

ENHANCING TRIBAL GOVERNANCE:

Codes of Ethics

Would You? Could You? Should You?

Defining Ethics within
Indian Country

Why are Codes of Ethics Important?

- Tribal ethics codes should reflect tribal values such as:
 - Trust
 - Honest
 - Integrity
 - Respect
- Provide rules or guidelines for behavior within the tribal systems

What Tribal Operations Should be Covered

- Governmental entity
 - Tribal Code of ethics
 - General
 - Department specific
 - Professionals
 - Elected Officials
 - Appointed
- Business entity
 - Officers
 - Employees

Codes of Ethics and Sovereignty

- Tanana Chiefs Statement
 - The traditional values of the Tribes are the foundation for ethics standards for the Tribes.
- If Tribes do not articulate their own ethical standards, the ethics standards of non-Indian society maybe applied.
- Builds trust and improves image
 - Internally
 - Externally

Taking a Broad Approach to Ethical Concerns

- Why do Tribes need ethic codes?
- What are the various ethical and legal contexts in which Tribes operate?
- What are some of the challenges Tribes face?
- How can ethical codes help Tribes at all levels?

Transforming Traditional Values to Ethics Codes

- Who is going to be covered?
- What is going to be covered?
- Is it mandatory?
- How will it be enforced?
- One Code or many?
- Should there be a distinction between a Tribal Governmental entity versus a Tribal Business entity versus an Indian owned business versus a non-Indian owned business?

Tribes as Businesses or Indian Owned Businesses

- What are the Ethical Concerns?
 - Who should the code apply to?
 - Are the goals different?
 - Are the impacts different?
 - Is enforcement different?

What can a Code of Ethics do?

Establish a Framework for professional behavior

- Tribal codes of ethics should:
 - Explain a Tribe's expectations for individuals facing situations with possible ethical implications
 - Define acceptable behavior
 - Clarify gray areas
 - Identify steps for resolving ethical issues
 - Promote high standards of practice
 - Comply with applicable laws and regulations

How Do Ethical Codes Benefit Business Activities?

Business Reputation are enhanced or diminished by ethics

- Ethical policies help
 - Build an ethical cultural of doing the right thing most of the time
 - Reduce risks and repercussions
 - Demonstrate a commitment to integrity
 - Establish a standard of professional conduct

Codes of Ethics

Groups Frequently Covered by Codes of Ethics?

- ▣ Elected Tribal Officials, appointees and employees
- ▣ Tribal Judges and hearing officers
- ▣ Tribal court clerks and personnel
- ▣ Attorneys licensed to practice in tribal court
- ▣ Social workers, psychologist, medical doctors
- ▣ Law enforcement officers
- ▣ Financial officers
- ▣ Educators
- ▣ Business entrepreneurs

Guidelines for Writing an Ethics Code

A Code fails if it is not user-friendly

- Be clear about the reasons for writing a code
- Brainstorm for ideas from all levels of the organization
- Comply all applicable laws and regulations
- Write as simply and clearly as possible
- Include examples and solutions

Purpose Behind Tribal Ethics Codes

- Promote responsible leadership
- Require high standard of ethical conduct
- Hold tribal officials accountable for their actions
- Protect the Tribe from improper influence, conflicts of interest and improprieties
- Place the interest of the Tribe above the personal and economic interests of tribal officials
- Guide decision making
- Stimulate dialogue about tribal ethics
- Define and protect tribal culture and values

Scope of the Code

- Jurisdiction. Who and what is going to be covered by this document?
- Address how notice of or education about requirements will be handled
- Establish procedures for raising ethical issues
- Verification of compliance
- Reporting
- Enforcement
- Review

Possible Standards or Guidelines

- Alcohol and Drugs Use
- Travel and attendance at conferences, training
- Conflict of Interest
- Private gain
- Solicitation
- Gifts, Loans, Favors or other Benefits
- Unauthorized Compensation
- Honorarium
- False Claim
- Misuse of Funds and Property
- Misuse of Staff
- Financial disclosure
- Confidential information
- Abuse of Authority
- Preferential Treatment
- Nepotism
- Neglect of Duty
- Impeding Governmental Efficiency
- Abstention for Office Action
- Public Serve in a Non- Tribal Appointed or Elected Office
- Retaliation and Bad faith
- Political and Campaign Activity
- Harassment
- Convictions

Common Ethics Provision For Business Entities

- ▣ Employment Practices
- ▣ Handling Information
- ▣ Conflicts of Interest
- ▣ Environmental issues
- ▣ Management practices
- ▣ Political Activities
- ▣ Maintaining Records
- ▣ Drug testing
- ▣ Fair treatment issues

Handling Complaints

- Where is the complaint filed?
 - Compliance office
 - Ethics committee
 - Council
 - Court
 - Head of Department
- Where will there be fair and honest review of the complaint?

Resolving Complaint

- Dismissal
- Reprimand
- Suspension
- Removal or termination
- Disqualification from holding position
- Restitution
- Penalties
- Civil Damages

More Than Just a Good Idea?

- Publicly traded companies must disclose if they have ethics codes for their top financial people under §406 of the Sarbanes-Oxley Act.
- The Federal Sentencing Guidelines require oversight by top officials in the organization to insure compliance with standards and procedures

Employ this Simple Ethics Test*

- Transparency
 - Do I mind others knowing what I have decided?
- Effect
 - Who does my Decision affect or hurt?
- Fairness
 - Would my decision be considered fair by those affected?

*Taken from the Institute of Business Ethics <http://www.ibe.org.uk>

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