



Native American Graves Protection and Repatriation Act (NAGPRA)

Request:

- Ensure that efforts to interpret NAGPRA or to regulate its application remain consistent with the original intent of Congress to resolve repatriation issues based on collaboration between museums and Federally recognized tribes.
- Ensure that efforts to interpret NAGPRA or to regulate its application continue to require a significant relationship be found between remains and presently existing, Federally recognized Native American tribes.

Introduction:

Enacted in 1990, the Native American Graves Protection and Repatriation Act (NAGPRA) provides a process for museums and Federal agencies to return certain Native American cultural items – human remains, funerary objects, sacred objects, and objects of cultural patrimony – to lineal descendants, culturally affiliated Indian tribes, and Native Hawaiian organizations. The law requires museums to inventory their extensive collections, send notices to Native American tribes and the government, and, in certain instances, to work with the tribes to settle disposition of objects. A National Park Service program provides grants to both museums and tribes to implement the law.

On October 16, 2007, a notice was published in the Federal Register on the disposition of culturally unidentifiable human remains. The proposed rule – which required museums to repatriate all culturally unidentifiable human remains – would undermine the consultative process between museums and Federally-recognized tribes which has made NAGPRA so productive. It would undercut the constitutional underpinnings of the original NAGPRA legislation and expose museums to major new legal risks by mandating consultation with “all Indian tribes and Native Hawaiian organizations” (which would encompass non-Federally recognized tribes and any other groups claiming a “cultural relationship”).

On March 15, 2010, a final rule with request for comments was published. The final rule becomes effective May 14, 2010 and, at press time, AAM was reviewing the new rule to determine what, if any, action was needed to address the new rule.

Talking Points:

- The core NAGPRA process for resolving issues, based on respect and collaboration between museums and Federally-recognized tribes, has been enormously fruitful. It has built bridges of trust, fostered new relationships, and enriched cultural understanding.
- In its seventeen years, the existing NAGPRA process has a strong record of accomplishment.