



Kum-Kum Bhavnani
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*Chair of the Assembly of the Academic Senate
Faculty Representative to the Regents
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200*

June 29, 2020

**SUSAN CARLSON, VICE PROVOST
ACADEMIC PERSONNEL**

**Re: Proposed Presidential Policy on Native American Cultural Affiliation and
Repatriation**

Dear Susan,

As you requested, I distributed for systemwide Senate review the proposed revised Presidential Policy on Native American Cultural Affiliation and Repatriation (“Policy Version 3”). Nine Academic Senate divisions submitted comments. These comments were discussed at Academic Council’s June 24, 2020 meeting and are attached for your reference.

We note that the Academic Senate and other reviewers commented on an earlier version of this policy (“Policy Version 1”) last fall. We understand that the University found those comments to be very helpful and incorporated the comments from that review into a revised Policy Version 2, further consulted with California Native American tribes, and incorporated additional suggestions and concerns raised by the tribes into Policy Version 3.

We understand that the Policy updates UC’s compliance with the federal and state versions of the Native American Graves Protection and Repatriation Act (NAGPRA), related to the curation, repatriation, and disposition of Native American remains and cultural items in the University’s custody. The policy assigns responsibility for overall policy compliance to a joint systemwide committee, and asks the six UC campuses with NAGPRA-covered holdings to establish local implementation committees to review claims for cultural affiliation and requests for repatriation. Policy Version 3 also complies with State legislation that requires equal Native American representation on the UC systemwide and campus committees; responds to tribal requests for more transparency, collaboration, and consistency; provides more detail about repatriation implementation plans; prohibits the use of human remains and cultural items for research without explicit tribal approval; and explicitly prohibits exhibition of human remains under any circumstances.

Council strongly supports the broad goals of the Policy, to prioritize repatriation, better incorporate tribal input into UC processes, and increase the promptness and consistency of UC’s responses to repatriation requests. Council appreciate the diligent efforts to consult broadly with tribes, and it finds that Policy Version 3 further strengthens the role of tribes in the campus committee review of claims and requests. The Academic Senate is currently identifying faculty

representatives for the systemwide committee and for each of the six campuses currently holding Native American remains or cultural items.

We also encourage you to consider comments raised in the attached letters—specifically, the Davis division’s request to clarify Section K.1 concerning loan agreements for UC’s care of human remains and cultural items, and issues raised by the UCR Academic Freedom Committee regarding the repatriation of remains and artifacts across US borders; the handling of confidential information; and the nomination process for serving on the oversight committees. In addition, there is concern from some campuses about the small number of faculty who would be eligible to serve on the campus committees, and the additional service burden that could place on already-burdened underrepresented faculty. Finally, campuses note that the repatriation process will be costly and impose substantial unfunded financial obligations on campuses as a time when budgets are constrained.

Thank you for the opportunity to opine. Please do not hesitate to contact me if you have additional questions.

Sincerely,

A handwritten signature in black ink that reads "Kum-Kum Bhavnani". The signature is written in a cursive, slightly slanted style.

Kum-Kum Bhavnani, Chair
Academic Council

Encl:

cc: Provost Brown
Associate Director DeMattos
Academic Council
Senate Directors



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

June 18, 2020

KUM-KUM BHAVNANI
Chair, Academic Council

Subject: Comments on the Proposed Presidential Policy on Native American Cultural Affiliation and Repatriation

Dear Kum-Kum,

On June 17, 2020, the Divisional Council (DIVCO) of the Berkeley Division discussed the *Proposed Presidential Policy on Native American Cultural Affiliation and Repatriation*, informed by the report of the Committee on Research (COR). DIVCO endorsed the report, which is appended in its entirety, and supports the proposed policy.

Thank you for the opportunity to comment. If you have any questions, please don't hesitate to contact me.

Sincerely,

Oliver O'Reilly
Chair, Berkeley Division of the Academic Senate
Professor of Mechanical Engineering

Enclosure

cc: Jennifer Johnson-Hanks, Vice Chair, Berkeley Division of the Academic Senate
John Colford, Committee on Research
Jocelyn Surla Banaria, Executive Director, Berkeley Division of the Academic Senate
Deborah Dobin, Senate Analyst, Committee on Research



DAVIS DIVISION OF THE ACADEMIC SENATE
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DAVIS, CALIFORNIA 95616-8502
(530) 752-2220
academicsenate.ucdavis.edu

June 16, 2020

Kum-Kum Bhavnani
Chair, Academic Council

RE: Proposed Presidential Policy on Native American Cultural Affiliation and Repatriation
(Version 3)

Dear Kum-Kum:

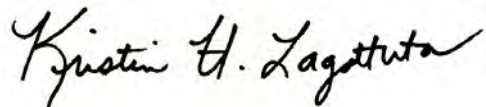
The third version of the proposed Presidential Policy on Native American Cultural Affiliation and Repatriation was forwarded to all standing committees of the Davis Division of the Academic Senate. Three committees responded: Affirmative Action and Diversity (AA&D), Research (COR), and the Faculty Executive Committee of the College of Letters and Science (L&S).

AA&D and L&S support the revisions. AA&D notes that these revisions incorporate the feedback of Native American tribes, including eased requirements for determining affiliation.

After consulting with colleagues in Anthropology, COR raises concerns about section K.1 regarding loans to UC faculty. Some of the issues identified include the following: Section K.1 is inappropriate to include in this particular policy document since UC has no ability to repatriate or affiliate items loaned to it; Section K.1 could erode trust between tribes and faculty since administrators would now be responsible for consultation and collaboration; Section K.1 could inadvertently create political problems by making loan information too widespread; and Section K.1 creates too short of a loan period at two years, as specialized research typically takes longer. COR also worries that K.1's statement that "Except as permitted herein, Human Remains or Cultural Items from private collections or other institutions are not permitted on campus" is overly broad and could apply to a faculty member's privately purchased painting or art piece made by a person of Native American descent. COR's full comments are enclosed.

The Davis Division appreciates the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Kristin H. Lagattuta". The signature is written in a cursive, flowing style.

Kristin H. Lagattuta, Ph.D.

Chair, Davis Division of the Academic Senate

Professor, Department of Psychology and Center for Mind and Brain

Enclosed: Davis Division Committee Responses

c: Hilary Baxter, Executive Director, Systemwide Academic Senate
Michael LaBriola, Assistant Director, Systemwide Academic Senate
Edwin M. Arevalo, Executive Director, Davis Division of the Academic Senate

RE: Systemwide Review of Proposed Revised Presidential Policy on Native American Cultural Affiliation and Repatriation (Version 3)

The Committee on Affirmative Action and Diversity has reviewed the proposed revised Presidential Policy on Native American Cultural Affiliation and Repatriation (Version 3). AA&D finds that:

The committee appears to have been responsive to comments on the previous version of this policy. Most changes seem to be clarifications or additions to incorporate the feedback of California Native American tribes. This report is a statement of the efforts of the committee to respond to serious concerns raised by California Native American tribes. As portrayed, these responses appear to be steps in the right direction. This revised version seems to include tribal feedback, which is clearly one of the most important means of ensuring an effective and culturally-sensitive policy. They seem to have eased requirements for determining affiliation, which was one of our concerns with the initial draft we read and which has been the source of past legal battles over specific collections.

We support the formation of a system wide committee in addition to one for each campus. We are impressed by the change to guiding principles. The central intent of working to rectify injustice and improve relations going forward should guide the implementation of this law. The focus on promoting consistency across the UC system is also important and a significant change from the last version. The creation of the position of repatriation coordinator who reports to the Chancellor will reduce the conflicts of interest that may ensue when museum staff oversee repatriation. The specific guidance provided on consultation is helpful and important to guide the work of repatriation coordinators. This useful guidance includes making coordinators available to assist tribes with grant writing to fund repatriation. The section on cultural affiliation addresses a fraught and painful area of the law. We appreciate the specificity required in critically evaluating evidence presented by non-tribal sources for bias, alluding to the fact that archaeological views have expressed biased perspectives on human evolution and not taken into account Indigenous epistemologies of self, history, and place. We are glad to see section J on respectful stewardship, and particularly the statements in section 4 regarding the limits on destructive research, and outlawing exhibition. Overall, this policy represents a vast improvement from previous policies. The UCOP assembled an excellent team that worked hard to revise the policy and obtain and integrate feedback.

June 8, 2020

Committee on Research

Response to Request for Consultation: Version 3 of the proposed Presidential Policy on Native American Cultural Affiliation and Repatriation

The Committee on Research has reviewed and discussed Version 3 of the proposed Presidential Policy on Native American Cultural Affiliation and Repatriation. The committee would like to include in their response concerns from consulted ANT faculty which follow.

“The main issue with the document concerns section K.1, regarding loans to UC faculty. This section does not fall under the umbrella of "Repatriation and Cultural Affiliation" which the document is about (per the title). UC has no ability to repatriate or affiliate items loaned to the university. Section K.1 should not appear in this document. It is a separate issue entirely. If this topic is considered important, the committee should come up with a separate document that concerns loans *to* faculty, with input from faculty it will affect (not the current committee that advised Napolitano). Section K.1 seems to have been added in in an attempt to regulate an area that has not been problematical in the past, and I don't understand the rationale.

“If implemented, it will significantly and negatively affect faculty research and public relations, for the reasons below.

“First, it takes away consultation and collaboration responsibilities (privileges) from faculty, and puts it on administrators. Faculty have established trust and relations with tribes and organizations, enough to establish a loan of materials to UC. If administration, with different relations with tribes, and goals about research, suddenly steps in to take over, I worry that the trust between tribe and faculty will be eroded.

“Second, the documents requires that "Records of all such agreements must be maintained by the Repatriation Coordinator and reported to the Campus and Systemwide Committees within two weeks of execution." This also breeds mistrust between faculty and lending tribes or organizations, since we cannot control who is on these committees and privy to that information. Tribes may not want information about loans to be widespread as it could create political problems within or between tribes. It could also allow other research teams who hear about the loan, to step in and quickly do similar research before the faculty member can conduct the research.

“Third, the section K.1 is overly broad. As stated, "Human Remains or Cultural Items from private collections or other institutions are not permitted on campus" except under some special circumstances. As stated, this means an administrator, department, or faculty member could not even have a privately-purchased painting or art piece made by a person of Native American descent hanging in their office!

“Fourth, the loan period, two years, is far too short. As an example, I often get loans to study materials that have been excavated as part of a development project, but there is no funding to support the specialized research, so I must apply for funds (e.g., NSF). Writing a grant, waiting for the review period, and getting it funded, by itself, could easily take 2 years. If this part stays in, the chancellor's office should maintain a pool of funding to support the research in the case external funding is not immediately available.”

Proposed Presidential Policy on Native American Cultural Affiliation and Repatriation (Version 3)

FEC: College of Letters and Science Committee Response

June 5, 2020

The L&S FEC supports this proposed policy

June 17, 2020

KUM-KUM BHAVNANI
CHAIR, ACADEMIC COUNCIL

RE: SECOND SYSTEMWIDE REVIEW OF PRESIDENTIAL POLICY ON NATIVE AMERICAN CULTURAL AFFILIATION AND REPATRIATION

The Irvine Division Council on Equity and Inclusion (CEI) and Council on Research, Computing, and Libraries (CORCL) reviewed the Presidential Policy on Native American Cultural Affiliation and Repatriation, and the Cabinet discussed the proposal at its meeting on June 16. CEI declined to opine on the proposal, and CORCL's comments are summarized below.

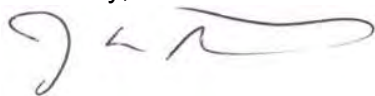
The revised policy contains many changes that substantiate the University of California's (UC's) respect for the fundamental value of repatriation of Native American and Native Hawaiian human remains and cultural items.

The changes that would appear to most directly relate to UC's research mission are the establishment of tribal consultation and the creation of approval requirements for access to human remains for research.

These changes could, in theory, result in decreased or delayed access to research materials for UC researchers. However, on balance, these concerns are outweighed by the importance of respecting Native American and Native Hawaiian human remains and cultural items.

The Cabinet concurs with CORCL's assessment. The Irvine Division appreciates the opportunity to review the proposed policy.

Sincerely,



James Steintrager, Chair
Academic Senate, Irvine Division

C: Hilary Baxter, Executive Director, Academic Senate
Jeff Barrett, Chair Elect-Secretary, Irvine Division



Kate Brigman, Executive Director, Irvine Division
Gina Anzivino, Assistant Director, Irvine Division
Lee Bardwell, CORCL Chair, Irvine Division
Michelle Chen, CORCL Analyst, Irvine Division

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June 22, 2020

Kum-Kum Bhavnani
Chair, UC Academic Council

Re: Proposed Revised Presidential Policy on Native American Cultural Affiliation and Repatriation

Dear Chair Bhavnani,

Thank you for providing the Los Angeles Division with the opportunity to comment on the Proposed Revised Presidential Policy on Native American Cultural Affiliation and Repatriation. Distributed to the committees of UCLA's Academic Senate, the Executive Board discussed the proposal at its June 11, 2020 meeting. Members are supportive of the revised proposal, which they believe will maintain the values and principles to Native American and Native Hawaiian communities. Several members raised questions for consideration as to whether temporal guidelines would be helpful, a sufficient number of faculty would be qualified to participate, and whether the structure of the committee allows for a possibly years-long process.

As is our custom, we have included the statements from Senate committees who chose to opine.

Thank you again for the opportunity to comment on this important proposal. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Michael Meranze
Chair, UCLA Academic Senate

Cc: Joseph Bristow, Immediate Past Chair, UCLA Academic Senate
April de Stefano, Executive Director, UCLA Academic Senate
Shane White, Vice Chair/Chair Elect, UCLA Academic Senate

3125 Murphy Hall
410 Charles E. Young Drive East
Los Angeles, California 90095

June 5, 2020

To: Michael Meranze, Chair, UCLA Academic Senate

From: Tzung Hsiai, Chair, Faculty Welfare Committee

Re: Proposed Presidential Policy on Native American Cultural Affiliation and Repatriation

At its meeting on June 2, 2020, the Faculty Welfare Committee reviewed the Proposed Presidential Policy on Native American Cultural Affiliation and Repatriation. Members declined to opine.

Thank you for the opportunity to review and comment. If you have any questions, please contact us via the Faculty Welfare Committee's interim analyst, Aileen Liu, at aliu@senate.ucla.edu.

cc: Shane White, Vice Chair/Chair Elect, Academic Senate
Joseph Bristow, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Aileen Liu, Interim Committee Analyst, Faculty Welfare Committee
Annie Speights, Committee Analyst, Faculty Welfare Committee

June 4, 2020

To: Michael Meranze, Chair
Academic Senate

From: Andrea Kasko, Chair
Graduate Council

Re: Systemwide Review of Proposed Revised Presidential Policy on Native American Cultural Affiliation and Repatriation

Given the timing of the request, the Graduate Council did not have an opportunity to discuss the Proposed Revised Presidential Policy on Native American Cultural Affiliation and Repatriation. Olga Yokoyama, Co-Chair of the Graduate Council's Committee on Degree Programs conducted an independent review of the proposed revised policy.

CDP Co-Chair Yokoyama offers the following for consideration:

-It would be beneficial if the proposal included a paragraph of factual information on the situation and issues involved.

-Version 3 is much more comprehensive, detailed, unambiguous, and in some respects more concise than the previous version. Numerous specific additions, ranging from single concepts and realities they stand for (such as replacing "campus liaison" with "repatriation coordinator") to whole sections (e.g. flowcharts) are appropriate and welcome. The committee's work has been tremendous and must be highly commended.

-One point that may further improve the exposition concerns the idea of "respectful treatment" of the relics. Matters that imply a connection with respect (or lack thereof) in a "big" way appear in various spots, including prohibition of public display, obligation to seek permission when UC needs to use them in any way for research purposes, as well as the specific points listed under "Respectful stewardship" (p. 41/63 ff.). Since respectful treatment really encompasses big and small matters, perhaps reconfiguring the organization in such a way that would explicitly unite them all under one umbrella and thereby put into relief the importance of the whole stance of "respect" would strengthen the point and serve the spirit of the guiding principles of healing and reparation (p. 15/63). In addition, to provide a bit more detail of what constitutes 'respectful treatment' on a micro level would simply be helpful for those UC scholars, researchers and personnel who deal with the remains and objects "on the ground". Just for comparison, it is rather striking that "Consultation" conditions include item h, which spells out things like "During Consultation meetings, the campus Repatriation Coordinator will listen and engage respectfully. The Repatriation Coordinator will endeavor to make meetings as comfortable, respectful, and productive as possible." (p. 28/63). No comparable detail is provided for the treatment of the relics themselves. The detail seen in item h suggests that there was a sense on the part of Tribe representatives that due respect to them as persons has been lacking. If so, it would seem logical to assume that due respect to the sacred remains and objects has also probably been lacking, at least by the Tribes' standards. To match the respect shown towards the living beings, a comparable detail would be naturally expected in describing "respectful treatment" towards the relics. Adding more detail would also serve as guidelines for those cases when special permission has been granted to UC to use the remains or objects for research purposes, or when UC is dealing with "on loan" items.

Thank you for the opportunity to review and comment.

May 20, 2020

Michael Meranze
Chair, UCLA Academic Senate

Re: Systemwide Review of the Proposed Presidential Policy on Native American Cultural Affiliation and Repatriation

Dear Professor Meranze,

At its May 6, 2020 meeting, the Council on Research (COR) reviewed the Proposed Presidential Policy on Native American Cultural Affiliation and Repatriation.

Members wish to reaffirm the Council's previous statement on the issue, dated September 30, 2019.

If you have any questions for us, please do not hesitate to contact me at desjardins@ucla.edu or via the Council's analyst, Elizabeth Feller, at efeller@senate.ucla.edu or x62470.

Sincerely,



Richard Desjardins, Chair
Council on Research

Enclosure: COR to EB_Native American Cultural Affiliation and Repatriation_09-30-2019

cc: Joseph Bristow, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Elizabeth Feller, Principal Analyst, Council on Research
Shane White, Vice Chair/Chair-Elect, Academic Senate
Members of the Council on Research

September 30, 2019

Michael Meranze
Chair, UCLA Academic Senate

Re: Systemwide Senate Review: Proposed Revised Presidential Policy on Native American Cultural Affiliation and Repatriation

Dear Professor Meranze,

The Council on Research (COR) conducted an independent electronic review of the proposed revised Presidential Policy on Native American Cultural Affiliation and Repatriation. The proposed policy is reasonable and addresses the issues of treating Native American artifacts respectfully and with consultation with the successors quite adequately. Members agree that the policy is written in compliance with AB 2836, signed into law on September 27, 2018. As such, UCLA COR endorses the policy in its entirety.

If you have any questions for us, please do not hesitate to contact me at desjardins@ucla.edu or via the Council's analyst, Elizabeth Feller, at efeller@senate.ucla.edu or x62470.

Sincerely,



Richard Desjardins, Chair
Council on Research

cc: Joseph Bristow, Immediate Past Chair, Academic Senate
Elizabeth Feller, Principal Analyst, Council on Research
Shane White, Vice Chair/Chair-Elect, Academic Senate
Members of the Council on Research

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OFFICE OF THE ACADEMIC SENATE
TOM HANSFORD, CHAIR
senatechair@ucmerced.edu

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5200 NORTH LAKE ROAD
MERCED, CA 95343

June 12, 2020

To: Kum-Kum Bhavnani, Chair, Academic Council

Re: Proposed Revised Presidential Policy on Native American Cultural Affiliation and Repatriation (Policy version 3)

Dear Chair Bhavnani:

The [Revised Presidential Policy on Native American Cultural Affiliation and Repatriation](#) was distributed for review and comment to the UC Merced Senate Committees for Diversity and Equity (D&E), Research (CoR), Faculty Welfare and Academic Freedom (FWAF), the Library and Scholarly Communications Committee (LASC), and to the School Executive Committees. D&E endorsed the proposed revisions¹. The remaining committees and the School Executive Committee declined to comment.

The Merced Division thanks you for the opportunity to opine.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Hansford".

Tom Hansford
Chair, Divisional Council

CC: Divisional Council
Hilary Baxter, Executive Director, Systemwide Academic Senate
Fatima Paul, Executive Director, Merced Senate Office

Encl (1)

¹ D&E's memo is appended.

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ACADEMIC SENATE, MERCED DIVISION
COMMITTEE FOR DIVERSITY AND EQUITY

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343
(209) 228-7930

June 1, 2020

To: Tom Hansford, Chair, Divisional Council

From: Committee for Diversity and Equity (D&E)

Re: Proposed Revised Presidential Policy on Native American Cultural Affiliation and Repatriation

The Committee for Diversity and Equity (D&E) has reviewed the proposed revised Presidential Policy on Native American Cultural Affiliation and Repatriation. D&E notes that the proposed revised policy reflects Native American and Native Hawaiian stakeholder input, and the revision has added clearer guidelines on the handling of cultural and human remain materials on the way to repatriation, with greater respect for the Native American and Native Hawaiian communities.

D&E is pleased to endorse the proposed revised Presidential Policy on Native American Cultural Affiliation and Repatriation.

cc: D&E Members
Fatima Paul, Interim Executive Director, Senate Office
Senate Office



CHAIR, ACADEMIC SENATE
RIVERSIDE DIVISION
UNIVERSITY OFFICE BUILDING, RM 225

DYLAN RODRIGUEZ
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EMAIL: DYLAN.RODRIGUEZ@UCR.EDU

June 16, 2020

Kum-Kum Bhavnani, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

RE: Systemwide Review-Proposed Revised Policy: Presidential Policy on Native American Cultural Affiliation and Repatriation

Dear Kum-Kum,

The UCR Division's Executive Council reviewed the Proposed Revised Policy and standing committee feedback and chose not to add further comment. I am pleased to provide the attached comments from relevant standing committees on this important Presidential Policy, and trust that it will help guide next steps in the revision process.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Dylan Rodriguez".

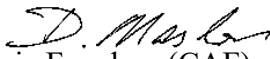
Dylan Rodríguez
Professor of Media & Cultural Studies and Chair of the Riverside Division

CC: Hilary Baxter, Executive Director of the Academic Senate
Cherysa Cortez, Executive Director of UCR Academic Senate Office

UC RIVERSIDE UNIVERSITY OF CALIFORNIA | **Academic Senate**
COMMITTEE ON ACADEMIC FREEDOM

May 31, 2020

To: Dylan Rodriguez, Chair
Riverside Division of the Academic Senate

From: Dmitri Maslov, Chair 
Committee on Academic Freedom (CAF)

Re: [Systemwide Review] Proposed Revised Policy: Presidential Policy on Native American Cultural Affiliation and Repatriation

The Committee on Academic Freedom considered "Proposed Revised Policy: Presidential Policy on Native American Cultural Affiliation and Repatriation", submitted for Systemwide Review on April 28, 2020.

The document represents a revision of the original document that was reviewed by the Committee and the comments submitted on Oct 1, 2019. In that memo we noted that from the perspective of academic freedom, this policy's issues may be outside of the CAF domain. The same view is still held by the Committee.

In the previous memo we commented on the three technical issues, which are summarized below.

1. Movement of artifacts or remains across international borders has not addressed.
2. Handling of confidential information has not been specified. In particular, can tribes reclassify a former non-confidential information to become confidential?
3. Which category of the UC personnel are the oversight committees drawn from?

We have not noticed any changes in the current document which would have addressed these issues. In particular, we are concerned that the policy continues to avoid the term "faculty". Perhaps faculty are assumed, but the document must explicitly indicate that at least one member (but preferably more) of an oversight committee must represent a Senate faculty.



May 15, 2020

To: Dylan Rodriguez, Chair
Riverside Division

From: Djurdjica Coss, Chair
Committee on Research

RE: Systemwide Review: Presidential Policy on Native American Cultural Affiliation and Repatriation (Round 2)

The Committee on Research reviewed the Presidential Policy on Native American Cultural Affiliation and Repatriation and had no additional comments.

 UNIVERSITY OF CALIFORNIA
UC RIVERSIDE | *Academic Senate*
COMMITTEE ON FACULTY WELFARE

May 31, 2020

To: Dylan Rodriguez
Riverside Division Academic Senate

From: Abhijit Ghosh, Chair
Committee on Faculty Welfare

Re: [Systemwide Review] Proposed Revised Policy: Presidential Policy on
Native American Cultural Affiliation and Repatriation

The Committee on Faculty Welfare appreciates the opportunity to comment on the proposed revisions to the Presidential Policy on Native American Cultural Affiliation and Repatriation. The members of the committee don't have any suggestions to amend the policy that would be relevant to the welfare of the faculty. The committee understands that the resulting document has been substantially improved with comments and suggestions from systemwide committees. Given the ethical, cultural, and legal complexities at stake, some members of our committee think that any further feedback should be sought from experts on Native American Studies.

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Henning Bohn, Chair
Debra Blake, Executive Director

June 17, 2020

TO: Kum-Kum Bhavnani, Chair
Academic Council

From: Henning Bohn, Chair
Santa Barbara Division

A handwritten signature in cursive script, reading "Henning Bohn", is placed to the right of the "From:" line.

Re: Systemwide Review of Proposed Presidential Policy on Native American Cultural Affiliation and Repatriation

Upon being asked to review and comment on version 2 of the Presidential Policy on Native American Cultural Affiliation and Repatriation, the Santa Barbara Division sought input from one of its members whose research focuses on the area to which the policy pertains. Professor Douglas Kennett of UCSB's Department of Anthropology is Director and Curator of his department's Repository for Archaeological and Ethnographic Collections. He shared with the Senate a detailed expression of concerns, which informs our response.

While the UC NAGPRA policy has definitely improved from the last version, and it represents an important path forward for the Repatriation of Native American and Native Hawaiian ancestral Human Remains and Cultural Items, we are concerned that the required repatriation process will be extremely costly. Unless substantial funding is provided systemwide, or provided by the State in recognition that UC is asked to comply with state law, this policy would oblige our campus to divert funds from other critical campus functions that are already facing funding shortfalls. We recommend that the funding provisions in this policy be reconsidered in light of current fiscal conditions, and that mandates for campuses to provide funding are eliminated, unless explicitly required by state or federal law.

More specifically, the concern at UCSB is about the unfunded obligations imposed by the proposed policy on the Repository for Archaeological and Ethnographic Collections maintained by the Department of Anthropology. The Director/Curator believes that UCSB has maintained a positive relationship with the Chumash community over the years. The ancestral Human Remains and Cultural Items are housed in an underground ossuary in UCSB's Humanities and Social Science Building that was designed in collaboration with the Chumash back in the 1990s. It is a sacred space that was blessed by Chumash elders from multiple tribes during its inauguration in the mid-1990s and this has continued through the years. UCSB uses strict guidelines in the stewardship of these ancestral Human Remains that were outlined in collaborative agreements between the UC and different Chumash communities at that time. In a sense, these sacred

remains have already been repatriated to the Chumash because they control access and their ultimate disposition.

We recognize times have changed and the UC NAGPRA policy provides an opportunity for UCSB to revisit and reaffirm its commitment to the changing composition of the Chumash community in the region and their views regarding these ancestral Human Remains and Cultural Items. It is important to recognize, however, that state law and the UC NAGPRA policy create serious inequities when applied to the Chumash region, which may trigger disputes regarding repatriation. The Chumash are not one single political entity, but made up of multiple autonomous tribes. One of these is federally recognized, two are state recognized, and one is recognized by the other three to have clear lineal descent to the last fluent Chumash speaker in the region. This latter group is currently seeking state recognition via the Native American Heritage Commission. They do not all speak with the same voice and the Repository maintains an advisory committee with representatives from different groups to foster open communication and consultation. The lineal descendants for the majority of the ancestral Human Remains housed in the sacred ossuary come from two of the nonfederally recognized tribes along the coast. Unfortunately, state law, and by extension, the UC Policy undermines the broad representation that UCSB has developed for consultation by requiring two members from the federally recognized tribe and only one from a state recognized tribe. Therefore, state law and the UC NAGPRA policy do not allow for appropriate committee representation in the Chumash region. Of course, the law is the law, but these inherent inequities complicate the implementation. Notably, there is a danger that disputes regarding repatriation will occur under this flawed committee representation and will need to be mediated at UCSB's expense.

A majority of the ancestral Human Remains and associated Cultural Items in the Repository have been reported according to the federal government as specified by NAGPRA guidelines. However, the UC NAGPRA policy substantially expands the definition and requirements for identifying fragmentary ancestral Human Remains and Cultural Items in non-burial contexts, which means that the Repository's entire inventory, which is massive, will need to be re-examined or, in some instances, sorted and examined for the first time. The Repository is currently a part time operation. Staff and administrative support will need to be scaled up significantly to respond to the demands of this policy and fulltime support for individuals with specific skillsets will be required (human osteology, artifact analysis) to complete this work in accordance with the policy.

In summary, the proposed policy imposes substantial financial obligations. We regret having to raise financial issues at a mature stage of the review and wish to emphasize our agreement and support of the policy's goal to repatriate ancestral Human Remains and Cultural Items as quickly as possible. This is an important priority that will help repair the damage of injustices inflicted upon the Chumash during many centuries. However, the budgetary situation has changed drastically since the prior review.



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June 12, 2020

KUM-KUM BHAVNANI, Chair
Academic Council

Re: Systemwide Review of Proposed Revised Presidential Policy on Native American Cultural Affiliation and Repatriation

Dear Kum-Kum,

The Committee on Affirmative Action and Diversity, Santa Cruz Division, has reviewed and discussed the proposed revised Presidential Policy on Native American Cultural Affiliation and Repatriation (“Policy Version 3”).

CAAD reiterates their concern from the previous October 2019 review regarding the small numbers of faculty at UC Santa Cruz who would be eligible to serve on these campus committees: “CAAD recognizes the importance of protecting the faculty who are likely to be sitting on these committees from unduly taxing service, especially as service demands (and especially service demands connected to identity) frequently fall on under-represented faculty members on UC campuses. (Native American and Native Hawaiian faculty are the most under-represented of all faculty within the UC system.)” They further ask for the policy to clarify the compensation associated with this service.

The Santa Cruz Division appreciates the care that the working group put into the multiple revisions of this important and significant policy. The Division supports the proposed policy revision.

Thank you for the opportunity to opine.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kimberly Lau'.

Kimberly Lau, Chair
Academic Senate, Santa Cruz Division

cc: Elizabeth Abrams, Chair, Committee on Affirmative Action and Diversity

June 4, 2020

Kimberly Lau, Chair
Academic Senate

Re: Proposed Presidential Policy on Native American Cultural Affiliation and Repatriation

Dear Kim,

The Committee on Affirmative Action and Diversity (CAAD) reviewed the Proposed Presidential Policy on Native American Cultural Affiliation and Repatriation. CAAD appreciates that the proposed policy carefully and thoughtfully addresses the preservation of cultural patrimony, human remains, and record keeping, and that the policy is particularly interested in ensuring the input of tribal representatives.

As noted in our 2019 response to the previous iteration of this policy (*CAAD to Chair Lau Re: Proposed Presidential Policy on Native American Cultural Affiliation and Repatriation – October 11, 2019*), CAAD is concerned about the small number of faculty on each campus who would be eligible to be representatives on the campus committees. CAAD recognizes the importance of protecting the faculty who are likely to be sitting on these committees from unduly taxing service, especially as service demands (and especially service demands connected to identity) frequently fall on under-represented faculty members on UC campuses. (Native American and Native Hawaiian faculty are the most under-represented of all faculty within the UC system.) At minimum, CAAD recommends that the policy clarify that compensation be available commensurate with the workload expected for committee members.

Thank you for the opportunity to respond on this matter.

Sincerely,

\s\

Elizabeth Abrams, Chair
Committee on Affirmative Action and Diversity

cc: Grant McGuire, Chair, Committee on Faculty Welfare
Paul Roth, Chair, Committee on Research
Jessica Taft, Chair, Committee on Academic Freedom
Jin Zhang, Chair, Committee on Library and Scholarly Communication



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June 9, 2020

Professor Kum-Kum Bhavnani
Chair, Academic Senate
University of California
1111 Franklin Street, 12th Floor
Oakland, CA 94607

Re: UC Native American Cultural Repatriation Presidential Policy

Dear Professor Bhavnani:

The proposed revisions to the UC Native American Cultural Repatriation Presidential Policy were circulated to Divisional standing Senate committees for review. Responses were received from the Committee on Research (COR) and the Committee on Diversity & Equity (CDE). The proposed revisions and committee responses were discussed at the Divisional Senate Council meeting on June 1, 2020. Senate Council had no objections to the policy. However, Senate Council had the following comments.

- Reviewers recommended that the burden placed on tribes to prove their affiliation with artifacts and remains in order to receive possession of the artifact or remain be reversed.
- Reviewers expressed concern that the policy does not provide the individual campuses with the resources to comply with NAGPRA.
- Reviewers recommended that a centralized office be created to alleviate the burden on tribes from having to work with each individual campus.
- Reviewers recommended that UC appoint a NAGPRA compliance officer who has authority to oversee repatriation and has oversight over ground-breaking and construction.

Sincerely,

A handwritten signature in black ink, appearing to read "Maripat Corr".

Maripat Corr, Chair
San Diego Divisional Academic Senate

Cc: Steven Constable, Vice Chair, San Diego Divisional Academic Senate
Ray Rodriguez, Director, San Diego Divisional Academic Senate
Hilary Baxter, Executive Director, Systemwide Academic Senate