



Sac and Fox Nation of Missouri in Kansas and Nebraska

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R- 21 -17

WHEREAS, the Sac and Fox Nation of Missouri in Kansas and Nebraska (the "Sac and Fox Nation of Missouri," "Nation" or "Tribe") is a federally-recognized, sovereign Indian tribe;

WHEREAS, the Sac and Fox Nation of Missouri in Kansas and Nebraska is duly organized in accordance with the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended; adopted an original Constitution approved by the Secretary of the Interior Affairs on March 2, 1937, which was amended and approved by the Commissioner of Indian Affairs on November 22, 1982; and adopted a subsequent, superseding Constitution that was approved by the qualified voters of the Nation on July 20, 1990, and further approved by the Deputy of the Assistant Secretary of Indian Affairs on July 26, 1990, pursuant to the above statute;

WHEREAS, the Sac and Fox Nation of Missouri in Kansas and Nebraska Tribal Council has been given full authority by the Nation's Constitution to act in all matters of business for the Nation, to make and enact ordinances to protect the peace, safety, health and general welfare of the members of the Nation, and to regulate the procedure of tribal agencies, tribal meetings and elections;

WHEREAS, the Sac and Fox Nation of Missouri in Kansas and Nebraska Tribal Council met in a convened session on the 14 day of March 2017, in Reserve, Kansas;

WHEREAS, the Tribal Council finds that it is in the best interests of the Nation to adopt a new Grievance Committee Ordinance, a copy of which is attached hereto and incorporated by reference, and now desires to approve and adopt the new Grievance Committee Ordinance;

WHEREAS, the Grievance Committee Ordinance has previously been codified as Title 15 of the Sac and Fox Tribal Code;


NOW THEREFORE, BE IT RESOLVED THAT the Sac and Fox Nation of Missouri in Kansas and Nebraska Tribal Council hereby repeals and rescinds the prior Grievance Committee Ordinance and any prior Title 15 of the Sac and Fox Tribal Code.

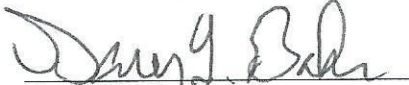
BE IT FURTHER RESOLVED THAT, the Sac and Fox Nation of Missouri in Kansas and Nebraska Tribal Council approves and adopts the new Grievance Committee Ordinance, attached hereto and incorporated by reference.

BE IT FURTHER RESOLVED THAT, the new Grievance Ordinance may be codified as Title 15 of the Sac and Fox Tribal Code.

CERTIFICATION

The foregoing resolution was duly adopted this 14 of March, 2017, in a duly convened meeting of the Sac and Fox Nation of Missouri in Kansas and Nebraska Tribal Council, at which 41 members of the Tribal Council were present, constituting a quorum, by a vote of 3 for, 0 against, and 1 abstaining.


Edmore Green, Chairman
Sac and Fox Nation of Missouri
in Kansas and Nebraska


Gary Bahr, Secretary
Sac and Fox Nation of Missouri
in Kansas and Nebraska

SAC AND FOX NATION OF MISSOURI IN KANSAS AND NEBRASKA GRIEVANCE COMMITTEE ORDINANCE

I. PURPOSE.

The Tribal Council has determined that the best interests of the Nation require an orderly process in which the Constitutional provision for recall and removal of Tribal Council members may be carried out. The purpose of this Ordinance is to provide that orderly process.

II. DEFINITIONS.

- A. "Tribe" or "Nation" means the Sac and Fox Nation of Missouri in Kansas and Nebraska.
- B. "Tribal Council" means the elected representative body of the Sac and Fox Nation of Missouri.
- C. "Reservation" means all the dependent Indian community of Reserve, Kansas, all trust lands, and lands within the exterior boundaries of the Sac and Fox Indian Reservation.
- D. "Tribal Member" means an enrolled member of the Tribe at least 18 years of age.
- E. "Immediate Family" means a spouse or any individual who has lived with the elected person in a marriage-like relationship for at least one year, a parent or grandparent, a sibling, or a child or grandchild (including natural, step, adopted, or foster of those relationships).
- F. "Committee" means the Grievance Committee unless otherwise indicated.
- G. "Respondent" means the Tribal Council Member against whom a recall proceeding is initiated.
- H. "Verification Date" means the date on which the signatures of at least 50 qualified voters are verified to be on a petition for recall of a Tribal Council Member.

III. REPEAL OF PRIOR GRIEVANCE COMMITTEE ORDINANCE.

Except where specifically referenced and incorporated herein, the Tribal Council hereby repeals the prior Grievance Committee Ordinance which shall be replaced by this Ordinance.

IV. ESTABLISHMENT OF GRIEVANCE COMMITTEE.

- A. The Grievance Committee shall be comprised of three (3) Tribal Members. Pursuant to the procedure specified in the tribal constitution at the initial election the Tribal Council shall nominate four (4) Tribal members to the General Council which shall then elect

three (3) members to the Grievance Committee. The Committee member receiving the highest number of votes shall be the Chairperson. The Chairperson shall be elected a term of three years. The member receiving the next highest vote shall be designated as Secretary and shall be elected for a term of two years, as shall the remaining member. In subsequent elections, the Tribal Council shall nominate one more candidates than there are vacancies to the General Council for election.

B. To be eligible to serve as a Committee member, a person must (1) be a Tribal Member, (2) not have been convicted of, found guilty of, or pled no contest to a felony or a crime involving dishonesty or moral turpitude in the past five years, and (3) not be an elected or appointed official of the Tribe.

C. No Committee member shall use his or her office for purposes which give the appearance of being motivated by private or financial gain or interest, direct or indirect, personally or through a member of his/her immediate family living in the same household. Each Committee member must disclose any known possible conflict of interest, detailing the nature of the possible conflict to the Tribal Council. If a Committee member has a conflict of interest the committee member must either refrain from participating in the discussion, consideration, decision or vote on the affected matter in which the Committee member has the conflict, or remove the conflict. A member of the Grievance Committee is ineligible for election or appointment to the Tribal Council during their term of office and for ninety (90) days after resignation from the Grievance Committee or expiration of their term.

V. JURISDICTION AND POWERS OF GRIEVANCE COMMITTEE.

A. The Grievance Committee shall have jurisdiction to investigate, process and hear petitions for recall of elected Tribal officials as set forth in this ordinance and to hear the defense of a Tribal Council Member subject to removal for neglect of duties or misconduct pursuant to Article VI, Section 2 of the Tribe's Constitution. The Grievance Committee shall have no other jurisdiction and no implied powers, or any implied delegation of powers of self-government from the Tribal Council or the General Council.

B. In carrying out its duties, the Grievance Committee shall have the power to subpoena witnesses on motion by itself, by the petitioner or the respondent. Failure to appear under subpoena may result in a finding of contempt and a fine not to exceed \$500; such penalty shall be enforceable in Tribal Court. Any party or witness to the hearing may be represented by legal counsel at his or her own expense.

VI. PROCEDURES FOR PETITIONS AND RECALL.

A. Initiating recall proceedings.

1. Whenever any legal voter of the Sac and Fox Nation of Missouri in Kansas and Nebraska desires to demand the recall of a Tribal Council member, he or she shall prepare a printed or typewritten statement reciting the reason the recall petition is being filed. The statement shall set forth the act or acts complained of, if any, the mailing address of the petitioner and be signed by him or her in the presence of a person

authorized by law to administer oaths and affirmations in the jurisdiction in which the petition is executed.

2. Should a person demand a recall and discharge of a Tribal Council member for no reason whatsoever (under the Sac and Fox Constitution no cause for recall is required) he or she shall so indicate on the printed or typewritten statement.

3. The purpose of requiring a statement of the facts relied upon is to notify a person of reasonable understanding of the exact act of commission or omission of which being complained, to avoid an unfair surprise and advantage, and to provide for due process. Accordingly, no act of omission or commission which is not alleged in the statement may be presented to or relied upon by the Grievance Committee or presented to or relied upon the General Council in determining the action.

B. Filing the Petition

1. The petition shall be filed by delivering an original and seven (7) copies to any member of the Grievance Committee.

2. Prior to accepting a petition for filing, the Grievance Committee shall require a filing fee to be paid in the amount of Three Hundred Dollars (\$300.00) which shall be taxed as costs of the action. This filing fee shall be paid by certified check or money order made payable to: "The Sac and Fox Nation of Missouri in Kansas and Nebraska Tribal Court". The filing fee shall be used to defray the costs of the Recall process.

3. Upon presentation of the petition and the filing fee, a Grievance Committee member shall immediately write upon each copy the exact time and date of filing and sign his or her name. The filing fee shall be delivered immediately to the Court Clerk and deposited in the Court's general fund.

4. The Grievance Committee member receiving the petition shall return one copy of the petition to the petitioner, deliver one copy to the Tribe for the official Tribal files, deliver one copy to each Grievance Committee member, and place the original and one copy in the Grievance Committee files. One copy shall be served to the Respondent.

C. Petition form.

1. Content. The recall petition shall contain the following information:

The heading shall read "PETITION FOR RECALL." The body of the petition shall be substantially in the following form:

All columns below must be complete for a voter's signature to be valid. In addition, a signature will not be valid if it appears on more than one petition.

PETITION FOR THE RECALL OF [here insert the name of the Tribal Council member whose recall is petitioned for].

We, the undersigned members of the Sac and Fox Nation of Missouri in Kansas and Nebraska, being duly enrolled, respectfully direct that a General Council Meeting be called to determine whether or not [here insert the name of the Council member whose recall is petitioned for] be recalled and discharged from office because [here insert the reason for the recall petition], in that he or she [here insert a description of what happened] as further set forth on the statement attached hereto, and each of us for himself or herself says: I have personally signed this petition; I am an enrolled member of the Sac and Fox Nation of Missouri in Kansas and Nebraska, aged 18 or older; my address is correctly stated and to my knowledge I have signed this petition only once.

	Tribal Member Signature	Print name	Street and number	City	State	Enrollment Number	Date Signed by Tribal Member	City, County and State at which signed by Tribal Member
1.								

SIGNATURE OF PETITIONER: _____.

SIGNATURE OF PETITION CARRIER: _____.

PRINTED NAME PETITION CARRIER: _____.

STATE OF _____)
)SS:
COUNTY OF _____)

The foregoing Petition was executed before me on _____, 20____, by _____, the Tribal Member affixing their signature to foregoing petition.

Notary Public

My appointment expires: _____

STATE OF _____)
)SS:
COUNTY OF _____)

The foregoing Petition was executed before me on _____, 20____ by _____, the Petition Carrier.

Notary Public

My appointment expires: _____

STATE OF _____)
)SS:
COUNTY OF _____)

The foregoing Petition was executed before me on _____, 20____, by _____, the Petitioner.

Notary Public

My appointment expires: _____

3. Petition size. Each recall petition at the time of circulation, signing and filing with the Grievance Committee shall be printed on sheets of paper of like size and quality and firmly fastened together.

4. Statement Attached. A copy of the verified printed or typewritten statement reciting the reason the recall petition is being filed must be attached to each signature sheet of the petition.

5. Each petition form shall only be for the removal of one Tribal Council Member. If recall of more than one Tribal Council Member is sought, a separate petition form must be used for each Tribal Council Member.

6. Each petition form sheet shall contain a maximum of one (1) signature line per page.

D. Signatures

1. Number of signatures required. When the person(s) demanding the recall of a Council member has secured sufficient signatures upon the recall petition he or she may submit the same to the Grievance Committee. The minimum number of signatures required for the recall process to proceed is 50 adult voting members of the General Council of the Tribe.
2. Rescinding signature. A General Council Member who has signed a petition may rescind his or her signature from the recall petition, provided a written request is submitted to the Grievance Committee before the General Council Meeting occurs pursuant to Article VI, Section 1 of the Constitution.
3. Notary Public. Each signature on the recall petition, including that of the petition carrier, and the petitioner must be acknowledged by a Notary Public or other officer legally authorized to administer oaths and affirmations in the jurisdiction where the signature is signed.

E. Verification. Upon the filing of a recall petition with the Grievance Committee, the Grievance Committee shall first proceed to verify the validity of the signatures on the petition. The Grievance Committee shall be provided access to the Nation's enrollment records to enable completion of the verification process. If the signature or any information contained on the petition does not match the information contained in the Nation's enrollment records, the signature shall not be verified or count toward the necessary number to initiate a recall. The decision of the Grievance Committee on the validity or verification of any signature shall be final. The verification process shall be completed by the Grievance Committee not less than seven nor more than 14 days from the date of the submission of a recall petition.

F. Computation of Time

1. Computation. In computing any time period, the day of commencement shall not be counted but the last day of the time period shall be counted, provided, that any period which would otherwise end on a Saturday, Sunday, or legal holiday will be deemed to end on the next day which is not a Saturday, Sunday or legal holiday.
2. Enlargement. The committee for good cause shown may enlarge the prescribed period of time.
3. Service by Mail. Whenever service is accomplished by mail, three (3) days shall be added to the prescribed period of time.

G. Answer.

1. A respondent against whom a petition has been submitted to the Grievance Committee shall have twenty (20) days from the verification date to answer or respond to the petition in writing.

2. A respondent shall admit or deny the claims and statements upon which the adverse party relies. If he or she is without information or knowledge regarding a statement or claim, he or she shall so state and such shall be deemed to be a denial. Denials shall fairly meet the substance of the claims or statements denied and may be made as to specified parts. A general denial shall not be made unless the respondent could in good faith deny each and every claim covered thereby.

H. Role of Grievance Committee. The role of the Grievance Committee shall be to hold an investigative hearing and to be finders of indicative evidence. As such they should hear the evidence submitted by the parties and decide from the evidence submitted to them. It is improper for a Grievance Committee member to participate or assist a party in presenting his case before the committee. However, it is proper for a committee member to question any witness after both parties have finished their questioning in order to clarify any questions that committee member may have. Members of the Grievance Committee may not discuss the case except for in a hearing, deliberations, or in the formal report and presentation to the General Council.

I. Quorum. The Grievance Committee may conduct a hearing of a petition only if the majority of the committee are actually in physical attendance at the hearing, provided, that less than a quorum of the committee may continue the hearing from time to time if a quorum is not present. Except as otherwise specifically provided in this ordinance, no action other than a continuance shall be permitted by less than a quorum of the Grievance Committee.

J. Date of Hearings.

1. Upon verification of 50 or more signatures on the petition of 50 or more qualified voters of the Nation, the Grievance Committee shall set a time, date, and place for a Grievance Committee hearing on the petition. The Grievance Committee hearing shall be set on a date between 40 and 47 days from the verification date. All parties shall be notified in writing of the time, date, and place of the hearing by the Grievance Committee.

2. On the Verification Date, the Grievance Committee shall notify the Tribal Council of the receipt of the recall petition and request that the Tribal Council call a meeting of the General Council for the purpose of hearing the recall petition. Upon receipt of such request, the Tribal Council shall call a meeting of the General Council to occur between 70 and 90 days from the Verification date.

K. General Order of Grievance Committee Hearing.

1. At the time, date, and place specified in the notice of hearing, and upon the readiness of the Grievance Committee, the hearing shall be called to order by the Grievance Committee.

2. The petitioner may present an opening statement indicating his or her evidence so that the committee will know what to expect and what that party thinks is important to his case. The petitioner shall then call his or her witnesses and offer his or her evidence in support of the petition.

3. The respondent may make his or her opening statement. The respondent then may call his or her witnesses and offer his or her evidence in support of his defense.

4. The committee may continue the hearing from time to time for good cause shown or on its own motion.

L. Taking Testimony of a Witness.

1. At all hearings, the testimony of witnesses shall be taken orally under oath.

2. The party calling the witness may question the witness about any matter relevant to the issues presented in the petition.

3. The adverse party may then question the witness about any testimony given and, further, may question him about any other matter relevant to the issue presented in the petition or relevant to the witnesses' honesty, reliability, or ability to perceive, remember, or relate the facts.

4. A party may use leading questions whenever such appears reasonably necessary to elicit testimony from witnesses of tender years or poor ability to communicate.

5. A party may call any person to be a witness and examine any witness so called on any matter relevant to the action. A party may impeach his own witness.

6. Any member of the committee may then question the witness on any issue previously raised in order to clarify his understanding of the testimony of that witness.

M. Evidence. All evidence admissible under the Sac and Fox Tribal Code shall be admissible and the competency of witness to testify shall be similarly determined.

N. Findings and Report.

1. Following the hearing, the members of the Grievance Committee shall deliberate regarding the evidence presented and make a decision of whether they recommend to the General Council that the respondent should be recalled or not.

2. Upon reaching the decision, the Grievance Committee shall state in writing the facts that they have found to be indicative, and the conclusions they have reached from those facts.

3. Each committee member present shall sign the findings and order indicating his or her agreement or disagreement with the findings and recommendations in the order, or may separately state his or her findings and what he or she would order in writing.

4. A copy of the written findings and order shall be submitted to the petitioner and respondent at least 14 days prior to the General Council hearing.

O. Result of False Swearing. If any member of the committee has reason to believe that for petitioning party swore falsely in making the petition, or that any party or witness has otherwise perjured themselves under oath, or that any violation of the law has occurred, they shall initiate the appropriate action to be taken.

P. Private Cause of Action Created. Any Tribal Council member or Grievance Committee member who is the subject of a petition shall have a cause of action in the Sac and Fox Tribal District Court for all his or her actual damages including damage to his or her reputation against the person(s) making the petition upon showing that the petition was filed, that the Tribal Council member prevailed, and that the petitioning party had no probable cause for the reasons stated for bringing the recall petition being filed. Upon an additional showing that the factual reasons petition were frivolous or were filed for purposes of political advantage, harassment, intimidation, or any other unlawful purpose, the Court may award punitive damages.

Q. General Council Recall Hearing.

1. Procedures. The General Council shall meet and conduct a recall hearing in accordance with the Constitution.

2. Presentation.

a.) The Grievance Committee shall present the petition, the evidence, and their written findings and recommendations to the General Council.

b.) The respondent shall be given the opportunity to present evidence to the General Council and to speak in his or her own behalf.

c.) The General Council shall serve as a jury as a whole and as such shall determine from the evidence presented whether the respondent is to be removed from office.

3. Deliberation. After the presentation of the investigative hearing findings and giving the respondent the opportunity to speak in his or her own behalf, any General Council member except the parties and the members of the Grievance Committee may address the General Council on any matter relevant to the issues, provided, that the Grievance Committee shall impose reasonable and equal time limitations and maintain order and decorum.

4. Voting. The vote taken on the issue of removal of the respondent shall be by secret ballot. The Grievance Committee shall see that each General Council member who has signed in is given one ballot. The Grievance Committee shall place a unique number or another unique identifier on each ballot distributed to ensure that each ballot is legitimate. The ballots shall be marked by the General Council members and collected by the Grievance Committee.

5. Judgment. The Grievance Committee shall immediately proceed to publicly count the returned ballots. More than one-half of the General Council quorum must respond in the affirmative for the removal of a Tribal Council member. The Grievance Committee shall announce the ballot results, enter such findings into the record and notify the Bureau of Indian Affairs and any other interested party of such results.

6. Election upon Removal. If the respondent is recalled, an election shall be immediately held to fill the unexpired term of the respondent. The election shall be held as set forth in Article IV of the Constitution and the Election Ordinance and administered by the Election Committee. A vote by secret ballot shall then be held and the nominee receiving the highest number of votes from the General Council shall fill the unexpired term.

7. Adjournment. If the respondent is not recalled, the General Council meeting shall immediately adjourn following the counting of the ballots and announcing the decision of the General Council. If the respondent is recalled, the General Council meeting shall immediately adjourn following the election of the replacement to fill the unexpired term. No other or different action may be taken at a General Council meeting called for a recall hearing.

8. Powers of Court Not Diminished. Nothing herein shall diminish or otherwise abridge the power or authority of the District Court to take jurisdiction of or enter any order in any matter relating to this subject matter which it would otherwise be competent to address.

VII. REMOVAL.

A. When under the authority of Article VI, Section 2 of the Constitution, the Tribal Council by an affirmative vote of at least three of its members, determines to begin removal proceedings against one of its members for neglect of duty or misconduct in office, the Tribal Council shall provide the member subject to removal with the charges against them in person or by certified mail. Such charges shall be in writing and be provided detailed description of the charges and evidence that is the basis for the Tribal Council's determination.

B. Upon receipt of such charges and evidence, the Council Member subject to removal shall have fifteen (15) days to request a hearing before the Grievance Committee. Such hearing shall be held within seven (7) days of such request. If the Tribal Council member subject to removal does not request a hearing or requests a hearing but does not attend or present a defense, removal shall occur automatically the end of the fifteen (15) day period from the vote

of the Tribal Council to begin the removal process, unless the Tribal Council affirmatively votes to withdraw the charges during this time period of fifteen (15) days.

C. At such Grievance Committee hearing, the Tribal Council shall designate a representative to present its charges, including witnesses, if any, against the Council member subject to removal. The Tribal Council member subject to removal may present a defense, including witnesses, if any, and may be represented by counsel at their own expense.

D. The Grievance Committee may upon its own motion call witnesses relevant to the charges. At the conclusion of the hearing, which shall be conducted informally, the Grievance Committee by majority vote shall determine whether the Tribal Council member subject to removal, should on the sole basis of the charges and evidence presented shall be removed or reinstated to office.

E. The decision of the Grievance Committee shall be final and is not subject to appeal.

F. Tribal Council procedures for voting on provisions related to Recall shall include the casting of a vote by the Tribal Council Member chairing the meeting who shall not be required to abstain.

G. When there is a vacancy in the Tribal Council by removal, the vacancy shall be filled by the process set forth in Article VI, Section 3 of the Tribe's Constitution.

VIII. FAILURE OF THE GRIEVANCE COMMITTEE TO ACT.

A. If the Grievance Committee fails to act pursuant to its responsibilities as delineated herein, the Tribal Council may remove Committee members by a majority vote of not less than three (3) Tribal Council members. Appeals from removal by a committee member by Tribal Council shall be filed within fifteen (15) days from the removal, in Tribal Court, which shall have jurisdiction to review the Tribal Council action to assure that it has not acted in an arbitrary and capricious manner.

B. If the reason why the Grievance Committee fails to act is the lack of a quorum of members of the Grievance Committee, then the Tribal Council shall call a General Council meeting to occur in not less than 30 but not more than 60 days for the purpose of electing Grievance Committee members. The sole purpose of such meeting of General Council shall be to fill the vacancies on the Grievance Committee and no other business shall be considered at such General Council Meeting. If a quorum of General Council Members is not obtained for the

General Council Meeting, then the Tribal Council shall repeat the process of calling and notice of a General Council Meeting until a quorum is reached. The deadlines for the procedures contained in this Ordinance for Recall and Removal shall be extended by the amount of time necessary to carry out the process of electing Grievance Committee members.

C. If there are no Members of the Grievance Committee, then a Petition for Recall may be submitted to the Clerk of the Tribal Court or a Judge of the Tribal Court. The Tribal Court official receiving the Petition shall notify the Tribal Council of the receipt of the Petition. The Tribal Council shall initiate the process of electing a Grievance Committee upon receipt of said notice from the Tribal Court. Upon the election of a Grievance Committee, the tribal court official shall give the petition to a member of the Grievance Committee. The Tribal Court official shall not take any other action with regard to the Petition other than safekeeping until it is given to Grievance Committee and this provision shall not establish any other authority or jurisdiction by the Tribal Court over matters of Recall or Removal.

D. Tribal Council procedures for voting on matters related to the Grievance Committee's failure to act shall include the casting of a vote by the Tribal Council Member chairing the meeting who shall not be required to abstain.

IX. SEVERABILITY.

The provisions of this Ordinance are severable. If any part or provision hereof is held void by Tribal or federal court, the decision of the court so holding shall not affect or impair any remaining provision of the Ordinance.