

JUDICIAL ETHICS BOARD

AMENDED AND RESTATED RULES FOR HEARINGS REGARDING PETITIONS FOR JUDICIAL REMOVAL

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Rule 1. Receipt of Petition and Board Acceptance

The petitioning parties shall submit a notarized petition requesting the removal of a judge, pursuant to Section 3-3-306 of the Crow Law and Order Code, to the Chief Executive Officer or his/her designee, on behalf of the Judicial Ethics Board. Such petition shall set forth the cause for removal, as supported by Section 3-3-306(1). Upon receipt of such petition, the CEO or his/her designee shall note the day and time received and immediately forward a copy of said petition to each member of the Judicial Ethics Board.

Upon receipt of a petition for removal of a judge, the Judicial Ethics Board shall determine if a hearing is warranted. Upon review of the petition, the Judicial Ethics Board shall vote to accept such petition. If the petition is accepted by a majority vote of the Board, then a hearing shall be held according to the procedure set forth in these rules. If the petition is not accepted, a short written statement will be mailed (with postmark) to petitioner within five working days upon the entire Board's receipt of the petition.

If petitioner has a case pending before the judge subject to his or her removal petition in Tribal Court, the petitioner shall be required to exhaust all available legal remedies before a petition for removal may be accepted, unless the interests of justice require immediate consideration of the petition. Exhaustion of legal remedies means disposition of the pending case and expiration of the time for appeal or disposition of the appeal. If a petition is initially denied for failure to exhaust legal remedies, the petitioner may be permitted to present written reasons to the Board why the petitioner should not be required to exhaust such remedies. Upon receipt of the petitioner's statement requesting immediate consideration of the petition, the Board shall reconsider the petition and follow the procedure applicable to an original petition.

Rule 2. Notice to Parties

Upon receipt of an accepted petition by the Judicial Ethics Board, the Board shall immediately set a date and time for the hearing to begin within fifteen working days. A Notice to Appear shall be served upon the petitioner(s) and the judge subject to removal no later than ten working days prior to the scheduled hearing. This Notice to Appear shall include the date, time and location of the hearing and service shall be deemed sufficient by: (i) personal service; or (ii) substituted service, including service by mail with a postmark of ten working days prior to the scheduled hearing.

Rule 3. Temporary Suspension of Judge

- A. At the discretion of the Judicial Ethics Board, the judge subject to removal may be temporarily suspended with or without pay pending the outcome of the hearing. Such suspension shall be by majority vote of the Board. Such suspension shall be served upon the judge subject to removal in writing and such suspension shall be by personal or substituted service.

- B. If the judge is temporarily suspended, the Chairman of the Crow Tribe shall temporarily appoint an associate judge, provided the appointee meets all of the judicial qualifications set forth in Section 3-3-304, without confirmation by the Tribal Legislature. If the suspended judge is not removed, the temporary associate judge's appointment shall expire upon the conclusion of the hearing and he/she shall have no grievance procedure rights pursuant to the Crow Tribal Personnel Policies or the procedure herein. If the suspended judge is removed, the temporary

associate judge's appointment shall remain effective for no longer than two months. During this time period, the Chairman shall advertise for the vacant judge position and shall make a permanent appointment. Such appointment shall be confirmed by the Crow Tribal Legislature at its next Legislative session in order for such appointment to become finally effective.

- C. If the judge is temporarily suspended, the Chairman of the Crow Tribe may temporarily delegate the suspended judge's duties to another judge that has already been appointed. If the suspended judge is not removed, the existing judge's temporary delegation shall expire upon the conclusion of the hearing. If the suspended judge is removed, the existing judge's temporary delegation shall remain effective for no longer than two months. During this time period, the Chairman shall advertise for the vacant judge position and shall make a permanent appointment. Such appointment shall be confirmed by the Crow Tribal Legislature at its next Legislative session in order for such appointment to become finally effective.
- D. At the time of a temporary appointment or delegation, such appointment or delegation shall be served upon the temporary judge in writing and such service shall be by personal or substituted service.

Rule 4. Composition of Judicial Ethics Board.

- A. The Judicial Ethics Board shall be comprised of the Chief Executive Officer of the Crow Tribe, the Speaker of the Crow Tribal Legislature, and either the Chief Judge or Chief Justice of the Crow Tribe, whomever is not subject to the removal petition. If a Board member has a conflict of interest or has other compelling reasons not to serve, that member may make a written request to the Board to have himself or herself formally recused from the proceedings. However, the other Board members must accept his or her request to be recused. If granted, the two remaining Board members must immediately appoint a replacement to serve on the Board. The replacement must be a member of the Crow Tribe. Service as a Legislator, a sitting Tribal Court Judge, or as a member of the Executive Branch does not disqualify a person from serving as a replacement on the Board.
- B. The Judicial Ethics Board shall nominate and elect a member to serve as Chairperson of the Board. Such election shall require unanimous approval by the remaining members. The Chairperson shall preside over removal hearings and is authorized to rule on admissibility of evidence, objections and any other requests, including motions for continuance, dismissal, etc... The Chairperson is entitled to vote on any matters before the Board.

Rule 5. Preliminary Matters

At the scheduled hearing, the Board Chairperson shall briefly state the purpose of the hearing and read the petition into the record. The Board Chairperson shall inform the parties that the subject judge may only be removed upon a finding of clear and convincing evidence that he/she has abused his/her judicial office in violation of the ABA Model Code of Judicial Conduct (1990), committed habitual intemperance, or has been convicted of any criminal offense enumerated in the Crow Law and Order Code or the laws of the United States or the States of the United States, not including minor traffic offenses. Thus, the burden of proof lies on the petitioner.

Rule 6. Representation

Parties may delegate another person to serve as their legal counsel, lay advocate, representative or spokesperson. Nothing in these rules shall require such person to be a member of the Crow Tribal Bar or the Montana State Bar in order to serve as a party's representative.

Rule 7. Evidence

- A. Only relevant evidence shall be allowed.
- B. Irrelevant or unsubstantiated evidence shall not be allowed.
- C. The formal rules of evidence, used primarily in formal court proceedings, are not binding because this is an administrative hearing. The Board Chairperson may be liberal in admitting evidence, but objections to any admission of such evidence and comments or observations as to such the weight of such evidence are relevant and should be considered by the Board Chairperson.

Rule 8. Procedure for Hearings

- A. The intent of these rules as well as the nature of these proceedings, regarding a judicial removal hearing, requires the parties to conduct themselves in a respectful and non-adversarial manner.
- B. After the completion of preliminary matters and the reading of the petition into the record, the floor shall be opened up to the members of the Judicial Ethics Board to ask fact-finding questions of the petitioning parties and the judge subject to removal.
- C. If either party has witnesses, such party shall provide a brief statement as to the information to be provided by the witnesses. Thereafter, the members of the Board may also ask fact-finding questions of the witnesses.
- D. If either party or their designated representative wishes to ask questions of any witnesses, such questions must be directed to the Chairman of the Board, who shall then ask the questions(s) of the witness, provided such question(s) is/are relevant and non-argumentative.

Rule 9. Exclusion of Witnesses.

With the exception of the parties and their representatives, all individuals expected to testify shall not be present in the hearing room except to provide their testimony. In order to avoid prejudicial effects to the judge subject to removal, no persons, except personnel to aid the Board in conducting the proceedings, shall be allowed in the hearing room.

Rule 10. Oaths

Prior to providing any testimony, each witness shall be sworn in by the Chairperson of the Board.

Rule 11. Request for Dismissal

At the end of the petitioner's presentation of evidence, the judge subject to removal may request that the petition against him or her be dismissed because it has not been proven by clear and convincing evidence that he or she has abused his or her judicial office in violation of the ABA Model Code of Judicial Conduct (1990), committed habitual intemperance, or has been convicted of any criminal offense enumerated in the Crow Law and Order Code or the laws of the United States or the States of the United States, not including minor traffic offenses.

Rule 12. Decision

Upon conclusion of the hearing, the Judicial Ethics Board shall recess to make a decision on whether or not to remove the subject judge. Such decision shall be in writing and shall include findings of fact and

conclusion of law. Such decision shall be issued in writing to the judge subject to removal by personal or substituted service within fifteen working days of the hearing

If the findings of fact provide that subject judge abused his/her judicial office in violation of the ABA Model Code of Judicial Conduct (1990), committed habitual intemperance, or has been convicted of any offense enumerated in the Crow Law and Order Code or the laws of the United States of the States of the United States, not including minor traffic offenses, he/she may be removed. A decision to remove must be by a majority vote of the members of the Judicial Ethics Board.

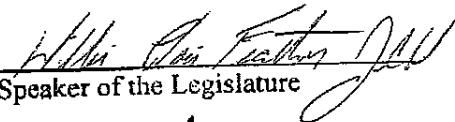
Rule 13. Definitions

“Habitual intemperance” can mean, but is not limited to, the excessive use of intoxication liquor which disqualifies the person a great portion of the time from properly attending to business, or which would reasonably inflict a course of great mental anguish upon an innocent party. The parties to these proceedings may utilize definitions or judicial standards of “habitual intemperance” from other jurisdictions.

Rule 14. Amendments

The Board may, upon majority vote, amend these rules from time to time. In addition, the Board may, upon majority vote, waive any rule herein for good cause.

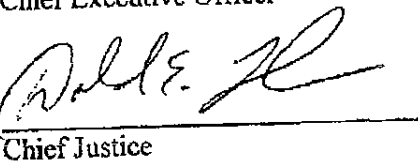
NOW, UPON REVIEW OF THE FOREGOING, THE JUDICIAL ETHICS BOARD HEREBY APPROVES THESE AMENDED AND RESTATED RULES FOR HEARINGS REGARDING PEITIONS FOR JUDICIAL REMOVAL THIS 10TH DAY OF JUNE 2003.



Speaker of the Legislature



Chief Executive Officer



Chief Justice