

## **NAGPRA/CalNAGPRA Consultation Protocols for San José State University Collections**

San José State University will use the following protocols for consulting with Tribes about the handling and repatriation of cultural items and ancestors in compliance with CalNAGPRA and NAGPRA. The University, in agreement with consulting Tribes, may edit or amend these protocols as they see fit. Consultations may take many forms (mail, e-mail, phone calls, virtual or in-person meetings) and all consultations will be documented with respect for confidentiality. We respect the sovereignty of each Tribe and recognize that cultural differences exist. The following protocols provide a structure for facilitating repatriation and reconciliation in culturally appropriate ways. Our goals in this process include building stronger working relationships with Tribes and addressing injustices regarding the historical collection of Native American ancestors' cultural and human remains.

### Consultations for Preliminary Inventories:

CalNAGPRA requires that the institutions “consult, prior to new or additional inventory work being conducted, with affiliated California Indian Tribes on any protocols to be used in the inventory process, including, but not limited to, all of the following: (i) Minimizing handling. (ii) Using a lot approach with a minimum number of individuals set at one. (iii) Identifying human remains and associated funerary objects, burial sites, or ceremonial items with Tribal expertise receiving deference.”

In these preliminary consultations, the institution will:

- Introduce NAGPRA staff to Tribal consultants and communicate or reaffirm San José State State University's ultimate goal of complete repatriation.
- Introduce the collection for discussion (including providing a map for location, general site information, excavation dates, and sharing digitized written reports whenever such documentation exists).
- Discuss factors for determining cultural affiliation, as per NAGPRA, 43 CFR § 10.3, and CalNAGPRA § 8012(d), based on any of the following: (1) Geography\*; (2) Kinship; (3) Biology; (4) Archaeology; (5) Linguistics; (6) Folklore; (7) Oral tradition; (8) Historical evidence; (9) Tribal traditional knowledge; (10) Other information or expert opinion.
  - \*Focusing on traditional territories for the site location and Tribal traditional knowledge and oral history for the region/site location (e.g. Tribal histories, or Tribal Historic/Cultural Preservation Officers' knowledge of the area).
- Respect Tribes' potential need for confidentiality concerning Tribal traditional knowledge and any sensitive information shared during the consultation.
- Develop protocols for the creation and/or updating of inventories, focusing on any protocols or wishes for:
  - Tribal monitors being present, minimizing handling during the inventory stage; record-keeping and identifying human remains and associated funerary objects, burial site, or ceremonial items; sorting of faunal materials previously not identified as human remains; management and appropriate handling of materials while in our care (e.g. what appropriate means to Tribes if/when we handle or

manage sacred items and ancestors, or to receive recommendations if they prefer us not to handle sacred items and ancestors).

- Discuss and clarify the next steps for requests for repatriation or reburial.

#### Consultations for Final Inventories:

Following the preliminary consultations, inventories will be conducted and shared with Tribal consultants for the following purposes:

- Review and finalize inventories and federal Notices of Inventory Completion after amendments as needed;
- Finalize cultural affiliation statements if needed; and,
- Revisit and confirm appropriate handling and treatment procedures.

Original and amended inventories will be provided to the Native American Heritage Commission and Tribes at this stage. Federal Notices will be posted to the Federal Register following Tribal approval of NIC, no later than two years after acquiring or locating the collection (if containing ancestors), or six months (if completing a summary of cultural items).

#### Disputes

Where cultural affiliation, competing claims, or other issues are disputed among consulting Tribes, San José State State University will attempt to foster dialogue among Tribes through campus or system NAGPRA Oversight Committees and the Native American Heritage Commission for mediation if needed. Tribes who wish to voice concerns or request conflict resolution may contact the NAHC CalNAGPRA staff directly by emailing [<CalNAGPRA@nahc.ca.gov>](mailto:CalNAGPRA@nahc.ca.gov).

#### Consultations for Repatriation:

Undisputed or resolved claims will be discussed in consultation to achieve the following goals:

- Review San José State State's paperwork for protocols on physical and legal transfers of control or held-in-trust agreements, as needed.
- Discuss all logistics of the physical transfer, including time and date, travel costs and location, cultural preparations if needed, and, if necessary, land acquisition or access, equipment, and other requirements for return or reburial, depending upon Tribes' needs.

All records of legal transfer shall be shared with the Native American Heritage Commission and the Federal NAGPRA Program Manager, in compliance with state and federal laws. Following repatriation and/or reburial, San José State State University encourages the opportunity to continue building relationships with Tribal consultants in any way that would benefit the Tribe(s).