

SUPREME COURT OF THE SAC AND FOX NATION

Rule 2018.10.1

“Rules of the Sac and Fox Nation Court Bar Association”

PART I. PURPOSE AND DEFINITIONS

Rule 1. Purpose.

The purpose of these rules are to establish minimum qualifications for those practicing law in Sac and Fox Nation Tribal Courts; to educate the Attorneys, judiciary, and public of the courts and the laws of the Sac and Fox Nation; to ensure a licensed attorney is capable and qualified to help their clients; to further ensure that justice is being provided within the Nation’s jurisdiction; and to require attorneys to conduct themselves in a manner that respects the sovereignty of the Sac and Fox Nation and the authority of its courts.

Rule 2. Definitions.

Under these Rules—

- (a) “Attorney” shall mean a person who is licensed to practice law before the highest court in any State and is currently in good standing to practice before that court;
- (b) “Court Clerk” shall mean the Sac and Fox Nation Court Clerk.
- (c) “Disciplinary Action” shall mean to expel, suspend, reprimand, fine, put on probation, or any other penalty the Tribal Court may deem appropriate, including requiring attendance to cultural classes or Licensed Attorney meetings.
- (d) “License Application” shall mean the application to acquire a License to practice law in the Sac and Fox Nation Tribal Courts.
- (e) “Licensed Attorney” shall mean an Attorney with a License to practice law in Sac and Fox Nation Tribal Courts.
- (f) “Bar License” or “License” shall mean the License to Practice Law in Sac and Fox Nation Tribal Courts.
- (g) “Roster” shall mean the Sac and Fox Nation Tribal Court Roster of Licensed Attorneys.
- (h) “Rules” shall be the Rules of the Sac and Fox Nation Court Bar Association.
- (i) “Sac and Fox Nation Tribal Courts” or “Tribal Courts” shall mean a court established under the laws of the Sac and Fox Nation, including the District Court of the Sac and Fox Nation and the Sac and Fox Nation Supreme Court.
- (j) “Tribal Judge” shall mean any judge of the Sac and Fox Nation Tribal Courts.

PART II. LICENSE TO PRACTICE LAW IN SAC AND FOX NATION TRIBAL COURTS

Rule 3. Practice of law in Sac and Fox Nation Tribal Courts.

No person shall be authorized to appear in Sac and Fox Nation Tribal Courts as an attorney or legal representative of another without a License, unless otherwise specified in this Rule.

Rule 4. Eligibility for a License to Practice Law.

To be eligible for a License, a person must—

- (a) be licensed to practice law before the highest court in any state; and
- (b) be in good standing to practice law in such state.

Rule 5. Application for a License to Practice Law.

- (a) To apply for a License, a person must—
 - (1) meet the eligibility requirements under Rule 4;
 - (2) submit a completed License Application to the Sac and Fox Nation Court Clerk;
 - (3) include updated contact information including a phone number, email and mailing address; and
 - (4) pay an Application Fee of \$20.
- (b) A person applying for a License must demonstrate in the Application that he or she is—
 - (1) licensed to practice law before the highest court in any state;
 - (2) in good standing to practice law in such state;
 - (3) competent in the practice of law; and
 - (4) a person of high moral character and integrity.
- (c) False statements.
 - (1) A person applying for a Bar License shall not knowingly make a false statement of material fact or knowingly fail to disclose a material fact necessary to determine eligibility for a License under these Rules.
 - (2) Any violation of paragraph (1) of this subsection shall result in immediate rejection of the application and loss of eligibility to apply for a License until a suspension is rescinded under Rule 22.
- (d) Court-appointed attorneys.
 - (1) A person applying for a Bar License shall indicate on the License Application whether the applicant would be willing to serve as a public defender and/or a guardian ad litem and/or other court-appointed attorney if accepted into the Sac and Fox Nation Court Bar Association.
 - (2) For any person who is not willing to serve as a court-appointed attorney, a short description of why that person is not willing to serve in any capacity as a court-appointed attorney shall be provided.
 - (3) Service as a court-appointed attorney is not required and neither a person's willingness or unwillingness to serve as a court-appointed attorney nor a person's explanation for why the person is unwilling to serve as a court-appointed attorney shall be considered by the Court when reviewing a License Application.

Rule 6. Application Review and Investigations.

- (a) After the Sac and Fox Nation Court Clerk determines that an application for a License is complete, a Tribal Judge shall review the application. If the Tribal Judge determines the applicant meets the criteria set forth under Rule 5, the Tribal Judge shall notify the Sac and Fox Nation Court Clerk that the applicant is qualified to receive a License.

- (b) A Tribal Judge may, but is not required to, order an investigation into the truth of the matters contained in the License Application.
- (c) The authority of the Tribal Judge to review and approve a License Application may be delegated to a person or group of persons determined to be appropriate by the Tribal Judge.
- (d) If the Tribal Judge rejects a License Application, the rejection shall include a notice of reasons for rejection and, unless otherwise specified by the Tribal Judge or these Rules, the applicant shall be given the chance to cure the application and reapply.

Rule 7. Licensure to Practice Law.

- (a) Except as provided in (b), upon approval of a person's Application, the person must—
 - (1) pay a License Fee of \$50;
 - (2) recite and sign the Sac and Fox Nation Tribal Court Oath;
 - (3) consent to jurisdiction of the Sac and Fox Nation Tribal Courts under Rule 9; and
 - (4) sign the Sac and Fox Nation Tribal Court Roster of Licensed Attorneys.
- (b) If a person elects to serve as a public defender, guardian ad litem or other court-appointed attorney, the License Fee of \$50 shall be waived.

Rule 8. Preliminary license and *Pro Hac Vice*.

- (a) A Sac and Fox Nation Tribal Court may grant a preliminary conditional license to practice before the Tribal Court only if—
 - (1) the applicant is eligible for a License under Rule 4;
 - (2) the applicant has an application pending for a License under Rule 5 and has paid the required Application fee;
 - (3) the applicant has consented to jurisdiction of the Sac and Fox Nation Tribal Court under Rule 9;
 - (4) the circumstances requiring a preliminary license demonstrate necessity and undue hardship;
 - (5) preliminary licensure is in the best interest of the person being represented by the attorney; and
 - (6) the judge presiding over the case authorizes preliminary licensure of the attorney.
- (b) If the License Application of a person practicing under a preliminary license is subsequently denied, the preliminary license shall be automatically revoked, unless otherwise specified by the Sac and Fox Nation Tribal Court.
- (c) A Tribal Judge may waive the formal admission procedure only on motion of an Attorney making an appearance for the limited purpose of a single, specific case, and permit the attorney to practice *pro hac vice*, if—
 - (1) the Attorney is eligible for a License under Rule 4;
 - (2) the Attorney has consented to jurisdiction of the Sac and Fox Nation Tribal Court under Rule 9;
 - (3) the circumstances demonstrate necessity and undue hardship;
 - (4) permitting the Attorney to practice *pro hac vice* is in the best interest of the person being represented by the attorney;

- (5) the Attorney has not practiced before the court *pro hac vice* within the past two (2) years; and
- (6) the Attorney pays a *pro hac vice* fee of \$25.

Rule 9. Jurisdiction.

Any person licensed or preliminarily licensed to practice in the Sac and Fox Nation Tribal Courts consents to jurisdiction of the Sac and Fox Nation and Sac and Fox Nation Tribal Courts to the maximum extent the law allows.

Rule 10. Sac and Fox Nation Tribal Court Roster of Licensed Attorneys.

- (a) It shall be the duty of the Sac and Fox Nation Court Clerk to—
 - (1) maintain the Sac and Fox Nation Tribal Court Roster of Licensed Attorneys;
 - (2) maintain the signed Sac and Fox Nation Tribal Court Oaths of each attorney granted a License;
 - (3) collect Application, License, and annual fees and deposit the fees into the account created under Rule 13; and
 - (4) assign each Licensed Attorney a license number and a license card for proof of licensure.
- (b) The Roster shall be maintained to reflect—
 - (1) which Attorneys are Licensed to Practice in the Sac and Fox Nation Tribal Courts;
 - (2) which Licensed Attorneys have paid their Annual License Fees;
 - (3) updated contact information for Licensed Attorneys including mailing address, email address, and phone number; and
 - (4) whether the Licensed Attorney has received or is subject to any Disciplinary Action ordered by the Sac and Fox Nation Tribal Court under Rule 21.

Rule 11. Sac and Fox Nation Tribal Court Oath.

The Sac and Fox Nation Tribal Court Oath shall be—

“I [state full name] solemnly swear: I will uphold the constitution, codes, rules, resolutions, and ordinances of the Sac and Fox Nation; I will maintain order in the Sac and Fox Nation Tribal Court; I will demonstrate the utmost respect to Sac and Fox Nation Tribal Court judges and officers; I will respect and honor Sac and Fox Nation tradition, culture, and beliefs; I will practice with honesty and integrity, not misleading the judge or jury by a false statement of fact or law; I will not counsel for any suit or proceeding which appears to be unjust; I will conduct my duties in a manner that is to the highest degree of ethical and moral standards; and I will be guided at all times by the quest for truth and justice.”

Rule 12. Good Standing.

- (a) Except as provided in (b), to be in good standing and licensed to practice law in Sac and Fox Nation Tribal Courts, an Attorney must—
 - (1) pay an Annual License Fee of \$50;
 - (2) be licensed to practice law in the highest court of any state;
 - (3) be in good standing to practice in such state; and

- (4) not be subject to any Disciplinary Action from the Sac and Fox Nation Tribal Court which resulted or would result in a restriction on the practice of law before the Tribal Court.
- (b) A person who elects to serve as a public defender, guardian ad litem or other court-appointed attorney shall not be required to pay an Annual License Fee of \$50.

Rule 13. Fees.

- (a) A “Sac and Fox Nation Bar License Fund” shall be created for the purpose of maintaining or improving the Sac and Fox Nation Tribal Courts. The Sac and Fox Nation Bar License Fund shall be held by the Nation’s Finance Department on behalf of the Sac and Fox Nation Tribal Courts and administered by the Court Clerk.
- (b) The Sac and Fox Nation Bar License Fund shall be used only for the purposes of maintaining or improving the Sac and Fox Nation Tribal Courts or justice system, which may include—
 - (1) the training of Tribal Court officials;
 - (2) updating, expanding, or otherwise improving Tribal Court resources;
 - (3) performing investigations required pursuant to these Rules;
 - (4) paying the fees of Tribal Court-appointed attorneys, such as a public defender or Guardian Ad Litem;
 - (5) maintaining the records of Sac and Fox Nation Tribal Courts and Sac and Fox Nation Roster of Licensed Attorneys; and
 - (6) performing other responsibilities and duties set forth under these Rules or under Title 9 of the Sac and Fox Nation Code.
- (c) Failure to pay a required Annual License Fee shall result in the suspension of a License until such fee is paid.

PART III. GRIEVANCES AND DISCIPLINARY ACTIONS

Rule 14. Authority and Jurisdiction for Disciplinary Actions.

- (a) The Sac and Fox Nation Tribal Courts shall have—
 - (1) the responsibility to oversee that appropriate standards of professional conduct are maintained;
 - (2) the responsibility to preside over disciplinary hearings; and
 - (3) the authority to administer any Licensed Attorney sanctions the Tribal Courts deem necessary, including suspensions and revocations of Licenses.
- (b) Disciplinary Action for any Licensed Attorney may be taken by a Sac and Fox Nation Tribal Court’s own motion or upon a sworn complaint by another person under Rule 18 of these Rules.

Rule 15. Right to Notice and a Hearing.

Disciplinary Actions under these Rules shall be ordered only after notice and a hearing has been given to the Licensed Attorney, unless—

- (a) exigent circumstances apply; or
- (b) the right to notice and a hearing has been expressly waived by the attorney.

Rule 16. Grounds for Disciplinary Actions.

- (a) Any misconduct under this Rule may result in a revocation or suspension of a License, probation, civil fines, or criminal penalties to any extent and degree determined appropriate by a Sac and Fox Nation Tribal Courts and permitted by law.
- (b) Misconduct that may be grounds for Disciplinary Action by a Sac and Fox Nation Tribal Court include—
 - (1) disbarment or suspension from the practice of law by any federal, state or tribal court;
 - (2) submitting false information on the Sac and Fox Nation License Application;
 - (3) failure to uphold the Sac and Fox Nation Tribal Court Oath;
 - (4) unethical conduct;
 - (5) contempt of court;
 - (6) inadequate knowledge of Sac and Fox Nation law or Sac and Fox Nation Tribal Court procedures;
 - (7) deceit, malpractice, or other gross misconduct;
 - (8) willful neglect of the interests of the client;
 - (9) conviction of a felony;
 - (10) conviction of a misdemeanor involving moral turpitude;
 - (11) willful disobedience or violation of a Tribal Court order;
 - (12) active misfeasance or repeated neglect of duties to a client;
 - (13) failure to file a grievance under Rule 17; or
 - (14) incapacity to practice law under subsection (c) of this Rule.
- (c) A person shall be deemed personally incapable of practicing law if such person—
 - (1) is suffering from mental or physical illness of such character that renders that person incapable of managing his or her affairs or the affairs of others; or
 - (2) habitually abuses alcohol, illegal drugs, or other mentally or physically disabling substances to the extent which impairs his or her ability to conduct the duties and services necessary for effective representation of a client in the practice of law.

Rule 17. Duty to File a Grievance.

- (a) Any Licensed Attorney shall have the duty to file a grievance against himself or herself under Rule 18 upon the performance or omission of an act grounds for Disciplinary Actions under Rule 16. Failure to comply with this subsection shall result in an automatic revocation of the Attorney's License.
- (b) Any Licensed Attorney shall have the duty to file a grievance under Rule 18 if there is actual knowledge of a Licensed Attorney's performance or omission of an act grounds for discipline under Rule 16. Failure to comply with this subsection may result in any Disciplinary Actions deemed appropriate by the Sac and Fox Nation Tribal Courts.

Rule 18. Grievances.

- (a) Any person may file a grievance against a Licensed Attorney for misconduct under Rule 16 or against any person otherwise unlawfully practicing law in the Sac and Fox Nation Tribal Court.
- (b) Any person filing a grievance under subsection (a) shall submit the grievance in writing to the Sac and Fox Nation Court Clerk, attesting to the grievance as truthful.
- (c) Any person filing a grievance with untruthful statements or with wrongful intentions may be subject to prosecution or civil penalties.
- (d) Any person filing a grievance under this Rule shall consent to the jurisdiction of the Sac and Fox Nation and Sac and Fox Nation Tribal Courts.

Rule 19. Notice of a Grievance.

- (a) A person who has a grievance filed against him or her under Rule 18 shall be promptly given—
 - (1) notice that a grievance has been filed against him or her;
 - (2) a copy of the grievance; and
 - (3) a description of the grievance process and the rights under such process.
- (b) Failure to comply with this Rule may result in a dismissal of the grievance.

Rule 20. Investigations.

- (a) Any grievance filed under Rule 18 shall be referred to the Sac and Fox Nation Attorney General for a preliminary investigation and determination of the validity of the grievance. Whether a grievance filed under Rule 18 is a valid claim shall be to the discretion of the Sac and Fox Nation Attorney General.
- (b) If the Sac and Fox Nation Attorney General determines in the preliminary determination that a claim is invalid and should be dismissed, the Attorney General may report the claim to a Sac and Fox Nation Tribal Court for immediate dismissal.
- (c) Upon conclusion of the preliminary investigation in section (a), the person filing the grievance and the person who has a grievance filed against them shall be notified of the result of the preliminary determination and any action that may be taken going forward.
- (d) Before the Attorney General can find a grievance to be valid and commence an investigation, the person who has a grievance filed against him or her must be given notice of the grievance under Rule 19 and an opportunity to respond to the grievance.
- (e) The Attorney General is authorized to take any action authorized by Sac and Fox Nation law and other applicable laws necessary to conduct an investigation of the grievance filed under Rule 18.
- (f) Upon conclusion of an investigation under subsection (e), the Attorney General shall file to the Sac and Fox Nation Tribal Court a written report describing the findings of the investigation and recommending what, if any, Disciplinary Actions should be taken.
- (g) If a grievance is filed against the Sac and Fox Nation Attorney General, all investigative matters shall be handled by the Sac and Fox Nation Tribal Court or the Tribal Court's delegee.

Rule 21. Rulings and Appeals of a Grievance.

- (a) Upon receiving an investigative report from the Sac and Fox Nation Attorney General under Rule 20, a Tribal Judge shall make a ruling on the grievance and determine what, if any, Disciplinary Actions are to be taken.
- (b) A ruling by the Tribal Judge under subsection (a) may be appealed by either party to the Sac and Fox Nation Supreme Court for a full hearing under standard Sac and Fox Nation Tribal Court rules and procedures.

Rule 22. Reinstatement.

- (a) All expulsions or suspensions from practicing before a Sac and Fox Nation Tribal Court shall be for an indefinite period unless the Tribal Judge specifically orders otherwise.
- (b) Any attorneys suspended or expelled may petition a Sac and Fox Nation Tribal Court for permission to reapply for a License at the end of one year or the period determined by the Tribal Judge, whichever is latest.
- (c) The Sac and Fox Nation Tribal Court shall have the authority to rescind any Disciplinary Action, including expulsions or suspensions, to any degree deemed appropriate by the Tribal Court.

PART IV. MISCELLANEOUS

Rule 23. Licensed Attorney Meetings.

The Sac and Fox Nation Tribal Court has the authority to call meetings for all Licensed Attorneys or to request attendance to Sac and Fox Nation hearings, conferences, and events. Attendance to these events may be required for Attorneys subject to discipline under Part III of these Rules.

Rule 24. No liability.

The Sac and Fox Nation, any Tribal Court, any Tribal Judge, the Attorney General, the Court Clerk, or any officer of the Court shall be hereby held harmless from any claims that may be made against them by any person, including a Licensed Attorney or other person filing a grievance, during the performance of their duties required or authorized under these Rules.

Rule 25. Sovereign Immunity.

Nothing in these Rules waives or shall be interpreted to waive the sovereign immunity of the Sac and Fox Nation, the Sac and Fox Nation Courts, or any official of the Sac and Fox Nation Courts. The Sac and Fox Nation's sovereign immunity shall remain valid and applicable to the greatest extent allowed under federal law.