

POKAGON BAND OF POTAWATOMI INDIANS

ETHICS CODE

Table of Contents

CHAPTER 1	TITLE AND AUTHORITY	1
CHAPTER 2	LEGISLATIVE PURPOSE AND INTENT.....	1
2.01	PURPOSE.....	1
2.02	INTENT	1
CHAPTER 3	DEFINITIONS	1
	<i>ADVISORY OPINION.....</i>	<i>1</i>
	<i>APPOINTED OFFICE.....</i>	<i>2</i>
	<i>ASSOCIATED BUSINESS.....</i>	<i>2</i>
	<i>CANDIDATE</i>	<i>2</i>
	<i>COMPLAINT</i>	<i>2</i>
	<i>CONFIDENTIAL INFORMATION</i>	<i>2</i>
	<i>CONFLICT OF INTEREST</i>	<i>2</i>
	<i>DAYS</i>	<i>3</i>
	<i>ELECTIVE OFFICE.....</i>	<i>3</i>
	<i>ETHICS BOARD</i>	<i>3</i>
	<i>FINANCIAL DISCLOSURE STATEMENT.....</i>	<i>3</i>
	<i>FRIVOLOUS.....</i>	<i>3</i>
	<i>GIFT.....</i>	<i>3</i>
	<i>GIFT DISCLOSURE STATEMENT.....</i>	<i>3</i>
	<i>GOVERNING BODY</i>	<i>3</i>
	<i>HEARING ON THE MERITS.....</i>	<i>3</i>
	<i>IMMEDIATE FAMILY</i>	<i>3</i>
	<i>INCOME.....</i>	<i>4</i>
	<i>JUST CAUSE.....</i>	<i>4</i>
	<i>MARKET VALUE</i>	<i>4</i>
	<i>MINISTERIAL ACT.....</i>	<i>4</i>
	<i>NEGLIGIBLE EXPENSE OR TIME</i>	<i>4</i>
	<i>NEPOTISM</i>	<i>4</i>
	<i>NO OBJECTION LETTER.....</i>	<i>4</i>
	<i>OFFICIAL ACTION</i>	<i>4</i>
	<i>OFFICIAL DUTIES</i>	<i>4</i>
	<i>PERSON</i>	<i>4</i>
	<i>PERSONAL FINANCIAL INTEREST.....</i>	<i>5</i>
	<i>POKAGON BAND OR BAND.....</i>	<i>5</i>
	<i>POKAGON BAND TRIBAL COURT.....</i>	<i>5</i>
	<i>PRELIMINARY MEETING</i>	<i>5</i>
	<i>PREPONDERANCE OF THE EVIDENCE.....</i>	<i>5</i>
	<i>PROHIBITED SOURCE.....</i>	<i>5</i>
	<i>PUBLIC EMPLOYEE</i>	<i>5</i>
	<i>PUBLIC OFFICIAL</i>	<i>5</i>
	<i>SELECTION COMMITTEE.....</i>	<i>5</i>
	<i>SOLICIT OR ACCEPT</i>	<i>6</i>
	<i>TRADITIONAL GIFT</i>	<i>6</i>
	<i>TRIBAL ENTITY.....</i>	<i>6</i>
CHAPTER 4	ETHICS BOARD CREATION; APPOINTMENTS	6
4.01	CREATION AND COMPOSITION	6
4.02	GOVERNMENTAL INSTRUMENTALITY	6
4.03	DUTIES OF OFFICE	6
4.04	QUALIFICATIONS	6
4.05	DISQUALIFICATION.....	7

POKAGON BAND OF POTAWATOMI INDIANS

ETHICS CODE

4.06	APPOINTMENT PROCESS	7
4.07	TERMS OF OFFICE	7
4.08	HOLD-OVER POLICY	7
4.09	RESIGNATION	7
4.10	REMOVAL	8
4.11	VACANCIES	8
4.12	STATUS AND COMPENSATION	8
4.13	ADMINISTRATIVE SUPPORT	8
4.14	QUORUM	9
4.15	BOARD MEETINGS	9
4.16	BOARD CHAIRPERSON	9
4.17	BOARD RECORDS	9
4.18	CONFIDENTIAL BOARD RECORDS	10
4.19	ADMINISTRATIVE SUPPORT	10
CHAPTER 5 JURISDICTION AND POWERS OF BOARD		10
5.01	JURISDICTION	10
5.02	STATUTE OF LIMITATIONS	10
5.03	POWERS OF ETHICS BOARD	10
CHAPTER 6 INDEPENDENT LEGAL COUNSEL		11
CHAPTER 7 ETHICS BOARD ANNUAL BUDGET		11
CHAPTER 8 STANDARDS OF CONDUCT AND RESTRICTED ACTIVITIES		11
8.01	STANDARD A: CONFLICTS OF INTEREST	11
8.02	STANDARD B: CONFLICTING OUTSIDE EMPLOYMENT AND ACTIVITIES	12
8.03	STANDARD C: NEPOTISM	12
8.04	STANDARD D: FALSE STATEMENTS	12
8.05	STANDARD E: CONFIDENTIAL INFORMATION	12
8.06	STANDARD F: IMPROPER OFFICIAL ACTIONS	13
8.07	STANDARD G: UNAUTHORIZED INCOME	13
8.08	STANDARD H: USE OF PUBLIC OFFICE OR BAND EMPLOYMENT FOR PRIVATE GAIN	13
8.09	STANDARD I: PERSONAL FINANCIAL INTERESTS IN GOVERNMENT CONTRACTS	13
8.10	STANDARD J: ASSISTING OR REPRESENTING OTHER INTERESTS FOR INCOME	14
8.11	STANDARD K: GIFTS THAT MAY INFLUENCE OFFICIAL ACTIONS	14
8.12	STANDARD L: USE OF BAND PROPERTY OR RESOURCES	14
8.13	STANDARD M: JUST FINANCIAL OBLIGATIONS	15
8.14	STANDARD N: PROHIBITION AGAINST THREATENING OR DEGRADING BEHAVIOR	15
8.15	STANDARD O: TWO-YEAR EMPLOYMENT PROHIBITION	15
8.16	STANDARD P: PROHIBITION AGAINST RETALIATORY ACTION	15
CHAPTER 9 FINANCIAL DISCLOSURE REQUIREMENTS		16
9.01	ANNUAL FILING OF FINANCIAL DISCLOSURE STATEMENT	16
9.02	ANNUAL DISTRIBUTION OF FINANCIAL DISCLOSURE STATEMENT FORMS	16
9.03	DISCLOSURE INFORMATION REQUIRED	16
9.04	PERIODS TO BE INCLUDED IN THE FINANCIAL DISCLOSURE STATEMENT	16
9.05	CERTIFICATION OF FINANCIAL DISCLOSURE STATEMENT	16
9.06	CONFIDENTIALITY OF FINANCIAL DISCLOSURE STATEMENTS	16
9.07	RETENTION OF FINANCIAL DISCLOSURE STATEMENTS	17
9.08	WARNING LETTER	17
9.09	HEARING	17
CHAPTER 10 GIFT DISCLOSURE REQUIREMENTS		17
10.01	GIFT DISCLOSURE STATEMENT	18
10.02	TIME FOR FILING GIFT DISCLOSURE STATEMENTS	18
10.03	GIFT DISCLOSURE FORMS	18

POKAGON BAND OF POTAWATOMI INDIANS

ETHICS CODE

10.04	CERTIFICATION OF GIFT DISCLOSURE STATEMENT	18
10.05	ACCESS TO GIFT DISCLOSURE STATEMENTS	18
10.06	RETENTION OF GIFT DISCLOSURE STATEMENTS	18
10.07	WARNING LETTER.....	18
10.08	HEARING	19
CHAPTER 11	COMPLAINTS.....	19
11.01	FILING	19
11.02	MINIMUM REQUIREMENTS OF A COMPLAINT	20
11.03	MULTIPLE COMPLAINTS	20
11.04	CONFIDENTIALITY	20
11.05	NOTIFICATION	20
11.06	STAY OF ETHICS COMPLAINT	20
11.07	PRELIMINARY MEETING OF BOARD	21
11.08	INVESTIGATION	21
11.09	HEARING ON THE MERITS.....	21
11.10	DISPOSITION OF COMPLAINT	22
11.11	SIMILAR CHARGES BARRED	22
CHAPTER 12	ADVISORY OPINIONS.....	22
12.01	REQUEST FOR ADVISORY OPINION	22
12.02	LIMITATIONS ON ISSUANCE OF ADVISORY OPINIONS	22
12.03	NATURE OF ADVICE	23
12.04	EFFECT OF ADVISORY OPINION	23
12.05	REQUEST FOR AN ADVISORY OPINION.....	23
12.06	TIME PERIOD FOR ISSUING AN ADVISORY OPINION	24
CHAPTER 13	NO OBJECTION LETTERS	24
13.01	REQUEST FOR NO OBJECTION LETTER	24
13.02	RESPONSE TO REQUEST	24
CHAPTER 14	SANCTIONS AND PENALTIES	24
14.01	SANCTIONS AND PENALTIES	24
14.02	JOINT AND SEVERAL LIABILITY.....	25
14.03	PENALTIES PAID TO BAND TREASURY	25
14.04	BOARD SANCTIONS AND PENALTIES ARE LIMITED	25
14.05	ENFORCEMENT	25
14.05	AUTHORITY AND POWER OF OTHER BODIES NOT LIMITED.....	25
14.06	NO BAR TO CIVIL OR CRIMINAL ACTION.....	25
CHAPTER 15	APPEALS.....	26
15.01	APPEAL TO TRIBAL COURT	26
15.02	TIME LIMIT FOR FILING APPEAL	26
15.03	NO JURY; REVIEW LIMITED TO RECORD	26
15.04	DEFERENCE TO BOARD'S JUDGMENT.....	26
15.05	ISSUANCE OF DECISION.....	26
CHAPTER 16	DUTY TO REPORT A VIOLATION OF THIS CODE.....	26
CHAPTER 17	FRIVOLOUS COMPLAINTS AND FALSE STATEMENTS.....	26
17.01	SANCTIONS FOR FILING A FRIVOLOUS COMPLAINT	26
17.02	SANCTIONS FOR MAKING A FALSE STATEMENT.....	27
17.03	RIGHT TO APPEAL SANCTIONS	27
CHAPTER 18	REPEAL OF CONFLICTING LAWS; SEVERABILITY.....	27
18.01	REPEALER	27

POKAGON BAND OF POTAWATOMI INDIANS

ETHICS CODE

18.02 SEVERABILITY.....27
18.03 EFFECTIVE DATE.....27

**CHAPTER 1
TITLE AND AUTHORITY**

This Code may be cited as the "Pokagon Band Code of Ethics" and may be referred to as "this Code" herein. This Code is enacted by the Pokagon Band Tribal Council pursuant to the express grant of authority enumerated in Article XVII, Section 3, and Article IX, subsections 1 (a), (b), (c), and (d), and subsections 2 (a) and (i) of the Constitution and the inherent authority of the Band as a sovereign tribal nation to provide for the health, safety, and welfare of the Pokagon Band of Potawatomi Indians.

**CHAPTER 2
LEGISLATIVE PURPOSE AND INTENT**

2.01 Purpose. The Public Officials and Public Employees of the Pokagon Band of Potawatomi Indians, having been vested with the powers and authority of public office or employment to act on behalf of and in the best interest of the Pokagon Band, owe a solemn duty to Pokagon Band citizens to fulfill the obligations of their respective offices and positions with complete loyalty, integrity, and honor. The purpose of this Code is to fulfill the requirements of Article XVII of the Pokagon Band Constitution and establish standards of ethical conduct and a system for ensuring the accountability of Public Officials and Public Employees under those standards. The primary purposes of this Code are to:

- (a) Establish and require adherence by Public Officials and Public Employees to standards of conduct to avoid conflicts of interest;
- (b) Require the disclosure of significant economic and business interests and affiliations of Public Officials; and
- (c) Prohibit Public Officials or Public Employees from using any power or function of their office in a manner that could place their personal interests before the interests of the citizens of the Pokagon Band.

2.02 Intent. In the interest of the Pokagon Band, Public Officials and Public Employees shall at all times in the course of fulfilling their official duties observe standards of ethical conduct, uphold the dignity and honor of their offices and positions, and safeguard the Pokagon Band against any illegal or unethical conduct. It is the intention of the Pokagon Band Tribal Council that the provisions of this Code be construed in accordance with the purpose of protecting the Pokagon Band citizens and the larger public from government decisions and actions resulting from, or affected by, undue influences or conflicts of interest.

**CHAPTER 3
DEFINITIONS**

For purposes of this Code:

Advisory Opinion means an advisory opinion issued by the Board pursuant to Chapter 12 of this Code in response to a request regarding a course of action that the requesting party proposes to undertake.

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

Appointed Office means any Pokagon Band governmental office or position, including the Board of Directors of the Pokagon Gaming Authority and the Board of Directors of Mno-Bmandsen, whether compensated or voluntary, to which a person is appointed by the Tribal Council or any other Governing Body with appointment authority;

Associated Business means any entity, enterprise, organization, trade, occupation or profession, whether or not operated for profit, including any sole proprietorship, trust, holding company, corporation, limited liability company, chartered enterprise, partnership, joint venture, consultant or other self-employed person in which the Public Official or Public Employee or any of their Immediate Family members:

- (a) is a director, officer, partner, trustee, or beneficiary of a trust,
- (b) holds any position of management,
- (c) receives Income with a Market Value of more than \$1,000.00 in any year, or
- (d) holds an ownership interest, individually or combined with one (1) or more members of his or her Immediate Family, of more than ten (10) percent of the total direct or indirect ownership, investment, security or other beneficial interest of such Business.

Candidate shall have the meaning given that term under the Pokagon Band Election Code, enacted by Res. No. 05-12-19-04, as amended.

Complaint means the document alleging violations of this Code that is filed with the Ethics Board in accordance with the requirements of Chapter 11 of this Code.

Confidential Information means information that that is gained through the Public Official's position or the Public Employee's employment and that he knows or reasonably should know has not been made available to the general public.

- (a) Confidential information includes, without limitation information that is identified as confidential under Pokagon Band law or policy, information that is not subject to any right of access by the general public or Pokagon Band members under applicable law, or information that is conveyed or accepted with the understanding that it will be used only for official purposes.
- (b) Confidential Information does not include information that:
 - (1) Was in the public domain or publicly available at the time of disclosure;
 - (2) Was disclosed for limited purposes or under particular circumstances as permitted or required under applicable law;
 - (3) Is authorized or required to be disclosed by a court of competent jurisdiction or other legal process; and
 - (4) Subsequently becomes available within the public domain in any manner that does not involve a violation of applicable law.

Conflict of Interest means a close economic association or personal relationship between a Public Official or Public Employee and another Person that is likely to be substantially affected by an Official Action of the Public Official or Public Employee, other than a Ministerial Act, and that a reasonable person would believe conflicts with the duty of such Public Official or Public

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

Employee to exercise objective independent judgment or that a reasonable person would believe creates the appearance that the Person may otherwise receive favored treatment regarding the Official Action.

Days means all days that the Pokagon Band governmental offices are open to the public for at least four hours between the hours of 8:00 am and 5:00 pm.

Elective Office means any Pokagon Band governmental office or position, whether compensated or voluntary, to which a person is elected by Pokagon Band citizens or a specified segment of Pokagon Band citizens.

Ethics Board or Board means the Ethics Board established pursuant Article XVII, Section 3, of the Constitution and Chapter 4 of this Code.

Financial Disclosure Statement means the statement required to be filed with the Ethics Board, pursuant to Chapter 9 of this Code.

Frivolous means that a reasonable person, upon making a good faith inquiry, could not find any legal and a factual basis to support a belief that a violation of this Code has occurred.

Gift means an item of monetary value, including money in any form, gratuity, benefit, forbearance, favor, discount, subscription, economic opportunity, or service. Gift, unless prohibited under other applicable law, does not include:

- (a) Tangible or intangible items, excluding alcoholic beverages, not exceeding a Market Value of \$200.00 or \$500.00 in the aggregate in a calendar year from the same Prohibited Source that are made available in the ordinary course of business, provided that there is no express or implied understanding that it is conferred to influence an Official Action;
- (b) A tangible or intangible item given by an Immediate Family member, provided that, in consideration of the nature and length of the personal relationship and the nature and Market Value of the item given, it is evident that the substantial motivation for the exchange was personal and unrelated to the involvement of a Prohibited Source; and
- (c) Anything for which Market Value is paid by the recipient within thirty (30) days of the date it is received.

Gift Disclosure Statement means the statement required to be filed with the Ethics Board, pursuant to Chapter 10 of this Code.

Governing Body means any council, branch, enterprise, authority, division, department, office, commission, board, agency, or bureau of the Band or any Tribal Entity, and shall include the Board of Directors of Mno-Bmadsen, and the Board of Directors of the Pokagon Gaming Authority.

Hearing on the Merits means a hearing to be held by the Board in accordance with Section 11.09 of this Code after a determination of Just Cause by the Board in a Preliminary Meeting.

Immediate Family means:

- (a) spouse or life-partner;
- (b) children and grandchildren, whether biological or by marriage or adoption;
- (c) foster children and foster grandchildren;

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

- (d) parents and grandparents;
- (e) siblings, including siblings by half blood;
- (f) aunts, uncles, nieces, and nephews;
- (g) residents of the household of the Public Official or Public Employee;
- (h) any person claimed by the Public Official or Public Employee as a dependent on the Public Official's or Public Employee's most recent tax return;
- (i) the following in-laws: sister, brother, son, daughter; and
- (j) persons related to the Public Official's or Public Employee's spouse or life-partner as described above in paragraphs (b) – (f).

Income means any money or other form of remuneration received for services rendered or to be received as a claim on future services, whether in the form of a fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain or any other form of recompense or any combination thereof. Income also includes any benefit, assistance, service, advantage, or other thing of value or intrinsic worth, whether tangible or intangible, obtained for services rendered, including any pension, retirement account or fund, or other similar welfare or retirement assistance.

Just Cause means that a reasonable person, upon making a proper inquiry, could find that there is a substantial basis in law and fact to conclude that a violation of this Code has occurred.

Market Value means the most probable price, as of a specified date, in cash or in terms equivalent to cash, for which the specified property, or substantially identical property, should sell through a fair sale in a competitive market.

Ministerial Act means an Official Action performed by a Public Official or Public Employee according to statute, other legal authority, established procedure, or instructions from a superior, without exercising any individual judgment.

Negligible Expense or Time means that the personal use is limited to property already available or an employee presently working, the personal use of such property or employee results in only an insubstantial consumption of resources or use of time, and the use is sporadic.

Nepotism means favoritism shown or patronage granted to an Immediate Family member by participation in the deliberation or determination of any matter concerning an Immediate Family member or by an attempt to influence such determination.

No Objection Letter means a letter issued by the Board pursuant to Chapter 13 of this Code confirming that the Board has no objection to the intended conduct as in violation of this Code.

Official Action means an action taken or a decision made by a Public Official or Public Employee in the fulfillment of his or her or her Official Duties in a manner that is prescribed or permitted under Pokagon Band law or policy.

Official Duties means duties and responsibilities that are required or authorized as part of a person's position as a Public Official or Public Employee.

Person means a natural person and any business, proprietorship, association, partnership, syndicate, corporation, firm, joint venture, trust or other form of business association or entity,

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

labor organization, state, local government, government instrumentality or entity. The term “person”, without an initial capital “P”, refers exclusively to a natural person.

Personal Financial Interest means an interest held by a person, including through an Associated Business, which involves:

- (a) Ownership, investment, securities, or other beneficial interest in a Business; or
- (b) Employment or prospective Employment for which negotiations have commenced.

The term Personal Financial Interest shall not include a Tribal Council member’s receipt or entitlement to Income received from the Band for services as a Tribal Council member. The term Personal Financial Interest shall also not include any pension or other retirement benefits a person is entitled to as a former employee.

Pokagon Band or Band means the Pokagon Band of Potawatomi Indians, provided that the terms **Pokagon Band**, or **Band** excludes: (a) the Pokagon Gaming Authority, (b) Mno-Bmadsen, a chartered economic development authority of the Band, and (c) any entity owned, in whole or in part, by the Pokagon Gaming Authority or Mno-Bmadsen.

Pokagon Band Tribal Court means the Pokagon Band Tribal Court established pursuant to Article XII of the Pokagon Band Constitution.

Preliminary Meeting means a Preliminary Meeting to be held by the Board in accordance with Section 11.07 of this Code to review the sufficiency of any Complaint filed under this Code.

Preponderance of the Evidence means the greater weight of the evidence; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.

Prohibited Source means, with regard to the Governing Body with whom a Public Official or Public Employee is associated or employed, any Person who:

- (a) Is seeking Official Action;
- (b) Does business or seeks to do business;
- (c) Conducts activities that are regulated, controlled, or overseen by the Governing Body; or
- (d) Has interests that may be substantially affected by the performance or nonperformance of the Public Official's or Public Employee's Official Duties.

Public Employee means any person who is employed by the Pokagon Band in any capacity, excluding independent contractors and volunteers.

Public Official means any person holding an Elective Office or Appointed Office, including without limitation members of the Tribal Council, Elders Council, Salary Commission, and boards, commissions, authorities, committees, and agencies of the Band, the Board of Directors of the Pokagon Gaming Authority, the Board of Directors of Mno-Bmadsen, and such other positions as designated by the Tribal Council by resolution as positions to whom this Code shall apply.

Selection Committee means a committee consisting solely of the Chairperson and Vice-Chairperson of the Pokagon Band Tribal Council and the Chairperson and Vice-Chairperson of

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

the Pokagon Band Elders Council established for the purpose of recommending the appointment or removal of Board members pursuant to Chapter 4 of this Code.

Solicit or Accept means any effort to seek a Gift or any receipt of a Gift, whether directly received or indirectly received through an Immediate Family Member.

Traditional Gift means a Gift of an item of cultural, spiritual, or historical significance within a Native American, other indigenous community, or distinct ethnic group, whether it is a traditional handicraft, a product of mother earth, or a combination of the two.

Tribal Entity means any corporation, limited liability company, chartered enterprise, whether wholly or partly owned by the Pokagon Band, and any partnership, joint venture, or other entity in which the Band, directly or indirectly, has management authority; provided that the term ***Tribal Entity*** excludes: (a) the Pokagon Gaming Authority, (b) Mno-Bmadsen, and (c) any entity owned, in whole or in part, by the Pokagon Gaming Authority or Mno-Bmadsen.

**CHAPTER 4
ETHICS BOARD CREATION; APPOINTMENTS**

4.01 Creation and composition. There is hereby created a Board to be known as the "Pokagon Band Ethics Board" that shall be composed of five (5) members to be appointed as hereinafter provided. The Board will be responsible for the administration and enforcement of this Code.

4.02 Governmental Instrumentality. The Pokagon Band Ethics Board is an instrumentality of the Pokagon Band government and shall be clothed with all the rights, privileges, and immunities of the Band, including but not limited to the sovereign immunity of the Band from suit absent express consent from Tribal Council. Ethics Board members shall be deemed officers of the Band government and shall be immune from suit when acting in their official capacity to the fullest extent permitted by law with respect to officers of the Band.

4.03 Duties of Office. Each member of the Ethics Board shall at all times while exercising the powers and carrying out the duties and responsibilities of the Board under the Pokagon Band Constitution and this Code act with diligence, integrity, and impartiality, without regard to public sentiment or criticism.

4.04 Qualifications. A Board member must meet the following minimum qualifications:

- (a) A bachelor's degree from an accredited college or university or ten (10) years of professional level work experience in relevant areas, such as law, law enforcement, accounting or finance, business management, regulatory and governmental affairs. Advanced degrees and certifications, such as Certified Public Accountant, Juris Doctorate, and Master of Business Administration are preferred, but not required;
- (b) Demonstrated experience in conducting investigations, analyzing and preparing findings and presenting summaries;
- (c) Demonstrated experience in reviewing and interpreting laws, regulations, contracts, and various professional level reports, including financial reports;

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

- (d) Strong interpersonal, oral, and written communication skills; and
- (e) Demonstrated ability to act with impartiality and to deal fairly, effectively and efficiently with situations requiring fact finding and dispute resolution skills.

4.05 Disqualification. No person shall be appointed to the Board who is:

- (a) Not a Pokagon Band member;
- (b) Under the age of twenty-one (21);
- (c) A Public Official or Public Employee;
- (d) Employed, in any capacity, by the Pokagon Gaming Authority or Mno-Bmadsen, provided, however, that this shall not include independent contractors or volunteers of such entites; or
- (e) Employed or otherwise serves in a position with responsibilities that create a conflict of interest or the appearance of a conflict of interest with the duties and responsibilities of the Board, as determined by the Selection Committee. This subsection does not automatically prevent a Pokagon Band citizen from being appointed.

4.06 Appointment Process. The Tribal Council shall provide notice of all open seats on the Ethics Board to the Band membership and an opportunity to respond prior to filling the seat. The Selection Committee shall review all qualified candidates for the Board and shall make a recommendation to the Pokagon Band Tribal Council for each appointment. Each candidate recommended by the Selection Committee that meets with the Tribal Council's approval may be appointed to the Board by majority vote of the Council.

4.07 Terms of Office. Board members shall serve staggered three (3) year terms. In order to achieve such staggered terms, the initial appointments to any seat on the Board shall be of varying lengths no greater than approximately three (3) years, as determined by the Tribal Council; provided, however that the term of no more than two (2) seats on the Board shall expire each year. All subsequent appointments shall be for three (3) year terms. Commissioners may serve successive terms of office or additional terms of office after having concluded service as a member without limitation.

4.08 Hold-over policy. A Board member may, at the discretion of the Tribal Council, continue to serve in his or her position, with full authority, after the completion of his or her term until such time as a replacement is appointed and sworn into office.

4.09 Resignation. Board members shall resign from the Board by submitting, in writing, a signed and dated letter of resignation to the Board Chairperson, the Tribal Chairperson, or the Tribal Council Secretary. The resignation shall be effective as of the date tendered unless stated otherwise in the resignation letter.

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

4.10 Removal. The Selection Committee may, by majority vote, request that the Tribal Council initiate a procedure for the removal of a Board member and the Tribal Council may, on its own initiative, initiate a removal procedure for any member of the Board by an affirmative vote of at least eight (8) members of the Tribal Council for any of the following reasons:

- (a) Nonfeasance, including the persistent failure to perform Official Duties;
- (b) Misfeasance, including any substantial or repeated failure to exercise authority or discharge responsibilities in conformity with this Code;
- (c) Malfeasance, including (i) a conviction or a plea of guilty or no contest regarding any felony criminal offense or any other criminal offense involving dishonesty or moral turpitude, (ii) a knowing violation of this Code, the Constitution, or other applicable Pokagon Band law that assigns duties or responsibilities specifically to the Board; and (iii) misconduct in office that threatens the integrity or public image of the Board; or
- (d) Physical or mental disability that prevents the performance of Official Duties.

Upon initiating a removal proceeding, the Tribal Council shall notify the Board member who is the subject of the proceeding of the time and place for a hearing before the Tribal Council, which notice shall also fully describe the purpose for the hearing and all claims and allegations to be addressed at the hearing. No formal rules of evidence shall apply at the hearing and the Board member shall not be entitled to representation by legal counsel.

If at the conclusion of the hearing the Tribal Council determines that there are adequate grounds for removal of the Board member, the Tribal Council may remove such member from the Board by an affirmative vote of at least eight (8) members of the Tribal Council.

4.11 Vacancies. Vacancies during an unexpired term on the Board shall be filled by the Tribal Council by appointment for the balance of the unexpired term. The Tribal Council shall provide notice of the vacancy to the Band membership and an opportunity to respond prior to filling the vacancy. The Selection Committee shall review all qualified candidates to fill a vacancy on the Board and shall make a recommendation to the Pokagon Band Tribal Council for each such appointment, which may be filled by majority vote of the Council. The Tribal Council shall endeavor to fill any vacancy on the Board within sixty (60) days of the vacancy, or as soon thereafter as possible.

4.12 Status and compensation. Board members shall be independent contractors of the Band and shall be compensated at a rate of \$150 for each day the Board holds a meeting, provided that Board members shall receive additional compensation of \$50 for each hour that a Board meeting exceeds three hours in length within a twelve-hour period. The Tribal Council shall not reduce the rate of compensation for any Board member during the member's term of office.

4.13 Administrative Support. The Board members shall be entitled to reimbursement for all direct expenses necessarily incurred in carrying out its duties under this Code, subject to applicable Pokagon Band law or policy.

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

4.14 Quorum. A quorum of the Board shall consist of three (3) Board members. All decisions shall be made by a majority vote of a quorum of the Board, unless indicated otherwise in this Code.

4.15 Board Meetings.

- (a) Board meetings shall be called by the Chairperson as necessary to carry out the official duties of the Board.
- (b) Notice of the meeting, including the date, time, and place of the meeting and a proposed agenda, shall be delivered to members at least forty-eight (48) hours in advance of such meeting and may be given by hand delivery, telephone, mail, or such other method as the Board may establish. Subject to the notice requirements regarding hearings under Chapter 11 of this Code, the notice requirements regarding any meeting may be waived if all members are present at such meeting and consent to the calling of the meeting. The agenda for the meeting shall be limited to the matters stated in the notice of the meeting unless all members are present at the meeting and a majority agrees to the change to the agenda.
- (c) The Chairperson shall preside over all meetings of the Ethics Board. The Vice Chairperson shall assume the duties of the Chairperson in the Chairperson's absence.
- (d) All Board meetings shall be open to Pokagon Band citizens except when a closed meeting is expressly authorized by the Constitution and by this Code or other applicable Pokagon Band law.
- (e) Subject to the open meeting requirements under applicable Pokagon Band law, meetings may be conducted by a telephone conference, video conference, web conference or similar means provided that all members participating in the meeting can hear and be heard by each other.
- (f) The Board may prescribe rules of procedure regarding the conduct of its meetings and may seek guidance from Roberts Rules of Order, provided that any such rules do not conflict with this Code or other applicable Pokagon Band law.

4.16 Board Chairperson. All communications on behalf of the Board with any outside parties shall be conducted through the Board Chairperson, and the Board Chairperson shall perform other duties consistent with this Code as approved by the Board and described in writing.

4.17 Board Records. The Board shall maintain as permanent Board records, meeting minutes from all Board meetings, Financial Disclosure Statements, Complaints, responses, investigative records and evidence, transcripts and other records from all Board hearings, Board decisions regarding Complaints, Advisory Opinions, No Objection Letters, communications and correspondence with the Tribal Council and Pokagon Band agencies and officials, and any other records or documents the Board deems necessary or appropriate to preserve. Board records shall

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

be stored and maintained in the offices of the Ethics Board or such other location on Pokagon Band property as the Board may deem suitable, subject to the requirements of applicable law.

4.18 Confidential Board Records. All records related to Preliminary Meetings of the Board and any other closed session of the Board, Financial Disclosure Statements, and requests for Advisory Opinions or No Objection Letters shall be confidential and protected by the Board from unauthorized disclosure.

4.19 Administrative Support. The Board may hire staff and engage independent contractors to provide such administrative support services as the Board determines are needed for the Board to fulfill its responsibilities under this Code *provided*, however, that the cost for staff and contractors is within the Board's budgeted funds. If the cost thereof is not within the Board's budgeted funds, the Board shall not hire the staff or engage the contractor unless it has obtained the approval of the Tribal Council for such additional budgeted funds, which approval shall not be unreasonably withheld. All staff positions shall be established by written position descriptions approved by the Board and the Board shall comply with all applicable hiring and employment laws and policies of the Tribe.

**CHAPTER 5
JURISDICTION AND POWERS OF BOARD**

5.01 Jurisdiction. The Board shall have jurisdiction to review, make findings and issue sanctions and penalties in accordance with this Code concerning a Complaint brought against a Public Official or Public Employee pursuant to this Code.

5.02 Statute of limitations. No Complaint shall be considered by the Board if it is filed more than four (4) years from the date when the alleged violation occurred.

5.03 Powers of Ethics Board. The Board shall have the following powers:

- (a) To adopt rules and procedures governing Board procedures and operations.
- (b) To make findings of fact and conclusions of law as necessary for the disposition of a Complaint and issue sanctions, penalties and fines pursuant to this Code.
- (c) To make notifications, extend deadlines and conduct investigations.
- (d) To hold any person in contempt upon a finding that the person has disobeyed any lawful order, process, writ, finding or direction of the Board.
- (e) To administer oaths and issue subpoenas to compel attendance and testimony of witnesses or to produce any documents relevant to any matter before the Board.
- (f) To engage a qualified independent contractor to conduct investigations *provided*, however, that such cost is within the Board's budgeted funds. If the cost thereof is not within the Board's budgeted funds, the Board shall not hire such investigator unless it has obtained the approval of the Tribal Council for such additional budgeted funds, which approval shall not be unreasonably withheld.

- (g) To conduct meetings and hearings to properly administer and to make determinations pursuant to this Code, *provided*, however, that the Board shall not be bound by formal rules of evidence.
- (h) Such other powers as are specifically granted in this Code.

CHAPTER 6 INDEPENDENT LEGAL COUNSEL

The Tribal Council shall approve and periodically revise as needed a list of qualified Independent Legal Counsel to serve on a rotating basis to assist and advise the Board as needed. With the exception of any attorney serving as prosecutor for the Band, any attorney that is directly employed by the Band, Mno-Bmadsen, the Pokagon Gaming Authority, or any Tribal Entity shall be ineligible to serve as Independent Legal Counsel. The Board may use Independent Legal Counsel when its duties involve legal issues that are beyond the capabilities of the Board members, provided that the cost for Independent Legal Counsel is within the Board's budget.

CHAPTER 7 ETHICS BOARD ANNUAL BUDGET

The Ethics Board shall establish an annual budget for its needs, which shall reflect the reasonable costs of administering this Code, including the cost of legal and other services or goods. The Board shall deliver its annual budget to the Tribal Council on or before July thirtieth (30th) of each year for the Tribal Council's review and approval. The Board shall have the authority to expend funds within the approved budget without further authorization from the Tribal Council, subject to generally applicable Tribal accounting and procurement policies.

CHAPTER 8 STANDARDS OF CONDUCT AND RESTRICTED ACTIVITIES

8.01 Standard A: Conflicts of Interest.

- (a) No Public Official or Public Employee shall knowingly take, or attempt to take, an Official Action, other than a Ministerial Act, that is likely to substantially affect the close economic association or personal relationship between the Public Official or Public Employee and another Person and that a reasonable person would believe conflicts with the duty of such Public Official or Public Employee to exercise objective independent judgment or that a reasonable person would believe creates the appearance that the Person may otherwise receive favored treatment regarding the Official Action.
- (b) It shall be a Conflict of Interest for a member of the Salary Commission to vote on the compensation for any office or position then occupied by his or her Immediate Family member or for which the Salary Commission member or his or her Immediate Family member is a Candidate.

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

- (c) No member or Employee of the Pokagon Band Gaming Commission shall engage in gaming in any gaming facility that is owned or operated by the Pokagon Gaming Authority.
- (d) It shall not be considered a Conflict of Interest for a Tribal Council member to participate in a decision or action on a recommendation made by the Salary Commission, in accordance with Article XVII, Section 1 of the Pokagon Band Constitution.

8.02 Standard B: Conflicting Outside Employment and Activities. Public Officials and Public Employees shall not engage in outside employment or any other outside activity that conflicts with their Official Duties. An activity conflicts with Official Duties:

- (a) If it is prohibited by Band law or policy; or
- (b) If it would require the disqualification from matters directly related to the performance of Official Duties such that the ability to perform the Official duties would be materially impaired.

8.03 Standard C: Nepotism.

- (a) No Public Official or Public Employee shall participate in the deliberation or determination of any matter concerning an Immediate Family member nor shall such Public Official or Public Employee attempt, directly or indirectly, to influence such determination.
- (b) For purposes of this standard, a “matter concerning an Immediate Family member” means matters where the Immediate Family member has a Personal Financial Interest that is not in common with all others in the same class or group as the Immediate Family member.
- (c) This standard shall not be construed to apply to Ministerial Acts.

8.04 Standard D: False Statements. No Public Official or Public Employee shall knowingly and willfully make a false statement of a material fact concerning any Person or any matter in a public forum of the Pokagon Band or in any official capacity as a Public Official or Public Employee.

8.05 Standard E: Confidential Information.

- (a) No Public Official or Public Employee shall, without proper authorization, disclose any Confidential Information to any person not authorized to receive Confidential Information.
- (b) No Public Official or Public Employee shall use Confidential Information to further such Public Official’s or Public Employee’s Personal Financial Interest or the Personal Financial Interest of an Immediate Family member.

8.06 Standard F: Improper Official Actions. Public Officials and Public Employees shall not, in fulfilling their Official Duties, make decisions or take actions, except Official Actions that are taken on the record and in a public manner, except as may otherwise be explicitly authorized by law.

8.07 Standard G: Unauthorized Income. No Public Official or Public Employee shall accept or receive any Income for fulfilling Official Duties other than from the Governing Body or Tribal Entity with which he is involved as an official or an employee.

8.08 Standard H: Use of Public Office or Band Employment for Private Gain.

- (a) A Public Official or Public Employee shall not use his or her position or employment to gain Income or other benefit, financial or otherwise, for himself or herself or for an Immediate Family member or Associated Business, including without limitation by endorsing any product, service or enterprise, or in any other manner that could reasonably be construed to imply that the Band, the Pokagon Gaming Authority, Mno-Bmadsen, a Governing Body, or a Tribal Entity sanctions or endorses his or her personal activities or those of an Immediate Family member.
- (b) A Public Official or Public Employee shall not use or permit the use of his or her position or employment or any authority associated with his or her position or employment in a manner that is intended to coerce or induce another Person, including a subordinate, to provide any Income or other benefit, financial or otherwise, to himself or herself, an Immediate Family member, or an Associated Business.

8.09 Standard I: Personal Financial Interests in Government Contracts. This standard shall apply to contracts for goods, services, and financial investments where there is a Personal Financial Interest in the contract held by (i) a Public Official who is a member of the Tribal Council or (ii) a Public Official (other than a Tribal Council member) or a Public Employee whose Official Duties expressly include the authority to approve contracts of the same scope and nature as the contract at issue. This standard shall not apply to contracts with a value of less than \$10,000 per annum or to any contract for cultural or spiritual services or traditional Native American handicrafts or food.

- (a) Public Officials and Public Employees shall, prior to taking office or commencing employment, divest themselves of every Personal Financial Interest in a contract for goods or services with the Pokagon Band, Mno-Bmadsen, the Pokagon Gaming Authority, or any Tribal Entity. After taking office or commencing employment, Public Officials or Public Employees shall not acquire or maintain any Personal Financial Interest in a contract for goods or services with the Pokagon Band, Mno-Bmadsen, the Pokagon Gaming Authority, or any Tribal Entity. For one year following the conclusion of a term of office or employment, Public Officials and Public Employees shall not acquire or maintain any Personal Financial Interest in a contract for goods or services with the Pokagon Band, Mno-Bmadsen, the Pokagon Gaming Authority, or any Tribal Entity. A Public Official or Public Employee who has or later acquires a Personal Financial

Interest in an actual or proposed contract that is subject to this standard shall promptly disclose in writing the nature and extent of that interest to the Board.

- (b) Contracts that are in violation of this standard are deemed to be against Pokagon Band public policy. If the Person who entered into the contract or took assignment of the contract had actual knowledge of the contract terms that conflict with this standard, such contract shall be void *ab initio*. Notwithstanding the foregoing, the Band, Mno-Bmadsen, the Pokagon Gaming Authority, or Tribal Entity that entered into the contract shall provide for the reimbursement for the reasonable value of money, goods, material, labor, or services furnished under the contract, to the extent that the Band, Mno-Bmadsen, the Pokagon Gaming Authority, or Tribal Entity has benefited.

8.10 Standard J: Assisting or Representing Other Interests for Income.

- (a) A Public Official or Public Employee and the Immediate Family members of such Public Official or Public Employee shall at no time during and for two (2) years after the conclusion of such Public Official's or Public Employee's term of office or employment represent or otherwise assist any Person for Income with regard to any matter before a Governing Body or Tribal Entity with which a Public Official or Public Employee is or was involved as an official or an employee.
- (b) Nothing in this Code shall prevent a Public Official or Public Employee, or their Immediate Family members, from appearing before a Governing Body or Tribal Entity and providing testimony or making statements on the record concerning matters within their personal knowledge, provided that such testimony or statement would not involve an unauthorized disclosure of Confidential Information.
- (c) Nothing herein shall prohibit a former Public Official or Public Employee from being appointed, employed, or retained by the Governing Body with which he was involved as an official or an employee.
- (d) This standard shall not apply to matters involving only Ministerial Action.

8.11 Standard K: Gifts that May Influence Official Actions.

- (a) Except as otherwise provided herein or by other applicable law, no Public Official or Public Employee shall Solicit or Accept a Gift from any Prohibited Source.
- (b) A Gift shall not be considered Solicited or Accepted if the Public Official or Public Employee files a Gift Disclosure Statement within the time period prescribed in Chapter 10 of this Code, donates such Gift to the Band or an established charity, and provides the Board with a copy of the receipt from the Band or the charity that received the Gift.

8.12 Standard L: Use of Band Property or Resources. Public Officials and Public Employees have a duty to protect and conserve Band property and resources and shall not use

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

such property or resources, or allow their use, for other than authorized purposes. Public Officials and Public Employees shall use official time for authorized purposes in an honest effort to perform Official Duties. Authorized purposes are those purposes for which Band property or resources are available to Public Officials or Public Employees or made available to Band citizens or members of the public or those purposes authorized by Band law or policy.

Accordingly:

- (a) No Public Official or Public Employee may use any Band, Mno-Bmadsen, Pokagon Gaming Authority, or any Tribal Entity property in furtherance of a personal interest of the Public Official or Public Employee.
- (b) No Public Official or Public Employee shall encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of Official Duties or otherwise in furtherance of a personal interest of the Public Official or Public Employee.
- (c) This standard shall not apply if such use would only involve a Negligible Expense or Time and would not interfere in any respect with the Band's, Mno-Bmadsen's, the Pokagon Gaming Authority's, or Tribal Entity's use of such property or the Public Employee's fulfillment of Official Duties.

8.13 Standard M: Just Financial Obligations. Public Officials and Public Employees shall satisfy in good faith their obligations as citizens, including lawfully imposed taxes and all other just financial obligations. For purposes of this standard, a just financial obligation includes any financial obligation acknowledged by the Public Official or Public Employee or reduced to judgment by a court. In good faith means an honest intention to fulfill any just financial obligation in a timely manner.

8.14 Standard N: Prohibition Against Threatening or Degrading Behavior. Members of the Tribal Council shall not make any statements or engage in any behavior directed toward one or more Public Officials or Public Employees that would constitute a violation of any provision of the Pokagon Band Code of Offenses or that otherwise would clearly threaten, intimidate or degrade such Public Officials or Public Employees.

8.15 Standard O: Two-Year Employment Prohibition. No Public Official holding an Elective Office shall hold or be eligible for and shall not commence or accept any appointment or position of employment with any gaming operation of the Pokagon Gaming Authority, or any vendor of goods or services to a gaming operation of the Pokagon Gaming Authority at any time during such Public Official's term of office and for a period of two years following the date that the Public Official has ceased to hold office. This prohibition shall only apply to appointments or positions of employment that are eligible to receive or have received annual compensation of at least \$20,000, excluding expense reimbursements.

8.16 Standard P: Prohibition Against Retaliatory Action. The Pokagon Band, Public Officials, Public Employees, and Tribal Entities shall not retaliate against or attempt to threaten or intimidate any person who has filed a Complaint under this Code or who has testified, or is expected to testify, in a proceeding under this Code.

CHAPTER 9
FINANCIAL DISCLOSURE REQUIREMENTS

9.01 Annual Filing of Financial Disclosure Statement. On or before January 31 of each year, the following persons shall file with the Ethics Board a "Financial Disclosure Statement" in accordance with the requirements of this Chapter:

- (a) Every member of the Pokagon Band Tribal Council whose term of office included any part of the previous calendar year.
- (b) Any other Public Official or Public Employee whose Official Duties specifically include the authority to independently approve contracts or otherwise bind the Band to financial obligations with a value exceeding \$10,000 per annum and whose term of appointment or employment included any part of the previous calendar year. The Tribal Council shall by resolution list the positions that meet this standard and shall review such resolution periodically to determine if any changes are needed.

9.02 Annual Distribution of Financial Disclosure Statement Forms. No later than November 30 of each year, the Board Chairperson shall mail or otherwise deliver a Financial Disclosure Statement form to every Public Official or Public Employee that is required to file such form under this Code.

9.03 Disclosure Information Required. The Board shall prepare the Financial Disclosure Statement form and shall determine the information to be required by the form based on the need for such information to fulfill the express requirements of this Code. The Board shall seek to minimize the burden that compliance with this Chapter places on persons that are subject to its requirements and under no circumstances shall the level of disclosure required on the Financial Disclosure Statement exceed the level of disclosure required under United States Securities and Exchange Commission regulations by executive officers and directors of publicly held corporations. A Public Official or Public Employee who filed a complete Financial Disclosure Statement in the immediately preceding year shall only be required to report material changes to the information previously filed.

9.04 Periods to be included in Financial Disclosure Statement. Public Officials and Public Employees shall include on their Financial Disclosure Statements all information required under this Code to be disclosed for the entire twelve-month period of the previous calendar year, regardless of when such Public Official or Public Employee commenced his or her office or employment.

9.05 Certification of Financial Disclosure Statement. Every Public Official or Public Employee that is required to file a Financial Disclosure Statement shall certify by signature, under oath, on the form that the information disclosed on the form is true and complete.

9.06 Confidentiality of Financial Disclosure Statements. Financial Disclosure Statements and the information contained therein are Confidential Information and shall be protected by the Board from unauthorized disclosure under penalty of applicable law.

9.07 Retention of Financial Disclosure Statements. Financial Disclosure Statements filed by Public Officials or Public Employees shall be kept on record with the Ethics Board for four (4) years following the conclusion of each Public Official's or Public Employee's term of office or employment.

9.08 Warning Letter. If any Public Official who is required under this Code to file a Financial Disclosure Statement fails to file such form by January 31, the Board Chairperson shall send a warning letter to the Public Official either by personal service or by certified mail, return receipt requested. The warning letter shall notify the Public Official that if the Board does not receive a completed and signed Financial Disclosure Statement within ten (10) days of the date of the letter, the Board will schedule a hearing to consider sanctions against the Public Official. If the Public Official or Public Employee delivers the completed Financial Disclosure Statement to the Board Chairperson within the ten (10) days, he or she shall be deemed to be in compliance with this Chapter.

9.09 Hearing. If the Public Official or Public Employee fails to deliver the completed Financial Disclosure Statement to the Board within the ten (10) days, the Board Chairperson shall have a notice of hearing served on the Public Official or Public Employee by personal service or by certified mail, return receipt requested and copies of the notice shall be mailed to the appropriate Governing Body or Tribal Entity. The hearing shall be held before the Board and the case shall be presented by a Board member or, at the Board's discretion, by Independent Legal Counsel for the Board. The Board shall afford the Public Official or Public Employee a reasonable opportunity to challenge the facts and be heard. If a majority of Board members determine that the Public Official or Public Employee was required to file a Financial Disclosure Statement and failed to do so by January 31, the Board may issue one or more of the following sanctions:

- (a) If the Public Official was appointed to office, recommend to the Tribal Council or any other Governing Body with appointment authority over the Public Official that the Public Official be removed from Appointed Office;
- (b) Prohibit any Governing Body having appointment power from appointing the Public Official to any Appointed Office for up to three (3) years from the date of the decision;
- (c) Issue a written public reprimand;
- (d) Require restitution for the cost of the process, including but not limited to attorney's fees and Board fees due to the non-disclosure; and
- (e) Impose a fine of up to \$1,000.00.

CHAPTER 10 GIFT DISCLOSURE REQUIREMENTS

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

10.01 Gift Disclosure Statement. The following Persons shall be subject to the requirement to file with the Ethics Board a "Gift Disclosure Statement" in accordance with the requirements of this Chapter:

- (a) Every member of the Pokagon Band Tribal Council that Solicits or Accepts a Gift from any Prohibited Source with a Market Value greater than \$50.00, provided, however, that exceptions under subsections (a) and (b) of the definition of Gift in Chapter 3 of this Code shall not apply to the disclosure requirements in this subsection; and
- (b) Every Prohibited Source (excluding the federal government, state or local governments, and any agencies or instrumentalities thereof) that gives a Gift with a Fair Market Value in excess of \$50.00 to the Band, a Tribal Entity, or any Public Official or Public Employee, provided that at the time the Gift is given the Prohibited Source has a contract with the Band or a Tribal Entity with a value in excess of \$50,000 per annum.

10.02 Time for Filing Gift Disclosure Statements.

- (a) Tribal Council members that are required to file a Gift Disclosure Statement pursuant to subsection 10.01 (a) of this Chapter shall file the Gift Disclosure Statement with the Board within thirty (30) days from the date a Gift is received.
- (b) Prohibited Sources that are required to file a Gift Disclosure Statement pursuant to subsection 10.01 (b) shall file the Gift Disclosure Statement with the Board within thirty (30) days from the date a Gift is given.

10.03 Gift Disclosure Forms. The Board shall prepare Gift Disclosure forms for use by Tribal Council members and by Prohibited Sources. The Board shall determine the information to be required by the form based on the need for such information to fulfill the requirements of this Code.

10.04 Certification of Gift Disclosure Statement. Every Tribal Council member or Prohibited Source that is required to file a Gift Disclosure Statement shall certify by signature on the form that the information disclosed on the form is true and complete.

10.05 Access to Gift Disclosure Statements. Gift Disclosure Statements and the information contained therein are not considered Confidential Information and, therefore, are subject to disclosure in accordance with applicable law.

10.06 Retention of Gift Disclosure Statements. Gift Disclosure Statements filed with the Ethics Board shall be kept on record with the Board for four (4) years following the date such form is filed with the Board.

10.07 Warning Letter. If the Ethics Board becomes aware of information indicating that a Tribal Council member or Prohibited Source may be required under this Chapter to file a Gift Disclosure Statement and has failed to file such form within the prescribed time, the Board Chairperson shall send a warning letter to the Tribal Council member or Prohibited Source by

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

personal service or by certified mail, return receipt requested. The warning letter shall notify the Tribal Council member or Prohibited Source of the requirements of this Chapter and shall state that the Board must receive either:

- (a) a response that, to the best of the Tribal Council member's or Prohibited Source's knowledge and belief, a Gift Disclosure Statement is not required to be filed; or
- (b) a completed and signed Gift Disclosure Statement.

The warning letter shall further state that if the required response is not received by the Board within ten (10) days of the date of the letter, the Board will schedule a hearing to consider sanctions against the Tribal Council member or Prohibited Source. If the Ethics Board receives a response to the warning letter as required by this Section within the ten (10) days, the Tribal Council member or Prohibited Source shall be deemed to be in compliance with this Chapter.

10.08 Hearing. If the Tribal Council member or Prohibited Source fails to deliver the response to the warning letter required under Section 10.07 within the ten (10) days, the Board Chairperson shall have a notice of hearing served on the Tribal Council member or Prohibited Source by personal service or by certified mail, return receipt requested and copies of the notice shall be mailed to the appropriate Governing Body or Tribal Entity. The hearing shall be held before the Board and the case shall be presented by a Board member or, at the Board's discretion, by Independent Legal Counsel for the Board. The Board shall afford the Tribal Council member or Prohibited Source a reasonable opportunity to challenge the facts and be heard. If a majority of Board members determine that the Tribal Council member or Prohibited Source was required to file a Gift Disclosure Statement and failed to do so within the time requirements of Section 10.02, the Board may issue one or more of the following sanctions:

- (a) Issue a written public reprimand;
- (b) Require restitution for the cost of the process, including but not limited to attorney's fees and Board fees due to the non-disclosure;
- (c) Impose a fine of up to \$1,000.00; and
- (d) For a third offense under this Chapter by any Prohibited Source, order that upon completion of any pending contract with the Prohibited Source, no Governing Body or Tribal Entity may contract with the Prohibited Source for a period of up to three (3) years from the date of the decision.

**CHAPTER 11
COMPLAINTS**

11.01 Filing. Any Pokagon Band citizen, Public Official, or Public Employee, or the Board on its own initiative, believing that a violation of this Code has occurred or is ongoing, may file a written, sworn Complaint, under the penalty of perjury, with the Board. A filing fee of \$100.00 shall be paid to the Board at the time a Complaint is filed, unless the Complaint is filed by the Board on its own initiative. The filing fee may be waived or reduced by order of the Board Chairperson if the party filing the Complaint is indigent under written standards established by

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

the Board and the party submits an affidavit of indigence on a form prescribed by the Board. A single Complaint may be filed against multiple Public Officials or Public Employees provided that the Complaint against each Public Official or Public Employee involves substantially similar claims. The filing fee shall be fully refunded to the complainant if the Board finds Just Cause and proceeds to a Hearing on the Merits.

11.02 Minimum requirements of a Complaint. In order to be accepted for filing, a Complaint shall:

- (a) Identify the Public Official or Public Employee who allegedly committed the violation;
- (b) Provide a statement of facts on which the Complaint is based;
- (c) Identify the ethics provision or provisions allegedly violated;
- (d) Identify the evidence to prove the facts alleged; and
- (e) Be signed by the complainant.

11.03 Multiple Complaints. If there are multiple Complaints involving substantially similar claims, the Board may, at its discretion, investigate and hear the Complaints together, regardless of whether the subjects of the Complaints concern different Public Officials or Public Employees.

11.04 Confidentiality. The complainant and respondent shall keep the Complaint and all information contained in the Complaint confidential at all times until the Board finds Just Cause for the Complaint in a Preliminary Meeting. Any party that violates this confidentiality requirement may be subject to a fine of up to \$1,000.00, as determined by the Board.

11.05 Notification. Within ten (10) days after the Complaint is filed with the Board, the Board Chairperson shall have a copy of the Complaint served on the respondent by personal service or by certified mail, return receipt requested, along with written notice that the Complaint against him or her was properly filed with the Board. The notice shall inform the respondent that he or she may file a written response to the allegations in the Complaint, which response will be considered by the Board at its Preliminary Meeting. The notice shall include a statement informing the respondent that he or she has the right to the assistance of legal counsel, at his or her own expense.

11.06 Stay of Ethics Complaint. If a civil complaint is or has been filed in any court involving substantially similar claims against a Public Official or Public Employee who is the respondent to a Complaint brought under this Code, the Board may, on its own initiative or upon the request of the respondent, order a stay of the proceedings before the Board at any stage in the proceeding. A stay of proceedings under this Code shall remain in effect until there is a disposition at the trial level of the civil court unless the order of stay issued by the Board provides otherwise. The Board shall obtain a copy of the civil court's file, which it shall use in the investigation of the Complaint brought under this Code.

11.07 Preliminary Meeting of Board.

- (a) Within twenty (20) days of the date the Complaint was filed with the Board, the Board shall meet to review and evaluate the factual and legal grounds of the Complaint and any response filed by the respondent. The Board shall conduct all Preliminary Meetings in closed session.
- (b) If the Board determines by the affirmative vote of at least three members that there is Just Cause for the Complaint, the Board shall, within fifteen (15) days of the Preliminary Meeting, issue a written preliminary finding of Just Cause and shall serve a copy of the finding on the complainant, the respondent, and the appropriate Governing Body or Tribal Entity. The finding shall identify the specific standard or standards under this Code that the Board has determined under the Just Cause standard may have been violated.
- (c) If the Board determines that the Complaint does not have Just Cause, the Complaint shall be dismissed, with prejudice. Notice of the dismissal of the Complaint shall be served on the complainant, the respondent, and the appropriate Governing Body or Tribal Entity, which shall state that the Complaint and the notice of dismissal are no longer considered to be confidential.

11.08 Investigation. If there is a need for investigation, the Board shall engage a qualified independent contractor to conduct the investigation. The investigation shall not commence until there is a finding of Just Cause. The investigation shall be concluded within six (6) weeks of the notice of Hearing on the Merits, unless the Board Chairman determines that good cause exists for an extension of time. The respondent shall be served with a copy of the investigative report at least one (1) week prior to the date of the hearing.

11.09 Hearing on the Merits.

- (a) Notice of Hearing. If a Complaint has been found by the Board to have Just Cause under this Code, the Board shall, within fifteen (15) days after serving the finding of Just Cause, serve on the complainant, respondent, and the appropriate Governing Body or Tribal Entity a notice of a Hearing on the Merits. The notice shall indicate the date, time, and place of the hearing and shall include a statement informing the respondent that he or she has the right to representation at the hearing by legal counsel, at his or her own expense. The notice of a Hearing on the Merits shall be served at least four (4) weeks prior to the date of the hearing. The Board shall conduct the Hearing on the Merits within eight (8) weeks of the date of the notice, unless the Board finds upon the request of either party or on its own initiative that there is good cause to extend such time.
- (b) Hearing Rules. A hearing shall not proceed unless all filled seats on the Board are present. The Board shall establish written rules of procedure for hearings conducted under this Code. No formal rules of evidence shall apply in any hearing, provided that the Board shall retain authority to determine the admissibility of evidence and testimony based on considerations of relevance, authenticity and reliability.

- (c) Presentation of case. The Board shall direct the person that conducted the investigation or any other person that is familiar with the investigation to present the results of the investigation. If, in the Board's discretion, the presentation involves legal issues that are beyond the capabilities of the investigator, the Board may use the services of an Independent Legal Counsel to assist with the presentation.
- (d) Rights of the respondent. The respondent has the right to attend the hearing, the right to make a statement, the right to present evidence, the right to present and cross-examine witnesses, and the right to be represented by legal counsel, at his or her own expense.

11.10 Disposition of Complaint.

- (a) Written decision. A determination by the Board that there was a violation of this Code must be supported by a Preponderance of the Evidence and can only be made upon the affirmative vote of three (3) Board members. The Board shall make all reasonable efforts to issue a written decision with twenty (20) days from date the hearing concludes. The Board shall state its findings in the written decision. The written decision shall either:
 - (1) Dismiss the Complaint and explain the basis for dismissal; or
 - (2) Find that there was a violation of this Code and identify the specific standards that were violated, explain the basis for finding a violation, determine whether the violation was intentional, unintentional, minor, or major, and impose any sanctions or penalties the Board shall deem proper.
- (b) Notice of Decision. The Board Chairperson shall have a copy of the Board's decision served on the respondent, the complainant, and the appropriate Governing Body or Tribal Entity.
- (c) Appeal. The decision of the Board shall be final, subject to appeal to the Pokagon Band Tribal Court as provided in Chapter 15 of this Code.

11.11 Similar charges barred. If the Complaint is dismissed following a Hearing on the Merits because the evidence failed to establish a violation of this Code, the Board shall not have jurisdiction over any Complaint against the same Public Official or Public Employee based on substantially similar facts and issues.

CHAPTER 12 ADVISORY OPINIONS

12.01 Request for Advisory Opinion. Any Public Official or Public Employee who is subject to this Code may request an Advisory Opinion from the Board with respect to a course of action that the requesting Public Official or Public Employee intends to pursue.

12.02 Limitations on issuance of Advisory Opinions.

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

- (a) The Board shall only grant requests for an Advisory Opinion when:
 - (1) The matter involves a substantial or novel question of fact or law and there is no clear Board or Pokagon Band Court precedent;
 - (2) The subject matter of the request is of significant interest to the Band;
 - (3) The matter involves intended conduct, rather than conduct that is ongoing or is merely contemplated, and it is not based on a purely hypothetical question;
 - (4) The same or substantially the same course of action is under investigation or is or has been the subject of a current proceeding involving the Board or another Governing Body or Pokagon Band agency; or
 - (5) An informed opinion cannot be made or might be made only after extensive investigation, research, or analysis.

- (2) The request for an Advisory Opinion must be in writing and shall be fully enough developed so that it can be evaluated.

12.03 Nature of advice. Advisory Opinions shall be in writing and shall be based on the written request and any other documents or materials included with the request and any other information the Board deems relevant. The Board shall deliver the Opinion to the requesting Public Official or Public Employee by U.S. mail or other appropriate method.

12.04 Effect of Advisory Opinion. Any advice contained in an Advisory Opinion is provided without prejudice to the right of the Board to reconsider the questions involved. When the Board determines that the public interest so requires, the Board may rescind or revoke the Advisory Opinion. Written notice of such rescission or revocation shall be delivered to the requesting Public Official or Public Employee in a timely manner so that he or she may discontinue the course of action taken pursuant to the advice. The Board shall not proceed against the requesting party with respect to any action taken in good faith reliance upon advice given under this Chapter, provided that all relevant facts were fully and accurately presented and the intended action was promptly discontinued upon notification of rescission or revocation of the Board's Advisory Opinion.

12.05 Request for an Advisory Opinion.

- (a) All requests must be made in writing and forwarded to the Board Chairperson.

- (b) The request should:
 - (1) State clearly the question(s) that the applicant wishes resolved;
 - (2) Cite the provisions of this Code and any other applicable law under which the question arises; and
 - (3) State all facts which the applicant believes to be material.

Submittal of additional facts may be requested by the Board before the Board renders of any advice.

- (c) The Advisory Opinion shall have no application to Persons that did not join in the request. All requests and Advisory Opinions are confidential, unless the Board grants a written request filed by the Public Official or Public Employee to release

the Advisory Opinion to his or her investors, lenders or advisers or to provide a copy of such letter in connection with any bid or contract for the provision of products or services to the Pokagon Band.

12.06 Time Period for Issuing an Advisory Opinion. The Board shall make all reasonable efforts to issue an Advisory Opinion within twenty (20) days from the date a request that complies with the requirements of this Chapter is filed.

CHAPTER 13 NO OBJECTION LETTERS

13.01 Request for No Objection Letter. Any Public Official or Public Employee who is subject to this Code that has a question about the application of this Code to intended conduct to be taken by the Public Official or Public Employee or an Immediate Family member and who believes that the question may have already been addressed by the Board may file a written request with the Board for a No Objection Letter.

13.02 Response to Request. Upon receipt of such a request for a No Objection Letter, the Board may:

- (a) Request additional information;
- (b) Reject the request if the intended conduct is clearly not permitted under Pokagon Band law or prior Advisory Opinion;
- (c) Provide a No Objection Letter confirming that the Board finds no basis to object to the intended conduct under this Code, which letter may include conditions or recommendations for additional or ongoing disclosures; or
- (d) If the Board finds that the question presented is novel, the Board may treat it as a request for an Advisory Opinion and shall provide notice thereof to the requesting Public Official or Public Employee who shall have the option of withdrawing the request. All No Objection Letters shall be kept confidential by the Board provided that any Public Official or Public Employee or their Immediate Family members may disclose a No Objection Letter to his or her investors, lenders or advisers and may provide a copy of such letter in connection with any bid or contract for the provision of products or services to the Pokagon Band.

CHAPTER 14 SANCTIONS, PENALTIES AND ENFORCEMENT

14.01 Sanctions and penalties. A Public Official or Public Employee found by the Board to have violated this Code shall be subject to, and personally liable for, any one or more of the following sanctions and penalties, which the Board may impose in whole or in part, depending on whether, in the determination of the Board, the violation was unintentional, intentional, minor, or major (or repeated):

**POKAGON BAND OF POTAWATOMI INDIANS
ETHICS CODE**

- (a) Issue a written reprimand, with or without suspension of any or all other sanctions provided herein;
- (b) If the violation was committed by an appointed Public Official, the Board may recommend to the Tribal Council or any other Governing Body with appointment authority over the Public Official that the Public Official be removed from Appointed Office;
- (c) Suspend business dealings between the Band or Tribal Entity and an Associated Business regarding matters determined to be in violation of this Code;
- (d) If the Public Official or Public Employee realizes Income as a result of a violation of this Code, the Board may hold such Public Official or Public Employee liable to the Band for up to three (3) times the amount or Market Value of the Income; and
- (e) Impose restitution for the cost of the process under this Code, including but not limited to attorney's fees and Board fees resulting from the violation of this Code.

14.02 Joint and several liability. If two (2) or more Public Officials or Public Employees acting in concert, are found to have violated this Code, they may be held jointly and severally liable to the Band for the full amount of any civil penalties prescribed herein.

14.03 Penalties paid to Band. Any civil penalties imposed hereunder shall be collected in any manner authorized for recovery of debts or obligations owed to the Band and shall be paid to the Band.

14.04 Board sanctions and penalties are limited. The Board shall be limited to the issuance of the sanctions and penalties enumerated in this Code, provided that the Board may also advise the respondent what appropriate steps may be taken to avoid future violations.

14.05 Enforcement. The Board may seek enforcement of any penalty, sanction, or other legal obligation imposed by the Board pursuant to this Code by filing a civil action in the Pokagon Band Tribal Court. The Board may use the Independent Legal Counsel to assist the Board in filing and prosecuting the civil action or the Board may use the services of any Prosecuting Attorney for the Pokagon Band.

14.06 Authority and power of other bodies not limited. Nothing in this Code, including any sanction or penalty that may be imposed, shall limit the Pokagon Band Tribal Council, the Pokagon Band Tribal Court, or any other Band entity or forum to exercise its authority and power under applicable law other than this Code.

14.07 No bar to civil or criminal action. The imposition of civil penalties under this Code shall not be a bar to the institution of any civil or criminal action, or the imposition of liability, judgment, conviction or punishment otherwise applicable to the same conduct. The Board shall report to the law enforcement authorities for the appropriate jurisdiction any act or omission that the Board reasonably believes may violate applicable criminal law.

CHAPTER 15 APPEALS

15.01 Appeal to Tribal Court. Any final decision of the Board may be appealed to the Pokagon Band Tribal Court by the Public Official or Public Employee who is the subject of such decision.

15.02 Time limit for filing appeal. An appeal of a final Board decision must be filed within thirty (30) days of the date that notice of such final decision of the Board is issued.

15.03 No jury; review limited to record. The appeal shall be conducted by the Pokagon Band Tribal Court without a jury and shall be confined to the record, except as provided by this Chapter.

15.04 Deference to Board's judgment. The Pokagon Band Tribal Court shall hear the appeal on the record and shall not substitute its judgment for that of the Board as to the reasonable interpretation of this Code or the resolution of factual issues where there is factual support in the record for such findings.

15.05 Issuance of decision. The Pokagon Band Tribal Court shall issue a decision, affirming, modifying, remanding or reversing the decision of the Board. If a particular action by the Board is prescribed by law, the Court may render a decision that orders the Board to take such action as may be necessary to conform its action to the law. The decision of the Pokagon Band Tribal Court shall include conclusions of law. Any decision of the Pokagon Band Tribal Court, in the absence of timely appeal therefrom to the Pokagon Band Court of Appeals, shall become final.

CHAPTER 16 DUTY TO REPORT A VIOLATION OF THIS CODE

A Public Official or Public Employee who has personal knowledge of facts that clearly indicate that another Public Official has violated this Code shall have a duty to file a written report of the violation with the Board.

CHAPTER 17 FRIVOLOUS COMPLAINTS AND FALSE STATEMENTS

17.01 Sanctions for filing a frivolous Complaint. If the Board finds at its Preliminary Meeting that a complainant filed a frivolous Complaint, the Board may impose any or all of the following sanctions:

- (a) A civil fine up to \$1,000.00;
- (b) Prohibition from filing any additional Complaint for up to one (1) year; and
- (c) Restitution for the cost of the process, including but not limited to attorney's fees and Board fees, and the respondent's attorney's fees, if any, resulting from the filing of the frivolous Complaint.

17.02 Sanctions for making a false statement. The Board may impose on any person who makes a false statement under oath to the Board a civil fine of up to \$1,000.00.

17.03 Right to Appeal Sanctions. Any sanction imposed under this Chapter can be appealed to the Pokagon Band Tribal Court pursuant to Chapter 15 of this Code as a final Board decision.

CHAPTER 18 REPEAL OF CONFLICTING LAWS; SEVERABILITY

18.01 Repealer. All other laws, regulations, and policies that may be inconsistent with or in conflict with this Code are hereby repealed.

18.02 Severability. If any chapter, section, subsection, or other portion of this Act is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion of this Act shall be deemed to be separate, distinct, and independent from the remaining portion of this Act, which shall not be affected by the judicial decision and shall remain in effect.

18.03 Effective Date. This Code shall become effective on the date it is enacted into law by the Tribal Council, with the exception that Chapter 9 shall not become effective until the date that is six (6) months from the date that the Ethics Board is established and all members of the Ethics Board have been appointed and sworn into office. Notwithstanding the requirements of this Section, Section 8.15 of this Code shall only apply to Public Officials that held Elective Office at any time after the date that is six months from December 13, 2008.

LEGISLATIVE HISTORY

Code of Ethics, enacted December 13, 2008 by Res. No. 08-12-13-06; § 18.03 was amended on August 17, 2009 by adoption of Tribal Council Res. No. 09-08-17-07, which made § 8.15 applicable only to Public Officials in Elected Office after June 13, 2009; § 4.12 was amended on November 14, 2009 by adoption of Tribal Council Resolution No. 09-11-14-07; § 8.15 was amended on October 11, 2010 by adoption of Resolution No. 10-10-11-07, which struck the application of the prohibition to the Pokagon Band and extended the prohibition from one year to two years; and § 8.15 was amended on March 22, 2011 by adoption of Tribal Council Resolution No. 11-03-22-03, which limited the employment and appointment prohibition to Pokagon Band gaming operations and to vendors to such operations; §4.05(c) was amended on February 4, 2013 by adoption of Tribal Council Res. No. 13-02-04-05, which struck the application of the disqualification for appointment to the Board of Immediate Family members of Public Officials or Public Employees and made such amendment effective retroactive to December 13, 2008. On March 4, 2013, by the adoption of Tribal Council Resolution No. 13-03-04-02, §4.01 was amended to provide for the Ethics Board to be comprised of five persons, and related provisions at §4.07, §4.14, §11.07(b), §11.09(b), §11.10(a) were amended. On April 15, 2013, by adoption of Tribal Council Resolution No. 13-04-15-01, amendments were enacted to Chapter 3, § 4.05, Chapter 6, § 8.01, §8.08, §8.09, and §8.12. On December 12, 2017, by adoption of Tribal Council Resolution No. 17-12-12-05, §10.01(a) was amended to increase threshold for the filing of a gift disclosure statement from \$25 to \$50.