UCHUCKLESAHT TRIBE GOVERNMENT

INTEGRITY ACT

UTS 4/2011

OFFICIAL CONSOLIDATION – CURRENT TO JUNE 19, 2014

This is a certified true copy of the consolidated Integrity Act UTS 4/2011, current to June 19, 2014.

Date: July 10, 2014

Signed: _____
Law Clerk

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PREAMBLE

Through the act of governing and as a treaty first nation, the Uchucklesaht Tribe assumes the responsibility of providing transparent and accountable government, blending hereditary and modern-day governing institutions. This requires Uchucklesaht officials to perform their duties and exercise their powers with honesty, integrity, impartiality and regard to the common good of all Uchucklesaht citizens.

To assist with realizing these goals, the Uchucklesaht Tribe wishes to establish rules of conduct that all Uchucklesaht officials must abide by, as well as disclosure and enforcement processes aimed at ensuring Uchucklesaht officials abide by those rules and, if they do not, they are sanctioned appropriately.

The Uchucklesaht Tribe adopts this Act based on these values.

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Integrity Act.

Executive oversight

1.2 The member of the Executive holding the human services portfolio is responsible for the executive oversight of this Act.

Application

1.3 This Act applies to all Uchucklesaht officials.

Definitions

1.4 In this Act,

"immediate family" means, when used in reference to a Uchucklesaht official, the Uchucklesaht official's spouse, son, daughter, parent or sibling;

"private interests" includes, when used in reference to a Uchucklesaht official, the interests of the Uchucklesaht official's immediate family;

"public office" means the office of a Uchucklesaht government representative or a Uchucklesaht public employee;

"Uchucklesaht official" includes, for the purposes of this Act,

(a) a member of a committee as defined in the Council Rules of Order and Procedure Act, and

(b) a volunteer who participates in the delivery of programs or services by a Uchucklesaht institution.

PART 2 - RULES OF CONDUCT

General duties

2.1 (a) A Uchucklesaht official must exercise his or her official powers and perform his or her official duties in such a manner as to maintain public confidence and trust in the integrity of the Uchucklesaht official.

(b) A Uchucklesaht official must act honestly and in good faith with a view towards the best interests of the Uchucklesaht Tribe.

(c) A Uchucklesaht official must demonstrate high ethical standards in personal and professional dealings.

Conflict of interest

2.2 A Uchucklesaht official must not exercise an official power or perform an official duty knowing that in doing so there is an opportunity to further his or her private interests.

Insider information

2.3 (a) A Uchucklesaht official must not use information that is obtained in the execution of his or her position as a Uchucklesaht official and is not available to the general public to further or seek to further the Uchucklesaht official's private interests.

(b) A Uchucklesaht official must not communicate information referred to in subsection (a) to another person if the Uchucklesaht official knows, or reasonably ought to know, that the information may be used to further or seek to further the Uchucklesaht official's private interests.

Influence

2.4 A Uchucklesaht official must not use his or her position as a Uchucklesaht official to influence or seek to influence a decision of another person so as to further the Uchucklesaht official's private interests.

Acceptance of gifts or personal benefits

2.5 (a) A Uchucklesaht official must not accept a gift or personal benefit that might reasonably be seen to have been given to influence the Uchucklesaht official in the exercise of his or her official powers or the performance of his or her official duties.

(b) Despite subsection (a), a Uchucklesaht official may accept a gift or personal benefit that is received

(i) in his or her personal capacity, or

(ii) as an incident of the protocol, customs or social obligations that normally accompany the responsibilities of his or her position.

PART 3 - PROCEDURE ON CONFLICT OF INTEREST

Disclosure and withdrawal

3.1 (a) A Uchucklesaht official who has reasonable grounds to believe that he or she has a conflict of interest in any matter must, if present at a meeting considering the matter,

(i) disclose the general nature of the conflict of interest, and

(ii) withdraw from the meeting without participating in the discussion or voting on the matter.

(b) The absence of a Uchucklesaht official from a meeting because of the requirement under subsection (a)(ii) must not be taken into account in determining whether a quorum is present for that meeting and, for the purposes of this subsection, the Uchucklesaht official must be counted as being present even though he or she is absent from all or a portion of the meeting.

(c) Despite subsection (a)(ii), if a Uchucklesaht official who discloses a conflict of interest under subsection (a)(i) is the only person present at the meeting with the information necessary to make a decision on the matter, then the Uchucklesaht official may participate in the discussion but must not vote on the matter and must withdraw from the meeting while the matter is being voted on.

(d) Despite subsections (a)(ii) and (c), if the operation of those subsections would result in there being fewer than three Uchucklesaht officials present at the meeting who can vote on the matter, then so long as they have complied with subsection (a)(i), all Uchucklesaht officials present at the meeting may participate in the discussion and vote on the matter.

Invitation to disclose and withdraw

3.2 A person who has reasonable grounds to believe that a Uchucklesaht official has a conflict of interest in any matter may, if present at a meeting considering the matter, invite the Uchucklesaht official to disclose his or her conflict of interest and to withdraw from the meeting.

Record of disclosure and withdrawal

3.3 (a) If a Uchucklesaht official has complied with section 3.1, the secretary of the meeting must record both

(i) the disclosure, and

(ii) the withdrawal.

(b) If the meeting referred to in subsection 3.1 is a meeting of the Council, the Executive or a committee of either of them, the secretary of the meeting must file the information referred to in subsection (a) with the chief administrative officer as soon as practicable after the meeting.

Access to disclosure and withdrawal records

3.4 The chief administrative officer must make all information filed under section 3.3(b) available to any Uchucklesaht citizen for inspection at the Uchucklesaht administrative office during regular business hours.

PART 4 - DISCLOSURE REQUIREMENTS

Private interests disclosure statement

4.1 Each Uchucklesaht government representative must file with the chief administrative officer a private interests disclosure statement in the prescribed form

(a) within 60 days after the earlier of the date on which he or she was elected, appointed or sworn into office, and

(b) within 30 days after each anniversary of the date referred to in subsection (a).

Content of private interests disclosure statement

4.2 The private interests disclosure statement required under section 4.1 must identify

(a) the name of each for-profit corporation, partnership, proprietorship or other business entity in which the Uchucklesaht government representative or his or her immediate family has an interest,

(b) the name of each not-for-profit organization or charity in which the Uchucklesaht government representative or his or her immediate family holds a membership, and

(c) the name of each for-profit corporation, not-for-profit organization or charity of which the Uchucklesaht government representative or his or her immediate family is an officer or director.

Supplemental disclosure statement

4.3 Each Uchucklesaht government representative must file with the chief administrative officer a supplemental disclosure statement in the prescribed form within 30 days after a change in the circumstances of the Uchucklesaht government representative or his or her immediate family occurs which results in the private interests disclosure statement filed under section 4.1 no longer being complete or accurate.

Disclosure statement for gifts or personal benefits

4.4 Each Uchucklesaht government representative must file with the chief administrative officer a disclosure statement for gifts or personal benefits in the prescribed form within 30 days after the receipt of a gift or personal benefit referred to in section 2.5(b)(ii) that exceeds the prescribed value.

Access to disclosure statements

4.5 The chief administrative officer must make

(a) private interests disclosure statements filed under section 4.1,

(b) supplemental disclosure statements filed under section 4.3, and

(c) disclosure statements for gifts or personal benefits filed under section 4.4

available to any Uchucklesaht citizen for inspection at the Uchucklesaht administrative office during regular business hours.

PART 5 - INCOMPATIBLE OFFICES

Incompatible offices

5.1 (a) Subject to this section, the Government Personnel Act and any other Uchucklesaht enactment, an individual may simultaneously hold more than one public office.

(b) An individual must not simultaneously hold two public offices that are incompatible unless the simultaneous holding of those public offices is compelled or expressly authorized by Uchucklesaht law.

(c) Public offices are incompatible when any of the following circumstances are present:

(i) one public office may remove or exercises supervisory powers over the other;

(ii) based on the powers and duties of the public offices, there is a possibility of a significant clash of duties or loyalties between the public offices; or

(iii) public policy considerations make it improper for one individual to hold both public offices.

(d) Despite this section, the offices of the chief administrative officer and the director of finance may be held by the same individual and, if such offices are held by the same individual, the director of finance reports to the Executive and the Financial Administration Act is deemed to be amended to the extent necessary to reflect this reporting requirement.

PART 6 - ENFORCEMENT

Definition

6.1 In this Part, "respondent" means the individual complained against.

Complaints

6.2 (a) Subject to subsection (b), if a Uchucklesaht citizen has reason to believe that a Uchucklesaht government representative or a Uchucklesaht director other than the chief administrative officer has engaged in conduct contrary to this Act, that individual may file a written complaint with the chief administrative officer.

(b) If a Uchucklesaht government representative becomes aware of any circumstances described in subsection (a), that individual must file a written complaint with the chief administrative officer.

Inquiry into complaint

6.3 (a) If a complaint is made to the chief administrative officer under section 6.2, the chief administrative officer must

(i) inquire into the complaint, and

(ii) within 30 days after receipt of the complaint, provide a written report to the Executive, with a copy to the respondent, respecting the complaint, including the chief administrative officer's findings and recommendations.

(b) If the chief administrative officer's report under subsection (a)(ii) has the potential to adversely impact the respondent, the chief administrative officer must

(i) inform the respondent of the particulars of the complaint, and

(ii) give the respondent a reasonable opportunity to make submissions,

before finalizing the report.

No contravention or inadvertent contravention found

6.4 If, after inquiring into the complaint, the chief administrative officer finds that there has been no contravention of this Act or that there has been a contravention of this Act but

(a) the respondent took all reasonable measures to prevent the contravention, or

(b) the contravention was trivial, committed through inadvertence or an error of judgment made in good faith,

the chief administrative officer must recommend that no sanction be imposed.

Contravention found

6.5 If, after inquiring into the complaint, the chief administrative officer finds that the respondent has contravened this Act, the chief administrative officer must recommend one or more of the following:

(a) in the circumstances described in sections 6.4(a) and 6.4(b), that no sanction be imposed;

(b) that the respondent be reprimanded;

(c) that the respondent publically acknowledge his or her wrongful conduct;

(d) that the respondent pay the Uchucklesaht government the amount of any gains realized as a result of the contravention;

(e) that the respondent be required to pay a fine not exceeding $5,000;

(f) that the respondent be removed from public office;

(g) that the respondent be disqualified from holding public office for a period of up to 10 years; or

(h) that any other sanction the chief administrative officer considers appropriate be imposed.

Determination by Executive

6.6 (a) The Executive must, within 30 days after receipt of the chief administrative officer's report under section 6.3(a)(ii),

(i) consider the report, and

(ii) make a determination as to

(A) whether the respondent has contravened this Act, and

(B) what sanction, if any, should be imposed on the respondent.

(b) If the chief administrative officer's report under section 6.3(a)(ii) recommends that a sanction be imposed on the respondent, the Executive must give the respondent a reasonable opportunity to make submissions before making a determination under subsection (a)(ii).

(c) For certainty, the respondent may be present when the Executive considers the chief administrative officer's report under section 6.3(a)(ii), but must not be present when the Executive makes a determination under subsection (a)(ii).

(d) The Executive may impose any of the sanctions referred to in section 6.5 or any other sanction the Executive considers appropriate on the respondent, provided that if the respondent is a member of Council, the Executive may only recommend to Council that the respondent be removed from Council.

Complaints against the chief administrative officer

6.7 (a) Subject to subsection (b), if a Uchucklesaht citizen has reason to believe that the chief administrative officer has engaged in conduct contrary to this Act, that individual may file a written complaint with the law clerk.

(b) If a Uchucklesaht government representative becomes aware of any circumstances described in subsection (a), that individual must file a written complaint with the law clerk.

(c) If a complaint is made to the law clerk under subsection (a) or (b),

(i) the law clerk must

(A) inquire into the complaint, and

(B) within 30 days after receipt of the complaint, provide a written report to the chief councillor, with a copy to the chief administrative officer, respecting the complaint,

(ii) the chief councillor must, within 30 days after receipt of the law clerk's report under paragraph (i)(B),

(A) review the report with the Executive, and

(B) in consultation with the law clerk, make a recommendation to the Executive as to what sanction, if any, should be imposed on the chief administrative officer,

(iii) the Executive must

(A) consider the chief councillor's recommendation under paragraph (ii)(B), and

(B) make a determination as to

(I) whether the chief administrative officer has contravened this Act, and

(II) what sanction, if any, should be imposed on the chief administrative officer,

(iv) the law clerk and the Executive must give the chief administrative officer the same information and opportunity to make submissions as the chief administrative officer and the Executive are required to give a respondent under sections 6.3(b), 6.6(b) and 6.6(c), and

(v) the Executive may impose any of the sanctions referred to in section 6.5 or any other sanction the Executive considers appropriate on the chief administrative officer.

Whistleblower protection

6.8 (a) A person who makes a complaint in good faith under section 6.2 or 6.7 must not be subjected to any form of reprisal by the Uchucklesaht Tribe, a Uchucklesaht official or a contractor of the Uchucklesaht Tribe as a result of making that complaint.

(b) The chief administrative officer and the Executive must take all necessary steps to ensure that subsection 6.8 is not contravened and must report any contravention or suspected contravention to Council.

Record of determinations

6.9 The law clerk must

(a) maintain a permanent record of all determinations made by the Executive under sections 6.6 and 6.7, and

(b) upon request, provide a written report to the Executive on the determinations, including what sanctions, if any, have been imposed for similar contraventions in the past.

PART 7 - GENERAL PROVISIONS

Regulations

7.1 The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.

Limitation on actions

7.2 (a) For certainty and pursuant to 13.35.1 and 13.35.4 of Chapter 13 Governance of the Maa-nulth Treaty, no action for damages lies or may be commenced against any Uchucklesaht official or former Uchucklesaht official for anything done or omitted to be done under this Act.

(b) Despite 13.35.2, 13.35.3, 13.35.5 and 13.35.6 of Chapter 13 Governance of the Maa-nulth Treaty, no action for damages lies or may be commenced against a Uchucklesaht institution, Uchucklesaht official or former Uchucklesaht official for anything done or omitted to be done under this Act if they acted in good faith in the performance of their duties or the exercise of their powers.

Commencement

7.3 This Act comes into force on the Maa-nulth Treaty effective date.

LEGISLATIVE HISTORY

Integrity Act UTS 4, 2011 enacted April 1, 2011

Amendments

Section	Amendment	In Force
6.5(e)	UTS 40/2014, s. 4.7	June 19, 2014

Amending Acts:

UTS 40/2014 Enforcement Framework Amendment Act No. 2 enacted June 19, 2014

Regulations:

UTR 2/2011 Disclosure Forms Regulation enacted April 1, 2011
UTR 10/2013 Fee Regulation enacted January 21, 2013