

Alabama Department of Archives and History
Access Policy on Collections Subject to NAGPRA and Associated Records
February 7, 2025

Federal regulations governing implementation of the Native American Graves Protection and Repatriation Act ([43 CFR Part 10](#)) provide a process for identifying eligible claimants for the repatriation of [human remains](#) and [cultural items](#) held by a museum. Cultural items may include [associated funerary objects](#), [unassociated funerary objects](#), [sacred objects](#), and [objects of cultural patrimony](#).

Access to the following categories of materials in the [custody](#) or [control](#) of the Alabama Department of Archives and History (ADAH), an agency of the State of Alabama, is closed to the public during ongoing work to attain compliance with NAGPRA.

1. Human remains or cultural items that are in ADAH custody but are under the control of a federally recognized tribe or lineal descendent.

After any human remains or cultural items have been repatriated, the materials may remain in the custody of the ADAH pending the physical transfer of the materials to the repatriation claimant. They are no longer the property of the ADAH even if they are physically located at the ADAH.

Federal regulations require that the ADAH fulfill a duty of care ([43 CFR 10.1\(d\)](#)) for human remains and cultural items while they remain in the agency's custody. The ADAH must "obtain free, prior, and informed consent from lineal descendants [or] Indian Tribes...prior to allowing any exhibition of, access to, or research on human remains or cultural items. 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..." ([43 CFR 10.1\(d\)\(3\)](#)).

Materials in this category are the subject of a repatriation statement ([43 CFR 10.9\(g\)](#); [43 CFR 10.10\(h\)](#)) issued on the date indicated in the [ADAH Repatriation Record](#).

2. Human remains or cultural items that are under the control of the ADAH and are either a) known to be subject to NAGPRA on the basis of documentation created at the time of excavation, or b) potentially subject to NAGPRA on the basis of provenance that includes acquisition from collectors and associates known to have excavated and traded in funerary objects.

Federal regulations require that the ADAH fulfill a duty of care ([43 CFR 10.1\(d\)](#)) for human remains and cultural items that are under the agency's control. The ADAH must "obtain free, prior, and informed consent from lineal descendants [or] Indian Tribes...prior to allowing any exhibition of, access to, or research on human remains or cultural items. 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..." ([43 CFR 10.1\(d\)\(3\)](#)).

As of the date of this policy, approximately 188,000 objects in the control of the ADAH are documented to be cultural items based on provenience and provenance records created at

the time of their excavation in the early twentieth century by members of the Alabama Anthropological Society (AAS).

Another category of objects, numbering approximately 128,000, lacks the same degree of documentation but was almost entirely donated to the ADAH by members of the AAS. The AAS predominantly acquired collections by locating and excavating funerary sites. Some AAS members are known to have engaged in surface collecting and the exchange of objects. Evaluation of these materials potentially subject to NAGPRA is ongoing through processes prescribed in federal regulations, including consultation ([43 CFR 10.3](#); [43 CFR Part 10 Subpart C](#)). The determination of an object's status must include the consideration of information provided by tribes during consultation regarding "the types of objects that might be unassociated funerary objects, sacred objects, or objects of cultural patrimony" ([43 CFR 10.9\(c\)\(2\)](#)).

3. Historical and administrative records containing sensitive information including archaeological site locations, burial contexts for documented funerary objects, and descriptions of human remains and cultural items.

The ADAH's archival collections contain historical records created by the AAS and other collection donors in the twentieth century. These field notes, drawings, manuscripts, and publications frequently contain sensitive information.

Administrative records used to manage ADAH collections, including but not limited to databases, catalog records, photographs, and reports, likewise contain sensitive information.

In determining what constitutes sensitive information regarding human remains and cultural items, NAGPRA regulations "require deference to Native American traditional knowledge of lineal descendants [and] Indian Tribes" ([43 CFR 10.1\(a\)\(3\)](#); [43 CFR 10.2 "Native American traditional knowledge"](#)).

Additionally, in the practice of professional anthropology, records depicting or describing archaeological objects frequently function as facsimiles of the objects themselves. Archaeologists routinely rely on existing records to perform comparative analysis and to draw conclusions about cultural influences and the migration of people groups. Therefore, research in archival collections about archaeological objects constitutes research on the objects themselves. In a [2022 article in a journal of the Society for American Anthropology](#), archaeologist Chloë Ward encouraged other scholars to "engage with archives critically and understand their role in the production or construction of knowledge." NAGPRA regulations state that "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" (emphasis added) ([43 CFR 10.1\(d\)\(3\)](#)).

Consultation on the proper handling of sensitive information can occur throughout the repatriation process. The final step in the repatriation of human remains and cultural items is to "protect sensitive information, as identified by the requestor, from disclosure to the general public to the extent consistent with applicable law" ([43 CFR 10.9\(g\)\(1\)\(iii\)](#); [43 CFR 10.10\(h\)\(1\)\(iii\)](#)).

[End]