

**Match-E-Be-Nash-She-Wish Band of
Pottawatomí Indians**

Court Rules of Evidence



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Court Rules of Evidence

Section 1. Purpose. The purpose of these Court Rules of Evidence is to ensure that the Tribal Court is able to determine the truth of the matter with minimal delay, confusion, and uncertainty for the parties.

Section 2. Simple By Design. These *Rules of Evidence* are intentionally written in a short and simple format to make them community friendly and for use by the high number of unrepresented parties anticipated to be involved in Tribal Court proceedings. If more detailed rules are needed or desired by the parties or Court, Section 4 below provides an opportunity to opt out of these simple *Rules* into rules which may be more appropriate for complex litigation.

Section 3. Scope. These *Rules of Evidence* will govern the admissibility and use of evidence in all civil and criminal matters, except as otherwise provided by the Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians Constitution, Tribal law or other Tribal Court Rules.

Section 4. Application of Michigan Rules of Evidence. Upon motion of any party, or upon the Tribal Court's own initiative, the presiding judge has discretion to apply the *Michigan Rules of Evidence*, or any portion thereof, in any proceeding.

Section 5. General Rules.

- A. Weight to be Given to Different Types of Evidence.** When the Tribal Court must consider more than one type of evidence about the same subject, the judge will determine the weight to be given to each type of evidence according to common sense and fairness. Testimony regarding facts or events of which the witness has personal knowledge obtained from first hand observations will be preferred over other kinds of evidence.
- B. Relevance.** Evidence admitted in the Tribal Court must relate to either the issues before the Court, or the weight and credibility that should be given to other evidence before the Court. When questioned by the judge or another party as to why certain evidence should be admitted, the party who wishes to present the evidence must:
1. State the issue that the party will use the evidence to resolve; and
 2. Explain how the evidence relates to the issue, noting the manner in which the evidence is likely to establish a fact.

- C. Evidence of Tribal Custom and Tradition.** Evidence of Tribal custom or tradition that is relevant to issues before the Tribal Court may be admitted in the Court's discretion.
- D. Sworn Written Testimony.** Testimony may be presented in sworn written form if the written form establishes who gave the testimony, when it was given and the witness is unable to appear to testify in person. The Tribal Court may require a party to prove that the party made efforts to obtain a witness's attendance.
- E. Copies of Documentary Evidence.** Copies of written records, photographs, and other documentary evidence may be admitted if there is a reasonably reliable method to identify the items and the manner in which they were prepared.
- F. Challenges to Admissibility.** When the admissibility of evidence is challenged based on the evidence's relevance or reliability, the Tribal Court will decide whether to admit the evidence.

Section 6. Truthful Testimony. Before allowing testimony, the Tribal Court will first require the proposed witness to swear or affirm that he or she will testify truthfully.

Section 7. Questioning Witnesses.

- A. Leading Questions Prohibited.** Unless a witness was called by an opposing party, or is clearly hostile to the person asking questions, the witness must not be asked a question in a way that suggests the answer.
- B. Order of Questioning.** The Tribal Court will determine the order in which parties or their counsel will be allowed to question witnesses.
- C. Prohibited Questioning.** The Tribal Court may prohibit harassing or unnecessarily repetitious or irrelevant questioning of a witness.
- D. Tribal Court's Questioning of Witnesses.** The Tribal Court may call and/or question any witnesses on its own initiative.
- E. Exclusion of Non-Party Witnesses.**
 - 1. Upon Request of Any Party or in the Tribal Court's Discretion.** Upon the request of any party or in the Tribal Court's discretion, the Court may exclude from the courtroom any witnesses who are not parties, and have not yet testified, if the Court deems it necessary to ensure that all witness will give truthful testimony.

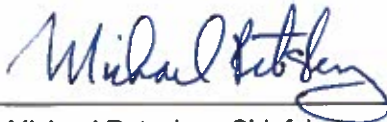
2. **Court's Discretion to Excluded Witnesses.** The Tribal Court will direct the witnesses, who are excluded from the courtroom, not to discuss the case or the testimony of a witness, including his or her own testimony, with anyone other than the attorneys of the parties or any unrepresented party.

Section 8. Short Title and Citation Format.

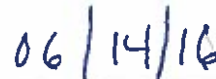
- A. **Short Title.** These *Rules* are titled "Rules of Evidence"
- B. **Citation.** The official abbreviated citation form to these *Rules* is MBPI RE.

Certificate of Adoption

The Chief Judge of the Tribal Court adopts the above Chapter of Court Rules.



Michael Petoskey, Chief Judge



Date