



THEMED SUMMARY OF FEEDBACK RECEIVED REGARDING DRAFT UPDATES TO THE ACHP POLICY STATEMENT ON BURIAL SITES, HUMAN REMAINS, AND FUNERARY ITEMS

October 19, 2022

In August and September 2022 the ACHP engaged in early coordination with Indian Tribes, Native Hawaiian organizations (NHO), federal agency personnel, Council members, the African American community, and ACHP staff to gain feedback regarding proposed updates to ACHP's [Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects](#). The following summary highlights broad themes of feedback received during that time and lists specific feedback shared regarding the policy principles. Overall, the response to the proposed updates was supportive and collaborative with many commentors noting the importance of updating this policy statement to meet the challenges currently being faced in the field of historic preservation.

Summary of Outreach and 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 – Developed OneDrive for ACHP Council Members and staff
August 22 – Presentation and meeting with the Federal Preservation Officer forum
August 26 – Draft resource shared with Indian Tribes, NHOs, and THPOs
September 3 – Development of a public webpage to house draft materials for public access
September 6 – Meeting with Subject Matter Experts on African American Burial Grounds
September 7 – Listening session and presentation with Indian Tribes, NHOs, and THPOs
September 8 – Listening session and presentation with DOI FPOs and historic preservation personnel
September 13 – Meeting with the Department of Navy
September 15 – Presentation and meeting with Subject Matter Experts on African American Burial Grounds and African American Graves Protection and Repatriation legislation advocacy
September 27 – Listening session and presentation with NCSHPO and SHPOs

Indigenous Knowledge. Respondents overwhelmingly supported the inclusion of Indigenous Knowledge, and the knowledge of descendant and affiliated communities, as a common theme. Requests were made to further integrate deference to Indigenous Knowledge and the expertise of Indian Tribes, Native Hawaiians, Indigenous Peoples, and African American communities into the policy statement. Respondents agreed that Indigenous Knowledge is self-supporting, stating that this nuance is important, but noted challenges in aligning Indigenous Knowledge with existing guidance regarding Traditional Cultural Places and Professional Qualifications.

Sacred Sites. Most commentors supported the ACHP doing more to draw attention to the prominence of burial sites, human remains, and funerary objects and supported the integration of language on sacred sites into the policy statement. Some verbal comments expressed concern regarding the role of ACHP to advise on sacred sites while others didn't want to see sacred sites further linked with the Section 106 process. Conversely, other commentors noted the ACHP's broad authority to advise on historic preservation and requested additional clarity regarding the intersection of Executive Order 13007 and the Section 106 process.

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Addressing Indian Tribes, Native Hawaiians, Indigenous Peoples, and African American communities.

Overall, respondents supported specifically addressing Indian Tribes, Native Hawaiians, Indigenous Peoples, and African American communities as long as it does not limit the consideration of other groups. Multiple commenters requested that Indigenous Peoples be more broadly included and requested specific comments about non-federally recognized Tribes. One commentor inquired about specific references to other impacted communities including Asian American, Latinx, and Irish Americans. There was overwhelming support for the inclusion of the Federal Indian Boarding School with one commenter suggesting it should be addressed in a stand-alone policy due to its significance.

Scope and application of the policy statement. Several commenters asked that this policy statement continue to be applied externally beyond ACHP staff consistent with the existing policy statement. Multiple comments asked for more decisive and direct language regarding expectations for federal agencies. One commenter expressed concern that this policy could impact ongoing agency practices inconsistent with the draft language. Commentors voiced support for the updated style that included “action oriented” policy principles.

NAGPRA and other laws. Several respondents appreciated the references to where NAGPRA may apply and suggested expanded language in the updated preamble. Others stated that this policy statement has already been “hugely helpful” to federal agencies in cases when NAGPRA may not apply or does not provide one clear path forward. A few commenters requested that the implementation of this policy include information about the intersections of NAGPRA and 106 and the relationship between the development and implementation of NAGPRA Plans of Action and Section 106 agreement documents. Multiple participants provided Tribal, state, and NGO laws, policies, and guidance they have found useful in their work. Others emphasized that this policy will be helpful in considering cross-agency guidance or regulations on reburial efforts on federal land. One commenter stressed the importance of including a reference to the role of the SHPO and any state, and local laws that govern excavations or discoveries on private or state lands, whether or not they are funded by or permitted by a federal agency.

Terminology/definitions. Several commenters noted the ACHP’s failure to directly include cremains, cremations, and/or above-ground funerary practices. Across presentation groups, respondents requested the definition of burial site/area, cemetery, and ancestral remains to be broadened to include any context in the earth, underwater, or above ground where an ancestor has been, at any point, laid to rest and to clarify that there should be no assumed threshold for whether an ancestor’s remains are “in-tact.” Other comments emphasized that the definition of “disturbance” should be sought in consultation with affected and descendent communities and that agencies should consult on how to understand and accept markers of likely or potential burials and burial areas versus further disturbing a property to confirm their presence archaeologically.

Authority and policy implementation sections. Commentors appreciated the ACHP’s effort to be transparent in the application of the policy statement and commit to implementing it. Commentors requested specific products to clarify the intersection of NAGPRA and 106 and more specific commitments from the ACHP to provide training to ACHP staff on the policy’s implementation. Additionally, one FPO requested that the ACHP commit to supporting agency-specific efforts to implement the plan at partner agencies. Other commentors supported the broad categories listed and looked forward to seeing updated recommendations.