

LUMBEE TRIBE OF NORTH CAROLINA

VETO

CLLO-2010-0312-01

MARCH 12, 2010
AMENDED OCTOBER 21, 2021
AMENDMENT #2 SEPTEMBER 21, 2023

"ETHICS AND CONFLICT OF INTEREST ORDINANCE"

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 I-b of the Constitution of the Lumbee Tribe of North Carolina delegates all legislative authority to the Tribal Council; and

WHEREAS, Article XI Section 2 of the Constitution of the Lumbee Tribe of North Carolina states the first Tribal Council elected under this Constitution shall adopt an ordinance prescribing conflicts of interests in the performance of duties by elected and appointed tribal officials, and which ordinance shall require a tribal official to recuse him, or herself from any decision or vote affecting his or her pecuniary interest or that of a family member.

WHEREAS, The Tribal Council has determined that additional provisions to the Ethics and Conflict of Interest Ordinance shall include ethical standards of conduct that shall guide the actions of all persons who have a relation with the Tribal Government, and provide guidance for conducting business, protect the interest of tribal members, and the reputation and integrity of Tribal Government.

WHEREAS, The ethical standard of conduct shall govern the conduct of tribal officials, tribal appointees, committee members, volunteers, and tribal members in a manner that protects the best interests of the Tribe, and is free from corruption and misconduct in the Tribal Government. All the above persons are subject to the provisions of this ordinance and any other tribal ordinances are personally responsible for ensuring his or her conduct conforms to these following provisions.

THEREFORE BE IT ENACTED, By the Tribal Council of the Lumbee Tribe of North Carolina the following ordinance cited as the "ETHICS AND CONFLICT OF INTEREST ORDINANCE"

SECTION 1: ETHICS IN PERFORMANCE OF DUTY

1. The Tribal Chairperson, Tribal Council Members, Officers, Tribal Judiciary, which includes Administrative and Supreme Courts, and any Courts that might be established in the future, Appointees, or any other entity owned wholly or in part by the Lumbee Tribe of North Carolina that provides services with the Lumbee Tribal Government.

- a. Shall not use the authority of his or her office or position, directly or indirectly, in a manner intended to compel or coerce any person or other public servant to provide him or herself, any other public servant or other person with anything of economic value.
- b. Shall not use information that is gained in the execution of his or her office or employment that is not available to the general public to further or seek to further the person's private or personal interest.
- c. Shall not accept gifts, or personal benefits, except compensation authorized by Tribal law, that is connected directly or indirectly with the performance of his or her duties of office.
- d. Shall not use the authority of his or her office or position, directly or indirectly, in a manner intended to coerce any person to engage in political activity.
- e. Shall not use or disclose any information which was received in his or her official tribal government capacity to further his or her personal or pecuniary interests.
- f. Anyone listed in Section 1: #1 of this ordinance entrusted with Tribal Funds or equipment for carrying out Tribal business shall be subject to the following requirements and procedures, in order to provide a uniform system and to avoid actual or apparent impropriety;
 1. Held personally accountable and liable for Tribal monies entrusted to their control in performance of official tribal duties.
 2. Tribal funds withdrawn for specific authorized purposes by anyone shall be used for those specific purposes only and all receipts and/or proof of authorized expenditures shall be returned to Finance within 10 business days.
 3. In all cases, Tribal funds not expended for authorized purposes must be repaid by the responsible person within (10) business days after the date on which such funds were to have been expended.
 4. A person shall be held personally accountable and liable for all equipment entrusted to them in the performance of Tribal business, if damages occur due to negligence or recklessness.
 5. A person shall not use, or authorize the use of tribally owned rented or leased vehicles or equipment for purposes other than those officially authorized.

SECTION 2: CONFLICTS OF INTEREST IN PERFORMANCE OF DUTY

1. A person as identified in Section 1: #1 of this ordinance, shall not exercise an official power or perform an official duty, or function if the person has a conflict of interest or an perceived conflict of interest.
2. A person as identified in Section I: #1 of this ordinance who has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the Lumbee Tribal Government, or tribal council committee, shall:
 - a. Upon knowledge of the conflict of interest by any written or oral communication, disclose the nature of the conflict of interest according to the laws of the Tribal Government and/or any funding agency involved.
 - b. Withdraw from any meetings or discussion, if he or she becomes knowledgeable that a conflict exists and shall not vote or participate in the discussion or consideration of the matter. If a person withdraws or recuses him or herself from the meeting because of a conflict of interest, he or she is still counted for purposes of a quorum.
3. If anyone withdraws from discussions in meetings because of a conflict of interest, a written record shall be made that includes the withdrawal of the person in regard to the individual's conflict of interest.
4. A person or entity as identified in Section 1: #1 Of this ordinance, shall not represent the interest of a third party who has an actual or potentially adversarial relationship with the Lumbee Tribe (i.e. as legal counsel, trustee, general agent or consultant.)
5. A person or entity as identified in Section I: #1 of this ordinance, shall not work for, be an agent, or consultant of any entity that competes for the same contracts, grants, and/or services as the Lumbee Tribe of North Carolina without prior approval of a two- thirds vote of the Tribal Council.
6. A Judicial Court Judge, shall not be qualified to act as such in any case where he or she has direct interest, or where any party involved in the case is related by marriage or blood in the first or second degree.
7. A Judicial Court Judge may be disqualified to act in any case upon his or her own motion.

SECTION 3: CONFLICT OF INTEREST IN PUBLIC CONTRACTION FOR GOODS AND SERVICES

1. An employee, officer or agent involved in making and receiving awards, shall be considered in a conflict-of-interest relationship if contracting for bids and services if such person has a relationship with such individuals so listed in Section 3 #4, subsection a, b, and c; (*Conflict of interests are not limited to the aforementioned examples*).
2. A person or entity shall not seek to induce any person or employee to procure goods and or services from any individual so listed in Section 3, #4 subsection a, b, and c;

3. An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of contractual services shall be considered in conflict of interest if such organization seeks the same from any individual in Section 3, #4 subsection a, b, and c;
4. The individual or entities so listed below are considered to represent conflicts of interest for public contraction for Goods and Services if
 - a. His or her immediate family to include father, mother, son, daughter, brother, sister, spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law.
 - b. His or her business partner seeks to procure or provide contractual services or;
 - c. Any entity wholly owned or in part by any such persons or entities so named in Section 1, #1.

SECTION 4: JUDGEMENT OF CONFLICTS OF INTEREST

A conflict of interest exists if there is substantial interest by the person or entity identified in Section 1: #1 of this ordinance, and it shall be determined by, but not limited to, the following:

1. If ownership of a business entity or any other such organization by the person's spouse or dependent child, including ownership as the beneficiary of a trust, or a majority interest or more in a business then such person entity or otherwise shall be deemed to have a conflict of interest.
2. If the annual income, or expected annual income, by a person or the person's spouse (or relationship), or dependent child(ren) will result in a gross revenue of more than 10% to the business person or entity then shall a conflict of interest exist. 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.
3. Service by the person or the person's spouse or spousal relationship, or dependent child(ren), as an officer, trustee, director or employee of a business entity except that uncompensated service as an officer, trustee, director of a not for- profit corporation is not a substantial interest as defined in Section 4: #1 of this ordinance.
4. The above stated determinations of conflict of interest is in no way limited to those stated above and no way shall preclude with any other conflict of interest that may arise.

SECTION 5: PROCEDURES TO HANDLE CONFLICTS OF INTEREST AND ETHICS VIOLATIONS

1. To file a complaint, a person must have reasonable grounds to believe that an individual or entity listed in Section 1: #1 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.
 - i The complainant, (accuser) shall be required to be present at any hearing convened for hearing his/her complaint. In the event the complainant is unable to attend the scheduled hearing, the committee shall reschedule one time.
 - b. The alleged violator shall be notified by the Ethics Chairperson/designee within five (5) business days of the Ethics complaint being filed.
 - c. The Chairperson of the Ethics Committee shall convene a meeting within fifteen business (15) days of receiving the complaint in order to consider the evidence as presented by the complainant.
 - d. If the Chairperson of the Ethics Committee fails or is unable to convene a meeting the Vice Chair of the Committee shall convene meeting within fifteen business (15) days of becoming aware of the need to convene a meeting.
2. The accused may be present at any committee meeting that shall be convened to hear the facts on the allegations, to provide facts or arguments that he/she did not violate this Ordinance.
 - a. The Committee shall render a determination in writing in five (5) business days including its evidentiary findings, which must be approved by a simple majority of the Council Members voting and in which any accused Council Member shall not vote in this determination.
 - b. At the conclusion of the Ethics hearing, the committee Chairperson/designee shall render the committees' opinion of facts to the Tribal Council during its next scheduled Council meeting or a special called meeting.
 - c. If the Ethics Committee fails to convene a meeting within 15 business days to hear the complaint, a complainant may take the complaint to any lower court with jurisdiction, and may be appealed to the Supreme Court
 - d. Any interested party can file an affidavit setting forth facts, establishing, by reason of bias or prejudice of the Judge to whom the case is assigned, that the party cannot have a fair trial. Such affidavit shall be filed no later than five (5) business days before the trial,

addressed directly to the judiciary at which time the Supreme Court Judicial Code of Ethics shall be applied.

SECTION 6: SANCTIONS

1. Any person identified in Section 1: #1 found guilty of violating this Ordinance shall be notified in writing within (5) business days by the Speaker of the Tribal Council or their designee of the findings and the sanctions which may be one or more of the following actions:
 - a. To reprimand or censure the person 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 any position or office held in accordance with the Constitution and any Ordinance on removal of members.
2. If the Tribal Chairperson finds that the Tribal Administrator has violated this ordinance, the Tribal Chairperson shall report the violation to the Tribal Council.
3. The Tribal Chairperson and Tribal Council may use the same sanctions in Section 6: #1 (a-c) or remove the Administrator, as they deem appropriate.

SECTION 7: 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 committees established by the Tribal Council.

SECTION 8: ACTIVITIES ON BEHALF OF CONSTITUENTS

This Ordinance does not prohibit the activities in which individuals identified in Section 1: #1 normally engage on behalf of the Lumbee Tribal Members.

SECTION 9: SAVING CLAUSE

In the event that any phrase, provision, part, subsection, or section of this ordinance is found by the court of competent jurisdiction to violate the Constitution, laws, or ordinances of the Lumbee Tribe of North Carolina, such phrase, provision, part, paragraph, subsection, or section shall be considered to stand alone and, the entirety of the balance of the ordinance to remain in full and binding force and effect.

DEFINITION:

Good Standing- Having complied with all their explicit obligations, while not being subject to any form of sanction, suspension, or disciplinary censure.

Conflict of Interest- A 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 times knows that in the performance of the duty or function or in the exercise of the power there is opportunity to further his or her private and/or personal 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- an effort to support or oppose the election or appointment of a person for political office in an election or appointment.

Spouse- a person who is married to an individual defined in Section 1: #1 or a person who lives with a member as husband and wife.

Child- includes a person to whom an individual has demonstrated a settled intention to treat as a child of his or her family.

Spousal Relationship- although not married, male or female living as husband and wife.

Officer/Official/Representative of the Tribe- the person elected or appointed, except the tribal administrator.

Service- the end of a term or upon resignation.

Interested Party- plaintiff, defendant, any other person having standing.

Private Interest- does not include an interest arising from the exercise of an official power or the performance of an official duty or function that:

1. Applies to the general public
2. Affects a member as one of a board class of electors or
3. Concerns the remuneration and benefits of individuals identified in Section 1: #1 of this ordinance.

Ethics- in this context is that contained in Black's Law Dictionary: "professionally right or befitting; conforming to professional standards of conduct."

Appointees- Any person empowered to represent the Lumbee Tribe of North Carolina whether appointed by the LTNC Executive / Legislative Branches or any external entities including, but not limited to, local, state, and federal entities.

CERTIFICATION

THIS CLLO-2010-0312-01 "ETHICS AND CONFLICT OF INTEREST ORDINANCE", AMENDMENT #2 AMENDED AT A MEEETING OF THE TWENTY-ONE (21) MEMBER TRIBAL COUNCIL OF THE LUMBEE TRIBE OF NORTH CAROLINA WHERE 17 MEMBERS WERE PRESENT, CONSTITUTING A QUORUM, THIS THE 21ST DAY OF SEPTEMBER 2023, BY A VOTE OF 17 YES, 0 NO, 0 ABSENTION(S), AND 0 RECUSE(S).

Sharon Hunt 9/21/23
ATTEST: SHARON HUNT DATE
SPEAKER, TRIBAL COUNCIL OF THE LUMBEE TRIBE OF NORTH CAROLINA

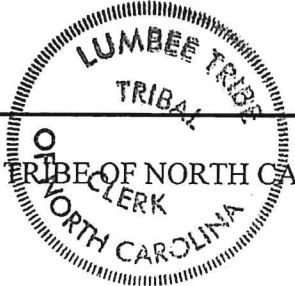
Nanci Locklear 9/21/23
ATTEST: NANCI LOCKLEAR DATE
SECRETARY, TRIBAL COUNCIL OF THE LUMBEE TRIBE OF NORTH CAROLINA

ATTEST: JOHN L. LOWERY DATE
CHAIRMAN, LUMBEE TRIBE OF NORTH CAROLINA

POSTING

THIS CLLO-2010-0312-01 "Ethics and Conflict of Interest Ordinance" Amendment #2, duly posted on the 21st day of September 2023.

Belinda Brewer 9/21/23
ATTEST: BELINDA BREWER DATE
TRIBAL CLERK DESIGNEE, LUMBEE TRIBE OF NORTH CAROLINA



ROLL CALL VOTE RESULTS TO AMEND

CLLO-2010-312-01 "ETHICS AND CONFLICT OF INTEREST ORDINANCE"

17 FOR, 0 AGAINST, 0 ABSTENTION(S)

District 1:	Billy Oxendine	ABSENT
District 2:	Sharon Hunt	YES
	Gerald Goolsby	YES
District 3:	Harold Smith	YES
	Pam Hunt	ABSENT
District 4:	Jody Bullard	YES
District 5:	Wendy Moore	ABSENT
	Carrington Locklear	YES
District 6:	Kristie Hunt	ABSENT
	Richard Jones	YES
District 7:	Nanci Locklear	YES
	Yvonne Dial	YES
	Rudy Locklear	YES
District 8:	Kathy Hunt	YES
District 9:	Dewey J McNeill	YES
District 10:	Bobby Emanuel	YES
District 11:	Chocajuana Oxendine	YES
District 12:	Jo Doss	YES
	Annie Taylor	YES
District 13:	Alex Baker	YES
District 14:	Homer Fields	YES



Lumbee Tribe of North Carolina
The Desk of the Tribal Clerk

Record of Posting

Tribal Ordinance: CLLO-2010-0312-01 "ETHICS AND CONFLICT OF INTEREST ORDINANCE" AMENDMENT #2

Posted Date: 09/21/2023


Presented to Tribal Chairman for Review: 09/21/2023 VIA EMAIL

Signature or Veto date:  10/5/2023

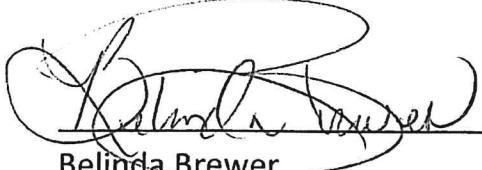
Reason for Veto: See attached

VETO

Other: _____

 9/21/2023
Date

John L. Lowery
Tribal Chairman of the Lumbee Tribe of North Carolina

 9/21/23
Date

Belinda Brewer
Tribal Clerk Designee of the Lumbee Tribe of North Carolina



While elected and appointed Tribal Government officials are subject to Tribal Council Ethics Committee jurisdiction including giving the committee the authority to sanction and censure those who have violated the guidelines established by the CLLO-2010-0312-011, tribal employees are not.

It is well established in Tribal law and in practice that employees are employees of the executive branch and are not subject to discipline by the Tribal Council. The ethical standards, expectations, and guidelines that Employees are mandated to follow are found in the Tribal Employee Handbook and other Tribal policies. Ethical violations are to be reported to the Tribal Administrator and dealt with as personnel matters in accordance with applicable law. The proposed law as written is vague as to which provisions if any apply to Tribal Employees.

In addition, I feel there needs to be a "cooling off" period for Tribal Officials before being eligible for employment with the Tribal Government or other Tribally owned entities.

ROLL CALL VOTE RESULTS TO VETO OVERRIDE

CLL0-2010-0312-01 "ETHICS AND CONFLICT OF INTEREST ORDINANCE"
AMENDMENT #2

16 FOR, 1 AGAINST, 0 ABSTENTION(S) 0 RECUSE(S)

District 1:	Billy Oxendine	YES
District 2:	Sharon Hunt	ABSENT
	Gerald Goolsby	NO
District 3:	Harold Smith	YES
	Pam Hunt	YES
District 4:	Jody Bullard	YES
District 5:	Wendy Moore	ABSENT
	Carrington Locklear	YES
District 6:	Kristie Hunt	YES
	Richard Jones	YES
District 7:	Nanci Locklear	YES
	Yvonne Dial	YES
	Rudy Locklear	ABSENT
District 8:	Kathy Hunt	YES
District 9:	Dewey J McNeill	YES
District 10:	Bobby Emanuel	YES
District 11:	Chocajuana Oxendine	YES
District 12:	Josephine Doss	YES
	Annie Taylor	YES
District 13:	Alex Baker	ABSENT
District 14:	Homer Fields	YES