

Title 3 - Youth, Elders and Family

Chapter 3.05 YOUTH CIRCLE PEACEMAKING

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3.05.010 Findings and Purpose

1. The purpose of the 'Láa Náay Youth Circle Peacemaking is to encourage responsible behavior and choices among our youth, to empower them to participate in decision-making when problems arise among their peers, and to preserve and promote the cultural values and practices of the Organized Village of Kasaan (OVK) Tribe. The Consensus Agreement ordered by the Kasaan Youth Circle Peacemaking shall be designed to help and heal those harmed, youths, and the Village of Kasaan. This law outlines the basic structure and procedures of the Kasaan Youth Circle Peacemaking and is intended to provide a fair and equitable process that is consistent with the Organized Village of Kasaan Tribal Constitution, OVK tribal laws, the requirements of the Indian Civil Rights Act, and compatible with the unwritten laws and values of the Organized Village of Kasaan Tribe.

2. Further purposes for the 'Láa Náay Youth Circle Peacemaking:

- a. It is in the best interest of the Village to ensure the health, safety, and welfare of its members.
- b. Regulation of youth conduct will benefit the Village and its members by creating a healthier and safer environment for everyone, and benefit youth by providing the care and guidance necessary to enable them to become productive members of the Village and of society in general.
- c. Regulation of youth conduct will support and maintain the youth of this community by recognizing their ability to accept accountability and engage in rehabilitation.

It is in the best interest of the Village to provide services for youths and their families, with an emphasis whenever possible on prevention, early intervention, and community-based alternatives.

3.05.020. Establish 'Láa Náay Youth Circle Peacemaking

The Organized Village of Kasaan Tribal Council hereby establishes the 'Láa Náay Youth Circle Peacemaking, as part of the Organized Village of Kasaan.

3.05.030 Jurisdiction

This Code is civil in nature. The Youth Circle Peacemaking shall have jurisdiction as provided in § 2.05.030 of the Kasaan Tribal Code. The Youth Circle Peacemaking jurisdiction shall extend to those between and including the ages of 12 through 21, over matters concerning the health, safety, and welfare in the following subjects, which may include, but are not limited to: use of alcohol and illegal drugs, vandalism, trespassing, theft, bullying, harassment, disorderly conduct, school tardiness, truancy, and juvenile curfew.

3.05.035 Definitions [Reserved]

3.05.040 Youth Success Officer and Youth Panel

The "Youth Success Officer" shall be that person designated by the OVK to supervise cases in the Youth Circle Peacemaking. The Youth Success Officer may be employed in another position and title. The Youth Success Officer shall establish a panel of at least two youth to work with and advise the Youth Success Officer. Duties of the Youth Success Officer and Youth Panel may include, in cooperation with the 'Láa Náay Administrator:

1. Receiving petitions or referrals filed with the 'Láa Náay Youth Circle Peacemaking.
2. Answering the phone calls and receiving mail for the 'Láa Náay.
3. Maintaining files and calendar for the 'Láa Náay.
4. Helping to select Circle participants when asked to do so.
5. Notifying parties and Circle participants of Circle hearings.

6. Drafting Consensus Agreements for the Keeper of the Circle to sign.
7. Receiving Proof of Compliance with Consensus Agreements.
8. Maintaining records of Youth Justice case finances.

3.05.050 Complaint or Reporting

1. Beginning Cases by Petition

A case may begin by anyone giving a Petition describing an incident, problem, or situation to the Youth Success Officer or court clerk, by any one of the Organized Village of Kasaan Social Services, Barry Craig Stewart Kasaan School, Community Connections, and/or SEARHC (Southeast Alaska Regional Health Consortium Alaska) Counselors. Petition forms shall be made available at the 'Láa Náay office. The person filing a Petition shall be called the Petitioner and may be asked to sit in the Circle on the case. Two youth and staff shall meet to review the petition and decide whether the 'Láa Náay Youth Circle Peacemaking should hold a Circle on the case. If so, they shall proceed to select Circle participants. The OVK Youth Success Officer shall schedule a date for the Circle and notify the parties.

2. Beginning cases through referrals

A case may begin by a referral from a state judge or case, 'Láa Náay Peacemaker, law enforcement officer, or by referral from another Justice Center. A review meeting shall be called by the 'Láa Náay Clerk to review the referral and decide whether the 'Láa Náay Youth Circle Peacemaking should hold a Circle on the case. If so, the OVK Tribal Youth Success Officer or designated OVK staff person shall proceed to select Circle participants. The Youth Success Officer or 'Láa Náay Clerk shall schedule a date for the Circle and notify the parties.

3. Determining Circle Participants and Keeper of the Circle

Circle participants and the Keeper of the Circle shall be chosen by the Youth Success Officer or designated OVK staff.

3.05.060 Peacemaking Circle Predisposition Report

1. Prior to the Peacemaking Circle, the Youth Success Officer may prepare a written report with recommendations for the case, including a specific plan for services to meet the needs of the child and the youth's parent, guardian, or custodian in the interest of justice.
2. The predisposition report may address matters relevant to the disposition of the case, which may include but shall not be limited to:
 - a. A description of the youth's home environment, family relationships, and background.
 - b. Information regarding the youth's maturity, cognitive and emotional development, and emotional and mental health.

- c. The results and recommendations of any relevant medical, psychological, psychiatric, or other examinations or evaluations conducted by a qualified professional.
- d. A discussion of the youth's educational status, including, but not limited to, the youth's strengths, abilities, and special educational needs.
- e. The identification of appropriate goals for the youth.
- f. A summary of any factual findings entered by a Court or the 'Láa Náay.
- g. A summary of the youth's prior contacts with the tribal and/or state youth justice system.

3. The Circle Predisposition Report shall include a detailed explanation of:

- a. The sources of all information included.
- b. The necessity of the proposed disposition and plan for services, considering the needs of the youth and the youth's parent, guardian, or custodian.
- c. The anticipated benefits to the youth and the youth's parent, guardian or custodian of the proposed disposition and plan for services.

4. The report shall be filed in the Youth Circle Peacemaking and served upon the youth, and the youth's parent, guardian, or custodian, at least three (3) days prior to the Peacemaking Circle. This time limit may be waived upon agreement of the parties and the Youth Circle Peacemaking.

5. The Circle Keeper and the Youth Success Officer shall make sure the disposition report is explained to the youth in language the youth will easily understand.

3.05.070 'Láa Náay Youth Circle Peacemaking

1. Peacemaking Circle: Choosing the Circle Participants and Circle Keeper

Circle participants and the Keeper of the Circle shall be chosen by the OVK Youth Success Officer plus two youth from the Youth Panel and shall not be parties in the case or live in the same household as the Youth coming before the Circle.

2. Circle Participants

In general, participants of Peacemaking Circles shall include resident youth between and including the ages of 12 and 21 selected by the Youth Success Officer plus two youth from the Youth Panel. The OVK Youth Success Officer shall be present at Circle hearings to write the decision of the Circle on a Consensus Agreement form. Circles may also include adult community members, parents, teachers, counselors, and any other person who should be in the Circle.

3. Keeper of the Circle's Role for Opening and Conducting the Circle

- a. The Keeper of the Circle shall open the Circle.
- b. Opening the Circle may include a prayer or special comments from an Elder or someone in the Circle.
- c. The Keeper shall ask the participants to agree to the Oath of Confidentiality and Fairness in Section 3.05.080 of this Law.
- d. One person shall talk at a time with no interruptions.
- e. The Keeper shall outline the rules of the Circle and ask participants if there are any additional rules necessary.
- f. Comments shall be limited to a maximum of *five* minutes unless permission to go longer is granted by Keeper.
- g. The Keeper shall summarize the petition or referral.
- h. The Keeper shall begin the Circle by passing the talking stick or other special object in a clockwise direction.
- i. The Keeper shall be responsible for keeping order in the Circle should that become necessary.
- j. The Keeper shall summarize the highlights after each round of discussion.
- k. Participants shall show respect to one another and not assign blame.
- l. The Keeper shall state the final consensus of the Circle, and make sure that it is an accurate summary of the Circle's decision and sign the Written Consensus Agreement after the 'Láa Náay Clerk or OVK Youth Success Officer has prepared it.

4. Basic Rules of the Circle

The most basic rule of the Circle is that persons shall have respect for one another. Only one person shall speak at a time, which shall be the person with the talking stick, or as directed by the Keeper of the Circle. What is said in the Circle shall stay in the Circle and shall not be discussed outside of the Circle. All comments made in the Circle shall be confidential.

5. Order of Speaking

Once the Keeper has opened the Circle, he or she shall pass the talking stick or other designated item, around the Circle and participants shall speak only when they hold the stick. If a person chooses not to speak, they may pass the stick on to the next person in the Circle. The discussion of the Circle shall continue in this manner unless the Keeper directs otherwise.

6. Process of the Circle

The first round: quick introductions shall be made, stating name and the person being supported (person harmed, Youth). The second round: the Circle discussion shall be for participants to voice their feelings (speaking from the heart), opinions, share information, and generally talk about the situation. After the second round the Keeper shall begin a new round of discussion focusing on appropriate solutions and sentencing.

7. Decision of the Circle

The decisions of the Circle shall be made by consensus. The discussion in the Circle shall proceed until everyone can stand behind the decision being made. The decision of the Circle shall be written on a Consensus Agreement form, by the OVK Youth Success Officer or 'Láa Náay Clerk and signed by the Keeper of the Circle, by the petitioner/referent, and the Youth. The decision shall include who shall do specific tasks that may be decided by the Circle, who shall mentor the Youth, and specify guidelines for the sentences decided to include applicable time frames.

8. Mentors

Specific adult mentors shall be assigned to oversee the progress of Youths in completing their agreement. Mentors shall sign off on Proof of Compliance forms when Youth complete tasks assigned in Consensus Agreements. Mentors shall report to the OVK Youth Success Officer if a Youth fails to complete assignments made in Consensus Agreements within the allowed timeframe.

9. Follow-up on Circle Consensus Agreements

Before a Circle adjourns a session, it shall make a specific plan for how follow-up will be monitored and may set a date to reconvene the Circle to examine the progress of a case if appropriate. If a party is not complying with a Consensus Agreement, the person may be brought before the Circle again, or the case may be referred to the 'Láa Náay for a Hearing before the 'Láa Náay Decision-maker.

3.05.080 Oath of Confidentiality and Fairness

Participants of Circles shall agree to the following oath:

"I promise to not discuss what is said in this Circle outside of this Circle. I will work towards a fair agreement about what should be done."

3.05.090 Failure to Appear for a Peacemaking Circle

If a Youth was served with a notice about a Circle but fails to show up for the Circle, the 'Láa Náay Youth Circle Peacemaking may send a designated adult to get the person if the person is in the Village or set another Circle date.

3.05.100 Creative Sentencing - Options for Consensus Agreements

The Circle participants shall design sentences intended to help and heal those harmed, offenders, and the Village. The Circle shall assign specific adult mentors to oversee the completion of the agreement. The Circle may choose one or more from the following options:

1. Community Service Work

Community service work shall benefit the needy, the village residents, the Elders, those harmed of an offense, offenders, and/or the youth. Community service may include but is not limited to cutting wood, hauling water, shoveling snow, doing laundry, or cleaning homes or yards for needy people or the community hall or church, working in the school, conducting village surveys, helping the local VPSO, working with carpenters or other tradesmen in the village, working in the OVK or City Offices, participating in preparations for community events, building maintenance or repair and cleaning up trash in the Village. Circle participants shall not order community service that only benefits themselves personally and shall not displace persons employed in the Village or employment opportunities. Community service shall be completed within 30 days unless otherwise specified in the Consensus Agreement.

2. Restitution

The Circle may require a Youth to make restitution to those persons harmed, or to the Village. Restitution is defined to include payment of money and repairing property. Restitution payment shall go through the OVK Youth Success Officer. Non-monetary restitution shall be supervised by the OVK Youth Success Officer or by another person designated by the Circle.

3. Apologies

The Circle may require the Youths to make apologies to those harmed, parents, or guardians, and/or to the whole Village at OVK meetings or gatherings. The Circle may specify if the apologies shall be in writing, oral or both.

4. Essays and Presentations

The Circle may require Youths to write essays and/or to give presentations. The Consensus agreement shall specify the topics for such essays and the minimum length. If a presentation is required, the audience such as the OVK Tribal Council, school, or Elders shall be specified.

5. Organize Events or Fundraisers

The Circle may require Youths to organize or help organize events for the Youth and village residents or help organize fundraisers for restitution or village projects.

6. Counseling by Professional Counselors, Peacemakers, and Elders

The Circle participants may counsel Youths in a helpful spirit. The Circle may require professional counseling, if the counseling is available in the village, or counseling by specific

‘Láa Náay Elders. The Circle may also require peer counseling by selected peers, or participation in other talking circles.

7. Substance Use Awareness Sessions and Talking Circles

The Circle may require participation in substance abuse awareness sessions or other talking circles in the Village.

8. Traditional Activities

The Circle may require a person found in violation of a law to participate in seasonally appropriate traditional activities such as fish camps, trapping, hunting, putting up fish or meat, culture camps, preparing native foods, traditional crafts, and native language activities, and other tribally sponsored or approved traditional activities.

9. Assisting Elders

The Circle may require a person found in violation of a law to participate in activities that benefit the Elders of the Village of Kasaan, including but not limited to yard work, firewood gathering and stacking, food preservation and other activities.

3.05.110 Proof of Compliance with Circle Consensus Agreements and Failure to Comply

If a party is required to do something, the party shall file a Proof of Compliance form with the OVK Youth Success Officer within 7 days after completion of the Consensus Agreement unless otherwise specified. Mentors shall sign off on Proof of Compliance forms. Mentors shall notify the OVK Youth Success Officer in the event the person they are mentoring does not complete the requirements of a Consensus Agreement. The OVK Youth Success Officer may schedule another Circle or report any failures to comply with Consensus Agreements to the ‘Láa Náay Decision Makers, schedule a Consensus Agreement review and provide notice to the party of the review.

3.05.120 Appeals

A Youth who wishes to appeal a case may file a Notice of Appeal with the OVK Youth Success Officer or ‘Láa Náay Clerk within 20 days after receiving a Consensus Agreement from the ‘Láa Náay Youth Circle Peacemaking and then follow the provisions outlined in chapter 2.20 Appeals of Title 2 Tribal Justice System.

3.05.130 State Court Diversions

The Youth Circle Peacemaking has authority to enter into diversion agreements for youth with the state courts of Alaska or any other Youth Circle Peacemaking and will honor any provisions agreed to, as applicable, in its diversion proceedings.


3.05.140 Effect of Invalid Sections; Effect on Other Tribal Law

Resolution 24-08-007; Aug. 22, 2024

If any part of this law is determined to be invalid by any court having jurisdiction to hear and decide such challenges, all other sections of the law shall remain in full force and effect. Upon passage, this law replaces and supersedes any prior laws and amendments regulating conduct and renders null and void any other tribal law inconsistent with the provisions of this law.

ENACTED this 22ND day of AUGUST 2024, by the Organized Village of Kasaan Tribal Council

CERTIFY



President Michael A. Jones

ATTEST



Tribal Secretary Elizabeth Taylor