

National Indian  
Health Board



# **Regulations Matter! Workshop**

**National Tribal Health Conference  
September 18, 2019, 1:30PM-3:00PM**

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## Overview:





## **Indian Health Policy**

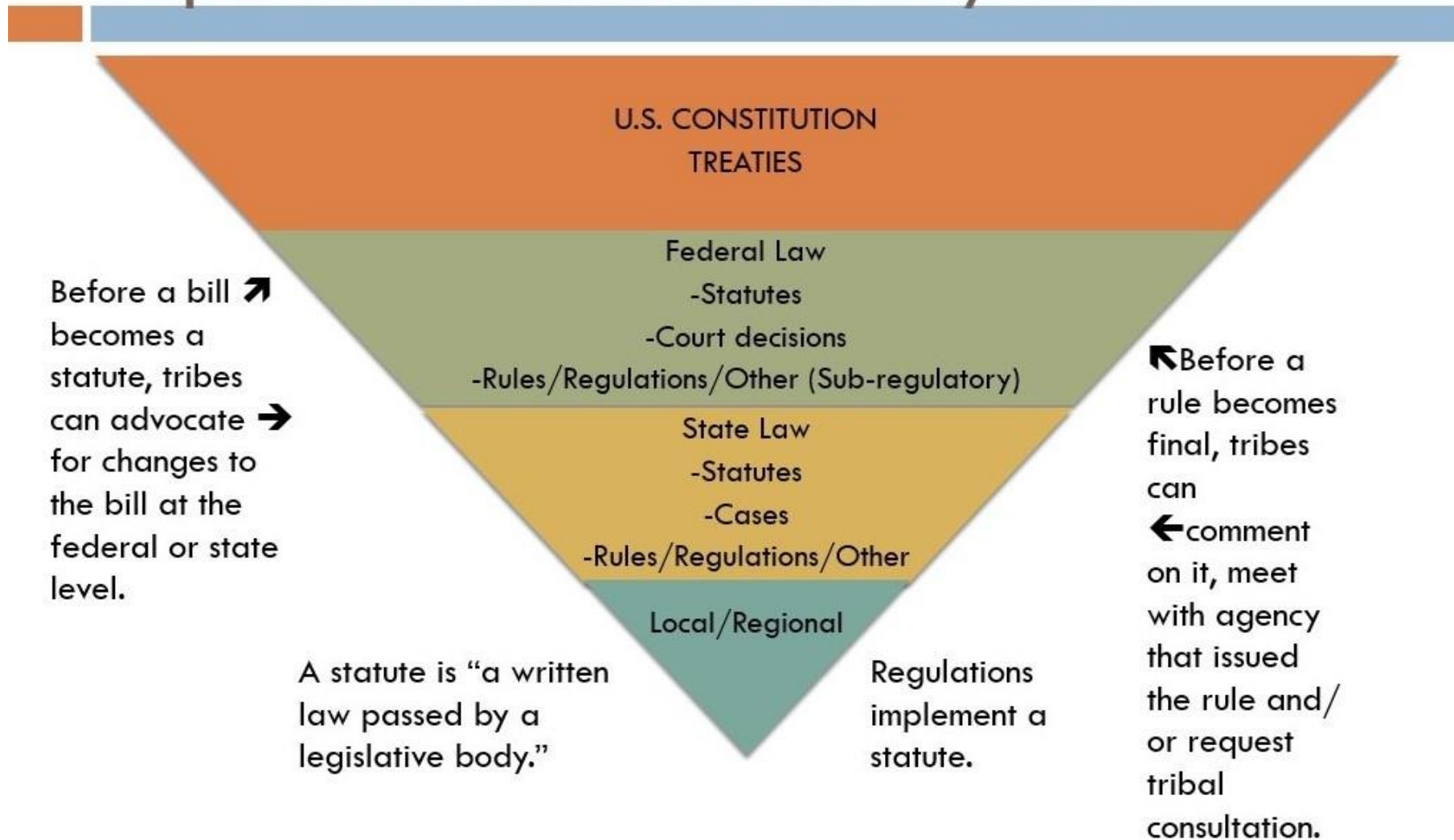
- **Federal Trust Responsibility**
  - Treaties, Presidential Executive Orders, Court decisions, Statutes, Notice of Consultation, Department and Agency policy statements, and Regulations!!!
  - Ongoing relations with Indians have collectively defined the federal trust relationship. Recognized by all branches of the federal government.
- **Tribal Consultation and Executive Order 13175**
  - Executive Order 13175 sets forth clear definitions and frameworks for meaningful Tribal consultation on policies that have Tribal implications that honors the government-to-government relationship between the United States; and
- **Agencies**
  - Develop their own policies. May defer to Tribes to develop standards. Accountable for consultation process.



## **Indian Health Policy**

- Provides an opportunity to address health disparities and improve the health of American Indian and Alaska Native peoples.
- Complex patchwork of:
  - Federal and state statutes, executive orders, court decisions, federal and state agency policies, and includes variation from state to state.
- Woven into the long history and development of Indian law and policy.
- Before a policy becomes binding, Tribes can provide input to ensure Tribal inclusion and prevent negative consequences.

# The hierarchy of law and policy that impacts the Indian health system





## **BACKGROUND: THE FEDERAL REGULATORY PROCESS**

- **Congress gives federal agencies the authority to issue rules and regulations.**
  - Agencies must follow certain procedures and solicit public feedback through “notice-and-comment rulemaking” when proposing new regulations. Under the Administrative Procedure Act (APA), this requires the agency to publish proposed rules or requests for information (RFIs) in the Federal Register.
- **Notice-and-comment rulemaking allows the agency to understand and respond to the public’s concerns.** It allows the concerns of Indian Country to be expressed, on the record, and available for advocates to track and refer back to in future agency rulemaking.



## FederalRegister.gov

Navigation bar with links: Sections, Aids, Search Documents, Sign in, Sign up. Includes logos for National Archives and the Department of Veterans Affairs.

### Recognition of Tribal Organizations for Representation of VA Claimants

A Rule by the [Veterans Affairs Department](#) on 01/19/2017

PUBLISHED DOCUMENT	DOCUMENT DETAILS
<p><b>AGENCY:</b> Department of Veterans Affairs.</p> <p><b>ACTION:</b> Final rule.</p> <p><b>SUMMARY:</b> The Department of Veterans Affairs (VA) is amending its regulations concerning recognition of certain national, State, and regional or local organizations for purposes of VA claims representation. Specifically, this rulemaking allows the Secretary to recognize tribal organizations in a similar manner as the Secretary recognizes State organizations. The final rule allows a tribal organization that is</p> <p><a href="#">Start Printed Page 6266</a></p> <p>established and funded by one or more tribal governments to be recognized for the purpose of providing assistance on VA benefit claims. In addition, the final rule allows an employee of a tribal government to become accredited through a recognized State organization in a similar</p>	<p><b>Printed version:</b> <a href="#">PDF</a></p> <p><b>Publication Date:</b> 01/19/2017</p> <p><b>Agency:</b> <a href="#">Department of Veterans Affairs</a></p> <p><b>Dates:</b> Effective Date: This rule is effective February 21, 2017.</p> <p><b>Effective Date:</b> 02/21/2017</p> <p><b>Document Type:</b> Rule</p> <p><b>Document Citation:</b> 82 FR 6265</p> <p><b>Page:</b> 6265-6272 (8 pages)</p> <p><b>CFR:</b> 38 CFR 14</p>





## **Other Ways to Gather Tribal Feedback**

1. Policy guidance, fact sheets, or the Notice of Proposed Rulemaking (NPRM) to get familiar with the subject matter
2. Sub-regulatory guidance: Guiding policies not open to public comment
3. States: Federal regulatory actions filter down to the states
4. Rules or guidance without obvious Tribal impact: In certain instances, it is still important for Tribes to determine whether there could be an impact to consider

