

1 **Legislative Branch**

2 **Ethics for Governmental Officials and Employees Policy and Procedures**

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5 **Section I. Purpose**

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7 The purpose of this Policy and Procedures is to set forth the process for filing,
8 investigating and adjudicating an ethics complaint by a Tribal Citizen against a legislative branch
9 official or employee; or any of the legislative branch sub-entity official or employee, in
10 accordance with WOS 2018-018, Ethics for All Levels of Tribal Government Statute.

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12 **Section II. Definitions**

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14 **A.** “Arbitrator” means a person who is chosen to decide a dispute or settle differences,
15 empowered to examine the facts and decide the issue.

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17 **B.** “Calendar day” means is any day of the week, including weekends and holidays.

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19 **C.** “Employee” means a person employed by the legislative branch on one of its sub-entities.

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21 **D.** “Official” means Tribal Councilor, or board member of a Tribally Chartered Corporation
22 or other sub-entity of the Legislative Branch.

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24 **E.** “Rules of Conduct” means the Constitutionally Mandated Rules of Conduct for Officials
25 of Tribal Government.

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27 **F.** “Tribe” or “LTBB” means the Little Traverse Bay Bands of Odawa Indians.

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29 **Section III. Complaints**

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31 **A.** Any Tribal Citizen, who claims that a legislative branch official or employee has violated
32 the Rules of Conduct, shall submit a signed notarized written statement alleging a violation
33 against one or more named persons and shall include the following:
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1 **1.** The specific section of the Rules of Conduct that has been violated;

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3 **2.** A clear and concise statement of the alleged actions and facts including
4 dates.

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6 **B.** The complaint must be filed with the Legislative Office within thirty (30) calendar days
7 of the alleged violation, unless the 30th day falls on a holiday or the office is closed, then the next
8 business day. If the Legislative Office is physically closed, but alternative methods of delivery
9 are available, the complaint must be filed within thirty (30) calendar days of the alleged
10 violation.

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12 **Section IV. Third-Party Investigator**

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14 **A.** A third-party investigator shall be retained by the Legislative Branch, either upon receipt
15 of a complaint or on retainer prior to a complaint being filed.

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17 **B.** The third-party investigator shall have no jurisdiction in the absence of a complaint. If a
18 complaint is filed by a Tribal Citizen and later withdrawn, the third-party investigator shall cease
19 any further action involving the complaint.

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21 **C.** **Investigations.** Third-party investigator has the authority to conduct an investigation of
22 the alleged violations.

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24 **D.** **Investigation requests.** The third-party investigator has the authority to request
25 information from Legislative Branch officials and/or employees. Such officials and employees
26 shall cooperate with the third-party investigator's requests.

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28 **E.** Upon the initiation of an investigation, the third-party investigator shall notify the
29 person(s) whom the complaint was filed against and shall provide a copy of the complaint if
30 requested.

31
32 **F.** Upon the conclusion of the investigation of the complaint, the third-party investigator
33 shall provide a copy of the investigation report via mail or email simultaneously to the person(s)

1 who filed the complaint (complainant(s)), to the person(s) whom the complaint was filed against
2 and to the legislative office.

3
4 **G.** Upon receipt of the investigation report, the complainant may choose to withdraw the
5 complaint, or request the Legislative Office to arrange for Arbitration. The complainant shall
6 have thirty (30) days from the date of receipt of the investigation report to request Arbitration.

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8 **H.** The third-party investigator shall, at any time, turn over information to the Tribal
9 Prosecutor if there is a belief of criminal wrongdoing.

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11 **Section V. Arbitration**

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13 **A.** Upon the request for arbitration from the complainant, the Legislative Office staff shall
14 make arrangements to retain an Arbitrator.

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16 **B. Hearings.** All proceeding before the Arbitrator shall be open to the public in accordance
17 with WOS 2015-014, Open Meetings Statute, or as amended.

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19 **C. Burden of Proof.** The claimant shall bear the burden of proof. The burden of proof shall
20 be that of a preponderance of evidence.

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22 **D. Remedies.** The Arbitrator may determine, but not limited to the following:

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24 **1.** For officials: removal of committee assignments, removal of travel privileges,
25 censure (public or private), payment of restitution, or a combination of these, but shall
26 not include removal from their official position or carrying out their official duties. The
27 Arbitrator may request resignation as a remedy. The Arbitrator determination shall be
28 final and shall be posted to the Tribal website (Tribal Citizen's portal), along with the
29 complaint; all documents shall be redacted in accordance with the Public Documents
30 Statute, or as amended.

31
32 **2.** For employees: payment of restitution and/or a recommendation of further
33 employment action by their immediate supervisor. The Arbitrator shall not take any

1 employment action, but may make recommendations of further employment action that
2 may include the following: discipline, suspension or termination. The Arbitrator
3 determination shall be final.
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5 **E.** Either party has the right to Judicial Review.
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7 **Section VI. Judicial Review**
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9 **A.** Decisions of the Arbitrator may be appealed to the Tribal Court by filing a written appeal
10 with the Court within ten (10) days of the Arbitrator's decision. The Court shall uphold the
11 decision unless the Court determines that the Arbitrator's decision is clearly arbitrary, capricious,
12 or otherwise not in accordance with applicable law or regulations.
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14 **B.** The Tribal Council expressly waives the sovereign immunity of the Tribe and its agents
15 for the limited purpose of reviewing the decisions of the Arbitrator.
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17 **C.** In the event the Court finds the Arbitrator's decision to be clearly arbitrary, capricious, or
18 otherwise not in accordance with applicable law or regulations, it shall enter an equitable order
19 overturning the Arbitrator's action.
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21 **Section VII. Related Statutes**
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23 See Waganakising Odawak Statute WOS 2018-018, Ethics for All Levels of Tribal
24 Government Statute, WOS 2015-014, Open Meetings Statute and WOS 2010-009 Public
25 Documents Statute; or as may be amended.
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28 **Section VIII. Effective Date**
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30 This Policy and Procedures takes effect immediately upon Tribal Council approval.
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