

MIAMI TRIBE OF OKLAHOMA

JUDICIAL CODE

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CHAPTER ONE GENERAL PROVISIONS

SECTION 1.1 DEFINITIONS

In this Code, unless the context otherwise requires, or unless otherwise defined for a particular purpose herein:

- A. “Adult” means a person who is eighteen (18) years of age or older.
- B. “Attorney” means a person who has graduated from an accredited law school and passed a state sponsored bar examination and is a member in good standing with the appropriate State Bar Association.
- C. “Code” or “Tribal Code” means the Miami Tribe of Oklahoma Tribal Code, as adopted by the Miami Tribe of Oklahoma Business Committee.
- D. “Business Committee” means the Miami Tribe of Oklahoma Business Committee duly assembled.
- E. “Counsel” means either an attorney or law advocate when representing someone before the Tribal Court.
- F. “Indian” means any person of Indian descent who is a member of a federally recognized Indian Tribe according to the laws of that Tribe, and any other person recognized by federal law as an Indian for any purpose and denotes both the singular and the plural.
- G. “Lay Advocate” means a person who is not an attorney but is licensed or certified to practice and represent persons before a Tribal Court.
- H. “Member” means an enrolled member of the Miami Tribe Oklahoma.
- I. “Non-Member” means any person who is not a member.
- J. “Non-Indian” means a person who is not an Indian.
- K. “Person” means a natural person, Indian or non-Indian and where relevant, a corporation, partnership, or unincorporated association.
- L. “Property” means both real and personal property.
- M. “Miami Indian Country” means those Miami Lands described in Article II of the Constitution and Bylaws of the Miami Tribe of Oklahoma.
- N. “Tribal Court” means the Court of the Miami Tribe of Oklahoma.

- O. "Tribal Judge" means any Judge or Justice of the Tribal Court of the Miami Tribe of Oklahoma, including those selected to serve the District Court and the Court of Appeals, and any regular and visiting judge.
- P. "Tribe" means the Miami Tribe of Oklahoma, a federally recognized Indian Tribe, organized under the Oklahoma Indian Welfare Act of 1936, with a Constitution and By-Laws approved by the U.S. Secretary of the Interior on February 22, 1996.
- Q. "Visiting Judge" means a Judge of another Indian Tribe, a former Judge of the Miami Tribe of Oklahoma, or a state or federal Court Judge, magistrate, or justice of the peace who has been designated by the Chief Judge of the District Court to hear and determine a case.
- R. "Signature" means the name of a person in his handwriting or printing, or his mark or thumbprint witnessed by two persons who sign their names as witnesses to his making of the mark or thumbprint.

SECTION 1.2 PRINCIPLES OF CONSTRUCTION

The following principles of construction apply to the Tribal Code unless a different construction is obviously intended or is necessary to obtain a reasonable result:

- A. Masculine words shall include the feminine, and singular words shall include the plural, and vice versa.
- B. Words shall be given their plain meaning and technical words shall be given their usually understood meaning where no other meaning is specified.
- C. This Code shall be construed as a whole to give effect to all its parts in a logical, consistent manner.
- D. If any provisions of this Code or the application of any provision to any person or circumstance is held invalid, the remainder of this Code, and its application to any other person or circumstance shall not be affected thereby and to this end the provisions of this Code are severable.
- E. All other issues of construction shall be decided using generally accepted principles of construction to affect the underlying principles and purposes of this Code.

SECTION 1.3 AUTHORITY

This compilation of the laws of the Miami Tribe of Oklahoma, which is to be known as the Miami Tribe of Oklahoma Tribal Code, is adopted pursuant to the authority vested in the Miami Tribe of Oklahoma Business Committee by virtue of its inherent tribal sovereignty and the Constitution and Bylaws of the Miami Tribe of Oklahoma.

SECTION 1.4 REFERENCES TO THE TRIBAL CODE

This Code may be referred to as the Miami Tribe of Oklahoma Tribal Code, or where the context suitably identifies it, as the Tribal Code. Subdivisions of this Code which are identified by a name referring to the particular body of law they contain may be identified by that name, for example, Wildlife Code.

SECTION 1.5 PRIOR ORDINANCES REPEALED

All prior ordinances are hereby repealed. Any and all resolutions or other enactments of the Business Committee which conflict with the provisions of the Tribal Code are hereby repealed to the extent of such conflict.

SECTION 1.6 AMENDMENTS

This Code may be amended by the adoption of ordinances by the Business Committee. Amendments shall become a part of this Code for all purposes and shall be codified and incorporated in the Code in a manner consistent with its numbering and organization.

SECTION 1.7 SOVEREIGN IMMUNITY

The Miami Tribe of Oklahoma, as a sovereign government, is absolutely immune from suit, and its Business Committee, officers, agents, and employees shall be immune from any civil or criminal liability arising or alleged to arise from their performance or non-performance of their official duties. Nothing in this Code shall be deemed to constitute a waiver of the sovereign immunity of the Miami Tribe of Oklahoma except as expressly provided herein or by action of the Business Committee.

SECTION 1.8 ADOPTION OF FOREIGN LAW BY REFERENCE OR INCORPORATION

- A. The adoption of any law or other document into this Code reference or incorporation shall not constitute a waiver or cession of any sovereign power of the Miami Tribe of Oklahoma to the jurisdiction whose law is adopted, or in any way diminish such sovereign power, but shall result in law becoming the law of the Miami Tribe of Oklahoma.
- B. Whenever a law or other document of another jurisdiction is adopted by reference or incorporation as Miami Tribe of Oklahoma law, the omission of any part of that law from the portion adopted shall not be construed as a negative statement regarding the principles embodied in the omitted part, unless such a negative statement is expressly made.
- C. Whenever a law or other document of another jurisdiction is adopted by reference or incorporation as Miami Tribe of Oklahoma law, the decisions of the courts of that jurisdiction interpreting such law or other document shall not be binding on the Miami

Tribes of Oklahoma Tribal Courts unless this Code expressly so provides but shall be considered as merely advisory.

CHAPTER TWO JUDICIAL SYSTEM

SECTION 2.1 JURISDICTION

The Miami Tribe of Oklahoma Tribal Court shall have general jurisdiction over all cases arising under the Constitution and Bylaws of the Miami Tribe of Oklahoma, the Code, any other laws of the Tribe, and the common law, including all judicial decisions of the Miami Tribe of Oklahoma Tribal Court. The Miami Tribe of Oklahoma Tribal Court shall exercise its jurisdiction to the fullest extent consistent with federal law and the Tribe's inherent sovereign authority.

SECTION 2.2 BASIS FOR JUDICIAL DETERMINATIONS OF LAW

- A. The Constitution and Bylaws of the Miami Tribe of Oklahoma shall be the supreme law of the Miami Tribe of Oklahoma.
- B. Tribal law shall consist of the Constitution and Bylaws of the Miami Tribe of Oklahoma, the enactments of the Business Committee, and tribal common law.
- C. Tribal common law consists of the decisions of the Tribal Court and Tribal Court of Appeals and the customs and traditions of the Miami Tribe of Oklahoma people.
- D. Both the enactments of the Business Committee and tribal common law shall be considered in the resolution of every legal question; when no enactment of the Business Committee addresses a particular question, tribal common law shall be determinative.
- E. The Tribal Court shall apply the provisions of this Code in such a way as to give effect to the intent of the Business Committee as expressed in its enactments.
- F. The District Court shall render decisions in accordance with precedent established by the Miami Tribe of Oklahoma Court of Appeals.
- G. In deciding any matter of tribal common law which involves consideration of tribal custom, the Tribal Court shall determine the appropriate cultural attribute primarily by reference to the Compilation of the Miami Cultural Advisory Panel but may consider such other sources of information as the judge deems necessary under the circumstances, including the judge's own personal knowledge of tribal custom. In the case of a cultural issue not yet discussed in the Compilation of the Miami Cultural Advisory Panel, the Tribal Court shall determine the relevant cultural issue in the manner prescribed by Section 2.3B.

- H. Questions of tribal customs are questions of law, and not questions of fact.
- I. The Miami Tribe of Oklahoma Tribal Court shall not be bound by the law of any other jurisdiction unless so required by federal law, this Code or Tribal Court of Appeals precedent. Except as otherwise provided in this Code, in any case in which existing Miami Tribe of Oklahoma law is not decisive of a question of law, the Tribal Court may consider, and upon the request of a party shall consider, for advisory purposes, the law of any other jurisdiction, and the general principles of American law, and may apply them to the case, if to do so would be in the interest of justice, and would not be inconsistent with tribal law.

SECTION 2.3 DETERMINATION OF TRIBAL CUSTOM; MIAMI CULTURAL ADVISORY PANEL; JOURNAL

- A. Establishment and Function: In order that the ancient wisdom, teachings and ways of the Miami Tribe of Oklahoma people may live on and continue to guide the people in their daily lives, the Business Committee may establish a Miami Cultural Advisory Panel, whose functions it shall be:
 - 1) To meet at the call of, and under the direction of, the Business Committee to discuss and record in a Compilation their knowledge of the customs and traditions of the Miami Tribe of Oklahoma people.
 - 2) To be available to the Tribal Court as advisors in matters of tribal custom.
- B. Use of Compilation: The Compilation of the Miami Cultural Advisory Panel shall be used by the Tribal Court in its determination of the cultural aspect of questions of Tribal common law. The Compilation shall be presumed to be an accurate statement of tribal custom, but since the facts of each case are likely to present questions which were not specifically addressed by the Miami Cultural Advisory Panel, the Court may consider such other sources of information as it deems necessary to determine the applicable tribal custom.
- C. Determine Customs Questions Not Addressed in the Journal; Alternatives; Miami Cultural Advisory Panel:
 - 1) Miami Cultural Advisory Panel; Voluntary Binding Consultation: If in a particular case there arises a question of Culture which has not been addressed in the Compilation of the Miami Cultural Advisory Panel, the parties may, if they so choose, agree to the appointment of any three members of the Miami Cultural Advisory Panel to hear the facts of the case and decide the question. Once such a Panel announces their decision of that question, their decision is final for that case. In arriving at its final decision in the case, the Court shall apply the Custom as determined by the Panel.

- 2) The decision of the Miami Cultural Advisory Panel members on a particular question of custom in an individual case shall not be determinative of any case other than the one for which the determination was made; provided, however, that if such a case is appealed, the decision of the Court of Appeals shall have the same binding precedent effect as would any other Court of Appeals decision.
- 3) Panel of Cultural Experts: If the parties cannot or choose not to agree to the selection of three members of the Miami Cultural Advisory Panel to form a Panel for their case, the parties may each provide to the Court one person whom they believe to be an expert on matters of tribal custom, and those two experts shall select a third person to complete a panel of Cultural experts to advise the Court. The Court shall consider the advice of the members of the Panel of Cultural Experts, and any other information it deems necessary, and shall decide the Culture question accordingly.
- 4) The parties may agree to the use of fewer than three members of the Miami Cultural Advisory Panel or Cultural experts in their case, or they may agree that the Court may decide the question of custom with out the advice of the Advisory Panel or experts, or they may agree to any other method of resolving the question of custom. If the parties are unable to agree on any method of resolving a cultural question which has not been addressed in the Compilation of the Miami Cultural Advisory Panel, the Court shall choose any of the methods, or any combination of the methods, described in this section, to resolve the question.

D. Appointment of Miami Cultural Advisory Panel:

- 1) The Business Committee shall appoint the members of the Miami Cultural Advisory Panel. Members of the Miami Cultural Advisory Panel shall be persons who are respected in his or her community as one who is wise, honest, ethical, and especially knowledgeable about human relations and Miami Tribe of Oklahoma culture, including language, history, teachings, tradition, values and customs.
- 2) Members of the Miami Cultural Advisory Panel shall serve for life, or until they resign or are unable to serve.
- 3) Members of the Miami Cultural Advisory Panel are entrusted with the sacred duty of preserving the Miami Tribe of Oklahoma culture, and as such, subsection (2) notwithstanding, may be removed from the Panel by a two-thirds vote of the Business Committee for an unethical or illegal activity which indicates a breach of that trust.

E. Expenses and Compensation:

- 1) Members of the Miami Cultural Advisory Panel shall be reimbursed by the Business Committee for their necessary expenses while serving at meetings of the Panel and shall be compensated for their contribution to the Miami Tribe of Oklahoma culture in an amount to be determined by the Business Committee from time to time.
- 2) When members of the Miami Cultural Advisory Panel or expert custom witnesses participate on a Panel or act alone to advise the Tribal Court on a matter of custom and culture in an individual case, the parties to the case shall provide their reimbursement for expenses and their compensation.

SECTION 2.4 TRIBAL COURT

The judicial power of the Miami Tribe of Oklahoma shall be vested in the Miami Tribe of Oklahoma Tribal Court, which shall consist of the Court of Appeals, the District Court, and such other courts as the Business Committee may from time to time establish.

SECTION 2.5 DISTRICT COURT

A. Composition of the District Court: There is hereby established the Miami Tribe of Oklahoma District Court. The District Court shall be a court of original jurisdiction and shall consist of at least one Chief Judge and one Associate Judge. The District Court shall be composed of the Civil Division, the Criminal Division and the Civil Trial Division.

B. Divisions of the District Court:

- 1) The Civil Division shall have jurisdiction of all cases not subject to the exclusive jurisdiction of the Criminal Division and the Civil Trial Division. The Chief Judge shall preside over the Civil Division, provided that in his or her temporary absence, disability or disqualification, or for such other reasons as he or she deems necessary, the Chief Judge may appoint an Associate Judge or a visiting Judge to act in his or her place.
- 2) The Criminal Division shall have exclusive jurisdiction of any criminal proceeding arising under the Code. The Chief Judge shall preside over the Criminal Division, provided that in his or her temporary absence, disability or disqualification, or for such other reasons as he or she deems necessary, the Chief Judge may appoint an Associate Judge or a visiting Judge to act in his or her place.
- 3) The Civil Trial Division shall have exclusive jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$5,000, exclusive of interest

and cost. An Associate Judge, as appointed by the Business Committee, shall preside over the Civil Trial Division.

SECTION 2.6 COURT OF APPEALS

- A. There is hereby established the Miami Tribe of Oklahoma Court of Appeals, which shall be the final tribal judicial forum for the review of the decisions of the District Court of the Miami Tribe of Oklahoma Tribal Court.
- B. The Court of Appeals shall consist of a Chief Justice and four Associate Justices, provided that no justice of the Court of Appeals serves as a District Court Judge. The Chief Justice shall preside over and administer the Court of Appeals, provided that in his or her temporary absence, disability or disqualification, or for such other reasons as he or she deems necessary, the Chief Justice may appoint an Associate Justice to act in his or her place.
- C. The Court of Appeals shall hear and decide cases as a three-judge panel empaneled by the Chief Justice.
- D. The Court of Appeals shall have jurisdiction to:
 - 1) Review any final decision or order of the District Court; and
 - 2) Issue any order in aid of its jurisdiction as it deems necessary, including orders to the District Court.

SECTION 2.7 JUDGES

- A. Selection: The Chief Judge and the Associate Judges of the District Court, and the Chief Justice and the Associate Justices of the Court of Appeals, shall each be selected by a majority vote of the Business Committee to serve a term of four (4) years, subject to the Forfeiture and Removal provision of this Chapter.
- B. Selection Procedures: The Business Committee shall select judges at regular meetings or special meetings.
 - 1) Any person who meets the requirements of the section of this Code entitled Qualifications for Judges shall be eligible to be nominated for and to fill a vacancy on the Court.

SECTION 2.8 QUALIFICATIONS FOR JUDGES

- A. Any person who meets the requirements of this section shall be eligible to serve as a Judge of the Miami Tribe of Oklahoma Tribal Court.

B. A Tribal Judge must:

- 1) Be 25 years of age or older; and must
- 2) Never have been convicted of a felony in any Court, nor convicted of bribery, embezzlement, extortion, fraud, forgery, perjury, theft or drunk and disorderly conduct within one year prior to his election, nor dishonorably discharged from any Military Service; and must
- 3) Be a member in good standing of a State or Tribal Bar Association.

SECTION 2.9 MULTIPLE TERMS

Any person holding a position of Tribal Court Judge may be reappointed to that office.

SECTION 2.10 FORFEITURE AND REMOVAL

A. Any person holding the position of Tribal Court Judge under the provisions of this Ordinance shall automatically forfeit said position for any of the following reasons:

- 1) Conviction of a felony in any Court;
- 2) Conviction of any offense involving moral integrity in any Court. The following crimes and no others shall be considered crimes involving moral integrity: bribery, embezzlement, extortion, fraud, forgery, perjury, theft and drunk and disorderly conduct;
- 3) Election to an elective Office of the Miami Tribe; or
- 4) Appointment to or membership in any capacity of an agency, board, committee sub entity, political sub-division or economic political sub-division of the Tribe.

B. A Tribal Court Judge may also be removed from his position by majority vote of the Business Committee at a validly called meeting for abuse of office, neglect of duty, or gross misconduct. A breach of the standards of conduct for judges set forth in Section 2.15 of the Judicial Code or a conviction of the offenses set forth in this Section 2.10 of this Code shall constitute evidence of abuse of office, neglect of duty, or gross misconduct. The Judge whose removal is being attempted shall be given a full and fair opportunity to confront his accusers, to present evidence, and to reply to any and all charges at a designated public Business Committee meeting, regular or special. The accused Judge shall be given written notice of all charges against him at least ten (10) days before the meeting.

SECTION 2.11 FILLING VACANCIES

In the event of an interim vacancy in a Tribal Court Judge position from any cause whatsoever, it shall be the duty of the Business Committee to assemble as soon as possible, and select a person who qualifies hereunder to fill the vacancy, provided, however, that in the case of a vacancy in the position of Chief Judge, the Business Committee shall select an Associate Judge to fill the vacancy and the vacancy created thereby in the position of Associate Judge shall be filled as otherwise specified herein. Any appointments required by this section may be for the duration of the regular term of office of the position filled or in the discretion of the Business Committee, may be temporary only, pending a regular or special Business Committee meeting called to select a Judge to finish the vacated term.

SECTION 2.12 COMPENSATION; EXPENSE REIMBURSEMENT

- A. Tribal Court Judges, including visiting judges, shall be paid at rates established by the Business Committee, and a Judge's pay shall not be lowered during his or her term as a Judge.
- B. Expenses, including costs for food, travel and lodging, which are incurred by a Tribal Court or Visiting Judge in the performance of judicial duties shall be reimbursed by the Tribe on a per diem basis, at a rate established by the Tribal Court and approved by the Business Committee.

SECTION 2.13 DISQUALIFICATION OF JUDGE TO HEAR A CASE; CAUSE

- A. Any Judge of the Tribal Court shall be disqualified or shall disqualify himself or herself from hearing any case, or determining any matter in a case, in which the Judge has a bias, prejudice or direct interest in the outcome.
- B. Conflicts of Interest: In addition to the grounds set forth herein for disqualification or refusal, unless both parties stipulate to retaining the Judge on their case:
 - 1) A Judge shall disqualify himself or herself from hearing a case in which a close relative is a party or witness; or
 - 2) A Judge shall disqualify himself or herself from hearing a case in which the Judge has interests which may be affected by the outcome, has formed an opinion about the merits of the case, or has personal knowledge of the facts which would prevent him or her from considering all sides impartially.
- C. Any Judge of the Tribal Court who disqualifies himself or herself from any case or from determining any matter in a case shall state in writing the basis for that disqualification and shall file that statement in the Court's file for the case and provide a copy to the parties.

SECTION 2.14

APPOINTMENT OF VISITING JUDGES AND JUDGES PRO TEMPORE

- A. Visiting Judges: In any case in which, due to recusal, disqualification, or any other cause, including stipulation of the parties, the Chief Judge determines that there is no tribal judge available to hear the matter, the Chief Judge, in consultation with the Business Committee and in accordance with any administrative order governing such matters, may appoint a visiting judge to hear the case.
- B. Judges Pro Tempore: The Business Committee may provide for the appointment of members of the Oklahoma Bar to serve as judges pro tempore of the Miami Tribe of Oklahoma District Court and Appellate Court. When serving, any such person shall have all the judicial powers of a regular appointed judge of the court to which said person is appointed. A person who has been a judge pro tempore should not act as a lawyer in a proceeding in which he or she has served as a judge or in any other proceeding related thereto.
- C. Compensation: Visiting judges and judges pro tempore shall be compensated for their services and reimbursed for the expenses necessarily arising from such services, according to Section 2.12 of this Code.

SECTION 2.15

STANDARDS OF CONDUCT OF JUDGES

The following rules shall govern all judges of the Tribal Court:

- A. Contracts Outside Court:
 - 1) Except in open Court, a Judge shall not discuss a case which is or may be before the Court, or any judicial business related to such a case, with a party to that case, a party's representative, or any person who has an interest in the case.
 - 2) A Judge shall avoid informal contacts with tribal law enforcement personnel in which judicial business is discussed.
 - 3) A Judge may obtain the advice of a disinterested expert on the law applicable to a proceeding.
 - 4) A Judge shall avoid any communication with members of the Business Committee in respect to any pending litigation before the Tribal Court, unless the Business Committee Member has been ordered to testify or appear in Tribal Court by court order, subpoena or as a witness for one of the parties to the litigation.
- B. Ex Parte Contact: Except as authorized by Tribal law, a Judge shall not discuss any matter which is or may be before the Court with a party to such matter or that party's

counsel, unless the opposing party or his or her counsel is also present. This prohibition applies both in and out of court.

C. Fairness and Diligence:

- 1) A Judge shall respect and comply with the law and always conduct himself or herself in such a way as to promote respect for the law.
- 2) A Judge shall not let social relationships, his or her political or religious views, or criticism or praise influence the decisions he or she makes in Court.
- 3) A Judge shall be patient, courteous, careful and conscientious in the performance of all official duties.
- 4) A Judge shall maintain order in the courtroom.

D. Independence:

- 1) A tribal Judge shall not engage in outside activity which would be inconsistent with his or her judicial duties.
- 2) A Judge shall not be swayed by public criticism or clamor regarding his or her official actions.
- 3) A Judge shall make no public comment on matters pending before the Court except in the course of official proceedings.

SECTION 2.16 ADMINISTRATIVE ORDERS

- A. The Chief Judge of the District Court may issue administrative orders to govern the proceedings and operation of the District Court, subject to the approval of the Business Committee.
- B. The Chief Justice of the Court of Appeals may issue administrative orders to govern the proceedings and operation of the Court of Appeals, subject to the approval of the Business Committee.
- C. Administrative orders issued by the Chief Judge of the District Court or the Chief Justice of the Court of Appeals shall not abridge any rights of parties to actions before the Court and shall not conflict with the Code.
- D. Any administrative orders submitted for approval to the Business Committee shall become effective immediately upon such approval, or sixty (60) days after their submission to the Business Committee if not disapproved by the Business Committee within that time.

SECTION 2.17

ADDITIONAL COURT POWERS

The Tribal Courts shall have the following powers, which they may use in addition to any other powers granted to them by the Business Committee to assure that they can effectively administer justice:

Any tribal Judge may:

- A. Preserve order when engaged in the performance of official duties;
- B. Compel compliance with lawful order of the Court;
- C. Issue subpoenas, summons and arrest warrants in the manner provided by law to compel the presence of persons to testify in proceedings and to compel the production of documents or other evidence;
- D. Administer oaths; and
- E. Punish for contempt to assure the effective exercise of judicial powers.

SECTION 2.18

CONTEMPT OF COURT

- A. The following acts and omissions may be punished as contempt of Court:
 - 1) A breach of the peace, or other disorderly or insulting behavior toward the Court during judicial proceedings which interrupts the proceedings, undermines the dignity of the Court, or otherwise interferes with the administration of justice;
 - 2) Willful neglect or violation of duty, or abuse of office by an officer of the Court;
 - 3) Deceit or abuse of process or proceedings of the Court;
 - 4) Disobedience of a lawful judgment, order or process of the Court;
 - 5) Impersonating an officer of the Court;
 - 6) Interfering with or threatening a party, witness, officer of the Court, members of a jury, or counselor, in or out of Court, in such a way as to obstruct the administration of justice by the Court; and
 - 7) Refusing to be sworn as a witness, or to testify in a judicial proceeding when ordered by the Judge to do so, except in the case of a defendant in a criminal proceeding, or a person holding any other privilege against compelled testimony recognized by this Code.

- B. Imposition of sanctions for contempt of Court is a civil matter if its purpose is to compel obedience to a Court order or judgment and if the sanctions imposed terminate when the person complies with the judgment or order.
- C. Imposition of sanctions for contempt of Court is a criminal matter if its purpose is to punish the person who is in contempt or if the sanctions imposed continue in effect past the time of compliance with the order of judgment, or the termination of the act of contempt.
- D. Both civil and criminal contempt may be sanctioned by imprisonment and monetary sanctions. No person shall be imprisoned for an act of contempt, either civil or criminal, for more than thirty days, nor subject to monetary sanctions of more than \$150.00.
- E. A direct contempt is one committed in the presence of the Court or so near to it as to be disruptive of the Court proceedings and may be adjudged and punished immediately by the Judge presiding over the hearing.
- F. All other contempt shall be adjudged at a hearing at which the person accused of contempt is given notice and an opportunity to be heard.

SECTION 2.19 COURT SESSIONS

Sessions of the District Court and the Court of Appeals shall be held at a location designated by the Business Committee on weekdays during regular working hours, or in exceptional circumstances, at such other reasonable places, days and times as the Chief Judge of the District Court or Chief Justice of the Court of Appeals may designate.

SECTION 2.20 OFFICERS OF THE COURT

Officers of the Tribal Courts shall include:

- A. The Tribal Court Director, court clerks, probation officers and court counselors;
- B. Tribal police officers or other persons carrying out orders of the Court;
- C. Counsel representing parties before the Court, including the tribal prosecutor, tribal attorney and presenting officer for child welfare matters;
- D. Bailiffs and process servers; and
- E. Members of the Miami Cultural Advisory Panel acting in their official capacity.

SECTION 2.21

TRIBAL COURT DIRECTOR; COURT CLERKS

A. Tribal Court Director: The Tribal Court Director shall be appointed by the Tribal Chief and shall exercise the following powers and duties:

- 1) Compile and maintain records and statistics of pending cases and other business of the court;
- 2) Assign all motions, pre-trials, trials, and other matters for disposition and maintain and publish all assignments and calendars;
- 3) Advise the parties or their attorneys of the status of various calendars;
- 4) Coordinate with and supervise the clerks of the courts to accomplish and prompt an orderly disposition of the business of the court;
- 5) Make suitable courtroom and personnel arrangements for visiting judges; and
- 6) Supervise the clerks of the court and all other court personnel assigned thereto except judges.

B. Clerks of the Tribal Courts: The Tribal Chief shall appoint a qualified person serve as the Clerk of the Court(s). Court Clerks may be hired on a full-time or part-time basis. The Tribal shall pay to all Court Clerks a salary to be determined by the presiding judge of the court for which they work and approved by the Business Committee.

C. The Clerk of the Court is charged with the duty of assisting the functioning of the Court under the direction of the Tribal Court Director. The duties of the Clerk of Court shall include, but are not limited to, the following:

- 1) Keeping all records, files, dockets and other information required to be kept by this Code or orders of the presiding Judge.
- 2) Maintaining tape or stenographically recorded record of Court proceedings as required by the court or requested by the parties.
- 3) Administering oaths.
- 4) Collecting and accounting for all fines, bail or bond money, filing fees and such other money or property as may accrue to the Court and disbursing such money or property as required by law and as directed by the Court.
- 5) Aiding the public in their dealings with the Court.
- 6) Providing Court forms to the public upon request and providing assistance, but not legal advice, to persons who need help filling them out.

- 7) Accepting and marking for filing all pleadings and other Court documents.
- 8) Maintaining the Court calendar under the supervision of the Tribal Court Director.

SECTION 2.22 COURT RECORDS AND LIBRARY

- A. A complete record shall be kept of all matters which are in any way brought before the Tribal Court. This record shall include the files of all cases which are or have been before the Court.
- B. Each case file shall be stored in a manner which makes it possible for the Clerk of the Court to locate it by the name of either the plaintiff or the defendant or the Court number.
- C. Each file shall contain all pleadings, motions, orders and other documents which have been filed by the parties and the Court in that case. The file shall also contain a Transcript Index, which shall indicate for each courtroom proceeding whether or not a transcript or recording of the proceeding has been prepared, and if so, the location of that transcript or recording. Each transcript or recording shall be filed in such a manner as to make it possible for the Clerk of the Court to locate it using the information on the relevant Transcript Index.
- D. Each file shall also contain an Appearance and Filing Docket in which the Clerk shall enter:
 - 1) The date of each Court hearing which occurs in the case, a brief description of the purpose and the outcome of the hearing, a list of the parties, counsel and witnesses participating in the hearing and the name of the judge presiding.
 - 2) The date on which each document is filed in the case and the name of the document and the name of the party or Judge who filed it.
- E. The files and records of the Tribal Court, except for the internal working documents not relating to specific cases, shall be public record and open for public inspection during Court business hours except as otherwise provided by this Code.
- F. Files and records of cases relating to minors and adoptions shall be available only to the parties and their counsel except as specifically provided by Tribal Court order in particular cases. Such files shall be conspicuously marked or filed in a separate place to avoid accidental public release.
- G. The Tribal Court shall be provided with or have access to all tribal, federal and state laws and regulations of the Bureau of Indian Affairs applicable to the conduct of person within the Miami Indian Country. To the extent resources permit, the Business Committee shall provide such materials.

- H. There shall be kept available for public inspection during regular business hours at the office of the Clerk of the District Court, copies of the Tribal Code of the Miami Tribe of Oklahoma and all amendments to it and a copy of any administrative orders and all laws which have been incorporated by reference from other jurisdictions into this Code.
- I. It shall be the duty of the Clerks of the Tribal Court to implement the provisions of this section.

SECTION 2.23 LEGAL ADVICE

No Court Clerk or Court Director, or other court staff shall give legal advice or represent anyone before the Tribal Courts while employed by the Court.

SECTION 2.24 REPRESENTATION BEFORE THE TRIBAL COURT

- A. Any person may represent himself or herself before the Tribal Court or may be represented by an attorney or by a law advocate at his or her own expense, subject to the provisions of subsections B and C of this section. The word “counsel”, as used in this Code mean both “attorney” and “advocate” and no distinction shall be made between the two regarding their rights, privileges and responsibilities in Tribal Court.
- B. No person may practice law in Tribal Court without first having obtained a license to practice law in the Miami Tribe of Oklahoma Tribal Court, as provided in Section 2.25.
- C. No person shall be prohibited from obtaining the assistance of counsel at their cost before a Court of the Miami Tribe.
- D. No Tribal Court employee, including but not limited to Court Clerks, Court Director, Bailiff and Probation Officers, shall be allowed while in the employ of the Tribal Court to represent any party before the Tribal Court or to accept compensation for giving legal advice to parties before the Tribal Court.
- E. No Business Committee member shall be allowed to represent or appear on behalf of a party before the Tribal Court while sitting on the Business Committee.

SECTION 2.25 LICENSE TO PRACTICE LAW; FEES; ROLE OF COUNSEL;
STANDARDS OF CONDUCT

- A. Members: All members of the Miami Tribe of Oklahoma may apply to the Tribal Court for a license to practice before the Miami Tribe of Oklahoma Tribal Courts, provided that each such person, attorney or lay advocate, completes an application and complies with the requirements of Section 2.24 and any applicable administrative orders.

B. Non-Member Attorneys:

- 1) No non-member attorney shall be granted or be permitted to retain a license to practice law before the Miami Tribe of Oklahoma Tribal court unless he or she is an attorney in good standing, licensed by and a member of a State or Tribal Bar Association.
- 2) Exceptions:
 - a) This rule shall not impair the ability of an attorney to practice before the Miami Tribe Courts if he or she is a tribal government attorney acting under the direct supervision of an attorney licensed by a member of the State Bar of Oklahoma.
 - b) Notwithstanding the foregoing, attorneys and law students who are certified under the following provisions will be permitted to practice before the Miami Tribal Court:
 - i. Law Students: In order to make an appearance pursuant to the rule, the law student must:
 - a. Either be duly enrolled in a law school approved and accredited by the American Bar Association and be supervised by a member of the State Bar of Oklahoma and be authorized by the Clerk of the Tribal Court to make appearances under this rule.
 - b. Have successfully completed legal studies amounting to at least three semesters or the equivalent if the school is on some basis other than a semester basis.
 - c. Be certified by the dean of the law school as being of good character and competent legal ability and as being adequately trained to perform as legal intern. Training shall include instruction in civil, criminal and courtroom procedure.
 - d. Neither ask for nor receive any compensation or remuneration of any kind for his services from the person on whose behalf he renders services, but this shall not prevent a lawyer, legal aid bureau, law school, public defender agency or the Tribe from paying compensation to the eligible law student, nor shall it prevent any such lawyer, agency or the Tribe from making such charges for its services as it may otherwise properly require.

- e. Certify in writing that he or she has read and is familiar with Rules of Professional Conduct and the Tribal Court Rules pertaining to attorney conduct.
- ii. Attorneys Working Full-Time for Approved Legal Services Organizations: An attorney who has been admitted to practice law in any other jurisdiction for at least two years and who is employed full-time by an approved legal services organization in this state which provides legal assistance to indigents in civil and criminal matters, free of charge, may be admitted to practice before the Tribal Court, subject to the following:
 - a. Approval of Legal Services Organizations: An “approved legal service organization” for the purposes of this rule is a not-for-profit legal services organization which has as one of its primary purposes the provision of legal assistance to indigents, free of charge, in civil or criminal matters. A legal services organization must be approved as such by the Business Committee explaining:
 - (1) The structure of the organization and a statement that it does not accept fees for services rendered from its clients;
 - (2) The major sources of funds used by the organization;
 - (3) The criteria used to determine potential clients’ eligibility for legal and non-legal services performed by the organization;
 - (4) The types of legal and non-legal services performed by the organization;
 - (5) The names of all persons who are employed by the organization or who regularly perform legal work for the organization; and
 - (6) The existence and extent of malpractice insurance which will cover attorneys authorized to practice under this rule.

A copy of the petition or approval shall be sent by the organization to the Business Committee, which shall file any comment which it desires to file respecting such petition with the Clerk of the Tribal Court within ten (10) days after the date of receipt of such petition. A legal services

organization is not approved until an order confirming such approval is entered by the Miami Tribe of Oklahoma Tribal Court. A copy of the order approving the legal services organization under this rule shall be sent by the Clerk of the Tribal Court to the Business Committee.

b. Application and Authorization: An attorney who seeks authorization to practice law under this rule shall file with the Clerk of the Tribal Court an application including:

(1) A statement signed by an authorized representative of the approved legal service organization that the applicant is employed full time by the organization.

(2) A sworn statement signed by the applicant that he or she:

(a) Has read and is familiar with the Rules of Professional Conduct and Tribal Court rules pertaining to attorney conduct and will abide by the provisions thereof;

(b) Submits to the jurisdiction of the Tribal Court for disciplinary purposes, as defined by the Rules of the Tribal Court; and

(c) Has not been disciplined by the Tribal Court or courts of any jurisdiction within the past five years.

(3) An attorney is not allowed to practice law under this rule until the applicant has been authorized to do so by order of the Tribal Court. A copy of the order authorizing the practice of law shall be filed with the Clerk of the Tribal Court.

(4) Limitation of Activities: An attorney authorized to practice under this rule shall not perform any legal services within the exterior boundaries of the Miami Indian Country except for clients of the approved legal services organization by which the attorney is employed full time. The attorney shall not accept any compensation for such services except such salary as may be provided to him or her by the organization.

(5) Supervision: An attorney authorized to practice under this section shall be supervised by an attorney who is licensed to practice before the Tribal Court, who is employed full time by the approved legal services organization for whom the applicant attorney works, and who will act as a supervisory lawyer.

(6) Noncompliance: Any non-member attorney who is not licensed by and a member of a State or Tribal Bar Association shall not be permitted to practice law before the Tribal Court as of the effective date of this Ordinance, until he or she is in compliance with the requirements of this Section.

C. License Renewal:

- 1) All licenses to practice law before the Tribal Court must be renewed annually on or before February 1 of each year.
- 2) Attorneys renewing their license to practice before the Miami Tribe of Oklahoma Tribal Court must file with the Tribal Court a certificate certifying compliance with the Constitution, Amendments and Code of the Miami Tribe of Oklahoma and pay a fee, the amount of which shall be determined by the Court, to the Clerk of the Tribal Court before any license to practice is renewed. Any license not renewed shall expire on February 2.
- 3) Any expired license may be renewed by submitting a new application to practice before the Tribal Court and pay a fee, the amount of which shall be determined by the Court, to the Clerk of the Tribal Court.

D. Lay Advocates: Any non-attorney who is (1) a member of a federally recognized tribe and (2) is licensed to practice in any other Indian Tribal Court in Oklahoma, may petition the Miami Tribe of Oklahoma Tribal Court for permission to represent a client in a particular case.

E. The Tribal Court Director shall establish standards and procedures for the licensing of attorneys and lay advocates and the granting of petitions of non-member lay advocate counsel licensed in the Court of other Indian Tribes to appear in particular cases and shall make the final decision as to the granting of each license or petition. If the Tribal Court Director patently abused his or her discretion in denying the license or petition to practice before the Tribal Court, the Court of Appeals may vacate the Tribal Court's decision and issue its own decision. The order of the Court of Appeals shall be final in respect to either

granting or denying the license or petition to practice in the Tribal Court thereby becomes a member of the Tribal Court Bar.

- F. The Chief Judge of the District Court may establish standards of conduct and professional responsibility for legal counsel, which shall apply to all branches of the Tribal Court. In the event that the Chief Judge of the District Court does not establish such standards of conduct and professional responsibility, the standards of conduct and rules of professional responsibility that govern a licensed attorney's practice of law in another jurisdiction shall also govern that attorney's practice of law before the Tribal Court.
- G. Every applicant for a license to practice law in the Tribal Court shall, as a pre-condition to receiving such license, demonstrate to the satisfaction of the Chief Judge of the District Court a general working knowledge of the Tribal law. Each applicant shall also affirm in writing that he or she has read and agrees to be bound by the applicable standards of conduct and professional responsibility for legal counsel.
- H. A fee, the amount of which may be determined by administrative order, shall be paid to the Clerk of the Tribal Court before any license to practice law is issued or renewed.
 - 1) The Clerk of the Tribal Court shall maintain a roll of attorneys and lay advocates licensed to practice before the Tribal Court.

SECTION 2.26 DISCIPLINE OF COUNSEL LICENSED TO PRACTICE BEFORE
THE TRIBAL COURT

- A. The Chief Judge of the District Court may appoint a Disciplinary Committee which shall consist of five attorneys licensed to practice before the Tribal Court, three of which shall serve as regular members of the Committee and two shall serve as alternates in the event of a conflict of interest or the inability of a regular Committee member to serve. No Disciplinary Committee member shall hear a complaint arising out of a case in which the Committee member has an interest or is representing or has represented a party in said case.
 - 1) Each appointment to the Disciplinary Committee shall be for a term of three years, except that a member shall continue to serve until a successor is duly appointed. Appointments to fill a vacancy shall be for the unexpired portion of the term and be filled in the same manner as the original appointment.
 - 2) For good cause shown, the Chief Judge may remove a member of the Committee.
 - 3) A member of the Committee may resign for any reason with written notice to the Chief Judge.

- B. Upon the receipt by the Chief Judge of the District Court of a verified complaint alleging that a licensed counsel has acted unethically or improperly, or violated a standard of conduct and professional responsibility, or alleging that there are reasonable grounds to believe that any counsel admitted to practice before the Tribal Court has been disbarred, suspended from practice, or disciplined relating to his practice of law in any other jurisdiction, such counsel shall immediately be served with notice that he or she will be suspended from the practice of law in the Tribal Court unless he or she appears before the Chief Judge within five (5) days of receipt of the notice and shows cause why he or she should not be ordered to appear before the Disciplinary Committee. If the Chief Judge finds that counsel should appear before the Disciplinary Committee, the matter shall be referred to the Disciplinary Committee within ten (10) days.
- C. Any Judge who finds a licensed counsel in contempt of Court may, in addition to imposing any other sanctions provided by this Code, order the counsel to appear pursuant to subsection B of this section.
- D. Any counsel ordered to appear before the Disciplinary Committee pursuant to this section may be requested to provide an accounting of monies received and expended on behalf of the client and to justify the accounting.
- E. Any counsel ordered to appear before the Disciplinary Committee pursuant to this section shall be afforded a full and fair hearing, with the rights to confront his or her accuser, to present evidence and to subpoena and call witnesses. If after the hearing the Chief Judge finds on the basis of the evidence presented to the Disciplinary Committee, that counsel is guilty of misconduct which requires the imposition of disciplinary action, the Chief Judge may:
- 1) Verbally censure counsel.
 - 2) Issue a written reprimand to counsel, which shall be recorded on the Roll of Counsel maintained by the Clerk.
 - 3) Suspend counsel for a specific period of time from the practice of law before the Tribal Court.
 - 4) Suspend counsel for an indefinite period of time, setting a date for review of the matter to determine the necessity of continued suspension.
 - 5) Disbar counsel permanently from practicing before the Miami Tribal Court.
- F. Any final order sanctioning legal counsel may be appealed to the Court of Appeals.