

CATAWBA INDIAN NATION

ETHICS ORDINANCE

ARTICLE 1 – GENERAL PROVISIONS

Section 1.01 Short Title

This Catawba Indian Nation Ethics Ordinance shall be known and cited as the “Ethics Ordinance.”

Section 1.02 Scope and Applicability

This Ethics Ordinance shall apply to all elected officials of the Catawba Nation and all members of boards, committees, and commissions of the Nation.

Section 1.03 Purpose

- a. The purpose of this Ethics Ordinance is to set forth standards by which Catawba Nation Covered Officials, namely elected officials and members of boards, committees, and commissions of the Nation, should conduct themselves in order to promote integrity and respect, and to enhance the ability of the Nation to achieve its objectives in a manner consistent with all applicable laws and regulations.
- b. This Ordinance is intended to direct all Covered Officials of the Nation in dealing with situations they may encounter while in office or while fulfilling their duties to the Nation and provides guidance for establishing and maintaining high standards of ethical conduct.
- c. This Ordinance is not intended to be an exhaustive guide for ethical conduct of Covered Officials. They shall also be governed in their official and personal conduct by general ethical standards and in accordance with the Constitution and laws of the Catawba Nation.

Section 1.04 Authority and Amendment

This Ethics Ordinance is enacted by the General Council of the Catawba Indian Nation (hereinafter referred to as "the Catawba Nation" or "the Nation") pursuant to the powers vested to it under Article III, Section 1 and Article IV of the Nation's Constitution and By-Laws, ratified August 30, 1975, as may be amended from time to time. The General Council has the right to repeal or amend this Ethics Ordinance pursuant to its constitutional authority.

Section 1.05 Effective Date

This Ethics Ordinance shall become effective on the date of its approval by the General Council.

Section 1.06 Sovereign Immunity

The Catawba Nation, by adoption of this Ordinance, does not waive, either in a limited manner or otherwise, its sovereign immunity in any respect. There shall be no liability on the part of the Nation, its subsidiaries, departments, affiliates, officers, agents, or Employees acting within the scope of their authority, for any damages which may occur as a result of reliance upon, or actions taken, pursuant to this Ordinance.

Section 1.07 Severability

If any provision of this Ethics Ordinance or the application thereof to any party shall be held invalid for any reason whatsoever by a court of competent jurisdiction or by Federal legislative action, the remainder of the relevant article or part of this Ordinance shall not be affected thereby and shall remain in full force and effect.

Section 1.08 Definitions

Unless clearly indicated otherwise, the following words and phrases as used in this Ordinance shall mean the following:

- a. "Bribery" shall mean the offering, giving, receiving, or soliciting anything of value to in exchange for official action as a Covered Official in their official capacity.
- b. "Business" shall include any enterprise, organization, trade, occupation, or profession whether or not operated as a legal entity for profit, including any business, trust, holding company, corporation, partnership, joint venture, or sole proprietorship, consultant, or other self-employed enterprise.
- c. "Catawba Nation" or "Nation" shall mean the Catawba Indian Nation Government, its General Council, Executive Committee, divisions, departments, and Businesses of the Catawba Nation, including the Catawba Nation Gaming Authority.
- d. "Citizen" shall mean an enrolled citizen of the Catawba Nation, as defined in the Constitution of the Catawba Nation.
- e. "Complainant" shall mean a person who files a complaint of an ethics violation under this Ordinance.
- f. "Covered Official" shall mean a person who is currently or formerly elected to Tribal office pursuant to the Nation's Constitution and laws or a person who is currently or formerly duly appointed to a Tribal board, committee, or commission.
- g. "Economic Interest" shall mean an interest held by the person, or by the person's Immediate Family, and includes any ownership, income, investment, security, or other beneficial interest in a Business; or any employment or prospective employment for which negotiations have already begun.

- h. “Employee” shall mean any person or entity working for or rendering or exchanging any services or performing any act for or on behalf of the Nation or a Tribal Entity for any form of pay or other compensation.
- i. “Immediate Family” shall mean an individual who is related to the Covered Official, as a parent, child, adopted child, sibling, spouse, uncle, aunt, first cousin, nephew, niece, grandparent, grandchild, in-law, step-parent, step-child, or step-sibling.
- j. “Legally Incompetent Adult” shall mean a Citizen declared legally incompetent by a court of competent jurisdiction.
- k. “Respondent” shall mean a Covered Official accused of violating this Ordinance.
- l. “Self-Dealing” shall mean any direct or indirect sale or exchange, or leasing of property, lending money or other extension of credit, furnishing of goods, services, or facilities, payment or compensation of expenses, transfer to or use by or for the benefit of, a Covered Official of the income or assets of a private foundation.
- m. “Tribal Court” shall mean the Court of the Catawba Nation.
- n. “Tribal Entity” shall mean any branch, entity, enterprise, authority, division, department, office, commission, council, board, bureau, committee, legislative body, agency, and any establishment of the executive, administrative, legislative, or judicial function of the Catawba Nation.

**ARTICLE 2 –
OVERSIGHT COMMITTEE POWERS AND RESPONSIBILITIES**

Section 2.01 Oversight Committee Responsibility for Administration of Ordinance

The General Council assigns responsibility for the administration of this Ordinance to the Oversight Committee. The Tribal Court shall have the power to hear appeals under this Ordinance as outlined in Article 3.

Section 2.02 Jurisdiction and Powers of Oversight Committee Under Ordinance

- a. Jurisdiction. The Oversight Committee shall have jurisdiction to review, make findings, issue letters, and determine sanctions and penalties in accordance with this Ordinance concerning a complaint brought against anyone included under this Ordinance.
- b. Powers of the Oversight Committee Under This Ordinance. The Oversight Committee shall have the following powers:
 - 1. To adopt rules, bylaws, and procedures governing the Oversight Committee’s internal organization and operations under this Ordinance.

2. To review and initiate complaints under this Ordinance.
3. To make findings of fact as necessary for the disposition of a complaint, issue advisory letters, and determine sanctions and civil penalties pursuant to this Ordinance.
4. To make notifications, extend deadlines, conduct investigations, and contract with professionals necessary to conduct investigations.
5. To gather evidence and take affidavits from witnesses relevant to any matter before the Committee. Witnesses are encouraged to cooperate with investigations.
6. To conduct meetings and make determinations pursuant to this Ordinance provided that the Committee shall not be bound by formal rules of evidence.
7. Such other powers as are specifically granted in this Ordinance.

Section 2.03 Process of Investigating Complaints by the Oversight Committee

- a. Upon the receipt of a properly filed complaint, the Oversight Committee shall proceed with an investigation that shall include but is not limited to the following:
 1. Determine the sufficiency of the complaint in accordance with Article 4;
 2. Conduct a formal meeting with the Complainant;
 3. Conduct a formal meeting with the Respondent, if agreed to by the Respondent;
 4. Gather evidence and interview witnesses; and
 5. Determine whether sanctions, restitution, or penalties under Article 6 are necessary.

Section 2.04 Conflicts of Interest of Oversight Committee Members

Oversight Committee members who have a conflict of interest involving a complaint must immediately recuse themselves and shall not participate in the investigation or the hearing. Failure of an Oversight Committee member to recuse themselves due to a conflict of interest shall constitute grounds for immediate removal from the Oversight Committee in accordance with the removal terms outlined in the Oversight Committee Bylaws.

Section 2.05 Record Keeping of Actions of Oversight Committee

Records. The Oversight Committee shall maintain a complete record of all complaints, transcripts, evidence, affidavits, investigation results, and other documents. Complaints under

active investigation by the Oversight Committee and related documents shall be confidential. Private letters of notification shall remain confidential, but public letters of violation shall be open to Tribal Citizens. This Ordinance shall govern regarding document requests and review if there is a conflict between this Ordinance and the Transparency Ordinance.

ARTICLE 3 – APPEALS TO TRIBAL COURT

Section 3.01 Appeals

- a. Any party aggrieved by a final decision of the Oversight Committee acting under this Ordinance may appeal such decision to the Tribal Court, as appropriate, in accordance with the court rules.
- b. Such appeal must be made within 14 days of notice of such final decision of the Oversight Committee. The Tribal Court shall hear the appeal on the record, unless an application is made to the Tribal Court by a party for leave to present additional evidence, and it is shown to the satisfaction of the Court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the Oversight Committee; the Court may order that the additional evidence be taken before the Oversight Committee upon conditions determined by the Court. The Oversight Committee may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions, with the reviewing Court.
- c. The Tribal Court shall issue its decision by affirming, modifying, remanding, or rejecting the decision of the Oversight Committee. The decision of the Tribal Court shall include its findings, conclusions of law, and decision on any sanctions. The decision of the Tribal Court is final.

ARTICLE 4 – COMPLAINTS OF ETHICS VIOLATIONS

Section 4.01 Who Can File a Complaint

Any individual who is at least 18 years of age and older and who is a Citizen of the Catawba Nation or an Employee of the Nation, or an Employee of the Nation when the alleged violation occurred, may file an ethics complaint alleging violations of this Ordinance. Parents or guardians of Catawba minors or legally incompetent adults may also bring a Complaint under this Ordinance.

Section 4.02 Filing a Complaint

- a. An ethics complaint must be filed with the Oversight Committee in writing and signed by the Complainant.

- b. The Oversight Committee shall provide the Complainant with a verification of receipt of the complaint.

Section 4.03 Contents of a Complaint

A complaint shall include, but not be limited to, the following:

- a. Complainant's name and contact information,
- b. Covered Official's name and official title;
- c. Dates of the alleged violation;
- d. Specific description of the alleged violations of this Ordinance;
- e. Supporting documentation substantiating and supporting the complaint; and
- f. Names of individuals who may be a witness to the complaint.

Section 4.04 Improper Complaint

The Oversight Committee shall not accept any complaint that is not properly filed according to the requirements outlined in Section 4.03 but shall accept a complaint that is subsequently re-filed with the required information.

Section 4.05 Responding to the Complaint

A copy of the complaint shall be sent to the Respondent within seven (7) calendar days after the complaint has been filed with the Oversight Committee. After receiving the complaint, the Respondent may file an answer to the complaint to the Oversight Committee in writing within 14 calendar days. A Respondent may request, and the Oversight Committee may grant, additional time to file an answer if deemed necessary by the Oversight Committee. The Oversight Committee shall proceed with its investigation of the complaint even if the Respondent fails to file an answer within the timeframe outlined herein.

Section 4.06 Frivolous Complaint

A complaint that is deemed by the Oversight Committee to be frivolous or an unsubstantiated alleged violation, may subject a Complainant to sanctions and penalties by the Oversight Committee as allowed under the Committee's procedures in accordance with Section 2.02(b)(1).

Section 4.07 Statute of Limitations

No complaint shall be considered by the Oversight Committee if it is filed more than one (1) year from the date the alleged violation occurred, except complaints alleging misappropriation or misuse of Tribal funds or property as outlined in Section 5.04(b). A complaint alleging a violation

of Section 5.04(b) shall not be considered by the Oversight Committee if it is filed more than one (1) year from the date of completion of the audit for the fiscal year in which the alleged violation occurred. Any such complaint shall be dismissed by the Oversight Committee. Further, this Ordinance is not retroactive; therefore, a complaint for actions which occurred before the passage of this Ordinance may not be considered by the Oversight Committee.

**ARTICLE 5 –
STANDARDS OF CONDUCT AND RESTRICTED ACTIVITES**

Section 5.01 Conduct in Conformity with Applicable Rules and Laws

Covered Officials shall at all times conduct themselves so as to reflect credibly upon the Catawba Nation and comply with all Catawba laws with respect to their conduct in the performance of their duties.

Section 5.02 Conflicts of Interest

- a. A Covered Official shall not engage in Self-Dealing and shall not use, or attempt to use, any official or apparent authority of their office or duties which places their personal or economic gain, or that of their Immediate Family, their associated Business, or associated Business of their Immediate Family, before those of the Catawba Nation, and shall refrain from all acts or activities which result in a conflict of interest. In the event of any potential conflict arising or being suggested, the matter should be reported immediately in writing to the Oversight Committee and steps must be taken to eliminate the potential conflict of interest.
- b. Abstention from Official Action. When a Covered Official is required to take official action on a matter in which the official or their Immediate Family has a personal or Economic Interest that gives rise to a conflict of interest, the official should eliminate that interest to the extent possible, and if that is not possible or required under this Ordinance, the official shall:
 1. Sign a written statement describing the matter requiring action and the nature of the potential conflict as soon as the official knows of the conflict. The official shall deliver copies of the statement to the Oversight Committee and to the Secretary of the Tribal board, committee, or commission to be included in the record regarding a vote or other decision; and
 2. Abstain from participating in or being present during deliberations, voting, sponsoring, influencing, or attempting to influence any vote or official decision which would favor or advance the personal or Economic Interest of the Covered Official or their Immediate Family.

Section 5.03 Nepotism

A Covered Official, in their official position within the Nation, shall not engage in nepotism, which is the practice among those with power or influence of favoring Immediate Family, especially by giving them jobs or preferential treatment.

Section 5.04 Improper Conduct

All Covered Officials shall conduct themselves with respect due to the positions of trust they are in. Improper conduct prohibited under this Ordinance includes, but is not limited to, the following:

- a. Intoxication or under the influence of illegal substances while carrying out their official duties. This does not apply to a person who has a prescription from a licensed medical professional for a substance that may otherwise be considered illegal if the person can still carry out their official duties with the approval of the licensed medical professional's approval;
- b. Misappropriation or misuse of Tribal funds or property;
- c. Commit perjury or fraud;
- d. Engage in sexual misconduct or sexual harassment;
- e. Abuse of power, where a Covered Official uses their position of power to threaten, coerce, intimidate, or improperly influence another; and
- f. Violate the laws of the Nation.

Section 5.05 Records Retention and Destruction

Federal and state guidelines dictate appropriate methods to organize, retain, and destroy records. All Covered Officials are expected to know and follow these guidelines. It is prohibited for a Covered Official to disclose, conceal, copy, remove, or destroy Tribal records or documents for improper purposes or without authorization.

Section 5.06 Unauthorized Use of Property, Funds, or Staff of the Nation

- a. **Unauthorized Use of Property of Funds.** A Covered Official shall not use any property of the Nation, or of any Tribal Entity, or any other property held for the benefit of the Nation, for personal activities. Such persons shall exercise honesty and integrity, and properly protect and conserve such property, equipment, and supplies that are entrusted, assigned, or issued to them.
- b. **Staff Misuse Prohibited.** A Covered Official shall not utilize staff of the Nation or Tribal Entity for personal purposes or for any purpose other than the official purposes for which

they are employed, unless permitted to do so with the consent of the Employee and the Employee's supervisor.

Section 5.07 Unauthorized Compensation or Benefits for Official Acts

A Covered Official shall not accept or receive any compensation or income for performing the official duties of their office or position, in addition to that which is authorized and received in their official capacity of performing such duties.

Section 5.08 Restriction Against Gifts or Loans to Influence Official Acts

- a. Restrictions against Gifts or Loans to Influence Official Acts. Covered Officials shall not engage in Bribery. In addition, except as otherwise provided herein or by other applicable law, a Covered Official shall not solicit or accept for themselves or another, any gift, including economic opportunity, favor, service, loan (other than from a regular lending institution on generally available terms), or any other benefit from any person, or Business which has, or is seeking to obtain, a contract or other business or financial agreement or approval from the Tribal Entity with which the Covered Official is associated.
- b. Permitted Gifts or Awards. Notwithstanding the above, a Covered Official may accept the following permitted gifts, so long as the gift is not cash:
 1. An occasional gift of insignificant monetary value;
 2. Gifts or prizes for participating in a public event if all participants in such event receive or are eligible to receive such gifts or prizes;
 3. Food, beverages, and suitable mementos received at banquets, conferences, receptions, ceremonies, or similar events;
 4. Expenses paid at business meetings, including reasonably priced meals or recreational activities where business discussions take place;
 5. Transportation by car or plane to and from conferences, meetings, or other official business;
 6. An award or honor customarily and publicly presented in recognition of public service;
 7. Traditional or ceremonial gifts general granted to dignitaries from other tribes, governments, and public bodies; or
 8. Any gift made to the Catawba Nation.

- c. A gift shall not be interpreted as accepted if the Covered Official immediately discloses to the Oversight Committee in writing the receipt of and intention to donate, donates the gift to the Nation or to a charity that will not personally or professionally benefit the Covered Official, and provides the Oversight Committee with a copy of the receipt or other documentation from the charity receiving the gift.

Section 5.09 Use of Office or Position for Private Gain

A Covered Official shall not use their position while in office to obtain financial gain, anything of substantial value, a substantial benefit, either directly or indirectly, for their own private benefit or to benefit their Immediate Family.

Section 5.10 Restriction on Making Government Decision or Disclosing Confidential Information

- a. Governmental Decisions. Covered Officials shall not act in their official capacity without express authorization of the Tribal Entity with which they are associated.
- b. Confidential Information. A Covered Official shall not, without the prior formal authorization by a majority vote of the Tribal Entity with which they are associated, disclose any confidential information. Confidential Information shall mean information that is privileged or protected pursuant to Catawba law or any other applicable law, policy, or contract. Confidential information does not include:
 - 1. Information which was publicly available or known to the general public at the time of disclosure,
 - 2. Information which is required to be disclosed pursuant to regulatory requirements of the Nation or a government body, and
 - 3. Reporting of the possible commission of a crime to law enforcement authority.

Section 5.11 Retaliatory Action Prohibited

A Covered Official shall not retaliate or discriminate against an Employee or a Citizen who files a complaint or gives evidence pertaining to a complaint under this Ordinance.

ARTICLE 6 – SANCTIONS AND PENALTIES

Section 6.01 Administrative Sanctions, Restitution, and Penalties

- a. Administrative Sanctions. Upon finding that there has been a violation of any provision of this Ordinance, the Oversight Committee may impose any or all of the following penalties or sanctions on a Respondent:

1. When a violation is unintentional or minor, issuance of a private letter of notification to the Respondent advising the Respondent with steps to take to avoid future violations.
 2. When a violation is intentional or serious, issuance of a written public letter of violation of this Ordinance shall be posted to the Citizen Portal maintained by the Nation and made available to Tribal Citizens by request.
 3. When a violation by a member of board, committee, or commission of the Nation is serious or repeated and has been committed intentionally with clear disregard for this Ordinance, the recommendation of removal from the Respondent's position may be forwarded to the Tribal Entity of the Nation with removal power over the Respondent's position.
 4. When a violation by an elected official of the Nation is serious or repeated and has been committed intentionally with clear disregard for this Ordinance, the removal of such an elected official is governed by the Constitution of the Nation.
- b. Restitution and Civil Penalties. A Covered Official found in violation of this Ordinance by the Oversight Committee shall be further subject to, and personally liable for, the following penalties which may be imposed by the Oversight Committee, without regard to the imposition of any administrative sanctions:
1. Any Respondent who realizes an economic benefit as a result of violation of any prohibition or restriction set forth in this Ordinance that is applicable to them may be liable to the Nation for the value of the benefit or benefits so obtained, as determined by the Committee; and/or
 2. Suspension of business between a Business and the Nation or entity of the Nation, in which the Respondent has an interest in the profits; and/or
 3. Restitution for the cost of the process, including but not limited to, attorney's fees and fees of the Oversight Committee due to Respondent's violation.
- c. Any civil penalties imposed hereunder shall be collected in any manner authorized for recovery of debts or obligations owed to the Nation and shall be paid into the treasury of the Nation.
- d. If two (2) or more persons are responsible for the same violation, they shall be jointly and severally liable to the Nation for the full amount of any civil penalties prescribed herein.

Section 6.02 Rights Reserved

- a. The Oversight Committee shall be limited to the issuance of the sanctions and penalties enumerated in this Ordinance. No sanctions or penalty provided herein shall limit any other powers of the General Council, the Tribal Court, or of any other entity or administrative official or Employee under other applicable law, rules, regulations, or procedures.
- b. No imposition of any or all civil penalties provided herein shall be a bar to the institution of any civil, criminal, or misdemeanor action, liability, judgment, conviction, or punishment otherwise applicable hereto, nor shall determination of any such civil damages be barred thereby.

ARTICLE 7 – SUPPLEMENTAL CODES OF CONDUCT

Section 7.01 Adoption of Supplemental Codes of Conduct

The Executive Committee, and the boards, committees, commissions, and other government bodies of the Nation may adopt supplemental standards of conduct for those included under this Ordinance but may not adopt standards lower than those outlined in this Ordinance.

Section 7.02 Codes of Conduct for Employees of the Nation and Nation Entities

The General Council directs that a Code of Ethics be developed by and enforced by the appropriate Human Resources Department of the Nation and all Tribal Entities.