

BOIS FORTE BAND OF CHIPPEWA

ORDINANCE# [46-2021](#)

RESERVATION TRIBAL COUNCIL CODE OF ETHICS

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CHAPTER 1
AUTHORITY; PURPOSE; SCOPE

Section 101 Authority

This Ordinance is enacted by the Bois Forte Reservation Tribal Council pursuant to the inherent sovereign authority of the Bois Forte Band of Chippewa under Article VI of the Revised Constitution of the Minnesota Chippewa Tribe and the Bois Forte Bylaws.

Section 102 Purpose

The purpose of this Ordinance is to establish ethical standards for members of the Bois Forte Reservation Tribal Council.

Section 103 Scope

- a) Individuals. The standards of conduct contained in this Ordinance apply only to the Reservation Tribal Council chairperson, secretary/treasurer, and district representatives. Standards of conduct for employees of the Band and its subordinate entities are contained in the personnel policy or employee manual of the entity of employment.
- b) Time. The standards of conduct contained in this Ordinance apply only to events occurring after the effective date of this Ordinance. In the event that this Ordinance is amended, the amended provisions shall only apply to events occurring after the effective date of the amendment.

Section 104 Other Ordinances and Provisions

- a) This Ordinance is intended to supplement the Bois Forte Reservation Tribal Council Bylaws, Bois Forte Ordinance #56-99. In the event that any provision in this Ordinance is determined to be inconsistent with a provision in the Bylaws, the provision in the Reservation Tribal Council Bylaws shall prevail.
- b) This Ordinance is intended to supplement Article X of the Minnesota Chippewa Tribe Constitution and the Minnesota Chippewa Tribe Ordinance Implementing Constitutional Petition and Censure Processes. Nothing in this Ordinance authorizes the removal or

suspension of a member of the Reservation Tribal Council. Any removal or suspension of a member of the Reservation Tribal Council must comport with Article X of the Minnesota Chippewa Tribe Constitution.

Section 105 Reservation of Rights

The Reservation Tribal Council reserves the right to amend or repeal all or any part of this Ordinance at any time. There shall be no vested private right of any kind created by this Ordinance. All the rights, privileges, or immunities conferred by this Ordinance or by acts done pursuant thereto shall exist subject to the powers of the Bois Forte Band. Nothing in this Ordinance shall be construed to constitute a waiver of the sovereign immunity of the Bois Forte Band or a consent to jurisdiction by any government or forum not expressly authorized to exercise jurisdiction under this Ordinance.

CHAPTER2
DEFINITIONS

Section 201 **Definitions**

For the purposes of this Ordinance, the following definitions shall apply:

- a) **"Band member"** means an enrolled member of the Bois Forte Band of Chippewa.
- b) **"Complainant"** means the individual signing a complaint against a Reservation Tribal Council Official.
- c) **"Conflict of interest"** means a real or apparent incompatibility between an official's personal interests and his or her duties to serve the interests of the Bois Forte Band.
- d) **"Immediate family"** means spouse, domestic partner, parent, child, sibling, grandparent, and grandchild.
- e) **"Official" or "Reservation Tribal Council Official"** means the Reservation Tribal Council chairperson, secretary/treasurer, or district representatives.
- f) **"Personal interests"** means a result or effect of an official's actions which uniquely benefits the official or his or her immediate family. Personal interests do not necessarily occur when an official acts on a matter or issue that results in an incidental benefit to immediate family, and may be determined by an objective review of the circumstances surrounding the action and its beneficial effects.
- g) **"Standard of conduct"** refers to the standards contained in Section 301 of this Ordinance.
- h) **"Subject" or "Subject of the complaint"** means the Reservation Tribal Council official alleged in a complaint to have violated a standard of conduct.
- i) **"Committee" or "Tribal Ethics Committee"** means the Bois Forte Band of Chippewa Tribal Ethics Committee as appointed by the Reservation Tribal Council.

CHAPTER3
STANDARDS OF CONDUCT

Section 301 Standards of Conduct

Reservation Tribal Council officials are expected to treat service to the Band as a solemn public trust with fiduciary responsibility to the Band requiring that they place loyalty to the Band and its constitution, laws, and ordinances above personal and private gain. The following represents standards of conduct important to the maintenance of trust and ethical behavior for Reservation Tribal Council officials:

- a) An official shall protect and conserve Band property and only use it for duly authorized purposes. A purpose is duly authorized if it is approved by a resolution of the Reservation Tribal Council.
- b) An official shall conduct all official business in accordance with the laws or official policies of the Band and other applicable law.
- c) An official shall disclose instances when they believe there is fraud, waste, abuse, or corruption to the appropriate authorities.
- d) An official shall not disclose information:
 - a. Pertaining to matters discussed in executive session except by the consent of the Reservation Tribal Council; or
 - b. Matters protected as confidential under Band law, applicable federal law, or state law adopted as a contractual obligation of the Band.
- e) An official shall not solicit or accept, directly or indirectly, anything of value if the gift could reasonably be expected to influence the vote, official actions, or judgment of the official, or could reasonably be considered a reward for any official action or inaction. An official may accept gifts only if there is no likelihood of improper influence or the appearance of improper influence and the item is one of the following:
 - a. A noncash gift of nominal value, such as are received at holidays or provided as honoraria (e.g., blankets);
 - b. Gifts available to the general public under the same conditions as they are available to the official;

- c. Civic, charitable, educational or religious organization awards for recognition of service and accomplishment;
 - d. Gifts because of kinship, marriage, or social relationship apart from any business with the Band; or
 - e. Trips, guest accommodations, or other travel expenses that could otherwise be reimbursed as a legitimate business expense and that involve formal representation of the Band or the conduct of Band business.
- f) If a decision with respect to a matter will have a direct and predictable effect on the financial interests of the official or immediate family member, the official shall disclose the nature of the effect to the Reservation Tribal Council.
 - g) An official shall not threaten, intimidate, or discipline any employee in reprisal for the employee acting within the scope of the employee's official duties.
 - h) No official may use of his or her office for private gain, or for the private gain of friends, relatives, or persons with whom he is affiliated in a non-governmental capacity. When an official knows, or in the exercise of due care should know, that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interests of a member of his or her household, or some other person with whom the elected official has a present or prospective financial relationship, and where a reasonable person could question his or her impartiality in the matter, the member of tribal government shall not participate in the matter.
 - i) No official shall make unauthorized commitments or promises of any kind purporting to bind the Bois Forte Band.

CHAPTER4
TRIBAL ETHICS COMMITTEE PROCEEDINGS

Section 401 The Bois Forte Tribal Ethics Committee

- a) **Creation of the Committee.** Pursuant to the inherent and sovereign powers of the Bois Forte Band of Chippewa Indians, there is hereby established the Bois Forte Tribal Ethics Committee, which may be referred to as the Tribal Ethics Committee.
- b) **Jurisdiction.** The Tribal Ethics Committee shall have jurisdiction over causes of action brought under the Reservation Tribal Council Code of Ethics.
- c) **Committee Membership.** The Tribal Ethics Committee shall consist of 6 members and 4 alternates. The Tribal Ethics Committee shall be appointed by the Reservation Tribal Council by a majority vote of the members of the Committee at a regular meeting. The term of office, compensation, qualifications, removal, and disqualification of Tribal Ethics Committee members shall be determined by the Reservation Tribal Council.
- d) **Procedural Rules.** The Rules of Civil Procedure, Chapter II, Part A of the Code of the Bois Forte Band of Chippewa, shall apply to proceedings under this ordinance, except where the Rules of Civil Procedure are inconsistent with provisions in this Ordinance.

Section 402 Eligibility to File a Complaint

- a) Any Band member may file a complaint against a Reservation Tribal Council official based on allegations that the standards of conduct in this Ordinance were violated during the official's current term in office.
- b) A complaint under this Ordinance shall be separate from and cannot be joined with proceedings under other ordinances.
- c) In the event that two or more complaints are filed alleging substantively the same facts and occurrence, only the first complaint filed shall be allowed to proceed and the duplicate complaints shall be stayed pending resolution of the first complaint.

Section 403 Contents of Complaint

A complaint shall be in writing and shall contain the following:

- a) The name of the Reservation Tribal Council official alleged to have violated the standards of conduct.

- b) The provisions of this Ordinance that have been violated (e.g., Section 301(b) and Section 301(e)).
- c) A statement describing the alleged violation(s). The statement must describe particular and specific facts, which if proven, would establish that a violation occurred. The statement must include the date, time, and place of the alleged violation.
- d) The year that the official was last elected or appointed to the official's position and a statement that the alleged violation(s) occurred during the official's current term in office.
- e) Documentation (which may include sworn affidavits of persons with first-hand knowledge of the facts of the allegations), establishing a reasonable probability that the alleged facts can be established at trial. If such documentation is not provided, the complaint must provide a plausible explanation of why such documentation cannot be reasonably obtained.
- f) A statement that the information provided is true, accurate, and complete to the best of the informant's knowledge.
- g) A statement that the person filing the complaint has direct, first-hand knowledge of the facts alleged in the complaint.
- h) The name and address of the complainant. Only one complainant can be designated.
- i) The complainant's notarized signature.

Section 404 Filing and Serving the Complaint

- a) The original complaint with supporting documentation must be filed with the Tribal Ethics Committee by mail or in person. A filing fee of "x" must be paid at the time of filing.
- b) Within five (5) calendar days of filing, the Tribal Ethics Committee shall serve, by mail or personal delivery, a photocopy of the complaint with supporting documentation upon the Reservation Tribal Council official (the "subject of the complaint") alleged to have violated the standards of conduct.

Section 405 Statement Requesting Dismissal

Within 15 calendar days, including weekends, after the complaint is served upon the subject of the complaint, the subject of the complaint may file a written statement requesting dismissal. There is no required form for the written statement and the subject of the complaint may choose not to file a response. The subject may include supporting documentation with the statement. The statement may be used to bring to the Committee's attention any facts, explanations, or documentation that may be helpful to the Committee.

The Tribal Ethics Committee shall serve a copy, by mail or personal delivery, of the statement requesting dismissal with supporting documentation on the complainant within 3 days of filing the request for dismissal.

Section 406 Review of Complaint

After a statement requesting dismissal is filed, or the time for filing the statement has passed, the Tribal Ethics Committee shall meet and review the complaint with supporting documentation to determine whether a hearing should be scheduled or the complaint should be dismissed. This review shall be conducted regardless of whether the subject of the complaint has filed a statement requesting dismissal. If the complaint does not strictly comply with the requirements of Section 402, the complaint must be dismissed. The Tribal Ethics Committee shall not dismiss a complaint prior to service upon the complainant as required in Section 404.

If a complaint contains multiple allegations, the Tribal Ethics Committee may dismiss some or all allegations in the complaint. In reviewing the complaint, the Tribal Ethics Committee shall apply the following standards:

- a) If an allegation is not supported by a statement describing particular and specific facts, which if proven, would establish that a violation occurred during the official's current term in office, the allegation must be dismissed.
- b) If an allegation is not supported by affidavits based on first-hand knowledge establishing a reasonable probability that the alleged facts can be established at trial and the complaint does not provide a plausible explanation of why such affidavits cannot be reasonably obtained, the allegation must be dismissed.
- c) If an allegation is substantially similar to a previously dismissed allegation, regardless of who filed the allegation, and the complaint does not provide materially different claims or documentation, the allegation must be dismissed.

Section 407 Scheduling a Hearing

If the complaint is not dismissed, the Tribal Ethics Committee shall schedule a public hearing about the complaint, with the exception of when a minor child is involved, then that hearing will be held privately. The Tribal Ethics Committee shall serve, by mail or personal delivery, a notice of the hearing date on the complainant and subject. The notice shall be served at least 20 calendar days before the hearing.

Section 408 Answer to the Complaint

If a hearing is scheduled about the complaint, the subject of the complaint may file an answer to the complaint. There is no required form for the answer and the subject may choose not to file an answer.

The answer may be used to admit to allegations in the complete, deny allegations in the complete, or to offer affirmative defenses. Any allegation not admitted will be deemed to have been denied.

At least five (5) business days before the hearing, the answer, if any, must be filed with the Tribal Ethics Committee. The Tribal Ethics Committee shall serve a copy of the answer on the complainant.

Section 409 Witnesses

- a) Upon request from the complainant or subject, the Tribal Ethics Committee may issue a subpoena to obtain testimony by a witness, subject to the Band's jurisdiction, at the hearing. The party requesting a subpoena shall be responsible for serving the subpoena and obtaining the presence of the witness at the hearing.
- b) At the hearing, the subject of the complaint may choose to testify but cannot be required to testify at the hearing.
- c) Before any witness is called to testify, the Tribal Ethics Committee may request a summary of what the witness will testify about.

Section 410 Burden of Proof

At the hearing, the complainant shall have the burden of providing clear and convincing evidence that the subject of the complaint violated a standard of conduct.

Section 411 Findings and Recommendations

After the hearing, the Tribal Ethics Committee shall issue a findings of fact and recommendations for final disposition to the Reservation Tribal Council. For each allegation contained in the complaint not previously dismissed, the Tribal Ethics Committee must make one of the conclusions:

- a) That the allegation is dismissed for failure to meet the burden of proof; or
- b) That the allegation was proven at the hearing.

In addition, the Tribal Ethics Committee must make findings of fact in support of each conclusion. The findings of fact and conclusions of law may be issued at the end of the hearing or the matter may be taken under advisement. The Tribal Ethics Committee may take one of three actions:

1. If all allegations in the complaint are dismissed, then the Tribal Ethics Committee shall issue a findings of fact and recommendations for final disposition to the Reservation Tribal Council dismissing the complaint in its entirety.

2. If some allegations are proven and others are dismissed, then the Tribal Ethics Committee shall issue a findings of fact and recommendations upholding the complaint in part and dismissing it in part.
3. If all allegations are proven, then the Tribal Ethics Committee shall uphold the complaint and issue a findings of fact and recommendations for disposition.

Section 412 Civil Penalties

If the Tribal Ethics Committee finds that a violation was intentional, repeated, or made in bad faith, the Tribal Ethics Committee may recommend to the Reservation Tribal Council a civil penalty. The civil penalty shall be \$500 or the value of any benefit obtained as a result of the violation by the subject or his or her immediate family, whichever is greater. The civil penalty, if any, shall be contained in the findings of fact and recommendations for disposition.

Section 413 Frivolous Complaints

If a complaint is dismissed in its entirety, the Tribal Ethics Committee may make a finding about whether the complaint was frivolous. A complaint is frivolous only if it is submitted for purposes of harassment, for other improper purposes, or was completely without merit. If the Tribal Ethics Committee determines that the complaint is frivolous, the Committee may issue a recommendation to the Reservation Tribal Council that the complainant pay the subject of the complaint the reasonable costs, including attorneys' fees, associated with defending against the complaint.

Section 414 Application of the Bois Forte Civil Code

The Civil Code of the Bois Forte Band of Chippewa shall apply to proceedings under this ordinance, except where the Civil Code is inconsistent with provisions in this Ordinance.

CHAPTERS
EFFECTIVE DATE; AMENDMENTS; SEVERABILITY

Section 501 **Effective Date**

The provisions of this Ordinance shall become effective immediately upon adoption by the Reservation Tribal Council.

Section 502 **Amendment or Rescission**

The Reservation Tribal Council may amend this Ordinance as it deems necessary to protect the public health, safety and welfare of the Bois Forte of Chippewa Reservation. The provisions of this Ordinance may be amended by resolution of the Reservation Tribal Council.

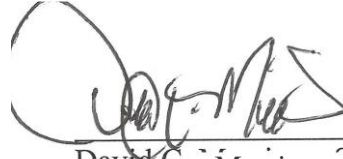
Section 503 **Severability**

If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

CHAPTER 6
CERTIFICATION

We do hereby certify that the foregoing resolution was duly presented and enacted upon by a vote of 4 for, and 0 against, 0 abstaining at the meeting of the Bois Forte Reservation Tribal Council held on October 7, 2020, with a quorum present, at Nett Lake, Minnesota.


Cathy Chavers, Chairwoman


David C. Morrison, Sr.
Secretary-Treasurer