



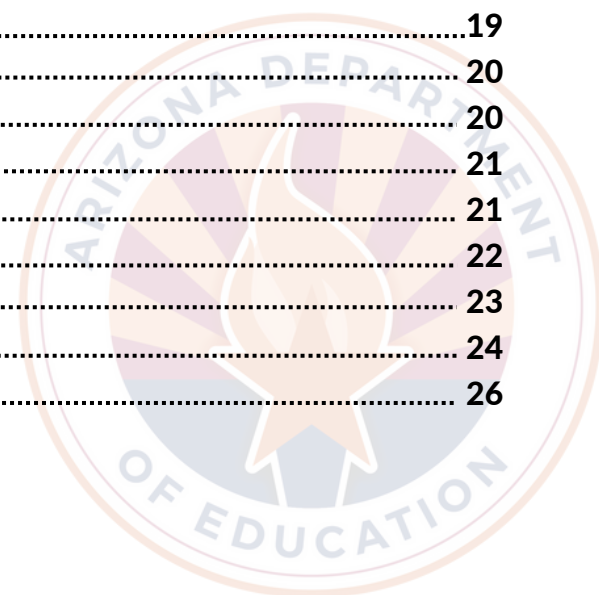
Office of Indian
Education



Arizona Tribal Consultation Guide

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November 1, 2022

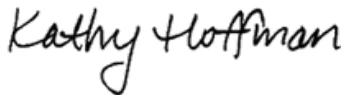
Dear Tribal Leaders and Superintendents,

It is the Arizona Department of Education's distinct pleasure to serve the students, families, and educators who make up the twenty-two sovereign tribal nations in Arizona. Their history, culture and language are a vital part of Arizona's past, present, and future. During my tenure as State Superintendent, it has been my honor to travel around the state to meet with many of you and learn of the amazing work being done in your schools and communities.

One area of success has been through building relationships and fostering collaboration between local education agencies, the Department of Education, and tribal nations. Thank you to all our partners as we have worked together towards real innovation that will uplift our state's Indigenous communities and students.

For the first time in our state's history, ADE's Office of Indian Education has been funded with state dollars that will make an impact for years to come. We could not have achieved this milestone without your support and advocacy. My hope is this office will continue the good work we have done over the past four years. I know with your unwavering commitment to the education of Native American students that is possible. Please find the attached updated Tribal Consultation Guide to be used as a tool and a resource in your work.

Sincerely,



Kathy Hoffman, MS, CCC-SLP
Superintendent of Public Instruction
Arizona Department of Education

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Why does consultation matter?

Tribal governments have information and resources that can assist in supporting the academic needs of Indigenous youth. With tribal consultation, school districts are in a unique position to place emphasis on understanding the beliefs, attitudes and educational priorities tribal governments have for their youth. Partnering and soliciting feedback from those committed to lifelong support of their citizens can allow schools to be strategic in meeting the needs of American Indian/Alaska Native youth [1]. As a legal requirement under the Every Student Succeeds Act (ESSA), tribal consultation supports local educational agencies and tribal nations to meet the educational needs of our Native American pupils.



The Comprehensive Center Network (CCNetwork) has gathered tribal consultation resources from all over the nation into a Tribal Consultation Toolkit. The CCNetwork features 20 federally funded Technical Assistance Centers - the National Comprehensive Center and 19 Regional Comprehensive Centers. The Centers address pressing educational needs around the country in collaboration with:

- State, district and local leaders
- The U.S. Department of Education
- National organizations
- Community partners

To visit this guide and view highlighted information in the CCNetwork toolkit or identify specific details associated with tribal consultation in Arizona, please use the following link: <https://compcenternetwork.org/resources/resource/6979/tribal-consultation-toolkit>

Tribal consultation is a necessary approach for advancing equity for Native American students. The Arizona Department of Education is working in partnership with local education agencies (LEAs), tribal nations, and other partners to share responsibility and accountability in creating educational experiences focused on positive outcomes that value the beliefs, traditions, languages, and cultures of Native American students.

[1] Oregon Department of Education, Step 1 Planning & Pre-Consultation Question, Tribal Consultation Toolkit Guide 1.0, October 8, 2020.

The following six goals of education equity identify the elements to be addressed in policies, procedures, practices, and programs to eliminate inequities and ensure equity for all students to reach their potential.

1. **Outcomes:** Comparable positive results on all measures for student and staff populations provide evidence that inequities are identified and resolved.
2. **Access and Inclusion:** Admission and engagement, without obstruction, for all students and staff, to participate equitably in all services or opportunities with positive outcomes.
3. **Treatment:** Interactions between individuals and groups are accepted, valued, respected, safe, and secure without fear of threat, humiliation, danger, or disregard.
4. **Opportunities to Succeed:** Necessary and appropriate supports are provided to attain positive, equitable outcomes for all students and staff.
5. **Resource Distribution and Technology:** Resources and technology are allocated equitably to ensure positive, equitable outcomes for all students and staff.
6. **Shared Responsibility and Accountability:** Stakeholders work collaboratively to ensure positive, equitable outcomes for all students and staff.

Tribal Consultation Overview

Tribal consultation is a process for listening to tribal perspectives on matters affecting their children's education, specifically, the best uses of federal funds to address challenges and opportunities. The process recognizes the role of tribal governments as sovereigns in directing the education of Native American students and the teamwork needed between schools and tribal communities to facilitate a child's academic progress.



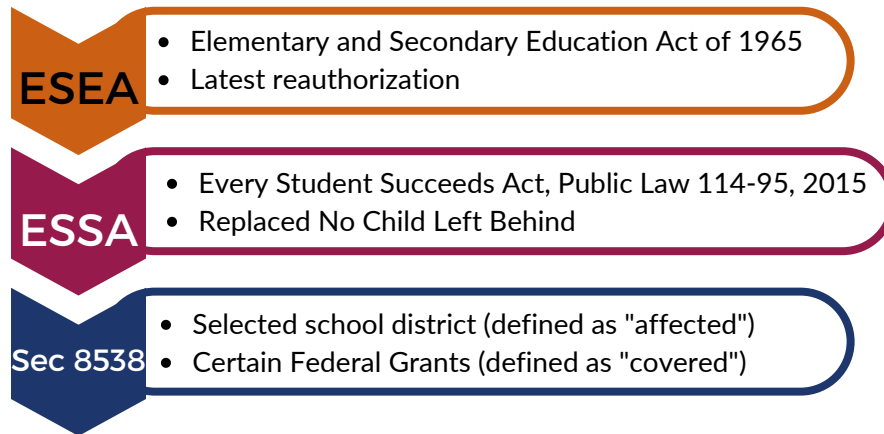
Each tribe is a sovereign nation with its own government system, heritage language, cultural practices, and education needs. Tribes have government-to-government relationships with federal, state, and local entities. More information on ESSA Tribal Consultation is available at the Arizona Department of Education (ADE) Office of Indian Education (OIE) website, <https://www.azed.gov/oie/tribal-consultation>.

Public Law

Tribal Consultation is a legal requirement per Section 8538 of the Elementary and Secondary Education Act (ESEA) (Appendix A), as amended through the Every Student Succeeds Act (ESSA). It is a formal process between tribal representatives and LEAs that

serve American Indian/Alaska Native (AI/AN) populations (referred to as Native American in this document). The consultation process is essential to meeting the needs of Arizona's Native American students.

Education Law



*Sec. 8538, 20 U.S.C. 7918 Consultation with Indian Tribes and Tribal Organization

Section 8538 requires affected LEAs to consult with Native American tribes located in the area served by the LEA prior to submitting a plan or application for covered programs.

The U.S. Department of Education developed a Frequently Asked Questions guide for Section 8538 regarding consultation with Indian tribes and tribal organizations, use the link below to access the guide:

<https://www2.ed.gov/policy/elsec/leg/essa/faq/essafaqtribalconsultation.pdf>



Who Is Required to Consult?

Affected LEA

The law defines an affected LEA based on two criteria:

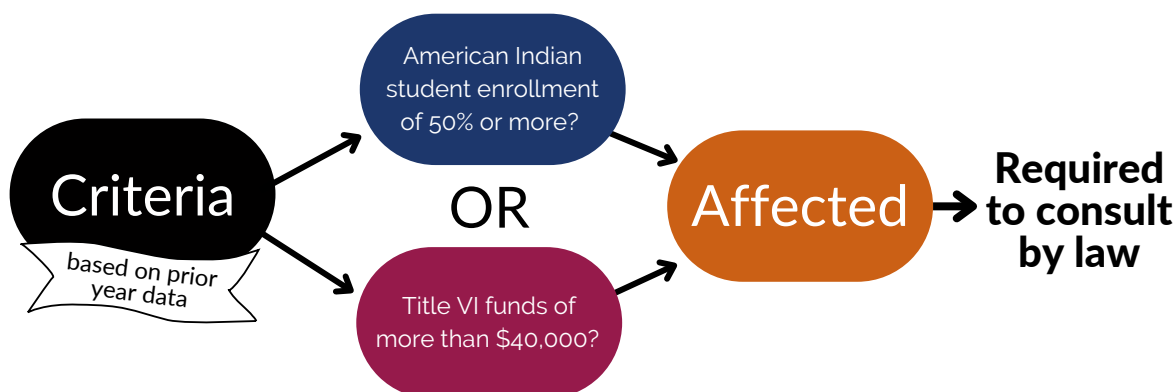
- An enrollment of 50 percent or more American Indian or Alaska Native students.
- LEAs who received a Title VI, Indian Education grant, that exceeded \$40,000.

The criteria are based on prior year data. Staff pulls enrollment percentages from student data submitted by LEAs through AzEDS, the Arizona Education Data Standards system at

<https://www.azed.gov/information-technology/azeds>. Title VI funding information comes from the United States Department of Education.

Who?

Affected Local Education Agency (LEA) Identification Process



LEAs that meet at least one of these criteria are considered affected and are required by law to consult with tribes in their area. The affected LEA list for Arizona public schools is posted on the Office of Indian Education website at <https://www.azed.gov/oie/tribal-consultation> by late March.

Tribal Education Department

Tribes are the experts on issues affecting their citizens and students. Tribal Education Departments (TEDs) are staffed by professionals who may advise on the best use of funds to meet the unique educational needs of their students.



Please use the link below to reference the Tribal Consultation toolkit for an overview of Tribal Education

https://compcenternetwork.org/ccn-products/multimedia/tribal-consultation/#/lessons/Tiq33C4L8t_Jeyyk9gxVGi3UnKceSdvL

What is Covered in Consultation?

Affected LEAs are required to consult with tribes on the ESSA programs listed below. Each federally funded program administered through the United States Department of Education directly impacts Native American students.



Covered Programs

- Title I, Improving the Academic Achievement of the Disadvantaged
 - Part A: Improving Basic Programs Operated by State and Local Educational Agencies
 - Part C: Education of Migratory Children
 - Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk
 - Title II, Part A: Supporting Effective Instruction
 - Title III, Part A: English Language Acquisition, Language Enhancement, and Academic Achievement Act
 - Title IV, 21st Century Schools
 - Part A: Student Support and Academic Enrichment Grants
 - Part B: 21st Century Community Learning Centers
 - Title V, Part B, Subpart 2: Rural and Low-Income School Programs
 - Title VI, Part A, Subpart 1, Indian, Native Hawaiian, and Alaska Native Education
-
- **Title I Part A:** Improving Basic Programs Operated by State and Local Educational Agencies supports programs that provide all children with opportunity to receive a fair, equitable, and high-quality education, and meet challenging state standards. Assistance for LEAs and schools is determined by census poverty estimates and the cost of education in each state. Examples of eligible uses of funds include support for extra instruction in reading and mathematics, as well as special preschool, after-school, and summer programs to extend and reinforce the regular school curriculum.
 - **Title I Part C:** Education of Migratory Children provides financial assistance to state education agencies (SEAs) to establish and improve programs of education for children of migratory farmworkers and fishers. Federal funds are allocated by formula to SEAs based on each state's per pupil expenditure for education and counts of eligible migratory children, age 3 through 21, residing within the state. State migratory education program (MEP) grantees and local/regional MEP subgrantees carry out activities such as identifying and recruiting migratory children, providing instructional and support services that help bolster and sustain the educational progress of migratory children, and collaborating with other organizations and programs that serve migratory children (e.g., Migrant and Seasonal Head Start, the College Assistance Migrant Program, or the High School Equivalency Program).

- **Title I Part D:** Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk improves educational services for children and youth in local, tribal, and state institutions who are neglected, or delinquent children and youth. Funds may pay for educational services, as well as prevention and rehabilitative services for students who are involved in the justice system or are at risk of dropping out of high school.
- **Title II Part A:** Supporting Effective Instruction supplements activities that strengthen the quality and effectiveness of teachers, principals, and other school leaders. Examples of local-level activities include recruiting and retaining effective teachers and principals and providing professional development for teachers and principals. In exchange for receiving funds, agencies are held accountable to the public for improvements in academic achievement.
- **Title III Part A:** English Language Acquisition, Language Enhancement, and Academic Achievement Act helps children whose first language is not English attain English language proficiency and meet state academic standards. Eligible activities are aimed at improving outcomes for English learners, such as those that support instruction, family engagement, and professional development.
- **Title IV Part A:** Student Support and Academic Enrichment Grants help provide all students with access to a well-rounded education, improve conditions for student learning and the use of technology to promote the academic achievement and digital literacy of all students.
- **Title IV Part B:** 21st Century Community Learning Centers support the establishment of community learning centers during out-of-school time hours.
- **Title V Part B, Subpart 2:** Rural and Low-Income School (RLIS) Program addresses the unique needs of rural school districts that frequently lack the personnel and resources needed to compete effectively for federal discretionary grants and who receive formula grant allocations in amounts too small to be effective in meeting their intended purposes. Funding is provided to districts with small populations in lower-density areas, which is designated by the National Center for Education Statistics.
- **Title VI Indian, Native Hawaiian, and Alaska Native Education, Part A, Subpart 1:** Formula Grants to Local Educational Agencies is designed to address the unique cultural, language, and educational needs of American Indian and Alaska Native students, including preschool children, and ensure that all students meet the challenging

state academic standards. Eligible programs include culturally related activities that support the program described in the application submitted by the LEA, early childhood programs that emphasize school readiness, and integrated educational services in combination with other programs that meet the needs of Indian children and their families.

Affected LEAs must consult with tribes about any funding they receive from these federal Title programs.

Title VI Name Changes

Title VI, Part A, subpart 1, Indian Native Hawaiian, and Alaska Native Education was identified as Title VII prior to 2017. Title VII now refers to Impact Aid funding. Although Impact Aid funding is not required by law to be addressed through tribal consultation, consultation participants may request information as this funding affects Native American student opportunities and outcomes.

Title VI, Part A, Subpart 1, Indian, Native Hawaiian, and Alaska Native Education

- Title VII prior to 2017
- Title VII is now Impact Aid



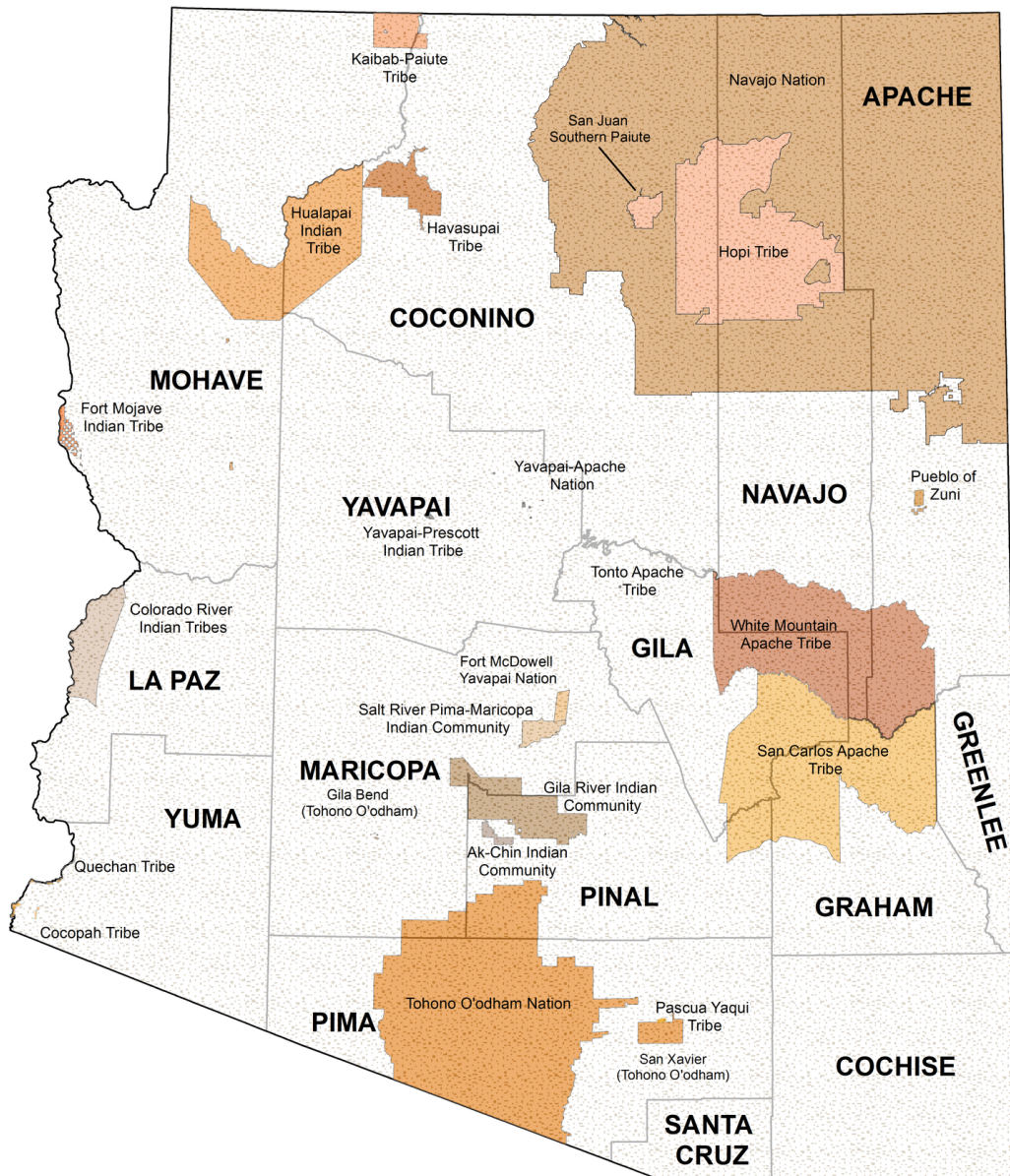
For more information about each of these Title programs, use the link below to access the United States Department of Education website

<https://www2.ed.gov/programs/find/title/index.html>

Consultation Service Area

Federal law states consultation shall occur with tribes located in the area served by the LEA. ADE's Office of Indian Education (OIE) has defined "in the area" to be within a 50-mile radius of the school district's boundary and a tribe's reservation border to be consistent with the measure used in Title VI guidance. Boundary data is provided by the Maricopa Association of Governments (MAG) at <https://geodata-azmag.opendata.arcgis.com/>. Although not required by law, the Office of Indian Education strongly encourages LEAs with at least 30 Native American students from a tribe to consult with those tribes, regardless of distance from the tribe.

Tribal Nations in Arizona



There are 22 federally recognized tribes in Arizona. The Bureau of Indian Affairs maintains a searchable Tribal Leaders Directory that lists contact information for each tribe. Use the following link to explore: <https://www.bia.gov/bia/ois/tribal-leaders-directory/>.

The governance and management structure of each tribe's educational programs and services varies. Educational leadership may include an education director, education committee, or council. Programs and services may be administered through a TED or another tribal division.

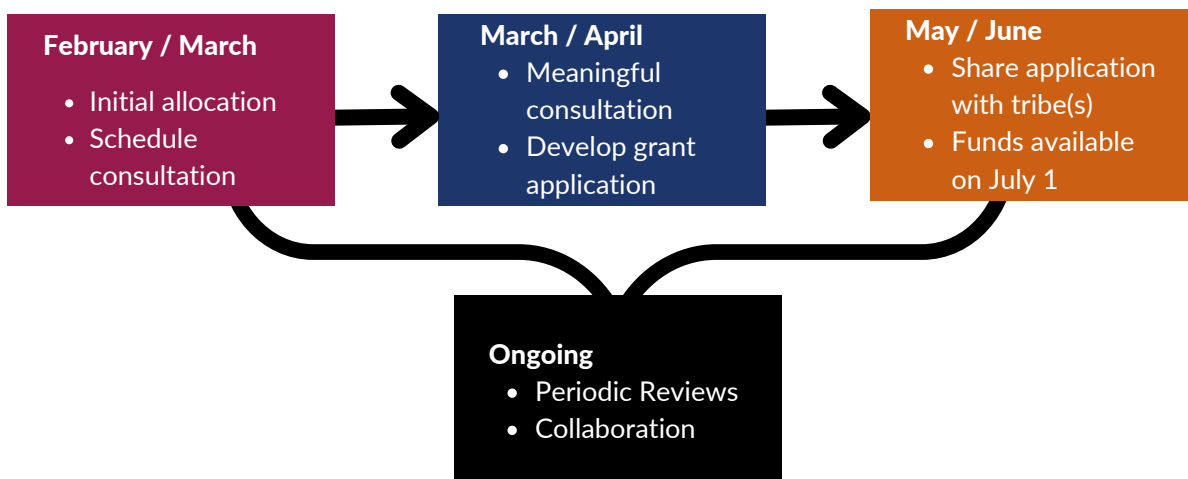
TED staff members administer their tribal education systems to meet the unique needs of their students. They know their children and communities best. The TED assists with addressing multiple aspects of a child's education, including but not limited to, health and nutrition, safety and wellness, and family engagement.

Arizona Tribes	
Ak-Chin Indian Community	Pascua Yaqui Tribe
Cocopah Indian Tribe	Pueblo of Zuni
Colorado River Indian Tribes	Quechan Tribe
Fort McDowell Yavapai Nation	Salt River Pima-Maricopa Indian Community
Fort Mojave Indian Tribe	San Carlos Apache Tribe
Gila River Indian Community	San Juan Southern Paiute Tribe
Havasupai Tribe (BIE schools only)	Tohono O'odham Nation
Hopi Tribe (BIE schools only)	Tonto Apache Tribe
Hualapai Tribe	White Mountain Apache Tribe
Kaibab Band of Paiute Indians	Yavapai-Apache Nation
Navajo Nation	Yavapai-Prescott Indian Tribe

Consultation Timeline

LEAs must consult with tribes prior to submitting their final grant plans and applications. February through April is a good timeframe for initiating consultation.

When?



The Title VI grant is submitted directly to the United States Department of Education. While applicants may expect a similar timeline annually, it is important to confirm with their office what the deadlines are each year. Preliminary funding allocations for other federal programs administered by the ADE may be available in winter.

ADE encourages LEAs to develop their plans and submit their grant applications early. Following approval, LEAs may begin requesting reimbursement as of July 1. As completed and verified tribal consultation is a condition of approval, it is important to initiate this process as early as possible.

Periodic Reviews

Ideally, consultation will be ongoing and evolve into increased partnerships to improve student achievement. It is important for LEAs to follow up on the initial consultation by notifying the tribe how their input was used and provide them with a final copy of the plans and applications. The Office of Indian Education suggests LEAs continue meeting with the tribes throughout the school year to review and refine these plans.

Mid-year meetings may focus on student progress, funding allocation adjustments, and shared resources between Title programs. End-of-year meetings could center on results and proposed changes for the next year. Discussion prompts may include

- What elements of the plan are working well for Native students?
- How are Native students progressing?
- What adjustments can we make to advance progress?

Consultation Process

ESSA tribal consultation is an opportunity to build relationships and jointly analyze student outcome data to address student needs. Working in partnership helps our students realize their full potential. Tribal consultation requires thoughtful planning and coordination to be timely and meaningful.

Timely

ESSA law requires the LEA to consult with tribes prior to their submission of the grant application. The consultation process begins with the LEA extending a formal, written invitation to the tribe. Follow-up may occur through letters, email, or phone calls. Documentation of these attempts will demonstrate compliance with the federal requirement. Internet and phone connectivity, as well as



access to computing devices, are important considerations in working with tribes in rural areas. Planning well in advance of deadlines offers participants enough time to arrange their schedules and prepare for the meeting. Each tribe has its own formal review and approval process that may occur weekly, bi-weekly, or monthly. The federal 30/60/90 scheduling guideline may assist LEAs in planning: 30 days' notice, 30 days for a response, and 30 days for collaboration.

Meaningful

The law states tribal consultation must be meaningful. For all participants to contribute they need to have some background knowledge on the ESSA requirements for tribal consultation and the Title programs they are reviewing. It is important for LEAs to inform tribes of their grant submission deadlines and provide draft grant plans with current supporting data in advance of the meeting. Foundational information prepares participants for an efficient consultation process. It is helpful if the LEA and the TED prepare questions to be addressed during the consultation. When both parties share these questions well in advance, both LEA and TED personnel may prepare responses and ensure that appropriate personnel attend the meeting.

Supporting Data

When the LEA shares student outcome data with the tribe, it helps all parties understand what is working, identify areas for growth, and contribute to a meaningful consultation about how to support improvement. Data about Native student outcomes as compared to other student groups (at the district and school level) provide context about how students are experiencing school. Helpful data include:

- attendance
- expulsion, suspension
- identification for special education
- participation in gifted and talented education programs
- standardized reading, language arts, math, and science assessments
- access to, and participation in, dual enrollment and career technical education courses



- access to, and participation in, Native language and culturally responsive courses
- school climate surveys
- graduation
- percentage of students who leave school before graduating
- results of parent and student surveys
- plans for specific programs and services to meet identified student needs

Appropriate Officials

Timeliness includes sending invitations to the appropriate officials in advance. The law defines an appropriate official for tribal consultation as an individual who has the authority to sign a legal document on behalf of the LEA or the tribe. ESSA specifies that for the tribe, these officials are elected or appointed tribal leaders, or individuals the tribe has designated, in writing, to represent them at consultation. Tribes frequently designate the TED.

LEA participants may include the superintendent, federal programs director, Indian education director/coordinator, parent advisory committee members, teaching and learning directors, and English Learner coordinators. Tribal participants may include the elected leader or chair of their education council, TED and/or staff, tribal educators, and applicable education partners. Advance scheduling and ample time to meet ensures full participation and a meaningful opportunity to fully discuss the grant applications.

Collaborative Partnerships

The ESSA requirement for consultation is an opportunity to build relationships that result in improved Native student outcomes. Mutual respect is a necessary element in effective tribal consultation[2].

The National Indian Education Association developed resources for districts to implement best practices when engaging in tribal consultation,

Use the following link to begin exploring,
<https://www.niea.org/niea-consultation-guides>



[2] REL West, Regional Education Laboratory at WestEd (2021), *Working Respectfully with Indigenous Communities Around Data, Research, and Evidence*, Institute for Education Sciences, Washington, DC.

Working with Tribal Nations

The United States Constitution recognizes tribal governments as sovereign nations with the right to self-govern^[3]. This right to self-determination extends to education.

Understanding and respecting tribal sovereignty and the government-to-government relationship between LEAs and tribes will strengthen the effectiveness of consultation. Tribes have unique governance structures, cultural practices, ceremonial cycles, traditions, family systems, and social expectations that are important factors in a student's educational experience.



Building basic knowledge of a tribal community's history, culture, and contemporary life will help prevent assumptions that perpetuate stereotypes about tribal students and their families. Tribal students and their families live in both urban and rural communities. Students may not have access to computing devices or stable internet connectivity in either location. Understanding barriers that students and their families face, as well as the rich cultural and intellectual assets they bring to their education, will help build

respectful relationships to benefit students. Ask tribes for their perspectives and listen to hear.

When an LEA's final plan visibly addresses the tribe's concerns, interests, and contributions, this reflects an important step in the building of trust.

Questions to Ask Tribes

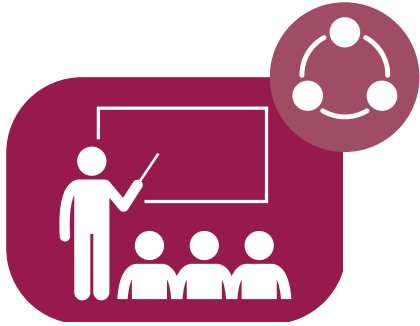
When LEAs prepare and submit questions to the tribe in advance, this helps facilitate an efficient consultation. Topics may include resources offered by the tribe in the following areas:

- culture
- education
- language
- health care and wellness
- ceremonial observances that support students and may impact participation in school
- suggestions for working effectively with caregivers
- documentation of tribal membership
- what the tribe is seeking from the consultation

It is important to be respectful of the tribe's choice about what information they are willing to share—some information may be considered sacred. See Appendix B for additional sample questions.

[3] National Congress of American Indians, Tribal Governance, retrieved September 4, 2022 from <https://www.ncai.org/policy-issues/tribal-governance>

Working with Schools



The tribe may assist in making consultation meaningful by reviewing student data,

the purpose and allowable expenses of the grants to be reviewed, and the timelines for application submission. Tribes have the right to request consultation at any time. They may expect to receive an invitation from their local LEA in March or April. Preparing for the consultation with tribal leadership between February and May could include submitting a data request to the LEA to support an informed evaluation of the plans. Tribes may also contribute by sharing their perspectives on ways to improve student achievement, information about existing tribal resources to support student success, and their concerns about barriers that students are experiencing in their educational process. TED staff may assist families by sharing methods and procedures for scheduling and facilitating productive meetings with teachers, principals, counselors, and education specialists. Tribes have an important role to play in advising LEAs on the most effective use of federal funds for tribal students.

Questions to Ask Schools

Some examples of questions the tribe might ask the LEA are:

- How many Native American educators does the LEA employ?
- How current is the data and what methods does the LEA use to identify students who are at-risk?
- What academic assistance does the LEA provide to students in need of additional support?
- How does the LEA inform parents and caregivers of participation opportunities?
- What learning is available to parents and caregivers regarding academic support methods and tools or school policies and processes?
- What Native American cultural or educational activities does the LEA offer?
- How can the tribe support students and teachers with cultural and educational resources?

See Appendix B for additional sample questions.

Affirmation of Consultation

Section 8538 requires each affected LEA to maintain records on consultation activities and document consultation has occurred by providing to the state a written affirmation signed by the appropriate officials. LEAs must submit an Affirmation of Consultation form (Appendix C) to tribal.consultation@azed.gov. Forms must be completed, signed, and dated by the

appropriate officials from the LEA and the tribe. Release of funding is contingent upon receipt of accurate forms.

The LEA must submit one affirmation form for each tribe they consult with. An LEA may be required to consult with more than one tribe and a tribe may need to consult with multiple LEAs.



The Affirmation of Tribal Consultation form can be found on the OIE website,

Use the following link to explore the form,
<https://www.azed.gov/oie/tribal-consultation>.

See example of the OIE Tribal Consultation form below:

AFFIRMATION OF CONSULTATION WITH TRIBAL REPRESENTATIVES

LEA NAME _____ TRIBE NAME _____
 This affirmation of consultation covers **School Year Ending June 30, ____**

*Each affected Local Educational Agency (LEA) shall maintain in the agency's records and provide to the Arizona Department of Education a **written affirmation** signed by the appropriate officials of the participating tribes that the consultation required by **Section 8538 of the Every Student Succeeds Act (ESSA), Public Law 114-95** has occurred. To ensure **timely and meaningful** consultation on issues affecting American Indian and Alaska Native students, an affected LEA shall consult with **appropriate officials** from Indian tribes located in the area served by the LEA **prior to** the LEA's submission of a required plan or application for a covered program under this Act. Such consultation shall be done in a manner that provides the opportunity for Indian tribes to **meaningfully and substantively contribute** to such plan.*

The top half of the form summarizes the federal requirement. The LEA identifies the school year and tribe the consultation applies to.

The LEA must initiate consultation as early as possible, providing the tribe an opportunity to substantially contribute. The tribe also has a responsibility to respond in a timely manner to support the LEA in meeting application submission deadlines. These funds directly impact student opportunities and outcomes.

Non-Response from the Tribe

If there is no response from the tribe in 30 days, the LEA may proceed with submitting the affirmation form to meet the deadline for plans or applications. When selecting the nonresponse check box, the LEA must show evidence of each attempt they made to contact the tribe regarding consultation. A good rule of thumb is the 3D Rule: Document Due

Diligence. Documenting three good faith attempts (letter, email, phone call) will help the LEA demonstrate their efforts to invite the tribe and satisfy the federal consultation requirement.

Check if the tribe/tribal organization has not responded to LEA's due diligence attempts for consultation.

(LEA must retain evidence for compliance monitoring) List dates & methods used: 1) _____

2) _____, 3) _____

Items Discussed at Consultation

The LEA annotates what covered programs were discussed during consultation.

Title funding received by the LEA for the school year identified above (check all that apply)

- ☐ Title I-A ☐ Title I-C ☐ Title I-D ☐ Title II-A ☐ Title III-A ☐ Title IV-A ☐ Title IV-B
☐ Title V-B, Subpart 2 (RLIS) ☐ Title VI-A Subpart 1

Other (specify): _____

Tribe Opt-Out Option

Tribes have the right to opt-out of consultation with the LEA. In this case, the tribal representative would select the opt-out option, sign, and return the form.

☐ **Tribal Opt-Out Option (must have tribe signature below):** WE HAVE been contacted by the LEA listed below and choose not to participate in consultation for this school year

One question frequently asked by LEAs:

Do we need to consult with tribes if we do not have any students enrolled from these tribes?

Yes. Student enrollments fluctuate over the years. Tribes may have resources of best practices to assist the LEA in supporting all Indigenous students (migratory, at-risk, English learner, etc.).

There may be proven, effective practices the tribe uses in partnership with other LEAs that may be applicable to your organization. The intent of consultation is to open dialogue and identify all options for supporting our students.

Signature Affirmations

The next section of the form documents the agreements being made between the LEA and the tribe. The agreement is that the consultation was timely and meaningful, and that consultation occurred prior to the LEA's submission of the plans or applications. The form includes a section where participants agree to continued collaboration, noting ongoing meeting dates. If the parties do not plan to meet after the initial consultation, they may enter "Not Applicable" or "None".

WE AGREE that timely and meaningful consultation occurred before the LEA made any decision affecting the participation of our tribal students in any programs the LEA is operating under ESSA Section 8538.

WE AGREE that we have participated in meaningful and timely consultation prior to the LEA's submission of the first revision of a required plan or application for a covered program under this Act or for a program under Title VI of this Act.

WE AGREE to continue collaboration throughout implementation of the covered program plan and assess the associated services provided. List future meeting dates for follow-up review: _____

Name of LEA: _____

Address: _____ LEA Address

LEA Representative: _____ **Phone:** _____

Title: _____ **Email:** _____

Signature of Public School Superintendent or designee (required even if no response to requests for consultation)

Date

Name of Tribe/Organization: _____

Address: _____

Tribal Representative: _____ **Phone:** _____

Title: _____ **Email:** _____

Participants from the LEA and the tribe should be listed on the form. For the LEA this should include the superintendent, the ESSA coordinator for the covered programs, the federal grants coordinator, and/or their designated signee. List additional representatives on a second page, as needed. Authorized LEA and tribal officials who participated in the consultation sign the form for their respective organizations.

Authorized Tribal Representative

The tribal representative must check the box confirming they are authorized to sign on behalf of the tribe. Upon request from ADE, the tribe should be prepared to provide written documentation verifying this authorization.

☐ **Authority to represent the tribe:** I acknowledge I have the authority to sign on behalf of the tribe.

Signature of Tribal Official or Official Tribal Organization

Date

Submission of Form

Send completed forms by email to ADE at tribal.consultation@azed.gov. ADE staff members review and validate the forms, returning forms to LEAs for corrections as necessary. ADE staff upload approved forms into the LEA's Document Library on the Grants Management Enterprise (GME) system. Missing or incomplete forms could delay release of grant funding.

Email completed forms to tribal.consultation@azed.gov for evaluation

Validated forms will be uploaded by ADE staff into the LEA's Document Library on GME

3/16/2022

Summary

Tribal consultation is an important investment in the future of our students and is a legal requirement. Tribal consultation ensures that tribal community members contribute to decision-making about the best use of federal funds to meet the educational needs of their students. When LEAs collaborate with tribal leaders and TED staff, they are benefitting from expertise about their students. Consultation reviews the ESSA-covered programs which include Title I through Title VI grants. Affected LEAs must consult with tribes in their service area, a 50-mile radius between the school district and tribal land boundaries. For the tribe to provide a meaningful contribution, timely notice of consultation and supporting data from schools is necessary so staff and tribal leaders may work together to develop questions and identify information that will support LEAs in meeting student needs. LEAs must request tribal input prior to submitting their grant application.

February through May is an optimum time frame for LEAs to initiate consultation. Consultation ideally occurs year-round to monitor progress and refine plans. Successful consultation involves an understanding of the requirements and the building of collaborative relationships through mutual respect of each partner's role. Participants should listen to hear and respond to support our Native American students.

Appendix A: Section 8538

TITLE VIII—GENERAL PROVISIONS PART F—UNIFORM PROVISIONS Subpart 2—Other Provisions

20 USC 7918. SEC. 8538. CONSULTATION WITH INDIAN TRIBES AND TRIBAL ORGANIZATIONS

- (a) **IN GENERAL.**—To ensure timely and meaningful consultation on issues affecting American Indian and Alaska Native students, an affected local educational agency shall consult with appropriate officials from Indian tribes or tribal organizations approved by the tribes located in the area served by the local educational agency prior to the affected local educational agency's submission of a required plan or application for a covered program under this Act or for a program under title VI of this Act. Such consultation shall be done in a manner and in such time that provides the opportunity for such appropriate officials from Indian tribes or tribal organizations to meaningfully and substantively contribute to such plan.
- 1.
- (b) **DOCUMENTATION.**—Each affected local educational agency shall maintain in the agency's records and provide to the State educational agency a written affirmation signed by the appropriate officials of the participating tribes or tribal organizations approved by the tribes that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the affected local educational agency shall forward documentation that such consultation has taken place to the State educational agency.
- (c) **DEFINITIONS.**—In this section:
- (1) **AFFECTED LOCAL EDUCATIONAL AGENCY.**—The term 'affected local educational agency' means a local educational agency—
- (A) with an enrollment of American Indian or Alaska Native students that is not less than 50 percent of the total enrollment of the local educational agency; or
- (B) that—
- (i) for fiscal year 2017, received a grant in the previous year under subpart 1 of part A of title VII (as such subpart was in effect on the day before the date of enactment of the Every Student Succeeds Act) that exceeded \$40,000; or
- (ii) for any fiscal year following fiscal year 2017, received a grant in the previous fiscal year under subpart 1 of part A of title VI that exceeded \$40,000.
- (2) **APPROPRIATE OFFICIALS.**—The term 'appropriate officials' means—
- (A) tribal officials who are elected; or
- (B) appointed tribal leaders or officials designated in writing by an Indian tribe for the specific consultation purpose under this section.
- (d) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed—
- (1) to require the local educational agency to determine who are the appropriate officials; or
- (2) to make the local educational agency liable for consultation with appropriate officials that the tribe determines not to be the correct appropriate officials.
- (e) **LIMITATION.**—Consultation required under this section shall not interfere with the timely submission of the plans or applications required under this Act.

<https://www2.ed.gov/documents/essa-act-of-1965.pdf>

Appendix B: Suggested Questions

**Portions courtesy of the Navajo Nation Tribal Consultation Guide*

<https://webnew.ped.state.nm.us/wp-content/uploads/2019/10/NN-Tribal-Consultation-Guide-2019.pdf>



LEA Questions for the Tribe

- What should we know about your tribe and tribal culture?
- What programs/services does your tribe offer?
 - In or outside the tribal boundaries?
 - Would your tribe conduct home visits? If so, in what areas?
 - Does your tribe offer professional development or training?
- How can we reach out to parents more effectively?
- How are members of your tribe identified?
 - If by a Certificate of Indian Blood (CIB) card, how can this be obtained?
- What would the tribe like to achieve from this consultation?



Tribe Questions for the LEA

- How many of your students are members of our tribe? How are they identified?
- How current is your data?
- How do you identify at-risk students?
- What technical assistance is needed to enhance students' academic needs?
- How many educators on staff are from our tribe?
- How many speak our language?
- What is the level of tribe parent involvement?
- What programs are offered specifically for our tribe's students?



The National Congress of American Indians' Tribal Leaders Toolkit provides resources to help tribal nations assess the state of education for AI/AN students in their communities,

Use the following link to explore,
[https://www.ncai.org/NCAI Tribal Leader Toolkit Education Choice 2018.pdf](https://www.ncai.org/NCAI_Tribal_Leader_Toolkit_Education_Choice_2018.pdf)

Appendix C: Affirmation Form



Office of Indian Education

AFFIRMATION OF CONSULTATION WITH TRIBAL REPRESENTATIVES

- The form is on page 2 of this document –

Updated September 2022

INSTRUCTIONS FOR FILLING OUT THE AFFIRMATION OF CONSULTATION FORM

1. Fill in the year that the consultation covers. For instance, school year 2023-2024 would end June 30, 2024.
2. Take note of the section that references the consultation requirement: ESSA Tribal Consultation is required for affected LEAs. The list of affected LEAs is posted on the Office of Indian Education website, <https://www.azed.gov/oie/tribal-consultation>. By law, LEA's must seek consultation prior to submitting the grant application and consultation must be timely and meaningful. Therefore, tribal nations need to receive adequate notice to prepare for consultation so they can provide meaningful feedback. Resources and training information to assist in creating meaningful consultation are available on the referenced website.
3. If the tribal nation has not responded to timely requests for consultation, the LEA should check the applicable box, identify the methods and dates when consultation was offered, and sign the form. For compliance monitoring, LEA's must retain evidence of their due diligence attempts. **CAUTION:** Be aware many tribal nations must go through their tribal council for approval to participate in consultation and the council may only meet once per month. Therefore, in many cases, tribal nations will need a minimum of 30 days' notice to be able to respond. Checking the tribal non-response box based on three attempts within the same week, does not satisfy timely notification.
4. Select all Title funding the LEA receives for the consultation period. If the tribe can meet for consultation, discussions should include how these funds are being used. Consultation is required for ESSA covered programs: **Titles I-A, I-C, I-D, II-A, III-A, IV-A, IV-B, V-B Subpart 2 (RLIS) and VI-A Subpart 1**. Other programs, such as ESSER, Impact Aid or Johnson O'Malley could be addressed as well, if applicable.
5. Tribal nations can choose to opt out of consultation. In that case, the opt-out box would be marked, and the form must be signed by the tribal representative. Even if the LEA assumes the tribe would not be interested in consultation based on zero enrollment of students from the tribe, the LEA must offer consultation. It is up to the tribe whether to accept the offer. Student enrollment fluctuates over time. ESSA Tribal Consultation is an opportunity to build continuous relationships.
6. Take note of the agreement section where those signing the form agree that consultation occurred prior to the LEA submitting the first revision of the grant application and that consultation was timely and meaningful as defined by the ESSA regulation. Recognizing grant applications open in March for preliminary allocations, affirmation forms must be submitted prior to the first revision of the grant.
7. If there is a plan to meet throughout the year for follow-up reviews, enter the planned meeting date(s), otherwise enter *Not Applicable*. Ideally, consultation will be ongoing and evolve into periodic opportunities to improve student achievement.
8. Signature information should be filled out completely with the LEA and tribal nation name and address. Each signee must include their name, title, phone number and email.
9. The tribal representative must check the box acknowledging they have the authority to sign for the tribe.
10. Completed forms should be emailed to tribal_consultation@azed.gov for evaluation. Validated forms will be uploaded by ADE Staff into the LEA's Document Library on GME. Inaccurate forms will be returned to the LEA for corrections.



Office of Indian Education

AFFIRMATION OF CONSULTATION WITH TRIBAL REPRESENTATIVES

LEA NAME _____ TRIBE NAME _____

This affirmation of consultation covers **School Year Ending June 30,** _____

Each affected Local Educational Agency (LEA) shall maintain in the agency's records and provide to the Arizona Department of Education a **written affirmation** signed by the appropriate officials of the participating tribes that the consultation required by **Section 8538 of the Every Student Succeeds Act (ESSA), Public Law 114-95** has occurred. To ensure **timely and meaningful** consultation on issues affecting American Indian and Alaska Native students, an affected LEA shall consult with **appropriate officials** from Indian tribes located in the area served by the LEA **prior to** the LEA's submission of a required plan or application for a covered program under this Act. Such consultation shall be done in a manner that provides the opportunity for Indian tribes to **meaningfully and substantively contribute** to such plan.

- ☐ Check if the tribe/tribal organization has not responded to LEA's due diligence attempts for consultation.
(LEA must retain evidence for compliance monitoring) List dates & methods used: 1) _____
2) _____ 3) _____

Title funding received by the LEA for the school year identified above (**check all that apply**)

- ☐ Title I-A ☐ Title I-C ☐ Title I-D ☐ Title II-A ☐ Title III-A ☐ Title IV-A ☐ Title IV-B
☐ Title V-B, Subpart 2 (RLIS) ☐ Title VI-A Subpart 1

Other (specify): _____

- ☐ Tribal Opt-Out Option (must have tribe signature below): WE HAVE been contacted by the LEA listed below and choose not to participate in consultation for this school year

WE AGREE that timely and meaningful consultation occurred before the LEA made any decision affecting the participation of our tribal students in any programs the LEA is operating under ESSA Section 8538.

WE AGREE that we have participated in meaningful and timely consultation prior to the LEA's submission of the first revision of a required plan or application for a covered program under this Act or for a program under Title VI of this Act.

WE AGREE to continue collaboration throughout implementation of the covered program plan and assess the associated services provided. List future meeting dates for follow-up review: _____

Name of LEA: _____

Address: _____

LEA Representative: _____ Phone: _____

Title: _____ Email: _____

Signature of Public School Superintendent or designee (required even if no response to requests for consultation)

Date

Name of Tribe/Organization: _____

Address: _____

Tribal Representative: _____ Phone: _____

Title: _____ Email: _____

- ☐ Authority to represent the tribe: I acknowledge I have the authority to sign on behalf of the tribe.

Signature of Tribal Official or Official Tribal Organization

Date

Email completed forms to tribal_consultation@azed.gov for evaluation

Validated forms will be uploaded by ADE staff into the LEA's Document Library on GME

3/16/2022

Appendix D: Glossary

Affected LEA: A LEA that meets the public law criteria to consult with tribes in their service area. The criteria are LEAs that meet an enrollment of 50 percent or more American Indian or Alaska Native students, or LEAs who received a grant Title VI, Indian Education grant that exceeded \$40,000.

American Indian/Alaska Native: Term used in Federal regulations referring to a person having origins in any of the original peoples of North America who maintains tribal affiliation.

Appropriate Officials: Tribal officials who are elected or appointed tribal leaders or officials designated in writing by a tribe for ESSA tribal consultation.

Covered Programs: United States Department of Education grants that have a direct impact on American Indian/Alaska Native students. These include Title I-Part A, C, and D; Title II-Part A; Title III-Part A; Title IV-Part A and B; Title V-Part B, Subpart 2; and Title VI-Part A, Subpart 1.

ESSA: Every Student Succeeds Act. Public Law 114-95, 2015. Replaced No Child Left Behind.

Indigenous: Refers to people whose historical existence and identities are connected to the First Peoples of a specific geographic area.

LEA: Local Educational Agency (school district).

Meaningful Consultation: Ensuring consultation has a serious, important, or useful quality.

Native American: People whose origins are with the First Peoples of the United States prior to European contact.

TED: Tribal Education Department or Director. Departments within tribes responsible for supporting the education of tribal members.

Timely Consultation: Ensuring consultation occurs in a sufficient time to be meaningful and meet grant deadlines.

Title I Grant: Indian, Native Hawaiian, and Alaska Native Education.

Part A: Improving Basic Programs Operated by State and Local Educational Agencies

Part C: Education of Migratory Children

Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk

Title II Grant: Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders. Part A: Supporting Effective Instruction.

Title III Grant: Language Instruction for English Learners and Immigrant Students. Part A: English Language Acquisition, Language Enhancement, and Academic Achievement Act.

Title IV Grant: 21st Century Schools.

Part A: Student Support and Academic Enrichment Grants

Part B: 21st Century Community Learning Centers

Title V Grant: Promoting Informed Parental Choice and Innovative Programs.

Part B, Subpart 2: Rural and Low-Income School (RLIS) Program

Title VI Grant: Indian, Native Hawaiian, and Alaska Native Education.

Part A, Subpart 1: Formula Grants to Local Educational Agencies.

Title VII Grant: Impact Aid, helps local school districts with concentrations of children residing on Indian lands, military bases, low-rent housing properties, or other Federal properties.

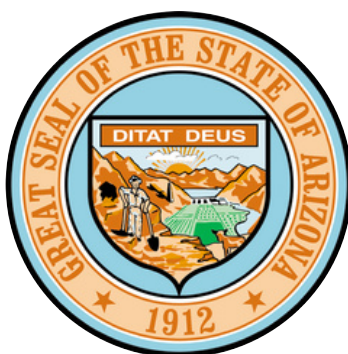
Tribal Affiliation: Association with federally recognized Indian tribes.

Tribal Collaboration: The general building of culturally responsive relationships between tribes and education entities.

Tribal Consultation: The Every Student Succeeds Act (ESSA) of 2015, Public Law 114-95 requires LEAs to consult with tribes in their service area. This applies to LEAs receiving more Title VI grants exceeding \$40,000 or whose American Indian or Alaska Native student enrollment is 50 percent or more.

Tribal Opt-Out: The option for a tribe to opt out of tribal consultation. Only the tribe has this option, and the appropriate official must sign the Affirmation of Tribal Consultation form to confirm the tribe's choice to opt-out.

Service Area: The 50-mile area between the school district boundary and the tribal land boundary.



The Arizona Department of Education does not discriminate on the basis of race, religion, color, national origin, sex, disability or age in its programs, activities or in its hiring and employment practices. For questions or concerns regarding this statement, please contact Administrative Services at 602-542-3186.