

## CHAPTER 40-01-03 DEACCESSION AND DISPOSAL OF COLLECTIONS

### Section

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### **40-01-03-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Analysis" means any activity that requires Indian human skeletal remains and associated grave goods to be touched by any person other than appropriate Indian spiritual leaders appointed by their respective tribal government. The term "analysis" includes identification.
2. "Associated grave goods" means all objects, which shall generally include all items believed to have been interred with human skeletal remains, including, but not limited to, projectile points, knives, scrapers, articles of clothing, ornaments, beads, and religious items such as pipes, stones, dishes and pottery, feathers, and any item within the physical anthropology collection so identified by the intertribal reinterment committee.
3. "Deaccession" means the process of permanently removing articles from the collections of the state historical society of North Dakota; it involves state historical board action, records management procedures, and disposal of the articles.
4. "Director" means the director of the state historical society as set forth in North Dakota Century Code section 55-02-01.
5. "Duly designated representative" means any person who is so appointed by the person's respective tribal government and can provide written documentation of such appointment.
6. "Federal custodian" means the federal agency which manages lands owned by the United States government and from which human skeletal remains and associated grave goods have been recovered.
7. "Intertribal reinterment committee" means that committee comprised of representatives appointed by each tribal government to represent their respective tribe in matters related to the deaccession and reinterment of human skeletal remains and associated grave goods.
8. "Trially identified articles" means human skeletal remains and associated grave goods for which tribal affiliation has been determined.

**History:** Effective September 1, 1989.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 55-01-02(3)

### **40-01-03-02. General method of deaccession and disposal - Exception.**

With the exception of those articles constituted by human skeletal remains and associated grave goods, the state historical board may deaccession articles from its collections upon the assessment of the director. The director, in making such an assessment to deaccession articles, shall also discuss the method of disposal. Methods of disposal must be as follows:

1. In the case of donated articles, unless other conditions are specified in a deed, gift, or other conveyance, deaccessioned articles will first be offered back to the donor if the donor is alive.
2. Articles may be transferred to another educational institution through gift, or exchange for other articles, or purchase by that institution.
3. Articles inappropriate to the collecting policy of the state historical board and other articles of no value to the state historical society or other institutions may be physically destroyed.
4. Articles of monetary value may be sold or traded for articles of similar value.

**History:** Effective September 1, 1989.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 55-01-02(3)

#### **40-01-03-03. Records of deaccession.**

A permanent record will be kept of all articles deaccessioned in accordance with section 40-01-03-02.

**History:** Effective September 1, 1989.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 55-01-02(3)

#### **40-01-03-04. Deaccession of human skeletal remains and associated grave goods.**

Human skeletal remains and associated grave goods are recognized as a distinct collection category exempt from the general method of deaccession and disposal prescribed in sections 40-01-03-02 and 40-01-03-03. Human skeletal remains and associated grave goods included in the categories enumerated in section 40-01-03-06 must be deaccessioned and permanently removed from the state historical society's collections, and disposed of in accordance with sections 40-01-03-06 and 40-01-03-07, at the direction of the state historical board.

An exit inventory must be conducted to verify and record the items to be deaccessioned.

The inventory must be conducted by a representative of the state historical board, the state historical society director or director's designees, and the intertribal reinterment committee or its designees.

The exit inventory must list by description the items being deaccessioned. With the consent of the intertribal reinterment committee, it may include photography, replication, measuring, and weighing of any associated grave good.

The inventory must be conducted in such a manner to honor and respect the religious beliefs and ceremonies of the tribes, in accordance with the requirements set forth by the spiritual leader designated by the intertribal reinterment committee.

**History:** Effective September 1, 1989.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 55-01-02(3)

#### **40-01-03-05. Donor consent.**

The state historical society shall endeavor to secure the written consent of all living donors and federal custodians of human skeletal remains and associated grave goods in its collections to release all such articles for reinterment. In those instances wherein such written consent is secured, and, in the case of donated articles, if no response is received from a donor within a period of thirty days from the date of mailing of the consent request, those human skeletal remains and associated grave goods

involved in such consent requests must be released for reinterment, with timely notice of such authorized release having been given to the appropriate tribal entity, as specified in section 40-01-03-06. In those instances wherein a donor or a federal custodian initially denies consent to the release of any or all of the human skeletal remains and associated grave goods involved in the respective consent request, the state historical society shall immediately, upon receiving such denial of consent in each instance, notify the intertribal reinterment committee of the denial and, upon request, provide said committee with information relative to the reason for the denial, which information must also include the name and address of the donor or federal custodian denying consent. In each such instance of an initial denial of consent, the state historical society shall continue to maintain in its collections the human skeletal remains and associated grave goods at issue, until such time as written consent to release for reinterment is secured. This does not otherwise abridge any other custodial or contractual obligations of the society.

**History:** Effective September 1, 1989.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 55-01-02(3)

#### **40-01-03-06. Release of human skeletal remains and associated grave goods.**

Human skeletal remains and associated grave goods included in the following categories must be deaccessioned and released to the appropriate tribal entity for reinterment on Indian lands:

1. Those recovered from lands and other properties of the state of North Dakota and of its political subdivisions.
2. Those received from donors who are deceased.
3. Those for which donor or federal custodian consent has been secured to release for reinterment.
4. Those for which donors do not respond to consent request letters within the prescribed thirty-day period.

Tribally identified articles must be released to a duly designated representative of the respective tribal government. Those articles not tribally identified must be released to an official representative of the intertribal reinterment committee.

**History:** Effective September 1, 1989.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 55-01-02(3)

#### **40-01-03-07. Security and coordination.**

Until such time as the human skeletal remains and associated grave goods in the state historical society's collections are released for reinterment, all such articles must be secured and continuously restricted from access by any person, except as provided in section 40-01-03-04. No analysis may be conducted on articles at any time prior to release, including the period involving the preparation for the articles' release except as provided in section 40-01-03-04. After the release and reinterment of such articles, the state historical society may not conduct, participate in, or finance any subsequent disinterment of any of these articles. The North Dakota Indian affairs commission must be informed of all actions of the society in carrying out activities related to the deaccession and release of human skeletal remains and associated grave goods.

**History:** Effective September 1, 1989.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 55-01-02(3)