

National Park Service | U.S. Department of the Interior

Cultural Resources, Partnerships and Science

National NAGPRA Program



# Facilitating Respectful Return



# 25 U.S.C. 3001 et seq.

- Became law on November 16, 1990
- Represented consensus and compromise after several years of negotiation and decades of activism
- Changed the policy of the United States on treatment of Native American ancestors and objects
- Recognizes the rights of lineal descendants, Indian Tribes, and Native Hawaiian organizations in human remains, funerary objects, sacred objects, and objects of cultural patrimony

# 43 CFR part 10

- January 2024 - Full revision of regulations to clarify and simplify but similar to prior rule(s)
- Applies to all museums (broadly defined) and all Federal agencies
- Two different regulatory processes for:
  - Protection on Federal or Tribal lands
  - Repatriation by museums or Federal agencies

# Repatriation by museums/Federal agencies

- Applies to museums (any institution that receives Federal funds) and Federal agencies
- Requires information about Native American human remains and cultural items must be made available to lineal descendants, Indian Tribes, or Native Hawaiian organizations

43 CFR 10.8-10.11

<https://www.nps.gov/subjects/nagpra/compliance.htm>

# Natural History Collections?

- Native American-related to Tribe, people, or culture indigenous to the United States
- Receives Federal funds-directly or indirectly receives Federal financial assistance after 1990
- Human remains-physical part of the body of a Native American individual (hair samples, tissue samples, etc included)
- Cultural items-**may be** funerary object, sacred object, or object of cultural patrimony

43 CFR 10.2

<https://www.nps.gov/subjects/nagpra/glossary.htm>

# Reporting Requirements (10.8)

All holdings or collections that may contain human remains or cultural items must be reported in either a summary (10.9), an inventory (10.10), or a custody statement (10.8).

Deadlines for reporting apply to previously lost or unknown holdings or collections

For museums with custody of collections, report no later than 1/13/2025 to

- Federal agencies, who must respond within 180 days
- National NAGPRA Program, to make publicly available

43 CFR 10.8

<https://www.ecfr.gov/current/title-43/subtitle-A/part-10/subpart-C/section-10.8>

# Duty of care prior to repatriation 10.1(d)

- Care for, safeguard, and preserve any human remains or cultural items and
  1. Consult on appropriate storage, treatment, or handling
  2. Reasonable and good-faith effort to incorporate and accommodate traditional knowledge and requests
  3. Obtain free, prior, and informed consent prior to allowing exhibition, access, or research

# Requirements for repatriation

- Follow the step-by-step process to ensure good faith effort
- Make information available, offer to consult, and respond to requests
- Incorporate information from consultation, including deference to Native American traditional knowledge
- Ensure recognition of the rights afforded to lineal descendants, Indian Tribes, and NHOs by the Act



# Repatriation of Human Remains (10.10)

## Repatriation of human remains or associated funerary objects

<p><b>Step 1: Compile an itemized list.</b></p> <ul style="list-style-type: none"> <li>The number of individuals and associated funerary objects</li> <li>The geographical location</li> <li>The acquisition history</li> <li>Other information such as hazardous substance treatment</li> </ul>	<p><b>Step 2: Initiate consultation.</b></p> <ul style="list-style-type: none"> <li>Any lineal descendant</li> <li>Any Indian Tribe or NHO with potential cultural affiliation</li> <li>Include itemized list, names of all consulting parties, and proposed timeline and method for consultation</li> </ul>	<p><b>Step 3: Consult.</b></p> <ul style="list-style-type: none"> <li>Respond to any consulting party</li> <li>Address identification of lineal descendants, Indian Tribes or NHOs with cultural affiliation, types of associated funerary objects, and duty of care</li> <li>Make a record of consultation</li> </ul>	<p><b>Step 4: Complete an inventory.</b></p> <ul style="list-style-type: none"> <li>Consulting parties and dates</li> <li>Itemized list, updated</li> <li>For each entry, a determination:               <ul style="list-style-type: none"> <li>Lineal descendant</li> <li>Clearly identified cultural affiliation</li> <li>Reasonably identified cultural affiliation</li> <li>None of the above</li> </ul> </li> </ul>
43 CFR 10.10(a)	43 CFR 10.10(b)	43 CFR 10.10(c)	43 CFR 10.10(d)(1)
<p><b>Six months after Step 4 Step 5: Submit a Notice.</b></p> <ul style="list-style-type: none"> <li>Abstract of information in itemized list</li> <li>Determination in inventory</li> <li>Total number of individuals and associated funerary objects</li> <li>Contact information</li> <li>Calculated date when repatriation may occur</li> </ul>	<p><b>Any time after Step 5 Step 6: Receive and consider requests.</b></p> <ul style="list-style-type: none"> <li>Joint request is a single request</li> <li>Criteria for a request is EITHER:               <ul style="list-style-type: none"> <li>Requestor is identified in the notice OR</li> <li>Requestor shows lineal descent or cultural affiliation by preponderance of the evidence</li> </ul> </li> </ul>	<p><b>90 days after Step 6 Step 7: Respond to requests.</b></p> <ul style="list-style-type: none"> <li>Written response to requestor and any other party in notice</li> <li>ONE of following:               <ul style="list-style-type: none"> <li>Meets the criteria</li> <li>Does not meet the criteria and request more information</li> <li>Competing requests received</li> </ul> </li> </ul>	<p><b>90 days after Step 7 Step 8: Repatriation.</b></p> <ul style="list-style-type: none"> <li>Send a written repatriation statement to requestor and copy to National NAGPRA (nagpra_info@nps.gov)</li> <li>After statement, consult on and document physical transfer and protect sensitive information</li> </ul>
43 CFR 10.10(e)	43 CFR 10.10(f)	43 CFR 10.10(g)	43 CFR 10.10(h)

### Accessible Text - Steps 1 through 8

# Illinois State Museum

1930-two nests, with eggs, inside two human cranium collected

1947-nests, eggs, and cranium donated to Illinois State Museum

July 2014-after consultation, human remains reported in an inventory and published in a Notice of Inventory Completion (Steps 4-5)

August 2014-available for repatriation to Indian Tribes (Steps 6-8)

<https://www.federalregister.gov/d/2014-17750>

# Repatriation of Cultural Items (10.9)

## Repatriation of other cultural items

<b>Step 1: Compile a summary.</b>	<b>Deadlines for compiling a summary.</b>	<b>30 days after Step 1 Step 2: Initiate consultation.</b>	<b>Step 3: Consult.</b>
<ul style="list-style-type: none"> <li>Estimated number and general description</li> <li>The geographical location (provenience)</li> <li>The acquisition history (provenance)</li> <li>Other information such as hazardous substance treatment</li> </ul>	<ul style="list-style-type: none"> <li>6 months after acquiring or locating cultural items</li> <li>6 months after transfer of a holding or collection previously included in a summary</li> <li>3 years after receiving Federal funds</li> </ul>	<ul style="list-style-type: none"> <li>Any lineal descendant</li> <li>Any Indian Tribe or NHO with potential cultural affiliation</li> <li>Include summary, names of all consulting parties, and proposed timeline and method for consultation</li> </ul>	<ul style="list-style-type: none"> <li>Respond to any consulting party</li> <li>Address identification of lineal descendants, Indian Tribes or NHOs with cultural affiliation, types of objects that might be cultural items, and duty of care</li> <li>Make a record of consultation</li> </ul>
43 CFR 10.9(a)(1)	43 CFR 10.9(a)(2)-(3)	43 CFR 10.9(b)	43 CFR 10.9(c)

<b>Step 4: Receive and consider requests.</b>	<b>90 days after Step 4 Step 5: Respond to requests.</b>	<b>30 days after Step 5 Step 6: Submit a Notice.</b>	<b>90 days after Step 6 Step 7: Repatriation</b>
<ul style="list-style-type: none"> <li>Joint request is a single request</li> <li>Criteria for a request: <ul style="list-style-type: none"> <li>Meets definition of a cultural item</li> <li>Requestor is culturally affiliated</li> <li>Information shows no right of possession</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Written response to requestor and any consulting party</li> <li>ONE of following: <ul style="list-style-type: none"> <li>Meets the criteria</li> <li>Does not meet criteria - more information</li> <li>Meets criteria -assert right of possession</li> <li>Competing request</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Abstract of information in summary</li> <li>Total number and brief description</li> <li>Requestor</li> <li>Contact information</li> <li>Calculated date when repatriation may occur</li> </ul>	<ul style="list-style-type: none"> <li>Send a written repatriation statement to requestor and copy to National NAGPRA (nagpra_info@nps.gov)</li> <li>After statement, consult on and document physical transfer and protect sensitive information</li> </ul>
43 CFR 10.9(d)	43 CFR 10.9(e)	43 CFR 10.9(f)	43 CFR 10.9(g)

### Accessible Text - Steps 1 through 7

# University of Michigan

- 1931-botanicals collected during fieldwork in Rio Grande Valley
- 1993-invitation to consult with attached summary sent to Indian Tribes (Steps 1-2)
- Before July 2023-consultation and a request for repatriation of botanicals (Steps 3-5)
- August 2023-botanicals published in a Notice of Intended Repatriation (Step 6)
- September 2023-available for repatriation to Indian Tribes (Step 7)

<https://www.federalregister.gov/d/2023-18135>

# Decision Making Requirement

Museums and Federal agencies must make decisions, informed by consultation, on **requests for repatriation**

- If yes, proceed with next steps
- If no, explain why the request does not satisfy the criteria and provide an opportunity for more information from requestor
- If asserting a “right of possession” for cultural items, must provide information to prove right of possession
- If competing requests for repatriation, must determine most appropriate requestor

# Consequences?

- Criminal prosecution may result from selling or profiting from Native American human remains or cultural items obtained in violation of NAGPRA.
- Civil penalties may be assessed against a museum that fails to comply with the requirements of NAGPRA.
- A Review Committee monitors and reviews implementation of NAGPRA by museums and Federal agencies.
- Grants are not awarded to museums that have not complied with NAGPRA.

# Review Committee

- Balanced membership between Indian Tribes and museum/scientific organizations (like NSCA)
- Advisory only, but findings and transcripts are admissible in court

<i>Member 5</i>		
<b>Martin Sullivan</b>	American Association of Museums Museum Trustees Association	1992-1997
	American Association of Museums	1997-2000
<b>Garrick Bailey</b>	American Anthropological Association	2000-2007
<b>Alan Goodman</b>	American Archaeological Association	2007-2011
<b>LindaLee Kuuleilani Farm</b>	Natural Science Collections Alliance	2011-2015
	Natural Science Collections Alliance	2015-2017
<b>Francis P. McManamon</b>	American Alliance of Museums American Anthropological Association Society for American Archaeology	2018-2022
<b>E Halealoha Ayau</b>	American Anthropological Association	2022-2026

# Grants

- Up to \$100,000 for project/consultation grants
- Up to \$20,000 for repatriation grants

American Museum of Natural History	\$124,304.00
Arizona Museum of Natural History Foundation	\$53,140.00
Dayton Museum of Natural History	\$15,435.00
Denver Museum of Nature and Science (Formerly Denver Museum of Natural Hist	\$626,694.00
Field Museum of Natural History	\$1,120,137.00
Georgia Department of Natural Resources	\$163,464.00
Louisiana State University (Museum of Natural Science)	\$46,440.00
Michigan Department of Natural Resources (Michigan History Center)	\$89,874.00
Missouri Department of Natural Resources	\$32,480.00
Natural History Museum of Los Angeles	\$38,000.00
University of Colorado, Boulder (Colorado Museum of Natural History)	\$888,326.00
University of Florida (Florida Museum of Natural History)	\$90,000.00
University of Oklahoma (Sam Noble Oklahoma Museum of Natural History)	\$524,995.00
University of Oregon Museum of Natural and Cultural History	\$172,738.00
University of Utah (Utah Museum of Natural History)	\$91,585.00
University of Washington (Burke Museum of Natural History and Culture)	\$542,508.00
Worcester Natural History Society	\$4,311.00
Yale University (Peabody Museum of Natural History)	\$181,704.00
<b>Grand Total</b>	<b>\$4,806,135.00</b>



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