

FOND DU LAC ORDINANCE #13/94, AS AMENDED

CHARACTER INVESTIGATIONS AND EMPLOYMENT PROHIBITIONS FOR
EMPLOYEES OF THE FOND DU LAC RESERVATION BUSINESS COMMITTEE
WHOSE POSITIONS INVOLVE CONTACT WITH OR CONTROL OVER CHILDREN

Adopted by Resolution #1199/94 of the Fond du Lac Reservation Business Committee,
dated May 26, 1994.

Amended by Resolution #1000/99 of the Fond du Lac Reservation Business Committee,
dated January 5, 1999.

Amended by Resolution #1370/99 of the Fond du Lac Reservation Business Committee,
dated October 7, 1999.

Amended by Resolution #1349/02 of the Fond du Lac Reservation Business Committee,
dated December 3, 2002.

Amended by Resolution #1366/07 of the Fond du Lac Reservation Business Committee,
dated August 28, 2007.

Amended by Resolution #1018/09 of the Fond du Lac Reservation Business Committee,
dated January 13, 2009.

Amended by Resolution #1088/09 of the Fond du Lac Reservation Business Committee,
dated March 5, 2009.

FOND DU LAC ORDINANCE #13/94, AS AMENDED

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WHOSE POSITIONS INVOLVE CONTACT WITH OR CONTROL OVER CHILDREN

Section 101 **Authority**

This Ordinance is enacted pursuant to the authority of the Fond du Lac Reservation Business Committee, as the governing body of the Fond du Lac Band of Lake Superior Chippewa, as such authority is granted by Article VI of the Revised Minnesota Chippewa Tribe Constitution and is recognized under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476, and in accordance with its responsibilities under the Indian Child Protection and Family Violence Prevention Act of 1990, Public Law 101-630, as codified at 25 U.S.C. § 3201 et seq.

Section 102 **Purpose**

The purpose of this Ordinance is to assure that the programs and enterprises of the Fond du Lac Band are administered and managed in a manner which is consistent with, and conducive to, the Reservation Business Committee's commitment to the prevention of child abuse on the Fond du Lac Reservation, through the establishment of standards for the character investigation of any individual who is employed by the Reservation Business Committee or one of its corporate subdivisions in a position which involves contact with or control over children, and according to standards which are at least as stringent as those required by the United States under the Indian Child Protection and Family Violence Prevention Act of 1990, 25 U.S.C. § 3201 et seq.

Section 103 **Definitions**

1. **"Child"** shall mean any individual who (a) is not married and (b) has not attained eighteen (18) years of age.
2. **"Child abuse"** shall include, but is not limited to --
 - a. Any case in which --
 - (1) A child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

- (2) Such condition is not justifiably explained or may not be the product of an accidental occurrence; and
- b. Any case in which a child has been subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution.
3. **"Child neglect"** shall include, but is not limited to, negligent treatment or maltreatment of a child by a person, including a person responsible for the child's welfare, under circumstances which indicate that the child's health or welfare has been harmed or threatened thereby.
4. **"Crimes against persons"** shall include, but is not limited to, manslaughter, murder, kidnapping, robbery, burglary, assault, exploitation, or threats of violence.
5. **"Family violence"** shall mean any act, or threatened act, of violence, including any forceful detention of an individual, which --
 - a. Results, or threatens to result, in physical or mental injury, and
 - b. Is committed by an individual against another individual --
 - (1) To whom such person is, or was, legally related by blood or by marriage; or
 - (2) With whom such person is, or was, residing.
6. **"Fond du Lac Reservation"** shall include all land within the boundaries of the Fond du Lac Reservation and all land over which the Reservation Business Committee has regulatory control or which is validly set apart by the United States for the use and/or benefit of the Fond du Lac Band.
7. **"Local child protective services agency"** shall mean an agency of the United States, the Fond du Lac Band, or the State of Minnesota that has responsibility for child protection within the Fond du Lac Reservation or within the programs of the Reservation Business Committee.
8. **"Local law enforcement agency"** shall mean an agency of the United States, the Fond du Lac Band, or the State of Minnesota which has responsibility for the investigation of an instance of alleged child abuse within the Fond du Lac Reservation.

9. **"Prostitution"** shall mean engaging or offering to engage for hire in sexual contact or sexual intercourse.
10. **"Reservation Business Committee"** shall mean the government of the Fond du Lac Band of Lake Superior Chippewa.
11. **"Sexual assault"** shall include any act of nonconsensual sexual conduct against another person, including rape, incest, molestation or sodomy.
12. **"Sexual contact"** shall include any act of intentional nonconsensual touching of another person's intimate bodily parts, including the primary genital areas, groin, inner thigh, buttocks, or breast.

Section 104 Affected Positions

The Reservation Business Committee shall compile and maintain a list of all employment positions within the programs of the Reservation Business Committee or within the enterprises that are wholly owned and controlled by the Fond du Lac Band whose duties and responsibilities involve regular contact with or control over children. The Reservation Business Committee shall update the list of affected positions as necessary to achieve the purposes of this Ordinance.

Section 105 Background Investigations

1. **Conduct of Investigation.** For any affected position in the list to be compiled and maintained under Section 104 of this Ordinance, the Division Director or Enterprise Manager for the affected position shall conduct a background character investigation of any current employee who is employed in such a position and of any finalist applicant or volunteer for any such affected position whose offer of employment shall be contingent upon satisfaction of such background check.
2. **Scope of Investigation.** Investigations shall involve, at minimum, inquiries to every relevant local child protective services agency and local law enforcement agency within the geographical region where the applicant or employee has resided within the past ten (10) years. Written documentation of those contacts shall be made and maintained in accordance with Section 106 of this Ordinance.

Section 106 Data Management

Upon the completion of each investigation conducted pursuant to Section 105, the Division Director, Enterprise Manager or designee shall inform the Fond du Lac Executive Director of the results of the investigation and shall make the appropriate employment recommendation. All data gathered in the performance of investigations under this Ordinance shall be regarded as private and shall be maintained by the relevant Division Director, Enterprise Manager or designee in a strictly confidential manner consistent with the data privacy policies of the Reservation Business Committee, and shall be retained for a period of ten (10) years.

Section 107 Employment Prohibitions

1. **Prohibitory Crimes.** No employee in, or applicant or volunteer for, an affected position as defined under Section 104 of this Ordinance shall be employed or be permitted to retain employment if the background investigation for that applicant, employee or volunteer has revealed that the applicant, employee or volunteer has been found guilty of, or has entered a plea of nolo contendere or guilty to, any offense under federal, state or tribal law involving crimes of the following nature:
 - a. Family violence;
 - b. Child abuse;
 - c. Child neglect;
 - d. Sexual assault;
 - e. Sexual contact;
 - f. Prostitution;
 - g. Crimes against persons, including all forms of assault, murder, manslaughter, robbery, kidnapping, false imprisonment or abduction;
 - h. Any gross misdemeanor or felony involving theft, fraud or misrepresentation within the preceding 5 years; or
 - i. Any drug related offense within the preceding 5 years.

Omissions or misrepresentations in the employment application process concealing any of the above crimes shall similarly be treated as prohibitory under this section.

2. In addition to the categorical prohibitions listed under subsection 1, the Human Resources Department, Division Director or Band investigative office shall report to the Reservation Business Committee in executive session any information relating to an applicant, employee or

volunteer which may indicate whether that person's criminal record, reputation, habits or associations present a threat to the welfare of children or otherwise make that person unsuitable for a child-related position. Upon the receipt of such information, the Reservation Business Committee shall decide upon the suitability of that applicant, employee or volunteer for employment or continued employment in a child-related position with the Fond du Lac Band.

3. **Current Employees.** Any current employee whose continued employment is prohibited under this Section shall be immediately discharged, unless the Reservation Business Committee has by motion extended that employee's employment for a period not to exceed sixty (60) days, during which time the employee shall complete a petition for recognition of suitability in accordance with Section 110 of this Ordinance. In exceptional circumstances, the Reservation Business Committee may grant an additional extension of time, not to exceed sixty (60) days, where the employee has demonstrated an ongoing good faith effort to complete the petition requirements under Section 110.
4. **Applicants.** Applicants for employment whose employment is prohibited under this Section shall be immediately withdrawn from consideration for such employment.
5. **Volunteers.** Volunteers who are prohibited under this Section shall not be utilized for functions involving contact with or control over children.
6. **Inadvertent Omission of a Prohibitive Crime Over 10 Years Old.** When the Reservation Business Committee has determined that an applicant for, or current employee in, a child-related position has inadvertently and unintentionally neglected to disclose a prohibitory conviction that is more than 10 years old, the RBC may grant a temporary exemption from the disqualification for employment under this section, provided that such applicant or employee must submit a petition for recognition of suitability pursuant to Section 110 of this Ordinance within 60 days of the temporary exemption.

Section 108 Notice to Applicant, Employee or Volunteer of Adverse Determination

Upon an adverse determination respecting an applicant or employee under this Ordinance, such applicant or employee shall immediately be notified in writing that an investigation has been conducted pursuant to this Ordinance, of the general findings of that investigation, and of the adverse consequences of the

investigation for the applicant or employee's employment in the affected position. Particular investigative findings or the identification of sources shall not be disseminated to the applicant or employee at any time, nor at any time shall an applicant or employee be permitted to obtain or to copy any of the data gathered by an investigation undertaken under this Ordinance. Notice which is sent to an applicant or employee pursuant to this Section shall inform the applicant or employee of the right to appeal the determination made regarding their employment in accordance with the provisions of Section 109.

Section 109 Right of Appeal

Upon receiving notification pursuant to Section 108 of this Ordinance, an applicant, employee or volunteer shall be given the opportunity to appeal an adverse decision made in their respect as follows:

1. **Current Employees.** A current employee shall have the right to grieve the adverse employment decision in the manner prescribed under the applicable personnel policies governing the affected position.

2. **Applicants or volunteers.** An applicant or volunteer for an affected position who is denied employment or the opportunity of service due to a determination made pursuant to this Ordinance may appeal such determination in a closed hearing before the Fond du Lac Executive Director. The applicant or volunteer may be represented in that hearing by an attorney or a lay representative. The Executive Director may be assisted by any person who is deemed to be necessary to the hearing. During the hearing, the applicant or volunteer shall be informed of the results of the background investigation conducted under Section 105 of this Ordinance. The applicant or volunteer may at this time be permitted to review such documentation of the findings of the investigation, and may be notified of their source, but shall not be allowed to photocopy or otherwise be availed of such documentation. The applicant or volunteer shall then be given an opportunity to dispute the findings of the investigation or the relevance of the findings to the position held or applied for, but must demonstrate that the employment decision made in their respect has been arbitrary or clearly erroneous. Following the hearing, the Executive Director shall inform the applicant or volunteer of his or her conclusions, and whether the applicant or volunteer shall be reconsidered. The decision of the Executive Director shall be final, except that the applicant or volunteer may submit a Petition for Recognition of Suitability in accordance with Section 110 of this Ordinance.

Section 110 Rehabilitation of Individuals

1. **Petition for Recognition of Suitability.** Any individual applicant, employee or volunteer who is otherwise prohibited from employment under Section 107 of this Ordinance shall have the right to submit a "Petition for Recognition of Suitability for Employment in Child-Related Positions," the form for which is attached to this Ordinance as Appendix A.

2. **Review of Petition.** Upon completion of the Petition, the applicant, employee or volunteer shall submit the Petition to the Division Director or the Human Resources Director, who shall evaluate the Petition in accordance with the criteria set forth under subsection (c) of this section and shall make the appropriate recommendation to the Reservation Business Committee in Executive Session.

3. **Evaluative Standards in Reviewing Petition.** In reviewing a Petition for Recognition of Suitability under this Ordinance, the following evaluative criteria shall be applied:
 - a. The prior conduct of the applicant, employee or volunteer must be considered in light of the following criteria:
 - (1) The nature and seriousness of the conduct in question;
 - (2) The recency and circumstances surrounding the conduct;
 - (3) The age of the individual at the time of the conduct;
 - (4) Societal conditions that may have contributed to the conduct;
 - (5) The probability of continued conduct of this type; and
 - (6) The individual's commitment to rehabilitation and a change in this type of behavior.

 - b. Each case must be evaluated on its own merits. All available information, both favorable and unfavorable, must be considered and assessed in terms of accuracy, completeness, relevance, seriousness, overall significance, and how similar cases have been handled in the past.

 - c. The suitability evaluation must be undertaken in a manner which ensures that placement of the applicant or employee in the affected position will not create a risk to others and will not inhibit other employees from performing their functions.


4. **Presentation and Recommendation to the Reservation Business Committee.** Upon the completion and initial review of the Petition for Recognition of Suitability, the Division Director or Human Resources Director shall present the Petition to the Reservation Business Committee in duly-convened executive session, and shall be prepared to provide a recommendation as to the suitability of the individual applicant, employee or volunteer if requested by the Reservation Business Committee. The Reservation Business Committee shall by vote determine whether to grant the individual's Petition, and its decision on the matter shall be final and unappealable.
5. A petition granted by the Reservation Business Committee under this section shall extend to future employment of the individual in child-related positions with the Fond du Lac Band, but shall be immediately invalidated if the applicant has failed to disclose prohibitive convictions which existed prior to submitting the Petition, or if the applicant is subject to subsequent prohibitive convictions.

111. **Construction**

The provisions of this Ordinance shall be construed in a manner which gives effect to its purposes as defined under Section 102, and shall be given priority wherever there are inconsistencies between this Ordinance and any other law, regulation or policy of the Reservation Business Committee or its corporate subdivisions.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #13/94, was duly presented and adopted by Resolution #1199/94 by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on May 26, 1994, on the Fond du Lac Reservation, and subsequently amended by Resolution #1000/99 on January 5, 1999; by Resolution #1370/99 on October 7, 1999; by Resolution #1349/02 on December 3, 2002; by Resolution #1366/07 on August 28, 2007; by Resolution #1018/09 on January 13, 2009; and by Resolution #1088/09 on March 5, 2009.



Karen R. Diver,
Chairwoman



Ferdinand Martineau, Jr.
Secretary/Treasurer

**PETITION FOR RECOGNITION OF SUITABILITY
FOR EMPLOYMENT IN CHILD-RELATED POSITIONS**

PURPOSE: The Indian Child Protection and Family Violence Prevention Act of 1990 prohibits the Fond du Lac Band from employing individuals with convictions for crimes of violence, child abuse or sexual misconduct in positions involving contact with or control over children. The purpose of this Petition is to enable an applicant who is otherwise disqualified from employment because of their criminal record to demonstrate to the Reservation Business Committee that the applicant has become sufficiently rehabilitated and possesses the necessary fitness of character to be employed by the Band in a position involving contact with or control over children without posing a threat to the safety or welfare of the children or coworkers. All information provided on this Petition shall be confidential. Failure to provide all of the information required on this Petition, or the provision of false information, will invalidate the Petition.

THIS PETITION MUST BE ACCOMPANIED BY THE FOLLOWING INFORMATION:

- (1) Charging documents;
- (2) Probation or Parole reports, including any and all conditions established by the court;
- (3) Detailed employment history with references; and
- (4) Character references.

1. **NAME:** _____

| | | | |
|-------|--------|------|--------|
| First | Middle | Last | Maiden |
|-------|--------|------|--------|
2. **DATE OF BIRTH:** _____
3. **SOCIAL SECURITY NUMBER:** _____
4. **ADDRESS:** _____

5. **FULL DISCLOSURE OF ALL CRIMINAL CONVICTIONS.** The applicant must disclose fully all criminal convictions; failure to make full disclosure will automatically disqualify the Applicant from consideration for employment. Attach additional pages as necessary.

a. **Date of Crime:** _____

Place Committed: _____

Type of Crime: _____

Sentence Received: _____

Court of Sentence: _____

Explanation of Circumstances Surrounding the Crime:

Probation or Parole Officer: _____

Address: _____

Telephone: _____

b. **Date of Crime:** _____

Place Committed: _____

Type of Crime: _____

Sentence Received: _____

Court of Sentence: _____

Explanation of Circumstances Surrounding the Crime:

Probation or Parole Officer: _____

Address: _____

Telephone: _____

c. Date of Crime: _____
Place Committed: _____
Type of Crime: _____
Sentence Received: _____
Court of Sentence: _____
Explanation of Circumstances Surrounding the Crime:

Probation or Parole Officer: _____
Address: _____

Telephone: _____

6. PERSONAL STATEMENT. Explain why your criminal record should not disqualify you from employment with the Fond du Lac Band in a position involving contact with or control over children. Attach additional pages as necessary.

7. CHARACTER REFERENCES. The Applicant must provide the names and letters of reference from at least three non-related, reputable individuals who have known the Applicant for at least two years and will attest to the Applicant's honesty and trustworthiness. Attach the letters of reference to this Petition.

a. Name: _____

Address: _____

Telephone: _____

How Long Known: _____

Relationship: _____

b. Name: _____

Address: _____

Telephone: _____

How Long Known: _____

Relationship: _____

c. Name: _____

Address: _____

Telephone: _____

How Long Known: _____

Relationship: _____

8. ACKNOWLEDGEMENT AND RELEASE. I, _____, understand that the questions and requirements contained in this Petition are necessary to maintaining the safety and welfare of the children and families served by the Fond du Lac Band of Lake Superior Chippewa. I understand that all responses and materials submitted in this Petition are confidential, and that access to this information will be limited to those officers or employees of the Fond du Lac Band who must review the information in order to fulfill their official duties to the Band. I consent to such investigation as is reasonably necessary to verify the responses contained in this petition and the documentation submitted in their support. I further acknowledge that any false or misleading information given in connection with this petition shall automatically result in my disqualification for employment in any position involving contact with or control over children served by the Fond du Lac Band's programs and enterprises.

Signature: _____

Date: _____

FOR OFFICIAL USE ONLY

The foregoing Petition was reviewed by the Fond du Lac Reservation Business Committee on _____, _____, meeting in Executive Session on the Fond du Lac Reservation, Minnesota, and was granted/denied by a vote of ____ for, ____ against, ____ silent, with a quorum of ____ being present.

Chairman

Secretary/Treasurer

Fond du Lac Reservation

Business Committee

105 University Road,
Cloquet, MN. 55720
Phone (218) 879-4593
Fax (218) 879-4146

RESOLUTION #1199/94



Chairman
Robert B. Peacock

Secretary/Treasurer
Peter J. Defoe

Dist. I Councilman
Clifton Rabideaux

Dist. II Councilman
Daryold Blacketter

Dist. III Councilman
George Dupuis

Executive Director
I. Jean Mulder

The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:

WHEREAS, the Fond du Lac Reservation is a sovereignty, created by the Treaty of September 30, 1854, 10 Stat. 1109, as the perpetual home of the Fond du Lac Band of Lake Superior Chippewa, which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac Reservation; and

WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the Governing Body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of self government; and

WHEREAS, the Reservation Business Committee recognizes that it is in the best interests of the Fond du Lac Band, and is required under the Indian Child Protection and Family Violence Prevention Act of 1990, 25 U.S.C. § 3201 et seq., to establish standards for undertaking character investigations of any individual who is employed by the Fond du Lac Band in a position involving control over, or contact with, children, and to establish prohibitions for employment in those positions of persons who have been convicted of crimes involving family violence, child abuse, sexual assault and crimes against persons;

NOW THEREFORE BE IT RESOLVED, that the Fond du Lac Reservation Business Committee does hereby enact Fond du Lac Ordinance #13/94, entitled "Character Investigations and Employment Prohibitions for Employees of the Fond du Lac Reservation Business Committee whose Positions Involve Contact with or Control over Children."

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on May 26, 1994 in Cloquet, Minnesota.


Robert B. Peacock, Chairman


Peter J. Defoe, Sec./Treas.

Fond du Lac Reservation Business Committee

1720 Big Lake Rd.
Cloquet, MN 55720
Phone (218) 879-4593
Fax (218) 879-4146

RESOLUTION # 1000/99

The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:



Chairman
Robert B. Peacock

Secretary/Treasurer
Peter J. Defoe

Dist. I Councilman
Clifton Rabideaux

Dist. II Councilman
V. R. "Butch" Martineau

Dist. III Councilman
George Dupuis

Executive Director
I. Jean Mulder

WHEREAS, the Fond du Lac Reservation is a sovereignty, created by the Treaty of September 30, 1854, 10 Stat. 1109, as the permanent home of the Fond du Lac Band of Lake Superior Chippewa, which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac Reservation; and

WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the Governing Body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of self government; and

WHEREAS, the Reservation Business Committee, pursuant to Resolution #1199/94, adopted Fond du Lac Ordinance #13/94, governing character investigations and employment prohibitions for employees whose positions involve contact with or control over children; and

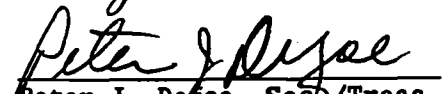
WHEREAS, the Reservation Business Committee has determined it to be in the best interests of the Fond du Lac Band to amend FDL Ordinance #13/94 in order to extend its standards to volunteers and to provide a process for recognizing the suitability of individuals who possess prohibitory criminal records but have demonstrated rehabilitation and present suitability for employment in child-related positions;

NOW THEREFORE BE IT RESOLVED, that the Fond du Lac Reservation Business Committee does hereby adopt the proposed amendments to Fond du Lac Ordinance #13/94, and that the aforementioned proposed amendments shall be incorporated into FDL Ordinance #13/94 and shall become effective immediately as the law of the Fond du Lac Band.

CERTIFICATION

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 3 for, 0 against, 0 silent, with a quorum of 4 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on January 5, 1999 on the Fond du Lac Reservation.


Robert B. Peacock, Chairman


Peter J. Defoe, Sec./Treas.

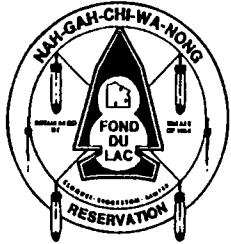
Fond du Lac Reservation

Business Committee

1720 Big Lake Rd.
Cloquet, MN 55720
Phone (218) 879-4593
Fax (218) 879-4146

RESOLUTION # 1370/99

The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:



Chairman
Robert B. Peacock

Secretary/Treasurer
Peter J. Defoe

Dist. I Councilman
Clifton Rabideaux

Dist. II Councilman
V.R. "Butch" Martineau

Dist. III Councilman
George Dupuis

Executive Director
I. Jean Mulder

WHEREAS, the Fond du Lac Reservation is a sovereignty, created by the Treaty of September 30, 1854, 10 Stat. 1109, as the perpetual home of the Fond du Lac Band of Lake Superior Chippewa, which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac Reservation; and

WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the Governing Body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of Self-Government; and

WHEREAS, the Fond du Lac Reservation Business Committee adopted Ordinance #13/94, entitled the "Character Investigations and Employment Prohibitions for Employees of the Fond du Lac Reservation Business Committee Whose Positions Involve Contact With Or Control Over Children" by Resolution #1199/94, on May 26, 1994; and

WHEREAS, the Fond du Lac Reservation Business Committee has determined it to be necessary and in the best interests of the Fond du Lac Band to amend Section 106 "Data Management," as follows:

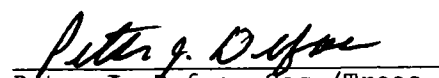
Section 106 Data Management

Upon the completion of each investigation conducted pursuant to Section 105, the Division Director, Enterprise Manager or designee shall inform the Fond du Lac Executive Director of the results of the investigation and shall make the appropriate employment recommendation. All data gathered in the performance of investigations under this Ordinance shall be regarded as private and shall be maintained by the relevant Division Director, Enterprise Manager or designee in a strictly confidential manner consistent with the data privacy policies of the Reservation Business Committee, and shall be ~~destroyed within six (6) months~~ retained for a period of ten (10) years. ~~of the employment decision made regarding the affected position.~~

NOW THEREFORE BE IT RESOLVED, that the Fond du Lac Reservation Business Committee does hereby amend Ordinance #13/94, entitled the "Character Investigations and Employment Prohibitions for Employees of the Fond du Lac Reservation Business Committee Whose Positions Involve Contact With Or Control Over Children" and hereby directs said amendment to be incorporated into Ordinance #13/94, to become effective immediately.

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on October 7, 1999, on the Fond du Lac Reservation.


Robert B. Peacock, Chairman


Peter J. Defoe, Sec./Treas.

Fond du Lac Reservation

Business Committee

1720 Big Lake Rd.
Cloquet, MN 55720
Phone (218) 879-4593
Fax (218) 879-4146

RESOLUTION #1349/02



Chairman
Robert B. Peacock

Secretary/Treasurer
Kevin R. Dupuis, Sr.

Dist. I Councilman
Clifton Rabideaux

Dist. II Councilman
V.R. "Butch" Martineau

Dist. III Councilman
George Dupuis

Executive Director
I. Jean Mulder

The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:

WHEREAS, the Fond du Lac Reservation is a sovereignty, created by the Treaty of September 30, 1854, 10 Stat. 1109, as the permanent home of the Fond du Lac Band of Lake Superior Chippewa, which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac Reservation; and

WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the Governing Body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of self government; and

WHEREAS, the Reservation Business Committee enacted Fond du Lac Ordinance #13/94 to establish character investigations and background prohibitions for employment with the Fond du Lac Band in positions involving control over or contact with children in accordance with the federal Indian Child Protection and Family Violence Prevention Act of 1990, 25 U.S.C. § 3201 et al.; and

WHEREAS, Section 107 of said Ordinance establishes prohibitions on employment in child-related positions for persons convicted of certain categories of crimes; and

WHEREAS, the Reservation Business Committee now finds it to be in the best interests of the Fond du Lac Band to amend Section 107 of said Ordinance for the following purposes: (1) to clarify the meaning of "crimes against persons"; (2) to add prohibitions for convictions of property-related crimes and crimes involving illegal drugs; (3) to treat material omissions or misrepresentations on the employment application as prohibitory; and (4) to provide for the prohibition of employment by the Reservation Business Committee based upon other information which indicates an individual's unsuitability for employment in a child-related position;

NOW THEREFORE BE IT RESOLVED, that the Fond du Lac Reservation Business Committee hereby amends Fond du Lac Ordinance #13/94, entitled "Character Investigations and Employment Prohibitions for Employees of the Fond du Lac Reservation Business Committee whose Positions Involve Contact with or Control over Children", as follows:

Section 107 Employment Prohibitions

1. **Prohibitory Crimes.** No employee in, or applicant or volunteer for, an affected position as defined under Section 104 of this Ordinance shall be employed or be permitted to retain employment if the background investigation for that applicant, employee or volunteer has revealed that the applicant, employee or volunteer has been found guilty of, or has entered a plea of nolo contendere or guilty to, any offense under federal, state or tribal law involving crimes of the following nature:

- a. Family violence;
- b. Child abuse;
- c. Child neglect;
- d. Sexual assault;
- e. Sexual contact;
- f. Prostitution; or
- g. Crimes against persons, including all forms of assault, murder, manslaughter, robbery, kidnapping, false imprisonment or abduction;
- h. Theft, fraud or misrepresentation within the preceding 5 years; or
- i. Any drug related offense within the preceding 5 years.

Omissions or misrepresentations in the employment application process concealing any of the above crimes shall similarly be treated as prohibitory under this section.

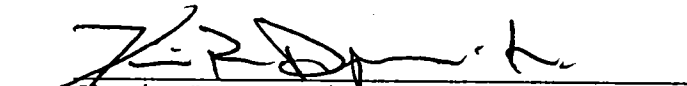
2. In addition to the categorical prohibitions listed under subsection 1, the Human Resources Department, Division Director or Band investigative office shall report to the Reservation Business Committee in executive session any information relating to an applicant, employee or volunteer which may indicate whether that person's criminal record, reputation, habits or associations present a threat to the welfare of children or otherwise make that person unsuitable for a child-related position. Upon the receipt of such information, the Reservation Business Committee shall decide upon the suitability of that applicant, employee or volunteer for employment or continued employment in a child-related position with the Fond du Lac Band.

NOW THEREFORE BE IT FURTHER RESOLVED, that said amendment shall take effect immediately, in accordance with the procedures established under the Ordinance.

CERTIFICATION

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 3 for, 0 against, 0 silent, with a quorum of 4 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on December 3, 2002, on the Fond du Lac Reservation.


Robert B. Peacock, Chairman


Kevin R. Dupuis, Sr., Sec./Treas.

DJP/lao:12R103002

Fond du Lac Reservation

Business Committee

1720 Big Lake Rd.
Cloquet, MN 55720
Phone (218) 879-4593
Fax (218) 879-4146

RESOLUTION # 1366/07



Chairwoman
Karen R. Diver

Secretary/Treasurer
Ferdinand Martineau, Jr.

Dist. I Councilman
Eugene Reynolds

Dist. II Councilperson
Sandra M. Shabiash

Dist. III Councilman
Roger "Bouda" Smith, Sr.

AMENDING FOND DU LAC ORDINANCE #13/94 CHARACTER INVESTIGATIONS AND EMPLOYMENT PROHIBITIONS FOR EMPLOYEES OF THE FOND DU LAC BAND WHOSE POSITIONS INVOLVE CONTACT WITH OR CONTROL OVER CHILDREN

The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:

WHEREAS, the Fond du Lac Reservation is a sovereignty, created by the Treaty of September 30, 1854, 10 Stat. 1109, as the permanent home of the Fond du Lac Band of Lake Superior Chippewa, which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac Reservation; and

WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the Governing Body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of self government; and

WHEREAS, the Reservation Business Committee enacted Fond du Lac Ordinance #13/94, requiring background investigations of applicants, employees and volunteers in positions involving contact with or control over children; and

WHEREAS, the Reservation Business Committee has determined it to be necessary and in the best interests of the Band to amend Ordinance #13/94 to add a new subsection 107(6) in order to provide for a temporary exemption from the employment disqualifications of Section 107 where an applicant or employee has inadvertently neglected to disclose a prohibitory conviction, provided that such applicant or employee will be required to submit a petition for recognition of suitability for employment pursuant to Section 110 of the Ordinance within 60 days;

NOW THEREFORE BE IT RESOLVED, that the Fond du Lac Reservation Business Committee hereby amends Fond du Lac Ordinance #13/94 to add a new subsection 107(6) in order to provide for a temporary exemption from the employment disqualifications of Section 107 where an applicant or employee has inadvertently neglected to disclose a prohibitory conviction, provided that such applicant or employee will be required to submit a petition for recognition of suitability for employment pursuant to Section 110 of the Ordinance within 60 days, such amendment to become effective immediately.

CERTIFICATION

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 2 for, 0 against, 0 silent, with a quorum of 3 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on August 28, 2007 on the Fond du Lac Reservation.

Karen R. Diver
Karen R. Diver,
Chairwoman

Ferdinand Martineau, Jr.
Ferdinand Martineau, Jr.,
Secretary/Treasurer

12R082807

Fond du Lac Reservation Business Committee

1720 Big Lake Rd.
Cloquet, MN 55720
Phone (218) 879-4593
Fax (218) 879-4146

RESOLUTION # 1018/09

AMENDING THE "CHARACTER INVESTIGATION AND EMPLOYMENT PROHIBITION FOR EMPLOYEES OF THE FOND DU LAC RESERVATION BUSINESS COMMITTEE WHOSE POSITIONS INVOLVE CONTACT WITH OR CONTROL OVER CHILDREN" ORDINANCE, FDL ORD. #13/94



Chairwoman
Karen R. Diver

Secretary/Treasurer
Ferdinand Martineau, Jr.

Dist. I Councilman
Wally Dupuis

Dist. II Councilperson
Sandra M. Shabiash

Dist. III Councilperson
Mary S. Northrup

The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:

WHEREAS, the Fond du Lac Reservation is a sovereignty, created by the Treaty of September 30, 1854, 10 Stat. 1109, as the permanent home of the Fond du Lac Band of Lake Superior Chippewa, which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac Reservation; and

WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the Governing Body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of self government; and

WHEREAS, the Reservation Business Committee enacted Fond du Lac Ordinance #13/94 to establish character investigations and background prohibitions for employment with the Fond du Lac Band in positions involving control over or contact with children in accordance with the federal Indian Child Protection and Family Violence Prevention Act of 1990, 25 U.S.C. § 3201 et al.; and

WHEREAS, the Reservation Business Committee now finds it to be in the best interests of the Fond du Lac Band to amend Fond du Lac Ordinance #13/94 by amending Section 107(1)(h) and adding a new Section 110(5), to read as follows:

Section 107(1):

- h. Any gross misdemeanor or felony involving theft, fraud or misrepresentation within the preceding 5 years; or

Section 110:


5. A petition granted by the Reservation Business Committee under this section shall extend to future employment of the individual in child-related positions with the Fond du Lac Band, but shall be immediately invalidated if the applicant has failed to disclose prohibitive convictions which existed prior to submitting the Petition, or if the applicant is subject to subsequent prohibitive convictions.

RESOLUTION # 1018/09
Page 2

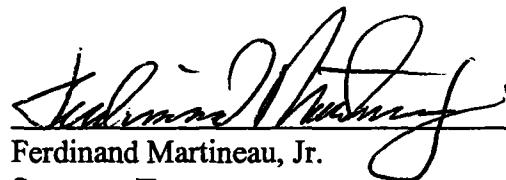
NOW THEREFORE BE IT RESOLVED, that the Fond du Lac Reservation Business Committee does hereby adopt the proposed amendments to Fond du Lac Ordinance #13/94, to become effective immediately as the law of the Fond du Lac Band; and further directs said amendments be incorporated into FDL Ordinance #13/94.

CERTIFICATION

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on January 13, 2009 on the Fond du Lac Reservation.



Karen R. Diver
Chairwoman



Ferdinand Martineau, Jr.
Secretary/Treasurer

laws: 94 13 12R011209

Fond du Lac Reservation Business Committee

1720 Big Lake Rd.
Cloquet, MN 55720
Phone (218) 879-4593
Fax (218) 879-4146



Chairwoman
Karen R. Diver

Secretary/Treasurer
Ferdinand Martineau, Jr.

Dist. I Councilman
Wally Dupuis

Dist. II Councilperson
Sandra M. Shabiash

Dist. III Councilperson
Mary S. Northrup

RESOLUTION # 1088/09 AMENDING FOND DU LAC ORDINANCE #13/94

The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:

WHEREAS, the Fond du Lac Reservation is a sovereignty, created by the Treaty of September 30, 1854, 10 Stat. 1109, as the perpetual home of the Fond du Lac Band of Lake Superior Chippewa, which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac Reservation; and

WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the Governing Body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of Self-Government; and

WHEREAS, the Fond du Lac Reservation Business Committee adopted Ordinance #13/94, entitled the "Character Investigations and Employment Prohibitions for Employees of the Fond du Lac Reservation Business Committee Whose Positions Involve Contact With Or Control Over Children" by Resolution #1199/94, on May 26, 1994; and

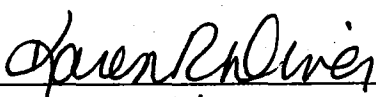
WHEREAS, the Fond du Lac Reservation Business Committee has determined it to be necessary and in the best interests of the Fond du Lac Band to amend Section 107(3) of the Ordinance, pertaining to the continued employment of current employees who are in the process of preparing a petition under Section 110 of the Ordinance, as follows:

3. Current Employees. Any current employee whose continued employment is prohibited under this Section shall be immediately discharged, unless the Reservation Business Committee has by motion extended that employee's employment for a period not to exceed sixty (60) days, during which time the employee shall complete a petition for recognition of suitability in accordance with Section 110 of this Ordinance. In exceptional circumstances, the Reservation Business Committee may grant an additional extension of time, not to exceed sixty (60) days, where the employee has demonstrated an ongoing good faith effort to complete the petition requirements under Section 110.

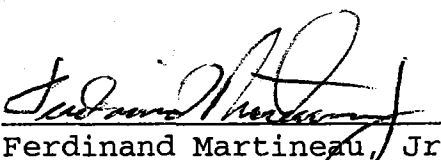
NOW THEREFORE BE IT RESOLVED, that the Fond du Lac Reservation Business Committee does hereby amend Ordinance #13/94, entitled the "Character Investigations and Employment Prohibitions for Employees of the Fond du Lac Reservation Business Committee Whose Positions Involve Contact With Or Control Over Children" and hereby directs said amendment to be incorporated into Ordinance #13/94, to become effective immediately.

CERTIFICATION

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on March 5, 2009, on the Fond du Lac Reservation.



Karen R. Diver
Chairwoman



Ferdinand Martineau, Jr.
Secretary/Treasurer

12R030509