

the identity or cultural affiliation of any cultural items and the return of such items may be admissible in any action brought under section 3013 of this title.

**(e) Recommendations and report**

The committee shall make the recommendations under paragraph<sup>2</sup> (c)(5) in consultation with Indian tribes and Native Hawaiian organizations and appropriate scientific and museum groups.

**(f) Access**

The Secretary shall ensure that the committee established under subsection (a) of this section and the members of the committee have reasonable access to Native American cultural items under review and to associated scientific and historical documents.

**(g) Duties of Secretary**

The Secretary shall—

- (1) establish such rules and regulations for the committee as may be necessary, and
- (2) provide reasonable administrative and staff support necessary for the deliberations of the committee.

**(h) Annual report**

The committee established under subsection (a) of this section shall submit an annual report to the Congress on the progress made, and any barriers encountered, in implementing this section during the previous year.

**(i) Termination**

The committee established under subsection (a) of this section shall terminate at the end of the 120-day period beginning on the day the Secretary certifies, in a report submitted to Congress, that the work of the committee has been completed.

(Pub. L. 101-601, § 8, Nov. 16, 1990, 104 Stat. 3055.)

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3002, 3003 of this title.

**§ 3007. Penalty**

**(a) Penalty**

Any museum that fails to comply with the requirements of this chapter may be assessed a civil penalty by the Secretary of the Interior pursuant to procedures established by the Secretary through regulation. A penalty assessed under this subsection shall be determined on the record after opportunity for an agency hearing. Each violation under this subsection shall be a separate offense.

**(b) Amount of penalty**

The amount of a penalty assessed under subsection (a) of this section shall be determined

under regulations promulgated pursuant to this chapter, taking into account, in addition to other factors—

- (1) the archaeological, historical, or commercial value of the item involved;
- (2) the damages suffered, both economic and noneconomic, by an aggrieved party,<sup>1</sup> and
- (3) the number of violations that have occurred.

**(c) Actions to recover penalties**

If any museum fails to pay an assessment of a civil penalty pursuant to a final order of the Secretary that has been issued under subsection (a) of this section and not appealed or after a final judgment has been rendered on appeal of such order, the Attorney General may institute a civil action in an appropriate district court of the United States to collect the penalty. In such action, the validity and amount of such penalty shall not be subject to review.

**(d) Subpoenas**

In hearings held pursuant to subsection (a) of this section, subpoenas may be issued for the attendance and testimony of witnesses and the production of relevant papers, books, and documents. Witnesses so summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

(Pub. L. 101-601, § 9, Nov. 16, 1990, 104 Stat. 3057.)

**§ 3008. Grants**

**(a) Indian tribes and Native Hawaiian organizations**

The Secretary is authorized to make grants to Indian tribes and Native Hawaiian organizations for the purpose of assisting such tribes and organizations in the repatriation of Native American cultural items.

**(b) Museums**

The Secretary is authorized to make grants to museums for the purpose of assisting the museums in conducting the inventories and identification required under sections 3003 and 3004 of this title.

(Pub. L. 101-601, § 10, Nov. 16, 1990, 104 Stat. 3057.)

**§ 3009. Savings provision**

Nothing in this chapter shall be construed to—

- (1) limit the authority of any Federal agency or museum to—

(A) return or repatriate Native American cultural items to Indian tribes, Native Hawaiian organizations, or individuals, and

(B) enter into any other agreement with the consent of the culturally affiliated tribe or organization as to the disposition of, or control over, items covered by this chapter;

- (2) delay actions on repatriation requests that are pending on November 16, 1990;

- (3) deny or otherwise affect access to any court;

- (4) limit any procedural or substantive right which may otherwise be secured to individuals or Indian tribes or Native Hawaiian organizations; or

<sup>2</sup> So in original. Probably should be “subsection”.

<sup>1</sup> So in original. The comma probably should be a semicolon.