

Request for Removal of Prosecutor Policy and Procedures

Purpose: to provide instruction to Tribal Council and the Legislative Office on the procedures to follow upon receipt of a Request for Removal of a Prosecutor.

Section I. The Legislative Office, upon receipt of a complaint that requests for the removal of a Prosecutor, shall timestamp the complaint and marks the complaint with a statement on how the complaint was received by the office; i.e. mail, hand-delivered, etc. and give the complaint a number that is logged within the Legislative Office records.

The Legislative Office shall then forward the complaint to the Ethics Committee for a determination in accordance with the *Ethic Committee Policy and Procedures*. If the Committee determines that the allegation of the complaint is not based on ununethical conduct, as defined by the Little Traverse Bay Bands of Odawa Indians' Code of Conduct adopted by the Tribal Council then the complaint will be forwarded to Tribal Council members either by mail or electronic means.

Upon receipt of the complaint the Legislative Leader will call a meeting to determine if the complaint should be dismissed, pursue the complaint or turn it over to the Tribal police and shall consider the following:

- Does the complaint involve a Tribal Prosecutor(s) specially named?
- Is there a specific section of the Constitution for removal as follows:
 - a. Physical or mental disability which prevents the performance of prosecutorial duties;
 - b. Persistent failure to perform duties in a timely manner;
 - c. Gross misconduct that is clearly prejudicial to the administration of justice;
 - d. Ineligibility under Article X, to serve as a Tribal Prosecutor, including the revocation of his/her license to practice law;
 - e. Conviction of a felony while serving as Prosecutor by any court of

competent jurisdiction.

- Is the complaint signed, notarized and in writing?
- Does the complaint contain a clear and concise statement of the alleged actions and facts that support the allegation?

If all of the necessary requirements are met then the Tribal Council will proceed to section II. If the requirements are not met, then the complaint will be dismissed and the Complainant will be notified of the dismissal with reasons for such action or the committee may referred the complaint to another entity.

Section II.

Tribal Council may make the following determinations:

Dismiss the case as de minimis in nature and does not meet the severity for removal;
Refer to another entity;
Proceed with the complaint with holding a hearing

If Tribal council determines to proceed, they may choose to investigate for additional facts or veracity of the facts if needed by holding a hearing.

Notice of the hearing will be sent to both the Complainant and the Prosecutor(s) named in the complaint any and all document received by Tribal Council regarding the matter will be sent to both parties. The Complainant and the Prosecutor will be responsible for bringing forth any supporting documents and witnesses.

Section III. Adjudication

Following the hearing, Tribal Council would have several options:

- dismiss the complaint if no such substantial credible evidence is found;

- admonish the Official if such substantial credible evidence is found, but the alleged violation is inadvertent, technical or otherwise of de minimis in nature;
- Determine such sanctions may include but not limited to: censure, payment of restitution, suspension, or removal or such combination of these.

Section IV. Frivolous Claims

If the Committee determines that the complaint filed was frivolous and the person knew it to be false, Committee send a letter to the complainant barring them from any future complaints.

This Policy was approved by Tribal Council on:

Regina Gasco Bentley
Regina Gasco Bentley, Tribal Council Secretary

10-8-12
Date