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By 

IN THE SUPREME COURT OF THE OSAGE NATION OF OKLAHOMA
OSAGE NATION RESERVATION
PAWHUSKA, OKLAHOMA

In re:

Osage Nation Bar Association

Rule of Court

Rule 1: Purpose

To revise the rules for the government of the Osage Nation Bar Association and the individual members thereof. These rules replace the rules adopted on June 25, 2008.

Rule 2: Authority

The Chief Justice is responsible for promulgating Rules of Court under 5 ONC § 1-118.

Rule 3: Policy

The Osage Nation Bar Association is an official arm of the Courts of the Osage Nation with a stated purpose to advance the interests of an independent judiciary. ONCA 10-100 sec. 1. Persons admitted to practice law in the Courts of the Osage Nation are a part of the judicial system and officers of those Courts. The Osage Nation Supreme Court is responsible for the administration of the Osage Nation Bar Association. All individuals who are licensed to practice before the Osage Nation Courts are expected to uphold the standards of professional conduct for the jurisdictions in which they are licensed as well as the standards of professional conduct established in this rule.

Rule 4: Definitions

Unless the context clearly indicates otherwise, terms used in these rules have the following meanings:

1. "Respondent" means an attorney against whom a grievance is filed or an attorney investigated by the investigative officer.
2. "May" means "has discretion to," "has the right to," or "is permitted to."
3. "Must" and "shall" means "is required to."

Rule 5: Administration of the ONBA

1. The Osage Nation Bar Association ("ONBA") is the organization of attorneys licensed to practice before the Osage Nation Courts.

2. Pursuant to 5 ONC 1-111(c), only attorneys licensed to “any state bar association” are eligible for membership in the ONBA. “Lay counselors not admitted to any state bar association, and therefore not eligible to be admitted to the Osage Nation Bar Association, are prohibited from appearing before the Courts to represent a party.” *Id.*
3. Officers. There shall be a President, Vice-President, and Secretary/Treasurer. The President is responsible for calling and presiding over meetings of the ONBA, appointing standing or special committees, serving as the ONBA’s representative, oversee ONBA activities, approve actions taken by the ONBA, and handling other duties as needed for the ONBA.

The Vice-President is responsible for serving in the President’s absence and handling other duties as assigned by the President.

The Secretary/Treasurer shall be responsible for approving the expenditure of ONBA funds, taking minutes of meetings, and certifying official actions of the ONBA. The Secretary/Treasurer may also prepare with the President a report of the ONBA’s activities at the end of the calendar year.

Records of the ONBA shall be maintained and updated as needed by the Supreme Court Clerk; the Supreme Court Clerk is also responsible for receiving funds for the ONBA, issuing correspondence regarding the ONBA as directed by the Chief Justice, and processing expense approvals for ONBA funds.

Officers shall be elected by the active members of the ONBA at a meeting once a calendar year. Such elections can take place via teleconference or electronically (such as by email) as needed.

4. ONBA Fund. The ONBA Fund is governed by 1 ONC 1-101. Expenditures out of the ONBA Fund shall be directed by the ONBA, approved by the Secretary/Treasurer, and they shall be consistent with the stated purpose of the Osage Nation Bar Association, which is to advance the interests of an independent judiciary. 1 ONC 1-101(d); ONCA 10-100. Both the ONBA President’s and Secretary/Treasurer’s approvals are required to pay an ONBA expense, which must include supporting documentation. Once approved, the Secretary/Treasurer shall forward the approval and supporting documentation to the Supreme Court Clerk to process the expenditure.

Rule 6: Admission to Practice

1. Jurisdiction. Any attorney admitted, or permitted by rule, to practice law in the Osage Nation Court, and any attorney specially admitted by motion to the Supreme Court for a particular case, is subject to the rules set forth herein and applicable Osage Nation law. Jurisdiction exists regardless of the attorney’s residency. Attorneys are considered counsel.
2. Qualifications. Any person practicing as counsel in Osage Nation Court must be a member in good standing of the ONBA. To qualify as a member in good standing, all applicants must:

- a. Sign and take the Attorney's Oath of Admission;
 - b. Pay the Bar application fee and annual admission fee as may be established; unless such fee is waived by the Osage Nation Supreme Court; and
 - c. Provide the bar number and contact information for all jurisdictions in which the applicant has an active license; and
 - d. Certify they are a member in good standing in all other jurisdictions in which the applicant is licensed.
3. Attorney's Oath of Admission. All attorneys must take and sign the following oath:
- I [insert name of Attorney], do solemnly swear:
- 1) I have read the Constitution and laws of the Osage Nation and am familiar with their contents;
 - 2) I will support the Constitution of the Osage Nation in all respects;
 - 3) I will abide by the rules established by the Supreme Court of the Osage Nation;
 - 4) I will at all times maintain the respect due to the Osage Nation Court and its officers;
 - 5) I will never seek to mislead the Court or a jury and will bring actions and present arguments only in the good faith belief that such action or argument should prevail; and
 - 6) I will abstain from all offensive conduct in the Court and understand I could be sanctioned for such conduct.
4. Osage Nation Court Bar Roster. The Supreme Court Clerk and Secretary/Treasurer shall maintain a roster and the signed oaths of all attorneys admitted to practice before the Court.
5. Annual dues. All attorneys are responsible for paying annual dues in full before January 31 of each calendar year to remain eligible to practice law before the Osage Nation Courts. Attorneys who do not pay annual dues will be moved to "inactive" status until such dues are paid in full. Attorneys listed as inactive will receive notification that their status has changed and the steps needed to reactivate their license.
6. Updated contact information. All attorneys are required to provide updated contact information to the Supreme Court Clerk. When correspondence is returned to the Court for any reason other than a typographical error on the mailing address or insufficient postage, the Supreme Court Clerk shall update the roster to indicate that the attorney has an invalid address and change his/her status to inactive and notify the Secretary/Treasurer of the change in status.

Rule 7: Attorney Discipline

1. Disciplinary Action Taken Against an Attorney.

- a. Disciplinary Authority. The Osage Nation Supreme Court has (i) the exclusive responsibility to administer final attorney discipline, (ii) the inherent power to maintain appropriate standards of professional conduct, and (iii) the authority to dispose of individual cases of attorney discipline. Persons carrying out the functions set forth in the following rules act under the Court's authority.
- b. Grounds for Sanctions and/or Disbarment of Attorneys. Any Attorney admitted to the ONBA may be subject to disciplinary sanctions, including disbarment, for any of the following reasons arising after his or her admission to practice:
 - i. Conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction shall be conclusive evidence;
 - ii. Willful disobedience or violation of a Court order;
 - iii. Violation of any provision of the Attorney's Oath of Admission, or his or her duties as an Attorney;
 - iv. Violation of the Code of Ethics found in Article X of the Constitution of the Osage Nation;
 - v. Violation of the American Bar Association Rules of Professional Conduct currently in effect;
 - vi. For the commission of any act involving moral turpitude, dishonesty, or corruption; or
 - vii. Suspension or other disciplinary action taken against the Attorney by an authority of another jurisdiction, except that disbarment, or resignation during pendency or any disciplinary investigation, by competent authority in any other tribe, state, federal or foreign jurisdiction shall subject the Attorney to automatic disbarment from the ONBA until such time as the person has been reinstated in such other jurisdiction in which the person has been disbarred; such action is presumed to be official unless the Attorney can demonstrate that the sanction was contrary to applicable law.
- c. Conviction in a criminal proceeding is not a condition precedent to imposition of discipline nor shall the failure to specify any particular act of misconduct be deemed a waiver of such misconduct.
- d. Sanctions and Disbarment. Upon the complaint of any party, or upon its own initiative, the Chief Judge may order an investigation of any allegations of misconduct by a member of the ONBA. The Chief Judge shall appoint an investigative officer to review the allegations on the Court's behalf. If the officer determines there is no merit in the

allegations, he or she shall file a written report with the Chief Judge suggesting that no further action be taken, including reasons for such decision. The Chief Judge, shall either adopt or reject the decision. If the recommendation is adopted, then notice shall be sent to the attorney and the complaining witness within 10 days and the matter shall be concluded. If the recommendation is rejected, the Chief Judge shall hold a disciplinary hearing.

If the investigative officer does find merit to the allegations, he or she shall file a written complaint in the Osage Nation Trial Court but with the Supreme Court Clerk against such member styled as "In re the license to practice law of: [Attorney Name]".

- e. Investigative Officer. An investigative officer, appointed by the Chief Judge, investigates allegations of misconduct by a member of the Osage Nation Court Bar and performs other functions as provided under these rules.
 - i. Appointment. The Chief Judge shall appoint an investigative officer from the list of attorneys licensed to practice before the Osage Nation Courts to review and investigate the complaint.
 - ii. The Osage Nation Supreme Court shall determine reasonable compensation to the Investigative Officer. Such compensation shall be paid out of the ONBA Fund.
- f. Right to Representation. An attorney subject to disciplinary action may be represented by counsel during any stage of an investigation or hearing under these rules at their own expense and effort.
- g. Attorney-Client Privilege. An attorney may not assert the attorney-client privilege or other prohibitions on revealing client confidences or secrets as a basis for refusing to provide information during the course of an investigation, but information obtained during an investigation involving client confidences or secrets must be kept confidential to the extent possible under these rules unless the client otherwise consents. Nothing in these rules waives or requires waiver of any attorney's own privilege or other protection as a client against the disclosure of confidences or secrets.
- h. Commencement of Proceedings.
 - i. Formal Complaint. A disciplinary proceeding commences when the formal complaint is filed.
 - A. Filing. After a matter is ordered to hearing, the investigative officer files a formal complaint in the Osage Nation Trial Court with the Supreme Court Clerk. The Clerk shall generate a summons and schedule a disciplinary hearing within 60 days.
 - B. Service. After the formal complaint is filed, it must be personally served on the respondent or his/her attorney of record with the summons and notice of hearing

notifying him or her that they have 20 days to respond and they must appear at a hearing.

- C. Content. The formal complaint must state the respondent's acts or omissions in sufficient detail to inform the respondent of the nature of the allegations of misconduct. The investigative officer must sign the formal complaint, under penalty of perjury.
 - D. Prior Discipline. Prior disciplinary action against the respondent should be included in a supporting declaration if the respondent is charged with conduct demonstrating unfitness to practice law.
 - E. Joinder. The investigative officer ordering a hearing on alleged misconduct may in its discretion consolidate two or more charges against the same respondent.
- ii. Answer
- A. Time to Answer. Within 20 days of service of the formal complaint and notice to answer, the respondent attorney must file and serve an answer with the Supreme Court Clerk and the investigative officer. Failure to file an answer as required may be grounds for discipline and for an order of default.
 - B. Content. The answer must contain:
 - 1) A specific denial or admission of each fact or claim asserted in the formal complaint;
 - 2) A statement of any matter or facts constituting a defense, affirmative defense, or justification, in ordinary and concise language without repetition; and
 - 3) An address at which all further pleadings, notices, and other documents in the proceeding may be served on the respondent.
 - C. Filing and Service. The answer must be served either personally or by first class mail on the investigative officer and filed with the Supreme Court Clerk with proof of service.
- i. Disciplinary Hearing. The Chief Judge shall conduct an open disciplinary hearing to determine whether the findings of alleged misconduct are founded by a preponderance of the evidence. All interested parties shall be notified at least 20 days in advance of the hearing. The investigating officer and Respondent shall be entitled to present evidence and confront witnesses.
- j. Following the hearing, the Chief Judge shall make a finding by a preponderance of evidence of whether a violation has been established. The Court will then determine appropriate sanctions allowing both sides to make recommendations. The Court will memorialize the sanction(s) in a written opinion. Sanctions may include censure, reprimand, suspension, or disbarment.

Alternatively, the respondent may admit to the violation and agree to appropriate sanctions, which can be presented to the Court. The Court may accept or reject the agreement within its discretion.

The Chief Judge may find a Respondent in default for failing to respond in writing or appear at the hearing after finding that proper notice was provided. The Chief Judge shall conduct the disciplinary hearing, and without further notice to the Respondent in default, rule on the complaint and determine appropriate sanctions.

- k. Appeal to the Supreme Court. If either party disagrees with the decision of the Osage Nation Trial Court, it may file an appeal to the Osage Nation Supreme Court by filing an written appeal containing the grounds for the appeal within 30 calendar days of the decision. The Supreme Court Clerk shall prepare a record of the proceedings and deliver a copy of the record and the appeal to each Justice of the Osage Nation Supreme Court.

The Osage Nation Supreme Court shall conduct a *de novo* review of the complaint based upon the record and issue a written decision upholding, modifying, or vacating the Chief Judge's decision and the grounds for the decision. The Supreme Court may schedule a hearing on the appeal at its discretion. The Supreme Court's decision is final and not subject to further appeal.

l. Remedies – Restitution, Censure, Reprimand, Suspension and Disbarment.

- i. Restitution May Be Required. A respondent attorney who has been sanctioned or admonished under this rule may be ordered to make restitution to persons financially injured by the respondent's conduct.
 - A. Payment of Restitution. A respondent ordered to make restitution must do so within 30 days of the date the order becomes final. The restitution order may include a periodic payment plan.
 - B. The Hearing Officer or panel may enter into an agreement with a respondent for a reasonable periodic payment plan if: The respondent demonstrates in writing a present inability to pay restitution, and there is no objection from the person(s) owed restitution.
 - C. Failure to Comply. A respondent's failure to make restitution when ordered to do so or to comply with the terms of a periodic payment plan may be grounds for further discipline.
- ii. Censure. The respondent attorney may be censured.
- iii. Reprimand. The respondent attorney may be reprimanded with a course of action.
- iv. Suspension. The respondent attorney may be suspended and/or placed on probation and ordered to engage in remedial services for up to two years.

- v. Disbarment. The respondent attorney may be disbarred if their conduct rises to such a level.

The Supreme Court may forward disciplinary decisions to other jurisdictions where the attorney is admitted for their records and may publish the record of the disciplinary decision in the Osage News or other appropriate newspaper.

Rule 7: Change in Membership Status

1. An attorney licensed to practice law in the Osage Nation Courts may voluntarily relinquish his/her license by submitting a written document containing the attorney's name and contact information and a statement that the attorney is resigning his/her license. Once accepted by the Supreme Court, the attorney will be ineligible to apply for a new license for a period of one year from the date of relinquishment unless the relinquishment is submitted as part of a disciplinary action; in such a case, the attorney will be ineligible to apply for a new license at any time without the Supreme Court's prior written authorization.
2. An attorney may also file a written request to change his/her active status to inactive status. An attorney that is inactive shall not be responsible for annual fees, may not vote on ONBA matters, and may not hold him/herself out as an ONBA member until s/he reactivates the license.
3. All voluntary changes in status must include a certification that the attorney has successfully transferred or disposed of pending matters before the Osage Nations Courts and the clients have received timely notice of the attorney's change in status.
4. Administrative changes in active status due to non-payment of dues or incorrect contact information are authorized at any time.

Rule 8: Osage Nation Bar Association Revolving Fund

Expenditures out of the Osage Nation Bar Association Fund shall be directed by the Osage Nation Bar Association, approved by the Bar Association Treasurer, and they shall be consistent with the stated purpose of the Osage Nation Bar Association to advance the interests of an independent judiciary. 1 ONC 1-101; ONCA 10-100 sec. 1.

Funds in the ONBA fund shall be spent on the reasonable compensation of investigative officers, ONBA-sponsored activities, and expenses directly related to ONBA activities, which are limited to activities that advance the interests of an independent judiciary.

Rule 9: Miscellaneous Provisions

1. Definitions. Words in these Rules shall have the meaning given them unless the context clearly indicates another meaning. If the meaning of a word is not clear, then its meaning shall be construed in harmony with the purposes of these Rules.
2. Severability. If any provision of these Rules is declared invalid, then the remaining provisions shall be unaffected.

3. Bylaws. The ONBA may adopt its own bylaws for its internal administration, which must be submitted to the Chief Justice for approval and appended to these rules.
4. Interim President. The last known president shall serve as the interim president until such time as the ONBA elects officers.

ORDERED this 25th day of September, 2019

A handwritten signature in blue ink, appearing to read 'M. Drent', is written over a horizontal line.

Meredith D. Drent
Chief Justice