

Chairman Transition Frequently Asked Questions (FAQs)

Q1. When will the Chairman depart from the Commission?

A1. Chairman E. Sequoyah Simermeyer resigned from his position effective February 24, 2024.

Q2. Without a Presidential-appointed Chair or Acting Chair, how will the NIGC Commission continue to function, make staffing decisions, and procuring services?

A2. The Chairman delegated his 25 U.S.C. § 2707 “Commission Staffing” authorities to the Vice Chair, which include the appointment and supervision of staff and procurement of services. The Chair delegations, per agency policy, to the Chief of Staff and General Counsel for the supervision of their respective staff remain unchanged.

Q3. What is a fully operational Commission?

A3. For an individual to exercise 25 U.S.C § 2705 “Powers of the Chairman,” the President of the United States must appoint them as Acting Chair or nominate them as Chair for confirmation by the United States Senate. To exercise 25 U.S.C § 2706 “Powers of the Commission,” the Commission must have a minimum of two Commissioners, one of whom is either the Chair or Vice Chair, to establish a quorum. In short, the Commission requires a quorum to act.

Q4. How are appointments to the Commission made?

A4. The Commission is comprised of three full-time members, including a Chair and two Associate Commissioners. The Chair is appointed by the President and confirmed by the Senate. The Secretary of the Interior appoints the two Associate Commissioners. The Commission selects a Vice Chair by a majority vote. At least two members of the Commission must be enrolled members of any Indian Tribe and only two members may be of the same political party.

Q5. May the Chairman review and approve pending matters up to his departure?

A5. Yes. The Chairman exercised his full authority until the day he left office.

Q6. What is the process for replacing the Chairman? How soon will someone be in place?

A6. The President of the United States may appoint an Acting Chair or nominate a Chair. An Acting Chair may take action as such upon their appointment by the President. Nominated Chairs, however, require confirmation by the United States Senate. Once the Senate confirms the nominee, the President will formally appoint the person, and they will assume the duties and powers of the Chair. Once the nominee has been announced, the political appointment process typically takes 90-120 days, depending upon the Senate confirmation process.

Q7. In the absence of an Acting Chair or Senate-confirmed Chair, how does the agency operate?

A7. Chairman Simermeyer’s delegation of his IGRA, 25 U.S.C. § 2707 powers to the Vice-Chair allows the agency to continue its day-to-day operations, including training and technical assistance. And the Chairman delegated for emergency purposes his IGRA, 25 U.S.C. § 2705 powers to the Vice Chair. So, any serious, unexpected situations demanding an immediate

response that violate IGRA, NIGC regulations, or an approved tribal gaming ordinance may be addressed via notices of violation, temporary closure orders, and proposed civil fine assessments.

Q8. Can we meet the candidates that are being considered for Chair?

A8. The Chair and the Associate Commissioners are political appointments made by either the White House or the Secretary of the Interior, respectively.

Q9. How does the Chairman's departure impact ongoing litigation decisions?

A9. The NIGC does not have independent litigating authority and coordinates its litigation with the United States Department of Justice (DOJ).

Q10. Does the Chairman's departure impact NIGC's ability to issue declination letters?

A10. There will be no change to the declination letter process, as it is not required by or governed by IGRA. Declination letters are legal opinions issued as a courtesy to tribes by the NIGC's Office of the General Counsel (OGC). In the absence of a Chair, OGC will continue to review requests and issue declination letters as normal.