

Understanding the ESSA Law & How to Honor Educational Sovereignty:

A Toolkit for Tribal Consultation

THIS GUIDE IS DESIGNED FOR:

Local Education Agencies

Tribal Nations

Education Service Districts

2024 | VERSION 2.1



Contents

| | |
|---|---------|
| Introductory Letter from United States Department of Education | i |
| Introductory Letter from Oregon Department of Education | ii |
| Publication Information | iii |
| Acknowledgments & Dedication | iv |
| Section 1. Tribal Consultation Overview | |
| 1A. The Nine Federally Recognized Tribes in Oregon | 1 - 2 |
| 1B. Tribal Consultation: Introduction & Overview | 3 - 4 |
| 1C. A Story of a Successful Consultation: Key Elements for Success | 5 - 6 |
| 1D. The History of Tribal Consultation | 7 - 8 |
| 1E. The History of Native Education in Oregon | 9 - 10 |
| Section 2. Federal Laws and State Requirements Relating to Tribal Consultation | |
| 2A. Tribal Sovereignty & Every Student Succeeds Act | 13 - 14 |
| 2B. Federal Title Programs | 15 - 24 |
| 2C. State Requirements | 25 - 26 |
| 2D. Oregon’s LEA and LEA-C Title VI Programs SY24-25 | 27 |
| 2E. Tribal Consultation vs. Communication | 28 |
| Section 3. Responsibilities of Local Education Agencies and Consortiums | |
| 3A. Phase I: Invitation and Pre-Consultation Preparation | 31 - 32 |
| 3B. Phase II: Come Together for Consultation | 33 - 34 |
| 3C. Phase III: Completing the Affirmations of Tribal Consultation | 35 |
| 3D. Phase IV: Post Consultation - Monitor and Review Progress | 36 |
| 3E. A Story of Successful Post Consultation | 37-38 |
| Section 4. Additional Guidance and Supporting Documents | |
| 4A. Frequently Asked Questions | 41 - 43 |
| 4B. Affirmation of Tribal Consultation | 44 |
| 4C. Consultation Worksheet | 45 |
| 4D. Rubric for Cross-Referencing Alignment of Worksheets | 46 - 49 |
| 4E. Sample Agenda | 50 |
| Section 5. Glossary and ESSA Terms/Definitions | 51 - 53 |
| Section 6. Citations / References | 54 - 55 |
| Section 7. Contact Information Oregon Department of Education/Office of Indian Education | 56 |

Under the Congressional Review Act, Congress has passed, and the President has signed, a resolution of disapproval of the accountability and State plans final regulations that were published on November 29, 2016 (81 FR 86076). This guidance document is unaffected by that resolution and remains applicable.



UNITED STATES DEPARTMENT OF EDUCATION OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

September 26, 2016

Dear Colleague:

Thank you for your hard work and commitment in implementing the new requirements of the Every Student Succeeds Act (ESSA), the reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA).

The ESSA represents a unique opportunity to increase equity and access for all children. I write today to offer guidance on a provision in the law that is of particular importance to our Nation's Tribal communities: the requirement under section 8538 of the ESEA, as amended by the ESSA¹, for affected local educational agencies (LEAs) to consult with Indian Tribes and Tribal organizations on issues affecting Native students.²

Consultation will create opportunities for LEAs and Tribal leaders to work together on behalf of American Indian and Alaska Native students. The consultation process will allow affected LEAs to gather input from Indian Tribes and Tribal organizations, fostering a collaboration that is a critical part of improving academic outcomes for Native students.³

The enclosed Frequently Asked Questions provide basic information to assist LEAs in ensuring that this process drives positive outcomes for administrators, Indian Tribes and Tribal representatives, and, most importantly, Native students.

I look forward to continuing to work with you and your staff to address the needs of our Native students.

Sincerely, Ann Whalen

Senior Advisor to the Secretary Delegated the Duties
of Assistant Secretary for Elementary and Secondary Education

¹ Throughout this document, unless otherwise indicated, citations to the ESEA refer to the ESEA, as amended by the ESSA.

² Under Title 1, State educational agencies (SEAs) are also required to conduct timely and meaningful consultation with Indian Tribes, among other entities, prior to submitting their State plan to the Secretary (ESEA section 1111(a)(1)(A)).

³ The U.S. Department of Education conducted Tribal Consultation on the changes to the ESEA generally, which included the SEA and LEA consultation requirement, with four meetings which took place April 24, April 28, May 12, and June 27, 2016.

www.ed.gov

400 MARYLAND AVE., SW, WASHINGTON, DC 20202

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.



Oregon

Tina Kotek, Governor



OREGON
DEPARTMENT OF
EDUCATION

Oregon achieves . . . together!

NOVEMBER 1, 2023

Dear Tribal Council Members and School Districts,

Our state has the unique opportunity to leverage the Every Student Succeeds Act (ESSA) to better support equitable outcomes for every Oregon student, particularly the success and well-being of our American Indian students.

More than ever before, this law creates an opportunity for tribal leaders to exercise their sovereign authority and inform the creation of school district federal and state plans to foster and strengthen implementation and the overall supports provided to American Indian and Alaska Native students.

The Oregon Department of Education is respectfully requesting Tribal Governments meet with affected school districts (districts that receive greater than \$40K in Title VI funding, including districts part of a consortium that receives >\$40K in funding, or have 50% or more American Indian/Alaska Native students) to:

- Understand the background of ESSA
- Identify equity levers and opportunities under ESSA to better serve American Indian children
- Consult with school districts to develop plans
- Discuss next steps and engage in future conversations.

Timely and meaningful consultation with the nine federally recognized tribes in Oregon is an essential component of ESSA.

As the Indian Education Coordinator for ODE, Stacy Parrish, has been designated as an official representative from our agency to provide technical assistance with Tribal Consultation with the nine federally recognized tribes of Oregon and affected school districts regarding ESSA.

If appropriate, Stacy Parrish can work directly with tribal Education Directors, or school district leaders to identify a day and time to schedule the initial Tribal Consultation. Please contact stacy.parrish@ode.oregon.gov or 971-208-0270.

Thank you for your dedication and continued collaboration to ensure American Indian students have the opportunity to thrive and reach their full potential.

Respectfully,

Dr. Charlene Williams

Director of the Oregon Department of Education

Oregon Department of Education

255 Capitol St NE, Salem, OR 97310 | Voice: 503-947-5600 | Fax: 503-378-5156 | www.oregon.gov/ode

Published May 22, 2023 by The Oregon Department of Education in partnership with Region 16 Comprehensive Center and in collaboration with Anvil NW, a Tribally owned and operated graphic design agency under the portfolio managed by Umpqua Indian Development Corporation.

Updates incorporated for Version 2.1 on June 1, 2024 to provide additional information for LEAs, LEA-Cs, and the nine federally recognized tribes, based on feedback and frequently asked questions received since the state-wide launch of the revised toolkit on November 1, 2023.

Suggested Citation:

The Oregon Department of Education. (2024). *Understanding the ESSA law and how to support educational sovereignty: A toolkit for Tribal Consultation version 2.1*. <https://www.oregon.gov/ode/students-and-family/equity/NativeAmericanEducation/Documents/A%20Toolkit%20for%20Tribal%20Consultation.pdf>

The contents of this toolkit were developed under a grant from the U.S. Department of Education. However, the contents do not necessarily represent the policy of the Department of Education, and you should not assume endorsement by the Federal government. This work has been created in partnership with the Region 16 Comprehensive Center.



Our Gratitude

Thank you, dear reader and Tribal Consultation participant. The Office of Indian Education is grateful that you are dedicating time to learn about the ESSA law and how to plan for and carry out a successful Tribal Consultation.

The revision of this toolkit represents deep partnership with many people across our state and the nation. **The Office of Indian Education at the Oregon Department of Education** published version 1.0 of the toolkit in 2020. **April Campbell**, Assistant Superintendent of OIE at ODE and Tribal Consultation Toolkit Project Lead and **Brent Spencer and Stacy Parrish**, Indian Education Coordinator of OIE at ODE and Tribal Consultation Toolkit Project Team Leads provided leadership, content and guidance throughout the revision of version 1.0 and version 2.0. Their revisions remained focused on creating a guidance document for Tribal Consultation that is respectful to the nine sovereign tribes in Oregon.

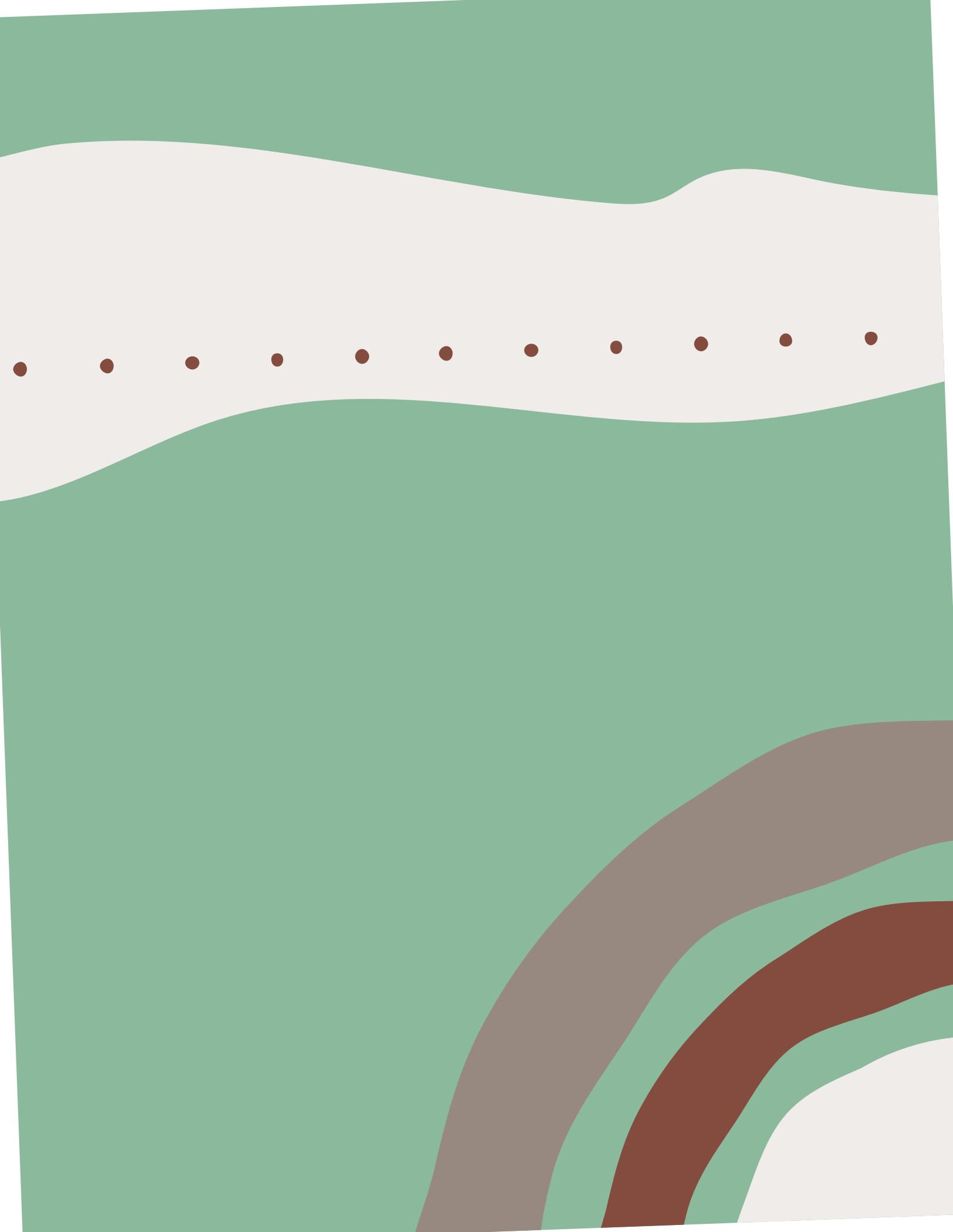
We express our deep gratitude to each of the **nine federally recognized tribes in Oregon** for their contributions to this toolkit. We thank the Burns Paiute Tribe, Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, Confederated Tribes of Grand Ronde, Confederated Tribes of Siletz Indians, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Cow Creek Band of Umpqua Tribe of Indians, Coquille Indian Tribe, and Klamath Tribes. Tribes contributed stories, personal communications, information, and images that the authors and editors used as the foundational pieces for this toolkit. **Kelly Coates, Natural Resources Director, Cow Creek Band of Umpqua Tribe of Indians** shared the story of successful consultation with the restoration of the Huckleberry Special Interest Area in an interview about the heart and spirit of Tribal Consultation.

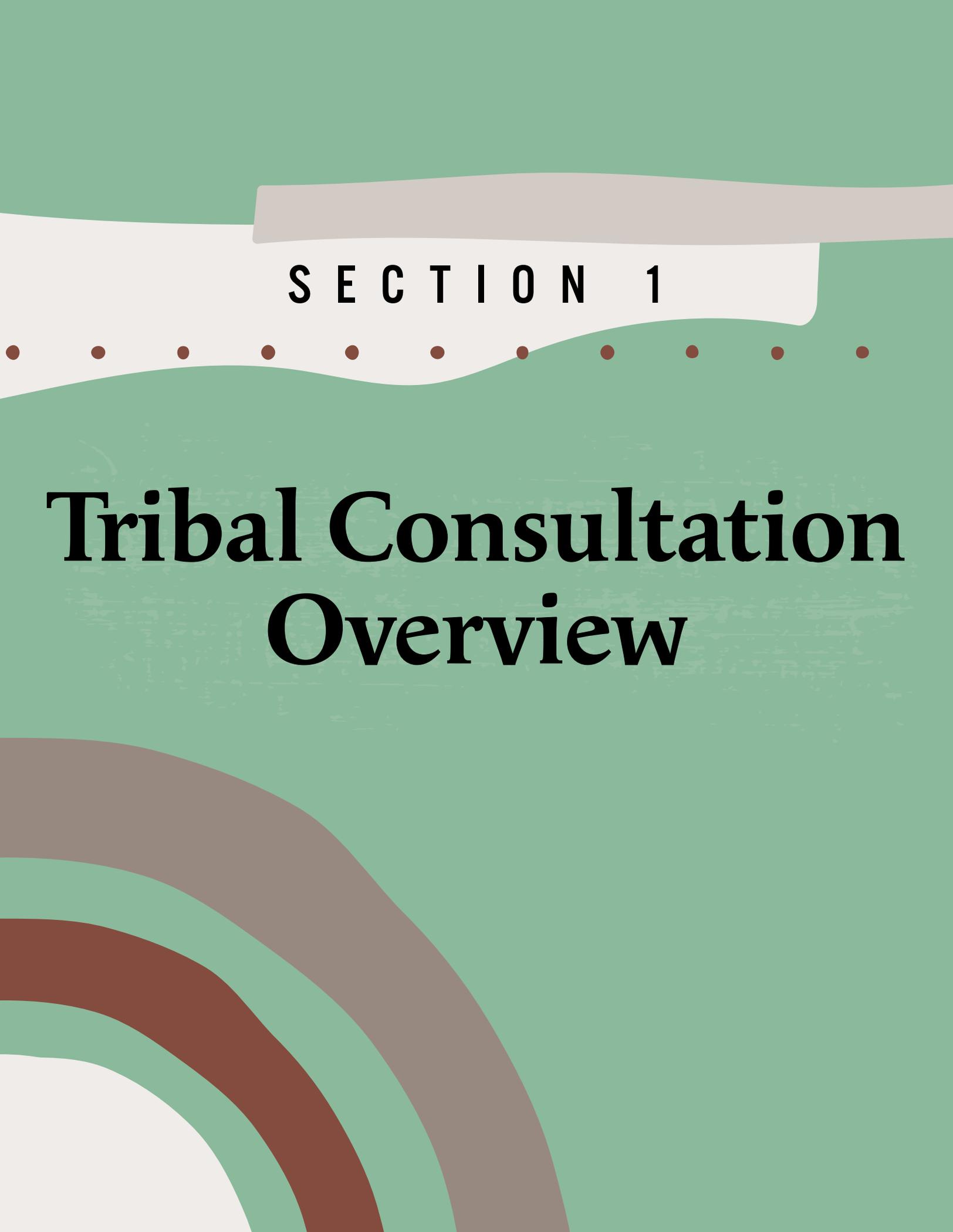
We are grateful to **Jeff Sweet**, Education Specialist at Confederated Tribes of Siletz Indians, and **Sandy Mummey**, formerly Special Programs Administrator of Healthy and Equitable Schools, currently Elementary Teaching and Learning Director of Lincoln County School District for sharing their story of collaboration and successful monitoring of progress.

Another contributor from Oregon was **Leilani Sabzalian, Ph.D.** The conclusion of Section 1D History of Tribal Consultation was inspired, edited and co-authored by Dr. Sabzalian, who is a professor at the University of Oregon.

Regional support came from two sources: **TIDES Education Associates** and **Region 16 Comprehensive Center**. The introduction was written with the support of **Nancy Douglas** and **Shgen George**, educational consultants who own and operate TIDES Education Associates (Teaching with Indigenous Design for Every Student). Region 16 Communications Specialist **Kaitlyn Hall** and Oregon State Director **Suzanne McFarland Price** collaborated with staff at OIE and others to review and revise version 1.0 of the Tribal Consultation Toolkit in preparation for the publication of 2.0.

We are grateful for the excellent open source resources that can be shared with you here from the **US Department of Education** and the **Office of Indian Education** as well as from **The Native Education Collaborative** and the **National Comprehensive Center**. We have included several excerpts from the Native Education Collaborative's brief published on the National Comprehensive Center's website.





S E C T I O N 1

Tribal Consultation Overview

The Nine Federally Recognized Tribes in Oregon

Burns Paiute Tribe

Website: burnspaiute-nsn.gov
Headquarters: 100 Pasigo St
Burns, OR 97720



Confederated Tribes of Warm Springs

Website: warmsprings-nsn.gov
Headquarters: 1233 Veterans Street PO Box C
Warm Springs, OR 97761



Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians

Website: ctclusi.org
Headquarters: 1245 Fulton Avenue Coos Bay, OR 97420



Cow Creek Band of Umpqua Tribe of Indians

Website: cowcreek-nsn.gov
Headquarters: 2371 NE Stephens St #100,
Roseburg, OR 97470



Confederated Tribes of Grand Ronde

Website: grandronde.org
Headquarters: 9615 Grand Ronde Road
Grand Ronde, OR 97347



Coquille Indian Tribe

Website: coquilletribe.org
Headquarters: 3050 Tremont St.
North Bend, OR 974



Confederated Tribes of Siletz Indians

Website: ctsi.nsn.us
Location: 201 SE Swan Avenue, Siletz, OR 97380



Klamath Tribes

Website: klamathtribes.org
Headquarters: 501 Chiloquin Blvd.
Chiloquin, OR 97624



Confederated Tribes of the Umatilla Indian Reservation

Website: ctuir.org
Headquarters: 46411 Timíne Way
Pendleton, Oregon 97801



These Nations have been in the area we now call Oregon since time immemorial. Citizens of the nine federally recognized tribes have unique histories and perspectives on consultation, communication, and sovereignty. We hope you visit the website of each tribe and access the Tribal History Shared History modules as this is where they tell their own stories.

Locations of the Nine Federally Recognized Tribes in Oregon



These points only represent the Tribal Headquarters location and not all of the Tribes' aboriginal/ceded lands.

Tribal Consultation: Introduction & Overview



Photo courtesy of the Confederated Tribes of Siletz Indians

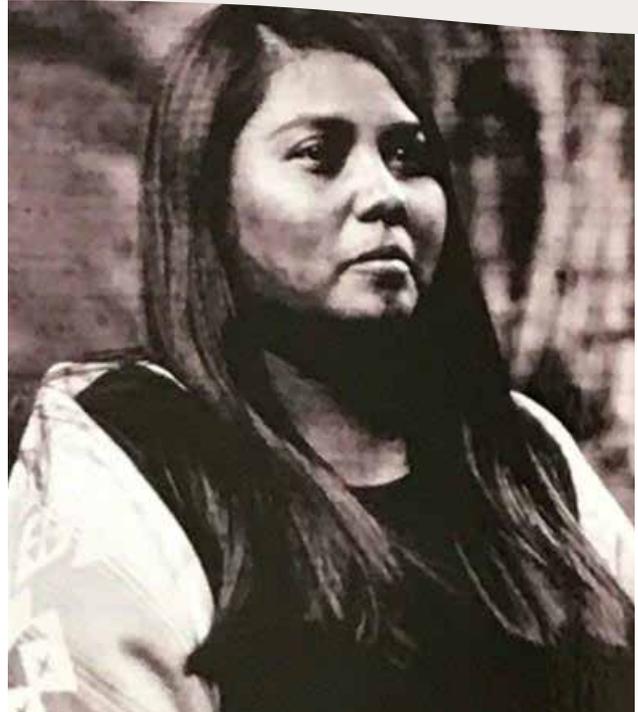
Tribal Consultation is a process of weaving: in government-to-government consultation, representatives from two nations come together to weave strong programs, plans, and initiatives that support their peoples and their collective interests.

Basket weaving was, and still is, a sacred tradition in Native American communities in Oregon. These tools are also works of art where form supports function and the function supports survival. Baskets are tools that have been used to carry water, roots and berries, and for many other purposes, in the daily lives of the tribes in Oregon since time immemorial. In Oregon basket making, commonly used native plants include wetland species such as tule, cattail, sedge, and reed or cane. Bark and root materials often come from western red cedar, cherry, maple, and spruce. Hazel, cottonwood, and willow provide rigid sticks, while dogbane, stinging nettle, and milkweed provide more flexible fibers. Bear grass, sea grass, rush, maidenhair fern, and Woodwardia fern also appear in the region's traditional basketry (University of Oregon, 2023).

To Native Americans and Alaska Native peoples, a basket is a literal, symbolic and artistic container for holding the hopes, dreams and desires for their children, their most precious resource. This publication can help guide the hands of representatives from tribes and LEAs who bring the raw materials to consultation: their ideas, historical perspectives, data, questions, curriculum, hopes, and dreams. Together, you will weave ESSA plans that hold up and support the success of Native youth, communities, and Nations in Oregon.

Overview

This guide is also an overview of Tribal Consultation requirements under the Every Student Succeeds Act (ESSA), the latest reauthorization of the Elementary and Secondary Education Act (ESEA) of 1965. ESSA replaces the requirements of the No Child Left Behind (NCLB) Act, the previous reauthorization of our national education law. These pages will outline the Tribal Consultation process which takes place between local education agencies (LEAs), LEA-Consortiums (LEA-Cs), and local tribes.



Alethea Barlowe, Klamath Tribes

All LEAs and LEA-Cs should engage in regular communication with the tribes whose students they serve. LEAs and LEA-Cs that receive Title VI grant awards of more than \$40,000 or whose student body is at least 50% AI/AN must also engage in Tribal Consultation. Consultation is a process to allow collaboration between the tribe and the district to enhance the educational opportunities of AI/AN students.

Consultation is required for any kind of program covered by ESSA, not solely Title VI. It is the responsibility of the LEA or LEA-C to initiate Tribal Consultation. The LEA or LEA-C should consult with representatives of the tribe or a tribal organization approved by the tribe prior to submitting a plan or application for a covered program. There is no one approach to Tribal Consultation: it must adapt to the needs of each Nation and take into account capacity and the need for ongoing inclusion of tribal perspectives.

A Story of a Successful Consultation: Key Elements for Success

What does meaningful, successful consultation look like in practice? Kelly Coates, the Natural Resources Director of the Cow Creek Band of Umpqua Tribe of Indians, shared a story with us in an interview for the Heart and Spirit of Tribal Consultation Project. Consultation often begins with a single conversation — the Rogue River Siskiyou National Forest and the Umpqua National Forest reached out to the Cow Creek Band of Umpqua Tribe of Indians to discuss how the National Forests and the tribe could partner to replant an area devastated by fire. Look for the following elements of successful consultation in her story:

- **Invitation:** Extended an authentic invitation to team up to improve outcomes
- **Collaboration and Consensus:** Gathered together as a group. Agreed on priorities and a plan
- **Early Involvement:** Consulted early in the process, before the project began
- **Ongoing Involvement:** Convened often
- **Partnership:** Fostered true partnership and shared the work
- **Tribal Involvement:** Involved managers from the tribe as equal partners in the work
- **Ongoing Conversations and Analysis of Data:** Created a system for annual monitoring of the project
- **Sustained partnership and shared stewardship:** Built a lasting relationship based on mutual interests

A Story of a Successful Tribal Consultation

This story was shared by Kelly Coates, Natural Resources Director, Cow Creek Band of Umpqua Tribe of Indians, November 14, 2022 in a live interview for a video project conceived by the Office of Indian Education at ODE called The Heart and Spirit of Tribal Consultation.

So I would say a success story for when Tribal Consultation played a role in my field is a project that we have with the Umpqua National Forest and the Rogue River - Siskiyou National Forest, as well as the Rogue Native Plant Partnership. On the Umpqua-Rogue divide, there is an area known as the Huckleberry Special Interest Area, and it is a culturally significant area for our tribe. The fires of 2017 and 2018 burned through that special interest

area and affected some of the areas where Tribal members go and gather. Through a partnership with the Rogue River Siskiyou National Forest and the Umpqua National Forest, they came to us and said, "Hey, right before the fires broke out, we went out and we collected seeds from huckleberry plants from that area. We'd really like to partner with you, go up and replant that burned area. We know it's significant for you all. We were hoping you'd like to join us on this."

Because they had the conversation with us early and before the project started, we were able to be a project partner on that. We were able to be a part of the grant that they applied to get the funding to do it. We were able to bring in not only match dollars for the project, but also staff capacity and time to work on it. And as a result, we were able to replant over 11,000 huckleberry plants on the Rogue-Umpqua divide. And the project is especially meaningful for me as a tribal member. This is an area that is incredibly significant for me and for my family. It's somewhere we go at least once a year. I take my kids there. I was able to take my daughter, who is also a tribal member, up to help do the replanting and explain to her what happened. That the fires came through, but this is our chance to give back to the lands. This is our chance to help these lands recover, and this is what we do as stewards of the land. And when we went out and did the planting, we were able to have Tribal youth. We had our Tribal elders up there as well as members of the Forest Service and volunteers from the Rogue Native Plant Partnership.

Because we all came together as a group, because we talked about the project early, because we had managers from Tribal, the tribal side of things, from our Tribal Natural Resources Department, from our cultural program, and also from the Forest Service, we were able to really come together and make the project incredibly robust and something that has been extremely successful. We also monitor the project every year to see how the huckleberry plants are doing, and we hope to be able to expand on this project in the future (Coates, 2022).



Photo courtesy of Cow Creek Band of Umpqua Tribe of Indians

The History of Tribal Consultation

At times, we must look back in the past in order to understand the current context and importance of policies, laws and practices. For educators, especially non-Native educators, this guide provides a very brief socio-historical context in order to ground those who hold the responsibility in ensuring that treaty rights are honored and that Native American and Alaska Native students have access to and receive a relevant and meaningful education that honors the language, culture, and heritage of their tribe. This can be done, in part, by entering into meaningful Tribal Consultation with a deep understanding of how and why this practice has come into existence. Your learning and understanding may have begun before reading this guide, and it will continue beyond these pages. There are resources to continue to learn about the history of Native education and its impact on schools today available on the federal **Office of Indian Education webpage**. This guide will first examine federal events that impacted Native education and then move to an examination of Native education in Oregon’s public schools.



Photo courtesy of [Tribal Attendance Promising Practices](#), Siletz student

Timeline of Major Events Regarding Indian Education

1800s

Indian boarding schools were established and forced Indian children into cultural assimilation.

1928

The Meriam Report exposed the abuse of Indian children at boarding schools, resulting in improvements for Indian students' education and the establishment of public schools on reservations.

1934

Johnson-O'Malley (JOM) Act of 1934 allowed Native students to enroll in public and private schools.

1965

Elementary and Secondary Education Act (ESEA) of 1965 allowed tribal education departments (TEDs) to govern their education systems and receive federal financial support. This act also created funding for State Tribal Education Partnerships (STEP) grants.

1972

The Indian Education Act of 1972 gives direct financial support to improve academic achievement for Indian students who attend public, Tribal and Bureau of Indian Affairs schools. It also created the Office of Indian Education and the National Advisory Council on Indian education.

1975

The Indian Self-Determination and Education Assistance Act (ISDEA) of 1975 allowed federally recognized American Indian Tribes to enter contracts with the federal government but they had to follow federal guidelines.

1988

The Tribally Controlled Schools Act of 1988 allowed federally recognized tribes to apply for federal grants so they can operate their own schools, operate other tribally controlled schools, and choose to operate BIE-funded schools.

2015

Under Section 1111 of the ESSA, tribes and tribal organizations were able to receive funding to increase academic achievement and tribal relationships between local and state governments.

Timeline adapted from Reinhardt et al. (2020).

History of Native Education in Oregon

The state we now call Oregon has been the homeland of diverse Native peoples since time immemorial. Their descendants, and Native people from throughout the United States, continue to live and thrive here (Oregon Department of Education, 2023). Although Native Elders and other adults have educated their children long before the first Indian boarding school or public school was built in Oregon, this section will focus on the trajectory of Native education after the state became involved in the education of Native children.

The Oregon Department of Education’s **American Indian/Alaska Native Student Success Plan 2020-2025** recognizes “the historical legacy of education and its efforts for the sovereign Tribal Nations in the state of Oregon.” The authors, members of the State Advisory Committee on Indian Education, state that this legacy “spans across hundreds of years and, for the most part, has been an adversarial topic until recently” and share the following:

The United States has a unique federal trust responsibility noted by the Supreme Court in the *United States v. Mitchell*, 1983, which stems from the treaties signed between sovereign tribes and the U.S Government in the 1800s. The treaties signed between the U.S Government and Tribes provided provisions outlined by the government that promised tribes access to education largely in exchange for land and rights.

Starting in 1860 in Oregon, military-based facilities were converted into boarding schools for Native American children. In addition to these government-run boarding schools, church-based mission schools became the standard for government-provided education

for tribes. Government policy allowed children to be forcibly removed from their homes and communities. These children were sent to boarding schools often located thousands of miles away from their communities. These schools were grossly underfunded, overcrowded and poorly maintained. These conditions were documented in the Meriam Report in 1928 and in 1969, and the Kennedy Report, *Indian Education: A National Tragedy - A National Challenge*. Sadly, 88 years later, President Obama released the 2014 Native Youth Report and the conditions have not changed for our AI/AN youth who experience institutional challenges and barriers to accessing educational opportunities.

It is well documented that the forcible removal of Native American children from their families and their communities was a deliberate process of assimilation. On arrival at school, children’s hair was cut, their traditional clothing removed, and their Native languages forbidden. Children as young as four years of age endured rampant emotional, physical, sexual and mental abuse, and many children died while in the care of boarding schools (Pember, 2019).

Currently, policymakers and leaders recognize the trauma that children and communities have faced resulting from these assimilation policies and are moving towards strengthening better educational policies and practices through Government-to-Government relationships at the federal, state and tribal levels. (The Office of Indian Education at the Oregon Department of Education, 2019, p. 3)

Looking to the Future

The responsibility for Native education in the United States and in Oregon is now shared between three sovereign government systems—tribal, federal, and state. You, the reader of this guide, are representing either the tribal or state governments. As representatives of state governments, it is essential to note the strength, resilience and uplifting of Native communities that now live in Oregon in the wake of a long history of unjust educational practices and trauma. According to Leilani Sabzalian, indigenous scholar and researcher who currently teaches at the University of Oregon, we must not only focus on what has been done to American Indian and Alaska Native peoples but also what *Native peoples*

have done to resist and overcome historical injustices and ensure their peoples survive and even thrive. At the end of her keynote address, in which she shared numerous examples of the enduring legacy of Native resistance she believes educators should address in curriculum, Sabzalian invited the audience to reflect on the impact this type of curriculum could have on Native youth: “Who wouldn’t be proud to be Indigenous? Look at our people, look at our creativity, look at our brilliance, look at our resourcefulness” (Sabzalian, 2023). As educators, it is essential to hold in our minds and hearts as we enter into Tribal Consultation both realities: the historical educational legacy of Native students in Oregon and the strength and sovereignty of our Native students and Tribal Nations in Oregon throughout time and today.



Photo courtesy of The Confederated Tribes of the Umatilla Indian Reservation: Demetri Brockie





S E C T I O N 2

Federal Laws & State Requirements Relating to Tribal Consultation



Tribal Sovereignty & Every Student Succeeds Act

The Native Education Collaborative, in partnership with the National Comprehensive Center, describes tribal and educational sovereignty, the ESSA law and the responsibility of the state for Tribal Consultation in its **Tribal Sovereignty and Consultation Brief**. (Reinhardt et al., 2020) Sections of this brief have been reproduced here in their entirety, in Section 2A, of the toolkit:

Tri-Lateral Responsibility

The responsibility for Native education in the United States is now shared between three sovereign government systems—tribal, federal, and state. As such, Native education is known as a tri-lateral responsibility (Reinhardt and Maday, 2006). According to the National Congress of American Indians (2020), roughly 90% of Native students now attend public schools under state jurisdiction. The remainder (about 8%) attend federally funded Bureau of Indian Education (BIE) schools, private schools, or other educational institutions. Notably, the majority of BIE schools are now tribally operated.

Brayboy, Faircloth, Lee, Maaka, and Richardson (2015) note the major challenges that present-day Native education efforts are working to address, such that “the education of Indigenous peoples is intricately intertwined with the legal/political relationship between Indigenous peoples and the U.S. government, as well as myriad [of] racist policies and practices that have devastated Indian children and communities” (p. 1). According to Brayboy, et. al (2015), Native education has been:

- “a battle for the hearts and minds of Indigenous nations,
- “a colonial call for assimilation, and

- “a responsibility of the federal government arising from a series of agreements between Indian nations and the United States meant to open up land bases to a burgeoning immigrant population.” (p. 1)

Tribal Sovereignty and Government-to-Government Relations

The original sovereignty, or power to govern, over Native education rests with tribes. Tribes inherit this aspect of their sovereignty from their ancestors (Canby, 2015). Ancient knowledge, as created by the ancestors of Native communities, contains the very essence of tribal sovereignty (Brayboy et al., 2015, p. 3). Jampolsky (2016) points out that scholars have defined tribal sovereignty in a number of ways, such as:

- as “a protective shell around tribal life and culture” (Sarah Krakoff, 2006) and
- as “the right of a people to self-government, self-determination, and self-education. Sovereignty includes the right to linguistic and cultural expression according to local languages and norms” (Lomawaima and McCarty (2002, p. 284).

Lomawaima and McCarty (2002) suggest that “the Native struggle for sovereignty and self-education is a powerful model for all U.S. citizens because public education in the United States was founded on the principle of local control” (p. 280).

Tribal Consultation in State Planning

According to Hollie J. Mackey (2017), the ESSA “includes provisions for Indian education that far exceed previous federal legislative attempts to support tribal self-determination in education, yet shifts considerable oversight and decision-making authority to state

Photo courtesy of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians



legislators whose support is yet undetermined (Mackey, 2017, p. 783). The author contends that “federal Indian education law and policy must be interpreted through its effect on tribal self-determination rather than its policy goals” (Mackey, 2017, p. 784).

Section 1111 of the ESSA of 2015 has been widely praised in Indian Country for: “opening revenue streams to Tribes and Tribal organizations through grant opportunities; establishing funding for Native language immersion programs; mandating Tribal Consultation; incentivizing cooperative agreements between local, state, and Tribal education entities; better identifying low performing schools; and limiting the overidentification of American Indian students in special education.” (Mackey, 2017, pp. 789–790)

The author further explains, “The central theme throughout ESSA is the increased limits on federal control over education, placing the bulk of power back in the hands of state policymakers” (Mackey, 2017, p. 790). Under Section 1111 of the ESSA, states must meaningfully consult with tribes within the state prior to receiving a grant, however, the consultation cannot interfere

with the timely submission of the required education plan. Further, capacity-building activities between state and tribal education leaders provide opportunities for both parties to share insights into the inner workings of their government’s educational responsibilities and organizational structures while they review the state education plan together.

Tribes have the right to determine who will represent them during consultation with states. Tribes may choose to send a tribal education director, a paid educational consultant, an elected tribal official, or a designee identified by the tribe to represent them. The tribe may choose multiple people to represent them as well. Tribal education leaders may be particularly adept at dealing with specific and general Native educational concerns. Tribes retain rights of sovereignty over the education of their citizens and non-tribal citizens about their tribes. As discussed in a previous section, tribes may also have treaty rights to education that supersede other federal, state, and local laws and policies. Some tribes also have their own tribal laws for the education of tribal youth. Tribal education leaders are also generally more aware of jurisdictional issues regarding tribal lands and the rights of tribal citizens.

Federal Laws

Information on this page are excerpts from the letter and FAQs from the US Department of Education that are contained in this toolkit beginning on page 41.

Requirements

Under Section 8538, an affected Local Education Agency (LEA) or LEA-Consortium (LEA-C) is one that either:

1. has 50 percent or more of its student enrollment made up of AI/AN students; or
2. received an Indian education formula grant under Title VI of the ESEA, as amended by the Every Student Succeeds Act 1 (ESSA), in the previous fiscal year that exceeds \$40,000.

Affected LEAs and LEA-Cs must consult with Indian tribes before submitting plans or applications for the following programs under ESEA. This requirement also extends to grants to districts distributed under a specific Title Program:

- **Title I, Part A** (Improving Basic Programs Operated by State and Local Educational Agencies)
- **Title I, Part C** (Education of Migratory Children)
- **Title I, 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, Part A** (Student Support and Academic Enrichment Grants)
- **Title IV, Part B** (21st Century Community Learning Centers)

- **Title V, Part B**, subpart 2 (Rural and Low-Income School Program)
- **Title VI, Part A**, subpart 1 (Indian Education Formula Grants to Local Educational Agencies)

General Guidance

LEAs and LEA-Cs should conduct their consultation in advance of making significant decisions regarding plans or applications for covered programs, to ensure an “opportunity for . . . tribal representatives designated to consult on behalf of the tribes. The purpose of Tribal Consultation is to allow tribes to make meaningful and substantive contributions” to an LEA’s plan (section 8538(a)).

The timeline for each consultation is dictated by requirements of the relevant grant program, which have different application deadlines. For example, a state may have a deadline for LEAs to submit a consolidated local plan to the state by a certain date in 2017, so for those programs the consultation must be completed before that date. Given that tribes may receive multiple requests for consultation, LEAs should consider arranging for informational meetings prior to consultation.” (United States Department of Education, 2016 p. 2)

In Oregon, the SEA administers all Federal Title programs except Title V, Part B, SRSA and Title VI, Part A, subpart 1. The preliminary allocations for the SEA-Administered Federal Title programs are provided to districts and consortiums annually in the spring.

The camas icon (☞) indicates that affected LEAs and LEA-Cs must consult with Indian tribes before submitting plans or applications for Title I, Parts A, C, and D; Title II, Part A; Title III, Part A; Title IV, Parts A and B; Title V, Part B, subpart 2; and Title VI, Part A, subpart 1.

Title I-A: Improving Basic Programs Operated by Local Educational Agencies (LEAs)

Description:

Title I-A is intended to help ensure that all children have the opportunity to obtain a high-quality education and meet challenging state academic standards. Districts allocate funds to eligible schools based on ranking by each school's percentage of poverty. Each school must choose whether they use the funds to create a School Wide Plan (SWP) or a Targeted Assistance Program (TAP). Under a SWP, all strategies and resources are used to support all students in the school. Whereas under a TAP program, resources can only be used to support the strengths and needs of a specific group of students.

Allowable Expenditures Include What is Supplemental, Necessary and Reasonable:

- Activities that provide eligible students with evidence based and well-rounded learning opportunities
- Instruction and instructional supports in all academic areas
- Non-instructional supports including behavior and mentoring support and social-emotional learning
- Family engagement and partnership
- Professional development
- Extended learning time
- Activities that promote improving school quality and climate

Examples of activities include:

- Supplemental staff
- Engaging families and the community in a meaningful manner that impacts the academic achievement of students
- Implementing systems that support students with

social and emotional learning

- Extended learning time opportunities such as preschool, summer or after school learning

Best Practices:

- District leaders meet with Tribal leaders to discuss how funds are allocated across each school in the district.
- Principals of Title IA schools regularly meet with parents and caregivers of students who are members of tribes.
- Schools and districts that use Title I funds to support climate and culture development of all students.
- Connecting and engaging families and communities in the whole learning experience

Possible Questions Tribal Leaders Can Ask

District Leaders:

- How are you determining which schools get funding and how are you supporting the principals of these schools?
- How are you ensuring that AI/AN students are not disproportionately served by inexperienced, ineffective or out of field teachers compared to their peers?
- What is the instructional plan for the school? How is this supporting AI/AN students?
- If the funds are used to pay for staff, what training is provided to ensure that they are attuned to the strengths and needs of AI/AN students?
- What is the parent/family engagement strategy for this school? What are the events and pathways for our families to get involved? How are you reaching out to them to ensure that they feel a sense of belonging and connection to the school?

Primary Contacts:

Lisa Plumb: lisa.plumb@ode.oregon.gov

Jen Engberg: jennifer.engberg@ode.oregon.gov

Title I-A Set-Asides: Homeless Students (McKinney - Vento)

Description:

Before allocating Title I, Part A funds to schools, districts must reserve a portion of their funds for four required activities. One of the required set-asides is for services for children experiencing homelessness. Districts must reserve funds to provide services to students experiencing homelessness in all district schools, not just schools that are receiving Title IA funds. ESSA does not specify an amount that must be reserved, however, the amount should be based on a needs assessment and could include costs for a liaison, transportation for eligible students, and other activities eligible under the McKinney-Vento Homeless Education Act.

Students and families who are experiencing housing insecurity, and youth who are unaccompanied have the right to be enrolled in school immediately, even if they lack the necessary documentation. The student also has the right to be transported to/from school.

Allowable Expenditures:

- Tutoring and other activities
- Counselors
- Health exams including eye care, dental care, and other health care
- Transportation
- PreK and graduation services
- Before school, after school, and summer school activities
- Additional staff
- School and athletic fees
- Clothing and school supplies

Examples of successful use of Title I funds include:

- Using funds to support mental health supports and wrap around services for students
- High dosage tutoring for students
- Transportation to/from school
- Purchasing supplies, such as washer and dryer, so that families can have a safe space to wash clothes

Best Practices:

Tribal Consultation and engagement of families as partners in the education of students is focused upon ensuring identification for students who may experience need, joint support for families and students to ensure access to school and activities and connections to community- based support for students and families.

Primary Contacts:

Jen Engberg: jennifer.engberg@ode.oregon.gov

Sarah Martin: sarah.martin@ode.oregon.gov

Lisa Plumb: lisa.plumb@ode.oregon.gov

Title I-C: Education of Migratory Children

Description:

The Migrant Education Program (MEP) provides services for migratory children to fully benefit from the same free public education provided to other children. The goal of the MEP is to ensure that students who migrate with their families following the agricultural seasons reach challenging academic standards and graduate with a high school diploma (or complete a GED) that prepares them for responsible citizenship, further learning, and productive employment.

Local Educational Agencies receive three allocations:

1. Regular Year,
2. Summer School, and
3. Preschool

Allowable Expenditures include what is supplemental, necessary and reasonable:

- Expenditures must be spent on the four goals of the Title I-C Migrant program, which are:
 - Preschool readiness
 - Meeting benchmarks in reading
 - Meeting benchmarks in mathematics
 - Graduation
- Statewide support includes:
 - Leadership opportunities in the summer,
 - Accident insurance,
 - Basic personnel to support the program.

Examples:

- There are only 18 Migrant programs in the state. Nine are school districts with large numbers of migrant students and nine are Educational Service Districts (ESDs) that cover a wide area of districts
- AI/AN students within these districts and ESDs should receive the services that all migratory students receive

Best Practices:

Of the 18 Title I-C Migrant programs, Ontario SD, Hood River SD, and High Desert ESD are exemplars with a graduation rate above 90% in the school year 2021-22. Ontario had a 100% graduation rate.

Possible Questions Tribal Leaders Can Ask**District Leaders:**

- How many students are AI/AN and migratory?
- How are you recruiting and identifying students who are AI/AN for services?
- How are you meeting the PK and graduation needs of AI/AN migratory students?

Primary Contacts:

Yuliana Kenfield: Yuliana.Kenfield@ode.oregon.gov

Mary Martinez-Wenzl:

Mary.Martinez-Wenzl@ode.oregon.gov

Hector Aguirre: Hector.aguirre@ode.oregon.gov

Title I-D: Neglected and Delinquent or At-Risk Children

Description:

The purpose of Title I-D is to improve educational services for students in local, tribal, and state residential facilities for students in secure care. Title I-D is split into parts. Subpart 1 funding goes directly to state run agencies (for example, the Oregon Department of Education receives some money to administer programs for the Oregon Youth Authority). Subpart 2 provides federal funding to districts that provide educational services to this population with the following intentions:

- Improve educational services for students in secure care, so they have the opportunity to meet state academic standards.

- Improve student transition between correctional facilities or institutions and community programs in education, technical training, or employment.
- Prevent students from dropping out of school or returning to correctional facilities. This includes providing support systems to ensure continued education for these students.

An LEA is eligible to receive funds if there is a locally operated facility within its geographical boundaries.

Best Practices:

Title I-D funds are best used when ensuring the education provided in secure care facilities are at the same level of rigor that students in school districts receive. Students involved with the justice system are often behind academically and have other learning challenges. Time away from traditional school settings can widen this gap. Providing strong social emotional learning programs in schools is another best practice that helps students stay in school and avoid involvement in the justice system.

Possible Questions Tribal Leaders Can Ask**District Leaders:**

- What is the instructional plan and supports for students in secure care?

Primary Contact:

Jen Engberg: jennifer.engberg@ode.oregon.gov

Title II-A: Supporting Effective Instruction

Description:

The purpose of Title II-A is to improve teacher and leader quality and focuses on supporting efforts to better prepare, develop, and retain talented and diverse educators in schools, with a particular emphasis on ensuring students of color and students experiencing poverty have equitable access to effective educators. While the goal of Title II-A is to improve outcomes for students, the focus is on supporting ongoing professional learning as well as recruitment, retention, and advancement of educators.

Allowable Expenditures include:

- Activities to support the quality and effectiveness of teachers, principals and other school staff
- Address the learning needs of all students
- Professional development across all content areas and including social-emotional and trauma informed care
- Ensuring equitable access to effective educators including increasing teacher effectiveness for students with disabilities and English language learners

Examples:

- Induction and mentoring of teachers and principals
- Instructional coaching
- Professional collaboration
- Developing educator content knowledge and culturally responsive practices across all academic areas
- Social-emotional learning, trauma informed care and other mental health supports
- Coursework and endorsements in areas of identified need within the district
- Incentives for teaching or leading in high needs schools
- Incentives to recruit and retain a diverse workforce

Best Practices:

Focusing deeply on a few needs and engaging in multiple strategies to address those needs is considered best practice. As an example, Hillsboro School District has identified improving outcomes and supports for its Latinx population and so focuses the use of its Title II-A funds on increasing the number of teachers with ESOL endorsements and funding a Dual Language TOSA position.

Possible Questions Tribal Leaders Can Ask**District Leaders:**

- How are funds currently being used? How are you evaluating the effectiveness of those funds?
- What training opportunities have been offered to ensure that all educators and staff are knowledgeable of the strengths and needs of our AI/AN students?

Primary Contact:

Sarah Martin: sarah.martin@ode.oregon.gov

Title III-A: English Language Acquisition and Language Enhancement

Description:

The purpose of Title III is to provide supplemental support for multilingual learners who are learning the English language and students who are immigrants. Districts that receive Title III funds are required to provide students identified as English learners with instruction in learning English and on-grade level core content. Eligibility to receive Title III funds is based on the number of English Learners, but districts must meet a minimum threshold of \$10,000 (as determined by a per pupil amount) in order to receive a grant at the district level. However, districts that do not meet the \$10,000 threshold can become part of a consortium in order to receive funds.

Allowable Expenditures include:

- Developing lessons that integrate language learning strategies through all content areas
- Developing formative assessment that measure English language proficiency
- Ensuring that all teachers across all grades are using rigorous instructional strategies
- Coaching and support for educators
- Parent activities that support school success
- Dual language activities

Examples:

- Increase the English language proficiency of English learners by providing effective language instruction programs
- Provide effective professional development to classroom teachers, principals, and or other school leaders, and administrators
- Provide and implement other effective activities and strategies that enhance or supplement language instruction
- Provide educational programs for English learners which shall include parent, family, and community engagement activities, and may include strategies that serve to coordinate and align related programs

Best Practices:

In identifying and targeting what best practice may work best for a particular situation, the school/district may wish to do a needs assessment that is informed by both qualitative and quantitative data. Below are some possible options.

- Develop clear language targets that support grade level content targets, proficiency level, and academic need for ELs including specific targets for dually identified students as per their Individualized Education Plan (IEP)
- Apply effective English Language Development (ELD) assessment practices to monitor ongoing language processes through differentiated avenues that are aligned to English Language Proficiency Assessment (ELPA) standards and as a way to identify instructional practice changes
- Have administrator support to ensure that the instructional experience of each EL is adjusted throughout the year
- Provide professional development around the ELPA standards, and support teachers with the assessment and analysis to monitor language process of ELs
- EL coaches support summer school ELD teachers with language specific instructional strategies in math and ELA
- Coordinate district wide EL parent engagement initiatives

Possible Questions Tribal Leaders Can Ask**District Leaders:**

- What are the instructional strategies and goals of your language acquisition program?

Primary Contacts:

Kim Miller: kim.a.miller@ode.oregon.gov

Foster Care

Description:

ESSA specifically addresses the needs of children in *Child Welfare/tribal foster care*. The purpose of including foster care provisions is to ensure educational stability for all students.

Allowable Expenditures:

The primary allowable expense is transportation. DHS and ODE currently have a transportation agreement that reimburses districts and tribes for 100% of their transportation costs.

Examples:

Students in the foster care system move frequently and research indicates that for each new education setting, a child can lose between 4-6 months of education. Ensuring educational stability is critical and allowing students to remain in their school recognizes the connections they have made to teachers, peers, activities, etc.

Best Practices:

Oregon state law also allows for foster care students, many who are credit deficient, to receive a state diploma that requires 24 credits. Foster care students do not have to meet the school district credit requirements or the specific courses required to earn a school district diploma.

Primary Contact:

Marlie Magill: marlie.magill@ode.oregon.gov

Transportation:

Sarah Arbuckle: sarah.arbuckle@ode.oregon.gov

FYI: The State School Fund reimburses LEAs transportation costs at a 70% rate, whereas the Foster Care Transportation program reimburses LEAs the additional 30%. This is to ensure LEAs transporting foster students to their school of origin are reimbursed 100% of the cost of transportation.

Title IV-A: Student Support and Academic Enrichment (SSAE)

Description:

The SSAE program is intended to improve students' academic achievement by increasing the capacity of state educational agencies (SEAs), local educational agencies (LEAs), and local communities to provide all students with access to a well-rounded education, improving school conditions for learning, and the use of technology to improve academic achievement and digital literacy of all students.

Tribal Consultation and engagement of families as partners in the education of students is a focus.

Allowable Expenditures:

Districts that receive \$30,000 or more must spend at least 20% of the allocation to support well-rounded education, at least 20% to support safe and healthy students, and at least “some funds” to support the effective use of technology. The minimum allocation is \$10,000 and districts that receive less than \$30,000 must meet at least one of the above requirements.

Examples include:

- Providing students with a well-rounded education (e.g., college and career counseling, STEM, music and arts, civics, IB/AP, computer science)
- Supporting safe and healthy students (e.g., comprehensive school mental health, drug and violence prevention, training on trauma-informed practices, health and physical education)
- Supporting the effective use of technology (e.g., professional development, blended and personalized learning, and devices)

Best Practices:

Tribal Consultation and engagement of families as partners in the education of students is a focus, as well as promoting reform in schools ensuring students’ access to evidence-based instructional strategies and challenging academic content.

Possible Questions Tribal Leaders Can Ask**District Leaders:**

- What were the results of the needs assessment and how are the instructional strategies aligned with the results of the assessment?
- How are you investing in the mental health and needs of your students? What about AI/AN students?

Primary Contact:

Lisa Plumb: lisa.plumb@ode.oregon.gov

Title IV-B: 21st Century Community Learning Centers (21st CCLC)

Description:

The purpose of the 21st Century Community Learning Centers (21st CCLC) program is to establish community learning centers during out-of-school time hours. These competitive grants require a significant partnership between a local education agency and at least one community-based organization. Services provided focus on:

- Providing academic enrichment in core academic subjects such as reading, writing and mathematics
- Offering students a broad array of additional services, programs and activities that foster youth development
- Offering families of students served opportunities for active and meaningful engagement in their children’s education, including opportunities for literacy and related educational development

Allowable Expenditures include:

- Transportation to and from program
- Academic activities aligned to school and district continuous improvement plans and state standards
- Youth development opportunities based on interest of students and supports the purpose of the grant
- Activities that provide families with active and meaningful engagement and educational opportunities
- Funds must supplement and not supplant other federal and state funds
- Activities to support the evaluation of performance measures aimed at ensuring availability of high-quality academic enrichment opportunities.

Examples include closing opportunity gaps by providing:

- Academic enrichment programs that are aligned to the school’s curriculum

- Mentoring programs
- Parental involvement and family literacy
- English learner programs
- Services for students with disabilities
- Programs that partner with in-demand fields of the local workforce or build career competencies and career readiness
- Career and Technical Education programs (CTE)
- Science, Technology, Engineering and Mathematics (STEM) programs
- Mental health, drug and violence prevention, and trauma informed practices
- Cultural programs
- Health and physical education
- Arts and music activities

Best Practices:

- Partnerships: Programs should strive for engagement with and outreach to schools, families, and communities and promote complementary alignment of school day. The program braids funds with other federal, state and other community-based organizations to provide a robust program
- Diversity, Inclusion, Access, and Equity: Programs should ensure that they are available and accessible for all youth; programs should develop and implement policies, and practices focused on respecting and supporting diverse youth participants and families, keeping context at the forefront; program should support staff in building cultural competence among staff and with youth through culturally responsive practices, activities, and opportunities
- Safety, Health, and Nutrition: Programs should ensure the emotional and physical safety of youth and staff; provide a healthy, welcoming, and accommodating environment; and provide nourishment based on health and wellness standards for children and youth
- Youth-Centered: Programs should focus on youth development, interests, and influences; provide experiential and age-appropriate activities; ensure relevant, authentic, and developmentally

appropriate opportunities for youth voice and choice and ensure those opportunities are reflected in planning, programming, and opportunities for youth leadership; and intentionally support academic, social, and emotional competence building

- Social and Emotional Learning and Active Engagement: Programs should be intentional in designing activities that promote youth resiliency and encourage reflection and higher order thinking; programming and activities should intentionally support high levels of youth engagement and expectation; the program environment and activities should cultivate a sense of belonging
- Evaluation and Continuous Improvement: programs should engage in regular and ongoing action planning for continuous improvement

Possible Questions Tribal Leaders Can Ask

District Leaders:

- What partnerships currently exist?
- What opportunities exist for partnerships with tribes and tribal organizations that serve AI/AN students?
- What are the programmatic goals of your 21st CCLC grants?

Primary Contact:

Raquel Gwynn: raquel.gwynn@ode.oregon.gov

Title V–B: Rural Education Achievement Program

Description:

Rural schools have access to the following programs: the Rural and Low-Income Schools (RLIS) program and the Small, Rural School Achievement (SRSA) program. These programs are designed to assist rural school districts in using federal resources more effectively to improve the quality of instruction and student academic achievement. SRSA is administered by the U.S. Department of Education and RLIS is administered by the ODE.

These programs provide eligible districts with greater flexibility in using formula grant funds that they receive under certain state-administered federal programs.

Allowable Expenditures (SRSA):

- Activities authorized under Titles I-A, II-A, III, IV-A, and IV-B

Allowable Expenditures (RLIS):

- Activities authorized under Titles I-A, II-A, III, IV-A, as well as family involvement activities

Example activities include:

- Supplemental staff
- Engaging families and the community in a meaningful manner that impacts the academic achievement of students
- Implementing systems that support students with social and emotional learning
- Activities to support the quality and effectiveness of teachers, principals, and other school staff

Best Practices:

Tribal Consultation and engagement of families as partners in the education of students is a focus, as well as promoting reform in high poverty schools and ensuring students' access to evidence-based instructional strategies and challenging academic content.

Possible Questions Tribal Leaders Can Ask

District Leaders:

- What flexibilities are you using under this program?
- How is that serving the strengths and needs of your students? What about AI/AN students?

Primary Contact:

Amy Tidwell: amy.tidwell@ode.oregon.gov

Title VI-A: Indian Education Formula Grant Program

Description:

The Title VI Program is designed to address the unique cultural, language, and educationally related academic

needs of AI/AN students, including preschool children and ensure that all students meet the challenging state academic standards. The program is the U.S. Department of Education's principal vehicle for addressing the particular needs of Indian children.

Allowable Expenditures:

Each LEA or LEA-C that receives a grant under this subpart shall use the grant funds, in a manner consistent with the purpose for services and activities that:

- Are designed to carry out the comprehensive program of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the secretary under section 7114(a)
- Are designed with special regard for the language and cultural needs of the Indian students
- Supplement and enrich the regular school program of such agency

The services and activities may include:

- Culturally related activities that support the program described in the application submitted by the local education agency
- Early childhood and family programs that emphasize school readiness
- Enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of challenging state academic content and student academic achievement standards
- Integrated educational services in combination with other programs that meet the needs of Indian children and their families
- Career preparation activities to enable Indian students to participate in programs such as the programs supported by the Carl D. Perkins Vocational and Technical Education Act of 1998, including programs for tech-prep education, mentoring, and apprenticeship
- Activities to educate individuals concerning substance abuse and to prevent substance abuse
- The acquisition of equipment, but only if the acquisition of the equipment is essential to achieve the purpose described in plan

- Activities that promote the incorporation of culturally responsive teaching and learning strategies into the educational program of the local educational agency
- Activities that incorporate AI/AN specific curriculum content, consistent with state standards, into the curriculum used by the local educational agency
- Family literacy services
- Activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified Tribal elders and seniors
- School-wide programs
- *Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this subpart to support a school wide program if:*
 - The committee established pursuant to section 7114(c)(4) approves the use of the funds for the school wide program; and
 - The school wide program is consistent with the purpose described in section 7111
- Limitation on Administrative Costs
- No more than five percent of the funds provided to a grantee under this subpart for any fiscal year may be used for administrative purposes

Examples:

Grant funds are best used to:

- Supplement the regular school program by meeting the culturally related academic needs of Indian children
- Projects that help Indian children sharpen their academic skills, assist students in becoming proficient in the core content areas, and provide students an opportunity to participate in enrichment programs that would otherwise be unavailable
- Support such activities as culturally responsive after-school programs, Native language classes, early childhood education, tutoring, and dropout prevention

Primary Contact:

Stacy Parrish: stacy.parrish@ode.oregon.gov



Two children dancing, photo courtesy of Confederated Tribes of Warm Springs

State Requirements

In Oregon, we are collectively committed to deepening our practice in ways that foster equitable learning outcomes for the students we serve. As we consider the best levers for system change and impact, we know that the continuous improvement process provides a powerful mechanism for promoting shifts in educator behaviors that will lead to improved learning for students.

Continuous Improvement Planning

Schools and districts in Oregon are called upon to engage in continuous improvement work both in federal law, under the Every Student Succeeds Act as well as state law. To be eligible to receive federal funds, a school district must develop a Local Education Agency (LEA) Plan that addresses various requirements intended to improve educational outcomes for students. Similarly, **Oregon Revised Statute (ORS 329.095)** and **Oregon Administrative Rule (OAR)** requires that school districts and schools conduct self-evaluations that inform a continuous improvement plan.

Continuous improvement planning, whether at the school or district level, is an ongoing, systemic, cyclical process. In this cycle, the results of previous efforts are examined in order to determine where to focus new efforts.

A continuous improvement process is the process by which school districts and schools:

- Determine what is working and what needs to change;
- Establish a process to engage staff, students and community to inform how to effect change;
- Leverage effective practices to implement the developed improvement plans;
- Use data to monitor and make timely adjustments to improve outcomes.

The continuous improvement process results in the development of an ambitious, priority-driven action plan where routine collaboration and decision-making among district leaders and community members is reflected throughout implementation.

Aligning for Student Success: Integrated Guidance

The **Aligning for Student Success: Integrated Guidance** aligns federal and state requirements for LEA and continuous improvement plans, including requirements for ongoing community engagement that informs the development and implementation of the Integrated Plan. This ongoing engagement is important in preparing for Tribal Consultation processes.

In alignment with ESEA guidance, consultation for **Aligning for Student Success: Integrated Guidance** must be done in such a manner and in such a time that provides the opportunity for appropriate officials from Indian tribes or tribal governments to meaningfully and substantially contribute to this plan.

Best Practices & Questions to Consider

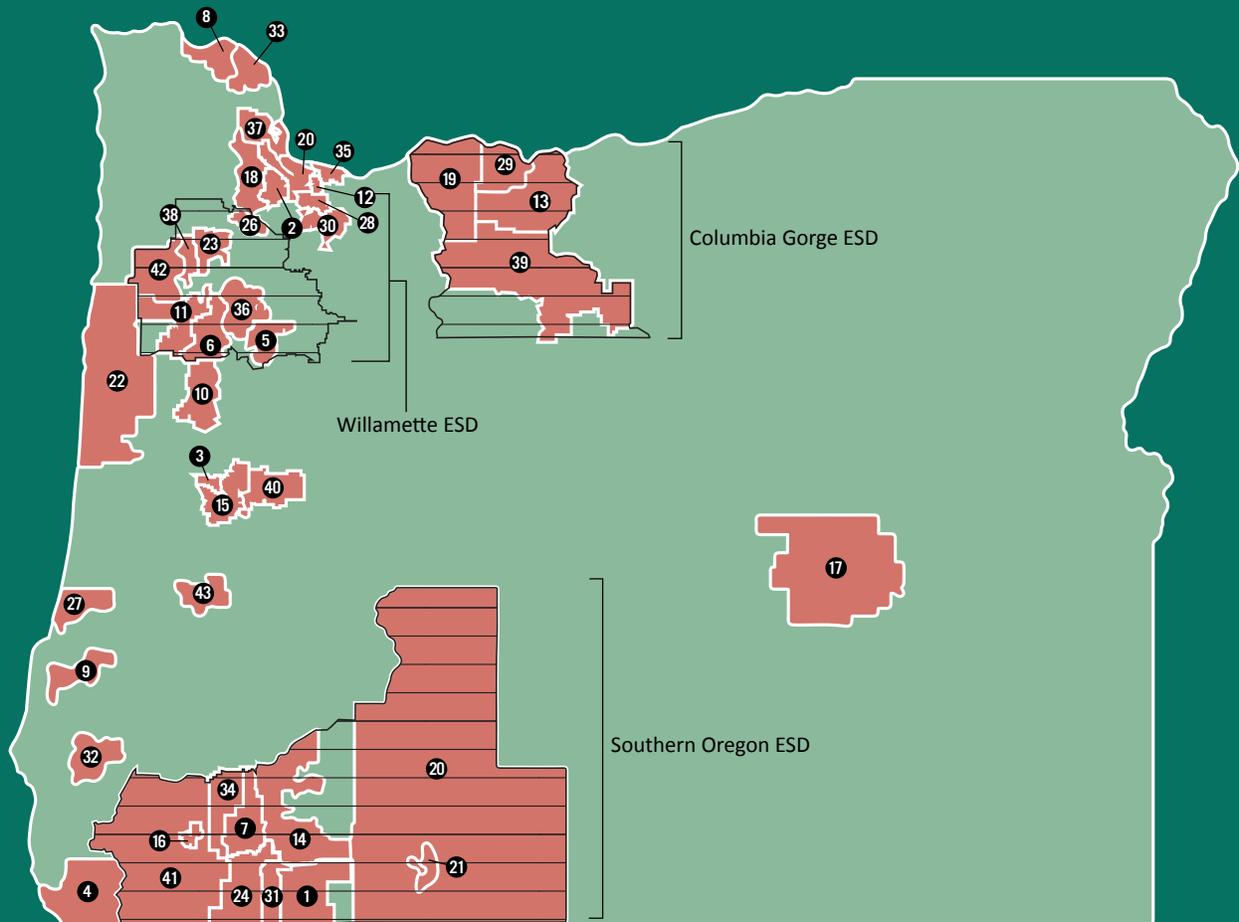
In preparing for the Tribal Consultation and engagement processes related to the **Aligning for Student Success: Integrated Programs** application, LEAs can utilize tools in this Tribal Consultation Toolkit, the American Indian/Alaska Native Student Success Plan and the Community Engagement and Needs Assessment appendices of the **Integrated Guidance**. Specifically, engagement should be informed by community input, varied perspectives, data analysis, and discussion with a diverse team who can speak candidly about the district or school's strengths and opportunities relative to the four common goals. The inquiry and discussion processes will vary depending on the level and type of engagement, however, these questions may assist the process:

- In the past two years how have we:
 - Advanced equity?
 - Supported well-rounded education?
 - Strengthened community partnerships?
 - Strengthened district systems and capacity?
- In what ways have the above strategies and activities impacted AI/AN students and their success?
- As we look at disaggregated data, what patterns or trends do we identify among focal student
 - group feedback or input, including the AI/AN student focal group? What factors contributed to the patterns / trends identified?
 - What are the top mental and behavioral health needs of our students? AI/AN students? How are we supporting them? Where are there still unmet needs?
 - What root causes prevent focal student groups from deeper levels of engagement, belonging and attendance? What about AI/AN students?



Traditional baskets. Photo courtesy of the Confederated Tribes of Warm Springs

Oregon's LEA and LEA-C Title VI Programs for SY24-25



- | | | | |
|--------------------------------|-------------------------------|----------------------------------|---------------------------------------|
| 1 Ashland SD 9 ◆ | 12 David Douglas SD 40 | 23 McMinnville SD 40 (pending) ▲ | 34 Rogue River SD 35 ◆ |
| 2 Beaverton SD 48J | 13 Dufur SD 29 ● | 24 Medford SD 549C ◆ | 35 Reynolds SD 7 |
| 3 Bethel SD 52 | 14 Eagle Point SD 9 ◆ | 25 Multnomah SD 1 | 36 Salem Keizer SD 24J |
| 4 Brookings-Harbor SD 17C | 15 Eugene SD 4J | 26 Newberg SD 29J (pending) ▲ | 37 Scappoose SD 1J (pending) |
| 5 Cascade SD 5 (pending) ▲ | 16 Grants Pass SD 7 ◆ | 27 North Bend SD 13 | 38 Sheridan SD 48J (pending) ▲ |
| 6 Central SD 13J (pending) ▲ | 17 Harney County SD 3 | 28 North Clackamas SD 12 | 39 South Wasco County SD 1 ● |
| 7 Central Point SD 6 ◆ | 18 Hillsboro SD 1J | 29 North Wasco County SD 21 ● | 40 Springfield SD |
| 8 Clatskanie SD 6J | 19 Hood River County SD 1 ● | 30 Oregon City SD 62 (pending) | 41 Three Rivers/Josephine County SD ◆ |
| 9 Coquille SD 8 | 20 Klamath County SD | 31 Phoenix-Talent SD 4 ◆ | 42 Willamina SD 30J |
| 10 Corvallis SD 509J (pending) | 21 Klamath Falls City Schools | 32 Powers SD 31 | 43 Yoncalla SD 32 |
| 11 Dallas SD 2 (pending) ▲ | 22 Lincoln County SD | 33 Rainier SD 13 | |

- ◆ Southern Oregon ESD Consortium
- Columbia Gorge ESD Consortium
- ▲ Willamette ESD Consortium

Tribal Consultation vs. Communication

Although you may not be required to consult with a tribe or tribes due to the requirements of ESSA law, it is a best practice to seek out information and learn about the Native students and the communities you serve. Any LEA or Educational Service District who has knowledge of the tribal affiliations of their AI/AN students, should consider engaging in meaningful outreach and conversations on a regular basis to those tribes, while also respecting and understanding the capacity of tribes to respond to all requests to partner, as they are all maintaining their own sovereign governments. This is NOT considered Tribal Consultation, but tribal communication.

50% or Greater AI/AN Enrollment?

Official Tribal Consultation is required. To ensure timely and meaningful consultation on issues affecting AI/AN 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.

Receive \$40K or Greater in Title VI Funds?

Official Tribal Consultation is required, including LEAs who are members of a consortium that receives \$40,000 or more for their Title VI Indian Education formula grant award. To ensure timely and meaningful consultation on issues affecting AI/AN 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



Photo courtesy of the Burns Paiute Tribe

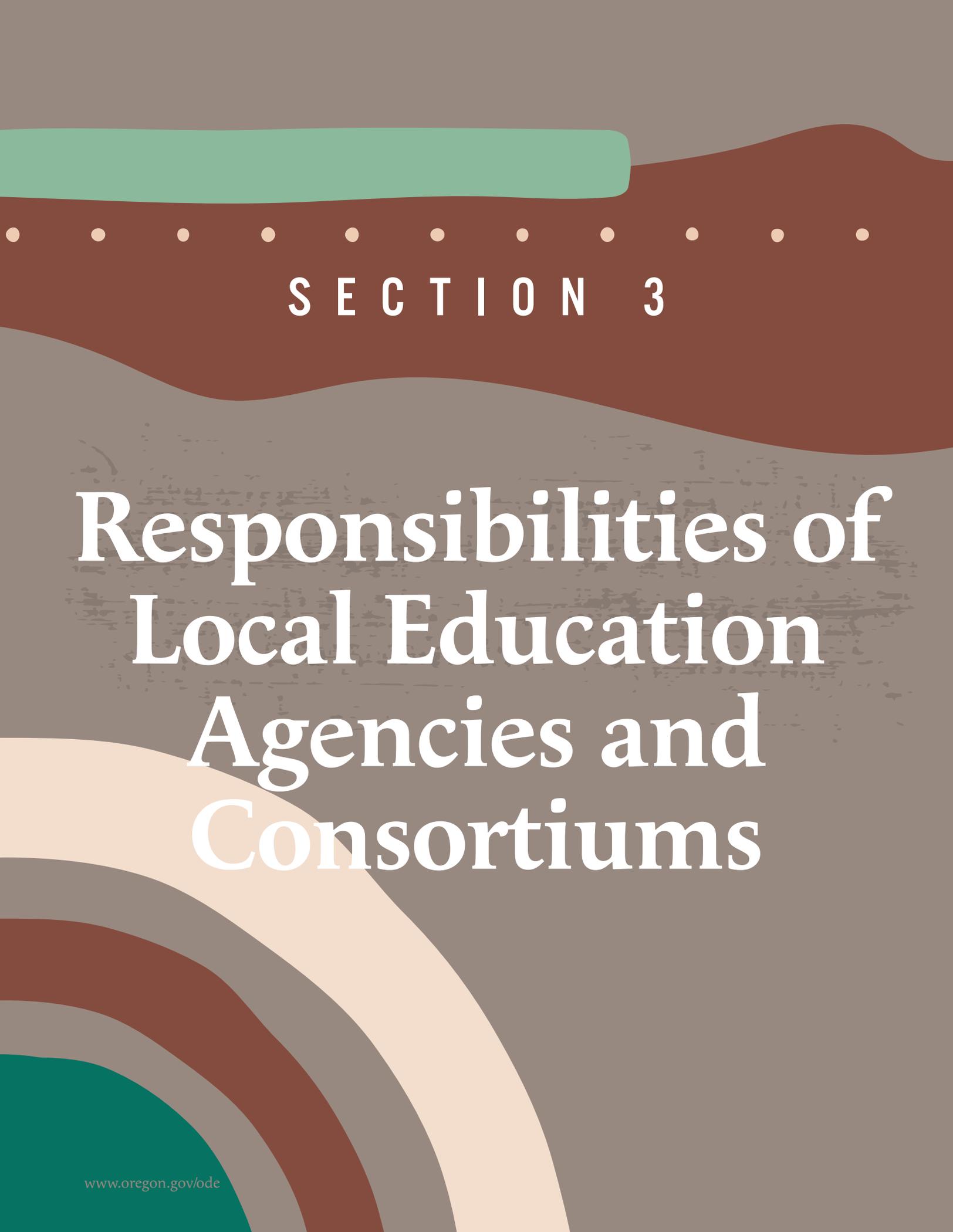
agency prior to the affected local educational agency's submission of a required plan or application for a covered program.

A Critical Distinction

As an important reminder, tribes are sovereign Nations. Sovereignty describes the inherent right of Native American Nations to exercise self-governance. Affected LEAs and LEA-Cs are held accountable to honoring the educational sovereignty of tribes as outlined in federal ESSA law when they engage in Tribal Consultation.

Additional guidance regarding consultation with Indian tribes is provided in **Section 4** of this toolkit.





S E C T I O N 3

Responsibilities of Local Education Agencies and Consortiums

Phase I: Invitation and Pre-Consultation Preparation

Why Does Tribal Consultation Matter?

With Tribal Consultation, LEAs and LEA-Cs 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 AI/AN youth. However, care needs to be taken in recognizing the importance of seeking feedback and understanding from those who are given authority to consult by the tribe. One should also always keep in mind that consensus is the goal of consultation.

Step 1: Invite

A representative from the school district or from the ESD if representing the consortium should contact the tribal offices to extend an invitation to the Tribal Consultation. Tribal Consultation should be done for the reasons outlined in this document. Please review and become familiar with the reasons and the objectives of Tribal Consultation before reaching out to the tribes. The invitation should be sent well in advance (i.e. multiple months) to give school personnel and tribal representative(s) time to prepare for the consultation. Refer to [page 1](#) of this guide for web pages with contact information for staff at tribes. Tribes may choose to send a tribal education director, a paid educational consultant, an elected tribal official, or a designee identified from the tribe to represent them. The tribes may choose to have multiple people represent them as well. Tribal education leaders may be particularly adept at dealing with specific and general Native education concerns (Reinhardt et al., 2020).

Step 2: Pre-Consultation Preparation

School district or ESD personnel should complete two unique types of pre-planning prior to the consultation. One type is focused on gathering data unique to AI/AN and tribally affiliated students, so that a holistic picture of their

success and engagement can be shared with the tribe(s). The second type is focused on preparing for the specific application(s) to be explicitly discussed to fulfill federal ESSA law or a state requirement for Tribal Consultation.

Gather Data on AI/AN and Tribally Affiliated Students

The following guidance on data is from the Native Education Collaborative’s brief published on the National Comprehensive Center’s website.

While the ESSA is vague about the definition of “meaningful consultation,” all of the constituents involved should consider data-driven decision making for the consultation process. Data-driven decision making is based on recommendations from a Mathematica Policy Research report submitted to the Bill & Melinda Gates Foundation in 2014. Gill, Borden, & Hallgren (2014), authors of the report, provide the following insights on meaningful data:

- “Meaningful use of data begins with who will access, analyze, or review the data and for what purpose... It is important to recognize that data often flow across levels and that decisions based on data can affect multiple levels” (p. 4)
- “Reliable data are measures that do not have large random variation when they are measured repeatedly” (p. 7)
- “Unreliable data lack stability: they involve so much random variation (or statistical ‘noise’) that they are essentially uninterpretable” (p. 7)
- “Data that are improperly analyzed or interpreted can lead to invalid inferences that are biased, that is, that cause decision makers to draw exactly the wrong conclusions” (p.8) (Reinhardt et al., 2020)

Although Native Americans have been gathering and using data to make sense of the world around them since time immemorial, participants in Tribal Consultation should focus on surfacing strengths in the data school district leaders gather, share, and review. In her book *Red Pedagogy*, Sandy Grande writes that it is important to critique, challenge, and even reject dominant models of thought that have been applied to Indigenous populations (Crum, 2016, p. 809). In addition to using a critical eye to

examine data, tribal participants may choose other ways to measure the success of their students and academic and extracurricular programs.

Tribal representatives ask questions of the school district personnel and gather data about students, programs, curriculum, and staff. Possible questions to consider are listed below based on the **priorities of the ODE AI/AN Advisory Committee**:

Student Data

- How many students in your district identify as AI/AN? How many are from our tribe?
- What percentage of those students are on track as 9th graders to graduate in 4 years?
- How are our students being measured in terms of academic achievement and what are their scores? (Math, Reading, Native Language Proficiency perhaps)
- How many of our students have been identified as Talented & Gifted?
- How many of our students have an Individualized Education Plan (IEP)?
- What are the attendance rates like for our students? What percentage are regular attenders? What percentage experience chronic absenteeism? Does your school district utilize specific attendance codes that honor AI/AN culture?
- How many of our students have had disciplinary referrals? Are you tracking rates of discipline among AI/AN students and determining how to best address disproportionate disciplinary rates by finding solutions to decrease expulsion, suspension, and pushout rates?
- How many of our students have been expelled or pushed out of your schools?
- How do the rates or percentages of AI/AN students compare to the entire school or district population?

Programs and Curriculum

- Are you teaching Tribal History / Shared History curriculum in your schools? At what grade levels?
- How does the curriculum other than Tribal History/ Shared History, highlight and celebrate our tribal communities, our past and our present-day communities? Where in your curriculum is tribal sovereignty explained and celebrated?
- Is the language of our tribe present in any way or elevated or taught in your schools?

- What programs are available for AI/AN youth? Clubs, cultural events, etc
- Please describe the Career & Technical Education (CTE) opportunities for AI/AN students
- Which honors or college courses are offered in your school district (Advanced Placement, International Baccalaureate, dual enrollment, etc) and what is the representation of AI/AN students in those courses? How do you ensure equitable access to those programs?
- How many of our students attend after school programs?
- How many of our students are in alternative education programs?
- How many of our students participate in extracurricular activities (e.g., band, sports, debate)

Staff

- How many AI/AN educators are there in the school district? What roles do they hold (e.g., teacher, administrator, paraprofessional)?

Complete Tribal Consultation Planning for a Specific Application

LEAs and LEA-Cs should then utilize the Tribal Consultation Worksheet to prepare for the specific application(s) to be explicitly discussed to fulfill ESSA Federal Law or a state requirement.

Step 3: Share Pre-Consultation Work With One Another

Complete and then exchange pre-consultation preparation work and the Tribal Consultation worksheet with the local tribe(s). The tribe(s) can always exchange information at this time as well. This should be done well in advance of the upcoming scheduled Tribal Consultation meeting to allow time for an in-depth review of all pre-consultation materials.



Jump to Tribal Consultation Worksheet
(Page 45)

Phase II: Come Together for Consultation

Step 1: Coming Together

After adequate and substantial pre-consultation planning, the LEAs or LEA-Cs and a tribe can finally come together in a good way to engage in Tribal Consultation for an application, as outlined in ESSA or as a state requirement (i.e. Aligning for Student Success: Integrated Guidance application).

Introductions should be made of everyone present with the opportunity to share out the investment an individual has in this Tribal Consultation.

The LEA or LEA-C should share out the purpose of the Tribal Consultation event, explicitly naming the application(s) being discussed –

- Title I, Part A (Improving Basic Programs Operated by State and Local Educational Agencies)
- Title I, Part C (Education of Migratory Children)
- Title I, 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, Part A (Student Support and Academic Enrichment Grants)
- Title IV, Part B (21st Century Community Learning Centers)
- Title V, Part B, subpart 2 (Rural and Low-Income School Program)
- Title VI, Part A, subpart 1 (Indian Education Formula Grants to Local Educational)
- Aligning for Student Success: Integrated Guidance application
- A grant distributed under a specific Federal Title program
- Other

A mutual sharing of all data pertinent to AI/AN and tribally affiliated students should commence, as it provides important information on AI/AN achievement, engagement, and representation in the district or consortium. Once a holistic picture of AI/AN and tribally affiliated student success is shown, the LEA or LEA-C should then transition to sharing out on the specific information aligned to the application(s) being discussed. The Tribal Consultation Worksheet is a pivotal tool for this portion of the Tribal Consultation, if ESSA programs are being discussed.

Ample opportunity for dialogue is a best practice, as collaboration at the consultation is necessary to identify points of agreement, overlap, and areas needing further discussion or clarification.



Jump to Alignment Rubric
(Page 46-49)



Photo courtesy of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians

Bark pulling, photo courtesy of Coquille Indian Tribe



Step 2: Reach Consensus and Draft a Plan

Consensus is a general agreement about something: an idea or opinion that is shared by all the people in a group.

Once the parties have reached consensus on the drafting of the plan or application, given all information and data shared, and after engaging in adequate discussion, LEA or LEA-C personnel will use what was agreed upon in consultation to draft their final application, centering the voice of the tribe and honoring their educational sovereignty by doing so.

Step 3: Approve Plan and Agree on How to Monitor the Plan

First, the tribal representative or designee must approve the draft of the plan(s) or application(s) created by the district. Next, the parties work together to develop a plan for ongoing monitoring of data, goals and measurable outcomes related to the plan(s) or application(s). In addition, district representative(s) and tribal representative(s) or designee(s) will agree on a year-long meeting schedule to monitor and shape progress.

Phase III: Completing the Affirmations of Tribal Consultation

Fundamental Understanding

With the signing of the Affirmation of Tribal Consultation, the tribe is affirming that they have had an opportunity to review the final application(s), and is also affirming the LEA or LEA-C has incorporated what was agreed upon during Tribal Consultation into the aforementioned application(s).

Directions

Step 1

The LEA or LEA-C should print the Affirmation for Tribal Consultation. Both entities then sign the Affirmation of Tribal Consultation (on page 40).” A copy should be provided to the tribe.

Note that a tribe might request to submit additional documents to affirm that Tribal Consultation has taken place, in accordance with their own procedures outlined by their Tribal government. This should be submitted in addition to the Affirmation of Tribal Consultation.



Jump to Affirmation for Tribal Consultation
(Page 44)

Step 2

The LEA or LEA-C must submit the Affirmation of Tribal Consultation to the applicable department administering the application at the Oregon Department of Education, along with any supporting documents to support that an effective Tribal Consultation took place. **NOTE: School district personnel must also keep copies of all paperwork for their records.**

Phase IV: Post Consultation - Monitor and Review Progress



Tribal Consultation is an ongoing process. It is not a one time event.

After the initial consultation agreement plan, the partners should continually monitor and review their plans and their students' outcomes.

LEAs, LEA-Cs, and Tribal Nations should schedule follow-up consultations to discuss opportunities and challenges, and they should be ready to adjust consultation plans as necessary.

If the LEAs and Tribal Nations feel the need to revise their consultation plan, they can do so by updating the Tribal Consultation Worksheets and submit any revisions to the Office of Indian Education at the Oregon Department of Education.

*Kiona Campbell, Confederated Tribes of the Grand Ronde
Photo courtesy of [Tribal Attendance Promising Practices](#)*

A Story of Successful Post Consultation

A Journey of Collaboration: How a Native Youth Advisory Council Improved a School District's Monitor and Review Process

Native students in the Lincoln County School District reported that they felt a sense of belonging in school but were not seen as Native youth. Leaders from the Tribe (Confederated Tribes of Siletz Indians) and the school district (Lincoln County) were open to ideas to empower Native youth. When members of a parent advisory committee suggested a Native Youth Advisory Council, these leaders collaborated to create a powerful event for Native students.

Jeff Sweet, Education Specialist at Confederated Tribes of Siletz Indians (CTSI), and Sandy Mummey, formerly Special Programs Administrator of Healthy and Equitable Schools, currently Elementary Teaching and Learning Director of Lincoln County School District (LCSD) shared a story about the co-design of this event for Native youth to illustrate how their partnership supports their ability to continually monitor and adjust how they serve AI/AN students and their community. Look for the following elements in their story and the text that follows.

- **Regular and frequent communication:** Scheduled monthly collaboration meetings
- **Review and respond to data and the needs of the community:** Reviewed data related to Title VI goals as well as street data and adjusted plans to serve AI/AN students based on data and needs
- **Listen and be open to all possibilities:** Both partners listened to students, parents, teachers and each other and believed anything was possible
- **Partner and Co-Design:** Ideas were brought to the partnership and together, the school district and the Tribe, planned next steps

The idea for this event originated with a question from the parent advisory committee meeting. A few members of the committee asked, “Have you considered having a Native Youth Advisory Council?” Mummey responded, “No, but let’s look into this.” Mummey saw this as an opportunity to adjust the current plan for AI/AN students and fulfill a need brought to her by the community.

Mummey brought this question to Sweet at one of their regularly scheduled collaboration meetings and asked him what he thought about this idea. Their colleague, TOSA Crystal Taylor Hinds, was at the meeting too and the team started to talk about it and ask questions: “What would this look like?” “How do we bring it all together?” The outline of the event emerged and Sweet and Taylor Hinds did a great job behind the scenes setting things up, inviting speakers and involving tribal businesses, while the school district worked on the logistics: the venue, transportation, and lunch.

This strong partnership was able, in the span of three months, to move this from the idea to the event. Tribal members came and talked about harm reduction, youth leadership and voice and shared how they blossomed as adults and strong Tribal members. “The event was hugely successful. The students loved it, they felt empowered,” Sweet said.

Mummey shared that this event is an example of how the school can support a lot of wonderful opportunities to happen. “We want to be open to ideas, to provide the space, staffing and resources, knowing that together, with our Tribal partnership, we will figure it out. We have to be open to ideas and we need to be able to say, “I did not think about that, let’s figure this out.” Sweet and Mummey plan to continue to meet on a regular basis, listen and learn from each other, review and monitor progress, keep AI/AN students at the center of their work and conversations, and create the conditions for ideas, partnerships and students to flourish.

For a more in depth look at their partnership, continue reading.

Calendar Regularly Scheduled Meetings

Sweet and Sandy shared that regularly scheduled monthly meetings were key to their ability to monitor and review progress. “When you meet with someone on a regular meeting schedule, it creates a space to talk about things and form really good communication,” Mummey shared

Sweet and Mummey stepped into an already established partnership between CTSI and the LCSD. They are grateful for those who partnered before them and they recognize the importance of sustaining and nurturing this partnership. When Sweet came on board in August and Mummey called him to suggest they put a monthly collaborative meeting on the calendar, he said, “Put me down for whatever, I want to make this connection, I want to get this ball rolling.”

Both Sweet and Mummey commit to these monthly meetings and if they have a conflict, they prioritize rescheduling the meeting. The monthly collaboration meetings are via Zoom as these meetings are convenient for busy educational leaders. In addition to these monthly meetings, they meet in other capacities as well, at times in person, so they have frequent contact and communication. Both shared that this work is about coming together and creating together in this partnership.

Examine and Respond to the Data

Sweet and Mummey look at data on a regular basis. They examine data that the Title VI grant goals are based on as they work towards meeting those goals and, of equal importance, they seek and discuss street data, qualitative and experiential data about students, families and staff that are asset-based. Taylor Hinds, TOSA and Gail Barker, TAPP Advocate, both share valuable street data with Sweet

and Mummey as does the parent advisory committee and others. Both data sets inform their plans to serve AI/AN students and families. “The services are being adjusted all the time, we respond to the needs of our youth and our schools, our parent advisory committee, and new funding sources when they become available,” Mummey said.

Partner and Co-Design

Sweet explained that he believes that the Tribe and the school district are able to collaborate well together to serve AI/AN students and families and be responsive to their needs due to the strength of the partnership between CTSI and LCSD. He shared the importance of ideas being discussed long before implementation, where the tribe has input from the idea stage and the words are put into action, often within a few months by the school district.

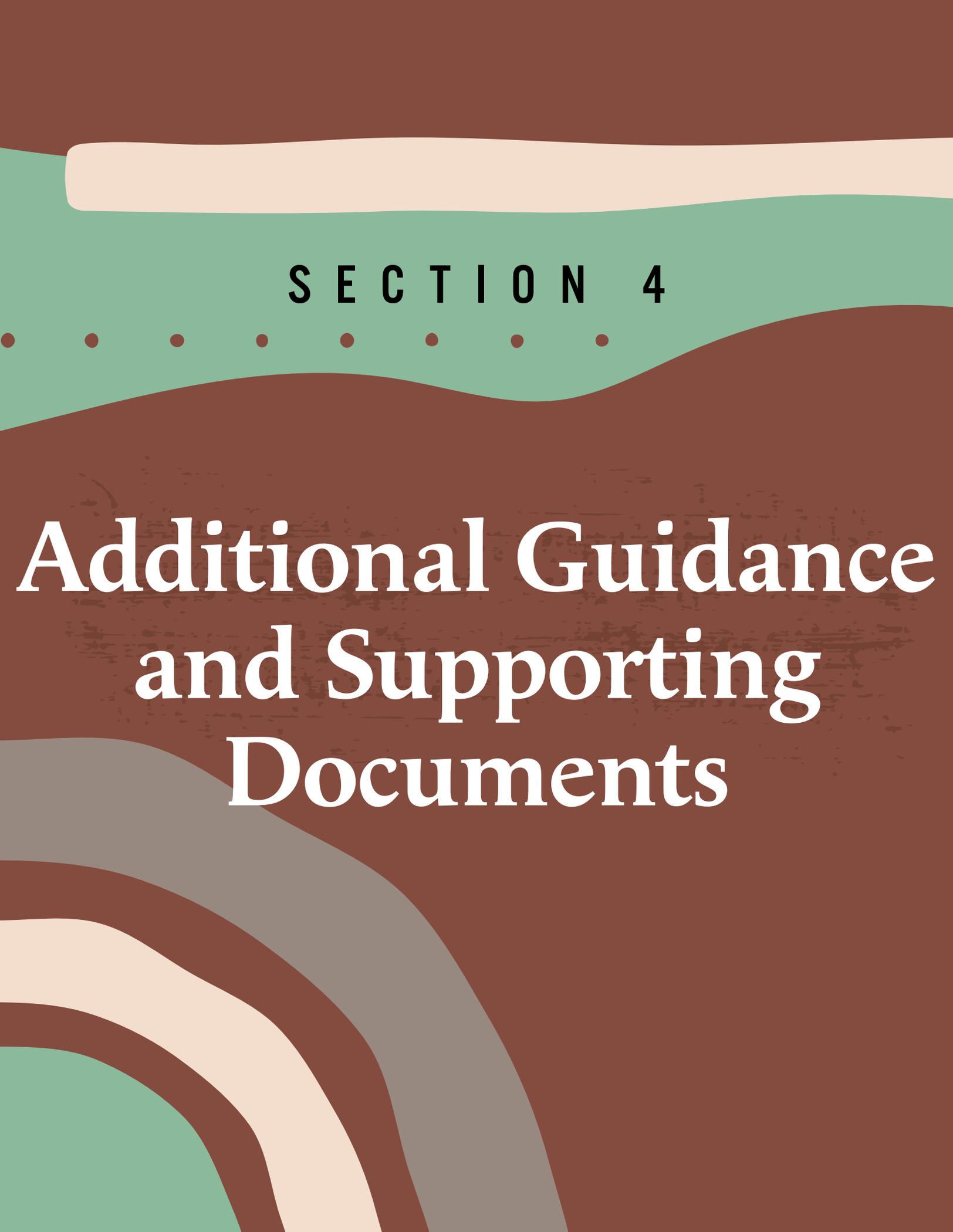
Mummey shared that as a district leader, you have to be open, vulnerable, and willing to listen and learn from tribal partners. She has learned she must ask the Tribe before making decisions that might impact them. She has also learned that the school district’s Tribal partners want to be part of the school. “Every time we have asked, people are willing to participate. We have done a lot of learning about and from parents and the community.”

Sweet and Mummey stepped into a strong partnership that was forged by their predecessors during COVID between the Tribe and the school district. They chose to continue that partnership, to nurture and honor it through regular collaboration meetings where they constantly reviewed and monitored data and progress. What is the status of your partnership currently? What steps can you take to make it stronger and, in turn, enhance your review and monitor process?



Native Youth Advisory Council November 2023. Photo courtesy of the Lincoln County School District





SECTION 4

Additional Guidance and Supporting Documents

Frequently Asked Questions

ESEA, SECTION 8538, CONSULTATION WITH INDIAN TRIBES AND TRIBAL ORGANIZATIONS

Prepared by the United States Department of Education and revised by ODE 06/2024

1. What are the consultation requirements under section 8538 of the ESEA¹?

In general, section 8538 requires affected local education agencies (LEAs) and LEA-Consortiums (LEA-Cs) (see Question 2 for definition of “affected LEA and LEA-C”) to consult with Indian Tribes, or those tribal organizations approved by the tribes located in the area served by the LEA, prior to submitting a plan or application for covered programs (see Question 5 for more information on the program covered by section 8538). This requirement is designed “to ensure timely and meaningful consultation on issues affecting AI/AN” students.” The consultation must be done “in a manner and in such a time that provides the opportunity for such appropriate officials from Indian Tribes or tribal organizations to meaningfully and substantively contribute” to plans under covered programs.

2. Which LEAs and LEA-Cs must consult with Indian Tribes in accordance with section 8538 of the ESEA?

Under section 8538, an affected LEA or LEA-C is one that either: 1) has 50 percent or more of its student enrollment made up of AI/AN students; or 2) received an Indian education formula grant under Title VI of the ESEA, as amended by the ESSA, in the previous fiscal year that exceeds \$40,000, including LEAs in a consortium that received \$40,000 or more. In order to determine whether an LEA has 50 percent or more of its enrollment made up of AI/AN students, an LEA should use the enrollment data from the previous school year to determine whether it is an affected LEA in a given school year.

The total AI/AN enrollment data would include those students who self-identify as AI/AN alone and AI/AN in combination with one or more races, regardless of Hispanic ethnicity. Please visit [ODE’s Tribal Consultation webpage](#) for assistance in determining whether an LEA or LEA-C is an affected entity under section 8538 of the ESSA.

3. Who is responsible for Tribal Consultation if an LEA is a member of a consortium (LEA-C) who is the recipient of an Indian Education formula grant under Title VI?

The LEA-Consortium (LEA-C) Lead Applicant is ultimately responsible for the Tribal Consultation. However, the LEA-C should work with all of their Participating LEAs included on the LEA-C Lead’s application to ensure a timely and accurate Tribal Consultation.

AND

Each participating LEA (including LEA-C Lead) should conduct Tribal Consultations with each tribe that has a tribal reservation boundary, Indian Lands, ceded, unceded, and/or aboriginal lands within 50 miles of each participating/ lead LEA in a Consortium .

4. What is the definition of a "Local Tribe"?

In working with the US Department of Education on this definition in the summer of 2023, the definition of local tribe, in an attempt to be the most inclusive as possible, is a tribe that has a tribal reservation boundary, ceded, unceded, and aboriginal lands within 50 miles of the LEA or LEA-C.

Given the impact of termination on the nine federally recognized tribes in Oregon and its impacts on the lands and waters of sovereign nations, we will always defer to tribes on the identification of their territories. While the Office of Indian Education provides general guidance to LEAs and LEA-Cs on tribes in a given geographical area, we stress to LEAs and LEA-Cs to conduct their own research of the lands and waterways they reside using respected and credible sources, including published maps of territories found on the websites of the tribes.

We also convey to LEAs and LEA-Cs that during the establishment of a partnership with a local tribe, a tribe can always inform the LEA or LEA-C that they do not consider themselves a “local tribe” to a particular LEA or LEA-C and can formally opt-out of a requirement for Tribal Consultation with that LEA. This opt-out must be formally documented in writing and signed by the authorized tribal representative(s) on the Affirmation of Tribal Consultation document.

¹ Throughout this document, unless otherwise indicated, citations to the ESEA refer to the ESEA, as amended by ESSA.

5. How can an LEA or LEA-C find information about tribes?

Page 1 of this toolkit contains links to information about each of the nine federally recognized tribes in Oregon. The Bureau of Indian Affairs (BIA) publishes an official list of federally recognized tribes each year. This list is available at the [Title VI community practice website](#) under “Additional Resources”.

To find tribal addresses, see the list on the [National Congress of American Indians \(NCAI\) website](#). If you need information about the local tribe or tribal organization in your service area, please refer to the pages at the front of this toolkit.

6. On which programs must an affected LEA and LEA-C consult with Indian Tribes?

Beginning with FY 2017, affected LEAs must consult with Indian Tribes before submitting plans or applications for the following programs under ESEA:

- Title I, Part A (Improving Basic Programs Operated by State and Local Education Agencies)
- Title I, Part C (Education of Migratory Children)
- Title I, 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, Part A (Student Support and Academic Enrichment Grants)
- Title IV, Part B (21st Century Community Learning Centers)
- Title V, Part B, subpart 2 (Rural and Low-Income School Program)
- Title VI, Part A, subpart 1 (Indian Education Formula Grants to Local Educational Agencies)

In Oregon as a state requirement, affected LEAs must engage in Tribal Consultation for their [Aligning for Student Success: Integrated Guidance](#) application. This application is a comprehensive district plan which is written every two years.

7. When should affected LEAs and LEA-Cs conduct consultation required under section 8538 of the ESEA?

LEAs and LEA-Cs should conduct their consultation in advance of making significant decisions regarding plans or applications for covered programs, to ensure an “opportunity for ... appropriate officials from Indian Tribes or tribal organizations to meaningfully and substantively contribute” to an LEA’s and LEA-Cs plan (section 8538(a)). The timeline for each consultation is dictated by requirements of the relevant grant program, which have different application deadlines. For example, a State may have a deadline for LEAs and LEA-Cs to submit a consolidated local plan to the State by a certain date in 2024, so for those programs the consultation must be completed before that date.

In Oregon, the general LEA plan is primarily developed and communicated to ODE through the submission of the [Aligning for Student Success: Integrated Programs application](#). Important: The timeline for each consultation is dictated by requirements of the relevant Federal Title grant program and the application submission window for Integrated Guidance, which have different application deadlines. Given that tribes receive multiple requests for consultation, LEAs and LEA-Cs should consider arranging for informational meetings well in advance of consultation (i.e. six months or more).

Important: The timeline for each consultation is dictated by requirements of the relevant Federal Title grant program and the application submission window for Integrated Guidance, which have different application deadlines. Given that Tribes receive multiple requests for consultation, LEAs and LEA-Cs should consider arranging for informational meetings well in advance of consultation (i.e. six months or more).

8. What should an LEA and LEA-C do to ensure “meaningful consultation”?

In order to ensure that consultation is meaningful, LEAs and LEA-Cs should provide Indian Tribes, or those tribal organizations approved by the tribes located in the area served by the LEA or LEA-C, an opportunity to provide input and feedback to the LEA or LEA-C on plans for any covered program. An LEA and LEA-C should consider providing a list of issues or questions on which the LEA and LEA-C seeks input, or provide draft plans for this purpose, in advance of the consultation. An LEA and LEA-C should consult before it makes a final decision on significant and substantive issues related to the content of the plans. In addition, an LEA and LEA-C should consider providing written responses to tribal input received during consultation to explain how input was considered.

9. What documentation is required for consideration with Indian Tribes under section 8538 of the ESEA?

Each LEA and LEA-C must maintain a written affirmation in its records and provide a copy to the state for state-administered ESEA programs (see [page 44](#) in this toolkit) signed by the appropriate officials of the participating tribes (or tribal organizations approved by the tribes) to indicate that the required consultation occurred.

10. May an LEA or LEA-C combine this consultation with other requirements regarding tribal or parent involvement?

Yes, an LEA or LEA-C may coordinate or consolidate the required ESEA consultation with the parent activities required under the Indian Education formula grant program, the Impact Aid program, and the Johnson O’Malley program. An LEA or LEA-C may only do so, however, if the activity in question – i.e., the consultation – meets all of the requirements of each program. For example, an LEA or LEA-C may plan a public hearing or meeting with its local tribe or tribal organization regarding its education program generally in order to meet the Impact Aid requirements for Indian Policies and Procedures; that hearing with the tribe could incorporate the elements of the LEA’s or LEA-C’s proposed plans under the covered programs, rather than hold a separate consultation event. The LEA and LEA-C should involve the local tribe or tribal organization in planning the best approach that satisfies the needs of the tribe(s) and the LEA or LEA-C in a time-effective manner, and that meets the requirements of the various programs.

11. If an LEA or LEA-C has multiple tribes in the geographic area it serves, or if there is one tribe and multiple LEAs, must there be separate consultations with each tribe or LEA?

Where there are multiple tribes and a single LEA, the LEA may hold a consultation that includes all affected local tribes or tribal organizations. Similarly, where there are multiple LEAs and one tribe, there is no federal prohibition against a joint consultation held by several LEAs and the LEA-C. In both cases the LEA and/or the LEA-C must ensure that the tribe or tribes have a meaningful and timely opportunity to give input into an LEA’s plans or applications.

12. Are tribes “required” to engage in Tribal Consultation with an LEA or LEA-C?

No. It is a tribe’s sovereign right to opt-out of Tribal Consultation with a particular LEA or LEA-C for whatever reason they indicate, such as, but by no means limited to –

- The tribe does not identify with being a “Local Tribe”.
- The tribe does not currently have any of their tribal youth being served by the school district
- The tribe learns that another tribe has completed an Affirmation of Tribal Consultation already with the LEA or LEA-C and considers that adequate for the plan or application being presented.
- The tribe has limited capacity to engage in Tribal Consultation for a particular application at this time.

Opting-out of Tribal Consultation for a given application or plan does NOT mean that a tribe opts-out of Tribal Consultation for that plan or application in the next school year or application cycle.

13. What if a tribe engages in a meeting with an LEA or LEA-C and believes that it was not done in a meaningful or timely manner and thus, will not sign off that Tribal Consultation occurred?

A tribe can indicate that by circling “disagree” in the applicable spaces on the Affirmation of Tribal Consultation form. A signature from an official tribal representative must accompany this on the Affirmation of Tribal Consultation form. The LEA or LEA-C should submit that to ODE.

This situation does occur and ODE honors the tribe’s statement that the process was insufficient. ODE will then continue to hold the LEA or LEA-C accountable for completing Tribal Consultation prior to the application or plan’s approval or the release of funds until consultation is completed in a sufficient manner and the tribe signs off on a new Affirmation of Tribal Consultation form.

14. Who can provide additional information?

The US Department of Education may offer assistance or provide other information upon request. Please contact the US Department of Education’s Office of Indian Education (OIE) at IndianEducation@ed.gov.

For support unique to your LEA or LEA-C’s context, please contact stacy.parrish@ode.oregon.gov.

Affirmation of Tribal Consultation

LEA or LEA-C Name _____

Tribe Name _____

This affirmation of consultation is for the School Year Ending June 30, _____

Each affected Local Educational Agency (LEA) or LEA-Consortium shall maintain in the agency's records and provide to the Oregon 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 or LEA-C shall consult with appropriate officials from Indian Tribes located in the area served by the LEA or LEA-C prior to the LEA's or LEA-C'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 substantially contribute to such plan.

As a state requirement, an affected LEA must engage in Tribal Consultation prior to the submission of the Aligning for Student Success: Integrated Guidance application.

During the Tribal Consultation meeting, the following applications were explicitly discussed -

- | | |
|--|--|
| <input type="checkbox"/> Title I, Part A (Improving Basic Programs Operated by State and Local Educational Agencies) | <input type="checkbox"/> Title IV, Part A (Student Support and Academic Enrichment Grants) |
| <input type="checkbox"/> Title I, Part C (Education of Migratory Children) | <input type="checkbox"/> Title IV, Part B (21st Century Community Learning Centers) |
| <input type="checkbox"/> Title I, Part D (Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk) | <input type="checkbox"/> Title V, Part B, Subpart 2 (Rural and Low-income School Program) |
| <input type="checkbox"/> Title II, Part A (Supporting Effective Instruction) | <input type="checkbox"/> Title VI, Part A, Subpart I (Indian Education Formula Grants to Local Educational Agencies) |
| <input type="checkbox"/> Title III, Part A (English Language Acquisition, Language Enhancement, and Academic Achievement Act) | <input type="checkbox"/> Other |
| | <input type="checkbox"/> A grant distributed under a Federal Title Program |
| | <input type="checkbox"/> Aligning for Student Success: Integrated Guidance application |

We agree/disagree that timely and meaningful consultation occurred before the LEA or LEA-C submitted plans or applications for the boxes checked above.

We agree/disagree that we have participated in meaningful and timely discussion on the application(s) indicated above and have chosen to participate in the programs marked above.

We agree/disagree that timely and meaningful consultation shall be ongoing. We shall meet to assess programs and track accountability on the following dates: _____

| | Printed Name | Signature | Email | Date |
|----------------------------------|--------------|-----------|-------|------|
| Superintendent or Designee | | | | |
| Designated Tribal Representative | | | | |

- Check if the tribe/tribal organization has not responded to LEA's or LEA-C's due diligence attempts for consultation. (LEA and LEA-C must retain evidence for compliance monitoring) List dates & methods used: 1. _____, 2. _____, 3. _____
- Tribal Opt-Out Option (must have signature of tribe above): WE HAVE been contacted by the LEA or LEA-C listed above and choose not to participate in consultation for the application(s) checked above at this time.

Tribal Consultation Worksheet

This worksheet is designed to be completed separately before consultation occurs. An official from the LEA or LEA-C who will attend the Tribal Consultation should fill out this worksheet. A tribal representative or designee who will attend the Tribal Consultation on behalf of the tribe is invited to fill out this worksheet.

Name/contact information of each participant:

| | | |
|---------------------------------------|--|---|
| Local Education Agency or Consortium: | School Representative and Title who will Attend: | Tribal Representative(s) and their Title who will Attend: |
|---------------------------------------|--|---|

- Review current MOUs or MOAs currently in place between LEA or LEA-C and the tribe(s)
- Review any current state or federal legislation related to Indian education applicable to this consultation

Share the importance of this Tribal Consultation for this specific application(s):

How does this specific application impact AI/AN and all tribally affiliated students directly and indirectly?

Articulate clarity on consultation goals:

What does a successful consultation look like for this application?

What is the district's or the tribe's commitment to this specific consultation process?

What concerns do you have about this process?

What data is pertinent to review and share out for this application? What input from the tribe is critical for this application?

Follow-up/Support Needed:

Do we need a meeting facilitator? Do you have someone in mind?

What logistics do you need support with?

Alignment Rubric - Optional Support for Federal Title Program Planning

This alignment rubric was adapted from one that appears in Northwest Comprehensive Center at Education Northwest's **Every Student Succeeds Act Tribal Consultation Pre-Planning Tool for Tribes** on pages 4-7. You are welcome to use the expanded version of the Alignment Rubric from this resource if you would like.

| Title Program Description | Data We Have and/or Need | Tribal Context: Past Participation, Ongoing Efforts and Current Needs Such as Linguistic and Cultural Supports | Questions for Tribe or LEA/LEA-C | Agreements and Next Steps |
|---|--------------------------|---|----------------------------------|---------------------------|
| Title I, Part A (Improving Basic Programs Operated by State and Local Education Agencies) | | | | |
| Title I, Part C (Education of Migratory Children) | | | | |

| <p>Title Program Description</p> | <p>Data We Have and/or Need</p> | <p>Tribal Context: Past Participation, Ongoing Efforts and Current Needs Such as Linguistic and Cultural Supports</p> | <p>Questions for Tribe or LEA/LEA-C</p> | <p>Agreements and Next Steps</p> |
|---|--|--|--|---|
| <p>Title I, Part D (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk)</p> | | | | |
| <p>Title II, Part A (Supporting Effective Instruction)</p> | | | | |
| <p>Title III, Part A (English Language Acquisition, Language Enhancement, and Academic Achievement Act)</p> | | | | |

| <p>Title Program Description</p> | <p>Data We Have and/or Need</p> | <p>Tribal Context: Past Participation, Ongoing Efforts and Current Needs Such as Linguistic and Cultural Supports</p> | <p>Questions for Tribe or LEA/LEA-C</p> | <p>Agreements and Next Steps</p> |
|---|--|--|--|---|
| <p>Title IV, Part A (Student Support and Academic Enrichment Grants)</p> | | | | |
| <p>Title V, Part B Subpart 2 (Rural and Low-Income School Program)</p> | | | | |

Sample Agenda

(Your Logo)

[Name of Tribe(s) for consultation] with [Name of Educational Agency (District)]

Date and Time

Location

Invitees

Agenda

10:00 - 10:15 **Introductions/Invocation**

10:15 - 10:20 **Agenda Modifications**

10:20 - 12:00 **Title Programs Discussion**

Use **Alignment Rubric** (page 46) to guide discussion and fill out the Alignment rubric together throughout the consultation

- Prior knowledge/related experiences and /or previous tribal input
- Tribal supports to schools on this topic (past or current)
- Relevant tribal needs for topic
- Future tribal support on this topic, including but not limited to) Tribal government resolutions
- Questions for state education agency (SEA)
- Questions for local education agency - district (LEA)
- Language and Culture Supports

12:00 - 12:15 **Agreements and Next Steps**

12:15 - 12:30 **Determine date the draft of the plan will be shared with the tribe(s)**

Please note times are only a suggestion and are by no means meant to limit the duration of Tribal Consultation meetings.

Glossary & ESSA Terms / Definitions

Academic Standards – a set of benchmarks for what all students should know and be able to do by the end of each grade level in order to advance to (and be ready for) the next grade level. States are required to have standards in reading/language arts, math, and science. They may also have standards in other subjects including social studies or physical education. *See also: assessment*

Accountability – The policies and procedures states use to set goals for how well all students (and groups of students) should be doing academically, measure and identify how well schools do in meeting those goals, and support and improve schools and districts that are failing to meet the state goals.

Affirmation of Consultation – Districts will need to have an affirmation signed by each tribe consulted in order to document that consultation took place. If districts cannot obtain this affirmation, they must document their consultation efforts and activities as part of any plan or application they submit for a program under specified sections of ESSA.

Appropriate Officials – The term “appropriate officials” means:

- tribal officials who are elected; or
- Appointed tribal leaders or officials designated in writing by an Indian tribe for the specific consultation purpose under Section 8538.

Assessment – Another word for “test.” In the federal education policy context, the term “assessment” refers to the one standardized annual test required under federal law 1 every grade between 3-8 and at least once in high school (grades 9-12). These measure student achievement (what a student knows and can do) and not measure intelligence (a student’s underlying ability and potential).

Chronic Absenteeism – This is a measure for how many students miss a significant number of school days-such as 10 percent of school days-for any reason, excused or unexcused. This is different from average daily attendance, which is the percent of students in attendance throughout the year.

Consensus - A general agreement about something: an idea or opinion that is shared by all the people in a group. In terms of Tribal Consultation, this means that the tribe agrees that the plan for addressing the needs of their Native students is acceptable and the LEA agrees that the plan can be implemented with fidelity.

Consultation with Indian Tribes and Tribal Organizations – To ensure timely and meaningful consultation on issues affecting AI/AN students, and affected local educational agencies shall consult with appropriate officials from Indian Tribes or tribal organization approved by the tribes located in the area served by the local educational agency prior to the affected local education agency’s submission of a required plan or application for a covered program under the Every Student Succeeds Act.

Covered Programs – Under Section 8538, an affected Local Education Agency (LEA) is one that either:

1. has 50 percent or more of its student enrollment made up of AI/AN students; or
2. received an Indian education formula grant under Title VI of the ESEA, as amended by the Every Student Succeeds Act 1 (ESSA) in the previous fiscal year that exceeds \$40,000. (United States Department of Education, 2016 p. 1)

Affected LEAs must consult with Indian Tribes before submitting plans or applications for the following programs under ESEA:

- **Title I, Part A** (Improving Basic Programs Operated by State and Local Educational Agencies)
- **Title I, Part C** (Education of Migratory Children)
- **Title I, 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, Part A** (Student Support and Academic Enrichment Grants)

- **Title IV, Part B** (21st Century Community Learning Centers)
- **Title V, Part B**, subpart 2 (Rural and Low-Income School Program)
- **Title VI, Part A**, subpart 1 (Indian Education Formula Grants to Local Educational Agencies) (United States Department of Education, 2016, p. 2)

Disaggregated Data – Disaggregated data refers to data that is broken down to see information about different groups of students. Under the Every Student Succeeds Act, data must be disaggregated by race, ethnicity, family income, disability status, English learner status, gender, migrant status, status as a child in foster care, homelessness status, or military connected status.

Educational Sovereignty – Educational sovereignty is the inherent right of Indigenous tribes to define and reach their own educational goals for their students, families, and communities. Quinton Roman Nose, an enrolled member of the Cheyenne and Arapaho tribes and executive director of the Tribal Education Departments National Assembly (TEDNA), “tribes were not waiting on the shores of the Atlantic for Columbus to bring us education. We have always had our own means to provide instruction and education to our tribes.” (Zingg, 2019).

English Language Proficiency – The ability to speak, listen to, read, and write English accurately and quickly. Students who are learning English as a second language are typically called “English learners” until they master the English language. This is different from proficiency in English/ language arts, which is mastering the state’s academic content standards for reading, writing, speaking, listening, and using language.

English Learner – A student between the ages of 3–21 in elementary or secondary school whose native language is a language other than English. Identified English learners are entitled to civil rights protections and accommodations. Title III of ESSA provides funding to support English learners.

Equity – “The guarantee of fair treatment, access, opportunity, and advancement for all while striving to identify and eliminate barriers that have prevented the full participation of some groups. The principle of equity acknowledges that there are historically under-served and under-represented populations and that fairness regarding these unbalanced conditions is needed to assist equality in the provision of effective opportunities to all groups.” (Karen Armstrong, NACE)

Equity in Relation to Tribal Sovereignty – Tribal Sovereignty is described as an aspect inherited by ancestors and also conferred on tribes by treaties. It is also defined as “the right of a people to self-government, self-determination, and self-education. Sovereignty includes the right to linguistic and cultural expression according to local languages and norms” (Lomawaima & McCarty, 2002, p. 284). Tribal sovereignty is held as a sacred right and in higher esteem than equity for Native peoples.

ESEA – Elementary and Secondary Education Act (ESEA) The federal Elementary and Secondary Education Act (ESEA), enacted in 1965, is the nation’s national education law and shows a longstanding commitment to equal opportunity for all students. ESEA authorizes state-run programs for eligible schools and districts eager to raise the academic achievement of struggling learners and address the complex challenges that arise for students who live with disability, mobility problems, learning difficulties, poverty, or transience, or who need to learn English.

ESSA – On December 10, 2015, President Obama reauthorized ESSA as the Every Student Succeeds Act (ESSA). The new law builds on key areas of progress in recent years, made possible by the efforts of educators, communities, parents, and students across the country. ESSA replaces the previous reauthorization of ESEA, known as the No Child Left Behind (NCLB) Act, enacted in 2002. ESSA became fully operational in the 2017-18 school year.

Indian Community-Based Organization – means any organizations that:

1. is composed primarily of Indian parents, family members, and community members, tribal government education officials, and tribal members, from a specific community;
2. assists in the social, cultural, and educational development of Indians in such community;
3. meets the unique cultural, language, and academic needs of Indian students;

Indicators – Indicators are measures of different aspects of the education system that – taken together – create a picture of a school’s effectiveness at educating all students (e.g. Graduation rates, expulsion rates, assessment scores). ESSA requires certain indicators in the state accountability system and allows for others.

Individualized Educational Program (IEP) – A plan or program developed by a team, including teachers, specialists, and families, that is designed to meet the educational needs of a student with a disability who qualifies for specialized instruction. Schools are required under the Individuals with Disabilities Education Act (IDEA) to create IEPs for students with disabilities who qualify for specialized instruction.

Integrated Guidance Plan – Aligning for Student Success: Integrated Guidance for Six ODE Initiatives brings six state and federal programs operationally together to improve outcomes and learning conditions for students, educators, and communities.

Local Educational Agency (LEA) – The formal name for governmental bodies that are legally sanctioned by the state to administer elementary or secondary schools (e.g. school district. Charter school that is also a district) in a community. *See also: State Educational Agency (SEA)*

Meaningful Consultation – The earlier No Child Left Behind Law (NCLB) did not require SEAs or districts to consult with tribes. ESSA, however, mandates timely and meaningful consultation. Consequently, many SEAs and districts will be seeking input and assistance from tribes to develop a shared understanding of meaningful consultation, which is required by ESSA but not defined by it. Tribal Nations can draw on their experience of consultation processes that will allow for regular, sustainable tribal input. Also, while the ESSA is vague about the definition of “meaningful consultation,” all of the constituents involved should consider data-driven decision making for the consultation process. Data-driven decision making is based on recommendations from a Mathematica Policy Research report submitted to the Bill & Melinda Gates Foundation in 2014.

Needs Assessment – The analysis of the needs of a school that has been identified for support and improvement. This analysis forms the basis of a school’s support and improvement plan.

State Educational Agency (SEA) – The formal name for governmental bodies that are legally sanctioned by the state to provide information, resources, and technical assistance to schools, districts, and people in the community served by schools (e.g. state department of education). *See also: Local Educational Agency (LEA)*

Title I Plan / consolidated state plan – A state’s plan for complying with the requirements of ESSA. A state has the option of submitting plans separately for each title (e.g. Title I plan, Title III plan) or for submitting a plan which describes what the state intends to do to comply with the requirements of the entire law (consolidated plan).

These plans must be developed in consultation with tribes, stakeholders, be available for public comment, and be submitted to and approved by the U.S. Department of Education. ESSA includes various requirements for the information included in a state’s plan such as specifics of the statewide accountability system.

Tribe – The Bureau of Indian Affairs (BIA) publishes an **official list of federally recognized tribes** each year. This list is available at the Title VI community of practice website under “Resources.” To find Tribal addresses, see the list at the **National Congress of American Indians (NCAI) website**.

Stakeholder – NOTE: Tribes are not stakeholders. Tribes are Sovereign Nations, they are their own government and, as such, need to be consulted with as one would with any other sovereign government. Please do not include them in any public processes for review or consultation. Tribes should be notified early before any items go to stakeholders for input.

Student Success Act – The **Student Success Act** was passed in 2019 and contains 28 investments across the early learning and PK-12 educational systems. At the heart of the SSA is a commitment to improving access and opportunities for students who have been historically underserved in the education system.

Tribal Consultation – *See Meaningful Consultation*

Tribal Sovereignty -The original sovereignty, or power to govern, over Native education rests with Tribes. Tribes inherit this aspect of their sovereignty from their ancestors (Canby, 2015). Ancient knowledge, as created by the ancestors of Native communities, contains the very essence of Tribal sovereignty (Brayboy et al., 2015, p. 3). Jampolsky (2016) points out that scholars have defined Tribal sovereignty in a number of ways, such as:

- as “a protective shell around Tribal life and culture” (Sarah Krakoff, 2006) and
- as “the right of a people to self-government, self-determination, and self-education. Sovereignty includes the right to linguistic and cultural expression according to local languages and norms” (Lomawaima & McCarty, 2002, p. 284).

Citations / References

Brayboy, B., Faircloth, S., Lee, T., Maaka, M., & Richardson, T. (2015). Sovereignty and education: An overview of the unique nature of Indigenous education. *Journal of American Indian Education*, 54(1), 1-9.
<https://www.jstor.org/stable/10.5749/jamerindieduc.54.1.0001>

Canby, W. (2015). *American Indian law in a nutshell* (6th ed.). West Academic.

Coates, K., Cow Creek Band of Umpqua Tribe of Indians. Lives in Roseburg, Oregon. Interview for the heart and spirit of Tribal Consultation series. November 14, 2022.

Crum, S. (2006). Review of red pedagogy: Native American social and political thought by Sandy Grande. *Great Plains Research: A Journal of Natural and Social Sciences*, 16(1), 809. <https://digitalcommons.unl.edu/greatplainsresearch/809>

Gill, B., Borden, B., & Hallgren, K. (2014). A conceptual framework for data-driven decision making. Mathematica Policy Research.
<https://www.mathematica.org/publications/a-conceptual-framework-for-data-driven-decision-making>

Jampolsky, J. (2016). Property, sovereignty, and governable spaces. *Law & Inequality: A Journal of Theory and Practice*, 34(1), 87–135.
<https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1225&context=lawineq>

Krakoff, S. (2006). The virtues and vices of sovereignty. *Connecticut Law Review*, 38(797).
<https://scholar.law.colorado.edu/articles/370>

Lomawaima, K. & McCarty, T. (2002). When Tribal sovereignty challenges democracy: American Indian education and the democratic ideal. *American Educational Research Journal*, 39(2), 279-305.
<https://journals.sagepub.com/doi/pdf/10.3102/00028312039002279>

Mackey, H. (2018). Contemporary decolonization: Dismantling policy barriers to systemic equity and self-determination. *The Wiley Handbook of Educational Policy*, 39(2), 279-305.
<https://doi.org/10.3102/00028312039002279>

Mackey, H. (2017). The ESSA in Indian country: Problematizing self-determination through the relationships between federal, state, and Tribal governments. *Educational Administration Quarterly*, 53(5), 782-808.
<https://doi.org/10.1177/0013161X17735870>

National Association of Secondary School Principals (NASSP). (n.d.). *Every Student Succeeds Act (ESSA): Overview*.
<https://www.nassp.org/a/every-student-succeeds-act-essa-overview>

National Congress of American Indians. (2020). Tribal nations & the United States: An introduction.
<http://www.ncai.org/about-tribes>

- Northwest Comprehensive Center at Education Northwest. *Every student succeeds act Tribal Consultation pre-planning tool for Tribes, 4-7*. <https://reg17cc.educationnorthwest.org/sites/default/files/essa-tribal-consultation-preplanning-toolkit.pdf>
- Oregon Department of Education. (2023). *American Indian/Alaska Native education*. <https://www.oregon.gov/ode/students-and-family/equity/nativeamericaneducation/pages/default.aspx>
- Oregon Department of Education, Office of Indian Education. (2019). *American Indian/Alaska Native student success plan 2020-2025*. <https://www.oregon.gov/ode/students-and-family/equity/NativeAmericanEducation/Pages/default.aspx>
- Pember, M. (2019). Death by civilization. *The Atlantic*. <https://www.theatlantic.com/education/archive/2019/03/traumatic-legacy-indian-boarding-schools/584293>
- Reinhardt, M. & Maday, T. (2006). *Interdisciplinary manual for American Indian inclusion*. Northern Michigan University, Center for Native American Studies. https://tribaleddepartmentsna.files.wordpress.com/2016/08/american-indian_inclusionmanual.pdf
- Reinhardt, M.J., Moses, T., Arkansas, K., Ormson, B., & Ward, G.K. (2020). *Tribal sovereignty and consultation*. National Comprehensive Center at Westat. <https://compcenternetwork.org/ccn-products/multimedia/tribal-consultation/#/lessons/c1l5k9ycUAMg2-1ywUZ4znEgharY4YSF>
- Sabzalian, L. (2023, February 6). *Indigenous children's survivance in public schools* [Zoom keynote address]. Region 16 Comprehensive Center Professional Book Study, Alaska, United States.
- United States Department of Education. (2016). *U.S. Department of Education guidance on the requirement under section 8538 of the ESEA, as amended by the ESSA1, for affected local educational agencies (LEAs) to consult with Indian Tribes and Tribal organizations on issues affecting Native students and supporting FAQs*. <https://www2.ed.gov/policy/elsec/leg/essa/faq/essafaqtribalconsultation.pdf>
- University of Oregon Museum of Natural and Cultural History. (2023, January 16). *Native plants in Oregon basketry*. [https://mnch.uoregon.edu/collections-galleries/native-plants#:~:text=Bear%20grass%2C%20sea%20grass%20\(Phyllospadix,woven%20into%20Oregon's%20ethnographic%20basketry](https://mnch.uoregon.edu/collections-galleries/native-plants#:~:text=Bear%20grass%2C%20sea%20grass%20(Phyllospadix,woven%20into%20Oregon's%20ethnographic%20basketry)
- Zingg, L. (2019, November 1). *Promoting Indigenous sovereignty through education*. Teach for America. <https://www.teachforamerica.org/one-day/ideas-and-solutions/promoting-indigenous-sovereignty-through-education>



Contact Information

Oregon Department of Education

Address:

255 Capitol Street NE
Salem, OR 97310 - 0203
503-947-5600

Website: www.oregon.gov/ode

Office of Indian Education

Address:

255 Capitol Street NE
Salem, OR 97310 - 0203
503-947-5600

Website: [American Indian/Alaska Native Education page](#)



OREGON
DEPARTMENT OF
EDUCATION

