



Waganakising Odawak
Little Traverse Bay Bands of Odawa Indians
Regina Gasco- Bentley, Tribal Chair
7500 Odawa Circle, Harbor Springs, Michigan 49740
Phone 231-242-1401 • Fax 231-242-1411

April 13, 2017

Veto of Ethic for Governmental Officials

Dear Tribal Council,

We appreciate your interest and commitment to write an Ethic for Governmental Officials Statute, however this statute violates the LTBB Constitution, because it usurps the Judicial Branch powers, and sets up a court through the Legislative Branch. This legislation commandeers the Tribal Court to impose restitution and sanctions by a committee of legislators. Who are according to this law conducting an investigation and holding a hearing at a mock court. Did our Tribal Court request the Council to establish such a lower court? Tribal Council has the authority to adopt rules of conduct but they do not have the authority to administer or enforce those rules, and per the constitution they do not have the authority to establish a lower court without a request from tribal court. Enforcement and administration are left to our other branches of government. We do believe you have the authority to conduct ethics hearings on Tribal Council members but no one else.

Respectfully Submitted,

Regina Gasco- Bentley
Tribal Chairman

WAGANAKISING ODAWAK STATUTE
ETHICS FOR GOVERNMENTAL OFFICIALS #2017-00_

SECTION I. PURPOSE

The purpose of this statute is to set forth the adoption of the *Constitutionally Mandated Rules Of Conduct For Officials Of Tribal Government*, the process for adjudicating ethical complaints by the various branches of government, and establishing the authority of an Ethics Committee.

SECTION II. DEFINITIONS

- A. “Calendar day” means is any day of the week, including weekends and holidays.

- B. “De Minimis” means lacking significance or importance; minimal or trivial things; small, minor, or insignificant.

- C. “Executive Commissioner” means a member of an Executive Committee, Commission or board as established pursuant to the Constitution.

- D. “Official” means Tribal Councilor, Tribal Chair, Vice Chair, Judge or Justice, Prosecutor, Executive Commissioner or Election Board member, within the Little Traverse Bay Bands of Odawa Indians Tribal government for the purposes of this statute.

- E. “Rules of Conduct” means the Constitutionally Mandated Rules of Conduct for Officials of Tribal Government.

- F. “Subpoena to Appear” means an administrative subpoena to testify before the Committee.

- G. “Subpoena to Produce Documents” means an administrative subpoena to produce documents, materials, and/or other tangible evidence.

H. "Tribe" or "LTBB" means the Little Traverse Bay Bands of Odawa Indians.

SECTION III. CONSTITUTIONALLY MANDATED RULES OF CONDUCT

A. Tribal Council shall adopt *Constitutionally Mandated Rules of Conduct for Official of Tribal Governmental*, in accordance with the Little Traverse Bay Bands of Odawa Indians Tribal Constitution, Section Article VII, (D)(6), the Tribal Council shall have the power to: "*Adopt rules of conduct to govern all levels of Tribal government*". The purpose of Rules of Conduct is to establish clear standards for the principles and expectations that are binding on Tribal Officials.

B. Any branch of government or agency may establish their own Rules of Conduct provided that they are as stringent as the *Constitutionally Mandated Rules of Conduct for Official of Tribal Governmental*.

SECTION IV. COMPLAINTS

A. Any Tribal Citizen, who claims that a Tribal Official has violated the Rules of Conduct, shall submit a signed notarized written statement alleging a violation against one or more named persons and shall include the following:

1. The specific section of the Rules of Conduct that has been violated;
2. A clear and concise statement of the alleged actions and facts.

B. The complaint must be filed with the Legislative Office within thirty (30) calendar days of the alleged violation, unless the 30th day falls on a holiday or the office is closed, then the next business day.

1. If a Complaint names a Judge or Justice, then the complaint will be addressed by and through the Judiciary Branch. The Committee shall have no jurisdiction if a Complaint names a Judge or Justice and the Legislative Office will forward such complaint to the Judiciary Branch.

A. If a Complaint names an Executive Commissioner, then the complaint will be addressed by and through the Executive Branch. The Committee shall have no jurisdiction if a Complaint names an Executive Commissioner and the Legislative Office will forward such complaint to the Executive Branch.

SECTION V. ETHICS COMMITTEE

A. **Establishing.** The Ethics Committee shall be comprised of three members from Tribal Council.

1. The length of term of the appointment shall be two (2) years, provided that the person is serving in their official capacity on Tribal Council.

2. If there is a conflict with any member of the Committee, the Committee member shall recuse themselves from the Ethic Committee and Tribal Council shall appoint an alternate Council member to the Committee for duration of the conflict.

B. **Committee Jurisdiction.** The Committee will have jurisdiction over the following Governmental Officials: Tribal Councilors, Tribal Chair, Vice Chair, Prosecutor(s), and Election Board members.

C. The Committee shall have no jurisdiction in absence of a complaint. If a complaint is filed by an individual and later withdrawn, the Committee shall dismiss the complaint. A member of the Committee may take the complaint information and filed a new complaint if there is substantial credible evidence supporting the complaint's allegation of the violation. The Committee member would have thirty (30) calendar days from the withdrawal of the complaint

to file the new complaint. The Committee member, who filed the complaint, would need to recuse themselves from any discussion or action on the complaint.

D. Investigations. The Ethics Committee has the authority to conduct an investigation of the alleged violations.

E. Subpoenas. The Ethics Committee has the authority to issue subpoenas for either appearance before the Committee or for the production of documents or other items.

1. The Committee has the authority to issue a Subpoena to Appear or a Subpoena to Produce. Subpoena shall only be authorized by a majority vote of the committee.

2. In the event where the Committee issues a Subpoena to Appear or a Subpoena to Produce, and the named person in the subpoena failed to appear or to produce the requested documents; the Committee may seek enforcement of the Subpoena with the Tribal Court.

3. The Court may order the person who has been subpoenaed to either appear before the Committee or to produce the requested documents.

4. The Court may also order the subpoenaed person who failed to appear before the Committee or who failed to produce documents to pay costs and/or fines.

F. Confidentiality. All Ethics Committee proceedings, including the initial complaint, would remain confidential until a final determination is made except:

1. The Committee may, at any time, turn over to the Tribal Prosecutor evidence which may be used in criminal proceedings; and

2. If the complainant or alleged violator publicly discloses the existence of a preliminary inquiry, the Committee may publicly confirm the existence of the inquiry and, in its discretion, make public any documents which were issued to either party.

3. All documents, including the complaint, which has personnel information or otherwise confidential information, shall be redacted in accordance with the Public Documents Statute, or as amended.

G. Following a preliminary investigation of a complaint, the Committee would have several options:

1. Dismiss the complaint if no such substantial credible evidence is found;
2. Admonish the Official either privately or publicly if such substantial credible evidence is found, but the alleged violation is inadvertent, technical or otherwise of de minimis in nature;
3. Hold a hearing where there is such substantial credible evidence and the matter cannot be disposed of as de minimis. The Committee may order sanctions. Such sanctions include: censure, payment of restitution, or a combination of these, but shall not include removal. The Committee may recommend to Tribal Council the removal of a Prosecutor.
4. The final determination of the Committee will be posted to the Tribal website, along with the complaint; all documents shall be redacted in accordance with the Public Documents Statute, or as amended.
5. The Committee may request the Court to enforce any restitution or sanctions as set forth in the final determination of Committee.

H. The jurisdiction of the Committee may run concurrent with any other court, commission or tribunal.

I. Any frivolous complaints that may be filed, where the person knew to be false, would be barred from filing any future complaints.

J. Meetings. The Committee meeting notice shall be posted at least five (5) days in advance in the Tribal Governmental building and Tribal website.

K. Minutes. The minutes shall reflect what was done, not what was said, at the meeting.

1. No member may participate in making any decision that involves a personal or financial interest of the member or a member of his or her immediate family unless such interest is held in common with the Tribe and its Citizens.

2. Actions of the Committee shall be decided by a majority vote of those present at the meeting. A quorum shall consist of two (2) members.

3. The minutes of the meeting shall include but not limited to the date and time the meeting occurred, the call to order, motions or proposed motions, seconds, Public Comment, etc.

4. The Committee shall allow a reasonable amount of time for at least one public comment period per meeting but may limit such time for comments as necessary to conduct business.

5. Once approved, the minutes will be the official record of the Committee meetings.

L. Compensation. Committee members will be paid in accordance with the Mandated Compensation for Tribal Council Statute.

M. Staffing. Legislative branch staff shall assist the Committee with administrative functions, such as posting of meetings dates, record of minutes, and other general clerical functions.

N. Legal. The Committee may utilize Enjinaaknegeng for legal matters.

O. Travel. Travel expenses for Committee members shall be paid or reimbursed at the same rate as allowed employees in the Tribal Governmental Employees Travel Reimbursement Policy.

SECTION VI. JUDGES, JUSTICES AND EXECUTIVE COMMISSIONERS

A. The Judiciary shall establish a process to adjudicate Ethics Complaints filed against a Judge or Justice and shall post the policy and procedures that delineate the process to the Tribal Website.

B. The Executive shall establish a process to adjudicate Ethics Complaints filed against an Executive Commissioner and shall post the policy and procedures that delineate the process to the Tribal Website.

SECTION VII. OTHER RELATED STATUTES

See Waganakising Odawak Statute 2011-008, Enjinaaknegeng; Waganakising Odawak Statute 2010-017, Constitutionally Mandated Compensation for Tribal Council Members.

SECTION VIII. SEVERABILITY

If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION IX. EFFECTIVE DATE

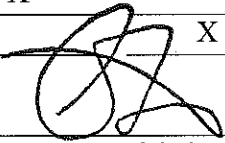
This Statute takes effect immediately upon its enactment. Enactment of this Statute shall have no effect on the membership status of any tribal members enrolled by the Tribe under previous legislation.

CERTIFICATION

As the Tribal Council Treasurer and Tribal Council Secretary, we certify that this Statute was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on March 9, 2017 at which a quorum was present, by a vote of 6 in favor, 1 opposed, 0 abstentions, and 2 absent as recorded by this roll call:


	In Favor	Opposed	Abstained	Absent
Frank Bernard	X			
David Harrington	X			
Beatrice A. Law	X			
Dexter McNamara	X			
Michael Naganashe				X
Emily Proctor				X
Marcella R. Reyes	X			
Julia Shananaquet	X			
Aaron Otto		X		

Date: 03-14-17


 Aaron Otto, Legislative Leader

Date: 03-14-17


 Julie Shananaquet, Secretary

Received by the Executive Office on 3-14-17 by 

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005, the Executive concurs with this action of the Tribal Council.

Date: _____

VEITO
 Regina Gasco Bentley, Tribal Chairperson