



Oregon Department of Education Policy Document

Title: Tribal Communication and Consultation Policy	Number:
Office/Program: Office of Indian Education	
Applicability: All Staff	
Effective Date:	Last Review Date:
Approval Name: Colt Gill	Review Interval:
Signature:	Policy Manager: April Campbell
	Position: Director Office of Indian Education

POLICY STATEMENT: It is the Policy of the Oregon Department of Education to engage tribal officials and tribal representatives in regular and meaningful consultation, collaboration, and communication on actions which may have tribal implications. The ODE is committed to enhancing its relationships with tribal governments in Oregon, developing strategic partnerships and implementing strategies together with the tribes. The purpose of this policy is to provide guidance to all ODE employees on the Tribal Consultation process.

AUTHORITY:

Every Student Succeeds Act (ESSA)
<https://ed.gov/policy/elsec/leg/essa/index.html>

Executive Order 96-30 State/Tribal Government-to-Government Relations
http://archivedwebsites.sos.state.or.us/Governor_Kitzhaber_2003/governor/legal/execords/eo96-30.pdf

ORS 182.162-168 Relationship of State Agencies with Indian Tribes
http://www.nrc4tribes.org/files/Tab%209_9H%20Oregon%20SB770.pdf

[ORS 172.100-.14](#)

DEFINITIONS: The following definitions apply for purposes of this policy only:

Consultation is an active process typically conducted face-to-face between tribal appointed officials (or representatives as tribal officials) and the ODE Deputy Superintendent or his/her designee before a decision is made. Consultation is an integral part of ODE’s decision-making process addressing the interests of a tribe and any potential impact agency actions may have on tribes. Consultation is a formal process which considers the scope, scale, and degree of tribal implications. Effective consultation is direct, timely, and interactive with the intent to exchange information and receive input on an action having tribal implications. Establishing and maintaining formal consultation is essential to ensure

educational and cultural values are preserved for future generations using ongoing communication to build and nurture trusting relationships.

ODE Deputy Superintendent or his/her designee is an individual or individuals who has (have) been appointed by the Deputy Superintendent to speak on behalf of ODE.

Sovereignty refers to tribes' rights to govern themselves, define their own membership, manage tribal property, and regulate tribal business and domestic relations; it further recognizes the existence of a Government to Government relationship between such tribes and US federal/state governments. Common definitions of "sovereignty" include having supreme power¹.

Tribal Official is an individual or individuals who has (have) been appointed by the Tribe to speak on behalf of the tribal government.

Tribe or Tribal government means one of nine federally recognized tribal governments in Oregon:

1. Burns Paiute Tribe
2. Confederated Tribes of Coos, Lower Umpqua, and Siuslaw
3. Confederated Tribes of Grand Ronde
4. Confederated Tribes of Siletz
5. Confederated Tribes of Umatilla Indian Reservation
6. Confederated Tribes of Warm Springs
7. Coquille Tribe
8. Cow Creek Tribe Band of Umpqua
9. Klamath Tribes

Tribal Implications means an ODE action (e.g., regulations, rules, legislative proposals, policies, guidance documents, directives, and other policy statements) having substantial direct effects on one or more tribes; on the relationship between ODE and tribe; or on the distribution of power and responsibilities between the ODE and tribe.

Tribal Interests may include but are not limited to educational, traditional, spiritual, natural and cultural resource practices conducted by a tribe which may be affected by an ODE policy, program or impacts tribal citizens.

RESPONSIBILITIES: This policy applies to all ODE employees responsible for engaging in consultation, coordination, and communication with tribal officials and tribe(s). ODE plans to review and update this policy as needed to reflect ongoing engagement and collaboration with tribal partners.

ORS 182.162-168 requires each agency adopt a policy that:

1. A state agency shall develop and implement a policy that:
 - a. Identifies individuals in the state agency who are responsible for developing and implementing programs of the state agency that affect tribes.
 - b. Establishes a process to identify the programs of the state agency that affect tribes.
 - c. Promotes communication between the state agency and tribes.
 - d. Promotes positive government-to-government relations between the state and tribes.

¹ <https://www.merriam-webster.com/dictionary/sovereignty>

- e. Establishes a method for notifying employees of the state agency of the provisions of ORS 182.162 to 182.168 and the policy the state agency adopts under this section.
2. In the process of identifying and developing the programs of the state agency that affect tribes, a state agency shall include representatives designated by the tribes.
3. A state agency shall make a reasonable effort to cooperate with tribes in the development and implementation of programs of the state agency that affect tribes, including the use of agreements authorized by ORS 190.110. [2001 c.177 §2]

STANDARDS: Consultation at ODE consists of four phases: *identification, notification, input, and follow-up*. See procedure document for instruction.