

TITLE 1
GENERAL PROVISIONS

CHAPTER 1.	PRELIMINARY PROVISIONS	3
§1-1-1	Name of Code	3
§1-1-2	Repeal of Prior Inconsistent Ordinances and Resolutions	3
§1-1-3	Code of Federal Regulations	3
§1-1-4	Law Applicable in Civil Actions	3
§1-1-5	Amendment of Tribal Code	3
CHAPTER 2.	JURISDICTION.....	4
§1-2-1	Tribal Policy	4
§1-2-2	Territorial and Extra-Territorial Jurisdiction	4
§1-2-3	Personal Jurisdiction	4
§1-2-4	Jurisdiction Over Property	6
§1-2-5	General Subject Matter Jurisdiction and Limitations	6
§1-2-6	Exclusive Original Jurisdiction	6
§1-2-7	Special Tribal Criminal Jurisdiction	6
CHAPTER 3.	COURTS, JUDGES, AND OTHER COURT PERSONNEL.....	7
§1-3-1	Composition of the Choctaw Trial Courts	7
§1-3-2	Composition of the Choctaw Supreme Court	7
§1-3-3	Qualifications of Judges	8
§1-3-4	Qualification of Chief Justice and Associate Justices of the Supreme Court.....	8
§1-3-5	Chief Justice, Senior Judges and Court Administration	9
§1-3-6	Qualifications of Judges and Justices in Special Tribal Criminal Jurisdiction Cases.....	10
§1-3-7	Hearing of Cases During Absences or Vacancies.....	10
§1-3-8	Disqualification of Judges	10
§1-3-9	Dockets	10
§1-3-10	Contempt.....	11
CHAPTER 4.	COUNSELORS AND PROFESSIONAL ATTORNEYS.....	12
§1-4-1	Admission to Practice.....	12
§1-4-2	Requirements for Professional Attorneys	12
§1-4-3	Requirements for Lay Advocate.....	12
§1-4-4	Fees for Admission to Practice Before Choctaw Courts	13
CHAPTER 5.	GENERAL PROVISIONS	14
§1-5-1	Copies of Laws.....	14
§1-5-2	Records of Court Open to Public Inspection; Exceptions	14
§1-5-3	Adoption by Reference Not a Waiver of Sovereign Power of Choctaw Tribe	14
§1-5-4	Sovereign Immunity	14
§1-5-5	Actions By or Against the Tribe or Its Officers or Employees.....	14
§1-5-6	Limitations in Civil Actions	15
§1-5-7	Principles of Construction	15
§1-5-8	Definitions.....	16
§1-5-9	Judicial Notice of Adjudicative Facts	16
§1-5-10	Exhaustion of Administrative Remedies.....	17
CHAPTER 6.	TRIBAL COURT PROCEDURES.....	19
§1-6-1	Appointment of Judges.....	19
§1-6-2	Removal of Judges	19
§1-6-3	Compensation of Justices	19
§1-6-4	Administration.....	19
§1-6-5	Prosecutorial Services	20
§1-6-6	Attorneys for the Indigent	20
§1-6-7	Ethics Provisions	21

CHAPTER 7. CHOCTAW TRIBAL NOTICE ACT	24
§1-7-1 Findings and Purpose	24
§1-7-2 Notice Required	24
§1-7-3 Manner and Timing of Notice	24
§1-7-4 Tribal Participation Following Notice	24
§1-7-5 Failure to Give Notice	25
§1-7-6 Tribal Jurisdiction and Sovereign Immunity for Suit Unaffected.....	26
CHAPTER 8. CODE OF ETHICS FOR MISSISSIPPI BAND OF CHOCTAW INDIANS	
TRIBAL COURT CLERKS	27
Code of Ethics for Mississippi Band of Choctaw Indians Tribal Court Clerks	27

CHAPTER 1. PRELIMINARY PROVISIONS

§1-1-1 Name of Code

This Law and Order Code of the Mississippi Band of Choctaw Indians (the “Tribe” or “MBCI”) shall be known as and may be cited as the Choctaw Tribal Code (“C.T.C.”).

§1-1-2 Repeal of Prior Inconsistent Ordinances and Resolution

Any and all ordinances or resolutions of the Tribal Council of the Mississippi Band of Choctaw Indians which are inconsistent with or conflict with the provisions contained herein are hereby repealed as of the effective date of this Code, provided that the provisions of Tribal Ordinance No. 9, (including all appendices thereto but excepting §11.22 thereof) shall be enforced in lieu of this Code to the extent of any inconsistency.

§1-1-3 Code of Federal Regulations

All provisions of 25 C.F.R., Part 11, which are consistent with or in conflict with the provisions of this Code, shall in accordance with 25 C.F.R. Part 11.1(e), no longer apply to or be enforced by the Choctaw Court of Indian Offenses (now known as Choctaw Tribal Court), provided that any provisions of Part 11 required to remain in force by 25 C.F.R. Part 11.1(d), shall remain applicable to the Tribal Court for as long as and to such extent as may be required by federal law.

§1-1-4 Law Applicable in Civil Actions

In all civil actions the Choctaw Court shall apply applicable laws of the United States and authorized regulations of the Secretary of the Interior, and ordinances, customs, and usage of the Tribe. Where doubt arises as to the customs and usages of the Tribe, the court may request the advice of persons generally recognized in the community as being familiar with such customs and usages. Any matter not covered by applicable federal law and regulations or by ordinances, customs, and usages of the Tribe, shall be decided by the court according to the laws of the State of Mississippi.

§1-1-5 Amendment of Tribal Code

This Tribal Code may be amended and additions made hereto and deletions made herefrom in the manner provided for the adoption of Tribal ordinances. Amendments and additions to this Tribal Code shall become a part hereof for all purposes and shall be organized and incorporated herein in a manner consistent with the numbering and organization of the Tribal Code. Approval by the Secretary of the Interior shall not be required for amendments of the Tribal Code except to the extent that such approval may otherwise be required by federal or Tribal law.

CHAPTER 2. JURISDICTION

§1-2-1 Tribal Policy

It is hereby declared a matter of Tribal policy and legislative determination by the Tribal Council of the Mississippi Band of Choctaw Indians that the public interest and the interests of the Mississippi Band of Choctaw Indians require that the Tribe provide itself, its members, and other persons, both Indian and non-Indian, living on the Reservation, or who are within the jurisdiction of the Tribe, with an effective means of redress in civil cases in which at least the party presence, business dealings, or contracts, or other actions or failures to act, or other significant minimum contracts on or with the Reservation, the party defendant has incurred civil obligation to persons or entities to the Tribe's protection. This Tribal policy likewise extends to authorize the prosecution of criminal offenses committed within Tribal jurisdiction by Indian or non-Indian offenders as authorized by the Tribal Code and applicable federal law.

The jurisdiction provisions of this Tribal Code and the procedures and requirements contained herein shall, except as otherwise expressly provided, apply to all persons and entities within the territorial jurisdiction of the Tribe, subject to the limitations set forth in this Code.

§1-2-2 Territorial and Extra-Territorial Jurisdiction

- (1) The territory over and with respect to which this Tribal Code shall be in force shall include all lands made subject to the governmental jurisdiction of the Mississippi Band of Choctaw Indians pursuant to Article II of the Tribal Constitution and Bylaws (1974 Revision), to wit: All lands constituting the Mississippi Choctaw "Indian Country" under 18 U.S.C. § 1151(b) as well as such other lands as may be held in trust for the Mississippi Choctaws by the United States.
- (2) The territory over and with respect to which the Tribal Code shall be in force as defined in §1-2-2(1) shall hereinafter be referred to as the "Choctaw Indian Reservation."
- (3) This Tribal Code shall have such extra-territorial effect and application as may be permitted by federal law and as may be necessary and appropriate to execute the provisions hereof.

§1-2-3 Personal Jurisdiction

- (1) As used in these jurisdiction provisions, the word "person" shall include any individual, firm, company, association, or corporation.
- (2) Subject to any contrary provisions, exceptions or limitations contained in either federal law, the Tribal Constitution, or as expressly stated elsewhere in this Tribal Code, the Courts of the Mississippi Band of Choctaw Indians shall have civil and criminal jurisdiction over the following persons, who shall also be subject to the rules, regulations, and procedures established in this Tribal Code:
 - (a) any person residing, located or present within the Choctaw Indian Reservation for any civil cause of action;

- (b) any Indian person for any charge of criminal offense prohibited by the Tribal code or other ordinance of the Tribe when the offense is alleged to have occurred within the Choctaw Indian Reservation.
 - (c) any person who transacts, conducts or performs any business or activity within the Choctaw Indian Reservation, either in person or by an agent or representative, for any civil cause of action or for any act expressly prohibited by the Tribal Code or other ordinance of the Tribe arising from such business or activity;
 - (d) any Indian person who transacts, conducts or performs any business or activity within the Reservation, either in person or by an agent or representative, for any civil cause of action or charge of criminal offense for any act expressly prohibited by this Tribal Code or other ordinance of the Tribe arising from such business or activity.
 - (e) any person who owns, use or possesses any property within the Reservation, for any civil cause of action arising under the Tribal Code or other ordinance of the Tribe and arising from such ownership, use or possession;
 - (f) any Indian person who owns, uses or possesses any property within the Reservation, for any civil cause of action or charge of criminal offense prohibited by the Tribal Code or other ordinance of the Tribe arising from such ownership, use or possession;
 - (g) any person who commits a tortious act or engages in tortious conduct within the Choctaw Indian Reservation, either in person or by an agent or representative, for any civil cause of action arising from such act or conduct; or
 - (h) any Indian person who commits a criminal offense prohibited by the Tribal Code or other ordinance of the Tribe, by his own conduct or the conduct of another for which he is legally accountable, if:
 - (i) the conduct occurs either wholly or partly within the Choctaw Indian Reservation;
 - (ii) the conduct which occurs outside the Choctaw Indian Reservation constitutes an attempt, solicitation or conspiracy to commit an offense within the Choctaw Indian Reservation and an act in furtherance of the attempt or conspiracy occurs within the Choctaw Indian Reservations; or
 - (iii) the conduct which occurs within the Choctaw Indian Reservation constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction an offense prohibited by the Tribal Code or other ordinance of the Tribe, and is also prohibited by such other jurisdictions; or
 - (i) any non-Indian person who commits a criminal offense within the Choctaw Indian Reservation that is defined as a Covered Crime within the Special Tribal Criminal Jurisdiction provisions in Chapter Two of Title II of this Code.
- (3) None of the foregoing bases of jurisdiction is exclusive, and jurisdiction over a person may be established on any one or more of such bases.

§1-2-4 Jurisdiction Over Property

Subject to any contrary provisions, exceptions or limitations in federal law, the Tribal Constitution, or as expressly stated elsewhere in the Tribal Code, the rules, regulations, and procedures contained herein shall apply to, and the courts of the Choctaw Tribe shall have jurisdiction over, any real or personal property located within the territorial jurisdiction of the Tribe as defined in the Tribal Code to determine the ownership thereof or rights therein or to determine the application of such property to the satisfaction of a claim for which the owner of the property is or may be liable.

§1-2-5 General Subject Matter Jurisdiction and Limitations

- (1) Subject to any contrary provisions, exception or limitations contained in either federal law, the Tribal Constitution, or this Tribal Code, the Courts of the Mississippi Band of Choctaw Indians shall have jurisdiction over all civil actions and over all offenses occurring within the jurisdiction defined by the Tribal Code.
- (2) The Courts of the Mississippi Band of Choctaw Indians shall not assume jurisdiction over any civil or criminal matter which does not involve either the Tribe, it's officers, agents, or employees in their official capacities; or its property or enterprises, or a member of the Tribe or of some other federally-recognized tribe, or the interests thereof or a person eligible for membership in the tribe or some other federally-recognized Tribe, or the interests thereof, or the ordinances, resolutions, rules or regulations of the Tribe, if some other judicial forum exists for the handling of the matter and the matter is not one in which the rights of the Tribe or its members may be directly affected.

§1-2-6 Exclusive Original Jurisdiction

- (1) Except as otherwise required by federal law, the Courts of the Mississippi Band of Choctaw Indians shall have exclusive original jurisdiction over all matters in which the Mississippi Band of Choctaw Indians or its officers, agent or employees are parties in their official capacities or as the result of performing their duties for the Tribe.
- (2) Nothing contained in the preceding paragraph or elsewhere in this Tribal Code shall be construed as a waiver of the sovereign immunity of the Tribe or its enterprises, or of its officers, agents or employees, unless specifically denominated as such.

§1-2-7 Special Tribal Criminal Jurisdiction

The term "Special Tribal Criminal Jurisdiction" refers to the Tribe's exercise of its inherent authority of criminal jurisdiction over a non-Indian defendant for a Covered Crime that occurs within the exterior boundaries of the Reservation of the Tribe. The exercise of such criminal jurisdiction shall be conducted in accordance with Chapter Two of Title II of this Code.

CHAPTER 3. COURTS, JUDGES, AND OTHER COURT PERSONNEL

§1-3-1 Composition of the Choctaw Trial Courts

- (1) The Choctaw Trial Court System shall consist of four separate courts, namely:
 - (a) Civil Court;
 - (b) Criminal Court;
 - (c) Youth Court; and
 - (d) the Iti-Kana-Ikbi Court (also known as the Peacemaker Court).

Each court shall have one or more judges assigned to it who shall be responsible for hearing cases assigned to the court. Except as allowed by this Title, a judge assigned to one court shall not hear cases assigned to another court.

- (2) The Civil Court shall consist of two divisions, the first being Regular Civil Division and the second being Small Claims Division. The Small Claims Division shall have jurisdiction over civil claims where the amount in controversy is less than one thousand dollars (\$1,000.00). The Regular Civil Division shall have jurisdiction over all civil matters. A judge presiding for the Regular Civil Division shall have jurisdiction over all civil matters. A judge presiding for the Regular Civil Division may transfer any civil case to the Small Claims Division if he feels the case can be better adjudicated in the Small Claims Division. The Choctaw Rules of Civil Procedure and Rules of Evidence shall apply in the Regular Civil Division, but neither shall apply in the Small Claims Division.
- (3) The Criminal Court shall have jurisdiction over all criminal actions unless such actions are brought pursuant to Title XI, Choctaw Youth Code.
- (4) The Youth Court shall have exclusive jurisdiction over all actions brought pursuant to Title XI, Choctaw Youth Code.
- (5) The Iti-Kana-Ikbi Court shall not have any original jurisdiction but instead only shall have jurisdiction over cases referred to it by the Civil Court, the Youth Court or the Criminal Court. The Iti-Kana-Ikbi Court shall operate in accordance with Title XXIV. The court referring any case to Iti-Kana-Ikbi Court shall retain jurisdiction over the case. For any case referred from the Criminal Court, the Iti-Kana-Ikbi Court may only exercise jurisdiction over cases when the defendant is an Indian.

§1-3-2 Composition of the Choctaw Supreme Court

The Choctaw Supreme Court shall be comprised of one Chief Justice and two Associate Justices sitting as a three-justice panel to hear and decide appeals, If any Justice is unavailable or is disqualified pursuant to this Code or there is a vacancy on the Supreme Court, the Tribal Council shall appoint and certify a list of judges available to serve as a pro-tem Justice to serve in place of the unavailable or disqualified Justice, or to fill a vacancy on the Court until the Tribal Court appoints a regularly serving Justice.

- (1) The Chief Justice shall serve a four-year term and the Associate Justices shall serve a four-year staggered term with one of the Associate Justices initially serving a one-year term to begin the staggered terms.

§1-3-3 Qualifications of Judges

- (1) No person shall be eligible to be a judge assigned to the Criminal Court, the Youth Court or the Iti-kana-Ikbi Court unless he or she:
 - (a) is at least thirty (30) years of age;
 - (b) has successfully completed at least two (2) years of accredited college-level course work;
 - (c) has never been convicted of a felony;
 - (d) is of good moral character and integrity;
 - (e) can read, write and understand the Choctaw and English language;
 - (f) is familiar with the provisions of the Tribal Code, Choctaw Court procedures, federal law applicable to the Choctaw Indian Reservation, Choctaw customs, and is capable of preparing the papers and reports incidental to the office of the judge; and
 - (g) is an enrolled member of the Tribe.

The Chief may waive any provision is §1-3-3(1) of the Tribal Code except subpart (g) and the Tribal Council may confirm with such waiver if in the Chief's discretion, he finds such to be in the best interest of the Tribe.

- (2) No person shall be appointed as a judge in the Choctaw Civil Court unless he or she has the qualifications listed above, excepting (a) the ability to speak and understand the Choctaw Language and (b) membership in the Tribe. All appointed judges to the Choctaw Civil Court shall also be an attorney who shall have graduated in good standing from an accredited law school and be duly admitted to the practice of law in the State of Mississippi.
- (3) No person shall be confirmed as a judge in any court until his or her qualifications and competence have been examined by the Committee on Judicial Affairs and Law Enforcement of the Tribal Council and a written report of such examination has been filed with the Tribal Council.
- (4) The provisions of sub-parts (1), (2), and (3) of this section shall supplement 25 C.F.R. Part 11.3, and shall not be construed as supplanting Part 11.3.

§1-3-4 Qualification of Chief Justice and Associate Justices of the Supreme Court

- (1) The qualifications for the Chief Justice of the Supreme Court shall be the same as §1-3-3(1) of the Tribal Code and have at least three (3) years of experience serving as a judge for a state, federal, or Tribal court.

- (2) The qualification for the Associate Justices must include graduation from an accredited law school, be in good standing with a state bar and at least two (2) years of experience serving as a judge for a state, federal, or Tribal court; or in lieu of these qualifications, those criteria may be waived, if the candidate has a minimum of ten (10) years of experience as a Tribal judge.

§1-3-5 Chief Justice, Senior Judges and Court Administration

- (1) Each court shall have a senior judge. In the event only one judge is assigned to a court, that judge shall be the senior judge of that court. In the event more than one judge is assigned to a court, the senior judge shall be the judge with the longest continuous service as a Mississippi Band of Choctaw Indians Tribal court judge.
- (2) The senior judge of each court shall be responsible for the administration of their respective division and developing internal rules and procedures of his or her court not inconsistent with this Title and for assigning cases within his or her court.
- (3) The Chief Justice of the Supreme Court shall serve as the principal judicial officer for the court system and shall be responsible for the administration of matters affecting the entire court system, and shall serve as senior judge of the Supreme Court.
- (4) The Court Administrator shall be the person responsible:
 - (a) for overseeing the day-to-day activities of clerical workers assigned to the courts;
 - (b) recruiting, hiring, and supervising clerical workers assigned to the courts; and
 - (c) maintaining the dockets of each court.
- (5) The Court Administrator shall be appointed by the Chief and shall be subject to removal by the Chief in accordance with the revised Administrative Personnel Policies.
- (6) No person shall be appointed Court Administrator unless that person is a graduate of an accredited college or university, has never been convicted of a felony and is of good moral character and integrity.
- (7) The Court Administrator shall be subject to the supervision of the senior judges of each court with regard to matters pertaining to that court. On matters covering the court system as a whole, the Court Administrator shall report to the Chief Justice of the Supreme Court.
- (8) No later than 15 days after the end of each calendar quarter, the Court Administrator shall provide to the Chief, the Chairman of the Committee on Judicial Affairs and Law Enforcement of the Tribal Council and each judge of the court system, a report setting forth the number of cases pending at the end of the quarter in each court and the number of cases resolved in each court during the quarter.
- (9) Prior to entering upon the duties of Court Administrator, such person shall be bonded in an appropriate amount set by the Chief, the cost thereof to be paid by the Tribe.

§1-3-6 Qualification of Special Judges and Justices in Special Tribal Criminal Jurisdiction Cases

In any case where the Tribe exercises Special Tribal Criminal Jurisdiction over a Covered Crime where a term of imprisonment of any length may be imposed, the Special Judge in the Trial Court and the Justices in the Supreme Court presiding over the criminal proceedings must have sufficient legal training to preside over criminal proceedings and are licensed to practice law by any jurisdiction in the United States, including any Tribal government.

§1-3-7 Hearing of Cases During Absences or Vacancies

- (1) In the event one of the courts of the Choctaw Trial Court System is without a judge due to absence disqualification or vacancy the following rules shall govern:
 - (a) a judge of the Civil Court shall preside in the Youth Court;
 - (b) a judge of the Civil Court shall preside in the Criminal Court.
 - (c) any judge may preside in the Iti-Kana-Ikbi Court; and
 - (d) a judge of the Criminal Court shall preside in the Civil Court.

§1-3-8 Disqualification of Judges or Justice

- (1) Any judge or justice shall be disqualified to act in any proceeding:
 - (a) in which he or she has a monetary or property interest;
 - (b) in which he or she is or has been a material witness; or
 - (c) in which he or she is related to any party or their attorney by marriage or blood in the first or second degree.
- (2) A judge or justice may be disqualified on his own motion or after a hearing on the filing of an affidavit of prejudice by any party to the proceeding, unless the judge or justice waives hearing on such affidavit or voluntarily recuses himself from the proceeding.

§1-3-9 Dockets

The Court Administrator shall maintain a separate docket for each court in the Choctaw Court System, which shall contain the names of each plaintiff and defendant in any civil or criminal proceeding, the character of the proceedings, the date of the issuance and the return date of any process issued therein, any pleading filed by any party, the appearance of default of any party summoned, the orders or judgments rendered by any judge, the date and amount of any judgment, the records and pleading of any appeal filed therein, and any other documents that a judge of the court in question may direct to be included in the file. Any party may obtain a certified copy of such docket or pleadings, or parts thereof, from the Court Administrator upon payment of the cost thereof; provided, however that the procedures for maintenance of any dockets, case files, pleadings, or other records of the Youth Court shall be governed by the provisions of Title XI, Choctaw Youth Code, to the extent that such provisions differ or are more restrictive than the provisions of this chapter.

§1-3-10 Contempt

Any judge of the Choctaw Courts may rule a person in contempt of court if he willfully and unjustifiably disrupts, obstructs or otherwise interferes with the due and orderly course of proceedings in the courtroom after being advised by the judge to cease, or if the person fails to obey and abide by any order of the court. Ruling of and sentences for contempt may be announced immediately after the acts of contempt occur or after a hearing to show cause why a person should not be held in contempt, depending on how the circumstances giving rise to the contempt actions occur. The contempt penalty may be either civil or criminal in nature, consistent with applicable law. Criminal contempt citations may be treated as Class C, Class B, or Class A crimes as the facts of the incident may warrant.

CHAPTER 4. COUNSELORS AND PROFESSIONAL ATTORNEYS

§1-4-1 Admission to Practice

Professional attorneys or lay advocates shall be admitted to practice before the Choctaw Courts by order of the Chief Justice, who shall make examination of the competence and character of applicants for admission.

§1-4-2 Requirements for Professional Attorneys

No professional attorney shall be admitted to practice before the Choctaw Courts unless he or she:

- (1) is admitted to the practice of law in the State of Mississippi or a member of the Mississippi Band of Choctaw Indians and is admitted in good standing to practice law in another state;
- (2) has never been convicted of a felony (without regard to the nature of the plea entered to the felony charge) and has not been convicted of a misdemeanor during the past year.
- (3) is of good moral character;
- (4) demonstrates to the court a thorough knowledge of the Tribal Code, Choctaw Court procedures, federal laws and regulations applicable to the Tribe and Choctaw customs; and
- (5) has paid such fees for admission to practice before the Choctaw Courts as may have set under §1-4-4 of the Tribal Code.

§1-4-3 Requirements for Lay Advocate

No person not a lay advocate shall be admitted to practice before the Choctaw Court unless he or she is:

- (1) 21 years of age or older;
- (2) has never been convicted of a felony and has not been convicted of a misdemeanor in the past year;
- (3) is of good moral character;
- (4) demonstrates to the court a thorough knowledge of the Tribal Code, Choctaw Court Procedures, federal laws and regulations applicable to the Tribe and Choctaw customs;
- (5) is a member of the Tribe or of another federally recognized American Indian tribe;
- (6) is not a member of the Tribal Council; and
- (7) has paid such fees for admission to practice before the Choctaw Courts as may have been set under §1-4-4 of the Tribal Code.

§1-4-4 Fees for Admission to Practice Before Choctaw Courts

The Tribal Council may from time to time act by ordinance to set such fees and such other practice and licensing requirements respecting the practice of law before the Choctaw Courts as it may deem appropriate.

CHAPTER 5. GENERAL PROVISIONS

§1-5-1 Copies of Laws

There shall be kept available for public inspection during regular business hours at the Office of the Clerk of the Tribal Court copies of the Tribal Code and any amendments thereto, plus copies of all laws or rules which are incorporated by reference from other jurisdiction into the Tribal Code, plus a copy of the Code of Professional Responsibility of the American Bar Association.

§1-5-2 Records of Court Open to Public Inspection; Exception

The files and records of the Choctaw Courts shall be open for public inspection, except that the files and records for adoptions, incompetency proceedings and Youth Court proceedings shall not be open to public inspection and may be inspected only with prior specific judicial authorization.

§1-5-3 Adoption by Reference Not a Waiver of Sovereign Power of Choctaw Tribe

The adoption of any law, code or other document by reference into the Tribal Code shall in no way constitute a waiver or cession of any sovereign power of the Tribe to the jurisdiction whose law or code is adopted, or in any way diminish such sovereign power, but shall result in the law or code thus adopted becoming the law of the Tribe.

§1-5-4 Sovereign Immunity

Except as expressly abrogated by act of Congress, or as specifically waived by resolution or ordinance of the Tribal Council specifically referring to such, the Tribe shall be immune from suit in any civil action, and its officers and employees immune from suit for any liability arising from the performance of their official duties.

§1-5-5 Actions By or Against the Tribe or its Officers or Employees

In any action otherwise authorized by or against the Tribe or its officers or employees arising from the performance of their official duties, the following modifications to the rules or procedures set forth in the Tribal Code shall apply:

- (1) The periods of time specified for civil cases or appeals of either a civil or criminal nature in which an answer, reply or other pleading or response of any kind shall be required shall be double the period specified.
- (2) Neither the Tribe nor its officers or employees when involved in a civil action arising from the performance of their official duties shall be liable for the payment of the costs or expenses of the opposing party.
- (3) Neither the Tribe nor its officers or employees when involved in a civil action arising from the performance of their official duties shall be required to post security by bond or otherwise for any purpose.
- (4) No action, otherwise authorized, may be instituted against any officer or employee of the Tribe for a cause of action arising out of, or in the course of, the performance of his duty, or any action upon the bond of any such officer or employee, unless there is filed with the complaint a cash or written bond or undertaking with at least two sufficient sureties subject to the jurisdiction of the court in the amount of \$3000 or such greater amount as

the court may order, conditioned for the payment of such costs, charges and reasonable attorney's fees to be fixed by the court as may be awarded against the plaintiff's in said action.

- (5) No action may be instituted against the Tribe unless security under the same conditions as set forth above is filed with the complaint.
- (6) From and after August 1, 1993, the Tribe shall be responsible for providing a defense to criminal and civil complaints against officers and employees of the Tribe arising out of the course of their employment or official duties, and for the payment of any judgment in any civil action or the settlement of any claim against such officer or employee for money damages arising out of any act or omission within the course of employment or performance of official duties on behalf of the Tribe. The Tribe's duty to defend and provide indemnity on behalf of its officers and employees shall be secondary to the obligation of the Tribe's insurers, and such insurers shall not be relieved of any legal obligation to the Tribe's officers or employees or to the Tribe due to this Tribal law. For purposes of this paragraph, a Tribal employee or officer shall not be considered as acting within the course of his employment or official duties for any conduct that a court determines to have constituted fraud, defamation, or any criminal offense. Except as provided in the preceding sentence, for purposes of this paragraph but not otherwise, it shall be rebuttable presumption that any act or omission of a Tribal employee or officer within the time and at the place of his or her employment is within the course and scope of his employment and/or official duties.

§1-5-6 Limitations in Civil Actions

Unless otherwise specifically provided in the Tribal Code, the following limitations on the bringing of civil actions will apply:

- (1) Any action against the Tribe or its officers or employees arising from the performance of their official duties must be commenced with one year of the date the cause of action occurred.
- (2) Any other action must be commenced within two years of the date the cause of action occurred; provided, however, that any cause of action based on fraud or mistake shall not be deemed to have occurred until the aggrieved party has discovered or reasonably should have discovered the facts constituting the fraud or mistake.

§1-5-7 Principles of Construction

The following principles of construction will apply to all of the Tribal Code unless a different construction is obviously intended:

- (1) Masculine words shall include the feminine, and singular words shall include the plural, and vice versa.
- (2) Words shall be given their plain meaning and technical words shall be given their usually understood meaning where no other meaning is specified.
- (3) Whenever a term is defined for a specific part of the Tribal Code, that definition shall apply to all parts of the Tribal Code unless a contrary meaning is clearly intended.

- (4) This Tribal Code be construed as a whole to give effect to all its parts in a logical, consistent manner.
- (5) If any provisions of the Tribal Code or the application of any provisions to any person or circumstance is held invalid, the remainder of the Tribal Code shall not be affected thereby, and to this end the provisions of the Tribal code are declared to be severable.
- (6) Any typographical errors or omissions shall be ignored whenever the intended meaning of the provisions containing the error or omission is otherwise reasonably certain to the court.
- (7) Any other issues of construction shall be handled in accordance with generally accepted principles of construction giving due regard for the underlying principles and purposes of the Tribal Code.

§1-5-8 Definitions

The following definitions will apply to the Tribal Code:

- (1) “Indian” or “Indian person” means any person of Indian descent who is defined as an Indian for purposes of federal criminal jurisdiction under the Major Crimes Act, 18 U.S.C. §1153.
- (2) “Reservation” or “Choctaw Reservation” means all lands encompassed by the definition of Tribal territorial jurisdiction set out at §1-2-2(1) of the Tribal Code.
- (3) “Tribe” means the Mississippi Band of Choctaw Indians, unless another or nonspecific Indian tribe is closely intended.
- (4) “Tribal Council” means the Choctaw Tribal Council as specified in the Constitution of the Mississippi Band of Choctaw Indians.
- (5) “Superintendent” means the representative of the Bureau of Indian Affairs or other person to whom has been delegated Bureau of Indian Affairs administrative authority for Bureau of Indian Affairs functions on the Choctaw Indian Reservation.
- (6) “Signature” means the written signature, or official seal of a person, or the mark or thumbprint of a person witnessed by two disinterested persons subscribing their names therewith.
- (7) “Tribal Chief” means the elected Tribal Chief of the Mississippi Band of Choctaw Indians.
- (8) “Choctaw Court(s)” or “Courts of the Mississippi Band of Choctaw Indians” means any courts which have been or may hereafter be established by authority of the Mississippi Band of Choctaw Indians and/or the Secretary of the Interior, for the Choctaw Indian Reservations.

§1-5-9 Judicial Notice of Adjudicative Facts

- (1) Scope of rule: This rule governs only judicial notice of adjudicative facts; that is, facts at issue in a particular case.

- (2) Kinds of Facts: A judicially-noticed fact must be one not subject to reasonable dispute in that it is either:
 - (a) generally known within the territorial jurisdiction of the trial court;
 - (b) capable of accurate and ready determination by resorting to sources whose accuracy cannot reasonably be questioned.
- (3) When discretionary: A court may take judicial notice of such facts, whether requested or not.
- (4) When mandatory: A court shall take judicial notice of such facts, whether requested or not.
- (5) Opportunity to be heard: A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.
- (6) Time of taking notice: Judicial notice may be taken at any stage of the proceeding.
- (7) Instructing jury: In a civil action or proceeding, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case heard by a jury the court shall instruct the jury that it may but is not required to, accept as conclusive any fact judicially noticed.

§1-5-10 Exhaustion of Administrative Remedies

No Court of the Mississippi Band of Choctaw Indians shall have jurisdiction to entertain any civil suit or action, or any privately initiated criminal complaint, against the Mississippi Band of Choctaw Indians, the Tribal Council, a Tribal government agency or instrumentality, or any Tribal official or employee complaining of the official conduct thereof unless the plaintiff in such action has first exhausted Tribal administrative remedies in an effort to correct the matter complained of; provided, however, that suits, actions or complaints deriving from a decision of an independent agency of the Tribe created by the Tribal Council through provisions of the Tribal Code, such as the Choctaw Gaming Commission created under Title XV, may proceed directly from the independent agency to the Tribal Court without a written complaint having to be filed with the Chief.

To exhaust administrative remedies under this section, a petitioner, plaintiff, or complaining witness must:

- (1) make a good faith effort to invoke and comply with all then existing, reasonable administrative procedures for handling disputes, grievances or complaints applicable to the office or department in which the matter arose; and
- (2) upon compliance with subsection (1) file a written complaint with the Tribal Chief setting out the basis for the complaint and the administrative remedies pursued to correct the matter complained of, with the exception of complaints concerning the decisions of independent agencies, in which case a complaint need not be filed with the Chief.

- (3) If the Tribal Chief's final action on the complaint does not satisfy the complaining party, or if the Tribal Chief has taken no action on the complaint within twenty (20) days of the date it was filed, the complaining party shall be deemed to have exhausted administrative remedies for purposes of this section.
- (4) Any complaint in the Tribal court against the Mississippi Band of Choctaw Indians, the Tribal Council, a Tribal government agency or instrumentality or any Tribal official or employee complaining of the official conduct thereof, which fails to demonstrate on its face that the filing party has complied with the requirements of this section shall be dismissed by the court without prejudice to that party's right to file the suit again when if these requirements have been met.
- (5) Notwithstanding the above, the court has jurisdiction to entertain an application for a temporary restraining order (TRO) against the Mississippi Band of Choctaw Indians, the Tribal Council, a Tribal government agency or instrumentality, or any Tribal official or employee, after a hearing, where the petitioner demonstrates compliance with Title VI, Rule 65 (b), and where the failure to issue such TRO for the minimum time necessary to exhaust remedies under this section would produce irreparable injury, loss or damage to petitioner and where the issuance of said TRO would not cause undue loss or inconvenience to defendant.
- (6) Nothing in §1-5-10 of the Tribal Code constitutes a waiver of the Mississippi Band of Choctaw Indians' sovereign immunity from suit in civil actions as defined in §1-5-4 of the Tribal Code.

CHAPTER 6. TRIBAL COURT PROCEDURES

§1-6-1 Appointment of Judges

- (1) The Chief Justice and the Associate Justices shall be appointed to four-year terms by a two-thirds vote of the Tribal Council at its next regular meeting following the June elections in which eight members of the Council, but not the Chief, are elected. For calendar year 1985 only, appointment will be effective January 1, 1985, and the terms shall continue through July of 1989. All persons appointed must meet the qualifications set forth in §1-3-2 of the Tribal Code, and their qualifications shall have been reviewed by the Committee on Judicial Affairs and Law Enforcement prior to Tribal Council action.
- (2) The Special Judge shall be appointed by Tribal Council resolution to one-year terms commencing October 1 of each year. The employment of the Special Judge shall be governed by an employment agreement signed by the Chief and Secretary-Treasurer.
- (3) Prior to taking office, each judge shall take the following oath, which shall be administered by the Secretary-Treasurer or Chief Justice:

“I, _____, do solemnly swear [or affirm] that I will support the Constitution of the Mississippi Band of Choctaw Indians and the Constitution of the United States, will carry out and uphold the ordinances, resolutions and other legislation of the Tribal Council, will cooperate with local, state, and federal offices, and will administer justice and safeguard the rights guaranteed by the Indian Civil Rights Act of 1968.”

§1-6-2 Removal of Judges

Any judge of the Choctaw Tribal Court may be removed from office by a two-thirds vote of the membership of the Tribal Council for neglect of duty or gross misconduct after a hearing upon five days' notice, at which the judge is given an opportunity to answer all charges and present evidence to the Tribal Council in his defense. The decision of the Tribal Council shall be final.

§1-6-3 Compensation of Justices

- (1) The compensation of the Chief Justice and Associate Justices shall be determined by the Tribal Council through yearly approval of the Court budget; provided, however, that said compensation shall not be reduced during the judge's term of office, subject to availability of funds.
- (2) The employment agreement with the Special Judge shall set forth the rate of compensation for the Special Judge, which shall not exceed the budgeted amount in the Court budget.

§1-6-4 Administration

- (1) The operations of the Choctaw Tribal Court shall be primarily financed through a contract with or grant from the Bureau of Indian Affairs, administered by the Mississippi Band of Choctaw Indians in accordance with its approved financial policies and procedures and any other policies applicable to Tribal administration of federal funds. All

court expenditures shall be initiated by the Chief Justice or his designee. All time and attendance reports for officers of the court and other court personnel shall be signed by the Chief Justice prior to their submission to the Tribal Finance Office. The Chief Justice will forward copies of all retainers, employment agreements consultant agreement and all other contracts or agreement to the Chief for his and the Secretary-Treasurer's signature.

- (2) All sums collected by the court as fines, bail or bonds, or from the sale of confiscated items or commodities delivered in payment of fines and any other sums collected in connection with any function of the Choctaw Tribal Court shall be accounted for by the Clerk of Court and taken by the clerk to the Tribal Finance Office daily to be deposited in the name of the Tribe. Such funds may be appropriated by the Tribal Council from time to time for Tribal purposes; provided, however, that expenditure from this Tribal account shall be allowable, by purchase order, for any court refunds to defendants or others.
- (3) The court shall operate in accordance with the Revised Personnel policies of the Mississippi Band of Choctaw Indians with regard to administrative responsibilities and employee rights.

§1-6-5 Prosecutorial Services

The chief law enforcement prosecutorial office of the Tribal government shall be the Office of the Attorney General of the Mississippi Band of Choctaw Indians. The Attorney General of the Mississippi Band of Choctaw Indians ("Attorney General") shall report directly to the Chief and shall be considered a permanent political appointee under the Revised Personnel Policies for Tribal employees. Subject to the availability of funds, the Chief shall nominate such persons as the Chief feels are qualified to fill the position of Attorney General. Before taking office, such persons shall be confirmed by a majority vote of the Tribal Council. No person shall be nominated or appointed as Attorney General unless he or she is a member in good standing of the bar of the State of Mississippi. The Attorney General shall be considered a permanent political appointee, and the Chief may appoint other persons, as necessary and without Council confirmation, to serve on the staff of the Attorney General. The Chief may also, retain, subject to the availability of funds, other special prosecutors in such instances for specific tasks when it is determined that such are necessary and in the best interest of the Tribe. Such persons shall be nominated and confirmed in the same manner as set forth for the Attorney General of the Mississippi Band of Choctaw Indians, and the qualifications shall be the same as those set forth above for the Attorney General. A person filling such position shall report to the Chief and shall be a temporary political appointee.

The Attorney General of the Mississippi Band of Choctaw Indians, or any special prosecutor, shall have the power to subpoena witnesses and compel testimony in all matters, pursuant to a case pending before the Tribal Court, or not, as the case may be; but if in a matter not pending before the court, only with the prior written authorization of the Chief and approval by the judge of the Tribal Court.

§1-6-6 Attorneys for the Indigent

- (A) The Chief Justice may, pursuant to a signed agreement with an attorney or attorneys, appoint an attorney for defendants in criminal cases who are indigent and for whom the charge, if upheld, is likely to result in incarceration, and in child custody cases. For purposes of this section, "indigent" shall mean a member of a household with an annual income at the level at or below which households are considered to live in poverty, as

annually determined by the U.S. Department of Health and Human Services. The provision of attorney services to the indigent shall be subject to availability of funds.

- (B) In any case where the Tribe is exercising Special Tribal Criminal Jurisdiction, and the Covered Crime is a crime punishable by a term of imprisonment of any length, the Tribe, at its expense, shall provide an indigent defendant the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States, including any Tribal government, that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys.

§1-6-7 Ethics Provisions

This Section and all Canons shall apply equally to Justices as if they were judges. All judges of the Choctaw Tribal Court shall adhere to the following Code of Ethics and Judicial Conduct for the Choctaw Tribal Court, which is likewise adopted by the Tribal Council and incorporated in the rules governing Tribal Court operations,:

Canon 1

A Judge Should Uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice on the Choctaw Indian Reservation. A judge should participate in establishing, maintaining and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

Canon 2

A judge should avoid Impropriety and the Appearance of Impropriety in All His Activities

- (1) A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- (2) A judge should not allow his family, social or other relationships to influence his judicial conduct or judgment. He should not lend the prestige of his office to advance the private interests of others; nor should he convey or permit others to convey the impression that they are in a special position to influence him. He should not testify voluntarily as a character witness. He should avoid at all times discussions or communications concerning ongoing or pending cases with litigants or other interested persons unless both parties or their counselors are present or have been accorded and waived equal opportunity to meet and engage in the discussions. He shall not accept gifts, money, or gratuities under circumstances in which said gift, money, gratuity are or may be intended to influence his conduct.

Canon 3

A Judge should perform the Duties of His Office Impartially and Diligently

The judicial duties of a judge take precedence over all his other activities. His judicial duties include all the duties of his office prescribed by law. In the performance of these duties, a judge should:

- (1) be faithful to the law and maintain professional competence in it; be unswayed by partisan interests, public clamor or fear of criticism;
- (2) maintain order and decorum in proceedings before him;
- (3) be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom he deals in his official capacity and should require similar conduct of lawyers and of his staff, court officials, and others subject to his direction and control,
- (4) be committed to self-improvement and to participating in training made available to him.

Canon 4

A Judge May Engage in Activities to Improve the Law, the Legal System and the Administration of Justice

A judge, subject to the proper performance of his judicial duties, may engage in quasi-judicial activities, if in doing so he does not cast doubt on his capacity to decide impartially any issue that may come before him.

- (1) He may speak, write, lecture, teach and participate in other activities concerning the law, the legal system and the administration of justice.
- (2) He may appear at a public hearing before an executive or legislative body of officials on matters concerning the law, the legal system and the administration of justice, and he may otherwise consult with an executive or legislative body of officials, but only on matters concerning the administration of justice.
- (3) He may serve as a member, officer or director of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice. He may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fundraising activities. He may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

Canon 5

A Judge Should Regulate His Extrajudicial Activities to Minimize the Risk of Conflict with His Judicial Duties

Avocational activities: A judge may write, lecture, teach and speak on non-legal subjects and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of his office or interfere with the performance of his judicial duties.

Canon 6

A Judge Should Refrain from Political Activity Inappropriate to His Judicial Office

A judge should not:

- (1) Act as a leader or hold any office in a political organization; or

- (2) Make speeches for a political organization or candidate or publicly endorse a candidate for public office.

Notwithstanding the above, a judge shall be free to exercise his duties as a citizen and shall be able to participate by voting in any and all state, local and Tribal elections.

CHAPTER 7. CHOCTAW TRIBAL NOTICE ACT

§1-7-1 Findings and Purpose

- (1) Findings: The “Tribe” has a compelling interest in protecting Tribal Sovereignty and jurisdiction and the validity of Tribal laws. Tribal sovereignty and jurisdiction and the validity of Tribal law may be questioned in cases in the Choctaw Tribal Court in which the Tribe or any agency, officer or the employee thereof is not a party. With adequate, timely and uniform notice of cases in the Choctaw Tribal Court that question Tribal sovereignty and jurisdiction or the validity of Tribal law, the Tribe can effectively assess whether and how to participate in such case.
- (2) Purpose: The purpose of this law is to provide the Tribe with adequate, timely and uniform notice of any and all cases in the Choctaw Tribal Court that question Tribal sovereignty and jurisdiction or the validity of any Tribal law and in which the Tribe or any agency, officer or employee thereof is not a party.

§1-7-2 Notice Required

- (1) Court to inform parties of notice requirement; party to give notice upon the filing of any action or proceeding in which the Tribe or any agency, officer, or employee thereof is not a party: The Choctaw Tribal Court will promptly inform all parties in writing of this law. Any party to such an action or proceeding that questions Tribal sovereignty or jurisdiction or the validity of any Tribal law will give notice thereof to the Office of the Attorney General of the Mississippi Band of Choctaw Indians. Such notice will identify the action or proceeding and will include a brief written explanation of the grounds upon which Tribal sovereignty or jurisdiction or the validity of Tribal law is being questioned. Any party giving notice under this law will simultaneously file proof with the Choctaw Tribal Court that notice has been given as required by this Act.
- (2) Continued Notice: if notice is required under this Act, upon the Tribe’s timely request, the Choctaw Tribal Court or any party will timely serve copies of all subsequent filings and orders in the case on the Attorney General.

§1-7-3 Manner and Timing of Notice

- (1) Simultaneous Notice: Notice required under this Act will be given in writing and simultaneously with the raising of a question about Tribal sovereignty or jurisdiction or validity of any Tribal law.
- (2) Notice by Certified Mail: Notice required under this Act shall be made by certified mail. Other requirements regarding the manner by which notice under this law will be given will be developed by the Choctaw Tribal Court and approved by the Choctaw Tribal Council.

§1-7-4 Tribal Participation Following Notice

- (1) Intervention: Upon timely motion or application, the Tribe may intervene as a matter of right in any action or proceeding in the Tribal Court that questions Tribal sovereignty or jurisdiction or the validity of any Tribal law. Upon intervening under this law, the Tribe may assert any and all available claims and defenses and may present any and all admissible evidence relating to the question of its sovereignty or jurisdiction or validity

of any Tribal law and is entitled to the same relief, including costs, as if the Tribe had instituted a separate action or proceeding; provided that, the Tribe will not be required to pay costs of litigation in any action or proceeding in which it has intervened under this law. Intervention under this law does not abridge, limit or otherwise affect the right of the Tribe to commence, maintain, defend or otherwise intervene in actions or proceeding in Tribal Court.

- (2) **Amicus Curiae:** Upon timely motion or application, the Tribe may appear as amicus curiae (friend of the court) in any action or proceeding that questions Tribal sovereignty or jurisdiction or the validity of any Tribal law.
- (3) **Information Sharing and Consultation:** In any action or proceeding in the Tribal Court that questions Tribal sovereignty or jurisdiction or the validity of any Tribal law in which the Tribe does not intervene or appear as amicus curiae, the Tribe may nevertheless share important knowledge with any party involved in the action or proceeding. This could include assistance in responding to formal discovery requests or acting as an informal consultant.
- (4) **No Participation:** The Tribe may timely determine that it is in the best interest of the Tribe not to intervene, appear as amicus curiae or otherwise participate in any action or proceeding in the Choctaw Tribal Court that questions Tribal sovereignty or jurisdiction or the validity of any Tribal law.
- (5) **Authority to Determine Participation:** The Attorney General may determine participation on behalf of the Tribe under this Act.
- (6) **Timelines of Participation Determinations:** Unless the Tribal Court orders otherwise, where timely and proper notice has been given under this law, the Tribe will notify the Tribal Court and parties in writing within sixty (60) days of receipt by the Tribe of such notice of any determination to participate in any action or proceeding by way of intervention or appearance as amicus curiae.

§1-7-5 Failure to Give Notice

- (1) **Failure to Give Notice Not Jurisdiction or Waiver of Rights:** The failure of the Tribal Court or a party to give notice as required by this law does not deprive the Tribal Court of jurisdiction and is not a waiver or modification of any rights otherwise timely asserted by any party. Any notice given under this law is not a substitute for or a waiver or modification of any other pleading requirement under Tribal law.
- (2) **Late Notice:** If the Tribal Court or a party discovers that notice to the Tribe under this Act should have been but has not been given, the Tribal Court or party will promptly give notice in writing to the Tribe as required by this law. The Tribal Court may stay the action or proceeding at any stage to allow compliance with this law. If final judgment has already been entered, the Tribe may motion or apply for rehearing as of right. The Tribal Court will entertain promptly such motions and the Tribal Court, for good cause shown, and may vacate a judgment or any portion thereof.
- (3) **Civil Sanctions:** The Tribal Court may impose civil sanctions on any party for willful or unreasonable failure to give notice as required by this law and may use other reasonable means to cure any significant harm caused by failure to give notice as required by this Act.

§1-7-6 Tribal Jurisdiction and Sovereign Immunity for Suit Unaffected

- (1) Jurisdiction: Nothing in this Act shall be deemed or construed to deprive, limit or extend the jurisdiction of the Tribal Court.
- (2) Sovereign Immunity from Suit: Notice required under this Act does not authorize a party to name the Tribe or any agencies, officers, or employees thereof as a party to any action or proceeding. Nothing in this Act shall be deemed or construed as a waiver or limitation of the sovereign immunity from suit of the Tribe, its agencies, officers or employees.

CHAPTER 8. CODE OF ETHICS FOR MISSISSIPPI BAND OF CHOCTAW INDIANS TRIBAL COURT CLERKS

This Code of Ethics has been prepared in cooperation with the MBCI Judicial Affairs Committee, Tribal Court judges, and court personnel. The Code of Ethics for Court Clerks is intended to establish standards for the ethical conduct of court clerks and other supportive judicial personnel. This code contains rules of reason and should be applied consistently with the Mississippi Band of Choctaw Indians Constitution, statutes, other court rules and decisional law.

This Code is designed to provide guidance to court clerks and other court personnel and to provide a structure for regulating their conduct.

It shall be the mission of the Tribal court clerks to compassionately assist members of the Mississippi Band of Choctaw Indians as well as the general public who have contact with the Tribal Courts by providing fair and equal support services while instilling respect for the court by performing the duties of the clerk's office with reverence and confidence, thereby strengthening the individual, family and community while upholding and promoting the integrity and independence of the judiciary and the clerk's office.

Code of Ethics for Mississippi Band of Choctaw Indians Tribal Court Clerks

Canon 1

A Clerk should uphold the Integrity and Independence of the Judiciary and of the Clerk's Office

An independent and honorable judiciary is indispensable to justice in any society. A clerk should observe and impart to the court staff, high standards of conduct so that the integrity and independence of the judiciary may be preserved, and the clerk's office should reflect a devotion to serving the public. The provisions of this Code should be construed and applied to further that objective. The standards of this Code shall not affect or preclude their standards, which may be promulgated by order of the court.

Canon 2

A Clerk Should Avoid Impropriety and the Appearance of Impropriety in all Activities

- (1) A clerk should not engage in any activities, which would put into question the propriety of conduct in carrying out the duties of the clerk's office. A clerk should not allow family, social or other relationships to influence official conduct or judgment. A clerk should not lend the prestige of the clerk's office to advance the private interests of others.
- (2) A clerk should not accept a gift, bequest, favor or loan from any person whose interests have come or are likely to come before the clerk.
- (3) A clerk should abstain from public comment about a pending or impending proceeding in court, and should require similar abstention on the part of court staff. The clerk should never disclose to any person any confidential information received in the course of official business nor should such information be employed for personal gain.
- (4) A clerk should never influence or attempt to influence the assignment of cases or perform any discretionary or ministerial function of the court in a manner which improperly favors any litigant or attorney, nor imply that a court clerk is in a position to do so.

- (5) A clerk should not practice law.

Canon 3

A Clerk Should Perform the Duties of the Clerk's Office Impartially and Diligently

The official duties of a clerk take precedence over all other activities. The official duties include all the duties of the clerk's office prescribed by law or by order of the court. In the performance of these duties, a clerk should:

- (1) respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary and the clerk's office;
- (2) be faithful to the highest standards of the profession and maintain professional competence in it; and
- (3) be patient, dignified, courteous and fair to all persons.

Canon 4

A Clerk May Engage in Activities to Improve the Law, the Legal System and the Administration of Justice

A Clerk, subject to the proper performance of official duties, may engage in the following quasi-official activities:

- (1) speak, write, lecture, teach and participate in other activities concerning court management, the legal system and the administration of justice; and
- (2) promote the development of professional organizations and foster the interchange of technical information and experience with others in the profession.

Canon 5

A Clerk Should Regulate all Extra-Official Activities to Minimize the Risk of Conflict with Official Duties

- (1) **Avocational Activities:** A clerk may write, lecture, teach and speak on subjects unrelated to the profession, and may engage in the arts, sports and other social recreational activities, if such avocational activities do not detract from the dignity of the office, interfere with the performance of official duties or adversely reflect on the operation and dignity of the court.
- (2) **Tribal, Civic, and Charitable Activities:** A clerk may participate in tribal, civic and charitable activities that do not detract from the dignity of the office or interfere with the performance of official duties.
- (3) **Financial Activities:** Without the express permission of the court, a clerk may not carry on financial and business dealings, including service as a fiduciary.

Canon 6

A Clerk Should Regularly File Reports of Compensation Received for Quasi-Official and Extra Official Activities.

A clerk may receive compensation and reimbursement of expenses for quasi-official and extra-official activities permitted by this Code, if the source of such payments does not influence or give the appearance of influencing the clerk in the performance of official duties or otherwise give the appearance of impropriety subject to the following restrictions:

- (1) Compensation: Compensation should not exceed a reasonable amount nor should it exceed the amount normally received by others for the same activity.
- (2) Expense Reimbursement: Expense reimbursement should be limited to the actual cost of travel, food and lodging reasonably incurred by a clerk where appropriate to the occasion. Any payment in excess of such an amount is compensation.
- (3) Public Reports: A Clerk should make and file such reports as may be prescribed by Tribal law or by the rules of the court.

Canon 7

A Clerk Should Refrain from Partisan Political Activity

- (1) Partisan Political Activity: A clerk should refrain from partisan political activity, and :
 - (a) should not hold office in a political organization;
 - (b) should not make speeches for or publicly endorse a political organization, candidate or events;
 - (c) should not solicit funds for or contribute to a political organization, candidate or event;
 - (d) should not become a candidate for political office unless he/she forfeits his position as a clerk before doing so, and
 - (e) should not otherwise actively engage in partisan political activities.
- (2) Nonpartisan Political Activity: A clerk may engage in nonpartisan political activity that does not tend to reflect adversely on the dignity of the court or the clerk's office, or interfere with the proper performance of official duties.

Canon 8

Compliance with the Code of Ethics for Clerks of Court

All Clerks of court and deputy clerks shall comply with this Code and shall make and file the reports in Canon 6. A person to whom this Code becomes applicable should arrange all personal and official affairs as soon as reasonably possible to comply with it and should do so in any event within the period of one (1) year.