

Code of Ethics Prairie Band Potawatomi Ethics Commission

Section 1. Title

This Ordinance shall be known as the Prairie Band Potawatomi Nation Code of Ethics.

Section 2. Authority

Through an exercise of General Council's inherent authority and those granted in the Prairie Band Potawatomi Constitution, it hereby enacts the Code of Ethics.

Section 3. Purpose

To address the ethical behavior of elected and appointed officials of the Prairie Band Potawatomi Nation (the "Nation"), this Ordinance provides the Nation with a Code of Ethics as required by the Nation's Constitution.

Section 4. Definitions (as used in this Ordinance):

- A. Appearance of impropriety - shall mean reasonable minds, with knowledge of all the relevant circumstances disclosed by reasonable inquiry, would conclude that the official's honesty, integrity, or fitness to serve as an official is impaired.

- B. Appointed Official - shall mean an official that is appointed to a board or committee by an elected tribal entity. Some examples are the Prairie Band Potawatomi Entertainment Corporation, Charitable Contributions Committee, Election Committee, and the Enrollment Committee. This list is neither all inclusive nor exhaustive.

- C. Bullying - shall mean harassing behavior perpetuated against an individual(s), by one or more persons in the workforce or any other place.

- D. Conflict of interest - shall mean an influence which impairs the ability of an Elected/Appointed Official to act in the best interests of the Nation, its enterprises, or government. Influence may include anything of value to the Elected/Appointed Official including, but not limited to, money, power, and/or assistance to family or friends.

- E. Constitution - shall mean the Constitution and By-Laws of the Prairie Band Potawatomi Nation and any amendments.

- F. Dereliction of duty - shall mean failure, through negligence or obstinacy, to perform one's legal or moral duty to a reasonable expectation.

G. Elected Official - shall mean a Tribal member that is elected to a position as designated by the Constitution or Tribal Code. This includes Tribal Council, Gaming Commission, and Ethics Commission.

H. Employment - shall mean professional services and other services rendered by an Elected/Appointed Official, whether rendered as an employee, consultant, or independent contractor.

I. Ethics Commission - shall mean a regulatory body which is comprised of Tribal members elected by General Council as designated by the Constitution to ensure fair practice and honesty within Tribal Government, Elected/Appointed Boards, and Commissions.

J. Executive or Closed Session - shall mean a meeting or hearing of the Ethics Commission that may be closed to all persons except Ethics Commissioners and necessary staff as designated by the Ethics Commission in order to discuss matters involving personnel, litigation, negotiation, or other confidential matter as deemed essential to a comprehensive discussion.

K. Executive Director - shall mean the individual designated by the Ethics Commission to assist with special duties and assignments.

L. Formal complaint - shall mean a written and signed grievance alleging unethical action by an Elected/Appointed Official.

M. Fraud - shall mean the crime or offense of deliberately deceiving another in order to obtain property or services unjustly.

N. Frivolous - shall mean a filed complaint that is not supported by credible evidence.

O. Funds - shall mean all the financial resources of the Tribe, such as cash on hand, bank balances, and accounts receivable. Any change in these resources is reflected in the Tribe's financial position.

P. General Council - shall mean enrolled members of the Nation who are eighteen (18) years of age or older meeting in a general council.

Q. Gift - shall mean items of inconsequential economic value offered without obligation to selected recipients by the Tribe's representative, as an expression of appreciation or goodwill. Gift does not include food and drink totaling less than one hundred dollars (\$100) and ceremonial awards costing less than one hundred dollars (\$100).

R. Group harassment - shall mean organized stalking by groups to harass select individuals.

S. Harassment - shall mean the repeated, intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another.

T. Hate speech - shall mean communication, verbal or written, which express or encourage hate towards a particular individual(s).

U. Immediate family member - shall mean spouse/significant other, parent, grandparent, child, grandchild, brother, sister, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, and son-in-law. Adopted and step members are also included in immediate family, according to customs.

V. Legal harassment - shall mean legal actions that are not warranted against an individual(s) for the purpose of causing undue stress or grief.

W. Mobbing - shall mean violence committed directly or indirectly by a loosely affiliated or organized group of individuals to punish a person for some alleged offense without a lawful trial.

X. Nation - shall mean the Prairie Band Potawatomi Nation, recognized by the federal government and operating pursuant to the Tribal Constitution and By-Laws.

Y. Open Session - shall mean an Ethics Commission meeting or hearing which is open to all enrolled Tribal members to observe.

Z. Ordinance - shall mean the Code of Ethics established and administered by the Ethics Commission.

AA. Perjury - shall mean knowingly and intentionally making factually incorrect statements under oath in connection with statements, testimony, or disclosures.

BB. Police harassment - shall mean unfair treatment conducted by law officials including but not limited to excessive force, profiling, threats, coercion, or any form of discrimination.

CC. Psychological harassment - shall mean repetitive or unprovoked intrusions (verbal comments, actions, or gestures) which lowers an individual's self-esteem or causes undue stress or grief.

DD. Personal interest - shall mean an action taken by an Elected/Appointed Official which is intended to benefit the Elected/Appointed Official and/or his or her immediate family rather than the Nation as a whole or a business with which the Elected/Appointed Official or an immediate family member is associated.

EE. Potential conflict of interest - shall mean Elected/Appointed Officials take action that could financially impact the Elected/Appointed Official, their immediate family, or a business with which the Elected/Appointed Official or an immediate family member is associated.

FF. Prairie Band Potawatomi Nation - shall mean a federally recognized Indian Tribe, organized pursuant to its Constitution and By-Laws, approved by the members of the Nation and the Secretary of the Interior.

GG. Stalking - shall mean the unauthorized following and surveillance of an individual(s), to the extent that the individual(s) privacy is violated, and the individual(s) fear for their safety.

HH. Tribal - shall mean belonging or pertaining to the Prairie Band Potawatomi Nation.

II. Tribal Council - shall mean seven (7) member governing body composed of a Chairperson, Vice-Chairperson, Secretary, Treasurer, and three (3) Council Persons empowered to act on behalf of the Nation as provided in the Constitution.

JJ. Tribal Government - shall mean all officers, directors, managers, supervisors, and employees of the Prairie Band Potawatomi Nation, regardless of whether employed by the Nation or any of its Commissions, Committees, Boards, Agencies, Departments, or otherwise.

KK. Tribal Members - shall mean enrolled members of the Prairie Band Potawatomi Nation.

LL. Whistle blowing - shall mean the disclosure by an employee or Tribal member to the public or to those in authority, of mismanagement, corruption, illegality, or some other wrongdoing.

Section 5. Ethical Obligations and Standards of Conduct

A. Elected/Appointed Officials have a solemn duty and ethical obligation to comply with these duties and responsibilities:

1. Act at all times in the public interest to protect and promote the health, safety, and welfare of the Nation. The first duty of Elected/Appointed Officials is to serve the public interests of every member of the Nation. Elected/Appointed Officials shall take care to distinguish between the public interest of the Tribal community and the private interests of individuals.

2. Protect and promote tribal sovereignty and self-determination. Tribal sovereignty is absolutely crucial to the continued existence and health of Tribal governments and Indian tribes. Elected/Appointed Officials shall promote, uphold, fortify, and expand tribal sovereignty and self-determination, both for the Nation and for Tribal governments generally. The implications for Tribal sovereignty of every decision and action shall be considered.

3. Demonstrate the highest standards of personal integrity, truthfulness, honesty, and fortitude in the performance of their official duties. Elected/Appointed Officials shall set an example of good ethical behavior to inspire respect, confidence, and trust in Tribal Government. Elected/Appointed Officials shall project a positive image of the Nation at all times.

4. Protect the honor of the Nation's name, symbols, and regalia. Elected/Appointed Officials shall not permit any person or organization use the name of the Nation, or any of its devices, mottos, insignia, regalia, or any other official symbol of the Nation for private benefit in a disrespectful manner.

5. Treat members of the Nation fairly. Elected/Appointed Officials shall not discriminate on the basis of race, color, religion, sex, marital or parental status, disability, age, financial status, or political affiliation; provided that the application of official Tribal preference policies designed to promote advancement of Tribal members and Indian people in general shall be permitted.

6. Uphold the Prairie Band Potawatomi Code of Ethics. Elected/Appointed Officials shall become familiar with the Code of Ethics and shall conscientiously follow the Code in every aspect of their duties.

7. Attend required meetings

a. Tribal Council shall adhere to the attendance standards as defined in the Constitution. Failure of any member of the Tribal Council to attend three (3) consecutive meetings of the Tribal Council after having received official notification of the meeting, unless excused by the Tribal Council, shall automatically result in the removal of such officer or Council Person from office.

b. Other Elected/Appointed Officials shall attend all regular and special meetings, as required, to fulfill their official obligations. Elected/Appointed Officials shall notify their appropriate chairperson or committee head prior to any meeting they will not attend, with a valid excuse. Three (3) consecutive absences during a term shall constitute a violation of this Ordinance.

B. Standards of conduct and potential official misconduct:

1. Dereliction of duty

a. All Elected/Appointed Officials shall be accessible at their respective administrative offices during regularly scheduled business hours. This process ensures accountability and accessibility by Tribal membership.

b. All Elected/Appointed Officials shall give a full day's work for a full day's pay and shall fulfill the duties they were elected to perform.

c. All Elected/Appointed Officials shall deliver governmental services without compromising quality and fairness.

2. Conflict of interest

a. Avoid conflicts of interest whether actual or potential. Where an actual conflict exists, Elected/Appointed Officials shall fully disclose the conflict to their chairperson or committee head and should abstain from taking any action or making or advocating any decision regarding the situation out of which the conflict arose.

b. Where the potential for a conflict of interest exists, complete disclosure and good-faith reliance upon written opinions of the Ethics Commission, supported by adequate consultation with chairpersons or committee heads, legal counsel, or other appropriate ethical authorities may assist the individual Elected/Appointed Official in determining whether a conflict of interest exists and whether action will be taken.

3. Appearance of impropriety

a. Elected/Appointed Officials shall avoid any appearance of impropriety.

b. Elected/Appointed Officials shall avoid impropriety while serving on behalf of the Tribe including acts involving an abuse of power; acts involving dishonest conduct; acts that would do a disservice to the Tribe's reputation; or acts involving fraud or perjury.

4. Misuse of confidential information

a. Elected/Appointed Officials shall respect and protect confidential Tribal Government information, individuals, businesses, and other organizations to which they gain access in the course of their official duties and never use such information for personal gain or advantage.

b. Elected/Appointed Officials shall not disclose such confidential information without prior specific authorization from Tribal Council.

5. Unauthorized compensation or benefits

a. Elected/Appointed Officials shall refuse any direct or indirect payment of Tribal Government funds or transfer of Tribal Government property, other than normal wages, benefits, or other compensation approved by resolution of the Tribal Council.

b. Elected/Appointed Officials shall not use their positions for personal gain. They shall not engage in private enterprise with the Tribal Government or have an interest in firms or businesses that conduct business with the Tribal Government. Any compensation or benefits received from Tribal Government shall be for performance of official duties.

6. Unauthorized use of Nation property, funds, or staff

a. Elected/Appointed Officials shall use Tribal Government resources only for official tribal government business and never for political or personal purposes.

b. Elected/Appointed Officials shall not use Tribal Government resources, including personal time, for individual election efforts, or for any other private or political purpose.

c. Tribally owned/leased vehicles shall not be driven for personal use and shall be used only for official Tribal Government business.

7. Acceptance of solicitations and excessive gifts

a. Elected/Appointed Officials shall decline gifts, favors, and benefits that influence or compromise the performance of their official duties. Acceptance of any gift that may bias a decision or other official action in favor of the donor is an ethical violation.

b. Elected/Appointed Officials shall be particularly sensitive about the source and value of gifts, the frequency of gifts from one source, and the actual or perceived motives of donors. The following may be accepted:

- Gifts of nominal value that are personal expressions of thanks
- Occasional meals and beverages
- Hospitality provided by a person in that person's own home
- Gifts from relatives not intended in exchange for services or favors
- Informational material sent to Tribal offices, including subscriptions to newspapers, journals, magazines, and other periodicals
- Bona fide awards presented in recognition of public service
- Food and beverage consumed at receptions or similar events

c. Elected/Appointed Officials shall complete a quarterly gift disclosure form at the deadline established by the Ethics Commission. Gift disclosure forms shall be kept on record with the Ethics Commission during the term of the Elected/Appointed Official and for five (5) years after the Elected/Appointed Official leaves office. The quarterly gift disclosure shall be available for public inspection upon written request from enrolled Tribal Members.

8. Misuse of travel funds and leave

a. Elected/Appointed Officials shall be accountable for travel expenses including Purchase Cards, per diem, equipment, Tribally owned/leased vehicles, and all other associated expenses (shall be used for intended purpose).

b. Elected/Appointed officials shall complete a quarterly expense and travel report, issued by the Ethics Commission, in addition to any internal organizational policies for travel.

c. Elected/Appointed Officials shall adhere to their respective departmental/organizational procedures regarding leave.

9. Misuse of official position

a. Elected/Appointed Officials shall not use their position to coerce, threaten, or intimidate.

b. Elected/Appointed Officials shall not solicit money, economic opportunities, favors, services, loans, or gifts for their own personal benefit or gain while serving in office.

c. Elected/Appointed Officials shall not use their office in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, any members of their immediate families, or for an organization or business with which the official is associated.

d. Elected/Appointed Officials shall not engage in, directly or indirectly, financial or other economic transactions as a result of or primarily depending upon information obtained through their office.

e. Elected/Appointed Officials shall not use Tribal resources or power of office to advance personal or individual political interests.

10. Harassment

Elected/Appointed Officials shall not engage in harassment, including harassment on the basis of race, color, religion, sex, marital or parental status, disability, age, financial status, political affiliation or any other characteristics protected under federal or Tribal law.

Elected/Appointed Officials shall not engage in harassing behavior; the following list is neither all inclusive nor exhaustive:

- Group harassment
- Psychological harassment
- Hate speech
- Bullying
- Stalking
- Mobbing
- Police harassment
- Legal harassment

11. Whistle blowing

Elected/Appointed Officials shall not participate in retaliatory behavior towards employees or persons engaging in whistle blowing.

Section 6. Ethics Commission

A. Authority

Through this Ordinance, the General Council delegates authority to the Ethics Commission and the Prairie Band Potawatomi Nation Constitution defines the nature and scope of that authority.

B. Responsibilities

The Ethics Commission shall have the power as defined in Article IX, Section 4 of the Nation's Constitution: (i) to investigate and hear complaints against Nation officials which arise under the provisions of this Code of Ethics; (ii) to provide informal advice or written advisory opinions to Nation officials to assist them in complying with the Code of Ethics; (iii) to issue rules and regulations implementing provisions of this Article and the Code of Ethics; (iv) to administer oaths and issue subpoenas to compel attendance and testimony of witnesses or production of documents; and (v) to recommend sanctions for violations of the Code of Ethics to the General Council, including but not limited to a recommendation that a Nation official be recalled using the recall process as described in the Prairie Band Potawatomi Nation Constitution.

C. Standards of Conduct

The members and employees of the Ethics Commission shall abide by the ethical standards set forth in this Ordinance.

D. Procedural

The Ethics Commission shall adopt internal policies and procedures for conducting business.

E. Written Advisory Opinions

The Ethics Commission may issue written advisory opinions at the request of any member of the Council or of any other person who is subject to the Code. Such requests and the Ethics Commission response will be kept confidential unless disclosure is specifically required by the Code or unless the person who requested the opinion requests that it be disclosed.

Supplemental memos may be issued to clarify policy and rule on specific ethical concerns for Elected/Appointed Officials. These memos will be labeled "Supplemental Memo on Code of Ethics" and shall be issued only by the Ethics Commission. These memos shall be public records and shall be kept on file with the Ethics Commission.

F. Allegations or Complaints of Ethical Violations

1. Allegations or complaints of unethical conduct by an Elected/Appointed Official, as defined in this Ordinance, shall be presented to the Ethics Commission and processed in one of the following manners:

a. Allegations or complaints shall be made in writing, signed, and submitted by mail to:

Ethics Commission
P.O. Box 218
Mayetta, Kansas 66509

b. Individual appointments may be made with an Ethics Commissioner.

2. The allegation or complaint shall specify the following information:

- a. Elected/Appointed Official's name
- b. Explanation of conduct
- c. Witnesses
- d. Supporting documentation
- e. Other supporting evidence

G. Initial Review of Allegation or Complaint

1. The Ethics Commission shall perform an initial review of all allegations or complaints of unethical conduct on the part of an Elected/Appointed Official.

2. The Ethics Commission may appoint a Tribal investigator to conduct investigations on behalf of the Commission.

3. This initial review may be conducted at the time the allegation or complaint is made, or at any time thereafter, provided that such review shall take place no later than thirty (30) days after it has been submitted.

4. The purpose of the initial review shall be to determine whether the allegation or complaint falls within the scope of this Ordinance.

5. If the investigating authority determines the issue is a valid claim, then a hearing will be scheduled by the Ethics Commission.

H. Investigation

1. The Ethics Commission shall hear each particular issue and provide a determination as to the conduct of the Elected/Appointed Official who is the subject of the allegation or complaint provided that the Ethics Commission, designated representative, or Tribal investigator has determined that the allegation or complaint requires further investigation.

2. The Ethics Commission may review any non-frivolous allegation or complaint and dismiss those that:

- a. Contains facts insufficient to constitute a violation of this Ordinance; or
- b. Contains insufficient evidence to support the allegation or complaint; or
- c. The Commission lacks authority to hear such allegation or complaint.

I. Hearing Procedures

1. A quorum of five members of the Ethics Commission must be present for the duration of the hearing.

2. The Ethics Commission may administer oaths and issue subpoenas to compel attendance and testimony of witnesses, or to produce any documents relevant to any matter before the Commission.

3. The Ethics Commission may hold any subpoenaed witness in contempt upon finding the person has disobeyed any lawful order, process, writ, finding, or directive.

4. The Ethics Commission shall maintain a complete record of all hearings including all testimony, results submitted by the Tribal investigator (if applicable) and documents presented as evidence. These records shall be maintained pursuant to rules and regulations established by the Ethics Commission.

5. The investigated party of an Ethics Commission proceeding shall have the right to be heard, confront witnesses and evidence, call witnesses, produce evidence, and be represented by legal counsel at the investigated party's expense.

6. The Ethics Commission shall not be bound by formal rules of evidence as normally referred to in a Tribal court.

7. The Ethics Commission shall have the discretion to conduct a hearing in closed session, when necessary, due to the confidential or sensitive nature of the matter. The Ethics Commission may conduct a hearing in open session.

8. The Ethics Commission shall set forth its findings, recommendations, and the imposition of any sanctions and/or penalties in writing within thirty (30) days of the hearing and the Commission shall deliver a copy of any order or decision to the appropriate committee and/or branch of the government.

J. Statute of Limitations

No allegation or complaint shall be considered by the Ethics Commission if more than five (5) years have passed from the date when the alleged violation occurred. Further, the Ethics

Commission has no jurisdiction to hear a claim arising out of conduct which occurred prior to the date of enactment of this Ordinance, unless such conduct is of a continuing and on-going nature.

K. Confidentiality

All records, transcripts, and other documents in the possession of the Ethics Commission shall remain confidential, unless such documents are required to be released pursuant to an appropriate tribal court order.

Section 7. Sanctions and Penalties

A. Recommendations

After an opportunity for a hearing, the Ethics Commission shall, if appropriate, recommend sanctions for violations of the Code of Ethics to the General Council including but not limited to a recommendation that a Nation official be recalled using the recall process described in the Prairie Band Potawatomi Constitution.

B. General Council Action

Upon receipt of a recommendation from the Ethics Commission, the General Council shall have the authority to approve, remand, or deny the recommendation.

C. Enforcement

The Ethics Commission shall issue the directives provided by General Council.

Section 8. Amendments

Consistent with the Prairie Band Potawatomi Constitution, any amendments to the Code of Ethics shall be submitted to the General Council for its consideration and approval.

Section 9. Severability

If any part of this Ordinance is deemed invalid, the remainder of the Ordinance shall continue to be in full force and effect.

This Ordinance supersedes any and all previous passed or adopted codes, ordinances, laws, resolutions, statutes, and/or common law.