



Duty of Care Consultation Form for the NAGPRA Repatriation Process at ASM

The Arizona State Museum (ASM) employs a standard process for deaccessioning collections associated with repatriation under the *Native American Graves Protection and Repatriation Act* (NAGPRA). This process has historically been applied to ASM's repatriation projects as a means for providing detailed documentation of ancestral remains and cultural items that were once housed by the museum for the purpose of in perpetuity record keeping for the museum and receiving tribe(s).

Several tasks in ASM's repatriation process qualify as "research" under duty of care (§10.1(d)) in the NAGPRA Regulations as published in the *Federal Register* on January 12, 2024. "Research includes, but is not limited to, any study, analysis, examination, or other means of acquiring or preserving information about human remains or cultural items. Research of any kind on human remains or cultural items is not required by the Act or these regulations (§10.1(d)(3))."

Under NAGPRA and the current regulations, any work that qualifies as research requires consultation and prior consent from affiliated Tribes if it is to be carried out. These regulations require museums to:

1. Consult with lineal descendants, Indian Tribes, or Native Hawaiian organizations on the appropriate storage, treatment, or handling of human remains or cultural items;
2. Make a reasonable and good-faith effort to incorporate and accommodate the Native American traditional knowledge of lineal descendants, Indian Tribes, or Native Hawaiian organizations in the storage, treatment, or handling of human remains or cultural items; and
3. Obtain free, prior, and informed consent from lineal descendants, Indian Tribes, or Native Hawaiian organizations prior to allowing any exhibition of, access to, or research on human remains or cultural items.

ASM's repatriation process was established in consultation with Tribes through decades of work and many large-scale repatriation projects. Despite this history, we recognize that preferences are community-contingent and may change, and continual consultation is essential to providing the best care possible to the ancestral remains and cultural items we house. Accordingly, ASM seeks guidance on what actions and information gathering are appropriate for your community

so we can ensure that we provide the most respectful repatriation of ancestral remains and cultural items to your Tribe.

The subsequent pages outline research tasks traditionally conducted as part of ASM’s repatriation process to facilitate discussion. Each of these tasks highlights what is required of museums under NAGPRA and what is considered additional research that requires free, prior, and informed consent per duty of care requirements (10.1(d)).

Please read through the tasks (A-F) and initial in the appropriate field to indicate if consent is, or is not, granted for these research processes, or if there are specific stipulations that you desire to be followed for each task.

Note that concerns about culturally appropriate care, escort, housing, and final preparation of ancestral remains and cultural items are part of the museum’s duty of care under the NAGPRA regulations. These concerns are addressed as part of this consultation and consent process since most of the ASM repatriation tasks involve elements of care, handling, escort, and housing. This information is presented at the end of this document in Section F.

Finally, please be advised that consent decisions indicated here apply only to this repatriation project. Any future repatriation projects will undergo separate consultation and consent.

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A. Documentation of Cultural Items

Under NAGPRA, a museum must compile a summary or itemized list for any unassociated funerary objects, sacred objects, or objects of cultural patrimony (§10.9(a)) or any associated funerary objects (§10.10(a)) in its possession or control *based on available information* (i.e., information already in existence). A summary or itemized list must include:

<u>Summary (§ 10.9(a))</u>	<u>Itemized List (§ 10.10(a))</u>
1. Estimated number and general description of the holding or collection with no additional study or documentation	1. Number of associated funerary objects (AFO) and types of objects with no additional study or documentation
2. Geographical provenience from which cultural items were removed	2. Provenience from which the item was removed
3. Acquisition history	3. Acquisition history
4. Other information that may aid in identifying: a. A lineal descendant or culturally affiliated Tribe b. The item as an unassociated funerary object, sacred object, or object of cultural patrimony	4. Other information that may aid in identifying: a. A lineal descendant or culturally affiliated Tribe
5. Information about any hazardous substances used to treat cultural items with no additional study or documentation	5. Information about any hazardous substances used to treat cultural items with no additional study or documentation

Archival research not requiring consent: As part of every repatriation project, ASM staff review all available archive and accession documents to gain an understanding of the number of cultural items reported during excavation and the disposition history of those items (i.e., left *in situ*, excavated, accessioned into collections, loaned to other institutions, discarded, etc.).

Through this process, staff verify that all known cultural items are accounted for and ensure that their relationships with ancestral remains and/or other cultural items are known. Other information gathered through archival research consists of:

1. Previous documentation information about item types, measurements, and condition;
2. Previous application of pesticides as a preservative, and sometimes information about the application of lacquers or labels.

Carrying out this work is considered basic due diligence under NAGPRA to provide potentially affiliated tribes with information about cultural items in our possession.

Research requiring consent: In addition to collection and accession research, ASM staff have historically documented cultural items to identify the type, material, size, quantity, and archaeological tradition prior to repatriation when existing museum records were not adequate.

This type of information is not required under NAGPRA for repatriation and is considered research under the Regulations. To carry out this work requires free, prior, and informed consent from affiliated Tribe(s).

Rationale for undertaking the task: ASM considers this an important step to maintain accurate records of cultural items that are/were curated at the museum. This information has been used to re-establish relationships between missing cultural items and ancestral remains and to identify a previously repatriated cultural item if a question or concern arises.

Harm in undertaking the task: During the documentation process, cultural items are subject to additional viewing and handling, including moving items from one location to another within the museum. Cultural items are also subject to visual assessments and measurement (non-destructive approaches), and any information gathered from the documentation process will be retained by the museum as part of the cultural item’s record.

In the event that the affiliated Tribe(s) request additional documentation of cultural items (i.e., documentation that goes beyond what is available in archives), ASM staff will adhere to Section F of this document for instructions on care and handling during the research documentation process. ASM will also provide copies of all available documentation and associated records from this process to the requesting Tribe(s) at the time of repatriation.

_____ **Do not consent** to the documentation of cultural items by ASM staff.

_____ **Consent** to the documentation of cultural items by ASM staff.

_____ **Consent under the following conditions:** _____

B. Documentation of Ancestral Remains

Under NAGPRA, a museum must compile an itemized list for any ancestral remains and associated funerary objects in its possession or control *based on available information* (i.e., information already in existence) (§10.10(a)). This list must include:

1. Number of individuals identified in a reasonable manner with no additional study or documentation;
NOTE: *If ancestral remains are present, then a minimum of one individual is present, which is all that is required for repatriation to occur. An accurate MNI is not required under NAGPRA.*
2. Number of associated funerary objects and types of objects with no additional study or documentation;
3. Provenience information from where ancestral remains (and AFOs) were removed;
4. Acquisition history for ancestral remains and associated belongings;
5. Other information available to identify a lineal descendant or cultural affiliation with a Tribe;
6. Information about the presence of any potentially hazardous substances used to treat ancestral remains or associated funerary belongings with no additional study or documentation.

Archival research not requiring consent: As part of every repatriation project, ASM staff review all available archive and accession documents to gain an understanding of the number of individuals reported during excavation and the disposition history of those individuals (i.e., left *in situ*, removed from their place of rest, accessioned into collections, loaned to other institutions, discarded, etc.). This information also helps to clarify if individuals were associated with funerary belongings and/or other individuals before excavation/recovery.

Through this process, staff verify that all known individuals are accounted for and ensure that their relationships with other ancestral remains and/or funerary items are known. Other information gathered through archival research consists of:

1. Previous documentation information about ancestral remains, such as minimum number of individuals (MNI), age and sex estimates, and noted pathologies (evidence of disease or trauma);
2. Previous application of pesticides as a preservative, and sometimes information about the application of lacquers or labels;
3. Previous destructive analysis carried out on ancestral remains.

Completing this work is considered basic due diligence under NAGPRA to provide potentially affiliated tribes with information about the ancestral remains and associated funerary items in our care.

Research requiring consent: ASM staff have historically documented ancestral remains prior to repatriation to determine accurate scientific MNI, age and sex estimates, and any pathology (evidence of disease) present. This work is non-destructive but requires moving ancestral remains from one location to another in the museum, removing individuals from their housing, and additional handling by ASM staff including making visual observations and taking measurements.

This type of information is not required under NAGPRA for repatriation and is considered research under the Regulations. To carry out this work requires free, prior, and informed consent from affiliated Tribe(s).

Rationale for undertaking the task: ASM considers this an important step in identifying an accurate count of how many individuals are present and the demographic composition of those individuals. This information has occasionally been requested by tribes in the past to facilitate the reburial of individuals according to specific cultural requirements (i.e., separating certain ages/sexes).

Harm in undertaking the task: This documentation process exposes ancestral remains to additional viewing and handling, including moving individuals from one location to another within the museum and removal of the remains from their housing. Ancestral remains are also subject to visual assessments and measurement, and any information gathered from the documentation process will be retained by the museum as part of the individual’s record.

In the event that affiliated Tribe(s) request additional documentation of ancestral remains that goes beyond what is available in archives, then ASM staff will adhere to Section F of this document for instructions on care and handling during the research documentation process. Furthermore, any information gathered about ancestral remains during this process will be stored in a secure space with limited access (restricted to only necessary staff). Any researchers requesting access to this information must provide a letter of consent from the affiliated Tribe(s) before access will be granted in accordance with ASM’s [Policy on Human Remains](#).

ASM will provide copies of all available documentation and other associated records from this work to Tribes at the time of repatriation.

_____ **Do not consent** to the documentation of ancestral remains by ASM staff.

_____ **Consent** to the documentation of ancestral remains by ASM staff.

_____ **Consent under the following conditions:** _____

C. Review of Faunal Collections

Under NAGPRA, museums are responsible for the duty of care for human remains or cultural items in their custody or in their possession or control (§10.1(d)). Efforts focused on reviewing faunal (animal bone) collections associated with a repatriation project fall under the duty of care requirement in that the process involves the treatment and handling of potentially identified ancestral remains and serves as a means of acquiring additional information.

Archival research not requiring consent: As part of a repatriation project, ASM staff review all available archive and accession documents pertaining to a collection to identify faunal collections removed from a site and verifying any relationship to ancestral remains (i.e., part of funerary event).

Completing this work is considered basic due diligence under NAGPRA to provide potentially affiliated tribes with information about the ancestral remains and associated funerary items in our care.

Research requiring consent: ASM staff has traditionally physically examined faunal collections associated with repatriation projects with the purpose of recognizing and recovering previously misidentified ancestral human remains. If the remains of any individuals are identified during this process, they are separated from faunal remains, documented, rehoused and reunited with other individuals from the same site/region in ASM's secure housing area, and incorporated in the repatriation project.

Rationale for undertaking the task: ASM considers this a critical step for identifying all ancestral remains potentially present in archaeological collections under our care. Past efforts to review faunal collections have consistently identified the remains of several individuals previously not identified in these collections. Any newly identified ancestral remains are returned as part of the larger repatriation project to ensure they can be reunited with other individuals from the same site.

In the past, newly identified ancestral remains were also documented by ASM staff to obtain a demographic profile. In many cases the profile can only be narrowed down by general age category (e.g., adult, child, infant) given the bone fragments present, but this has sometimes allowed us to reunite elements of an individual.

Harm in undertaking the task: During the faunal review process, identified ancestral remains are subject to viewing and handling, including removal of the remains from their current housing, rehousing, and moving from one location to another within the museum.

During the documentation process, ancestral remains are also subject to visual assessments and measurement. Any information gathered from this documentation process is retained by the museum as part of the individual's record.

In the event that the requesting Tribe(s) consent to a continuation of ASM’s faunal review practices and/or documentation of newly identified ancestral remains, ASM staff will adhere to Section F of this document for instructions on care and handling during the collections review and research documentation process. Copies of all documentation information from this work will be provided to requesting Tribe(s) at the time of repatriation.

1. Consent for the identification and rehousing of ancestral remains from faunal collections:

_____ **Do not consent** to the identification and rehousing of ancestral remains from faunal collections by ASM staff.

_____ **Consent** to the identification and rehousing of ancestral remains from faunal collections by ASM staff.

_____ **Consent under the following conditions:** _____

2. Consent for the documentation of newly identified ancestral remains from faunal collections:

_____ **Do not consent** to documentation of newly identified ancestral remains from faunal collections by ASM staff.

_____ **Consent** to documentation of newly identified ancestral remains from faunal collections by ASM staff.

_____ **Consent under the following conditions:** _____

D. Photography of Cultural Items

Current museum practices of photographic documentation of cultural items, including funerary objects, sacred objects, and objects of cultural patrimony, fall under the duty of care requirement in that the process involves the treatment and handling of cultural items and serves as a means of acquiring or preserving information about cultural items.

Archival research not requiring consent: As part of every repatriation project, ASM staff review all available archive and accession documents to gain an understanding of the collections. This archive research sometimes involves reviewing printed and digital photography of cultural items within a collection to verify items with inadequate information/documentation. This work is considered basic due diligence under NAGPRA to provide potentially affiliated tribes with information about cultural items in our possession.

Research requiring consent: Previously, ASM photo-documented all cultural items (if not previously photographed) before repatriation as part of the collections record.

Photographic documentation of cultural items is not required under NAGPRA for repatriation and is considered research under duty of care requirements. To carry out this work requires free, prior, and informed consent from affiliated Tribe(s).

Rationale for undertaking the task: ASM photographs cultural items to maintain accurate records of items that are/were curated at the museum. This information has been used to re-establish relationships between items and ancestral remains, confirm cultural items with inadequate information, and to identify an item that has been previously repatriated if an inquiry is brought to ASM at a later date.

Harm in undertaking the task: Cultural items, including some that may not be intended for viewing, are subject to digital photographic recording. To carry out this process, items are moved from one location within the museum to another, removed from their housing, handled for image capture, then moved back to their housing location in preparation for repatriation. Any images captured of the item will be on file in a secure location with the museum, and digital copies of all cultural items are provided to affiliated Tribe(s) upon repatriation. If print images of specific items are requested, then ASM will provide copies of the requested images to the affiliated Tribe(s) as soon as possible after repatriation.

In the event that affiliated Tribe(s) request newly captured photographic images of cultural items, ASM staff will adhere to Section F of this document for instructions on care and handling during the process. Furthermore, any digital images taken of cultural items will be stored in a secure space on a server with limited access (restricted to only necessary staff and unavailable for viewing or sharing beyond repatriation-specific needs). Any researchers wanting to view images of cultural items (either newly produced or archival images) must have a letter of consent from the affiliated Tribe(s) before access is granted.

_____ **Do not consent** to allow photography of cultural items by ASM staff.

_____ **Consent** to allow photography of cultural items by ASM staff.

_____ **Consent under the following conditions:** _____

E. Screening for Potential Toxins

Under NAGPRA, museums are required to provide information about the presence of any known potentially hazardous substances applied to ancestral remains or cultural items if the information is already known from archival records as part of the duty of care requirements (§10.1(d)).

Testing or removal of known hazardous substances is not required under the law. Any effort to test or remove hazardous substances falls under duty of care in that the process involves the treatment and handling of ancestral remains or cultural items and serves as a means of acquiring or preserving information about them.

Archival research not requiring consent: As part of every repatriation project, ASM staff review all available archive records to gain an understanding of the collections, including past applications of hazardous substances as a preservative or pest deterrent. This work is considered basic due diligence under NAGPRA to provide potentially affiliated tribes with information about cultural items in our possession.

If any hazardous substances are noted in the archive records, ASM provides a report to affiliated Tribes during consultation documenting which cultural items were treated, the chemicals used, and instructions for safe care and handling of treated items to the Tribe requesting repatriation.

Research requiring consent: Many cultural items lack appropriate documentation of hazardous chemical treatments that may have been applied. Testing for chemicals on items of concern may be carried out, but the process requires free, prior, and informed consent from the requesting Tribe(s).

If consent is provided, the ASM Conservation Lab would screen/test any perishable (objects composed of organic material such as textiles, baskets, rugs, feathers, etc.) cultural items thought to have been treated for potential metal toxins using a portable X-ray fluorescence (pXRF) device. This technique is non-destructive in nature, but the process is limited in that it cannot detect residues from organic compounds.

Rationale for undertaking the task: Perishable cultural items are susceptible to pest damage and were historically treated with pesticides. These past treatments often utilized toxic metals (e.g., mercury, arsenic, lead, chrome, etc.) that may pose harm to human health if handled.

Harm in undertaking the task: Cultural items that undergo pesticide testing are subject to additional viewing and handling, including moving the item from one location to another within the museum, and exposure to X-ray fluorescence. Additionally, information gathered from testing will be retained by the museum as part of the item's record.

In the event that affiliated Tribe(s) request testing of cultural items for hazardous chemicals, then ASM staff will adhere to Section F of this document for instructions on care and handling during the process. Furthermore, any information gathered about treatments applied to cultural items will be stored in a secure space on a server with limited access (restricted to only necessary staff and unavailable for viewing or sharing beyond repatriation-specific needs).

ASM will provide a report documenting the cultural items treated, the toxins present, and instructions for safe care and handling of treated cultural items, if toxins are detected, to the affiliated Tribe(s) at the time of repatriation.

_____ **Do not consent** to screening for potential hazardous chemicals on perishable cultural items by ASM staff.

_____ **Consent** to screening for potential hazardous chemicals on perishable cultural items by ASM staff.

_____ **Consent under the following conditions:** _____

F. Care, Housing, and Escort

Under NAGPRA, museums are responsible for the duty of care for human remains and/or cultural items in their custody or in their possession or control (§10.1(d)). This requires that a museum:

1. Consult on the appropriate storage, treatment, or handling of human remains or cultural items.
2. Make a reasonable and good-faith effort to incorporate and accommodate the specific requests made by consulting parties.
3. Obtain consent from consulting parties prior to any exhibition of, access to, or research on human remains or cultural items.

As every aspect of the ASM repatriation process requires attention to the care and handling of ancestral remains and cultural items, it is essential that we consult on our process to avoid unintentional physical or spiritual harm.

Care: ASM staff locate and visually confirm the presence of ancestral remains and cultural items for each repatriation project to ensure that the remains or items listed on the inventory are present and accounted for in the museum. This requires opening boxes and bags but generally involves limited additional handling. If handling is required, ASM will take care to limit interactions with ancestral remains and cultural items.

This step is important in ensuring that ASM is locating and repatriating all ancestral remains and cultural items we have in our care, that the correct ancestral remains and cultural items are being repatriated, and that we have an accurate assessment of the collection to present to claimant tribe(s) for planning purposes.

During this process, ancestral remains and cultural items are moved from their respective secure areas into a separate secure room for final housing. This allows for the reunification of ancestral remains and belongings that may have been housed in separate areas. Ancestral remains and their belongings cannot always be housed together due to space restrictions in the museum. ASM re-establishes all remains with their items during the preparation stage for repatriation.

Unassociated funerary objects are gathered in the secure housing area at this time as well. ASM's housing area for repatriation planning is secure, climate-controlled, separate from general collections storage areas, only accessible by limited ASM staff or by permission of the ASM Repatriation Coordinator in consultation with the claimant tribe. At no time are food or drink, cellphones, or visitation allowed in these locations. All interactions in this space are respectful of the situation.

Housing: ASM staff often re-establish ancestral remains and/or cultural items from multiple bags or boxes into one bag or box (i.e., remains that are sorted among various bags by body

region would all be reunited into one bag or box) or can be reunited into one bag or box when appropriate to minimize handling.

Ancestral remains or cultural items may need to be rehoused if existing housing is unsafe for escort (i.e., damaged) or inappropriate (i.e., plastic, offensive packaging, etc.). Ancestral remains recovered from excavations in previous eras were commonly housed in plastic vials and bags, and they entered the museum in reused boxes that may not be respectful of the individual they hold. In these situations, ASM has traditionally removed the ancestral remains from these housing materials to provide a more respectful circumstance for the individuals.

All original housing materials are retained in a separate bag or box to be managed by the receiving tribe in a way they deem appropriate upon request at the time of repatriation.

Past curation practices may have involved painting labels directly on cultural items or human remains, but those practices were discontinued at ASM in the 1970s. In preparation for repatriation, ASM places (unattached) paper labels with ancestral remains and cultural items to ensure that they can be identified during final inventory in the event a question arises and for reburial. Labels are not adhered to the ancestral remains or cultural items themselves but instead placed within or affixed to the bag or box holding the remains and/or item.

Escort: Preparation for repatriation of ancestral remains and cultural items may involve moving and/or escorting boxes. Ancestral remains and cultural items are carefully bundled within natural materials (paper bags and unmarked cardboard boxes) in preparation for their repatriation to a claimant tribe(s). This requires moving remains and items in their housing materials from museum shelves to larger boxes. When requested by the claimant tribe(s), ASM may also assist in the escort of boxes from the museum into a vehicle, or escort to a location designated by the claimant tribe(s).

ASM does not have the ability to allow the use of smoke as part of traditional religious practices inside the building; however, a secure, enclosed outdoor patio area can be provided for traditional religious practices. If other accommodations are needed to facilitate traditional religious practices at ASM, please inform the Repatriation Coordinator so they can ensure an appropriate space and resources are available.

_____ **Do not consent** to the care, escort, and housing of ancestral remains and cultural items by ASM staff as outlined above.

_____ **Consent** to the care, escort, and housing of ancestral remains and cultural items by ASM staff as outlined above.

_____ **Consent under the following conditions:** _____



ASM consulted with the designated Tribal NAGPRA representative
on the repatriation procedures outlined in this document*:

Name (printed): _____

Title: _____

Tribe: _____

Date: _____

****NOTE: Please be advised that this is not a legal document. This document serves as a guide for ASM to approach repatriation in a transparent way, to encourage discussion and openness with affiliated Tribes, and to receive vital cultural guidance from tribal representatives to ensure we are providing the best care throughout the repatriation process.***