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Pueblo of Pojoaque Tribal Court Handbook (2022)

Tribal Law Journal Staff

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Tribal Law Journal
University of New Mexico School of Law
Tribal Court Handbook

PUEBLO OF POJOAQUE TRIBAL COURT

NAME OF TRIBE: PUEBLO OF POJOAQUE

Introduction and Note to Practitioners:

Tribal Court Handbook information contained herein was provided by a representative of the tribal court in response to a questionnaire provided by the Tribal Law Journal. Often information contained within a Tribal Court Handbook will change between Tribal Law Journal updates. Readers are encouraged to utilize the following information as a starting place for information about a tribal court and to verify that information is accurate.

Part One: TRIBAL GOVERNMENT AND GENERAL INFORMATION

The purpose of this Section is to provide certain basic information about your Tribal Court and judicial system. Anyone practicing in Tribal Court will need to know where the Court is located, how it is organized, and who to contact for more information.

1. Contact Persons and Location of Tribal Court:

Name of Tribal Court	Pueblo of Pojoaque Tribal Court		
Contact Person Name	Christalle Martinez		
Title	Court Administrator		
Address	58 Cities of Gold Road Suite 5 Santa Fe, NM 87506		
Phone	(505)455-2271	Fax	(505)455-0102
E-mail	ccmartinez@pojoaque.org		

2. Name and address of the Chief Judge[s] of the Tribal Court:

Name	Kim M McGinnis, PhD.
Title	Chief Judge
Address	58 Cities of Gold Road Suite 5 Santa Fe, NM 87506
Phone	(505)455-2271

3. Driving directions to Tribal Court:

North Bound: Take a right at the second light in Pojoaque, use the round-a-bout, use the second exit, use the fourth exit to the right and park in the front.

South Bound: Take a left at the third light in Pojoaque, use the round-a-bout, use the second exit, use the fourth exit to the right and park in the front.

4. On what is your tribal government based? (Please check one and briefly describe in box)

- An IRA or OIWA constitution
- A non-IRA constitution
- A non-constitutional organizational document (*e.g. tribal legislation*)
- A traditional system (*please describe*)
- Other (*please describe*)

<p>The Pojoaque Tribal Government conforms with the provisions of the 1934 Indian Regulatory Act. It consists of a General Council comprised of all enrolled adult members and a Regular Tribal Council comprised of elected officials. The officials are elected for two-year terms.</p>

5. Please indicate which organic documents are possessed by the Tribe, and from whom copies are available:

Tribal Document	Available?	Obtain Copy From:
1. Tribal Constitution	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	
2. Bill of Rights	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	
3. Organizational Statute	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	
4. Law & Order Code	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	https://pojoaque.org/courts/
5. Code Supplement	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	https://pojoaque.org/courts/

6. Please indicate where your tribal jurisdiction is exercised:

- Within undisputed, clearly established reservation boundaries
- Generally within reservation boundaries, with a few outlying parcels of Indian country (*Please describe the nature of these parcels: e.g. gaming location; purchased land not used for gaming; land remaining from formerly larger reservation, etc.*)
- Within Indian country (or dependent Indian community); there are no reservation boundaries
- Please describe disputes regarding the tribe’s territorial jurisdiction, including boundaries; non-Indian owned fee land; dependent Indian community status; state or county roads; or any other:

7. Regular Court Staff:

Name	Title	Phone Number	e-mail address
Dawn DeSmet	Chief Probation Officer	(505)455-2271	ddesmet@pojoaque.org
Cindy Martinez, LADAC	Licensed Alcohol & Substance Abuse Counselor	(505)455-2271	cindy.martinez@pojoaque.org
Vivian T Gutierrez	Deputy Traffic Court Clerk	(505)455-2271	vtgutierrez@pojoaque.org
Joseph Benson	Deputy Probation Officer	(505)455-2271	jbenson@pojoaque.org
Christalle Martinez	Court Administrator	(505)455-2271	ccmartinez@pojoaque.org
Destiny Colombe	Assistant Court Clerk	(505)455-2271	dcolombe@pojoaque.org
Kim McGinnis, PhD	Chief Judge	(505)455-2271	

8. Tribal Court Organization:

Other branches of the Court (if any):

Other Courts in Tribal Court system are checked below:

- Appellate Court (Tribal Council)
- Supreme Court
- Lower courts with different subject-matter jurisdiction
- Other: Wen Hey Kha Wosatsi Khuu (Path to Wellness) Court
- Other: (***)Wen Hey Kha Wosatsi Khuu (Youth Path to Wellness) Court
- Other: _____

9. Number of judges on the Tribal Court: (Please provide list of names, titles, and contact information for each judge)

Judge Positions	# of Full-time Positions	# of Part-time Positions	# of Pro-tem Positions
Tribal Court Judge	1**		3
Specialized Court Judges			
Appellate Court Judges			
Other: Conflict Judges			

** The Tribal Court shall be referred to as the Tribal Court and shall consist of a Chief Judge appointed by the Tribal Council, whose duties shall be full time and one or more Associate Judges may be called to serve when the occasion arises. The Associate Judges may be hired on contract and compensated on a per diem basis.

10. Tribal Prosecutor for the Court :

Name	Pueblo of Pojoaque Police Department		
Title	Arresting Officer		
Address	58 Cities of Gold Rd. Ste. 6 Santa Fe, NM 87506		
Phone	(505)455-2295		
E-mail			

11. Tribal Justice System Staff: (Please provide list of names, titles, and contact information for each position)

Tribal Justice System Position	# of Full-time Positions	# of Part-time Positions	# of Pro-tem Positions
Court Administrators/Clerks	3		
Probation Officers	2		
Prosecutors			
Public Defenders			
Bailiffs			
Juvenile Officers			
Other:			

12. Alternative Dispute Resolution and Diversion Programs:

- Does your tribe use Alternative Dispute Resolution (ADR) in the judicial system? Yes No

If yes, please indicate below which ADR methods you use:

- Traditional Methods Mediation Settlement Facilitation
 Arbitration Diversion Programs Other: _____

Please describe:

- Is there additional written material available which describes your tribe's ADR program(s)?

Yes No *If yes, who should be contacted to obtain a copy:*

Name			
Title			
Address			
Phone		Fax	
E-mail			

Part Two: TRIBAL BAR PRACTICE

(Please attach additional information for each question if available)

Issue		Comments
1. Are there special requirements to be permitted to practice in tribal court?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Completed Attorney Application must be approved by Chief Judge.
2. Are there requirements regarding knowledge of tribal culture or language:	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Knowledge of Tribal Law are desired but not required.
3. Are advocates who do not have law degrees or are not members of a state bar permitted to practice in tribal court? Please describe requirements.	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Lay Advocates are permitted to practice with the permission of the Judge.
4. Do the same requirements apply for state-licensed attorneys?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	Completed Attorney Application must be approved by Chief Judge.
5. Does your tribe have a tribal bar examination? If yes, please provide details concerning requirements, how often the exam is administered and how to get more information about being admitted to the tribal bar.	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	
6. Can an otherwise licensed attorney who is not a member of the tribal bar be admitted for a single case? If yes, how?	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	All attorneys must complete and submit an Attorney Application. Then it must be approved by the Chief Judge before the attorney may practice.
7. Can/must an otherwise licensed attorney who is not a member of the tribal bar associate with a member of the tribal bar on a single case? If yes, how?	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	All attorneys must complete and submit an Attorney Application. Then it must be approved by the Chief Judge before the attorney may practice.
8. Does the tribal bar have a Continuing Legal Education requirement? If yes, please provide details.	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	
9. What is the total number of members of the tribal bar?	13	11 Attorneys are accepting new clients.

13. Other requirements for a lawyer to practice in Tribal Court:

Pay the attorney fee of \$75.00 or \$25 if an attorney is reapplying the next year (before expiration date). Copy of state bar card and certificate(s) of good standing.

14. Others that are allowed in practice in Tribal Court:

Part Three: TRIBAL COURT RULES AND PROCEDURE

The purpose of this Section is to provide specific information regarding the rules and procedures necessary to practice in Tribal Court.

15. Tribal Court’s working hours:

HOURS:

Monday through Friday
8:00 a.m. to 5:00 p.m.

LUNCH

12:00 p.m. to 1:00 p.m.
CLOSED

MAJOR HOLIDAYS

CLOSED

16. Language(s) used in Tribal Court:

English, Spanish

17. Interpreters are available: yes no

Name	Cindy Martinez, LADAC
Title	Licensed Alcohol & Substance Abuse Counselor
Address	58 Cities of Gold Road Suite 5
Phone	(505)455-2271
E-mail	cfmartinez@pojoaque.org

18. Tribal court filing fees:

D-2 Tribal Court Fees & Costs

(a)The following shall constitute the fee schedule for Tribal Court cases.

1.Civil Petitions. There will be a one hundred and thirty-two dollar (\$132.00) filing fee assessed on anyone filing a Civil Petition in Tribal Court against another party.

2.Domestic Relations. For domestic relations matters (e.g., divorce, custody, paternity, adoption) the filing fee is one hundred and thirty-seven dollars (\$137.00).

3.Administrative Appeals. For appeals from administrative or regulatory decisions to the Tribal Court, the fee is one hundred and seventeen dollars (\$117.00).

4.Foreign Judgments. The fee for filing a petition to enforce a foreign judgment is one hundred and seventeen dollars (\$117.00).

5.Traffic Citation Hearings. For all traffic hearings, the court cost is seventy-five dollars (\$75.00).

6.Default Judgments. There is a twenty-dollar (\$20.00) fee for a default judgment

rendered by the Court. 7.Garnishments. There is a one hundred- and seventeen-dollar (\$117.00) fee for each garnishment filed for recognition in the Tribal Court.

8.Appeals. The filing fee to appeal a case to the Court of Appeals is one hundred dollars (\$100.00).

19. Tribal Court scheduling or docket practices where specific days or weeks are reserved:

Mondays: 2pm Family Path to Wellness Staffing
3pm Family Path to Wellness Court
Tuesdays: 1pm Path to Wellness Staffing
2pm Path to Wellness Court
Wednesdays: 8am Traffic/Civil Court
1pm Traffic/Civil Court
Fridays: 3:30pm Youth Path to Wellness Staffing
4pm Youth Path to Wellness Court

20. Rules of conduct, or etiquette, or rules of ethics, either written or implied, which are required to practice in Tribal Court:

TRIBAL COURT STANDARDS FOR PRACTITIONERS APPEARING BEFORE THE PUEBLO OF POJOAQUE TRIBAL COURT

1. Limited Representation. An attorney may limit the scope of representation if the limitation is reasonable under the circumstances and the client gives informed consent. Limitations on the scope of representation may include drafting specific, discrete pleadings or other documents to be used in the course of representation without taking on the responsibility for drafting all documents needed to carry the representation to completion. An attorney who agrees to prepare a discrete document under a limited representation agreement must competently prepare such a document and fully advise the client with respect to that document, which includes informing the client of any significant problems that may be associated with the limited representation arrangement. While limitations on the scope of representation are permitted under this rule, the attorney must explain the benefits and risks of such an arrangement and obtain the client's informed consent to the limited representation.

2. Limited Entry of Appearance; Attorney's Duty. In all proceedings where an attorney appears for a client in a limited manner, that attorney shall disclose to the Court the scope of representation. The purpose of this rule is to permit attorneys to appear for clients in a limited manner and to alert the Court and opposing party of that limited role. Attorneys may give technical assistance and, when not prohibited, may prepare, without attribution, papers for filing by a self-represented litigant without violating the duty of candor. Even though an attorney's role may be limited to drafting a single document, the attorney is, however, bound by all of the rules that govern attorney conduct.

3. An attorney may file a Motion for Telephonic Hearing with the Pueblo of Pojoaque Tribal Court, provided the motion is filed with the Court at least 48 hours prior to the scheduled hearing. The decision to grant or deny the motion shall be in the sole discretion of the Court.

4. Organization—Attorneys shall be on time, be prepared for all court appearances and have knowledge of the Pueblo of Pojoaque Law and Order Code, Court Rules, Rules of Evidence, and Rules of Procedure.

5. Respect—Attorneys shall always be courteous and respectful to the Court and opposing parties.

6. Compliance with Rules of Professional Conduct of Other Jurisdictions in which Attorney is Licensed to Practice. Attorneys shall be in compliance with the rules of professional conduct in all jurisdictions in which the attorney is licensed to practice.

7. Candor toward the tribunal. Attorneys should be candid with the Court and should attempt to resolve, by agreement, differences relating to procedural and discovery matters. An attorney shall not knowingly:

- (1) Make a false statement of fact or law to the Court or fail to correct a false statement of material fact or law previously made to the Court;
- (2) Fail to disclose to the Court legal authority known to the attorney to be directly adverse to the position of the client and not disclosed by opposing counsel; or
- (3) Offer evidence that the attorney knows to be false; if an attorney, the attorney’s client or witness has offered material evidence and the attorney comes to know of its falsity, the attorney shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

8. Attorneys shall discourage and decline to participate in litigation that is without merit or is designed primarily to harass or drain the financial resources of the opposing party or the Pueblo of Pojoaque Tribal Court.

9. Attorneys should avoid any communication, direct or indirect, about a pending case with a judge except as permitted by court rules or otherwise authorized by law. Attorneys should refrain from impugning the integrity of the Judicial system, its proceedings, or its members. Failure to comply with the requirements of these rules may subject counsel to sanctions.

21. The following written rules are available for Tribal Court (*Check all that apply*):

<input checked="" type="checkbox"/> Civil Procedure	<input checked="" type="checkbox"/> Evidence (FRE)	<input type="checkbox"/> Others:
<input checked="" type="checkbox"/> Criminal Procedure	<input checked="" type="checkbox"/> Appellate Procedure	
<input checked="" type="checkbox"/> Domestic Relations	<input type="checkbox"/> Alternative Dispute Resolution	

22. These rules can be obtained by contacting:

Name	Christalle Martinez		
Title	Court Administrator		
Address	58 Cities of Gold Road Suite 5 Santa Fe, NM 87506		
Phone	(505)455-2271	ONLINE	www.pojoaque.org/courts/

23. To obtain more information on unwritten Tribal Court rules procedures, contact:

Name	Christalle Martinez		
Title	Court Administrator		
Address	58 Cities of Gold Road Suite 5 Santa Fe, NM 87506		
Phone	(505)455-2271	ONLIN E	www.pojoaque.org/courts/

24. Tribal Court forms can be obtained from:

Is a list of tribal court and related forms available? yes no If yes, please provide a copy.

Name	Destiny Colombe		
Title	Assistant Court Clerk		
Address	58 Cities of Gold Road Suite 5 Santa Fe, NM 87506		
Phone	(505)455-2271		
E-mail	dcolombe@pojoaque.org		

25. Jury trials are available for the following types of cases:

Criminal Torts – Injury Traffic Other: Civil Matters - taxation case
 Other: _____ Other: _____

26. Appeals are available for the following types of cases:

Criminal Torts – Injury Traffic
 Other: Review limited to legal error or conflicts within tribal custom and tradition only

27. Tribal Court decisions and opinions are written oral.

If written, copies of decisions and opinions are available from:

Name	Destiny Colombe		
Title	Assistant Court Clerk		
Address	58 Cities of Gold Road Suite 5 Santa Fe, NM 87506		
Phone	(505)455-2271		
E-mail	Dcolombe@pojoaque.org		

28. Trial proceedings or hearings are recorded transcribed not recorded.

If recorded or transcribed, proceedings or hearings are available from:

Name	Christalle Martinez		
Title	Court Administrator		
Address	58 Cities of Gold Road Suite 5 Santa Fe, NM 87506		
Phone	(505)455-2271	Phone	(505)455-2271
E-mail	ccmartinez@pojoaque.org		

Part Four: THE JURISDICTION OF TRIBAL COURT

The purpose of this Section is to provide information regarding the law that applies to cases heard in Tribal Court.

29. Does the tribe exercise jurisdiction over members off-reservation?

yes no If yes, please specify subject matter and circumstances (check all that apply):

- Indian Child Welfare Act
- Hunting, Fishing or Subsistence
- Other: Family law, Domestic Violence
- Other: Traditional Matters

30. Does a significant number of non-member Indians live within the tribe's jurisdiction?

yes no Comments:

31. Do a significant number of non-Indians visit tribal lands on a regular basis?

yes no If yes, please indicate the types of visits (check all that apply):

- Gaming
- Resort
- Smokeshop
- Tourism
- Hunting/Fishing
- Other: _____
- Transients on Interstate Highway
- Transients on Other Highways

32. Are there problems presented by these visitors, such as increased traffic violations, hunting or wood cutting violations?

yes no If yes, please describe these problems and indicate whether disputes are presently

settled in tribal court or other forum (please specify forum, such as state court):

33. Are there federal laws or treaty provisions that specifically limit your tribe's jurisdiction over non-members or non-Indians (as opposed to limitations on all tribes)?

yes no If yes, please indicate the specific law or provision and the limitation:

Federal Statute: _____ over
 Non-Indians Non-member Indians

Treaty Provision: _____ over
 Non-Indians Non-member Indians

34. Over which groups of persons does your tribal constitution or traditional system permit jurisdiction?

<u>Tribal Constitution</u>		<u>Traditional System</u>
<input type="checkbox"/> Tribal Members Only <input type="checkbox"/> All persons, civil <input type="checkbox"/> All persons, criminal <input type="checkbox"/> All Indians, civil <input type="checkbox"/> All Indians, criminal		<input type="checkbox"/> Tribal Members Only <input type="checkbox"/> All persons, civil <input type="checkbox"/> All persons, criminal <input type="checkbox"/> All Indians, civil <input type="checkbox"/> All Indians, criminal

35. Has the tribe, by tribal legislation, limited its jurisdiction to members?

yes no If yes, is the jurisdiction General over all actions, or as to specific matters

(please specify the subject matters):