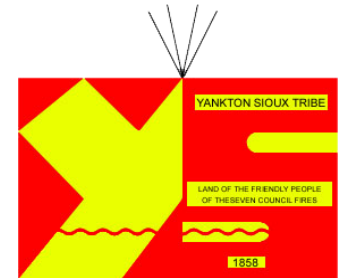


Ihanktuwan Dakotah Oyate



*A Reference Manual to
Constitutional Reform*



Nation Building II

Nation: Ihanktuwan Dakota (Yankton Sioux)

Topic: Constitutional Reform

Client:

Vince Two-Eagles
Director, Constitution Revision Committee
Ihanktuwan Dakota Oyate

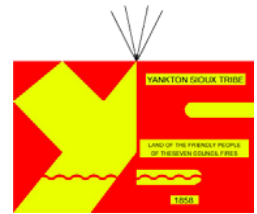
Consultants:

Jessie M. Mosqueda
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John F. Kennedy School of Government, Harvard University

C. Falan Yinug
Candidate for Master in Public Policy
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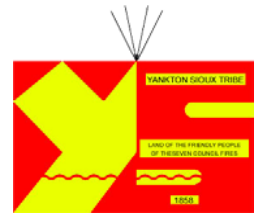
Presentation Outline



- Tribal Profile
- Purpose of this Project
- Final Product: Constitution Manual
- Aims of the Manual
- Manual Outline
- Three Examples from the Manual



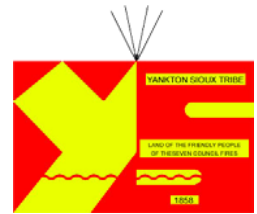
Tribal Profile: *Ihanktuwan Dakota Oyate*



- The Yankton Reservation Territory:
 - Once covered more than 400,000 acres
 - Current trust acreage is 36,561
- Tribal Enrollment:
 - 7,178 members
 - 4,500 reside on the Reservation
- Governing Body:
 - Tribal Business and Claims Committee
- Three Largest Employers:
 - Fort Randall Casino-Hotel
 - Marty Indian School
 - Tribal Office



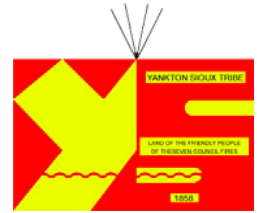
Purpose of this Project



- *To help Ihanktuwan Dakota reform their constitution by:*
 - *Promotion of community participation*
 - *Exposure to other tribal constitutions*
 - *Expression of their cultural values in contemporary form*



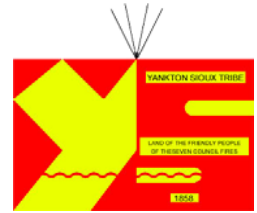
Final Product: Constitution Manual



- A Simple Easy-to-Use Guide
- Description Specifics:
 - Approximately 20 constitutional provisions
 - Two pages per provision



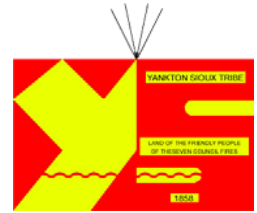
Manual aims to be:



- Comprehensive
- Concrete
- Easy to Read
- Functional
- Culturally Appropriate



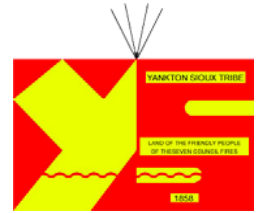
Manual Outline: Provisions



- PREAMBLE
- TERRITORY AND JURISDICTION
- MEMBERSHIP
- ORGANIZATION OF THE GOVERNMENT
 - EXECUTIVE
 - GENERAL COUNCIL/
LEGISLATURE
 - JUDICIARY
- ELECTIONS
- REMOVAL, RECALL AND VACANCIES
- BILL OF RIGHTS
- REFERENDUM AND INITIATIVE
- STATUTES AND RESOLUTIONS
- SOVEREIGN IMMUNITY
- AMENDMENTS
- SEVERABILITY
- ADOPTION OF CONSTITUTION



Examples from the Manual



- Preamble
- Bill of Rights
- Removal of BIA Language



Preamble

PURPOSE: A preamble is an introduction to a law or constitution that describes its purpose.

EXAMPLES

Nez Perce Tribe

We, the members of the Nez Perce Tribe, in order to exercise our tribal rights and promote our common welfare, do hereby establish this Constitution and Bylaws.

Chickasaw Nation

We, the people of the Chickasaw Nation, acknowledging with gratitude the grace and beneficence of God, in permitting us to make choice of our own form of government, do, in accordance with the first, second, fourth and seventh articles of the Treaty between the United States, the Choctaws and Chickasaws, made and concluded at Washington City, June 22, A.D. 1855, and the Treaty of April 28, A.D. 1866, ordain, and establish this Constitution for our government, within the following limits, to-wit:

Beginning on the north bank of Red River, at the mouth of Island Bayou, where it empties into Red River, about twenty-six miles on a straight line below the mouth of False Washita, thence running a northwesterly course along the main channel of said bayou to the junction of the three prongs of said bayou nearest the dividing ridge between Washita and Low Blue Rivers, as laid down on Captain R.L. Hunter's map; thence northerly along the eastern prong of said Island Bayou to its source; thence due north to the Canadian River; thence west along the main Canadian to the ninety-eighth degree of west longitude; thence south to Red River and thence down Red River to the beginning;

Provided; however, if a line running due north from the eastern source of Island Bayou to the main Canadian, shall not include Allen's or Wapanucka Academy within the Chickasaw District, then an off-set shall be made from said line, so as to leave said academy two miles within the Chickasaw District, north, west and south from the lines of boundary.

White Mountain Apache Tribe

We, the people of the White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona, in order to form a more representative organization, to exercise the duties and responsibilities of a representative tribal government, to conserve and develop our tribal lands and resources for ourselves and our children, to provide a higher standard of living, better home life and better homes within the reservation, to extend to our people the right to form business and other organizations, do adopt this constitution as a guide to our self-government.

KEY CONCEPTS OF PROVISION

- Establish who you are
- Define your purpose or key goals

POINTS TO CONSIDER

- Balance tradition with current demands

Bill of Rights

PURPOSE: A Bill of Rights is any bill that lays out the rights of individuals in relation to the government.

EXAMPLES

Blackfeet Tribe

Section 1. Suffrage - Any member of the Blackfeet Tribe, eighteen (18) years of age or over, shall be eligible to vote at any election when he or she presents himself or herself at a polling place within his or her voting district.

Section 2. Economic Rights - All members of the tribe shall be accorded equal opportunities to participate in the economic resources and activities of the reservation.

Section 3. Civil Liberties - All members of the tribe may enjoy without hindrance freedom of worship, conscience, speech, press, assembly, and association.

Section 4. Rights of Accused - Any member of the Blackfeet Tribe accused of any offense shall have the right to a bond, open and public hearing, with due notice of the offense charged, and shall be permitted to summon witnesses on his own behalf....

Cherokee Nation

Section 1. The judicial process of the Cherokee Nation shall be open to every member of the Cherokee Nation. Speedy and certain remedy shall be afforded under the terms of this Constitution for every wrong and injury to person, property or reputation wherein said remedy does not conflict with the laws of the United States. The Council shall prescribe the procedures pertinent thereto. The appropriate protections guaranteed by the Indian Civil Rights Act of 1968 shall apply to all members of the Cherokee Nation.

Choctaw Nation

Section 1. Nothing in this Constitution shall be interpreted in a way which would diminish the rights and privileges that tribal members have as citizens of this Nation, the State of Oklahoma, the United States of America or under any Act of the Congress of the United States.

Sec. 2. No religious test shall ever be required as a qualification to any office of public trust in this Nation.

Sec. 3. The right that every member has to speak, write or publish his opinions on matters relating to the Choctaw Nation shall never be abridged.

Sec. 4. The members shall have the right, in a peaceable manner, to assemble together for their common good, and to apply to those vested with powers of government for redress of grievances or other purposes by address or remonstrance.

Sec. 5. The individually vested property rights of members of the Choctaw Nation of Oklahoma shall not be affected in anyway whatsoever by the provisions of this Constitution or any enactment of the Tribal Council.

KEY CONCEPTS OF PROVISION

- Incorporate cultural values

POINTS TO CONSIDER

- Personal liberty
- Protection against arbitrary search or entry
- Freedom of assembly and association
- Freedom of expression
- Protection against discrimination

Removal of BIA Language

PURPOSE: Removal of federal intervention provisions.

BIA LANGAUGE IN CONSTITUTION

ARTICLE V. Officers

Section 4 - Compensation shall not be paid to any Committee member, Chairman, Vice Chairman, Secretary, Treasurer, or any member of the Tribe without the approval of the Tribe and the **Secretary of the Interior**.

ARTICLE XI. Amendments

Section 4 - All or any part of this Constitution is subject to amendment repeal or ratification subject to the approval of the **Secretary of the Interior**.

ARTICLE XII. Law and Order

Section 1 - To promulgate and enforce ordinances governing the conduct of members of the Yankton Sioux Tribe and providing for the maintenance of law and order and the administration of justice by the establishment of a reservation court and defining its duties and powers subject to the approval of the **Secretary of the Interior** or his authorized representative.

ARTICLE II. Election

Section 1 - The first election of Committee members under this Constitution shall take place thirty (30) days after its approval by the Tribe and the **Secretary of the Interior**. Thereafter elections shall be held every two years on the first Thursday in September. Voting shall be by secret ballot cast at a polling place to be designed by an election board to be appointed by the Committee. The said election board shall have power to certify the election of any candidate elected in accordance with Tribal membership rights.

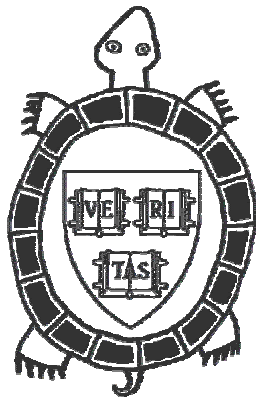
BENEFITS OF REMOVAL

- Strengthen tribal sovereignty
- Decrease dependency on Federal Government

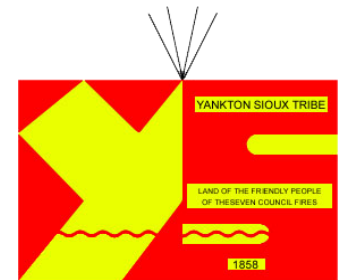
POINTS TO CONSIDER

- The tribe voted to accept the terms of the Indian Reorganization Act but never organized under the act
- Process of removal includes
 - Referendum approval
 - Federal lobbying

Ihanktuwan Dakotah Oyate



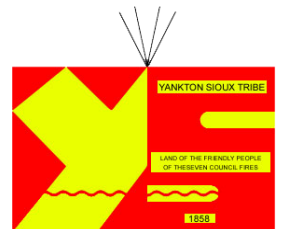
*A Reference Manual to
Constitutional Reform*



REMOVAL OF BIA LANGUAGE



IHANKTUWAN DAKOTAH OYATE



Removal of BIA Language

IHANKTUWAN DAKOTAH OYATE

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Vince Two-Eagles
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The 1999 Constitution of the Cherokee Nation

A review and comparison between
the 1976 and 1999 Constitutions of the
Cherokee Nation in preparation for the
Ratification Vote

on
July 26, 2003

IMPORTANT INFORMATION
FOR
CITIZENS OF THE CHEROKEE NATION

CONSTITUTION CONVENTION COMMISSION REPORT TO THE CHEROKEE PEOPLE REGARDING UPCOMING VOTES ON THE CONSTITUTION

This publication is to inform the voters of the Cherokee Nation that there will be two ballot questions concerning the constitution in the upcoming elections. It is important to distinguish between the two and clarify the purpose of each.

BRIEF HISTORY

Article XV, Section 9 of the 1976 Constitution of the Cherokee Nation, *requires* that the question of a constitution convention be submitted to the Cherokee People at least once every twenty (20) years. In the general election of 1995 the voters overwhelmingly approved the call for a constitutional convention.

Legislative Act 98-23 created the Constitution Convention Commission whose mission was to design a process through which a constitution convention could be held. Each branch of government appointed two Commissioners and they selected the seventh. Once organized, the Commission sought the opinions and suggestions of Citizens throughout the Cherokee Nation and across the United States. Based on input from the public hearings, the Commission moved forward to create a Constitution Convention that brought 79 delegates together in Tahlequah to take up the task of examining the Constitution.

The Commission established a process for selection of Delegates to the Convention. One set was composed of Cherokee Citizens appointed by the three branches of Government; another group represented Citizens who gave testimony at the public hearings; the Commission then drew by "lot" from Cherokee Citizens who expressed, in writing, an interest in serving as a Delegate to the Convention; and, the seven Commissioners created the balance of the total Delegate count of 79.

The Convention was convened on February 26, 1999 and was in session for 9 days. On March 6, 1999 the delegation adopted a new Constitution. Since then, the Constitution Convention Commission has been working to define a strategy to get the new Constitution to a vote of the Cherokee people. The greatest obstacle to that process is contained in Article XV, Section 10 of the 1976 Constitution that requires that "*no amendment or new Constitution shall become effective without the approval of the President of the United States or his authorized representative*".

The new Constitution was submitted to the Bureau of Indian Affairs for review. After months of waiting, the BIA responded with numerous comments, some of which were "suggestions", and others were "mandatory" changes. In May 2000 the Council passed a resolution requesting that the Commission seek approval from the Assistant Secretary of the Interior to authorize a referendum vote on a single amendment to the 1976 Constitution.

After almost two years of communication and negotiation, in April of 2002, an agreement was reached with the BIA to allow the Cherokee Nation to amend the 1976 Constitution, by referendum vote, to *remove Presidential approval authority*, thus eliminating the need for further negotiation on the new Constitution.

In January of 2003, the Tribal Council set the dates for these important constitutional votes.

Therefore, there will be two separate votes in the upcoming elections. The first is a referendum vote to amend the 1976 Constitution to eliminate Presidential approval authorities for amendments or a new constitution. The second is an approval vote on the new Constitution written by the 1999 Constitution Convention.

Contact information:

**CHEROKEE NATION
CONSTITUTION CONVENTION COMMISSION**
P.O. Box 1931
Tahlequah, OK 74465
www.cherokee.org (*go to Government and then to Constitution Convention*)
e-mail: ccc.cherokee.org
(918) 456-0671 x2570

You will be asked to vote on two important Constitutional questions.

1. **General Election Ballot May 24, 2003: Removal of Federal Control:** You will be asked whether or not to amend the 1976 Constitution to *remove* Article XV, Sections 10, federal control over the Cherokee Constitution.

If the Cherokee Citizens vote “yes” to remove federal control over the Cherokee Constitution on May 24, 2003, then the 1999 Constitution will be placed on the Run-Off Election Ballot of July 26, 2003 for ratification. The May 24th question must be passed before the New Constitution can be considered on the July ballot.

2. **Run-Off Ballot - Ratification of the 1999 Constitution:** On July 26, 2003 you will be asked to consider ratification of the 1999 Constitution. If ratified, the 1999 Constitution will become the law of Cherokee Nation.

The ballot will be similar to the ones printed below:

VOTE NUMBER ONE:

General Election - May 24, 2003:

REFERENDUM ON CONSTITUTIONAL AMENDMENT OF THE 1976 CONSTITUTION

Article XV, Section 10 of the Cherokee Nation Constitution, adopted by the Cherokee People on June 26, 1976 states: “No amendment or new Constitution shall become effective without the approval of the President of the United States or his authorized representative.”

SHALL ARTICLE XV, SECTION 10 OF THE CHEROKEE NATION CONSTITUTION BE STRICKEN TO ABOLISH THE REQUIREMENT OF FEDERAL APPROVAL OF THE AMENDMENTS OR NEW CONSTITUTIONS OF THE CHEROKEE NATION?

YES TO REMOVE THE FEDERAL APPROVAL REQUIREMENT.

NO TO RETAIN THE FEDERAL APPROVAL REQUIREMENT.

VOTE NUMBER TWO:

Run-Off Election July 26, 2003:

RATIFICATION OF THE 1999 CONSTITUTION

SHALL THE NEW CONSTITUTION ADOPTED BY THE 1999 CHEROKEE NATION CONSTITUTIONAL CONVENTION OVERRULE, SUPERCEDE, AND REPEAL THE 1976 CHEROKEE CONSTITUTION WHICH IS THE CURRENT LAW OF THE LAND?

YES TO RATIFY THE 1999 CONSTITUTION

NO TO RETAIN THE 1976 CONSTITUTION

1976 Constitution

PREAMBLE

We, the people of the Cherokee Nation, in order to preserve and enrich our tribal culture, achieve and maintain a desirable measure of prosperity the blessings of freedom, acknowledging, with humility and gratitude, the goodness of the Sovereign Ruler of the Universe in permitting us so to do, and imploring his aid and guidance in its accomplishment do ordain and establish this Constitution for the government of the Cherokee Nation. The term "Nation" as used in this Constitution is the same as "Tribe."

Article I. Federal Regulations

The Cherokee Nation is an inseparable part of the Federal Union. The Constitution of the United States is the Supreme law of the land; therefore, the Cherokee Nation shall never enact any law which is in conflict with any Federal law.

Article II. Bill of Rights

Section 1. The judicial process of the Cherokee Nation shall be open to every member of the Cherokee Nation. Speedy and certain remedy shall be afforded under the terms of this Constitution for every wrong and injury to person, property or reputation wherein said remedy does not conflict with the laws of the United States. The Council shall prescribe the procedures pertinent thereto. The appropriate protections guaranteed by the Indian Civil Rights Act of 1968 shall apply to all members of the Cherokee Nation.

Article III. Membership

Section 1. All members of the Cherokee Nation must be citizens as proven by reference to the Dawes Commission Rolls, including the Delaware Cherokees of Article II of the Delaware Agreement dated the 8th day of May, 1867, and the Shawnee Cherokees as of Article III of the Shawnee Agreement dated the 9th day of June, 1869, and/or their descendants.

Section 2. There shall be established a Cherokee Register, to be kept by the Registrar, for the inclusion of any Cherokee for membership purposes in the Cherokee Nation who presents the necessary evidence of eligibility for registration.

(a) A Registration Committee shall be established. It shall be the duty of the Registration Committee to consider the qualifications and to determine the eligibility of those applying to have their names entered in the Cherokee Register. The Registration Committee shall consist of a Registrar and two (2) assistants. All members shall be appointed by the Principal Chief, and confirmed by the Council.

(b) There shall be a number assigned to every name which is approved and entered into the Cherokee Register. This number shall be preceded by the three words, "Cherokee Registry Number."

(c) The decisions of the Registration Committee shall be subject to review by the Tribunal created by Article VII.

Section 3. Registration as used in this article refers to the process of enrolling as a member of the Cherokee Nation and is not the same as the registration for voting purposes.

Article IV. Distribution of Powers

The powers of the government of the Cherokee Nation shall be divided into three (3) separate departments: Legislative, Executive and Judicial; and except as provided in this Constitution,

1999 Constitution

Adopted by the Delegates of the 1999 Cherokee Nation Constitution Convention on March 6, 1999.
Edited and finalized by the Convention Style Committee on July 30, 1999.

PREAMBLE

We, the People of the Cherokee Nation, in order to preserve our sovereignty, enrich our culture, achieve and maintain a desirable measure of prosperity and the blessings of freedom, acknowledging with humility and gratitude the goodness, aid and guidance of the Sovereign Ruler of the Universe in permitting us to do so, do ordain and establish this Constitution for the government of the Cherokee Nation.

Article I. Federal Relationship

The Cherokee Nation reaffirms its sovereignty and mutually beneficial relationship with the United States of America.

Article II. Territorial Jurisdiction

The boundaries of the Cherokee Nation territory shall be those described by the patents of 1838 and 1846 diminished only by the Treaty of July 19, 1866, and the Act of March 3, 1893.

Article III. Bill of Rights

The People of the Cherokee Nation shall have and do affirm the following rights:

Section 1. The judicial process of the Cherokee Nation shall be open to every person and entity within the jurisdiction of the Cherokee Nation. Speedy and certain remedy, and equal protection, shall be afforded under the laws of the Cherokee Nation.

Section 2. In all criminal proceedings, the accused shall have the right to: counsel; confront all adverse witnesses; have compulsory process for obtaining witnesses in favor of the accused; and, to a speedy public trial by an impartial jury. The accused shall have the privilege against self-incrimination; and the Cherokee Nation shall not twice try or punish an accused for the same offense. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Section 3. The right of trial by jury shall remain inviolate, and the Cherokee Nation shall not deprive any person of life, liberty or property without due process of law, nor shall private property be taken for public use without just compensation.

Section 4. The Council shall make no law prohibiting the free exercise of religion or abridging the freedom of speech, or the press, or the right of the People to peaceably assemble, or to petition the Nation for a redress of grievances.

Article IV. Citizenship

Section 1. All citizens of the Cherokee Nation must be original enrollees or descendants of original enrollees listed on the Dawes Commission Rolls, including the Delaware Cherokees of Article II of the Delaware Agreement dated the 8th day of May, 1867, and the Shawnee Cherokees of Article III of the Shawnee Agreement dated the 9th day of June, 1869, and/or their descendants.

The Cherokee Nation recognizes the basic rights retained by all distinct People and groups affiliated with the Cherokee Nation, retained from time immemorial, to remain a separate and distinct People. Nothing in this Constitution shall be construed to prohibit

PREAMBLE

No substantive changes, just stylistic changes.

ARTICLE I - RELATIONSHIP

Replaces subjection clause with a statement of sovereignty and affirmation of relationship with the United States.

ARTICLE II - TERRITORIAL JURISDICTION

New Article that establishes jurisdictional boundaries.

ARTICLE III - BILL OF RIGHTS

This is Article II in the 1976 Constitution.

This Article established an enumerated Bill of Rights based upon the Indian Civil Rights Act and the 5th and 14th Amendments of the United States Constitution.

ARTICLE IV - CITIZENSHIP

(This is Article III of the 1976 Const. which was titled Membership)

This Article changes terminology from membership to citizens and clarified that citizens must be original enrollees or descendants of original enrollees.

Further acknowledges inherent rights of Shawnee Cherokee and Delaware Cherokee.

1976 Constitution

the Legislative, Executive and Judicial departments of government shall be separate and distinct and neither shall exercise the powers properly belonging to either of the others.

Article V. Legislative

Section 1. The legislature shall consist of one legislative body to be called the Council of the Cherokee Nation. The initial election of members to the Council pursuant to this Constitution shall occur within 120 days from the date of its ratification on a day to be announced by the Principal Chief.

Section 2. The Council shall establish its rules for its credentials, decorum, and procedure.

Section 3. The Council shall consist of 15 members, who are members by blood of the Cherokee Nation of Oklahoma, and shall be elected at large. The term of office of each Council member serving on the first Council shall run until the first Saturday in August of 1979 and until his successor is duly elected and installed. Thereafter, the term of office of each Council member shall be for four (4) years and until his successor is duly elected and installed.

Section 4. There shall be at least one regular session of the Council in the calendar year which shall convene on the second Monday in each January or at such other date as the Council shall determine. No business shall be conducted by the Council unless at least two-thirds (2/3) of members thereof regularly elected and qualified shall be in attendance, which number shall constitute a quorum. The session may not exceed a maximum of thirty (30) calendar days for pay purposes.

Section 5. Special meetings of the Council may be called: (A) by the Principal Chief, (B) by the Deputy Principal Chief when he has the full powers of the Principal Chief as elsewhere defined, (C) upon written request of fifty-one percent (51%) of the members of the Council, or (D) upon the written request of ten percent (10%) of the registered voters of the Cherokee Nation. The purposes of said meeting shall be stated in a notice published not less than ten (10) days prior to the meeting, and the Council may not consider any other subject not within such purposes. No special meetings may convene until thirty (30) days have elapsed after the adjournment of a prior session or meeting, unless called pursuant to (A) and (B) above.

Section 6. All meetings of the Council and of its committees shall be open to the public except: (A) When the discussion shall concern employment, retention or discharge of personnel; (B) When the question or the moral turpitude of any member of the Tribe is discussed; or (C) When the decorum of the audience shall prejudice orderly administration of business. In the event that consideration of a subject shall take place in Executive Session, the vote shall take place in an open meeting.

Section 7. The Council shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation, which shall not be contrary to the provisions of this Constitution. Laws or enactments which are required by Federal statutes to be approved shall be transmitted immediately upon enactment as provided by Section 11 of this Article to the President of the United States or his authorized representative. The style of all bills shall be: "Be It Enacted By The Cherokee Nation". The style of all resolutions shall be "Be It Resolved By The Cherokee Nation".

ARTICLE V - DISTRIBUTION OF POWERS

(This is Article IV of the
1976 Const.)

There are no major
changes to this Article.

ARTICLE VI - LEGISLATIVE

(This is Article V of the
1976 Const.)

This Article creates the
Office of Speaker that
will chair Council
meetings and be 3rd in
line of succession to the
head of government.

Further this Article
creates two (2) additional
Council members which
shall be elected at-large
by those voters residing
outside of the territorial
boundaries;

Also this Article provides
term limits and sets
staggered terms of
Council;

Also, this Article
establishes a process for
voters residing outside
the boundaries of the
Cherokee Nation to
register;

Also, provides for a
Delegate to Congress as
established in previous
treaties;

Also, provides a process
to replace vacated seats
to the Council;

Expands power of
removal to include
appointed officials.

1999 Constitution

the Cherokee-Shawnee or Delaware-Cherokee from pursuing their inherent right to govern themselves, provided that it does not diminish the boundaries or jurisdiction of the Cherokee Nation or conflict with Cherokee law.

Section 2. There shall be established a Cherokee Register, to be kept by the Registrar, for the inclusion of any Cherokee for citizenship purposes in the Cherokee Nation who presents the necessary evidence of eligibility for registration. The Council may empower the Registrar to keep and maintain other vital records.

(a) A Registration Committee shall be established. It shall be the duty of the Registration Committee to consider the qualifications and to determine the eligibility of those applying to have their names entered in the Cherokee Register. The Registration Committee shall consist of a Registrar and two (2) assistants. All members shall be appointed by the Principal Chief and confirmed by the Council.

(b) There shall be a number assigned to every name, which is approved and entered into the Cherokee Register. This number shall be preceded by the three words, "Cherokee Registry Number."

(c) The decisions of the Registration Committee shall be subject to de novo review by the lower courts created by Article VIII.

Section 3. Registration as used in this Article refers to the process of enrolling as a citizen of the Cherokee Nation and is not the same as registration for voting purposes.

Article V. Distribution of Powers

The powers of the government of the Cherokee Nation shall be divided into three (3) separate branches: Legislative, Executive and Judicial; and except as provided in this Constitution, the Legislative, Executive and Judicial branches of government shall be separate and distinct and no branch shall exercise the powers properly belonging to either of the others.

Article VI. Legislative

Section 1. The legislature shall consist of one legislative body to be called the Council of the Cherokee Nation.

Section 2. The Council shall establish rules for its credentials, decorum, and procedure, and shall elect a Speaker and a Deputy Speaker from its own membership to officiate over Council meetings. The Speaker may vote in all matters before the Council. The Speaker shall be third in line of succession to serve as Acting Principal Chief in case of removal, death, resignation or disability of both the Principal Chief and Deputy Principal Chief until the disability be removed or a successor shall be elected.

Section 3. The Council shall consist of seventeen (17) members, who are citizens by blood of the Cherokee Nation. Any citizen by blood of the Cherokee Nation at least twenty-five (25) years of age on that date of the election may be a candidate for the Council. Each Council member shall be elected in the general election for a term of four (4) years and until his or her successor is duly elected and installed. All Council members shall be limited to two (2) consecutive elected terms on the Council. All Council members having served two consecutive terms must sit out one (1) term before seeking any seat on the Council.

The Council shall establish representative districts which shall be within the boundaries of the Cherokee Nation. Fifteen of these seats shall be apportioned to afford a reasonably equal division of citizenship among the districts, and the remaining two shall be elected at-large by those registered voters residing outside the boundaries of the Cherokee Nation voting at-large in accordance with this section.

1976 Constitution

Section 8. No laws passed by the Council shall have retroactive effect or operation.

Section 9. The Council shall have the power of removal and said removal must be conducted in accordance with Article XI of this Constitution. Nothing herein is intended to abrogate or limit the authority of the President of the United States or any person or agency to which the President or Congress of the United States shall delegate authority therefore, to remove the Principal Chief or his subordinates.

Section 10. Members of the Council and all Executive Officers shall be bound by oath, provided in Article XIII, to support the Constitution of the Cherokee Nation, the Constitution of the United States of America, do everything within the individual's power to promote the culture, heritage and traditions of the Cherokee Nation and to perform the duties of their respective offices with fidelity.

Section 11. Every enactment which shall have been approved by a majority of the members in attendance at the Council shall, before it becomes effective be presented to the Principal Chief, if he approves, he shall sign it; if not, he shall return it with his objections to the Council, which shall enter the objections in the Journal and proceed to reconsider it. If, after such reconsideration, two-thirds (2/3) of the entire council shall agree to pass the enactment, it shall become fully effective and operational notwithstanding the objections of veto of the principal chief. In all such cases, the vote of the Council shall be determined by yeas and nays, and the names of the members voting shall be entered on the Council's Journal. If any enactment shall not be returned by the Principal Chief within five (5) days (Sundays and holidays excepted) after it shall have been presented to him, the same shall be law in like manner as if he had signed it, unless the Council shall, by its adjournment, prevent its return, in which case, it shall become a law without the approval of the Principal Chief. No enactment shall become law after the final adjournment of the Council, unless approved by the Principal Chief within fifteen (15) days after such adjournment.

Article VI. Executive

Section 1. The executive power shall be vested in a Principal Chief, who shall be styled "The Principal Chief of the Cherokee Nation". The Principal Chief shall hold his office for the term of four (4) years; and shall be elected by the qualified voters on the same day and in the same manner, except as otherwise provided by this Constitution, as they shall respectively vote for members of the Council for that particular year, provided, the Principal Chief in office when this Constitution is ratified shall continue in office until his successor is duly elected in the 1979 election and installed.

The returns of the election for the Principal Chief shall be sealed and directed by the lawfully appointed election officials to the Secretary-Treasurer, who shall, immediately after the organization of the Council, and before proceeding to other business, open and publish the same in the presence of a majority of the Council. The person having the highest number of votes shall be the Principal Chief; but if two (2) or more shall be equal and highest in votes, one of them shall be chosen by a vote of the Council. The manner of determining contested elections shall be as directed by Cherokee law.

Section 2. The Principal Chief of the Cherokee Nation shall be a citizen of the Cherokee Nation of Oklahoma in accordance with Article III. He shall have been born within boundaries of the United States of America, its territories or

1999 Constitution

The Council members representing districts within the boundaries must be domiciled within their district. The Council shall, within sixty (60) days of this Constitution taking effect, select the two at-large Council members to serve until the next regularly scheduled election.

All registered voters residing outside the boundaries of the Cherokee Nation, may, at the time of the first election to fill at-large Council seats, choose to continue to be registered to vote in the district in which they were previously registered. In the absence of making that choice, they shall be registered to vote at-large. Notwithstanding the above, citizens under the age of twenty-five (25) who reside outside the boundaries and who have not previously registered to vote, may make a single choice to register to vote in the district of their choice at the time of their first registration, failing which their registration shall be to vote at-large. All citizens age twenty-five (25) or older residing outside the boundaries not registered to vote at the time of the first election to fill at-large Council seats may only register to vote at-large. Citizens residing outside the boundaries who relocate within a district shall be subject to the requirements to vote in that district. Those residing within the boundaries must vote within the district of their residence.

The Council shall, within one year of this Constitution taking effect, establish a system of staggered terms for all seats on the Council to be organized into elections every two years.

Section 4. There shall be at least one regular session of the Council in the calendar year which shall convene on the second Monday in each January or at such other date as the Council shall determine. No business shall be conducted by the Council unless at least two-thirds (2/3) of members thereof regularly qualified shall be in attendance, which number shall constitute a quorum. The session may not exceed a maximum of thirty (30) calendar days for pay purposes.

Section 5. Special meetings of the Council may be called: (A) by the Principal Chief, (B) by the Deputy Principal Chief when he or she has the full powers of the Principal Chief as elsewhere defined, (C) upon written request of fifty-one percent (51%) of the members of the Council, or (D) upon the written request of ten percent (10%) of the number of registered voters who voted in the last general election of the Cherokee Nation. The purposes of said meeting shall be stated in a notice published not less than ten (10) days prior to the meeting, and the Council may not consider any other subject not within such purposes. No meetings may convene until thirty (30) days have elapsed after the adjournment of a prior session or meeting, unless called pursuant to Section 7 of Article VII.

Section 6. All meetings of the Council and of its committees shall be open to the public except: (A) when the discussion shall concern employment, retention or discharge of personnel; (B) when the question of the moral turpitude of any citizen is discussed; and (C) when the decorum of the audience shall prejudice orderly administration of business. In the event that consideration of a subject shall take place in executive session, the vote shall take place in an open meeting.

Section 7. The Council shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation, which shall not be contrary to the provisions of this Constitution. The style of all bills shall be: "Be It Enacted By The Cherokee Nation". The style of all resolutions shall be "Be It Resolved By The Cherokee Nation".

Section 8. No laws passed by the Council shall have retroactive effect or operation.

1976 Constitution

possessions; and he shall have obtained the age of thirty (30) years at the time of his election and be a member by blood of the Cherokee Nation of Oklahoma.

Section 3. The qualified electors shall elect a Deputy Principal Chief, who shall possess the same qualifications as the Principal Chief, for a term of four (4) years at the same time and in the same manner as herein provided for the election of the Principal Chief, provided, that the initial election of the Deputy Principal Chief shall take place in conjunction with the first Council election pursuant to this Constitution and in accordance with Section 1 of this Article.

Section 4. In case of the absence of the Principal Chief from office due to his death, resignation, removal or inability to discharge the powers and duties of the said office, the same shall devolve upon the Deputy Principal Chief for the remaining portion of the four (4) year term to which the Principal Chief has been elected. In case of disability, such powers shall continue during the term of such disability. Vacancies in the office of the Deputy Principal Chief shall be filled by the Council.

Section 5. The Council may, in the case of removal, death, resignation or disability of both the Principal Chief and the Deputy Principal Chief, provide by law what officer shall then act as Principal Chief until the disability be removed or a successor shall be elected.

Section 6. The Principal Chief and Deputy Principal Chief shall, at stated times, receive for their service a compensation not inconsistent with Article X.

Section 7. Before the Principal Chief assumes his office, he shall take the oath or affirmation as provided for in Article XIII.

Section 8. The Principal Chief may on extraordinary occasions convene the Council at the seat of government pursuant to Article V, Section 5, and such notice and other laws as may be prescribed by the Council. The purpose of said meetings must be stated and the Council may consider only such matters as are specified in the call of the extraordinary meetings. Before the extraordinary meetings may be legally sufficient to conduct business, a quorum of the Council must be present.

Section 9. At every session of the Council, and immediately upon its organization, the Principal Chief shall communicate by message, delivered to the Council upon the condition of the Cherokee Nation; and shall recommend such matters to the Council as he shall judge expedient.

Section 10. The Principal Chief shall cause the laws of the Cherokee Nation to be faithfully executed, and shall conduct in person and in such manner as shall be prescribed by law, all communications and business of the Cherokee Nation. The Principal Chief may cause to be formed and operated, trusts, the beneficiary of which shall be the Cherokee Nation and these trusts shall be granted such powers as provided by law for public trusts. Authorization for these trusts, however, must be approved by a majority vote of the Council.

Section 11. The Deputy Principal Chief shall, by virtue of his office, aid and advise the Principal Chief in the administration of the government and shall be President of the Council but shall vote only for the purpose of breaking a tie vote.

Section 12. Nothing in this Constitution shall be con-

1999 Constitution

Section 9. The Council shall have the power to remove elected and appointed officials in the Cherokee Nation and said removal must be conducted in accordance with Article XI of this Constitution.

Section 10. Every enactment which shall have been approved by a majority of the members in attendance at the Council shall, before it becomes effective be presented to the Principal Chief, who may approve the enactment by signing it; if not, the Principal Chief shall return it with objections to the Council, which shall enter the objections in the Journal and proceed to reconsider it. If, after such reconsideration, two-thirds (2/3) of the entire council shall agree to pass the enactment, it shall become fully effective and operational notwithstanding the objections of veto of the Principal Chief. In all such cases, the vote of the Council shall be determined by yeas and nays, and the names of the members voting shall be entered on the Council's Journal. If any enactment shall not be returned by the Principal Chief within five (5) days (Sundays and holidays excepted) after it shall have been presented, the same shall be law in like manner as if approved by the Principal Chief.

Section 11. The Council shall establish a continuing system of permanent publication for all laws of the Cherokee Nation and judicial opinions of the highest appellate court. The system shall provide for regular updating, indexing and digesting and shall be of public record at all times. The text of all laws, resolutions, judicial opinions and orders, except otherwise protected by law, and all other governmental publications, except those by Nation-owned entities, shall be in the public domain and free from encumbrances against use by the Citizens. This shall not constrain the Nation from copyrighting other aspects of governmental publications, except that citizens shall always have license for personal use of the copyrighted work without notice or fee.

Section 12. In accordance with Article 12 of the Treaty with the Cherokees, dated November 28, 1785 (Treaty of Hopewell), and Article 7 of the Treaty with the Cherokees dated December 29, 1835 (Treaty of New Echota), there shall be created the office of Delegate to the United States House of Representatives, appointed by the Principal Chief and confirmed by the Council. The Delegate shall be a citizen of the Nation and upon recognition by the United States shall be seated in accordance with federal law. The Delegate shall endeavor to participate in congressional activities and shall at all times advocate the best interests of the Cherokee People. The Delegate shall make regular reports to the Council and Principal Chief on congressional activities and administrative matters relating to federal law and policy and shall produce an annual report to the Cherokee People.

Section 13. In the case of removal, death, resignation or disability of any of Council member, such seat shall be filled by the candidate having the next highest number of votes in that district, who is available and willing to serve and whose eligibility is confirmed by the Election Commission. In the event no such candidate exists, the Council shall fill the vacated seat in the following manner: If a majority of the four-year term remains to be served, the Council shall authorize a special election in the district of the vacated seat to be conducted within ninety days; if a minority of the four-year term remains to be served, the Council shall elect a replacement who would otherwise be qualified to serve from the district of the vacated seat.

Section 14. Members of the Council and all Executive Officers shall be bound by oath, provided in Article XIII, to support the Constitutions of the Cherokee Nation and the United States of America, do everything within the individual's power to promote the culture, heritage and traditions of the Cherokee Nation and to perform the duties of their respective offices.

1976 Constitution

strued as preventing the Principal Chief from appointing such administrative assistants as he deems proper.

Article VII. Judicial

There is hereby created a Judicial Appeals Tribunal composed of three (3) members all of whom must be admitted to practice law before the highest Court of the State of which they are residents, and all of whom shall be members of the Cherokee Nation, appointed by the Principal Chief and approved by the Council for such terms as the Council may provide. The purpose of this Tribunal shall be to hear and resolve any disagreements arising under any provisions of this Constitution or any enactment of the Council. The Council shall provide for a procedure which shall insure that any litigant receives due process of law together with prompt ad speedy relief, and shall generally follow that portion of the Oklahoma Statutes known as the Administrative Procedures Act, Title 75, Oklahoma Statutes, 301 et seq. The decision of the Judicial Appeal Tribunal shall be final insofar as the judicial process of the Cherokee Nation is concerned.

Article VIII. Cabinet

There shall be a cabinet composed of the following persons who shall be members of the Cherokee Nation:

- Secretary-Treasurer
- Secretary of Health, Education and Welfare
- Secretary of Commerce and Industrial Development
- General Counsel
- Secretary of Communications

These persons shall be appointed by the Principal Chief and approved by the Council. The Council, on recommendation of the Chief only, may create additional cabinet positions and departments. The Chief shall prescribe the duties and responsibilities of cabinet members. Cabinet members shall be authorized to appoint such staff and other assistants as they deem necessary. The Council may, with recommendation of the Principal Chief, abolish any established cabinet position or function or revise the title or responsibilities of any foregoing department or function.

Article IX. Election

Section 1. The Council shall enact an appropriate law not inconsistent with the provisions of this Constitution that will govern the conduct of all elections, provided that the initial election of the Council and Deputy Principal Chief shall be conducted pursuant to rules and regulation promulgated by the Principal Chief and the provision set forth in Articles V and VI of this Constitution, notwithstanding, the Principal Chief or Council may adopt rules requiring a majority vote for any elective office.

Section 2. Any member by blood of the Cherokee Nation at least twenty-five (25) years of age on that date of the election may be a candidate for the Council. No person who shall have been convicted of or has pled guilty or has pled no defense to a felony charge under the laws of United States of America, or of any State, Territory, or Possession thereof, shall be eligible to hold any office or appointment of honor, profit or trust within this Nation unless such person has received a pardon. Any person who holds any office of honor, profit or trust in any other tribe of Indians, either elective or appointive shall be ineligible to hold simultaneously any office of honor, profit or trust of the Cherokee Nation unless approved by the Council.

Section 3. All elections shall be determined by secret balloting.

ARTICLE VII - EXECUTIVE

(This is Article VI of the 1976 Const.)

This Article established a residuary requirement in order to qualify to run for the office of Principal Chief & Deputy Chief.

Further the Article set term limits for the office of Principal and Deputy Chief.

Also this Article removes the Deputy Chief from being president of the Council.

Also this Article reduced the number of cabinet posts.

This Article creates the office of Attorney General.

This Article creates the office of Marshall.

1999 Constitution

Article VII. Executive

Section 1. The executive power shall be vested in a Principal Chief, who shall be styled "The Principal Chief of the Cherokee Nation". The Principal Chief shall hold office for a term of four (4) years. No person having been elected to the office of Principal Chief in two (2) consecutive elections shall be eligible to file for the office of Principal Chief in the election next following his or her second term of office. The Principal Chief shall be elected by the registered voters on the same day and in the same manner, except as otherwise provided by this Constitution, as they shall respectively vote for members of the Council in the year 2003 and every four years thereafter. The Principal Chief shall be elected by a majority of votes. The manner of determining contested elections shall be as directed by Cherokee law.

Section 2. The Principal Chief of the Cherokee Nation shall be a citizen of the Cherokee Nation in accordance with Article IV; shall be domiciled within the boundaries of the Cherokee Nation for no less than 270 days immediately preceding the day of general election in which he or she seeks election; and, shall have obtained the age of thirty (30) years at the time of his or her election and be a citizen by blood of the Cherokee Nation.

Section 3. The registered voters shall elect a Deputy Principal Chief, who shall possess the same qualifications as the Principal Chief, for a term of four (4) years at the same time and in the same manner as herein provided for the election of the Principal Chief. The Deputy Chief shall be subject to the same term limitations as provided for the Principal Chief in this Constitution.

Section 4. In case of the absence of the Principal Chief from office due to death, resignation, removal or inability to discharge the powers and duties of the office, the same shall devolve upon the Deputy Principal Chief for the remaining portion of the four (4) year term to which the Principal Chief had been elected. In case of disability, such powers shall continue during the term of such disability.

In the event of the death, resignation, or removal of the Deputy Principal Chief, or his or her inability to discharge the powers and duties of the office, the person who is then the Speaker of the Council shall succeed to the office of the Deputy Principal Chief for the balance of the term. In the case of temporary disability, said person shall serve as Acting Deputy Principal Chief for the duration of the disability and thereafter shall reassume the office of Speaker.

Section 5. The Council may, in the case of removal, death, resignation or disability of the Principal Chief, Deputy Principal Chief and the Speaker of the Council, provide by law what officer shall then act as Principal Chief until the disability be removed or a successor shall be elected.

Section 6. The Principal Chief and Deputy Principal Chief shall, at stated times, receive for their service a compensation not inconsistent with Article X.

Section 7. The Principal Chief may, on extraordinary occasions, convene the Council at the seat of government pursuant to Article VI, Section 5, and such notice and other laws as may be prescribed by the Council. The purposes of said meetings must be stated and the Council may consider only such matters as are specified in the call of the extraordinary meetings. Before the extraordinary meetings may be legally sufficient to conduct business, a quorum of the Council must be present.

Section 8. At one session of the Council annually, the Principal Chief shall deliver and communicate to the Council a

1976 Constitution

Article X. Fiscal

Section 1. The fiscal year shall commence on the first day of July in each year, unless otherwise provided by law.

Section 2. The Council shall provide by law for annual expenditure of funds, and the source from which funds are to be derived to defray the estimated expenses of the Executive, Council, Cabinet and Departments of Government of the Cherokee Nation for each fiscal year. The budget shall not exceed estimated revenues.

Section 3. At least thirty (30) days prior to the convening of each regular session of the Council, the Secretary-Treasurer shall make and present to the Council an itemized estimate of revenue to be received by the Cherokee Nation, together with a statement of the sources from which revenues are to be received, under the laws, grants, judgments, interests, and any other sources in effect at the time such estimate is made for the next ensuing fiscal year. The Secretary-Treasurer shall prepare annual financial statements reflecting the results of operations of all tribal activities and shall prepare a consolidated balance sheet in conformity with generally accepted accounting principles within sixty (60) days after the end of the fiscal year.

Section 4. The Council shall require that the records be maintained of all funds, monies, accounts and indebtedness and all other accounts bearing upon the fiscal interests of the Cherokee Nation by the use of a uniform system of accounting which records and financial statements shall be audited by a Certified Public Accountant or as otherwise may be prescribed by the Council prior to the submission of said accounts to the Council.

Section 5. The Secretary-Treasurer shall be authorized to accept all grants, donations of money, interest of funds of the Cherokee Nation, judgments and any and all other sources of monies available to the Cherokee Nation, for uses and purposes and upon the conditions and limitations for which the same are granted or donated; and the faith of the Cherokee Nation is hereby pledged to preserve such grants and donations as a sacred trust, and to keep the same for the use and purposes for which they were granted or donated.

Section 6. The Council shall have the authority to invest funds or money of the Cherokee Nation and the preference to be given to the security for such investments, the manner of selecting the securities, prescribing the rules, regulations, restrictions and conditions upon which the funds shall be loaned or invested, provided that no investment shall be in mortgages other than first mortgages only, and do all things necessary for the safety of the funds and permanence of the investments. If required by law, such investments would be subject to the approval of the Secretary of the Interior.

Section 7. The credit of the Cherokee Nation shall not be given, pledged, or loaned to any individual, firm, company, corporation, or association without the approval of the Council. The Cherokee Nation shall not make any donations by gift, or otherwise, to any individual, firm, company, corporation, or association without the approval of the Council.

Section 8. All laws authorizing the expenditures of money by and on behalf of the Cherokee Nation shall specify the purpose for which the money is to be used, and the money so designated shall be used for no other purpose. Annual expenditures shall not exceed the available funds.

1999 Constitution

message upon the condition of the Cherokee Nation; and shall recommend such matters to the Council as he or she shall judge expedient.

Section 9. The Principal Chief shall cause the laws of the Cherokee Nation to be faithfully executed, and shall conduct in person and in such manner as shall be prescribed by law, all communications and business of the Cherokee Nation. The Principal Chief may cause to be formed and operated, trusts, the beneficiary of which shall be the Cherokee Nation and these trusts shall be granted such powers as provided by law for public trusts. Authorization for these trusts, however, must be approved by a majority vote of the Council.

Section 10. The Deputy Principal Chief shall, by virtue of the office, aid and advise the Principal Chief in the administration of the government.

Section 11. Nothing in this Constitution shall be construed as preventing the Principal Chief from employing such administrative assistants as deems proper.

Section 12. There shall be a cabinet composed of the following persons who shall be citizens of the Cherokee Nation: (1) Secretary of State, (2) Treasurer, (3) Secretary of Natural Resources. These persons shall be appointed by the Principal Chief and confirmed by the Council. The Council, on recommendation of the Principal Chief only, may create additional cabinet positions and departments. The Principal Chief shall prescribe the duties and responsibilities of cabinet members. Cabinet members shall be authorized to appoint such staff and other assistants as they deem necessary. The Council may, with recommendation of the Principal Chief, abolish any established cabinet position or function or revise the title or responsibilities of any foregoing department or function.

Section 13. There shall be created an office of Attorney General. The Attorney General shall be a citizen of the Cherokee Nation, admitted to practice law before the highest court of any state of the United States. The Attorney General shall represent the Nation in all criminal cases in the courts of the Nation, and in all civil actions wherein the Cherokee Nation is named as a party, and shall have such other duties as the Council may prescribe by law. The Attorney General shall be appointed by the Principal Chief and confirmed by the Council for a term of five (5) years. The Attorney General shall be authorized to designate such prosecutors and other assistants as deemed necessary to carry out the duties of office, and may only be removed from office in conformance with Article XI.

Section 14. There shall be created an office of Marshal. The Marshal shall be a citizen of the Cherokee Nation and possess such training and experience in law enforcement as prescribed by law. The duties and authority of the Marshal shall be prescribed by law. The Marshal shall be authorized to deputize such officers as necessary to carry out the law enforcement needs of the Cherokee Nation. The Marshal shall be appointed by the Principal Chief and be confirmed by the Council for a term of five (5) years. The Marshal may only be removed from office in conformance with Article XI.

The terms of the Marshal and the Attorney General shall not be concurrent.

Section 15. A vacancy of an elected office by reason of removal, death, resignation or disability of the elected official, for which this Constitution does not provide a process for seating a replacement to serve out the term, shall be filled by appointment by the Principal Chief with confirmation by the Council.

1976 Constitution

Section 9. General laws shall be enacted by the Council providing for the deposit of funds of the Cherokee Nation, and the depository thereof, and such funds shall be under the control of the Secretary-Treasurer, under such terms and conditions as shall be designated by said Council and under such laws which shall provide for the protection of said funds.

Section 10. No official, member or officer of the Council, Cabinet Member, employee of any official, Council, Cabinet, or subdivisions thereof, or any person employed in any capacity by the Cherokee Nation shall receive from any individual, partnership, corporation, or entity doing business with the Cherokee Nation directly or indirectly, any interest, profit, benefits or gratuity, other than wages, salary, per diem, or expenses, specifically provided by law.

Section 11. All officers, elected or appointed, who are authorized by this Constitution or any subsequent legislation to a position of trust over any land, property, accounts or monies, shall execute an official surety bond in the amount as may be required by the Council, and such surety bonds shall inure to the benefit of and be paid for by the Cherokee Nation for whose protection or surety the same shall be required and in no event shall said surety bond be other than by a Licensed Insurance Company, authorized to do business in the State of Oklahoma.

Article XI. Removal From Office

Section 1. The Principal Chief and the Deputy Principal Chief shall be subject to removal from office for willful neglect of duty, corruption in office, habitual drunkenness, incompetency or any conviction involving moral turpitude committed while in office.

Section 2. All other elective officers shall be subject to removal from office in such manner and for such causes as may be provided by laws passed by the Council.

Section 3. The Council shall pass such laws as are necessary for carrying into effect the provisions of this Article, insuring therein that due process is afforded the accused.

Article XII. Employee Rights

No employee, who having served in a position at least one (1) year, shall be removed from the employment of the Cherokee Nation except for cause. The employee shall be afforded a hearing by the Judicial Appeals Tribunal under such rules and procedures as may be prescribed by the Council. These rules and procedures, however, must follow, as nearly as practicable, the provisions of the Oklahoma Administrative Procedures Act, Title 75, Oklahoma Statutes 301 et seq.

Article XIII. Oath

Section 1. All officers elected or appointed shall, before entering upon the duties of their respective offices, take and subscribe to the following oath or affirmation: "I do solemnly swear, or affirm, that I will faithfully execute the duties of _____ of the Cherokee Nation, and will, to the best of my ability, preserve, protect and defend the Constitutions of the Cherokee Nation, and the United States of America. I swear or affirm further, that I will do everything within my power to promote the culture, heritage and traditions of the Cherokee Nation."

ARTICLE VIII - JUDICIAL

(This is Article VII of the 1976 Const.)

This Article changes the name of the Judicial Appeal Tribunal to the Supreme Court.

This Article also establishes "District Courts".

This Article also increases the size of the Supreme Court from three (3) members to five (5) members.

Also, it creates Court on the Judiciary that will have jurisdiction over all judicial officers.

1999 Constitution

Article VIII. Judicial

Section 1. The Judicial powers of the Cherokee Nation shall be vested in a Supreme Court and such lower courts as the Council shall from time-to-time ordain and establish. The Judicial Appeals Tribunal shall become known as the Supreme Court of the Cherokee Nation. The Supreme Court shall be composed of five (5) members all of whom must be citizens of the Cherokee Nation and be admitted to practice law before the highest Court of any state of the United States.

Section 2. Justices of the Supreme Court shall be appointed by the Principal Chief and confirmed by the Council to serve terms of ten (10) years each after expiration of the initial terms as follows: Seat 1: ending 12/31/2000, Seat 2: ending 12/31/2002, Seat 3: ending 12/31/2004, Seat 4: ending 12/31/2006, Seat 5: ending 12/31/2008. An appointment to the Supreme Court shall take place once every two (2) years, except in the case of filling a vacated seat on the Court for the remainder of that term. The Council shall, within six (6) months of this Constitution taking effect, pass such laws as are necessary for carrying into effect the provisions of this section.

Section 3. Judges of the District Court shall be citizens of the Cherokee Nation, and shall be admitted to practice law before the highest Court of any state of the United States, and shall be appointed by the Principal Chief and confirmed by the Council to serve terms of four (4) years each. In the event of a judicial vacancy due to death, resignation, or removal from said office, any successor duly appointed and confirmed shall only serve the balance of the term of the vacancy being filled.

Section 4. The original jurisdiction of the Supreme Court shall extend to a general supervisory control over all lower courts. General supervisory control does not include suspension, removal, or disciplinary action of any member of the judiciary. These powers are specifically reserved for the Court on the Judiciary as prescribed in Section 5 and/or Article XI.

The Supreme Court shall employ an Administrator, who shall have general administrative duties in the judicial branch. The Justices of the Supreme Court shall have supervisory authority over the Administrator.

In support of its original and appellate jurisdiction, the Supreme Court shall have power to issue, hear and determine writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition and such other remedial writs as may be provided by law and may exercise such other jurisdiction as may be conferred by statute. The appellate jurisdiction of the Supreme Court shall extend to all cases at law and in equity arising under the laws or Constitution of the Cherokee Nation.

The Supreme Court shall promulgate rules of procedure relating to its original and appellate jurisdiction to insure any litigant appearing before it receives due process of law and impartial justice, together with prompt and speedy relief. Decisions of the Supreme Court shall be published and indexed and shall be final insofar as the judicial process of the Cherokee Nation is concerned.

Section 5. There is hereby created a Court on the Judiciary. Each branch of the government shall select two members of the Court; one of whom shall be a member of the Cherokee Nation Bar Association and the other shall be a non-lawyer. The six members shall appoint a seventh member. The members of the Court on the Judiciary shall promulgate its own rules of procedure, assuring due process, to be submitted to the Council for review and approval. The authority of the Court shall include suspension, sanction, discipline or recommendation of removal. The members shall not be employees of the Cherokee Nation or any entities thereof. The Council shall pass such laws as are necessary for carrying into effect the provisions of

1976 Constitution

Section 2. The foregoing oath shall be administered by any person authorized by the Council to administer oaths. The oath shall be filed in the Office of the Secretary-Treasurer.

Article XIV. Clans

Nothing in this Constitution shall be construed to prohibit the right of any Cherokee to belong to a recognized clan or organization in the Cherokee Nation.

Article XV. Initiative, Referendum and Amendment

Section 1. Notwithstanding the provisions of Article V, the people of the Cherokee Nation reserve to themselves the power to propose laws and amendments to this Constitution and to enact or reject the same at the polls independent of the Council, and also reserve power at their own option to approve or reject at the polls any act of the Council.

Section 2. Any amendment or amendments to this Constitution may be proposed by the Council, and if the same shall be agreed to by a majority of all the members of the Council, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered into the Journal and referred by the Secretary-Treasurer to the people for their approval or rejection, at the next regular general election, except when the Council, by a two-thirds (2/3) vote, shall order a special election for that purpose. If a majority of all the registered voters voting at such election shall vote in favor of any amendment thereto, it shall thereby become a part of this Constitution.

Section 3. The first power reserved by the people of the Cherokee Nation is the initiative and ten percent of the registered voters shall have the right to propose any legislative measures by petition and fifteen percent (15%) of the registered voters shall have the right to propose amendments to the Constitution by petition, and every such petition shall include the full text of the measure so proposed. The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety), either by petition signed by five percent of the registered voters or by the Council as other enactments are effectuated. The ratio and percent of registered voters hereinbefore stated shall be based upon the total number of votes cast at the last general election for the officer receiving the highest number of votes at such election.

Section 4. Referendum petitions shall be filed with the Secretary-Treasurer not more than ninety (90) days after the final adjournment of the session or meeting of the Council which passed the bill on which the referendum is demanded. The veto power of the Principal Chief shall not extend to measures voted on by the people. All elections on measures referred to the people of the Cherokee Nation shall be had at the next regular general election except when the Council or the Principal Chief shall order a special election for the express purpose of making such reference. Any measure referred to the people by the initiative shall take effect and be in force when it shall have been approved by a majority of the votes cast thereon and provided that no measure which is required to be approved by the President of the United States or his authorized representative shall be effective until approved.

Section 5. Petitions and orders for the initiative and for the referendum shall be filed with the Secretary-Treasurer and addressed to the Principal Chief of the Cherokee Nation, who shall submit the same to the people. The Council shall make suitable provisions for carrying into effect the provisions of this Article.

1999 Constitution

this section. All members of the Court shall be citizens of the Cherokee Nation.

Section 6. The District Courts of the Cherokee Nation shall be courts of general jurisdiction and shall be vested with original jurisdiction, not otherwise reserved to the Supreme Court, to hear and resolve disputes arising under the laws or Constitution of the Cherokee Nation in both law and equity, whether criminal or civil in nature. The Council shall enact, with advice from the judiciary, rules of procedure which shall insure that all litigants receive due process of law and impartial justice, together with prompt and speedy relief.

Section 7. The Justices of the Supreme Court and Judges of the District Court shall receive a compensation which shall not be diminished during their continuance in office, but shall receive no other fee, gratuity or perquisite of office, nor hold any other position of title, trust or profit within the Cherokee Nation or any entity thereof, either directly or indirectly.

Section 8. Members of the judiciary shall be subject to removal from office only for willful neglect of duty, corruption in office, habitual drunkenness, incompetency or any conviction of a felony, a crime under the laws of the Cherokee Nation that if committed in some other jurisdiction would be a felony, or a misdemeanor involving moral turpitude or offenses against the Cherokee Nation committed while in office.

Article IX. Election

Section 1. There is hereby created a Cherokee Nation Election Commission. The Commission shall be an autonomous and permanent entity charged with the administration of all Cherokee Nation elections, in accordance with election laws. The Council shall enact an appropriate law not inconsistent with the provisions of this Constitution that will govern the conduct of all elections.

Section 2. No person who shall have been convicted of a felony charge under the laws of United States, or of any State, Territory, or Possession thereof, or a crime under the laws of the Cherokee Nation that if committed in some other jurisdiction would be a felony, shall be eligible to hold any office or appointment of honor, profit or trust within this Nation unless such person has received a pardon from the appropriate jurisdiction. Any person who holds any office of honor, profit or trust in any other tribe or Nation of American Indians, either elective or appointive shall be ineligible to hold simultaneously any office of honor, profit or trust of the Cherokee Nation unless approved by the Council.

Section 3. All elections shall be determined by secret balloting.

Article X. Fiscal

Section 1. The fiscal year shall commence on the first day of October in each year, unless otherwise provided by law.

Section 2. The Council shall provide by law for annual expenditure of funds, and the source from which funds are to be derived, to defray the estimated expenses of the Executive, Legislative, and Judicial branches and the departments of government of the Cherokee Nation for each fiscal year. The budget shall not exceed estimated revenues.

Section 3. At least forty-five (45) days prior to the beginning of each fiscal year, the Treasurer shall cause to be made and presented to the Council an itemized estimate of revenues and expenditures for

ARTICLE VIII - CABINET

This Article of the 1976 Const. was deleted, its provisions were consolidated in Article VII Executive Branch.

ARTICLE IX - ELECTIONS

(This is Article IX of the 1976 Const.)

This Article creates a Cherokee Nation Election Commission.

ARTICLE X - FISCAL

(This is Article X of the 1976 Const.)

1976 Constitution

Section 6. The referendum may be demanded by the people against one or more items, sections or parts of any enactment of the Council in the same manner in which such power may be exercised against a complete enactment. The filing of a referendum petition against one or more items, sections or parts of an enactment shall not delay the remainder of such act from becoming operative.

Section 7. If two or more amendments are proposed they shall be submitted in such manner that electors may vote for or against them separately.

Section 8. No proposal for the amendment of this Constitution which is submitted to the voters shall embrace more than one general subject and the voters shall vote separately for or against each proposal submitted; provided, however, that in the submission of proposals for the amendment of this Constitution by articles, which embrace a general subject, each proposed article shall be deemed a single proposal or proposition.

Section 9. No convention shall be called by the Council to propose a new Constitution, unless the law providing for such convention shall first be approved by the people on a referendum vote at a regular or special election. Any amendments, alterations, revisions or new Constitution, proposed by such convention, shall be submitted to the electors of the Cherokee Nation at a general or special election and be approved by a majority of the electors voting thereon before the same shall become effective. The question of such proposed convention shall be submitted to the members of the Cherokee Nation at least once in every twenty (20) years.

Section 10. No amendment or new Constitution shall become effective without the approval of the President of the United States or his authorized representative.

Article XVI. Supersedes Old Constitution 1839

The provisions of this Constitution overrule and supersede the provisions of the Cherokee Nation Constitution enacted the 6th day of September 1839.

Article XVII. Seat of Government

The Seat of Government of the Cherokee Nation shall be at Tahlequah, Oklahoma.

Article XVIII. Adoption

This Constitution shall become effective when approved by the President of the United States or his authorized representative and when ratified by the qualified voters of the Cherokee Nation at a election conducted pursuant to rules and regulations promulgated by the Principal Chief. It shall be engrossed on parchment and signed by the Principal Chief and the Secretary of the Interior. It shall be filed in the office of the Cherokee Nation and sacredly preserved as fundamental law of the Cherokee Nation.

APPROVED FOR REFERENDUM
BY THE COMMISSIONER

MORRIS THOMPSON ON SEPTEMBER 5, 1975

SECOND BY THE PRINCIPAL CHIEF OF THE CHEROKEE
NATION,

ROSS O. SWIMMER

ON OCTOBER 2, 1975

1999 Constitution

the ensuing fiscal year adhering to Generally Accepted Accounting Principles (GAAP).

Section 4. The Council shall require that records be maintained and provided to the Council of all funds, monies, accounts and indebtedness and all other accounts bearing upon the fiscal interests, including but not limited to, any and all outside business interests, both for-profit and not-for-profit, of the Cherokee Nation by the use of an accounting system adhering to Generally Accepted Accounting Principles (GAAP). The annual financial statement shall be audited by a Certified Public Accountant and presented to the Council within six months following the end of each fiscal year. Unaudited reports will be submitted as required by the Council.

Section 5. The Treasurer shall be authorized to accept all grants, donations of money, interest of funds of the Cherokee Nation, judgments and any and all other sources of monies available to the Cherokee Nation, for uses and purposes and upon the conditions and limitations for which the same are granted or donated. The faith of the Cherokee Nation is hereby pledged to preserve such grants and donations as a sacred trust, and, if or when designated, to keep the same for the use and purposes for which they were granted or donated.

Section 6. The Council shall authorize the Treasurer to invest funds or money of the Cherokee Nation and determine the preference to be given to the security for such investments, the manner of selecting the securities, prescribing the rules, regulations, restrictions and conditions upon which the funds shall be loaned or invested, provided that no investment shall be in mortgages other than first mortgages only, and do all things necessary for the safety of the funds and permanence of the investments. If required by law, such investments would be subject to the approval of the Secretary of the Interior.

Section 7. The credit of the Cherokee Nation shall not be given, pledged, or loaned to any individual, firm, company, corporation, or association without the approval of the Council. The Cherokee Nation shall not make any donations by gift, bonus, or otherwise, to any individual, firm, company, corporation, or association without the approval of the Council.

Section 8. All laws authorizing the expenditures of money by and on behalf of the Cherokee Nation shall specify the purpose for which the money is to be used, and the money so designated shall be used for no other purpose. No monies or resources of the Cherokee Nation or any of its entities shall be used to pay for representation of a defendant in a criminal matter, except where a public defender is authorized under Cherokee law. Annual expenditures shall not exceed the available funds.

Section 9. General laws shall be enacted by the Council providing for the deposit of funds of the Cherokee Nation, and the depository thereof, and such funds shall be under the control of the Treasurer, under such terms and conditions as shall be designated by the Council and under such laws which shall provide for the protection of said funds.

Section 10. No official, member or officer of the Council, Cabinet Member, employee of any official, Council, Cabinet, or subdivisions thereof, or any person employed in any capacity by the Cherokee Nation shall receive from any individual, partnership, corporation, or entity doing business with the Cherokee Nation directly or indirectly, any interest, profit, benefits or gratuity, other than wages, salary, per diem, or expenses specifically provided by law.

1976 Constitution

CONSTITUTION of the CHEROKEE NATION

AMENDMENTS:

Article V. Legislative

Section 3. The Council shall consist of fifteen (15) members, who are members by blood of the Cherokee Nation of Oklahoma. Each Council member shall be elected in the general election for a term of four (4) years and until his successor is duly elected and installed.

The Council shall establish representative districts which shall be within the historical boundaries of the Cherokee Nation of Oklahoma. These districts shall be apportioned to afford a reasonably equal division of tribal membership among the districts.

Article VI. Executive

Section 2. The Principal Chief of the Cherokee Nation shall be a citizen of the Cherokee Nation in accordance with Article III; shall have been born within boundaries of the United States of America, its territories or possessions; shall have established a bona fide, permanent residence within the historic boundaries of Cherokee Nation for no less than 270 days immediately preceding the day of the general election in which he or she was elected; and shall have obtained the age of thirty (30) years of age at the time of his or her election and be a member by blood of the Cherokee Nation.

ARTICLE XI - REMOVAL FROM OFFICE

(This is Article XI of the
1976 Const.)

This Article provides for
due process of
individuals being
removed from office.
Said individuals can only
be removed by a 2/3
vote of the Council.

Enumerates the offenses
by which an individual
can be removed from
office.

Reserves to the people
the power to recall
elected officials by
referendum petition.

ARTICLE XII - EMPLOYEE RIGHTS

(This is Article XII of the
1976 Const.)

This Article provides for
pre-termination due
process to all vested
employees of the
Cherokee Nation and
guaranteed access to
Cherokee Court system
of terminated employees.

1999 Constitution

Section 11. All officers, elected or appointed, who are authorized by this Constitution or any subsequent legislation to a position of trust over any land, property, accounts or monies, shall execute an official surety bond in the amount as may be required by the Council. Such surety bonds shall inure to the benefit of, and be paid for by, the Cherokee Nation for whose protection or surety the same shall be required. In no event shall said surety bond be other than by a Licensed Insurance Company, authorized to do business in the State of Oklahoma.

Article XI. Removal From Office

Section 1. The Principal Chief, Deputy Principal Chief, members of the Council, Attorney General and Marshal shall be subject to removal from office for willful neglect of duty, corruption in office, habitual drunkenness, incompetency or any conviction of a felony, or a crime under the laws of the Cherokee Nation that if committed in some other jurisdiction would be a felony, or a misdemeanor involving moral turpitude or offenses against the Cherokee Nation committed while in office.

Section 2. Except as otherwise provided in this Constitution, all other appointed officials shall be subject to removal for cause, as prescribed by law.

Section 3. No official may be removed under Sections 1 or 2 of this Article or Section 8 of Article VIII except after trial before the Council, with the accused having been afforded due process and opportunity to be heard. Provided, removal under Sections 1 or 2 of this Article or Section 8 of Article VIII shall require a two-thirds (2/3) vote of the members of the Council.

Section 4. Separate from the Council's removal powers, the People of the Cherokee Nation reserve unto themselves the exclusive power to recall any elected official through petition and recall referendum. A petition must be signed by Cherokee citizens registered to vote. In the case of Principal Chief or Deputy Principal Chief, signatures must total a number equaling or exceeding fifteen percent (15%) of the total number of registered voters in the previous general election. In the case of district offices, signatures must total the greater of five hundred (500) or twenty-five percent (25%) of the total number of registered voters in that district in the previous general election. The signed petition shall be filed with the Election Commission to determine whether the signatures are valid. Said determination shall be made within thirty (30) days after the filing of same. Upon verification of the requisite number of signatures the Election Commission shall certify the petition as valid and notify the Council and the Secretary of State. Upon notification of a valid certified petition the Council shall immediately call for and approve a special recall election for the office in question within sixty (60) days. The special recall election shall be limited in scope to the voting populous for the elected office in question. Votes cast shall be tabulated and the results certified in the same manner as in general elections. A majority vote to affirm the official shall retain the official in office. A majority vote to recall shall immediately remove the official from office. In the event of a tie-vote the Council shall call a special meeting to conduct a tie-breaking vote. Elected offices vacated under this section shall be filled as otherwise provided in this Constitution.

Article XII. Employee Rights

No employee, who having served in a position at least one (1) year, shall be removed from the employment of the Cherokee Nation except for cause, and only after being afforded pre-termination due process. Provided, the right of such employee to seek redress in the

1999 Constitution

Cherokee Nation courts shall not be abridged.

Article XIII. Oath

Section 1. All officers elected or appointed shall, before entering upon the duties of their respective offices, take and subscribe to the following oath or affirmation: "I do solemnly swear, or affirm, that I will faithfully execute the duties of _____ of the Cherokee Nation, and will, to the best of my ability, preserve, protect and defend the Constitutions of the Cherokee Nation, and the United States of America. I swear or affirm further, that I will do everything within my power to promote the culture, heritage and traditions of the Cherokee Nation."

Section 2. The foregoing oath shall be administered by any person authorized by the Council to administer oaths. The oath shall be filed in the Office of the Secretary of State.

Article XIV. Clans

Nothing in this Constitution shall be construed to prohibit the right of any Cherokee to belong to a recognized clan or organization in the Cherokee Nation.

Article XV. Initiative, Referendum and Amendment

Section 1. Notwithstanding the provisions of Article VI, the People of the Cherokee Nation reserve to themselves the power to propose laws and amendments to this Constitution and to enact or reject the same at the polls independent of the Council, and also reserve power at their own option to approve or reject at the polls any act of the Council.

Section 2. Any amendment or amendments to this Constitution may be proposed by the Council, and if the same shall be agreed to by a majority of all the members of the Council, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered into the Journal and referred by the Secretary of State to the People for their approval or rejection, at the next regular general election, except when the Council, by a two-thirds (2/3) vote, shall order a special election for that purpose. If a majority of all the registered voters voting at such election shall vote in favor of any amendment thereto, it shall thereby become a part of this Constitution.

Section 3. The first power reserved by the People of the Cherokee Nation is the initiative, and ten percent (10%) of the registered voters shall have the right to propose any legislative measures by petition and fifteen percent (15%) of the registered voters shall have the right to propose amendments to the Constitution by petition, and every such petition shall include the full text of the measure so proposed.

The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety), either by petition signed by five percent (5%) of the registered voters or by the Council as other enactments are effectuated. The ratio and percent of registered voters hereinbefore stated shall be based upon the total number of votes cast in the last general election involving the office of Principal Chief.

Section 4. Referendum petitions shall be filed with the Secretary of State not more than ninety (90) days after the final adjournment of the session or meeting of the Council which passed the bill on which the referendum is demanded. The veto power of the Principal Chief shall not extend to measures voted on by the People. All elections on measures referred to the People of the Cherokee Nation shall be had at the next regular general election except when

ARTICLE XIII - OATH

(This is Article VIII of the
1976 Const.)

No substantive changes.

ARTICLE XIV - CLAIMS

(This is Article XIV of the
1976 Const.)

No changes.

ARTICLE XV - INITIATIVE, REFERENDUM

(this is Article XV of the
1976 Const.)

Deletes the approval of
the United States for
Amendment to this
Constitution.

1999 Constitution

the Council or the Principal Chief shall order a special election for the express purpose of making such reference. Any measure referred to the People by the initiative shall take effect and be in force when it shall have been approved by a majority of the votes cast thereon.

Section 5. Petitions and orders for the initiative and for the referendum shall be filed with the Secretary of State and addressed to the Principal Chief of the Cherokee Nation, who shall submit the same to the People. The Council shall make suitable provisions for carrying into effect the provisions of this Article.

Section 6. The referendum may be demanded by the People against one or more items, sections or parts of any enactment of the Council in the same manner in which such power may be exercised against a complete enactment. The filing of a referendum petition against one or more items, sections or parts of an enactment shall not delay the remainder of such act from becoming operative.

Section 7. If two or more amendments are proposed they shall be submitted in such manner that registered voters may vote for or against them separately.

Section 8. No proposal for the amendment of this Constitution which is submitted to the voters shall embrace more than one general subject and the voters shall vote separately for or against each proposal submitted; provided, however, that in the submission of proposals for the amendment of this Constitution by articles, which embrace a general subject, each proposed article shall be deemed a single proposal or proposition.

Section 9. No convention shall be called by the Council to propose a new Constitution, unless the law providing for such convention shall first be approved by the People on a referendum vote at a regular or special election. Any amendments, alterations, revisions or new Constitution, proposed by such convention, shall be submitted to the registered voters of the Cherokee Nation at a general or special election and be approved by a majority of the registered voters voting thereon before the same shall become effective. The question of such proposed convention shall be submitted to the citizens of the Cherokee Nation at least once every twenty (20) years.

Article XVI. Supersedes Constitutions of 1839 and 1976

The provisions of this Constitution overrule, supersede, and repeal the provisions of the Cherokee Nation Constitution enacted the 6th day of September, 1839, and the provisions of the Constitution of the Cherokee Nation of Oklahoma enacted the 26th day of June, 1976.

Article XVII. Seat of Government

The Seat of Government of the Cherokee Nation shall be at Tahlequah, Oklahoma.

Article XVIII. Adoption

This Constitution shall become effective when ratified by the registered voters of the Cherokee Nation. It shall be engrossed on parchment and signed by the Principal Chief and the President of the United States, or his authorized representative. It shall be filed in the office of the Cherokee Nation and sacredly preserved as the fundamental law of the Cherokee Nation. The Constitution shall be printed in both Cherokee and English, provided however, that the English version shall be controlling for all governmental and legal purposes. The Council shall enact laws in conformance with this Constitution within eighteen (18) months of its ratification, provided that the provisions for Article XI shall be enacted within six (6) months of its ratification.

ARTICLE XVI- SUPERSEDES OLD CONST.

(This is Article XVI of the 1976
Const.)

This Article supersedes and
repeals the 1839 Const., and the
1976 Const., of the Cherokee
Nation.

ARTICLE XVII - SEAT OF GOVERNMENT

(This is Article XVII of the 1976
Const.)

No changes made.

ARTICLE XVIII - ADOPTION

(This is Article XVIII of the 1976 Const.)

This Article deleted the approval process of the
President of the United States to this Const.

Also this Article requires that the Constitution be
printed in both the Cherokee and English languages.

This Article instructs the Council to enact laws in
conformance of this Const. within eighteen (18)
months of proclamation of this Constitution.

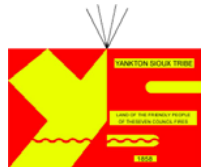
Ihanktuwan Dakota Oyate
Constitution Revision Committee
P.O. Box 9, Wagner, SD 57390



A REFERENCE GUIDE TO CONSTITUTIONAL REFORM



IHANKTUWAN DAKOTA OYATE



CONSTITUTIONAL REFORM

Medicine Wheel: Four Directions

"You have noticed that everything an Indian does is in a circle, and that is because the Power of the World always works in circles, and everything tries to be round. In the old days, when we were a strong and happy people, all our power came to us from the sacred hoop of the nation and so long as the hoop was unbroken, the people flourished."

Black Elk Speaks, Spiritual Advisor to the Oglala Sioux in 1930.

Balancing tradition with

The medicine wheel symbolizes the traditional form of government of the Ihanktuwan Dakotah Oyate. The principles of this symbol can also represent the four areas of policy that will determine the agenda of our Nation as a sovereign government. The first is the government services we must provide to protect and support our citizens through the institutions of good governance. The second is our education system upon which our future generations depend on. The third is the land and resources, we must use and protect for now and the future. And the fourth is economic prosperity that every one of our people is entitled to.

The objects of constitutional reform are to guarantee peace, national unity and integrity of the Ihanktuwan Dakotah Oyate. In addition, the present comprehensive review of the constitution is meant to establish a free and democratic system of government, provide for the separation of power and checks and balances of the three branches of government (i.e. the executive, legislature and the judiciary), promote people's participation in elections and devolution of power, respect diversity, and ensuring provision of basic needs of all Ihanktuwan Dakotah.

Constitution Reform Committee

DISCLAIMER



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APPENDIX: ACKNOWLEDGEMENTS

This project could not have been possible without the generous support of many people. First, we would like to extend a special thank you to the wonderful staff of the Harvard Project on American Indian Economic Development for their interest in this project and their patience with us. In particular, we would like to thank Joe Kalt for allowing us to work with the Ihanktuwan Dakotah Oyate and for guiding us throughout the process.

We would also like to thank the many dedicated people of the Ihanktuwan Dakotah working on the issue of Constitutional Reform who took time from their busy schedules to speak with us and share their knowledge. This project was a true learning experience for us and for that we are very grateful to you. We hope you all find this useful.

To our friends and classmates involved in the Nation Building process with us, thanks for your advice and camaraderie. There are two individuals to whom we need to extend our warmest gratitude: to Kevin Brossea and Barbary Cook for working with us in this great endeavor. Thank you both for being generous with your time and sharing your ideas with us.

Finally, we could not have completed this project without the constant support of our own families. Thank you for your love and understanding.

Jessie Mosqueda & Falan Yinnuq

TABLE OF CONTENTS

Preamble	3
Territory and Jurisdiction	5
Citizenship	7
Organization of Government	9
Branches of Gov't: Executive	11
Branches of Gov't: Legislative	13
Branches of Gov't: Judicial	15
Elections	17
Removal, Recall, & Vacancies	19
Bill of Rights	21
Referendum & Initiative	23
Statues & Resolutions	25
Sovereign Immunity	27
Amendments	29
Severability	31
Adoption of Constitution	33
Appendices	35
A. Sources	35
B. Data Collection	36
C. Acknowledgements	37
Disclaimer	38



PREAMBLE

PURPOSE: A preamble is an introduction to a law or constitution that describes its purpose.

EXAMPLES

Nez Perce Tribe

We, the members of the Nez Perce Tribe, in order to exercise our tribal rights and promote our common welfare, do hereby establish this Constitution and Bylaws.

Chickasaw Nation

We, the people of the Chickasaw Nation, acknowledging with gratitude the grace and beneficence of God, in permitting us to make choice of our own form of government, do, in accordance with the first, second, fourth and seventh articles of the Treaty between the United States, the Choctaws and Chickasaws, made and concluded at Washington City, June 22, A.D. 1855, and the Treaty of April 28, A.D. 1866, ordain, and establish this Constitution for our government, within the following limits, to-wit:

Beginning on the north bank of Red River, at the mouth of Island Bayou, where it empties into Red River, about twenty-six miles on a straight line below the mouth of False Washita, thence running a northwesterly course along the main channel of said bayou to the junction of the three prongs of said bayou nearest the dividing ridge between Washita and Low Blue Rivers, as laid down on Captain R.L. Hunter's map; thence northerly along the eastern prong of said Island Bayou to its source; thence due north to the Canadian River; thence west along the main Canadian to the ninety-eighth degree of west longitude; thence south to Red River and thence down Red River to the beginning;

Provided; however, if a line running due north from the eastern source of Island Bayou to the main Canadian, shall not include Allen's or Wapanucka Academy within the Chickasaw District, then an off-set shall be made from said line, so as to leave said academy two miles within the Chickasaw District, north, west and south from the lines of boundary.

APPENDIX: DATA COLLECTION

The preparation of this project involved an extensive search of the published tribal constitutions. The sources consulted included Harvard Project on American Indian Economic Development, National Indian Law Library, and National Tribal Justice Resource Center. A thorough literature review and examination of the data were used in prioritizing the significance of constitutional provisions. Modifications of tribal constitutional provisions were made as necessary to shorten only length.

Data Source Limitations – Timeliness is a significant limitation for external or third party data. Some external data sources have not been updated within the last five years. For example, National Tribal Justice Resource Center continues to use a 1975 Yankton Sioux constitution (not the 1998 amended constitution).



APPENDIX: SOURCES

Tribal Constitutions:

Harvard Project on American Indian Economic Development
John F. Kennedy School of Government
79 JFK Street
Cambridge, MA 02138
(617) 495-1480 • (617) 496-3900
<http://www.ksg.harvard.edu/hpaied/index.htm>

National Indian Law Library
1506 Broadway
Boulder, CO 80302
(303) 447-8760 • (303) 443-7776
<http://www.narf.org/nill/Nillindex.html>

National Tribal Justice Resource Center
4410 Arapahoe Ave, Suite 135
Boulder, CO 80303
(303) 245-0786 • (303) 245-0785
<http://www.tribalresourcecenter.org>

Removal of BIA Language:

Cherokee Nation
P.O. Box 948
Tahlequah, OK 74465
(918) 456-0671 • (918) 458-6125
<http://www.cherokee.org>

PREAMBLE

White Mountain Apache Tribe

We, the people of the White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona, in order to form a more representative organization, to exercise the duties and responsibilities of a representative tribal government, to conserve and develop our tribal lands and resources for ourselves and our children, to provide a higher standard of living, better home life and better homes within the reservation, to extend to our people the right to form business and other organizations, do adopt this constitution as a guide to our self-government.

KEY CONCEPTS OF PROVISION

- Establish who you are
- Define your purpose or key goals

POINTS TO CONSIDER

- Balancing tradition with current demands



TERRITORY AND JURISDICTION

PURPOSE: This provision defines the geographic area belonging to or under the jurisdiction of a governmental authority.

EXAMPLES

Hopi Tribe

Section 1. Territory. The Territory of the Tribe shall include all lands held by the Tribe or the People, or by the United States for the benefit of the Tribe or the People, and any additional lands acquired by the Tribe or by the United States for the benefit of the Tribe or the People. The Territory shall include all water, air, surface, subsurface, natural resources, and any interests therein, notwithstanding the issuance of any patent or right-of-way in fee or otherwise, by the governments of the United States or the Tribe, existing or in the future.

Section 2. Jurisdiction. The Jurisdiction of the Tribe shall extend to all persons, activities, and property within the Territory based upon inherent territorial or popular sovereignty. Every public highway or any other ingress into the Territory shall be accompanied by a public notice that entry is conditioned upon the acceptance of the Jurisdiction of the Tribe. Any person who enters the Territory shall, by entering, be deemed to have consented to the Jurisdiction of the Tribe. Every license or permit issued under the authority of the Tribe shall include a provision submitting all parties and their assigns to the Jurisdiction of the Tribe. Any employee of the Tribe shall, by accepting employment, be deemed to have submitted to the Jurisdiction of the Tribe. The Council shall have the power to assert the Sovereignty and Jurisdiction of the Tribe by law over all matters that affect the interests of the Tribe.

Lumbee Tribe of North Carolina

1. The territory of the Lumbee Tribe of North Carolina shall include the State of North Carolina;
2. The Tribe's jurisdiction shall extend to the fullest extend possible under Federal law to:
 - a) all enrolled members of the Tribe, without regard to location or residence; and
 - b) all persons, property, and activities located or taking place upon the Tribe's territory.

ADOPTION OF CONSTITUTION

Salish and Kootenai Tribes

This Constitution and the attached Bylaws, when adopted by a majority vote of the voters of the Confederated Tribes voting at a special election called by the Secretary of the Interior, in which at least thirty (30) percent of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval, and shall be in force from the date of such approval.

Sault Ste. Marie Tribes of Chippewa Indians

This constitution and bylaws when ratified by a majority vote of the adult members of the organization known as the Original Bands of the Sault Ste. Marie Chippewa Indians, voting at an election called for that purpose by the Secretary of the Interior, provided that at least thirty (30) percent of those entitled to vote shall vote in such election, shall be submitted to the Secretary of the Interior and, if approved, shall become effective from the date of approval.

Siletz Indians of Oregon

This Constitution, when adopted by a majority of the qualified voters of the Confederated Tribes of Siletz Indians of Oregon who actually vote at an election called for that purpose by the Secretary of the Interior, shall be submitted to the Secretary of the Interior for his approval, and shall be effective from the date of approval.

KEY CONCEPTS OF PROVISION

- Address Secretary of Interior approval

POINTS TO CONSIDER

- Percentage of voters needed to make adoption legal



ADOPTION OF CONSTITUTION

PURPOSE: This provision defines the process by which a constitution is adopted.

EXAMPLES

Skokomish Indian Tribe

This constitution shall take effect when it has been adopted by a majority of the qualified voters at an election called by the Secretary of the Interior in which at least fifty percent (50%) of those entitled to vote cast ballots and when the constitution has been approved by the Secretary of the Interior.

Southern Ute Indian Tribe

This constitution when adopted by a majority vote of the qualified voters of the Southern Ute Indian Tribe of the Southern Ute Indian Reservation, voting at a special election authorized by the Secretary of the Interior, in which at least thirty percent (30%) of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval and shall be in force from the date of such approval.

Yavapai-Apache Nation

This constitution, when adopted by a majority vote of the registered voters of the Yavapai-Apache Tribe of the Camp Verde Indian Reservation, Arizona, voting at a special election authorized by the Secretary of the Interior in which at least thirty (30) percent of those registered in accordance with Secretarial regulations to vote shall vote, shall be submitted to the Secretary of the Interior for his approval and, if approved by the Secretary of the Interior or by operation of law, shall be effective from the date of such approval.

Assiniboine And Sioux Tribes

This revised Constitution and Bylaws when adopted by a majority vote of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana, voting at a special election called by the Tribal Executive Board, shall be submitted to the Secretary of the Interior, and shall be in full force and effect from the date of such approval by the Secretary of the Interior.

TERRITORY AND JURISDICTION

Yavapai-Apache Nation

The jurisdiction of the Yavapai-Apache Tribe shall extend to all lands within the boundaries of the Camp Verde Indian Reservation and to any and all lands held by the Tribe, trust allotments located outside the reservation boundaries to the extent permitted by federal law, and to any additional lands acquired by the Tribe or by the United States for the benefit of the Tribe; except where expressly prohibited by federal law. It is hereby declared that the title to these lands includes but is not limited to all the surface rights, subsurface rights, tenements, hereditaments, all water rights and all accretions. Except as prohibited by federal law, the Yavapai-Apache Tribe shall have jurisdiction over all persons, property, lands, water, air space, resources and all activities occurring within the boundaries of the reservation or on other lands within the jurisdiction of the Tribe, notwithstanding the issuance of any right-of-way. Nothing in this Article shall be construed to limit the ability of the Tribe to exercise its jurisdiction based upon its inherent sovereignty as an Indian Tribe.

KEY CONCEPTS OF PROVISION

- Be very specific of how territory is defined

POINTS TO CONSIDER

- Administering checkerboard reservations
- Administering joint use areas (example of the Hopi and the Navajo)



CITIZENSHIP

PURPOSE: This provision defines a person who is a member of a state or nation, either by birth or naturalization.

EXAMPLES

Fort McDermitt Paiute and Shoshone Tribe

SECTION 1. The membership of the Fort McDermitt Paiute and Shoshone Tribe shall consist of--

(a) All original allottees at Fort McDermitt, and such of their descendants as do now maintain a bona-fide residence on the former Fort McDermitt Military Reserve.

(b) Every child of one-fourth or more Indian blood both of whose parents are members of the Fort McDermitt Paiute and Shoshone.

SECTION 2. The Tribal Council shall have the power, by an affirmative vote of two-thirds of its members, to admit to tribal membership:

(a) Any person of one-quarter or more Paiute or Shoshone Indian blood.

(b) Any person of one-half or more Indian blood married to a member of the Fort McDermitt Paiute and Shoshone Tribe.

SECTION 3.

(a) The Tribal Council shall cancel the membership of any adult person who makes application to sever his tribal relations, and thereafter such person shall cease to hold membership in the tribe.

(b) The Tribal Council may by a two-thirds vote cancel the membership of any person who has not lived within the jurisdiction of the tribe for at least 1 year during the preceding 3 years, provided that this power shall become effective 1 year after the adoption and ratification of this constitution.

Chickasaw Nation

Section 1. This Chickasaw Nation shall consist of all Chickasaw Indians by blood whose names appear on the final rolls of the Chickasaw Nation approved pursuant to Section 2 of the Act of April 26, 1906, (34 Stat. 137) and their lineal descendants.

Section 2. The Tribal Legislature shall have the power to enact ordinances governing future citizenship and loss of citizenship in the Chickasaw Nation.

SEVERABILITY

Miami Tribe

If any part of this Constitution is held invalid by the Federal Court to be unlawful, the remainder shall continue to be in full force and effect.

Native Tribe of Koyukuk, Alaska

Section 1. Savings. Unless inconsistent with this Constitution, all tribal legislation enacted prior to the adoption of this Constitution shall remain in effect.

Section 2. Severability. If any provision of this Constitution shall, in the future, be declared invalid by a court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in full force and effect.

KEY CONCEPTS OF PROVISION

- Be clear who can make part of provision invalid (tribe, federal government, etc.)

POINTS TO CONSIDER

- Consider a savings clause to reaffirm laws adopted prior to constitution



SEVERABILITY

PURPOSE: This provision states that parts of statutes or provisions are severable so that one part can be invalidated without invalidating the whole statute.

EXAMPLES

Red Cliff Band of Lake Superior Chippewa Indians

If any provision of this constitution shall in the future be declared invalid by a court of competent jurisdiction, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

Crow Tribe

If any provision of this Constitution shall in the future be declared invalid by a Court of competent jurisdiction, the invalid portion shall be severed and the remaining provisions shall continue in full force and effect.

Grand Traverse Band of Ottawa and Chippewa Indians

If any provisions of this Constitution shall be declared invalid by a court of competent jurisdiction, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

Kickapoo Traditional Tribe of Texas

If any part of this Constitution is held by a Federal Court of competent jurisdiction to be invalid or contrary to the U.S. Constitution or federal law, the remainder of the constitution shall remain in full force and effect.

CITIZENSHIP

Native Tribe of Huslia, Alaska

Section 1. Base Membership Roll. The membership of the Native Tribe of Huslia shall consist of all Alaska Natives whose names appear on the base membership roll adopted by the Huslia Tribal Council at the passage of this Constitution, provided that the Council may correct the base membership roll within two years following the adoption of this Constitution.

Section 2. Qualifications for Membership. Lineal descendants of members listed on the base roll who are at least one-quarter (1/4) degree Alaska Native shall be eligible to the members of the Native Tribe of Huslia subject to the provisions of this Constitution and to the ordinances enacted pursuant to this Constitution.

Section 3. Adoption of Members. The Tribal Council shall have the option to adopt any person of at least one-quarter (1/4) degree Alaska Native, who is not a descendent of members listed on the base roll, according to the provisions of tribal membership ordinances.

Section 4. Loss of Membership. The Tribal Council may disenroll members who do not maintain at least annual contact with the Tribal Council, in accordance with a tribal ordinance adopted under this Constitution. Prior to disenrolling members, the Council shall issue Notice of Disenrollment to the individual and allow ninety (90) days for response.

KEY CONCEPTS OF PROVISION

- Determine criteria for citizenship: blood quantum, adoption, lineage, combination of these and more, etc.

POINTS TO CONSIDER

- Staying consistent with culture
- Provisions for expulsion
- Who determines citizenship and loss of citizenship: executive, legislative, or non-governmental entity (e.g. elder council)?



ORGANIZATION OF GOVERNMENT

PURPOSE: This provision defines the system or form of the government.

EXAMPLES

Saint Regis Mohawk Tribe

Section 1. Three Branches of Government. The Saint Regis Mohawk Tribal government shall be divided into three (3) separate and independent branches of government consisting of the Legislative, Executive and Judicial Departments. No person or group of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except as this Constitution may otherwise expressly direct or permit.

Minnesota Chippewa Tribe

The governing bodies of the Minnesota Chippewa Tribe shall be the Tribal Executive Committee and the Reservation Business Committees of the White Earth, Leech Lake, Fond du Lac, Bois Forte (Nett Lake), and Grand Pottage Reservations, and the Nonremoval Mille Lac Band of Chippewa Indians, hereinafter referred to as the six (6) Reservations.

1. Tribal Executive Committee. The Tribal Executive Committee shall be composed of the Chairman and Secretary Treasurer of each of the six (6) Reservation Business Committees elected in accordance with Article IV. The Tribal Executive Committee shall, at its first meeting, select from within the group a President, a Vice-President, a Secretary, and a Treasurer who shall continue in office for the period of two (2) years or until their successors are elected and seated.

The governing bodies of the Minnesota Chippewa Tribe shall be the Tribal Executive Committee and the Reservation Business Committees of the White Earth, Leech Lake, Fond du Lac, Bois Forte (Nett Lake), and Grand Pottage Reservations, and the Nonremoval Mille Lac Band of Chippewa Indians, hereinafter referred to as the six (6) Reservations.

AMENDMENTS

Southern Ute Indian Tribe

Section 1. This constitution may be amended at an election authorized by the Secretary of the Interior.

(a) Whenever, by favorable vote of at least four (4) members of the tribal council, the governing body of the tribe shall authorize the submission of a proposed amendment to the electorate of the tribe, or

(b) Whenever a minimum of twenty percent (20%) of the registered voters of the tribe, by signed petition, shall request such amendment.

Section 2. If, at such election, the amendment is adopted by majority vote of the registered voters of the tribe voting therein, and if the number of ballots cast represents not less than thirty percent (30%) of the registered voters, such amendment shall be submitted to the Secretary of the Interior and, if approved by him, it shall thereupon take effect.

KEY CONCEPTS OF PROVISION

- Define clear amendment procedures

POINTS TO CONSIDER

- Percentage of citizens needed to vote in make amendment valid



AMENDMENTS

PURPOSE: This provision defines the process by which a constitution may be amended.

EXAMPLES

Turtle Mountain Band Of Chippewa Indians

Section 1. This Constitution and Bylaws may be amended by a majority of the qualified voters of the Turtle Mountain Band of Chippewa Indians at an election called for that purpose; provided that at least twenty percent (20%) of the resident voters of the Tribe entitled to vote shall vote in such election, but no amendment shall become effective until it shall have been approved by the Secretary of the Interior or his delegated representative.

Section 2. It shall be the duty of the Tribal Council to call such election on any proposed amendment upon receipt of a petition signed by twenty percent (20%) of the qualified resident voters of the Tribe or the Tribal Council may call such an election by an affirmative vote of five (5) members of the Tribal Council.

Tunica – Biloxie Indians of Louisiana

These articles and bylaws may be amended by a majority vote of the qualified voters of the tribe voting at an election called for that purpose provided that at least thirty (30%) percent of those entitled to vote shall vote in such election; but no amendment shall become effective until it shall have been approved by the tribal council.

The Board of Directors shall, at any meeting with a quorum present, have the power to make, amend and repeal bylaws for the governing and regulating of the affairs of the corporation; provided only that same be not inconsistent with the Articles and Louisiana Law. All actions relating to the bylaws shall require a two-thirds (2/3) vote of directors present and voting.

THUS DONE AND SIGNED before me, Notary and undersigned competent witnesses on the date first above written, after due reading of the whole.

ORGANIZATION OF GOVERNMENT

2. Reservation Business Committee. Each of the six (6) Reservations shall elect a Reservation Business Committee composed of not more than five (5) members nor less than three (3) members....

Blackfeet Tribe

Section 1. The governing body of the Blackfeet Tribe shall consist of a council known as the Blackfeet Tribal Business Council.

Section 2. The Blackfeet Tribal Business Council shall consist of nine (9) members duly elected from the four (4) districts of the Blackfeet Indian Reservation which are designated as follows: Browning District, Heart Butte District, Seville District, and Old Agency District. The election of all Tribal Council members shall be submitted to the entire electorate of the Reservation, provided that no one shall be elected as a councilman who has not resided within the exterior boundaries of the Blackfeet Reservation for a period of 1 year....

Section 3. In lieu of the districts herein described the tribal council shall have the power to establish communities....

Section 4. (a) The tribal council so organized shall elect from its membership: (1) A chairman; (2) A vice chairman. (b) The tribal council shall elect from within or outside of its own membership: (1) A secretary; (2) A sergeant-at-arms; (3) Such other officers and committees as may be deemed necessary.

KEY CONCEPTS OF PROVISION

- Separation of powers
- Balance of powers

POINTS TO CONSIDER

- Stay consistent with traditional form of government
 - Parliamentary system of government
 - Presidential system of government
- Role of elders
 - Elders council?



BRANCHES OF GOV'T: EXECUTIVE

PURPOSE: This provision defines the executive branch of government.

EXAMPLES

Forest County Potawatomi Community of Wisconsin

Section 1. The Executive Council may exercise any of the following powers, subject to any limitations imposed by Federal Law, the Constitution of the United States or by any provisions of this Constitution;

- (a) To consult, negotiate, contract and conclude agreements on behalf of the Community with Federal, State or local governments and corporations, associations, legal organizations, or individuals, on matters within the powers contained in this Article or any other powers delegated to the Executive Council by the General Council;
- (b) To advise the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the Forest County Potawatomi Community prior to the submission of each estimate to the Office of Management and Budget or its successor;
- (c) To manage economic affairs and enterprises of the Forest County Potawatomi Community;
- (d) To administer any funds within the control of the Community; to make expenditures from available funds for public purposes including salaries or other remuneration of tribal officials, employees or members....
- (e) To appoint subordinate committees and employees not otherwise provided for in this Constitution;
- (f) To develop ordinances, resolutions and other documents for consideration by the General Council;
- (g) To develop policies, formulate plans, and set objectives for the consideration of the General Council and promote ways and means to carry them out;
- (h) To encourage preservation of Potawatomi arts, crafts, traditions and culture.

Section 2. All actions of the Executive Council are subject to review and rescission by the General Council.

SOVEREIGN IMMUNITY

Sipayik Members of the Passamaquoddy Tribe

As a recognized part of the government of a sovereign Indian Tribe in existence from time immemorial, the government of the Pleasant Point Reservation is immune from suit in all forums except as set forth herein.

(a) The government of the Pleasant Point Reservation shall be subject to suit in the federal courts of the United States or the courts of the State of Maine to the extent agreed to in the Maine Indian Claims Settlement Act or as provided by other applicable law, and any suit which could be brought against that government in the courts of the United States or the State of Maine may be brought against it in the Passamaquoddy Tribal Court.

(b) The government of the Pleasant Point Reservation shall be subject to suit in the Passamaquoddy Tribal Court in any suit arising under Article IV, Section 1 of this Constitution or the Indian Civil Rights Act, provided that the government's immunity is waived only to the extent that damages may be awarded in an amount of not more than fifty thousand dollars for any and all claims of any one party arising out of the same course of conduct, transaction or occurrence, or any larger amount that the Sipayik Governor and Council may be hereafter establish by ordinance.

(c) The government of the Pleasant Point Reservation shall otherwise be subject to suit only in the manner and to the extent expressly authorized by a Passamaquoddy tribal Constitution or by action of the Joint Tribal Council or the Sipayik Governor and Council.

Any suit for injunctive and prospective relief against a tribal official to enforce the terms of this Constitution or tribal law shall not be deemed a suit against the government, and is not barred by this Section.

KEY CONCEPTS OF PROVISION

- Be sure to fully cover exceptions

POINTS TO CONSIDER

- Consider a waiver clause to protect against abuse of this power

SOVEREIGN IMMUNITY

PURPOSE: This provision defines the absolute immunity of a sovereign government from being sued.

EXAMPLES

St. Regis Mohawk Tribe

Section 1. Sovereign Immunity. The Saint Regis Mohawk Tribe hereby declares that, in exercising self determination and its sovereign powers to the fullest extent, the Tribe is immune from suit except to the extent that the Tribal Council expressly waives sovereign immunity, or as provided by this Constitution.

Section 2. No tribal employee or elected official acting within the scope of their duties or authority is subject to suit.

Native Tribe of Koyukuk, Alaska

Nothing in this Constitution shall be considered or interpreted to be a waiver of the sovereign immunity of the Native Tribe of Koyukuk. The sovereign immunity of the tribe may only be waived by express resolution of the Tribal Council, after a referendum in which the waiver is approved by the affirmative vote of the majority of tribal members qualified to vote. A waiver shall apply only to claims specified in such resolution and permitted by this Constitution and federal law. However, the Tribal Council shall have the authority to waive the sovereign immunity of the Native Tribe of Koyukuk without approval in a referendum solely for the purposes of satisfying the conditions or requirements of federal or State grants or contracts. Waivers of sovereign immunity shall not be general but must be specific and limited to duration, grantee, transaction, claims, property or funds of the Tribe subject to the waiver, as well as specific to the court having jurisdiction and applicable law.

Waiver of sovereign immunity of the Tribe shall not be considered a general consent to levy any judgment, lien or attachment upon property of the Tribe other than property specifically pledged, assigned or otherwise explicitly subject to levy in the waiver resolution. A waiver which fails to comply with this Article shall be invalid.

BRANCHES OF GOV'T: EXECUTIVE

Minnesota Chippewa Tribe

1. Tribal Executive Committee

The Tribal Executive Committee shall be composed of the Chairman and Secretary/Treasurer of each of the six (6) Reservation Business Committees elected in accordance with Article IV. The Tribal Executive Committee shall, at its first meeting, select from within the group a President, a Vice-President, a Secretary, and a Treasurer who shall continue in office for the period of two (2) years or until their successors are elected and seated.

The governing bodies of the Minnesota Chippewa Tribe shall be the Tribal Executive Committee and the Reservation Business Committees of the White Earth, Leech Lake, Fond du Lac, Bois Forte (Nett Lake), and Grand Pottage Reservations, and the Nonremoval Mille Lac Band of Chippewa Indians, hereinafter referred to as the six (6) Reservations.

Yavapai-Apache Nation

Section 1. Executives. The Executive Department shall consist of the Chairperson, Vice Chairperson, Secretary and Treasurer of the Tribal Council and such other persons as the Tribal Council or their designee may find necessary for the administration of tribal business. The Chairperson shall be in charge of the Executive Department in accordance with Section 2 of this Article.

Section 2. Duties.

(a) The Chairperson shall make all decisions regarding personnel within the Executive Department, Provided, That decisions regarding departmental directors shall also need the concurrence of the Tribal Council.

(b) The Executive Department shall oversee the administration of tribal business and shall exercise those authorities delegated to it.

KEY CONCEPTS OF PROVISION

- Match executive power to traditional role

POINTS TO CONSIDER

- Length of term
- Term limits



BRANCHES OF GOV'T: LEGISLATIVE

PURPOSE: This provision defines the general council/legislative branch of government.

EXAMPLES

Coquille Indian Tribe

SECTION 1. POWERS

There shall be a General Council, comprised of all duly enrolled members of the Coquille Indian Tribe who are eighteen years of age or older, which shall have the power to:

- a. Elect Tribal Council members.
- b. Amend this Constitution as provided by Article VII of this Constitution.
- c. Make advisory recommendations to the Tribal Council upon a majority vote of those actually voting at a General Council meeting.

SECTION 2. PROCEDURES

The General Council shall hold meetings in accordance with the following procedures:

- a. The General Council shall meet at least twice a year at a time and place to be set by the Tribal Council.
- b. Special meetings of the General Council may be called by the Tribal Council upon two (2) weeks notice to the membership of the General Council. Such notice shall include an agenda which specifies the items to be discussed at the meeting. The Tribal Council may call such meetings upon its own motion. The Tribal Council must call a General Council meeting upon presentation of a properly verified petition signed by one-third (1/3) or more of the General Council of the Coquille Indian Tribe.
- c. The agenda for the General Council meetings shall be set by the Tribal Council; provided that any member of the General Council may submit in writing items to the Tribal Council for consideration for the agenda. Additionally, the Tribal Council in each agenda must include time for more discussion of items from the floor regardless of whether said items appear on the agenda.
- d. The Tribal Council Chairperson shall chair General Council meetings. In his/her absence, the Tribal Vice Chairperson shall chair the meeting. If both the Tribal Chairperson and Vice Chairperson are absent, the Chief shall chair the meeting.

STATUTES & RESOLUTIONS

Confederated Salish and Kootenai Tribes

Section 1. All final decisions of the Council on matters of general and permanent interest to the members of the Confederated Tribes shall be embodied in ordinances. Such ordinances shall be published from time to time for the information and education of the members of the Confederated Tribes.

Section 2. All final decisions of the Council on matters of temporary interest or relating especially to particular individuals or officials.... shall be embodied in resolutions. Such resolutions shall be recorded in a special book, which shall be open to inspection, by members of the Confederated Tribes.

Section 3. All questions of procedure (such as acceptance of Committee reports or invitations to outsiders to speak) shall be decided by action of the Council or by ruling of the Chairman, if no objection is heard. In all ordinances, resolutions or motions the Council may act by majority vote, but all matters of importance shall be fully discussed and a reasonable attempt shall be made to secure unanimous agreement.

Section 4. Legislative forms. Every ordinance shall begin with the words: "Be it enacted by the Council of the Confederated Salish and Kootenai Tribes--."

Section 5. Every resolution shall begin with the words: "Be it resolved by the Council of the Confederated Salish and Kootenai Tribes--."

Section 6. Every ordinance or resolution shall contain a recital of the laws of the United States and the provisions of this Constitution under which authority for the said ordinance or resolution is found.

KEY CONCEPTS OF PROVISION

- Be sure process mirrors traditional cultural processes for resolving issues

POINTS TO CONSIDER

- What are the procedures



STATUTES & RESOLUTIONS

PURPOSE: This provision defines the process by which laws are enacted.

EXAMPLES

Ho-Chunk Nation

Section 1. Statutes. All final decisions of the Legislature on matters of permanent interest shall be embodied in statutes. Such enactments shall be available for inspection by members of the Nation during normal business hours.

Section 2. Resolutions. All final decisions on matters of temporary interest where a formal expression is needed shall be embodied in a resolution, noted in the minutes, and shall be available for inspection by members of the Nation during normal business hours.

Section 3. Form. All statutes and resolutions shall be dated and numbered and shall include a certificate of verification.

Section 4. Review. The Legislature shall submit statutes and resolutions to the Secretary of the Interior for approval when required by federal law.

Seminole Tribe

SECTION 1. All final decisions of the Tribal Council on matters of general and permanent interest to members of the tribe and to tribal administration shall be embodied in ordinances. Each ordinance shall be numbered consecutively beginning with Number 1. Such enactments shall be available for public inspecting.

SECTION. 2. All final decisions of the Tribal Council on matters of temporary interest or relating to particular individuals, officials or committees shall be embodied in resolutions. Such resolutions shall be numbered consecutively beginning with Number 1 and shall also be subject to public inspection.

BRANCHES OF GOV'T: LEGISLATIVE

Hopi Tribe

Section 1. Composition. The Legislative Branch shall be comprised of a Council. The Council shall consist of two Representatives from each Village. The Council shall select a Representative from among its Members to serve as Speaker of the Council.

Section 2. Terms. Each Representative shall serve a two year term or until a successor has been sworn into office. Representatives may serve any number of terms in succession or otherwise.

Section 3. Qualifications. Each Representative shall be a member of the Village which he or she represents and a Member of the Tribe, at least twenty-five years old, a resident of any lands within the Jurisdiction of the Tribe for at least two years immediately prior to the election or appointment, be able to speak the Hopi language, and shall meet other criteria, if any, set by the respective Village.

Section 4. Powers. (a). Legislative power shall be vested in the Council. The Council shall have the power to make laws. (b). The Council shall enact an annual budget by law which shall include an appropriation for the Judicial Branch and the Executive Branch. Every funding item in the annual budget must have been previously authorized by law. No moneys shall be drawn from the Treasury except by a warrant signed by the President and except upon authorization and appropriation by law....

KEY CONCEPTS OF PROVISION

- Match legislative power to traditional role

POINTS TO CONSIDER

- Staggered terms
- Length of terms
- Criteria to pass legislation



BRANCHES OF GOV'T: JUDICIAL

PURPOSE: This provision defines the judiciary branch of government.

EXAMPLES

Grand Ronde Community of Oregon

Section 1. Ordinance. There shall be a Tribal Court, consisting of one (1) Chief Judge and such Associate Judges and staff as are designated by tribal ordinance. The Ordinance shall set forth the terms of office and the qualifications for Tribal Court Chief Judge, Associate Judge and staff.

Sec. 2. Rules of Pleading, Practice and Procedure. The Chief Judge, in consultation with the Tribal Council, shall promulgate rules of pleading, practice and procedure applicable to any and all proceedings of the Tribal Court.

Sec. 3. Powers. The Tribal Court shall be empowered to exercise all judicial authority of the Tribe. Said authority shall include but not be limited to enforcement of the Indian Child Welfare Act of 1978 and the American Indian Religious Freedom Act of 1978, as well as the power to review and overturn tribal legislative and executive actions for violation of this Constitution or the Indian Civil Rights Act of 1968.

Oglala Sioux Tribe

SECTION 1. The judicial powers of the Oglala Sioux Tribe shall be vested in a court or courts which the tribal council may ordain or establish.

SECTION 2. The judicial power shall extend to all cases involving only members of the Oglala Sioux Tribe, arising under the constitution and by-laws or ordinances of the tribe, and to other cases in which all parties consent to jurisdiction.

REFERENDUM & INITIATIVE

Sec. 2. Initiative Procedure

Voting on all initiatives shall be by secret, written ballot. No initiative vote shall be valid unless the number of persons casting ballots is equal at least to sixty percent (60%) of the number of persons who cast ballots in the most recent annual tribal election. Unless at least two-thirds (2/3) of all persons who cast ballots vote in favor of the proposed measure or action, the initiative proposal shall be deemed to have failed.

Warm Springs Tribe

Whenever a matter of great importance comes before the Tribal Council, the councilmen shall, by resolution duly passed, submit the matter to the vote of the people. If they do not so agree to submit the question, any two members of the council, or one-fifth of the members of the Confederated Tribes, may within 30 days after the vote of the Council, call such a popular referendum, but no councilman shall call more than two referendum elections during any calendar year. When a referendum election has been called, the question to be voted on shall be posted at the voting places for at least ten days prior to election. The notice shall contain the ordinance or resolution to be voted on with the accompanying words: "Shall the ordinance (or resolution) be approved. Yes. (). No. ()." The will of the majority of those voting shall be the law, provided at least one-third of the eligible voters actually vote.

KEY CONCEPTS OF PROVISION

- Define clear procedures for both processes

POINTS TO CONSIDER

- Number of referendum elections per year
- Percentage of members needed to sign petition



REFERENDUM & INITIATIVE

PURPOSE: This provision defines the process by which citizens vote on a single issue by the marking of ballots in a vote.

EXAMPLES

Confederated Tribes of Siletz Indians of Oregon

SECTION 1. INITIATIVE

Upon receipt and verification by the Election Board of a petition of at least one-third of the General Council of the Confederated Tribes of Siletz Indians of Oregon, a proposed ordinance or resolution made by the people shall be submitted to a vote of the General Council at a regular or special election to be held within sixty days of verification of the petition by the Election Board. The vote of a majority of those actually voting shall be conclusive and binding upon the Tribal Council.

SECTION 2. REFERENDUM

Upon receipt and verification by the Election Board of a petition of at least one-third of the General Council of the Confederated Tribes of Siletz Indians of Oregon or upon the request of two-thirds of the total membership of the Tribal Council, any proposed or previously enacted ordinance or resolution of the Tribal Council shall be submitted to a vote of the General Council at a regular or special election to be held within sixty days of verification of the petition by the Election Board or vote of the Tribal Council. The vote of a majority of those actually voting shall be conclusive and binding upon the Tribal Council.

Skokomish Indian Tribe

Section 1. Right of Initiative

Voters of the Skokomish tribe shall have the right to cause a vote of the General Council on any legislation proposed by the voters and on any proposed or enacted ordinance or resolution of the Tribal Council. No later than thirty (30) days after he or she receives a petition signed by at least one-third (1/3) of the eligible voters, the President of the General Council shall call an election according to the procedures for calling special General Council meetings.

BRANCHES OF GOV'T: JUDICIAL

Miami Tribe

Section 1. Until such time as the Business Committee determined that the Tribe is financially and otherwise prepared to maintain a separate Tribal Court, the judicial authority of the Tribe shall be exercised by the Court of Indian Offenses. The jurisdiction of the Court of Indian Offenses shall include, but not be limited to, civil and criminal jurisdiction. When the Business Committee determines that the Tribe is prepared to begin exercising its right to judicial authority, it shall notify the Court of Indian Offenses of such intentions by transmitting a Resolution to that effect, and copies of the following:

- (a) a copy of the judicial ordinance
 - (b) a plan for establishing the Tribal Court, and
 - (c) a timetable and procedure for orderly transition of pending cases
- In line with the above provisions, the Judicial authority of the Tribe will, thereafter, be exercised by the Tribal Judicial Ordinance acquired before assumption of such jurisdiction. If, because of financial or other reasons it is not appropriate for the Tribe to continue the operation of a Tribal Court, the Business Committee may restore jurisdiction to the Court of Indian Offenses, upon formal Resolution thereof.

KEY CONCEPTS OF PROVISION

- Match judicial power to traditional role

POINTS TO CONSIDER

- Authority over citizens off reservation
- Authority over non-tribal members on reservation



ELECTIONS

PURPOSE: This provision defines the process by which public or private officials are selected from a field of candidates by the marking of ballots in a vote.

EXAMPLES

Minnesota Chippewa Tribe

1. Right to Vote

All elections held on the six (6) Reservations shall be held in accordance with a uniform election ordinance to be adopted by the Tribal Executive Committee, which shall provide that:

All members of the tribe, eighteen (18) years of age or over, shall have the right to vote at all elections held within the reservation of their enrollment.

All elections shall provide for absentee ballots and secret ballot voting.

Each Reservation Business Committee shall be the sole judge of the qualifications of its voters.

The precincts, polling places, election boards, time for opening and closing the polls, canvassing the vote and all pertinent details shall be clearly described in the ordinance.

2. Candidates

A candidate for Chairman, Secretary-Treasurer and Committeeman must be an enrolled member of the Tribe and reside on the reservation of his enrollment. No member of the Tribe shall be eligible to hold office, either as a Committeeman or Officer, until he or she has reached his or her twenty-first (21) birthday on or before the date of election.

3. Term of Office

The first election of the Reservation Business Committee for the six (6) Reservations shall be called and held within ninety (90) days after the date on which these amendments became effective in accordance with Section 1, of this Article....

Ely Shoshone Tribe

Section 1. The first election under this constitution shall be called and supervised by the present tribal council on the fourth Saturday of January after the date of approval of this constitution.

BILL OF RIGHTS

Choctaw Nation

Section 1. Nothing in this Constitution shall be interpreted in a way which would diminish the rights and privileges that tribal members have as citizens of this Nation, the State of Oklahoma, the United States of America or under any Act of the Congress of the United States.

Section 2. No religious test shall ever be required as a qualification to any office of public trust in this Nation.

Section 3. The right that every member has to speak, write or publish his opinions on matters relating to the Choctaw Nation shall never be abridged.

Section 4. The members shall have the right, in a peaceable manner, to assemble together for their common good, and to apply to those vested with powers of government for redress of grievances or other purposes by address or remonstrance.

Section 5. The individually vested property rights of members of the Choctaw Nation of Oklahoma shall not be affected in anyway whatsoever by the provisions of this Constitution or any enactment of the Tribal Council.

KEY CONCEPTS OF PROVISION

- Incorporate cultural values

POINTS TO CONSIDER

- Personal liberty
- Protection against arbitrary search or entry
- Freedom of assembly and association
- Freedom of expression
- Protection against discrimination



BILL OF RIGHTS

PURPOSE: This provision defines the rights of individuals in relation to the tribal government.

EXAMPLES

Blackfeet Tribe

Section 1. Suffrage - Any member of the Blackfeet Tribe, eighteen (18) years of age or over, shall be eligible to vote at any election when he or she presents himself or herself at a polling place within his or her voting district.

Section 2. Economic Rights - All members of the tribe shall be accorded equal opportunities to participate in the economic resources and activities of the reservation.

Section 3. Civil Liberties - All members of the tribe may enjoy without hindrance freedom of worship, conscience, speech, press, assembly, and association.

Section 4. Rights of Accused - Any member of the Blackfeet Tribe accused of any offense shall have the right to a bond, open and public hearing, with due notice of the offense charged, and shall be permitted to summon witnesses on his own behalf....

Cherokee Nation

Section 1. The judicial process of the Cherokee Nation shall be open to every member of the Cherokee Nation. Speedy and certain remedy shall be afforded under the terms of this Constitution for every wrong and injury to person, property or reputation wherein said remedy does not conflict with the laws of the United States. The Council shall prescribe the procedures pertinent thereto. The appropriate protections guaranteed by the Indian Civil Rights Act of 1968 shall apply to all members of the Cherokee Nation.

ELECTIONS

Section 2. The duly elected tribal council shall serve three (3) years, two (2) members being elected each year except that every third year one (1) shall be elected.

Section 3. For the first election under this constitution the council so organized shall elect from within its own number (1) a chairperson; (2) a vice chairperson; and (3) a secretary/treasurer.

(a) The two candidates receiving the highest number of votes shall hold office for three (3) years; the next two highest, two (2) years; and the next highest, one (1) year; and they shall hold office until their successors are duly elected and seated into office. After the first election, elections for the tribal council shall be called annually at least sixty (60) days prior to expiration of terms of office of respective outgoing tribal council members.

Section 4. Any enrolled member of the tribe who is at least eighteen (18) years of age shall be entitled to vote.

Section 5. Any qualified tribal member, who is at least twenty-one (21) years of age, may announce his/her candidacy for the council by notifying the secretary-treasurer in writing of his/her candidacy. The list of certified candidates shall be posted by the secretary-treasurer the tribal council at least ten (10) days before the election.

Section 6. The council shall appoint an election board of at least three (3) members who shall determine regulations governing elections; supervise the elections; and shall certify the elections to the council within five (5) days after election returns have been counted.

Section 7. The Ely Shoshone Tribal Council shall be the sole judge of the qualifications of its members.

Section 8. All elections shall be by secret ballot.

KEY CONCEPTS OF PROVISION

- Critical that election process be legitimate

POINTS TO CONSIDER

- Traditional leadership versus one person one vote electoral college



REMOVAL, RECALL & VACANCIES

PURPOSE: This provision defines the right or procedure by which an official may be removed or how empty seats are filled.

EXAMPLES

Fort McDermitt Paiute and Shoshone Tribe

SECTION 1. If a councilman or other tribal officer shall die, resign, voluntarily resign from tribal membership, or be removed from office, the Council shall declare the office vacant and appoint a successor to fill such vacancy until the next regular election.

SECTION 2. Any councilman or other tribal officer who is proven guilty of improper conduct, or of gross neglect of duty, may be expelled from office by a two-thirds vote of the Council members, provided that the accused official is given full opportunity to reply to any and all charges at a designated council meeting and provided further, that the accused official shall have been given a written statement of the charges against him at least 3 days before the meeting at which he is to be given an opportunity to reply.

Kickapoo Traditional Tribe of Texas

Sec. 1. Vacancies. If a member of the Traditional Council is removed, recalled, resigns, forfeits office, or the office otherwise becomes vacant, the Traditional Council shall appoint a person who meets the qualifications for election to office to serve the remainder of that term, except if more than two (2) years remain in the term, a special election shall be held to fill the position.

Sec. 2. Removal. The Traditional Council may by majority vote remove any member for neglect of duty or gross misconduct. Before any vote for removal is taken, the member shall be given a written statement of the charges against him at least thirty (30) days before the date of the meeting at which the vote is scheduled, and an opportunity to appear and answer all charges at such designated meeting. The decision of the Traditional Council shall be final and any removed council member shall not be returned to office for a period of at least six years.

REMOVAL, RECALL & VACANCIES

Sec. 3. Recall. Upon receipt of a valid petition signed by at least one hundred (100) eligible voters of the Tribe demanding recall of a member or members of the Traditional Council, Election Board, Membership Committee or Appeals Board, the Election Board, the Election Board shall call a special election within forty-five (45) days. No Council member or other tribal official may be recalled unless at least thirty percent (30%) of the eligible voters of the Tribe vote in the special election, and a majority of those voting cast their ballot in favor of recall. Recall of a Council member which has been which has been submitted to the voters and rejected shall not be considered again for at least twelve (12) months. Only one official shall be considered for recall in any given election.

Fort Belknap Indian Community

Section 1. *Forfeiture of office*-Any member of the community who shall be absent from three consecutive regular meetings of the council, unless such absence shall be excused for cause, or who shall be convicted of any offense involving dishonesty, shall automatically forfeit his office.

Sec. 2. *Impeachment*-The council may expel a member for cause by a two-thirds vote, after due notice of charges and allowing an opportunity to be heard.

Sec. 3. *Vacancies*-When vacancies happen in the representation from any district, the president of the council shall issue a writ of election to fill such vacancies. At least thirty days' notice of such election shall be given.

KEY CONCEPTS OF PROVISION

- Be specific on criteria for removal and recall

POINTS TO CONSIDER

- What are the procedures
- Who is involved in these actions

