

Chapter 9
Pokagon Band of Potawatomi Indians
Court Rules of Ethics for Tribal Court Personnel

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Section 1. Purpose and Definitions.

- A. **Purpose.** The purpose of this Chapter is to provide for and guide the professional conduct of court clerks, administrators and all other court staff employed by the Pokagon Band Tribal Judiciary.
- B. **Definitions.** The following terms shall have the following meanings:
1. "*Band*" and "*Tribe*" are synonymous and mean the Pokagon Band of Potawatomi Indians.
 2. "*Court*" and "*Tribal Court*" are synonymous and mean the trial level court of the Band.
 3. "*Court of Appeals*" means the appellate level court of the Band.
 4. "*Court Personnel*" or "*Court Employee*" means any personnel employed by the Court including, but not limited to, the following: court clerks, support staff, probation officers, peacemakers, and the Court Administrator. Neither of these terms includes judges who are subject to the *Court Rules of Judicial Conduct*.
 5. "*Tribal courts*" means the trial level court and appellate level court of the Band.

Section 2. Applicability of this Chapter to Court Personnel. These *Rules* apply to Court Personnel who are employed within the tribal judicial system, whether such employment is on a full-time, part-time or *pro tempore* basis.

Section 3. Integrity and Independence of Court Personnel. Court personnel must uphold the integrity and independence of the judicial system and of the court offices in that an independent and honorable judiciary is indispensable to justice in the tribal community. Therefore, court personnel must observe and impart to other court personnel high standards of conduct so that the integrity and the independence of the judiciary are preserved and so that the court offices reflect a devotion to serving the public. The provisions of these *Rules* shall be construed and applied to further these

objectives. The standards of these *Rules* shall not affect or preclude other standards which may be promulgated by the Tribal courts.

Section 4. Impropriety and the Appearance of Impropriety. Court personnel must not engage in any activity which would put into question the propriety of their conduct in carrying out the duties of the office including, but not limited to, the following:

- A. **Relationships.** Court personnel must not allow family, social, or other relationships to influence official conduct or judgment. Court personnel must not lend the prestige of their office to advance their interests or others, nor may court personnel convey, or others be permitted to convey, the impression that they are in a special position to influence the court personnel.
- B. **Gifts.** Court personnel, as well as family member(s) who reside in the same household as the court personnel, may not accept a gift, bequest, favor, or loan from any person whose interests have come, or are likely to come, before said court personnel or from any other person under circumstances which might reasonably be regarded as influencing the performances of the duties of the office.
- C. **Communication.** Court personnel must abstain from public comment about pending or impending judicial proceedings and must require similar abstention on the part of other court personnel.
- D. **Confidentiality.**
 - 1. Court personnel must not disclose to any unauthorized person for any purpose any confidential information acquired in the course of employment, or acquired through unauthorized disclosure by another.
 - 2. Confidential information includes, but is not limited to, information on pending cases that is not already a matter of public record and information concerning the work product of any judge, law clerk, staff attorney or other court employee including, but not limited to, notes, papers, discussions and memoranda.
 - 3. Confidential information that is available to specific individuals by reason of statute, court rule, court order or administrative policy may be provided only by personnel authorized to do so.
 - 4. Court personnel must report confidential information to the appropriate authority when he or she reasonably believes this information is or may be evidence of a violation of law or of unethical conduct. No court employee

shall be disciplined for disclosing such confidential information to the appropriate authority.

5. Tribal judges and the Court Administrator should educate court personnel about what information is confidential and, where appropriate, should designate such materials as confidential.
 6. Court personnel are not precluded from responding to inquiries concerning court procedures, but court personnel must not give legal advice. Standard court procedures, including, but not limited to, the method for filing and appeal or commencing an action, should be summarized in writing and available to litigants. All media requests for information should be referred to the Chief Judge.
 7. Court personnel must not either initiate or repeat *ex parte* communications from litigants, witnesses or attorneys to judges, jury members or any other person. Court personnel may inform the appropriate authority that such communication occurred without disclosing the substance thereof.
 8. Former court personnel must not disclose confidential information when disclosure by current court personnel would be a breach of confidentiality.
- E. **Administration.** Court personnel must avoid favoritism, unfairness, or nepotism in connection with the hiring, discharge, or treatment of subordinate court staff.
- F. **Influence.** Court personnel must never influence or attempt to influence the assignment of cases, or perform any discretionary or ministerial function of the courts in a biased manner, which improperly favors any litigant or attorney or other representative, nor imply that such court personnel is in a position to do so.
- G. **Legal Advice.** Court personnel must not give legal advice. However, staff should give information about court procedures when such information is requested, or when it would be helpful to any individual who is attempting to understand court process.

Section 5. Performance of Duties Impartially and Diligently. The official duties of court personnel take precedence over all activities. The official duties include all the duties of the court offices. In the performance of these duties, the following standards apply to both the personal and professional conduct of court personnel:

- A. Court personnel must respect and comply personally and professionally with the law and should act at all times in a manner that promotes public confidence in the integrity and impartially of the tribal judiciary and the court offices.

- B. Court personnel must be faithful to the highest standard of the profession and maintain professional competence in it.
- C. Court personnel must be patient, dignified, courteous, and fair to all persons whom she or he has contact with in an official capacity such as litigants, jurors, witnesses, lawyers, and others, and must require similar conduct from subordinate staff and others subject to his or her direction and control.

Section 6. Improvement of the Legal System and the Administration of Justice. Court personnel, subject to the proper performance of official duties, may engage in the following activities:

- A. Court personnel may speak, write, lecture, teach and participate in other activities concerning court management, the legal system, and the administration of justice.
- B. Court personnel may promote the development of professional organizations and foster the interchange of technical information and experience with others in the profession.
- C. Court personnel should be available to the public-at-large for speaking engagements and public appearances designed to enhance the public's knowledge of the operation of the tribal court system.

Section 7. Extra-Official Activities.

- A. **Avocational Activities.** Court personnel may write, lecture, teach, and speak on subjects unrelated to the profession, and may engage in the arts, sports, and other social and recreational activities, provided such avocational activities do not detract from the dignity of the office, interfere with performance of official duties, or adversely reflect on the operation and dignity of the Tribal courts.
- B. **Civic and Charitable Activities.** Court personnel may participate in civic and charitable activities that do not detract from the dignity of the office or interfere with the performance of official duties. Court personnel may serve as an officer, director, trustee or advisor of a civic or charitable organization and solicit funds for any such organization, subject to the following limitations:
 - 1. Court personnel should not use or permit the use of the prestige of the court offices in the solicitation of funds;
 - 2. Court personnel should not solicit subordinate staff to contribute to or participate in any civic or charitable activity, but may call their attention to a general fund-raising campaign such as the United Way; and

3. Court personnel should not solicit funds from lawyers or persons likely to come before the court offices or the Tribal courts.
- C. **Financial Activities.** Without the express permission of the Court, court personnel may not carry on financial and business dealings, including services as a fiduciary. Such permission shall not be granted in any case where the activity would tend to reflect adversely on impartiality, interfere with the proper performance of official duties, exploit an official position, or come before the court offices or the court served.
 - D. **Extra-Official Appointments.** Court personnel should not accept appointment to a governmental committee, commission or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice.
 - E. **Compensation for Extra-Official Activities.** Court personnel may from time to time receive compensation for certain extra-official activities permitted by these *Rules* (e.g. such as compensation for training or lectures performed while on personal leave from the Court) if the source of such payment does not influence or give the appearance of influencing the court personnel in the performance of official duties or otherwise give the appearance of impropriety, subject to the following:
 - F. **Compensation.** Compensation should not exceed a reasonable amount nor should it exceed that normally received by others for the same activity; and
 - G. **Records.** Court personnel must keep records and file reports of such compensation as may be required by tribal law or court rule.

Section 8. Outside Employment. Each full-time permanent court personnel's position must be the court employee's primary employment. Outside employment is permissible only if it complies with all of the following criteria:

- A. The outside employment is not with an entity that regularly appears before, or conducts business with the court system, including any gaming enterprise the Pokagon Band may develop in the future.
- B. The outside employment does not require the court employee to have frequent contact with attorneys who regularly appear before the court system.
- C. The outside employment is capable of being fulfilled outside of normal working hours and is not incompatible with the performance of the employee's duties and responsibilities.

- D. The outside employment does not require the practice of law.
- E. The outside employment does not require or induce the court employee to disclose confidential information acquired in the course of and by reason of the employee's official duties with the court system.
- F. The outside employment shall not be within the executive or legislative branch of tribal government without the express written consent of both employers.
- G. Where conflict of interest exists or may reasonably appear to exist or where the outside employment reflects adversely on the integrity of the court system, the court employee shall inform the appropriate authority prior to accepting the employment.

Section 9. Political Activities.

- A. Court personnel must refrain from all political activities or actions that could be interpreted in the Tribal community as supporting a political position or candidate that might interfere with the performance of their duties.
- B. **No Engagement in Band Political Activity.** Unless authorized by tribal law or tradition, court personnel must not engage in any Band-related political activity except on behalf of measures to improve the law, the tribal justice system, or the administration of justice. Prohibited activities include, without limitation:
 - 1. Declaring candidacy for Band political office;
 - 2. Acting as a leader in any Band political organization;
 - 3. Publicly endorsing or publicly opposing a candidate for Band political office;
 - 4. Making speeches on behalf of any Band political organization; or
 - 5. Soliciting funds for or making a contribution to a Band political organization or candidate for Band office, or purchasing tickets for Band political party dinners or other functions.
- C. **Outside Political Activity.** Court personnel must refrain from all other political activity inappropriate to their position held within the Pokagon Band Tribal Court System. Inappropriate outside political activity may include, without limitation, activity that is likely to be construed by the Pokagon community as supporting a political position adverse to the political rights of the Band or individual members. Court personnel may, however, engage in political activities of electoral politics at the local, state, or federal levels.

Section 10. Continuing Education Activities. Court personnel, regardless of education and experience prior to being hired as court personnel, should seek further legal and pertinent non-legal education designed to improve their performance as court personnel.

Section 11. Enforcement of These Rules. In order to ensure compliance with these *Rules*, it is necessary to establish a means of enforcement.

- A. **Line of Authority.** These *Rules* are supplemental to *Tribal Court System Personnel Policies* and as such, any *Tribal Court System Personnel Policies* or relevant Tribal Constitution provisions shall control where there is any inconsistency between these *Rules* and the *Tribal Court System Personnel Policies* or relevant Tribal Constitution provisions.
- B. **Discipline of Court Personnel.** Violations of these standards by tribal court personnel may result in an adverse personnel action, up to and including, termination. All discipline initiated as a result of a violation of these standards shall be conducted in accordance with applicable *Pokagon Band Tribal Court System Personnel Policies*.

Section 12. Short Title, Effective Date, Citation Format and Certificate of Adoption.

- A. **Short Title.** These *Rules* are titled "Rules of Ethics for Court Personnel."
- B. **Effective Date.** These *Rules* become effective when adopted by the members of the Court of Appeals of the Pokagon Band of Potawatomi Indians.
- C. **Citation.** The official abbreviated citation form to these *Rules* is: PBCR Chapter 9.
- D. **Certificate of Adoption.** The Justices of the Court of Appeals unanimously adopted the above Rules on December 9, 2004.

JUDICIAL HISTORY

On December 9, 2004: The *Court Rules of Ethics for Tribal Court Personnel* were unanimously adopted by the Justices of the Court of Appeals.

On July 26, 2006: Technical revisions were made to this Chapter of Court Rules to provide uniformity in formatting and nomenclature for all Chapters of Court Rules pursuant to Administrative Order 06-001-CA.

On October 27, 2007: Technical revisions were made to this Chapter of Court Rules to provide uniformity in formatting and nomenclature for all Chapters of Court Rules.

On September 24, 2008: Technical revisions were made to this Chapter of Court Rules to correct clerical errors and to clarify the definition of '*Court Personnel* or *Court Employee*' in Section 1(B)(4).

On August 29, 2012: Technical revisions were made to the *Judicial History* to provide uniformity in formatting for all Chapters of Court Rules. Revisions were made to Section 12 to: (1) incorporate the *Certificate of Adoption* provision into Section 12; (2) eliminate the signature lines under the *Certificate of Adoption*; and (3) add the words "Certificate of Adoption" to the title of Section 12.