

Peacemaking

(A Guide to the Peacemaking Program of the Navajo Nation)

JUDICIAL BRANCH OF THE NAVAJO NATION

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I. GENERAL PRINCIPLES OF PEACEMAKING

(THE NATURE AND PURPOSES OF PEACEMAKING)

- A. Fundamental Laws of Diné: The concept of peacemaking or Hózhóji K'é Náhoodleef goes back to the beginning of time and is embedded in the journey narrative. In fact, According to the journey narrative, the Holy People journeyed through four worlds. In the course of their journey, they came upon many problems, which were either caused naturally or caused by the Holy People. The problems had to be addressed and resolved before the journey continued. The problems could be addressed by the use of prayers, songs, and offerings. These remedies were incorporated into the Diné Traditional Ceremonies. Another way to address the problems was to talk about them in a controlled way. This talking out became the Diné peacemaking process.

The Diné traditional dispute resolution process is the Diné traditional "court of law and equity". This process is known as Hózhóji nahat'á which can be loosely translated as reparation or mending of controversies through harmony. Diné Peacemaking is an adaptation of the traditional process.

The Diné peacemaking process uses consensual agreement of the parties as the primary tool. Participation in Diné Peacemaking is wholly voluntary. The parties and participants are invited to attend, and decisions resolving disputes are reached by talking things out and a solution is reached by consent. This is the Diné way of addressing problems, especially disputes. This system predates the court system. The current peacemaking system uses the Navajo Nation Council's newly enacted law, "Fundamental Law of the Diné". The foundation of the enacted law is the Holy People's teachings, concepts, principles and rules.

- B. Healing Concept: Peacemaking encourages people to solve their own problems by opening communication through respect, responsibility and good relationships. It is conducted by the parties and accomplished by planning and group decisions for future action. By solving their own problems in peacemaking, people replace coercive decisions such as punishment to correct behavior. Rather than judge people, peacemaking addresses bad actions, the consequences of such actions, and substitutes healing in place of coercion. Peacemaking assists people to help themselves through self-healing. Peacemaking is based on healing the mind, body, and spirit to end conflict rather than continue conflict by the use of power, force, and punishment. It allows

individuals, groups of people and communities to take ownership of their problems and to solve them in ways which promote healthy relationships between and among the group. Specifically, the objective is to achieve Hózhó Náhoodleel.

- C. **K'é Concept:** The cornerstone of Diné Peacemaking is the Diné fundamental concept of K'é or universal relations; it uses a method referred to as "K'é Bee ihmí dá' anish" which can be loosely translated as "working together through relations". K'é has many meanings and it is based on respect, relationships, and responsibility. It eases people's minds, reinforces respect, fosters communication and promotes traditional planning and healing ways. K'é is the foundation of Hózhó Náhoodleel because it is, or should be, practiced in daily life and activities.

Elders stress K'é because it enables people to communicate fully to achieve ways to address challenges as relatives. Good communication, with respect, creates unity among the Diné as a nation. Without resources or financial revenues, the Diné survived and got along with each other because K'é prompts peace of mind for self and others. K'é has formed and sustained traditional Diné values of identity, a way of life, beliefs, language, culture, arts, ceremonial rites, and all the other things which make us unique. Traditional Creation and Journey narratives are taught in the Diné language with deep meaning and respect and they are passed down through the generations as Diné wisdom.

Peacemaking is intended to promote the principles of Diné tradition; therefore the guidelines in Section II must be applied to achieve the purposes stated above. The guidelines should be flexible so as to implement methods of traditional process, procedure, and values. The guidelines should not limit or put aside the important principles of the Fundamental Law of the Diné. Such principles shall be used whenever there is a conflict between the traditional processes and the provisions of the Guidelines.

- D. **Peacemaking is not Court Process:** Diné Peacemaking uses the traditional Naat'áanii or community leader (referred to as Peacemaker in the guidelines) to bring parties together to talk out disputes and to reach a consensual agreement. A Peacemaker is not an adjudicator and does not sit in judgment, rather he or she facilitates and guides disputing parties to reach and make a decision for themselves. Diné Peacemaking is not concerned with matters of jurisdiction, venue, pleading practice, rules of court, etc. Peacemakers are not judges,

Peacemaker Comes By Request of Community
- orientation for 3 sessions - peacemaking program

administrative hearing officers, mediators or arbitrators and thus do not possess the attributes (or burdens) of judicial authority, i.e., contempt-powers, decision making authority, etc. Peacemakers are individuals who hold positions of great respect and influence within their communities, are above reproach, and who possess exemplary leadership skills.

E. The guidelines set forth the principles and policies governing the use of Diné Peacemaking in a contemporary setting, prescribe peacemaker, staff and other administrative duties and responsibilities and provide for the implementation of procedures necessary to put the principles and policies of the Diné Peacemaking process into practice.

Diné Peacemaking is not to be confused with the adjudicatory processes, mediation or arbitration. Such processes employ the adversarial system of dispute resolution in a court setting, and assume decision making by a person in authority. In such matters rules are employed which are designed to compel participation, limit participation to a select few, confine consideration of a dispute to narrow issues, and impose often disharmonious decisions. Diné peacemaking is the complete opposite. It stresses informality, free of rules and restrictions; it allows open and unfettered discussions; full participation of interested persons, and encourages a resolution reached by consensus of all in attendance.

Diné Peacemaking is not an alternative dispute resolution forum. It is the original dispute resolution forum employed by the Diné to resolve disputes in a non-court setting, and in a harmonious manner. It is a non-adversarial process with attributes of harmony, equality, justice and fair play. Diné Peacemaking is not concerned with technical formalities, application of strict rules, or complex administrative processes.

Because Diné Peacemaking is intended for parties choosing to participate, the formalities of tape recorded sessions, transcriptions, etc., should remain a choice for the parties. Unless otherwise affirmatively requested and agreed to by all participants, no electronic recordings should be made.

Finally, it should be understood that these guidelines are procedurally oriented and do not address the substantive principles or values of Diné or other Indian customs, traditions and practices, or non-Indian religious values, practices or customs. These guidelines serve to guide the user and do not seek to impose Indian tradition or non-Indian

if people don't want to, but some may. You may have to talk w/ people who don't want to do it, explain peacemaking process.

Also, promotion of peacemakers. WDK on people for promotion of it.

Peacemakers Not paid By Court. Paid By Community. No legal advice.

Does training
↓
Peacemaker as a third party
But more as a teacher.
↓
Teaching
↓
Of (various) communities.
↓
Diné Individual Council of BIF Peacemaking

religious values upon the user although substantive principles or values of Indian traditions or religious organizations may be employed to assist in the resolution of disputes when all parties give their consent to their use.

Because peacemaking sessions are not judicial or quasi-judicial proceedings and are not possessed of adjudicatory powers, characteristics or functions and participation by the participants is wholly voluntary, the characteristics of adversarial practice, including pleadings, counterclaims, cross-claims, discovery, etc., are not contemplated and thus, not permitted.

The Diné justice system recognizes and appreciates that not all disputes and controversies are or should be subject to adversarial adjudication system and that Diné peacemaking may be the forum of choice for the resolution of such matters.

These guidelines govern all peacemaking sessions which are commenced at the local district office of the Judicial Branch Peacemaking Program or at recognized Diné local chapters in accordance with established policies. Sessions begun and conducted outside of the Peacemaking Program and local chapters are not covered by these guidelines. Where the guidelines do not address certain situations, the peacemaker with the consent and agreement of the parties, should be free to employ other procedures or processes which may aid in the conduct and resolution of the peacemaking session.

These guidelines are not to be confused with rules of court. The guidelines serve the purposes of allowing the minimal intrusion of formal adversarial prescriptions to the Diné Peacemaking process while at the same time permitting the process to retain its attributes of Diné traditionally structured dispute resolution. These guidelines should be liberally construed to make use of the harmonious, non-adversarial and non-coercive qualities of Diné Peacemaking.

To ensure that Diné Peacemaking remains a forum of choice for resolving disputes in the modern context, the following guidelines are established. The former Diné Peacemaker Court Rules contained in the Diné Peacemaker Court Manual as established by Judicial Conference resolution dated April 23, 1982, is no longer in effect and there is established in their place, these Peacemaking Guidelines for the conduct of peacemaking. These guidelines supersede the former rules.

II. PEACEMAKING GUIDELINES

ONE: PARTICIPANTS AND PARTIES

The persons or participants involved in the peacemaking sessions are referred to as follows:

- A. Initiating party: The party who originates the peacemaking process.
- B. Responding party: The party who is asked to appear and participate at the peacemaking sessions, and whose actual and substantial interests will be affected by the outcome of any resolution of the dispute or controversy. There may be more than one responding party.
- C. Other interested person: A person who may have an indirect or peripheral interest in the sessions or the outcome the proceedings, such as family members or relatives to the initiating or responding party, etc.
- D. No legal practitioner is permitted to participate in any peacemaking session in his/her representative capacity, including participating as an other interested person where his or her personal, family or business interests are not the subject of peacemaking. This does not prohibit a practitioner from participating either as an initiating party, responding party, or interested person.

TWO: INTAKE PROCEDURE

- A. One form of session: For purposes of clarity and uniformity, there should be one form of session for the resolution of all disputes in the peacemaking process to be known as the "Peacemaking session".

- B. Commencement and filing of a peacemaking request:

The peacemaking process is commenced when a person comes to the district peacemaking program office and submits a written request for peacemaking or when such a request is made at the Chapter. A peacemaking session may also be commenced as the result of a referral from a governmental or private agency or entity, or court ordered referral or diversion in a criminal, civil or juvenile proceeding.

- C. Form of request for peacemaking: A request for peacemaking should contain, at a minimum, the following information:

1. Names, clans, mailing addresses and telephone numbers (if any) of all parties and other interested persons to the dispute or controversy who should be notified of the session;
2. A brief description of the dispute or controversy, and the relief desired. Where peacemaking is commenced as the result of court ordered referral or diversion in a criminal, civil or juvenile proceeding, a copy of the written court order or referral should be attached to the request;
3. Whether the initiating party seeks the appointment of a particular peacemaker, or whether the district peacemaking program office should appoint a peacemaker from the list of peacemakers kept by the district peacemaking office;
4. The preferred location where the peacemaking session should be held;
5. Whether the initiating party will notify the parties and interested parties of the sessions, or whether the district peacemaking office should give notice; and
7. Upon receipt of the written request, intake may be done by the peacemaker liaison or other staff appointed to handle the request.

THREE: PEACEMAKING CASES

Navajo Nation entities may refer cases for resolution to the Peacemaking Program.

Any matter which involves certain personal, community and economic relationships, if not otherwise prohibited by law, may be made the subject of peacemaking. Whether a matter is made the subject of peacemaking depends upon the mutual agreement of the parties to the dispute. Such matters may include:

- A. Family and other relationships, including marital relationships, intimate relationships, parent-child relationships, etc.;
- B. Community relations, including disputes between neighbors, nuisances, trespass, disorderly conduct, breaches of the peace and like matters;
- C. Consumer relations, including debts, contracts, etc.;
- D. Land, livestock and grazing disputes, including land use, livestock ownership, grazing disputes, etc.;

E. Any other matter which the parties may agree is subject to peacemaking.

FOUR: DOCUMENTS USED IN PEACEMAKING

Parties and participants may be required to provide the following documents and information to help the peacemaking process:

- A. Family profile
- B. Death certificate
- C. Birth certificate
- D. Certificate of Indian Blood
- E. Grazing permit
- F. Affidavit(s)
- G. Police reports
- H. Referral or deferral document
- I. Bank records
- J. Insurance papers
- K. Marriage license, certificate, or decree
- L. Homesite lease or land use permit
- M. Court judgment, order, or decree
- N. Court transfer order
- O. Divorce or separation decree
- P. Criminal complaint
- Q. Contracts
- R. Any other public or private record needed

CONFIDENTIALITY: All information and discussions in peacemaking shall remain confidential and shall not be disclosed unless specifically agreed to by all participants or otherwise required by law.

FIVE: ADVICE AND INFORMATION

The Peacemaking Program, its staff, and peacemakers may provide information about the peacemaking process and the choices available to those who use it. Information provided in peacemaking is not legal advice. No information given by the Peacemaking Program, its staff or a peacemaker may be used for or relied upon as legal advice, or to excuse conduct, or to create legal rights.

The peacemaking staff or trained intake personnel may give guidance and practical advice to assist the petitioner in the intake stages so that all immediate and long term solutions are discussed. The intent is to empower

the petitioner and assist with planning and setting realistic objectives. The final choice on how to use the information is the petitioner's.

During the sessions, recitation of traditional narratives as teaching tools is encouraged. Traditional protocol in sharing the knowledge is to be used and respected as is only proper when healing is to occur. These "Narratives" or "Hane" are to be used as establishing standards to focus on during the formation of solutions and where opposing views are brought out, to allow differing viewpoints to be considered and discussed. These viewpoints are considered reasoned positions when the objective is to come to a consensus. Traditionally, this practice is used to gain balance in the discussions and to allow the participants to discover and learn.

SIX: PEACEMAKING FEES AND ASSESSMENTS FEES

Peacemaker fees and costs: Like the traditional medicine person, a peacemaker who has duly completed his or her services is entitled to a performance or service fee at the completion of peacemaker service.

- A. The initiating party should pay a set fee for peacemaker services, which may later be reimbursed from other parties during the course of the process. Unless otherwise agreed to, payment shall be made by money order and deposited with the Peacemaking Program Office.
- B. Where a peacemaker is required to perform multiple sessions, or to conduct sessions outside his or her district boundaries, or where the subject matter of the sessions requires an inordinate amount of time and effort, the peacemaker may be paid an additional fee beyond the set fee as the peacemaker and the parties may agree.
- C. Where the parties and the assigned peacemaker agree, payment for peacemaker services may take the form of Navajo traditional in-kind payments or a combination of money and in-kind payments, i.e., a strand of necklace plus \$30.00, or a wedding basket, Pendleton robe, shawl, etc.
- D. Peacemakers appointed and acting under these guidelines will be reimbursed for services at the completion of their duties by money order, issued by the Peacemaking Program Office.

SEVEN: APPOINTMENT OF A PEACEMAKER

- A. Peacemakers are persons known by their community for fairness, wisdom, respect, and planning ability. They are nominated and

certified for initial appointment by their respective chapters. The Peacemaking Program will maintain a list of appointed peacemakers. The Peacemaking Program, with the guidance of district court peacemaker liaisons, will provide training for peacemakers. The training shall consist of three phases: Introductory, Intermediate, and Continuation. Upon completion of the Intermediate Phase, the peacemaker shall be administered the Oath of Office and may be appointed to cases.

- B. Any person who has the respect of his or her community, and who has a reputation for integrity, honesty, and humanity may be appointed to conduct a peacemaking session. Such persons may include:
1. Navajo Nation governmental officials, officers or employees, such as members of the Navajo Nation Council, chapter government officials, or executive and legislative Branch officials.
 2. Judges, justices and other employees of the Navajo Nation Judicial Branch may not act nor be appointed as peacemakers.
 3. Practitioners of Navajo traditional ceremonies, Azee' Bé Nahagha of Diné Nation (ABNDN) ceremonies, or leaders of other community organizations, religious or otherwise, who have the respect of the individuals coming for peacemaking;
 4. Any other person chosen by the parties to conduct a session who meets the qualifications set forth in the guidelines.

The parties, as the principals for whom the peacemaking process is initiated, have the option of choosing a peacemaker in the first instance. Where the parties agree that a peacemaker should be appointed by the Peacemaking Program, such appointment shall be made from the list of certified peacemakers from the chapter where the parties reside, or if the parties reside in different chapters, from the initiating party's chapter.

EIGHT: SCHEDULING AND NOTICE OF PEACEMAKING SESSION

Upon the filing of a request for peacemaking, the district court peacemaking office will issue notice of the scheduled session. The notice should set a peacemaking session within 45 days from the date of the filing of the request and be sent by first class mail by the peacemaking liaison or delivered by the initiating party. The notice should inform the receiving party that a request for peacemaking has been filed and should ask for their attendance and participation at the scheduled peacemaking session.

The notice, at a minimum, should contain:

- A. The names of the parties and interested person(s) whose presence is desired at the session;
- B. The name of the peacemaker appointed to assist with the scheduled session;
- C. The date, time and place the peacemaking session will be held;
- D. A brief description of the subject matter of the peacemaking and relief desired; and
- E. An invitation reciting that their attendance at the peacemaking session is desired.

NINE: GUIDELINES FOR THE PEACEMAKERS

- A. It is the policy of the Diné Peacemaking process that peacemakers services be available to all who desire to resolve disputes in a non-adversarial and harmonious manner. Peacemaker services must therefore be provided consistent with the Dine traditional values of K'é (universal relations) and Hózhó ná há s tǫ́ (harmony has been restored). These concepts require that sessions be conducted free of adversity, formal technicality, coercion and force. The following principles should guide a peacemaker's disposition of and the conduct of peacemaking sessions:
 - 1. A peacemaker should maintain high standards of personal conduct, including honesty, integrity and have the respect of colleagues and community. A peacemaker should be free of conduct which would bring the reputation or character as a peacemaker into disrepute.
 - 2. A peacemaker should be committed to serving the best interests of those for whom sessions are conducted. A peacemaker should not permit other interests, personal or otherwise, to interfere with the performance of peacemaker duties.
 - 3. A peacemaker should maintain respect for the participants and should foster respect among them. A peacemaker should ensure that parties and others display dignity and civility toward one another, and should ensure that peacemaking discussions are open and free of restraint.
 - 4. A peacemaker, while applying the concepts of K'é and Hózhóǫ́ǫ́, should not impose personal beliefs, values or preferences upon parties. A peacemaker should respect the parties and their

beliefs and seek to find common ground upon which to build a resolution.

5. A peacemaker should respect the privacy of those for whom sessions are conducted, and hold in confidence all information obtained in the course of sessions.
6. A peacemaker should continue to strive for further education, and enhancement of knowledge and skills.
7. Peacemakers may educate and counsel on traditions and culture.

B. Peacemaker authority, duties and responsibilities:

1. Convene a peacemaking session at a place, date and time most convenient to the parties and other participants. The peacemaker may hold as many sessions as is deemed necessary for the parties to fully consider the dispute or controversy and to reach a complete resolution.
2. Promote fairness and harmony in the conduct of sessions, and ensure the display of courtesy and respect by the parties and participants for one another.

C. Peacemakers are not employees of the Judicial Branch and are not court officers, and thus are not under the direct supervision of the Judicial Branch nor the courts. However, as peacemakers they provide a necessary function in the aid of dispute resolution and the Peacemaking Program is currently annexed to the Judicial Branch and utilizes Judicial Branch facilities and equipment. Supervision to a certain degree is necessary and appropriate. The presiding district court judge will exercise administrative oversight responsibilities over the peacemaker and peacemaking sessions to ensure propriety in the process, protect the interest of parties or participants, and ensure proper use of court and district facilities and operations.

TEN: PEACEMAKER ETHICS

Individual peacemakers shall not ignore their responsibilities to others. They cannot abuse the process or others, or attempt to use political influence to force an outcome. This is especially true in matters of domestic violence against family members.

- A.** A peacemaker shall uphold personal integrity and the integrity of the courts and the peacemaking program;

- B. A peacemaker shall perform his duties in a diligent manner using the traditional form of K'é.
- C. A peacemaker shall refrain from activities or circumstances which may result in a conflict or an appearance of a conflict by association with parties to peacemaking.
- D. A peacemaker shall follow protocols established in the traditional practice of planning, healing and follow-up.
- E. A peacemaker shall not speak separately to individuals or groups who are in dispute without the knowledge and express consent of the other parties.
- F. Complaints about the peacemaking process or the peacemaker must be raised as soon as a person becomes aware of the incident. All complaints must be in writing and addressed immediately by the peacemaker. Peacemaking is the first forum in which a complaint is addressed and remedy is attempted before preceding to another forum such as the Peacemaking Program, District Court, Chapter, or the Chief Justice.

ELEVEN: STEPS IN PEACEMAKING SESSION

- A. Order of sessions: The peacemaker should open with introductions of the parties and state the canons of conduct which will govern the session. The session should then follow the steps below:
 1. The peacemaker may allow an opening prayer if the parties do not disagree.
 2. Each party should be permitted to make opening remarks which should include his or her statement of the controversy, and what he or she desires as relief.
 3. The peacemaker should make certain that the participants understand the exact nature of the controversy and the desired relief. The peacemaker accomplishes this by asking questions to clarify points of discussion. To help resolve issues, the peacemaker should ask questions to determine what the problem is and what is the cause of the problem. If they know what the problem is and what the cause is, then, they can choose a plan of action, or choose ways to resolve the issues.
 4. Once the peacemaker is satisfied that the nature of the controversy and desired relief has been adequately stated, he allows open discussion of the subject matter. At this point, the

- peacemaker may allow other persons to join in the discussion, keeping in mind the canons of conduct.
5. During the discussions, the peacemaker ensures that the principal parties are permitted full opportunity to address comments presented by the other party or by other interested persons.
 6. Discussions continue until all parties have had an opportunity to speak to the subject matter.
 7. Once the discussions are completed, the peacemaker then points the discussions toward a resolution and allows the discussions of remedies in the same manner as indicated above.
 8. Once the discussions on the controversy and the desired relief have been completed, the peacemaker then points the parties toward a specific resolution, allowing full opportunity for discussion and input.
 9. Should the parties reach an agreement, the peacemaker provides a final summary of the agreement and immediately reduces it to writing. The peacemaker may defer the written resolution for a period not to exceed 10 days after the session. The written resolution should be acknowledged and executed by the principal parties.
 10. The session should close with a prayer.
- B. The sessions should be conducted in an informal manner with the peacemaker maintaining proper decorum and control.
- C. The peacemaker should conduct the peacemaking session in a harmonious and respectful manner. The peacemaker will observe the following canons of conduct:
1. Ensure that the sessions are conducted free of adversity and hostility.
 2. Ensure that all participants display courtesy and respect toward one another.
 3. The peacemaker may expel any person from the peacemaking session if such person's conduct violates the spirit of Navajo peacemaking.
- D. Opportunity to be heard: The peacemaker should ensure that all sides to the controversy are heard, allowing all parties and other interested persons the opportunity to speak to the issue(s) at hand.
- E. Continuation of sessions: Where it appears that the peacemaking session may not be concluded in one setting or where it appears that

follow up discussions or reviews are necessary, the assigned peacemaker and the administrative clerk or liaison may continue the session until such time as the matter may be concluded.

TWELVE: AGREEMENT

- A. Agreements or resolutions reached as the result of peacemaking are not judgments, orders or decrees of a court. They are agreements or resolutions reached by consensus and may be reduced to a judgment. Where the parties reach agreement as to the resolution of a dispute at the session, the peacemaker should endeavor to reduce the agreement to writing in the presence of the parties and have the parties acknowledge the agreement. If unable to do so, the peacemaker should reduce the agreement to writing at a later date, and inform the parties that the agreement will be circulated for acknowledgment within 10 days of the session.
- B. Agreements reached in peacemaking are by consensus and are voluntary, therefore, there is no appeal to the courts. However, a review or reconsideration to clarify, correct or modify the agreement or resolution may be requested of the peacemaker. Such review or reconsideration should be made with the participation of all original participants.

THIRTEEN: PARTICIPATION BY OTHERS

A peacemaker or the participants may suggest the involvement of others to assist the participants with the process, their agreement, or carrying out the agreement. Any necessary resource or service provider may be called upon to assist, including social service personnel, mental health professionals, traditional healers and leaders, public or private service agencies, or any other person or program with the resources, expertise, and interest to assist. No person may be forced to accept intervention or services against his or her will.

FOURTEEN: FOLLOW-UP

To monitor progress or to consider amendments to the agreements, a participant, a peacemaker or a peacemaker liaison, upon consent of the parties, may request a peacemaking follow-up session.

FIFTEEN: CONFIDENTIALITY, PRIVILEGES AND IMMUNITIES

- A. General Guideline:

All sessions in peacemaking are confidential. No person may disclose, or be compelled to disclose, any information provided in peacemaking. The parties may agree to make a matter public record. Disclosure of any part of the peacemaking process by agreement or public record shall not waive the right of confidentiality in all other peacemaking matters. Any unauthorized breach of confidentiality may be punished according to Navajo Nation law, and no person may be compelled to disclose anything said or revealed in peacemaking unless otherwise required by Navajo Nation law.

B. Immunity:

No fact, statement, disclosure, or other admission made in peacemaking may be used as evidence in any forum. All participants in peacemaking have immunity from any statement in any criminal or civil proceeding and immunity from compulsory process in any forum for the purpose of eliciting information developed in peacemaking, by subpoena or otherwise. The only exception to this general grant of immunity shall be proceedings to remedy breaches of these guidelines by contempt or otherwise, and such proceedings must be brought only in the courts of the Navajo Nation.

C. Deliberative privilege:

All peacemakers and participants in peacemaking shall have the deliberative privilege which prevents any such person from being compelled to disclose the mental or other process used in the making of a decision or agreement in peacemaking.

D. Violation of Guidelines:

In the event of deliberate abuse of these guidelines, the first preference is to resolve it using peacemaking. If it is not resolved in peacemaking, the alternative is through administrative remedies or court process. A violation of these guidelines may be a violation of Navajo Nation law which may be punished by fine, incarceration, and exclusion from the Navajo Nation, public censure, removal or other sanctions.

SIXTEEN: FORMS

The forms in the Appendix shall be the official forms used for the peacemaking process.

**SEVENTEEN: CLARIFICATION, MODIFICATION AND AMENDMENT
OF PEACEMAKING GUIDELINES**

In the event the guidelines fail to address a special case or circumstance, the participants shall resort to Fundamental Law of the Dine' as the standard to apply for clarification or modification during the peacemaking session.

III. RELATIONSHIP OF PEACEMAKING TO COURTS

A. While peacemaking processes and resolutions should remain free of judicial processes, there are circumstances which necessitate the issuance of Court Orders and Judgments to give full effect to the agreements and resolutions of parties to peacemaking. It is also recognized that the courts, in the exercise of judiciary authority to give legal effect to peacemaking resolutions, must conform their conduct to the rules of law. To ensure that a uniform process is established, the following procedure is set forth to guide parties and peacemakers in the process of obtaining judicial review and recognition of a peacemaking resolution:

1. An application for the recognition of a peacemaking agreement together with the peacemaking agreement certified by the Peacemaking Program as being a true and correct copy of the instrument on file with that office will be prepared and may be filed with the Court in the judicial district where either party resides.
2. The application will conform, in form and substance, to the mandates of Rule 8(a), Navajo Rules of Civil Procedure. In addition, the application shall contain the signature of all parties to the peacemaking agreement or resolution with the language:

"I (or we) have read the foregoing application for recognition of a peacemaking agreement or resolution or it has been read and interpreted to me (or us). I (we) understand the meaning of the application and I (we) am (are) in agreement that the Court should enter an order or judgment giving legal effect to the peacemaking agreement or resolution attached to this application. By signing my name below, I inform the court that I have no objections to the entry of judgment and I waive my right to be present at the time the court considers the application for entry of judgment."

3. Once an application is properly filed and accepted by the court, the presiding judge may, in his or her discretion to ensure that the proper and orderly processes of law and rule are complied with, may call for a hearing or enter judgment as the circumstances may dictate.

4. Should the Court decide that a hearing or appearance by the parties, participates, and the peacemaker is necessary a hearing may be held in accordance with the Rules of Civil Procedure.
- B. It is understood that courts or other service agencies may refer matters to the Peacemaking Program. Such referrals are in the sound discretion of the court. When such a referral is received, the Peacemaking Program shall determine if the parties will voluntarily participate and if not, so inform the court. If the parties agree to participate, peacemaking shall proceed under the rules in Section II. A referring court may place any reasonable conditions upon referral into peacemaking, including reporting procedures or other orders regulating the conduct of the parties.
 - C. Only a Navajo Nation court may enter orders of protection. The peacemaker may recommend to the court that a protection order be entered according to the Domestic Violence Protection Act, N.N.C., Title 9, Chapter 13, Section 1601-1607.
 - D. Where peacemaking has been court ordered or referred, the written agreement or resolution will conform to the terms of the order or referral to ensure compliance with court directives. Where the court order or referral directs the filing of an agreement with the court, the agreement should be filed promptly with the court.
 - E. Where an agreement or resolution is not made knowingly or freely, or is made without consent, or is obtained by fraud, coercion, or the withholding of material information, or the processes of these guidelines are violated by the participants or a peacemaker, the agreement shall not be recognized by the courts.
 - F. It is understood that should peacemaking activities result in any breach of the peace or other illegal or disruptive behavior, any person may bring such conduct to the attention of appropriate authorities for appropriate court procedures.

IV. ADMINISTRATION

- A. There is a Navajo Nation Peacemaking Program within the Judicial Branch of the Navajo Nation, whose purpose is to provide technical assistance and policy development support to Diné Peacemakers (Hózhóhjí K'é Náhooleehłí) and to the Navajo courts. The objectives of this office are to work with and to assist peacemakers. The intent is to revitalize and promote traditional justice among the Diné.
- B. The Peacemaking Program is under sponsored by the Chief Justice of the Navajo Nation and consists of a program director, a clerk, and peacemaker liaison and such other positions as may from time to time be established. At the present time a peacemaker historian position is authorized at the Central Office. The District Courts presently have a peacemaker liaison and a clerk. The clerk and peacemaker liaison provide technical and administrative support, which includes:
1. Preparation of notices, correspondence, and where needed, drafting and typing the resolutions reached by the parties;
 2. Securing a location, necessary equipment, and site preparations so that peacemaking may be properly conducted;
 3. Gathering documentation and other information necessary for the peacemaker, including personal and family records, official records, etc.;
 4. Performing any other function as may be necessary to assist the peacemaker process; and
 5. With the approval of the Chief Justice of the Navajo Nation, develop forms, training materials, and manuals needed to implement the guidelines.
- C. It is preferred that entities and organizations create peacemaking programs within their organizations as a tool to deal with dispute resolution, provided that a memorandum of agreement or memorandum of understanding is in place with the Peacemaking Program. Peacemakers may form nonprofit corporations, associations and sole proprietorships to provide peacemaking services.
- D. These guidelines may be clarified or modified as follows:
1. Written modifications or amendments to the guidelines shall be in accordance with appropriate review procedures.
 2. The intent of the guidelines is to address peacemaking in general terms. Other documents may augment the guideline.

3. The Judicial District peacemakers organizations, the Peacemaking Program Office, the Chief Justice and other appropriate persons or entities may propose recommended changes as appropriate.

APPENDIX

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**PEACEMAKING PROGRAM OF THE NAVAJO NATION
JUDICIAL DISTRICT OF _____
PEACEMAKING REQUEST FORM**

REASON FOR THE REQUEST: _____

RELIEF DESIRED: _____

INTAKE DONE AT: DISTRICT COURT ()
 CHAPTER ()

TYPE: () WALK-IN
(check) () COURT REFERRAL
 () COURT TRANSFER
 () OTHER:

INITIATING PARTY: NAME AND MAILING ADDRESS:

CENSUS NUMBER: _____

RESIDENTIAL ADDRESS: _____

TELEPHONE: BUSINESS _____ HOME _____
 MESSAGE PHONE: _____

CHAPTER AFFILIATION: _____

CLANS: _____

RESPONDING PARTY: NAME AND MAILING
ADDRESS: _____

CENSUS NUMBER: _____

Page two-Peacemaking Request Form:

RESIDENTIAL ADDRESS: _____

TELEPHONE: BUSINESS _____ HOME _____

MESSAGE PHONE: _____

CHAPTER AFFILIATION:

CLANS: _____

OTHER INTERESTED PERSON OR PEOPLE:

NAME	ADDRESS	TELEPHONE NO.
_____	_____	_____
_____	_____	_____
_____	_____	_____

PEACEMAKING DOCKET NO. _____

(COURT DOCKET NO. _____)

PEACEMAKER APPOINTED BY: PARTIES ()
DISTRICT COURT ()

(Check all that apply)

- () FAMILY PROBLEM
- () COMMUNITY PROBLEM
- () CONSUMER PROBLEM
- () LIVESTOCK PROBLEM
- () OTHER:

PREFERRED PLACE SESSION TO BE HELD: _____

NOTIFICATION TO BE DONE BY: PARTIES ()
PEACEMAKING PROGRAM OFFICE ()

DATE OF REQUEST: _____ SIGNED: _____

**PEACEMAKING PROGRAM OF THE NAVAJO NATION
JUDICIAL DISTRICT OF _____
APPOINTMENT OF PEACEMAKER**

The Peacemaking Program (PMP) in accordance with the Peacemaker Guidelines appoints _____ to conduct a peacemaking session in PMP Docket Number: _____. The peacemaker has 10 working days to respond to the appointment.

Liaison

ACCEPTANCE OF PEACEMAKER TO CONDUCT SESSION

In the Matter of Peacemaking of:

PMP No.
(Court Docket No. _____)

I hereby accept the appointment to conduct a peacemaking session in this matter. I will use the Peacemaker Guidelines to conduct the session.

Signature of Peacemaker _____ Date: _____

**PEACEMAKING PROGRAM OF THE NAVAJO NATION
JUDICIAL DISTRICT OF _____
PEACEMAKER PERSONAL DATA SHEET:**

CHAPTER:

1. Name of Peacemaker:

Home address:

Mailing address:

Home telephone:

Work telephone:

Occupation:

Religion:

2. Name of Peacemaker:

Home address:

Mailing address:

Home telephone:

Work telephone:

Occupation:

Religion:

**PEACEMAKING PROGRAM OF THE NAVAJO NATION
JUDICIAL DISTRICT OF _____
LIST OF PEACEMAKERS**

Chapter:

1. Name:
Date certified by chapter _____
Address:
Physical address and telephone:

Mailing address and work telephone:

2. Name:
Date appointed by chapter _____
Address:
Physical address and telephone:

Mailing address and work telephone:

3. Name:
Date appointed by chapter _____
Address:
Physical address and telephone:

Mailing address and work telephone:

**PEACEMAKING PROGRAM OF THE NAVAJO NATION
JUDICIAL DISTRICT OF _____
NOTICE OF PEACEMAKING SESSION**

PEACEMAKING OF: _____ PMP Docket No. _____
(Court Docket No. _____)

PROBLEM(S): _____

RELIEF WANTED: _____

- INITIATING PARTY: (name and address)
- RESPONDING PARTY: (name and address)
- OTHER INTERESTED PERSON OR PEOPLE: (name and address)

ASSIGNED PEACEMAKER: _____ Chapter: _____

DATE AND TIME OF SESSION: _____

PLACE OF SESSION: _____

DELIVERY

I hereby affirm that the foregoing notice was:

- () hand-delivered to _____ by _____ on _____
(date)
- () mailed to _____ by _____ on _____
(date)

- () Postal Service
- () First Class
- () Return Receipt Requested

Signature

**PEACEMAKING PROGRAM OF THE NAVAJO NATION
JUDICIAL DISTRICT OF _____
PEACEMAKING SESSION
SIGN IN SHEET**

IN THE MATTER OF PEACEMAKING OF: _____

DATE: _____

PMP Docket no. _____
(Court Docket no. _____)

NAME / CENSUS NO.	MAILING ADDRESS	TELEPHONE # WORK/HOME
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

PEACEMAKING PROGRAM OF THE NAVAJO NATION
JUDICIAL DISTRICT OF _____
PEACEMAKING AGREEMENT FORM
Walk-In

In the Matter of Peacemaking of:
Peacemaker _____

Court Docket no. _____
PMP Docket no. _____

We the undersigned parties agree to the following:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

We the undersigned agree to the foregoing. (signature and date)

- | | |
|----------|-----------|
| 1. _____ | 8. _____ |
| 2. _____ | 9. _____ |
| 3. _____ | 10. _____ |
| 4. _____ | 11. _____ |
| 5. _____ | 12. _____ |
| 6. _____ | 13. _____ |
| 7. _____ | 14. _____ |

/s/ _____ Peacemaker

Date: _____

/s/ _____ Liaison

Date: _____

**PEACEMAKING PROGRAM OF THE NAVAJO NATION
JUDICIAL DISTRICT OF _____
PEACEMAKING AGREEMENT FORM
Court Referral**

In the Matter of Peacemaking of: _____ PMP Docket no. _____
(Court's Docket: _____)

Peacemaker _____

Facts:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

We the undersigned parties agree to the following:

- 1.
- 2.
- 3.
- 4.
- 5.

Signature and date signed:

- | | |
|----------|-----------|
| 1. _____ | 8. _____ |
| 2. _____ | 9. _____ |
| 3. _____ | 10. _____ |
| 4. _____ | 11. _____ |
| 5. _____ | 12. _____ |
| 6. _____ | 13. _____ |
| 7. _____ | 14. _____ |

Court Referral-Peacemaking Agreement- Page two:

Peacemaker's recommendations to the court:

1.

2.

3.

4.

_____ Peacemaker

Date: _____

_____ Liaison

Date: _____

**PEACEMAKING PROGRAM OF THE NAVAJO NATION
JUDICIAL DISTRICT OF _____
APPLICATION TO THE _____ COURT FOR RECOGNITION OF A
PEACEMAKING AGREEMENT**

In the Matter of Peacemaking of:

Court Docket No. _____
(PMP Docket No. _____)

Peacemaker _____

Application is hereby made for a court order recognizing the attached peacemaking agreement (Exhibit A). The agreement was consensual and the parties request that it be made an order of the court.

Dated this ___ day of _____, 200_.

Applicant Name of Peacemaker or Peacemaker Liaison filing application.
Address

AFFIDAVIT

“I (or we) have read the foregoing application for recognition of a peacemaking agreement it has been read and interpreted to me (or us). I (we) understand the meaning of the application and I (we) am (are) in agreement that the Court should enter an order or judgment giving legal effect to the peacemaking agreement attached to this application. By signing my name below, I inform the court that I have no objections to the entry of judgment and I waive my right to be present at the time the court considers the application for entry of judgment.”

Signature and date signed:

- | | | |
|----------|-----------|-----------|
| 1. _____ | 7. _____ | 13. _____ |
| 2. _____ | 8. _____ | 14. _____ |
| 3. _____ | 9. _____ | 15. _____ |
| 4. _____ | 10. _____ | 16. _____ |
| 5. _____ | 11. _____ | 17. _____ |
| 6. _____ | 12. _____ | 18. _____ |

**PEACEMAKING PROGRAM OF THE NAVAJO NATION
JUDICIAL DISTRICT OF _____
RECEIPT OF PAYMENT TO PEACEMAKER**

In the Matter of Peacemaking of: _____ PMP Docket No. _____
(Court Docket No. _____)

PEACEMAKER _____
ADDRESS _____

I, _____, ACKNOWLEDGE THAT I HAVE RECEIVED A
PAYMENT OF _____ MONEY ORDER NO. _____ FOR THE
SERVICES OF CONDUCTING A PEACEMAKING SESSION IN THE MATTER
REFERRED ABOVE.

SIGNED _____ DATE _____

WITNESS _____

**PEACEMAKING PROGRAM OF THE NAVAJO NATION
JUDICIAL DISTRICT OF _____
REPORT TO COURT BY PEACEMAKER**

In the Matter of Peacemaking of: _____ PMP Docket no. _____
(Court's Docket no. _____)

Peacemaker _____

I, _____, Peacemaker, submit the following report to the court:

Facts:

- 1.
- 2.
- 3.

The parties agreed to the following. Attached is the peacemaking agreement.

- 1.
- 2.
- 3.

My recommendations are as follows:

- 1.
- 2.

_____ Peacemaker

Date: _____

DEFINITIONS

Hózhóhji K'é Náhooleehlii

A person who helps restore harmony using positive techniques

Hózhó Náhoodleel

To become good or position again

Hózhóhji nahat'á

Good or positive way planning

K'é Bee ifni dá'anish

Working together through kinship or good relationships

Hane'

Diné Journey Narrative or story

CLAUDEEN BATES ARTHUR
Chief Justice of the Navajo Nation

JUDICIAL BRANCH OF THE NAVAJO NATION

LORENE FERGUSON
Associate Justice



Supreme Court

P.O. Box 520 • Window Rock, Navajo Nation, (AZ) 86515

Associate Justice

CHIEF JUSTICE OF THE NAVAJO NATION

ADMINISTRATIVE ORDER 50-2004

PEACEMAKING GUIDELINES

There is now established the Peacemaking Guidelines for the conduct of peacemaking. These guidelines supersede the former Peacemaker Court Manual.

IT IS HEREBY ORDERED that, pursuant to my authority as the administrator of the Judicial Branch of the Navajo Nation pursuant to 7 N.N.C. §371 (2003), I approve the Peacemaking Guidelines and direct their immediate implementation.

Dated this 20th day of September, 2004.


CHIEF JUSTICE OF THE NAVAJO NATION



