

TRIBAL PROBATE CODE MATRIX

The following tribal probate codes matrix is provided for informational purposes only. While we do our best to keep this information up-to-date, newer or revised versions may exist. The majority of the codes below govern only non-trust property and assets. Two codes have been approved by the Secretary of the Interior under the American Indian Probate Reform Act of 2004 (AIPRA); these are Lummi Nation and Oglala Sioux Tribe. An AIPRA approved code allows the tribal probate code to replace provisions of AIPRA in the federal probate process. (see 25 U.S.C. § 2205) If you have additional information on tribal probate codes that you would like shared on our website, please contact Lupe Ceballos at 206-398-4284 or email at ceballosl@seattleu.edu

Tribe	Trust Property	Non Trust Property Tribal Court Authority and Provisions	Rules for Intestate Succession	Date of Code	Website Link to Tribal Code
Blackfeet	NO	<ul style="list-style-type: none"> ○ Probate Estate ○ Determine Heirs ○ Validate Will ○ Disburse estate 	NO	1999	http://www.tribalresourcecenter.org/ccfolder/bkftcode3domestic.htm
Confederated Salish & Kootenai	NO	<ul style="list-style-type: none"> ○ Probate Estate ○ Determine Heirs ○ Validate Will in accordance with State of Montana Laws ○ Initiate Probate proceedings ○ Appoint Administrator ○ Notify Creditors 	NO	4/15/2003	http://www.cskt.org/documents/laws-codified.pdf
Fort McDowell Yavapai Community	NO	<ul style="list-style-type: none"> ○ Probate Estate ○ Determine Heirs in accordance with State of Arizona Laws ○ Validate Will ○ Appoint Administrator and issue permit to sell property to cover estate admin costs ○ Disburse Estate 	NO	1990 Amended 2000	http://doc.narf.org/nill/Codes/ftmcode/ftmcodech9probate.htm
Oglala Sioux Tribe	YES Approved AIPRA Code	<ul style="list-style-type: none"> ○ Probate Estate ○ Determine Heirs ○ Validate Will ○ Appoint Administrator and issue permit to sell property to cover estate admin costs ○ Disburse estate 	YES	2006	http://doc.narf.org/nill/Codes/oglalacode/chapter07-heirship.htm

Tribe	Trust Property	Non Trust Property Tribal Court Authority and Provisions	Rules for Intestate Succession	Date of Code	Website Link to Tribal Code
Mashantucket Pequot	Yes Unknown if application made for approval under AIPRA	<ul style="list-style-type: none"> ○ Probate court rules and jurisdictional provisions ○ Fiduciary provisions ○ Trust Provisions for trusts, charitable trusts, Gift to Minors Act ○ Uniform Disposition of Community Property Rights at Death Act ○ Rule against Perpetuities ○ Gift and Tax provisions ○ Settlement of small estates without probate ○ Validate Will ○ Appoint Administrator/Executor ○ Detailed Rules for Intestate success ○ Provisions for child and spousal support before estate settlement ○ Partition and Sale at Probate ○ Provisions for Notice and Settlement of Creditors and claims against estate ○ Simultaneous Death & Murder provisions ○ Escheat provisions (void after AIPRA comes into effect) 	YES Descent and Distribution guidelines within several Code Provisions	2005	http://doc.narf.org/nill/Codes/mpcode/masht24.htm
Chitimacha	Yes Unknown if application made for approval under AIPRA	Extensive probate code with provisions similar to Stockbridge-Munsee Tribal Probate Code above	YES	April 15, 2003	http://www.tribalresourcecenter.org/cfolder/chitimcodet6family.htm See Chapter 6
White Mountain Apache	NO	<ul style="list-style-type: none"> ○ Determine Heirs ○ Guardianship provisions ○ Validate Will ○ Rules of Intestate Succession by adoption of State of Arizona Laws ○ Appointment of Trustee (administrator) of Estate ○ Summary distribution of small estates ○ Distribution of property by Superintendent 	Yes. Descent and Distribution Code Provisions via State of Arizona law	2000	http://thorpe.ou.edu/codes/wmtnapac/he/Probate.html

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Eastern Band of Cherokee Indians	NO	<ul style="list-style-type: none"> o Inheritance laws of North Carolina Adopted o First Generation Heirs Rule for rights and limitations to Cherokee Trust Lands 	Yes. Descent and Distribution Code Provisions via State of North Carolina law	2006	http://doc.narf.org/nill/Codes/ebcicod e/index.htm
Poarch Band of Creek	NO	<ul style="list-style-type: none"> o Probate o Validate Wills o Determine Heirs o Administration of Estate Provisions 	Yes Descent and Distribution Code Provisions, See Sec. 16-1-2 to 4	2004	http://doc.narf.org/nill/Codes/poarchc ode/poarchcode16states.htm
Swinomish Tribe	NO	<ul style="list-style-type: none"> o Probate o Validate Wills o Determine Heirs 	Yes. Descent and Distribution Code Provisions via State of Washington law	2004	http://doc.narf.org/nill/Codes/swinom ishcode/title09probate.htm
Yankton Sioux	NO	<ul style="list-style-type: none"> o Appoint administrators/Executors o Determine heirs o Validate wills o Written and holographic Will requirements, rules of construction, Anti-lapse provisions o Probate and Distribution of Estates o Default to State of South Dakota laws when probate code silent o Fraud & Evasion provisions o Revocation, Revival, Incorporation by Reference, & Ademption by satisfaction o Right to elected share, pretermitted children, omitted spouse o Family and Homestead allowances 	Yes. Descent and Distribution Code Provisions via State of South Dakota law	1995	http://doc.narf.org/nill/Codes/yankto ncode/yanktoncodet8probate.htm

Additional examples of Tribal Probate codes are available online at:

Native American Rights Fund <http://www.narf.org/nill/triballaw/onlinedocs.htm>

Tribal Court Resource Clearinghouse <http://www.tribal-institute.org/lists/probate.htm>

Tribal Resource Center at <http://www.tribalresourcecenter.org/tribalcourts/codes/default.asp>

Additional Source for Drafting Ideas

The Uniform Probate Code (“UPC”) (originally promulgated 1969; Article II substantially revised 1990)