



Native American Graves Protection and Repatriation Act

The University of California Is Not Adequately Overseeing Its Return of Native American Remains and Artifacts

Background

The federal Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) and its 2001 California counterpart (CalNAGPRA) establish requirements for protecting Native American graves and treating and returning Native American human remains and cultural objects (remains and artifacts) from the collections of government agencies and museums to the tribes that have a traceable relationship to them. The law requires these agencies and museums—which include campuses in the University of California (university) system—to identify remains or artifacts as belonging to a recognized tribe (affiliation) and returning remains or artifacts to the affiliated tribe (repatriation) or to a tribe claiming ownership when the agency holding them could not affiliate them to a tribe (disposition). We audited the university's compliance with federal and state laws and reviewed the practices at the university's campuses at Berkeley, Davis, and Los Angeles.

Key Findings

- The university's Office of the President has failed to provide adequate oversight and guidance to campuses for implementing NAGPRA and CalNAGPRA, which has resulted in inconsistent practices and decision making at each of the three campuses.
 - » Berkeley requests additional evidence from tribes to demonstrate their affiliation, which can extend the time before it returns the remains and artifacts.
 - » Los Angeles uses an informal approach when consulting with tribes when processing disposition claims, while Berkeley requires written responses from all tribes it contacts.
- Los Angeles has returned nearly all of the remains and artifacts in its collection, while Berkeley has returned only 20 percent—in part due to the different approaches for decision making.
- The university has not finalized a systemwide policy for repatriation in a timely manner as required by state law, and its draft policy does not create consistency across the campuses as the law intends.
- Campus and systemwide committees—which were created to provide oversight of repatriation decisions—do not have the required tribal representation.
- A 2015 change in regulations caused a dramatic decrease in the number of tribes petitioning for federal recognition—from 81 tribes in 2013 to four tribes in 2020. Federal recognition directly impacts state recognition and the ability for tribes that are not federally recognized to seek repatriation of remains and artifacts.

Key Recommendations

- The Legislature should allow more tribes to be eligible for inclusion on the State's list of recognized tribes, to allow those tribes to repatriate the remains and artifacts that belong to them.
- The university should increase its oversight and ensure consistency in processing claims tribes submit by:
 - » Requiring campuses to report on all current claims and decisions for affiliation, repatriation, and disposition to the systemwide committee for biannual review.
 - » Finalizing the systemwide NAGPRA policy to ensure processes are timely and consistent across all campuses.
 - » Ensuring campus and systemwide committee memberships include appropriate tribal representation as required by law.