



## Arizona Early Childhood Development and Health Board

### Tribal Consultation Policy

#### **AGENCY OVERVIEW**

The First Things First (FTF) mission is to serve as one of the critical partners in creating a family-centered, comprehensive, collaborative and high-quality early childhood system that supports the development, health and early education of all Arizona's children birth through age five. The vision of FTF is that all Arizona's children are ready to succeed in school and in life.

#### **PHILOSOPHY**

First Things First acknowledges the rich cultural diversity of Arizona's 22 federally recognized American Indian tribes (tribes) and recognizes that tribes must have a strong voice in shaping the policies and programming that affect their communities. First Things First believes that improving communication and partnerships with tribes is essential to providing all of Arizona's children a solid start so they can grow up ready to succeed in school and life. To this end, FTF is committed to operating within a government-to-government relationship with federally recognized tribes. In order to achieve this goal, it is essential that FTF and tribes engage in open, continuous, and meaningful consultation on a government-to-government basis. To guide this work, this FTF Tribal Consultation Policy has been established.

#### **PURPOSE**

This policy establishes the basic concepts and principles that govern FTF in its interactions with tribal governments within the State of Arizona. The purpose of this policy is to describe the consultative approach to be taken to promote and protect the government-to-government relationship between FTF and Arizona Tribes. The foundation for this policy is the Arizona Early Childhood Development and Health Initiative, Title 8, Chapter 13, Arizona Revised Statutes.

#### **BACKGROUND**

First Things First respects and honors the government-to-government relationship that exists between tribes, the federal government and state governments. FTF acknowledges that the United States government has a unique relationship with tribes as set forth in the Constitution of the United States, treaties, statutes, court decisions, executive orders and memoranda. Interactions between FTF and the tribes of Arizona shall be consistent with the principles of tribal sovereignty and self-governance as described by federal law. Furthermore, the statute that created FTF states that "tribes may elect to have their sovereign lands treated as a separate region with its own regional council or have their sovereign lands be treated as part of a larger geographical region."

#### **AUTHORITY**

##### *State*

- ❖ Arizona Revised Statutes § 41-2051.
- ❖ Arizona Early Childhood Development and Health Initiative, Title 8, Chapter 13, Arizona Revised Statutes

### *Federal Government*

The special relationship between the federal government and tribes is affirmed in statutes, legislation and various Presidential Executive Orders including, but not limited to:

- ❖ The Snyder Act, P.L. 67-85
- ❖ The Indian Self-Determination and Education Assistance Act, P.L. 93-638, as amended
- ❖ The Native American Programs Act, P.L. 93-644, as amended
- ❖ The Indian Health Care Improvement Act, P.L. 94-437, as amended
- ❖ The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193
- ❖ The Native American Languages Act of 1990, P.L. 104-477
- ❖ Presidential Memorandum on Government-to-Government Relations with Native American Tribal Governments, April 29, 1994
- ❖ Presidential Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, November 6, 2000
- ❖ Presidential Memorandum, Government-to-Government Relationship with Tribal Governments, September 23, 2004
- ❖ Presidential Executive Order 13592, Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities, December 2, 2011

### **DEFINITIONS**

*Consultation* - Consultation is the meaningful and timely dialogue with appropriate leaders and representatives of tribal governments. Consultation emphasizes trust and respect and requires the open exchange of information, full and candid expressions of views, and a commitment to fully consider other views during decision-making. Consultation seeks mutually beneficial outcomes to the extent possible. Consultation occurs when FTF leadership or their designee and a tribal leader or their designee formally meet or exchange written correspondence to discuss matters concerning either government. Consultation shall occur on a regular basis and may occur on an “as needed” basis as well when the tribes and FTF raise matters that need to be addressed. Furthermore, FTF recognizes tribes may have their own tribal consultation processes. Either party may initiate consultation matters when the need is identified.

*Federally Recognized Tribe* - An American Indian Tribe, Alaska Native Tribe, Band, Nation, Pueblo, Village or Community, with whom the Federal Government maintains an official government-to-government relationship, established by a federal treaty, statute, executive order, court order or a federal administrative action, is considered a federally recognized Tribe. The Bureau of Indian Affairs (BIA) maintains and regularly publishes the list of Federally Recognized Tribes.

*First Things First Divisions* - FTF has numerous operating divisions under its purview. Each of the divisions share in the agency-wide responsibility to coordinate, communicate and consult with tribes on matters that affect tribal governments. All operating divisions shall comply with the FTF Tribal Consultation Policy. All divisions are responsible for working with the Tribal Affairs unit to determine the best course of consultation to the extent practicable and permitted by law on matters that have tribal implications.

*FTF Leadership* - The state FTF Board, Chief Executive Officer, and/or their designee(s).

*Government-to-Government Relationship* - The term was first used by tribes and the federal government and is grounded in federal treaties, statutes and executive orders. It is also used to describe the relationship between tribes and state governments.

*Indian Organizations* - Any regional, state or national organization that represents the interest of tribes and indigenous populations. First Things First may provide written notice and a solicitation for feedback to organizations such as the Advisory Council on Indian Health Care, the Inter-Tribal Council of Arizona, Indian Health Services, Native Connections and Urban Indian Organizations, etc. Such communication does not substitute consultation.

*Indian Tribe (tribe)* - An Indian or Alaska Native Tribe, Band, Nation, Pueblo, Village, or Community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a. Federally recognized tribes are those with whom the Federal Government maintains an official government-to-government relationship, established by a federal treaty, statute, executive order, court order or a federal administrative action. The Bureau of Indian Affairs (BIA) maintains and regularly publishes the list of Federally Recognized Tribes.

*Regional Partnership Council* - Volunteers of local community members appointed by the FTF Board to identify and prioritize the unmet needs for early childhood development and health programs in its region.

*Regional Tribal Consultation* - Consultation occurring at the regional level to enhance the development of local government-to-government relationships that will result in on-going dialogue and collaboration at the regional level to align regional priorities with tribal priorities and leverage collective resources to support ongoing system building to support young children and families.

*Sovereignty* - The ultimate source of political power from which all specific political powers are derived.

*Tribal Affairs* - The FTF unit responsible for agency-wide implementation and monitoring of the FTF Tribal Consultation policy. Tribal Affairs serves as the agency's point of contact in accessing FTF-wide Divisions and includes the Senior Director of Tribal Affairs.

*Tribal Government* - A governing body of an Indian Tribe.

*Tribal Leaders* - Tribal leaders are elected or duly appointed officials of federally recognized American Indian Tribes.

*Tribal Self-Governance* - The governmental actions of tribes exercising self-government and self-determination.

## **OBJECTIVES**

In order to fully implement this Policy, FTF will:

- Establish communication channels with tribal leaders of each tribe and the appointed leadership for early childhood/education services for each tribe. First Things First recognizes that a standing goal of working with tribes is to increase their knowledge and understanding of FTF programs and policies.
- Seek timely consultation and the participation of tribes with existing, potential and new early childhood development and health policies and actions that would have a significant impact on tribes.
- Allow for consultation with tribes in the development of new policy or a change in policy with

substantial tribal implications.

- Coordinate within the agency to ensure consistent application of the Tribal Consultation policy among all Board members, staff members and members of regional partnership councils.
- Provide relevant background information on consultation topics so that tribes may fully consider information when providing recommendations to FTF.
- Seek recommendations from tribes which include pertinent impacts of proposed changes.
- Engage in consultation with a tribe(s) when requested or desired.

### **CONSULTATION PROCEDURES AND RESPONSIBILITIES**

- A. Consultation occurs when FTF leadership or their designees, including regional partnership councils, meet and/or exchange written correspondence with tribal leaders or their designee, to discuss matters concerning either party.
- B. Consultation Procedures
  1. The most useful and appropriate consultation mechanism can be determined by FTF and/or the tribe(s) after considering the matter. Specific consultation mechanisms that will be used to consult with a tribe(s) include but are not limited to in-person meetings, mailings, teleconference, electronic/computer based meetings, electronic communication such as email and roundtable discussion.
  2. A tribe(s) has the ability to initiate consultation, i.e. meet one-on-one with FTF leadership and/or the regional partnership council, to consult on matters specific to the tribe.
  3. First Things First will initiate consultation to solicit official comments and recommendations on policy and policy implementation. These will provide the opportunity for meaningful dialogue and effective participation by tribe(s).
  4. Reporting of Outcomes: First Things First shall report on the outcomes of the consultation. For ongoing matters identified during the consultation, FTF shall provide status reports to the tribe as appropriate.

### **ONGOING PARTNERSHIPS**

Trust between and among tribes and FTF is essential in building a good consultative relationship. To establish and maintain trust:

- First Things First will meet with tribes on a consistent basis as mutually agreed upon. If follow-up is needed, the FTF Senior Director for Tribal Affairs or other designated staff will provide the follow-up.
- First Things First is committed to developing cooperative relationships with tribes. First Things First will invite tribal leaders and early childhood representatives to training programs, and Indian organizations when and where appropriate.
- First Things First will solicit tribal leaders for participation on regional partnership councils, special committees and work groups that will either directly or indirectly affect tribes.
- First Things First will utilize various communication strategies, including electronic communication that supports interactive communication and understanding with tribal governments.

### **REPORTING**

By October 1 of each year, FTF shall review the Tribal Consultation Policy and submit an electronic report to the Governor and the Legislature describing all actions taken as a result of the implementation of the Tribal Consultation Policy. The report will also be available to tribal leaders.

**SUMMARY**

This policy is reflected in the FTF Strategic Plan, which confirms the belief that FTF will develop and maintain a culture of strong collaboration and cooperation both internally and externally with the Board, staff, regional partnership councils, tribes and community partners. First Things First recognizes this Tribal Consultation Policy will be a developing document, changing as circumstances and tribal input indicate a need for revisions.

Approved by:

A handwritten signature in black ink that reads "Nadine Mathis Basha". The signature is written in a cursive style with a long horizontal flourish at the end.

Nadine Mathis Basha, Chair  
First Things First - the Arizona Early Childhood Development and Health Board

Date  
12/5/2017

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