

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 is interested in preserving the quality of justice within the 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 6 of the Tohono O'odham Nation Code, Courts and Procedures, Chapter 1 § 1106(A), and the Court's inherent power to regulate practice before it, the Tohono O'odham Judiciary is empowered to establish rules regulating court procedures and the parties practicing in 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, an applicant must submit a Legal Practitioner Application pursuant to Rule 4 and meet these qualifications:

- (a) Be at least 21 years of age;
- (b) Show his or her competency to represent clients as described in Rule 2;
- (c) Show his or her good character and fitness to represent clients as described in Rule 3;
- (d) Submit his or her Tohono O'odham enrollment number, if the applicant is a member of the Tohono O'odham Nation;
- (e) Take the oath prescribed in Rule 6; and
- (f) Agree to submit to the jurisdiction of the Court and adhere to the Code of Ethics.

The applicant must prove they meet the admission requirements. Failure to provide information or to answer questions about the applicant's qualifications, can result in a denial of the application.

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 a PDF of a temporary bar card) or letter of good standing must be submitted to the Court each year by March 15 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 Member* 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; or
- (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, 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 who is admitted to practice before the Tohono O’odham Courts and is in good standing in his or her state or territory of licensure.
- (4) The supervising attorney is responsible to the Court for the student. The student’s ability to practice before the Court is subordinate to the supervising attorney’s license and certification.
- (5) Provide a written and signed affidavit to the Court—by a dean, registrar, or professor of the student’s ABA-approved law school—that the student meets the above requirements.
- (6) Upon graduation, a 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 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.
- (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 immediately removed from the approved legal practitioners' list and be prevented from practicing in the Court. The applicant may face disciplinary action pursuant to Rule 8 below, and 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 with that other jurisdiction, will be barred from practice in the Court. If he or she wishes to continue as a legal practitioner after reinstatement in the other jurisdiction, the person must submit a new application. The application will be processed pursuant to the Rules of Court.
- (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 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/.
- (b) The applicant must submit his or her signed and notarized application for admission to practice, along with two notarized affidavit character references, the contact information for three additional individuals the Court may contact for references (reference letters or affidavits are not required), a copy of their bar card (if applicable), signed releases of information, and any additional documentation that supplement responses, if any, in one filing. After being sworn in, the applicant must certify that he or she has received a complete copy of these Rules and the Code of Ethics for Legal Practitioners. These documents are provided at the applicant's in-person swearing in.
- (c) The application may be turned in to the 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 the Court's Executive Assistant or Special Counsel. An applicant can find this information on the Court's website at tojc-nsn.gov/Forms, or may contact the Court for correct email addresses.
- (d) Applications are 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. A judges' panel will hear all matters regarding the application to practice, disciplinary action (Rule 8), and reinstatement (Rule 9).
- (e) If an applicant is accepted for admittance to practice,
 - (1) the Court will send an official letter approving the application to the applicant indicating their acceptance to admission. The applicant must contact the Court to schedule their swearing-in, which must be done in person at the Court.
 - (2) the Court will issue an admission certificate evidencing the authority of the legal practitioner to practice before the Tohono O'odham Nation's Courts. The admission certificate is given to 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 be sent a written notice of

the reason for the denial. The applicant may ask the panel for reconsideration of a denial. A written request for reconsideration and any additional documents the applicant wishes to have considered must be submitted to the panel within 15 business days of the date of the denial notice. The reviewing panel has the discretion to interview the applicant.

- (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 a 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 to it.

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 will at all times faithfully and diligently adhere to the Tohono O'odham Courts' Code of Ethics for Legal Practitioners.

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

I will not support or defend any case or legal action that is not supported by facts or by the Nation's law.

I will handle my clients' cases using honest and honorable methods.

I will be honest in my dealings with others and not make false or misleading statements of fact or law. I will never seek to mislead the Courts by knowingly making untrue statements of fact or law.

I will avoid engaging in unprofessional conduct.

I will maintain and protect the confidences of my client.

I will only accept payment for representing a client directly from that client, unless they know about and approve payment from someone else.

I will not advance any fact prejudicial to the honor or reputation of a party or witness, unless required by my duties to my client or the tribunal.

I will not refuse to help the defenseless or oppressed for personal reasons, nor will I delay anyone's case for money or spite.

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.
- (b) **Status Forms.** Each year by March 15 legal practitioners must complete and submit a Legal Practitioner Status Form and return it to the Court. The form is available on the Court's website tojcnnsn.gov.
 - (1) If the Status Form—whether sent by mail or email—is returned to the Court as undeliverable, the practitioner does not return it by the due date, or the practitioner fails to respond, the practitioner may be removed or administratively suspended from the admitted legal practitioners list.
 - (2) If a legal practitioner is administratively suspended and a written request for reinstatement is not submitted pursuant to Rule 9(b), the practitioner will be permanently removed and must reapply for admission.
- (c) **Attorney Legal Practitioners Bar Cards:** All attorney advocates must, upon renewal of his or her bar card, send a copy of the new card—or a printout of a temporary card—to the Court by March 15. In the alternative, the attorney may submit a letter of good standing. Failure to do so will result in an administrative suspension. The attorney will be required to submit a written request for reinstatement pursuant to Rule 9(a) in order to return to practice in the Court.
- (d) **Admitted Practitioners Accepting Clients List.** Legal practitioners must tell the Court if they want to be added to the list called “Legal Practitioners Accepting Clients.” This list is available on the Court’s website or at the Reception Desk for people looking for a practitioner. If a practitioner wants to be taken off that list, they must inform the Court in writing.
- (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 must 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. A copy of the disciplinary document must be provided to the Court. Failure to comply with this Rule will result in the legal practitioner losing his or her privilege to practice before the Tohono O'odham Courts. The notice of any disciplinary action taken will be addressed pursuant to Rule 3(c) above and may result in the application of Rule 8 below.
- (g) **Criminal Convictions.** All legal practitioners must inform the Court about any criminal conviction—including criminal traffic violations—in any tribal, state, federal, or United States territorial court within 10 business days of the conviction. A copy of the order must be provided to the Court. Failure to comply with this Rule will result in the legal practitioner losing his or her privilege to practice before the Tohono O'odham Courts. The notice of a criminal conviction will be addressed pursuant to Rule 3(d) above and may result in the application of Rule 8 below.

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 Court pursuant to the legal practitioner's Oath. *See* Rule 6 above. Furthermore, legal practitioners are bound by the Code of Ethics for Legal Practitioners, Rules of Court, Section 16.
 - (2) Any legal practitioner who refuses to abide by this disciplinary rule or participate in the process will be automatically removed from the list of authorized legal practitioners and permanently barred from practice in the Nation's Court. If the practitioner is an attorney, the applicable state bar will be notified. This removal will be treated as a resignation in lieu of discipline and have the same meaning and effect as a disbarment.
 - (3) This Rule will be applied based upon any violation of the Code of Ethics or the Oath.
 - (4) The burden of proof for a disciplinary hearing is clear and convincing evidence that the practitioner violated the Rules of Ethics.
- (b) **Confidentiality of Records.**
 - (1) All information received by the Court for an ethics complaint is confidential and will remain confidential unless there is a decision of violation and sanctions are imposed.

- (2) If found in violation and sanctions are imposed, a sanctioned attorney is expected to self-report to their state bar association. The Court will report any final sanctioning order to the attorney's state bar.
- (3) Decisions of non-violation will remain confidential and will be released only with written authorization of the practitioner or by order of the Court.

(c) **Filing of an Ethics Violation Affidavit of Complaint.**

- (1) **Affidavit of Complaint.** A complaint alleging a violation of the Code of Ethics or the Oath by a legal practitioner commences with the filing of a written, signed, dated, and notarized Affidavit, along with any supporting notarized affidavits from witnesses and other evidence of the alleged violations, with the Chief Judge.
- (2) The person filing the complaint will be known as the Complainant and the legal practitioner against whom the Complaint is filed will be known as the Respondent.
- (3) The filing of an Affidavit of Complaint is deemed authorization for the assigned disciplinary judge to review directly-related Court files consistent with the Court's procedures and practice.
- (4) At any time after the filing of the ethics complaint the Respondent may hire, at their own expense, a legal practitioner authorized to practice in the Nation's Court for his or her defense.
- (5) A legal practitioner filing on behalf of a Respondent must provide a Notice of Appearance by filing a notarized affidavit with the disciplinary judge.

(d) **Assignment to a Pro Tem Judge.**

- (1) Within 5 business days of receipt of the Affidavit of Complaint and all other required documents, the Chief Judge will assign the matter to a pro tem judge to begin the legal process to address the Affidavit of Complaint.
- (2) The assigned judge will have the authority to issue orders and subpoenas, and seek enforcement with the Court if necessary.
- (3) Within 5 business days of the judge being assigned, the Court will provide a copy of the Affidavit of Complaint and evidence to the Respondent.
- (4) If the Respondent wishes to respond, a response must be filed no later than 10 business days after service.

- (5) Within 5 business days of the filing of the response, the disciplinary judge will order a Show Cause Hearing to be held within 30 days from the date of the filing of the response.

(e) **Show Cause Hearing.**

- (1) The hearing will be recorded and closed to the public.
- (2) The disciplinary judge will consider relevant testimony and evidence.
- (3) The Respondent may make an opening statement and may cross-examine any witnesses.
- (4) The Respondent may present evidence and witness testimony in their defense. The judge may cross-examine witnesses of the Respondent. The judge may permit rebuttal witnesses upon request but must strictly limit the scope and duration of such testimony to only the violations alleged in the Affidavit of Complaint.
- (5) All witnesses will be sworn-in.
- (6) Upon the conclusion of the defense, Respondent may make closing arguments.

(f) **Judgment After Hearing; Disciplinary Sanctions; Sanctioning Order.**

- (1) **Judgment After Hearing.** Within 60 business days after the conclusion of the hearing, the disciplinary judge will make and enter findings of fact, conclusions of law, a judgment, and the final sanctioning order.
 - (A) If no violation of the Code of Ethics or the Oath is found, the Court will enter judgment accordingly.
 - (B) If any violation of the Code of Ethics or the Oath is found, the Court will proceed with sanctioning as provided below.
- (2) **Disciplinary Sanctions.** In determining the sanction, the judge will consider the following:
 - (A) any prior disciplinary record;
 - (B) the circumstances under which the violation occurred;
 - (C) the gravity of the violation;
 - (D) whether the violation was intentional;

- (E) whether the Respondent has made amends with anyone impacted by the violation; and
 - (F) whether there are any mitigating circumstances.
- (3) Disciplinary sanctions may include any one or a combination of sanctions listed on the following continuum which commences with a minimum sanction at (A) and ends with a maximum sanction at (H):
- (A) An informal oral reprimand;
 - (B) Public censure in writing with posting on the Court's website for one year;
 - (C) Restitution to persons impacted by the violation;
 - (D) An award of reasonable costs and expenses of the disciplinary process to be paid to the Court;
 - (E) Rehabilitation, treatment, training, and/or testing;
 - (F) Short-term Suspension of the privilege of practicing in the Nation's Courts of at least 10 business days but no longer than 180 days, 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.);
 - (G) Long-term Suspension of the privilege of practicing in the Nation's Courts from 181 days up to 3 years; or,
 - (H) Permanent loss of the privilege of practicing in the Nation's Court, which will be treated as the equivalent to disbarment.
- (4) **Sanctioning Order.**
- (A) The Order 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 judge and Court;
8. personal gain resulting from the violation;
9. mitigating and aggravating circumstances; and
10. recommended sanction including restitution and rehabilitation.

(B) A minimum sanction may be appropriate where:

1. The violation is minimal, unintentional, or the result of an error;
2. *De minimis* harm results to people or property as a result of the violation;
3. There is no prior disciplinary record;
4. There is a lack of 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.

(C) A maximum sanction may be warranted where:

1. The violation is significant;
2. There are multiple violations;
3. Multiple people were impacted by the violation;
4. The violation was 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.

(g) Appeal after Judgment.

The final 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.

(h) Notice to Client(s).

Within 10 business days of the final sanctioning order, the Respondent must notify the following people by registered or certified mail by providing a copy of the order to:

- (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.

(i) 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.
- (2) The Respondent will refund to the client any advance payment of fees that has not been earned, and provide the client a final itemized billing if applicable.
- (3) The Respondent will forfeit any contingency fee which has not been earned at the time of the final sanctioning order.

(j) Compliance Affidavit.

Within 20 business days of the final sanctioning order the Respondent must file a notarized written, signed, and dated affidavit with the disciplinary judge attesting compliance with

subsections (h) and (i) above, and will provide an address where he/she may be contacted. If the Respondent is suspended administratively or short-term, he/she has a continuing duty to update any changes to his/her address with the Court.

Rule 9. Reinstatement.

Unless a final sanctioning order permits otherwise, a legal practitioner placed on disciplinary suspension status is not eligible to practice before the Nation's Court until such legal practitioner has been reinstated to practice as provided below.

(a) Administrative Suspension.

- (1) An administrative suspension occurs when a legal practitioner fails to provide updated contact information to the Court; or, if a licensed attorney, fails to provide the Court a copy of his or her active bar card or proof of good standing by March 15.
- (2) The legal practitioner must apply for reinstatement by notifying the Chief Judge. A written request for reinstatement and any additional documents the legal practitioner wishes to have considered, must be submitted within 15 business days of the date of the administrative suspension. An interview of the practitioner is at the sole discretion of the Chief Judge, who may appoint a judges' panel for this purpose.
- (3) The Chief Judge's or the panel's decision is final.

(b) Short-term Disciplinary Suspension.

No earlier than 10 days prior to the expiration of a short-term disciplinary suspension, a legal practitioner wishing to be reinstated must file a written request for reinstatement pursuant to Rule 9(a)(2) along with documentation of compliance with the sanctioning order. Within 5 business days of receipt of the request, the Chief Judge will assign a judges' panel who will investigate and determine whether the legal practitioner has complied with the sanctioning order.

- (1) **Compliance.** If the legal practitioner has complied with the sanctioning order and is approved by the panel, an order will be entered reinstating the legal practitioner. This order will be mailed to the address on file with the Court.
- (2) **Non-compliance.** If the legal practitioner has not complied with the sanctioning order, the panel may schedule an Order to Show Cause hearing with the original pro tem judge and order the legal practitioner to show cause for failing to comply with the sanctioning order. The judge may extend the short-term suspension status and deny reinstatement until there is satisfactory compliance with the sanctioning order.

- (3) **Appeal.** Only orders denying reinstatement and extending suspension may be appealed pursuant to the Rules of Appellate Procedures.

(c) **Long-term Disciplinary Suspension**

A legal practitioner suspended from practice by a long-term suspension order (181 days or more) must reapply for admission to the Court pursuant to these Rules and show proof of compliance with the sanctioning order.

Rule 10. Resignation or Relinquishment.

- (a) A legal practitioner in good standing who wishes to resign from admission to practice in the Court may do so 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 and will be placed into the practitioner's admission file along with documentation that the practitioner "resigned in good standing."
- (b) Resignation will not be accepted if there is an active disciplinary charge or Affidavit of Complaint pending against the practitioner.
- (c) Such resignation will not be a bar to the introduction of subsequent disciplinary proceedings for any conduct of the resigned person occurring prior to the resignation. In the event a resigned person thereafter is disbarred, suspended, or reprimanded by a disciplinary judge, the resigned person's status will be changed from "resigned in good standing" to that of a person so disciplined.

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 and updated by Administrative Order 2026-06 dated June 5, 2026.