



## MINNESOTA DEPARTMENT OF HUMAN RIGHTS TRIBAL NATIONS CONSULTATION POLICY

March 10, 2014

### **I. Introduction**

On August 8, 2013, Governor Mark Dayton issued Executive Order 13-10 to reaffirm the government-to-government relationship between the State of Minnesota and the eleven federally recognized tribal nations in Minnesota and to direct the administrative agencies that comprise the Cabinet of the Governor to implement a tribal consultation policy.

The agencies were specifically directed to annually consult with each Tribal Nation, designate at least one person to assume responsibility for implementing their tribal consultation policy, and to provide training for staff responsible for implementing the tribal consultation policy.

### **II. Policy Statement**

The Minnesota Department of Human Rights drafted this policy to create an environment of mutual respect with Minnesota Tribal Nations, maintain and nurture positive government-to-government relationships with Minnesota Tribal Nations, and to find mutually beneficial ways to work with the Minnesota Tribal Nations to promote human rights as defined under the Minnesota Human Rights Act.

### **III. Definitions**

“Department” or “MDHR” refers to the Minnesota Department of Human Rights.

“Minnesota Tribal Nation” means an Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges that exists as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1944, 25 U.S.C. 479a and which are located in Minnesota. The following Tribal Nations are located in Minnesota – Bois Forte Band of Chippewa, Fond du Lac Band of Lake Superior Chippewa, Grand Portage Band of Lake Superior Chippewa, Leech Lake Band of Ojibwe, Lower Sioux Indian Community, Mille Lacs Band of

Ojibwe, Prairie Island Indian Community, Red Lake Nation, Shakopee Mdewekanton Sioux Community, Upper-Sioux Community, and White Earth Nation.

“Tribal Official” means an elected, appointed, or designated official identified by a Minnesota Tribal Nation.

#### **IV. Consultation**

##### **A. Guiding Principles**

MDHR’s tribal consultation and coordination policy is guided by the following principles:

Minnesota recognizes and supports each Tribal Nation and its right to existence, self-government and self-determination.

Members of the Minnesota Tribal Nations are citizens of the State of Minnesota and possess all the rights and privileges afforded by the State.

When appropriate, MDHR will carry out this policy jointly with agencies created under federal law or state law.

MDHR will consult with honesty, integrity and with an open mind to find mutually beneficial solutions.

Human Rights for all are advanced when people learn about one another, work together and regularly engage in meaningful dialog.

##### **B. Roles and Responsibilities**

###### **Commissioner**

The Commissioner will communicate the importance of this policy to all staff members of the Department.

The Commissioner, in consultation with the Deputy Commissioner, will annually identify issues for tribal consultation and if appropriate will explore hosting an event with several or all Tribal Nations.

The Commissioner shall designate a Tribal Nation Liaison who will serve as the initial point of contact with Tribal Nations.

The Commissioner will ensure that appropriate staff attends training to improve understanding of the history and culture of each Tribal Nation.

### **Deputy Commissioner**

The Deputy Commissioner will develop, solicit tribal input on, and make available an annual list of priority issues for consultation with Tribal Nations for the upcoming year and, in consultation with the Commissioner, will determine the most appropriate consultation approach for each issue.

The Deputy Commissioner shall be responsible for implementing and coordinating the consultation process.

The Deputy Commissioner shall be responsible for maintaining a record of all consultation activities and the annual update, if needed, of this policy.

### **Tribal Nation Liaison**

The Tribal Nation liaison will be responsible for enhancing and nurturing the relationship between MDHR and the Tribal Nations.

The Tribal Nation liaison shall serve as the initial point of contact for consultation with Tribal Nations.

### **C. Requesting Consultation**

Consultation shall be made by MDHR or one of the Tribal Nations upon a request, preferably in writing, to the other for consultation. The consultation request should:

- Identify the subject issue(s) for attention
- Identify applicable program(s), policy, rule, regulation and/or statute
- Identify the impact or potential impact on members of the Tribal Nation
- If applicable, identify other Tribal Nations that might be impacted

Tribal consultation is appropriate when any proposed policy, program or action identified by MDHR or one Tribal Nation has or may have a substantial effect on one or more Tribal Nations.

### **D. Common Tribal Organizations**

The Minnesota Indian Affairs Council, the Minnesota Chippewa Tribes and similar common tribal organizations may periodically be contacted as means

to informally discuss issues and distribute information to Tribal Nation officials but such common tribal organizations should not be considered the primary method for direct tribal consultation.

#### **E. Preemption**

If any provision of this policy conflicts with state or federal law, administrative rules, or other legal requirements or obligations, state and federal law shall control.

Nothing in this policy shall require MDHR to violate or ignore any laws, rules, directives or other legal requirement or obligations imposed by state or federal law, set forth in agreements or compacts between one or more of the Minnesota Tribal Nations and the State or its agencies.

This policy does not prohibit or limit MDHR from asserting any rights or pursuing any judicial or administrative action under state or federal law to effectuate the interests of the State of Minnesota or its agencies.

This policy is not intended to and does not create any right to judicial or administrative review or any other right or benefit or responsibility against the State of Minnesota, its officers or employees.

DRAFT