

## TITLE 3. TRIBAL COURT

### Chapter 3.4

#### COURT OF APPEALS

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**3.4.1. Purpose.** The purpose of this chapter is to codify the scope of the Suquamish Court of Appeals' jurisdiction and describe its functions. (Res. 2022-011, passed Feb. 7, 2022)

**3.4.2. Definitions.** (a) "Chief judge" means the Court of Appeals judge appointed by the Suquamish Tribal Council to carry out the functions enumerated in this code.

(b) "Court of Appeals" means the appellate court of the Suquamish Tribal Courts.

(c) "Days" means calendar days.

(d) "Suquamish Tribal Courts" means the Suquamish Tribe's court system.

(e) "Trial court" means the trial court of the Suquamish Tribal Courts.

(f) "Timely decision" means a decision made by the Suquamish Tribal Courts within the time period prescribed by the Suquamish Tribal Code. If no time period is otherwise specifically prescribed, ninety (90) days will be the time period required for a timely decision. (Res. 2022-011, passed Feb. 7, 2022)

**3.4.3. Composition of the Court of Appeals.** The Court of Appeals consists of individual judges appointed by the Suquamish Tribal Council for terms of three years, including one chief judge and the others being associate judges.

(a) Judges must possess a Juris Doctorate, or equivalent, degree.

(b) Once appointed, Court of Appeals judges will not have their pay reduced.

(c) The Suquamish Tribal Council may only remove, suspend, or censure a Court of Appeals judge prior to the end of his or her term following a hearing before Tribal Council where that judge is given an adequate opportunity to respond to any and all allegations. The Council may only remove a judge if it expressly finds one or more of the following causes:

- (1) Conviction of any offense;
- (2) Use of official position for personal gain;
- (3) Desertion of office;
- (4) Failure to perform duties; or
- (5) Disbarment in any jurisdiction.

(d) For appeals filed as of right and motions for discretionary review that have been granted by the Court of Appeals, the chief judge will assign three judges who will serve as the presiding panel for the duration of the case. If the chief judge is assigned to the panel, he or she will serve as presiding judge. If the chief judge is not on the panel, he or she will designate one associate judge to act as presiding judge.

(e) For motions for discretionary review, the chief judge will rule on the motion for discretionary review or assign the motion for discretionary review to an associate judge to determine if the motion will be granted. If the motion is granted, the chief judge will assign an appellate panel in accordance with §3.4.3(d). (Res. 2022-011, passed Feb. 7 2022)

**3.4.4. Jurisdiction.** (a) The Court of Appeals has jurisdiction as follows:

(1) The Court of Appeals has jurisdiction as provided in STC §3.2.6 Court of Appeals.

(2) Upon the proper motion of a party, the Court of Appeals will have jurisdiction to dismiss frivolous or vexatious litigation before the Court of Appeals.

(b) Limits on jurisdiction of the Court of Appeals:

(1) The Court of Appeals lacks original jurisdiction.

(2) The Court of Appeals lacks jurisdiction to hear any actions in equity (writs, etc.) not arising from a decision, or failure of timely decision, of the trial court.

(3) The Court of Appeals lacks jurisdiction to conduct fact finding that is within the purview of the trial court.

(4) Unless the Tribe provides clear and unequivocal consent through duly authorized resolution, statute, contract, or commencement of an action, the Court of Appeals lacks jurisdiction to compel or restrain the Suquamish Tribe.

(5) The Court of Appeals lacks jurisdiction to order the trial court to take any administrative personnel actions other than those permitted under applicable personnel laws and policy.

(6) Unless otherwise limited, the Court of Appeals jurisdiction is limited to true cases or controversies in law and equity and the Court of Appeals lacks authority to issue advisory opinions.

(7) The Court of Appeals lacks jurisdiction to hear Suquamish Tribe appeals of criminal judgments of not guilty or verdicts of not guilty.

(8) The Court of Appeals lacks jurisdiction to order a remedy other than the following:

(A) Affirm the decision of the trial court;

(B) Reverse the decision of the trial court, overturning the trial court's decision in whole and in part; and/or

(C) Remand to the trial court. (Res. 2022-011, passed Feb. 7, 2022)

**3.4.5. Final Orders and Opinion.** The Court of Appeals will issue a written order or opinion within ninety (90) days of the filing of the last appellate brief or the last hearing, whichever is later. In the event the Court of Appeals fails to issue a written order within this ninety (90)-day deadline, the Suquamish Tribe will withhold any and all payment for services due to Court of Appeals judges sitting on the case in question. Failure to issue a decision within ninety (90) days also constitutes *prima facie* evidence that the Court of Appeals judges appointed to the panel in question have failed to perform their duties under 3.4.3(c)(4) above. (Res. 2022-011, passed Feb. 7, 2022)

**3.4.6. RESERVED.**

**3.4.7. RESERVED.**

**3.4.8. Severability; Construction.** If any phrase, clause, part, sentence, provision, or section of this chapter is found to be invalid by a court of competent jurisdiction, the remainder of this chapter will not be affected and will remain in full force and effect and continue to be in effect as if the invalid provision(s) were not a part hereof. If the operation of any clause, part, or section of this chapter is held to impair the obligation of contract or deny any person any right secured to her or him by the Constitution of the

Suquamish Tribe or the United States Constitution, it is hereby declared that the remainder of the chapter would nevertheless be enacted without such invalid clause, part, or section. (Res. 2022-011, passed Feb. 7, 2022)

**3.4.9. Effective Date.** This chapter is effective as of February 7, 2022. (Res. Res. 2022-011, passed Feb. 7, 2022)