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*Resolution No. 08-2014-123*

# WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

**( Declaring that Council Shall No Longer Suspend  
Members of Governing Body without a Conviction and Reinstating  
Councilman Alvin DeClay, Sr. )**

**WHEREAS,** on this day, members of the Tribal Council of the White Mountain Apache Tribe ("Tribe") heard from the family of Councilman Alvin DeClay, Sr., and from various members of the governing body concerning whether the Tribal Council should be authorized to suspend sitting Tribal Council members prior to a conviction, and pursuant to the Tribal Constitution ("Constitution"), Powers of the Council, specifically Section IV(s), which allows the Council to "regulate its own procedures"; and

**WHEREAS,** broadly speaking, IV(s) of the Constitution grants the Tribal Council the authority to discipline itself, the question then becomes whether that authority is limited to policies and procedures already in practice and duly authorized by Tribal Law, or should the Tribal Council have the unfettered ability to suspend (temporarily or permanently) other members of the Tribal Council that are alleged to have committed a criminal violation that upon conviction would require removal; and

**WHEREAS,** the Attorney General previously advised the Tribal Council that the People would be best served if the governing body would simply await the results of criminal prosecutions prior to administering suspensions on sitting members of the Tribal Council. Among other potential concerns, there are concerns of due process when administrative leave is issued without pay and in the event that the charges are dropped or the alleged Council member is cleared of wrongdoing, there is a problem with obligations to reimburse said official for the entire amount lost during the administrative leave; and

**WHEREAS,** another major concern raised by the Attorney General is the problem of disenfranchisement, or otherwise denying voters appropriate representation on the Tribal Council as required by the Tribal Constitution. Fairness to the accused and encouraging political attacks by way of mere allegations could result in political "witch hunts" and therefore it would be in the Tribe's best interest to take drastic action only when evidence is presented to prove the allegations raised during a duly authorized hearing pursuant to the Tribal Code or when a conviction is handed down by a Tribal, State, or Federal Court that is grounds for removal pursuant to the Tribe's Constitution; and

**WHEREAS,** after much consideration and careful deliberation over this matter, the Tribal Council has decided that it would be in the Tribe's best interest to limit the Tribal Council's disciplinary action to suspend only upon conviction and only if such conviction is consistent with the terms for removal as plainly stated in the Constitution.



**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby declares that from this day forward, the Tribal Council shall no longer suspend members of the governing body without proof of conviction by a Tribal, State, or Federal Court, and only when the conviction is in line with those reasons listed in the Constitution that are grounds for removal.

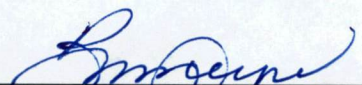
**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that Councilman Alvin DeClay Sr., should be reinstated pursuant to the Council's findings and ruling established by this Resolution and that while no determination of guilt has been made by the Council, Mr. DeClay, Sr. should resume his duties as a duly elected Councilman and the matter of his suspension and backpay will be addressed when the Tribal Court rules on the outstanding charges levied against the Councilman. The Councilman should refrain from discussing his case with the community at large until he has been cleared of the alleged wrongdoings so as not to influence the outcome of his case.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.


**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances or Federal Laws, or any material facts concerning the issues presented are later found to be false, this Resolution shall be deemed null and void and have no legal effect.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Vice-Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on **AUGUST 12, 2014** duly adopted by a vote of **EIGHT** for and **ZERO** against with **TWO** abstaining by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it under the enumerated powers listed in Article IV, Section 1 of the WMAT Constitution, so ratified on September 30, 1993, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).

  
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Ronnie Lupe, Tribal Chairman

2/12/13  
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Date

  
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Doreen Numkena, Tribal Secretary

D-23-2015  
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Date