

TITLE 21 PRIVACY ACT

CHAPTER 1 GENERAL PROVISIONS

Section 21-1-1. Legislative findings: In enacting this Ordinance, the Executive Committee of the Flandreau Santee Sioux Tribe hereby finds that because the Tribe has contracted all of its federal program funds under Public 96-638, 25 U.S.C 450, the Privacy Act of 1974, 5 U.S.C. 552 (a), is not enforceable against the Tribe or its records. It is further found that there is no current tribal law governing the privacy and confidentiality of tribal records and the Tribe needs to enact a law to protect the privacy of tribal records and to provide procedures for release of information in certain circumstances. The Executive Committee has authority to enact this Title pursuant to Article VIII, Section 1 (f) of the Flandreau Santee Sioux Constitution and By-laws.

Section 21-1-2. Purpose: The purpose of this Ordinance is to protect the privacy of tribal records, safeguard against an invasion of privacy from the misuse of tribal records by tribal agencies, and to provide procedures for the release of information in certain circumstances.

Section 21-1-3. Definitions.

1. **Audited Records:** means external audit records including any statement or bound report provided by the external auditors which includes audited financial statements.
2. **Department:** means any program, office, agency, business, or sub-division of the Tribe, including but not limited to the Finance Department, the Payroll Department, the Health Department and any of its programs, the Legal Department, the Economic Development Department, any program contracted under

the Tribes 638 Master Contract, the Human Resources Department, Maintenance Department, and any business owned and operated, whether wholly or partially, by the Tribe.

3. **Financial record:** means all internally prepared financial statements, balance sheets, profit and loss statements, statements of cash flows and supplemental schedules, and all supporting documentation used in the preparation of the financial statements, such as journals, ledgers, deposit slips, check copies, check stubs, vouchers, invoices, bank reconciliation forms, bank statements, cancelled checks, time cards, payroll detail items, any spreadsheet, either printed or in electronic form, and any internal finance department documents, either in printed or electronic form.
4. **Individual:** means any person for whom the Tribe maintains a record on.
5. **Maintain:** means maintain, collect, use or disseminate.
6. **Public Documents:** means any law, Constitution, By-law, ordinance, enactment, resolution, or minutes of the Executive Committee or its sub-committees or boards, except to the extent that such minutes may contain confidential information regarding an individual.
7. **Routine Use:** means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.
8. **Tribe:** means the Flandreau Santee Sioux Tribe.

CHAPTER 2 CONFIDENTIALITY AND RELEASE OF RECORDS

Section 21-2-1. Application: The provisions of this act shall apply to all tribal officials, officers, employees, contractors and agents.

Section 21-2-2. Records covered by this act: The following records shall be covered by this act:

- (1) Medical records;
- (2) Personnel records;
- (3) Enrollment records;
- (4) Social Services records;
- (5) Per Capita records;
- (6) Education records;
- (7) Minors Trust funds records;
- (8) Tribal financial records, including the financial records of tribal businesses and and tribal government operations.
- (9) Any other record that the Tribe maintains of individuals.

Records maintained by the Flandreau Santee Sioux Tribal Court are exempt from the provisions of this Title. Tribal court records shall be maintained in accordance with the provisions of the FSST Law and Order Code and the policies and procedures developed by the Flandreau Santee Sioux Tribal Court. (As added by Resolution 00-18)

Section 21-2-3. Privacy of records: Any information contained with the records covered by this Title shall be maintained privately and confidentially. Information contained within any record shall be released only as provided in this Title.

Section 21-2-4. Records maintained on individuals: No tribal official, officer, employee, contractor or agent shall disclose any information contained in a record, which is covered by this Title, by any means of communication to any person, or to any other agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be

- (1) to those officers and employees of the department which maintain the record, who have a need for the record in the performance of their duties;
- (2) for a routine use as defined in Section 21-1-3 (7) of this Title; and
- (3) pursuant to the order of a court of competent jurisdiction.

Section 21-2-5. Accounting of certain disclosures: Each Department with respect to each system of records under its control, shall, except for disclosures made under 21-2-4 (1) and (2) of this chapter, keep an accurate accounting of

- (a) the date, nature, and purpose of each disclosure of a record to any person or to another agency made under Section 21-2-4 of this chapter; and
- (b) the name and address of the person or agency to whom the disclosure is made.

Any accounting made under this section shall be kept for the life of the record. The accounting shall be made available to the individual named in the record at his or her request.

Section 21-2-6. Access to records: Each Department that maintains a system of records shall

- (1) upon request by any individual to gain access to his or her record or to any information pertaining to the individual which is contained in the system, permit him or her and upon his or her request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him or her, except that the department may require the individual to furnish a written statement authorizing discussion of the individual's record in the accompanying person's presence;
- (2) release a record or information contained in a record maintained on an individual to another individual or agency only upon the written and signed release of the individual whom the record is maintained on;
- (3) permit the individual to request an amendment of a record pertaining to the individual and
 - (A) not later than 10 days after the receipt of such request, acknowledge in writing such receipt; and
 - (B) promptly, either

- (i) make any correction of any portion thereof which the individual believes is not accurate, relevant, timely or complete; or
 - (ii) inform the individual of its refusal to amend the record in accordance with the request, the reason for the refusal, the procedures established by the department for the individual to request a review of that refusal by the head of the department or an officer designated by the head of the department, and the name and business address of that official;
- (4) permit the individual who disagrees with the refusal of the department to amend his record to request a review of such refusal, and not later than 30 days from the date on which the individual requests such review, complete such review and make a final determination.

Section 21-2-7. Confidentiality of tribal financial records: The financial records of the Tribe shall be maintained confidentially and shall not be released to any individual except as provided by this Title.

Section 21-2-8. Release of financial records for routine use: Financial records may be released to tribal officers, employees, contractors or agents for routine purposes as defined in Section 21-1-3 (7) of this Title. The individual receiving a financial record for routine use shall use the record only for that purpose and shall not release the records or the contents contained within the record to any individual, in any manner.

Section 21-2-9. Release of financial records within departments: Financial records and the contents contained within financial records may be released to those officers and employees of the department which maintain the record, who have a need for the record in the performance of their duties. They may not copy or release such information to outside entities unless the release is authorized by the Tribal President.

Section 21-2-10. Executive Committee access to financial records: Officers of the Executive Committee shall have full access to the financial records of the tribe but shall be bound to maintain the records confidentially as required by the provisions of this Title.

Section 21-2-11. Audited records open to inspection: Audited records, as that term is defined in Section 21-1-3 (1), shall be open to inspection by tribal members, provided that a request for information has been filed with the Tribal Treasurer and approved by the Tribal President.

Section 21-2-12. Public Documents open: Any Public Document, as that term is defined in Section 21-1-3 (6), shall be made available to any individual upon request, provided, however, that the Executive Committee may establish fees for the cost of printing and reproduction.

Section 21-2-13. Release of unaudited financial records for quarterly General council Meetings. The Executive Committee is hereby authorized to release unaudited financial records to the General Council of the Tribe for the quarterly General Council meetings. A release under this provision shall not be made until the Executive Committee has approved the records for release by official Executive Committee action. (As added by Resolution 00-20)

CHAPTER 3 PENALTIES FOR VIOLATIONS

Section 21-3-1. Employee disciplinary action: In addition to other penalties prescribed by this Title, an employee shall be subject to disciplinary action as provided in the Flandreau Santee Sioux Employee Handbook for any violation of this Title.

Section 21-3-2. Civil penalties: Any officer, employee, or individual, by virtue of his employment or official position, who has possession of, or access to, departmental records which contain information covered by this Title, the disclosure of which is prohibited by this Title, and who knowing that disclosure of the specific materials is so prohibited, willfully discloses the material in any manner to any person or agency in violation of this Title, shall be assessed a civil fine not to exceed one thousand dollars

(\$1,000). Proceedings to enforce this section shall be brought by the Flandreau Santee Sioux Prosecutor in accordance with the FSST Law and Order Code.

This Title was enacted by the Flandreau Santee Sioux Executive Committee on February 28th, 2000 by Resolution 00-05 dated February 28th, 2000 and amended by Resolutions 00-18, dated April 17th, 2000, and Resolution 00-20, dated _____, 2000.

Flandreau Santee Sioux Tribe

Box 283 Flandreau, SD 57028

*Phone 997-3891
Fax 997-3878*



RESOLUTION 00-20-A

WHEREAS, the Flandreau Santee Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act with a Constitution and By-laws approved by the Secretary of Interior and Commissioner of Indian Affairs on April 24th, 1936, and amended February 7th, 1941, and further amended November 16th, 1967, and further amended November 14th, 1984, and further amended May 23rd, 1990, and further amended May 12th, 1997, and

WHEREAS, Article III, Section 1 of said revised Constitution and By-laws provides that the governing body of the Tribe shall be the Executive Committee, and

WHEREAS, pursuant to Article VIII, Section 1 (f) of said revised Constitution and By-laws, the Executive Committee has authority to promulgate ordinances governing and regulating the conduct of all individuals on the Reservation, and

WHEREAS, pursuant to said powers, the Executive Committee enacted Title 20, Privacy Act, to the FSST Law and Order Code on February 28, 2000 by Resolution 00-05, and

WHEREAS, Title 20, Privacy Act needs to be amended to change the Title number to Title 21 as Title 20 has already been enacted as the Election Code, and

WHEREAS, the Executive Committee has determined that Title 20, Section 20-2-2 should be further amended to

authorize the release of unaudited financial statements by the Executive Committee for the quarterly General Council meetings.

NOW THEREFORE BE IT RESOLVED, that the Executive Committee hereby amends Title 20, Privacy Act by changing the Title number and all sections thereof to Title 21, and

BE IT FURTHER RESOLVED, that Chapter 2 of Title 21 (former Title 20) be amended by adding the following new Section:

21-2-13. Release of unaudited financial records for Quarterly General Council Meetings: The Executive Committee is hereby authorized to release unaudited financial records to the General Council of the Tribe for the quarterly General Council meetings. A release under this provision shall not be made until the Executive Committee has approved the records for release by official Executive Committee action.

CERTIFICATION

The foregoing Resolution was duly enacted and adopted on this 2 day of May, 2000, by the Executive Committee at which a quorum was present of 5 for 0 against, and 1 not voting. 1 absent.



Leah Fyten
Tribal Secretary



Thomas Ranfranz
Tribal President

Flandreau Santee Sioux Tribe

Box 283 Flandreau, SD 57028

Phone 997-3891

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RESOLUTION 00-18

WHEREAS, the Flandreau Santee Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act with a Constitution and By-laws approved by the Secretary of Interior and Commissioner of Indian Affairs on April 24th, 1936, and amended February 7th, 1941, and further amended November 16th, 1967, and further amended November 14th, 1984, and further amended May 23rd, 1990, and further amended May 12th, 1997, and

WHEREAS, Article III, Section 1 of said revised Constitution and By-laws provides that the governing body of the Tribe shall be the Executive Committee, and

WHEREAS, pursuant to Article VIII, Section 1 (f) of said revised Constitution and By-laws, the Executive Committee has authority to promulgate ordinances governing and regulating the conduct of all individuals on the Reservation, and

WHEREAS, pursuant to said powers, the Executive Committee enacted Title 20, Privacy Act, to the FSST Law and Order Code on February 28, 2000 by Resolution 00-05, and

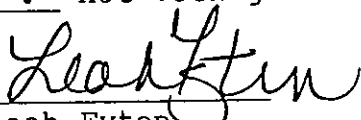
WHEREAS, the Executive Committee has determined that Title 20, Section 20-2-2 should be amended to exempt tribal court records from application of the Privacy Act as certain court records are considered public documents.

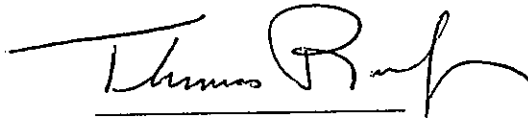
NOW THEREFORE BE IT RESOLVED, that the Executive Committee hereby amends Title 20, Section 20-2-2 by adding the following language to the end of Section 20-2-2:

Records maintained by the Flandreau Santee Sioux Tribal Court are exempt from the provisions of this Title. Tribal court records shall be maintained in accordance with the provisions of the FSST Law and Order Code and the policies and procedures developed by the Flandreau Santee Sioux Tribal Court.

CERTIFICATION

The foregoing Resolution was duly enacted and adopted on this 17 day of April, 2000, by the Executive Committee at which a quorum was present of 6 for 0 against, and 1 not voting.


Leah Fyten
Tribal Secretary


Thomas Ranfranz
Tribal President