

TRANSMITTAL NOTICE-CALIFORNIA AREA INDIAN HEALTH SERVICE CIRCULAR
NO. 2017-01

BACKGROUND:

This circular expands on the Indian Health Service ("IHS") tribal consultation practices outlined in IHS Circular No. 06-01 as they relate to the California Area.

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MATERIAL TRANSMITTED:

California Area Indian Health Service Circular No. 2017-01

MATERIAL SUPERSEDED:

California Area Indian Health Service Circular No. 02-02

MANUAL MAINTENANCE:

Add this circular to the Manual of Circulars. Log in and file the Transmittal Notice (TN).

Distribution: All CAIHS Employees
Master Manual

Date: April 19, 2017

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Indian Health Service

CALIFORNIA AREA INDIAN HEALTH SERVICE CIRCULAR NO. 2017-01
TRIBAL CONSULTATION

Sec.

1. Purpose
2. Background
3. Philosophy
4. Definitions
5. Objectives
6. Consultation Process
7. Schedule for Consultation
8. Supersession
9. Effective Date

1. PURPOSE. To expand on the Indian Health Service (IHS) tribal consultation practices outlined in IHS Circular No. 06-01, Tribal Consultation Policy, attached hereto, as they relate to the California Area IHS (CAIHS) by establishing a schedule for CAIHS to conduct tribal consultation with California tribal governments and provide for participation in IHS decision-making processes.
2. BACKGROUND. A unique government-to-government relationship exists between federally recognized American Indian and Alaska Native (AI/AN) tribal governments and the Federal government. Treaties and laws, together with court decisions, have defined a relationship between the AI/AN people and the Federal government that is unlike that between the Federal government and any other group of American citizens. The implementation of the IHS tribal consultation policy outlined in IHS Circular No. 06-01 and this CAIHS tribal consultation policy is in recognition of this special relationship.
3. PHILOSOPHY. This policy is based on the following two foundations.
 - A. Political/Legal Foundations.
 - (1) The Indian Self Determination and Education Assistance Act, Public Law (P.L.) 93-638, as amended, states:

Section 3 (a): "Congress ... recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum participation in the direction of ... Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities.

Section 3 (b): "The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing

relationship with the responsibility to, individual Indian tribes and Indian people through ... effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services."

- (2) The Indian Health Care Improvement Act, P.L. 94- 437, as amended, states:

Section 2(b): "A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services."

- (3) Memorandum to the Heads of Executive Departments and Agencies from President William J. Clinton, April 29, 1994, states:

"Each executive department and agency shall consult, to the greatest extent permitted by law, with tribal governments prior to taking actions that affect federally recognized tribal governments. All such consultations are to be open and candid so that all interested parties may evaluate for themselves the potential impact of relevant proposals."

- B. Ethical Foundation. The ethical foundation of this policy is the special relationship between sovereign governments; the United States and AI/AN tribal governments. This relationship is based on the cession of ancestral lands by tribal governments in return for the provision of services by the United States. The AI/AN people have an inalienable right to self-governance. Self-governance means that decisions are made by and with the people who are most directly affected by the decisions. The United States has a moral obligation and a trust responsibility to promote consultation and participation with AI/AN tribal governments.

4. DEFINITIONS.

- A. Consultation. Consultation is an enhanced form of communication that emphasizes trust, respect, and shared responsibility. It is an open and free exchange of information. Consultation is integral to a deliberative process, which results in effective collaboration and informed decision-making with the ultimate goal of reaching consensus on issues.

5. OBJECTIVES.

- A. To formalize the requirement of CAIHS to seek consultation and participation

by representatives of California tribal governments in CAIHS policy development and program activities to ensure that tribal health priorities and goals are recognized.

- B. To identify critical events for which tribal consultation and participation will be required for the CAIHS.
- C. To promote and develop innovative methods of involving California tribal governments in CAIHS policy development and the decision-making processes of the CAIHS.
- D. To utilize the California Area Tribal Advisory Committee as the primary source of tribal advice and recommendations.
- E. To ensure the principal focus for consultation and participation is with individual tribal governments and tribal organizations composed of multiple tribal governments through the Annual Tribal Leader Consultation meeting and regional listening sessions.

6. CONSULTATION PROCESS

The Consultation Process for CAIHS and CATAAC shall be defined by the following principles:

The CAIHS shall develop instructions for the submission of comments and will report on all outcomes of the consultation.

- A. Tribal. Specific consultation mechanisms that will be used to consult with an Indian Tribe(s) include but are not limited to mailings, meetings, teleconferences, and roundtables.
 - 1. Consultation sessions will be held to solicit official Tribal comments and recommendations on policy and budget matters affecting the Indian Tribe(s). These sessions at roundtables, forums, and meetings will provide the opportunity for meaningful dialogue and effective participation by the Indian Tribe(s).
 - 2. An Indian Tribe may meet one-to-one with the CAIHS or a designated representative to consult on issues specific to that Indian Tribe.
 - 3. Upon completion of a consultation session, the CAIHS will document and follow up on any unresolved issue(s) that would benefit from the ongoing involvement of the Indian Tribe(s).
 - 4. All CAIHS policies are posted on the CAIHS Web site.

B. HHS Divisions and Regional Offices

1. Upon the request of an Indian Tribe(s), the CAIHS will advocate for and facilitate collaboration between HHS Divisions, Regional Offices, and the Indian Tribe(s) to assist with consultation.
2. The CAIHS will assist the Indian Tribes and HHS Divisions in addressing any identified issue(s) such as access to HHS programs and services that could be provided directly to an Indian Tribe(s).
3. The CAIHS and/or Area Office will work with the HHS Office of Intergovernmental Affairs (IGA) to assist Indian Tribes in advocating for improved HHS Division-Tribal relations.

7. SCHEDULE FOR CONSULTATION. This circular establishes a general schedule of meetings to consult with California tribal governments and representatives concerning the planning, conduct, and administration of CAIHS activities. Trust between the CAIHS and California tribal governments/organizations is an indispensable element in establishing a good consultative relationship. The CAIHS Director will involve tribal representatives in meetings at every practicable opportunity. The tentative schedule, subject to changes, is as follows:

- 4 Quarterly Tribal Advisory Committee Meetings
- 1 Annual Tribal Leaders ' Consultation Conference

All deliberations are captured in an Executive Summary within two weeks of a convened Tribal Advisory Committee meeting. The Executive Summary is telefaxed to all California tribal governments and tribal health programs. In addition, all Executive Summaries are posted on the CAIHS internet home page at <http://www.ihs.gov/california/>.

8. SUPERSESSION. None. This policy is effective on the date of signature.
9. EFFECTIVE DATE. This policy is effective on the date of signature.

/Beverly Miller/

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