

# **INDEPENDENT INTERNAL AFFAIRS INVESTIGATIONS ACT**

## **CHAPTER 1 – GENERAL**

### Section 101 – Definitions.

In this Act:

- (a) “CBC” means the Comanche Business Committee.
- (b) “Comanche Nation official” means, for the purposes of this Act alone, CBC members, Tribal Administrator, Tribal Attorney, and members of any board, commission, or subcommittee of the Comanche Nation (e.g., Tax Commission, Comanche Nation Housing Authority Board of Commissioners, Cow-Calf Board of Directors, Gaming Commission, Comanche Nation Entertainment Board of Directors, Election Board, Comanche Nation Enterprises Board of Directors).
- (c) “Comanche Nation employee” means any individual employed by the Comanche Nation or any of its subsidiaries, divisions, or related entities.
- (d) “Official Misconduct” means conduct by a Comanche Nation official or employee committed with the intent to gain a personal benefit or harm a Comanche Nation citizen that constitutes either: (1) a failure to perform a public duty imposed by law, or (2) an act constituting an unauthorized exercise of official duties. Such conduct may include, but is not limited to, alleged illegal activities, ethical violations, abuse of authority in personnel actions, or a substantial and specific danger to the public health and safety. Official Misconduct does not include conduct unconnected to the Comanche Nation official or employee’s official duties, for example, reckless driving in a personal vehicle outside of the workday. Official Misconduct also does not include conduct committed with no specific intent to gain a personal benefit or cause harm, for example, being unskilled at customer service.
- (e) “Public duty” means a duty owed to the public by an individual solely because of and related to their position as an official or employee of the Comanche Nation.
- (f) “Subcommittee” means the Standing Subcommittee on Internal Affairs.
- (g) “Whistleblower” means a Comanche Nation employee who submits a complaint to the Subcommittee regarding their employer or a coworker or provides information regarding Official Misconduct by their employer or a coworker as part of a Subcommittee investigation.

## **CHAPTER 2 – ESTABLISHMENT AND PURPOSE**

### Section 201 – Establishment.

In accordance with Tribal Council Resolution 05-25, this Act hereby establishes the Standing Subcommittee on Internal Affairs.

#### Section 202 – Purpose.

- (a) The Subcommittee shall be an independent standing subcommittee with the purposes of reviewing and investigating complaints of Official Misconduct within the Comanche Nation government and ensuring transparency, accountability, and integrity in all such investigations.
- (b) Subcommittee processes do not supplant other processes appropriate for addressing complained of conduct, including by human resources or law enforcement, but may supplement or provide a basis to initiate such processes.

### **CHAPTER 3 – SUBCOMMITTEE MEMBERS**

#### Section 301 – Appointments.

The Subcommittee shall be composed of three members appointed by the CBC, each serving a two-year term. Members may be reappointed.

#### Section 302 – Qualifications.

- (a) Members of the Subcommittee must:
  - (i) be at least 21 years of age;
  - (ii) be capable of entering into a binding contract; and
  - (iii) have relevant experience or education in law, law enforcement, finance, accounting, compliance, ethics, or tribal governance.
- (b) Members of the Subcommittee must not:
  - (i) have been convicted of a felony;
  - (ii) have been convicted of a crime of dishonesty;
  - (iii) be a member of the Comanche Nation or a descendant, spouse, ex-spouse, or cohabitant of a member of the Comanche Nation;
  - (iv) be a Comanche Nation employee or former Comanche Nation employee;
  - (v) be a Comanche Nation official or former Comanche Nation official; or
  - (vi) if a former Comanche Nation official, have been recalled or removed from office.

#### Section 303 – Removal, Vacancies.

- (a) A member of the Subcommittee may be removed by a majority vote of the CBC for misconduct, neglect of duty, or conflict of interest. Conduct for which a member may be removed shall include, but is not limited to, failure to attend three (3) consecutive meetings without cause and breach of confidentiality.
- (b) Vacancies shall be filled by appointment for the remainder of the term.

#### Section 304 – Chairperson.

- (a) The Subcommittee shall select a member to serve as Chairperson for one (1) year. A member may serve as Chairperson for consecutive terms.
- (b) The Chairperson shall:
  - (i) call and preside over meetings;
  - (ii) serve as the liaison to the CBC;
  - (iii) ensure complaint evaluations, investigations, and investigation reports are equitably assigned among the Subcommittee members;
  - (iv) ensure that complaint determinations and investigation reports are issued within the time designated by this Act; and
  - (v) prepare and present to the CBC the annual reports required by this Act.

#### Section 305 – Compensation.

The Subcommittee Chairperson shall receive a monthly stipend of \$600. Other Subcommittee members shall each receive a monthly stipend of \$450.

#### Section 306 – Meetings.

- (a) The Subcommittee shall meet as necessary to assign complaints for evaluation and approve complaint determinations and investigation reports within the time required by this Act.
- (b) Meetings shall be called upon the request of two (2) Subcommittee members.

#### Section 307 – Financial Conflicts

- (a) A Subcommittee member may not evaluate a complaint, investigate a complaint, or vote on a written determination or investigation report for a complaint concerning matters in which they have a financial interest, unless the member receives a written waiver from the complainant and subject of the complaint. A Subcommittee member's financial interests include those of their spouse, minor children, and business partners. However, an employee may participate in such a matter if he has a waiver.
- (b) A Subcommittee member may not solicit or accept a gift because of their position as a Subcommittee member or from anyone who seeks official action from the Subcommittee.

### **CHAPTER 4 – AUTHORITY**

#### Section 401 – Exclusive authority.

The Subcommittee shall have exclusive authority to investigate complaints of Official Misconduct.

#### Section 402 – Specific powers.

In furtherance of its investigatory functions, the Subcommittee shall have the authority to:

- (a) request documentation, reports, or evidence from any department or program necessary to carry out a thorough and fair investigation;
- (b) interview relevant personnel and witnesses, including employees, supervisors, and other stakeholders as deemed appropriate;
- (c) have direct and prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;
- (d) issue findings and make formal recommendations to the CBC, Tribal Administrator, and/or Tribal Council regarding disciplinary actions, terminations, policy revisions, or referrals to legal or law enforcement entities when necessary;
- (e) refer matters to appropriate regulatory or prosecutive authorities if actions fall outside the scope of jurisdiction of the subcommittee; and
- (f) request assistance of the Tribal Attorney in an investigation, if the Tribal Attorney is not the subject of a complaint.

Section 403 – No policymaking or enforcement authority.

The Subcommittee shall not possess independent authority to enact or enforce policies.

## **CHAPTER 5 – DUTIES AND RESPONSIBILITIES**

Section 501 – In general.

It shall be the duty and responsibility of the Subcommittee:

- (a) to develop and implement procedures for receiving complaints of Official Misconduct, working with the Tribal Attorney, if so requested;
- (b) to conduct and coordinate investigations related to the programs and operations of the Comanche Nation government;
- (c) to keep the CBC fully and currently informed, by means of the reports required by this title, concerning Official Misconduct relating to the administration of programs and operations administered or financed by the Comanche Nation government;
- (d) to recommend to the CBC corrective action concerning any confirmed Official Misconduct, including revisions to internal control systems or standard operating procedures, as appropriate;
- (e) to refer any substantiated allegations of unlawful activity to the appropriate regulatory or prosecutive body; and
- (f) to protect the integrity of the process and the privacy of all parties by maintaining the confidentiality of ongoing investigations and all information and records, not publicly available, obtained in the performance of its investigatory functions.

#### Section 502 – Complaints of Official Misconduct.

- (a) Any Comanche Nation member or descendant who is at least eighteen (18) years of age, any current or former Comanche Nation employee, or any current or former Comanche Nation official may submit a complaint of Official Misconduct to the Subcommittee, provided that the complainant has not:
  - (i) within the previous four weeks, submitted two (2) or more complaints;
  - (ii) within the previous eighteen months, submitted three (3) or more complaints that have not resulted in a finding of Official Misconduct; or
  - (iii) publicly disclosed the complaint or information in the complaint on social media or other forms of publication;
- (b) Complaints shall be submitted by affidavit on a form provided by the Subcommittee and must include, but need not be limited to:
  - (i) Name, address, and phone number of the complainant;
  - (ii) Name and title of the subject of the complaint;
  - (iii) The Comanche Nation committee, subcommittee, board, commission, division, subsidiary, entity, etc. with which the subject of the complaint is affiliated;
  - (iv) Dates(s) of the complained of conduct; and
  - (v) Description of the complained of conduct.
- (c) Upon receiving a complaint of Official Misconduct, the Subcommittee shall:
  - (i) determine whether the complainant is eligible to submit a complaint;
  - (ii) determine whether the complained of conduct as alleged in the complaint constitutes Official Misconduct; and
  - (iii) within fourteen (14) days of receiving the complaint, issue a written determination regarding the sufficiency of the complaint to the complainant.
- (d) Before issuing, complaint determinations shall be approved by:
  - (i) at least two Subcommittee members in a Subcommittee meeting; or
  - (ii) by the Subcommittee through unanimous written consent.
- (e) Public versions of the Subcommittee's complaint determinations shall be made available to Comanche Nation members upon request and at a reasonable cost.

#### Section 503 – Investigations of Official Misconduct

- (a) Upon issuing a written determination that an eligible complainant has sufficiently alleged Official Misconduct, the Subcommittee shall:
  - (i) Investigate the alleged Official Misconduct.
  - (ii) Within three (3) days of issuing the written determination, provide notice of the investigation and the complained of conduct to the subject of the investigation.
  - (iii) Within ninety (90) days of issuing the written determination,

- (1) complete investigation of the complained of conduct,
  - (2) issue an investigation report with findings and recommendations to the CBC and subject of the investigation,
  - (3) provide a public version of the investigation report to the complainant, and
  - (4) refer any suspected criminal activity to the appropriate law enforcement agency.
- (b) Upon request of the Subcommittee for information or assistance related to an investigation, the CBC and any Comanche Nation board, commission, subcommittee, subsidiary, division, or related entity shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation, furnish to the Subcommittee the requested information or assistance.
- (c) Before issuing, investigation reports shall be approved by:
  - (i) at least two Subcommittee members in a Subcommittee meeting, or
  - (ii) by the Subcommittee through unanimous written consent.
- (d) If the Subcommittee makes a recommendation to the CBC for disciplinary action, the recommendation shall be made available to Comanche Nation members upon request no later than twenty-four (24) hours before the CBC meeting at which the CBC will discuss the Subcommittee's recommendation.
- (e) Public versions of the Subcommittee's investigation reports shall be made available to Comanche Nation members upon request and at a reasonable cost.

#### Section 504 – Reporting Serious Problems.

The Subcommittee shall report immediately to the Chairman whenever the Subcommittee becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Comanche Nation government. Chairman shall transmit any such report to the CBC within seven (7) calendar days.

#### Section 505 – Reporting violations of Comanche Nation law.

The Subcommittee shall report expeditiously to the Chairman and Tribal Attorney whenever it has reasonable grounds to believe there has been a violation of Comanche law.

#### Section 506 – Annual reports.

- (a) The Subcommittee shall, not later than eight days prior to the December CBC meeting for that year, provide to the CBC an annual report summarizing the activities of the Subcommittee during the immediately preceding 12 months ending September 30. The reports shall include, but need not be limited to:
  - (i) A summary of the types of complaints received,
  - (ii) Total number of complaints received by the Subcommittee,
  - (iii) Total number of hours spent evaluating complaints, including time drafting and finalizing written determinations,
  - (iv) Total number of investigations initiated by the Subcommittee,

- (v) Total number of hours spent investigating complaints, including time drafting and finalizing investigation reports,
  - (vi) Total number of complaints substantiated,
  - (vii) A summary of matters referred to prosecutive authorities, and
  - (viii) A summary of matters referred to regulatory authorities.
- (b) Comanche Nation members may request copies of the annual report from the CBC at a reasonable cost up to twenty-four (24) hours before the December CBC meeting.

## **CHAPTER 6 – CONFIDENTIALITY**

### **Section 601 – Limitations on Public Disclosure.**

- (a) All discussions and records of the Subcommittee, including information and materials gathered in the course an investigation, are confidential unless publicly available from other sources. Members shall be required to sign confidentiality agreements and are subject to disciplinary measures for any breach.
- (b) Nothing in this Act shall be construed to authorize the public disclosure of information that is:
  - (i) specifically prohibited from disclosure by any other provision of law,
  - (ii) specifically required to be protected from disclosure by contract with the Comanche Nation, or
  - (iii) part of an ongoing criminal investigation.
- (c) Notwithstanding paragraph (b)(iii), any report under this section may be disclosed to the public in a form which includes information that has been included in a public record.

### **Section 602 – Complaint Determinations and Investigation Reports**

- (a) Complaint determinations intended for public release shall not disclose:
  - (i) the name or personally identifying information of the subject of the complaint; or
  - (ii) if the complainant is a whistleblower, the name or personally identifying information of the complainant, without first obtaining consent from the complainant.
- (b) Investigation reports intended for public release shall not disclose:
  - (i) if the complainant is a whistleblower, the name and personally identifying information of the complainant, without first obtaining consent from the complainant; or
  - (ii) if the investigation report does not recommend disciplinary action, the name and personally identifying information of the subject of the complaint, without first obtaining consent from the subject of the complaint.

### **Section 603 – Disclosure of information to the CBC.**

- (a) Except for the whistleblower protections set forth in Chapter 7, nothing in this Act shall be construed to authorize or permit the withholding of information from the CBC.

- (b) Subject to any other provision of law that would otherwise prohibit disclosure of such information, the information described in § 601(b) may be provided to any member of the CBC upon request.

## **CHAPTER 7 – WHISTLEBLOWER PROTECTIONS**

### **Section 701 – Prohibition on disclosure of identity.**

The Subcommittee shall not, after receipt of a complaint or information from a Comanche Nation employee, disclose the identity of the employee without the consent of the employee, unless the Subcommittee determines the disclosure is unavoidable during the course of the investigation.

### **Section 702 – Prohibition on disclosure of personally identifiable information.**

The Subcommittee may not provide to the CBC or the public any information that reveals the personally identifiable information of a whistleblower unless the Subcommittee first obtains the consent of the whistleblower.

### **Section 703 – Prohibition on reprisal.**

Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to that authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to the Subcommittee, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.