

FILED APR 08 2020

By 

IN THE SUPREME COURT OF THE OSAGE NATION
PAWHUSKA, OKLAHOMA

In re:

Ethics Law Complaints and Appeals

RULE OF COURT¹

These Rules shall only apply to matters arising under 15 ONC § 6-101 *et seq.* (Osage Nation Ethics Law), as amended, a copy of which is attached to these Rules. These Rules supersede any prior rules.

Rule 1: Authority; Purpose

- 1.1 These rules are adopted pursuant to 15 ONC § 6-305(a) (Osage Nation Ethics Law), which authorizes the Supreme Court “to adopt, amend and publish rules” to implement its provisions.
- 1.2 15 ONC § 6-304 further directs the Osage Nation Supreme Court to establish “procedure[s] for filing of ethics complaints with the Attorney General and with adjudication of violations of [the Ethics Law] and the imposition and enforcement of penalties for such violations.”
- 1.3 These rules are intended to ensure that ethics complaints filed in the Osage Nation Courts are conducted in a fair and expeditious manner.
- 1.4 These rules supersede and replace prior rules issued on or around September 1, 2016.

Rule 2: Definitions

- 2.1 Masculine words shall include the feminine, and singular words shall include the plural, and vice versa.
- 2.2 Words shall be given their plain meaning and technical words shall be given their usually understood meaning where no other meaning is specified.
- 2.3 Whenever a term is defined for a specific part of applicable Osage Nation law, that definition shall apply to all parts of these rules unless a contrary meaning is clearly intended.

Rule 3: Ethics Complaints - Generally

- 3.1 The Osage Nation Ethics Law requires complaints against Osage Nation employees to be filed in accordance with the Osage Nation Human Resources Manual. 15 ONC § 6-301.

¹ The Chief Justice is responsible for promulgating Rules of Court under 5 ONC § 1-118.

- 3.2 The Trial Court reviews complaints against employees once they have been processed in accordance with the Osage Nation Human Resources Manual. 15 ONC § 6-301.
- 3.3 Any person may file a complaint for ethical violations by Tribal Officials with the Osage Nation Attorney General. The Attorney General investigates and determines whether the complaint is valid and that the complainant has standing. The Attorney General is authorized to dismiss complaints that lack sufficient basis or standing. Once the Attorney General has determined the complaint has sufficient basis for prosecution and that the complainant has standing, the Attorney General files the case in the Osage Nation Trial Court for a determination on the merits. 15 ONC § 6-303.
- 3.4 The Trial Court will only accept complaints for Ethics Law violations against Osage Nation officials that are filed by the Attorney General. 15 ONC § 6-304.
- 3.5 All parties and their attorneys as well as court officers and personnel shall take all appropriate measures to protect the confidentiality of statements, records, documents, other materials and information designated as such by applicable Osage Nation law, including the Osage Nation Ethics Law (15 ONC ch. 6), the Whistleblower Act (15 ONC ch. 9), and applicable Osage Nation regulation, Osage Nation court rule or other rules and regulations of “other competent jurisdiction.” 15 ONC § 6-305(b).

Rule 4: Complaints Filed by Attorney General

- 4.1 Civil Rules of Procedure to Apply. Unless specifically required by the Ethics Law, Osage Nation law or court rule, the federal rules of civil procedure shall apply to proceedings under the Ethics Law.
- 4.2 Ethics Complaint. To initiate proceedings under the Ethics Law, the Attorney General must file a sworn complaint that contains a particularized statement of facts upon which the complaint is based, which, if true, would constitute such a violation. The complaint must include a brief statement of the grounds for the Court’s jurisdiction and a statement as to what sanctions are being sought.
- 4.3 Case Number and Judge Assignment. Upon receipt of the sworn complaint, the Court Clerk shall assign the matter a civil case number and randomly assign the matter to a trial court judge. 15 ONC § 6-304.
- 4.4 Summons. The Court Clerk shall generate a summons and calendar a hearing at least 60 days from the date of filing. The summons must:
 - (a) name the court and the parties;
 - (b) be directed to the defendant;
 - (c) state the name and address of the Attorney General;
 - (d) state the time within which the defendant must appear and defend;

- (e) notify the defendant of the nature of the hearing;
 - (f) notify the defendant that a failure to file a response within 20 days of service may result in a default judgment against the defendant and the defendant may be subject to sanctions pursuant to the Ethics Law;
 - (g) notify the defendant of his rights before the Court;
 - (h) be signed by the clerk; and
 - (i) bear the court's seal.
- 4.5 Notice of Hearing. At the same time the summons is generated, the Court Clerk shall schedule a hearing at least 60 days from the date of filing and generate a *Notice of Hearing* to include with the summons and complaint. The *Notice of Hearing* shall state the day, date, time, address and nature of hearing and shall bear the Court Clerk's signature.
- 4.6 Service. The summons must be served with a copy of the complaint. The Attorney General is responsible for serving the summons and complaint on the defendant. Personal service must be attempted first, followed by certified mail, return receipt requested at the defendant's last known addresses.
- (a) Any person at least 18 years of age and not a party to the action may serve the summons and complaint.
 - (b) The defendant may also waive service in writing without waiving other defenses and objections.
 - (c) Proof of service or a waiver of service must be filed with the Court Clerk within twenty (20) days of the scheduled hearing. The Court may grant an extension upon a showing of good cause and continue the scheduled hearing to allow the Attorney General to perfect service. The Court Clerk shall generate a new notice of hearing when a hearing is continued to perfect service.
- 4.7 Defendant's Answer. The defendant must file an answer to the complaint within twenty (20) days of service. The answer must state any defenses to each allegation in the complaint and admit or deny each allegation. The answer must also state any affirmative defenses the defendant intends to assert.

Rule 5: Employee Appeals

- 5.1 The provisions of 3 ONC § 1-108 shall apply to decisions on Ethics Law violations against employees.
- 5.2 Unless otherwise specified by Osage Nation law, petitions for appellate review of Ethics Law decisions against Osage Nation employees shall be filed within thirty (30) days of the decision which is the subject of such appeal. Exhaustion of administrative remedies is a jurisdictional requirement to seeking judicial review.

- 5.3 Proceedings for appellate review under the Ethics Law shall be initiated by filing a petition in the Osage Nation Trial Court. The petition must include a copy of the decision and a statement as to the grounds for the appeal.
- 5.4 Upon receipt of the petition, the Court Clerk shall assign a civil case number to the petition and randomly assign the matter to a trial court judge.
- 5.5 Summons and Notice of Hearing. Upon receipt of the petition, the Court Clerk shall generate a summons and notice of hearing as set forth in Rules 4.4 and 4.5 above.
- 5.6 Service. The petition shall be served by the Petitioner and proof of service shall be filed within twenty (20) days of the scheduled hearing. Copies of any such petition for review shall be served upon the deciding agency, the Office of the Attorney General and all parties of record by personal service as set forth in Rule 4.6 above. Service may be waived in writing by the Respondents. If personal service cannot be accomplished, the Petitioner may attempt service by certified mail, return receipt requested.
- 5.7 Transmittal of Record. Within ten (10) days after service of the petition, or within such further time as the Court may allow, the department shall transmit to the reviewing Court the original or a certified copy of the entire record of the proceeding under review, but by stipulation of all parties to the review proceeding, the record may be shortened. The Court may require or permit subsequent corrections or additions to the record when deemed desirable and in the interests of justice.
- 5.8 Answer. Responses to the Petition shall be filed by the agency within twenty (20) days of service and served on the Petitioner and his counsel of record (if applicable).
- 5.9 The review shall be conducted by the Court without a jury and shall be confined to the record. Any alleged irregularities in procedure before the agency, not shown in the record, shall be submitted to the Court in the form of a motion to the Court, supported by a memorandum of law and affidavits. The Court may, in the case of motions, and shall otherwise, upon request, hear oral argument and receive written briefs. The length of briefs and time for arguments shall be set by the Court.
- 5.10 The Court shall review such decisions *de novo*. It may affirm the final decision; it may remand the decision for further proceedings; or it may reverse the decision, in whole or part, if the Petitioner's rights have been prejudiced because the decision is:
- (a) In violation of constitutional provisions;
 - (b) Unsupported by substantial evidence on the record taken as a whole;
 - (c) Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
or
 - (d) Without observance of procedure required by law.

In making its determinations, the Court shall review the whole record, or those parts of it cited by either party. Errors that do not prejudice the Petitioner shall not be construed as reversible error.

Rule 6: Judgment

- 6.1 Every order issued by the Trial Court shall be in writing and contain findings of fact and conclusions of law.
- 6.2 Orders shall be issued within thirty (30) days of the date the Trial Court takes the matter under advisement or the date of oral argument, whichever is later.

Rule 7: Appeals

- 7.1 An aggrieved party may request review of any final judgment or final decision of the Trial Court by appeal to the Osage Nation Supreme Court. Such appeal shall be based upon the record and shall be taken in the manner provided by law for appeals from the Trial Court in other civil cases. All decisions shall be reviewed *de novo*.

Rule 8: Extensions of Time.

- 8.1 The Court may, upon motion of either party, extend the time periods set forth herein upon a showing of good cause.

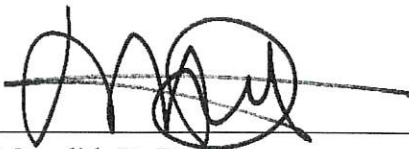
Rule 9: Rules Not Announced.

- 9.1 The Trial Court may issue other directives or orders to ensure the timely resolution of actions filed under the Ethics Law:
 - (a) When the interests of justice require it;
 - (b) To avoid prejudice to the parties; and/or
 - (c) To ensure basic due process requirements are satisfied.

Rule 10: Effective Date; Modification; Severability

- 10.1 Effective Date. These rules shall take effect as of the date set forth below.
- 10.2 Modification. These rules may be modified by order of the Osage Nation Supreme Court Justice in accordance with 5 ONC § 1-118 but shall not be construed to impact pending cases.
- 10.3 Severability. If any provision of these Rules is declared invalid, then the remaining provisions shall be unaffected.

SO ORDERED: 4/08/2020



Meredith D. Drent
Chief Justice, Osage Nation Supreme Court

Chapter 6

ETHICS LAW

Sections:

Subchapter 1. Title and Purpose; Definitions

- 6-101 Short title.
- 6-102 Purpose.
- 6-103 Definitions.

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.
- 6-202 Conflicts of interest, pursuant to Article X, Section 4 of the Constitution of the Osage Nation.
- 6-203 Restrictions against gifts or loans to influence official acts, pursuant to Article X, Section 5 of the Constitution of the Osage Nation.
- 6-204 Unauthorized use of Osage Nation resources, pursuant to Article X, Section 6 of the Constitution of the Osage Nation.
- 6-205 Advocacy, pursuant to Article X, Section 7 of the Constitution of the Osage Nation.
- 6-206 Independence of boards and commissions, pursuant to Article X, Section 8 of the Constitution of the Osage Nation.
- 6-207 Anti-nepotism.
- 6-208 Adoption of rules of conduct for officials and employees of governmental entities of the Osage Nation.

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.
- 6-302 *Repealed.*
- 6-303 Complaints filed with the Attorney General.
- 6-304 Adjudication of ethics violations.
- 6-305 Powers and duties of Osage Nation Supreme Court.
- 6-306 Retaliation prohibited.
- 6-307 Dismissals.

- 6-308 Statute of limitations.
6-309 Appeals to Supreme Court.

Subchapter 4. Sanctions and Penalties

- 6-401 Penalties; collection of judgments.
6-402 Other civil damages.

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.

§ 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 a tribal 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 a tribal 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 of function of any governmental body or political subdivision of the Osage Nation.

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 headlight 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. "Nepotism" means favoritism or patronage by a person that influences the appointment, confirmation, or employment of an Osage Nation official, board member, or employee with whom he/she has a familial relationship.

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

U. "Person related within the second degree of blood or marriage" means the following person(s):

1. Spouse;
2. Any child by birth or legal adoption;
3. Any current spouse of a child;
4. Any parent;
5. Any parent's current spouse;
6. Any current or former stepchild;
7. Any stepparent;
8. Any grandchild or grandchild's spouse;
9. Any grandparent or grandparent's spouse;
10. Any sibling, whether full or half-blood, or a sibling's spouse;
11. Spouse's child or spouse's parent;
12. Spouse's grandchild or spouse's grandparent; and
13. Spouse's sibling.

V. "Position of profit" means a salaried nontemporary employment position by classification. It does not mean an independent contractor.

W. "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.

X. "Tribal 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.

Y. "Tribal official" means any person holding an elected or appointed office in any governmental body of the Osage Nation as defined herein. ONCA 08-33, eff. Sept. 30, 2008; ONCA 11-13, eff. Apr. 15, 2011; ONCA 14-36, eff. Apr. 23, 2014.

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:
 - 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 an 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.
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 years, has been directly involved with, or affected by, the performance or nonperformance 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 nonpecuniary 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.*
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. Apr. 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.

B. Subject to Article [VI](#), Section [21](#) of the Osage Constitution, board members of any tribal 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 tribal enterprise board, business board or advisory board may only serve on one board of the Osage Nation at a time, except that Board members of Tallgrass Economic Development, LLC are permitted to serve on the Board of Osage, LLC. ONCA 08-33, eff. Sept. 30, 2008; ONCA 10-98, eff. Dec. 7, 2010; ONCA 17-79, eff. June 13, 2017.

§ 6-207.**Anti-nepotism.**

A. No Osage Nation official shall appoint to any employment position with the Osage Nation or directly supervise any employee related by blood or marriage within the second degree of said Osage Nation official. 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 and its entities.

B. No Osage Nation official shall appoint to any Board, Commission, Council or Authority of the Osage Nation or an interim basis or otherwise any person related by blood or marriage within the second degree of said Osage Nation official. Should such appointment occur, the Osage Nation Congress shall request that the appointing official remove said appointee. If such removal is not accomplished within thirty (30) days of said request, the Osage Nation Congress shall initiate removal proceedings in accordance with the Osage Constitution.

C. No Osage Nation official shall appoint or confirm a person to a board that has direct regulatory or direct managerial or supervisory authority over a relative of said person by blood or marriage within the second degree.

D. An Osage Nation official who violates any provision of this section shall be subject to prosecution by the Osage Nation Attorney General and any other penalties imposed by Osage law. ONCA 08-33, eff. Sept. 30, 2008; ONCA 11-13, eff. Apr. 15, 2011; ONCA 13-54, eff. July 9, 2013; ONCA 13-69, eff. Sept. 20, 2013; ONCA 14-36, eff. Apr. 23, 2014.

§ 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 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. Apr. 15, 2011.

§ 6-302.

Repealed by ONCA 13-53, eff. July 11, 2013.

Repealed.

§ 6-303.

Complaints filed with the Attorney General.

A. All complaints of ethical violations by Osage Nation officials shall be filed with the Attorney General. The Attorney General shall investigate and determine that the complaint is valid and that 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 shall 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. Apr. 15, 2011; ONCA 13-53, eff. July 11, 2013.

§ 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. Apr. 15, 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.
 - 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 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:

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 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 chapter shall be liable to the Osage Nation for civil damages in an amount not to exceed three times the amount or value of the benefit or benefits so obtained.

B. If two 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 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.

The Osage Nation Code is current through Act 19-96, passed September 30, 2019.

Disclaimer: The Legislative Office has the official version of the Osage Nation Code. Users should contact the Legislative Counsel for laws passed subsequent to the law cited above.

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