




Executive Memorandum 24-047

December 12, 2024

From: Stephen Perez, President 

Subject: Tribal Consultation Policy

Upon the recommendation of the Academic Senate and with the concurrence of the Provost, I approve the Meaningful Tribal Consultation Policy at Chico State.

| | |
|-------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Policy Title: | EM 24-047 |
| Contact: | Office of the President |
| Supersedes: | |
| Revision: | |
| Enabling Legislation or Executive Order: | Executive Order N-15-19 Executive Order B-10-11 Native American Graves Protection and Repatriation Act(s) (NAGPRA) NAGPRA , CalNAGPRA , AB275 , AB389 California Environmental Quality Act (CEQA) Tribal Cultural Resources AB52 Traditional Tribal Cultural Places AB18 , Section 106 Regulations |

Chico State is committed to comply with all laws and Executive Orders that recommend or require Tribal consultation with Tribes.

Tribe for the purpose of this Executive Memorandum will be defined as

Indian(s), Indian Tribe(s), and American Indian will be used to acknowledge the federal terms used when talking about Native people(s) and/or Tribes to recognize their political status affirmed by federal statutes, treaties, and policies. Any Indian Tribe, band, group, pueblo, or community for which, or for the members of which, the U.S. holds lands in trust¹.

¹ Cornell Law School. (n.d.-a). 25 U.S. Code § 2201 - Definitions. Retrieved September 10, 2023, from <https://www.law.cornell.edu/uscode/text/25/2201>

Tribes that are identified by the [Native American Heritage Commission](#) will also fall under this Executive Memorandum and will be engaged in Tribal consultation.

Meaning of Tribal Consultation

The meaningful and timely process of seeking, discussing, and considering the views of others carefully in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American Tribes shall be conducted in a mutually respectful way that respects each party's sovereignty. Consultation shall also recognize the Tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural significance.²

Background

To acknowledge the historical, systematic mistreatment of California Indian people,³ existing Executive Orders state that agencies should consult with Tribes, and legislation requires Tribal consultation. Further, it must be understood that consultation is a sovereign right of Tribes and cannot be a performative neoliberal practice, more specifically, "checking a box." Chico State also acknowledges that Tribal histories and knowledge must be at the forefront throughout the Tribal consultation process and that consultation must respect Tribal sovereignty, government-to-government relationships, protect sacred sites and cultural resources, and support and advance Native student success.

All Tribal consultation must go through the Office of Tribal Relations to ensure Chico State is engaging with Tribes in an inclusive, government-to-government manner. This fosters productive negotiations through the consultation process by acknowledging different Tribal infrastructures and the importance of building trusting and transparent relationships with Tribes.

The following consultation procedures were developed through consultation with 11 Tribes within Chico State's service region representing Butte, Glenn, Lassen, Plumas, Tehama, Trinity, and Yuba counties. Of the 11 Tribes, six were federally recognized and five were non-federally recognized. Twenty-six of the 28 Tribes were notified and asked to consult on the procedures and provide input and perspectives on what meaningful Tribal consultation is. Two Tribes could not be reached.

Chico State's Office of Tribal Relations under the Office of the President has the authority to engage in meaningful Tribal consultation as specified below. All Tribal consultation requests must go through the Office of Tribal Relations.

When Does Chico State Engage in Tribal Consultation?

Tribal consultation will be requested by the Principal Investigator, or Project Lead, when a grant, contract, or project requires Tribal consultation. Tribal consultation can also be requested by a Tribe at any time prior to the start of a project, grant, and/or contract, or at any time during a project, grant, and/or contract. A Tribal request for consultation can be submitted as an email,

² Robinson, T., & Cypret, S. (n.d.). Tribal consultation under AB 52: Requirements and Best Practices. *California Preservation Foundation*. <https://californiapreservation.org/wp-content/uploads/2016/10/4.-Samantha-Cypret-AB52-Tribal-Consultation.pdf>

³ Executive Order N-15-19, 2019

phone call, or verbal request to the Chico State, Office of Tribal Relations. Chico State, Office of Tribal Relations will also engage in Tribal consultation when the grant, contract, or project has any goals or objectives that directly affect Tribes, Tribal communities, potential Native American students, and/or current Native American students.

If Tribal consultation is required by law to complete the grant scope of work, contract, or project, the Principal Investigator, Project lead, or person responsible for the outcomes of the project will follow Chico State's Tribal consultation policy unless the Tribe being asked to engage in Tribal consultation has their own policy. If the federal 106 consultation process is required, Chico State's Tribal consultation policy procedures will still be adhered to in the event the timeline gives more time and flexibility to the Tribe(s) to respond.

Tribal consultation is not concluded until the project is completed. Consultation will take as long as needed to come to consensus.

Consultation Procedures

1. A formal letter requesting consultation will be mailed to the relevant Tribe(s).
2. An email of the formal letter will also be sent and will include appropriately identified Tribal staff that will support consultation and communication.
3. The letter/email will specify the topic for consultation and have a minimum of 60 days to respond to the Tribal consultation request either by mail, email, or phone.
4. A follow-up phone call will happen within 14 days of the initial Tribal consultation request letting the Tribe(s) know that the request was mailed and emailed.
5. If the Tribe responds positively to the Tribal consultation request, the first consultation will be in person unless otherwise specified by the Tribe.
6. If the Tribe does not respond prior or after the 14 day follow up, then an additional communication via phone and email will go out. Within five days of the 60-day deadline, if there is still no response, an in-person visit to the Tribal office(s) should be arranged by the Office of Tribal Relations.
7. If additional consultation is requested by the Tribe or the campus, the modality will be determined by the Tribe(s) during the initial consultation or at the time of the request.
8. If additional consultation is requested by the Tribe or campus, the consultation will be scheduled during the initial consultation meeting or at the time of the request.
9. For in-person Tribal consultations, parking will be provided for the Tribal representatives and if appropriate, food will be provided.

Research Requests

All Chico State faculty, staff, students, and affiliates who are proposing research that, regardless of funding or funding source, (1) involves Tribal members, Tribal lands, or Tribal resources (including, but not limited to, Tribal languages, ancestors, and cultural items), (2) uses Tribal nation-controlled information or data, must first notify the Office of Tribal Relations of the proposed research. The Office of Tribal Relations will work with the faculty, staff, student, or affiliate to identify the appropriate Tribe and will initiate Tribal consultation regarding the proposed research. Before proceeding with the research described above, the faculty, staff, student, or affiliate must receive approval from the appropriate Tribe. Research involving human subjects, animal subjects, recombinant or synthetic nucleic acid molecules, or potentially

hazardous biological agents must also receive approval from the Chico State Institutional Review Board (IRB), Institutional Animal Care and Use Committee (IACUC), or Institutional Biosafety Committee (IBC), as appropriate and governed by relevant federal or state regulations.

Tribal Requests

Refers to a formal or informal request made by a Tribe or Tribal government to Chico State, Office of Tribal Relations for specific purposes. These requests may pertain to matters that impact the Tribe's cultural, political, economic, or environmental interests. Tribal requests can take many forms, depending on the context, and may include research.