

## **CONSTITUTION OF THE OSAGE NATION**

### **ARTICLE X - CODE OF ETHICS**

Section 1. Purpose: Recognizing the desire of the Osage people to establish a government that is fair and equitable to all people; elected or appointed tribal officials and employees of the Osage Nation, putting aside their personal or private interest, shall strive for the common good of the Osage People and shall administrate fair and equal treatment of all persons, claims, and transactions petitioning before the Osage Nation Government.

Section 2. Compliance with Law and Regulations: In the performance of their duties, all officials and employees of the Osage Nation shall comply with all laws and regulations of the Osage Nation not in conflict with this Constitution.

Section 3. The Conduct of Tribal Officials and Employees: All tribal officials and employees of the Osage Nation shall avoid even the appearance of impropriety in the performance of their duties. Officials and employees shall refrain from abusive conduct, personal charges, or verbal affronts upon the character, motives, or intents of other officials or Osage citizens.

Tribal officials and employees shall not hinder or obstruct the proper administration of the Osage Nation Government in the administration of their duties.

Section 4. Conflicts of Interest: In order to assure independence and impartiality, tribal officials and employees are prohibited from using public positions to influence or otherwise effect government decisions for personal gain.

Tribal officials and employees shall fully and in a timely manner disclose any conflicts, real or apparent, that might be seen to influence their judgment in the performance of their duties. Tribal officials and employees shall abstain from

participation in deliberations or decision-making where any conflicts are deemed to exist.

Section 5. Gifts and Public Favor: Tribal officials and employees shall not accept any special advantage of services or opportunities for personal gain, by virtue of public office, that is not available to the Osage People. Tribal officials and employees shall not accept any gift, favor, or promise of future benefit for themselves or their relatives in exchange for preferential treatment.

Section 6. Use of Tribal Resources: Tribal officials and employees shall refrain from the use of tribal resources when not acting in an official capacity.

Section 7. Advocacy: All official delegates of the Osage Nation shall accurately represent the official policies and positions of the Osage Nation government to the best of their abilities. When called upon to provide their own individual opinions or positions, all such delegates shall state explicitly that such information is not representative of the position of any administrative body within the Osage Nation Government and shall not allow such an inference to occur.

Section 8. Independence of Boards and Commissions: Tribal officials and employees shall refrain from using tribal positions to improperly influence the deliberations, administrations, or decisions of established board or commission proceedings.

Section 9. Political Subdivisions: The Osage Nation Code of Ethics shall be applicable to all political subdivisions of the Osage Nation including members of the boards, commissions and other bodies.

Section 10. Provisions for Violations: The Osage Nation Congress shall enact provisions for violations of the above stated code.

## **15 § 6 - 101**

### **ETHICS LAW**

#### **Subchapter 1. Title and Purpose; Definitions**

##### **Section**

6–101. Short title

6–102. Purpose

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#### **Subchapter 2. Standards of Conduct and Restricted Activities**

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**SUBCHAPTER 1**

**TITLE AND PURPOSE; DEFINITIONS**

**§ 6–101. Short title**

This act may be cited as the “Osage Nation Ethics Law.”

ONCA 08–33, eff. Sept. 30, 2008.

**15 ONC § 6–102 GOVERNMENT**

**§ 6–102. Purpose**

The purpose of this Act is to establish clear parameters of acceptable standards of conduct by government officials, employees, and those who do business with the Osage Nation and to require accountability of elected,

appointed, and assigned Osage Nation officials and employees in exercising the authority vested with them as a matter of public trust, and to provide a process for adjudication of ethical violations and penalties as a result thereof, pursuant to Article X, Section 10 of the Constitution of the Osage Nation.

ONCA 08–33, eff. Sept. 30, 2008.

### **§ 6–103. Definitions**

As used in this Act:

A. “Attorney General” means the Office of the Attorney General of the Osage Nation established by Osage law.

B. “Business” includes 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. “Business with which the person is associated” includes any business in which the person or member of the person’s immediate family is an owner, director, officer, partner, trustee, holds any position of management or receives income in any form such as wages, commissions, direct or indirect investment, worth more than One Thousand Dollars (\$1,000.00) or holds any ownership, security or other beneficial interest, individually or combined, amounting to more than ten percent (10%) of said business, excluding headright ownership.

D. “Candidate for public office” means any person who has publicly announced such intent, authorized promotion for, or filed a declaration of candidacy or a petition to appear on the ballot for election as an Osage Nation official; and any person who has been nominated by an Osage Nation official for appointment to serve the Nation in any official capacity.

E. "Compensation" or "income" means any money or thing of value received, or to be received as a claim on future services, whether in the form of a fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense or any combination thereof. For purposes of this Act, compensation or income shall not include headright payments, or the right to receive same.

F. "Complainant" means the person making a grievance claim or an ethics violation claim.

G. "Confidential information" means information which by law or practice is not available to the public at large.

H. "Conflict of interest" means the reasonable foreseeability that any personal or economic interest of an Osage Nation official, or employee, will be affected in any different manner from the interest of the general public, by any decision, enactment, agreement, award or other official action or function of any governmental body or political subdivision of the Osage Nation.

#### **ETHICS LAW 15 ONC § 6–103**

I. "Consanguinity or affinity within the second degree" means a relative by blood within the second generation or a relative by marriage within the first or second generation.

J. "Employee" means any person employed by the Osage Nation in return for any form of pay or other compensation or thing of value received or to be received at any time temporarily, permanently or indefinitely, in any capacity; whether as agent, servant, representative, consultant, advisor or otherwise.

K. "Employment" means the status or relationship existing or created by and between a person designated or acting as an "employee" as defined herein and

the person, organization, group or other entity for whom or on whose behalf any such work, acts, services or other benefit has been, is being, or will be rendered or performed for pay or any other form of compensation.

L. "Economic interest" means an interest held by a person or a business with which the person is associated, which is:

1. Any ownership, income, investment, security, or other beneficial interest in a business, except a headright interest; or
2. Any employment or prospective employment for which negotiations have already begun.

M. "Gaming establishment" means any casino operated by the Osage Nation or any facility connected to or with that casino.

N. "Gift" includes any gratuity, special discount, favor, hospitality, payment, loan, subscription, economic opportunity, advance, deposit of money, reservation, service, personal property or other benefit received without equivalent consideration and not extended or provided to members of the public at large.

O. "Governmental body" means any branch, entity, enterprise, authority, division, department, office, commission, council, board, bureau, committee, legislative body, agency, and task force of the Executive Branch, including the Osage Nation Minerals Council, Legislative Branch, or Judicial Branch of the Osage Nation.

P. "Grievance" is any problem of an employee or groups of employees resulting from work requirements, the condition under which work is performed, or from a personnel action taken by a supervisor which may adversely affect an employee or groups of employees.

Q. "Immediate family" includes spouse, children and members of the same

household of Osage Nation officials, employees and candidates for public office, as defined in this chapter.

R. “Ministerial action” means an action that a person performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to, or in the exercise of, the person’s own judgment upon the propriety of the action being taken.

S. “Official discretionary action” means any official function of public office or employment, including any vote, decision, opinion, allocation, recommendation, approval, disapproval, finding, delegation, authorization, contracts commitment, settlement, disbursement, release or other action which involves the exercise of discretionary authority for, on behalf of or in any manner affecting

#### **15 ONC § 6–103 GOVERNMENT**

any interest or property of the Osage Nation, including any governmental body, political subdivision or member thereof.

T. “Osage Nation employee” means any employee, as defined herein, temporarily, periodically, permanently or indefinitely in the employment of the Osage Nation, and/or any governmental body thereof as defined herein, including intergovernmental personnel.

U. “Osage Nation official” means any person holding an elected or appointed office in any governmental body of the Osage Nation as defined herein.

V. “Public office” means any elected or appointed office or position of permanent or temporary service or employment in any governmental body of the Osage Nation as defined herein.

ONCA 08–33, eff. Sept. 30, 2008; ONCA 11–13, eff. April 15, 2011.



**SUBCHAPTER 2**  
**STANDARDS OF CONDUCT AND RESTRICTED ACTIVITIES**  
**OF OSAGE NATION OFFICIALS AND EMPLOYEES**

**§ 6–201. Conduct in conformity with applicable rules and laws, pursuant to Article X, Sections 2 and 3 of the Constitution of the Osage Nation**

A. Osage Nation officials and employees shall avoid even the appearance of impropriety in the performance of their duties. Osage Nation officials and employees shall refrain from abusive conduct, personal charges, or affronts upon the character, motives, or intents of other Osage Nation officials, employees or Osage citizens.

B. Osage Nation officials and employees shall not hinder or obstruct the proper administration of the Osage Nation government or businesses in the administration of their duties.

C. Osage Nation officials and employees shall further comply at all times with all applicable laws of the Osage Nation with respect to their conduct, in the performance of the duties of their respective office, and in their employment.

ONCA 08–33, eff. Sept. 30, 2008.

**§ 6–202. Conflicts of interest, pursuant to Article X, Section 4 of the Constitution of the Osage Nation**

A. No Osage Nation official or employee shall use, or attempt to use, any official or apparent authority of his or her office or duties which places, or could reasonably be perceived as placing personal priorities, private economic gain or that of any business with which the person is associated, before those of

the Osage people and the general public whose interests the office or employment is intended to serve.

B. In accordance with the Osage Constitution, all Osage Nation officials and employees shall avoid any action, whether or not specifically prohibited by law which could result in, or create the appearance of:

**ETHICS LAW 15 ONC § 6–202**

1. Using public office to influence or otherwise effect government decisions for private gain;
2. Giving preferential treatment to any special interest organization or person;
3. Impeding governmental efficiency or economy;
4. Losing or compromising complete independence or impartiality of action;
5. Garnering special favor by virtue of holding a government office or employment;
6. Disclosing proprietary information received by virtue of the office or position for personal gain or improper purpose.

C. When a Osage Nation official or employee is required to take official action on a matter in which such official or employee has a personal or economic interest, he or she upon discovering the issue shall:

1. Prepare and sign a written statement describing the matter requiring action and the nature of the potential conflict;
2. Disseminate copies of that statement to his or her immediate supervisor, the presiding officer of and/or any decision maker concerning the action to be taken, and the responsible party for inclusion in the official record of any

vote or other decision;

3. Abstain from sponsoring, influencing or in any manner attempting to influence any vote, official decision or determination which would favor or advance such person's personal economic interest in such matter; and

4. Abstain from voting or otherwise participating in the official decision or determination of such matter, unless otherwise legally required by the Osage Constitution or by law.

D. 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, agency or commission to take such action or vote upon such matter.

E. Restrictions against incompatible interests or employment.

1. Osage Nation officials and employees shall not:

a. Engage in other employment or economic activity which involves inherent substantial conflict with their responsibilities and duties as Osage Nation officials or employees of the Osage Nation;

b. Engage in economic transactions as a result of, or primarily depending upon, information obtained through their public office or employment;

c. Acquire any economic or other financial property, contractual or other economic interest at a time when they believe or have reason to believe, that it will directly and substantially affect their official actions or duties.

2. Subject to the restrictions and conditions set forth in this chapter, or other applicable laws or regulations of the Osage Nation, Osage Nation officials and employees are free to engage in lawful financial transactions to

the same extent as the general public.

#### **15 ONC § 6–202 GOVERNMENT**

3. No Osage Nation business or other Osage Nation entity shall employ an Osage Nation official or employee if such employment is prohibited or otherwise violates any provision of this chapter or the Osage Constitution.

ONCA 08–33, eff. Sept. 30, 2008.

#### **§ 6–203. Restrictions against gifts or loans to influence official acts, pursuant to Article X, Section 5 of the Constitution of the Osage Nation**

A. Except as otherwise provided herein or by other applicable law, no Osage Nation official or employee shall solicit, reserve, or accept for himself or herself or another, any gift, including economic opportunity, favor, service or goods, or loan (other than from a regular lending institution 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 Osage Nation official or employee is associated or employed; or
2. Conducts operations or activities which are regulated or in any manner supervised by any governmental office or entity with which the Osage Nation official or employee is associated or employed; or
3. Has any interest which, within two (2) years, has been directly involved with, or affected by, the performance or non-performance of any official act or duty of such Osage Nation official or employee or of the governmental office or entity with which the Osage Nation official or employee is associated or employed or which the Osage Nation official or employee knows or has

reason to believe is likely to be so involved or affected.

B. This section shall not be construed to prohibit:

1. An occasional non-pecuniary gift, insignificant in value;
2. Gifts from and obviously motivated by family, cultural, or social relationships, as among immediate family members, family inheritances, clans or districts;
3. Food and refreshments customarily made available in the ordinary course of events where an Osage Nation official or employee may properly be in attendance;
4. An award or honor customarily presented in recognition of public service; and/or
5. A political campaign contribution, in accordance with all applicable election laws and provided that such gift or loan is actually used in the recipient's political campaign for elective office of a governmental body or political subdivision thereof and provided further that no promise or commitment regarding the official duties of office or employment is made in return for such contribution.

C. On or before October 1st of each fiscal year, each elected and appointed Osage Nation official shall file an affidavit, sworn under oath, with the Osage Nation Trial Court listing all gifts received during the previous fiscal year, the giver, and the stated dollar amount of each gift.

D. Unauthorized compensation or benefit for official acts.

#### **ETHICS LAW 15 ONC § 6–206**

1. No Osage Nation official or employee shall accept or receive any benefit, income, favor or other form of compensation for performing the official

duties of their office or employment, which they are not authorized by law to receive for performing such duties.

2. No Osage Nation official or employee shall 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.

3. This section shall not be construed to prohibit the receipt of authorized compensation for the performance of other distinct and lawful public duties by Osage Nation officials or employees.

ONCA 08–33, eff. Sept. 30, 2008.

**§ 6–204. Unauthorized use of Osage Nation resources, pursuant to Article X, Section 6 of the Constitution of the Osage Nation**

A. Unauthorized personal use of property or funds of the Osage Nation. No Osage Nation official or employee shall use any property of the Osage Nation or any other public property of any kind other than as authorized. Such persons shall properly protect and conserve all such property, equipment and supplies which are so entrusted, assigned or issued to them.

B. Employee misuse prohibited. No Osage Nation official or employee shall employ or contract, with funds of the Osage Nation, any unauthorized person(s) not persons who do not perform duties commensurate with such compensation, and shall utilize authorized employees, contracted individuals and staff only for the official purposes for which they are employed or otherwise retained.

C. Confidential information. No Osage Nation official or employee shall use or disclose confidential information gained in the course of or by reason of their official position or activities to further their own economic and personal interest or that of any other person, or to the detriment of the Nation.

ONCA 08–33, eff. Sept. 30, 2008.

**§ 6–205. Advocacy, pursuant to Article X, Section 7 of the Constitution of the Osage Nation**

All Osage Nation officials of the Osage Nation shall accurately represent the official policies and positions of the Osage Nation government to the best of their ability. When called upon to provide their own individual opinions or positions, all such delegates shall state explicitly that such information is not representative of the position of any administrative or legislative body within the Osage Nation government and shall not allow such an inference to occur.

ONCA 08–33, eff. Sept. 30, 2008; ONCA 11–13, eff. April 15, 2011.

**§ 6–206. Independence of boards and commissions, pursuant to Article X, Section 8 of the Constitution of the Osage Nation**

A. Osage Nation officials and employees shall refrain from using government positions to improperly influence the deliberations, administrations, or decisions of an established board or commission.

**15 ONC § 6–206 GOVERNMENT**

B. Subject to Article VI, Section 21 of the Osage Constitution, board members of any Osage Nation enterprise board, business board or advisory board may not be employees of the Nation, or employed by any of the Nation’s wholly-owned entities, whether they are part-time, full-time, salaried, appointed, contracted or otherwise employed by the Nation. Employees appointed to a board may resign their employment position for confirmation consideration on a board. This restriction does not prohibit board members from receiving compensation for service on a board.

C. Board members of any Osage Nation enterprise board, business board or

advisory board may only serve on one board of the Osage Nation at a time.

ONCA 08–33, eff. Sept. 30, 2008; ONCA 10–98, eff. Dec. 7, 2010.

**§ 6–207. Anti–nepotism**

A. No Osage Nation official or employee shall directly appoint to any employment position with the Osage Nation or directly supervise any person or persons related by consanguinity or affinity within the second degree of said Osage Nation official or public employee. 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 the Personnel Policies and Procedures of the Osage Nation.

B. No person shall be appointed, or if appointed shall not be confirmed, to a board that has advisory, regulatory, managerial or oversight authority of any entity, where that entity employs a child, parent, spouse or sibling by blood or adoption, to the person subject to consideration for the board position.

C. Any employment or appointment found to be in violation of this section shall be reported to the appropriate head of the branch to which the alleged violator is appointed or employed, and if not corrected, shall be referred to the Attorney General for appropriate action.

ONCA 08–33, eff. Sept. 30, 2008; ONCA 11–13, eff. April 5, 2011.

**§ 6–208. Adoption of rules of conduct for officials and employees of governmental entities of the Osage Nation**

A. The Principal Chief of the Osage Nation, the Supreme Court of the Osage Nation and the Osage Nation Congress are authorized to promulgate such supplemental rules, regulations and standards of conduct for the Osage Nation officials and employees within each respective branch, 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 chapter. Upon adoption, such supplemental standards, rules and regulations shall be implemented in the same manner as all other standards, rules and regulations provided and adopted in accordance with the provisions of this chapter.

B. Other Osage Nation independent agencies, boards and commissions. Other independent agencies, boards and commissions of the Osage Nation are authorized to draft, adopt, implement and administer standards of conduct, disclosure

#### **ETHICS LAW 15 ONC § 6–302**

requirements and other procedures, rules and regulations in conformity with the purposes and provisions of this chapter.

ONCA 08–33, eff. Sept. 30, 2008.

### **SUBCHAPTER 3**

#### **IMPLEMENTATION AND COMPLIANCE WITH ETHICS LAW**

#### **BY OSAGE NATION EMPLOYEES AND OFFICIALS; TRIAL**

#### **COURT TO ADJUDICATE AND ASSESS PENALTIES,**

#### **APPEALS AND FINAL ACTION**

#### **§ 6–301. Osage Nation employees**

Complaints against Osage Nation employees shall be filed in accordance with the Human Resources Policy Manual of the Executive Branch. The Osage Nation Trial Court shall serve as the appellate forum for appeal of administrative decisions.

ONCA 08–33, eff. Sept. 30, 2008; ONCA 11–13, eff. April 5, 2011.

#### **§ 6–302. Complaints against members of Congress**

A. All ethics complaints against a member of Congress shall be filed with the Rules and Ethics Committee of the Osage Nation Congress.

1. The Rules and Ethics Committee shall take up the complaint, investigate the circumstances and determine whether a violation of ethics has occurred.

a. The elected official that is the subject of the complaint shall be given a copy of the complaint and afforded an opportunity to respond.

b. The elected official that is the subject of the complaint shall be afforded a hearing before the Rules and Ethics Committee. The accused shall be allowed to appear and present evidence on his or her own behalf.

c. The requirement of a hearing and the opportunity to present evidence shall apply to complaints moved to the Congressional Affairs Committee because of a conflict of interest.

d. The Rules and Ethics Committee shall require all complaints to be signed and notarized by the complainant before they may be considered.

2. The determination shall be put in writing and referred to the Congressional Affairs Committee. The elected official subject to a Rules and Ethics determination may appeal the determination to the Trial Court of the Osage Nation.

3. If a member of the Rules and Ethics Committee is the subject of a complaint under this Act the complaint shall be referred to the Congressional Affairs Committee for investigation and determination.

4. If a member of the Congressional Affairs Committee is the subject of a complaint under this Act that member shall recuse himself or herself from the investigation and determination.

5. The Congressional Affairs Committee may determine the appropriate

discipline for violation of this Act or Osage ethics law from the following:

a. Written warning and notice of violation to the member;

**15 ONC § 6–302 GOVERNMENT**

b. Censure by Congress; or

c. Public censure by Congress.

6. The Congressional Affairs Committee may further, by unanimous consent of the members of the Committee, file a written complaint with the Attorney General for an ethics violation.

ONCA 08–33, eff. Sept. 30, 2008; ONCA 11–13, eff. April 5, 2011.

**§ 6–303. Complaints filed with the Attorney General**

A. All complaints of ethical violations against non-Congressional Osage Nation Officials shall be filed with the Attorney General. The Attorney General shall investigate and determine whether the complaint is valid and whether the complainant has standing. The Attorney General is authorized to dismiss complaints that lack sufficient basis or standing.

B. Once the Attorney General has determined that the complaint has sufficient basis for prosecution and that the complainant has standing, the Attorney General may file the case in the Trial Court of the Osage Nation for a determination on the merits.

ONCA 08–33, eff. Sept. 30, 2008; ONCA 11–13, eff. April 5, 2011.

**§ 6–304. Adjudication of ethics violations**

In accordance with all powers and authority granted by the Osage Nation Constitution and this Act, the Supreme Court of the Osage Nation is charged with establishing procedure for filing of ethics complaints with the Attorney General and with adjudication of violations of this Act and the imposition and

enforcement of penalties for such violations. All complaints brought by the Attorney General shall be given a case number and randomly assigned to the Chief Judge and/or an Associate Judge within the Osage Nation Trial Court, who shall recuse himself or herself if he or she has any conflict which prohibits hearing the case. Once adjudicated on the merits, the Trial Court of the Osage Nation may order appropriate penalties set forth in this chapter.

ONCA 08–33, eff. Sept. 30, 2008; ONCA 11–13, eff. April 5, 2011.

#### **§ 6–305. Powers and duties of Osage Nation Supreme Court**

In furtherance of its duties, the Osage Nation Supreme Court is authorized to:

- A. Adopt, amend and publish rules to implement all provisions of this Act;
- B. Ensure that all appropriate measures are taken for protecting the confidentiality of statements, records, documents, other materials and information designated as such by this chapter or by any other applicable rules or regulations of the Osage Nation or other competent jurisdiction.
- C. Ensure that all interested parties are given notice and opportunity to be heard in all proceedings conducted under the Act, pursuant to the Osage Nation Civil Procedure law.

#### **ETHICS LAW 15 ONC § 6–401**

- D. Establish procedures for awarding and award attorney fees and costs to the prevailing party.

ONCA 08–33, eff. Sept. 30, 2008.

#### **§ 6–306. 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. This protection

shall also be afforded to any person(s) offering testimony or evidence or complying with directives of the Trial Court.

B. Complaints filed under this law shall be subject to additional protections and penalties established by Osage law.

ONCA 08–33, eff. Sept. 30, 2008.

#### **§ 6–307. Dismissals**

The Chief Judge and/or Associate Judge of the Osage Nation Trial Court assigned to a case may dismiss any complaint which it determines has insufficient facts to constitute a violation or noncompliance with this Act; or if there is insufficient evidence to support the allegations; or if the Court lacks personal jurisdiction or subject matter jurisdiction.

ONCA 08–33, eff. Sept. 30, 2008.

#### **§ 6–308. Statute of limitations**

No action shall be brought under this Act more than three (3) years after cause of action has been discovered or could have been discovered with reasonable diligence.

ONCA 08–33, eff. Sept. 30, 2008.

#### **§ 6–309. Appeals to Supreme Court**

A. The Supreme Court of the Osage Nation shall hear appeals from decisions of the Trial Court. Appeals shall be limited to questions of law.

B. The Supreme Court shall hear appeals on any penalties that shall be imposed by the Osage Nation Trial Court. Appeals shall be final and adjudicated in accordance with published rules governing such appeals.

C. Adjudication of appeals in accordance with this section shall be final.

ONCA 08–33, eff. Sept. 30, 2008.

## **SUBCHAPTER 4**

### **SANCTIONS AND PENALTIES**

#### **§ 6–401. Penalties; collection of judgments**

A. Upon finding that there has been a violation of any provisions of this Act, the Trial Court may make recommendations or impose any or all of the following penalties or sanctions:

#### **15 ONC § 6–401 GOVERNMENT**

1. A recommendation for discharge or termination proceedings to the appropriate branch of government;
2. Recommend the Osage Nation Congress initiate removal proceedings pursuant to Article XII of the Osage Nation Constitution;
3. Disqualification for all elective public offices of the Osage Nation and/or appointment to or employment in any public office of the Osage Nation, for a set number of years from the effective date of removal, discharge or any other termination of public office or employment of the Osage Nation;
4. Suspension from employment for not less than ten (10) days or not more than one (1) year, with or without pay. This penalty shall not apply to those holding an elected position.
5. Issuance of a public reprimand, which shall be entered into such person's permanent record of employment or office and upon the permanent record of the public office or entity of which such person is a member or employee, according to provision of applicable Osage Nation law and procedures;
6. Issuance of a private reprimand to such person, with or without suspension of any or all other sanctions provided herein;
7. Imposition of restitution or such other civil penalties as hereinafter

provided.

B. Any person who is found to have violated any provisions of this Act may be fined in an amount not to exceed One Thousand Dollars (\$1,000.00) for each violation of this Act.

C. No sanctions or penalty provided herein shall limit any other powers of the Osage Nation courts under other applicable law, rules, regulations or procedures.

D. In its discretion, the Osage Nation Trial Court may award attorney fees and costs to the prevailing party.

ONCA 08–33, eff. Sept. 30, 2008.

**§ 6–402. Other civil damages**

A. A person found in violation of this Act shall be further subject to, and personally liable for the following provisions, without regard to the imposition of any administrative sanction or criminal conviction:

1. Any Osage Nation official or employee who violates any economic disclosure reporting requirement of this chapter may be held liable to the Osage Nation for civil damages in an amount not to exceed the value of any interest not properly reported;
2. Any Osage Nation official or employee who realizes an economic benefit as a result of violation of any prohibition or restriction set forth in subchapters 2 and 3 of this Act shall be liable to the Osage Nation for civil damages in an amount not to exceed three (3) times the amount or value of the benefit or benefits so obtained.

B. If two (2) or more persons are responsible for any violation, each of them shall be liable to the Osage Nation for the full amount of any civil damages

**ETHICS LAW 15 ONC § 6–402**

prescribed herein, the full amount of which may be imposed upon and collected from each of them individually.

C. Any civil penalties imposed hereunder shall be collected in any manner authorized for recovery of debts or obligations owed to the Osage Nation and shall be paid into the Treasury of the Osage Nation.

D. No imposition of any or all civil damages provided herein shall be a bar to 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.

ONCA 08–33, eff. Sept. 30, 2008.



## **15 ONC § 9 - 101**

### **WHISTLEBLOWER PROTECTION**

#### **Section**

9–101. Short title

9–102. Findings; purposes

9–103. Disclosure of information by employees; prohibited action

9–104. Appeal

9–105. Disclosure of identity

9–106. False disclosures

9–107. Confidential information

#### **§ 9–101. Short title**

This Act may be cited as the “Osage Nation Whistleblower Act”.

ONCA 08–05, eff. June 13, 2008.

#### **§ 9–102. Findings; purposes**

A. The Osage Nation Congress finds that it is in the best interest of the Osage Nation to learn of legal or regulatory violations by elected officials or employees of the Osage Nation as soon as they occur.

B. The Osage Nation Congress further finds that employees who possess knowledge of legal or regulatory violations should not be punished or subjected to ridicule for reporting such violations to the Osage Nation.

ONCA 08–05, eff. June 13, 2008.

#### **§ 9–103. Disclosure of information by employees; prohibited action**

A. An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee’s compensation,

terms, conditions, location, or privileges of employment because:

1. the employee, or a person acting on behalf of an employee, in good faith, reports a violation or suspected violation of any federal, state or Osage Nation law or rule adopted pursuant to law to an employer or to any governmental body or law enforcement official;
2. the employee is requested by a public body or office to participate in an investigation, hearing, inquiry;
3. the employee refuses an employer's order to perform an action that the employee has an objective basis in fact to believe violates any Osage Nation, state or federal law or rule or regulation adopted pursuant to law, and the employee informs the employer that the order is being refused for that reason;
4. the employee, in good faith, reports a situation in which the quality of health care services provided by a health care facility, organization, or health care provider violates a standard established by federal or state law or a professionally recognized national clinical or ethical standard and potentially places the public at risk of harm; or
5. a public employee communicates the findings of a scientific or technical study that the employee, in good faith, believes to be truthful and accurate, including reports to a governmental body or law enforcement official.

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- B. The disclosures protected pursuant to this section do not authorize the disclosure of data otherwise protected by law.
- C. The protections afforded to employees or those acting on behalf of

employees shall extend to members of the employee's extended family who are also employees of the Osage Nation or its instrumentalities.

ONCA 08-05, eff. June 13, 2008.

#### **§ 9-104. Appeal**

The Osage Nation Executive Branch shall develop instructions and procedures for invoking the protections provided by this Act and distribute those instructions and procedures to all employees of the Nation and its instrumentalities within sixty (60) days of the effective date of this Act 1.

ONCA 08-05, eff. June 13, 2008.

1 June 13, 2008.

#### **§ 9-105. Disclosure of identity**

A. The identity of any employee making a report to a governmental body or law enforcement official under Section 9-103(A)(1) or Section 9-103(A)(4) of this Title, shall remain confidential. The identity of an employee providing information under Section 9-103(A)(2) of this Title, shall remain confidential if:

1. the employee would not have provided the information without an assurance that the employee's identity would remain private, because of a concern that the employer would commit an action prohibited under Section 9-103 or that the employee would be subject to some other form of retaliation;

or

2. the Tribal agency, federal agency, or Osage Nation instrumentality reasonably believes that the employee would not have provided the data because of that concern.

B. If the disclosure is necessary for prosecution, the identity of the employee may be disclosed but the employee shall be informed prior to the disclosure.

ONCA 08–05, eff. June 13, 2008.

**§ 9–106. False disclosures**

This section does not permit an employee to make statements or disclosures knowing that they are false or that they are in reckless disregard of the truth. Protections of this Act shall not extend to false statements or accusations if they are proved to be false.

ONCA 08–05, eff. June 13, 2008.

**§ 9–107. Confidential information**

This section does not permit disclosures that would violate federal, state or Osage Nation law or diminish or impair the rights of any person or the Osage Nation to the continued protection of confidentiality of communications provided by common law or contract with the Osage Nation.

ONCA 08–05, eff. June 13, 2008.

## **15 § 10 - 101**

### **SPEAK WHAT'S ON YOUR MIND**

#### **Section**

10–101. Short title

10–102. Findings

10–103. Definitions

10–104. Employee rights protection

10–105. Exceptions

#### **§ 10–101. Short title**

**This Act may be cited as the Speak What's on Your Mind Act**

ONCA 09–30, eff. April 17, 2009.

#### **§ 10–102. Findings**

The Congress finds authority for the provisions of this Act in the Osage Constitution:

Article IV, Declaration of Rights, Section 3, Inalienable Rights of Osage Citizens:

There shall be certain inalienable rights, which shall not be abridged or denied by any branch/department of the Osage Nation government or by any official of the tribal government. Furthermore nothing in this Constitution shall be interpreted in a way that would diminish the rights and privileges of any person within the jurisdiction of the Osage Nation. The Osage Nation government in exercising sovereign powers shall not:

A. make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech or the press, or the right of the people

peaceably to assemble and to petition for redress of grievances.

Article X, Section 7, Advocacy:

All official delegates of the Osage Nation shall accurately represent the official policies and positions of the Osage Nation government to the best of their abilities. When called upon to provide their own individual opinions or positions, all such delegates shall state explicitly that such information is not representative of the position of any administrative body within the Osage Nation government and shall not allow such an interference to occur.

ONCA 09–30, eff. April 17, 2009.

#### **§ 10–103. Definitions**

A. “Delegate” means one who represents or acts for another person or group.

B. “Osage Nation government” means the three branches of Osage government, Executive, Legislative and Judicial, and all of the elected officials,

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appointed officials, contract employees, full-time employees and part-time employees of those branches, and also includes all officials and employees of departments, programs or entities that are not legally recognized as separate from the Osage Nation.

ONCA 09–30, eff. April 17, 2009.

#### **§ 10–104. Employee rights protection**

A. Notwithstanding the provisions of any Osage Nation ethics code requiring Osage Nation employees to refrain from abusive conduct, personal charges, or verbal affronts upon the character, motives, or intents of other officials and

Osage citizens, no policy or practice of the Osage Nation government shall:

1. Abridge or impair the right of employees of the Osage Nation to express their personal opinions, provided that when called upon to do so an employee shall state explicitly that such information is not representative of the position of any administrative body;
2. Abridge or impair the right of an employee to freely express a political opinion, provided that expression is made when not acting in their official capacity;
3. Limit in any way the right of association with any group or individual;
4. Limit the free expression of ideas and thoughts when not acting in their official capacity;

B. No policy or practice of Osage Nation government shall allow for the punishment, demotion, reprimand or any other retaliation against an employee for exercising the rights guaranteed by the Osage Nation Constitution and affirmed by this Act.

1. The prohibitions contained in this Act shall not be interpreted to absolve an employee of their duty to fulfill the responsibilities of their position, and to do so in a manner consistent with the goals and objectives set forth by their superiors.

2. The prohibitions contained in this Act shall not be interpreted to absolve an employee of their duty to protect confidential information and documents of the Osage Nation when entrusted with them in their capacity as an employee.

C. Due process in the Osage Nation courts shall be provided to any employee of the Osage Nation whose rights of free speech or association are abridged in

violation of this Act. The Osage Nation courts are granted jurisdiction over employment actions involving freedom of speech and freedom of association after administrative remedies are exhausted.

D. Upon the effective date of this Act **1**, any policies of the Osage Nation government in conflict with the provisions of this Act are void and without force and effect.

ONCA 09–30, eff. April 17, 2009.

1 April 17, 2009.

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### **§ 10–105. Exceptions**

This Act shall not apply to:

- A. Gaming Commission employees;
- B. Gaming Enterprise Board employees;
- C. Million Dollar Elm Enterprises employees; or
- D. Osage Minerals Council employees.

ONCA 09–30, eff. April 17, 2009.