

CHAPTER 3. ETHICAL STANDARDS

(a) **Authority and Purpose:**

- (1) The authority for this Ordinance is found in the Tribal Constitution under Article IV, Section 1.
- (2) The purpose is to set forth specific standards governing the conduct of all members of the Council, Committees, employees and officials who work for the Tribe.

(b) **Background and Intent:** The Council has determined that it is in the best interest of the Tribe that clear direction be given with respect to the ethical conduct of all persons who serve the Tribe. This Ordinance is intended to guide the actions of all such persons and provide guidance for the conduct of business, to protect the interests of Tribal members, and to protect the reputation and integrity of the Tribal Government.

(c) **General Policy Statement:**

- (1) **Prohibition against Conflicts of Interest and Acts that Involve Actual or Apparent Impropriety:** Officials of the Tribe, including but not limited to, Council Officers and Members, Judges, Tribal Administrator, Fiscal Officer, Department Managers, Committee members and employees shall not engage in behavior involving a conflict of interest or act involving actual or apparent impropriety, as defined herein.
 - (A) **Conflict of Interest Defined:** A conflict of interest, means an undertaking by a Council Member, Official, employee, or Committee member on behalf of the Tribe where that person has, or may foreseeably develop, a personal or financial interest distinct from and actually or potentially adverse to the Tribe. Actions prohibited as conflicts of interest under this Ordinance include, but are limited to the following:
 1. Council members shall not vote or make any decisions on matters where they, their immediate family, business associate, or person with whom the member is negotiating for purchase of goods, services or employment, has or may foreseeably develop a financial interest. With leave of the Council, the Council member may participate in discussions, so long as that member first makes a full disclosure on the record concerning his or her interest in that matter.
 2. Council members, employees, and Officers of the Tribe shall not employ any relative by blood or marriage on any basis other than merit and fitness for the position.

3. Council members shall not, unless authorized by the Council, voluntarily represent any party before any court, or state or federal agency in proceedings where the Tribe is a party or has an interest.
4. Council members, employees, and Officers shall not engage in outside activity or employment not compatible with the full and proper discharge of their duties and responsibilities.
5. Council members shall not serve as an employee during their term of office.
6. Officers and employees shall not engage in contracting or procurement arrangements where they have a personal or financial interest, unless first making full disclosure to the Council and receiving authorization to pursue such arrangement.

(B) **Actual or Apparent Improprieties Defined:** Those actions by an Official or employee involving illegal acts while in the Tribe's service, acts involving an abuse of power, dishonest conduct or that would do a disservice to the Tribe's reputation. These acts include but are not limited to the following:

1. Functioning as an official or employee of the Tribe while intoxicated or under the influence of illegal or incapacitating drugs;
2. Misappropriation or misuse of Tribal funds;
3. Concealing, removing, mutilating or destroying Tribal records or documents;
4. Committing perjury or fraud;
5. Involvement in actions or activities that bring discredit or disrespect on the Tribe;
6. Representing oneself as acting on behalf of the Tribe without authorization to do so;
7. Knowingly misrepresenting the Tribe or a position the Tribe has taken;
8. Soliciting or accepting, directly or indirectly, gifts, gratuities, favors, entertainment, loans, kickbacks or anything of value from a person, group, or private organization seeking to obtain contractual or other business with the Tribe, or having interests that may be substantially affected by the performance or nonperformance of the Official or employee's duty, with the following exceptions: ceremonial and customary gifts given to dignitaries; food and refreshments of a nominal value in the ordinary course of a luncheon or dinner meeting; personal achievement awards for meritorious service; unsolicited advertising or promotional material of nominal value; loans on customary terms to

finance proper and usual activities on an equal basis as any other enrolled member of the Tribe; gifts from family members.

9. Using one's position to coerce, threaten or intimidate a person or group to provide financial benefit or other personal gain to oneself or another person with whom one has family, business or financial ties, or any other purpose;
10. Using one's official title to conduct personal business;
11. Knowingly making public any subject matter of a confidential nature received in connection with one's duties as an official or employee, including but not limited to: matters discussed during Council Executive Session; matters protected as confidential under federal, state or Tribal law; information given to a Tribal official or employee with the reasonable expectation the information would be kept confidential; and
12. Engaging in improper conduct or gross neglect of duty, as defined in the Tribe's Election Ordinance.

(2) **Sanctions Regarding Council Members:** Council members accused of violating the prohibitions set out under this section shall have the matter determined by the Council, subject to the following procedures:

- (A) Any Tribal Member, including members of the Council, or any Tribal Official, may present an accusation in writing alleging that a particular Council Member violated the prohibitions of this Ordinance. The accusation must be filed within two (2) years of the alleged event.
- (B) The Council shall hear the matter within thirty (30) days of receiving the accusation, provided that the hearing may be extended beyond thirty (30) days if any party, including Council, requires additional time to gather necessary information. The hearing shall be presided over by a hearing officer designated by the Chairperson, or if the subject of the hearing is the Chairperson, by majority vote of the Council.
- (C) The accuser shall present evidence and witnesses to support their accusation.
- (D) The Council, or delegated party, may conduct an independent investigation, and enter evidence and witness testimony into the record during the actual hearing.
- (E) The accused Council Member shall have the right to confront witnesses, challenge evidence, and offer witnesses and evidence in his or her own behalf.
- (F) Witnesses and evidence may be presented informally provided, the rights of the accused Council Member are protected in a manner consistent with the Tribe's Constitution.
- (G) The Council shall render a determination in writing in a timely manner, including its evidentiary findings, which must be approved by at least five (5) Council members voting, provided the Council can request

further information be produced prior to rendering a determination, provided further the accused Council Member shall not vote in this determination.

- (H) If the Council determines the accused Council Member has violated the prohibitions set out in this section, Council shall choose the sanction deemed appropriate, including reprimand, censure (published in the Tribe's Newsletter), temporary suspension (not to exceed three (3) months), or removal. To be valid and binding, the sanction must be approved by at least four (4) Council Members voting on the issue, provided the accused Council Member shall be entitled to vote, provided the Chairperson is not the accused.
- (I) The Tribal Court shall hear appeals of the issuance of such sanctions by the Council, provided, however, the Courts' jurisdiction in such matters is limited to determining whether the action taken was arbitrary and capricious, in violation of the Tribe's Constitution or of the Indian Civil Rights Act.
- (J) The appeal must be filed within thirty (30) days of the Council's determination.

- 1. The evidentiary findings of the Council shall be accepted by the Court as final, unless such findings are arbitrary and capricious.

(3) **Sanctions Regarding Tribal Personnel:** Any Tribal employee, with the exception of the Tribal Administrator, violating the prohibitions set out under this section shall be subject to disciplinary action by the Tribal Administrator, which may include immediate termination of employment, if circumstances warrant. If the Tribal Administrator violates the prohibitions set out under this section, he or she shall be subject to disciplinary action by the Council, which may include immediate termination of employment if circumstances warrant. Employees disciplined according to this section may have recourse to the grievance procedures set out in the Personnel Manual.

(4) **Funds and Equipment:** Tribal officials and employees entrusted with Tribal funds or equipment for carrying out Tribal business shall be subject to the following requirements and procedures, in order to provide a uniform system and to avoid actual or apparent impropriety.

(A) **Funds:** Tribal officials and personnel shall be held personally accountable and liable for Tribal monies entrusted to their control in performance of official Tribal duties.

- 1. Tribal funds withdrawn for specific authorized purposes by a Tribal official or employee shall be used for those specific purposes only.

2. In all cases, Tribal funds not expended for authorized purposes must be repaid by the responsible Tribal Official or employee within three (3) working days after the date on which such funds were to have been expended.

(B) Equipment: Tribal officials and personnel shall be held personally accountable and liable for all equipment entrusted to them in the performance of Tribal business.

1. Tribal officials and personnel shall not use, or authorize the use of, tribally owned or leased vehicles and other transportation equipment for purposes other than those officially authorized.
2. Tribal officials and personnel shall not use, or authorize the use of, any tribally owned or leased equipment for other than purposes officially authorized.

LEGISLATIVE HISTORY

This Chapter was adopted on November 5, 2001, as the Tribal Ethical Standards Ordinance (Ordinance No. 01-05, by Resolution No. 01-48).