

LUMBEE TRIBE OF North Carolina

PO BOX

PEMBROKE, NC 28372

(910) 521-7861

ORDINANCE NO. 2002-007

DATE: October 17, 2002

WHEREAS, The Lumbee Tribe of North Carolina, a recognized Indian Tribe of the State of North Carolina, subject to the Constitution of the Lumbee Tribe of North Carolina and its inherent powers of self-government; and

WHEREAS, Article VII, Section 1 of the Constitution of the Lumbee Tribe of North Carolina delegates all legislative authority to the Tribal Council; and

WHEREAS, in order to avoid any conduct that capitalizes on or creates the appearance of an intention to capitalize on his or her position as a Tribal Council member, officer, or employees in the making of a decision where a financial conflict of interest exists,

THEREFORE, be it enacted by the Tribal Council of the Lumbee Tribe of North Carolina the following ordinance that shall be cited as "FINANCIAL DISCLOSURE STATEMENT"

Section 1: Financial Disclosure Statement

Every member must, within 30 days of being elected, appointed, and/or employed and after that at the beginning of every fiscal year, file with the Tribal Administrator or his or her designee a "Financial Disclosure Statement of Substantial Interests" in the form prescribed by the following regulations:

- (a) A statement of the nature of the assets, liabilities and financial interests of the member, the member's spouse and minor children, and private corporations controlled by any of them; and
- (b) Any other information that is prescribed by the regulations to be contained in the disclosure statement; and
- (c) After filing a disclosure statement, the member must continue to disclose any material change in the assets, liabilities and financial interests of the member, the member's

spouse and minor children and private corporations controlled by any of them by filing a statement of material change with the Tribal Administrator within 30 days of the material change.

Section 2: Reporting procedures when substantial interest exits

1. When a Tribal Council member, officer, or employee becomes aware that the Lumbee Tribal Government is attempting or planning to enter, is entering, or has entered into a contract with a business entity in which he or she has substantial interest, the person must report the nature of the substantial interest to the Comptroller's Office of the tribal government. A written report of this interest should be retained as a public record by the Comptroller.
2. If the person is a finance officer and has substantial interest, then he or she must file a written report with the Tribal Administrator.
3. Any person who receives a written report of a conflict related to financial substantial interest shall forward that report to the Comptroller.
4. If the Comptroller believes that the contract is permissible according to all standards established by the Tribal Government, then the Comptroller:
 - a. Must make a written report and submit it to the Tribal Administrator
 - b. The Tribal Administrator may accept the written report, or submit the report to the Tribal Council (or should this be Ethics Committee) for contract determination.
 - (i) If the Tribal Administrator accepts the report, he or she shall report to the Ethics Committee on a quarterly basis the contracts that have been approved pursuant to #4.
5. If the Comptroller believes that the contract is not permissible:
 - a. The person with the substantial interest can appeal in writing to the Ethics Committee (?)
 - b. The Ethics Committee can rule on the evidence presented in writing or ask the person to appear to defend his or her position. The ruling by the Ethics Committee shall state why a proposed contract is permissible or why it is not permissible. This ruling must be entered in the official minutes of the Lumbee Tribal Council minutes.

Section 3: Sanctions for failure to disclose financial interest

A Tribal Council member, officer, or employee who is alleged to have violated this Ordinance by failing to comply with filing a Disclosure or by misrepresenting information on the Disclosure shall be notified of the allegation. He or she may be present at any committee meeting that is convened to hear the facts on the allegation, to provide facts or arguments that he or she did not violate this Ordinance.

1. If the Ethics Committee finds that a member of the Tribal Council or an officer has violated this Ordinance, they are required to bring this violation to the Tribal Council which may take one or more of the following action:

- a. Reprimand or censure the member in writing, which shall be a part of the official minutes.
 - b. Remove the person from the Council position and from holding any further committee or assignments of office or authority.
2. If the Tribal Council finds that the Tribal Chairman has violated this policy, the Tribal Council may discipline or dismiss the Chairman, as it deems appropriate.
 3. If the Tribal Chairman finds that the Tribal Administrator or Comptroller has violated this Ordinance, the Tribal Chairman will report his/her findings of violation to the Tribal Council. The Chairperson and Tribal Council shall determine the action to be taken.

Definitions

“Business entity” means an individual, corporation, partnership, joint venture, not for profit corporation, and any other entity doing business or any wholly owned subsidiary of any such entity.

“Substantial interest” means any of the following:

1. Ownership by a person, or by the person’s spouse or dependent child, collectively, including ownership as the beneficiary of a trust, of an interest of 10% or more in a business entity;
2. Annual income, or expected annual income, by the person or by the persons’ spouse or dependent child, collectively, of more than \$5000 from a business entity. Annual income includes earned income only if the person, or the person’s spouse or dependent child will receive a bonus, commission, or other payment in any amount directly because of a contract with or purchase by the Lumbee Tribal Council and the Lumbee Tribal Government. Income does not include income from capital gains.
3. Service by the person or the person’s spouse or dependent child, as an officer, trustee, director or employee of a business entity except that uncompensated service as a director, officer or trustee of a not for profit corporation is not a substantial interest.

- (a) Ownership by a person, or by the person's spouse or dependent child, collectively, including ownership as the beneficiary of a trust, of an interest or 10% or more in a business entity,
- (b) Annual income, or expected annual income, by the person or by the person's spouse or dependent child, collectively, or more than \$5,000 from a business entity. Annual includes earned income only if the person, or the person's spouse or dependent child, will receive a bonus, commission or other payment in any amount directly as a result of a contract with or purchase by the Lumbee Tribal Government. Income does not include income from capital gains.
- (c) Service by the person or the person's spouse or dependent child, as an officer, trustee, director or employee of a business entity except that uncompensated service as a director, officer, or trustee of a not-for-profit corporation is not a substantial interest.

Section 4: Procedures to handle Conflict of Interest and Ethics Violation

To file a complaint, a person must have reasonable and probable grounds to believe that a Council member or officer is in violation of this Ordinance and shall:

- (a) In writing, state the grounds for the belief and the nature of the alleged violation and present the written statement to the Chairperson of the Ethics Committee,
- (b) The Chairperson of the Ethics Committee shall convene a meeting within ten (10) days of receiving the complaint in order to consider the information.
- (c) The alleged violator is to be notified and may be present at any committee meeting that is convened to hear the facts on the allegation, to provide facts or arguments that he or she did not violate this Ordinance.
- (d) At the next scheduled Council meeting or at a special called meeting, the Committee shall render an opinion to the Tribal Council regarding the compliance of the Council member or officer with the provisions of this Ordinance.

Section 5: Sanctions

1. A Tribal Council member or officer found guilty of violating this Ordinance shall be notified in writing by the Speaker of the Tribal Council the findings and the sanctions which may be one or more of the following action:
 - a. To reprimand or censure the member in writing which shall be a part of the official minutes.
 - b. To prohibit the person from holding any further committee or assignments of office or authority.
 - c. To remove the person from the Council position or office in accordance with any Ordinance on removal of representatives from council seats.
2. If the Tribal Council finds that the Tribal Chairman has violated this policy, the Tribal Council may use the same sanctions or may discipline or dismiss the Chairman, as it deems appropriate.

3. If the Tribal Chairman finds that the Tribal Administrator or Comptroller has violated this Ordinance, the Tribal Chairman will report the violation to the Tribal Council. The Chairperson and Tribal Council may use the same sanctions (a - c) or discipline or dismiss the Tribal Administrator, as they deem appropriate.

Any person who has reasonable and probable grounds to believe that an employee is in violation of this Ordinance shall:

- (a) Follow employee policies to report the employee's violation of this Ordinance

Section 5: Establishment of the Ethics Committee as a Standing Committee

This Ordinance establishes the Ethics Committee as a Standing Committee that shall follow the guidelines for all committees established by the Tribal Council.

Section 6: Activities on behalf of constituents

This Ordinance does not prohibit the activities in which members normally engage on behalf of constituents.

Definitions

"Conflict of Interest" - A Tribal Council member has a conflict of interest when the member exercises an official power or performs an official duty or function in the execution of his or her office and at the same time knows that in the performance of the duty or function or in the exercise of the power there is the opportunity to further his or her private interest.

"Apparent Conflict of Interest" - A Tribal Council member has an apparent conflict of interest if there is a reasonable perception, which a reasonably well informed person could properly have, that the member's ability to exercise an official power or perform an official duty or function must have been (or can be) affected by his or her private interest.

"Ethics Committee" - A Committee of tribal council members who shall be responsible for the designated task written in this Ordinance along with any other responsibility established by the Tribal Government.

"Political Activity" means an effort to support or oppose the election of a candidate for political office in an election.

"Spouse" means a person who is married to a member or a person who is living with a member as husband and wife but does not include a husband or a wife who is separated and living apart from a member and who

(A) Has entered into a written agreement under which they have agreed to live apart, or

(B) Is subject to an order of the court recognizing the separation.

"Child" includes a person to whom a member has demonstrated a settled intention to treat as a child of his or her family:

"Officer/official/representative of the tribe" means the person elected/appointed.

CERTIFICATION

This Ordinance adopted this the 17th day of October, 2002 at a meeting of the Lumbee Tribal Council by a vote of 17 for and 0 against.

Speaker of the Tribal Council of the Lumbee Tribe of North Carolina

Secretary of the Tribal Council of the Lumbee Tribe of North Carolina

Milton D. Hunt

12-13-02

Tribal Chairman of the Lumbee Tribe of North Carolina

POSTING:

This Ordinance duly posted in the Office of the Lumbee Tribe of North Carolina on this the 14th day of November, 2002 by the Person identified below:

Robt B. Seblor

11-14-02

Signature

Date