

**RD 676 Federal Indian Law in Alaska: Tribal Self-Governance - Business, Public Safety,
Protection of Family, Property, and Resources**

SPRING 201X Course Outline

Course meets TBA 5.10 to 8.10pm

Note: Students must have graduate standing or instructor permission to enroll in RD 676

Instructor: Pat Sekaquaptewa

E-mail: pssekaquaptewa@alaska.edu

307 Brooks Bldg., UAF Campus

Audio Conference # 1-800-832-7806

PO Box 756500 Fairbanks, AK 99775

Audio Conference PIN# xxxxxxxx

Office: (907)474-6842 Fax: (907)474-1539

Office Hours: By appointment

Course Description: Examination of the history of federal Indian law and its implementation in Alaska. Key laws including the Indian Reorganization Act (IRA), Public Law 83-280, Indian Child Welfare Act (ICWA), Indian Self-Determination and Education Assistance Act (ISDEAA), Indian Civil Rights Act (ICRA) and the Tribal Law and Order Act (TLOA), are examined in terms of how they have altered the political landscape in Alaska. Indian legislation is explored to determine how Native communities exercise self-governance in Alaska. Students consider the development of tribal judicial capacity and pressing issues such as public safety for Native communities in Alaska as well as tribal participation in business and contractual agreements. Prerequisites: graduate standing or permission of the instructor

Course Goals & Objectives: Students will complete the course with a working knowledge of key Indian legislation and how it applies in Alaska. They will be able to interpret the relevant content of the laws and explain to others the connections between the mandates of each and the ways in which these mandates govern the lives of Alaska Natives and their communities today. They will make effective recommendations for changes to law and policy as regards Native community needs in Alaska.

Student Learning Outcomes:

- Analyze how key pieces of Indian legislation have affected the rights of Alaska Native tribes to exercise jurisdiction over members.
- Examine how Indian legislation supports tribal sovereignty in the business arena.
- Examine how tribal civil and criminal jurisdiction functions in Alaska using applicable case law and legal decisions to support their opinions.
- Evaluate and critique case law and key legal decisions broadly and in relation to their individual projects.

Required Readings:

Alaska Natives and American Laws, third edition. David S. Case & David A Voluck. University of Alaska Press

Tribal Constitutionalism: States, Tribes and the Governance of Membership. Kirsty Gover. Oxford University Press, 2010

Indian Reorganization Act https://www.iltf.org/sites/default/files/IRA_2-all_amendatory_changes.pdf

Indian Child Welfare Act http://www.nicwa.org/Indian_Child_Welfare_Act/

Indian Civil Rights Act <http://www.tribal-institute.org/lists/icra1968.htm>

Tribal Law and Order Act <https://www.justice.gov/tribal/tribal-law-and-order-act>

Public Law 83-280 http://www.tribal-institute.org/lists/pl_280.htm

Indian Self-Determination and Education Assistance Act
<https://www.law.cornell.edu/uscode/text/25/chapter-14/subchapter-II>

Additional required readings will be provided on the Blackboard site for the course (see the attached reading list)

Suggested Texts for Supplemental Reading:

Dunbar-Ortiz, Roxanne. Indigenous Peoples History of the United States. Beacon Press, 2014.

Fletcher, Matthew. Fletcher's Hornbook on Federal Indian Law. West Academic Publishing, 2016

Course Guide: This course uses audio conference participation and the Blackboard learning system.

Course Methodology: Course methodology includes reading, participation in lectures, discussion, written and oral presentation involving problem solving and interpretation of the targeted legislation.

Grading/Evaluation Policy will be based upon the following:

Attendance and participation at weekly audio conferences (10%): Students will be expected to attend these audio conferences having prepared all assigned readings in advance. They may be asked to lead discussions of case law and legislation, and failing to be prepared to do so will result in a reduced grade for participation.

Quizzes 20%: There will be four open book timed online Blackboard quizzes.

Journal Entry 20%: Students must submit a journal entry into the Blackboard journal forum providing their thoughts and ideas on assigned topics at four due dates throughout the semester. Assigned topics will be designed to help students with their final written assignment and oral presentation.

Journal entries each require a minimum of 1000 words. Citations are additional to the 1000 word minimum.

Written Exam (1) 30%: Comprehensive online exam covering interpretation of legislation and specific case law examined in class. Students will use the texts of the different laws and the assigned cases during this open book exam. The three hour exam will include some short essay questions.

Problem Solving Assignment (1) 10%: Each student will be given a legal problem involving a possible real life scenario in a village or villages. Students may choose which law they work with but no two students will be given the same problem. A minimum of twelve pages is required. These twelve pages will be divided 70/30 between a formal legal paper for professionals and a paper for village residents. Both papers will explain how the student solved the problem. Students will be required to use accepted legal writing style using footnotes for the “70%” but may choose a style they think will best suit their village audience for the “30%” paper.

Final Oral Presentation (1) 10%: Students will give a fifteen minute oral presentation explaining how they solved their problem during the final class meeting. The remainder of the class will participate with questions for the presenter.

Grading: Grading is based on guidelines in the 2015/16 UAF catalog. The catalog can be accessed online at: <http://www.uaf.edu/catalog/>

A plus (+) and minus (-) grading system will be utilized for this class.

Letter grades for the course will be determined as follows and will reflect the Grading System and Grade Point Average Computation policy stated in the current UAF Catalog.

A+	100–97%	A.....	96–93%	A-.....	92–90%
B+.....	89–87%	B.....	86–83%	B-.....	82–80%
C+.....	79–77%	C.....	76–73%	C-.....	72–70%
D+	69–67%	D.....	66–63%	D-.....	62–60%
F.....	less than 60%				

Criteria for grading: (UAF Catalog)

A (90-100%) =Excellent work that exhibits insight into the issues. Demonstrates critical thought. Written work is exempt of errors in grammar, spelling and content. Above minimum requirements. Indicates originality and independent work, a thorough mastery of the subject and the satisfactory completion of more than is regularly required.

B (80-89%) =Above average. Speaks and writes well. Above minimum requirements. Demonstrates good understanding of topics.

C (70-79%) =Speaks and writes in an acceptable manner. Works is satisfactory, average. Meets minimum requirements.

D (60-69%) =Below average work. Minimally acceptable. Lowest possible passing grade.

F (59% or lower) =Unacceptable work. Does not meet minimum requirements. Indicates failure. Included in GPA calculations

Student Expectations: All submitted assignments must show reflection and scholarship. Students are expected to use legal writing style with footnotes incorporating proper legal citations.

Students should contact the instructor(s) if they have questions about the course overview, objectives, and organization, grading or student expectations. The contact information is included with this syllabus.

Instructor Policy on Late Submissions, Incomplete Grades and No Basis Grades: There will be no “NB” grades awarded in this course. Students must obtain instructor permission in advance if an unexpected event will result in late submission of the written assignment. Late assignments will not be accepted without prior arrangement. Incomplete grades will only be awarded in extreme circumstances and students should contact the instructor immediately if life events lead them to believe they might need to request an “I” grade.

Plagiarism: Plagiarism is quoting from, paraphrasing, or using specific material contained in any published work, e.g., books, periodicals, public documents, internet, or another person’s ideas without providing appropriate citations or recognitions. Self-plagiarism is using all or part of a paper that was written previously for a different class or assignment and failing to indicate that it is earlier work. NOTE: Material copied from a course lecture or web link but not appropriately cited is considered to be plagiarism. Plagiarism can result in an “F” grade in this course. Students should contact the instructor if they have questions on this topic.

Students with Disabilities: Students with a documented disability requiring accommodation should notify the instructor at the beginning of the semester. The Office of Disability Services implements the Americans with Disabilities Act (ADA) and ensures that UAF students have equal access to the campus and course materials. The instructor will work with the Office of Disabilities Services to provide reasonable accommodations to students with disabilities. (907-474-5655).

uaf-disabilityservices@alaska.edu

Other UAF Student Support Services include:

- Office of Information Technology 907-450 8300 (1-800-478-8226) www.alaska.edu/oit/index.xml or email helpdesk@alaska.edu
- Off-campus library 907-474-7482 (1-800-478-5348) <http://library.uaf.edu/offcampus>
- UAF Writing Center 907 474 5314 or email for an appointment at fywrc@uaf.edu Their website can be found at <http://www.uaf.edu/english/writing-center/>

- CRCD Bookstore 907 474 7711 (1-877-651-4002) or email at CRCD-gotbooks@alaska.edu Their website can be found at <http://www.uaf.edu/rural/bookstore-services/>

Title IX : University of Alaska Board of Regents have clearly stated in BOR Policy that discrimination, harassment and violence will not be tolerated on any campus of the University of Alaska. If you believe you are experiencing discrimination or any form of harassment including sexual harassment/misconduct/assault, you are encouraged to report that behavior. If you report to a faculty member or any university employee, they must notify the UAF Title IX Coordinator about the basic facts of the incident. Your choices for reporting include:

- 1) You may access confidential counseling by contacting the UAF Health & Counseling Center at 474-7043;
- 2) You may access support and file a Title IX report by contacting the UAF Title IX Coordinator at 474-6600;
- 3) You may file a criminal complaint by contacting the University Police Department at 474-7721.

RD 676 COURSE SPRING SCHEDULE

WEEK ONE JANUARY: Introductions and review of materials. Use of legal vocabulary and writing format. Reading and briefing court cases. Locating and citing law and regulations. Canons of Indian law construction.

***** Practice Brief of Talton v Mayes in class *****

WEEK TWO JANUARY: The different eras of Federal Indian policy. Aboriginal Title, the Doctrine of Discovery, and the Plenary Power of Congress. The landmark historical Indian law cases.

WEEK THREE FEBRUARY: The Marshall Trilogy and early Alaska precedent setting cases. How did Alaska Natives come to move down a different legal path than tribes in the Lower 48?

QUIZ ONE ON BLACKBOARD

JOURNAL ENTRY DUE ON BLACKBOARD BY MIDNIGHT ON SATURDAY

WEEK FOUR FEBRUARY: Highlights of the Alaska Native Claims Settlement Act, how did Alaska come to have ANCSA rather than a system of reservations similar to the Lower 48? Comparison between tribal jurisdiction in the Lower 48 and jurisdiction in Alaska.

Hypothetical for problem solving paper will be distributed! (Students must meet individually with instructor during week three to decide on topic for this paper)

WEEK FIVE FEBRUARY: Public Law 83-280. How does this law affect Alaska in terms of tribal jurisdiction?

WEEK SIX FEBRUARY: What is sovereignty and how does it apply in Alaska. How has ANCSA affected tribal sovereignty including civil and criminal jurisdiction within the state? Comparison of ANCSA corporations businesses with tribally owned businesses.

Indian Reorganization Act and the Federally Recognized Tribes list.

QUIZ TWO ON BLACKBOARD

JOURNAL ENTRY DUE ON BLACKBOARD BY MIDNIGHT ON SATURDAY

WEEK SEVEN MARCH: *John v Baker*. Jurisdiction absent of Indian Country.

WEEK EIGHT MARCH: Indian Child Welfare Act (ICWA). *Hogan v Kaltag, Tanana v State and Simmonds v Parks.*

WEEK NINE MARCH: SPRING BREAK: NO CLASS THIS WEEK

WEEK TEN MARCH: Indian Civil Rights Act (ICRA)

WEEK ELEVEN MARCH: Tribal Law and Order Act (TLOA) Tribal criminal jurisdiction and law-enforcement. State representation for tribes and PL 83-280

QUIZ THREE ON BLACKBOARD

JOURNAL ENTRY DUE ON BLACKBOARD BY MIDNIGHT ON SATURDAY

WEEK TWELVE APRIL: Tribal contract/business law. The difference between tribally owned businesses and ANCSA corporations. Indian preference hiring. Indian Self Determination and Education Assistance Act.

WEEK THIRTEEN APRIL: Sovereign immunity and why this is important for tribes.

QUIZ FOUR ON BLACKBOARD

JOURNAL ENTRY DUE ON BLACKBOARD BY MIDNIGHT ON SATURDAY

WEEK FOURTEEN APRIL: Tribal codes and Constitutions.

WEEK FIFTEEN APRIL: **ORAL PRESENTATION OF FINAL PAPER**

WRITTEN PROBLEM SOLVING ASSIGNMENT DUE BY MIDNIGHT ON MAY XXX

WEEK SIXTEEN **FINAL EXAM MAY FINALS WEEK TBA**

Department of Alaska Native Studies & Rural Development Mission Statement

“Our mission is to strengthen leadership capacity for rural and indigenous communities in Alaska and the circumpolar North through degree programs that promote academic excellence, personal development, professional skills, global awareness, respect for indigenous cultures and commitment to community. We seek to include a keen awareness of the scope, richness, and variety of Alaska Native cultural heritages, and a series of critical perspectives on the historical and the contemporary indigenous experience for all our students.”

RD 676 WEEK BY WEEK READING LIST

There is a lot of reading in this class and it is incumbent on the student to stay current with all required readings. Weekly readings from the text are found in the lecture notes for that week, but students are expected to have read both the entire texts by the completion of the course. The text is intended to provide background for our weekly subjects but we will not be “going over” the text in class; as graduate students you are expected to bring any questions you have about content in the text to the instructor for guidance. You should also be referring to the text in your writing.

The lecture notes may include links to legislations or other readings which are required. In addition, the following required materials will be provided in the Blackboard “Course Documents” for each week. The instructor may add other materials for cases in progress, newly published law review, or legislation that has changed. Students will have regular assignments to present readings in class but should always read the other readings additional to those assignments.

WEEK ONE

Lecture notes and assigned reading from texts

Case Brief Format and Example

Deciphering Citations: Congressional Administrative Court Handout

How to Brief a Case

Reading, Understanding & Briefing Court Cases

Blurton law review article on Canons of Construction

Talton v Mayes (or alternate case for practice brief)

NARF Annual Report

Federal Indian Law Canons of Construction

WEEK TWO

Lecture notes and assigned reading from texts

Ex Parte Crow Dog

United States v Winans

United States v Kagama

United States v Sandoval

Winters v United States

WEEK THREE

Lecture notes and assigned reading from texts

Cherokee Nation v Georgia

Johnson v McIntosh

Worcester v Georgia

In re Sah Quah

District Organic Act 1884

Treaty of Cession 15 Stat. 539

United States v Berrigan

United States v Cadzow

WEEK FOUR

Lecture notes and assigned reading from texts

ANCSA Highlights

ANCSA text

WEEK FIVE

Lecture notes and assigned reading from texts

PL 83-280

Public Law 280: Issues and Concerns for Victims of Crime in Indian Country (Melton, Ada Pecos and Jerry Gardner)

Exclusive of What? The Historical Context of the 1970 "Metlakatla" Amendment to PL 280 (Harrington, Andrew 2006)

In Re McCord

WEEK SIX

Lecture notes and assigned reading from texts

25 USC 2801

Indian Reorganization Act 1934

Indian Reorganization Act Alaska amendment 1936

Testimony of David Case 3/23/2004

IRA Charter Revocation Miami Tribe 2014

Senate Hearing 112 on IRA 2011

WEEK SEVEN

Lecture notes and assigned reading from texts

John v Baker

John v Baker and the Jurisdiction of Tribal Sovereigns Without Territorial Reach (Blurton, David M 2003)

WEEK EIGHT

Lecture notes and assigned reading from texts

Indian Child Welfare Act

Native Village of Nenana v State of Alaska

Native Village of Venetie IRA Council v State of Alaska

State of Alaska v Native Village of Tanana

Simmonds v Parks

WEEK NINE spring break. Catch up on your reading during spring break!

WEEK TEN

Lecture notes and assigned reading from texts

Indian Civil Rights Act 1968

Updated Indian Civil Rights Act 2015

Warrantless Searches for Alcohol by Alaska Native Villages: A permissible Exercise of Sovereign Rights or an assault on Civil Liberties (Hanley, Pat 1997)

WEEK ELEVEN

Lecture notes and assigned reading from texts

Alaska Intertribal Council v State of Alaska

Public Law 83-280

Tribal Law and Order Act summary

Tribal Law and Order Report Chapter 2: Alaska

Administration of Justice Report Chapter 4

2013 Violence Against Women Act, selected sections as assigned

WEEK TWELVE

Lecture notes and assigned reading from texts

Indian Self Determination & Education Assistance Act

Morton v Mancari

Malabed v North Slope Borough

Native Preference Hire (Jaeger)

The Use of Hiring Preferences by ANCs after *Malabed v North Slope Borough* (Mills)

EEOC Position on Indian Preference Hiring

Selling Ice in Alaska: Employment Preferences and Statutory Exemptions for Alaska Native

Corporations 40 Years after ANCSA. (Fisher, Gregory S and Erin F. Rose 2014)

WEEK THIRTEEN

Lecture notes and assigned reading from texts

Runyon v Association of Village Council Presidents

Michael McCrary v Ivanoff Bay

Sovereign Immunity and Tribal Commercial Activity: A Legal Summary and Policy Check (McCoy)

Turner v United States

Optional for extra credit: It Wasn't an Accident: The Tribal Sovereignty Immunity Story (Wood)

WEEK FOURTEEN

Lecture notes and assigned reading from texts

Tribal codes and Constitutions as assigned. <http://www.tribal-institute.org/lists/constitutions.htm>

WEEK FIFTEEN: NO MORE READINGS.