

Sisseton-Wahpeton Oyate

LAKE TRAVERSE RESERVATION
P.O. Box 509
100 Veterans Memorial Drive
Agency Village, South Dakota 57262-0509
Phone: (605) 698-3911

TRIBAL COUNCIL RESOLUTION NO. SWO-08-045

Amend Chapter 55 – Code of Conduct

WHEREAS, The Sisseton-Wahpeton Oyate is organized under a Constitution and By-laws adopted by the members of the Tribe on August 1-2, 1966, and approved by the Commissioner of Indian Affairs on August 25, 1966, and last amended effective November 15, 2006; and,

WHEREAS, The Constitution and By-laws ARTICLE VII, Section 1, states that the Tribe shall be governed by the Tribal Council, and that Tribal Council shall have the power to: (a) represent the Tribe in all negotiations with Federal, State and local governments; (d) to make rules governing the relationship of the members of the Tribe, to Tribal property, and to one another as members of the Tribe; (g) to take actions by ordinance, resolution or otherwise which are reasonably necessary through committees, boards, agents, otherwise, to carry into effect the foregoing purposes; (h) to promote public health, education, charity, and other services as may contribute to the social advancement of the members of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation; and (i) adopt resolutions regulating the procedures of the Tribal Council, its officials and committees in the conduct of Tribal Affairs; and,

WHEREAS, In 1987, the Tribal Council enacted the Sisseton-Wahpeton Sioux Tribe Code of Conduct Ordinance as Chapter 55 of the Sisseton-Wahpeton Tribal Codes of Law, which has been amended from time to time; and,

WHEREAS, The Tribal Council has determined it is necessary to amend and revise the Sisseton-Wahpeton Oyate Code of Conduct Ordinance.

WHEREAS, The Tribal Council has established an informal legislative committee, comprised of Tribal Officials, made recommendations pertaining to amendments and other revisions to the Tribal Council in consultation with Sisseton Wahpeton Oyate Legal Counsel; and,

WHEREAS, The informal legislative committee recommends the attached Chapter 55, with the proposed amendments be adopted.

NOW, THEREFORE BE IT RESOLVED, that the Tribal Council of the Sisseton-Wahpeton Oyate hereby authorizes, adopts and enacts the attached Sisseton-Wahpeton Code of Conduct Ordinance; and,

FINALLY BE IT RESOLVED, This Ordinance shall be in full force and effect on the date of formal approval and adoption by the Tribal Council, on April 9, 2008.

CERTIFICATION

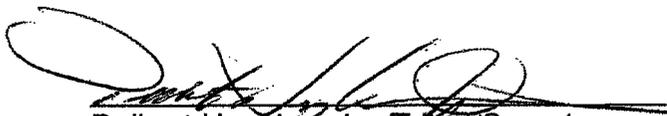
We, the undersigned duly elected Chairman and Secretary of the Sisseton-Wahpeton Oyate Tribal Council, do hereby certify that the above resolution was duly adopted by the Sisseton-Wahpeton Oyate Tribal Council, which is composed of 10 members, (representing a total of 17 Tribal Council weighted votes) of whom 9 constituting a quorum, were present at a Tribal Council meeting, duly noticed, called, convened and held at the TiWakan Tio Tipi, Agency Village, South Dakota, April 10, 2008, by a vote of 12 for, 2 opposed, 0 abstained from vote, 2 absent from vote, 1 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 15th day of April, 2008.



Michael I. Selvage, Sr., Tribal Chairman
Sisseton-Wahpeton Oyate

ATTEST:



Delbert Hopkins, Jr., Tribal Secretary
Sisseton-Wahpeton Oyate

cc: Council
Tribal Court
Judicial
Planning
Tribal Attorney



**Sisseton-Wahpeton Oyate
of the
Lake Traverse Reservation**

Codes of Law

Chapter 55 – Code of Conduct

55-01-01 Procurement Procedures and Standards

Attachment O, Circular No. A-102 from the Office of Management and Budget is hereby incorporated by reference in the Sisseton-Wahpeton Oyate's procurements are from Federal programs.

55-01-02 No employee, officer, or agent of the Grantee (Sisseton-Wahpeton Oyate) shall participate in selection, or in the award or administration of a contract supported by Federal funds and/or Tribal funds, if a conflict-of-interest, real or apparent, would be involved. In the event the preceding conditions exist, the employee, officer or agent of the Grantee shall absent himself/herself from the room where the selection is taking place. Such a conflict would arise when:

1. The employee, officer, or agent;
2. Any member of his/her immediate family;
3. His or her partner; or
4. An organization which employs or is about to employ any of the above, has a financial or other interest in the firm selected for the award.

55-01-03 The Grantee's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of a monetary value from contractors, potential contractors, or parties to sub-agreements.

55-01-04 Any violations of these procurement standards as set forth herein shall be reported for investigation either through Federal administrative channels (which is the Grantor's Contracting Officer) or to the Tribe's Criminal Investigator.

55-01-05 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. Administrative remedies shall mean those internal controls of program management and/or the provisions of 55-02-01, 55-03-01, 55-03-02 and 55-03-03.

55-01-06 If the investigation indicates violations of a serious nature that are prosecutable in a court of competent jurisdiction, the Tribe's Criminal Investigator shall proceed directly with his investigative reports to the Federal court system or if the situation indicates, to the Tribal Prosecutor for prosecution.

55-01-07 Suspensions of elected or selected officials includes, but is not limited to, Council persons, District Officers, Committee members, Commission members, Board members, and Tribal Program/Project Managers. No person accused of violations under this chapter shall be removed from his/her office or position until those allegations have been proven beyond a reasonable doubt in a court of competent jurisdiction within the parameters of due process as mandated by the Indian Civil Rights Act of 1968.

55-01-08 Presentation of the evidence requesting circumstances for offenses shall be presented at a regularly scheduled Council meeting wherein an affirmative vote of five of the Council members shall be obtained for subject's suspension.

55-01-09 A person so accused may be suspended from his/her position with or without pay until such time guilt or innocence has been established. If the allegations are not substantiated, the person/defendant should be restored to full duties and responsibilities. In those cases where allegations have resulted in prosecution and conviction, and after exhaustion of all appeals, the person/defendant shall, upon conviction, immediately forfeit his/her position. Elected or selective officials of the Sisseton-Wahpeton Oyate, who have been convicted under the provisions of this chapter, may be subjected to the provisions of the Constitution and By-Laws of the Sisseton-Wahpeton Oyate, Article VI Vacancies, Removal and Recall, if they do not voluntarily relinquish their positions.

55-02-01 **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.

55-03-01 **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.

55-03-02 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.

55-03-03 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.

55-04-01 Disclosure

For the purposes of this section “disclosure” means the premise that all Tribal officials that are elected or selected and Tribal employees who have interests which might conflict with their duties, should divulge those interests. Disclosure shall also extend to those interests held by his/her family. Every selected or elected official or office or positions file a disclosure of the following:

1. Interest/shares, ownership in a business/corporation by self or immediate family, (parents, spouse, brothers, sisters, or children).
2. Conflicting employment, which means, under the provisions of this Chapter, employed part-time by a business that seeks to contract or other services from the Tribe, or in the case of immediate family as defined in (1), employed full-time.

55-04-02 Any elected or selected officials or employee who does have those interests listed in the preceding definitions shall not take part or vote in any transaction involving those interests.

55-04-03 Any subsequent acquisitions or employment within the listed categories should be

promptly disclosed. Failure to disclose 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 defendant should be given notice; particularly defining the allegations and by whom. The burden of proof will rest with the accuser. Due process requires that the accused has the right to be represented, 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. 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 for five (5) days if contract value is less than \$500.00.
3. Referral for possible removal under Gross Neglect, 55-02-01, if contract value is over \$500.00.

55-04-04 Location of the repository of such records shall be the responsibility of the Tribal Secretary's approval.

55-05-01 **Candidates.**

Candidates for a board cannot serve if an immediate family member is employed by the entity, unless the employee resigns.

55-05-02 **Relative/Immediate Family Member**

For the purposes of this section, "relative/immediate family member" means father, mother, son, daughter, brother, sister, grandfather, grandmother, husband or wife.

55-06-01 **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 judgment 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.