WHITE EARTH RESERVATION TRIBAL COUNCIL
A/K/A WHITE EARTH BUSINESS COMMITTEE
WHITE EARTH BAND OF CHIPPEWA INDIANS
Resolution No. 019-14-001

WHEREAS, the White Earth Reservation Tribal Council is the duly elected governing body of the White Earth Reservation pursuant to Article IV, Section 1, of the revised constitution of the Minnesota Chippewa Tribe, as amended, and organized under Section 16, of the Act of June 18, 1934 (48 Stat. 984), and

WHEREAS, the White Earth Reservation Tribal Council, also known as the White Earth Reservation Business Committee, is the duly authorized governing body of the White Earth Band, and

WHEREAS, the White Earth Tribal Council has the responsibility to set policy and authorize regulations that pertain to the operations of the various departments of the White Earth tribal government, and

WHEREAS, the White Earth Reservation Tribal Council previously adopted the Judicial Code by Resolution on November 3, 1997, and

WHEREAS, the Tribal Council has reviewed a proposed Code of Judicial Conduct to guide Judges of the White Earth Tribal Court, and the Tribal Council has determined that the standards should be adopted.

THEREFORE BE IT RESOLVED, that the White Earth Reservation Tribal Council hereby enacts as part of the White Earth Judicial Code the "White Earth Nation Code of Judicial Conduct."

We do hereby certify that the foregoing resolution was adopted by a vote of 3 for, 0 against, 0 silent, a quorum being present at a special meeting of the White Earth Reservation Tribal Council held on October 21, 2013 in White Earth, Minnesota.

Erma J. Vizenor, Chairwoman

Robert J. Durant, Secretary/Treasurer

WHITE EARTH NATION CODE OF JUDICIAL CONDUCT

Table of Contents

Preamble..... 2

Application of this Code 2

Canon One.....3
A White Earth Nation judge shall promote Ojibwe Justice.

Canon Two 5
A White Earth Nation judge shall promote and protect the independence of the Courts.

Canon Three 6
A White Earth Nation judge shall always exercise the inherent powers and duties of the Court with impartiality and diligence in order to encourage free discussion, achieve a prompt and speedy resolution of disputes, and obtain a just resolution of all matters under consideration.

Canon Four 9
A White Earth Nation judge shall assume administrative responsibility for the prompt, efficient, and careful exercise of court business.

Canon Five 10
A White Earth Nation judge shall seek continuing education to achieve knowledge of the law, and promote the overall competency of the White Earth Nation Tribal Courts.

Canon Six 11
A White Earth Nation judge shall avoid and refrain from engaging in improper political activity.

Canon Seven 12
A White Earth Nation judge shall avoid impropriety and the appearance of impropriety in all activities.

Canon Eight 14
A White Earth Nation judge shall not use the judicial position to promote financial or business dealings, and shall not engage in business dealings that compromise judicial independence.

Canon Nine 16
A White Earth Nation judge shall not lobby or advocate any position before a legislature or administrative agency unless done in conjunction with a judicial activity or to improve this White Earth Nation judicial system.

Approved 10/21/13
M/MD 2/TT 3-0

Canon Ten 17
A White Earth Nation judge shall not initiate, permit, or condone ex parte communications with parties, counsel, or interested persons except when provided by law.

Canon Eleven 18
A White Earth Nation judge shall recuse and disqualify himself or herself where the judge's impartiality might reasonably be questioned.

Preamble

This Code of Judicial Conduct addresses the special situation of White Earth judges in the Courts of the White Earth Nation. It states fundamental canons of conduct in general statements of judicial duties, the principles that underlie each duty, and directives for the judge to comply with them. The Code is designed to give general guidance by fixing minimum standards of conduct.

A longstanding objective of the White Earth Nation Tribal Courts is to preserve the customs and traditions of the Ojibwe people. The White Earth Nation Tribal Courts, as a branch of the White Earth Nation Tribal Government, must respond to the needs and expectations of the Ojibwe people, so they will accept and respect their courts and judges. A Code of Judicial Conduct for White Earth Nation Tribal Courts must incorporate the Seven Grandfather teachings, the underlying values of the Ojibwe people necessary for the collective survival of the community. The Seven Grandfather teachings instruct the Ojibwe people on how to live the good life and they are a necessary underpinning of the White Earth Nation Tribal Courts.

- *Debwewin*, truth
- *Zoongide'win*, bravery
- *Gwayakwaadiziwin*, honesty
- *Manaaji'idiwin*, respect
- *Zaagi'idiwin*, love
- *Nibwaakaawin*, wisdom
- *Dabasendizowin*, humility

Although the Seven Grandfather teachings may be discussed separately within this Code, White Earth Nation judges should seek to use all seven teachings concurrently when making their decisions.

Application of this Code

This code contains minimum standards, considerations, and directives that are necessary to guide each judge and serve as a reminder of the high degree of personal integrity required for those who hold judicial office. It states fundamental ethical principles for the White Earth Nation Tribal Courts.

This Code applies to each judge and justice of the White Earth Nation Tribal Courts, whether probationary or permanent. When a retired judge is called upon to serve, this Code applies to that individual.

Under certain circumstances this Code may apply to other members of the court staff, particularly those who advice or counsel a judge. In particular, this Code applies to law clerks, attorneys to the courts, paralegals, court administrators, and others who are in close and constant working relationships with a judge. This Code must apply because these officials are identified with judges in the eyes of the White Earth Nation public.

Canon One

A White Earth Nation Judge shall promote Ojibwe Justice.

Principle—

A White Earth Nation judge should decide and rule within the Seven Grandfather Teachings. This means that judges should apply Ojibwe concepts and procedures of justice, including the principles of *manaaji'idiwin*, respecting the dignity and rights of others; *debwewin*, speaking honestly at all times; *gwayakwaadiziwin*, maintaining truthfulness, sincerity, and fairness in all actions; and *dabasendizowin*, recognizing every person's capacity for self-growth and change as a sacred and equal part of Creation.

Considerations—

Debwewin; Zoongide'win; Gwayakwaadiziwin; Manaaji'idiwin; Zaagi'idiwin; Nibwaakaawin; Dabasendizowin

Directives—

- *Respect, Manaaji'idiwin*
  - One of the goals of Ojibwe justice is to ensure the dignity, individuality, and rights of others are respected at all times, throughout all judicial proceedings. The judges must promote respect between litigants, show respect to victims and community members by ensuring adequate restitution, and show respect to offenders or wrongdoers by taking into account their civil and natural rights during all stages of the judicial process.

- *Truth, Debwewin*
  - Ojibwe people believe the truth is held in the heart, and the truth must be expressed in every action. Judges must seek to speak and write as honestly as possible during every stage of the judicial process. Only by expressing *debwewin* will justice, personal equality, and national sovereignty be obtained.

- *Honesty, Gwayakwaadiziwin*
  - A judge must be truthful, sincere, and fair in all judicial actions. This includes the ability to manage confidential information and transmit information fairly and

truthfully. Not only must a judge be truthful and fair in all actions, they must hold others to a high standard of integrity. A judge should not permit aggressive behavior, badgering of witnesses, rudeness, the infliction of intentional humiliation or embarrassment, or any other conduct that obstructs the right to a full and fair hearing.

- *Humility, Dabasendizowin*
    - During the judicial process, judges must be modest in their actions and understand that although they sit in an elevated position within the White Earth Nation, they are an equal part of Creation, and in that way are no different from the offenders or wrongdoers who come before them. Throughout the judicial process, judges must demonstrate sensitivity and compassion and be respectful of the thoughts and ideas of others. When determining sentencing, judges must recognize the capacity for self-growth and change inherent in every part of Creation and rule accordingly. Judges must remain humble in the community as well as the courtroom; *dabasendizowin* prompts people to respect judges for their decisions, not their positions.

- *Bravery, Zoongide'win*
    - Judges hold a position of power within the White Earth Nation and as such they must have *zoongide'win*, a strong heart. A judge is expected to acknowledge his or her personal weaknesses and take actions to overcome them. A judge must have the ability to take the initiative and speak forthrightly when an act or omission has occurred that will jeopardize the individual rights of a litigant, the White Earth Nation Tribal Courts, or the White Earth Nation Tribal Government as a whole.

- *Love, Zaagi'idiwin*
    - Judges must express *zaagi'idiwin* while presiding over the White Earth Nation Tribal Courts; they must demonstrate kindness and compassion towards offenders and wrongdoers while instituting the orders and judgments necessary for health, safety, and welfare of the community. Judges must work cooperatively and harmoniously with members of the court staff. As individuals with advanced legal expertise, judges should encourage and empower members of the community to learn more about the judicial process and the laws that cover the White Earth Reservation.

- *Wisdom, Nibwaakaawin*
    - Judges are appointed in part for their *nibwaakaawin* of the law. Part of this wisdom requires judges to continually educate themselves about new laws affecting the White Earth Reservation; work to improve their skills in all areas of law and judicial responsibilities; demonstrate their wisdom and knowledge by recommending plans, solutions, and resolutions to the parties before the courts; and exhibit ethical behavior at all times. Judges are expected to take the time and opportunity to learn and seek guidance from others, especially Elders, about tribal customs and values.

Canon Two

A White Earth Nation judge shall promote and protect the independence of the Courts.

Principle—

Ojibwe people expect that those who make decisions about their lives and futures will be wise and completely independent, embodying the value of *gwayakwaadiziwin* to be correct and straight in everything they do. Improper influences may arise from family, clan, personal, or business relationships; a personal interest in the case before the court; giving in to, or fearing, political influence; or any consideration other than the equality of the parties and the merits of the case. To that end, all judges must recognize that they have a responsibility to speak as honestly as possible to express the truth in every action, *debwewin*. All judges must have *zoongide'win*, a strong heart, to remain personally impartial and independent and must act to promote and protect the independence of the White Earth Nation Tribal Courts.

Considerations—

Debwewin; Zoongide'win; Dabasendizowin

Directives—

- *Acting in Open Court*
  - All decisions should be announced in open court, except when the judge issues written judgments or orders. While there may be occasions when a judge must consult with parties or counsel in chambers, all should have a fair opportunity to make offers of proof, arguments, and objections for the record. Acting always in open court ensures *manaaji'idiwin*, respect, is shown towards all parties and encourages the public's *manaaji'idiwin*, respect, and confidence in the court system.

- *Judicial Bearing*
  - A judge must always consider how his or her bearing affects the public image of the White Earth Nation Tribal Courts. Judicial bearing may include a judge's behavior, comportment, conduct, deportment, or demeanor. Leaders are judged by their speech, actions, dress, appearance, manners, and conduct regardless of whether they are actively working or not; it is important for judges to always project the image of judicial impartiality and independence.

- *Independence and Separation of Powers*
  - A White Earth Nation judge should consider the independence of the White Earth Nation Tribal Courts and the separation of powers in the White Earth Nation Tribal Government when determining the facts of a case, applicable law, and the proper remedy in each case.

Canon Three

A White Earth Nation judge shall always exercise the inherent powers and duties of the Court with impartiality and diligence in order to encourage free discussion, achieve a prompt and speedy resolution of disputes, and obtain a just resolution of all matters under consideration.

Principle—

One of the inherent powers of a court is to regulate proceedings before it. As it is with all court powers, it must be used wisely and well, with impartiality and diligence, so that the end is a prompt and fair disposition of disputes with *manaaji'idiwin*, respect, shown to all parties throughout all proceedings.

Considerations—

Debwewin; Zoongide'win; Gwayakwaadiziwin; Manaaji'idiwin; Zaagi'idiwin; Nibwaakaawin

Directives—

- *Judges as Mediators*
  - A judge should use the pretrial conference, sentencing hearing, and post-judgment proceedings to encourage the parties to reach a consensus regarding their dispute. The judge shall not coerce or force a consensus among the parties. A consensus is considered coerced or forced when a judge refuses to accept a fair and reasonable contention that there are contested questions of fact, where testimony should be heard or evidence should be received, or where the judge is intent upon a settlement to save time and refuses to accept a reasonable refusal to settle.
  - A judge should enter an order of recusal and disqualify himself or herself when resentment over a party refusing to settle will affect the judge's ability to fairly hear a case. A judge should also enter a recusal when he or she has heard a great deal of information during settlement discussions that would otherwise not be admissible as evidence and the judge is unable to disregard that information in a trial.
  - A judge must balance the need to encourage full discussions of a case during settlement discussions and the need to disregard otherwise inadmissible evidence if the case goes to a trial or hearing. A judge must be careful not to receive information in violation of the rules of fairness, procedure, or evidence, but must encourage a full development of information to promote discussion and consensus.

- *Judges as Adjudicators*
  - When called upon to make a fair decision in a contested matter, the judge must be satisfied that all available and relevant information is before the court. Rules of

practice, procedure, and evidence should be liberally applied so all relevant facts and reasonable arguments of law are presented before the courts.

- The judge has the discretion to ask questions of witnesses, particularly when counsel fails to develop facts that are relevant to the pleading. The judge also has the discretion to compel the production of relevant evidence. A judge may recess or continue a case for a reasonable period of time to accomplish such purposes.

- *Counseling Parties before the Court*
  - A judge may enter any necessary orders or give direction to ensure a fair trial or hearing at any point in the proceedings. However, a judge may not unfairly admonish a party or counsel before the court, especially if it will give an appearance of partiality to one side.
  - A judge may provide counseling to a party or counsel who have engaged in unfair or improper conduct during the course of a trial or hearing. This counsel must occur following the entry of judgment and it must be made clear that the counseling did not affect the outcome of the case.
  - If there has been a direct or indirect contempt of court by a party or counsel, the judge should not counsel, but should use the procedures for punishments laid out in Title 1, Chapter 6 of the White Earth Nation Code. The judge may also refer acts of contempt or misconduct to the White Earth Reservation Tribal Council.

- *Following the Law*
  - A judge must be faithful to the law and must use his or her best efforts to discover and apply any rule of law declared by the White Earth Reservation Treaty of 1867, applicable federal statutes, enactments of the White Earth Reservation Tribal Council, or any applicable and relevant principles of law from other jurisdictions. A judge should only apply the law to a case and must not consider partisan or factional interests, public clamor, or possible criticisms.

- *Bias*
  - A judge must perform the duties of the judicial office without bias, prejudice, or favoritism and must enter an order of recusal if the bias would affect the final decision. A judge must hold all members of the court staff, counsel, and any person coming before the court to the same standard. A judge need not automatically enter an order of recusal because of a personal opinion, but must be aware of the bias and deliberately self-examine to determine whether it would be inappropriate to hear the case and whether it would affect the final decision.

- *Consultations*
  - A judge may consult with other judges or members of the court staff regarding applicable points of law in a case and may receive appropriate assistance in the preparation of an order, judgment, or other decision. A judge may also consult with independent and impartial experts in the law regarding relevant general principles of law in a case. The independent experts may include law professors, attorneys, field experts, medicine men and women, counselors on tribal customs and usages, or other persons having expertise in law.
  - A judge need not disclose the consultation with such a person, but must limit the consultation to general opinions of law on adjudicated facts. The judge always

retains the ultimate responsibility to decide questions of fact and law in a case.

- *Outside Activities*
  - The White Earth Nation public opinion of the courts will be determined in part by the personal conduct of the judges. Outside personal, business, or social activities of the judges must not create a conflict with a judge's public duty. Attention to personal, business, or social activities should not reduce the time a judge devotes to the courts. The personal, business, or social activities of a judge must not be undertaken in a way that creates public distrust in the judge's ability to decide matters with fairness and impartiality.
  - To foster trust in the judges and White Earth Nation Tribal Courts, all judges must give prompt attention to debts and obligations; avoid the use of intoxicants, except where permitted and in a moderate matter; treat their spouses and children with respect and courtesy while in public; avoid sexual impropriety; avoid improper and offensive language or comments; and comply with all other Ojibwe concepts of propriety, decency, and morality.

- *Behavior in Other Courts*
  - A judge presiding in a court of a foreign jurisdiction must respect the integrity of that court and of the judges who have previously presided in the matter or who will later preside in the matter. Any previous procedural ruling is binding upon the successor judge, unless the ruling is clearly unjust or violates fundamental principles of law.
  - A judge may assume jurisdiction only upon a clear appointment and with clear jurisdiction.
  - A judge who appears in another tribe's court or tribunal must respect the culture and traditions of that tribe. A judge who appears in a state or federal jurisdiction must respect the applicable rules of procedure and codes of conduct specific to that court.

- *Efficient Decisions*
  - A judge shall plan and schedule pending cases to ensure a speedy, efficient, prompt, fair, and thoughtful determination of all disputed questions of fact and law. If a judge is hesitant to rule on a matter because of a lack of knowledge of the applicable law or the importance of the decision, the judge should use all resources available within the judicial branch to assist in making the decision. Cases should not be left undecided when proper consultation could aid in making a prompt decision.
  - Due regard should be given to the right of a speedy trial in criminal matters, especially to those individuals who are in jail pending their criminal trial.
  - Children, Elders, vulnerable adults, and those who complain of deprivations of fundamental civil rights are entitled to have their cases decided promptly.
  - Cases should also be heard promptly when proper relief is an injunction, restraining order, or other specific order to cure a violation of civil rights.

- *Public Comments on Judicial Business*

- The judges shall not publicly comment on matters pending before the courts and must not provide information to the news media or persons in semipublic contacts. A judge may give public statements regarding views on tribal law, but they may only be general expressions of informed opinions that are not related to any matter currently pending before the White Earth Nation Tribal Courts.

- *Disclosure of Private Information*
  - No judge shall make personal use or disclose of any non-public information acquired during the course of holding judicial office. The judge also may not make use of any non-public information after leaving his or her judicial office.

Canon Four

A White Earth Nation judge shall assume administrative responsibility for the prompt, efficient, and careful exercise of court business.

Principle—

Aside from the duty to preside over cases, a judge has the responsibility to oversee the administrative functions of the court. A judge should supervise the activities of the court staff to ensure the duties and responsibilities of each member are performed. A judge should encourage *nibwaakaawin*, an abundance of wisdom, in the courts to ensure the continual acquisition of skills and the practice of ethical behavior among the court staff.

Considerations—

Gwayakwaadiziwin; Nibwaakaawin

Directives—

- *Planning*
  - A judge must develop long-term and short-term plans to identify the needs, goals, and objectives of the White Earth Nation Tribal Courts and make appropriate delegations and assignments of responsibility to the court staff.

- *Education*
  - A judge should encourage continuing education and the development of professional skills among members of the court staff in an effort to continually increase the competency and effectiveness of the White Earth Nation Tribal Courts.

- *Delegations and Assignments*
  - A judge should delegate administrative tasks and responsibilities to staff members, assign non-judicial support duties to qualified personnel, and ensure that members of the court staff understand their duties and responsibilities.

- *Supervision*

- A judge should adequately supervise the courts to ensure that members of the court staff properly perform their position's duties.

- *Orientation*
  - A judge should provide ongoing orientation to members of the court staff regarding their duties to the courts and to the public. Instruction should be given on the proper role and function of each court staff member, including the duty to treat members of the public with the utmost courtesy and cooperation.

- *Personnel Matters*
  - A judge may only consider merit and qualifications when hiring, assigning, promoting, or disciplining members of the court staff. A judge may not use any personal bias, prejudice, nepotism, favoritism, or any other factor when carrying out personnel matters.

- *Discipline*
  - A judge should impose appropriate discipline for infractions of court policy or for a failure to carry out specified duties of a court staff position. Discipline should only be imposed after an orientation on the duties of the position and court standards, counseling for minor infractions, and a fair hearing as determined by tribal dispute policy.

Canon Five

A White Earth Nation judge shall seek continuing education to achieve knowledge of the law, and promote the overall competency of the White Earth Nation Tribal Courts.

Principle—

Ojibwe people value Elders for their *nibwaakaawin*, their abundance of wisdom. It is important that White Earth Nation judges take the time to acquire knowledge from all people, teachings, and experiences to reflect the value of *nibwaakaawin*. White Earth Nation judges are chosen in part for their wisdom, so each judge must undertake a personal quest for knowledge of the law in order to meet the expectations of the public and ensure the White Earth Nation Tribal Courts are held to the highest standards of competency.

Considerations—

Gwayakwaadiziwin; Nibwaakaawin; Dabasendizowin

Directives—

- *Personal Competency in the Law*
    - A judge must make a personal assessment of his or her weaknesses in legal knowledge, especially in those areas of law that are necessary in carrying out judicial duties. A judge should develop a personal training plan, identify training opportunities, and communicate any immediate training needs to an appropriate agency. A judge should continually seek materials and resources for personal study and should strive to seek out new approaches and techniques to aid in the making of wise and prompt decisions.

- *Assisting and Encouraging Others*
    - A judge is likely to have knowledge and skills not possessed by other judges and should endeavor to offer his or her knowledge and skills to others. A judge should participate in the development of comprehensive training and education plans, encourage and participate in the White Earth Nation Tribal Courts training activities, and promote discussions with other judges regarding applicable law, court policy, and successful judicial techniques.

- *Legal Education*
    - A judge should promote legal education within the White Earth Nation Tribal Courts and to members of the general public. This may be done by participating in public functions, attending tribal, state, and national legal education conferences, and responding to invitations to speak to public groups. A judge should welcome any opportunity to inform the public on the law and reinforce the dignity and sovereignty of the White Earth Nation Tribal Courts.

Canon Six

A White Earth Nation judge shall avoid and refrain from engaging in improper political activity.

Principle—

White Earth Nation politics and political relationships are unique among state and federal jurisdictions because of group, family, and clan participation in the political process. A White Earth Nation judge should vote, encourage others to vote, participate in community and tribal council meetings, and generally be involved in local affairs. Judges may exercise their voting rights and their right to have personal opinions on matters of public interest as individuals. However, the public expect judges to *gwayakwaadiziwin*, to be correct and strait in everything, by remaining fair, truthful, and impartial, so a judge must show *zoongide'win*, courage and integrity, to avoid improper political activity.

Considerations—

Debwewin; Zoongide'win; Gwayakwaadiziwin; Nibwaakaawin; Dabasendizowin

Directives—

- *Political Activities*
  - A judge may participate in governmental functions and activities, but may not engage in political functions. A judge shall not:
    - Act as a leader or hold an office in a White Earth Nation political organization. These organizations include political parties or their factions and organizations that advocate in support or against a specific candidate or political view;
    - Publicly endorse or oppose any candidate for White Earth Nation public elective office. A judge may support a candidate for state or federal elective office;
    - Make any speech or pronouncement on behalf of any White Earth Nation political organization;
    - Attend a meeting or gathering of any White Earth Nation political organization;
    - Solicit funds for, pay monies to, or make contributions towards any candidate or White Earth Nation political organization, including any fundraisers or social functions.

- *Candidacy for Public Elective Office*
  - A judge shall not retain judicial office and simultaneously be a candidate for any public elective office that is filled through an electorate vote.

- *Resignation upon Candidacy*
  - A judge who becomes a candidate or announces an intent to become a candidate to public elective office must immediately resign from judicial office.

- *Expression of Political Views*
  - The judges must avoid any public expression of political views. A judge may express prudent and appropriate views on matters that do not compromise judicial independence, taking care to ensure it is understood the views do not represent the White Earth Nation Tribal Courts.

- *Contributions*
  - A judge may not make contributions to political groups or other groups for activities that are not social in nature.

Canon Seven

A White Earth Nation judge shall avoid impropriety and the appearance of impropriety in all activities.

Principle—

Impropriety is any act that violates any law, any action or inaction contrary to the duties of judicial office or this Code, and any act that undermines public confidence in the judge or the White Earth Nation Tribal Courts. An act of impropriety is clearly improper and in violation of the oath to follow and uphold the law, the value of *gwayakwaadiziwin*, or one that merely creates the appearance of impropriety.

Considerations—

Debwewin; Zoongide'win; Gwayakwaadiziwin; Manaaji'idiwin; Nibwaakaawin; Dabasendizowin

Directives—

- *Obedience to the Law*
  - A judge shall comply with the laws of the White Earth Nation Tribal Government and act to promote public confidence in the integrity, fairness, and impartiality of the White Earth Nation judiciary.

- *Impartiality*
  - A judge shall not allow family, clan, religious, social, political, or other relationships and activities to influence judicial conduct or judgment.

- *Use of Office for Self or Others*
  - A judge shall not use the prestige of judicial office to promote the interests of the judge or others.

- *Influence*
  - A judge shall not act or permit others to act so as to give the impression they have any special influence with the judge or are in a position to influence the judge.

- *Testimony*
  - 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 includes letters to other courts or probation officers, but does not prohibit letters of recommendation for matters outside judicial jurisdiction.

- *Membership in Organizations*
  - A judge shall not serve as a member of a board, including nonprofit organization boards, unless the work of the board deals with the promotion of law or the judiciary and membership does not conflict with judicial duties.
  - Prohibition on board membership includes membership on advisory boards.

Canon Eight

A White Earth Nation judge shall not use the judicial position to promote financial or business dealings, and shall not engage in business dealings that compromise judicial independence.

Principle—

A White Earth Nation judge shall not use his or her judicial office for personal gain, including using the status of judge in commercial activities, the obtainment of loans, or receiving benefits from governmental entities. While judges may receive income from investments or outside business interests, those financial activities must not constitute a conflict of interest or an appearance of a conflict of interest. Instead, judges must *dabasendizowin*, be modest in their actions while recognizing they are a sacred and equal part of Creation.

Considerations—

Debwewin; Zoongide'win; Gwayakwaadiziwin; Manaaji'idiwin; Nibwaakaawin; Dabasendizowin

Directives—

- *Use of Official Position*
  - A judge shall not engage in any financial or business dealing by using, or appearing to use, judicial office as an advantage. This does not preclude self-identification as a judge where normal business practice requires disclosure of a person's occupation.

- *Financial or Business Relationships*
  - A judge shall not engage in financial or business dealings that create a relationship with counsel who regularly appear before the White Earth Nation Tribal Courts.
  - A judge shall not engage in financial or business activities that are likely to come before the White Earth Nation Tribal Courts.

- *Investments*
  - A judge may hold and manage investments for self and family, including real estate transactions or other gainful activity, subject to this Code.

- *Business Entities*
  - A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity, except:
    - A business owned by the judge or members of the judge's family; or
    - A business entity primarily engaged in investments on behalf of the judge or the judge's family.

- *Managing Investments*

- A judge shall manage personal, family, and financial investments and interests in a manner that minimizes the number of cases where the judge would be disqualified. In situations where there may be a conflict of interest by holding investments in entities that appear before the White Earth Nation Tribal Courts, the judge should give up those investments as soon as the judge can do so without serious financial detriment.

- *Gifts and Loans*
  - A judge and members of the judge's family residing in the same household shall not accept or knowingly permit the acceptance of any gift, bequest, favor, or loan, except:
    - Gifts as public testimonials or honoraria; gifts customarily offered for speaking engagements; gifts by Indian customs; ordinary social hospitality gifts; complimentary items offered by publishers or suppliers; invitations for bar-related functions; or public functions associated with the law and judicial offices;
    - Gifts, awards, or benefits arising out of the business, profession, or separate activity of a family member residing in the judge's household, including those for the use of the judge, provided that the gift cannot reasonably be seen as intending to influence the judge in performing judicial duties;
    - Gifts from a relative or friend for a special occasion, such as a wedding, anniversary, birthday, or ceremony, provided that the gift is fit for the occasion and the relationship;
    - Gifts, bequests, favors, or loans from a blood relative or close personal friend where the judge would be disqualified from hearing a case involving the person regardless of the gift;
    - Loans from a public or private lending institution in the regular course of business and on the same terms as those available to persons who are not judges; and
    - Scholarships or fellowships awarded on the same terms and criteria as to other applications.

- *Trusts, Estates, and Fiduciary Activities*
  - A judge shall not serve as an executor, administrator, personal representative, trustee, attorney in fact, or other fiduciary, except for the estate or person of a member of the judge's family. All general restrictions on financial activities within this code apply when a judge serves in a fiduciary position.
  - A judge shall not serve in these positions if it is likely the judge will be involved in adversary proceedings before the White Earth Nation Tribal Courts.

- *Services as a Peacemaker, Arbitrator, or Private Mediator*
  - A judge shall not serve as a peacemaker, arbitrator or private mediator, or otherwise perform any judicial functions in a private capacity during the course of his or her employment.

- *Business with the Judicial Branch*

- No judge or members of a judge's immediate family may conduct an outside business as a vendor or supplier with the White Earth Nation Tribal Court system. This does not prohibit a family member of the judge from working for the tribe in another department.

- *Outside Compensation*
  - In accordance with guidelines established by the Chief Justice, each judge shall make an annual report of all outside compensation and financial interests to the Court Administrator.

Canon Nine

A White Earth Nation judge shall not lobby or advocate any position before a legislature or administrative agency unless done in conjunction with a judicial activity or to improve this White Earth Nation judicial system.

Principle—

The public expects that White Earth Nation judges will show *manaaji'idiwin*, respect, to everything, and such it is inappropriate for a judge to lobby, participate in lobbying, provide his or her name for lobbying, or advocate any position before a legislative or administrative body. However, there may be occasions when a legislative or administrative proposal may be of interest to the White Earth judiciary as a whole, and in those instances judges are expected to have *zoongide'win*, a strong heart, to take the initiative and speak forthrightly about the proposal using their judicial office.

Considerations—

Debwewin; Zoongide'win; Gwayakwaadiziwin; Manaaji'idiwin; Nibwaakaawin; Dabasendizowin

Directives—

- *General Prohibition*
  - A judge shall not participate in, comment upon, advocate, or permit the use of the judge's name for the advocacy of any position pending before the White Earth Nation Tribal Government, any state legislature, United States Congress, any administrative agency, or any public body.
  - Lobbying the enactment or defeat of legislation or policy before a legislative or policy-making body is generally prohibited.

- *Exception*
  - Where a matter affects the White Earth Nation judiciary or falls within judicial expertise in the law and is pending before a nonjudicial body, a judge may participate in the proceedings.

- Participation may only occur after consultation with appropriate judicial personnel and the development of a court policy on the issue.
- A judge may appear to give testimony only after consultation with the Chief Justice and the White Earth Nation Tribal Council.

Canon Ten

A White Earth Nation judge shall not initiate, permit, or condone ex parte communications with parties, counsel, or interested persons except when provided by law.

Principle—

Informal out-of-court communications regarding the merits of a case undermine the independence, integrity, and final decisions of a judge. Instead, judges must *gwayakwaadiziwin*, possess the ability to manage confidential information and transmit information fairly and truthfully. Any attempt to communicate information or opinions on a matter pending before the Court to the judge should be politely, but firmly, discouraged and punished if appropriate. Communications regarding administrative matters, scheduling, or matters unrelated to the merits of the case are appropriate in certain situations.

Considerations—

Debwewin; Zoongide'win; Gwayakwaadiziwin; Manaaji'idiwin; Nibwaakaawin; Dabasendizowin

Directives—

- *Ex parte Communications*
  - An ex parte communication is any written or oral communication of information or opinion regarding the merits of a case, without an opportunity for all parties to participate in, or respond to, the communication.

- *General Prohibition*
  - A judge shall not initiate, permit, or condone any ex parte communication with a party, counsel, or interested person, except as provided by law.

- *Visits to Chambers*
  - A judge should refuse to speak with any party or attorney in chambers regarding a matter before the court, unless the judge is satisfied that:
    - The party or attorney has consulted with all opposing parties or counsel and has obtained their agreement to consult with the judge regarding a particular matter;
    - The visit involves a purely administrative function;
    - The question to be discussed is a matter of scheduling; or

        - The visit is for the purpose of making an application for a special writ or proceeding, permitted by law to be done ex parte.
    - Any other visitor who wishes to discuss a case should be firmly, but courteously, told that the judge cannot and will not discuss any case pending before the Court.

- *Recording Permissible Visits*
    - Where a party or counsel is permitted to discuss a matter by consent or make a visit for scheduling, the judge or a court staff member should prepare a memorandum of what was discussed for all parties and the court file.

- *Emergency Requests and Extraordinary Writs*
    - The petition for an emergency request or an extraordinary writ should be presented in open court and in the presence of a clerk of court.
    - The proceedings should be recorded by tape recording or minute entry.
    - In the rare occasions where an individual makes an emergency visit to a judge at the judge's home, the judge should make arrangements to record or report the meeting and its results.

- *Non-adversarial Matters*
    - This cannon shall not apply to judicial functions that do not involve adversarial proceedings, such as name changes.

Canon Eleven

A White Earth Nation judge shall recuse and disqualify himself or herself where the judge's impartiality might reasonably be questioned.

Principle—

In order to *manaaji'idwin*, respect and safeguard the dignity, individuality, and rights of everyone, a judge should recuse or disqualify himself or herself in situations which give an appearance of impropriety or partiality, including:

- *Personal Bias, Prejudice, or Knowledge*
    - A judge should not preside over a matter where the judge has a personal bias or prejudice toward the party, or where the judge has personal, firsthand knowledge of the facts that will arise in the case.

- *Service as Counsel, Law Associate, or Material Witness*
    - A judge should not preside over a matter where the judge has served as counsel in the case before the court, where counsel appearing before the judge has been associated as counsel in the case before the court, or where the judge is a material witness in the case.

- *Economic Interest*

- Where a judge, acting individually or as a fiduciary, or the judge's spouse, parent, or child has an economic interest in the subject of the case, or any interest that could be substantially affected by its outcome, the judge should not preside.

- *Blood Relations*
  - A judge should not preside where a party is the judge's relative by blood to the fourth degree. This includes the judge's father, mother, maternal or paternal grandparent, uncle, aunt, brother, or sister, or the party is a child, spouse, or guardian of such person. This rule also applies for entities where such persons are officers, directors, or trustees.

Considerations—

Debwewin; Zoongide'win; Gwayakwaadiziwin; Manaaji'idiwin; Nibwaakaawin; Dabasendizowin

Directives—

- *Recusal or Disqualification*
  - The above situations are ones where the judge should enter an order of recusal or grant a motion of disqualification. Other situations may arise where a judge may have a past or present relationship to a party or witness—the judge is required to enter an order of recusal or grant a motion of disqualification in any situation where there may be the appearance of impropriety or partiality.

- *Questionable Situations*
  - Where a judge knows of any situation where the judge's fairness or impartiality may be called into question, the judge should make a disclosure of the facts of the matter to the parties and state whether the judge feels the matter will actually affect the fairness and impartiality of the case.
  - The parties are permitted to act in accordance with the information provided by the judge.

- *Use of Sound Discretion*
  - A judge should not grant a motion for disqualification without good cause. The judge must consider judicial economy; the use of a motion for disqualification as a delay tactic; the availability of other judges to hear the matter; and whether the disqualification will cause unfairness or injustice to any party involved.