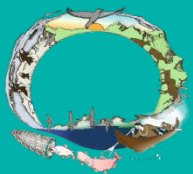


Tribal Courts as Fair and Impartial Tribunals

Mishal Gaede

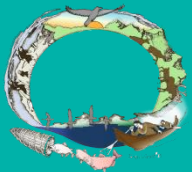
Tribal Court Facilitator



Tanana
Chiefs
Conference

Due Process

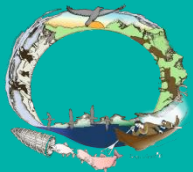
In State v. Native Village of Tanana (AK 2011), the Alaska Supreme Court held that child custody orders entered by tribal courts in proceedings held under the ICWA are entitled to full faith and credit, to the same extent as other states' and foreign orders. The proposed new rules provide a process to support the enforcement of those orders.



Tanana
Chiefs
Conference

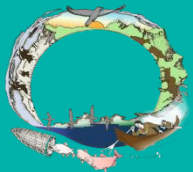
Due Process

- Indian Civil Rights of 1968
- Notice ~ Tell people there is a hearing and an idea of what it is about
- Opportunity to be heard ~ provide people with the chance to tell their side of the story and find out the position of the other side
- Fair & Impartial Hearing ~ No conflict of interest and hold hearing in the usual manner. Apply tribal law in a consistent manner.



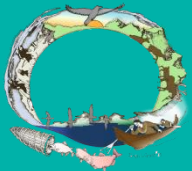
Fairness in Tribal Courts

- Fairness: go over the rights of the parties at each hearing
 - Keep an open mind
 - Aim for consistency
 - Be respectful
 - Know your boundaries as a Judge



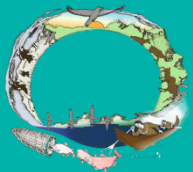
Fairness in Tribal Courts

- Make decisions based on evidence not emotions
- Think of it as a fact finding mission
 - What evidence supports the allegation of abuse or neglect?
 - Remember to ask questions
 - Then ask more questions
 - Check for accuracy



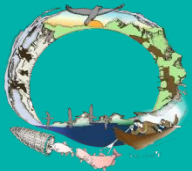
Best Practices

- Keep a record of all proceedings
- Record in audio or in writing
- Explain the decision of the Court
- Be clear, direct and detailed in Orders
- Have written Codes and follow them
- Allow for Appeals



Best Practices

- Trained Judges include knowledge of:
- Tribe's Constitution
- Procedures of the Court
- Familiar with the timeframes of a case
- Domestic Relations and Judicial Codes
- Judges use inter-tribal cooperation when possible



In Closing

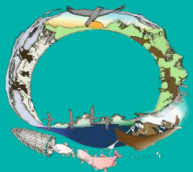
- Having the respect and trust of your people as a Judge is of utmost importance

Tribes are vested in helping strengthen the family which helps the community and future vitality of a Tribe.

Thank you

Mishal Gaede, Ph. 907-452-8251, Ext. 3273

Email: mishal.gaede@tananachiefs.org



Tanana
Chiefs
Conference