

SACRAMENTO OFFICE:
STATE CAPITOL, ROOM 5061
SACRAMENTO, CA 95814-4900
TEL (916) 651-4016
FAX (916) 327-5989

DISTRICT OFFICES:
1800 30TH STREET, #350
BAKERSFIELD, CA 93301
TEL (661) 395-2620
FAX (661) 395-2622

2550 MARIPOSA MALL, #2016
FRESNO, CA 93721
TEL (559) 264-3070
FAX (559) 445-6506

California State Senate



DEAN FLOREZ

SENATOR, SIXTEENTH DISTRICT
CHAIR,
GOVERNMENTAL ORGANIZATION

CHAIRMAN:
GOVERNMENTAL ORGANIZATION
AIR QUALITY
FOOD-BORNE ILLNESS
GENDER DISCRIMINATION AND
TITLE IX IMPLEMENTATION

STANDING COMMITTEES:
AGRICULTURE
APPROPRIATIONS
BANKING, FINANCE AND
INSURANCE
ENVIRONMENTAL QUALITY
BUSINESS, PROFESSIONS AND
ECONOMIC DEVELOPMENT

SELECT COMMITTEES:
ASIAN PACIFIC RIM
ECONOMIC DEVELOPMENT
CALIFORNIA'S WINE INDUSTRY
PUBLIC HEALTH AND THE
ENVIRONMENT

SUBCOMMITTEE:
BUSINESS, PROFESSIONS AND
ECONOMIC DEVELOPMENT
SUBCOMMITTEE ON ECONOMY,
WORKFORCE PREPARATION
AND DEVELOPMENT

February 27, 2008

Chancellor Robert J. Birgeneau
Office of the Chancellor
200 California Hall #1500
University of California
Berkeley, CA 94720-1500

Dear Chancellor Birgeneau:

On Tuesday, February 26, 2008, the Senate Committee on Governmental Organization conducted an informational hearing to review UC Berkeley's reorganization of the Native American Graves Protection and Repatriation Act (NAGPRA) Compliance Unit in the Phoebe Hearst Museum of Anthropology (PHMA). Prior to the hearing, I was inclined to give UC Berkeley officials the benefit of the doubt that the exclusive and disrespectful manner in which they had treated Native Americans was simply an unintended consequence of poor judgment.

However, after reviewing the facts and listening to the testimony of the witnesses at the hearing, I am appalled to find that the actions of UC Berkeley officials were orchestrated to give greater control over NAGPRA activities and budgeting to research scientists and to systematically exclude Native Americans from having any involvement in the process altogether. This is completely unacceptable, from a civil and human rights perspective. Further, these actions are completely unacceptable from a public institution that prides itself on diversity and inclusion.

Federal and state NAGPRA laws, respectively, provide federally and non-federally recognized tribes standing as claimants to repatriate ancestral human remains and artifacts from institutions that currently house them. Institutions are required to acknowledge legitimate tribal claims and make good faith efforts to investigate, adjudicate and satisfy the claims when justified. Federal and state NAGPRA laws are not prescriptive in the processes that each institution must utilize in the administration of its NAGPRA programs. This gives each institution a significant amount of latitude to design and establish processes that may meet the letter of the law but not the spirit of the law.

From my perspective, UC Berkeley officials have acted secretly and without transparency to circumvent the mandates and the spirit of federal and state NAGPRA laws. This has to change immediately and the resolution needs to come from the highest level at UC Berkeley, namely, your office.

I, along with many others, have always held UC Berkeley in the highest esteem as a leading institution in one of the finest educational systems in the world. Once again, I, like many others, were extremely disappointed by the actions taken at PHMA and the complicity of UC Berkeley officials to simply sit idly by as the ruse occurred. The actions do not meet with the high standards of excellence that the public demands and deserves from one of its most prestigious public institutions.

As the chief administrator of UC Berkeley, I am asking you, specifically, to exemplify the leadership that is needed to correct this breach of the public trust by convening a meeting with Native American stakeholders within the next 30 days to develop an acceptable solution. I would like to hear back from you, within the next two weeks, as to how you plan to proceed.

Sincerely,



DEAN FLOREZ, Chairman
Senate Governmental Organization Committee

cc: Senator Darrell Steinberg
Senate Governmental Organization Committee Members
Native American NAGPRA Coalition
107 federally recognized tribes
University of California, Office of the President