

ONEIDA INDIAN NATION

PEACEMAKING RULES

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ONEIDA INDIAN NATION

PEACEMAKING RULES

1. PURPOSE AND CONSTRUCTION

Rule 1. PURPOSE AND CONSTRUCTION

These rules are meant to provide formal support, structure and enforcement to traditional Oneida Indian Nation methods of resolving disputes through the use of traditional ways.

2. ESTABLISHMENT.

Rule 2. ESTABLISHMENT

The Peacemaker Court of the Oneida Indian Nation is hereby established as part of the Nation Court System. The Chief Trial Judge of the Nation Court shall exercise supervisory control over Peacemakers appointed pursuant to these rules.

3. SUBJECT MATTER JURISDICTION; PERSONAL JURISDICTION; ATTORNEYS.

Rule 3. SUBJECT MATTER JURISDICTION; PERSONAL JURISDICTION; ATTORNEYS

- a. The Chief Trial Judge of the Nation Court shall appoint a Peacemaker in any matter deemed appropriate or where the parties to a dispute request peacemaking.
- b. The Peacemaker shall have the power to compel the attendance of all persons within the jurisdiction of the Oneida Nation Court to appear and participate as witnesses in Peacemaker proceedings. Subpoenas shall be issued and served by the Clerk of Nation Court but only upon the request of the Peacemaker. A person who has been properly served with a subpoena and fails to appear or produce may be deemed in contempt of Court. Only the Peacemaker is authorized to request that contempt proceedings be initiated by the Nation Court for failure to appear or produce.
- c. Attorneys are prohibited from participating in any proceedings of the Peacemaker Court unless they have been called as witnesses or are parties.

4. APPOINTMENT OF PEACEMAKERS.

Rule 4. APPOINTMENT OF PEACEMAKERS.

- a. Upon filing by a party of request for peacemaking, the Clerk of the Court will immediately present the request to the Chief Trial Judge. If the request is granted, the judge will so indicate on the face of the request or in a separate order.
- b. The Chief Trial Judge of the Nation Court will appoint a Peacemaker. The individual selected must agree to serve under the direction of the Nation Court and work with individuals under the supervision of the Nation Court.

5. POWERS OF PEACEMAKERS.

Rule 5. POWERS OF PEACEMAKERS

- a. Peacemakers are ~~officers of the~~ Nation Court when acting as a Peacemaker and performing the functions of a Peacemaker under these Rules, and they shall have the same immunities as Nation Court Judges.
- b. Peacemakers shall have the power to use any reasonable means to obtain the peaceful, cooperative and voluntary resolution of a dispute subject to peacemaking. No force, violence or the violation of rights secured to individuals under Nation Law or custom will be permitted. The peacemaking shall use Nation religious or other traditional ways of mediation and problem-solving.

6. LIMITATIONS

Rule 6. LIMITATIONS

Peacemakers shall not have the authority to decide a disputed matter unless all parties to the dispute agree to such authority in writing. The decision of the peacemakers shall have the effect of a court judgment when entered by the Nation Court.

7. DUTIES OF PEACEMAKERS.

Rule 7. DUTIES OF PEACEMAKERS.

Upon notice to an individual of his or her appointment as a Peacemaker for an individual matter the Peacemaker shall notify the Court of (a) any disqualifications or inability to serve in the matter or (b) acceptance of the appointment. If the Court is not notified of acceptance within ten days of the mailing of the notice, another Peacemaker shall be appointed. The Peacemaker will contact the parties to the dispute and any other persons

involved, and make other necessary arrangements to conduct peacemaking sessions. The Peacemaker may conduct a reasonable number of sessions in an attempt to achieve peacemaking, using procedures and techniques which are accepted in the community. Where the parties involved accept or practice a given religious belief, discipline or teaching, the accepted methods and teaching of that religious way may be used.

8. DUTIES OF CLERK OF NATION COURT.

Rule 8. DUTIES OF CLERK OF NATION COURT.

The Clerk of the Court will assist the Peacemaker by providing information about the court, assisting individuals in filling out requests, assisting the Peacemaker in making reports and obtaining subpoenas, advising individuals how to obtain a protective order or file a complaint and in giving whatever type of assistance individuals may need to make peacemaking effective.

9. REPORTS TO NATION COURT.

Rule 9. REPORTS TO NATION 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 his or her efforts to the Court. The reports may be informal but must be reduced to writing. This written record shall be maintained in the Court file.

10. REQUEST FOR PEACEMAKING PROCEDURE.

Rule 10. REQUEST FOR PEACEMAKING PROCEDURE.

Any individual may ask for the assistance of Peacemakers by filing a written request with the Court. The request may be informal and hand-written, or on a form provided by the Court which gives the Court the following information:

- a. The name and address of the person who requests the use of the peacemaking;
- b. The name of the persons involved in the dispute, their mailing addresses and places of residence.
- c. The reason the individual wants to use the Peacemaker Court and a short statement of the problem involved;
- d. The names and addresses of each person who should be contacted by the Peacemaker and be involved in the peacemaking;

11. REQUESTS AND OBJECTIONS PROCEDURE.

Rule 11. REQUESTS AND OBJECTIONS PROCEDURE.

- a. Any party can request transfer of their case to a Peacemaker.
- b. Any party can by objection prevent transfer of their case to a Peacemaker.
- c. The written consent of all parties must be obtained by Nation Court prior to transfer of a case to the Peacemaker. Parties can withdraw their consent at any time and the case will be returned to the Nation Trial Court.
- d. Only the parties to the dispute can request or prevent transfer of the dispute to a Peacemaker.
- e. (a) A peacemaker shall be subject to disqualification for bias, prejudice or personal interest.

(b) A party requesting disqualification of a peacemaker shall petition the Chief Trial Judge by filing a motion for disqualification stating the reasons why disqualification is requested.

(c) The Chief Trial Judge shall determine whether to grant the motion. If the motion is granted, a substitute peacemaker will be appointed by the Chief Trial Judge.

12. NOTICE TO BEGIN PROCEEDINGS.

Rule 12. NOTICE TO BEGIN PROCEEDINGS.

Notice of the appointment of a Peacemaker shall be provided by the Clerk of Court, who shall send copies of the request and order to the Peacemaker by first class mail and notify the Peacemaker by telephone. If the Clerk does not receive notification from the Peacemaker of acceptance of the appointment within ten days, the Clerk shall so advise the Chief Judge for the purpose of appointing another person as Peacemaker. The Peacemaker is responsible for informally advising the parties, witnesses and participants of his or her appointment, and the copies of the request and order sent to the Peacemaker shall be evidence of his or her authority.

13. SUBPOENAS.

Rule 13. SUBPOENAS.

The Peacemaker may obtain any necessary subpoenas for the attendance of parties, witnesses or other interested persons from the Clerk of Nation Court. Such subpoenas shall be served in accordance with the Oneida Indian Nation Rules of Civil Procedure. No filing fee shall be charged for the issuance of subpoenas or to file a request for Peacemaking.

14. AGREEMENTS.

Rule 14. AGREEMENTS.

The Agreement of the parties shall be the equivalent of a court order and becomes the judgment of the Court and may be enforced as any other order of the Nation Court may be enforced.

15. GENERAL STANDARDS FOR THE CONDUCT OF PEACEMAKERS.

Rule 15. GENERAL STANDARDS FOR THE CONDUCT OF PEACEMAKERS.

Peacemakers shall be bound by the Oneida Indian Nation Canons of Judicial Ethics which apply to the Judges of the Nation Court insofar as such canons are consistent with the nature and purpose of the Peacemaking. Peacemakers shall not participate in any matter in which they have a personal or financial interest or close relation to a party, and they shall conduct themselves with honesty, integrity and in harmony with traditional and customary Nation ways.

16. COMPLAINTS REGARDING PEACEMAKERS.

Rule 16. COMPLAINTS REGARDING PEACEMAKERS.

Complaints against a Peacemaker shall be made to the Chief Trial Judge in writing and the complaint shall be treated as any complaint against a Judge. The same procedures used to resolve complaints against Judges shall be used to resolve complaints against peacemakers.

17. ACTIONS ON COMPLAINT.

Rule 17. ACTION ON COMPLAINT.

Upon finding that a Peacemaker has violated an ethical standard, the Chief Trial Judge may suspend the individual from the Peacemaking. The Court shall notify in writing any Peacemaker who has been suspended from the rolls and the reason(s) therefore within ten

(10) days of a finding of a violation. The Peacemaker shall have 14 days to appeal such suspension to the Nation Appellate Court.

18. MISCELLANEOUS PROVISIONS.

Rule 18. MISCELLANEOUS PROVISIONS.

The Chief Trial Judge shall adopt standard forms for the implementation of these Rules.