

**TITLE 2 ADMINISTRATION OF TRIBAL AFFAIRS**  
**ARTICLE 2 THE KAW NATION**  
**TRIBAL OFFICIAL AND EMPLOYEE ETHICS ACT**

**ARTICLE I: INTRODUCTION**

**Section 1. Citation**

This act shall be cited as the Kaw Nation Tribal Official and Employee Ethics Act of 2017 (the “Act”).

**Section 2. Definitions**

- (a) “Official” means any person serving the Tribe by appointment or certified election.
- (b) “Employee” means any person engaged for his or her services to the Tribe part or full time who receives compensation from the Tribe for his or her services.
- (c) “Conflict of Interest” means matters and issues for which a person (i) may have an unfair advantage by virtue of his or her position; (ii) would receive more than significant value in money or items of worth by participating in any decisions relating to such matters and issues; (iii) is in a position to derive personal or familial benefit (financial or otherwise) from actions or decisions made in his or her official capacity; or (iv) or previously acted on the matter in an official capacity.
- (d) “Significant Value” means things or money which would amount to more than reasonable costs or expenses incurred for conducting business.
- (e) “Coerce” means undue influence or intimidation using one’s official capacity as leverage for or against another person.
- (f) “Immediate Family” includes spouse or co-habitant, parents, siblings, children, grandparents, grandchildren, father-in-law, mother-in-law, son-in-law, daughter-in-law, step-parents, and step-children.

**Section 3. Authority**

Article V of the Constitution of the Kaw Nation, ratified in 2011 and Amended April 29, 2016 (the “Constitution”), empowers the Kaw Tribal Council enact legislation on behalf of the Tribe.

**Section 4. Purpose**

The purposes of this Act are as follows:

- (a) To provide standards of fairness and integrity for all Officials and Employees of the Kaw Nation while conducting the business of the Tribe in their respective capacities;

- (b) To set forth standards by which elected officials and employees of the Tribe will conduct themselves in order to protect and promote Tribal integrity;
- (c) To provide procedures to address and resolve any alleged noncompliance with the standards set forth herein; and
- (d) To enhance the ability of the Tribe to achieve its objectives in a manner consistent with all applicable laws and regulations.

It shall be recognized that Officials and Employees are in positions of trust on behalf of the Tribe and must endeavor to exercise the highest standards of conduct, integrity, and confidence on behalf of the Tribe and its citizens. It is the responsibility of each Tribal official and employee to conduct himself or herself in a polite and courteous manner, with respect and consideration for others.

The standards established herein are not to be considered in lieu of any ethical standards imposed by federal law or Tribal law, or Tribal Personnel Policies and Procedures or Rules of Procedure.

**Section 5. Amendments to the Act**

- (a) Any Official or Employee who is subject to this Act is authorized to submit for approval and adoption by the Tribal Council such supplemental rules, regulations, and standards of conduct for public officials which are necessary and appropriate to the special conditions relating to their particular functions, purposes and duties and not in conflict with the purposes and other provisions of this Act.
- (b) Upon adoption, such supplemental standards, rules, and regulations shall be implemented in the same manner and to the extent possible, as are all other standards, rules, and regulations provided and adopted in accordance with this Act

**ARTICLE II: CONDUCT AND RESPONSIBILITIES**

**Section 6. Conduct in Conformity with Applicable Rules and Laws**

- (a) The actions of Officials and Employees reflect their commitment to conduct all of the Tribe's business and other activities in an honest, ethical, and professional manner in compliance with all applicable laws and regulations and with all Tribal policies.
- (b) Officials and Employees shall at all times conduct themselves so as to reflect positively upon the Tribal members and government they represent, and comply with all applicable Tribal laws with respect to their conduct in the performance of the duties of their respective office or employment.

**Section 7. Code of Ethical Standards**

Every Official and Employee shall endeavor to:

- (a) Put loyalty to the highest moral principles and to the Tribe above loyalty to other persons, parties, or governmental entities;
- (b) Uphold the laws and regulations of the Tribe and never be a party to their evasion;

- (c) Give a full day's labor for a full day's pay, giving earnest effort and best thoughts to the performance of his or her duties;
- (d) Seek to find and employ more efficient and economical ways of accomplishing tasks;
- (e) Never dispense special favors or privileges to anyone, whether for remuneration or not, and never sell influence to gain special favors for any person, business, or governmental entity;
- (f) Never accept, for himself or herself or for family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of Tribal duties;
- (g) Make no private promises of any kind, binding upon the duties of office, recognizing that an Official or Employee has no private word that can be binding on public duty;
- (h) Engage in no business with the Tribe, either directly or indirectly, which is inconsistent with the conscientious performance of Tribal duties;
- (i) Make every effort in his or her private work to avoid Conflicts of Interest;
- (j) Never use information gained in the performance of Tribal duties as a means of making private profits to the detriment of the Tribe;
- (k) Never use his or her position in any way to Coerce or give the appearance of Coercing anyone to provide a financial benefit to himself or herself or another person; and
- (l) Expose corruption wherever it is found.

#### **Section 8. Equal Representation**

- (a) Officials and Employees shall represent the interests of all members of the Tribe and not serve special interests inside or outside the Tribe.
- (b) To fully represent the interests of the Tribe, Officials and Employees shall:
  1. Not engage in any business activity that appears to be unethical or illegal;
  2. Refuse any illegal offers, solicitations, or payments to induce business opportunities;
  3. Refuse any offer that has the appearance of being an illegal or inappropriate offer, solicitation, payment or remuneration.

#### **Section 9. Integrity**

Officials and Employees shall not use their position and/or Tribal resources to serve their own personal, financial, or business interests.

#### **Section 10. Confidentiality**

To respect the privacy of Tribal citizens, employees, and clients, Officials and Employees shall not use or disclose confidential information gained in the course of their duties or responsibilities or by reason of their official position or activities. This includes, but is not limited to, the disclosure of confidential information to further the Official's or Employee's own economic or personal interest or that of anyone else.

**Section 11. Responsibility**

- (a) Officials and Employees shall respect the laws that govern the operation of the Tribe and the treatment of Tribal members.
- (b) The actions of Official and Employees reflect their commitment to conduct Tribal activities in an honest, ethical, and professional manner. In carrying out their responsibilities, Officials and Employees shall:
  - 1. Adhere to both the letter and the spirit of applicable Tribal, federal, and state laws and regulations;
  - 2. Maintain high standards of business and ethical conduct in accordance with applicable federal, Tribal and state laws and regulations, including laws and regulations dealing with fraud, waste, and abuse; and
  - 3. Be truthful and straightforward in dealing with other government agencies;
  - 4. Maintain a workplace free of discrimination, harassment, violence and intimidation, and that is drug-free. Officials and Employees shall not tolerate any form of threatening or abusive behavior.

**Section 12. Good Faith**

- (a) Officials and Employees shall perform their duties by making informed decisions in good faith and in a manner believed to be in the best interests of the Tribe.
- (b) To maintain confidence in the Tribal government, Officials and Employees shall:
  - 1. Practice good faith in all transactions occurring during the course of business;
  - 2. Deal openly, effectively, and honestly with fellow Tribal members, Officials, Employees, contractors, government agencies, and others;
  - 3. Conduct business dealings in a manner such that the Tribe shall be the beneficiary of such dealings;
  - 4. Make educated decisions based on sufficient inquiry and accurate information.

**Section 13. Accountability**

- (a) Officials and Employees are bound by this Act and shall address behavior inconsistent with this Act in an effective and efficient manner as set forth in this Act.
- (b) Officials and Employees shall adhere to the Act's principles by:
  - 1. Becoming familiar with this Act and the policies and procedures applicable to Officials and Employees;
  - 2. Providing open communication channels to allow Tribal members, Officials, and Employees to pursue compliance or ethical questions without fear of retaliation;
  - 3. Immediately reporting any suspected violations of this Act or any applicable law or regulation, as set forth herein for investigation;
  - 4. Taking alleged violations and suspected violations seriously, as they could delay, compromise, or otherwise impair the services the Tribe provides;
  - 5. Not taking any disciplinary action or otherwise retaliating in any way against anyone who, in good faith, reports a concern, issue, problem, or violation of the

law, regulations, or this Act. “Good Faith” means that there is an objective basis for the allegation and does not require definitive proof.

### **ARTICLE III: CONFLICT OF INTEREST**

#### **Section 14. Conflict of Interest**

- (a) No Official or Employee shall use, or attempt to use, any official or apparent authority of his or her office which places, or could reasonably be perceived as placing, their private interest (financial or otherwise) or that of any special business interests with which they are associated, before those of the Tribe or the Tribal membership, whose paramount interests their office or employment is intended to serve.
- (b) It is the intent of this Section that Officials and Employees of the Tribe avoid any action, whether or not specifically prohibited by this Act , which could result in, or create the appearance of:
  - 1. Using public office or employment for gain;
  - 2. Giving preferential treatment to any special interest organization or person;
  - 3. Interfering with governmental or managerial efficiency or economy;
  - 4. Losing or compromising complete independence or impartiality of actions;
  - 5. Making a government or management decision outside of official channels; or
  - 6. Adversely affecting the confidence of the Tribal members in the integrity of the government and administration of the Tribe.
- (c) No Official or Employee shall participate in the selection, or in the award or administration of a contract supported by Federal funds and /or Tribal funds, if a Conflict of Interest, real or apparent, is involved.
- (d) A Conflict of Interest shall be deemed to arise for purposes of this section when the Official or Employee or any member of his or her immediate family has a financial or other interest in the firm or person selected for the contract or grant award.

#### **Section 15. Conflict of Interest Statements and Official Action**

- (a) Disclosure: It is the premise that all Officials and Employees who have interests (financial or otherwise) which might conflict with their duties should divulge those interests. Disclosure shall also extend to those interests held by his or her Immediate Family when such interests are known by the Official or Employee.
- (b) When an Official or Employee is required to take action on a matter in which such Official or Employee has a Conflict of Interest, he or she should first consider eliminating that interest. If that is neither feasible nor required under this Act, such Official or Employee shall:
  - 1. Disclose to the Tribal Council the matter requiring action and the nature of the potential conflict, as soon as such Official or Employee is aware of the responsible party for the inclusion in the official record of any vote or other decision or determination;

2. Abstain from voting, sponsoring, influencing or in any manner attempting to influence any vote, official decision or determination which would favor or advance such person's personal interest in such matter; and
  3. Abstain from voting or otherwise participating in the official decision or determination of such matter, unless otherwise required by law or unless such person's vote, position, recommendation or participation is contrary to their personal economic interest.
- (c) Unless otherwise provided by applicable law, the abstention by such person from voting or otherwise participating in the official determination or decision shall not affect the presence of such person for purposes of establishing a quorum necessary for a governmental body.

**Section 16. Economic Interests**

- (a) To avoid using governmental positions to serve their own personal, financial, or business interests, Officials and Employees shall:
1. Not participate in governmental or management decisions in which they have a business, financial, or professional interest outside of the Tribe which they represent;
  2. Accept or receive any benefit, income, favor or other form of compensation for performing the official duties of their office or employment beyond the amount or value which is authorized and received from the Tribe in their official capacity for performing such duties;
  3. Not solicit, or offer anything of value in the course of business dealings;
  4. Not accept any benefit, income, favor or other form of compensation for the performance of the duties of any other office, or employment not actually performed or for which such Official or Employee is not otherwise properly authorized or entitled to receive;
  5. Avoid using the Tribe's resources, including but not limited to the Tribe's staff, for their own personal, financial, or business interests;
  6. Strictly prohibit kickbacks, bribes, rebates or any kind of benefits intended to induce business benefits;
  7. Report reimbursable expenses accurately and to only one source, avoiding receiving any financial gain as a result of business travel or entertainment;
  8. Not use supplies and services in a manner that creates waste or abuse;
  9. Not use any Tribal property or any other public property for any use other than as authorized and approved for official purposes and activities; and
  10. Not engage in transactions that will provide them an economic advantage due to information received through their public office or employment, and shall not acquire any property or other economic interest when doing so will affect or influence the performance of their official actions or duties.

**Section 17. Anti-Nepotism**

- (a) No Official or Employee shall employ, elect, appoint, or otherwise cause to be employed, nor nominate or otherwise influence the appointment or employment to any Tribal office or position within the Kaw Nation or any governmental or political subdivision thereof, any person or persons in their Immediate Family, nor any member of the same household of said Official or Employee.
- (b) Assignment of such persons to duties, positions, governmental offices or other entities shall in all instances be made in strict compliance with the current provisions of this Act and the Tribe's Personnel Policies.

**Section 18. Tribal Government contracts: Restrictions and Bid Requirements**

- (a) No Official or Employee shall participate in the selection or in the award or administration of a contract or grant award of funds from any government agency, if a Conflict of Interest, whether real or apparent, shall be involved.
- (b) No Official or Employee or any member of such person's Immediate Family shall be a party to, nor have an interest in the profits or benefits of, any government contract of the Tribe or any investment of Tribal funds, unless the contract or the investment meets the following requirements:
  - 1. The contract is let by notice and competitive bid or procurement procedures as required under the applicable laws, rules, regulations, and policies of the Tribe for necessary materials or services, for the governmental agency or entity involved;
  - 2. In the continuous course of business, the bid was commenced before the Official or Employee assumed his or her current term of office of employment;
  - 3. The entire transaction is conducted at arm's length, with the governmental agency's full knowledge of the interest of the Official or Employee or a member of their Immediate Family; and
  - 4. The Official or Employee has taken no part in the determination of the specifications, deliberations or decisions of a governmental agency with respect to the public contract.
- (c) This provision shall not apply to such persons qualifying for housing benefits from the Tribe or for medical benefits from the Indian Health Services or other programs available to all Tribal members.

**Section 19. Gifts, Awards, Loans, Reimbursements and Campaign Contributions**

- (a) Except as otherwise provided herein or by applicable law or rule or regulation adopted hereunder by the Tribe, no Official or Employee shall solicit or accept for themselves or another any gift, including economic opportunity, favor, service, or loan (other than from a regular lending institution or Tribally sponsored lending program on generally available terms) or any other benefit from any person, organization or group which:

1. Has or is seeking to obtain contractual or other business or financial relationships or approval from any governmental office or entity with which the Official or Employee is associated or employed; or
  2. Conducts operations or activities which are regulated or in any manner supervised by any governmental agency with which the Official or Employee is associated or employed; or
  3. Has any interest which, within the past two (2) years or in the foreseeable future, has or will be directly affected by an official action (or inaction) of such Official or Employee or the Official's or Employee's office.
- (b) The restrictions in Section 18(a) above shall not be construed to prohibit:
1. An occasional non-financial gift, insignificant in value (i.e. less than \$200.00);
  2. Gifts from, and obviously motivated by, family or social relationships, as among immediate family members or family inheritances;
  3. Food and refreshments customarily made available in the ordinary course of meetings where an Official or Employee may properly be in attendance;
  4. An award or honor customarily and publicly presented in recognition of public service.

**Section 20. Compensation**

- (a) An Official or Employee may receive income, honoraria, or reimbursement of expenses attributable to the performance of duties during a duly called Tribal Council meeting or government function in accordance with the approved stipend policy.
- (b) Officials and Employees may not receive income, honoraria, or reimbursement of expenses from a second source beyond the Tribe if such payment is already paid by the Tribe and would result in a double payment to the Official or Employee.

**ARTICLE IV: IMPLEMENTATION AND COMPLIANCE**

**Section 21. Filing of Complaints**

- (a) The Office of the Attorney General shall initiate and/or receive, review, and/or investigate complaints filed. Complaint must be filed in a confidential manner as determined by the Office of the Attorney General. Each complaint shall contain a statement of the alleged misconduct, including any section of the Constitution or this Act alleged to have been violated, and the alleged facts upon which such charges are based. The Attorney General shall maintain confidentiality until a final determination is reached.
- (b) Complaints involving action of the Attorney General shall be filed with the Chair who shall appoint a special investigator to resolve all issues. The special investigator shall be subject to the same provisions as any other investigation pursuant to this act.

**Section 22. Notice**

The Office of the Attorney General shall issue to the Official or Employee a written notice containing a statement of alleged misconduct, including any section of the Constitution or this

Act alleged to have been violated. The notice shall state alleged facts upon which such charges are based.

### **Section 23. Determination to Proceed**

If the Office of the Attorney General finds sufficient cause to proceed, they shall conduct or cause an investigation to be conducted to determine violations or noncompliance with the Constitution or this Act.

- (a) If the investigation brings forth violations that are subject to administrative remedies, the record of the investigation shall so state. Administrative remedies shall mean those internal controls of program management.
- (b) If the investigation indicates violations that cannot be addressed with administrative remedies, the Office of the Attorney General shall move forward with a fair hearing as outlined herein.
- (c) The Office of the Attorney General may dismiss any complaint which it determines has insufficient facts to constitute a violation of noncompliance with this Act, or if there is not clear and convincing evidence to support the allegation.

### **Section 24. Response to Notice**

Within five (5) business days after receipt of the complaint, the accused Official or Employee shall file a written response setting forth any admission, denial, affirmative defense, or other matter upon which they intend to rely on at the hearing.

### **Section 25. Fair Hearings**

- (a) If the Office of the Attorney General finds sufficient cause to proceed, they shall conduct, or cause to be conducted, an investigation to determine violations or noncompliance with this Act within thirty (30) calendar days.
- (b) The Official or Employee in question shall have the opportunity and right to be heard on his or her own behalf before the Office of the Attorney General. There shall be a full and complete discussion of all aspects of the complaint against the Official or Employee prior to a final decision, and the individual in question shall have the right to bring a spokesperson or advocate to speak on his or her behalf, witnesses, documents, and/or any other relevant evidence to support his or her position.
- (c) The hearing shall be informal, without formal rules of evidence, held in closed session, and recorded by the Tribal Council Secretary.
- (d) The Office of the Attorney General shall receive and consider all of the evidence presented at the hearing and shall issue a written decision regarding the matter in question. The decision shall be mailed to the Official or Employees by certified mail, within twenty (20) calendar days after the close of the hearing.
- (e) All provisions of the Constitution and Rules of Procedure relating to removal of Tribal Council members shall apply.
- (f) The decision of the Office of the Attorney General following the hearing shall be final.

**Section 26. Administrative Decision**

- (a) The Office of the Attorney General may impose or recommend any sanctions or other penalties provided in this Act, or refer their findings to other appropriate entities for action.
- (b) Location of the repository of records of complaints and hearings shall be the responsibility of the Tribal Council Secretary.

**Section 27. Appeals**

- (a) A notice of appeal shall be filed within ten (10) business days of the issuance of a written decision.
- (b) The appeal shall be limited to review of the record by the Tribal Court to determine whether the Office of the Attorney General complied with recognized fair hearing procedures and this Act.

**Section 28. Statute of Limitations**

No action shall be brought under this Act more than six (6) months after the cause of action has occurred.

**Section 29. Retaliation Prohibited**

- (a) Retaliation against any party or witness to a complaint shall be prohibited. Retaliation shall include any form of adverse or punitive action by or caused by any Official or Employee.
- (b) This protection shall also be afforded to any person or persons offering testimony or evidence or complying with directives authorized by this Act.
- (c) Any violations shall be subject to penalties under this Act as well as applicable law.

**ARTICLE V: SANCTIONS AND PENALTIES**

**Section 30. Administrative Sanctions**

- (a) Upon a finding that there has been a violation of any provision of this Act, the Office of the Attorney General shall impose any or all of the following penalties or sanctions:
  - 1. Issuance of a private reprimand to such person, with or without suspension of any or all other sanctions provided herein.
  - 2. Issuance of a written public reprimand, which shall be entered into such person's permanent record of office and upon the permanent record of the Tribe, according to provisions of applicable Rules of Procedures.
  - 3. Recommendation of removal, discharge, or termination from office or employment in accordance with applicable Tribal law and Rules of Procedures.

(b) No sanctions or penalties provided herein shall limit any other powers of the Office of the Attorney General, nor of any other entity or administrative officials or employees under other applicable law, rules, regulations, or procedures.