare an annual accounting which identifies the amount of RESP loans distributed, total repayments, total RESP grants, and such other information necessary to apprise the Tribal Council of the RESP fund utilization.

(b) External Reporting to Tribal Community. The Tribal Administrator, or designee, shall prepare an annual report for publication to the tribal community which includes, but is not limited to, the annual summary provided by the Education Coordinator under RTC §17.158(a), a summary of the utilization of the program funding, the identity of graduates and degrees awarded, post-degree activities of RESP Recipients, and such other information as may be deemed pertinent by the Tribal Council and Tribal Administrator, or designee.

§ 17.159 CONFIDENTIALITY AND NON-DISCLOSURE

Unless a person provides written consent to disclose any and all information submitted to the Tribal Government for purposes of the RESP, any and all information submitted to or obtained in the course of administration of the RESP, shall be held in strict confidence subject only to disclosure to authorized representatives of the Tribal Government designated by the Tribal Council to administer the RESP.

§ 17.160 MISCELLANEOUS

(a) Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held unconstitutional or invalid by the Tribal Council, only the invalid provision shall be severed and the remaining provision and language of this Ordinance shall remain in full force and effect.

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(b) No Waiver of Immunity. All inherent sovereign rights of the Band as a federally recognized Indian tribe with respect to provisions authorized in this Ordinance are hereby expressly reserved, including sovereign immunity from unconsented suit. Nothing in the Ordinance shall be deemed or construed to be a waiver of the Band's sovereign immunity from unconsented suit.

(c) Adoption. This Ordinance shall become effective upon its approval by majority vote of the Tribal Council of the Band at a duly noticed meeting.

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