



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Approving Posting of Ordinance No. 313, Amending the White Mountain Apache Tribe Judicial Code)

WHEREAS, Pursuant to Article IV, Section 1(q) of the Tribal Constitution, the Tribal Council (“Council”) may enact ordinances that concern the welfare of the Tribe, to manage all economic affairs and enterprises of the Tribe, and to regulate subordinate organizations for economic and other purposes; and

WHEREAS, The Office of the Attorney General has this day proposed revisions to the Judicial Code, as set forth in Ordinance No. 312, attached hereto; and

WHEREAS, Pursuant to Article XV of the Constitution of the White Mountain Apache Tribe, the proposed amendments shall be posted in each district for at least ten (10) days before final action by the Council; and

WHEREAS, The Council has reviewed Ordinance No. 312 carefully, and considered the recommendations and the implications thereof in great detail and finds the posting of Ordinance No. 313 to be in the best interest of the Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that proposed Ordinance 313, which amends Section 2.8(C) of the Judicial Code, attached hereto, is hereby recommended for posting by the Tribal Council.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe, as follows:

1. The Tribal Council Secretary is hereby authorized and directed to post this resolution and Ordinance No. 313, in each district for at least ten (10) days before final action by the Council. In addition, notices of the proposed ordinance shall be sent in the form of a press release to KNNB-FM and the Apache Scout.
2. Any and all comments concerning Ordinance No. 313 proposed herein may be sent to the attention of the Tribal Council Secretary, White Mountain Apache Tribe, P. O. Box 700, Whiteriver, AZ 85941.
3. Upon completion of the posting period, the Tribal Council Secretary is further directed to submit proof of posting to the Tribal Council and the Attorney General’s Office and to report any public comments to the Tribal Council, and schedule a meeting thereof for final action. Proof of posting should include start and end date of posting period, and locations of posting.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances, or any material facts concerning the issues presented are later found to be false, this Resolution shall be deemed null and void and have no legal effect.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Vice-Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on APRIL 02, 2025 duly adopted by a vote of NINE for, ZERO against, and ZERO abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it under the enumerated powers listed in Article IV, Section 1 of the WMAT Constitution, so ratified on November 10, 2021, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).

<u>Kasey Velasquez 4.2.25</u>	<u>Vaneyssa Johnson 04/02/2025</u>
Kasey Velasquez, Chairman	Vaneyssa Johnson, Tribal Secretary
Date	Date

**ORDINANCE OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

BE IT ENACTED BY THE COUNCIL OF THE WHITE MOUNTAIN APACHE TRIBE Ordinance No. 313, revising Sections 2.27 and 2.28 of the White Mountain Apache Judicial Code, as follows:

SECTION 2.27 LICENSE TO PRACTICE LAW; FEES; ROLE OF ATTORNEYS AND ADVOCATES COUNSEL; STANDARDS OF CONDUCT

A. License Required. No person shall practice law within the Fort Apache Indian Reservation or before the courts of the White Mountain Apache Tribe except as an attorney or advocate licensed by the Court. All such persons shall be subject to the provisions of this Code, including Section 2.26, and all duly enacted Court rules, including the White Mountain Apache Tribe Rules of Professional **Conduct Ethics**. Failure to maintain compliance with applicable Court rules and this Code may result in the imposition of sanctions, including monetary sanctions, ~~as well as~~ suspension **and or** disbarment. For the purposes of this Section, an “advocate” is a person who would be eligible to practice law pursuant to Section 2.27B, but is not a graduate of an ABA accredited law school; an “attorney” is a person who is a graduate of an ABA accredited law school with a juris doctor degree or equivalent and who would be eligible to practice law pursuant Section 2.27C.

B. Licensing Standards for Advocates.

1. **Background Checks. To be eligible for a license, applicants must submit and pass WMAT and State background checks, which the applicants must pay for and submit.**
 - a. **Disqualifying Offenses. Applicants who have been convicted on any criminal offense involving violence, dishonesty, breach of trust, or serious interference with the administration of justice in the past five years shall be ineligible to practice. Applicants with repeated convictions of any type that show indifference to legal obligations, even if those convictions are older than 5 years, may be deemed ineligible to practice, in the discretion of the Chief Judge.**
21. ~~Tribal Members.~~ Any adult member of the Tribe **or other federally-recognized Tribe** may apply to the Tribal Court for a license to practice law as an advocate, provided such person submits a completed application, **passes the White Mountain Apache Advocate Bar Examination**, and complies with the provisions of this Code and all duly enacted Court rules.
32. ~~Non-Tribal Members~~ **Tribal Employee.** Any adult non-member of the Tribe who is employed by the Tribe ~~or a public defender organization approved by the Tribe~~ for the prosecution or defense of criminal cases, child welfare and delinquency cases, civil Game and Fish Code cases, ~~or~~ enforcement of other Tribal laws, **or employee of a legal aid organization approved by the Tribe**, may apply to the Tribal Court for a license to practice law as an advocate, provided that such person submits a completed application and complies with the provisions of this Code and all duly enacted Court rules. ~~To be eligible for licensing as an advocate, the non-member must also be licensed to practice law by, and in good standing with, at least one other tribal jurisdiction.~~ The license issued pursuant to this paragraph shall be restricted to the practice of law before the courts of the White Mountain Apache Tribe for the limited purpose of the performance of the advocate’s employment obligations on behalf of the Tribe or **legal aid public defender** organization approved by the Tribe.

4. Except as provided for below, all Advocates shall complete and pass the White Mountain Apache Advocate Bar Exam before being issued a license to practice law in the Tribe's courts.
 - a. Advocates licenses to practice law in the Tribe's courts before the enactment of this session, shall be deemed admitted, and shall not need to take the White Mountain Apache Advocate Bar Exam; and
 - b. Tribal employees who practice law in the Tribe's courts pursuant to their job duties may be issued provisional licenses to practice, limited to their job duties, until the Tribal Court conducts a bar examination. Applicants practicing under a provisional license who fail an advocate bar exam shall have their licenses to practice suspended until they can pass a subsequent exam.

E. License Renewal.

2. Attorneys **or advocates** renewing their license to practice before the Tribal Court must file with the Tribal Court:
 - a. ~~A a-certificate declaration~~ certifying compliance with the Constitution, Amendments, and ~~Law and Order Code Codes and Rules~~ of the White Mountain Apache Tribe;
 - b. Unless an Attorney or Advocate is employed by the Tribe, a declaration certifying that the Attorney or Advocate voluntarily rendered ten (10) hours of public interest legal service per calendar year by one or a combination of the following activities:
 - i. Accepting pro bono appointments;
 - ii. Providing professional services at no fee or at a substantially reduced fee to residents of the Fort Apache Indian Reservation; or
 - iii. Providing services at no fee or at a substantially reduced fee in connection with law-related education sponsored by the White Mountain Apache Baw Association.
 - c. A declaration certifying that the Attorney or Advocate completed four (4) hours of Continuing Legal Education (CLE) of White Mountain Apache Law, offered or approved by the Chief Judge, of which a minimum of one (1) hour must be in professional responsibility/ethics in White Mountain Apache Law;
 - i. Teaching CLE classes. Time spent by Attorneys or Advocates who volunteer or are appointed to teach CLE classes shall count towards this requirement.
 - d. ~~Payment of and pay a license fee. ,the amount of which shall be determined by the Court, to the Clerk of the Tribal Court before any~~ **The Chief Judge shall determine the amount of a license fee. Payment in full of such fee shall be received by the Court Administrator before any license to practice is issued or renewed.** Any license not renewed shall expire on February 2.

G. The Chief Judge of the Tribal Court shall establish **rules to govern Attorneys and Advocates, which may be enacted by Tribal Council.** ~~,as part of the Rules of Court, standards of conduct and professional responsibility for legal counsel, which shall apply to all branches of the Tribal Court.~~

~~H. Every applicant for a license to practice law in the Tribal Court shall, as a pre-condition to receiving such license, demonstrate to the satisfaction of the Chief Judge of the Tribal Court a general working knowledge of the Tribal law and the Rules of Court. Each applicant shall also affirm in writing that he or she has read and agrees to be bound by the Rules of Court relating to the standards of conduct and professional responsibility for legal counsel.~~

HI. A fee, the amount of which shall be determined by Rules of Court, shall be paid to the Clerk of the Tribal Court before any license to practice law is issued or renewed.

IJ. The Clerk of the Tribal Court shall maintain a roll of attorneys and lay advocates licensed to practice before the Tribal Court.

SECTION 2.28 DISCIPLINE OF COUNSEL ATTORNEYS AND ADVOCATES LICENSED TO PRACTICE BEFORE THE TRIBAL COURT

A. Appointment of Members and Alternate Members. The Chief Judge of the **White Mountain Apache** Tribal Courts shall appoint a Disciplinary Committee, which shall ~~consist be compromised~~ of:

- 1. Three (3) Regular Committee Members, consisting of two (2) five Aattorneys** licensed to practice before the Tribal Court **and one (1) Advocate; and**
- 2. Two (2) Alternate Committee Members, who shall serve in the event on a conflict of interest or the inability of a Regular Committee Member to serve, consisting of one (1) Attorney and one (1) Advocate.** ~~three of which shall serve as regular members of the Committee and two shall serve as alternates in the event of a conflict of interest or the inability of a regular Committee member to serve.~~

No Disciplinary Committee member shall hear a complaint arising out of a case in which the Committee member has an interest or is representing or has represented a party in said case, **or who has any other conflict that would render them biased. For good cause shown, the Chief Judge may replace a member of the Committee with an alternate member, r if no alternate members would be suitable, with another member of the Bar Association in good standing.**

B. Terms of Office. ~~1.~~ Each appointment to the Disciplinary Committee shall be for a term of three **(3)** years, ~~except that a member but~~ shall continue to serve until **a that members** successor is duly appointed. Appointments to fill a vacancy shall be for the unexpired portion of the term and be filled in the same manner as the original appointment. ~~2. For good cause shown, the Chief Judge may remove a member of the Committee.~~ ~~3.~~ A member of the Committee may resign for ~~any reason with written notice to good cause shown, subject to approval by~~ the Chief Judge.

C. Powers and Duties of the Committee. The Disciplinary Committee shall be authorized and empowered to hear and decide complaints of violations allegedly committed by bar members of the White Mountain Apache Tribe Rules of Professional Conduct ("Rules").

D. Reimbursement of Committee Members. Committee members shall receive no compensation for their services but may be entitled to reimbursement for travel and other expenses incurred in the performance of their official duties, as permitted by law and pre-authorized by the Chief Judge.

E. Quorum and Voting. To conduct business and for all official actions, a quorum shall be declared once attendance of all three **(3)** Disciplinary Committee members are present. To decide a matter before the Committee two **(2)** of the three **(3)** Disciplinary Committee members must reach an agreement.

FB. Process. Upon the receipt by the **Court Administrator** ~~Chief Judge of the Trial Court~~ of a ~~verified~~ complaint, **signed by the complainant**, alleging that a licensed ~~counsel~~ **Attorney or Advocate** has acted unethically, or improperly, or violated a Rule of Court relating to standards of conduct and professional responsibility, or alleging that there are reasonable grounds to believe that any ~~counsel~~ **Attorney or Advocate** admitted to practice before the Tribal Court has been disbarred, suspended from practice, or disciplined relating to ~~his~~ **their** practice of law in any other jurisdiction, **the Court Administrator shall transmit the complaint to the Disciplinary Committee. The Disciplinary Committee shall:**

- 1. Jurisdictional Determination.** The Disciplinary Committee shall review the complaint within twenty (2) Tribal business days of receipt to determine whether the complaint alleges a specific violation of the Rules. Complaints determined to be outside of this jurisdiction shall be dismissed by the Disciplinary Committee, and the Disciplinary Committee shall inform the complainant, in writing, of the reasons for the dismissal.
- 2. Investigation and Response to Allegations.** The Disciplinary Committee shall give the respondent written notice, via certified mail, that they are under investigation and of the specific nature of the allegations, sufficient to allow an appropriate response. The respondent shall provide a written response to the allegations to the Disciplinary Committee within twenty (20) days after receipt of the notice of the investigation, as documented on the certified mail return receipt.
 - a. Extension of Time.** The Disciplinary Committee may grant one extension of time to file a written response, not to exceed twenty (20) days.
 - b. Failure to Respond.** If respondent fails to timely respond, the Disciplinary Committee may proceed to schedule and conduct a hearing to review those allegations contained in the complaint, wherein the respondent may rebut evidence and cross-examine the complainant's witnesses, but not introduce any evidence or witnesses outside the scope of the allegations contained in the complaint.
- 3. Hearing.** After the Disciplinary Committee receives a written response from the respondent or ten (10) days after the deadline to file a response has lapsed, the Disciplinary Committee shall schedule a hearing to consider the complaint. The hearing shall be conducted in a fair and impartial manner. The parties shall be notified not less than seventy-two (72) hours in advance of the hearing and given the opportunity to attend. The hearing shall be recorded.
 - a. Rights of the Respondent.** Subject to Section 2(b) above, the respondent is entitled to:
 - i.** Be represented by an Attorney or Advocate at the respondent's own expense;
 - ii.** Be present at the hearing;
 - iii.** Introduce evidence;
 - iv.** Examine and cross-examine witnesses; and
 - v.** Subpoena documents and witnesses.
 - b. Evidence.** All testimony shall be sworn statements and all witnesses testifying at the hearing shall be sworn in. Rules regarding privileged communications shall apply, except to the extent that rebuttal of the allegations requires disclosure thereof to the Committee. The Disciplinary Committee is authorized to issue subpoenas for the purposes of the hearing.
- 4. Determination.** After the hearing, the Disciplinary Committee shall determine whether it is satisfied by clear and convincing evidence that the respondent:

- a. **Has acted unethically or improperly, and violated a Rule; or**
- b. **Has been disbarred, suspended from practice, or disciplined relating to their practice of law in any jurisdiction.** ~~such counsel shall immediately be served with notice that he or she will be suspended from the practice of law in the Tribal Court unless he or she appears before the Chief Judge within five (5) days of receipt of the notice and shows cause why he or she should not be ordered to appear before the Disciplinary Committee. If the Chief Judge finds that counsel should appear before the Disciplinary Committee, the matter shall be referred to the Disciplinary Committee within ten (10) days.~~

5. Resolution.

- a. **The Disciplinary Committee may dismiss the complaint as not supported by the records if the Disciplinary Committee does not find on the basis of clear and convincing evidence that an Attorney or Advocate as violated a Rule; or**
- b. **The Disciplinary Committee may find on the basis of clear and convincing evidence, that an Attorney or Advocate violated a Rule.**

6. Sanctions. If the Disciplinary Committee finds by clear and convincing evidence, that the Attorney or Advocate violated a Rule or was disbarred or suspended from practice in another jurisdiction, the Disciplinary Committee, may impose one or more of the any of the following:

- ~~a1.~~ **Verbally censure ~~counsel~~ the Attorney or Advocate;**
- ~~b2.~~ **Issue a written reprimand to ~~counsel~~ the Attorney or Advocate, which shall be recorded on the Roll of Counsel maintained by the ~~Clerk Court Administrator~~;**
- c. **Impose a fine not to exceed Five Hundred Dollars (\$500.00);**
- d. **Make reasonable restitution for an unjust enrichment;**
- e. **Require the Attorney or Advocate to complete a probationary period pursuant to conditions deemed appropriate by the Disciplinary Committee;**
- f. **Attend training or educational courses;**
- ~~g3.~~ **Suspend ~~counsel~~ the Attorney or Advocate for a specific period of time from the practice of law ~~before the Tribal Court.~~ within the Fort Apache Indian Reservation or before the courts of the White Mountain Apache Tribe;**
- ~~h4.~~ **Suspend ~~counsel~~ the Attorney or Advocate from the practice of law in this jurisdiction for an indefinite period of time, setting a date for review of the matter to determine the necessity of continued suspension; or**
- ~~i5.~~ **Disbar ~~counsel~~ the Attorney or Advocate permanently from practicing law in this jurisdiction. ~~before the Tribal Court.~~**

7.F. Appeals. Any final order sanctioning ~~legal counsel~~ **the Attorney or Advocate** may be appealed to the **White Mountain Apache** Court of Appeals.

~~C. Any Judge who finds a licensed counsel in contempt of Court may, in addition to imposing any other sanctions provided by this Code, order the counsel to appear pursuant to subsection B. of this section.~~

~~D. Any counsel ordered to appear before the Disciplinary Committee pursuant to this section may be requested to provide an accounting of monies received and expended on behalf of the client, and to justify the accounting.~~

~~E. Any counsel ordered to appear before the Disciplinary Committee pursuant to this section shall be afforded a full and fair hearing, with the rights to confront his or her accuser, to present evidence, and to subpoena and call witnesses. If after the hearing the Chief Judge finds on the basis of the evidence presented~~

~~to the Disciplinary Committee, that counsel is guilty of misconduct which requires the imposition of disciplinary action, the Chief Judge may:~~