

**TITLE 2 – GOVERNMENT ADMINISTRATION
PART II – DEPARTMENT; DIVISIONS
CHAPTER 2-1 – OFFICE OF THE ATTORNEY GENERAL**

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**TITLE 2- GOVERNMENT ADMINISTRATION
PART II – GOVERNMENT ADMINISTRATION
CHAPTER 2-1 – OFFICE OF THE ATTORNEY GENERAL**

Legislative History: Enacted on September 25, 2003 by Resolution No. C09-67-03 and Ordinance No. 8.

Amended and Codified on April 6, 2005 by Resolution No. C04-63-05.

Amended on August 25, 2021 by Resolution No. C08-251-21 and Ordinance No. 53-21

SUBCHAPTER A OFFICE OF THE ATTORNEY GENERAL

Section 10 Establishment of Office of the Attorney General; Purpose (2 PYTC § 2-1-10)

There is hereby established the Office of the Attorney General of the Pascua Yaqui Tribe. The Office of the Attorney General shall have overall responsibility for providing nonpartisan legal advice and representation to all officials, agencies, departments, divisions, enterprises, and other entities of the Tribe’s government.

Section 20 Organization (2 PYTC § 2-1-20)

- (A) The Office of the Attorney General shall consist of the Attorney General of the Tribe, and such Deputy or Assistant Attorneys General and other staff as the Attorney General shall determine are required from time to time, subject to funding provided by the Tribal Council. The Attorney General shall not be deemed a “tribal officer” as defined by Article VII of the Constitution of the Pascua Yaqui Tribe.
- (B) The Office of the Attorney General will have the following authorized programs, and such other programs as the Tribal Council or the Chairperson may assign.
 - (1) The Indian Child Welfare Act Unit: Responsible for handling all of the Pascua Yaqui Tribe’s Indian Child Welfare Act matters. There shall be a designated ICWA Supervising Attorney responsible for ensuring compliance with 5 PYTC § 7 (Child Welfare Policy Act of 2002).

Section 30 Personnel (2 PYTC § 2-1-30)

- (A) The Attorney General and any Deputy or Assistant Attorney General shall become certified to practice in the Pascua Yaqui Tribal Court at the first available opportunity and shall thereafter maintain such certification. The Attorney General and any Deputy or Assistant Attorney General shall be licensed attorneys admitted to practice before the highest court of a state of the United States. Except as provided in Section 30(B) of this Chapter, the Attorney General and any Deputy or Assistant Attorney General who is not admitted to the practice of law in the State of Arizona at the time of taking office shall seek such admission at the earliest possible time thereafter, and must be admitted to the practice in the State of Arizona within 18 months after taking office or be subject to dismissal from their positions in the Office of the Attorney General.
- (B) Any Assistant Attorney General who is employed with the Office of the Attorney General on the date this Chapter is enacted but is not licensed to practice law in the State of Arizona shall have 18 months from the date of enactment to obtain such a license.
- (C) The Chairman of the Tribe shall appoint the Attorney General provided that the appointment shall become effective upon its approval by a majority of the Tribal Council, and he or she may be removed by majority vote of the Tribal Council.

- (D) Office of the Attorney General staff shall be hired by the Attorney General, subject to the personnel policies of the Tribe.

Section 40 Authority, Responsibilities and Duties (2 PYTC § 2-1-40)

- (A) The Attorney General shall have the following authority, responsibilities, and duties:
 - (1) To provide nonpartisan legal advice and representation as needed to the Tribe, its officials, departments, agencies, offices, enterprises, branches, the Tribal Council and its committees, and such other entities as the Tribal Council shall authorize the Attorney General to advise and represent.
 - (2) Except in matters under the authority of the Office of the Prosecutor, to represent the Tribe in all legal proceedings and in other matters that affect the legal interests of the Tribe.
 - (3) To work with the Judicial Branch Staff Attorney on legal matters involving action by or the involvement of the Judicial Branch, to promote cooperation and resolution of any potential conflicts or disagreements between the governmental branches; provided, however, that such efforts shall be limited to subjects which the Attorney General is ethically permitted to discuss under the ethical standards referred to in Section 30(N) or otherwise applicable, and shall not extend to pending cases in the Judicial Branch or other matters to the extent such discussions would be foreclosed by pertinent ethical responsibilities.
 - (4) At the request of any entity of the Tribe, the Chairman, or of the Tribal Council, or on his own motion, to determine whether outside counsel should be retained by the Tribe for advice or representation as to any specific task or specialized area of the law and the justification therefore, and to make a recommendation thereon to the Tribal Council.
 - (5) To formulate overall administrative and operating policies pertaining to the Office of the Attorney General and to take such action as the Attorney General deems necessary to implement such policies.
 - (6) To exercise ultimate supervisory control and direction over all personnel within the Office of the Attorney General.
 - (7) To represent the Tribe and its governmental agencies in all legal matters in its dealings and relations outside the Tribe, except to the extent that such representation has been delegated to other counsel in a manner consistent with this Chapter.
 - (8) Annually to develop and submit to the Tribal Council a budget for the operation of the Office of the Attorney General.
 - (9) To assist in preparing proposed resolutions of the Council, to review all resolutions proposed to be submitted to the Tribal Council, to provide advice and recommendations thereon, and to provide legal advice and opinions to the Tribal Council and its committees to assist them in conducting their business.
 - (10) To negotiate and approve as to form all contracts proposed to be entered into by or on behalf of the Tribe prior to execution thereof with attorneys, lobbyists, independent auditors, and other professional advisors to the Tribal Council for which an ongoing relationship is anticipated.

- (11) To review and approve as to form all contracts of any type for an amount in excess of \$25,000 proposed to be entered into by or on behalf of the Tribe, prior to execution thereof, and, at the request of the Chairman or the head of any tribal department, office, or agency, to assist in negotiating any such contracts.
- (12) To advise the Tribal Council and oversee the compilation and adoption of a comprehensive code of the laws of the Tribe and to propose the enactment of such additional laws as, in the Attorney General's opinion, are required for the orderly management of the Tribe's affair' and the regulation of persons and activities within the Tribe.
- (13) Regularly, and on special request, to report to the Tribal Council and to the Chairman of the Tribe on the legal affairs of the Tribe, the particular legal matters facing the Tribe and their potential consequences, and on the progress of the Attorney General in meeting the Tribe's legal needs.
- (14) To perform all of the duties and responsibilities of the Office in accordance with the highest standards of legal ethics.
- (15) In the Attorney General's sole discretion, to identify any legal issue that the Attorney General believes is of importance to the well being of the Tribe, and to report such issues to the Tribal Council or Chairman, as the Attorney General, in his or her sole discretion, deems appropriate.
- (16) To adopt guidelines governing the scope of the Office's representation.
- (17) To provide advice and representation in additional matters as the Tribal Council may direct.

SUBCHAPTER B OUTSIDE COUNSEL ACCOUNTABILITY AND MANAGEMENT PROCEDURES

Section 50 Contracts Required (2 PYTC § 2-1-50)

- (A) Effective July 24, 2003, any attorney, professional advisor, or lobbyist (collectively, "Outside Counsel") who is not a full-time or part-time regular Tribal employee shall be employed and engaged solely by a written contract that has been negotiated and approved as to form by the Office of the Attorney General, approved as to form by the Chairman, approved by Council resolution, and executed by the Chairman.
- (B) No tribal funds shall be paid to any Outside Counsel who is not so employed and engaged.
- (C) The provisions of this Subchapter B shall not apply to any attorney who serves exclusively as a Pascua Yaqui Tribal Court judge pro tempore or a Pascua Yaqui Appellate Court judge.

Section 60 Scope of Work (2 PYTC § 2-1-60)

Each Outside Counsel contract shall define a specific and limited scope of work. Specific projects shall be assigned in advance and in writing and approved by the Office of the Attorney General. No Tribal funds shall be paid for any work that is not so assigned.

Section 70 Additional Terms (2 PYTC § 2-1-70)

To the maximum extent feasible, Outside Counsel contracts shall include the following additional terms:

- (A) The term of the contract shall be limited to a single fiscal year and fees shall be calculated on an hourly fee-for-services basis with a maximum annual cost.
- (B) The Tribe's sovereign immunity shall not be waived.
- (C) The Tribe shall be the sole and exclusive owner of any work product produced under the contract.
- (D) Each activity for which the Tribe is billed shall be individually identified and the time spent on that activity shall be individually listed in the Outside Counsel's invoice.
- (E) That a monthly report describing the specific services rendered shall be provided.
- (F) Payments shall be authorized only upon review, timely receipt and approval of invoices and required reports by the Office of the Attorney General.

Section 80 Coordination and Oversight (2 PYTC § 2-1-80)

All work performed by any Outside Counsel shall be coordinated through the Office of the Attorney General, provided however, that conflict attorney and similar Outside Counsel contracts entered on behalf of the Prosecutor's Office, Public Defender's Office, or Legal Services Office shall be coordinated and overseen by that office. Such coordination and oversight by any office other than the Office of the Attorney General shall be explicitly provided for in the relevant Outside Counsel contract, which shall be subject to the requirements of Section 40 of this Subchapter.

SUBCHAPTER C ADDITIONAL PROVISIONS

Section 90 Conflict of Laws (2 PYTC § 2-1-90)

If any provision of Subchapter A of this Chapter directly conflicts with any other provision of the laws of the Tribe other than the Constitution, Subchapter A shall control. If any provision of Subchapter C of this Chapter directly conflicts with Chapter 2-4 of Title 2 Government Administration of the Pascua Yaqui Code, Chapter 2-4 shall control.

DISPOSITION TABLE

Former Section	New Section
Article One	Subchapter A
Section 1101	Section 10
Section 1102	Section 20
Section 1103	Section 30
Article Two	Subchapter B
Section 1201	Section 40
Section 1202	Section 50
Section 1203	Section 60
Section 1204	Section 70
Article Three	Subchapter C
Section 1301	Section 80