

**POKAGON BAND OF POTAWATOMI INDIANS
WASÉYA BOARD CODE**

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CHAPTER 1

General

Section 1.01 Short Title

This Code shall be known and may be cited as the "Waséya Board Code."

Section 1.02 Authority

The Tribal Council enacts this Code pursuant to the legislative powers of the Tribal Council as enumerated in Article IX, subsections 2(a) and (i) of the Constitution and the duties of the Tribal Council stated in Article IX, subsections 1(c) and (h) of the Constitution.

Section 1.03 Purpose

The purpose of this Code is to establish and vest the Board with the rights, powers, and duties stated in this Code.

Section 1.04 Construction

(a) This Code, to the extent reasonable, shall be read and interpreted in a manner consistent with the Constitution, but in the event of any inconsistency, the Constitution shall control.

(b) To the extent this Code conflicts with any provision of any other Band law, this Code shall govern.

(c) This Code shall be liberally construed to accomplish the purpose set forth in Section 1.03 of this Code.

Section 1.05 Severability

If a court of competent jurisdiction shall adjudge any provision of this Code, or application of this Code, to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Code, which shall continue in full force and effect.

Section 1.06 Governmental Immunity

The Board is an instrumentality of the Band government and shall be vested with all the rights, privileges, and immunities of the Band, including the sovereign immunity of the Band from suit absent an express waiver by the Tribal Council. Board members shall be deemed officers of the Band government and shall be immune from suit to the fullest extent permitted by applicable law with respect to Band officials.

Section 1.07 Definitions

As used in this Code:

- (a) “Academy” means Zagbëgon Early Learning and Development Academy.
- (b) “Band” means the Pokagon Band of Potawatomi Indians.
- (c) “Board” means the Waséya Board.
- (d) “Board Officers” means the Chairperson, Vice-Chairperson, Secretary, and Treasurer of the Board.
- (e) “Citizen” means a duly enrolled member of the Band.
- (f) “Code” means this Waséya Board Code.
- (g) “Committee Procedures Handbook” means the Band’s Committee Procedures Handbook.
- (h) “Constitution” means the Band’s Constitution.
- (i) “Director” means the Band’s Director of the Department of Education.
- (j) “Minor Citizen” means a Citizen who is less than eighteen (18) years of age and has not been emancipated by order of a court of competent jurisdiction.
- (k) “Non-Citizen Parent” means any person who:
 - (1) is not a Citizen;
 - (2) is the biological or adopted parent, step-parent, or legal guardian of a Minor Citizen; and
 - (3) has sole or joint custody of the Minor Citizen.
- (l) “Non-Citizen Tribal Spouse” means any person who:
 - (1) is not a Citizen;
 - (2) is married to, or recognized as being married to, a Citizen pursuant to the Band’s Marriage Code; and
 - (3) is an enrolled citizen of a federally recognized or state recognized Indian tribe.
- (m) “Screening Policy” means the Band’s Employment, Volunteer, and Contractor Screening Policy and Procedure, as amended.

(n) “Site Manager” means the Band’s Site Manager for the Academy.

(o) “Tribal Council” means the governing body of the Band established pursuant to Article X of the Constitution.

(p) “Tribal Council Procedures Act” means the Band’s Tribal Council Procedures Act.

CHAPTER 2

Board

Section 2.01 Establishment

(a) The Tribal Council establishes the Board, which shall be composed of seven (7) Board members.

(b) In addition to the seven (7) Board members, consistent with Article X, subsection 5(c)(iv) of the Constitution, the Tribal Council Chairperson, or a Tribal Council member designated by the Tribal Council Chairperson, shall serve as an ex-officio non-voting member of the Board, and the Chairperson’s or Tribal Council member designee’s presence shall not be counted in determining whether a quorum exists.

(c) The Board shall not have any alternate members.

Section 2.02 Eligibility

To be eligible for appointment to and to serve on the Board under subsection 2.01(a) of this Code, a person shall:

(a) be at least twenty-five (25) years of age;

(b) be a Citizen, a Non-Citizen Tribal Spouse, or Non-Citizen Parent;

(c) possess expertise, knowledge, skills, and professional and personal experience which will contribute to the fulfillment of the purposes and duties of the Board; and

(d) pass a background investigation required of Covered Employees/Contractors under the Screening Policy.

Section 2.03 Board Officers

(a) The officer positions on the Board shall be limited to a Chairperson, Vice-Chairperson, Secretary, and Treasurer.

(b) The Tribal Council shall appoint one (1) of the Board members to serve as the Board Chairperson.

(c) The Board shall select a Board Vice-Chairperson, Board Secretary and Board Treasurer from among the Board members, but a Board member shall not hold more than one Board Officer position at the same time.

(e) The term of each Board Officer position shall coincide with such person's term of appointment to the Board.

(f) The Board Officers shall perform the duties as set forth in the Committee Procedures Handbook.

Section 2.04 Term

(a) The term of the Board members identified in subsection 2.01(a) of this Code shall be three (3) years, but the terms of initial appointments shall be staggered pursuant to the Tribal Council Procedures Act.

(b) The term of the Board member identified in subsection 2.01(b) of this Code shall be coterminous with the Board member's term of office.

(c) There shall be no limit on the number of terms that may be served on the Board, consecutively or otherwise.

(d) Appointment to the Board shall not confer any right or create any contract between the Board member and the Band.

Section 2.05 Resignation

(a) A Board member identified in subsection 2.01(a) of this Code may resign from the Board by submitting a signed and dated letter of resignation to the Board Chairperson or Board Secretary. The resignation shall be effective as of the date tendered unless provided otherwise in the resignation letter. The Board shall forward a copy of the resignation letter to the Tribal Council Chairperson.

(b) The Tribal Council Chairperson, or the Chairperson's designee serving on the Board, may resign by submitting a signed and dated letter of resignation to the Tribal Council Chairperson or the Tribal Council Secretary, which resignation shall be effective as the date tendered unless provided otherwise in the resignation letter. A copy of the resignation letter shall be provided to the Board Secretary.

Section 2.06 Removal

Notwithstanding any other provision of Band law or the Committee Procedures Handbook, all Board members shall serve at the pleasure of the Tribal Council and may be removed by the Tribal Council with or without cause or notice.

Section 2.07 Vacancy

(a) Upon a vacancy in a Board position identified in subsection 2.01(a) of this Code, the Tribal Council shall fill any such vacancy pursuant to the Tribal Council Procedures Act.

(b) Upon a vacancy in the Board position identified in subsection 2.01(b) of this Code, the Tribal Council Chairperson shall endeavor to fill the vacancy as soon as practicable.

Section 2.08 Compensation

Board members may be compensated for service to the Board at rates established by the Tribal Council pursuant to the Committee Procedures Handbook.

CHAPTER 3 Duties and Authority

Section 3.01 Duties

Subject to the provisions of this Code, and in addition to all other requirements under Band law and the Committee Procedures Handbook, the Board shall:

(a) be responsible for:

- (1) reviewing and approving operational policies and procedures of the Academy, provided that the Board shall not approve any policies that are inconsistent or conflict with any Band employment policies, including the Employee Handbook;
- (2) addressing operational concerns regarding the Academy raised by the Tribal Council, the Government Manager, the Director, or Site Manager;
- (3) reviewing and approving Academy programming;
- (4) serving as an appeal body to review grievances or disputes involving students of the Academy, pursuant to Academy policy, excluding employment grievances or employment disputes;
- (5) identifying, analyzing, and proposing solutions to strategic issues relating to the operation of the Academy; and
- (6) reviewing and approving short-term and long-term objectives of the Academy;

(b) provide advice and recommendations to the Director or as applicable, the Site Manager, regarding:

- (1) budget development and formulations regarding the Academy;
- (2) candidates for employment at the Academy; and
- (3) additional sources of funding for the Academy;

(c) assist the Director with the evaluation, planning, feasibility, and recommendations (including curriculum) of a Band owned and operated elementary (starting at kindergarten) school on Band trust land;

(d) develop and submit to the Tribal Council, a work plan in accordance with the Committee Procedures Handbook;

(e) develop and submit to the Finance Board, with a copy to the Tribal Council, a budget of the Board in accordance with the Committee Procedures Handbook;

(f) provide or submit to the Tribal Council the reports in accordance with the Committee Procedures Handbook; and

(g) fulfil or complete any additional one-time duties assigned or designated to the Board from time to time by motion or resolution of the Tribal Council related to education or childcare.

Any duty or function that is not expressly assigned to the Board pursuant to the above shall be reserved to and held by the Tribal Council, the Government Manager, the Director, or Site Manager, as applicable.

Section 3.02 Authority

(a) All rights, powers, or privileges not expressly delegated to the Board pursuant to this Code shall be reserved to and held by the Tribal Council.

(b) The authority of the Board shall be limited to actions that are reasonably necessary to carry out the duties stated in Section 3.01 of this Code, which shall include:

- (1) accessing and possessing relevant documents and records;
- (2) obtaining assistance from the Director and Site Manager as needed to assist the Board in carrying out its duties; and
- (3) obtaining assistance from other Band employees in accordance with the Committee Procedures Handbook.

(c) Notwithstanding any other provision of this Code, the Board shall have no authority to:

- (1) enter into any contract, or any other binding agreement;
- (2) hire, supervise, or discipline any Band employee;
- (3) expend funds or commit any funds with respect to any matter, except in accordance with an approved budget of the Board and Band law; and
- (4) exercise any regulatory or legislative power of the Tribal Council.

Section 3.03 Confidentiality

No Board member shall use or disclose, for any purpose other than the performance of the Board member's official duties relating to the Board, any confidential information obtained in connection with participating on the Board.

LEGISLATIVE HISTORY

Enacted June 27, 2022, by Res. No. 22-06-27-07; on November 28, 2022, by Res. No. 22-11-28-03, Subsections 1.07(d), 2.03(a), and 2.03(c) were amended to provide for the Officer position of Vice-Chairperson.