

TITLE 26. JUDICIAL BRANCH/COURTS VHAKV FVTCECVLKE/FVTCECKV CUKO

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CHAPTER 1. SUPREME COURT

Section

1-101. Administrative officer.

§ 1-101. Administrative officer

The Chief Justice of the Supreme Court shall be the administrative officer for the Supreme Court.

[NCA 99-85, § 105, approved July 1, 1999.]

Cross References

Chief Justice, see Const. Art. VII, § 4.

Library References

Indians ↻401.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

CHAPTER 2. DISTRICT COURT

Section

- 2-101. Establishment.
- 2-102. Territorial jurisdiction.
- 2-103. Sessions.
- 2-104. Record of proceedings.
- 2-105. Appeals.

Cross References

Juvenile Division, see Title 6, §§ 1-108, 1-109.

§ 2-101. Establishment

A District Court holding original jurisdiction for all matters not under the exclusive jurisdiction of the Supreme Court of the Muscogee (Creek) Nation is hereby established.

[NCA 81-18, § 101, approved Jan. 6, 1981.]

Cross References

Courts, see Const. Art. VII, § 1.

Library References

Indians ⇄401.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 2-102. Territorial jurisdiction

Until otherwise provided by law, there shall be a single District Court, holding jurisdiction over all of the following Districts:

Creek District
Hughes/Seminole District
McIntosh District
Muscogee District
Okfuskee/Seminole District
Okmulgee District
Tulsa District
Wagoner/Rogers/Mayes District

[NCA 81-18, § 102, approved Jan. 6, 1981.]

Library References

Indians ⇄401.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 2-103. Sessions

The District Court shall meet in regular, monthly sessions.

[NCA 81-18, § 108, approved Jan. 6, 1981.]

§ 2-104. Record of proceedings

The District Court Judge shall insure that a record of proceedings is compiled in the following manner:

A. Trials. The District Court Judge shall employ a public stenographer to act as court reporter. When necessary, the District Court Judge may employ a translator to assist the court reporter with oral testimony given in the Muscogee (Creek) language.

B. Hearings, motions and all other matters. The District Court Judge shall request that a secretary be assigned by the Office of the Administration to record, take notes, and produce written minutes of the proceedings. All recordings shall be preserved by the District Court.

[NCA 81-18, § 107, approved Jan. 6, 1981.]

§ 2-105. Appeals

All decisions of the District Court shall be subject to appeal to the Supreme Court of the Muscogee (Creek) Nation as provided by the Procedures of the Supreme Court.¹

[NCA 81-18, § 109, approved Jan. 6, 1981.]

¹ Title 27, Appendix 2 of the Muscogee (Creek) Nation Code.

Library References

Indians ⇄540.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

CHAPTER 3. JUSTICES, JUDGES AND JUDICIAL BRANCH PERSONNEL

Subchapter

1. General Provisions
2. Nomination and Confirmation Procedures for Supreme Court Justices and District Court Judge

SUBCHAPTER 1. GENERAL PROVISIONS

Section

- 3-101. District Court Judge.
- 3-102. Special District Judge.
- 3-103. District Court Clerks.
- 3-104. Peace officers.
- 3-105. Lawmenders.
- 3-106. Public Defenders.
- 3-107. Auditors.
- 3-108. Training.

§ 3-101. District Court Judge

A. The District Court Judge is hereby created as the presiding Officer of the District Court. The District Court Judge shall possess the following educational and professional qualifications: the District Court Judge must be a graduate of an accredited law school, a member of the Muscogee (Creek) Nation Bar Association, a member of a state bar association and admitted to practice law before the federal courts in Oklahoma. The District Court Judge shall have a minimum of four (4) years active trial and law practice experience. The District Court Judge shall be required to maintain a minimum of twelve (12) hours of continuing legal education each year, one (1) hour of which must be legal ethics.

B. The District Judge shall be the administrative officer for the District Court.

C. The District Court Judge shall be nominated by the Principal Chief and confirmed by the National Council by Tribal Resolution. All nominations rejected by the National Council shall be replaced by new nominations. The term of office shall be for four (4) years commencing on July 1, 2002, and every four (4) years thereafter; provided that the District Court Judge in office as of December 15, 2001, shall serve until the commencement of the new term on July 1, 2002.

D. The District Court Judge shall be subject to removal from office by Tribal Resolution for cause.

[NCA 81-18, §§ 103, 104, 106, approved Jan. 6, 1981; amended by NCA 88-14, § 102, veto overridden May 7, 1988; NCA 88-17, § 105, veto overridden May 7, 1988; NCA 99-85, § 103, approved July 1, 1999; NCA 02-019, §§ 2, 3, approved Feb. 28, 2002.]

Library References

Judges ☞2, 4, 5.
Westlaw Topic No. 227.
C.J.S. Judges §§ 15 to 16, 28 to 39.

§ 3–102. Special District Judge

Effective September 30, 1994, the Muscogee (Creek) Nation judicial officers may appoint a Special District Judge using the following method and procedure:

A. Written notice by a Supreme Court Justice or District Judge must be made to the Chief Justice of the Supreme Court detailing with specifics the necessity for appointing a Special District Judge.

B. The Chief Justice shall select from the members of the Muscogee (Creek) Nation Bar a member in good standing or a Muscogee (Creek) citizen to serve as Special District Judge.

C. A majority of the Supreme Court Justices must approve the appointment in a written order detailing the specific duties of the Special District Judge and setting out a time limitation for the appointment.

[NCA 94–67, § 112, approved Sept. 30, 1994.]

Library References

Judges ☞3.
Westlaw Topic No. 227.
C.J.S. Judges §§ 20 to 29.

§ 3–103. District Court Clerks

A. Appointments; duties. The District Judge shall appoint a person to serve as the District Court Clerk. The District Court Clerk shall render assistance to the District Court and to the Muscogee (Creek) Nation Lighthouse Police. It shall be the further duty of the District Court Clerk or Deputy District Court Clerk to attend and keep a written record of all proceedings of the District Court to administer oaths to witnesses and jurymen, to collect fines paid and authorize the payment of all fees authorized by these laws, and to make an accounting thereof to the Controller of the Muscogee (Creek) Nation. The District Court Clerk and Deputy Court Clerk(s) are to be bonded for not less than five thousand dollars (\$5,000.00).

B. Deputies. The District Court Clerk may appoint necessary deputies, clerical assistants, and employees as may be provided for in the District Court budget approved by the National Council and the Principal Chief. Such deputies, clerical assistants, and employees shall be subject to removal with approval of the District Judge as set out in the current written Judicial Branch Personnel Policies Handbook.

[NCA 01–109, § 211, approved July 6, 2001.]

Historical and Statutory Notes**Derivation**

NCA 82–30, § 505; amended by NCA 99–85,
§ 105.

§ 3-104. Peace officers

A. The District Judge is authorized to commission qualified persons as peace officers, with authority to maintain public order, safety, and health by enforcement of all laws, maintain order in the Courthouse and supervise those persons on probation.

B. 1. "Peace officer" as used herein shall mean any duly appointed person who is charged with responsibility of maintaining public order, safety, and health by the enforcement of all laws or orders of this Nation and who is authorized to bear arms in election of his responsibilities.

2. "Qualified" as used herein shall mean certified as a peace officer by the Bureau of Indian Affairs, the Indian Police Academy, Oklahoma's Council on Law Enforcement Education and Training or some other comparable certifying school or agency for peace officers; and where a proper background investigation, with fingerprints to be taken and sent to the Federal Bureau of Investigation.

C. District Court peace officers serve under the direction of the District Court and shall perform such services as are necessary, maintaining order and decorum in the Courthouse, including supervision of those persons on probation. The District Court peace officer shall maintain annual weapon proficiency as required by the Lighthorse Commission

[NCA 01-109, § 211, approved July 6, 2001.]

§ 3-105. Lawmenders

A Supreme Court Justice, District Judge or Special District Judge as the case may be shall have the authority to appoint lawmenders.

[NCA 94-67, § 112, approved Sept. 30, 1994.]

§ 3-106. Public defenders

The Supreme Court Chief Justice and District Court Judge shall be allowed to engage in contracts for the public defenders to represent: criminal defendants who are unable to employ counsel, children, mothers and fathers, custodial relatives, and others in need of counsel and approved by the Supreme Court. Funds to be expended for public defenders shall be set out in the Judicial Branch budget and approved on a yearly basis or as needed basis by the National Council. The Certified Public Accountant responsible for the audit of the Court system shall be approved by the Supreme Court Chief Justice, District Judge, and Controller.

[NCA 94-67, § 114, approved Sept. 30, 1994; amended by NCA 99-85, § 105, subsec. E, approved July 1, 1999.]

§ 3-107. Auditors

The certified public accountant responsible for the audit of the Court system shall be approved by the Supreme Court Chief Justice, District Judge, and Controller.

[NCA 94-67, § 114, approved Sept. 30, 1994; amended by NCA 99-85, § 105, approved July 1, 1999.]

§ 3–108. Training

Mandatory training for justices and judges is hereby set at a minimum of eight (8) hours each fiscal period with a maximum carryover of eight (8) hours from one (1) fiscal year to the next.

[NCA 94–67, § 115, approved Sept. 30, 1994.]

SUBCHAPTER 2. NOMINATION AND CONFIRMATION
PROCEDURES FOR SUPREME COURT JUSTICES
AND DISTRICT COURT JUDGE

Section

- 3–201. Submission of nomination.
- 3–202. Rejection of nomination.
- 3–203. Vacancies.
- 3–204. Expired terms.
- 3–205. Full citizenship required.

Cross References

Supreme Court, see Const. Art. VII, § 2.

§ 3–201. Submission of nomination

Ninety days prior to expiration of the term of office of a Supreme Court Justice or District Judge, the Principal Chief shall submit a nomination to the National Council.

[NCA 88–17, § 101, veto overridden May 7, 1988.]

Library References

Judges ⇨3.
Westlaw Topic No. 227.
C.J.S. Judges §§ 20 to 29.

§ 3–202. Rejection of nomination

In the event a nomination is not approved within sixty (60) days by the National Council, the nomination shall be deemed to be rejected and the Principal Chief shall submit a new nomination within thirty (30) days (i.e., a new nomination and not the one that was rejected).

[NCA 88–17, § 102, veto overridden May 7, 1988.]

Library References

Judges ⇨3.
Westlaw Topic No. 227.
C.J.S. Judges §§ 20 to 29.

§ 3–203. Vacancies

In the event of a vacancy caused by resignation or death of a Supreme Court Justice or District Judge then the Principal Chief shall submit a nomination within thirty (30) days of such vacancy.

[NCA 88–17, § 103, veto overridden May 7, 1988.]

Library References

Judges ☞8.
Westlaw Topic No. 227.
C.J.S. Judges §§ 58 to 77.

§ 3–204. Expired terms

A justice or judge whose term of office has expired and who has not been reconfirmed by the National Council shall not be permitted to sit as a justice or judge and shall receive no compensation.

[NCA 88–17, § 104, veto overridden May 7, 1988.]

Library References

Judges ☞9.
Westlaw Topic No. 227.
C.J.S. Judges §§ 51, 67.

§ 3–205. Full citizenship required

The District Judge and the Supreme Court Justices shall be full citizens.

[NCA 88–17, § 105, veto overridden May 7, 1988.]

Cross References

Full citizenship, see Const. Art. III, § 4.

Library References

Indians ☞222.
Judges ☞4.
Westlaw Topic Nos. 209, 227.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180.
C.J.S. Judges §§ 28 to 35, 38 to 39.

CHAPTER 4. CODE OF CONDUCT AND CANONS OF JUDICIAL ETHICS FOR MUSCOGEE (CREEK) NATION JUDGES AND EMPLOYEES

Subchapter

1. Code of Conduct for Muscogee (Creek) Nation Judges
2. Code of Conduct for Judicial Employees

SUBCHAPTER 1. CODE OF CONDUCT FOR MUSCOGEE (CREEK) NATION JUDGES

Section

- 4-101. Canon 1: A judge should uphold the integrity and independence of the judiciary.
- 4-102. Canon 2: A judge should avoid impropriety and the appearance of impropriety in all activities.
- 4-103. Canon 3: A judge should perform the duties of the office impartially and diligently.
- 4-104. Canon 4: A judge may engage in extra-judicial activities to improve the law, the legal system and the administration of justice.
- 4-105. Canon 5: A judge should regulate extra-judicial activities to minimize the risk of conflict with judicial duties.
- 4-106. Canon 6: A judge should refrain from Muscogee (Creek) Nation political activity.

§ 4-101. Canon 1: A judge should uphold the integrity and independence of the judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and should personally observe those standards, so that the integrity and independence of the judiciary may be preserved. The provisions of this subchapter should be constructed and applied to further that objective.

[NCA 01-108, § 3, approved July 6, 2001.]

Library References

Judges ⇌11(2).
Westlaw Topic No. 227.
C.J.S. Judges §§ 78 to 99.

§ 4-102. Canon 2: A judge should avoid impropriety and the appearance of impropriety in all activities

A. A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. A judge should not allow family, social, or other relationships to influence judicial conduct or judgment. A judge should not lend the prestige of the judicial office to advance the private interests of others; nor convey or permit

others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness.

C. A judge should not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion, or national origin. [NCA 01–108, § 3, approved July 6, 2001.]

Library References

Judges ⇌11(2).
Westlaw Topic No. 227.
C.J.S. Judges §§ 78 to 99.

§ 4–103. Canon 3: A judge should perform the duties of the office impartially and diligently

The judicial duties of a judge take precedence over all other activities. In performing the duties prescribed by law, the judge should adhere to the following standards:

A. Adjudicative responsibilities.

1. A judge should be faithful to and maintain professional competence in the law, and should not be swayed by partisan interests, public clamor, or fear of criticism.

2. A judge should hear and decide matters assigned, unless disqualified, and should maintain order and decorum in all judicial proceedings.

3. A judge should patient, dignified, respectful, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and should require similar conduct of those subject to the judge's control, including lawyers to the extent consistent with their role in the adversary process.

4. A judge should accord to every person who is legally interested in a proceeding, or the person's lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider ex parte communications on the merits, or procedures affecting the merits, of pending or impending proceeding. A judge may, however, obtain the advise of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of person consulted and the substance of the advise, and affords the parties reasonable opportunity to respond. A judge may, with consent of the parties, confer separately with the parties and their counsel in an effort to mediate or settle pending matters.

5. A judge should dispose promptly of the business of the court.

6. A judge should avoid public comment on the merits of a pending or impending action, requiring similar restraint by court personnel subject to the judge's direction and control. This proscription does not extend to public statements made in the course of the judge's official duties, to the explanation of court procedures, or to a scholarly presentation made for purposes of legal education.

B. Administrative responsibilities.

1. A judge should diligently discharge the judge's administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

2. A judge should require court official, staff, and others subject to the judge's direction and control, to observe the same standards of fidelity and diligence applicable to the judge.

3. A judge should initiate appropriate action when the judge becomes aware of reliable evidence indicating the likelihood of unprofessional conduct by a judge or lawyer.

4. A judge should not make unnecessary appointments and should exercise that power only on the basis of merit, avoiding nepotism and favoritism.

5. A judge with supervisory authority over other judges should take reasonable measures to assure the timely and effective performance of their duties.

C. Disqualification.

1. A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonable be questioned, including but not limited to instances in which:

a. the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

b. the judge served as lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been material witness;

c. the judge knows that, individually or as fiduciary, the judge or the judge's spouse or minor child residing in the judge's household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be affected substantially by the outcome of the proceeding;

d. the judge or the judge's spouse, or a person related to either within the third degree of relationship, or the spouse of such a person:

i. is a party to the proceeding, or an officer, director, or trustee of a party;

ii. is acting as a lawyer in the proceeding;

iii. is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or

iv. is to the judge's knowledge likely to be a material witness in the proceeding;

e. the judge has served in governmental employment and in such capacity participated as counsel, advisor, or material witness concerning the proceeding or has expressed an opinion concerning the merits of the particular case in controversy.

2. A judge should keep informed about the judge's personal and fiduciary financial interests, and make reasonable effort to keep informed about the

personal financial interests of the judge’s spouse and minor children residing in the judge’s household.

3. For the purposes of this section:

a. the degree of relationship is calculated according to the civil law system; the following relatives are within the third degree of relationship: parent, child, grandparent, grandchild, great grandparent, great grandchild, sister, brother, aunt, uncle, niece and nephew; the listed relatives include whole and half blood relatives and most step relatives;

b. “fiduciary” includes such relationships as executor, administrator, trustee, and guardian;

c. “financial interest” means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

i. ownership in a mutual or common investment fund that holds securities is not a “financial interest” in such securities unless the judge participates in the management of the fund;

ii. an office in an educational, religious, charitable, fraternal, or civic organization is not a “financial interest” in securities held by the organization;

iii. the proprietary interest of a policy holder in a mutual insurance company, or a depositor in a mutual savings association, or a similar proprietary interest, is a “financial interest” in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

iv. ownership of government securities is a “financial interest” in the issuer only if the outcome of the proceeding could substantially affect the value of the securities;

d. “proceeding” includes pretrial, trial, appellate review, or other stages of litigation.

4. Notwithstanding the preceding provisions of this canon, if a judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.

D. Remittal of disqualification.

A judge disqualified by the terms of paragraph 1 of subsection C of this canon, except in the circumstances specifically set out in subparagraphs a through e of that paragraph, may, instead of withdrawing from the proceeding, disclose on the record the basis of disqualification. If the parties and their lawyers after such disclosure and opportunity to confer outside of the presence of the judge, all agree in writing or on the record that the judge should not be disqualified, and the judge is then willing to participate, the judge may

participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

[NCA 01–108, § 3, approved July 6, 2001.]

Library References

Judges ☞11(2).
Westlaw Topic No. 227.
C.J.S. Judges §§ 78 to 99.

§ 4–104. Canon 4: A judge may engage in extra-judicial activities to improve the law, the legal system and the administration of justice

A judge, subject to the proper performance of judicial duties, may engage in the following law-related activities, if in doing so the judge does not cast reasonable doubt on the capacity to decide impartially any issue that may come before the judge:

A. A judge may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.

B. A judge may appear at a public hearing before, or otherwise consult with, an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice to the extent that it would generally be perceived that a judge’s judicial experience provides special expertise in the area. A judge acting pro-se may also appear before or consult with such officials or bodies in matter involving the judge or the judge’s interest.

C. A judge may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. A judge may assist such an organization in planning fund-raising activities and may participate in the management and investment of funds, but should not personally participate in public fund-raising activities. A judge may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice. A judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority. A judge shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or is essentially a fund-raising mechanism.

D. A judge should not use to any substantial degree judicial chambers, resources, or staff to engage in activities permitted by this canon.

[NCA 01–108, § 3, approved July 6, 2001.]

Library References

Judges ☞11(2).
Westlaw Topic No. 227.
C.J.S. Judges §§ 78 to 99.

§ 4–105. Canon 5: A judge should regulate extra-judicial activities to minimize the risk of conflict with judicial duties

A. **Avocational activities.** A judge may write, lecture, teach, and speak on non-legal subjects, and engage in the arts, sports, and other social and recre-

ational activities, if such avocational activities do not detract from dignity of the judge's office or interfere with the performance of the judge's judicial duties.

B. Civic and charitable activities. A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of judicial duties. A judge may serve as an officer, director trustee, or non-legal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

1. A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court.

2. A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of the judicial office for that purpose, but the judge may be listed as an officer, director, or trustee of such an organization. A judge should not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or is essentially a fund-raising mechanism.

3. A judge should not give investment advise to such an organization, but may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

C. Financial activities.

1. A judge should refrain from financial and business dealings that tend to reflect adversely on the judge's impartiality, interfere with the proper performance of judicial duties, exploit the judicial position, or involve the judge in frequent transactions with lawyers or other persons likely to come before the court on which the judge serves.

2. Subject to the requirements of paragraph 1 of this subsection, a judge may hold and manage investments, including real estate, and engage in other remunerative activity, but should not serve as an officer, director, active partner, manager, advisor, or employee of any business other than a business closely held and controlled by members of the judge's family. For this purpose, "members of the judge's family" mean persons related to the judge or the judge's spouse within the third degree of relationship calculated according to the civil law system, any other relatives with whom the judge or the judge's spouse maintains a close familial relationship, and the spouse of any of the foregoing.

3. A judge should manage investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge should divest himself or herself of investments and other financial interests that might require frequent disqualification.

4. A judge should not solicit or accept anything of value from anyone seeking official action from or doing business with the court or other entity served by the judge, or from anyone whose interests may be substantially affected by the performance or nonperformance of official duties; except that a judge may accept a gift as permitted by the Judicial Conference gift regulations.

A judge should endeavor to prevent a member of a judge’s family residing in the household from soliciting or accepting a gift except to the extent that a judge would be permitted to do so by the Judicial Conference gift regulations.

5. For the purposes of this section “members of the judge’s family residing in the judge’s household” means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge’s family, who resides in the judge’s household.

6. A judge should report the value of any gift, bequest, favor, or loan as required by statute of the Muscogee (Creek) Nation.

7. A judge is not required by this subchapter to disclose his or her income, debts, or investments.

8. Information acquired by a judge in the judge’s judicial capacity should not be used or disclosed by the judge in financial dealings or for any other purpose not related to the judge’s judicial duties.

D. Practice of law. Part-time judicial officers may appear as counsel in civil and criminal actions in any court or before any governmental agency, except the courts or governmental agencies of the Muscogee (Creek) Nation.

E. Extra-judicial appointments. A judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice unless appointment of a judge is required by Act of Congress. A judge should not, in any event, accept such an appointment if the judge’s governmental duties would interfere with the performance of judicial duties or tend to undermine the public confidence in the integrity, impartiality, or independence of the judiciary. A judge may represent the judge’s country, state, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities.

F. Chambers, resources, and staff. A judge should not use judicial chambers, resources, or staff to engage in activities permitted by this canon, except for uses that are de minimis.

[NCA 01–108, § 3, approved July 6, 2001.]

Library References

Judges ⇌11(2).
Westlaw Topic No. 227.
C.J.S. Judges §§ 78 to 99.

§ 4–106. Canon 6: A judge should refrain from Muscogee (Creek) Nation political activity

A. A judge should not:

1. act as a leader or hold any office in a political organization of the Muscogee (Creek) Nation;

2. make speeches for a Muscogee (Creek) Nation political organization or candidate or publicly endorse or oppose a candidate for Muscogee (Creek) Nation public office;

3. solicit funds for a Muscogee (Creek) Nation political organization or candidate, attend political gatherings, or purchase tickets for political party dinners, or other functions.

B. A judge should resign the judicial office when the judge becomes a candidate either in a primary or in a general election for any Muscogee (Creek) Nation office.

[NCA 01–108, § 3, approved July 6, 2001.]

Library References

Judges ☞11(2).
Westlaw Topic No. 227.
C.J.S. Judges §§ 78 to 99.

**SUBCHAPTER 2. CODE OF CONDUCT
FOR JUDICIAL EMPLOYEES**

Section

- 4–201. Canon 1: A judicial employee should uphold the integrity and independence of the judiciary and of the judicial employee’s office.
- 4–202. Canon 2: A judicial employee should avoid impropriety and the appearance of impropriety in all activities.
- 4–203. Canon 3: A judicial employee should adhere to appropriate standards in performing the duties of the office.
- 4–204. Canon 4: In engaging in outside activities, a judicial employee should avoid the risk of conflict with official duties, should avoid the appearance of impropriety, and should comply with disclosure requirements.
- 4–205. Canon 5: A judicial employee should refrain from inappropriate political activity.

§ 4–201. Canon 1: A judicial employee should uphold the integrity and independence of the judiciary and of the judicial employee’s office

An independent and honorable judiciary is indispensable to justice in our society. A judicial employee should personally observe high standards of conduct so that the integrity and independence of the judiciary are preserved and the judicial employee’s office reflects a devotion to serving the public. Judicial employees should require adherence to such standards by personnel subject to their direction and control. The provisions of this subchapter should be construed and applied to further these objectives. The standards of this subchapter shall not affect or preclude other more stringent standards required by law, by court order, by the appointing authority.

[NCA 01–108, § 3, approved July 6, 2001.]

Library References

Judges ☞11(2).
Westlaw Topic No. 227.
C.J.S. Judges §§ 78 to 99.

§ 4–202. Canon 2: A judicial employee should avoid impropriety and the appearance of impropriety in all activities

A judicial employee should not engage in any activities that would put into question the propriety of the judicial employee’s conduct in carrying out the duties of the office. A judicial employee should not allow family, social, or other

relationships to influence official conduct or judgment. A judicial employee should not lend the prestige of the office to advance or to appear to advance the private interests of others. A judicial employee should not use public office for private gain.

[NCA 01–108, § 3, approved July 6, 2001.]

Library References

Judges ☞11(2).
 Westlaw Topic No. 227.
 C.J.S. Judges §§ 78 to 99.

§ 4–203. Canon 3: A judicial employee should adhere to appropriate standards in performing the duties of the office

In performing the duties prescribed by law, by resolution of the Judicial Conference of the United States, by court order, or by the judicial employee’s appointing authority, the following standards apply:

A. 1. A judicial employee should respect and comply with the law and these canons. A judicial employee should report to the appropriate supervising authority any attempt to induce the judicial employee to violate these canons.

2. Note: A number of criminal statutes of general applicability govern officer’s and employees’ performance of official duties.

a. These include:

- i. All criminal statutes of the Muscogee (Creek) Nation and;
- ii. 18 U.S.C. § 201 (bribery of public officials and witnesses);
- iii. 18 U.S.C. § 287 (false, fictitious, or fraudulent claims against the government);
- iv. 18 U.S.C. § 641 (embezzlement or conversion of government money, property, or records);
- v. 18 U.S.C. § 643 (failing to account for public money);
- vi. 18 U.S.C. § 2071 (concealing, removing, or mutilating a public record);
- vii. 31 U.S.C. § 1344 (misuse of government vehicle);
- viii. 31 U.S.C. § 3729 (false claims against the government).

b. In addition, provisions of specific applicability to court officers include:

- i. 18 U.S.C. § 645 (embezzlement and theft by court officers);
- ii. 18 U.S.C. § 646 (court officers failing to deposit registry moneys);
- iii. 18 U.S.C. § 647 (receiving loans from registry moneys from court officer).

c. This is not a comprehensive listing but sets forth some of the more significant provisions with which judicial employees should be familiar.

B. A judicial employee should be faithful to professional standards and maintain competence in the judicial employee’s profession.

C. A judicial employee should be patient, dignified, respectful, and courteous to persons with whom the judicial employee deals in an official capacity,

including the general public, and should require similar conduct of personnel subject to the judicial employee's direction and control. A judicial employee should diligently discharge the responsibilities of the office in a prompt, efficient, nondiscriminatory, fair, and professional manner. A judicial employee should never influence or attempt to influence the assignment of cases, or perform any discretionary or ministerial function of the court in a manner that improperly favors any litigant or attorney, nor should a judicial employ imply that he or she is in a position to do so.

D. A judicial employee should avoid making public comment on the merits of a pending or impending action and should require similar restraint by personnel subject to the judicial employee's direction and control. This proscription does not extend to public statements made in the course of official duties or to the explanation of court procedures. A judicial employee should never disclose any confidential information received in the course of official duties except as required in the performance of such duties, nor should a judicial employee employ such information for personal gain. A former judicial employee should observe the same restrictions on disclosure of confidential information that apply to a current judicial employee, except as modified by the appointing authority.

E. A judicial employee should not engage in nepotism prohibited by law. Note: See also 5 U.S.C. § 3110 (employment of relatives); 28 U.S.C. § 458 (employment of judges' relatives).

F. Conflicts of interest.

1. A judicial employee should avoid conflicts of interest in the performance of official duties. A conflict of interest arises when a judicial employee knows that he or she (or the spouse, minor child residing in the judicial employee's household, or other close relative of the judicial employee) might be so personally or financially affected by a matter that a reasonable person with knowledge of the relevant facts would question the judicial employee's ability properly to perform official duties in an impartial manner.

2. Certain judicial employees, because of their relationship to a judge or the nature of their duties, are subject to the following additional restrictions:

a. A staff attorney or law clerk should not perform any official duties in any matter with respect to which such staff attorney or law clerk knows that:

i. he or she has personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

ii. he or she served as lawyer in the matter in controversy, or a lawyer with whom he or she previously practiced law had served (during such association) as a lawyer concerning the matter, or he, she, or such lawyer has been a material witness;

iii. he or she, individually or as a fiduciary, or the spouse or minor child residing in his or her household, has a financial interest in the subject matter in controversy or in a party to the proceeding;

iv. he or she, a spouse, or a person related to either within the third degree of relationship, or the spouse of such person (A) is a party to the proceeding, or an officer, director, or trustee of an party; (B) is acting as a lawyer in the

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Canon 3 [Title 26, § 4–203]

proceeding; (C) has an interest that could be substantially affected by the outcome of the proceeding; or (D) is likely to be a material witness in the proceeding;

v. he or she has served in governmental employment and in such capacity participated as counsel, advisor, or material witness concerning the proceeding or has expressed an opinion concerning the merits of the particular case in controversy.

b. The Court Clerk to a judge whose assignment with a particular judge is reasonably perceived as begin comparable to a member of the judge's personal staff, should not perform any official duties in any matter with respect to which such Court Clerk knows that she, a spouse, or a person related to either within the third degree of relationship, or the spouse of such person (i) is a party to the proceeding, or an officer, director, or trustee of a party; (ii) is acting as lawyer in the proceeding; (iii) has an interest that could be substantially affected by the outcome of the proceeding; or (iv) is likely to be a material witness in the proceeding; provided, however, that when the foregoing restriction presents undue hardship, the judge may authorize the Court Clerk to participate in the matter if no reasonable alternative exists and adequate safeguards are in place to ensure that official duties are properly performed. In the event the Court Clerk possesses any of the foregoing characteristics and so advises the judge, the judge should also consider whether the Cannons of Judicial Ethics for Muscogee (Creek) Nation may require the judge to recuse.

c. A probation or pretrial services officer should not perform any official duties in any matter with respect to which the probation or pretrial services officer knows that:

- i. he or she has a personal bias or prejudice concerning a party;
- ii. he or she is related within the third degree of relationship to a party to the proceeding, or to an officer, director, or trustee of a party, or to a lawyer in the proceeding;
- iii. he or she, or a relative within the third degree of relationship, has an interest that could be substantially affected by the outcome of the proceeding.

3. When a judicial employee knows that a conflict on interest may be presented, the judicial employee should promptly inform his or her appointing authority. The appointing authority, after determining that a conflict or the appearance of conflict of interest exists, should take appropriate steps to restrict the judicial employee's performance of official duties in such matter so as to avoid a conflict or the appearance of a conflict of interest. A judicial employee should observe any restrictions imposed by his or her appointing authority in this regard.

4. A judicial employee who is subject to paragraph 2 of this subsection should keep informed about his or her personal, financial and fiduciary interests and make a reasonable effort to keep informed about such interests of a spouse or minor child residing in the judicial employee's household.

5. A member of a judge's personal staff should inform the appointing judge of any circumstance or activity of the staff member that might serve as a basis

for disqualification of either the staff member or the judge, in a matter pending before the judge.

[NCA 01–108, § 3, approved July 6, 2001.]

Library References

Judges ☞11(2).
Westlaw Topic No. 227.
C.J.S. Judges §§ 78 to 99.

§ 4–204. Canon 4: In engaging in outside activities, a judicial employee should avoid the risk of conflict with official duties, should avoid the appearance of impropriety, and should comply with disclosure requirements

A. Outside activities. A judicial employee’s activities outside of official duties should not detract from the dignity of the court, interfere with the performance of official duties, or adversely reflect on the operation and dignity of the court or office the judicial employee serves. Subject to the foregoing standards and the other provisions of this subchapter, a judicial employee may engage in such activities as civic, charitable, religious, professional, educational, cultural, avocational, social, fraternal, and recreational activities, and may speak, write, lecture, and teach. If such outside activities concern the law, the legal system, or the administration of justice, the judicial employee should first consult with the appointing authority to determine whether the proposed activities are consistent with the foregoing standards and the other provisions of this subchapter.

B. Solicitation of funds. A judicial employee may solicit funds in connection with outside activities, subject to the following limitations:

1. A judicial employee should not use or permit the use of the prestige of the office in the solicitation of funds.
2. A judicial employee should not solicit subordinates to contribute funds to any such activity but may provide information to them about a general fund-raising campaign. A member of a judge’s personal staff should not solicit any court personnel to contribute funds to any such activity under circumstances where the staff member’s close relationship to the judge could reasonably be construed to give undue weight to the solicitation.
3. A judicial employee should not solicit or accept funds from lawyers or other persons likely to come before the judicial employee or the court or office the judicial employee serves, except as an incident to a general fund-raising activity.

C. Financial activities.

1. A judicial employee should refrain from outside financial and personal dealings that tend to detract from the dignity of the court, interfere with the proper performance of official duties, exploit the position, or associate the judicial employee in a substantial financial manner with lawyers or other persons likely to come before the judicial employee or the court or office the judicial employee serves, provided, however, that court reporters are not prohibited from providing reporting services for compensation to the extent

permitted by statute and by the court. A member of a judge’s personal staff should consult with the appointing judge concerning any financial and business activities that might reasonable be interpreted as violating this subchapter and should refrain from any activities that fail to conform to the foregoing standards or that the judge concludes may otherwise give rise to an appearance of impropriety.

2. A judicial employee should not solicit or accept a gift from anyone seeking official action from or doing business with the court or other entity served by the judicial employee, or from anyone whose interests may be substantially affected by the performance or nonperformance of official duties.

D. Compensation and reimbursement.

1. A judicial employee may receive compensation and reimbursement of expenses for outside activities provided that receipt of such compensation and reimbursement is not prohibited or restricted by this subchapter, or other applicable law, and provided that the source or amount of such payments does not influence or give the appearance of influencing the judicial employee in the performance of official duties or otherwise give the appearance of impropriety. Expense reimbursement should be limited tot he actual cost of travel, food, and lodging reasonably incurred by a judicial employee and, where appropriate to the occasion, by the judicial employee’s spouse or relative.

2. Notwithstanding the above, a judicial employee should not receive any salary, or any supplementation of salary, as compensation for official government services from any source other than the Muscogee (Creek) Nation. [NCA 01–108, § 3, approved July 6, 2001.]

Library References

Judges ⇌11(2).
Westlaw Topic No. 227.
C.J.S. Judges §§ 78 to 99.

§ 4–205. Canon 5: A judicial employee should refrain from inappropriate political activity

Political activity. A judicial employee should refrain from Muscogee (Creek) Nation political activity; should not act as a leader or hold any office in a Muscogee (Creek) Nation political organization; should not make speeches for or publicly endorse or oppose a Muscogee (Creek) Nation political organization or candidate; should not solicit funds for candidate and should not become a candidate for Muscogee (Creek) Nation political office. This prohibition does not apply to federal, state or local political activity.

[NCA 01–108, § 3, approved July 6, 2001.]

Library References

Judges ⇌11(2).
Westlaw Topic No. 227.
C.J.S. Judges §§ 78 to 99.

CHAPTER 5. BUDGET, FINANCE AND COMPENSATION

Subchapter

1. General Provisions
2. Compensation
3. Travel, Mileage and Per Diem
4. Contract or Grant Funds

Table of Prior Statutes

Former Section	New Sections	Former Section	New Sections
5-401	none	5-405	none
5-402	5-402	5-406	none
5-403	5-402	5-407	none
5-404	none	5-408	none

Cross References

Court Clerk Revolving Fund, see Title 37, § 2-203.
 Court Fund, see Title 37, § 2-201.

SUBCHAPTER 1. GENERAL PROVISIONS

Section

- 5-101. Preparation of budget.
- 5-102. Budget modifications.
- 5-103. Accounting policies and procedures.
- 5-104. Federal regulations.
- 5-105. Vouchers.
- 5-106. Process service fees.
- 5-107. Court Clerk Revolving Fund.
- 5-108. Legal Services Court Costs and Publication Fee Revolving Fund.
- 5-109. District Court budget separation.
- 5-110. Mvskoke Press Revolving Fund.

§ 5-101. Preparation of budget

A. The court system shall prepare a budget that separates the Supreme Court and the District Court budget line items.

B. The Supreme Court Clerk shall be responsible for the annual preparation of the Supreme Court budget with input from the Chief Justice and Associate Justices.

C. The District Court Clerk shall be responsible for the annual preparation of the District Court budget with input from the District Judge.

D. The Chief Justice and District Judge shall approve the final overall budget before submission to the Principal Chief and the National Council as required by the Muscogee (Creek) Nation Constitution.

[NCA 99-85, § 105, approved July 1, 1999.]

Library References

Indians ⇐401.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

§ 5–102. Budget modifications

All modifications to line item appropriations shall be made in writing and approved by the respective administrative officer before taking effect. Budget modifications to funds appropriated by line item for the operation of the Supreme Court may be made by the Chief Justice during the fiscal year. Budget modifications to funds to line item for the operation of the District Court may be made by the District Judge or the District Court Clerk during the fiscal year. Budget modifications to line items during any fiscal year which result in the transfer of funds from the District Court line items to Supreme Court line items shall be in writing and approved by the Chief Justice, District Judge, and Judicial Branch Accountant.

[NCA 99–85, § 105, approved July 1, 1999.]

Library References

Indians ⇨401.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 5–103. Accounting policies and procedures

The Muscogee (Creek) Nation Judicial Branch Accounting Policies and Procedures Manual, prepared by Arledge & Associates Certified Public Accountants dated November 9, 1993 is hereby made a statute and law of this Nation. Future additions, deletions, or amendments with written justification from by the Court system’s certified public accountant shall be presented to the Controller and National Council for comments before taking effect. The National Council shall have ninety (90) days to comment or by National Council Resolution reject the proposed addition, deletion, or amendment.

[NCA 99–85, § 105, approved July 1, 1999.]

Library References

Indians ⇨401.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 5–104. Federal regulations

The Supreme Court and District Court shall follow OMB a–87 and a–102, and the Common Rule Administration Requirements currently in effect as they apply to Indian Tribal governments.

[NCA 99–85, § 105, approved July 1, 1999.]

Library References

Indians ⇨401.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 5–105. Vouchers

Vouchers of the Supreme Court shall be documented according to standard Tribal expenditure procedures, and after approval by the Chief Justice, shall be

Title 26, § 5–105

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processed by the Office of the Administration as necessary, and forwarded to the Controller for payment.

[NCA 81–31, § 103, approved Feb. 2, 1981.]

Library References

Indians ↔401.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 5–106. Process service fees

The Judicial Branch is hereby authorized to reimburse the Lighthorse Administration for any process service fees previously collected for such service and any process service fees collected by the Judicial Branch in the future. Such fees shall immediately be paid over to the Muscogee (Creek) Nation Controller to be deposited into a revolving fund for use by the Lighthorse Administration as appropriated by the Muscogee (Creek) National Council.

[NCA 98–103, § 103, approved Oct. 5, 1998.]

Cross References

Lighthorse Administration Revolving Account, see Title 37, § 2–213.

Library References

Indians ↔401.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 5–107. Court Clerk revolving fund

A revolving fund is hereby created out of the District Court Clerk Fund. This fund is non-appropriated and does not contain any tax and license revenues of the Muscogee (Creek) Nation, nor any funds coming from or belonging to the United States of America. The fund may be used for maintenance and updating of the law library, renovation and moving expense, special events, or supplies upon the written request of the National Council, Principal Chief, Chief Justice, or District Judge. All withdrawals shall be made in accordance with the Accounting Policies and Procedures Manual and shall require original invoices. Pre-payment of expenditures may be made out of this revolving account.

[NCA 89–112, § 106, approved Sept. 8, 1989; amended by NCA 99–85, § 105, approved July 1, 1999.]

Library References

Indians ↔401.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 5–108. Legal Services Court Costs and Publication Fee Revolving Fund

There is hereby created the Legal Services Court Costs and Publication Fee Revolving Fund. The Fund shall be established with a monetary ceiling of ten thousand and no/100 dollars (\$10,000.00) to be used to pay extra-ordinary travel expenses, service of process fees, court reporter fees, guardian ad litem

fees, court costs and publication expenses in accordance with guidelines adopted by the Commission in connection with services provided by the Muscogee (Creek) Legal Services Department. Services and expenses will be paid for the citizen client who is indigent or unable to afford or pay such extraordinary travel expenses, service of process fees, court reporter fees, guardian ad litem fees, costs and publication expenses. This Revolving Fund shall be held in escrow by the District Court Clerk, who shall only make expenditures in accordance with the above mentioned guidelines and in compliance with the Muscogee (Creek) Nation Judicial Branch Accounting Policies and Procedures, prepared by Arledge & Associates Certified Public Accountants. Whenever this Revolving Fund contains less than one thousand dollars (\$1,000.00), the District Court Clerk shall notify the Speaker and the National Council may address a supplemental appropriation to replenish the Revolving Fund to ten thousand and no/100 dollars (\$10,000.00).

[NCA 02–091, § 10, approved May 30, 2002; amended by NCA 02–211, § 1, approved Dec. 27, 2002; NCA 07–319, § 3, eff. Jan., 2, 2008.]

Cross References

Muscogee (Creek) Nation Legal Services Clinic, court costs and publication fees, see Title 35, § 10–112.

Library References

Indians ⇨401.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 5–109. District Court budget separation

The Court shall be responsible for expenditures and the budget modifications within sources of revenue and approved line items. The budget for the Judicial Branch is separate from and not a part of the general Tribal budget. Expenditures from this budget are not contingent upon funding of any other budget within the Muscogee (Creek) Nation. Funds appropriated under this budget are to be turned over to the Judicial Branch in the form of a draft on the Muscogee (Creek) Nation Treasury to be deposited in a financial institution of the Judicial Branch of the Muscogee (Creek) Nation choosing, and shall be subject to audit at any time by the Executive and/or Legislative Branch of the Muscogee (Creek) Nation.

[NCA 89–112, § 103, approved August 26, 1989; amended by NCA 89–162, § 101, approved Nov. 18, 1989.]

Library References

Indians ⇨401.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 5–110. Mvskoke Press Revolving Fund

There is hereby created the Mvskoke Press Revolving Fund. This Revolving Fund shall be held by the District Court Clerk. Expenditures shall be made for the Mvskoke Press in compliance with the Muscogee (Creek) Nation Judicial Branch Accounting Policies and Procedures, prepared by Arledge & Associates

Title 26, § 5-110

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Certified Public Accountants. This Revolving Fund shall also be the repository for income from the sale of publications of the Mvskoke Press.

[Added by NCA 08-062, § 6, approved May 1, 2008.]

Historical and Statutory Notes

NCA 08-062, § 2, provides:

“Section Two. Purpose. The purpose of this Act is to authorize a special appropriation to the District Court for the purchase of OCW Press and to contract with Professor Melissa L. Tatum to produce Volume 8 of the MVSKOKE LAW REPORTER. This Act will also amend MCNCA Title 30, 1-111 Publication of the Code of Laws to establish the Mvskoke Press as publisher for the Muscogee (Creek) Nation Code Annotated,

Mvskoke Law Reporter, other publications of the District Court and Supreme Court and Muscogee (Creek) Nation as required and amend 1-117 to delegate all responsibility to the District Court for the maintenance and sale of the Mvskoke Law Reporter, publications of the District Court and Supreme Court and other Muscogee (Creek) Nation publications as required. Add to MCNCA Title 26, § 5-110. The Mvskoke Press Revolving Fund.”

SUBCHAPTER 2. COMPENSATION

Section

- 5-201. Supreme Court Justices.
- 5-202. District Court Judge.
- 5-203. Special District Judge.
- 5-204. District Court Clerks.
- 5-205. Lawmenders.

§ 5-201. Supreme Court Justices

A. Effective October 1, 1994, the Chief Justice of the Supreme Court shall be compensated at the rate of one thousand two hundred dollars (\$1,200.00) per month and the other Supreme Court Justices shall be compensated at the rate of one thousand dollars (\$1,000.00) per month and these monthly compensation amounts shall have F.I.C.A. and federal income taxes withheld by the Judicial Branch in the same manner as any other employee, the Nation shall pay it statutory F.I.C.A. contribution and the Judicial Branch shall remit said F.I.C.A. and taxes withheld to the United States Treasury as required by federal law.

B. Further, the Supreme Court by order may assign a Supreme Court Justice or member of the Muscogee (Creek) Nation Bar Association in good standing to research and write any opinion required and such assigned individual shall be compensated at the rate of sixty dollars (\$60.00) per hour upon receipt of an itemized invoice. All provisions of law in conflict with this section are repealed effective September 30, 1994.

[NCA 94-67, § 109, approved Sept. 30, 1994.]

§ 5-202. District Court Judge

The District Court Judge is to be compensated as a salaried employee on the same basis as other employees in the amount of ninety thousand dollars (\$90,000.00) per year, F.I.C.A. and withholding of federal income tax shall be accomplished by the Judicial Branch in the same manner as any other employee. The District Court Judge may elect to participate in fringe benefits

provided to Judicial Branch employees and may engage in the private practice of law in state and federal courts.

[NCA 94-67, § 113, approved Sept. 30, 1994; amended by NCA 02-079, § 1, approved May 30, 2002; amended by NCA 05-016, § 2, eff. Feb. 9, 2005.]

Library References

Judges ⌘22.
Westlaw Topic No. 227.
C.J.S. Judges §§ 181 to 206, 330.

§ 5-203. Special District Judge

The Special District Judge shall be compensated in the same manner as court-appointed attorneys practicing in the Tribal Court.

[NCA 94-67, § 112, approved Sept. 30, 1994.]

§ 5-204. District Court Clerks

The District Court Clerk, deputy, or assistant shall not receive any compensation or emoluments through any office or position to which appointed other than that received as such District Court Clerk, deputy or assistant.

[NCA 01-109, § 211, approved July 6, 2001.]

Historical and Statutory Notes

Derivation

NCA 82-30, § 505, added by NCA 99-85, § 103.

§ 5-205. Lawmenders

Lawmenders shall be compensated in accordance with the rules adopted by the Supreme Court and District Court.

[NCA 94-67, § 112, approved Sept. 30, 1994.]

SUBCHAPTER 3. TRAVEL, MILEAGE AND PER DIEM

Section

5-301. Travel.
5-302. Mileage.
5-303. Per diem.

§ 5-301. Travel

Supreme Court travel (out-of-Oklahoma) requests must be made in writing and approved by the Chief Justice. District Court (out-of-Oklahoma) travel requests must be made in writing and approved by the District Judge. The District Court Clerk shall be responsible for the court system's accounting and shall be responsible for the preparation of all Justice, Judge, and Court employee travel documentation, thus ensuring all federal government and Muscogee (Creek) Nation travel regulations in effect are complied with and Judicial Branch Accounting Policies and Procedures are strictly adhered to and

Title 26, § 5–301

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followed. All out-of-state travel claims shall be approved by the Chief Justice or District Judge and Controller before final payment is made.

[NCA 99–85, § 105, approved July 1, 1999.]

Library References

Judges ☞22.
Westlaw Topic No. 227.
C.J.S. Judges §§ 181 to 206, 330.

§ 5–302. Mileage

Effective October 1, 1994, the Supreme Court Justices, District Court Judge, and Special Judge shall receive mileage while on judicial business in the amount per mile set out by federal travel regulations for government employees not to exceed a total of two hundred fifty dollars (\$250.00) per month.

[NCA 94–67, § 110, approved Sept. 30, 1994.]

Library References

Judges ☞22.
Westlaw Topic No. 227.
C.J.S. Judges §§ 181 to 206, 330.

§ 5–303. Per diem

Effective October 1, 1994, the members of the Supreme Court, District Judge, any Special Judge and employees of Judicial Branch shall receive per diem for travel away from their home to attend meetings with federal and state officials, judicial association meeting, schools, seminars, and workshops that are designed to improve the judicial skills and knowledge of the attendee. The per diem in this section shall governed by the actual hotel room rate plus the meals and incidental (m & i) rate per federal travel regulations in effect at the time of the travel.

[NCA 94–67, § 111, approved Sept. 30, 1994.]

Library References

Judges ☞22.
Westlaw Topic No. 227.
C.J.S. Judges §§ 181 to 206, 330.

SUBCHAPTER 4. CONTRACT OR GRANT FUNDS

Section

- 5–401. District Court Enhancement Grant.
- 5–402. Authorization.
- 5–403. Repealer.
- 5–404. Repealed.
- 5–405. Meeting with National Council Committee.
- 5–406. Expenditures.
- 5–407. Annual audit.
- 5–408. Management procedures.

Historical and Statutory Notes

NCA 92-31, § 101, provides:

“The Purpose of this Ordinance is to authorize the Judicial Branch as established BY THE CONSTITUTION OF THE MUSCOGEE (CREEK) NATION, Article VII, and the following Ordinances, NCA 81-18, NCA 81-88, NCA 82-30, NCA 83-50, NCA 88-17, NCA 88-74, NCA 89-21, NCA 89-112, NCA 89-148, NCA 89-162, to contract with the Bureau of Indian Affairs, other Federal Government Agencies or State Government Agencies for funding, to enter into agreements with the Federal, State and other Tribal governments and to provide the authority for the Judicial Branch to contract with Federal and State Agencies.”

NCA 92-31, § 103, provides in part as follows: “All monies expended shall be only upon

approval by at least two Justices or one Justice and the District Court Judge.” This language has been deleted as impliedly repealed by NCA 01-229, § 4, since it is inconsistent with that act’s purpose, as stated by NCA 01-229, § 2, “to eliminate Muscogee (Creek) Nation Supreme Court approval requirements regarding acceptance and expenditure of said funds.” NCA 01-229, § 4, provides:

“SECTION FOUR. REPEALER. NCA 91-84 is hereby repealed. All prior laws in effect as of the date of enactment of this Act which are inconsistent with this Act are hereby repealed and shall have no force and effect from this date forward.”

§ 5-401. District Court Enhancement Grant

The purpose of this law is to authorize the Muscogee (Creek) Nation District Court to expend a Tribal Court Enhancement Grant awarded by the United States Department of Justice.

[NCA 01-229, § 2, approved Dec. 4, 2001; amended by NCA 03-202, § 2, approved Nov. 3, 2003.]

Historical and Statutory Notes

Derivation:

Title 26, § 5-401, added by NCA 92-31, § 102 and repealed by NCA 01-229, § 4.

§ 5-402. Authorization

The National Council hereby authorizes the District Court to expend grant funds awarded by the United States Department of Justice in accordance with the attached budget detail worksheet and budget narrative. The National Council further authorizes the District Judge to engage in contracts for the service of certified public accountants, professors of law, graduate attorneys, graduate students, enrolled law students, technical service providers and publishers. The District Judge is hereby authorized to compel the State of Oklahoma by whatever means necessary to return to this Nation, historical court records in the custody of the Oklahoma Historical Society.

[NCA 01-229, § 3, approved Dec. 4, 2001; amended by NCA 03-202, § 3, approved Nov. 3, 2003.]

Historical and Statutory Notes

Derivation:

Title 26, § 5-402, added by NCA 92-31, § 1, and repealed by NCA 01-229, § 4.

Title 26, § 5-403, added by NCA 92-31, § 108, and repealed by NCA 01-229, § 4.

thority to approve contract proposals, was added by NCA 92-31, § 104 and repealed by NCA 01-229, § 4.

Former sections:

Former § 5-402, which granted the Tribal judicial branch and the National Council au-

Title 26, § 5-403

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§ 5-403. Repealer

NCA 91-84 is hereby repealed. All prior laws in effect as of the date of enactment of NCA 01-229 which are inconsistent with this Act are hereby repealed and shall have no force and effect from this date forward.

[NCA 01-229, § 4, approved Dec. 4, 2001.]

Historical and Statutory Notes

Derivation:

Title 26, § 5-403, added by NCA 92-31, § 108
and repealed by NCA 01-229, § 4.

§ 5-404. Repealed by NCA 01-229, § 4, eff. Dec. 4, 2001

§ 5-405. Meeting with National Council Committee

Before the expenditure of any contract or grant funds by the Judicial Branch a Supreme Court Justice and the District Judge shall meet with the appropriate National Council Committee to determine if modifications or amendments to the Comprehensive Budget of the Muscogee (Creek) Nation are required.

[NCA 92-31, § 105, approved March 4, 1992.]

§ 5-406. Expenditures

Expenditures shall follow the usual accounting procedures as set out by the laws of this Nation.

[NCA 92-31, § 103, approved March 4, 1992.]

§ 5-407. Annual audit

All contract and grant funds received by the Judicial Branch shall be included in the annual audit of the Muscogee (Creek) Nation.

[NCA 92-31, § 106, approved March 4, 1992.]

§ 5-408. Management procedures

All contract and grant funds shall be managed according to generally accepted accounting procedures.

[NCA 92-31, § 107, approved March 4, 1992.]

CHAPTER 6. FAMILY DRUG COURT PROGRAM

Section

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Historical and Statutory Notes

NCA 00-32, § 101, provides:

“Findings: The National Council finds that:

“A. On August 29, 1998, the National Council adopted NCA 98-77 that established a Family Drug Court Pilot Project, created a Family Drug Court Implementation Team and authorized the adoption and implementation of Family Drug Court Rules, policies and procedures.

“B. Section 105 of NCA 98-77 created an expiration date for the Family Drug Court Pilot Project which was to occur twenty-fourth months after the date on which said ordinance was enacted.

“C. In June 1999, the Family Drug Court Pilot Project began accepting participants and providing a specialized court docket in which to provide treatment, supervision, case management, and accountability for Family Drug Court participants.

“D. The Family Drug Court Implementation Team has executed a Memorandum of Understanding between the respective agencies involved, drafted policies and procedures to govern the Family Drug Court Program, and developed standardized forms and orders to be used by said Program. The Family Drug Court Implementation Team meets regularly and is encouraged by the operation of the Family Drug Court Program and the level of cooperation between the participating agencies.

“E. There is a need to continue the operation of the Family Drug Court Program beyond the expiration date of the Family Drug Court Pilot Project and to enhance the resources and services provided to Family Drug Court participants and their families.

“F. It is in the best interests of the Muscogee (Creek) Nation and its Indian families to establish a permanent Family Drug Court Program and to pursue funding sources to assist in the continuation of the Family Drug Court Program.”

NCA 98-77, § 101, provides:

“Findings: The National Council finds that:

“1. The Muscogee Nation currently has both a criminal code and a juvenile code governing criminal and juvenile actions arising within the

jurisdictional boundaries of the Muscogee Nation.

“2. Drug and/or alcohol abuse is a commonly recurring factor in a substantial number, if not the majority, of juvenile cases within the Nation’s Children and Family Services Administration as well as in adult criminal cases.

“3. The Nation’s current programs and services designed to address family problems and conditions are often inadequate where such problems and conditions are the result, in whole or in part, of chronic drug and/or alcohol abuse.

“4. There is a need to reduce the incidence of drug and alcohol abuse within the Muscogee Nation and to create and implement a program integrating alcohol and drug treatment and other rehabilitative services and resources within the Nation’s judicial system.

“5. With funding provided in 1996 from a grant funded in 1996 by the U.S. Department of Justice, the Nation formed a family drug court planning team whose members have been meeting since February 1997 to discuss and plan a family drug court program within the Muscogee (Creek) Nation judicial system. The members of the family drug court planning team have also participated in both national and state drug court training sessions to assist them in developing a drug court program.

“6. The family drug court planning team members studied the problems of chronic alcohol and drug abuse and its effects on families and have recommended the establishment of a Family Drug Court Pilot Project as the initial substantive step in creating a program specifically designed to address the cycle of alcohol and drug abuse and the disintegration of families within Muscogee Nation caused by such abuse.

“7. The Muscogee Nation was recently awarded a drug court implementation grant by the U.S. Department of Justice to assist with funding the implementation of a family drug court program within the Nation’s criminal and juvenile justice system.

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“8. It is in the best interests of the Muscogee Nation and its Indian families to implement a Family Drug Court Pilot Project pursuant to the federal drug court grant awarded by the Department of Justice.”

Cross References

Diversion to Family Drug Court by Attorney General, see Title 14, § 2–709.

§ 6–101. Establishment of program

There is hereby established a Family Drug Court Program within the Muscogee (Creek) Nation’s judicial system.

[NCA 98–77, § 103, approved Sept. 3, 1998; amended by NCA 00–32, § 103, approved March 7, 2000.]

Library References

Chemical Dependents ☞12, 13.
Indians ☞401.
Westlaw Topic Nos. 76A, 209.

C.J.S. Chemical Dependents §§ 18, 20 to 26.
C.J.S. Indians §§ 151 to 179.

§ 6–102. Powers and authority of Court

The Judge of the Muscogee (Creek) Nation District Court is hereby authorized to order and/or impose sanctions and incentives for participants who enter into the Family Drug Court Program. The Court’s powers and authority hereunder shall include, but are not limited to, the following:

- A. approving and enforcing treatment plans;
- B. holding participants in direct or indirect contempt of court for willful violations of the Court’s orders, including Court-ordered treatment plans;
- C. imposing fines and/or costs;
- D. ordering the performance of community service;
- E. ordering participants to receive mandatory inpatient/outpatient drug or alcohol treatment or counseling;
- F. ordering random and/or periodic urinalysis testing;
- G. placement of child(ren) in the legal and/or physical custody of Children and Family Services Administration and/or other persons;
- H. authorizing increased or restricted contact with other family members or increased or restricted supervised visitation with child(ren);
- I. extending, accelerating, and/or terminating treatment plan(s) and/or ordering that non-compliant participants be discharged from the Family Drug Court program;
- J. where a participant in the program has materially and/or repetitively violated the terms of his or her Court-ordered treatment plan, ordering that the participant be placed in confinement for a period not to exceed five (5) days for each violation, but only after the Court expressly finds that the participant’s violation of the plan was willful and that other sanctions or incentives are inadequate; and

K. imposing any other condition, standard, requirement, treatment, service, training or activity which the Court deems appropriate under the facts and circumstances of the case in the exercise of the Court’s sound discretion. [NCA 98–77, § 103, approved Sept. 3, 1998; amended by NCA 00–32, § 103, approved March 7, 2000.]

Library References

Chemical Dependents ☞13.	C.J.S. Chemical Dependents §§ 20 to 26.
Indians ☞401.	C.J.S. Indians §§ 151 to 179.
Westlaw Topic Nos. 76A, 209.	

§ 6–103. Rules and procedures

The District Court may, in its discretion, adopt written rules and procedures for the conduct of hearings and proceedings within the Family Drug Court Program and the administration of cases therein, provided that copies of such rules and procedures shall be public documents and made available to all persons participating in the Family Drug Court Program and, upon request to any citizen or attorneys admitted to the Muscogee (Creek) Nation Bar Association.

[NCA 98–77, § 103, approved Sept. 3, 1998.]

Library References

Chemical Dependents ☞13.	C.J.S. Chemical Dependents §§ 20 to 26.
Indians ☞401.	C.J.S. Indians §§ 151 to 179.
Westlaw Topic Nos. 76A, 209.	

§ 6–104. Family Drug Court Implementation Team

A. There is hereby established the Family Drug Court Implementation Team, which shall consist of at least one (1) representative from each of the following agencies or departments of Muscogee (Creek) Nation: Office of the Attorney General, Children and Family Services Administration (hereinafter “CFSA”), Muscogee (Creek) Nation Behavioral Health and/or Employee Health Department, Lighthorse Police, and such other person or persons as may be designated by the Principal Chief. The Speaker of the National Council may appoint one member of the National Council to attend Implementation Team meetings in an ex-officio capacity.

B. The Family Drug Court Implementation Team is hereby authorized to develop policies, procedures, and inter-agency/departmental protocols and standards for use in the operation of the Family Drug Court Program, as well as standardized forms and other documents to be used in the program. In developing the foregoing, the Team shall consult with their respective agencies, the judicial branch, attorneys who provide indigent defense services, and other outside agencies.

[NCA 98–77, § 103, approved Sept. 3, 1998.]

§ 6–105. Children and Family Services Administration responsibilities

The CFSA shall be primarily responsible for managing and coordinating services and activities under the individual treatment plans, provided that in drafting and formulating individual treatment plans, CFSA shall consult with

other agencies participating in the program in accordance with the inter-agency protocols and standards adopted pursuant to subsection B of Title 26, § 6-104.

[NCA 98-77, § 103, approved Sept. 3, 1998.]

§ 6-106. Muscogee (Creek) Nation Behavioral Health responsibilities

Muscogee (Creek) Nation Behavioral Health shall be the primary service provider for alcohol and drug abuse assessments, testing, counseling, and treatment services to be provided under the individual treatment plans, provided that Muscogee (Creek) Nation Behavioral Health shall coordinate its services with other agencies participating in the program in accordance with the inter-agency protocols and standards adopted pursuant to subsection B of Title 26, § 6-104.

[NCA 98-77, § 103, approved Sept. 3, 1998.]

§ 6-107. Search for funding

The Principal Chief or his designee is authorized to seek and apply to other funding or sources for the purpose of implementing a Family Drug Court Program within the Muscogee (Creek) Nation justice system.

[NCA 98-77, § 103, approved Sept. 3, 1998; amended by NCA 00-32, § 103, approved March 7, 2000.]

§ 6-108. Cooperative agreements or contracts

A. The Principal Chief, with the assistance of the Attorney General, is hereby authorized to negotiate and enter into on behalf of the Muscogee (Creek) Nation appropriate cooperative agreements with state and local governments for integrating and/or coordinating the Muscogee (Creek) Nation Family Drug Court Program with agencies of such other governments.

B. In addition, the Principal Chief, with the assistance of the Attorney General, is hereby authorized to negotiate and enter into on behalf of the Muscogee (Creek) Nation appropriate cooperative agreements/contracts with substance abuse treatment facilities, local jails and/or detention facilities, and other agencies in order to provide more comprehensive treatment and sanctions services for the Family Drug Court Program.

[NCA 98-77, § 104, approved Sept. 3, 1998; amended by NCA 00-32, §§ 103, 104, approved March 7, 2000.]

§ 6-109. Severability

The provisions of this chapter shall be considered severable such that if any provision shall be held invalid by a court of competent jurisdiction, all other provisions shall continue to be valid and given full force and effect.

[NCA 98-77, § 106, approved Sept. 3, 1998.]