

UNIVERSITY OF
NORTHERN COLORADO

BOARD OF TRUSTEES AGENDA ITEM

Meeting Date: November 11, 2022

Action Item Discussion Item Information Item

Name of Item:

Delegation of Authority and Implementation of UNC NAGPRA Process

Responsible Staff Member: Jacquelynn Rich Fredericks

Summary of Issue: Recommended approval and implementation of UNC NAGPRA Process, and delegation of authority.

UNC recognizes and respects the rights of Federally recognized Native American Tribes and is committed to complying with the Native American Graves Protection and Repatriation Act of 1990 ("NAGPRA"). NAGPRA requires that institutions that receive certain funds report collections of Native American artifacts ("cultural items") and human remains ("ancestors"), to culturally affiliated Native American Tribes. UNC's Anthropology Department Collections cares for 38 individual Native American ancestors, as well as archeological and ethnographic cultural items. UNC's desires to ensure respectful and dignified treatment of ancestors and to be respectful of the wishes of living descendants, in its compliance with NAGPRA and the [State of Colorado](#) process for consultation, transfer, and reburial originating from inadvertent discoveries on Colorado land.

Since 2020, UNC's NAGPRA Committee, including Drs. Creekmore and Kyle, worked with the Provost and President to inventory the ancestors in UNC's care. A summary was submitted to National NAGPRA. UNC contacted and consulted with nearly three dozen Federally recognized Native American Tribes. UNC is now ready to move forward with the disposition and repatriation of ancestors.

Since UNC has not historically had a formal process for the purpose of NAGPRA, the Board is now asked to approve an initial process document, and to formalize a delegation of authority to the President, as well as any necessary sub-delegation(s) to the Office of the Provost and the Department of Anthropology Chair, so that UNC may proceed with the specific disposition and repatriation of the ancestors in our care, as well as to codify an ongoing de-accessioning and transfer process pursuant to NAGPRA.

Moved that in order to meet its legal and ethical obligations regarding the NAGPRA-compliant treatment of ancestors and cultural items, the UNC Board of Trustees directs the President and the Provost to formalize UNC's process for the respectful service under and compliance with NAGPRA. The Board gives the President or his designee signature authority to give necessary notice, and to sign off on repatriation and transfer of University-held ancestors and cultural items as recommended by the NAGPRA Committee.

Recommended Action by BOT: Approval No Action Needed

Change to Board Policy Manual: Approval No Action Needed

If yes, Section:

Administrative Recommendation (Motion): Approve

Jacquelynn Rich Fredericks 11/7/22
Signature of Vice President Date

Signature of President Date

**UNIVERSITY OF NORTHERN COLORADO
PROCESSES**

**for respectful service under and compliance with the
NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT
AND ITS AMENDMENTS, REGULATIONS, PROCEDURES, AND
PROCESSES**

I. Summary

These processes address NAGPRA compliance for the University of Northern Colorado (“UNC”) in its entirety (NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT, 25 U.S. Code Chapter 32, 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).

II. Processes Statement

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 the 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 UNC receives Federal funding, it is considered to be a Federal Museum subject to NAGPRA and is, therefore responsible for compliance with NAGPRA.

III. Processes Overview

Consistent with NAGPRA, UNC shall provide the respectful and dignified treatment of Native American human remains (“Ancestors”) and be respectful of the wishes of living descendants. UNC shall adhere to the consultation process as specified in NAGPRA. UNC shall also adhere to state laws and regulations regarding Native American human remains as set forth in Section 24-80-1302(4), -

1303, C.R.S. (2022), and associated funerary objects originating from state and private lands in Colorado.

The President, or their designee, is UNC's NAGPRA Liaison. Signature authority to approve disposition and repatriation of Ancestors and cultural items in UNC's care vests in the NAGPRA Liaison.

UNC has established a NAGPRA Committee. The Committee reports to the NAGPRA Liaison, or their designee. The Committee includes the Director of Native American Student Services, the Chair of the Department of Anthropology ("UNC Anthropology Chair"), and at least one additional person who should ideally have expert knowledge in the area of skeletal remains. The Committee may add members to ensure adequate expertise, representation, and support.

The UNC Anthropology Chair may delegate administrative duties and responsibilities to individuals within or outside the UNC Department of Anthropology who the Chair deems to be experienced, qualified, and competent in such matters.

UNC created the NAGPRA@unco.edu mailbox, which is staffed by the UNC Anthropology Chair, with access for other members of the Committee.

UNC will work to establish a NAGPRA webpage on its website. The page will provide contact information for the NAGPRA Liaison and the Committee.

IV. Specific Guidelines

NAGPRA addresses Native American Ancestors, 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 Ancestors and cultural items on Federal or tribal lands, illegal trafficking in Native American Ancestors and cultural items, and repatriation of Native American Ancestors and cultural items. In addition, NAGPRA contains provisions regarding civil penalties for non-compliance, competitive grants to assist with compliance, and the establishment of a National Review Committee.

A. Collection Acquisition

UNC will not intentionally collect or purchase cultural items identified as potentially eligible under NAGPRA.

B. Ongoing Nature of Compliance

NAGPRA compliance is an ongoing process that UNC may expect to address in perpetuity. UNC will update Federally reportable inventories of Native American Ancestors, and summaries of Native American cultural object collections, when

previously unrecognized NAGPRA related cultural items or Ancestors are identified in any existing UNC collection by: a) the Chair of UNC's Department of Anthropology ("UNC Anthropology Chair"); b) Native American Tribal representatives pursuant to consultation; or c) expert scholars who have received permission from the UNC Anthropology Chair (who has first consulted with officially designated Tribal authorities) to research the collections.

C. Cultural Affiliation

Determination of cultural affiliation shall be made under 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)).

D. Culturally Unidentified Ancestors

UNC shall adhere to current regulations (43 CFR 10.11, March 15, 2010, as amended on May 9, 2013 and as may be amended in the future) regarding the disposition of culturally unidentified (also referred to as "culturally unidentifiable" or "culturally unaffiliated") Ancestors (legally defined as "human remains"), 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).

E. De-Accessioning and Transfer

Collections of Native American cultural objects and Ancestors shall be officially documented and curated by the UNC Department of Anthropology as permitted by NAGPRA and under the review and documented assent of the UNC Anthropology Chair. De-accessioning or transferring collections from UNC in the course of NAGPRA compliance requires review and documented assent from the UNC Anthropology Chair, who may from time to time seek the input of other members of the Committee. The NAGPRA Liaison must sign off on final disposition and repatriation.

F. Access to Collections

Requests for access to Native American cultural items that may potentially be defined under NAGPRA will first be submitted to NAGPRA@unco.edu. The UNC Anthropology Chair 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 in UNC's custody will then be administered by the UNC Anthropology Chair, or the Chair's appropriate and qualified designees within the Department of Anthropology, acting under the guidance and supervision of the Chair.

Human remains within the purview of NAGPRA shall not be accessed for teaching, research, or any other purposes outside of consultation with designated Tribal representatives via the UNC Anthropology Chair.

G. Claims

NAGPRA claims from Indian tribes shall be directed to the NAGPRA Liaison at NAGPRA@unco.edu. The UNC Anthropology Chair, who may from time to time seek the input of other members of the Committee, will review them and make recommendation for approval to the NAGPRA Liaison. 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, UNC 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."

V. NAGPRA Compliance Governance

The duties and responsibilities of the UNC Anthropology Chair or their designee (see Section III, above) 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 UNC efforts across departments and offices for NAGPRA compliance; e) staying apprised of changes and amendments to the NAGPRA statutes and regulations; and f) submitting an annual accounting of NAGPRA related actions to the UNC President and Chief Academic Officer at the end of each academic year.

Changes to this process should be approved by the UNC Anthropology Chair and the University President, and are subject to review by General Counsel.