



## Native American Graves Protection and Repatriation Act (NAGPRA)

### Request

- Continue congressional oversight of the National NAGPRA Office and the implementation of the NAGPRA program.
- Ensure that efforts to interpret NAGPRA or to regulate its application remain consistent with the original intent of Congress.

### Introduction

Enacted in 1990, the Native American Graves Protection and Repatriation Act (NAGPRA), requires federal agencies and museums that receive federal funding to provide Indian Tribes, Native Hawaiian Organizations and lineal descendants with information about their collections. It affords tribes the right to repatriate five types of Native American cultural items—human remains, associated and unassociated funerary objects, cultural patrimony and sacred objects—when certain criteria are met. NAGPRA also provides for the protection of Native American human remains and other cultural items that are inadvertently discovered on, or intentionally excavated from, federal or tribal lands after November 16, 1990.

The National NAGPRA Office, which operates within the National Park Service, administers the NAGPRA grants program, maintains the Native American consultation database, publishes federal register notices and provides technical assistance and training to both museums and tribes to assist with certain aspects of the law's implementation. Grants are currently provided for two kinds of activities: 1) repatriation and reburial; and 2) consultation and documentation. In 2014, the office awarded \$1.47 million for 29 consultation and documentation projects and \$97,325 for eight repatriations. The office also handled 2,000 e-mail and telephone requests for technical information and provided training to 417 participants at 15 in-person events, the majority of it for museum professionals.

Funding is not currently available to support the work required of museums to comply with NAGPRA. A report from the National NAGPRA Review Committee highlights the challenge: "The lack of adequate grant funding to tribes, Native Hawaiian Organizations, and museums to build institutional infrastructure to support NAGPRA implementation represents a major barrier.... This issue has been consistently raised by the Review Committee, by scientific, museum, and cultural organizations, and by tribes and Native Hawaiian organizations, and is the single greatest impediment to more complete and timely compliance."

In May 2010 the promulgation of a Final Rule for Disposition of Culturally Unidentifiable Human Remains introduced new risks and uncertainties to NAGPRA's implementation. The rule—which requires museums to transfer most culturally unidentifiable human remains—goes far beyond congressional intent. Because the rule governs the majority of human remains in American museums, it will have a significant impact on our ability to learn the stories of America's past at a time when technology can tell us more than ever. It



undercuts the constitutional underpinnings of the original legislation and exposes museums to new legal risks by 1) mandating a process for transfers of human remains in the absence of a relationship of shared group identity, and 2) recommending the disposition of culturally unidentifiable associated funerary objects—neither of which are included in the statute.

### **Talking Points**

- Since enactment in 1990, the core NAGPRA process for resolving issues, based on consultation and collaboration between museums and Indian tribes, has been enormously fruitful. It has built bridges of trust, fostered new relationships and enriched cultural understanding. For example, the Denver Museum of Nature & Science—the fourth largest natural history museum in the U.S.—has been fundamentally transformed by repatriation and this transformation has been entirely positive. Another museum notes that NAGPRA was a catalyst for instituting professional collection standards.
- The cost of NAGPRA compliance within museums is high and the grant funds that are available to museums cover only a fraction of this cost.
- The Final Rule on Culturally Unidentifiable Human Remains (issued in May 2010) is unclear and has created a variety of potential legal obstacles for museums.
- In 2010, the Government Accountability Office issued a report to Congress that raised several concerns about the operation of the National Park Service's operation of the NAGPRA program as well as the NAGPRA Review Committee's objectivity and understanding of the law's complexity. GAO-10-768, issued on July 28, 2010, is available at [gao.gov](http://gao.gov).