

DRAFT OUTLINE - The California State University Systemwide NAGPRA/CalNAGPRA Policy

This draft outline is not reflective of the final structure or topics of the proposed policy. Instead, it will be used as a starting point to initiate discussion between Tribes and the CSU system regarding compliance with federal NAGPRA and CalNAGPRA. Descriptive content included in this outline is statute language from AB-389 and AB-275. This document will be used during the scheduled listening sessions to gather information from Tribes and CSU officials regarding a timely and respectful repatriation process. An update to this document with incorporated feedback will be made following the last scheduled listening session.

Policy

- I. Purpose and Background
- II. Guiding Principles
- III. Definitions
- IV. Oversight
 - A. System
 1. Board of Trustees
 2. Chancellor's Office
 3. Reporting Infrastructure
 4. NAGPRA Implementation and Oversight Committee
 5. NAGPRA/CalNAGPRA Systemwide Policy
 6. Repatriation Implementation Plan
 7. **Funding [8028.72]:** To ensure that each California State University campus has the funding necessary to comply with this chapter, the California State University shall do all of the following:
 - a) Require each campus with Native American remains or cultural items to identify and estimate, on or before January 31, 2025, the funding and other resources it needs to complete repatriations under the act [AB 389] in an appropriate and timely manner.
 - b) Compile the estimates described in subdivision (a) into a systemwide report, disaggregated by campus, and submit this report to the Native American Heritage Commission and the Legislature, pursuant to Section 9795 of the Government Code.
 - c) Upon evaluation of the reasonableness of campus estimates under subdivision (a), identify and provide funding to campuses from existing systemwide or campus-based resources, or seek additional funding from the Legislature, to ensure that campuses have sufficient funding to support their activities under the act.
 - B. Campus
 1. Office of the President
 2. NAGPRA Staff
 3. Reporting Infrastructure
 4. NAGPRA Committees
 5. Repatriation Implementation Plan
- V. Consultation

"Consultation" means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, achieving agreement. Consultation between

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agencies or museums and California Indian Tribes shall be conducted in a manner that is respectful of Tribal sovereignty. Consultation also shall recognize the Tribes' potential need for confidentiality with respect to Tribal traditional knowledge and all Tribal information shared during the consultation (Cal. Health & Saf. Code §8012(e)).

VI. Compliance

- A. **Timely and Respectful Repatriation Process:** Adopt and implement clear, timely, and transparent policies and procedures on the systemwide requirements for submitting, processing, and implementing claims for:
 1. the repatriation of human remains and cultural items,
 2. demonstrating cultural affiliation,
 3. notification to tribes of human remains and cultural items deemed culturally affiliated and
 4. [notification to tribes of] unidentifiable and from whose state aboriginal territory the items were removed, but that are not subject to a repatriation claim,
 5. dispute resolution regarding repatriation claims, and
 6. any other relevant subject governed by the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.), Part 10 (commencing with Section 10.1) of Subtitle A of Title 43 of the Code of Federal Regulations, and this chapter.
 7. All claims for repatriation or claims of any violation of the policies and procedures adopted pursuant to Section 8025 shall be submitted to the campus-based Native American Graves Protection and Repatriation Act Implementation Committee for determination.
- B. **Mechanisms to Identify and Implement Culturally Appropriate Treatment:** Culturally appropriate treatment of Native American human remains and cultural items.
- C. **Training:** Culturally appropriate best practices and training concerning repatriation.
- D. **Prohibition on Teaching and Research without Consent:** Prohibition on the use of Native American human remains or cultural items for the purposes of teaching or research at the California State University while in the possession of a California State University campus or museum.
- E. **Mechanism for Research and Use with Consent:** Tribal research and testing requests.
- F. **Systemwide and Campus Committees:**
 1. California State University campus and museum reporting requirements to the CSU Systemwide NAGPRA Committee.
- G. **Inventory and Summary Updates:** Adopt systemwide California State University policies and procedures for the identification and disposition of culturally unidentifiable human remains and cultural items, as required by the federal Native American Graves Protection and Repatriation Regulations (43 C.F.R. Part 10). Those policies shall include updates to existing inventories in order to determine whether cultural affiliation can be determined, or to confirm that the human remains are "culturally unidentifiable" as defined in paragraph (2) of subsection (e) of Section 10.2 of Part 10 of Title 43 of the Code of Federal Regulations. These policies also shall include updates to existing inventories or summaries to identify cultural items that may not have been identified in

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the original inventories or summaries because traditional tribal knowledge was not incorporated into the identification process.

- H. **Systemwide CSU Collection Management Policy and De-Accession:** Adopt or amend systemwide California State University museum collection management policies to explicitly provide for the deaccession of collections containing Native American human remains and cultural items to effect the timely and respectful return of those items pursuant to valid claims submitted by a California Indian tribe.
- VII. Disputes and Appeals
 - A. Adopt procedures to support appeals and dispute resolution when a tribe disagrees with a campus determination regarding identification, repatriation, or disposition of human remains or cultural items directly to the CSU Systemwide NAGPRA Committee.
- VIII. Consequences of Non-Compliance
- IX. Policy Revision History
- X. Policy Evaluation

Procedures

- I. NAGPRA Committees
 - A. Systemwide NAGPRA Committee Composition **[8028.71 (a)]**
 - B. Campus NAGPRA Committees Composition **[8028.71 (b)]**
 - C. Tribal Representative Criteria **[8028.71 (c)]**
 - D. CSU Representative Criteria **[8028.71 (d)]**
- II. Disposition and De-Accession
- III. Reporting New Inventories
- IV. Disputes and Appeals
 - A. Cultural Affiliation Determination
 - B. Repatriation
 - C. Disposition
- V. Complaints
 - A. Reporting non-compliance
- VI. Policy Updates
[Procedures to be used to update policy due to changes in law, or other issues]