



**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 5-16-06 B and last Amended and Restated by Resolution 11-17-09 L.**

**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 elected and appointed officials and employees, 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 elected, appointed, contract, or exempt employees of the Nation 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 elected, appointed, contract, or exempt employees of the Nation.

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 elected, appointed, contract, or exempt employees is essential to the conduct of free government and it is the intent of the Legislature that this Act promoted the highest ethical conduct for all elected, appointed, contract, or exempt employees of the Ho-Chunk Nation.

b. In addition, to following all other laws of the Nation, this Code shall be applied to all elected, appointed, contract, or exempt employees 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 paragraph 4b, 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. “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, directly or indirectly.

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

d. “Frivolous” means a complaint against an 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.

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

f. “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, subparagraph d. of this Act, but shall be subject to the prohibition of double payment contained at Section 9, subparagraph e.

g. “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.

h. “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.

i. “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.

j. “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.

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

l. “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.

m. “Official” means, but is not limited to, any person who holds elective office or who is a candidate for elective office such as President, Vice-President, Legislator, Justice; appointed professionals such as Judges, Departmental Executive Directors, Executive Board members and alternates, Gaming Commissioners, Election Board members and alternates; various Board members and alternates; persons nominated or confirmed by the Nation, persons employed in a position for which a license is required for employment, i.e. attorneys, doctors and nurses; and persons selected to hold various other positions in the Nation. .

n. “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.

o. "Perjury" means a false statement knowingly made under oath.

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

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

## **6. Standards of Conduct.**

a. The Legislature hereby affirms that an elected, appointed, contract or exempt employee of the Ho-Chunk Nation 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 which 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 elected, appointed, contract, or exempt employees of the Nation 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. Elected, appointed, contract, or exempt employees of the Nation shall adhere to the laws, customs and traditions of the Nation, be patient, dignified and courteous to constituents, co-officials, and others with whom they deal with in an official capacity.

e. Elected, appointed, contract, or exempt employees of the Nation shall put forth an honest effort in the performance of their duties.

f. Elected, appointed, contract, or exempt employees of the Nation shall make no commitments or promises purporting to bind the Nation without appropriate authorization.

g. No elected, appointed, contract, or exempt employee of the Nation 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. Elected, appointed, contract, or exempt employees of the Nation shall not utilize the Nation's resources and property for unauthorized activities.

i. Elected, appointed, contract, or exempt employees of the Nation 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. Elected, appointed, contract, or exempt employees of the Nation shall not give preferential treatment to any private person or organization nor shall preferential treatment be afforded to any elected, appointed, contract, or exempt employee in any position of authority.

k. Elected, appointed, contract, or exempt employees of the Nation 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 elected, appointed, contract, or exempt employee of the Nation, or could reasonably be considered a reward for any official action or inaction.

l. Elected, appointed, contract, or exempt employees of the Nation shall not intentionally use or disclose information gained in the course of or by reason of his or her elected, appointed, contract, or exempt position or activities in any way that could result in the receipt of anything of value for him or her self, for his or her immediate family, or for any other person, if the information is not in the public domain.

m. Elected, appointed, contract, or exempt employees of the Nation 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. Elected, appointed, contract, or exempt employees of the Nation 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. Elected, appointed, contract, or exempt employees of the Nation 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.

## **7. Conflicts of Interest and Nepotism Prohibited.**

a. No elected, appointed, contract, or exempt employee of the Nation may take any official action or participate in decisions in which the elected, appointed, contract, or exempt employee 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 paragraph 8b for exceptions for Legislators.

b. Elected, appointed, contract, or exempt employees of the Nation 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. An elected, appointed, contract, or exempt employee shall regulate his or her extra governmental activities to minimize the risk of conflict with duties of their office.

d. Elected, appointed, contract, or exempt employees of the Nation 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. Elected, appointed, contract, or exempt employees of the Nation 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, subparagraph 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, subparagraph 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, subparagraph a of this Act.

(2) Exceptions to Section 6, subparagraph 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 a 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, subparagraph b. (2) (c) are followed, it shall not be a violation of Section 6, subparagraph 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. Elected, appointed, contract, or exempt employees of the Ho-Chunk Nation 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, elected, appointed, contract, or exempt employees of the Ho-Chunk Nation 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 elected, appointed, contract or exempt employees may take gifts bestowed upon them at such gatherings, so long as the gift is not cash.

c. An elected, appointed, contract, or exempt employee of the Nation 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 fifty dollars (\$50.00).

d. If the value of such gift to an elected, appointed, contract, or exempt employee of the Nation exceeds a fair market value of fifty dollars (\$50.00), the recipient shall report the gift to the Ethics Review Board Chairperson for documentation.

e. An elected, appointed, contract, or exempt employee 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.** For elected, appointed, contract, or exempt employees of the Executive Branch, such officials and employees may personally or on

behalf of an organization or governmental body, request a Preliminary Advisory Opinion from the Nation's Attorney General's office 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 Attorney General's Office shall have fourteen (14) 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 Attorney General and abides by the Attorney General's opinion, if the material facts are as stated in the opinion request. The Attorney General 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. Copies of all advisory opinions rendered under this section shall be forwarded to the Ethics Review Board Chairperson within thirty (30) days.

#### **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 twelve (12) Members and an Ethics Review Board Chairperson ("Chairperson"). To be a Member of the Ethics Review Board or Chairperson an individual must meet the following qualifications:

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

(b) Be at least twenty-five (25) years of age.

(c) Consent to a satisfactory background investigation. Any felony conviction within the immediately preceding ten (10) years shall prohibit any person from serving on the Ethics Review Board unless waived by the Legislature when the person has demonstrated and shown that his/her prior activities do not pose a threat to the credibility and integrity of the Ethics Review Board.

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

(2) The Ethics Review Board shall select by vote of at least six (6) Members the Chairperson from the Nation's membership to serve for a two (2) 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 (6) Members within thirty (30) calendar days of the end of the term of the Chairperson or within thirty (30) calendar days after a vacancy in the office of Chairperson occurs, the Legislature shall select a Chairperson for a two (2) 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.

(3) Subject to confirmation by the Legislature, the twelve (12) Ethics Review Board Members shall be nominated by each District as follows:

a. District I will have one (1) member initially nominated at the Black River Falls Area Meeting.

b. District II will have four (4) members. The four (4) members will each initially be nominated at the Tomah, La Crosse, Wisconsin Dells, and Madison Area Meetings with the Tomah Area Meeting nominating one (1) member, the La Crosse Area Meeting nominating one (1) member, the Wisconsin Dells Area Meeting nominating one (1) member, and the Madison Area Meeting nominating one (1) member.

c. District III will have four (4) members. The four (4) 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 (1) member, the Wittenberg Area Meeting nominating one (1) member, the Indian Heights Area Meeting nominating one (1) member, and the Wisconsin Rapids Area Meeting nominating one (1) member.

d. District IV will have one (1) member initially nominated at the Milwaukee Area Meeting.

e. District V will have two (2) members. The two (2) members will each initially be nominated at the Chicago and Minneapolis/St. Paul Area Meetings with the Chicago Area Meeting nominating one (1) member and the Minneapolis/St. Paul Area Meeting nominating one (1) member.

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

(5) Steps upon the Ethics Review Board Chairperson receiving a report pursuant to Section 11, subparagraph c.:

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

1. The name of the elected, appointed, contract, or exempt employee(s) who is (are) the subject of the report.

2. A brief summary of the alleged violation contained within the report.

3. The name of the person(s) making the report.

b. Upon receiving a notification, each Ethics Review Board Member shall make a determination as to whether or not he or she is eligible to hear the report:

1. The determination shall be made pursuant to the requirements of Section 11, subparagraph (5), d.

2. 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.

c. Upon receiving the determinations from the Ethics Review Board Members, the Ethics Review Board Chairperson shall randomly select five (5) E Board Members to hear the report. Unless it would be otherwise impossible for the Ethics Review Board to hear the alleged violation, no District may have more than two (2) Ethics Review Board Members hearing a report.

d. An Ethics Review Board Member shall not hear an alleged violation contained in a report under any of the following circumstances:

1. The Ethics Review Board Member has personal knowledge of the facts surrounding the report that would make him or her personally biased in making a determination on the matter.

2. The individual making the report or the individual who is the subject of the report has any of the following relationships:

(a) He or she is an immediate family member of the Ethics Review Board Member;

(b) He or she is a member of the spouse's immediate family of the Ethics Review Board Member; or

(c) He or she is a person residing in the household of the Ethics Review Board Member.

3. If the Ethics Review Board Member believes that his or her participation would be seen as reasonably questionable.

b. A copy of this Act and 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.

**c. Reporting Violations.**

(1) Any person who, in good faith, believes or has reason to believe that an elected, appointed, contract, or exempt employee subject to this Act has committed a violation of this Act may report such act. The report shall be sent directly to the Ethics Review Board Chairperson for investigation pursuant to HCN Constitution Article VI, Section 2(1) within one (1) year from the date of the alleged violation.

(2) Any report 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 report 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) The report to the Ethics Review Board Chairperson shall be sent by certified mail, return receipt requested.

(4) Although not necessary, a copy of the report may be furnished to the President, Legislature, or Chief Justice as appropriate.

d. Frivolous Complaints. Reporting frivolous or unsubstantiated alleged violations will subject the person making the complaint to civil suit brought by the official accused by the false accusation.

e. Ethics Review Board Opinions.

(1) The Ethics Review Board shall have forty-five (45) days to form and issue an opinion based on the report and the alleged violation.

(2) The Board's opinion shall be reported to the person that submitted the alleged violation and to the applicable individual as follows:

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

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

(3) All final opinions by the Ethics Review Board shall be made available for public review by tribal members when requested by a tribal member, employee, appointed or elected official of the Nation. Unless a violation of the privacy rights of an individual subject to the report, such reports will contain all information pertinent to the ethics violation investigation, as well as other findings and conclusions. If the Ethics Review Board is not sure as to whether information contained in the report should be

made available to the public, the Chairperson of the Ethics Review Board shall consult with the Attorney General for an opinion on whether or not releasing the information would violate the privacy rights of the individual subject to the report or any other applicable law.

## **12. 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 an elected, appointed, contract, or exempt employee 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 determination 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 to the President and the Legislature of the Ho-Chunk Nation. 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 elected, appointed, contract or exempt employee 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.

## **13. Enforcement of the Code of Ethics.**

a. Presidential Enforcement. The President shall enforce penalties for violations of the *Code of Ethics Act* (2 HCC § 1) for the following persons:

(1) Elected, appointed, contract or exempt employees.

(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 enforce penalties for violation of the Code of Ethics for the following persons:

(1) Elected, appointed, contract, or exempt employees of the Legislature.

(2) President. If the President is found to have violated the *Code of Ethics Act* (2 HCC § 1), 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* (2 HCC § 1), 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 enforce penalties for violation of the *Code of Ethics Act* (2 HCC § 1) for the following persons:

(1) Associate Justices of the Supreme Court.

(2) Trial Court Judges.

#### **14. 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 (1) 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 (1) 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 14, subparagraph 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 14, subparagraph 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 five thousand dollars (\$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, subparagraph 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.

15. **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.

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Legislative History:

6/27/96 Rep. Jacob LoneTree requested a draft be submitted to the Administrative Rules Committee.  
7/25/96 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.  
9/26/96 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.  
1/03/97 Administrative Rules, . . . Committee: Rep. Ona Garvin recommended adoption and submission to the Legislature for approval.  
5/28/97 Ethics in Government Law in Traditional Court for review.  
1/12/99 Code of Ethics (HCC 97-002) enacted by Legislative Resolution 1/12/99A.  
2/2/99 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.  
5/17/04 Legislature places Ethics Code for 45-Day Public Review.  
9/15/04 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.  
2/8/06 Legislature reviews draft Section 14 on Former Elected or Appointed Officials and places out for 45-Day Public Review.  
4/14/06 45-Day Public Review ends without comment(s).  
5/16/06 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.  
7/21/09 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.

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- 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.
- 11/17/09 Legislature passes Resolution 11-17-09 L adopting amendments to increase Ethics Review Board Members from eleven to twelve.