

# LUMBEE TRIBE OF NORTH CAROLINA

CLLO-2010-0312-01

MARCH 12, 2010  
AMENDED OCTOBER 21, 2021

## **“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 1-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. Any person identified in Section 1: #1 of this ordinance, shall not be eligible for employment with the Lumbee Tribe within one year of the end of their service, provided that they leave in good standing.
- d. 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.
- e. 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.
- f. 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.
- g. 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 apparent conflict of interest.
2. A person as identified in Section 1: #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, except in the matter of Tribal Council Business Meetings.
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 from the meeting and a conflict of interest was discussed or addressed.
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 1: #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 SERVICES AND GOODS**

1. A person or entity shall not seek to induce any person identified in Section 1 #1 or employee to procure goods and or services from the spouse, family member, or from the client or principal of the Tribal Chairperson, Tribal Council Member, officer or employee.
2. 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. *(Conflict of interests are not limited to the aforementioned examples).*
  - a. His or her relatives including father, mother, son, daughter, brother, sister, uncle, aunt, nephew, niece, husband, wife, father in law, mother in law, son in law, daughter in law, brother in law, sister in law.
  - b. His or her business partner or
  - c. An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of contractual services or any of the above from Section 3: 2a.

### **SECTION 4: JUDGEMENT OF CONFLICTS OF INTEREST JUDGEMENT**

A conflict of interest exists if there is substantial interest by the person or entity identified in Section 1: #1 of this ordinance, shall be judged by 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, or an interest of 10% or more in a business.
2. Annual income, or expected annual income, by a person or the person's spouse (or relationship), or dependent child(ren) collectively, of more than \$5000.00 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.
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.

## **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(excluding employee) 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. Any person, including members, who have reasonable grounds to believe that an employee is in violation of this Ordinance shall follow the employee policy handbook to report the employee's violation.
    - ii. 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 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.
  - c. 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.
  - d. The alleged violator shall be notified by the Ethics Chairperson/designee within five (5) business days, of the Ethics complaint being filed.
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. 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.
3. 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.

4. If the Ethics Committee fails to convene a meeting to hear the complaint, a complainant may take the complaint to any lower court with jurisdiction, and may be appealed to the Supreme Court.

a. 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 not 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 (excluding employees) 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.

**Apparent Conflict of Interest-**a member has an apparent conflict of interest if there is a reasonable perception, which a well-informed person, could properly have that the member's ability to exercise an official power or perform an official duty or function is likely to have been affected by 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:

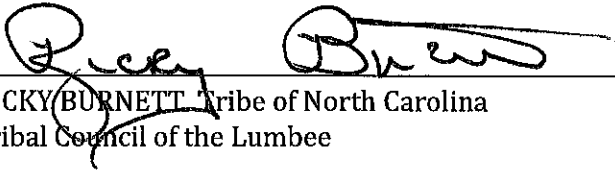
1. Applies to the general public
2. Affects a member as one of a board class of electors or
3. Concerns the remuneration and benefits of individuals identified in Section 1: #1 of this ordinance.

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



# CERTIFICATION

THIS CLLO-2010-0312-01 "ETHICS AND CONFLICT OF INTEREST ORDINANCE", AMENDED AT A MEETING OF THE TWENTY-ONE (21) MEMBER TRIBAL COUNCIL OF THE LUMBEE TRIBE OF NORTH CAROLINA WHERE 18 MEMBERS WERE PRESENT, CONSTITUTING A QUORUM, THIS THE 21st DAY OF OCTOBER, 2021 BY A VOTE OF 18 YES 0 NO, AND 0 ABSTENTION(S).



ATTEST: RICKY BURNETT, Tribe of North Carolina  
Speaker, Tribal Council of the Lumbee

10-21-2021

DATE



ATTEST: SHARON HUNT, Tribe of North Carolina  
Secretary, Tribal Council of the Lumbee Tribe of North Carolina

10/21/2021


Date

ATTEST: HARVEY GODWIN JR.  
Chairman, Lumbee Tribe of North Carolina

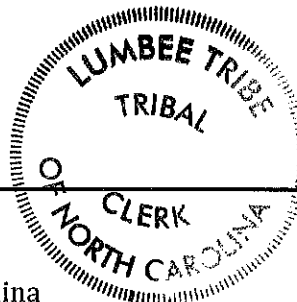
DATE

# POSTING

THIS CLLO 2010-0312-01 "ETHICS AND CONFLICT OF INTEREST ORDINANCE", duly posted on the 21<sup>st</sup> day of Oct. 2021.



ATTEST:  
BELINDA BREWER  
Tribal Clerk Designee, Lumbee Tribe of North Carolina



10/21/21

DATE

**ROLL CALL VOTE RESULTS TO AMEND**

**CLLO-2010-0312-01**

**“ETHICS AND CONFLICT OF INTEREST ORDINANCE”**

**18 FOR, 0 AGAINST, 0 ABSTENTION(S)**

District 1:	Carvicous Barfield	YES
District 2:	Sharon Hunt	YES
	Gerald Goolsby	YES
District 3:	Harold Smith	YES
	Pam Hunt	YES
District 4:	Ted Woodell	YES
District 5:	Wendy Moore	YES
	Carrington Locklear	YES
District 6:	Larry Chavis	YES
	Richard Jones	YES
District 7:	Reginald Oxendine	YES
	Yvonne Dial	YES
	Alvin Mercer	YES
District 8:	Corbin Eddings	YES
District 9:	Dewey J McNeill	ABSENT
District 10:	Marshil Locklear	ABSENT
District 11:	Chocajuana Oxendine	YES
District 12:	Shelley Strickland	ABSENT
	Annie Taylor	YES
District 13:	Ricky Burnett	YES
District 14:	Terry Hunt	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" AMENDED

Posted Date: 10/21/2021


Presented to Tribal Chairman for Review: 10/21/2021 VIA EMAIL

Signature or Veto date: \_\_\_\_\_

Reason for Veto: \_\_\_\_\_

Other: \_\_\_\_\_

Harvey Godwin, Jr. \_\_\_\_\_ Date  
Tribal Chairman of the Lumbee Tribe of North Carolina

 \_\_\_\_\_ Date  
Belinda Brewer  
Tribal Clerk Designee of the Lumbee Tribe of North Carolina



10/21/21  
Date