

TITLE 1. JUDICIARY

CHAPTER 1. MASHANTUCKET PEQUOT TRIBAL COURT

1 M.P.T.L. ch. 1 § 1

§ 1. Mashantucket Pequot Tribal Court

There is hereby established the Mashantucket Pequot Tribal Court which shall be comprised of the trial court and the Court of Appeals.

1 M.P.T.L. ch. 1 § 2

§ 2. Jurisdiction

a. The tribal court shall have subject matter jurisdiction over civil causes of action and criminal matters as expressly conferred upon it by the Tribal Council through enactment of tribal laws.

b. The tribal court shall have jurisdiction over the Tribe and tribal enterprises only where the Tribal Council has expressly and unequivocally waived its sovereign immunity from suit either in tribal law or in connection with a particular transaction or event.

c. The tribal court shall not exercise jurisdiction over any action arising from a contract, approved by the Tribal Council, to which the Tribe is a party or by which it is bound if such contract contains an express provision prohibiting the exercise of jurisdiction by the tribal court over actions arising from such contract, whether approved prior to or subsequent to the enactment of this law, provided that the tribal court shall have jurisdiction to enforce an agreement to arbitrate or an arbitration award relating to such contract if the contract provides for such action.

1 M.P.T.L. ch. 1 § 3

§ 3. Court of Appeals

Any final order or decision of the trial court may be appealed to the Court of Appeals. Decisions of the Court of Appeals are final.

1 M.P.T.L. ch. 1 § 4

§ 4. Court Rules

The Chief Judge shall have the authority to adopt reasonable rules of court for both the Trial Court and the Court of Appeals. Before the effective date of a rule, the Chief Judge shall notify the Mashantucket Pequot Tribal Council, Office of Legal Counsel, and Prosecutor. As used in the section, "rules of court" shall include the rules of civil procedure, rules of criminal procedure, rules of appellate procedure, and rules of evidence.

1 M.P.T.L. ch. 1 § 5

§ 5. Decisions

a. In all criminal and child welfare matters, the judge shall render her decisions, including findings of fact and conclusions of law within 30 days

of any trial or any final oral argument or submission of final written arguments on any motion. If warranted, the judge shall also issue an award.

b. In all other matters, the judge shall render her decisions, including findings of fact and conclusions of law within 120 days of any trial or any final oral argument or submission of final written arguments on any motion.

c. If a decision has not been rendered 20 days before the deadlines set forth in (b), the clerk shall issue a notice to the presiding judge, the chief judge, and both parties informing them of the deadline and setting a date for the parties to consent or object to an extension of the deadline for 60 days. Failure to submit written consent will be deemed an objection to the extension.

d. If the parties do not consent to the extension and the presiding judge does not render a decision within the original deadline, the presiding judge will not be assigned any additional matters until the delinquent decision is rendered.

e. In each calendar year and for each judge, the clerk shall track the number of matters before the judge, the average number of days for a decision to be rendered, and the number of decisions not rendered within the limits set out in (a) and (b).

CHAPTER 2. COURT ADMINISTRATION

1 M.P.T.L. ch. 2 § 1

§ 1. Judges

a. Judges of the tribal court shall be appointed by the Tribal Council to serve a term of three years. Judges of the tribal court shall have the following qualifications: highest moral and ethical character; licensed to practice law in the highest court of any state of the United States; at least five years experience as a practicing attorney and/or judge; and significant experience and knowledge in federal Indian and tribal law. The Tribal Council may waive any of the above qualifications in exceptional circumstances.

b. Duties of Judges

Judges shall (1) faithfully uphold the Constitution and Laws of the Tribe; (2) hear and decide all claims properly brought before the court in a judicious, impartial, and efficient manner; and (3) seek continued legal and judicial education, particularly in federal Indian law.

c. The salary of the judges shall be established by the Tribal Council, and once set, shall not be reduced during the length of the appointment. Judges shall not be entitled to participate in any employee bonus compensation plan.

d. The Tribal Council finds that for the impartial and effective administration of justice, the continued independence of the judiciary is indispensable. It is in the interest of the Tribe to foster the dignity and integrity of the judiciary, and to these ends, it is desirable to establish appropriate procedures for the maintenance of judicial discipline, recognizing that the making of unpopular or erroneous decisions is not a sufficient ground for judicial discipline or a finding of a want of judicial integrity. Judges shall be subject to suspension or removal from office for (1) conduct prejudicial to

the impartial and effective administration of justice which brings the judicial office in disrepute; (2) violation of any canon of judicial ethics; (3) failure to perform the duties of the office; (4) arrest and/or a final conviction of a felony or of a misdemeanor involving dishonesty or moral turpitude; (5) disbarment or suspension as an attorney at law; or (6) temperament which adversely affects the orderly carriage of justice.

e. Judges may be removed by a majority vote of the Tribal Council at a duly called meeting where such members are present and vote on the specific issue, provided that the Judicial Committee has first reviewed and investigated the matter giving rise to such removal action.

f. Judges shall be evaluated no less frequently than every three years.

1 M.P.T.L. ch. 2 § 2

§ 2. Chief Judge

a. The Tribal Council shall appoint a chief judge who, in addition to performing judicial duties in the trial court, shall be responsible for the administration of the tribal court, including the supervision of all court personnel, submission of all required reports, and performance of all other duties required by tribal law.

b. The chief judge shall develop an annual budget and submit it to the Tribal Council. The chief judge shall account for all monies expended by the tribal court. Unless the Tribal Council otherwise provides, the tribal court shall only expend funds authorized and appropriated by the Tribal Council.

c. The chief judge shall submit a schedule of fees that shall apply to actions filed in the tribal court to the Judicial Committee for its consideration, and such schedule of fees shall be effective 60 days from the date of submission, subject to the disapproval of the Judicial Committee which shall be exercised, if at all, within such 60 days.

d. The chief judge shall submit an annual report of the tribal court to the Tribal Council. The report shall include a description of the activities of the court, the number of cases by type of claim, number of cases filed, pending, and resolved in each court, a final report as noted herein, a description of the court's staffing and structure, and a summary of significant cases decided by the court.

e. The chief judge shall employ a court clerk and such other personnel that the chief judge deems necessary to administer the duties and responsibilities of the tribal court, provided that such employment shall be subject to the disapproval of the Tribal Council which shall be exercised, if at all, within 90 days of such commencement of employment.

1 M.P.T.L. ch. 2 § 3

§ 3. Admission to Practice

a. Any attorney admitted to practice before the highest court of any state of the United States is eligible for admission to practice in the tribal court. Each applicant for admission shall submit an admission registration application approved by the chief judge.

b. The tribal court may admit to practice on such terms and conditions as appear appropriate, a lay advocate who shall be a member of the Mashantucket Pequot Tribe or appointed legal or judicial staff members who shall agree to represent persons appearing before the tribal court.

c. No person convicted of a felony may practice before the tribal court.

CHAPTER 3. OFFICE OF THE PROSECUTOR

1 M.P.T.L. ch. 3 § 1

§ 1. Appointment

a. The Prosecutor/Special Tribal Advocate shall be appointed by the Tribal Council to serve either a part-time or full-time appointment for a term of three years.

b. The Prosecutor/Special Tribal Advocate shall have the following qualifications: (1) highest moral and ethical character; (2) license to practice law in the state of Connecticut and in the Mashantucket Pequot tribal court; (3) at least five years experience as a practicing attorney and/or judge, preferably in a prosecutorial capacity; and (4) significant experience and knowledge in federal Indian and tribal law. The Tribal Council may waive any of the above qualifications in exceptional circumstances.

c. The Prosecutor/Special Tribal Advocate shall: (1) faithfully uphold the Constitution and laws of the Tribe; (2) diligently present all criminal and child welfare matters, and any other matter as may be designated by tribal law before the tribal court; (3) represent the Tribe, upon the advice and consultation of the Office of Legal Counsel, in Indian child welfare matters in non-tribal forums; (4) present community education programs on subjects relative to the roles and responsibilities of the tribal prosecutor and tribal police; and (5) seek continued legal and judicial education, particularly in federal Indian law.

d. The salary of the Prosecutor/Special Tribal Advocate shall be established by the Tribal Council, and once set, shall not be reduced during the length of the appointment. The Prosecutor/Special Tribal Advocate shall not be entitled to participate in any employee bonus compensation plan.

e. The Prosecutor/Special Tribal Advocate shall be evaluated no less frequently than every three years.

f. The Prosecutor/Special Tribal Advocate may be removed by a majority vote of the Tribal Council at a duly called meeting where such members are present and vote on the specific issue, provided that the Judicial Committee has first reviewed and investigated the matter giving rise to such removal action.

CHAPTER 4. PEACEMAKERS COUNCIL

1 M.P.T.L. ch. 4 § 1

§ 1. Purpose and Scope of Jurisdiction

a. This Law defines the jurisdiction of the Peacemakers as established in TCR102693-01. It also establishes the procedures to be followed by the Peacemakers when they attempt to mediate a conflict or resolve a grievance.

b. The Peacemakers shall have exclusive jurisdiction, except as provided in this Law or by other tribal law, to hear civil Mediation Requests involving Mashantucket Pequot Indians which occur on the Mashantucket Pequot Nation lands. The Peacemakers may, in their unrestricted discretion, exercise jurisdiction over other mediation requests which involve non-Indians arising on the tribal lands.

c. The Peacemakers may exercise jurisdiction to hear grievances by Mashantucket Pequot Tribal members who are employees of the Tribe provided that all tribal administrative appeals have been exhausted. Mashantucket Pequot Tribal Member Employees shall file Grievances pursuant to Section 13 of these regulations. This Law amends, as it applies to Mashantucket Pequot Tribal Member Employees, the appeal rights provided in TCR061694-03. Pursuant to this amendment, Mashantucket Pequot Tribal Member Employees have the option of filing their employment appeals either in tribal court or with the Peacemakers. Such election is final and irrevocable.

d. The Peacemakers may exercise jurisdiction to hear grievances by Mashantucket Pequot Tribal Members relating to program regulation/guidelines provided that all tribal administrative appeals have been exhausted.

e. Decisions of the Peacemakers are not subject to appeal to the Mashantucket Pequot Tribal Council or to the Mashantucket Pequot Tribal Court.

f. The Peacemakers shall have jurisdiction to hear any matter referred to it by resolution of the Mashantucket Pequot Tribal Council.

g. The Peacemakers shall not have jurisdiction to hear contract disputes between vendors and the Tribe or any tribal business. Disputes involving vendors, contractors or consultants shall, upon authorization of the Tribal Council, be heard in the Mashantucket Pequot Tribal Court.

h. The Peacemakers shall not have jurisdiction to hear any appeal from decisions of the Mashantucket Pequot Tribal Housing Authority, the Indian Health Services program or from any other tribally administered federal program. The Peacemakers shall not have jurisdiction to hear any appeal from a final determination of the Incentive Review Team or any other tribally created administrative body specifically charged by the Tribal Council with authority to take final administrative action in a tribal program.

i. The Peacemakers shall not have jurisdiction to hear any appeal from any decision of the Mashantucket Pequot Tribal Council.

j. The Peacemakers shall not hear any appeal from any decision from the Mashantucket Pequot Tribal Court including, but not limited to, any appeal from a final decision of the Mashantucket Pequot Tribal Court of Appeals.

1 M.P.T.L. ch. 4 § 2

§ 2. Definitions

a. "Mashantucket Pequot Nation Lands" means all tribally owned lands and shall include lands acquired by the Tribe subsequent to the date of passage of this Law.

b. "Peacemakers" means that body of tribal members designated by vote of the

tribal families, pursuant to authority of TCR102693-01 of the Mashantucket Pequot Tribal Council, to serve as a mediation facilitator. "Full Peacemakers" shall mean a quorum as defined in this Law, of the entire Peacemakers membership. "Assigned Peacemakers" shall mean the Peacemakers assigned to any particular dispute (including alternate).

c. "Tribal Court" means the Mashantucket Pequot Tribal Court.

d. "Jail Sentence" means a sentence requiring incarceration in any state, federal or tribal jail or in any jail with which the Tribe has an agreement to house persons convicted in Tribal Court. This term includes jail sentences which are suspended or for which probation is provided as an alternative. "Jail Sentence" shall also include any "house arrest" which may be ordered by the Tribal Court or by any state or federal Court.

e. "Tribe" means the Mashantucket Pequot Tribe, a federally recognized Tribe.

f. "Consensus Decision" means mutually shared agreement of the Peacemakers.

g. "Grievance" means a document filed by any Mashantucket Pequot Tribal Member Employee pursuant to any Personnel Policies and Procedures Employee Manual which may apply to Tribal employees. No grievances shall be filed with the Peacemakers until all tribal administrative appeals have been exhausted. Grievances shall also mean a document filed by a member of the Mashantucket Pequot Tribe which alleges that a tribal administrator has failed to properly apply tribal policies to their application for assistance or which alleges that a tribal administrator has failed to act within 30 days of receiving a request for assistance.

h. "Party" means any person who is directly affected by facts alleged in a Mediation Request.

i. "Mashantucket Pequot Tribal Member Employee" means any enrolled member of the Mashantucket Pequot Tribe who is a Tribal Employee.

j. "Tribal Employee" means any member of the Mashantucket Pequot Tribe who is employed by any tribal entity.

k. "Mediation Request" means a written document filed by a person which sets forth the nature and parties involved in any inter-personal conflict that occurs on the nation lands.

l. "Injury" means any actual physical or mental harm that can be measured by monetary damages. "Injury" may also mean damage that may entitle a person to relief that the Peacemakers consider fair or equitable.

m. "Conflict of Interest" means any situation in which a Peacemaker is asked to mediate a matter in which a close family member is a party. A close family member shall mean a brother, sister, spouse, son, daughter, grandchild, grandparents, father or mother. Peacemakers shall disqualify themselves from deciding any matter in which they have a conflict of interest.

n. "Solution" means a written document which contains a statement of a civil conflict between Mashantucket Pequot tribal members or, at the discretion of the Peacemakers, other non-tribal members. The document shall also contain a statement describing the settlement or resolution to the defined civil conflict which is mutually agreed to by the parties. It shall be signed by the

individuals involved in the civil conflict.

o. "Working Day" shall mean any day that the Mashantucket Pequot Tribal government office is open for business.

p. "Chair" shall mean the chairperson of the Peacemakers Grievance Council. In instances where the Chair is unable or is otherwise disqualified from participating in a Peacemakers proceeding, the Vice-Chair shall act in place of the Chair. In instances where both the Chair and the Vice-Chair is unable or is otherwise disqualified from participating in a Peacemakers proceeding the Peacemakers may, by consensus, appoint an acting Chair.

1 M.P.T.L. ch. 4 § 3

§ 3. Policy

a. It is the policy of the Mashantucket Pequot Tribe to provide a forum consisting of elders and other tribal members to hear civil mediation requests and grievances that arise on the Mashantucket Pequot Nation lands.

b. The Peacemakers shall assist in the development of solutions to conflicts that are not patterned upon state or federal civil courts but are more closely allied to the traditional mediation processes generally followed by Native American tribes. It is intended that this new decision making body will assist in arriving at mediated solutions to conflicts within the tribal community and not necessarily determine who is at fault in any given situation. It is also intended that the Peacemakers will relieve the Tribal Council from the burden of ruling on complaints from tribal members concerning their treatment by the Tribe and from the burden of deciding appeals from employment grievances filed by Mashantucket Pequot Tribal Member Employees.

c. The Peacemakers may assist the parties in reaching alternative solutions to a conflict in such a manner as seems consistent with tribal values. They are not bound by prior decisions or by any prior tribal practice or procedure. They are encouraged to assist in developing innovative and alternative methods of dispute resolution.

d. All Mashantucket Pequot Tribal Member Employees shall have an absolute right to bring employment grievance appeals before the Peacemakers. No grievances shall be filed with the Peacemakers until all tribal administrative appeals have been exhausted. When deciding tribal member employee appeals, Peacemakers shall apply the policies and procedures which are applicable to the tribal member employee.

1 M.P.T.L. ch. 4 § 4

§ 4. Selection/Nomination Process

a. Each of the nine families historically recognized as forming the Mashantucket Pequot Tribe shall have the opportunity to designate two representatives to the Peacemakers. The nine historically recognized families are as follows:

(1) Annie George

(2) Elizabeth George

- (3) Mable George
- (4) John George
- (5) Alice Langevin
- (6) Bertha Williams
- (7) Henry George
- (8) Sara J. Williams
- (9) Anna Williams

b. Each family, by majority vote, shall select two representatives to the Peacemakers. Tribal members 19 years or older may participate in the selection of the designated Peacemaker. Tribal members who are selected as Peacemakers must be eighteen years of age or older at the time of selection. Of the two Peacemakers selected by each family, one shall be age 55 or older at the time of selection provided, however, that both Peacemakers may be younger than 55 if there is no family member over the age of 55 available, willing or able to serve at the time of selection. Each family shall file a notice, in writing, with the chair of the Peacemakers notifying them of the family members selected to serve.

c. No person who has been convicted of a felony in state or federal court or who has been convicted of any offense in the Mashantucket Pequot Tribal Court which has resulted in the imposition of a jail sentence of 30 days or longer shall be eligible to serve as a Peacemaker provided, however, that persons who's felony conviction or other tribal offense occurred more than seven years prior to the date of selection are eligible to serve. Peacemakers may be selected who would be disqualified pursuant to the provisions of this Section if they have been pardoned by the Mashantucket Pequot Tribal Council at the time of selection.

d. All Peacemakers, prior to their seating, shall submit to screening for use of controlled substances. Peacemakers shall also consent to random drug screening at any time after their seating. Screening shall be initiated by the chair of the Peacemakers and carried out by the medical director of the Mashantucket Pequot Tribe. Use of prescribed medication by a doctor shall not constitute a violation of this provision.

e. Peacemakers shall serve until removed pursuant to Section 5 of this Law or until replaced pursuant to procedures decided upon by each family.
1 M.P.T.L. ch. 4 § 5

§ 5. Removal

a. Each family shall have discretion to remove a Peacemaker at any time and for any reason provided that 51% of those family members who are eligible voters cast a ballot in favor of removal.

b. Any Peacemaker may be removed for cause pursuant to consensus decision of the full Peacemakers.

c. A Peacemaker shall be removed for cause if:

- (1) They breach any confidentiality of the Peacemakers.

- (2) They refuse to submit to a drug test or fail a drug test required pursuant to the terms of this Law.
- (3) They accrue more than three unexcused absences from regularly scheduled monthly meetings of the Peacemakers or if they accrue a total of six absences from regularly scheduled monthly meetings per calendar year.
- (4) They are convicted of a felony in state or federal court or are convicted in Tribal Court of any offense which has resulted in the imposition of a jail sentence.

1 M.P.T.L. ch. 4 § 6

§ 6. Confidentiality

a. Peacemakers shall sign a non-disclosure agreement concerning each Mediation Request or Grievance filed with the Peacemakers.

b. All proceedings of the Peacemakers shall be private. The parties to any proceeding may, however, mutually agree that named individuals may attend specific proceedings.

c. No documents shall be released by any employee or member of the Peacemakers to any person or governmental agency unless mutually agreed to in writing by the parties to any Mediation Request or Grievance. All employees who provide services to the Peacemakers shall sign a non-disclosure agreement.

d. No person who is a witness or who otherwise participates in a Peacemakers proceeding may disclose any information from any such proceeding. Prior to participating in any Peacemaker proceeding, all persons shall sign and verbally agree not to disclose any matter discussed during the peacemaking process. Failure of any party to sign a non-disclosure agreement and to verbally agree not to disclose information divests the Peacemakers of jurisdiction. Such matters shall be referred to Tribal Court by the Peacemakers.

e. Any Peacemaker who is found, by the full Peacemakers, to have violated any provision of this Section, may be fined up to \$500 for each offense and shall be removed as a Peacemaker. The Peacemakers shall have jurisdiction to determine, after a hearing, the appropriate level of any fine. Fines collected shall be donated to support the Mashantucket Pequot Safe House.

1 M.P.T.L. ch. 4 § 7

§ 7. Quorum

a. A quorum of the full Peacemakers shall be nine members provided that all members have been given at least five days notice of the meeting and at least eight different families are represented. In the event that the full Peacemakers determine that this quorum requirement is too great, then the full Peacemakers are authorized to reduce the number of representative families to five.

b. All decisions of the Peacemakers, unless otherwise noted in these regulations, shall be by consensus.

c. The vice-chair shall perform the duties of the chair in the absence of the chair or due to the disqualification of the chair because of conflict. In the event of the unavailability or absence of the vice-chair, the Peacemakers may, by consensus, appoint an acting chair.

1 M.P.T.L. ch. 4 § 8

§ 8. Procedure to File a Mediation

a. Any tribal member who requires assistance to resolve a civil conflict with another tribal member may file a Mediation Request. Mediation Requests shall be filed with the chair of the Peacemakers. The Peacemakers may, in their unrestricted discretion, exercise jurisdiction over civil conflicts involving non-tribal members (including those involving non-Indians) provided all parties to the conflict are agreeable. If there is no mutual agreement, the dispute shall be heard by the tribal court.

b. Mediation Requests shall be filed within 30 days of the date of the incident which gave rise to the conflict.

c. The Peacemakers shall provide a copy of the Mediation Request to all parties. Attached to the Mediation Request shall be a copy of this Law.

1 M.P.T.L. ch. 4 § 9

§ 9. Assignment of Peacemakers

a. The chair of the Peacemakers shall, within three days of receiving a Mediation Request, assign two Peacemakers and one alternate to each Mediation Request. Peacemakers shall be assigned in random order. Peacemakers who are assigned to a Mediation Request shall disqualify themselves if they have a conflict of interest as defined by this Law. Peacemakers may decline an assignment. In the event of the unavailability of an assigned Peacemaker, the alternate will thereafter serve as the assigned Peacemaker of that mediation. Parties may not disqualify any Peacemakers assigned to their mediation Request. Peacemakers may be removed in any mediation or grievance at the discretion of the chair of the Peacemakers if they fail to meet the requirements of this Law. The alternate assigned to the mediation or grievance shall serve in the event a Peacemaker is removed.

b. Any Peacemaker who, without good cause in the opinion of the full Peacemakers, has declined assignment in two consecutive cases, may be removed by the full Peacemakers.

1 M.P.T.L. ch. 4 § 10

§ 10. Peacemaking Mediation Process

a. Peacemakers shall, within five days of their appointment, contact each of the parties to the dispute. Peacemakers may contact witnesses and may interview such people as necessary, in the view of the assigned Peacemakers, to develop an understanding of the problem/conflict.

b. Peacemakers shall assist the parties to arrive at a solution of the problem/conflict. The solution shall describe, in writing, the terms and conditions of the agreement reached between the parties. Each party to the conflict shall sign the solution and shall agree that they will abide by all

terms and conditions of the solution.

c. Peacemakers shall not decide fault or liability for damages.

d. Peacemakers have no authority to force or otherwise coerce the parties into a resolution of the Mediation Request.

e. Peacemakers who fail to comply with the requirements of this Section are subject to being removed from the assigned mediation to be the chair of the Peacemakers.

1 M.P.T.L. ch. 4 § 11

§ 11. Success of Peacemaking Mediation Process

a. When a solution to a conflict has been successfully reached with the assistance of the Peacemakers, a report shall be given to the full Peacemakers by the Peacemakers assigned to the conflict.

b. The Peacemakers assigned to the conflict shall, within 30 days of the signing of the solution, review the success of the solution with the parties. The Peacemakers may adjust the written solution by mutual agreement of all parties to the solution. A solution must be modified in writing and signed by each party. There shall be a review within 30 days of each modified solution.

c. Upon completion of the last 30 day review, and when all parties are satisfied, the assigned Peacemakers, in the presence of the parties, shall (except for the agreed solution), destroy all written records, documents or notes used in the mediation process.

d. Each party to the solution and each Peacemaker assigned to the Mediation Request, shall preserve a copy of the solution. All signed statements containing a solution shall be kept confidential by all parties and the Peacemakers.

1 M.P.T.L. ch. 4 § 12

§ 12. Failure of the Peacemakers Mediation Process

a. If any party that has signed a solution fails to abide by the solution, any party may request additional services from the Peacemakers originally assigned to the conflict. The Peacemakers may devise a revised solution with the consent of the parties.

b. If the Peacemakers determine that continued Peacemaking is futile or if the parties to a conflict refuse to reach an agreed solution, the Peacemakers assigned to the conflict shall inform the full Peacemakers, at a regularly scheduled meeting of the full Peacemakers, of the difficulties in reaching agreement. The chair may assign different Peacemakers to the conflict if the Peacemakers decide that new Peacemakers may make a difference or the full Peacemakers may meet with the parties.

c. If the assigned Peacemakers or the full Peacemakers are unable to assist the parties in reaching an agreed solution, then the parties may pursue their dispute in tribal court. Any applicable statute of limitations shall commence running upon a determination that further Peacemaking attempts are futile or by a refusal of any party to participate in the Peacemaking process.

d. No statement or other evidence given during the Peacemaking process may be entered in evidence or otherwise considered in any subsequent tribal court proceeding. No Peacemaker shall be called to give evidence in any Tribal Court proceeding which involves any conflict to which they had been assigned.

1 M.P.T.L. ch. 4 § 13

§ 13. Procedure to File an Employee Grievance

a. Notwithstanding any other provision of tribal law including, but not limited to TCR061694-03, any tribal member who is a tribal employee may file an employee grievance with the Peacemakers. All applicable provisions of any Personnel Policies and Procedures Employee Manual shall be exhausted prior to filing an employment grievance with the Peacemakers. Grievances by Mashantucket Pequot Tribal Member Employees shall be filed within 30 days of a final decision pursuant to the applicable Personnel Policies and Procedure Manual.

b. Once an employee grievance has been filed with the Peacemakers, that election is final. An employee may not dismiss the grievance and attempt to go to tribal court with an appeal. Tribal member employee appeals to tribal court are, upon the filing of the appeal, also final.

c. Employee grievances shall be filed within 30 days of any final decision pursuant to the applicable Mashantucket Pequot Personnel Policies and Procedures Manual. Employee grievances shall be filed in the office of the chair of the Peacemakers.

1 M.P.T.L. ch. 4 § 14

§ 14. Procedures to File a Tribal Member Grievance

a. Any tribal member may file a grievance against any administrator of a tribal program. Grievances may be filed if, in the opinion of the tribal member, the Tribe has improperly administered a tribal benefits program and, as a direct result, the grieving tribal member has been harmed. Tribal member grievances shall be filed as soon as practical, but in no event, more than 30 days after a final determination by a tribal administrator. All tribal administrative procedures shall be exhausted prior to filing a grievance. Grievances against tribal administrators that are based upon a failure to act upon an application for assistance shall be filed 30 days from the date the request for assistance was made. Emergency requests from Mashantucket Pequot tribal members who may need immediate action may be heard at the discretion of the Peacemakers. Tribal member grievances shall be filed in the office of the chair of the Peacemakers.

b. In the event that any tribal member is excluded by a supervisor, department head or other person with authority, from any tribal property, or in the event by virtue of an order or decision, a tribal member is suspended from receiving any tribal benefits or participating in any tribal program, the tribal member may file a grievance with the Peacemakers. Grievances may be filed as soon as practical, but in no event more than 30 days after the issuance of the order or decision. All tribal administrative procedures shall be exhausted prior to filing a grievance. Tribal member grievances under this Section shall be filed with the office of the chair of the Peacemakers. Tribal Council decisions shall not be subject to the Peacemakers appeal process, and tribal members shall continue to receive any pay or benefits until such time as the Peacemakers final decision is made. Peacemakers findings of any abuse of

authority by those excluding a tribal member are to be referred to the Office of Chief of Staff for appropriate administrative action.

1 M.P.T.L. ch. 4 § 15

§ 15. Resolution of Grievances

a. The chair of the Peacemakers shall, within five days, supply a copy of the Grievance to the appropriate responding party.

b. The Chair of the Peacemakers shall, within five days, assign two Peacemakers and one alternate to the grievance. Peacemakers shall be assigned in random order. Peacemakers who are assigned to a Grievance shall disqualify themselves if they have a conflict of interest as defined by this Law. Peacemakers may decline an assignment. In the event of the unavailability of an assigned Peacemaker, the alternate may serve as an assigned Peacemaker. No party to a grievance may disqualify a Peacemaker. Peacemakers may be removed in any mediation or Grievance at the discretion of the chair of the Peacemakers if they fail to meet the requirements of this Law. The alternate assigned to the mediation or grievance shall serve in the event a Peacemaker is removed.

c. Peacemakers shall, within five days of their appointment, contact the parties to the Grievance. Peacemakers may contact witnesses and may interview such people as necessary, in the view of the assigned Peacemakers, to develop an understanding of the Grievance. Employees of the Tribe shall, at all times, cooperate with the Peacemakers. Peacemakers may go beyond the record available on appeal. Employees who are found to be in violation of this provision, may be civilly fined in an amount not to exceed \$500 for each such offense.

d. Wherever possible, Peacemakers shall attempt to mediate the problem and work out a solution that is acceptable to both parties to the Grievance. If a solution is worked out, then that Solution shall be signed by both parties and filed with the office of the Peacemakers. The solution shall be reviewed in 30 days to ensure that all parties are still satisfied with the solution. Solutions may be modified by the written agreement of the parties and the Peacemakers.

e. In the event that no mutually acceptable solution is possible, Peacemakers shall render a decision within 90 days. Peacemakers shall apply the policies and procedures that apply to the employee. Peacemakers shall not rule on the fairness of the policy or procedure, but shall ensure that the policy or procedure was fairly applied. The Peacemakers shall, prior to releasing the decision, review the draft decision with the full Peacemakers. The full Peacemakers panel may comment on the proposed decision and, in light of the comments, the Peacemakers who have been assigned to the grievance may change the proposed draft.

f. Written decisions rendered by the Peacemakers assigned to the Grievance are final. There is no appeal to either the Mashantucket Pequot Court of Appeals or to the Tribal Council from a decision of the Peacemakers.

1 M.P.T.L. ch. 4 § 16

§ 16. Powers of Peacemakers

a. Peacemakers who have been assigned to any mediation request or grievance may issue a subpoena, upon approval of the chair, which subpoena commands any

person who can be served within the Mashantucket Pequot tribal lands to attend a meeting with the Peacemakers. Such subpoena may require the production of documents or other evidence. Peacemakers may subpoena, upon approval of the chair of the Peacemakers, any work related document in the possession of any employee of the Tribe. Assigned Peacemakers may subpoena, upon approval of the chair of the Peacemakers, any tribal police officer and investigative reports provided that all such documents or interviews are kept confidential.

b. Subpoenas requiring the attendance of any person must be signed by the chair and at least one of the Peacemakers assigned to a conflict. Such subpoenas must provide the person subpoenaed with five days notice from the date the subpoena is served. The subpoena shall state generally the reason for the subpoena. No attorney or other representative may accompany the person subpoenaed to a hearing. Subpoenas shall generally describe the document to be subpoenaed. Tribal police shall serve subpoenas.

c. Any person who fails to comply with the requirements of a subpoena shall, for each such offense, be guilty of a civil offense that shall be punishable by a fine not to exceed \$500. Any Native American who is a resident of the reservation and who fails to comply with the requirements of a subpoena shall be guilty of a criminal violation and shall be incarcerated for a period of time not to exceed 30 days. Tribal Council members and tribal court judges or magistrates shall not be subject to subpoena. The Peacemakers shall, after hearing, determine and impose an appropriate penalty pursuant to the provisions of this Section.

1 M.P.T.L. ch. 4 § 17

§ 17. Protection of Peacemakers

Any person who intimidates, threatens, assaults or batters any Peacemaker, or who interferes with, or attempts to interfere with any Peacemaker during the course of the exercise of their duties, shall be guilty of a criminal violation for each such offense and shall be subject to a jail sentence of no less than 30 days and/or no more than one year in jail and/or a civil fine not to exceed \$1,000. The Mashantucket Pequot Tribal Court shall have jurisdiction to determine a violation of this Section and impose an appropriate penalty.

1 M.P.T.L. ch. 4 § 18

§ 18. Penalties

The Tribal Court shall have jurisdiction to determine whether the provisions of this Law have been violated.

1 M.P.T.L. ch. 4 § 19

§ 19. Severability

In the event any provision of this Law is found to be invalid or unenforceable for any reason, such determination shall not affect the remaining terms.

§ 20. Effective Date

This Law shall become effective as of the date of passage. Only events occurring subsequent to the effective date of this Law may be heard by the Peacemakers.

Historical and Statutory Notes

Derivation.

Effective January 10, 1992, TCR011092-02 enacted the "Mashantucket Pequot Tribal Council Tribal Court Ordinance" Establishing the Tribal Court to adjudicate civil disputes arising on the Reservation involving any person and to determine guilt for crimes that arise on the Reservation involving Indians. In addition, an Office of Magistrate was created to expedite claims against the Gaming Enterprise involving actual damages less than \$5,000.

Amendments.

Effective May 16, 2000, TCR051600-03 amended former ch. 1 and deleted §§ 22 and 23, to remove references to the Office of the Magistrate and the Gaming Enterprise Division. The Title was reorganized into four chapters.

Effective August 14, 2014, TCR081414-05 of 15 amended 1 M.P.T.L. ch. 1 §4 adding subsections c, d and e to address the length of time in which Tribal Court decisions must be issued.

Effective September 22, 2016, TCR092216-04 of 05 amended 1 M.P.T.L. ch. 1 to authorize the Chief Judge to adopt and amend the rules of the court pursuant to 1 M.P.T.L. ch.1 §4.