

Michigan Department of Education (MDE)

Affirmation of Consultation Process

Frequently Asked Questions

Are all districts required to submit an Affirmation of Consultation form?

No, only those districts identified under ESEA Section 8538 as “affected LEAs” are required to submit the Affirmation of Consultation form. An affected LEA is an LEA that receives \$40,000 or more in Title VI – Indian Education funds or has 50% or more students who identify as American Indian or Alaskan Native either alone or in combination with other races or ethnicities.

Other LEAs may still utilize the form to document their consultative efforts with tribes but are not required to submit the documentation to the Michigan Department of Education. As a reminder, all Title I, Part A Schoolwide schools and all LEAs that receive Title IV, Part A – Student Support and Academic Enrichment funds, Title VI, Part A Indian Education funds, or Title VII – Impact Aid funds are also required to engage in consultation with tribes in the area they serve but are not required to submit that documentation to the state.

Are tribes required to sign the Affirmation of Consultation form?

No, tribes have the right to decline to sign the form. Having the signature of a tribal official can be a positive sign that the district has engaged in timely consultation with tribes and that the consultation allowed the tribe to contribute during the development of program plans and budgets in a meaningful and substantive way.

There are multiple reasons why a tribal representative may choose not to sign the form. In some cases, the individual approached by the LEA may not have the authority to sign the form; in other cases, the person may be new in their position and not be fully aware of the history of the consultation during the school year. There may also be times when the tribe feels that the consultation failed to meet the requirements of being timely or meaningful or that the district failed to offer them the ability to substantively contribute to the development of plans and budgets. The form is not designed as a binding contract between entities but a point-in-time reflection of the current status of the relationship between the district and the tribes of the students who attend school within the district. A missing tribal signature is, more than anything else, a sign of a need for continued growth in the relationship between the district and tribes.

Will a district lose funding if tribes do not sign the Affirmation of Consultation form?

No, if districts have made a good-faith effort to connect with the tribes of the students they serve, funding will not be impacted. The lack of a tribal signature does provide an indicator of room for future growth in the relationship or a need for additional support. Still, submission of the form without tribal signatures does not prevent a district from accessing funds for which they may be eligible.

Districts should not communicate that funding for programs that benefit Indigenous children will be lost if the tribe does not sign. Similar coercive threats were used during the treaty-making era to force tribes to sign away their rights and strip them of their land. Districts should never use these types of statements to coerce tribal representatives into signing the district’s Affirmation of Consultation form. The form is designed to be a point-in-time reflection of the current status of the relationship between the district and tribes. It is the district that is required to affirm that consultation is taking place and the district’s responsibility to submit the form to the state with an accurate reflection of the current status of the consultative relationship with tribes. As sovereign entities, tribes retain their right to sign the form as they determine appropriate.

Who from the tribe should sign the Affirmation of Consultation form?

Each tribe will determine who is authorized to sign the form as their representative. Districts should make sure that the individual they approach to sign the form understands that they are required to be authorized by the tribe to sign the form. Signatories will typically be a tribal chairperson, tribal council member, tribal education department head, employee, or similar individual authorized to represent the tribe. Indian parent committee chairs or individuals in similar roles may not be acting with the authority of the tribe but instead may be acting in their capacity as a parent of an Indigenous child and should not be called upon to sign the form unless authorized to do so by their respective tribe. It is not the district's responsibility to identify the authorized individual, only to ensure that the individual who signs the form understands that their tribe must authorize them to do so.

Who from the district should sign the Affirmation of Consultation form?

The district should ensure that either the superintendent or a designee who has knowledge of the different programs that are required to be the subject of consultation and who was involved with the consultative efforts signs the form. Please see the Affirmation of Consultation form for the list of programs on which an affected LEA is supposed to consult. The responsibility for completing and signing the form should not be designated to individuals who have had no direct role in the consultation or who have limited to no knowledge about the different programs that are supposed to be the subject of the consultation. Depending on the district, this will often mean that various program staff will need to work together to support the consultation as directed by the superintendent or another member of the district leadership team and that the superintendent may either need to sign the form or formally designate who will serve as lead for the consultation efforts on behalf of the district and be authorized to sign the form.

What happens to the Affirmation of Consultation form once submitted?

Michigan Department of Education (MDE) staff and leadership will review the forms and use the information provided to identify where consultation is going well within the state and where more assistance may be needed. The forms will also be shared with tribal educational and elected leaders to help support the identification and dissemination of tribal consultation best practices from the tribal perspective and to identify situations where tribal consultation is not meeting legislative requirements or tribal expectations. Best practice ideas gleaned from the review of the forms will be shared through different communication channels, including the Indigenous Education Community of Practice group.

If a situation arises where it appears, based on the forms, that the consultative relationship consistently struggles to meet the legislative intent, support will be provided by MDE in collaboration with the Confederation of Michigan Tribal Education Departments to help address the issue.

Additional Resources:

- [List of Affected Local Educational Agencies](#)
- [Tribal Consultation Guidebook](#)
- [Affirmation of Consultation Form](#)

Contact Information

For additional questions or support, please contact the [Michigan Department of Education's Indigenous Education Initiative](#) team.