

RIGHT TO WORK CODE

CONFEDERATED TRIBES
OF THE
UMATILLA INDIAN RESERVATION

**STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Adopted by Resolution No. 09-091 (July 6, 2009)**

RIGHT TO WORK CODE

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SECTION 1.01. FINDINGS

- A. The sovereign authority of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) over Reservation affairs is set forth in Article VI, §1(d) of the Tribal Constitution which provides that the Board of Trustees has the authority to “promulgate and enforce ordinances governing the conduct of all persons and activities within the boundaries of the Umatilla Indian Reservation...”.
- B. The CTUIR, through its Tribal government, unincorporated enterprises, and incorporated enterprises provide over 1200 job opportunities within the Umatilla Indian Reservation constituting the largest employer on the Reservation and the second largest employer in the region.
- C. The Board of Trustees has determined that it is in the best interest of the CTUIR and its members to maximize individual freedom of choice in the pursuit of employment opportunities and to promote an employment climate conducive to economic growth.
- D. The establishment and nurturing of a Reservation economy is essential to the exercise of Tribal sovereignty because of the Tribal revenues generated by Tribal enterprises, which enterprises produce the revenue used by the CTUIR to fund Tribal governmental programs and services to Tribal members and other Reservation residents.
- E. As an employer, the CTUIR is committed, both by policy and practice, to ensuring an employment environment in Tribal government and in Tribal enterprises that promotes fair employment practices, protects employee health and safety and provides meaningful mechanisms to address workplace problems and personnel actions that may be taken against individual employees.
- F. It shall be the public policy of the CTUIR that the right to work shall not be subject to undue restraint or coercion.
- G. To the extent permitted by applicable law, the CTUIR desires to establish its own law governing the workplace, the rights of employees and the obligations of employers within the Umatilla Indian Reservation, and to avoid being bound by the laws of the other sovereigns, such as the federal government.
- H. No employee within the Umatilla Indian Reservation shall be forced to join, or be penalized for not joining, a union or other collective bargaining organization, and should be able to make that choice freely and voluntarily.

SECTION 1.02. DEFINITIONS

- A. “Employee” means an individual employed by an Employer or a Tribal Government Employer.
- B. “Employer” means any person, firm, association, corporation, or other entity based and operating on the Reservation, and shall include Tribal Government Employer.
- C. “Labor Organization” means any organization of any kind, or agency or employee representation committee or union, which exists for the purpose, in whole or in part, of dealing with an Employer or Employers concerning wages, rates of pay, hours of work, other conditions of employment, or other forms of compensation.
- D. “Person” means any individual, Employer, Labor Organization, corporation or other entity.
- E. “Reservation” means all Reservation and trust lands of the Confederated Tribes of the Umatilla Indian Reservation.

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- F. “Tribal Court” means the court of the Confederated Tribes of the Umatilla Indian Reservation.
- G. “Tribal Government Employer” means the Tribe’s government departments, programs and agencies, including the Yellowhawk Tribal Health Center and the Umatilla Reservation Housing Authority, but does not include Tribal enterprises whether they be incorporated or unincorporated.
- H. “Tribe” means the Confederated Tribes of the Umatilla Indian Reservation, including all agencies, departments, offices, divisions, commissions, corporations and other entities of the Tribe.

SECTION 1.03. RIGHT TO WORK

- A. No Person shall be required, as a condition of employment or continuation of employment on the Reservation, to:
 - 1. Resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary support of a Labor Organization;
 - 2. Become or remain a member of a Labor Organization;
 - 3. Pay dues, fees, assessments or other charges of any kind or amount to a Labor Organization;
 - 4. Pay to any charity or other third party, in lieu of such payments any amount equivalent to or a pro-rata portion of dues, fees, assessments or other charges regularly required of members of a Labor Organization; or
 - 5. Be recommended, approved, referred or cleared through a Labor Organization.
- B. Any agreement, understanding or practice, written or oral, implied or expressed, between any Labor Organization and an Employer which violates §1.03.A of this Code shall be deemed null and void and of no force and effect.

SECTION 1.04. PROHIBITED ACTS

- A. No Employer shall deduct from the wages, earnings or compensation of an Employee, any Labor Organization dues, charges, fees, assessments, or other charges to be paid over to a Labor Organization unless the Employer first received from the Employee a signed written authorization for such deductions, which authorization may be revoked by the Employee at any time by giving written notice of such revocation to the Employer.
- B. No Employer shall discriminate or retaliate against any Employee on the basis of an Employee’s decision to participate or refrain from participating in any Labor Organization.
- C. No Person, Labor Organization, or officer, representative or member thereof, or Employer, or office or agent thereof shall threaten or intimidate, in any manner, any Person, Employer, Employee or prospective Employee or any member of an Employee’s family to compel or attempt to compel such Employee to join, affiliate with, or financially support a Labor Organization or to refrain from doing so, or to otherwise forfeit rights guaranteed under this Code.
- D. No Labor Organization shall attempt to organize Employees of a Tribal Government Employer in violation of the law of the Tribe unless the Tribe expressly authorizes such activity by law. Unless and until this Code has been so amended, union organizing activities on the Reservation for Employees of Tribal Government Employers shall be in violation of this Code.

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SECTION 1.05. REGISTRATION OF LABOR ORGANIZATIONS

- A. Every Labor Organization operating or desiring to operate on the Reservation shall file a report with the Board of Trustees Secretary before any such activities are commenced. The report, which shall be filed by the president or the business agent of the Labor Organization, shall contain the following information:
1. The name and address of the Labor Organization;
 2. The names, addresses, telephone and fax numbers of the president or other chief executive, secretary, treasurer and business agent(s) of the Labor Organization;
 3. The name and address of the national or international organization, if any, with which it is affiliated;
 4. A copy of the collective bargaining agreement between the Labor Organization and an Employer, if any;
 5. A copy of its constitution and bylaws;
 6. A copy of all Labor Organization documents showing satisfaction with §1.06 of this Code;
 7. Any other documents or materials reasonably related to the application as may be required by the Tribe at the time it considers the application.
- B. At the time of filing the report, the Labor Organization shall pay an annual fee of five hundred (\$500.00) dollars.
- C. The president or the business agent of the Labor Organization shall file with the Board of Trustees Secretary a notice of any changes to the information required by §1.05.A within ten (10) days after the changes are made, and provide any information requested by the Board of Trustees Secretary.

SECTION 1.06. BUSINESS AGENTS

- A. No Person shall be granted a license to act as a business agent on the Reservation if that Person:
1. Has been convicted of a felony and has not had his civil rights restored; or
 2. Is not a Person of good moral character.
- B. For purposes of determining a Person's moral character, the Tribe may investigate and consider the Person's criminal history, credit history and employment and business relationships, civil lawsuits where the person has been a party and any other activity deemed relevant by the Tribe.
- C. Any Person desiring to act as a business agent on the Reservation shall first obtain a license from the Tribe by:
1. Filing an application under oath with the Board of Trustees Secretary;
 2. Paying a license fee of five hundred (\$500.00) dollars;
 3. Submitting a full set of fingerprints of the applicant, which shall be taken by the Umatilla Tribal Police Department; and

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4. Submitting a statement signed by the president and the secretary of the Labor Organization showing his authority to act as a business agent for the Labor Organization.
- D. The Board of Trustees Secretary, acting through the Office of the Tribal Executive Director, may cause to be conducted an independent background investigation of the applicant to determine the applicant's eligibility for a license.
- E. Upon the applicant's satisfactory compliance with §1.06.A and B, and upon the Tribe's completion of its review of the applicant's submissions and where there is no reason for the Tribe to deny the license, the Board of Trustees Secretary shall then issue the license. If at anytime after the issuance of the license, the Board of Trustees Secretary receives reliable information based on the background investigation or other source that the licensee is ineligible to hold a license hereunder, then the Board of Trustees Secretary may suspend or revoke the license and cause written notice of such action to be mailed or served on the licensee, in which case the licensee may within thirty (30) days from the date of suspension or revocation appeal the suspension or revocation to the Tribal Court. The license shall run for the calendar year for which it is issued unless sooner surrendered, suspended, or revoked.
- F. All licenses shall expire at midnight on December 31, of each year, but may be renewed by the Board of Trustees Secretary on a form prescribed by the Board of Trustees Secretary for that purpose and upon the payment of an annual renewal fee of five hundred (\$500.00) dollars; however, if any license has been surrendered, suspended or revoked during the year, then the applicant must go through the requirements set forth in this §1.06 as a new applicant.
- G. Grounds for denial, suspension or revocation of licenses shall include, but not be limited to making statements that are found by the Tribe to be false and violation of any part of this Code or other applicable law.

SECTION 1.07. JURISDICTION, ENFORCEMENT AND REMEDIES

- A. Jurisdiction.
 1. All Persons who enter the Reservation shall be deemed to have consented to the jurisdiction of the Tribal Court and shall be subject to the provisions of this Code.
 2. The Tribal Court shall have jurisdiction over all causes of action alleging violations of this Code.
- B. Enforcement and Remedies.
 1. Any Person injured as a result of any violation or threatened violation of the provisions of this Code shall be entitled to petition the Tribal Court for injunctive relief from or against any Person who violates or threatens any violation of this Code and may, in addition thereto, file a claim to recover any and all damages resulting directly from the violation or threatened violation.
 2. The Tribal Attorney General shall have the authority to enforce the provisions of §§1.05 and 1.06 of this Code.
 3. Any claim brought under this Code must be commenced by the filing of a complaint with the Tribal Court within 180 days from the date of the violation(s) or threatened violation(s) of the Code which form the basis of the complaint.

SECTION 1.08. SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause or phrase of this Code is for any reason declared to be void, invalid, or

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unenforceable in whole or in part, then that declaration shall not affect the remaining portions of this Code.

SECTION 1.09. SOVEREIGN IMMUNITY

The sovereign immunity of the Tribe is hereby expressly waived exclusively as to claims alleging violations of this Code brought against the Tribe in Tribal Court and within the timeline set forth in this Code. Nothing herein shall be construed as a waiver of the sovereign immunity of the Tribe in state or federal courts, or any other forum or context.

APPENDIX A

LEGISLATIVE HISTORY

***STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
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LEGISLATIVE HISTORY

The Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation enacted the Right to Work Code in Resolution No. 08-139 (December 29, 2008). In Resolution No. 09-091 (July 6, 2009), the Board of Trustees approved an amended Right to Work Code. The amended Code was reformatted to match the Confederated Tribes' standard format, but contained no substantive changes.