



PRAIRIE BAND POTAWATOMI
ETHICS COMMISSION

STANDARD OPERATING PROCEDURES

1. Overview and Purpose

The Prairie Band Potawatomi Nation Ethics Commission ("Commission") was established pursuant to the Constitution of the Prairie Band Potawatomi Nation and operates in accordance with the purposes and powers enumerated in the Constitution and the Code of Ethics. These Standard Operating Procedures ("SOP") govern the functions of the Commission and outline the processes, procedures, and requirements for the Commission.

2. Definitions

2.1 For purposes of this SOP, the following terms and phrases shall have the following meanings:

"Standards of Proof" means the degree or level of proof demanded in specific cases, such as "Clear and Convincing Evidence", "Preponderance of the Evidence", "Probable Cause", etc.

"Probable Cause" means a reasonable belief based on the facts and circumstances.

"Clear and Convincing Evidence" is a standard of proof requiring evidence that shows the truth of the fact asserted is highly probable. This standard may apply to civil cases or some aspects of criminal cases and is a greater burden than Preponderance of the Evidence.

2.2 Capitalized terms not otherwise defined in this SOP shall have the same meanings as in the Constitution and/or the Code of Ethics.

3. Roles

3.1 Chair. The Chair is elected by the General Council and is responsible for the general supervision and direction of the business and officers of the Commission. The Chair shall preside at all meetings.

3.2 Vice-Chair. The Vice-Chair is elected by the General Council. In the absence or disability of the Chair, the Vice-Chair shall perform all the duties of the Chair, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the Chair.

3.3 Secretary. The Secretary is elected by the General Council, and the Secretary shall keep, or cause to be kept, the minutes of all Commission meetings, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at the meetings, and the proceedings thereof.

3.4 Treasurer. The Treasurer shall be selected by the Commission, and the Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the business transactions of the Commission, including accounts of its assets, liabilities, receipts, and disbursements. The Treasurer shall deposit all moneys and other valuables in the name and to the credit of the Commission with such depositories as may be designated by the

Commission, and shall disburse the funds of the Commission as may be ordered by the Commission; shall render to the Chair and Commission, whenever they request it, an account of all transactions as Treasurer and of the financial conditions of the Commission. The books of account shall at all reasonable times be open to inspection by any Commission member.

4. Commission Meetings

4.1 Manner and Mode. The Commission's meetings may be conducted informally. This SOP represents the minimum requirements for conducting business and recording the action taken. It shall be the duty of the Chair, or in his/her absence the Vice Chair, to preside over all meetings of the Commission. The Commission's meetings may be held in person, by video (virtual meetings) or any other medium that allows members to have interactive communications in real time. The Commission's meetings may be adjourned for the completion of its business at such subsequent time and place as the Commission shall determine in its motion to adjourn.

4.2 Regular Meetings. Regular meetings of the Commission shall be held monthly, or as needed. The Chair shall determine the location and/or mode of such regular meetings. Should scheduling conflicts necessitate, the Chair or, in his/her absence, the Vice Chair may reschedule the regular meeting, but will publish the new meeting dates.

4.3 Special Meetings. Special meetings of the Commission may be called by the Chair or on the written request of at least four (4) members of the Commission.

4.4 Quorum. In accordance with the Constitution, a quorum of the Commission is reached when at least five (5) of the six (6) members are present. When a quorum is present the Commission may conduct any of the business of the Commission by the affirmative votes of at least five (5) members. If a quorum is not present at a meeting, the Commission may discuss business, but cannot make decisions in the name of the Commission or take formal action.

4.5 Agendas. The Commission shall have a formal Agenda for each meeting. A draft Agenda will be distributed to each member at least three (3) days before the meeting. The Chair has the primary responsibility for setting the draft Agenda and will accept Agenda items from other Commission members and outside counsel. Standard Agenda Items are as follows:

1. Call to order by the Chair
2. Motion to approve and/or amend Agenda
3. Motion to approve and/or amend Minutes from prior meeting
4. Executive Director Summary
5. Discussion of Unfinished Business
6. Discussion of New Business and any Actions Items
7. Announcements
8. Adjournment

4.6 Minutes. The official records of the actions of the Commission are the Minutes. The Secretary is responsible for causing the meetings to be recorded and Minutes prepared. The Minutes include but are not limited to: name of each Commission Member present, name of all guests in attendance, all

actions taken by the Commission, the vote count including any abstentions, and the times at which the meeting started and ended. The Minutes are not the official record of the Commission until they are approved by the Commission.

4.7 Motions. Motions are formal actions that require a quorum of the Commission. To begin the process of making any decision, a Commission member offers a proposal by making a motion. When one Commission member has made a motion, it must be seconded in order to be considered by the group. This shows that at least two members want the proposal considered; it does not necessarily mean the seconder agrees with the motion. If there is no second, the motion is not put before the group for discussion or decision. Once a motion has been moved and seconded, the Chair then opens the floor for discussion and debate on the motion. After discussion, the Chair will facilitate the vote. Once the voting is complete, the Chair will announce the result and announce the next item of business.

4.8 Attendance. Commission members shall attend all regular and special meetings, as required, to fulfill their official obligations. Commission members shall notify the Chair prior to any meetings they will not attend and provide a reason for being absent. The Chair shall determine whether a Commission member's absence is excused. Commission members who have unexcused absences for three (3) consecutive meeting may be subject to removal.

5. Duties and Responsibilities of Commission Members

5.1 Reimbursements. Commission members may receive reimbursement of expenses incurred in performing their official duties. To receive reimbursement, Commission members must complete the appropriate forms, attach all receipt(s), and submit it to the Treasurer designated Ethics Committee Member fulfilling the Treasury role for approval.

5.2 Ethical Conduct. Commission members shall adhere to the Code of Ethics. In particular, Commission members shall abide the Code of Ethics' provisions pertaining to conflicts of interest.

5.3 Confidentiality. Commission members shall treat all information, records, transcripts, and other documents regarding ethics complaints against nation officials strictly confidential, unless such information is required to be released pursuant to an appropriate tribal court order. This information shall be kept confidential until a hearing is held in the matter.

6. Code of Ethics

6.1 Amendments. The Commission has the authority to amend the Code of Ethics. All amendments to the Code of Ethics must be submitted to the General Council for consideration and approval.

7. Ethics Complaints

7.1 Procedure After Receipt of Complaint. Complaints will be received, reviewed, and investigated pursuant to the Code of Ethics. Outlined below is the procedure after receipt of a complaint.

1. The Commission reviews complaint for merit within 30 days
2. If the Commission determines that the complaint is without merit, the complaint will be summarily dismissed, and the Commission will send a letter to the complainant with an explanation of dismissal.
3. If the Commission determines that the complaint has merit, then the complaint will be sent for investigation.
 - a. Letter to the complainant with notification of the investigation
 - b. Letter to the investigated party with notification of the investigation and their right to be represented by legal counsel or advocate at their own expense.
 1. If investigated party is going to be represented by legal counsel or advocate written notification shall be provided to the Commission.
 - c. Letter to the investigator with copy of complaint containing the following statements:
 1. CONFIDENTIALITY- complainant and investigated party shall not discuss the pending complaint with anyone outside of counsel and any breach of confidentiality may be grounds for additional findings and sanctions.
 2. Duty to cooperate, failure to do so may be grounds for additional findings and sanctions.

7.2 Investigation. The investigator shall strive to complete his or her investigation within 60 days after receiving the complaint. However, this timeframe may be extended based on extenuating circumstances. If an investigation is not completed within 60 days, notification shall be made to the Commission with justification for delay. After the completion of the investigation, the investigator shall provide the Commission with a report containing the following items and information:

1. Complaint Summary
2. Relevant Ethic Code violation
3. Scope of investigation
4. Evidence Considered
5. Conclusion
6. Signed and dated
7. Relevant exhibits attached

7.3 Commission's Review of Investigation Report. The Commission shall review the investigation report in a timely manner. The Commission shall dismiss the complaint if:

1. The Commission lacks authority to hear such complaint or allegation; or
2. There is no probable cause to believe that a violation of the Code of Ethics has been committed or the investigated party committed the violation.

However, if the Commission believes that it has the authority to hear the complaint and there is probable cause to believe that a violation of the Code of Ethics has been committed and the investigated party committed the violation, then the Commission shall set the matter for a hearing. The Commission shall give notice of the hearing at least 30 days prior to the hearing date, and the notice shall include:

- a. Date, Time, Location of Hearing
- b. Summary of Alleged Code of Ethics Violations
- c. Potential sanctions/ penalties
- d. A statement that the investigated party is entitled to be represented by legal counsel or advocate at their own expense, to cross-examine witnesses and to present evidence.
- e. A statement that the investigated party has the right to subpoena witnesses:
 - i. Provide name and addresses
 - ii. Investigated party's witness list is to be provided to Commission 15 days prior to hearing date
- f. Ethics Commission may issue subpoenas to compel attendance and testimony of witnesses, or to produce any documents relevant to any matter before the Ethics Commission.

7.4 Hearings.

1. Hearings are open to adult tribal members except for the complainant and any witnesses who have been excluded by the Commission. The Commission shall have discretion to conduct a hearing in closed session in accordance with the Code of Ethics. The Commission may limit the number of people in attendance and prohibit the use of electronic devices during the hearing.
2. A quorum of the Commission must be present for the duration of the hearing.
3. Location. The hearing will be conducted within the Prairie Band Potawatomi Nation Reservation Boundaries.
4. Hearing Procedure.
 - The Commission Chair reads for the record the matter to be heard, case number, Commission members present, parties present and ethic code violations to be determined and possible sanctions.
 - The Commission will receive the testimony and evidence from the complainant and other witnesses, and the investigated party will have the right to cross-examine the witnesses.
 - The Commission will also receive any testimony and other evidence presented by the investigated party and his or her witnesses.
 - All witnesses called to testify during the hearing must be placed under oath.
 - Record of Ethics Commission Proceeding. The hearing must be recorded by stenographic means.

- **Witness Sequestration.** Any witness, including complainant, shall be excluded from the hearing room except while testifying.

7.5 Standards of Proof. The Commission shall apply a Clear and Convincing Evidence standard when determining whether the investigated party has committed a violation of the Code of Ethics.

7.6 Commission's Findings and Final Report. Following the hearing, the Commission shall issue a final report containing its findings and recommended sanctions. The Commission shall strive to issue its final report within 30 days of the conclusion of the hearing. However, this timeframe may be extended based on extenuating circumstances. If the Commission's report is not completed within 30 days, notification shall be made to the complainant and the investigated party with justification for delay. The final report shall contain the following items and information:

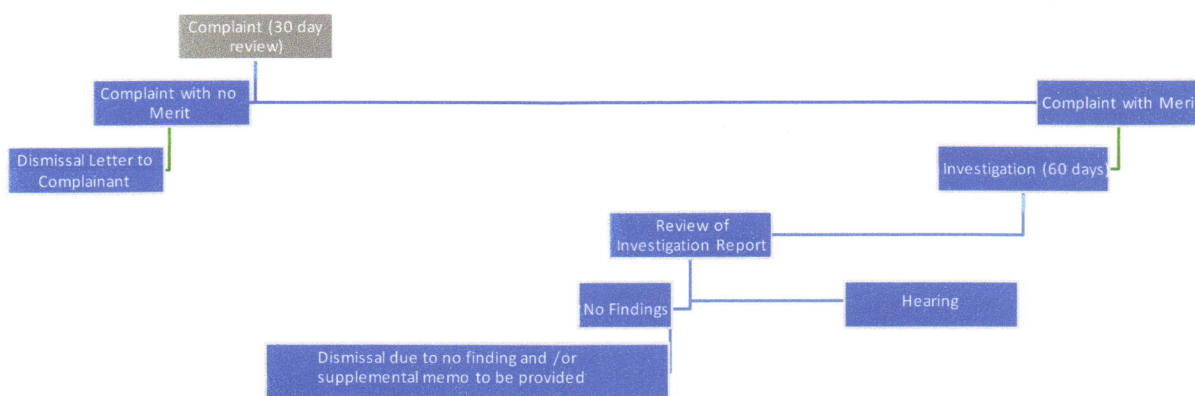
1. **Findings of Fact.** Each finding of fact must be established by Clear and Convincing Evidence, and affirmed by an absolute majority vote.
2. **Aggravating and Mitigating Factors.**
 - a. Aggravating factors are any considerations that may justify an increase in the discipline to be imposed.
 - b. Mitigating factors are any considerations that may justify a reduction in the discipline to be imposed.
3. **Recommendation Regarding Sanction.** The recommendation(s) by the Commission regarding discipline is advisory only and does not prevent the General Council from imposing discipline greater or lesser than the Commission's recommendation.
4. **Distribution.**
 - a. The Commission shall deliver a copy of the final report to the appropriate committee and/or branch of government.
 - b. The Commission shall present the final report to the General Council at the next available General Council Meeting.
 - c. The Commission shall place the final report in Member- Only Ethics Commission folder in the member portal on <https://www.pbpindiantribe.com/> or Official Website of Prairie Band Potawatomi Nation.
 - d. Ethics Commission Chair shall submit a request to Tribal Council to be placed on the next available General Council meeting.

7.7 Sanctions and Penalties. After an opportunity for a hearing, the 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. Possible recommendations for Penalties and Sanctions to include but are not limited to the following:

- Community Services
- Fines
- Suspension

- Suspension without pay and loss ability to conduct official duty
- Legal Action
- Recall using the recall process
- Restitution
- Life banning on running for office

Process of Complaint through Ethics Commission



8. Record Management Information Classification and Protection Policy

8.1 Purpose. The Commission shall protect their information as it exists in any medium – electronic, as well as all forms of paper record. These policies are designed to help each member of the Commissions do his or her part to fulfill that trust. These policies define how Commission information is classified and how it is to be protected.

8.2 Applicability. All members shall comply with this policy and any management controls derived from it, as they acquire, communicate, transmit, process, or store information on behalf of the Commission. The Commission shall also require that third parties handle Commission information in accordance with applicable laws and regulations and accept liability for violation of those laws and regulations for any Commission information that they acquire, communicate, transmit, process, or store on behalf of the Commission.

8.3 Policy. Commission information is contained in physical or electronic records. Physical records (which includes all forms of paper records and documents) containing information directly readable by humans. Electronic records containing information that requires an electronic device to read the information. Members shall inventory information regardless of record type.

8.4 Classifications. Information shall be classified in one of the following categories.

Restricted information is Ethics Commission information that:

- ☐ includes initial complaint
- ☐ supporting documentation
- ☐ statements
- ☐ investigative report
- ☐ all work product

Confidential information is Ethics Commission information that:

- ☐ is used primarily to conduct official Ethics Commission business with limited internal distribution.
- ☐ contains proprietary information.

Public information is Ethics Commission information that:

- ☐ is not classified as restricted or confidential.

8.5 Controls. The appropriate controls shall be applied to every process used to handle information, according to the classification of that information.

8.6 Acquisition. Restricted and Confidential information shall only be requested from an individual, or acquired from other sources, when there is a legal and active business use for the information.

8.7 Access. For Restricted and Confidential information, in any medium, Commission members shall use appropriate physical and electronic controls to limit access to this information to persons who need to use it to perform their duties and for whom it is legally appropriate to have access to this information.

8.8 Network Transmission. Confidential information may be transmitted over the external networks as required, provided that access to the information by normal means is restricted to those who must use it to perform Ethics Commission duties.

8.9 Communication. Confidential and Restricted information communicated by voice, mail, fax, or other methods must use reasonable safeguards against disclosure to unauthorized persons, as appropriate to the method of communication. Restricted information may not be communicated to third parties, except as specifically required by legal obligation.

8.10 Storage. Confidential information shall be stored in physical or electronic environments where access is limited to only those who need to use the information for Commission duties and for whom it is legally appropriate to have access to this information.

8.11 Retention, Disposal, and Transfer. Confidential and Restricted information must be retained and disposed of in accordance with the Commission Policy. Computers and other electronic devices must be transferred or disposed of in accordance with the Ethics Commission.

8.12 Improper Disclosure or Loss. All members shall immediately report inappropriate disclosure or suspected loss of Confidential or Restricted information to the Commission.

8.13 Enforcement. Failure to comply with this policy may result in discipline, suspension, dismissal and/or legal action.