

- (4) Citation of tribal ordinance provision
- (5) Scheduled date and time for appearance
- (6) Penalty for non-appearance or conviction
- (7) Amount of no-contest forfeiture
- (8) Identification of issuing officer
- (9) Time and date of issuance

Section 3.3 Delivery

(A) Citation books will only be issued to Tribal law enforcement personnel, who shall be responsible for the security of the books.

(1) Upon completing the citation form, the issuing officer shall deliver a copy of the citation to the alleged violator.

(B) Delivery of a citation may be effected by personal service in accordance with Tribal Code provisions governing personal service of process or by personal service delivery from the issuing officer to the alleged violator. A citation may be delivered by posting a copy in the mail to the alleged violator's last know address.

(C) Within 3 business days after delivery or mailing, the original citation shall be delivered to the Clerk of Court. The officer shall retain the second copy and shall forward a photocopy of the citation to the Tribal Prosecutor.

CHAPTER 4 THE PEACEMAKER SYSTEM

Part 1. GENERAL PROVISIONS

Section 4.1 Purpose & Construction

(A) These rules are meant to provide formal support, structure and enforcement to traditional Kickapoo methods of resolving disputes through mediation and the use of traditional ways.

(B) These rules shall be interpreted liberally and informally with the goal of providing a fair, informal, inexpensive and traditional means of resolving disputes. The rules shall be used and applied in accordance with Kickapoo tradition and custom, if possible.

(C) The Kickapoo customs and traditions shall be the Guiding Principles for the Peacemaker System.

Section 4.2 Establishment.

The Peacemaker System of the Kickapoo Traditional Tribe of Texas is hereby established as part of the Tribal Court System. While a part of the Tribal Court System, the Peacemaker System will be independent from the Tribal Court judges. The Peacemakers

may use the Tribal Court as a resource and infrastructure for purposes of supporting and maintaining the Peacemaker System. The Tribal Court judges may use the Peacemaker System as a resource as set forth below.

Section 4.3 Subject Matter Jurisdiction; Personal Jurisdiction: Attorneys

(A) A judge may appoint a Peacemaker where the matter in dispute is within the jurisdiction of the Court according to its jurisdictional requirements.

(B) The Peacemaker System does not have the power to compel persons within the jurisdiction of the Tribe to appear and participate in Peacemaker System proceedings nor to compel the attendance of parties. Peacemakers shall not have authority to decide a disputed matter unless all parties to the dispute consent to such authority in writing.

(C) Members of the Kickapoo Traditional Tribe of Texas' Bar and all attorneys are prohibited from participating in any proceedings of the Peacemaker System unless they have been called as witnesses or are parties and except to the extent they may assist persons with respect to protective orders, complaints, judgments or appeals as provided in Parts Four, Five and Six.

(D) Nothing in this Ordinance shall prevent Peacemakers from mediating disputes or providing Peacemaking services to entities other than the Kickapoo Traditional Tribe of Texas Tribal Court.

Part 2. PEACEMAKERS

Section 4.20 Appoint and Qualifications

(A) General Qualifications - Any Kickapoo tribal member who is over the age of 25 and who has the respect of the Kickapoo Traditional Tribe of Texas, an ability to work with Reservation residents and Tribal members, a reputation for integrity, honesty, humanity and an ability to resolve local problems shall be eligible to be appointed as Peacemaker, except that no attorney, nor any person while a member of the Traditional Council or while a Tribal Judge shall be eligible for appointment.

(B) Appointment

(1) The Kickapoo Traditional Council may select and certify the names of individuals as proposed Peacemakers. The individuals selected must agree in writing or by oath administered by a judge or the Clerk of Tribal Court to work in accordance with the Guiding Principles. The Clerk of Court shall maintain a roll of Peacemakers. Peacemakers shall be appointed from that roll. The Kickapoo Traditional Council may add or delete names to or from the list from time to time.

(2) Although a roll of Peacemakers shall be maintained in accordance with this section, this section shall not prevent individuals or parties from selecting another

individual to conduct Peacemaking, as long as the selection is done in a manner consistent with this Code.

(3) Peacemakers are encouraged to participate in training programs for Peacemakers. Peacemakers with sufficient knowledge of the Guiding Principles are not required to participate in training programs for Peacemakers.

C) Action where no appointment - If the Traditional Council fails to certify Peacemakers, the Court may appoint a Peacemaker from among persons known to it to be qualified.

(D) Agreement as to Peacemaker - The parties to any dispute, whether in Tribal Court or not, may by mutual agreement, have a specified individual serve as Peacemaker for the resolution of their dispute. In such cases, if the Peacemaker does not appear on the roll of Peacemakers kept by the Court, the parties must petition the Traditional Council to appoint the individual and the individual shall not conduct any peacemaking until appointed by the Traditional Council.

Section 4.21 Powers of Peacemakers

(A) Peacemakers appearing on the tribally approved roll shall have the same immunities as Tribal Court judges.

(B) Peacemakers shall have all the powers pursuant to Tribal law and customs necessary to conduct peacemaking.

Section 4.22 Limitations

Peacemakers not judges; Agreed arbitration. Peacemakers shall only have the authority to use traditional and customary methods to mediate disputes and obtain the resolution of problems through agreement. Peacemakers shall not have the authority to decide a disputed matter unless all parties to the dispute agree to such authority in writing or before the Tribal Court. Any such decision will have the effect of a court judgment when entered by the Tribal Court.

Section 4.23 Duties of Peacemakers

Peacemakers shall have all duties pursuant to Tribal law and customs necessary to conduct peacemaking.

Section 4.24 Reports to Tribal Court.

Where the Peacemaking sessions were pursuant to a referral from Tribal Court, either at the conclusion of the peacemaking or at such time as the Peacemaker finds there can be no resolution of the matter, the Peacemaker must report the results of the peacemaking to the Court. The reports may be informal but must be reduced to writing, either by the Peacemaker or the Tribal Court. This written record shall be maintained in the Court file.

Part 3. PROCEDURE

Section 4.30 Request for Peacemaking

Any individual may ask the assistance of the Peacemaker System by filing a written request with the Court or by contacting a certified Peacemaker directly. A list of certified Peacemakers shall be available to the public. The request may be informal and hand-written, and it may be made either on a form provided by the court or in any writing which gives the court the following information:

- (A) The name and address of the person who requests the use of the Peacemaker System;
- (B) The names of the persons involved in the dispute (parties), and their mailing addresses and their place of residence.
- (C) The reason the individual wants to use the Peacemaker System and a short statement of the problem involved;
- (D) The names and addresses of each person who should be contacted by the Peacemaker and involved in the peacemaking;
- (E) Information showing the status of each of the individuals involved as either Indian or non-Indian and tribal affiliation and membership, if any.
- (F) A joint declaration by the parties that they consent to participating in the Peacemaker process.

Section 4.31 RESERVED

Section 4.32 Duties of Clerk of Tribal Court

All Clerks of Court will assist parties before the Peacemaker System by providing information about the Peacemaker System, assisting individuals in filling out requests, assisting the Peacemakers in making reports, advising individuals how to obtain a protective order or file a complaint and in giving whatever kind of assistance individuals may need to make the Peacemaker System effective and to carry out the intent of these rules.

Section 4.33 Appointment of Peacemaker

Upon filing by a party of a request for peacemaking, the clerk of court will present the parties making the request with a list of certified Peacemakers. The parties may choose from the list. If the parties wish, the Clerk of Court may choose a Peacemaker for them at random. In order to make a request for peacemaking, it is not required that the parties be involved in a Tribal Court case or a case in any other court.

If the parties before the Court have already agreed on a specific person as a Peacemaker or they wish to choose the Peacemaker together, the Court shall allow it.

Section 4.34 Notice to begin proceedings

Notice of the appointment of the Peacemaker shall be provided by the Clerk of Court, who shall send copies of the request and order to the named Peacemaker by first class mail. If the Clerk of Court does not receive notification from the Peacemaker of acceptance of the appointment within a reasonable time, the clerk shall so advise the parties for the purpose of choosing another person as peacemaker. The Peacemaker is responsible to informally advise the parties, witnesses and participants of his appointment and the copies of the request and order sent to the Peacemaker shall be evidence of his or her authority.

Section 4.35 Compensation of Peacemaker

The parties shall, at the time of making the request to use the Peacemaker System, pay into the court the sum of \$20 from each party, as compensation for the Peacemaker's services. The clerk of court shall pay such sum to the Peacemaker upon his or her acceptance of appointment. Upon the completion of the peacemaking, parties to the dispute shall, in equal shares, reimburse the Peacemaker for any actual expenses incurred in the matter.

Section 4.36 RESERVED

Section 4.37 Fees

A fee of \$10 will be charged for any protective order sought with respect to Peacemaker System proceedings.

Part 4. ACTIONS BY THE TRIBAL COURT.

Section 4.40 Protective Orders

Any party, witness or participant involved in Court ordered Peacemaking may petition the Tribal Court for a protective order ending the peacemaking process or putting limitations upon it for good cause shown.

Section 4.41 Action by the Court

A petition for a protective order may be made in writing, and must be made in writing if the party seeking the order has counsel. Otherwise it may be made orally in open court. Upon considering the petition for a protective order, which may be heard ex parte, the Court may issue an immediate order terminating peacemaking proceedings and must issue an order for the purpose of conducting a hearing on the petition for a protective order. Upon a full hearing, following notice to the parties, the court may terminate

peacemaking proceedings or place reasonable limitations upon them. The person seeking a protective order must pay a fee of \$10 to the Clerk of Court at the time of filing of the petition.

Section 4.42 Judgments

Where the parties in Peacemaking reach an agreement they wish to have confirmed and recorded by a formal judgment or order of the Court, they may present a draft judgment to the Court for its consideration. A court may enter judgment only when the following conditions have been met:

- (A) The court has jurisdiction over the parties and the subject matter of the agreement;
- (B) All necessary parties have actual knowledge of the proposed judgment and have either agreed to it or have agreed to submit the question to the Peacemaker for a decision;
- (C) The judgment contains the complete agreement of the parties and contains sufficient information regarding the full agreement so a dispute as to the provisions of the judgment is not likely to arise in the future;
- (D) The proposed judgment is otherwise proper and enforceable by the Court.

Section 4.43 Method of Presenting Proposed Judgment

The parties need not be represented by counsel, and the Court may make its written judgment following an informal oral conference with the parties. Where necessary the Court may require a member of its staff to assist the Peacemaker in preparing a proper form of judgment.

Section 4.44 Form of Judgment

All judgments must contain the following information:

- (A) The names and jurisdictional information with regard to each party (i.e. residence, consent to jurisdiction, etc.);
- (B) A statement of the fact that all necessary parties to the dispute have actual knowledge of it and that they have all agreed to the proposed judgment;
- (C) If the dispute was resolved by the agreement of all the parties that it would be submitted for the Peacemaker's decision, a statement of that fact;
- (D) A statement that the judgment is based upon Peacemaker System proceedings, and the name of the Peacemaker;
- (E) A general description of the dispute;

(F) The actual judgment of the Tribal Court.

Section 4.45 Enforcement of Judgment

A judgment of the Tribal Court upon Peacemaker System proceedings may be enforced as any other judgment of the Tribal Court.

Part 5. CONDUCT OF PEACEMAKERS

Section 4.50 General Standards

Peacemakers shall be bound by Tribal tradition and custom.

Section 4.51 Complaints Regarding Peacemakers

Complaints against Peacemakers shall be made to the Traditional Council in writing, and such complaints shall be treated as any complaint against a Trial Judge.

Section 4.52 Action on Complaint

Upon finding that a Peacemaker has violated Tribal custom and tradition, the Traditional Council may, by majority vote, suspend the name of the individual from the Peacemaker rolls. Where criminal activity is involved, the Traditional Council may refer the matter to the Tribal Prosecutor or other authority for possible prosecution. The Traditional Council shall notify in writing any Peacemaker who has been suspended from the rolls and the reason(s) therefore within 10 days. The Peacemaker shall have 14 days to appeal such suspension to the Tribal Appellate Court. Such appeals shall thereafter proceed pursuant to tribal appellate laws.

**Part 6. TRANSFER OF CASES FROM TRIBAL COURT TO
PEACEMAKER SYSTEM.**

Section 4.60 General Policy

Any civil or criminal actions in Tribal Court may be referred to the Peacemaker System in accordance with this Part where they fall within the kinds of matters within the jurisdiction of the Peacemaker System or where it is in the interests of justice to make such a referral for good cause shown, and where all parties agree to transfer.

Section 4.61 Requests and Objections

(A) Any party can request referral of their case to Peacemaker System.

(B) Any party can by objection prevent referral of their case to Peacemaker System.

(C) The written consent of all parties must be obtained by Tribal Court prior to transfer of a case to the Peacemaker System. Parties cannot withdraw their consent to transfer absent a showing by clear and convincing evidence in Tribal Court that their consent was obtained by fraud or undue influence.

(D) Non-parties can neither request nor prevent transfers to Peacemaker System.

(E) When a case is referred pursuant to this section, the Tribal Court still maintains jurisdiction over the case. If the Peacemaking process does not produce an agreement or resolution, then Tribal Court proceedings may continue.

Section 4.62 Civil Matters

Civil actions may be referred to Peacemaker System with the written stipulation of all the parties to the action.

Section 4.63 Criminal Matters

Any criminal matter may be transferred to the Peacemaker System, upon consent of the parties, where:

(A) The case does not involve injury to person or property; or

(B) Where the victim to the alleged offense consents; or

(C) Where there is a plea or conviction of guilty and peacemaking would be an appropriate condition of probation for achieving harmony and reconciliation with the victim.

Section 4.64 Criminal Probation

The Tribal Court may, as a condition of criminal probation, require the defendant to submit to the Peacemaker System for traditional and customary counseling, instruction and lectures appropriate to his or her offense. The Tribal Court may require the defendant to pay a fee of \$20.00 per party before commencing the peacemaking process.

Section 4.56 Mandatory Referral to Peacemaker System

Notwithstanding the consent provisions of this Code, if the Trial Judge assigned to any civil case decides that the parties would benefit from a session with a Peacemaker, the judge may order that the parties to spend at least one (1) hour in a Peacemaking session to see if the parties can resolve their case.

CHAPTER 5: ADMINISTRATIVE CODE