



**HO-CHUNK NATION CODE (HCC)
TITLE 2 – GOVERNMENT CODE
SECTION 1 – CODE OF ETHICS ACT**

ENACTED BY LEGISLATURE: OCTOBER 16, 2001

AMENDED AND RESTATED by Resolution 05-16-06B, Resolution 02-03-09E, Resolution 02-22-11E, Resolution 03-19-13H, Resolution 04-08-14I and last Amended by Resolution 08-18-15G.

CITE AS: 2 HCC § 1

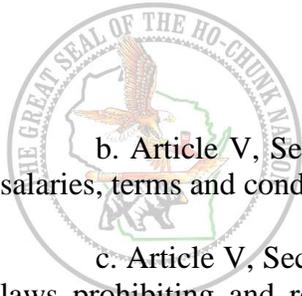
This Act supersedes HCC 97-002, Code of Ethics Act as enacted by Ho-Chunk Nation Legislative Resolution 1/12/99A and amended by Resolution 2/2/99C.

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1. Authority.

a. Article V, Section 2(a) of the Constitution grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.



b. Article V, Section 2(f) of the Constitution grants the Legislature the power to set the salaries, terms and conditions of employment for all governmental personnel.

c. Article V, Section 2(h) of the Constitution grants the Legislature the power to enact all laws prohibiting and regulating conduct and imposing penalties upon all persons within the jurisdiction of the Nation.

d. Article V, Section 2(r) of the Constitution requires the Legislature to protect and foster Ho-Chunk religious freedom, culture, language, and traditions.

e. Article V, Section 3 of the Constitution provides that the Legislature shall adopt Codes governing Membership, Open Meetings, Elections, Ethics including conflicts of interest, nepotism, and the conduct of all Public Officials, and other Codes as deemed necessary.

2. Purpose. This Act provides the Ho-Chunk Nation with a Code of Ethics as required by the Constitution.

3. Preamble. This Act will be known as the Ho-Chunk Nation Code of Ethics Act (2 HCC § 1) and shall be given liberal interpretation in the interest of ensuring voluntary compliance with its requirements. The enforcement of this Code shall be governed by the following goals:

a. To foster a free and good government to the Ho-Chunk Nation by assisting Public Officials to avoid conflicts between personal interest and public responsibilities.

b. To serve as a useful reference for guidance to avoid conflicts and to improve the level of public service of Public Officials.

c. To improve standards of public service.

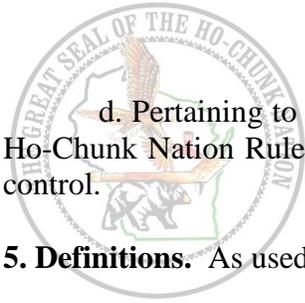
d. To promote and strengthen the faith and confidence of the people of the Ho-Chunk Nation in their government.

4. Declaration of the Code of Ethics Act.

a. It is declared that high moral and ethical standards among Ho-Chunk Nation Public Officials is essential to the conduct of free government and it is the intent of the Legislature that this Act promotes the highest ethical conduct for all Public Officials of the Ho-Chunk Nation.

b. In addition, to following all other laws of the Nation, this Code shall be applied to all Public Officials of the Ho-Chunk Nation.

c. The Ho-Chunk Nation's Employment Relations Act (6 HCC § 5) or superseding employment law shall be applied to employees of the Nation not expressly cited under Section 4.b., above, of this Act.



d. Pertaining to Judges and Justices, if there are any conflicts between this Code and the Ho-Chunk Nation Rules of Judicial Ethics, the Ho-Chunk Nation Rules of Judicial Ethics shall control.

5. Definitions. As used in this Act, the following shall have the meaning provided here.

a. “*Any Thing of Value*” means any money or property, favor, service, payment, advance, forbearance, loan, gift, or promise of future employment, but does not include compensation and expenses paid by the Nation, fees and expenses which are permitted, or hospitality extended for a purpose unrelated to the Nation’s business by a person other than an organization.

b. “*Administrative Subpoena*” means an official order of the Ethics Review Board compelling an individual to provide the Ethics Review Board with information.

c. “*Associated*” when used with reference to an organization, includes any organization in which an individual or a member of his or her immediate family is a director, officer or trustee, or owns or controls any organization, directly or indirectly.

d. “*Complaint*” means the document filed by the Complainant with the Ethics Review Board reporting violations of this Code of Ethics Act by a Public Official.

e. “*Complainant*” means any Ho-Chunk Tribal Member, current employee of the Nation, or person who was employed by the Nation within the last year, 18 years of age or older, who files a Complaint with the Ethics Review Board alleging that a Public Official of the Nation violated the Code of Ethics Act.

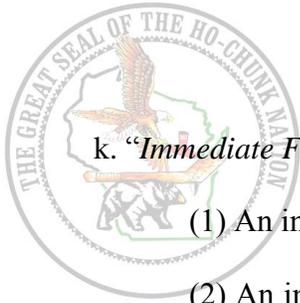
f. “*Elective Office*” means any office regularly filled by a vote of the People of the Ho-Chunk Nation.

g. “*Ethics Review Board Final Decision*” means a decision of the Ethics Review Board where there are no further proceedings in the matter before the Ethics Review Board, and the matter is subject to enforcement under Section 17 and/or appeal under Section 21 of this Code of Ethics.

h. “*Frivolous*” means a Complaint against a Public Official for an alleged ethics violation that is clearly false or lacking sufficient evidence and is made for the purpose of embarrassing or causing harm to the official.

i. “*Gift*” means a voluntary transfer of property to another made gratuitously and without consideration.

j. “*Honoraria*” means a payment of money or anything of value made to a person for services rendered. Any stipends or reimbursement paid to an individual for service to a partially or wholly owned Tribal entity pursuant to a Legislative approved program shall not be considered honoraria for purposes of the reporting requirements of Section 9.d. of this Act, but shall be subject to the prohibition of double payment contained at Section 9.e.

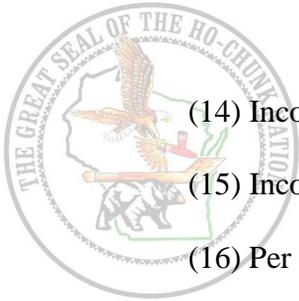


k. “*Immediate Family*” means any of the following:

- (1) An individual’s spouse.
- (2) An individual’s relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of his or her support from the individual or from whom the individual receives, directly or indirectly, more than one-half of his or her support.
- (3) Any person living in a spousal relationship with another.
- (4) A son or daughter (including adopted children), brother, sister, mother, father, grandmother, grandfather, grandson or granddaughter.

l. “*Income*” has the meaning given under the United States Internal Revenue Code Sec. 61. Except as otherwise provided in this subtitle, income means all income from whatever source derived, including, but not limited to, any of the following items:

- (1) Compensation for services, including fees, commissions, fringe benefits, and similar items.
- (2) Gross income derived from business.
- (3) Gains derived from dealings in property.
- (4) Interest.
- (5) Rents.
- (6) Royalties.
- (7) Dividends.
- (8) Alimony and separate maintenance payments.
- (9) Annuities.
- (10) Income from life insurance and endowment contracts.
- (11) Pensions.
- (12) Income from discharge of indebtedness.
- (13) Distributive share of partnership gross income.



(14) Income in respect of a decedent.

(15) Income from an interest in an estate or trust.

(16) Per Capita from a Tribe.

m. “*Malfeasance*” means the commission of an act that is positively unlawful. The doing of an act which a person ought not do at all. The unjust performance of some act which the party had the right to commit. Any wrongful conduct, which affects, interrupts, or interferes with the performance of official duty. An act for which there is no authority.

n. “*Ministerial Action*” means an action that an individual performs under the authority of a superior without exercise of the individual’s discretion, judgment or skill, as to the propriety of the action being taken.

o. “*Misfeasance*” means the improper performance of some act, which a person may lawfully do.

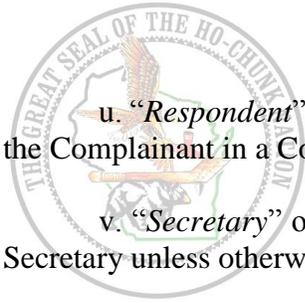
p. “*Nonfeasance*” means the omission of an act, which a person ought to do. The non-performance of an act which a person has a responsibility or obligation to perform. A substantial failure to perform a required legal duty. Total neglect of a duty.

q. “*Public Official*” means, but is not limited to, any person who holds elective office or who is a candidate for elective office, persons appointed by any Government Branch of the Nation; persons selected, nominated and/or confirmed by their respective District and/or the Nation; persons employed in a position for which a license is required for employment, i.e. attorneys, physicians and nurses; and other positions in the Nation as determined by the Ethics Review Board; *provided*, however, that for the purposes of the quarterly disclosures required under Section 6.p and Section 9d, this definition is limited to Public Officials who have been elected or appointed to their positions, and/or those who have been nominated or confirmed by their respective District or the Nation to represent an Area or a community on any Ho-Chunk Nation Board, Commission, Committee, or Agency.

r. “*Organization*” means any corporation, partnership, proprietorship, firm, enterprise, association, trust or other legal entity other than an individual or public body provided that, if the entity is wholly or partly owned by the Nation and the individual serves as an officer or director by virtue of Legislative appointment, the entity shall be deemed an integral part of the Nation and not a separate organization for the purposes of this Act, and the individual shall owe the ethical duties described in this Act to the entity equally with the duties the individual owes to the Nation.

s. “*Perjury*” means a false statement knowingly made under oath.

t. “*Redacted*” means a document missing private information that is not essential for informing the public.



u. “*Respondent*” means a Public Official that is accused of violating this Code of Ethics by the Complainant in a Complaint filed with the Ethics Review Board.

v. “*Secretary*” or “*Nation’s Secretary*” means the person(s) designated as the Legislative Secretary unless otherwise so identified within this Act.

w. “*Treasurer*” means the Executive Director of the Ho-Chunk Nation Department of Treasury.

6. Standards of Conduct.

a. The Legislature hereby affirms that a Public Official holds his or her position as a public trust with a fiduciary responsibility to the Nation.

b. This Act does not prevent any non-elected, part-time, or volunteer official of the Nation from accepting other employment or following any pursuit that in no way interferes with the full and faithful discharge of his or her duties to the Nation. The Nation further recognizes that the standards of ethical conduct need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society; and that officials of the Nation may need to engage in employment, professional or business activities, other than official duties, in order to support themselves or their families and to maintain a continuity of professional or business activity, which does not conflict with the specific provisions of this Act, unless specifically provided to the contrary by the Nation's Constitution or other laws.

c. All Public Officials are working in the public interest with a duty to place loyalty to the Ho-Chunk Nation Constitution and adherence to the laws of the Ho-Chunk Nation and ethical principles of conduct above personal and private gain.

d. Public Officials shall adhere to the laws of the Nation, be patient, dignified and courteous to constituents, co-officials, and others with whom they deal with in an official capacity.

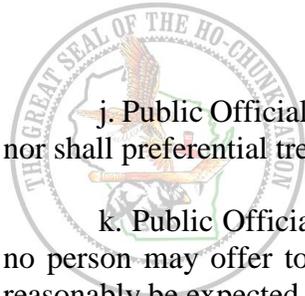
e. Public Officials shall put forth an honest effort in the performance of their duties.

f. Public Officials shall make no commitments or promises purporting to bind the Nation without appropriate authorization.

g. No Public Official may use his or her position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated.

h. Public Officials shall not utilize the Nation's resources and property for unauthorized activities.

i. Public Officials shall not threaten or intimidate any employee of the Nation in reprisal for the employee acting within the scope of the employee's official duties and authority.



j. Public Officials shall not give preferential treatment to any private person or organization nor shall preferential treatment be afforded to any Public Official in any position of authority.

k. Public Officials shall not solicit or accept, directly or indirectly, anything of value and no person may offer to give to any official of the Nation, anything of value, if the gift could reasonably be expected to influence the vote, official actions or judgment of the Public Official of the Nation, or could reasonably be considered a reward for any official action or inaction.

l. Public Officials shall not intentionally use or disclose information gained in the course of or by reason of his or her Public Official position or activities in any way that could result in the receipt of anything of value for him or herself, for his or her immediate family, or for any other person, if the information is not in the public domain.

m. Public Officials shall not engage in financial transactions using non-public, government information or allow the improper use of non-public, governmental information to further any private interest.

n. Public Officials shall not use or attempt to use the position held by the official or unclassified employee to influence or gain unlawful benefits, advantages or privileges personally or for their immediate family.

o. Public Officials shall adhere to the administrative responsibilities of the Nation, which include, but are not limited to, work product, and conduct of staff as follows:

(1) Prohibiting staff from making statements on behalf of the Nation without permission.

(2) Requiring staff to observe high standards of honesty and diligence.

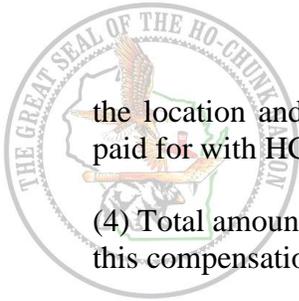
(3) Initiating appropriate disciplinary measures against professional staff for unprofessional conduct which the official may become aware of.

p. On a quarterly basis, Public Officials who have been elected or appointed to their positions, and/or those who have been nominated or confirmed by their respective District or the Nation to represent an area or a community on any Ho-Chunk Nation Board, Commission, Committee, or Agency, shall have the following information disclosed in a detailed report provided by the Treasury Department and made available to the general Ho-Chunk Nation public:

(1) Total amount received for mileage compensation during the previous quarter for all compensation that was paid with HCN NPD funds;

(2) Expenses incurred on any HCN issued credit card (excluding fleet vehicle gas cards), to include description on each item or service purchased;

(3) Total travel expenses incurred, including but not limited to airfare expenses, vehicle rental expenses, taxi/shuttle expenses, vehicle parking expenses, to include detail on



the location and purpose of each trip taken for all trips, provided these expenses were paid for with HCN NPD funds;

(4) Total amount received for per diem compensation or received in stipend payments if this compensation is paid from HCN NPD funds;

(5) Total amount received as a reimbursement for any expenses provided the reimbursement was paid for using HCN NPD funds; and

(6) The Treasury Department shall make the reports available to any HCN Tribal Member to review in person at the office of the Treasury Department.

7. Conflicts of Interest and Nepotism Prohibited.

a. No Public Official may take any official action or participate in decisions in which the Public Official is associated with or a member of his or her immediate family, or an organization with which they have a substantial financial interest in. See Section 8.b. for exceptions for Legislators.

b. Public Officials shall not participate in decision making on an issue if his or her action or inaction is reasonably questionable, including but not limited to, personal bias or knowledge that individually the person or any member of the person's immediate family or spouse's immediate family, or anyone residing in his or her household has a financial interest that could be substantially affected provided, however, that a person may, instead of withdrawing, disclose on the record the basis of the person's interest or involvement in the issue.

c. A Public Official shall regulate his or her extra governmental activities to minimize the risk of conflict with duties of their office.

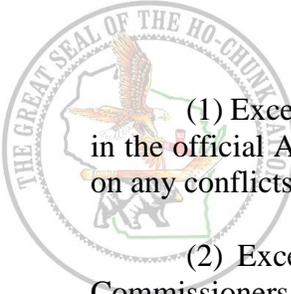
d. Public Officials shall respect and comply with the laws and traditions of the Nation and shall at all times act in a manner that promotes public confidence in the honesty and impartiality of the government by resisting any improper influence of immediate family, social or other personal relationships, avoiding the use of the prestige or resources of the office to advance the private interest of immediate family, and not employing any special influence or being specially influenced.

e. Public Officials shall not hold financial interests that conflict with the conscientious performance of their duties.

8. Conflicts of Interest, Exceptions.

a. Except for as provided for in Section 8.b., any exceptions to this Code must have written advice, authorization, and endorsement of the Ethics Review Board and as otherwise provided under Section 7.

b. Exceptions for Legislators:



(1) Exceptions to Section 7.a. Legislators must have a recorded and passed motion in the official Area Meeting Minutes from the People of that Legislator's District to vote on any conflicts of interest highlighted under Section 7.a. of this Act.

(2) Exceptions to Section 6.g. and Section 7 for the Appointment of Gaming Commissioners.

(a) The Ho-Chunk Nation Gaming Ordinance (5 HCC § 1) provides that when there is an open seat on the Gaming Commission the Legislature shall appoint the Gaming Commissioner to fill that open seat. Prior to the appointment the Legislature typically conducts interviews of all candidates for the position.

(b) If the steps outlined in Section 8.b.(2)(c) are followed, it shall not be a violation of Section 6.g. and Section 7 of this Act for a Legislator to participate in the interview process if an immediate family member is a candidate for the position of the Gaming Commissioner.

(c) If an immediate family member of a Legislator is a candidate for Gaming Commissioner and the Legislator wants to participate in the interview process of the Gaming Commissioner candidates, the following steps shall be taken:

(1) The Legislator shall not participate in the interview of the immediate family member and shall leave the room while the immediate family member is being interviewed;

(2) In place of the Legislator's score, the immediate family member of the Legislator shall receive the average of all Legislators who did conduct an interview of the candidate.

9. Gifts and Honoraria.

a. Public Officials are encouraged to meet with clubs, conventions, conferences, special interest groups, school groups, and other gatherings when not on official duty.

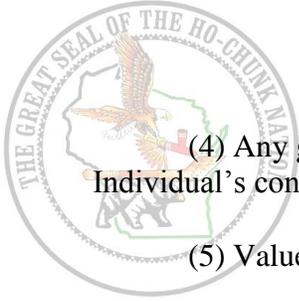
b. When on official duty, Public Officials are encouraged to meet with clubs, conventions, conferences, special interest groups, school groups and other gatherings if it is in the best interests of the Nation. Such Public Officials may take gifts bestowed upon them at such gatherings, so long as the gift is not cash.

c. A Public Official need not make a report of gifts and honoraria that are:

(1) Conveyed during a traditional tribal ceremony, or wedding.

(2) Conveyed during an official ceremony of the Ho-Chunk Nation.

(3) Conveyed during a pow-wow.



(4) Any gifts of nominal value conveyed by co-workers in appreciation of an Individual's contribution to the workplace.

(5) Valued at an estimated fair market value of less than \$50.00.

d. If the value of such gift to a Public Official exceeds a fair market value of \$50.00 from a company or vendor doing business with the Nation (or their representative), such as travel, vacations, meals or beverage, sporting events, merchandise, incentives, prizes, bonuses, hidden fees, stocks or other enticements, the recipient shall report the gift to the Ethics Review Board Chairperson for documentation.

e. A Public Official of the Nation shall take either (1) only honoraria for participating in an extra-governmental event, ceremony, or similar function or (2) only regular work pay/salary, but not both simultaneously if the event occurs during work hours to avoid double payment by an organization and the tribe or an organization within the tribe.

10. Preliminary Advisory Opinions. Public Officials may personally or on behalf of an organization or governmental body, request a Preliminary Advisory Opinion from the Ethics Review Board regarding the propriety of any matter relating to the business of the Nation, to which the person is or may become a party. All advisory opinions and requests for opinions shall be in writing. The Ethics Review Board shall have 21 calendar days to form and issue a Preliminary Advisory Opinion. Intent to comply with this Act shall be assumed when a person refers a matter to the Ethics Review Board and abides by the Ethics Review Board's opinion, if the material facts are as stated in the opinion request. The Ethics Review Board shall not make public the identity of the individual requesting a Preliminary Advisory Opinion or of individuals or organizations mentioned in the opinion unless compelled to reveal that information by the Nation's Courts or under any other law of the Nation.

11. Ethics Review Board.

a. Beginning in fiscal year 2009-2010, the Ho-Chunk Nation Legislature shall establish and fund an Ethics Review Board:

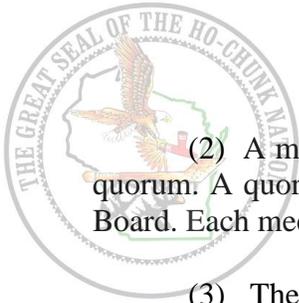
(1) The Ethics Review Board shall consist of 14 Members. To be a Member of the Ethics Review Board an individual must meet the following qualifications:

(a) Be a member of the Ho-Chunk Nation.

(b) Be at least 25 years of age.

(c) Consent to a satisfactory background investigation. Any felony conviction shall prohibit any person from serving on the Ethics Review Board.

(d) Not be an Employee of the Legislature, the Presidential staff, or an Executive Director of an Executive Department.



(2) A majority of the confirmed Ethics Review Board members shall constitute a quorum. A quorum shall be necessary to transact official business of the Ethics Review Board. Each meeting of the ethics Review Board shall require a quorum.

(3) The Ethics Review Board shall select by vote of at least six Members the Chairperson from the Ethics Review Board's membership to serve for a two year term and until the Chairperson's replacement is selected and commences his or her service, provided that if the Ethics Review Board shall be unable to select a Chairperson by vote of at least six Members within 30 calendar days of the end of the term of the Chairperson or within 30 calendar days after a vacancy in the office of Chairperson occurs, the Legislature shall select a member of the Ethics Review Board to serve as Chairperson for a two year term in the case of the expiration of the prior term or for the remainder of the existing term in the case of a vacancy.

(4) Subject to confirmation by the Legislature, the 14 Ethics Review Board Members shall be nominated by each District as follows:

a. District I will have two members initially nominated at the Black River Falls Area Meeting.

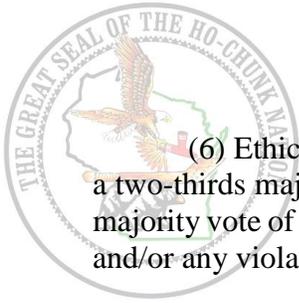
b. District II will have four members. The four members will each initially be nominated at the Tomah, La Crosse, Baraboo, and Madison Area Meetings with the Tomah Area Meeting nominating one member, the La Crosse Area Meeting nominating one member, the Baraboo Area Meeting nominating one member, and the Madison Area Meeting nominating one member.

c. District III will have four members. The four members will each initially be nominated at the Green Bay, Wittenberg, Indian Heights, and Wisconsin Rapids Area Meetings with the Green Bay Area Meeting nominating one member, the Wittenberg Area Meeting nominating one member, the Indian Heights Area Meeting nominating one member, and the Wisconsin Rapids Area Meeting nominating one member.

d. District IV will have two members initially nominated at the Milwaukee Area Meeting.

e. District V will have two members. The two members will each initially be nominated at the Chicago and Minneapolis/St. Paul Area Meetings with the Chicago Area Meeting nominating one member and the Minneapolis/St. Paul Area Meeting nominating one member.

(5) Upon a District nominating an individual to serve on the Ethics Review Board and before to the Legislature votes whether to confirm that individual, a satisfactory background investigation shall be conducted by the Compliance Division within the Ho-Chunk Nation Department of Justice.



(6) Ethics Review Board members may be removed from office for cause only by a two-thirds majority vote of the entire Ethics Review Board and a subsequent two-thirds majority vote of the entire Legislature, for any violation of the Ethics Review Board bylaws and/or any violation of the Nation's laws.

(7) The Ethics Review Board shall establish bylaws to address the internal procedures of the Board.

(8) The Ethics Review Board shall have the authority to conduct an investigation of alleged violations of this Code after receipt of a Complaint.

(9) The Ethics Review Board shall have the authority to administer oaths and issue administrative subpoenas to compel attendance and testimony of witnesses, or to produce any documents relevant to the matter before the Board.

(10) The Ethics Review Board shall have the authority to conduct a private administrative hearing to determine violations or non-compliance with this law.

(11) Failure of the Respondent(s) to appear before the Board may result in a default judgment against Respondent(s).

(12) Complainant(s) and Respondents(s) have the right to present evidence, to testify in their own behalf, question witnesses against them and call witnesses to testify in support of their respective causes.

(13) The burden of proof shall be on the Complainant and decisions will be made according to the preponderance of the evidence.

12. Complaints

Availability: A copy of this Act and a memorandum providing the name and address of the Ethics Review Board Chairperson shall be made available at each Branch Office for the use and reference of Tribal members and employees.

a. Reporting Violations.

(1) Who can file.

Any Ho-Chunk Tribal Member, current employee of the Nation, or person who was employed by the Nation within a year's time of filing the Complaint, 18 years of age or older, who in good faith believes or has reason to believe that a Public Official subject to this Act has committed a violation of this Act may report such act. The Complaint shall be sent directly to the Ethics Review Board Chairperson for investigation pursuant to HCN Constitution Article VI, Section 2(l) within one year from the date of the alleged violation.



(2) Contents of the Complaint.

Any Complaint under this section shall include, but is not limited to, the following information:

- (a) The name of the person reporting the alleged violation and the name of the person whose alleged violation is in question.
- (b) The nature of the alleged violation including the date, time, place, and persons involved and/or who may have knowledge pertinent to the alleged violation. The Complaint must clearly state the provision(s) of the Code allegedly violated.
- (c) A sworn statement attesting that the information they have forwarded is true, accurate, and complete to the best of his or her knowledge.

(3) How to file.

The Complaint to the Ethics Review Board Chairperson shall be sent by certified mail, return receipt requested.

b. Initial Action after Filing.

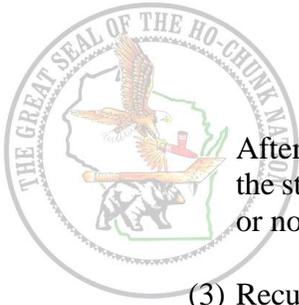
Upon receiving a Complaint pursuant to Section 12.a. and determining that the Complaint meets the filing requirements of this Code:

(1) Notification.

The Ethics Review Board Chairperson shall send a notification to all Ethics Review Board Members. The notification shall provide all of the following information:

- (a) The name of the Public Official(s) who is (are) the subject of the Complaint.
- (b) A brief summary of the alleged violation contained within the Complaint.
- (c) The name of the person(s) making the Complaint.
- (d) Although not necessary, a copy of the Complaint may be furnished by the Ethics Review Board to the President, Legislature, or Chief Justice as appropriate.

(2) Recusal Process.



After receiving a notification, each Ethics Review Board Member shall apply the standards of section 12b.(3), below, and make a determination as to whether or not he or she is eligible to hear the Complaint.

(3) Recusal Standards.

An Ethics Review Board Member shall not hear an alleged violation contained in a Complaint if:

- (a) The Ethics Review Board Member has personal knowledge of the facts surrounding the Complaint that would make him or her personally biased in making a determination on the matter.
- (b) The individual making the Complaint or the individual who is the subject of the Complaint is:
 - (1) an immediate family member of the Ethics Review Board Member;
 - (2) a member of the immediate family of the spouse of an Ethics Review Board Member; or
 - (3) a person residing in the household of the Ethics Review Board Member.
- (c) If the Ethics Review Board Member believes that his or her participation would reasonably be seen as questionable.

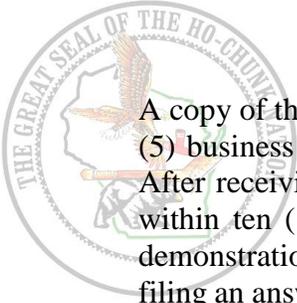
(4) Recusal Determination.

Upon making the determination, the Ethics Review Board Member shall notify the Ethics Review Board Chairperson of the Ethics Review Board Member's determination as to whether or not he or she can participate in the Ethics Board review of the alleged violations.

(5) Selection of Members to Hear Complaint.

Upon receiving the determinations from the Ethics Review Board Members, the Ethics Review Board Chairperson shall randomly select five Ethics Review Board Members to hear the Complaint. Unless it would otherwise be impossible for the Ethics Review Board to hear the alleged violation, no District may have more than two Ethics Review Board Members hearing a Complaint.

c. Responding to Complaints.



A copy of the Complaint must be sent via certified mail to the Respondent within five (5) business days after the Complaint has been filed with the Ethics Review Board. After receiving the Complaint the Respondent must file an answer to the Complaint within ten (10) business days. The Ethics Review Board may, upon a reasonable demonstration of cause by the Respondent, extend the deadline of 10 business days for filing an answer to the Complaint, but such an extension shall not exceed no more than 20 business days from the date on which the Respondent is served with the Complaint.

d. Failure to File Answer.

The Ethics Review Board must proceed with the Complaint investigation even if the Respondent fails to file an answer within the required 10 business days.

e. Improper Complaint. The Ethics Review Board shall not accept any Complaint that is not properly filed, or is deemed insufficient by the Ethics Review Board.

f. Frivolous Complaints.

Reporting frivolous or unsubstantiated alleged violations will subject the person making the Complaint to a \$500 sanction issued by the Ethics Review Board and/or a civil suit brought by the official accused by the false accusation. A person who receives a Frivolous Complaint sanction may submit a request for reconsideration, which must be received by the Ethics Review Board within 14 calendar days of when the Ethics Review Board decision is served by certified mail. The Ethics Review Board will then hold a reconsideration hearing. If the Ethics Review Board does not receive a request for reconsideration within 14 calendar days, the sanction becomes an Ethics Review Board Final Decision. A decision by the Ethics Review Board following a reconsideration hearing under this Section is an Ethics Review Board Final Decision.

13. Investigations

a. Upon the receipt of a properly filed Complaint, the Ethics Review Board shall proceed with an investigation in the following manner:

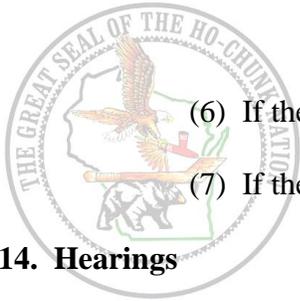
(1) Conduct a formal meeting with the Complainant(s).

(2) Conduct a formal meeting with the Respondent(s).

(3) Issue an administrative subpoena or subpoenas for witnesses and/or documents as required or requested.

(4) Interview witnesses named by the Complainant and Respondent and/or review documents subpoenaed or provided by the parties.

(5) Determine the sufficiency of the Complaint.



- (6) If the Complaint is sufficient, schedule a formal Complaint hearing.
- (7) If the Complaint is deemed insufficient, dismiss said Complaint.

14. Hearings

a. Hearing: Where the Ethics Review Board decides to conduct an administrative hearing, the following will apply:

(1) The Ethics Review Board will provide the notice of hearing to the subject(s) of the Complaint at least 30 calendar days prior to the date set for the hearing. The notice will include the date, time and location of the hearing and state that the subject(s) of the Complaint has the right to be represented by counsel at his or her own expense. The notice will be sent by certified mail return receipt requested.

(2) Discovery. Not less than 15 calendar days prior to a hearing, each party will share with the other(s) all documentary evidence and a list of all witnesses which the party intends to present at the hearing.

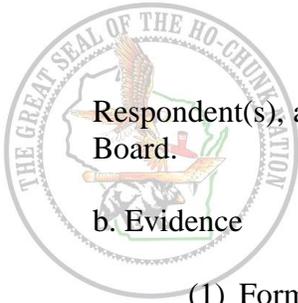
(3) The Chairperson of the Ethics Review Board will preside over the hearing and will be responsible for controlling the presentation and admissibility of evidence, appearance of witnesses, and the overall order of the hearing.

(4) Appearance of Complainant. Complainants must appear at a hearing scheduled by the Ethics Review Board. Failure to appear may result in the dismissal of the Complaint. The Chairperson of the Ethics Review Board may excuse a non-appearance for good cause and the hearing will be postponed for a period not to exceed 30 calendar days.

(5) Closed Hearing. Due to confidential and private matters, hearings will be closed to the public. Only Members of the Ethics Review Board, counsel to the Ethics Review Board, the Complainant, the Respondent, counsel of each party, the court reporter, and recording technician may be present at all times. Witnesses will be present only when giving testimony and shall be instructed to not discuss their testimony with any other individual during the hearing.

(6) Record. The record will include the affidavits, all documentary evidence presented at the hearing and any stipulation or admission entered into at the hearing and all testimony taken during the hearing. The hearing will be recorded by transcript and may be video-taped. The transcript and tape will be kept on file by the Ethics Review Board for at least one year after the hearing. Transcripts and tapes will not be released to any person, including those subject to a Complaint, other than as required by the discovery rules applicable to any appeal to the Nation's Trial Court.

(7) No Ex Parte Communication. The Ethics Review Board will not discuss pending Complaints before the Board with anyone except the Complainant(s),



Respondent(s), agents of the Board, or other individuals authorized by the Ethics Review Board.

b. Evidence

(1) Formal rules of evidence do not apply at the hearing but evidence that is irrelevant, cumulative or that would be unfair or prejudicial may be excluded by the Chairperson or admitted by the Chairperson under special conditions or stipulations. Basic rules of relevancy, materiality and probative force will be used by the Chairperson as a guide to admissibility. The Chairperson will rule on the admissibility of evidence.

(2) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, opportunity will be granted to compare the copy to the original. At the discretion of the Ethics Review Board, a reasonable amount of time will be provided to review the evidence.

15. Final Decisions

a. Ethics Review Board final decisions.

(1) The Ethics Review Board shall have 90 calendar days to form and issue a final decision based on the Complaint, investigation, and/or hearing.

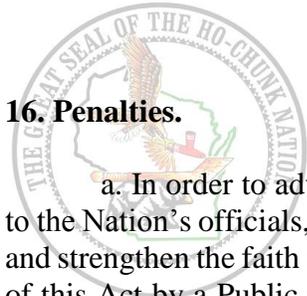
(2) The Ethics Review Board's final decision shall be reported to the Complainant and Respondent as follows:

(a) For Legislative Branch officials and Legislative Branch employees that are the subject of an Ethics Review Board final decision, a copy of the final decision shall be submitted to the Vice President.

(b) For Executive Branch officials and Executive Branch employees that are the subject of an Ethics Review Board final decision, a copy of the final decision shall be submitted to the President.

(c) For Judicial Branch officials and Judicial Branch employees that are the subject of an Ethics Review Board final decision, a copy of the final decision shall be submitted to the Chief Justice.

(3) Redacted final versions of Ethics Review Board final decisions may be requested by Tribal Member, employees of the Nation, and Public Officials. Records and decisions of the Board may be released, with approval from the Board, for appeals to the Ho-Chunk Nation Judiciary.



16. Penalties.

a. In order to advance the goals of free and good government, to provide ethical guidance to the Nation's officials, to improve the level and quality of public service, and to protect, promote, and strengthen the faith and confidence of the people of the Nation in its government; any violation of this Act by a Public Official of the Nation is subject to the following penalties, in addition to those allowed under the Constitution of the Ho-Chunk Nation or other laws of the Nation.

b. The selected members of the Ethics Review Board shall make a final decision of whether a violation of this Act occurred. If a violation is proven, the Ethics Review Board shall assess an adequate penalty for the violation. The penalties may include, without limitation, restitution of any improperly received benefit and a monetary fine reflecting the severity of the violation.

c. Further investigation by the Ethics Review Board may lead the Legislature to initiate Removal or Recall pursuant to Article IX of the Constitution of the Ho-Chunk Nation.

d. Removal by operation of law shall occur pursuant to Article IX, Section 7 of the Constitution for officials and Legislative Resolution 12-29-98C for employees if any Public Official is convicted of a felony while in office.

e. The Nation's Crimes Against Ho-Chunk Nation Government and Government Officials (2 HCC § 16) may be applied by the Ethics Review Board.

17. Enforcement of the Code of Ethics.

a. Presidential Enforcement. The President shall, within 30 calendar days of receipt of the Ethics Review Board final decision, enforce penalties for violations of the Code of Ethics Act for the following persons:

(1) Public Officials of the Executive Branch.

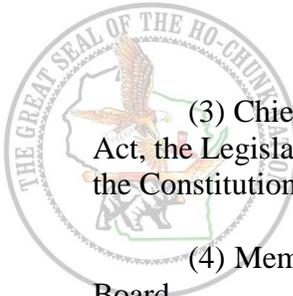
(2) Members of boards and commissions administered by the President, except for members of the Gaming Commission, Election Board, and the Ethics Review Board.

(3) Employees within the Executive Branch that require a professional license.

b. Legislative Enforcement. The Legislature shall, within 30 calendar days of receipt of the Ethics Review Board final decision, enforce penalties for violation of the Code of Ethics for the following persons:

(1) Public Officials of the Legislature.

(2) President. If the President is found to have violated the Code of Ethics Act, the Legislature shall enforce the penalty, except for removal pursuant to Article IX of the Constitution.



(3) Chief Justice. If the Chief Justice is found to have violated the Code of Ethics Act, the Legislature shall enforce the penalty, except for removal pursuant to Article IX of the Constitution.

(4) Members of the Gaming Commission, Election Board, and the Ethics Review Board.

c. Judicial Enforcement. The Chief Justice shall, within 30 calendar days of receipt of the Ethics Review Board final decision, enforce penalties for violation of the Code of Ethics Act for the following persons:

(1) Associate Justices of the Supreme Court.

(2) Trial Court Judges.

d. Ethics Review Board Enforcement. The Ethics Review Board shall have the authority to independently file a cause of action in the Ho-Chunk Nations Courts if an enforcement action by the responsible branch of government, as provided for in Sec. 17.a-c above, is not commenced within 30 calendar days after the Ethics Review Board final decision. The Ethics Review Board's authority to independently file a cause of action is limited to seeking judgments for the penalties provided for in Section 16 above.

18. Former Elected or Appointed Officials.

a. Post-Employment Restrictions.

(1) An elected or appointed official of the Ho-Chunk Nation is restricted from assisting, aiding, advising, or representing other interests for one year after his or her government service terminates when:

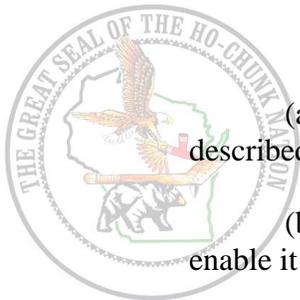
(a) The post-employment concerns any compacts, contracts, agreements, or negotiations in which he or she held a fiduciary responsibility to the Nation as an elected or appointed official, and

(b) His or her participation was personal or substantial.

(2) This restriction applies whether or not the elected or appointed official receives compensation.

(3) Within the period of one year after government service terminates, an elected or appointed official will provide written notice to the Ho-Chunk Nation Legislature if he or she seeks or has accepted employment that is in violation of Section 18.a.(1), above.

(4) The elected or appointed official may be exempted from the post-employment restriction under the following conditions:



(a) The former official is screened from any participation in matters described above and is apportioned no part of the fee from the Nation;

(b) Written notice is promptly given to the Ho-Chunk Nation Legislature to enable it to ascertain compliance with the provisions of this law; and

(c) The Ho-Chunk Nation Legislature consents after consultation; such consent not being unreasonably withheld.

b. Attorneys.

(1) Attorneys employed by the Nation are subject to Section 20:1.9 (Conflict of Interest: Former Client) of the Wisconsin's Rules of Professional Conduct adopted by the State Bar of Wisconsin.

(2) Successive Government and Private Employment. Except as Ho-Chunk Nation law may otherwise expressly permit, a lawyer shall not represent a private or another governmental client in connection with a matter in which the lawyer participated personally and substantially as an employee of the Nation, unless the Ho-Chunk Nation Legislature consents after consultation; such consent not being unreasonably withheld. No lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless the lawyer is screened from any participation in the matter and is apportioned no part of the fee.

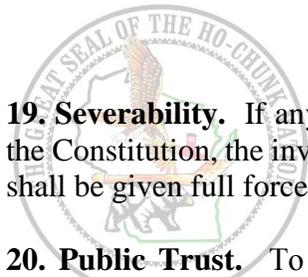
c. Enforcement and Penalties.

(1) Appointed and Elected Officials.

(a) The Ho-Chunk Nation Attorney General may bring a civil action in the Trial Court against any former elected or appointed official who engages in conduct constituting an offense under Section 18.a, above.

(b) Whoever engages in conduct constituting the offense and upon proof of such conduct by a preponderance of the evidence shall be subject to a civil penalty of not more than \$5,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater.

(2) Attorneys. The Ho-Chunk Nation Attorney General, upon proof of conduct in violation of any provision of Section 14.b.(2), above, by a preponderance of the evidence shall notify the Office of Lawyer Regulation of the State Bar of Wisconsin or similar Lawyer Regulation entity within a State Bar of another State of the alleged violation of the Rules of Professional Conduct.



19. Severability. If any provisions of this Act are determined by the Judiciary to be contrary to the Constitution, the invalid provision shall be severed from this Act and the remaining provisions shall be given full force and effect.

20. Public Trust. To secure the Nation’s rights, advance the general welfare, safeguard the Nation’s interests, and secure the natural and self-evident right to govern ourselves, no Public Official shall have the right to invoke, plead, or otherwise assert sovereign immunity as a defense, as provided for in Article XII of the Ho-Chunk Nation Constitution, to an assertion that the Public Official committed any violation of this Code where the Public Official was acting within the scope of their official duties and authority.

21. Judicial Review

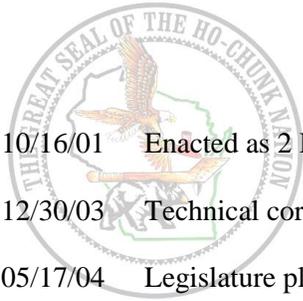
a. Judicial review of a final decision of the Ethics Review Board may proceed to the Ho-Chunk Nation Trial Court only after the Administrative Review Process has been exhausted through the Ethics Review Board. A party may appeal an Ethics Review Board decision to the Trial Court within 30 calendar days of when the Ethics Review Board decision is served by mail.

b. An appeal to the Ho-Chunk Nation Trial Court of an Ethics Review Board final decision shall stay the enforcement of said final decision, under Section 17, pending the outcome of the appeal.

c. The Court shall review the Board's decision based upon the record before the Board. The Trial Court shall not exercise *de novo* review of Board decisions. The Trial Court may only set aside or modify a Board decision if it was arbitrary and capricious.

Legislative History:

- 06/27/96 Rep. Jacob LoneTree requested a draft be submitted to the Administrative Rules Committee.
- 07/25/96 Administrative Rules . . . Committee: Rep. MaryAnn Yazzie to table the Code of Ethics and post in all the Branch Offices for public comment for 30 days.
- 09/26/96 Administrative Rules. . .Committee: Rep. Greendeer to repost the Code of Ethics in Government Law in all the Branch Offices for 30 days for public comment.
- 11/25/96 Administrative Rules. . .Committee: Amended changes were added to Sect 304.
- 01/03/97 Administrative Rules. . . Committee: Rep. Ona Garvin recommended adoption and submission to the Legislature for approval.
- 05/28/97 Ethics in Government Law in Traditional Court for review.
- 01/12/99 Code of Ethics (HCC 97-002) enacted by Legislative Resolution 1/12/99A.
- 02/02/99 Amended by Legislative Resolution 2-2-99C.



- 10/16/01 Enacted as 2 HCC § 1 by Legislative Resolution 10/16/01C.
- 12/30/03 Technical correction renumbering paragraph 13b.
- 05/17/04 Legislature places Ethics Code for 45-Day Public Review.
- 09/15/04 Administration Committee reviews recommended changes to composition of the Ethics Review Board and forwards to Legislature for amendment and restatement.
- 10/19/04 Legislature places out for 45-Day Public Review.
- 12/28/04 Amended and Restated by Legislative Resolution 12/28/04B adding paragraph 5o and amending paragraphs 11a and 11d.
- 02/08/06 Legislature reviews draft Section 14 on Former Elected or Appointed Officials and places out for 45-Day Public Review.
- 04/14/06 45-Day Public Review ends without comment(s).
- 05/16/06 Amended by Legislative Resolution 5/16/06B adding Section 14.
- 10/01/08 Referred to Administration Committee to address issue of a number of Legislators not being able to participate in interviews for Gaming Commissioners.
- 10/09/08 Administration Committee motions for a more substantial review of entire Code of Ethics Act to address inconsistencies with Code with Nation's *Employment Relations Act* and fact that Ethics Review Board has not convened for a number of years.
- 11/09/08 Administration Committee motions for Code of Ethics Act to be referred to the Legislature to be placed out for forty-five day public review.
- 11/18/08 Legislature passes Resolution to place out for forty-five day public comment.
- 01/19/09 45-Day Public Review ends without comment(s).
- 02/03/09 Resolution 02-03-09 E amends Code of Ethics Act to address issues that arose with respect to interviewing gaming commissioners, making the Act only applicable to elected, appointed, contract, or exempt employees of the Ho-Chunk Nation, and create a new Ethics Review Board to hear alleged ethic violations beginning in fiscal year 2009-2010.
- 07/21/09 Legislature passes Resolution 07-21-09 H increasing the number of District meetings from eleven to twelve and then passes a motion to refer the Election Code and Code of Ethics Act to the Administration Committee to address need to amend laws to have selection of members to boards created by this law correspond to the number of District Meetings.
- 08/06/09 Administration Committee presented two options regarding how to address issue of increased number of District Meetings. The August 6, 2009 Administration Committee meeting minutes provide "**MOTION by Rep. Smith** to approve 'Option B' and to refer the funding portion to the Finance Committee. Second by Rep. TwoBears. 4-0-0. **MOTION CARRIED**"



- 08/25/09 Finance Committee passes a motion to refer proposed amendments to the full Legislature.
- 09/09/09 Legislature via Resolution 09-09-09 C places proposed amendment to increase the number of ethics review board members from eleven to twelve out for forty-five day public comment.
- 02/12/11 Ethics Review Board convenes first official meeting at Ho-Chunk Hotel & Convention Center and takes action on proposing amendments to the full Legislature by quick passage.
- 02/22/11 Legislature adopts the following Resolutions: 2/22/11B; 2/22/11 C; 2/22/11 D; 2/22/11 E. These resolutions, pursuant to Constitutional Authority, amend Section 11. , not in specific order, but to add a subsection (2) that addresses quorum; increasing Board to fourteen (14) members; correcting the roman numeral to regular numbers; increasing District 1 membership to two (2); increasing District 4 membership to two (2); adding a subsection (6) that requires bylaws.
- 08/07/12 Legislature authorizes placing proposed amendments to the Code of Ethics out for 45 day public comment.
- 12/03/12 Ethics Review Board held meeting to discuss proposed amendments with Legislators, along with comments received.
- 12/18/12 Ethics Review Board held meeting to continue discussion of proposed amendments with Legislators, along with comments received.
- 01/23/13 Ethics Review Board attended Legislative Session to discussed proposed amendments and recommend adoption of final version.
- 03/19/13 Legislature adopts Resolution 03-19-13H, Amendments to Code of Ethics Act, with an effective date of January 23, 2013.
- 01/04/14 The Ethics Review Board approved recommending to the Legislature revisions to the Code of Ethics Act Section 12. Complaints which reorganize it in order to make it more user-friendly and reflect the step-by-step process of filing a complaint.
- 01/21/14 Legislature adopts resolution 01-21-14H to place the proposed Amendments to the Code of Ethics Act out for 45-day comment.
- 04/08/14 Legislature adopts resolution 04-08-14I, Amendments to the Code of Ethics.
- 03/03/15 Legislature adopts Resolution 3-03-15L, placing proposed amendments to Code of Ethics out for comment.
- 08/18/15 Legislature adopts resolution 08-18-15G, Amendments to the Code of Ethics. (Amendments included a change to the definition of “Public Official,” and the addition of Section 6.p under Standards of Conduct, for quarterly reporting by certain Public Officials.)