



**Delaware Tribe of Indians  
Tribal Court Rules  
Adopted by the Judiciary on April 15, 2016**

**Chapter 1 – Court Process**

**Chapter 2 - Rules of Ethics for Tribal Court Judges**

**Chapter 3 - Code of Conduct for Tribal Court Employees**

**Chapter 4 - Admission to Practice before the Tribal Court; Attorneys, Lay Advocates, and Spokesperson**

**Chapter 5 - Rules of Ethics for Attorneys and Lay Advocates**

**Chapter 1 – Court Process**

**Rule 1.001. Filing Fees.**

The Court shall issue a schedule of fees associated with filing of pleadings and motions and other functions of the court. The schedule shall be posted on the tribal court's web site and other places.

**Rule 1.002. Waiver of Court Fees**

- (A) Applicability.** The Delaware Tribe of Indians and any indigent person is eligible for a waiver or suspension of fees and costs. For the purpose of this rule "fees and costs" applies only to filing fees required by law.
- (B) Execution of Affidavits.** An affidavit is required by this rule stating that the party is unable to pay fees and costs because of indigency and may be signed either
  1. by the party in whose behalf the affidavit is made; or
  2. by a person having personal knowledge of the facts required to be shown.

(C) **Waiver of Fees and Costs for Indigent Parties.** If a party shows by ex parte affidavit or otherwise that he or she is indigent, the payment of fees and costs as to that party shall be suspended. The Court shall have discretion to condition such waiver or suspension upon the performance of up to five hours of community service for the Tribe.

(D) **Indigent Party Defined.** A natural person will be considered indigent for the purposes of this section when the person shows by ex parte affidavit or otherwise the following three elements:

- a. That the person's household's income is below the federal poverty line for a household of that size;
- b. That the person has less than \$5,000 in liquid assets, including funds in joint or individual bank or savings accounts; and
- c. That the person owns, either by individual or joint ownership, assets which are worth less than \$50,000.

(E) **Reinstatement of Requirement for Payment of Fees and Costs.** If the payment of fees or costs has been waived or suspended under this rule, the court may in its discretion order the person for whom the fees or costs were waived or suspended to pay those fees or costs when the reason for the waiver or suspension no longer exists.

**Rule 1.003. Appropriate courtroom behavior and attire.**

- (A) All attendees of court shall be required to sign an attendance log.
- (B) No weapons or alcohol are allowed in the courtroom.
- (C) All parties and attendees must turn their cell phones off or to vibrate.
- (D) Parties and attendees must behave respectfully and dress appropriately.

**Rule 1.004. Case numbering system.**

Court cases will be numbered in a uniform format: letters designating the type of case, the year the case was followed, and then the number of the case filed within that year. E.g., Civ-16-001. Below is a list of the letters designating the case type

Civ – general civil  
Cs – child support  
Cc – child custody  
Div – divorce  
Gar – garnishment  
PO – protection order  
Cw – child welfare

## **Chapter 2 – Rules of Ethics for Tribal Court Judges**

### **Rule 2.001    Purpose.**

The purpose of this chapter is to provide for and guide the professional conduct of judges and court clerks, magistrates and administrators of this Court, as well as, lawyers and lay advocates who practice before this Court.

### **Rule 2.002    Definitions.**

When used in this chapter, unless the context otherwise indicates:

- (A)    “Court” means the Delaware Tribe of Indians Tribal Court.
- (B)    “Court Personnel” include any employee or volunteer involved in Court records or proceedings.

### **Rule 2.101    Applicability of these Rules of Judicial Conduct.**

These rules apply to anyone, whether or not a lawyer, who is an officer of a tribal judicial system and is performing judicial functions. Also, these Rules apply to both trial and appellate tribal judges, who serve the Court on a full-time, part-time, or pro tempore basis.

### **Rule 2.102    Integrity and Independence of Tribal Judiciary.**

A Tribal Court judge should uphold the integrity and independence of the Tribal Judiciary in that an independent and honorable Tribal judiciary is indispensable to justice in the Tribal community. A judge should participate in establishing, maintaining, and enforcing, and should him/herself observe high standards of conduct so that the integrity and independence of the judiciary may be preserved. A judge should always be aware that the judicial system is for the benefit of the litigant(s) and the public, not the Judiciary. The provisions of the Rules 2.101 through 2.110, inclusive, should be construed and applied to further these objectives.

### **Rule 2.103    Impropriety and the Appearance of Impropriety.**

Tribal Court judge should avoid all impropriety and the appearance of impropriety in all his/her activities.

- (A) Respect and Comply. A Tribal judge should respect and comply with the law of the Tribe and at all times should act in the manner that promotes confidence in the integrity and impartiality of the Tribal Judiciary.
- (B) No Influence. A Tribal judge should not allow family, social, or other relationships to influence his/her judicial conduct. A judge should not attempt to use prestige of his/her office to advance the private interests of him/herself or others, nor should a judge convey the impression that anyone has special influence on him/herself
- (C) Witness. A judge should not appear as a witness in a court proceeding unless subpoenaed.

#### **Rule 2.104    Performance of Duties Impartially and Diligently.**

A Tribal Court judge should perform the duties of the office impartially and diligently. The judicial activities of a Tribal judge should take precedence over all other activities. The judicial duties of a judge include all the duties of the office as prescribed by Tribal law. In the performance of these duties, the following standards apply.

- (A) Adjudicative Responsibilities.
  - (1) A Tribal Court judge should adhere to the laws of the Tribe. He/she should not be swayed by partisan interests, public clamor, political pressure, or fear of criticism. He/she should resist influences on the Court by other Tribal officials, governmental officials or any others attempting to improperly influence the Court.
  - (2) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, advocates and others with whom he/she deals with in his/her official capacity. He/she should require similar conduct of other persons in court proceedings and those Court personnel who are subject to the judge's direction and control.
  - (3) A Tribal Court judge should accord to every person who is legally interested in any proceeding, or his/her lawyer or other representative, full right to be heard according to Tribal law and except as authorized by law, neither consider nor permit one-sided or other communication with a litigant, his/her attorney, or lay advocate concerning a pending or impending proceeding unless all parties to the proceeding are present.
  - (4) A Tribal Court judge should maintain order in the court. He/she should not interfere in the rights of the parties.
  - (5) A Tribal Court judge should dispose promptly of the business of the Court.
  - (6) A Tribal Court judge should not comment publicly on any proceeding pending in court and should also prohibit other Court personnel from making such public

comment. However, this subsection does not prohibit a judge from making public statements in the course of his/her official duties or from explaining for public information the procedures of the Court.

(B) Administrative Responsibilities.

- (1) A judge should diligently perform his/her administrative responsibilities with a high degree of integrity and diligence.
- (2) A judge should require his/her staff and Court officials to observe high standards of integrity and diligence. As such, a judge should direct his/her staff and Court officials subject to his/her control to observe high standards of fidelity, diligence, and courtesy to litigants, jurors, witnesses, lawyers, and others with whom they deal in their official capacity.
- (3) A judge should initiate appropriate disciplinary measures against a judge or lawyer for nonprofessional conduct of which the judge may become aware.

(C) Disqualification

- (1) A Tribal Court judge should disqualify him/herself in a proceeding in which his/her impartiality might reasonably be questioned, including instances where:
  - (a) the judge has a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts;
  - (b) the judge served as a lawyer advocate, or personal representative in the matter before the Court, or a person with whom the judge has been associated in a professional capacity served as a lawyer, advocate, or personal representative concerning the matter;
  - (c) the judge knows that he/she individually (or a member of the judge's family residing in his/her household) has a financial interest in the subject matter of the controversy or is a party to the proceeding, or has any other interest that could be substantially affected by the proceedings; or
  - (d) the judge or his/her spouse, or a person in a reasonably close family relationship to either of them, or the spouse of such a person:
    - (1) is a party to the proceeding, or an officer, director, or trustee of a party;
    - (2) is acting as a lawyer or advocate in the proceeding;
    - (3) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or

(4) is to the Tribal judge's knowledge likely to be a material witness in the proceeding.

(D) Alternative to Disqualification.

A judge disqualified pursuant to Rule 2.104(C)(1) hereunder may, instead of withdrawing from the proceeding, disclose on the record the basis of his/her disqualification. If based on such disclosure, the parties and lawyers or lay advocates, independent of the judge's participation, all agree in writing that the judge's participation is not prejudicial or that the judge's financial interest is insubstantial, the judge is no longer disqualified, and may participate in the proceeding.

**Rule 2.105 Improvement of the Legal System and the Administration of Justice.**

A Tribal Court judge may engage in activities to improve the law, the legal system and the administration of justice. In fact, to the extent that his/her time permits, he/she is encouraged to do so, either independently or through a legal/judicial association, judicial conference, or other organization dedicated to the improvement of the law. Therefore, a judge subject to the proper performance of his/her judicial duties may engage in the following activities:

- (A) a judge may speak, write, lecture, teach, and participate in other activities concerning Tribal law and custom, the legal system of the Tribe, the administration of justice, and the law in general;
- (B) the judge may appear at a public hearing before a Tribal executive or legislative body or on official matters concerning the Tribal legal system and the administration of justice of general concern to Tribal members, or of personal concern. When speaking to the public, press, or others on matters other than the administration of Tribal justice, the judge shall identify him/herself as the Tribal judge and shall make it clear that he/she is not speaking in his/her capacity as a Tribal judge; and
- (C) the judge may serve as a member, officer, or director of an organization or Tribal governmental agency devoted to the improvement of Tribal law, its legal system, or an organization of justice. The judge may assist such an organization in raising funds and may participate in the management and investments of such funds. He/she may make recommendations to public and private fund-granting agencies on projects and programs concerning Tribal law, its legal system, and the administration of justice.

**Rule 2.106 Extra-Judicial Activities.**

- (A) Avocational Activities. A Tribal judge may write, lecture, teach, speak, and consult on non-legal subjects, appear before public non-legal bodies, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract

from the dignity of his/her office or interfere with the performance of his/her judicial duties.

- (B) Civic and Charitable Activities. A Tribal judge may participate in civic and charitable activities that do not reflect adversely upon his/her impartiality or interfere with the performance of his/her judicial duties. A judge may serve as an officer, director, trustee, or non-legal advisor of a bona fide educational, religious, charitable, fraternal, or civic organization, whether Tribal or otherwise, provided that a Tribal judge does not participate if it is likely that the organization will be involved in proceedings which would ordinarily come before him/her or would be involved in adversarial proceedings in any Tribal court.
- (C) Financial Activities.
  - (1) A Tribal judge should avoid financial and business dealings that tend to reflect adversely on his/her judicial duties, exploit his/her judicial position, or involve him/her in frequent business transactions with lawyers or others likely to come before the Court on which he/she serves.
  - (2) Because it is recognized that the position of Tribal judge may be a part-time position, such a Tribal judge may accept other employment and participate in the operation of a business, legal or otherwise in nature, subject to the following:
    - (a) a part-time Tribal judge should not practice law either as a lawyer or an advocate:
      - (1) in a Tribal Court in which he/she serves; or
      - (2) in any court subject to the appellate jurisdiction of the Tribal Court or council on which he/she serves; and
    - (b) a part-time Tribal judge should not act as a lawyer or advocate in any proceeding in which he/she has served or in any related proceeding.
  - (3) Neither a judge nor a member of his/her family residing in the household should accept a gift, bequest, favor, or loan from anyone if the same would affect or appear to affect his/her impartiality.
- (D) Extra-Judicial Appointments. A Tribal judge should not accept appointment to a governmental committee, commission or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. A Tribal judge may represent the Tribe on ceremonial occasion or in connection with historical, educational, and cultural activities.

## **Rule 2.107 Political Activities.**

- (A) Political Activity. A Tribal Court judge should refrain from political activity inappropriate to his/her judicial office. However, a judge or candidate for judicial office may attend political gatherings, speak to such gatherings on his/her own behalf or on behalf of other judicial candidates, and/or contribute to a political party.
- (B) Tribal Council. A Tribal judge shall not be a candidate for or serve on the Tribal Council of Trust Board, nor shall a Tribal judge be actively involved in the campaign of another for Tribal Council or Trust Board.
- (C) Political Support. A Tribal Court judge should refrain from all political activities or actions which could be interpreted in the Tribal community as supporting any political position except that the community has the right and the responsibility to govern its own members and its own territory. All actions should be consistent with this belief and supportive of this community standard. This prohibition does not mean a judge cannot, if he/she chooses, engage in activities of electoral politics at the local, state, or national level. This prohibition is specific as to politics adversely affecting the jurisdictional rights of the Tribal community.
- (D) Conduct of a Candidate. A candidate, including an incumbent judge, for a Tribal Judicial office that is filled by Tribal election or appointment:
  - (1) should maintain the dignity appropriate to the judicial office and should refrain from any political activity which might interfere with the performance of his/her judicial duties. Furthermore, a Tribal Court judge should encourage members of his/her family to adhere to the same standards of political conduct that apply to him/her; and/or
  - (2) should not make pledges or promises of conduct in judicial office other than the faithful and impartial performance of the duties of the office, nor announce his/her views on disputed legal or political issues.
- (E) Continuing Educational Activities. A judge, regardless of his/her education and experiences prior to being appointed or elected a judge, should seek further legal and pertinent non-legal education designed to improve their performance as a judge.

### **Chapter 3 – Code of Conduct for Tribal Court Employees**

#### **Rule 3.001      Introduction.**

Employees of the Tribal Court hold highly visible positions of public trust. Tribal Court employees must conduct their business in an environment and in a manner that favorably reflects the ideals consistent with the fundamental values of the Tribal judicial system. These values include: fairness, accessibility, accountability, effectiveness, responsiveness and independence. Their actions at all times should uphold and increase the public trust and confidence in the

judicial branch of the Tribal government, reflect the highest degree of integrity, and demonstrate commitment to each principle embodied in this code.

### **Rule 3.002 Definitions.**

- (A) “Confidential information” includes, but is not limited to, information on pending cases that is not already a matter of public record and information concerning decision-making processes of particular judges.
- (B) “Conflict of interest” includes, but is not limited to situations where the court employee’s objective ability and/or independent judgment in the performance of their official duties may be impaired; or when the court employee (including family) may receive a direct or indirect benefit resulting from any official action.
- (D) “Court employee” includes all employees of the court (i.e., full-time staff, part-time staff, volunteers, independent contractors, etc.) who represent the court and are therefore covered by this Code of Conduct. “Court employee” does not include judges whose conduct is regulated by another chapter of these Court Rules.
- (E) “Legal Advice” is advising someone to follow a specific or general course of action or to interpret law as it relates to a specific case or set of facts. For example, court personnel may provide: legal and procedural definitions; cites of statutes, court rules; public case information; general information on court operations; access to the court; general referrals; forms and instructions on how to complete forms. However, examples of what court personnel cannot provide or do include: legal interpretations; procedural advice; research of statutes, court rules and ordinances; confidential case information; confidential or restricted information on court operations; opinions; discouraging or encouraging court filings; subjective or biased referrals; fill out forms for a party.
- (F) “Procedural information” refers to identifying court rules, statutes, procedures or options in general.

### **Rule 3.003     Applicability.**

This Code of Conduct applies to all court employees whether such employment is full-time, part-time, or on a pro tempore or contract basis.

### **Rule 3.004     Integrity and Independence of Court Employees.**

Court personnel should uphold the integrity and independence of the Tribal Judiciary and the court in that an independent and honorable judiciary is indispensable to the administration of justice in the Tribal community. Therefore, court employees should observe and impart to other Court employees high standards of conduct so that the integrity and independence of the Tribal

Judiciary may be preserved. The provisions in this Code of Conduct should be construed and applied to further these objectives. The standards of this Code of Conduct shall not affect nor preclude other standards which may be promulgated by the Court.

**Rule 3.005 Enforcement of Code of Conduct.**

Violation of this Code of Conduct by a court employee shall be considered misconduct and grounds for discipline, up to and including immediate involuntary termination of employment.

**Rule 3.006 Abuse of Position.**

- (A) Court employees will not use or attempt to use their position to secure unwarranted privileges for themselves or others.
- (B) Court employees will not solicit or accept, or appear to solicit or accept, any gift, favor, or anything of value based upon any material understanding that the official actions, decisions, or judgments of any court employee would be influenced.
- (C) Court employees will not discriminate against or otherwise give special treatment or anything of value to any person, whether or not for compensation, or permit family, social, or other relationships to influence or appear to influence my official conduct or judgment.
- (D) Court employees will not request or accept anything of value beyond their compensation, as provided by the Tribal Court, for court related work.
- (E) Court employees will use the resources, property, and funds under their official control judiciously and solely in accordance with prescribed legal and court operating procedures.
- (F) Court employees will provide all court patrons with appropriate procedural information and will not give legal advice, unless the court employee is a licensed attorney at law and has specific authorization of the Chief Judge, or other members of the judiciary in his absence, and their immediate supervisor to do so.

**Rule 3.007 Conflict of Interest.**

- (A) Court employees will avoid conflicts of interest and the appearance of conflicts of interest in the performance of their duties.
- (B) Court employees will not engage in outside employment which may conflict or appear to conflict with the performance of their official responsibilities.

**Rule 3.008    Confidentiality.**

Court employees will not disclose to any unauthorized person any confidential information acquired in the course of their court employment.

**Rule 3.009    Political Activity**

- (A) Court employees are free to engage in political activities during non-working hours if such activity does not use, or appear to use, their position or the court in connection with such activities.
- (B) Court employees will not discriminate in favor of or against any employee or applicant for employment because of his or her political contributions or political activities.

**Rule 3.010    Performance of Duties.**

- (A) Court employees will carry out their responsibilities to the public in a timely, impartial, diligent, and courteous manner.
- (B) Court employees will not discriminate on the basis of, nor display by words or conduct, a bias or prejudice based upon race, color, religion, national origin, gender, or other protected group, in the conduct of service to the court and the public.
- (C) Court employees will enforce or otherwise carry out any properly issued rule or order of court.
- (D) Court employees will promote ethical conduct and report any improper conduct and violations of this Code of Conduct by any persons to appropriate authorities.
- (E) Court employees will actively pursue continuing education opportunities for the purpose of improving their professional skills and thereby providing higher quality service to the court and the public.
- (F) Court employees will avoid any activity which would reflect adversely on my position or the court.

**Rule 3.011 Prior Rules of Ethics for Court Personnel Vacated.**

Any prior rules of ethics for court employees are hereby vacated in their entirety and replaced by this Chapter.

## **Chapter 4 – Admission to Practice before the Tribal Court; Attorneys, Lay Advocates, and Spokesperson**

### **Rule 4.001    Purpose.**

The purpose of this Chapter is to provide standards relating to the admission to practice before this Court. The Court has a legitimate interest in protecting prospective parties and in the quality of justice within the tribal system. Consequently, the Court, by these rules, imposes requirements relative to these interests on anyone seeking to represent clients/parties in this Court.

### **Rule 4.002    Definitions.**

When used in this Chapter, unless the context otherwise indicates:

- (A) "Attorney" means an individual who is a current member of a state or tribal bar association. The term "attorney" is synonymous with the term "lawyer." Further, a lawyer must be admitted to practice before this Court.
- (B) "Court" means the Delaware Tribe of Indians Tribal Court.
- (C) "Lawyer" means an individual who is a current member of a state or tribal bar association. The term "lawyer" shall be synonymous with the term "attorney."
- (D) "Lay Advocate" means a person who is a non-lawyer and who has been qualified by the Court to serve as an Advocate on behalf of a party.
- (E) "Spokesperson" means a person who is a non-lawyer and has been qualified by the court to serve as a spokesman on behalf of a friend or family member on a one-time basis.

### **Rule 4.201    Practice Before Tribal Court.**

A lawyer may represent any person in an action before this Court upon being duly admitted in accordance with Section 4.202 herein.

### **Rule 4.202    Admission Procedure.**

A lawyer as defined in Section 4.002, above, who desires to practice before this Court shall submit to the Court:

- (A) An Application for Admission to Practice (as provided by the Court) accompanied by a Certificate of Good Standing or other appropriate documentation from the Bar or Supreme Court of the State in which such lawyer is duly licensed to practice law; and

further, such application must be signed and dated by the lawyer applicant in the presence of a Notary Public;

- (B) A Certification that s/he shall conform to the Code of Ethics for Lawyers and Lay Advocates [See, Sections 4.300 and 4.400 et seq] as well as the Code of Ethics or Professional Responsibility for the State in which said lawyer is currently licensed as s/he performs his/her duties as a lawyer before this Court;
- (C) A sworn Oath of Admission (as provided by the Court), which must be signed and dated by the lawyer applicant in the presence of a Notary Public; and
- (D) An application fee for admission in the amount One-hundred (\$100.00) Dollars. This fee may be waived for attorney for the tribe and for those attorneys providing pro bono services within the tribal court.

**Rule 4.203 Approval or Disapproval of Application for Admission to Practice.**

- (A) Upon the filing of the required documents and fee, the Court shall approve the Application for Admission to Practice provided said lawyer has complied with the admission procedures set forth in Section 4.202 above. If so approved, the lawyer's name shall be entered on the roster of lawyers admitted to practice before this Court and shall be provided with a Certificate of Admission to Practice from this Court.
- (B) An applicant for Admission to Practice shall respond to any additional requests for information or documentation from this Court within twenty (20) days of the date of said request.
- (C) An applicant who was denied Admission to Practice shall receive written notice of the basis for the denial and the applicant may then submit a response within twenty (20) days of the date of said notice. The Court will then review the application materials, the basis for denial, and the applicant's response, and then notify the applicant in writing of the subsequent decision. Also, in the Court's discretion, a hearing may be held to elicit testimony bearing on the basis for the denial prior to making such decision. There is no further appeal in the Admission Procedure.
- (D) A disapproval for Admission to Practice may include, but are not limited to, the following:
  1. Failure to meet the Admission requirements set forth herein;
  2. Refusal to furnish available information or answer questions relating to the applicant's qualifications for Admission to Practice;

3. Knowingly making a false statement of a material fact or failure to disclose a fact necessary to correct a misapprehension or misrepresentation in connection with his/her application; or
4. Is subject to disciplinary action as an attorney in the jurisdiction for the State or Tribe in which the attorney is so licensed.

#### **Rule 4.204 Annual renewal to Practice**

Once admitted to practice before this Court, a lawyer may continue to practice before the Court each year thereafter provided said lawyer certifies that s/he continues to be a lawyer in good standing from his/her respective State Bar and submits an annual membership fee of Fifteen (\$15) Dollars. This fee may be waived for attorney for the tribe and for those attorneys providing pro bono services within the tribal court.

#### **Rule 4.301 Practice Before Tribal Court.**

A lay advocate may represent any person in an action before this Court upon being duly admitted in accordance with Section 4.302 herein.

#### **Rule 4.302 Admission Procedures.**

A lay advocate, as defined in Section 4.002, who desires to practice before this Court shall submit to the Court:

(A) An application for Admission to Practice (as provided by the Court), which shall be signed and dated by the lay advocate applicant in the presence of a Notary Public; and further, said application shall provide information with regard to the following criteria for admission and/or append appropriate documentation which shows that said applicant:

1. Is at least Twenty-One (21) years of age;
2. Possesses at least a high school diploma or GED Certificate;
3. Possesses good communication skills, both written and verbal and has the ability to express his/her position clearly and concisely;
4. Has legal or law-related education and/or training;
5. Has legal or law-related work experience including but not limited to experience and practice before Tribal Courts;
6. Knows and understands tribal traditions and customs;
7. Has the knowledge and understanding of the Tribal Constitution, Tribal Code (Law and Order Code and/or Ordinances), Tribal Court Rules and Procedures, Evidentiary Rules, Tribal Codes of Ethics, and the Indian Civil Rights Act;
8. Knows and understands Tribal Court jurisdiction and the history, structure and function of the Tribal Court;

9. Has the ability to perform legal research and use the law library;
10. Possesses good character and moral fitness to represent clients, including supporting affidavits from at least two people familiar with the applicant's integrity, honesty, moral character, judgment, courtesy and self-reliance as well as providing background information and permission to contact other references in the Court's discretion.

(B) Certification that s/he shall conform to the Code of Ethics for Tribal Lawyers and Lay Advocates

(C) A sworn Oath of Admission (as provided by the Court), which must be signed and dated by the lay advocate applicant in the presence of a Notary Public; and

(D) An application fee for admission in the amount of One-hundred (\$100.00) Dollars. This fee may be waived for attorney for the tribe and for those attorneys providing pro bono services within the tribal court.

**Rule 4.303 Approval or Disapproval of Application for Admission to Practice.**

(A) Upon the filing of the required documents and fee, the Court should approve the Application for Admission to Practice provided said lay advocate has complied with the admission procedures set forth in Section 4.302 above. If so approved, the Lay Advocate's name shall be entered on the roster of Lay Advocates admitted to practice before this Court and shall be provided with a Certificate of Admission to Practice from this Court.

(B) An applicant for Admission to Practice shall respond to any additional requests for information or documentation from this Court within Twenty (20) days of the date of said request.

(C) An applicant who was denied Admission to Practice shall receive written notice of the basis for the denial and the applicant may then submit a response within Twenty (20) days of the date of said notice. The Court will then review the application materials, the basis for denial, and the applicant's response, and then notify the applicant in writing of the subsequent decision. Also, in the Court's discretion, a hearing may be held to elicit testimony bearing on the basis for the denial prior to making such decision. There is no further appeal in the Admission Procedure.

(D) The reasons for disapproval of an application for Admission to Practice may include, but are not limited to, the following:

1. Failure to meet the Admission requirements set forth herein;
2. Refusal to furnish available information or answer questions relating to the applicant's qualifications for Admission to Practice;

3. Knowingly making a false statement of a material fact or failure to disclose a fact necessary to correct a misapprehension or misrepresentation in connection with his/her application; or
4. Is subject to disciplinary action as an attorney or lay advocate in the jurisdiction or the State in which the lay advocate is so licensed or is authorized to practice as a lay advocate.

**Rule 4.304 Annual Renewal to Practice.**

Once admitted to practice before this Court, a lay advocate must undergo an annual review by the Chief Judge, or other members of the judiciary in his absence, in order to continue to practice before the Court. The Chief Judge, or other members of the judiciary in his absence, shall then state in writing rather or not the lay advocate will be able to continue to practice before this Court. If the Chief Judge, or other members of the judiciary in his absence, determines that the lay advocate should not be allowed to continue, he or she, shall state the reasons in writing. If the lay advocate is allowed to continue, and certifies that s/he continues to meet the criteria for admissions set forth herein (Section 4.302) s/he shall submit the annual renewal fee of Fifteen (\$15) Dollars. This fee may be waived for attorney for the tribe and for those attorneys providing pro bono services within the tribal court.

**Rule 4.305 Duty to Report.**

A lay advocate is under an ongoing duty to report to this Court, any arrests, and any convictions, of any criminal charges, in any jurisdiction, as well as any ethical violations resulting in a suspension or revocation from any agency that has licensed that lay advocate for any purpose.

**Rule 4.400 Spokesperson**

A spokesperson, as defined in Section 4.002, who desires to practice before this Court shall submit to the Court:

- (A) An application for Admission to Practice (as provided by the Court), which shall be signed and dated by the spokesperson applicant in the presence of a Notary Public; and further, said application shall provide information with regard to the following criteria for admission and/or append appropriate documentation which shows that said applicant:
  1. Is at least Twenty-One (21) years of age;
  2. Possesses at least a high school diploma or GED Certificate;
  3. Possesses good communication skills, both written and verbal and has the ability to express his/her position clearly and concisely;
- (B) Certification that s/he shall conform to the rules of court for spokespersons; and

- (C) A sworn Oath of Admission (as provided by the Court), which must be signed and dated by the spokesperson applicant in the presence of a Notary Public.

**Rule 4.303 Approval or Disapproval of Application for Admission to Practice.**

Upon the filing of the required documents, the Court should approve the Application for Admission to Practice provided said spokesperson has complied with the admission procedures set forth in Section 4.302 above. The court reserves the right to deny the application for good cause and reserves the right to revoke the certification upon good cause.

**Chapter 5 – Rules of Ethics for Attorneys and Lay Advocates**

**Rule 5.001 Applicability of Rules.**

These Rules apply to all persons, whether licensed attorneys or lay advocates, who are admitted to practice before the Tribal Court. It is recognized that attorneys who are admitted to practice before the Court are also members of the other bar associations and are subject to discipline under the appropriate state or tribal ethical rules. These Rules are not intended to preempt or supersede any tribal or state authority to discipline attorneys for any conduct prohibited by these Rules.

**Rule 5.002 Purpose of Rules.**

These Rules are adopted both as an inspirational guide to the persons practicing before the Tribal Court and as a basis for disciplinary action when the conduct of a person falls below the required minimum standards stated in the Rules set forth in this chapter.

**Rule 5.003 Adoption of ABA Code of Professional Responsibility**

The Court hereby adopts and incorporates the American Bar Association Code of Professional Responsibilities.

**Rule 5.101 Definitions.**

When used in this chapter, unless context otherwise indicates:

- (A) “Commission” means the Judicial Commission.
- (B) “Complainant” means the person who files the request for investigation.

- (C) “Investigation” means fact-finding on alleged misconduct under the Judicial Commission Chairperson's direction.
- (D) “Judicial Commission” means the Chief Justice and Assistance Chief Justice and those persons appointed by the Chief Justice and the Assistance Chief Justice.
- (E) “Judicial Commission Chairperson” means the person so appointed by the Tribal Court.
- (F) “Respondent” means an attorney, lay advocate, judge, or other Court personnel named in the request for investigation or complaint.
- (G) “Request for Investigation” means the first step in bringing alleged misconduct to the Judicial Commission's attention.

#### **Rule 5.102 Enforcement Responsibility/Procedure/Relationship to Tribal Personnel Policies.**

- (A) Enforcement Responsibility. The Judicial Commission shall have the responsibility for enforcing the provision of this chapter, including the Rules of Judicial Conduct, the Rules of Court Personnel, and the Rules of Ethics for Lawyer and Lay Advocates as set forth in this chapter..
- (B) Time Requirement for Rules. Within ninety (90) days of their appointment, the Judicial Commission must develop and publish written rules and policies as to how it will operate and function.
- (C) Respondent. Where a respondent is an employee of the Tribe, any hearing procedures will apply rather than any hearing procedures set forth within Rule 1.400. Similarly, these Rules are supplemental to Tribal Personnel Policies or relevant Tribal Constitutional provisions shall control where there is any inconsistency between these Rules of Ethics and the Tribal Personnel Policies or relevant Tribal Constitutional Provisions.

#### **Rule 5.103 Investigation.**

- (A) Receiving of a Complaint. Whenever the Judicial Commission shall receive from complainant information in writing indicating a provision has been violated, the Commission shall conduct an investigation of the circumstances of the alleged violation. Such a request for investigation by a complainant of alleged misconduct, including the approximate time and place of it, to be signed and dated by the complainant, and be filed with the Judicial Commission.
- (B) Conducting an Investigation. Upon the filing of a request for investigation, a member of the Judicial Commission shall be appointed by said Commission to conduct and oversee

the investigation and such person shall be known as the Judicial Commission Chairperson.

- (C) Notification. During the course of the investigation, the Judicial Commission Chairperson may notify the respondent of subject investigated.
- (D) Misconduct by Respondent. The Judicial Chairperson may compile the respondent to answer questions, furnish documents and present any information deemed relevant to the investigation. Failure to do so on the part of the respondent is misconduct and grounds for discipline.

**Rule 5.104    Review and Action Committee.**

- (A) Reporting Results. The Judicial Commission Chairperson shall report the results of each investigation to the Judicial Commission and make a recommendation for disposition of the matter.
- (B) Review. The Judicial Commission shall review the recommendation and determine whether to dismiss the matter or initiate a disciplinary action.
- (C) Dismissal of Complaint. If a complaint is dismissed, the complainant shall be notified.

**Rule 5.105    Disciplinary Action; Procedure.**

- (A) If the Judicial Commission determines to proceed with a disciplinary action, said Commission shall prepare a written notice of the allegation and serve the notice upon respondent.
- (B) The respondent shall be given fifteen (15) days within which to answer the charges in writing and request a hearing.
- (C) The hearing shall be held by the Commission within twenty (20) days of receipt of respondent's request.
- (D) The hearing shall be conducted by the Judicial Commission under rules applicable to a trial of a civil action in Tribal Court. The hearing shall be recorded and shall be open to the public.
- (E) The Commission shall, at the conclusion of the hearing, determine based on the evidence presented whether a provision has been violated by respondent.

**Rule 5.106    Disciplinary Action; Disposition.**

If the Judicial Commission finds that a provision has been violated, it shall make one of the following dispositions, taking into account the severity of the offense and other factors the Judicial Commission deems relevant:

- (A) issue a reprimand;
- (B) suspend the respondent from his/her office or duties for a period of time;
- (C) revoke respondent's license to practice or terminate respondent from his/her office;
- (D) place respondent on probation for a specific period of time;
- (E) require respondent to make restitution in an appropriate amount (where applicable); or
- (F) admonish respondent, only by consent of said respondent further, the Commission shall have the discretion to impose other disposition not referenced above where the respondent is incompetent or incapacitated.

**Rule 5.108    Confidentiality.**

- (A) Investigation. All papers, files, and communications in an investigation and proceedings before the Judicial Commission prior to the decision to proceed with a disciplinary action are confidential.
- (B) After Service of a Notice. After service of a written notice on respondent under the rules of civil procedure, the proceedings and all papers filed are public.