



NATIVE AMERICAN HERITAGE COMMISSION M E M O R A N D U M

January 11, 2022

To: Native American Heritage Commission
From: Vanessa Racehorse, CalNAGPRA Attorney
Re: Action Item: UC NAGPRA Committees Short-Term Substitution and Member Replacement Process

Background

CalNAGPRA requires the University of California (UC) to establish a systemwide Native American Graves Protection and Repatriation Act Implementation and Oversight Committee (UC Systemwide Committee), as well as campus NAGPRA Committees for each UC campus subject to federal NAGPRA. See Cal. Health & Saf. Code, § 8026, subds. (a)(1), (b)(1).

The UC must appoint members to the UC Systemwide and Campus Committees upon nomination by the Commission. Cal. Health & Saf. Code, § 8026, subd. (a)(3). To accomplish this, the Commission established a standardized nomination process and created a UC Nominations subcommittee, comprised of Commissioner Reginald Pagaling and former-Commissioner Merri Lopez-Keifer. The Commission is continuing to accept nomination submissions for the UC Systemwide and Campus Committees for future consideration.

During the July 30, 2021 Commission meeting, then-Commissioner Lopez-Keifer directed staff to work with the UC Office of the President to develop a proposed process to either substitute short-term or permanently replace UC NAGPRA Committee members that cannot participate in a determination or are no longer able to serve, respectively. Commission staff has worked with the UC Office of the President to develop such a proposed process, attached hereto as Attachment A, for the Commission's consideration. The UC Nominations subcommittee has reviewed the proposed process and **staff requests that the Commission consider approval of this proposed process.**

Proposed Process to Substitute or Replace UC NAGPRA Committee Members

1. Short-term Substitution

- There may be instances where a Committee would like to find a short-term substitute for a committee member who is absent or cannot participate in a determination because of a conflict of interest.
- If the Committee wants to find a substitute, they will make this request to the President's Designee for the Systemwide Committee or the Chancellor's Designee for a Campus Committee. In such cases, the President's Designee for the Systemwide Committee or the Chancellor's Designee for a Campus Committee can then request a committee member from a different Committee to substitute for the absent committee member.
- In selecting a substitute, the President's Designee or Chancellor's Designee must maintain the balanced representation among members of federally recognized tribes, members of non-federally recognized tribes, and UC members as described in California Health and Safety Code Sections 8026, subdivisions (a) and (b).
- The substitute must have gone through the NAHC nomination process in their appointment to their original committee.
- UC will notify the entire Committee about the planned substitution, and provide an opportunity for the Committee's objection or discussion prior to the use of the substitute. This can be accomplished via email, or if necessary, at the start of a Committee meeting.
- The Commission shall be notified when a short-term substitution will be made, and shall be provided the substitute's name, who they are serving as a substitute for, and the reason for the substitution.

2. Permanent Replacement

- In the event that the President's Designee or Chancellor's Designee needs to permanently fill a position on a committee, UC will submit a request for nominations from the NAHC according to the NAHC's Nomination Process. In the request, UC will identify the committee member being replaced, and if possible, the reason for the replacement, e.g., term expiration, resignation, absence, etc.
- Each Committee will determine the number of meetings a member can miss (without notice or good cause) in an academic year, after which a permanent replacement should be sought.
- A Committee member should notify UC when they anticipate being absent for more than a year. In such cases, UC will seek a permanent replacement.
- To the extent possible, NAHC will maintain a pre-approved pool of nominees to reduce the time between a request from the President's Designee or Chancellor's Designee and receipt of the nomination.
- In appointing a replacement, the President's Designee or Chancellor's Designee must maintain the balanced representation among members of federally recognized tribes,

members of non-federally recognized tribes, and UC members as described in California Health and Safety Code Section 8026, subdivisions (a) and (b).

- Typically, the President's Designee and the Chancellor's Designee should anticipate when a committee member needs to be permanently replaced due to ending terms (if not renewed) and should request the nominations from the NAHC with sufficient time, approximately 4 months, for the NAHC Nomination Process to take place.
- Members with ending terms that are willing and able to serve should be permitted to continue serving until a new nominee is appointed. UC will notify NAHC when a member's term has been extended.
- However, in circumstances where a committee position is open and the President's Designee or Chancellor's Designee does not yet have a nomination for a new member from the NAHC, the Designee will appoint a substitute according to the Short-term Substitution process described above until such nomination from the NAHC is received.