

**SISSETON-WAHPETON OYATE  
OF THE LAKE TRAVERSE RESERVATION**

**Chapter 55  
Public Official Code of Conduct**

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## **Title I – General Provisions**

### **55-01-01 Title**

This Chapter shall be known as the Public Official Code of Conduct.

### **55-01-02 Purpose and Intent**

This Chapter shall be construed to promote the following:

1. Pursuant to the Constitutional powers and authority granted under Article VII Powers, of the Sisseton-Wahpeton Oyate Revised Constitution and By-Laws, among others, authorizes Tribal Council to promulgate and enforce ordinances governing the conduct of the persons under the jurisdiction of the Sisseton-Wahpeton Oyate and to take action by ordinance, resolution, or otherwise which are reasonably necessary through committees, boards, agents or otherwise, to carry into effect the fore-going purpose.
2. The purpose of this Chapter is to maintain and protect the public trust of the Tribe by requiring Elected or Selected Officials to adhere to the highest ethical obligations.
3. It is the intent of this Chapter to be construed and applied in each instance to require Elected or Selected Officials to make decisions and actions free from undue influence, conflicts of interest, or other inappropriate and unethical behavior.

### **55-01-03 Scope**

This Chapter shall apply to any and all Elected or Selected Officials.

### **55-01-04 Specific Applicability**

This Chapter shall apply to conduct of Elected or Selected Officials and shall take precedence over any general laws of applicability.

### **55-01-05 Effective Date**

This Chapter shall be in full force and effect on the date of formal approval and adoption by the Tribal Council.

### **55-01-06 Sovereign Immunity Not Waived**

By the adoption of this Chapter the Tribe does not waive its sovereign immunity or consent to suit in any court, whether the court is federal, tribal, or state, and the adoption of this Code shall

against the Tribe in any court.

#### **55-01-07      Severability**

If any clause, sentence, paragraph, section, or part of this Code shall, for any reason be adjudicated by any Court of competent jurisdiction, to be invalid or unconstitutional, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgment shall have been rendered.

#### **55-01-08      Amendment**

This Code may be amended only upon an affirmative vote of a majority of the Tribal Council of the Sisseton-Wahpeton Oyate.

#### **55-01-09      Effect of Headings**

Headings shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any portion of this Chapter.

### **Title II – Definitions**

#### **55-02-01      Definitions**

1. “Elected or Selected Official(s)” pursuant to this Code, shall mean:
  - a. Tribal Council Elected, Selected Official(s), Officer(s) and any and all Interim positions.
  - b. District Elected, Selected Official(s), Officer(s) and any and all Interim positions:
    1. District Executive(s), such as District Chair, District Vice-Chair, District Secretary, District Treasurer, and Sergeant of Arms.
    2. District Board Members, District Committee Members, and District Commission Members.
    3. **District positions listed herein shall include those elected or selected in any manner such as those elected off the floor.**
2. **“Fiduciary Duty” means a legal obligation to act with honesty, loyalty, care, and diligence in the relationship where trust is placed in the Elected or Selected Official to act in the utmost good faith for the benefit of the Sisseton-Wahpeton Oyate and its citizens.**
3. “Financial Interest” means any interest which shall yield, directly or indirectly, a monetary or economic benefit to the Elected or Selected Official or to any person or entity in the Official’s immediate family, household, or business relationships.

4. “Immediate Family” means those who are members of the same household and relatives identified as spouse/significant other, brother/sister, step brother/sister, brother/sister in-law, son/daughter, step son/daughter, father/mother, step father/mother, father/mother in-law, grandfather/grandmother, grandson/granddaughter, uncles/aunts, nephew/nieces.
5. “Other Interest” means any relationship, professional activity, or purpose that is incompatible with the proper discharge of an Elected or Selected Official’s duties in the public interest or would tend to impair the public official’s independence of judgment or action in the performance of official duties.

## **Title III – Code of Ethics**

### **55-03-01      Applicability**

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All Elected and Selected Officials are bound by a fiduciary duty to the Sisseton-Wahpeton Oyate as well as the and bound by the Code of Ethics outlined in the Sisseton-Wahpeton Oyate Revised Constitution, By-Laws, Article I, Section 4. All Ethical violations under this title are subject to suspension and removal proceedings as outlined in 55-03-03.

### **55-03-02      Code of Ethics**

#### **Gross Neglect: Determined by Council**

As evidenced through any or all of the following:

1. Gross incompetency – unable or unwilling to perform the duties of office.
2. Inability to handle private affairs as evidenced through garnishment proceedings or court actions or ordering payments of delinquent loans or debts.
3. Abandonment of office – not attending three consecutive District meetings.
4. Excessive absenteeism – five days of unexcused absence in any thirty (30) day period.

#### **Improper Conduct: Determined by Council or District Chairman Association**

1. Converting tribal property or monies without authorization through omission or misrepresentation of facts.
2. Misuse of office – unauthorized personal use of tribal equipment, manpower, or materials.
3. Public conduct so as to question the integrity of the Sisseton-Wahpeton Oyate.
4. Malfeasance of office: including gross partiality or oppression.

## **Improper Conduct: Conviction by legal courts**

1. Conviction of a felony.
2. Three low misdemeanor convictions within a twelve (12) month period.
3. Crimes in office: corruption, extortion, fraudulent claims for compensation, salary, mileage and per diem or an unaccountable period of time.
4. Contempt of Court.
5. Any high-misdemeanor, including but not limited to malicious mischief, statutory rape, hit-and-run, assault, battery, or assault and battery.
6. Driving while under the influence of alcohol.

## **Improper Conduct – Alcohol and drug-free lifestyle while in office**

1. Failure to promote and live an alcohol and drug-free lifestyle.
2. Failure, while in office, to abstain from the use of alcohol and/or illegal drugs.
3. Failure, while in office, to submit to random alcohol and drug testing.

### **55-03-03 Violations of the Code of Ethics**

An Elected or Selected Official accused of a violation may be suspended from his/her position with or without pay until such time guilt or innocence has been established [by Tribal Council](#). Suspensions pending a removal hearing of elected or selected officials includes, but is not limited to, Council persons, District officers, Committee members, commission members, and Board members. No Elected or Selected Official accused of ethical violations shall be removed from his/her office or position until those allegations have been proven by a Tribal Council due process hearing and official action in accordance with Article VI, of the Sisseton-Wahpeton Oyate Revised Constitution & By-Laws.

### **55-03-04 Hearing Procedures**

Any Elected or Selected Official suspended pending a removal hearing shall be provided hearing guidelines prior to the hearing.

### **55-03-05 Unsubstantiated Violations**

If the allegations are not substantiated, the Elected or Selected Official should be restored to full duties and responsibilities.

### **55-03-06 Substantiated Violations**

In those cases where allegations have resulted in guilt, the Elected or Selected Official shall, immediately be removed from his/her position through Tribal Council action.

## Title IV – Conflicts of Interest

### 55-04-01 Intent

Elected and Selected Officials shall be accountable in exercising the authority vested with them as a matter of public trust and to protect the Tribal citizens from government decisions and actions resulting from, or affected by, undue influence or conflicts of interest. Elected and Selected Officials must treat their positions as a matter of public trust, and are only using power entrusted with responsibility and resources of the Tribal office to advance the Tribal interests of all citizens, and not attain personal benefit or promote private gain. Elected and Selected Officials shall refrain from using their office or position in a manner which could place, or appear to place, their personal interests before that of the Tribal government or its citizens.

### 55-04-02 Prohibited Conduct

1. No Elected or Selected official(s) shall participate in selection, or in the award or administration of a contract supported by Federal, State, or Tribal funds, if a conflict-of-interest, real or apparent, exists. In the event such conflict exists the Elected or Selected Official shall remove themselves from the discussion and shall not participate in the selection or vote.
2. No Elected or Selected Official shall use their official position to secure unwarranted privileges, advantages, or employment for themselves, immediate family members, or former staff .
3. No Elected or Selected Official shall participate in making or influencing governmental decisions in which the Official or their immediate family has a financial gain or other interest that would reasonably appear to be affected by such participation in the decision.
4. No Elected or Selected Official shall solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. Cultural gifts may be acceptable if disclosed.
5. No Elected or Selected Official of a Board, Committee, or Commission shall serve or be selected if the Director of the Program or Manager of the Entity is an immediate family member as defined in this chapter.

### 55-04-03 Financial and Other Interests

A conflict of interest would arise, but is not limited to, a situation where an Elected or Selected Official interferes, influences, or participates in a governmental decision or vote that would provide a financial interest to the Elected or Selected Official or their immediate family. Financial interest means any interest which shall yield, directly or indirectly, a monetary or economic benefit to the Elected or Selected Official or to any person or entity in the Official's immediate family, household, or business relationships. Other Interest means any relationship, professional activity,

or purpose that is incompatible with the proper discharge of an Elected or Selected Official's duties in the public interest or would tend to impair the public official's independence of judgment or action in the performance of official duties.

#### **55-04-04 Disclosure Requirements**

All Elected or Selected Officials who have interests which might conflict with their duties shall divulge those interests [in a disclosure form](#), including interests held by their immediate family members. Every Elected or Selected Official shall file a disclosure of: (1) interests/shares, ownership in a business/corporation by self or immediate family members; (2) conflicting employment, which means employment part-time by a business that seeks to contract or obtain other services from the Tribe or District; (3) participation in boards or volunteer organizations that seeks to contract with or obtain services from the Tribe or District. Any subsequent acquisitions or employment interests within the listed categories should be promptly disclosed.

#### **55-04-05 Disclosure Records**

All Elected or Selected Officials shall file a disclosure form with the Tribal Secretary's Office immediately after being seated into a position on Tribal Council, District Executive, or any board, committee, or commission as well as with their designated District Office. [Disclosure forms shall be kept for the duration of the particular term of office.](#)

#### **55-04-06 Administrative Hearing for Prohibited Conduct**

Failure to disclose interests which might conflict with official of an Elected or Selected Official's duties under this section shall result in an administrative hearing by the Council. A hearing on allegations of non-disclosure should be scheduled within 15 days after it has been presented. The accused Elected or Selected Official should be given notice; particularly defining the allegations and by whom. The burden of proof will rest with the accuser. The burden of proof will be by preponderance of evidence standard. Due process requires that the accused has the right to present testimony and cross examine witnesses and his/her accuser. A 2/3 vote of a quorum duly seated shall be required to make a determination [whether the Elected or Selected Official engaged in non-disclosure prohibited conduct.](#)

#### **55-04-07 Violations of Prohibited Conduct Non-Disclosure**

Violation of 55-04-02, (1) Non-Disclosure of a Conflict of Interest with [the award or administration of a contractor](#)

Penalties shall be as follows:

1. ~~Loss of per diem/salary for one (1) day if contract value is less than \$100.00 TBD.~~
2. Loss of per diem/salary for ~~five~~ [ten](#) (~~§~~ [10](#)) days if contract value is less than \$500.00
3. [the micro purchase threshold amount of \\$10,000 as outlined in the Sisseton-Wahpeton Oyate Accounting Manual TBD.](#)
4. Referral for investigation and possible removal under, Code of Ethics 55-03-02 if

contract value is over \$500.00 ~~TBD the micro purchase threshold amount of \$10,000 as outlined in the Sisseton-Wahpeton Oyate Accounting Manual.~~

Violation of 55-04-02, (2) Non-Disclosure of the Elected or Selected Official receipt of unwarranted privileges.

Penalties shall be as follows:

1. ~~Loss of per diem/salary for one (1) day if contract value is less than \$100.00 ~~TBD~~.~~
2. ~~Loss of per diem/salary for five ~~ten~~ (5 ~~10~~) days if unwarranted receipt of value is less than \$500.00 ~~TBD the micro purchase threshold amount of \$10,000 as outlined in the Sisseton-Wahpeton Oyate Accounting Manual.~~~~
3. Referral for investigation and possible removal under, Code of Ethics 55-03-02 if ~~if unwarranted receipt of value is over \$500.00 ~~TBD the micro purchase threshold amount of \$10,000 as outlined in the Sisseton-Wahpeton Oyate Accounting Manual.~~~~

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Violation of 55-04-02, (3) Non-Disclosure of Elected or Selected Official making or influencing governmental decisions that benefit financial or other interest for the official or immediate family.

Penalties shall be as follows:

1. ~~Loss of per diem/salary for one (1) day if contract value is less than \$100.00.~~
2. ~~Loss of per diem/salary five ~~ten~~ (5 ~~10~~) days if contract financial benefit or other interest value is less than \$500.00 ~~TBD the micro purchase threshold amount of \$10,000 as outlined in the Sisseton-Wahpeton Oyate Accounting Manual.~~~~
3. Referral for investigation and possible removal under, Code of Ethics 55-03-02 if ~~contract financial benefit or other interest value is over \$500.00 ~~TBD the micro purchase threshold amount of \$10,000 as outlined in the Sisseton-Wahpeton Oyate Accounting Manual.~~~~

Violation of 55-04-02, (4) Non-Disclosure of the Elected or Selected Official receipt of gratuities or favors.

Penalties shall be as follows:

1. ~~Loss of per diem/salary for one (1) day if contract value is less than \$100.00.~~
2. ~~Loss of per diem/salary five ~~ten~~ (5 ~~10~~) days if contract receipt of gratuities or favor value is less than \$500.00 ~~TBD the micro purchase threshold amount of \$10,000 as outlined in the Sisseton-Wahpeton Oyate Accounting Manual.~~~~
3. ~~as outlined in the Sisseton-Wahpeton Oyate Accounting Manual.~~
4. Referral for investigation and possible removal under, Code of Ethics 55-03-02 if receipt of gratuities or favor value is over \$500.00 ~~TBD the micro purchase threshold amount of \$10,000 as outlined in the Sisseton-Wahpeton Oyate Accounting Manual.~~

Violation of 55-04-02 (5) Non-Disclosure of the Elected or Selected Official serving on a Board, Committee, or Commission for a program directed by an immediate family member.

Penalties shall be as follows:

1. ~~Loss of per diem/salary for one (1) day if contract value is less than \$100.00.~~
2. ~~Loss of per diem/salary five (5) days if contract value is less than \$500.00 TBD~~
3. ~~Referral for investigation and possible removal under, Code of Ethics 55-03-02 if value is over \$500.00 TBD.~~

## **55-04-08      Investigations**

If the investigation brings forth violations of a minor nature or a situation that is subject to administrative remedies, the record of the investigation shall so state. If an investigation indicates violations of a criminal nature that are prosecutable in a court of competent jurisdiction, the Tribe's Criminal Investigator shall proceed directly with his/her investigative reports to the Federal prosecutor and to the Tribal Prosecutor for prosecution.

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