

# SYLLABUS

## 205: COLLABORATION WITH NATIVE NATIONS AND TRIBAL CONSULTATION

### OVERVIEW

This training is intended for representatives of Native Nations and federal agencies engaged in Government-to-Government (G-to-G) interactions who want to improve inter-governmental relations. This training program focuses the historical legal and policy background of Federal and tribal relations on developing awareness of intercultural communications and values, building trust, applying the principles of interest-based consultation, key elements and best practices for effective G-to-G consultation.

This highly participatory and interactive course will help develop awareness of the many facets of G-to-G consultation including: historical context, law, policy, sovereignty, communication, cross-cultural awareness and, interest-based consultation and collaborative negotiation. This training exposes those new to G-to-G consultation to the broad range of concepts and skills for effectively working with Native Nations and communities.

### COMPETENCY-BASED LEARNING OBJECTIVES

Competency	Learning Objectives
Knowledge of Federal Indian laws and policies and their effect within tribal nations and communities	<ul style="list-style-type: none"> <li>• Develop appreciation for how Federal Indian laws, policies, and history shape Tribal-Federal relations</li> <li>• Identify outcomes of past federal Indian law and policies within tribal nations and communities</li> <li>• Demonstrate understanding of key concepts and terms used in reference to tribal consultation; for example, sovereignty and self-determination</li> </ul>
Knowledge of Federal Indian laws and policies and their effect within tribal nations and communities	<ul style="list-style-type: none"> <li>• Develop an understanding of the origin and evolution of federal tribal consultation policy</li> <li>• Describe key components of federal tribal consultation policies</li> <li>• Demonstrate understanding of tribal consultation principles and best practices</li> </ul>
Knowledge of communication protocols and cross-cultural awareness that foster positive intergovernmental relations	<ul style="list-style-type: none"> <li>• Understand the significance of different ways of communication</li> <li>• Recognize the importance of consideration in intercultural communications</li> <li>• Explore best practices for cross-cultural communication</li> </ul>
Skill in interest-based consultation	<ul style="list-style-type: none"> <li>• Understand, practice and become comfortable with interest-based principles and their application in consultation</li> <li>• Understand why it is important to understand each parties' interests</li> <li>• Demonstrate sharing and exploration of interests of all parties in the context of government-to-government consultation</li> </ul>
Knowledge of the various governmental and tribal roles	<ul style="list-style-type: none"> <li>• Develop awareness of, as well as the benefits of interacting with, the different roles and responsibilities associated with tribal consultation</li> </ul>

associated with tribal consultation	<ul style="list-style-type: none"> <li>• Federal &amp; Tribal leadership – chairs, governors</li> <li>• Native American Liaison(s) within the agencies – tribal government contact with agency</li> </ul>
Skill in joint planning of tribal consultations	<ul style="list-style-type: none"> <li>• Demonstrate ability to jointly discuss and identify the purpose of a tribal consultation; i.e.: to share information or engage in dialogue</li> <li>• Demonstrate ability of governmental and tribal counterparts to engage in joint agenda development and consultation planning</li> <li>• Develop awareness of the need to adjust to a variety of cultural, organizational, and decision-making structures among Native Nations</li> </ul>
Knowledge of key concepts to prepare for and foster effective consultation meetings	<ul style="list-style-type: none"> <li>• Explore and apply key concepts and best practices for effectively consulting with Native Nations</li> </ul>

## INSTRUCTORS

### STEPHANIE LUCERO

SENIOR PROGRAM MANAGER, NATIVE AMERICAN/ALASKAN NATIVE PROGRAM LEAD

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Stephanie Lucero is the Senior Program Manager at Morris K. Udall and Stewart L. Udall Foundation’s U.S. Institute for Environmental Conflict Resolution (USIECR), managing the Native American and Alaskan Native program. Stephanie has over 17 years of experience in facilitation, mediation, policy development, cross-cultural collaboration, training and capacity building. She has specialized in working with Native Nations and environmental justice communities throughout the U.S. Stephanie has established herself by convening meaningful discussions among diverse participants, specifically between Native Nations and federal and state agencies. She promotes interest-based negotiation and cross-cultural communication techniques combined with a recognition of how historical, cultural, legal and policy issues affect discussion dynamics.

Stephanie has served as a trainer, facilitator, mediator, and project manager for various Native Nations and Native organizations (e.g. National Indian Justice Center and Indian Dispute Resolution Services) throughout the United States. She has worked with state government officials and variety of federal agencies (e.g., EPA, FWS, ACHP, USFS, USACE, BLM, and FHWA). Most recently before joining the Institute Stephanie served as the Tribal Forest Protection Act (TFPA) coordinator for a joint project between Inter-tribal Timber Council and USFS Office of Tribal Relations. Ms. Lucero coordinated and facilitated the California Tribal Water Summits for 2013 and 2018. She also facilitated discussions and co-edited the Summary Report from Tribal and Indigenous Communities Within California, for the California’s Fourth Climate Change Assessment. She has served as a mediator/facilitator on issues on a range of issues including grave repatriation, natural resources management, public lands, cultural resources, transportation safety, public and environmental health, and economic development.

Stephanie earned a Master of Law in Indigenous Law and Policy from the University of Arizona; she also holds a Juris Doctorate and Certificate in Environmental Law from UC Berkeley’s School of Law and a dual Bachelor of Arts degree in English and Native American Studies from UC Berkeley.

## LAUREN NUTTER

PROJECT MANAGER

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Lauren Nutter is a Project Manager for the Udall Foundation's U.S. Institute for Environmental Conflict Resolution. Her work is primarily focused on projects related to fresh and marine water resources, as well as work with Native American and Alaska Native communities. In her time with the Institute, Lauren has provided several trainings on stakeholder engagement, interest-based negotiation, water diplomacy, and environmental collaboration. She has provided support for regional facilitation, stakeholder engagement, and tribal engagement on ocean planning throughout the U.S. She also provides direct services in facilitating sessions, producing meeting summaries, supporting process design, and conducting neutral assessments for a range of projects.

Lauren is a 2008 alumna from the Udall Foundation's Scholarship program. Prior to her work at the Udall Foundation, Lauren worked as a consultant on sustainable development projects and helped develop a young climate leaders program. In 2010-2011, Lauren spent a year traveling abroad as a Thomas J. Watson Fellow independently researching youth empowerment in environmental decision-making in Turkey, India, Belgium, Holland, Peru, and Argentina.

Lauren is a graduate of Tufts University Fletcher School, where she completed a Masters of Law and Diplomacy, as well as an interdisciplinary Water: Systems, Science, and Society graduate certificate. She is also a graduate of College of the Atlantic in Bar Harbor, Maine, where she received a B.A. in Human Ecology.

# AGENDA

## 205: COLLABORATION WITH NATIVE NATIONS AND TRIBAL CONSULTATION

### DAY 1

#### MORNING

8:15 AM – Arrive

8:30 AM – Begin Class

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#### INTRODUCTIONS + OBJECTIVES

- Welcome!
- Learning goals and objectives
- Overview of agenda & materials
- Expectations for course - making the most of our time together
- Honoring Native identity

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#### WHAT IS TRIBAL CONSULTATION?

- Pillars of Effective Consultation
- Treating Native Nations as Equal Partners

*Activity One: Exploring National Congress of American Indians President Jefferson Keel's 2018 State of Indian Nations Message*

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#### BUILDING A CONTEXT FOR TRUST BETWEEN SOVEREIGNS

- Law and Policy in Indian Country
- Tribal Sovereignty
- Federal Authority in Indian country
- Federal Trust Responsibility

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#### FEDERAL-INDIAN POLICY ERAS

- Post-Contact and Pre-Constitutional Development
- Treaty Making
- Removal and Reservations
- Allotment and Assimilation
- Indian Reorganization
- Termination
- Self-Determination and Self-Governance

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## NATIVE NATIONS TODAY

- What is Indian country?
- Demographic statistics of Native Americans
- Native Nation governance
- United Nations Declaration on the Rights of Indigenous Peoples
- Asserting Tribal Sovereignty and Treaty Rights: Treaty fishing in the Pacific Northwest
- Billy Frank Jr.: Asserting Tribal Sovereignty and Treaty Rights
- Video Salmon Defense's "Back to the River"

*Activity Two: Exploring the Evolution of Federal Indian Policy*

## LUNCH (1 HOUR)

Lunch on your own

## AFTERNOON

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## CONFLICT AND COMMUNICATION

- Sources of Conflict
- Why does conflict happen between the U.S. and Native Nations?
- Communication Principles and Best Practices
- Non-Verbal Communication
- Attending to Non-Verbal Signals
- Framework for Cross-Cultural Communication
- Cross Cultural Differences
- Cross Cultural Meetings

*Activity Three: Cross Cultural Exercise*

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## PRINCIPLES AND CONCEPTS OF INTEREST-BASED CONSULTATION

- What is Positional Consultation?
- What is Interest-Based Consultation?
- Video "Getting to Yes: Negotiating Agreement Without Giving In"
- Disadvantages of Positional Consultation
- Benefits of Interest-Based Consultation

*Activity Four: Identifying Interests*

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## WORKING NATION-TO-NATION

- Tribal Consultation Policy Timeline
- Executive Order 13175
- President Obama's 2009 Memorandum
- Federal agency consultation policies

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## ACTIVITY FIVE: EXPLORING FEDERAL AGENCY CONSULTATION POLICIES

- Federal statutory consultation responsibilities
- Executive Order consultation requirements
- Consultation controversy: Dakota Access Pipeline

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## MOCK CONSULTATION OVERVIEW: FICTIONAL BIG SALMON LAND EXCHANGE

- Consultation Scenario and Role Play

5:00 PM – Adjourn for the day

*HOMEWORK: Review Mock Consultation Scenario and Role Play*

## DAY 2

### MORNING

8:30 AM – Begin Class

Welcome back! Review yesterday's material, perspectives, questions

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## CONSULTATION PROCESS STEPS

- Step One: Initial Planning
- Types of Meetings?
- Project proponents
- Suggested components of a consultation request
- Information sharing
- Determining protocol
- Consultation Process: Step Two
- Pre-Consultation Meeting
- Collaborative agenda
- Confidentiality
- Using a third party neutral
- Consultation meeting
- Consultation Process: Steps Three and Four

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## KEY ELEMENTS OF EFFECTIVE TRIBAL CONSULTATION

- Learn about the Tribe before consultation
- Equal sovereign footing
- Know the Tribe's protocol
- Tribal and federal consultation views
- Contact early and often
- Trust, respect, integrity
- If no change, explain why
- Consultation is not Tribal public participation
- Sensitive and confidential information
- Regular federal training
- Federal funding support
- Tribal liaison
- Collaborative negotiation

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## ADDITIONAL TIPS FOR EFFECTIVE TRIBAL CONSULTATION

- Before, during, and after consultation

### LUNCH (1 HOUR)

Lunch on your own

### AFTERNOON

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## MOCK CONSULTATION PROCESS

- Review Mock Consultation Scenario
- Mock Consultation Pre-Planning Meeting
- Mock Consultation Planning Meeting
- Mock Consultation Preparation
- During the Mock Consultation

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## MOCK CONSULTATION DEBRIEF

- Observations
- Lessons learned

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## COURSE CLOSE

Course Evaluation

5:00 pm ADJOURN