

## TRIBAL PROBATE CODE MATRIX

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

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

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

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

**Additional examples of Tribal Probate codes are available online at:**

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

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

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

**Additional Source for Drafting Ideas**

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