

Legislative Branch
Policy and Procedures for Ethics Complaints filed against a Tribal Councilor

Section I. Purpose

The purpose of this Policy and Procedures is to set forth the process for filing, investigating and adjudicating an ethics complaint filed by a Tribal Citizen or employees against a Tribal Councilor in accordance with WOS 2018-018, Ethics for All Levels of Tribal Government Statute.

Section II. Definitions

- A. “Arbitrator” means a person who is chosen to decide a dispute or settle differences, empowered to examine the facts and decide the issue.
- B. “Calendar day” means is any day of the week, including weekends and holidays.
- C. “Employee” means a person employed by the Tribal government or one of its sub-entities.
- D. “Rules of Conduct” means the Constitutionally Mandated Rules of Conduct for Officials of Tribal Government.
- E. “Tribal Citizen” means an enrolled member of the Little Traverse Bay Bands of Odawa Indians.
- F. Tribal Councilor” means an elected or appointed official of the Legislative Branch.
- G. “Tribe” or “LTBB” means the Little Traverse Bay Bands of Odawa Indians.

Section III. Complaints

A. Any Tribal Citizen or employee, who claims that a Tribal Councilor has violated the Rules of Conduct, shall submit a signed notarized written statement alleging a violation against one or more Tribal Councilors 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 including dates.

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. If the Legislative Office is physically closed but is maintaining operations, and alternative methods of delivery are available, the complaint must be filed within thirty (30) calendar days of the alleged violation.

Section IV. Third-Party Investigator

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

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 If a complaint is filed by a Tribal Citizen or employee and is later withdrawn, the third-party investigator shall cease any further action involving the complaint.

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

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

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

F. Upon the conclusion of the investigation of the complaint, the third-party investigator shall provide a copy of the investigation report via mail or email simultaneously to the claimant(s), to the Tribal Councilor(s) whom the complaint was filed against, and to the legislative office.

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

H. The third-party investigator shall, at any time, turn over information to the Tribal Prosecutor if there is a belief of criminal wrongdoing. While the complaint is pending with the Prosecutor, the third-party investigator shall suspend his/her investigation until the criminal investigation is concluded. At the conclusion of the criminal investigation, the third-party investigation may resume their investigation if criminal charges and/or conviction does not occur.

Section V. Arbitration

A. Upon the request for arbitration from the claimant, the Legislative Office staff shall make arrangements to retain an Arbitrator.

B. Tribal Council shall add a set amount to the Legislative Budget each Fiscal Year that allocates fund for the cost of an Investigator and Arbitrator.

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

D. Burden of Proof. The claimant shall bear the burden of proof. The burden of proof shall be that of a preponderance of evidence.

E. Remedies. The Arbitrator shall make a determination of whether or not a violation of Ethics has occurred. If there is a determination of an Ethics Violation, Tribal Council shall issue a public censure. Such censure shall be placed on the Tribal website.

1. The Arbitrator determination shall be final. The Arbitrator's decision on whether or not a violation occurred shall be posted by the Legislative Staff to the Tribal website (Tribal Citizen's portal), along with the complaint; all documents shall be redacted in accordance with the Public Documents Statute, or as amended.

2. If the arbitrator determines that the claimant filed a frivolous complaint and the claimant knew it to be false, the arbitrator may send a letter to the claimant barring them from any future complaints for a period of up to three (3) years.

E. Either party has the right to Judicial Review.

Section VI. Judicial Review

A. Decisions of the Arbitrator may be appealed to the Tribal Court by filing a written appeal with the Court within ten (10) days of the Arbitrator's decision. The Court shall uphold the decision unless the Court determines that the Arbitrator's decision is clearly arbitrary, capricious, or otherwise not in accordance with applicable law or regulations.

B. The Tribal Council expressly waives the sovereign immunity of the Tribe and its agents for the limited purpose of reviewing the decisions of the Arbitrator.

C. In the event the Court finds the Arbitrator's decision to be clearly arbitrary, capricious, or otherwise not in accordance with applicable law or regulations, it shall enter an equitable order overturning the Arbitrator's action.


Section VII. Related Statutes

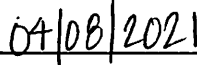
See Waganakising Odawak Statute WOS 2018-018, Ethics for All Levels of Tribal Government Statute, WOS 2015-014, Open Meetings Statute and WOS 2010-009 Public Documents Statute; or as may be amended.

Section VIII. Effective Date

This Policy and Procedures takes effect immediately upon Tribal Council approval.

This Policy was approved by Tribal Council on April 8, 2021.


Secretary Julie Shananaquet


Date