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## 1-118 Tribal Consultation

### A. Guiding Principles

The board and the universities value and desire to develop their relationships with sovereign tribes. This policy reflects the board's commitment to these important government-to-government relationships by recognizing and affirming fundamental principles of consultation and respect.

1. The board recognizes and respects the authority of sovereign tribes and is committed to government-to-government relationships with individual sovereign tribes.
2. The board and the universities respect and acknowledge the culture, traditions, beliefs, governance processes, tribal laws, codes, regulations, and protocols of sovereign tribes. As such, the board and the universities are committed to complying with all applicable tribal laws, codes, and regulations.
3. This policy sets forth the requirements and expectations for good faith consultation between the board and universities and tribal leaders and designated representatives.
4. The expectations described in this policy are in support of, and not intended to limit, the many successful on-going relationships and collaborations between the board, the universities and tribes. The board encourages on-going communication with tribal leadership regarding this consultation policy as well as other issues of mutual interest, such as student success.

### B. Consultation

1. Expected and required consultation
  - a. The board and universities will communicate early, regularly, and in good faith with individual tribal governments regarding proposed research, initiatives, agreements, and policies that may have foreseeable implications for tribes and individuals as members of a tribe.

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- b. The board acknowledges that laws that protect individual participants in research may not be sufficient to protect the interests of a sovereign tribe that could be affected by research.
- c. Universities and tribes will collaborate in the design of research in which they jointly choose to participate. Each party to the joint research will consult with all other parties regarding confidentiality, ownership of data and results, use of land or other resources, ownership and disposition of any biological materials collected in the course of research, proposed changes in the research, and proposed publications or presentations relating to the research. Each party will strive to communicate in a manner that is reasonably understandable by all parties.
- d. The following are examples of possible activities by universities under the governance of the Arizona Board of Regents with the potential for direct tribal implications that will require consultation under this policy:
  - i. Any research supported or authorized by a university under the governance of the Arizona Board of Regents, that involves participation by members of a sovereign tribe and that may foreseeably result in research results with implications specific to a tribe or to individuals as members of a tribe, and the proposed publication or dissemination of that research;
  - ii. Any research involving human subjects, including genetic testing or testing of blood, tissue or other biological materials in which the individual's membership in or affiliation with a tribe is identified, and that is intended to or that may foreseeably result in conclusions or generalizations about a tribe or individuals as members of a tribe;
  - iii. Any research or other activity involving human remains, funerary objects, sacred objects, or objects of cultural patrimony that are subject to the Native American Graves Protection and Repatriation Act;

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- iv. Any activity, including research, on land under the control or jurisdiction of a sovereign tribe;
  - v. Any initiative, including educational programs, intended for students or employees who are members of or affiliated with federally recognized tribes; and
  - vi. Any board or Arizona public university policy or initiative that may foreseeably affect a sovereign tribe in a manner different than the general public.
2. Board and university tribal liaisons
- a. The board executive director will serve as the tribal liaison for the board.
  - b. Each university president will designate a tribal liaison for the university.
3. Consultation Process
- a. If the board or a university plans to develop a policy or propose an initiative or practice that will affect any federally recognized tribe in Arizona, the board and university tribal liaison(s) will use their best efforts to share information and solicit input in advance about the proposed policy or initiative with the affected tribes. The universities may from time to time develop new programs and services or discontinue existing programs or services for Native American students, and will involve the university's designated tribal liaisons to assist in communicating those changes.
  - b. When consulting with or seeking consent from a sovereign tribe for purposes of research, land use or other agreements, university institutional review boards and contracting departments must document proof of tribal consultation and approval in accordance with the applicable protocol or process of the tribe(s) involved. The university's tribal liaison should be advised of the project and will assist in identifying the appropriate leaders and approval protocols of the tribe(s).

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c. Consultation with pan-tribal or non-governmental organizations (e.g., the Intertribal Council of Arizona, the Arizona Commission on Indian Affairs, Urban Indian Centers, etc.) and committees (e.g., University Tribal Advisory Councils, etc.) Will be in coordination with, and not to the exclusion of, consultation with individual sovereign tribes.

4. This policy is not intended to address matters such as tuition setting and other general issues that affect tribal members or communities to the same extent as the general public.

C. Education

Each university will establish educational programs for university administrators, faculty, staff, and students regarding the requirements and expectations for tribal consultation and research.

D. Resolution of issues and enforcement

1. Any concerns related to tribal consultation should be brought to the attention of the appropriate university tribal liaison for assistance in resolving. The tribal liaison will coordinate with appropriate university personnel and use best efforts to work with the designated representative(s) of the tribe(s) and other affected individuals to reach a mutually acceptable resolution.
2. If the tribal liaisons and designated representatives are not able to collaboratively develop a satisfactory and timely resolution, the university tribal liaison will inform the university president, who will offer to meet with the designated leadership of the tribe to continue to address the concerns. The university president will include the board executive director as appropriate.
3. Upon learning of any allegations of violations of research protocols, research policies, land use or access agreements with a sovereign tribe, or laws or policies of a sovereign tribe, the involved university personnel will promptly advise their university tribal liaison and university president. The university president or the president's designee will assist in notifying the affected tribe.

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4. The board and university will address allegations of violations of board or university rules by university employees or students through personnel policies, codes of conduct and policies on research compliance and integrity.
5. Activities contemplated under this policy may also be subject to applicable tribal law, state and federal law, including codes, ordinances, research and other protocols and regulations.