

# **Tribal Government Code of Conduct**

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## **ARTICLE I. TITLE AND PURPOSE**

### **SECTION 101. TITLE**

This document shall be referred to as the "Tribal Government Code of Conduct" for the Delaware Tribe (Code of Conduct).

### **SECTION 102. PURPOSE**

(A) The purpose of this Code of Conduct is to set forth standards by which Elected Officials will conduct themselves in order to protect and promote Tribal integrity and to enhance the ability of the Tribe to achieve its objectives in a manner consistent with all applicable laws and regulations.

(B) The Code of Conduct is intended to guide and direct all Elected Officials in dealing with situations they may encounter while in office. The Code provides assistance in making right choices when confronted with difficult decisions.

(C) The Code of Conduct applies to all Elected Officials. An "*Elected Official*" is any person elected or appointed to replace an elected position.

## **ARTICLE II. PRINCIPLES**

### **SECTION 201. CONDUCT IN CONFORMITY WITH APPLICABLE RULES AND LAWS**

(A) The actions of Elected Officials reflect their commitment to conduct all of the Tribe's activities in an honest, ethical and professional manner in compliance with all applicable laws and regulations and with Tribal policies.

(B) Elected Officials shall at all times conduct themselves so as to reflect credit upon the Tribal members and government, and comply with all applicable laws of the Delaware Tribe with respect to their conduct in the performance of the duties of their respective office or employment.

**SECTION 202. EQUAL REPRESENTATION**

(A) Elected Officials shall represent the interests of all members of the Delaware Tribe and not serve special interests inside or outside of the Tribe.

(B) To fully represent the interests of the Tribe, Elected Officials shall:

- (1) Not engage in any business activity that appears to be unethical or illegal;
- (2) Refuse any illegal offers, solicitations, payments, or other payment to induce business opportunities;
- (3) Refuse any offer that has the appearance of being an illegal or inappropriate offer, solicitation, payment or remuneration.

**SECTION 203. INTEGRITY**

Elected Officials shall not use their position and/or Tribal resources to serve their own personal, financial, or business interests.

**SECTION 204. CONFIDENTIALITY**

To respect the privacy of Tribal members, employees, and clients, Elected Officials shall not use or disclose confidential information gained in the course of or by reason of their official position or activities, to further their own economic and personal interest or that of anyone else. Elected Officials shall in any event maintain strict confidentiality over such information received, regardless of economic or personal gain.

**SECTION 205. RESPONSIBILITY**

(A) Elected Officials shall respect the laws that govern the operation of the Tribe and the treatment of Tribal members.

(B) The actions of Elected Officials reflect their commitment to conduct Tribal activities in an honest, ethical and professional manner. In carrying out their responsibilities, Elected Officials shall:

- (1) Adhere to both the letter and the spirit of applicable Tribal, Federal, and State laws and regulations;
- (2) Maintain high standards of business and ethical conduct in accordance with applicable federal, Tribal and state laws and regulations, including laws and regulations dealing with fraud, waste and abuse;
- (3) Be truthful and straightforward in dealing with other government agencies;
- (4) Maintain a workplace free of discrimination, harassment, violence and intimidation, and that is drug-free. Elected Officials shall not tolerate any form of threatening or abusive behavior.

(5) Follow Tribal/Indian preference in employment as allowed by law in accordance with Tribal policies.

#### **SECTION 206. COMPETENCE**

(A) Elected Officials shall perform their duties by making informed decisions in good faith and in a manner believed to be in the best interests of the Tribe.

(B) To maintain confidence in the Tribal government, such officials shall:

- (1) Practice good faith in all transactions occurring during the course of business;
- (2) Deal openly, effectively, and honestly with fellow Tribal members, Elected Officials, employees, contractors, government agencies and others;
- (3) Conduct business dealings in a manner such that the Tribe shall be the beneficiary of such dealings;
- (4) Make educated decisions based on sufficient inquiry and accurate information.

#### **SECTION 207. ACCOUNTABILITY**

(A) Elected Officials are bound by this Code of Conduct and shall address behavior inconsistent with this Code in an effective and efficient manner as set forth in this Code.

(B) Elected Officials will adhere to the Code of Conduct's principles by:

- (1) Becoming familiar with this Code of Conduct and the policies and procedures applicable to Elected Officials;
- (2) Providing open communication channels to allow Tribal members and employees to pursue compliance or ethical questions without fear of retaliation;
- (3) Immediately reporting any suspected violations of this Code of Conduct or of any applicable law or regulation, as set forth herein for investigation;
- (4) Not taking any disciplinary action or otherwise retaliating in any form against any Tribal member or employee, who, in good faith, reports a concern, issue, problem, or violation of the law, regulations or the Code of Conduct. "Good faith" means that there is an objective basis for the allegation and does not require definitive proof.
- (5) Take alleged violations and suspected violations seriously, as they could delay, compromise, or otherwise impair the services the Tribe provides.

## **ARTICLE III. CONFLICT OF INTEREST SECTION**

### **301. CONFLICT OF INTEREST:**

(A) No Elected Official shall use, or attempt to use, any official or apparent authority of their office or duties which places, or could reasonably be perceived as placing their private economic gain or that of any special business interests with which they are associated, before those of the Tribal membership, whose paramount interests their office or employment is intended to serve.

(B) It is the intent of this Section that Elected Officials of the Delaware Tribe avoid any action, whether or not specifically prohibited by the Code of Conduct set out herein, which could result in, or create the appearance of:

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any special interest organization or person;
- (3) Interfering with governmental or managerial efficiency or economy;
- (4) Losing or compromising complete independence or impartiality of actions;
- (5) Making a government or management decision outside official channels;
- (6) Adversely affecting the confidence of the Tribal members in the integrity of the government and administration of the Delaware Tribe.

(C) No Elected Official shall participate in the selection, or in the award or administration of a contract supported by Federal funds and/or Tribal funds, if a conflict of interest, real or apparent, would be involved.

(D) A conflict of interest shall be deemed to arise for purposes of this section when the Elected Official or any member of their immediate family has a financial or other interest in the firm or person selected for the contract or grant award.

### **SECTION 302. ANTI-NEPOTISM**

(A) No Elected Official shall employ, elect, appoint or otherwise cause to be employed, nor nominate or otherwise influence the appointment or employment to any Tribal office or position with the Delaware Tribe or any governmental or political subdivision thereof, any person or persons in their immediate family, nor any member of the same household of said Elected Official.

(B) Assignment of such persons to duties, positions, governmental offices or other entities shall in all instances be made in strict compliance with the current provisions of this Code and the Tribe's Personnel Policies Manual.

(C) "Immediate family" includes Spouse or Co-Habitant, Parents, Siblings, Children, Grandparents, Grandchildren, Father-in-Law, Mother-in-Law, Son-in-Law, Daughter-in-Law, Step-Parents and Step-Children.

### **SECTION 303. CONFLICT OF INTEREST STATEMENTS AND OFFICIAL ACTION**

(A) Disclosure: It is the premise that all Elected Officials who have interests which might conflict with their duties should divulge those interests. Disclosure shall also extend to those interests held by his/her immediate family, when they are known by the Elected Official.

(B) When an Elected Official is required to take action on a matter in which such Elected Official has a personal economic interest, they should first consider eliminating that interest. If that is neither feasible nor required under this Code, such Elected Official shall:

- (1) Disclose to the Tribal Council the matter requiring action and the nature of the potential conflict, as soon as such Elected Official is aware of the responsible party for inclusion in the official record of any vote or other decision or determination;
- (2) Abstain from voting, sponsoring, influencing or in any manner attempting to influence any vote, official decision or determination which would favor or advance such person's personal economic interest in such matter; and
- (3) Abstain from voting or otherwise participating in the official decision or determination of such matter, unless otherwise legally required by law, or unless such person's vote, position, recommendation or participation is contrary to their personal economic interest.

(C) Unless otherwise provided by applicable law, the abstention by such person from voting or otherwise participating in the official determination or decision shall not affect the presence of such person for purposes of establishing a quorum necessary for a governmental body.

### **ARTICLE IV. FIDUCIARY DUTY**

#### **SECTION 401. ECONOMIC INTERESTS**

(A) To avoid using governmental positions to serve their own personal, financial, or business interests, Elected Officials shall:

- (1) Not participate in governmental or management decisions in which they have a business, financial, or professional interest outside of the Tribe which they represent.
- (2) No Elected Official shall accept or receive any benefit, income, favor or other form of compensation for performing the official duties of their office or employment, beyond the amount or value which is authorized and received in their official capacity for performing such duties.
- (3) Not solicit, or offer anything of value in the course of business dealings;
- (4) Avoid using the Tribe's resources for their own personal, financial, or business interests. Elected Officials shall utilize authorized employees and staff only for the official purposes for which they are employed or otherwise retained.
- (5) No Elected Official, however, shall accept any benefit, income, favor or other form of compensation for the performance of the duties of any other office or employment not actually performed or for which such official or employee is not otherwise properly authorized or entitled to receive.

(6) Strictly prohibit kickbacks, bribes, rebates or any kind of benefits intended to induce business benefits.

(7) Report reimbursable expenses accurately and to only one source; and avoid receiving any financial gain as a result of business travel or entertainment.

(8) Elected Officials shall not:

(a) Use supplies and services in a manner that creates waste or abuse. Elected Officials must be responsible and accountable for the proper use of all Tribal property and equipment entrusted in their care.

(b) Use any property of the Delaware Tribe or any other public property of any kind for other than as authorized and approved for official purposes and activities. Such persons shall properly protect and conserve all such property, equipment and supplies which are so entrusted, assigned or issued to them.

(9) Elected Officials shall not engage in transactions that will provide them an economic advantage due to information received through their public office or employment, and such officials shall not acquire any property or other economic interest when doing so that will substantially affect or influence the performance of their official actions or duties.

#### **SECTION 402. TRIBAL GOVERNMENT CONTRACTS: RESTRICTIONS AND BID REQUIREMENTS**

(A) No Elected Official shall participate in the selection or in the award or administration of a contract or grant award of funds from any government agency, if a conflict of interest, real or apparent, shall be involved.

(B) No Elected Official or any member of such person's immediate family shall be a party to, nor have an interest in the profits or benefits of, any government contract of the Delaware Tribe or of any investment of funds of the Delaware Tribe, unless the contract or the investment meets the following requirements:

(1) The contract is let by notice and competitive bid or procurement procedures as required under the applicable laws, rules, regulations and policies of the Delaware Tribe, for necessary materials or services for the governmental agency or entity involved; and

(2) In the continuous course of business, the bid was commenced before the Elected Official assumed their current term of office or employment; and

(3) The entire transaction is conducted at arm's length, with the governmental agency's full knowledge of the interest of the Elected Official or a member of their immediate family; and

(4) The Elected Official has taken no part in the determination of the specifications, deliberations or decisions of a governmental agency with respect to the public contract.

(C) This provision shall not apply to such persons qualifying for housing benefits from the Tribe or for medical benefits from the Indian Health Service or other programs available to all Tribal members.

### **SECTION 403. GIFTS, AWARDS, LOANS, REIMBURSEMENTS AND CAMPAIGN CONTRIBUTIONS**

(A) Except as otherwise provided herein or by applicable rule or regulation adopted hereunder by the Delaware Tribe, or by other applicable law, no Elected Official shall solicit or accept for themselves or another, any gift, including economic opportunity, favor, service, or loan (other than from a regular lending institution or Tribally sponsored lending program on generally available terms) or any other benefit from any person, organization or group which:

- (1) Has, or is seeking to obtain, contractual or other business or financial relationships or approval from any governmental office or entity with which the Elected Official is associated or employed; or
- (2) Conducts operations or activities which are regulated or in any manner supervised by any governmental office or entity with which the Elected Official is associated or employed; or
- (3) Has any interest which, within the past two (2) years or in the foreseeable future, has been or will be directly affected by an official action (or inaction) of such Elected Official or the Election Official's office.

(B) The restrictions in Section 403(A) (above) shall not be construed to prohibit:

- (1) An occasional non-financial gift, insignificant in value (less than \$200.00);
- (2) Gifts from and obviously motivated by family or social relationships, as among immediate family members or family inheritances;
- (3) Food and refreshments customarily made available in the ordinary course of meetings where a Elected Official may properly be in attendance;
- (4) An award or honor customarily and publicly presented in recognition of public service.

## **ARTICLE V. COMPENSATION**

### **SECTION 501. COMPENSATION**

(A) An Elected Official may receive income, honoraria or reimbursement of expenses attributable to the performance of duties during a duly called Tribal Council meeting or government function in accordance with the approved Stipend Policy.

(B) Elected Officials may not receive income, honoraria or reimbursement of expenses from a second source beyond the Delaware Tribe if such payment is already paid by the Delaware Tribe and would result in a double payment to the Elected Official.

## **ARTICLE VI. MISCELLANEOUS**

### **SECTION 601. AMENDMENTS TO THE GOVERNMENTAL CODE OF CONDUCT**

(A) Any Elected Official who is subject to the provisions of this Code, is authorized to submit for approval and adoption by the Tribal Council such supplemental rules, regulations and standards of conduct for the public officials, which are necessary and appropriate to the special conditions relating to their particular functions, purposes and duties and not in conflict with the purposes and other provisions of this Code.

(B) Upon adoption, such supplemental standards, rules and regulations shall be implemented in the same manner and to the extent applicable, as are all other standards, rules and regulations provided and adopted in accordance with this Code.

## **ARTICLE VII. IMPLEMENTATION AND COMPLIANCE**

### **SECTION 701. FILING OF COMPLAINTS**

The Tribal Council shall initiate and/or receive, review and/or investigate complaints filed. Complaint must be filed in an executive session of a regular or special Tribal Council meeting. Executive session shall be requested by the person filing complaint. Each complaint shall contain a statement of the alleged misconduct, including any section of the Constitution or Tribal Government Code of Conduct alleged to have been violated, and the alleged facts upon which such charges are based. The Tribal Council shall maintain confidentiality until a final determination is reached.

### **SECTION 702. NOTICE**

The Tribal Council shall issue to the Elected Official a written notice containing a statement of alleged misconduct, including any section of the Constitution or Tribal Government Code of Conduct alleged to have been violated. The notice shall state alleged facts upon which such charges are based.

### **SECTION 703. DETERMINATION TO PROCEED**

(A) If the Tribal Council finds sufficient cause to proceed, they shall conduct or cause an investigation to be conducted to determine violations or noncompliance with the Constitution or this Code. In any Tribal Council determination regarding the matter under review, that Tribal Council member must abstain from voting on the matter.

(B) If the investigation brings forth violations that are subject to administrative remedies, the record of the investigation shall so state. Administrative remedies shall mean those internal controls of program management.

(C) If the investigation indicates violations that cannot be addressed with administrative remedies references above, the Tribal Council shall move forward with a fair hearing as outlined herein.

(D) The Tribal Council may dismiss, by a majority vote, any complaint which it determines has insufficient facts to constitute a violation of noncompliance to this Code, or if there is not clear and convincing evidence to support the allegations.



#### **SECTION 704. RESPONSE TO NOTICE**

Within five (5) business days after receipt of the complaint, the accused Elected Official shall file a written response setting forth any admission, denial, affirmative defense, or other matter upon which they intend to rely on at the hearing.

#### **SECTION 705. FAIR HEARINGS**

(A) If the Tribal Council finds sufficient cause to proceed, they shall conduct or cause an investigation to be conducted to determine violations or noncompliance with this Code within in thirty (30) calendar days.

(B) The Elected Official in question shall have the opportunity and right to be heard on his or her own behalf before the Tribal Council. There shall be a full and complete discussion of all aspects of the complaint against the Elected Official prior to a final decision, and the individual in question shall have the right to bring a spokesperson or advocate to speak on his or her behalf, witnesses, documents and/or any other relevant evidence to support his or her position.

(C) The hearing shall be informal, without formal rules of evidence, held in closed session, and recorded by the Secretary.

(D) The Tribal Council shall receive and consider all of the evidence presented at the hearing and shall issue a written decision regarding the matter in question. The decision shall be mailed to the Elected Official by certified mail, within twenty (20) calendar days after the hearing date.

(E) All provisions of the Delaware Tribe's Constitution for removal of Council Members shall apply.

(F) The decision of the Tribal Council following the hearing shall be final.

#### **SECTION 706. ADMINISTRATIVE DECISION**

(A) A majority vote of a quorum duly seated of the Tribal Council shall be required to make a determination.

(B) The Tribal Council may impose or recommend any sanctions or other penalties provided in this Code; or refer their findings to other appropriate entities for action.

(C) Location of the repository of records of complaints and hearings shall be the responsibility of the Tribal Secretary/Treasurer.

#### **SECTION 707. APPEALS**

(A) A notice of appeal shall be filed within ten (10) business days of the issuance of a written decision.

(B) The appeal shall be limited to review of the record to determine by the Tribal Court whether the Tribal Council complied with recognized fair hearing procedures and this Code.

**SECTION 708. STATUTE OF LIMITATIONS**

No action shall be brought under this Code more than two (2) years after cause of action has occurred.

**SECTION 709. RETALIATION PROHIBITED**

(A) Retaliation against any party or witness to a complaint shall be prohibited. Retaliation shall include any form of adverse or punitive action by or caused by any Elected Official.

(B) This protection shall also be afforded to any person(s) offering testimony or evidence or complying with directives authorized under this Code.

(C) Any violations shall be subject to penalties under this Code, as well as applicable law.

**ARTICLE VIII. SANCTIONS AND PENALTIES**

**SECTION 801. ADMINISTRATIVE SANCTIONS**

(A) Upon a finding that there has been a violation of any provisions of this Code, the Tribal Council will impose any or all of the following penalties or sanctions:

- (1) Issuance of a private reprimand to such person, with or without suspension of any or all other sanctions provided herein.
- (2) Issuance of a written public reprimand, which shall be entered into such person's permanent record of office and upon the permanent record of the Delaware Tribe, according to provisions of applicable Delaware Tribal laws and procedures.
- (3) Removal, discharge or termination from office in accordance with applicable Tribal law and procedure.

(B) No sanctions or penalties provided herein shall limit any other powers of the Tribal Council, nor of any other entity or administrative officials or employees under other applicable law, rules, regulations or procedures.