

FOUR DIRECTION APPROACH
SAMPLE QUESTION AND ANSWER
PREPARED FOR ASU NAVAJO NATION CLE CONFERENCE
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HYPO 2

Judy, a Navajo woman, made an oral contract with Ben, a clan relative, to paint Judy's house in exchange for \$5,000. Judy told Ben the name of the color and paid Ben \$2,000 in advance to purchase materials and get started.

In purchasing the paint, Ben picked the wrong color. Judy had left town unexpectedly so she was not aware of the mistake until she returned. Because of the error, Judy has refused to pay Ben the remainder of the \$5000. Ben has repeatedly called Judy to ask to be paid, but Judy has not answered nor returned his calls.

The parties have agreed to resolve their dispute using the Peacemaking process.

Analyze using Four-Directions approach.

SAMPLE ANSWER

Under the Four-Directions approach, in the Hane' (stories), the People decided to make Wolf, Bluebird, Lion, and Hummingbird leaders who must work together to sustain life. Morgan. Each one brought back something valuable: Thinking, Planning, Life, and Stability. Like their retrievers, these principles must also work together to sustain life. Morgan.

1. Nitsahakees (thinking)

The four directions process starts with Nitsahakees (thinking) about the problem. The goal is to try to define the Anahoot'i' (problem).

K'e is the prevailing law to be applied. Morgan. K'e means your relations to everything including humans, animals, and all life. Morgan. It consists of respect for each other and responsibility towards each other to sustain life.

2. Nahat'a (planning)

The second step is Nahat'a' (planning). Lawyers are leaders. Leaders engage in problem solving for the people. Bahe

The predominant law is Alch'i' sila, problems and laws are put against each other. In other words, for every problem, there is a solution or guiding principle, which comes from Dine Bibeehaz'aanii.

a. Anahoot'i' (problem)

The problem solvers engage in Na'adikid (questioning) and ask: What happened? How did it happened? Why did it happen? What is the Anahoot'i' (the problem)? What is the issue? What caused the injury?

What happened? Here, Judy and Ben entered into an agreement for Ben to paint Judy's house, according to Judy's specifications, for \$5000. Judy paid Ben \$2000 in advance. During the painting, Ben completely painted the house not following Judy's specification.

How/Why did it happen? Ben did not follow Judy's specification by picking the wrong color. Judy could not correct the issue because she had left town unexpectedly. The leader/lawyer may ask Ben why he picked the wrong color? Did he know that he picked the wrong color? And if he knew, why did he proceed with the wrong color? Why didn't Ben contact Judy? The lawyer-leader may also ask why Judy did not leave her contact information with Ben in case there are questions? The Problem-solving approach does not emphasize blaming. Once the person is identified, then the focus is on solving the problem. In this case, there was a communication issue between the parties.

How much was the injury? Judy already paid Ben \$2000, and her house was painted the wrong color. Ben spent energy and labor on painting the house.

The Anahoot'ii is that Judy and Ben did not establish a means of communication in case there were questions that arose. The relative injuries were also not clear. There needs to be discussion about valuing the injury to Judy and the injury to Ben.

b. Beehaz'aanii (law)

The problem-solving approach in Dine leadership involves the use of Dine Bibeehaz'aanii (Fundamental law) by a Nat'aanii (leader) to bring all parties from Anahoot'ii (the problem) and Hoochxo', to Hozho (Peace and Orderliness following Beehaz'aanii). Therefore, the goal is to find the guiding principle(s) from Dine Bibeehaz'aanii that will be a solution to the problem.

i. Na'alkaah (research)

A lawyer may engage in Na'alkaah (research) activities in the following fundamental law sources: court opinions, judicial notice of local custom, experts, and some learned treatises. Apachee.

Here, the lawyer searches for applicable fundamental law principles in the following sources:

- Navajo court cases on Westlaw,
- The Plaintiff and Plaintiff's relatives Morgan and 2 NNC 203(G)
(Elders and medicine people are some of the keepers and teachers of Fundamental law).

ii. Bik'iiya (find it)

The guiding principles, the solution, is in the Dine Bibeehaz'anii.
Morgan.

The lawyer's research results reveal the following guiding fundamental law principles:

Here, the court opinions identify the following principles:

- *K'eh*
- *Words are sacred*
- *Nalyeeh*

The lawyer asked Judy about Fundamental law. Judy's parents are knowledgeable and identify the additional guiding principle:

- *Doo ajin'iihda*

Nidiilya (adopt)

Lawyers are Nat'aaniis and they learn, follow, and teach the Fundamental Law of Dine. (Seanez).

The lawyer learned about the principles:

- *K'eh* - K'eh means having respect and exercising responsibility towards all things, especially your clan and blood relatives.
Morgan Having respect and responsibility includes communicating with your clan and blood relatives.
- *Words are sacred* - Navajos take contracts very seriously, and this Court will enforce them. Words are sacred and never frivolous in Navajo thinking. Office of Navajo Labor Relations ex rel. Bailon v. Central Consolidated School District No. 22, No. SC-CV-37-00, slip op. at 8 (Nav. Sup. Ct. June 23, 2004).
- *Nalyeeh* - One who inflicts harm must pay the victim to restore harmony. Nalyeeh, in an amount so there are no hard feelings, corrects injured parties. Benalli v. First National Insurance Company of America, 7 Nav. R. 329, 338 (1998).
- *Doo ajin'iihda* - one must not steal or bad consequences follow, from Coyote stories.

The lawyer uses Nitsahakees (thinking) and Nabiyati' (discussion) with her client, Judy, and Judy's parents to choose which principles which will apply to this case. The lawyer and client Neidiila (adopted) all the principles (none are eliminated):

- *K'eh.*
- *Words are sacred*
- *Nalyeeh*
- *Doo ajin'iihda*

There were no principles eliminated because all the principles were relevant to the present facts.

iv. Beeheelya (apply)

The guiding principles are then applied to the Anahoot'i' (problem). Under Alch'i' sila, for every problem, there is a solution or guiding principle which comes from Dine Bibeehaz'aanii.

The Anahoot'i' is that there was a lack of communication between Judy and Ben; they did not establish a means of communication in case there were questions that arose. This lack of communication caused injury to both parties.

Another part of the Anahoot'i' is that the oral agreement did not include an agreement on what will happened if there was no paint, as specified by Judy (i.e., there was no Plan B). The agreement was not completely thought out.

Depending on Ben's answer (for why he didn't follow Judy's instructions), the Anahoot'i' may also include Ben ignoring Judy's instructions on the paint color.

The amount of the injury also still needs to be determined.

The Beehaz'aanii (guiding principles) are:

- *K'eh* - K'eh means having respect and exercising responsibility towards all things, especially your clan and blood relatives. Morgan Having respect and responsibility includes communicating with your clan and blood relatives.
- *Words are sacred* - Navajos take contracts very seriously, and this Court will enforce them. Words are sacred and never frivolous in Navajo thinking. Bailon
- *Nalyeeh* - One who inflicts harm must pay the victim to restore harmony. Nalyeeh, in an amount so there are no hard feelings, corrects injured parties. Benalli

- *Doo ajin'iihda* - one must not steal or bad consequences follow, from Coyote stories.

Here, the parties are related. Therefore, they must resolve their dispute using K'eh, which means having respect and exercising responsibility towards each other at all times, and especially during the Peacemaking proceeding.

During the Peacemaking process, the Peacemaking facilitator will take time to clarify the exact relationship between the parties, and to see if the parties are willing to proceed according to that relationship. The facilitator will discuss what K'eh means, and emphasize the importance of working together and communication, and what that communication means.

Further, the parties had an agreement. Even though it was an oral agreement, the verbal nature of the agreement does not negate its significance because in Dine, words are sacred. Parties mean what they say. Here, Judy wanted the house a certain color. It is important that Ben treated Judy with respect as her words are sacred, and that she meant what she said. (The reverse is also true, that Judy must treat Ben with respect, his words are sacred too. Therefore respect is paramount)

However, Ben did not follow Judy's words. Therefore, Ben did not follow the agreement.

Judy also needs to be aware that she could have helped the situation by exercise K'eh, by establishing communication with Ben. Judy should have told Ben that she was going to be out of town and where to contact her.

Further, Ben must realize that he cannot steal by avoiding the problem or bad consequences will follow. He must address the problem.

The parties agree that the Ben inflicted harm on Judy by taking the money and painting the house the wrong color.

Ben must pay Nalyeeh to Judy to restore harmony. The amount of Nalyeeh may be the amount he took (\$2000), plus an additional amount for imposing injury on the house (\$200), less the amount of work that Ben performed (despite the wrong color). Ben's work was valued at \$1000. It was decided that Ben should be paid \$1000 for the labor he performed. Therefore, the Nalyeeh should be \$1200 with an oral apology. (Calculation: $\$2000 + \$200 - \$1000 = \1200).

v. Nahoot'a (the plan)

A plan is devised for Ben to repay Judy \$1200 in installments over 3 months.

Judy agrees to drop the case against Ben.

lina (life)

The plan is executed.

Ben repays Judy \$1200 in installments over 3 months. Both Ben and Judy apologize their mistakes toward each other.

Siihasin (stability)

Judy was restored. Upon reflection, Ben learned that he should establish communication with his clients, that he should ask questions in case their agreement cannot be fulfilled, and to have plan a Plan B.

For the immediate parties, Hozho has been restored.

END