

Ordinance 19-98

An ordinance establishing a Code of Conduct for officials of the Mille Lacs Band of Ojibwe and a drug-free work-place policy.

The District III Representative introduced the following bill on the 21st day of January 1998.

Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of establishing a body of law governing ethics and conduct of Mille Lacs Band of Ojibwe officials. The Band Assembly determines that it is in the best interests of the Band to provide protections and safeguards for our resources and people by enacting restrictions and requirements for officials and establishing a safer drug-free work place.

Chapter 1

Section 1. Purpose.

The purpose of this code of conduct is to acknowledge that ethics is one of the foundations of our Ojibwe culture. The Band Assembly recognizes that the government of the Mille Lacs Band of Ojibwe can function much more effectively with the confidence and trust of the people, and to acknowledge that the Band membership is entitled to loyalty, integrity and accountability from their elected and appointed officials.

Section 2. Intent.

The intent of this code of conduct is to maximize trust between Mille Lacs Band officials and the people they serve. The conduct of elected and appointed officials of the Mille Lacs Band, whether on or off duty, which adversely reflects on the Mille Lacs Band of Ojibwe is within the scope of this code of conduct.

Section 3. Definitions

- (a) **Appointed Officials.** Means officials of the Mille Lacs Band, including but not limited to, the Commissioner of Administration, Assistant Commissioner of Administration, Commissioner of Corporate Affairs, Commissioner of Education, Commissioner of Community Development, Commissioner of Finance, Commissioner of Health and Human Services, Commissioner of Natural Resources, Solicitor General, staff members of the Office of the Chief Executive, the Justices and Judges of the Court of Central Jurisdiction, or any other person designated as a Senior Executive Staff employee or members of any board of an official Mille Lacs Band entity that are appointed by the Chief Executive or by Band Assembly members.
- (b) **Immediate Family.** Means a spouse, biological or adopted child, or members of the same household, or the mother, father, sister, or brother of the official.

- (c) Elected Officials, The Chief Executive, the Speaker of the Band Assembly, the District Representatives or members of any board of a Mille Lacs Band entity that are elected by Band members.
- (d) Mille Lacs Band or Band. The Mille Lacs Band of Ojibwe or any political subdivision thereof or any entity the majority of which is owned by the Band.

Section 4. Conduct.

The conduct of elected and appointed officials of the Mille Lacs Band reflects on the character and integrity of the entire membership. Band officials should conduct themselves in a manner that does not discredit their position, the Band, or the people they represent. Officials with good character enhance the credibility of the Band.

Section 5. Behavior.

Officials of the Mille Lacs Band hold positions of honor and respect which place them in a position of high public visibility and provide them with the opportunity and responsibility to be positive role models for the people they serve today as well as for future generations.

Section 6. Conflicts Of Interest.

It is the duty of all Mille Lacs Band officials to pursue and protect the best interests, needs, and welfare of the Band. Their personal interests or interests of their friends, immediate family, or businesses shall be subordinated to the larger, best interests of the Band. Basic honesty, sound judgment and common sense are requisite for avoiding conflicts of interest and perceived conflicts of interest.

Section 7. Prohibited Activities.

The following activities are prohibited;

- (a) Misusing public office or position for private or personal gain.
- (b) Attempting to make or influence Mille Lacs Band or political subdivision decisions outside official processes.
- (c) Voting or participating in official decisions in matters where the official has a personal or economic interest greater than that of other Mille Lacs Band members or employees.
- (d) Soliciting or accepting Mille Lacs Band contracts for work without going through the prescribed procurement process.

- (e) Making unauthorized commitments or promises of any kind purporting to bind the Mille Lacs Band.
- (f) Improperly using Band resources for private or personal gain.
- (g) Practicing or supporting unfair employment or business practices, such as but not limited to nepotism, harassment or retaliation.
- (h) Improperly using their position to coerce or attempt to coerce anyone in order to further their personal interests or the interests of immediate family.
- (i) Interfering or attempting to interfere or inappropriately influence the Court in a pending case or case that may go before the Court.
- (j) Hindering, interfering or attempting to interfere in any civil or criminal investigation conducted by an appropriate official having jurisdiction to perform such an investigation.
- (k) (A) Soliciting or accepting any gift, gratuity or service with a value of more than \$100.
 (B) An official shall not accept gifts, gratuities or services totaling in the aggregate more than \$500 in any fiscal year.
 (C) Nominal gifts, gratuities or services with a value of less than \$25 will not be considered for purposes of section 7(k)(B).
- (l) Receiving compensation for work performed from any person or entity other than the Mille Lacs Band of Ojibwe or political subdivision thereof that could reasonably be perceived by band members as conflicting with Mille Lacs Band interests.
- (m) Knowingly or intentionally violating any other Mille Lacs Band statute.
- (n) Using a Band credit card for unauthorized purposes or personal reasons other than those expressly authorized by Band law.

Section 8. Recording of Gifts

- (a) All elected and appointed officials of the Mille Lacs Band receiving gifts in goods or services in excess of \$25, whether intended as a gift to the official or to the Band, shall record or cause to be recorded such gift with the Band Assembly.
- (b) Any gift in excess of \$100 to an official may only be accepted as a gift to the Band.
- (c) Gifts in goods or services from family members or pursuant to the customs and traditions of the Band are exempt from the provisions of this Act.

Section 9. Public Relations.

Good public relations require that Band officials cannot be separated from the people they were chosen to represent. They are bound, the same as other persons, to tell the truth, to respect individuals and their property, and to abide by the requirements of the law. An orderly society cannot exist if individuals can choose to follow only the laws with which they agree.

Section 10. Complementary Services

- (a) All elected and appointed officials are to pay for all services, that they receive, including meals, at any facility owned by the Band or any political subdivision thereof including the Corporate Commission of the Band except as expressly authorized under Band law.
- (b) Complimentary services may occur only under the following restrictions;
 - 1) When hosting vendors, potential vendors, dignitaries, officials of any non-Band government, guests of the Mille Lacs Band or for any other bona-fide Mille Lacs Band governmental purpose; and
 - 2) Under no circumstances shall Band officials provide complimentary services to another Band official or themselves unless governmental business is being transacted or another non-Band party is being hosted.
- (c) All complimentary slips shall contain the following;
name(s) of person(s) being hosted, if matters involving violations of this code upon a written petition signed by three or more members of the Joint Session.
- (b) It is the responsibility of all Band officials and employees to disclose waste, fraud, abuse or corruption to appropriate Mille Lacs Band authorities.

CHAPTER 2

Section 1. Drug-Free Workplace.

In order to protect our culture, our people and to better serve the membership, the Mille Lacs Band of Ojibwe declares that:

- (a) All Mille Lacs Band elected and appointed officials, and employees are required to refrain from the use of illegal drugs.
- (b) The use of illegal drugs by elected and appointed officials and employees of the Band, whether on or off duty, is contrary to the culture and traditions of the Mille Lacs Band of Ojibwe.

- (c) Persons who are using illegal drugs are not suited for elected or appointed office or employment with the Mille Lacs Band of Ojibwe.

Section 2. Responsibility.

Each Commissioner, the Chief Justice, the Chief Executive and the Speaker of the Assembly or political subdivision of the Band shall develop a plan for their respective areas of jurisdiction for achieving the objective of a drug-free workplace with due consideration of the rights of the Band government, the employee, and the membership.

- (a) Each plan shall include:

- 1) applicable;
- 2) purpose/reason for the transaction;
- 3) entity the guest represents if applicable;
- 4) date;
- 5) program budget to be charged which must have sufficient funds available;
- 6) signature of the official authorizing the comp.

(d) The Chief Executive, and Executive Officers as defined in 4 MLBSA § 4 and as amended, as well as any full-time employee within the Executive Branch expressly authorized by the Chief Executive shall be permitted to sign complimentary slips.

(e) The Secretary/Treasurer, District Representatives of the Band Assembly and the Commissioner of Finance as well as any full-time employee within the Legislative Branch expressly authorized by the Secretary/Treasurer shall be permitted to sign complimentary slips.

(f) The Chief Justice as well as any full-time employee within the Judicial Branch expressly authorized by the Chief Justice shall be permitted to sign complimentary slips.

(g) Any complimentary slip not authorized or in conformity with this Act or any other law of the Band may be recovered from the official or employee as the case may be or their estate by;

- (i) Set off against accrued pay, retirement credit, or any other amount do the official/employee;
- (ii) Deduction from any amount due from the Mille Lacs Band;
- (iii) Such other method as provided for by law.

Section 11. Unity.

Dedication and cooperation inspire unity. Unity is essential in order to ensure the long term survival of our culture, our people and our nation. In order to promote unity, Band officials must be committed to:

- 1) Demonstrating the highest standards of personal integrity, truthfulness and honesty in all their activities in order to inspire public confidence and trust.
- 2) Constructively promoting and supporting open communications with the membership and employees in a positive and professional manner.
- 3) Serving the membership with respect, concern, courtesy and responsiveness, recognizing that service to the Band and its membership is more important than service to oneself.

Section 12. Authority.

The Joint Session of the Band Assembly described in 3 MLBSA § 24 shall have the authority to issue oral or written reprimands or to suspend an official with or without pay for any violation of this code. Such authority shall not serve to infringe upon any other disciplinary, civil or criminal action that may otherwise be available.

- (a) Any elected official of the Mille Lacs Band, found by a majority of the Joint Session, after appropriate hearing, to be in violation of this code may be subject to the provisions and penalties set forth in this code of conduct and to any and all other remedies that may otherwise be available.
- (b) Any appointed official of the Mille Lacs Band found by a majority of the Joint Session, after appropriate hearing, to be in violation of this code may be subject to the provisions and penalties set forth in this code of conduct and to any and all other remedies that may otherwise be available.

Section 13. Responsibility

- (a) It is the responsibility of all Mille Lacs Band officials and employees to report any violations of this code. A Joint Session shall be convened to hear
 - (1) A statement of policy setting forth the respective department or political subdivision's expectations regarding drug use and the action to be anticipated in response to identified drug use;
 - (2) Employee Assistance Programs emphasizing high level direction, education, counseling, referral to rehabilitation, and coordination with available community and area resources; and
 - (3) Supervisory training to assist in identifying and addressing illegal drug use by employees; and

- (4) Provisions for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues; and
- (5) Provisions for identifying illegal drug users, including testing on a controlled and carefully monitored basis in accordance with this Act.

Section 3. Drug Testing Programs.

- (a) The head of each respective branch, department or political subdivision shall establish a program to test for the use of illegal drugs by employees. The extent to which employees are tested and the criteria for testing shall be determined by the head of each branch, department or political subdivision. The basis upon which such testing shall occur depends upon the nature of the department or political subdivision's mission and its employees' duties, the efficient use of resources, and the danger to the membership health and safety or security that could result from the failure of an employee adequately to discharge his or her position.
- (b) The head of each branch, department or political subdivision shall establish a program for random employee drug testing.
- (c) In addition to the testing authorized in subsections (A) and (B) of this section, the head of each branch, department or political subdivision is authorized to test an elected or appointed official or employee for illegal drug use under the following circumstances:
 - (1) When there is reasonable suspicion of illegal drug use by an individual; or
 - (2) In an examination authorized by the after an accident or unsafe practice; or
 - (3) As part of or as a follow-up to counseling or rehabilitation for illegal drug use through an Employee Assistance Program.
- (d) The head of each Branch, department or political subdivision is authorized to test any person selected for employment, including appointed officials for illegal drug use.
- (e) Elected officials shall be tested for illegal drug use after taking office. A positive test by an elected official shall result in disciplinary action under this Act.

Section 4. Drug Testing Procedures.

- (a) At least sixty days before the implementation of a drug testing program pursuant to this Act, each branch, department or political subdivision shall notify current employees that testing for use of illegal drugs is to be conducted and that they may seek counseling and rehabilitation and inform them of the procedures for obtaining such assistance through the Employee Assistance Program. Drug testing programs already ongoing are exempted from

the sixty (60) day notice requirement. A Department/branch may take action under Section 3(c) or (d) or (e) of this Act without reference to the sixty (60) day notice period.

- (b) Before conducting a drug test, the branch, department or political subdivision shall inform the individual employee to be tested of the opportunity to submit medical documentation that may support a legitimate use for a specific drug.
- (c) Drug testing shall contain procedures for timely submission of requests for retention of records and specimens; procedures for re-testing; and procedures, consistent with applicable law, to protect the confidentiality of test results and related medical and rehabilitation records. Procedures for providing urine specimens must allow individual privacy, unless the branch, department or political subdivision has reason to believe that a particular individual may alter or substitute the specimen to be provided.
- (d) The Commissioner of Health and Human Services is authorized to promulgate scientific and technical guidelines for drug testing programs, and the respective branch, department or political subdivision shall conduct their drug testing programs in accordance with these guidelines once promulgated.

Section 5. Personnel Actions.

- (a) Each branch, department or political subdivisions shall, in addition to any appropriate personnel actions, refer an individual who is found to use illegal drugs to an Employee Assistance Program for assessment, counseling and referral for treatment or rehabilitation as appropriate.
- (b) Each branch department or political subdivision, as the case may be, shall initiate an action to discipline any individual who is found to use illegal drugs, provided that such action is not required for an employee who;
 - (1) Voluntarily identifies himself/herself as a user of illegal drugs or who volunteers for drug testing pursuant to this Act, prior to being identified through other means;
 - (2) Obtains counseling or rehabilitation through an Employee Assistance Program; and
 - (3) Thereafter refrains from using illegal drugs.
- (a) Each branch, departments or political subdivisions shall not allow an individual to remain on duty who is found to use illegal drugs prior to successful completion of rehabilitation through an Employee Assistance Program. However, as part of a rehabilitation or counseling program, the head of each branch, department or political subdivision may, in his or her discretion, allow an individual to return to duty if it is determined that this action would not pose a danger to public health or safety or to the security of the Mille Lacs Band.
- (e) Each branch, departments or political subdivisions shall initiate an action to remove from the service any employee who is found to use illegal drugs and who:

- (1) Refuses to obtain counseling or rehabilitation through an Employee Assistance Program; or
 - (2) Does not thereafter refrain from using illegal drugs.
- (f) The results of a drug test and information developed by the branch, department or political subdivision in the course of drug testing may be considered in processing any adverse action against an elected or appointed official or employee or for other administrative purposes. An individual testing positive may request a second confirmation test from the same sample and at their own expense. If the second test is negative, disciplinary action may not be taken on the initial positive test.
- (g) The determination of a branch, department or political subdivision that an individual uses illegal drugs can be made on the basis of any appropriate evidence, including direct observation, a criminal conviction, administrative inquiry, or the results of an authorized testing program. A positive drug test may be rebutted by other evidence that an individual has not used illegal drugs.
- (h) Any action to discipline an individual who is using illegal drugs (including removal from employment or office as the case may be, if appropriate) shall be taken in compliance with otherwise applicable procedures and policies under Band law.
- (i) Drug testing shall not be conducted pursuant to this Act for the purpose of gathering evidence for use in criminal proceedings. Branch, departments or political subdivisions are not required to report to law enforcement officials for investigation or prosecution any information, allegation, or evidence relating to violations of any criminal laws as a result of the operation of drug testing programs established pursuant to this Act.

Section 6. Definitions

- (a) **Illegal Drug.** Means a prohibited drug or controlled substance as defined in 23 MLBSA § 1 and as amended or the presence of alcohol in an individual's blood in an amount in excess of that established by policy of the appropriate branch, department or political subdivision.
- (b) **Department.** Shall include all employees supervised by any Executive Officers as defined in 4 MLBSA § 4, the Commissioner of Finance, the Solicitor General, the Chief Justice, and the Speaker of the Band Assembly.
- (c) **Political Subdivision.** Those entities organized pursuant to Mille Lacs Band law that are majority owned or controlled by the Mille Lacs Band of Ojibwe, including without limitation the Corporate Commission and the Housing Authority.

Ordinance 19-98

Introduced to the Band Assembly on this
Twenty-first day of July in the year
One thousand nine hundred ninety eight

Passed by the Band Assembly on this
first of July in the year
One thousand nine hundred ninety eight.

APPROVED

Date: 7-9-98

Date: _____

FILED

Date: 7/9/98

David Matrious
David Matrious, Speaker of the Assembly

Marge Anderson
Marge Anderson, Chief Executive

Vetoed

James Genia
James Genia, Solicitor General

OFFICIAL SEAL OF THE BAND