

Repatriation and Disposition Flowchart Narrative

The Repatriation/Disposition Flowchart and accompanying Narrative in Appendix A and A-1 describe the process campuses are required to follow when responding to tribal Requests for Cultural Affiliation, Repatriation or Disposition, or when campuses initiate the Inventory/Summary update and Consultation process. If at any point in this process, a Tribe believes that the Repatriation Coordinator is not acting in good faith or is otherwise unsatisfied with the process, Tribal Representatives may submit a complaint to the Chancellor as described in Section V.I.1.

Unless otherwise indicated, days are measured in calendar days. Timelines may be revised upon mutual agreement, provided revised dates do not conflict with NAGPRA/CalNAGPRA requirements.

The Flowchart's columns identify the primary roles involved in this process (e.g., Tribe(s), Repatriation Coordinator, Campus Committee, or Chancellor). Actions in a given column are the responsibility of the respective role. Actions that overlap columns indicate that the roles work collaboratively together on a given action.

The exception to this is the flowchart for the Repatriation/Disposition Phase. Instead, the columns separate the actions under the CalNAGPRA process or the Federal NAGPRA process. Each action identifies the responsible role (e.g., Tribe(s) submit written Repatriation Requests, campus submits Federal Notices to National NAGPRA, etc.).

I. INITIAL CONSULTATION PHASE

1. The NAGPRA/CalNAGPRA process is normally initiated either by the UC campus Repatriation Coordinator, by a Tribe requesting information regarding human remains or items on campus Inventories or Summaries, or by a Tribe making a Request for Repatriation or Disposition under NAGPRA or CalNAGPRA. If a Tribe requests information, Repatriation, or Disposition, the Repatriation Coordinator must acknowledge receipt of the Tribe's inquiry within 5 business days.

The Repatriation Coordinator must initiate contact with Tribes when revising Inventories, creating new Inventories and Summaries (and/or Inventory or Summary supplements under CalNAGPRA), and reevaluating Culturally Unidentifiable Inventories in accordance with this policy. A Campus Committee may also prompt the Repatriation Coordinator to initiate contact with Tribe(s).

2. The Repatriation Coordinator consults with the Tribe(s) to identify the items in the Tribe's cultural or geographic areas of interest.
3. The Repatriation Coordinator gathers documentation and information at the campus regarding collections in the tribal geographic or cultural areas of interest. Documentation may include catalogs, reports, relevant information needed to compile (or update or supplement) NAGPRA/CalNAGPRA Summary or Inventory

documents or supplements, and a list of additional Tribes that have been or will be consulted as appropriate for each situation.

Repatriation Coordinator reaches out to other campuses to determine if they have human remains or items on campus Inventories or Summaries that are from the same site(s). In Consultation with the Tribe(s) and subject to tribal agreement, multiple campuses may coordinate their efforts to facilitate Repatriation or Disposition under a single Request.

4. Within 60 days from the receipt of the Request or the initial contact and no less than monthly thereafter, Repatriation Coordinator shares information gathered at this point with Tribe(s) and invites formal Consultation on identified items. The Tribe(s) may then respond to the shared information and accept the invitation for Consultation.
5. The Repatriation Coordinator initiates or responds to Requests for formal Consultation under NAGPRA and CalNAGPRA. Consultation may be for the purpose of determining Cultural Affiliation, identifying Human Remains or Cultural Items, and/or facilitating Repatriation and/or Disposition. The Policy describes the Consultation process more thoroughly. (See Section V.B. Consultation)
 - a. Repatriation Coordinator begins a communication log, which documents interactions between the campus and Tribes, an evidence record, which brings together the totality of gathered evidence, and a Consultation record, which contains a tribally-vetted overview of information shared by the Tribe during Consultation. This documentation will be continuously updated during the Consultation process (see below).
 - b. Repatriation Coordinator shares evidence, draft Inventory, if applicable, and other documents with consulting Tribes.
 - c. Repatriation Coordinator invites Tribes to consult via in-person meetings, a site visit, or other formats (calls, video conferencing, etc.) as appropriate.
 - d. If consulting with a non-Federally Recognized tribe, the Repatriation Coordinator will inform them that they may partner with a Federally Recognized Tribe or request a Federally Recognized Tribe sponsor their Request.
6. Tribe(s) provides feedback or contributes additional information on evidence shared with Tribe(s), draft Inventory, and other documents. Collectively the parties should determine an estimated timeframe for review, research, and Repatriation.
7. Repatriation Coordinator updates documentation such as the Consultation record and evidence record based on Consultation.
8. Consultation continues between all parties, as needed. This is an iterative process where the Repatriation Coordinator continues to consult with the Tribe(s) and the Tribe(s) continues to provide feedback or information to the Repatriation Coordinator. The cycle of consultation continues until the Repatriation Coordinator and Tribe(s) reach a consensus to proceed to a Campus Committee review regarding Cultural Affiliation, Repatriation, or other decision.

9. When the Repatriation Coordinator and Tribe(s) reach a consensus to proceed to a Campus Committee review, the Repatriation Coordinator prepares a Review Packet for the Campus Committee and invites the Tribe(s) to review the Review Packet and provide supporting or supplemental information. The Review Packet contains an initial recommendation & analysis by the Repatriation Coordinator, draft or existing Inventory or Summary (or Inventory or Summary supplements), draft Notice of Inventory Completion for Human Remains and Associated Funerary Objects or Notice of Intent to Repatriate for Requests for Objects of Cultural Patrimony, Sacred Objects and Unassociated Funerary Objects, and any other documents necessary for the Campus Committee to make its determination. At a minimum, the Review Packet should: (1) identify all Tribes and their representatives who were consulted and when, (2) identify all Tribes who asserted Cultural Affiliation or State Cultural Affiliation, (3) all comments submitted by Tribe(s) for inclusion in the Review Packet, and (4) document any lines of evidence regarding Cultural Affiliation or State Cultural Affiliation. Note that if at any point in this process, a Tribe believes that the Repatriation Coordinator is not acting in good faith or is otherwise unsatisfied with the process, Tribal Representatives may submit a complaint to the Chancellor as described in Section V.I.1 of the policy.
10. Tribe(s) provides feedback on contents of draft Review Packet. Tribes given at least 30 days or additional time as agreed upon during Consultation. Tribes may add additional information or letters to the Review Packet.

II. CAMPUS REVIEW PHASE

Committee Review

11. Repatriation Coordinator provides Final Review Packet to Campus Committee.
 12. Repatriation Coordinator also sends a copy of the Final Review Packet to Tribe(s) with an invitation for Tribe(s) to present information directly to Campus Committee.
 13. Tribe(s) may accept the invitation to present information directly to Campus Committee in-person, virtually, or in writing.
 14. Campus Committee reviews the packet and information presented by Tribe. Campus Committee either:
 - a. Makes a determination. The Repatriation Coordinator will inform the Tribe(s) of the Campus Committee's determination within 5 business days of the Campus Committee making its determination.
- OR
- b. Returns the Request to the Repatriation Coordinator. For example, the Campus Committee may request the Repatriation Coordinator engage in additional Consultation with other Tribes, gather additional information to consider the Request, revisions, edits, or make clarifications or edits to the Inventory or Notices, etc.
 - i. In the event a Request is returned, and if applicable, the Repatriation Coordinator works with the Tribe(s) to address the concerns. If the Request is

- to consult with a Tribe not previously consulted, then the Repatriation Coordinator will initiate Consultation with that Tribe as described in the Consultation Phase of this flowchart.
- ii. If the Committee requests to review the matter again after the issue they raised has been resolved, then the Repatriation Coordinator updates the Review Packet as necessary and resends it to the Campus Committee to make a determination.
 - iii. If the Committee indicates that it does not need to review the matter again, the Repatriation Coordinator proceeds with the process.
15. Tribe(s) will be invited to provide a response to the Campus Committee's determination before it is provided to the Chancellor.
 16. The Repatriation Coordinator and Campus Committee will then provide the Campus Committee's determination with any received tribal response to the Chancellor.
- Chancellor Review***
17. Chancellor reviews the Campus Committee's determination, the review packet, and any tribal response to the determination if provided.
 18. The Chancellor then issues a written decision with rationale accepting or declining the Campus Committee's determination.
 19. Repatriation Coordinator notifies Tribe of campus decision in writing within 5 business days of campus decision. The Repatriation Coordinator must copy the Systemwide Committee and President when notifying the Tribe.
 - a. If the decision is regarding Repatriation or Disposition and there is no appeal, then the Repatriation Coordinator proceeds with the Repatriation or Disposition.
 - b. If the decision is regarding an Inventory, Summary, or Inventory/Summary Supplement under CalNAGPRA, the Repatriation Coordinator will submit them to National NAGPRA and NAHC, as applicable, under NAGPRA and CalNAGPRA, respectively.
 20. In the event that a Tribe disputes a campus decision, the Tribe may:
 - a. Initiate an appeal under UC's internal appeal mechanism. After a decision, UC will wait at least 30 days before submitting Notices to National NAGPRA to allow for any Tribe to appeal, unless all Tribes agree to shorten or waive the 30-day waiting period, or if the campus receives a Request that satisfies the requirements of NAGPRA under 43. C.F.R. § 10.10. Then, this decision will move forward following regulation requirements. A Tribe may appeal a decision under UC's internal appeal mechanism up until a Notice has been published in the Federal Register for 30 days. See Section V.I.1 Appeals and the Appeals Flowchart (Appendix B) for additional clarification;

AND/OR

- b. Seek resolution by NAHC, the Federal Advisory Review Committee, or other third-party.

Note that campuses may still have responsibilities under NAGPRA or CalNAGPRA to proceed with the campus decision even while seeking resolution. The Repatriation Coordinator will inform affected Tribes of any such developments.

III. REPATRIATION/DISPOSITION PHASE

The Repatriation/Disposition Phase Flowchart describes the process for completing Repatriations and Dispositions. Separately campuses are required to submit Inventories, Summaries, and Inventory/Summary supplements to National NAGPRA and the Native American Heritage Commission (for collections originating from California and covered by CalNAGPRA) as described in the Section V.C.3.

Submission of Notices/Disposition Request under Federal NAGPRA

21. The Federal NAGPRA process varies depending on the nature of the requested Cultural Items.
 - a. For Summary items (Unassociated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony), the Tribe(s) submits a written Request for Repatriation to the Repatriation Coordinator, if Request not previously submitted (e.g., a Tribe(s) may have submitted a written request at the onset, which initiated Consultation or it may have submitted it in the course of Consultation). The Repatriation Coordinator will support the Tribe(s) throughout the research, documentation, and Repatriation process, including providing a template for a written Request or clarifying the type of information needed to make a Request, such as an accession number or other identifier. This support should not be a barrier to placing Requests. After receipt of the Request, the Repatriation Coordinator submits the Federal Notice(s) to National NAGPRA and sends copies to Tribe(s).
 - b. For Inventory Items (Human Remains and Associated Funerary Objects), the process further depends on whether the NAGPRA regulations require a recommendation by the Secretary of Interior or authorized representative (See 43 C.F.R. § 10.11(c)). If Secretary of Interior recommendation is not required, then the Repatriation Coordinator may proceed with submitting Federal Notices to National NAGPRA and sends copies to Tribe(s). If Secretary of Interior recommendation is required, the Tribe(s) first submit a written Request for Repatriation/Disposition to the Repatriation Coordinator, if Request not previously submitted. Then, the Repatriation Coordinator submits a Disposition Request to National NAGPRA. The Federal NAGPRA Advisory Review Committee reviews the Disposition Request and provides a recommendation to the Secretary of Interior. The Secretary of Interior or an authorized representative then provides a recommendation. After receiving the recommendation, the Repatriation Coordinator may proceed with submitting Federal Notices to National NAGPRA and sends copies to Tribe(s).

Federal Notice Publication/Claim/Request

22. National NAGPRA coordinates the publication of any Notices in the Federal Register, including reviewing and editing the Notices as necessary. Tribe(s) not

listed in the Notice have 30 days from the publication of the Notice to also submit a Request for Repatriation/Disposition. If an additional Request is received, it will be processed as appropriate following NAGPRA and CalNAGPRA. For example, the request may require additional consultation or Committee Review, or it may proceed to the next step, e.g., if claim from Tribe submitting the additional request had already been considered by Campus Committee.

23. When the Notice(s) has been published in the Federal Register, the Repatriation Coordinator provides a copy of the published Notice(s) to the consulted Tribe(s), highlighting when the 30-day waiting period will end. The Repatriation Coordinator will also provide a copy to the NAHC if the Notice includes a California Indian Tribe(s).
24. If Tribe(s) have not yet submitted a written Repatriation/Disposition Request to the campus, then it must be before transfer.

Submission of Repatriation Requests under CalNAGPRA

25. If a Tribe(s) would like to make a Request under CalNAGPRA for collections originating from California, the California Indian Tribe(s) may submit a Request to NAHC (copying the campus), if not previously submitted (e.g., a Tribe may have submitted a written request at the onset, which initiated consultation or it may have submitted it in the course of consultation).
26. For tribal Requests made under CalNAGPRA, NAHC determines if criteria in California Health & Safety Code section 8016(b) are met, and if so, forwards the Request to the campus, and publishes the Request for Repatriation on website for 30 days.
 - a. If the NAHC receives more than one Request for Repatriation for the same item or a dispute arises, then the Requests are resolved according to CalNAGPRA § 8016.
 - b. Otherwise, the campus proceeds with Repatriation, provided that federal NAGPRA requirements are met.
27. Even if the Request was made under CalNAGPRA, the campus must complete the Federal NAGPRA process as well. If the federal process has been completed, then the campus may proceed with the transfer. But, if the federal process has not been completed yet, then the campus must do so.

IV. TRANSFER PHASE

28. After the campus completes the NAGPRA and CalNAGPRA processes, the Repatriation Coordinator will then commence transfer based on the received Request(s).
 - a. For single or joint Requests, Repatriation Coordinator reaches out to Tribe(s) to coordinate transfer.
 - b. For competing Requests as described in 43 CFR § 10.10(c)(2), Repatriation Coordinator informs each of the Tribes of the claims. The transfer is paused until Tribes reach resolution. (See Section V.D.7)

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29. The campus and requesting Tribe(s) execute a transfer agreement and/or may execute a stewardship agreement if the Tribe(s) is not ready for physical transfer (See Section V.D.2).
30. When the Tribe(s) are ready for physical transfer, the Repatriation Coordinator prepares and coordinates signature of transfer paperwork, selects mutually agreeable transfer date, and offers to assist with other transfer logistics (rehousing, reburial land, Repatriation grant, etc.).
31. If the Tribe(s) are not ready for physical transfer, the Repatriation Coordinator will check-in with Tribe at least annually to facilitate physical transfer and update the terms of the stewardship agreement as needed. The Repatriation Coordinator will also offer to assist the Tribe(s) to facilitate the physical transfer. This may include helping the Tribe(s) find reburial land or apply for a Repatriation grant.