

YUROK TRIBE FREEDOM OF INFORMATION ACT

AUTHORITY:

The Yurok Tribe is a Federally recognized Indian Tribe eligible for all rights and privileges afforded to federally recognized Tribes. And whereas the Yurok Tribal Council is the duly elected governing body of the Yurok Tribe under the Yurok Tribal Constitution, and Article IV, Section 5(d) of said constitution mandates that the Council must "provide a system for assuring the reasonable and appropriate access by tribal members to tribal records and meetings," proper authority is thereby granted to the Yurok Tribal Council to promulgate this ordinance..

PURPOSE:

The purpose of this Act is to insure equal access to Tribal records by Tribal members, in accordance with Article IV, Section 5(d) of the Constitution of the Yurok Tribe.

Section 1: Members' Right to Information:

Members of the tribe have an absolute right to review the financial or other business related activities of the tribe. Business records, financial balance sheets and documents relating to the administration of tribal programs shall be made available for review by tribal members. Copies of documents shall be made available at the expense of the requesting tribal member. Exceptions may be made for information concerning personnel matters, application for tribal membership, health information or business/financial information which is of such a sensitive matter that release of the information would jeopardize the financial stability of a tribal enterprise.

Section 2: Definitions:

As used in this ordinance:

- (a) The term "Tribal entity" shall mean any committee, office, program or project of the Yurok Tribe established by the Yurok Tribal council. This shall include all chartered organizations except privately chartered profit and non-profit corporations.
- (b) The term "tribal member" shall mean any Indian person who is enrolled in the Yurok Tribe.
- (c) The term "maintain" includes maintain, collect, use or disseminate.
- (d) The term "record" means any item, collection, or grouping of information about the Yurok Tribe and/or individual that is maintained by the Yurok Tribal Council, Council Support, or any tribal program, committee, or office.

(e) "Sensitive" shall mean records/documents that are of such a nature that the disclosure of such records/documents would materially jeopardize a tribal action.

(f) "Confidential" shall refer to documents of a personal nature or documents that may be subject to an evidentiary privilege.

Section 3: Access to Records:

It is the official policy of the Yurok Tribe that all tribal members shall have access to all tribal records, including, but not limited to, resolutions and ordinances, tribal minutes, all transactions involving tribal loans, descriptions of tribal lands, the leasing, exchanges of Tribal lands, and records regarding the tribe and any tribal contractor. This shall include records maintained by the Yurok Tribal Council, all Council Committees, all tribal programs, district governments and non-profit chartered organizations which are not deemed "confidential" under Section 9 of this ordinance.

Section 4: Exclusion of Non-Members from Provisions of This Act:

Non-Indians and non-member Indians shall not have a right to any item included in Section 3 except by way of written permission of the Yurok Tribal Council with the exception of Tribal Ordinances, Resolutions, and other non-confidential materials a reasonable person could expect so that compliance with Yurok Tribal Law will be accomplished.

Section 5: Disclosure:

The Yurok Tribal Council, or any Committee appointed by the Yurok 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 which maintains the record of who have need for the record in the performance of their duties; or,

(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 in a form that is not individually identifiable; or,

(c) To the tribal archives of the Yurok Tribe or to the United States National Archives as a record which has sufficient historical or other value to warrant its continued preservation by the Tribe or United States Government; or,

(d) To the Yurok Public Safety Department or an instrumentality of the United States Government for a criminal law enforcement activity if the activity is authorized by law, provided that 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 the Yurok Tribal Court or federal court in a proceeding where the Yurok Tribe is a party.

Section 6: Access and Amendments to Personal Records: Administrative Remedies:

All individuals shall have access to their personal records maintained by the Yurok Tribe or a program thereof upon written request. Such individuals shall also have a right to request amendment of a record pertaining to him or her; and shall have the right to appeal the denial of a request for amendment of a personal record to the appropriate committee or Executive Director of the Yurok Tribe. Upon showing of good cause that the appropriate committee or Executive Director acted in an arbitrary or capricious manner in determining an action based upon the specific request, the matter may be appealed to the Tribal Council, which shall hear the appeal within ten (10) days in Executive Session, if appropriate.

Section 7: Appeals to Yurok Tribal Court:

Any decision by the Yurok Tribal Council to deny access to records/documents may be appealed to the Yurok Tribal Court only upon exhaustion of all available administrative remedies as outlined in section 6 of this act

The appeal must be filed with the clerk of the Yurok Tribal Court within thirty (30) days of the issuance of such decision by the Yurok 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 8: Standard of Review:

All appeals shall be limited to review of the record as originally filed under the Arbitrary and Capricious Standard. A Committee's decision on a matter shall only be set aside if they are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. To determine if a committee/department falls under the Arbitrary and Capricious Standard, the Committee/department must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made

Section 9: Review of Records:

All records shall be reviewed during regular business hours. These records may be copied, at a charge of ten cents (10¢) per page after the first ten requested, and given to the individual for his/her personal use upon request and pursuant to the provisions above.

Audio and video tapes will not be transcribed or copied except at the authorization of the Yurok Tribal Council. However, pursuant to this Act, these tapes may be made available, for listening/viewing purposes only, during regular business hours in the appropriate office where such tapes are maintained.

Section 10: Confidentiality:

Notwithstanding any other provisions of this act, 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.

Section 11: Severability:

If a court of competent jurisdiction finds any clause or section of this Act to be invalid, such clause or section shall be severed, and the remainder of this chapter shall remain in full force and effect.

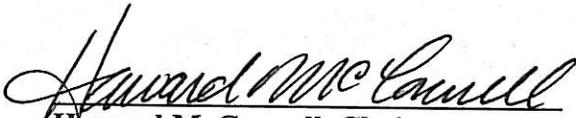
Section 12: Repeal of Inconsistent Law:

All other ordinances or resolutions that are inconsistent with this chapter are hereby repealed.

C*E*R*T*I*F*I*C*A*T*I*O*N

THE FOREGOING ORDINANCE, ENTITLED THE YUROK TRIBE FREEDOM OF INFORMATION ACT, WAS PASSED AT A REGULARLY SCHEDULED MEETING OF THE YUROK TRIBAL COUNCIL ON AUGUST 9th 2006, AT WHICH A QUORUM WAS PRESENT AND THAT THIS ORDINANCE WAS APPROVED BY A VOTE OF 8 FOR, 0 OPPOSED, WITH NO ABSTENTIONS

DATED THIS 9th DAY OF AUGUST, 2006.


Howard McConnell, Chairman
Yurok Tribal Council

Attest:


Cynthia McKernan
Executive Assistant