

# TOHONO O'ODHAM RULES OF COURT

## Section 15: Rules Governing Admission to Practice in the Tohono O'odham Courts

### PURPOSE

The Judicial Branch of the Tohono O'odham Nation has an interest in the quality of justice within this Nation's system of government and in protecting participants in the Nation's judicial system. Under Article VIII, Section 10(d) of the Constitution of the Tohono O'odham Nation, Title II of the Law and Order Code of the Tohono O'odham Nation, Courts and Procedures, Section 1-106, and the court's inherent power to regulate practice before it, the Tohono O'odham Judiciary is empowered to establish rules governing court procedures and parties practicing before the Court. Accordingly, these Rules Governing Admission to Practice impose requirements on anyone seeking to represent clients in the courts of the Tohono O'odham Nation.

#### **Rule 1. General Requirements.**

An applicant who meets the qualifications described below will be admitted and certified to practice in the courts of the Tohono O'odham Nation:

- (a) At least 21 years of age;
- (b) Shows his or her competency to represent clients as described in Rule 2;
- (c) Shows his or her good character and fitness to represent clients as described in Rule 3;
- (d) Submits his or her Tohono O'odham enrollment number, if the applicant is a member of the Tohono O'odham Nation; and
- (e) Takes the oath prescribed in Rule 6.

The burden of proof is on the applicant to show that he or she meets the requirements for admission. Refusal to furnish information or answer questions relating to the qualifications is enough reason to deny the application for admission to practice.

#### **Rule 2. Competency Requirements.**

An applicant must show his or her competence.

- (a) **Attorney Applicants:** Must provide current proof of admission (such as a copy of a bar card or a letter or certificate of good standing from the jurisdiction of licensure) to practice law before the highest court of any state or in any federal or U.S. territorial court.
- (b) **Non-Attorney Applicants:**
  - (1) *Non-Tohono O'odham Tribal Members:* must provide:

- (A) Proof of satisfactory completion of a course of study for lay advocates sponsored or certified by the Arizona Tribal Judges Association, the National American Indian Court Judges Association, or the National Institute for Trial Advocacy;
  - (B) Proof of satisfactory completion of a degree program in tribal justice systems or lay advocacy with at least 42 semester credits of coursework, including substantive and procedural law as well as skills development; or
  - (C) Proof of admission to practice lay advocacy before a tribal court of a federally recognized tribe which extends a similar admission to practice to Tohono O’odham advocates.
- (2) *Tohono O’odham Tribal Members:* No formal law training is required; however, some knowledge of court procedures is recommended.
- (c) **Law Student Applicants:** Law students may appear as advocates. To be admitted to practice, a law student must meet these requirements:
- (1) Is currently attending an American Bar Association (ABA) accredited law school and in good standing.
  - (2) Has completed at least one academic year of credits.
  - (3) Is supervised by a licensed attorney in good standing in his or her state or territory of licensure and who is admitted to practice before the Tohono O’odham Courts.
  - (4) The supervising attorney must be responsible to the Court for the student. The student’s ability to practice before the Court is ancillary to the supervising attorney’s license and certification.
  - (5) Provide a written and signed affidavit to the Court—by a dean, registrar, or a professor of the student’s ABA-approved law school—that the student meets the above requirements.
  - (6) Upon graduation, the law student admitted to practice in the Tohono O’odham Courts must inform the court of the change in status and seek to qualify as an attorney or other category of practicing counsel under these Rules.
- (d) **Orientation and Continuing Legal Education:** The Court may require any additional education and/or training that would improve the quality of representation for the O’odham.

**Rule 3. Character Requirements.**

- (a) An applicant must show good character and fitness to represent clients in the Tohono O'odham Nation by:
  - (1) Submitting affidavits of support from two people known to the applicant for a reasonable amount of time and who are familiar with the applicant's integrity, honesty, moral character, judgment, courtesy, and self-reliance; and
  - (2) Providing contact information for three different references who the Court can contact; and
  - (3) Providing background details and submitting to a fingerprint check and background check if requested by the Court.
- (b) Any applicant who knowingly makes a false statement or fails to disclose a fact necessary to correct a mistaken understanding by the Court with his or her application will not be admitted to practice. If a false statement or failure to disclose a necessary fact is discovered after being admitted to practice, the applicant will be barred from practice in the Court. The applicant must reapply for admission if he or she wishes to continue as a legal practitioner.
- (c) An applicant who is not in good standing or who has been suspended from practice in another jurisdiction and has not been reinstated will be barred from practice in the Court. The applicant must reapply for admission if he or she wishes to continue as a legal practitioner.
- (d) Criminal convictions:
  - (1) An applicant with a felony criminal conviction in any jurisdiction—state, tribal, or federal—within the last 5 years will not be admitted to practice in the courts of the Tohono O'odham Nation.
  - (2) Felony convictions more than five years before filing an application must be disclosed on the application form and may, at the discretion of the panel, be cause for rejection of the application.
  - (3) Misdemeanor convictions must be disclosed on the application form and may, at the discretion of the panel, be cause for rejection of an application.
  - (4) It is solely within the Court's discretion whether a felony more than 5 years old or a misdemeanor conviction is a bar to admission to practice before the court.

**Rule 4. Application Process.**

- (a) The applicant must complete an official application to practice in the Tohono O’odham Courts. Applications can be picked up at the Tohono O’odham Justice Center and are available on the Court’s website.
- (b) The applicant must submit his or her application for admission to practice, along with the necessary affidavits and releases of information, if any, in one filing. Before being admitted, the applicant must certify that he or she has received a complete copy of these Rules and the Code of Ethics for Legal Practitioners Practicing in the Courts of the Tohono O’odham Nation.
- (c) The Receptionist at the Justice Center may return an application missing any required documents
- (d) Applications will be given to a review panel consisting of the Chief Judge, Deputy Chief Judge, and another full-time judge (panel) who will review the application and documents, request more information as needed, and grant or deny the application. The panel will hear all other matters regarding the application to practice, disciplinary action (Rule 8), and reinstatement (Rule 9).
- (e) If an applicant is admitted to practice, the Court will issue an admission certificate to the individual evidencing the authority of the legal practitioner to practice before the courts of the Tohono O’odham Courts. The admission certificate will be picked up by the applicant when he or she is sworn into practice before a judge of the Court under Rule 6 below.
- (f) An applicant who is denied admission to practice will receive a written notice of the reason for the denial. The applicant may then ask for reconsideration of such denial by the panel. A written request for reconsideration and any additional documents the applicant wishes to have considered must be submitted to the panel within 10 business days of the date of the denial notice. The reviewing panel has the sole discretion to interview the applicant. The panel’s decision will be made within 5 business days of filing the request for reconsideration.
- (g) The panel’s decision is final.

**Rule 5. Confidentiality.**

All information received by the Court with an application for admission is confidential and will be released only upon written authorization of the applicant or by order of the Court.

**Rule 6. Oath.**

Below is the oath or affirmation taken by legal practitioners who qualify for admission to practice before the courts of the Tohono O’odham Courts. The oath must be in the form shown below. The

oath must be recited before any judge of the Tohono O'odham Nation, and submitted in writing to the Court after the signatures of the applicant and judge, along with the stamp of the Tohono O'odham Nation, are affixed thereto.

*I do solemnly swear:*

*I will support the Constitution and laws of the Tohono O'odham Nation.*

*I will maintain the respect due to the courts and judicial officers.*

*I consent to the Court's jurisdiction, including the jurisdiction to sanction legal practitioners.*

*I will not counsel or maintain any suit or proceeding which appears to be unjust or to present any defense except as I believe to be honestly debatable under the laws of the Nation or of the United States of America.*

*I will maintain the causes confided to me by means that are consistent with truth and honor, and I will never seek to mislead the Courts by any artifice or false statement of fact or law.*

*I will maintain the confidence and protect the secrets of my client.*

*I will accept no compensation from my client's business except from my client or with my client's knowledge and approval.*

*I will abstain from unprofessional conduct and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged.*

*I will never reject from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any person's cause for monetary gain or for malice.*

*So help me Creator.*

**Rule 7. Continuing Duty to Inform.**

- (a) **Contact Information.** All legal practitioners have a continuing duty to update their contact information with the Court. If mail or email is returned as undeliverable for the legal practitioner, he or she will be removed from the legal practitioner list and must reapply for admission.
- (b) **Attorney Legal Practitioners:** All attorney advocates must, upon renewal of his or her bar card, send a copy of the new card to the Court. Failure to do so will result in an administrative suspension. The attorney will be required to Petition for Reinstatement as required in 9(c) in order to return to practice in the Court. An

attorney advocate on administrative suspension for one year or more will be permanently removed and be required to reapply for admission.

- (c) **Admitted Practitioners List.** Legal practitioners must notify the Court if they wish to opt-in to the Court's "List of Practitioners Accepting Clients," a document provided to members of the public seeking a practitioner admitted to practice in the Court. Practitioners must notify the Court when they want to be removed from that list. Annually the Court will send a letter to each practitioner requesting an update on the practitioner's status. If there is no response to this letter or it is returned as undeliverable, the practitioner will be removed from the list and must reapply for admission.
- (d) **Deceased Practitioners.** Legal practitioners who, through a verifiable source, are determined by the Judiciary to be deceased will be removed from the list.
- (e) **External Disciplinary Action.** All legal practitioners have a continuing duty to inform the Court of any disciplinary action taken against them by any legal regulatory entity or organization within 10 business days. Legal practitioners must provide a copy of the disciplinary document to the Court. Failure to comply with this section will result in the legal practitioner losing his or her privilege to practice.
- (f) **Criminal Convictions.** All legal practitioners have a continuing duty to inform the Court and provide a copy of the order regarding any criminal conviction in any tribal, state, federal, or United States territorial court within 10 business days of the conviction. Failure to comply with this section will result in the legal practitioner losing his or her privilege to practice before the Tohono O'odham Courts.

**Rule 8. Disciplinary Action.**

Any legal practitioner who violates the oath or ceases to be in compliance with the requirements in Rules 2 and 3 may lose the privilege to practice in the Tohono O'odham Courts.

- (a) If a judge, during a proceeding, finds reasonable cause to believe that a legal practitioner may be in violation of his or her oath, the judge may issue an Order to Show Cause against the legal practitioner. The Court will set a date and time for the legal practitioner to appear and demonstrate that the individual has not violated the oath and is in compliance with these Rules. The legal practitioner will be given notice and an opportunity to be heard regarding the allegations of misconduct. The proceeding will be closed to the public and a record will be made. Potential sanctions may include a combination of probation, suspension from practice, permanent loss of practicing privileges, or imposition of costs of the disciplinary proceedings. A legal practitioner who is suspended from practice may resume appearing in the Court at the end of the suspension period provided the individual complied with any imposed conditions.
- (b) If any judge, outside a proceeding, receives a sworn statement that a legal

practitioner may be in violation of his or her oath or that the legal practitioner is not in compliance with these Rules, the judge may issue an Order to Show Cause. The Court will give the practitioner notice and an opportunity to be heard regarding the allegations of misconduct. The proceeding will be closed to the public and a record will be made. After the proceeding, written recommendations will be made and findings—including any sanction to be imposed on the legal practitioner and the length and severity of the loss of privileges to practice in the Tohono O’odham Court—will be imposed. The sanctions will be the same as provided for in Rule 8(a).

- (c) A practitioner who is not in good standing or has been suspended from practice in another jurisdiction and has not been reinstated, will be removed from the Court’s list of practitioners. The practitioner is not permitted to practice in the Court until he or she reapplies and is accepted for readmission.

**Rule 9. Petition for Reinstatement.**

- (a) If a suspension is for an indefinite period of time, the legal practitioner may petition the panel of judges for reinstatement no sooner than 45 calendar days after the date of suspension.
- (b) If a suspension is due to an attorney’s failure to provide to the Court a copy of his or her active bar card or for failure to provide the Court with an updated address, the legal practitioner must apply for reinstatement under Rule 9(c).
- (c) A written request for reinstatement and any additional documents the legal practitioner wishes to have the panel consider, must be submitted within 10 business days of the date of the Suspension Order. An interview of the practitioner is at the sole discretion of the panel.
- (d) The panel’s decision is final.

**Rule 10. Relinquishment.**

A legal practitioner may request, in writing, to relinquish his or her admission to practice before the courts of the Tohono O’odham Nation by certifying that he or she is not counsel of record in any pending matter. This must be done in writing, signed in blue or black ink, dated, and filed with the Court. If granted, the relinquishment is effective the date authorized in writing by the Chief Judge or designee.

Section History

Adopted by Administrative Order 01-05 on January 4, 2005, effective February 14, 2005. Amended June 3, 2005, by Administrative Order 03-05. Reorganized and renumbered to combine the Administrative Orders into the Tohono O’odham Rules of Court on November 1, 2011. Amended by the 2023 Tohono O’odham Rules of Court. Amended by the 2024 Tohono O’odham Rules of Court.