

### NAGPRA/CalNAGPRA Closed Program Repository Policy

SF State is committed to the respectful and expedited repatriation of California Native American and Native American Ancestors and Cultural items pursuant to the Native American Grave Protection and Repatriation Act (NAGPRA) and California NAGPRA (CalNAGPRA). This policy creates an indefinite moratorium on SF State's intake of new items, and creates a limited exception application process that aims to ensure Tribes/Tribal Nations are actively consulted and included in the decision to utilize SF State as a temporary repository, items are cared for in a culturally appropriate manner, and that an Agency or individual storing items at SF State maintains responsibility to return these items to the Tribes/Tribal Nations.

#### Purpose

SF State's Closed Repository Policy intends to ensure respectful, ethical acceptance and timely repatriation of Ancestors, cultural items, funerary objects, grave goods, and objects of cultural patrimony (Items) to Native American Tribes, California Native American Tribes, lineal descendant(s), and Sovereign Tribal Nations subject to NAGPRA and California NAGPRA (CalNAGPRA) by focusing the University's resources on repatriation of items already cared for at the University.

Tribal Nations are the subject matter experts and need to be consulted with to determine if cultural heritage materials are Items as identified pursuant to NAGPRA or CalNAGPRA. Items may include, but are not limited to, faunal collections that contain soils. Faunal collections and cultural soils are to be considered as natural resources collections. Both faunal collections and cultural soils are often associated with burial and burial practices.

#### Closed Repository Policy

In furtherance of the goals of NAGPRA and CalNAGPRA for full repatriation, SF State's NAGPRA Program policy is that it will no longer accept new Items that are subject to NAGPRA and CalNAGPRA.

#### Application for Exemption to Closed Repository Policy:

Out of respect for tribal sovereignty and the cultural sensitivity and importance of these Items, SF State will only consider an exception to this policy and serve as a repository for agencies or individuals if all of the following requirements are met. Any agency or individual currently utilizing SF State as a repository is not retroactively subject to this policy at this time. The Application for an exemption must include the following documents. Compliance with all requirements does not guarantee SF State's acceptance of any Items.

#### Requirements for Agency or individual Application for an Exemption to SF State's Closed Repository Policy:

- **Tribal Written Permission:** An Agency or individual must provide a written letter of consent from each Tribe or Lineal Descendant associated with the Item(s) based on geographical or cultural identification/affiliation. The Tribe(s) associated with the Item(s) can be either be federally recognized or unrecognized and included on the Native American Heritage Commission list. The letter shall state that they approve the usage of SF State as a repository and requesting that SF State take the items in. The letter should contain any instructions from the Tribe(s) for culturally appropriate stewardship, storage, care, and review of housing of the Item(s). All of which will be implemented at the cost of the Agency or individual.
- **Legal Responsibility:** The Agency or individual must enter into a written repository contract with the University, which will provide, among other terms, a written statement that the Agency or individual has and retains, and will in no way in the future avoid, legal responsibility and control over the Items for the purposes of NAGPRA/CalNAGPRA compliance, tribal consultation, and repatriation.

- Identification: For record-keeping purposes only, the Agency or individual must provide SF State with digital copies of all available and relevant site records. Confidential information must be clearly marked and will be kept confidential. We do not accept any items that are or possibly may be contaminated.
- Documentation: The Agency or individual must provide SF State with documentation, including a written letter of concurrence from each culturally associated Tribe/Tribal Nation, that the Agency or individual and permission from the Tribe to place the Items in a repository. SF State will not accept new Items which each affiliated Tribe does not consent to have held in a repository. The Agency or individual must also provide SF State with documentation that it has legal possession or control over the items, pursuant to NAGPRA and CalNAGPRA. A signed attestation from the Agency or individual is required to document the Agency or individual's due diligence and compliance with related requirements in the California Public Resources Code section 5097.9 et. seq. to determine the culturally affiliated Tribe or Tribes who will need to provide a letter of support for the exception.
- Repatriation and Consultation Costs: The Agency or individual must agree to a written contract with the University whereby it assumes all costs to the University associated with the care and stewardship of the Items in a culturally appropriate manner. The Agency or individual must also show the University that it has provided a timeline for repatriation. A budget for repatriation, and consultation costs, which includes at a minimum direct Tribal reimbursement for consultation, reburial, travel, lodging, and per-diem costs associated with the repatriation process.
- Time Frame: The contract for using SF State as a repository, including repatriation and consultation, will be a maximum of two years and may be renewed at SF State's discretion at the request of the Agency or individual and with re-affirmed written consent of the Tribe/s associated with the Ancestors, cultural items, funerary objects and objects of cultural patrimony.
- Limitations on Testing: The Agency or individual must agree that no testing, data recovery, or analysis of any kind will be allowed on any NAGPRA/CalNAGPRA subject Items in SF State's repository unless it is at the written request of each culturally affiliated Tribe and done in a culturally appropriate manner.
- Tribal Consensus: In the event that more than one Tribe is culturally affiliated with a collection, written permission must come from each Tribe. SF State will not accept new items over the objection of any federally or non-federally recognized Tribe.
- Verification: Any written permissions or requests from a Tribe must be on Tribal Government letterhead and signed by a person with signatory authority for the Tribe. Written permissions or requests from Lineal descendants need not be on tribal government letterhead but should clearly state the relationship to the Items.
- Applicable Law: This policy is not intended to, and does not supersede, any applicable law. This policy is subject to both NAGPRA and CalNAGPRA and may be updated as those laws and implementing regulations are amended.  
This document is the whole closed repository policy for SF State, and it applies prospectively from the effective date below.

Application Review and Approval Process:

- Within 60 days the exception application will be reviewed by the Tribal Advisory Committee for their recommendation for approval, disapproval, or request for more information, and then reviewed and approved or disapproved by the NAGPRA Coordinating Committee, taking into consideration the recommendations of the Tribal Advisory Committee.
- This Policy shall be reviewed every 3 years by the Tribal Advisory Committee and the NAGPRA Coordinating Committee, and updated as needed when NAGPRA or CalNAGPRA, or their implementing regulations are amended or revised.

Effective Date: \_\_\_\_\_