Phillips Exeter Academy Policy for the Respectful Curation and Repatriation of Native American Cultural Items

Phillips Exeter Academy is committed to fostering an inclusive and respectful community, in keeping with our mission and core values. As a private high school located in New Hampshire, the school acknowledges that its campus is situated on the ancestral lands of the Wabanaki, Wampanoag, Pennacook, and Abenaki people. We recognize the inherent rights of Native American Tribes and Indigenous Communities to their cultural items and Ancestors. We are committed to working with Tribes and Communities who may have an interest in facilitating the respectful repatriation of the Ancestral remains and cultural items housed at Phillips Exeter Academy.

Phillips Exeter Academy (PEA) is not a recipient of federal funds and, therefore, is not required to comply with the Native American Graves Protection and Repatriation Act (NAGPRA). While historically the National NAGPRA Program accepted documentation and published NAGPRA notices from institutions that elected to comply with the law, the policy of the Program has changed, and no longer accepts such documentation from institutions like PEA. The school voluntarily adopts the principles of the Act in recognition of Native American Tribes' and Indigenous peoples' rights to exercise agency over their beliefs, belongings, and Ancestors. PEA is dedicated to advancing repatriation and reconciliation, with this policy emphasizing and valuing traditional cultural knowledge in how Ancestors and cultural items are cared for and returned. This policy is a commitment to ethical stewardship and collaborative relationships with Native American Tribes and Indigenous Communities.

This policy shall apply to all teaching, exhibition, and research collections, including those housed at the Phillips Exeter Academy of Anthropology Museum. The Phillips Exeter Academy Anthropology Museum is a teaching museum without public exhibits. Established in 1976 with support from P. Phillips Foundation, the. Museum serves as an educational resource for students. The collection comprises objects originating from North America, South America, Africa, Europe, Asia, and Oceania donated to the academy over the course of the 20th century. The museum does not have a dedicated curator and falls under the auspices of the Principal's Office.

POLICY AND PROCEDURES

1. Guiding Principles

The school commits to the following principles in all actions related to Native American cultural items:

- **Applicability:** all Native American items under the legal control and custody of PEA. Any lineal descendant, federally recognized Tribe, certain non-federally recognized Tribes, and Native Hawaiian organizations
- **Respectful Return:** The primary goal is to facilitate the respectful return of Ancestral Remains and cultural items to the appropriate lineal descendants or culturally affiliated Tribes.
- **Meaningful Consultation:** The school will engage in open and transparent consultation with Native American communities.
- **Free, Prior, and Informed Consent:** Decisions regarding exhibit, access, research, and care will be made in collaboration with Indigenous communities and will require their free, prior, and informed consent. When a cultural item is identified, a moratorium on teaching, research, and exhibition of the item will be instituted until or unless Tribal guidance is received. PEA will consult with the Tribe's designated Repatriation representative.
- **Deference to Traditional Knowledge:** The school will give deference to the traditional knowledge of lineal descendants and Indian Tribes.
- **No Destructive Analysis:** No intrusive or destructive examination of Ancestral Remains or objects will be conducted, including DNA testing or carbon dating.
- **Future applicability:** PEA will review this policy periodically. In the event that we receive federal funds, we will amend this policy so that it fully aligns with NAGPRA. PEA will consider adding specific policy language to address international repatriation to indigenous communities not in the USA.

2. Definitions

For this policy, PEA will adopt key terms as defined by NAGPRA in 43 CFR 10.2, as well as additional terms defined below, including:

- **Human Remains (Ancestors)** are the physical remains of a person of Native American ancestry, including remains reasonably believed to be comingled with soil or faunal collections. Human remains that are incorporated into a cultural item are considered part of the item and not human remains.
- **Funerary Object** means an object that is believed to have been placed with human remains as part of a death rite or ceremony.
    - **Associated funerary object** means those for which the location of the Ancestral remains is known or those made solely for burial purposes.
    - **Unassociated funerary object** means an item used in burial or burial ceremonies and for which the location of the Ancestral remains is not known.

- **Sacred Object** means a specific ceremonial object needed by traditional Native American religious leaders for religious practices.
- **Object of Cultural Patrimony** means an object with ongoing cultural, traditional, or historical importance central to a Native American group, rather than a single individual.
- **Cultural Item** means a funerary object, sacred object, or object of cultural patrimony according to the Native American traditional knowledge of a lineal descendant or Tribe.
- **Lineal descendant:** see 43 CFR 10.2 under *Lineal descendant*
- **Native American:** see 43 CFR 10.2 under *Native American*; PEA also considers this term to include certain non-federally recognized Native American Tribes (see below)
- **Native Hawaiian organization:** see 43 CFR 10.2 under *Native Hawaiian Organization*
- **Cultural Affiliation** means there is a reasonable connection between Human remains or cultural items and a Tribe based on a relationship of shared group identify. Cultural affiliation may be identified clearly by the information available or reasonable by the geographical location or acquisition history of the human remains and cultural items. PEA will consider culturally affiliating and repatriating human remains and cultural items to non-federally recognized Tribes if a federally recognized Tribe has stated that they do not have a connection to the item or individual or if they defer to the non-federally recognized group.
- **Consultation** means the exchange of information, open discussion, and joint deliberations made between all parties in good-faith and in order to: 1) seek, discuss and consider the views of all parties; and 2) strive for consensus, agreement, or mutually acceptable alternatives; and 3) enable meaningful consideration of the Native American traditional knowledge of lineal descendants, Indian Tribes, and Native Hawaiian Organizations.

Note: If no response is received by federally recognized Tribes within one year of a consultation invitation PEA may proceed with repatriation to a non-federally recognized Tribe.

- **Non-federally recognized Tribe** means those Indigenous groups whose autonomous status is acknowledged by state or municipal authorities rather than the federal. These entities are characterized by their documented historical continuity and the maintenance of established institutional relationships within their region.
- **Summary** means a comprehensive accounting of Native American items in PEA's possession or control. Including information on the means and date of acquisition, collection history and all other relevant information.
- **Inventory** is a document describing human remains and associated funerary objects (known or potential), acquisition history, consultation history, and cultural affiliation determination. An Inventory cannot be finalized until consultation has occurred.

- **Determination Document:** used in place of the Notice of Inventory Completion or the Notice of Intended Repatriation. An Inventory and Summary Determination Document will serve the same function of public announcement to all consulting parties of PEA's determination.
- **Statement of Repatriation**: PEA will issue a statement of repatriation to all jointly requesting Tribes. The Statement of repatriation is the legal transfer of control from PEA to the Tribe(s).

3. Repatriation Process

The following procedures outline PEA's repatriation practices modeled on NAGPRA guidance.

- **Consultation:** PEA will invite consultation for all Native American Ancestors and Native American cultural material. PEA recognizes that we do not have the expertise to identify cultural items and that these identifications can only be made in consultation with Tribes, therefore PEA will share information on ALL Native American items housed at PEA when requesting consultation. The purpose of the consultation will be to share any known information that will help to determine whether ancestral remains and cultural items can be culturally affiliated to a specific group or groups, to agree on access, exhibit and care protocols. Unless guidance to the contrary is received, consultation notes will be shared with all participants and invitees.
- **Cultural Affiliation:** The school will work with the consulting parties to determine cultural affiliation, either clearly or reasonably. In the event that cultural affiliation cannot be determined the school will consider reburial of any Ancestral remains.
- **Request for Repatriation:** A Tribe may request repatriation of Ancestors or cultural items at any time up until the issuance of a Statement of Repatriation. Unless specifically stated, all requests will be considered joint requests unless the requester indicates that they wish to be the sole requester.
    - For cultural items (Summary) the request for repatriation must include a statement of cultural affiliation and a description of the types of items requested, i.e. sacred, funerary, cultural patrimony, and that PEA does not have the right of possession.
    - For Ancestors and associated funerary objects, the request must come after a Determination of Inventory has been released to all consulting Tribes. The request must be made from a culturally affiliated Tribe listed in the Determination of Inventory.
- **Responding to a request for repatriation:** PEA will respond to a request for repatriation within 60 days of receiving the request to both the requestor and any other consulting Tribes. The response will either state that the request satisfies the criteria of a request or may request additional information. The response to request must be sent to all consulting Tribes to provide transparency in the decision-making process.

- **Statement of Repatriation:** Must be issued within 60 days of sending the response to the repatriation request, unless there are competing requests (see below).
- **Competing Requests:** In the event of competing claims PEA will request that Tribes provide any additional evidence they may wish to submit in support of cultural affiliation within 60 days of the request for additional information. After receiving any additional information and/or at the close of 60 days, PEA will make a determination in consultation with the PEA NAGPRA Committee (see def. below), to determine the most appropriate requestor by a preponderance of the evidence. PEA has 30 days to make this determination and notify the involved Tribes. After the determination has been made, repatriation may proceed to the Tribe(s).
- **PEA NAGPRA Committee:** [to be completed by PEA – members, how appointed, appointment term, decision-making metrics, i.e. simple majority, quorum, etc.]

4. Communication and Care

The following commitments guide PEA's communication practices and the care, stewardship, and respectful treatment of Native American items.

- **Care and Treatment:** All identified Native American cultural items will be treated with dignity and respect. A specific care and treatment plan will be developed in consultation with Tribal representatives to ensure proper handling and housing, including providing a separate, secure, and accessible space for these items.
- **Curation:** PEA is committed to the ongoing care of Native American collections within our holdings. If in the future the continued care of those items should become untenable PEA will ensure that any institutional transfers of collections are to an organization that is required to comply with NAGPRA. Any consulting Tribes will be given advance notice of any future transfers.
- **Public Communications:** The school will not circulate images of ancestral remains or cultural items in public communications, such as on social media or in news stories, and will consult with affiliated groups on all communications to ensure they are respectful and appropriate.
- **Repatriation Point of Contact:** We look forward to hearing from representatives of Tribal communities. To answer questions, to schedule visits to view collections, receive guidance on care and storage of collections, or begin the consultation process, please contact Dr. Troy Samuels, history department member and anthropology museum project liaison, at repatriation@exeter.edu.