

**TITLE 3 – COURTS AND RULES OF COURT
PART II – RULES OF COURT
CHAPTER 2-5 – NOTICE TO TRIBE**

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Legislative History: Enacted on September 7, 2005 by Resolution No. C09-361-05 and Ordinance No. 8-05.

Recodified Pascua Yaqui Tribal Code on Aug. 9, 2006 by Res. No. C08-313-06.

Section 10 Findings and Purpose (3 PYTC § 2-5-10)

(A) Findings

- (1) The Tribe has a compelling interest to protect tribal sovereignty and jurisdiction and the validity of tribal laws; and
- (2) Tribal sovereignty and jurisdiction may be implicated or the validity of tribal law may be challenged in cases in the Tribal Court in which the Tribe or any agency, officer, or employee thereof is not a party; and
- (3) With adequate, timely, and uniform notice of cases in the Tribal Court that implicate tribal sovereignty and jurisdiction or challenge the validity of tribal law, the Tribe can effectively assess whether and how to participate in such cases.
- (4) The Tribe has an interest in assuring that decisions made by the court do not adversely impact on the safety, welfare and self-governance of the Tribe and that such decisions are consistent with the Tribe's governmental interests.

(B) Purpose

The purpose of this law is to provide the Tribe with adequate, timely, and uniform notice of any and all cases in the Tribal Court that implicate tribal sovereignty and jurisdiction or challenge the validity of any tribal law and in which the Tribe or any agency, officer, or employee thereof is not a party.

Section 20 Notice Required (3 PYTC § 2-5-20)

(A) Court to give Notice

In any action or proceeding in which the Tribe or any agency, officer or employee thereof is not a party but in which tribal sovereignty or jurisdiction is implicated or the validity of any tribal law is challenged, the Tribal Court will give notice in writing of the action or proceeding to the Office of Attorney General. The Tribal Court will also serve all parties with a copy of the notice given.

(B) Continued Notice

Upon the Tribe's written request, the parties will timely serve copies of all subsequent filings, documents, and orders in the case on the Office of the Attorney General

(C) Manner of Notice

Any filing, document, and order shall be served upon the Office of the Attorney General in the manner prescribed in Title 3, Chapter 2-1 Rules of Civil Procedure, Chapter 2-2 Rules of Criminal Procedure, or Chapter 2-3 Rules of Appellate Procedure.

Section 30 Tribal Participation Following Notice (3 PYTC § 2-5-30)

(A) Right to Intervene

- (1) Upon timely motion or application, the Tribe may intervene as a matter of right in any action or proceeding in the Tribal Court that implicates tribal sovereignty or jurisdiction or challenges the validity of any tribal law.
- (2) Upon intervention, the Tribe may assert any and all available claims and defenses and may present any and all admissible evidence relating to the challenge of its sovereignty or jurisdiction or the validity of any tribal law.
- (3) The Tribe is entitled to the same relief, including costs, as if the Tribe had instituted a separate action or proceeding; *provided that*, the Tribe will not be required to pay costs of litigation in any action or proceeding in which it has intervened.
- (4) Intervention under this law does not abridge, limit, or otherwise affect the right of the Tribe to commence, maintain, defend, or otherwise intervene in actions or proceedings in the Tribal Court.

(B) Amicus Curiae

Upon timely motion or application, the Tribe may appear as *amicus curiae* (friend of the court) in any action or proceeding that implicates tribal sovereignty or jurisdiction or challenges the validity of any tribal law.

(C) Authority to Determine Participation

After consultation with the Chairperson and/or Tribal Council, the Office of the Attorney General may determine participation on behalf of the Tribe under this law.

(D) Timeliness of Participation Determinations

Unless the Tribal Court orders otherwise, where timely and proper notice has been given to the Tribe, the Tribe shall have 30 days to notify the Tribal Court and parties of its determination to participate in any action or proceeding by way of intervention or appearance as *amicus curiae*.

Section 40 Failure to Give Notice (3 PYTC § 2-5-40)

(A) Failure to Give Notice Not Jurisdictional or Waiver of Rights

The failure of the Tribal Court or a party to give notice as required by this law does not deprive the Tribal Court of jurisdiction and is not a waiver or modification of any rights otherwise timely asserted by any party. Any notice given under this law is not a substitute for, or a waiver or a modification of, any other pleading requirement under tribal law.

(B) Late Notice

- (1) If the Tribal Court or a party discovers that notice to the Tribe under this law should have been but has not been given, the Tribal Court or party will promptly give notice in writing to the Tribe as required by this law.
- (2) The Tribal Court may stay the action or proceeding at any stage to allow compliance with this law.

- (3) If final judgment has already been entered, the Tribe may motion or apply for rehearing as of right. The Tribal Court will entertain any such motions or applications for rehearing by the Tribe, and in disposing of such motions the Tribal Court, for good cause shown, may vacate a judgment or any portion thereof.

(C) Civil Sanctions

The Tribal Court may impose civil sanctions on any party for willful or unreasonable failure to give notice as required by this law, and may use other reasonable means to cure any significant harm caused by failure to give notice as required by this law.

**Section 50 Tribal Jurisdiction and Sovereign Immunity from Suit Unaffected
(3 PYTC § 2-5-50)**

(A) Jurisdiction

Nothing in this law shall be deemed or construed to deprive, limit, or extend the jurisdiction of the Tribal Court.

(B) Sovereign Immunity from Suit

Notice required under this law does not authorize a party to name the Tribe or any agencies, officers, or employees thereof as a party to any action or proceeding. Nothing in this law shall be deemed or construed as a waiver or limitation of the sovereign immunity from suit of the Tribe, its agencies, officers, or employees.