

# Mashpee Wampanoag Tribal Court



## Policy and Procedure Manual

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## **Signature Page**

## Table of Contents

1:1	Welcome to Our Tribal Court.....	5
1:2	Introduction to the Tribal Court.....	5
1:3	Structure of the Tribal Court.....	6
2:1	Position Announcement.....	7
2:2	Drug Testing and Background.....	7
3:1	New Employee Orientation.....	8
4:1	Pro Bono Attorneys.....	8-9
5:1	Working Beyond Regular Hours.....	10
6:1	Performance Reviews.....	11
7:1	Professionalism in the Workplace.....	12
7:2	Punctuality and Attendance.....	13
7:3	Violence in the Workplace.....	13
7:4	Progressive Discipline.....	13-14
7:5	Workplace Security.....	14
7:6	What to Do in an Emergency.....	15
7:7	Smoking is Prohibited.....	15
8:1	Court Records.....	16
9:1	Policy Regarding Alcohol and Illegal Drug Use.....	17
10:1	Social Media Use.....	18
10:2	Knowing the Rules.....	19-21
11:1	Travel Policy.....	22-24
12.1	Code of Ethics.....	25-35
13.1	Internship Programs Under The Fair Labor Standards Act.....	36-37
14.1	Emergency Removal of a Minor.....	38-39
14.2	Removal Affidavit.....	40-41
15.1	Process for Transferring an ICWA Case to Tribal Court.....	42-43

16.1 Judicial Security Manual.....44

## **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.

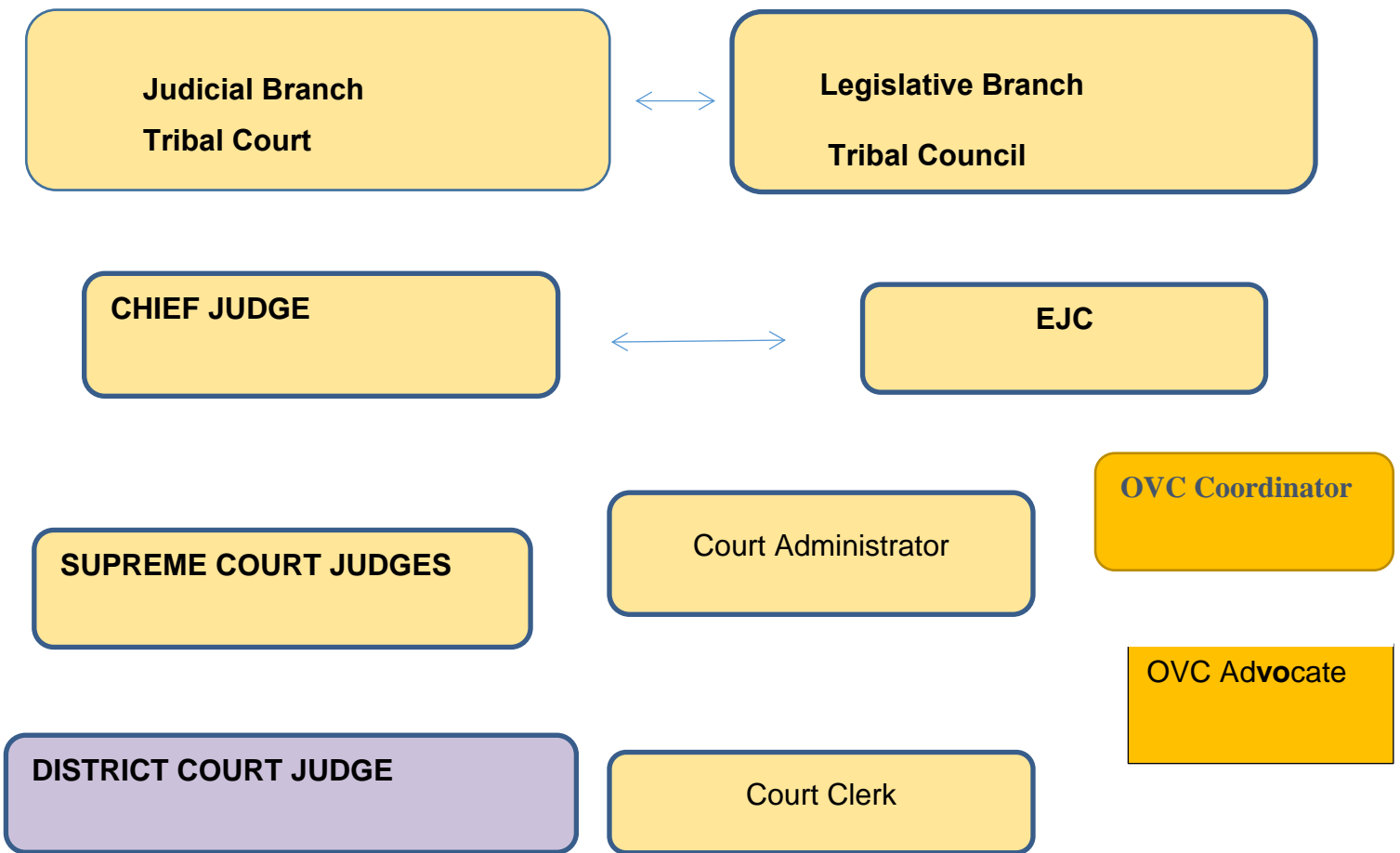
#### ***1:2 Introduction to the Tribal Court***

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, and one District Court Judge. The EJC developed the Mashpee Wampanoag Judiciary Ordinance, and participated in the development of the Mashpee Wampanoag Rules of Civil Procedure, Rules of Evidence, Rules of Criminal Procedure, and Appellate Rules, and the Pro Se Guidebook. The EJC oversees all federal grants and developed a website for tribal court. The EJC has provided educational and outreach efforts to Tribal members and has developed a Peacemaker Court.

**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. The Court Administrator takes care of the day to day operations of Tribal Court.



## **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 Administrator 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 Administrator 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 inquiries 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 Administrator, 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 Judicial Ordinance 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 Elders Judiciary Committee.

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 terminate the employee. Peacemaking will also be offered to provide a forum to work out problems between employees or director and employee.

### **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 Administrator.

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 Administrator 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-nsn.gov> .

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 to the Elders Judiciary Committee.

## **Section 11 Travel**

### **11.1 AUTHORITY, PURPOSE AND POLICY**

(a) **PURPOSE.** This section provides the policies and procedures for the Mashpee Wampanoag Judiciary when traveling and incurring expenses for official business on behalf of the Tribal Court whether using Tribal funds or funds allotted through approved grants. This Policy shall further govern the use of Tribal Court debit card when issued for Tribal Court programs, projects, officials and employees thereof.

(b) **POLICY.** It is the policy of the Tribal Court:

(1) to provide travel and expense policies, procedures and instructions for Tribal Court that are fair and equitable to all those required to travel on official business; and

(2) that travel shall be conducted in the most efficient and economical means possible that minimizes the financial impact on Tribal Court activities and functions.

(c) **APPLICABILITY.** The provisions of this Policy shall govern any and all officials and employees of the Tribal Court, and any person contracted for services by the Tribal Court, during the course of official court business. Any travel or other expenses incurred that are not in accordance with this Policy shall be presumed to be unauthorized and shall not be subject to reimbursement and payment.

### **11.2 DEFINITIONS**

(a) “Per Diem” means an allowance of a set amount of money per day to cover expenses for meals, tips, valet parking (when necessary), and any other incidental expenses while traveling for official Tribal Court business.

(b) “Tribal Court” means the Mashpee Wampanoag Tribal Court.

### **11.3 TRAVEL POLICY**

(a) The only travel for which payment and reimbursement is authorized under this Policy shall be for official Tribal Court activities. Subject's traveling shall physically attend the activities for which travel has been authorized. Failure to attend, except for good cause, shall be considered misconduct and shall be grounds for disciplinary action and refund of all monies.

### **11.4 TRAVEL AND EXPENSE AUTHORITY**

11.4.1 In-Region Travel: In-Region travel shall be that beyond the local travel but within the states of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont.

11.4.2 Out of Region: Out of Region travel means that which is beyond the borders of the states specified in Section 11.4.1

### **11.5 TRAVEL ARRANGEMENTS AND RECORD KEEPING**

- (a) All flight arrangements shall be booked in coach or business class, except in situations where no other rates are available and only upon approval of the Elders Judiciary Committee.
- (b) All travel requests must be submitted thirty (30) days prior to departure when possible.
- (c) All receipts must be originals and must be dated and legible.

### **11.6 TRIBAL COURT DEBIT CARD**

(a) Debit card use shall be for the limited purposes of reserving of and payment for training costs; reserving of and payment for hotel accommodations; reserving of and payment for airline travel; reserving of and payment for rental vehicles and/or delivery services.

### **11.7 PER DIEM**

(a) Individuals shall be paid a full per diem rate of sixty-five (\$65.00) dollars for each day of travel and training including departure and return days. This is the current policy of the Judiciary Branch of Government of the Mashpee Wampanoag Tribe and supersedes all federal and state policies regarding per diem.

### **11.8 MILEAGE RATES**

(a) Expenses for travel by automobile will be reimbursed at the adopted federal mileage rate. Other allowable expenses incurred while in transit will include parking fees, ferry fees, and bridge, road and tunnel fees or tolls. Valet parking is an allowable expense only if no other parking options are available.

### **11.9 RENTAL CARS**

(a) Exclusive of available shuttles, a vehicle may be rented when it facilitates the accomplishment of the Tribal Court travel assignment. Travelers choosing to rent a car shall select a reliable rental car company based on the best competitive rate.

(b) Travelers must agree that no illegal drugs or chemicals will be aboard the vehicle at any time and that no driver unauthorized by the car rental company or under the influence of alcoholic beverages, drugs, or chemicals will be allowed to drive the vehicle.

### **11.10 HOTEL**

(a) Travelers should be economically selective in choosing a motel or hotel, unless the purpose of the travel requires a stay at a particular hotel. Travelers are responsible for incidental hotel expenses charged to the hotel room (i.e. movies, laundry, valet, bar, etc.) Tips are not an allowable expense per federal guidelines.

### **11.11 MISCELLANEOUS**

(a) Baggage charges will be reimbursed as follows; Transportation charges for reasonable baggage or work related materials, Necessary charges for storage of baggage.

(b) Business related internet charges are only allowable and will be reimbursed when incurred as a hotel cost.

(c) All confirmations and/or documentation will be delivered to traveler prior to the departure day.



## **Section 12 Code of Ethics**

### **12.1 Authority, Purpose and Scope**

#### **(a) Purpose**

1. The purpose of this code is to provide effective and fair administration of justice and customer service for the benefit of the community of the Mashpee Wampanoag Tribe (Tribe) by providing for a Code of Ethics for the members of the Elders Judiciary Committee (EJC) and court personnel.

#### **(b) Scope**

1. The EJC has determined what shall be covered by this Code. The Code shall apply only to the members of the EJC and court personnel
2. This code is not intended to apply to court employees who are law students, law clerks, attorneys, advocates, Supreme Court or lower Tribal Judges, other temporary or full time judges, or members of other professional groups who are held to a different standard of professional conduct.

### **12.2 Professionalism**

- a. Serving as an EJC member or court personnel in the Mashpee Wampanoag Tribal Court System (Tribal Court System) is a Tribal trust engendered by the Tribes' confidence in the professional knowledge and competency and personal integrity of the judicial branch. The EJC and court personnel shall uphold the integrity and independence of the judiciary and of the court's employee's office. An independent and honorable judiciary is indispensable to justice in the Tribal community.
- b. The EJC members and court personnel should observe and impart to others high standards of professional conduct so that the integrity and the independence of the judiciary may be preserved and so that the court employee's office may reflect a devotion to serving the Tribe.

- c. The EJC members and court personnel should be patient, dignified, respectful, and courteous to all persons with whom the EJC and court personnel deal with in an official capacity, including the Tribe, and should require similar conduct of personnel subject to the EJC member's direction and control.
- d. An EJC member and court personnel should diligently discharge the responsibilities of the office in a prompt, efficient and professional manner.

## **B. Competency**

- a. The EJC members and court personnel should be faithful to professional standards and maintain competence in the profession.
- b. EJC members and court personnel, regardless of their education and experience prior to being appointed or elected the EJC and court personnel, should seek further legal and pertinent non-legal professional education and development designed to improve their performance as a committee member and employee.

## **C. Performance of Duties**

- a. Every EJC member and court personnel shall endeavor at all times to perform official duties properly and with diligence and courtesy.
- b. The EJC members and court personnel shall use the Tribe's resources, property and funds under one's official control judiciously and solely in accordance with prescribed procedures.
- c. Every EJC member and court personnel shall carry out responsibilities as a servant of the Tribe in as courteous a manner as possible.
- d. Every EJC member and court personnel shall furnish accurate information as requested in a competent, cooperative, and timely manner.
- e. No EJC member or court personnel shall alter, falsify, destroy, mutilate, backdate or fail to make required entries on any record within the committee's control. This provision does not prohibit alteration or expungement of records or documents pursuant to a court order. Any and all documents produced by or under the direction of the EJC shall be the property of Tribal Court and not the property of any individual EJC member or court personnel. All official

documents received by the EJC shall be made available to all members of the EJC.

- f. No EJC member or court personnel shall attend any meetings, court sessions, workshops, or training sessions while carrying out the official duties of his or her Tribal office or otherwise representing the Tribe while under the influence of alcohol or illegal drugs.
- g. Every EJC committee member and court personnel shall immediately report violations of this Code to the Chair and Vice-Chair of the EJC.

#### **D. Impropriety and the Appearance of Impropriety**

- a. An EJC member and court personnel shall avoid both impropriety and the appearance of impropriety and shall avoid activities that would impugn the dignity of the court.
- b. EJC members and court personnel should not engage in any activity which would put into question the propriety of conduct in carrying out the duties of the office, including but not limited to the following:
  - i. EJC members and court personnel shall not allow family<sup>1</sup>, social, or other relationships to influence official conduct or judgment. EJC members and court personnel shall not lend the prestige of their office to advance the interests of himself/herself or others, nor should court personnel convey, or others be permitted to convey, the impression that they are in a special position to influence the court personnel;
  - ii. EJC members, as well as family member(s) who reside in the same household and court personnel, shall not accept a gift, bequest, favor, or loan from any person who has a case pending before the Tribal Court, or who has a matter pending before the EJC. Nor shall EJC members and court personnel accept a gift from any other person under circumstances which might reasonably be regarded as influencing the performances of the duties of the office. The provisions of this paragraph shall not apply to

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<sup>1</sup> The term "family" means any parent, siblings, and children.

Awards or Christmas or Birthday gifts between family members (as defined above);

- iii. EJC members and court personnel should avoid favoritism, unfairness, or nepotism in connection with the hiring, discharge, or treatment of subordinate court staff. Any exception to this provision shall be approved by the full EJC upon disclosure. The EJC member and court personnel who is an involved party should recuse themselves from consideration of any exception.
  - iv. EJC members and court personnel shall never influence or attempt to influence the assignment of cases, or perform any discretionary or ministerial function of the Court in a biased manner, which improperly favors any litigant or attorney or other representative, nor imply that such EJC member is in a position to do so.
- c. Each EJC member and court employee shall immediately report to the appropriate authority any attempt to induce him or her to violate any of the standards set out above.

## **E. Impartiality**

- a. EJC members and court personnel should act at all times in a manner that promotes Tribal confidence in the impartiality of the judiciary and the respective court employee's office;
- b. EJC members and court personnel must provide impartial and evenhanded treatment of all persons. All persons coming to the court for assistance are entitled to fair and equitable treatment, regardless of their personal behavior or legal situation. An EJC member and court personnel does not have the right to take sides in a legal dispute, interject himself or herself into the legal decision-making process, second - guess a judge's ruling, or give the appearance of partiality on a political issue that is likely to come before the court. The procedural integrity of the court must be protected at all times.
- c. EJC members and court personnel shall avoid relationships that would impair one's impartiality and independent judgment.

## **F. Prohibition Against Giving Legal Advice**

- a. An EJC member and court personnel shall serve the Tribe and Tribal membership by providing procedural assistance that is as helpful as possible without giving legal advice.
- b. Given the experience and visibility of EJC members and court personnel, it is natural for those who deal with the court, including attorneys and litigants as well as Tribal members, to ask questions such as: “Should I fight this?” “How do I fight this?” “To whom should I go for legal assistance?” “What does the law say?” EJC members and court personnel shall not give directions or explanations regarding court forms or procedure. EJC members and court personnel shall be responsive for inquiries regarding standard court procedures. EJC members and court personnel shall not give legal advice. EJC members and court personnel must not, however, cross the line separating an EJC member from a licensed legal practitioner by giving their opinion on the law or, worse, giving their opinion as the law.

## **G. Conflict of Interest**

- a. Every EJC member and court personnel shall avoid conflicts of interest, as defined below, in the performance of professional duties. Even though no misuse of office is involved, such a conflict of interest involving an EJC member and court personnel can seriously undermine a Tribal member's confidence and trust in the Tribal Court System. Therefore, every EJC member and court personnel is required to exercise diligence in becoming aware of conflicts of interest, disclosing conflicts to the designated authority and ending them when they arise.
  - i. A conflict of interest exists when the EJC member’s or court personnel objective ability or independence of judgment in the performance of his or her job is impaired or may reasonably appear to be impaired or when the EJC member or court personnel, or the EJC member’s and court personnel’s immediate family, as defined above, or business would derive

financial gain as a result of the EJC member's or court personnel's position within the court system.

- 1.** For the purposes of this Code, "immediate family" shall include the following; parent, sibling, and child.
  - ii. No conflict of interest exists if any benefit or detriment accrues to the EJC member or court personnel as a member of a profession, business or group to the same extent as any other member of the profession, business or group who does not hold a position within the court system.
- b.** Prohibited Activities:
  - i. No EJC member or court personnel shall enter into any contract with the Tribe for services, supplies, equipment, leases or realty, apart from the employment contract relating to the employee's position, nor use that position to assist any member of his or her immediate family in securing a contract with the Tribe in a manner not available to any other interested party. The exception would be an EJC member acting as a Peacemaker in Peacemaker Court.
  - ii. No EJC member or court personnel shall receive tips or other compensation for representing, assisting or consulting with parties engaged in transactions or involved in proceedings with the Tribal Court System with the exception of an EJC member who is acting as a Peacemaker.
  - iii. No EJC member or court personnel shall participate in any business decision involving a party with whom either the EJC member or court employee or any member of the employee's immediate family is negotiating for future employment.
  - iv. No former EJC member or court personnel shall engage in transactions or represent others in transactions or proceedings with the court system for one year after termination. The exception would be a former EJC or court personnel who is acting as a Peacemaker in Peacemaker court.
  - v. No EJC member or court personnel shall knowingly employ, advocate or recommend for employment any member of his or her immediate family,

provided however an EJC member or court personnel may do so upon full approval of the EJC. An EJC member shall disqualify themselves from the decision.

1. Nothing in this section shall prohibit an EJC member or court personnel from accepting a public award presented in recognition of public service to the Tribe.
2. Nothing in this section shall prohibit any person from donating a gift to a group of employees.
  - a. e.g. all the EJC members of an office or unit of the Tribal Court System, provided that the value and circumstances of the gift are such that it could not be reasonably inferred that the gift would influence the employees in the performance of their official duties or that such influence was the purpose of the donor, and provided that any employee accepting such a gift promptly report the gift to the supervisor, who shall be responsible for its proper distribution. Gifts received with the understanding that they will influence member's official actions, decisions or judgments are prohibited as abuse of office in Section F.
3. Nothing in this section shall prohibit any person or group from donating a gift of historical or other significant value that is given for the benefit of the Tribal Court System, provided that such a gift is received on behalf of the Tribal Court System by the Tribal Council.

## **H. Confidentiality**

- a. All EJC members and court personnel shall maintain the confidentialities of the Tribal Court System.
- b. Confidential information includes, but is not limited to, information on pending cases that is not already a matter of public record and information concerning the work product of any Tribal judge, law clerk, attorney or other court employee including, but not limited to, notes, papers, discussions and memoranda.

- c. Confidential information that is available to specific individuals by reason of statute, court rule or administrative policy shall be provided only by persons authorized to do so.
- d. Every EJC member and court personnel shall report confidential information to the appropriate authority when the EJC member or court personnel reasonably believes this information is or may be evidence of a violation of law or of unethical conduct. No EJC member or court personnel shall be disciplined for disclosing such confidential information to an appropriate authority.
- e. A former EJC member or court personnel should not disclose confidential information when disclosure by a current EJC member or court personnel would be a breach of confidentiality.
- f. Oath of Confidentiality:
  - i. EJC members and court personnel have a responsibility to preserve the confidentiality of Tribal Court cases. EJC members and court personnel who participate in court cases shall take an oath of confidentiality upon taking office.
  - ii. Committee members who participate in a case shall take the following oath of confidentiality prior to hearings:

“I \_\_\_\_\_, do solemnly swear and affirm that I will not discuss the proceedings of this case outside of the chambers of the \_\_\_\_\_ Tribal Courtroom. Violators of this oath may be subject to removal by the Tribal Council pursuant to the Council’s power under Article VI, Section 2.A of the Constitution of the Mashpee Wampanoag Tribe.”
  - iii. This or a similar oath could be administered to participants of justice circles as well as used in regular Tribal Court hearings.



## **I. Harassment**

- a. EJC members and court personnel are to renounce any use of positional or personal power to harass another person sexually or in any other way based on that person's religious beliefs, political affiliation, age, national origin, language, appearance, gender, sexual orientation, or other personal choices and characteristics.
- b. No EJC member or court personnel shall make sexual advances and insinuations that are inappropriate and offensive, or that could be perceived as such. Harassment may also take nonsexual forms such as verbal, physical, and psychological.

## **J. Discrimination**

- a. No EJC member or court personnel shall discriminate on the basis of nor manifest, by words or conduct, bias or prejudice based on race, gender, age, religion, national origin, language, appearance, or sexual orientation.
- b. No EJC member or court personnel shall discriminate in favor of or against any court employee applicant for employment on account of political contributions or political activities.
- c. EJC member and court personnel shall guard against and, when necessary, repudiate any act of discrimination or bias based on race, gender, age, religion, national origin, language, appearance, or sexual orientation. Each day court employees assist users of court services and are expected to treat each other and each user of court services equally and with compassion. Equal access to the Tribal Court System and equal treatment for all is the cornerstone of the administration of justice. EJC members and court personnel must expose and discourage discrimination wherever it exists.

## **K. Refraining from Tribal Political Activity**

- a. EJC members and court personnel shall not act as a leader or hold office in a Tribal political organization.

- b.** EJC members and court personnel shall not make speeches or publicly<sup>2</sup> endorse a Tribal political organization, candidate or event.
- c.** EJC members and court personnel shall not solicit funds for a Tribal political organization, candidate or event.
- d.** EJC members and court personnel may engage in Tribal political activity that does not tend to reflect adversely on the dignity of the judiciary or interfere with the proper performance of official duties.
- e.** EJC members and court personnel retain the right to vote as each member chooses and are free to participate actively in Tribal political campaigns during non-working hours of the Committee; provided that the EJC member and court personnel makes it clear they are not acting in their EJC or employee capacity. An EJC member and court personnel who chooses to participate in Tribal political activity during non-working hours shall not use his or her position or title within the Tribal Court System in connection with such political activities.
- f.** No EJC member or court personnel shall engage in any Tribal political activity during scheduled work hours of the Committee, or when using Tribal vehicles or equipment, or on Tribal Court property. Tribal political activity includes, but is not limited to:
  - 1.** Displaying campaign literature, badges, stickers, signs or other items of Tribal political advertising;
  - 2.** Using official authority or position, directly or indirectly, to influence or attempt to influence any other employee in the Tribal Court System to become a member of any Tribal political organization or to take part in any political activity;
  - 3.** Soliciting signatures for Tribal political candidacy;
  - 4.** Soliciting or receiving funds for Tribal political purposes; and
  - 5.** All other acts that lead to the inference that an EJC member's political activities imply or appear to imply official sponsorship.

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<sup>2</sup> The term “publicly” means a place open to the public or at any place where a substantial number of persons outside a circle of family and its social acquaintances is gathered.

## **L. Technology**

- a.** EJC members and court personnel should protect the technological property of the court by preserving the confidentiality of electronically stored information. Information retained in electronic files should be treated like any other official court document. Its confidentiality should be assumed unless otherwise specified.
- b.** EJC members and court personnel shall abstain from personal use of court computer systems and hardware. EJC members and court personnel may not install personal software or equipment without prior approval from the Tribal judge, nor shall they take copyrighted software outside the court for personal use.
- c.** To preserve the integrity of electronic systems, EJC members and court personnel shall correct any errors or omissions, guard against sabotage in any form, scan and repair viruses when possible, and avoid using court equipment for purposes other than court business.
- d.** Great care should be taken in the transmission of electronic data so that it would not embarrass the court or the sender if read by an unintended recipient.

## **M. Sanctions for Non-Compliance**

- a.** Non-Compliance of these standards by an EJC member or court personnel may result in sanctions at the discretion of the EJC and Chief Judge, up to and including, recommendation to Tribal Council to terminate such individual's service.
- b.** EJC members, excluding the EJC member subject to possible sanctions, shall decide the appropriate sanction by a unanimous vote.
- c.** An EJC member to whom these rules become applicable shall arrange all personal affairs as soon as reasonably possible to comply with it and shall do so in any event within the period of thirty (30) days after appointment to the EJC by the Tribal Council.

## **Fact Sheet #71: Internship Programs Under The Fair Labor Standards Act**

This fact sheet provides general information to help determine whether interns and students working for “for-profit” employers are entitled to minimum wages and overtime pay under the Fair Labor Standards Act (FLSA).<sup>1</sup>

### **Background**

The FLSA requires “for-profit” employers to pay employees for their work. Interns and students, however, may not be “employees” under the FLSA—in which case the FLSA does not require compensation for their work.

### **The Test for Unpaid Interns and Students**

Courts have used the “primary beneficiary test” to determine whether an intern or student is, in fact, an employee under the FLSA.<sup>2</sup> In short, this test allows courts to examine the “economic reality” of the intern-employer relationship to determine which party is the “primary beneficiary” of the relationship. Courts have identified the following seven factors as part of the test:

1. The extent to which the intern and the employer clearly understand that there is no expectation of compensation. Any promise of compensation, express or implied, suggests that the intern is an employee—and vice versa.
2. The extent to which the internship provides training that would be similar to that which would be given in an educational environment, including the clinical and other hands-on training provided by educational institutions.
3. The extent to which the internship is tied to the intern’s formal education program by integrated coursework or the receipt of academic credit.
4. The extent to which the internship accommodates the intern’s academic commitments by corresponding to the academic calendar.
5. The extent to which the internship’s duration is limited to the period in which the internship provides the intern with beneficial learning.
6. The extent to which the intern’s work complements, rather than displaces, the work of paid employees while providing significant educational benefits to the intern.
7. The extent to which the intern and the employer understand that the internship is conducted without entitlement to a paid job at the conclusion of the internship.

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<sup>1</sup> The FLSA exempts certain people who volunteer to perform services for a state or local government agency or who volunteer for humanitarian purposes for non-profit food banks. WHD also recognizes an exception for individuals who volunteer their time, freely and without anticipation of compensation, for religious, charitable, civic, or humanitarian purposes to non-profit organizations. Unpaid internships for public sector and non-profit charitable organizations, where the intern volunteers without expectation of compensation, are generally permissible.

<sup>2</sup> E.g., *Benjamin v. B & H Educ., Inc.*, --- F.3d ---, 2017 WL 6460087, at \*4-5 (9th Cir. Dec. 19, 2017); *Glatt v. Fox Searchlight Pictures, Inc.*, 811 F.3d 528, 536-37 (2d Cir. 2016); *Schumann v. Collier Anesthesia, P.A.*, 803 F.3d 1199, 1211-12 (11th Cir. 2015); see also *Walling v. Portland Terminal Co.*, 330 U.S. 148, 152-53 (1947); *Solis v. Laurelbrook Sanitarium & Sch., Inc.*, 642 F.3d 518, 529 (6th Cir. 2011).

Courts have described the “primary beneficiary test” as a flexible test, and no single factor is determinative. Accordingly, whether an intern or student is an employee under the FLSA necessarily depends on the unique circumstances of each case.

If analysis of these circumstances reveals that an intern or student is actually an employee, then he or she is entitled to both minimum wage and overtime pay under the FLSA. On the other hand, if the analysis confirms that the intern or student is not an employee, then he or she is not entitled to either minimum wage or overtime pay under the FLSA.

**Where to Obtain Additional Information**

This publication is for general information and is not a regulation. For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

**U.S. Department of Labor**  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

**1-866-4-USWAGE**  
TTY: 1-866-487-9243  
[Contact Us](#)

## ***Section 14.1***

### **14.1 Mashpee Wampanoag Tribe ICWA/CFS Department – Procedures**

#### **Care and Protection and Child Custody Cases: Emergency Removal of a Minor**

##### **Probable Cause Required to Remove**

1. First, an ICWA/CFS case worker or law enforcement officer must prepare an affidavit, established by probable cause, prior to removing a minor.
2. Probable cause is established if:
  - Minor is in immediate danger of serious or imminent physical or emotional harm;
  - OR**
  - Removal of the minor is necessary to avoid harm,
  - AND, if either**
  - The Tribal Court is unavailable to issue a custody order;
  - OR**
  - Issuance of the custody order would involve a delay that would contribute to the risk of harm to the minor.
3. Upon removal, the ICWA/CFS case worker or law enforcement officer may take the minor into temporary protective care.
4. In addition to the affidavit, a report of alleged abuse must be drafted and filed with the Tribal Court.

##### **Tribal Court Conducts a Hearing**

1. Within 3 business days of the removal (unless for good cause shown), the Tribal Court must conduct a hearing to review the removal.
2. The Tribal Court must provide notice and all documentation related to the case to the parents, custodians, and interested extended family members.

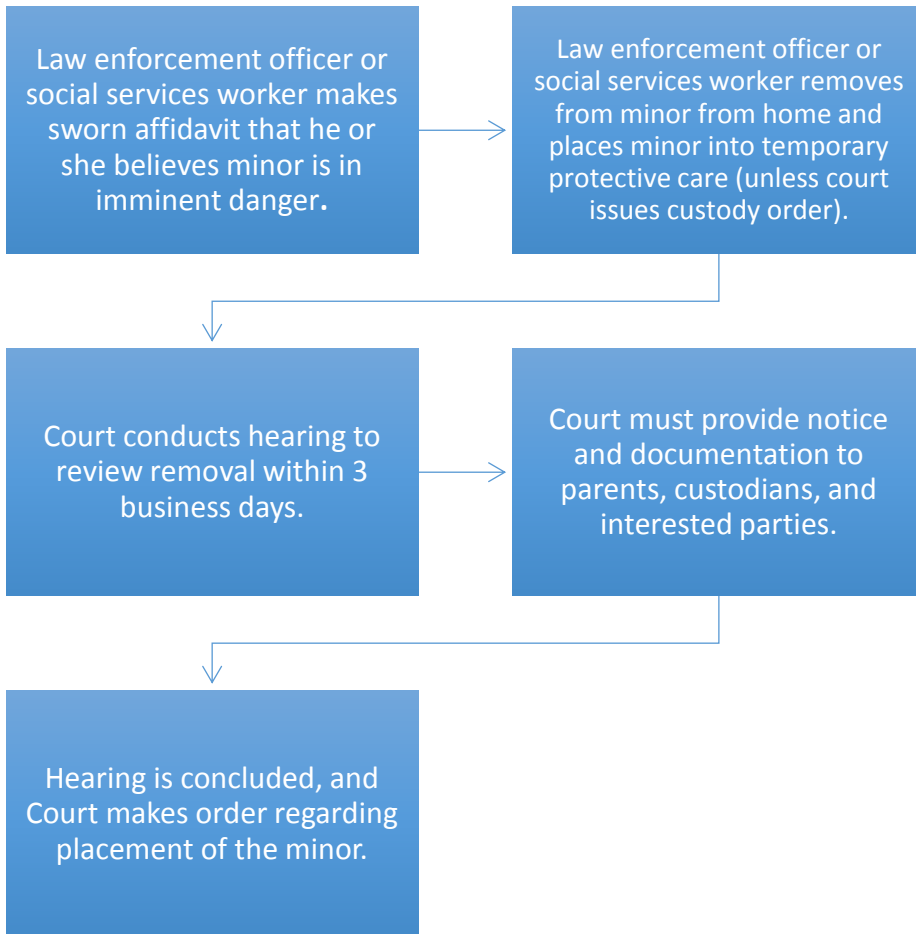
##### **Tribal Court Issues an Order**

At the hearing, the Court may issue an order:

- To return the minor to the custody of his/her parents;
- Place the minor with custodians or legal guardians; or
- Keep the minor within custody of the Tribe and direct the ICWA/CFS Department to file a petition opening a Care and Protection or Child Custody case for the child.

**Mashpee Wampanoag Tribe ICWA Department - Procedures**

**EMERGENCY REMOVAL STEPS**



14.2

**Section: 14.2**  
**MASHPEE WAMPANOAG TRIBE**  
**REMOVAL AFFIDAVIT**

**IN RE** \_\_\_\_\_

My name is \_\_\_\_\_. I am over the age of 18, I am of sound mind and capable of making this affidavit. I am an authorized representative of the Indian Child Welfare Office or Mashpee Wampanoag Tribal law enforcement, and the facts and allegations stated in this affidavit and the above petition are within my personal knowledge and are true and correct.

**1. MINOR(S) (please include name/age/place of birth/current address/any other address during the past 6 months)**

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**2. PARENTS – GUARDIAN – MEMBERS OF THE HOUSEHOLD**

**a. Mother (Name/DOB/Current Address/Any other address during the past 6 months)**

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**b. Father (Name/DOB/Current Address/Any other address during the past 6 months)**

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c. **Household Member (Name/Relationship to minor/DOB)**

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**3. ALLEGATIONS Upon immediate observation of the child, did you notice that:  
(Check all that is applicable)**

a. Minor was in immediate danger of serious and imminent physical danger? \_\_\_\_  
Specify \_\_\_\_\_

b. Minor was in immediate danger of serious and imminent emotional harm? \_\_\_\_  
Specify \_\_\_\_\_

c. Is removal of the minor necessary to avoid serious and imminent danger? \_\_\_\_  
Specify \_\_\_\_\_

d. Would issuance of a custody order involve a delay that would contribute to the  
risk of harm to the minor? \_\_\_\_  
Specify \_\_\_\_\_

e. Please fill any additional facts in the space provided below.

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**4. PROPOSAL FOR PLACEMENT either for**

**Asking the Tribal Court what to do \_\_\_\_**

**Awarding temporary managing guardianship \_\_\_\_**

**Other relief \_\_\_\_ Specify \_\_\_\_\_**

\_\_\_\_\_  
Caseworker's or Law Enforcement Officer's signature  
Name & title

## **Section 15.1**

### **15.1 Process for Transferring an ICWA/CFS Case from State Court to Tribal Court**

#### **Requesting State Court to Transfer an ICWA/CFS Case to Tribal Court**

1. In consultation with the Tribal Human Services Department, the ICWA/CFS Department engages in an internal review of the pending ICWA/CFS case to determine whether the case is suitable for Tribal Court. (Refer to procedure on “Assessing the Suitability of an ICWA/CFS Case to be transferred from State Court to Tribal Court.”)
2. If the ICWA/CFS Dept. decides that the case is suitable, then it may initiate this process to transfer from State Court to Tribal Court.
3. The ICWA/CFS Dept. must first obtain the consent of the child’s parents to transfer the case to Tribal Court. If one of the parents does not consent, then the ICWA/CFS Dept. should not file a request for transfer. (Written consent is not required.)
4. If consent is given, the ICWA/CFS Dept. should informally and verbally consult with the Tribal Court about its intent to seek a transfer.
5. The ICWA/CFS Dept. may then file a motion for transfer of the case from State to Tribal Court.
6. Once the motion is received, the State Court decides whether to grant or deny the Tribe’s motion for transfer. If the motion is denied, the case will remain in State Court.
7. If the State Court grants the motion, then the State Court will notify the Tribal Court of its intent to transfer the case to Tribal Court.
8. After the State Court grants the motion, the ICWA/CFS Dept. must immediately file a “Jurisdictional Petition” with the Tribal Court.
9. Once notified by the State Court and once the Jurisdictional Petition is filed, the Tribal Court will hold a hearing within 20 days to determine whether to accept jurisdiction over the case.

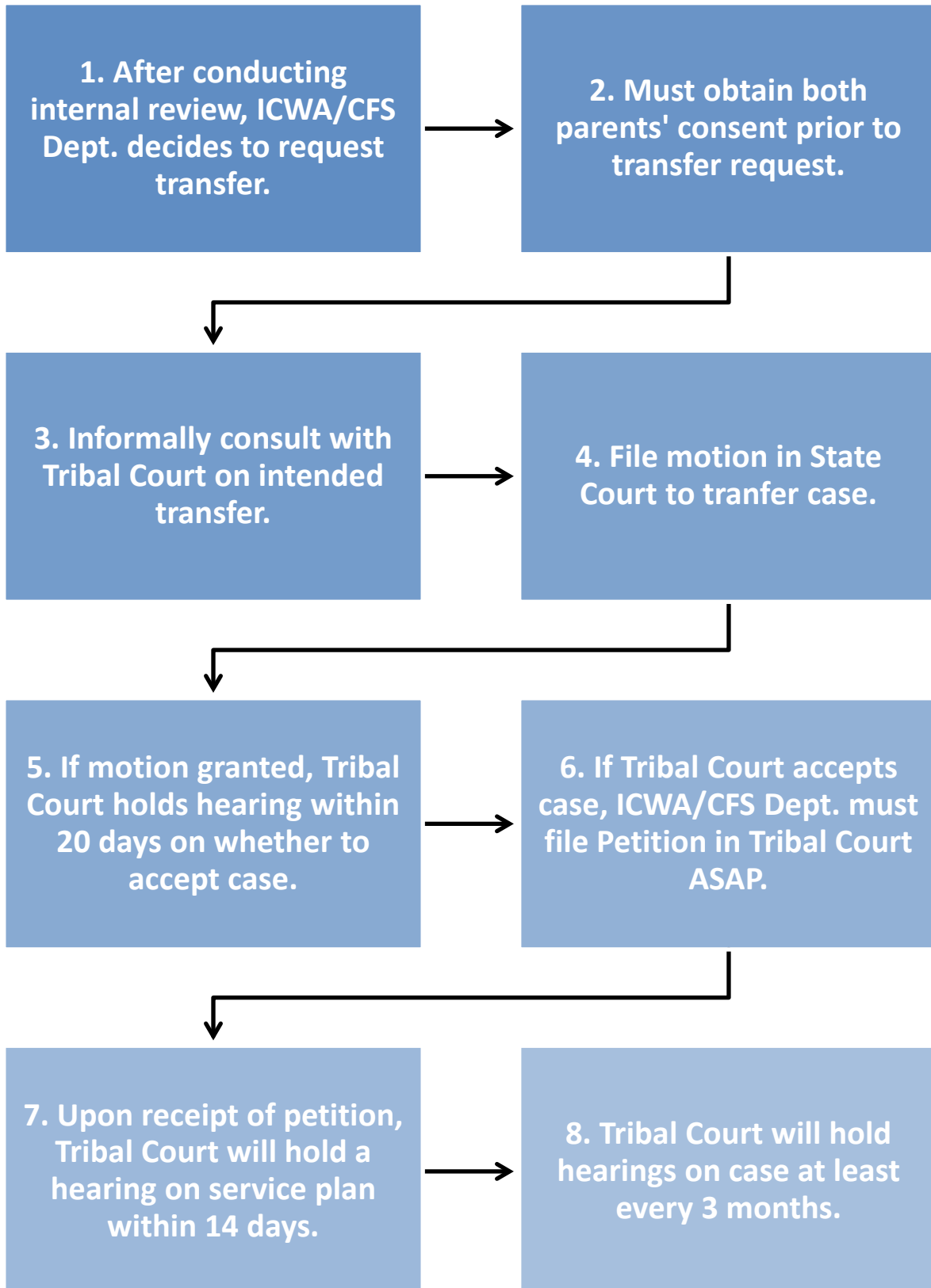
#### **Tribal Court Holds a Hearing to Decide Whether to Accept Jurisdiction**

1. All interested parties may attend the Tribal Court hearing but are not required to. Under the MWT Child and Family Ordinance, the ICWA/CFS Dept. is required to attend the hearing and present to the Tribal Court its recommendation to transfer the case.
2. The Tribal Court has full discretion to determine whether it accepts jurisdiction. However, the ICWA/CFS Dept.’s recommendation may carry some weight in the Court’s decision.
3. If the Tribal Court accepts jurisdiction, it may adopt on a temporary basis any orders, subject to modification, previously entered by the State Court to ensure for the care and safety of the child.

#### **Tribal Court Accepts Transfer from State Court**

1. The Tribal Court will notify the State Court of its decision, and request copies of all documents pertaining to the case from State Court pursuant to 25 U.S.C. § 1912(c) & 25 C.F.R. 23.19.
2. Once the Tribal Court accepts jurisdiction, the ICWA/CFS Dept. must immediately file a petition in Tribal Court based on the complaint/petition made in the case in State Court.
3. Upon receipt of the petition, the Tribal Court will hold a hearing within 14 days to review the Service Plan presented to it by the ICWA/CFS Dept.
4. The Tribal Court will continue to monitor the case through status and conference hearings to be held at least every 3 months.

## Overview\* of Process for Transferring ICWA/CFS Cases From State Court to Tribal Court



\* This chart is an overview only and should be read in conjunction with the step by step process for transferring ICWA/CFS cases from State to Tribal Court.

Section 16.1

Mashpee Wampanoag  
Tribal Court



Judicial Security Manual

Revised: July 11, 2018

## Table of Contents

1:1	Introduction .....	4
1:2	Oversight .....	4
1:3	Security .....	4
2:1	Facilities.....	5
2:2	Tribal Court Personnel Parking .....	6
2:3	Visitor Parking for Tribal Court Visitors.....	6
2:4	Court Personnel Entrance .....	6
2:5	Visitor Entrance.....	6
2:6	Mashpee Wampanoag Tribal Courtroom .....	7
2:7	Judges Chambers .....	8
2:8	Court Clerk’s Office .....	8
2:9	Waiting Area .....	8
2:10	Prisoner Holding Area .....	9
2:11	Jury Room .....	9
2:12	Document Storage .....	9
2:13	Evidence Locker .....	10
2:14	Common Areas.....	10
3:1	Court Proceedings.....	10
3:2	Security Screening Process .....	10
3:3	Metal Detector and Wand Screening .....	11
3:4	Cell Phones.....	11
3:5	Courtroom Security.....	11
3:6	Courtroom Rules of Conduct .....	11
3:7	Court Proceedings.....	12
3:8	Open Court Proceedings .....	13
3:9	Closed Court Proceedings .....	13
3:10	Video Recording.....	13
4:1	Reporting.....	13

4:2 Incident Reporting ..... 13

## **1:1 Introduction**

The Mashpee Wampanoag Tribal Court (“Tribal Court”) provides fair and unbiased justice to those who come before the court. During this process it is important that appropriate Judicial Security Procedures are in place to ensure the safety of judges, court officers, court personnel, jurists, visitors, and litigants using our judicial system. The procedures set forth in this guide are standards which will be reviewed annually by the Elders Judiciary Committee (“EJC”) in order to remain up to date with current legislation and technology. It is important that all Tribal Court personnel are familiar with these procedures to ensure the safety and security of the Tribal Court.

## **1:2 Oversight**

The EJC has oversight of the Tribal Court and associated Judicial Security procedures and will work with The Mashpee Wampanoag Department of Homeland Security (“Homeland Security”) to perform a security audit on an annual basis or more frequently, as needed. The procedures set forth in this guide are standards which will be reviewed annually by the EJC in order to remain up to date with current legislation and technology.

## **1:3 Security**

Homeland Security is responsible for providing security to the Mashpee Wampanoag Tribal Court. Coordination between the Tribal Court, Homeland Security, and the EJC is critical to ensuring the safety of the Mashpee Wampanoag Tribal Court. Homeland Security is responsible for all personnel matters relating to security

personnel and training. Training of Tribal Court personnel regarding threat assessment and emergency situations should occur on an annual basis and information should be provided to Tribal Court personnel during these trainings for future reference.

Maps of the building, including evacuation procedures should be posted in common areas and near elevators and exit doors. Emergency drills should be conducted on a regular basis to ensure that all Tribal Court personnel are educated on emergency procedures.

## **2:1 Facilities**

The Tribal Court facilities were designed to protect against attack, limit access to sensitive areas and avoid inappropriate interaction between participants in the judicial process. All facilities, outside and inside, are monitored by video surveillance.

The Mashpee Wampanoag Security Department (“Security Department”), a division of Homeland Security, monitors all building entrances, exits and parking areas to ensure that only authorized parties are allowed entrance to the building. Video surveillance is stored and may be accessed by authorized personnel, if necessary, for investigations and may be retained for future use. The Security Department patrols all grounds and facilities to ensure safety and eliminate potential threats.

As part of their oversight, the Security Department will ensure that all outside areas have adequate lighting and that landscaping is designed in a way as to enable the Security Department, visitors and personnel to have a clear view of all outside areas.



## **2:2 Tribal Court Personnel Parking**

Court employees and judges should park in the main parking lot at the front of the Mashpee Wampanoag Tribal Headquarters. While court personnel, including judges, may park in reserved spaces, no space shall include the name of any court employee. Court personnel should be aware of their surroundings at all times. In the event of an emergency or a threatening situation shall contact the Security Department at (508) 477-0208 extension 192.

## **2:3 Visitor Parking for Tribal Court Visitors**

All visitors, including litigants, attorneys, witnesses and jurists, may park in the spaces at the rear of the Mashpee Wampanoag Tribal Headquarters near the Tribal Court entrance, space permitting, or in the main parking lot.

## **2:4 Court Personnel Entrance**

Court personnel shall enter through the main entrance of the Mashpee Wampanoag Tribal Headquarters using their ID badge. The ID badge should be swiped upon entering and exiting the building to ensure that all personnel can be accounted for in the event of an emergency. Any personnel entering the Tribal Court area after hours must check in and check out with the Security Department.

## **2:5 Visitor Entrance**

All litigants, attorneys, witnesses, jurists and visitors are required to use the Tribal Court entrance located at the rear of the Mashpee Wampanoag Tribal Headquarters building. The Tribal Court entrance has security cameras and is

monitored by the Security Department. Tribal Court personnel must grant access to any visitors after confirming that they have legitimate business with the Tribal Court or the Mashpee Wampanoag Tribal Court Clerk's Office ("Clerk's Office").

## **2:6 Mashpee Wampanoag Tribal Courtroom**

The Courtroom is used solely for judicial proceedings related to the Mashpee Wampanoag Tribe. The Courtroom shall remain locked at all times. Prior to court sessions, the Courtroom will be unlocked, and a member of the Security Department will perform a sweep of the courtroom prior to the beginning of any judicial proceedings. The sweep will ensure the following:

- No weapons in the courtroom;
- No contraband in the courtroom;
- Flagpoles are behind the Judge's bench;
- No items are left on the tables which can be used as weapons (by use or thrown).

Prior to the commencement of any court session, a member of the Security Department will also check the restrooms, hallways and other areas to ensure the safety of court participants. At the completion of the court session, a member of the Security Department will do a final sweep of the courtroom and Tribal Court personnel will ensure that the Courtroom is locked.

## **2:7 Judges Chambers**

The Judge's chambers should be separate from the courtroom and should be kept locked at all times. Access should be limited to court and security personnel. Litigants and attorneys should not have access to the Judge's chambers, unless requested by the Judge. Blinds should be closed at all times. When Court is in session, Judges should be escorted to the Courtroom by a member of the Security Department.

## **2:8 Court Clerk's Office**

The Court Clerk's office is in a secured area and should be kept locked at all times. All files and sensitive material should be kept in locked file cabinets or desk drawers when not in use. All computers should be logged off when not in use and should be turned off at the end of each day.

Due to the sensitive nature of the responsibilities of the Tribal Court, all personnel must go through a thorough background check prior to working for the Tribal Court.

## **2:9 Waiting Area**

A secure waiting area is available at the Tribal Court. It is important that witnesses and jurists be kept separate from litigants. Court personnel will relocate visitors who need to be separated to a secure office in the Tribal Court area.

## **2:10 Prisoner Holding Area**

Prisoners in custody will be escorted to the Prisoner Holding area by a member of the Mashpee Wampanoag Tribal Police (“Tribal Police”). The Prisoner Holding area is located in a secure area of the Tribal Court. Prisoners will be under Tribal Police escort at all times. Upon conclusion of any court appearance, prisoners will be in the custody of the Tribal Police. Prisoners will remain in custody until they leave the courtroom and are processed accordingly by the Tribal Police. Under no circumstances will prisoners be released in the Courtroom due to security concerns.

## **2:11 Jury Room**

In the event of a trial by jury, a private Jury Room will be provided for the jurists. The room will be secured at all times by member(s) of the Security Department. Coordination of jury selection, meals and sequestration will be handled by the Clerk’s Office.

## **2:12 Document Storage**

All files and documents relating to court business, cases or other aspects of the Tribal Court will be stored in the appropriate designated files. The file room shall remain locked at all times. Court personnel will have access to the files and will ensure that the files are maintained according to the policy of the Tribal Court.

All electronic documents will be stored on a separate server accessible to Tribal Court personnel. The server will follow industry protocols for backup procedures and Tribal Court personnel will have the ability to remote access the data and files.

### **2:13 Evidence Locker**

The Tribal Court facilities contain a secure evidence locker for storage of any evidence related to Tribal Court cases. All evidence will be securely stored under the protection of the Tribal Court until such time as an order is issued by the Tribal Court regarding final disposition of the evidence.

### **2:14 Common Areas**

The common areas of the Tribal Court include restroom facilities, a kitchen area, and waiting area. All areas are accessible by authorized personnel with the appropriate ID badges. During Closed Court Proceedings, only necessary Tribal Court personnel will be able to access with ID badge these areas. All doors will remain locked at all times and visitors must be granted access only by Tribal Court personnel.

### **3:1 Court Proceedings**

All Court Proceedings are scheduled in advance by the Court Clerk. The Court Clerk prepares the docket and notifies litigants of court appearances. The Court Clerk also notifies the Security Department and posts notices when court is in session.

### **3:2 Security Screening Process**

The safety of participants in the Mashpee Wampanoag Tribal Court is of the utmost importance. As such, all parties attending any court session are required to go through an extensive screening process prior to entering the court room.

### **3:3 Metal Detector and Wand Screening**

All court participants, attorneys, defendants, members of the jury and witnesses are required to go through the metal detector under the supervision of a member of the Mashpee Wampanoag Tribal Police Department. While most screening can be accomplished through the use of the metal detector and the use of a wand, all persons and their belongings are subject to search and additional screening, if necessary. The Security Department will test the screening equipment prior to each Court Session.

### **3:4 Cell Phones**

Cell phones are not allowed in the Courtroom. Cell phones will be given to the bailiff and placed in a secure box during the court session and will be returned to visitors upon exiting the court room.

### **3:5 Courtroom Security**

Members of the Security Department will be in attendance during all court proceedings. A member of the Security Department will be in the Courtroom during court session and all hallways will be monitored when court is in session.

### **3:6 Courtroom Rules of Conduct**

The Tribal Court requires that all participants/observers of court sessions adhere to the following rules, any violation may result in fines or the dismissal of the case:

- Appropriate attire is required. Hats, shorts, tank tops, cut-offs, baggy pants, and t-shirts are NOT permitted.

- Participants and attendees must be on time.
- No food, drinks, gum, candy or tobacco products are allowed in the Courtroom.
- No cell phones will be allowed in the Courtroom.
- The Judge may be addressed as “Your Honor” or “Judge” and the person addressing the judge must be standing.
- Only papers are allowed on the desks during judicial proceedings.
- When the Judge enters the Courtroom, all participants will rise and remain standing until the Judge is seated.
- Opposing parties should be referred to as Mr. or Ms., never by their first name.
- All participants shall be respectful and polite while in the Courtroom.
- Talking is prohibited during Court sessions.
- Any type of audio or video recording is prohibited.
- Children under the age of ten years old are not permitted to attend Court sessions.

### **3:7 Court Proceedings**

The rules surrounding who can attend Tribal Court sessions and whether or not visitors are allowed in the Tribal Court area are determined by the type of court proceeding. There are two types of court proceedings, open and closed.

### **3:8 Open Court Proceedings**

Open Court Proceedings are open to visitors and people waiting on their hearings. Mashpee Wampanoag Tribal employees may access the Tribal Court offices, kitchen, and facilities during Open Court Proceedings.

### **3:9 Closed Court Proceedings**

Certain court cases only allow those directly involved in the case to attend. No unauthorized attendees will be allowed into the Tribal Court area including the kitchen, waiting area and restrooms. The Court Clerk will post notices when Closed Court Proceedings are scheduled and in progress.

### **3:10 Video Recording**

All court sessions will be audio and video recorded. The Court Clerk is responsible for the audio and video recordings and will store the digital records in the Tribal Court files.

### **4:1 Reporting**

In order to monitor and ensure the effectiveness of the Judicial Procedures reporting will be provided to the EJC on a regular basis.

### **4:2 Incident Reporting**

The Homeland Security Department will provide the EJC with reporting on security incidents including a description, root cause and recommended security improvements.