

IN THE SUPREME COURT OF THE OSAGE NATION
PAWHUSKA, OKLAHOMA

Supreme Court
of the Osage Nation

FILED MAR 21 2017

By

In re:

Rule of Court¹

Judicial Conduct

CHAPTER 3: JUDICIAL CONDUCT

Rule 1: Applicability

These rules apply to anyone who is an officer of the Osage judicial system and who performs judicial functions. These rules apply to both trial and appellate judges who serve the Osage Nation Judicial Branch ("Court") on a full-time, part-time, or *pro tempore* basis. As employed in this Rule, the term "judge" also includes justices. These Rules are intended to supplement the Code of Ethics set forth in the Osage Nation Constitution and enacted in Osage law and nothing herein should be construed to relieve judicial officers of their obligations under the Osage Nation Constitution. For purposes of this rule "lawyer" or "counsel" mean any person admitted to practice law before the Osage Nation and "advocate" means a Court Appointed Special Advocate or domestic violence advocate.

Rule 2: Canons of Judicial Conduct

2.1 Canon 1: A judge should uphold the integrity and independence of the judiciary.
Independent and honorable judges are indispensable to justice in the Osage Nation. Judges should participate in establishing, maintaining, and enforcing high standards of conduct to preserve the integrity and independence of all judges. The provisions of this Rule should be construed and applied to further that objective.

2.2 Canon 2: Judges should avoid impropriety and the appearance of impropriety in all their activities.

(a) Judges should respect and comply with the law and should conduct themselves at all times in a manner that promotes public confidence in the honesty and impartiality of Osage Nation judges.

(b) Judges should not allow their family, social, or other relationships to influence their judicial conduct or judgment. They should adhere to the American Bar Association's Model Code of Judicial Conduct. They should not use their positions as judges to advance the private interests of others; nor should they give, or permit others to give, the impression that they are in a special position to influence a judge's actions or decisions.

¹ The Chief Justice is responsible for promulgating Rules of Court under 5 ONC § 1-118.

2.3 Canon 3: Judges should perform the duties of their office impartially and diligently.

The judicial duties of a judge take precedence over all other activities. Judicial duties include all the duties of office prescribed by law. In the performance of these duties, the following standards apply:

(a) Responsibilities in deciding cases

(1) A judge should be faithful to the law and maintain sufficient knowledge of the rules and relevant tribal and federal law. He should be unswayed by the private interest of particular parties, public outcry for or against a particular ruling, or fear of criticism.

(2) A judge should maintain order and decorum in proceedings before him.

(3) A judge should be patient, dignified, and courteous to plaintiffs and defendants, jurors, witnesses, lawyers, advocates, and others with whom he deals in his official capacity, and should require similar conduct of lawyers, staff, court officials, and others subject to his direction and control.

(4) A judge should accord to every person who is legally interested in a proceeding, or his counsel, the right to be heard under Osage law, the Indian Civil Rights Act, and any other relevant source of law, except when applicable law limits the parties who may participate in the proceedings, including but not limited to specialty matters such as juvenile dependency or delinquency proceedings or matters sealed by order of the court.

(5) Except as authorized by law, the judge shall not initiate nor accept any written or oral communication concerning a pending case, either from a party to the case or from any other person, without either the agreement or presence of all parties. The judge shall not meet with any party to a case, or accept any communication from a party without either the agreement or presence of all other parties. A judge, however, may obtain the advice of a disinterested expert on law applicable to a proceeding before him if he gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond. These restrictions do not include communications with other judges or with court personnel whose functions it is to aid the judge in carrying out his judicial activities.

(6) A judge should dispose promptly of the business of the court through the consideration, evaluation, analysis and application of applicable law.

(7) A judge should abstain from public comment about a pending proceeding in any court, and should require similar abstention on the part of court personnel subject to his direction and control. This subsection does not prohibit judges from explaining for public information the procedures of the court.

(b) Administrative Responsibilities

(1) A judge should diligently perform his administrative responsibilities, maintain professional competence in judicial administration, and assist as needed with the performance of the administrative responsibilities of other judges and court officials.

(2) A judge should require his staff and court officials subject to his direction and control to observe the standards of competence, impartiality, and diligence that apply to him.

(3) A judge should take or initiate appropriate disciplinary measures against counsel for unprofessional conduct of which the judge may become aware.

(c) Disqualification

(1) A judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including, but not limited to instances, where:

(A) The judge has demonstrated a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts;

(B) The judge is named as a party or an interested party in the pending case;

(C) The judge has been counsel or attorney for any party in the pending case;

(D) The judge is a material and necessary witness in the pending case;

(E) The judge has a direct, demonstrable, and specific interest in the subject matter of the case whether personal, financial, proprietary, or business-related;

(F) The judge served as a lawyer, advocate, or personal representative in the matter before the Court, or a person with whom the judge has been associated in a professional capacity served as a lawyer, advocate, or personal representative concerning the matter;

(G) The judge or his or her spouse, significant other or domestic partner, or a person in a reasonably close family relationship to either of them:

(i) is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

(iii) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or

(iv) is, to the judge's knowledge, likely to be a material witness in the proceeding.

For purposes of this section “reasonable close family relationship” means a relationship created by blood, marriage, or domestic partnership with a person who is a grandparent, parent, step-parent, child, step-child, grandchild, sibling, or spouse/significant other/domestic partner.

(H) For purposes of this section, “financial” or “proprietary” interests shall not mean ownership or lack of ownership of all or part of share or shares in the Osage Mineral Estate established by the Act of June 28, 1906 (35 Stat. 539), as amended.

(2) Alternative to Disqualification. A judge disqualified pursuant this Rule may, instead of withdrawing from the proceeding, disclose on the record the basis of his disqualification. If based on such disclosure, the parties and lawyers or advocates, independent of the judge's participation, all agree in writing that the judge's participation is not prejudicial or that the judge's financial interest is insubstantial, the judge may preside over the matter.

2.4 Canon 4: A judge should engage in activities to improve the law, the legal system and the administration of justice.

To the extent that time permits, judges are encouraged to do so, either independently or through a legal/judicial association, judicial conference, or other organization dedicated to the improvement of the law. Therefore, a judge subject to the proper performance of his/her judicial duties may engage in the following activities:

(a) The judge may speak, write, lecture, teach, and participate in other activities concerning Osage law and custom, the legal system of the Nation, the administration of justice, and the law in general;

(b) The judge may appear at a public hearing before the Osage Executive or Legislative body or on official matters concerning the Nation’s legal system and the administration of justice of general concern to Osage citizens, or of personal concern. When speaking to the public, press, or others on matters other than the administration of Osage justice, the judge shall make it clear that he/she is not speaking in his/her capacity as an Osage judge; and

(c) The judge may serve as a member, officer, or director of an organization devoted to the improvement of tribal law, tribal legal systems, or the administration of justice. The judge may assist such an organization in raising funds and may participate in the management and investments of such funds. He may make recommendations to public and private fund-granting agencies on projects and programs concerning matters pertaining to the organization.

Rule 3: Extrajudicial Activities

3.1 Professional Activities. A judge may write, lecture, teach, speak, and consult on non-legal subjects, appear before public non-legal bodies, and engage in the arts, sports, and other social and recreational activities if such activities do not detract from the dignity of his/her office or interfere with the performance of his/her judicial duties.

3.2 Civic and Charitable Activities. A judge may participate in civic and charitable activities that do not reflect adversely upon his/her impartiality or interfere with the performance of his/her judicial duties. A judge may serve as an officer, director, trustee, or non-legal advisor of a bona fide educational, religious, charitable, fraternal, or civic organization, whether tribal or otherwise, provided that a judge does not participate if it is likely that the organization will be

involved in proceedings which would ordinarily come before him/her or would be involved in adversarial proceedings in any court.

3.3 Financial Activities. A judge should avoid financial and business dealings that tend to reflect adversely on his/her judicial duties, exploit his/her judicial position, or involve him/her in frequent business transactions with lawyers or others likely to come before the Court on which he/she serves.

(a) Because it is recognized that judicial positions are part-time positions, the judge may accept other employment and participate in the operation of a business, legal or otherwise in nature, subject to the following:

(1) a part-time judge should not practice law either as a lawyer or an advocate in a court in which he/she serves, or in any court subject to the appellate jurisdiction of the Supreme Court; and

(2) a part-time judge should not act as a lawyer in any proceeding or related proceeding in which he/she has presided over.

(b) A judge and members of his/her family residing in the household should not accept a gift, bequest, favor, or loan from anyone if the same would affect or appear to affect his/her impartiality. This provision shall not apply to the traditions and customs of the Osage Nation.

3.4 Extra-Judicial Appointments. Unless he resigns from office, a judge shall not accept appointment to an Osage governmental committee, commission or other position within the Osage Nation. A judge may, however, serve on non-Osage committees or commissions that are concerned with the general improvement of the law, the legal system, or the administration of justice; provided the subject matter is unrelated to Osage law. When invited, a judge may represent the Judicial Branch on ceremonial occasion or in connection with Osage historical, educational, and cultural activities.

Rule 4: Political Activities

4.1 Political Activity. A judge shall maintain the dignity appropriate to the judicial office and should refrain from any political activity which might interfere with the performance of his/her judicial duties. Judges shall not make pledges or promises of conduct in judicial office other than the faithful and impartial performance of the duties of the office, nor announce his/her views on disputed legal or political issues. Generally, a judge may attend political gatherings, speak at such gatherings on his/her own behalf and/or contribute to a political party.

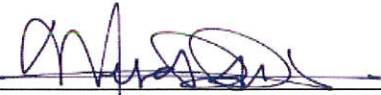
4.2 Candidates for Osage Congress or Principal Chief or Assistant Chief. A judge shall not be a candidate for Osage Congress or Principal Chief or Assistant Chief while serving as a judge, nor shall a judge be actively involved in the campaign of other candidates for elected positions of the Osage Nation. In the event a judge desires to run for an elected position of the Osage Nation, he/she shall take a leave of absence from judicial service from the date of filing candidacy

documents through the date the election results are finalized. If the campaign is unsuccessful, the judge may resume his/her judicial duties.

4.3 Political Support. While nothing herein should be construed as restricting constitutional and statutory free speech rights, judges must exercise extreme caution when engaging in political discourse on matters that may come before the court or that undermine the objectivity and impartiality of the Judicial Branch. A judge should consider refraining from political statements or actions which could be interpreted in the Osage community as supporting any political position except those that promote self-determination, self-governance and the furtherance of justice. This consideration does not include objective statements of existing law, statements of facts that are public knowledge or activities of electoral politics at other tribal, county, state, or national levels.

4.4 Continuing Educational Activities. A judge, regardless of his/her education and experiences prior to his/her appointment or retention as a judge, shall seek further legal and pertinent non-legal education by attending training seminars, workshops or professional conferences designed to educate judges or improve judicial services.

ORDERED this 21st day of March, 2017.



Meredith D. Drent
Chief Justice