

ARTICLE VIII [REMOVAL OF OFFICERS]

Section

1. [Procedures].
2. [Petition for removal of Representative].
3. [Petition for removal of Principal Chief, Second Chief or Supreme Court Justice].

Section headings are editorially supplied.

§ 1. [Procedures]

The National Council shall enact an ordinance outlining procedures and causes for removal. Such procedures shall contain, but not limit to, the certification of the required petition, as provided in Section 2 and 3 of this Article and show of cause for removal, giving the accused an impartial hearing and allowance of time to answer to notice of such hearing.

Cross References

Removal of officers, see Title 31, § 1–101 et seq.

§ 2. [Petition for removal of Representative]

A signed petition showing cause of removal containing twenty (20) per cent of registered voters in a district shall be cause to consider removal of a council member.

Cross References

Petition to remove a public officer, see Title 31, §§ 1–201, 1–202.

§ 3. [Petition for removal of Principal Chief, Second Chief or Supreme Court Justice]

A signed petition showing cause of removal containing twenty (20) per cent of the registered voters of The Muscogee (Creek) Nation shall be cause to consider removal of the Principal Chief, Second Chief, and/or any member of the Supreme Court. A three-fourths (3/4) vote of The National Council shall be required for removal from office.

Cross References

Petition to remove a public officer, see Title 31, §§ 1–201, 1–202.

Notes of Decisions

Removal of tribal officers 1

Replacement of resigned or removed tribal officers 2

1. Removal of tribal officers

Muscogee (Creek) Nation Supreme Court may take judicial notice of fact that persons have not been confirmed in their appointments to cabinet positions in Nation's executive branch, may declare such positions vacant, and may issue per-

manent injunctions regarding former occupants of such positions and their current status. *Cox v. Kamp*, 2 Okla. Trib. 303 (Muscogee (Creek) 1991).

Principal Chief of Muscogee (Creek) Nation lacks powers to remove members of tribal Hospital and Clinics Board without cause and due process as set out in ordinance establishing the Board. *Cox v. Moore*, 1 Okla. Trib. 263 (Muscogee (Creek) 1989).

REMOVAL OF OFFICERS

Art. VIII, § 3 Note 2

Principal Chief of Muscogee (Creek) Nation may remove purely executive unelected officials and officers. *Cox v. Moore*, 1 Okla. Trib. 263 (Muscogee (Creek) 1989).

The Supreme Court is a necessary and separate branch of the Muscogee (Creek) Nation instilled with the Judicial Authority and power of the Muscogee (Creek) Nation. *Done in Conference, October 31, 1986 (Muscogee (Creek) Nation (1986))*

The continued operation of the Court is of extreme importance and necessary for the preservation of the rights of all of the citizens of the tribal government of the Muscogee (Creek) Nation. *Done in Conference, October 31, 1986 (Muscogee (Creek) Nation (1986))*

The power and authority of this Court will not be decreased nor will this Court be diminished by any other branch of the tribal government by its failure to perform its duties and obligations under the constitution of the Muscogee (Creek) Nation and this Court finds that the Justices of this Court should retain their position and continue to perform the duties of Justice of this Supreme Court until their successors shall be duly qualified. *Done in Conference, October 31, 1986 (Muscogee (Creek) Nation (1986))*

It is THEREFORE ORDERED, ADJUDGED AND DECREED that each Justice of the Supreme Court of the Muscogee (Creek) Nation shall and do retain their position and authority and shall continue to serve as Justice until their successor is duly qualified. *Done in Conference, October 31, 1986 (Muscogee (Creek) Nation (1986))*

Appointment and approval of a Justice to Muscogee (Creek) Nation Supreme Court to a vacancy which does not result from the expiration of another Justice's term, and which occurs after July 1 of any year, will result in the newly-appointed and approved Justice serving in office

in excess of six years, and there is no requirement in tribal Constitution for reconfirmation after the partial year has expired. *In re Term of Office*, 2 Okla. Trib. 385 (Musc. (Cr.) D.Ct. 1992).

Principal Chief of Muscogee (Creek) Nation has responsibility to nominate, and National Council to approve, appointments to Supreme Court of Muscogee (Creek) Nation; failure of those branches of government to agree on nominees, however does not constitute obstruction of justice. *O.C.M.A. National Council*, 1 Okla. Trib. 293 (Musc. (Cr.) D.Ct. 1989).

2. Replacement of resigned or removed tribal officers

Muscogee (Creek) Constitution, Article VII, section 2 mandates that newly-appointed and approved Justices of tribal Supreme Court serve full six-year terms, even where appointment is to a vacancy which did not result from the expiration of a previous Justice's term. *In re Term of Office*, 2 Okla. Trib. 411 (Muscogee (Creek) 1992).

Where emergency exists due to expiration of all terms on appointed tribal board, and where no one has been nominated and/or confirmed to fill the vacancies, tribal Supreme Court may designate persons to sit on such board pending nomination and/or confirmation of their successors. *In re Hospital and Clinics Board*, 2 Okla. Trib. 155 (Muscogee (Creek) 1991).

Constitution of Muscogee (Creek) Nation is silent as to procedure to be followed where vacancy on tribal Supreme Court occurs before a term of office expires. *In re Term of Office*, 2 Okla. Trib. 385 (Musc. (Cr.) D.Ct. 1992).

Framers of Muscogee (Creek) Nation Constitution did not anticipate any extended vacancies on Tribe's Supreme Court. *In re Term of Office*, 2 Okla. Trib. 385 (Musc. (Cr.) D.Ct. 1992).