



TRIBAL RULES OF JUDICIAL CONDUCT



**CENTRAL COUNCIL OF THE TLINGIT & HAIDA
INDIAN TRIBES OF ALASKA**

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PREAMBLE

The Tlingit & Haida Court is grounded in the principle that an independent and honorable judiciary is essential to the administration of justice. The purpose of the Tribal Rules of Judicial Conduct (hereinafter “Rules”) is to preserve the integrity of the judiciary and enhance public confidence in the judicial system.

The Rules are intended to establish basic standards governing the conduct of all Tlingit & Haida judges. The Rules are not intended as an exhaustive guide for conduct. Judges should be governed in their judicial and personal activities by general ethical standards. The Rules are designed to define roles and responsibilities and implement the standards for regulation of judicial conduct through disciplinary proceedings or removal as set forth in the Tlingit & Haida Code.

The Rules are to be applied consistently with applicable tribal laws, rules of court, decisional law, tribal tradition and custom, common sense and in the context of all relevant circumstances.

SECTION 1. TITLE

This document is known as the Tribal Rules of Judicial Conduct (“Rules”).

SECTION 2. APPLICABILITY OF RULES

Any person who has been appointed or elected as a judge of the Tlingit & Haida Court is subject to these Rules.

- A.** Judicial officers who are full-time employees of Tlingit & Haida shall adhere to these Rules at all times.
- B.** Part-time judges, judges pro tempore and elected justices are subject to these Rules, with exceptions as noted below in this subsection. A part-time judge is a judge who serves on a less than full-time but regularly scheduled basis. A judge pro tempore is a judge who serves on a temporary fill-in basis as needed. An elected justice serves the court on a limited basis for a specific purpose.

Recognizing that these judges are not full-time employees, they may have other jobs, duties and tasks that prevent them from fully complying with all mandates of these Rules. These judges shall abide by these Rules, but are free to continue to provide representation as attorneys, but are limited as follows:

They shall not act as an attorney in a proceeding in which they have served as judge or in any related proceeding; and shall not allow the practice of law to interfere with the impartial fulfillment of their judicial duties.

SECTION 3. RULES

Rule 1. A judge shall uphold the integrity and independence of the judiciary. An independent and honorable judiciary is essential to the administration of justice. A judge shall help foster such judiciary and shall observe high standards of conduct toward achieving this goal. A judge shall maintain a separation between the judicial branch and other branches of government and shall avoid any contact or duty that violates such a separation. The provisions of these Rules are to be construed and applied to further that objective.

Rule 2. A judge shall avoid impropriety and the appearance of impropriety in all the judge's activities.

- A.** A judge shall respect and comply with the laws and traditions of Tlingit & Haida and shall at all times act in a manner that promotes public confidence in the honesty and impartiality of the Tlingit & Haida judiciary.
- B.** A judge shall not allow family, clan, social or other personal relationships to influence the judge's own judicial conduct. A judge shall not attempt to use the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey the impression that anyone has special influence over the judge in the judge's adjudicative capacity. A judge shall not testify voluntarily as a character witness. A judge shall not hold membership in any organization that practices discrimination; provided, however, that this does not preclude a judge from being a citizen of an Indian tribe or from membership in an organization in which membership is based upon the political status of being Indian.

Rule 3. A judge shall perform the duties of judicial office impartially and diligently.

- A.** Judicial Duties in General. The judicial duties of a full-time judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of office prescribed by Code. In performance of these duties, the following standards apply:
 - 1.** Adjudicative Responsibilities.
 - a.** A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor or fear of criticism.
 - b.** A judge shall hear and decide promptly matters assigned to the judge except those in which recusal is required.
 - c.** A judge shall require order and decorum in proceedings before the judge.

party's attorney, or personal knowledge of disputed evidentiary facts concerning the proceeding;

- b.** The judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a material witness concerning it;
- c.** The judge, or any member of the judge's family or person residing in the judge's household, has a financial interest in the subject matter in controversy or in a party to the proceeding or has any other interest that could be substantially affected by the proceedings;
- d.** The judge, the judge's spouse or significant other, or a person in a reasonably close family relationship to either of them, or the spouse of such person, is:
 - i.** A party to the proceeding, or an officer, director or trustee of a party;
 - ii.** Acting as an attorney in the proceeding;
 - iii.** Known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or
 - iv.** To the judge's knowledge likely to be a material witness in the proceeding.
- e.** A judge shall keep informed about the judge's personal and fiduciary economic interests and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse or significant other and minor children residing in the judge's household.

C. Alternatives to Recusal.

- 1.** A judge who should recuse the judge's own self by the terms of Section B of this Rule may disclose on the record the basis of the judge's potential recusal and may ask the parties and their attorneys to consider whether the parties are willing to allow the judge to hear the case despite the basis for a potential recusal. If following disclosure of any basis for potential recusal other than personal bias or prejudice concerning a party, the parties and attorneys without participation of the judge, all agree that the judge should not recuse the judge's own self, and the judge is then willing to participate, the judge

may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

2. A judge may decline to recuse the judge's own self in any proceeding in which recusal might otherwise be required under subsections (1) of this subsection, if no other judge is available and recusal will result in a failure of justice. In such a case, the judge shall disclose on the record the basis for the potential recusal and shall thereafter recuse the judge's own self if at any time, it is possible to transfer the proceeding to another judge without a failure of justice.

Rule 4. A judge shall regulate the judge's own extra-judicial activities to minimize the risk of conflict with judicial duties.

- A. Extra-Judicial Activities in General. A judge shall conduct all of the judge's extra-judicial activities so that they do not:
 1. Cast reasonable doubt on the judge's capacity to act impartially as a judge;
 2. Demean the judicial office; or
 3. Interfere with the proper performance of judicial duties.
- B. Political Activities within Tlingit & Haida. A judge shall resign his or her judicial office with the Tlingit & Haida if the judge becomes a candidate for, elected or appointed as Tribal Assembly Delegate.
- C. Section B above does not preclude a judge from being a member or officer for the judge's community council or from being a delegate.
- D. Avocational Activities.
 1. A judge may write, lecture, teach and speak on legal and non-legal subjects and engage in the arts, sports and other social and recreational activities if these activities do not interfere with the performance of the judge's judicial duties.
- E. Civic or Charitable Activities.
 1. A judge may participate in civic or charitable activities that do not reflect upon the judge's impartiality or interfere with the performance of the judge's judicial duties.
 2. A judge may participate in any educational, religious, charitable or similar organization. A judge may serve as an officer, director, trustee or non-legal

2. A judge may accept a gift, bequest, favor or loan consistent with the laws, traditions or customs of Tlingit & Haida. A gift, bequest, favor or loan which would affect or appear to affect impartiality in judicial proceedings, or negatively reflect on the judge's appearance of fairness, should be turned over to Tlingit & Haida to avoid eroding public confidence in the judicial system.
 - a. A judge shall maintain a log of gifts received where there is a reasonable question that the gift could be perceived as affecting the judge's impartiality or fairness. The log shall be disclosed to the Judiciary Committee on an annual basis. The log shall be a confidential record.
 - b. When the judge has a reasonable question regarding the propriety of the gift received, the judge may confer with the Judiciary Chair, or the Chair's designee, regarding the judge's ability to accept the gift. The Chair may offer guidance or refer the matter to the Judiciary Committee to consider the propriety of the gift.
 3. A judge may receive income and reimbursement of expenses attributable to the extra-judicial activities permitted by these Rules, if the source of payments does not give the appearance of impropriety. Income may not exceed a reasonable amount nor may they exceed what a person who is not a judge would receive because of the same activity.
- G.** Extra-judicial appointments. Unless allowed by Tlingit & Haida law or tradition, a judge should not accept appointment to any other Tlingit & Haida tribal governmental entity or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the tribal justice system or the administration of justice. A judge however, may represent Tlingit & Haida on ceremonial occasions or in connection with historical, educational or cultural activities.

Rule 5. A Judge Shall Refrain from Inappropriate Political Activity.

- A.** A judge shall refrain from all political activities or actions that could be interpreted by the Tlingit & Haida tribal community as supporting a political position or candidate that might interfere with the performance of his or her judicial duties except for improvement of the Tlingit & Haida justice system, or amendment to the Tlingit & Haida justice system's authority or funding.
- B.** Outside Political Activity. A judge shall refrain from all other political activity inappropriate to judicial office. Inappropriate outside political activity may include, without limitation, activity that is likely to be construed by the Tlingit &

Haida community as supporting a political position adverse to the political rights of tribe or individual citizens. A judge may, however, engage in political activities of electoral politics at the local, state, or federal levels.

SECTION 4. DISCIPLINE AND REMOVAL OF JUDGES

In order to ensure compliance with these Rules, it is necessary to establish a means of enforcement. The disciplinary procedures contained herein shall not be utilized as a substitution for the judicial appeal process.

- A.** Removal of Judges. The removal of a Tlingit & Haida judge is governed by Tlingit & Haida Code and Constitution.
- B.** All complaints shall go to the Judiciary Committee as required by law.
- C.** Process. All complaints shall be in written form, signed by the complainant. The written complaint shall include contact information for the complainant. Complaints shall be filed with the Court Administrator, who shall transmit the complaint to the Chairman of the Judiciary Committee, or the Chair's designee, and the Chief Justice, or the Chief Justice's designee, or an Associate Justice chosen at random by the Court Administrator if the Chief Justice is the subject of the complaint. A designee shall be empowered to act consistent with the authority delegated to the designator under these Rules. The process to be followed after the filing of a complaint shall be:
 - 1. Jurisdictional Determination. The Judiciary Committee Chair shall review the complaint within 10 working days of receipt to determine whether it is within the scope of the Judiciary Committee's jurisdiction. Complaints determined to be outside the jurisdiction shall be dismissed by the Judiciary Chair and the complainant notified within 10 working days of the Jurisdictional Determination.
 - 2. Initial Review. The Judiciary Committee Chair and Chief Justice shall conduct each month an initial review of all complaints within the Committee's jurisdiction. Initial Review must be completed at the monthly meeting following the Jurisdictional Determination. The initial review shall include a review of relevant court records. Complaints may be dismissed as not supported by the record, if the Judiciary Committee Chair and Chief Justice both concur in that decision. A complainant shall be notified within 10 working days if the complaint is dismissed after Initial Review.
 - a. The dismissal of a complaint does not preclude later consideration of the matters involved in that complaint to the extent that they may evidence a pattern or practice of misconduct or are otherwise relevant to the consideration of any other complaint or matter before the Judiciary

Committee.

3. Investigation. If the complaint is not resolved after Initial Review, the Judiciary Committee shall open an Investigation within 10 working days Initial Review. The subject judge shall be notified in writing when an Investigation is opened and be provided a copy of the complaint.
 - a. Scope. The Judiciary Committee is not required to review any material beyond what was available at Initial Review but may seek additional information if the Committee concludes such information is necessary. The Judiciary Committee may invite or require the subject judge to provide a written response to the complaint. The response shall be addressed to the Judiciary Committee Chair. Discovery shall be allowed. Rules regarding privileged communication shall apply. The Judiciary Committee Chair is authorized to issue subpoenas for records.
 - i. Non-Compliance with Subpoena. The Judiciary Committee Chair may, in the Chair's discretion, petition the Tribal Court for an order compelling compliance with a subpoena if a person does not attend, testify, or produce a document required by a subpoena.
4. Hearing. At the discretion of the Judiciary Committee Chair, the Judiciary Committee may convene a hearing to consider the complaint. The Judiciary Committee Chair shall preside over the hearing and ensure that it is conducted in a fair and impartial manner. The hearing shall be recorded.
 - a. Rights of the Subject Judge. The subject judge is entitled to: (1) be represented by counsel, but only at the subject judge's own expense, (2) be present at the hearing, (3) introduce evidence, (4) examine and cross-examine witnesses, and (5) subpoena documents and witnesses.
 - b. Evidence. All testimony shall be sworn statements and all witnesses testifying at the hearing shall be sworn in. Discovery shall be allowed. Rules regarding privileged communication shall apply. The Judiciary Committee Chair is authorized to issue subpoenas for purposes of the hearing.
5. Determination. After an Investigation, the Judiciary Committee shall determine whether it is satisfied by clear and convincing evidence that the subject judge:
 - a. Has violated a provision of the Tribal Rules of Judicial Conduct and that the violation is of such a serious nature as to warrant formal disciplinary action;

- b. Has a disability which materially affects the judge's ability to perform the requirements of the judge's position; or
 - c. Has acted in violation of the constitutional standards for judicial conduct.
- 6. Resolution. After Investigation and Determination, the Judiciary Committee shall decide what is an appropriate resolution. The Judiciary Committee may dismiss the complaint as not supported by the record, issue an oral reprimand, a private letter of reprimand, a public letter of reprimand, suspension or removal, provided that suspension or removal must be authorized under the Tlingit & Haida Constitutional and laws. The Committee may also order the subject judge to receive training.
- 7. Decision. After Investigation, the Judiciary Committee shall issue a written decision. Written decisions shall be issued within 60 days of the opening of an investigation. For good cause, the Judiciary Committee Chair shall have the ability to extend the timeframe for issuing a written decision by 30 days.
 - a. If the Committee concludes that the complaint is not supported by the record, the Decision shall state that conclusion and dismiss the complaint.
 - b. If the Committee does not dismiss the complaint as not supported by the record, it shall issue a decision that shall include findings of fact and the Committee's Determination and Resolution.
- 8. Notification. At the end of the complaint process, the complainant shall be notified of the outcome within 10 working days. If there is an Investigation, the subject judge shall be notified of the outcome and receive a copy of the Decision within 10 working days.
- 9. Independent Review. At the discretion of the Judiciary Committee Chair, an independent reviewer may be engaged at any point in this process to review the complaint and related records and offer guidance. Independent reviewers should have served on the bench or been admitted to the bar, including any bar of the United States or a tribal bar.
- 10. Reporting. The Judiciary Committee Chair shall report to the Judiciary Committee at regularly scheduled meetings regarding: (1) the number of complaints filed since the previous report, (2) the number of complaints rejected for lack of jurisdiction, (3) the number of dismissed as not supported by the record, and (4) the number of complaints currently outstanding.
- 11. Records. The Court Administrator shall maintain all records of the Discipline and Removal process. Records may only be requested by the Judiciary

Committee Chair and the Chief Justice.

12. Confidentiality. The entire Discipline and Removal process shall be confidential to the Judiciary Committee, other involved judicial officers, the Court Administrator, and involved court personnel, except that:
 - a. Statistical reports of complaints shall not be confidential;
 - b. Public letters of reprimand shall not be confidential; and
 - c. Decisions that result in suspension or removal shall not be confidential.

Adopted: April 17, 2017

Amended: April 19, 2021