

# NATIVE AMERICAN HERITAGE COMMISSION

January 6, 2025

## Draft CalNAGPRA Mediation Regulations Overview of Revisions

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On October 18, 2024, the Native American Heritage Commission (NAHC or Commission) approved the release of a final draft of regulations for mediation conducted under the California Native American Graves and Repatriation Act (CalNAGPRA). The Commission began initial tribal consultation on the development of these draft regulations in August 2021, conducting a listening session and soliciting written feedback. Based on input received from tribes, draft regulations were created. On February 7, 2022, the Commission released the draft regulations and initiated a 45-day tribal consultation period after which time the draft regulations were revised to reflect tribal input. On January 19, 2024, the Commission released the revised version of these draft regulations, accepting public comments for 60 days during which time a total of 19 tribes participated in either individual tribal consultation or one of two virtual listening sessions held on March 6 and March 13, 2024. After incorporating tribal comments received during the 60-day review period, on October 18, 2024, the Commission released a final draft of these regulations. Public comments on the final draft were accepted for 45 days during which time a total of five tribes participated in either individual tribal consultation or the virtual roundtable session held on November 20, 2024. In addition to comments captured during the virtual roundtable session, the NAHC received a total of three written comments from tribes.

After reviewing the comments received, the Commission determined that no substantive changes were necessary but made the following changes for clarity and improved readability.

- Grammatical revisions throughout the draft regulations.
- Where the context implied that a notice should be written, the draft regulations were revised to explicitly state such requirement.
- To avoid conflict with the CalNAGPRA statute, the current draft reinstated a shorter deadline found at section 30007 (a) that had been extended.
- While the draft implied that the parties will pay the cost of mediation if Commission funding is unavailable, an explicit statement of that fact was added.
- Added statutory language, providing that the Commission's decision constitutes a final administrative remedy that is reviewed in a superior court, so that parties are fully informed about this potential remedy.