

UC Native American Cultural Affiliation and Repatriation Policy

Process for Newly Identified Human Remains or Cultural Items

I. Purpose and Background

This document provides guidance for campuses responding to newly identified Human Remains or potential Cultural Items that were not previously reported under NAGPRA or CalNAGPRA.

Examples of circumstances that could result in the identification of previously unreported items are: the circulation of campus awareness letters, as required by the [UCOP UC Native American Cultural Affiliation and Repatriation Policy](#) (“UC Policy”), Section V.E.1; the campus survey and review process outlined in UC Policy Section V.E.2; or curatorial activities such as cataloging projects.

II. UC Policy Requirements

Section V.E.4 of the UC Policy, copied below, describes actions to be taken when previously unreported Human Remains or potential Cultural Items are identified.

4. Protecting Previously Unreported Items Potentially Subject to NAGPRA or CalNAGPRA

All newly identified items that are under the Control of the University and are thought to be potentially subject to NAGPRA or CalNAGPRA must immediately be managed and preserved in accordance with the requirements of Section V.J.2, unless otherwise advised by Tribes in Consultation. In addition, ongoing research or instructional use must cease until a determination has been made about whether the items fall under NAGPRA or CalNAGPRA (see Section V.C.3) and whether the University has Control of the items. If Human Remains and Cultural Items subject to NAGPRA or CalNAGPRA are found, the University will comply with all applicable portions of this policy (e.g., Consultation, Inventory/Summary completion, and respectful treatment), NAGPRA (including 43 C.F.R. § 10.13), CalNAGPRA, and campus policies and procedures. If the items are found not to be subject to NAGPRA or CalNAGPRA, the findings will be recorded (including a description of the items and why these were determined not to be subject to NAGPRA or CalNAGPRA) in the campus biannual report described in Section V.H. NAGPRA and CalNAGPRA require institutions to update their Inventories and Summaries when they obtain or discover that they have Possession or Control over previously unreported collections. (See NAGPRA 43 C.F.R. § 10.13, CalNAGPRA § 8013(i), and Sections V.C.3 and V.C.4 of this policy.) In accordance with NAGPRA 43 C.F.R. § 10.13, Summaries must be completed within six (6) months and Inventories within two (2) years of locating a previously unreported holding or collection, absent an extension obtained under 43 C.F.R. § 10.9(f). If Human Remains or Cultural Items are found on UC premises for which a non-UC entity retains Control (e.g., items borrowed from a federal or state agency or Museum that have not been returned), these must either be returned to the controlling entity, or a written loan agreement must be entered into with the controlling entity as provided in Section V.K.1.

III. Additional Guidance on the Process for Responding to Newly Identified Human Remains and Cultural Items

Below is a summary of actions Repatriation Coordinators (RCs) should take upon discovering previously unreported Human Remains or potential Cultural Items. Note: See Additional Resources below.

1. When previously unreported Human Remains or potential Cultural Items are identified, campus Repatriation Coordinators or Points of Contact (POCs)¹ should immediately advise deans/unit heads and persons holding the items not disturb or move them until an appropriate course of action can be determined. Any ongoing research or instructional use must cease.
2. UC Policy Section V.J.2 states that items must be kept under physically secure conditions, unless otherwise advised by Tribes in Consultation. Therefore, RCs must first seek guidance on care, storage, and handling.
 - i. If potentially culturally affiliated Tribes *can* be identified, Tribal Representatives should be notified and consulted as soon as possible (e.g., within 5 days from when the collection was reported to the RC).
 - ii. If potentially culturally affiliated Tribes *cannot* be immediately identified and there are urgent safety concerns, RCs may secure the items with as little handling as possible, while treating them in a respectful manner. This could be accomplished by securing the area instead (e.g. locking the cabinet or room). See UC Policy Sections V.J.1 and 2. Further investigation of records and other resources should then be done to identify potentially culturally affiliated Tribes so that they may be consulted on care, storage, and handling.

Consider that sometimes the best/safest short-term location for the items is the location where they were found. E.g., the items may already be safely secured, or there may be a concern about disturbing remains or causing harm to the items by moving them.

3. RCs should notify the Campus NAGPRA Committee that previously unreported Human Remains or potential Cultural Items have been identified.
4. RCs should gather all available evidence to determine the provenience and ownership of the items to determine whether the campus has Possession or Control. If the campus does have Possession of Control, continue with steps 5-8 below. If not, refer to step 9.
5. In accordance with UC Policy Section V.C.3, RCs must consult with Tribes to identify and confirm whether the items found are Native American Human Remains, Associated Funerary Objects, Unassociated Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony (“Cultural Items”) and to establish Cultural Affiliation and/or State Cultural Affiliation. Remember that CalNAGPRA requires consultation prior to new or additional inventory work being conducted.

¹ For campuses without Repatriation Coordinators, campus Points of Contact should contact UCOP for assistance.

6. Once Cultural Items and Cultural Affiliations have been identified (to the extent possible) in consultation with Tribes, and there is evidence to complete a Review Packet for the Campus Committee, the Repatriation Coordinator (RC) will prepare the Review Packet.
7. The Campus Committee will review the Review Packet and make determinations as to the identification of Cultural Items and Cultural Affiliation/State Cultural Affiliation. The campus Chancellor's Designee will formalize campus approval.
8. RCs will submit Inventories and Summaries as follows:
 - i. Under NAGPRA 43 C.F.R. § 10.13, UC must complete Summaries within six months and Inventories within two years.
 - ii. Under CalNAGPRA § 8013(i), summaries and inventories must be updated and submitted to NAHC within 90 days.
9. If UC does not have Possession or Control
 - i. RCs should notify the controlling agent about the items and that they may be subject to NAGPRA and/or CalNAGPRA.
 - ii. If potentially culturally affiliated Tribes can be identified, RCs should encourage the controlling agent to notify the Tribes or offer to make the notification on their behalf.
 - iii. RCs could facilitate conversations between the controlling agent and the Tribes, if appropriate, to obtain the Tribes' guidance on how to proceed, e.g. whether the items should be physically transferred to the controlling agent, if the campus should retain temporary custody with a written loan agreement, or if there is a different preference.
 - iv. If the campus enters into a loan agreement with the controlling agent, RCs must ensure that the provisions of Section V.K.1 are followed.
 - v. Refer to *UCOP Guidance on Partnering with Non-UC Controlling Institutions* for additional recommendations.

IV. Additional Resources

1. [UCOP UC Native American Cultural Affiliation and Repatriation Policy](#)
 - UC Policy Section V.B provides greater detail regarding the Consultation process.
 - UC Policy Section V.C provides greater detail regarding the Inventory and Summary process.
2. *UCOP Guidance on Partnering with Non-UC Controlling Institutions* provides guidance for working with other institutions that have or may have Control of materials housed by UC.
3. *UCOP Consultation Guidance* for additional recommendations for Tribal Consultations.