Question:

Can you speak more about the changes in regulations regarding non-recognized Tribes? Specifically, can you speak about the relationship between national NAGPRA and Cal NAGPRA regarding repatriating to non federally recognized groups? If this is outside the scope of today's presentation, can you say when this will be discussed? Thank you!

Answer:

There are lots of discussions about this happening in California right now. Recommend seeking out resources on CalNAGPRA locally. We will plan on discussing this further at the July webinar.

Answered by: Melanie O'Brien-National NAGPRA Program

Question:

What is the preferred terminology for items staying at the repository? Curation Agreement? Stewardship Management Plan? I know Hold in Trust, but that is more of a temporary agreement rather than a long-term plan.

Answer:

I would love to see an example if anyone knows of one...

Answered by: Whitney Petrey

Answer:

that's not a nagpra issue

Answered by: Shannon O'Loughlin

Answer:

It is for the tribe I work for. While we are building a cultural center, we need a long term agreement in place with some repositories with larger collections.

Answered by: Whitney Petrey

Answer:

Pecos National Historical Park used an Incoming Loan Agreement, with provisions for the Pueblo to access and use the items they elected to keep at the park.

Answered by: Michael Evans

Answer:

NAGPRA provides for any kind of agreement between a Tribe and a museum after repatriation is complete. There is no specific type of agreement, but any of the agreements a museum usually uses when it holds a collection that is "owned" by someone else should work. We recommend looking for examples in the public resources available through the NAGPRA community of practice.

Answered by: Melanie O'Brien-National NAGPRA Program

Question:

Sometimes the notoriously resistant museums are unwilling to provide more complete summaries, or inventories, for cultural items. They say their enormous collections make that request too burdensome.

My question: Good responses that remind them of this critical step! We can’t be ready for consultation without knowing what a museum holds!

Answer:

The law and the regulations include a requirement for museums and Federal agencies to provide access to information upon request by a lineal descendant, Indian Tribe, or NHO. Beyond information provided in an itemized list of human remains or associated funerary objects or a summary of other cultural items, the museum or Federal agency must provide access to additional information in a reasonable manner.

Answered by: Melanie O'Brien-National NAGPRA Program

Question:

Does the consultation request need to come from the tribe or can it be a lineal descendant of an item?

Answer:

A lineal descendant or Indian Tribe or NHO can request to consult. There is no requirement for a lineal descendant to make a request through an Indian Tribe and a lineal descendant can make the request directly to the museum or Federal agency.

Answered by: Melanie O'Brien-National NAGPRA Program

Question:

does NAGPRA over ride State Law permitting repatriation to a state recognized tribe

Answer:

Institutions that receive both state and federal funds must comply with both state and federal laws up until the point that there is a conflict between the two requirements, at which point the federal requirements generally preempt conflicting state requirements.

Answered by: Timothy McKeown

Question:

Also, one of the gentleman on the video pointed it out, but "Collections" has very eurocentric connotations. So this question is more for tribal participants, what word do you use instead of collections, if any?

Answer:

This is a great question to ask at the beginning of consultation. Consultation on preferred terminology is a good way to build a relationship. There are a wide variety of prefered terms.

Answered by: Melanie O'Brien-National NAGPRA Program

Question:

Is there a difference between 'nation to nation' vs 'government to government'?

Answer:

Not really. Both emphasizes the unique relationship between the Federal government and Indian Tribes.

Answered by: Melanie O'Brien-National NAGPRA Program

Question:

For parts of the regulations that require "[protecting] sensitive information [of NAGPRA activities and protected holdings], as identified by the [tribe], from disclosure to the general public to the extent consistent with applicable law.”

Does this override requirements from state governments to make information publicly accessible or for FOIA requests? Could a future call focus on data protection, especially when it comes to government agencies?

Answer:

NAGPRA does not provide an exemption from disclosure under state or Federal freedom of information requests. Therefore, our best advice is to not record sensitive information in the first place. If sensitive information is recorded, then following repatriation, if the information can be protected, it should be to the extent possible under state or local law. In some cases, museums have returned records and paperwork along with the human remains or cultural items. We will work to schedule a webinar on this topic.

Answered by: Melanie O'Brien-National NAGPRA Program

Question:

can you please discuss how best to document in writing consent that a museum receives from a tribal nation during consultation to display, research, etc.?

Answer:

We purposely do not have any templates or guidance on how to document consent. This is because it would be up to the Indian Tribe or NHO that is providing consent to dictate the form of that consent.

Answered by: Melanie O'Brien-National NAGPRA Program

Question:

If tribes have not responded to consultation requests or calls and as the museum you are not certain about affiliation without consultation/further information how do you submit the federal register notice? Is this where the "unclaimed" portion of the law comes in?

Answer:

There are requirements under NAGPRA to initiate consultation, but there is no requirement for an Indian Tribe or NHO to respond. If an Indian Tribe or NHO does not respond to the initiation of consultation, then for human remains and associated funerary objects, the museum or Federal agency must still meet the required deadline for making a determination on cultural affiliation. One option for that determination is that there is no cultural affiliation. A notice must still be published and we recently posted a template for that kind of notice on our templates page.

Answered by: Melanie O'Brien-National NAGPRA Program

Question:

If there is a disagreement about what was said, how can this be determined if nothing is written down?

Answer:

We have a template for making a record of consultation, which should record the agreement, disagreement, or non-response to a determination. That is the level of information required, but any additional detail is not required.

Answered by: Melanie O'Brien-National NAGPRA Program

15

Question:

Could you talk a bit about best practices for cases where there are multiple appropriate consulting groups? One-by-one, or collectively? I'm thinking in particular of things like archaeological Mississippian ceramics, which may have poor provenience when from historical collection.

Answer:

In the SW we consult one-on-on as well as collectively. You may ask the Tribal Nations you are working with what they prefer.

Answered by: Ash Boydston-Schmidt

Question:

Are museums/organizations who maintain items for repatriation required to inform the recipients about pesticides used on the items?

Answer:

Yes, it is also best to not use pesticides on anything in the collections as that can damage them further.

Answered by: David Silva

Answer:

Yes; it is required under the regulations.

Answered by: Stephen Simpson

Answer:

Is the general opinion that a glue used on artifacts should be considered a potentially hazardous material?

Answered by: Catherine Reynolds

Answer:

Hi Catherine, yes; as it is a foreign substance that can damage or alter the artifacts.

Answered by: David Silva

17

Question:

What about Hopewell/Adena remains? Who are the descendants which ned to be consulted?

Answer:

The NPS has prepared Notices identifying the Absentee-Shawnee Tribe of Indians of Oklahoma, Eastern Shawnee Tribe of Oklahoma, Miami Tribe of Oklahoma, and Shawnee Tribe. The consulting parties list is much longer.

Answered by: Michael Evans

Question:

Providing food/drinks is a great recommendation, but for those of us who are federal employees there are limitations on using federal funds for food. Any recommendations on how best to make this happen?

Answer:

Begin by talking to your ethics people and lawyers.

Answered by: Stephen Simpson

Answer:

NATHPO can establish agreements with agencies to help with reimbursements for costs like this

Answered by: Valerie Grussing

Question:

has smudging before seeing the artifacts and ancestors become more normalized in museum spaces?

Answer:

It is typically expected

Answered by: David Silva

Question:

has smudging before seeing the artifacts and ancestors become more normalized in museum spaces?

Answer:

And I have never had it set off fire alarms!

Answered by: Julia Gray

Question:

Can you confirm that under 43 CFR 10.1 (d)(3) consultation alone is not sufficient grounds for allowing any exhibition of, access to, or research on human remains or other cultural items.

Answer:

43 CFR 10.1(d)(3) requires free, prior, and informed consent prior to allowing exhibition, access, or research. Consent may be given during consultation. If, how, and when consent is given is up to the lineal descendant, Indian Tribe, or NHO.

Answered by: Melanie O'Brien-National NAGPRA Program