

Proposed TCAC Charter Revisions

Detailed Discussion Template

Matrix of Substantive Charter Proposed Revisions

Original Section	Substantive (non-editorial) Changes
Purpose	Focused on the purpose of the TCAC and their role. Moved authority-related info to “Authority” section. New section specifies that they provide recommendations to NIH and the NIH Director. Retains role in advising on consultation.
Authority	Revision includes the Executive Order information here along with an expanded section on authorities under the Unfunded Mandates Reform Act.
Function	Section removed but verbiage merged with “Purpose,” “Authority,” and “Meetings.”
Committee Activities	Unchanged
Structure	Renamed “Committee Composition,” consistent with STAC. Moved desire to have expertise relevant to research and/or NIH activities to “Selection Process.”
Selection Process	Includes desire for nominees to have expertise relevant to research and/or NIH activities. Removed redundant nomination information because priority order is the same for Area Representatives and NALMs.
[Not in original]	Added section on “Leadership” and term lengths. Consistent with HRAC.
Period of Service	Clarifies process for filling a vacancy. Removes “appointing group” to be less prescriptive and more consistent with STAC and HRAC.
Technical Support	Changed to “Technical Advisor” to more closely reflect the duties and use of the term between the TCAC and NIH. Removes requirements for Tribes to pay for their advisor’s travel. Clarifies need to provide CV and name to NIH. Emphasizes interest in advisors with expertise in research or NIH activities.
Meetings	Removed requirement to publish meeting notice in the <i>Federal Register</i> . Consistent with STAC and HRAC. Incorporates footnote about attendance of public members in the section; footnote removed.
Voting	Unchanged
Quorum	Changed to read “50 percent plus one of the filled TCAC seats.” Aligns with STAC.
Compensation	Changed to “Expenses.” Clarifies that NIH will support the travel expenses of the technical advisor.
Reports	Updates reflect the responsibility of the NIH Tribal Health Research Office
Meeting Logistics and Termination Date	Unchanged

Comments So Far

Respondent	Comment
Denise Dillard, Ph.D.	Underneath Committee Activities, add additional verbiage to existing bullet: “Ensure that pertinent issues are brought to the attention of Tribal leaders, Tribes, and area regional and national Tribal organizations, that timely feedback is obtained, and consultations are planned. ”
Denise Dillard, Ph.D.	It is unclear what process NIH then uses to consider feedback and consultation and make any necessary changes. May not be germane to the charter per se but I’m sure we all agree that talking about something versus doing something are different things.
Chief Malerba	I would echo these comments but also ask for language that once feedback is obtained, that there is formal communication about why or why not that feedback is included in the ultimate outcome of policy/regulations etc.

Purpose Statement

Original

Moved to “Authority”. Proposed revision clarifies that TCAC recommendations go to NIH and the NIH Director.

- Pursuant to Presidential Executive Order No. 13175, November 6, 2000, and the Presidential memoranda of September 23, 2004, and November 5, 2009, the National Institutes of Health (NIH) is establishing a Tribal Consultation Advisory Committee (TCAC). The NIH TCAC shall serve as an advisory body to NIH, helping to ensure that Tribes and AI/AN (American Indian/Alaska Native) people have meaningful and timely input in the development of relevant NIH policies, programs, and priorities. The TCAC will support, but not supplant, other government-to-government consultation activities that the NIH undertakes.
- The NIH TCAC will provide a complementary venue wherein Tribal representatives and NIH staff will exchange information about NIH research policies and program priorities. As an advisory committee, the NIH TCAC will provide recommendations on the development of relevant NIH policies, programs, and priorities. The NIH TCAC will seek to ensure that NIH policies or activities that affect Indian Country are brought to the attention of Tribal leaders.

Proposed Revision

- The National Institutes of Health (NIH) Tribal Consultation Advisory Committee (TCAC) serves as an advisory body to the NIH, helping to ensure that Tribes and AI/AN (American Indian/Alaska Native) people have meaningful and timely input in the development of relevant NIH policies, programs, and priorities. Tribal representatives and NIH staff exchange information about NIH research policies, programs, priorities, and other activities that affect AI/AN populations. As an advisory committee, the NIH TCAC provides **recommendations on these matters to the NIH and the NIH Director**, including advice on the NIH tribal consultation process. The TCAC supports, but does not supplant, other government-to-government consultation activities that the NIH undertakes.

Authority

Original

Expanded to include Exec Order language and Unfunded Mandates Reform Act

- The United States Department of Health and Human Services (HHS) has adopted a Tribal Consultation Policy that applies to all HHS operating and staff divisions, including NIH. The HHS Tribal Consultation Policy directs divisions to establish a process to ensure accountable, meaningful, and timely input by Tribal officials in the development of policies that have Tribal implications. In response to this directive and the Presidential actions cited above, NIH is establishing the NIH TCAC. NIH also developed its own guidance on implementation of the HHS Tribal Consultation Policy, which included the intention of establishing the NIH TCAC.

Proposed Revision

- Pursuant to Presidential Executive Order No. 13175, November 6, 2000, and the Presidential memoranda of September 23, 2004, and November 5, 2009, the United States Department of Health and Human Services (HHS) adopted a Tribal Consultation Policy that applies to all HHS operating and staff divisions, including the NIH. The HHS Tribal Consultation Policy directs divisions to establish a process to ensure accountable, meaningful, and timely input by Tribal officials in the development of policies that have Tribal implications.
- Consistent with the HHS Tribal Consultation Policy, the NIH established the NIH TCAC as one method of enhancing communications with Tribes. The TCAC Charter complies with an exemption within the “Unfunded Mandates Reform Act” (P.L. 104-4) to the Federal Advisory Committee Act (FACA) that promotes the free communication between the Federal Government and Tribal governments. Pursuant to this exemption, the NIH TCAC facilitates the exchange of views, information, or advice between Federal officials and elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities concerning the “management or implementation of Federal [NIH] programs established pursuant to public law that explicitly or inherently share intergovernmental responsibilities or administration.” In this context, the NIH interprets Federal programs to include NIH policies, programs, priorities, or other activities that affect AI/AN populations and that arise under statute, regulation, or Executive Order and may be funded in whole or in part by NIH. In addition, the NIH further interprets this exemption to include the development of applicable NIH policies, programs, priorities, or other activities.

Function

Original

Redundant w other sections. Language merged elsewhere.

- The NIH TCAC will provide a forum for meetings between NIH officials and elected Tribal leaders (or their designated employees with authority to act on their behalf), as well as designated representatives of national Tribal organizations, in compliance with the exemption to the Federal Advisory Committee Act (FACA) at 2 U.S.C. § 1534(b). The NIH TCAC will seek to meet twice a year to facilitate the exchange of views, information, or advice concerning the intergovernmental responsibilities in the implementation and/or administration of NIH programs, including those that arise under statute, regulation, or Executive Order. These programs may be funded in whole or in part by NIH. Meetings may be face-to-face or via conference call.

Proposed Revision

- Removed

Committee Activities

Per comments, expand to include consultation?

Original

No changes

- It is important for the NIH TCAC to build relationships with AI/AN people by performing the following, with respect for each sovereign nation's cultural/traditional values:
 - Propose clarifications and other recommendations and solutions to address issues raised at Tribal, regional, and national levels;
 - Serve as a forum for Tribes and NIH to discuss proposals for changes to NIH policies, regulations, and procedures;
 - Explore opportunities for participation in other NIH committees and/or working groups;
 - Respond to NIH on cultural and technical issues regarding grants and contract policies and their impact on tribes; and
 - Ensure that pertinent issues are brought to the attention of Tribal leaders, Tribes, and area regional and national Tribal organizations, and that timely feedback is obtained.

Proposed Revision – None

- It is important for the NIH TCAC to build relationships with AI/AN populations by performing the following, with respect for each sovereign nation's cultural/traditional values:
 - Propose clarifications and other recommendations and solutions to address issues raised at Tribal, regional, and national levels;
 - Serve as a forum for Tribes and NIH to discuss proposals for changes to NIH policies, regulations, and procedures;
 - Explore opportunities for participation in other NIH committees and/or working groups;
 - Respond to NIH on cultural and technical issues regarding grants and contract policies and their impact on tribes; and
 - Ensure that pertinent issues are brought to the attention of Tribal leaders, Tribes, and area regional and national Tribal organizations, and that timely feedback is obtained.

Structure (or Committee Composition in revision)

Changed section header to "Committee Composition". Text reorganized. Moved sentence to "Selection Process."

Original

- The NIH TCAC will be composed of 17 primary members (and designated alternates). In particular, NIH encourages members who have expertise relevant to research in general and/or NIH activities.
- NIH TCAC membership will include representation from each of the twelve geographic Areas served by the Indian Health Service (IHS). These Areas currently include the following: Alaska, Albuquerque, Bemidji, Billings, California, Great Plains, Nashville, Navajo, Oklahoma, Phoenix, Portland, and Tucson. In addition, the NIH TCAC will include one representative (and designated alternate) for each of five National at-large Tribal member (NALM) positions.
- A designated alternate may participate in NIH TCAC meetings on behalf of the primary member when that member cannot attend. If the designated alternate is also not available, the primary member shall designate a second alternate in writing prior to the NIH TCAC meeting.

Proposed Revision

- The NIH TCAC is composed of 17 primary members (and alternates). Membership includes representation from each of the twelve geographic Areas served by the Indian Health Service (IHS). These Areas currently include the following: Alaska, Albuquerque, Bemidji, Billings, California, Great Plains, Nashville, Navajo, Oklahoma, Phoenix, Portland, and Tucson. In addition, to achieve the broadest coverage of NIH-related national perspectives and views, the TCAC includes one representative (and designated alternate) for each of the five National at-large Tribal members (NALMs) positions. No more than one NALM representative from each region may serve on the committee at any time. A designated alternate may participate in NIH TCAC meetings on behalf of the primary member when that member cannot attend. If the designated alternate is also not available, the primary member is permitted to designate a second alternate in writing prior to the NIH TCAC meeting.

Selection Process

Original

Changed to include expertise in research and NIH activities. Consolidated section.

- The names of the nominated TCAC member and alternate from each of the twelve Area Offices of the IHS are to be submitted to NIH's Office of the Director (NIH OD) in an official letter from the Tribe. NIH staff will be responsible for selecting and finalizing the body of members.
- **Area Representatives:** Each Area representative should be an elected official or a Tribal employee who is designated to act on the behalf of a Tribal leader who is qualified to represent the views of the Indian Tribes in the area for which he/she is being nominated. Nominations will be considered for selection in the priority order listed below. In the event that there is more than one nomination for a given Area, letters of support from regional tribal organizations will be taken into consideration when selecting the primary and alternate delegates.
 - Tribal President/Chairperson/Governor
 - Tribal Vice-President/Vice-Chairperson/Lt. Governor
 - Elected or Appointed Tribal Official
 - Designated Tribal Official
- **National At-Large Members:** To achieve the broadest coverage of NIH-related national perspectives and views, the TCAC will include five positions for National at-large Tribal members (NALMs). A NALM should be an elected official or designated representative who is qualified to represent the views of Tribes from a national, collective perspective (for example, views of groups such as the National Congress of American Indians, National Indian Health Board, Tribal Self Governance Advisory Committee, Direct Service Tribes Advisory Committee, National Indian Child Welfare Association, National Indian Headstart Director's Association, or the National Tribal Environmental Council). Nominations will be considered for selection in the priority order listed below.
 - Tribal President/Chairperson/Governor
 - Tribal Vice-President/Vice-Chairperson/Lt. Governor
 - Elected or Appointed Tribal Official
 - Designated Tribal Official

Proposed Revision

- **NIH encourages members who have expertise relevant to research in general and/or NIH activities.** Nominations for the TCAC primary member and alternate from each of the twelve Area Offices of the IHS are submitted to NIH's Office of the Director via an official letter from the Tribe or a Tribal resolution. NIH staff select and finalize the body of members based on the submitted curriculum vitae and letter(s) of support from regional tribal organizations.
- Each Area representative should be an elected official or a representative who is designated to act on the behalf of a Tribal leader and is qualified to represent the views of the Indian Tribes in the area for which he/she is being nominated. Similarly, a NALM should be an elected official or eligible designated representative who is qualified to and has authority to represent the views of Tribes from a national, collective perspective.
- Nominations are considered for selection in the priority order listed below:
 - Tribal President/Chairperson/Governor
 - Tribal Vice-President/Vice-Chairperson/Lt. Governor
 - Elected or Appointed Tribal Official
 - Designated Tribal Official

Leadership - Proposed NEW Section

Original - None

Proposed Revision

Added to clarify roles, terms, and re-election. Clarifies role of Executive Secretary.

- **Chair**
 - A Chair is elected by and from the TCAC members for a one calendar-year term of service. The number of terms is not limited.
- **Co-Chair**
 - The Co-Chair is elected by and from the TCAC members for a one calendar-year term of service. The number of terms is not limited.
- **Executive Secretary**
 - The Designated Federal Official/Executive Secretary serves as the lead point of contact for the TCAC. In addition, he/she provides programmatic guidance, technical assistance, and administrative support. Unless otherwise designated by the NIH, the Designated Federal Official/Executive Secretary will be Director for the NIH Tribal Health Research Office.
- **Re-election**
 - The Chair and Co-Chair may be re-elected by the TCAC for a one calendar-year term. Elections are held annually, at which time the seated membership of the TCAC shall call for nominations for an election. TCAC members may reconfirm the Chair/Co-Chair or vote on a new Chair/Co-Chair.

Period of Service

Clarifies process for filling vacancies. Removed “appointing group.”

Original

- Terms for the TCAC will be two calendar years. Terms will be staggered, with a lottery method used to assign one-year terms to half of the Area members and two of the NALMs initially appointed to the TCAC and two-year terms to the remaining half of the Area members and three of the NALMs. A member may serve successive, consecutive terms if nominated again when his/her term expires.
- **Vacancy:** When a vacancy occurs, Tribal and national Tribal organizations will be notified of the vacancy by the Chairperson of the NIH TCAC and the affected Area or the national Tribal organization will be asked to work with their respective Tribal Leadership and Area Health Board or Area Caucus (herein after referred to as the ‘appointing group’) to select another representative. Tribal leaders, Area Health Boards, or Area Caucuses will notify NIH staff in writing with the name and contact information of the new appointee within forty-five (45) days. In the event no nominees are forthcoming, NIH, through the Office of Intergovernmental and External Affairs, shall seek a new appointee. In the event of a vacancy, the designated alternate will attend meetings until the vacancy is officially filled.
- **Removal:** If a designated member does not participate in a meeting or teleconference on three successive occasions, the appointing body will be notified by the Chairperson of the NIH TCAC and requested to replace their representative with one who is able to participate regularly. The appointing group may remove or change their representative at any time.

Proposed Revision

- Terms for the TCAC are two calendar years and are staggered. The NIH initially used a lottery method to assign one-year terms to half of the Area representatives and two of the NALMs initially appointed to the TCAC and two-year terms to the remaining half of the Area representatives and three of the NALMs. A member may serve successive, consecutive terms if nominated again when his/her term expires.
- **Vacancy:** When a vacancy occurs, the Executive Secretary of the TCAC notifies the Indian Tribes in the respective area and ask them to nominate a replacement. Tribal leaders provide to the NIH the name and contact information of the new nominee in writing and within forty-five (45) days after the NIH is notified of a vacancy. In the event the NIH receives no nominations, the NIH, through the HHS Office of Intergovernmental and External Affairs, shall seek a new appointee. The designated alternate may attend meetings until the vacancy is officially filled.
- **Removal:** If a designated member does not participate in a meeting or teleconference on three successive occasions, the Executive Secretary of the TCAC will notify Indian Tribes in the respective area and ask them to nominate a replacement. The NIH may also request removal if a designated member fails to meet the requirements for TCAC membership (e.g., loss of election).

Technical Support (Technical Advisor in Proposed Revision)

Section changed to "Technical Advisor." Removed requirement for Tribes to pay for advisor expenses. Added desire to have expertise in research or NIH activities, name, and CV.

Original

- Each TCAC member, at the expense of his/her Area or organization, will be allowed to bring one technical advisor to the meeting to assist him/her with his/her duties and responsibilities as a member of the TCAC. The advisor's role is limited to assisting the member, and the advisor cannot participate in the meetings of the TCAC, unless the advisor has been designated by the primary member to act on behalf of the member at the meeting.

Proposed Revision

- Each TCAC member is allowed to bring one technical advisor to the meeting to assist in the performance of his/her duties and responsibilities as a member of the TCAC. The advisor's role is limited to assisting the member, and the advisor cannot participate in the TCAC meetings unless the primary member has designated the advisor to act on behalf of the member at the meeting. **Ideally, advisors have expertise in health research and/or experience and knowledge of the NIH to fulfill their responsibility of advising the TCAC member with respect to NIH policies, programs, priorities, and other activities. TCAC members or their respective Tribes submit the name and curriculum vitae of the proposed technical advisor to the NIH for consideration.**

Meetings

Federal Register requirement removed. Last paragraph added to body rather than as footnote.

Original

- Depending on availability of funds, the NIH will seek to convene two face-to-face TCAC meetings on a fiscal year basis. An NIH official will serve as Committee Management Officer; this person will develop a Rules of Order document with the TCAC, will set meeting agendas, and will attend all TCAC meetings. All face-to-face meetings will be published in the *Federal Register*. NIH will convene TCAC conference calls as needed and additional meetings may be scheduled depending on need and availability of funds.
- Footnote: ¹Pursuant to Section 204 (b) of the Unfunded Mandates Reform Act (2 U.S.C. §1534 (b)), members of the public may be present at committee meetings, i.e., in the audience as observers, but since members of the public are not allowed on the committee, they may not participate in any committee discussions or any other committee business during meetings.

Proposed Revision

- Depending on availability of funds, the NIH seeks to convene two face-to-face TCAC meetings on a fiscal year basis. An NIH official serves as Committee Management Officer; this person develops a Rules of Order document with the TCAC, sets meeting agendas, and attends all TCAC meetings. The NIH convenes TCAC conference calls as needed and additional meetings may be scheduled depending on need and availability of funds. Pursuant to Section 204 (b) of the Unfunded Mandates Reform Act (2 U.S.C. §1534 (b)), members of the public may be present at committee meetings, i.e., in the audience as observers, but since members of the public are not allowed on the committee, they may not participate in any committee discussions or any other committee business during meetings.

Voting and Quorum

Original

Voting

- The NIH TCAC will operate by consensus and when a consensus cannot be reached, the NIH TCAC will vote to resolve any differences. Each NIH TCAC member (principal member of designated alternate) will be allowed one vote.

Quorum

- A quorum is **established with a majority of voting members present (9 of 17)**. In the event the NIH TCAC is not able to establish a quorum for a meeting, then the Chairperson and Co-Chair in their discretion can arrange for polling of members via conference call or another manner. Informational sessions may occur in the absence of a quorum.

Voting unchanged other than edits.
Quorum adjusted to reflect HRAC –
50% plus 1 of filled TCAC seats.

Proposed Revision

Voting

- The NIH TCAC operates by consensus and when a consensus cannot be reached, the NIH TCAC votes to resolve any differences. Each NIH TCAC member (or designated alternate) is allowed one vote.

Quorum

- A quorum is **established with 50 percent plus one of the filled TCAC seats**. In the event the NIH TCAC is not able to establish a quorum for a meeting, then the Chairperson and Co-Chair in their discretion can arrange to poll members via conference call or another manner. Informational sessions may occur in the absence of a quorum.

Compensation (Expenses in Proposed Revisions)

Original

Changed to “Expenses” and clarifies that NIH will pay for Technical Advisors’ travel.

- For each TCAC meeting, each primary TCAC member (or the designated alternate, if the primary member is unable to attend) who is not a Federal employee shall have travel expenses paid by NIH in accordance with Standard Government Travel Regulations (e.g. two week minimum advance airline reservations, unless prior approval otherwise).

Proposed Revision

- Each primary TCAC member (or the designated alternate, if the primary member is unable to attend) who is not a Federal employee will have travel expenses paid by the NIH for the two face-to-face TCAC meetings in accordance with Standard Government Travel Regulations (e.g. two week minimum advance airline reservations, unless prior approval otherwise). **The NIH will also pay the travel expenses of the TCAC member’s technical advisor (who is not a Federal employee) to attend the two face-to-face TCAC meetings.**

Reports

Original

Replaces NIMHD with the Division's Tribal Health Research Office.

- NIH's **National Institute on Minority Health and Health Disparities (NIMHD)** will ensure that reports of all NIH TCAC meetings and recommended actions are made available to NIH leadership and will post minutes and reports to the NIH website. **NIMHD will be responsible for** archiving all NIH TCAC documentation.

Proposed Revision

- NIH's **Tribal Health Research Office in the Division of Program Coordination, Planning, and Strategic Initiatives** ensures that reports of all NIH TCAC meetings and recommended actions are made available to NIH leadership. **The Office posts** minutes and reports to the NIH website and is responsible for archiving all NIH TCAC documentation.

Meeting Logistics and Termination Date

Original

No changes other
than editorial

Meeting Logistics

- NIH will provide meeting coordination for all NIH TCAC meetings.

Termination Date

- This NIH TCAC charter shall be effective as long as the NIH Tribal Consultation Policy is in effect and the charter may be amended as needed.

Proposed Revision

Meeting Logistics

- The NIH provides meeting coordination for all NIH TCAC meetings.

Termination Date

- This NIH TCAC charter is in effect as long as the NIH Tribal Consultation Policy is in effect and the charter may be amended as needed.

Comments So Far

Respondent	Comment
Denise Dillard, Ph.D.	Underneath Committee Activities, add additional verbiage to existing bullet: “Ensure that pertinent issues are brought to the attention of Tribal leaders, Tribes, and area regional and national Tribal organizations, that timely feedback is obtained, and consultations are planned. ”
Denise Dillard, Ph.D.	It is unclear what process NIH then uses to consider feedback and consultation and make any necessary changes. May not be germane to the charter per se but I’m sure we all agree that talking about something versus doing something are different things.
Chief Malerba	I would echo these comments but also ask for language that once feedback is obtained, that there is formal communication about why or why not that feedback is included in the ultimate outcome of policy/regulations etc.

Next Steps

- Discussion
- Changes – in line editing?
- Vote