

California Valley Miwok Tribe Constitution Committee

JANUARY 18, 2024,
VIRTUAL MEETING

HIERARCHY OF UNITED STATES AND TRIBAL LAWS

LAW	MADE BY	CAN BE CHANGED BY
<p>U.S. Constitution</p> 	<p>U.S. People represented by their States</p> 	<p>¾ vote of all State</p>  <ul style="list-style-type: none"> Alabama yes Alaska yes Arizona yes California yes
<p>U.S. Statues</p> 	<p>U.S. Congress</p> 	<p>Majority vote of Congress</p> 
<p>Tribal Constitution</p> 	<p>Tribal Members</p> 	<p>Amendment with Vote of the Tribe Members</p> 
<p>Tribal Ordinance</p> 	<p>Tribal Business Committee</p> 	<p>Vote of Tribal Business Committee</p> 
<p>Tribal Resolution</p>	<p>Tribal Business Committee</p> 	<p>Vote of Tribal Business Committee</p> 

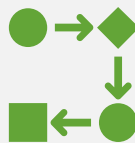
Developing Proposed Constitution

Sets forth tribal powers and fundamental governing principles and promotes order in the conduct of tribal affairs;

Protects the rights of tribal members and protects the rights of person subject to tribal jurisdiction;

Protects resources, values, and culture of the tribe by setting forth in writing the tribe's powers and functions.

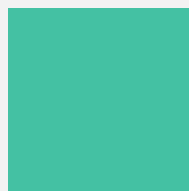
Developing Proposed Constitution



Tribal driven process. Look for areas of consensus and areas that need improvement.



It is important **to engage with the tribal community to obtain input on the proposed governing document** all throughout this process.



Common to have various drafts or versions of the proposed Constitution document throughout the drafting process.

Constitutional Considerations

- Use clear, concise, consistent language throughout entire document.
- Use language that is commonly understood using terms that are understood in one way (Use: Tribal Council not just Council because it could mean General Council, Elders Council, etc).
- Some Tribes' Constitutions include a definitions section for clarity.
- Pay attention and be deliberate with the words
 - example: may or shall
 - example: qualified voter vs eligible voter

Constitutional Considerations



Do I understand how this process would work as described in the Constitution?



Do I understand how the Tribe would go about changing or amending this document?



How many Ordinances/Bylaws are we creating per this Constitution?



Are Articles labeled correctly and in order? Review for content, flow and grammar (avoid typos).

Constitutional Considerations

Need technical and legal review by BIA staff and BIA's Solicitors to obtain BIA approval. BIA cannot approve a Constitution that is contrary to Federal law.

Example:

- References to Tribes having criminal jurisdiction might not obtain Federal approval depending on language because Congress granted criminal jurisdiction in California to the State per Public Law 83-280 (67 Stat. 588).

Constitutional Drafting



How do you want to create it? Will it be a shared document?



Identify who on this Committee will be responsible for creating proposed document (who is typing it)?



Tracking comments, suggestions and edits?



Tracking versions of document

Sample Constitutions

Publicly available tribal Constitutions that can be shared without redactions.

[idc-001884.pdf \(SECURED\) \(bia.gov\)](#)

[wqs-tribal-tas-jst-application-exhibit-c.pdf \(epa.gov\)](#)

[hvt-constitution-and-bylaws.pdf \(hoopa-nsn.gov\)](#)

[BLR_Constitution.pdf \(bluelakerancheria-nsn.gov\)](#)

Comments & Questions

BIA is here to provide technical assistance and support as requested.

Contact: Harley Long, Superintendent
Carol Rogers-Davis, Tribal Operations Officer
(279) 444-0323