



PUEBLO OF ISLETA

P.O. BOX 1270
ISLETA, NM 87022

RESOLUTION NO. 2019-134

APPROVING REVISED RULES OF APPELLATE PROCEDURE FOR THE ISLETA APPELLATE COURT

WHEREAS, the Pueblo of Isleta (POI) is a federally recognized Indian tribe organized pursuant to the Indian Reorganization Act with a Constitution and inherent sovereign authority;

WHEREAS, the Pueblo of Isleta Tribal Constitution states: "The council may delegate its appellate authority to such appeal committee, appellate judge or judges or other appellate body as the council may from time to time establish by ordinance duly enacted by the council." Article IX, Sec. 6 (Revised, 1991); and

WHEREAS, the Tribal Council has established and delegated its appellate authority to the Isleta Appellate Court, as set forth in Tribal council Resolution No. 2015-071; and

WHEREAS, the Appellate Court has recommended that its rules of procedure be revised to make the appeal process more user-friendly and to enhance the Court's ability to serve the needs of the parties in the appellate process; and

WHEREAS, the Appellate Court has drafted proposed new rules of procedure, which have been reviewed by the Office of General Counsel, and which are attached and incorporated into this Resolution as Exhibit A; and

WHEREAS, a summary of the changes made by the proposed new rules is attached and incorporated into this Resolution as Exhibit B; and

WHEREAS, the Tribal Council Finds it to be in the best interests of the Pueblo to approve the proposed new rules of procedure stated in Exhibit A,

NOW, THEREFORE, BE IT RESOLVED, that the Tribal Council hereby approves the Rules of Appellate Procedure set forth in Exhibit A.


BE IT FURTHER RESOLVED that such Rules shall go into effect immediately upon approval of this Resolution by Tribal Council.

CERTIFICATION

We, the undersigned officials of the Pueblo of Isleta, hereby certify that the foregoing Resolution was duly adopted by the Pueblo of Isleta Tribal Council at a regularly held meeting on the 18th day of December 2019, a quorum present, with 6 voting for, 0 voting against, and 0 abstaining.

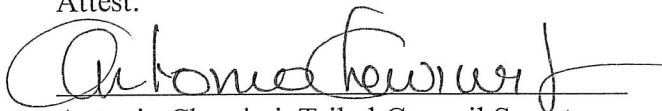


Kevin Lente, Tribal Council President



Max A. Zuni, Governor

Attest:



Antonio Chewiwi, Tribal Council Secretary

ISLETA APPELLATE COURT
RULES OF APPELLATE PROCEDURE
As Amended, December 18, 2019

RULE 1. Scope of Rules.

- (a) These Rules govern the procedure for appeals to the Appellate Court and the proceedings before the Appellate Court.
- (b) These rules may be referred to as the Rules of Appellate Procedure.

RULE 2. Filing and Service of Papers.

- (a) Any person who files a pleading or paper in the Appellate Court must provide a copy to the other party, using any one of the following methods:
 - (1) hand delivery;
 - (2) first class U.S. Mail; or
 - (3) any other method that the parties agree upon.
- (b) Every pleading or paper filed with the Appellate Court must include a Certificate of Service, stating the date and the method that party used to serve the pleading or paper on the other parties. A sample Certificate of Service is attached to these rules.

RULE 3. Calculation of Time Limits.

- (a) When these Rules specify a time limit, the deadline is calculated as follows:
 - (1) not counting the day of the event that starts the time limit, and
 - (2) then counting every day thereafter, including weekends and holidays, but if the deadline falls on a day that the offices of the Pueblo are closed, then the deadline is the next day that the offices are open.
- (b) If the event that starts the time limit is service of a paper, and that service was done by mail, then three days are added to the number of days allowed.

RULE 4. Appealable Orders; Deadline to Appeal.

- (a) Except as provided in subsection (b), a Party may only appeal a final order of the Tribal Court. The party may do so by filing a Notice of Appeal no later than 30 days after the date of the final written order.
- (b) A party may not appeal a non-final order unless:
 - (1) the Tribal Court judge, either at a party's request or upon the judge's own initiative, issues a written statement stating (A) that the non-final order involves a controlling question of law for which there is substantial ground for difference of opinion, and (B) that an immediate appeal from the non-final order may materially advance the resolution of the litigation;
 - (2) the party seeking to appeal the non-final order files a Notice of Appeal no later than 15 days after the date the judge issues the statement; and
 - (3) the Appellate Court, in its discretion, permits the appeal of the non-final order to be taken.

RULE 5. Appeals—How Taken.

- (a) A party desiring to appeal a Tribal Court's final order must file a Notice of Appeal with the clerk of the Tribal Court. A sample Notice of Appeal form is attached to these rules.
- (b) The Appellate Court will dismiss the appeal if the notice is not filed within the time limit set by Rule 4.

RULE 6. Record on Appeal.

No later than 15 days after the date a notice of appeal is filed, the Tribal Court clerk shall provide a copy of the following items to the Appellate Court:

- (1) the Notice of Appeal;
- (2) the complete record of all proceedings, including all documents filed; and
- (3) all audio recordings of hearings.

RULE 7. Presentation of Issues on Appeal.

- (a) The party taking the Appeal (the "Appellant") shall file a written Opening Brief, Memorandum, or Statement in support of the appeal no later than 45 days after filing the notice of appeal.

- (b) An opposing party (“the Appellee”) shall file a Response within 30 days after service of the Appellant’s Opening Brief, Memorandum, or Statement.
- (c) The Appellant may file a Reply to the Appellee’s Response within 20 days after service of the response.
- (d) The Appellate Court will hear oral arguments at its discretion. The Appellate Court shall decide the Appeal based upon the briefs, memoranda or statements submitted by the parties, the tribal court record, and oral argument, if held.

RULE 8. Stay of judgment or sentence.

- (a) Filing an appeal does not by itself prevent a final order from taking effect. A final order is effective while the appeal is pending unless the Tribal Court or Appellate Court issues an order suspending it (a “Stay”).
- (b) A Party desiring to prevent the final order from taking effect must first file a Motion for a Stay Pending Appeal in the Tribal Court. A sample Motion for Stay Pending Appeal form is attached to these rules.
- (c) The Tribal Court shall issue an order granting or denying the motion within 15 days after the motion was filed. In civil cases the Tribal Court may impose terms or conditions, including requiring a monetary bond, to ensure that the party in whose favor the Tribal Court rules will receive the benefit of the ruling if it is affirmed on appeal.
- (d) A party may appeal the Tribal Court’s grant or denial of a stay by filing a motion for stay in the Appellate Court within 10 days of the Tribal Court’s action or inaction. Such a motion shall be accompanied by copies of the following documents:
 - (1) the Motion for Stay Pending Appeal that was filed in the Tribal Court;
 - (2) all responses to that Motion; and
 - (3) the Tribal Court’s Order or a statement that it did not act within the 15 day period.

RULE 9. Request for Reconsideration.

- (a) A decision of the Appellate Court is final and will not be reconsidered at the request of a party except in accordance with Rule 9(b).
- (b) A party may ask the Appellate Court to reconsider its decision by filing a Request for Reconsideration within 20 days after the date of the Appellate Court’s decision. The Request for Reconsideration must state the points of law or facts that the requesting party believes the Court overlooked or misunderstood, and arguments in support of each.

(c) Unless the Appellate Court orders the other party to file a response to the request for reconsideration, no response is permitted. However, the Appellate Court will not ordinarily grant a request for reconsideration unless it has ordered a response.

RULE 10. Extraordinary Writs.

(a) The Appellate Court may issue the following orders (“Writs”):

- (1) a Writ of Prohibition when the Tribal Court exceeds its jurisdiction,
- (2) a Writ of Supervisory Control when an action of the Tribal Court is arbitrary or unjust, or may result in irreparable injury, and when there is no other adequate remedy other than the writ, or
- (3) a Writ of Habeas Corpus when a person is being detained without lawful authority.

(b) A person seeking any one of the writs listed in Rule 10(a) must file a petition for the writ with the Appellate Court, stating specifically the grounds justifying the writ and attaching copies of any documents and pleadings in support of the writ.

RULE 11. Death of Party During Appeal; Substitution of Parties.

In the event of the death of a party to a pending appeal, the party’s heirs may file a request to be substituted, stating the date of death, the persons to be substituted and their relationship to the deceased party.

RULE 12. Dismissal of Appeal.

(a) The Appellate Court may issue an order dismissing the appeal on the motion of the appellant and upon such terms as may be agreed upon by the parties or fixed by the Court.

(b) The Appellate Court may issue an Order Dismissing the Appeal upon the filing of a Stipulation for Dismissal signed by all parties.

(c) The Appellate Court may serve notice upon all parties of its intent to dismiss an appeal for lack of prosecution or for failure to comply with any of these Rules. After allowing a period of 30 days for responses to such notice, the Appellate Court may dismiss the appeal, or may condition continued prosecution of the appeal upon such terms and conditions as the Appellate Court deems appropriate.

<p>_____ (name), Appellant,</p> <p>v.</p> <p>_____ (name), Appellee.</p>	<p>No. IAC-_____ (Trib. Ct. No. _____)</p>
---	---

_____, the (Appellant or Appellee) in this case, hereby gives notice that (he, she, they) appeal to the Isleta Appellate Court from the (Order, Judgment or Decision) of the Tribal Court dated _____. A copy of that (Order, Judgment or Decision) is attached to this Notice.

Copies of this Notice of Appeal have been provided to all other parties to the case, as follows:

Party	Method (hand delivery, mail, etc.)	Date
_____	_____	_____
_____	_____	_____

Dated this _____ day of _____, _____.

Signature of Appellant or Attorney/Spokesperson

Printed Name

Address

Phone Number

ISLETA TRIBAL COURT

<div style="text-align: center;"><div>_____ (name),</div><div>Appellant,</div><div>v.</div><div>_____ (name),</div><div>Appellee.</div></div>	<div style="text-align: center;">No. IAC- _____ (Trib. Ct. No. _____)</div>
---	---

CERTIFICATE OF SERVICE

_____, the (Appellant or Appellee) in this case, hereby certifies that (he, she, they) provided copies of the following document or pleading to all other parties:

_____.

I provided copies to the following Parties via the below stated method on the stated date:

Party	Method (hand delivery, mail, etc.)	Date
_____	_____	_____
_____	_____	_____

Dated this _____ day of _____, _____.

Signature of Party or Attorney/Spokesperson

Printed Name

Address

Phone Number

<p>_____ Appellant, v. _____ Appellee.</p>	<p>No. IAC-_____ (Trib. Ct. No. _____)</p>
--	--

_____, the _____ (Appellant or Appellant) in this case, hereby requests that this Court extend the deadline set by the Rules of Appellate Procedure for _____ by _____ days, from the current deadline of _____ to _____.

Amended by Tribal Council December 18, 2019
(Vote Count 6-0-0)

CERTIFICATE OF SERVICE

_____, the (Appellant or Appellee) in this case, hereby certifies
that (he, she, they) provided copies of the foregoing paper or pleading to all other parties.

I provided copies to the following Parties via the below stated method on the stated date:

Party	Method (hand delivery, mail, etc.)	Date
_____	_____	_____
_____	_____	_____

Dated this _____ day of _____, _____.

Signature of Party or Attorney/Spokesperson

Printed Name

Address

Phone Number

ISLETA TRIBAL COURT

<div style="text-align: center;"><div>_____ (name), Appellant, Appellant, v. _____ (name), Appellee.</div></div>	<div style="text-align: center;">No. IAC-_____ (Trib. Ct. No. _____)</div>
--	--

MOTION FOR STAY PENDING APPEAL

_____, the Appellant in this case, hereby requests that the Tribal Court enter an Order that provides for a Stay of its Order dated _____. As grounds for this motion, Appellant states:

1. Appellant has filed or will file an appeal of the Order, within the deadline allowed by the Rules of Appellate Procedure.
2. The order should be stayed, and not be enforced, during the appeal because

3. Appellant requests that the stay be conditioned on

_____ no monetary bond OR

_____ a commercial bond or cash deposit in the amount of \$_____.

Dated this _____ day of _____, _____.

Signature of Appellant or Attorney/Spokesperson

Printed Name

Address

Phone Number

CERTIFICATE OF SERVICE

_____, the (Appellant or Appellee) in this case, hereby certifies
that (he, she, they) provided copies of the foregoing paper or pleading to all other parties.

I provided copies to the following Parties via the below stated method on the stated date:

Party	Method (hand delivery, mail, etc.)	Date
_____	_____	_____
_____	_____	_____

Dated this _____ day of _____, _____.

Signature of Party or Attorney/Spokesperson

Printed Name

Address

Phone Number