

# Otipemisiwak Métis Government Code of Ethics Act

## Table of Contents

PREAMBLE .....	1
PART I: INTRODUCTORY PROVISIONS .....	2
Short title.....	2
Application.....	2
Definitions.....	2
Interpretation.....	3
PART II: RULES OF ETHICS.....	3
Conduct.....	3
Respect and Consideration.....	4
Neglect of duty.....	4
No directing employees .....	4
Harassment, assault, or bullying .....	4
Intimidation.....	4
Insider information.....	4
Influence .....	4
Corruption.....	4
No attempts .....	5
PART III: EMPLOYEES.....	5
PART IV: CONFLICT OF INTEREST .....	5
Conflict of interest .....	5
Gifts.....	6
Family interest .....	6
Prohibitions.....	6
Restrictions on employment .....	6
Withdrawal and disclosure.....	7
Invitation to withdraw.....	7
Quorum .....	7
Record.....	8
PART V: DISCLOSURE.....	8
Disclosure statements.....	8

Content of disclosure statements .....	8
Access to disclosure statements .....	8
Prevention of conflicts .....	9
<b>PART VI: ENFORCEMENT PROCEDURE.....</b>	<b>9</b>
Initiating an application .....	9
Application period .....	9
Investigation by Ombudsman .....	9
Determination of the Judicial Branch .....	9
No appeal .....	10
Whistleblower protection.....	10
<b>PART VII: GENERAL .....</b>	<b>10</b>
Powers to enact regulations .....	11
Commencement .....	11

**PREAMBLE**

**WHEREAS** section 9.1 of the *Otipemisiwak Métis Government Constitution* provides that the rights of the Métis Nation within Alberta and its Citizens are guaranteed equally regardless of sex, gender, sexual orientation, age, religion, physical and mental disability, or other immutable personal characteristics;

**WHEREAS** section 13.1 of the *Otipemisiwak Métis Government Constitution* provides that one of the Otipemisiwak Métis Government's purposes is to provide fair, responsible, transparent, and accountable governance to the Citizens of the Métis Nation within Alberta;

**WHEREAS** section 26.1 of the *Otipemisiwak Métis Government Constitution* provides that the Otipemisiwak Métis Government must maintain a law providing for a code of ethics governing, among other things, conflicts of interest relating to the elected leadership, officers, and employees, and the employees of its Institutions;

**WHEREAS** section 31.1 of the *Otipemisiwak Métis Government Constitution* provides that wherever the *Otipemisiwak Métis Government Constitution* provides that the Otipemisiwak Métis Government shall maintain a law regarding a matter, the Métis Nation of Alberta Association's Provincial Council shall adopt such laws by resolution, which will be considered laws of the Otipemisiwak Métis Government, prior to the coming into force of the *Otipemisiwak Métis Government Constitution*;

**NOW THEREFORE** the Otipemisiwak Métis Government enacts as follows:

## PART I: INTRODUCTORY PROVISIONS

### Short title

1 This Act may be cited as the *Code of Ethics Act*.

### Application

2 (1) This Act applies to the conduct of elected officials and officers of Otipemisiwak Métis Government and its Institutions.

(2) Part III of this Act applies to the employees of Otipemisiwak Métis Government and its Institutions.

### Definitions

3 In this Act:

- (a) “**Act**” means the *Otipemisiwak Métis Government Code of Ethics Act*, including its schedules and any amendments to the Act;
- (b) “**applicant**” means a person who submits an application under section 29 of this Act;
- (c) “**application**” means an application submitted under section 29 of this Act;
- (d) “**Constitution**” means the *Otipemisiwak Métis Government Constitution*;
- (e) “**elected official**” means the President, Women’s Representative, Youth Representative, Citizens’ Representatives, District Captains, and any additional District Councillors;
- (f) “**employee**” means an employee of the Otipemisiwak Métis Government or an Institution;
- (g) “**gift**” means a service or property or the use of property or money that is provided without charge or at less than its commercial value, including entertainment, hospitality, travel, and property;
- (h) “**immediate family**” means a public official’s spouse, child, parent, sibling, or any dependent;
- (i) “**Institution**” means an Institution of the Otipemisiwak Métis Government established under Otipemisiwak Métis Government Law;
- (j) “**officer**” means an officer of the Otipemisiwak Métis Government or of an Institution as provided for in the Constitution or Otipemisiwak Métis Government Law;
- (k) “**Ombudsman**” means the person appointed to the office of the Ombudsman of the Otipemisiwak Métis Government;

(l) “**private interest**” means a direct or indirect monetary or other economic interest and includes any interest to which a monetary value may be attributed, and, when used in reference to a public official, includes the private interests of the public official’s immediate family;

(m) “**public official**” means an elected official and officer;

(n) “**respondent**” means the public official who is the subject of an application;

(o) “**Representative**” means the President, Women’s Representative, Youth Representative, and Citizens’ Representatives; and

(p) “**spouse**” includes a married or common law spouse or partner.

### **Interpretation**

**4** (1) In this Act, a reference to a public official’s powers and duties is a reference to that public official’s powers and duties under Otipemisiwak Métis Government Law, District Council Bylaws, Otipemisiwak Métis Government regulations, policies, and any other Otipemisiwak Métis Government document that provides that public official’s powers and duties.

(2) When the Ombudsman must comply with this Act as a public official, the person appointed as acting Ombudsman must perform the duties of the Ombudsman in relation to the Ombudsman’s compliance with this Act, to the full extent possible.

## **PART II: RULES OF ETHICS**

### **Conduct**

**5** A public official must:

(a) conduct themselves in accordance with their oath of office, the Constitution, and Otipemisiwak Métis Government Law;

(b) conduct themselves in a dignified and professional manner at all meetings of the Otipemisiwak Métis Government and in all communications as a part of their duties;

(c) represent loyalty and accountability to the Métis Nation within Alberta;

(d) conduct themselves in a manner which does not tarnish the image of or otherwise bring disrepute to the Otipemisiwak Métis Government or the Métis Nation within Alberta;

(e) perform their duties in such a manner that public confidence and trust in the integrity of the Otipemisiwak Métis Government and the Métis Nation within Alberta is preserved; and

(f) perform their duties in a manner free from bias or prejudice.

### **Respect and Consideration**

**6** A public official must treat all Citizens, and are entitled to be treated by all Citizens, with respect and consideration.

### **Neglect of duty**

**7** A public official must not willfully neglect their duties.

### **No directing employees**

**8** Unless authorized under Otipemisiwak Métis Government Law, a public official may not direct an employee in the performance of the employee's duties, without prior approval of the Senior Executive Officer.

### **Harassment, assault, or bullying**

**9** A public official must not harass, sexually harass, assault, sexually assault, or verbally or physiologically abuse a person or group.

### **Intimidation**

**10** (1) A public official must not, in the performance of their duties, intimidate another person.

(2) For the purposes of subsection (1), "intimidate" means to do or threaten to do any of the following:

- (a) use force, violence, or restraint against a person;
- (b) inflict injury, harm, damage, or loss on a person or property; or
- (c) otherwise threaten or coerce a person.

### **Insider information**

**11** A public official must not use information that is obtained in the course of their duties which is not generally available to the public so as to further the public official's private interests.

### **Influence**

**12** A public official must not use their position as a public official to influence a decision of another person so as to further the public official's private interests.

### **Corruption**

**13** A public official must not ask for money or favours from another person in exchange for using their position to:

- (a) make or influence a decision of Otipemisiwak Métis Government or an Institution; or
- (b) expedite, deny, or delay any service or program provided by the Otipemisiwak Métis Government or an Institution.

### **No attempts**

**14** A public official must not attempt to do anything under this Part or have another person do or attempt to do anything under this Part on their behalf.

## **PART III: EMPLOYEES**

**15** (1) The Otipemisiwak Métis Government must make policies that apply to the conduct, ethics, and conflicts of interest of employees in keeping with the purposes and spirit of this Act.

(2) Sections 9, 10, 11, 12, 13, and 14 of this Act apply to employees in addition to any existing or future policies, with all necessary modifications.

(3) The Métis Nation of Alberta's policies governing the conduct, ethics, and conflicts of interest of employees continue to apply until the Otipemisiwak Métis Government makes new policies.

(4) For greater certainty, Part VI of this Act does not apply to employees, unless otherwise provided for in an Otipemisiwak Métis Government policy.

## **PART IV: CONFLICT OF INTEREST**

### **Conflict of interest**

**16** (1) A public official must not exercise a power, perform a duty, or make or participate in making a decision in their capacity as a public official if the public official has a conflict of interest.

(2) A public official has a conflict of interest if:

- (a) the public official knows; or
- (b) a well-informed person could reasonably have the perception;

that in exercising a power, performing a duty, or making or participating in making a decision in their capacity as a public official, there is the opportunity to further that public official's private interest.

(3) A public official's private interest does not give rise to a conflict of interest if that interest:

- (a) is of general application;
- (b) is the same as those of a broad class of Citizens;

(c) relates to their compensation or benefits as public officials; or

(d) is so trivial that the interest could not be reasonably perceived as likely to influence the public official in the exercise of a power, performance of a duty, or making or participating in making a decision.

### **Gifts**

**17** A public official must not accept a gift that the public official knows would, or a well-informed person could reasonably perceive to, influence that public official in exercising a power, performing a duty, or making or participating in making a decision in their capacity as a public official, except for a gift:

(a) that is received as an incident of Métis tradition, or of the protocol, customs, or social obligations that normally accompany the responsibilities of their position; or

(b) permitted in accordance with Otipemisiwak Métis Government Law.

### **Family interest**

**18** (1) A public official must not use their position to obtain for their family members employment within the Otipemisiwak Métis Government or access to services offered by the Otipemisiwak Métis Government.

(2) For greater certainty, members of a public official's family are eligible for employment with the Otipemisiwak Métis Government, however, the public official must abstain from voting or making any decisions pertaining to that family member.

### **Prohibitions**

**19** A public official must not:

(a) conduct personal business while on Otipemisiwak Métis Government business; or

(b) use Otipemisiwak Métis Government resources for personal business.

### **Restrictions on employment**

**20** (1) A public official must not have any employment that creates a conflict of interest with their duties.

(2) For greater certainty, a public official must not do work for the Otipemisiwak Métis Government, either as an employee or by contract, other than in the fulfilment of their duties.

(3) A Representative or a District Captain:

(a) must exercise their duties on a full-time basis;

(b) may not hold more than one elected office in any branch of the Otipemisiwak Métis Government; and

(c) may not have full-time employment outside the scope of their duties.

## **PROCEDURE ON CONFLICT OF INTEREST**

### **Withdrawal and disclosure**

**21** (1) If a public official has a conflict of interest in any matter, they must:

(a) at the first available opportunity, disclose the general nature of the conflict of interest; and

(b) withdraw from participating in the discussion or decision-making on the matter.

(2) Despite subsection (1), if a public official who discloses a conflict of interest under subsection (1(a)) is the only person participating in a discussion with the information necessary to make a decision on the matter, then the public official may participate in the discussion but must not vote on the matter.

(3) A public official who complies with subsection (1) must not be found to be in a conflict of interest in violation of Part IV of this Act in relation to that matter.

(4) When a public official discloses a conflict of interest under subsection (1), the public official must disclose that conflict:

(a) if they are in a meeting, to the person chairing the meeting and then to the Ombudsman at the first available opportunity; or

(b) in all other circumstances, to the Ombudsman.

### **Invitation to withdraw**

**22** A person who has reasonable grounds to believe that a public official has a conflict of interest in a matter may, if present and entitled to participate at a meeting considering that matter, invite the public official to disclose their conflict of interest and to withdraw from the meeting.

### **Quorum**

**23** A public official who withdraws from all or part of a meeting because of the requirements of this Act must be counted as if they were present for the purpose of determining whether a quorum is present for that meeting.

## **Record**

**24** If a public official complies with section 21 of this Act during a meeting, the person responsible for the minutes of that meeting must record the disclosure and the withdrawal in the minutes.

## **PART V: DISCLOSURE**

### **Disclosure statements**

**25** (1) A public official must file with the Ombudsman a disclosure statement in the form and manner determined by the Ombudsman:

- (a) after becoming a public official; and
- (b) in each subsequent year;

at the time and date specified by the Ombudsman.

(2) A public official must, within 30 days after the occurrence of any material change to the information contained in a current disclosure statement, file with the Ombudsman an amending disclosure statement in the form provided by the Ombudsman setting out the changes.

### **Content of disclosure statements**

**26** (1) A disclosure statement under section 25 of this Act must include:

- (a) the name of each for-profit corporation, partnership, proprietorship, or other business entity in which the public official has an interest as shareholder, director, or officer; and
- (b) the name of each not-for-profit or charity organization in which the public official holds a membership or is an officer or director.

(2) A public official must disclose the nature and extent of their interest if they are a party to a contract with the Otipemisiwak Métis Government or have a material interest in any company who is a party to a contract with the Otipemisiwak Métis Government.

(3) The Ombudsman must require disclosure statements related to gifts over a certain value in a form and manner as determined by the Ombudsman.

### **Access to disclosure statements**

**27** The Ombudsman must make disclosure statements under section 25 of this Act available to Citizens for inspection during regular business hours.

**Prevention of conflicts**

**28** A public official must arrange their private affairs in a manner that will prevent conflicts of interest from arising.

**PART VI: ENFORCEMENT PROCEDURE****Initiating an application**

**29** (1) A person who has reason to believe that a public official did not comply with this Act may submit an application to the Judicial Branch regarding the public official's compliance with this Act.

(2) If the Ombudsman has reason to believe that a public official did not comply with this Act, the Ombudsman must submit an application to the Judicial Branch regarding that public official's compliance with this Act.

(3) An application submitted under subsection (1) must:

- (a) be in writing;
- (b) include the applicant's name, address, and telephone number;
- (c) set out the facts on which the application is based; and
- (d) be signed by the applicant.

**Application period**

**30** An application under section 29 of this Act must be made no later than 12 months after the applicant knew or ought to have known of the respondent's breach of this Act.

**Investigation by Ombudsman**

**31** (1) Upon receiving an application under section 29 of this Act, the Judicial Branch may refer the application to the Ombudsman.

(2) If the Judicial Branch refers an application to the Ombudsman under subsection (1), the Ombudsman must investigate and submit a report and recommendation regarding the application to the Judicial Branch in accordance with the *Ombudsman Act*.

**Determination of the Judicial Branch**

**32** (1) In determining if the respondent contravened this Act, the Judicial Branch may hold a hearing or exercise any of its powers under the *Judicial Branch Act*, at the Judicial Branch's discretion.

(2) If the Ombudsman submitted a report and recommendation under section 31 of this Act, the Judicial Branch must consider that report before determining if the respondent contravened this Act.

(3) If the Judicial Branch determines that the respondent did not contravene this Act, the Judicial Branch must make an order dismissing the application.

(4) If the Judicial Branch determines that a respondent contravened this Act, the Judicial Branch may order that:

- (a) the respondent be reprimanded;
- (b) the respondent publicly acknowledge their wrongful conduct;
- (c) the respondent make restitution or pay compensation;
- (d) the respondent be suspended or removed from office; or
- (e) any other sanction the Judicial Branch deems appropriate in accordance with the *Judicial Branch Act*.

(5) If the Judicial Branch determines that a respondent contravened 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 Judicial Branch may order that no sanction be imposed.

### **No appeal**

**33** A determination of the Judicial Branch under this Act is binding, final, is not subject to judicial review, and is without appeal, except as provided for in an Otipemisiwak Métis Government Law.

### **Whistleblower protection**

**34** (1) A person who makes an application in good faith under section 29 of this Act must not be subjected to any form of reprisal by the Otipemisiwak Métis Government, an Institution, or a public official as a result of making that application.

(2) The Citizens' Council and District Councils must take all necessary steps to ensure that subsection (1) is not contravened and must report any contravention or suspected contravention to the Judicial Branch.

## **PART VII: GENERAL**

**Powers to enact regulations**

**35** The Cabinet may make regulations it considers necessary or advisable for the purposes of this Act, including a regulation:

- (a) requiring that certain gifts be made the property of the Otipemisiwak Métis Government.

**Commencement**

**36** This Act comes into force on the date the Constitution comes into force.