

Native American Graves Protection and Repatriation Act (NAGPRA)

	<p>Policy identification number: To come...</p> <p>File: Ethical & Responsible Conduct Policies > Responsible Conduct Policies</p> <p>Native American Graves Protection and Repatriation Act (NAGPRA)</p> <p>Policy Summary</p> <p>The policy addresses NAGPRA compliance for Fort Lewis College (“the College”) in its entirety (25 U.S. Code Chapter 32, NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT, as amended; Pub. L. 101-601§1, Nov. 16, 1990, 104 Stat. 3048; the NAGPRA Regulations 43 CFR Part 10, Dec. 4, 1995); and all subsequent amendments and regulation updates.</p>
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Policy Owner	Approval Date	Effective Date
President	March 26, 2018	March 26, 2018

Search Terms	Scheduled for Review
president, n, g, nagpra	Spring 2023

I. Policy Statement

The Native American Graves Protection and Repatriation Act (NAGPRA) was passed on November 16, 1990, to resolve the disposition and repatriation of Native American cultural items and human remains under the control of agencies and institutions that receive Federal funding (“museums”), as well as the ownership or control of cultural items and human remains discovered on Federal or tribal lands after November 16, 1990. The statute and regulations outline the rights and responsibilities of lineal descendants, Indian tribes (including Alaska Native villages), Native Hawaiian organizations, Federal agencies, and museums under the Act, and provide procedures for complying with NAGPRA. Depending on the category of cultural item in question and its cultural affiliation, NAGPRA provides lineal descendants, Indian tribes,

and Native Hawaiian organizations (NHOs) a process to transfer these cultural item or items to them.

Because the College receives Federal funding, it is legally a Federal museum subject to NAGPRA and all its amendments, regulations, procedures, and processes. Compliance with NAGPRA is therefore the responsibility of the College as a whole under the leadership of the President. It is not the responsibility of any particular academic Department, School, or Center of the College.

In addition, the unique history of the College as a Native American serving institution compels it to proactively strive to go above and beyond the letter of the law in its compliance with NAGPRA in ways that entail attention to collaboration, social justice, reciprocity, equal exchanges, and public education. In other words, compliance with NAGPRA at the College entails respecting both the letter and the spirit of the law.

II. Policy Overview

It is the policy of the College to ensure the respectful and dignified treatment of Native American human remains and to be respectful of the wishes of living descendants. The College shall adhere to the consultation process as specified in the NAGPRA statute and regulations. In addition, the College shall adhere to state law and regulations regarding Native American human remains and associated funerary objects originating from Colorado State and private lands.

III. Specific Policy Guidelines

The NAGPRA statute addresses Native American human remains, associated funerary objects, unassociated funerary objects, items of cultural patrimony, and sacred objects possessed or controlled by federal agencies and museums. It also addresses the inadvertent discovery of Native American remains and cultural items, illegal trafficking in Native American human remains and cultural items, and repatriation of Native American human remains and cultural items. In addition, the statute contains provisions regarding civil penalties for non-compliance, competitive grants to assist with compliance, and the establishment of a National Review Committee.

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 1. Collection Acquisition
The College will not intentionally collect or purchase cultural items identified as potentially eligible under NAGPRA.
 2. Ongoing Nature of Compliance
NAGPRA compliance is an ongoing process that the College may expect to address in perpetuity. The College will update federally reportable inventories of Native American human remains and/or summaries of Native American cultural object collections when previously unrecognized NAGPRA related cultural items and/or human remains are identified in existing collections: a) by the FLC Curators; b) by Native American Tribal representatives pursuant to consultation;

or c) by expert scholars who have received permission from the College NAGPRA Liaison (who has first consulted with officially designated Tribal authorities) to research the collections.

3. Cultural Affiliation

Determination of cultural affiliation will be made per the NAGPRA definition of preponderance of evidence as stated in the statute and based on the following information: geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion made pursuant to tribal consultation (Section 7(a)(4)).

4. Culturally Unidentified Human Remains

The College shall adhere to current regulations (43 CFR 10.11, March 15, 2010, as amended on May 9, 2013) regarding the disposition of culturally unidentified (also referred to as “culturally unidentifiable” or “culturally unaffiliated”) human remains (also known as “ancestors”), which involves the affirmative duty of museums and Federal agencies to consult with Tribes; amend and re-send to the National NAGPRA Program the NAGPRA CUI inventory of Culturally Unidentifiable Human Remains; in some cases to re-designate culturally unidentified human remains as culturally affiliated based on consultation; publish a Notice of Inventory Completion in the Federal Register; and transfer control (43 CFR 10.9).

5. De-Assessioning and Transfer

Collections of Native American cultural objects and human remains are officially acquired and curated at the Center of Southwest Studies (CSWS) and by the Department of Anthropology: a) through donation to the College or to the Fort Lewis College Foundation (“the Foundation”); or b) through the archaeological permitting process. De-accessioning or transferring collections from the College in the course of NAGPRA compliance requires review and documented assent from both the College NAGPRA Committee and the Fort Lewis College Board of Trustees or the Foundation Board, depending on whether the items are owned by the College or by the Foundation.

6. Access to Collections

All requests for access to Native American cultural items that may potentially be defined under NAGPRA will first be made to the College NAGPRA Liaison, who will then consult with officially designated representatives of Tribes with a demonstrated or possible affiliation to these items.

Any approved requests for access to Native American cultural items will then be administered by the Director of the CSWS for items in the Center’s custody, by the Curator of Archaeological Collections, and/or by the Curator of Osteological Collections, depending on the nature of the items requested to be accessed.

Human remains that fall under NAGPRA shall not be accessed for teaching, research, or any other purposes outside of consultation with designated Tribal representatives via the College NAGPRA Liaison.

7. Claims

NAGPRA claims from Indian tribes shall first be directed to the College President, who will submit them for review and approval to the College NAGPRA Liaison, who will then consult with the NAGPRA Committee in

making a decision. Custody and repatriation will proceed in accordance with regulatory procedures outlined in 43 CFR 10.9, 10.10, and 10.11, respectively. Where there is no aboriginal land or Tribal land provenience, the College shall follow both the process posted by the National NAGPRA Program to achieve disposition or transfer for purposes of reinterment, as well as the State of Colorado “[Process for Consultation, Transfer, and Reburial of Culturally Unidentifiable Native American Human Remains and Associated Funerary Objects Originating from Inadvertent Discoveries on Colorado State and Private Lands.](#)”

IV. NAGPRA Compliance Governance

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1. Committee Composition

The NAGPRA Committee is defined as a Committee of the College, the definition and operating rules of which stem from the President’s charge. All members of the Committee serve at the invitation of the President. Members from outside the College may serve on the committee. Ex officio, voting members of the NAGPRA Committee include the Director of the Center of Southwest Studies, the Curator of Archaeological Collections, and the Curator of Osteological Collections. The NAGPRA Committee Chair shall be affiliated with Fort Lewis College in the capacity of a professor, administrator, or staff person. To avoid potential conflicts of interest, the Director of the Center for Southwest Studies, the Curator of Archaeological Collections, and the Curator of Osteological Collections are not eligible to serve as NAGPRA Committee Chair or as College NAGPRA Liaison.

2. Native America Members

The NAGPRA Committee shall include within its membership no fewer than three representatives of Native American Nations or Tribes, one of whom shall be a student enrolled at the College, and at least one of whom shall not be employed by the College.

3. NAGPRA Liaison

The President shall appoint a NAGPRA Liaison whose responsibilities shall include, but not be limited to, the following: a) coordinating correspondence and consultation; b) documenting day-to-day compliance; c) keeping track of time frames for responding to claims; d) coordinating College efforts across departments and offices for NAGPRA compliance; e) communicating closely with the NAGPRA committee; f) keeping the FLC NAGPRA web page updated; g) staying apprised of changes and amendments to the NAGPRA statute and regulations; and h) submitting an annual accounting of NAGPRA related actions to the College President at the end of each academic year. On behalf of the President, the NAGPRA Committee shall provide an annual review of the NAGPRA Liaison based on the above and any other expectations established in a written position description.

4. Changes to the Committee and Its Charge

The President may reform the committee and its charge at any time the President

deems necessary, ideally on the basis of Native American input. The President shall review the NAGPRA Committee membership annually, ideally at the outset of the academic year.

5. NAGPRA Committee Chair

The Chair of the NAGPRA Committee shall make all agendas and minutes available to the President and to the College NAGPRA Liaison.

V. Policy Amendment

This policy may be amended following the guidelines in the College policy on policies.

VI. Reason for Policy

The policy is intended to ensure NAGPRA compliance for Fort Lewis College (“the College”) in its entirety (25 U.S. Code Chapter 32, NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT, as amended; Pub. L. 101-601§1, Nov. 16, 1990, 104 Stat. 3048; the NAGPRA Regulations 43 CFR Part 10, Dec. 4, 1995); and all subsequent amendments and regulation updates.

VII. Responsibilities

For following policy: Faculty, Students and Staff

For enforcement of policy: College NAGPRA Liaison and Chairperson of College NAGPRA Committee

For oversight of policy: President, Provost and Vice President of Academic Affairs

For procedures implementing policy: College NAGPRA Committee and College NAGPRA Liaison

VIII. Definitions

Refer to Statues, as amended.