

OKLAHOMA STATE DEPARTMENT OF HEALTH
ADMINISTRATIVE PROCEDURES MANUAL

NUMBER: 1-39
TITLE: Tribal Consultation
ADOPTED: May 2011
LAST REVIEWED: October 2011
RESPONSIBLE SERVICE: Office of the Tribal Liaison

APPROVED: _____
Terry L. Cline, Ph.D.
Commissioner
Signature on File

I. Purpose

The purpose of this administrative procedure is to ensure that, pursuant to the special relationship between Indian Tribes and State Government, reasonable notice and opportunity for consultation with Indian Tribes is provided by the Oklahoma State Department of Health (OSDH) before implementing any high-level policy changes that significantly impact Indian Tribes or tribal members located in the state of Oklahoma.

It is understood that tribal members residing in the State of Oklahoma are citizens of the state and as such possess all the rights and privileges afforded by Oklahoma to its citizens. It is also understood that each Tribe has its own culture, beliefs, value system, and right to govern itself as a sovereign. The OSDH recognizes the right of Tribal Governments to exercise sovereignty. It is beneficial for OSDH to partner with tribal governments on issues affecting all of Oklahoma as well as to ensure that services and resources are available to all eligible state citizens including tribal communities. Meaningful and timely consultation with Oklahoma Tribal Leaders will facilitate better understanding and informed decision making.

II. OSDH Actions or Policies Potentially Impacting Tribal Communities or Members

A. Development

To facilitate communications between the OSDH and Indian Tribes, the OSDH will appoint and maintain a tribal liaison. The OSDH tribal liaison will ensure that all OSDH policies are available to any Indian Tribe upon request. Additionally, the OSDH tribal liaison will maintain communications with a designated representative of an Indian Tribe.

When appropriate, the OSDH may seek input from appropriate elected or appointed tribal officials before undertaking any action or policy that will, or is reasonably believed to, have the potential to affect a tribal community or its members. Further, the OSDH may, to the fullest extent possible and to the best of their ability, integrate the input generated from tribal consultation into their decision-making processes to achieve mutually acceptable solutions.

B. Implementation

1. The commissioner/chief operating officer/deputy commissioner and/or service chief will designate a member of their staff to assume responsibilities for the program's implementation of the tribal consultation policy and to collaborate with the OSDH tribal liaison appointed by the Commissioner of Health.
2. Annually the OSDH tribal liaison will submit a written report, summarizing the tribal consultations that have been requested and have occurred during the previous twelve month period, to Senior Leadership at the OSDH.
3. In order to fully effectuate this policy, the OSDH will:
 - a. Establish communication channels with the designated contact for each tribe. The OSDH recognizes a standing goal of working with Tribes is to increase their mutual knowledge and understanding of OSDH and tribal programs and policies.
 - b. Include county health department administrators in any communications with the tribes in their respective counties as they already have long-standing relationships with the Tribes, and their leaders and staff. In most cases the administrator can provide great benefit in facilitating appropriate and sensitive approaches to Tribal leadership.
 - c. Seek timely consultation with Indian Tribes to discuss issues that would have an impact on the members of Indian Tribes.
 - d. Allow for consultation with Indian Tribes in the development of new policy with Tribal implications.
 - e. Provide relevant background information on the consultation topic so that Tribal officials may fully consider the information when providing recommendations to the agency.

- f. Coordinate with the OSDH personnel to ensure consistent application of this administrative procedure.
- g. Include Tribal representation in state plan negotiations and revisions as they relate to Indian Tribes and between state and federal agencies such as the Centers for Disease Control and Prevention.

III. Consultation

A. Policy Issues

OSDH engages in consultation with Indian Tribes through a variety of methods and at a variety of levels about issues that have a direct impact on Indian Tribes. Scenarios in which OSDH may engage in the consultative process with Indian Tribes include, but are not limited to the following:

- 1. Proposed amendments to this administrative procedure;
- 2. Proposed or existing tribal/state/federal intergovernmental or contractual language revisions;
- 3. Proposed resource distribution methodologies that may affect payments made to Indian Tribes or Indian Health Service, Tribal programs operated under P.L. 93-638, and urban Indian health programs;
- 4. Proposed fee-for-service provider rate changes;
- 5. Proposed changes or limitation of eligibility or benefits; and
- 6. Proposed gaming or other monetary distributions by tribal governments to eligible community members that may affect eligibility for OSDH programs.

B. Direct Consultation by OSDH

- 1. When it appears that a new or revised OSDH policy may be needed, the OSDH may consider whether it is a policy change that is likely to or is reasonably believed to, have the potential to affect a tribal community or its members. Face-to-face, telephonic or web-based consultation sessions may be scheduled between the OSDH tribal liaison and designee(s) for the Indian Tribe. Such sessions may be scheduled as a single statewide meeting, or in conjunction with other statewide meetings.

2. If a Tribal Official and/or their designee requests additional information or provides feedback regarding an issue, OSDH leadership and/or administration shall communicate, verbally or through written correspondence, with the official and/or their designee, to provide a timely and substantive response.
3. The OSDH administration will provide an opportunity for submission of written comments during any period of ongoing consultation. Written comments may be submitted electronically or by mail in a format most conducive for the Indian Tribe, Indian Health Service (IHS), Tribal Organization, Urban Indian Organization, or other entity.
4. OSDH administration may also provide written notice and a solicitation for feedback to organizations such as the Advisory Council on Indian Health Care, the Intertribal Council of Oklahoma, the Indian Health Service Area Offices in Oklahoma, and urban Indian health programs in Oklahoma. Such communications do not substitute for direct communication with the individual Indian Tribes.
5. OSDH will provide a written response to Indian Tribes regarding comments received and the outcome of the consultation process. OSDH may post relevant information on the OSDH website.

C. Ongoing Consultation

1. The OSDH may meet with Tribal Officials to review any existing issues that may have an impact on an Indian Tribe as needed.
2. A Tribal Official and/or their designee may formally request tribal consultation on an issue that may have an impact on an Indian Tribe. Such a request shall be made in writing.
3. The OSDH may request participation by other state and/or federal agencies in the consultation process when appropriate.
4. The OSDH leadership may participate in Health and Human Services regional consultations and, as requested, in consultation meetings sponsored by HHS agencies, including the Centers for Medicare and Medicaid Services and the IHS, or Indian Tribes.

IV. Definitions

As used in this policy, the term “Indian Tribe” means a tribe that is on the list of recognized tribes published by the United States Secretary of the Interior pursuant to 25 USC §§479a and 479a-1.

V. References

No references were identified.

VI. Action

The Commissioner is responsible for ensuring the annual review of this administrative procedure.

The OSDH tribal liaison is responsible for the annual review and revision of this administrative procedure.

Any exceptions to this administrative procedure require prior written approval of the Commissioner.

VII. Attachments

No attachments were identified.