

**TRADITIONAL
COUNCIL**

CHAIRMAN
Estavio Elizondo, Sr., Menikapah

SECRETARY
David Valdez, Sr., Pietoetaka

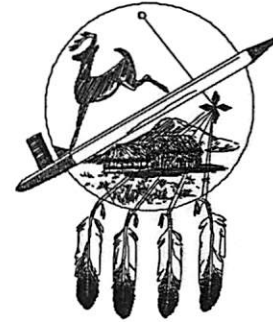
TREASURER
David Treviño, Wapikaoda

MEMBER
Kendall R. Scott, Sr., Metaa

KICKAPOO

**TRADITIONAL
TRIBE OF TEXAS**

2212 Rosita Valley Rd.
Eagle Pass, Texas 78852



Traditional Council

RESOLUTION No. 2017 – G – 028

RESOLUTION DULY ADOPTED BY THE KICKAPOO TRADITIONAL COUNCIL

**APPROVING AND ENACTING THE KTTT PUBLIC RECORDS
DISCLOSURE POLICY AND DIRECTING AND AUTHORIZING THE
LEGAL DEPARTMENT TO MAINTAIN THE DISCLOSURE POLICY**

WHEREAS, The Kickapoo Traditional Tribe of Texas is an Indian tribe (“Tribe”) organized under Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), codified at 25 U.S.C. 476, et seq., and under the Tribal Constitution, which was approved by the United States Secretary of Interior on July 11, 1989; and

WHEREAS, The Traditional Council of the Tribe (the “Tribal Council”) is the governing body of the Tribe, as specified under Article III, Section I of the Tribal Constitution; and

WHEREAS, The Tribal Council has the powers necessary to act for the Tribe and to represent the Tribe in all matters under powers vested in it by Article VII of the Tribal Constitution; and

WHEREAS, The Tribal Council desires to implement a public records disclosure policy to ensure equal access to Tribal records by Tribal members, in accordance with Article IV, Sections 2 and Section 3, of the Tribal Constitution; and

WHEREAS, The Tribal Council desires to approve and enact the Kickapoo Traditional Tribe of Texas Public Records Disclosure Policy in substantially the form attached hereto as Exhibit A (the “Disclosure Policy”); and

WHEREAS, The Tribal Council desires to authorize, empower, and direct the Legal Department to implement and maintain the Disclosure Policy, which shall include amending the Disclosure Policy to serve the best interest of the Tribe, provided



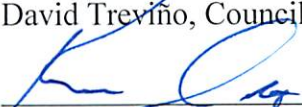
that such Disclosure Policy shall at all times comply with the Tribal Constitution;
and

WHEREAS, The Tribal Council finds that it is in the Tribe's best interest to approve and enact the Disclosure Policy and authorize, empower, and direct the Legal Department to implement and maintain the Disclosure Policy.

NOW THEREFORE, BE IT RESOLVED, that the Tribal Council approves and enacts the Disclosure Policy in substantially the form attached hereto as Exhibit A; **FURTHER BE IT RESOLVED,** that the Tribal Council authorizes, empowers, and directs the Legal Department to implement and maintain the Disclosure Policy, which shall include amending the Disclosure Policy at the discretion of the Legal Department in order to serve the best interest of the Tribe, provided that such Disclosure Policy must at all times comply with the Tribal Constitution; and **FINALLY BE IT RESOLVED,** that this resolution and the Disclosure Policy is effective immediately upon execution by the Tribal Council.

ATTESTATION

We, the undersigned Tribal Council members acting in our official capacities as the legal leadership of the Kickapoo Traditional Tribe of Texas certify that the above resolution is the true and accurate resolution adopted at a meeting called and conducted on **October 27, 2017** at the Kickapoo Tribal Governmental offices located at 2212 Rosita Valley Road in Eagle Pass, Texas with a quorum being present. Each signatory below indicates the vote by circling the choice on Resolution **2017 – G – 028** as follows:


 _____ Estavio Elizondo, Sr., Council Chairman	<input checked="" type="radio"/> FOR / AGAINST	<u>10-31-17</u> Date
 _____ David Valdez, Sr., Council Secretary	<input checked="" type="radio"/> FOR / AGAINST	<u>10-31-17</u> Date
_____ David Treviño, Council Treasurer	FOR / AGAINST	_____ Date
 _____ Kendall R. Scott, Sr., Council Member	<input checked="" type="radio"/> FOR / AGAINST	<u>10-31-17</u> Date

CERTIFICATION

I, David Valdez, Sr., the Secretary of the Tribal Council, or designated agent, hereby certify that a duly called meeting was held and that Resolution **2017 – G – 025** was approved and enacted on **October 27, 2017**. The Tribal Council voted as follows:

<u>3</u>	in favor
<u> </u>	opposed
<u> </u>	abstain
<u>1</u>	absent

DAVID VALDEZ, SR., Secretary

By: 
Signature
David Valdez
Printed Name

Title: Secretary

Date: 10/31/17

EXHIBIT A

KICKAPOO

**TRADITIONAL
TRIBE OF TEXAS**

PUBLIC RECORDS DISCLOSURE POLICY



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Section 1: Authority

1.1 The Kickapoo Traditional Tribe of Texas ("Tribe") is a federally recognized Indian tribe eligible for all rights and privileges afforded to a federally recognized Tribe. The Tribal Council is the duly elected governing body of the Tribe under the Tribal Constitution ("Constitution"). Article IV, Section 2 and Section 3 of said Constitution mandate that all official records of the Secretary and Treasury shall be open for public inspection.

Section 2: Purpose

2.1 *Purpose.* The purpose of this Public Records Disclosure Policy ("Policy") is to ensure equal access to Tribal Records by Tribal members, in accordance with Article IV, Section 2 and Section 3 of the Constitution, subject to this Policy, privacy rights, applicable laws, and administrative guidelines.

2.2 *Policy.* This Policy shall only apply to requests made by Tribal members; non-Tribal members shall not be entitled to inspect or otherwise have access to Tribal Records, with the exception of certain disclosures specified in this Policy or as otherwise determined in the sole discretion of the Tribal Government. In some instances, certain Records are deemed "public" by means of publications, postings, and websites; however, the "public" cannot make requests for such Records. For the purposes of this Policy, the "public" refers to Tribal members.

Section 3: Adoption

3.1 This Policy became effective on October 27, 2017 pursuant to the authorization provided by Tribal Council under Resolution No. 2017-G-028.

Section 4: Amendments

4.1 This Policy may be altered, amended, or repealed, and new policies and procedures may be adopted, by the Tribe's Legal Department; provided, however, no such policies shall contravene the Constitution.

Section 5: Definitions

5.1 This section shall govern the definitions of words and phrases used within this Policy. All words not defined herein shall be used in their ordinary and everyday sense.

- (a) "Authority" means the right or power to enforce rule or give orders; somebody with official power; the power to act on behalf of somebody else; or official permission to do something.
- (b) "Confidential" shall refer to documents of a personal, proprietary, or non-public nature or documents that may be subject to an evidentiary privilege.
- (c) "Elected Official" means any person who is an official by virtue of an election.
- (d) "Employee" means an individual employed by the Tribe or one of its subsidiary companies or enterprises.

- (e) "Government" or "Tribal Government" means the Kickapoo Traditional Tribe of Texas Traditional Council and any department, division, board, committee, commission, or judicial body of the Tribe.
- (f) "Maintain" includes maintain, collect, use, or disseminate.
- (g) "Person" includes any individual, corporation, partnership, firm, organization, association, or entity.
- (h) "Public Body" means the Government and any of its agencies, enterprises, entities, authorities, boards, commissions, committees, subcommittees, organizations, or corporations supported in whole or in part by funds created, managed, disbursed, or passed-through by the Tribe or which expends such funds under the care of the Tribe, including any quasi-governmental body of the Tribe.
- (i) "Public Record" means any item, collection, or grouping of information about the Tribe and/or individual that is Maintained by the Tribal Council, Tribal Council support staff, or any Tribal program, committee, or office. Records such as income tax returns, personnel files, medical records, medical staff reports, law enforcement investigative files, and names of confidential informants, scholastic records, adoption records, records related to registration, and materials that contain names or other personally identifying details, except non-identifying administrative and statistical reports of registration and circulation, and other records that by law are required to be closed to the public are not considered to be made open to the public under the provisions of this Policy.
- (j) "Record" means any item, collection, or grouping of information about the Tribe and/or individual that is Maintained by the Tribal Council, Tribal Council support staff, or any Tribal program, committee, or office.
- (k) "Sensitive" shall mean Records and/or documents that are of such a nature that the disclosure of such Records and/or documents would materially jeopardize a Tribal action.
- (l) "Tribal entity" shall mean any committee, office, program, or project of the Tribe established by the Tribal Council. This shall include all chartered organizations.
- (m) "Tribal member" or "Member" shall mean any Indian person who is officially enrolled in the Tribe.
- (n) "Traditional Council" or "Tribal Council" means the legislative body of the Kickapoo Traditional Tribe of Texas, which is comprised of five (5) Elected Officials.
- (o) "Tribe" or "Tribal" means the Kickapoo Traditional Tribe of Texas, which is a federally recognized Indian tribe eligible for all rights and privileges afforded to a Tribe with official recognition from the U.S. government.

Section 6: Access to Records; Records Deemed Open to Tribal Members

6.1 Without limiting the amount or kind of information that is open for inspection under this Policy, the following categories of information are "open" and available to Tribal members:

- (a) Public Records;
- (b) Job postings;
- (c) Census data regarding population (not membership);
- (d) Human resource policy manuals;
- (e) Court opinions or court decisions (subject to redaction of Confidential or minor information);
- (f) Tribal ordinances, acts, policies, resolutions, and amendments thereto;
- (g) Publicly filed organizing documents of any Tribal entity;
- (h) Annual financial audits; all financial disclosures that have been deemed open to Tribal members;
- (i) Minutes of Tribal Council open meetings;
- (j) Tribal Council Resolutions;
- (k) Police reports;
- (l) List of all eligible voters (can only be viewed in the clerk's office prior to election and only for purposes of verifying voter eligibility);
- (m) Statistical data of Tribal members (numbers only); and
- (n) Election candidate lists and voting results.

6.2 Copies of documents shall be made available during the hours of operation of the Public Body at the expense of the requesting Tribal member.

6.3 A request to inspect or copy a Public Record must be in writing. The writing may be handwritten and informal but must express the request with enough clarity to enable the Public Body to accurately identify the record sought. The request must also state the date, name, address, and telephone number of the requesting Tribal Member, and must be signed by the requesting Member.

Section 7: Exceptions and Limitations

7.1 The purpose of these exceptions is to address the non-disclosure of certain business records, records of a Sensitive nature, or situations where the Tribal Members' right to access is outweighed by the Tribe's interest in keeping such records Confidential. Exceptions to this Policy may be made for information that is of such a Sensitive nature that the release of such information could jeopardize the stability of the Tribal Government and its tribal enterprises.

7.2 Notwithstanding any other provisions of this Policy, certain Records, including, but not limited to: gaming, enrollment, personnel, and closed Council sessions, may be deemed as "Confidential" and, as such, may not be available for public review.

7.3 The Tribal Council, or any committee appointed by the Tribal Council, or any officer and program thereof, or any other Tribal entity, shall not disclose any Record by any means of communication to any Person, including a Tribal Member, except pursuant to a written request by, or with the prior written consent of, the individual to whom the Record pertains when the information requested involves an individual, unless the disclosure of the information would be:

- (a) To those officers and Employees of a Tribal program that Maintain the Record and who have a need for the record in the performance of their duties;
- (b) To a recipient who has provided the Tribal program with written assurance that the Record will be used solely as a statistical research or reporting record, and the Record is to be transformed into a form that is not individually identifiable;
- (c) To the Tribal archives of the Tribe or to the United States National Archives as a Record which has sufficient historical or other value as to warrant its continued preservation by the Tribe or United States government;
- (d) To an instrumentality of the federal, state, or local government for a criminal law enforcement activity if (i) the activity is authorized by applicable law and (ii) the disclosure is approved by the Tribe's Legal Department; provided further, the request must be made in writing and specify the particular information desired and the law enforcement activity for which the Record is sought; or
- (e) Pursuant to an order of (i) the Tribal court or (ii) a federal or state court in a proceeding where the Tribe is a party.

7.4 Notwithstanding any other provision of this Policy, the disclosure of information to a Person that is not a Tribal member shall only be pursuant to an approval by the Tribe's Legal Department.

Section 8: Fees

8.1. The intent of this section is to establish that the Records should be furnished at the lowest possible cost to the Person requesting the Records while ensuring that the requestor pays for the searching and copying of the Record and to not have the Public Body bear the cost of searching and copying. The Public Body may establish and collect fees not to exceed the actual cost of searching for and/or making copies of Public Records. Fees charged by a Public Body must be uniform for copies of the same records or document; provided, however, members of the Tribal Council may receive copies of Records or documents at no charge from Public Bodies when such request relates to their legislative duties. When appropriate, Records may be furnished without charge or at a reduced charge where the Public Body determines that a waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Fees may not be charged for examination and review of Records to determine if the documents are subject to disclosure. Nothing in this

section prevents a Public Body from charging a reasonable hourly rate for making Records available to the public or from requiring a reasonable deposit of these costs before searching for or making copies of the records.

Section 9: Protection of Records

- 9.1 No Person shall knowingly alter, deface, or destroy records of the Tribe.
- 9.2 Original Records shall not be removed from Tribal offices.
- 9.3 No marks of any kind shall be made on any Record provided for inspection.
- 9.4 Inspection or copying of Records by Tribal members shall be permitted only in the area designated by the Record keeper for such purpose.
- 9.5 Employees are responsible for ensuring Records furnished for inspection or copying by Tribal members are returned in good condition and in the same file sequence or organization as when furnished to ensure that Records are not misplaced or misfiled.
- 9.6 If an open Record request is made at a time when a Records exists, but the Record is scheduled for destruction in the near future, the Record keeper shall direct that the record be retained until the request is resolved.
- 9.7 No Authority may destroy any Record at any time after the receipt of a request for inspection or copying of the Record until after the request is granted or until at least sixty (60) days after the date the request is denied.
- 9.8 No record subject to pending litigation shall be destroyed until the litigation is resolved and the time limit for an appeal has expired.

Section 10: Notification after request

- 10.1 When a Public Body receives a written request to inspect or copy a Public Record, the Public Body must, within fifteen (15) business days of the receipt, notify the Person making the request in writing of the determination and the reasons for its determination. Nothing in this Policy shall supersede Tribal law or Policy relating to access to Records by members of the Tribal Council. The determination shall constitute the final opinion of the Public Body as to the public availability of the requested Public Record.
- 10.2 If the request to inspect or copy a Public Record is granted, the Record must be furnished or made available for inspection or copying within a reasonable time.
- 10.3 If the Public Body does not mail or personally deliver written notification of its determination regarding the availability of the requested Public Record to the Person requesting the Record within the fifteen (15) business days allowed, the request must be considered disapproved and the requestor may appeal the denial using the procedure provided in this Policy.

Section 11: Administrative Remedies

- 11.1 Upon showing good cause that the appropriate committee or Public Body acted in an arbitrary or capricious manner in determining an action based upon the specific request for

any Record, the matter may be appealed to the Tribal Council, which shall hear the appeal within thirty (30) days in executive session.

Section 12: Appeals

12.1 Any decision by the Tribal Council or Public Body to deny access to Records or documents may be appealed to the Tribal District Court only upon exhaustion of all available administrative remedies as outlined in Section 11 of this Policy. The appeal must be filed with the Clerk of the Tribal District Court within thirty (30) days of the issuance of such decision by the Tribal Council. The appeal shall be solely for an order to compel the Tribal program or director and Employees thereof to grant access to Records or permit amendments to Records; no individual shall be permitted to sue for damages in such action. The Tribal Court shall be permitted, however, to grant any equitable relief necessary to finally determine the action.

Section 13: Sovereign Immunity; Federal Records

13.1 The sovereign immunity of the Tribe is not waived by this Policy, including the immunity of the Tribal Council, any Public Body, Tribal offices, Tribal departments, and officials, employees, contractors, and agents thereof.

13.2 Tribal Records shall not constitute "federal records" as that term is defined under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, even those Records that are produced and/or obtained pursuant to an agreement with the federal government. Tribal Records may constitute federal records for purposes of FOIA only if the Tribal Council expressly agrees to treatment of Tribal Records as such.

