



**Beloit College**  
**Logan Museum of Anthropology**  
700 College Street  
Beloit, WI 53511

## **POLICY ON REPATRIATION AND MANAGEMENT OF CULTURALLY SENSITIVE MATERIALS**

---

### **I. Introduction**

- A. Purpose
- B. Background
- C. Governance and Authorizations

### **II. NAGPRA**

- A. Definition of Terms
- B. NAGPRA Summaries
- C. NAGPRA Inventories
- D. NAGPRA Consultation Process

### **III. Repatriation**

- A. Repatriation Requests
- B. Repatriation Request Review Process
- C. Repatriation Procedures
- D. Exceptions to Repatriation
- E. Competing Claims
- F. Contamination of Repatriated Items

### **IV. Collaborative Relationships**

- A. Memoranda of Agreement or Understanding
- B. Loans

### **V. Policy on Culturally Sensitive Materials**

### **VI. Legal Counsel**

### **VII. Board of Trustees Approval**

## **I. Introduction**

The Logan Museum of Anthropology is committed to respecting the values and beliefs of the cultures represented in its collections and to developing mutually beneficial partnerships and open dialogue with Native peoples.

### **A. Purpose**

The purpose of this Policy is to provide guidelines and information to Indian tribes, Native Hawaiian organizations, Native Alaskan villages, Native American lineal descendants, Logan Museum of Anthropology (LMA) staff, the Beloit College community, and the wider museum and research community about LMA compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) and management of culturally sensitive material. By establishing guidelines and providing information about how the LMA handles repatriation requests, the Museum hopes to promote mutually productive, cooperative consultations and to consider all repatriation requests equally and impartially.

### **B. Background**

The LMA was founded by Frank Granger Logan who was appointed to the Beloit College Board of Trustees in 1893. In 1892 Logan purchased an important collection of archaeological and ethnographic material from Horatio Nelson Rust and employed Rust to exhibit the collection at the 1893 World's Columbian Exposition in Chicago. Beloit College formally accepted the Rust-Logan Collection and founded the Logan Museum of Anthropology at the semi-annual meeting of the Board of Trustees on January 15, 1894. Since then the LMA collection has grown to encompass approximately 200,000 items, and the Museum continues to acquire anthropological materials selectively.

The Logan Museum of Anthropology is a teaching museum of Beloit College. "Our mission is to foster learning -- of the world's cultures, past and present; of anthropology; and of museology.<sup>1</sup>" Collections are an essential resource of the LMA and are utilized to fulfill the Museum's mission.

### **C. Governance and Authorizations**

The Logan Museum of Anthropology is a unit of Beloit College, a private, not-for-profit liberal arts academic institution. The Logan Museum of Anthropology is governed by the Beloit College Board of Trustees. The President of the College reports to the Board. The Director of the LMA makes repatriation recommendations to the President. The President has final authority to approve repatriations from the LMA on behalf of Beloit College.

## **II. NAGPRA**

The Native American Graves Protection and Repatriation Act (NAGPRA), Public Law 101-601, 25 U.S.C. §§3001-3013, 104 Stat. 3048-3058, became law on November 16, 1990. NAGPRA requires Federal agencies and museums that receive federal funds and have possession of, or control over, Native American cultural items, to repatriate, if formally requested by lineal descendants, federally recognized Indian tribes, and Native

---

<sup>1</sup> Excerpt from the Logan Museum of Anthropology Mission Statement approved by the Beloit College Board of Trustees on February 8, 2003.

Hawaiian organizations cultural items defined as human remains, funerary objects, objects of cultural patrimony, and sacred objects. NAGPRA also requires agencies and museums to consult with Native American tribes, organizations, and lineal descendants about collections that are or may be culturally affiliated with the tribes. Implementing regulations, 43 CFR Part 10, were published on December 4, 1995, and have been updated periodically.

The Logan Museum has long been committed to maintaining relationships with the Native American communities represented by the Museum's collections. Even before the passage of NAGPRA, the Museum repatriated three Zuni war gods<sup>2</sup>. The Museum has complied with and supported the law since the law's enactment.

#### **A. Definition of Terms**

The following definitions derive from NAGPRA rules and regulations (43 CFR Part 10).

*Lineal descendant* means an individual tracing his or her ancestry directly and without interruption by means of the traditional kinship system of the appropriate Indian tribe or Native Hawaiian organization or by the common law system of descentance to a known Native American individual whose remains, funerary objects, or sacred objects are being claimed (§ 10.2 b(1)).

*Indian tribe* means any tribe, band, nation or other organized Indian group or community of Indians, including any Alaska Native village or corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians (§ 10.2 (2)).

*Native Hawaiian organization* means any organization that serves and represents the interests of Native Hawaiians, has a primary and stated purpose the provision of services to Native Hawaiians, and has expertise in Native Hawaiian affairs (§ 10.2 (3)(i)).

*Human remains* means the physical remains of the body of a person of Native American ancestry. The term does not include remains or portions of remains that may reasonably be determined to have been freely given or naturally shed (§ 10.2 (1)).

*Funerary objects* means items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains (§ 10.2 (2)). *Associated funerary objects* means those funerary objects for which the human remains with which they were placed intentionally are also in the possession or control of a museum or Federal agency (§ 10.2 (2)(i)). *Unassociated funerary objects* means those funerary objects for which the human remains with which they were placed intentionally are not in the possession or control of a museum or Federal agency (§ 10.2 (2)(ii)).

*Objects of cultural patrimony* means items having ongoing historical, traditional, or cultural importance central to the Indian tribe or Native Hawaiian organization itself,

---

<sup>2</sup> Three Zuni war gods (LMA 1555.1-.3) repatriated to Zuni in August 1988.

rather than property owned by an individual tribal or organization member. These objects are of such central importance that they may not be alienated, appropriated, or conveyed by any individual tribal or organization member. Such objects must have been considered inalienable by the culturally affiliated Indian tribe or Native Hawaiian organization at the time the object was separated from the group (§ 10.2 (4)).

*Sacred objects* means items that are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents (§ 10.2 (3)).

#### **B. NAGPRA Collections Summaries**

NAGPRA requires museums and federal agencies to have completed summaries of Native American sacred objects, objects of cultural patrimony, and unassociated funerary objects by November 16, 1993. The Logan Museum sent summaries of sacred objects, objects of cultural patrimony, and unassociated funerary objects on November 16, 1993 to 152 federally recognized Indian tribes and Native Hawaiian organizations.

#### **C. NAGPRA Collections Inventories**

NAGPRA requires museums and federal agencies to have completed inventories of culturally affiliated Native American human remains and associated funerary objects and culturally unidentifiable human remains and associated funerary objects by November 16, 1995. The Logan Museum sent inventories of human remains and associated funerary objects on November 16, 1995 to 152 federally recognized Indian tribes and Native Hawaiian organizations.

Because the Museum's 1995 NAGPRA inventories were incomplete, the Museum developed a NAGPRA Action Plan<sup>3</sup> to accelerate NAGPRA inventory compliance. For culturally affiliated human remains and associated funerary objects, the Museum must complete a Notice of Inventory Completion within six months of when the inventories are complete. Notices of Inventory of Completion are submitted to the National NAGPRA office for review and publication in the *Federal Register*.

#### **D. NAGPRA Consultation Process**

Communication and collaboration with Native American tribes and organizations is essential to the repatriation process. NAGPRA summary and inventory letters notified federally recognized Indian tribes and Native Hawaiian organizations that the LMA held materials attributed to their tribal group and provided contact information for the LMA. The Museum uses a NAGPRA Consultation Form to formally document consultations. The Curator of Collections organizes and manages NAGPRA files and related documentation. The LMA uses NAGPRA consultations and the Native American Consultation Database (NACD)<sup>4</sup> to assist in the identification of consultation contacts.

The Logan Museum encourages and welcomes consultation and will supply summaries of ethnographic and archaeological collections and inventories of human remains and

---

<sup>3</sup> NAGPRA Action Plan was sent to Tim McKeown at the National NAGPRA Program on July 20, 2004.

<sup>4</sup> <http://www.cr.nps.gov/nagpra>

funerary objects affiliated with specific tribes to Native American tribes and organizations. Continuing consultation—more detailed inventories, photographs of collection items, access to museum research records and reports, and visits to view and examine collections—provide tribal representatives with information necessary to make decisions about potential repatriations, to prepare formal repatriation requests, and to share information about the collections with the Museum when appropriate. The LMA supports tribal efforts to secure National Park Service consultation grants and may supply letters of support to accompany tribal grant applications.

With advance notice, tribal representatives are welcome to visit and examine collections associated with their tribe or region. Tribal visitors are welcome to photograph or videotape collections, if they feel it is appropriate, to allow wider distribution of information among tribal members. An application form is required only if images will be published or commercially distributed as specified in the LMA Policy on Image Use and Reproduction.

### **III. Repatriation**

#### **A. Repatriation Requests**

Formal requests for repatriation can be made by lineal descendants and federally recognized Native American tribes, Native Hawaiian organizations, and Native Alaskan villages with delegated authority from a tribal chairperson or a tribal council resolution to conduct repatriation negotiations.

Lineal descendants may request repatriation of human remains of identified lineal ancestors, funerary objects associated with such remains, unassociated funerary objects from the graves of known individuals, and sacred objects personally owned by lineal ancestors. Requests from lineal descendants need not come from delegated tribal authorities or from federally recognized tribes. Tribes may request repatriation of human remains of unknown individuals, their associated funerary objects, unassociated funerary objects from graves of unknown individuals, objects of cultural patrimony, and sacred objects not linked to known individuals. Tribes may also request repatriation of known individuals and of sacred objects associated with known individuals.

Formal repatriation requests should be addressed to the Logan Museum Director (Dr. William Green) who also serves as the Repatriation Coordinator for the Museum. Formal repatriation requests must include a list of Logan Museum catalogue numbers of objects being requested. Blanket requests for categories of objects will not be recognized as formal requests. Formal repatriation requests must demonstrate the following:

1. Claimant has standing to make a claim. Claimant is either a lineal descendant or has authority delegated from a tribal chairperson or tribal council resolution to make repatriation claims. A copy of this authorization must be included in the repatriation request.
2. Assignment of listed objects to one or more statutory categories under NAGPRA. Definitions of statutory categories should be considered carefully and addressed fully in the repatriation request.

3. Evidence of cultural affiliation. Cultural affiliation must be established for each item requested. For requests from lineal descendants, information on appropriate genealogical links should be included.
4. For sacred objects, objects of cultural patrimony, and unassociated funerary objects the Logan Museum must lack right of possession for each item requested. “Right of possession” means  
possession obtained with the voluntary consent of an individual or group that had authority of alienation. The original acquisition of a Native American unassociated funerary object, sacred object or object of cultural patrimony from an Indian tribe or Native Hawaiian organization with the voluntary consent of an individual or group with authority to alienate such object is deemed to give right of possession of that object (§ 10.10 (2)).

Information used to support any of the above requirements of a formal repatriation request to the Logan Museum may include oral traditions, histories, linguistic evidence, archaeological evidence, and other evidence. The Logan Museum may request additional information during the review process to clarify points made in the request. At any point during the consultation process, Indian tribes may request additional information from the LMA. The responsibility to provide evidence supporting repatriation claims rests with the tribes and lineal descendants.

The Logan Museum will seek joint recommendations from regional consultations with federally recognized Indian tribes for the disposition of culturally unidentifiable human remains and associated funerary objects in accordance with the National Park Service Recommendations Regarding the Disposition of Culturally Unidentifiable Native American Human Remains published in the *Federal Register* on June 8, 2000.

#### **B. Repatriation Request Review Process**

The Director of the Logan Museum will acknowledge receipt of a complete formal repatriation request. If the request is incomplete, the Director will return the request with a statement explaining which necessary information is lacking. The LMA has 90 days from the date the formal completed repatriation request is received to make a decision.

Repatriation requests will be reviewed by the Director of the LMA to determine if the cultural objects meet the NAGPRA definition of the statutory category to which they were assigned, if the claimant is a lineal descendant or the Indian tribe has established cultural affiliation, whether the LMA has right of possession, and whether the request is supported by a preponderance of evidence.<sup>5</sup> The Director will conduct research with published and archival works, with other Museum staff, and other people as necessary to evaluate the claim. The Museum will carefully evaluate all repatriation requests expeditiously and use due diligence to ensure that they are acted upon in an informed manner. The LMA recognizes that NAGPRA does not prohibit repatriation of objects for which the Museum has right of possession (43 CFR Part 10.10 (c)(3)). The Director of

---

<sup>5</sup> Defined in Black’s Law Dictionary, 6<sup>th</sup> edition, as “evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.”

the LMA will report the findings to the LMA Collections Committee and make a recommendation to the Committee regarding the repatriation request. The Committee's decision will then be reported directly to the President of Beloit College. The President will decide the College's response, and the Director of the LMA will implement the decision.

If the LMA agrees with the repatriation claim the Museum will submit a Notice of Intent to Repatriate to the National NAGPRA office. The Indian tribe or lineal descendant may take control of the item(s) 31 days from the date of publication in the *Federal Register* of the Notice. The LMA will draft a letter of transfer and control to transfer control and possession to the Indian tribe or lineal descendant.

### **C. Repatriation Procedures**

Once a repatriation request has been formally approved and the lineal descendant, Indian tribe, or requesting party notified, the LMA will begin the formal process of deaccession. The LMA Curator of Collections will document the materials and, if necessary and permissible, conduct research on them. Documentation includes a physical examination and description of the items and drawings and/or photographs in order to preserve a record of the object as it existed in the LMA's collection. Research proposals would be made by the LMA or other interested parties directly to the tribe or lineal descendant. Repatriated material will be returned in the condition in which the LMA has stored and cared for it, and no conservation treatments, repairs, or cleaning will be conducted unless mutually agreed upon by the LMA and the tribe or lineal descendant.

The physical repatriation should occur within one calendar year after the publication of the Notice in the *Federal Register*. Repatriated objects can be received by authorized tribal representatives or lineal descendants. All arrangements for the actual transfer of materials will be handled by the LMA Curator of Collections. The LMA is not responsible for the expenses or arrangements to physically move or ship repatriated material. The Museum will endeavor to provide copies of documentation resulting from repatriation at no expense, but the Museum reserves the right to assess costs for any documentation or records requested by the repatriating party. The LMA supports tribal efforts to secure National Park Service NAGPRA grants to support the cost of physical repatriation and may supply letters of support to accompany tribal grant applications.

### **D. Exceptions to Repatriation**

Requirements for repatriation do not apply in the following situations (43 CFR Part 10.10(c)):

1. Where the cultural items are indispensable to the completion of a specific scientific study, the outcome of which is of major benefit to the United States.
2. Where there are multiple requests for repatriation and the LMA cannot determine by a preponderance of the evidence which is the most appropriate claimant.
3. Where a court of competent jurisdiction had determined that the repatriation would result in a taking of property without just compensation within the meaning of the Fifth Amendment of the Constitution.

### **E. Competing Claims**

If the Logan Museum receives a counterclaim repatriation request from a tribe or lineal descendant other than the one who submitted the original claim, the Director will undertake a review of the competing claims. In the event that the competing claim identifies the object under the same statutory category, the competing claims will be referred to the NAGPRA Review Committee<sup>6</sup> for a decision. If the competing claims are essentially different, the LMA will make a decision based on the information provided in the formal requests. The LMA will review competing claims expeditiously and with due diligence.

If one or more of the competing claims are deemed repatriable, the LMA will notify both parties and ask them to discuss the matter and try to determine whether one party will withdraw its claim or whether the parties can develop a joint-ownership arrangement between themselves or the LMA. If the matter can not be resolved, the LMA will refer the claims to the NAGPRA Review Committee.

### **F. Contamination of Repatriated Items**

Effective since January 3, 1996, museums and Federal agencies are required to inform recipients of repatriated items of any known treatment with pesticide, preservatives, or other substances that represent a potential hazard to the object or person handling the object (43 CFR Part 10.10 (e)). In the event that the LMA has knowledge that potentially harmful substances were used to prevent deterioration of objects while in its care, the LMA will promptly inform lineal descendants or Indian tribes. If the past use of such a harmful substance is suspected on a cultural object which the LMA has agreed to repatriate, the Museum may request tribal permission to perform a test on the object to try to ascertain the substance and identify the risk to the repatriating lineal descendant or Indian tribe.

## **IV. Collaborative Relationships**

As an alternative to the physical return of repatriated objects, the LMA may develop other relationships including memoranda of agreement or understanding and loans which assure tribes and the Museum mutual access to collections. Memoranda of understanding or agreement and loans between tribes and museums can be beneficial to both parties and serve the long-term collections care needs of the objects concerned.

### **A. Memoranda of Agreement or Understanding**

Memoranda of agreement or understanding can be developed on a case-by-case basis to facilitate access to an object or set of objects which a tribe believes may ultimately be repatriated, but for which they cannot yet accept full responsibility. Under these circumstances, objects may be physically held in trust by the LMA and covered under LMA insurance while the tribe maintains on-going rights and interests in the objects.

---

<sup>6</sup> The Review Committee will advise Congress and the Secretary on matters relating to the regulations and the Act, including, but not limited to, monitoring the performance of museums and Federal agencies in carrying out their responsibilities, facilitating and making recommendations on the resolution of disputes, and compiling a record of culturally unidentifiable human remains and recommending actions for their disposition (43 CFR Part 10.16 (a)).

Under such situations, tribes could potentially limit particular types of research, exhibition loans, or the publication of photographs of the agreed-upon set of objects.

## **B. Loans**

As per the Logan Museum Loan Policy, “Loans are generally made only to recognized museums or educational, cultural, or scientific institutions” with professional collections care standards and climate-controlled environments. The LMA will consider short-term loans to tribes to enable an object or set of objects to be removed from the LMA for use in ceremonies or to be exhibited in tribal centers or other facilities.

## **V. Policy on Culturally Sensitive Material**

The LMA recognizes that it may hold material significant to Native American communities and other originating communities and cultures to which it may not hold rightful ownership or rightful access to intellectual property rights, which may have been unrightfully removed from its place of origin, or which may be needed by religious leaders for the performance of present-day, ongoing religious ceremonies. Financial and staff resources permitting, the Logan Museum of Anthropology:

1. Will enter into discussions with Native American communities and other originating communities and cultures as to the proper care, display, access to, and storage of sensitive materials.
2. Will, within the constraints of museum resources and adherence to its mission, implement restrictions about the proper care, display, access to, and storage of sensitive materials.
3. Will not exhibit human remains culturally affiliated with a known Indian tribe, Native Hawaiian organizations, Native Alaskan village, or lineal descendant without consent of the affiliated group or descendant.
4. Will, resources permitting, contact Native American communities about requests for scientific investigation, loan, and exhibition of culturally sensitive material that has not yet been formally claimed under the provisions of NAGPRA.
5. Will not release photographs or allow new images to be made of any object for publication purposes that is the subject of a repatriation request under consideration at that time without the permission of the lineal descendant or Indian tribe concerned.
6. Will not allow or do research or loan of any object that is the subject of a repatriation request or has been approved for repatriation without the permission of the lineal descendant or Indian tribe concerned.

## **VI. Legal Counsel**

Beloit College reserves the right to seek and obtain legal counsel regarding repatriation or culturally sensitive material.

## **VII. Board of Trustees Approval**

The Board of Trustees of Beloit College endorsed this Policy on Repatriation and Management of Culturally Sensitive Materials on February 7, 2009. It replaces and supersedes any and all previous statements of policy with which it is inconsistent and will be updated and revised as necessary by the Director and Curator of Collections and submitted for endorsement.