

Fundamental Concepts for Research/Institutional Engagement with Native Nations & Indigenous Communities

Sovereignty

Sovereignty is the authority to self-govern. In the United States, Native Nations have inherent rights and a political relationship with the United States government, also interpreted to stem from the United States Constitution. Throughout United States history, hundreds of treaties, executive orders, and laws have created a fundamental contract between Native Nations and the United States affirming that Native Nations retain their inherent powers of self-government. Tribes continue to exist today as distinct sovereigns within the boundaries of the United States. This sovereign status is a defining feature of Native Nations and it differentiates them from other communities with whom the University of Arizona may engage. Therefore, any research or institutional engagement conducted on sovereign native land is governed under the authority of that individual Native Nation. Each Native Nation is the exclusive owner of all property on its lands and fully controls the disposition, development and use of its physical and intellectual property.

Authority

Each Native Nation will have a distinct procedure for review, approval and regulation of research or institutional engagement. These procedures will vary greatly depending on the Native Nation.

Cultural Competency

Tribal nations are extremely diverse in terms of cultures, languages, lands, governance structures, economies, and decision-making authorities. Each Native Nation has its own laws, codes, regulations, procedures and/or departmental guidelines governing activity occurring on tribal land. Most indigenous groups share common understandings that they as a people have access to land, have a form of self-government, and want to preserve important parts of their culture and worldviews. Familiarize yourself with the culture of the Native Nation with whom you intend to work. Native Nations are the keepers of their knowledge, cultural practices, and traditions that are shared with researchers.

Free, Prior, and Informed Consent

Documentation of Native Nation approval must demonstrate that free, prior, and informed consent for the research or institutional engagement has been obtained. The evidence of consent must be sufficient to demonstrate that the consent was provided prior to the research or institutional engagement and is based on adequate information regarding the intent of the research or institutional engagement and the ongoing use of resulting data.

- **Free:** Consultation shall be effectuated in good faith, lacking coercion or pressure, allowing for the Native Nation collectively, or its citizens individually, to formulate independent points of view and to raise possible concerns.

- **Prior:** Consultation must take place in advance of any decision made on the part of the University to proceed with research or institutional engagement that may impact Native Nations' rights or interests.
- **Informed:** Native Nations or their citizens have full access to all information relevant to the decision-making process, which is presented clearly, accurately, and in terms easily understood by all parties.
- **Consent:** The consensus and/or consent of the Native Nations in accordance with the Tribe's traditional customary law. Under these circumstances, consent does not necessarily mean that every individual Native Nation citizen must agree but rather that consensus will be determined pursuant to customary law and practice of the Native Nation.

Community Risk

ABOR 1 – 118 acknowledges, "Laws that protect individual participants in research may not be sufficient to protect the interests of a sovereign tribe that could be affected by research." In the conduct of research and institutional engagements there may be elements of heightened risk to individual tribal members as well as to Native Nations, tribes and Indigenous communities that are not enumerated under the Common Rule (45 Code of Federal Regulations § 46). Native Nations require thorough consultation and assessment of the benefits and risks of research and institutional engagement activities to community members. Risk may be legal, financial, social, physical, psychological, or spiritual in nature.

