

ADVISORY COUNCIL ON HISTORIC PRESERVATION

POLICY STATEMENT REGARDING BURIAL SITES, HUMAN REMAINS, AND FUNERARY OBJECTS

October 2022

NAA Committee Meeting

Goals for today



ACTIONS TAKEN &
NEXT STEPS



REVIEW COMMENTS
RECEIVED

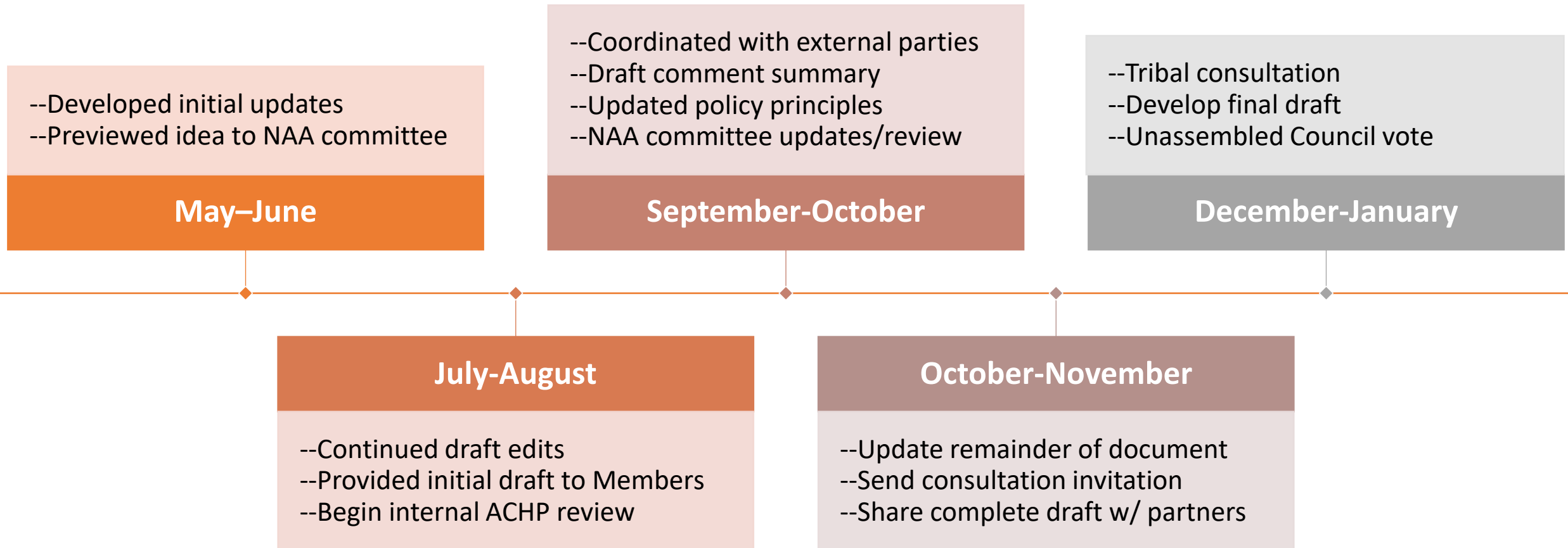


REVIEW UPDATED
PRINCIPLES

Timeline of Actions Taken

- June 27 – Presented initial draft edits during the NAA Committee and Business Meeting
- June 30 – Meeting with ACHP staff on inclusion of African American burial areas
- August 5 – Provided draft materials to ACHP Council Member and staff for review and comment
- August 22 – Presentation to the Federal Preservation Officer Forum
- September 6 – Meeting with Subject Matter Experts (SMEs) on African American Burial Grounds
- September 7 – Listening session and presentation with Indian Tribes, NHOs, and THPOs
- September 8 – Presentation to Department of Interior FPOs and historic preservation personnel
- September 8 – Presentation on progress to NAA and Federal Agency Programs Committee
- September 13 – Meeting with Navy personnel
- September 15 – Presentation and meeting with SMEs on African American Burial Grounds and African American Graves Protection and Repatriation legislation advocacy
- September 27 – Listening session and presentation with NCSHPO and SHPOs

Policy Development Timeline



Primary Goals of Revision

1. Create space for Indian Tribes, Native Hawaiians, African Americans, and Indigenous People
2. Provide more descriptive and action-oriented policy principles
3. Develop tasks to implement policy
4. Update and improve language
5. Align with current priorities
 - NAGPRA proposed rule
 - WHCNAAG guidance on Indigenous Knowledge
 - National Register Bulletin 38 updates
 - DOI's Federal Indian Boarding School initiative

Policy Principles

#1 - Participants in the Section 106 process should treat all burial sites, human remains and funerary objects with dignity and respect, physically and verbally, including during consultation, field surveys, handling and other treatment actions, when documenting and/or reporting, and all other forms of interaction.

Updated #1 - Burial sites, human remains, and funerary objects should be always treated with dignity and respect, physically, visually, and verbally, including during consultation, field surveys, handling, and other treatment actions, when documenting and/or reporting, and in all other forms of interaction.

Policy Principles

#2 - Only through consultation, which includes a concerted effort to reach a consensus through the early and meaningful exchange of information, can a federal agency make an informed decision about the treatment of burial sites, human remains, and funerary objects. In consultation federal agencies should identify mechanisms, including consultation and treatment plans, agreement document stipulations, and other actions that will proactively inform how burial sites, human remains, and funerary objects will be identified, documented, evaluated, and considered in decision making.

Updated #2 - Only through consultation, which includes the early and meaningful exchange of information and a concerted effort to reach consensus, can a federal agency make an informed decision about the identification, documentation, eligibility, and treatment of burial sites, human remains, and funerary objects.

Policy Principles

#3 - The identification, evaluation, assessment, and resolution of potential adverse effects to burial sites, funerary items, and/or human remains is best informed by the Indigenous Knowledge and expertise of those Indian Tribes or NHOs that identify as associated. The Indigenous Knowledge held by an Indian Tribe, NHO, and other Indigenous Peoples is valid and self-supporting and does not require verification through western knowledge.

Updated #3 - The Indigenous Knowledge held by an Indian Tribe, NHO, and other Indigenous Peoples is a valid and self-supporting source of information. To the fullest extent possible, deference should be provided to the Indigenous Knowledge and expertise of Indian Tribes, NHOs, and Indigenous People in the identification, documentation, evaluation, assessment, and treatment of their ancestors and funerary objects.

Policy Principles

#4 - Disturbing or disinterring burial sites, human remains and funerary objects, when not requested by descendants or affiliated Indian Tribes or NHOs, should not be pursued unless there are no other alternatives and only after the federal agency has consulted and fully considered avoidance of impact and whether it is feasible to preserve them in place. (Any excavation or removal of human remains or funerary objects may be subject to repatriation under NAGPRA.)

Updated principle #4 - Disturbing or disinterring burial sites, human remains, or funerary objects, when not requested by descendants, associated Indian Tribes or NHOs, or required by applicable law or regulation, should not be pursued unless there are no other alternatives available, and only after the federal agency has consulted with descendants or other legally associated individuals or groups and fully considered avoidance of impact and preservation in place.

Policy Principles

#5 - Consultation should be conducted in a manner that provides deference to the to requests of descendants, Indian Tribes or NHOs, or other associated individuals or groups. Where known, the cultural practices of the group or family should be followed if human remains, burial sites, or funerary items may be encountered, are inadvertently identified or impacted, or must be disinterred.

Updated principle #5 - To the maximum extent possible, decision making should provide deference to the treatment requests of descendants or other legally associated individuals or groups. Where known, the cultural practices of the descendants or associated group should be followed if human remains, burial sites, or funerary objects may be encountered, are inadvertently identified or impacted, or must be disinterred.

Policy Principles

#6 (limited edits) - The Federal Indian boarding school system directly targeted American Indian, Alaska Native, and Native Hawaiian children in the pursuit of a policy of cultural assimilation that coincided with territorial dispossession. **In partnership with the historic preservation community, federal agencies** should seek to implement the recommendations identified in the Department of Interior's Federal Indian Boarding School report by supporting community-driven identification, documentation, interpretation, protection, preservation, reclamation, and co-management of burial sites, human remains, and funerary objects across that system, including marked and unmarked burial areas, and supporting repatriation where appropriate.

Policy Principles

#7 - Burial sites, human remains, and funerary objects are frequently important in and of their own right, may be considered a sacred site, and may have several possible areas of significance including religious and cultural significance. The integrity of human remains, funerary objects, and burial sites is best informed by those that ascribe significance to them.

Updated principle - Burial sites, human remains, and funerary objects are important in and of their own right. They may also constitute or be part of a sacred site and may include or incorporate several possible elements of historic significance including religious and cultural significance. The integrity of human remains, funerary objects, and burial sites is best evaluated by those that ascribe significance to them.

Policy Principles

#8 - Histories of colonization, slavery, and assimilation faced by Indian Tribes, Native Hawaiians, African Americans, and other Indigenous Peoples have led to an uneven awareness of where and when practitioners are likely to encounter the human remains, burial sites, and funerary objects associated with these groups; the historic preservation community has a role in expanding public education around this topic in Tribal, Native Hawaiian, federal, state, and local contexts to support efforts to preserve and protect human remains, burial sites, and funerary objects.

Updated principle - The legacies of colonization, including cultural assimilation, forced relocation, and slavery, have led to an uneven awareness of where and why practitioners are likely to encounter human remains, burial sites, and funerary objects across the United States and its territories. The historic preservation community has a key role in expanding public education to support greater awareness of and consideration for the histories and lifeways of Indian Tribes, Native Hawaiians, African Americans, and Indigenous Peoples.

Policy Principles

#9 - Burial sites and cemeteries directly associated with histories of Indian Tribes, Native Hawaiians, the African American community, and other Indigenous Peoples have the potential to be National Register eligible because they are associated with events that made a significant contribution to the broad patterns of local, regional, and national history. The continued presence of human remains may not be essential to the integrity of that site or its continued relevance to a broad theme in history.

Updated principle #9 - Human remains and funerary objects may be relocated or removed from a location by or at the request of descendent communities for a variety of reasons. The continued presence of human remains or funerary objects may not be essential to the ongoing significance and integrity of a site or its relevance to a broad theme in history. The historic significance and integrity of such sites are best determined in consultation with lineal descendants and/or associated communities.

Policy Principles

#10 (limited edits) - Burial sites, funerary objects, and human remains are frequently associated with cultural practices, sacred sites, Indigenous Knowledge, and other forms culturally sensitive actions and/or information unique to a people. Maximum effort should be taken to limit disclosure of confidential or sensitive information through all available mechanisms including but not limited to the proper handling and labeling of records, limiting documentation to necessary information, and through application of existing law.

Policy Principles

#11 - Indian Tribes, Native Hawaiian organizations, descendant African Americans, and other Indigenous Peoples have the right to pursue the repatriation and reburial of human remains and funerary objects, and federal agencies should seek to enable this process through fair, transparent, and effective mechanisms developed in conjunction with the people concerned (When a federal agency does not have specific responsibilities for repatriation under NAGPRA, other state, local, or Tribal officials should be informed of potential NAGPRA responsibilities).

Updated principle - Federal agencies should seek to enable the access to and/or repatriation of burial sites, human remains, and funerary objects through fair, transparent, and effective mechanisms, developed in conjunction with descendant communities, to the fullest extent of the law.

Policy Principles

#12 - The ACHP recognizes that climate change can impact the cemeteries and burial areas significant to Indian Tribes and NHOs. To the extent feasible, federal agency climate change plans should support the advanced identification and protection of these locations.

Updated principle - The ACHP recognizes that climate change can impact the burial sites, cemeteries, and associated cultural practices significant to Indian Tribes, NHOs, and other groups of people. To the extent feasible, federal agency climate plans should support the advanced identification and protection of these locations.

Policy Principles

#13 (new, resulting from comments) – Personnel carrying out the documentation, evaluation, and treatment of burial sites, human remains, or funerary objects should meet the Secretary of Interior’s professional qualification standards and have a demonstrated familiarity with the associated time period, geographic area, and descendant community.





Policy Principles

1. Respect
2. Consultation
3. Indigenous Knowledge
4. Disturbance as a last resort
5. Deference in decision making
6. Federal Indian Boarding School
7. Significance
8. Education
9. Integrity
10. Sensitive information
11. Repatriation
12. Climate change
13. Professional qualifications

Policy Implementation

- A. Train ACHP staff regarding the implementation of this policy statement including the expertise of Indian Tribes and NHOs regarding the identification, documentation, evaluation, and treatment of burial sites, human remains, and funerary objects.
- B. Development of informational resources that address:
 - i. The Federal Indian Boarding School Initiative
 - ii. The intersection of NAGPRA and Section 106
 - iii. Acquiring and managing sensitive information
 - iv. The intersection of climate change and burial sites
 - v. Burial sites as sacred sites
 - vi. Treatment of marked and unmarked burial sites, human remains, and funerary objects
- C. ACHP staff will seek opportunities to incorporate the policy principles into technical assistance and agreement documents
- D. Support federal agencies in their development of protocols for appropriate consideration of burial sites, human remains, and funerary objects

Recap

- ✓ Agreed to update the Policy Statement
- ✓ Drafted and approved initial proposed language
- ✓ Early coordination
- ✓ Developed summary of comments and updated principles
-  Update draft document
-  Conduct consultation
-  Final draft
-  Member adoption

Submit comments to:
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Questions