

CB-02 -26

TO ENACT THE IMPEACHMENT RULES OF THE CHOCTAW NATION OF OKLAHOMA

IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION

JAMES DRY INTRODUCED THE FOLLOWING COUNCIL BILL

A COUNCIL BILL

TO APPROVE and enact the Impeachment Rules of the Choctaw Nation of Oklahoma.

WHEREAS, in accordance with Article IX, § 4, the Council is vested with the exclusive Privileges, Powers and Duties to "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 affairs of the Choctaw Nation;

WHEREAS, in accordance with Article XV, § (c) of the Constitution, the Council "shall prescribe such rules and procedures" for the impeachment process of the Nation;

WHEREAS, the Choctaw Nation of Oklahoma is a sovereign nation and which enjoys the inherent right to make its laws and to be governed by those laws; and

WHEREAS, the Tribal Council finds it is in the best interest of the Nation to enact the Impeachment Rules of the Choctaw Nation of Oklahoma.

THEREFORE BE IT ENACTED, by the Tribal Council of the Choctaw Nation of Oklahoma, that this Bill be cited approval to enact the Impeachment Rules of the Choctaw Nation of Oklahoma as follows:

SECTION 1. NEW LAW A new section of law to be codified in Title 125 of the Choctaw Nation statutes as the Impeachment Rules of the Choctaw Nation of Oklahoma as follows:

Article I. Rules for Impeachment Proceedings in the Judicial Department

Rule 1. Definitions

As used in these Rules, unless the context otherwise requires:

1. "Articles of Impeachment" means a pleading filed with the Judicial Department containing allegations of one or more offenses the Petitioner asserts to justify impeachment which seeks removal from office of any elected or appointed officer subject to impeachment;

2. "Article" means an allegation in Articles of Impeachment of one of the following:

- a. Willful neglect of duty;
- b. Corruption in office;
- c. Habitual drunkenness;

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- d. Incompetence;
 - e. Incapability of performing duties; or
 - f. Committing any offense involving moral turpitude while in office.
3. "Choctaw Constitution" means the Constitution ratified by the People of the Choctaw Nation on July 9, 1983;
4. "Judicial Department" means the judicial authority of the Nation, which is vested in the Tribal Court pursuant to Article XII, Section 1 of the Choctaw Constitution;
5. "Nation" means the Choctaw Nation of Oklahoma;
6. "Petitioner" means the person[s] presenting Articles of Impeachment containing one or more Articles to the Judicial Department;
7. "Respondent" means the person whose removal from office by impeachment is sought in Articles of Impeachment;
8. "Tribal Court" means the three (3) member Court appointed by the Chief pursuant to Article XII, Section 1 of the Choctaw Constitution;
9. "Tribe" means the Choctaw Nation of Oklahoma; and
10. "Writ of Summons" is the document delivered with Articles of Impeachment directing the Respondent to answer each Article on or before a certain date and at a certain place specified therein.

Rule 2. Presentation of Impeachment Articles to the Judicial Department

- a. Any member of the Tribal Court may present Articles of Impeachment containing one or more Articles to the Clerk of the Tribal Court.
- b. Any member of the Tribal Council may present Articles of Impeachment containing one or more Articles to the Clerk of the Tribal Court.
- c. Chief or Assistant Chief may present Articles of Impeachment containing one or more Articles to the Clerk of the Tribal Court.
- d. The original and six (6) copies of the Articles of Impeachment shall be presented to the Court Clerk of the Judicial Department.
- e. Articles of Impeachment shall include the following:
 - 1. The name of the Respondent;
 - 2. The office to which the Respondent was elected or appointed;

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3. The Article or Articles alleged against the Respondent justifying impeachment and specified in subsection "(a)" of Section 1 of Article XV of the Choctaw Constitution:

4. Specific written allegations of fact, duly verified on oath, supporting each Article; and

5. The signature of the Petitioner.

d. There is no limit to the number or Articles of Impeachment which may be brought against a Respondent.

e. Physical and documentary evidence on which the Petitioner[s] rely in support of Articles of Impeachment shall be delivered to the Office of the Court Clerk with the Articles. Additional evidence may be presented to the Tribal Court until the Tribal Court decides either (i) to refer the Articles of Impeachment to the Tribal Council, or (ii) to dismiss the Articles of Impeachment. The Clerk shall take all reasonable steps to preserve the evidence in its original form and condition.

Rule 3. Delivery and Service of Articles of Impeachment and Writ of Summons

a. Upon receipt of Articles of Impeachment, the Court Clerk shall, as soon as practicable, deliver a copy of the Articles to each member of the Court, to the Chief, and to the person named as the Respondent in the Articles. If the Chief is the Respondent, the Court Clerk shall deliver the Articles to the Assistant Chief.

b. A certified copy of the Articles of Impeachment shall be served on the Respondent named in the Articles together with a Writ of Summons, on a form provided by the Court Clerk, by delivery to that person by an officer of the Department of Public Safety or a person designated by the Court.

Rule 4. Appointment of Substitute Judge Pro Tempore

a. If the Respondent named in Articles of Impeachment is a judge of the Tribal Court, or if a judge of the Tribal Court recuses or is disqualified for any reason, the Chief shall – within three (3) business days – appoint a substitute judge pro tempore and request the advice and consent of the Tribal Council.

b. The Chief shall – within five (5) business days after the appointment of a substitute judge – call a special session of the Tribal Council to be held within five (5) business days with notice to the members of the Tribal Council pursuant to Section 3 of Article X of the Choctaw Constitution for the purpose of confirming a substitute judge pro tempore.

Rule 5. Examination of Evidence by the Tribal Court: Striking of Allegations

a. The Tribal Court shall have thirty (30) days to examine the evidence presented.

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b. The Tribal Court may appoint an attorney who is a member in good standing of the Choctaw Nation Bar Association to serve as an Examiner to assist the Tribal Court with examination of the evidence.

1. The Order appointing an Examiner shall specify the duties of, and time for performance by, the Examiner and provide for payment of compensation and expenses of the Examiner, which shall be approved by the Presiding Judge and paid by the Court Clerk.

2. If directed by the Tribal Court, an Examiner shall inspect the evidence presented with Articles of Impeachment and report to the Tribal Court specific findings concerning any matter requested, which may include the adequacy, sufficiency, and admissibility of the evidence.

3. The Tribal Court may direct an Examiner to obtain additional evidence by any appropriate means including, but not limited to, discovery, as in a civil case, which may be accelerated by the Tribal Court.

c. Examination by the Tribal Court of the evidence presented shall be conducted in camera at a time set by, and pursuant to orders of, the Presiding Judge.

d. The Tribal Court may make any other order for conducting the proceedings under this Act not in conflict with any provision of the Choctaw Constitution.

e. If the Tribal Court finds after examining the evidence that there is insufficient evidence to support an allegation in the Articles of Impeachment, the allegation shall be stricken. If all allegations are stricken, the Articles shall be dismissed and the evidence shall be returned to the Petitioner[s], unless the Court orders otherwise.

Rule 6. Manager

a. If, following the *in camera* examination of the evidence, the Tribal Court determines that the evidence or Articles are sufficient to warrant further action, the Tribal Court shall appoint an attorney who is a member in good standing of the Choctaw Nation Bar Association or a judge, as the Manager. In the case of the impeachment of the Chief or Assistant Chief, the Manager cannot be an executive employee. The Tribal Court may appoint the Examiner as the Manager.

b. The Order appointing the Manager shall, at a minimum, state the following:

1. Any specific directions of the Tribal Court; and

2. The amount, terms, and conditions of compensation of the Manager.

c. The Manager may conduct such investigation as the Manager deems necessary or as ordered by the Tribal Court.

d. The Manager may request an order from the Tribal Court directing the

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Department of Public Safety to provide such investigative assistance as the Manager may require.

Rule 7. Hearing on the Evidence

a. If, following the *in camera* examination of the evidence, the Tribal Court determines an Article is supported by clear and convincing evidence sufficient to warrant further action, the Tribal Court shall conduct a hearing.

b. Notice of the hearing, a copy of the Articles, and a list of all evidence examined by the Tribal Court shall be served on the Respondent by an officer of the Department of Public Safety or a person designated by the Court at least twenty (20) business days before the hearing.

c. The Respondent may be represented in the proceedings by counsel at the Respondent's expense.

d. The Presiding Judge, the Manager or an attorney for the Respondent may issue subpoenas for the appearance of any witness required by the Manager, Respondent, or Court. Such subpoenas shall be served by any person over the age of eighteen (18) in person or by certified mail, return receipt requested, with delivery restricted to the addressee.

e. The hearing shall be open to the members of the Nation; however, the Tribal Court may exclude any person for just cause, may enforce the rule of sequestration, if invoked by the Court, Manager, or Respondent, and may deliberate in private.

f. The hearing must proceed, unless the Tribal Court orders otherwise for good cause, in the following order:

1. The Presiding Judge, or other person appointed by the Presiding Judge, shall read the Article or Articles in the Articles of Impeachment;

2. The Respondent shall enter a plea in person or by counsel to each Article. If the Respondent does not appear in person or by counsel, the Tribal Court shall enter a plea of not guilty on behalf of the Respondent, and proceed with the hearing, and refer the Articles of Impeachment to the Tribal Council as the Court of Impeachment;

3. The Manager shall open the case and state the evidence in support of each Article in the Articles of Impeachment;

4. The Respondent, or Respondent's counsel, may respond to the Manager's opening;

5. The Manager shall present evidence in support of each Article of the Articles of Impeachment;

6. At the close of the Manager's evidence, the Respondent may interpose

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a demurrer to one or more of the Articles on the ground that an Article is not proved. The Court may sustain or overrule the demurrer in whole or in part:

7. If no demurrer is interposed or if a demurrer is overruled in whole or in part, the Respondent may present evidence in opposition to each Article or in support of a defense to each Article:

8. At the conclusion of the Respondent's evidence, the Manager may present rebuttal evidence, the Respondent may present rejoinder evidence, the Manager may present surrejoinder evidence, and so on, in that order, with each limited to the evidence last presented unless the Tribal Court allows evidence outside the evidence last presented for good cause and in the interest of justice;

9. Once all evidence has been presented, the Respondent may present closing arguments and the Manager shall have the right to close; and

10. The Tribal Court may take the matter under consideration, but must either dismiss the Articles of Impeachment or refer the Articles, as amended and approved, to the Tribal Council as the Court of Impeachment within thirty (30) days.

g. The Tribal Court may make such rulings on evidence and issue such orders limiting or qualifying such evidence as necessary.

Article II. Rules for the Tribal Council Sitting as a Court of Impeachment

Rule 8. Receipt of Articles of Impeachment by the Tribal Council

a. Whenever the Tribal Council shall receive Articles of Impeachment from the Tribal Court, the Tribal Council shall immediately establish a calendar for resolving itself into the Court of Impeachment and may refer the Articles to a Committee of five (5) Tribal Council Members, which shall investigate each Article in the Articles and the evidence presented to the Tribal Court and report its findings to the full Court of Impeachment.

b. Upon receipt of the Articles of Impeachment and Writ of Summons, the Respondent shall be deemed suspended from the exercise of the duties of office during the pendency of the impeachment.

c. Upon receipt of Articles of Impeachment, the Secretary of the Tribal Council shall issue to, and cause to be served upon, the Respondent a copy of the Articles as received and a writ of summons, on a form provided by the Secretary, notifying the Respondent to appear before the Court of Impeachment upon a day and at a place to be fixed by the Court of Impeachment, and to file an Answer to the Articles, and to stand to and abide the orders and Judgments of the Court thereon; which writ shall be served by an officer of the Department of Public Safety or a person designated by the Court of Impeachment, such number of days prior to the day fixed for such appearance as shall be named in such precept, either by delivery to the Respondent or by leaving a copy at the last known place of abode of the Respondent as shown on the records of the Nation in some conspicuous place thereon or with a responsible

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person therein; or if such service shall be determined by the Secretary of the Tribal Council to be impracticable, such service may be made in such other manner, by publication or otherwise, as shall be deemed just; and if service shall fail for any reason, the proceedings shall not abate, but further service may be made in such manner as the Presiding Officer or Secretary of the Tribal Council shall require.

d. The person serving the Articles of Impeachment and Writ of Summons shall make a return of service which shall include the following:

I, (name), do solemnly swear under penalty of perjury that the return made by me upon the process issued on the ____ day of _____, _____, by the Court of Impeachment, against the Respondent named therein, is truly made, and I have performed such service as therein described: So help me God.

e. If the Respondent, after service, shall fail to appear and answer, either in person or by an agent or attorney, on the day fixed in the Writ of Summons, the trial shall proceed upon a plea of not guilty.

f. If the Respondent shall enter a plea of guilty, judgment may be entered thereon by the Presiding Officer without further proceedings.

Rule 9. Manager in Impeachment Trial

The Manager in the impeachment proceedings in the Tribal Court shall be the Manager in all impeachment proceedings in the Court of Impeachment.

Rule 10. Sessions of the Court of Impeachment

a. Pursuant to the calendar established for the impeachment proceedings, which may be amended as necessary with due notice provided to the Chief Judge of the Tribal Court, Respondent, and Manager, the Tribal Council shall resolve itself into the Court of Impeachment and shall proceed to consider the Articles of Impeachment.

b. The Chief Judge of the Tribal Court shall preside over the Court of Impeachment unless the Chief Judge of the Tribal Court is the Respondent to the Articles of Impeachment; in which case, the Chief shall appoint a judge of the judicial system of the Nation to preside over the Court of Impeachment.

c. The Court of Impeachment shall continue in session from day-to-day (Sunday excepted) after the trial shall commence, unless otherwise ordered by the Court of Impeachment, until final judgment shall be entered and so much longer as may, in its judgment, be needful.

Rule 11. The Presiding Officer of the Court of Impeachment

a. The Chief Judge of the Tribal Court, or, in the case of the impeachment of the Chief Judge, the appointed replacement judge, shall be the Presiding Officer of the Court of Impeachment.

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- d. The original and six (6) copies of the Articles of Impeachment shall be presented to the Court Clerk of the Judicial Department.
- e. Articles of Impeachment shall include the following:
 - 1. The name of the Respondent;
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person therein; or if such service shall be determined by the Secretary of the Tribal Council to be impracticable, such service may be made in such other manner, by publication or otherwise, as shall be deemed just; and if service shall fail for any reason, the proceedings shall not abate, but further service may be made in such manner as the Presiding Officer or Secretary of the Tribal Council shall require.

d. The person serving the Articles of Impeachment and Writ of Summons shall make a return of service which shall include the following:

I, (name), do solemnly swear under penalty of perjury that the return made by me upon the process issued on the ____ day of _____, _____, by the Court of Impeachment, against the Respondent named therein, is truly made, and I have performed such service as therein described: So help me God.

e. If the Respondent, after service, shall fail to appear and answer, either in person or by an agent or attorney, on the day fixed in the Writ of Summons, the trial shall proceed upon a plea of not guilty.

f. If the Respondent shall enter a plea of guilty, judgment may be entered thereon by the Presiding Officer without further proceedings.

Rule 9. Manager in Impeachment Trial

The Manager in the impeachment proceedings in the Tribal Court shall be the Manager in all impeachment proceedings in the Court of Impeachment.

Rule 10. Sessions of the Court of Impeachment

a. Pursuant to the calendar established for the impeachment proceedings, which may be amended as necessary with due notice provided to the Chief Judge of the Tribal Court, Respondent, and Manager, the Tribal Council shall resolve itself into the Court of Impeachment and shall proceed to consider the Articles of Impeachment.

b. The Chief Judge of the Tribal Court shall preside over the Court of Impeachment unless the Chief Judge of the Tribal Court is the Respondent to the Articles of Impeachment; in which case, the Chief shall appoint a judge of the judicial system of the Nation to preside over the Court of Impeachment.

c. The Court of Impeachment shall continue in session from day-to-day (Sunday excepted) after the trial shall commence, unless otherwise ordered by the Court of Impeachment, until final judgment shall be entered and so much longer as may, in its judgment, be needful.

Rule 11. The Presiding Officer of the Court of Impeachment

a. The Chief Judge of the Tribal Court, or, in the case of the impeachment of the Chief Judge, the appointed replacement judge, shall be the Presiding Officer of the Court of Impeachment.

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- b. The Presiding Officer of the Court of Impeachment shall have power to make and issue or cause to be made and issued, all orders, mandates, writs, and precepts authorized by these rules, by the Choctaw Constitution, by the Court of Impeachment, or by the Tribal Council.
- c. In cooperation with the Tribal Council, the Presiding Officer shall direct all necessary preparations in the Council House or other location determined by the Court of Impeachment.
- d. The Presiding Officer on the trial shall direct all forms of proceedings before the Court of Impeachment and all forms during the trial not otherwise provided for.
- e. The Presiding Officer shall rule on all questions of evidence including, but not limited to, questions of relevance, materiality, and redundancy of evidence and incidental questions, which ruling shall stand as the judgment of the Court of Impeachment, unless some member of the Court shall ask that a formal vote be taken thereon, in which case it shall be submitted to the Court for decision without debate; or the Presiding Officer may submit any such question to a vote of the Court without debate.

Rule 12. Sergeant-at-Arms of the Court of Impeachment

The Executive Director of the Department of Public Safety, the Chief of Police for the Choctaw Lighthorse or his/her designee shall serve as the Sergeant-at-Arms of the Court of Impeachment.

Rule 13. Authority of the Court of Impeachment

- a. The Court of Impeachment shall have power (i) to compel the attendance of witnesses, (ii) to enforce obedience to its orders, mandates, writs, precepts, and judgments, (iii) to preserve order, (iv) to punish in a summary way contempt of, and disobedience to, its authority, orders, mandates, writs, precepts, or judgments, and (v) to make all lawful orders, rules, and regulations which it may deem necessary or conducive to the ends of justice.
- b. In an impeachment proceeding, the Court of Impeachment shall not have the power to compel any person to be a witness against himself or herself.
- c. The Sergeant-at-Arms, under the direction of the Court of Impeachment, may employ such aid and assistance as may be necessary to enforce, execute, and carry into effect the lawful orders, mandates, writs, and precepts of the Court.

Rule 14. Order of Trial

- a. The Respondent shall be called to appear and answer the Articles of Impeachment on the day and at the time and place named in the Writ of Summons or as otherwise set by the Presiding Officer on motion of the Respondent or Manager and approved by the Court of Impeachment.
- b. The trial shall be open to the members of the Nation; however, the Presiding Officer may exclude any person for just cause, and may enforce the rule of sequestration, if invoked

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by the Presiding Officer, Manager, or Respondent.

c. The trial must proceed, unless the Presiding Officer or the Court of Impeachment orders otherwise for good cause, in the following order:

1. The Presiding Officer, Secretary, or other person appointed by the Presiding Officer, shall read the Article or Articles in the Articles of Impeachment:

2. The Respondent shall enter a plea in person or by counsel to each Article. If the Respondent does not appear in person or by counsel, the Presiding Officer shall enter a plea of not guilty on behalf of the Respondent, and proceed with the hearing:

3. The Manager shall open the case and state the evidence in support of the Articles of Impeachment:

4. The Respondent, or Respondent's counsel, may respond to the Manager's opening;

5. The Manager shall present evidence in support of the Articles of Impeachment:

6. At the close of the Manager's evidence, the Respondent may interpose a demurrer to one or more of the Articles on the ground that an Article is not proved. The Presiding Officer may sustain or overrule the demurrer in whole or in part:

7. If no demurrer is interposed or if a demurrer is overruled in whole or in part, the Respondent may present evidence in opposition to each Article or in support of a defense to each Article;

8. At the conclusion of the Respondent's evidence, the Manager may present rebuttal evidence, the Respondent may present rejoinder evidence, the Manager may present surrejoinder evidence, and so on, in that order, with each limited to the evidence last presented unless the Presiding Officer allows evidence outside the evidence last presented for good cause and in the interest of justice:

9. Once all evidence has been presented, the Respondent may present closing arguments and the Manager shall have the right to close; and

10. The Court of Impeachment may deliberate in private.

d. The Court of Impeachment shall vote on each Article in the Articles of Impeachment separately in open session. Eight (8) affirmative votes shall be required to sustain an Article. If no Article in the Articles is sustained by at least eight (8) votes, a judgment of acquittal shall be entered; but if the Respondent shall be convicted of any Article, the Court shall

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proceed to the consideration of such other matters as may be determined to be appropriate prior to pronouncing judgment.

e. If any Article(s) in the Articles of Impeachment is sustained, the Respondent shall be impeached and removed from office. In the event that the Articles of Impeachment are sustained, the Court of Impeachment may also, in its discretion and by a vote of eight (8), disqualify the Respondent from holding any office of honor, trust or profit under the Nation.

f. Upon pronouncing judgment, a certified copy of the judgment shall be delivered to the Respondent.

g. If no Article in the Articles of Impeachment is sustained, the Respondent shall be deemed reinstated.

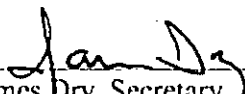
h. No motion for rehearing, for new trial, or to reconsider the vote by which any Article in Articles of Impeachment is sustained or rejected, shall be in order.

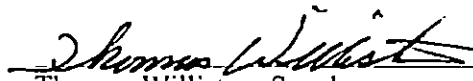
BE IT FURTHER ENACTED by the Tribal Council of the Choctaw Nation of Oklahoma that this Bill be cited as approval that these rules shall be codified by the Senior Executive Official for Legal and Compliance pursuant to the Codification Authorization Act in Title 125.

BE IT FURTHER ENACTED, by the Tribal Council of the Choctaw Nation of Oklahoma, that the Impeachment Rules of the Choctaw Nation of Oklahoma be effective immediately.

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 twelve (12) members answered roll call and that a quorum was present at the Regular Session of the Tribal Council at Tuskahoma, Oklahoma on October 11, 2025. I further certify that the foregoing Council Bill CB- 02 -26 was adopted at such meeting by the affirmative vote of twelve (12) members, zero (0) negative votes, and zero (0) abstaining.


James Dry, Secretary
Choctaw Nation Tribal Council


Thomas Williston, Speaker
Choctaw Nation Tribal Council

DocuSigned by:

4F80DD2A6040446
Gary Batton, Chief
Choctaw Nation of Oklahoma

Date _____