



Policy:

The Hopi people desire to protect their rights to privacy and to Hopi Intellectual Property. Due to the continued abuse, misrepresentation and exploitation of the right of the Hopi people, it is necessary that guidelines be established and strictly followed so as to protect the rights of the present and future generations of the Hopi people.

Towards this end, the Hopi Tribe shall be consulted by all projects or activity involving intellectual property and that such property or activity be reviewed and approved by the Hopi Cultural Preservation Office through a permitting process or other contractual agreement.

This protocol should in no way be construed as being a call for commoditization or commercialization of the intellectual property of Hopi people, nor is it a justification to bring the Hopi people unwillingly into a commercial relationship. The Hopi Tribe reserves the right not to sell, commoditize or have expropriated from the certain domains of knowledge or information.

Definitions:

- 1) **“Research”** includes, but is not limited to, ethnology, history, biogenetic, medical, behavioral, ethno-botany, agronomy, ecology, anthropology, archaeology, and microbiology.
- 2) **“Hopi Tribe”** includes Hopi individuals, families, clans, villages, communities, Hopi Tribal Government and the Hopi people as a whole.
- 3) **“Projects”** or **“Activity”** includes, but is not limited to, research, publications recording-motion, visual sound whether oral, written, via multimedia or other mechanical devices discovered or yet to be discovered.
- 4) **“Multimedia”** includes any product derived from Hopi intellectual resources of text, sound, and images combined into an integrated product that can be transmitted and accessed interactively via digital machine-readable form or computerized network.

Procedure:

- 1) All projects or activities must be submitted in proposal format and shall address, at minimum, the following:
 - a) **Intent and benefit to the Hopi Tribe:** The proposal should clearly outline and discuss the intent and benefit of the project or activity to the Hopi Tribe. Questions to be considered are: What are the anticipated consequences or outcome of the project? What groups will be affected? What are the plans (pre, duration, post-project) for publications or commercialization of the product or research findings? How will the Hopi Tribe share in future publication or commercialization of the product or

research findings? How may the Hopi Tribe have access to the product or research data findings for their own use?

- b) **Risks:** Discuss the risk associated with or inherent in the project or activity, including risks to the physical and psychological well being of individual human subjects, participants, and risk of deleterious impact on the cultural, social, economic, or political well being of the community.
- c) **Tribal Consent:** The proposal should address a mechanism to obtain permission to use the Hopi traditions, culture, and people as subject matter. A mechanism for “informed consent” should be outlined in detail. Informed consent may be required from an individual, a family or clan, a village or the Hopi Tribal Government.
- d) **Rights to Privacy:** The proposal should address the issue of privacy and describe a mechanism whereby the privacy of the Hopi Tribe will be recognized and protected. What issues or subject matter will the project or activity potentially or actually impact. What are the limits, parameters, or boundaries necessary to complete the project or activity?
- e) **Confidentiality:** A Confidentiality Agreement may be required to assure confidentiality. The applicant shall provide assurance of confidentiality for the life of the project, if required, indicating how confidentiality will be protected; indicate where raw data or materials will be deposited and stored at the completion of the project; and indicate the circumstances in which the contractual or legal obligations of the applicants will constitute a breach of confidentiality.
- f) **Use of Recording Devices:** The proposal should outline what recording devices will be used in the project. Recording devices include, but is not limited, to motion picture cameras, audio/video recorders, tape recorders, mechanical, computerized or multimedia technology (CD-ROM), maps, hand drawings, The proposal should address a mechanism whereby the informants or subjects will understand clearly what the project plans to do with the recorded information, presently and potential future uses, before recordation takes place.
- g) **Ownership:** The Hopi Tribe reserves the right to:
 - 1) Prevent publication of intellectual resources which is unauthorized, sensitive, misrepresentatives or stereotypical of the Hopi people or harms the health, safety, or welfare of the Hopi people.
 - 2) May require deposit of raw materials or data, working papers or product in a tribally designated repository, with specific safeguards to preserve confidentiality .
 - 3) To deny a license or permit.
- h) **Fair and Appropriate Return:** The proposal should demonstrate how informants or subject of the project or activity will be justly compensated. Just compensation or fair return includes, but is not limited to, obtaining a copy of the research findings, acknowledgement as author, co-author or contributor, royalties, copyright, patent, trademark, or other formats of compensation. Posting of a bond may necessary to ensure compliance with terms of a project or activity which requires a formal contract.
- i) **Indian Preference in Employment or Training:** in all phases of the project or activity, including both on and off the reservation phases, the order of priorities in Indian Preferences shall be 1) Hopi Tribal members; 2) Indian generally; 3) local residents.

- j) **Review of Product or Research Results/Study:** the proposal should demonstrate a process whereby the Hopi Tribe will have an opportunity to review and have input into the product or results before publication. The purpose of this step is to assure that sensitive information is not divulged to the public or misrepresentations can be corrected.

Enforcement of this protocol requires a cooperative spirit. The Hopi people may share the right to enjoy or use certain elements of its cultural heritage, under its own laws and procedures, but always reserves a right to determine how shared knowledge and information will be used. The collective right to manage our cultural heritage is critical.

For more information, please contact Terry Morgart, Legal Researcher, at:

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