

UNIVERSITY OF CALIFORNIA, ACADEMIC SENATE

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*Chair of the Assembly and the Academic Council
Faculty Representative to the Board of Regents
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200*

July 6, 2011

**MARK YUDOF, PRESIDENT
UNIVERSITY OF CALIFORNIA**

Re: UC Decisions Relating to the Native American Grave Protection and Repatriation Act (NAGPRA)

Dear Mark:

At UCORP's request, at its meeting on June 22, the Academic Council unanimously agreed to urge you to reconsider your decision to delegate authority to Chancellor Fox to determine whether to make human remains discovered on UCSD property available to researchers for study. While Council does not believe that the campus administration's actions are influenced by a conflict of interest, Council strongly believes that making the remains available for scientific inquiry affects research throughout the University, and thus the decision is appropriately made for the University by UCOP, rather than being left to the discretion of a single campus.

Council also requests that you initiate a scientific finding of fact to determine whether the remains are governed by NAGPRA or whether, because of their age, they would not fall under that statute.

Please do not hesitate to contact me if you have any questions.

Sincerely,



Daniel L. Simmons, Chair
Academic Council

Copy: Academic Council
Steve Beckwith, Vice President for Research and Graduate Studies
Martha Winnacker, Academic Senate Executive Director

Encl.



UNIVERSITY COMMITTEE ON RESEARCH POLICY (UCORP)
Phokion Kolaitis, Chair
kolaitis@cs.ucsc.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th Floor
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June 16, 2011

**DAN SIMMONS, CHAIR
ACADMEIC COUNCIL**

RE: NAGPRA, Research, and Academic Freedom

Dear Dan,

The University Committee on Research Policy (UCORP) has heard several reports from concerned University researchers about UC's administration recent decision on issues related to the Native American Grave Protection and Repatriation Act (NAGPRA). As recently as last March and in a letter to VP Beckwith, UCORP had asked that "all decisions regarding NAGPRA issues be made in the most open and transparent manner possible with a well-defined decision-making process and clearly articulated rationales for final decisions." Furthermore, UCORP had urged that "that the rights of Academic Senate members to pursue research projects be protected if and when those projects do not violate federal laws, state laws, or UC policies." In other words, UCORP's point was that when in doubt, administration and enforcement decisions should defer to research and academic freedom. Unfortunately, we are now concerned that UCORP's input has been completely disregarded.

Specifically, the May 11, 2011 letter of President Yudof to Chancellor Fox concerning the La Jolla skeletal remains raises the following questions and concerns:

- Given the age of the remains, it is not clear that these remains qualify as Native American under NAGPRA. Why has the University not embarked on a scientific finding of fact to determine once and for all the status of these remains? How does the case of the La Jolla remains differ from that of the Kennewick remains for which a legal precedent has been established in federal courts?
- President Yudof's letter authorizes the UCSD administration to make the final determination concerning the disposition of the La Jolla remains. We believe that decisions on matters of consequence to UC collections and, potentially, to world heritage should be made centrally and not be delegated to individual campuses. Furthermore, in this particular case, there is an apparent conflict of interest since the UCSD administration has an interest in seeing the construction at the University House go forward.
- We understand that several UC faculty members across different campuses have requested access to the remains but, to this date, they have received no response to their requests. We are troubled by this lack of response, which only fuels perceived opacity and appears to hinder the faculty in the pursuit of their research endeavors and the exercise of academic freedom.

We ask that the Council transmit UCORP's concerns to the President and urge the President to reconsider his decision and initiate a scientific finding of fact.

We thank you in advance for considering this request.

Sincerely,

A handwritten signature in black ink that reads "Phokion Kolaitis". The signature is written in a cursive style with a long, sweeping underline that extends to the right and then loops back under the name.

Phokion Kolaitis, Chair
UCORP

cc: Steve Beckwith, Vice President, ORGS
UCORP
Martha Winnacker, Executive Director, Systemwide Academic Senate

Encl.



UNIVERSITY COMMITTEE ON RESEARCH POLICY (UCORP)
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March 21, 2011

**STEVE BECKWITH, VICE PRESIDENT
OFFICE OF RESEARCH AND GRADUATE STUDIES**

RE: [University of California Policy and Procedures on Curation and Repatriation of Human Remains and Cultural Items, May 1, 2001 \(pdf\)](#) **Implementation**

Dear Steve,

The University Committee on Research Policy (UCORP) was recently asked to comment about an ongoing incident concerning the repatriation of human remains and cultural items. This incident highlights a conflict between research rights for Academic Senate members versus the interpretation of policy and the implementation of procedures by campus administrators. While UCORP will not advocate for a particular party or a particular outcome in this specific case, as a matter of principle and of policy, UCORP urges that the rights of Academic Senate members to pursue research projects be protected if and when those projects do not violate federal laws, state laws, or UC policies. UCORP further urges that all decisions regarding NAGPRA issues be made in the most open and transparent manner possible with a well-defined decision-making process and clearly articulated rationales for final decisions. We understand that this may be a challenging balancing act, yet we believe that the decision-makers, the decision-making process, and the determining factors must be clear to all – participants and observers alike.

Sincerely,

A handwritten signature in black ink that reads "Phokion Kolaitis". The signature is written in a cursive style and is positioned above a horizontal line that extends to the right.

Phokion Kolaitis, Chair
UCORP

cc: Dan Simmons, Chair, Academic Senate
UCORP
Martha Winnacker, Executive Director, Systemwide Academic Senate