

TITLE I

COURTS

Ordinance No. 103

Standing Rock Sioux Tribal Code of Justice



Resolution No. 517-15

Approved
December 1, 2015

BY

Standing Rock Sioux Tribal Council

ORDINANCE NO. 103

NOW THEREFORE BE IT RESOLVED, that **TITLE I - COURTS** of the Code of Justice of the Standing Rock Sioux Tribe, be and the same is hereby amended.

[DOCUMENT ATTACHED 30 PAGES]

RESOLUTION NO. 517-15

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934 [48 Stat. 984], with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, Section 1[c], 1[m], and Section V, are authorized to promote and protect the health, education and general welfare of the members of the Tribe, to engage in any business that will further the economic development of the Tribe and its members, and to propose and enact ordinance, provided they posted for not less than ten [10] days prior to final adoption by the Tribal Council; and

WHEREAS, on March 3, 2015, the Tribal Council moved to post, and thereafter posted, for 60 days, amendments to **TITLE I - COURTS** of the Standing Rock Sioux Tribal Code of Justice;

NOW THEREFORE BE IT RESOLVED, that pursuant to the power vested in the Standing Rock Sioux Tribal Council under Article IV and Article VII of the Constitution of the Standing Rock Sioux Tribe, that **TITLE I - COURTS** of the Code of Justice, be and the same is hereby further amended and replaced with the attached new **TITLE I - COURTS**; and

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of 17 members, of whom 15 constituting a quorum, were present at a meeting duly and regularly called, noticed, convened and held on the 1st day of **DECEMBER, 2015**, and that the foregoing resolution was duly adopted by the affirmative vote of 14 members, with 0 opposing, and with 1 not voting. **THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT IN CASE OF A TIE.**

DATED THIS 1st DAY OF DECEMBER, 2015.

ATTEST:



Adele M. White, Secretary
Standing Rock Sioux Tribe



Dave Archambault II, Chairman
Standing Rock Sioux Tribe

[OFFICIAL TRIBAL SEAL]

TABLE OF CONTENTS

<u>Rule 1</u>	Rules of Civil Procedure	1
<u>Rule 2</u>	Rules of Criminal Procedure	1
<u>Rule 3</u>	Rules of Evidence	1
<u>Rule 4</u>	Conduct in Court	2
<u>Rule 5</u>	Change of Judge	3
<u>Rule 6</u>	Filing of Papers	3
<u>Rule 7</u>	Submission of Briefs	3
<u>Rule 8</u>	Dismissal for Lack of Prosecution	3
<u>Rule 9</u>	Continuances	4
<u>Rule 10</u>	Criminal Complaints	4
<u>Rule 11</u>	Assistance in Drafting Criminal Complaints	5
<u>Rule 12</u>	Screening and Approval of Criminal Complaints	5
<u>Rule 13</u>	Statement of Probable Cause	5
<u>Rule 14</u>	Withdrawal of Criminal Complaints	5
<u>Rule 15</u>	Scheduling of Criminal Trials	5
<u>Rule 16</u>	Criminal Sentencing	6
<u>Rule 17</u>	Reduction in Sentence	6
<u>Rule 18</u>	Bench Warrants	6
<u>Rule 19</u>	Temporary Leave from Confinement	6
<u>Rule 20</u>	Assistance in Drafting Civil Complaints	7
<u>Rule 21</u>	Closure of Juvenile and Involuntary Commitment Proceedings	7
<u>Rule 22</u>	Practice by Law Students	8

Rule 1 **Rules of Civil Procedure**

The Federal Rules of Civil Procedure in effect at the time of the trial or other state of the proceedings are adopted as rules of procedure for civil cases under Title II, §2-108(a), of the Standing Rock Sioux Tribe Code of Justice, unless such rules are in conflict with provisions of the Code, these Rules, or established traditions of the Standing Rock Sioux Tribe.

The Federal Rules of Civil Procedure, as they apply to proceedings of the Tribal Court, are amended, in their application, as follows:

The provisions of Rule 26, requiring Initial Disclosures and mandatory scheduling conferences before the Tribal Court shall not apply. The specific discovery to be pursued by the parties shall be determined by the parties as permitted by the rules of discovery otherwise permitted under Rules 26 through 37, inclusive. The parties or the Court may call for a scheduling conference or conferences, which shall be conducted telephonically, unless otherwise ordered by the Court.

To the extent that Rules 52 and 58 require separately stated and denominated Findings of Fact, Conclusions of Law and Order for Judgment or that the Order for Judgment and Judgment by entered as separate documents, they are amended in their application so that the Order for Judgment and Judgment may be prepared and entered as a single document and that separately denominated findings of fact and conclusions of law need not be prepared, as long as the factual and legal bases for the Court's actions are clearly stated, sufficiently to allow for appellate review of the decision.

Rule 2 **Rules of Criminal Procedure**

The Federal Rules of Criminal Procedure in effect at the time of the trial or other state of the proceedings are adopted as rules of procedure for criminal cases under Title III, §3-506(a), of the Standing Rock Sioux Tribe Code of Justice, unless such rules are in conflict with provisions of the Code, these Rules, or established traditions of the Standing Rock Sioux Tribe.

Rule 3 **Rules of Evidence**

The Federal Rules of Evidence in effect at the time of the trial or other state of the proceedings are adopted as rules of evidence for civil and criminal cases under Title II, §2-108(a) and Title III, §3-506(a), of the Standing Rock Sioux Tribe Code of Justice, unless such rules are in conflict with provisions of the Code, these Rules, or established traditions of the Standing Rock Sioux Tribe.

Rule 4 Conduct in Court**A. Decorum**

1. Anyone entering the courtroom while court is in session shall immediately be seated. Everyone shall behave in a quiet and orderly manner. No person may enter or leave the courtroom while the court is charging the jury, except in an emergency.
2. Counsel shall stand while addressing the court except when stating an objection. All statements and communications by counsel to the court must be clearly and audibly made from the counsel table. While the court is in session, counsel may not approach the bench for conversation without permission of the court.
3. To the extent practicable, the examination of a witness must be conducted from the counsel table. Only one counsel for a party may examine any witness without permission of the court.
4. Whenever practical and appropriate, in the civil and criminal courtrooms, a judge must be robed while presiding over the trial of a case.
5. Counsel, parties and witnesses may not leave the courtroom until proceedings are adjourned or as otherwise permitted by the court.

B. Cameras and Recording Devices

No camera, sound recorder, or other device, except one operated for an official purpose, by or under the direction of the court, may be used to photograph, record, or broadcast a proceeding of the court, nor may those devices be brought in or allowed to remain in the courtroom while a proceeding is in progress. Unless the court permits otherwise, any wireless communication device in the courtroom must be turned off or muted.

C. Arguments of Counsel

1. Unless otherwise permitted by the court, only one counsel appearing for a party may be allowed to argue any question to the court or jury.
2. The court may set time limits for arguments.
3. Disruptive or contumacious behavior may be punished, after one warning, as either civil or criminal contempt.

D. Ex Parte Contact with the Court

Ex Parte contacts by attorneys, lay advocates and any parties or potential witnesses as to the merits of any pending case are forbidden. Recognizing that the Rules of Court and the Standing Rock Sioux Tribe Code of Justice are not presently published and available to those not employed in the Tribal Court, the Judges may entertain and answer requests for rules and code sections until such time as the Rules and Code become available.

Rule 5 Change of Judge

Upon filing of a request for recusal of any judge, under §1-308 of the Code, the clerk shall serve the request on all other parties if the requesting party has not done so and notify the presiding judge of the demand. A denial of the request shall be in writing. If the request is granted, the Chief Judge shall promptly reassign the matter to another judge.

Rule 6 Filing of Papers

A. All papers filed with the court shall be clearly readable. Except as otherwise permitted by the court all papers must be prepared on 8 ½" by 11" format. All papers must be filed by the clerk flat and unfolded and each set of papers firmly fastened together. Proof of service must accompany any documents received from lawyers or lay advocates, who are responsible for service. Service for unrepresented parties shall be done by the clerk, and the Court Administrator may charge for such service at such charge as will fairly compensate the court for its expenses. Facsimiles will be accepted for filing subject to prompt receipt of the originals.

B. Juvenile and Involuntary Commitment files are closed to all persons not directly involved in those matters and copies of the file contents are available only on court order.

C. Other files are open to the public, unless any portion may be closed by the court. The Court Administrator may provide for reasonable charges for copies. No files, however, may be removed from the custody of the Clerk, without written approval by the Court Administrator or a Judge.

Rule 7 Submission of Briefs

Unless otherwise ordered by the Court in any civil or criminal case in which both parties are represented by lawyers, or in any case in the court's discretion, motions shall be considered on briefs, without a hearing. Any motion shall be filed with any supporting brief or other supporting material and the adverse party shall have 10 days after service to respond, the computation being in accordance with the Federal Rules of Civil Procedure. Any party may request oral arguments. The court may take testimony at its discretion, as well. Any appearances at hearing may be telephonic, at the court's discretion.

Rule 8 Dismissal for Lack of Prosecution

Any civil action in which there has been no prosecution of a claim upon which a party has an affirmative burden of proof; e.g., complaint, counterclaim, or cross claim; for more

than one year may be dismissed without prejudice by the court on its own motion, with notice to the parties at their last address of record. In divorce actions in which the 60 day waiting period has not been waived, the time runs from expiration of the waiting period.

Rule 9 Continuances

A. Except in case of emergency or other exceptions in the civil or criminal rules, any civil or criminal case or matter scheduled for hearing, trial or other appearance before the court will not be continued or rescheduled at the request of any party unless:

1. A request for continuance or rescheduling has been filed and served at least 7 days prior to such hearing, trial or appearance, and
2. The request is supported by a showing of good cause documented by the requesting party.

B. Emergency shall include:

1. Sickness or injury, requiring hospitalization or medically ordered bed rest of a complaining witness, a criminal defendant or civil party, or any subpoenaed witness.
2. Attendance at a funeral for an immediate relative (mother, father, sister, brother, husband, wife, child, grandparent, grandchild, or any persons having such degree of relationship under the accepted traditions and customs of the Tribe) by a complaining witness or criminal defendant, or civil party, or any subpoenaed witness.
3. Other case of *bona fide* emergency, at the discretion of the court.
4. The unexpected failure of any person to appear under summons, subpoena or other lawful process, and having a material impact on the moving party's case.
5. The appearance in a state of intoxication or under impairment of drugs of any person appearing under summons, subpoena or other lawful process, and having a material impact on the moving party's case.
6. Administrative necessity of the court.

Rule 10 Criminal Complaints

The following shall be contained and plainly stated in all criminal complaints prepared pursuant to §3-101 of the Code:

- A. The date and time of the alleged offense,
- B. A specific description of the location of the alleged offense,
- C. The name of the person who allegedly committed the offense,
- D. A detailed description of the offense, stating the Code section allegedly violated and the elements alleged to constitute said offense,
- E. The specific elements upon which the arresting officer determined probable cause to detain, if an arrest was made without a warrant for arrest.

The specification required by this Rule may be provided by attachment referenced in the Complaint, if additional room is necessary.

Rule 11 **Assistance in Drafting Criminal Complaints**

The Clerk of Court, any Assistant Clerk of Court, the Prosecutor and Prosecutor Advocate are designated as the individuals who will assist persons filling out criminal complaint information sheets pursuant to §3-101 of the Code.

Rule 12 **Screening and Approval of Criminal Complaints**

The Prosecutor and Prosecutor Advocate are designated by the Court as individuals authorized to screen complaints not brought by police officers, for sufficiency. They have the discretion to disapprove all complaints not found sufficient or when disapproval is necessary to serve the interests of justice. When a complainant is not reasonably available to sign, the Prosecutor and Prosecutor Advocate may approve the issuance of complaints on information relayed by electronic means, including telephone, radio or fax, in their sound discretion, subject to subsequent verification.

Rule 13 **Statement of Probable Cause**

In all criminal cases in which an arrest has been made without a warrant, the Complaint shall state the probable cause for arrest and shall be submitted to a judge for review of probable cause, within 48 hours of the arrest. This does not preclude submission of additional documents demonstrating foundation for probable cause for arrest.

Rule 14 **Withdrawal of Criminal Complaints**

Criminal complaints may be withdrawn only with the approval of a Prosecutor or Judge. The executed withdrawal form bearing the approval of a Prosecutor or Judge shall be attached to and filed with the complaint of record.

Rule 15 **Scheduling of Criminal Trials**

Except for good cause shown, each criminal case shall be set for trial at the time of arraignment, if not concluded by plea. The court may, at its discretion set the matter for further interim hearing or conference upon a party's motion for good cause.

Rule 16 Criminal Sentencing

A. The court shall pronounce sentence immediately upon the acceptance of a guilty plea or upon conviction of any offense, unless at the request of a party, or on the court's own motion, it finds good cause to delay or defer imposition of sentence.

B. If it appears that the person being sentenced suffers from a cognitive disability or may be addicted to alcohol or drugs, which substantially contributed to the offense, and the court deems it to be appropriate to consider it in passing sentence, the court may delay or defer sentencing until an evaluation of that person may be conducted and reported to the court. Time spent inpatient for any evaluation or treatment shall be credited as time spent in detention and credited to the sentence. Outpatient evaluation or treatment without detention may be credited to the sentence, in the court's discretion. Persons held in detention may be released on temporary pass, as necessary and appropriate to conduct any evaluation or treatment.

C. Before the court sentences any person, the Prosecutor shall advise the court if that person is under any suspension or deferment of sentence and of any prior convictions and sentences which the Prosecutor may deem pertinent.

Rule 17 Reduction in Sentence

A. All requests for reduction of sentence shall be by motion identifying the case in question, the sentence, the grounds for the request and the proposed change in sentence.

B. Reductions in sentence shall only be granted to correct manifest injustice or due to unforeseen pertinent circumstances arising since sentencing.

Rule 18 Bench Warrants

Whenever a person fails to appear in court as duly required by an order to show cause, subpoena, summons or other process requiring that person's appearance, in any civil or criminal case, the court may issue a bench warrant directed to any law enforcement officer directing the arrest and detention of said person for appearance before the court. The warrant shall be served in the same manner as any other arrest warrant.

Rule 19 Temporary Leave from Confinement

A. All requests for temporary leave or for temporary passes shall be submitted to the court after notice to and approval or disapproval by the Prosecutor, in writing. All requests shall be brought through the office of the Public Defender or such lawyer or lay

advocate who has appeared as counsel of record, and to the judge who sentenced the person seeking the pass. In cases of emergency the request may be submitted directly to the sentencing judge or, in his or her absence, to another judge.

B. Temporary leave or passes may be granted for the following reasons:

1. Appearance for substantiated medical appointments or emergency medical care.
2. Appearance for evaluations or treatment for chemical dependency.
3. Urgent personal or family matters such as funerals.
4. To relieve overcrowded detention conditions or for public health or safety reasons as a result of temporary detention facility conditions.
5. For persons who, for no fault of their own making, cannot be promptly arraigned.
6. For other cases for good cause in the discretion of the court.

C. Absent good cause, temporary leave or temporary passes will only be granted to persons who have exhibited good behavior while in confinement and the lawyer or lay advocate seeking release shall determine and accurately represent this to the court, as officers of the court. Persons who have pending charges or past convictions for escape, failure to return to detention or failure to appear in court shall not be eligible, except for compelling circumstances in the discretion of the court.

D. Temporary passes in excess of 8 hours will be granted only under exceptional circumstances.

E. Failure to abide by any conditions of a pass shall constitute criminal contempt, and failure to return on a timely basis, escape.

Rule 20

Assistance in Drafting Civil Complaints

The Clerk of Court shall provide procedural assistance to any party not represented by a lawyer or lay advocate in the drafting of any Complaint or Petition to the court for relief.

Rule 21

Closure of Juvenile and Involuntary Commitment Proceedings

All juvenile proceedings and hearings for involuntary commitment shall be closed to the general public. Only parties, witnesses, or persons with a legitimate interest in the proceedings may attend. Immediate family shall be deemed to have a legitimate interest, unless excluded by the court for good cause.

**STANDING ROCK SIOUX TRIBAL COURT
STANDING ROCK SIOUX INDIAN RESERVATION**

RULES OF COURT

Promulgated: June 10, 2009

Rule 22, Amended

Practice by Law Students

It is in the interest of the Tribe that law students gain a competence in Indian Law and Tribal Court practice. The Chief Judge may permit the practice by law students of the University of North Dakota School of Law and the University of South Dakota School of Law before the Tribal Courts, on the following conditions:

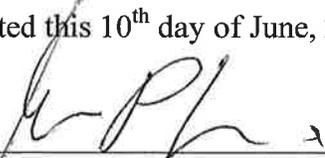
1. That any student must be first qualified and accepted for practice under the student practice provisions in the courts of North Dakota or South Dakota and so certified by the supervising attorney.
2. That any student practicing before the Tribal Court shall be subject to supervision by an attorney admitted to Tribal Court and subject to the same limitations of practice as provided by the laws of the state his or her limited admission.
3. The supervising attorney shall be responsible to the Tribal Court and the student's admission to practice before the Tribal Court shall be ancillary to under the Tribal license of the supervising attorney.

If under the supervision of a lawyer employed by the Standing Rock Sioux Tribe, the Chief Judge may allow the appearance in Tribal Court of any law student enrolled in any ABA accredited law school, subject to conditions 2 and 3.

**ADMINISTRATIVE ORDER
ADOPTING RULE OF COURT**

Pursuant to the authority of Section 1-104 of the Standing Rock Sioux Tribe Code of Justice, the foregoing Rule of Court, Rule 22 Amended, is adopted as a Rule of Court for the Standing Rock Sioux Tribal Court.

Dated this 10th day of June, 2009,



William P. Zuger
Chief Judge



Michael T. Swallow
Associate Chief Judge

**STANDING ROCK SIOUX TRIBE
CODE OF JUSTICE**

TABLE OF CONTENTS

TITLE 1. COURTS	Page No.
Chapter 1. Standing Rock Sioux Tribal Court	
1-101. Creation of the Court.....	1
1-102. Composition of the Court.....	1
1-103. Records of Court.....	1
1-104. Rules of Court.....	1
1-105. Services to Court by Tribal or Federal Employees.....	2
1-106. Criminal Jurisdiction of the Standing Rock Sioux Tribal Court.....	2
1-107. Civil Jurisdiction of the Standing Rock Sioux Tribal Court.....	2
1-108. Tribe Immune From Suit.....	2
1-109. Suits Against Tribal Officials.....	2
(a) Suits for Money Damages.....	2
(b) Suits Seeking Declaratory and Equitable Tribe.....	2
1-110. Jurisdiction over Persons or Entities who Enter Consensual Relations with Standing Rock Sioux Tribe.....	3
1-111. Judgements/Decisions	3
Chapter 2. Supreme Court of the Standing Rock Sioux Tribe	
1-201. Creation of the Supreme Court.....	4
1-202. Jurisdiction of the Supreme Court.....	4
1-203. Composition of the Supreme Court.....	4
1-204. Records of the Supreme Court.....	4
1-205. Place and Time of Sessions of the Supreme Court.....	5

1-206. Right of Appeal.....	5
(a) Criminal Cases	
(b) Civil Cases	
1-207. Procedure on Appeal of Criminal Cases.....	6
(a) Time to Appeal and How to Appeal	
(b) Notice of Appeal	
(c) Designation of Parties	
(d) Release on Bond Pending Appeal	
1-208. Procedure on Petition for Review of Civil Cases.....	6
(a) Time to Petition and How to Petition	
(b) Contents of Petition for Review	
(c) Designation of Parties	
(d) Stay on Appeal	
1-209. Judgment Against Surety.....	7
1-210. Record of the Standing Rock Sioux Tribal Court.....	7
1-211. Briefs and Memoranda.....	7
1-212. Oral Argument.....	8
1-213. Separate Docket for Supreme Court.....	8
1-214. Rules of Supreme Court.....	8
1-215. Scope of Review	8
1-216. Judgements/Opinions	9

CHAPTER 3. Judges and Justices

1-301. Qualifications of Judges and Justices.....	9
1-302. Initial Appointment of Judges and Justices.....	9
1-303. Oath of Office.....	10
1-304. Referendum of Judges and Justices.....	10
1-305. Duties of Judges and Justices.....	10
1-306. Compensation and Bond of Judges and Justices.....	11
1-307. Removal of Judges and Justices Based on Cause.....	11
1-307-1 Removal of Medical Inability to Carry Out the Duties of Office	12

1-308. Disqualification of Judges or Justices in Particular Cases.....	13
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CHAPTER 4. Court Administration

Subchapter A. Clerk of Courts

1-401. Office of Clerk.....	13
1-402. Qualifications.....	13
1-403. Appointment, Compensation and Bond.....	14
1-404. Oath of Office.....	14
1-405. Termination of Services.....	14
1-406. Duties.....	14

Subchapter B Tribal Court Administrator

1-407. Tribal Court Administrator.....	14
1-408. Qualifications.....	14
1-409. Compensation and Bond.....	15
1-410. Oath of Office.....	15
1-411. Termination of Services.....	15
1-412. Duties.....	15

Chapter 5. Tribal Court Prosecutor and Public Defender

1-501. Office of Tribal Court Prosecutor.....	16
1-502. Qualifications.....	16
1-503. Appointment and Compensation.....	16
1-504. Oath of Office.....	16
1-505. Terms of Employment.....	17
1-506. Duties.....	17
1-507. Termination of Services of Tribal Court Prosecutor.....	17

Subchapter B. Tribal Public Defender

1-508. Office of Tribal Public Defender.....	17
1-509. Qualifications.....	18
1-510. Appointment and Compensation.....	18
1-511. Oath of Office.....	18
1-512. Term of Employment.....	19
1-513. Duties.....	19
1-514. Termination of Tribal Public Defender.....	19

Chapter 6. Attorneys and Lay Counselors

1-601. Qualifications to Admission as Attorney or Lay Counselor.....	19
1-602. Oath Upon Admission.....	20
1-603. Attorneys' Roll.....	20
1-604. Sanction.....	21
1-605. Right to Counsel.....	21
1-606. Council Members Shall not Practice as Attorneys or Lay Counselors.....	21

CHAPTER 7. ETHICAL STANDARDS AND VIOLATIONS

1-701. Purpose	21
1-702. Ethical Standards	21
1-703. Time	22
1-704. Ethics Review Commission	22
1-705. Ethics Review Commission Investigation	23
1-706. Prosecution of Complaint.....	26
1-707. Sanctions	29

Chapter 8. Miscellaneous Provisions

1-801. Service of Process.....30

TITLE I. COURTS

Chapter I. Standing Rock Sioux Tribal Court

1-101. Creation of the Court.

There is hereby established the Standing Rock Sioux Tribal Court as a court of record.

1-102. Composition of the Court.

The Court shall consist of a Chief Judge and an Associate Chief Judge, the duties of whom shall be regular and permanent, and as many Associate Judges as the Tribal Council may from time to time determine to be necessary to carry on the business of the Court. As Associate Judge may be regular and permanent, or may be called in as a special judge by the Chief Judge or, in the absence of the Chief Judge, the Associate Chief Judge when the occasion requires.

1-103. Record of Court.

The Court shall keep a record of all proceedings of the Court, which shall consist of: a showing of the title of the case; the names and addresses of the parties, attorneys and witnesses appearing in the case; the substance of the complaint; the dates of hearings or trials; the name of the Judge; the verdict of the jury and/or the judgment or any other order issued by the Judge; the preservation of testimony and complete hearings and trials held in the Court, for perpetual preservation by electronic recording or other reliable means; pleadings and evidence submitted by a party to the Court in the case; and any other facts, documents or circumstances deemed of importance to the case. A record of all proceedings leading to incarceration of an Indian by the Tribal Court shall be submitted to the Superintendent, Standing Rock Agency, to be made a part of the records of the Agency office as required by 25 U.S.C. § 200. A record of all proceedings leading to incarceration of a non-Indian under any applicable provision of the Standing Rock Sioux Tribal Code of Justice, including Chapter 17 of Title IV, shall either be submitted to the Superintendent, Standing Rock Agency, to be made a part of the records of the Agency office, or maintained by the Tribal Court for a period of no less than ten (10) years following the date of conviction. Unless specifically exempted by the Standing Rock Sioux Tribal Code of Justice or regulations promulgated thereunder, the records of the Court shall be public.

1-104. Rules of Court.

The Chief Judge and Associate Chief Judge, together, may prescribe written rules of Court consistent with the provisions of this Code. The rules shall be made available to the public, and a copy shall be delivered to the Chairman of the Standing Rock Sioux Tribal Council. To the extent such rules do not conflict with the Constitution of the Standing Rock Sioux Tribe or any provision of the Standing Rock Sioux Tribal Code of Justice, the Rules of Court shall be incorporated by reference into this Title, and need not be approved by the Tribal Council prior to implementation.

1-105. Services to Court by Tribal or Federal Employees.

The Court may request and utilize social, health, education, or other professional services of tribal employees as requested, and of federal employees as authorized by the Secretary of the Interior or his authorized representative.

1-106. Criminal Jurisdiction of the Standing Rock Sioux Tribal Court.

The Court shall have jurisdiction over all offenses committed by an Indian within the boundaries of the Standing Rock Indian Reservation against the law of the Tribe as established by duly enacted ordinances of the Tribal Council. In addition, the Court shall have special, expanded jurisdiction over offenses committed by both Indians and non-Indians as provided in Chapter 17 of Title IV of the Standing Rock Sioux Code of Justice and in compliance with the Violence Against Women Reauthorization Act of 2013, P.L. 113-4.

1-107. Civil Jurisdiction of the Standing Rock Sioux Tribal Court.

The judicial power shall extend to: (a) all cases in law and equity arising under the Tribal Constitution, Tribal custom and tradition, or the laws of the Tribe as set forth in the Standing Rock Sioux Tribal Code of Justice or properly-adopted regulation or policy of the Tribe; and/or (b) to any case in which the Tribe, a member of the Tribe, an Indian residing on the Reservation or a corporation or entity owned in whole or in substantial part by any Indian shall be a party.

1-108. Tribe Immune From Suit.

The Tribe shall be immune from suit, except to permit garnishment of Tribal employee wages in accordance with Section 2-211 of the Standing Rock Sioux Tribal Code of Justice.

1-109. Suits Against Tribal Officials.

- (a) Suits for Money Damages. No elected official or employee of the Tribe shall be subject to suit for money damages for actions taken in the course of his official duties, or in the reasonable belief that such actions were within the scope of his official duties unless, in the case of a tribal employee who does not hold elected office, it is established that such action was taken with malicious intent and in bad faith.
- (b) Suits Seeking Declaratory and Equitable Relief. The Court shall have exclusive jurisdiction over all suits in which tribal officials are defendants, except habeas corpus proceedings authorized by 25 U.S.C. 1303, where only declaratory and equitable relief is sought and where service of process has been made under Section 2-102(c) and proof such service has been received by the Court, provided that such habeas corpus proceeding may be sought only after exhaustion of all Tribal remedies.

1-110. Jurisdiction over Persons or Entities who Enter Consensual Relations With Standing Rock Sioux Tribe.

- (a) For the purpose of this Ordinance, the term “person,” includes a corporation, partnership, business or any other legal entity.
- (b) Every person who enters a contract with the Standing Rock Sioux Tribe, or an agency, instrumentality or corporation of the Tribe shall be required to consent to the civil jurisdiction of the Tribe. Consultant agreements and other contracts shall contain the following clause, or language substantially similar to the same:

“This agreement constitutes a consensual relationship with the Standing Rock Sioux Tribe, and, as such, the contractor shall be deemed to consent to all applicable Tribal Laws and Regulations.”

- (c) Every request for bids or request for proposals for a contract for construction, professional services, or sales of durable goods, shall contain the following clause, or language substantially similar to the same:

“The person or firm awarded the contract shall be entering a consensual relationship with the Standing Rock Sioux Tribe, and, as such, the contractor shall be deemed to consent to all applicable Tribal Laws and Regulations.”

- (d) Every lease for Tribal land shall include a provision or an addendum containing the following clause, or language substantially similar to the same:

“This lease agreement constitutes a consensual relationship with the Standing Rock Sioux Tribe, and as such, the lessee consents to all applicable Tribal Laws and Regulations.”

- (e) The Tribal Council may waive the requirements of this Section, upon a finding of good cause therefore which finding shall be indicated by approving an agreement with language or provisions in variance to those provided in this Section by a majority vote taken at a meeting with at least two-thirds (2/3) of the Tribal Council members present and voting on the question.

1-111. Judgments/Decisions.

There shall be no time limit on when a judgment or decision must be rendered by the Tribal Court, provided that the Tribal Court shall act in good faith and with reasonable promptness, while giving each matter and issue due regard and consideration.

Chapter 2. Supreme Court of the Standing Rock Sioux Tribe

1-201. Creation of the Supreme Court.

There is hereby created a Supreme Court of the Standing Rock Sioux Tribe.

1-202. Jurisdiction of the Supreme Court.

The Supreme Court shall have exclusive jurisdiction of all appeals from final orders and judgments of the Standing Rock Tribal Court. The Supreme Court, or the Chief Justice alone, shall have jurisdiction: (a) to take all steps necessary to preserve and protect the jurisdiction of the Court; (b) during the pendency of any appeal, to release the appellant on his own recognizance or bail pursuant to Section 3-402 of this Title; (c) to make any order appropriate to preserve the status quo or to protect any ultimate judgment of the Supreme Court; and (d) to perform any duties or responsibilities required or authorized in Chapter 7 of this Title.

1-203. Composition of the Supreme Court.

The Court shall consist of a Chief Justice and two Associate Justices, none of whom shall be Judges of the Standing Rock Sioux Tribal Court.

1-204. Records of the Supreme Court.

The Supreme Court shall keep a record of all proceedings of the Court, which shall consist of: a showing of the title of the case; the names and addresses of all parties and attorneys appearing in the case; the briefs and any other pleadings filed in the case; the date of any oral argument; the preservation of any oral argument or other hearing held before the Court, for perpetual preservation by electronic recording or other reliable means; the names of the Justices who heard and decided the case; all judgments, opinions, or orders issued by the Court in the case; and any other facts, documents or circumstances deemed of importance to the case. A record of all proceedings regarding the appeal of an Indian in the Supreme Court shall be submitted, after the appeal has been decided, to the Superintendent, Standing Rock Indian Agency, to be made a part of the records of the Agency office as required by 25 U.S.C. 200. A record of all proceedings regarding the appeal of a non-Indian under any applicable provision of the Standing Rock Sioux Tribal Code of Justice, including Chapter 17 of Title IV, shall either, after the appeal has been decided, be submitted to the Superintendent, Standing Rock Agency, to be made a part of the records of the Agency office, or maintained by the Tribal Court for a period of no less than ten (10) years following the date the appeal was decided. Unless specifically exempted by the Standing Rock Sioux Tribal Code of Justice, or any regulations promulgated thereunder, the records of the Court shall be public.

1-205. Place and Time of Sessions of the Supreme Court.

- (a) If the business of the Supreme Court requires, the Court shall hold up to four (4) sessions a year to be held in Fort Yates, North Dakota. The docket for each session shall be any matter properly appealed to the Supreme Court in which at least 30 days has elapsed since the date on which the last brief was due or allowed under Section 1-211 of this Title, which shall ensure the Supreme Court has had adequate time to review the record and all briefs filed in the matter prior to hearing or deliberation of the appeal while the Court is in session. If there are no appeals properly before the Court pursuant to this Section which the Court would consider at any given session, the session shall be cancelled. The sessions of court shall begin on: the First Monday of February; the first Monday of May the first Monday of August and the first Monday of November, unless any such Monday is a tribal holiday, in which case the session shall commence on the next day which is not a tribal holiday. The Court shall dispose of all appeals on the docket before it ends the session. The Chief Justice may convene special sessions of Court at such times and places as may be necessary, to either: (1) hear an expedited matter upon the written, knowing consent of all parties to the appeal, or (2) hold additional deliberations of the Court on matters already properly brought before the Court.
- (b) Each session of the Court shall be utilized for hearing oral argument on a matter properly before the Court pursuant to this Section, and/or for deliberations of the Court on an appeal. Oral arguments shall be open to the public. Deliberations of the Court shall be closed to the public.

1-206. Right of Appeal.

- (a) Criminal Cases. The defendant in a criminal case shall have the right to an appeal from a judgment of conviction, provided such defendant must affirmatively appeal the judgment and follow all requirements for an appeal as set forth in this Title. The Tribe shall have no right of appeal from a jury verdict of "Not Guilty" in criminal cases, but shall have a right of appeal from a judgment of "Not Guilty" rendered by the Standing Rock Sioux Tribal Court without a jury. Appeals in criminal cases shall be taken as provided in Section 1-207. A public defender shall be provided for defendants appealing a conviction under Chapter 17 of Title IV of the Standing Rock Sioux Tribal Code of Justice if such defendant: (1) is a member of the Standing Rock Sioux Tribe, regardless of income; or (2) if the individual is not a member of the Standing Rock Sioux Tribe, but has an income level within 150% of the Federal poverty level. Otherwise, a public defender is not guaranteed for any individual appealing a matter before the Standing Rock Supreme Court.
- (b) Civil Cases. Any party who is aggrieved by any final order or judgment of the Standing Rock Sioux Tribal Court may file a petition requesting the Supreme Court to review that order or judgment as provided in Section 1-208.

1-207. Procedure on Appeal of Criminal Cases.

- (a) Time to Appeal and How to Appeal. An appeal must be taken within 45 days from the date of judgment appealed from by filing a written notice of appeal with the clerk of the Tribal Court. No extensions of the 45 day period shall be granted. Upon request, the clerk of the Tribal Court shall prepare the notice of appeal.
- (b) Notice of Appeal. The notice of appeal shall specify the party or parties taking the appeal, shall designate the judgment, or part thereof, appealed from, and shall contain a short statement of reasons for the appeal. The clerk shall mail a copy of the notice of appeal to all parties other than the party taking the appeal.
- (c) Designation of Parties. The party taking the appeal is an appellant. All other parties are appellees.
- (d) Release on Bond Pending Appeal. In criminal cases, the defendant may be continued on release or be released on bail, as provided in Section 3-402 of this Title, by the Standing Rock Sioux Tribal Court. The appellant may petition the Supreme Court, or the Chief Justice thereof, to review any decision of the Standing Rock Sioux Tribal Court taken under this Section.

1-208. Procedure on Petition for Review of Civil Cases.

- (a) Time to Petition and How to Petition. A party to a civil case may petition for review. Upon request, the clerk of the Tribal Court shall prepare the petition for review. A petition for review must be taken within 30 days from the date of entry of the final order or judgment appealed from by filing such petition with the clerk of the Tribal Court together with any bond required pursuant to Section 2-208. No extensions of 30 day period shall be granted.
- (b) Contents of Petition for Review. The petition for review shall specify the parties taking the appeal, shall designate the final order or judgment, or part thereof appealed from, and shall contain a short statement of reasons why the petition should be granted. The clerk shall mail a copy of the petition for review to all parties other than the petitioner. Other parties shall have 15 days to respond to the petition for review, after which time the Supreme Court or the Chief Justice thereof shall grant the petition and allow the appeal to be heard, or shall deny the petition and state the grounds for denying the appeal in writing.
- (c) Designation of Parties. The party taking the appeal is an appellant. All other parties are appellees.
- (d) Stay on Appeal. In civil cases, the petitioner may request the Standing Rock Sioux Tribal Court to stay the judgment pending action on the petition, and on the appeal if the petition is granted, and either party may request the Standing Rock Sioux Tribal Court to

grant or stay an injunction pending appeal. The Court may condition a stay or injunction pending appeal on the depositing of cash or a bond satisfactory to the Tribal Court. The cash or bond may be effective when the deposit of cash or bond is approved by the Tribal Court. The appellant may petition the Supreme Court, or the Chief Justice thereof, to review any decision of the Standing Rock Sioux Tribal Court under this Section.

1-209. Judgment Against Surety.

Any surety to a bond thereby submits himself to the jurisdiction of the Standing Rock Sioux Tribal Court, and irrevocably appoints the clerk of the Court as his agent upon whom any papers affecting his liability on the bond may be served. The liability of a surety may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the Court prescribes may be served on the clerk of the Court who shall forthwith mail copies to the surety at his last known address.

1-210. Record of the Standing Rock Sioux Tribal Court.

Within five (5) days after a notice of appeal is filed in criminal cases, or petition for review is filed in civil cases, the clerk of the Standing Rock Sioux Tribal Court shall certify and file with the Supreme Court all papers comprising the record in the case as set forth in Section 1-103 of this Title. Either party may obtain a copy of the record in the appeal to which they are provided; provided that a party to a civil matter may be charged a reasonable fee for making copies of the record. No charge for copying may be taxed to a defendant appealing his or her criminal conviction.

1-211. Briefs and Memoranda.

- (a) Within 30 days after the notice of appeal is filed under Section 1-207, or a petition for review is granted under 1-208, the appellant shall file a written brief, memorandum, or statement in support of his appeal. An original, and one copy for each appellee, shall be filed with the clerk who shall mail one copy, registered or certified mail, return receipt requested, to each appellee. The return receipt shall be filed with the clerk.
- (b) The appellee shall have 15 days after receipt of the appellant's brief, memorandum, or statement, or such other time as the Court allows, within which to file an answer brief, memorandum, or statement if he desires. An original, and one copy for each appellant, shall be filed with the clerk who shall mail one copy, registered or certified mail, return receipt requested, to each appellant. The return receipt shall be filed with the clerk. If the appellant failed to file a written brief, memorandum or statement in support of their appeal, the appellee may still file an answer brief, memorandum or statement, if filed within 15 days of the date when the appellant's brief, memorandum or statement was due under this Section, and may answer the grounds set forth in the notice of appeal.

(c) Upon good cause shown, and provided an extension would not cause prejudice to the non-requesting party or irreparable harm, the Supreme Court may grant extensions of time for either party to an appeal to file a brief, memorandum or statement under this Section.

(d) No further briefs, memoranda, or statements shall be allowed without leave of Court.

1-212. Oral Argument.

(a) Criminal Appeals. The Supreme Court shall assign all criminal cases for oral argument.

(b) Civil Appeals. The Supreme Court may, in its discretion, or upon request of either the appellant or appellee, assign civil cases for oral argument. If request is made for oral argument, the Court shall determine whether oral argument should be permitted, and thereafter inform all parties whether argument has been granted and, if so, the date, time and place for argument. If the Court does not grant oral argument after such argument is requested, it shall explain why. If no request for oral argument is made, the Court shall determine whether oral argument should be scheduled, and thereafter inform all parties whether argument has been scheduled and, if so, the date, time and place for argument. If, regardless of whether oral argument has been requested, the Supreme Court does not believe oral argument is necessary to decide the appeal, the Court may dispose of civil cases on the briefs without argument.

1-213. Separate Docket for Supreme Court.

A separate docket shall be maintained for the Supreme Court in which all actions taken at each stage of the proceedings in the Supreme Court shall be recorded.

1-214. Rules of Supreme Court.

Written rules of Supreme Court consistent with the provisions of this Code may be prescribed by the Chief Justice of the Supreme Court. The rules shall be made available to the public, and a copy shall be delivered to the Chairman of the Standing Rock Sioux Tribal Council.

1-215. Scope of Review.

(a) The Supreme Court shall not hear any issue or evidence for the first time on appeal which was not first brought, or introduced, before the Standing Rock Sioux Tribal Court.

(b) In civil matters, the Supreme Court may reverse, affirm, or modify a judgment or order; may order a new trial of the case; or may remand the matter to the Tribal Court.

- (c) In criminal matters, the Supreme Court may set aside, affirm, or modify any or all of the proceedings subsequent to or dependent upon the verdict, judgment or order on appeal; may order a new trial; or may remand the case with proper instructions to the Standing Rock Sioux Tribal Court.

1-216. Judgments/Opinions.

After any oral argument scheduled and held on an appeal, and deliberations on an appeal, the Justices shall remit a final judgment through an opinion of the Court after a majority of the Justices have agreed upon a decision in the appeal. There shall be no time limit on when an opinion on an appeal must be issued by the Supreme Court, provided that the Supreme Court shall act in good faith and with reasonable promptness, while giving each appeal and issue due regard and consideration. Any opinion rendered by the Supreme Court shall be sent to the Tribal Court and to each party to the appeal. Upon receipt of the opinion, the Tribal Court shall note the opinion on the docket, and the Tribal Court shall take any further action which may be required or necessary as a result of the decision of the Supreme Court.

Chapter 3. Judges and Justices

1-301. Qualifications of Judges and Justices.

To be eligible to hold the office of Judge or Justice, a person must: (1) be at least 25 years of age for Chief Judge, Chief Justice or Associate Chief Judge and 21 years of age for the offices of Associate Judges and Associate Justices; (2) be of high moral character and integrity; (3) have never been convicted of a criminal offense, other than traffic offenses, for which a punishment of imprisonment was imposed; (4) not have been dishonorably discharged from the Armed Services; (5) be physically able to carry out the duties of the office; and (6) be qualified to be admitted to practice under the relevant provision of Section 1-601 of this Title. The Chief Judge, Chief Justice and the Associate Chief Judge must have a degree in law from an accredited law school and be a member in good standing of the bar of any state or federal court, and shall become admitted to practice law in the Standing Rock Sioux Tribal Court as provided under Section 1-601(a). All other Associate Judges and Justices must be a high school graduate or its equivalent, and, if such individual does not have a degree in law or is not a member in good standing of the bar of any state or federal court, shall become admitted to practice as a lay counselor in the Standing Rock Sioux Tribal Court.

1-302. Initial Appointment of Judges and Justices.

Each Judge and Justice shall initially be appointed by a two-thirds (2/3) vote of the Tribal Council taken by roll call at a meeting at which a quorum is present. After May 11, 1984, Judges and Justices shall be appointed for an initial term commencing with the date fixed by the Tribal Council and ending at the next regular tribal election, unless removed for cause as provided in the Tribe's Amended Constitution and this Title. Should a vacancy in a judgeship occur between sessions of the Tribal Council, the Chairman of the Tribal Council may fill the vacancy, subject

to confirmation by a two-thirds (2/3) vote of the Tribal Council taken by roll call vote at the next meeting of the Tribal Council at which a quorum is present.

1-303. Oath of Office.

On taking office, each judge shall take an oath as follows:

“I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the Standing Rock Sioux Tribe and uphold tribal law and the Treaty of April 29, 1868 and will faithfully discharge the duties of my office according to the best of my ability, so help me God.”

1-304. Referendum of Judges and Justices.

- (a) Each Judge or Justice appointed by the Council who is validly holding office on May 11, 1984 shall be subject to a referendum at the regular tribal election for the year of 1984. Each Judge or Justice appointed after May 11, 1984, pursuant to Section 1-302, shall be subject to a referendum at the next regular tribal election following the appointment. At the election, the qualified voters of the Tribe shall vote by referendum on whether each such Judge or Justice shall be retained in Office. The referendum shall read, in substance: “Whether _____ (name) _____ shall be retained as a Judge (or Justice) of the Standing Rock Sioux Tribal Court (or Standing Rock Sioux Supreme Court) YES / ___ / NO / ___ /.”
- (b) The referendum on each Judge or Justice shall appear on a Notice of Election at least 30 days prior to the election, provided that the Council may fix a shorter period if necessary. In all other respects the referendum elections regarding Judges and Justices shall be as provided in Title XV of this Code.
- (c) If a majority of the votes cast by qualified voters of the Tribe are in favor of retaining the Judge or Justice in office, the Judge or Justice shall serve a four (4) year term, beginning with the date of the election, unless removed for cause as provided in the Tribe’s Constitution and this Title. If a majority of the votes cast by the qualified voters of the Tribe are against retaining the Judge or Justice in office, the Tribal Council shall appoint a successor and the Judge or Justice shall remain in office until his successor is so appointed and sworn in.
- (d) Each Judge or Justice whose four (4) year term expires shall be subject to another referendum election at the regular tribal election which is concurrent with the expiration of that term.

1-305. Duties of Judges and Justices.

- (a) The Judges and Justices shall administer justice and discharge all duties imposed upon them by law and shall hear and decide cases and enter judgments or orders disposing of

each case. The Chief Judge of the Standing Rock Sioux Tribal Court shall be responsible for the administration of the Court, the assignment of cases and the management of the Court's calendar and business and shall, in the absence of a clerk of Court, perform the clerk's duties in addition to his own. All judges of the Court shall have the power to receive cash bail whenever the clerk is not available.

- (b) All Judges of the Standing Rock Sioux Tribal Court shall: (1) issue arrest warrants, search warrants and summonses when occasion requires; (2) deputize special tribal police officers when occasion requires; and (3) perform all other duties specifically assigned to them by this Code.

1-306. Compensation and Bond of Judges and Justices.

The compensation of the Chief Judge, Chief Justice, Associate Chief Judge, Associate Judges and Associate Justices shall be fixed by the Tribal Council or the United States, depending on which pays the compensation. The rates of compensation so established may not be decreased during their term of office. The Chief Judge and Associate Chief Judge shall be bonded by a surety bond satisfactory to the Tribal Council or the United States, depending on which pays the compensation. Justices of the Supreme Court shall receive compensation only for those days they sit as members of the Supreme Court or otherwise perform the duties of their office. Upon consideration of the budget for the Supreme Court, reasonable limitations may be placed on compensation for Supreme Court Justices which may limit the amount of time for which said Justices will be compensated outside of the time they spend in sessions required by this Title.

1-307. Removal of Judges and Justices Based on Cause.

- (a) A Judge of the Tribal Court or Justice of the Supreme Court may be sanctioned by the Tribal Council upon cause – including being removed from office upon a two-thirds (2/3) vote of the Tribal Council - at a meeting at which a quorum is present, as further provided in this Section.
- (b) For the purpose of this Section, “cause” shall be synonymous with “specific misconduct in office,” which shall be defined as the commission of a violation of the ethical standards applicable to Judges and Justices on the Standing Rock Indian Reservation as set forth in Section 1-702 of this Title, which violation was found to have occurred by the Standing Rock Supreme Court pursuant to Chapter 7 of this Title.
- (c) A matter regarding sanctions against a Judge shall only come before the Tribal Council upon first going through the ethics procedures in Chapter 7 of this Title. If a matter comes to the Tribal Council, or any Committee or Member thereof, without having first gone through the ethics procedures of Chapter 7, such matter shall be referred to the Ethics Review Commission.
- (d) Upon a finding that a Judge or Justice committed an ethical violation by the Standing Rock Supreme Court, the Supreme Court shall forward its Judgment to the Chair of the

Standing Rock Sioux Tribal Council Judicial Committee, who shall arrange to have a “Sanction Hearing” placed on the agenda of the next meeting of the Tribal Council not scheduled within 25 days of the Judicial Committee Chair’s receipt of the Supreme Court Judgment. The Judicial Committee Chair shall then ensure that the Ethics Prosecutor who had been assigned to the complaint, and the individual to be sanctioned, both receive written notice, no later than 20 days prior to the date of the Sanction Hearing, either by U.S. Mail or hand-delivery, of the date on which the Sanction Hearing is to be held. Receipt shall be deemed to have occurred on the date the notice was hand-delivered, or three (3) days after such notice was placed in the U.S. Mail.

- (e) At the Sanction Hearing, the Tribal Council shall permit the Ethics Prosecutor the opportunity to explain the ethics violation to the Council, and comment upon the sanction recommended by the Supreme Court. The individual to be sanctioned shall then have the opportunity to respond regarding the sanctions. The Tribal Council may ask both the Ethics Prosecutor and individual to be sanctioned questions pertaining to the ethics violation. The Tribal Council may permit, at their discretion, the presentation of witnesses and relevant evidence to aid it in determining sanction, provided that each party receives equal opportunity to do so, and receives the opportunity to cross-examine and impeach the witnesses or evidence offered by the other party.
- (f) After providing both the Ethics Prosecutor and individual to be sanctioned adequate time to be heard, the Tribal Council shall deliberate in open session on sanctions, and shall vote on an appropriate sanction. The Tribal Council may issue any sanction available under 1-706(a), and shall consider the factors enumerated under 1-706(b). Any sanction other than removal may be adopted by a majority vote of the Tribal Council members voting on the question. A sanction for removal shall only be adopted by a two-thirds (2/3) vote of the entire Tribal Council.
- (g) After the Tribal Council has formally adopted a sanction, the Secretary of the Tribal Council shall ensure that a copy of the minutes pertaining to the sanction motion is forwarded to the Supreme Court for its records, and that a copy of the minutes pertaining to the sanction motion is delivered to the sanctioned individual.

1-307.1 Removal for Medical Inability to Carry Out the Duties of Office.

Pursuant to the Constitution of the Standing Rock Sioux Tribe, a Judge or Justice may be sanctioned – including through removal - for medical inability to carry out the duties of office. A proceeding upon such grounds may not be initiated solely due to the existence of a medical ailment of a Judge or Justice, but such medical ailment must have caused the Judge or Justice to breach their ethical responsibilities, and that the medical condition will continue to cause imminent and certain harm to the public due to likely future violations of the Judge of Justice’s ethical standards. Any such proceeding shall be initiated pursuant to the relevant provisions of Chapter 7 and Section 1-307 of this Title. Any variations from Title 7 and Section 1-307 required to properly adjudicate such a proceeding may be made by Order of the Chief Justice of the Supreme Court, or Associate Chief Justice if the Chief Justice is the Judge or Justice subject to

the complaint, upon his or her own directive or upon motion of either the Ethics Prosecutor or the Judge or Justice subject to the complaint.

1-308. Disqualification of Judges or Justices in Particular Cases.

A Judge or Justice shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned, in which he has any personal bias or prejudice concerning any party, in which he or a member of his immediate family might be a witness or has any personal knowledge of disputed evidentiary facts concerning the proceeding, in which he or any member of his immediate family is a party or has any financial or other interest in the proceeding or has acted or is acting as a lawyer or lay counselor in the proceeding, or in which he might otherwise appear to be biased or prejudiced. Any individual who is a party to an action, who believes the Judge or Justice presiding over or hearing his or her matter should be disqualified under this section, may petition the Court to have the Judge or Justice disqualify himself; provided that such disqualification shall be discretionary unless the Judge or Justice or any member of his immediate family is a party or has any financial or other interest in the proceeding or has acted or is acting as a lawyer or lay counselor in the proceeding, in which case disqualification shall be required.

Chapter 4. Court Administration

Subchapter A. Clerks of Court

1-401. Office of Clerk.

There shall be a chief clerk of Court, and such assistant clerks of Court as may be necessary. The chief clerk shall serve as clerk of both the Standing Rock Sioux Tribal Court and Supreme Court.

1-402. Qualifications.

To be eligible to serve as chief clerk of Court, a person must: (1) be at least 21 years of age; (2) be of high moral character and integrity; (3) be a high school graduate or equivalent; (4) be proficient in typing; (5) never have been convicted of a felony; (6) never have been dishonorably discharged from the Armed Services; (7) be physically able to carry out the duties of the office; (8) and be a member of the Standing Rock Sioux Tribe. To serve as an assistant clerk of Court, a person must satisfy all the foregoing requirements except that an assistant clerk shall be at least 18 years of age. Preference for chief clerk of Court and assistant clerks of Court shall be given to persons able to speak the Sioux Language.

1-403. Appointment, Compensation and Bond.

The chief and assistant clerks of Court shall be hired as provided in the Personal Policies and Procedures of the Standing Rock Sioux Tribe. The chief clerk shall be bonded. The compensation and bond amount of the chief clerk and the compensation of assistant clerks shall be fixed by the Tribal Council or the United States, depending on which pays the compensation.

1-404. Oath of Office.

Before entering upon the duties of office, the chief and assistant clerks shall take the following oath or affirmation:

“I, _____, having been appointed clerk of the Tribal Court, do solemnly swear (or affirm) that I will truly, faithfully, and impartially discharge all duties of my office to the best of my abilities and understanding. So help me God.”

1-405. Termination of Services.

Termination of services of the chief or any assistant clerk shall be governed by the Personnel Policies and Procedures of the Standing Rock Sioux Tribe.

1-406. Duties.

The clerks of Court shall assist the Courts, the authorized law enforcement officers of the Reservation, and Indians of the Reservation, in preparing all necessary papers including complaints, subpoenas, warrants, and notices of appeal, petitions for review, and other documents relating to the functions of the Courts. The clerks of Court shall attend and keep written records of all proceedings of the Courts, administer oaths and collect fines, costs, fees, and other moneys. The clerks of Court shall account to the authorized authority for all moneys collected.

Subchapter B. Tribal Court Administrator

1-407. Tribal Court Administrator.

A Tribal Court Administrator shall be hired as provided in the Personnel Policies and Procedures of the Standing Rock Sioux Tribe.

1-408. Qualifications.

To be eligible to serve as the Tribal Court Administrator, a person must: (1) be at least 25 years of age; (2) be of high moral character and integrity; (3) be a college graduate or equivalent; (4) never have been convicted of a felony; (5) never have been dishonorably discharged from the Armed Services; and (6) be physically able to carry out the duties of the office. Preference shall

be given in selection of the Tribal Court Administrator to members of the Standing Rock Sioux Tribe, and to persons able to speak and understand the Sioux language.

1-409. Compensation and Bond.

The Tribal Court Administrator shall be bonded. The compensation of the Tribal Court Administrator and amount of the bond shall be fixed by the Tribal Council or the United States, depending on which pays the compensation.

1-410. Oath of Office.

Before entering upon the duties of office, the Tribal Court Administrator shall take the following oath or affirmation:

“ I, _____, having been appointed Tribal Court Administrator of the Tribal Court, do solemnly swear (or affirm) that I will truly, faithfully, and impartially discharge all duties of my office to the best of my abilities and understanding. So help me God.”

1-411. Termination of Services.

The services of the Tribal Court Administrator may be terminated as provided in the Personnel Policies and Procedures of the Standing Rock Sioux Tribe.

1-412. Duties.

- (a) The Tribal Court Administrator shall be responsible for the planning and management of the administration of the Supreme Court and the Standing Rock Sioux Tribal Court. He shall supervise all employees of the Supreme Court and the Standing Rock Sioux Tribal Court, except for Judges, Justices, and Tribal Court prosecutor and Tribal public defender. The Tribal Court Administrator shall plan, prepare, and manage the budget, acquisition of supplies and services, and the necessary financial accounting practices of the Courts, and shall oversee all recordkeeping and reporting of the Courts.
- (b) Any duties or responsibilities of the Tribal Court Administrator may be moved or invested in any other appropriate Tribal Court employee, as may be necessary, upon a reorganization or restructuring of the Tribal Court officially adopted or approved by the Standing Rock Sioux Tribal Council. Any such reorganization or restructuring shall be incorporated by reference into this Title to the extent necessary.

Chapter 5. Tribal Court Prosecutor and Public Defender

Subchapter A. Tribal Court Prosecutor

1-501. Office of Tribal Court Prosecutor.

There shall be a Tribal Court prosecutor, and such assistant prosecutors as the Tribal Court may determine.

1-502. Qualifications.

- (a) To be eligible to serve as a Tribal Court prosecutor or assistant prosecutor, a person shall: (1) be a member in good standing of the bar of any state or federal court; (2) be at least 21 years of age; (3) be of high moral character and integrity; (4) have a degree in law from an accredited law school; (5) have never been convicted of a felony; (6) not have been dishonorably discharged from the Armed Services; (7) be physically able to carry out the duties of the office; and (8) be qualified to be admitted to practice under the relevant provision of Section 1-601 of this Title.
- (b) To be eligible to serve as Tribal Court prosecutor or assistant prosecutor, a person shall become admitted to practice law in the Standing Rock Sioux Tribal Court. In addition, Tribal Court prosecutors and assistant prosecutors shall complete a course contemplated by Section 1-601(b)(7) of this Title if such course is offered.

1-503. Appointment and Compensation.

The Tribal Court prosecutor shall be appointed by a two-thirds (2/3) vote of the Tribal Council taken at a meeting at which a quorum is present. Assistant tribal prosecutors shall be appointed by a majority vote of those voting at a meeting of the Tribal Council at which a quorum is present. The Tribal Court shall establish rates of compensation of the Tribal Court prosecutor and any assistant prosecutors retained by the Court.

1-504. Oath of Office.

Before entering upon the duties of office, the Tribal Court prosecutor and assistant prosecutors shall take the following oath or affirmation:

“I, _____, do solemnly swear (or affirm) that I will truly, faithfully and impartially discharge all duties of my office as prosecutor to the best of my abilities and understanding. So help me God.”

1-505. Terms of Employment

The terms of employment for the Tribal Court prosecutor and assistant prosecutors shall be established pursuant to contract between the prosecutor and the Tribe, and may include probationary periods. At the end of the contract period, the prosecutor and Tribe may negotiate whether to extend or renew the contract under the same or different contract provisions. Unless otherwise provided in the contract, the Tribal court prosecutor and assistants shall be exempt from the Personnel Policies and Procedures of the Standing Rock Sioux Tribe.

1-506. Duties.

The Tribal Court prosecutor and assistant prosecutors shall, in the name of the Tribe, prosecute criminal cases in Tribal Court. The prosecutors shall supervise the gathering of evidence by law enforcement officers to make sure each case is promptly and fairly presented, shall be authorized to represent the Tribe at arraignments, and shall be authorized to dismiss any criminal complaint that is not supported by sufficient evidence or is improvidently brought. The Tribal Court prosecutor and assistant prosecutors shall represent juveniles in Juvenile Court proceedings where parents or guardians are charged with neglect, abuse or abandonment, or where the custody of a child is disputed. The Tribal Court prosecutor shall make recommendations from time to time to the Tribal Court on the administration of justice on the Reservation.

1-507. Termination of Services of Tribal Court Prosecutor.

- (a) The services of the Tribal Court prosecutor or any assistant prosecutor may be sanctioned by the Tribal Council upon cause – including termination upon a two-thirds (2/3) vote of the Tribal Council - at a meeting at which a quorum is present.
- (b) For the purpose of this Section, “cause” shall be defined as the commission of a violation of the ethical standards applicable to attorneys admitted to practice law on the Standing Rock Indian Reservation as set forth in Section 1-702 of this Title, which violation was found to have occurred by the Standing Rock Supreme Court pursuant to Section 1-705 of this Title.
- (c) The procedure for removal of a Tribal Court prosecutor or assistant prosecutor shall be the same procedure provided for the removal of judges and justices under Section 1-307(c)-(g) of this Title.

Subchapter B. Tribal Public Defender

1-508. Office of Tribal Public Defender.

- (a) The Tribal Council may appoint a Tribal public defender and any assistants it deems necessary by a majority vote of those voting at a meeting of the Tribal Council at which a

quorum is present. Such appointment shall be conditional upon the Tribe having the sufficient funds for the positions; provided, however, that regardless of whether the Tribe has a permanent, full-time Tribal public defender and any assistants, the Tribe shall employ a qualified public defender to represent indigent defendants when required under a specific provision of the Code of Justice, such as an offense under Chapter 17 of Title IV, or an appeal for a conviction under Chapter 17 of Title IV.

- (b) When the Tribe has a public defender employed in a permanent, full-time capacity, the following individuals shall be entitled to the services of a public defender in Tribal Court when charged with a crime: (1) any member of the Standing Rock Sioux Tribe, regardless of income; and (2) any individual charged with an offense under Chapter 17 of Title IV of the Standing Rock Sioux Tribal Code of Justice.
- (c) The remaining sections of this subchapter shall be deemed to apply when the Tribe has retained a full-time, permanent Tribal public defender and any assistants under subsection (a) of this Section.

1-509. Qualifications.

- (a) To be eligible to serve as Tribal public defender or assistant defender, a person shall: (1) be a member in good standing of the bar of any state or federal court; (2) be at least 21 years of age; (3) be of high moral character and integrity (4) have a degree in law from an accredited law school; (5) have never been convicted of a felony; (6) not have been dishonorably discharged from the Armed Services; (7) be physically able to carry out the duties of the office; and (8) be qualified to be admitted to practice under the relevant provision of Section 1-601 of this Title.
- (b) To be eligible to serve as Tribal public defender or assistant defender, a person shall become admitted to practice in the Standing Rock Sioux Tribal Court. In addition, Tribal public defenders and assistant public defenders shall complete a course contemplated by Section 1-601(b)(7) of this Title if such course is offered.

1-510. Appointment and Compensation.

The Tribal public defender and any assistants shall be appointed by a majority vote of those voting at a meeting of the Tribal Council at which a quorum is present. The Tribal Council shall establish rates of compensation for the Tribal public defenders and assistants.

1-511. Oath of Office.

Before entering upon the duties of office, the Tribal public defender and assistant defenders shall take the following oath or affirmation:

“I, _____, do solemnly swear (or affirm) that I will truly, faithfully, and impartially discharge all duties of my office as defender to the best of my abilities and understanding. So help me God.”

1-512. Terms of Employment.

The terms of employment for the Tribal public defender and any assistants shall be established pursuant to contract between the defender and the Tribe, and may include probationary periods. At the end of the contract period, the defender and Tribe may negotiate whether to extend or renew the contract under the same or different contract provisions. Unless otherwise provided in the contract, the Tribal public defender and any assistants shall be exempt from the Personnel Policies and Procedures of the Standing Rock Sioux Tribe.

1-513. Duties.

The Tribal public defender and assistants shall, without charge, represent persons accused of crimes in Tribal Court with consent of the defendant. Representation shall be provided at all stages of the proceeding following the filing of a complaint, and the appointed defender shall take all necessary steps to investigate the facts of any case and shall have access to all Tribal and BIA social services personnel.

1-514. Termination of Tribal Public Defender.

- (a) The Tribal public defender and assistants may be sanctioned by the Tribal Council upon cause – including termination upon a two-thirds (2/3) vote of the Tribal Council at a meeting at which a quorum is present.
- (b) For purpose of this Section, “cause” shall be defined as the commission of a violation of the ethical standards applicable to attorneys admitted to practice law on the Standing Rock Indian Reservation as set forth in Section 1-702 of this Title, which violation was found to have occurred by the Standing Rock Supreme Court pursuant to Section 1-705 of this Title.
- (c) The procedure for removal of a Tribal public defender or assistant defender shall be the same procedure provided for the removal of judges and justices under Section 1-307(c)-(g) of this Title.

Chapter 6. Attorneys and Lay Counselors

1-601. Qualifications to Admission as Attorney or Lay Counselor.

- (a) No person may:
 - 1. Practice as an attorney before the Standing Rock Sioux Tribe Court or the Supreme Court of the Standing Rock Sioux Tribe, or

2. Practice as an attorney under a contract with the Standing Rock Sioux Tribe or one of its entities, agencies or departments,

unless admitted to practice and enrolled as an attorney with the Tribal Court upon written application. Any attorney at law who is a member in good standing or the bar of any state or federal court shall be eligible for admission to practice before the Tribal Court unless they have been disbarred from the Tribal Court pursuant to Section 1-604. Any attorney admitted to practice in the Tribal Court shall abide by ethical standards applicable to attorneys admitted to practice law on the Standing Rock Indian Reservation as set forth in Section 1-702 of this Title.

(b) Any Indian of the Reservation shall be admitted to practice before the Court as a lay counselor upon application accompanied by proof satisfactory to the Court that: (1) he is at least 21 years of age; (2) he is a person of good moral character and integrity; (3) he has successfully received a high school diploma or its equivalent; (4) he has never been convicted of a felony for which he has not received a pardon or restoration of civil rights; (5) he has not been dishonorably discharged from the Armed Services; (6) he is not a member of the Tribal Council or a Judge, Justice or employee of the Tribal Court or Supreme Court; and (7) the Tribal advocate or lay counselor shall have completed a basic tribal advocacy course offered by Dakota Plains Legal Services, Sitting Bull College, the American Indian Lawyer Training Program for Tribal Advocates, or training program approved by the Judicial Committee of the Standing Rock Sioux Tribe. Such a course shall be at least 20 hours in duration and shall include instruction in Trial Procedure, and proof of completion shall be filed with the Tribal Court prior to practicing before the Court. In addition, any lay counselor admitted to practice before the Court shall abide ethical standards applicable to lay counselors admitted to practice on the Standing Rock Indian Reservation as set forth in Section 1-702 of this Title.

(c) Nothing in this section shall affect the right of any person to represent himself in any proceeding, with the approval of the Court.

1-602. Oath Upon Admission.

As a condition to admission, each attorney and lay counselor shall take the following oath or affirmation:

“I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States of America against all enemies, foreign and domestic; that I will faithfully discharge all duties incumbent on me as an attorney to the best of my abilities and understanding. So Help me God.”

1-603. Attorneys’ Roll.

A roll of attorneys and lay counselors admitted to practice before the Court shall be maintained by the clerk of Court, and such roll shall updated from time to time.

1-604. Sanction.

Any attorney or lay counselor admitted to practice law on Standing Rock Reservation may be sanctioned as provided under this Title.

1-605. Right to Counsel.

Any person at his own expense may have assistance of counsel of his choice.

1-606. Council Members Shall not Practice as Attorneys or Lay Counselors.

No member of the Tribal Council shall practice before the Tribal Court or the Supreme Court during his term of office.

CHAPTER 7. ETHICAL STANDARDS AND VIOLATIONS

1-701. Purpose.

The purpose of this Section is to set forth the standards which attorneys and lay counselors – including Tribal Court prosecutors, Tribal public defenders, Tribal Judges and Tribal Justices - admitted to practice in Tribal Court must follow, and the process which shall be followed when a complaint is made against an attorney or lay counselor practicing on the Standing Rock Reservation.

1-702. Ethical Standards.

The following ethical standards shall apply as follows:

(a) Judges of the Tribal Court and Justices of the Supreme Court:

1. Shall follow the American Bar Association Model Code of Judicial Conduct;
2. Shall not be convicted of a felony, or a misdemeanor involving dishonesty or acts offensive to the morals of the community;
3. Shall follow all laws of the Tribe applicable to him or her;
4. Shall, if a Chief Justice, Chief Judge or Associate Chief Judge, not be disbarred by a federal or state court; and
5. Shall not commit repeated abusive or clearly incompetent performance of duties in office, or repeated failure to perform the duties of office.

(b) Attorneys and Lay Advocates admitted to practice in Tribal Court:

1. Shall follow the American Bar Association Model Rules of Professional Conduct;
2. Shall not be convicted of a felony or a misdemeanor involving dishonesty or acts offensive to the morals of the community;
3. Shall not be disbarred by a federal or state court;
4. Shall follow all laws of the Tribe applicable to him or her; and
5. Shall not make a false statement under oath or similar affirmation.

1-703. Time.

When computing time under this Chapter, exclude the day of the event that triggers the period, and count every day (including intermediate Saturdays, Sundays and tribal holidays), provided that if the last day is a Saturday, Sunday or tribal holiday, the time period shall be extended to the next day that is not a Saturday, Sunday or tribal holiday.

1-704. Ethics Review Commission.

- (a) There is hereby established an Ethics Review Commission which shall be an arm of the Standing Rock Supreme Court, and which shall investigate any properly-filed complaints made against attorneys and lay counselors admitted to practice on the Standing Rock Reservation, and which shall prosecute any complaints which the Commission finds has merit as provided herein. As provided herein, if the Commission finds that a complaint has merit, it shall notify all interested parties, file a formal complaint with the Standing Rock Sioux Supreme Court and prosecute the complaint. If the Commission finds that a complaint does not have merit, it shall notify all interested parties and dismiss the complaint.
- (b) The Ethics Review Commission shall be comprised of three (3) people, at least two (2) of whom are law-trained and who are either admitted to practice or qualified to be admitted to practice on the Standing Rock Reservation as an attorney or lay counselor. The Tribal Chairman shall appoint each member of the Commission, including in the event of a vacancy on the Commission; provided, that prior to beginning their respective terms on the Commission, the Chairman's appointments shall be ratified by a majority vote of the Tribal Council members voting on the question, and if the individual was not previously admitted to practice in the Standing Rock Tribal Court, she or he shall become admitted to practice as provided in this Title.
- (c) The Tribal Chairman shall also appoint one (1) law-trained individual as an alternate who shall only be called upon when one of the regular members has recused themselves from

a complaint due to a conflict of interest. Such alternate must meet the same qualifications, and be ratified by the Tribal Council in the same manner, as a regular member of the Commission as provided in subsection (b) of this Section.

- (d) Tribal Council ratification shall not be required if, pursuant to this Chapter, more than one Ethics Review Commission member has recused themselves from a complaint, in which case the Tribal Chairman has the authority to make an emergency appointment of an otherwise qualified individual or individuals to fill out the Commission for a given complaint.
- (e) The members of the Ethics Review Commission shall serve a two (2) year term commencing on the date which the Tribal Council ratifies the appointment. At the end of the term, the seat becomes vacant, and the Tribal Council may re-appoint the member whose term is expiring or appoint any other qualified individual to the vacancy.
- (f) In the event a position on the Commission becomes vacant during the term, the Chairman may appoint an individual to serve the remainder of the two (2) year term.
- (g) An individual may be removed from the Commission for cause by a 2/3 vote of the Tribal Council members voting on the question at a meeting of the Council at which a quorum is present, upon a notice of no fewer than 20 days and the chance to be heard. For the purpose of this Section, “cause” shall be defined as the commission of a violation of the ethical standards applicable to attorneys admitted to practice law on the Standing Rock Indian Reservation as set forth in Section 1-702 of this Title, which violation was found to have occurred by the Standing Rock Supreme Court pursuant to Section 1-705 of this Title.
- (h) The Clerk of the Standing Rock Sioux Supreme Court shall serve as the Clerk for the Ethics Review Commission.
- (i) Additional regulations or procedures on matters not otherwise provided for in this Title regarding the Ethics Review Commission (including but not limited to any provisions on compensation), which do not conflict with the provisions of this Title, may be adopted by a majority vote of the members of the Tribal Council voting on the question at a meeting at which a quorum is present, provided that such regulations or procedures shall be available to the public.

1-705. Ethics Review Commission Investigation.

- (a) Any individual who reasonably believes she or he has firsthand knowledge of an ethical violation committed by any individual admitted to practice law on the Standing Rock Sioux Tribe may bring a complaint as provided in this Section. Any complaint against an attorney or lay counselor admitted to practice in Standing Rock Tribal Court – including any complaint against a Judge, Justice, Tribal Court prosecutor or Tribal public defender – be submitted to the Clerk of the Ethics Review Commission. Such complaint shall be in

writing, signed by the individual bringing the complaint, and be accompanied by any supporting documentation, including pleadings and affidavits.

- (b) Upon receipt of a complaint, the Clerk of the Ethics Review Commission shall forward the complaint and all accompanying documentation to the members of the Ethics Review Commission. The Ethics Review Commission shall assign one of its members to serve as a primary contact for each individual complaint received by the Commission.
- (c) Upon receipt of a complaint, any member of the Ethics Review Commission who has a conflict of interest due shall recuse themselves. Upon recusal, the Clerk of the Ethics Review Commission shall contact the alternate member to serve on the Commission for the complaint at issue. If more than one member of the Ethics Review Commission has a conflict of interest on a given complaint, the Tribal Chairman shall be promptly notified and, as provided in this Chapter, may make emergency appointments, without requiring ratification by the Council, to the Commission for the specific complaint requiring additional appointments.
- (d) For purposes of this Chapter, a member of the Ethics Review Commission has a conflict of interest if she or he:
 - 1. Is the individual subject to the complaint;
 - 2. Is the individual who brought the complaint; or
 - 3. Has a family, social, professional or other relationship with the individual subject to the complaint or individual who brought the complaint where the member's impartiality might reasonably be questioned.
- (e) The primary contact for the complaint shall, within ten (10) days after receipt of the complaint, provide written notification to the individual attorney or lay counselor – through U.S. Mail or hand-delivered to or at their address on record with the Tribal Court or last-known address, whichever is more current - who is the subject of the complaint that such complaint has been filed, and provide the individual with a copy of the complaint and all accompanying documents which were filed with the Ethics Review Commission. The individual who is subject to the complaint shall further be notified that:
 - 1. The Ethics Review Commission is presently determining whether the complaint has merit, that if the complaint is found to have merit it shall be heard before the Standing Rock Sioux Supreme Court at which time the individual shall have the right to appear, and if the complaint is found to not have merit it shall be dismissed;
 - 2. The individual subject to the complaint has the right to file a written response, including any arguments on fact or law and any accompanying documents, to the

primary contact within 14 days of their receipt of the notice. Receipt shall be deemed to have occurred:

- i. If placed in the US Mail, three (3) days after notice required under this subsection was placed in the US Mail; or
 - ii. If hand-delivered, on the date the notice was personally delivered to the individual subject to the complaint; and
 3. A copy of this Title, or the correct URL address to access a copy of this Title.
- (f) Upon receipt of the response submitted by the individual subject to the complaint, or at the expiration of the timeframe for submission of such a response, the primary contact on the complaint shall review the complaint and any accompanying documents submitted with the complaint, the response and any accompanying documents submitted with the response, and all applicable laws and rules.
- (g) If deemed reasonable or necessary, the primary contact may personally interview the complainant, the individual subject to the complaint, or any other individual the primary contact believes an interview with would assist in determining the merits of the complaint.
- (h) Within 30 days after the expiration of the timeframe for submission of the response contemplated by subsection (d) of this Section, the Ethics Review Commission shall meet on the complaint to review all documents submitted in the matter, the results of any interviews conducted by the primary contact, as well as all applicable laws and rules, with such discussion led by the primary contact on the complaint. Such meeting shall not be a public meeting. Three (3) members must be present to constitute a quorum.
- (i) At the close of the meeting held pursuant to subsection (g) of this Section, the Ethics Review Commission shall find and determine, by a majority vote, whether:
1. The complaint is without merit, whereby the complaint shall be dismissed;
 2. The complaint has merit (i.e., at least a preponderance of the evidence indicates an ethical standard has been violated), whereby the Ethics Review Commission shall prosecute the complaint before the Standing Rock Supreme Court; or
 3. That additional investigation is necessary, whereby the meeting shall be recessed for no longer than 14 additional days while the primary contact conducts additional investigation believed necessary by the Ethics Review Commission to make a final determination on the complaint; provided, however, that only one (1) additional investigation may be made on any one complaint, and after such investigation, and re-opening the meeting, the Ethics Review Commission shall

vote to either dismiss or prosecute the complaint under subsections (1) or (2) of this subsection.

- (j) If a complaint is dismissed under subsection (h)(1) of this subsection, the primary contact shall draft a legal opinion, within seven (7) days of the vote on the matter, stating that such action was taken, and explaining the reasoning why the complaint was found not to have merit. Such legal opinion shall be provided to the Ethics Review Commission Clerk who shall cause a copy of the opinion to be sent to the complainant and the individual subject to the complaint, and shall cause all records pertaining to the complaint to be archived with the Supreme Court for a period of no less than ten (10) years.
- (k) If a complaint is found to have merit under subsection (h)(2), the primary contact shall have the Ethics Commission Clerk ensure that the matter is scheduled for hearing before the Standing Rock Supreme Court at the next session of the Supreme Court that is not within sixty (60) days of the date of the Commission's vote. The primary contact shall then draft a notice, within seven (7) days of the vote on the matter, stating that the matter will be heard before the Standing Rock Supreme Court, the time and date on which the matter shall be heard before the Standing Rock Supreme Court, inform the complainant that their presence at the hearing shall be required, and notice that the subject of the complaint shall have the right to file briefing, as outlined in Section 1-705 of this Title, and appear at the hearing, on his or her own behalf or with counsel at his or her expense. Such notice shall be provided to the Ethics Review Commission Clerk who shall cause a copy of the opinion to be sent to the complainant and the individual subject to the complainant.
- (l) If additional investigation is ordered under subsection (h)(3), the primary contact shall draft a notice, and provide a copy to the Ethics Commission Clerk for delivery to the complainant and individual subject to the complaint, informing the complainant and individual subject to the complaint that additional investigation has been ordered, that the matter has been recessed for no longer than 14 additional days, and that after such recess the Ethics Review Commission shall reconvene to determine the merit of the complaint. After such additional investigation and subsequent vote, depending on the outcome of the vote, the primary contact shall follow the procedure outlined by either subsection (i) or (j) of this Section.

1-706. Prosecution of Complaint.

- (a) If the Ethics Review Commission votes that a complaint has merit under, and after notice is sent out pursuant to, subsection 1-704(h)(2), the member of the Ethics Review Commission who was the primary contact during the investigative stage shall be the Ethics Prosecutor for the Ethics Review Commission unless such individual voted against a finding of merit, in which case the Ethics Review Commission members who voted in favor of finding merit shall assign one among them to act as the prosecutor.

- (b) If the Ethics Review Commission votes that a complaint has merit under subsection 1-704(h)(2), the Ethics Prosecutor may request, at any stage of the proceeding, an interim suspension of the individual subject to the complaint directly from the Chief Justice of the Standing Rock Supreme Court (or, if the Chief Justice is otherwise recused pursuant to this Title, the Associate Chief Justice) for a period not to exceed the final disposition of the matter through either a dismissal of the complaint under subsection (g) of this Section or, if an ethical violation is found, the rendering of a sanction under this Title. At the same time such request is filed with the Chief Justice, it shall be served upon the individual subject to the complaint. The Chief Justice shall grant an interim suspension if it is shown that it is more probable than not that the individual has committed misconduct and there is a substantial threat that the public may be harmed absent an interim suspension. Upon request of the individual subject to the request for interim suspension, the Chief Justice shall provide the individual an opportunity to be heard before determining the request. Upon request by the Ethics Prosecutor or the individual subject to a granted interim suspension, the Chief Justice shall, within ten (10) days, provide an opportunity for the requesting party to demonstrate that the order should not remain in force. Any opportunity to be heard under this subsection may be effectuated via conference call if either the Chief Justice or individual subject to the interim order is unable to be present within any timeframe contemplated by this subsection.
- (c) Within 20 days of the Ethics Review Commission vote, the Ethics Prosecutor shall file a pre-hearing brief with the Supreme Court outlining the law and facts by which the Ethics Review Commission has determined the complaint has merit. The pre-hearing brief shall also detail any witnesses which the Commission intends to call at the hearing, and list any documents which the Commission intends on introducing at the hearing. A copy of any such documents shall be attached to the pre-hearing brief as exhibits. At the same time the pre-hearing brief is filed with the Supreme Court, the Ethics Review Commission Clerk shall ensure that a copy of the pre-hearing brief – and any exhibits attached thereto – are delivered either via U.S. Mail or hand-delivery to the complainant and the individual subject to the complaint.
- (d) Within 20 days of receipt of the pre-hearing brief, the individual subject to the complaint may file a responsive pre-hearing brief with the Supreme Court, outlining the law and facts by which she or he argues that no ethical standard was violated. The responsive pre-hearing brief shall also detail any witnesses which the individual intends to call at the hearing, and list any documents which the individual on introducing at the hearing. A copy of any such documents shall be attached to the pre-hearing brief as exhibits. At the same time the individual files the responsive pre-hearing brief with the Supreme Court, she or he shall ensure that a copy of the pre-hearing brief – and any exhibits attached thereto – is delivered to the Ethics Prosecutor. The Ethics Prosecutor shall, in turn, promptly upon receipt, forward a copy of the responsive pre-hearing brief to the complainant.
- (e) The Ethics Prosecutor and individual subject to the complaint may both compel by subpoena the attendance of witnesses and production of pertinent books, papers and

documents pursuant to the rules of procedure generally followed by the Tribal Court. The Ethics Prosecutor and individual subject to the complaint are entitled to reciprocal discovery, discovery to the rules of procedure generally followed by the Tribal Court, of all matters not privileged, until ten (10) days prior to the hearing scheduled in the matter, provided that if either party intends on calling witnesses or introducing evidence not previously listed with the pre-hearing brief, either party must supplement such brief no later than (7) days before the hearing, filing such supplement with the Supreme Court and serving the other party with a copy of the same. Any discovery disputes shall be determined by petition to the Chief Justice – or, if the Chief Justice is recused, the Associate Chief Justice – and any discovery orders are interlocutory.

- (f) At the hearing on the complaint, the Supreme Court shall hold an evidentiary hearing which follows the process all relevant rules of procedure and evidence followed by the Tribal Court. Provided that if any Justice of the Supreme Court has a conflict of interest, she or he shall recuse herself or himself as soon as the conflict is discovered, and a special justice shall be appointed to fill the vacant spot for the specific appeal pursuant to the rules and procedures of the Tribe.
- (g) For purposes of this Chapter, a Justice has a conflict of interest if she or he:
 - 1. Is the individual subject to the complaint;
 - 2. Is the individual who brought the complaint; or
 - 3. Has a family, social, professional or other relationship with the individual subject to the complaint or individual who brought the complaint where the Justice's impartiality might reasonably be questioned.
- (h) At the close of the hearing, the Supreme Court shall deliberate on the matter, by majority vote determine the matter, and issue a written judgment on the matter as provided in Section 1-216 of this Title which sets forth the decision of the Court and the reasoning behind the decision. Such judgment shall either:
 - 1. Find that an ethical violation has occurred; or
 - 2. Find that an ethical violation did not occur, and dismiss the matter.
- (i) If the Supreme Court finds that an ethical violation has occurred:
 - 1. If the individual subject to the complaint is a Judge or Justice, send a copy of the Judgment to the Chair of the Standing Rock Sioux Tribal Council Judicial Committee for further proceedings under Section 1-307 of this Title, with a recommendation for a sanction, and the reasoning behind the recommendation;

2. If the individual subject to the complaint is a Tribal Court prosecutor or assistant prosecutor, send a copy of the Judgment to the Chair of the Standing Rock Sioux Tribal Council Judicial Committee for further proceedings under Section 1-507 of this Title, with a recommendation for a sanction, and the reasoning behind the recommendation;
 3. If the individual subject to the complaint is a Tribal public defender or assistant public defender, send a copy of the Judgment to the Chair of the Standing Rock Sioux Tribal Council Judicial Committee for further proceedings under Section 1-514 of this Title, with a recommendation for a sanction, and the reasoning behind the recommendation; or
 4. If the individual subject to the complaint does not fall under subsections (g)(1), (2) or (3) of this Section, sanction the individual as provided in Section 1-706 of this Title.
- (j) Regardless of what paragraph of subsection (h) is applicable, if the Supreme Court finds an ethical violation has occurred, they shall ensure a copy of their Judgment is forwarded to the State Bar Association of any State which the individual subject to the complaint is licensed which the Supreme Court becomes aware of after a search of reasonable diligence.
- (k) A decision of the Standing Rock Supreme Court under this Section is final.
- (l) After a decision is rendered under this Section, the Clerk of the Supreme Court shall cause all records pertaining to the complaint to be archived with the Supreme Court for a period of no less than ten (10) years, as well as any documents received pertaining to a sanction rendered by the Tribal Council pursuant to Sections 1-307, 1-507 and 1-514 of this Title.

1-707. Sanctions.

- (a) The following sanctions shall be available for the Supreme Court to order or recommend upon a finding under subsection 1-705(f)(1):
1. Censure;
 2. Restitution to persons financially injured by the ethical violation;
 3. Suspension of admission to practice law in Tribal Court for a period not to exceed three (3) years; or

4. Disbarment in which case the person is not eligible for readmission for five (5) years.
- (b) In determining which sanction to issue or recommend, the Supreme Court shall consider the following factors:
1. The severity of the violation;
 2. The amount of previous violations the individual was formally found to have committed on the Standing Rock Sioux Reservation or any other jurisdiction; and
 3. The damages which persons suffered as a result of the violation.

Chapter 8. Miscellaneous Provisions

1-801. Service of Process.

Regardless of the Court in which a matter is brought – including whether such court is located within or without the exterior boundaries of the Standing Rock Reservation - service on any Standing Rock Sioux Tribal member made within the exterior boundaries of the Standing Rock Reservation must be made by individuals designated by the Standing Rock Sioux Tribal Court as authorized to serve process.