

**HO-CHUNK NATION CODE (HCC)
TITLE 1 – ESTABLISHMENT ACTS
SECTION 8 – DEPARTMENT OF JUSTICE ESTABLISHMENT AND
ORGANIZATION ACT OF 2001**

ENACTED BY LEGISLATURE: MARCH 7, 2001

LAST AMENDED AND RESTATED: FEBRUARY 3, 2009

CITE AS: 1 HCC § 8

This Act supersedes the Department of Justice Establishment and Organization Act of 1995 (HCNL 95-016) as enacted by the Legislature on 11/14/9 and further amended on 02/03/09.

1. Authority.

a. Article V, Section 2(a) of the Ho-Chunk Nation Constitution (“Constitution”) grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.

b. Article V, Section 2(b) of the Constitution grants the Legislature the power to establish Executive Departments, and to delegate legislative powers to the Executive Branch to be administered by such Departments in accordance with the law; any Department established by the Legislature shall be administered by the Executive; the Legislature reserves the power to review any action taken by virtue of such delegated power.

c. Article V, Section 2(c) of the Constitution grants the Legislature the power to constitute a Board of Directors for each Department, except the President shall name the Executive Director, subject to confirmation by the Legislature.

d. Article V, Section 2(d) of the Constitution grants the Legislature the power to authorize expenditures by law and appropriate funds to the various Departments in an annual budget.

e. Article VI, Section 1(b) of the Constitution requires a Department of Justice and further requires that the Executive Director of the Department of Justice shall be called the Attorney General of the Ho-Chunk Nation.

f. Article VI, Section 2(b) of the Constitution grants the President the power to administer all Departments, boards, and committees created by the Legislature.

2. Purpose. The Legislature establishes and organizes a Department of Justice as required by the Constitution of the Ho-Chunk Nation.

3. **Mission.** The Ho-Chunk Department of Justice shall protect the legal rights and interests of the Nation and the collective rights and interests of Tribal Members. In doing so, the Department shall safeguard the interests of the Nation, enhance the sovereignty of the Nation, and exercise stewardship over those resources committed to it by the Nation and foreign jurisdictions.

4. **Functions.** The Department of Justice shall:

- a. Defend the sovereignty of the Ho-Chunk Nation.
- b. Provide expert legal advice and competent representation for all Branches of the Nation on those matters that concern the Nation's interests and welfare.
- c. Represent the Nation in Tribal, State, and Federal forums.
- d. Coordinate all available and necessary professional resources required to carry out its mission.
- e. Ensure prosecutorial enforcement of the Nation's laws.
- f. Provide for effective communication and dissemination of Tribal information to the Tribal population.

5. **Internal Organization.**

- a. The Department of Justice shall consist of an Attorney General and such divisions, branches, and offices necessary for the execution of its mission, performance of its mandated functions, and to achieve its annual goals and objectives.
- b. The Department shall employ staff professionals, support personnel, and/or contract with professional service firms as the Executive Director shall determine consistent with the Nation's *Finance Manual*, other laws of the Nation, and the Legislative approved budgetary authority.
- c. Attorneys employed by the Department shall be admitted to practice in the State of Wisconsin at the time of employment or within one (1) year of employment.
- d. The Department shall maintain a current Organizational Chart. The Organizational Chart shall accompany its annual budget submission and any budget modifications during the fiscal year in accordance with the *Nation's Appropriations and Budget Process Act*.

6. **Attorney General and Board of Directors.**

- a. Attorney General.

(1) The Attorney General shall be appointed by the President and confirmed by the Legislature.

(2) The Attorney General shall be an attorney admitted to practice in the Ho-Chunk Nation Courts, the Courts of the State of Wisconsin, and Federal District Court at the time of employment or within nine (9) months of employment.

(3) The Attorney General shall be a full-time employee and paid compensation consistent with his or her skills, education, experience, and responsibilities and within the standards of compensation established by the Legislature.

(4) The Attorney General shall be responsible for operating within the annually appropriated budget.

(5) The Attorney General shall serve as an ex officio member of the Department's Board of Directors.

d. Board of Directors. The President shall establish a Board of Directors for the Department of Justice subject to confirmation by the Legislature pursuant to paragraph 1c.

(1) Role. The Board of Directors shall serve in an advisory capacity on matters referred by the Attorney General.

(a) The Board shall not be a policy making body.

(b) The Board shall be involved in the Department's strategic planning.

(c) The Board shall be consulted during the development of the Department's annual goals and objectives required pursuant to the *Appropriations and Budget Process Act*.

(d) Whether a Director can be an immediate family member of a Legislator, the President, or the appointed staff of the President shall be controlled by the *Open Meetings Act* (2 HCC § 2).

(e) Director vacancies shall be posted pursuant to the requirements of the *Legislative Organization Act* (2 HCC § 13).

(2) Qualifications. Directors shall have the requisite skills, knowledge, and education to provide professional and expert advice to the Executive Director.

(3) Membership. The Board of Directors shall be comprised of five (5) members.

(a) A Director shall not be an employee of the Department of Justice.

(b) A Director shall not be a member of more than two (2) department Boards of Directors.

(c) A Director shall not be appointed nor serve as a member of a subordinate advisory board within the Department of Justice.

(4) Terms. The Directors shall serve two (2) year terms and may serve for more than one (1) term. The terms shall be alternated so that two (2) Directors are appointed or re-appointed after the first year and every two (2) years thereafter and three (3) Directors are appointed/re-appointed in the alternate years.

(5) Compensation. Directors shall be compensated for attendance at Board Meetings at a rate established by the Legislature. A Director must be present for a majority of the Meeting to receive compensation.

(6) Board Meetings.

(a) The Board of Directors shall meet at least twice a year and for special meetings as required and subject to the Board's By Laws.

(b) Board Meetings shall be subject to the Nation's *Open Meetings Act*.

(c) Quorum. Quorum for the Board of Directors shall be three (3) of the five (5) Directors. Quorum must be attained and maintained to conduct business and for Directors to be eligible for compensation.

(d) Minutes. The Board shall publish Meeting Minutes for each Board Meeting. Minutes shall be submitted to the Office of the President and the Legislature. A copy of the Meeting Minutes must be attached to compensation pay vouchers.

(7) Every twelve (12) months the Board shall elect a Chairperson.

(8) The Directors shall be subject to the Nation's law regarding nepotism and conflicts of interest.

(9) Within sixty (60) days of the enactment of this Act, the Board of Directors shall submit the By Laws of the Board to the Legislature for approval.

7. Annual Report to the Nation. The Department of Justice shall submit through the President to the Legislature a final written annual report within thirty (30) days of the end of each fiscal year. It will report on the activities of the Department, achievement of the goals and objectives for the previous fiscal year, and the impact, if any, of fiscal constraints on its current goals and objectives.

Ho-Chunk Nation Legislature
Department of Justice Establishment and Organization Act of 2001
Page 5 of 5

- 11/14/95 Legislature adopts the Department of Justice Establishment and Organization Act of 1995 as HCNL 012-95.
- 3/7/01 Enacted as 1 HCC § 8 by Legislative Resolution 3/7/01F.
- 3/16/04 Amended and Restated by Legislative Resolution 3/16/04G reducing the quorum for the Board of Directors from 4 to 3 and requiring Director vacancies by posted in the Hocak Worak prior to filling.
- 10/21/08 Legislature places out proposed Amendments for forty-five day public comment solely surrounding issues of immediate family of Legislators, President, and Appointed Presidential staff serving on the Board of Directors.
- 2/03/09 Resolution 02-03-09 F Amends and Restates Act to allow immediate family of Legislators, President, and Appointed Presidential staff to serve on the Board of Directors.