Native American Cultural Affiliation and Repatriation Policy

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Scope:

This policy applies to all Native American and Native Hawaiian Human Remains and Cultural Items.¹ "Cultural Items", as used throughout this policy, refers to Associated and Unassociated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony, as defined by the federal Native American Graves Protection and Repatriation Act ("NAGPRA") and the California Native American Graves Protection and Repatriation Act ("CalNAGPRA"). This policy is intended to ensure both adherence to general principles and compliance with NAGPRA, 25 U.S.C. §§ 3001-13, its accompanying regulations, 43 C.F.R. §§ 10.1-.17, and CalNAGPRA, Cal. Health & Safety Code (CHSC) §§ 8010-30.

Contact: Lourdes DeMattos
Title: Associate Director
Email: Lourdes.DeMattos@ucop.edu
Phone: (510) 987-9850

¹ Note that this policy covers NAGPRA-eligible Human Remains and Cultural Items (all as defined in this Policy). As such, this policy is not intended to cover the procedures that apply to inadvertent discovery of Native American remains during ground disturbing land development activity governed by California Public Resources Code § 5097.8 and Health and Safety Code § 7050.5, or notification and consultation requirements related to Tribal Cultural Resources pursuant to the California Environmental Quality Act. (See UC CEQA Compliance.) In addition, this Policy does not apply to voluntary and consented donations through the University’s Anatomical Donation Program. (See UC Policy on Anatomical Donation/Materials Programs.)
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I. POLICY SUMMARY

This purpose of this Policy is to achieve Repatriation of Native American and Native Hawaiian ancestral Human Remains and Cultural Items. The University of California (UC) adopts as a fundamental value the Repatriation of Native American and Native Hawaiian Human Remains and Cultural Items (Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony), in accordance with state and federal law. This Policy describes how UC will pursue this value and comply with the federal Native American Graves Protection and Repatriation Act (“NAGPRA”), 25 U.S.C. §§ 3001-13, its accompanying regulations (“NAGPRA Regulations”), 43 C.F.R. §§ 10.1-.17, and the California Native American Graves Protection and Repatriation Act (“CalNAGPRA”), Cal. Health & Safety Code §§ 8010-30.

II. DEFINITIONS¹

¹ Definitions included here are intended to facilitate the reading of this policy, but note that both Federal NAGPRA and CalNAGPRA contain definitions sections that apply to implementation of those respective laws. In case of inconsistency, the definitions associated with the cognizant regulations shall take precedence over definitions.
1) Aboriginal Lands: Land that is recognized as the aboriginal land of an Indian Tribe. For the purposes of making determinations related to Disposition of Culturally Unidentifiable Human Remains, aboriginal occupation may be recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims, or by a treaty, Act of Congress, or Executive Order. 43 C.F.R. § 10.11(b)(2)(ii).

2) Accession: The state or act of adding an item to University collections.

3) Associated Funerary Objects: Those Funerary Objects for which the Human Remains with which they were placed intentionally are also in the Possession or Control of a museum or Federal agency. Associated Funerary Objects also means those Funerary Objects that were made exclusively for burial purposes or to contain Human Remains. 43 C.F.R. § 10.2(d)(2)(i).

4) Burial Site: Under CalNAGPRA, Burial Site means a natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which Human Remains were intentionally deposited as a part of the death rites or ceremonies of a culture, except for cemeteries and graveyards protected under existing state law. CalNAGPRA § 8012(b).

Under Federal NAGPRA, any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which, as part of the death rite or ceremony of a culture, individual Human Remains were deposited, and includes rock cairns or pyres which do not fall within the ordinary definition of gravesite. 43 C.F.R. § 10.2(d)(2).

5) California Indian Tribe: Under CalNAGPRA (California Health & Safety Code, § 8012(j)), a California Indian Tribe means any Tribe located in California to which any of the following applies:

   (1) It meets the definition of Indian Tribe under the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.).
   (2) It is not recognized by the federal government, but is indigenous to the territory that is now known as the State of California, and both of the following apply:
      (A) It is listed in the Bureau of Indian Affairs Branch of Acknowledgement and Research2 petitioner list pursuant to Section 82.1 of Title 25 of the Federal Code of Regulations.
      (B) It is determined by the California Native American Heritage Commission (NAHC) to be a Tribe that is eligible to participate in the Repatriation process set forth in CalNAGPRA. CalNAGPRA requires the NAHC to publish a contact list of California Tribes

provided here. Under CalNAGPRA, terms have the same meaning as in the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.), as interpreted by federal regulations, except as noted in CalNAGPRA § 8012. Therefore, Federal citations provided in this Section are not meant to suggest that the underlying definitions apply only in implementation of Federal NAGPRA.

2 Now the Office of Federal Acknowledgment.
meeting these criteria, as well as authorized representatives to act on behalf of the Tribe in the Consultations required under paragraph (3) of subdivision (a) of Health & Safety Code Section 8013 and in matters pertaining to Repatriation under CalNAGPRA. CalNAGPRA specifies that criteria that shall guide the NAHC in making the determination of eligibility shall include, but not be limited to, the following:

i) A continuous identity as an autonomous and separate tribal government.

ii) Holding itself out as a Tribe.

iii) The Tribe as a whole has demonstrated aboriginal ties to the territory now known as the State of California and its members can demonstrate lineal descent from the identifiable earlier groups that inhabited a particular tribal territory.

iv) Recognition by the Indian community and non-Indian entities as a Tribe.

v) Demonstrated membership criteria.

6) Claimant: A Lineal Descendant, Native American Tribe, or Native Hawaiian Organization who asserts a claim for Cultural Affiliation or State Cultural Affiliation to Human Remains or Cultural Items pursuant to NAGPRA or CalNAGPRA.

7) Confidential Information: Any information submitted by a Native American Tribe or Native Hawaiian Organization during the Consultation process under this Policy regarding places that have traditional tribal cultural significance, including the locations of Native American graves, cemeteries, and sacred places, and specific information identified as “confidential” by a consulting Native American Tribe or Native Hawaiian Organization.

8) Conflict of Interest: Financial or personal interests that may prejudice a committee member decision.

9) Consultation: “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, seeking agreement. Consultation between government agencies and Native American Tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the Tribes’ potential needs for confidentiality with respect to places that have traditional tribal cultural significance.” California Government Code 65352.4.

3 CalNAGPRA § 8012(j)(2)(b)
10) Control: Having a legal interest (“ownership” in CalNAGPRA) in Human Remains, Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony sufficient to lawfully permit a museum or agency to treat the objects as part of its collection for purposes of NAGPRA and CalNAGPRA whether or not the Human Remains, Funerary Objects, Sacred Objects or Objects of Cultural Patrimony are in the physical custody of the museum or agency. Generally, the institution, agency, or entity that has loaned Human Remains, Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony (to another institution, agency or entity) is considered to retain Control of those Human Remains, Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony for purposes of NAGPRA and CalNAGPRA. 43 C.F.R. § 10.2(a)(3)(ii), CalNAGPRA § 8012(e).

11) Controlling Agent: The institution, agency or entity having legal Control of Human Remains, Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony.

12) Cultural Affiliation [Culturally Affiliated]: Cultural Affiliation means that there is a relationship of shared group identity that can be reasonably traced historically or prehistorically between members of a present-day Indian Tribe or Native Hawaiian Organization and an identifiable earlier group. Cultural Affiliation is established when the preponderance of the evidence based on geographical, kinship, biological, archaeological, linguistic, folklore, oral tradition, historical evidence, or other information or expert opinion reasonably leads to such a conclusion. 43 C.F.R. § 10.2(e). See also Preponderance of Evidence.

13) Cultural Items: Human Remains and Associated Funerary Objects, Unassociated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony. For the purposes of CalNAGPRA, it means only those items that originated in California. 25 U.S.C. § 3001(3); 43 C.F.R. § 10.2, Cal NAGPRA § 8012(d). [Note that out of respect for the Human Remains of Native American and Native Hawaiian ancestors, UC has elected to call these out in the text of the Policy, even when speaking generally of Cultural Items.]

14) Culturally Unidentifiable: Human Remains and Cultural Items for which no Lineal Descendant or Culturally Affiliated present-day Federally Recognized Tribe can be determined. 43 C.F.R. § 10.2(e)(2).

15) Deaccession: The act of permanently removing an accessioned item from a permanent collection.

16) Disposition: Generally, transfer of Control of Native American Human Remains, Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony by a museum or Federal agency; specifically, as used in this Policy, transfer of Culturally Unidentifiable Human Remains, with or without
Associated Funerary Objects (as distinguished from “Repatriation,” which applies only to transfer of Culturally Affiliated Human Remains and Cultural Items). 43 C.F.R. § 10.2(g)(5).

17) Federally Recognized Tribe: Any Tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. 25 U.S.C. § 3001(7).

18) Funerary objects: Items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual Human Remains. Funerary Objects must be identified by a preponderance of the evidence as having been removed from a specific Burial Site of an individual affiliated with a particular Indian Tribe or Native Hawaiian Organization or as being related to specific individuals or families or to known Human Remains. 43 C.F.R. § 10.2(d)(2).

19) Human Remains [of Native American and Native Hawaiian ancestors]: The physical remains of the body of a person of Native American or Native Hawaiian ancestry. The term does not include remains or portions of remains that may reasonably be determined to have been freely given or naturally shed by the individual from whose body they were obtained, such as hair made into ropes or nets. For the purposes of determining Cultural Affiliation or State Cultural Affiliation, Human Remains incorporated into a funerary object, Sacred Object, or object of cultural patrimony, as defined below, must be considered as part of that item. 43 C.F.R. § 10.2(d)(1).

20) Inventory: The item-by-item description of Human Remains and Associated Funerary Objects in the Possession or Control of a museum or federal agency, required by NAGPRA. 43 C.F.R. § 10.2(g)(2). The inventory has two parts: 1) a listing of all Human Remains and Associated Funerary Objects that are identified as being Culturally Affiliated with one or more present-day Indian Tribes or Native Hawaiian Organizations; and 2) a listing of all Culturally Unidentifiable Human Remains for which no Culturally Affiliated present-day Indian Tribe or Native Hawaiian Organization can be determined. 43 C.F.R. § 10.9(d). CalNAGPRA § 8012(g).

21) Lineal Descendant: An individual tracing his or her ancestry directly and without interruption by means of the traditional kinship system of the appropriate Indian Tribe or Native Hawaiian Organization or by the common law system of descendancy [sic] to a known Native American individual whose Human Remains, Funerary Objects, or Sacred Objects are being claimed under NAGPRA. 43 C.F.R. § 10.2(b)(1).
22) NAGPRA-eligible Human Remains or Cultural Items or NAGPRA-eligible Collection: Human Remains or cultural objects that are required to be captured in a NAGPRA/CalNAGPRA Inventory or Summary.

23) Native American: Of, or relating to, a Tribe, people, or culture that is indigenous to the United States. 25 U.S.C. § 3001(9). Of, or relating to, a Tribe, people, or culture indigenous to the United States, including Alaska and Hawaii. 43 C.F.R. § 10.2(d).

Determinations of whether Human Remains or Cultural Items are Native American shall not be precluded based solely on their age.

24) Native Hawaiian: Any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii. 43 C.F.R. § 10.2(b)(3)(ii).

25) Native Hawaiian Organization: Any organization that serves and represents the interests of Native Hawaiians, has as a primary and stated purpose the provision of services to Native Hawaiians, and has expertise in Native Hawaiian affairs. 43 C.F.R. § 10.2(b)(3)(i).

26) Notice of Intent to Repatriate: A Notice of Intent to Repatriate is published in the Federal Register when a museum or Federal agency receives, reviews, and accepts a claim by a Native American Tribe or Native Hawaiian Organization for Sacred Objects, Unassociated Funerary Objects, or Objects of Cultural Patrimony. Such notification is required pursuant to 43 CFR § 10.8(f). The National NAGPRA program is responsible for publishing Notices of Intent to Repatriate on behalf of museums and Federal agencies. 43 CFR § 10.8(f).

27) Notice of Inventory Completion: A Notice of Inventory Completion is published in the Federal Register when a museum or Federal agency has made a determination of Cultural Affiliation for Human Remains and Associated Funerary Objects, or has determined it will transfer control of Culturally Unidentified Human Remains and Associated Funerary Objects. Such notice is required pursuant to 25 USC 3003 (d), 43 CFR 10.9 (e), 43 CFR 10.11 (d), and 43 CFR 10.13. See also CalNAGPRA § 8013(e).

28) Objects of Cultural Patrimony: Items having ongoing historical, traditional, or cultural importance central to the Indian Tribe or Native Hawaiian Organization itself, rather than property owned by an individual tribal or organization member. These objects are of such central importance that they may not be alienated, appropriated, or conveyed by any individual tribal or organization member. Such objects must have been considered inalienable by the Culturally Affiliated Indian Tribe or Native Hawaiian Organization at the time the object was separated from the group. Objects of Cultural Patrimony
include items such as Zuni War Gods, the Confederacy Wampum Belts of the Iroquois, and other objects of similar character and significance to the Indian Tribe or Native Hawaiian Organization as a whole. 43 C.F.R. § 10.2(d)(4).

29) Possession: Having physical custody of Human Remains, Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony with a sufficient legal interest to lawfully treat the objects as part of its collection for purposes of NAGPRA or CalNAGPRA. Generally, a museum or agency would not be considered to have Possession of Human Remains, Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony on loan from another individual, museum, or agency. 43 C.F.R. § 10.2(a)(3)(i); Cal NAGPRA § 8012(k). See also Control and Physical Custody.

30) Preponderance of Evidence: “Preponderance of Evidence” is the evidentiary standard where the evidence as a whole, shows that the fact sought to be proved is more likely than not. Under CalNAGPRA, “Preponderance of Evidence” means that the party’s evidence on a fact indicates that it is more likely than not that the fact is true. CalNAGPRA § 8012(l).

31) Repatriation: The transfer of legal interest (usually accompanied by physical transfer) in Native American or Native Hawaiian Human Remains and Cultural Items to Lineal Descendants, Culturally Affiliated federally recognized Indian Tribes and Native Hawaiian Organizations. 25 U.S.C. § 3005; 43 C.F.R. § 10.2(g)(5)(ii).

32) Requestor: A Lineal Descendant, Native American Tribe, or Native Hawaiian Organization who requests the transfer of Human Remains or Cultural Items, under either a Repatriation request or a Disposition request, pursuant to NAGPRA or CalNAGPRA.

33) Right of Possession: Obtained with the voluntary consent of an individual or group that had authority of alienation. The original acquisition of a Native American Unassociated Funerary Object, Sacred Object, or object of cultural patrimony from an Indian Tribe or Native Hawaiian Organization with the voluntary consent of an individual or group with authority to alienate such object is deemed to give Right of Possession to that object. 43 C.F.R. § 10.10(a)(2).

34) Sacred Objects: Items that are specific ceremonial objects needed by traditional Native American or Native Hawaiian religious leaders for the practice of traditional Native American or Native Hawaiian religions by their present-day adherents. While many items, from ancient pottery sherds to arrowheads, might be imbued with sacredness in the eyes of an individual, NAGPRA regulations are specifically limited to objects that were devoted to a traditional Native American religious ceremony. 43 C.F.R. § 10.2(d)(3).
35) State Cultural Affiliation: State Cultural Affiliation means that there is a relationship of shared group identity that can reasonably be traced historically or prehistorically between members of a present-day California Indian Tribe, as defined in CalNAGPRA subdivision §8012(j), and an identifiable earlier Tribe or group. State Cultural Affiliation is established when the preponderance of the evidence, based on geography, kinship, biology, archaeology, linguistics, folklore, oral tradition, historical evidence, or other information or expert opinion, reasonably leads to such a conclusion. CalNAGPRA § 8012(f).

36) Stewardship: The care of NAGPRA-eligible Human Remains and Cultural Items.

37) Summary: The written description of collections in the Possession or Control of a museum or agency that may contain Unassociated Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony, required by Federal NAGPRA and CalNAGPRA. 43 C.F.R. § 10.2(g)(1), CalNAGPRA § 8012(h). The Summary serves in lieu of an object-by-object inventory of these collections, although, if an Inventory is available, it may be substituted.

38) Tribe: Any tribe, band, nation, or other organized group or community indigenous to the United States.

39) Tribal Representative: The principal leader of a Native American Tribe or Native Hawaiian Organization or the individual designated or authorized by the governing body of a Native American Tribe or Native Hawaiian Organization or as otherwise provided by tribal code, policy, or established procedure as responsible for matters relating to NAGPRA and/or CalNAGPRA under this Policy.

40) UC Locations: the UC campuses and Health Systems, Lawrence Berkeley National Laboratory (LBNL), and the Division of Agriculture and Natural Resources (ANR), including all premises owned by UC. The campus or other units of the University with management responsibilities of UC owned off-site locations are responsible for ensuring compliance with this Policy at those off-site locations.

41) Unassociated Funerary Objects: Those Funerary Objects for which the Human Remains with which they were placed intentionally are not in the Possession or Control of a museum or agency. Objects that were displayed with individual Human Remains as part of a death rite or ceremony of a culture and subsequently returned or distributed according to traditional custom to living descendants or other individuals are not considered Unassociated Funerary Objects. 43 C.F.R. § 10.2(d)(2)(ii).
III. POLICY TEXT

A. STATEMENT ON LANGUAGE

UC recognizes that while the federal Native American Graves Protection and Repatriation Act\(^4\) (NAGPRA) and the California NAGPRA\(^5\) (CalNAGPRA) use terms such as “Human Remains,” “Unassociated and Associated Funerary Objects,” “Sacred Objects,” “Objects of Cultural Patrimony,” and “Cultural Items,” in fact, these laws and regulations are referring to ancestors of many present-day Native Americans and Native Hawaiians and their culture and heritage. For the sake of legal precision and to avoid confusion, UC may use terms employed in applicable laws and regulations in this Policy, but UC does not intend any disrespect in their usage. In addition, although NAGPRA and CalNAGPRA group together Human Remains, Unassociated and Associated Funerary Objects, sacred objects, and Objects of Cultural Patrimony as “Cultural Items,” out of respect, this Policy will refer to Human Remains separately.

B. PURPOSE AND PRINCIPLES

1) Repatriation or Disposition of all Human Remains of Native American and Native Hawaiian ancestors and Cultural Items is a fundamental objective and value of UC that must be accomplished as expeditiously and respectfully as possible.

2) UC supports the intent of Executive Order N-15-19 of the State of California, and recognizes and commits to implementing the rights of Indigenous peoples articulated in Article 12 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) as follows: “the right to the use and control of their ceremonial objects; and the right to the repatriation of their ancestral human remains.”\(^6\) UC also commits to providing access to and Repatriation of Native American or Native Hawaiian ancestral Human Remains and their Cultural Items “through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples.”\(^7\) In many cases, the Human Remains of Native American and Native Hawaiian ancestors and their Cultural Items were obtained in violation of Indigenous communities’ spiritual and cultural beliefs, without the free, prior and informed consent of Indigenous communities. UC further acknowledges that the federal Native American Graves Protection and Repatriation Act (NAGPRA) and California NAGPRA (CalNAGPRA) were enacted to restore Native American and Native Hawaiian rights to ancestral Human Remains and Cultural Items. Repatriation or Disposition is a fundamental UC objective and value.

\(^7\) United Nations Declaration on the Rights of Indigenous Peoples, art. 12, ¶ 2.
3) UC will comply with federal NAGPRA, CalNAGPRA, and this Policy. This Policy establishes minimum uniform standards and practices that are binding on all UC Locations.

4) This Policy applies to all UC Locations. Campuses need not develop local policies. However, if campus implementing policies are adopted, pursuant CalNAGPRA § 8025(a)(5), these must be consistent with this Policy and be in place within one year after release of this Policy.

5) UC is committed to ethical and respectful care and culturally appropriate treatment of the Human Remains of Native American and Native Hawaiian ancestors and Cultural Items while they are in UC’s Possession or Control. UC recognizes that culturally appropriate treatment must derive from Consultation with Lineal Descendants and Tribal Representatives of Native American Tribes and Native Hawaiian Organizations.

6) It is the policy of UC to transfer the Human Remains of Native American and Native Hawaiian ancestors and Cultural Items to federally recognized and non-Federally Recognized Tribes in accordance with NAGPRA and CalNAGPRA.

7) UC recognizes that Consultation with present-day Native American Tribes and Native Hawaiian Organizations contributes a distinct and essential perspective and furthers UC’s teaching, research, and public service mission. UC fully supports the right of all Native American Tribes, including non-Federally Recognized Tribes and Native Hawaiian Organizations to visit the Human Remains and Cultural Items, and request copies of all associated documentation, per NAGPRA and CalNAGPRA.

8) This Policy requires formation of a Systemwide Native American Repatriation Implementation and Oversight Committee (“Systemwide Committee”) to review campus compliance with this Policy and to review appeals after campus procedures have been exhausted.

C. STATEMENT ON IMPLEMENTATION OF CALNAGPRA

UC is committed to complying with CalNAGPRA, which among other things, facilitates Repatriation and/or Disposition of California Indian Tribes’ Human Remains and Cultural Items to California Indian Tribes, defined in CalNAGPRA § 8012(j). UC Locations with Possession or Control of Native American Human Remains and Cultural Items are required to consult and update their inventories and summaries as required by CalNAGPRA when the list of California Indian Tribes is published by the California state Native American Heritage Commission (NAHC) as contemplated by § 8012(j). Further,

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8 Repatriation or disposition under NAGPRA and CalNAGPRA.
UC Locations are required to transfer\(^{10}\) Human Remains and Cultural Items that are State Culturally Affiliated with California Indian Tribes as required by CalNAGPRA, consistent with Federal NAGPRA. UC will also update this Policy as may be necessary at that time.

**IV. ROLES / RESPONSIBILITIES**

**A. SYSTEMWIDE**

1. President or President’s Designee: The President of the University of California is UC’s chief executive, and has full authority and responsibility over the administration of all affairs and operations of UC (excluding the responsibilities retained by the Principal Officers of The Regents). For the purpose of this Policy, the President is responsible for systemwide oversight and compliance with this Policy, NAGPRA, CalNAGPRA, and other related applicable laws and regulations. The President is responsible for the approval/disapproval of requests as described in the Policy. The President may designate a “President’s Designee” for these purposes.

2. Systemwide Committee: See Section V.A.1 below of this Policy.

**B. CAMPUS**

1. Chancellor or Chancellor’s Designee: The Chancellor of a UC campus is delegated broad powers as the executive head of all campus activities. For the purpose of this Policy, the Chancellor is responsible for oversight and compliance with this Policy, NAGPRA, CalNAGPRA, and applicable laws and regulations. The Chancellor is responsible for the approval/disapproval of requests described in the Policy. The Chancellor may designate a “Chancellor’s Designee” for these purposes.

2. Campus Committee: See Section V.A.2 below of this Policy.

3. Faculty and Other Academic Appointees, Staff, and Students: University employees at locations and departments impacted by this Policy are responsible for cooperating with the Repatriation Coordinator, and adhering to and complying with this Policy.

4. Repatriation Coordinator: Repatriation Coordinators are individuals designated by the Chancellor or Chancellor’s Designee at each campus with known NAGPRA-eligible collections to carry primary responsibility for working with Native American Tribes and Native Hawaiian Organizations to accomplish compliance with this Policy, including Consultation.

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\(^{10}\) Note that under federal NAGPRA, non-Federally Recognized Tribes can currently request disposition of human remains under NAGPRA § 10.11, and Federally Recognized Tribes can request repatriation under § 10.10 or disposition under § 10.11.
Repatriation, Disposition, and tribal access to Human Remains and Cultural Items of Native American Tribes and Native Hawaiian Organizations. The Repatriation Coordinator is responsible for coordinating with staff at campus museums and all other departments bearing compliance responsibilities with this Policy, maintaining proper documentation of all transactions (including but not limited to records of communications, Consultations, loans, notices to the federal NAGPRA review committee, NAHC, and Tribes, and determinations regarding Cultural Affiliation, Repatriation, or Disposition), and providing reports, notices, and documents as required by this Policy. The Repatriation Coordinator shall be issued appropriate delegation of authority to effectively implement this policy.

The Repatriation Coordinator shall report to the Chancellor or Chancellor's Designee.

Contact information for the Repatriation Coordinator shall be posted on a public facing UC web page.

5. Repatriation Point of Contact: Campuses without known NAGPRA-eligible Collections shall appoint a Repatriation Point of Contact. This person shall be knowledgeable about NAGPRA and CalNAGPRA, and serve as the contact person to receive inquiries from Native American Tribes, Native Hawaiian Organizations, or the campus community or reports of the discovery of previously un-reported Native American or Native Hawaiian Human Remains or Cultural Items at the campus.

Contact information for the Repatriation Point of Contact shall be posted on a public facing UC web page.

V. PROCEDURES

A. COMMITTEES

1. Systemwide Committee
   a. Composition

The President or the President's designee shall establish a Systemwide Native American Repatriation Implementation and Oversight Committee (hereinafter called the "Systemwide Committee"). The President or the President's designee shall solicit nominations for the membership required under subsections 1) and 2) below from the NAHC. The voting membership of the Systemwide Committee shall be as follows:

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11 The provisions regarding the composition of the Systemwide Committee were adopted based on the criteria set out in CalNAGPRA.
1) Three (3) elders, spiritual leaders, tribal leaders, or tribal members (who have been designated as such by the governing body of the individual’s Tribe) from a Federally Recognized Tribe, having a minimum of five years’ prior experience in any of the following:

   a) Repatriation of Human Remains and Cultural Items pursuant to the federal NAGPRA and/or CalNAGPRA.
   b) Cultural resources protection under tribal, state, and federal law.
   c) Consultation with state and federal entities and agencies.

   Preference shall be given to members of a California Indian Tribe (CalNAGPRA § 8026). If no members of a California Indian Tribe (as defined in CalNAGPRA Section 8012(j)) meeting the qualifications above are available, members of other Tribes may serve.

2) One (1) elder, spiritual leader, tribal leader, or tribal member (who has been designated as such by the governing body of the individual’s Tribe) from a non-federally recognized California Indian Tribe described under CalNAGPRA Section 8012(j)(2), having a minimum of five years’ prior experience in any of the following:

   a) Repatriation of Human Remains and Cultural Items pursuant to the federal NAGPRA and CalNAGPRA.
   b) Cultural resources protection under tribal, state, and federal law.
   c) Consultation with state and federal entities and agencies.

   If an elder, spiritual leader, tribal leader, or tribal member from a Tribe as described in this section 2) is not available, a member from a federally recognized California Indian Tribe as described in section 1) above may meet this requirement. In addition, if no members of a California Indian Tribe (as defined in CalNAGPRA Section 8012(j)) meeting the qualifications above are available, members of other Tribes outside of California may serve.

3) Four (4) members from UC. Not fewer than two of these members shall be affiliated with an American Indian or Native American Studies program and each of these members shall meet the following requirements:

   a) Have a graduate degree in either Anthropology, Archaeology, Environmental Studies, Ethnic Studies, History, Law, Native American Studies, or Sociology, with a focus in California.
   b) Have a minimum of five years’ experience working in their field.

   Preference shall be given to Academic Senate members who have demonstrated, through their professional experience, the ability to work in collaboration with Native American Tribes successfully on issues related to Repatriation or museum collection management. In the event that actively employed candidates from UC are not available or do not meet the criteria
above, UC positions may be represented by persons retired from UC who meet the above criteria.

In selecting members, the President or the President’s designee will seek a diversity of expertise and may make exceptions to the composition requirements set forth in 1), 2), and 3) above, provided that such exceptions promote Repatriation and amplify the Purpose and Principles contained in this Policy. In making such exceptions, the President or President’s designee will consider the individual’s prior experience and knowledge in NAGPRA/CalNAGPRA, seek the advice of Tribal Representatives, and communicate the justification for the exception to the Systemwide Committee.

Voting members shall serve for renewable two (2) year terms.

In addition to the voting members, there shall be one (1) non-voting member from each UC campus that has a NAGPRA-eligible Collection. Each of these non-voting members shall meet the requirements of 3)a) and 3)b) above, unless an exception has been approved by the President or the President’s designee as also described above.

Also, the President or President's designee may serve as an ex-officio non-voting member.

b. Purpose and Responsibilities of the Systemwide Committee

The charge of the Systemwide Committee shall be to promote the implementation of this Policy, and to provide oversight of compliance with this Policy, and state and federal laws and regulations at all UC Locations, as applicable.

The Systemwide Committee shall do any of the following as needed to assist in the compliance of this policy:

1) Make recommendations to the President or President’s designee for revisions to this Policy;

2) Make recommendations to the President or President’s designee for the issuance of guidance and best practices for the successful implementation of this Policy at all UC Locations, as applicable;

3) Assess campus implementation, timeliness, resources, and compliance with this Policy through the review of campus Repatriation Implementation Plans (see section VI of this Policy), campus proactive outreach programs and campus reports of their Repatriation-related activities, and through audits, or site visits, as necessary;
4) Make recommendations for corrective action or audits to the President or President’s designee to ensure compliance with this Policy, and applicable laws and regulations;

5) Make recommendations for the appropriate level of systemwide consistency in: reports collected from all campuses; required elements and information requested from Native American Tribes and Native Hawaiian Organizations for claims for Cultural Affiliation or and State Cultural Affiliation and requests for Repatriation or Disposition; and in general approaches to compliance with this Policy;

6) When requested by a Native American Tribe or Native Hawaiian Organization, and in accordance with the Appeals section of this Policy (Section V.G below), review disputed campus decisions and/or hear appeals concerning requests for the Repatriation or Disposition of Human Remains of Native American and Native Hawaiian ancestors and Cultural Items, including a review of the campus decision, judged against this Policy and any legal requirements, and make recommendations for resolution to the President or the President's designee; and

7) Serve as a resource to promote Repatriation.

c. Systemwide Committee Procedures

Record Keeping. The Systemwide Committee shall maintain a record of all votes, including both the majority and minority opinions.

Conflicts of Interest. The Systemwide Committee will establish procedures for managing Conflicts of Interests. However, if substitutions are made to replace a member who has been recused, the balance in the composition of the Systemwide Committee membership considering the case will nonetheless be maintained in accordance with the “Composition,” Section A.1.a, above.

Chair. The Systemwide Committee shall nominate a Chair from amongst the members, who, upon approval of the President or President’s designee, shall serve for two (2) consecutive years. The Systemwide Committee may renew a chairperson upon approval of the President or President’s designee. The duties and responsibilities of the Chair include, but are not limited to the following:

1) In consultation with the Systemwide Committee membership, staff of the President or President’s designee, and campus NAGPRA/CalNAGPRA Repatriation Coordinator, schedule dates, times and locations for meetings, ensure meetings are called and held in accordance with this Policy;

2) In consultation with Systemwide Committee membership, establish and confirm an agenda for each meeting; and ensure the meeting agenda and relevant
documents are circulated to Systemwide Committee members in advance of the meeting to ensure sufficient time for the members to review the materials;

3) Officiate and conduct meetings;

4) Ensure there is sufficient time during the meeting to fully discuss agenda items; and

5) Ensure meeting minutes are complete and accurate, retained, included and reviewed at the next meeting.

Frequency of Meetings. The Systemwide Committee shall meet no less frequently than three (3) times per academic year.

Subject Matter Experts. The Systemwide Committee may seek, as needed, the advice of external or internal subject matter experts, such as from the UC President’s Native American Advisory Council, and invite guests to its meetings in order to provide particular expertise to assist the Systemwide Committee in carrying out its duties. General Counsel should provide input on legal matters, and may be invited to regularly attend Systemwide Committee meetings. In addition, the Committee may form a pool of internal or external subject matter experts for campuses needing additional expertise to assist in the implementation of effective programs and/or review specific cases.

2. Campus Committees
   a. Composition

For each UC campus that has a NAGPRA-eligible Collection, the Chancellor or Chancellor’s designee shall establish a Campus Native American Repatriation Implementation and Oversight Committee (hereinafter called the "Campus Committee"). The campus Chancellor or Chancellor’s Designee shall solicit nominations for the membership required under subsections 1) and 2) below from the NAHC. The voting membership of the Campus Committee shall be as follows:

1) Two (2) elders, spiritual leaders, tribal leaders, or tribal members (who have been designated as such by the governing body of the individual’s Tribe) from a federally recognized California Indian Tribe, having a minimum of five years’ prior experience in any of the following12:

   a) repatriation of Human Remains and Cultural Items pursuant to the federal NAGPRA and/or CalNAGPRA.
   b) cultural resources protection under tribal, state, and federal law.
   c) consultation with state and federal entities and agencies.

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12 The provisions regarding the composition of the Campus Committee were adopted based on the criteria set out in CalNAGPRA
Preference shall be given to members of a California Indian Tribe (CalNAGPRA § 8026). If no members of a California Indian Tribe meeting the qualifications above are available, members of other Tribes may serve.

2) One (1) elder, spiritual leader, tribal leader, or tribal member (who has been designated as such by the governing body of the individual’s Tribe) from a non-federally recognized California Indian Tribe described under CalNAGPRA Section 8012(j)(2), having a minimum of five years’ prior experience in any of the following:

   a) repatriation of Human Remains and Cultural Items pursuant to the federal NAGPRA and/or CalNAGPRA.
   b) cultural resources protection under tribal, state, and federal law.
   c) consultation with state and federal entities and agencies.

If an elder, spiritual leader, tribal leader, or tribal member from a Tribe as described in this section is not available, a member from a federally recognized California Indian Tribe as described in section 1) above may meet this requirement. In addition, if no members of a California Indian Tribe meeting the qualifications above are available, members of other Tribes, including Tribes outside of California may serve.

3) Three (3) members from UC. No fewer than one of these members shall be affiliated with an American Indian or Native American Studies program and each of these members shall meet the following requirements:

   a) Have a graduate degree in either Anthropology, Archaeology, Environmental Studies, Ethnic Studies, History, Law, Native American Studies, or Sociology, with a focus in California.
   b) Have a minimum of five years’ experience working in their field.

Preference shall be given to Academic Senate members who have demonstrated, through their professional experience, the ability to work in collaboration with Native American Tribes successfully on issues related to Repatriation or museum collection management. In the event that candidates from UC are not available or do not meet the criteria above, UC positions may be represented by persons retired from UC who meet the above criteria.

In selecting members, the Chancellor or the Chancellor's designee will seek a diversity of expertise and may make exceptions to the composition requirements set forth in 1), 2), and 3) above, provided that such exceptions promote Repatriation and amplify the Purpose and Principles contained in this Policy. In making such exceptions, the Chancellor or Chancellor’s designee will consider the individual’s prior experience and knowledge in NAGPRA/CalNAGPRA, seek the advice of Tribal Representatives and communicate the justification for the exception to the Campus Committee.
Voting members shall serve for renewable two (2) year terms.

In addition to the voting members, the Chancellor or Chancellor's designee may serve as an ex-officio non-voting member.

b. Purpose and Responsibilities of the Campus Committee

The charge of the Campus Committee shall be to promote the implementation of this Policy, and to provide oversight of its campus compliance with this Policy, and state and federal laws and regulations.

The Campus Committee shall do any of the following as needed to assist in the compliance of this policy:

1) Assess campus implementation, timeliness, resources, and compliance with this Policy through consultation and review of the campus Repatriation Implementation Plan (see section VI of this Policy), including proactive outreach programs and reports prepared by staff with implementation responsibilities, audits, or site visits, as necessary.

2) Make corrective action recommendations to the Chancellor or Chancellor's designee;

3) Make recommendations to the Chancellor or Chancellor’s designee for revisions to local campus policies and any practices consistent with this Policy;

4) Make recommendations to the Chancellor or Chancellor’s designee for the issuance of guidance, best practices, and a Repatriation Implementation Plan for the successful campus implementation of this Policy;

5) Review claims as brought forward by the Repatriation Coordinator for Cultural Affiliation and/or State Cultural Affiliation and requests for Repatriation / Disposition of Human Remains of Native American or Native Hawaiian ancestors and Cultural Items, and review Notices of Inventory Completion and/or Notices of Intent to Repatriate to ensure compliance with NAGPRA and CalNAGPRA, including appropriate consultation, and make recommendations to the Chancellor or Chancellor’s designee;

6) Review campus decisions for consistency with this Policy and any legal applicable requirements and, when requested by a Native American Tribe or Native Hawaiian Organization, assist in the resolution of disputes concerning requests for the Repatriation or Disposition of Human Remains of Native American and Native Hawaiian ancestors and Cultural Items and/or make recommendations for resolution to the Chancellor or Chancellor’s designee.
7) Make recommendations to the Chancellor or Chancellor’s designee to ensure that Native America Tribes or Native Hawaiian Organizations have publicly available access to a clear and transparent description of the requirements for submitting claims and/or requests, including the minimum information needed, and the legal criteria/thresholds required for Repatriation/Disposition; and

8) Serve as a resource to promote Repatriation.

c. Campus Committee Procedures

Record Keeping. The Campus Committee shall maintain a record of all votes, including both the majority and minority opinions.

Conflicts of Interest. The Campus Committee will establish procedures for managing Conflicts of Interest. However, if substitutions are made to replace a member who has been recused, the balance in the composition of the Campus Committee membership considering the case will nonetheless be maintained in accordance with the “Composition” section, A.2.a above.

Chair. The Campus Committee shall nominate a rotating Chair from amongst the members, who, upon approval by the Chancellor or Chancellor’s designee, shall serve for two (2) consecutive years. The Campus Committee may renew a chairperson, upon approval by the Chancellor or Chancellor’s designee. The duties and responsibilities of the Chair include, but are not limited to the following:

1) Schedule dates, times and locations for meetings in consultation with the Campus Committee membership and Repatriation Coordinator; ensure meetings are called and held in accordance with this Policy;

2) Establish and confirm an agenda for each meeting in consultation with Campus Committee membership and Repatriation Coordinator; and ensure the meeting agenda and relevant documents are circulated to Committee members in advance of the meeting to ensure sufficient time for the members to review the materials;

3) Officiate and conduct meetings;

4) Ensure there is sufficient time during the meeting to fully discuss agenda items; and

5) Ensure meeting minutes are complete and accurate, retained, included and reviewed at the next meeting.

Frequency of Meetings. For campuses having Possession or Control of Human Remains of Native American and Native Hawaiian ancestors, where the number of individuals or sets of Human Remains exceeds 100, the Campus Committee shall meet
no less frequently than three (3) times per academic year. All other campuses having Possession or Control of Human Remains of Native American and Native Hawaiian ancestors shall meet no less frequently than two (2) times per academic year.

Subject Matter Experts. The Campus Committee may seek, as needed, the advice of external or internal subject matter experts, and invite guests to its meetings in order to provide particular expertise to assist the Committee in carrying out its duties, and to assist in the implementation of effective programs and/or review specific cases. Campus Counsel should provide input on legal matters, and may be invited to regularly attend Committee meetings.

B. CONSULTATION

1. General Compliance

Consultation is a critical element of compliance with this Policy and is required by NAGPRA and CalNAGPRA at various stages of the Inventory, Summary, Repatriation and Disposition processes. The Repatriation Coordinator at each campus that has a NAGPRA-eligible Collection shall engage in meaningful Consultation with Tribal Representatives (see also Section IV, Roles and Responsibilities). Mutual respect and understanding of concerns is critical to successful Consultations. Meaningful Consultation shall include the timely process of seeking, discussing, and considering carefully the views presented. Campuses shall abide by the Consultation Guidelines provided in Appendix A. Prior to commencing Consultation, campus Repatriation Coordinator shall confirm that the Tribal Representative has been designated or authorized by the governing body of a Native American Tribe or Native Hawaiian Organization, or assigned Consultation responsibilities by tribal code, policy, or established procedure.

Lineal Descendants, Native American Tribes, and Native Hawaiian Organizations shall be permitted reasonable access to the Human Remains of Native American and Native Hawaiian ancestors, Cultural Items, and associated collections and records for the purposes of Repatriation or Disposition, study and research, and cultural or spiritual care.

Each campus that has a NAGPRA-eligible Collection shall work collaboratively with Tribal Representatives to facilitate the Cultural Affiliation and State Cultural Affiliation of Native American or Native Hawaiian ancestral Human Remains and Cultural Items, and provide Tribal Representatives reasonable opportunity to present information regarding Cultural Affiliation or State Cultural Affiliation orally or in writing.

2. Confidentiality

UC is committed to upholding the confidentiality of Native American Tribes and Native Hawaiian Organizations with regard to Confidential Information, subject to mandatory
disclosure requirements which may be set by state or federal law. All “Confidential Information” (as defined in Section II. Definitions) provided to UC shall only be made available to those with a need to know for compliance with this Policy, and shall not be further re-disclosed unless otherwise required by law or with the prior consent of the Native American Tribe or Native Hawaiian Organization that provided the information.

Campus and Systemwide Committee members and other UC or Tribal Representatives with a need to know shall be advised of their obligations to maintain confidentiality for all such information conveyed to them in the course of their duties under this Policy, or during Consultation.

C. INVENTORIES AND SUMMARIES

UC campuses with knowledge of existing NAGPRA-eligible Collections Human Remains in their Possession or Control have already submitted inventories and summaries.

Notwithstanding the above, as required by law and this Policy:

1) If a campus that has not previously completed an Inventory or Summary becomes aware of the existence of such Human Remains or Cultural Items in its Possession or Control, it must complete inventories and summaries describing those Human Remains or Cultural Items; and

2) Campuses with existing inventories and summaries must update these when:

   a) They locate previously unreported holdings or collections that may include the Human Remains of Native American or Native Hawaiian ancestors or Cultural Items;
   
   b) They obtain Possession or Control of Human Remains or Cultural Items that are or are likely to be Culturally Affiliated with a newly Federally Recognized Tribe;
   
   c) They obtain new information that provides the basis for revising a decision about the Cultural Affiliation/State Cultural Affiliation or about the number of Cultural Items listed in a previously submitted Notice of Intent to Repatriate or Notice of Inventory Completion; or
   
   d) An update is otherwise required pursuant to NAGPRA, 43 C.F.R. § 10.13, 13 Cal NAGPRA § 8013(c) and (i), or other applicable law.

Note that “new information” includes information obtained during Consultations conducted pursuant to Federal NAGPRA and CalNAGPRA, and in the course of campus review of their existing inventories and summaries that list Human Remains and Cultural Items as Culturally Unidentifiable, pursuant to Section VI of this Policy.

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13 Unless otherwise specified, all references in this document to specific sections of NAGPRA refer to sections of the NAGPRA implementing regulations at 43 C.F.R. § 10.1 et seq.
In determining if materials meet the definition of Cultural Items, the campus may use any the following types of evidence: geographical, kinship, biological, archaeological, anthropological, linguistic, folklore, oral tradition, historical, or other relevant information or expert opinion. The campus must consider the totality of evidence. Per CalNAGPRA 8016 (i), “Tribal oral histories, documentation, and testimonies shall not be afforded less evidentiary weight than other relevant categories of evidence on account of being in those categories.” In considering the lines of evidence above, the campus will take into account unique California history.

1. Inventory Process (Human Remains and Associated Funerary Objects)

As required by NAGPRA/CalNAGPRA and all other applicable laws and policies, each campus with the Possession or Control of Native American or Native Hawaiian Human Remains and Associated Funerary Objects shall complete inventories of all such Human Remains and Associated Funerary Objects in its collections and submit them to Tribes and to Federal and state officials as required by law. Campuses will follow the Inventory Process described in Appendix B.

In accordance with NAGPRA § 10.9, campuses shall consult with Lineal Descendants (if known) and with Tribal Representatives and traditional religious leaders (and persons designated by Tribal Representatives or traditional religious leaders) of Native American Tribes or Native Hawaiian Organizations: a) from whose tribal lands the Human Remains and Associated Funerary Objects originated; b) that are, or are likely to be, Culturally Affiliated with Human Remains and Associated Funerary Objects; and c) from whose Aboriginal Lands the Human Remains and Associated Funerary Objects originated. As required by NAGPRA § 10.9, during Consultation, campuses must provide Tribes with a list of all Tribes and Native Hawaiian Organizations consulted about the particular Human Remains and Associated Funerary Objects, a general description of the conduct of the inventory, and an indication that additional documentation used to identify Cultural Affiliation will be supplied upon request. In addition, campuses must request that Tribes provide certain information, including, as appropriate, information regarding the kinds of objects the Tribe reasonably believes to have been made exclusively for burial purposes or to contain Human Remains of their ancestors. Campus inventories must include a summary of the evidence, including evidence obtained through tribal Consultation, used to determine whether the objects are Associated Funerary Objects and the Cultural Affiliation / State Cultural Affiliation of

14 Note that under CalNAGPRA, a Federal NAGPRA Inventory prepared by a state agency or museum may serve as the CalNAGPRA Inventory (CalNAGPRA § 8012 (g), 8013(f), (g)), but agencies and museums must supplement those documents as provided for in CalNAGPRA §8013(c) and (g) within one year of the date the NAHC issues the list of California Indian Tribes provided for under CalNAGPRA §8012 and comply with all other applicable CalNAGPRA requirements.

15 Notice (including providing a copy of the Inventory) must be given to tribes and to federal and state officials as required by Federal NAGPRA (25 USC 3003(d), 43 CFR 10.9 (e), 43 CFR 10.11 (d), and 43 CFR 10.13) and CalNAGPRA (§ 8013(e) and (g)).
the Human Remains based on the preponderance of the evidence. Campuses are to draw on the best available expertise in making these determinations. Consistent with Federal NAGPRA, if after Consultation with Tribal Representatives from Federally-recognized Tribes a campus is unable to determine the Cultural Affiliation of any Human Remains and Associated Funerary Objects, then the campus will classify them as Culturally Unidentifiable in its NAGPRA Inventory.

Consistent with CalNAGPRA, if after Consultation with California Indian Tribes, State Cultural Affiliation is established with a non-federally recognized California Indian Tribe, the campus shall include that information in the Inventory or Inventory supplement that it prepares pursuant to CalNAGPRA § 8013.

Campus Inventories and Notices of Inventory Completion (NICs), including Inventory supplements prepared pursuant to CalNAGPRA, shall be reviewed by the Campus Committee at the next committee meeting after completion (or as early as possible) and must be approved by the Chancellor or Chancellor’s designee prior to being finalized for submission. Upon approval by the Chancellor or designee, the campus will make them available to federal agencies, NAHC, Lineal Descendants, and Native American Tribes and Native Hawaiian Organizations, as required by law. By September 30 of each calendar year, or date otherwise recommended by the Systemwide Committee, the campus shall provide an annual report of all Notices of Inventory Completion made pursuant to this section to the Systemwide Committee and the UC President or President’s designee.

Upon request by appropriate Tribal Representatives, the campus shall provide all available additional documentation (excluding Confidential Information provided by another Tribe during Consultation) to supplement the information contained in the campus Inventories. Existing information fulfills this requirement; however, if feasible and agreed to by the campus, the campus may perform further research in response to tribal requests, consistent with Section V.H below of this Policy.

2. Summary Process (Unassociated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony)

In accordance with NAGPRA, CalNAGPRA and all other applicable laws and policies, each campus that has a NAGPRA-eligible Collection shall complete a written summary of Native American and Native Hawaiian collections for the purpose of providing information about the collections to Native American Tribes and Native Hawaiian Organizations that may wish to request Repatriation of Unassociated Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony.16 Campuses will follow the Summary Process described in Appendix C.

16 Note that under CalNAGPRA, a Federal NAGPRA Summary prepared by a state agency or museum may serve as the CalNAGPRA Summary, but they must supplement those documents as provided for in CalNAGPRA §8013(c) and (g) within one year of the date the NAHC issues the list of California Indian Tribes provided for under CalNAGPRA §8012 and comply with all other applicable CalNAGPRA requirements.
The Summary is an invitation to consult on the identification of Unassociated Funerary Objects, Sacred Objects and Objects of Cultural Patrimony, and provides a basis for Native American Tribes and Native Hawaiian Organizations to request Repatriation of these items after additional Consultation between them and the campus.

As part of the Summary process, the campus shall consult with Tribal Representatives as required by NAGPRA/CalNAGPRA, and shall provide access to records, catalogues, relevant studies, or other pertinent data for the purpose of determining the geographic origin, Cultural Affiliation / State Cultural Affiliation, and provenience and provenance surrounding the acquisition and Accession of objects covered by the Summary. Upon receiving a Tribal Representative’s identification and claim of Unassociated Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony, the campus shall evaluate whether by a preponderance of the evidence, the requested items meet the NAGPRA definitions of Unassociated Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony, whether the requested Cultural Items are Culturally Affiliated with the Claimant, and whether all other Repatriation conditions of NAGPRA § 10.10 have been satisfied. However, notwithstanding the above, provided all other Repatriation conditions of NAGPRA § 10.10 have been satisfied, UC will waive the requirement at § 10.10(a)(iii), which normally requires that a Tribe present evidence supporting a finding that a museum does not have the “Right of Possession.”

Claims for Unassociated Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony and Notices of Intent to Repatriate (NIRs) shall be reviewed by the Campus Committee and must be approved by the Chancellor or Chancellor’s designee prior to being finalized for submission. Upon approval by the Chancellor or Chancellor’s designee, the campus shall make the NIRs available to federal agencies, Lineal Descendants, and Native American Tribes and Native Hawaiian Organizations, as required by law. The campus shall provide an annual report of all Summaries and NIRs made pursuant to this section to the Systemwide Committee and the President or President’s designee.

3. Previously Unreported Holdings

Compliance with NAGPRA, CalNAGPRA, and this Policy is a UC-wide responsibility. Proactive efforts are required across UC to ensure that all Human Remains and Cultural Items of Native Americans and Native Hawaiians are reported and provided appropriate treatment while in the UC’s care. Each campus will communicate with all relevant faculty, researchers, and staff to raise awareness about the requirements of this Policy and related laws and regulations.

Even after submission of inventories and summaries to federal or state officials and to Tribes, it is possible that previously unreported Native American or Native Hawaiian Human Remains and/or Cultural Items may be located. These may be found in disparate academic units of the UC, e.g., inadvertently included among fauna or other
materials. The Repatriation Coordinator must periodically review whether the campus is in Possession or Control of previously un-reported NAGPRA-eligible Human Remains or Cultural Items, engaging as necessary the assistance of appropriate subject matter experts (e.g., osteologists, anthropologists, tribal leaders, etc.).

All newly identified Human Remains or Cultural Items that are in the sole Control of the University and are thought to be potentially subject to NAGPRA or CalNAGPRA must immediately be placed in a secure area in accordance with the requirements of section V.H of this Policy, and ongoing research and handling (other than that conducted in furtherance of the campus's responsibilities to make determinations as required by NAGPRA/CalNAGPRA) must cease until a determination has been made about whether NAGPRA or CalNAGPRA applies. In performing its evaluation to determine eligibility under NAGPRA/CalNAGPRA, the campus may seek tribal expertise. If Human Remains and Cultural Items subject to NAGPRA or CalNAGPRA are found, the University will comply with all applicable portions of this Policy (e.g., Consultation, Inventory/Summary completion, and respectful treatment), NAGPRA (including § 10.13), CalNAGPRA, and campus policies and procedures.

Both Federal NAGPRA and CalNAGPRA require institutions to update their inventories and summaries when they obtain or discover that they have Possession or Control over previously unreported collections. 43 C.F.R. § 10.13; CalNAGPRA § 8013(i). In accordance with NAGPRA § 10.13, Summaries must be completed within 6 months and Inventories within 2 years of locating a previously unreported holdings or collections, absent an extension obtained under § 10.9(f).

By September 30 of each calendar year, the campus shall annually provide to the Campus Committee an overview of all materials found or reports received of previously unreported Native American or Native Hawaiian Human Remains or Cultural Items in accordance with this section, including a description of the items, Tribes consulted, outcomes, and status.

4. Receipt of New NAGPRA-eligible Human Remains or Cultural Items

UC will not accept any new Possession or Control of NAGPRA-eligible Human Remains, except upon request of a Native American Tribe or Native Hawaiian Organization, or by special approval by the campus Chancellor, and provided that the primary reason for acceptance of the new request is to facilitate the Repatriation process in accordance with the Purpose and Principles of this Policy. The campus shall report to the Systemwide Committee and the UC President or President's designee any acceptance of new Native American or Native Hawaiian Human Remains.

A campus may Accession NAGPRA-eligible Cultural Items donated by an individual or entity demonstrating the Right of Possession, provided that the Campus Committee evaluate whether the transmission of such an object was truly voluntary (and not under duress), and that UC's care for such items complies with Section V.H.1 Respectful Treatment below of this Policy.
See also Section V.I New Requests for Short-Term Care and Loans Received from other Institutions below.

D. CULTURAL AFFILIATION AND STATE CULTURAL AFFILIATION

Under Federal NAGPRA and CalNAGPRA, all of the following requirements must be met to determine Cultural Affiliation or State Cultural Affiliation.

1) Existence of an identifiable present-day federally-recognized Native American Tribe or Native Hawaiian Organization with standing under NAGPRA, or existence of an identifiable present-day California Indian Tribe with standing under CalNAGPRA;

2) Existence of an identifiable earlier group; and

3) Existence of a shared group identity that can be reasonably traced between the present-day federally recognized Native American Tribe or Native Hawaiian Organization (under NAGPRA), or present-day California Indian Tribe (under CalNAGPRA), and the identifiable earlier group. Evidence to support this requirement must establish that a present-day Native American Tribe or Native Hawaiian Organization or California Indian Tribe has been identified from prehistoric or historic times to the present as descending from the identifiable earlier group.

A campus may establish Cultural Affiliation or State Cultural Affiliation of Human Remains, Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony to more than one Native American Tribe or Native Hawaiian Organization, or to more than one California Indian Tribe. In such a case, the requirements for Cultural Affiliation or State Cultural Affiliation must be established for each Tribe or organization.

Evaluation of Cultural Affiliation or State Cultural Affiliation, whether involving Human Remains (with Associated Funerary Objects, if any) or Cultural Items, will utilize the following types of evidence and standards of proof.

1. Types of Evidence

As provided in the federal and state statutes and regulations, evidence of Cultural Affiliation or State Cultural Affiliation between a Native American Tribe or Native Hawaiian Organization or a California Indian Tribe and Human Remains, Associated and Unassociated Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony may be established using any of the following types of evidence: geographical, kinship, biological, archaeological, anthropological, linguistic, folklore, oral tradition, historical, or other relevant information or expert opinion. The campus must consider the totality of evidence. Per CalNAGPRA 8016 (i), “Tribal oral histories, documentation, and testimonies shall not be afforded less evidentiary weight than other relevant categories
of evidence on account of being in those categories." In considering the lines of evidence above, the campus will take into account unique California history.

2. Evidentiary Standard

Under CalNAGPRA and NAGPRA, determinations must be made by a preponderance of the evidence (see also Preponderance of Evidence in Section II. Definitions).

A finding of Cultural Affiliation / State Cultural Affiliation will be based on an overall evaluation of the totality of the circumstances and evidence pertaining to the connection between the Claimant and the Human Remains and Cultural Items being claimed. Such a finding of Cultural Affiliation / State Cultural Affiliation will not be ruled out solely because of some gaps\textsuperscript{17} in the record. Further, Claimants do not have to establish Cultural Affiliation / State Cultural Affiliation with scientific certainty.

E. REPATRIATION AND DISPOSITION

In general, campus decisions regarding Repatriation and Disposition will be the result of multi-stage processes of Consultation, communication, evaluation, and review with Native American Tribes and Native Hawaiian Organizations. Each campus that has a NAGPRA-eligible Collection shall establish a clear and transparent process for Native American Tribes or Native Hawaiian Organizations to submit a request for Repatriation or Disposition in accordance with federal and state law and this Policy. All claims for Cultural Affiliation, and Requests for Repatriation or Disposition should include the following minimum information: Name of Tribe or Native Hawaiian Organization, Tribal Representative contact information, pertinent information to support a claim (e.g., information demonstrating Cultural Affiliation or basis for a Disposition Request), and if known, catalog number(s), description(s), and category or categories under which Repatriation is being requested. However, this minimum necessary information should not be used as a barrier for Repatriation / Disposition or termination of the process. Rather, it should be a tool for Claimants/Requestors to know what information is needed to process their claim or request, and provides an opportunity for the Repatriation Coordinator to work with the Claimant or Requestor to facilitate Repatriation or Disposition.

1. Claims for Cultural Affiliation and Requests for Repatriation by Federally Recognized Tribes or Native Hawaiian Organizations

A federally recognized Native American Tribe or Native Hawaiian Organization may submit a claim to establish Cultural Affiliation with Human Remains or Cultural Items. A Claimant must submit a claim for Cultural Affiliation in writing. In order to make determinations regarding claims of Cultural Affiliation, campuses must engage in tribal

\textsuperscript{17} NAGPRA § 10.14(d).
Consultation and consider all available evidence as specified in Section V.D of this policy.

Once all the criteria for Cultural Affiliation or Repatriation described above and set out in federal NAGPRA § 10.9 or § 10.10 are met, and at least thirty (30) days have passed since publication of any required notices in the Federal Register, UC must expeditiously repatriate Human Remains and Associated Funerary Objects, Unassociated Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony within ninety (90) days of receipt of a written request for Repatriation from a Native American Tribe or Native Hawaiian Organization.\(^\text{18}\)

2. Claims by Non-Federally Recognized Tribes

Federal NAGPRA distinguishes federally recognized Native American Tribes from non-federally recognized Native American Tribes. NAGPRA does not give standing to non-federally recognized Native American Tribes to claim Cultural Affiliation, but does provide a mechanism for making Dispositions to non-Federally Recognized Tribes under certain circumstances (see Section V.E.3 below).

UC will make every effort to engage with non-federally recognized Native American Tribes, and as required by CalNAGPRA, will consult with California Indian Tribes in the State Cultural Affiliation process. Non-federally recognized Native American Tribes may submit requests for Disposition under the process described in Section V.E.3 below and outlined in NAGPRA § 10.11. California Indian Tribes (including those that are non-federally recognized) may submit requests under CalNAGPRA §8014.

3. Claims for State Cultural Affiliation by California Indian Tribes

CalNAGPRA provides for the NAHC to publish a list of California Indian Tribes, requires agencies and museums to consult with such Tribes in making determinations of State Cultural Affiliation for the purposes of inventories and summaries (or Inventory and Summary supplements prepared pursuant to CalNAGPRA §8013(c)), and sets out a process for such Tribes to make claims of State Cultural Affiliation and to make requests for return of Human Remains and Cultural Items. CalNAGPRA §§ 8014-8016.

UC campuses must comply with all requirements of CalNAGPRA including those pertaining to claims for State Cultural Affiliation, as well as the requirements of Federal NAGPRA.\(^\text{19}\)

4. Joint Claims for Cultural Affiliation or State Cultural Affiliation

\(^{18}\) Tribes claiming State Cultural Affiliation and making claims under CalNAGPRA are covered by Paragraph 3 below, “Claims for State Cultural Affiliation by California Indian Tribes.”

\(^{19}\)
A coalition of Native American Tribes or Native Hawaiian Organizations may jointly submit requests for Repatriation. In such cases, Cultural Affiliation or State Cultural Affiliation must be established for each Tribe requesting Repatriation via the joint request, but joint requests shall not be interpreted as competing requests.

5. Disposition of Culturally Unidentifiable Human Remains and Associated Funerary Objects

A request for Disposition of Culturally Unidentifiable Human Remains and Associated Funerary Objects may be submitted by a federally recognized or non-federally recognized Native American Tribe or Native Hawaiian Organization.

Federal NAGPRA § 10.11 outlines the process that a campus must follow to complete a Disposition of Culturally Unidentifiable Human Remains. In accordance with this section, UC must initiate Consultation regarding the Disposition of Culturally Unidentifiable Human Remains and Associated Funerary Objects:

1) Within 90 days of receiving a request from a Native American Tribe or Native Hawaiian Organization to transfer Control of Culturally Unidentifiable Human Remains and Associated Funerary Objects; or

2) If no request is received, before any offer to transfer Control of Culturally Unidentifiable Human Remains and Associated Funerary Objects.

UC will also include Associated Funerary Objects in any transfer of Human Remains made under NAGPRA § 10.11.

Within 90 days of receiving a request or before any offer to transfer Control of Culturally Unidentifiable Human Remains and Associated Funerary Objects, as noted in 1) and 2) above, the campus must initiate Consultation with Tribal Representatives and traditional religious leaders of Native American Tribes and Native Hawaiian Organizations:

1) From whose tribal lands, at the time of the removal, the Human Remains and Associated Funerary Objects were removed; and

2) From whose Aboriginal Lands the Human Remains and Associated Funerary Objects were removed. Aboriginal land may be recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims, or by a treaty, Act of Congress, or Executive Order.

The campus shall make a good faith effort to consult with all Tribes from whose tribal lands, at the time of the removal, the Human Remains and Associated Funerary Objects were removed and from whose Aboriginal Lands the Human Remains and Associated Funerary Objects were removed (federal NAGPRA § 10.11(b)(2)). After an appropriate

20 The requirements of Federal NAGPRA § 10.11 apply to all dispositions of CUI remains and AFOs, including those that have been determined to be State Culturally Affiliated to a California Indian Tribe under CalNAGPRA. Campuses must comply with requirements of both CalNAGPRA and Federal NAGPRA.
response period (60 days),\textsuperscript{21} to not delay Disposition to a requesting Native American Tribe(s) or Native Hawaiian Organization(s), the campus shall proceed with the Disposition requests. Requests shall be reviewed by the Campus Committee. All determinations/recommended Dispositions of the Campus Committee and must be submitted for review and approval by the Chancellor or Chancellor’s designee according to the process described below in Section V.E.6 below.

In accordance with NAGPRA 10.11(c), a campus that has completed Consultation pursuant to §10.11(b) must offer to transfer Control of the Culturally Unidentifiable Human Remains (and, per this Policy, Associated Funerary Objects) in the following priority order:

1) The Federally Recognized Tribe or Native Hawaiian Organization from whose tribal land, at the time of the removal, the Human Remains and Associated Funerary Objects were removed.

2) The Federally Recognized Tribe or Tribes that are recognized as aboriginal to the area from which the Human Remains and Associated Funerary Objects were removed. Aboriginal land may be recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims, or by a treaty, Act of Congress, or Executive Order.

If none of the Tribes identified in 1) or 2) agrees to accept Control, the campus may offer to transfer Control of Culturally Unidentifiable Human Remains (and per this policy, Associated Funerary Objects) to any other Federally Recognized Tribe or Native Hawaiian Organization, or to a non-Federally Recognized Tribe. Under federal NAGPRA, Disposition to a non-Federally Recognized Tribe may only take place after receiving a recommendation from the Secretary of the Interior or authorized representative (federal NAGPRA § 10.11(c)2(ii)).

In order to advance the goal of expeditious Disposition, unless advised otherwise by federal NAGPRA officials, including pursuant to NAGPRA 10.11(c)(3), campuses are not required to obtain written signature of support from all Tribes described herein prior to proceeding with transfer of Control. In accordance with § 10.11(d), Disposition may not occur until at least 30 days after publication of a Notice of Inventory Completion in the Federal Register.

Campuses must proactively (i.e., regardless of whether they receive a tribal request) seek Consultation with Tribes regarding Human Remains and Associated Funerary Objects classified as “Culturally Unidentifiable” under Federal NAGPRA, for the purposes of Disposition under NAGPRA §10.11 and CalNAGPRA\textsuperscript{22}.

\textsuperscript{21} Although NAGPRA does mention the length of a response period, sixty (60) days provides tribes with a reasonable period to voice an interest without unduly delaying next steps.

\textsuperscript{22} See Section VI of this Policy, requiring campuses to develop and submit to the campus and systemwide committees Repatriation Implementation Plans that include provisions and a timeline for conducting this required proactive review.
6. Review of Claims and Requests
A Claimant or Requestor must submit a request for Repatriation or Disposition in writing. The campus will send written responses to Claimants or Requestors regarding the status of all claims/requests within sixty (60) days of receiving the claim or request.

Completed claims or requests will undergo an evaluation process by the Campus Committee. Campus review of claims or requests shall reflect consideration of Native American or Native Hawaiian viewpoints, and shall provide for Consultation with requesting Lineal Descendants, Native American Tribes, or Native Hawaiian Organizations, and California Indian Tribes as required by NAGPRA/CalNAGPRA.

All Campus Committee recommendations (positive and negative) regarding Repatriation or Disposition requests made pursuant to this Policy shall be reviewed by the Chancellor or Chancellor’s designee. Campuses may proceed with Repatriation or Disposition pursuant to this Policy, after obtaining the written approval for such action from the Chancellor or Chancellor’s designee. All packaging materials (boxes, bags, jars, acid-free tissue paper, etc.) that previously held Human Remains will be offered to Lineal Descendants or Tribal Representatives at the time of transfer. The campus shall report to the Systemwide Committee and to the UC President or President’s designee all determinations (approved or denied) made pursuant to this section.

UC campuses shall follow guidelines and procedures for implementing Repatriation or Disposition in accordance with federal and state law and regulations.

7. Deaccessioning of Human Remains and Items which are not NAGPRA-Eligible
In recognition of the principles articulated in section III.B of this Policy, campuses may voluntarily Deaccession items that have been determined not to be Human Remains or Cultural Items as defined by NAGPRA and CalNAGPRA, in accordance with systemwide and campus policies and practices.

F. OVERSIGHT
The Systemwide Committee and Campus Committees shall promote the implementation of this Policy consistent with the Purpose and Principles contained herein, and provide oversight of compliance with this Policy, and with state and federal laws and regulations, in accordance with Section V.A of this Policy. The Systemwide Committee and Campus Committees may request reports from campus officials as needed to fulfill its oversight functions.
The Chancellor or Chancellor’s Designee of each campus that has a NAGPRA-eligible Collection is responsible for compliance with this Policy, and applicable laws and regulations (See Section IV above).

A campus Chancellor may initiate an internal audit to evaluate campus compliance with this Policy, and applicable laws and regulations, and/or reviews to benchmark the campus’ performance or assess the need for improvements.

The President may initiate an internal audit to evaluate systemwide compliance with this Policy, and applicable laws and regulations, and/or reviews to benchmark UC’s performance or assess the need for improvements.

UC shall consult with the Systemwide Committee before making any changes to this Policy. Campuses shall consult with the Campus Committee before making any changes to related campus policies and procedures.

G. APPEALS, COMPLAINTS, AND MULTIPLE CLAIMS FOR REPATRIATION OR DISPOSITION

1. Appeal of Disputed Claims for Cultural Affiliation / State Cultural Affiliation, Repatriation, or Disposition

Tribal Representatives who believe University determinations (including but not limited to those related to Cultural Affiliation / State Cultural Affiliation, Repatriation, Disposition, or Inventories) were not supported by the preponderance of evidence, or were based on an incorrect interpretation of law, may appeal to the President or President’s Designee by submitting a claim to President@ucop.edu. The Systemwide Committee will review the request, based on the existing record and the evidence previously submitted (i.e., new evidence will not be considered as part of an appeal, but may be the basis of a new claim), and make a recommendation to the President or President’s Designee. The President or President’s Designee may consult with the Systemwide or Campus Committee or other experts (including those from Native American Tribes). The President or President’s designee will make the decision to uphold, reverse, or modify the campus determination, provided that such a decision must be based on a determination that the claim(s) meets all applicable legal and Policy requirements.

Tribal Representatives:

1) Shall be given reasonable opportunity, upon request, to present their views orally or in writing to Campus or Systemwide Committees and UC authorities responsible for making determinations.

2) May request third-party mediation to assist in efforts to reach agreement. Such mediation may include any means mutually agreed to by all parties and approved by the Chancellor or Chancellor’s designee.

3) May file a request with the National NAGPRA Review Committee per federal NAGPRA § 10.17, for assistance in resolving a dispute.
4) In accordance with CalNAGPRA § 8016, parties may file a request with the Native American Heritage Commission for assistance in resolving a dispute for claims falling under CalNAGPRA.

2. Complaints

Complaints about the consultation processes or access, in advance of any decision or recommendation regarding cultural affiliation, repatriation, or disposition, can be directed to the campus Chancellor or Chancellor’s Designee. Contact information for filing a complaint shall be posted on a public facing UC web page.

3. Multiple Claims for Repatriation or Disposition

After UC has published a Notice of Inventory Completion (NIC) or Notice of Intent to Repatriate (NIR), listing multiple Tribes as Culturally Affiliated or eligible to submit a request for Disposition, UC may receive multiple conflicting requests for transfer from different Tribes, each of whom UC determined has a valid request for Repatriation/Disposition under NAGPRA and/or CalNAGPRA. If UC is unable to determine by a preponderance of the evidence which requesting party is the most appropriate, UC shall retain the Human Remains of Native American or Native Hawaiian ancestors or Cultural Items until the requesting parties reach agreement on proper Disposition or until the dispute is resolved by mediation, a court of competent jurisdiction, or other appropriate means.

The parties may choose mediation by a third party mutually agreeable to the disputants. For assistance in resolving a dispute, Tribal Representatives may also file a request with the National NAGPRA Review Committee per federal NAGPRA § 10.17, or for claims that fall under CalNAGPRA, with the Native American Heritage Commission, per CalNAGPRA § 8016.

Once the multiple Requestors/Claimants agree upon an arrangement, and once UC is provided with assurance of protection against liability (either under the provisions of NAGPRA/CalNAGPRA or under an agreement among the Claimants), UC will repatriate to the Native American Tribe(s) specified in such an agreement, provided that the Tribe or Tribes have been determined by the UC to be entitled to Repatriation or Disposition under this policy.

H. STEWARDSHIP

Campuses with Possession or Control of Human Remains of Native American and Native Hawaiian ancestors or Cultural Items shall adopt procedures consistent with this

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23 Note that Multiple Claims are distinct from Joint or Coalition claims discussed in Section V.E.4 of this Policy.
section, to ensure respectful treatment of such Human Remains and Cultural Items and compliance with all applicable laws and regulations.

1. Respectful Treatment

All Human Remains of Native American and Native Hawaiian ancestors and Cultural Items must be treated in a respectful manner.

Consultation with Tribal Representatives is imperative for providing care and treatment in accordance with tribal traditions. Native American Tribes and Native Hawaiian Organizations may have their own traditional perspectives on care, storage, and handling. Each campus with a NAGPRA-eligible Collection shall publicly post the means to make a request for traditional care. UC welcomes such requests, and will collaborate with the affiliated Tribal Representative to develop and incorporate traditional care practices to the extent possible. In cases where traditional care requests cannot be strictly accommodated, the campus will collaboratively explore alternative arrangements with Native American Tribes and Native Hawaiian Organizations in order to implement culturally sensitive care while upholding the safety and security of all collections.

To the maximum extent possible, Human Remains and Associated Funerary Objects from the same Burial Site and from the same general geographic location should be kept together. In addition, all packaging materials (boxes, bags, jars, acid-free tissue paper, etc.) that previously held Human Remains will be retained by the campus so that they can be offered to Lineal Descendants or Tribal Representatives at the time of transfer.

2. Management and Preservation Standards

Campuses shall ensure that all Human Remains of Native American and Native Hawaiian ancestors and Associated Funerary Objects are managed and preserved in accordance with the standards set out by 36 C.F.R. § 79.9(b)(3), unless a request for an exception is brought forth before the Campus Committee for review and recommendation to the campus Chancellor or Chancellor’s designee, who may approve such exception requests.

3. Access by Lineal Descendants, Native American Tribes, and Native Hawaiian Organizations for Consultation and Cultural or Spiritual Care

Lineal Descendants, Native American Tribes, and Native Hawaiian Organizations shall be permitted reasonable access to the Human Remains of Native American and Native Hawaiian ancestors, Cultural Items, and associated collections and records for the purposes of Consultation toward Repatriation or Disposition and cultural or spiritual care. Arrangements are to be established in advance of the visit with the campus Repatriation Coordinator. Tribal Representatives shall present evidence indicating approval by their tribal chair to access such ancestral Human Remains and Cultural
Items. These requests should be made with sufficient advance notice to allow for adequate preparation and staffing.

4. Access to Human Remains, and/or Funerary and Sacred Objects\textsuperscript{24} of Native American or Native Hawaiian Ancestors for Research, Instruction, Exhibition, or Other Purposes

UC shall not permit research, destructive analysis, classroom use, or exhibition of Human Remains and/or Funerary and Sacred Objects of Native American or Native Hawaiian ancestors, except as outlined below.

1) If the Human Remains and/or Funerary and Sacred Objects of Native American and Native Hawaiian ancestors are pending Repatriation or Disposition, the campus must obtain explicit written permission from the cognizant Native American Tribes or Native Hawaiian Organizations.

2) If the Human Remains and/or Funerary and Sacred Objects of Native American and Native Hawaiian ancestors are Culturally Affiliated, the campus must obtain explicit written permission of the Culturally Affiliated Tribes.

3) If the Human Remains and/or Funerary and Sacred Objects of Native American and Native Hawaiian ancestors are Culturally Unidentifiable only due to the Tribe’s status as non-federally recognized, the campus must obtain explicit written permission from the non-Federally Recognized Tribe known to have a relationship of shared group identity with the particular Human Remains and Associated Funerary Objects.

4) If the Human Remains and/or Funerary and Sacred Objects of Native American and Native Hawaiian ancestors are Culturally Unidentifiable and the Tribe does not fit the description in 0 above, the campus must obtain approval from all the Indian Tribes whose Aboriginal Lands (as outlined in NAGPRA § 10.11) overlap with the location where the Human Remains originate.

Whether internal or external to UC, all petitioners seeking access to NAGPRA-eligible Human Remains and/or Funerary and Sacred Objects for research, instruction, exhibition or other purposes must provide documentation demonstrating compliance with the above requirements. The Repatriation Coordinator should initiate contact with the Tribal Representative(s) and assist in these efforts as needed.

Compliance with 1)-4) above notwithstanding, once a campus receives a claim of Cultural Affiliation or State Cultural Affiliation of Human Remains or request for

\textsuperscript{24} Section V.H.4 applies both to items that have already been determined to be Native American Human Remains, Funerary Objects or Sacred Objects, and to items for which the campus has not yet made a determination as to whether they meet the statutory definitions in NAGPRA and CalNAGPRA, but which are reasonably believed to have a high likelihood of meeting such definitions once Consultation has been completed, such as regalia.
Repatriation or Disposition of Human Remains, the campus will impose a moratorium on all access for research, instruction, exhibition or other purposes unrelated to making determinations needed for compliance with NAGPRA or CalNAGPRA and with this Policy, until the claim or request is resolved.

The campus shall have a clear and consistent protocol for handling petitions made under this section, including forms and contact information for the office responsible for review and processing of the petition, and identification of the ultimate decision-making authority. The Repatriation Coordinator shall be provided a copy of all petitions, including documentation and approvals received from Tribal Representatives.

In reviewing petitions for research, instruction, exhibition, or other purposes unrelated to making determinations needed for compliance with NAGPRA or CalNAGPRA, the campus shall consider (i) evidence of tribal Consultation and approvals as required above, (ii) tribal input, (iii) efforts to maintain high standards of care and respect for all Human Remains and/or Funerary or Sacred Objects of Native American or Native Hawaiian ancestors, and (iv) scholarly merit as determined by faculty members and their academic peers.

The campus shall clearly outline the terms, conditions, and limitations in all access and loan agreements, including the termination date. Researchers will be required to disseminate their research results to all Tribes described in 1), 2), 3), or 4) above, as applicable.

The Chancellor or Chancellor’s Designee is responsible for ensuring compliance of the above requirements, including via periodic assessments.

By September 30 of each year, the campus shall provide to the Campus Committee a summary of all access and loan agreements executed in accordance with this section, including a listing of the Human Remains of Native American and Native Hawaiian ancestors accessed or loaned, the Tribes consulted, approvals obtained, and the terms of use.

I. NEW REQUESTS FOR SHORT-TERM CARE AND LOANS RECEIVED FROM OTHER INSTITUTIONS

1. Care for Native American Tribes or Native Hawaiian Organizations

UC may maintain temporary physical care of Human Remains of Native American or Native Hawaiian ancestors and Cultural Items at the request of a Native American Tribe or Native Hawaiian Organization. In addition, UC may accept the Human Remains of Native American or Native Hawaiian ancestors and Cultural Items for temporary purposes at the request of a Native American Tribe or Native Hawaiian Organization, so as to engage in a collaborative research project between UC researchers and Native American Tribes, or research performed by UC in Consultation with the respective Native American Tribe.
2. Care for Loans from Entities Other Than Native American Tribes or Native Hawaiian Organizations

Under certain circumstances and provided the conditions in section 3 below are satisfied, UC may accept requests for the short-term care of Human Remains of Native American or Native Hawaiian ancestors from entities who are not Native American Tribes or Native Hawaiian Organizations for periods not to exceed two years. Extensions beyond two years require approval by the Chancellor or Chancellor’s designee. Examples of such acceptable circumstances include:

1) A request that UC perform an analysis of the Human Remains of Native American or Native Hawaiian ancestors at the behest of an Affiliated Tribe.

2) A request that UC perform an analysis of the Human Remains of Native American or Native Hawaiian ancestors to aid the requesting institution in carrying out its NAGPRA or CalNAGPRA responsibilities. (Note that unless affiliated Tribes have given explicit written permission for testing, in carrying out these duties, the campus may only use minimally invasive procedures and shall not use destructive analysis, including but not limited to DNA analysis.)

3) A request from an agency that recently discovered Human Remains of Native American or Native Hawaiian ancestors that is unable to provide immediate and appropriate care.

4) Other research or care approved by or performed in Consultation with the respective Native American Tribe or Native Hawaiian Organization.

3. Conditions for Loans

For all requests described above, the following conditions apply:

1) The Controlling Agent has requested that the UC maintain such short-term care.

2) The Chancellor or Chancellor’s Designee and the Controlling Agent have entered into an agreement in writing, delineating the terms of the loan, including, if appropriate, applicable terms relating to NAGPRA or CalNAGPRA compliance responsibilities.

3) UC maintains the Human Remains of Native American or Native Hawaiian ancestors and Cultural Items in accordance with the standards described in Section V.H.2 above unless otherwise described in the agreement between the Controlling Agent and UC and approved by the Chancellor or Chancellor’s Designee after consultation with the Campus Committee.

All such agreements shall be reported to the Campus Committee and the Systemwide Committee.
VI. REPATRIATION IMPLEMENTATION PLAN

Each campus with NAGPRA-eligible Human Remains or Cultural Items will develop a Repatriation Implementation Plan in coordination with the Campus Committee within six months of the Chancellor or Chancellor’s designee’s appointment of the Campus Committee, and no later than January 1, 2021. At a minimum, the Repatriation Implementation Plan should contain the following components.

1) Plan for Proactively Reviewing CUI Determinations: A timeline and description of the process to be undertaken to proactively (i.e., regardless of whether a tribal request has been received) review and update previous determinations of Culturally Unidentifiable Human Remains or Associated Funerary Objects.

   In performing these reevaluations, campuses will consult with Tribal Representatives, reevaluate originally considered evidence, consider any newly available evidence or information, consider any changes in applicable law, consider the addition of new Federally Recognized Tribes under NAGPRA, or California Indian Tribes under CalNAGPRA.

   If Tribal Representatives request a reevaluation of a previous determination that specific Human Remains or Cultural Items are Culturally Unidentifiable, such requests will be prioritized.

2) For Human Remains and Cultural Items that have been Culturally Affiliated, but have not yet been requested, campuses shall develop timetables to continue to send reminder notifications to tribal officials and invite Repatriation requests (e.g., of no less than every year), with instructions on how to submit such requests.

3) An outreach program that promotes proactive Consultation with Native American Tribal Representatives regarding the Affiliation, Repatriation, and Disposition of the ancestral Human Remains and Cultural Items, including a reasonable timeline for such activities.

   To the extent permitted by UC and tribal resources, campuses will invite Tribes seeking Repatriation or Disposition to attend regularly scheduled meetings to discuss Repatriation/Disposition strategies. Campuses should collaborate with Tribes to organize these meetings, which may be regional or by request, in the Tribe’s home territory.

   To the extent permitted by UC resources, campuses will partner with and assist Native American Tribes to seek state and federal grants or other available UC or third-party resources to facilitate Consultation and Repatriation processes and to provide for necessary costs incurred by the Tribes, including
compensation for tribal and other experts, travel, meals, and overnight accommodations.

4) An estimated budget necessary to carry out each of the efforts above.

5) Campus Repatriation Plan Timeline

See Sample in Appendix D.

VII. RELATED INFORMATION


VIII. FREQUENTLY ASKED QUESTIONS

Not applicable

IX. REVISION HISTORY

This Policy is also reformatted to meet Web Content Accessibility Guidelines (WCAG) 2.0.

This Policy replaces the Policy and Procedures on Curation and Repatriation of Human Remains and Cultural Items (eff. May 1, 2001).

X. APPENDIX

Appendix A – Consultation Guidelines
Appendix B – Inventory Process
Appendix C – Claims for Summary Items Process
Appendix D – Sample Campus Repatriation Plan Timeline
Appendix A

Consultation Guidelines

[NOTE: These charts are still under development. In particular, we recognize that there is a need for more work on clarifying how the CalNAGPRA process will fit in.]

Reserved
Inventory Process

[NOTE: These charts are still under development. In particular, we recognize that there is a need for more work on clarifying how the CalNAGPRA process will fit in.]

Reserved
Appendix C

Claims for Summary Items Process
[NOTE: These charts are still under development. In particular, we recognize that there is a need for more work on clarifying how the CalNAGPRA process will fit in.]

Reserved
## Sample Campus Repatriation Plan Timeline

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<tr>
<td>Complete Repatriation Implementation Plan</td>
<td>09/01/2020</td>
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<tr>
<td>Contact Culturally Affiliated Tribes about unclaimed Human Remains/Cultural Items that are eligible for Repatriation</td>
<td>03/01/2020</td>
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<tr>
<td>Complete first round of outreach to Culturally Affiliated Tribes</td>
<td>3/01/2021</td>
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<tr>
<td>Begin Reevaluations of CUI</td>
<td>Within 6 months of NAHC posting of List of California Indian Tribes</td>
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<td>Review Progress in accordance with Repatriation Implementation Plan</td>
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