

**TITLE 8 – REGULATORY CODE**  
**PART III – LABOR**  
**CHAPTER 3-5 – PASCUA YAQUI RIGHT TO WORK ORDINANCE**

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**TITLE 8 – REGULATORY CODE  
PART III – LABOR  
CHAPTER 3-4 – PASCUA YAQUI TRIBE RIGHT TO WORK**

*Legislative History:* *Enacted on June 9, 2010 by Resolution No. C06-8-10 and Ordinance No. 14-10.*

**SUBCHAPTER A GENERAL PROVISIONS**

**Section 10 Purpose (8 PYTC § 3-5-10)**

The Tribal Council of the Pascua Yaqui Tribe, empowered by the Tribe’s Constitution to enact ordinances, hereby enacts this ordinance to codify as law the public policy of the Tribe that the right of persons to work on Tribal Lands shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization.

**Section 20 Definitions (8 PYTC § 3-5-20)**

- (A) “Business Agent” means any person who acts or attempts to act for or on behalf of any Labor Organization in connection with: (1) the issuance of membership or authorization cards, work permits, or any other evidence of rights granted or claimed in, or by, a Labor Organization; or (2) soliciting or receiving from any employer any right or privilege for employees.
- (B) “Employer” means any person, firm, association, corporation, or other business entity lawfully operating on Tribal Lands, and includes the Tribe and tribal enterprises and any corporations or other economic entities owned or operated by the Tribe.
- (C) “Labor Organization” means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment.
- (D) “Ordinance” means the Pascua Yaqui Tribe Right to Work Ordinance.
- (E) “Person” includes a natural person, a corporation, association, company, firm, or labor organization.
- (F) “Tribe” means the Pascua Yaqui Tribe.
- (G) “Tribal Lands” means all lands held in trust by the United States for the benefit of the Tribe and any other lands subject to the jurisdiction of the Tribe.
- (H) “Administrative Agent” means the individual who will, on behalf of the Tribe, receive and process the registration materials and applications identified in Subchapter B of this ordinance and to receive the reports set forth in Subchapter C of this ordinance. All materials or written communications to the Administrative Agent shall be sent or delivered to the Administrative Agent at the address of the Tribe’s Office of the Attorney General.
- (I) “Tribal Council” means the Tribal Council of the Tribe.
- (J) “Pascua Yaqui Tribal Courts” means the Pascua Yaqui Tribal Court and the Pascua Yaqui Tribe Court of Appeals.

**Section 30 Severability (8 PYTC § 3-5-30)**

The various provisions of the Ordinance are hereby declared to be severable, and if any provision hereof is declared void, invalid, or unenforceable in whole or in part, then that declaration shall not affect the enforceability of the remaining provisions of the Ordinance.

**Section 40 Sovereign Immunity (8 PYTC § 3-5-40)**

Nothing in the Ordinance shall be construed as waiving the sovereign immunity of the Tribe, its entities or enterprises, or its agents, employees, or officials.

**Section 50 Jurisdiction (8 PYTC § 3-5-50)**

All persons who enter Tribal Lands shall be deemed to have given implied consent to the jurisdiction of the Pascua Yaqui Tribal Courts with regard to any employment related matters, and shall be subject to the provisions of this Ordinance.

**SUBCHAPTER B REGISTRATION**

**Section 60 Registration of Labor Organizations and Business Agents (8 PYTC § 3-5-60)**

- (A) No person or Labor Organization shall be granted a license to act as a Business Agent on Tribal Lands if that person or organization: (i) has been convicted of a felony or is subject to a judicial decree that is the equivalent of a felony offense within the last ten years; (ii) is not a person or organization of good moral character in the Tribe's sole and exclusive discretion; or (iii) in the Tribe's opinion, has made false or inaccurate statements in an application for licensure. All licenses shall be non-transferrable and non-assignable.
- (B) Any person desiring to act as a Business Agent with regard to any employer or employment activity occurring on Tribal Lands, and any Labor Organization seeking to organize employees or engage in labor activity of any kind on Tribal Lands, shall first obtain a license from the Tribe by: (i) filing an application under oath with the Administrative Agent; (ii) paying a license fee of \$25.00 to the Tribe; (iii) submitting a full set of fingerprints of the applicant, if a Business Agent, or of the principal officers, if a labor organization, which shall be taken by the Tribal Police Department or other law enforcement or regulatory agency authorized by the Tribal Council to do so; (iv) submitting a Tribal business license; and (v) submitting a statement signed by the Business Agent or the president and secretary of the Labor Organization showing the agent's authority to act as a Business Agent for the Labor Organization.
- (C) The Administrative Agent shall conduct or cause to be conducted an independent background investigation of the applicant to determine the Business Agent's or Labor Organization's eligibility for a license.
- (D) Upon meeting the requirements set forth above in 8 PYTC § 3-5-60(B), and upon the Administrative Agent's determination that the Business Agent or Labor Organization is eligible for a license as set forth in 8 PYTC § 3-5-60(A), the Administrative Agent shall issue the license. If subsequent to the issuance of a license the Administrative Agent receives reliable information based upon the background investigation or other reliable source that the licensee is ineligible to hold a license hereunder, the Administrative Agent may suspend or revoke the license, in which case the licensee may within thirty (30) days appeal the suspension or revocation to the Pascua Yaqui Tribal Court.
- (E) Each license expires on December 31 of the calendar year in which it was issued, but may be renewed by the Administrative Agent on a form prescribed by the Administrative Agent for that purpose and upon the payment of an annual renewal fee of \$25.00; however, if any license has

been surrendered, suspended, or revoked during the calendar year at issue, then the applicant must in order to obtain a new license complete the process as a new applicant as set forth in 8 PYTC § 3-5-60(B).

**SUBCHAPTER C REPORTING**

**Section 70 Reporting Requirements (8 PYTC § 3-5-70)**

- (A) Every Business Agent and Labor Organization operating on Tribal Lands shall file an annual report with the Administrative Agent within sixty (60) days after this Ordinance is enacted by the Tribal Council and thereafter each year on or before December 31. The report shall contain the following information:
- (1) The name and address of the Labor Organization;
  - (2) The names and addresses of the president, secretary, treasurer, and Business Agent of the Labor Organization; and
  - (3) The name and address of the national or international organization, if any, with which the Business Agent and the Labor Organization is affiliated.
- (B) The president or Business Agent of the Labor Organization shall file with the Administrative Agent a notice of any changes to the information required by 8 PYTC § 3-5-70(A) within ten (10) days after any such changes are made, and provide any additional information that may be requested by the Administrative Agent.

**SUBCHAPTER D FREEDOM OF CHOICE AND EMPLOYMENT RIGHTS; PENALTIES**

**Section 80 Prohibition of Agreements Denying Employment Because of Nonmembership in Labor Organization (8 PYTC § 3-5-80)**

No person shall be denied the opportunity to obtain or retain employment on Tribal Lands because of nonmembership in a Labor Organization, nor shall the Tribe or any individual or entity enter into an agreement, written or oral, which excludes a person from employment or continuation of employment on Tribal Lands because of nonmembership in a Labor Organization.

**Section 90 Prohibition of Requirement of Paying Dues as a Condition of Employment (8 PYTC § 3-5-90)**

No person shall be required, as a condition of employment or continuation of employment on Tribal Lands, to: (i) pay dues, fees, assessments, or other charges of any kind or amount, to a Labor Organization or a Business Agent; or (ii) pay to any charity or third party, in lieu of such payments to a Labor Organization or a Business Agent, any dues, fees, assessments, or other charges of any kind or amount.

**Section 100P Prohibition of Threatened or Actual Interference (8 PYTC § 3-5-100)**

It is unlawful for an employee, a Business Agent, or a Labor Organization, or officer, agent or member thereof, by any threatened or actual threat or interference with the person, his immediate family, or his property, to compel or attempt to compel such person to join a Labor Organization, to strike against his will, or to leave his employment on Tribal Lands.

**Section 110 Prohibition of Conspiracy to Induce Persons to Refuse to Work (8 PYTC § 3-5-110)**

A combination or conspiracy by two or more persons to cause the discharge of any person or to cause him to be denied employment on Tribal Lands because he is not a member of a Labor Organization by inducing or attempting to induce any other person to refuse to work with such person, is illegal.

**Section 120      Illegality of Acts or Agreements Violating this Subchapter (8 PYTC § 3-5-120)**

- (A)      Any act or provision in an oral or written agreement which is in violation of this Subchapter is illegal and void.
- (B)      Any strike, work stoppage or slowdown, or picketing to force or induce an Employer to make an agreement orally or in writing in violation of this Subchapter is for an illegal purpose and is prohibited.

**Section 130      Civil Liability of Person Violating this Subchapter (8 PYTC § 3-5-130)**

A person who violates any provision of this Subchapter, or who enters into an agreement containing a provision declared illegal by this Subchapter, or who brings about the discharge of or denial of employment to any person because of nonmembership in a Labor Organization, shall be liable to the person injured as the result of such act or provision and may be sued therefor, and in such action any Business Agent or any Labor Organization, subdivision, or local thereof shall be bound by the acts of its duly authorized agents acting within the scope of their authority, and may sue or be sued in its common name. Any lawsuit filed seeking relief pursuant to this section shall be filed in the Pascua Yaqui Tribal Court.

**Section 140      Injunctive Relief (8 PYTC § 3-5-140)**

A person injured or threatened with injury by an act declared illegal by this Subchapter shall, notwithstanding any other provision of law to the contrary, be entitled to injunctive relief therefrom. Any lawsuit filed seeking relief pursuant to this section shall be filed in the Pascua Yaqui Tribal Court.