

**A COUNCIL BILL AMENDING THE CHOCTAW NATION BAR ASSOCIATION
RULES, CODE OF ETHICAL CONDUCT AND JUDICIAL CANNONS**

IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION

RONALD PERRY INTRODUCED THE FOLLOWING COUNCIL BILL

A COUNCIL BILL

TO AMEND Canon 4 of the Code of Judicial Conduct, which relates to Choctaw Nation judges acting as an arbitrator or mediator in cases outside the Choctaw Nation's Jurisdiction.

WHEREAS, Article IX, Section 4 of the Constitution of the Choctaw Nation of Oklahoma (the "Nation") provides that the Tribal Council (the "Council") shall enact legislation, rules and regulations not inconsistent with the Constitution for the general good of the Choctaw Nation and for the administration and regulation of the affairs of the Choctaw Nation;

WHEREAS, Article XIII, Section 2 of the Constitution of the Nation provides that the Council shall prescribe rules of procedure for the Tribal Court and shall ensure the members due process of law;

WHEREAS, this bill amends Canon 4 of the Choctaw Nation Code of Judicial Conduct to allow the Nation's judges to arbitrate and mediate matters outside of the Choctaw Nation Tribal Courts;

WHEREAS, the current Canon 4 of the Choctaw Nation Code of Judicial Conduct prevents the Nation's judges from acting as an arbitrator or mediator in any circumstance;

WHEREAS, many of the Nation's judges still practice law in other jurisdictions and wish to mediate and arbitrate in their private law practices. Further, the Nation's Judicial Branch has been in contact with state court judges who may need help from the Nation's judges to serve as settlement conference judges in some state court cases;

WHEREAS, the proposed amendment of Canon 4 is necessary for allowing the Nation's judges to arbitrate and mediate in matters that are *not* pending in the courts of the Choctaw Nation;

WHEREAS, the Council finds it is in the best interest of the Nation to remove unnecessary barriers preventing the Nation's judges from acting as arbitrators or mediators in matters that are *not* pending in the courts of the Choctaw Nation by amending Canon 4 of the Choctaw Nation Code of Judicial Conduct as follows.

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THEREFORE BE IT ENACTED by the Tribal Council of the Choctaw Nation of Oklahoma that this Bill be cited as approval for Canon 4 of the Choctaw Nation Code of Judicial Conduct to be amended to read as follows:

SECTION 1. AMENDATORY Canon 4 of the Choctaw Nation Bar Association, Code of Ethical Conduct and Judicial Cannons is amended to read as follows:

Canon 4. A Judge Should so Conduct the Judge's Extra-Judicial Activities as to Minimize the Risk of Conflict with Judicial Obligations.

- A. Extra-judicial Activities in General. A judge should conduct all of the judge's extrajudicial activities so that they do not:
1. cast reasonable doubt on the judge's capacity to act impartially as a judge;
 2. demean the judicial office; or
 3. interfere with the proper performance of judicial duties.
- B. Avocational Activities. A judge may speak, write, lecture, teach and participate in other extra-judicial activities concerning the law, the legal system, the administration of justice and non-legal subjects, subject to the requirements of this Code.
- C. Governmental, Civic or Charitable Activities.
1. A judge may appear at a public hearing before or consult with an executive or legislative body or official on matters concerning the law, the legal system, or the administration of justice.
 2. A judge should not accept appointment to a committee or commission or other governmental position with the Choctaw Nation 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 with specific approval of the Court of Appeals of the Choctaw Nation. A judge may, however, represent a country, state or locality on ceremonial occasions or in connection with historical, educational or cultural activities.
 3. A judge may serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice or of an educational, religious, charitable, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Code.
 - i. A judge should not serve as an officer, director, trustee or non-legal advisor if it is likely that the organization:

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- a) will be engaged in proceedings that would ordinarily come before the judge, or
 - b) will be engaged frequently in adversary proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member.
- ii. A judge as an officer, director, trustee or non-legal advisor, or as a member or otherwise:
- a) may assist such an organization in planning fundraising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fundraising activities;
 - b) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law, the legal system or the administration of justice;
 - c) should not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or, except as permitted in Section 4(C)(3)(i)(a), if the membership solicitation is essentially a fundraising mechanism;
 - d) should not use or permit the use of the prestige of judicial office for fundraising or membership solicitation.

D. Financial Activities.

1. A judge should not engage in financial and business dealings that:
 - i. may reasonably be perceived to exploit the judge's judicial position, or
 - ii. involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.
2. A judge may, subject to the requirements of this Code, hold and manage investments of the judge and members of the judge's family, including real estate, and engage in other remunerative activity.
3. A judge should not serve as an officer, director, manager, general partner, advisor or employee of any business entity except that a judge may, subject to the requirements of this Code, manage and participate in:

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- i. a business closely held by the judge or members of the judge's family, or
 - ii. a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.
4. A judge should manage the judge's 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 disqualifications.
5. A judge should not accept, and should urge members of the judge's family residing in the judge's household, not to accept, a gift, bequest, favor or loan from anyone except for:
 - i. a gift incidental to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law, the legal system or the administration of justice;
 - ii. a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member of a judge residing in the judge's household, including gifts, awards and benefits for the use of both the spouse or other family member and the judge (as spouse or family member), provided the gift, award or benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties;
 - iii. ordinary social hospitality;
 - iv. a gift from a relative or friend, for a special occasion, such as a wedding, anniversary or birthday, if the gift is fairly commensurate with the occasion and the relationship;
 - v. a gift, bequest, favor or loan from a relative or close personal friend whose appearance or interest in a case would in any event require disqualification under Section 3(E);
 - vi. a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges;
 - vii. a scholarship or fellowship award on the same terms and based on the same criteria applied to other applicants; or

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- viii. any other gift, bequest, favor or loan, but only if the donor is not a party or other person who has come or is likely to come or whose interests have come or likely to come before the judge; and the judge reports it as may be required by law.

E. Fiduciary Activities.

1. A judge should not serve as executor, administrator or other personal representative, trustee, guardian, attorney in fact or other fiduciary, except for the estate, trust or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties.
2. A judge should not serve as fiduciary if it is likely that the judge as a fiduciary will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction.
3. The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary capacity.

- F. Service as Arbitrator or Mediator. A judge ~~should~~ shall not act as an arbitrator or mediator in any matter pending in the courts of the Choctaw Nation.

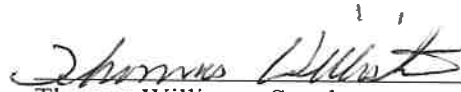
- G. Practice of Law. A judge shall not practice law in the courts of the Choctaw Nation. Notwithstanding, a judge may, without compensation, give legal advice to and draft or review documents for a member of the judge's family. A judge may appear pro se in a matter in which he is a litigant.

SECTION 2. This act shall become effective November 1, 2023.

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CERTIFICATION

I, the undersigned, as speaker of the Tribal Council of the Choctaw Nation of Oklahoma, do hereby certify that the Tribal Council is composed of twelve (12) seats. Eight (8) members must be present to constitute a quorum. I further certify that eleven (11) members answered roll call and that a quorum was present at the Regular Session of the Tribal Council in Tuskahoma, Oklahoma on October 14, 2023. I further certify that the foregoing Council Bill CB- 01 -24 was adopted at such meeting by the affirmative vote of eleven (11) members, zero (0) negative votes, and zero (0) abstaining.


Thomas Williston, Speaker
Choctaw Nation Tribal Council


Ronald Perry, Secretary
Choctaw Nation Tribal Council


Gary Patton, Chief
Choctaw Nation of Oklahoma

Date 10-17-23

Purpose/Need of Council Bill: The purpose of this bill is to amend Canon 4 of the Choctaw Nation Code of Judicial Conduct related to Choctaw Nation judges acting as an arbitrator or mediator. The amendments contained in this bill will allow Choctaw Nation judges to arbitrate and mediate in matters that are *not* pending in the courts of the Choctaw Nation.

Title of Council Bill: A COUNCIL BILL AMENDING CANON 4 OF THE CHOCTAW NATION CODE OF JUDICIAL CONDUCT

Agency: Legal & Compliance

Budget: N/A

Match Required: N/A

Request by Project Director: Brian Danker, SEO, Legal & Compliance