

**TITLE 3- COURTS AND RULES OF COURT
PART I - COURTS
CHAPTER 1-3 - JUDGES**

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Legislative History: Amended on January 16, 2008 by Resolution No. C01-15-08 and Ordinance No. 03-08.
Amended on April 6, 2011 by Resolution No. C04-83-11 and Ordinance No. 07-11

Section 10 Duties and Powers of the Chief Judges (3 PYTC § 1-3-10)

The chief judges of the Trial Court and the Court of Appeals shall serve as the presiding officer of each respective court and, in that capacity, shall adopt written policies concerning the court's internal operations and other administrative matters.

Legislative History: Res. No. C09-168-04 (Sept.30, 2004)

SUBCHAPTER A JUDICIAL APPOINTMENT; QUALIFICATIONS

Section 20 Manner of Appointment (3 PYTC § 1-3-20)

- (A) Judges of the Tribal Courts, including the Court of Appeals, shall be nominated by the Tribal Chairperson subject to the approval of a two-thirds majority vote of Tribal Council.
- (B) The Tribal Chairman shall designate one of the three Appellate Judges as the Chief Judge to preside at all proceedings of the Appellate Court. The Chief Judge shall hold such position until the expiration of the appointment.

Legislative History: Law and Order Code (originally enacted May 26, 1992, as amended July 29, 1993, Jan. 6, 1994); Res. No. C09-168-04 (Sept.30, 2004)

Section 30 Qualifications for Appointment (3 PYTC § 1-3-30)

A person must be at least 25 years of age, of good moral character, willing to complete judicial trainings as required and meet applicable constitutional qualifications to be eligible for appointment.

Legislative History: Law and Order Code (originally enacted May 26, 1992, as amended July 29, 1993, Jan. 6, 1994); Res. No. C09-168-04 (Sept.30, 2004)

Section 40 Disqualification (3 PYTC § 1-3-40)

No person shall be eligible for appointment who has been convicted of a felony or of any crime of moral turpitude, deceit, fraud or misappropriation of funds, unless in the event of a felony conviction, the individual's voting rights have been restored or unless the conviction has been expunged. In addition, any person who has been convicted of a misdemeanor or criminal offense proscribed under the Pascua Yaqui Code within five years of the date of his or her nomination shall be disqualified from appointment.

Legislative History: Law and Order Code (originally enacted May 26, 1992, as amended July 29, 1993, Jan. 6, 1994); Res. No. C09-168-04 (Sept.30, 2004)

Section 50 Compensation (3 PYTC § 1-3-50)

- (A) The Tribal Council shall have the power to establish the level of compensation for each judge in accordance with this Ordinance, provided that a judge's compensation shall not be diminished during that judge's term in office.
- (B) Prior to the approval of a Tribal Court judge's nomination by the Tribal Council in accordance with Article VIII, Section 4 of the Constitution of the Pascua Yaqui Tribe, the Chairperson of the Tribe shall negotiate a starting salary with the judicial nominee based upon the nominee's experience and other qualifications.
- (C) Each judge's salary shall be negotiated using the Pascua Yaqui Tribe's Exempt Wage Structure guideline. The salary scale for judges in effect at the time of adoption of this Ordinance shall remain in effect unless the Tribal Council approves a cost of living adjustment or adopts a revised Exempt Wage Structure or equivalent guideline, in which case each judge shall receive a salary increase accordingly.
- (D) The resolution appointing or reappointing a Tribal Court judge shall also identify and approve the judge's starting salary. A judicial salary that is negotiated and approved by Council resolution shall not subsequently be renegotiated during that judge's term in office.
- (E) Each full-time judge's salary shall be automatically increased one step on the then-current Exempt Wage Structure or equivalent guideline on the date of the judge's annual appointment or reappointment anniversary.

Legislative History: Res. No. C09-168-04 (Sept.30, 2004)

Section 60 Term of Office (3 PYTC § 1-3-60)

- (A) Except as provided for in Section 70 of this chapter, Judges of Tribal Court including the Court of Appeals, shall serve three year terms; provided that a judge shall remain in office and authorized to perform all functions of their office until a successor is nominated and appointed in accordance with this Ordinance and the Constitution of the Pascua Yaqui Tribe.
- (B) The three year (3) term of each Tribal Court judge and Court of Appeals judge shall be staggered.
- (C) Unless otherwise disqualified, there shall be no limit on the number of terms a judge may serve.

Legislative History: Law and Order Code (originally enacted May 26, 1992, as amended July 29, 1993, Jan. 6, 1994); Res. No. C09-168-04 (Sept.30, 2004); Res. No C04-83-11 (April 6, 2011).

Section 70 Vacancy (3 PYTC § 1-3-70)

A vacancy in any judge's position resulting from a judge's removal, resignation or death shall be filled within 45 days in the same manner as the original appointment. A judge selected to fill any vacancy in the Tribal Courts shall serve for the remainder of the unexpired term.

Legislative History: Law and Order Code (originally enacted May 26, 1992, as amended July 29, 1993, Jan. 6, 1994); Res. No. C09-168-04 (Sept.30, 2004)

Section 80 Pro Tem Judge (3 PYTC § 1-3-80)

The Chief Judge may, as required, appoint a Pro-Tem Judge, who already is a sitting judge elsewhere or has had prior experience as a judge, to hear cases as may be necessary.

Legislative History: Law and Order Code (originally enacted May 26, 1992, as amended July 29, 1993, Jan. 6, 1994)

Section 90 Juvenile Court Judge (3 PYTC §1-3-90)

- (A) Shall be appointed or elected in the same manner as the Tribal Court Judge(s).
- (B) Qualifications: Shall be the same as the Tribal Court Judge(s), in addition, Juvenile Court Judge(s) shall have experience and/or training in juvenile matters.
- (C) Powers and Duties: Juvenile Judge(s) shall have same powers as Tribal Court Judge(s), including but not limited to the contempt power, to issue arrest or custody warrants, power to issue subpoenas and power to issue search warrants.
- (D) The rules of disqualification or disability of a Juvenile Court Judge shall be the same as those rules which govern Tribal Court Judges.
- (E) Any Pascua Yaqui Tribal Court Judge may act as Juvenile Judge.

SUBCHAPTER B DISQUALIFICATION AND REMOVAL

Section 100 Disqualification to Act (3 PYTC § 1-3-100)

No judge shall hear or determine an appeal from the decision of a case or issue tried by him. No judge shall hear or determine any case on original trial or appeal when he or she has a direct interest in the outcome of the case, or is related to one of the litigants in the trial within the second degree of lineal consanguinity. A litigant may file a motion to disqualify a judge for just cause. Such judge shall proceed no further and call in another judge to hear and determine the matter.

Legislative History Law and Order Code (originally enacted May 26, 1992, as amended July 29, 1993, Jan. 6, 1994)

Section 110 Removal of Judges (3 PYTC 4 1-3-110)

- (A) Any judge of the Pascua Yaqui Tribal Court may be suspended, dismissed or removed by the Pascua Yaqui Tribal Council for any of the following reasons:
 - (1) Conviction of a felony in any Court.
 - (2) Conviction of any offense involving moral turpitude in any Court.
 - (3) Conviction of the offense of disorderly conduct.
 - (4) Being under the influence of alcoholic beverages while performing their official duties.
 - (5) Any conduct unbecoming of a judge of the Pascua Yaqui Tribal Court or neglect of duties.
- (B) A Judge shall be given full and fair opportunity to reply to any and all charges for which he may be removed from his judicial office.
- (C) Removal of judges shall be pursuant to the Pascua Yaqui Constitution, Article VIII, Sec. 6.

Legislative History: Law and Order Code (originally enacted May 26, 1992, as amended July 29, 1993, Jan.6,1994)

DISPOSITION TABLE

Former Section	New Section
Title 19, Sec. 400	Section 10
Title 19, Sec. 701	Section 20
Title 19, Sec. 702	Section 30
Title 19, Sec. 703	Section 40
Title 19, Sec. 800	Section 50
Title 19, Sec. 900	Section 60
Title 19, Sec. 1000	Section 70
Title 1 Ch. 1, Sec. 1.18	Section 80
Title 2, Ch. 1, Sec. 1.3	Section 90
Title 1, Ch. 1, Sec. 1.19	Section 100
Title 1, Ch. 1, Sec. 1.20	Section 110