

**SAC AND FOX NATION TRIBAL CODE
TITLE 20 ARTICLE 8**

**TITLE 20
JUVENILE PROCEDURE**

**ARTICLE 8
RULES OF JUVENILE PROCEDURE**

Rule 1. Scope

These rules govern proceedings brought in the Juvenile Court of the Sac and Fox Nation of Kansas and Nebraska under the Sac and Fox Nation Tribal Code, Title 20. These proceedings are civil in nature and where not governed by the procedures set forth in this Title or these Rules, shall be conducted according to the Sac and Fox Nation Rules of Civil Procedure.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R1]

Rule 2. Purpose and Construction

These Rules are intended to provide for the just determination of juvenile proceedings. They shall be construed to secure simplicity in procedure and fairness in administration.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R2]

Rule 3. Attorney or Advocate of Record

(a) An attorney or advocate shall be deemed of record when he/she appears personally before the Court, files a written entry of appearance or other pleading, or has been appointed by the Court, in any particular matter.

(b) The Clerk of the Court shall notify an attorney or advocate appointed by the Court. A written notation of appointment shall appear in the file.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R3]

Rule 4. Notice

(a) Any written motions or other pleadings filed by any party after the issuance of the summons and filing of the petition, except those that can be heard ex parte, shall be served together with the notice of the application to set the same for hearing upon each of the parties affected thereby. Service shall be made in accordance with the Sac and Fox Nation Rules of Procedure and notice of the application to set the same for hearing shall be served not later than twenty-four (24) hours before the time specified in the notice.

(b) Notice of the time, date, and place of any further proceedings, including continuance and adjournments, shall be either given in Court or mailed to each party by the Court.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R4]

Rule 5. Additional Parties to be Summoned

The Court, on its own motion or on the motion of any party, may join as a respondent or require the appearance of any person it deems necessary to the action and to authorize the issuance of a summons directed to such person.

[History: 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R5]

Rule 6. Responsive Pleadings and Motions

(a) No responsive pleadings are required, nor is it necessary to deny any allegations of the petition except jurisdictional matters of age and residence of the child which shall be deemed admitted unless specifically denied.

(b) Any defense or objection which is capable of determination without trial of the general issues may be raised by motion.

(c) Defenses and objections based on defects in the institution of the action or in the petition, other than it fails to show jurisdiction in the Court, shall be raised only by motion filed prior to the entry of an admission or denial of the allegations in the petition. Failure to present any such defense or objection constitutes a waiver, but the Court, for good cause shown, may grant relief from the waiver. Lack of jurisdiction shall be noticed by the Court at any time during the proceedings.

(d) All motions shall be in writing and signed by the moving party or his/her counsel, except those made orally by leave of Court.

(e) Motions for new trial or rehearing or for arrest or modifications of judgment shall be made within ten (10) days of entry of the order of adjudication.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R6]

Rule 7. Discovery

(a) Mandatory disclosures: Subject to the provisions of subsection (g) of this Rule, the Tribal Presenting Officer, upon request of the attorney or advocate for the respondents and child, shall disclose to counsel for the respondents and child:

(1) The names and addresses of person whom the Tribal Presenting Officer intends to call as witnesses at the hearing or trial, together with their relevant written or recorded statements.

(2) Any written reports or statements of experts made in connection with the particular case, including results of physical or mental examinations, and of scientific tests, experiments, or comparisons;

(3) Any books, papers, documents, photographs, or tangible objects, which the Tribal Presenting Officer intends to use in the hearing or trial; and

(4) Any record of prior felony convictions of persons whom the tribal presenting officer intends to call as witnesses at the hearing or trial.

(b) Discretionary Disclosures: The Court, in its discretion may require disclosure to counsel for the respondents or child of relevant material and information upon a showing of materiality to the preparations of the defense, and if the request is reasonable. The Court shall issue suitable subpoenas or orders to cause such material or information to be made available to counsel for respondents and child.

(c) Matters Not Subject to Disclosure: Disclosure shall not be required of legal research or of records, correspondence, reports, or memoranda conclusions of the Tribal Presenting Officer or members of his/her legal staff.

(d) Disclosure by Counsel for Respondents and Child: Subject to the limitations contained in the Indian Civil Rights Act of 1968, the trial court may require that the Tribal Presenting Officer be informed of the nature of any defenses which counsel for the respondents and child intends to use at the trial and the names and addresses of persons whom counsel for the respondents and child intends to call as witnesses in support thereof. Upon receipt of the information required by this subsection, the Tribal Presenting Officer shall notify counsel for the respondents and child of any additional witnesses which he/she intends to call to rebut such defense within a reasonable time before trial after their identity becomes known.

(e) Continuing Duty to Disclose: If, subsequent to compliance with these Rules or orders pursuant thereto, a party discovers additional material or information which is subject to disclosure, he/she shall promptly notify the other party of his/her counsel of the existence of such additional material.

(f) Custody Materials: Any material furnished to any attorney or advocate pursuant to these Rules shall remain in his/her exclusive custody or be used only for the purposes of conducting his/her side of the case, and shall be subject to such other terms and conditions as the Court may provide.

(g) Protective Orders: When some parts of certain material are discoverable under the provisions of these Rules, and other parts are not discoverable, the non-discoverable material shall be excised and shall be sealed and preserved in the records of the Court and the remainder shall be made available in accordance with the applicable provisions of these Rules.

(h) Failure to Comply, Sanctions: Failure to comply with this Rule or with an order brought to the attention of the Court that a party has failed to issue pursuant to this Rule, the Court may order such party to permit the discovery or inspection of materials not previously disclosed, grant a continuance, prohibit the party from introducing in evidence the material not disclosed, or enter such other order as it deems just under the circumstances.

Rule 8. Pre-Trial Conference

(a) Setting a Pre-Trial Conference.

(1) If the allegations of a petition filed under Title IV are denied, the Court may on its own motion or at the timely request of either party, set a time for and hold a pre-trial conference.

(2) In determining the date for the pre-trial conference, the Court shall allow counsel sufficient time to initiate and complete discovery required or authorized under Rule 7.

(b) Pre-trial Conference.

(1) If a pre-trial conference is held, the Court shall:

(A) Ascertain whether the parties have completed the discovery required by these Rules, and if not, make orders appropriate to expedite completion;

(B) Ascertain whether there are requests for additional disclosures under these Rules;

(C) Make rulings on any motions or other requests then pending and ascertain whether any additional motions or requests will be made at the hearing or continued portions thereof.

(D) Ascertain whether there are any procedural or Indian Civil Rights act issues which should be considered;

(E) Ascertain whether the parties have entered into any stipulations concerning issues that will be raised during the trial.

(2) If a pre-trial conference is held, the Court may also consider such matters as will promote a fair and expeditious trial, including but not limited to the following;

(A) Marking for identification various documents and other exhibits of the parties;

(B) Waivers of foundation to such exhibits;

(C) Excision of inadmissible portions of otherwise admissible exhibits;

(D) Severance of co-respondents or allegations for trial;

(E) Seating arrangements for respondents and counsel;

(F) Procedure on objections where there are multiple attorneys;

(G) Temporary absence of counsel during trial.

(3) Unless the Court otherwise directs, all motions and other requests prior to trial should be presented in writing or orally by leave of Court at the pre-trial conference. If discovery, investigation, preparation, or evidentiary hearing is necessary for a fair determination of any issue, the pre-trial conference may be continued until the disposition of such matters.

(4) Any pre-trial motions, requests, or issues which are not raised at the pre-trial conference shall be deemed waived unless the Court, for good cause shown, grants relief from the waiver.

(5) At the conclusion of the pre-trial conference, a memorandum of the matters agreed upon should be signed by counsel, approved by the Court, and filed. Such memorandum shall be binding upon the parties at trial, on appeal, and in post-adjudication proceedings.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R8]

Rule 9. Private and Closed Hearings

All hearings shall be separate from other proceedings and shall be private and closed to the public. Only the parties, their attorneys, witnesses, Tribal Council members acting in their official capacity, and other persons requested by the parties and approved by the Court may be present at the hearing.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R9]

Rule 10. Record of Proceedings

(a) A verbatim record shall be taken of all proceedings which might result in deprivation of custody. In all other proceedings such record shall be taken unless waived by the parties and so ordered by the Court.

(b) Records of Court proceedings shall be open to inspection by the parents or guardian, attorneys or advocates, and other parties in the proceeding before the Court, except as provided in other sections of the Juvenile Code.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R10]

Rule 11. Motions for a New Trial or Rehearing

(a) Motion for new trial or rehearing shall be in writing and shall be made within ten (10) days of entry of the order or decree unless time is enlarged by the Court. It shall state the particulars in which the order or decree is in error and the grounds for such motion.

(b) If the child and parent are not represented by counsel, the Court shall specifically inform them of this Rule at the time of entry or order of decree.

(c) The party claiming error in a trial or hearing must move the Court for a new trial. The Court may not dispense with the necessity of filing such a motion, but may dispense with oral argument on the motion after it is filed, and only questions presented in such motion will be considered by the appellate court on review.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R11]

Rule 12. Motions for Arrest or Modification of Judgment

All motions shall be in writing within ten (10) days after entry of judgment or decree, except the motions on grounds of lack of jurisdiction may be made at any time. A motion on grounds of newly discovered evidence shall be made within six (6) months of discovery.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R12]

Rule 13. Disqualification or Disability of Judge

The rules on disqualification or disability of a judge shall be the same as those rules that govern the Tribal Court.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R13]

Rule 14. Evidence

Except as otherwise provided by these Rules or specifically stated in this Title, the Sac and Fox Nation Rules of Evidence shall govern all proceedings in the Tribal Court.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R14]

Rule 15. Clerical Mistakes

The Court at any time and after notice may correct clerical mistakes in judgments, orders or other parts of the record, or errors in the record arising from oversight or omission.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R15]

Rule 16. Determination of Competency or Capacity to Stand Trial

- (a) The issue of competency or capacity shall be raised by motion at any stage of the proceedings.
- (b) The issue of competency or capacity shall be determined by the Judge.
- (c) If a respondent is found incompetent to stand trial:
 - (1) Further proceedings are stayed until respondent becomes competent to participate in the proceedings; and
 - (2) If appropriate, the judge may order treatment to enable the respondent to attain competency.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R16]

Rule 17. Appeals

An appeal will be from any final order, decree, or judgment entered by the Juvenile Court. Appellate procedure will be governed by the Sac and Fox Nation Appellate Rules.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R77]

Rule 18. Stay Pending Appeal

- (a) Filing. After notice of appeal is filed with the Tribal Court, a party may request that the judgment be stayed.

(b) Form and content. The form and content shall be that prescribed by the Tribal Court.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R18]

Rule 19. Use of Technology in Hearings

(a) Parties: Any party to a case before the Juvenile Court may request to appear via telephone or video conferencing. Parties shall make any request, including the reasons as to why appearance in person is not practical, to appear via telephone or video conferencing to the Clerk of the Court no later than seven (7) days before the scheduled hearing. The Judge of the Juvenile Court will make a determination as to whether appearance via telephone is appropriate.

(b) Court Officials: In the interest of judicial efficiency and to ensure that rights and court deadlines are preserved, court officials, including the Juvenile Court Judge may conduct hearings via telephone or utilizing video-conferencing capabilities.

[History: L. 2020, Jun. 16; R-21-20:
PUBLIC LAW # T 20 §R19]