



FIRST THINGS FIRST



Tribal Consultation Policy

AGENCY OVERVIEW

The First Things First (FTF) mission is to serve as one of the critical partners in creating a family-centered, comprehensive, collaborative and high-quality early childhood system that supports the development, health and early education of all Arizona's children birth through age 5. The vision of FTF is that all Arizona's children are ready to succeed in school and in life.

PHILOSOPHY

First Things First acknowledges the rich cultural diversity of Arizona's 22 federally recognized American Indian tribes (tribes) and recognizes that tribes must have a strong voice in shaping the policies and programming that affect their communities. First Things First believes that improving communication and partnerships with tribes is essential to providing all of Arizona's children a solid start so they can grow up ready to succeed in school and life. To this end, FTF is committed to operating within a government-to-government relationship with federally recognized tribes. In order to achieve this goal, it is essential that FTF and tribes engage in open, continuous, and meaningful consultation on a government-to-government basis. To guide this work, this FTF Tribal Consultation Policy has been established.

PURPOSE

This policy establishes the basic concepts and principles that govern FTF in its interactions with tribal governments within the State of Arizona. The purpose of this policy is to describe the consultative approach to be taken to promote and protect the government-to-government relationship between FTF and Arizona Tribes. The foundation for this policy is the Arizona Early Childhood Development and Health Initiative, Title 8, Chapter 13, Arizona Revised Statutes. All FTF staff and volunteers acting in their official capacity will abide by this consultation policy.

BACKGROUND

First Things First respects and honors the government-to-government relationship that exists between tribes, the federal government and state governments. FTF acknowledges that the United States government has a unique relationship with tribes as set forth in the Constitution of the United States, treaties, statutes, court decisions, executive orders and memoranda. Interactions between FTF and the tribes of Arizona will be consistent with the principles of tribal sovereignty and self-governance as described by federal law. Furthermore, the statute that created FTF states that tribes may participate in a designated geographical region or regions in which their tribal lands are located or elect to have their tribal lands treated as a separate region by the Board.

AUTHORITY

State

- Arizona Revised Statutes § 41-2051.
- Arizona Early Childhood Development and Health Initiative, Title 8, Chapter 13, Arizona Revised Statutes

Federal Government

The special relationship between the federal government and tribes is affirmed in statutes, legislation and various Presidential Executive Orders including, but not limited to:

- The Snyder Act, P.L. 67-85
- The Indian Self-Determination and Education Assistance Act, P.L. 93-638, as amended
- The Native American Programs Act, P.L. 93-644, as amended
- The Indian Health Care Improvement Act, P.L. 94-437, as amended
- The Personal Responsibility and Work Opportunity Reconciliation Act of 1966, P.L. 104-193
- The Native American Languages Act of 1990, P.L. 104-477
- Presidential Memorandum on Government-to-Government Relations with Native American Tribal Governments, April 29, 1994
- Presidential Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, November 6, 2000
- Presidential Memorandum, Government-to-Government Relationship with Tribal Governments, September 23, 2004
- Presidential Executive Order 13592, Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities, December 2, 2011

TERMINOLOGY

Consultation - Consultation is the meaningful and timely dialogue with appropriate leaders and representatives of tribal governments. Consultation emphasizes trust and respect and requires the open exchange of information, full and candid expressions of views, and a commitment to fully consider other views during decision-making. Consultation seeks mutually beneficial outcomes to the extent possible. Formal consultation under this policy occurs when a member of FTF leadership and a tribal leader or the tribal leader's designee formally meet (in person or using technology) to discuss matters concerning either government. Formal statewide consultation should usually occur on an annual basis and may occur on an "as needed" basis as well when the tribes and FTF raise matters that need to be addressed. Informal consultation under this policy happens when consultation occurs between FTF and a tribe either without a member of FTF leadership or without tribal leaders or tribal leaders' designees. Furthermore, FTF recognizes tribes may have their own tribal consultation processes. Either party may initiate consultation when the need is identified.

Federally Recognized Indian Tribe (tribe) - An American Indian or Alaska Native Tribe, Band, Nation, Pueblo, Village or Community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a. Federally recognized tribes are those with whom the Federal Government maintains an official government-to-government relationship, established by a federal treaty, statute, executive order, court order or a federal administrative action. The Bureau of Indian Affairs (BIA) maintains and regularly publishes the list of Federally Recognized Tribes.

FTF Leadership - For the purposes of this policy, FTF Leadership refers to members of the FTF Board and to the FTF Chief Executive Officer.

FTF Tribal Affairs - The FTF unit responsible for agency-wide implementation and monitoring of this Tribal Consultation Policy. Tribal Affairs serves as the agency's point of contact in accessing FTF Divisions and includes the Senior Director of Tribal Affairs and the Tribal Liaison.

Government-to-Government Relationship - The term was first used by tribes and the federal government and is grounded in federal treaties, statutes and executive orders. It is also used to describe the relationship between tribes and state governments.

Indian Organizations - Any regional, state or national organization that represents the interest of tribes and indigenous populations. First Things First may provide written notice and a solicitation for feedback to organizations such as the Advisory Council on Indian Health Care, the Inter-Tribal Council of Arizona, Indian Health Services, Native Connections and Urban Indian Organizations, etc. Such communication does not substitute for formal consultation.

Regional Partnership Council - Volunteers of local community members appointed by the FTF Board to identify and prioritize the unmet needs for early childhood development and health programs in its region.

Regional Tribal Consultation – FTF-facilitated consultation occurring at the regional level to enhance the development of local government-to-government relationships that will result in on-going dialogue and collaboration at the regional level to align regional priorities with tribal priorities and leverage collective resources to support ongoing system building to support young children and families. Regional consultations can be formal or informal, based on whether a member of FTF leadership participates.

Statewide Tribal Consultation – FTF-facilitated consultation occurring at a statewide level through which tribal leaders and other authorized representatives of the tribal governments have the opportunity to provide meaningful and timely input to FTF leadership regarding the development of policies or procedures that affect Arizona’s tribes and young children and their families living on tribal lands.

Tribal Affairs - The FTF unit responsible for agency-wide implementation and monitoring of the FTF Tribal Consultation Policy. Tribal Affairs serves as the agency’s primary point of contact in collaborating with FTF.

Tribal Government - A governing body of a tribe.

Tribal Leaders - Tribal leaders are elected or duly appointed officials of a tribe.

Tribal Self-Governance - The governmental actions of tribes exercising self-government and self-determination.

OBJECTIVES

In order to fully implement this policy, FTF will:

- Establish communication channels with tribal leaders of each tribe as well as the appropriate staff in tribal programs impacting young children. First Things First recognizes that a standing goal of working with tribes is to increase their knowledge and understanding of FTF funded programs and policies.
- Seek timely consultation and the participation of tribes with existing, potential and new early childhood development and health policies and actions that would have a significant impact on tribes.
- Allow for consultation with tribes regarding program implementation.
- Coordinate within the agency to ensure consistent application of the Tribal Consultation Policy among all Board members, staff members and members of regional partnership councils.

- Provide relevant background information on consultation topics so that tribes may fully consider information when providing recommendations to FTF.
- Seek recommendations from tribes which include pertinent impacts of proposed changes.
- Engage in consultation with a tribe or tribes when requested, needed or desired.

CONSULTATION PROCEDURES AND RESPONSIBILITIES

Formal consultation occurs when a member of FTF leadership meets (in-person or using technology) with tribal leaders or their designees, to discuss matters concerning either party. Formal statewide consultation should usually occur on an annual basis and may occur on an “as needed” basis as well when the tribes and FTF raise matters that need to be addressed.

Informal consultation refers to consultation that occurs between FTF and a tribe either without a member of FTF leadership or without tribal leaders or tribal leaders’ designees, such as consultation between the FTF Senior Director of Tribal Affairs, an FTF regional director or a regional council and a tribe.

A. Formal Consultation Procedures

1. First Things First may initiate formal, FTF-facilitated consultation to solicit official comments and recommendations on policies and procedures that affect tribes and young children and their families living on tribal lands or to enhance ongoing government-to-government dialogue and collaboration at a regional level. These formal consultations will provide the opportunity for meaningful dialogue and effective participation by tribes.
 - a. FTF will notify tribes at least 60 days in advance, via email and mail, of a formal statewide tribal consultation.
 - b. FTF will notify the tribe(s) at least 30 days in advance, via email and mail, for a formal regional tribal consultation.
2. A tribe has the ability to initiate formal consultation as well, i.e. meet one-on-one with a member of FTF leadership to consult on matters specific to the tribe. An appropriate date and location will be determined in coordination with the tribe to facilitate the consultation.
3. Reporting of Outcomes: FTF will report on the outcomes of the consultation.
 - a. FTF will report outcomes of a statewide tribal consultation within 120 days to all tribes regardless of whether a tribe participated in the consultation.
 - b. FTF will report outcomes of a regional tribal consultation within 60 days via email to tribes and request appropriate next steps to share the report (i.e. presentation to council).
 - c. For ongoing matters identified during the consultation, FTF will provide status reports to the tribe as appropriate.
 - d. There is no report generated from one-on-one consultation requested by a tribe. Follow up communication with the tribe will occur, as appropriate.

B. Informal Consultation Procedures

1. FTF staff regularly communicate with tribes and tribal organizations about relevant FTF activities and funded programs. FTF staff, a regional council, a tribe or a tribal organization may initiate FTF’s informal consultation process in order to conduct more in depth conversations about a matter.
2. The most useful and appropriate consultation mechanism can be determined by FTF and/or the tribe(s) after considering the matter. Specific consultation mechanisms that may be

used for informal consultations include but are not limited to in-person meetings, mailings, teleconference, electronic/computer based meetings and email.

3. An appropriate date and location will be determined in coordination with the tribe(s) to facilitate the consultation.

ONGOING PARTNERSHIPS

Partnerships between tribes and FTF are essential in building a good consultative and collaborative relationship. To establish and maintain partnerships:

- FTF will meet with tribes on a consistent basis as mutually agreed upon. If follow-up is needed, FTF Tribal Affairs, the regional director or other designated staff will provide the follow-up.
- FTF is committed to developing cooperative relationships with tribes and tribal organizations. FTF will invite tribal leaders, early childhood representatives and Indian organizations to training programs, when and where appropriate.
- FTF will invite tribal leaders to participate on regional partnership councils, special committees and work groups that will either directly or indirectly affect tribes.
- FTF will utilize various communication strategies, including electronic communication, that support interactive communication and understanding with tribal governments.

REPORTING

By October 1 of each year, FTF will review this Tribal Consultation Policy and submit an electronic report to the Governor and the Legislature describing all actions taken as a result of formal consultations under this policy. The report will also be available to tribal leaders.

SUMMARY

This policy is reflected in the FTF Strategic Plan, which confirms the belief that FTF will develop and maintain a culture of strong collaboration and cooperation both internally and externally with the Board, staff, regional partnership councils, tribes and community partners. First Things First recognizes this Tribal Consultation Policy will be a developing document, changing as circumstances and tribal input indicate a need for revisions.