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HANNA SKANDERA
SECRETARY OF EDUCATION

SUSANA MARTINEZ
GOVERNOR

July 1, 2016

Dear Tribal Leaders:

The New Mexico Public Education Department (PED) is pleased to provide you with the PED State-Tribal Collaboration Act (STCA) Collaboration and Communication Policy. This new policy solidifies a process for consultation with Tribal governments when developing programs, policies, and activities that will affect Native American students.

The PED State-Tribal Consultation Policy was developed to ensure consistency and compliance with the State-Tribal Consultation Act and Indian Education Act, and was preceded by a process that allowed for a period of comment from Tribal Leaders, Indian Education Advisory Council members, PED leadership and other stakeholders.

The initial draft was distributed via email on February 4, 2016, for a 30-day comment period. On April 11, 2016, at the spring Government to Government meeting, a hard copy of the draft collaboration policy was distributed to Tribal leaders. After receiving a recommendation for additional time, we extended the comment period for an additional 60 days until June 13, 2016.

PED reviewed all comments received and revised the Policy to reflect these comments and ensure consistency and compliance with federal laws and regulations. The final version, which is attached to this letter, is also available on the Indian Education Division website at: http://ped.state.nm.us/ped/IED_index.html.

We are confident that with this consultation policy, we can improve upon our processes for communication and collaboration now and in the future. The State-Tribal Collaboration Act signifies a milestone achievement that will strengthen cooperative and productive relationships between the State and the 22 sovereign Nations, Tribes and Pueblos of New Mexico. The STCA institutionalizes the intergovernmental relationship and provides a basis on which the Public Education Department and the Tribes can work together on education issues that impact Native American students.

If you have any questions regarding the PED State-Tribal Consultation Policy, please contact Latifah Phillips, Assistant Secretary for Indian Education Division at 505-827-3871 or latifah.phillips@state.nm.us.

We look forward to continuing to strengthen the relationship among tribal governments and increasing the academic success and well-being of our Native American students.

Warm regards,

A handwritten signature in black ink that reads "Hanna Skandera". The signature is written in a cursive, flowing style.

Hanna Skandera
Secretary of Education

HS/LP/lc

Enc. (1): State-Tribal Collaboration Act Collaboration and Communication Policy

cc: Tribal Leaders of the 22 Tribes and Pueblos of New Mexico
Indian Education Advisory Council Members
PED Senior Team

NM Public Education Department

New Mexico Public Education Department State-Tribal Collaboration Act Collaboration and Communication policy

The State-Tribal Collaboration Act ("STCA") reflects the commitment of the New Mexico Public Education Department to work with tribal leaders on a government-to-government basis and provide guidance for the implementation of Indian Education Act. The STCA signifies a milestone achievement that the state and the 22 sovereign nations, tribes, and pueblos accomplished together and will pave the way for the future benefit and longevity of cooperative and productive state-tribal relationships. The STCA institutionalizes the intergovernmental relationship through several interdependent components and provides a basis on which the New Mexico Public Education Department and the tribes can work together to better collaborate and communicate on educational issues of mutual concern.

The Importance of Promoting Positive Government-to-Government Relations Between the Tribes and the State

Under both federal and common law, American Indian tribes are sovereign nations with recognized powers of self-government. The status of tribes as sovereign nations means that tribes possess the inherent right to develop their own forms of government, to determine their own citizenship and to make their own laws, civil and criminal, and to be governed by their own judicial systems. Tribal governments also have the power to tax, license and regulate, and to create governmental entities. Thus, tribal nations deal with a broad spectrum of rights, obligations and responsibilities, which include providing numerous services and benefits to their members and residents.

American Indians are citizens of their respective nations, citizens of the state in which they reside and citizens of the United States with all rights and responsibilities guaranteed by the Constitution of the United States. As citizens of the State of New Mexico, they are eligible for state services and programs just as other state citizens are eligible for these benefits. As such, states and tribal governments have a shared interest to assure that eligible services are provided in a mutually beneficial and efficient manner.

Successful state-tribal relations require mutual respect, communication and cooperation. As the state-tribal relationship grows both state and tribal governments become sensitized to the interests, needs and limitations of one another. Increased dialogue can also eliminate or reduce unintended consequences of specific governmental action by providing an opportunity for the exchange of concerns regarding potential impacts of such action. Additionally, by working together both states and tribes can find better ways to provide services in such a manner that use resources more effectively and efficiently.

The STCA recognizes the unique sovereign status of the 22 Indian nations, tribes and pueblos within the state and represents the ongoing efforts and commitment by the state and the tribes to strengthen and increase state-tribal collaboration and communication to better serve the Native population. Relationship building and cooperation between all parties will promote the early and integral involvement of tribal governments in the development and implementation of state programs and policies affecting tribes and American Indians.

The New Mexico Public Education Department State-Tribal Collaboration and Communication policy is divided into the following sections:

Section 1	Purpose and Objectives
Section II	Definitions
Section III	Background
Section IV	Principles
Section V	General Provisions
Section VI	Dissemination of Policy
Section VII	Amendments and Review of Policy
Section VIII	Effective Date
Section IX	Sovereign Immunity
Section X	Closing Statement/Signatures

Section I. Purpose and Objectives

The purpose of the New Mexico Public Education Department State-Tribal Collaboration and Communication policy (STCA) is to assist the agency in developing policies that will enhance the government-to-government relationship between the State of New Mexico and the 22 Indian nations, tribes and pueblos as required by the STCA. The resulting collaboration and communication policy will:

1. Formalize the requirement of the STCA to implement a collaboration and communication policy that seeks collaboration and participation by Indian nations, tribes and pueblos in the policy development and program activities or services related to education.
2. Establish a minimum set of requirements and expectations with respect to a government-to-government relationship to increase educational attainment
3. Promote the development of innovative methods of obtaining collaboration on issues from tribal governments and involving tribal governments in agency decision-making processes that affect education policy.

4. Establish a process that can assist in resolving potential conflicts, maximize inter-governmental relations and enhance an exchange of ideas and resources between the entities for the greater good of all New Mexico's citizens.

Section II. Definitions

A. The following definitions shall apply to this policy:

1. American Indian/Alaska Native. Pursuant to the STCA, this means:
 - i. Individuals who are members of any federally recognized Indian tribe, nation or pueblo,
 - ii. Individuals who would meet the definition of "Indian" pursuant to 18 USC 1153, or
 - iii. Individuals who have been deemed eligible for services and programs provided to American Indians and Alaska Natives by the United States public health service, the Bureau of Indian affairs or other federal programs.
2. Collaboration. Collaboration is a recursive process in which two or more parties work together to achieve a common set of goals. Collaboration may occur between the agency and tribes, their respective agencies or departments, and may involve Indian organizations, if needed. Collaboration is the timely communication and joint effort that lays the groundwork for mutually beneficial relations, including identifying issues and problems, generating improvements and solutions, and providing follow-up as needed.
3. Communication. Verbal, electronic or written exchange of information between the agency and tribes.
4. Consensus. Consensus is reached when a decision or outcome is mutually satisfactory to the agency and the tribe(s) affected and adequately addresses the concerns of those affected. Within this process it is understood that consensus, while a goal, may not always be achieved.
5. Consultation. Consultation operates as an enhanced form of communication that emphasizes trust and respect. It is a decision making method for reaching agreement through a participatory process that:
 - i. Involves the agency and tribes through their official representatives;
 - ii. Actively solicits input and participation by the agency and tribes; and
 - iii. Encourages cooperation in reaching agreement on the best possible decision for those affected.
6. It is a shared responsibility that allows an open, timely and free exchange of information and opinion among parties that, in turn, may lead to mutual understanding and comprehension. Consultation with tribes is uniquely a government-to-government process with three main goals:
 - i. To reach consensus in decision-making; and
 - ii. Whether or not consensus is reached, to have considered each other's perspectives and concerns and honored each other's sovereignty; and

- iii. More importantly, consultations should result in documentation and shared agreements that seek and find alternatives.
7. **Cultural Competence.** Refers to an ability to interact effectively with people of different cultures. Cultural competence comprises four components: (a) awareness of one's own cultural worldview and biases, (b) appreciation of cultural differences, (c) knowledge of different cultural practices and worldviews, and (d) honing cross-cultural skills. Developing cultural competence improves one's ability to understand, communicate with, and effectively interact to implement, evaluate and act on solutions with people across cultures.
8. **Culturally Relevant.** Describes a condition where programs or services are planned, designed, implemented, and evaluated respecting and accounting for the client's cultural and linguistic values and heritage.
9. **Government-to-government.** Describes the relationship between the state, tribes and the federal government.
10. **Indian Organizations.** Organizations, predominantly operated by American Indians/Alaska Natives, that represent or provide services to American Indians and/or Alaska Natives living on and/or off tribal lands and/or in urban areas.
11. **Internal Agency Operation Exemption.** Refers to certain internal agency operations and processes not subject to this policy. The agency has the authority and discretion to determine which internal operations and processes are exempt from this policy.
12. **Internal Tribal Government Operations Exemption.** Refers to certain internal tribal government operations not subject to this policy. Each tribe has the authority and discretion to determine which internal operations and processes are exempt from this policy.
13. **Linguistic Competency.** Refers to one's capacity to communicate effectively and convey information in a manner that is easily understood by culturally diverse audiences.
14. **Participation.** Describes an ongoing activity that allows interested parties to engage one another through negotiation, compromise and problem solving to reach a desired outcome.
15. **Programmatic Action.** Actions related to the development, implementation, maintenance or modification of policies, rules, programs, services, legislation or regulations by the agency, other than exempt internal agency operations, that are within the scope of this policy.
16. **The Indian Education Advisory Council.** The Indian Education Advisory Council advises the Public Education Secretary and Assistant Secretary of Indian Education on implementation of the provision of the Indian Education Act. The sixteen member council consists of: representatives of the Navajo, Apache and Pueblo nations, urban areas including Albuquerque, Gallup and Farmington as well as a representative from the Bureau of Indian Education, a head start organization and the general public, at least one of whom shall be non-tribal, but all of whom shall have knowledge of and involvement in the education of tribal students. This duly appointed group of individuals is to provide advice and recommendations on matters relative to agency policies, programs and services.

17. Tribal Implications. Refers to state legislation, regulations and other policy statements or actions that have direct effects on American Indians/Alaska natives, tribes, or on the relationship between the state and tribes.
18. Tribal Liaison. Refers to an individual designated by the agency, who reports directly to the agency head, to:
 - i. Assist with developing and ensuring the culturally appropriate implementation of this policy,
 - ii. Serve as a contact person responsible for maintaining ongoing communication between the agency and affected tribes, and
 - iii. Ensure that training is provided to the agency staff.
19. Tribal officials. Elected or duly appointed officials of tribes or authorized intertribal organizations.
20. Tribe. Any federally recognized Indian nation, tribe or pueblo located wholly or partially within the boundaries of the State of New Mexico. It is understood that "tribes" in the plural form means that or those tribe(s) upon which programmatic actions have tribal implications.
21. Work groups. Formal advisory bodies and task forces established through joint effort by the agency and tribes. Work groups can be established to address or develop more technical aspects of policies or programs separate or in conjunction with the formal consultation process. Work groups shall, to the extent possible, consist of members from the agency and participating tribes.

Section III. Background

- A. In 2003, the Governor of the State of New Mexico and 21 out of 22 Indian tribes of New Mexico adopted the 2003 Statement of Policy and Process (Statement), to "establish and promote a relationship of cooperation, coordination, open communication and good will, and [to] work in good faith to amicably and fairly resolve issues and differences." The Statement directs each state agency to interact with the tribal governments and provides that such interaction "shall be based on a government-to-government relationship" aimed at furthering the purposes of meaningful government-to-government consultation.
- B. In November of 2003, New Mexico voters changed the Constitution and established a new governance structure for New Mexico public education, with the executive branch becoming responsible for the K-12 educational system. The Secretary of Education, appointed by the Governor and part of the governor's cabinet, leads the Public Education Department. The Public Education Department includes the Indian Education Division, which is staffed by the Assistant Secretary of Indian Education. In 2003, the New Mexico Indian Education Act was adopted as part of the executive team to collaborate with the state's public schools and provide the means for a relationship between the state, tribes, urban American Indian communities, and schools to ensure that New Mexico's American Indian students have access to high-quality education. Furthermore, the Division's Indian Education Assistant Secretary serves as the department's tribal liaison between the tribal colleges, the state public colleges and universities, Bureau of Indian Education, state public schools and the twenty-two tribes of New Mexico.

- C. The New Mexico Indian Education Act (NMIEA), passed in 2003 and revised in 2007, currently receives funding from the general fund each year to implement the purposes of the Act. The NMIEA allows for a formal government-to-government relationship between the Public Education Department (PED) and American Indian tribes in the state, the federal Bureau of Indian Education, and other entities, such as urban Indian organizations and community members, on a bi-annual basis of each year. An annual tribal education status report on Indian Education is also required.
- D. In 2005, Governor Bill Richardson issued executive Order 2005 – 2004 mandating that the executive state agencies adopt pilot tribal consultation plans with the input of the 22 New Mexico tribes.
- E. On March 19, 2009, Governor Bill Richardson signed SB 196, the State Tribal Collaboration Act (hereinafter "STCA") into law. The STCA reflects a statutory commitment of the state to work with tribes on a government-to-government basis. The STCA establishes in state statute the intergovernmental relationship through several interdependent components and provides a consistent approach through which the state and tribes can work to better collaborate and communicate on issues of mutual concern.
- F. The New Mexico Public Education Department (NMPED) has developed an overarching policy that, pursuant to the STCA:
 - 1. Promotes effective collaboration and communication between the agency and tribes,
 - 2. Promotes positive government-to-government relations between the state and tribes,
 - 3. Promotes cultural competence in providing effective services to American Indians/Alaska Natives, and
 - 4. Establishes a method for notifying employees of the agency of the provisions of the STCA and the policy that the agency adopts.
- G. The policy meets the intent of the STCA and defines the agency's commitment to collaborate and communicate with tribes.

Section IV. Principles

- A. **Recognize and Respect Sovereignty.** The state and tribes are sovereign governments. The recognition and respect of sovereignty is the basis for government-to-government relations and this policy. Sovereignty must be respected and recognized in government-to-government consultation and collaboration between the agency and tribes. The agency recognizes and acknowledges the trust responsibility of the federal government to federally-recognized tribes.
- B. **Government-to-Government Relations.** The agency recognizes the importance of collaboration, communication and cooperation with tribes. The agency further recognizes that its policies, programs and/or services may have tribal implications or otherwise affect American Indians/Alaska Natives. Accordingly, the agency recognizes the value of dialogue between tribes and the department with specific regard to those policies, programs and/or services.
- C. **Efficiently Addressing Tribal Issues and Concerns.** The agency recognizes the value of tribes' input regarding the department's policies, programs and/or services. Thus, it is important that

tribes' interests are reviewed and considered by the agency in its policy, program and/or service development process.

- D. **Collaboration and Mutual Resolution.** The agency recognizes that good faith, mutual respect, and trust are fundamental to meaningful collaboration and communication policies. As they arise, the agency shall strive to address and mutually resolve concerns with impacted tribes.
- E. **Communication and Positive Relations.** The agency shall strive to promote positive government-to-government relations with tribes by: (1) interacting with tribes in a spirit of mutual respect; (2) seeking to understand the varying tribes' perspectives; (3) facilitating communication, understanding and appropriate dispute resolution with tribes; and (4) working through the government-to-government process towards a shared vision in areas of mutual interest.
- F. **Informal Communication.** The agency recognizes that formal consultation may not be required in all situations or interactions. The agency may seek to communicate with and/or respond to tribes outside the consultation process. These communications do not negate the authority of the agency and tribes to pursue formal consultation.
- G. **Educational Access.** Providing access to education is an essential public responsibility and is crucial for improving the educational status of all New Mexicans, including American Indians/Alaska Natives in rural and urban areas. American Indians/Alaska Natives often lack access to programs and services dedicated to their specific educational needs. This is due to several factors prevalent among American Indians/Alaska Natives, including but not limited to, lack of resources, geographic isolation and technology resources. The agency's objectives are to work collaboratively with tribes to ensure adequate and quality educational outcomes and service delivery in all tribal communities, as well as with individual American Indians/Alaska Natives in urban areas or otherwise outside tribal communities.
- H. **Distinctive Needs of American Indians/Alaska Natives.** Compared with other Americans, American Indians/Alaska Natives experience overall lower educational attainments and rank at, or near, the bottom of other social, educational and economic indicators. The agency will strive to ensure with tribes the accountability of resources, including a fair and equitable allocation of resources to address these educational disparities, and to promote the academic success of all American Indian children. The agency recognizes that a community-based and culturally appropriate approach to the educational well-being of students is essential to maintain and preserve American Indian/Alaska Native cultures.
- I. **Establishing Partnerships.** In order to maximize the use of limited resources in areas of mutual interests and/or concerns, the agency will seek partnerships with tribes and other interested entities, including academic institutions and Indian organizations. The agency encourages tribes to advocate for and seek local, state and federal funding and resources for tribal programs and services to benefit all of the state's American Indians/Alaska Natives.
- J. **Intergovernmental Coordination and Collaboration.**
 - 1. **Interacting with Federal Agencies.** The agency recognizes that the state and tribes may have issues of mutual concern where it would be beneficial to coordinate with and involve federal agencies that provide services and funding to the agency and tribes.

2. Administration of Similar Programs. The agency recognizes that under federal tribal self-governance and self-determination laws, tribes are authorized to administer their own program and services. Although, the agency or the tribes' program may have its own federally approved plan and mandates, the department should seek and encourage tribes to work in cooperation and to have open communication through a two-way dialogue concerning program and funding areas.
- K. Cultural and Linguistic Competence. The agency shall endeavor to ensure for its policies, programs, and services, as well as the projects and activities it funds, to be culturally relevant and developed and implemented with cultural and linguistic competence.

Section V. General Provisions

A. Collaboration and Communication

To promote effective collaboration and communication between the agency and tribes relating to this policy and to promote cultural competence and educational success, the agency shall utilize, as appropriate: tribal liaisons, tribal advisory bodies (NMIEAC), work groups and informal communication.

1. The Role of Tribal Liaisons. To promote state-tribal interactions, enhance communication and resolve potential issues concerning the delivery of the agency's services to American Indians/Alaska Natives, tribal liaisons shall work with tribal officials and the agency's staff and their programs to develop policies or implement program changes. Tribal liaisons communicate with tribal leadership, tribal education directors and schools through both formal and informal methods of communication to assess:
 - i. Issues or areas of tribal interest relating to the agency's policies, programs and/or services; and
 - ii. Tribal interest in pursuing collaborative or cooperative opportunities with the agency
 - iii. The agency's promotion of cultural competence in its development or maintenance of policies, programs, and/or services
 - iv. The educational success of American Indian students in the educational pipeline from Pre-K to higher education and into the workforce
2. The Role of Tribal Advisory Bodies. The agency may solicit advice and recommendations from the New Mexico Indian Education Advisory Council to collaborate with tribes in matters of policy development prior to engaging in consultation, as contained in this policy. The agency's tribal liaison to these advisory bodies shall provide in a timely manner advice and recommendations on departmental policies, programs and/or service matters that have tribal implications. Input derived from such activities is not defined as this policy's consultation process.
3. The Role of Work Groups. The cabinet secretary, in consultation with recognized tribal officials and NMIEAC, may appoint an agency-tribal work group to develop recommendations and provide input on agency policies, programs and/or services as they might impact tribes and American Indians/Alaska Natives. The agency or the work group may develop procedures for

the organization and implementation of work group functions.

4. Informal Communication.

- i. **Informal Communication with Tribes.** The agency recognizes that consultation meetings may not be required in all situations or interactions involving state-tribal relations. The agency recognizes that tribal officials may communicate with appropriate agency employees outside the consultation process, including tribal liaisons and educational administrators, in order to ensure programs and services are delivered to their constituents. While less formal mechanisms of communication may be more effective at times, this does not negate the agency's or the tribe's ability to pursue formal consultation on a particular issue or policy.
- ii. **Informal Communication with Indian Organizations.** The state-tribal relationship is based on a government-to-government relationship. However non-governmental Indian organizations, such as those representing or providing services to urban and/or off-reservation American Indians/Alaska Natives, serve to benefit and assist the state, as well. Through this policy, the agency recognizes that it may solicit recommendations, or otherwise collaborate and communicate with these organizations.

B. Cultural and Linguistic Competence.

1. To effectively work in cross-cultural state-tribal environments, the agency shall:

- i. Support ongoing professional development and in-service tribal protocol training provided by the State Personnel Office at all agency levels for building knowledge, awareness and skills in the area of cultural and linguistic competence.
- ii. Establish policies to ensure that new staff is provided with training, technical assistance and other supports necessary to work within culturally and linguistically diverse communities.
- iii. Provide information to tribal governments and communities. If a tribal government requests translation and interpretation services, the agency shall coordinate with the tribal government to provide those services to the extent certified interpreters and translators are available, and within the budget of the agency.
- iv. Encourage the agency staff to hold meetings with tribal leadership, tribal education directors or staff within tribal communities when possible.

C. Consultation.

Consultation shall be between the cabinet secretary and tribal officials or their delegated representatives who possess authority to negotiate on their behalf.

1. **Applicability.** Tribal consultation is most effective and meaningful when conducted before taking action that impacts tribes and American Indians/Alaska Natives. The agency acknowledges that a best case scenario may not always exist, and that the agency and tribes may not have sufficient time or resources to fully consult on a relevant issue. If a process appropriate for consultation has not already begun through this policy, the agency will seek to initiate consultation as soon as possible thereafter.

2. **Focus.** The principle focus for government-to-government consultation is with tribes through their tribal officials. Nothing herein shall restrict or prohibit the ability or willingness of tribal officials and the cabinet secretary to meet directly on matters that require direct consultation. The agency recognizes that the principle of intergovernmental collaboration, communication and cooperation is a first step in government-to-government consultation, and is in accordance with the STCA.
3. **Areas of Consultation.** The agency, through reviewing proposed policies, rules, or other pending programmatic actions, recognizes the need to assess whether such actions may impact American Indians/Alaska Natives and/or tribes, as well as whether consultation should be implemented prior to making its decision or implementing its action. To such ends, the agency strives to notify relevant tribal officials and pursue government-to-government consultation, provided that tribal officials also have the discretion to decide whether to pursue and/or engage in the consultation process.
4. **Initiation.** Written notification requesting consultation by the agency or tribe shall serve to initiate the consultation process. Written notification, at the very least, should:
 - i. Identify the proposed programmatic action to be consulted upon.
 - ii. Identify personnel who are authorized to consult on behalf of the agency or tribe.
5. **Process.** The agency, in order to engage in consultation, may utilize duly-appointed work groups, as set forth in the previous section, or otherwise the cabinet secretary or a duly appointed representative may meet directly with tribal officials, or set forth other means of consulting with impacted tribes as the situation warrants.
 - i. Consultation shall be between the cabinet secretary, Assistant Secretary of Indian Education, and tribal officials or their designated representatives with authority to negotiate on their behalf.
 - ii. The agency will make a good faith effort to invite for consultation all perceived impacted tribes.
 - iii. In the spirit and practice of promoting positive relations, the agency will report regularly to their respective tribal advisory bodies on the status of recommendations set forth from the NMIEAC meetings.
6. **Limitations on Consultation.**
 - i. This policy shall not diminish any administrative or legal remedies otherwise available by law to the agency or tribe.
 - ii. The policy does not prevent the agency and tribes from entering into memoranda of understanding, intergovernmental agreements, joint powers agreements, professional service contracts, or other established administrative procedures and practices mandated by federal, state or tribal laws or regulations.
 - iii. **Final Decision Making Authority:** The agency retains the final decision-making authority with respect to actions undertaken by the agency and within the department's jurisdiction. In no way should this policy impede the agency's ability to manage its operations.

Section VI. Dissemination of Policy

Upon adoption of this policy, in consultation with tribes, the agency shall determine the appropriate method to distribute the policy to all its employees.

Section VII. Amendments and Review of Policy

The agency shall meet periodically with tribes to evaluate the effectiveness of this policy, including the department's promotion of cultural competence and identify any needs for revisions.

Section VIII. Effective Date

This policy shall become effective upon the date signed by the cabinet secretary.

Section IX. Sovereign Immunity

The policy shall not be construed to waive the sovereign immunity of the State of New Mexico or any tribe, or to create a right of action by or against the State of New Mexico or a tribe, or any state or tribal official, for failing to comply with this policy. The agency shall have the authority and discretion to designate internal operations and processes excluded from the policy, and recognize that tribes are afforded the same right.

Section X. Closing Statement/ Signatures

The agency hereby adopts the State-Tribal Consultation, Collaboration, and Communication Policy


Cabinet Secretary for Education

7.8.16
Date

ATTACHMENT A

Sample Procedures for State-Tribal Work Groups

DISCLAIMER: The following illustration serves only as sample procedures for state-tribal work groups. The inclusion of this Attachment does not mandate the adoption of these procedures by a work group. Whether these, or alternative procedures, are adopted remains the sole discretion of the cabinet secretary and/or as duly-delegated to the work group.

- A. **Membership.** The work group should be composed of members duly appointed by NMPED and as appropriate, participating tribes, for specified purpose(s) set forth upon the work group's conception. Continued membership and replacements to work group participants may be subject to protocol developed by the work group, or otherwise by the designating authority or authorities.
- B. **Operating Responsibility.** The work group should determine lines of authority, responsibilities, definition of issues, delineation of negotiable and non-negotiable points, and the scope of recommendations it is to disseminate to the agency and tribes to review, if such matters have not been established by the delegating authority or authorities.
- C. **Meeting Notices.** Written notices announcing meetings should identify the purpose or agenda, the work group, operating responsibility, time frame and other relevant tasks. All meetings should be open and publicized by the agency and tribal offices.
- D. **Work group Procedures.** The work group may establish procedures to govern meetings. Such procedures can include, but are not limited to:
 1. Selecting tribal and agency co-chairs to serve as representatives and lead coordinators, and to monitor whether the State-Tribal Consultation, Collaboration and Communication policy is followed;
 2. Defining roles and responsibilities of individual work group members;
 3. Defining the process for decision-making,
 4. Drafting and dissemination of final work group products;
 5. Defining appropriate timelines; and
 6. Attending and calling to order work group meetings.
- E. **Work group products.** Once the work group has created its final draft recommendations, the work group should establish a process that serves to facilitate implementation or justify additional consultation. Included in its process, the work group should recognize the following:
 1. **Distribution.** The draft recommendation is subjected for review and comment by the agency, through its cabinet secretary, tribal liaison, and/or other delegated representatives, and participating tribes, through their tribal officials.
 2. **Comment.** The agency and participating tribes are encouraged to return comments in a timely fashion to the work group, which will then meet to discuss the comments and determine the next course of action. For example:
 - i. If the work group considers the policy to be substantially complete as written, the work group can forward the proposed policy to the agency and participating tribes for finalization.
 - ii. If based on the comments, the work group determines that the policy should be rewritten; it can

reinitiate the consultation process to redraft the policy.

iii. If the agency and participating tribes accept the policy as is, the work group can accomplish the final processing of the policy.

F. Implementation. Once the collaboration or consultation process is complete and the agency and tribes have participated in, or have been provided the opportunity to participate in; the review of the work group's draft recommendations, the work group may finalize its recommendations. The work group co-chairs should distribute the work group's final recommendations to the agency, through its delegated representatives, and participating tribal officials. The work group should record with its final recommendation any contrary comments, disagreements and/or dissent, and whether its final recommendation be to facilitate implementation or pursue additional consultation.

G. Evaluation. At the conclusion of the work group collaboration or consultation process, work group participants should evaluate the work group collaboration or consultation process. This evaluation should be intended to demonstrate and assess cultural competence of the agency, the work group, and/or the process itself. The evaluation should aid in measuring outcomes and making recommendations for improving future work group collaboration or consultation processes. The results should be shared with the agency, through its delegated representatives, and participating tribal officials.