

Subpart B Judicial Power and the Courts

B-1 Jurisdiction

The Pueblo of Pojoaque has jurisdiction over its Members and within the exterior boundaries of the Pueblo, subject to some exceptions. Jurisdictional rules are set forth in greater detail in Subpart C.

B-2 Judicial Power

(a) The judicial powers of the Pueblo of Pojoaque shall be vested in an Appeals Court and a Tribal Court and shall extend to all cases and controversies in law and equity arising under and authorized by the duly enacted laws of the Pueblo of Pojoaque Tribal Council.

(b) The Court of Appeals and the Tribal Court shall have, but are not limited to the following powers:

1. To punish for contempt any of its officers or other persons present at judicial proceedings.
2. To compel witnesses to attend and testify and produce documents or other tangible objects to be used as evidence, provided that a defendant in a criminal trial may not be compelled to be a witness against himself.

B-3 The Tribal Court

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

(b) Court Sessions. Regular sessions of the Tribal Court shall be held on work days at times and places designated by the Chief Judge.

(c) Qualification of Judges. Any person over the age of twenty-one (21) years old shall be eligible to serve as Judge of the Pueblo of Pojoaque Tribal Court. The prospective Judge shall appear before the Tribal Council and submit to a background interview and present their qualifications. If the prospective Judge does not have a law degree, they shall complete a course of training in judicial proceedings within six (6) months after being appointed to the position.

(d) Disqualification of Presiding Judge. No Judge shall hear or determine any case wherein he has an interest or wherein any relative, by marriage or blood in the first or second degree is a party. Any party to a proceeding may raise the issue of the qualification of the Judge to hear the case.

(e) Removal. Any Judge of the Tribal Court may be suspended, dismissed or removed by the 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 presiding over Court.
5. Any other conduct unbecoming to a Judge of the Pueblo of Pojoaque Tribal Court.

(f) A Judge shall be given full and fair opportunity to reply to any and all charges for which he or she may be removed from his judicial office.

B-4 The Court of Appeals

(a) Jurisdiction. The Court of Appeals shall have jurisdiction to hear appeals from final orders and final judgments of the Tribal Court.

(b) Composition. The Court of Appeals shall consist of either the Pueblo of Pojoaque Tribal Council with the Governor presiding as Judge or a special appellate court as appointed by the Governor.

(c) Sessions. The Court of Appeals may consider the appeal during a regularly scheduled Tribal Council meeting or at a special appellate court meeting.

(d) Only the Tribal Court Judge may stay a sentence or decision pending the appeal process.

(e) Criminal Appeals. A person convicted of a violation of the Pueblo of Pojoaque Law and Order Code may appeal the conviction to the Court of Appeals by filing a written notice with the Tribal Council Secretary. The written notice must be filed within ten (10) calendar days after the finding of guilt by the Tribal Court.

(f) Civil Appeals. The decision of the Tribal Court or jury may be appealed to the Court of Appeals by filing a written notice with the Tribal Council Secretary. The written notice must be filed within ten (10) calendar days after the final decision.

(g) All written notices of appeal shall include the specific order of the Tribal Court or jury that is appealed. The written notice shall also include the remedy requested.

B-5 Right of Appeal

(a) Any party to a case, other than the prosecution in a criminal case, who is aggrieved by a final order or final judgment of the Tribal Court, shall have the right to appeal to the Court of Appeals.

(b) The appealing party shall file with the Governor of the Pueblo of Pojoaque a notice of appeal, along with a filing fee of one hundred dollars (\$100.00) within ten (10) days after the entry of the final order or final judgment from which appeal is taken. The filing fee may be waived in the appeal of a criminal conviction if the defendant files an affidavit swearing that he is without funds to pay the filing fee. If the Pueblo of Pojoaque Court of Appeals finds that the defendant is without funds to pay the filing fee, it shall order that the fee be permanently waived.

(c) If the Court of Appeals finds that any or a combination of the following has occurred, it shall order the judgment or order reversed or may remand the case for retrial:

1. Irregularities in the proceedings or conduct by the jury, adverse party, or his counsel prejudicial to the appellant;
2. Any ruling, order, or abuse of discretion which may have prevented a fair trial;
3. Newly discovered evidence which could not, with reasonable diligence, have been produced at trial;
4. Insufficient evidence to support the verdict;
5. Any error of law occurring at the trial prejudicial to the appellant; or
6. Any other reason which would warrant reversal by a court when reviewing a similar appeal.

(d) If the Court of Appeals finds that reversal under Paragraph (c) of this section is unwarranted, it shall affirm the judgment or order appealed from; no further appeal shall thereafter be permitted.