

# **Seminole Tribe of Florida**



## **SEMINOLE TRIBAL COURT Judicial Commission Ordinance**

# Chapter 3 – Tribal Court

## Section 2 – Judicial Commission

### 3.21 Overview

- A) The Judicial Commission’s function is to insure that complaints concerning the ability and behavior of judicial officers are investigated in a timely and effective manner in order to enhance public confidence in the judiciary and to promote good practices and high standards of judicial performance.
- B) The Judicial Commission, with the assistance of the Administrative Office of the Court, shall be charged with developing and enforcing the Rules of Judicial Conduct of the Seminole Court.
- C) The Judicial Commission Selection Panel is also charged with recommending highly qualified individuals for open judicial positions in accordance with the Constitution of the Seminole Tribe of Florida and the Judicial Code of the Seminole Tribe of Florida.

### 3.22 Judicial Commission Members

- A) The members of the Judicial Commission shall consist of the following individuals:
  - 1) Chairman of the Tribal Council
  - 2) Chief Justice or next senior justice or Judge if the Chief Justice is the person listed in the complaint
  - 3) Three Tribal Members to be selected from the Judicial Commission Selection Panel
- B) Judicial Commission Selection Panel
  - 1) The Judicial Commission Selection Panel (SP) shall be made up of seven Tribal Members from which three individuals shall be selected to hear complaints under the authority of the Judicial Commission.
  - 2) The initial SP shall, as determined by the Court Committee, consist of those Tribal Members actively involved with the Court Committee on the date of the ratification of this Code by the Tribal Council.
  - 3) The SP shall select one person to act as their Chairperson.
    - a) The Chairperson shall be the sole individual responsible for the intake and safekeeping of all complaints and applications for open judicial positions.
    - b) The Chairperson shall be responsible for scheduling and notifying the Judicial Commission when a complaint has been filed.

- c) The Chairperson shall also be responsible for the selection of the SP Tribal Members for the Judicial Commission hearings.
  - 1) SP Tribal Members shall be selected on a rotating basis for each complaint filed.
  - 2) If a SP Tribal Member has a conflict with the complaint filed, then the next SP Tribal Member in the rotation shall be selected.
- d) When there is a vacancy created within the SP, then the Chairperson shall make a Tribal wide announcement of the open position.
- 4) In the event of a vacancy in the SP, the remaining SP members shall select the replacement from those completed applications received by the SP Chairperson.
- 5) The SP members shall not be removed except by majority vote of all SP members.
- 6) The SP shall develop the rules governing the meetings of the SP.

**3.23 Who is a Judicial Officer**

- A) A “judicial officer” means a-
  - 1) Chief Justice or Associate Justice of the Appellate Court
  - 2) Chief Judge or Associate Judge of the Tribal Court
- B) The definition of “judicial officer” includes acting appointments to a judicial office but does not include arbitrators, members of tribunals or legal representatives.
- C) The Commission has no power to examine complaints against federal or state judicial officers or a person who is no longer a judicial officer.

**3.24 Recommendations of Individuals for Judicial Appointment**

- A) When there is a judicial vacancy in either the Appellate or Trial Court, the Judicial Commission shall be charged with evaluating and selecting an individual to fill vacancies from a list of qualified applicants.
- B) The Judicial Commission shall recommend, through the Chairman of the Tribal Council, one individual for appointment by the Tribal Council in accordance with the Constitution of the Seminole Tribe of Florida.
  - 1) Upon appointment of the recommended individual for the open judicial position, the Commission shall notify the rest of the applicant pool of such appointment.
  - 2) If Tribal Council rejects the recommendation of the Commission, then the Commission shall submit their next choice for appointment to the Tribal Council until an appointment is made.

### **3.25 Making a Complaint**

- A) Who can make a complaint?  
Any person may make a complaint to the Judicial Commission.
  
- B) Requirements  
The Judicial Commission requires that a complaint is in writing and that it identifies the complainant and the judicial officer concerned. The Judicial Commission requires that particulars of a complaint are verified and that the complaint is lodged with the Commission.
  
- C) Assistance to complainants  
If a person cannot write, he or she may contact the Chairperson of the SP and assistance will be provided to put the complaint in writing. If interpreting or translation assistance from another language is required, the Judicial Commission will make arrangements.
  
- D) Advice to the public  
The Judicial Commission provides further advice to the public about the complaints process through:
  - 1) The Tribal website providing an easy to understand guide to the Judicial Commission's complaints process, detailed information about possible outcomes of complaints, and a complaints form for downloading;
  - 2) A brochure written in plain English outlining the complaints process;
  - 3) Assistance to potential complainants with translation and interpreting services;
  - 4) Responding to telephone and face-to-face inquiries; and,
  - 5) Providing seminars on the complaints process to interested groups.
  
- E) Acknowledge receipt of complaints  
All complaints submitted to the Judicial Commission in proper form will be acknowledged in writing within one week of receipt.

### **3.26 Complaints not Within the Commission's Jurisdiction**

The Judicial Commission does not review a case for judicial errors, mistakes, or other legal grounds. Reviews of those matters are the function of the Appellate Court.

### **3.27 Investigating a Complaint**

- A) Receipt of Complaint  
On receiving a complaint, the Judicial Commission will conduct a preliminary examination into the matter. In every matter, the judicial officer is advised of the

fact that a complaint has been made and provided with a copy of the complaint documentation.

B) Preliminary examination

Commission Members must undertake the preliminary examination of all complaints at a properly constituted meeting of the Judicial Commission. The quorum for a meeting is all five members.

The preliminary investigation will often involve an examination of transcripts, sound recordings, judgments, court files and other relevant material. It may also involve taking statements from relevant persons. If necessary, a response to the complaint is sought from the judicial officer.

C) Confidentiality

The preliminary examination of a complaint by the Judicial Commission will be conducted on a confidential basis. The legislative requirement of confidentiality protects the judiciary from unjust criticism and protects those who furnish information to the Judicial Commission in the course of its examination of a complaint.

The proceedings of the Judicial Commission and all information and materials, written or oral, obtained by the Commission in the course of its preliminary examination are confidential.

D) Time limits

The Judicial Commission shall attempt to finalize investigations and make final dispositions of complaints within one month of receipt but no later than six months of receipt.

**3.28 Complaints Against a Judicial Member of the Commission**

A member of the Judicial Commission will not participate in any discussion or decisions involving complaints against him or her.

**3.29 Action Following Preliminary Examination**

A) Following its preliminary examination, the Judicial Commission must take one of the following actions:

- 1) Summarily dismiss the complaint;
- 2) Refer the complaint to the relevant head of jurisdiction as defined in 3.31(A);  
or
- 3) Hold a hearing.

**3.30 Summary Dismissal**

A) A complaint must be summarily dismissed if one or more of the following exist:

- 1) The complaint is frivolous, malicious or not in good faith;
  - 2) The subject matter of the complaint is trivial;
  - 3) The matter complained about occurred at too remote a time to justify further consideration;
  - 4) The complaint is about a judicial decision, or other judicial function, that is or was subject to a right of appeal or right to apply for judicial review;
  - 5) The person who is the subject of the complaint is no longer a judicial officer; or,
  - 6) In all of the circumstances further consideration of the complaint is unnecessary or unjustifiable.
- B) Where a complaint is summarily dismissed, the Judicial Commission will, as soon as practicable after its determination is made, inform the complainant in writing and provides the reasons for dismissing the complaint. This will include a reference to the relevant provisions of the legislation that have been applied in the handling and determination of the complaint. The judicial officer will also be advised in writing of the Judicial Commission's determination.
- C) Records shall be kept on all complaints dismissed. Many of the complaints that are dismissed by the Judicial Commission, because they disclose no misconduct, are nonetheless helpful in the improvement of the judicial system. The feedback from the examination of complaints has provided valuable information for the further development of judicial education programs conducted by the Judicial Commission. All complaints that have been dismissed shall be redacted.
- D) The Judicial Commission may declare a person to be a malicious complainant, if the person habitually and persistently, and mischievously or without any reasonable grounds, makes complaints. This section applies whether the complaints are about the same or different judicial officers. The Judicial Commission may disregard any complaint made by the person while the declaration is in force.

### **3.31 Referral to a Head of Jurisdiction**

- A) Where a complaint has not been dismissed following the preliminary examination by the Judicial Commission, but in its opinion does not justify a hearing, the Judicial Commission may refer the matter to the relevant Chief Judge or Chief Justice who shall be the head of jurisdiction for the Trial Court and the Appellate Court respectively. Such matters may include but are not limited to:
- 1) Complaints that do not involve a violation of the Judicial Code of Conduct, but may involve a personnel issue that would be better resolved by the appropriate supervisor.

- 2) Complaints that involve a minor and first time violation of the Judicial Code of Conduct to which the judicial officer has accepted responsibility and acknowledged the violation.
- B) The Judicial Commission will notify the head of jurisdiction in writing of its decision and will formally refer the matter, including all relevant material, for attention.
    - 1) When the Chief Judge is the subject of the complaint then the notification will be made to the Chief Justice.
    - 2) When the Chief Justice is the subject of the complaint, then the Judicial Commission will provide the Chief Justice with the suggested course of action and any timeline for completion. The Chief Justice will report back to the Judicial Commission.
  - C) In referring a complaint to the head of jurisdiction the Judicial Commission may include recommendations as to what steps might be taken to deal with the complaint, such as counseling by the head of jurisdiction.
  - D) Where a complaint is referred to the head of jurisdiction the Judicial Commission will, as soon as practicable after the decision is made, advise the complainant and judicial officer of the action taken.

### **3.32 Requests for Full Hearing**

- A) Where a complaint has not been dismissed following the preliminary examination by the Judicial Commission, and has not been referred to the head of jurisdiction, it must be set for a full hearing.
- B) The Judicial Commission may hold hearings in relation to a complaint and that a hearing may be held in public or in private, as the Judicial Commission may determine.
- C) The Judicial Commission has power to give directions preventing the public disclosure of evidence given at its hearings.
- D) Preliminary matters necessary prior to the commencement of a hearing, includes:
  - 1) Interviewing the complainant and other potential witnesses;
  - 2) Taking statements;
  - 3) Gathering documents and other material; and,
  - 4) Preparing a brief of evidence
- E) Where the Judicial Commission has determined by a majority vote, that the matter justifies the removal of the judicial officer complained about from office, it must

present a report to the Tribal Council Chairman that includes the findings of fact and the final disposition of the matter.

A copy of the report must also be furnished to the complainant.