

# 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 ~~H-6~~ of ~~the Law and Order Code of~~ the Tohono O'odham Nation Code, Courts and Procedures, ~~Section 1-106~~ Chapter 1 § 1106(A), and the Cecourt'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.

~~To be admitted and certified to practice in the courts of the Tohono O'odham Nation, A~~an applicant ~~who must submit a Legal Practitioner Application pursuant to Rule 4 and meets these qualifications described below will be admitted and certified to practice in the courts of the Tohono O'odham Nation:~~

- (a) ~~Be 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 relateding 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. A copy of a current bar card or letter of good standing must be submitted to the Court each year by March 1 in order for the attorney to remain on the Court's list of approved practitioners.

(b) **Non-Attorney Applicants:**

(1) *Non-Tohono O’odham Tribal Members:* Non-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 and Rules 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 subordinate 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 eCourt 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~~will improve the quality of representation for the O’odham people. Prior to being sworn in to the Nation’s Court, the following trainings must be satisfactorily completed.

(1) Himdag training

(2) Tohono O’odham Nation Constitution

(3) Tohono O’odham Nation Code

(4) Navigating the Judicial Branch’s website for Rules, dockets, forms, caselaw, etc.

(5) Familiarization with the O’odham Court’s processes and procedures.

**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~~ additional references (not the same names as Rule 3(a)(1)) who the Court can contact; ~~and~~

(3) Providing background details and explanations as required on the application; and

(4) ~~s~~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 until he or she reapplies, is accepted for readmission, and takes the oath. ~~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’s Court.
  - (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 Legal Practitioner 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 at [tojc-nsn.gov/forms/](http://tojc-nsn.gov/forms/).
- (b) The applicant must submit his or her signed and notarized application for admission to practice, along with ~~two he necessary affidavits~~ notarized character references, three additional names as references, a copy of their bar card (if applicable), and signed 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 application may be turned in to tThe Receptionist at the Justice Center, who may return an application if it’s missing any required documents. Alternatively, the application may be submitted by email to Special Counsel.
- (d) Applications ~~will beare~~ 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,

- (1) the applicant must complete the online exam sent by ----- and the resulting grade must be 90% or higher before an applicant is sworn in;
  - (2) the Court will send documentation to the applicant indicating the admission and the applicant must contact the Court to schedule their swearing-in, which must be done in person at the Court.
  - (3) 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 Nation's 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~~ be sent a written notice of the reason for the denial. The applicant may ~~then ask the panel~~ for reconsideration of ~~such a 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 an 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 Ceourts and Judicial ~~o~~fficers.*

*I will at all times faithfully and diligently adhere to the Rules of Ethics of the Tohono O'odham Courts.*

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

*~~I will not counsel or maintain an action, proceeding, or defense that lacks a reasonable basis in fact or the 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 not~~ 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 avoid engaging in~~ 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~~ my duties to my client or the tribunal.*

*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) **Status Forms.** Each year the legal practitioner must complete and submit a Legal Practitioner Status Form and return it to the Court. Failure to return the Status Form by the due date will cause the practitioner to be removed from the legal practitioner list and the practitioner must reapply for admission. If there is no response or the Status Form is returned as undeliverable, the practitioner will be removed from the list and must reapply for admission.
- (c) **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 for 60 days or until such time as the Court receives

~~a copy of the bar card.~~ 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~~ than 60 days will be permanently removed from the legal practitioner list and ~~be must required to~~ reapply for admission.

- (d) **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, on the Court’s website or at the Reception Desk, 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~~ Status Form (see Rule 7(b)) 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.~~
- (e) **Deceased Practitioners.** Legal practitioners who, through a verifiable source such as death notices, flyers, prayer cards, or a Bar Association website are determined by the Judiciary to be deceased will be removed from the list.
- (f) **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 of a final resolution. 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 before the Tohono O’odham Courts.
- (g) **Criminal Convictions.** All legal practitioners have a continuing duty to inform the Court and provide a copy of the order regarding any criminal conviction including criminal traffic violations 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.~~

- (h) ~~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.~~

- ~~(i) 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).~~
- ~~(j) 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 reappears and is accepted for readmission.~~

## **Rule 8. Legal Practitioner Disciplinary Procedures**

### **(a) Disciplinary Jurisdiction**

- (1) All Legal Practitioners licensed to practice before the Nation's Court are subject to the disciplinary jurisdiction of the Tohono O'odham Nation's Court pursuant to the Legal Practitioner's Oath. See Rules of Court, Section 15, Rule 6. Furthermore, Legal Practitioners are bound by the Code of Ethics for Legal Practitioners, Rules of Court, Section 16.
- (2) All Legal Practitioners who have sworn the Oath and been admitted to practice in the Court are subject to this disciplinary rule.
- (3) Any Legal Practitioner who refuses to abide by this disciplinary rule or participate in the process will be removed from the list of authorized Practitioners and will no longer be allowed to practice in the Nation's Court.
- (4) A violation of the Oath or the Code of Ethics will be the grounds upon which this Rule will be applied.

### **(b) Filing of an Ethical Complaint**



- (1) An Ethical Complaint against a Legal Practitioner alleging a violation of these rules or the Oath will commence by the filing of a written, signed, and dated Complaint with the Chief Judge of the Nation's Court.
- (2) The person filing the Complaint will be the Complainant and the Legal Practitioner against whom the Complaint is filed will be known as the Respondent.
- (3) The filing of a Complaint will be deemed authorization for a Special Master to review directly related Court files consistent with the Nation's Court's procedures and practice.
- (4) At any time after the filing of the ethical complaint the Respondent may hire a legal practitioner for his or her defense.

**(c) Assignment to a Special Master**

- (1) No later than 10 days after receipt of a Complaint, the Chief Judge will assign the matter to a Special Master, a pro tempore judge acting on behalf of the Nation's Court who has authority to review, investigate, and prosecute the Complaint.
- (2) The Special Master will have the authority to issue subpoenas and seek enforcement with the Nation's Court if necessary.

**(d) Pre-screening process**

- (1) Within 5 days of assignment, the Special Master will review and pre-screen the Complaint. Pre-screening is the process by which the Special Master determines whether the Complaint, as submitted, contains facts which if true would constitute an ethical violation.
- (2) If so, the Special Master will place the Complaint into an investigation status and notify the Complainant, Respondent, and Chief Judge.
- (3) If not, the Special Master will dismiss the Complaint and notify the Complainant, Respondent, and Chief Judge in writing.
- (4) The pre-screening decision of the Special Master is final and is not subject to review or reconsideration.

**(e) Investigation**

- (1) Investigation is the process by which the Special Master provides a copy of the Complaint to the Respondent and requests the Respondent file a

mandatory response to the Complaint with the Special Master within 10 days.

- (2) Once a response is filed, the Special Master will provide a copy to the Complainant, and invite the Complainant to file an optional comment to the response within 5 days.
- (3) If a comment is filed, the Special Master will provide a copy to the Respondent, and invite the Respondent to file an optional reply within 5 days.
- (4) If the Respondent fails to file a response, the Special Master may proceed as provided in section F below.
- (5) If the Complainant fails to cooperate with the Special Master, the Special Master may dismiss the Complaint and so notify the Complainant, Respondent, and Chief Judge without proceeding as provided in section F below.
- (6) A decision of the Special Master to dismiss is final and is not subject to any review or reconsideration.

**(f) Probable Cause Determination**

- (1) Once the investigation is complete, the Special Master will determine whether there is probable cause to file a disciplinary Complaint with the Nation's Court. Probable cause exists where there appears to be more evidence than not that the Respondent has violated an ethical rule.
- (2) If there is no probable cause then the Special Master dismisses the Complaint and notifies the Complainant, Respondent, and Chief Judge.
- (3) If there is probable cause, the Special Master must issue a probable cause notice to the Respondent with a copy to the Complainant and Chief Judge.
- (4) The probable cause determination of the Special Master is final and is not subject to review or reconsideration.

**(g) Formal Disciplinary Complaint with the Nation's Court**

Within 5 days of the issuance of a probable cause order, the Special Master

- (1) must file a formal disciplinary Complaint with the Nation's Court.
- (2) Within 5 days of the filing of the disciplinary Complaint, the Court will:

- (A) Provide a copy of the Complaint to Respondent;
- (B) Summons the Respondent to file an answer and copies with the Court, pursuant to the Rules of Civil Procedure, no later than 10 days after service, and serve a copy of the answer on the Special Master; and
- (C) Indicate the name of Judge to whom the matter is assigned. General Rules of Procedure, Rule 7 (Change of Judge) of the Rules of Court will apply to the proceeding.
- (3) Unless this section requires otherwise, service will be made pursuant to Rule 3 of the Rules of Civil Procedure.
- (4) If the Respondent fails to file an answer, fails to file a response as required by section E, or admits the allegations, then the Court may enter a default judgment as provided in Rule 17 of the Rules of Civil Procedure and proceed with sanctions as provided in section K below or dismiss if warranted.
- (5) Within 2 days of the filing of the answer, the Court will order a bench trial to be held within 15 days from the date of the filing of the answer and summons the Special Master and Respondent to appear. This trial will be heard by a pro tem judge.
- (6) At least 5 business days before the bench trial, the Special Master and Respondent must file a disclosure notice with the Nation's Court attesting each has provided a written disclosure statement containing:
  - (A) A fair and accurate summary of the factual and legal basis for the Complaint or defense as applicable; and
  - (B) The names, addresses, and telephone numbers of all witnesses the disclosing party expects to call at trial along with a fair description of the substance of each witness' expected testimony.
  - (C) The court may enter default judgment against or will exclude undisclosed witnesses or evidence of the party failing to properly disclose.

**(h) Bench Trial**

- (1) The Court will consider only relevant testimony and evidence which has been properly disclosed as required by section G.

- (2) The Special Master followed by the Respondent may make an opening statement. Then, the Special Master will present evidence and witnesses on behalf of the Nation. The Respondent may cross-examine witnesses presented by the Special Master.
- (3) The Respondent may then present evidence and witness testimony in defense. The Special Master may cross-examine witnesses of the Respondent. The Court may permit rebuttal witnesses upon request but must strictly limit the scope and duration of such testimony.
- (4) The Court will require that all witnesses be sworn. Upon the conclusion of the defense, the Special Master, followed by the Respondent, may make closing arguments to the Court.

**(i) Judgment After Bench Trial**

- (1) Within 10 days after the conclusion of the bench trial, the Court will make and enter findings of fact, conclusions of law, and a judgment.
- (2) If the Respondent is found not to have violated the Rules, the Court will enter judgment accordingly.
- (3) If the Respondent is found to have violated the Rules, the Court will proceed with sanctioning as provided in section K below.

**(j) Appeal after Judgment**

The Judgment of the Court may be appealed pursuant to the Rules of Appellate Procedure. The Court's Judgment becomes final if no appeal is filed.

**(k) Sanctioning Report**

- (1) No later than 5 days after final judgment, the Court will schedule a sanctioning hearing which will be held within 30 days of the final judgment and issue a summons ordering the Special Master and Respondent to appear.
- (2) Within 5 days of final judgment, the Special Master will file a report with the Court and provide a copy to the Respondent.
  - (A) The report will address the following:
    1. the gravity of the violation;
    2. whether the violation was willful or an error;
    3. prior record of ethical misconduct;
    4. harm to persons and/or property;

5. number of years in practice without any prior record;
6. impact of violation upon Complainant or others;
7. level of cooperation with the Special Master;
8. personal gain resulting from the violation; and
9. recommended sanction including restitution and rehabilitation.

(B) The Special Master will also file a statement of reasonable costs and expenses of the disciplinary process which will be supplemented with the Court as necessary.

**(l) Sanctioning Hearing**

- (1) No later than 5 days before the sanctioning hearing either side may present a written statement in aggravation or mitigation to the Court and will provide the other side a copy.
- (2) The Special Master will present an aggravation argument to the Court.
- (3) The Respondent may then present a mitigation argument to the Court.

**(m) Sanctioning Order**

- (1) Within 10 days of the sanctioning hearing, the Court will make and enter a sanctioning order which contains findings of fact, conclusions of law, and sanctions consistent with sections N through Q below.
- (2) The sanctioning order of the Court is not subject to appellate review. However, a motion for reconsideration may be filed within 5 days of receipt of the sanctioning order by either party with a copy to the other party. The other party may file a response to the motion.

**(n) Disciplinary Sanctions**

- (1) In determining the sanction, the Court will consider the following:
  - (A) any prior disciplinary record;
  - (B) the circumstances under which violation occurred;
  - (C) the gravity of the violation;
  - (D) whether the violation was intentional;
  - (E) whether the Respondent has made amends with persons impacted by the violation; and
  - (F) whether there are any mitigating circumstances.

Disciplinary sanctions include any one or a combination of sanctions listed on the following continuum which commences with a minimum sanction at 1 and ends with a maximum sanction at 8:

- (1) An informal oral reprimand;
- (2) Public censure in writing with posting in Nation's Court for one year;
- (3) Restitution to persons impacted by the violation;
- (4) An award of reasonable costs and expenses of the disciplinary process to be paid to the Court;
- (5) Rehabilitation, treatment, training, and/or testing;
- (6) Probation of at least 60 days but no longer than six months, unless extended as provided in the Reinstatement section below, which may include establishment of terms and conditions such as practice restrictions (moratorium on acceptance of new cases, etc.);
- (7) Suspension of the privilege of practicing law up to 5 years; or,
- (8) Permanent loss of the privilege of practicing law in the Nation's Court.

A minimum sanction may be appropriate where:

- (1) The violation is minor, unintentional, or the result of an error;
- (2) *De minimis* harm results to persons or property as a result of the violation;
- (3) There is no prior disciplinary record;
- (4) There is a lack financial motive or gain; or,
- (5) There are demonstrable mitigating factors such as, but not limited to, acceptance of responsibility, cooperation with disciplinary process, remorse for conduct, voluntary restitution, evidence of good character, record of community service, and catastrophic, severe, or extreme personal hardship in Respondent's life around the time of the violation.

On the other hand, a maximum sanction may be warranted where:

- (1) The violation is major;
- (2) There are multiple violations;
- (3) Multiple persons are impacted by the violation;
- (4) The violation is intentional and serious in nature;

- (5) Irreparable harm has resulted to persons or property;
- (6) There is a prior disciplinary record (repeat offender);
- (7) The Respondent denies responsibility;
- (8) The Respondent lacks remorse;
- (9) The Respondent fails to be cooperative with the disciplinary process; or,
- (10) No mitigating factors are demonstrated.

**(o) Notice to Client(s)**

Within 10 days of the final sanctioning order, the Respondent will notify the following persons by registered or certified mail by providing a copy of the order:

- (1) All clients being represented in pending matters;
- (2) All co-Legal Practitioners in pending matters; and
- (3) All opposing Legal Practitioners in pending matters, or the adverse party if self-represented.

**(p) Return of Client's Property if Respondent is Suspended**

- (1) The Respondent will unconditionally surrender all papers and property to which a client is entitled, and will notify clients of a suitable time and place where the papers and property may be obtained, calling attention to any urgency, such as any upcoming hearing dates or other deadlines, for obtaining the papers or other property.
- (2) The Respondent will refund to the client any advance payment of fee that has not been earned, and provide the client a final billing if applicable.
- (3) The Respondent will forfeit any contingency fee which has not been earned at the time of the final sanctioning order.

**(q) Compliance Affidavit**

The Respondent will file a written, signed, and dated affidavit with the sanctioning Judge attesting compliance with subsections O and P above, and will provide an address where he/she may be contacted within 10 days of the final sanctioning order and provide a copy to the Special Master. The Respondent has a continuing duty to supplement his/her address with the Chief Judge.

**Rule 9. Reinstatement**

**(a)** Unless a sanctioning order permits otherwise, a Legal Practitioner placed on probation or non-permanent suspension status is not eligible to practice before the Nation's Court until such Legal Practitioner has been reinstated to practice as provided below.

**(b) After Probation**

No sooner than 30 days prior to the expiration of probation status, a Legal Practitioner may file a motion for reinstatement with the sanctioning Judge or another Judge if case has been reassigned. Within 5 days the Judge will assign a Special Master to investigate and determine whether the Legal Practitioner has complied with the sanctioning order. Within 10 days of assignment, the Special Master will file a recommendation with the Judge in support of or opposition to reinstatement and provide a copy to the Legal Practitioner. Within 5 days of receipt of the Special Master's recommendation, the Legal Practitioner may file a reply with the Judge.

If the Judge concurs with a recommendation for reinstatement or rejects a recommendation in opposition to reinstatement, then an order will be entered reinstating the Legal Practitioner.

Prior to the expiration of probation status, and if the Judge rejects a recommendation in support of reinstatement or concurs with a recommendation in opposition to reinstatement, the Judge will order the Legal Practitioner to show cause for failing to comply with the sanctioning order and schedule an Order to Show Cause hearing. The Judge may extend the probation status and deny reinstatement until there is satisfactory compliance with the sanctioning order.

Only orders denying reinstatement and extending probation may be appealed pursuant to the Rules of Appellate Procedures.

**(c) After Suspension**

A Legal Practitioner suspended from practice may file a petition for reinstatement of the privilege to practice with the Nation's Court 1 year following the expiration of the suspension.

The reinstatement petition must contain the following information:

- (1) Name, age, residence, and address of the Legal Practitioner;
- (2) The offense or misconduct upon which the suspension was based and the effective dates of the suspension;



- (3) The names and addresses of witnesses to the disciplinary complaint, sanctioning Judge, trial Judge, and other witnesses and prosecuting attorney if discipline resulted from a criminal conviction;
- (4) A list of all civil and criminal actions to which Legal Practitioner was a party, or defendant in a criminal action, showing the forum, general nature, and final disposition subsequent to sanctioning; and
- (5) A concise statement of facts claimed to support Legal Practitioner's readmission plus any supporting statements, documents, and things.

Within 10 days from the date of filing of the petition, the Chief Judge will assign a Special Master who will review and investigate the merits of the petition as necessary. The Legal Practitioner will cooperate with the Special Master, execute any necessary releases or authorizations and be available for in person interviews. If the Legal Practitioner fails to cooperate, the Chief Judge may dismiss the petition upon the request of the Special Master.

Within 120 days from the filing of the petition the Special Master will file a report with the Chief Judge in support of or opposition to the petition, make a recommendation together with a statement of the cost of the reinstatement investigation, and provide a copy to the Legal Practitioner. Within 30 days of receipt of the report, the Legal Practitioner may file a reply with the Chief Judge and will provide a copy to the Special Master.

The contents of the report will address the Legal Practitioner's rehabilitation status, moral character, and learning in the law. The Special Master may recommend in support of reinstatement with or without conditions such as, but not limited to, paying the cost of the reinstatement investigation, completion of educational or training courses, submission to other examinations, etc. The Special Master may recommend in opposition to reinstatement and will provide a concise summary of the reasons therefor.

If the Judge concurs with a recommendation in support of reinstatement or rejects a recommendation in opposition to reinstatement, then an order will be entered reinstating the Legal Practitioner without any conditions or with conditions which must be satisfied before the reinstatement becomes effective. The Practitioner must take the Oath of Office before practicing before the Court.

If the Judge rejects a recommendation in support of reinstatement or concurs with a recommendation in opposition to reinstatement, such Judge will enter an order denying reinstatement including findings of facts and conclusions of law.

Only Orders denying reinstatement may be appealed pursuant to the Rules of Appellate Procedure.

~~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.~~

~~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.~~

~~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).~~

~~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 10. 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~~ contact information, 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 11. 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's Courts 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. Amended by the 2025 Tohono O'odham Rules of Court.