Cherokee Nation Code Annotated
Title 20: Courts
Chapter 6: Court on the Judiciary
§ 205. Authority
Cite as: 20 CNCA § 205

1. Rulemaking.

a. Procedure and Administration. The Court on the Judiciary shall promulgate their own rules of procedure and administration, to be submitted to the Tribal Council for review and approval, provided that such rules of procedure assure due process and ensure confidentiality to protect the professional reputations of those within the Cherokee Nation Judicial Branch from frivolous claims.

b. Judicial Conduct. The Court on the Judiciary shall not promulgate rules on the substance of judicial conduct. The current edition of the American Bar Association's Model Rules of Judicial Conduct shall govern judicial conduct until such time as it is superseded by adoption of a Cherokee Nation Code of Judicial Conduct.

2. Threshold Determination: Upon receipt of a complaint alleging judicial misconduct, the Court on the Judiciary shall make a threshold determination whether the complaint, if proven based solely on the information provided in the complaint, may constitute misconduct within the meaning of this Act. Any complaint that fails to meet the threshold review shall be dismissed.

3. Mandatory Deferral: If the Court on the Judiciary determines, upon its threshold review of the complaint, that the complaint, if proven and based solely on the information provided in the complaint, may demonstrate misconduct within the meaning of the Act, the matter shall be deferred to the relevant bar association with jurisdiction over the alleged misconduct for a deferral period not to exceed one year. The Court on the Judiciary shall defer to the disposition of the alleged misconduct by the bar association to which the matter was deferred, unless the Court on the Judiciary, by unanimous vote, determines that further proceedings by the Court on the Judiciary is warranted.

4. Investigation After Deferral. The Court on the Judiciary shall, following the expiration of the deferral period and in the absence of a deferral-based disposition provided for herein have the authority and responsibility to investigate complaints alleging judicial misconduct. Such authority shall include the ability to conduct hearings related to such investigations. Failure by a Judge or Justice of the Cherokee Nation Judicial Branch to comply with the authority of the Court on the Judiciary shall result in a timely

recommendation of removal from office, following a finding by the Court on the Judiciary of a violation of the Act.

5. Power to Recommend Removal. The Court on the Judiciary shall have the power to recommend that a Judge or Justice of the Cherokee Nation Judicial Branch be removed from the office by the Tribal Council pursuant to Article XI, Section 2 of the Constitution of the Cherokee Nation. Such a recommendation shall be based upon a finding of conduct or behavior as proscribed by Article XIII, Section 8 of the Constitution by a Judge or Justice.

6. Staffing. The Court on the Judiciary shall employ such staff as may be necessary to perform the duties required by the Act subject to the budget appropriation process of the Cherokee Nation.

Historical Data

LA 15-24, eff. May 14, 2024.