

## Proposed Revised Trust Document of the Delaware Tribe of Indians

**WHEREAS**, The Delaware Tribe maintained a governing Council before and after the Tribe's moving to Indian Territory in 1867-89, and:

**WHEREAS**, In September 1990 The Delaware Tribe of Indians were not on the list of federally recognized tribes possessing governmental powers, and

**WHEREAS**, The Delaware Tribal members approved the original Trust Document of the Delaware Tribe of Indians to establish an entity to which the BIA would release Delaware judgment funds for management and indirectly support the Delaware Tribal Government, and

**WHEREAS**, In 2009 The Delaware Tribe of Indians reacquired their federal recognition status as a functioning government and,

**WHEREAS**, The Delaware Tribal Council is the governing body of the Delaware Tribe of Indians, the Constitution of the Delaware Tribe of Indians is the governing document of the Delaware Tribe, and

**WHEREAS**, We, the Delaware Tribe of Indians, a/k/a LENAPE, associated with the Cherokee Nation in accordance with Article II of the Delaware Agreement, dated April 8, 1867, in order to preserve our Delaware organization, and;

**WHEREAS**, as it had become expedient and necessary for the release of the 10% Judgment Funds provided for in the Act of Congress dated October 3, 1972, P.L. 92-456, 86 Stat. 762, 25 U.S.C. § 1294(b), and;

**WHEREAS**, both the Cherokee Nation and the Secretary of the Interior have committed themselves to the fact that the Cherokee Nation will not interfere with or be called upon to approve, administer or oversee the administration, purpose, or use of such funds, and;

**WHEREAS**, as decreed in the original Trust Document approved by the Delaware People in 1990, the Trust Board established committees and guidelines to deliver services to the Delaware people, those committees and guidelines will stand unless otherwise stated in the "Plan" part of this document.

**NOW THEREFORE BE IT RESOLVED**, the following Document of the Delaware Tribe of Indians is hereby declared to be the formal expression of the procedure to administer the judgment funds of the Delaware Tribe of Indians appropriated by the Act of December 26, 1969 (83 Stat. 447, 453) (unclassified), to pay a judgment in favor of the Delaware Tribe of Indians in Docket 298, and in Docket 72, together with any interest thereon in the above referenced Act of Congress, dated October 3, 1972.

**THEREFORE BE IT FURTHER RESOLVED**; that any future judgment funds that may be received by the Delaware Tribe and placed with the Delaware Trust Board for governing by consent of the Delaware Tribal Council and/or the Delaware people by referendum vote shall be administered by the Delaware Trust Board. Also any funds donated, received by grants, or fundraisers that are specifically received for Trust programs shall be administered by the Delaware Trust Board.

### ARTICLE I - Authority

The Supreme Authority of the Delaware Tribe of Indians is vested in the tribal members, (as defined in Article II of the Constitution of the Delaware Tribe).

- A. The Members of the Delaware Tribe of Indians, in 1990, established the Delaware Trust Board, to administer judgment funds when released to the Tribe by the BIA for Dockets 72 and 298.
- B. Any future judgment funds, donations, grants, etc., that are assigned or delegated to the Trust Board by the Tribal Members and/or the Delaware Tribal Council shall be administered by the Board.
- C. The members of the Delaware Tribe of Indians (as defined in Article II of the Constitution of the Delaware Tribe) delegated to the Delaware Tribal Council the authority to govern the Tribe and take care of all other business of the Delaware Tribe.
- D. Business: The sole and only methods of conducting business under this document shall be limited to:
  1. The elected Trust Board as delegated authority by the Delaware people by approving this document, as provided herein.
  2. The members voting by referendum; or the members meeting in General Council and the members voting by referendum;
- E. **General Council**: as herein used shall mean a meeting or gathering of all members of the Delaware Tribe of Indians who assemble in one geographic location, as stated in the Delaware Constitution Article XI.
  1. The Chairman of the Trust Board shall make an annual "Trust status" address at General Council.

2. Any action passed by General Council, regarding the Trust Board, may be confirmed by a referendum vote of the people.

#### F. Trust Board

1. There was created, by the Document approved on September 21, 1990, a representative body, which is known as the Delaware Trust Board, hereinafter referred to as "Trust Board."
2. The Trust Board consists of one (1) Chair and six (6) members, all of whom must be registered voters within the Delaware Tribe. Of the six (6) members the following officers shall be designated: Vice-Chair, Secretary and Treasurer.
3. Trust Board managerial functions, including the employment of workers, as needed, and the execution of routine Trust Board business functions, shall be delegated to the Trust Board.
4. The Trust Board shall meet at least once per month at a time and place designated by the majority vote of said Board at the previous meeting. All meetings of the Trust Board shall be held in accordance with Roberts Rules of Order Revised, unless in conflict with this document, the Delaware Tribal Constitution, and the Constitution of the United States of America.
5. All meetings of the Trust Board shall be public, except:
  - a. When matters of personnel and their employment are discussed;
  - b. When the question of moral turpitude of any Trust Board member is discussed; or
  - c. When the decorum of the audience shall prejudice orderly administration of business.

Such exceptions above will allow the Board to go into executive session. In the event that consideration of a subject shall take place in executive session, the vote shall take place in an open meeting.
6. No action shall be taken at any Trust Board meeting unless there is present a quorum, which shall be four (4) members of the Board.
7. The Chair of the Trust Board shall call and conduct all regular and special meetings of the said Board.
8. The vice-chair, in the absence of the chair, shall perform the duties of the chair, assuming all the duties, privileges, and responsibilities of the chair.
9. The secretary of the Trust Board shall correctly record and maintain all proceedings of the meetings of the said Board and shall upon request, make records available to members of the said Board and tribal members for inspection during regular business hours and send a copy of each to the superintendent of the Tahlequah Agency of the Department of the Interior, Bureau of Indian Affairs. In the absence of the chair and vice-chair the secretary may conduct the meeting, if a quorum is present.
10. The Treasurer shall have direct supervision over the accounting department in regard to any monies administered by this Board. All monies entrusted in his/her care are in a special account and all disbursements are made by a check. All checks so issued shall be signed and properly countersigned by the properly designated trust officials before distribution.
  - a. The treasurer, working with the Tribal accounting department, maintains the formal accounting system for trust funds, which includes the accurate accounting of receipts and disbursements of said funds and shall present monthly reports to the Trust Board. The treasurer shall make an annual report at General Council. The treasurer shall make all Trust accounts and records available to the Superintendent at all times for inspection and/or audit.
    1. The fiscal year shall begin on January 1 and end on December 31.
    2. Each program will submit an annual budget to the treasurer. The treasurer shall then, with assistance from accounting, prepare an annual budget and supplements, thereto administering the judgment funds and consistent with the Plan as set forth in Article III of this Document. The Trust Board will approve the annual budget and present it to Tribal members in the *Delaware Indian News* and on the Delaware Tribe web site ([www.delawaretribe.org](http://www.delawaretribe.org)). Upon approval chair of the Trust Board shall submit the annual budget to the Secretary of the Interior for the Secretary's review.

11. The members of the Trust Board consist of those persons elected to the Office of Chair or member of the Trust Board in a duly called election in accordance with Article IV - Elections of Trust Board.

**E. Tribal Records:** All expenditures of Judgment Trust Funds shall be a matter of public record open to all tribal members at all reasonable times. Official minutes and reports of the Trust Board and any of their programs shall also be available to all tribal members at all reasonable times.

1. Any reports, minutes or other information pertaining to matters of personnel shall remain confidential to the extent necessary to protect the individual rights of the person or persons involved. However, the personnel decision of the Tribal entity shall be a public record available to review by all tribal members at all reasonable times.
2. Tribal members shall be allowed reasonable arrangements to copy open Tribal records, subject to appropriate federal law. The cost of such reproduction shall be born by the tribal member requesting reproduction, unless waived. Such cost shall not exceed that charged by local photocopying companies.

## ARTICLE II – Eligible Program Recipients

All members of the Delaware Tribe of Indians, as determined in Article II of the Constitution Delaware Tribe of Indians, are eligible to receive program benefits. All program applicants must meet the individual program guidelines.

## ARTICLE III – Program Plan

The Delaware Trust Board sets forth this plan to administer the Delaware Judgment Fund Distribution Plan as provided in Public Law 92-456, any additional funds from future judgment settlements, donations, grants etc. as determined by the Delaware people. This plan establishes perpetual funding for the operation of programs and services as provided in this plan:

### A. Purpose of the plan is:

1. To safeguard the assets of the Delaware people administered by this plan.
2. To establish rules and regulations for administration of programs.
3. To ensure that every eligible Delaware Tribal member has an opportunity to benefit from the use of the tribal assets, as described in this document, and investments. The plan will identify general guidelines to ensure effective delivery of services to the Delaware people.

### B. Definitions

1. Board shall mean Delaware Trust Board
2. BIA will be used to mean Bureau of Indian Affairs
3. Funds shall mean any funds supervised by the Board.
4. Tribe shall mean Delaware Tribe of Indians.

### C. Background

On December 26, 1969, the United States awarded a claim to the Delaware Tribe of Indians in Docket 298, with accumulated interest. The claim was a settlement for the Delaware outlet in Kansas in payment for lands taken in 1856 and 1857 and sold under Treaty of 1854 (10 Stat. 1048 involving sale of the Delaware Trust Land).

The funds not apportioned to the Absentee Delaware of Western Oklahoma (aka. Delaware Nation) were placed to the credit of the Delaware Tribe in the United States Treasury and were to be administered as follows: 90 percent of the funds were distributed in equal shares to each person enrolled pursuant to subsection 2(c) (1), and 10 percent remained to the credit of the Tribe in the United States Treasury, and was designated to be advanced, expended, invested or reinvested for any purpose that may be authorized by the entity as described in this document.

### D. Methodology:

This plan is the product of a series of meetings, planning and research by the Delaware Trust Board, Tribe and Tribal Staff. The original plan was implemented as follows:

1. For the purpose of this document the definition of assets refers to Delaware Judgment Funds as provided in Public Law 92-456, any additional funds from future judgment settlements assigned to the administration of this Board,
2. The original Delaware Judgment Funds, approximately \$1.5 million plus accumulated interest were placed under the supervision of the BIA.
3. The Board removed all except \$50,000 from the supervision of the BIA and invested it in secure interest bearing accounts,

4. All money under the supervision of the Board shall be placed in secure interest bearing accounts.
5. The annual earned interest is used to fund the programs and services as presented in this document.
6. All money under the supervision of the Board shall be audited at the conclusion of the fiscal year by an independent certified public accountant.
7. Only registered members of the Delaware Tribe of Indians, as provided in the Delaware Tribal Constitution, are eligible to receive services and programs presented in this plan.
8. All funds allocated to a program within this plan that are not expended at the conclusion of the fiscal year shall be carried over to be used by that program in the next fiscal year in addition to the new year's budget.
9. The Board reserves the right to transfer the investment management of the Delaware Judgment Funds from the supervision of the BIA to a private sector entity {as provided in Public Law 92-456, Section 4 (a)} upon approval of a properly submitted resolution to the Bureau of Indian Affairs. Such resolution and transfer shall require the approval of the BIA.

Neither the United States nor the Secretary of the Interior shall be liable, because of the Secretarial approval of an investment decision under this plan, for any losses encountered within such and investment decision.

10. The Board reserves the right to withdraw funds from the principal of the Funds provided:
  - a. The Board shall require the approval of the BIA and a referendum vote of the Delaware people over the age of 18 years. Approval requires a 2/3<sup>rd</sup> majority of votes cast.
  - b. Any withdrawal shall not exceed twenty percent (20%) of the total principal of the funds and may not reduce the principal below a value of \$3.8 million.
  - c. There shall be no more than one withdrawal from the principal of the funds during the fiscal year.

### E. Program Plan Distribution

1. Community Service	30%
2. Education	25%
3. Cultural Preservation	10%
4. Elders	5%
5. Veterans	5%
6. Tribal Operations	15%
7. Reinvestment	<u>10%</u>
	100%

### F. Program Parameters

The Board shall determine the duration, eligibility requirements, commencement date, budget amounts and rules and regulations for each of the selected distribution areas. Each program will develop an annual budget to be approved by the Board and presented to Tribal members in the *Delaware Indian News* and on the Delaware Tribe web site ([www.delawaretribe.org](http://www.delawaretribe.org)).

#### 1. Community Services Program—30%

The Community Services Program will promote the general welfare and well being of the members of the Tribe through support services and technical assistance. The supportive service will meet the need for Delaware Family Assistance and will provide a Central Information-Referral Service component. The services will be available on an emergency basis and will provide such services as financial assistance. This program will be national in scope to assist enrolled Tribal members as families, individuals and with community resource referral service component. This program will be flexible and available to all ages.

The Board established a committee to develop and oversee the program. The Trust Board assigns one of the Board members to be chairman, or co-chairman. Guidelines for available services are available from the Tribal Center and on the Tribal Web site ([www.delawaretribe.org](http://www.delawaretribe.org)).

#### 2. Education Program—25%

The Education Program shall provide financial and technical support to Tribal members of all ages to promote educational endeavors, including but not limited to higher education scholarships. This program will be national in scope. The Board established a committee to develop and oversee the program. The Trust Board assigns one of the Board members to be chairman, or co-chairman. Guidelines for available educational services are available from the Tribal Center and on the Tribal Web site ([www.delawaretribe.org](http://www.delawaretribe.org)).

**3. Cultural Preservation—10%**

The Cultural Preservation Program will provide a centralized system to maintain the language, ceremonies and traditions of the Lenape. This program will include the establishment of a museum, a library, ceremonial grounds, cemeteries and learning resource center for the Delaware people.

The Board established a committee to develop and oversee the program.

The Trust Board assigns one of the Board members to be chairman, or co-chairman. The committee is composed of tribal elders, historians, staff members and volunteers to implement the program.

**4. Elder Committee—5%**

The Board will establish a committee headed by an elder to address elder services, issues and needs. The Board established a committee to develop and oversee the program. The Trust Board will assign one of the Board members to be chairman, or co-chairman. The committee will establish guidelines and goals to be achieved.

**5. Veterans Committee—5%**

The Board will establish a committee headed by a veteran to address veteran services, issues and needs. The Trust Board will appoint a Board member as chairman or co-chairman who shall be a veteran. The Committee will establish guidelines and goals to be achieved.

**6. Tribal Operations—15%**

The purpose of this program is to provide an administrative structure of operations that will implement and maintain the various services called for in the Plan. These funds will be transferred to the tribal accounting department to provide administrative, accounting and staff support to all Trust programs. The annual audit will be paid for by the Board from each program according to the percentage received by each.

**7. Reinvestment—10%**

The Reinvestment Program will provide a continuous growth of the financial reserve and enhance the concept of perpetual funding sources for the Delaware people. The Board, on an annual basis, will reinvest ten percent of the annual accumulated interest on the principal amount back into the principal.

**ARTICLE IV – Election of Trust Board****A. Officers and Terms of Office**

1. Each elected chair or Trust Board member shall serve staggered terms of four (4) years.
2. Elections shall be held every even year the first Saturday of November to coincide with the Tribal Council elections.
3. Election of Trust Board members in 2013 shall be by referendum vote (ballots sent to all eligible Delaware voters with current addresses on file).
4. In order to bring Trust Board elections in line with the Tribal Council, Trust Board members elected in 2013 shall serve 5 years. Their terms will end in 2018. Trust Board members whose terms would end in 2015 will serve until 2016. All future terms of office will be for four years.
5. In concurrence with the Constitution of the Delaware Tribe of Indians, all members, eighteen (18) years of age or older, who are registered members of the Delaware Tribe, may vote in all elections and sign petitions.
6. Public notice of the date of election and designation of polling places shall be given at least thirty (30) days and not more than forty-five (45) days prior to the date of elections. Notice shall be given through the United States Postal Service to all members of the Delaware Tribe of Indians eligible to vote and by public notice.
7. Declaration of Trust Board candidacy shall be for either of the following positions: (a) Chair of Trust Board or (b) member of the Trust Board.
8. Members elected to the Trust Board shall take office at the next regular meeting of the Trust Board after the election at which time they shall take an oath administered by the Chair. In absence of the chair, the Vice-Chair, or Chair Pro-Tem elected by a majority of the Trust Board shall administer the oath of office.
9. The Trust Board, after being installed in office, shall elect by majority vote of its members, a vice Chair, secretary and Treasurer.
10. Vacancies of elected Board positions shall be announced at the Trust Board meeting at which the resignation is announced. Such vacancy shall also be posted on the Delaware Tribal web site for a minimum of 21 days. Tribal members interested in being considered for such position shall submit in writing their

interest and qualifications to the Trust Board and be present at the next regular meeting. The position shall remain vacant until the next regular meeting of the Trust Board, provided applications have been received and public notice has been given. Candidates not elected in the previous Trust Election shall be placed in the vacant seat according to most votes received that election, provided they submit an application for the position. If no previous candidates apply, Trust Board shall then appoint a tribal member, who has submitted an application, receiving the majority of the votes of the Trust Board then assembled, to the vacant post. The member chosen in this manner shall serve out the unexpired term of the office.

11. If the Trust Board shall fail to give proper notice of the election or in case a regular election has not been held, the Election Board, upon receipt of a valid petition signed by at least 100 registered voters shall call such election and shall give thirty (30) days notice, setting the time and place of the election.

**B. Election Board.**

The Election Board, chosen jointly by Tribal Council and Trust Board, shall consist of five (5) tribal members who shall not be members of the Trust Board, nor candidates for or hold any elective positions within the Delaware Tribe of Indians or employed by under contract to the tribe. The Election Board shall have the responsibility for overseeing elections and shall serve for a term of one (1) year or until successors are duly chosen and installed.

**C. Election Regulations.**

The Election Board, first selected in accordance with this Trust Document, shall present, for approval to the Tribal Council and Trust Board, proposed election regulations which shall provide for, among other things, walk-in balloting, mail-out secret balloting, voter registration and procedures for settling election disputes. Upon adoption by the Tribal Council and Trust Board, the election regulations shall remain in effect until amended by the Tribal Council and Trust Board.

1. The Tribal Council and Trust Board shall, in an election year, establish the location, date and time for the election.
2. Elections shall be held every even year the first Saturday of November to coincide with the Tribal Council elections.
3. Election of Trust Board members in November 2013 shall be by referendum vote (ballots sent to all eligible Delaware voters with current addresses on file).
4. From this year forward all eligible voters voting in the November 2013 election shall be considered to be absentee voters and will receive a ballot in all subsequent elections unless they fail to vote in three consecutive elections.
5. Eligible voters not voting in the November 2013 election will be required to request an absentee ballot. Once requesting an absentee ballot, unless they fail to vote in three consecutive elections, will continue to receive an absentee ballot.

**ARTICLE V - Removal from Office**

- A. Any member of the Trust Board shall be subject to removal from office for willful neglect of duty, corruption in office, habitual substance abuse, incompetency, prior or current conviction of a felony or convictions involving moral turpitude, provided such offenses occurred while the member is in office.
- B. Any member of the Trust Board not in attendance two consecutive times with unexcused absences, or a total of four regularly scheduled Board meetings, shall be subject to removal from office.
  1. Excused Absences
    - a. Illness—Board member, immediate family (spouse, children, parents, siblings)
    - b. Accidents—automobile accidents, unexpected breakdowns, i.e., flat tire, motor problems that leaves the Board member without transportation
    - c. Death in family
    - d. Board member shall provide documentation (doctor's note or bill, receipts for auto problems, photos or personal statements).
- C. The Trust Board shall make rules as are necessary for carrying into effect the provisions of this article, insuring therein that due process is afforded to all persons.

**ARTICLE VI - Initiative, Referendum and Amendment****A. Reserved Power**

Notwithstanding the provisions of Article I of this document, the members of the Delaware Tribe of Indians reserve to themselves the power to propose resolutions,

regulations or Trust Document amendments and to enact or reject the same at the polls, and also reserve power at their own option to amend or reject any act of the Trust Board. The power of initiative, referendum and amendment shall be exercised by petition. The Trust Board shall make suitable provisions for carrying into effect the provisions of this Article.

B. Petitions

A valid petition signed by one hundred (100) voting members of the Delaware Tribe shall be required to propose resolutions, regulations or amendments. The petition shall, at the beginning, contain a statement of purpose in clear and concise language. Petitions shall be typed and clearly set forth the proposal. A copy of the petition shall be filed with the Trust Board Secretary and addressed to the Trust Board Chair, prior to obtaining signatures. Petitions not filed will be invalid. Persons signing the petition must print their full legal name, address, and affix their signature. In determining whether the signatures are valid (those of registered voters), only those names, which appear on the same page as the "Statement of Purpose" with the text of the proposal, shall be counted. The Trust Board Secretary shall verify the voting status of all persons signing any petition.

C. Referendum

From time to time certain issues may require a mandate of the registered Tribal members 18 years or older. A referendum petition meeting the requirements of Article VI, section B, and signed by at least one hundred (100) voting members shall require the Trust Board Chair to institute a special election within forty-five (45) days, provided:

1. Referendum election shall be by secret mailed ballots prepared by the Election Committee.
2. The issue or question is clearly and concisely stated.
3. Notice and mailing of such ballots be accomplished not less than thirty (30) days and no more than forty-five (45) days before the deadline for submission of such ballots; and
4. Due process requirements are met, as provided by the Indian Civil Rights Act of 1968, 25 U.S.C., Section 1302.

D. Amendment

This Trust Document of the Delaware Tribe of Indians may be amended by 2/3-majority vote of the registered voters participating in a duly conducted referendum election. If two or more amendments are proposed they shall be submitted in such a manner that electors may vote for or against them separately. No proposal for the amendment of this document which is submitted to the voters shall embrace more than one general subject and the voters shall vote separately for or against each proposal submitted; provided, however, that in the submission of proposals for the amendment of this document by articles, which embrace a general subject, each proposed article shall be deemed a single proposal or proposition.

### ARTICLE VII - Ratification

This Trust Document shall become effective upon date of ratification, when ratified by:

Those eligible to vote in Delaware Tribal elections as defined in the Constitution of the Delaware Tribe of Indians Article VI Section 6.

1. Those persons whose name; or Whose lineal ancestor's name appear on the per capita roll prepared by the secretary of the Interior on April 20, 1906; and
2. Who are eighteen (18) years of age or older and are registered Tribal members.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal the Trust Board of the Delaware Tribe of Indians to be affixed. This Trust Document of the Delaware Tribe of Indians is passed and certified in accordance with this document this \_\_\_\_ day of \_\_\_\_\_, 2013 at Bartlesville, Oklahoma.

\_\_\_\_\_  
Chairman of the Delaware Trust Board

\_\_\_\_\_  
Secretary of the Delaware Trust Board