

Kenaitze Indian Tribe
JUDICIAL CODE OF CONDUCT
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JUDICIAL CODE OF CONDUCT

I. INTRODUCTION

A. Purpose

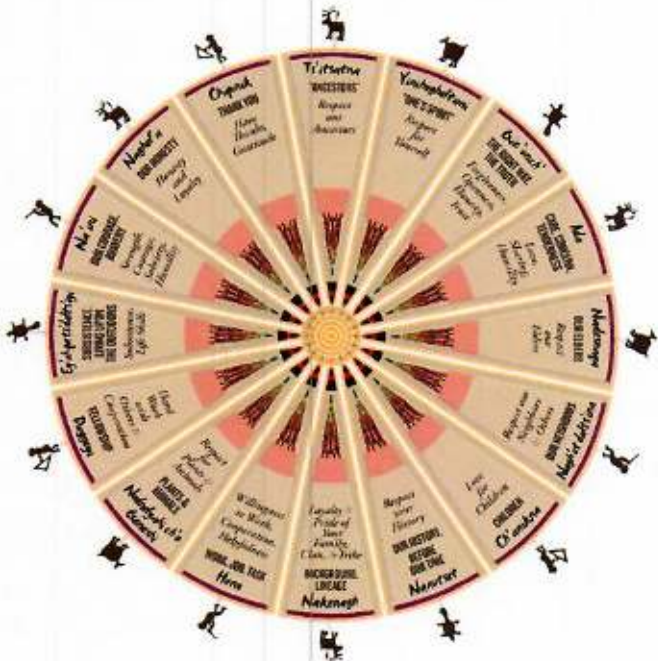
The Kenaitze Indian Tribal Court System, ("Court System") is based on the principle that an unbiased, fair and competent judiciary is essential to the administration of tribal justice. The purpose of the Kenaitze Indian Tribal Court Judicial Code of Conduct("Code") is to encourage a spirit of equity toward persons brought before the courts of the Kenaitze Indian Tribal Court("Tribal Court")and to ensure fundamental fairness and due process in all court proceedings.

The Code is intended to establish basic standards to govern the conduct of all Kenaitze Indian tribal Judges. The Code is not intended as an exhaustive guide to conduct. Judges should also be governed in their judicial and personal activities by general ethical standards for the regulation of judicial conduct.. Judges subject to any other ethical standards, including Rules of Professional Conduct for attorneys shall further abide by those tenets, and in no case shall construe this Code as an endorsement of a violation of any other applicable ethical standard.

The Code is to be applied consistently with applicable tribal laws, rules of court, decisional law, tribal tradition and custom, and common sense in the context of all relevant circumstances.

Tribal Court Judges nurture the well-being of our people by applying and upholding our community's Traditional Values. Our Traditional Values inform the individual and interconnection of our collective community. A Judge's role is to restore harmony to the people who appear before the Tribal Court, their families, and the community as a whole. A Judge acts as an educator and facilitator through the application of these Traditional Values to the cases or controversies that are brought before the Tribal Court.

The Kenaitze Indian Tribe has a compelling interest in protecting Tribal sovereignty and jurisdiction. Tribal sovereignty and jurisdiction may be questioned in cases in the Tribal Court in which the Tribe or any agency, officer, or employee thereof is not a party. With adequate, timely, and uniform notice of cases in the Tribal Court that question Tribal sovereignty and jurisdiction, the Tribe can effectively assess whether and how to participate in such cases.



B. Applicability of Rules

All Judges shall comply with this Code except as provided below:

1. Part-time and Special Appointment Judges

A part-time judge or a judge serving by special appointment may practice law, but shall not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as a Judge or in any other proceeding related thereto.

2. Ts'itq'u Peacemaking Circle

Only those provisions of the Code which are relevant to the Ts'itq'u Peacemaking Circle, and the process of peacemaking, apply to Peacemakers. To the extent that the guidance of a peacemaker who is related to parties by blood or clan will assist peacemaking, disqualification from participating in a case is not required, unless a party objects on that ground, however, a peacemaker shall be disqualified if that relationship would cause an unfair advantage, bias, or undue influence on a party.

3. Court Personnel

Because Court Personnel are identified with judges in the eyes of the public, this Code is applicable to members of the court staff and others who are in close and constant working relationship with a judge to the extent the fulfillment of their duties and responsibilities support judicial work.

C. Time for Compliance

Once appointed to the Tribal Court, a judge shall strive to come into compliance with all provisions of this Code as soon as reasonably possible, and in no case longer than one year after appointment.

D. Interpretation and Meaning

This Code of Judicial Conduct is intended to establish standards for ethical conduct of judges. When the text uses "shall" or "shall not," the provision imposes a binding obligation, the violation of which will result in disciplinary action. When "should" or "should not" is used, the text is intended to guide the judge towards appropriate conduct, and is not binding rule under which a judge may be disciplined. When "may" is used, it means the judge has discretion on how to apply the course of action suggested by the text, as appropriate to the situation.

II. DEFINITIONS

- (a) "*Ada*" means "care, concern, tenderness and love" in Dena'ina.
- (b) "*Cb'anikna*" means "children" in Dena'ina.
- (c) "*Chiqinik*" means "thank you" in Dena'ina.
- (d) "*Daggey*" means "fellowship" in Dena'ina.

- (e) “*Ey’uhgats’dalts’iyi*” means “subsistence, living upon the outdoors” in Dena’ina.
- (f) “*Henu*” means “work, job, task” in Dena’ina
- (g) “Judge” means a person appointed by the authority of the Kenaitze Tribal Council to serve as a judicial officer in proceedings before any of the Kenaitze Tribal Courts, including a Ts’ilq’u Peacemaking Circle facilitator, magistrate, court commissioner, special master or referee, who has sworn or affirmed the Oath of Office and Confidentiality.
- (h) “Law” means the Constitution, customs and traditions, ordinances and codes, and decisional law of the Kenaitze Indian Tribe.
- (i) “Member of the judge’s family” means a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship, including any person who resides in the judge’s household in a familial or domestic relationship.
- (j) “*Nadesnaga*” means “our Elders” in Dena’ina.
- (k) “*Nudnehyabich’u qenesbi*” means “plants and animals” in Dena’ina.
- (l) “*Naghet’a*” means “our honesty” in Dena’ina.
- (m) “*Nagh’utdalts’ina*” means “our neighbors” in Dena’ina.
- (n) “*Na’ini*” means “strength, courage, sobriety, humility” in Dena’ina.
- (o) “*Nakenagb*” means “background, lineage” in Dena’ina.
- (p) “*Nanutsef*” means “our history, before or time” in Dena’ina.
- (q) “*Naquel’tani*” means “pure love, pure truth”; the Dena’ina word for Great Mystery, Great Spirit, or Creator.
- (r) “On the record” means that segment or portion of a court proceeding in the courtroom which is recorded as part of the official court file, whether by written notes or recording.
- (s) “*Qiz’unch*” means “the right way, the truth” in Dena’ina.
- (t) “Tribal Court” means the courts and conflict-resolution programs established by the Kenaitze Indian Tribe, including the Ts’ilq’u Peacemaking Circle.
- (u) “*Ts’ilq’u*” means “coming together as one” in Dena’ina.
- (v) “*Ts’itsatna*” Means “ancestors” in Dena’ina.
- (w) “*Yinibugheltani*” means “one’s spirit” in Dena’ina.

III. QIZ'UNCH GUIDING TRIBAL JUDGES

Qiz'unch' 1. A judge shall uphold the integrity and independence of the judiciary.

- a. An independent and honorable judiciary is essential to justice in the Kenaitze Indian tribal community. A tribal judge should help create and maintain such a judiciary, and should observe high standards of conduct toward achieving this goal.
- b. A judge shall maintain a separation between the judicial branch and other branches of tribal government, and shall avoid any contact that violates such a separation. The judicial duties of a judge as described herein shall take precedence over all other activities.

Qiz'unch' 2. A judge shall seek to restore harmony through conflict resolution in accordance with Kenaitze Traditional Values.

A judge's role is to restore harmony to the people who appear before the Tribal Court, their families, and the community as a whole. Tribal Court judges shall nurture the well-being of our people by applying and upholding our Traditional Values. Our Traditional Values inform the individual and interconnection of our collective community. A judge acts as an educator and facilitator through the application of these Traditional Values to the matters that are brought before the Tribal Court.

The Kenaitze Traditional Values are living values of the Kahtnuht'ana Dena'ina people passed down from our *ts'itsatna*, who provide our *nakenagh*, to educate us on our *nanutset*. The Traditional Values provide the moral code to promote *daggeyi* among our community members and with *nagh'utdalt's'ina*. Our judicial system, as administered by Tribal Court judges, seeks to bestow the wisdom of the *nadesnaga* to our *ch'anikna*. To those members of our community who have lost their way or entered into conflict, our judges are charged with inspiring the *yinibugheltani*, and encouraging the development of their *na'ini* through relationships with *ey'uhqats'dalts'iyi*, respect for *nudnelyahich'u qeneshi*, and trust in *naqel'tani*.

Qiz'unch' 3. A judge shall present him- or herself with dignity in both official and individual capacities as an honorable representative of the Kenaitze Tribe.

- a. A judge should embody the Kenaitze Traditional Value of *na'ini*, and should at all times act in a manner that promotes public confidence in the *naghet'a* and impartiality of the Tribe's judiciary.
- b. A judge shall seek to follow *qiz'unch'* in his or her actions, and make extraordinary efforts to respect and comply with the laws, traditions and customs of the Tribe and applicable state, and federal laws.
- c. A judge shall not allow family, social or other personal relationships to influence his or her judicial *benu*, nor shall he or she convey the impression that anyone has special influence on him or her as a judge.

- d. A judge shall not attempt to use the prestige of his or her judicial office to advance the private interests of others.

Qiz'unch' 4. A judge shall perform the duties of the office impartially and diligently.

a. Primary Henu' of Judges

- i. A judge's actions shall be governed by the Kenaitze Traditional Value of *qiz'unch'* not be swayed by partisan interests, public clamor, political pressure, or fear of criticism and shall resist influences on the court by other tribal officials, governmental officials or any others attempting to improperly influence the judge.
- ii. A judge shall give to every person who is legally interested in a proceeding a full right to be heard according to law.
- iii. A judge shall adhere to the laws, traditions and customs of the Tribe.
- iv. A judge shall rely only on those procedures which are prescribed by, or are consistent with, the laws, rules, traditions or customs of the Tribe.
- v. A judge shall be a model of the Kenaitze Traditional Value of *ada*, and be patient, dignified and courteous to all parties to the case, as well as those witnesses, advocates and others with whom he or she deals in his or her official capacity. A judge should encourage and expect similar conduct by fellow judges, by court personnel, and among those persons participating in court proceedings.
- vi. A judge shall use each contact with the parties to encourage them to reach consensus on how best to resolve their dispute informally or in judicial or non-judicial settlement negotiations. The judge shall not coerce or force agreement or consent to a course of action. No finding of fact or conclusion of law may be made upon information received during settlement discussions, which is not developed as evidence in a trial or hearing.
- vii. A judge may obtain the advice of a disinterested expert if the request for advice is limited to points of law and does not involve the particular merits of the case.
- viii. A judge shall seek ongoing opportunities to develop and maintain his or her professional competence in the law.
- ix. A judge shall maintain order in the court and shall not interfere in the proceedings except where necessary to protect the rights of the parties or the dignity of the court.
- x. A judge shall manage judicial proceedings and issue orders promptly and in such a manner as promotes judicial economy.

b. Restrictions on Judicial Authority

- i. A judge shall refrain from all out-of-court or other communications with parties, witnesses, tribal officials, agents or others concerning a pending proceeding unless all parties to the proceedings are present or represented, unless the one-sided communication is expressly authorized by law.
- ii. A judge is prohibited from issuing advisory opinions where the issue presented fails to identify any action resulting in a substantiated harm.
- iii. A judge is prohibited from making any public comment identifiably related to a past, present, or potential matter or proceeding before the court.
- iv. A judge shall not disclose or use information acquired in a judicial capacity for any purpose unrelated to judicial duties.
- v. A judge shall not make pledges, promises or commitments that are inconsistent with the impartial performance of the adjudicative duties of office.
- vi. A judge shall not criticize or demean parties, their representatives, other interested persons, and court personnel.
- vii. A judge shall refrain from performing private judicial functions, such as acting as an arbitrator or mediator, unless expressly authorized by law.

c. Court and Case Management *Henu'*

- i. A judge shall discharge his or her administrative responsibilities without bias or prejudice and shall maintain professional competence in judicial administration.
- ii. A judge shall require his or her staff and court officials to observe high standards of honesty and diligence, and the duty to treat *nagh'utdalt's'ina* and members of the public with the utmost courtesy and cooperation.
- iii. A judge should cooperate with other judges and court officials in the administration of court business.
- iv. A judge shall diligently discharge the judge's administrative responsibilities in an efficient and expeditious manner.

d. Disciplinary Responsibilities

- i. A judge shall file a complaint with the Judicial Review Board upon receipt of information indicating a probable likelihood of judicial misconduct or having actual

knowledge that another judge or Court Personnel has committed a violation of the Code.

- ii. Acts of a judge, in the discharge of disciplinary responsibilities that are required or permitted are part of a judge's judicial duties shall be absolutely privileged. No civil action predicated thereon may be instituted against the judge.

e. Compensation of Judges

Judges shall be compensated in accordance with the Kenaitze Tribal Court Judges Compensation and Travel Policy.

Qiz'unch' 5. A judge shall disqualify him- or herself on the judge's own initiative in any proceeding in which the judge is biased or has a conflict of interest.

- a. Mandatory Disqualification. A judge shall disqualify him- or herself in a proceeding in which his or her ability to act fairly might reasonably be questioned, including instances where:

- i. the judge has a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts;
- ii. the judge served as an advocate or personal representative in the matter before the court, or a person with whom the judge has been associated in a professional capacity served as an advocate or personal representative concerning the matter;
- iii. the judge knows that the judge or any member of the judge's family, has a financial interest in the subject matter in controversy or in a party to the proceeding, or has any other interest that could be substantially affected by the proceedings;
- iv. the judge, or a member of the judge's family:
 - (a) is a party to the proceeding, or an officer, director, or trustee of a party;
 - (b) is acting as counsel or advocate in the proceeding;
 - (c) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or
 - (d) is to the judge's knowledge likely to be a material witness in the proceeding.

- b. Permissive Disqualification.

- i. Situations may arise where a judge may have a past or present relationship to a party or witness which are not grounds for mandatory disqualification, but a judge should disqualify him- or herself as a matter of fairness. Where a judge knows of any situation where the judge's ability to act fairly may be called into question, the judge should make a disclosure of the facts of the matter to the parties, state whether or not the judge feels such will affect fairness or impartiality, and allow the parties to weigh in on whether disqualification is appropriate under the circumstances. The existence of a personal, business, religious, philosophical, or the potential of the appearance of the judge holding a special interest or belief may require that a judge be disqualified from hearing a case.

- ii. A judge should not grant a motion for disqualification without good cause. In choosing whether to disqualify him- or herself from an assigned case, a judge should also consider judicial economy, whether the request for disqualification is being used as a means of delay, and the availability of other judges to hear the matter.
- c. Disclosure of Grounds for Disqualification Not Required
A judge need not state the grounds for his or her disqualification.
- d. Waiver of Disqualification
 - i. A disqualified judge may, instead of withdrawing from the proceeding, disclose on the record the basis of his qualification. Upon disclosure of any basis for disqualification other than the judge's personal bias or prejudice concerning a party, the parties and their representatives shall confer privately to discuss the disqualification, and may agree that the judge should not be disqualified. Any waiver of disqualification shall be made on the record.
 - ii. A judge may decline to disqualify him- or herself in any proceeding in which disqualification might otherwise be required under, if no other judge is available and the disqualification will result in manifest injustice. In such a case, the judge shall disclose on the record the basis for disqualification and shall thereafter disqualify him- or herself if at any time it is possible to transfer the proceeding to another judge.

Qiz'unch' 6. A judge shall regulate his or her non-judicial activities to minimize the risk of a conflict of interest.

a. Non-Judicial Activities in General

- i. A judge shall conduct all of the judge's non-judicial activities, whether related to the law or not, so that they do not:
 - (a) cast reasonable doubt on the judge's capacity to act impartially as a judge;
 - (b) demean the judicial office; or
 - (c) interfere with the proper performance of judicial duties.
- ii. A judge may only receive compensation and reimbursement of expenses for performing any non-judicial activities permitted by this Code if the source of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety. Expense reimbursement shall be limited to the actual cost of travel, food and lodging reasonably incurred by the judge.
- iii. A judge shall not provide a legal analysis or opinion on any specific factual scenario, including any projected outcomes.
- iv. A judge shall not voluntarily appear in any court to testify as a character witness for a party. The prohibition against appearing as a character witness extends to letters to a court or

probation officer, but does not prohibit a judge from writing letters of recommendation for matters outside judicial jurisdiction.

b. Law-related Education

i. A judge may engage in activities to improve the law, the legal system and the administration of justice, including,

a. speaking, writing, lecturing, teaching and participating in other activities concerning tribal law, tradition and custom, the legal system of the Tribe and the administration of justice, or in connection with historical, educational or cultural activities.

ii. With the exception of part-time judges, a judge shall not practice law, however, a judge may represent him or herself in a personal capacity and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family and household.

c. Non-judicial Activities

A judge may write, lecture, teach and speak on legal and non-legal subjects, and engage in the arts, sports and other social and recreational activities of the Tribe or elsewhere if these activities do not interfere with the performance of his or her duties.

d. Civic and Charitable Activities

A judge may participate in tribal, educational, religious, civic, charitable or other organizations and activities that do not reflect upon his or her impartiality or interfere with the performance of his or her judicial duties, so long as the judge refrains from:

i. Association with an organization that will likely be or is involved in proceedings which would ordinarily come before the Tribal Court.

ii. Using or allowing the use of the prestige of the judge's judicial office for political fund-raising or membership solicitation.

e. Investment and Business Activities

A judge should avoid investment and business dealings that tend to reflect adversely on his or her impartiality, interfere with the performance of his or her judicial duties, exploit his or her judicial position, or involve him or her in frequent transactions with others likely to come before the court on which he or she serves.

f. Receiving Gifts

Except as allowed by the laws and traditions of the Tribe, neither a judge nor a member of his or her family should accept a gift, bequest, favor or loan from anyone which would affect or appear to affect the judge's impartiality in judicial proceedings, or on the judge's appearance

of fairness, provided, a judge may presumptively accept the following without requiring disclosure:

- i. ordinary social hospitality;
- ii. a gift from a relative or friend, for a special occasion, such as a wedding, anniversary or birthday, if the gift is fairly commensurate to the occasion and the relationship;
- iii. a gift, bequest, favor or loan from a relative or friend, if the relative or friend is one whose appearance or interest in a case would in any event not require the disqualification of the judge;
- iv. books, tapes, and other resource materials supplied by publishers on a complimentary basis for official use;
- v. scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants.

g. Annual Compensation Report and Disclosures

- i. A judge shall report each and every of his or her economic interests as defined herein by filing a confidential Annual Acknowledgement and Disclosure Form with the Tribal Court Administrator.
- ii. "Economic interest" means ownership of more than a minimal legal or equitable interest, or a relationship as officer, director, advisor or other active participant in the affairs of a for-profit enterprise, whether held by a judge or a member of the judge's family.
- iii. A judge shall report the date, place and nature of any activity, gift, bequest, favor, or loan that has a worth or value exceeding \$150.00 received by the judge.

Qiz'unch' 7. Judges and applicants for judicial appointment shall refrain from political activity inconsistent with judicial office.

a. Judge's Political Activity

- i. Unless authorized by Tribal Council in accordance with tribal law or tradition, a judge shall not engage in any political activity except on behalf of measures to improve the law, the tribal justice system or the administration of justice, or as authorized by law or under this Code, including, a judge may not:
 - (a) act as a leader or hold an office in a political organization defined as an organization whose primary goal is the election of one or more candidates for public office, or the passage of certain legislation;
 - (b) publicly endorse or publicly oppose a candidate for public office;
 - (c) make speeches on behalf of a political organization;
 - (d) attend political gatherings; or

- (e) solicit funds for, pay an assessment to or make a contribution to a political organization or candidate, or purchase tickets for political party dinners or other functions;
 - (f) participate in, comment upon, advocate, permit the use of the judge's name for advocacy, appear at a public hearing before, or otherwise consult with, an executive or legislative body or official on any position pending before any public body.
 - ii. A judge may engage in prohibited political activities to represent the judge's personal interests so long as the judge affirmatively identifies him- or herself as acting as a private individual and the activity is not otherwise disallowed under this Code.
 - iii. A judge shall resign from judicial office upon election to a non-judicial public office.
 - iv. Unless allowed by Tribal Council in accordance with tribal law or tradition, a judge should not accept appointment to any tribal government entity or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the Tribal Justice System or the administration of justice. A judge, however, may represent the Tribe on ceremonial occasions or in connection with historical, educational and cultural activities.
 - v. A judge may appear at a public hearing before a Tribal executive or legislative body or official on matters concerning the Tribal judiciary and the administration of justice, and he or she may otherwise consult with a Tribal executive or legislative body or official but only on matters concerning the general administration of justice or the improvement of the law or the legal system.
- b. Judicial Office Applicants' Political Activity
A person who has applied for or has stated an intention to apply for appointment as a judge, shall not make pledges, promises or commitments that are inconsistent with the fair performance of the adjudicative duties of the office with respect to cases, controversies, or issues that are likely to come before the court.

IV. DISCIPLINE OF JUDGES

A. Purpose

In order to ensure compliance with this Code, it is necessary to establish a means of enforcement. The disciplinary procedures contained in this Judicial Code of Conduct shall not be utilized in substitution for the judicial appeal process. The Judicial Review Board is the entity charged with the responsibility of reviewing complaints made against judges of the Tribal Court. The board is comprised of a broad range of persons and is designed to allow for participation in decision-making under Tribal Law by both legal professionals and tribal community members.

B. Establishment of a Judicial Review Board

1. The membership of the Judicial Review Board shall consist of:
 - a. The Vice Chair of the Tribal Council;

- b. The Chief Judge of the Tribal Court; and
 - c. Two Kenaítze Tribal Members appointed by the Tribal Council.
 - d. An alternate Kenaítze Tribal Member also appointed by the Tribal Council.
- 2. No person shall serve on the Judicial Review Board if that person has reason to believe that he or she could not act with complete impartiality or if such person's impartiality might be reasonably questioned. The Judicial Review Board members shall report their economic interests, as defined under this Code and is required of Tribal Court judges.
- 3. In the event a member of the Judicial Review Board is disqualified upon application of the provisions for disqualification under this Code, the following substitute members shall be empaneled:
 - a. In the event the Vice Chair of the Tribal Council is disqualified, any other Council member, including the Chair, shall be seated.
 - b. In the event the Chief Judge is disqualified, the Second Chief Judge shall be seated.
 - c. In the event that a Tribal Member is disqualified, the Tribal Council shall appoint another Tribal Member to be seated.
- 4. Officers
 - a. The Vice Chair of the Tribal Council, shall chair the Judicial Review Board, and shall delegate administrative duties related to the functioning of the Judicial Review Board to the Tribal Court Clerk.
 - b. The Judicial Review Board may, with notice to the Tribal Council Chair, confer with legal counsel or other advisers as is necessary to ensure the parties' due process and other rights are adequately protected.

C. Confidentiality

All proceedings before the Judicial Review Board are confidential, and no information may be disclosed to any third party, with the express exception of a disclosure made upon:

- 1. Written request of the Kenaítze Tribal Council in connection with the consideration of the appointment or reappointment of a judge; or
- 2. The Judicial Review Board's granting of a judge's request that any hearing related to an investigation of that judge be held publicly.

D. Procedure for Filing a Complaint

1. Any person may file a complaint alleging a judge's misconduct, unethical conduct, or failure to act in accordance with this Code or other law.
2. A complaint shall be made in writing and must be signed by the Complainant.
3. Each complaint must be filed with the Chair of the Judicial Review Board, who will assign a complaint number, and maintain the original in a confidential file.
4. In reviewing the complaint, the Chair of the Judicial Review Board shall assess whether any member of the Judicial Review Board is disqualified from hearing the matter.
5. The Judicial Review Board may grant, for good cause, a complainant's request for anonymity pending initial review of the complaint.

E. Initial Review

1. Within no more than 5 business days of receipt of the complaint from the Chair of the Judicial Review Board, the Judicial Review Board shall make an initial assessment of the complaint determining whether the alleged conduct is sufficient to warrant formal disciplinary action.
 - a. Within no more than 10 business days of the receipt of the complaint, the Chair of the Judicial Review Board shall send a letter to the Judicial Review Board, complainant, and the judge complained against regarding the course of action.
2. If the Judicial Review Board determines that the conduct as alleged is in violation of the subject judge's duties and responsibilities, the Board shall direct the Chair of the Judicial Review Board to send a Notice of Hearing to the Complainant and the subject Judge, stating the date, time, and location of the hearing and referring the parties to Judicial Review Board procedures contained within the Judicial Code of Conduct.
3. If the Judicial Review Board determines that the conduct alleged is insufficient for discipline of the subject judge, the Board must dismiss the matter by sending a notice of dismissal, and the grounds for dismissal, to both the complainant and the subject judge.
4. Notwithstanding dismissal of a matter, the Judicial Review Board, may invite the complainant and subject judge to attend an informal discussion session, individually or jointly, with the Board in furtherance of the aim of restoring goodwill between the parties.

F. Pre-Hearing Briefing and Discovery

1. Within no more than 10 business days after the subject judge receives service of the Notice of Hearing, the subject judge must file a written response to the complaint with the Chair of the Judicial Review Board, and attach relevant evidence in support thereof. A copy of the written response shall be provided to the complainant.
2. Within no more than 10 business days after the subject judge files his or her response to the complainant, the Judicial Review Board may allow the complainant to file a brief and

submit relevant evidence in support of the allegations presented in the complaint to the Chair of the Judicial Review Board. A copy of the written reply and its attachments shall be provided to the subject judge.

3. Upon request of the complainant or the subject judge, the Judicial Review Board may exercise a limited subpoena power for the purposes of substantiating the allegations or defenses presented by the parties.

G. Hearings

1. Judicial Review Board Hearing

No more than 10 business days after the last brief is filed in a matter, the Judicial Review Board shall hold a hearing on the record. The sole object of the hearing is to expeditiously determine whether a violation of law or this Code has been committed.

2. Mediation or Settlement

The Judicial Review Board and both of the parties may refer the matter to mediation or for settlement negotiations at any time. Such alternative dispute resolution may take place within the Court System, or by contract with a third party, as is both available and appropriate.

3. Rights of the Subject Judge

The judge who is the subject of the complaint should be present at the hearing. The subject judge may introduce evidence, examine and cross-examine witnesses, and be represented by counsel at the judge's own expense.

4. Rights of the Complainant

The complainant should be present at the hearing. The complainant may introduce evidence, examine and cross-examine witnesses, and be represented by counsel at the complainant's own expense.

5. Evidence

The Judicial Review Board shall provide a fair hearing to the parties. A hearing shall be held in an informal manner, and is not bound by any formal rules of evidence, provided that privileged communications retain their privilege and every witness must be sworn.

H. Post-hearing Decision

1. At the conclusion of the hearing and/or no more than 10 business days following the conclusion of the hearing, the Judicial Review Board shall decide whether there is sufficient evidence demonstrating that the judge:
 - a. committed unethical conduct as defined by taking an action or failing to act under the ethical duties described in this Code;
 - b. persistently failed to perform the duties of office;
 - c. committed misconduct in office consisting of any knowing violation of law;
 - d. has any physical or mental disability which prevents the performance of duties; or
 - e. is ineligible under the specific qualifications for office.

2. Findings and Decision

- a. The Judicial Review Board shall make findings of fact and conclusions of law in a written decision that directs which disciplinary remedies, if any, shall be imposed.
- b. If the Judicial Review Board decides that the allegations presented in the complaint have not been established sufficiently by the evidence before it, the Board must dismiss the matter and provide written notice to both the judge complained against and the complainant no later than 10 business days.
- c. If the Judicial Review Board decides that any allegation of misconduct has been sufficiently established by the evidence, it must submit its written findings and decision to both the subject judge and the complainant no later than 10 business days after the hearing.

3. Disciplinary Remedies

- a. In the spirit of conflict resolution and the promotion of respect within the judiciary, the Judicial Review Board may impose one or more of the following disciplinary remedies for any designated period of time:
 - i. Continuing education or training;
 - ii. Reduced or specially assigned limited judicial duties;
 - iii. Removal from special appointments;
 - iv. Written or verbal apology to the Complainant;
 - v. Private verbal reprimand;
 - vi. Private written reprimand; or
 - vii. Public verbal or written reprimand.
- b. The Judicial Review Board may, in its discretion, find that the judicial review process itself was sufficient to remedy the concerns brought to light by the complainant.
- c. If the Judicial Review Board finds that the judge's activity meets the criteria for suspension or removal, it shall recommend to the Tribal Council initiation of removal proceedings pursuant Tribal Court Ordinance 99-01.

I. Referral to Tribal Council

1. Suspension or Removal

In the event that the Judicial Review Board determines that a judge should be subject to suspension or removal from judicial office, at the time it issues its written decision the Board shall forward its written decision to the Chair of the Tribal Council, along with the case file of the Board's proceedings.

2. Tribal Council Review

Within no more than 30 calendar days of receiving the case file referral, the Council shall independently review the Judicial Review Board's findings and the evidence presented in the case file. The Council may hold an additional hearing and request the presentation of any evidence it believes is needed to develop the facts. The Tribal Council may affirm, reverse, amend, or remand the disciplinary remedies proposed therein.

3. Decision on Suspension or Removal

Upon a finding that there is just cause, supported by clear and convincing evidence, that the subject Judge violated this Code in such a manner that suspension or removal is warranted, the Council shall suspend or remove a judge from judicial office by formal resolution, in which the grounds for the disciplinary action shall be briefly state.

4. Confidentiality

Disciplinary proceedings before the Council shall be maintained confidential, with the exception of any public reprimand and the enactment of a Council resolution suspending or removing the subject judge.

ADOPTION AND APPROVAL

This Code was approved by a vote of 6 for, 0 against, and 0 abstained at a duly-called meeting of the Kenaitze Tribal Council held on the 17th day of January, 2019.

CERTIFIED ON:

January 17, 2019
DATE

Wayne D. Wilson, Jr.
Wayne D. Wilson, Jr., Tribal Council Chair
Kenaitze Indian Tribe

Diana L. Zirul
Diana L. Zirul, Tribal Council Secretary
Kenaitze Indian Tribe

**Kenaitze Indian Tribe
JUDICIAL CODE OF CONDUCT**

ANNUAL ACKNOWLEDGMENT AND DISCLOSURE FORM

Year: _____

Please indicate any and all investments, financial or material interests, or obligations held by you *and* the members of your household below (attach additional sheets as needed):

Entity or Enterprise Name	Nature and Extent of Personal Interest

CERTIFICATION: If at any time following the submission of this form, I become aware of any actual or potential conflicts of interest, or if the information provided below becomes inaccurate or incomplete, I will promptly notify the Chief Judge and Tribal Court Administrator in writing.

Signature

Printed Name

Date