



## HO-CHUNK NATION LEGISLATURE

*Governing Body of the Ho-Chunk Nation*

**HO-CHUNK NATION LEGISLATURE  
SUBMITTING A TRIBAL FINDING OF NO CONFIDENCE  
IN THE UNIVERSITY OF CALIFORNIA (UC) BERKLEY  
NAGPRA PROGRAM AND THE UC SYSTEM-WIDE  
NAGPRA COMPLIANCE PROCESS  
RESOLUTION 4-29-08 F**

- WHEREAS:** Federally-recognized Tribal Governments in the United States have a legal right under the Native American Graves Protection and Repatriation Act (“NAGPRA”) to repatriate their ancestors and their cultural items from federally-funded institutions; and
- WHEREAS:** the UC Berkeley (“UCB”) Phoebe Hearst Museum receives federal funding and warehouses the remains of approximately 10,000 Native Individuals and thousands of Funerary Objects and Items of Cultural Patrimony; and
- WHEREAS:** UCB has unfairly employed a “stonewalling” tactic to prevent the Tribes from repatriating their ancestors, a tactic clearly outlined in a UCB Administrative directive by Beth Burnside to a fellow employee where she states, *“In a worst case scenario, you might address [the] issues by asking for a list of the last several months of Tribal visits and taking a random sample for the reviewers to interview by phone. That would give them input but not go near the idea they should be on the review committee. That's an absolute no. Maybe better to stonewall altogether....”*; and
- WHEREAS:** the University of California system (“UC system”) is structured to support the scientists and staff and eliminate or marginalize input from federally-recognized Tribes and is refusing to comply with the NAGPRA, as it was intended by Congress; and
- WHEREAS:** the UC system does not have an adequate system-wide policy for the return of Native American human remains, Funerary Objects, and Items of Cultural Patrimony that includes representatives of affected Indian tribes and lineal descendants; and
- WHEREAS:** the UC system employs the use of the “University Advisory Group on Cultural Affiliation and Repatriation of Human Remains and Cultural Items” (“Advisory Group”) to make final determinations regarding the return of Native American Human Remains, Funerary Objects and Items of Cultural Patrimony, however, the Advisory Group does not have adequate Tribal representation and holds its meetings in closed sessions without making minutes available to Indian tribes and individuals whose repatriation requests are being reviewed; and
- WHEREAS:** a number of UCB’s own reports show that UCB has not complied with the mandates of the NAGPRA, including one report stating that, *“...virtually all human remains yet to be inventoried were determined to be culturally unidentifiable, with no evidence supplied as to why this was the case. Even more serious, however, and contrary to statutory language, the inventory was not associated with evidence that consultation with Indian Tribes had taken place, nor were associated funerary objects listed. In addition, this inventory did not accurately reflect the museum’s documents, and the descriptions of the geographic and cultural affiliation of the human remains listed were insufficient...”*; and
- WHEREAS:** the problems at the Hearst are pervasive – beginning with the initial acquisition of “collections”, to curation and display, and including a failure to consult in a timely manner with Indian tribes that make repatriation claims; and
- WHEREAS:** Indian tribes and lineal descendants are concerned with how the NAGPRA is implemented from start to finish, and seek to be included in the decision-making process as required by the NAGPRA; and

### **Executive Offices**

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- WHEREAS:** Indian tribes and lineal descendants also seek information on: 1) the scope of scientific testing conducted on Native human remains, including, but not limited to destructive sampling, 2) the location of Native American human remains kept in storage, and 3) records of accounting for Native American human remains on a day-to-day basis, all of which should include tribal consultation; and
- WHEREAS:** Indian tribes and lineal descendants are concerned that the UC system does not have a consultation policy that dictates how its institutions will respectfully, fairly, and adequately consult with them; and,
- WHEREAS:** Indian tribes and lineal descendants have found UC Berkeley is unable and unwilling to act in "good faith" to return Native American human remains and funerary objects back to culturally-affiliated Indian tribes and lineal descendants for proper treatment and disposition; and
- WHEREAS:** UC Berkeley has declared a majority of its "collection" of Native American human remains and funerary objects as "culturally unidentifiable" without consulting the affected Indian tribes and lineal descendants and allowing such parties to present information regarding the basis for their claim; and
- WHEREAS:** Indian tribes and lineal descendants have found that UC system-wide NAGPRA policies are inadequate, and the implementation of those policies fosters discrimination against Indian people; and
- WHEREAS:** Indian tribes and lineal descendants have found that the UC system-wide compliance with NAGPRA needs to be immediately reviewed to determine if formal sanctions should be imposed.

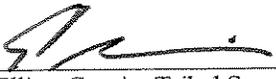
**NOW THEREFORE BE IT RESOLVED**, that Indian tribes and lineal descendants demand that UCB and the University of California immediately do the following:

- 1) establish an Independent Tribal Advisory Board,
- 2) review all past and present tribal NAGPRA inquiries and formally respond,
- 3) handle future tribal leader correspondence in a respectful and timely manner,
- 4) provide university staff with training on cultural sensitivity and culturally appropriate methods of treating objects in their care,
- 5) visit tribal museums to gain insight on appropriate care of items,
- 6) develop a protocol for handling of objects (a general protocol that can be refined to be tribal specific under certain circumstances), in consultation with Indian tribes and lineal descendants.
- 7) appoint tribally recommended Natives to the Advisory Group in a number that balances tribal and non-tribal involvement,
- 8) use geographic location as a primary indicator to determine cultural identifications,
- 9) set a time line for completing tasks identified by Indian tribes and lineal descendants,
- 10) prepare an apology to Indian tribes for its mishandling of Native ancestors and their items,
- 11) review its Tribal "Loan" Policy,
- 12) move the NAGPRA unit from the Vice Chancellor of Research control,
- 13) consult with Indian tribes before making further changes to the University's NAGPRA program and
- 14) adopt policies developed in consultation with Tribal governments that define Tribal Consultation, Handling and Care of Sacred Objects, Inclusion of Tribes in NAGPRA Review Boards at all levels and specifically outline the policies for the treatment of Native Remains and Funerary Objects.

**BE IT FURTHER RESOLVED**, that the Ho-Chunk Nation formally request through this resolution that the National Park Service NAGPRA Office conduct an independent and full review of the historical and contemporary activities of the NAGPRA Program at UCB, and a review of the UC system-wide compliance with the NAGPRA and require the UC system to remedy the problems outlined above.

#### CERTIFICATION

I, the undersigned, as Tribal Secretary for the Ho-Chunk Nation, hereby certify that the Legislature of the Ho-Chunk Nation, composed of the **11 members**, of whom **8** constituting a quorum, were present at a meeting duly called and convened and held on the **29<sup>th</sup> day of April, 2008**, that the foregoing resolution was adopted at said meeting by an affirmative vote of **8 members, 0 opposed and 0 abstaining**, pursuant to the authority of Article V, Section 2 (a) and (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that the foregoing resolution has not been rescinded or amended in any way. I further certify that this a verified copy of said resolution.

  
Elliott Garvin, Tribal Secretary

4-29-08  
Date