

ORDINANCE NO. 39
RESEARCH PROTECTION ORDINANCE

BE IT ENACTED, by the Tribal Council of the Saginaw Chippewa Indian Tribe of Michigan as follows:

Section 1. ORDINANCE TITLE

This Ordinance shall be identified as the Research Protection Ordinance of the Saginaw Chippewa Indian Tribe of Michigan.

Section 2. STATEMENT OF PURPOSE

- a. The purpose of this Ordinance is to:
 - 1. Create a Data Governance Board;
 - 2. Protect data and information under the exclusive control and authority of the Tribe from unauthorized research;
 - 3. Ensure that Research Applicants understand Tribe's ownership of proprietary information and documents generated or produced by such research;
 - 4. Ensure participation by the Tribe in the research, development, implementation, analysis and dissemination; and
 - 5. Provide a review process to govern the collection, management, or publication of Proprietary Information and research undertaken on the Reservation or with members of the tribe.

Section 3. AUTHORITY

This Ordinance is enacted pursuant to authority granted to Tribal Council in Article VI Sections 1(e), (i), (j), and (o) of the Tribal Constitution of November 4, 1986.

Section 4. DEFINITIONS

- a. As used in this Ordinance, the following terms shall have the meanings given to them in this section.
 - 1. "Biogenetic Resources" means biological and genetic resources, including plant material, animals, microorganisms, cells and genes.
 - 2. "Biological Samples" means, but is not limited to: bacteria and other microorganisms, bacteria, plant, animal, or any human biological materials, genetic samples, any copies of the original genetic samples, any cell lines containing copies of the original genetic samples, and data derived from these samples.
 - 3. "Board" means the Data Governance Board.
 - 4. "Proprietary Information" means Tribal data and information under

- the exclusive control and authority of the Tribe.
5. "Indigenous" means native, originating or growing naturally in a specific landscape. Also refers to people descending from the original inhabitants of the Western Hemisphere who have maintained distinct languages, culture, or religion from time immemorial.
 6. "Research" means using Proprietary Information for or in the identification, description, classification, collection, compilation, recordation, analysis and publication in fields including, but not limited to: agronomy, archaeology, astronomy, biology, ethnobotany, ecology, ethnography, history, linguistics, paleontology, medicine, photography, psychology, remote sensing, sociology, theology, videography, and other investigative disciplines or approaches as identified by the Tribe.
 7. "Research Applicant" or "Applicant" means a person who formally requests permission from the Data Governance Board to obtain Proprietary Information as part of data collection and documentation for analysis and interpretation, under Section 6.a.1. of this Ordinance.
 8. "Research Agreement" or "Agreement" is an agreement entered into between the Research Applicant and the Tribe that pertains to the ownership of the Research data, results, conclusions and any reports, exhibits, or other documents derived or produced as a result of Research and any parameters, or methodologies or other information detailing the Research.
 9. "Research Permit" is issued by the Data Governance Board to the Research Applicant after execution of the Research Agreement, the permit shall state the name of the Research Applicant, description of the study, location of research to be conducted, and the beginning and end dates of the research for which the permit is applicable.
 10. "Research Request" shall include the completed standard application and synopsis of the project. Data Governance Board's receipt of a Research Request initiates the review process.
 11. "Reservation" means the Isabella Indian Reservation as specified in the Order for Judgment entered by the United States District Court for the Eastern District of Michigan in *Saginaw Chippewa Indian Tribe of Michigan v. Granholm, et al*, Case No. 05-10296-BC.
 12. "Tribal Community" means a member or descendant of the Saginaw Chippewa Indian Tribe of Michigan or any other US federally recognized Indian Tribe, residing within or working within the boundaries of the Reservation.
 13. "Tribal Elder" means any Tribal member 50 years of age or older.
 14. "Tribal Member" means an enrolled member of the Saginaw Chippewa Indian Tribe of Michigan.
 14. "Tribe/Tribal" means the Saginaw Chippewa Indian Tribe of Michigan.

Section 5. DATA GOVERNANCE BOARD

- a. Establishment. The Tribal Council for the Saginaw Chippewa Indian Tribe of Michigan, hereby creates and establishes a Data Governance Board, which shall be charged with developing, implementing, and overseeing Saginaw Chippewa Tribal Data Governance. The Board will operate in accordance with this Ordinance and any bylaws approved by the Tribal Council.

- b. Membership. The Board shall consist of nine representatives of the Saginaw Chippewa Community appointed by the Tribal Council as provided in Section 5(e) of this Ordinance. The composition of the Board will consist of one Representative from each of the following:
 - 1. Tribal Member Elder Representative;
 - 2. Tribal Member;
 - 3. An employee of Anishnaabeg Children and Family Services (ACFS);
 - 4. An employee of Tribal Behavioral Health;
 - 5. Tribal Education/Youth Representative;
 - 6. An employee of Nimkee Memorial Health Center;
 - 7. An employee of the Saginaw Chippewa Tribal College;
 - 8. An employee of Tribal Administration; and
 - 9. An employee of Ziibiwing Center of Anishinabe Culture & Lifeways.

- c. Board Vacancies.
 - 1. Resignation. Any Board Representative may resign at any time by delivering written resignation to Board. Termination of Membership shall be effective as written in resignation. Approval or acceptance of resignation is not required.
 - 2. Removal. Any Board Representative may be removed by majority vote of the Data Governance Board Representatives for nonfeasance, misconduct, or serious negligence of duty. The Data Governance Board must notify the Board Representative of the outcome of the vote within seven (7) business days of the meeting when the vote was held. Any Board Representative removed by majority vote of the Data Governance Board will be granted a hearing before Tribal Council upon a written request for appeal within twenty (20) days of being notified of their removal.
 - 3. Vacancies. Any vacancies will be filled according to Section 5. (c) and (e) for the remainder of the vacant Board Representatives term.

- d. Quorum. Formal action of the Board may only be done by majority vote of the Board with a quorum of three representatives present. At least one of

the representatives present in the quorum must be a Tribal Member.

- e. Terms. The first Board term shall commence on appointment by the Tribal Council for a term ending December 31, 2025. Thereafter, Council shall appoint the Board to serve a term beginning January 1st of the year and extend until December 31st of the last year of their term. Representatives of the Board may serve additional terms either consecutively or non-consecutively.
 - 1. Terms shall be staggered as follows:
 - i. Two-year terms:
 - (a. Saginaw Chippewa Tribal College Representative; and
 - (b. Tribal Administration Representative.
 - ii. Three-year terms:
 - (a. Tribal Education Representative;
 - (b. Nimkee Memorial Health Center Representative; and
 - (c. Ziibiwing Center of Anishinabe Culture & Lifeways Representative.
 - iii. Four-year terms:
 - (a. Anishnaabeg Children and Family Services Representative;
 - (b. Behavioral Health Representative;
 - (c. Tribal Member Community Representative; and
 - (d. Tribal Member Elder Representative.

Section 6. GENERAL REQUIREMENTS

The following requirements are hereby established for review and approval of research pursuant to this Ordinance:

- a. Submit a Research Request to the Data Governance Board;
 - 1. A Research Applicant must submit their research request by application to the Board in a form which meets the criteria provided by the Board. The application shall be fully completed, signed and dated by the Research Applicant. Incomplete applications will not be reviewed by the Data Governance Board. The research request must include the following information:
 - i. Name, contact information and personal information from Research Applicant
 - ii. Project Information:
 - (a. Title;
 - (b. Funding;
 - (c. IRB approval;
 - (d. Type of Information requested;
 - (e. Project timeline;

- (f. Benefit to the Tribe;
- (g. Project Methodology; and
- (h. Publication / plans for the research once completed.

b. Within sixty (60) days after receiving an application, the Board shall do the following:

1. If deemed necessary by the Board after its review of a complete application, the Board may return the request to the Research Applicant with request for additional information or with suggestions for clarification or change;
2. Consult with other Tribal Members, Tribal Elders, professionals, technical experts, or specialists as deemed necessary by the Board before sending recommendations to the Tribal Council;
3. Conduct a hearing with the Research Applicant attend a hearing to review the request; and
4. Approve or deny the application. Written notice shall be provided to the Applicant within fourteen (14) days of the Board's decision. The Board's decision to deny a request shall be final for the Tribe and shall not be subject to appeal.

c. Research Agreement with the Tribe;

1. If the Board approves an application the Board will prepare a written agreement covering the research so that studies proceed in a manner that is both culturally sensitive and relevant to the project and the Tribal community.
2. Data Governance Board will present the Research Agreement and application to Tribal Council with a recommendation for or against approval.
3. The Agreement and application will be approved or denied by formal action of the Tribal Council.
 - i. The Data Governance Board shall provide written notice to the Applicant indicating approval or denial of Tribal Council.
 - ii. Tribal Council may deny an application if in its judgment the Research Applicant failed to adequately establish the benefit of the research to the Tribe.
 - iii. Tribal Council may deny an application if it does not approve of the research or its intended purpose; or
 - iv. Tribal Council may deny an Agreement if it does not agree to the terms of the Agreement.

The review process and approval of the application is complete when the Research Applicant receives a letter of notification from the Data Governance Board and executes a binding Research Agreement with the Tribe.

Section 7. PROCEDURE FOR SEEKING PUBLICATION

- a. All individuals wishing to publish research results must submit a proposed manuscript to the Board for review and approval prior to publication submission. The manuscript will be reviewed for technical content and validity, readability, and organization of content, as well as assurance that the content aligns with the Tribe's priorities and concerns.
- b. All publications recommended and submitted by the Board shall be reviewed and approved by Tribal Council prior to the Tribe granting permission for publication.
- c. Tribal Council will formally approve or deny publication requests and Tribal Council decisions are final for the Tribe and not subject to any appeal

Section 8. PROHIBITED CONDUCT

- a. No person shall receive proprietary information of the Tribe without first obtaining approval by the Data Governance Board.
- b. No person shall obtain access to the Tribe's proprietary information or data without entering into research agreement with the Tribe.
- c. No person shall collect, acquire, or analyze any proprietary data such as biological samples without abiding by the provisions of this Ordinance.
- d. No person shall alter, damage, disturb, excavate, remove, or desecrate any biogenetic resources, or traditional indigenous intellectual property on the Reservation.
- e. No person shall sell, purchase, exchange, transport, receive, or offer to - sell, purchase, exchange, transport, or possess any biodiversity related resources, biogenetic resources, or biological samples, or traditional indigenous intellectual property if such resource or property was obtained in violation of this Ordinance.

Section 9 RESERVATIONS AND TERMINATION

- a. The Tribe Reserves the right to:
 - 1. Withdraw consent to use or release information and/or prevent the publication of data which is unauthorized, insensitive, misrepresents or stereotypes Tribal people or will harm the health, safety or welfare of the Tribe.
 - 2. Deny Research Applicants the opportunity to conduct research in any Tribal community within Tribal jurisdiction.
 - 3. Cancel approvals and terminate Agreements under this Ordinance

for violation of the Ordinance or the Agreement.

Section 10. VIOLATIONS, JURISDICTION

- a. Any person(s) who violate any provisions of this Ordinance by obtaining the Tribe's proprietary information or data without proper approval or by publishing work that includes proprietary information or data of the Tribe without approval shall be guilty of a civil offense punishable by confiscation of the research material and/or a fine not more than five hundred dollars (\$500.00), plus court costs.
- b. No civil penalty shall be assessed unless such person is given notice and an opportunity for a hearing with respect to such violation. Each violation shall be a separate offense.
- c. Any person who violates this ordinance, shall be cause. For the Tribe not to review or approve an Application made under this Ordinance.
- d. The Saginaw Chippewa Indian Tribe of Michigan's Tribal Court shall have jurisdiction over all causes of action under this Ordinance.
- e. There shall be no private or third party cause of action to enforce the provisions of this Ordinance.

Section 11. SEVERABILITY

If any provision of this ordinance or the application thereof to any person, court, or circumstance is held invalid by a Tribal Court the invalidity shall not affect other provisions of this ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this ordinance are severable.

Section 12. WAIVER

No individual person, Tribal official, or Tribal employee is authorized to waive any part of this Ordinance.

LEGISLATIVE HISTORY

Ordinance 39. Research Protection Ordinance. Enacted by Tribal Council Resolution 25-015, approved on October 23, 2024.