

The Chippewa Cree Tribe of the Rocky Boy's Reservation

Phone: (406) 395-4478 or 4210 - Finance Office
(406) 395-4282 or 4321 - Business Committee

96 Clinic Road
Box Elder, Montana 59521

A RESOLUTION

NO. 149-20

HEREBY AMENDING TITLE 34, OF THE CHIPPEWA CREE TRIBAL LAW AND ORDER CODE, ATTORNEYS AND LAY ADVOCATES CODE TO INCORPORATE ALL PROPOSED CHANGES.

WHEREAS, the Chippewa Cree Business Committee is the governing body of the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation by the authority of the Constitution and By-Laws of the Chippewa Cree Tribe approved on the 23rd day of November, 1935, and;

WHEREAS, pursuant to their inherent sovereignty and Constitution and By-Laws of the Chippewa Cree Tribe, the Chippewa Cree Tribal Business Committee is charged with the duty to promote and protect the health, security and welfare of the Tribe, and;

WHEREAS, the Chippewa Cree Business Committee adopted Title 34, of the Chippewa Cree Tribal Law and Order Code, Attorneys and Lay Advocates Code on January 6, 2009, and;

WHEREAS, the Chippewa Cree Business Committee understands the importance to amend Title 34, the changes aim to provide adequate and effective representations to all persons utilizing the Chippewa Cree Tribal Court, and;

WHEREAS, the Chippewa Cree Business Committee proposes the following amendments:

Rule 1.1 Qualifications for admissions as Attorney or Lay Advocate

- A. Attorneys- Any person who meets the qualifications established in this Section shall be eligible for admission to practice before the Chippewa Cree Tribal Court and Chippewa Cree Tribal Court of Appeals (hereinafter collectively referred to as "Court"). To be eligible to serve as an Attorney the following requirements must be satisfied:
1. Must pass the tribal bar exam, and must be in good standing in any jurisdiction where they are licensed to practice law;
 2. Must be of high moral character and integrity; and
 3. Must have Juris Doctor Degree, and state bar licensed.
- B. Lay Advocate- Any person who meets the qualifications established in this Section shall be eligible for admission to practice before the Court. To be eligible to serve as a Lay Advocate the following requirements must be satisfied:
1. Must be at least twenty-one (21) years of age;
 2. Must pass the tribal bar exam, and must be in good standing in any jurisdiction where they are admitted to practice laws;
 3. Must be of high moral character and integrity;
 4. Must be a high school graduate or equivalent; and
 5. Must not have been convicted of a felony in any jurisdiction.

REVIEWED
BY CCT-OAG

- C. Attorneys and Lay Advocates that do not satisfy the qualifications as outlined within Rule 1.1 shall not be entitled to practice within the Court. Any person receiving notice that they are not eligible may appeal that determination to the Chippewa Cree Judicial Commission ("Commission") within thirty (30) days after receiving notice. After filing an appeal with the Clerk of Court, the Commission shall notify the individual within twenty (20) days the time and place of the hearing. The person may present any and all evidence that is relevant to helping the Commission make a determination as to why the person should be deemed eligible to practice within the Court. The Commission shall determine—by majority vote, whether or not the person should be deemed eligible. The decision shall be given to the Court Administrator to notify the person in writing.

Rule 3.4 Fees

C. Attorney and Lay Advocate Fee

1. A fee schedule shall be developed by the Chippewa Cree Tribal Court, and adopted by the Chippewa Cree Business Committee.

WHEREAS, the Chippewa Cree Business Committee affirms that all resolutions, or parts of the same, that are inconsistent with the provisions of this resolution, are hereby repealed to the extent of such inconsistency, now;

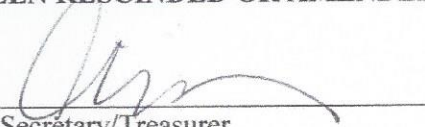
THEREFORE BE IT RESOLVED, the Chippewa Cree Business Committee hereby amends Title 34 of the Chippewa Cree Tribal Code, Attorneys and Lay Advocates to include all proposed changes.

BE IT FINALLY RESOLVED, that the newly revised Title 34 of the Chippewa Cree Tribal Law and Order Code, Attorneys and Lay Advocates Code is hereinafter attached. The effective date shall be October 8, 2020.

CERTIFICATION

I, THE UNDERSIGNED, AS SECRETARY/TREASURER OF THE BUSINESS COMMITTEE FOR THE CHIPPEWA CREE TRIBE, HEREBY CERTIFY THAT THE BUSINESS COMMITTEE IS COMPOSED OF NINE MEMBERS, OF WHOM eight MEMBERS CONSTITUTING A QUORUM WERE PRESENT AT A MEETING, DULY AND REGULARLY CALLED, NOTICED, CONVENEED AND HELD ON THE 8 TH DAY OF OCTOBER, 2020, AND THAT THE FOREGOING RESOLUTION WAS FULLY ADOPTED AT SUCH A MEETING BY THE VOTE OF seven(7) MEMBERS FOR AND zero(0) MEMBERS AGAINST AND zero(0) MEMBERS ABSTAINED, AND THAT THIS RESOLUTION HAS NOT BEEN RESCINDED OR AMENDED IN ANY WAY.


Chairman, Business Committee


Secretary/Treasurer

CHIPPEWA CREE TRIBE LAW & ORDER CODE, TITLE 34, ATTORNEYS AND LAY ADVOCATES CODE

ATTORNEYS AND LAY ADVOCATE RULES, POLICIES & PROCEDURES

Rule 1.1 Qualifications for admissions as Attorney or Lay Advocate

- A. Attorneys- Any person who meets the qualifications established in this Section shall be eligible for admission to practice before the Chippewa Cree Tribal Court and Chippewa Cree Tribal Court of Appeals (hereinafter collectively referred to as "Court"). To be eligible to serve as an Attorney the following requirements must be satisfied:
1. Must pass the tribal bar exam, and must be in good standing in any jurisdiction where they are licensed to practice law;
 2. Must be of high moral character and integrity; and
 3. Must have Juris Doctor Degree, and state bar licensed.
- B. Lay Advocate- Any person who meets the qualifications established in this Section shall be eligible for admission to practice before the Court. To be eligible to serve as a Lay Advocate the following requirements must be satisfied:
1. Must be at least twenty-one (21) years of age;
 2. Must pass the tribal bar exam, and must be in good standing in any jurisdiction where they are admitted to practice laws;
 3. Must be of high moral character and integrity;
 4. Must be a high school graduate or equivalent; and
 5. Must not have been convicted of a felony in any jurisdiction.
- C. Attorneys and Lay Advocates that do not satisfy the qualifications as outlined within Rule 1.1 shall not be entitled to practice within the Court.¹ Any person receiving notice that they are not eligible may appeal that determination to the Chippewa Cree Judicial Commission ("Commission") within thirty (30) days after receiving notice. After filing an appeal with the Clerk of Court, the Commission shall notify the individual within twenty (20) days the time and place of the hearing. The person may present any and all evidence that is relevant to helping the Commission make a determination as to why the person should be deemed eligible to practice within the Court. The Commission shall determine—by majority vote, whether or not the person should be deemed eligible. The decision shall be given to the Court Administrator to notify the person in writing.

Rule 1.2 Roll of Attorneys and Lay Advocates

- A. A roll of Attorneys and Lay Advocates admitted to practice before the Court shall be maintained by the Clerk of Court.

Rule 1.3 Right to Counsel

- A. Any person at his/her own expense may have assistance of counsel in any proceeding before the Court.

¹ Rule 1.1 Amended by CCT Resolution No. 149-20, during a monthly Business Committee meeting held on Thursday, October 8, 2020.

Rule 1.4 Disbarment and Suspension

- A. The Chippewa Cree Tribal Court may disbar an Attorney or Lay Advocate from practice before the courts, or impose suspension from practice for such time as the Court deems appropriate, pursuant to rules adopted by the Court, provided that the Court shall give such Attorney or lay advocate reasonable prior notice of the charges against him/her and an opportunity to respond to them.
- B. Any person who is disbarred or suspended by the Chippewa Cree Tribal Court may appeal that determination to the Chippewa Cree Tribal Court of Appeals within fifteen (15) days of the disbarment or suspension. The Chippewa Cree Tribal Court of Appeals shall request a statement of the reasons for the disbarment or suspension from the Chief Judge and after receiving such statement shall review the record which was before the Chippewa Cree Tribal Court and may, in its discretion, hear oral argument by the applicant. The Chippewa Cree Tribal Court of Appeals shall determine whether the applicant shall be disbarred or suspended and its determination shall be final. The appeal shall be determined by those judges of the Court not involved in the initial determination.
- C. Any person who has been disbarred or suspended for an excess of one (1) year from the practice of law before the Court may reapply for admission. The person must submit a statement of reasons for the disbarment or suspension, and the reasons for readmission. After receiving such statement, the Court shall determine whether there is good cause for applicant to be readmitted to practice before the C Court. If the applicant for readmission is denied by the Judge, the applicant may appeal such decision to the Chippewa Cree Tribal Court of Appeals within ten (10) working days from the receipt of readmission denial letter. The decision of the Chippewa Cree Tribal Court of Appeals shall be final.

GENERAL DUTIES OF AN ADVOCATE AND/OR ATTORNEY TO THE COURT

RULE 2.1 Signing of Pleadings, Motions and Other Papers

- A. Every pleading, written motion and other paper shall be signed by at least one counselor advocate of record.
- B. If the party is not represented by an advocate, any such document shall be signed by the individual.

RULE 2.2 Representation to the Court

- A. Pleadings, Motions and Other Documents.
 1. By representing a pleading written or oral motion or other document to the Court, an Attorney, advocate or unrepresentative party is certifying that to the best of that individual's knowledge, information and belief, formed after a reasonable inquiry under the circumstances;
 - a. It is not being presented for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation;
 - b. The claims, defenses, and other legal issues raised or alleged in

the submitted document are warranted by;

- i. existing law, or custom, or;
- ii. A non-frivolous argument for extension, modification, or reversal of existing law or custom, or the establishment of new law. The allegations or factual contentions have evidentiary support after a reasonable opportunity for further investigation or discovery.

2. Oral Representations.

a. Oral statements shall be subject to same requirements as Rule 2.2.A.1.

- B. An advocate for the defendant in a criminal proceeding may defend the proceeding professionally so as to require that every element of the case be established beyond a reasonable doubt in a manner consistent with the respect and decorum appropriate in court.

Rule 2.3 Expediting Litigation

A. An advocate shall make reasonable efforts to expedite litigation consistent with the interests of the client and with the interests of justice and judicial economy.

- B. While continuances are discouraged, no advocate shall ask for more than one continuance of a motion, trial, or other matter without good cause.

Rule 2.4 Conducts

A. Candor towards the Court

1. An advocate shall not knowingly;
 - a. Make a false statement of material fact or law to the Court, or;
 - b. Fail to disclose a non-privileged material fact to the Court when such disclosure is necessary to avoid assisting a criminal or fraudulent act by the client.

B. Fairness to Opposing Counsel

1. An advocate shall not;
 - a. Unlawfully obstruct another party's access to evidence, or;
 - b. Unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value.
 - c. In any pre-trial proceeding, to make a frivolous discovery request or fail to make reasonably diligent efforts to comply with lawful and proper discovery requirement or lawful discovery request by the opposing advocate.

Rule 2.5 Impartiality and Decorum of the Court

A. An advocate shall not;

1. Seek to influence a judge, juror, prospective juror or court personnel as defined in the CCT Judicial Code of Conduct, be means prohibited by law, or have any communication with such a person regarding a pending matter outside of the presence of all parties or their advocates except as expressly permitted by law.

- a. Advocates shall assure that any such communications is expressly permitted by law before undertaking the contact.
 - b. Communications not relating to a pending proceeding before the Court may not be subject to these ethical rules, such as personal "casual" conversation unrelated to a pending proceeding.
2. Engage in conduct intended to disrupt a tribunal.
 - a. Judges of the CCT Tribal Court may punish such behavior with the Contempt of Court sanction specified in the Law and Order Code.

Rule 2.6 Public Statements

- A. An advocate shall not make an extra-judicial statement that a reasonable person would expect to be re-communicated by a public means of communication, such as print or electronic media, if the advocate knows or reasonably should know that such a statement will have a substantial likelihood of materially prejudicing an adjunctive proceeding.
- B. A statement referred to in paragraph A is likely to have such an affect when it refers to a civil or criminal matter, and the statement refers to;
 1. The character, credibility, reputation, or criminal record of a party, or a suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;
 2. The possibility of a plea of guilty to the offense charged, or the existence or contents of any confession, admission or statement given by a defendant or suspect, or such a person's refusal of failure to make a statement to law enforcement authorities.
 3. The results of any examination, test or the refusal of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented at trial.
 4. Any opinion as to the guilt or innocence of a defendant or suspect.
 5. Information that the advocate knows or reasonably should know is likely to be inadmissible as evidence in a trial and would, if disclosed, create a substantial risk of prejudicing an impartial trial.
 6. The fact that a defendant has been charged with a crime, unless accompanied by a clear statement that the charge is merely an accusation and the defendant is presumed innocent until and unless proven guilty.
- C. Subject to the limitations above an advocate may state without elaboration;
 1. The general nature of the claim or defense;
 2. Information contained in a public record;
 3. That an investigation of the matter is in progress;
 4. The scheduling or result of a proceeding, except where prohibited by law, such as the results of Children's Court proceedings.
 5. Requests for assistance in obtaining evidence and other necessary information;
 6. Warnings about an individual's future behavior, when there is a

substantial reason to believe that there exists to the likelihood of material harm to an individual or the interests of the Tribe.

7. In criminal proceedings, if a suspect or defendant has not been apprehended by appropriate law enforcement personnel, an advocate may state any and all information necessary to aid in apprehending such a defendant.

CLIENT – ADVOCATE AND/OR ATTORNEY RELATIONS

Rule 3.1 Competency

A. Minimum Standard

1. An advocate retained in a court proceeding, shall provide, at a minimum, competent legal representation.

B. Meeting the Standard

1. Competent legal representation requires legal knowledge, skill, diligence, thoroughness, factual investigation and legal preparation.

Rule 3.2 Scope of Representation

- A. An advocate shall abide by his client's decisions as to the objectives of the representation, subject to paragraphs (B), (C), (D), (E) and (F), and shall consult with the client as to the means by which those objectives will be pursued.
- B. An advocate shall explain the procedures and ramifications of those procedures to the extent reasonably necessary to allow the client to make informed decisions regarding the course of conduct for the legal representation.
- C. An advocate shall abide by a client's decision whether to accept an offer to settle the case or proceeding for which the client has retained the advocate's services.
- D. In criminal proceedings, an advocate shall abide by the client's decision, after consultation with the advocate, as to a course of action materially affecting the case, such as a plea to be entered, whether the client will testify, whether to waive pre-trial hearing, jury trial, pre-sentencing, sentencing hearing, or any other hearing before the court.
- E. An advocate shall not counsel or assist a client to engage in conduct that the advocate knows, or has reason to know, is criminal or fraudulent or intended to cause undue delay to the legal proceeding.
- F. An advocate should discuss the foreseeable legal consequences of any proposed course of conduct with client and may counsel or assist a client to make a reasonable and good effort to determine the validity, scope, meaning or application of the law.

Rule 3.3 Communication

- A. An advocate shall keep their client informed about the status of a matter, and shall promptly notify their client of any material development in the proceeding for which

the advocate has been retained.

- B. An advocate shall comply with reasonable requests for information, whether such requests come from the client, the court or opposing counsel.
- C. While it is ultimately the client's responsibility to appear in court, an advocate shall make reasonable efforts to ensure the client appears in court.

Rule 3.4 Fees

A. Reasonableness of Fees

- 1. An advocate's fees shall be reasonable, with the following factors taken into consideration.
 - a. The time and labor the case at issue will require.
 - b. The novelty and difficulty of the legal questions or issues involved.
 - c. The skills necessary to properly and adequately perform the legal representation.
 - d. The amount involved and results obtained.
 - e. The nature and length of the professional relationship with the client.
 - f. The time limitations imposed upon the advocate by the client or the circumstances.
 - g. The fee customarily charged in the locality for similar legal services.

B. Notification to Client

- 1. The advocate's fee shall be communicated, preferably in writing, to the client in a fashion best calculated to be understood by the client, before or within a reasonable time after the commencement of representation.
- 2. If an advocate represents multiple clients, the advocates shall notify each such client of the fees.

C. Attorney and Lay Advocate Fee

- 1. A fee schedule shall be developed by the Chippewa Cree Tribal Court, and adopted by the Chippewa Cree Business Committee.²

Rule 3.5 Conflict of Interest

A. Limitations on Representation

- 1. An advocate shall not represent a client if such representation;
 - a. Will be adverse to a separate client who is under the legal representation of the same advocate, or;
 - b. May be materially limited by the advocate's responsibilities to another client or to a third person.
- 2. An advocate shall not represent a client if such representation may be materially limited by the advocate's own interests.

² Rule 3.4 (C) (1) Amended by CCT Resolution No. 149-20, during a monthly Business Committee meeting held on Thursday, October 8, 2020.

B. Exceptions

1. Rule 3.5.1(a) and 3.5.1 (b) maybe overcome if;
 - a. The advocate reasonably believes the representation will not adversely affect her obligations to the other client, and;
 - b. Each client, after receiving a written notice of the potential conflict, has had the opportunity to consult with the advocate and consents to the representation.

C. Multiple Clients

1. When an advocate's consultation with each client, whether individually or as a group, shall include a description and explanation of the implications of shared or common representation.

D. Former Client

1. An advocate shall not act as an advocate at a proceeding in which the advocate is likely to be a witness.
2. An advocate's obligations to preserve the confidence and secrets of a client continue after the termination of the legal representation.

Rule 3.6 Advocate as Witness

A. Limitation

1. An advocate shall not act as an advocate at a proceeding in which the advocate is likely to be a witness.

B. Exceptions

1. Rule 3.6.1(a) shall not apply when the testimony relates to an uncontested factual issue.
2. The testimony relates to the nature and value of legal services rendered in the proceeding.

Rule 3.7 CCT Employees

A. The persons listed below shall not appear as an advocate in a matter in which they had any important role during or for 60 days after the termination of their official role;

1. Any Business Committee member or;
2. Any Tribal Judge or;
3. Any member of the Chippewa Cree Tribe Law Office other than in matter in which the Law Office of private counsel represents the Tribe in accordance with its official duties as the Law Office;
4. Or other judicial employee or officer of the Court.

B. Rule 3.7(A) shall not apply if all material parties to the proceeding consent to such representation after disclosure.

Rule 3.8 Disabled or Impaired Client

A. Impairment of Client

1. When a client's ability to make adequately considered decisions in

connection with the representation is impaired, whether due to minority in age, mental disability or any other reason, the advocate shall, as far as reasonably believes that the client cannot adequately act in their own best interest.

B. Protective Action for Client

1. An advocate may seek the appointment of a guardian or take other protective action with respect to a client, but only when the advocate reasonably believes that the client cannot adequately act in their own best interest.

Rule 3.9 Declining or Terminating Representation

A. An advocate shall not represent a client or, where representation has begun, shall withdraw from the representation if;

1. The representation will violate the CCT Code of Conduct or other law.
2. The advocate's physical or mental condition materially impairs the advocate's ability to represent the client.
3. The advocate has been discharged from representing the client.

B. An advocate may withdraw from representation if such withdrawal can be accomplished without material adverse effect on the client's interests, or if;

1. The client persists in a course of action involving the advocate's services that the advocate reasonably believes is criminal or fraudulent.
2. The client has used the advocate's services to perpetrate a crime or fraud.
3. The client insists on pursuing an objective the advocate reasonably considers repugnant or imprudent to the laws of the CCT.
4. The client substantially fails to fulfill a lawful obligation to the advocate that directly relates to the advocate's services, and;
 - a. The client has received reasonable warning that the advocate will withdraw unless that obligation is fulfilled.
5. The representation will result in an unreasonable financial burden on the lawyer or has been rendered difficult by the client.
6. The advocate shows good cause for withdrawal.

C. An advocate shall continue representation when ordered to do so by the Court, despite a showing of good cause to terminate the representation.

D. Upon termination of representation, an advocate shall continue to protect that client's interests, such as, but not limited to;

1. Giving reasonable notice to the client.
2. Allowing time to employ other advocates or counsel.
3. Timely surrendering of documents and property to which the client is entitled, or which have significant relevance to the client's pending legal proceedings.
4. Timely refunding of any and all advance payments of fees not yet earned.