

Shoshone and Arapaho Tribal Court
Shoshone and Arapaho Tribes
Wind River Indian Reservation
Fort Washakie, Wyoming

SHOSHONE & ARAPAHO
TRIBAL COURT

OCT 28 2015

FILED BY CLERK
SARA S. DRESSER

IN THE MATTER OF THE ADOPTION)
OF A RULE REGARDING ETHICS FOR)
TRIBAL COURT PERSONNEL)
_____)

ORDER ADOPTING RULE

AD 105

To Whom It May Concern:

The Shoshone and Arapaho Tribal Court hereby finds that pursuant to the inherent authority of this Court to ensure the orderly and fair administration of justice, a Rule of Court setting forth standards for ethical conduct for court employees is necessary.

IT IS THEREFORE ORDERED that the following Rule of Court is hereby adopted:

Court Rules of Ethics for Tribal Court Personnel

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Court Rules of Ethics for Tribal Court Personnel

Section 1. Purpose and Definitions.

A. **Purpose.** The purpose of this Chapter is to provide for and guide the professional conduct of court clerks, administrators and all other court staff.

B. **Definitions.** The following terms shall have the following meanings:

- 1) "*Tribes*" are synonymous and mean the Shoshone and Arapaho Tribes.
- 2) "*Court*" and "*Tribal Court*" are synonymous and mean the trial level of the Shoshone and Arapaho Tribal Court.
- 3) "*Court of Appeals*" means the appellate level court.
- 4) "*Court Personnel*" or "*Court Employee*" means any personnel employed by the Court including, but not limited to, the following: court clerks, support staff, probation officers, peacemakers, and the Court Administrator. Neither of these terms includes judges who are subject to *Rules of Judicial Conduct*.
- 5) "*Tribal courts*" means the trial level court and appellate level court.

Section 2. Applicability of this Chapter to Court Personnel.

These *Rules* apply to court personnel who are employed within the tribal judicial system, whether such employment is on a full-time or *pro tempore* basis.

Section 3. Integrity and Independence of Court Personnel.

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

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

Section 4. Impropriety and the Appearance of Impropriety.

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

- A. **Relationships.** Court personnel must not allow family, social, or other relationships to influence official conduct or judgment. Court personnel must not lend the prestige of their office to advance their interests or others, nor may court personnel convey, or others be permitted to convey, the impression that they are in a special position to influence the court personnel.
- B. **Gifts.** Court personnel, as well as family member(s) who reside in the same household as the court personnel, may not accept a gift, bequest, favor, or loan from any person whose interests have come, or are likely to come, before said court personnel or from any other person under circumstances which might reasonably be regarded as influencing the performances of the duties of the office.
- C. **Communication.** Court personnel must abstain from public comment about pending or impending judicial proceedings and must require similar abstention on the part of other court personnel.
- D. **Confidentiality.**
 1. Court personnel must not disclose to any unauthorized person for any purpose any confidential information acquired in the course of employment, or acquired through unauthorized disclosure by another.
 2. Confidential information includes, but is not limited to, information on pending cases that is not already a matter of public record and information concerning the work product of any judge, law clerk, staff attorney or other court employee including, but not limited to, notes, papers, discussions and memoranda.
 3. Confidential information that is available to specific individuals by

reason of statute, court rule, court order or administrative policy may be provided only by personnel authorized to do so.

4. Court personnel must report confidential information to the appropriate authority when he or she reasonably believes this information is or may be evidence of a violation of law or of unethical conduct. No court employee shall be disciplined for disclosing such confidential information to the appropriate authority.
 5. Tribal judges and the Court Administrator should educate court personnel about what information is confidential and, where appropriate, should designate such materials as confidential.
 6. Court personnel are not precluded from responding to inquiries concerning court procedures, but court personnel must not give legal advice. Standard court procedures, including, but not limited to, the method for filing and appeal or commencing an action, should be summarized in writing and available to litigants. All media requests for information should be referred to the Chief Judge.
 7. Former court personnel must not disclose confidential information when disclosure by current court personnel would be a breach of confidentiality.
- E. **Administration.** Court personnel must avoid favoritism, unfairness, or nepotism in connection with the hiring, discharge or treatment of subordinate court staff.
- F. **Influence.** Court personnel must never influence or attempt to influence the assignment of cases, or perform any discretionary or ministerial function of the courts in a biased manner, which improperly favors any litigant or attorney or other representative, not imply that such court personnel is in a position to do so.
- G. **Legal Advice.** Court personnel must not give legal advice. However, staff should give information about procedures when such information is

requested, or when it would be helpful to any individual who is attempting to understand the court process.

Section 5. Performance of Duties, Impartially and Diligently.

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

- A. Court personnel must respect and comply personally and professionally with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the tribal judiciary and the court offices.
- B. Court personnel must be faithful to the highest standard of the profession and maintain professional competence in it.

Section 6. Improvement of the Legal System and the Administration of Justice.

Court personnel, subject to the proper performance of official duties, may engage in the following activities:

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

Section 7. Extra-Official Activities.

A. **Avocational Activities.** Court personnel may write, lecture, teach and speak on subjects unrelated to the profession, and may engage in the arts, sports and other social and recreational activities, provided such avocational activities do not detract from the dignity of the office, interfere with performance of official duties, or adversely reflect on the operation and dignity of the tribal court.

B. **Civic and Charitable Activities.** Court personnel may participate in civic and charitable activities that do not detract from the dignity of the office or interfere with the performance of official duties. Court personnel may serve as an officer, director, trustee or advisor of a civic or charitable organization and solicit funds for any such organization, subject to the following limitations:

1. Court personnel should not use or permit the use of the prestige of the court offices in the solicitation of funds;
2. Court personnel should not solicit subordinate staff to contribute to or participate in any civic or charitable activity, but may call their attention to a general fund-raising campaign, such as the United Way; and
3. Court personnel should not solicit funds from lawyers or persons likely to come before the court or court offices.

Section 8. Outside Employment.

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

- A. The outside employment is not with an entity that regularly appears before, or conducts business with the court system.

- B. The outside employment does not require the court employee to have frequent contact with attorneys who regularly appear before the court system.
- C. The outside employment is capable of being fulfilled outside of normal working hours and is not incompatible with the performance of the employee's duties and responsibilities.
- D. The outside employment does not require the practice of law.
- E. The outside employment does not require or induce the court employee to disclose confidential information required in the course of and by reason of the employee's official duties with the court system.
- F. The outside employment shall not be within the executive or legislative branch of tribal government without the express written consent of both employers.
- G. Where conflict of interest exists or may reasonably appear to exist or where the outside employment reflects adversely on the integrity of the court system, the court employee shall inform the appropriate authority prior to accepting the employment.

Section 9. Political Activities.

- A. Court personnel must refrain from all political activities or actions that could be interpreted in the Tribal community as supporting a political position or candidate that might interfere with the performance of their duties.
- B. **No Engagement in Tribal Political Activity.** Unless authorized by tribal law or tradition, court personnel must not engage in any Tribal-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 Tribal political office;

2. Acting as a leader in any Tribal political organization;
3. Publicly endorsing or publicly opposing a candidate for Tribal political office;
4. Making speeches on behalf of any Tribal political organization; or
5. Soliciting funds for or making a contribution to a Tribal political organization or candidate for Tribal office, or purchasing tickets for Tribal political party dinners or other functions.

C. **Outside Political Activity.** Court personnel must refrain from all other political activity inappropriate to their position held with the Tribal Court System. Inappropriate outside political activity may include, without limitation, activity that is likely to be construed by the community as supporting a political position adverse to the political rights of the Tribes or individual members. Court personnel may, however, engage in political activities of electoral politics at the local, state, or federal levels.

Section 10. Sexual Harassment.

The Shoshone and Arapaho Tribal Court ("Tribal Court") strongly disapproves of and does not tolerate sexual harassment. It is the policy of the Tribal Court:

- (i) To provide employees with a working environment free from sexual harassment;
- (ii) To communicate the sexual harassment policy and reporting Procedures to employees, supervisors and judicial officers, and
- (iii) To recognize the unique nature of complaints of sexual harassment, to encourage early reporting by employees, and to resolve complaints promptly, confidentially, and at the lowest management level possible.

Sexual harassment means unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment, (2)

submission to or rejection of such conduct is used as a basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonable interference with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

In determining whether alleged conduct constitutes sexual harassment or whether an intimidating, hostile, or offensive working environment exists, it is necessary to look at the record as a whole and at the totality of the circumstances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case-by-case basis.

Section 11. Substance Abuse.

The Tribal Court seeks to maintain a workplace free of substance abuse:

Reporting to work or performing work of the Tribal Court while impaired by or under the influence of drugs or alcohol is prohibited. Further, use of illegal drugs or alcohol while on any premises used or approved for use by the Tribal Court is prohibited.

Section 12. Conflict of Interest.

Every employee shall avoid conflicts of interest. Even though misuse or abuse of office is not involved, such a conflict of interest can undermine the community's confidence and trust in the court system. Therefore, every employee is required to exercise diligence in becoming aware of conflicts of interest, disclosing conflicts to the appropriate judicial authority and ending them when they arise.

A conflict of interest exists when the employee's objective ability or independence of judgment in the performance of the employee's duties is impaired or may reasonably appear to be impaired, or when an employee, or the employee's immediate family or business interest would derive financial gain as a result of the employee's position within the court system.

Employees shall not enter into any financial or other relationship with another entity of

government, private business, or other organization, which would constitute a conflict of interest with Tribal Court employment. Employees shall not permit themselves to be placed under any personal or other obligation, which could lead any person, group or organization to expect official favors.

Section 13. Nepotism.

No applicant may be appointed or remain in a position at the Tribal Court if a member of the applicant's immediate family is employed with the court.

This requirement shall become effective as of October 13, 2015, and shall not govern any such relationship between court employees that exist prior to such date.

Section 14. Courtesy and Civility.

Employees shall at all times be courteous, civil, considerate and impartial in dealing with one another, as well as with the public and users of the court system. Behavior that violates this guideline is detrimental to morale, as well as harmful to a safe and stable work environment free of hostility and animosity.

Section 15. Professional Appearance.

Employees of the Tribal Court are expected to dress appropriately in business casual attire. Business casual attire includes suits, pants, jackets, shirts, skirts and dresses that, while not formal, are appropriate for a business environment. Maintaining well-kept hair, good personal hygiene and general neat grooming is expected.

Section 16. Conduct of Judicial Employees.

It is essential to the proper functioning of the Tribes that all employees of the Judicial Branch observe high standards of conduct to maintain professionalism in the workplace and public confidence in the integrity and independence of the judicial system. Judicial Branch employees must discharge their duties in a manner that creates confidence ensuring the judicial system is fair and impartial; court decisions, rules, and policies are made through established procedures; and Judicial Branch employees will not misuse their positions to obtain unauthorized benefits. It also is important that Judicial Branch employees foster respect and credibility within the Judicial Branch and within the

communities in which they work by adhering to high standards of conduct in the areas of customer service, job performance, personal integrity, professional responsibility, and by avoiding not only impropriety but the appearance of impropriety.

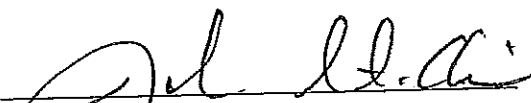
Section 17. Enforcement of These Rules.

In order to ensure compliance with these Rules, it is necessary to establish a means of enforcement.

- A. **Line of Authority.** These *Rules* are supplemental to *Personnel Policies* and as such, any *Personnel Policies* shall control where there is any inconsistency between these *Rules* and the *Personnel Policies*.
- B. **Discipline of Court Personnel.** Violations of these standards by Tribal Court personnel may result in an adverse personnel action, up to and including, termination. All discipline initiated as a result of a violation of these standards shall be conducted in accordance with applicable Shoshone and Northern Arapaho Tribes Joint Personnel Policies and Procedures Manual.

IT IS FURTHER ORDERED that the Court Administrator shall make this Order and this Rule available for public inspection and copying at no charge.

Done at Fort Washakie, Wind River Indian Reservation, Wyoming, this 28th day of October, 2015.


John St. Clair, Chief Judge
Shoshone and Arapaho Tribal Court