

**Title XXVII  
(27)**

**TRIBAL EMPLOYEE CODE OF ETHICS**

**Standing Rock Sioux Tribal Code of Justice**



**Ordinance No. 300-07  
Resolution No. 563-07**

**\* \* \***

**Amendment Approved  
November 9, 2007  
By  
Standing Rock Sioux Tribal Council**

## ORDINANCE NO. 300-07

BE IT FURTHER RESOLVED, that the Tribal Code of Justice of the Standing Rock Sioux Tribe be and the same is hereby amended by the adoption of a New TITLE XXVII [27] to be known as the "TRIBAL EMPLOYEE CODE OF ETHICS"

[DOCUMENT ATTACHED AS PAGES 1-15]

## RESOLUTION NO. 563-07

BE IT FURTHER RESOLVED, that pursuant to the power vested in the Standing Rock Sioux Tribal Council under the Article IV of the Constitution of the Standing Rock Sioux Tribe, as amended, the foregoing Ordinance No. 300-07, be and the same is hereby approved and adopted: and

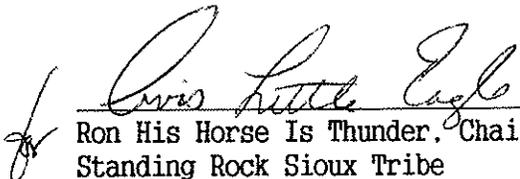
BE IT FURTHER RESOLVED, the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

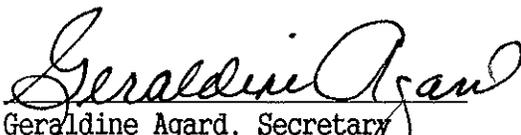
## CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [ 17 ] of whom 13 constituting a quorum, were present at a meeting thereof, duly and regularly, called, noticed, convened and held on the 9<sup>th</sup> day of NOVEMBER, 2007, and that the foregoing resolution was duly adopted by the affirmative vote of 6 members, with 2 opposing, and with 5 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT, IN CASE OF TIE.

DATED THIS 9<sup>th</sup> DAY OF NOVEMBER, 2007.

ATTEST:

  
Ron His Horse Is Thunder, Chairman  
Standing Rock Sioux Tribe

  
Geraldine Agard, Secretary  
Standing Rock Sioux Tribe

[Official Tribal Seal]

Meeting Date: 11-09-07  
Motion No. 20

**TITLE XXVII (27)**  
**TRIBAL EMPLOYEES CODE OF ETHICS**  
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**TITLE XXVII TRIBAL EMPLOYEES CODE OF ETHICS****CHAPTER 1.****GENERAL PROVISIONS****27-101. Title.**

This Title shall be known as the Standing Rock Sioux Tribal Employees Code of Ethics.

**27-102. Purpose.**

The purpose of this Title establishing the Tribal Employees Code of Ethics is to require the highest standards of ethical conduct of all employees of the Standing Rock Sioux Tribe. This Code of Ethics is adopted to protect the Standing Rock Sioux Tribal government from undue influences, conflicts of interest and other ethical improprieties, and to place the financial and social welfare of the Tribe above the personal and economic interest of the individual employees.

This Title establishes and provides a mechanism whereby Tribal employees are held accountable for their conduct in performing the duties and responsibilities of Tribal employment. The Tribal Employees Code of Ethics shall be considered as the foundation of Tribal personnel policy decisions, and shall be applied in conjunction with Title XVIII of the Code of Justice.

Specific policies, guidelines, and procedures to carry out the directions and intent of the Code of Ethics are to be compiled and set forth in the Standing Rock Sioux Tribe Personnel Policies and Procedures Manual, which is to be interpreted along with this Title and Title XVIII to establish the purposes and policies of the Standing Rock Sioux Tribe with regard to its employees.

**27-103. Application of Tribal Employees Code of Ethics.**

The Tribal Employees Code of Ethics shall apply to all tribal employees<sup>1</sup>, including politically appointed employees, and all employees operating under contracts between the Tribe and federal, state and local governments, except for the following, who are covered under other Titles or under designated contractual arrangements:

- a) Elected Officials of the Tribe, including the Tribal Chairman, Vice Chairman, and members of the Standing Rock Sioux Tribal Council (Title XIX);
- b) Elected officials and employees of the district councils (Title XX);

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<sup>1</sup> The term "Tribal employee" is defined in the Code of Justice, § 18-102 as meaning "all individuals lawfully hired or employed by the Tribe, as the terms "hired" and "employed" are generally understood in law. Title XXVII hereby incorporates this term as defined in § 18-102 as if fully set forth below.

- c) Members of the Election Commission (Title XV);
- d) Tribal Judges, Justices (Title 1);
- e) Chief Prosecutor and Tribal Public Defender.(Title 1);
- f) Any chartered entity of the Tribe or corporation owned and controlled by the Tribe, which is controlled by its own Board and receives independent funding through its corporate charter, including but not limited to:
  - 1) Commission members and employees of the Standing Rock Housing Authority;
  - 2) Board members of the Standing Rock Enterprises;
  - 3) Board members of Standing Rock Farms;
  - 4) Board members and employees of the Sitting Bull College;
  - 5) Board members of the JTAC Board;
  - 6) Board members and employees of the Standing Rock Grant School;
  - 7) Board members and employees of the Rock Creek Grant School;
  - 8) Board members of the Standing Rock Head Start Policy Council;
  - 9) Board members and employees of the Sitting Bull School; and
  - 10) Employees of the Prairie Knights Casino
  - 11) Employees of the Grand River Casino;
  - 12) Non-profit, non-educational, entities of the Tribe which have their own Board of Directors and are chartered by the Tribe; and
- g) Persons who are not employees of the Tribe, and who are serving under independent contract with the Tribe.

Regardless of the terms of their corporate charter, any program or entity that receives any funding from the Tribe, or uses the name of the Tribe to acquire federal funding shall be covered by the terms and requirements of this Title, except when that program or entity is separately established by Federal statute.

#### **27-104. Definitions.**

1. Accountable/Accountability. Accountable, *adj.* Responsible; answerable for a specific act(s) -- accountability, *n.*
2. Administrative Hearing. An oral proceeding before an administrative agency consisting of argument or trial or both. Procedural rules are more relaxed at such hearings in contrast with civil or criminal trials, e.g., rules governing admissibility of evidence are usually more liberal.
3. Advisory Opinion. An opinion such as may be rendered by a court at the request of the government or interested party indicating how the court would

rule on a matter should adversary litigation develop. An advisory opinion is thus an interpretation of the law without binding effect. Because of the "case or controversy" requirement of Article III federal courts, they do not issue advisory opinions.

4. Bribery. The offering, giving, receiving or soliciting anything of value to influence official action as an official in discharge of legal or public duty.
5. Business. Employment, occupation profession or commercial activity for gain, benefit, advantage or livelihood<sup>2</sup>.
6. Committee. The Administrative Review Committee of the Standing Rock Sioux Tribe.
7. Complaint. The filing of allegations of unethical conduct against a Tribal official or employee of the Tribe.
8. Conduct. *n.* Personal and Professional behavior, whether by action or inaction; the manner in which a person behaves. -- *vb.* The word 'conduct' covers both acts and omissions. In cases in which a person can show that his/her conduct, whether in the form of action or of inaction, was involuntary, he/she must not be held liable for any harmful result produced by it.
9. Confidential Information. Information meant to be kept secret; by law or custom, confidential information is not available and should not be divulged to the public.
10. Conflict of Interest. Where public officials and fiduciaries, i.e., those owing a trust responsibility to their entity or organization and their relationship to matters of private interest or gain to them. Ethically, when a conflict of interest is real or apparent, the public official or fiduciary is disqualified from performing his sworn duty to prevent a clash between the public interest and the private pecuniary or economic interest of the individual concerned.
11. Constitution. The Constitution of the SRST.
12. Council. The governing body of the SRST.
13. Due Process. Fundamental rights of a person guaranteed by the Tribal Constitution, Tribal Law, Indian Civil Rights Act, and other applicable law. Such rights include the right of a person to actual or constructive notice, the opportunity to be heard and to enforce and protect their rights before the

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<sup>2</sup> The term "business" includes: any profit or non-profit enterprise, organization, trade, occupation or profession, including any business, trust, holding company, corporation, partnership, joint venture, sole proprietorship, consultant or other self-employed enterprise.

decisionmaker empowered to hear and determine the issues concerning the person to whom the due process rights are owed.

14. Economic Interest. Any ownership interest or investment held by a Tribal official or employee or by their immediate family member, in any business as defined herein. See Code, § 27-104 (5) and f.n.2, above.
15. Favor. An act of kindness going beyond what could normally be expected in return for special consideration or treatment.
16. Favoritism. Preference or selection, usually invidious, based on factors other than merit.
17. Felony. Any offense that is defined by the laws of the Tribe as a felony or set forth under 18 U.S.C. §1163, the Indian Major Crimes Act, as amended from time to time or as otherwise defined under the laws of the United States of America, or a crime defined as a felony by any state of the United States if the individual is convicted of a felony under that law.
18. Financial Disclosure. The act or process of making known all economic interests of an individual that were previously unknown; a complete revelation of all material facts concerning the economic interests of an individual.
19. Findings. The results of the deliberations based on the evidence and testimony presented during an administrative hearing of the Committee.
20. Gift. *n.* 1. The voluntary transfer of property to another made gratuitously and without consideration. 2. A thing so transferred. -- gift, *vb.* Includes any gratuity, special discounts, favor, hospitality, payment, loan, subscription, economic opportunity, advance, deposit of money, services, or other benefit received without equivalent consideration and not extended or provided to the members of the public at large. Excludes gifts from social or traditional events.
21. Impropriety. An incorrect, unsuitable, irregular act committed by a Tribal official or employee in the performance of an official act. The term includes a fraudulent or otherwise wrongful act committed by a Tribal official or employee in performance of official duty.
22. Nepotism. Appointing, hiring, or causing the hiring of family members, relatives, or domestic partners, i.e., significant others, as defined in Title XVIII, or supervising such individuals.
23. Penalty. Pecuniary or economic sanction imposed by the Administrative Review Committee in its decision regarding an administrative hearing within

its jurisdiction.

24. Sexual Harassment. Unwelcome or unwanted conduct of a sexual nature, verbal or physical, used by an individual to affect hiring, evaluation, promotion or other aspects of employment, and conduct which interferes with an individual's employment or creates an intimidating or offensive working environment.
25. Solicitation. The act or an instance of requesting or seeking to obtain something tangible or intangible from an individual or entity.
26. Tribe. The Standing Rock Sioux Tribe (SRST).
27. Tribal Employee. The term "Tribal employee" is defined in the Code of Justice, § 18-102 as meaning "all individuals lawfully hired or employed by the Tribe, as the terms "hired" and "employed" are generally understood in law. Title XXVII hereby incorporates this term as defined in § 18-102 as if fully set forth below.
28. Tribal Official. Any person who has been hired or appointed to a Tribal executive position that has a designation as and is vested with authority to act on behalf of the Tribe in carrying out the business of the Tribe.
29. Undue Influence. Any improper or wrongful constraint, machination or urgency of persuasion whereby the will of a person is overpowered and he is induced to do or forbear from doing an act which he would not do or would do if left to act freely. Misuse of position of confidence or taking advantage of a person's weakness, infirmity or distress to change improperly that person's actions or decisions.

#### **27-105. Assigned Responsibilities.**

The Standing Rock Sioux Tribal Chairman is responsible for assuring the intentions of this Title concerning the conduct of employees are achieved. The Chairman shall cause the appropriate oversight and monitoring to be established to assure the policies and guidelines are properly followed.

## CHAPTER 2.

## STANDARDS OF CONDUCT

**27-201. Conflict of Interest.**

No Tribal official or employee shall engage in any business activity with the Tribe, either directly or indirectly, which is inconsistent with the performance of his or her official duties or whereby the individual or his or her relative or closely associated person may stand to profit.

Any individual who seeks to become an employee of the Tribe may not retain any interest in external personal or business affairs that would constitute or appear to be a conflict of interest with their exercise of duties as a Tribal employee, nor may they undertake a position with the Tribe that would enable them to exercise decisions or make judgments that would benefit relatives or closely associated persons (as defined in Title XVIII, 18-201.9) or other personal friends to the detriment of the Tribe's interests.

- 27-201.1 Business and Economic Interests. A Tribal official or employee shall not have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in conflict with proper discharge of his or her duties in the interest of the Tribe. In addition, Tribal officials or employees shall not participate in their official capacity in any matter in which their family, relatives, closely associated persons, or business associates have an economic interest.
- 27-201.2 Benefits from the Tribe. A Tribal official or employee and his or her family may receive benefits from the Tribe on the same basis as other Tribal members, provided that the official or employee does not influence such benefits or the determination of eligibility for such benefits.
- 27-201.3 Representation of Tribal Interests. A Tribal official or employee required to take official action on a matter in which he or she has an interest that may be contrary to the interests of the Tribe shall declare the potential conflict and refrain from taking any action that may run counter to the interests of the Tribe.
- 27-201.4 Influence of Official Decisions. Tribal officials or employees shall abstain from voting, sponsoring, influencing, or in any manner attempting to influence any vote, official decision or determination that would favor or advance their personal interests.
- 27-201.5 Exception. Except as set forth in this title, Tribal officials and employees are free to engage in lawful economic transactions and employment to the same extent as the general public.

**27-202. Use of Office/Position for Personal Gain.**

- 27-202.1 Private Gain. No Tribal official or employee shall use or attempt to use his or her official capacity to place his or her personal economic interest before that of the Tribe.
- 27-202.2 Solicitation. No Tribal official or employee shall solicit or accept anything of value from any person or organization who is seeking official action from or who does business with the Tribe, or who has any personal or economic interest which may substantially benefit from the exercise or the performance of the official duties of the Tribal official or employee.
- 27-202.3 Gifts, Loans, Favors and Other Benefits. No Tribal official or employee shall accept any gifts, loans, favors or anything of value, which could be construed as influencing the performance of official acts. Offers from persons or organizations seeking official action from or who do business with the Tribe shall be immediately reported to the Executive Director. Gifts, loans, favors or benefits given to immediate family members of Tribal officials and employees in an attempt to influence official acts shall be prohibited.
- 27-202.4 Unauthorized Compensation. No Tribal official or employee shall solicit or accept any form of compensation, monetary or otherwise, for performing his or her duties of office or employment in excess of authorized compensation, or for which the official or employee is not entitled to receive. Unauthorized compensation shall include contracts with Tribal programs to share information or skills gained during the course of Tribal employment, while the employee remains employed by the Tribe.
- 27-202.5 Outside Employment.
- To avoid conflicts of interest or claims of duplicate payment for services rendered, the following conditions regarding outside employment (as specified in Title XVIII, 18-201.14) are imposed. Such employment shall not interfere with the exercise of duties of office or employment, and must not reflect negatively on the Tribe.
- a) Employees shall not engage in outside employment or private enterprise without notifying the program director or supervisor. The Office of Human Resources shall be given notification.
  - b) Employees shall not work for the Bureau of Indian Affairs, Indian Health Services or other federal entity, except under authorized IPA Agreements with the Tribe at the Tribe's request or during

emergencies.

- c) Employees may not undertake any consultant agreements with other Tribal programs (those covered under Title XVIII).
- d) Consultant or employment agreements with outside organizations (defined as businesses or organizations not owned by nor affiliated with the Tribe, or those organizations, district operations or boards excluded from Title XVIII, 18-103) may be entered into if the work is performed entirely outside the employee's Tribal working hours, and without use of Tribal resources or premises.
- e) Employees may not accept payment of salary or stipends from boards, district operations, and other organizations, where such payments are for services rendered during times that are already compensated by Tribal salary or wages, unless the employee uses leave without pay.

27-202.6 Grants and Awards. Grants and awards received by Tribal officials or employees as result of the performance of official duties, shall be reported to the Executive Director and shall be turned over to the Tribe by the recipient, unless the grantor of such grants or awards shall specifically designate that the grant or award is given to the individual as their separate grant or award entirely apart from their official position.

**27-203. Abuse of Office or Position.**

27-203.1 False Claims. No Tribal official or employee shall knowingly make, use, or cause to be made any false or fraudulent claim, statement, or record to obtain payment from the Tribe. This shall include, but not be limited to, travel vouchers, purchase orders, requisitions, time sheets, contracts, and reimbursement requests.

27-203.2 Misuse of Tribal Funds and Property. No Tribal official or employee shall use tribal funds or property for any purposes other than those authorized by the Tribal Council or funding source.

27-203.3 Non-Repayment of Indebtedness to the Tribe. Any employee of the Tribe, or any individual who is seeking employment with the Tribe, and who is indebted to the Tribe either through direct loans and advances or through co-signing or endorsement of loans which have become delinquent, shall establish arrangements for repayment of such debt through payroll deductions. Existing employees who fail to commit to such repayment shall be subject to appropriate disciplinary action. Potential employees shall enter such repayment arrangements prior to acceptance of employment with the Tribe.

- 27-203.4 Misuse of Staff. No Tribal official or employee shall cause or permit any person to conduct political or personal business on his or her behalf during work hours or on Tribal premises.
- 27-203.5 Use of Confidential Information. No Tribal official or employee shall use confidential information for personal gain, purposely to damage a person's reputation, or for political advancement. Information obtained by an employee by virtue of their exercise of duties shall be maintained in strictest confidence. Tribal employees may become aware of and have access to information on Tribal members and others who may be served under Tribal programs or who may conduct business with the Tribe. Such information is also considered privileged and confidential.
- 27-203.6 Abuse of Authority. No Tribal official or employee shall use his or her authority or position to influence the consideration of any business agreement. No Tribal official or employee shall attempt to make any decisions on behalf of the Tribe unless he or she is so authorized. It shall further be a violation for any such person to make unauthorized promises of any kind, which may be binding upon the Tribe. Intimidation of fellow officials and employees is prohibited.
- 27-203.7 Preferential Treatment. No Tribal official or employee shall give preferential treatment to any person, group or organization, because of relationship or personal friendship, or in return for personal gain or political advancement.
- 27-203.8 Retaliation. It shall be a violation for any Tribal official or employee to retaliate against a person who files an ethics complaint in good faith. It shall also be a violation for any person to file an ethics complaint when he or she has no good faith belief that a violation has occurred, or when the primary motivation is harassment.
- 27-204. Neglect of Duty, etc.**
- 27-204.1 Neglect of Duty. any knowing omission or refusal, without sufficient excuse, to perform the duties and obligations of office, i.e., nonfeasance or the failure to act when a duty to act existed, malfeasance or the a wrongful or unlawful act; especially wrongdoing or misconduct by a public official and misfeasance, the performance of a lawful act in a wrongful manner;
- 27-204.2 Impeding Governmental Efficiency. No Tribal official or employee shall attempt, directly or indirectly, to obstruct the official functions of the Tribe, its programs, its enterprises, entities, boards, committees, or commissions.

- 27-204.3** Abstention from Official Action. No Tribal official shall vote on any matter in which he or she may have a direct or indirect pecuniary or economic interest. A Tribal official shall not authorize someone to cast a proxy vote in such circumstances, and such persons shall refrain from sponsoring or influencing official acts that appear to create a conflict of interest.
- 27-205. Prohibited Activities.**
- 27-205.1** Political Activities Prohibited During Working Hours. No Tribal official or employee shall participate in any campaign or political activity while on official duty, nor use his or her position to influence anyone's vote or abridge the voting privileges of any person. Nor shall any Tribal official or employee coerce or attempt to coerce any Tribal employee into making a political contribution or commitment in return for employment, favors or other preferential treatment. (Specific prohibited activities are delineated in Title XVIII, 18-203.2.)
- 27-205.2** Sexual Harassment. As defined in Title XVIII, 18-201.6, the Tribe shall provide a safe working environment for all Tribal employees, and employees shall be protected in their work place from hostile and coercive acts, disruptive behavior, and from sexual harassment in any form of verbal and/or physical conduct and advances. Tribal officials and employees shall not engage in any acts or behavior that may violate federal and Tribal laws and prohibitions against any form of sexual harassment or hostile or coercive behavior.
- 27-205.3** Nepotism. Program directors or supervisors shall not supervise a relative, Hunka relative or significant other, nor advocate for their employment or advancement. Relative means: father, mother, grandfather, grandmother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, son-in-law, daughter-in-law, father-in-law, mother-in-law, sister-in-law, brother-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister. Significant other means a domestic partner. Hunkayapi relative means those persons adopted by Dakota/Lakota custom or traditional practice.
- 27-205.4** Restrictions of Assisting or Advising. No former Tribal official or employee shall, within a one (1) year period subsequent to their appointment or employment with the Tribe, and on the basis of information gained during their tenure, represent, assist, or advise any person or entity in any action against the Tribe or any of its enterprises.

- 27-205.5** Dual Appointment to Elective Office. No Tribal official or employee shall serve in any state or federally elected position while serving in his or her official capacity with the Tribe.
- 27-205.6** Concurrent Positions. Employees and officials of the Tribe and employees of any entity, corporation or enterprise, that is financed in whole or in part by Tribal funds, including funds granted or loaned to the Tribe, shall not concurrently hold an elective office on Tribal Council.
- 27-206. Disclosure.**
- 27-206.1** Disclosure of Conflicts of Interest. All Tribal officials and employees shall be required to submit a signed *Statement of Disclosure of Conflict of Interest* to be included in the official or employee's personnel file. This *Statement* shall include acknowledgment of receipt and understanding of the *Tribal Employees Code of Ethics*, and shall outline any existing conflicts of interest, as defined in this Title. Tribal officials and employees shall provide updated information on conflicts to the Human Resources Office within ten (10) days of any substantive change of status.
- 27-206.2** Financial Disclosure. All Tribal officials and employees shall provide a financial disclosure statement to elaborate on financial or business interests disclosed in the *Statement of Disclosure of Conflict of Interest*. Tribal officials and employees shall provide updated information on financial or business conflicts to the Human Resources Office within ten (10) days of any substantive change of status. Such statements shall be filed on a form prescribed by the Human Resources Manager, and shall be considered as confidential information.
- 27-206.3** Outside Employment. Tribal officials or employees who are engaged in any outside employment or private enterprise shall provide to the Human Resources Office a written notification of such employment or enterprise and a copy of the notice to the program director or supervisor. Employees shall be responsible to provide updated information on such employment or enterprise any time there are substantive changes in employment or business status, and within thirty (30) days of such change.
- 27-206.4** Convictions. In accordance with the provisions of Title XVIII, §§ 18-201.7 and 18-201.8, the Tribe shall not offer nor continue employment of individuals convicted of the specified felony violations set forth therein. Such individuals shall not be hired and, if hired, shall immediately be terminated. The failure to disclose such convictions on the employment application shall result in immediate termination. Tribal officials and employees who are charged with a felony or certain misdemeanor violations relating to violence, sexual misconduct, harassment or

dishonesty during the course of Tribal employment shall provide notification of such charges to their immediate supervisor or program director and to the Human Resources Office, within twenty-four (24) hours after they receive notice that such charges have been filed against them. The filing of such charges may prejudice the employment status of the official or employee. However, the Tribal Chairman may consider placement of such official or employee on administrative leave if such would be in the best interest of the Tribe, and depending on the nature of the violation.

**27-206.5** False Statements. It shall be a violation of the *Tribal Employee Code of Ethics* to deliberately provide false information or to fail to disclose information on any Tribal employment application form or disclosure statement or any investigative document pertinent to application for or maintenance of Tribal employment. Any Tribal official or employee who provides false statements or omits pertinent information required to be disclosed under Tribal employment policies shall be immediately terminated.

**27-206.6** Background Checks and Investigations. Employees shall be subject to character investigation and background check, as provided in Title XVIII, §§ 18-201.7 and 18-201.8.

**27-207. Appearance of Impropriety.**

Tribal officials and employees shall make every effort to avoid the appearance of impropriety, which could be perceived as being a violation of this *Code of Ethics*.

**CHAPTER 3.  
COMPLAINTS AND INVESTIGATIONS.**

**27-301. Responsible Authority.**

All forms of discipline, including termination, administered in response to an act of aggression or for violation of conditions of employment or the *Tribal Employees Code of Ethics*, shall be administered and enforced by the immediate supervisor of the Tribal official or employee. Disciplinary actions shall be set forth in the Tribe's Personnel Policies and Procedures Manual, and shall be coordinated with the Office of Human Resources. The Human Resources Manager shall be responsible for notifying the Tribal Chairman of all ongoing complaints, investigations, and disciplinary actions taken that are associated with violations of this *Code of Ethics*.

**27-302. Filing of Complaints.**

Complaints regarding potential violations of the *Tribal Employees Code of Ethics* shall be submitted in writing to the Executive Director, with a copy to the Human Resources Manager. The Human Resources Manager shall coordinate review and investigation of complaints and any disciplinary actions taken by the immediate supervisor of the Tribal official or employee. All complaints filed are to be treated as confidential and shall not be disclosed to the general public or to other Tribal employees, other than those involved in the investigation or in administrative review hearings. The Tribal Attorney shall provide legal guidance on the interpretation of the *Code of Ethics* and its application on a case by case basis.

### **27-303. Review and Investigation of Complaints.**

The Human Resources Manager shall coordinate the review and investigation of complaints, in consultation with the Tribal Attorney, and with review of the Executive Director and Tribal Chairman for serious violations of the *Code of Ethics*. The Human Resources Office shall retain all documentation submitted or gathered in complaints and investigations in confidential files kept separate from other personnel files.

**27-303.1** Complaints Regarding Existing Officials or Employees. Complaints filed that concern potential violations by existing officials or employees shall be reviewed with the immediate supervisor, unless the complaint is against the immediate supervisor<sup>3</sup>, to determine appropriate action to verify the facts and circumstances justifying the complaint, and to outline immediate action that may be taken to eliminate the conflict or violation, or further investigation that may lead to disciplinary action or prosecution. Employees named in the complaints shall be notified of the complaint and investigation and be permitted to participate in resolution or clarification of conflicts. Disciplinary actions shall be carried out within the provisions of the Tribe's Personnel Policies. Violations that may warrant further criminal prosecution shall be turned over to appropriate authorities.

**27-303.2** Complaints Regarding Applicants for Employment. Complaints filed or investigations initiated due to potential violations by individuals applying for employment with the Tribe shall be reviewed by the Office of Human Resources/Personnel. If the complaint is received prior to any action for hiring of the individual accused in the complaint, action on the employment shall be suspended pending completion of the investigation. The applicant shall be notified of the complaint and potential violation and be afforded the opportunity to clarify or resolve any conflicts. In no event shall an applicant be permitted to resume employment with the Tribe if the alleged violations would continue to be a conflict of interest or establish or continue ongoing violations of the *Code of Ethics* or other relevant Tribal

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<sup>3</sup> In case of a complaint made against a Supervisor, the review of the complaint shall be made by the Administrative Review/Ethics Committee. The Committee's decisions are final and binding.

laws, policies or regulations.

**27-303.3** Complaints against Outside Businesses or Individuals. Complaints may be filed or investigations initiated that concern actions and business practices by outside businesses or individuals that are in violation of the terms of the *Code of Ethics*. The Executive Director, in consultation with the Tribal Attorney, shall review such actions and practices and determine if there are code violations. The Executive Director shall issue notification of the violations to the business or individuals, and shall direct termination of such activity. Penalties against continued violation of the *Code of Ethics* may include termination of agreements and forfeiture of business relationships with the Tribe. Violations that may warrant further criminal prosecution shall be turned over to appropriate authorities.

**27-304. Prosecution of Violations.**

Violations of the *Code of Ethics* by officials and employees may result in disciplinary action up to and including termination. Violations by applicants for employment may result in non-employment. Serious violations that include personal gain to the detriment of Tribal interests, or that include bribery, solicitation, or other criminal practices, may give rise to criminal charges that shall be prosecuted in the appropriate Court system. In the event that it is determined that there will be no criminal prosecution, the Tribal Attorney may pursue the Tribe's legal remedies against the alleged violator. In the event that a criminal prosecution is sought by the Tribe against an individual for violations of Tribal law, the Tribal Prosecutor shall consult with appropriate authorities, with the consent of the Tribal Chairman and Tribal Council, and where the Tribal Prosecutor believes there is probable cause to pursue a criminal prosecution, the Prosecutor shall proceed as is appropriate given the particular violations and circumstances.

**CHAPTER 4.  
ADMINISTRATIVE HEARINGS AND APPEALS.**

**27-401. Administrative Review Committee Hearings.**

The Administrative Review Committee established under authority of Title XVIII, 18-302, shall be authorized to hear all testimony and review all evidence submitted by a Tribal official or employee under suspension or termination action for violation of the *Code of Ethics*. The Committee shall hear the review or appeal and render the final decision. Decisions may include conditions of reinstatement, which shall be binding. Actions taken against applicants for employment or against outside businesses or individuals are not subject to review by the Administrative Review Committee.

**27-402. Appeal to Tribal Court.**

Any person or business adversely affected by a decision of the Administrative Review Committee or by action of the Human Resources Manager or the Executive Director may seek judicial review of such decision by filing with the Tribal Court a written petition for review. The Standard of Review applied by the Tribal Court to such petitions for judicial review shall be arbitrary and capricious. Such petitions shall be filed within fifteen (15) days after receipt of such decision. Review by the Tribal Court shall be limited to questions of law and the record made at the Administrative Review Committee hearing, or to the record presented in the investigation of actions and practices of outside businesses or individuals. Unless the Tribal Court finds that the decision of the Committee, Executive Director or Human Resources Manager were made arbitrarily and capriciously, the Court shall affirm the decision(s) and enter an order directing enforcement.

**27-403. Severability.**

If any section or sub-section of this Title is held to be invalid by a court of competent jurisdiction, the invalidity of such section or sub-section not affect the balance of the section or sub-section or this Title.