

TITLE 2 CHAPTER 5

PEACEMAKING CODE

ARTICLE 1. TITLE & PURPOSE

This Code shall be known as the Habematolel Pomo of Upper Lake (HPUL) Peacemaking Code, which is established to govern the jurisdiction of the HPUL Peacemaking Court. The purpose of the Peacemaking Court is to maintain peace and harmony and to promote wellness by protecting the health, safety, and welfare of the HPUL citizens and community. The goal of these guidelines is to provide support, structure, and protocol through culturally appropriate methods of resolving disputes that come within the jurisdiction of the Tribal Court. Oral tradition and this Code will be used to resolve conflicts emphasizing reconciliation, healing, and restoring harmony within the HPUL community. See Article IV of the HPUL Constitution and HPUL Title 2. Judicial, Chapter 1. Judicial Code.

ARTICLE 2. ESTABLISHMENT

The HPUL Peacemaking Court shall be established as an arm of the HPUL Tribal Court system and shall operate according to this Code as well as the Judicial Code. The Chief Judge, in collaboration with the Peacemaker/Associate Judge, shall have oversight authority over the HPUL Peacemaking Court once the case is referred to the Peacemaking Court. The Peacemaker/Associate Judge shall oversee and manage the activities and cases of the HPUL Peacemaking Court. A Peacemaker/Associate Judge may not make final decisions in cases but may make recommendations for settlement and resolution to the Chief Judge for consideration in their final decision.

ARTICLE 3. GUIDING PRINCIPLES AND CORE VALUES

The following is a list of core values that will guide HPUL peacemaking:

- a. **Respect:** Respect involves recognizing and appreciating the value in all of our relatives. It highlights their good qualities, achievements, or contributions and includes treating others as you would like to be treated, with kindness, courtesy, patience, and understanding.
- b. **Honesty:** Honesty encompasses being truthful, sincere, and straightforward in one's words and actions in a compassionate way. It is associated with integrity, trustworthiness, and fair dealing. Honesty is highly valued in our Tribe and is essential in establishing and sustaining strong relationships and maintaining a positive community environment.
- c. **Courage:** Courage is built on spiritual and moral strength to face all situations with integrity and refusing to compromise your core values and principles. Courage

reflects the ability to respectfully stand up to adversity and to remain true to the teachings and wisdom of our ancestors.

- d. Trust: Trust is a fundamental building block of healthy relationships, allowing for vulnerability and open communication. It necessitates a belief in the reliability and integrity of others. Trust creates space for feeling safe and secure, knowing that all involved will follow through on their commitments with openness and honesty, and will act to protect the common good.
- e. Empathy: Empathy is the ability to understand and share the feelings of others. It involves emotionally connecting with someone, validating their experience, and viewing situations from different perspectives with deep understanding, openness, and sensitivity.
- f. Inclusivity: Inclusivity is being aware of all voices and perspectives, and making everyone feel valued, welcomed, and heard. It is about creating equal space that highlights the importance of understanding and respecting the dignity, uniqueness, and contributions of all individuals, communities, and worldviews.
- g. Love: Love is a choice, an action, and a way of connecting to others in the spirit of patience, kindness, humility, and forgiveness. It focuses on respect, mutual understanding, and commitment, trust, empathy, and growing together within the framework of a lasting, healthy relationship.

ARTICLE 4. JURISDICTION

The HPUL Peacemaking Court shall exercise jurisdiction over cases and controversies within the jurisdiction of the Tribe, in law and equity, that arise under its Constitution, the laws and customs of the Tribe, by virtue of the Tribe's inherent sovereignty, or by authority vested in Federal law (*See* Article II, Sections 1 and 2, and Article XII of HPUL Constitution).

- a. Peacemaking cases may be referred by the HPUL Tribal Court.
- b. The Peacemaking Court shall construe this Code liberally to exercise maximum jurisdiction consistent with applicable Tribal law and custom, state and federal law.

ARTICLE 5. DEFINITIONS

For purposes of this Chapter, the following terms shall have the meanings ascribed below:

- (A) “Dispute” shall mean any action, suit or proceeding between or among the parties arising in connection with any disagreement, controversy or claim.
- (B) “Chief Judge” shall mean principal presiding or senior judge of the HPUL tribal court.

- (C) “Conflict of Interest” shall mean ethical problems that may arise between parties with a pre-existing relationship.
- (D) “Juvenile Matter” shall mean any action, suit or proceeding that is based on a child up to age 18 years.
- (E) “Enrolled HPUL tribal member” shall mean a person who has been enrolled in the Tribe and whose name appears on the tribal member roll and who meets the written criteria for membership.
- (F) “Constitution” shall mean the Constitution of the Habematolel Pomo of Upper Lake.
- (G) “Clerk of the Peacemaking Court” shall mean an individual who provides administrative and clerical support for the HPUL Peacemaking Court program that focuses on resolving conflicts through peacemaking or other restorative justice practices, which includes:
- i. Maintaining a roster of people who were either approved by the Executive Council or elected by the General Membership as peacemaker.
 - ii. Maintaining the peacemaking docket.
 - iii. Filing the Consensus Agreement.
 - iv. Reserving the venue for the Peacemaking Circle.
 - v. Tracking cases referred to the Peacemaking Court pursuant to this Code.
 - vi. Other administrative duties, such as record keeping and supporting the Peacemaking process.
- (H) “Peacemaker” shall mean a person who has been elected by the Tribe or appointed by the Executive Council as an Associate Judge and who meets the qualifications for a Tribal member Judge-Peacemaker and who helps others resolve conflict by reaching a solution through traditional peacemaking practices.
- (I) “Peacemaking Court” shall mean an arm of the Tribal Court system that emphasizes healing and community restoration in conflict resolution, rather than punishment and adversarial legal processes. It involves participants, including those engaged in the conflict, along with community members, facilitators, and sometimes spiritual leaders, gathering in a circle to discuss the conflict, identify harms, and work towards mutual solutions. The goal is to restore relationships, address underlying issues, and find ways to heal both the individuals involved and

the community as a whole. One of the individuals involved in the case must be an enrolled Tribal Member for the Peacemaking Court to hear the matter.

- (J) “Consensus Agreement” shall mean the general agreement or accord among the participants involved in the dispute whereby everyone has considered and reasonably agreed to the resolution. It signifies that the decision is acceptable and workable for all parties involved.
- (K) “Petitioner” shall mean the one who is filing an action or a case before the Tribal Court.
- (L) “Respondent” shall mean the one against whom the action or case is being filed and who replies to the petition.

Article 6. PEACEMAKERS

- a. Election of the Peacemaker shall be in accordance with the HPUL Judicial Code, Section 5.7 and (E)(2) Associate Judge-Peacemaker and must meet the qualifications for an Associate Judge - Peacemaker and will:
 - i. Serve for a term of two (2) years.
 - ii. All peacemakers shall be eligible for re-election or reappointment at the end of each term of office.
- b. Appointment of a Peacemaker shall be made by the Executive Council to complete an unexpired term of a Peacemaker or to appoint a non-member if the issue of the case requires special subject matter expertise.
- c. Qualifications of the Peacemaker
 - i. Be of good moral character and integrity.
 - ii. Be an enrolled member of the Tribe, in good standing.
 - iii. Attained the minimum age of thirty (30) years at the time of appointment or election.
 - iv. Experience working in the tribal government and services functions as an employee, committee member, or elected official.
 - v. May not be a sitting member of the Executive Council.
 - vi. May not have been convicted by a court of the United States or of any state of the United States of a felony. A felony is defined by the laws of the jurisdiction where the presiding court resides.
 - vii. Be familiar with HPUL history, customs, language, values, and traditions.
 - viii. Be knowledgeable about HPUL Constitution and Tribal Codes.
 - ix. Proficient in written and oral communication.
 - x. Must submit to drug and alcohol testing in accordance with the Tribes policies for committee members.
- d. Limitation-the Peacemaker shall:

- i. Neither use force or coercion to resolve a disputed matter.
 - ii. Nor shall a peacemaker have authority to adjudicate a matter which the parties cannot resolve through a voluntary agreement.
 - iii. Not serve in the capacity of a Peacemaker, if there is a conflict of interest.
 - iv. Use non-judgmental methods to resolve problems through the Consensus Agreement.
 - v. Ensure that legal counsel is prohibited from participating in the peacemaking process except for review of the Consensus Agreement upon the discretion of the presiding peacemaker.
- e. Authorities:
- i. This Peacemaking Code shall be used as guidance for each dispute before the Peacemaking Court.
 - ii. The Code of Civil Procedure, the Code of Criminal Procedure and the Evidence Code of HPUL shall not apply to proceedings conducted by a Peacemaker.
 - iii. Attorneys for a party shall not have the right to participate in the peacemaking proceedings, except for review of the Consensus Agreement upon approval of the presiding Peacemaker.
- f. Role and Duties of the Peacemaker:
- i. Shall be an officer of the court and shall have judicial immunity.
 - ii. Shall not be subject to the HPUL Personnel Policies or Grievance procedures.
 - iii. Shall act as a facilitator/intermediary between parties to assist in resolving disputes in the spirit of restoration, harmony, healing, fairness and justice.
 - iv. The Peacemaker(s) shall coordinate with the Clerk of the Peacemaking Court to ensure that all cases are assigned to a designated Peacemaker in a timely manner.
 - v. To prepare reports on behalf of the Peacemaking Court.
 - vi. Take the Peacemaker Oath of office.
 - vii. No sitting Tribal judge, Executive Council member or Tribal Executive Officer shall be eligible to serve as a Peacemaker.
 - viii. Serve under the authority of the Tribal Constitution, Judicial and Peacemaker Code.
 - ix. Has the ability to work with Tribal members in the spirit of integrity, honesty and fairness.
 - x. Salary for the Peacemakers will be determined by the Executive Council or pursuant to the terms of a contract. The salary of a Peacemaker shall not be reduced during their term.

- g. Ethics and Conduct:
 - i. The Peacemaker shall not participate in a matter if a peacemaker has a personal, monetary, or property interest in the case; or
 - ii. If the peacemaker was a material witness to the matter; or
 - iii. If the peacemaker is a first degree or second degree relative, or by marriage.
 - iv. Peacemakers shall agree to be bound by the HPUL Title 2, Chapter 1 Judicial Code.
 - v. Peacemakers shall adhere to the National American Indian Court Judges Association Judicial Conduct and Code of Ethics, until their own Judicial Code of Ethics has been developed and approved.
- h. Oath of Office to be administered by the Chairperson of the Executive Council or his/her designee:
 - i. "I swear that I will support and defend the Constitution, laws, and regulations of the Habematolel Pomo of Upper Lake, and the Constitution of the United States, and that I will faithfully and diligently perform my duties as a Tribal Peacemaker to the utmost of my ability, with impartiality and without improper favor, to the end that justice and peace may be fully served."
- i. Removal of a Peacemaker:
 - i. The Executive Council may suspend, dismiss, or remove any Judge or Justice for the reasons outlined in the Article XII, Section 10 of the Constitution utilizing the procedures established therein.
 - ii. Failure of a Judge or Justice to remove themselves from cases in violation of Section 5 of the HPUL Judicial Code shall constitute grounds for suspension, dismissal, or removal from the Tribal Court System.
 - iii. The decision of the Executive Council shall be final.

ARTICLE 7. GENERAL PROVISIONS:

Procedure for Requesting Matter to be Heard by the Peacemaking Court:

- a. Any individual may ask for assistance or petition the HPUL Peacemaking Court by filing a written request with the Tribal Court. The matter must at least involve one member of the Tribe. *See* HPUL Judicial Code Section 5.2(B)(2). The request may be informal and handwritten, and it may be either on a form provided by the Tribal Court or any written request, which gives the Peacemaking Court the following information:
 - i. The name, address, phone number, email address of the person

- who requests the use of the HPUL Peacemaking Court;
 - ii. The name of the persons involved in the dispute (parties), and their mailing address, email address, and phone number;
 - iii. The reason the individual desires to use the HPUL Peacemaking Court and a short statement of the problem/issue involved;
 - iv. The names and addresses of each person involved in the case who should be contacted by the Peacemaker(s).
 - v. Information showing the status of each of the individuals involved as either Indian or non-Indian and tribal affiliation and membership, if any.
- b. Request for Transfer from another court
- i. Any party may request transfer of their case to the HPUL Peacemaking Court.
 - ii. Any party may by objection prevent transfer of their case to the HPUL Peacemaking Court.
 - iii. The consent of all parties must be obtained by the Tribal Court prior to transfer of a case to the HPUL Peacemaking Court. All Parties must voluntarily consent to the jurisdiction of the Peacemaking Court.
 - iv. Non-parties may neither request nor prevent transfers to the HPUL Peacemaking Court.
- c. Circle Participation.
- 1. Any person who is substantially impacted by the Peacemaking Circle and is not excluded by a provision of this subsection may participate in that circle, regardless of whether that person has a cognizable legal interest in the dispute.
 - 2. A professional with actual knowledge of the circle dispute or specialized knowledge concerning the type of circle dispute may participate in that circle, subject to the exceptions in this subsection.
 - 3. All circle participants must consent to the participation of all other participants in the circle. If any circle participant does not consent to another person's participation, the circle participant may withdraw from the circle. No person who withdraws from the circle may be bound by the Consensus Agreement.

Safety and Undue Influence Exception.

- A. Any circle participant may request removal of another circle participant based on a documented concern:
 - i. For the safety of that person or another circle participants; or
 - ii. That the person will unduly influence another circle participant.
- B. The Peacemaker has the sole discretion to approve or disapprove the removal request.

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- d. Preliminary-Peacemaking Circle:

- iii. Agree to disagree with respect.
- iv. Be tough on the issue and gentle on the person.
- v. Speak only with care and respect.
- vi. Only one person speaks at a time.
- vii. Use of a talking tool.
- viii. Silence, pauses, and passing are okay.
- ix. Listening is valued.
- x. Confidentiality.
- xi. Building consensus – Is a process where everyone’s voice is heard, resulting in shared understanding and agreement.

h. Consensus Agreement

- i. The Consensus Agreement culminates in a written agreement, signed by all the parties memorializing what the parties agreed to in the Peacemaking session.
- ii. The Consensus Agreement must be written within ten (10) days of the Peacemaking Circle or an extension may be granted upon permission of the Chief Tribal Judge.
- iii. Reconsideration. The parties of the case shall have five (5) days from the filing of the Consensus Agreement to submit a written request for Reconsideration. The timing for reconsideration begins after the filing of the Consensus Agreement.
- iv. The request for Reconsideration shall be made in writing to the presiding Peacemaker and shall state the matter that needs clarification or was inadvertently omitted in the Consensus Agreement.
- v. There is no right of appeal through the tribal appeals process as this is a voluntary consensus process.
- vi. Contempt of Consensus Agreement. If one of the parties violates the Consensus Agreement, there will be a contempt of court hearing scheduled to determine if the party is interfering or in non-compliance of the Consensus Agreement. The Peacemaker may use Article 8 of the HPUL Judicial Code for guidance in the contempt of court matter.
- vii. The Consensus Agreement must be submitted to the Chief Judge for recommendations for settlement and resolution for consideration in their final decision, if the case has been referred from the Tribal Court. Otherwise, the Consensus Agreement can be filed according to the standard court procedure.

- i. Forms and Rules – The Peacemaking Court may adopt additional forms and rules for the peacemaking process.
- j. Evidentiary Value.
 1. Statements made or documents offered as part of a Peacemaking Circle are not subject to discovery or admissible as evidence in any civil or criminal proceeding. This paragraph does not apply:
 - A. To statements or documents that are the subject of a report made under Section 9(B) of the HPUL Children and Families Code (Mandated Reporters).
 - B. If a circle participant reasonably believed that disclosure of a statement or document was necessary to prevent reasonably certain death, great bodily harm, or commission of a crime; or
 - C. If the statement or document constitutes evidence of professional misconduct by a circle participant acting in the capacity of their professional or occupational license.
 2. Evidence that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because it was discussed or used in a circle.

ARTICLE 8. USE OF TRIBAL CUSTOM AND TRADITIONAL LAW BY THE PEACEMAKER

- a. May use the HPUL language, core values, oral and written custom and traditional law.
- b. May include present day cultural teachings or tribal ways of dispute resolution and community problem solving.
- c. May advise or counsel individuals on the traditional tribal teachings or values relevant to the problem or conduct.
- d. May use any reasonable method to obtain the peaceful, cooperative and voluntary resolution of a dispute.
- e. May not use force, violence, or violations of rights secured to individuals by the Indian Civil Rights Act.
- f. May consult with tribal elders or community cultural members/advisors regarding tribal customs and traditions to further the resolution process.

ARTICLE 9. APPLICABILITY

Statements made by any party during the Peacemaking process shall not be admissible in any court proceedings.

ARTICLE 10. RECORDS AND RECORDINGS

Records must be kept confidential and securely locked.

ARTICLE 11. CONFIDENTIALITY

A Peacemaker has the responsibility to uphold confidentiality and should never discuss a case with outside parties. Nor shall confidential information acquired in the course of their official duties be used to further their personal interests.

ARTICLE 12. AMENDMENTS

This Code, or any section herein, may be amended by a majority vote of the Executive Council.

ARTICLE 13. SEVERABILITY

If any part of this Code is found void and without legal effect, the remainder of the Code shall continue to remain in full force and effect, as though such part had not been contained therein.

ARTICLE 14. SOVEREIGN IMMUNITY

Nothing in the provision of this Code constitutes consent by the HPUL Tribe or its sub-organizations to be sued in any court. Neither this Code nor any action (or inaction) taken by the HPUL Tribe or its sub-organizations pursuant to this Code represents a waiver of the Tribe's sovereign immunity for any purpose.

ARTICLE 15. EFFECTIVE DATE

This Code shall take effect on the date the Resolution is approved by the Executive Council.

CERTIFICATION

As a duly elected official of the Habematolel Pomo of Upper Lake, I do hereby certify that, at a meeting duly called, noticed, and convened on the 10th day of April, 2026, at which time a quorum of 7 was present, the HPUL Peacemaking Code was duly adopted by a vote of 6 FOR, 0 AGAINST, 1 ABSTAINED, and said Code has not been rescinded or amended in any form.



Danielle Cirelli
Executive Council Chairperson

4/10/2026
Date

ATTEST:



Iris Picton
Executive Council Secretary

4/10/26
Date