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Mashpee Wampanoag Tribal Court



Policy and Procedure Manual

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Section 1

Handbook Introduction

1:1 Welcome to the Tribal Court!

It's our pleasure to welcome you to the Mashpee Wampanoag Tribal Court! As stated in Article V Section 1 of the Tribal Constitution the court remains a separate but equal branch of the Mashpee Wampanoag Tribe with the obligation to provide fair and unbiased justice to those who come before the Court. .

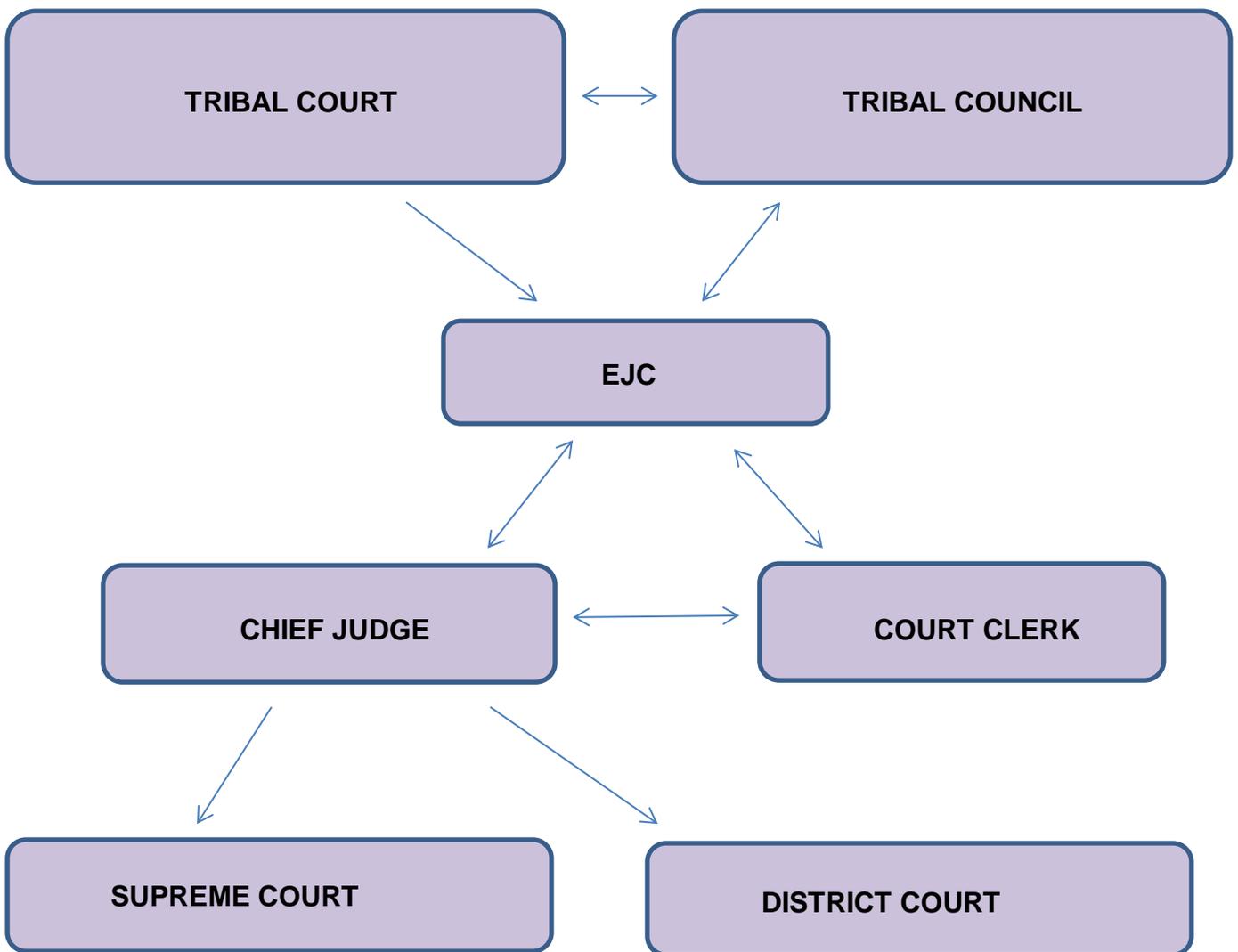
1:2 Introduction to the Tribal Court

The Elders Judiciary Committee (EJC) is a permanent office within the Tribal Judiciary and acts as liaison on behalf of the Tribal Council to ensure that the balance of powers exercised by the Tribal Judiciary remains relevant with the Mashpee Wampanoag Culture, customs and traditions. The establishment of the Elders Judiciary Committee was the precursor of today's Tribal Court. In the summer of 2006 seven elders of the tribe volunteered to sit on the EJC and to work on the development of a tribal court system. The tribe had adopted a tribal Constitution in 2004 which provided for a tribal court system that was to be a "separate but equal" branch of tribal government. As an interim measure, the EJC itself heard a case in 2007 until the first contract Judge was hired in 2008.

Since the inception of the Tribal Court , the EJC has been instrumental in the hiring of 3 Supreme Court Judges, developing the Mashpee Wampanoag Judiciary Ordinance, the Mashpee Wampanoag Rules of Civil Procedure, the Tribal Court Rules of Evidence and Appellate Rules, the Pro Se Guidebook, various Federal and State grants, educational and outreach efforts to Tribal members and Peacemaker Court Trainings.

1:3 Structure of the Tribal Court

The structure of the Tribal Court is covered in detail in Article 10 of the Constitution. The Elders Judiciary Committee is a permanent office. The Court is made up of three Supreme Court Judges, one of whom is the Chief Judge. Any of these three judges can also act as a trial court judge but they cannot sit on an appeal from their own decision. The Court has a Court Clerk who is responsible for keeping the records of proceedings of the Tribal Court and for generally administering the daily business of the Court Clerk.



Section 2

Hiring & Promotion

2:1 Position Announcement

The Mashpee Wampanoag Tribal Court is an equal opportunity employer and seeks to employ individuals based upon their qualifications, experience and ability to perform the position responsibilities. All applicants can expect a fair and completed evaluation of their application. Preference is given to qualified Native American candidates in accordance with the Indian Preference Act of 1934 (Title 25, U.S.C., Section 472).

Each position with the Tribal Court will have a written job qualification requirement and a position description. The Tribal Court Clerk will ensure that all job announcements for Tribal personnel are posted at a prominent location at the Tribal Office and published at least once in the Mashpee Enterprise. If time permits a job announcement should be published in the Mittark newsletter.

The hiring of judges and contract employees are subject to the policy outlined in the Judicial Ordinance.

2:2 Drug Testing and Background

According to the Mashpee Wampanoag Employee Handbook, Rules and Regulations, the Mashpee Wampanoag Tribal Court is a Drug Free Workplace. If tribal Court personnel is suspected of being under the influence of drugs and/or alcohol which could adversely affect the employees' performance, the Chief Judge reserves the right to have the employee tested for drugs and other substances at any time and without notice. The tribal Court further reserve the right to conduct a background investigation of any candidate.

Section 3

New Employee Information

3:1 New Employee Orientation

The first ninety days of your employment are an orientation period. During this time, your supervisor will work with you to help you learn how to do your job successfully and what the Tribal Court expects of you. This period also provides both you and the Tribal court with an opportunity to decide whether you are suited for the position for which you were hired.

On your first day of work, schedule permitting, you will meet with the Tribal Court Clerk for a new employee orientation meeting. During this meeting, you will receive a copy of this Policy and Procedure manual and other important information about our Tribal Court. You will also be asked to complete paperwork and forms relating to your employment, such as tax withholding forms and emergency contact forms.

Please feel free to ask any questions you might have about the Tribal Court during the orientation meeting. If additional questions come up after the meeting, you can ask the Tribal Court Clerk or the Chief Judge.

Section 4

Employee Classifications

4:1 Pro Bono Attorneys

The Mashpee Wampanoag Tribal Court recognizes that it has a unique responsibility to ensure that all members of the Tribe have access to a fair and just legal system and thus encourage Attorneys representing Tribal members to provide affordable legal counsel.

Some attorneys have volunteered to provide legal services to tribal members at reduced rates or at no charge. As contracted employees, Pro Bono attorneys are not subject to this Policy and Procedure manual. They are the governed by the agreement between themselves and their clients and by the Rules of Professional Conduct adopted by this Tribal Court.

If a Tribal member inquires about Pro Bono attorneys they should be given a list of Attorney Names and Contact information located within the office of the Court Clerk.

Section 5

Hours

5:1 Working Beyond Regular Hours

On occasion, we may ask employees to work beyond their regularly scheduled hours. We expect employees to work a reasonable amount when necessary to complete the work load of the Tribal Court. We will try to give employees advance notice when work beyond regular hours is necessary; however, it will not always be possible to notify employees in advance.

Hourly paid employees are entitled to payment for all time worked, according to the rules found in the Mashpee Wampanoag Employee Handbook Rules and Regulations. :

Section 6

Performance

6:1 Performance Reviews

Because our employees' performance is vital to our success, we conduct periodic reviews of individual employee performance. We hope that, through these reviews, our employees will learn what we expect of them, and we will learn what they expect of us.

We require all employees to participate in the review process. Failure to participate could lead to discipline, up to and including termination.

Each year in the month of January, unless rescheduled by the Tribal Court Clerk, each employee will receive an annual review of their work performance.

You will be provided a copy of the annual review and will have an opportunity to comment on the review. A copy of the annual review and any comments will be kept as a permanent part of your employment history.

Section 7

Workplace Behavior

7:1 Professionalism in the Workplace

People who work together have an impact on each other's performance, productivity, and personal satisfaction in their jobs. In addition, how our employees act toward parties to actions in the Tribal Court and those who view Tribal Court proceedings will influence whether those relationships are successful for the Tribal Court.

Because your conduct affects many more people than just yourself, we expect you to act in a professional manner whenever you are conducting Tribal Court business, or representing the Tribal Court at business or social functions. In addition, you should conduct yourself in a manner that will not bring tribal ridicule upon the Tribal Court whenever you are in public.

Although it is impossible to give an exhaustive list of everything that professional conduct means, it does, at a minimum, include the following:

- following all of the rules in this Manual that apply to you
- refraining from using threatening, abusive, or vulgar language to other employees or the public
- refraining from rude, offensive, or outrageous behavior
- refraining from ridicule and hostile jokes with respect to any Judges of the Tribal Court, Attorneys of the Tribal Court, members of the Tribal Council, other Clerks of the Tribal Government and employees of the Tribal Government System.
- treating coworkers, plaintiffs, defendants, attorneys and observers with patience, respect, and consideration
- being courteous and helpful to fellow employees, attorneys and clients of the court

- communicating openly and respectfully with supervisors, managers, and coworkers.

7:2 Punctuality and Attendance

You are important to the effective operation of the Tribal Court. When you are not here at expected times or on expected days the Tribal Court may not be able to be open.

As a result, we expect you to keep regular attendance and to be on time and ready to work at the beginning of each scheduled workday

Of course, things will sometimes happen that will prevent you from showing up to work on time. For example, you may be delayed by weather, a sick child, or car trouble. If you are going to be more than 15 minutes late, please call or email the Elders Judiciary Committee, Tribal Administrator or the Chief Judge. Please give this notice as far in advance as possible.

7:3 Violence in the Workplace

We will not tolerate violence in the workplace. Violence includes physical altercations, coercion, pushing or shoving, horseplay, intimidation, stalking, and threats of violence. Any comments about violence will be taken seriously—and may result in your termination. Verbal or physical fighting among employees is absolutely prohibited. Employees shall not engage in, provoke, or encourage a fight. Those who violate this policy will be disciplined, up to and including termination.

7:4 Discipline and Grievance

The Tribal Court discipline policy and procedure is subject to the parameters outlined in the Mashpee Wampanoag Tribe Employee Handbook which is designed to provide a structured corrective action process to improve and prevent a recurrence of undesirable behavior and/or performance issues.

If there is a problem with an employee of the Tribal Court, a written complaint is to be filed with the Tribal Administrator.

If there is a problem with a Judge, a written complaint must be filed with the Elders Judiciary Committee.

Disciplinary action will be taken after consideration of the offense, as well as the work history of the individual; action should be taken for the purpose of helping the employee correct mistakes rather than to merely punish them.

7:5 Workplace Security

It is every employee's responsibility to help keep our workplace secure from unauthorized persons. Every employee must comply with these security precautions.

Do not leave the Tribal Court during the work day without locking the door unless other court personnel are present in the Court.

Do not leave unauthorized persons alone in the Tribal Court.

Comply with all security directives issued by the Chief Judge or the Tribal Court Clerk.

The last person leaving work for the day shall do all of the following:

- Make sure that all filing cabinets are locked.
- Make sure that the petty cash container is in a locked cabinet.
- Check all windows to ensure that they are locked.
- Lock all locks on the entry doors.
- Turn off all lights, computers and other equipment.

After-hours access to the workplace is limited to those employees who need to work late. If you are going to be working past our usual closing time, please let the Tribal Court Clerk know.

7:6 What to Do in an Emergency

In case of an emergency, such as a fire, earthquake, or accident or violent person your first priority should be your own safety. In the event of an emergency causing serious injuries, *IMMEDIATELY DIAL 9-1-1* to alert police and rescue workers of the situation.

If you hear a fire alarm or in case of an emergency that requires evacuation, please proceed quickly and calmly to the emergency exits. The Tribal Court will hold fire drills to familiarize everyone with the routes they should take. Remember that every second may count—don't return to the workplace to retrieve personal belongings or work-related items. Once you have exited the building, head toward the tribal parking lot.

7:7 Smoking Is Prohibited

For the health, comfort, and safety of our employees, smoking is not allowed in tribal offices or in the Tribal Court.

Section 8

Records

8:1 Court Records

The Tribal Court maintains numerous records that must be accurate and properly maintained. Court records include but are not limited to hearing transcripts, orders of the court, and decisions. It is essential that all records be properly kept. No unauthorized modifications may be made to Tribal records. Failure to abide by this provision can result in termination.

Section 9

Drugs and Alcohol

9:1 Policy Regarding Alcohol and Illegal Drug Use

The Tribal Court is committed to providing a safe, comfortable, and productive work environment for its employees. We recognize that employees who abuse drugs or alcohol at work—or who appear at work under the influence of illegal drugs or alcohol—harm both themselves and the work environment.

As a result, we prohibit employees from doing the following:

- appearing at work under the influence of alcohol or illegal drugs
- conducting Tribal Court business while under the influence of alcohol or illegal drugs (whether or not the employee is actually on work premises at the time)
- using alcohol or illegal drugs on the worksite
- using alcohol or illegal drugs while conducting Tribal Court business (whether or not the employee is actually on work premises at the time).
- possessing, buying, selling, or distributing alcohol or illegal drugs on the worksite
- possessing, buying, selling, or distributing alcohol or illegal drugs while conducting Tribal Court business (whether or not the employee is actually on work premises at the time).

Illegal drug use includes more than just outlawed drugs such as marijuana, cocaine, or heroin. It also includes the misuse of otherwise legal prescription and over-the-counter drugs.

Employees who violate this policy may face disciplinary action, up to and including termination.

We do not prohibit employees from consuming alcohol at social or tribal functions where alcohol is served. Even at these functions, however, employees may not consume alcohol to the point of intoxication. You may not consume alcohol and return to work.

Section 10

Social Media Use

10:1 Policy Regarding Social Media

The Mashpee Wampanoag Tribe (the “Tribe”), by and through the Mashpee Wampanoag Tribal Court (the “Tribal Court”), has created this Social Media Policy (the “Policy”) to guide and advise all Tribal Court staff and employees of the rules and policy concerning appropriate use of all social media.

Social Media is defined as all means of communicating or posting information or content of any type, sort or category on the Internet, including but not limited to, web logs, blogs, journal diaries, personal websites, social networking websites, web bulletin board or chat room, or any other form of electronic communication whether or not affiliated with the Tribe and/or Tribal Court.

Before creating online content, consider some of the risks and rewards that are involved. Keep in mind that any of your conduct that adversely affects your job performance, the performance of fellow employees or otherwise adversely affects Tribal

members or others who work on behalf of the Tribe may result in disciplinary action up to and including termination.

10:2 Knowing the Rules

Carefully read this Policy, the Tribal Court Ethics Policy, and any other applicable Tribal law or policy concerning ethics and discrimination, and ensure your postings comply with these policies. Inappropriate postings that may include discriminatory remarks, harassment, and threats of violence or similar inappropriate or unlawful conduct will not be tolerated and may subject you to disciplinary action up to and including termination.

Be respectful

Always be fair and courteous to all Tribal members, Tribal staff, Tribal employees, attorneys or people who work on behalf of the Tribe. Also, keep in mind that you are more likely to resolve work-related complaints by speaking directly with your co-workers or by contacting the Elders Judiciary Committee than by posting complaints to a social media outlet. Nevertheless, if you decide to post complaints or criticism, avoid using statements, photographs, video or audio that reasonably could be viewed as malicious, obscene, threatening or intimidating, that disparages Tribal members, Tribal Court staff, Tribal employees, attorneys or people who work on behalf of the Tribe or that might constitute harassment or bullying. Examples of such conduct might include

offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion or any other status protected by law or Tribal policy.

Be honest and accurate

Make sure you are always honest and accurate when posting information or news, and if you make a mistake, correct it quickly. Be open about any previous posts you have altered. Remember that the Internet archives almost everything; therefore, even deleted postings can be searched. Never post any information or rumors that you know to be false about the Tribe, Tribal Court, Tribal employees, attorneys or other people working on behalf of the Tribe.

Post only appropriate and respectful content

All Tribal Court employees must maintain the confidentiality of all Tribal Court cases and private or confidential information submitted by the parties. Never post pleadings, motions, exhibits, documents, policies or other internal confidential documents filed with the Tribal Court unless expressly authorized by Elders Judiciary Committee or the Chief Tribal Court Judge.

Notwithstanding the foregoing, the Tribal Court may publish its opinions and a summary of rulings from time to time at the Tribal Court website <http://www.mwtribejudicial.com>

Do not create a link from your blog, website or other social networking site to the Tribe's website or other website affiliated with the Tribal Court without identifying yourself as Tribal staff or an employee of the Tribe. Never represent yourself as a spokesperson for the Tribe or Tribal Court unless expressly authorized by the Elders Judiciary Committee or Chief Tribal Court Judge.

If the Tribe is a subject of the content you are creating, be clear and open about the fact that you are Tribal staff or an employee only and make it clear that your views do not represent those of the Tribe, fellow employees, Tribal members, attorneys or other people working on behalf of the Tribe. If you do publish a blog or post online related to the work you do or subjects associated with the Tribe, make it clear that you are not authorized nor are you speaking on behalf of the Tribe or Tribal Court. It is best to include a disclaimer such as "**The postings on this site are strictly my own and do not necessarily reflect the views of the Mashpee Wampanoag Tribe or the Mashpee Wampanoag Tribal Court.**"

Using social media at work

Refrain from using social media while on work time or on equipment we provide, unless it is expressly authorized by Elders Judiciary Committee or Chief Tribal Court Judge.

Retaliation is prohibited

The Tribe prohibits taking negative action against any co-worker or Tribal member for reporting a possible deviation from this Policy or for cooperating in an investigation pursuant to this Policy. Any Tribal Court employee who retaliates against another employee for reporting a possible deviation from this Policy or for cooperating in an investigation will be subject to disciplinary action, up to and including termination.

Media contacts

Tribal Court staff should not speak to the media on the Tribe's behalf unless expressly authorized by the Elders Judiciary Committee or Chief Tribal Court Judge. All media inquiries should be directed the Elders Judiciary Committee.