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# Negotiating Nations

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## Based on the 2013 Native American \$1 Coin Grades Seven and Eight



### OBJECTIVES

Students will analyze primary source documents in order to describe the rights and limitations of Native American Tribal Sovereignty. Students will summarize information from an official government Web site.



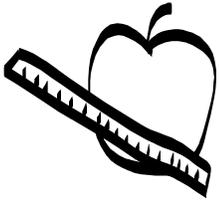
### MATERIALS

- 1 overhead projector or equivalent classroom technology
- 1 overhead transparency (or photocopy) of each of the following:
  - “2013 Native American \$1 Coin” page
  - “United States in 1778” map
  - “Decoding the Treaty” worksheet
  - “Asking Questions” page
  - “Primary Source Study” worksheets (2 pages)
- Copies of the following:
  - “Decoding the Treaty” worksheet
  - “Decoding the Treaty” Answer Key
  - “Exit Slip”
  - “Frequently Asked Questions” page
  - “Summarizing It All” worksheet
  - “Summarizing It All Answer Key”
  - “Primary Source Study” worksheets (2 pages)
  - “Primary Source Study Answer Key”
  - “Tribal Sovereignty Briefing” worksheet
  - “Tribal Sovereignty Briefing Rubric”
  - “Tribal Sovereignty Briefing Answer Key”
- Dictionaries
- Highlighters
- Chart paper
- Markers



### PREPARATIONS

- Make an overhead transparency (or photocopy) of each of the following:
  - “2013 Native American \$1 Coin” page



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# The Nature of Negotiation

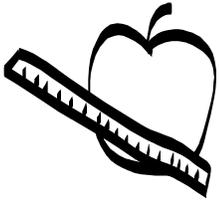
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- “United States in 1778” worksheet
- “Decoding the Treaty” worksheet
- “Asking Questions” page
- “Primary Source Study” worksheets (2 pages)
- Make copies of the following:
  - “Decoding the Treaty” worksheet (1 per student)
  - “Decoding the Delaware Treaty 1778” Answer Key (1 for teacher)
  - “Exit Slip” (1 half sheet per student)
  - “Frequently Asked Questions” page (1 question per pair of students)
  - “Summarizing It All” worksheet (1 per pair of students)
  - “Summarizing It All Answer Key” (1 for teacher)
  - “Primary Source Study” worksheets (2 pages, 1 each per student)
  - “Primary Source Study Answer Key” (1 for teacher)
  - “Tribal Sovereignty Briefing” worksheet
  - “Tribal Sovereignty Briefing Rubric” (1 half sheet per student)
  - “Tribal Sovereignty Briefing Answer Key” (1 for teacher)
- Read the following:
  - Delaware Treaty of 1778 at [digital.library.okstate.edu/kappler/vol2/treaties/del0003.htm](http://digital.library.okstate.edu/kappler/vol2/treaties/del0003.htm)
  - Delaware Tribe of Indians Constitution and Bylaws (2008) at [delawaretribe.org/tribalsite/wp-content/uploads/2011/11/constitution.pdf](http://delawaretribe.org/tribalsite/wp-content/uploads/2011/11/constitution.pdf)
  - G.I.S.T summarizing strategy at [www.readwritethink.org/classroom-resources/lesson-plans/gist-summarizing-strategy-content-290.html](http://www.readwritethink.org/classroom-resources/lesson-plans/gist-summarizing-strategy-content-290.html)
  - Frequently Asked Questions from the Bureau of Indian Affairs at [www.bia.gov/FAQs/index.htm](http://www.bia.gov/FAQs/index.htm)
- Prepare the “Asking Questions” chart for Session 2.
- On video, record student presentations in Session 5 for use by other classes in the future (optional).



## GROUPINGS

- Whole group
- Small groups
- Pairs
- Individual



# The Nature of Negotiation



## CLASS TIME

Five 45- to 60-minute sessions



## CONNECTIONS

- Social Studies
- Geography
- Language Arts



## TERMS AND CONCEPTS

- Native American \$1 Coin
- Tribe /Tribal
- Negotiation
- Preamble
- Reverse (back)
- Treaty
- Constitution
- Obverse (front)
- Sovereignty
- Bylaws



## BACKGROUND KNOWLEDGE

Students should have a basic knowledge of:

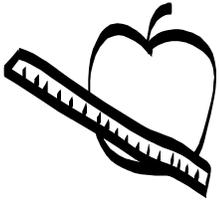
- Geography and inhabitants of the 13 Colonies (during the American Revolution)
- Summarizing information
- Exit slips



## STEPS

### Session 1

1. Describe the Native American \$1 Coin Program for background information. The program is described at [www.usmint.gov/kids/coinNews/nativeAmerican/](http://www.usmint.gov/kids/coinNews/nativeAmerican/).
2. Display the “2013 Native American \$1 Coin” overhead transparency. Tell the students that the back of a coin is called the “reverse” and “obverse” is another name for the front. With the students, examine the coin design and identify the 2013 theme of “The Delaware Treaty (1778).” After declaring independence, the United States signed its first formal treaty with an Indian tribe, the Delaware, at Fort Pitt (now Pittsburgh, PA) on September 17, 1778.
3. Brainstorm with the students why the animals depicted on the coin might have been so important to the Delaware. Record their responses on chart paper.
4. Ask the students to explain the significance of the thirteen stars in the coin design. Ask the students what events were taking place during 1778. Record student responses on chart paper.

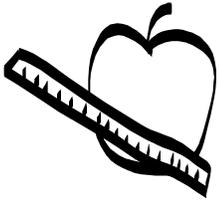


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# The Nature of Negotiation

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5. Display and examine the “United States in 1778” worksheet with the students. On the map, point out the highlighted areas of Pittsburgh and Detroit, as well as the lands of the Delaware Nation. Tell the students that the United States wanted to attack the British fort in Detroit.
6. Ask the students how the geographic location of Fort Detroit was strategic for both the Americans and the British during the American Revolution. (Possible student responses: for Americans to gain control of waterways; for prevention of British-allied Native Americans attacking American settlers along the frontier; for American troops to take control of a British military stronghold in the west; to prevent British supplies and troops in Canada from attacking from the west).
7. Discuss with the students why the United States would need to negotiate an agreement with the Native Americans who lived in the region. Record student responses on chart paper.
8. Ask the students to define the term “treaty.” Facilitate a discussion to assist students in understanding a treaty is a formal agreement between two or more nations or political entities. Point out that in most treaties, both sides gain something and give up something the other group wants. Record the term “treaty” and the definition on chart paper.
9. Explain to the students that they will examine The Delaware Treaty of 1778, a primary source document, in order to better understand the agreement between the United States government and the Delaware Nation.
10. Distribute copies of the “Decoding the Treaty” worksheet. Explain to students they will be working in groups to complete an activity in which they will become the experts of one article of the treaty. They will also write a summary in their own words and share the information with the class.
11. Display the “Decoding the Treaty” overhead transparency and read Article I of the treaty as a class. Model for students how to summarize the article.
12. Divide the class into five groups and assign each group one article of the treaty. Have each group share their summaries with the class and record their summary on the “Decoding the Treaty” overhead transparency or chart paper. Have the students record each group’s summary on their “Decoding the Treaty” worksheet.
13. Facilitate a class discussion regarding the exchange that took place between the two nations. Lead the students to conclude that by negotiating a treaty with the Delaware Nation, the government acknowledged the Delaware Nation’s status as a domestic dependent nation. The Delaware Nation’s status as a domestic dependent nation acknowledged the Delaware Nation’s right to self-government. Today we call this “tribal sovereignty.”
14. Distribute the “Exit Slip” to the students and have each of them fill it out. Collect the exit slips as the students are dismissed from class.



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# The Nature of Negotiation

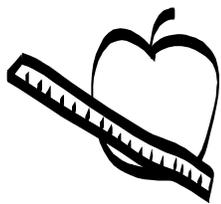
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## Session 2

1. Display the “2013 Native American \$1 Coin” overhead transparency. Review with the students the material covered in the previous session, including the information on the chart paper and the “Exit Slip.”
2. Tell the students they will be working with a partner to learn about Native American Tribal Sovereignty, which the United States government established by negotiating treaties with tribal governments. They will be reading and summarizing information from the Bureau of Indian Affairs, housed within the Department of the Interior, on its official government Web site.
3. Display the “Asking Questions” transparency and chart paper. Review the questions with the students. Divide the class into pairs and assign each pair one question and one of the twelve reading sections.
4. Each pair of students will become the experts for their assigned question. Have the students work together to briefly summarize their answer and share their summaries with the class. Record the summary on the chart paper for later reference.
5. Divide the class into pairs and distribute copies of the “Summarizing It All” worksheet and the “Frequently Asked Questions” page to each pair.
6. Read the first question aloud and model for the students how to complete the “Summarizing It All” worksheet.
7. Have the students share their summaries with the class and record the student summaries on chart paper. Display the completed “Asking Questions” chart in the room for future reference.
8. Write the term “tribal sovereignty” on chart paper and guide students in the creation of a working definition of the term.
9. Tell the students that, in Session 3, they will examine the current Delaware Tribe of Indians Constitution and Bylaws to better understand how tribal sovereignty applies to the Delaware Nation in modern times.

## Session 3

1. Display the “2013 Native American \$1 Coin” overhead transparency. Review with the students the material covered in the previous sessions.
2. Explain to the students that they will be examining a primary source document (an excerpt from the Delaware Tribe of Indians Constitution and Bylaws from 2008) to help them refine their understanding of tribal sovereignty. Remind the students that not all primary source documents are old; primary source documents can also be from present times.
3. Write the term “constitution” on chart paper and facilitate a class discussion to define the term. If necessary, tell students that most governments have a written



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# The Nature of Negotiation

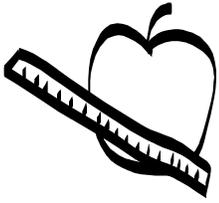
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plan of government, called a constitution. The nation to nation relationship between the Delaware Nation and the United States government grants the Delaware Nation sovereignty, which means the Delaware Nation has the power to set up a constitution for self-government.

4. Distribute copies of the “Primary Source Study” worksheet to the students. Review the directions.
5. As a class, examine the Delaware Tribe of Indians Constitution. Lead a class discussion about the powers and limitations of tribal sovereignty. Display the “Delaware Tribe of Indians Constitution” transparency and model how to complete the graphic organizer by completing the Preamble through Article IV sections of the Constitution. If necessary, discuss the purpose of preambles with the students and identify this constitution’s similarities to the United States Constitution.
6. Have the students work with a partner to complete Article V “Powers of the Tribal Council” on their “Primary Source Study” worksheet. Remind students they need to summarize the powers and limitations of tribal sovereignty. Have dictionaries and highlighters available for student use.
7. Have the students report their summarized findings to the class as the teacher records the responses on the “Primary Source Study” transparency.
8. In small groups, have the students discuss and summarize the powers and limitations of tribal sovereignty.
9. Tell the students that, in Session 4, they will use the information about the significance of the Delaware Treaty of 1778, tribal sovereignty and tribal self-governance to create a Congressional briefing for a freshman Senator who wants to be well-informed before attending a Congressional hearing on tribal sovereignty. The students will work in small groups to create a presentation for the Senator.

## Session 4

1. Display the “2013 Native American \$1 Coin” overhead transparency. Review with the students the material covered in the previous sessions, including the definitions of “treaty” and “tribal sovereignty” and their summaries of the powers and limitations of tribal sovereignty.
2. Explain to the students that they will work in small groups, assuming the role of Congressional interns to a freshman member of the Senate. Tell the students that the Senator in this scenario is scheduled to attend a hearing on the topic of tribal sovereignty. The Senator has requested a briefing from your group on tribal sovereignty in order to be well-informed at the hearing. The Senator has given your group a list of questions that must be addressed in your briefing.
3. Tell the students their briefings may be in the form of a written report or slide show. All groups will present their information to the class.



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# The Nature of Negotiation

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4. Distribute a copy of the “Sovereignty Briefing Rubric” to each student. As a class, review the questions that must be addressed in their briefing and attend to any questions. Tell the students their briefing should contain additional information but it must directly address the questions listed in the rubric.
5. Divide the class into groups of two to five students and allow the student groups time to create their briefing.

## Session 5

1. Have the students present their briefing to the class.
2. After all student groups have presented their briefings, have the class determine which presentation was the most effective and why.
3. Have the group with the most effective presentation visit another United States history class to give their presentation to other students.
4. Complete the “Sovereignty Briefing Rubric.”



## ASSESSMENT

Evaluate the students’ worksheets and final products for their understanding of the lesson objectives.



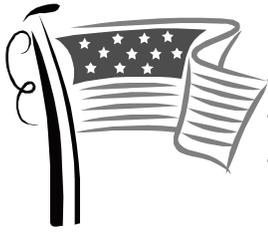
## ENRICHMENTS/EXTENSIONS

- Have the students complete sections VI to XII of the Delaware Constitution.
- Have the students identify the principles of government found in the Delaware Tribe Constitution.
- Have the students compare the Delaware Tribe Constitution and the United States Constitution using a graphic organizer of their choice.



## DIFFERENTIATED LEARNING OPTIONS

- Have students of various reading abilities work in the same groups.
- Allow the use of a scribe.
- Allow students to type or record their answers on a separate piece of paper.
- Copy and enlarge the worksheets as needed.



Name \_\_\_\_\_

# United States in 1778

**Directions:** Examine the map below of the United States in 1778 during the Revolutionary War. Note that the British had a fort in what is now Detroit, Michigan. Using the map and information from class, answer the following questions.



**KEY**

- = 13 Colonies in 1778
- = Delaware River
- = Munsee
- = Unami
- = Unalatchtigo

1. List two reasons why the United States wanted to attack the British fort in Detroit, Michigan.

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2. How was the geographic location of Fort Detroit strategic to both the Americans and the British during the American Revolution?

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3. Why did the United States need to negotiate an agreement with the Native Americans who lived in the region?

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Name \_\_\_\_\_

# Decoding the Treaty

## Page 1

**Directions:** Read your assigned article of the Delaware Treaty of 1778 and record your summary in the “Summarize in Your Own Words” column. Record the summaries from other group presentations in the remaining cells.

Summarize in Your Own Words	Treaty Terms
	<p><b>ARTICLE 1.</b> That all offences or acts of hostilities by one, or either of the contracting parties against the other, be mutually forgiven, and buried in the depth of oblivion [nothingness], never more to be had in remembrance [memory].</p>
	<p><b>ARTICLE 2.</b> That a perpetual [forever] peace and friendship shall from henceforth take place, and subsist [exist] between the contracting parties aforesaid [spoken of earlier], through all succeeding generations: and if either of the parties are engaged in a just and necessary war with any other nation or nations, that then each shall assist the other in due proportion to their abilities, till their enemies are brought to reasonable terms of accommodation; and that if either of them shall discover any hostile designs forming against the other, they shall give the earliest notice thereof, that timeous [timely] measures may be taken to prevent their ill effect.</p>
	<p><b>ARTICLE 3.</b> And whereas the United States are engaged in a just and necessary war, in defence [defense] and support of life, liberty and independence, against the King of England and his adherents [supporters], and as said King is yet possessed of several posts and forts on the lakes and other places, the reduction of which is of great importance to the peace and security of the contracting parties, and as the most practicable way for the troops of the United States to some of the posts and forts is by passing through the country of the Delaware nation, the aforesaid deputies, on behalf of themselves and their nation, do hereby stipulate and agree to give a free passage through their country to the troops aforesaid, and the same to conduct by the nearest and best ways to the posts, forts or towns of the enemies of the United States, affording to said troops such supplies of corn, meat, horses, or whatever may be in their power for the accommodation of such troops, on the commanding officer's, &amp;c. paying, or engaging [engaging] to pay, the full value of whatever they can supply them with. And the said deputies, on the behalf of their nation, engage to join the troops of the United States aforesaid, with such a number of their best and most expert warriors as they can spare, consistent with their own safety, and act in concert [unity] with them; and for the better security of the old men, women and children of the aforesaid nation, whilst their warriors are engaged against the common enemy, it is agreed on the part of the United States, that a fort of sufficient strength and capacity be built at the expense of the said States, with such assistance as it may be in the power of the said Delaware Nation to give, in the most convenient place, and advantageous situation, as shall be agreed on by the commanding officer of the troops aforesaid, with the advice and concurrence of the deputies of the aforesaid Delaware Nation, which fort shall be garrisoned by such a number of the troops of the United States, as the commanding officer can spare for the present, and hereafter by such numbers, as the wise men of the United States in council, shall think most conducive [favorable] to the common good.</p>



Name \_\_\_\_\_

# Decoding the Treaty

## Page 2

**Directions:** Read your assigned article of the Delaware Treaty of 1778 and record your summary in the “Summarize in Your Own Words” column. Record the summaries from other group presentations in the remaining cells.

Summarize in Your Own Words	Treaty Terms
	<p><b>ARTICLE 4.</b> For the better security of the peace and friendship now entered into by the contracting parties, against all infractions [violations of treaty] of the same by the citizens of either party, to the prejudice of the other, neither party shall proceed to the infliction of punishments on the citizens of the other, otherwise than by securing the offender or offenders by imprisonment, or any other competent means, till a fair and impartial trial can be had by judges or juries of both parties, as near as can be to the laws, customs and usages of the contracting parties and natural justice: The mode of such trials to be hereafter fixed by the wise men of the United States in Congress assembled, with the assistance of such deputies of the Delaware nation, as may be appointed to act in concert with them in adjusting this matter to their mutual liking. And it is further agreed between the parties aforesaid, that neither shall entertain or give countenance [support] to the enemies of the other, or protect in their respective states, criminal fugitives, servants or slaves, but the same to apprehend, and secure and deliver to the State or States, to which such enemies, criminals, servants or slaves respectively belong.</p>
	<p><b>ARTICLE 5.</b> Whereas the confederation entered into by the Delaware nation and the United States, renders the first dependent on the latter for all the articles of clothing, utensils and implements of war, and it is judged not only reasonable, but indispensably necessary, that the aforesaid Nation be supplied with such articles from time to time, as far as the United States may have it in their power, by a well-regulated trade, under the conduct of an intelligent, candid agent, with an adequate salary, one more influenced by the love of his country, and a constant attention to the duties of his department by promoting the common interest, than the sinister purposes of converting and binding all the duties of his office to his private emolument [advantage]. Convinced of the necessity of such measures, the Commissioners of the United States, at the earnest solicitation [request] of the deputies aforesaid, have engaged in behalf of the United States, that such a trade shall be afforded [arranged] said nation, conducted on such principles of mutual interest as the wisdom of the United States in Congress assembled shall think most conducive to adopt for their mutual convenience.</p>
	<p><b>ARTICLE 6.</b> Whereas the enemies of the United States have endeavored, by every artifice [clever trick] in their power, to possess the Indians in general with an opinion, that it is the design of the States aforesaid, to extirpate [to remove] the Indians and take possession of their country: to obviate [eliminate] such false suggestion, the United States do engage to guarantee to the aforesaid nation of Delawares, and their heirs, all their territorial rights in the fullest and most ample manner, as it hath been bounded by former treaties, as long as they, the said Delaware nation shall abide by, and hold fast the chain of friendship now entered into. And it is further agreed on between the contracting parties should it for the future be found conducive [bring about] for the mutual interest of both parties to invite any other tribes who have been friends to the interest of the United States, to join the present confederation, and to form a state whereof the Delaware nation shall be the head, and have a representation in Congress: Provided, nothing contained in this article to be considered as conclusive [settled] until it meets with the approbation [approval] of Congress. And it is also the intent and meaning of this article, that no protection or countenance [favor] shall be afforded to any who are at present our enemies, by which they might escape the punishment they deserve.</p>



Name \_\_\_\_\_

# Exit Slip

**Directions:** Answer the following questions to summarize what we learned today.

1. What event was taking place at the time the Delaware Treaty of 1778 was written?

\_\_\_\_\_

2. What did the United States gain with the Treaty? \_\_\_\_\_

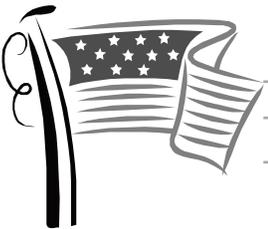
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3. What did the Delaware Nation gain with the Treaty? \_\_\_\_\_

\_\_\_\_\_

4. Why is the Delaware Treaty important today? \_\_\_\_\_

\_\_\_\_\_



Name \_\_\_\_\_

# Exit Slip

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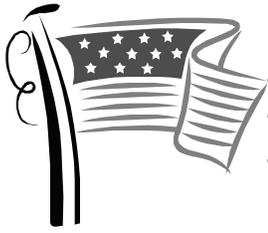
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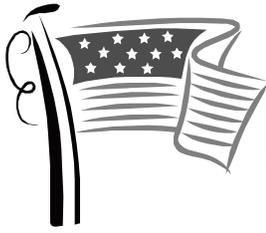
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Name \_\_\_\_\_

# Asking Questions

1. What are Indian treaty rights? \_\_\_\_\_  
\_\_\_\_\_
2. What is the legal status of American Indian and Alaska Native tribes? \_\_\_\_\_  
\_\_\_\_\_
3. What is a federally recognized tribe? \_\_\_\_\_  
\_\_\_\_\_
4. What does tribal sovereignty mean to American Indians and Alaska Natives? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Does the United States still make treaties with Indian tribes? \_\_\_\_\_  
\_\_\_\_\_
6. What is the relationship between the tribes and the United States? \_\_\_\_\_  
\_\_\_\_\_
7. What is the relationship between the tribes and the individual states? \_\_\_\_\_  
\_\_\_\_\_
8. What are inherent powers of tribal self-government? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. How do tribal members govern themselves? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. How are tribal governments organized? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
11. What is meant by tribal self-determination and self-governance? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
12. Do laws that apply to non-Indians also apply to Indians? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Name \_\_\_\_\_

# Frequently Asked Questions

## Page 1

From the Bureau of Indian Affairs Web site at [www.bia.gov/FAQs/index.htm](http://www.bia.gov/FAQs/index.htm)

### 1. What are Indian treaty rights?

From 1778 to 1871, the United States' relations with indigenous American Indian nations were defined and conducted largely through the treaty-making process. These "contracts among nations" recognized and established unique sets of rights, benefits and conditions for the treaty-making tribes who agreed to cede millions

of acres of their homelands to the United States and accept its protection. Like other treaty obligations of the United States, Indian treaties are considered to be "the supreme law of the land," and they are the foundation upon which federal Indian law and the federal Indian trust relationship is based.

### 2. What is the legal status of American Indian and Alaska Native tribes?

Article 1, Section 8 of the United States Constitution vests Congress, and by extension the Executive and Judicial branches of our government, with the authority to engage in relations with the tribes, thereby firmly placing tribes within the constitutional fabric of our nation. When the governmental authority of tribes was first

challenged in the 1830's, U. S. Supreme Court Chief Justice John Marshall articulated the fundamental principle that has guided the evolution of federal Indian law to the present: That tribes possess a nationhood status and retain inherent powers of self-government.

### 3. What is a federally recognized tribe?

A federally recognized tribe is an American Indian or Alaska Native tribal entity that is recognized as having a government-to-government relationship with the United States, with the responsibilities, powers, limitations and obligations attached to that designation, and is eligible for funding and services from the Bureau of Indian Affairs.

Furthermore, federally recognized tribes are recognized as possessing certain inherent rights of self-government (i.e., tribal sovereignty) and are entitled to receive certain federal benefits, services, and protections because of their special relationship with the United States. At present, there are 566 federally recognized American Indian and Alaska Native tribes and villages.

### 4. What does tribal sovereignty mean to American Indians and Alaska Natives?

When tribes first encountered Europeans, they were a power to be reckoned with because the combined American Indian and Alaska Native population dominated the North American continent. Their strength in numbers, the control they exerted over the natural resources within and between their territories, and the European practice of establishing relations with countries other than themselves and the recognition of tribal property rights led to tribes being seen by exploring foreign powers as sovereign nations, who treated with them accordingly.

However, as the foreign powers' presence expanded and with the

establishment and growth of the United States, tribal populations dropped dramatically and tribal sovereignty gradually eroded. While tribal sovereignty is limited today by the United States under treaties, acts of Congress, Executive Orders, federal administrative agreements and court decisions, what remains is nevertheless protected and maintained by the federally recognized tribes against further encroachment by other sovereigns, such as the states. Tribal sovereignty ensures that any decisions about the tribes with regard to their property and citizens are made with their participation and consent.

### 5. Does the United States still make treaties with Indian tribes?

No. Congress ended treaty-making with Indian tribes in 1871. Since then, relations with Indian groups have been formalized and/or codified by Congressional acts, Executive Orders and Executive Agreements. Between 1778, when the first treaty was made with the Delawares, to 1871, when Congress ended the treaty-making period,

the United States Senate ratified 370 treaties. At least 45 others were negotiated with tribes but were never ratified by the Senate. The treaties that were made often contain commitments that have either been fulfilled or subsequently superseded by Congressional legislation.

### 6. What is the relationship between the tribes and the United States?

The relationship between federally recognized tribes and the United States is one between sovereigns—that is, between a government and a government.

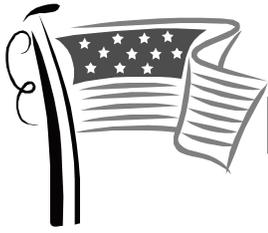
This "government-to-government" principle, which is grounded in the United States Constitution, has helped to shape the long history of relations between the federal government and these tribal nations.

### 7. What is the relationship between the tribes and the individual states?

Because the Constitution vested the Legislative Branch with plenary [complete] power over Indian Affairs, states have no authority over tribal governments unless expressly authorized by Congress. While federally recognized tribes generally are not subordinate to states, they can have a government-to-government relationship with these other sovereigns, as well.

Furthermore, federally recognized tribes possess both

the right and the authority to regulate activities on their lands independently from state government control. They can enact and enforce stricter or more lenient laws and regulations than those of the surrounding or neighboring state(s) wherein they are located. Yet, tribes frequently collaborate and cooperate with states through compacts or other agreements on matters of mutual concern such as environmental protection and law enforcement.



Name \_\_\_\_\_

# Frequently Asked Questions

## Page 2

From the Bureau of Indian Affairs Web site at [www.bia.gov/FAQs/index.htm](http://www.bia.gov/FAQs/index.htm)

### 8. What are inherent powers of tribal self-government?

Tribes possess all powers of self-government except those relinquished under treaty with the United States, those that Congress has expressly extinguished, and those that federal courts have ruled are subject to existing federal law or are inconsistent with overriding national policies. Tribes, therefore, possess the right to form their own governments; to make and enforce laws, both civil and criminal; to tax; to establish and determine membership (i.e., tribal

citizenship); to license and regulate activities within their jurisdiction; to zone; and to exclude persons from tribal lands. Limitations on inherent tribal powers of self-government are few, but do include the same limitations applicable to states, e.g., neither tribes nor states have the power to make war, engage in foreign relations, or print and issue currency.

### 9. How do tribal members govern themselves?

For thousands of years, American Indians and Alaska Natives governed themselves through tribal laws, cultural traditions, religious customs, and kinship systems, such as clans and societies. Today, most modern tribal governments are organized democratically, that is, with an elected leadership.

Through their tribal governments, tribal members generally define

conditions of membership, regulate domestic relations of members, prescribe rules of inheritance for reservation property not in trust status, levy taxes, regulate property under tribal jurisdiction, control the conduct of members by tribal ordinances and administer justice. They also continue to utilize their traditional systems of self-government whenever and wherever possible.

### 10. How are tribal governments organized?

Many tribes have constitutions, others operate under articles of association or other bodies of law, and some have found a way to combine their traditional systems of government within a modern governmental framework. Some do not operate under any of these acts, but are nevertheless organized under documents approved by the Secretary of the Interior. Contemporary tribal governments are usually, but not always, modeled upon the federal system of the three branches: Legislative, Executive, and Judicial.

The chief executive of a tribe is usually called a chairman, chairwoman or chairperson, but may also be called a principal chief, governor, president, mayor, spokesperson, or representative. The chief executive presides over the tribe's legislative body and executive branch. In modern tribal government, the chief executive and members of the tribal council or business committee are almost always elected.

A tribe's legislative body is usually called a tribal council, a village council, or a tribal business committee. It is comprised of tribal members who are elected by eligible tribal voters. In some tribes, the council is comprised of all eligible adult tribal members. Although some tribes require a referendum by their members to enact laws, a tribal council generally acts as any other legislative body in creating laws, authorizing expenditures, appropriating funds, and conducting oversight of activities carried out by the chief executive and tribal government employees. An elected tribal council and chief executive, recognized as such by the Secretary of the Interior, have authority to speak and act for the tribe as a whole, and to represent it in negotiations with federal, state, and local governments.

Furthermore, many tribes have established, or are building, their judicial branch--the tribal court system--to interpret tribal laws and administer justice.

### 11. What is meant by tribal self-determination and self-governance?

Congress has recognized the right of tribes to have a greater say over the development and implementation of federal programs and policies that directly impact them and their tribal members. It did so by enacting two major pieces of legislation that together embody the important concepts of tribal self-determination and self-governance: The Indian Self-determination and Education Assistance Act of 1975, as amended (25 U.S.C. 450 et seq.), and the Tribal Self-Governance Act

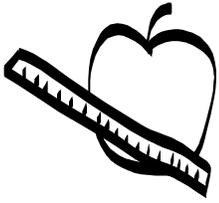
of 1994 (25 U.S.C. 458aa et seq.). Through these laws, Congress accorded tribal governments the authority to administer themselves the programs and services usually administered by the BIA for their tribal members. It also upheld the principle of tribal consultation, whereby the federal government consults with tribes on federal actions, policies, rules or regulations that will directly affect them.

### 12. Do laws that apply to non-Indians also apply to Indians?

Yes. As U.S. citizens, American Indians and Alaska Natives are generally subject to federal, state and local laws. On federal Indian reservations, however, only federal and tribal laws apply to members of the tribe, unless Congress provides otherwise. In federal law, the

Assimilative Crimes Act makes any violation of state criminal law a federal offense on reservations. Most tribes now maintain tribal court systems and facilities to detain tribal members convicted of certain offenses within the boundaries of the reservation.

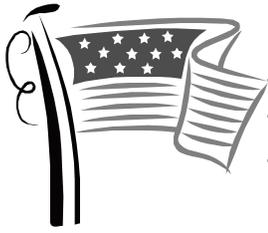




# Summarizing It All

## Answer Key

FAQ	SAMPLE RESPONSES		
1	<b>Who:</b> U.S. and American Indian Nations <b>What:</b> Indian treaty rights <b>Where:</b> United States	<b>When:</b> 1778–1871 <b>Why:</b> So the U.S. government could conduct relations with Indian Nations <b>How:</b> Making treaties or contracts with Indian Nations	Treaties between the U.S. and tribes are contracts between nations, the supreme law of the land, establishing rights and benefits to tribal members.
2	<b>Who:</b> American Indian and Alaska Native tribes; John Marshall; Congress <b>What:</b> U.S. Constitution and government <b>Where:</b> United States	<b>When:</b> 1830 (1789, Constitution was written) <b>Why:</b> To determine tribes' legal status <b>How:</b> Interpretation of Constitution and Supreme Court rulings	The American Indian and Alaska Native tribes are nations within the United States with the powers of self-government.
3	<b>Who:</b> U.S. government, 556 tribal groups and the Bureau of Indian Affairs <b>What:</b> Government-to-government relationship <b>Where:</b> United States	<b>When:</b> Present <b>Why:</b> To identify tribes entitled to federal benefits, services and protections <b>How:</b> Eligible for funding and services from the Bureau of Indian Affairs	Federally recognized tribes have a government-to-government relationship with the United States, a special relationship that includes tribal sovereignty.
4	<b>Who:</b> American Indians, Alaska Natives, Europeans, United States government <b>What:</b> Nation-to-nation relationship <b>Where:</b> North America and the United States	<b>When:</b> Colonial times to the present <b>Why:</b> Tribal sovereignty decreased with population. <b>How:</b> Tribal sovereignty is limited by Congress, Executive orders, administrative agreements and court decisions.	Today, tribal sovereignty is limited but it ensures any decisions about tribal property and citizens are made with their participation and consent.
5	<b>Who:</b> Congress, Indian tribes <b>What:</b> 370 treaties made <b>Where:</b> United States	<b>When:</b> 1778–1871 <b>Why:</b> Treaty-making ended in 1871 <b>How:</b> Congress ended the treaty-making period	From 1778 to 1871, the United States signed 370 treaties with Indian tribes. Since 1871, no new treaties were made.
6	<b>Who:</b> Federally recognized tribes and United States <b>What:</b> Relationship <b>Where:</b> United States	<b>When:</b> Present <b>Why:</b> Rules were needed to guide relations between tribal nations and U.S. government. <b>How:</b> The Constitution helped shape the relationship.	The relationship between federally recognized tribes and the United States is one between sovereigns or government-to-government.
7	<b>Who:</b> Indian tribes, the states and the federal government <b>What:</b> Relationship <b>Where:</b> The United States	<b>When:</b> Present <b>Why:</b> Relationship is established by the Constitution <b>How:</b> The federal government has power over Indian affairs, states do not.	The states have no authority over the tribal governments, but tribal governments often work with the states on matters of mutual concern.
8	<b>Who:</b> Tribal governments, Congress, federal courts <b>What:</b> Powers of tribal governments <b>Where:</b> United States	<b>When:</b> Present <b>Why:</b> Federal stronger than state or tribal governments <b>How:</b> The federal government limits tribal governments	Tribal governments can make and enforce laws, tax, establish and determine membership, and control activities and people allowed on tribal lands.
9	<b>Who:</b> Tribal governments and members <b>What:</b> Method of self-government <b>Where:</b> United States	<b>When:</b> Present <b>Why:</b> To preserve cultural and religious traditions and kinship systems <b>How:</b> Democratic system w/elected leaders	Tribal governments are elected, <b>define membership, regulate</b> property and inheritance of lands, levy taxes, and create laws and administer justice.
10	<b>Who:</b> Tribal governments <b>What:</b> Forms of self-government <b>Where:</b> United States	<b>When:</b> Present <b>Why:</b> Create a system of self-government <b>How:</b> Through executive, legislative and judicial branches	Tribal governments are elected, <b>define membership, regulate</b> property and inheritance of lands, levy taxes, and create laws and administer justice.
11	<b>Who:</b> Congress and American Indian tribes <b>What:</b> Indian Self-determination and Education Assistance Act of 1975; Tribal Self-governance Act of 1994 <b>Where:</b> United States	<b>When:</b> 1975, 1994 <b>Why:</b> To give tribal governments more power over federal programs and policies that directly affected them <b>How:</b> Services administered by the Bureau of Indian Affairs are now administered by tribal governments	Recent laws have given the tribal governments more power over the federal programs and policies that affect them and their members.
12	<b>Who:</b> American Indians, Alaska Natives and non-Indians <b>What:</b> Federal, state and local laws <b>Where:</b> United States and reservations	<b>When:</b> Present <b>Why:</b> All U.S. citizens are subject to federal, state and local laws <b>How:</b> The Assimilative Crimes Act makes violation of state criminal law a federal offence on reservations.	American Indians and Alaska Natives are citizens of the United States and are subject to federal, state and local laws.



Name \_\_\_\_\_

# Primary Source Study

## Page 1

**Directions:** Read the Preamble and each article of the Delaware Tribe of Indians Constitution. In the left hand column, record the powers of tribal sovereignty. In the right hand column, record the limits placed on these powers.

Formally acknowledged by the U.S. Department of the Interior, Bureau of Indian Affairs on May 28, 1997

Amended and Approved by Referendum Vote November 1, 2008

Delaware Bylaws further define the duties of officers, meetings of the Tribal Council, and the initiative process, and can be accessed at <http://delawaretribe.org/tribalsite/wp-content/uploads/2011/11/constitution.pdf>.

Powers	Delaware Constitution Excerpts	Limitations
	<p><b>PREAMBLE</b>            We, the members of the Delaware Tribe, also known as the LENNI LENAPE, in order to establish a more perfect form of government, preserve our heritage and powers of self-government, provide for the good and welfare of our people and to secure our rights and privileges as members, do hereby establish this Constitution and Bylaws for the Delaware Tribe.</p>	
	<p><b>ARTICLE I: Supreme Authority</b>            The supreme governing authority shall rest with all Delaware Tribe members, eighteen (18) years of age or older who are registered to vote. Adult voting membership shall mean the "entire" voting membership of the Delaware Tribe of Indians in accordance with Article VI, Section 6.             All powers not granted to the Tribal Council by this Constitution and Bylaws are reserved for the members of the Delaware Tribe.</p>	
	<p><b>ARTICLE II: Membership</b>            Section 1. The membership of the Delaware Tribe shall consist of all those persons whose names are included on the Delaware Indian per capita roll approved by the Secretary of Interior on April 20, 1906, and their descendants.             The Delaware Tribal Council shall have the power to enact ordinances, to establish rules and regulations governing membership, adoption, procedures for enrollment, and approval of an official membership roll. Provided: Nothing contained herein shall be construed to invalidate the presently existing membership roll or the membership of those persons enrolled prior to the effective date of this Constitution and Bylaws.</p>	
	<p><b>ARTICLE III: Rights of Members</b>            Section 1. The rights of the members of the Delaware Tribe to hold religious beliefs, speak and write freely, and the right of the members to assemble and petition their government, shall not be disturbed.             Section 2. The Tribal Council shall not deprive any person of their liberty or property without due process of law, nor deny any member the equal protection of the laws.</p>	
	<p><b>ARTICLE IV: Governing Body</b>            Section 1. There is created by this Constitution a governing body which shall be known as the Delaware Tribal Council.             The Tribal Council shall consist of seven (7) members; a Chief, Assistant Chief, Secretary, Treasurer, and three (3) members, all of whom must be eligible voters within the Delaware Tribe.</p>	

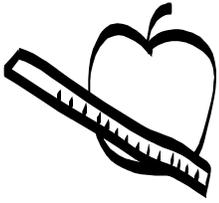


Name \_\_\_\_\_

# Primary Source Study

## Page 2

Powers	Delaware Constitution Excerpts	Limitations
	<p><b>ARTICLE V: Powers of the Tribal Council</b>            The Delaware Tribal Council shall have the following powers.</p> <ul style="list-style-type: none"> <li>• To represent the Delaware Tribe and act in all matters that concern the general welfare of the tribe, and to make decisions not inconsistent with or contrary to this Constitution and Bylaws or the Constitution and laws of the United States of America.</li> <li>• To negotiate and make contracts with Federal, State, and Local Governments and individuals, firms or companies.</li> <li>• To advise and consult with the Secretary of Interior or his representative on all matters and activities that may affect the Delaware Tribe and to make appropriate requests to the Bureau of Indian Affairs on any project / program beneficial to the Delaware Tribe.</li> <li>• To employ legal counsel, the choice of counsel and fixing fees to be subject to the approval of the Secretary of Interior, or his authorized representative if required by Federal law.</li> <li>• To cultivate, promote and encourage the culture and crafts of the LENNI LENAPE.</li> <li>• To administer charity.</li> <li>• To negotiate permits and leases, subject to approval of the Secretary of Interior, if required by Federal Law, for business, home site and other purposes, and generally to provide for the proper use and development of all Tribal lands, natural resources, and other Tribal property.</li> <li>• To appropriate Tribal funds for Tribal purposes.</li> <li>• To mortgage or otherwise encumber Tribal land and to borrow money from any source and pledge or assign chattels of future tribal income as security therefore with the approval of the Secretary of Interior or his authorized representative if required by Federal Law.</li> <li>• To enact ordinances to regulate the use of all tribal lands through zoning, taxation, or otherwise.</li> <li>• To manage and control community / tribal property, enterprises, and other economic projects and programs of the Delaware Tribe, including, but not limited to, the establishment of housing and rental authorities, educational programs and elderly programs, and appointment of planning, programming, and development committees.</li> <li>• To authorize, charter, establish and regulate associations and corporations formed for the benefit of the Delaware Tribe of doing business upon Delaware lands.</li> <li>• To establish rules to regulate its own proceedings, to appoint subordinate committees, commissions, boards, tribal officials, and employees not otherwise provided for in this Constitution and Bylaws and to prescribe their duties, salaries, and tenure.</li> </ul>	
	<p><b>ARTICLE XII: Judicial</b>            There is hereby created a Delaware Tribal Court composed of five (5) members, all of whom shall be members of the Delaware Tribe of Indians and elected by the membership of the Delaware Tribe. The purpose of the court shall be to hear and resolve any disagreements arising under any provisions of this Constitution or any civil or criminal acts against the Tribe, members, or persons under the jurisdiction of the Delaware Tribe. The Council shall provide for a procedure which shall insure that any litigant receives due process of law together with prompt and speedy relief....</p>	



# Primary Source Study

## Answer Key

**Directions:** Read the Preamble and each article of the Delaware Tribe of Indians Constitution. In the left hand column, record the powers of tribal sovereignty. In the right hand column, record the limits placed on these powers.

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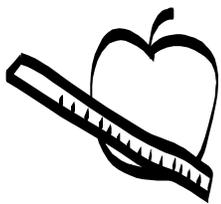
Powers	Delaware Constitution Excerpts	Limitations
Preserve tribal heritage, provide for the good and welfare of our people and protect their rights	PREAMBLE	None
Power of government rests with all tribal members 18 years or older and registered to vote	ARTICLE 1 – Supreme Authority	None
Membership includes all names on the Delaware Indian per capita roll as of 1906 and their descendants	ARTICLE II – Membership	Delaware per capita roll must be approved by the Secretary of the Interior
Rights Include: <ul style="list-style-type: none"> <li>freedom of speech, religion, the press, assembly, and petition</li> <li>All members have due process rights and equal protection of the laws</li> </ul>	ARTICLE III – Rights of Members	The Tribal Council cannot take life or property without due process of law; no member can be treated differently under the law
The governing body consists of seven elected members	ARTICLE IV – Governing Body	None
Powers of the Tribal Council include: <ul style="list-style-type: none"> <li>Represent the Delaware Tribe</li> <li>Make contracts with federal, state, local governments or businesses</li> <li>Advise, consult, and make requests to the Bureau of Indian Affairs on programs and projects</li> <li>To hire lawyers for the Delaware Nation</li> <li>To promote the culture and crafts of the Delaware Nation</li> <li>To provide charity</li> <li>Control the use of tribal lands, property and natural resources</li> <li>To tax and spend tribal money for tribal purposes</li> <li>To borrow money for tribal use</li> <li>Control use of tribal lands through zoning laws and taxes</li> <li>To manage and control tribal properties and programs of the Delaware Tribe</li> <li>To authorize, establish and regulate businesses doing business on Delaware lands</li> <li>To make rules for running meetings, to appoint subcommittees and other tribal officials and employees and set their salary and duties</li> </ul>	ARTICLE V: Powers of the Tribal Council	Limitations on the powers of the Tribal Council include: <ul style="list-style-type: none"> <li>Decisions cannot violate the U.S. Constitution or the Delaware Tribe of Indians Constitution.</li> <li>Bureau of Indian Affairs may deny requests</li> <li>Approval by the Secretary of Interior may be needed.</li> <li>Permits and leases may need approval of the Secretary of Interior.</li> <li>Approval by the Secretary of Interior may be needed to borrow money.</li> </ul>
Establishment of a Delaware Tribal Court with five members to hear and resolve disagreements	ARTICLE XII: Judicial	The Delaware Tribal Court must provide due process of the law



Name \_\_\_\_\_

# Tribal Sovereignty Briefing

1. Explain the significance of the Delaware Treaty of 1778. \_\_\_\_\_  
\_\_\_\_\_
2. What groups was the treaty between? \_\_\_\_\_  
\_\_\_\_\_
3. Why did each group sign the treaty? \_\_\_\_\_  
\_\_\_\_\_
4. How did the treaty establish Native American Sovereignty? \_\_\_\_\_  
\_\_\_\_\_
5. What were the nine major provisions of the Delaware Treaty of 1778? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. Explain the term "federally recognized tribe." \_\_\_\_\_  
\_\_\_\_\_
7. What is their relationship to the United States? \_\_\_\_\_  
\_\_\_\_\_
8. What is their relationship to the states? \_\_\_\_\_  
\_\_\_\_\_
9. Describe how tribal governments are usually organized. \_\_\_\_\_  
\_\_\_\_\_
10. What are the branches of tribal government? \_\_\_\_\_  
\_\_\_\_\_
11. Who is eligible to vote? \_\_\_\_\_  
\_\_\_\_\_
12. How does their organization compare to the United States federal government?  
\_\_\_\_\_  
\_\_\_\_\_
13. Based on the Delaware Tribe of Indians Constitution and Bylaws,
  - a. Cite several powers of tribal sovereignty. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  - b. Cite some limitations on tribal sovereignty. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



# Tribal Sovereignty Briefing

## Answer Key

**1. Explain the significance of the Delaware Treaty of 1778.**

Answers vary.

**2. What groups was the treaty between?**

The United States government and tribal leaders of the Delaware Nation.

**3. Why did each group sign the treaty?**

Both sides agreed to peace; the Americans needed to gain safe passage through Delaware lands; the Delaware Nation was promised protection from the British, fair trade policies and retention of their lands.

**4. How did the treaty establish Native American Sovereignty?**

Through the treaty, the government of the United States recognized the government of the Delaware Nation as a Sovereign Nation (an independent nation with the same rights and powers as the United States government).

**5. What were the nine major provisions of the Delaware Treaty of 1778?**

- A permanent peace was established between the Delaware Nation and the United States government.
- A promise of mutual protection was established; each nation promised to assist the other if attacked by enemies.
- The Delaware Nation would allow safe passage for American troops taking British forts in Delaware lands.
- The Delaware Nation would assist in supplying the American troops in exchange for fair payment.
- The Delaware nation would supply warriors to fight the British during the American Revolution.
- The Americans would build forts to protect the Delaware Nation from the British.
- Fair trade with the Delaware Nation would be protected by the American government.
- The United States stated no interest in the taking of Delaware lands.
- The Delaware Nation and other Native American tribes could form a state and join the United States.

**6. Explain the term “federally recognized tribe.”**

A federally recognized tribe has a government-to-government relationship with the United States government and is eligible for funding and services from the Bureau of Indian Affairs (an agency within the Department of Interior).

**7. What is their relationship to the United States?**

This relationship was established by the Delaware Treaty of 1778 and the United States Constitution.

**8. What is their relationship to the states?**

State governments have no authority over tribal governments, although they can work together on mutual concerns such as the environment.

**9. Describe how tribal governments are usually organized.**

Most tribal governments are democratic with elected leaders

**10. What are the branches of tribal government?**

Most tribal governments have constitutions with three branches: executive, legislative and judicial.

**11. Who is eligible to vote?**

Tribe members aged 18 or older are eligible to vote.

**12. How does the organization of tribal governments compare to the United States federal government's?**

Tribal governments are usually organized like the federal government, with three branches.

**13. Based on the Delaware Tribe of Indians Constitution and Bylaws,**

**a. Cite several powers of tribal sovereignty.**

- Determination of membership
- Creation of government
- Borrow money
- Regulate domestic relations of members
- Inheritance of reservation lands
- Set and collect taxes
- Zoning and control of land use of tribal land
- Regulate property under tribal jurisdiction
- Creation of tribal associations and corporations
- Control the conduct of members by creation and enforcement of tribal ordinances (laws)
- Conduct elections
- Negotiate contracts with federal, state and local governments
- Negotiate with the Bureau of Indian Affairs (federal government/ Department of Interior) for programs and services to benefit their members
- Negotiation of leases and permits for use of tribal lands and natural resources

**b. Cite some limitations on tribal sovereignty.**

- Property cannot be taken without due process of law
- All members must be treated equally under the law
- Tribal government actions can not violate the United States Constitution
- Requests for services and programs from the Bureau of Indian Affairs must be approved by the Bureau of Indian Affairs or Secretary of the Interior
- Leases and permits may need approval of the Secretary of the Interior

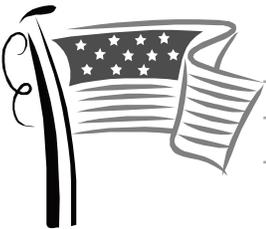


Name \_\_\_\_\_

# Tribal Sovereignty Briefing Rubric

Questions	All Correct 3 Points	Most Correct 2 Points	Few Correct 1 Point	Self	Teacher
1-4					
5 (provisions)					
6-8					
9-12					
13a and b					
<b>Totals</b>					

Teacher's Comments



Name \_\_\_\_\_

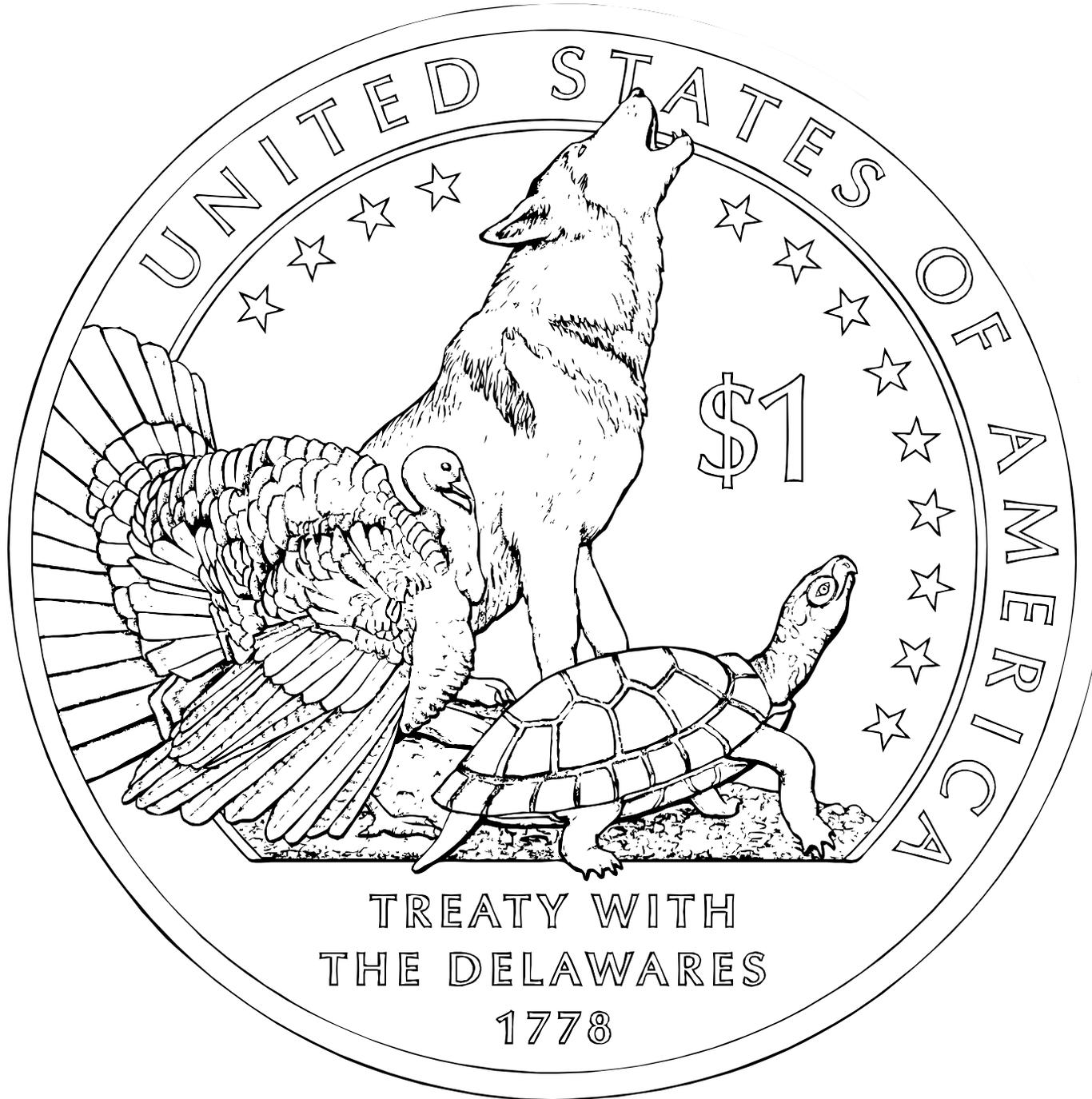
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Teacher's Comments



# 2013 Native American \$1 Coin



# The United States of America

