

**Nottawaseppi Huron Band of Potawatomi
Tribal Court**

**Court Rules of Judicial Conduct
Chapter 2
Table of Contents**

PreamblePage 1

Section 1. Title.....Page 1

Section 2. Applicability of RulesPages 1-3

Section 3. Canons

Canon 1Page 3

Canon 2Page 3

Canon 3Pages 3-11

Canon 4Pages 11-14

Canon 5Page 14

Section 4. Discipline and Removal of Judges.....Pages 15-17

Section 5. Short Title, Effective Date, and Citation Format.....Page 17

Certificate of Adoption and Judicial History.....Page 17

**Nottawaseppi Huron Band of Potawatomi
Tribal Court**

**Court Rules of Judicial Conduct
Chapter 2**

Preamble

The Nottawaseppi Huron Band of Potawatomi Indians Tribal Judiciary is grounded in the principle that an unbiased and competent judiciary is essential to the administration of justice. The purpose of the Nottawaseppi Huron Band of Potawatomi Indians *Court Rules of Judicial Conduct* (hereinafter “*Rules*”) is to promote a spirit of fairness toward persons coming before the courts of the Nottawaseppi Huron Band of Potawatomi Indians and to ensure due process in all proceedings.

The *Rules* are intended to establish basic standards to govern the conduct of all Nottawaseppi Huron Band tribal judges. The *Rules* are not intended as an exhaustive guide for conduct. Judges should be governed in their judicial and personal activities by general ethical standards. The *Rules* are designed to implement the standards for regulation of judicial conduct through disciplinary proceedings or removal as set forth in the *Nottawaseppi Huron Band of Potawatomi Indians Tribal Constitution*.

The *Rules* are to be applied consistently with applicable tribal laws, rules of court, decisional law, tribal tradition and custom, common sense and in the context of all relevant circumstances.

Section 1. Title. This Chapter is known as the Nottawaseppi Huron Band of Potawatomi Indians *Court Rules of Judicial Conduct*.

Section 2. Applicability of Rules. Any person, whether or not an attorney, who has been appointed as a judge of the Nottawaseppi Huron Band Tribal Court (hereinafter “Tribal Court”) or the Nottawaseppi Huron Band Supreme Court (hereinafter “Supreme Court”) is subject to these *Rules*. All judges should comply with these *Rules*, except as provided below:

A. Part-time Judges. A part-time judge is a judge who serves on a continuing or periodic basis, but is permitted by tribal law to devote time to some other profession or occupation. A part-time judge:

1. Is required to comply with these *Rules*, unless otherwise specifically exempted;

2. Must not practice law as an attorney:
 - a. in the Nottawaseppi Huron Tribal Court; or
 - b. in the Nottawaseppi Huron Supreme Court.
 3. Must not act as an attorney in a proceeding in which they have served as judge or in any related proceeding; and
 4. Must not allow the practice of law to interfere with the impartial fulfillment of the judge's judicial duties.
- B. Part-time Judge's Partners and Associates.** A part-time judge's partners and associates may practice law with respect to any matter except:
1. Those matters which have, would, or appear likely to come before the court on which the judge serves or any court subject to the appellate jurisdiction of the court on which the judge serves;
 2. Any matter related to matters upon the merits of which the judge has acted in a judicial capacity or in which the judge had substantial involvement in a judicial capacity; or
 3. To the extent that such practice would interfere with the impartial fulfillment of the part-time judge's judicial duties.
- C. Judge *Pro Tempore*.** A judge *pro tempore* is a person who is appointed to act temporarily as a judge. A judge *pro tempore*:
1. Is required to comply with these *Rules*, unless otherwise specifically exempted.
 2. Must not practice law, at the time of service as judge *pro tempore*, as an attorney:
 - a. in the Nottawaseppi Huron Band Tribal Court; or
 - b. in the Nottawaseppi Huron Band Supreme Court;
 3. Must not act as an attorney in a proceeding in which they have served as judge or in any related proceeding.
 4. Must not allow the practice of law to interfere with the impartial fulfillment of the judge's judicial duties.

D. Definition of Judge

For the purposes of these rules the term “judge” will include in its meaning both Tribal Court judges and justices and associate justices of the Tribal Supreme Court.

Section 3. Canons.

Canon 1. A Judge Must Uphold the Integrity and Independence of the Judiciary.

An independent and honorable Tribal Judiciary is essential to justice in the Nottawaseppi Huron Band community. A Nottawaseppi Huron Band tribal judge must help create and maintain such a judiciary, and must observe high standards of conduct toward achieving this goal. A judge must maintain a separation between the judicial branch and other branches of tribal government and must avoid any contact or duty that violates such a separation. The provisions of these *Rules* are to be construed and applied to further that objective.

Canon 2. A Judge Must Avoid Impropriety and the Appearance of Impropriety in All of the Judge’s Activities.

- A. A judge must respect and comply with the laws, traditions and customs of the Nottawaseppi Huron Band and must at all times act in a manner that promotes public confidence in the honesty and impartiality of the Nottawaseppi Huron Band Judiciary.
- B. A judge must not allow family, social or other personal relationships to influence his or her judicial conduct. A judge must not attempt to use the prestige of their judicial office to advance the private interests of others; nor must they convey the impression that anyone has special influence on him or her as judge. A judge must not testify voluntarily as a character witness. A judge must not hold membership in any organization that practices invidious discrimination on the basis of race, gender, religion, national origin, sexual orientation, disability, age, or socioeconomic status; provided however that this does not preclude a judge from being a member of an Indian tribe or from membership in an organization in which membership is based upon the political status of being Indian.

Canon 3. A Judge Must Perform the Duties of Judicial Office Impartially and Diligently.

- A. **Judicial Duties in General.** The judicial duties of a judge take precedence over all the judge’s other activities. The judge’s judicial duties include all the duties of office prescribed by Nottawaseppi Huron tribal law. In performance of these duties, the following standards apply:

B. Adjudicative Responsibilities.

1. A judge must be faithful to the law and maintain professional competence in it. A judge must not be swayed by partisan interests, public clamor or fear of criticism.
2. A judge must hear and decide promptly matters assigned to the judge except those in which disqualification is required. A judge must endeavor to issue all rulings and decisions within reasonable timeframes, such as those suggested below:
 - a. The Tribal Court shall endeavor to issue rulings on motions and trials within 30 calendar days of submission of briefs or completion of hearings, and, upon the filing of a request by a party for findings of fact and conclusions of law, the Tribal Court shall, within 15 calendar days of filing of the request, issue findings of fact and conclusions of law; and
 - b. The Supreme Court shall endeavor to issue its decisions and orders within 45 calendar days following the conclusion of any oral argument or submission of final briefs if oral argument is not held.
3. A judge must require order and decorum in proceedings before the judge.
4. A judge must be patient, dignified and courteous to litigants, jurors, witnesses, attorneys, court employees and others with whom the judge deals in an official capacity and must require similar conduct of lawyers, staff, court officials and others subject to the judge's direction and control.
5. A judge must perform judicial duties without bias or prejudice. A judge must not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, tribal membership, gender, religion, national origin, disability, age, sexual orientation or socioeconomic status, and must not permit staff, court officials and others subject to the judge's direction or control to do so.
6. A judge must require attorneys in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, tribal membership, gender, religion, national origin, disability, age, sexual orientation or socioeconomic status, against parties, witnesses, counsel or others. This Section 3B(6) does not preclude legitimate advocacy when race, tribal membership, gender, religion, national origin, disability, age, sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding.

7. The judge must give every person who is legally interested in the proceeding, or his or her attorney, a full right to be heard according to Nottawaseppi Huron Band law.
8. A judge must not initiate, permit or consider *ex parte* communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:
 - a. Where circumstances require, *ex parte* communications for scheduling or administrative purposes or emergencies that do not concern substantive matters or issues on the merits are authorized; provided the judge:
 - i. reasonably believes that no party will gain a procedural or tactical advantage as a result of the *ex parte* communication, and
 - ii. makes provision promptly to notify all other parties of the substance of the *ex parte* communication and allows an opportunity to respond.
 - b. A judge may obtain the advice of a disinterested expert on the law, tribal tradition or custom applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.
 - c. A judge may consult with other judges or with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities.
 - d. A judge may, with the consent of the parties, confer separately with the parties and their attorneys in an effort to mediate or settle matters pending before the judge.
 - e. A judge may initiate or consider any *ex parte* communication when expressly authorized by law to do so.
 - f. "*Ex parte Communications*" are defined as any communications, either oral or written, made to a judge by one party to a matter before the Tribal Court but without the knowledge of the other parties to the matter and outside of their presence.
9. A judge must abstain from public comment about a pending or impending proceeding in any court, and must require similar abstention on the part of

court personnel subject to the judge's direction and control. This subsection does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This Section does not apply to proceedings in which the judge is a litigant in a personal capacity.

10. A judge must not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.
11. A judge must not disclose or use, for any purpose unrelated to judicial duties, nonpublic information acquired in a judicial capacity. A judge must not directly or indirectly use, disseminate, disclose or in any way reveal confidential information of the Nottawaseppi Huron Band of Potawatomi Indians, its enterprises, programs, employees, and tribal membership except to the extent authorized by the Nottawaseppi Huron Band. Confidential information includes, but is not limited to, data relating to finances, computer programs, budget information, or any other non-public information concerning the governmental business or affairs of the Pokagon Band.

C. Administrative Responsibilities.

1. A judge must discharge the judge's administrative responsibilities without bias or prejudice and must maintain professional competence in judicial administration. A judge must cooperate with other judges and court officials in the administration of court business.
2. A judge must require staff, court officials and others subject to the judge's direction and control to observe standards of fidelity and diligence that apply to the judge and refrain from manifesting bias or prejudice in the performance of their official duties.
3. A judge with supervisory authority for the judicial performance of other judges should take reasonable measures to assure the prompt disposition of matters before them and the proper performance of their other judicial responsibilities.
4. A judge may not make unnecessary appointments. A judge must exercise the power of appointment impartially and on the basis of merit. A judge must avoid nepotism and favoritism. A judge must not approve compensation of appointees beyond the fair value of services rendered.

D. Disciplinary Responsibilities.

1. A judge who receives information indicating a substantial likelihood that another judge has committed a violation of these *Rules* must convey such information to the Chief Judge of the Tribal Court in accordance with Section 4(C) of these *Rules*. The Chief Judge must take such action as he or she deems appropriate, which may include referring to Tribal Council for removal pursuant to Article X, Section 8 of the *Tribal Constitution*. If the Chief Judge is the person believed to have committed the violation, the information should be conveyed to the Associate Judge of the Tribal Court, if one has been appointed. If no Associate Judge has been appointed, the information should be conveyed to the Chief Judge of the Supreme Court.
2. A judge who receives information indicating a substantial likelihood that an attorney has committed a violation of the Nottawaseppi Huron Band *Court Rules of Professional Conduct for Attorneys* must convey the information to the Chief Judge of the Tribal Court. A judge having knowledge that an attorney has committed a violation of the Nottawaseppi Huron Band *Court Rules of Professional Conduct for Attorneys* that raises a substantial question as to the attorney's honesty, trustworthiness or fitness as an attorney in other respects must inform the Chief Judge.

E. Recusal

1. A judge must recuse himself or herself on the his or her own initiative in any proceeding in which the judge has reason to believe that he or she could not act with complete impartiality.
2. A judge must recuse himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:
 - a. The judge has a personal bias or prejudice concerning a party or a party's attorney, or personal knowledge of disputed evidentiary facts concerning the proceeding;
 - b. The judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a material witness concerning it;
 - c. The judge knows that he or she individually (or any member of the judge's family or person residing in the judge's household) has a financial interest in the subject matter in controversy or in a party to

the proceeding or has any other interest that could be substantially affected by the proceedings; and

- d. The judge, their spouse or significant other, or a person in a reasonably close family relationship to either of them, or the spouse of such person is:
 - i. a party to the proceeding, or an officer, director or trustee of a party;
 - ii. acting as an attorney in the proceeding;
 - iii. known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or
 - iv. to the judge's knowledge likely to be a material witness in the proceeding.
 - e. A judge must keep informed about his or her personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse or significant other and minor children residing in the judge's household.
3. A judge who recuses himself or herself pursuant to this Section of Court Rules shall disclose on the record the reason for the recusal decision.
 4. A judge may decline to recuse himself or herself in any proceeding in which recusal might otherwise be indicated pursuant to Section E (2) above under the following circumstances:
 - a. No other judge is reasonably available to preside in the matter and recusal will result in a failure of justice and/or substantial and irreparable harm to one or more of the parties;
 - b. The recusal is not based on personal bias or prejudice; and
 - c. The judge agrees to transfer the matter to another judge if it becomes possible to do so without a failure of justice or substantial harm to a party.
 5. The parties and their attorneys may request the judge to reconsider the recusal decision under the following circumstances:

- a. The parties and their attorneys, out of the presence of the judge, agree to the request of the judge to reconsider recusal.
 - b. The agreement of the parties is incorporated into the record of the proceedings.
 - c. The judge on the record agrees to preside in the matter.
6. If the reason for recusal is personal bias or prejudice concerning a party, the parties cannot ask the judge to continue to preside.

G. Disqualification

1. A judge shall be disqualified in any proceeding in which:
 - a. The judge's impartiality might reasonably be questioned;
 - b. The judge has any personal bias or prejudice concerning any party;
 - c. The judge or a member of their "immediate family" might be a witness, has any interest, or has any personal knowledge of any disputed facts; or
 - d. There could be the appearance of bias or prejudice concerning a party.
2. "Immediate family" for the purposes of this Court Rule means spouse, grandparents, parents, children, grandchildren, brother, sister, and in-laws.
3. Procedure to initiate disqualification:
 - a. A party shall file a written request for disqualification of a judge with the Tribal Court Administrator.
 - b. The request for disqualification shall set forth the fact or facts upon which the request for disqualification is based, citing at least one ground as set forth in Section G (1) of these Court Rules.
 - c. The Tribal Court Administrator shall review the request for disqualification for sufficiency and forward it to the Chief Justice of the Supreme Court within 7 days of receipt.

- d. The Chief Justice of the Supreme Court shall then review the request for disqualification, unless it involves the Chief Justice, and convene the Supreme Court to review the request. If the request to disqualify involves the Chief Justice, then the Tribal Court Administrator shall forward the request for disqualification to an Associate Justice of the Supreme Court who will act in place of the Chief Justice.
 - e. Upon reviewing the request for disqualification, the Supreme Court shall do one of the following:
 - i. Determine that the request has no basis in fact or law and dismiss it issuing a written opinion and order to that effect;
 - ii. Decide to hold an evidentiary hearing on the request and allow both the party requesting the disqualification and the judge in question to present evidence to the court;
 - iii. Issue a written opinion and order disqualifying the judge and set forth the reasons for disqualification.
 - f. The Supreme Court has 21 days from the date of receipt of the request for disqualification to take action pursuant to these Court Rules.
 - g. Any hearing regarding disqualification shall take place as soon as practicable, but not more than 21 days after the Supreme Court has decided to hold a hearing.
 - h. The Supreme Court shall have 14 days after the conclusion of the disqualification hearing to render a decision on disqualification.
- 4. If the disqualification of a justice of the Supreme Court leaves that court with less than 3 members, the Chief Justice or the presiding Associate Justice, shall appoint a Justice *pro tem* to sit on the case in place of the justice subject to the request for disqualification.
 - 5. If the disqualification is of a judge of the Tribal Court, the Supreme Court shall appoint another judge of the Tribal Court to hear the matter, or if no other Tribal Court Judge is available, appoint a Tribal Court Judge *pro tem* to hear the matter.
 - 6. Both a Tribal Judge *pro tem* and a Supreme Court Justice *pro tem* shall meet the qualifications for any other judge or justice of the Tribal

Judiciary as set forth in Article 10, Section 5 of the *Nottawaseppi Huron Band of Potawatomi Constitution*.

Canon 4. A Judge Must Regulate Their Extra-Judicial Activities to Minimize the Risk of Conflict with Judicial Duties.

- A. **Extra-Judicial Activities in General.** A judge must conduct all of the judge's extra-judicial activities so that they do not:
1. Cast reasonable doubt on the judge's capacity to act impartially as a judge;
 2. Demean the judicial office; or
 3. Interfere with the proper performance of judicial duties.
- B. **Employment and Political Activities within the Band.** In accordance with Article XII, Section 5 of the *Tribal Constitution*, a judge must resign his or her judicial office with the Band if he or she:
1. Becomes a candidate for or a member of the Tribal Council, any Salary Commission of the Band, or the Band's Election Board; or
 2. Becomes employed by the Band, any Band enterprise or other entity controlled or affiliated with the Band, or becomes a member of any board or commission of the Band or any Band enterprise or other entity controlled by the Band.
- C. **Avocational Activities.**
1. A judge may write, lecture, teach and speak on legal and non-legal subjects and engage in the arts, sports and other social and recreational activities of the Band or elsewhere if these activities do not interfere with the performance of his or her judicial duties.
 2. A judge is prohibited from engaging in any form of gaming, of any kind (including charitable games) at any facility operated by the Band, any Band enterprise or other entity controlled by or affiliated with the Band. Nothing herein precludes a judge from utilizing other amenities of any Band-owned or controlled gaming facility, including but not limited to, restaurants, shops, shows, banquet facilities, or hotel accommodations, provided such utilization does not otherwise violate these *Rules*.

D. Civic or Charitable Activities

1. A judge may participate in civic or charitable activities that do not reflect upon their impartiality or interfere with the performance of their judicial duties.
2. A judge may participate in any educational, religious, charitable or similar organization. A judge may serve as an officer, director, trustee or non-legal advisor of an organization devoted to the improvement of the law, the legal system or the administration of justice or of an educational, religious, charitable or civic organization not conducted for profit, subject to the following limitations and other requirements of these *Rules*:
 - a. A judge must not participate in any activity if it is likely that the organization will be involved in proceedings which would ordinarily come before the judge; and
 - b. A judge must not participate in any activity if it is likely that the organization will be involved in adversary proceedings in either the Tribal Court or the Supreme Court.
3. A judge, as an officer, director, trustee or non-legal advisor, or as a member or otherwise:
 - a. May assist an organization described by Section D(2) of this Canon in planning fund-raising and may participate in the management and investment of the organization's funds, but must not personally participate in the solicitation of funds or other fund-raising activities, except that a judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority;
 - b. May make recommendations to public and private fund-granting organizations on projects and programs concerning the law, the legal system or the administration of justice;
 - c. Must not personally participate in membership solicitation if the solicitation may reasonably be perceived as coercive or, except as permitted in Section D(1) of this Canon, if the membership solicitation is essentially a fund raising mechanism; and
 - d. Must not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.

E. Financial Activities.

1. A judge must not engage in financial business dealings that:

- a. May reasonably be perceived to exploit the judge's judicial position;
or
 - b. Involve the judge in frequent transactions or continuing business relationships with those attorneys or other persons likely to come before the court on which the judge serves.
2. Except as allowed by the laws, traditions or customs of the Band, neither a judge nor a member of the judge's family should accept a gift, bequest, favor or loan from anyone which would affect or appear to affect his or her impartiality in judicial proceedings, or on the judge's appearance of fairness. For the purposes of this Section, "family member" means any relative of the judge by blood or marriage, or a person treated by the judge as a family member, who resides in the judge's household. A judge may however accept:
 - a. A gift incidental to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use;
 - b. An invitation to the judge and the judge's spouse, significant other or guest to attend a judicial or bar related function or an activity devoted to the improvement of the law, the justice system or the administration of justice;
 - c. Ordinary social hospitality;
 - d. A gift from a relative or friend, for a special occasion, such as birthday, wedding or anniversary, if the gift is fairly commensurate to the occasion and the relationship;
 - e. A loan from a lending institution in its regular course of business on the same terms and based on criteria applied to other applicants; or
 - f. A scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants.
3. A judge may receive income, honoraria and reimbursement of expenses attributable to the extra-judicial activities permitted by these *Rules*, if the source of payments does not give the appearance of impropriety.
 - a. Income and honoraria may not exceed a reasonable amount nor may they exceed what a person who is not a judge would receive as a result of the same activity.

- b. Expense and reimbursement or payment must be limited to the actual cost or established per diem of travel, food and lodging reasonably incurred by the judge and where appropriate to the occasion, by the judge's spouse or guest. Any payment in excess of such an amount must be treated as an honorarium.

F. Extra-judicial Appointments. Unless allowed by tribal law or tradition, a judge should not accept appointment to any other Nottawaseppi Huron tribal governmental entity or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the tribal justice system or the administration of justice. A judge however, may represent the Band on ceremonial occasions or in connection with historical, educational or cultural activities.

Canon 5. A Judge Must Refrain from Inappropriate Political Activity.

A. A judge 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 judicial activities.

B. No Engagement in Band Political Activity. Unless authorized by tribal law or tradition, a judge 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. A judge must refrain from all other political activity inappropriate to their judicial office. 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. A judge may, however, engage in political activities of electoral politics at the local, state, or federal levels.

Section 4. Discipline and Removal of Judges. In order to ensure compliance with these *Rules*, it is necessary to establish a means of enforcement. The disciplinary procedures contained in this set of Court Rules must not be utilized in substitution for the judicial appeal process.

- A. **Removal of Judges.** The removal of a Nottawaseppi Huron Band tribal judge is governed by Article X, Section 8 of the *Tribal Constitution*.
- B. **Review of Tribal Council Removal Orders.** In accordance with Article X, Section 8 (d) (5) of the *Tribal Constitution*, a Tribal Council removal order of a judge is final.
- C. **Discipline of Tribal Judges by the Chief Judge.** The Chief Judge of the Tribal Court must review complaints made against Tribal Judges and may discipline a Tribal Judge in his or her discretion. In the event of that the Chief Judge is the subject of the complaint the Associate Judge of the Tribal Court must review the complaint.
 - 1. **Filing of Complaints.** Complaints against a judge alleging unethical or unlawful conduct of a judge must be made in writing and must be signed by the complainant. Each complaint must be filed with the Tribal Court Administrator who will assign a docket number. Upon receipt of such complaint, the Administrator must provide a copy of the complaint to the Chief Judge and serve the judge who is the subject of the complaint.
 - 2. **Initial Review.** The Chief Judge must make an initial determination based on the complaint whether the conduct alleged is sufficient to warrant removal or other discipline. If the conduct alleged is sufficient to warrant removal or other discipline, the Chief Judge must proceed with a determination under this subsection. If the Chief Judge determines that the conduct alleged is insufficient for discipline, he or she must dismiss the matter, notifying the complainant of the action.
 - 3. **Confidentiality.** All proceedings before the Chief Judge are confidential, and no information may be published except:
 - a. Upon a written request of the Nottawaseppi Huron Band Tribal Council in connection with the consideration of the appointment or reappointment of a person who is or has been a Band tribal judge, the Chief Judge must provide information on any complaints made against the judicial candidate and the Chief Judge's disposition thereof; or
 - b. Upon the request of the judge whose conduct is being investigated that any hearing held may be public.

4. **Process.** The process to be followed after the filing of a complaint shall be:
 - a. Not more than fourteen (14) calendar days after the filing of the complaint and service upon the subject judge, the subject judge must file a written response to the complaint.
 - b. Within fourteen (14) calendar days after the subject judge files a response, the Chief Judge may allow in his or her discretion for the complainant to file a brief response.
 - c. Discovery may be as allowed by the Chief Judge, who has subpoena power for the purposes of the hearing.
5. **Hearings.** The Chief Judge must hold a hearing. Such a hearing must be recorded. The Chief Judge has subpoena power and every witness must be sworn.
 - a. **Rights of the Judge.** The judge who is the subject of the complaint is entitled to be present at the hearing, to be represented by legal counsel at the judge's own expense, to introduce evidence, to examine and cross-examine witnesses and to subpoena documents and witnesses.
 - b. **Evidence.** The Chief Judge must conduct the hearing in an informal manner so as to do substantial justice and provide a fair hearing but is not bound by formal rules of evidence, except provisions relating to privileged communications. The sole object of such hearing is to expeditiously determine whether a violation of law or these *Rules* has been committed.
6. **Decision.** After a hearing, the Chief Judge must decide whether he or she is satisfied by clear and convincing evidence that the judge:
 - a. has committed unethical conduct as defined by these *Rules*;
 - b. has persistently failed to perform the duties of office;
 - c. has committed misconduct in office consisting of any knowing violation of tribal law;
 - d. has any physical or mental disability which prevents the performance of duties;
 - e. is ineligible under the specific qualifications for office; or

- f. has failed to attend three (3) consecutive meetings without a valid excuse.
- 7. **Judicial Findings and Action.** The Chief Judge must make findings of fact and conclusions of law in a written decision. If the Chief Judge decides that the charges have not been established sufficiently, he or she must dismiss the matter and provide written notice to both the judge complained against and the complainant. If the Chief Judge decides that the charge has been sufficiently established, he or she must report his or her written decision to both the judge and the complainant. The Chief Judge may issue either an oral or written reprimand to the judge, or if the Chief Judge finds that the judge's activity meets the criteria for removal under Article X, Section 8 of the *Tribal Constitution*, recommend to the Tribal Council initiation of removal proceedings.

Section 5. Short Title, Effective Date and Citation Format

- A. **Short Title.** The short title for these *Rules* is "Rules of Judicial Conduct."
- B. **Effective Date.** These *Rules* become effective when adopted by the Chief Judge of the Tribal Court.
- C. **Citation.** The official abbreviated citation form to these *Rules* is: NHBPCR Chapter 2.

CERTIFICATION OF ADOPTION

The Chief Judge of the Tribal Court adopts the above *Chapter of Court Rules* on August 20, 2008.

_____ Date: _____
Hon. Michael Petoskey, Chief Judge

JUDICIAL HISTORY

The *Court Rules for Judicial Conduct* were adopted on August 20, 2008.
Technical amendments were made on October 14, 2008.