



DEPARTMENT OF EARLY LEARNING AND CARE (DELIC) POLICY

POLICY TITLE Tribal Consultation Policy	POLICY #: 58800-100-106-101	
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REFERENCES: ORS 182.162-168, Relationship of State Agencies with Indian Tribes; ORS 172.100-14, Commission on Indian Services; Executive Order 96-30: State of Oregon Government-to-Government Relations with Indian Tribal Governments	SUPERSEDES: <Insert>	EFFECTIVE DATE: <Insert>
DELIC INTEROPERABILITY:		
EXTERNAL PARTNER INTERDEPENDENCIES:		

Purpose

The purpose of this policy is to provide clear operational expectations to all Department of Early Learning and Care (DELIC) employees on the Tribal consultation process. The State of Oregon and DELIC share the goal to establish clear policies for Tribal consultation and communication requirements to further the government-to-government relationship between the State and the nine federally recognized Tribes within Oregon's borders. This includes the Burns Paiute Tribe; the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians; the Confederated Tribes of Grand Ronde; the Confederated Tribes of Siletz Indians; the Confederated Tribes of the Umatilla Indian Reservation; the Confederated Tribes of Warm Springs Reservation; the Coquille Indian Tribe; the Cow Creek Band of Umpqua Tribe of Indians; and the Klamath Tribes.

The statutory and regulatory relationship between the Tribes and federal and state governments will be respected in all dealings with the Tribes and DELIC. As required by Oregon State law this policy identifies agency staff responsible for programs affecting Tribes, establishes processes to determine which programs affect Tribes, outlines annual reporting requirements, and requires regular training for all staff on both state law and this policy. This policy reflects and implements the commitments established in Executive Order 96-30 and Oregon Revised Statutes ORS 182.162-182.168 and ORS 172.100-172.140, ensuring that DELIC's

consultation practices align with the State of Oregon's long-standing government-to-government relationship with Tribes.

Authority

This policy is issued under the authority of:

- ORS 182.162 to 182.168 (1999), establishes the requirements for state agencies to develop and implement policies for positive government-to-government consultation with the nine federally recognized Tribal governments in Oregon.
- Executive Order 96-30 (1996), affirms the State of Oregon's government-to-government relationship with Tribes and directs state agencies to promote trust and mutual respect through communication, coordination, and collaboration; and
- ORS 172.100 to 172.140 (1975), establishes the Legislative Commission on Indian Services (LCIS) and defines its role in facilitating communication between Tribes and the legislative branch, and requires annual reports from state agencies.

Together, these authorities form the legal and policy framework for DELC's Tribal Consultation Policy and Guidelines.

Scope

This policy applies to all DELC divisions, programs, services, projects, activities, and employees.

Definition

Definition 1: Agency Action refers to the identification of DELC programs that affect Tribes; including any decision, plan, policy, rule, or project undertaken by DELC that may have an impact on DELC programs that affect Tribes.

Definition 2: Consultation is a formal, government-to-government process that reflects the agency's legal responsibility to cooperate and communicate with Tribes regarding actions that may impact them. It is characterized by early, respectful involvement, prior to decisions or programmatic and policy actions, and includes direct, timely, and interactive dialogue aimed at exchanging information, building mutual understanding, and obtaining Tribal input on proposed Agency Actions. Consultation involves Tribal appointed officials (or their designated representatives), the Early Learning System Director (or their designee), and the Office of Tribal Affairs Director, and is intended to inform and influence Agency Action, culminating in the development of a decision. Consultation is not a single event, but an ongoing government-to-government relationship rooted in trust, mutual respect, and collaborative governance. It affirms Tribal sovereignty and demonstrates a shared commitment to honoring Tribal cultural, educational, and community values for current and future generations.

Definition 3: Tribal Appointed Official is an individual who has been appointed by the Tribe to speak and make decisions on behalf of the Tribal government.

Definition 4: Tribes, Tribally, Tribal Government, or Tribal Nation (used interchangeably) means one of the nine federally recognized Tribal governments within Oregon's borders.

Policy

The Department of Early Learning and Care (DELIC) must engage Tribal officials and appointed representatives in preemptive government-to-government consultation, collaboration, and communication on Agency Actions which may affect Tribes. DELIC will conduct meaningful consultation between Tribal officials and the Early Learning System Director (or their designees) through timely, ongoing communications and information exchange to achieve mutual understanding and informed decision-making.

Tribal consultation will aim to strengthen DELIC's relationships with Oregon Tribal governments, maintain partnerships, and facilitate collaborative implementation of mutually developed strategies.

The DELIC Office of Tribal Affairs (OTA) will coordinate and facilitate consultation to ensure communications are grounded in trust, mutual respect, and compliance with applicable law. Tribal consultation may occur in the development of Tribally administered agreements for early learning and child care services, including Tribal data sharing agreements, memorandums of understanding, intergovernmental agreements, or grants and/or contracts for Tribally administered programs.

DELIC's Tribal Consultation Policy must:

1. **Identify agency staff responsible for programs affecting Tribes** – DELIC will maintain and annually update a list of individuals in each division who are responsible for developing and implementing programs that affect Tribes. The Office of Tribal Affairs (OTA) will coordinate this process.
2. **Establish a process to determine which programs affect Tribes** – DELIC will use the *Tribal Consultation Assessment form* to evaluate whether an Agency Action may affect Tribes.
3. **Inform and train staff on state law and this policy** – DELIC will ensure all employees are informed through:
 - Training on Tribal sovereignty, government-to-government relations, and the DELIC Tribal Consultation Policy;
 - Regular internal communications; and
 - Integration into new employee onboarding.
4. **Report annually on consultation and communication efforts** – DELIC will prepare and submit an annual report no later than December 15 to the Governor and the Legislative Commission on Indian Services summarizing communication and consultation activities, Tribal feedback, recommendations, and steps taken to strengthen government-to-government relations.

Responsibilities

Early Learning System Director (Or Designee): Lead DELC's government-to-government consultation with Tribal appointed officials on Agency Actions that may affect Tribes. This includes ensuring that consultation is initiated in a timely manner, conducted in accordance with this policy and procedures, and documented accurately. The Director (or designee) must review and approve Tribal input in decision-making, ensure outcomes are communicated to Tribes through the Closing Consultation Letter, and coordinate with the Office of Tribal Affairs to align consultation activities with statutory requirements, best practices, and commitments under this policy.

Office of Tribal Affairs (OTA): Coordinate and facilitate consultation, maintain staff responsibility list, maintain Tribal contact list, oversee training and reporting, and serve as primary liaison with Tribal governments.

DELC Managers and Directors: Identify Agency Actions affecting Tribes, review and approve Tribal Consultation recommendations, review and approve Tribal Consultation annual survey, and ensure compliance of their staff.

All Staff: Participate in required training, follow consultation procedures when initiating or contributing to Agency Actions that may affect Tribes, and coordinate with the Office of Tribal Affairs.

Procedural Summary

Detailed procedures are contained in *Attachment A: Tribal Consultation Procedures*. The process includes:

1. Consultation Assessment – Determine if the Agency Action may affect Tribes.
2. Notification – Provide written notice to affected or potentially affected Tribes (ideally three months in advance).
3. Consultation – Engage in dialogue with the impacted Tribes using appropriate methods scaled to the significance of the action.
4. Follow-Up – If no response is received, conduct follow-up outreach in coordination with the Office of Tribal Affairs, honoring Tribal communication preferences.
5. Decision and Documentation – Incorporate Tribal input into decision-making and document outcomes in the *Closing Consultation Letter*.
6. Annual Report – Assigned DELC staff and the appropriate DELC managers and Directors will submit an annual survey each year for each program that affects Tribes.

Commitments Beyond Statutory Requirements

In addition to meeting statutory requirements, DELC commits to:

- Addressing early learning and care disparities of Tribal citizens;
- Ensuring that access to critical early learning and child care services is maximized;
- Advancing and enhancing the social, physical, behavioral and educational development of Tribal citizens in alignment with Tribal goals;
- Providing Tribal-specific funding to Tribes whenever possible or appropriate;
- Creating opportunities for Tribes to initiate consultation or raise topics;

- Supporting Tribal self-determination through technical assistance and access to DELC programs and resources;
- Inviting Tribal participation on advisory committees and task forces when relevant; and
- Making accommodations in State programs, when possible, to account for the unique nature of Tribal early learning and child care programs.

Compliance

All DELC staff are required to comply with this policy and associated procedures. Violations can lead to disciplinary action up to and including dismissal from state service.

Review and Revision

This policy and its associated procedures will be reviewed annually by the Office of Tribal Affairs in coordination with the Executive Leadership Team and updated as necessary to remain effective, incorporate Tribal participation to the greatest extent allowable under federal and state law, and align with state law, Tribal feedback, and best practices in consultation.

Document Resources or Other Attachments:

#	Document Title	Hyperlink	Notes
1	DELC Tribal Consultation Guidelines	oregon.gov/delc	
2	ORS 182.162 to 182.168, Relationship of State Agencies with Indian Tribes	https://olis.oregonlegislature.gov/liz/2025R1/Downloads/CommitteeMeetingDocument/295523x	
3	Executive Order 96-30: State of Oregon Government-to-Government Relations with Indian Tribal Governments	https://www.oregon.gov/ODF/Documents/AboutODF/Executive_Order_96_30_Gov2Gov.pdf	
4	ORS 172.100-14: Legislative Commission on Indian Services	https://www.oregonlegislature.gov/bills_laws/ORS_Archives/1975-Chapter-172.pdf	