



# PUEBLO OF ISLETA

P.O. BOX 850  
ISLETA, NM 87022

## **PUEBLO OF ISLETA Resolution No. 2012-055**

### **Amending the Pueblo of Isleta Ethics Code**

The following resolution was passed at a duly called meeting of the Tribal Council of the Pueblo of Isleta:

**WHEREAS**, the Pueblo of Isleta is a federally recognized Indian tribe with a written Constitution adopted pursuant to the Indian Reorganization Act and with inherent powers of self-government;

**WHEREAS**, Tribal Council is the governing body of the Pueblo of Isleta;

**WHEREAS**, on November 30, 2010, the Tribal Council enacted an Ethics Code for Pueblo of Isleta tribal officials to ensure that these tribal officials conduct themselves with integrity and honesty while in public office;

**WHEREAS**, Tribal Council finds a compelling government interest in enacting the Ethics Code to regulate tribal official conduct;

**WHEREAS**, the Ethics Code is an internal, Pueblo of Isleta code for tribal officials and was enacted under inherent tribal sovereignty of the Pueblo of Isleta;

**WHEREAS**, based on legal review, Tribal Council finds, therefore, that Secretary of Interior approval of the Ethics Code is not necessary;

**WHEREAS**, Tribal Council amended the Ethics Code on December 30, 2010;

**WHEREAS**, Tribal Council wishes to again exercise the inherent sovereignty of the Pueblo of Isleta by amending the Ethics Code as attached to this Resolution; and

**WHEREAS**, Tribal Council finds it in the best interest of the Pueblo of Isleta to amend the Ethics Code as attached.

**NOW THEREFORE BE IT RESOLVED** that Tribal Council hereby amends the attached Ethics Code, to become effective immediately.

**BE IT FURTHER RESOLVED** that, based on legal review, Tribal Council finds that these amendments do not need to be approved by the Secretary of Interior before becoming effective.

**BE IT FURTHER RESOLVED** that Tribal Council has delegated subpoena and other authority to the Ethics Board to carry out the provisions of the Ethics Code.

**BE IT FINALLY RESOLVED** that all Tribal Officials subject to this Ethics Code shall sign the Acknowledgement Form as prescribed in the Ethics Code.

**CERTIFICATION**

We, the undersigned officials of the Pueblo of Isleta, hereby certify that the foregoing Resolution was duly adopted by the Pueblo of Isleta Tribal Council at a regular meeting held on the 19<sup>th</sup> day of July, 2012, with a quorum present, with -7- voting for, -1- opposing, and -0- abstaining.

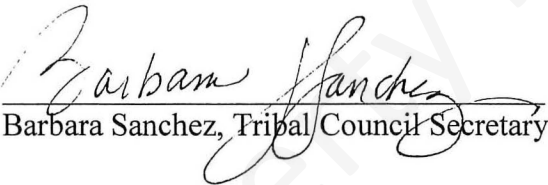


Fred Lujan, Tribal Council President

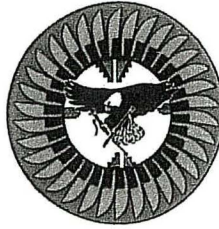


Frank Lujan, Pueblo of Isleta Governor

**ATTEST:**



Barbara Sanchez, Tribal Council Secretary



## **ETHICS CODE FOR PUEBLO OF ISLETA TRIBAL OFFICIALS**

### **SECTION 1: PURPOSE AND INTENT**

#### **(A) Purpose**

The government of the Pueblo of Isleta is founded upon the consent of the governed. Therefore, the People of the Pueblo of Isleta are entitled to have complete confidence in the loyalty and integrity of their government. The purpose of this Ethics Code is to require accountability to the People of the Pueblo of Isleta by their elected and appointed tribal officials, specifically the Governor, Lt. Governors, Tribal Council members, Sheriffs, Treasurer, Tribal and Appellate Judges and various Board and Commission members appointed by Tribal Council (hereinafter referred to as "Tribal Officials") in exercising the authority vested in them as a matter of public trust, by:

- (1) establishing standards of conduct to avoid such conflicts of interest as the use of public offices, employment or property for private gain, the granting and exchange of favored treatment to persons, businesses or organizations; and the conduct of activities by Tribal Officials which permits opportunities for private gain or advantage to influence government decisions;
- (2) requiring the disclosure of significant economic and business interests and affiliations of Tribal Officials which involve any potential for conflict with the primary interest of the people and government of the Pueblo of Isleta.
- (3) requiring Tribal Officials to abstain from using any function of their office or duties, in a manner which could place, or appear to place, their personal economic or special interests before the interests of the people of Isleta and general public.

At the first official meeting of every term of office, or otherwise upon the election or appointment of the Tribal Official, the Ethics Code will be provided to each Tribal Official, who will acknowledge receipt of the Ethics Code by signing and dating the Ethics Code Acknowledgment Form. Acknowledgment Form will verify that the Tribal Official has read, acknowledges and understands the Ethics Code, and will be filed in the Tribal Council office in each Tribal Official's file therein, as well as a copy to be filed and kept by the Ethics Board. Notwithstanding the foregoing, each Tribal Official will be subject to the Ethics Code, even if the Acknowledgment Form is not signed by a Tribal Official.

**AMENDED BY TRIBAL COUNCIL  
APPROVED VERSION**

**July 17, 2012**

**Page - 1 -**



Subject to the provision in Section 3(F) of this Ethics Code, any violation of its provisions will subject the Tribal Official to the Sanctions and Penalties of Section 5.

## **SECTION 2: STANDARDS OF CONDUCT AND RESTRICTED ACTIVITIES**

### **(A) Compliance with Applicable Rules and Laws.**

Tribal Officials shall at all times conduct themselves so as to reflect credit upon the Pueblo of Isleta government and comply with all applicable federal, state and tribal laws of the Pueblo of Isleta in the performance of the duties of their respective office.

### **(B) General Prohibitions: Conflicts of Interest.**

(1) No Tribal Official shall use, or attempt to use, any official or apparent authority of their office or duties which places, or could reasonably be perceived as placing their private economic gain or that of any special business interests with which they are associated, before the people of the Pueblo of Isleta and the general public, whose paramount interests their office or employment is intended to serve.

(2) It is the intent of this subsection (B) that Tribal Officials avoid any action, which could result in, or create an appearance of,

- (a) Using public office or employee position for private gain;
- (b) Giving preferential treatment to any special interest organization or person;
- (c) Impeding governmental efficiency or economy;
- (d) Making a government decision outside official channels; or
- (e) Adversely affecting the confidence of the People in the integrity of the government of the Pueblo of Isleta.

### **(C) Use of Confidential Information for Private Gain.**

No Tribal Official 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 anyone else. For purposes of this Code, confidential information shall mean all technical and non-technical information disclosed to anyone covered by this Code, including but not limited to trade secrets, proprietary information notes, marketing plans, financial data, analyses, compilations, studies, reports, memoranda or other documents, and includes information that is not in written form.

### **(D) Official Capacity of Tribal Officials**

(1) No Tribal Official shall engage in tribal government or tribally owned and operated businesses or business ventures, employment or activities not

AMENDED BY TRIBAL COUNCIL

APPROVED VERSION

July 17, 2012

Page - 2 -



compatible with the full and proper discharge of the duties and responsibilities of their position. Tribal members employed by any federal, state and tribal government, and running for office, shall begin the clearance process with their supervisors and submit their completed Clearance Form along with a completed Declaration of Candidacy Form. Should a Tribal Council member seek and obtain employment within tribal government or tribally owned and operated businesses or business ventures, the Tribal Council member shall submit a letter of resignation from the Tribal Council at the next duly called Tribal Council meeting after being informed of the selection for employment.

(2) No Tribal Official shall use his/her position to coerce, threaten, or intimidate a person or group to provide financial benefit or personal gain to the Tribal Official or another person with whom he/she has family, business or financial ties, or for any other purpose that is deemed improper. This shall include the selling or soliciting of goods, gifts, loans, entertainment, or favors for him/herself or another person with whom he/she has family, business, or financial ties, or any other purpose. For purposes of this Code, the term "family" shall include sibling, child, spouse or cohabitant. Tribal Officials will also adhere to Resolution 2009 – 001 (as may be amended from time to time) which allows for each official to obtain up to four (4) complimentary tickets to enter into any sporting and similar events staged at the Isleta Casino and Resort (See attached Resolution), as well as any participation in any other sponsorship events.

(3) Tribal Officials are restricted from using their official title, position, or office while conducting personal business.

(4) Tribal Officials shall not make false or fraudulent statements or claims which reflect discredit or loss of programs, goods, services, or monies. Tribal Officials shall exercise caution and use sound judgment at all times.

(5) No Tribal Council member shall give directives without formal approval of the Tribal Council via the formal motion process.

(6) No Tribal Official shall knowingly misinform individuals or the community to purposely discredit the integrity of the government or individual elected or appointed officials.

(7) No Tribal Official shall willfully and/or unlawfully conceal, remove, mutilate, falsify, destroy or transfer any important documents, papers, records, or property of the Pueblo of Isleta or its entities. All documents no longer deemed necessary to conduct tribal government business will be submitted to the Records Management Office for proper disposal.

(8) If documents are to be disposed of during a duly scheduled Tribal Council

AMENDED BY TRIBAL COUNCIL  
APPROVED VERSION

July 17, 2012

Page - 3 -

meeting, the Tribal Council Administrative Assistant or the Secretary of the Council will retrieve all paper documents from those in attendance on the day of the Tribal Council meeting and submit the documents to the Records Management Office for proper disposal.

(9) All Tribal Council members are restricted from and shall avoid impeding Tribal business, efficiency, or economy by refusing to follow instruction, recommendations, or procedures as set forth by a majority of the Tribal Council and shall avoid making a Tribal Council decision or commitment prior to a majority vote of the Tribal Council.

(E) Conflicts of Interest

(1) Tribal Officials shall not:

(a) have direct or indirect financial or other economic interests nor engage in such other employment or economic activity which involves conflict, or appear to have such conflict, with their responsibilities and duties as Tribal Officials;

(b) engage in, directly or indirectly, financial or other economic transactions through their public office or employment; or

(c) acquire any economic contractual or other economic interest that will directly and substantially affect by their official actions or duties.

(2) Tribal Council members shall not:

(a) Deliberate and vote on any matter that he/she may have personal or financial interests in and the Tribal Council member shall publicly disclose on the record at a Tribal Council meeting the nature and extent of such interest. The Tribal Council member shall recuse from participating in the deliberation and the voting on this matter.

(b) Become involved in the interviewing and hiring process unless official approval is given by the Tribal Council via motion. Undue influence by a Tribal Council member to obtain employment for a family member or friend is strictly prohibited.

(c) Appear on behalf of any person, other than him or herself, before any court, agency, Grievance Board or any other administrative body where the Pueblo of Isleta is a party to or has an interest in, unless first approved by Tribal Council action.

(F) Recuse from Official Action

AMENDED BY TRIBAL COUNCIL  
APPROVED VERSION

July 17, 2012

Page - 4 -



(1) When a Tribal Official is required to take official action on a matter in which such Tribal Official has a personal economic interest, they shall:

(a) Prepare and sign the written statement describing the matter requiring action and the nature of the potential conflict, as soon as such tribal official is aware of such conflict and shall deliver copies of such statement to the Tribal Council at a duly called meeting for inclusion in the official record of any vote; and

(b) Abstain from voting, sponsoring, discussing, 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

(c) Abstain from voting, discussing, or otherwise participating in the official decision or determination of such matter.

(2) When any Tribal Official is engaged in a business relationship with an outside entity regarding proposed projects in the Pueblo of Isleta, the Tribal Official will refrain from lobbying or coercing anyone to select such entity.

(G) Tribal Government Contracts; Restrictions and Bid Requirements in Reference to Tribal Officials

(1) No Tribal Official or any member of such person's immediate family (sibling, child, spouse, or cohabitant) shall be a party to, nor have an interest in the profits or benefits of any governmental contract of the Pueblo of Isleta, or of any investment of funds for the Pueblo of Isleta, unless the contract or the investment meets the following requirements:

(a) the contract is let by official notice and competitive bid procedures by Pueblo of Isleta or entity procurement procedures for necessary materials or services for the Pueblo or entity involved; and

(b) If the continuous course of a business commenced before the Tribal Official assumed their current term of office or employment; and

(c) The entire transaction is conducted with the government's or entity's full knowledge of the interest of the Tribal Official or a member of their immediate family (sibling, child, spouse, or cohabitant); and

(d) The Tribal Official has taken no part in the determination of the specifications, deliberations or decisions with respect to the public

AMENDED BY TRIBAL COUNCIL

APPROVED VERSION

July 17, 2012

Page - 5 -



contract; and

(e) The Tribal Official is not an affiliate member, employee or otherwise directly associated with the department or entity primarily responsible for preparing, performing, receiving, regulating or otherwise supervising the performance of the contract.

(2) As it may be perceived as bribery or a purpose to defraud, a Tribal Official shall not be permitted to have an interest in a public contract or the investment of public funds.

(H) Tribal Official Restrictions on Assisting or Representing Other Interests Before Governmental Bodies for Compensation.

No Tribal Official shall represent or otherwise assist any person or entity other than the Pueblo, for compensation, before any governmental body. This section shall not be construed to prohibit the duties of a Tribal Official to represent the community; interests before governmental agencies or entities nor various functions, including but not limited to the filing of applications for permits and licenses, and other documents or reports. Representation of such other interests for any fee or compensation in seeking to obtain any legislation, contract, payment of any claim or any other tribal governmental benefit is strictly prohibited.

(I) Restrictions on Assisting or Representing Other Interests Subsequent to Termination of Public Office or Employment.

(1) No former Tribal Official shall, with or without compensation, after the termination in such public office or employment, knowingly act as agent or attorney for or otherwise represent any other person or entity (except the Pueblo of Isleta, or its governmental bodies or political subdivisions) by formal or informal appearance nor by oral or written communication, for the purpose of influencing any tribal governmental body or any officer or employee thereof, in connection with any proceeding, contract, claim, controversy, investigation, charge or accusation, in which such former public official personally and substantially participated, through approval, disapproval, recommendation, rendering of advice, investigation or otherwise, while so acting or employed.

(2) With respect to any such matter which was actually pending among such former Tribal Official's responsibilities, but in which such person did not participate as set forth in paragraph (1), the prohibitions set forth hereunder shall apply for the period of one (1) year following the termination of such public office or employment.

(3) Nothing in this Code shall prevent a former Tribal Official from appearing and giving testimony under oath, nor from making statements required to be made

AMENDED BY TRIBAL COUNCIL

APPROVED VERSION

July 17, 2012

Page - 6 -

under penalty or perjury, nor from making appearances or communications concerning matters of a personal and individual nature which pertain to such former Tribal Official are based upon such person's own special knowledge of the particular subject involved, not otherwise privileged from disclosure by other applicable law; and provided further, that no compensation is thereby received other than that which is regularly provided for witnesses by law or regulation.

(4) Tribal Officials shall not enter into any contract with, nor take any action favorable affecting or economically benefiting themselves, their business, governmental or other entity, whose official act, while in an official and employment capacity, if the Tribal Official directly contributed to the preparation of such contract and approval of such contract by the Pueblo of Isleta or any of its entities thereof.

(5) Nothing contained in this subsection shall prohibit a former Tribal Official from being retained or employed by the tribal governmental entity which he or she formerly served.

(J) Unauthorized Compensation or Benefit for Official Acts.

No Tribal Official shall accept or receive any benefit, income, favor or other form of standard compensation amount for performing the official duties of their office or employment, beyond the amount or value which is in accordance with applicable policies and procedures and in his/her official capacity for performing such duties.

(K) Unauthorized Personal Use of Property or Funds of the Pueblo of Isleta.

No Tribal Official shall use any property of the Pueblo of Isleta, its entities or any other public property of any kind for other than as authorized and approved for official purposes and activities. Such persons shall properly protect and conserve all such property, equipment and supplies which are so entrusted, assigned or issued to them. Tribal Officials shall be held liable for loss and damage (other than ordinary wear and tear) to tribally owned property at the current market property value of such property. Unauthorized use of Pueblo of Isleta property by a Tribal Official is strictly prohibited and is subject to prosecution.

(L) Misuse of Tribal Employees Prohibited.

No Tribal Official shall utilize Pueblo of Isleta employees for performing duties other than for the official purposes for which they are employed. A Tribal Official may utilize a Pueblo of Isleta employee for performing duties within the official purposes for which they are employed, but must obtain prior authorization from the employee's direct supervisor. Such authorization will not be necessary in the event of imminent threat of life, property or safety.



(M) Restrictions Against Gifts or Loans to Influence Official Acts.

(1) Except as otherwise provided herein or by other applicable law, no Tribal Official shall solicit or accept for themselves or another, any gift, including economic opportunity, favor, service, or loan (other than from a regular lending institution on generally available terms) or any other benefit or gift with a monetary value of two hundred fifty dollars (\$250.00) or more per benefit or gift, from any person, organization or group which:

(a) Has, or is seeking to obtain, contractual or other business or financial relationships or approval from any governmental office or entity with which the Tribal Officials is associated or employed with; or

(b) Conducts operations or activities which are regulated or in any manner supervised by any tribal governmental office or entity with which the Tribal Official is associated or employed with; or

(c) Has any interest which, within the term of the elected or appointed office, has been directly involved with, or affected by, the performance or nonperformance of any official act or duty of such Tribal Official or of the government office or entity with which the tribal official is associated or employed or which the tribal official know or has reason to believe is likely to be so involved or affected.

(2) Gifts given to Tribal Officials in an official capacity; i.e., pottery, awards, paintings, and other such items, are the property of the Pueblo of Isleta and will be retained as a private collection by the Pueblo of Isleta. For items given to the Governor and Tribal Council, the Administrative Assistants from the Governors and Tribal Council office will jointly inventory the items for control purposes with the original inventory list for each term sent to the Records Management Office for retention purposes

(N) Permitted Gifts, Awards, Loans, Reimbursements and Campaign Contributions.

The following type of gifting is permissible:

(1) An occasional gift, less than \$100.00 in value;

(2) Food and refreshments customarily made available in the ordinary course of meetings where a Tribal Official may properly be in attendance;

(3) An award or honor customarily and publicly presented in recognition of public service;

(4) A political campaign contribution consisting of in-kind service and provided that such in-kind service is actually used in the recipient's political campaign for elective

AMENDED BY TRIBAL COUNCIL

APPROVED VERSION

July 17, 2012

Page - 8 -



office and provided further that no promise or commitment regarding the official duties of office or employment is made in return for such contribution.

(O) Offenses of Moral Turpitude.

Offenses of moral turpitude are crimes that have an inherent quality of baseness, vileness, or depravity with respect to a person's duty to another or to society in general. The following offenses of moral turpitude listed in Appendix A shall be violations of this Code. The Ethics Board shall evaluate the severity of the offense on a case by case basis.

**SECTION 3: ESTABLISHMENT OF AN ETHICS BOARD**

(A) Establishment. There is hereby established the Pueblo of Isleta Ethics Board, a three member Board who shall hear claims of any violation of this Code.

(B) Qualifications of Board Members. At least one Board Member shall be a Pueblo of Isleta tribal member. An individual who has been convicted of a felony shall not serve as a Board Member. Each Board Member shall be of such character and temperament to be able to impartially hear disputes regarding the application of such rules and to issue a decision resolving such disputes. Any Member serving on such Board must have a High School Diploma or GED. No Member of the Board shall be an employee of the Pueblo of Isleta, or a Tribal Official, or a member of another Pueblo of Isleta Board or Commission, or of the Pueblo of Isleta Judiciary while serving on the Ethics Board.

(C) Appointment of Board Members. The Tribal Council shall appoint each Board Member, who shall each serve for a two (2) year term. Initially, the Tribal Council will designate one (1) Member for a two (2) year term, one (1) Member for a three (3) year term, and one (1) Member for a four (4) year term. Thereafter, each Member appointed to the Board shall serve for a two (2) year term or until another Member is appointed by Tribal Council. Notwithstanding the foregoing, no Member shall serve on the Ethics Board for more than two consecutive terms. The Members shall select among themselves a Chairperson, Vice-Chairperson and a Secretary.

(D) Terms of Appointment. Each Board Member shall serve in such position on an as-needed basis. The compensation for Board Members shall conform to existing and current Tribal Council policy established for Pueblo of Isleta boards and commissions.

(E) No Conflicts; Appointment of Alternate. No Board Member shall be an immediate family member of or have any business or financial relationship to any Tribal Official accused of a violation of this Code. If a conflict of interest is discovered or if a Board Member is otherwise unable to participate as a Board Member, the Board Chairperson shall promptly notify Tribal Council who will appoint an alternate Board Member or Members for a particular hearing. Any person having served as a Board Member for any period of time shall be prohibited from representing any person(s) before the Ethics Board for a period of two (2) years after his or her service as a Board Member.

AMENDED BY TRIBAL COUNCIL

APPROVED VERSION

July 17, 2012

Page - 9 -

(F) **Jurisdiction of the Ethics Board.** The Ethics Board shall have exclusive jurisdiction to hear complaints and decide claims based on this Code. Such claims must have been filed timely and in accordance with the terms of this Code, including without limitation to Section 4. The Ethics Board is authorized to provide only those remedies specified in Section 5. Notwithstanding the foregoing, in the event a complaint alleges action, conduct, or behavior by a Tribal Official that, if deemed true, constitutes a violation of this Code and a violation of the Pueblo of Isleta Law and Order Code, then the Ethics Board shall not have jurisdiction to hear the complaint.

#### **SECTION 4: PROCEDURES**

Any and all alleged violations of this Ethics Code by Tribal Officials shall be processed in the following manner and without exception or modification:

(A) **Filing of a Complaint:**

(1) A claim of a violation of this Code against a Tribal Official shall be made in writing and submitted to the Board Chairperson. Such complaint shall be signed and dated by the individual making the complaint and shall be delivered to the Board Chairperson in a sealed envelope through certified, return-receipt mail at the official address of the Ethics Board or in person. Every claim must be accompanied by a non-refundable, twenty five dollar (\$25) filing fee in the form of money order or cashier's check to be deposited by the Board to the Pueblo of Isleta Treasurer's office. The Treasurer's office shall account for the funds and apply them to the budget of the Ethic's Board for the Board's use.

(a) **Filing a Complaint Against the Board.** A complaint made against an Ethics Board Member shall be submitted to the Board Chairperson, who shall prohibit such Board Member from hearing the complaint and from otherwise interfering with the review of the complaint and investigation. A complaint made against the Board Chairperson shall be submitted to the Board Vice-Chairperson, who shall prohibit the Board Chairperson from hearing the complaint and from otherwise interfering with the review of the complaint and investigation. A complaint filed against the entire Ethics Board shall be submitted to the President of the Tribal Council, who shall instruct Tribal Council to appoint an alternate three member Board to review the complaint and otherwise hear the matter.

(2) The complaint shall name the Tribal Official(s) against whom a complaint of unethical conduct is being made, and the conduct that is alleged to be unethical.

(3) If an allegation of unethical conduct on the part of the Tribal Official involves action which allegedly wronged a person and the allegation is made by someone other than the person against whom the unethical conduct allegedly occurred, the person against whom the unethical conduct allegedly occurred shall be notified in writing by the Board Chairperson and asked to submit a statement about the allegation in writing. If this person does not submit such writing within ten (10) working days, the allegation shall not proceed to a hearing.

AMENDED BY TRIBAL COUNCIL

APPROVED VERSION

July 17, 2012

Page - 10 -



(4) The Board Chairperson shall create a log book upon receipt of a complaint, shall date stamp receipt of the complaint, and shall submit the complaint to each Board Member within five (5) working days of receipt of a complaint or, in the event Section 4(A)(3) is necessary, within five (5) working days of receipt of a statement by the person wronged by alleged conduct of a Tribal Official. Such log book shall contain a date stamp of the filing. The Board Chairman shall not under any circumstances submit the complaint to the Tribal Official(s) named in the complaint or otherwise inform the Tribal Official(s) of the existence of a complaint.

(5) The complaint shall be filed within sixty (60) calendar days from the day of alleged violation of this Code. In the event there are allegations of multiple violations of this Code, the filing deadline will begin on the date of the last occurrence of a violation. Notwithstanding the foregoing, in the event the Board finds that a violation occurred that is materially related to a previous violation that occurred after the sixty (60) calendar days filing deadline, the Board will suspend the deadline for the previous violation. In order to suspend the deadline, the Board must issue an order justifying why the two violations are materially related.

(B) **Initial Review of Complaint.** The Board shall perform an initial review of the complaint no later than ten (10) working days after it has been submitted to each Member by Board Chairman. The purpose of this initial review shall be:

(1) to determine whether the allegation in the complaint falls within the scope of this Code;

(2) to determine whether, assuming the facts alleged are true, the facts would support a determination of unethical conduct; and

(3) to determine whether the filing deadline has elapsed on the complaint.

The Tribal Official(s) against whom the allegation is made shall not participate in this initial review. The Tribal Official(s) shall be notified in writing by the Board that a complaint has been filed against said Tribal Official(s) and a copy of the complaint shall be given to the Tribal Officials(s). Upon completion of the initial review, if the Board determines that the allegation does not fall within the scope of this Code, or that the facts alleged, if true, would not support a determination of unethical conduct, or if the filing deadline has lapsed, the Board shall dismiss the complaint. Such dismissal shall be in writing and shall be filed with the Ethics Board, the Tribal Official(s) and with the person who filed the complaint.

(C) **Investigation.** Upon completion of the initial review, if the Board determines that the allegation falls within the scope of this Code and that the facts alleged, if true, would support a determination of unethical conduct, and if the filing deadline has not elapsed, the Board shall proceed with investigation as specified below:

(1) The Board Chairperson shall provide a written copy of the complaint to the

AMENDED BY TRIBAL COUNCIL

APPROVED VERSION

July 17, 2012

Page - 11 -



Tribal Official(s) against whom the allegation is made and shall inform the Tribal Official(s) that an investigation will be conducted by the Board and that the accused Tribal Official(s) may seek the services of legal counsel at the expense of the Tribal Official(s). The Board Chairman shall inform the Tribal Council and Governor in writing of the existence of the complaint.

(2) The Board shall commence an investigation within five (5) working days after completion of the initial review. If necessary, the Board shall seek the services of legal counsel.

(3) As deemed necessary by the Board, the Board shall conduct interviews, gather information, and issue subpoenas. The Board shall request interviews, request information, and issue subpoenas in writing which shall state with sufficient specificity the reasons for the interview, information, or subpoena, as well as the name of the accused Tribal Official, the date of the alleged conduct, the date of the filing of the complaint, and general allegations made against the Tribal Official.

(4) The Tribal Official(s) against whom an allegation is made shall have the right to be present when interviews are conducted along with his/her legal counsel and shall receive a copy of all information gathered by the Board during the investigation from the Board Chairperson by certified, return-receipt mail.

(5) The Board shall conclude its investigation within thirty (30) calendar days of receipt of the complaint, or, in the event Section 4(A)(3) is necessary, within thirty (30) calendar days of receipt of a statement by the person wronged by alleged conduct of a Tribal Official. If warranted by the Board, the Board shall extend its investigation for no more than fifteen (15) calendar days. Upon completion of the investigation, the Board shall notify the following individuals in writing that the investigation has concluded: the accused Tribal Official, the individual who made the complaint, Tribal Council and the Governor.

(D) **Hearing.** Upon completion of the investigation, the Ethics Board shall hold a hearing to determine whether the allegation(s) in the complaint are true and what penalty, if any, shall be imposed for violation(s) of this Code.

(1) **Time of Hearing.** The Board will conduct the hearing within thirty (30) calendar days of completion of the investigation.

(2) **Hearing Rules.** The rules of procedure governing the hearing shall accord the Tribal Official(s) due process of law, including the rights to be represented by legal counsel, to present testimony and evidence by witnesses and documents, and to cross-examine witnesses called by the Board; provided that the Board shall not be bound by formal rules of evidence applicable in proceedings before the courts of the Pueblo of Isleta.

(3) **Discovery.** Discovery shall be conducted as follows:

(a) The accused Tribal Official(s) or Tribal Official(s) legal counsel, if

AMENDED BY TRIBAL COUNCIL

APPROVED VERSION

July 17, 2012

Page - 12 -

represented, shall be given a list of persons that the Board intends to call as witnesses no later than ten (10) working days before the scheduled hearing. The accused Tribal Official(s) or Tribal Official(s) legal counsel, if represented, shall provide the Board Chairperson with a list of persons the accused Tribal Official(s) intends to call as witnesses within the same time deadline. Each witness shall be identified by name, position, and business address. If no business address is available, a home address for the witness shall be provided. For each witness a summary of the nature and relevance of the testimony expected to be elicited from each such witness shall also be delivered. Any witness not so identified and the scope of any testimony not so summarized shall be excluded from presentation at the hearing.

(b) The accused Tribal Official(s) or Tribal Official(s) legal counsel, if represented, and the Board shall exchange a copy of all documents or tangible items that they intend to offer as evidence. This exchange shall be made no later than ten (10) working days before a scheduled hearing. Any document or tangible item not so provided to the other party shall be excluded from presentation at the hearing.

(4) **Subpoenas.** The Board shall have the power to issue subpoenas and shall issue such subpoena upon motion by the accused Tribal Official or upon the Board's own initiative. No subpoena shall be valid unless a written finding of good cause is issued by the Board. Subpoenas may be issued only to compel any person to appear at a hearing before the Board to give oral testimony or to produce documents or other tangible things.

(5) **Conduct of Hearing.** Hearings shall be conducted as follows:

(a) The accused Tribal Official and the Board may call and examine witnesses subject to proper discovery disclosure as stated above. The Board shall exercise its discretion to limit the testimony of witnesses where that testimony is argumentative or repetitive.

(b) The Board shall have the authority to eject from the hearing any person who is disruptive, disorderly, or who shows a lack of proper respect for the Board or the nature of the proceedings. The Board shall also have the authority to request law enforcement or security at a hearing when the Board deems necessary.

(c) The accused Tribal Official and the Board may conduct cross-examinations reasonably required for a full and true disclosure of the facts.

(d) All hearings held under this Section shall be open to the public.

(e) At all hearings, each witness shall remain out of hearing room except at such time as they are called to testify.

(f) Retaliation against any party or witness shall be prohibited. Retaliation shall include any form of adverse or punitive action.

AMENDED BY TRIBAL COUNCIL

APPROVED VERSION

July 17, 2012

Page - 13 -



(g) The Board shall notify each witness in writing in advance the date and time of the hearing, as well as the nature of the testimony to be given.

(6) **Order.** The Board shall render a written decision within fifteen (15) working days of the hearing. Such written decision must undergo legal review prior to issuance, in order to ensure that the procedural and substantive requirements of this Code have been met. Such written decision shall include findings of fact, conclusions of law, and, if a violation has been found to have occurred, sanctions imposed. The Board Chairperson shall submit a copy of the decision to the accused Tribal Official(s) within five (5) working days after rendering the decision. The Board Chairperson shall also submit a copy of the decision to Tribal Council and Governor, to be placed as a matter of record. A written summary signed by the Board Chairperson shall be shared with the community, to include only the accused name(s), accuser's name, accusation, and synopsis of the Board's findings. The Board shall maintain a complete record of all hearings, including all testimony and documents presented as evidence.

(7) Notwithstanding resignation, incapacity to serve, or the expiration of a Tribal Official's term of office, the Board shall issue an Order on the merits of the complaint, so long as the procedural provisions and Section 6(B) of this Code have been complied with.

(E) **Service.** The Board shall deliver all notices and filings under Section 4 of this Code by either United States Postal Service certified mail postmarked by close of business the last day such notice or filing is due, or by personal service made by the Board or Tribal Sheriff, as determined by the Board.

## **SECTION 5: SANCTIONS AND PENALTIES**

(A) Administrative Sanctions.

Upon finding that there has been violation of any provisions of the Ethics Code, the Ethics Board may impose any or all of the following penalties or sanctions.

(a) Recommend to Tribal Council removal or termination from public office in accordance with applicable Pueblo of Isleta Constitution, Article VII – Removal and Recall, publicly advise the community of the reasons leading up to the removal or termination of an elected or appointed official.

(b) Suspension from public office and forfeiture of all compensation and benefits accruing therefrom, for not less than thirty (30) days nor for more than ninety (90) days. Travel and training, attending any Pueblo of Isleta meetings, and representing the Pueblo in any manner shall be strictly prohibited.

(c) Issuance of a written public reprimand, which shall be entered into such person's permanent record of office and upon the permanent record of the

AMENDED BY TRIBAL COUNCIL

APPROVED VERSION

July 17, 2012

Page - 14 -



public office or entity of which such person is a member.

(d) Imposition of restitution or such other civil penalties as hereinafter provided under subsection (B)

(e) No sanctions or penalty provided herein shall limit any other powers of the Pueblo of Isleta Council, Pueblo of Isleta Courts, and Executive Branch of the Pueblo of Isleta.

**(B) Other Damages.**

(1) Any Tribal Official who realizes an economic benefit as a result of violation of any prohibition or restriction set forth in this Ethics Code shall be liable to the Pueblo of Isleta for damages in an amount not exceeding three (3) times the amount or value of the benefit or benefits so obtained.

(2) If two (2) or more persons are responsible for any violation, each person shall be liable to the Pueblo of Isleta for the full amount of any civil damages prescribed herein, the full amount of which may be imposed upon and collected from each person individually.

(3) Any civil penalties imposed hereunder shall be collected by withholding of stipend payment, salary; per capita withholding and/or fines sanctioned by the Board for recovery of debts or obligations owed to the Pueblo of Isleta and shall be paid into the general fund of the Pueblo of Isleta.

(4) The Board shall issue a civil fine of five hundred dollars (\$500) for violation of any sanction imposed by the Board under this Section, to be filed by the Board in Tribal Court for judgment and collection.

(5) Nothing in this Code shall be construed to limit the power of Pueblo of Isleta Tribal Members or Tribal Council to remove or recall a Tribal Official pursuant to Pueblo of Isleta Tribal Constitution, Article VII – Removal and Recall.

**(C) Compliance with Procedural Requirements]**

(1) Any imposition of sanctions or penalties by the Board will be null, void, and unenforceable if the Board did not meet the procedural requirements of Section 4 of this Code.

(2) In the event the Board fails to meet the procedural requirements of Section 4 of this Code, the Tribal Council shall reprimand the Board Chairperson in writing, then shall take other actions, up to removal of the Chairperson from the Board, as appropriate for subsequent failure to meet the procedural requirements.

## **SECTION 6: APPEALS AND STATUTE OF LIMITATIONS**

- (A) The decision made by the Ethics Board shall be final and cannot be appealed.
- (B) Statute of Limitation. Any decision by the Ethics Board issued after the subject term of office for the accused Tribal Official(s) plus two calendar years shall be invalid, null and void.

## **SECTION 7: CONFIDENTIALITY**

- (A) Members of the Ethics Board, the complainant, any person allegedly wronged by the Tribal Official's actions, if any, and any other person involved with the investigation or review of an ethical violation under this Code shall keep all information obtained confidential. The complaint and information obtained during the course of the investigation pursuant to this Code shall be kept confidential and shall not be copied or distributed without the express written authorization by the Ethics Board.
- (B) Release of Investigation Information. The Board shall not release any information obtained during the course of its investigation.
- (C) If any Tribal Official or Member of the Ethics Board violates subsections (A) or (B), the alleged violation shall be subject to this Code and sanctions imposed.

## **SECTION 8: DEFINITIONS**

- (1) "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.
- (2) "Business with which the person is associated" includes any business in which the person or a member of the person's immediate family is a director, officer, partner, trustee or employee, holds any position of management or receives income in any form such as wages, commission, direct or indirect investment worth more than \$1,000 or holds any ownership, security or other beneficial interest, individually or combines, amounting to more than ten percent (10%) of said business.
- (3) "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 public capacity or office.
- (4) "Compensation" or "income" means any money or thing or 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.

AMENDED BY TRIBAL COUNCIL

APPROVED VERSION

July 17, 2012

Page - 16 -



(5) "Confidential information" means information which is law or practice is not available to the public at large.

(6) "Conflict of interest" means the reasonable foresee ability that any personal or economic interest of a Tribal Official will be affected in any materially 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 Pueblo of Isleta.

(7) "Dependent business" means any business, as defined herein, in which the person or members of the person's immediate family, individually or combined, have any direct or indirect ownership, investment, security or other beneficial interest amounting to more than twenty percent (20%) of such business.

(8) "Employee" means any person or entity working for or rendering or exchanging any services or performing any act for or on behalf of the tribal government or its entity in return for any form of pay or other compensation of thing of value received or to be received any time temporarily, permanently or indefinitely, in any capacity.

(9) "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.

(10) "Economic interest" means an interest held by a person, members of the person's immediate family or a dependent business, which is:

(A) Any ownership, income, investment, security or other beneficial interest in a business, or

(B) Any employment or prospective employment for which negotiations have already begun.

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

(12) "Governmental body" means the Executive, Legislative and Judicial Branches of the Pueblo of Isleta and any entity, enterprise, commission, board, thereof.

(13) "Immediate family" means spouse, children, parents, grandparents, siblings and members of the household of public officials, public employees and candidates for public office.

AMENDED BY TRIBAL COUNCIL

APPROVED VERSION

July 17, 2012

Page - 17 -

(14) "Official discretionary action" means any official function of public office or employment, including any vote, decision, opinion, allocation, recommendation, approval, disapproval, finding, delegation, authorization, contract, 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 Pueblo of Isleta, including any governmental body, political subdivision or member thereof.

(15) "Public employee" means any employee, as defined herein, temporarily, periodically, permanent or indefinitely in the employment of the Pueblo of Isleta, and/or any governmental body thereof.

(16) "Public office" means any elected or appointed office or position of permanent or temporary employment in any governmental body of the Pueblo of Isleta.

(17) "Tribal official" means any person holding elective or appointed office in any governmental body of the Pueblo of Isleta, specifically the Governor, Lt. Governors, Tribal Council members, Sheriffs, Treasurer, Tribal and Appellate Judges and various Board and Commission members appointed by Tribal Council, including members of the Ethics Board.

(18) "Working days" means days of the week excluding weekends, holidays and Pueblo of Isleta administrative leave or traditional leave days as determined by the Governor.

## **SECTION 9: AMENDMENTS**

Any provision of this Ethics Code may be amended from time to time by Tribal Council as the need arises. While being amended, the approved Code of Ethics will remain in effect until such time as the proposed amendments are approved by Tribal Council.

## **SECTION 10: PRIOR INCONSISTENT LAW SUPERSEDED**

Upon the effective date of this Ethics Code all prior inconsistent enactments, laws, policies, and ordinances of the Pueblo of Isleta and all departments, and entities thereof, are superseded hereby and/or amended to comply herewith.

## **SECTION 11: SEVERABILITY CLAUSE**

In the event that any provision of this Code is found to be unconstitutional or invalid, the remaining provisions shall remain in full force and effect.

AMENDED BY TRIBAL COUNCIL

APPROVED VERSION

July 17, 2012

Page - 18 -