

TITLE 20 – LEGAL

CHAPTER 1 - OFFICE OF THE ATTORNEY GENERAL

Legislative History: The “Statute Creating the Office of Attorney General of the Tohono O’odham Nation,” was adopted on October 1, 1989 by Resolution No. 326-89; amended by Resolution No. 91-500 (regarding coordination with Court Solicitor and other in-house legal counsel), effective November 6, 1991; amended by Resolution No. 15-492 (increasing from three to ten years the minimum years of experience in the practice of law required for the position of attorney general), effective December 16, 2015.

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STATUTE CREATING THE OFFICE OF THE ATTORNEY GENERAL
OF THE TOHONO O'ODHAM NATION

Section 1. Establishment of Office of the Attorney General; Purpose.

A. There is hereby established the Office of the Attorney General of the Tohono O'odham Nation.

B. The Office of the Attorney General shall have overall responsibility for providing legal advice and representation to all officials, agencies, departments, divisions, and branches of the Nation's government, and for representing the Nation in all legal proceedings, and in other matters that affect the legal interests of the Nation; and it shall have such other responsibilities as the Legislative Council may direct from time to time.

Section 2. Personnel.

A. The Office of the Attorney General shall consist of the Attorney General of the Nation, and such Deputy or Assistant Attorneys General and other staff as the Attorney General shall determine are required from time to time, subject to funding provided by the Legislative Council.

B. The Attorney General and any Deputy or Assistant Attorney General shall be licensed attorneys, admitted to practice before the highest court of a state of the United States, and in the case of the Attorney General, shall have had at least ten years experience in the practice of law prior to taking office. If not admitted to the practice of law in the State of Arizona at the time of taking office, the Attorney General and any Deputy or Assistant Attorney General shall seek such admission at the earliest possible time thereafter, and must be admitted to practice in the State of Arizona within eighteen months after taking office or be subject to dismissal from their positions in the Office of the Attorney General.

C. The Attorney General shall be appointed by the Chairman of the Nation, from among a group of no fewer than three persons qualified for the position, nominated by the Domestic Affairs Committee of the Legislative Council. The appointment shall become effective upon its approval by a majority of the Legislative Council. The Attorney General may be dismissed only with the concurrence of the Chairman of the Nation and of a majority of the Legislative Council. Deputy and Assistant Attorneys General and their staff shall be hired by the Attorney General and shall serve at his pleasure, subject to the personnel policies of the Nation. The salaries of the Attorney General and his staff shall be established by the Legislative Council.

Section 3. Authority, Responsibilities and Duties.

The Attorney General shall have the following authority, responsibilities and duties:

A. To provide legal advice and representation as needed to the Nation, its agencies and offices, the Legislative Council and its committees, and such other entities as the Legislative Council shall authorize the Attorney General to advise and represent; and to work with the Staff Attorney to the Chairman on legal matters involving action by or the involvement of the Chairman of the Nation, to promote cooperation and resolution of any potential conflicts or disagreements between the Chairman's office and the Legislative Council. The Attorney General shall also work with the Court Solicitor for the Judicial Branch, in conjunction with the Staff Attorney to the Chairman if appropriate, on legal matters involving action by or the involvement of the Judicial Branch, to promote cooperation and resolution of any potential conflicts or disagreements between the Judicial Branch and the Legislative Council or the Chairman's Office; provided, however, that such efforts shall be limited to subjects which the Attorney General is ethically permitted to discuss under the ethical standards referred to in Section 3 (L) or otherwise applicable, and shall not extend to pending cases in the Judicial

Branch or other matters to the extent such discussions would be foreclosed by pertinent ethical responsibilities.

B. To provide legal advice and assistance to the District Councils of the Nation, subject to the availability of resources, and subject to the ethical limitations on the Attorney General relative to involvement in matters in which a District may have interests adverse to those of the Nation (provided, that nothing herein shall preclude any District Council from obtaining independent counsel in any matter, and the Attorney General may, on request, advise and assist any District Council in selecting and negotiating an appropriate contract with any such outside counsel).

C. At the request of any office or agency of the Nation, or of the Legislative Council or any of its committees, or on his own motion, to determine whether outside counsel should be retained by the Nation for advice or representation as to any specific task or specialized area of law and the justification therefor, and to make a recommendation thereon to the Legislative Council, and upon the Council's approval of such recommendation, to oversee the process of selecting such counsel and to prepare and approve the contract with such counsel. The Attorney General shall thereafter monitor the work of any such outside counsel.

D. To formulate overall administrative and operating policies pertaining to the Office of the Attorney General, including the Office of the Prosecutor, and to take such action as the Attorney General deems necessary to implement such policies.

E. To exercise ultimate supervisory control and direction over all personnel within the Office of the Attorney General, including the Office of the Prosecutor.

F. To represent the Nation and its governmental agencies in all legal matters in its dealings and relations with persons and organizations outside of the Nation, except to the extent that such representation has been delegated to other counsel.

G. Annually to develop and submit to the Legislative Council a budget for the operation of the Office of the Attorney General.

H. To assist members of the Legislative Council in preparing proposed resolutions of the Council and the committees thereof, and to review all resolutions proposed to be submitted to the Legislative Council and to provide advice and recommendations thereon, and to provide legal advice and opinions to the Legislative Council and its committees to assist them in conducting their business.

I. To review and approve all contracts for services, and all contracts of any type for an amount in excess of \$10,000 (and any other contracts, at the request of the concerned office), proposed to be entered into by or on behalf of the Nation or any of its agencies, offices, departments, or divisions, prior to execution thereof, and to negotiate any such contracts in consultation with the head of the concerned offices or agencies of the Nation.

J. To oversee and advise the Legislative Council on the compilation and adoption of a comprehensive code of the laws of the Nation, and from time to time to propose the enactment of such additional laws as, in the Attorney General's opinion, are required for the orderly management of the Nation's affairs and the regulation of persons and activities within the Nation.

K. Regularly, and on special request, to report to the Legislative Council and to the Chairman of the Nation on the legal affairs of the Nation, the particular legal matters facing the

Nation and their potential consequences, and on the progress of the Attorney General in meeting the Nation's legal needs.

L. To perform all of the duties and responsibilities of the Office in accordance with the highest standards of legal ethics.

Section 4. Office of the Prosecutor; Establishment; Purposes.

A. There is hereby established within the Office of the Attorney General of the Nation, the Office of the Prosecutor.

B. It is the role of the Office of the Prosecutor to investigate, and where appropriate to prosecute, in the Nation's courts, persons subject to the Nation's jurisdiction who are alleged to have committed crimes under the laws of the Nation, and to perform such other functions as are reasonably related to the foregoing, including the assumption of certain responsibilities with respect to civil matters related to such criminal prosecutions, including extradition, forfeiture and exclusion proceedings.

Section 5. Personnel.

A. The Office of the Prosecutor is headed by the Chief Prosecutor, who shall be appointed by the Attorney General of the Nation and who shall serve at his pleasure. There shall be such Assistant Prosecutors as the Chief Prosecutor determines to be necessary for the fulfillment of the duties of the Office, consistent with funds appropriated by the Legislative Council, and such Assistants shall be appointed by the Chief Prosecutor and shall serve at his pleasure, subject to the personnel policies of the Nation.

B. The Chief Prosecutor shall be a licensed attorney, admitted to practice before the highest court of a state, and shall achieve admission to the Bar of the State of Arizona no less than eighteen months after taking office. The Chief Prosecutor shall, with the approval of the

Attorney General, establish qualifications for Assistant Prosecutors sufficient to insure their ability to undertake competent investigation and prosecution of crimes.

Section 6. Duties, Responsibilities and Authority of the Office of the Prosecutor.

The Prosecutor shall:

A. Report to the Attorney General with respect to all activities of the Prosecutor's office and be responsible to the Attorney General for all administrative and operational matters not relating to the investigation and prosecution of crimes and criminal defendants.

B. Investigate, prosecute and dispose of all cases within the Prosecutor's jurisdiction, acting independently and upon his or her own authority within the guidance of law and professional ethics.

C. Exercise supervisory control and direction of all personnel within the Office of the Prosecutor.

D. Within the areas of the Prosecutor's responsibility and authority, represent the Nation's government in its dealings and relations with persons and organizations outside of the Nation.

E. Recommend to the Attorney General changes and improvements in the criminal and other codes of the Nation that would lead to an improvement in the criminal justice system of the Nation, and assist the Attorney General in overseeing the compilation of a comprehensive criminal code and code of criminal procedure for the Nation.