

**Saginaw Chippewa Tribal Court
Court Procedural Rules
Probate of Estates**

The Court recognizes the importance of processing cases in a timely manner. The Court further acknowledges the need to document the process for the benefit of the parties and efficient operation of the Court.

This document will serve as rules of procedure in probate of estate cases as outlined below.

The following rules of procedure are meant to implement and carry out the intent of the Saginaw Chippewa Tribal Probate Code (Title VI), and if a conflict should exist, the Code will control. All terms provided in these rules of procedure will have the same meaning as those terms provided in Title VI.

RULES OF PROCEDURE IN PROBATE OF ESTATES CASES:

1. COMMENCEMENT OF ACTION

1.101 All actions for probate of estates for deceased members or other American Indians within the jurisdiction of the Saginaw Chippewa Tribe, shall commence with a Petition for Probate and/or Appointment of Personal Representative (Petition – PCE01), which shall be filed by an heir at law, beneficiary named in the will, creditor, other persons claiming an interest in the estate, or Tribal Public Administrator. The Petition form may be obtained at the Tribal Court. Upon receipt of the Petition and filing fee, the Tribal Court will also provide the following:

- a. Court Procedural Rules – Probate of Estates;
- b. Proof of Service form (PCE02);
- c. Waiver/Consent form (PCE03);
- d. Inventory form (PCE07);
- e. Notice to Creditors form (PCE08);
- f. Statement and Proof of Claim (PCE09);
- g. Account of Fiduciary/Schedule of Distributions and Payment of Claims (PCE10);
- h. Waiver (PCE11); and
- j. Petition for Complete Estate Settlement (PCE13).

The use of the listed forms will be required to complete the estate process.

1.102 The following information is required on the Petition:

- a. Date of death;
- b. Age of deceased person at death;

- c. Domicile of deceased person;
- d. Time (if known)
- e. Tribal member, descendant or other American Indian;
- f. Names and addresses of heirs and devisees; and

1.103 If decedent executed a will, the Petition shall include the date the will was executed and a copy of the will attached. Such will must be signed, dated and witnessed by at least two competent persons.

2. ACTION ON THE PETITION

2.101 Upon receipt of the Petition, the Court shall set a date for an Initial Hearing 45 days from the date of the filing and provide a written notice to the Petitioner.

2.102 Petitioner shall serve the written notice on all interested persons named in the Petition.

- a. Notice shall be by personal service for persons living on the Reservation and may be served by mail for persons not living on the Reservation. Personal service shall be made at least 7 days before the date set for hearing. Service by mail shall be made at least 14 days before the date set for hearing.
- b. In addition to the personal service and service by mail, the notice shall be posted in at least five places on the Reservation for 20 days before the hearing date. The locations shall be as follows:
 - i. Tribal Court
 - ii. Tribal Operations
 - iii. Nimkee
 - iv. 7th Generation
 - v. Saganing Reservation – Tribal Court will send this Notice of Hearing.
- c. The person serving, mailing and posting the notice shall file a Proof of Service (PCE02) with the Court before the hearing date indicating the date and name of persons personally served or served by mail, and the date and location of postings on the Reservation.
- d. Service may be made by any adult or emancipated minor, including an interested person.

2.103 The right to notice of hearing may be waived. The waiver must:

- a. be stated on the record at the hearing, or

- b. be in a writing, which is dated and signed by the interested person or someone authorized to consent on the interested person's behalf and specifies the hearing to which it applies (Waiver/Consent – PCE03).
- 2.104 The relief requested in a petition or motion may be granted by consent of an interested person. The consent must:
- a. be stated on the record at the hearing, or
 - b. be in a writing which is dated and signed by the interested person or someone authorized to consent on the interested person's behalf and must contain a statement that the person signing has received a copy of the petition or motion (Waiver/Consent – PCE03).

3. INITIAL HEARING ON PETITION

- 3.101 On the date and time set for initial hearing, the Court shall determine the following:
- a. decedent's death;
 - b. venue;
 - c. heirs;
 - d. decedent died intestate or with a valid will;
 - e. supervised or unsupervised administration; and
 - f. appointment of personal representative.
- 3.102 The Court shall enter an Order of Formal Proceedings (PCE04) and serve by mail to all interested persons.
- 3.103 The Court shall issue Letters of Authority for Personal Representative (PCE05), and Acceptance of Appointment (PCE06) and serve by mail to the personal representative.
- 3.104 At the time of appointment, the court must provide the personal representative with written notice of the following information:
- a. Inventory Information: within 91 days of the date of the letters of authority, the personal representative must submit to the Court the Inventory form (PCE07).
 - b. Change of Address: the personal representative must keep the court and all interested persons informed in writing within 7 days of any change in address.

- c. Duty to Complete Administration of Estate: the personal representative must complete the administration of the estate and file appropriate closing documents with the court.

4. DUTIES OF PERSONAL REPRESENTATIVE

- 4.101 Upon receipt of the Acceptance of Appointment (PCE06), the personal representative shall sign and return the document to the court.
- 4.102 The Personal Representative shall file an Inventory (PCE07) with the court within 91 days of the date of the letters of authority.
- 4.103 Notice to Known Creditors. The personal representative shall serve notice to Creditors (PCE08) personally or by mail on each known creditor of the estate. This notice shall include a statement that claims will be forever barred unless presented to the personal representative, or to both the court and personal representative within 4 months of receipt of the Notice.
- 4.104 Publication of Notice to Creditors. The personal representative shall publish Notice to Creditor (PCE08) in a newspaper in the county in which the decedent was domiciled. This notice shall include a statement that claims will be forever barred unless presented to the personal representative, or to both the court and personal representative within 4 months of publication of the notice.
- 4.105 Presentment of Claims. A claim shall be presented to the personal representative by mail, personal delivery or by filing the claim with the court. If filed with the court, the court will serve a copy by mail to the personal representative. Upon receipt of a claim, the personal representative shall file a Statement and Proof of Claim (PCE09) with the court and personally serve or mail a copy to all interested persons. The person serving, or mailing the copy to interested persons shall file a Proof of Service (PCE02) with the Court indicating the date and name of persons personally served or served by mail.
- 4.106 Accounting/Distributions/Payment of Claims. The personal representative shall file an Accounting/Schedule of Distributions and Payment of Claims form (PCE10) as needed for any distributions to heirs and/or payments to creditors for a claim. The personal representative shall also file form PCE10 annually from the date of the Letters of Authority (PCE05) and/or for the final accounting to settle the estate.
- 4.107 Waiver. The personal representative may file a Waiver (PCE11) signed by an heir and notarized that waives any interest in the estate.

5. STATUS CONFERENCE/INTERIM COURT HEARINGS

5.101 Notice of Complaint or Omission. The Court may set one or more status conferences to determine whether appropriate progress is being made in administering the estate and to resolve any outstanding issues. The court will send the personal representative the Notice of Complaint or Omission form (PCE12) indicating outstanding issues. The personal representative shall correct the outstanding issue within 28 days of the date of notice or a status conference will be scheduled by the court. If a status conference is scheduled by the court, the court will provide notice to the personal representative and all interested parties.

6. RESOLUTION OF PROBATE ESTATE

6.101 After a minimum of 5 months has passed from the filing of the petition (PCE01) and upon the determination by a personal representative that (1) all estate matters have been resolved and the estate is ready to be closed, or (2) final resolution of estate matters will require judicial decision, the personal representative shall file with the court a Petition for Complete Estate Settlement (PCE13), along with the Accounting/Schedule of Distributions and Payment of Claims form (PCE10).

6.102 The personal representative shall serve form PCE13 and PCE10 on all interested parties. Service shall be by personal service for persons living on the Reservation and may be served by mail for persons not living on the Reservation.

6.103 The personal representative shall file a Proof of Service (PCE02) with the Court indicating the date and name of persons personally served or served by mail.

6.104 If the matter is uncontested, the court may enter an Order for Complete Estate Settlement (PCE14) based upon the submitted documents and serve the Order on all interested parties.

6.105 If the matter is contested, the court shall schedule a final hearing, take any necessary evidence and testimony and render an appropriate judgment and Order for Complete Estate Settlement. The court shall serve the Order on all interested parties.

7. ADMINISTRATIVE CLOSURE

7.101 If the personal representative fails to perform the duties required within the time allowed, after notice and a hearing, the court may administratively close the file upon a finding of good cause.