

## Ordinance 02-01

### BLUE LAKE RANCHERIA LAW & ORDER CODE

#### TITLE 26: INDIAN PREFERENCE ORDINANCE

**Purpose:** The purpose of this ordinance is to provide maximum employment opportunity and preference in hiring, promotion, transfer, training, lay-offs, interim appointments and all other aspects of employment to members of the Blue Lake Rancheria, direct descendants and to other Indians. Further, the Blue Lake Tribal Council desires to be in compliance with the "Tribal-State Gaming Compact" as it reads:

*"Sec. 10.0. PUBLIC AND WORKPLACE HEALTH, SAFETY, AND LIABILITY. "*

*"Sec. 10.2. Compliance. For the purposes of this Gaming Compact, the Tribal Gaming Operation shall:"*

*"(g) Adopt and comply with standards no less stringent than federal laws and state laws forbidding employers generally from discriminating in the employment of persons to work for the Gaming Operation or in the Gaming Facility on the basis of race, color, religion, national origin, gender, sexual orientation, age, or disability; provided that nothing herein shall preclude the tribe from giving a preference in employment to Indians, pursuant to a duly adopted tribal ordinance."*

**Justification:** Federally recognized Indian tribes of the United States are domestic sovereign nations and both Federal and State governments recognize the Blue Lake Rancheria's inherent right to make their own laws, especially in regulating commerce activities such as employment practices. Optimum employment of Indian people of the Blue Lake Rancheria, as well as other members of federally recognized tribes, are critical elements to building self-sufficiency and exercising sovereignty that helps to combat poverty and social ills. Therefore, the Blue Lake Rancheria Tribal Council desires to assure that enrolled members, member's spouse, descendants of the Blue Lake Rancheria Tribe, and other Native Americans receive the maximum benefits generated by its entities and enterprises.

#### Section 26.1 – Definitions

- A. "Employee" means any person paid wages, salary, or stipend by the Blue Lake Rancheria or any of its entities and enterprises.
- B. "Employer" means the Blue Lake Rancheria, its subdivisions, entities and enterprises. The definition of employer also includes the Blue Lake Casino.
- C. "Indian Preference" means the process of selecting a person for employment based upon a preference applied when two or more persons are considered equally strong employee applicants following an interview of a pool of qualified applicants.

- D. "Meet Qualifications" means that the applicant or employee possesses the skills, education, experience or other job-related requirements in the job description or job announcement.
- E. "Enrolled Member" means a person who is officially enrolled as a member of the Blue Lake Rancheria.
- F. "Spouse" means legally married spouse of an enrolled member of the Blue Lake Rancheria.
- G. "Other Indian" means any person who is enrolled as a member of a federally recognized or state recognized Indian tribe or any other Tribe recognized by the Blue Lake Rancheria Tribal Council.

#### Section 26.2 – Establishing Indian Preference

- (A) Indian preference shall be given according to Section 26.3 below when it is established that the employee or applicant meets qualifications as stated in the job description or the job announcement. If the person has the qualifications as stated, he or she is eligible for the position and shall not be denied if another person at a lower preference has higher qualifications than are necessary for the position. If more than one person at the same preference level meets qualifications the decision-makers shall have discretionary power. Accordingly, when preparing job descriptions or job announcements care should be taken to establish qualifications that fit the desired needs of the position.
- (B) It shall be prohibited to use job qualifications or personnel requirements which are not necessary to the position and which act as barriers to employment preference.

#### Section 26.3 – Order of Preference

- (A) The following order of preference shall be given when offering employment opportunities of any kind including hiring, promotions, transfers, training, lay-offs, interim appointments, and all other aspects of employment:
  - (1) Enrolled member.
  - (2) Spouse of Tribal Member
  - (3) Other Indian.

#### Section 26.4 – Coverage

This Ordinance shall be binding on all entities, enterprises, and organizations operating under the Blue Lake Rancheria, and shall supersede all previous actions and policies regarding Indian preference in employment.

Section 26.5 – Enforcement

- (A) The Human Resources Department shall have the responsibility and authority to assure that the provisions of this ordinance are implemented and enforced.
- (B) The Employment Preference Compliance Report must be completed and signed by the appropriate Human Resources Director.
- (C) After the tribal department manager or manager within any tribal enterprise selects an applicant, if the Human Resources Department determines that there was a violation of this Ordinance, the Human Resources Department will inform the Tribal Administrator or CEO of any tribal enterprise; including the Blue Lake Casino. The Human Resources Department and Tribal Administrator will discuss the matter and the parties involved will make a good faith effort to reach agreement on an applicant whose selection complies with this Ordinance. If an agreement cannot be reached, the Tribal Administrator or CEO of any tribal enterprise; including the Blue Lake Casino, has the authority, if applicable, to resolve the problem to-re-interview the employee applicants and select the new employee.
- (D) The final avenue for due process is to take an issue to the Tribal Council for a final decision for a violation of this ordinance.

COMMENT:

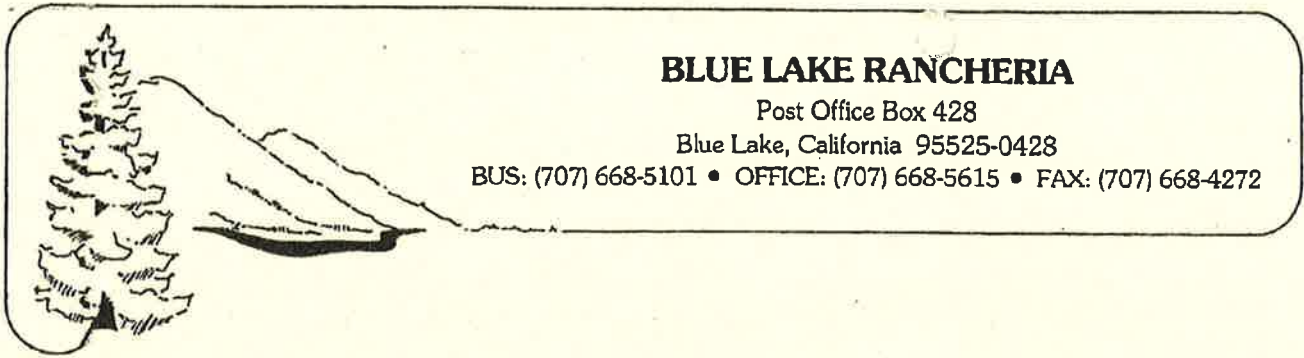
Section 54.5 (B); this section is intended to take into account the different tribal entities. The Tribe already has more than one Human Resources Director; non-Casino and Casino.

Section 26.6 – Effect of Title 26, Indian Preference Ordinance

When interpreting any section of this Ordinance, if there is any dispute or conflict, then the language and provisions of this Ordinance and the employee rights' ordinance, those disputes shall be resolved in favor of the employee or applicant.

Section 26.7 – Effective Date and Amendments

- (A) This Ordinance shall be effective upon the approval of a resolution adopting same by the Blue Lake Rancheria Tribal Council.
- (B) This Ordinance may be amended by resolution of the Blue Lake Rancheria Tribal Council.



**BLUE LAKE RANCHERIA**

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**RESOLUTION  
OF THE  
BLUE LAKE RANCHERIA  
NO. 02-20**

**SUBJECT:** The adoption of the Title 26: Indian Preference Ordinance (as attached) as Blue Lake Rancheria Tribal Law.

**WHEREAS:** The Rancheria Constitution has been approved by the Assistant Secretary of the Indian Affairs on March 22, 1989 and revised and approved by the Assistant Secretary of the Indian Affairs on February 11, 1994 authorizing full governmental powers to the duly elected Business Council; and

**WHEREAS:** The Blue Lake Rancheria Business Council is empowered to develop and enforce laws that meet the unique needs of American Indians residing on and working for the Blue Lake Rancheria; and

**WHEREAS:** The Tribal Council recognizes that Native American persons, historically, have been disadvantaged when applying for employment, and seeking advancement within their employment; and

**WHEREAS:** The Tribal Council feels that the adoption of an Indian Preference Ordinance will enhance opportunities for Native American persons seeking employment and advancement within the Tribe's jurisdiction; and

**WHEREAS:** The Tribal Council feels that enacting such laws as the Indian Preference Ordinance will not only aid in the Tribe's regulation of employment practices but provide the means to build self-sufficiency among Natives people, combating poverty and social ills.

**NOW THEREFORE BE IT RESOLVED, THAT** the Blue Lake Rancheria Tribal Business Council hereby adopts the Title 26: Indian Preference Ordinance as a part of the Tribal Law & Order Code with the express intent of optimizing employment for Indian people of the Blue Lake Rancheria, as well as other members of federally recognized tribes, in an effort to aid in the growth of self-sufficiency among Native peoples, endeavoring to combat poverty and social ills.

**CERTIFICATION**

As the Chairperson of the Business Council for the Blue Lake Rancheria, I hereby certify that the Business Council adopted this resolution by a vote of 5 for, with 0 against, with 0 abstaining, with 0 absent on this 28<sup>th</sup> of May 2002.

Claudia Brundin  
Claudia Brundin, Chairperson

May 28, 2002  
Date of Approval

**ATTEST:**

Melanie Shelanskey  
Melanie Shelanskey, Tribal Secretary

May 28 2002  
Date of Approval