



TRIBAL ROLES, RESPONSIBILITIES, AND DISPUTE RESOLUTION

BIA Alaska Region
Branch of Tribal Operations



Roles

- Tribal Council Members
- Tribal Council Officers
- Tribal Administrators
- Tribal Members





Tribal Government



- Tribal Council = Tribal Governing Body
- Leaders elected to positions of authority
- Legal and Fiscal Accountability
- Tribal Sovereignty
- Self-Determination and/or Self-Governance
- Principles of Constitutions
- Policy Development



Tribal Administration

- Tribal Management Systems
 - *Checks and Balances*
- Financial Reports and Audits
- Federal Appropriations
- Supervisory Responsibilities
- Communication and Public Relations
- Creation of Budgets and Understanding Indirect Cost Rates



Task management

Plan tasks, assign to employee and track tasks to completion.



Time tracking

Track time per task, user or project. Can track estimated vs. actual time spent.



Resource management

Assign employees to tasks/projects based on skill set and availability.



Reporting & analytics

Report on and measure project status, costs, performance etc.



Delineation of Roles and Responsibilities

Tribal Governance

- Elected officials governing an entity
- Organic Governing Documents as Foundation
- Decision or rule making following established guidelines
- Hires lead administrator

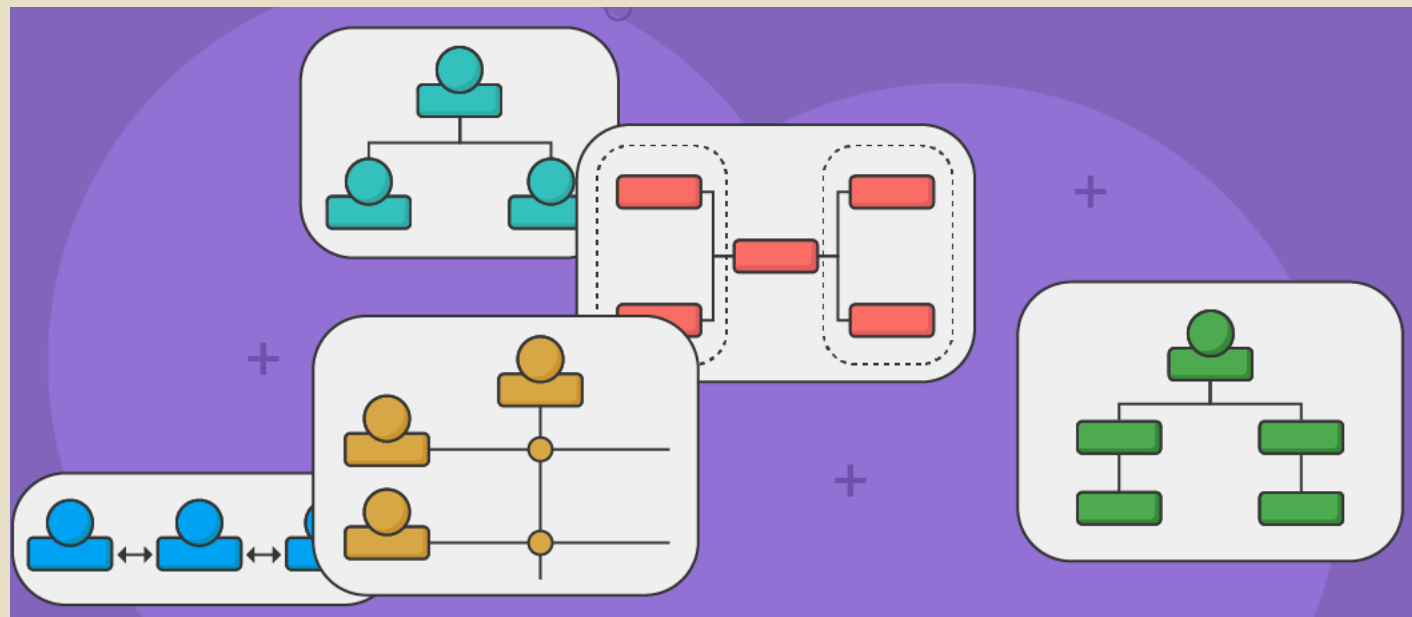
Tribal Administration

- Selected to lead an entity
- Supervises employees
- Policies and Procedures guiding daily tasks
- Makes sound decisions after objective review



Understand your Organizational Structure

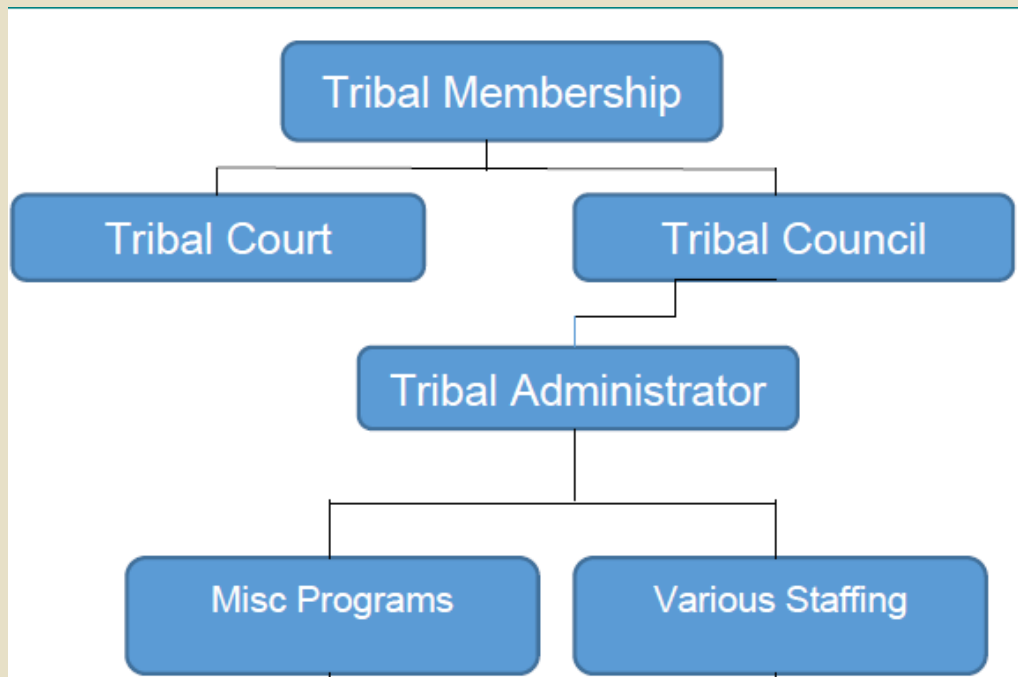
- Foundation in Place
 - Vision
 - Mission
 - Objectives
 - Priorities



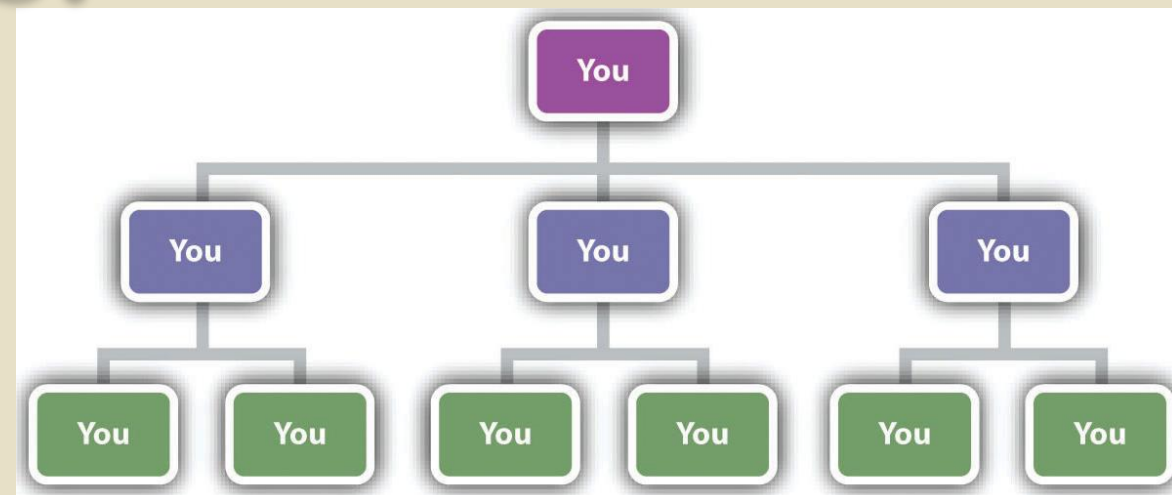
“Balance is not something you find, it’s something you create.”
-Jana Kingsford



Understand your Organizational Structure



VS.





Relationships Matter

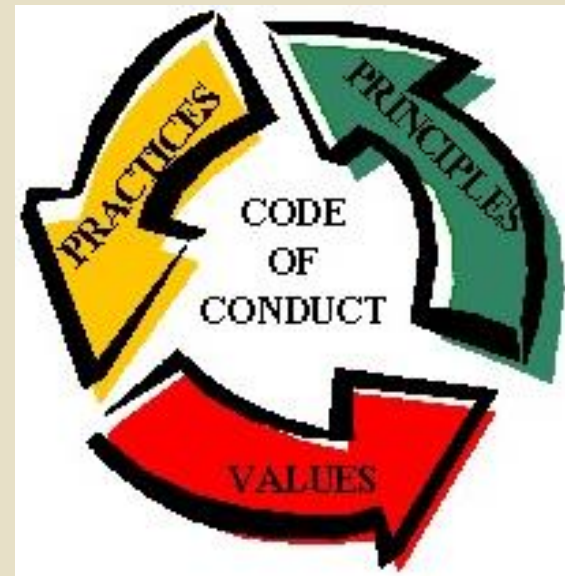


- Know your Leadership
- Mutual Respect and Understanding
- Respect the Titles
- Build Trust
- Transparent Communication
- Be Fair
- Exercise Patience
- Show Accountability



Ethics and Conduct

- Code of Ethics and/or Conduct should be expected of **both** the Tribal Council and its Tribal employees
 - Guidelines of Conduct
 - Standards of Morals
 - Financial Accountability
 - Harassment in the Workplace
 - Reliability





Why they should be Written?



- Work culture, Expectations and Requirements
- Ensure ongoing compliance
- Eliminate risks and challenges
- No more excuses
- Safety and Preparedness
- Document, document, document!



Do you have procedures for responding to Tribal Members?

- Tribal Government offices serve Tribal Members
- Procedures in place to address concerns
 - When brought to a Council Member?
 - How do you guide them?
 - When brought to a staff member?
 - What steps take place?





Nature of Dispute or Conflict

What is the issue?

- Election
- Enrollment
- Civil Rights

General Rule:

- Defer to what is written in the organic document:
 - Tribal Constitution and Bylaws
 - Ordinances
 - Codes



Defining Grievance

- A real or imagined wrong or other cause for complaint or protest, especially unfair treatment.
 - An official statement of a complaint over something believed to be wrong or unfair
 - A feeling of resentment over something believed to be wrong or unfair



Rights to file a Grievance

- Grievance procedures
 - How/when/who to file a complaint
 - Opportunity for individual(s) to express their concerns
 - Anticipated next steps clearly identified once filed
 - Timeframes for filing, response period, etc.
 - Committee members should not be comprised of the same people who caused the complaint to be filed in the first place.



Addressed in Organic Document?

- Unless the document says to “Appeal to the Bureau of Indian Affairs,” BIA will guide the tribe to handle internally.



Tribal Forums

- Challenges to tribal action should be heard in Tribal forums
 - Intra-tribal disputes should be resolved in tribal forums
 - BIA must defer to the tribal forum's resolution of a dispute
 - A tribal forum does not need to be a tribal court
 - Appellants before the IBIA must have exhausted tribal remedies
 - BIA may recognize an interim Tribal Government if necessary



What Tribal Forums?

- Any Tribal Procedure
 - Internal Tribal affairs
 - Something established for yourselves, by yourselves
 - Any procedure for adjudicating matters
 - General Tribal meeting, if no other means
 - Any internal matter
- If the Tribe has not established or designed a forum for resolution of a dispute, BIA should offer assistance to the Tribe in establishing a forum.
- BIA may take a more active role if it is necessary.



Interior Board of Indian Appeals

- Decisions of the Interior Board of Indian Appeals (IBIA)
- 43 C.F.R. §4.1
- <https://www.doi.gov/oha/organization/ibia/findingIBIA>
- Decisions
 - Fact specific
 - Can apply a past decision on current matter if issue or appeal is applicable



IBIA Decisions

- Tribal Remedies must first be exhausted in any appeal governed by an issue of tribal law.
 - Chris Reeves v. Great Plains Regional Director, 49 IBIA 126 (2009)
- The Indian Civil Rights Act does not give rise to an obligation on the part of the BIA to try compel a tribe to follow or enforce tribal laws
 - Chris Reeves v. Great Plains Regional Director, 49 IBIA 126 (2009)
- The Board generally lacks jurisdiction over enrollment and membership matters
 - Edson G. Gardner and Lynda M. Kozlowicz v. Uintah and Ouray Agency Superintendent, 51 IBIA 166 (2010)



BIA and Tribes

- BIA must give deference to Tribal Interpretation of Tribal Governing Documents
 - Tribes are the primary interpreters of Tribal Law
 - Even when the Tribe gives BIA formal authority to review action taken, authority should be construed as narrowly as possible to avoid unduly interfering with the tribe's self-governance
 - When acting in capacity to carry out G-to-G relationship, the BIA must take care to avoid intruding on tribal sovereignty



Tribal Remedies

Historically/Traditionally

- Talking circles
- Elder advisors
- Chores
- Removal Banishment

Modern Practices

- Tribal Courts
- Appeal Boards
- State Troopers/Police
- State/City Courts
- Trials
- Sentencing



KARDEN KELLY
SPECIAL AGENT
DEPARTMENT OF THE INTERIOR
KARDEN_KELLY@DOIOIG.GOV
(907) 644-3325

Jolene John
Tribal Operations Officer
Jolene.john@bia.gov
(907) 271-4043

Sarah Walker
Tribal Operations Specialist
Sarah.walker@bia.gov
(907) 271-4056