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**HEALTH AND SAFETY CODE - HSC**

**DIVISION 7. DEAD BODIES [7000 - 8030]** ( *Division 7 enacted by Stats. 1939, Ch. 60.*  )

**PART 2. DISINTERMENT AND REMOVAL [7500 - 8030]** ( *Part 2 enacted by Stats. 1939, Ch. 60.*  )

**CHAPTER 5. California Native American Graves Protection and Repatriation [8010 - 8030]** ( *Chapter 5 added by Stats. 2001, Ch. 818, Sec. 1.*  )

**ARTICLE 3. Conditions on the Use of State Funds for the Handling or Maintenance of Native American Human Remains and Cultural Items [8024 - 8028.5]** ( *Heading of Article 3 amended by Stats. 2020, Ch. 167, Sec. 12.*  )

**8024.** For purposes of this article, "consultation" has the same meaning as defined in Section 65352.4 of the Government Code.  
(*Added by Stats. 2020, Ch. 110, Sec. 44. (SB 820) Effective September 18, 2020.*)

**8025.** (a) In order to better implement the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.) and this chapter, the Regents of the University of California shall not use state funds for the handling or maintenance of Native American human remains and cultural items unless the regents do all the following:

(1) Facilitate the establishment, composition, and function of systemwide and campus-level committees, established pursuant to Section 8026, with respect to reviewing and advising the university on matters related to the university's implementation of legal requirements to increase repatriation outcomes or dispositions of Native American human remains and cultural items to California Indian tribes.

(2) (A) Adopt and implement systemwide policies regarding the respectful and culturally appropriate treatment of Native American human remains and cultural items while in the possession of a University of California campus or museum, including policies regarding research requests and testing of any identified or potential Native American human remains or cultural items.

(B) Adopt and implement clear and transparent policies and procedures on the systemwide requirements for submitting, processing, and implementing claims for the repatriation of human remains and cultural items, demonstrating cultural affiliation, notification to tribes of human remains and cultural items deemed culturally affiliated and unidentifiable and from whose state aboriginal territory the items were removed, but that are not subject to a repatriation claim, dispute resolution regarding repatriation claims, and any other relevant subject governed by the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.), Part 10 (commencing with Section 10.1) of Subtitle A of Title 43 of the Code of Federal Regulations, and this chapter.

(C) Adopt or amend, in consultation with California Indian tribes, systemwide University of California museum collection management policies to explicitly provide for the deaccession of collections containing Native American human remains and cultural items to effect the timely and respectful return of those items pursuant to valid claims submitted by a California Indian tribe.

(D) Adopt systemwide University of California policies and procedures for the identification and disposition of culturally unidentifiable human remains and cultural items, as required by the federal Native American Graves Protection and Repatriation Regulations (43 C.F.R. Part 10). Those policies shall include updates to existing inventories in order to determine whether cultural affiliation can be determined, or to confirm that the human remains are "culturally unidentifiable" as defined in paragraph (2) of subsection (e) of Section 10.2 of Part 10 of Title 43 of the Code of Federal Regulations. These policies also shall include updates to existing inventories or summaries to identify cultural items that may not have been identified in the original inventories or summaries because traditional tribal knowledge was not incorporated into the identification process.

(3) Develop all policies and procedures pursuant to paragraph (2) in consultation with California Indian tribes on the contact list maintained by the Native American Heritage Commission pursuant to Section 8013. Each California Indian tribe appearing on the

contact list shall be invited to consult on the proposed policies and procedures. For purposes of this section, "consultation" has the same meaning as defined in Section 65352.4 of the Government Code.

(4) Timely submit the policies and procedures adopted pursuant to paragraph (2) to the commission, so they may review and comment upon them pursuant to subdivision (p) of Section 5097.94 of the Public Resources Code.

(5) Implement the systemwide policies adopted pursuant to paragraph (2) by January 1, 2021, and implement any campus policies within one year after the adoption of the systemwide policies.

(6) Ensure that each campus Native American Graves Protection and Repatriation Act Implementation Committee implements the policies and procedures adopted pursuant to paragraph (2).

(7) Adopt procedures to support appeals and dispute resolution when a tribe disagrees with a campus determination regarding repatriation or disposition of human remains or cultural items directly to the Office of the President of the University of California or a different oversight committee.

(b) A campus of the University of California may adopt policies to supplement the systemwide policies adopted pursuant to paragraph (2) of subdivision (a), if the campus determines that individual circumstances involving that campus are not adequately addressed in the adopted and approved systemwide policies, in consultation with California Indian tribes. A policy or procedure adopted by a campus pursuant to this subdivision shall not conflict with the approved systemwide policies.

*(Amended by Stats. 2020, Ch. 167, Sec. 13. (AB 275) Effective January 1, 2021.)*

**8026.** (a) (1) As a condition for using state funds to handle and maintain Native American human remains and cultural items, the Regents of the University of California shall establish a systemwide Native American Graves Protection and Repatriation Act Implementation and Oversight Committee, which shall also be known as the U.C. NAGPRA Committee.

(2) The membership of the committee shall be as follows:

(A) Three voting members of an Indian tribe as described in paragraph (1) of subdivision (c) of Section 8012, meeting the requirements of subdivision (c) of this section.

(B) One voting member of an Indian tribe as described in paragraph (2) of subdivision (c) of Section 8012, meeting the requirements of subdivision (c) of this section, or if none is available, a member of an Indian tribe as described in paragraph (1) of subdivision (c) of Section 8012, meeting the requirements of subdivision (c) of this section.

(C) Four voting members from the University of California. 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 requirements of subdivision (d).

(D) One nonvoting member from each campus of the University of California that is subject to the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.). Each of these nonvoting members shall meet the requirements of subdivision (d).

(3) The regents or the regents' designee shall appoint members to the committee upon nomination by the commission.

(b) (1) The Regents of the University of California shall not use state funds for the handling or maintenance of Native American human remains and cultural items unless each campus of the University of California that is subject to the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.) establishes a campus Native American Graves Protection and Repatriation Act Implementation Committee, which shall also be known as the NAGPRA Committee for that campus.

(2) The membership of the campus committee shall be as follows:

(A) Two voting members of an Indian tribe as described in paragraph (1) of subdivision (c) of Section 8012, meeting the requirements of subdivision (c) of this section.

(B) One voting member of an Indian tribe as described in paragraph (2) of subdivision (c) of Section 8012, meeting the requirements of subdivision (c) of this section, or if none is available, a member of an Indian tribe as described in paragraph (1) of subdivision (c) of Section 8012, meeting the requirements of subdivision (c) of this section.

(C) Three voting members from the University of California. At least one of these members shall be affiliated with an American Indian or Native American Studies program and each of these members shall meet the requirements of subdivision (d).

(3) The regents or the regents' designee shall appoint members to the committees upon nomination by the commission.

(4) All claims for repatriation or claims of any violation of the policies and procedures adopted pursuant to Section 8025 shall be submitted to the campus Native American Graves Protection and Repatriation Act Implementation Committee for determination.

(c) (1) A voting member of a California Indian tribe shall be an elder, spiritual leader, tribal leader, or tribal member, as designated by the governing body of the individual's tribe, with a minimum of five years' prior experience in any of the following:

(A) Repatriation of human remains and cultural items pursuant to the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.).

(B) Cultural resources protection under tribal, state, and federal law.

(C) Consultation with state and federal entities and agencies.

(2) Preference shall be given to members of a California Indian tribe. If no members of a California Indian tribe meeting the qualifications of paragraph (1) are available, members of other tribes may serve.

(d) (1) A representative of the University of California shall meet the following criteria:

(A) Have a graduate degree in either Archaeology, Anthropology, Native American Studies, Ethnic Studies, Law, Sociology, Environmental Studies, or History, with a focus in California.

(B) Have a minimum of five years' experience working in the applicable field of study.

(2) Preference shall be given to 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.

(3) In the event that candidates from the University of California are not available or do not meet the criteria of paragraph (1), the University of California representative positions may be filled by retired emeriti of the University of California who meet the criteria of paragraph (1).

*(Amended by Stats. 2020, Ch. 167, Sec. 14. (AB 275) Effective January 1, 2021.)*

**8027.** The Regents of the University of California may delegate responsibilities pursuant to this article to the President of the University of California or another person determined to be appropriate.

*(Added by Stats. 2018, Ch. 823, Sec. 3. (AB 2836) Effective January 1, 2019.)*

**8028.** The California State Auditor, in accordance with Chapter 6.5 (commencing with Section 8543) of Division 1 of Title 2 of the Government Code, shall conduct an audit commencing in the year 2019 and in 2021, and again in 2024 and 2026 regarding the University of California's compliance with the federal Native American Graves Protection Repatriation Act (25 U.S.C. Sec. 3001 et seq.) and this chapter. The State Auditor shall report its findings to the Legislature, the Native American Heritage Commission, and all other appropriate entities.

*(Amended by Stats. 2023, Ch. 639, Sec. 2. (AB 226) Effective January 1, 2024.)*

**8028.5.** The provisions of this article are severable. If any provision of this article or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

*(Added by Stats. 2018, Ch. 823, Sec. 3. (AB 2836) Effective January 1, 2019.)*