

Chapter 220, Research--General

Section 50, Curation and Repatriation of Native American Human Remains and Cultural Items

Date: 7/31/17

Supersedes: New

Responsible Department: NAGPRA Project

Source Document: UC Policy and Procedures on Curation and Repatriation of Human Remains and Cultural Items

I. Purpose

This section provides the campus procedures to ensure compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) and treatment of Native American (including both Indian tribes and native Hawaiian organizations) human remains and cultural items within campus control. NAGPRA provides a process for determining the rights of lineal descendants and Indian tribes to certain Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony with which they are affiliated.

II. Definitions

- A. Campus Repositories--UC Davis facilities responsible for the care and management of collections owned by The Regents of the University of California, including but not limited to the Department of Anthropology Museum and the Museum of Wildlife and Fish Biology.
- B. Control—legal interest in cultural items sufficient to lawfully permit the University to treat the objects as part of its collection (43 C.F.R. 10.2).
- C. Cultural Affiliation—relationship of shared group identity which can be reasonably traced historically or prehistorically between a present day Indian tribe or Native Hawaiian organization and an identifiable earlier group. Cultural affiliation is established by the preponderance of the evidence based on geographical, kinship, biological, archaeological, anthropological, linguistic, folklore, oral tradition, historical evidence, or other information or expert opinion—reasonably leads to such a conclusion (43 C.F.R. 10.2).
- D. Cultural Items—Native American human remains, associated funerary objects, unassociated funerary objects, sacred objects, and objects of cultural patrimony (43 C.F.R. 10.2).
 - 1. Human Remains—the physical remains of the body of a person of Native American ancestry. The term does not include remains or portions that may reasonably be determined to have been freely given or naturally shed by the individual from whose body they were obtained (43 C.F.R. 10.2). For the purposes of NAGPRA, the campus considers human remains to include not only the decomposed or cremated remains of bodily tissue (e.g., bone, tooth, skin), but also chemically altered derivative of those remains (e.g., collagen, apatite, DNA). In addition, the term will apply to materials adhering to the body at the time of burial (e.g., dental calculus, etc.).
 - 2. Funerary Objects—items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains. Funerary objects must be identified by the preponderance of the evidence as having been removed from a specific burial site of an individual affiliated with a particular Indian tribe or Native Hawaiian organization or as being related to specific individuals or families or to known human remains. The term burial site means any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which, as part of the death rite or ceremony of a culture, individual human remains were

- deposited, and includes rock cairns or pyres which do not fall within the ordinary definition of gravesite. (43 C.F.R. 10.2)
- a. Associated Funerary Objects--those funerary objects for which human remains with which they were placed intentionally are also in the possession or control of a museum or Federal agency. Associated funerary objects also means those funerary objects that were made exclusively for burial purposes or to contain human remains. (43 C.F.R. 10.2)
 - b. Unassociated Funerary Objects--those funerary objects for which the human remains with which they were placed intentionally are not in the possession or control of a museum or Federal agency. Objects that were displayed with individual human remains as a part of a death rite or ceremony of a culture and subsequently returned or distributed according to traditional custom to living descendants or other individuals are not considered unassociated funerary objects (43 C.F.R. 10.2).
3. Sacred Objects—items that are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. While many items, from ancient pottery shards to arrowheads, might be imbued with sacredness in the eyes of an individual, the NAGPRA regulations are specifically limited to objects that were devoted to a traditional Native American religious ceremony or ritual and which have religious significance or function in the continued renewal of such ceremony. The term traditional religious leader means a person who is recognized by members of an Indian tribe or Native Hawaiian organization as:
- a. Being responsible for performing cultural duties relating to the ceremonial or religious traditions of that Indian tribe or Native Hawaiian organization, or
 - b. Exercising a leadership role in an Indian tribe or Native Hawaiian organization based on the tribe or organization's cultural, ceremonial, or religious practices (43 C.F.R. 10.2).
4. Objects of Cultural Patrimony—items having ongoing historical, traditional, or cultural importance central to the Indian tribe or Native Hawaiian organization itself, rather than property owned by an individual tribal or organization member. These objects are of such central importance that they may not be alienated, appropriated, or conveyed by any individual tribal or organization member. Such objects must have been considered inalienable by the culturally affiliated Indian tribe or Native Hawaiian organization at the time the object was separated from the group (43 C.F.R. 10.2).
- E. Culturally Unidentifiable--refers to human remains and associated funerary objects for which no lineal descendent or culturally affiliated Indian tribe has been identified through the NAGPRA process (43 C.F.R. 10.2).
- F. Indian Tribe—any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians (25 U.S.C. 3001).
- G. Museum--any institution, State, or local government agency (including any institution of higher learning) that receives Federal funds and has possession of, or control over, Native American cultural items (43 C.F.R. 10.2).
- H. Native American—of, or relating to, a tribe, people or culture that is indigenous to the United States (25 U.S.C. 3001), including both Federally-recognized and non-Federally recognized tribes.

- I. Right of Possession—possession obtained with the voluntary consent of an individual or group that had authority of alienation. The original acquisition of a Native American unassociated funerary object, sacred object, or object of cultural patrimony from an Indian tribe or Native Hawaiian organization with the voluntary consent of an individual or group with the authority to alienate such object is deemed to give right of possession of that object (43 C.F.R. 10.10).

III. Policy

- A. The University recognizes the rights of Native Americans to the repatriation or disposition of Native American human remains and cultural items as specified in NAGPRA or other applicable federal or state laws or regulations.
- B. The University also recognizes that human remains and cultural items can provide valuable information to further learning, teaching, and research, and maintains collections as a public trust.
- C. The University will address NAGPRA with proactive outreach and consultation. Input will be sought from Native American tribes and is critical to the development and/or revision of NAGPRA Summaries and Inventories.
- D. Collections of human remains and cultural items held by campus repositories, funded via moneys granted or administered through UC Davis; or generated by University faculty, staff, or students in their research, are the property of The Regents of the University of California and subject to NAGPRA, unless explicitly owned by another institution or individual. Collections of human remains and cultural items on loan to UC Davis from other institutions may also be subject to NAGPRA although responsibilities for consultation and disposition belong to the lending institution.

IV. Roles and Responsibilities

- A. Chancellor or designee
 1. Responsible for NAGPRA compliance
 2. Recommends faculty representatives to the Systemwide Advisory Group who are familiar with the study, curation, and repatriation of Native American human remains and items.
 3. Chairs the campus NAGPRA Advisory Committee.
 4. Appoints the NAGPRA Project Manager.
 5. Makes final recommendations regarding determination of cultural affiliation, identification of cultural items, repatriation or disposition of relevant human remains and cultural items, and other relevant decisions, based on recommendations of the campus NAGPRA Advisory Committee and information obtained in consultation with Native American tribes, subject to the review and approval of the UC Office of the President.
 6. Forwards campus repatriation and disposition recommendations, with supporting documentation, to UC Office of the President for review and approval.
- B. UC Davis Faculty Representative to the Systemwide Advisory Group
 1. Responsible for reviewing campus decisions, policy, overall implementation and providing recommendations to the President.
 2. Responsible for annual reporting to Academic Senate Committees as requested.
- C. NAGPRA Project Manager or designee

1. Serves as campus liaison and campus point of contact for NAGPRA-related outreach and consultation with Native American tribes and Federal and State agencies.
2. Leads campus NAGPRA compliance efforts and makes recommendations to the Chancellor.
3. Coordinates the campus NAGPRA Advisory Committee.
4. Coordinates NAGPRA compliance with relevant campus repositories and researchers.
5. Documents the basis for NAGPRA recommendations and decisions, and provides reasonable access to tribal representatives and campus constituents.
6. Writes NAGPRA Summaries of collections that may contain sacred objects, objects of cultural patrimony, or unassociated funerary objects; Inventories; Federal Register Notices.
7. Coordinates implementation of CAL-NAGPRA regulations.

D. NAGPRA Advisory Committee

1. Includes faculty, staff, students, Native American representatives, and others with an interest and expertise in NAGPRA, as appointed by the Chancellor.
2. Provides recommendations to the Chancellor regarding:
 - a. Implementation of NAGPRA and related campus policies and procedures.
 - b. Cultural affiliation and repatriation or disposition of Native American human remains and cultural items.

E. Campus repositories

1. Ensure that research and loans of Native American human remains and cultural items under its control are conducted in compliance with University policy.
2. Ensure access to NAGPRA-related Native American collections and records under its control for the purpose of documentation and consultation.
3. Complete internal deaccessioning processes for items under its control pending transfer when the University has determined that items are to be repatriated or otherwise transferred.
4. Report new accessions of Native American collections that may contain human remains or cultural items to the NAGPRA Project Manager.
5. Notify NAGPRA Project Manager upon receipt of any research proposal that includes Native American human remains and cultural items under its control.
6. Upon pending repatriation/dispositions, recall relevant human remains and cultural items on loan under its control.

F. Researchers

1. Seek input from Native American tribes eligible to submit a claim under NAGPRA regarding proposed research using Native American human remains and cultural items.
 - a. Researchers must contact tribal representatives authorized to speak on behalf of their tribal community on cultural resources issues, including Tribal Chairs, Tribal Historic Preservation Officers, Cultural Resources Management staff or committee members, or others authorized by tribal government.
 - b. Researchers must clearly inform Native American tribes that they are seeking input for the purpose of research and not for the purpose of NAGPRA consultation.

- c. Researchers are encouraged to engage the NAGPRA Project Manager to facilitate the process of seeking input.
2. Copy the campus repository and NAGPRA Project Manager on correspondence with Native American tribes.
3. Provide documentation of efforts to seek input from Native American tribes to campus repository.
4. Provide interim updates on status of research to the NAGPRA Project office on request.
5. Provide any resulting dissertations, theses, reports, or publications to the relevant campus repository and the NAGPRA Project.
6. If research does not result in dissertation, theses, reports, or publications, provide any other analytical outcomes generated from research activities (including but not limited to radiocarbon dates, isotopic analysis, and DNA etc.) to the campus repository and the NAGPRA Project.
7. Provide any resulting dissertations, theses, or publications with relevant tribal communities with whom input was sought.
8. Upon pending repatriation/disposition, return relevant human remains and cultural items on loan.

G. Faculty, Staff, and Students

1. Conduct all research and teaching in compliance with NAGPRA Policy.
2. Report human remains or cultural items that may be subject to NAGPRA to the NAGPRA Project Manager.

V. Procedures

A. Summaries and Inventories

1. NAGPRA Project Manager provides NAGPRA Summaries to Native American tribes as required by NAGPRA regulations and UC Policy.
2. NAGPRA Inventories and Revised NAGPRA Inventories
 - a. Produced by NAGPRA Project Manager in consultation with Native American tribes as required by NAGPRA regulation and UC Policy.
 - b. Submitted to campus NAGPRA Advisory Committee for review and recommendation.
 - c. Submitted to the President or designee for approval.

B. Claims

1. Consultation and disposition occurs as follows:
 - a. The campus consults with Federally-recognized Indian Tribes.
 - b. If no Federally-recognized Indian Tribe requests control, the campus consults with non-Federally-recognized tribes and considers disposition requests from non-Federally-recognized tribes on a case-by-case basis.

- c. If the campus decides to proceed with a disposition request from a non-Federally-recognized tribe, the campus may proceed with disposition to non-Federally-recognized tribes after receiving a recommendation from the Secretary of Interior.
 - d. Valid claims will generally be recommended for disposition.
 - e. In the event the campus does not recommend disposition, the Federally or non-Federally recognized tribe may request a written explanation of the reasons.
2. The campus reserves the right to exercise or waive its right of possession to cultural items.
 - a. In the event of disagreement, Native American tribes must present evidence that the campus lacks right of possession.
 - b. Right of possession claims must be considered by the campus NAGPRA Advisory Committee.
 3. The campus will offer culturally unidentifiable associated funerary objects to Native American tribes if requested, in writing, pending review and approval by the Office of the President.
 4. For disposition of culturally unidentifiable human remains and associated funerary objects, the campus will use the same timelines outlined in the Repatriation Section of NAGPRA regulations as guidance (see 43 C.F.R. 10.10).
 5. The campus will offer residues (materials extracted from such human remains and cultural items that are not consumed during scientific analysis) to the requesting Native American tribe for repatriation or disposition.

C. Transfer of control

Transfer of control refers to transfer of legal interest of relevant Human Remains and Cultural Items. Control of Human Remains and Cultural Items will be transferred to claimant lineal descendants or Native American tribes after all the following conditions have been met, provided that nothing in this Section shall be interpreted as prohibiting or limiting any transfer of control otherwise required by NAGPRA or its implementing regulation:

1. Native American Tribes submit a valid repatriation or disposition request.
2. The University reviews the request against the requirements outlined in the *UC Policy and Procedures on Curation and Repatriation of Human Remains and Cultural Items* have been met.
3. A Notice of Intent to Repatriate or Notice of Inventory Completion is published in the Federal Register.
4. The 30-day wait period must be completed and any competing claims must be addressed.
5. The President authorizes transfer.
6. The relevant campus repository completes deaccession process and documentation.
7. The Chancellor signs a document transferring control of Human Remains and Cultural Items. Transfer of control paperwork should be arranged as soon as possible after the expiration of the Federal Register Notice.

D. Physical Transfer/Transfer of Possession

Transfer of possession refers to the physical transfer of Human Remains and Cultural Items.

1. The transfer will be arranged at mutually agreed upon date determined on a case-by-case basis.
 2. If requested by the Native American tribe, the campus may make arrangements to continue to hold Human Remains and Cultural Items on behalf of the claimant tribes.
 3. Terms of agreement between UC Davis and the Native American tribes will be made directly with individual claimant tribe(s).
- E. Access to Native American Human Remains and Cultural Items for research or instruction
1. Researchers requesting access to Native American human remains and cultural items must provide documentation showing input was sought from the Native American tribes eligible to submit a claim for the human remains and cultural items.
 - a. If the human remains and cultural items are culturally affiliated, the researcher must obtain explicit written permission of culturally affiliated tribes.
 - b. If the human remains and cultural items are pending repatriation or disposition, the researcher must obtain explicit written permission from relevant Native American tribes. Repatriation and disposition requests shall be considered granted and pending upon approval by the President.
 - c. If the human remains and cultural items are culturally unidentifiable, the researcher must seek input from all the Indian tribes from whose aboriginal lands (as outlined in NAGPRA) overlap with the location where the human remains and/or cultural items originate.
 - d. If the human remains and cultural items are culturally unidentifiable due to the tribe's status as non- federally recognized, the researcher must seek input from the non- federally recognized tribe with closest association.
 2. The researcher must provide at least 30 days for the Native American tribe to submit a response. If researchers make a good faith effort to seek input and the Native American tribe does not respond, the campus repository may proceed with its review and evaluation of the research proposal under repository procedures. The campus repository reviews the research request, in consultation with the NAGPRA Project Manager, for scholarly merit, evidence of Native American tribal consultation, and other criteria when approving access.
 3. The researcher must submit a research request as required by the specified campus repository.
 4. Human remains or cultural items not consumed during the research must be returned to the campus repository at the earliest of the following:
 - a. Completion of the loan period.
 - b. Pending repatriation/disposition demonstrated by claim and approval of Federal Register Notice by Office of the President.
 - c. Within one year of completion of the analysis.
 5. If the researcher is a student, the researcher's faculty advisor(s) is responsible for compliance.
 6. Human remains subject to NAGPRA may not be used in classroom instruction.

F. Dispute Resolution

1. Native American tribes who disagree with campus determinations are encouraged to work directly with NAGPRA Project Manager to resolve disputes.
2. If the dispute remains unresolved, the Native American tribe may present the dispute to the campus NAGPRA Advisory Committee for consideration.
 - a. Tribal representatives will be provided an opportunity to present their comments in writing to the NAGPRA Project Manager who will distribute to the campus NAGPRA Advisory Committee for consideration.
 - b. The campus NAGPRA Advisory Committee may appoint one or more individuals to an ad hoc committee to consider the dispute.
3. If the dispute remains unresolved, third-party mediation by means mutually agreed to by all parties and approved by the Chancellor, is encouraged.
4. Repatriation and disposition disputes remaining unresolved following initial dialogue are reviewed and decided by the Chancellor, subject to review by the President or designee.
5. If the dispute is not resolved at the campus level, Native American tribes may address concerns to the President, who has final authority regarding disposition of Native American Human Remains and Cultural Items in University collections, in accordance with this policy, UC systemwide policy, and applicable laws and regulations.
6. If the dispute remains unresolved, a request can be made to the Designated Federal Officer (generally the National NAGPRA Program Manager) for review by the NAGPRA Review Committee. UC Davis will strongly consider any recommendations made by the NAGPRA Review Committee.

VI. Further Information

For questions about this policy, contact the NAGPRA Project Manager, (530) 752-8501.

VII. References and Related Policies

- A. [Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001.](#)
- B. [Native American Graves Protection and Repatriation Act Regulations, 43 C.F. R. 10.](#)
- C. [Office of the President Policy and Procedures on Curation and Repatriation of Human Remains and Cultural Items.](#)