

NOTICE OF PROPOSED RULEMAKING- SEEKING PUBLIC COMMENT (2nd Reading)

The Chippewa Cree Tribal Business Committee approved the First Reading to the proposed Judicial Commission Code on May 6, 2024. The publication of this notice on May 7, 2024, offers a public comment period for twenty (20) days for 2nd reading. During the next twenty (20) days, anyone with an interest in the proposed Judicial Commission code can submit a written comment offering feedback on the proposed code. All written feedback must be submitted either via e-mail to Elinor Nault enault@cctcourt.org or Dan Belcourt danelcourt@aol.com via mail:

**Chippewa Cree Tribe
Attn: CCT-OAG
96 Clinic Road North
Box Elder, Montana 59521**

Please direct all feedback and questions to the e-mail address or mailing address listed above.

TITLE 32
JUDICIAL COMMISSION

CHAPTER 1 – ESTABLISHING THE CHIPPEWA CREE TRIBAL JUDICIAL COMMISSION

1.1 AUTHORITY

Pursuant to an approved Ordinance No. 32, the Chippewa Cree Tribe's Business Committee established the Judicial Branch on January 26, 2011. As a result of this ordinance, the Business Committee also established a Tribal Judicial Committee in support of the separation of powers between the executive, legislative and judicial branches of the tribal government. That ordinance was revised on October 17, 2022, via Resolution Number 141-22 creating an actual Code of the Judicial Branch. Within that Code, there was language identifying Judicial Commission membership, by-laws, authority of the judicial commission, court finding, exhaustion of remedies, removal of an appointed commissioner as well rule-making power.

1.2 BY-LAWS

- a. The Tribal Judicial Commission shall consist of five (5) members, none of which may be a current Chippewa Cree Tribal Judge. The Chippewa Cree Business Committee shall appoint the Commission members. The Judicial Commission shall consist of:
 1. At least three members who must be graduates of an accredited law school with a Juris Doctorate Degree.
 2. Only one member of the members required to have a Juris Doctorate Degree may be a non-member Indian or non-Indian with experience in Federal Indian Law. The Chairperson of the Judicial Commission must be a tribal member attorney.
 3. Remaining members must be Chippewa Cree Tribal Members whose employment does not constitute a conflict of interest in serving on the Commission and have such education and experience so as to have served the community/tribe well.

- b. The qualifications for being appointed to the Judicial Commission include:
 1. At least three (3) must be law school graduates as stated above.
 2. Must be of good moral character.
 3. Must not have ever been convicted of a felony in any jurisdiction.
 4. Must not have ever been convicted of any misdemeanor involving dishonesty in any jurisdiction.
 5. Must be fair- minded and committed to the efficient operation of the Judicial Commission and its purposes.

6. Must not have an irresolvable conflict of interest unless disclosed to the Chippewa Cree Business Committee and is agreed by both parties that it does not disqualify the person from serving. It must also be agreed by the parties that when such conflict arises the Commission member shall recuse themselves from acting/voting on the issue.
- c. The term of office for an appointed Judicial Committee member shall be three (3) years. The terms must be staggered and there shall not be a limit to the number of terms an appointed member is allowed to serve.
- d. The officers of the Tribal Judicial Commission shall be the Chair, Vice-Chair, and such other officers as may be hereinafter designated by the Commission.
- e. The Chair, Vice-Chair and other officers shall be appointed from within the Tribal Judicial Commission.
- f. The Chair shall preside over all meetings of the Tribal Judicial Commission, shall perform all duties of a Chair and exercise any authority delegated by the Commission.
- g. The Vice-Chair shall assist the Chair when called upon to do so, and in the absence of the Chair, shall preside, over all meetings of the Tribal Judicial Commission, shall perform all duties of the Chair and exercise any authority delegated by the Commission.
- h. The Secretary shall keep an accurate record of all matters transacted at the Judicial Committee meetings, and promptly submit copies of all minutes of regular, special, telephone meetings, and informal actions to the Tribal Judicial Commission and the Chippewa Cree Business Committee.
- i. The Tribal Judicial Commission shall hold regular meetings with not less than a five (5) day written or verbal notice to members of the Commission. The Commission shall provide notice to the general public.
- k. The Chair and Vice-Chair shall have the power to convene special meetings with not less than ten (10) hours written or verbal notice to the members of the Tribal Judicial Commission.
- l. Regular meetings of the Tribal Judicial Commission shall be open to the public. Special meetings of the Commission shall be closed to the public.
- m. Executive sessions of the Tribal Judicial Commission shall not be open to the public. The Commission may take official action while in executive session. The Commission must make public the nature of the action.

- n. Virtual and telephonic meetings may be held if all the people participating in the meeting can be heard.
- o. A quorum shall consist of a majority of the members. All decisions shall be made by a majority vote. If there are only four (4) Commission members present at a meeting who want to vote on an action, in the event of a tie vote, the action being voted on will have to wait until all five (5) Commission members are present.
- p. An actionable item may be taken outside a scheduled meeting if unanimously approved by the Tribal Judicial Commission (absent approval by the Chair). The actionable item shall require written consent signed by all members of the Commission.
- q. The Tribal Judicial Commission may recommend removal of an appointed Commissioner with cause, which includes but is not limited to excessive unexcused absenteeism from scheduled meetings, gross misconduct of official duty, violation of applicable laws, or criminal convictions in any court proceedings. The recommendation for removal requires a unanimous vote of all of the remaining Judicial Commission members. The Judicial Commission shall make any recommendation for removal to the Chippewa Cree Business Committee.
- r. An appointed Commissioner may resign after providing a thirty (30) day written notification to the Tribal Judicial Commission. Upon receiving notification, the Tribal Judicial Commission shall immediately inform the Chippewa Cree Business Committee of the vacancy.
- s. An appointed Commissioner shall take a temporary leave of absence immediately upon filing as a candidate for membership on the Business Committee and/or any other public office elected at-large within the exterior boundaries of the Rocky Boy's Indian Reservation. If the Commissioner is confirmed into a public office, which is elected at-large or an appointed position that will involve interacting with the Judicial Commission, the Commissioner shall resign immediately.
- t. Should a vacancy occur in the Commission, a temporary Commissioner shall be appointed by the Chippewa Cree Business Committee. Qualifications for the temporary Commissioner shall meet the qualifications as described in 1.2(a)(3) and 1.2(b)(2-6) above.

1.3 DUTIES OF THE JUDICIAL COMMISSION

- a. The Tribal Judicial Commission shall:
 - i. Conduct studies for the improvement of the administration of justice:
 - ii. Review the Tribal Court judge's training schedule and recommend or require training for the judges to stay current on legal issues relating to their positions.
 - iii. Present quarterly reports to the Chippewa Cree Tribal Business Committee.

- iv. Receive complaints, investigate complaints, and recommend any disciplinary action of a Tribal Court Judge. While the Judicial Commission may make these recommendations, any Tribal Court Judge's discipline/removal is subject to the Chippewa Cree Tribe's Personnel Policies and Procedures.
- v. When a Tribal Court Judge position is vacant, the Judicial Commission will review applicants and submit to the Business Committee the names of qualified applicants who are eligible to serve as a Tribal Court Judge. The Business Committee will make a selection from the applicants submitted and recommended by the Judicial Committee.
- vi. Such other related duties as may be assigned by the Business Committee.
- vii. The Judicial Commission shall not have authority to discipline or dismiss Tribal Court Judges or Tribal Court staff but shall refer any complaints regarding such staff to the appropriate supervisor or the Business Committee.

1.4 DISCIPLINE OR REMOVAL OF JUDGES – PROCEDURE

- a. A Tribal Court judge, may be recommended for discipline or removal by the Judicial Commission for:
 - i. Willful misconduct in office; or
 - ii. Willful and persistent failure to perform his/her duties; or
 - iii. Habitual intemperance; or
 - iv. Violating the Chippewa Cree Tribe's Code of Judicial Conduct.
 - v. Conduct prejudicial to the administration of justice that brings the judicial office in disrepute.
- b. The Judicial Commission may, after such investigation, order a hearing to be held before it concerning the recommendation for discipline/removal of a judge. Any hearings for recommendation for removal of a Tribal Court Judge must be held on the record.
- c. If, after a hearing, the Judicial Commission finds good cause for discipline/removal, it shall submit the recommendation to the Business Committee.
- d. The Business Committee shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence, as it finds just and proper, and may order removal or discipline or wholly reject the recommendation of the Judicial Commission.
- e. Upon an order of removal, the judge shall be immediately removed from office, and his/her salary and benefits shall cease from the date of such order.

- f. This section is an alternative to, and cumulative with, the discipline/removal of an employee/judge per the Chippewa Cree Tribe's Personnel Policies and Procedures.
- g. If there is a customer complaint about a judge or the court administrator, the Administrative Customer Complaint Process will be followed.

1.5 STIPEND FOR COMMISSION MEMBERS

Each member of the Judicial Commission, except employees of the Chippewa Cree Tribe, shall receive a stipend for their time and service to the Judicial Commission as authorized by the Chippewa Cree Business Committee.

1.6 SEVERABILITY

If any provision of this title is held invalid, either in general or in a particular case, any such invalidity shall not affect any other provision of this title that may be given effect without the invalid provision, and this end, the provisions of this title shall be severable.

1.7 CONFLICT WITH OTHER APPLICABLE LAW

In the event of a conflict between the provisions of this Title and any other provisions of applicable law that by the terms is applicable, those provisions of law creating a more stringent or otherwise higher standard shall be controlling.

1.8 SOVEREIGN IMMUNITY

Neither the implementation of this Title, nor any provision contained herein, shall act or be interpreted to act as a waiver of the Chippewa Cree Tribe's sovereign immunity. The Chippewa Cree Tribe hereby specifically reserves and retains their sovereign immunity and all rights pertinent thereto.