

NAGPRA Policy Statement

Policy Number: COL-101

Effective Date: **Approved by the Eastern Washington State Historical Society (EWSHS) Board of Trustees on May 5, 2021.**

Application: Applies to all employees, board members, volunteers and contractors of the **EWSHS**.

History: This is a new Board Policy.

Article I POLICY STATEMENT

1.1 The **EWSHS** officially recognizes Public Law 101-601 (November 16, 1990), referred to as the "Native American Graves Protection and Repatriation Act," (NAGPRA).

1.2 The EWSHS shall comply with the law and its intent regarding any claims made by Indian tribes or individuals of those tribes for repatriation of any American Indian objects from the Museum's collections that fall under the NAGPRA definition of:

- 1.2.1 Human remains and associated funerary objects;
- 1.2.2 Unassociated funerary objects;
- 1.2.3 Sacred objects; and
- 1.2.4 Cultural patrimony.

1.3 The Director of the Society, and/or his/her designee(s), shall be responsible for:

- 1.3.1: Responding in a timely manner to requests under the terms of NAGPRA for examination of, and repatriation from, the collection.
- 1.3.2: Developing and carrying out procedures to implement the NAGPRA requirements. and to respond to requests for repatriation. In developing procedures, the Director may, with the consent of the President of the Board of Trustees, establish a Repatriation Committee to serve in an advisory capacity to the staff and Board regarding repatriation matters.
- 1.3.3 The final decision for or against repatriation shall be made by the Board of Trustees.

Article II DEFINITIONS

2.1 Associated Funerary Objects: Objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, and both the human remains and associated funerary objects are presently in the possession or control of a Federal agency or museum, except that other items exclusively

made for burial purposes or to contain human remains shall be considered as associated funerary objects.

2.2 Unassociated Funerary Objects: Objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, where the remains are not in the possession or control of the Federal agency or museum and the objects can be identified by a preponderance of the evidence as related to specific individuals or families or to known human remains or, by a preponderance of the evidence, as having been removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe.

2.3 Sacred Objects: Specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents.

2.4 Cultural Patrimony: Objects having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian tribe or Native Hawaiian organization and such object shall have been considered inalienable by such Native American group at the time the object was separated from such group.

Article III REQUIRED PROCEDURES

3.1 Inventory of Human Remains and Associated Funerary Objects

3.1.1 To the extent the EWSHS has possession and control over holdings or collections of Native human remains and associated funerary objects, the EWSHS shall compile and maintain an inventory of such items, and, to the extent possible based on information possessed by the EWSHS, identify the geographical and cultural affiliation of such item.

3.1.2 The inventories and identifications required under section 3.1.1 shall be:

- 3.1.2.1 Completed in consultation with tribal government and Native Hawaiian organization officials and traditional religious leaders;
- 3.1.2.2 Completed within two years of receiving a new holding or collection or locating a previously unreported current holding or collection; and
- 3.1.2.3 Made available both during the time they are being conducted and afterward to a review committee established under section 3006 of this title.

3.1.3 Upon request by an Indian tribe or Native Hawaiian organization which receives or should have received notice, the EWSHS shall supply additional available documentation to supplement the information required by section 3.1.1 of this section. The term "documentation" means a summary of existing EWSHS records, including inventories or catalogues, relevant studies, or other pertinent data for the limited purpose of determining the geographical origin, cultural affiliation, and basic facts surrounding acquisition and accession of Native American human remains and associated funerary objects subject to this section. Such term does not mean,

and this chapter shall not be construed to be an authorization for, the initiation of new scientific studies of such remains and associated funerary objects or other means of acquiring or preserving additional scientific information from such remains and objects.

- 3.1.4 If the cultural affiliation of any particular Native American human remains or associated funerary objects is determined pursuant to this section, the EWSHS shall, not later than 6 months after the completion of the inventory, notify the affected Indian tribes or Native Hawaiian organizations.
- 3.1.5 The notice required by section 3.1.4 shall include information:
 - 3.1.5.1 Which identifies each Native American human remains or associated funerary objects and the circumstances surrounding its acquisition;
 - 3.1.5.2 Which lists the human remains or associated funerary objects that are clearly identifiable as to tribal origin; and
 - 3.1.5.3 Which lists the Native American human remains and associated funerary objects that are not clearly identifiable as being culturally affiliated with that Indian tribe or Native Hawaiian organization, but which, given the totality of circumstances surrounding acquisition of the remains or objects, are determined by a reasonable belief to be remains or objects culturally affiliated with the Indian tribe or Native Hawaiian organization.
- 3.1.6 A copy of each notice provided under section 3.1.4 shall be sent to the Secretary of the Interior who shall publish each notice in the Federal Register.
- 3.1.7 For the purposes of this section, the term "inventory" means a simple itemized list that summarizes the information called for by this section.

3.2 Summary for unassociated funerary objects, sacred objects, and cultural patrimony

- 3.2.1 To the extent the EWSHS has possession or control over holdings or collections of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony, the EWSHS shall provide a written summary of such objects based upon available information held by the EWSHS. The summary shall describe the scope of the collection, kinds of objects included, reference to geographical location, means and period of acquisition and cultural affiliation, where readily ascertainable.
- 3.2.2 The summary required under section 3.2.1 shall be:
 - 3.2.2.1 In lieu of an object-by-object inventory; and
 - 3.2.2.2 Followed by consultation with tribal government and Native Hawaiian organization officials and traditional religious leaders; and
 - 3.2.2.3 Completed within six months of receiving a new holding or collection or locating a previously unreported current holding or collection.

3.2.3 Upon request, Indian Tribes and Native Hawaiian organizations shall have access to records, catalogues, relevant studies or other pertinent data for the limited purposes of determining the geographic origin, cultural affiliation, and basic facts surrounding acquisition and accession of Native American objects subject to this section. Such information shall be provided in a reasonable manner to be agreed upon by all parties.

3.3 Repatriation of Native American human remains and objects possessed or controlled by the EWSHS

3.3.1 If, pursuant to section 3.1, the cultural affiliation of Native American human remains and associated funerary objects with a particular Indian tribe or Native Hawaiian organization is established, then the EWSHS, upon the request of a known lineal descendant of the Native American or of the tribe or organization and pursuant to sections 3.3.6 and 3.3.9 of this section, shall expeditiously return such remains and associated funerary objects.

3.3.2 If, pursuant to section 3.2, the cultural affiliation with a particular Indian tribe or Native Hawaiian organization is shown with respect to unassociated funerary objects, sacred objects or objects of cultural patrimony, then the EWSHS, upon the request of the Indian tribe or Native Hawaiian organization and pursuant to sections 3.3.6, 3.3.7, and 3.3.9, shall expeditiously return such objects.

3.3.3 The return of cultural items covered by this chapter shall be in consultation with the requesting lineal descendant or tribe or organization to determine the place and manner of delivery of such items.

3.3.4 Where cultural affiliation of Native American human remains and funerary objects has not been established in an inventory prepared pursuant to section 3.1, or the summary pursuant to section 3.2, or where Native American human remains and funerary objects are not included upon any such inventory, then, upon request and pursuant to sections 3.3.6 and 3.3.9 and, in the case of unassociated funerary objects, section 3.3.7, such Native American human remains and funerary objects shall be expeditiously returned where the requesting Indian tribe or Native Hawaiian organization can show cultural affiliation by a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion.

3.3.5 Upon request and pursuant to sections 3.3.6, 3.3.7, and 3.3.9, sacred objects and objects of cultural patrimony shall be expeditiously returned where:

3.3.5.1 The requesting party is the direct lineal descendant of an individual who owned the sacred object;

3.3.5.2 The requesting Indian tribe or Native Hawaiian organization can show that the object was owned or controlled by the tribe or organization; or

3.3.5.3 The requesting Indian tribe or Native Hawaiian organization can show that the sacred object was owned or controlled by a member thereof, provided that in the case where a sacred object was owned by a member thereof, there are no identifiable lineal descendants

of said member or the lineal descendants, upon notice, have failed to make a claim for the object under this chapter.

- 3.3.6 **Scientific Study:** If the lineal descendant, Indian tribe, or Native Hawaiian organization requests the return of culturally affiliated Native American cultural items, the EWSHS shall expeditiously return such items unless such items are indispensable for completion of a specific scientific study, the outcome of which would be of major benefit to the United States. Such items shall be returned by no later than 90 days after the date on which the scientific study is completed.
- 3.3.7 **Standard of Repatriation:** If a known lineal descendant or an Indian tribe or Native Hawaiian organization requests the return of Native American unassociated funerary objects, sacred objects or objects of cultural patrimony pursuant to this chapter and presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the EWSHS did not have the right of possession, then the EWSHS shall return such objects unless it can overcome such inference and prove that it has a right of possession to the objects.
- 3.3.8 **Sharing of Information by the EWSHS:** The EWSHS shall share what information it does possess regarding the object in question with the known lineal descendant, Indian tribe, or Native Hawaiian organization to assist in making a claim under section 3.3.
- 3.3.9 **Competing Claims:** Where there are multiple requests for repatriation of any cultural item and, after complying with the requirements of this chapter, the EWSHS cannot clearly determine which requesting party is the most appropriate claimant, the agency or museum may retain such item until the requesting parties agree upon its disposition or the dispute is otherwise resolved pursuant to the provisions of this chapter or by a court of competent jurisdiction.

References that apply to this policy

NAGPRA, 25 U.S.C. Sec. 3001 et seq.	NAGPRA Regulations, 43 C.F.R. Part 10
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