



INDIGENOUS  
ARCHAEOLOGY  
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June 28, 2020

Joe E. Watkins  
President of the Board of Directors  
Society for American Archaeology  
1111 14th Street NW, Suite 800  
Washington, DC 20005-5622

Dear President Watkins:

As Indigenous archaeologists, archaeologists with extensive history working collaboratively with Native American Tribal Nations and Indigenous communities in various capacities, past Society for American Archaeology (SAA) *American Antiquity* Editorial Board Members, SAA Committee members, and past Chairs of the Committee on Native American Relations (CNAR), Indigenous Populations Interest Group (IPIG), Committee on Museums, Collections and Curation, Repatriation Interest Group, Native American Scholarships Committee, past members of the National Native American Graves Protection and Repatriation Committee, and current and past members of the University of California (UC) President's Native American Advisory Council, we were appalled to read the SAA's statement on the UC's Draft Native American Cultural Affiliation and Repatriation Policy (Policy) sent to California SAA members on June 22, 2020 via email and a similarly worded statement submitted as a formal comment to the UC Office of the President (UCOP) on June 19, 2020. We are embarrassed to have connections with a professional association which would release such an egregious, ill-informed, and hyperbolic statement.

Although the SAA rescinded its emailed statement to its California state members on June 24, 2020, this situation highlights the systematic breakdown in communication, consultation and collaboration between the SAA Board, its Committees and the membership. Further it also shows that SAA is not following its own established policies regarding the issuance of statements. As a result, we request an investigation as to where the breakdown occurred and why, as well as how this can be avoided in the future.

As practicing archaeologists and SAA members, we look to the SAA to swiftly, when warranted, review and provide comment on various local and national policies, call for actions, and issues as it relates to the study of the past. However we expect elected SAA officers to do their research to ensure that their review and comments are based on accurate information that is informed by ethical practice and takes seriously the various perspectives of the membership.

As per SAA policies and website, "Committees and task forces are key to how SAA operates" and they, "research into issues related to their committee charge in order to make Policy recommendations to SAA's Board of Directors." Thus this research should include consulting with all relevant SAA committees (including all committee members, not just chairs). Further, SAA should have consulted general members who have expertise on the topic in

question, perhaps most especially SAA members who have already been invited to comment on the various drafts of the UC Policy. Neither Committees nor relevant SAA members at UCs were contacted by SAA in this case. We reiterate that the Chair and membership of the CNAR should have been consulted, in addition to Desiree Martinez, a SAA member and former member of the UC Cultural Affiliation and Repatriation Policy Advisory Workgroup and Dr. Wendy Teeter, SAA member and UCLA NAGPRA Coordinator who has been editing and advising on the draft UC Policy.

As a result of this lack of consultation and failure to follow Policy, the SAA statement is full of inaccuracies and misinformation. For example, the belief that the revised UC Repatriation Policy will have “serious repercussions not only for the preservation and understanding of our past” is an overstatement of the Policy. This language also harkens to the arguments made by gatekeeping archaeologists who claimed ownership of California Indigenous history and heritage and worked to weaken and delay repatriation legislation when NAGPRA was first passed in 1990. Furthermore, SAA’s action of sending out an inflammatory email to SAA members to encourage them to call for the withdrawal of the UCOP Policy is nothing less than an attempt to actively block repatriation policy at an institution that holds one of the largest collections of Indigenous ancestral remains in the country. Contrary to what the SAA statement describes, this Policy will not “completely eliminate the study of California prehistory at the UC and may even eliminate teaching and instruction on California's rich cultural and natural past.” That is simply not true. Nor will the Policy leave Cultural Resource Management practitioners “without any connections to a state-funded research system, and without new generations of qualified managers trained by the state's best-funded and most selective system of public higher education.” In endorsing these claims, the SAA produced and amplified factually incorrect information to its membership and UCOP, an action that is not only damaging and hurtful to many Native American Tribal Nations and communities nationally, but also has the potential to call into question the veracity of the Society’s future statements and calls to action among the membership and other institutional bodies.

The intent of updating the UC Policy is to develop new relationships between the UC and Tribal Nations, efforts that demonstrate their commitment to the ethical and respectful care and culturally appropriate treatment of Human Remains and Cultural Items while they are in the UC’s Possession or Control as informed through meaningful consultation with Lineal Descendants and Tribal Representatives of Native American Tribes and Native Hawaiian Organizations (Draft Policy, Version 3, Page 7).

Below we have **bolded** multiple problematic, inaccurate, and incorrect points from SAA’s statement that was sent via email on June 22, 2020, as well as from the official SAA statement sent to UCOP and signed by you on June 19, 2020. These excerpts are followed by our responses and factual corrections.

1. **Nevertheless, the UC document describes a process wherein repatriation is the only goal, with all other potential objectives merely footnoted (namely under an ill-conceived "Section K").**

The Policy's goal is **Repatriation** as is required by U.S. Federal NAGPRA law and California State CalNAGPRA law.

2. **"Cultural Items" are poorly defined. It is possible that Cultural Items (from chipped stone to anthropogenic soils) could be given the same status as Human Remains and Funerary and Sacred Objects. If this occurs, virtually no Native American archaeological material will be permitted on UC campuses.**

Under Section II. Definitions it states that “this Policy adopts the definitions of NAGPRA (25 U.S.C. §§ 3001 and 43 C.F.R. § 10.2) and CalNAGPRA (Cal. Health & Safety Code § 8012)” (Draft Policy, Version 3, Page 3). As a result, Cultural Items are defined as a sacred object, object of cultural patrimony, associated funerary object, unassociated funerary object, or Human Remains.

CalNAGPRA follows this definition of Cultural Items within NAGPRA. The term Cultural Items has been used since the passage of NAGPRA and if there is any ambiguity in what the term covers, then a comment should be made to Congress to amend NAGPRA and not to the UCOP.

If artifacts (from chipped stone to anthropogenic soils) fall under the definition of Cultural Items as defined by NAGPRA and CalNAGPRA, then they could be repatriated. If new material is placed under the control of the UC, and does not meet the definition of a Cultural Item, the material will be allowed on campus.

**3. The current draft allocates supreme decision making power to campus and UCOP NAGPRA committees to determine (among other things) the following:**

The draft Policy follows the requirements outlined in the CalNAGPRA amendments made by Assembly Bill (AB) 2836 which details the composition and decision-making authority of a UC system-wide committee and campus committees. These requirements were made so that when Campus Committees support a repatriation request they would have authority to approve so that repatriation can be “accomplished as expeditiously and respectfully as possible” (Draft Policy, Version 3, Page 6).

**a. What is and is not allowed on campus (e.g. what is and is not a "Cultural Item").**

As long as artifacts, ecofacts and other samples are not Cultural Items as defined by NAGPRA and CalNAGPRA, then they will be allowed on campus.

**b. What is and is not "Culturally Affiliated".**

This is true, based on the information provided and following the cultural affiliation guidance presented in NAGPRA and CalNAGPRA.

**c. Who sits on the committee (note that there is no stipulation for an archaeologist, prehistorian, or scientist to be part of the voting committees).**

Again, committee membership is specifically defined by the AB2836 amendments to CalNAGPRA (Draft Policy, Version 3, Page 14). Archaeologists can be committee members as long as they:

“(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 his or her 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 Tribal Nations successfully on issues related to repatriation or museum collection management” (Assembly Bill No. 2836).

- 4. There is an egregious contradiction in the language of the proposed Policy. On the one hand it stipulates that no newly acquired Human Remains, Funerary Objects, Sacred Objects, or Cultural Items will be permitted on campus except for the purpose of repatriation; on the other hand it allows the UC to accept temporary two-year loans of Human Remains, Funerary Objects, Sacred Objects, or Cultural Items with the written permissions of the culturally affiliated tribe.**

There is no contradiction in the language of the Policy. Instead the Policy acknowledges UC's "role in the acquisition of Human Remains and their Cultural Items that were obtained in violation of Indigenous communities' spiritual and cultural beliefs, without the free, prior and informed consent of Indigenous communities" (Draft Policy, Version 3, Page 6). As a result, the UC will no longer accept NAGPRA and CalNAGPRA Cultural Items and Human Remains without the expressed consent of the culturally affiliated Tribal Nation(s) or as stipulated by the exemptions detailed on pages 37-38 (Draft Policy, Version 3).

- 5. The establishment of the campus and UCOP NAGPRA committees, as envisioned in the document will eliminate the ability of UC researchers to conduct their own collaboration and consultation with tribal entities, and instead puts that power and responsibility into the hands of a committee that may or may not be familiar with, or amenable to, either the goals of that tribal entity or the objectives, potential, and limitations of scientific research.**

This is not accurate. As already stated above, the UC will no longer allow research to be conducted on NAGPRA and CalNAGPRA Cultural Items and Human Remains without Tribal Nation approval. If a researcher is engaged in or creates a collaborative relationship with a Tribal Nation and the Tribal Nation has provided written permission to conduct the research, then there is no issue.

- 6. There is no language to describe how research proposals (by either a tribal entity, or a university researcher, or both) should be submitted, or on what grounds they might be considered.**

The Policy clearly states, "Whether internal or external to UC, all persons seeking access to NAGPRA/CalNAGPRA-eligible Human Remains and/or Cultural Items for research, instruction, or other purposes must provide to the Repatriation Coordinator documentation demonstrating compliance with the above requirements. The Repatriation Coordinator must ensure that no pending appeals or complaints have been filed related to the Human Remains or Cultural Items requested before forwarding the request and all compliance documents referenced above to the Chancellor for approval. In reviewing access requests for research, instruction, or other purposes unrelated to making determinations needed for compliance with NAGPRA or CalNAGPRA, the Chancellor will consider (i) evidence of tribal Consultation and authorizations as required above, (ii) tribal input, and (iii) efforts to maintain high standards of care and respect for all Human Remains and/or Cultural Items" (Draft Policy, Version 3, Page 37).

- 7. There is no timeline for consideration or approval of research proposals (except that the campus committees will meet at least 3 times a year); in fact, there is no guarantee that proposals will be considered at all.**

The Policy is clear that proposals are considered as long as they follow the requirements as described above, in line item 6.

- 8. In your statement to UCOP, you requested that UCOP rescind the draft Policy and "engage in extensive consultations with archaeologists and California Native American tribes..."**

This point again shows how ill-informed SAA's statement is and demonstrates complete ignorance of the extensive year-long process that the UCOP created to develop this draft Policy. It also overlooks the fact that it has been 30 years since the passage of NAGPRA and some entities like UC Berkeley's Phoebe A. Hearst Museum of Anthropology are woefully overdue in repatriating to Tribal Nations as is required by Federal law (see California State Auditor Report: *The University of California Is Not Adequately Overseeing Its Return of Native American Remains and Artifacts*; Report Number: 2019-047; <https://www.auditor.ca.gov/reports/2019-047/responses.html>).

The AB2836 CalNAGPRA amendments required consultation with California Federally and non-Federally recognized Tribal Nations as well as with the California Native American Heritage Commission, a separate state agency that is responsible for identifying and cataloging Native American cultural resources, protecting Native American burials, and preventing damage to and insuring Native American access to sacred sites.

The UCOP reached out to all Federally and non-Federally recognized Tribal Nations who potentially have NAGPRA and CalNAGPRA Human Remains and Cultural Items within the UC's care, as well as to individual Tribal community members, and other stakeholders. This outreach was conducted via letter, email, online survey, phone call, and face-to-face meetings. Furthermore, the UCOP sponsored several sessions throughout the state of California in order to collaboratively work with Tribal Nations on the draft Policy. These work sessions were live streamed, recorded and remain easily accessible online on Youtube. The draft Policy was also workshopped at the annual meetings of the Society for California Archaeology and the Association of Tribal Archives, Libraries, and Museums (ATALM). Lastly, extensive comments were submitted by UC faculty and reviewed by each UC Campus Faculty Senate, who provided four Native American Cultural Affiliation and Repatriation Policy Workgroup members.

The SAA Board needs to acknowledge that this statement has caused irrevocable damage to our relationships with Native American Tribal Nations, Native American community members and the broader SAA membership. The field of archaeology has made great strides in the incorporation of Indigenous voices in the study of Native American history and heritage and many archaeologists are actively transforming the colonial practice of archaeology in partnership with Native American Tribal Nations. In issuing this call to archaeologists who reside in California and submitting this official statement to UCOP, the SAA has reaffirmed its commitment to the convenience of researchers over Indigenous peoples. In doing so it has demonstrated to Native American Tribal Nations and to SAA's Indigenous and non-Indigenous members that, despite pronouncements that things have changed within the organization and within the field of archaeology, Indigenous voices and perspectives remain excluded from SAA's official platforms.

With this in mind, we, the undersigned, urge the following:

- A. SAA must support the UCOP draft Policy and the repatriation of all Human Remains and Cultural Items held within the UC system. We thus urge the SAA to submit a public retraction of its June 19th letter to UCOP and affirm its support of the UCOP draft Policy. When one of the largest public university systems in the United States that holds the largest collection of Native American Human Remains outside of the Smithsonian develops a comprehensive Policy for repatriation, we expect that the SAA will support this policy in an effort to uphold compliance with Federal NAGPRA law.
- B. The SAA President and Board must make all attempts to communicate with and apologize to CalTHPOs and the Native American Heritage Commission for its actions. A retraction viewed

only by membership will not undo the active harm of the June 19th statement and June 22nd email.

- C. SAA must take time to reflect and take action on ways it can help break the unequal power relations between Native American Tribal Nations and community members and those who study Native American history and heritage. SAA has the opportunity for bold leadership and should be at the forefront of making sure that Indigenous, as well as Black bodies and other People of Color, are no longer subjugated to the power and control of the colonial enterprise that only benefits a select few. Actions that the society should take to affirm this commitment to addressing structural inequalities within the discipline include:
1. Convene a Task Force to undertake a racial climate survey. Anti-Indigenous sentiment within archaeology intersects with anti-Blackness, systemic racism, and discrimination;
  2. Increase funding for the participation of Native American and Indigenous peoples in archaeology;
  3. Formalize the waiver for registration fees for Native American and Indigenous conference participants;
  4. Offer free SAA membership to Native American and Indigenous archaeologists and community members;
  5. The Program Committee's announcements for upcoming meetings should highlight the Indigenous history of the host city. The SAA President and the Program Committee should also reach out to the local Tribal Nation or Tribal community and work with them to plan relevant programming that highlights Indigenous perspectives and gives back to the community in a meaningful way;
  6. Recognize the traditional homelands of Tribal Nations by the SAA President reaching out to relevant tribal Chair(s) or tribal leader(s) to introduce themselves and ask for and receive their permission to meet on these lands and traditional territories prior to the confirmation of the meeting location. Furthermore, all future meetings should be opened with a formal welcome to hosting Tribal Nations in addition to a land acknowledgement during the Plenary. In an ethic of reciprocity, representatives from local host Tribal Nation should be compensated for their time and participation at the SAA meetings.
- D. SAA must consistently follow its own policies and procedures in communicating with SAA Committees and the membership. We request that the SAA amend its policies to formalize its commitment to consulting with the Committee on Native American Relations, as an advisory body, on any and all matters related to NAGPRA and repatriation, as well as any other issues involving its relationships with Tribal Nations before public statements are made on behalf of the SAA membership.
- E. The SAA's Statement Concerning Treatment of Human Remains (<https://rla.unc.edu/saa/repatriation/SAApolicy.html>), which was adopted by the SAA Board in 1986 and reaffirmed in 1999, is over 20 years old. We request that the SAA Board convene a Task Force to develop a revised policy on repatriation. This Task Force should include members of the Committee on Native American Relations, as well as relevant descendant community stakeholders within the SAA. Further, the SAA should adopt principles that are similar to the World Archaeological Congress' Vermillion Accord on Human Remains passed in 1989. We call on the SAA to recognize and commit to support the rights of Indigenous peoples "to the use and control

of their ceremonial objects; and the right to the Repatriation of their ancestral Human Remains” as articulated in Article 12 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

We await your response and look forward to a constructive dialogue with the SAA Board of Directors. You may contact the Indigenous Archaeology Collective via email at [IndigenousArch@protonmail.com](mailto:IndigenousArch@protonmail.com).

***Indigenous Archaeology Collective Founding Members:***

Desiree R. Martinez, MA, RPA, (Tongva), Past Member of the UC President’s Native American Advisory Council; Past Member of the UC Cultural Affiliation and Repatriation Policy Advisory Workgroup; Past Chair (2016-2020) and Past Member (2002-2016) of the SAA Native American Scholarships Committee; Member of the SAA Indigenous Populations Interest Group; Member of the SAA Repatriation Interest Group; Tongva Tribal Archaeologist; President, Cogstone Resource Management, Inc.

Sonya Atalay, Ph.D., (Anishinabe-Ojibwe), Associate Professor, UMass Anthropology; National NAGPRA Review Committee member (2009-2015); Past Chair of the SAA Committee on Native American Relations; Past Chair of the SAA Indigenous Populations Interest Group, Editorial Board Member for *American Antiquity* (2012-2018); Member SAA Task Force on NAGPRA Culturally Unidentifiable Human Remains; Founding member of the Indigenous Archaeology Collective.

Michael Wilcox, Ph.D., (Yuman descent), Native American Studies Senior Lecturer (2017-present); Associate Professor Anthropology, Archaeology (-2017) Stanford University; Muwekma Ohlone Tribe Cultural Resource and NAGPRA Officer; Past Chair SAA Committee on Native American Relations; Past Chair SAA Indigenous Populations Interest Group; Editorial Board Member for *American Antiquity* (2015-2018).

Tsim D. Schneider, Ph.D., (Federated Indians of Graton Rancheria), Assistant Professor, University of California, Santa Cruz; Past Member of the SAA Native American Scholarships Committee (2015-2019); Editorial Board Member for *American Antiquity* (2018-present)

Peter A. Nelson, Ph.D., RPA (Federated Indians of Graton Rancheria), Assistant Professor, San Diego State University; Past Member of the SAA Committee on Native American Relations (2013-2015, 2017-2019); Past Member of the SAA Indigenous Populations Interest Group (2013-2019)

Sara L. Gonzalez, Ph.D., Associate Professor & Curator of Archaeology at the Burke Museum of Natural History, University of Washington; Past Chair of the Indigenous Populations Interest Group; Advisor to the Committee on Native American Relations; Past Member of the Committee on Native American Relations; Member of the Native American Scholarships Committee; SAA Repatriation Survey Task Force Member (2013-2015)

Wendy G. Teeter, Ph.D., RPA, Curator of Archaeology, Fowler Museum at UCLA; UCLA NAGPRA Coordinator; UCLA American Indian Studies Lecturer; Member of the UC President’s Native American Advisory Council; Advisor and Past Chair of the SAA Committee on Native American Relations; Member of the SAA Native American Scholarships Committee; Past Member of the Committee on Museums, Collections, and Curation; Member of the SAA Indigenous Populations Interest Group; Member of the SAA Repatriation Interest Group

Dorothy T. Lippert, Ph.D., (Citizen of the Choctaw Nation of Oklahoma), Past Chair of SAA Committee on Native American Relations; Past Chair of SAA Native American Scholarships Committee; Past SAA Board Member, Member of the SAA Indigenous Populations Interest Group, Member of the SAA Repatriation Interest Group

Patricia Garcia-Plotkin, Director of Historic Preservation and Tribal Historic Preservation Officer, Agua Caliente Band of Cahuilla Indians; Past SAA Board Member; Past Chair of the SAA Committee on Native American Relations; Past Member of the SAA Native American Scholarships Committee; Member of the SAA Indigenous Populations Interest Group, Member of the SAA Repatriation Interest Group; Past Member of the SAA Committee on Native American Relations

Ora V. Marek-Martinez, Ph.D., (Diné, Nimiipuu, Hopi) Assistant Professor and Executive Director of the Native American Cultural Center, Northern Arizona University; Advisor & Past Chair of the SAA Committee on Native American Relations; Member of the Native American Scholarships Committee; Member of SAA Indigenous Populations Interest Group; Member of SAA Repatriation Interest Group