

TRIBAL CODE
CHAPTER 17
ETHICAL CONDUCT

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HISTORY NOTE:

Adopted May 12, 1997, pursuant to Article VI, Section 1(t) of the Tribe's Constitution. Resolution No. 164-B(97), effective immediately.

Amendments:

Resolution No. 64(05) adding Section 17.111 (7) Actual or apparent improprieties defined and prohibited.

TRIBAL CODE
CHAPTER 17
ETHICAL CONDUCT

17.101 Title.

This Code shall be known as the Tribal Code of Ethical Conduct.

17.102 Purpose.

The purpose of this Code shall be to ensure the highest ethical conduct in all of its elected and appointed officials. This Code represents the minimum standard of conduct expected in all of its elected and appointed officials. This Code represents the minimum standard of conduct expected in the carrying out of governmental responsibilities of improving the health, safety, and welfare of the Lac du Flambeau Band of Lake Superior Chippewas.

17.103 Authority.

This Code is enacted pursuant to Article VI, Section 1(a) and (u) of the Tribal Constitution.

17.104 Effective Date.

This Code shall take effect on the day following the date of approval of this Code by the Tribal Council.

17.105 Applicability.

This Code applies to all tribally Elected Officials and tribally Appointed Officials appointed pursuant to Article VI, Section 1(t) of the Tribe's Constitution.

17.106 Severability.

If any section, provision, or portion of this Code is adjudged to be invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected thereby.

17.107 Sovereign Immunity Preserved.

The Tribe, by the adoption of this Code, does not waive, either in a limited manner or otherwise, its sovereign immunity in any respect. There shall be no liability on the part of the Tribe, its agencies, agents, or employees, for any damages which may occur as a result of reliance upon or actions taken pursuant to this Code.

17.108 Abrogation and Greater Restrictions.

Where this Code imposes greater restrictions than those contained in other Tribal Ordinances, Codes, or Resolutions, the provisions of this Ordinance shall govern.

17.109 Definitions.

As used in this chapter:

(1) “Appointed Official” means that person who has been duly appointed to a Tribal committee, commission, or other non-employee position by the Tribal Council, pursuant to Article VI, Section 1(t).

(2) “Cause” means inefficiency, neglect of duty, or Official Misconduct.

(3) “Direct and Predictable Effect.” A particular matter will have such an effect on a financial interest if there is a close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest. An effect may be direct even though it does not occur immediately.

(4) “Elected Official” means that person who has been duly elected into Tribal office pursuant to the Tribe’s Election Code and Constitution.

(5) “Financial Interest” means those interested held by the elected or appointed official or by his or her spouse or minor children, and includes any current or contingent ownership, equity, or security interest in real or personal property.

(6) “Non-public Information” means that information that is available to an elected or Appointed Official by reason of tribal employment or service and that he or she knows, or reasonably should know, is not available or has not been made available to the general public.

“Non-public Information” includes that information 1) that the Elected Official or Appointed Official knows or reasonably should know is routinely exempt from public disclosure or otherwise is protected from disclosure pursuant to tribally-implemented safeguards; and 2) that has not actually been disseminated to the general public and is not authorized to be made available to the general public upon request.

(7) “Official Misconduct” means doing a forbidden act intentionally or wilfully or the failure to perform a required duty.

(8) “Tribal Property” means any form or real or personal property in which the Tribal Government has ownership, leasehold or other property interest as well as any right or other intangible interest that is purchased with governmental funds, including the services of contractor personnel, office supplies, telephone and other telecommunication equipment and services, government mails, automated data processing capabilities, printing and reproduction facilities, government records, and government vehicles.

17.110 Standards.

(1) Public service is a public trust, requiring Elected Officials and Appointed Officials of the Tribe to place loyalty to the Tribe, its Constitution, laws, confidentiality of tribal information, and ethical principals above private gain.

(2) Elected Officials and Appointed Officials shall put forth honest efforts in the performance of their duties.

(3) Elected Officials and Appointed Officials shall act impartially and not give preferential treatment to any private organization or individual, except pursuant to such reasonable exceptions as provided in the Tribe’s Indian Preference hiring policy.

(4) Elected Officials and Appointed Officials shall protect and conserve Tribal Property and uphold the confidentiality of Non-Public Information.

(5) Elected Officials and Appointed Officials shall disclose waste, fraud, and corruption to appropriate authorities.

(6) Elected Officials and Appointed Officials shall satisfy in good faith their obligations as tribal members, including all just financial obligations.

(7) Elected Officials and Appointed Officials shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethnical standards set forth herein. Whether particular circumstances create appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

17.111 Prohibited Conduct.

(1) Elected Officials and Appointed Officials shall make no unauthorized commitments or promises of any kind purporting to bind the Tribal Government or make any statements, either public or private, purporting to represent the Tribe's position without Tribal Council action supporting such position.

(2) Elected Officials and Appointed Officials shall not use his or her public or tribal service for private gain.

(3) Elected Officials and Appointed Officials shall not engage in outside employment or activities that conflict with official tribal government duties and responsibilities.

(4) Elected Officials and Appointed Officials shall not hold financial interests that conflict with the conscientious performance of duty or that will have a Direct and Predictable Effect on any governmental action pertaining to such financial interest.

(5) Elected Officials and Appointed Officials shall not engage in financial transactions using non-public tribal government information or allow the proper use of such information for private gain.

(6) Elected Officials and Appointed Officials shall not engage in neglect of duty or Official Misconduct.

(7) Actual or Apparent Improprieties Defined and Prohibited.

This section applies to all members of the Tribal Council, appointed officials, committees of the Tribal Council, tribal employees, and contract employees. The aforementioned shall refrain from 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 non-performance of the individual'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.

17.112 Enforcement and Penalties.

Penalty for violations of this Code shall be by removal from office pursuant to Article V, Section 2 of the Tribe's Constitution, or removal from appointed position pursuant to two-thirds Tribal Council vote taken at a duly called and noticed meeting, provided such person considered for removal from appointed position shall be served with notice of such reasons for said removal and provided an opportunity to be heard.