

## TRIBAL CONSULTATION

### POLICY SUMMARY

This policy implements and supplements Arizona Board of Regents (“ABOR”) Policy 1-118, which requires good faith consultation with federally recognized Native American tribes regarding proposed research, initiatives, agreements, programs, policies, or other activities that may have foreseeable implications for tribes or their individual members. Northern Arizona University respects and acknowledges the culture, traditions, beliefs, governance processes, tribal laws, codes, regulations, and protocols of the sovereign tribes and is committed to fulfilling this important obligation. The University will work to ensure that all members of its community or those acting under its auspices comply with all applicable tribal laws, codes, and regulations. As the University’s Tribal Liaison, the Vice President for Native American Initiatives must review and approve all proposed University projects, programs, or initiatives with foreseeable implications for the tribes or members of a tribe.

### REASON FOR THIS POLICY

This policy is necessary to affirm and implement the University’s commitment to good faith consultation with federally recognized sovereign Native American tribal governments on matters of mutual interest or concern.

### ENTITIES AFFECTED BY THIS POLICY

- Any University unit considering any activity that has foreseeable implications for federally recognized Native American tribes or individual members of a tribe
- Any University unit seeking to offer a program intended for students or employees who are members of or are affiliated with a federally recognized Native American tribe
- Institutional Review Board
- Office of Research Compliance
- Office of Sponsored Projects
- Office of the Vice President for Research
- University Survey Committee

### WHO SHOULD KNOW THIS POLICY

- All faculty, staff, or students considering, pursuing, or engaging in any activity that has foreseeable implications for federally recognized Native American tribes or individual members of a tribe
- All University officials who may advise, approve, administer, oversee, or regulate any activity that has foreseeable implications for federally recognized Native American tribes or members of a tribe
- Assistant Vice President for Research Compliance
- Associate Vice President for Sponsored Projects
- Chief Human Resources Officer
- Provost and Vice President for Academic Affairs
- President
- Vice Presidents for Enrollment Management, Research, and Student Affairs

### DEFINITIONS

**Tribal Liaison:** in accordance with ABOR Policy 1-118, Section B(2)(b), the University designates the Vice President for Native American Initiatives as its Tribal Liaison.

# POLICY

## A. Guiding Principles

The University's longstanding commitment to Native Americans is exemplified in part by its decisions to support cultural heritage in 1955, to establish as an explicit institutional goal the creation of opportunities for Native Americans in 1997 and adopting its commitment to Native Americans as an official strategic goal in 2003. In addition to the University recognizing, valuing, and respecting U.S. sovereign Native American tribes, their jurisdiction over tribal lands, and their tribal laws, governmental processes, codes, regulations, protocols, and traditions, the University acknowledges that the ground upon which it sits has been occupied by the region's first peoples for millennia. Accordingly, the University is committed to complying with all applicable requirements and customs when sponsoring or authorizing activities that may foreseeably affect a tribe or individual members of a tribe. The University is committed to on-going communication with all sovereign tribal governments regarding all matters of mutual interest. This policy does not address matters such as tuition setting and other general issues that affect tribal members or communities to the same extent as the general public.

## B. Consultation

University actors shall communicate early, regularly, and in good faith with potentially affected Native American tribes regarding proposed research, initiatives, agreements, programs, policies, or other activities that may have foreseeable implications for the tribe or individual members of the tribe. Such interactions are overseen by the Vice President for Native American Initiatives and the Office of Native American Initiatives. When the University and a tribe jointly choose to participate in research, the University will collaborate with the tribe regarding the research design, including on such issues as confidentiality, ownership of data and results, use of land or other resources, ownership and disposition of any collected biological materials, proposed changes in the research design, and proposed publications or presentations related to the research. The following is a non-exhaustive illustrative list of examples of possible activities that have potential for direct tribal implications that require consultation with affected tribes:

1. Research that involves the participation of members of a sovereign tribe and that may foreseeably result in research results with implications specific to a tribe or to individuals as members of a tribe;
2. The proposed publication or dissemination of such research as outlined above;
3. Research involving human subjects, including genetic testing or testing of blood, tissue, or other biological materials in which the individual's membership in or affiliation with a tribe is identified, and that is intended to or that may foreseeably result in conclusions or generalizations about a tribe or individuals as members of a tribe;
4. Research or other activity involving human remains, funerary objects, sacred objects, or objects of cultural patrimony that are subject to the Native American Graves Protection and Repatriation Act;
5. Any activity, including research, on land under the control or jurisdiction of a sovereign tribe;
6. Any initiative, including educational programs, intended for students or employees who are members of or affiliated with federally recognized tribes; and
7. Any University policy or initiative that may foreseeably affect a sovereign tribe in a manner different than the general public.

## C. Tribal Liaison Duties and Responsibilities

The Vice President of Native American Initiatives shall serve as the University's Tribal Liaison, whose duties and responsibilities include the following:

1. Communicate this policy and provide appropriate training as necessary to all University units and community members whose missions, duties, responsibilities, or activities suggest a likelihood of implicating its requirements and obligations;

2. Review and approve all proposed research, initiatives, agreements, programs, policies, or other activities that may have foreseeable implications for tribes or members of a tribe;
3. Work to ensure that the University uses its best efforts to share information with and to solicit input in advance on all proposed matters or activities that may foreseeably affect any Arizona or other federally recognized tribe in the United States;
4. In furtherance of ABOR Policy 1-118, Section C, establish and operate education programs for administrators, faculty, staff, and students regarding the University's requirements for tribal consultation and research; and
5. Facilitate the resolution of tribal concerns or grievances as outlined in Section E.

#### D. Consultation Process

1. The Office for Native American Initiatives [Tribal Consultation Flowchart](#) outlines the University's tribal consultation process and related requirements, including review of human subject research by the [Institutional Review Board](#). Compliance with these processes is mandatory.
2. When consulting with or seeking consent from a sovereign tribe for purposes of research, land use, or other agreements, the University's Institutional Review Board and contracting units must document proof of tribal consultation and approval in accordance with the applicable tribal processes. The University's Tribal Liaison shall be advised of the project and will assist in identifying the appropriate leaders and approval protocols of the affected tribe(s).
3. The University's consultation with pan-tribal or non-governmental organizations (e.g., the Intertribal Council of Arizona, the Arizona Commission on Indian Affairs, Urban Indian Centers, etc.) and committees (e.g., University Tribal Advisory Councils, etc.) shall be in coordination with, and not to the exclusion of, consultation with individual sovereign tribes.

#### E. Tribal Grievances

1. All federally recognized sovereign tribes or tribal members are invited to bring to the attention of the University's Tribal Liaison any concerns regarding tribal consultation. The Tribal Liaison will coordinate with appropriate University community members and tribal representatives or other affected individuals to reach a mutually acceptable resolution.
2. If the Tribal Liaison and the affected tribal parties are not able to collaboratively develop a satisfactory and timely resolution, the Tribal Liaison shall inform the President, who shall, in accordance with ABOR Policy 1-118, Section D(2), offer to meet with the designated leadership of the tribe to continue to address the concerns. The President will include the ABOR Executive Director as appropriate.

#### F. Duty to Report

Upon learning of any alleged violations of research design protocols, research policies, or land use or access agreements with a sovereign tribe, or alleged violations of tribal laws, regulations, or policies, the involved University personnel will promptly advise the Tribal Liaison and the President. In accordance with ABOR Policy 1-118, Section D(3), the President or the President's designee will notify the affected tribe(s).

#### G. Enforcement

Violations of this policy are subject to disciplinary action up to and including termination of employment. Violations by faculty, staff, or students will be adjudicated in accordance with established Arizona Board of Regents and University disciplinary policies and procedures that govern employee and student conduct. Violations of tribal laws, codes, or regulations may subject the alleged offender to enforcement actions undertaken in federal, state, or tribal courts of law.

## RESPONSIBILITIES

**Assistant Vice President for Research Compliance:** supports and assists the Tribal Liaison as appropriate with all efforts to effectively communicate the requirements of this policy and to provide necessary training.

**Associate Vice President for Sponsored Projects:** supports and assists the Tribal Liaison as appropriate with all efforts to effectively communicate the requirements of this policy and to provide necessary training.

**Provost and Vice President for Academic Affairs:** coordinates with the Tribal Liaison as appropriate to meet the University's tribal consultation obligations regarding educational programs intended for students who are members of or affiliated with federally recognized tribes.

**Chief Human Resources Officer:** coordinates with the Tribal Liaison as appropriate to meet the University's tribal consultation obligations regarding educational programs intended for employees who are members of or affiliated with federally recognized tribes.

**Institutional Review Board:** documents proof of tribal consultation as appropriate.

**President:** notifies affected tribes of alleged violations of research design protocols, research policies, land use or access agreements, or tribal laws, regulations, or policies; meets with tribal leadership when the Tribal Liaison is unable to collaboratively develop a satisfactory and timely resolution to a tribal grievance.

**University Survey Committee:** works to ensure that survey applicants are aware of this policy and that approved surveys comply with its requirements.

**Vice President for Enrollment Management:** coordinates with the Tribal Liaison as appropriate to meet the University's tribal consultation obligations regarding recruitment programs intended for students who are members of or affiliated with federally recognized tribes.

**Vice President for Native American Initiatives:** communicates this policy to all affected members of the University community and provides training regarding its requirements as necessary or appropriate; reviews and approves all proposed University activities that may have foreseeable implications for tribes or members of a tribe; works to ensure that the University meets its tribal consultation obligations; facilitates the resolution of tribal concerns related to University activities or tribal consultation processes.

**Vice President for Research:** supports and assists the Tribal Liaison as appropriate with all efforts to effectively communicate the requirements of this policy and to provide necessary training.

## PROCEDURES

NAU community members considering an activity or initiative with foreseeable implications for a federally recognized tribe or individual members of a tribe may contact the University's Tribal Liaison, Dr. Chad Hamill, Vice President for Native American Initiatives, at [chad.hamill@nau.edu](mailto:chad.hamill@nau.edu) or 928-523-3849, to discuss the tribal consultation process.

Officials representing federally recognized Native American tribes may contact the University's Tribal Liaison, Dr. Chad Hamill, Vice President for Native American Initiatives, at [chad.hamill@nau.edu](mailto:chad.hamill@nau.edu) or 928-523-3849, to discuss concerns regarding any University activity or initiative.

## RELATED INFORMATION

### Forms or Tools

[Tribal Consultation Flowchart](#)

## **Cross-References**

[Conducting University Surveys](#)

## **Sources**

[Arizona Board of Regents Policy 1-118](#)

[Native American Graves Protection and Repatriation Act](#)

## **APPENDIX\***

[NAU Office for Native American Initiatives](#)

\*Disclaimer: all documents, links, or other materials included in this policy's appendix are provided solely for the user's convenience and are not part of official University policy.