

JURORS

§1-1-26 Master List of Eligible Jurors and Selection of Jury Panel Pool

(a) Master List. The court ~~administrator clerk~~ shall be responsible for maintaining a master list of eligible jurors and updating it annually. This master list of eligible jurors shall include persons identified through tribal enrollment records, tribal employment records, county voting registration records, or other available public records.

(b) Eligibility. The following persons are eligible for jury service in the Nez Perce Tribal Court:

- (1) All-tribal members residing within the 1855 reservation boundaries who are eighteen (18) years or older; and
- (2) Any person age eighteen (18) years or older who is an employee of one of the Nez Perce Tribe's entities: Nez Perce Tribal Government, Nez Perce Law and Justice Department, Nimiipuu Health, Nez Perce Tribal Enterprises or Nez Perce Housing Authority; and;
- (3) Any person, Indian tribal or non-Indian living within the 1863 reservation boundaries who are eighteen (18) years or older.

(c) Annual Selection of Jury Pool. ~~In~~ On the second Tuesday of January of each- calendar year, the court ~~administrator clerk~~ shall randomly select at least ~~one hundred and fifty~~ fifty (1550) names from the master list of eligible jurors to create a jury pool. ~~and each potential juror shall be notified of his or her~~ their selection to the jury pool.

- (1) This annually selected list shall comprise the trial jury pool list for the ensuing calendar year from which jury panels shall be selected from time to time.
- (1)(2) Upon depletion of eligible jurors from a jury pool such that a jury panel cannot be drawn, the court administrator may create an additional jury pool, selected in the same manner as the initial annual selection of a jury pool.
- (3) The selection of a jury pool from the list of eligible jurors shall be by lot or some other means of random impartial selection, shall reflect

a fair cross section of the community, and shall not systemically exclude any distinctive group in the community.

(c) Selection of Jury Panel. For each matter before the court requiring a jury trial, the court administrator shall randomly select and summon no fewer than 18 persons from the jury pool to create a jury panel.

(1) Members of the jury pool who have already served as member of an empaneled jury within the same calendar year shall be exempt from being subsequently summoned for additional jury panels.

~~(1)(2)~~ The selection of the jury panel from the jury pool shall be by lot or some other means of random impartial selection, shall reflect a fair cross section of the community, and shall not systematically exclude any distinctive group in the community.

§1-1-27 Time and Manner of Notification

(a) Each person selected for the jury pool shall be notified by U.S. mail, personal service, or by electronic means reasonably probable to give actual notice to the individual of their selection to the jury pool. ~~Written notice will be sent out to all selected jury pool~~ This notice shall include information and instructions relating to their service on the jury pool.

(b) Those persons who are selected to serve on a jury panel shall be notified at a reasonable time prior to the trial date and the ~~notice jury summons~~ shall state the date, time, and place they are to report for jury duty. Written notice shall be made by U.S. mail, personal service, or by electronic means reasonably probable to give the individual actual notice of their selection to the jury panel. ~~mailed or delivered in person to the prospective juror in person and then~~

(c) Proof of Notification. The person providing notification to those selected for jury pools and jury panels shall provide proof of notification to be filed with the court. ~~Service filed.~~

(1) Proof of mailing, or proof of personal service shall be accomplished as required by the rules of civil procedure.

(2) Electronic service must be effected by transmitting copies of the notice or summons at the person's electronic address or the person's electronic account associated with email, text messaging, social media direct messaging applications, or other direct messaging technologies.

~~(1)(3)~~ Sworn proof of electronic service must be filed with the court by the person who effected service. Proof of electronic service must be supported by read-receipt mechanisms, a response, a sworn statement from the person who effected service verifying transmission and any follow-up communications such as email

or telephone contact used to further verify, or any other facts upon which the court finds, by a preponderance of the evidence, that the person received the electronic notice.

§1-1-28 Exempt from Jury Duty

- (a) The following persons are exempt from jury duty:
- (1) Nez Tribal Executive Committee (NPTEC) Members - tribal members who are actively sitting as NPTEC members shall be exempt from jury service.
 - (2) Members of police departments, to include police officers, jail staff, and civil officers.
 - (3) Employees of the Court, Public Defender's Office, and Prosecutor's Office.
 - (4) Persons who have served on an empaneled jury within the same calendar year.

§1-1-28§1-1-29 Excusing; ~~Excusing or~~ Postponing Jury Duty; Eligible Volunteers

(Amended by NPTEC 7/8/14)

- (a) ~~The following persons are exempt from jury duty:~~
- (1) ~~Nez Tribal Executive Committee (NPTEC) Members - tribal members who are actively sitting as NPTEC members shall be exempt from jury service.~~
 - (2) ~~Members of police departments.~~

~~(b)~~(a) In addition, the judge may excuse the prospective jurors as described below:

- (1) A person who is sixty-five (65) years of age or older excused if the person indicates that ~~he or she~~they wishes to be excused. This excusal shall be permanent.
- (2) Anyone who is incapable, by reason of mental or physical infirmity, of rendering satisfactory jury service.

(b) The judge may determine that the person requesting to be excused, may instead have their jury service postponed.

(c) Volunteers. Should the court find that an insufficient number of prospective jurors appear, or challenges for cause or preemptory challenges leave the court with an insufficient number of jurors, the court may call for volunteers who meet eligibility to appear for jury service.

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As Amended through Resolution NP 24-__ (_____, 2024)

~~(3)~~(1) Should a person volunteer and be selected to serve, their jury service shall be counted as complete for that calendar year.

List of Eligible Jurors [1-1-29] (NOTE: moved to/combined with 1-1-26)

~~(e)(d)~~ The court clerk shall be responsible for developing a list of eligible jurors annually.

~~(d)~~ The jury list shall be drawn from the names of all tribal members residing within the 1855 reservation boundaries who are eighteen (18) years or older and any tribal employee eighteen (18) years or older.

~~— The following persons are exempt from jury duty:~~

~~Nez Tribal Executive Committee (NPTEC) Members—tribal members who are actively sitting as NPTEC members shall be exempt from jury service.~~

~~— Members of police departments.~~

~~(e)~~ _____

~~§1-1-29~~§1-1-30 Compensation of Jurors

Each juror who is called and reports for jury duty or who serves on a jury ~~may~~shall be entitled to receive such fees for daily service and/or mileage if any, as established by court rule, at the Court's discretion and based on funding availability.

~~§1-1-30~~§1-1-31 Number of Jurors

(a) A jury shall consist of six (6) persons seated ~~by the judge selected~~ from the summoned jury ~~list~~panel. The court may allow one or two additional jurors to be chosen as alternate jurors. In the event an alternate juror is chosen, ~~he~~they shall be treated as a regular juror in all respects unless dismissed by direction of the court prior to the jury's deliberation.

(b) When the jury has been seated, the jurors' oath shall be administered by the ~~Court~~judge.

~~§1-1-31~~§1-1-32 Verdict of Jury

~~(a)~~ Criminal. The verdict of the jury must be unanimous in a criminal case.

~~(b)~~ Civil. The verdict of the jury may be rendered by a majority vote of four (4) jurors in a civil case but must be unanimous in a criminal case.

~~— Criminal. The verdict of the jury must be unanimous in a criminal case.~~

~~(a)(c)~~ **Mistrial.** In the event the jury shall be unable to agree upon a verdict within a reasonable period of time and shall declare to the Court that they are hopelessly deadlocked, the Court shall declare a mistrial and discharge the jury. In the event a mistrial is declared and the jury discharged, the case shall be set for a new trial before a different jury as soon as practicable unless the prosecution should move the Court for dismissal of the case, and such motion is granted by the Court.

~~§1-1-32~~ **§1-1-33 Alternate Jurors' Responsibilities**

~~The Court may order the jury to view the premises where the offense or other material facts occurred. The Court may order the discharge of a juror who becomes sick or is otherwise unable to perform his their duty and substitute an alternate juror.~~ In the absence of an alternate and the failure of the parties to stipulate to continue the trial with five (5) or less jurors, the jury shall be discharged, and a new jury shall be formed to hear the case.

~~§1-1-33~~ **§1-1-34 Examination of Jurors**

(a) **Preliminary Examination by Court.** Prior to voir dire examination by ~~the attorneys of the parties or their attorneys,~~ the court may conduct a preliminary examination of all prospective jurors. Following examination of the jury by the court, if any, the plaintiff and defense, in that order, shall have the opportunity to ask questions of the prospective jurors to determine if there is any reason why a particular candidate for the jury should not be seated as a juror.

(b) **Challenge For Cause.** Either party may challenge any prospective juror for cause based upon bias or inability to sit as a fair and impartial juror. The court shall make all final determinations of law and fact on any challenges for cause. The number of challenges for cause by either party is unlimited.

(c) A person is unable to sit as a fair and impartial juror ~~under this section~~ if ~~he~~they:

- (1) ~~Do not meet the eligibility requirements for jury service is not a tribal member residing on or near the Nez Perce Reservation or an employee of the Tribe, and eighteen (18) years of age; or~~
- (2) ~~Is~~Are incapable, by reason of physical or mental disability of rendering satisfactory jury service;
- (3) ~~Is~~Are unable to read, speak, and understand the English language; and
- (4) ~~Has~~Have lost ~~his~~their right to vote because of a criminal conviction in a court of competent jurisdiction.

(d) A person is biased under this section if ~~he~~they have ~~has~~a state of mind in reference to the case, or to either of the parties which in the exercise of a sound discretion on the part of the court, leads to the inference that ~~they~~ will not act with entire impartiality.

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As Amended through Resolution NP 24-__ (_____, 2024)

(e) Preemptory Challenges. When both sides have completed their voir dire questioning of the prospective jurors and alternates, each side shall exercise its preemptory challenges.

(1) Each party shall have up to four (4) preemptory challenges with which they may disqualify any prospective juror and need not state any reason for so doing.

(1)(2) The parties shall alternate on their use of preemptory challenges, with the plaintiff being first to exercise a preemptory challenge.

§1-1-34§1-1-35 Oath to Trial Jury

After the six (6) members of the jury, and ~~the any applicable~~ alternate(s), ~~if applicable,~~ have been selected and seated, the court shall administer an oath by which the jury swears or affirms that ~~it they will~~ give careful attention to the proceedings, act fairly and impartially in the trial, abide by the court's instructions, and render a verdict in accordance with the law and evidence presented to them. it they will hear.