



## **II. Jurisdiction and governing law**

Article IX vests in this Court “original jurisdiction over all cases and controversies arising under the Lumbee Constitution and all ordinances of the Lumbee Tribe of North Carolina.” The rule of law to be applied “shall be the will of the Lumbee people as expressed in the Lumbee Constitution, duly adopted tribal ordinances, and Lumbee custom,” and, in their absence, federal common law. The Judicial Codes further require that a Petition state “a case or controversy arising out of an alleged violation pursuant to the Lumbee Tribal Constitution or any duly adopted Tribal Ordinances,” identify the specific provision allegedly violated, and clearly state “how or why” the provision has been violated and the grounds for relief. This Court’s duty is to decide concrete cases and controversies; it does not issue advisory opinions or supervise the political branches in the abstract.

The provisions at the core of the Petition include:

Article III, section 2, guarantees that “[t]he members of the Tribe shall be secure in their persons and property,” with such security preserved by the constitutional government.

Article VII, section 1, delegating legislative power, including the adoption of rules and regulations governing Council “procedure and decorum,” to the Tribal Council.

Article VII, section 5, requires that “[a]ll proceedings of the Tribal Council shall be conducted in public session, except for proceedings certified in advance by the speaker as implicating privacy rights of a tribal employee or member.”

Article VII, section 6, requires posting and periodic publication of ordinances and “a calendar of proceedings showing all council actions taken and the address and phone number where copies of ordinances are available.”

The record also includes the General Ordinance Governing the Duties of Committees, Appointments, and Tribal Government Affiliated Positions (Ordinance No. 2005-0007), and the Standing Rules of Order and Regulations Governing the Duties of the Tribal Council Officers and Decorum of Council Meetings (TCRR-2011-1215-01, as amended through March 20, 2025), both adopted pursuant to Article VII, section 1(b). These enactments authorize, among other things, committee meetings, limited closed sessions for specified subject matters, and the internal distribution of supporting documents to Council members.

## **III. Justiciability and the LaClaire precedent**

This Court has already articulated a controlling standard for the sufficiency of petitions challenging Council practices in *Rebecca LaClaire v. Lumbee Tribal Council*, Case No. 2020-003. In *LaClaire*, the petitioner alleged unconstitutional “work sessions” and exclusion of tribal members from judicial and Elections Board interviews and requested that this Court prohibit such practices. The Court held that:

Its “duty is to only determine if an act, described with particularity, amounts to a case or controversy inconsistent with the Constitution and/or Ordinances.”

A petition that merely alleges “suspect behavior, without citing enough facts to establish that such behavior is both actual and identifiable, is not reviewable.”

To undertake a generalized inspection of “insufficiently identified constitutional violations” would be “the constructive equivalent of offering an advisory opinion,” which this Court would not do.

Applying those principles, the Court in LaClaire dismissed the petition for failure to state an act with sufficient particularity to enable constitutional review.

Petitioner’s pleading here substantially parallels LaClaire. The Petition merges a wide range of alleged practices—closed sessions, budget work sessions, notice and publication issues, and document distribution—but generally does so without specifying the date, particular meeting, specific ordinance, or concrete action being challenged, or the individual or body responsible for each alleged infraction. As in LaClaire, this level of generality “deprives [Respondent] of fair notice and renders meaningful review impossible,” and invites the Court to supervise a category of legislative behavior rather than adjudicate a discrete controversy.

#### **IV. Failure to state a claim and lack of a live controversy**

##### **A. Vagueness and overbreadth of the Petition**

Although the Petition recites multiple constitutional provisions, it aggregates years of Council practice into generalized claims about “Council goes into closed session” for budgets, interviews, amendments, and other matters, without identifying concrete instances—dates, meetings, votes, certifications by the Speaker, or specific ordinances—on which this Court could perform constitutional review. Even taking the Petition’s allegations as true for purposes of review, the pleading is overly broad and vague. It does not clearly identify:

A specific ordinance or formal action enacted or taken in violation of Article VII, sections 5 or 6;

A particular closed session, with date and subject matter, that was not certified in advance by the Speaker as implicating privacy rights; or

A concrete instance in which Petitioner personally was denied access to a proceeding that the Constitution clearly requires to be open, or denied access to an ordinance or calendar of proceedings that the Constitution or an ordinance clearly requires to be publicly available.

Instead, the Petition asks this Court to declare broadly that multiple categories of Council activity are unconstitutional, and to impose an advance-distribution regime for Council documents extending to “all documentation” supporting budgets, interviews, hearings, and other proceedings, to be provided to tribal members five business days in advance. Such generalized complaints and structural remedies do not meet the particularity standard required by LaClaire and this Court’s conception of its constitutional role.

Under the Judicial Codes, the Court must determine “if a hearing is warranted based on facts stated in the Petition.” Where, as here, the Petition offers broad characterizations of practice rather than discrete, fact-specific episodes, the Court cannot meaningfully assess whether any identified act is inconsistent with Article VII, Section 5 or Section 6. To proceed on such a record would invite the Court to perform a general audit of Council operations and issue abstract pronouncements untethered to a particular tribal action, precisely the sort of advisory function this Court has already disclaimed.

##### **B. Mootness and temporal disconnect**

The Motion to Dismiss also notes that many of the practices Petitioner challenges occurred under prior Councils, and that the current Council has not held budget work sessions or conducted the specific proceedings described in the Petition during its present term. A petition that targets past practices of a different body, with no allegation of ongoing or imminent conduct by the sitting Council, fails to present a

live controversy suitable for judicial resolution and risks transforming this Court into a forum for historical grievances rather than current constitutional disputes.

### **C. Political question and separation of powers**

Even if the Petition were sufficiently specific, the principal relief sought would require this Court to restructure the Constitution's allocation of legislative authority. The Petition asks this Court, in effect, to:

Compel the Council to treat all supporting documents for legislative business—including contracts, draft agreements, and other sensitive materials—as publicly available five days before any meeting at which they might be discussed; and

Restructure the balance between representative and popular oversight by converting the Council's continuous review of budgets and other matters into an ongoing plebiscitary process driven by pre-meeting document releases.

Article III, section 1, however, reserves to the Tribal Council the legislative powers “expressed herein and those powers necessary and proper to the exercise of those powers,” as delegated by the general membership. Article VII, section 1(b), in turn, expressly grants the Council authority to adopt rules and regulations governing its own procedure and decorum, subject to consistency with the Constitution. The Standing Rules and Ordinances in the record, including the committee ordinance, rules for closed sessions, and provisions on document distribution to Council members, are exercises of that delegated legislative discretion.

Recasting that framework into a judicially enforced requirement that all supporting documents be publicly disclosed in advance of deliberation would effectively amend the Constitution and Standing Rules, rather than interpret or enforce them. Using a judicial decree to impose a particular model of continuous document-level oversight by the entire membership would cross the line from interpreting the Constitution to amending it. That is not a role Article IX assigns to this Court. This Court's jurisdiction extends to determining whether a specifically identified act or ordinance violates the Constitution. It does not extend to permanently supervising the internal structuring of legislative calendars, work sessions, or packet distribution except insofar as a particular practice, proven on specific facts, can be shown to contravene a clear constitutional command.

The design of the Lumbee government, as reflected in recall, initiative, and referendum provisions and in the Elections Board's authorities, already provides political tools for the membership to hold the Council accountable. Determining whether to expand those mechanisms or alter the structure of legislative transparency in the manner Petitioner requests is a policy question reserved to the Lumbee people acting through the amendment, initiative, or legislative processes - not a matter for judicial decree.

Accordingly, the core relief sought presents a non-justiciable political question and falls outside this Court's proper role under Article IX.

### **V. Transparency, practice, and existing remedies**

The record also reflects that the current Council has undertaken substantial steps to promote transparency and public participation within the existing constitutional framework:

The Council has conducted open-session interviews of Supreme Court Justices, an Administrative Judge, and an Elections Board member.

Tribal ordinances, including budget ordinances and the Standing Rules, are posted and published, and a calendar of proceedings is made available through the Tribe’s website and public postings.

Council business meetings are conducted in chambers with live-stream access, and community comments are permitted under defined rules, with time allotted at regular business meetings and committee sessions.

Additionally, the Constitution itself provides multiple political remedies, recall, initiative, referendum, and elections, for tribal members dissatisfied with Council performance or transparency. The existence of these mechanisms underscores why judicial displacement of the Council’s procedural judgments is neither necessary nor appropriate as a constitutional matter.

Nothing in this opinion should be read to diminish the constitutional requirement that “all proceedings of the Tribal Council” be conducted in public session except for those legitimately certified as implicating privacy rights, nor to preclude future, properly pleaded challenges to specific actions alleged to violate that standard. Those questions remain fully justiciable when presented in a concrete, fact-specific context.

## **VI. Disposition and citation**

For the foregoing reasons, the Court holds:

The Petition fails to state with sufficient particularity any discrete act or ordinance that can be adjudicated under Article IX and thus fails to present a justiciable case or controversy.

To the extent the Petition seeks to require structural changes to the Council’s transparency and document-distribution practices that would reallocate legislative oversight authority from the Council to the general membership, it raises a non-justiciable political question and seeks relief beyond this Court’s constitutional power.

The Petition is therefore DISMISSED without hearing, per the Court’s unanimous decision<sup>i</sup> in Conference.

SO ORDERED, this 5<sup>th</sup> day of March 2026, in Robeson County, North Carolina.



Chief Justice  
Supreme Court of the Lumbee Tribe of North Carolina

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<sup>i</sup> Justice Edward Brooks took no part in the consideration or decision of this case; he was not a member of the Court at the time of deliberation.