



JUDICIAL CODES OF THE SUPREME COURT OF THE LUMBEE TRIBE



Revised: February 6, 2015



SECTION ONE– Declaration of Judicial Policy & Procedures of the Supreme Court of the Lumbee Constitution.

It is the policy of the Supreme Court of the Lumbee Constitution to adjudicate disputes affecting the legal interests of Tribal members arising under the Constitution and Ordinances of the Lumbee Tribe of North Carolina in a fair and impartial manner.

SECTION TWO- Jurisdiction of the Tribal Court – Article IX Section 1:

1. The Supreme Court of the Lumbee Tribe in accordance with the Lumbee Constitution shall have original jurisdiction over all cases and controversies arising:
 - A. Under the Lumbee Constitution; and
 - B. All ordinances of the Lumbee Tribe of North Carolina.
2. In the event the Tribal Council established inferior Courts, the Supreme Court shall have appellate jurisdiction only over cases and controversies arising under Tribal ordinances.

SECTION THREE- Law to be applied by the Tribal Court – Article IX Section 2:

- A. The will of the Lumbee people as expressed in the Lumbee Constitution.
- B. Duly adopted tribal ordinances
- C. Lumbee custom
- D. In the absence of a governing rule of law from these sources, the governing rule shall be Federal Common Law.

SECTION FOUR- Court Administration:

There shall be a chief judge of the Supreme Court of the Lumbee Tribe in accordance with the Lumbee Constitution, elected on an annual basis by the sitting members, who shall bear administrative responsibility for the conduct of the Court's business.

The Court shall be furnished such administrative resources and such other logistical resources as will be necessary to effectively discharge its duties as set out in the Constitution.

The Court shall consist of five members. The initial terms of the members shall be determined by chance selection. Once the initial terms are served, appointed Judges shall serve a five-year term. No Judge may serve two consecutive terms.

SECTION FIVE- Court Procedures:

The Court shall observe the following procedures. These rules are meant to facilitate the Court's business and shall be interpreted as to assure all persons who have matters to be heard by the Court shall have such matters heard in a fair and expeditious manner.

1. Matters shall be brought before the court by the filing of a Petition.
 - A. The Petition may be obtained from the Tribal Office Clerk and filed with same at the office of the Lumbee Tribe of North Carolina at 6984 NC Hwy 711 West, Pembroke, NC 28372.
 - B. The Tribal Clerk shall review the Petition to ensure the Petitioners are Tribal members, pursuant to the requirements in number (1) of the Petition.
 - C. The Petition shall state the following:
 - i. The name address, phone number and tribal enrollment, if available, of the petitioner.
 - ii. The basis of your complaint. State clearly the nature of the Petition. Any issue brought to the court must involve a case or controversy arising out of an alleged violation pursuant to the Lumbee Tribal Constitution or any duly adopted Tribal Ordinances.
 - iii. The grounds for the relief sought.
 - iv. The applicable provision of the Constitution or Tribal Ordinance the petitioner feels has been violated. Petitioner must clearly state how or why you feel the violation is in conflict with the Lumbee Tribal Constitution and/or Tribal Ordinance(s).
 - D. After a review of the petitions the Court shall advise the Tribal Clerk when a list of petitions may be prepared and given to other interested parties. At that time they may request copies of the matters listed from the Tribal Clerk unless the Court has deemed it would not serve the ends of justice and fairness. Any party requesting copies shall be responsible for the costs therein.
2. Scheduling of the Hearing.
 - A. The Petition will be received and reviewed by the Chief Judge of The Supreme Court.
 - B. The Court will determine if a hearing is warranted based on facts stated in the Petition.
 - C. If warranted a hearing shall be scheduled at the earliest possible time.

3. Notices to the Parties.

In the event a hearing is warranted, the Petitioner and Respondent shall be notified by letter (1st Class certified mail) of the scheduled date, time and place of the hearing in his/her case.

In any action or proceeding where the agency/program, officer, or employee of the Lumbee Tribe is named as party to the action, the Tribal Chairman or Tribal Council Chairman or his/her designee shall be served by 1st Class Mail with a copy of the Petition and a notice advising him/her of the action, the scheduled time, date and place where the hearing will be held.

Each side shall be given at least two (2) weeks' notice of the hearing date.

4. Representation before the Court.

Petitioners have the right to represent themselves before the Court. They may also have a spokesperson present their case.

All persons who appear before the Court and attend the session of Court shall abide by the following rules of decorum established by the Court.

Courtroom Decorum

Customary rules of decorum are observed when attending or visiting sessions of the Lumbee Tribe Supreme Court.

1) Timely arrival. The Supreme Court convenes promptly at its announced starting times. All Petitioners, Respondents and others having business before the Court shall be seated in the Courtroom before the scheduled time for the Court to convene.

2) Tribal Clerk's announcement. Upon arrival of the presiding Justices to the courtroom, the Tribal Clerk shall announce their presence. At such time, all persons present shall rise to a standing position and remain standing until all members of the Court are seated.

3) Recess and Adjournment. When the Chief Justice announces a recess or adjournment, the Tribal Clerk shall direct all persons to their feet; and they shall continue to stand until all members of the Court have retired from the courtroom. During the recessional, the audience shall refrain from movement or conversation.

4) Courtesy to speaker. Upon Petitioners, Respondents or their witnesses addressing the Court, and when members of the Court are speaking, all other persons in the Courtroom shall remain silent. Persons wishing to retire from the Courtroom shall wait until an oral argument has been completed.

5) Additional Courtroom Rules to be posted before beginning of any hearing before the Court:

- No food, drink, chewing gum or tobacco in any form shall be permitted.
- No hats, caps or other non-medical headgear shall be worn.
- No one shall stand once court is in session. Spectators must remain seated during arguments. Spectators may leave or enter the Court only during times when the Petitioners or Representatives thereof are approaching or leaving the podium.
- No signs, banners or displays of symbols are allowed. There shall be no demonstrations of any kind.
- No unnecessary conversation, loud whispering, newspaper or magazine reading shall be permitted while court is in session.
- Children must be under the control and supervision of an adult at all times.
- Pagers, cellular telephones or any other electronic devices must be turned off before entering the courtroom.
- No tape recorders, video cameras or still cameras shall be used in the courtroom unless they are media equipment operated in accordance with court rules and approval.
- Any distracting or disconcerting activity shall be grounds for removal from the courtroom.

5. Procedure before the Court.

The Chief Judge of The Supreme Court or his/her appointee shall be the presiding official. All proceedings before the Court shall be audiotaped. The hearing shall be open to the public unless the Court determines an open hearing would not serve the ends of justice and fairness. The spokesperson that wishes to address the Court shall stand and obtain permission to address the Court. The Court shall determine the nature or its relevancy and extent of evidence it will consider on a case by case basis. The Petitioner

and Respondent shall be allowed to present arguments to the Court with the Petitioner going first. Once the Petitioner has argued its evidence, the Respondent may present its argument. To the extent possible, each side may ask questions of the other side, subject to the discretion of the court. Judges of the Court may ask questions of any witness. If there are any witnesses, a list shall be given to the Tribal Clerk to be forwarded to the Court no less than five (5) days prior to the day of the hearing. In the event documents or exhibits are presented to the Court, the parties offering the exhibits or documents shall have the responsibilities of explaining the relevancy of the documents or exhibits and shall furnish copies of such documents or exhibits to the opposing side and to the Court no less than five (5) days before the hearing. Each side shall be allowed to give a closing argument to the Court with the Petitioner having the last argument.

6. The Court's Deliberation and Decision:

The Court shall meet to deliberate a case, either at the time the case is heard or at some other time to be agreed upon by the members of the Court.

- A. The Court's decision shall be by majority vote. Judges who did not participate during the presentation of the case shall exclude themselves from the decision process.
- B. The Court shall publish its decision as soon as practical after it is decided. A copy of the decision shall be mailed, 1st class mail, to the Petitioner and to the Respondent. Copies shall be made available to any interested persons through the Tribal Office at cost.
- C. The Chief Judge of the Supreme Court shall designate a member of the Court who voted with the majority to write the Majority's opinion. Any members of the Court, whether voting with the majority opinion or against the majority opinion, shall have the right, should they so desire, to write a separate opinion. Those who voted with the majority may write a separate concurring opinion. Those voting against the majority may file a dissenting opinion.

SECTION SIX- Amendments:

The Supreme Court may amend these rules as follows:

Any member of the Court who wishes to amend these rules should serve notice of any proposed changes at any regular scheduled meeting. The Amendment shall be placed on the agenda at the next regularly scheduled meeting. The Proposed amendment may be presented and voted on in the same meeting if at least three (3) members of the Court vote in the affirmative.