

Tribal Consultation

Academics- Research

EWU Policy 302-01

Effective: [INSERT]

Authority: Board of Trustees

Proponent: President

Summary: This policy outlines Eastern Washington University's commitment to recognizing tribal sovereignty and the government-to-government relationship between the university and Tribes. This policy also outlines the process for consent, consultation, and notice to Tribes.

History: This policy is new. It was approved by the Board of Trustees on {INSERT}.

1. COMMITMENT & APPLICABILITY

1-1. Commitment

Eastern Washington University (EWU) recognizes and honors tribal sovereignty and government-to-government relationships with Tribes. This policy establishes the expectations and requirements for EWU employees who seek to interact with Tribes to ensure such interactions are based on mutual respect and collaboration. The purpose of the policy is to provide a framework to assist EWU employees in working with Tribes or on Tribal land to ensure they follow certain protocols and permit processes.

EWU seeks consent when undertaking infrastructure projects, research, or activities on land under the control or jurisdiction of a Tribe and that foreseeably and directly affect a Tribe.

Before initiating any type of consultation, departments and researchers must consult with the Director of Tribal Relations to identify the appropriate Tribal contact and course of action for initiating consultation.

In addition to this policy, EWU employees must be aware of, and adhere to, applicable state and federal laws and regulations. This policy is not intended to take the place of any existing EWU policies, or conflict with applicable state and federal laws.

1-2. Applicability

This policy applies to research involving Tribes or Tribal lands, and facilities improvements on or impacting Tribal land. This policy does not address matters such as tuition setting and other general issues that affect Tribes to the same extent as the general public.

2. DEFINITIONS

"Consent" is the receipt of voluntary, prior, and informed consent before taking actions that directly and foreseeably affect the Tribes, Tribal rights, or Tribal lands. The form of consent required and the process for obtaining consent varies depending on the Tribe.

"Consultation" is a deliberative process through which EWU shares information with affected Tribes. EWU must

communicate with Tribal designees to ensure an understanding of the proposed activity, to identify and address any Tribal concerns, and, when applicable, secure consent for such activities.

"Tribe" refers to the federally recognized American Indian and Alaska Native Tribes or the governing body of such Tribes.

"Tribal land" includes "Indian Country" as defined in federal law, as well as trust lands and lands that have been identified by a Tribe to EWU as containing cultural, historic, or archaeological resources.

3. RESEARCH ACTIVITIES

3-1. Identifying the need for tribal consultation

Research activity conducted by faculty, staff, or students involving any of the following must follow this policy:

- (1) The non-incident participation of Tribal members and that may foreseeably produce research results with implications specific to a Tribe or to individuals as members of a Tribe;
- (2) Human subjects or human biological material, including DNA, cells, tissues, or other biological materials in which:
 - o The individual's membership in or affiliation with a Tribe is identified, and
 - o That is intended to or that may foreseeably result in conclusions or generalizations about a Tribe or individuals as members of a Tribe.
 - o A Tribe may request the return of such materials at the conclusion of the agreed research.
- (3) Native American Graves Protection and Repatriation Act materials, including Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony.
- (4) Tribes' cultural, historic, archeological, or natural resources, including but not limited to Tribal traditions, languages, customs, and symbols,

and research or any activity on land under the control or jurisdiction of a Tribe.

3-2. Tribal consultation process

Individual departments and researchers are ultimately responsible for ensuring appropriate consultation and consent has been obtained for activities subject to this policy. However, before initiating any type of consultation, departments and researchers must consult with the Director of Tribal Relations to identify the appropriate Tribal contact and course of action for initiating consultation.

EWU commits to following applicable Tribal processes for engaging in research and recognizes Tribes may reserve the right, during the consultation process, to block or embargo the publication of research.

4. INFRASTRUCTURE PROJECTS

Infrastructure projects that may foreseeably impact or harm Tribal natural resources, treaty rights, or cultural resources must involve Tribal consultation before any ground-disturbing work is started. Before initiating any Tribal consultation efforts, the applicable department must work with the Director of Tribal Relations to identify the appropriate contacts and course of action for engaging in consultation.