

# MICHIGAN DEPARTMENT OF EDUCATION'S TRIBAL CONSULTATION POLICY

## To Live and Learn in Relationship: Collaborative Governance to Support Indigenous Learners in Michigan

### Background

On October 31, 2019, Governor Gretchen Whitmer issued Executive Directive 2019-17, requiring all state departments to engage in meaningful consultation and collaboration with tribal officials. The Michigan Department of Education (MDE) agrees with Governor Whitmer's statement that "mutually beneficial cooperation and understanding, as well as the resolution of disagreements, can best be achieved through regular consultation between the State and tribes on matters of shared concern".

MDE has partnered with the Confederation of Michigan Tribal Education Directors (CMTED) to develop the following consultation policy to support Michigan's indigenous learners. MDE looks forward to working with tribal partners to articulate the consultative relationship further and implement the tribal consultation policy according to the expectations outlined in Executive Directive 2019-17.

### Policy Statement

In an effort to improve the education experience and outcomes for indigenous learners in Michigan, the Confederation of Michigan Tribal Education Directors and the Michigan Department of Education, through the Indigenous Education Initiative, will adopt and implement a collaborative governance consultation policy.

This document serves to –

- Articulate the guiding principles necessary to transform the system of education for indigenous learners
- Identify the commitments of the State Education Agency to meet the expectations as articulated in Michigan Executive Directive 2019-17
- Define the consultation process in support of the requirements of Executive Directive 2019-17

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### Guiding Principles

MDE seeks to foster and facilitate positive government-to-government relations between the state agency and the 12 federally recognized tribes in Michigan. Rather than driving consultation policy development from the need to comply with federal and state requirements, MDE's Indigenous Education Initiative and CMTED are working in partnership to ensure inclusive and meaningful collaboration between the state education agency and Michigan's tribes.

MDE has adopted a relational approach to consultation and engagement with the Michigan tribal nations. To be clear, this approach is not new to indigenous communities, but rather a recognition of an indigenous way of being and learning.

Guiding principles for this shared work include, but are not limited to –

- The fundamental basis of effective consultation is recognition and respect for tribal sovereignty. Federally recognized tribes are sovereign governmental entities and, as such, maintain a government-to-government relationship with the federal government. Tribal governments have primary authority and responsibility for each tribe's land and citizens.
- Tribes are not merely a homogenous stakeholder group but are distinct sovereign nations that predate the United States' formation and maintain a unique political status and should be engaged accordingly.
- Communication and coordination with tribal partners are essential to the implementation of a meaningful tribal consultation policy.

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### Commitment of the State Education Agency to Live and Learn in Relationship

Tribal communities have committed to the education of their learners since time immemorial. Tribes have extended this support to all learners in Michigan, as evidenced by establishing the Native American Heritage Fund, tribal-state gaming compacts, tribally run public school academies, tribally controlled community colleges, and scholarships to non-tribal students attending public institutions. Since 1993, tribes have contributed over \$534 million to local and state governments.

MDE recognizes and commends the tribes for their ongoing support of education in Michigan. The empowerment of Michigan's indigenous communities – whether on ancestral treaty lands or with individuals living in Michigan's urban centers – is supported through recognition of indigenous-based knowledge systems. Adopting an indigenous framework of consultation demonstrates MDE's commitment to co-exist in relationship with the tribes. As a result of embracing this approach, MDE stands together with the tribes in shared responsibility to support indigenous learners' educational outcomes in Michigan.

### Commitment One: The relationship will be valued and sustained.

The relationship between indigenous peoples and the government is based on a legacy of genocide and forced assimilation. The First Americans were regarded as inferior, undeserving of equality, and never introduced to equity. The historical stain this country has in its relationship with its first citizens plays out in federal and state policy and practice to this day.

The history, and all too frequent current experience, for indigenous communities is to be easily forgotten, readily dismissed, and willfully ignored. This invisibility has led to the inequities in education for our indigenous learners and has directly contributed to decades of mistrust.

To visit, to laugh, to be seen, to trust one another – these are the virtues of indigenous communities then and now. These virtues have ensured the survival of the People of the Three Fires (Ojibwe, Odawa, and Potawatomi). They are the core attributes of the Anishinaabek community. This traditional way of life is why authentic and mutually respectful relationships are vital to this shared work.

The work to date could not have been undertaken without the significant contributions from MDE's primary tribal education partner – the Confederation of Michigan Tribal Education Directors (CMTED). This strengthening partnership between MDE and CMTED has been and continues to be a model for authentic consultative relationships.

Adopting an indigenous framework of consultation demonstrates a shared commitment to an authentic consultative relationship between the tribes and the state education agency. CMTED has been a true partner with MDE during the development of this policy and will continue to be central to adopting and implementing an indigenous approach to consultation in support of indigenous children in Michigan.

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### **Commitment Two: The governance will be collaborative.**

In response to Michigan Executive Directive 2019-17, MDE, in partnership with CMTED, is adopting a collaborative governance framework of consultation that embraces tribal sovereignty and leverages federal and state requirements. This inclusionary approach is both beneficial and respectful to the indigenous peoples of Michigan. This approach also dramatically expands the understanding of state institutions and representatives seeking to work directly with tribes.

The goal of collaborative governance is to create a new system, inclusive of an evolved approach to consultation, that promotes equity and access for indigenous learners and their communities. Michigan is looking to make systemic transformation toward equity at a different level of the education system, namely, the relationship and agreements between state agencies and tribes.

### ***Development of Collaborative Governance Structure***

Collaborative governance refers to an explicit strategy of incorporating partners into mutual and consensus-oriented decision-making processes, emphasizing three core contingencies: time, trust, and interdependence. Through this process, governance is shared vertically and horizontally with different members of the system having different responsibilities. The decision-making process is collaborative and circular in nature between and within systems.

Collaborative governance involves joint activities, interconnected structures, shared resources, and the development of a structured arrangement. To address the consultation policy expectations as articulated in Michigan Executive Directive 2019-17, MDE will advance the existing consultative engagement process with tribal education leadership through its partnership with CMTED. In addition, MDE will expand the consultative relationship to engage specifically with elected leaders at the state and tribal levels and broaden its efforts to engage with additional tribal education community members.

Levels of the collaborative governance structure to support consultation are outlined in the table on the following page. Creating a collaborative governance structure will ensure the existing consultative relationship is furthered while also providing targeted engagement opportunities with elected leaders of the tribes and the state.

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Roles	Responsibilities
CMTED Chair + Indigenous Education Initiative Director	MDE's Indigenous Education Initiative will send all education discussion items originating from the department to the CMTED Chair for initial review. The CMTED Chair will determine the timeline and approach for routing identified discussion items to CMTED Leadership Team for consideration.
CMTED Executive Leadership Team + MDE Indigenous Education Initiative Team	<p>During monthly calls (and additional communications as needed), decisions will be made by the CMTED Leadership Team regarding engagement with CMTED as a collective on identified issues and opportunities.</p> <p>MDE's Indigenous Education Initiative will work with CMTED Leadership Team to identify MDE resources needed, including, but not limited to, federal and state policy and program expertise.</p>
CMTED + MDE senior staff	<p>CMTED will continue to serve as the consultative body for MDE. A quarterly meeting structure will be utilized to engage the tribal education directors from each of the 12 federally recognized tribes. Convenings with CMTED as a collective will continue quarterly with additional requests for engagement at the request of the CMTED Executive Leadership Team. Variations on how CMTED members route questions to tribal leadership and handle delegate authority will be identified and adhered to as requested.</p> <p>Matters will be elevated to MDE Senior Staff, including, but not limited to, the state superintendent as jointly determined by CMTED Leadership Team and MDE's Indigenous Education Initiative. Processes for engagement with MDE senior staff will be identified and adhered to as requested.</p>
Elected tribal leaders + state elected leaders (including State Board of Education or Governor's Office)	<p>Issues and opportunities will be elevated to the elected leadership of both the state and/or the tribe(s) as determined by either CMTED or MDE Leadership.</p> <p>In addition to issue resolution as needed, elected leaders will be involved in developing a proactive, shared strategy regarding indigenous learners' education in Michigan.</p>

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### *Establishment of Indigenous Education Coalition*

In addition to the collaborative governance structure articulated above, MDE commits to establishing an Indigenous Education Coalition. The coalition will be proactive and forward-facing, leveraging the gift of foresight to develop a shared strategy for the education of indigenous learners in Michigan. The members will identify barriers and challenges to equitable education access, determine actions to address said barriers and challenges, and ascertain resources and opportunities to support named efforts.

The coalition will include but is not limited to indigenous youth, elders, tribal leaders, educators, urban community members, tribal organizations, state representatives, Governor's office representatives, Attorney General's office, state agencies, and local and intermediate districts.

An output of the coalition will be creating an annual report regarding the state of indigenous education in Michigan. The report will include, but is not limited to, results of surveying efforts in the indigenous communities in Michigan, quantitative data specific to student outcomes, a summary of the issues to be addressed, and strategies being utilized to support indigenous learners.

### **Commitment Three: The learning will be mutual, shared, and reciprocal.**

As noted in Michigan Executive Directive 2019-17, each state agency must provide annual training on tribal-state relations for all department employees who have direct interactions with tribes or who work on matters that have direct implications for tribes. This training will address the fundamentals of tribal sovereignty, tribal treaty rights, and tribal governance. It will also provide a historical overview of Indian tribes in Michigan, with lessons on indigenous dispossession and Indian boarding schools. The governor's advisor on tribal-state affairs will provide the necessary training materials.

In addition to the training requirements noted above, MDE's Indigenous Education Initiative will continue to host Listening and Learning Forums for both MDE and CMTED. The Listening and Learning Forums are designed by the Indigenous Education Initiative to introduce and strengthen the knowledge base of MDE staff on educational issues facing the 12 federally recognized tribes of Michigan and provide opportunities for CMTED to learn about state and federal education programs.

### Consultation Processes and Procedures

Executive Directive 2019-17 requires a process of tribal consultation designed to ensure meaningful and mutually beneficial communication and collaboration between these tribes and the departments on all matters of shared concern.

MDE, and its tribal education partners, believe consultation is a multi-phased ongoing process, not an event. The consultative effort must be based on established relationships, collaborative processes, and shared priorities. This inclusionary approach, utilizing a historic indigenous knowledge base for consultation, is both beneficial and respectful to Michigan's indigenous peoples. This approach also greatly expands the understanding of state institutions and representatives seeking to work directly with tribes.

The work to date has repeatedly demonstrated there is no 'one size fits all' approach to consultation. A tribal consultation process needs to be adopted and implemented that is flexible and can be tailored to MDE, and the tribes' specific needs. The following phases for consultation between MDE and Michigan's tribal nations are listed below to operationalize this collaborative, iterative approach.

All phases of the consultation process will be co-managed using the collaborative governance structure described above. For each phase of the consultation process, MDE, in partnership with CMTED, will identify the protocols necessary to assess the process and identify improvements needed. Protocols for consensus and communication will be co-developed within 90 days of the acceptance of this policy.

### Consideration Phase

The Consideration Phase is the first step of the consultation process and is characterized by the realization of the following objectives:

1. Determine that consultation is required or would benefit an initiative or identified area of work.
  - State-Initiated: When undertaking an activity, MDE will evaluate whether the action or decision may affect tribal interests such that consultation would be appropriate.
  - Tribal-Government-Initiated: A tribal government may initiate the consultation process by identifying an activity that may be appropriate for consultation. MDE, in partnership with the requesting tribe, will evaluate whether the activity is suitable for consultation, affording substantial weight to the tribal government's request when performing the evaluation.
2. Define the complexity of the initiative or identified area of work, its potential implications, and any time or resource constraints relevant to the consultation process.
3. Identify the potentially affected consultative partners, including but not limited to tribes, local education agencies, intermediate school districts, community partners, and state agencies.
4. Determine and define the approach needed for meaningful consultation to be achieved.

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The process through which the following objectives are achieved varies with the nature of the consultation. Regardless of the initiating party (MDE or the tribal government), the outcomes outlined in Objectives 2-4 will be achieved through collaboration between representatives from the Indigenous Education Initiative (on behalf of MDE) and the CMTED Executive Leadership (representing the federally recognized tribes of Michigan).

### Notification Phase

The Notification Phase will occur after the Consideration Phase and proceed as mutually agreed upon by MDE and CMTED Leadership. Notification, which is the primary objective of this phase, may occur in various ways depending on the activity's scope and nature and the number of consultative parties involved. MDE will request the preferred mode of notification from each tribe annually. Notification may include emails, mailings, individualized telephone calls, or any number of other mutually agreed-upon means.

Regardless of the method used, the notification should include sufficient information so that recipients (e.g., tribal leaders, local education staff) can make informed decisions about their desire to engage in consultation. Notification should also occur sufficiently early in the process to allow for meaningful input by all parties.

### Input Phase

The Input Phase will include a range of interactions, including written and oral communications, meetings, webinars, conference calls, on-site visits (i.e., community and cultural events), and other appropriate interactions depending upon the specific circumstances involved and determined in the Consideration Phase.

Throughout this phase, MDE's Indigenous Education Initiative will coordinate with both tribal and MDE officials to respond to their needs for information and provide opportunities to provide, receive, and discuss input. During this phase, the consultation requesting party will consider the input regarding the activity, plan, or identified area of work in question.

With indigenous knowledge and teachings as a driving force, the collaborative approach to consultation necessitates community perspective inclusion. The utilization of tribal historians, fluent indigenous language speakers, teachers, community leaders, and, in particular, the indigenous youth themselves, combined with the tribal, political, and educational administration, is central to the indigenous consultation approach. As part of the Input Phase, consultative parties should engage with their respective communities about the process and its outcomes. Modeled after how tribal community leaders traditionally would ensure that the community's voice was accurately represented within consultative processes, getting broader community input is critical to ensure that the consultation participants accurately reflected the wishes of the communities they represent.

### Follow-up Phase

During the Follow-Up Phase, MDE will explain how input was considered in the final action(s), and each party will also provide feedback on the consultation process. The feedback will be in the form of written communication from MDE executive leadership involved in the consultation to the most senior tribal official involved in the consultation.

### Implementation Phase

During the Implementation Phase, MDE and CMTED Leadership will monitor the activities and processes defined during consultation and evaluate effectiveness. Should the nature and scope of the consultative topics necessitate ongoing consultation, then the process should iterate. If additional topics for consultation are identified through this process, then further consultation should be undertaken.

### Considerations related to Consultation Processes

As MDE proceeds with the implementation of this consultation policy, it is worth noting the following considerations.

1. Developing and maintaining a collaborative governance structure and consultative relationship is a work in progress. The processes will need to be assessed and will likely shift. MDE and its tribal education partners will need to find the balance between structure and circumstance. Flexibility will be built into the process, so continuous improvement is fostered.
2. MDE, in partnership with CMTED, will revisit a central question throughout the consultation process: *Are the work and the partners staying true to the principles articulated in this policy?* An intentional review of the co-developed principles will be conducted as decisions are made to see if the work and the partners from the state and the tribal nations hold to the established principles.