

**POKAGON BAND OF POTAWATOMI INDIANS
CODE OF ETHICS**

Table of Contents

CHAPTER 1 TITLE AND AUTHORITY 5
 Section 1.01 Title..... 5
 Section 1.02 Authority..... 5

CHAPTER 2 PURPOSE AND INTENT 5
 Section 2.01 Purpose..... 5
 Section 2.02 Intent 6

CHAPTER 3 DEFINITIONS..... 6

CHAPTER 4 ETHICS BOARD..... 12
 Section 4.01 Creation 12
 Section 4.02 Governmental Instrumentality 12
 Section 4.03 Duties..... 12
 Section 4.04 Qualifications..... 12
 Section 4.05 Disqualification..... 13
 Section 4.06 Appointment 13
 Section 4.07 Term 13
 Section 4.08 Resignation 14
 Section 4.09 Removal 14
 Section 4.10 Vacancies 15
 Section 4.11 Compensation 15
 Section 4.12 Reimbursement 15
 Section 4.13 Quorum..... 15
 Section 4.14 Board Officers 15
 Section 4.15 Meetings 16
 Section 4.16 Board Chairperson 16
 Section 4.17 Records..... 16
 Section 4.18 Access to Records 17
 Section 4.19 Administrative Support..... 17

CHAPTER 5 JURISDICTION AND POWER 17
 Section 5.01 Jurisdiction 17
 Section 5.02 Power 18

CHAPTER 6 LEGAL COUNSEL..... 18
 Section 6.01 Board Legal Counsel..... 18
 Section 6.02 Independent Legal Counsel..... 19

CHAPTER 7 ANNUAL BUDGET	19
CHAPTER 8 STANDARDS OF CONDUCT	19
Section 8.01 Standard A: Conflicts of Interest.....	19
Section 8.02 Standard B: Conflicting Outside Employment and Activities	20
Section 8.03 Standard C: Nepotism	20
Section 8.04 Standard D: False Statements.....	21
Section 8.05 Standard E: Confidential Information.....	21
Section 8.06 Standard F: Improper Official Actions.....	21
Section 8.07 Standard G: Unauthorized Income	21
Section 8.08 Standard H: Use of Public Office or Band Employment for Private Gain. 21	21
Section 8.09 Standard I: Personal Financial Interests in Government Contracts.....	22
Section 8.10 Standard J: Assisting or Representing Other Interests for Income	22
Section 8.11 Standard K: Gifts that May Influence Official Actions.....	23
Section 8.12 Standard L: Use of Band Property or Resources.....	23
Section 8.13 Standard M: Just Financial Obligations.....	23
Section 8.14 Standard N: Threatening or Degrading Behavior	24
Section 8.15 Standard O: Two-Year Employment Prohibition.....	24
Section 8.16 Standard P: Retaliation	24
CHAPTER 9 FINANCIAL DISCLOSURE STATEMENTS	24
Section 9.01 Covered Persons	24
Section 9.02 Distribution.....	25
Section 9.03 Content.....	25
Section 9.04 Period	26
Section 9.05 Certification.....	26
Section 9.06 Confidentiality	26
Section 9.07 Retention.....	26
Section 9.08 Warning Letter.....	26
Section 9.09 Hearing.....	26
CHAPTER 10 GIFT DISCLOSURE STATEMENTS	27
Section 10.01 Covered Persons.....	27
Section 10.02 Deadline	27
Section 10.03 Form	28
Section 10.04 Certification.....	28
Section 10.05 Disclosure.....	28
Section 10.06 Retention	28
Section 10.07 Warning Letter.....	28
Section 10.08 Hearing.....	29
CHAPTER 11 COMPLAINTS	29
Section 11.01 Filing.....	29
Section 11.02 Requirements.....	30
Section 11.03 Multiple Complaints	30

Section 11.04 Notice.....	30
Section 11.05 Stay	31
Section 11.06 Sufficiency Determination	31
Section 11.07 Just Cause Determination	33
Section 11.08 Investigation	34
Section 11.09 Hearing on the Merits.....	35
Section 11.10 Disposition.....	35
Section 11.11 Similar Charges.....	36
CHAPTER 12 ADVISORY OPINIONS	37
Section 12.01 Purpose.....	37
Section 12.02 Limitations	37
Section 12.03 Content.....	37
Section 12.04 Basis.....	38
Section 12.05 Effect	38
Section 12.06 Scope.....	38
Section 12.07 Confidentiality.....	38
Section 12.08 Time.....	38
CHAPTER 13 NO OBJECTION LETTERS	39
Section 13.01 Request.....	39
Section 13.02 Response.....	39
Section 13.03 Scope.....	39
Section 13.04 Confidentiality.....	39
CHAPTER 14 VIOLATIONS.....	40
Section 14.01 Penalties	40
Section 14.02 Payment	40
Section 14.03 Limitations.....	40
Section 14.04 Enforcement	41
Section 14.05 No Limitation.....	41
Section 14.06 No Bar	41
CHAPTER 15 APPEALS.....	41
Section 15.01 Tribal Court	41
Section 15.02 Time Limit	41
Section 15.03 Record	41
Section 15.04 Scheduling.....	41
Section 15.05 Limitations.....	42
Section 15.06 Deference.....	42
Section 15.07 Decision	42
Section 15.08 Tribal Court of Appeals	42
CHAPTER 16 FRIVOLOUS COMPLAINTS AND FALSE STATEMENTS.....	42

Section 16.01 Penalties 42
Section 16.02 Appeals..... 43

CHAPTER 17 GENERAL 43
Section 17.01 Repeal..... 43
Section 17.02 Severability 43
Section 17.03 Effective Date..... 43

CHAPTER 18 REPORTS TO TRIBAL COUNCIL 43

LEGISLATIVE HISTORY 43

CHAPTER 1 TITLE AND AUTHORITY

Section 1.01 Title

(a) This Code may be cited as the "Pokagon Band Code of Ethics" and shall be referred to herein as this "Code".

(b) Except as otherwise expressly stated in this Code, the reference to any Chapter, Section or Subsection in this Code shall refer to a Chapter, Section or Subsection of this Code.

Section 1.02 Authority

The Tribal Council enacts this Code pursuant to the express grant of authority enumerated in Article XVII, Section 3, and Article IX, Subsections 1 (a), (b), (c), and (d), and Article IX, 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.

CHAPTER 2 PURPOSE AND INTENT

Section 2.01 Purpose

(a) Public Officials and Public Employees of the Pokagon Band, 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.

(b) The purpose of this Code is to fulfill the requirements of Article XVII of the Constitution and

(i) establish standards of ethical conduct and a system for ensuring the accountability of Public Officials and Public Employees under those standards;

(ii) require Public Officials and Public Employees to adhere to standards of conduct to avoid conflicts of interest;

(iii) require the disclosure of significant economic and business interests and affiliations of Public Officials;

(iv) prohibit Public Officials or Public Employees from using any power or function of their office in a manner that could place their personal interests above the interests of Pokagon Band citizens; and

(v) to afford due process to Public Officials and Public Employees who are accused of violating this Code.

Section 2.02 Intent

(a) Public Officials and Public Employees shall always in 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.

(b) This Code shall 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:

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

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

(c) “Associated Business” means any entity, enterprise, organization, trade, occupation or profession, whether 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:

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

(d) “Board Legal Counsel” means one or more attorneys included on a list approved by Tribal Council, as may be revised from time-to-time, to assist and advise the Board as stated in this Code.

(e) “Candidate” shall have the meaning as set forth in the Pokagon Band Election Code, as may be amended.

(f) “Complaint” means the document alleging one or more violations of this Code that is filed with the Ethics Board in accordance with the requirements of Chapter 11.

(g) “Confidential Information” means information that is gained through the Public Official’s position or the Public Employee’s employment and that he or she knows or reasonably should know has not been made available to the general public, including information that is: (i) identified as confidential under Pokagon Band law or policy; (ii) not subject to any right of access by the general public or Pokagon Band citizens under applicable law; and (iii) conveyed or accepted with the understanding that it will be used only for official purposes. Confidential Information does not include information that:

(i) was in the public domain or publicly available at the time of disclosure;

(ii) was disclosed for limited purposes or under specific circumstances as permitted or required under applicable law;

(iii) is authorized or required to be disclosed by a court of competent jurisdiction or other legal process; or

(iv) subsequently becomes available within the public domain in any manner that does not involve a violation of an obligation to maintain the information as confidential, including under applicable law.

(h) “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 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.

(i) “Constitution” means the Pokagon Band Constitution.

(j) “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.

(k) “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.

(l) “Ethics Board” or “Board” means the Ethics Board established pursuant to Article XVII, Section 3, of the Constitution and Chapter 4.

(m) “Financial Disclosure Statement” means the statement required to be filed with the Ethics Board pursuant to Chapter 9.

(n) “Freedom of Information Act” means the Pokagon Band Freedom of Information Act, as may be amended.

(o) “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.

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

(i) 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, but only if there is no express or implied understanding that it is conferred to influence an Official Action;

(ii) a tangible or intangible item given by an Immediate Family member, but only if, 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

(iii) anything for which Market Value is paid by the recipient within thirty (30) days of the date it is received.

(q) “Gift Disclosure Statement” means the statement required to be filed with the Ethics Board pursuant to Chapter 10.

(r) “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 the Pokagon Gaming Authority, Mno-Bmadsen, and Pokagon Development Authority.

(s) “Hearing on the Merits” means a hearing to be held by the Board in accordance with Section 11.09 after a determination of Just Cause by the Board.

(t) “Immediate Family” means:

(i) spouse or life-partner;

(ii) children and grandchildren, whether biological or by marriage or adoption;

(iii) foster children and foster grandchildren;

(iv) parents and grandparents;

(v) siblings, including siblings by half-blood;

- (vi) aunts, uncles, nieces, and nephews;
- (vii) residents of the household of the Public Official or Public Employee;
- (viii) 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;
- (ix) the following in-laws: sister, brother, son, daughter; and
- (x) persons related to the Public Official's or Public Employee's spouse or life-partner as described above in Subsections (ii) – (vi).

(u) "Include" or "Including", whether capitalized, shall be deemed to be followed by "without limitation".

(v) "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, and 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.

(w) "Independent Legal Counsel" means one or more attorneys included on a list approved by Tribal Council, as may be revised from time-to-time, to present Complaints as stated in this Code.

(x) "Just Cause" means that there is a substantial basis in law and fact to conclude that a violation of this Code may have occurred.

(y) "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.

(z) "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.

(aa) "Mno-Bmadsen" means a wholly owned unincorporated instrumentality of the Pokagon Band established under the Mno-Bmadsen Charter.

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

(cc) “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.

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

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

(ff) “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.

(gg) “Open Meetings Act” means the Pokagon Band Open Meetings Act.

(hh) “Pokagon Development Authority” means the wholly owned unincorporated governmental instrumentality of the Pokagon Band established under the Pokagon Development Authority Code.

(ii) “Pokagon Gaming Authority” means the wholly owned unincorporated governmental instrumentality of the Pokagon Band established under the Pokagon Gaming Authority Ordinance.

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

(kk) “Personal Financial Interest” means an interest held by a person, including through an Associated Business, which involves:

- (i) ownership, investment, securities, or other beneficial interest in a Business; or
- (ii) employment or prospective Employment for which negotiations have commenced; and

shall not include: (A) a Tribal Council member’s receipt or entitlement to Income received from the Band for services as a Tribal Council member; or (B) any pension or other retirement benefits a person is entitled to as a former employee.

(ll) “Pokagon Band” or “Band” means the Pokagon Band of Potawatomi Indians, including its governmental subdivisions and instrumentalities and all subordinate governmental organizations, but excluding: (i) Pokagon Gaming Authority; (ii) Mno-Bmadsen; (iii) Pokagon Development Authority; and (iv) any entity owned, in whole or in part, by the Pokagon Gaming Authority, Mno-Bmadsen, or Pokagon Development Authority.

(mm) “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.

(nn) “Prohibited Source” means for the Governing Body with whom a Public Official or Public Employee is associated or employed, any person who:

- (i) is seeking Official Action;
- (ii) does business or seeks to do business;
- (iii) conducts activities that are regulated, controlled, or overseen by the Governing Body; or
- (iv) has interests that may be substantially affected by the performance or nonperformance of the Public Official's or Public Employee's Official Duties.

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

(pp) “Public Official” means any person holding an Elective Office or Appointed Office, including 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, Mno-Bmadsen, or Pokagon Development Authority, and such other positions as designated by the Tribal Council by resolution as positions to whom this Code shall apply.

(qq) “Records” shall have the same meaning as set forth in the Freedom of Information Act.

(rr) “Selection Committee” means a committee consisting solely of the Chairperson and Vice-Chairperson of the Tribal Council and the Chairperson and Vice-Chairperson of the Pokagon Band Elders Council established for the purpose of recommending the appointment or removal of Board members pursuant to Chapter 4.

(ss) “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.

(tt) “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.

(uu) “Tribal Council” means the governing body of the Pokagon Band under Article IX of the Constitution.

(vv) “Tribal Court” means the trial level of the tribal court system established pursuant to Article XII of the Constitution.

(ww) “Tribal Court of Appeals” means the appellate level of the tribal court system established pursuant to Article XII of the Constitution.

(xx) “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, but excluding: (i) Pokagon Gaming Authority; (ii) Mno-Bmadsen; (iii) Pokagon Development Authority; and (iv) any entity owned, in whole or in part, by the Pokagon Gaming Authority, Mno-Bmadsen, or Pokagon Development Authority.

CHAPTER 4 ETHICS BOARD

Section 4.01 Creation

There is created a Board to be known as the "Pokagon Band Ethics Board" that shall be composed of five (5) members to be appointed as set forth below.

Section 4.02 Governmental Instrumentality

The Ethics Board is a governmental instrumentality of the Pokagon Band government and shall be clothed with all the rights, privileges, and immunities of the Band, including sovereign immunity 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.

Section 4.03 Duties

The Board shall be responsible for the administration and enforcement of this Code. Each member of the Ethics Board shall, while exercising the powers and carrying out the duties and responsibilities of the Board under the Constitution and this Code, act always with diligence, integrity, and impartiality, without regard to public sentiment or criticism.

Section 4.04 Qualifications

To be eligible to be appointed to and to serve on the Ethics Board, a person shall meet the following minimum qualifications:

(a) possess an associate’s degree from an accredited college or university or five (5) years of professional level work experience in relevant areas, such as law, law enforcement, accounting or finance, business management, regulatory and governmental affairs, with advanced degrees and certifications, such as Certified Public Accountant, Juris Doctorate, and Master of Business Administration being preferred, but not required;

(b) have the demonstrated ability to review and interpret laws, regulations, contracts, and various professional level reports, including financial reports;

(d) have strong interpersonal, oral, and written communication skills;

(e) have demonstrated ability to act with impartiality and to deal fairly, effectively and efficiently with situations requiring fact finding and dispute resolution skills; and

(f) possesses good character and, with consideration to criminal history, civil litigation record, employment history, and prior activities, habits, and associations, has a reputation for honesty, integrity, and ethical conduct.

Section 4.05 Disqualification

No person shall be appointed to or serve on the Board who is:

(a) not a Pokagon Band citizen;

(b) under the age of twenty-one (21);

(c) a Public Official or Public Employee;

(d) employed, in any capacity, by Pokagon Gaming Authority, Mno-Bmadsen, or Pokagon Development Authority, but this prohibition shall not include independent contractors or volunteers of such entities; 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.

Section 4.06 Appointment

The Tribal Council shall provide notice of all open seats on the Ethics Board to the Band citizenship 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 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.

Section 4.07 Term

(a) 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, but 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. Board members may serve successive terms of office or additional terms of office after having concluded service as a member.

(b) A Board member may, at the discretion of the Tribal Council, continue to serve on the Board, with full authority, after the completion of his or her term until such time as a replacement is appointed and sworn into office.

Section 4.08 Resignation

Board members that wish to resign from the Board must do so in writing by submitting 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.

Section 4.09 Removal

(a) Any Pokagon Band citizen, Public Official or Public Employee who believes that a Board member should be removed for one or more reasons set forth in Subsection 4.09(b) may notify any member of the Selection Committee in a signed written statement of the basis for such belief. The Selection Committee member shall promptly forward the signed written statement to the Tribal Council Chairperson and all Selection Committee members and, if one or more Selection Committee members request a meeting to consider the matter, then the Tribal Council Chairperson shall call a Selection Committee meeting for such purpose.

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

- (i) nonfeasance, including the persistent failure to perform Official Duties;
- (ii) misfeasance, including any substantial or repeated failure to exercise authority or discharge responsibilities in conformity with this Code;
- (iii) malfeasance, including (A) 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, (B) a knowing violation of this Code, the Constitution, or other applicable Pokagon Band law that assigns duties or responsibilities specifically to the Board; and (C) misconduct that threatens the integrity or public image of the Board;
- (iv) physical or mental disability that prevents the performance of Official Duties; or
- (v) becomes ineligible to serve on the Board.

(c) Upon initiating a removal proceeding, the Tribal Council shall notify the Board member who is the subject of the proceeding of the date, 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.

Section 4.10 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 citizenship 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 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.

Section 4.11 Compensation

Board members shall be independent contractors and shall be compensated at rates established by the Tribal Council, but 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.

Section 4.12 Reimbursement

The Board members shall be entitled to reimbursement for all reasonable and necessary actual expenses incurred in carrying out its duties under this Code, subject to applicable Pokagon Band law or policy.

Section 4.13 Quorum

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

Section 4.14 Board Officers

- (a) The Tribal Council shall designate, from among the Board members, a Chairperson.
- (b) The Board shall select a Vice Chairperson, Secretary, and Treasurer from among the Board members, provided that no Board member shall hold more than one Board officer position at the same time.
- (c) The term of each Board officer position shall coincide with such person's term of appointment to the Board.

Section 4.15 Meetings

(a) Board meetings shall be called by the Board Chairperson: (i) as necessary to carry out the official duties of the Board; and (ii) upon written request of any Board member. If the Chairperson refuses to call and conduct a Board meeting with seven (7) calendar days of the Board Chairperson's receipt of the written request from the Board member, then the Board Vice Chairperson shall call and conduct the meeting.

(b) Notice of the meeting, including the date, time, and place of the meeting and a proposed agenda, shall be delivered to Board members at least forty-eight (48) hours in advance of such meeting and may be given by hand delivery, mail, email or such other method as the Board may establish. Subject to the notice requirements regarding hearings under Chapter 11, the Board member notice requirements regarding any meeting may be waived if all Board 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 Board members are present at the meeting, and a majority agrees to the change to the agenda.

(c) The Board Chairperson shall preside over all meetings of the Board. The Board Vice Chairperson shall assume the duties of the Board Chairperson in the Board Chairperson's absence.

(d) All Board meetings shall be open to Pokagon Band citizens, except that the Board may conduct business in a closed meeting in accordance with the Open Meetings Act, but only if the Board has been advised by Board Legal Counsel that such closure is permitted.

(e) Subject to the Open Meetings Act, meetings may be conducted by a telephone conference, video conference, web conference or similar means, but only if all Board 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, but only if such rules do not conflict with this Code or other applicable Pokagon Band law.

(g) The Board Secretary shall take and preserve minutes of each Board meeting.

Section 4.16 Board Chairperson

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

Section 4.17 Records

(a) The Board shall maintain and safeguard all Records. For each Complaint the Board shall maintain a separate file which shall contain all Records relating to the Complaint.

(b) Records shall be maintained in the offices of the Board, or such other secure location on Band land as the Board may deem appropriate, subject to the requirements of applicable law and policy.

(c) Except as otherwise provided under Band law, including Sections 9.07 and 10.06 of this Code, the Board shall maintain Records for a minimum of four (4) years following creation or receipt of the Record.

Section 4.18 Access to Records

(a) All Financial Disclosure Statements shall be exempt from disclosure under the Freedom of Information Act.

(b) Board Legal Counsel, for the duration of any proceeding under this Code, shall cause copies of all Records relating to a proceeding under this Code to be provided to Independent Legal Counsel and respondent as such Records are generated or received by the Board. Records shall be provided within the time specified in this Code and, in the absence of a time being specified, shall be promptly provided.

(c) The requirements set forth in Subsection 4.18(b) shall not include:

(i) any Records relating to a proceeding under this Code which are protected by attorney-client privilege or the attorney work-product doctrine, unless disclosure is authorized by the Board; and

(ii) the portion of any Records that if requested by a Band citizen under the Freedom of Information Act, would be exempt from disclosure under Section 2.02 of the Freedom of Information Act.

Section 4.19 Administrative Support

The Board may engage independent contractors and, as appropriate in the Board's determination, may use Board Legal Counsel, to provide such administrative support services as the Board determines are needed for the Board to fulfill its responsibilities under this Code, but only if such cost is within the Board's annual budget. If such cost is not within the Board's annual budget, the Board shall not engage the independent contractor, or assign such services to Board Legal Counsel, unless it has obtained the approval of the Tribal Council for such additional budgeted funds, which approval shall not be unreasonably withheld.

CHAPTER 5 JURISDICTION AND POWER

Section 5.01 Jurisdiction

(a) 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.

(b) 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.

Section 5.02 Power

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 under this Code;

(c) to make notifications, extend deadlines and conduct investigations in accordance with this Code;

(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, but only if such cost is within the Board's annual budget. If such cost is not within the Board's annual budget, 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 under this Code, but the Board shall not be bound by formal rules of evidence; and

(h) such other powers as are specifically granted in this Code.

CHAPTER 6 LEGAL COUNSEL

Section 6.01 Board Legal Counsel

(a) The Tribal Council shall approve and, as needed, periodically revise, a list of Board Legal Counsel to assist and advise the Board as stated in this Code.

(b) Any attorney that is directly employed by the Band, Pokagon Gaming Authority, Mno-Bmadsen, Pokagon Development Authority, or any Tribal Entity shall be ineligible to serve as Board Legal Counsel.

(c) The Board may engage Board Legal Counsel to perform the duties assigned to such position under this Code and other duties involving legal issues that are beyond the capabilities of the Board, but only if the cost for the Independent Legal Counsel is within the Board's annual budget.

(d) Neither Board Legal Counsel, nor any attorney from the same firm as any Board Legal Counsel, shall serve as Independent Legal Counsel in connection with any Complaint.

Section 6.02 Independent Legal Counsel

(a) The Tribal Council shall approve and, as needed, periodically revise, a list of Independent Legal Counsel to present Complaints as stated in this Code.

(b) Any attorney that is also a Public Employee shall be ineligible to serve as Independent Legal Counsel.

(c) The Board shall engage Independent Legal Counsel whenever a Complaint is filed with the Board under this Code, but only if such cost is within the Board's annual budget.

(d) Neither Independent Legal Counsel nor any attorney from the same firm as any Independent Legal Counsel, shall serve as Board Legal Counsel in connection with any Complaint.

CHAPTER 7 ANNUAL BUDGET

(a) The Board shall establish an annual budget, which shall reflect the reasonable costs of administering this Code, including the cost of legal and other services or goods.

(b) 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.

(c) The Board shall have the authority to expend funds within, and in accordance with, the approved budget without further authorization from the Tribal Council, subject to generally applicable Pokagon Band accounting and procurement policies.

(d) The Board shall closely monitor the cost of legal services in connection with any Complaint and, if necessary, the Board shall promptly submit to the Tribal Council a request to supplement its annual budget. The Tribal Council shall not unreasonably withhold such additional funds requested by the Board.

CHAPTER 8 STANDARDS OF CONDUCT

Section 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.

(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:

(i) 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 Constitution; or

(ii) any attorney who is employed or engaged by the Band to represent any number of the following, including in the same transaction: (A) the Band; (B) any Tribal Entity; (C) Pokagon Gaming Authority; (D) Mno-Bmadsen; (E) Pokagon Development Authority, or (F) any entity owned, in whole or in part by any Tribal Entity, the Pokagon Gaming Authority, Mno-Bmadsen, or Pokagon Development Authority.

Section 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 if it:

(a) is prohibited by Band law or policy; or

(b) 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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 by endorsing any product, service or enterprise, or in any other manner that could reasonably be construed to imply that the Band, Pokagon Gaming Authority, Mno-Bmadsen, Pokagon Development Authority, 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.

Section 8.09 Standard I: Personal Financial Interests in Government Contracts

(a) 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.

(b) 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, Pokagon Gaming Authority, Mno-Bmadsen, Pokagon Development 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, Pokagon Gaming Authority, Mno-Bmadsen, Pokagon Development 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, Pokagon Gaming Authority, Mno-Bmadsen, Pokagon Development 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.

(c) 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, Pokagon Gaming Authority, Mno-Bmadsen, Pokagon Development 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, Pokagon Gaming Authority, Mno-Bmadsen, Pokagon Development Authority, or Tribal Entity has benefited.

Section 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, but only if 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.

Section 8.11 Standard K: Gifts that May Influence Official Actions

(a) Except as otherwise stated in this Code 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, 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.

Section 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 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, Pokagon Gaming Authority, Mno-Bmadsen, Pokagon Development 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 use of such property by the Band, Pokagon Gaming Authority, Mno-Bmadsen, Pokagon Development Authority or Tribal Entity or the Public Employee’s fulfillment of Official Duties.

Section 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) a “just financial obligation” includes any financial obligation acknowledged by the

Public Official or Public Employee or reduced to judgment by a court; and (b) “in good faith” means an honest intention to fulfill any just financial obligation in a timely manner.

Section 8.14 Standard N: 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.

Section 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 (2) 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.

Section 8.16 Standard P: Retaliation

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 any proceeding under this Code.

CHAPTER 9 FINANCIAL DISCLOSURE STATEMENTS

Section 9.01 Covered Persons

Except as provided in Subsection 9.02(d), on or before the last day of the month in February 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 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 the Ethics Board shall cause the Tribal Council to review such resolution annually to determine if any changes are needed.

Section 9.02 Distribution

(a) No later than November 30 of each year, the Board Chairperson shall provide a Financial Disclosure Statement form to every Public Official or Public Employee that is required to file such form under Section 9.01.

(b) The Financial Disclosure Statement form shall be delivered by: (i) hand delivery to the Public Official or Public Employee; (ii) first class U.S. Mail, postage prepaid, and addressed to the Public Official's or Public Employee's last known address; (iii) private courier, postage prepaid, and addressed to the Public Official's or Public Employee's last known address; or (iv) email to the Public Official's or Public Employee's Pokagon Band email account.

(c) The Financial Disclosure Statement form shall be deemed delivered on the date that it is: (i) hand delivered to the Public Official or Public Employee; (ii) sent by first class U.S. Mail, postage prepaid, and addressed to the Public Official's or Public Employee's last known address; (iii) sent by private courier, postage prepaid, and addressed to the Public Official's or Public Employee's last known address; or (iv) sent by email to the Public Official's or Public Employee's Pokagon Band email account without a subsequent message indicating that the email was not delivered.

(d) The time period to file a Financial Disclosure Statement under Section 9.01 shall be tolled for each day after November 30 that the Financial Disclosure Statement form is not timely delivered to a Public Official or Public Employee in accordance with this Section, provided that a Public Official or Public Employee shall not be required to file a Financial Disclosure Statement for the applicable year if the Board Chairperson does not deliver a Financial Disclosure Statement form to the Public Official or Public Employee in accordance with this Section by March 31 of the following year.

Section 9.03 Content

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.

Section 9.04 Period

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.

Section 9.05 Certification

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.

Section 9.06 Confidentiality

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.

Section 9.07 Retention

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.

Section 9.08 Warning Letter

If any Public Official or Public Employee who is required under this Code to file a Financial Disclosure Statement fails to timely file such form in accordance with Section 9.01, unless tolled or excused under Section 9.02, the Board Chairperson shall send a warning letter to the Public Official or Public Employee by personal service or by certified mail, return receipt requested. The warning letter shall notify the Public Official or Public Employee 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 or Public Employee. 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 have timely filed in compliance with this Chapter.

Section 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 cause a notice of hearing to be 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 Independent Legal Counsel, subject to Section 6.01. The Public

Official or Public Employee shall have the right to be represented at the hearing by legal counsel of his or her choice and at his or her sole cost. The Board shall afford the Public Official or Public Employee a reasonable opportunity to challenge the facts and be heard. If the Board determines that the Public Official or Public Employee was required to file a Financial Disclosure Statement and failed to timely do so in accordance with Section 9.01, unless tolled or excused under Section 9.02, the Board may only issue any or all 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) if the Public Official was appointed to office, recommend to the Governing Body having appointment power over the Public Official that the Public Official not be reappointed to such Appointed Office for up to three (3) years from the date of the decision;

(c) issue a written public reprimand; and

(d) impose a fine subject to the limitations of Subsection 14.01(e).

CHAPTER 10 GIFT DISCLOSURE STATEMENTS

Section 10.01 Covered Persons

The following Persons shall file with the Ethics Board a Gift Disclosure Statement in accordance with the requirements of this Chapter:

(a) Every member of the Tribal Council that Solicits or Accepts a Gift from any Prohibited Source with a Market Value greater than \$50.00, but the exceptions under Subsections (a) and (b) of the definition of Gift in Chapter 3 shall not apply to the disclosure requirements in this Subsection; and

(b) Every Prohibited Source (excluding the federal government, state or local, or tribal 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, but only if 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.

Section 10.02 Deadline

(a) Tribal Council members that are required to file a Gift Disclosure Statement pursuant to Subsection 10.01 (a) 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.

Section 10.03 Form

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.

Section 10.04 Certification

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

Section 10.05 Disclosure

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

Section 10.06 Retention

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

Section 10.07 Warning Letter

(a) 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 cause a warning letter to be sent to the Tribal Council member or Prohibited Source by personal service or by certified mail, return receipt requested.

(b) The warning letter shall notify the Tribal Council member or Prohibited Source of the requirements of this Chapter and shall state that:

(i) 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; and

(ii) 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 determine whether a Gift Disclosure

Statement is required to be filed and, if such filing is required, to consider sanctions against the Tribal Council member or Prohibited Source.

(c) 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 have timely filed in compliance with this Chapter.

Section 10.08 Hearing

(a) 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 cause a notice of hearing to be 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.

(b) The hearing shall be held before the Board, and the case shall be presented by Independent Legal Counsel, subject to Section 6.01.

(c) The Public Official or Public Employee shall have the right to be represented at the hearing by legal counsel of his or her choice and at his or her sole cost.

(d) The Board shall afford the Tribal Council member or Prohibited Source a reasonable opportunity to challenge the facts and be heard.

(e) If the Board determines 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 only issue any or all of the following sanctions:

(i) issue a written public reprimand;

(ii) impose a fine subject to the limitations of Subsection 14.01(e); and

(iii) for a third offense under this Chapter by any Prohibited Source, recommend to the Governing Body or Tribal Entity that upon completion of any pending contract with the Prohibited Source, that the Governing Body or Tribal Entity not contract with the Prohibited Source for a period of up to three (3) years from the date of the decision.

CHAPTER 11 COMPLAINTS

Section 11.01 Filing

(a) Any Pokagon Band citizen, Public Official, or Public Employee who believes 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.

(b) A filing fee of \$100.00 shall be paid to the Board at the time a Complaint is filed, but the filing fee: (i) shall be waived if a Complaint is dismissed under Subsection 11.06(g), and a successor Complaint is filed against the same Public Official or Public Employee based on substantially similar facts and issues; and (ii) may be waived or reduced by order of the Board Chairperson if the complainant: (A) is indigent under written standards established by the Board; and (B) submits an affidavit of indigence on a form prescribed by the Board. The filing fee shall be fully refunded to the complainant if the Board finds Just Cause.

(c) A single Complaint may be filed against multiple Public Officials or Public Employees, but only if the Complaint against each Public Official or Public Employee involves substantially similar claims.

(d) The Board shall not file a Complaint on its own initiative. A Board member shall not file a Complaint.

Section 11.02 Requirements

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 specific standard or standards under this Code allegedly violated;
- (d) identify the evidence to prove the facts alleged;
- (e) state the complainant's name, address and telephone number;

(f) contain the following statement: "Under penalty of perjury, the undersigned declares that facts alleged in this Complaint are true and correct to the best of his or her knowledge and belief"; and

- (g) be signed by the complainant.

Section 11.03 Multiple Complaints

If there are multiple Complaints involving substantially similar claims, including under Subsection 11.01(c), 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.

Section 11.04 Notice

Within ten (10) days after the Complaint is filed with the Board, the Board Chairperson shall cause a copy of the Complaint to be 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 filed with the Board. The notice shall include a statement informing the respondent that:

(a) the Complaint was filed;

(b) respondent has the right to attend all board meetings and hearings related to the Complaint and to be represented in all proceedings by legal counsel of respondent's choosing and at his or her sole cost;

(c) at a Board meeting that is closed to the public, the Board will review the Complaint for a sufficiency determination under Section 11.06 and, in connection with the sufficiency determination, the respondent shall have the rights set forth in Section 11.06, including to: (i) file a written response under Subsection 11.06(c); (ii) present a response at the Board meeting; and (iii) appeal to the Tribal Court, in accordance with Chapter 15, the sufficiency determination under Subsection 11.06(a)

(d) if the Board determines that the Complaint meets the requirements of Subsection 11.06(a), at a Board meeting that is closed to the public, the Board will review the Complaint for Just Cause under Section 11.07 and, in connection with the Just Cause determination, the respondent shall have the rights set forth in Section 11.07, including to: (i) file a written response under Subsection 11.07(c); (ii) present a defense; (iii) present evidence; (iv) present and cross examine witnesses; and (v) appeal to the Tribal Court, in accordance with Chapter 15, the Just Cause determination under Section 11.07;

(e) if the Board determines that there is Just Cause for the Complaint, the Board will hold a Hearing on the Merits under Section 11.09 and, in connection with the Hearing on the Merits, the respondent shall have the rights set forth in Section 11.09, including to: (i) present a defense; (ii) present evidence; (iii) present and cross examine witnesses; and (iv) appeal to the Tribal Court, in accordance with Chapter 15, the Board's decision on the Hearing on the Merits; and

(f) the Complaint will be presented by Independent Legal Counsel and, if known at the time, the name, address, and telephone number of the Independent Legal Counsel.

Section 11.05 Stay

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, 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.

Section 11.06 Sufficiency Determination

(a) Within five (5) days after the Complaint is filed with the Board, the Board Chairperson shall cause the Complaint to be forwarded to Independent Legal Counsel, who shall review the Complaint to determine whether the Complainant on its face: (i) meets the requirements of Section 11.02; (ii) alleges facts that, taken as true, could establish that a violation of this Code has occurred; and (iii) is not barred under this Code, including Section 11.11.

(b) Within ten (10) days of Independent Legal Counsel's receipt of the Complaint, Independent Legal Counsel shall prepare and file with Board Legal Counsel a written analysis of whether the Complainant satisfies Subsection 11.06(a). Board Legal Counsel shall cause a copy of such written analysis to be served by first class U.S. mail on respondent.

(c) Within ten (10) days of the date that Independent Legal Counsel's written analysis is served on respondent, respondent may file with Board Legal Counsel a written response, which shall: (i) address whether the Complaint meets the requirements of Subsection 11.06(a); (ii) identify and explain any disputed material factual allegations; and (iii) address whether the Complaint is barred under this Code, including Section 11.11. Board Legal Counsel shall cause any written response from the respondent to be served by first class U.S. mail on Independent Legal Counsel.

(d) Within ten (10) days after expiration of the time for respondent to file a written response to Independent Legal Counsel's written analysis, the Board shall meet to review the Complaint, the written analysis from Independent Legal Counsel and any written response from respondent. Board Legal Counsel shall cause a notice of the meeting to be served by first class U.S. mail on Independent Legal Counsel and respondent. At the meeting, Independent Legal Counsel shall present the written analysis. The respondent shall have the right to (i) attend the meeting; (ii) present a response; and (iii) be represented by legal counsel of his or her choosing and at his or her sole cost. The meeting shall be conducted in closed session.

(e) At the meeting, the Board shall determine whether: (i) the Complaint meets the requirements of Subsection 11.06(a); and (ii) a preliminary investigation would assist the Board in making the Just Cause determination and should occur, but only if the Board determines that the Complaint meets the requirements of Subsection 11.06(a).

(f) A determination that the Complaint meets the requirements of Subsection 11.06(a) shall require an affirmative vote of at least three (3) Board members.

(i) If the Board determines that a preliminary investigation should occur, then at such meeting, then the Board shall authorize a preliminary investigation. The preliminary investigation shall not be conducted by the Board, but rather shall be conducted only by a qualified independent contractor engaged by the Board. The Board shall determine and approve the scope of the preliminary investigation, which shall be set forth in writing by Board Legal Counsel and provided to the investigator. The scope of the preliminary investigation should be focused on gathering relevant material facts and information, including exculpatory facts, that are needed by the Board to make a Just Cause determination.

(ii) The investigator shall complete the preliminary investigation and provide the Board Legal Counsel with a written preliminary investigation report within thirty (30) days of the Board's authorization of the preliminary investigation. Board Legal Counsel shall cause a copy of the preliminary investigation report to be provided to the Board and served by first class U.S. mail on Independent Legal Counsel and respondent.

(g) If the Board determines that the Complaint does not meet the requirements of Subsection 11.06(a), then within fifteen (15) days of the meeting, the Board shall issue an order of dismissal of the Complaint without prejudice, which shall explain the basis for dismissal. Board Legal Counsel shall cause a copy of such order to be served by first class U.S. mail on the complainant, Independent Legal Counsel, and the respondent.

(h) If the Board determines that the Complaint meets the requirements of Subsection 11.06(a), then within fifteen (15) days of the meeting, the Board shall issue a decision, which shall explain the factual and legal basis for the Board's decision. Board Legal Counsel shall cause a copy of such decision to be served by first class U.S. mail on the complainant, Independent Legal Counsel, and the respondent.

(i) A decision of the Board under Subsection 11.06(a) shall be final, but the respondent may appeal any such determination only if the Board determines that there is Just Cause for the Complaint. In such event, the respondent must raise any appeal of such determination when respondent appeals the Just Cause determination under Subsection 11.07(g).

Section 11.07 Just Cause Determination

(a) Within ten (10) days of the Board determining that the Complaint meets the requirements of Subsection 11.06(a), or the Board's receipt of the written investigation report from the investigator under Subsection 11.06(e), whichever is later, Independent Legal Counsel shall prepare and file with the Board a written analysis of the justification for and against a Just Cause determination. The written analysis shall include: (i) an assessment of facts and legal arguments presented by the complainant and the respondent; and (ii) a recommendation regarding whether, based on the facts alleged, the Board should grant leave for the Independent Legal Counsel to amend the Complaint to add or remove one or more ethics provisions allegedly violated. Board Legal Counsel shall cause a copy of such written analysis to be served by first class U.S. mail on respondent.

(b) Within ten (10) days of the date that Independent Legal Counsel's written analysis is served on respondent, respondent may file with the Board a written response, which shall address whether there is Just Cause for the Complaint, as may have been amended, including setting forth any facts relevant to such determination.

(c) Within ten (10) days of the time for respondent to file a written response to Independent Legal Counsel's written analysis, the Board shall meet to review the Complaint, the written analysis from Independent Legal Counsel and any written response from respondent. Board Legal Counsel shall cause a notice of the Board meeting to be served by first class U.S. mail on Independent Legal Counsel and respondent. At the meeting, Independent Legal Counsel shall

present the written analysis. The respondent shall have the right to: (i) attend the meeting; (ii) present arguments; (iii) present evidence; (vi) present and cross examine witnesses; and (v) be represented by legal counsel of his or her choosing and at his or her sole cost. The meeting shall be conducted in closed session.

(d) At the conclusion of the meeting or within fifteen (15) days thereafter, the Board shall determine whether there is Just Cause for the Complaint. A determination that there is Just Cause for the Complaint shall require an affirmative vote of at least three members (3) Board members.

(e) If the Board does not determine that there is Just Cause for the Complaint, the Complaint shall be dismissed and within fifteen (15) days of the meeting the Board shall issue an order of dismissal of the Complaint, with prejudice. Board Legal Counsel shall cause a copy of such order of dismissal to be served by first class U.S. mail on the complainant, Independent Legal Counsel, and the respondent.

(f) If the Board determines that there is Just Cause for the Complaint, then within fifteen (15) days of the meeting, the Board shall issue a written finding of Just Cause, which shall: (i) identify the specific ethics standard or standards under this Code that the Board has determined may have been violated; and (ii) inform the respondent of the right to appeal the sufficiency determination under Subsection 11.06(a) and/or the Just Cause determination under this Subsection 11.07(f) to the Tribal Court. Board Legal Counsel shall cause a copy such finding to be served by first class U.S. mail on the complainant, Independent Legal Counsel, and the respondent. Board Legal Counsel shall also cause a copy of such finding, along with a copy of the Complaint, to be served on the most senior official or employee of the Governing Body or Tribal Entity with whom the respondent serves a Public Official of a Public Employee.

(g) The Board's finding of Just Cause shall be final, but the respondent may appeal such finding and any determination under Subsection 11.06(a) to the Tribal Court in accordance with Chapter 15. The Board shall not proceed with a Complaint that is the subject of an appeal under this Subsection until the Tribal Court has rendered a final judgment on the appeal.

Section 11.08 Investigation

(a) If the Board determines that there is a need for further investigation after the Just Cause determination, then the Board shall authorize an investigation. The investigation shall not be conducted by the Board, but rather shall be conducted only by a qualified independent contractor engaged by the Board. The Board shall determine and approve the scope of the investigation, which shall be set forth in writing by Board Legal Counsel and provided to the investigator. The scope of the investigation should be limited to gathering relevant material facts and information, including exculpatory facts, that are needed by the Board to make a determination of whether the respondent violated any one or more of the ethics standards as alleged in the Complaint.

(b) The investigator shall complete the investigation and provide Board Legal Counsel with a written investigation report within forty-two (42) calendar days of the notice of Hearing on the Merits, unless the Board Chairperson determines that good cause exists for an extension of time. Board Legal Counsel shall cause a copy of the investigation report to be provided to the Board and served by first class U.S. mail on Independent Legal Counsel and respondent at least twenty (20) days prior to the date of the Hearing on the Merits.

Section 11.09 Hearing on the Merits

(a) The Board shall cause to be served on the complainant, Independent Legal Counsel, the respondent, and the appropriate Governing Body or Tribal Entity a notice of a Hearing on the Merits. To the extent feasible, the Board shall endeavor to coordinate with the respondent regarding the date of the Hearing on the Merits to ensure that the respondent will not be unduly disadvantaged by the timing of the hearing. The notice shall include the date, time, and place of the hearing and shall include a statement informing the respondent that: (i) the Complaint will be presented by Independent Legal Counsel and the name, address, and telephone number of the Independent Legal Counsel; and (ii) the respondent has the right to be represented at the hearing by legal counsel of his or her choosing and at his or her sole cost. The notice of a Hearing on the Merits shall be served by first class U.S. mail at least twenty-eight (28) days prior to the date of the hearing.

(b) 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. The Board shall determine the admissibility of evidence and testimony based on considerations of relevance, authenticity and reliability in the pursuit of the truth.

(c) Independent Legal Counsel shall present the case to the Board and shall bear the burden of proof to establish each alleged violation of this Code by a Preponderance of the Evidence. The complainant shall not be a party to the Hearing on the Merits.

(d) The Board shall be an impartial fact-finder and arbiter for the Hearing on the Merits and the Complaint shall be presented solely by Independent Legal Counsel and not any Board Legal Counsel or Board member.

(e) The respondent shall have the right to: (i) attend the hearing; (ii) present arguments; (iii) present evidence; (iv) present and cross-examine witnesses; and (v) be represented by legal counsel of his or her choosing and at his or her sole cost.

Section 11.10 Disposition

(a) 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 by the affirmative vote of at least three (3) Board members after the Board has weighed evidence and any arguments presented by Independent Legal Counsel and respondent during the Hearing on the Merits. If the Board does not find a violation by the affirmative vote of at least three (3) Board members, the Complaint shall be dismissed as to such violation.

(b) The Board shall make all reasonable efforts to issue a written decision with twenty (20) days from date the Hearing on the Merits concludes. The Board shall state its findings and legal conclusions in the written decision, which shall either:

- (i) dismiss the Complaint and explain the basis for dismissal; or
- (ii) find that there was a violation of this Code, and
 - (A) identify the specific standards that were violated;
 - (B) identify the specific facts determined by the Board to be the basis for each standard found to have been violated and, if there was conflicting evidence, explain how the Board weighed and resolved the conflicting evidence;
 - (C) determine whether each violation was determined to be intentional or unintentional, and minor or major, and explain the facts relied on for such determinations;
 - (D) impose sanctions or penalties that are proportionate to the seriousness of the violations, subject the limitations of Section 14.01; and
 - (E) state how each levied penalty is specifically permitted under Section 14.01.

(c) Board Legal Counsel shall cause a copy of the Board's decision to be served by first class U.S. mail on the complainant, Independent Legal Counsel, the respondent, and the appropriate Governing Body or Tribal Entity.

(d) The decision of the Board shall be final, subject to appeal to the Tribal Court as stated in Chapter 15.

(e) Upon expiration of the time to file an appeal, or upon final resolution of any appeal taken, the Board Chairperson shall cause the decision of the Board to be promptly posted to the portion of the Band's website dedicated to the Board.

Section 11.11 Similar Charges

If the Complaint is dismissed following a Hearing on the Merits, the Board shall not have jurisdiction over any Complaint against the same Public Official or Public Employee based on substantially similar facts and ethics standards.

CHAPTER 12 ADVISORY OPINIONS

Section 12.01 Purpose

Any Public Official or Public Employee 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.

Section 12.02 Limitations

(a) The Board shall only grant requests for an Advisory Opinion when:

- (i) the matter involves a substantial or novel question of fact or law, and there is no clear Board or Pokagon Band Court precedent;
- (ii) the subject matter of the request is of significant interest to the Band;
- (iii) 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;
- (iv) 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
- (v) an informed opinion cannot be made or might be made only after extensive investigation, research, or analysis.

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

Section 12.03 Content

(a) All requests for an Advisory Opinion must be made in writing and filed with Board Legal Counsel.

(b) The request shall:

- (i) state clearly the question(s) that the Public Official or Public Employee wishes resolved;
- (ii) cite the provisions of this Code and any other applicable law under which the question arises; and
- (iii) state all facts which the applicant believes to be material.

(c) Before rendering any advice, the Board may require the Public Official or Public Employee to submit additional facts to the Board.

Section 12.04 Basis

(a) 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.

(b) The Board shall deliver the Advisory Opinion to the requesting Public Official or Public Employee by U.S. mail or other appropriate method.

Section 12.05 Effect

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. The Board shall cause written notice of such rescission or revocation to 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 Public Official or Public Employee with respect to any action taken in good faith reliance upon advice given under this Chapter, but only if: (a) all relevant facts were fully and accurately presented; and (b) the intended action was promptly discontinued upon notification of rescission or revocation of the Board's Advisory Opinion.

Section 12.06 Scope

An Advisory Opinion shall only apply to the Public Official or Public Employee that made the request. The limitation under Section 12.04 on the Board proceeding against the requesting Public Official or Public Employee shall only apply to the Public Official or Public Employee who made the request for the Advisory Opinion.

Section 12.07 Confidentiality

The Board shall disclose Advisory Opinions upon written request by any Pokagon Band citizen, Public Official or Public Employee, but prior to disclosure Independent Legal Counsel shall redact such Advisory Opinions by concealing all personally identifiable information, confidential, proprietary, or sensitive information, which shall be exempt from disclosure under the Freedom of Information Act. Additionally, the Board shall cause redacted versions of Advisory Opinions to be promptly posted on the portion of the Band's website dedicated to the Board.

Section 12.08 Time

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

Section 13.01 Request

Any Public Official or Public Employee that has a question about the application of this Code to intended conduct to be taken by the Public Official or Public Employee 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.

Section 13.02 Response

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 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.

Section 13.03 Scope

A No Objection Letter shall only apply to the Public Official or Public Employee that made the request.

Section 13.04 Confidentiality

The Board shall disclose No Objection Letters upon written request by any Pokagon Band citizen, Public Official or Public Employee, but prior to any such disclosure Independent Legal Counsel shall redact such No Objection Letters by concealing all personally identifiable information, confidential, proprietary or sensitive information, which shall be exempt from disclosure under the Freedom of Information Act. Additionally, the Board shall cause redacted versions of No Objection Letters to be promptly posted on the portion of the Band's website dedicated to the Board.

CHAPTER 14 VIOLATIONS

Section 14.01 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 or all 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:

(a) issue a written reprimand;

(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; and

(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 of realized Income; and

(e) impose reasonable fines for violations of this Code, but the fine for each violation of this Code shall not exceed:

(i) \$1,000 for each major intentional violation;

(ii) \$750 for each major unintentional violation;

(iii) \$500 for each minor intentional violation; and

(iv) \$250 for each minor unintentional violation.

Section 14.02 Payment

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

Section 14.03 Limitations

The Board shall be strictly limited to the issuance of the sanctions and penalties stated in Section 14.01 and may not prohibit any Person from working for or contributing services to the Band where the applicable Code violation is not related to a conflict in business dealings or monetary gain. The Board may also advise the respondent on what appropriate steps may be taken to avoid future violations.

Section 14.04 Enforcement

The Board may seek to enforce any penalty, sanction, or other legal obligation imposed by the Board pursuant to this Code by filing a civil action in the Tribal Court. The Board may use Independent Legal Counsel to assist in filing and prosecuting the civil action.

Section 14.05 No Limitation

Nothing in this Code, including any sanction or penalty that may be imposed, shall limit the Tribal Council, the Tribal Court, or any other Band entity or forum to exercise its authority and power under applicable law other than this Code.

Section 14.06 No Bar

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

Section 15.01 Tribal Court

Any final decision of the Board may be appealed to the Tribal Court by the Public Official or Public Employee or Prohibited Source that is the subject of such decision. In any appeal, the Public Official or Public Employee or Prohibited Source that files the appeal shall be the “Appellant” and the Board shall be the “Appellee”.

Section 15.02 Time Limit

To appeal a final decision of the Board, the Appellant must: (a) file with the Tribal Court a written notice of appeal within thirty (30) days of the date that the final decision of the Board was issued; (b) pay any applicable Tribal Court filing fee; and (c) cause the notice of appeal to be served on Board Legal Counsel by personal service or by certified mail, return receipt requested.

Section 15.03 Record

Within ten (10) days of service under Section 15.02, Board Legal Counsel shall cause a copy of the entire record of the proceeding before the Board to be sent to Independent Legal Counsel and the Appellant by first class U.S. mail.

Section 15.04 Scheduling

Upon Appellant’s compliance with Section 15.02, the Tribal Court shall schedule and conduct a scheduling conference to establish a briefing schedule and address other matters.

Section 15.05 Limitations

The appeal shall be conducted by the Tribal Court without a jury and shall be confined to the record and any briefs.

Section 15.06 Deference

The Tribal Court shall hear the appeal on the record and review any briefs 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.

Section 15.07 Decision

The 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 Tribal Court shall include findings of fact and conclusions of law.

Section 15.08 Tribal Court of Appeals

Any party to an appeal may appeal an adverse final judgment of the Tribal Court under this Section to the Tribal Court of Appeals. The filing of an appeal with the Tribal Court of Appeals shall not stay the final judgment, except as may otherwise ordered by the Tribal Court, or if denied by the Tribal Court, the Tribal Court of Appeals. Any final judgment of the Tribal Court, in the absence of timely appeal therefrom to the Tribal Court of Appeals, shall become final.

CHAPTER 16 FRIVOLOUS COMPLAINTS AND FALSE STATEMENTS

Section 16.01 Penalties

(a) If the Board finds that a complainant filed a frivolous Complaint, the Board may only impose any or all of the following sanctions:

- (i) A civil fine up to \$1,000.00;
- (ii) A prohibition from filing any additional Complaint for up to one (1) year; and
- (iii) Restitution for the cost of the process, including attorney's fees and Board fees, and the respondent's attorney's fees, if any, resulting from the filing of the frivolous Complaint.

(b) 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.

Section 16.02 Appeals

Any sanction imposed under this Chapter can be appealed to the Tribal Court pursuant to Chapter 15 as a final Board decision.

CHAPTER 17 GENERAL

Section 17.01 Repeal

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

Section 17.02 Severability

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

Section 17.03 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 shall only apply to Public Officials that held Elective Office at any time after the date that is six months from December 13, 2008.

CHAPTER 18 REPORTS TO TRIBAL COUNCIL

On an annual basis, and as otherwise requested by Tribal Council, the Board shall provide written and in-person reports regarding all regular Board activities, including on all final decisions relating to: (a) sufficiency determinations; (b) Just Cause determinations; and (c) Hearings on the Merits.

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. On September 30, 2020, by adoption of Tribal Council Resolution No 20-09-30-01, this Code was amended; On June 29, 2023, by adoption of Tribal Council Resolution No. 23-06-29-01, the Pokagon Development Authority was added throughout to be afforded the same treatment as the Pokagon Gaming Authority and Mno-Bmadsen; Section 4.14 was added and subsequent Sections of Chapter 4 were renumbered, and Sections 5.03, 9.01, 9.02, 9.08, 9.09, and 11.01 were amended. .