

RESOLUTION 23-R-38

IOWA TRIBE OF KANSAS AND NEBRASKA  
EXECUTIVE COMMITTEE  
October 18, 2023

- WHEREAS, The Iowa Executive Committee being duly organized met in Special Session this 18 day of October, 2023; and,
- WHEREAS, The Iowa Tribe Executive Committee has authority to act for the Iowa Tribe under the present Constitutional authority as provided in Sec. 1.a., Article V - Powers; and,
- WHEREAS, The Iowa Tribe of Kansas and Nebraska being organized and empowered by their Constitution and Bylaws (approved November 6, 1978, and amended August 27, 1980); and,
- WHEREAS, The Iowa Tribe of Kansas and Nebraska seeks to create clearer expectations for the roles, duties, policies, and procedures that apply to members of the Executive Committee;
- WHEREAS, The Iowa Tribe of Kansas and Nebraska Executive Committee supports members' right to civic engagement through understanding government decisions and an Executive Committee Policy Handbook supports those rights; and
- WHEREAS, The Iowa Tribe of Kansas and Nebraska is creating stronger community engagement and governance processes by formalizing policies and procedures through the Ata 2030 visioning process;

NOW THEREFORE BE IT RESOLVED, that the undersigned Tribal Council does hereby adopt the Executive Committee Policy Manual set forth in Attachment A effective November 1, 2023.

CERTIFICATION

The foregoing Resolution was duly adopted this date, October 18, 2023, in a Special Session of the Executive Committee, at which \_\_\_ members of the Committee were present, constituting a quorum, by a vote of \_\_\_ for, \_\_\_ against. Chairman abstained.

\_\_\_\_\_  
Timothy N. Rhodd, Chairman  
Iowa Tribe Executive Committee

ATTEST:

\_\_\_\_\_  
Anthony G. Fee, Secretary  
Iowa Tribe Executive Committee

# **IOWA TRIBE OF KANSAS & NEBRASKA INDIAN RESERVATION (IOWA TRIBE) EXECUTIVE COMMITTEE POLICY MANUAL**

## **PURPOSE:**

This policy manual contains a summary of the employment policies and practices as they apply to the Executive Committee of the Iowa Tribe of Kansas and Nebraska (the “Tribe”). The members of the Executive Committee (“EC”) are held to the same standards as employees of the Tribe, although EC members do have an employment status separate from other employees of the Tribe. This policy manual discusses EC Members’ status as Exempt Political Employees in their capacity as elected officials of the Tribe. Since EC members are not “traditional” tribal employees’ certain provisions of the Human Resources Policy Manual do not apply to EC members as employees. This policy manual discusses the relevant labor and tax laws that apply to EC Members and their “Exempt Political” status as elected tribal officials. The EC should understand and comply with all provisions of this policy manual. This policy manual describes many of your responsibilities as an elected employee. All previously issued policy manuals and, or any policy statements issued before the publication of this policy manual, which are not consistent with the information contained in the same, are superseded by this edition of the policy manual. The Tribe reserves the right to revise, modify, add, or delete any of these policies, procedures, work rules, or benefits stated in this policy manual or any other employer document. No oral or verbal statements or representations may, in any way, alter the provisions of this policy manual.

## **HISTORY:**

The Tribe’s duly elected Executive Committee consists of five (5) members who are elected for four (4) years terms of office. The Tribal Director is the Chairman of the Tribe’s Executive Committee. The Executive Committee also consists of a Vice-Chairman, Secretary, Treasurer, and one non-executive member.

## **EXECUTIVE COMMITTEE CONDUCT**

### **1. Drug-Free Workplace Policy**

- a. The Tribe's drug-free workplace program complies with Tribal requirements and supports any requirements necessary under federal and local laws to eliminate illegal substances in the work environment.

- b. The Tribe reserves the right to require employees and prospective employees to submit to drug and alcohol testing if requested or based on probable cause for concern. This policy applies to all tribal employees including the elected members of the Executive Committee.

## **2. Ethics and Conflict of Interests**

The Ethics Standards set forth in the Tribe's Human Resources Policy apply to the elected member of the Executive Committee. Executive Committee members must always act in the best interest of the Tribe and avoid any actions that could be perceived as self-serving or benefiting personal interests. The importance of avoiding conflicts of interest, both actual and perceived, cannot be overstated. EC members must uphold the interests of the Tribe and act as responsible stewards of the Tribe's resources and welfare. EC members cannot vote on any issue in which they have a direct interest or if the matter directly relates to their employment. This measure will guarantee transparency and fairness in our decision-making processes and eliminate potential biases arising from conflicting interests. This also ensures that EC members act in the best interest of the Tribe and avoid conflicts of interest, both actual and perceived.

Upholding high ethical standards and fair compensation policies is essential to maintaining the trust and respect of the Tribe's members and external stakeholders. This Conflict-of- Interest Policy promotes fairness, accountability, and transparency while ensuring effective teamwork and task delegation, contributing to successful tribal governance and positive stakeholder relationships.

- a. Employees may not carry on Tribal business with a firm in which the employee or a relative has a substantial ownership or interest without prior approval of the Tribal Director or Executive Committee. This policy also applies to the elected members of the Executive Committee. When the Tribe is conducting Tribal business with a relative of a member of the Executive Committee or with a business that a member of the Executive Committee has substantial ownership or interest in, that member must recuse themselves from all decisions involving the relative or business.
- b. Members of the Executive Committee may not serve on elected boards of any other entity while serving on the Executive Committee of the Tribe.
- c. Members of the Executive Committee must recuse themselves from any hiring decisions that involve a relative of the member.
- d. Members of the Executive Committee must recuse themselves from any disciplinary decisions that involve a relative of the member.

## **EXECUTIVE COMMITTEE RESPONSIBILITIES**

1. The Executive Committee may specifically authorize Elected Members of the Executive Committee to speak on behalf of the Tribe or otherwise represent the Tribe to outside parties.
2. The Executive Committee must approve in advance all employee training, including off-site training. All approved employee training must be relevant to the position held by the employee.
3. The Executive Committee has the discretion to approve recruitment of job vacancies in-house before external recruitment. The Executive Committee along with the Human Resources Office shall review all pending offers of employment.
4. The Executive Committee is responsible for enforcing the attendance and punctuality policy of the Tribe and issuing discipline as a result of a violation of that policy.
5. The Executive Committee has the authority to suspend work hours because of emergency conditions such as hazardous road conditions caused by inclement weather.
6. The Executive Committee has the authority to determine a potential employee's re-eligibility for employment when that individual was previously terminated or resigned from employment with the Tribe.
7. The Executive Committee has the authority to issue discipline to employees of the Tribe for misconduct, up to and including termination of employment.
8. The Executive Committee has the authority to make the final decision on appeals that go through the appeal process set forth in the complaint section of the Tribe's Human Resources Employee Policy Manual.
9. The Executive Committee has the authority to grant employees of the Tribe an extension of maternity leave upon the request of the attending physician.
10. The Executive Committee has the authority to grant employees of the Tribe leave without pay for up to fifteen (15) days.
11. The Executive Committee has the authority to approve a schedule for Holidays that are observed by the Tribe.
12. The Executive Committee has the authority to approve all travel that is requested by employees of the Tribe.

## **EXEMPT POLITICAL STATUS**

## **1. Exempt-Political Definition**

EC members are not employees of the tribe for purposes of federal labor laws, federal tax laws and for record-keeping purposes.

## **2. Use of Exempt Political Status**

Since EC members are elected officials and not at-will employees of the Tribe and cannot be fired or terminated under the Personnel Policy, those provisions regarding termination and the appeal process do not apply to EC members. The unique status of payments to elected tribal officials acting in the capacity of EC members requires that such payments must be treated differently from wage payments made to regular tribal employees.

## **SALARY AND FEDERAL LAW**

### **1. Fair Labor Standards Act (“FLSA”)**

The FLSA excludes individuals who are elected public officials from the definition of an “employee.” See 29 U.S.C. § 203 (e)(2)(c). Therefore, the federal minimum wage requirement, as well as payments for overtime do not apply to EC members in their capacity as exempt political employees.

### **2. Internal Revenue Service (“IRS”)**

- a. Internal Revenue Code section 3401(c) indicates that an “officer, employee, or elected official” of government is an employee for income tax withholding purposes.
- b. Under IRS Revenue Ruling 59-354 (July 1959), amounts paid to “members of Indian tribal councils for services performed by them as council members do not constitute “wages” for the purposes of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and the collection of income tax at source on wages.”
- c. This does not exempt these payments from the definition of “gross income” for purposes of Federal income tax. There is no provision in the Federal income tax laws that exempts Indians from income taxation (unless derived from an exempt source), thus salaries of Tribal Council members constitute “wages” for purposes of Federal employment tax statutes.
- d. The Tribe is responsible for withholding such applicable taxes and payment of any taxes with respect to wages paid to such employees.
- e. EC salaries are not wages under the Federal Insurance Contributions Act (FICA), which are Social Security and Medicare. Therefore, no portion of the EC salary will be withheld for purposes of FICA.
- f. EC salaries are not considered wages under the Federal Unemployment Tax Act (FUTA), and no portion of the EC salary will be withheld for purposes of FUTA.

- g. Federal Income taxes will not automatically be deducted from EC salaries. EC members must request the collection of income at source on wages.
- h. An EC member's salary should be reported on a Form W-2.
  - i. If the EC member is a tribal employee in another capacity, a second, different W-2 will be issued.
  - ii. The EC salary will be shown in box 1 of a W2, and box 14 should include "Revenue Ruling 59-354" as the explanation for why no amounts are listed for federal income tax withheld or FICA.

### **3. Base Salary**

The EC Chairperson, Vice-Chairperson, and Secretary are full-time positions and fall under the base salary, which is a fixed amount. This fixed amount is predetermined but may be adjusted annually based on factors such as the Consumer Price Index or Cost of Living Adjustment.

### **4. Partial Salary**

- a. The EC Treasurer, and Member-at-Large are not full-time positions and fall under the partial salary model. This model ensures that EC members who are not in a leadership role receive fair and adequate compensation for their government services that do not arise to full-time employment.
- b. The partial salary model pro-rates a full-time base salary to fit a part-time schedule.

## **ADMINISTRATIVE LEAVE BENEFIT FOR PARTIAL SALARY POSITIONS**

1. This Administrative Leave Policy is to prevent Partial Salary employees from having to take unpaid leave from their full-time employment. EC Administrative Leave is given to EC members in part-time positions as a benefit for their government service and in addition to their salary.
2. This Administrative Leave Policy applies to Partial Salary Executive Committee Members. This leave policy does not apply to Base Salary EC Members, the Chairperson and Vice-Chairperson.
3. This policy allots up to eight (8) hours of EC Administrative Leave from the members' full-time employment per week to accommodate time that will inevitably be spent handling EC responsibilities.
4. While members of the Executive Committee are performing their duties as a governing body of the Iowa Tribe of Kansas and Nebraska, they must have the best interest of the Tribe in mind, as such, members of the Executive Committee shall take leave from any

other employment while present in any regular or special meetings of the Executive Committee.

5. **How the Administrative Leave Policy Applies:** Where in a two (2) week pay period, a partial salary EC member works for ten (10) hours on EC matters while at work as a full-time employee of the Tribe, the employee will submit ten (10) hours of EC Administrative Leave, and seventy (70) hours of work time for their respective employment with the Tribe.

## **APPLICABILITY OF THE ITKN HUMAN RESOURCES POLICY MANUAL**

Since EC members are not “traditional” tribal employees’ certain provisions of the Human Resources Policy Manual do not apply to EC members. The following policies in the Human Resources Policy Manual do not apply to EC members as employees, but do apply to EC members in their duties exercising oversight of employees in support of human resource functions:

1. Employment At Will
2. Employee Supervision
3. Employee Files and Records, Procedure 1.d.
4. Probationary Period
5. Promotion