

MEMORANDUM

TO: Board of Directors
FROM: Lona Stewart, Board Administrator
DATE: September 30, 2026
RE: Workshop Agenda for Monday, October 5, 2026

AGENDA

1:00

Constitutional Implementation Planning:

Chapter 82: Appeals Code / Supreme Court

Membership Input

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TRIBAL CODE

CHAPTER 82:

APPEALS SUPREME COURT

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HISTORY NOTE:

Current Ordinance: Resolution 97-11, adopted February 4, 1997, enacts Chapter 82:Tribal Court of Appeals.

Amendments:

Resolution 2024-30, adopted January 16, 2024, amends Tribal Code Chapter 82, by adding a revised Subchapter II.

Resolution 2012-28, adopted February 14, 2012, amends Tribal Code Chapter: 82, by adding §82.134, Appellate Court Vacancies.

Resolution 2011-106, adopted May 24, 2011, amends Tribal Code Chapter : 82, by adding Subchapter II, Appeals from the Election Committee.

Resolution 2004-119, adopted November 16, 2004, amends Tribal Code Chapter 82: Tribal Court of Appeals by changing the panel appellate court from three (3) to five (5).

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CHAPTER 82:

APPEALSSUPREME COURT

82.101 Purpose.

The purpose of this Chapter is to establish the procedures by which appeals are taken from decisions of the ~~Tribal Trial~~ Court and the Election Committee.

82.102 Definitions.

For the purposes of this Chapter, certain terms are defined in this section. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number, words in the plural include words in the singular, and words in the masculine gender include the feminine gender. The word "shall" is always mandatory and not merely directory.

(1) "Appellant" means the party filing the appeal.

(2) "~~Appellate Associate Judge~~Justice" means a person appointed by the Board of Directors to ~~hear appeals~~the Supreme Court.

(3) "Board of Directors" means the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians.

(4) "~~Court of Appeals~~Chief Justice" means the justice elected by the citizenship who has administrative authority over the Supreme Court. ~~means the appellate court established for the Tribe in this Chapter.~~

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(5) "Election Committee" means the committee established to oversee elections by Tribal Code Chapter 10.

(6) "Final Judgment" means the last decision from the Tribal Court that resolves all issues in dispute and settles the parties' rights with respect to those issues. A final judgment leaves nothing to be decided except decisions on how to enforce the judgement, whether to award costs, or to award attorney fees.

(7) "Supreme Court" means the court established for the Tribe in this Chapter.

(6) "~~Tribal Trial~~ Court" means the trial level court of the Sault Ste. Marie Chippewa Tribal Court.

(7) "~~Tribal Trial~~ Judge" means the ~~trial level~~ level Chief Judges, Associate Judges, and any other judges ~~appointed~~ pursuant to Chapter 80 of the Tribal Code.

(8) "Tribe" (or "tribal") means the Sault Ste. Marie Tribe of Chippewa Indians.

~~(9) "Tribe" (or "tribal") means (or refers to) the Sault Ste. Marie Tribe of Chippewa Indians.~~

82.103 Judges-Justices of Court of AppealsSupreme Court.

(1) Compositions of the Supreme Court. Five-Three (35) judgesJustices; appointed by the Board of Directors, shall sit as the Court of AppealsSupreme Court and hear all cases unless disqualified pursuant to ' 82.107. There shall be one Chief Justice and two Associate Justices, and any other Associate Justices or Subsisttute Justices as authorized by law. Any number of ~~judges-justices~~ may be appointed as reserve judgesjustices, who shall be available to serve on the ~~Court of AppealsSupreme Court~~ to hear a particular appeal for which an appellate judge is disqualified or otherwise unable to sit.

(2). Qualifications of Chief Justice. The Chief Justice shall be a voting-age citizen of

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the tribe, and a licensed attorney in good standing with a State Bar Association, except where no qualified tribal citizen seeks such office, an attorney, in good standing, may be appointed.

(3). Qualifications of Associate Justices. Associate Justices shall be of voting age. At least one of the Associate Justices shall be a citizen of the tribe. All Associate Justices shall be Native American, and at least one Associate Justice shall be an attorney. Where no qualified tribal citizens seek such office, an attorney, in good standing, may be appointed to be an Associate Justice to fill any vacancies.

(4). No person shall be eligible to serve as Justice who has ever been convicted of a felony in any jurisdiction.

(5). A Justice shall not:

(a). serve in any capacity in other branch of the Tribal government.

(b). Serve in any capacity for any tribe, state, or the United States of America, excluding appointments to committees formed for the public good.

(c). accept any position or appointment that creates a conflict of interest.

(6). All Justices must be in compliance with all requirements of this Chapter prior to taking their oath of office. Upon enactment of this Chapter, all currently seated Justices must become compliant with the restrictions of this Section within thirty (30) days of the enactment of this Code. Failure to do so will result in the rescinding of their appointment to serve as a Justice of the Supreme Court.

(7) Compensation. The Board of Directors shall have the power to establish the level of compensation for each Justice, provided that the compensation due to each justice shall not be diminished during the term of their appointment.

82.104 Term.

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The term of office for each ~~appellate judge~~ Justices of the Supreme Court shall be ~~four~~ six (64) years, with no limit on the number of terms which can be served. When first ~~enacted~~ selected ~~enacted~~, ~~one (1) appellate judge~~ the Chief Justice shall serve ~~for four six (64)~~ year term to expire in 2028, ~~one (1) appellate judge shall~~ One Associate Justice shall serve ~~for three (3) years~~ a term to expire in 2030, and ~~one (1) appellate judge~~ One Associate Justice shall serve for ~~two (2) years~~ a term to expire in 2032. Subsequent terms for each seat on the ~~Court of Appeals~~ Supreme Court shall be for the regular term, with each term staggered every two years. Reserve judges shall serve for the length of the appeal for which they were appointed to decide. The first election for the Chief Justice shall occur during the 2028 Election Cycle, and shall be conducted pursuant to Tribal Code Chapter 10. Terms for Associate Justices shall expire on December 31st. All Justices shall remain seated, unless removed, until the oath of office is administered to a successor.

82.105 Chief ~~Judge~~Justice.

~~One of the five judges shall be appointed as the Chief Judge by the Board of Directors.~~ The Chief ~~Judge~~ Justice shall be responsible for the administration of the ~~Court of Appeals~~ Supreme Court, and shall have such duties as are specified in this Chapter and as may be conferred by a provision of another Chapter of the Tribal Code. The Chief Justice shall have the authority to create and present an annual budget request to the Board of Directors. The Chief ~~Judge~~Justice shall have the power to propose new court programs, policy, and procedure subject to approval of the Board of Directors. The Chief ~~Judge~~Justice shall not be able to enter into any MOU, Agreement, Contract, or similar with any entity inside or outside the Tribe without approval of the Board of Directors. If there is a vacancy of the Chief Justice, the most senior Associate Justice shall be the Interim Chief Justice, be compensated at the level of the Chief Justice, and perform all the duties and responsibilities of the Chief Justice until the results of a special election are certified and a successor sworn in.

82.106 Clerk.

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~~The Clerk of Tribal Court shall have the duties of Clerk for the Court of Appeals. There shall be a Clerk for the Supreme Court. The Clerk shall not be an employee of the Trial Court, and not have access to any non-public documents of the Trial Court.~~

82.107 Disqualification of Appellate JudgeJustices.

An ~~appellate judgejustice~~ is disqualified to sit on the appeal of any case in which:

- (1) he/~~she~~ has a direct interest in the outcome;
- (2) he/~~she~~ was a witness at the trial;
- (3) he/~~she~~ served on the jury panel of the trial; or
- (4) he/~~she~~ is so related to either the appellant or the respondent as to bring into question the judge's ability to render an impartial decision.

(5) has engaged in prohibited ex-parte communication as enumerated in 82.126 of this code.

82.108 Recusal of Appellate JudgeJustice.

- (1) Any Judge of the Court of AppealsJustice of the Supreme Court, whether an attorney or a lay judge, shall act in a manner that establishes, maintains, and enforces the highest standards of conduct, shall respect and shall perform the duties of judicial office impartially, competently, and diligently.
- (+)(2) Where a judge of the Court of AppealsJustice fails to uphold the standards in (1), has shown a personal bias or prejudice concerning a party, or has failed to remove themselves from the case as required in 82.107 any party may request the recusal of that judge by filing a motion and affidavit setting forth in detail the matters alleged to constitute grounds for recusal.

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82.108 Court of Appeals Operations of the Supreme Courts.

(1) Rules of Procedure. The ~~Court of Appeals~~ Supreme Court shall employ the ~~Rules of Appellate~~ procedure ~~as adopted~~ proposed by the ~~Tribal Trial~~ Supreme Court, ~~and approved by the Board of Directors, to the extent such rules are not in conflict with any applicable provisions of tribal code. - In the absence of or where the tribal Rules of Appellate Procedure are silent than the Federal Rules of Appellate Procedure shall govern to the extent, they are not inconsistent with this Chapter or applicable tribal code. The Rules of Procedure shall be posted to the tribe's website.~~

(2) Finality of Decisions. The decision of the panel of the ~~Court of Appeals~~ Supreme Court is final, and is not subject to further appeal.

(3) Reporting of Decisions. All decisions of the ~~Court of Appeals~~ Supreme Court shall be filed with the Clerk.

(4) Substantive Law. The Court shall apply the substantive law of the Tribe, as well as applicable federal law.

(5) Precedent. All decisions and rulings of the ~~Court of Appeals~~ Supreme Court shall be binding on the ~~Tribal Trial~~ Court subject to its review authority.

82.109 Exclusive Jurisdiction.

~~The Supreme Court shall have appellate jurisdiction over any case on appeal from the Trial Court. Only the Supreme Court shall have original and exclusive jurisdiction over any final determination of an election dispute by the Election Commission and such jurisdiction shall include the power to make findings of fact and conclusions of law, and to issue all remedies in law and equity.~~

~~The Court of Appeals shall have exclusive jurisdiction to review the decisions of the Tribal Court as provided in this Chapter.~~

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82.110 Power.

The Supreme Court shall have the power to interpret the Constitution, laws, and executive actions of the tribe arising under its Jurisdiction, and the power to declare such laws and executive actions of the tribe void if such laws are not consistent with this Constitution. The Supreme Court does not have the authority to hear any cases involving constitutional violations that occurred before the enactment of this Code. All cases for constitutional violations shall have a two (2) year statute of limitations from when the violation occurred.

82.11~~10~~ Who May Appeal.

Any party to a civil action, or a defendant in a criminal action, who is dissatisfied with the judgment or verdict of a Trial Court shall have the right to file an appeal to the Supreme Court. The Supreme Court shall have the right to accept or deny any appeal from a Trial Court. ~~Any person adversely affected by a decision of the Tribal Court in a civil case may appeal. Any party in a criminal case, except the prosecution, may appeal a judgment or sentence. The prosecution may appeal a decision to the extent it raises a question of law, rather than of fact.~~

82.11~~24~~ Subject of Appeal.

An appeal is properly before the ~~Court of Appeals~~Supreme Court if it concerns:

- (1) a final judgment or order of the ~~Tribal Trial~~ Court; or
- (2) an order denying appellant's request for ~~rec~~usal; or
- (3) ~~(3)~~ an order affecting a substantial right and which determines the action and prevents a judgment from which an appeal might be made.

Any order entered by the ~~Tribal Trial~~ Court to enforce a final judgment such as any writ of eviction or restitution shall not be used as a basis for appeal and shall not be considered in the provisions and timelines as set out under this chapter.

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82.11~~32~~ Appeal from Default Judgement

There shall be no appeal from a default judgement in the ~~Tribal Trial~~ Court without exhausting the remedies available through a motion for reconsideration. After a party has filed a motion for reconsideration in the ~~Tribal Trial~~ Court, and the ~~Tribal Trial~~ Court issues a final decision on the motion, that final decision shall be considered a final judgement or order of the ~~Tribal Trial~~ Court pursuant to 82.111.

82.11~~42~~ Scope of Court's Review.

In reviewing a matter on appeal, the ~~Court of Appeals~~Supreme Court may:

~~(1) increase or decrease any sentence in a criminal case;~~

(2) affirm, modify, vacate, set aside or reverse any judgment, decree or order of the ~~Tribal Trial~~ Court consistent with the provisions of this chapter; or

(3) remand the case and direct entry of an appropriate judgment, decree or order, or require such further proceedings as may be just and equitable under the circumstances.

82.11~~53~~ Time Period to Appeal.

(1) Civil Cases. An appeal to the ~~Court of Appeals~~Supreme Court in civil cases shall be made not later than thirty (30) days after the entry of the written judgment or order of the ~~Tribal Trial~~ Court.

(2) Criminal Cases. An appeal to the ~~Court of Appeals~~Supreme Court in criminal cases shall be made not later than thirty (30) days after the entry of the written judgment or order of the ~~Tribal Trial~~ Court.

(3) Cross-Appeals. If one party has filed an appeal within the requisite time period, the other party may file a notice of appeal within fifteen (15) days of service of the initial appeal.

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(4) Untimely Appeals. Subject to the exception contained in sub. (5), failure to file an appeal within the time period provided in this section deprives the ~~Court of Appeals~~Supreme Court of subject matter jurisdiction to hear the appeal. Late appeals shall be denied filing the Clerk of ~~Court of Appeals~~Supreme Court.

(5) Grounds for Granting Late Appeals. The ~~Court of Appeals~~Supreme Court may, at its discretion, grant leave to appeal from any order or judgment only upon the motion and showing by appellant, supported by affidavit, that there is merit in the grounds for appeal and that late filing was not due to appellant's negligence. The ~~Court of Appeals~~Supreme Court shall have no authority to grant a late appeal except upon the proper filing of a motion by appellant as enumerate in this subsection.

82.11~~64~~ Notice of Appeal.

(1) Filing Required. An appeal is made by the filing of a notice of appeal with the Clerk of the ~~Court of Appeals~~Supreme Court. The notice shall be served on the respondent simultaneously with filing, and proof of service shall be filed with the notice.

(2) Content of Notice. The notice of appeal shall bear the caption and case number of the case in ~~Tribal Trial~~ Court, and shall be labeled "Notice of Appeal". It shall state the date, judge and content of the judgment or order appealed, and include a brief statement of the reasons for appeal and the decision on the appeal desired from the ~~Court of Appeals~~Supreme Court. Where possible, a copy of the judgment or order appealed from shall be attached to the notice of appeal. The appellant or the attorney appearing on the appellant's behalf shall sign and date the notice. The reasons for the appeal shall be limited to the following:

(a) Lack of jurisdiction of the ~~Tribal Trial~~ Court.

(b) Irregularities or improprieties in the proceedings, or by the ~~Tribal Trial~~ Court, the jury, any witnesses, or any party substantially prejudicial to the rights of petitioner.

(c) Any ruling, order, decision or abuse of discretion which prevented a fair

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hearing or trial.

(d) Insufficient evidence to support the verdict, decision, order or judgment of the jury or ~~Tribal Trial~~ Court.

(e) An error of law substantially prejudicial to the rights of the appellant.

(3) Defects in Notice. No appeal shall be dismissed for formal defects in the notice of appeal, if the matter appealed is clear from the document and it has been properly filed and served.

(4) Docketing of Appeal. Upon receipt of the notice of appeal and filing fee, the Clerk of the ~~Court of Appeals~~Supreme Court shall docket the appeal and notify the ~~appellate judges~~justices of the pending appeal.

(5) Effect on Judgment by Filing Appeal. The filing of an appeal does not cause an automatic stay of the ~~Tribal Trial~~ Court's judgment or order. If a stay is desired by appellant, a motion seeking a stay should be addressed to the ~~Tribal Trial~~ Court before or after the filing of the notice of appeal. The ~~Court of Appeals~~Supreme Court shall have the authority to grant a stay only upon the proper filing of a motion by appellant.

82.11~~75~~ Service of Notice of Appeal.

A copy of the Notice of Appeal shall be served by appellant on all other parties by first class mail or electronically. Proof of service shall be filed simultaneously with the Notice of Appeal.

82.11~~86~~ Appellate Filing Fee.

The Clerk of the ~~Court of Appeals~~Supreme Court shall collect from each party who files an appeal or cross-appeal a filing fee of \$45.00. The fee may be waived by order of the ~~Court of Appeals~~Supreme Court when the appellant submits with the notice of appeal an affidavit of indigency.

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82.11~~97~~ Stay.

An appellant may request that the ~~Tribal Trial~~ Court issue a stay of civil judgment or order pending an appeal. As enumerated in 82.114(5) the Court of Appeals Supreme Court shall have the authority to grant a stay upon the proper filing of a motion by appellant.

82.1~~2048~~ Bond.

Upon granting a stay of a civil judgment or order, the ~~Tribal Trial~~ Court may order the filing of a bond or cash equivalent in an amount sufficient to guarantee payment or satisfaction of the judgment, including costs, in the event that judgment is affirmed on appeal. The ~~Court of Appeals Supreme Court~~ may waive this requirement upon the submission by appellant of an affidavit of indigency.

82.1~~2149~~ Record On Appeal.

(1) Upon receiving the Notice of Appeal, the Clerk of ~~Tribal Trial~~ Court shall compile the record of the case, consisting of:

(a) All written documents filed with the Tribal Court, including pleadings, reports, notices, depositions, orders and judgments. The clerk of ~~Tribal Trial~~ Court shall certify the contents of the record as true, correct and complete transcript of all proceedings relevant to the appeal.

(b) The Clerk of ~~Tribal Trial~~ Court shall prepare a transcript of all the proceedings in the ~~Tribal Trial~~ Court relevant to the appeal or designated by appellant, the cost of which shall be borne by the appellant. The transcripts shall be completed within 15 days of a request. The transcription fee shall be paid by appellant, unless it is waived by order of the ~~Tribal Trial~~ Court upon appellant's petition for waiver of costs and fees, accompanied by an affidavit of indigency. The appellant may specify, in writing, to the Clerk which proceeding, or parts of

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proceeding, is needed for the ~~Court of Appeals~~Supreme Court to review the ~~Tribal Trial~~ Court's decision. If only portions of the proceeding are requested, any other party may request within 15 days of appellant's request transcription of any other portion, and shall pay the costs of its preparation to the Clerk.

(2) The Clerk shall file a notice of preparation of the record, identifying each item included, together with a copy of any transcript, and submit it to the Court of Appeals and on each of the parties within 15 days from the filing of the Notice of Appeal.

(3) No appeal issue may be considered by the ~~Court of Appeals~~Supreme Court until the notice of preparation of the record has been filed with the Clerk of the ~~Court of Appeals~~Supreme Court.

(4) The ~~Court of Appeals~~Supreme Court shall have no authority to supplement the record on appeal through its own accord nor the authority to request materials in any cases not at issue in the direct appeal before the court.

(5) Any party may supplement the initial designation of the record prior to the filing of the party's last brief. Each party is encouraged to designate only that part of the record that is needed to review the issues presented to the Court of Appeals.

82.12~~20~~ Briefing.

~~Parties are encouraged, but not required, to file written briefs concerning the issue on appeal, in order to assist the Court of Appeals in its review. If briefing is made, the following requirements apply.~~ The parties shall be required to submit their arguments in written briefs. The ~~Court of Appeals~~Supreme Court shall promptly notify all parties of a schedule for filing briefs as follows:

(1) ~~If appellant wishes to file a~~Appellant's brief, ~~he~~ must ~~do so~~be filed within 30 days of receiving notice of preparation of the record to the ~~Court of Appeals~~Supreme Court. ~~If respondent wishes to file a~~Respondent's brief, ~~he~~ must be filed ~~do so~~ within 15 days of receiving appellant's brief, ~~or within 45 of receiving notice of preparation of the record,~~

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~~whichever should first occur.~~ A reply brief may be submitted by appellant within 15 days of receiving respondent's brief.

(2) Briefs shall be typewritten, double-spaced, on white paper which is no more than 8 1/2 by 11 inches in size. No brief shall exceed 50 pages in length. Four (4) copies of each brief shall be submitted.

(3) The ~~first brief to be filed~~ Appellant brief shall contain a short statement of the case's history and a listing of the issues presented on appeal and how, if at all, the issues were decided by the ~~Tribal-Trial~~ Court. All briefs shall contain an argument and a conclusion, stating clearly the precise action sought from the ~~Court of Appeals~~ Supreme Court.

(4) Any Brief filed by either Party shall be publicly published to ensure transparency in the Supreme Court's operations.

(54) If the appellant fails to file an opening brief which has been ordered pursuant to the established briefing schedule, and no extension of time has been granted, the appeal shall be dismissed by the Court of Appeals Supreme Court.

82.12~~31~~ Oral Argument.

~~If each party files a brief, all appeals shall be scheduled for oral argument unless waived by appellant and respondent after briefing is concluded. In all other cases an oral argument shall be scheduled only at the discretion of the Appellate Court~~ The Court of Appeals Supreme Court may order argument at any time upon its own initiative and shall do so upon the request of a party. At oral argument, the parties may present arguments relevant to the issues raised by appeal. Parties may not present arguments orally that have not been properly briefed or raised in a motion in the ~~Court of Appeals~~ Supreme Court. The length of argument shall be set by the ~~appellate judges~~ justices hearing the appeal, and shall be stated in the notice scheduling argument.

82.12~~42~~ Stay Pending Appeal.

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In the event that the ~~Tribal Trial~~ Court denies a request for stay of the judgment or order pending appeal, the ~~Court of Appeals~~Supreme Court may consider the request upon motion by a party to the case. A stay shall be granted only if a party has requested such in a written motion filed in the ~~Court of Appeals~~Supreme Court and the purposes of justice require it, and irreversible harm may occur if the stay is not granted. In determining whether or not to grant a stay, the Court shall consider:

(1) In an appeal of a criminal case, the likelihood that appellant will flee the ~~Tribal Trial~~ Court's jurisdiction during the pendency of the appeal, and the ability of the appellant to post bond in lieu of incarceration during the pendency of the appeal.

(2) In an appeal of a money judgment in a civil case, the existence of a bond posted pursuant to '82.118.

(3) In an appeal of a child custody order, the existence of a change in the custodian of the child.

82.12~~53~~ Motions before the ~~Court of Appeals~~Supreme Court.

Any party requesting action by the ~~Court of Appeals~~Supreme Court on a matter unrelated to its decision on a pending appeal, such as a waiver of filing fee or a stay pending appeal, shall file a motion with the Clerk of the ~~Court of Appeals~~Supreme Court clearly stating the action requested and the reasons why the Court should do what is asked of it. Any motion shall be served on all other interested parties, who may file within five (5) days of receipt a response with the ~~Court of Appeals~~Supreme Court indicating agreement or disagreement with the motion. The ~~Court of Appeals~~Supreme Court shall issue a written order disposing of any motion filed. Any motions filed with the Court shall be publicly published to ensure transparency in the Supreme Court's operations.

82.12~~64~~ Standard of Review.

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In deciding an appeal, the ~~Court of Appeals~~Supreme Court shall apply the following standards:

- (1) A finding of fact by a judge shall be sustained unless clearly erroneous.
- (2) A finding of fact by a jury shall be sustained if there is any credible evidence in the record to support it.
- (3) A factual inference drawn by a judge or jury shall be reviewed as a finding of fact if more than one reasonable inference can be drawn from the fact.
- (4) Any finding, whether explicit or implicit, of witness credibility shall be reviewed as a finding of fact.
- (5) A conclusion of law shall be reviewed by the ~~Court of Appeals~~Supreme Court without deference to the ~~Tribal Trial~~ Court's determination, i.e., review is *de novo*.
- (6) Construction of an unambiguous contract term is reviewed as a conclusion of law.
- (7) A matter which is a mixture of law and fact is reviewed by the standard applicable to each element.
- (8) A matter which is within the discretion of the ~~Tribal Trial~~ Court shall be sustained if it is reflected in the record that the ~~Tribal Trial~~ Court exercised its discretionary authority; applied the appropriate legal standard to the facts, and did not abuse its discretion. A matter committed to the discretion of the ~~Tribal Trial~~ Court shall not be subject to the substituted judgment of the ~~Court of Appeals~~Supreme Court.
- (9) A sentence and the imposition of fine, forfeiture, or other penalty, excluding the assessment of damages, shall be reviewed as a discretionary determination of the ~~Tribal Trial~~ Court.

82.12~~7~~5 Issues Preserved on Appeal.

82-19

Formatting, Title Changes, and other clerical changes will be made before implementation to align with the New Constitution. The purpose of the constitutional workshops is to discuss substantial changes to the law, not clerical changes.

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In deciding an appeal, the ~~Court of Appeals~~Supreme Court shall consider issues in accordance with the following requirements:

(1) ~~Unless a miscarriage of justice would result, the~~The ~~Court of Appeals~~Supreme Court will not consider issues that were not raised before the ~~Tribal Trial~~ Court.

(2) An issue raised before the ~~Tribal Trial~~ Court, but not argued either by brief or orally, shall not be reviewed by the ~~Court of Appeals~~Supreme Court.

(3) No issue which is moot at the time of argument shall be decided by the ~~Court of Appeals~~Supreme Court unless it is capable of repetition yet likely to evade appellate review, due to its nature.

(4) Facts which are not in the record shall not be presented in any manner to the ~~Court of Appeals~~Supreme Court, and if presented, shall not be considered by that Court until a decision concerning those facts is made by the ~~Tribal Trial~~ Court.

(5) An issue concerning newly discovered material evidence which could not, with reasonable care, have been produced at the trial or hearing, shall not be considered by the ~~Court of Appeals~~Supreme Court until a decision concerning the evidence is made by the ~~Tribal Trial~~ Court.

82.1286 Ex-Parte Communications

JudgesJustices of the ~~Court of Appeals~~Supreme Court, or their employees, shall not communicate, directly or indirectly, in connection with any issue of fact, with any party, nor in connection with any issue of law, with any party, except upon notice and opportunity for all parties to participate. Engaging in such prohibited Ex-Parte Communications shall be grounds to recuse or disqualify the ~~JudgeJustice~~ from participating in any appeals whose facts and law are implicated in the ex-parte communication. A ~~JudgeJustice~~ may communicate with other ~~JudgesJustices~~ assigned to the appeal.

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82.12~~96~~ Content of Order or Judgment Appealed.

Orders and judgments subject to an appeal shall contain the following, in order to facilitate justice by the ~~Court of Appeals~~Supreme Court:

(1) In any proceeding tried to a judge without a jury, the judge shall make separate findings of fact and conclusions of law. The ~~Tribal Trial~~ Court may do this orally on the record in open court, or issue a written opinion and order.

(2) In any civil matter tried to a jury, the jury shall make a special verdict on each issue of fact placed before it.

(3) In the absence of findings of fact by the ~~Tribal Trial~~ Court, the ~~Court of Appeals~~Supreme Court may affirm the judgment if supported by the record, reverse the judgment if the record does not support it, or remand the case for the issuance of findings and conclusions.

82.1~~3027~~ Decisions of the Court of AppealsSupreme Court.

All decisions of the ~~Court of Appeals~~Supreme Court on an appeal, and all determinations of motions, shall be made as follows:

(1) Any decision of the ~~Court of Appeals~~Supreme Court shall be made by the majority of the ~~judges~~Justices on the panel. All decisions shall reflect the split between the Justices on the issue. If no majority is reached on a decision, the order or judgment of the ~~Tribal Trial~~ Court is upheld.

(2) In the exercise of its jurisdiction under '82.111, the decision of the ~~Court of Appeals~~Supreme Court shall be in written form, which shall state the facts, the issues to be decided, the rules of law applied, and the reasoning of the Court. The panel shall determine which of its members in the majority shall write the decision.

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(3) The Court shall issue an order conforming with the decision, which shall direct the ~~Tribal Trial~~ Court in its disposition of the case which is the subject of appeal. Such order shall include the continuance or termination of any order relating to a stay and the posting of bond.

(4) Any member of the panel who disagrees with the majority's decision may issue a written dissent, which shall comply with the content requirements of sub. (2).

~~(2)(5)~~ ~~(5)~~ Within two days of issuance, the Clerk of the ~~Court of Appeals~~ Supreme Court shall transmit by first class mail or electronically a copy of the decision to each interested party which indicates the date on which the decision was filed.

82.13128 Issuance of Opinion.

(1) The Court shall issue its Opinion and Order in writing and deliver a copy to all parties. The Opinion and Order shall be made by a majority vote of the justices. Except as otherwise provided by this subsection, the ~~Court of Appeals~~ Supreme Court shall have 90 days from the later of the date of oral argument or the filing of the last brief to render a decision.

a. If extenuating circumstances will delay the Opinion and Order beyond the 90 days, the Court may extend their decision, through a written order detailing the extenuating circumstances, up to another 90 days. There shall be no further extensions beyond this.

(2) Issuance of Opinions in child welfare matters.

a. In all matters involving child welfare cases, the Supreme Court shall have 30 days from the later of the date of oral argument or the filing of the last brief to render a decision.

b. If extenuating circumstances will delay the Opinion and Order beyond the 30 days, the Court may extend their decision, through a written order detailing the extenuating circumstances, up to another 30 days. There shall be no further extensions beyond this.

(3) Issuances of Opinion and Orders in Election matters shall be governed under 82.213.

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82.1~~322~~8 Request for Reconsideration of Decision.

A request for reconsideration may be filed with the Clerk of the ~~Court of Appeals~~Supreme Court if made within 14 days of the decision's filing with the Clerk. A copy of the request must be served upon all other parties and on the ~~Tribal Trial~~ Court.

(1) Content. The request must identify the exact element of the decision, which is to be reconsidered, the reasons for the request, and any authority upon which the party relies.

(2) Response. Any other party may file a response to the request within ten (10) days of receiving it.

(3) Determination. The panel which issued the decision which is the subject of the request shall also decide the request for rehearing. The request may be granted or denied, and if granted, the parties are entitled to brief under §82.120 and oral argument under §82.121.

82.1~~332~~9 Authority to Waive Requirements.

The Chief ~~Judge Justice~~ may, upon good cause shown by written motion of a party, enlarge the time any party has to comply with any provision of this Chapter, or waive the page limitation for briefing. The ~~Court of Appeals~~Supreme Court shall have no authority to waive any provision of this chapter except in response to duly filed motion of a party.

82.13~~40~~ Standards for Computing Time Requirements.

In computing the period of time prescribed by this Chapter or by any order of the ~~Court of Appeals~~Supreme Court, the day of the act or event from which the period begins to run is not included. The last day of the period is included, unless it falls on a Saturday, Sunday or legal holiday; in that event, the last day of the period falls on the next regular business day.

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82.13~~51~~ Requirements for Service.

(1) Any paper, of whatever kind, which is filed with the Clerk of the ~~Court of Appeals~~Supreme Court or the Clerk of ~~Tribal-Trial~~ Court shall be served on every other party. Proof of service shall also be filed.

(2) It is sufficient notification to other parties if service is made by first class mail or electronically. Service is considered complete upon mailing. Personal service on any other party may be made if done in compliance with the rules for such service in the ~~Tribal-Trial~~ Court.

(3) Service shall be made upon the party's attorney, if any, and if the party is not represented, upon the party.

82.13~~62~~ Practice before the ~~Court of Appeals~~Supreme Court.

Any person who is admitted to practice before the ~~Tribal-Trial~~ Court is thereby admitted to practice before the ~~Court of Appeals~~Supreme Court.

82.13~~73~~ Rules of Court.

The ~~judges-Justices~~ of the ~~Court of Appeals~~Supreme Court may make and amend such additional rules as are deemed by them appropriate for the proper and efficient administration of the ~~Court of Appeals~~Supreme Court. Such rules shall be filed with the Clerk of the ~~Court of Appeals~~Supreme Court, and made available as issued to all persons admitted to practice and published to the tribal website.

82.138 Appellate-Supreme Court Vacancies.

(1) Notification, Request for Proposals.

(a) At least four months prior to the expiration of the term of any ~~tribal-appellate judge~~Supreme Court Justice, or as soon as possible

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following the resignation, death, or removal of an ~~appellate judge~~Justice or other unexpected vacancy, the court ~~administrator~~clerk of the Supreme Court shall notify the tribal chairman and board of directors of the vacancy and request the appointment of a selection committee. The court ~~administrator~~clerk of the Supreme Court shall also prepare a request for proposal and submit it for publication in the local and tribal newspapers and, in the case of an ~~attorney appellate judge~~Supreme Court Justice vacancy, in the Michigan Bar Journal. The posting shall be for a period of two (2) weeks.

- (b) Interested persons who meet the qualifications may submit to the ~~tribal court~~Human Resources Department, an application and resume.

(2) ~~Committee and Selection~~Appointment Process.

- ~~(a) — The tribal chairman, subject to the concurrence of the Board of Directors, shall appoint a selection committee consisting of three (3) board members, the court administrator~~All candidates~~candidates for appointments shall be interviewed in a public hearing of the Board of Directors, and with the assistance of~~ an attorney from the legal department.

- ~~(b)~~(a) After the posting has closed, the ~~committee~~Human Resources Department shall meet, without undue delay to review the applications for qualifications, ~~conduct interviews~~schedule an open hearing for an interview, and perform both personal and professional background checks.

- ~~(c) — The committee shall then select three (3) candidates and rank them in order of appointment preference.~~

- ~~(d)~~(b) When selecting candidates, the ~~committee~~Chairperson and the Board of Directors should consider the following factors and questions,

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among others:

1. Integrity and moral courage.
2. Legal ability and experience
3. Intelligence and wisdom.
4. Is the applicant culturally oriented?
5. Will the applicant be deliberate and fair minded in reaching decisions?
6. Will the applicant be industrious and prompt in performing his or her duties as a judge?
7. Are the applicant's personal habits and outside activities compatible with judicial office?
8. Will the applicant be courteous and considerate on the bench?

(3) Submission to the Board of Directors.

~~(a) — The committee shall select and submit three (3) ranked candidates for consideration and appointment by the board of directors to the board's secretary for placement on the board's workshop agenda.~~

(b) The Chairperson shall prepare a~~A~~ resolution appointing the selected candidate ~~shall be prepared~~ and presented to the board of directors for consideration at the next regularly scheduled board meeting. If the Board does not appoint the selected candidate from the Chairperson, the Chairperson shall bring seek an appointment of another candidate who had a public hearing interview.

SUBCHAPTER II: APPEALS FROM THE ELECTION COMMITTEE

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82.201 Who May Appeal.

An Appellant may challenge a decision of the Election Committee where the Appellant alleges that the Election Committee acted contrary to applicable tribal law. The allegation of injury by the Appellant must be personal to said party and may not be a generalized grievance shared in substantially equal measure by all or a large class of similarly situated parties.

82.202 Subject of Appeal.

An appeal is properly before the ~~Court of Appeals~~ Supreme Court if it concerns a final decision of the Election Committee rendered pursuant to Tribal Code Chapter 10.121 at Section (2)(c) or (d).

82.203 Scope of Court's Review.

In reviewing a matter on appeal, and in strict compliance with Section 82.210, the ~~Court of Appeals~~ Supreme Court may affirm, modify, vacate, set aside or reverse any decision of the Election Committee or remand the matter and direct entry of a new decision or require such further proceedings as may be just and equitable under the circumstances.

82.204 Time Period to Appeal.

(1) A notice of appeal must be filed within five (5) business days of the Appellant receiving an adverse decision from the Election Committee.

(2) The ~~Court of Appeals~~ Supreme Court shall not grant extensions to the five (5) day time period.

82.205 Notice of Appeal.

(1) An appeal is made by the filing of a notice of appeal with the Clerk of the ~~Court of Appeals~~ Supreme Court. The notice shall be served on the Election Committee simultaneously with filing, and proof of service shall be filed with the notice.

(2) The notice of appeal shall bear the Appellants name and address and any formal identification label assigned to the matter by the Election Committee, and shall be labeled "Notice of Appeal". It shall state the date, judge and content of the decision appealed, and include a brief statement of the reasons for the appeal and the decision on the

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appeal desired from the ~~Court of Appeals~~Supreme Court. Where possible, a copy of the decision appealed from shall be attached to the notice of appeal. The appellant or the attorney appearing on the appellant's behalf shall sign and date the notice. The reasons for the appeal shall be limited to whether or not the Election Committee acted in a manner contrary with applicable Tribal law.

(3) No appeal shall be dismissed for formal defects in the notice of appeal, if the matter appealed is clear from the document and it has been properly filed and served.

(4) Upon receipt of the notice of appeal and filing fee, the Clerk of the ~~Court of Appeals~~Supreme Court shall docket the appeal and notify the ~~appellate judges~~Justices of the pending appeal.

(5) The filing of an appeal does not cause an automatic stay of the Election Committee's decision.

82.206 Service of Notice of Appeal.

A copy of the Notice of Appeal shall be served by Appellant on all other parties by first class mail or electronically. Proof of Service shall be filed simultaneously with the Notice of Appeal.

82.207 Appellate Filing Fee.

The Clerk of the ~~Court of Appeals~~Supreme Court shall collect from each party who files an appeal a filing fee of \$45.00.

82.208 Stay Pending Appeal.

(1) An Appellant may request that the ~~Court of Appeals~~Supreme Court issue a stay of implementation of a decision of the Election Committee pending an appeal.

(2) If a stay is desired by Appellant, a motion seeking a stay shall be provided to the Clerk of the ~~Court of Appeals~~Supreme Court at the same time the appeal is filed.

(3) The ~~Court of Appeals~~Supreme Court shall render a decision on the motion within twenty-four hours.

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(4) A stay shall not be issued five days preceding either the opening of ballots for a primary election or the opening of ballots for an election.

(5) A stay shall be granted only if the purpose of justice requires it, and irreversible harm may occur if the stay is not granted.

(6) The Board of Directors hereby expressly retains onto itself the authority of reversing any stay ordered by the ~~Court of Appeals~~Supreme Court under this Section with said reversal to be had by motion requiring a positive majority.

82.209 Appeal Scheduling Order.

Due to the time-sensitive nature of election complaints and contests, the Court shall act on an expedited schedule. The Court shall issue the scheduling order detailing the timelines for which to file briefs and the schedule of oral argument no later than three (3) days after the filing of the Notice of Appeal.

82.210 Briefing.

The appellant must file and serve their initial brief within ten (10) days of the issuing of the scheduling order. The appellee must file and serve their response brief within eight (8) days of receiving appellant's brief. Appellant may file a reply brief within three (3) days of receiving appellee's brief. The Court shall not extend these timelines unless by mutual agreement by all parties.

82.211 Oral Argument.

Oral arguments shall occur no later than three (3) days after the filing of the final brief, unless waived by Appellant and Respondent after briefing is concluded. The length of argument shall be set by the appellate judges hearing the appeal, and shall be stated in the notice scheduling argument.

82.212 Standard of Review.

The Court shall review the Election Commission's decision under the abuse of discretion standard which shall be defined as the Election Commission rendering a decision that was arbitrary, capricious, and contrary to tribal law.

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If the appeal challenges the validity of an election outcome, including referendum elections, the Court shall also find, that the appellant proved by preponderance of the evidence, that the alleged violations of tribal law affected or had a strong likelihood of affecting the election outcome.

82.213 Issuance of Opinion.

The Court shall issue its Opinion and Order no later than 30 days after oral argument or if no oral argument was requested, no later than 30 days from the date the final brief is filed. There shall be no extensions of this deadline. In no event shall the final Opinion and Order of the Court be issued beyond 65 days from the filing of the Notice of Appeal.

83.214 Incorporation.

Except as expressly stated in the above sections, all the procedural matters codified in Subchapter I are incorporated herein.