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STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD
UNFAIR PRACTICE CHARGE

DO NOT WRITE IN THIS SPACE: Case No:

LA-CE-1437-H

Date Filed: 01/06/2025

INSTRUCTIONS: File the original and one copy of this charge form in the appropriate PERB regional office (see PERB Regulation 32075), with proof of service attached to each copy. Proper filing includes concurrent service and proof of service of the charge as required by PERB Regulation 32615(c). All forms are available from the regional offices or PERB's website at www.perb.ca.gov. If more space is needed for any item on this form, attach additional sheets and number items.

IS THIS AN AMENDED CHARGE?

YES ☐

If so, Case No

NO ☒

1. CHARGING PARTY: EMPLOYEE ☐

EMPLOYEE ORGANIZATION ☒

EMPLOYER ☐

PUBLIC¹ ☐

- a. Full name: University Professional & Technical Employees, CWA Local 9119
- b. Mailing Address: 2855 Telegraph Ave., Suite 602, Berkeley, CA 94705
- c. Telephone number: (510) 849-7025
- d. Name and title of agent to contact: Andrew Kahn, General Counsel E-mail Address: andy@upte.org
Telephone number: (510) 849-7025 Fax No.:
- e. Bargaining Unit(s) involved: HX, TX, RX

2. CHARGE FILED AGAINST: (mark one only) EMPLOYEE ORGANIZATION ☐

EMPLOYER ☒

- a. Full name: Regents of the University of California
- b. Mailing Address: 1111 Franklin St. 8th Fl., Oakland, CA 94607
- c. Telephone number: (510) 987-9800
- d. Name and title of agent to contact: Allison Woodall, Deputy General Counsel E-mail Address: UCPERB@ucop.edu
Telephone number: (510) 987-9800 Fax No.:

3. NAME OF EMPLOYER (Complete this section only if the charge is filed against an employee organization.)

- a. Full name:
- b. Mailing address:

4. APPOINTING POWER: (Complete this section only if the employer is the State of California. See Gov. Code, § 18524.)

- a. Full name:
- b. Mailing Address:
- c. Agent:

5. GRIEVANCE PROCEDURE

¹An affected member of the public may only file a charge relating to an alleged public notice violation, pursuant to Government Code section 3523, 3547, 3547.5, or 3595, or Public Utilities Code section 99569

Are the parties covered by an agreement containing a grievance procedure which ends in binding arbitration?

Yes ☐ No ☒ Unknown ☐

6. STATEMENT OF CHARGE

a. The charging party hereby alleges that the above-named respondent is under the jurisdiction of: (check one)

- ☐ Educational Employment Relations Act (EERA) (Gov. Code, § 3540 et seq.)
- ☐ Ralph C. Dills Act (Gov. Code, § 3512 et seq.)
- ☒ Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code, § 3560 et seq.)
- ☐ Meyers-Millas-Brown Act (MMBA) (Gov. Code, § 3500 et seq.)
- ☐ Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) (Pub. Utilities Code, § 99560 et seq.)
- ☐ One of the following Public Utilities Code Transit District Acts: San Francisco Bay Area Rapid Transit District Act (SFBART Act) (Pub. Util. Code, § 28848 et seq.), Orange County Transit District Act (OCTDA) (Pub. Util. Code, § 40000 et seq.), Sacramento Regional Transit District Act (Sac RTD Act) (Pub. Util. Code, § 102398 et seq.), Santa Clara VTA, (Pub. Util. Code, § 100300 et seq.), and Santa Cruz Metro (Pub. Util. Code, § 98160 et seq.)
- ☐ Trial Court Employment Protection and Governance Act (Trial Court Act) (Article 3; Gov. Code, § 71630 – 71639.5)
- ☐ Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Gov. Code, § 71800 et seq.)

b. The specific Government or Public Utilities Code section(s) or PERB regulation section(s) alleged to have been violated is/are:

Gov Code sections 3565, 3568, 3570, 3571(a), (b), and (c)

c. For MMBA, Trial Court Act and Court Interpreter Act cases, if applicable, the specific local rule(s) alleged to have been violated is/are **(a copy of the applicable local rule(s) MUST be attached to the charge):**

d. Provide a clear and concise statement of the conduct alleged to constitute an unfair practice including, where known, the time and place of each instance of respondent's conduct, and the name and capacity of each person involved. This must be a statement of the facts that support your claim and *not conclusions of law*. A statement of the remedy sought must also be provided. *(Use and attach additional sheets of paper if necessary.)*

See attached

DECLARATION

I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief. (A Declaration will be included in the e-mail you receive from PERB once you have completed this screen. The person filing this Unfair Practice Charge is required to return a properly filled out and signed original Declaration to PERB pursuant to PERB Regulations 32140 and 32135.)

/s/ Andrew Kahn
(Type or Print Name)

/s/ /s/ Andrew Kahn
(Signature)

12/19/2024
Date



STATEMENT OF CHARGE BY UPTE OVER UC SPEECH RULES

I. SUMMARY

This fall, UC managers unilaterally adopted without prior notice a host of new speech-restrictive access rules (“the New Rules”) for employees and employee organizations at all UC locations except UC Berkeley (“UCB”) and UC Santa Barbara (“UCSB”). The New Rules contain several key changes in past practices, such as: Lawrence Berkeley Lab (“LBL”) limiting handbilling to merely three places (generally far from visitors) and banning union staff and officers from attending rallies; UCLA Campus barring any “gathering” by any union whose membership is primarily employees of other locations (such as UPTE) absent UCLA management agreeing to serve as “guarantor” of such activity; and UCI demanding unions take down all of their postings every 30 days even if those postings are not about time-limited events (such as ones explaining how to contact UPTE). Many locations restricted the areas where employees can protest to a tiny percentage of the campus, and added requirements to obtain management permission to set up even a small card table for union leaflets or canopy to cover leaflets (even if being set up in a middle of large plaza with no possible interference with pedestrian passage).

Both old and new speech rules at all campuses now contain provisions which are unreasonable in their substance: for example, many New Rules either flatly ban union rallies on most lawns and paved areas at each location, or else require UC officials’ permission to use the primary sidewalks and paved areas near UPTE members’ primary workplaces. Several locations are unreasonably banning handbilling anywhere near their doors (two mandating 50-foot distances from doors, while UC Merced is absurdly mandating 30 feet not only from doors but also from walkways, roadways, and parking areas – essentially forcing any protests to be out in the middle of nowhere). As a result, several UC locations now bar any speech on more than 80 percent of their sidewalks and open areas which heretofore have been used for union and employee speech without management objection. These rules are contrary to clear appellate court precedent such as in *McCullen v. Coakley* (2014) 573 U.S. 464 (35-foot buffer zone invalidated).

UC’s rules either ban use of an ordinary bullhorn, table for literature and sign larger than 30 square inches, or else require advance UC permission for such speech tools. In every situation where the rules require UC permission for a speech activity, they fail to provide any clear standards for UC decisionmakers, and fail to provide any deadline for UC to render decisions on union requests – leaving organizers and members in limbo until just before their planned events. All this is contrary to HEERA



precedent (and constitutional law precedent which informs PERB's interpretation of HEERA).

Contrary to past practice, UCSF and UCI also now require proof of \$1 million in insurance covering both the union and UC for every single event, no matter how small. UCSF also requires every event (no matter how small) to be preceded by a request 10 days in advance for "security review". These are excessively burdensome for gatherings of just a handful of attendees to briefly meet on a lawn. But 10 days' notice is mild as many of the New Rules go at other campuses: UCSD demands notice 35 days in advance -- obviously unreasonable because it is no less equipped to do reviews than UCSF which can presumably complete them in only 10 days, and UCSD itself only requires 21 days' notice from students. UCI unreasonably demands a permit application 21 days in advance of even the smallest of outdoor events.

Both the New Rules and existing rules at UCB impose an impermissibly-vague and overbroad standard that no protest "disrupt" or "disturb" UC classes or other operations. This is contrary to appellate courts' longstanding recognition that protected free speech includes disturbing or disruptive speech on campuses so long as disruption is not its sole intent nor violence imminent. *In re Brown* (1973) 9 Cal. 3d 612.

UC's rationale for acting unilaterally without any real notice to unions (at best a few days or hours) was SB 108 of 2023, but this merely called for a report to legislators by UC by October 1st, not sudden massive new restrictions by UC. This bill clearly does not amend HEERA to allow new speech restrictions to be imposed without prior notice. The Legislature's request for a report is not close to adequate legal justification for UC not engaging in negotiations prior to implementing and announcing these rules to all unit employees.

Thus both the underlying substance of speech rules at every campus, and the manner of adoption of new rules, violated HEERA. If UC moves to further enforce any of these regulations against UPTE, preliminary injunctive relief will be requested, as the chilling effects on protected speech during contract negotiations are serious irreparable harms. The statutory mandate for factfinding is useless if workers' primary means for disseminating favorable factfinding results are suppressed by UC rules punishing speech.

II. FACTUAL BACKGROUND

Charging Party University Professional & Technical Employees, CWA Local 9119 ("UPTE") is the recognized representative of the Research, Technical and Health



Professional units at UC (RX, TX and HX). UPTE's HX contract expired 9/30/24; RX and TX contracts expired 10/31/24.

UPTE represents employees at 13 "locations" (campuses, medical centers and LBL) each with its own policies on speech: LBL, UC Berkeley ("UCB"), UC Davis campus ("UCD"), UC Davis Health (UCDH), UC Irvine campus ("UCIC"), UC Irvine Health ("UCIH", which includes its main hospital (Douglass Hospital) and several community hospitals and clinics); UCLA Campus ("UCLAC") and UCLA Health ("UCLAH", which includes its main hospital - "Ronald Reagan University Medical Center, "RRUMC" – and several other health facilities including Santa Monica Hospital and West Valley Medical Center); UC Merced ("UCM"), UC San Diego ("UCSD"), UC San Francisco ("UCSF", which now includes hospitals at Parnassus, Mission Bay, Mt Zion and St Francis), UC Santa Barbara ("UCSB") and UC Santa Cruz ("UCSC").

UPTE has been actively holding rallies at most of the UC locations during this past several months. Such rallies have almost always involved use of bullhorn, a portable card table to hold union literature, a canopy to protect literature, signs and attendees from rain or sun, and a banner larger than 30" x 30". Prior to being sent the New Rules, UPTE was not advised by UC that any of these techniques were impermissible absent prior management permission.

In statewide bargaining for successor contracts, UC repeatedly proposed that UPTE agree that violations of access policies become punishable via discipline of the UC employees involved and by UC suspending or banning individual UPTE staffpersons (with no standards for such suspensions or bans). UC also advised in UPTE negotiations that UCOP would not deal with UPTE's objections to the substance of access rules at the statewide bargaining table, that instead this was entirely up to local negotiations with each "location" (campus, medical center or lab). However, none of the locations with New Rules sought to bargain prior to implementation, and all have rejected UPTE's request for stay of effectiveness pending bargaining. While UPTE made detailed written proposals to each location to cure the problems which UPTE identified in each location's rules, not a single location has made a counterproposal to UPTE.

III. PROCEDURAL HISTORY

Attached as Exhibit A(1) is the notice sent by UCSF in 2024 to UPTE with its new rules, which are attached hereto as Ex. A(2). Attached as Exhibit A(3) is the response sent to UCSF by UPTE seeking suspension of effective date. UCSF's response (refusing to suspend the rules and containing no explanation of its rules' rationale) is attached as Ex. A(4) and has been the standard response by all campuses. Attached as

Ex. A(5) is UPTE's November 1st proposal to UCSF to cure the defects in the rules identified earlier by UPTE. This included a request to authorize use of a canopy to keep leaflets and signs dry during rain. However, this request was ignored. UPTE erected a canopy outside the UC Regents meeting on November 12. UCSF officials protested at the time and then sent UPTE a reminder of the policy. Ex A(6). UPTE responded by reminding UCSF that it had applied for authorization weeks prior and been ignored. Ex. A(7).

Attached as Exhibit B(1) is the notice sent by UCD in 2024 with policies attached hereto as Ex.B(2). Attached as Exhibit B(3) is the response sent to UCD by UPTE. UCD's reply is attached as Ex. B(4).

Attached hereto as Exhibit C(1) is the notice sent by LBL in Sept. 2024 with new Policy attached hereto as C(2). As noted above, the new Policy banned union officials not employed by the Lab from accessing the Lab's campus to attend a rally. It also restricted rallies to three locations, one of which is a parking lot below the entrance gate at least a 20-minute walk from buildings where staff work, the other two are lots with food trucks rarely used by visitors. Attached hereto as Exhibit C(3) is the response sent to LBL by UPTE. LBL's responses are attached hereto as Ex. C(4). UPTE sent LBL a proposal on 10/21 (Ex. C5). UPTE then met with two mid-level LBL officials (two HR representatives and Security Director David von Damm) on 10/23/24 in an effort to bargain changes to LBL's Policy. UPTE provided maps showing the Policy's large reduction in number and size of areas for protests where it had been allowed in past (Ex. C(6)). LBL made no counterproposal and presented no documents. Nonetheless, UPTE at the meeting offered several added restrictions on its conduct, such as capping the volume of bullhorn or other noisemaker so that it could not cause a sound level indoors above 45 decibels, capping the number of handbillers at two per door staying at least 5 feet from the door, and agreeing that union officials if allowed to attend rallies would individually sign agreements to follow the same restrictions on their conduct as Lab employees must follow. Subsequent to this meeting, UPTE made an followup proposal offering several added restrictions upon its conduct, such as capping the number of union officials would could join rallies held by Lab employees, capping the number of rally attendees at the locations where it rallied in the past, requiring advance notice to LBL if the rally organizer knows there will be multiple rallies at the same time, and capping the number of rallies at the same time. Ex. C(7). LBL met with UPTE on December 18th and had no counterproposals, merely reporting that it was still having internal discussions and discussions with other unions.

Attached hereto as Exhibit D(1) is the notice sent by UCIH in July 2024 with policies attached hereto as Ex. D(2). Attached hereto as Exhibit D(3) is the response sent to UCI by UPTE. UCI's responses are attached hereto as Ex. D(4).

Attached hereto as Exhibit E(1) is the notice sent by UCI in Sept. 2024 for the campus ("UCI-C") with policies attached hereto as Ex. E(2). Attached hereto as Exhibit E(3) is the response sent by UPTE. UCI-C's responses are attached hereto as Ex. E(4).

Attached hereto as Exhibit F(1) is the notice sent by UCLAH on July 9, 2024 (which contains a typographic error in being labelled June 9, as confirmed to UPTE by UCLAH's ELR officials) with policies attached hereto as Ex. F(2). Attached hereto as Exhibit F(3) is the response sent to UCLAH by UPTE. UCLAH's responses are attached hereto as Ex. F(4). A map showing the effect of UCLAH's limitations of areas permitted for speech is attached as Ex. F(5). Attached hereto as Exhibit G(1) is the notice sent by UCLA Campus (UCLAC) in 2024 with policies attached hereto as Ex. G(2). Attached hereto as Exhibit G(3) is the parties' correspondence. In it UPTE proposed UCLA adopt the same policy for employee organizations' speech as UCSB without banning flyering of vehicles. UCLAC proposed no changes to its policy except removing a requirement for architect review would not apply to picket signs and card tables. The parties met on October 28, 2024. They were unable to come to agreement.

Attached hereto as Exhibit H(1) are the new speech rules posted by UCM in September 2024 without giving prior notice to UPTE. UPTE's demands in response are attached hereto as Ex. H(2). Attached hereto as Exhibit H(3) are copies of subsequent correspondence between the parties, which include UPTE sending a written proposal to which UCM has not offered a substantive response.

Attached hereto as Exhibit I(1) is the notice sent by UCSD in Aug. 2024 with policies attached hereto as Ex. I(2). Attached hereto as Exhibit I(3) is the response sent to UCSD by UPTE. UCSD's response is attached hereto as Ex. I(4). UPTE made an additional proposal via email of 9/26 (Ex. I(5)), urging UCSD adopt UCSB's approach by having a separate set of rules for labor groups). UCSD corrected the inconsistency in its two policies' definitions of major events (one having a 75-attendee trigger, the other a 100-attendee trigger) raised by UPTE at the outset, but otherwise UCSD has made no changes or counterproposals.

Attached hereto as Exhibit J(1) is the notice sent by UCSC in Sep. 2024 with policies attached hereto as Ex. J(2). Attached Hereto as Exhibit J(3) is the response sent to UC by UPTE questioning whether card tables and shades during rallies would continue to be allowed as they had in the past and asserting that the law required UCSC to do so, and requesting bargaining. UCSC did not respond.

Attached hereto as Exhibit K(1) are copies of relevant provisions of UCR's speech policy for which no prior notice was sent to UPTE prior to its effective date of 9/3/24. When it was discovered by UPTE, it sent Ex. K(2) objecting to its provisions and demanding a standstill in enforcement and requesting bargaining. UCR has not suspended any of the provisions as to UPTE nor provided any substantive response.

Attached hereto as Exhibit L(1) are copies of relevant provisions of UCB's speech policy. UPTE sent Ex. L(2) objecting to its provisions and demanding a standstill in enforcement and bargaining. UCB has not responded and has not suspended any of the rules as to UPTE. UPTE organizer Todd Kolze inquired about this with ELR staff who acknowledged receipt but did not know who at UCB was assigned to respond and offered no excuse for not responding.

Attached hereto as Ex. M(1) is UCSB's speech policy for employee organizations from 2016 which UCSB advised in September 2024 would continue in effect. UPTE objected to this policy's ban on leafletting parked cars and demanded to bargain. UCSB refused to negotiate on the grounds that the policy was adopted in 2016. UPTE explained that because the contracts were expiring and negotiation of access rules had been turned over by UCOP to each locations, this was a policy now open for renegotiation. UPTE received no response. Attached hereto as Exhibit M(2) is the parties' correspondence.

IV. SUMMARY OF LEGAL STANDARDS

HEERA provides for PERB scrutiny of access rules at section 3568: "Subject to reasonable regulations, employee organizations shall have the right of access at reasonable times to areas in which employees work, the right to use institutional bulletin boards, mailboxes and other means of communication, and the right to use institutional facilities at reasonable times for the purpose of meetings concerned with the exercise of the rights guaranteed by this act." HEERA through Gov Code sections 3565 and 3571 protects the rights of employees and their organizations to engage in union speech in non-work areas absent compelling contrary interests. See, e.g., *Cal. Public Sector Labor Relations* (Cal. Bar 2024) ("To establish reasonableness, the employer must show that its regulation is (1) necessary to the efficient operation of the employer's business and/or safety of its employees and others; and (2) narrowly drawn to avoid overbroad, unnecessary interference with the exercise of statutory rights." (citing *County of Tulare* (2020) PERB Dec. No. 2697-M, p. 20 (employer rule regulating union activity must not use vague or overbroad language) and *County of Riverside* (2012) PERB Dec. No. 2233-M, p. 7). See also *ATU v. OmniTrans* (2009) PERB Dec. No. 2030-M at 26-8 ("Employees have a protected right to engage in union activity in non-work areas during

non-working time. (*State of California (Employment Development Department)* (1999) PERB Decision No. 1365-S; *Republic Aviation*, supra, 324 U.S. at pp. 798-799.) An employer may regulate union activity in non-work areas during non-working time only if the regulation is ‘necessary to maintain order, production or discipline.’ (*State of California (Employment Development Department)*, supra; *Republic Aviation*, supra, 324 U.S. at p. 803, fn. 10.)”)

PERB is guided in its assessment of reasonableness of access rules by caselaw under the First Amendment and State Constitution. See, e.g., *Regents of the University of California* (2012) PERB Dec. No. 2300-H (“*San Marcos Unified School District* (2003) PERB Decision No. 1508 (*San Marcos*) also provides guidance on how constitutional principles of free speech inform the Board's conclusion that peaceful informational picketing is protected under EERA.”).¹

While the First Amendment is interpreted more narrowly than the speech guarantees of the California Constitution, even First Amendment caselaw generally recognizes public university campuses are public fora: see, e.g., *Shaw v. Burke*, 2018 U.S. Dist. LEXIS 7584, *22 (C.D. Cal. 2018) (“Given the traditional purpose of the open, outdoor areas of universities, such as the ‘Mall’ on Pierce's campus, the Court finds that these areas are traditional public fora, regardless of Pierce's regulations naming them non-public fora. Id.; *Bowman*, 444 F.3d at 979 (‘College campuses traditionally and historically serve as places specifically designated for the free exchange of ideas.’).”) California courts have an even broader view than First Amendment caselaw as to where speech is protected, holding for example that walkways and parking lots outside secure facilities must allow leafletting despite security concerns in *Prisoners Union v. Cal. Dept. of Corrections* (1983) 135 CA3d 930 and *UC Nuclear Weapons Lab Conversion Project v. Lawrence Livermore Lab.* (1984) 154 CA3d 157. In *Carreras v. Anaheim* (9th Cir. 1985) 768 F.2d 1039, 1045, the Ninth Circuit held the basic test under California law is whether the communicative activity ‘is basically incompatible with the normal activity of a particular place at a particular time.’ [Citations.]” Applying that test, the court found leafletting could not be barred on the exterior walkways and parking areas of a stadium. In another case applying this “basic incompatibility” test, the Ninth Circuit held the parking lot and walkways of a venue for sports and music also must under California law permit such speech. *Kuba v. 1-A Agricultural Assn.* (9th Cir. 2004) 387 F.3d 850, 857.

¹ See also *Wilmar Union Elementary School District* (2000) PERB Dec. No. 1371-E at 14-15 (“It is well settled that PERB may construe EERA in light of constitutional precedent. (*Cumero v. Public Employment Relations Bd.* (1989) 49 Cal.3d 575, 583 [262 Cal.Rptr. 46]; *Richmond Unified School District/Simi Valley Unified School District* (1979) PERB Decision No. 99 at p. 16 (Richmond/Simi Valley).”).

PERB should also demand clarity in UC's policies applicable to non-employee union representatives because criminal punishments for violation are authorized by Ed. Code section 924405. See, e.g., *People v. Mirmirani* (1981) 30 Cal.3d 375, 383 ("when a criminal statute impacts on First Amendment rights, greater precision should be required to survive a void-for-vagueness challenge. '[Stricter] standards of permissible statutory vagueness may be applied to a statute having a potentially inhibiting effect on speech; a man [or woman] may the less be required to act at his [or her] peril here, because the free dissemination of ideas may be the loser.' (*Smith v. California* (1959) 361 U.S. 147, 151.").

V. UC'S SPEECH RULES ARE UNREASONABLE AND VIOLATE HEERA

Charging Party will address the HEERA violations here in roughly the order of how serious those violations appear in Charging Party's view. Each paragraph letter below corresponds to the letter of the relevant exhibits for such location.

A. UCSF's RULES ARE UNREASONABLE AND VIOLATE HEERA

1. *Unreasonable Minimum Distance from Doors*

UCSF's Procedure (Ex. A2) at Section B(2)(d) requires everyone engaged in any communication – even a quiet solo handbiller – stay at least 50 feet from every door. This renders handbiling almost-entirely ineffective at all UCSF doors (as it has none where there is a narrow 50-foot tunnel leading to the door). This rule destroys the ability of unions to appeal to those who don't already sympathize but instead need a little education about the issues, because this rule makes so easy for anyone to walk in or out without having to even have eye contact with a protestor, let alone get close enough to receive a leaflet. This rule in effect means that anyone reluctant to receive a handbill or have a chat with a protestor doesn't even have to go to the trouble of saying "I'm not interested". The 50-foot zone at most doors (where entry is typically from several directions from a wide-open plaza) means even two handbillers able to sprint from one visitor to the next would not have time to get to all people trying to enter if they came more frequently than once every minute. All UCSF doorways can accommodate a picket or handbiller closer than 50 feet without causing blockage. Even shorter distance limits have consistently been struck down by the courts as overbroad restrictions on speech: see, e.g., *McCullen v. Coakley* (2014) 573 U.S. 464 (35-foot buffer zone

invalidated)²; *UFCW Int'l Union v. IBP, Inc.* (8th Cir. 1988) 857 F.2d 422 (striking down statute barring more than two pickets within 50 feet of entrance); *Howard Gault Co. v. Texas Rural Legal Aid, Inc.* (5th Cir. 1988) 848 F.2d 544, 561 (“Little imagination is required to envisage circumstances where groups of demonstrators, substantially larger than two persons, standing at closer quarters than fifty feet would not threaten the safe flow of traffic nor unreasonably interfere with free ingress or egress from nearby buildings.”); *Dallas Asso. of Community Organizations for Reform Now v. Dallas County Hospital Dist.* (5th Cir. 1982) 670 F.2d 629, 632-633 (“a public hospital's rules should set forth standards that allow some freedom of expression outside patient areas, for example on the sidewalks and in the parking lots, that would cause little harm or disturbance to the hospital's operation. Thus, we are not chastising Parkland for its sensitivity to patient needs, but we are, under clearly established constitutional principles, requiring that standards must be set forth that are consistent with both patient needs and freedom of expression.”).

Ten of the 12 other locations’ rules lack a requirement for distance from doors.³ UCSF has many less-burdensome ways to prevent protests from blocking entrance or egress, such as expressly banning the blocking of entrance or egress. It has numerous less-burdensome ways to prevent protests from causing excessive noise inside a building, such as regulating decibel levels. UCSF has no need for such a strong “prophylactic” measure like this distance requirement from every door. UCSF unions such as UPTE repeatedly have gone closer than 50 feet to all sorts of doors, even ones leading to patient care areas, and received no complaints from anyone about doing so. UCSF’s rule is not limited to doors used by sick patients, but rather also applies to doors used solely by students and staff. Thus UCSF’s blanket 50-foot “bubble” is perhaps the worst speech restriction in the entire UC system.

2. Unreasonable Mandate for Applications for Security Review for All Assemblies

² As with the plaintiffs in *Coakley*, unions must heavily depend on handbilling and one-on-one conversations to persuade UC customers to show support or persuade employees to join strike activities (or select union representation in the first place); these are messages too complicated to fit on a distant picket sign. The Court’s logic applies here: “Petitioners wish to converse with their fellow citizens about an important subject on the public streets and sidewalks—sites that have hosted discussions about the issues of the day throughout history. Respondents assert undeniably significant interests in maintaining public safety on those same streets and sidewalks, as well as in preserving access to adjacent healthcare facilities. But here the Commonwealth has pursued those interests by the extreme step of closing a substantial portion of a traditional public forum to all speakers. It has done so without seriously addressing the problem through alternatives that leave the forum open for its time-honored purposes.” *Id.*, 573 U.S. at 496-97. The 50-foot restriction here is far greater than what courts have approved: see *Hill v. Colorado* (2000) 530 US 703 (approving 8-foot bubble zone).

³ UCD is requiring 50 feet for healthcare doors but merely 25 feet for non-healthcare doors; UCM is requiring 30 feet.

Section F of this Procedure states in pertinent part: “A security review by the UCSF Police Department is required for any Expressive Activity that is planned in advance.” Requirements like this for advanced permission from government officials for even small groups to engage in speech on exterior spaces have repeatedly been found unreasonable and thus unconstitutional, as noted in *Smith v. County of Los Angeles* (1994) 24 CA4th 990, 999:

The Supreme Court has repeatedly held that an ordinance " "which . . . makes the peaceful enjoyment of freedoms which the Constitution guarantees contingent upon the uncontrolled will of an official--as by requiring a permit or license which may be granted or withheld in the discretion of such official--is an unconstitutional censorship or prior restraint upon the enjoyment of those freedoms." ' ' (*FW/PBS, Inc. v. City of Dallas*, supra, 493 U.S. at p. 226 [107 L.Ed.2d at p. 618] [citing *Shuttlesworth v. City of Birmingham* (1969) 394 U.S. 147, 151 (22 L.Ed.2d 162, 167, 89 S.Ct. 935)].) Addressing the constitutionality of a parade permit requirement, *Shuttlesworth* held "that a law subjecting the exercise of First Amendment freedoms to the prior restraint of a license, without narrow, objective, and definite standards to guide the licensing authority, is unconstitutional." (394 U.S. at pp. 150-151 [22 L.Ed.2d at p. 167])"

See also *Santa Monica Food Not Bombs v. City of Santa Monica* (9th Cir. 2006) 450 F.3d 1022, 1039 (hereafter "*Food Not Bombs*"):

Small groups, however, can also ‘march’ and ‘assemble’ for expressive purposes, and can do so without interfering with the free flow of traffic (except in the trivial respect that anyone walking on a public sidewalk or roadway takes up space and therefore prevents someone else from traveling precisely the same route). Without a provision limiting the permitting requirements to larger groups, or some other provision tailoring the regulation to events that realistically present serious traffic, safety, and competing use concerns, significantly beyond those presented on a daily basis by ordinary use of the streets and sidewalks, a permitting ordinance is insufficiently narrowly tailored to withstand time, place, and manner scrutiny.

UCSF’s permitting requirement is also unreasonable because it fails to set any time limit on how long requests for permission will take for UC officials to decide, leaving organizers and workers in extended limbo, making it impossible as a practical matter to plan a rally (as no one knows when or where to show up). Workers on a meal break don’t have time to waste trying to find out if and where the rally is supposed to be. Many workers have dependent care responsibilities before or after work, so for an after-work

rally they again they do not have the time to deal with the limbo created by this rule. See *Long Beach Lesbian & Gay Pride, Inc. v. City of Long Beach* (1993) 14 CA4th 312, 332 (hereafter “*Gay Pride*”)(“avoidance of limbo requires a deadline for action following application. *** Chapter 5.60's failure to include such an express limit is improper.”).⁴

It is especially unreasonable and violative of HEERA for UCSF to require prior notice by way of a Security Review application for unions to just have an “assembly” with a few members that does not involve picketing or sound above conversational level. On numerous occasions a union organizer just needs to drop by and hand a few members some documents or pick them up from a few members. Or members want to ask a quick urgent question, or the organizer urgently needs to ask them a quick question about some urgent pending issue. Organizers often don’t know 24 hours in advance of their need for this brief exchange, let alone the multiple days which this Procedure would likely require. This need for impromptu gatherings is why UPTe’s current CBAs contains language which would be violated by the Procedure requiring an advance application for Security Review. HX CBA Article 2(C)(1) and RX/TX Art.1(B)(1) state: “In the case of visits for the purpose of conducting unscheduled meetings with bargaining unit members, the union representative shall give advance **notice upon arrival** in accordance with local campus/hospital/ laboratory procedures.” PERB has found advanced notice requirements for organizers to be unreasonable and unlawful (*Long Beach Unified School District* (1987) PERB Decision No. 608, p. 16), but UCSF’s rule is even worse in requiring advanced management permission (and without clear substantive standards or timelines for decisionmakers). See also *Food not Bombs*, supra, 450 F.3d at 1044 (“a very long period of advance notice with no exception for spontaneous demonstrations unreasonably limits free speech.” [quoting *Church of the Am. Knights of the Ku Klux Klan v. City of Gary* (7th Cir. 2003) 334 F.3d 676, 682]).

3. Vague and Overbroad Definition of “Expressive Activities”

The Policy is unnecessarily vague and overbroad in applying to any “assembly” or “picketing” by UPTe and its members, even if only a small handful of participants are involved talking at a conversational level without bullhorns or other devices, who could not possibly obstruct traffic nor make enough noise to disrupt anything (unless perhaps

⁴ The *Gay Pride* Court explained: “Plaintiffs’ primary grievance is with the failure to require a decision within a specific time after the application is made. Plaintiffs do not purport, or ask us, to dictate what a reasonable, acceptable time is. They only complain that to leave the matter open-ended impermissibly places the fate of a parade application in official limbo, both chilling and freezing the applicant’s free speech intentions and expectations. The City has not contested the legal proposition that avoidance of limbo requires a deadline for action following application. We believe the authorities cited above support that requirement. [] Accordingly, Chapter 5.60’s failure to include such an express limit is improper.”).

a speaker receives applause for a moment). This overbreadth and vagueness are serious problems given that any organizer of any Assembly or Picketing is required by this Policy's Procedures to do all the following: stay at least 50 feet away from any entrance (2(d)), apply in advance for Security Review (F), present an Insurance certificate (G), face punishment for any noise which "disrupts business operations" even unintentionally B(3()), and/or face involuntary relocation of their Activity pursuant to A(1) if a UC official determines this to be "in the best interest of the University" (with no guidelines for exercise of such discretion). In these vague provisions the Policy leaves unions open to viewpoint discrimination by UC officials criticized by union protests (or at-will employees under these officials' direction). Section B of the section labelled "Policy" barring viewpoint discrimination does not apply on its face to official determinations as to amounts of noise or locations, only to two other types of decisions.

4. Unreasonable Limits on Locations

In its New Rules, UCSF listed in Section A and Attachment A some locations as "Public Grounds" (not requiring special permission), but listed as a "Limited Public Ground" (for which advance permission is needed) the lawn and plaza in front of Mission Bay's three hospitals (collectively referred to as the Medical Center at Mission Bay, hereafter "MB"). MB is the largest site of employment in UCSF. Its lawn and plaza are several hundred thousand square feet -- plenty of room to accommodate the occasional employee protest. UPTe and other unions have regularly used MB's lawn and plaza for protests up until now, without seeking permission, but without complaint by anyone about their noise or any other aspect of their protest. The Plaza was advertised to the public by UCSF as a public plaza, not a private space: see Ex. A5.

The uncertainties and burdens around the application process make this especially problematic for unions who have large numbers of members working in MB facilities for whom this plaza is often the most convenient place to assemble and the most visible location in order to appeal to patients and their families for their support for the unions' concerns with UC's employment practices. Forcing union rallies a long distance away from MB slows down employees' return to their duties after a lunchtime rally, and hence is contrary to UCSF's legitimate business interests (as opposed to its illegitimate interests in shielding patients and their families from union criticisms for UC decisions resulting in turnover and understaffing).

5. Overly-Long and Inflexible Application Period

Section C(4) requires unions apply for Limited areas at least 10 days in advance. This time period is longer than is needed to accommodate a small rally on MB's plaza and similar spaces. The courts have struck down even shorter time periods when these

apply broadly even to just a few people gathering for handbilling: see *Rosen v. Port of Portland* (9th Cir. 1981) 641 F.2d 1243 (one-day rule at airport).

UCSF's time period also needs to be subject to exceptions for spontaneous gatherings, according to numerous judicial decisions on speech policies. See *Food not Bombs*, supra, 450 F.3d at 1044.⁵ Section C(1) recognizes such an exception for Public Grounds, but inexplicably not for Limited Areas. UCSF's policy has a spontaneous event exception, so there is no good reason for UCSF to not do so as well.

6. Unreasonable Provision on Tables and Shade Canopies

Newly-added provisions against any structures in effect ban card tables and shade canopies of the sort routinely used by UPTE and other unions prior to this Policy's adoption (absent UCSF permission, which has proven impossible to receive). These bans apply even where the table and canopy are not blocking passageway, and thus are grossly overbroad. The requirement for preapproval of any use of tables at rallies is directly contrary to the holding in *ACLU v. City of Las Vegas* (9th Cir. 2006) 466 F.3d 784, 799 (hereafter "*ACLU*") (noting "erection of tables in a public forum is expressive activity protected by our Constitution to the extent that the tables facilitate the dissemination of First Amendment speech."). There are plenty of UCSF sidewalks which are wide enough that unions (and others) have regularly set up small tables and canopies to the side of the sidewalk and not blocked pedestrian traffic. Some "restriction of free flow of pedestrian traffic" in the trivial form of causing passers-by to walk an extra step around them is different from blocking traffic, and is not a legitimate basis for banning all tables for holding union literature for distribution. This ban prevents a union from providing attendees more than two different pieces of literature which could be laid out on a table but not all carried in two hands. This ban discourages potential speakers from trying to handbill because they would only be able to distribute what they can carry on their person rather than being able to store extra literature on a table. A canopy serves to keep rain from destroying literature and signs sitting on a table, or is used to prevent attendees from suffering exposure to too much sun or rain. UCSF has ignored UPTE's November 1st request to authorize use of a canopy and instead tried on November 13th to direct UPTE to take down its canopy. A small table and canopy creates even less obstacle to pedestrian traffic than large numbers of protestors. UCSF's restrictions on using a table and canopy as part of union rallies are unreasonable and violate HEERA.

⁵ See, e.g., *Ariz. Right to Life PAC v. Bayless* (9th Cir. 2003) 320 F.3d 1002, 1009 ("the delay mandated by the notice requirement places a severe burden on speech because it 'may even preclude expression necessary to provide an immediate response to late-breaking events.' *Grossman*, 33 F.3d at 1206 (quoting *Cmtty. for Creative Non-Violence*, 714 F. Supp. at 33).").

7. Unreasonable Ban on Even-Unintended Disruption Through Cheering

Procedure B(3)(d) bans unions from “disrupt[ing] normal University business, classes, patient care, healthcare, or any organized University activity”. This is impermissibly vague and overbroad. Does “disruption” include any distraction of what is occurring in a classroom? How is a protestor supposed to know whether they are having such effect? Second, such restriction is overbroad, because speech protections are designed in the first place to protect speech that is some sense “disruptive” or “disturbing.” The controlling case is *In Re Brown* (1973) 9 Cal.3d 612, 619-20, where the Court struck down convictions of leaders of a loud demonstration at a university campus for having disturbed classes. The Court held a statute banning disturbing the peace could not under the state and federal constitutions be applied against these demonstrators because there was no showing they were solely trying to make noise to disturb rather than in part engaging in communication or about to incite violence:

The Attorney General seeks to preserve the convictions of violating section 415 on the basis of the language in that section prohibiting "maliciously and wilfully disturbing the peace or quiet . . . by loud or unusual noise." He states that there is substantial evidence that petitioners made loud noises which disrupted class and campus functions. The statute, however, cannot be interpreted consistent with the First Amendment and traditional views as making criminal all loud shouting or cheering which disturbs and is intended to disturb persons. When the word "noise" in the statute is properly construed consistent with the First Amendment and traditional views, it encompasses communications made in a loud manner only when there is a clear and present danger of violence or when the communication is not intended as such but is merely a guise to disturb persons.

See also *County of Tulare* (2020) PERB Dec. No. 2697-M, p. 20 (employer speech rules cannot be vague). Accordingly, UCSF violates HEERA by punishing any “disruption” by employee protests without clarifying such term and narrowing it to clear and present dangers of violence or noise intended solely to disturb rather than engage in speech. Simple cheering of a worker or union representative speaking outdoors without amplification cannot reasonably be punishable by an employer merely because this arguably “disrupts” a work activity indoors.

8. Unreasonable Ban on Ordinary Banners

Section B(3)(f) flatly bans signs including banners larger than 30 inches by 30 inches. This Section applies not just to narrow sidewalks where it might approach reasonableness, but also applies to a banner in a large plaza or lawn where the banner

could not possibly block anyone's passageway. Larger banners are allowed at other locations with management permission at some UC locations, or at others without permission being needed (such as UCSB). UCSF's flat ban on any ordinary banner (4' x 6' or 8') anywhere, not just when placed across narrow sidewalks, is so overbroad as to violate HEERA.

9. *Overly-Vague and Overbroad Restrictions on Sound*

Section 3(B)(m) tells unions that they cannot "use amplified or non-amplified sound in levels that are above reasonable or that are disturbing patients or neighbors at a given site." This provision is vaguer than nearly all other campuses' policies on amplification: UCSD and UCLA rules, for example, instead use decibel level standards (like most local ordinances which regulate noise).⁶ Non-amplified speech cannot be barred merely because some neighbors find it "disturbing". In finding a statutory ban on disturbance to be unconstitutional as applied to speech, the court in *Castro v. Superior Court* (1970) 9 CA3d 675, 702 observed:

In *Landry v. Daley*, 280 F.Supp. 968, the plaintiffs attacked the constitutionality of a Chicago ordinance reading in part as follows: "All persons who shall make, aid, countenance or assist in making any improper noise, riot, disturbance, breach of the peace or diversion tending to a breach of the peace, within the limits of the city . . . shall be deemed guilty of disorderly conduct . . ." Speaking of the "disturbance" portion of the ordinance, the court said: "Also proscribed is making, aiding, countenancing or assisting in the making of a 'disturbance' which Webster defines in part as 'an interruption of a state of peace or quiet,' or 'an interference with a planned, ordered or regular procedure, state or habit.' Again this is both too vague and indefinite as well as overbroad. The legitimate exercise of freedom of speech, press or expression frequently interrupts a state of peace or quiet or interferes with a planned, ordered or regular procedure, state or habit. New ideas more often than not create disturbances, yet the very purpose of the First Amendment is to stimulate the creation and dissemination of new concepts. The prohibition against making or countenancing a disturbance would literally make it a crime to deliver an unpopular speech which results in a 'disturbance' or to stand by while someone else makes such a speech. This is clearly an invalid restriction of protected rights." (280 F.Supp. 968 at pp. 970-971.) (*Italics added.*)

See also *Snyder v. Phelps* (2011) 562 US 443 (striking down restriction on speech near servicemembers' funeral even though it aroused contempt amongst attendees); *Forsyth County v Nationalists Movement* (1992) 505 US 123, 134 (striking down speech

⁶ See, e.g., Irvine Code 6-8-2024; San Francisco Police Code sec. 2909; Berkeley Code 13.40.050.

restrictions which increased based on adverse reaction of those nearby: "Listeners' reaction to speech is not a content-neutral basis for regulation."); *Coates v. Cincinnati* (1971) 402 US 611 (striking down restriction on speech "annoying" others). UCSF's standard is merely that a neighbor or patient subjectively finds a union's speech to be disturbing, rather than employing an objective standard which would present a closer legal question. See also *Fratiello v. Mancuso*, 653 F. Supp. 775, 790 (D. R.I. 1987)(finding similar ordinance unconstitutionally vague); *Nichols v. City of Gulfport*, 589 So.2d 1280, 1282 (Miss. 1991) (holding an ordinance's standard of "unnecessary or unusual noise which annoys, injures, or endangers comfort or repose" fails to provide clear notice and sufficiently-definite warning of prohibited conduct, and therefore violates due process); *Dupres v. City of Newport*, 978 F. Supp. 429 (D.R.I. 1997)(similar).

While amplified sound is not as strongly-protected as the human voice, it has repeatedly been held protected enough that regulations must be narrowly-drawn. See *Cuviello v. City of Vallejo* (9th Cir. 2019) 944 F.3d 816, 825.⁷ While a "reasonableness" standard may not be impermissibly vague in some circumstances, when as here speech freedoms are at issue and there are potential lifetime bans of union staff, employment discharges and criminal punishments, such standard is too vague: see, e.g., *State v. Compher* (Ohio App. 1985) 1985 Ohio App. LEXIS 9956, at *9-10 ("we agree with the trial court that the language 'making unreasonable noise' in R.C. 2917.11(A)(2) fails to give a person of ordinary intelligence fair notice that his contemplated conduct would violate the statute and encourages ad hoc and discriminatory enforcement. *Harriss*, supra; *Papachristou*, supra; *Grayned v. City of Rockford* (1972) 408 U.S. 104."). Amplification is necessary in many outdoor UCSF spaces in order for speakers to be heard, especially when they must compete with other noise sources which UCSF is not prohibiting, such as large trucks, leafblowing and construction noise. A bullhorn is also essential when gathering in a large space (such as several spaces at UCSF) so that those in the back of the crowd can hear the persons speaking at the front.

10. Unreasonable Requirement for \$1 Million in Insurance Coverage

⁷ The *Cuviello* Court explained: "The United States Constitution and California Constitution protect bullhorns, and other sound-amplifying devices, as 'indispensable instruments' of public speech. *Saia v. People of State of New York*, 334 U.S. 558, 561, 68 S. Ct. 1148, 92 L. Ed. 1574 (1948); *Wollam v. City of Palm Springs*, 59 Cal. 2d 276, 29 Cal. Rptr. 1, 379 P.2d 481, 485 (Cal. 1963). In a crowded park or bustling intersection, where a single voice is easily drowned out, volume enables speech. See *Wollam*, 379 P.2d at 486. A restriction on volume, then, can effectively function as a restriction on speech. *Saia*, 334 U.S. at 561-62; *Wollam*, 379 P.2d at 486 ('The right of free speech necessarily embodies the means used for its dissemination because the right is worthless in the absence of a meaningful method of its expression.'" 944 F.3d at 825.

There is no legitimate need for UCSF in Section G(2) to require insurance from anyone holding a rally, because UC has extensive immunities from tort suits (see, e.g., Gov. Code 820.2, immunizing any use of discretion). UPTE asked UCSF and the two other locations with insurance requirements for their claims experience, but was provided none. There is especially no good reason to require insurance from employee organizations: (1) employees are not going to risk losing their jobs by damaging property or persons while on UC land, nor would any sane union staff want to put the ongoing labor-management relationship at such grave risk; (2) attendance at union rallies is almost entirely voluntary on the part of nearly all attendees, hence there is a strong “assumption of risk” defense to almost any claim; (3) UPTE and other unions have the assets to cover almost any potential claim which could arise from the non-dangerous activities which unions conduct (so UCSF would not be the only solvent defendant), and (4) UCSF can bargain other protections with its unions (unlike with outside protest groups, who have no bargaining duty nor bargaining relationship). Courts have repeatedly found insurance mandates upon protesters to be unreasonable and unconstitutional, as in *Gay Pride*, supra.⁸

For UCSF to be insisting on new insurance during California insurance availability crisis is especially absurd (for example, UPTE cannot even get State Farm to expand UPTE’s existing insurance policy to cover a newly-rented office space within a building far from fire zones where State Farm already insures other space previously rented by UPTE, with State Farm explaining that it is flatly refusing all requests for expansions of its liability in California no matter what customers are willing to pay). In response to new UC rules requiring such insurance, UPTE asked a prominent brokerage firm familiar with unions to find insurance to comply with UC’s rules, but as of yet they have been unable to do so.

B. THE RULES AT UCD AND UCDH ARE UNREASONABLE

1. UCDH’s Ban on Picketing/Demonstrating within 50 feet or 25 feet of doors

UCDH bans any picketing, even by just one person, within 50 feet of any building where patient care occurs (or 25 feet of other buildings) – even if the picketer is not shouting and even though there is plenty of space on the sidewalks for pedestrians

⁸ The *Gay Pride* Court explained: “Other courts that have reviewed parade insurance requirements have uniformly found them to overreach, in view of the overlapping utility and availability of other means of protection as referred to above, and the concomitant absence of a history of claims and hence need for expensive, high-limit coverage. [cites].” 14 CA4th at 341. For more recent similar cases, see *iMatter Utah v. Njord* (D. Utah 2013) 980 F. Supp. 2d 1356 (reviewing recent caselaw).

to pass by this picketer without engaging. (Reg II(5)(b) and (c)). Such bans render picketing wholly ineffective. Such bans often in effect push picketing off into roadways where it could interfere with vehicle traffic. UCDH might have a legitimate concern with a demonstrator approaching someone who is ill arriving at an ER for immediate care, but UCDH can regulate against such problem with a much-narrower regulation. Blanket distance limits like these have consistently been struck down by the courts as overbroad restrictions on speech, as noted above in discussing UCSF's similar distance rule. For similar reasons, UCDH's distance limits violate HEERA.

2. Lack of Clarity as to Standards to be Applied at UCDH

UCD and UCDH have failed despite UPTE's request to clarify to what extent the UCD Policy Manual provisions apply to UCDH's facilities in Sacramento, as the breadth of the coverage section in Policy 270-20 Sec. I(B) would appear to bring in UCDH ("University properties includes all UC Davis owned or operated indoor and outdoor areas", and the Policy Revision states coverage outside Davis was its intent). However, the separate UCDH Access Regulations are inconsistent with the Policy Manual provisions (for example, UCDH's rule has a separate list of permissible outdoor areas, and a ban on sound amplification within 225 feet when instead the Policy Manual lacks such a rule, but the UCDH rule does not require advance reservation like UCD Policy 270-20). Thus UCDH unions are left unsure whether and when they are supposed to adhere to UCD Policy Manual restrictions when they wish to protest outside UCDH facilities.

3. Policy 270-20 Ambiguity/Mandate for Prior Reservation

Section III appears to ban usage of any UCD-owned outdoor property in order to hold any kind of labor gathering absent a prior reservation:

III. Regulations Governing Use

A. Use by non-University organizations or individuals

1. The following types of non-University organizations may request to reserve University properties on an occasional, nonrecurring basis: *** i. Employee organizations (see Section 380-21) in accordance with the access provisions of the applicable collective bargaining agreement. ***

2. Non-University organizations or individuals are eligible to use University indoor facilities without a reservation *when sponsored by a UC Davis department or campus organization.*



The final subsection above recognizes there can be usage without a prior reservation only for indoor space, not outdoor space. But that would be too extreme for it to be lawful: regulations requiring advanced permission from government officials for small groups to engage in speech on exterior spaces like campuses have repeatedly been found unreasonable and unconstitutional (*Food Not Bombs, supra*), particularly where as here, the approval standards are vague (*Smith, supra*), there are no time limits on how long the administrative decisions will take (*Gay Pride, supra*), and no exception for spontaneous protests (*Food Not Bombs, supra*). The Rules unreasonably deal with unions and workers who are generally unable to plan picketing many months in advance (as UC employment decisions warranting immediate protest are not preceded by months nor even days of prior warning by UC officials).

Furthermore, a pre-reservation requirement violates the status quo set by the CBAs as their Access articles expressly permit “unscheduled meetings”. Such reservation requirement for meetings violates PERB precedent such as *Long Beach, supra*.

4. Excessive Limits on Exterior Spaces Available for Protests

Section IV(C) of Policy 270-20 (“Reservation of Outdoor Areas”) provides:

1. The following outdoor areas are reserved through CES:

- a. The Main Quad
- b. MU Patio
- c. Aggie Stadium
- d. Schaal Aquatics Center
- e. RMI Good Life Garden
- f. Recreation Pool
- g. Alpha Phi Picnic Grounds
- h. Recreational Fields
- i. Arboretum Spaces (including the Gazebo)

4. All other outdoor areas are typically available for reservation through CES, as long as the event does not adversely affect on University operations in the vicinity.

There are numerous other outdoor areas owned or operated by UCD and suitable for rallies beyond those listed in section 1 above, including (for example) those spaces listed in the UCDH rule and the lawns on both sides of Mrak Hall where unions have rallied before as top administration is housed there. Very little if any official UC business ever takes place on outdoor areas nor in buildings with windows open so there

is little legitimate business rationale for excluding numerous outdoor areas from this list. Subsection 4 offers unions very little relief from this overly-narrow list because it is unreasonably vague, lacks any deadline for administrative decisions, and lacks any exception for spontaneous speech. An ordinary rally during negotiations by a large group of angry employees will quite arguably “adverse affect [] University operations” because it will be loud enough to distract students in class, patients, or other staff doing their work – but this is the price of free speech in our society. See discussion of *Brown*, supra. Hence this provision violates HEERA for numerous reasons.

5. *Blanket prohibitions upon flyering vehicles or any residential area*

Policy 310-25 (III)(A)(3) and UCDH Reg. IX(A)(1) both ban leaving leaflets on cars. However, in parking lots where there is little vehicular traffic (as is true for many UCD/UCDH lots), there is no excuse recognized by courts for banning protestors from leaving noncommercial leaflets on vehicles.⁹ UPTE is more than willing to clean up if recipients litter. There is little likelihood of such litter because employees who litter would face employment discipline, and there are often videocameras in UC lots to further deter littering. Bans on such flyering are unreasonable except as to any parking lot when there is so much traffic that a substantial likelihood exists of cars running into a handbiller.

Policy 310-25(III)(A)(1) says “materials may not be distributed in outdoor areas surrounding University property student residential facilities.” This is overbroad because some of these outdoor areas are large and public in nature – protection of residential privacy does not require banning handbilling many dozens of yards from anyone’s home, as one can do several places on UCD campus. Appellate court precedent has long protected the constitutional right to handbill on walkways in residential areas, following the leading case of *Martin v. Struthers*, 319 US 141 (1943). See, e.g., *Van Nuys Pub. Co. v. City of Thousand Oaks*, 5 Cal.3d 817 (1971). Students are UC’s paying customers whose sympathy is essential to UPTE’s success, and students have more time and ability to read union literature when leaving and returning home rather than when rushing (often belatedly) into a classroom building. UCD’s blocking UPTE and other unions from quiet outdoor handbilling anywhere in any residential area is unreasonable.

6. *Policy 310-25’s Overly-Strict Limits on Tabling*

⁹ See, e.g., *Klein v. City of San Clemente*, 584 F.3d 1196, 1208 (9th Cir. 2009)(striking down ban on windshield leafletting); *Krantz v. City of Fort Smith*, 160 F.3d 1214, 1222 (8th Cir. 1998) (same); *Horina v. Granite City*, 538 F.3d 624, 638 (7th Cir. 2008)(same).

Policy 310-25 (III)(A)(2) states: “2. Distribution of literature at outdoor tables is restricted to designated areas near the Memorial Union (MU), and the Silo.” Considering that rallies can occur and have occurred at many other areas at UCD (such as Mrak), and during these rallies unions often set up a table temporarily in order to make various pieces of literature available to members and the public (and not be limited to the few pieces which can be carried on one’s person), this restriction is unlawfully narrow. UCD’s harsh limits on tabling during rallies violate HEERA for the same reasons as set forth above in Section A(6) as to UCSF’s tabling restrictions.

7. *Unreasonable bans on any “disruption” from speech*

These bans in Policies 270.80(III)(B) and 270-20(II(B)(2)(4):are HEERA violations because too vague and overbroad. See discussion of *Brown* and *Tulare* in Section A(7), *supra*.

8. *Excessive Restrictions on sound amplification and drums*

Sound amplification has repeatedly been found constitutionally-protected against blanket pre-approval requirements like that found in Policy 270-20(IV)(C)(4) which requires a permit for any amplification. See *Cuviello*, *supra*. There is no reason not to view HEERA as equally protective of amplified speech. HEERA protection for speech means UC cannot ban amplification for speech not exceeding other noise sources which UC allows on its property (such as large trucks and leafblowers – but UPTe members report frequently hearing such sounds at UCD/UCDH). Several outdoor meeting areas at UCDH are so large that attendees at one end of the area cannot hear speakers at the other end, even if they speak loudly, unless the speech is amplified. We incorporate herein our discussion of amplification in Section A(9) above.

There are no time standards in UCD’s Policy Manual 270-20(IV(c)(4) for when a decision to grant or deny permission will be rendered after unions apply, nor does this Policy contain any substantive standards to limit the discretion of UC decisionmakers. Constitutional caselaw demands both clear substantive standards to guide decisions and reasonably-prompt responses from decisionmakers: see Section A (2) above.

UCDH Reg. V(F) bans drums and amplification within 225 feet of several buildings. If UCDH promulgated this ban out of concern for potential disturbance of sleeping patients, such concerns can be addressed with a much narrower restriction than these, as most UCDH buildings are amply soundproofed enough to prevent bullhorn noise from waking anyone inside. UPTe staffperson Jeff Welsh did a bullhorn test at two UC healthcare facilities and found that even when he shouted into a bullhorn turned up to its maximum standing 120 feet outside these buildings (which had no more



soundproofing than at most UCDH buildings), the needle on a sound meter held by an UPTE member inside the buildings was not moved: the bullhorns had no effect inside the buildings. UCDH's 225-foot ban also unreasonably burdens UPTE when it wants to engage in the common practice of simultaneously using amplified sound and leafletting and/or carrying signs, as 225 feet is far too away from UCDH buildings to handbill those entering or leafleting and to allow those persons to read the lettering on most picket signs.

While many other locations' rules are drafted without sufficient regard for legal standards, UCDH's 225-foot ban is significantly farther than any other campus, as UCSD Policy 510-1(III)(C) lists numerous designated areas for amplification which are much closer than 225 feet, and says even in non-designated areas, amplification is permitted 150 feet away from buildings.

C. LBL's NEW RULES ARE UNREASONABLE AND VIOLATE HEERA

1. Unlawfully-Vague and Overbroad Bans on "Disruption" and Amplification

LBL's Policy 1(b) makes it a violation to "[o]bstruct or disrupt operations, research, administration, disciplinary procedures, or other activities, including invitation only events." Policy 1(g) makes it a violation to "[e]ngage in the production of disruptive amplified or non-amplified sound without prior authorization." These are unreasonably vague and overbroad in restricting union speech: see Sections A(7) and A(9) above.

LBL's requirement for permission for amplification is unlawful for the same reasons as discussed above in Section B(8) discussing UCD's similar requirement. LBL extends this restriction to use of a single bullhorn. The restriction's qualifier "disruptive" may apply to something other than operations – it is fatally vague but might apply simply to disrupting the repose of neighbors near the bottom of the hill at the first parking lot after the LBL entrance (Lot F). A bullhorn's noise would not exceed other noise sources which LBL allows on its property (such as large trucks, leafblowers, and operational noise, which UPTE members report frequently hearing at LBL). Some outdoor meeting areas at LBL are so large that attendees at one end of the area cannot hear speakers at the other end, even if they speak loudly, unless the speech is amplified. The policies at several other UC facilities grant advance permission to use amplification during the midday hour when many people are on lunch, but not here.

This amplification provision is further unlawful because LBL decision-makers have no time limits on how long their decisions will take on applications to use amplified sound, and there are no substantive standards they must follow: see discussion in A(2) and B(8) supra. By contrast, UCIC, UCLA and UCSD in their policies at least provide a

bit of guidance in the form of decibel levels, and UCSD recognizes its legal duty to factor in competing noise in the background, unlike LBL.

2. Unreasonable and Unlawful Prohibition on Union Representatives Attending Protests with LBL Employees

Section 4 of the LBL Policy states: “An individual or individuals who do not hold an appointment to the Laboratory are not permitted on site or in LBL facilities for the purpose of engaging in protest or demonstration activities.” However, staff of UPTe and other unions have repeatedly been allowed up until now to attend rallies with their members (with no restriction on their numbers). Allowing them to attend actually aids LBL in discouraging misconduct, as the unions have a strong interest in preventing misconduct (as dealing with employee arrests and discipline and lawsuits against employees and/or the union are all quite burdensome for a union, and UPTe staff in fact persuaded an angry member to tone down his behavior at a prior LBL rally).

The rationale provided by LBL for this ban on union staff and on holding rallies outside three specified locations was to minimize the burdens on LBL’s security staff in monitoring rallies, claiming short staffing in security. However, LBL is discriminating on the basis of speech content, because an employee can invite a large group of non-employees to an outdoor meeting where the goal is not to protest or demonstrate, yet this meeting could consume a large amount of effort on the part of LBL security to ensure it does not cause blockage of passage, yet such meeting goes unregulated by LBL policy. Moreover, an employee can invite a large number of non-employees to engage in many forms of non-speech conduct not barred by law or LBL policy but which nonetheless create severe issues requiring monitoring by security, such as showing off classic cars (as has occurred), convoys of several large trucks, gathering of motorcycle gangs, etc. Alone among the many problems which non-employees can create on the LBL campus, LBL is singling out protest speech to be banned. This is discrimination banned by HEERA.

The amount of security staff is something controlled by UC management, and hence it is illogical to say short-staffing in security can justify suppressing union speech. That is basically the same as saying that poor government agencies which cannot afford many police can ban protests against poverty conditions by their poverty-stricken residents. Union speech rights become meaningless if they hinge upon an employer’s unilateral decision as to the level of its security staffing.¹⁰

¹⁰ See Prof. Barbara Kritchevsky, “Is there a Cost Defense? Budgetary Constraints as a Defense in Civil Rights Litigation”, 35 *Rutgers L. J.* 483, 488 (2004) (“state and federal governments cannot use cost concerns as a justification for limiting First Amendment rights. See *Forsyth County v. Nationalist Movement*, 505 U.S. 123, 133 (1992) (holding that raising revenue for police services did not justify a

While UPTE understands that protests by non-labor groups might become burdensome upon LBL, LBL could lawfully treat them worse than unions, as UC is entitled under the federal and state constitutions to treat union representatives more favorably than other “non-affiliates”: see *Perry Ed’n Assn v. Perry Local Educators* (1983) 460 US 37. Despite UPTE request, LBL presented no evidence that union staff had a history of misconduct to support its new ban on their presence during a rally. LBL is required by HEERA’s reasonableness principle to treat union staff more favorably in this instance than a random outsider who wishes to enter in order to hold a rally.

3. Excessive Limits on Exterior Spaces Available for Protests

Section 4 of the Policy only allows three areas for employee protests (two food truck stops and Lot F near the bottom of the hill). However, the food truck spaces have little meaning as a practical matter because upcoming renovation will eliminate these spaces. Lot F is among the least effective areas to protest because it is located very far from employees’ workplaces and especially far from the decisionmakers’ offices whose decisions are being protested (who are in Buildings 50 where the Director’s office is located, or in Building 90 where HR is located). Moreover, forcing unions into Lot F actually is worse in terms of LBL’s legitimate needs because UAW rallies there have caused severe blocking of traffic on the main roadway in and out of LBL (as protestors walk back and forth across this main roadway and in response Security shuts the road for 15 minutes at a time).

There are numerous other outdoor areas at LBL and its satellite locations suitable for rallies and used in the past for rallies, as shown on Ex.C(6). These areas included the parking areas and sidewalks outside the auditorium in Building 50 where UPTE leafletted visitors recently before LBL announced its new rules. The Policy’s elimination of this space appears to be retaliation against UPTE’s recent leafletting of visitors at a management-sponsored meeting there, which occurred without blocking or other misconduct by UPTE. However, litigating over LBL’s true motive is a waste of everyone’s resources, as LBL’s underlying decision fails the reasonableness test. Almost no LBL business ever takes place on outdoor areas (and very little takes place inside within earshot of protestors outdoors), so there is no legitimate rationale for LBL’s

parade fee requirement); *Schneider v. State*, 308 U.S. 147, 162 (1939) (determining that the burden of caring for the streets did not justify a ban on distributing leaflets to willing recipients); *Gay & Lesbian Servs. Network v. Bishop*, 832 F. Supp. 270, 275 (W.D. Mo. 1993) (finding that budgetary constraints did not justify a parade fee requirement”). See also *id* at p. 560 (“allowing a governmental entity to plead budgetary constraints allows it to second-guess the Court’s determination of what the law requires and to argue, in essence, that it is exempt from constitutional standards.”).

excluding all the other parking areas and open areas next to buildings from the list of permissible locations. UPTE has heretofore rallied right in front of Building 90 in a large parking lot (which is largely empty due to a generous remote work policy for HR staff). Visitors rarely use the food trucks or the spaces around them, so allowing rallies there is almost meaningless in terms of reaching this important audience for union speech, especially when compared to Building 50's regular use by visitors.

When LBL met with UPTE, LBL's primary excuse for only allowing three locations was that each rally creates a burden on its security workforce. However, that excuse only makes sense if more than three rallies are going on at the same time, which UPTE's members with over a dozen years' seniority have never seen at LBL. UPTE further put the lie to this excuse when it proposed rules requiring advance notice by rally organizers of any desire to hold multiple rallies at the same time and capping the number of simultaneous rallies. Although these proposals better addressed the staffing concerns than the limit on permissible locations, LBL had no substantive response. Moreover, HEERA rights of employees and unions cannot depend on an employer's own voluntary decisions to send security to every rally and to limit staffing in its security department.

The reality is that LBL's new rules are simply shielding LBL management from protected speech criticizing them and reducing unions' ability to gather enough members to make an impression¹¹ in places where relevant audiences are located. LBL's radical shrinking of access to outdoor areas is unreasonable and violates HEERA.

D. UCI HEALTH'S RULES ARE UNREASONABLE

1. Unreasonable Limits on Locations

In Section III(I) of its New Rules, UCI listed permissible areas for speech which do not clearly mandate advanced permission ("Non-Restricted Areas") and listed several prohibited areas. At all other areas, permission is needed and handbilling is now forbidden by Section VII. The list of Non-Restricted locations unreasonably excludes the Main Lawn near the largest facility within the UCIH, Douglass Hospital. PERB has

¹¹ See *NAACP v. City of Richmond*, 743 F.2d 1346 (9th Cir. 1984) ("The size of a crowd and its enthusiasm for a cause may generate sufficient passion to sway the undecided."). While LBL has recently explained that protests outside its small leased satellite offices over in Emeryville etc. are not barred by this Policy, those locations are generally not within walking distance of LBL's campus, so are not a realistic alternative for UPTE and its members. Moreover, LBL management has recently confirmed that those satellite locations are subject to its policy requiring approval for amplification because such amplification might have an impact inside its leased spaces.

already issued complaint against UCIH over this exclusion, resulting from a charge filed by AFSCME: Case No. SF-CE-1410-H. This lawn is misleadingly named by UCIH a “Healing Garden”. It is in reality a central gathering area containing the primary walkway from most parts of the UCIH campus into Douglass Hospital, used primarily and frequently for breaks by staff (often dozens at a time). This Lawn has also repeatedly been used by management for social events, including ones where amplification was used, confirming this space does not warrant special insulation from speech activities: UC’s own HR used it on May 15, 2022 for an employee celebration lunch and UC used it later for a retirement party for a service dog. Amplification has been used by UC events there. Numerous UPTE and other union gatherings (including many which included handbills and solicitations) have taken place there without prior permission being sought. The Lawn’s path is a main thoroughfare containing nothing to prevent walkers from talking loudly enough to bother those sitting on the park benches. Those who sit on the Lawn’s benches will regularly hear the sounds of ambulance sirens. Thus UCIH’s attempt to claim special “patient repose” for this area is counter to the facts on the ground. In order to meet HEERA’s reasonableness requirement, this lawn should be deemed a Non-Restricted area generally permitted to unions, or at least the ban on handbilling overturned.

As noted above, requirements like these Rules for advanced permission from government officials for small groups to engage in speech on exterior spaces like university campuses have repeatedly been found unreasonable and unconstitutional. (*Food Not Bombs, supra*). That is particularly where, as here, the rule contains no standards for granting permission (*Smith, supra*) and there are no time limits on how long the administrators’ decisions on applications will take (*Gay Pride, supra*).

UPTE only learned of UCIH’s restriction on using the Main Lawn in July 2024 and immediately told UC that such restriction was violative of HEERA. But it is not only at the Main Lawn that UCIH now improperly bans handbilling and requires management permission for use. The list of Non-Restricted areas in the New Rule omits many other areas repeatedly used by UPTE and other unions for such purposes with management’s knowledge, without any operational problem, including cafeterias and break areas. These prohibitions violate the HEERA “right to use institutional facilities at reasonable times for the purpose of meetings”. Gov. Code sec. 3568. Such additional areas used previously but now not listed as permissible include the following:

UCI Douglass campus: All parking areas and all of the dozens of lawns and sidewalks beyond the five listed in Section III(I).

Fountain Valley: cafeteria, East Tower lawn (in front of the building), and East Tower outdoor seating area (behind the building); central outdoor lawn with picnic tables; Case Manager/Social Worker break room and offices when not used for work; small open lounge area past the main entrance (through the security doors and to the right).

Lakewood: cafeteria; CLS breakroom; pharmacy breakroom.

Los Alamitos: open picnic tables in courtyard near main entrance (UPTE has tabled there and met with members there multiple times, and one of those times the facility's CEO came over and introduced himself to UPTE staff visitors, all with no objection to their presence); cafeteria; CLS/pharmacy shared breakroom; Rehab services breakroom; CSW breakroom.

Placentia Linda: cafeteria; small courtyard areas staff use for breaks

All these omitted areas are critical for union use because they can accommodate larger crowds, and/or are closer to UPTE members or managers who impact those members, and/or are more visible to the public. The cafeteria and outdoor areas are not restricted from general public usage for eating, socializing and resting. The caselaw cited in Section IV above such as *Prisoners Union, supra*, stands strongly against UCIH's ban on handbilling in parking areas. UCI Campus policy by contrast approves handbilling in parking areas: the two policies contradict each other, with no rationale for this contradiction ever having been presented by UCI management. UCIH's access limits are unreasonable.

2. Unreasonable Restrictions on Picketing/Rallying and Ban on Leafletting at "all visitor/patient entrances and exits"

Section III.3.H deeming all visitor/patient entrances/exits to be Restricted Areas requiring prior management permission, coupled with Section VII's ban on any handbilling in any Restricted Area, are impermissibly ambiguous and overbroad in limiting speech at visitor/patient entrances/exits. Many UCIH employees use entrances shared with other visitors. Moreover, unions have a right to reach out to an employer's customers for support, absent actual disruption of patient care. See, e.g., *Arlington Electric*, 1996 NLRB GCM LEXIS 51, *16, 1996 NLRB GCM LEXIS 51 ("enlistment of third party support as part and parcel of an organizing campaign, as the Union through employee Svetlick did here by distributing the 'boycott' leaflet to hospital patrons, is protected activity."). While a restriction on handbilling emergency patients would involve a closer question, here UCIH's ban goes far beyond this to cover the numerous

entrances used by non-patients (such as students, academic visitors and family members) and non-emergency patients.

As far as ambiguity, it is unclear if this rule is only banning speech in the doorways themselves or is intended to reach the sidewalk right outside. UCIH was challenged on this point and failed to provide clarification. Unions might permissibly be barred from standing right inside a doorway because of the tendency to block such doorway, but are legally entitled to be nearby outside so long as not actually blocking pedestrians. The Rule should simply make that clear.

3. Unreasonable Rule Removing All Billboard Postings After 30 Days Even if Not For an Past Event

Section V's mandate that unions remove all postings every 30 days violates the HEERA right to use billboards, as often union postings are not about an event occurring on a particular date in the next 30 days, but rather provide longer-term information about the union and its activities (such as contact info for union staff and leadership). This Rule forces unions to engage in the mindless busy-work of re-posting essentially the same materials over and over every 30 days: this is plainly unreasonable.

4. Unreasonable Requirement for Pre-Scheduling Any Gathering In Any Non-Restricted Area

Section VIII requires pre-scheduling of any union use of a non-restricted area for any assembly. It is unreasonable and violative of HEERA for UCI to demand pre-scheduling of picketing, handbilling or small meetings outside buildings when those events do not involve such large numbers of UPTE staff or members that interference with pedestrian or vehicle traffic is likely nor any likelihood of another group showing up at the same time. See *Food Not Bombs*, supra. Unlike with meeting rooms, there is almost never any UC work taking place on sidewalks and lawns, so there is no legitimate operational rationale for mandating prior notice of using these spaces for small gatherings. It is especially unreasonable and unlawful for UCIMC to demand 10 days' notice for use of its outside spaces, though the rule is unclear when it says such notice "should" be given, as this may not be mandatory, but this clause does not contain the qualifier contained in subsequent clauses saying that permission may be granted if less notice is given, so many readers would conclude 10 days is required and be deterred from conducting a meeting on shorter notice. UCI needs to narrow and clarify this 10-day notice provision.

As for gatherings at non-restricted areas inside buildings, it is unreasonable and a HEERA violation for UCIH to require prior notice for any use of such spaces even

when not interfering with a prior reservation of someone else. On numerous occasions unions just need to drop by and hand a member a document or pick one up (or the member wants to ask a quick urgent question, or the union needs urgently to ask them a quick question about some issue likely to arise in a hearing soon). Unions often don't know 24 hours in advance of their need for this brief exchange, let alone the 10 days this rule would require at UCIMC. The needs of UPTE and other UC unions for impromptu gatherings are why their current CBAs contains language protecting "unscheduled meetings" which would be violated by this rule.

Finally, the hours restriction In Section VIII.D at the Ambulatory Clinics demand start and end times only during traditional office workers' hours (8AM-5PM) even though many UPTE unit members start work earlier and get out later. UPTE's New Employee Orientations at Fountain Valley had start times at 7:45 AM and 6:30 PM so it could meet employees during shift changes. UCI Labor Relations itself set these times in May 2024. While those were at a hospital open to the public at such time, the clinics are open to staff well before and after they are open to the public. There is typically security staffing at such times. There is no legitimate reason for UCIH to ban unions from meeting indoors with unit members in break areas an hour before and after work at the ambulatory clinics when (as here) unit members are required or allowed to be inside at those times anyway.

5. Unreasonable ban on "disturbance of University offices, classes, study facilities, and patient care and research"

This language in Sec. IX(B) is a HEERA violation for the same reasons as discussed above regarding the *Brown* decision.

6. Unreasonably mandating permission for amplification at all outdoor events

Sec. IX(C)'s requirement for permission for any amplification is contrary to *Cuviello*, supra. If UCIH promulgated this requirement out of concern for potential disturbance of patient care or sleeping patients, such concerns can be addressed with a much narrower restriction than this one, as vast parts of UCIH facilities are labs or offices where no patient sleeps. UCIH cannot lawfully ban amplification not exceeding other noise sources it allows on its property such as large trucks and leafblowers. Some outdoor meeting areas at UCIH are so large that attendees at one end of the area cannot hear speakers at the other end, even if they speak loudly, unless the speech is amplified. There are no time standards set forth in these Rules for when permission will be granted or denied (see *Gay Pride*, supra), nor any substantive standards for UCIH decisionmakers to use in deciding whether to grant permission (in contrast to the UCI-C rule capping the decibel level resulting from amplification at 60 db inside a building). For



all these reasons, and the others discussed above in Section B(8) in analyzing UCD's similar rule, this Rule is unreasonable and unlawful under HEERA.

E. UCI CAMPUS RULES ARE UNREASONABLE

1. *Overbroad List of Prohibited Areas for Union Access*

HEERA protects union visitation of worksites absent disruption of operations. Section B(5)(c) of UCIC's new HR Access Rules bans any accessing of "research areas" without being clear that if no research is interrupted during the visit, then a union visit poses no threat to UC and legally must be allowed. It is not as if most research areas leave sensitive materials lying around everywhere; most these days have such materials only on computers which are password-protected so no union rep passing by could see them. In the prior subsection of this list of prohibited areas, it is made clear by the drafter that the ban only applies when there is ongoing work which could be interrupted ("(b) Academic areas while instruction, counseling/advising or research are in progress"). The absence of a similar qualifier in subsection (c)'s reference to "research areas" shows it to be overbroad in its ban.

2. *Overbroad and Vague "Disturbance" Standard*

Section F(4) of HR Access Rules bans "disturbance" even when that is the unintended consequences of ordinary protest speech outside university buildings. This is impermissibly vague and overbroad for the same reasons as presented above in Section A(7)(discussing *Brown* and *Tulare*).

3. *Excessive Restrictions on Flyering Employees: Only Numbered Parking Lots and Employee Entrances, Not Other Sidewalks, Plazas, Lawns and Interior Break Areas*

The only two areas where UCIC now allows unions to handbill employees are numbered parking lots and employee entrances: see Section I of HR Access Rules. This omits interior break areas and exterior sidewalks and lawns where unions handing an employee a leaflet poses no threat at all to legitimate UCIC interests and is HEERA-protected. Section I as currently worded is a blatant violation of HEERA, especially because it treats unions worse than other organizations deemed by UCIC to be "non-affiliates" or "outside organizations", but not covered by this HR Access Regulation (but instead only by UCIC Administrative Policies which lack such a ban on noncommercial handbilling on lawns and sidewalks away from employee entrances).

4. *Unreasonable Ban on "Disrupting"*

This ban in UCIC Admin Policy 900-10(A)(3) violates the vagueness and overbreadth doctrines of the caselaw discussed above in Section A(7) such as *Brown* and *Tulare*, *supra*.

5. Unreasonable Requirement for Advance Application for Every Event Three Weeks in Advance

UCIC's Policy 900-10(C)(1) goes far beyond what most other campuses are doing: it requires an application in advance for any type of event, and always requires three weeks' notice. Most campuses only require advance applications for Major Events (generally defined as gatherings of 300 or 400 or more). It does not take three weeks for UC officials to decide whether a union should be allowed to meet briefly with five or 10 members in an unused conference room or on a sidewalk or lawn, as a union almost certainly would not create an operational problem with such a meeting. This Policy is contrary to clear appellate precedent striking down government requirements for preapproval of all events even if small in size. This Policy lacks clear substantive standards for UCI decisionmakers, also dooming it under established legal standards. The Policy is also unreasonable by not requiring administrators to decide requests promptly (*Gay Pride*, *supra*) and not shortening the notice required for spontaneous speech (*Food Not Bombs*, *supra*).

This Policy's requirement that unions give 3 weeks' notice of a meeting is also a plain violation of PERB's holdings that advance notice requirements for organizers to meet with employees are unreasonable and unlawful: *Long Beach USD*, *supra*. UPTE's CBA Access Articles entitles UPTE to have "unscheduled meetings" with employees without prior notice to UCI.

6. Unreasonable Regulation of Bullhorn Use By Always Requiring Advance Management Approval and Banning Any Use Outside 12-1pm

UCIC's requirement in 900-10(D)(3) that unions obtain permission in advance for any sound amplification anywhere is contrary to appellate court precedent in the Ninth Circuit and elsewhere. (*Cuviello*, *supra*). This Policy also lacks the necessary substantive standards to guide management discretion in granting permission (for example, decibel levels). The Policy also lacks any deadline for management to respond to requests. Both are contrary to *Lesbian & Gay Pride*, *supra*. Constitutional protection for speech means UC cannot ban amplification for speech not exceeding other noise sources which UCIC allows on its property (such as large trucks and leafblowers – but UPTE members report frequently hearing such sounds at UCIC). UCIC improperly makes no allowance for competing sources of noise already in the

environment, unlike UCSD's policy. UCIC has several large outdoor spaces where it would be very hard for those at the back of a rally to hear the speaker without amplification.

Section 900-10(D)(3)'s ban on any amplification outside of 12pm-1pm is absurdly overbroad, as a single bullhorn right before or after normal business hours in the many areas of UCIC with no residences nearby could disturb very few people. Many UCIC buildings are so well sound-proofed that very little bullhorn use outside can be heard by anyone inside who is trying to work, so this 12-1pm limit is overkill. Given how spread out UCIC campus is, many employees do not have time during the 12-1pm period to travel to and from a rally and have a meal. Thus holding rallies before and after work is necessary for UPTE to obtain a decent turnout. It is unreasonable for UCIC to not allow any bullhorn anywhere at 5pm, for example. Also, many UCIC employees in UPTE's units cannot all take lunch at exactly 12-1 because there are staggered lunch schedules to ensure service at the workplace is uninterrupted. Courts have not permitted time limits as harsh as UCIC's. See, e.g., *Klein v. Laguna Beach* (9th Cir. 2010) 381 F. App'x 723)(finding likelihood of success in challenge to Con amplification after 5pm and before 9am, as "there was no evidence to support the district court's finding that a blanket prohibition on amplified sound after 5 p.m. is narrowly tailored to a significant government interest in public tranquility..." Id. at 725-27.

7. Requirement of Insurance of \$1 Million for Every Event

This requirement in section 900-10(C)(3)(h) is unreasonable as applied to employee organization events of the sort UPTE holds, for the same reasons as discussed above as to UCSF's similar requirement.

8. Potential Limits on Tabling and Shading

Section 900-10(D)(4) requires advanced management permission (10 days prior to the event) for demonstrators to have any "structure" after they file a "detailed drawing" with UCI Environmental Health & Safety. It is unclear if "structure" includes the typical folding table for fliers/water and lean-to for shade which UPTE and other unions set up during rallies at UCI and elsewhere. The ambiguity of this Policy as to this issue is alone arguably enough to make it violative of HEERA. If this Policy is intended to extend to folding tables and temporary shade during rallies, it is a violation of HEERA due to overbreadth, excessive burden on unions, absence of clear substantive standards for management decisions on requests to use a table or shade, and lack of any time limit for management to respond to a request for permission to have a table or shade (let alone a prompt time limit as is necessary as a practical matter and under constitutional law).

F. UCLA HEALTH'S RULES ARE UNREASONABLE

1. *Unreasonable Ban on Use of Employer Email and Internet*

UCLAH rules (Ex. F(1)) at Section I(D) unreasonably bar unions from using UCLAH's secure email/internet. Unions have a right to meet with members and management inside UCLAH facilities, but nowadays in almost every meeting the attendees need internet access to documents: the two go hand in hand. PERB has correctly held union use of employees' work email is within unions' statutory rights to use "other means of communication" provided by employers (*LAUSD* (2018) PERB Dec. No. 2588). UCLAH's ban on union use of employer email and internet violates HEERA.

2. *Unreasonable Mandate of Prior Notice of Union Visits*

Section II(B) would strip UCLAH department management from approving a union visit on less than 24 hours' notice, even though such management had determined the amount of notice provided by the union was sufficient to prevent any operational problem. This is unreasonable under *Long Beach USD, supra*, as further supported by the facts here: on numerous occasions an UPTE rep just needs without a prior plan to drop by and hand a member a document or pick one up from a member in order to meet an upcoming deadline, or the member wants to ask a quick urgent question, or a rep urgently needs to ask them a quick question about some issue just raised in a hearing or other time-sensitive litigation. Unions often don't always know 24 hours in advance of their need to meet with unit members. UPTE's CBAs contain language protecting "unscheduled meetings" which form the status quo that would be violated by this Guideline. PERB should enforce here its long-standing rejection of employer requirements for prior notice of union visits.

3. *Unreasonably Adding Kitchens and Executive Suite to List of Work Areas Deemed Impermissible for Visitation*

Section II(B)(4) was amended to ban all union visits to all kitchens and other food prep areas. However, plenty of non-work conversation takes place in kitchens without it interfering with work or public health or safety. (There is often downtime between breakfast and lunch, lunch and dinner, and after dinner, and union reps can put on hairnets no less easily than regular employees can do so). The ban here applies even during break time, unlike what other subsections do ("academic areas while instruction ... or research is in progress" and "research areas when the health, safety or security of individuals or the research could be adversely affected.").

This Section was also amended to add a ban on going to the Executive Suite. This violates the rights of employees and unions under HEERA to deliver petitions to senior government officials. If UCLAH's problem is that such petitioners are making too much noise or able to see confidential documents left on a table or overhear confidential conversations, then there are other narrower ways to deal with such concerns than a flat ban on union supporters ever going there. Relegating unions and workers to sending documents by mail or email is unreasonable: the fact that a group cares enough about an issue to join in the personal delivery is part of the message sent by such deliveries. Also, if the UCLAH official has questions they want to pose about the petition, those can be answered more quickly in real time by the visitors than through correspondence.

4. Unreasonably Restricting Permissible Locations for Picketing or Other Demonstrations to a Small Percentage of Nearby Sidewalks

Section IV(A)(1) is unreasonable and violative of HEERA in limiting any demonstration to the five locations listed, especially when there are many other locations closer to members' worksites and/or more visible to the relevant public. The Guidelines also do not define "demonstrations", leaving unions with inadequate notice of how to conform to these Guidelines: does that include two handbills? Moreover, the Guidelines are obviously overbroad as a rally with, say, only 2-5 people in attendance poses nearly no risk practically anywhere on the large outdoor spaces and sidewalks outside most UCLAH facilities. Thus the Guidelines are overbroad in restricting all demonstrations to merely five locations comprising less than 10 percent of the total space open to walkers near UCLAH facilities (for example, at West Valley Hospital, only one of 5 potential sidewalks, and not the one closest to this hospital which unions have been using). Less than one-eighth of the sidewalks next to the main hospital (Ronald Reagan University Medical Center, "RRUMC") are left open for union activities. Exhibit F(5) hereto provides a map demonstrating the harshness of UCLAH's limits on speech areas. These limits deprive UPTE of its ability to picket near truck drivers arriving for deliveries to RRUMC, a place where UPTE and other unions have repeatedly picketed in the past in order to appeal to a sympathetic audience of serious economic significance in a labor dispute. UCLAH's harsh limit also increases the risk that protestors will end up so crowded in the small space allotted them that they will end up spilling out into the streets, so such limit is not in the legitimate interests of either side. Union protestors are primarily relegated so far from RRUMC that the average visitor might well not perceive these protestors to actually be comprised of hospital workers, but instead of some unrelated labor group. This sharply limits healthcare unions' ability to exercise its legal right to encourage a patient boycott of UCLAH.

Also, despite UPTE's request, UCLAH failed to show there are any similar UCLAH policies applicable to non-labor groups, which indicates these Guidelines are unlawfully discriminatory against union activities.

5. *Unreasonable Ban on Any Activity at ER Entrances, Not Even A Single Handbiller Leafletting Staff or Persons Exiting*

Section IV(A)(2) bans all leafletting and picketing at Emergency Room entrances: There is plenty of room outside ERs at UCLAH facilities to allow several pickets or handbillers without this interfering with ingress or egress. Members of UPTE and other healthcare unions know when a sick person walking in should not be approached due to their suffering some serious medical problem which requires medical attention without delay, but if there is to be any restriction on demonstrators in front of ERs, then it should be limited to addressing this one concern, rather than also banning unions from leafletting all others such as (1) persons exiting the building, (2) off-duty staff, (3) family members and friends of patients waiting outside the ER for the treatment to be concluded, and (4) former patients exiting after treatment was obtained.

6. *Unreasonable Ban on Picketing and Leafletting at a Parking Lot or Structure*

Section IV(A)(3) flatly bans all picketing, leafletting or demonstrating in a parking lot or structure, even when such expressive activities aren't interfering with any vehicles or pedestrians. UPTE repeatedly did leafletting and other activities in parking areas prior to this ban. Many UCLAH parking lots and structures are not so crowded with vehicle traffic that this Guideline can be justified as a traffic safety measure. It is simply trying to ban unions presenting boycott messages to nonemergency patients when they still have time to get back in their cars and go elsewhere, rather than many minutes later after they have finally parked and walked over to UCLAH's front doors. The caselaw cited in Section IV above such as *Prisoners Union, supra*, strongly supports allowing handbilling in parking areas. UCIC's rule correctly approves of handbilling in parking areas. UCLAH's ban is unreasonable and violates HEERA.

7. *Unreasonable Ban on Leafletting and Demonstrating Inside*

Section IV(A)(5) bans all leafletting and demonstrating Inside any UCLAH Facility. Its reference to "demonstrating" is hopelessly vague: does this ban workers from assembling on their breaktime to go visit their manager to complain about an employment practice? While this is within their HEERA rights, by reading this vague guideline, they may well be deterred from exercising these rights. Also, plainly unions have a HEERA right to pass out leaflets to unit members in non-work areas (such as

cafeterias) on non-work time, and have repeatedly done so up until now, yet this Guideline appears to ban such activity.

8. *Unreasonable Limits on Tables to a Single Location*

Section IV(A)(6)(b) ends the prior practice of union tabling at the Jules Stein circular driveway across from the Doris Stein Institute, and limits tabling to a single location elsewhere. There is no legitimate reason why couldn't a union have a table at the four other locations where section A(1) allows unions to hold demonstrations. Despite UPTe's request, UCLAH made no showing it imposes a similar limit on tables set up by non-labor groups. But even without discrimination between groups, this Guideline still violates HEERA's reasonableness requirement.

9. *Unreasonable Ban on Drums, Megaphones and Sound Amplification Near RRUMC & SMH*

This ban in Section IV(A)(9) is overbroad and violates HEERA due to the fact that amplification is often required to reach the back of large crowds, yet UCLAH concedes in section A(1) that sidewalks in front of RRUMC and SMH are appropriate places for demonstrations. Bans on amplified sound have repeatedly been overturned by courts, as noted above. Also, drums are needed to lead chants and have been found constitutionally-protected. If UCLAH promulgated these restrictions out of concern for potential disturbance of sleeping patients, such concerns can be addressed with a much narrower restriction than this one.

10. *Unreasonable Ban on Sound Amplification Inside Any UCLAH Building*

Section IV(A)(10)'s blanket ban on indoor amplification is unreasonable because sound amplification is often required when meeting in a large meeting room for attendees to be able to hear each other (as the statewide negotiating committees discovered during their recent sessions inside a UCSF meeting room, necessitating bringing in amplification). Many rooms are sound-proofed well enough that such amplification creates no problem for those outside the room. A ban on any amplification anywhere inside a UCLAH building, even when the room's doors are closed and such amplification does not disturb anything else happening in the building, is overbroad and unreasonable in violation of HEERA.

11. *Ban on Signs on Easels/Chalk Even Within Meeting Rooms*

This prohibition in V(A) can be construed to ban unions while using a reserved meeting room from having a poster on an easel at the front of the room on which attendees write down ideas, which is obviously a common practice in meetings

(including those of UPTE). UPTE has also repeatedly seen UC hallways contain groups' directional signs to a meeting left on easels to serve as a guide to those unfamiliar with the layout of the building, a practice now inexplicably being barred even when not blocking passageway. As for chalk, UPTE has conducted many meetings in classrooms with chalkboards and used their own chalk in connection with its meeting in order to convey important information. This rule is so broadly written as to appear to ban this commonplace use of chalk. This rule requires substantial narrowing in order to be reasonable.

G. UCLAC'S RULES ARE UNREASONABLE

1. Ban (or Severe Restrictions) on Union Rallies

The Definition of "Organized Event" in the UCLAC Policy Definitions (Attachment A to Policy 850) covers "any planned gathering, including . . . rallies . . . speaker presentations, conferences [etc.]. This means nearly all union activities are subject to UCLAC's Organized Events Policy, Policy 860. However, the fine print in such Policy makes it almost impossible for UPTE and other unions to ever hold an event. That is because the only two potential types of Organized Event allowed would be those of a "Registered Campus Organization" ("RCO") or instead a Non-Affiliate, and the rules for both are extraordinarily-restrictive. An RCO is defined as follows:

Registered Campus Organization refers to organizations whose membership is predominately comprised of UCLA Students and/or Employees that obtain recognition as a Registered Camps[sic] Organization by registering through SOLE and complying with the requirements and procedures in UCLA Policy XXX.

As UPTE is not comprised primarily of UCLAC employees (because most of its members are employed by other UC locations), it is precluded from qualifying as an RCO for no good reason at all. This requirement is naked discrimination against UCLAC employees affiliating with a statewide organization (or simply with sister employees at UCLAH who are more numerous), and hence an obvious HEERA violation. Moreover, the Policy is fatally ambiguous, as there are no posted requirements for registration as an RCO: the Policy references another policy for this labelled as "XXX" and no such policy actually exists.

As UPTE and other statewide unions are thus forced unfairly to fall under the category of Non-Affiliate under UCLAC Policy, then they face the requirement of Policy 860 of first obtaining a University Guarantor. But no standards are set for guaranty determinations by a department or the Chancellor (except a meaningless promise that speech content will not be the determinant – meaningless because if any other factor

imaginable can be a criteria, it is likely a decisionmaker whose own labor decisions are being criticized by UPTE is going to avoid guaranteeing rallies to promote such criticism. If any random factor can be used to justify denial, then it is impossible as a practical matter to prevent content discrimination. This Policy is unreasonably vague. UPTE requested UCLAC's Labor & Employee Relations serve as its guarantor, or that LER request Chancellor support, but its request was ignored. This Policy also fails the mandate of *Gay Pride, supra*, that union requests for a guarantor be decided promptly by UC officials. UPTE's correspondence with UCLAC requested a guarantor, but this has been ignored to date despite being pending for months.

2. Unreasonable Requirement for Advance Application

Policy 860 is unreasonable in requiring for every Organized Event an application 10 working days in advance. See *Food Not Bombs, supra*. As an "Organized Event" can involve a small handful of people just having a "gathering" without signs or amplification or other noisemaker or even without cheering, that much notice is not really needed by UC officials.

3. Unreasonable Requirement for Insurance for Every Organized Event

This requirement of UCLAC Policy 860 is unreasonable and unlawful for the same reasons as the similar UCSF rules discussed *supra*. The only possible improvement over UCSF's rule is that an insurance company is suggested via a link, but then the link does not work.

4. Unreasonable Ban on Any "Disruption"

Policy 850(IV)(A)(4)'s ban is overly vague and overbroad. See discussion of *Brown* and *Tulare* in Section A(7), *supra*.

5. Unreasonable Ban on Chalking Sidewalks

Policy 850(IV)(A)(21)'s ban on chalking messages on sidewalks is contrary to what UCSD is doing, which is allowing chalking except on areas covered by overhangs (which would prevent the rain from cleaning the area). UCSD and UCLAC have no materially-different interests at stake here. Even UCSD's policy is too restrictive because UPTE committed to cleaning up after itself rather than relying on the rain to do so, and UPTE clearly has the means to make good on this commitment. Chalk can be easily washed off with water and soft brush without harming the sidewalk, and any runoff is not harmful to nearby plantings. UC has no legally-cognizable aesthetic interest in declaring the same message as is on a picket sign to be unlawful if instead placed



temporarily on the sidewalk via chalk. Chalking has become an essential method of communication on modern campuses because it reaches up towards the many employees, managers and students working several (often dozens) of floors up in tall buildings, as well as towards cameras on helicopters and drones. Reaching such audiences could otherwise could only be done by either having enormous signs tilting up or laying on the ground, which obviously imposes greater threat of blocking pedestrians. Constitutional law scholars agree that chalking is protected expression where, as here, the public entity which owns the property will incur no clean-up costs.¹² UCLAC's ban is unreasonable and violates HEERA.

3. Unreasonable Restrictions on Leafletting: None on Cars, None With a Table Absent Prior Permission, and None Inside Buildings Except in Reserved Rooms

Policy 850 – IV(C)(3)(c) provides in pertinent part (with key provisions highlighted):

c. Distribution of Non-Commercial Literature

Non-Commercial Literature may be distributed only as provided below:

i. On Areas for Public Expression (Designated Public Fora)

Individuals may distribute Non-Commercial Literature only on Areas for Public Expression *** provided that: *** **c. literature is not placed on or in vehicles parked on UCLA Property**; and *** **To use tables**, booths, and other like structures and portable displays to facilitate distribution in the Areas for Public Expression, **prior approval is required** by the UCLA Events Office and if approved, tables or portable displays must be attended at all times by the individuals or groups sponsoring the distribution. Approval will be given on a first come, first served basis, based on the Interference Criteria and be given or refused only on a content-neutral basis and viewpoint-neutral basis.

ii. On areas of UCLA Property other than Areas for Public Expression

Areas of UCLA Property other than Areas for Public Expression are not designated Public Fora. RCOs, Authorized Student Governments, University Units, Support

¹² See, e.g., Prof. Marie A. Failinger, "Talking Chalk: Defacing the First Amendment in the Public Forum", 115 *W. Va. L. Rev.* (2012)(available at: <https://researchrepository.wvu.edu/wvllr/vol115/iss2/8>); F. LoMonte & P. Fiku, "Watch Where You Chalk, 'Cause the Sidewalks Talk: The First Amendment and Ephemeral 'Occupations' of Public Property", 47 *Vt. L. Rev.* (2023) (available at <https://brechner.org/wpcontent/uploads/2023/11/Watch-Where-You-Chalk-Cause-the-Sidewalks-Talk-The-First-Amendment-and-Ephemeral-Occupations-of-Public-Property.pdf>).

Groups, and **Employee Organizations may distribute Non-Commercial Literature in buildings or programs on UCLA Property that are not Areas for Public Expression only in accordance with the following provisions:**

- a. compliance with the restrictions stated in Section IV.C.3 of this Policy; and
- b. literature may be distributed in rooms or areas reserved for meetings or programs only by the RCO, Authorized Student Government, University Unit, Support Group, or Employee Organization that has reserved the room or area.**

The Event Organizer of an Organized/Major Event may distribute literature at their event as approved by the appropriate campus venue and/or the UCLA Events Office or SOLE.

Except as provided in this Policy, no individual may distribute literature in buildings on UCLA Property.

In parking lots where there is little vehicular traffic (as is true for many UCLAC lots), there is no excuse recognized by courts for the above rule banning protestors from leaving noncommercial leaflets on vehicles. (See cases cited above). Neither UCLAC (nor any other location) provided any data in response to UPTE's RFI as to traffic volumes in parking lots, yet many such lots record their usage, hence it is likely no data exists to prove a substantial likelihood exists of cars running into a handbiller in a typical UC lot on a typical workday.¹³

The use of a single small card table temporarily during a rally in a large open space rather than on a narrow sidewalk does not pose such a threat that it justifies requiring preapplication for approval. This rule is especially problematic because UCLAC policy provides no legitimate criteria for approval¹⁴ nor any assurance as to how quickly unions would receive a response to a request for approval. (*Long Beach, supra*).¹⁵ This provision violates HEERA as unreasonable for the same reasons as courts have invalidated similar government requirements for permission to have a literature table at a rally. See, e.g., *ACLU, supra*.

¹³ This warrants an adverse inference against UC under Cal. Evid. Code section 413.

¹⁴ The only valid criteria for banning a table would be whether it would block traffic. However, the "Interference Criteria" referenced in this policy are a collection of 9 factors mostly having nothing to do with likelihood of blockage (such as time of day and duration of event), thereby allowing management hostility to union protests to filter into their decision on whether to permit the union to use a table.

¹⁵ Absent a prompt response from management to requests to use tables, UPTE and other unions are forced to waste time and money arranging a backup plan of alternative (and necessarily inferior) ways to store literature and water for rally participants, such as getting multiple individuals to carry backpacks or briefcases and then if say eight different documents are to be distributed, arranging for four different individuals to do the distribution rather than just letting a single table do the work).

Finally, union representatives have an obvious HEERA right to distribute literature to unit members in non-work areas even without reserving them in advance, such as in break rooms and cafeterias. This rule as worded currently worded in (c)(ii)(b) is a ban on literature distribution by in unions inside any UCLA building with a narrow exception for reserved rooms, and thus blatantly violates HEERA. Because most union meetings with employees involve literature distribution, this rule is essentially a requirement for unions to get reservations to hold meetings, but that is contrary to the provision of UPTe' CBAs' Access articles all permitting "conducting unscheduled meetings." HEERA bars employer requirements for prior visitation notice from unions: *Long Beach, supra*. The reservation requirement lacks the needed deadline for UC management to get back to unions about their requests for a planned display and the standards to be applied are completely unclear (making the promise of viewpoint neutrality merely a hope, not a likelihood given management's self-interest in minimizing effectiveness of union criticism of management).

4. Unreasonable Requirement for Prior Permission for Sound Amplification

Policy 850 (IV)(C)(7) requires management approval for amplification (and defines amplification to include any drums), with the exception of a select few areas and times designated in Policy 852: (1) preapproval is not required for amplification between 6am and midnight on Bruin Walk (except in front of the Engineering 6 building), but a bullhorn on this path reaches less than 5 percent of management and of the workforce represented by UPTe, as most of Bruin Walk is next to sports arenas; and (2) preapproval is not required between 12 and 1pm on the few areas predesignated for Public Expression (which as discussed below cover less than 20% of the available space on campus and where a bullhorn could be heard by less than 10 percent of the workforce and 5% of managers). But even in those few areas, bullhorns are banned the 10th and 11th week of each quarter and also if "sound levels ... disrupt academic activities in adjacent buildings."

Sound amplification has repeatedly been found constitutionally-protected, and hence broad requirements for preapproval have been invalidated by the Ninth Circuit. *Cuviello, supra*. Amplification is often required when meeting outside due to competing sources of noise, just to stay at the same decibel level as these sources in order to be heard by attendees. HEERA protection for speech means UC cannot ban amplification for speech not exceeding other noise sources which UC allows on its property (such as large trucks, sewer cleanouts, construction and leafblowers – but UPTe members report frequently hearing such sounds at UCLA). Some outdoor meeting areas are so large that attendees at one end of the area cannot hear speakers at the other end, even if

they speak loudly, unless the speech is amplified via a bullhorn. Unintended “disrupt[ion] of academic activities” via speech is still protected speech: see *Brown*, supra.

Use of drums is treated by this policy as the same as amplification, but drumming during chants has been afforded equal or greater legal protection.¹⁶

In addition to lacking clear substantive criteria for refusing amplification, there are no time standards in this Policy for when a decision to grant or deny permission will be rendered after an application is filed. This makes it impossible for UPTe to plan ahead because obviously a different location might be chosen by UPTe if amplification is rejected at the initially-requested location, rather than abandoning the idea entirely of using amplification.

The 12-1 time limit on amplification defies union members’ needs to hold rallies at times other than 12-1 in order to accommodate their work schedules. In many UCLA workplaces, lunches are staggered rather than all taken at 12-1 so as to ensure that the workplace does not cease providing services. There is often less potential for disturbance of operations if a union is bullhorning 8-9am or 5-7pm rather than doing so at noon. Such harsh limits on times of bullhorn use are unreasonable: see *Klein v. Laguna Beach*, supra.

UCLA’s Policies offer only the appearance of respect for amplified speech while in reality harshly restricting what has been allowed until now without objection.

5. Unreasonable Caps on Size of Signs/Banners

Policy 850(IV)(C)(3)(b) caps all non-affiliate signs at 30” x 30” without prior written UCLA permission. However, no official has been designated to address requests for a larger sign. While this standard might make some sense if limited to signs held across pedestrian traffic on a narrow sidewalk, it makes no sense when applied to a 31-inch sign held in a plaza or lawn far away from pedestrian traffic. Given the nature of UCLAC’s campus, most of its open space consists of lawns and plazas large enough to readily accommodate regular banners (4’ x 6’). UCLA should allow all signs up to the normal banner size used previously on a regular basis by UPTe and other unions, so long as held on the edge of a narrow sidewalk rather than across it, or held on walkways broader than an ordinary sidewalk (such as plazas and lawns).

¹⁶ See, e.g., *U.S. v. Doe*, 968 F.2d 86, 87 (D.C. Cir. 1982)(“There can be no question that beating a drum in the context of a clearly identified anti-war demonstration is expressive conduct protected by the First Amendment. See, e.g., *Ward v. Rock Against Racism*, 491 U.S. 781, 790, 105 L. Ed. 2d 661, 109 S. Ct. 2746 (1989)”).

If UCLA is insistent on setting a smaller sign size as a general rule, then it needs to narrow the circumstances under which a permit must be requested to the more crowded of UCLA's walkways, as UCLA's campus has many large open spaces where one or more banners can be displayed by union protestors many dozens of yards away from any pedestrian traffic without creating any real problems for UCLA.

6. Unreasonably-Limited List of Outdoor Spaces for Protests

The map in Policy 852 reflects a radical elimination of most of the outdoor spaces which unions including UPTE have been using without objection to hold meetings and rallies. This Policy forces relocation of union assemblies farther away from most of their members' workplaces, making attendance much less likely and thereby hurting the unions' level of mobilization and diluting their message.¹⁷ Moreover, those who attend will need to spend more time in transit, reducing the amount of time that exempt employees have left for their work, so is contrary to UCLA's own legitimate interests.

This Policy only serves the illegitimate interests of lowering turnout and often preventing unions from having their protests within eyeshot of decisionmakers whose decisions are being challenged. For example, protests are allowed near the Administration Building where top UCLA officials work (Murphy Hall) only in a small southeast corner of the Dickson Court and small walkway near the building. This as a practical matter forces any anti-management protest larger than a few dozen attendees to relocate far away from Murphy over to Election Walk and the hillside north of it.

This map of permissible spaces improperly omits a primary walkway which most students and staff use, Wilson Plaza and Dickson Court West. This thoroughfare is significantly wider than Bruin Walk, so crowding is not a legitimate reason for excluding it. Excluding it simply minimizes protestors' visibility to students and employees.

While limits on available spaces might make sense in terms of UC dealing with truly-outside groups (who would treat UC campuses basically as convenient places to protest foreign governments, thus precisely where they protest is largely irrelevant to their success), such limits make no sense when applied to employee organizations who have strong reasons to be closer to some buildings than others: where the members work, and where management works. PERB cannot defer to UC concerns about Palestine protests by outsiders because constitutional law permits public employers to provide favored treatment to speech by employee organizations: see *Perry, supra*.

¹⁷ See, e.g., *NAACP, Western Region v. Richmond*, 743 F.2d 1346, 1356 (9th Cir. 1984) ("The size of a crowd and its enthusiasm for a cause may generate sufficient passion to sway the undecided.").

UPTE tried to apply in the past for use of the UCLA main quads and was ignored. Accordingly, now designating these quads with an asterisk in the Policy as requiring an application to use is likely tantamount to denying unions any use of them, contrary to UPTE's prior frequent usage of such spaces without prior application.

Finally, Policy 852 follows Policy 850's errors in using "disruption of academic activities" as the basis for banning amplification in the few areas designated for Public Expression. See discussion of *Brown*, supra.

H. UC MERCED'S RULES ARE UNREASONABLE AND VIOLATE HEERA

1. Overly-Narrow and Underinclusive List of Grounds Open to the Public And Unreasonable Mandate of Staying 30 Feet from Buildings, Walkways & Parking Lots

The Policy implies that no speech rights exist at all for non-affiliates (such as union staff) except for areas defined as Grounds Open to the Public. (For example, under section 11 on display of signage on University grounds, non-employees such as union staff can only display a sign while on Grounds Open to the Public). That makes it essential that the Policy have a clear and legally-proper definition of such grounds. The current definition is neither. The relevant clauses in UCM's Definition are as follows:

Grounds Open to the Public: These are grounds generally open to the public and to the University Community for public expression. The outdoor areas of the campus (e.g., lawns, patios, plazas) that are at least 30 feet from: *** b. buildings, facilities, or areas where such use could impair entrance to or exit from the building, facility or area, or interfere with activities therein; c. parking lots; d. walkways and roadways;****

"Interference" is vague because arguably it applies to mere distraction of a classroom as they can hear that a rally is occurring outside, but are still able to hear the instructor and each other in the classroom. Such "interference" where not the intended result of a speech activity nor resulting from violence is HEERA-protected, just as would be "disruption": see discussion of *Brown*, supra. More importantly, merely being within 30 feet of a door cannot be presumed to impermissibly risk blocking. Appellate courts have repeatedly struck down blanket distance limits applying to a variety of protests and doors having disparate characteristics, as noted above in discussing UCSF's distance rule. Only a few UC locations are trying to impose distance limits, which helps confirm the absence of genuine need for such limits as opposed to narrower measures to prevent blocking.

But even worse than the directive to stay away from buildings are the provisions in the Definition and V(B)(6) which mandate unions always stay at least 30 feet away from walkways, roadways and parking areas. There is no legitimate reason whatsoever to ban all speech on all walkways, let alone within 30 feet of a walkway: people talk with each other while walking, all the time. Absent proof that speech activity is taking up so much room on a walkway that it will block passageway, speech on walkways is clearly protected by HEERA absent assembly of such a large crowd on the walkway that it blocks passage. While other UC campuses' new policies are not a model of legality, no other campus is attempting this sort of severe limit on speech by unions – effectively preventing unions from ever handbilling anyone who is not already a sympathizer and thus willing to deviate 30 feet from their passage on campus. Forcing unions to shout from 30 feet away to students or non-members and call for them to walk over 30 feet to get a leaflet is absurd.

The Definition and V(B)(6) also violate HEERA in barring labor speech from inside parking areas, especially as UPTe is more than willing to clean up or pay for UC's cleanup should drivers stupidly choose to violate litter laws after they receive fliers. UCM's parking areas are reported by UPTe' members and staff as not being so busy that there is a significant likelihood of cars running into leafletters or cause any other conflict between drivers and pedestrians.

UCM's bans on being within 30 feet of a walkway, roadway or parking area sweep so incredibly broadly that UCM has eliminated more than 80 percent of the walkable areas on campus from having speech activities. UPTe challenged UCM to dispute this 80% estimate, but was ignored. Its silence speaks volumes, especially in light of its HEERA duty to provide requested information. UCM's 30-foot rule is patently unreasonable and violative of HEERA.

2. Unreasonable and Unlawful Regulation of Bullhorn Use

UCM's requirement in Section V(C)(11) that unions obtain permission in advance for any sound amplification anywhere is contrary to appellate court precedent in the Ninth Circuit and elsewhere. See *Cuviello*, supra. UCM Policy also lacks the necessary substantive standards to guide management discretion in granting permission, as discussed above. The Policy also lacks the necessary requirement for administrators to decide requests promptly. These are serious problems because amplification is often required when meeting outside at UCM due to the large size of the meeting space or competing sources of noise (just to stay at the same decibel level as these sources in order to be heard by attendees). Legal protection for speech means UCM cannot ban amplification for speech not exceeding other noise sources which UCM allows on its

property (such as large trucks and leafblowers – but UPTE members report frequently hearing such sounds at UCM). Unlike UCSD's policy, UCM's Policy improperly makes no allowance for competing sources of noise already in the environment.

3. Unreasonable Limits on Tabling and Shading

Section 10 requires advanced management permission for demonstrators to have any "structure", defined so broadly as to include a small card table set up and attended by demonstrators the entire time and used simply to keep literature and food and water clean and dry. The definition also appears to apply to a temporary shade longer than two feet in a direction used during a rally of the sort frequently set up by UPTE during rallies to keep members from excessive exposure to sun or rain, as well as protect leaflets and signs from rain. No standards for management approval are set forth in the Policy, nor any deadline for UCM deciding on requests for approval. All this violates HEERA, given that a ready alternative for UCM is simply to ban blocking of passageway by a table or shade. See *ACLU, supra*.

4. Unreasonable Ban on Chalking:

UCM's ban is unreasonable for the same reasons as UCLA's ban is.

I. UCSD's RULES RULES VIOLATE HEERA

1. Overbroad and Vague "Disrupt" Standards

The primary standard repeated in UCSD's Policies is that expressive actions not have the effect of "disrupting" UC operations. See, e.g., Secs. IX(B)(3); V(3.4.3.). This is impermissibly vague and overbroad: see discussion of *Brown, supra*.

2. Excessive Regulation of Bullhorn Use

UCSD's requirement that unions obtain management permission in advance for any sound amplification anywhere is unreasonable. See discussion of *Cuviello, supra*. UCSD's rule lacks the necessary substantive standards to guide management discretion in granting permission, and the necessary prompt deadline for management to respond to requests for permission. We incorporate by reference our analysis above about the importance of amplification. It is notable that elsewhere UCSD sets decibel level standards, thereby confirming there are other ways to protect UC's interests which impose less burden on unions than a slow process of seeking UC permission with no standards to guide either the requester or UC decisionmakers.

UCSD also banned any amplification within 150 feet of any UCSD health care facility. This is excessive because most of these are soundproofed well enough that

delivery of care inside would not be disrupted by someone with a bullhorn closer than this distance, as various unions have shown through their prior use of bullhorns at UCSD closer to such facilities. Those few facilities not sound-proofed well enough would be readily protected by UCSD setting a decibel limit inside the facility. UPTE staffperson Jeff Welsh did a bullhorn test at two major UCSD healthcare facilities (Koman Outpatient Pavilion and Hillcrest Hospital main entrance) and found that even when he shouted into a bullhorn turned up to its maximum at 120 feet from these buildings, the needle on a sound meter held by an UPTE member inside the buildings was not even moved: using a bullhorn had no effect on UCSD operations. UCSD's 150-foot ban also unreasonably burdens the union when it wants to engage in the common practice of simultaneously using amplified sound and leafletting and/or carrying signs, as standing 150 feet away is too distant from UCSD buildings to handbill those entering or leaving, and makes many signs unreadable by those entering or leaving.

Several UCSD facilities one could call "health care facilities" are not occupied by patients (such as labs) or are open to patients only during normal business hours, making UCSD's ban on amplification within 150 feet of such facilities or outside patient care hours quite overbroad.

Finally, UCSD's decibel standards would bar many bullhorns because they can generate more than 95db measured 50 feet away. However, this 50-foot standard is usually irrelevant: if the bullhorn is being used in a large open field or plaza with no passerbys or building within 50 feet (such as in the 8900SF Jacobs Backyard), hitting 95db hurts no one. This Policy is unreasonable because not based on the decibel level for those not consenting to join a rally, who are the only listeners whom UCSD could legitimately seek to protect. See Luis Inaraja Vera, "How Science Can Improve Regulation: Noise Control in Urban Areas", 53 *Tulsa L. Rev.* 33, 52-4 (2017) ("most ordinances set their noise limits for each land use category based on immission levels - focusing on the noise that reaches the receiver", as opposed to emission sound levels (measured near the source). *** "An emission standard is very likely to be too lenient or too stringent, and in any case, inefficient.").

3. Unreasonable Requirements for Management Approval of Every "Major Event" (over 100)

Requirements for lengthy periods of advanced application for permission from government officials to engage in speech on large exterior spaces fitting many hundreds more have repeatedly been found unconstitutional, as noted above. Here, UPTE and other unions have repeatedly held outdoor meetings/rallies over 100 people (with a

bullhorn) at UCSD without prior UC permission, but without complaint from police or UC officials about UPTE's conduct.¹⁸ UCSD's new requirement violates PERB's holding that employer requirements for advanced notice from organizers to meet with employees are unreasonable and unlawful. *Long Beach, supra*.

Here, union groups are required to give 5 weeks' notice (Section V (4.2.2)), but students can apply only 3 weeks in advance (4.1.2), strongly suggesting that unless UCSD is somehow deluged with student applications (of which UPTE have seen no evidence), UCSD officials are likely capable of deciding union applications in much less than 4 or 5 weeks. UCSF is only requiring 10 days, and all other locations requires less than 5 weeks.

UCSD's Policy sets no firm deadline for UCSD officials to respond to applications, merely promising an effort to respond one week prior to the planned event (4.2.3). A denial merely one week from an event leaves unions no reasonable opportunity to negotiate alternatives satisfactory to UCSD while still allowing union members and supporters to plan their schedules (in light of childcare, eldercare and the many other demands on their time). This late answer by UCSD's officials is especially unreasonable because its Policy bans unions from advertising the event prior to approval (3.2.3), even if the ad says the location is not yet confirmed so attendees should doublecheck with their union before showing up. This advertising provision is unreasonable as written.

It is unreasonable for UCSD to impose restrictions on holding a 100-person meeting in one of its many large auditoriums already designed for several hundred (for example, in the Altman Research Institute and most classroom buildings). This is

¹⁸ Here a few examples of locations where multiple large union actions involving more than 100 persons and a bullhorn closer than 150 feet have been held without incident:

- Numerous union gatherings and informational pickets have been held outside Komen Outpatient Pavillion near the UCSD Jacobs Medical Center in La Jolla without incident, including one by UPTE a few months ago by over 260 UPTE members.
- Numerous union gatherings and pickets have been held outside Thornton Pavilion near the UCSD Jacobs Medical Center in La Jolla without incident, including one by striking UPTE Optometrists in February 2024.
- Numerous union gatherings and informational pickets have been held outside the ACTRI building near the UCSD Jacobs Medical Center in La Jolla without incident.
- Numerous union gatherings and pickets have been held in front of UCSD Medical Center inpatient tower in Hillcrest without incident, including by UPTE members a few months ago.
- Multiple unions and other organizations have held numerous large demonstrations and pickets involving hundreds of individuals on the main UCSD campus in La Jolla without incident, including in front of the Geisel Main Library, near the student center, near the medical school complex, and numerous other locations, including by UPTE members near the student center in June 2024.

especially problematic because there are no standards set forth for management denying permission (merely a non-exclusive list of potential reasons for denial). So unions are left with no real way of predicting that they will receive permission. Given that UCSD has several large meeting rooms and large outdoor spaces where a rally of 100 or more UPTE members will impose no threat of blocking traffic or other threats to legitimate UCSD interests, PERB should not permit a definition of Major Events requiring applications for permission for anything less than 250 attendees (for example, UCD uses 400 attendees as its cutoff, UCLA uses 350, and UCB and UCI use 300).

4. UCSD Unreasonably Requires Insurance of \$1 Million for Every Major Event

This requirement in section 4.2.2. is unreasonable for the same reasons as discussed above for UCSF's insurance requirement. The only difference from UCSF's here is that UCSD has a 100-attendee trigger, but 100 UC employees gathered in an auditorium designed for hundreds or on one of the large open spaces on UCSD campus are very unlikely to create any liability for UC. Several court cases invalidating insurance requirements had even more serious triggers than gathering employees on a lawn or inside an auditorium: see, e.g., *Gay Pride, supra* (events covered by insurance requirement must block vehicle or pedestrian traffic); *Invisible Empire, KKK v. Mayor et al. Of Thurmont*, 700 F. Supp. 281 (D. Md. 1988)(insurance required of KKK parade in streets which would generate counter-protests).

5. Improper Requirement for Advanced Permission for Most Tabling

Section IX(D) and Appendix A unreasonably require advanced management permission for demonstrators to have a table for fliers and food/water at many of the times when UC employees would hold a rally -- before or after work. The exceptions in Appendix A for midday at some locations do not include most locations where UC unions have held rallies in the past using a folding card table to hold leaflets, signs, and/or food and water -- with no objection from UCSD. This Policy improperly fails to provide (1) clear substantive standards for management decisions on requests to use a table at a rally, and (2) a time limit for management to respond to a request for permission to have a table. Caselaw invalidating similar requirements and an explanation of practical problems caused by such requirements are discussed above.

6. Excessive Limits on Chalking:

Section IX(H) correctly recognizes that chalking is a protected form of speech. But it then goes on to defy this principle by insisting that chalking never occur in an outdoor spaces under an overhang -- even if the protestor is willing and able to wash their chalk off immediately -- as if somehow San Diego's highly-infrequent rain is the

only legitimate way to cleanse chalk off sidewalks? UPTE is willing and able to clean its chalk off via bringing in buckets of its own water and soft brushes so as to ensure its chalking causes no damage nor expense to UC. For protestors willing to make assurances like this and likely to carry them out (as UPTE is), there are no legitimate governmental interests in blocking union use of chalk to deliver messages under the many overhangs on UCSD campus. Meanwhile, chalking reaches audiences who are many flights up in buildings or watching via cameras on helicopters or drones, who would otherwise have seeing the union's message unless the union unreasonably tilted its signs or lay them on the ground. UCSD's limits on chalking are unreasonable and violate HEERA.

J. UC SANTA CRUZ HAS VIOLATED HEERA

UCSC banned unauthorized "structures" and was asked by UPTE whether this applies to temporary card tables and shades for sun and rain protection of the sort regularly used by unions at UCSC in the past. UCSC failed to answer the inquiry. This is an unlawful failure to provide necessary and relevant information. A rule banning such structures is unreasonable given the absence of automatic threat from such "structures" on a campus as large as UCSC where such tables and shades can easily be erected in many places where they would not block pedestrian traffic.

UCSC has also maintained that its permission is required for any amplification, even a single bullhorn in the middle of a wide-open field. This requirement is overly-broad, unnecessarily-burdensome, and lacks any substantive standards or procedural protections for union requests. See discussions above of *Cuviello*, *supra*.

K. UC RIVERSIDE'S NEW RULES ARE UNREASONABLE AND VIOLATE HEERA

1. Unreasonable Requirement for Preapproval of Any Activities After 8pm or before 8am

This time limit in 700-70(A)(1) is earlier in the evening and later in the morning than all other campuses' policies. It is unreasonably narrow: a number of unit members have shifts which end or start after 8pm or end or start before 8am who would like to participate in union activities on their way into or out of work. There are no standards set forth for management approval, nor any time limit on when administrators must decide union applications for approval, both rendering this requirement legally further improper.

2. Unreasonable Requirement for Preapproval of Any Sound Amplification

This requirement in 700-70(C)(1) lacks any substantive standard to be applied and any time limit for administrative decisions upon union applications for permission. Also, this requirement applies even to the use of a single bullhorn in large outdoor spaces with high existing noise, and thus is overbroad. For all these reasons, it is unreasonable. See discussions above of *Cuviello*, *supra*.

3. Unreasonable Requirement for Preapproval of any Tabling

This requirement in 700-70(C)(2) that unions obtain prior management consent for bringing even a small folding table to hold fliers and food for temporary use during a rally violates HEERA because overbroad in applying even in large lawns, because there are no substantive standards for UCR officials' decisions, nor any requirement that UCR officials render a prompt decision on any request e make for a table.

4. Unreasonable Ban on Any Disruption, Even if the Unintended Consequence of Free Speech

This ban in 700-70(C)(3) is impermissible for the same reasons as discussed above under the discussion of *Brown*, *supra*.

L. UC BERKELEY HAS UNREASONABLE RULES

1. UCB Unlawfully Bans All Tabling During Rallies By Unions, But Not Students

UCB Reg. 351 provides in pertinent part: "Individuals that are not members of recognized campus organizations, the recognized student government and its agencies, official alumni groups, and colleges, schools, departments and other units of the Berkeley campus may stand to distribute non-commercial announcements, statements, materials, **but may not set up a table**, chair(s), or other display materials." However, this complete ban on union tables is unnecessary and overbroad because a separate rule (Reg. 352) bans any restricting of the flow of traffic with a table, so nothing of significance to UC's legitimate interests is accomplished by the total ban in rule 351. There is no reason to have such a ban when merely gathering a large number of protestors could also block pedestrian traffic, even more so with picket signs, yet pre-approval is not required at UCB. The potential blocking problem can be entrusted to rally organizers and UC police to address on the day of the event, as it has in the past. UCB campus has plenty of room for a union protest to set up a card table without that interfering with pedestrian traffic.

2. UCB unreasonably bans all amplification by unions, while allowing it for students and university events

Reg. 341 states: "The use of sound amplification equipment for functions or events that are not officially authorized by the University is not permitted."¹⁹ No substantive standards or procedures are set forth to obtain authorization from management for a union rally to protest management decisions, and it is obvious that with clear standards and rapid approval procedures, a management hostile to the union's gripes are unlikely to authorize its rally. The reasons UPTE wishes to amplify its protest speech and its legal rights to do so are explained in section A(9) above. UCB campus has several areas such as near Bancroft and UCB construction sites where background noise or the large size of the space requires amplification in order for those attending a union rally to be able to hear the speaker.

3. UCB unreasonably bans even unintended "disruption"

Reg 321 makes it a violation to "d. obstruct or disrupt teaching, research, administration, disciplinary procedures, or other University activities; e. engage in the production of amplified or non-amplified sound that disrupts campus activities". This is too vague and overbroad: see discussion of *Brown*, supra.

4. UCB unreasonably bans chalking

UCB also bans chalking anywhere, which is unreasonable given how easily it cleaned up and UPTE's willingness and ability to clean up. See discussion in Section G(5) supra.

M. UCSB UNREASONABLY BANS LEAVING FLIERS ON CARS

UCSB bans leaving leaflets on vehicles, even though UPTE is willing and able to deal with any litter, and any employee driver who litters is risking employment discipline so it would be a rare one willing to take such risk given the plethora of outdoor videocameras on UC campuses. UCSB's lots are not so busy with cars coming in and

¹⁹Even if authorization for a union protest rally could somehow be obtained from management, rule 342 erects further barriers in terms of places and times and additional administrative approvals: "During periods of instruction or employment, sound amplification will be permitted for authorized events on the Savio (Sproul Hall) steps and in the Lower and Upper Sproul Plaza between noon and 1:00 p.m. and between 5:00 p.m. and 7:00 p.m seven days a week. The amplification of programs which are predominantly musical shall be permitted only in Lower Sproul Plaza. Amplified sound outside of the aforementioned locations and times is not permitted without the authorization of the surrounding Building Coordinators and the campus department managing the facility. *** Amplified sound approvals from all Building Coordinators must be sent to Event Services at least 3 days prior to the event or amplified sound will not be allowed." These are unreasonable because a very small percentage of the UCB workforce works close to Sproul, and nothing in the Rules provides any substantive standards for Building Coordinators and departments, nor requires these officials act promptly upon requests for amplification.

out that a single leafletter in a parking area would normally pose a threat to cars or themselves. As noted above, courts reject such restrictions on leafletting absent proof of traffic hazards.

N. UCOP's POLICIES ARE UNREASONABLY OVERBROAD AND VAGUE, AND ARE NOT BEING FOLLOWED

Several campuses have sought justification in UCOP's existing speech regulation (5 CCR 100004), but this itself is overbroad and hands excessive discretion to UC officials without clear standards or response times for administrators:

A. Approval for Gatherings or Demonstrations: No non-affiliate shall hold or conduct any demonstration or gathering in or upon any University property without prior approval from the Designated University Official, and subject to such requirements regarding time, place, and manner as the Designated University Official may impose.

B. Approval for Structures or Equipment: No non-affiliate shall build, construct, set up, place or maintain or attempt such, in or upon any University of California owned or operated property, any tent, platform, booth, bench, table, building, sound system, or other structure, without prior approval from the Designated University Official, and subject to such requirements regarding time, place, and manner as the Designated University Official may impose.

C. Approval for Amplified Sound: No non-affiliate may use amplified sound on University Property, without prior approval from the Designated University Official, and subject to such requirements regarding time, place, and manner as the Designated University Official may impose.

D. Criteria for approval of activities in this section shall be content-neutral **and specified in advance.**

(emphasis supplied)

Note this regulation promises that decision-makers and decision-making criteria will be specified in advance, but the locations' rules do not achieve this, which itself constitutes an unfair practice because the regulation represents an aspect of the status quo not being followed without prior notice or bargaining.

Also suffering from impermissible vagueness and overbreadth not cured by rules at the locations is 5 CCR 100014: "A. No non-affiliate shall carry, transport or use signs, posters, placards or banners exceeding thirty inches (30") by thirty inches (30") in size, in or on any University property unless prior written permission has been obtained from

Designated University Official.” As noted above, there is no need for such an overbroad and inherently-vague requirement given that the campuses and other locations are filled with plazas and lawns where the public is already allowed to stand where a normal 4’ x 6’ banner would not block anyone. As with the other reg, the UCOP signage reg requires the criteria at the locations to be “specified in advance” (5 CCR 100014(G), a requirement not followed by any location.

UCOP Regulations section 100001 purports to exempt employees from the above without any exception for employees engaged in union activities,²⁰ yet UCOP and the locations are now treating such employees as if they were outsiders – another unilateral change in violation of HEERA.

VII. UC VIOLATED HEERA BY UNILATERALLY ADOPTING THE NEW RULES WITHOUT REASONABLE PRIOR NOTICE

Because much of the New Rules are not identical in substance to earlier policies, they unilaterally altered conditions of employment including access of unions and employees. UC’s justification was SB 108 (the 2023 budget bill)²¹, but the relevant

²⁰ “The following definitions shall apply to terms used in this Chapter:

A. ‘Non-affiliate’ means any person who is not any of the following: a student, officer, official volunteer, employee, Regent, or emeritus of the University of California or a member of a household authorized to reside in University Property. As used in this definition:*** 3. ‘employee’ means any person who is listed in the campus payroll system, regardless of the percentage of time associated with the person’s employment, including a staff retiree who has been recalled for University employment and other individuals to whom the University is contractually obligated to provide access to University property equivalent to that allowed to University employees.”

²¹ This provides: “34. It is the intent of the Legislature that the University of California foster freedom of expression and the free exchange of ideas that comply with state and federal law and campus policies while also protecting student, staff, and faculty safety and access to educational opportunities. Each campus of the university shall prepare a campus climate notification by the beginning of the Fall 2024 term. The University of California Office of the President will develop a systemwide framework to provide for consistency with campus implementation and enforcement.

(a) Each campus shall provide notification of the following to students before the start of each academic year:

- (1) The campus’s time, place, and manner policy, which identifies the allowable parameters of free speech activities and the campus.
- (2) The Student Code of Conduct, which identifies acceptable student behavior, and relevant state and federal laws, which delineate legal and illegal activities.
- (3) The systemwide Nondiscrimination Policy, which ensures compliance with Title VI and Title VII of the Civil Rights Act of 1964.
- (4) The process by which the campus will resolve any complaint of a violation of relevant institutional policies, state law, or federal law, including complaints against individuals not affiliated with the campus.

language of this bill does not come close to amending HEERA or creating an emergency within the meaning of PERB's emergency doctrine allowing unilateral changes in extreme circumstances.

Two locations have not changed regulations and therefore are not the subject of unilateral change allegations, UCSB and UCB.

Various locations have claimed in broad unspecific terms that aspects of their New Rules were in prior versions of their regulations. However, these older rules were not enforced against UPTE even though it repeatedly engaged in conduct violating such "rules". For example, UPTE regularly engaged in protests in front of Mission Bay Hospital without prior management permission, as well as on the lawn in front of UCI Douglass Hospital, until a policy violation was first claimed by UCIH against UPTE in August 2024.

Key adverse changes on the face of the New Rules compared to prior versions include:

(A) UCSF: Policy sections B(2)(a) and B(3)(e) which ban tables and canopies; Policy B(2) expands ban on amplification to include any disturbing of neighbors,

(5) The range of consequences possible for students, faculty, or staff who violate relevant institutional policies, state law, or federal law, including, but not limited to, discrimination based on shared ancestry under Title VI of the Civil Rights Act of 1964.

(6) How the campus may respond to activities that threaten the safety of students, faculty, or staff, and disrupt their ability to access the campus or buildings, the educational process, or activities on campus. The notification will include strategies consistent with current law for how the university intends to ensure students can safely access buildings and activities on campus.

(7) How the campus intends to foster healthy discourse and bring together campus community members, and viewpoints that are ideologically different, in order to best promote the educational mission of the institution and the exchange of ideas in a safe and peaceful manner.

(8) Identify educational programs and activities for faculty, staff, and students to support the balance between free speech activities, educational mission, and student safety.

(9) A list of the resources available on campus for faculty, staff, and students to receive mental health and trauma support.

(b) The Office of the President of the University of California shall submit a report to the Legislature by October 1, 2024, describing the campus climate notifications and any and all efforts to ensure consistent enforcement of institutional policies, and state and federal law, that protect safety and access to educational opportunities and campus spaces and buildings. Of the funds appropriated in this item, \$25,000,000 shall be released only if the Director of Finance certifies that the University of California campuses have completed campus climate notifications and the University of California Office of the President has submitted a report by October 1, 2024."

whereas prior policy used legal term of art “disturbing the peace” which has a narrower and more objective meaning under the caselaw.

(B) UCD: All rules to which UPTE has objected above.

(C) LBL: All rules to which UPTE has objected above.

(D) UCIH: Limits on times/places at all newly-acquired UCIH facilities and the requirement to remove all postings every 30 days.

(E) UCIC: All rules discussed above except for ban on accessing research areas and the limiting of handbilling to only numbered parking lots and employee entrances.

(F) UCLAH: The version UCLAH supplied of its new rules (Ex. F(2)) is redlined to show the changes, which include the 24-hour notice requirement for union visits, ban on visiting kitchens and other food prep areas and the Executive Suite, and ban on amplified sound indoors, and all limits at the newly-acquired West Valley Medical Center.

(G) UCLA-C: Narrowing areas considered permissible to protest to a short list of less-desirable areas where there was no list before; mandating a UC “guarantor” for a non-affiliate to be allowed any Organized Event.

(H) UCM: All its New Rules appear to actually be new in substance.

(I) UCSD: Requiring management approval for tables, canopies, and amplification.

(J) UCSC: Requiring management approval for use of card tables, shade canopies and amplification.

(K) UCR: All its New Rules appear to actually be new in substance.

VIII. THERE IS NO LIMITATIONS BAR TO UPTE’s CHALLENGES TO THE PREEXISTING RULES

While some rules challenged here were on paper more than 6 months before the issuance this fall of the New Rules, that does not make this charge untimely because PERB takes a similar approach as the courts when official policies expressly interfere with protected activities: “The statute of limitations does not apply to the facial challenge of a statute that infringes First Amendment freedoms as such a statute inflicts a continuing harm.” *Napa Valley Publ’g Co. v. City of Calistoga*, 225 F. Supp. 2d 1176, 1184 (N.D. Cal. 2002)(citing three other decisions). “The continuing violation doctrine applies when a respondent’s rule or policy on its face interferes with protected rights or

discriminates against protected activity, and the policy was in effect during the six months prior to the filing of the charge.” 1 *Cal. Public Sector Labor Relations* § 20.11 (Cal. Bar 2024)(citing *County of San Diego* (2020) PERB Dec. No. 2721-M, p. 13; *Long Beach Unified School District* (1987) PERB Dec. No. 608, p. 12).

IX. SEVERAL CAMPUSES HAVE UNLAWFULLY FAILED TO NEGOTIATE

As noted above, UCB, UCR, UCSC and UCSC have failed to respond to UPTE written requests to negotiate.

X.REMEDIES REQUESTED

PERB should declare the rules discussed above to be unreasonable and order UC to cease and desist from enforcing them or anything similar against UPTE or its members (absent express consent by UPTE). UC should be ordered to suspend the effectiveness of new rules and to bargain in every location. . UC should be further ordered to cease and desist from promulgating or enforcing new access or speech rules without at least 90 days’ prior notice and bargaining within 15 days of UPTE request.

PERB should order UC to make UPTE whole for its expenses in attempting to comply with these rules (such as seeking insurance), and for its losses in trying to use alternative means to communicate in order to overcome the lost support resulting from the rules (such as staff work on alternative communications methods and expense on paid advertising).

If UC starts further enforcing these rules against UPTE through discipline, civil suits, or criminal charges, this will cause further serious irreparable harms to UPTE in terms of chilling of speech. In such event UPTE intend to request preliminary injunctive relief. This chilling effect is an irreparable harm warranting preliminary relief from the courts.²²

Such enforcement by UC would also cause UPTE to have legal expenses and staff time lost on enforcement proceedings which PERB should order UC to pay at market rates, as in *Palomar Health* (2024) PERB No. 2895-M. UC suspending or discharging employees over violations of the challenged rules would also cause them to lose pay and benefits for which they must be made whole. Interest at 7% per year compounded daily should be awarded on all sums due.

XI. CONCLUSION

²²See, e.g., *Ketchens v. Reiner*, 194 CA3d 470, 480 (1987)(“The question is not a close one. ‘The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.’ (*Elrod v. Burns* (1976) 427 U.S. 347, 373”).

UC administrators have unfortunately used the Gaza protests as a “Trojan Horse” to smuggle in new onerous restrictions upon employee and union speech. PERB needs to end the war on worker speech declared by UC under the guise of stopping lawlessness during Gaza protests. Nothing about UPTe’s challenge here has anything to do with barricades, wearing masks to hide one’s identity, overnight camping, or any of the other problems arising during Gaza protests. UPTe through this charge is simply demanding that UC adhere to the same basic standards nearly all other private and public employers follow in respecting employees’ rights to protest unfair employment conditions near their workplaces using simple basic well-protected speech methods during the ordinary workday. It borders on the absurd that a University ostensibly dedicated to the pursuit of humans exchanging information with each other is so dead-set on making such exchange nearly-impossible for its workforce and their designated union representatives.

Exhibits to UPTE Charge

EXHIBIT A(1)



Human Resources
654 Minnesota Street
San Francisco, CA 94143

www.ucsfhealth.org

University of California
San Francisco

September 4, 2024

Via Electronic Mail

Re: UCSF – Notice of Interim Policy Update – Campus Administrative Policy 600-27, Expressive Activities Held on UCSF Property (2024-1246)

Dear Union Leaders:

I write to inform you that UCSF is updating [Campus Administrative Policy 600-27, Expressive Activities Held on UCSF Property](#), in conjunction with the requirements of SB 108 and [President Drake's August 19, 2024 directive to the UC community](#). The policy is effective on an interim basis, beginning September 3, 2024. Comments may be submitted [via the policy feedback form](#) no later than October 17, 2024. A copy of the message sent out to the UCSF community is enclosed.

Pursuant to SB 108, the University is required to provide the legislature and its campus communities with notifications that describe its strategies and efforts to protect safety and access to educational opportunities and campus space and buildings. A report detailing these strategies and efforts is due to the legislature by October 1, 2024. In compliance with the law, UCSF is providing notice to its stakeholders of these strategies and efforts, which include the changes to the university's rules described above. These safety and educational opportunity access rule updates will continue to ensure union access to UC facilities consistent with the requirements of HEERA. That said, please let our office know at ELR@ucsf.edu if you would like to meet to and confer regarding any negotiable impacts to union access.

Given the timelines set forth in SB 108, these safety and educational rule updates are being implemented on an interim basis before October 1, 2024 and will become final following the close of the policy comment period.

Thank you for your continued partnership.

Sincerely,

Aviva Roller
Director, Labor and Employee Relations
UCSF Campus and UCSF Health

Proof of Service

Attachment: Call for Comment: Campus Administrative Policy 600-27, Expressive Activities Held on UCSF Property

cc: Arlin Kachalia, Manager, Labor and Employee Relations
Ayesha Mahmood, Manager, Labor and Employee Relations
Kelly Sheridan, Manager, Labor and Employee Relations
UCSF Labor Relations Consultants and Representatives
Melissa Matella, Associate Vice President, Systemwide Labor and Employee
Relations
Matt Teaford, Director, Labor Relations, Systemwide Labor Relations
Daniel Crossen, Principal Counsel, UC Legal – Office of the General Counsel



PROOF OF SERVICE

I, Sabrina Fong, declare that I am over the age of eighteen years, not a party to this action, and I am employed in the county of San Francisco, State of California. My business address is 654 Minnesota Street, 2nd Floor San Francisco, CA 94143

On September 4, 2024, I served the attached letter regarding

UCSF – Notice of Interim Policy Update – Campus Administrative Policy 600-27, Expressive Activities Held on UCSF Property (2024-1246)

to the parties listed below by the checked applicable method or methods:



placing a true copy thereof enclosed and delivery by the United States Postal Service following ordinary business practice with postage or other costs prepaid



electronic mail delivery (e-mail)

Name and Address of the parties served:

American Federation of State, County and Municipal Employees, Local 3299 - UCSF.mail@AFSCME3299.org
[Lucy Sanchez <lsanchez@afscme3299.org>](mailto:Lucy.Sanchez@afscme3299.org)

CIR-SEIU Committee of Interns & Residents

Alex Bush abush@cirseiu.org
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Federated University Police Officers Association

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San Francisco Building & Construction Trades Council

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Teamsters Local 2010

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UAW Local 5810 / UAW Local 2865

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Union of American Physicians and Dentists

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University Council-American Federation of Teachers

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University Professional and Technical Employees, CWA Local 9119

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Maureen Flaherman mflaherman@upte.org
Ashley Mates ashley@upte.org
Sarah Shames sarah@upte.org
Gerard Ramm gramm@upte.org

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on September 4, 2024, at San Francisco, California.

Sabrina Fong

Name (Printed or Typed)

Sabrina Fong

(Signature)

Digitally signed by
Sabrina Fong
Date: 2024.09.04
11:57:45 -07'00'



From: [UCSFCampus Administrative Policies](#)
To: UCSFSTAFF-MC@LISTSRV.UCSF.EDU
Subject: Call for Comment: Campus Administrative Policy 600-27 Expressive Activities Held on UCSF Property
Date: Tuesday, September 3, 2024 7:28:00 PM

This message is sent to all employees and learners.

The University of California, San Francisco (UCSF) invites comments on [interim UCSF Campus Administrative Policy 600-27 – Expressive Activities Held on UCSF Property](#).

Overview:

This interim policy requires that the exercise of free and open expression on University Property is conducted compliant with First Amendment rights, with orderly and civil behavior that ensures public safety, and does not disrupt University operations or damage UCSF Property.

Reason for action:

The interim policy, effective September 3, 2024, contains updates in response to [UC President Michael V. Drake's directive to the UC community dated August 19, 2024](#), as well as [California State Senate Bill 108, SEC. 219, 34](#).

If you have questions or if you wish to comment, please respond [via this policy feedback form](#) no later than October 17, 2024.

This message is sent by:

Brenda Gee
Administrative Director
Office of the Executive Vice Chancellor and Provost

Subscription to this UCSF Listserv list is based on affiliation, appointment, employment or registration at UCSF. Membership is updated every 24-hours. Individuals cannot be manually removed.

EXHIBIT A(2)

[HOME](#) > [POLICIES](#) > 600-27: INTERIM: EXPRESSIVE ACTIVITIES HELD ON UCSF PROPERTY

600-27: Interim: Expressive Activities Held on UCSF Property

Questions?

Contact [Campus Administrative Policies](#)

In this article



Overview

Requires that the exercise of free and open expression on University Property is conducted compliant with First Amendment rights, with

orderly and civil behavior that ensures public safety, does not disrupt University operations, or damage UCSF Property.

Purpose

Free and open expression is a constitutional right under the First Amendment. For “Students,” free and open expression is particularly important to a rich educational experience at the “University of California.”

It is the policy of the University of California, San Francisco (“University” or “UCSF”) to ensure that the exercise of free and open expression on “University Property” is at all times conducted in compliance with First Amendment rights, with orderly and civil behavior that ensures public safety, and in a manner that does not disrupt University operations or damage University Property.

All individuals or organizations using University Property for Expressive Activities must avoid any unauthorized implication that they are sponsored, endorsed, or favored by the University.

To provide clarity, relevant terms used in these policies and procedures are defined below.

Definitions

Students

University of California

The University of California, San Francisco or UCSF

University Property

Expressive Activities

Employees

Affiliates

Non-Affiliate

University Business

University Official

Time, Place, and Manner Restrictions

Organizer(s)

Authorized University Office

Amplified

Non-Amplified

Facility Operator(s)

Civil Disobedience

Student Government(s)

Student Registered Campus Organization (RCO)

Staff Registered Campus Organization (RCO)

Non-University Speakers

Policy

A. Applicability

These policies and procedures apply to all free speech and open expression events held on University Property, collectively referred to as “Expressive Activities,” including, but not limited to: assemblies, associations, demonstrations, debates, picketing, protests, rallies, and speeches.

Lectures, seminars or other presentations conducted or organized by “Students,” “Employees,” or “Affiliates” within the scope of their studies, employment duties, or affiliation are, for the purposes of this policy, generally considered “University Business.” However, any activities with the potential for inciting behavior that could impede public safety, cause property damage, or disrupt University operations are not considered “University Business,” and thus are subject to Expressive Activities policies and procedures.

B. Viewpoint Neutral

It is the policy of the University to remain viewpoint neutral when making determinations as to what types of events constitute Expressive Activities and when charging event costs to Organizers.

C. Prevailing Policies and Procedures

During an emergency, UCSF’s Police Department General Orders (See “Related Information” below) prevail should a conflict arise with these Expressive Activities Policies and Procedures.

Should a conflict arise with any event-related UCSF policies or procedures, the requirements stated in these Expressive Activities Policies and Procedures prevail.

D. Policy and Procedures Exceptions

These policies and procedures must be followed for all Expressive Activities held on University Property, unless the UCSF Police Department, the Expressive Activity Review Committee (Section C.4) or a “University Official” determines that a deviation is in the best interest of public safety and/or the orderly continuation of the University’s business operations.

Procedures

A. Public Grounds, Limited-Public Grounds, and Special-Use Grounds

1. Public Grounds

- a. It is the policy of the University that all persons, including non-affiliates, may exercise their right to hold or participate in Expressive Activities on the University’s Public Grounds, subject to the University’s “Time, Place, and Manner” restrictions (Section B). For the purposes of these policies and procedures Employees and Affiliates organizing Expressive Activities are considered non-affiliates, except when organizing University Business activities.

A list of Public Grounds is in [Attachment A](#).

- b. The University strongly recommends the use of Recommended Public Grounds, a subset of the University’s Public Grounds, for Expressive Activities. Furthermore, a University Official has the right to direct Expressive Activities to these Recommended Public

Grounds whenever the University Official determines the use of these recommended areas is in the best interest of the University or event participants, in accordance with Time, Place, and Manner restrictions (Section B).

A list of **Recommended** Public Grounds is in [Attachment A](#).

Although several city sidewalks surround or bifurcate University Property and may be used for Expressive Activities, these public areas are under the jurisdiction of the respective city (San Francisco, Fresno, etc.) and Organizers of and participants in Expressive Activities must comply with city rules and regulations, as applicable.

2. Limited-Public Grounds – Advanced Notice

- a. The University extends the additional use of Limited-Public Grounds, including to non-affiliates, when requests are made in advance through an “Authorized University Office” and are approved by that Office (see Section C).

A list of **Limited**-Public Grounds is in [Attachment A](#).

3. Special-Use Grounds – Advanced Notice

- a. The University will extend use of the University’s Special-Use Grounds to the University’s Students, when such requests for Special-Use Grounds are submitted in advance through an Authorized University Office and are approved by that Office. (Section C). Because freedom of expression is considered a part of a constructive learning and research experience, the University grants Students access to additional space on University Property, beyond what is extended to other populations for expressive activities.

A list of **Special-Use** Grounds is in [Attachment A](#).

- b. Students of the University who do not arrange their activities in advance and in accordance with Section C are restricted to using Public Grounds for Expressive Activities.

B. Time, Place and Manner Restrictions

The University's Time, Place, and Manner restrictions identified herein are consistent with individual constitutional rights, while also ensuring public safety and enabling the University to operate without disruption or physical damage.

1. Time Restrictions

- a. No expressive activities can be conducted on outdoor Public, Limited Public, or Special Grounds between 9 pm and 6 am without prior approval through an "Authorized University Office."
- b. Times for holding Expressive Activities in Limited-Public and Special-Use Grounds must be held in accordance with times^[1] permitted by the Facility Operator and approved by the Facility Operator in advance.

2. Place Restrictions

Use of all University Property is subject to the following in and outdoor place restrictions:

- a. No person shall erect, build, construct, set up, establish and/or maintain unauthorized structures on University property, including but not limited to tents, barricades, fences, lean-tos, and shelters.

- b. Activities may not take place in front of elevators, or at the top, bottom or on the steps or landings of stairways. Stairways and elevators may only be used to move from floor to floor and access cannot be blocked.
- c. No person shall restrict the movement of another person or persons by, among other means, blocking or obstructing their ingress or egress of roadways, walkways, buildings, parking structures, fire lanes, windows, doors or other passageways to university property, or otherwise denying a person access to a University facility or space.
- d. With the exception of the Kalmanovitz Library Forecourt, activities must be at least 50 feet away from University building entrances and external stairways (outdoor events), including the entrances and external stairs of University hospitals, clinics, and other types of patient-care facilities
- e. Activities may not impede patient drop-off and pick-up locations that may be at or near building entrances
- f. Activities may not restrict the free flow of pedestrian traffic such as by overcrowding or placing tables and stands on sidewalks
- g. Activities may not interfere with the ability of vehicles to enter or exit a roadway, or parking lots or structures
- h. Activities may not interfere with the ability of vehicles to drive with the normal flow of vehicular traffic

3. Manner Restrictions

The University will not tolerate acts of “Civil Disobedience” on University Property. To promote a safe, non-violent, and constructive environment, all persons participating in Expressive Activities on University Property are subject to the following manner restrictions.

Since no safety list is completely comprehensive, University Police may impose additional safety measures.

- a. No person shall engage in any activity which endangers personal safety
- b. No person shall engage in, organize, or carry out unlawful activity
- c. No person shall engage in any activity which results in damage to personal or University Property or which violates the privacy and/or confidentiality of sensitive University records or information
- d. No person shall interfere with or disrupt normal University business, classes, patient care, healthcare, or any organized and authorized University activity inside or outside of a University Property
- e. No person shall erect or place a stationary structure or display larger than two feet in dimension on the Expressive Activities site.
- f. No person shall carry or transport signs, posters, placards or banners exceeding thirty inches (30") by thirty inches (30") in size or with handles or supports made out of non-wood material.[2]
- g. No person shall post or hang materials on university buildings or trees, or in a manner that blocks official University signage or results in property damage.
- h. No person shall block or impede access to any emergency alarm system(s)
- i. No person shall interfere or tamper with any part of any emergency alarm system(s)
- j. No person shall prevent participation by individuals with dissenting views.

- k. No person shall interfere with an individual's wish to exit a forum where they do not wish to be, listen or participate for whatever reason
- l. No person shall disregard instructions given by a University Official acting in their official capacities
- m. No person shall use amplified or non-amplified sound in levels that are above reasonable or that are disturbing patients or neighbors at a given site.
- n. No person shall camp, set up or erect a campsite, or occupy a tent or other temporary housing structure on university property, unless specifically pre-approved.
- o. No person shall wear a mask or personal disguise or otherwise conceal their identity with the intent of intimidating any person or group, or for the purpose of evading or escaping discovery, recognition, or identification in the commission of violations of law or policy.[3]
- p. No person shall refuse to identify themselves while on university property to University officials who are acting in the performance of their duties in situations where assistance or intervention is needed. UCSF faculty, staff, and students must comply with [UCSF Campus Administrative Policy 150-17: Identification Cards](#) regarding requirement to wear identification badges while on campus.

Notes regarding time and manner restrictions:

- [1] Operating times for the various Limited-Public Grounds and Special Use Areas are set by the respective Facility Operator and published and updated on the Facility Operator's respective website.
- [2] Sign sizes and material requirements are consistent with sign requirements set forth in the Covenants, Conditions, & Restrictions of the Regents of the University of California

Title V Division 10 Chapter 1 Sections 1000000-1000015: Regulations Governing Conduct of Non-Affiliates in the Buildings on the Grounds of the University of California.

- [3] Mask provision is consistent with requirements set forth in the Covenants, Conditions, & Restrictions of the Regents of the University of California Title V Division 10 Chapter 1 Sections 100013: Prohibited Conduct.

C. Arrangements

1. Use of Public Grounds Without Arrangements

The University understands that many forms of Expressive Activities occur spontaneously. As such, advanced arrangements are not required to use Public Grounds. Although not required for use of Public Grounds, advanced notice is encouraged and procedures in Sections C.2/3. should be followed.

2. Use of Limited- and Special-Use Grounds With Arrangements

Reservations for use of Limited-Public Grounds or Special Use Areas (Students only) must be made through one of the Authorized University Offices listed below.

All arrangements for services, such as, but not limited to, police, security, portable toilets, trash bins, and custodial services, must be coordinated through the applicable Authorized University Office, including for Expressive Activities organized by “Student Governments” or “Student Registered Campus Organizations.”

3. **Expressive Activity Types and Corresponding Authorized University Offices**

- a. Student Governments or Student Registered Campus Organizations: [Student Life](#)
- b. Political or Governmental Expressive Activities: [Government Relations](#)

c. Labor Relations Expressive Activities: [Labor and Employee Relations](#)

d. All Other Expressive Activities, including Staff Registered Campus Organizations:
[Campus Life Services](#) (Facilities Services or Office of Senior Associate Vice Chancellor)

All individuals or organizations using University Property for Expressive Activities must avoid any unauthorized implication that they are sponsored, endorsed, or favored by the University.

4. Event Forms and Approval Process

- a. The appropriate Event Form must be submitted 10-calendar days in advance to the applicable Authorized University Office for review and approval of all Expressive Activities held in Limited Public and Special Use Areas (Students Only).
- b. There should be no expectations that requests for use of Limited-Public or Special-Use Grounds (University Students only) will be approved, especially if the request is submitted with fewer than 10-calendar days' notice.
- c. **Student Organizers** must submit an Event Form through their Student Government or Student Registered Campus Organization in OrgSync for review and approval by UCSF's Student Life.
- d. **Non-Student Organizers** must submit an [Expressive Activity Event Form \(Attachment B\)](#) to the applicable Authorized University Office (see C.3 above).
- e. It is the responsibility of Facility Operators to redirect individuals and organizations planning Expressive Activities to the appropriate Event Form and the Authorized University Office so that Expressive Activity logistics can be reviewed and approved in advance.

5. Denials / Event Closures

- a. A request for use of Limited-Public and Special-Use Grounds (Student Only) may be denied by an Authorized University Office if the nature of the proposed event would be inappropriate or unsafe for the space requested or does not otherwise meet applicable policies and procedures, including Time, Place, and Manner restrictions.
- b. Should a scheduling conflict arise, the University will follow its space prioritization procedures (See “Related Information” below), which gives priority to use of University Property foremost to accommodate the University’s business needs.
- c. University Property may be used only for the intended purpose stated on the Event Form. If other activities occur, a University Official may cancel the reservation and close the event.

6. Appeal Committee

The University has established an Expressive Activity Review Committee to review applications that have been denied by an Authorized University Office to ensure that policies and procedures were applied in a reasonably consistent basis, ensured viewpoint neutrality.

- a. The Expressive Activity Review Committee is comprised of representatives from UCSF Police Department, Risk Management Services, Chancellor’s Office, Office of Diversity and Outreach, and the applicable Authorized University Office.
- b. Should an Authorized University Office deny the use of University Grounds for an Expressive Activity, a written appeal may be made to the Expressive Activity Review Committee within two business days of receipt of the denial. The Expressive Activity Review Committee will review the appeal and issue a written and final decision within two

business days of appeal receipt, though the decision time frames may be extended for good cause and with notice to the parties.

- c. Under no circumstances may the Expressive Activity be held during the time a denial is being appealed or before resolution of the appeal.

D. Non-University Speakers

1. “Non-University Speakers” **without an invitation** are only permitted to speak at an Expressive Activity on public grounds.
2. An Expressive Activity that includes an **invited** Non-University Speaker on either Limited-Public or Special-Use Grounds (Students) is only permitted when arrangements have been made in advance as described in Sections C.2/3. No invitation may be made to a Non-University Speaker until all arrangement procedures have been followed and approvals received.

E. Costs for Grounds and Services

1. Use of University Grounds is either free or fee based, depending on the type of University Ground being used (list below). If the Ground’s use is fee-based, all Expressive Activities organized by off-campus groups incur the same rate to use the University Ground, regardless of the viewpoint expressed. Student groups organizing Expressive Activities are eligible for the on-campus rate for the use of fee-based University Grounds; the on-campus rate also does not vary dependent on viewpoint.
 - Use of Public Grounds is free
 - Use of outdoor Limited-Public Grounds is free
 - Use of indoor Limited-Public Grounds is fee based*

- Use of Special-Use Grounds varies in cost (from free to fee-based) depending on the space (per Facility Operators)

* Rental rates for the various Limited-Public Grounds are set by each Facility Operator and published on the Facility Operator's respective website. Operators update their rates from time-to-time, typically on an annual basis.

2. Use of a University Service (porta potties, trash / recycling bins, chairs, etc.) is fee based and subject to change from time-to-time and depends on attendance size, location, event length, and set up (e.g., march, seated lecture). All Expressive Activities organized by off-campus groups incur the same rate for services, regardless of the viewpoint expressed. Student groups organizing Expressive Activities are eligible for the on-campus rate; the on-campus rate also does not vary dependent on viewpoint.
3. The Servicing Department has responsibility for disclosing estimated costs for requested services, based on information submitted on the OrgSync Event Form or the Expressive Activities Event Form.
4. The individual or organization has full responsibility for complying with all applicable payment procedures and deadlines, including but not limited to paying upfront for estimated costs associated with making the space reservation, where applicable. Failure to pay all upfront fees will result in the cancellation of the University facility reservation.
5. Furthermore, the individual or organization has responsibility for all post-event costs, such as, but not limited to damages to facilities or University resources expended to remove event fliers not removed by the Organizer.

F. Security Review

1. A security review by the UCSF Police Department is required for any Expressive Activity that is planned in advance. To conduct this review, an OrgSync Event Form or Expressive

Activities Event Form (Section 3) must be completed in advance and submitted to the Authorized University Office (Section 2).

Use of security and/or police services is based on an hourly rate, which is subject to change from time-to-time. All Expressive Activities organized by off-campus groups incur the same hourly rate for security or police services, regardless of the viewpoint expressed. Student groups organizing Expressive Activities are eligible for the on-campus group security or police hourly rate; the on-campus rate also does not vary dependent on viewpoint.

2. Hourly rates for security and police are published on the UCSF Police Department website.
3. Costs for security or police services will be the responsibility of the Organizer. If, however, the UCSF Police Department ascertains that a specific activity requires additional security or police personnel based on anticipated security concerns, such additional security or police costs will be borne by the University.
4. The UCSF Police Department is solely responsible for the contracting, scheduling, and posting of any security or police personnel on University Property. Organizers may not contract with third-party providers of security or police services without advance approval from the UCSF Police Department.

G. Insurance

1. To ensure protection of participants and University Property, Expressive Activities organized in advance by Student Government or Student Registered Campus Organizations must have insurance coverage in accordance with the University's Risk Management program.
2. Furthermore, Expressive Activities Organized in advance by non-affiliates also require insurance coverage in accordance with the University's Risk Management program.

3. Risk Management policies and procedures are referenced in “Related Information” below.

H. Posting

1. Display of material on University Property including, but not limited to, advertisements, art, notices, flyers, posters, banners or literature may only be posted in designated areas.
2. All promotional materials for Expressive Activities held on University Property shall include a disclaimer that makes clear that the activity is not sponsored by the University and must avoid any unauthorized implication that they are sponsored, endorsed, or favored by the University.

I. Other Applicable Policies

1. Compliance with University Policies and the Law

All persons on University Property for any reason, including non-affiliates, are required to abide by University policies and procedures and applicable laws.

- a. To facilitate reading, potentially applicable policies and procedures are summarized in this Section I and/or listed in “Related Information” below. Even if a University policy or procedure is not summarized or referred to herein, compliance with all University policies and procedures is required.
- b. Violations of any of the policies and procedures outlined or referenced in this document may result in suspension of space use privileges.
- c. Violation of University policies may subject a person to possible legal penalties. If the person committing such a violation is a Student or Employee of the University of California, that person may also be subject to disciplinary action in accordance with University of California and/or UCSF policies including, but not limited to applicable

collective bargaining agreements, Faculty Code of Conduct, and the University of California Policies Applying to Campus Activities, Organizations, and Students (PACAOS) with campus implementing regulations. (See “Related Information” below.)

2. Fundraising

- a. Organizers of Expressive Activities held on University Property may not charge admission, unless approved in advance by an Authorized University Office and in accordance with the University’s Fundraising guidelines. (See “Related Information” below.)
- b. Furthermore, an Expressive Activity may not include the sales of promotional material, unless a sales permit has been approved by an Authorized University Office and issued in accordance with the University Fundraising guidelines. (See “Related Information” below.)

3. Alcohol

- a. Possession of open containers of alcoholic beverages on the University’s Public Grounds is a violation of law and subject to prosecution. Alcohol may only be served in accordance with the University’s alcohol policies, which limits alcohol sale and consumption to specific locations and in accordance with guidelines that promote responsible behavior. (See “Related Information” below.)

4. Open Flames and Serving of Food

- a. Use of an open flame during an Expressive Activity is prohibited. Any exception must be pre-approved in advance and in writing by the Campus Fire Marshal:
<https://ehs.ucsf.edu/fire-prevention> .
- b. The serving of food to the public during an Expressive Activity is only permitted for events planned in advance and when Temporary Food Event Application has been

approved by the department of Environmental Health & Safety: <https://ehs.ucsf.edu/food-safety> .

5. Robinson-Edley Report

The Robinson-Edley Report contains 49 best practices and is used as a guide by the UCSF Police Department when participants in an Expressive Activity choose to engage in Civil Disobedience or possibly violate laws and regulations.

<https://campusprotestreport.universityofcalifornia.edu/documents/implementation-report.pdf>

6. Community Expectations

To maintain UCSF's status as a global leader in education, research, and patient care, UCSF is committed to building a broadly diverse community, nurturing a culture that is welcoming and supportive of all, and engaging diverse ideas. Individuals on University Property are expected at all times to uphold the principals and standards of [UCSF's Code of Conduct](#) .

7. Whistleblower Policy

Individuals are encouraged to use the [University Whistleblower Policy](#) if they have a good faith belief that an activity has occurred or is continuing to occur that is not in compliance with federal or state law or University policy.

Attachments

- [Attachment A: University's Public Grounds, Limited Public Grounds, and Special-Use Grounds](#)
- [Attachment B: Expressive Activity Event Form](#)

References

Codes of Conduct:

- A. [UCSF Campus Code of Conduct](#)
- B. [Faculty Code of Conduct](#)
- C. [Policy on Student Conduct and Discipline](#)
- D. [UC Abusive Conduct in the Workplace](#)
- E. [Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California](#)

Other References:

- A. [UC Anti-Discrimination Policy](#)
- B. [UC Diversity Statement](#)

- C. [University of California Policies Applying to Campus Activities, Organizations and Students \(PACAOS\) with UCSF Implementing Regulations \(PACAOS\)](#)
- D. [UCSF Social Media Policy and Best Practices](#)
- E. [UCSF Police Department Policies & Procedures](#)
- F. [Robinson-Edley Report](#)
- G. [UCSF Access Guidelines for Employee Organizations](#)
- H. [Space Prioritization Policies](#)
- I. [UCSF Brand Identity](#)
- J. [University Support, Sponsorship, or Endorsement](#)
- K. [Student Government and RCO Fundraising Guidelines](#)
- L. [Service of Alcoholic Beverages](#)
- M. [Higher Education Employer-Employee Relations Act \(HEERA\)](#)

Subject area	<u>Physical Facilities</u>
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Policy number	600-27
Responsible office	Office of the Executive Vice Chancellor and Provost
Effective	May 7, 2020
Reviewed	August 30, 2024

Related Information

- [050-11: Personal Use of University Property](#)
- [150-17: Identification Cards](#)
- [150-30: UCSF Industry Relations Policy](#)
- [200-31: Alcohol Policy](#)
- [450-16: Fundraising Events](#)

- [600-26: Use of Campus Public Spaces and Special Use Areas](#)



[Accessibility](#)

[Privacy Policy](#)

[Terms of Use](#)

[A-Z Website List](#)

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ATTACHMENT A UNIVERSITY'S PUBLIC GROUNDS, LIMITED PUBLIC GROUNDS, AND SPECIAL-USE GROUNDS

Use of Public, Limited-Public, and Special-Use Grounds for Expressive Activities is limited to those grounds expressly identified below and subject to Time, Place, and Manner restrictions (Section B).

Public Grounds (No advanced arrangements required)	Outdoor Areas & Side/Walkways, excluding Outdoor Limited-Public Grounds and Outdoor Special-Use Grounds: Recommended Public Grounds: <ul style="list-style-type: none">• Mission Bay: Koret Quad• Parnassus Heights: Kalmanovitz Library Forecourt• UCSF Fresno: 155 N. Fresno Street. The expressive zone is the courtyard west of the front doors, 50 feet from the entrance to the building.• City Side/Walkways⁵	
Limited-Public Grounds (Advanced arrangements required)	INDOOR <ul style="list-style-type: none">• Mission Bay: Conference• Center• Parnassus Heights: Millberry Union Conference Center	OUTDOOR Mission Bay: Mission Hall Courtyard, Plaza (by Gene Friend Way), and Hospital plaza/ grass area
Special-Use Grounds (For Students; advanced arrangements required)	Full List in the University's Classroom System: 25Live. Examples Include <ul style="list-style-type: none">• Parnassus Heights: Saunders Court• All Campuses: Indoor Classrooms, Designated Atria,• Mezzanines, and Building Lobbies.	

⁵ Public (city) sidewalks may be used for Expressive Activities: however, these public areas are under the jurisdiction of the respective city (San Francisco, Fresno, etc.) and organizers of and participants in Expressive Activities using public sidewalks must comply with rules and regulations for use of those spaces, as applicable.

EXHIBIT A(3)

Sept. 5, 2024

TO: UCSF Management

FROM: Andy Kahn, UPTE General Counsel

RE: UCSF's Expressive Activities Policy

I'm writing on UPTE's behalf in response to UCSF's recent notice of Policy 600-27 limiting expressive activities by UPTE and other unions. This Policy does not meet the reasonableness requirement of the Access articles of our CBAs. This Policy violates our HEERA rights and constitutional speech rights in many ways. We request to bargain the contents of such Policy and its effects. We have the following proposals, comments and requests for information relevant to bargaining over this Policy and the Access articles in statewide CBA negotiations, and to our potential grievance:

Legal Standards Applicable Here: It's likely a court would hold UCSF's sidewalks and other exterior areas represent a public forum like regular college campuses.ⁱ (After all, UCSF has told courts successfully that it's engaged in an educational enterprise rather than merely running hospitals)ⁱⁱ Accordingly, UCSF's Policy will probably be subject to strict scrutiny requiring narrow tailoring to compelling governmental interests. However, even under deferential scrutiny, UCSF's Policy is unlikely to be upheld for reasons set forth below. HEERA provides our representatives with the "right to use institutional facilities at reasonable times for the purpose of meetings". Gov. Code sec. 3568. HEERA also protects employees' rights to engage in union speech in non-work areas absent compelling contrary interests. See, e.g., *Cal. Public Sector Labor Relations* (CEB 2024) ("To establish reasonableness, the employer must show that its regulation is (1) necessary to the efficient operation of the employer's business and/or safety of its employees and others; and (2) narrowly drawn to avoid overbroad, unnecessary interference with the exercise of statutory rights." (citing *County of Tulare* (2020) PERB Dec. No. 2697-M, p. 20 (employer rule regulating union activity must not use vague or overbroad language); *County of Riverside* (2012) PERB Dec. No. 2233-M, p. 7). Finally, this Policy treats union activities the same as some non-affiliate coming onto UCSF campus to protest not what UCSF is doing but instead what some foreign government is doing. However, the U.S. Supreme Court has held that special accommodation of speech by recognized bargaining representatives is not a constitutional violation: see *Perry Ed'n Assn v. Perry Local Educators* (1983) 460 US 83. We urge UCSF to strongly consider coming up with a separate policy for recognized employee organizations.

Vague and Overbroad Definition of “Expressive Activities”: the Policy is unnecessarily vague and overbroad in applying to any “assembly” or “picketing” by UPTe and its members, even if only a small handful of participants are involved talking at a conversational level without bullhorns or other devices, who could not possibly obstruct traffic nor make enough noise to disrupt anything (unless perhaps a speaker receives applause for a moment). This overbreadth and vagueness are serious problems given that any organizer of any Assembly or Picketing is required by this Policy’s Procedures to do all the following: stay at least 50 feet away from any entrance (2(d)), apply in advance for Security Review (F), present an Insurance certificate (G), face punishment for any noise which “disrupts business operations” even unintentionally B(3()), and/or face involuntary relocation of their Activity pursuant to A(1) if a University official determines this to be “in the best interest of the University” (with no guidelines for exercise of such discretion). In these vague provisions the Policy leaves UPTe and other unions open to viewpoint discrimination by University officials criticized by UPTe’s protests (or at-will employees under their direction). Section B of the section labelled “Policy” barring viewpoint discrimination does not apply on its face to official determinations as to amounts of noise or locations, only to two other determinations.

In order to bring this Policy into legal compliance, we urge UCSF not only to broaden its ban on viewpoint discrimination, but also more importantly to not demand from small-scale union assemblies and picketing that organizers file a Security Review application and proof of insurance and stay over 50 feet away from entrances. The Policy needs to also be revised to reduce discretion of UC officials to relocate small assemblies, and to limit the clauses against “disruption” and “disturbance” for reasons we further explain below.

Definition of “Non-Affiliates” to Improperly Include Off-Duty Employees Engaged in Union Business: As noted above, problem throughout the Policy is treating activities by employees who are also union representatives the same as non-employee union staff representatives (and indeed, like complete outsiders with no connection to UC but merely looking for a place to hold a rally). The HEERA rights of employees to assemble off-duty on property they are permitted by their jobs to access (without having to stay 50 feet away, submit to Security Review or show proof of insurance) should be clarified in this Policy so as not to improperly deter employees who are also union representatives from exercising those rights.ⁱⁱⁱ

Severe Restrictions on Access to the Mission Bay Hospital Plaza and Grass Area: Section A and Attachment A of the Procedures improperly treats this area as a limited public ground requiring advance arrangements, which is contrary to its existing unchallenged use for small union meetings and rallies. The uncertainties and burdens around the application

process make this especially problematic for labor organizations who have large numbers of members working in the adjacent hospital for whom this is often the most convenient place to assemble. Relocating our meetings a long distance away only slows down employees' return to their duties after a mid-shift meeting, and hence is contrary to UCSF's legitimate business interests (as opposed to its illegitimate interests in shielding patients and their families from the criticisms by unions at their rallies of UC labor decisions which have resulted in turnover and understaffing).

Ban on Getting Closer than 50 Feet From Entrances (B(2)(d)): We're legally entitled by the constitutional speech guarantees and HEERA to picket and leaflet outside an entrance unless it is so packed with pedestrians already that our presence would likely obstruct traffic or we misbehave so much that a protective zone can be justified. Even shorter distance limits have consistently been struck down by the courts as overbroad restrictions on speech: see, e.g., *McCullen v. Coakley* (2014) 573 U.S. 464 (35-foot buffer zone invalidated); *UFCW Int'l Union v. IBP, Inc.* (8th Cir. 1988) 857 F.2d 422 (striking down statute barring more than two pickets within 50 feet of entrance); *Howard Gault Co. v. Texas Rural Legal Aid, Inc.* (5th Cir. 1988) 848 F.2d 544, 561 ("Little imagination is required to envisage circumstances where groups of demonstrators, substantially larger than two persons, standing at closer quarters than fifty feet would not threaten the safe flow of traffic nor unreasonably interfere with free ingress or egress from nearby buildings."). Most other UC campuses/medical centers lack a distance limit in their time/place/manner policies; the few which have them (such as UCSB) allow us to get much closer (25 feet).

Possible Ban on Tables: B(2)(f) suggests tables are never permitted ("May not restrict the free flow of pedestrian traffic such as by overcrowding or placing tables and stands on sidewalks"). Such a ban is contrary to settled law: see, e.g., *ACLU v. City of Las Vegas*, 466 F.3d 784, 799 (9th Cir. 2006) ("We hold that the erection of tables in a public forum is expressive activity protected by our Constitution to the extent that the tables facilitate the dissemination of First Amendment speech."). There are plenty of sidewalks which are wide enough that we have set up small tables to the side of the sidewalk and not blocked pedestrian traffic. This provision needs to be clarified to merely say that tables cannot be placed in such a manner on a sidewalk as to block pedestrian traffic.

Ban on Even-Unintended Disruption: Procedure B(3)(d) bans us from "disrupt[ing] normal University business, classes, patient care, healthcare, or any organized University activity". This is impermissibly vague and overbroad. The controlling case is *In Re Brown*, 9 Cal.3d 612, 619-20 (1973) where the Court struck down convictions of leaders of a loud demonstration at a university campus for having disturbed classes. The Court held a statute banning disturbing the peace could not under the state and federal constitutions be

applied against these demonstrators because there was no showing they were solely trying to make noise to disturb rather than in part engaging in communication:

The Attorney General seeks to preserve the convictions of violating section 415 on the basis of the language in that section prohibiting "maliciously and wilfully disturbing the peace or quiet . . . by loud or unusual noise." He states that there is substantial evidence that petitioners made loud noises which disrupted class and campus functions. The statute, however, cannot be interpreted consistent with the First Amendment and traditional views as making criminal all loud shouting or cheering which disturbs and is intended to disturb persons. When the word "noise" in the statute is properly construed consistent with the First Amendment and traditional views, it encompasses communications made in a loud manner only when there is a clear and present danger of violence or when the communication is not intended as such but is merely a guise to disturb persons.

In light of this caselaw, you should narrow this section to merely punish noise intended solely to disturb rather than engage in speech or presenting a clear and present danger of violence.

Ban on Ordinary Banners: Section B(3)(f) bans signs including banners larger than 30 inches by 30 inches. While we acknowledge that larger signs could create a problem for pedestrians if placed across a narrow sidewalk, this Section is not limit to such a situation. The prohibition applies equally out in a large field where protesters are dozens of yards from pedestrians. Larger banners are allowed in most other campuses' speech policies. UCSF's rule is unconstitutional and a HEERA violation.

Overly-Vague Restrictions on Sound: Section 3(B)(m) tells us we cannot "use amplified or non-amplified sound in levels that are above reasonable or that are disturbing patients or neighbors at a given site." This provision is far vaguer than most other campuses' policies on amplification. Sound amplification has repeatedly been found constitutionally-protected such that regulations must be narrowly-drawn.^{iv} Amplification is necessary in many outdoor spaces in order for speakers to be heard when they must compete with other noise sources which UCSF is not prohibiting.

Overly-Long Application Period: Section C(4) requires we apply for Limited areas at least 10 days in advance. This time period is longer than is needed to accommodate a small rally on the Mission Bay Hospital lawn and similar spaces. This time period also needs to be subject to exceptions for spontaneous gatherings: section C(1) recognizes such an exception for Public Grounds, but inexplicably not for Limited Areas.

Mandatory Applications for Security Review (F) for All Assemblies^v: Requirements like this for advanced permission from government officials for even small groups to engage in speech on exterior spaces have repeatedly been found unconstitutional.^{vi} This is particularly where as here, there are no standards set forth for granting permission, nor any time limits on how long the administrative decisions will take. (The only time limit imposed is on deciding appeals, not the initial decision itself). If UCSF is going to persist in requiring we apply for use of the Mission Bay hospital plaza/lawn and also apply for security review for all our activities, it is urgent that UCSF promptly provide us clearer standards and time limits for its responses to our requests to undertake expressive activities.^{vii}

It is unreasonable and a HEERA violation to require prior notice by way of a Security Review application for us to just have an “assembly” with a few members. On numerous occasions we just need to drop by and hand a few members some documents or pick them up from a few members. Or the members want to ask a quick urgent question, or we urgently need to ask them a quick question about some urgent pending issue. We often don’t know 24 hours in advance of our need for this brief exchange, let alone the multiple days which this Procedure would likely require. This need for impromptu gatherings is why our current CBA contains language which would be violated by the Procedure requiring an advance application for Security Review. CBA Article 2C(1) states: “In the case of visits for the purpose of conducting unscheduled meetings with bargaining unit members, the union representative shall give advance **notice upon arrival** in accordance with local campus/hospital/ laboratory procedures.” PERB has found advanced notice requirements for organizers to be unreasonable and unlawful. *Long Beach Unified School District* (1987) PERB Decision No. 608, p. 16.

Requirement for Insurance Coverage in Section G(2): There is no legitimate need for UCSF to require insurance from anyone holding a rally due to UC’s extensive immunities from tort suits (see, e.g., Gov. Code 820.2), but especially not to require insurance from employee organizations. This is true for at least three reasons: (1) employees are not going to risk losing their jobs by damaging property or persons while on UCSF land; (2) UPTE and other unions have the assets to cover almost any potential claim which could arise from the non-dangerous activities we conduct (so UCSF would not be the only solvent defendant), and (3) UCSF can bargain other protections with its unions (unlike with outside protest groups, who have no bargaining duty nor bargaining relationship). Courts have repeatedly found insurance mandates upon protesters to be unconstitutional.^{viii}

REQUESTS FOR INFORMATION: If the above-challenged provisions arise from negative UCSF experiences with the types of activities being restricted, please provide us a complete description of all such incidents. Please provide any guidelines used by any

UCSF decisionmaker in addressing Security Reviews, deciding on sound amplification, and insurance amounts.

CONCLUSION

UCSF's announcing new speech restrictions effective immediately without bargaining them first is a plain HEERA violation, because the Legislature merely required a report from UC by October 1st, not implementation of new policies (hence the Legislature was not creating an "emergency" within the meaning of such exception to the general rule under HEERA that notice and an opportunity is required first). These new rules (coupled with UC's demand in bargaining that UPTe members and staff be subject to individual discipline and/or banning due to access policy violations) is causing us to reconsider many of our plans for protesting UC's employment practices in the near future. This chilling effect is an irreparable harm warranting preliminary injunctive relief from the courts.^{ix} **Accordingly, we need UCSF to assure us that it will not seek to enforce the provisions challenged above while we engage in meeting over these issues, nor without at least 30 days' prior notice that they will be enforced.**

Thank you for your prompt attention to these matters: we request a response within 10 days offering prompt dates for negotiations or at least discussion of the issues above. I currently first have availability on Sept. 29, Oct. 1 or Oct 2 but if you believe an earlier meeting is needed, I can look for substitute representatives on this issue.

In order to avoid potentially-unnecessary paperwork for both sides, we request that UCSF agree that our deadline for grieving this Policy as unreasonable under the CBAs' Access articles will not start to run until such discussion occurs.

ⁱ See, e.g., *Shaw v. Burke*, 2018 U.S. Dist. LEXIS 7584, *22 (C.D. Cal. 2018) ("Given the traditional purpose of the open, outdoor areas of universities, such as the 'Mall' on Pierce's campus, the Court finds that these areas are traditional public fora, regardless of Pierce's regulations naming them non-public fora. Id.; *Bowman*, 444 F.3d at 979 ('College campuses traditionally and historically serve as places specifically designated for the free exchange of ideas.').")

ⁱⁱ *Regents v. Sup. Ct. of S.F. (Parnassus Neighborhood Ass'n)* (2024) 102 CA5th 852.

ⁱⁱⁱ *ATU v. OmniTrans* (2009) PERB Dec. No. 2030-M at 26-8 ("An employer has much more leeway to regulate union activity by non-employee union representatives than it does to regulate union activity by its own employees. (*NLRB v. Babcock & Wilcox Co.* (1956) 351 U.S. 105, 113; *Hudgens v. NLRB* (1976) 424 U.S. 507, 521-522, fn. 10 ["A wholly different balance was struck when the organizational activity was carried on by employees already rightfully on the employer's property, since the employer's management interests rather than his property rights were there involved."]); *** Employees have a protected right to engage in union activity in non-work areas during non-working time. (*State of California (Employment Development Department)* (1999) PERB Decision No. 1365-S; *Republic Aviation*, supra, 324 U.S. at pp. 798-799.) An employer may regulate union activity in non-work areas during non-working time only if the regulation is "necessary to maintain

order, production or discipline. " (*State of California (Employment Development Department)*, supra; *Republic Aviation*, supra, 324 U.S. at p. 803, fn. 10.).")

^{iv} See, e.g., *Cuvillo v. City of Vallejo*, 944 F.3d 816, 825 (9th Cir. 2019)(striking down agency requirement for prior applications for use of amplification, noting "The United States Constitution and California Constitution protect bullhorns, and other sound-amplifying devices, as 'indispensable instruments' of public speech. *Saia v. People of State of New York*, 334 U.S. 558, 561, 68 S. Ct. 1148, 92 L. Ed. 1574 (1948); *Wollam v. City of Palm Springs*, 59 Cal. 2d 276, 29 Cal. Rptr. 1, 379 P.2d 481, 485 (Cal. 1963). In a crowded park or bustling intersection, where a single voice is easily drowned out, volume enables speech. See *Wollam*, 379 P.2d at 486. A restriction on volume, then, can effectively function as a restriction on speech. *Saia*, 334 U.S. at 561-62; *Wollam*, 379 P.2d at 486 ('The right of free speech necessarily embodies the means used for its dissemination because the right is worthless in the absence of a meaningful method of its expression.'").

^v This Procedure states in pertinent part: "A security review by the UCSF Police Department is required for any Expressive Activity that is planned in advance."

^{vi} See *Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1039 (9th Cir. 2006)("Small groups, however, can also 'march' and 'assemble' for expressive purposes, and can do so without interfering with the free flow of traffic (except in the trivial respect that anyone walking on a public sidewalk or roadway takes up space and therefore prevents someone else from traveling precisely the same route). Without a provision limiting the permitting requirements to larger groups, or some other provision tailoring the regulation to events that realistically present serious traffic, safety, and competing use concerns, significantly beyond those presented on a daily basis by ordinary use of the streets and sidewalks, a permitting ordinance is insufficiently narrowly tailored to withstand time, place, and manner scrutiny.") (citing, inter alia, *Douglas v. Brownell*, 88 F.3d 1511, 1523-24 (8th Cir. 1996)(striking down a five-day advance notice requirement for processions of ten or more persons on streets, sidewalks, and public ways on the grounds that it was unjustifiably long and applied to groups as small as ten).

^{vii} See, e.g., *Smith v. County of Los Angeles*, 24 Cal. App. 4th 990, 999 (1994)("The Supreme Court has repeatedly held that an ordinance " 'which . . . makes the peaceful enjoyment of freedoms which the Constitution guarantees contingent upon the uncontrolled will of an official--as by requiring a permit or license which may be granted or withheld in the discretion of such official--is an unconstitutional censorship [***11] or prior restraint upon the enjoyment of those freedoms.' " (*FW/PBS, Inc. v. City of Dallas*, supra, 493 U.S. at p. 226 [107 L.Ed.2d at p. 618] [citing *Shuttlesworth v. City of Birmingham* (1969) 394 U.S. 147, 151 (22 L.Ed.2d 162, 167, 89 S.Ct. 935)].) Addressing the constitutionality of a parade permit requirement, *Shuttlesworth* held "that a law subjecting the exercise of First Amendment freedoms to the prior restraint of a license, without narrow, objective, and definite standards to guide the licensing authority, is unconstitutional." (394 U.S. at pp. 150-151"); *Long Beach Lesbian & Gay Pride, Inc. v. City of Long Beach*, 14 Cal. App. 4th 312, 332 (1993)("Plaintiffs' primary grievance is with the failure to require a decision within a specific time after the application is made. Plaintiffs do not purport, or ask us, to dictate what a reasonable, acceptable time is. They only complain that to leave the matter open-ended impermissibly places the fate of a parade application in official limbo, both chilling and freezing the applicant's free speech intentions and expectations. The City has not contested the legal proposition that avoidance of limbo requires a deadline for action following application. We believe the authorities cited above support that requirement. Accordingly, Chapter 5.60's failure to include such an express limit is improper.").

^{viii} See, e.g., *Long Beach Lesbian & Gay Pride, Inc. v. City of Long Beach* (1993) 14 Cal. App. 4th 312, 341 ("Other courts that have reviewed parade insurance requirements have uniformly found them

to overreach, in view of the overlapping utility and availability of other means of protection as referred to above, and the concomitant absence of a history of claims and hence need for expensive, high-limit coverage. [cites.]; *iMatter Utah v. Njord* (D. Utah 2013) 980 F. Supp. 2d 1356 (reviewing recent caselaw striking down insurance requirements for protest events).

^{ix} See, e.g., *Ketchens v. Reiner*, 194 CA3d 470, 480 (1987) (“The question is not a close one. ‘The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.’ (*Elrod v. Burns* (1976) 427 U.S. 347, 373”).

EXHIBIT A(4)



Andy Kahn <andy@upte.org>

UPTe's cease & desist/bargaining demand re UCSF speech policies

Ng, Keenan-Winston <Keenan.Ng@ucsf.edu>

Tue, Sep 24, 2024 at 4:29 PM

To: Andy Kahn <andy@upte.org>, ELR <ELR@ucsf.edu>, "Roller, Aviva" <Aviva.Roller@ucsf.edu>

Cc: Sarah Shames <sarah@upte.org>, Matias Campos <mcampos@upte.org>

Hello Andy,

Thank you for your correspondence. UCSF wants to reiterate what we stated in our original notice - we are more than willing to sit down and bargain over any effects

on the union's HEERA protected access rights. As you know and as cited in your letter, however, the University has the right to set reasonable rules for the management

of its property and reasonable time, place and manner restrictions related to expressive activity. The university's rules and these updates are reasonable and are not

directed at the content of the speech or the union-affiliation of the individual. These rules are necessary to ensure that all of our community members can use our

property to learn, research, and engage in meaningful discourse and debate regarding matters of importance.

I also want to highlight that SB 108 requires the university to provide a report to the Legislature by October 1 regarding the institutional policies that ensure safety and

access to educational opportunities and campus spaces and buildings, as well as the university's efforts to ensure their consistent enforcement. Given that timeline,

we must move forward with the implementation of these updates now.

Please let me know if you have any availability the week of October 7.

Thank you,

Keenan Ng

Labor Relations Consultant

UCSF Health

654 Minnesota Street, 2nd Floor

San Francisco, CA 94143

mobile: (415) 964-9403

Affirming Pronouns (he/him/his)

From: Andy Kahn <andy@upte.org>

Sent: Thursday, September 5, 2024 4:27 PM

To: ELR <ELR@ucsf.edu>; Ng, Keenan-Winston <Keenan.Ng@ucsf.edu>; Roller, Aviva <Aviva.Roller@ucsf.edu>

Cc: Sarah Shames <sarah@upte.org>; Matias Campos <mcampos@upte.org>

Subject: UPTe's cease & desist/bargaining demand re UCSF speech policies

This Message Is From an External Sender

This message came from outside your organization.

[Quoted text hidden]

EXHIBIT A(5)

Nov. 1, 2024

TO: UCSF Management c/o Keenan Ng & Aviva Roller

FROM: Andy Kahn, UPTE General Counsel

RE: Write-up of our proposals on Expressive Activities Policy; Additional RFIs

We recommend UCSF simply exclude employee organizations from this Policy and for such organizations adopt the same policy as UCSB (without its ban on leafletting cars). UCSF doing so would recognize that we (unlike outside protestors) have HEERA rights and that superior treatment of employee organizations was found constitutional by the U.S. Supreme Court in *Perry* and would likely still be blessed by the Court, as it makes eminent practical sense: employees and their organizations are differently situated than outside organizations. We alone are subject to employment discipline for employee misconduct and a duty to bargain in good faith; we have a continuing interest in the long-term success of UCSF as an institution (unlike most protest sources); and we alone always have a good reason to choose UCSF as a location for our protests (because it controls many terms of UCSF employment), unlike a random protestor from the community complaining about issues beyond UC's control such as Palestine.

If copying UCSB is somehow unacceptable, the following are our proposals for specific modifications to the UCSF Policy and further explanation of such proposals beyond what our prior correspondence provided:

1. To the definition of "Expressive Activities", add the following exception: "This does not include any employee organization event involving less than 50 attendees without chanting, amplification or use of noisemaking devices and staying at least 15 feet from doorways (except for at most two handbillers per door staying at least 5 feet from the doorway)". The rationale for this proposal is to eliminate all the many burdens of this Policy upon employee organizations and UCSF management where we are simply having an ordinary meeting outside a reasonable distance from the doorway, or otherwise engaged in such a minor and legally-protected protest that no adverse consequences to UCSF can be foreseen.
2. Revise section B(2)(d) mandate of staying 50 feet from all doors to "5 feet" but add "and not placing more than 10 protestors within 20 feet of a door." This would mean each protestor would leave on average 4 feet between them across a 40-foot span (20 feet on each side of the door), thus ensuring plenty of access for pedestrians. This would avoid the problems of the current 50-foot ban that it bars us entirely from being in front of most buildings at Parnassus, and renders handbilling nearly impossible in nearly all places at UCSF (where people can approach from 90-180 degrees in front of the door) if the flow of people entering exceeds more than one every two minutes from different directions (as otherwise the only people who can successfully handbill are those with explosive foot speed to go around the 50-ft radius – speed rarely found outside the world of

- professional sports, and not safe for anyone for UCSF to force our handbillers to use).
3. Revise mandate for Security Review by Inserting after “A security review by the UCSF Police Department is required for any Expressive Activity that is planned in advance.” the following: “provided that it is likely to have more than 100 attendees, or those attending are likely to use a bullhorn or other noisemaking device within 50 feet of any door which is the exclusive means of entering a building. Security review shall be completed within two business days of a request for 100-200 attendees or use of a single bullhorn or other noisemaking device, absent an emergency precluding a decision within such time period. Review shall be completed within one additional business day for each 100 additional attendees or additional noisemaking device. Security review does not authorize the Police Department to reject the proposed activity unless it appears likely to violate another provision of this Policy; rather, such review is intended primarily to provide an assessment of needed security and costs thereof.”
4. Eliminate mandate of insurance coverage: as previously noted, it isn’t needed by UCSF and is probably impossible for us to get in California’s current insurance availability crisis. The risks of claims against UC from our rallies are minimal: about the worst that can happen is that someone trips and falls, but generally health insurance and sick leave covers that. UCSF has ample defenses against a suit by a rally attendee including voluntary assumption of risk. Moreover, we’d discourage suits because UCSF would likely cross-claim against us, so a member who invited that would be viewed by us as highly disloyal.
5. Move all outdoor areas listed as “Limited” over to the category of simply “Public”: attached please find documentation that the Hospital Plaza was always supposed to a public area.

If UCSF’s concern behind excluding this plaza and the other areas you labelled “Limited” from the list of “Public” grounds is that multiple rallies might occur at same time thereby taxing UC police or security, there are other less-burdensome ways to deal with that possibility: we’re open to adding a requirement for prompt notice to UCSF from rally organizers if and when they realize there will be multiple simultaneous rallies so that UC can bring in added security.

If UC will not move these areas over to the “Public” list, then it should at least consider deeming them “Public” for the purpose of employee organizations with members in adjacent buildings. Otherwise we’d need to demand that clear standards be set out for approval decisions on using these Limited areas (the current standard of “inappropriate or unsafe” being incredibly vague and overbroad) and deadlines be set for UCSF decisions as above. We’d also need to negotiate the substantive and procedural standards for decisions by UCSF officials to relocate a rally from a Limited ground to a Public ground. We believe it’s in both parties’ best interests to avoid the protracted negotiations this would entail.

6. Add to ban on “disruption” in B(3)(d): “except that an employee organization only violates this provision if it creates an imminent likelihood of violence or makes noise for the sole purpose of disrupting operations; or by amplification or noisemakers it causes (1) indoor sound level to exceed 60 decibels and then it fails to reduce its volume below such level in response to UCSF request, or (2) outside sound level to exceed 85

decibels at greater than 25 feet from the source for those not voluntarily present and then it fails to reduce its volume below such level in response to UCSF request.” Delete the ban in (m) upon “sound in levels that are above reasonable or that are disturbing patients or neighbors” as that is too vague and now surplusage due to the clearer provisions above. The 60-decibel interior standard comes from UCI-C’s policy, but we are open to discussing lower levels. The exterior standard of 85 decibels at 25 feet is taken from UCLA regulation, CSULB regulation and various ordinances.

7. Amend 30” by 30” cap on signs in B(3)(f) by adding: “except that employee organizations may use banners of any size so long as not displayed in such a manner as to obstruct passage”. We are open to discussing limits on the number and size of banners in much narrower spaces than the large open spaces where we typically protest, but the general anti-obstruction rule should adequately protect UCSF even in such spaces (as no sane employee will risk getting fired for violating this rule).
8. Modify B(2)(a) and B(3)(e) by adding “except that this shall not bar use of a folding table for literature nor a portable canopy during a rally so long as not obstructing passage” and modify 3(f)(limit on tables and stands) to add “in such a manner as to obstruct passage”. We hope these would simply be clarifications of existing policy. If not, we propound an RFI below to try to understand UCSF’s rationale for banning tables and canopies when many plazas and sidewalks at UCSF are so wide and little-used that a card table and canopy off to the side creates no danger at all of blocking. Please note that the bans on structures in B(2)(a) and B(3)(e) are new additions to UCSF’s Expressive Events Policy, so you do not have that excuse to not deal seriously with this issue. We have regularly used both folding tables and canopies at prior rallies in order to protect literature from rain and protect attendees from excessive exposure to sun or rain. When not blocking others who need this space to walk by, this activity poses no risks to UCSF and is protected by law and thus should not be banned by UCSF. Again, if a general anti-obstruction rule is not seen as protective enough, we are open to discussing size rules for much narrower spaces than our typical protest locations.
9. Add to Section I(1)(b)(suspension of space use privileges): “No suspension or ban on access nor employment discipline will be imposed without just cause against any employee organization official (including any of their staff) for allegedly violating this Policy. Prior to taking such action, UCSF shall provide the individual and organization with notice of intent to take such action and an opportunity to respond prior to final decision. UCSF shall engage in expedited arbitration with any consenting organization which challenges such decision as lacking just cause. If the organization disagrees with UCSF’s decision, a termination or suspension of access shall not be effective until its merits have been adjudicated absent clear and convincing evidence that the individual’s continued presence represents an immediate danger to persons, property or operations on UCSF property.”

Because access suspensions already can be challenged via PERB or lawsuit (including request for injunctive relief), this provision does not materially increase litigation risk to UC, while still ensuring suspensions are not the result of management displeasure with the union’s message as opposed to its actual misconduct on UCSF premises. Our proposal prevents irreparable harm to the union from a questionable

suspension decision going immediately into effect before any independent review. (A union's loss of an experienced representative at UCSF would cause harms to the union and its membership which no damages award could fully compensate later on). This provision encourages use of arbitration as a speedier cheaper method of putting the dispute to rest which also reduces UCSF's potential financial liability for an erroneous decision. However, a unilaterally-adopted UCSF policy cannot legally compel labor organizations to arbitrate disputes, so we did not include a provision trying to mandate them to do so.

REQUESTS FOR INFORMATION:

Categorization of Mission Bay properties as Limited (thus requiring special permission to use): Please explain the rationale for UCSF doing so.

Requirement to stay 50 feet from every doorway: Please explain the rationale for this requirement. Please explain where on Parnassus campus this would leave us any place at all to protest.

Signage Limits: Please describe any incidents leading to this limit, or showing an adverse consequence to UCSF from a protestor using a larger sign in some way which did not block passageway.

Tabling Limits: Is the current Policy or preexisting Policy ever construed to preclude any use of a literature table on a sidewalk by rally organizers? Does the current policy bar use of a shade canopy during a rally as its literal terms would suggest? If that is the current interpretation, please explain the rationale for such a policy, including citing any specific incidents at UCSF.

Noise: Has UCSF ever done sound level readings while a protest was occurring outside? If so, where were such readings taken and what were the readings? What were the responses of UCSF and the protest organizers to such readings?

Security Review: You contended that preexisting policy required security review: how long on average has such review taken? Please explain any situations where it has taken more than 5 business days. What standards have been employed? Who has been denied permission for any proposed activity as a result of such review, and on what basis? Has any security review resulted in a union being advised of a charge for security? If so, please provide all documents concerning such charge. Please provide a copy of any documents addressing disputes over security reviews.

Access suspensions: Please describe any suspensions or terminations of access of employee organization officials (including their staff) within the last 10 years, including the grounds therefor and dispute resolution procedures used and their outcome.

Those requests are moot if our proposal on that topic is accepted within 14 days. Thanks for your consideration. If you have any questions, I can be reached at (510) 849-7025 or andy@upte.org.

Cc: Matias Campos; Cheyenne Dean

EXHIBIT A(6)



Human Resources
654 Minnesota Street
San Francisco, CA 94143
Tel: 415/353-4688
Fax: 415/353.4690
www.ucsfhealth.org

University of California
San Francisco

November 14, 2024

Matias Campos
University Professional & Technical Employees – CWA, Local 9119
1360 Ninth Avenue #201
San Francisco, CA 94122
mcampos@upte.org
ucsf@upte.org

RE: Notice Regarding Campus Policy 600-27: Interim: Expressive Activities Held on UCSF Property (2024-1638)

Dear Matias:

This notice is to remind UPTE that UCSF is under obligation to enforce the updated Campus Policy 600-27: Interim: Expressive Activities Held on UCSF Property which outlines the expectations and requirements for expressive activities on UCSF's campus and medical center locations. A link to the policy can be [found here](#).

Specifically, UCSF wishes to note the "Time, Place and Manner Restrictions" in the policy related to expressive activities, including section B.2.a:

Use of all University Property is subject to the following in and outdoor place restrictions:

- a. No person shall erect, build, construct, set up, establish and/or maintain unauthorized structures on University property, including but not limited to tents, barricades, fences, lean-tos, and shelters.

Please see attached copy of Campus Policy 600-27: Interim: Expressive Activities Held on UCSF Property, for your convenience.

Please feel free to contact our office with any questions.

Sincerely,

Keenan W. Ng
Labor Relations Consultant

cc: Aviva Roller, Director, UCSF Labor and Employee Relations

Attachments:

- a. Campus Policy 600-27: Interim: Expressive Activities Held on UCSF Property



PROOF OF SERVICE

I, Seva Cuevas, declare that I am over the age of eighteen years, not a party to this action, and I am employed in the county of San Francisco, State of California. My business address is 654 Minnesota Street 2nd Floor San Francisco, CA 94143

On November 14, 2024, I served the attached letter regarding

Notice Regarding Campus Policy 600-27: Interim: Expressive Activities Held on UCSF Property
(2024-1638)

to the parties listed below by the checked applicable method or methods:

- ☐ placing a true copy thereof enclosed and delivery by the **United States Postal Service** following ordinary business practice with postage or other costs prepaid
- ☐ placing a true copy thereof enclosed and delivery by **Next Business Day Delivery** following ordinary business practice with postage or other costs prepaid
- ☐ personal delivery (hand delivery)
- ☒ electronic mail delivery (e-mail)

Name and Address of the parties served:

ucsf@upte.org
Matias Campos

UPTe - CWA 9119
San Francisco, CA 94122

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on November 14, 2024, at San Francisco, California.

Seva Cuevas

Name (Printed or Typed)

Seva Cuevas

(Signature)

Digitally signed by Seva
Cuevas
Date: 2024.11.14
15:09:37 -08'00'

Attachment A

600-27: Interim: Expressive Activities Held on UCSF Property

Questions?

Contact [Campus Administrative Policies](#)

In this article



Overview

Requires that the exercise of free and open expression on University Property is conducted compliant with First Amendment rights, with orderly and civil behavior that ensures public safety, does not disrupt University operations, or damage UCSF Property.

Purpose

Free and open expression is a constitutional right under the First Amendment. For “Students,” free and open expression is particularly important to a rich educational experience at the “University of California.”

It is the policy of the University of California, San Francisco (“University” or “UCSF”) to ensure that the exercise of free and open expression on “University Property” is at all times conducted in compliance with First Amendment rights, with orderly and civil behavior that ensures public safety, and in a manner that does not disrupt University operations or damage University Property.

All individuals or organizations using University Property for Expressive Activities must avoid any unauthorized implication that they are sponsored, endorsed, or favored by the University.

To provide clarity, relevant terms used in these policies and procedures are defined below.

Students

An individual for whom UCSF maintains student records and who: (a) is enrolled in or registered with an academic program of the University; (b) has completed the immediately preceding term, is not presently enrolled, and is eligible for re-enrollment; or (c) is on an approved educational leave or other approved leave status, or is on filing-fee status. For the purposes of reserving and accessing space to hold Expressive Activities on UCSF Property, students attending other University of California campuses (or another university altogether) are considered to be non-affiliates.

University of California

All campuses of The Regents of the University of California, including laboratories and the Office of the President.

The University of California, San Francisco or UCSF

The University of California, San Francisco, also referred to as UCSF, and all of its campus sites, including UCSF Benioff Children's Hospital in Oakland and UCSF's campus in Fresno.

University Property

Any UCSF owned or operated property, including property leased in whole by UCSF, is considered University Property, including buildings and grounds for research, teaching, administration, and patient care (UCSF Health clinics and hospitals).

Expressive Activities

Free speech and open expression events, including, but not limited to: assemblies, associations, debates, demonstrations, picketing, protests, rallies, teach-ins, and speeches.

Employees

All staff, faculty (paid and unpaid), and other academic appointees, including postdoctoral scholars, fellows, residents, and visiting scholars. For the purposes of reserving and accessing space to hold an Expressive Activity on UCSF Property, employees acting outside the scope of their duties are considered non-affiliates.

Affiliates

Regents, emeriti, alumni, and volunteers, for the purposes of reserving and accessing space to hold an Expressive Activity on UCSF Property. Affiliates acting outside the scope of their duties are considered non-affiliates.

Non-Affiliate

Anyone not covered in the aforementioned categories of "Affiliates", "Students", and "Employees" are considered to be non-affiliates. This includes but is not limited to current, past, and future patients, and household members of affiliates, students and employees.

University Business

Activity considered University Business includes, but is not limited to, teaching a regular UCSF class, fulfilling a grant or other contractual deliverable, providing health care, research as a part of graduate education, or conducting a UCSF sponsored educational activity.

University Official

An Employee of the University, including but not limited to, University Police Officers, Security Guards, Facilities Managers, Fire Marshalls, Student Life Officers, and Campus Senior Leaders acting within the scope of their employment to, ensure the

Time, Place, and Manner Restrictions

Reasonable restrictions governing when, where and how University Grounds may be used for Expressive Activities in order to ensure public safety and enable the University to operate without disruption or physical damage.

Organizer(s)

The organizing body or lead person planning an Expressive Activity.

Authorized University Office

Specific University Offices permitted to approve Expressive Activities arranged in advance to occur on University Property.

Amplified

Sound from power operated instruments or equipment.

Non-Amplified

Sound from chanting, clapping, drumming and sound otherwise not produced by a power operated instrument or equipment.

Facility Operator(s)

Employees of the University who have responsibility for managing reservations, upkeep, etc. of conference rooms or other event space within their departments, units, schools, etc.

Civil Disobedience

The refusal to comply with laws that ensure a peaceful Expressive Activity. Civil Disobedience involves a violation of law or regulation and is not protected speech under the state or federal constitutions. Those engaging in Civil Disobedience may be held accountable for violations of law, regulation, and/or University policies.

Student Government(s)

An entity recognized by the University and authorized by the Chancellor to represent Student constituencies comprising either the student body as a whole or particular segments of it, consistent with the status of such governments as official units of the University of California.

Student Registered Campus Organization (RCO)

An organization whose membership is comprised of University students and that attains recognition by complying with the requirements and procedures set forth in campus implementing regulations, including registration with UCSF Student Life.

Staff Registered Campus Organization (RCO)

An organization whose membership is comprised of University employees and students and that attains recognition by complying with the requirements and procedures set forth in campus implementing regulations, including registration with UCSF Campus Life Services.

Non-University Speakers

Individual(s) unaffiliated with the University, acting for non-University Business purposes, who are invited in advance to speak at an Expressive Activity on Limited-Public or Special-Use Grounds. (See Procedures Section A below.)

A. Applicability

These policies and procedures apply to all free speech and open expression events held on University Property, collectively referred to as “Expressive Activities,” including, but not limited to: assemblies, associations, demonstrations, debates, picketing, protests, rallies, and speeches.

Lectures, seminars or other presentations conducted or organized by “Students,” “Employees,” or “Affiliates” within the scope of their studies, employment duties, or affiliation are, for the purposes of this policy, generally considered “University Business.” However, any activities with the potential for inciting behavior that could impede public safety, cause property damage, or disrupt University operations are not considered “University Business,” and thus are subject to Expressive Activities policies and procedures.

B. Viewpoint Neutral

It is the policy of the University to remain viewpoint neutral when making determinations as to what types of events constitute Expressive Activities and when charging event costs to Organizers.

C. Prevailing Policies and Procedures

During an emergency, UCSF’s Police Department General Orders (See “Related Information” below) prevail should a conflict arise with these Expressive Activities Policies and Procedures.

Should a conflict arise with any event-related UCSF policies or procedures, the requirements stated in these Expressive Activities Policies and Procedures prevail.

D. Policy and Procedures Exceptions

These policies and procedures must be followed for all Expressive Activities held on University Property, unless the UCSF Police Department, the Expressive Activity Review Committee (Section C.4) or a “University Official” determines that a deviation is in the best interest of public safety and/or the orderly continuation of the University’s business operations.

Procedures

A. Public Grounds, Limited-Public Grounds, and Special-Use Grounds

1. Public Grounds

- a. It is the policy of the University that all persons, including non-affiliates, may exercise their right to hold or participate in Expressive Activities on the University’s Public Grounds, subject to the University’s “Time, Place, and Manner” restrictions (Section B). For the purposes of these policies and procedures Employees and Affiliates organizing Expressive Activities are considered non-affiliates, except when organizing University Business activities.

A list of Public Grounds is in [Attachment A](#).

- b. The University strongly recommends the use of Recommended Public Grounds, a subset of the University’s Public Grounds, for Expressive Activities. Furthermore, a University Official has the right to direct Expressive Activities to these Recommended Public Grounds whenever the University Official determines the use of these recommended areas is in the best interest of the

University or event participants, in accordance with Time, Place, and Manner restrictions (Section B).

A list of **Recommended** Public Grounds is in [Attachment A](#).

Although several city sidewalks surround or bifurcate University Property and may be used for Expressive Activities, these public areas are under the jurisdiction of the respective city (San Francisco, Fresno, etc.) and Organizers of and participants in Expressive Activities must comply with city rules and regulations, as applicable.

2. Limited-Public Grounds – Advanced Notice

- a. The University extends the additional use of Limited-Public Grounds, including to non-affiliates, when requests are made in advance through an “Authorized University Office” and are approved by that Office (see Section C).

A list of **Limited**-Public Grounds is in [Attachment A](#).

3. Special-Use Grounds – Advanced Notice

- a. The University will extend use of the University’s Special-Use Grounds to the University’s Students, when such requests for Special-Use Grounds are submitted in advance through an Authorized University Office and are approved by that Office. (Section C). Because freedom of expression is considered a part of a constructive learning and research experience, the University grants Students access to additional space on University Property, beyond what is extended to other populations for expressive activities.

A list of **Special-Use** Grounds is in [Attachment A](#).

- b. Students of the University who do not arrange their activities in advance and in accordance with Section C are restricted to using Public Grounds for Expressive Activities.

B. Time, Place and Manner Restrictions

The University’s Time, Place, and Manner restrictions identified herein are consistent with individual constitutional rights, while also ensuring public safety and enabling the University to operate without disruption or physical damage.

1. Time Restrictions

- a. No expressive activities can be conducted on outdoor Public, Limited Public, or Special Grounds between 9 pm and 6 am without prior approval through an “Authorized University Office.”
- b. Times for holding Expressive Activities in Limited-Public and Special-Use Grounds must be held in accordance with times^[1] permitted by the Facility Operator and approved by the Facility Operator in advance.

2. Place Restrictions

Use of all University Property is subject to the following in and outdoor place restrictions:

- a. No person shall erect, build, construct, set up, establish and/or maintain unauthorized structures on University property, including but not limited to tents, barricades, fences, lean-tos, and shelters.
- b. Activities may not take place in front of elevators, or at the top, bottom or on the steps or landings of stairways. Stairways and elevators may only be used to move from floor to floor and access

ER
can not be blocked.



- c. No person shall restrict the movement of another person or persons by, among other means, blocking or obstructing their ingress or egress of roadways, walkways, buildings, parking structures, fire lanes, windows, doors or other passageways to university property, or otherwise denying a person access to a University facility or space.
- d. With the exception of the Kalmanovitz Library Forecourt, activities must be at least 50 feet away from University building entrances and external stairways (outdoor events), including the entrances and external stairs of University hospitals, clinics, and other types of patient-care facilities
- e. Activities may not impede patient drop-off and pick-up locations that may be at or near building entrances
- f. Activities may not restrict the free flow of pedestrian traffic such as by overcrowding or placing tables and stands on sidewalks
- g. Activities may not interfere with the ability of vehicles to enter or exit a roadway, or parking lots or structures
- h. Activities may not interfere with the ability of vehicles to drive with the normal flow of vehicular traffic

3. Manner Restrictions

The University will not tolerate acts of "Civil Disobedience" on University Property. To promote a safe, non-violent, and constructive environment, all persons participating in Expressive Activities on University Property are subject to the following manner restrictions. Since no safety list is completely comprehensive, University Police may impose additional safety measures:

- a. No person shall engage in any activity which endangers personal safety
- b. No person shall engage in, organize, or carry out unlawful activity
- c. No person shall engage in any activity which results in damage to personal or University Property or which violates the privacy and/or confidentiality of sensitive University records or information
- d. No person shall interfere with or disrupt normal University business, classes, patient care, healthcare, or any organized and authorized University activity inside or outside of a University Property
- e. No person shall erect or place a stationary structure or display larger than two feet in dimension on the Expressive Activities site.
- f. No person shall carry or transport signs, posters, placards or banners exceeding thirty inches (30") by thirty inches (30") in size or with handles or supports made out of non-wood material.[2]
- g. No person shall post or hang materials on university buildings or trees, or in a manner that blocks official University signage or results in property damage.
- h. No person shall block or impede access to any emergency alarm system(s)
 - i. No person shall interfere or tamper with any part of any emergency alarm system(s)
 - j. No person shall prevent participation by individuals with dissenting views.
- k. No person shall interfere with an individual's wish to exit a forum where they do not wish to be, listen or participate for whatever reason

l. No person shall disregard instructions given by a University Official acting in their official capacities

m. No person shall use amplified or non-amplified sound in levels that are above reasonable or that are disturbing patients or neighbors at a given site.

n. No person shall camp, set up or erect a campsite, or occupy a tent or other temporary housing structure on university property, unless specifically pre-approved.

o. Wearing masks or face coverings is permissible for all persons who are complying with University policies and applicable laws. However, no person, while on University Property, shall wear a mask or personal disguise or otherwise conceal their identity with the intent of intimidating any person or group, or for the purpose of evading or escaping discovery, recognition, or identification in the commission of violations of law or policy.[3]

p. No person shall refuse to identify themselves while on university property to University officials who are acting in the performance of their duties in situations where assistance or intervention is needed. UCSF faculty, staff, and students must comply with [UCSF Campus Administrative Policy 150-17: Identification Cards](#) regarding requirement to wear identification badges while on campus.

Notes regarding time and manner restrictions:

- [1] Operating times for the various Limited-Public Grounds and Special Use Areas are set by the respective Facility Operator and published and updated on the Facility Operator's respective website.
- [2] Sign sizes and material requirements are consistent with sign requirements set forth in the Covenants, Conditions, & Restrictions of the Regents of the University of California Title V Division 10 Chapter 1 Sections 1000000-1000015: Regulations Governing Conduct of Non-Affiliates in the Buildings on the Grounds of the University of California.
- [3] Mask provision is consistent with requirements set forth in the Covenants, Conditions, & Restrictions of the Regents of the University of California Title V Division 10 Chapter 1 Sections 100013: Prohibited Conduct.

C. Arrangements

1. Use of Public Grounds Without Arrangements

The University understands that many forms of Expressive Activities occur spontaneously. As such, advanced arrangements are not required to use Public Grounds. Although not required for use of Public Grounds, advanced notice is encouraged and procedures in Sections C.2/3. should be followed.

2. Use of Limited- and Special-Use Grounds With Arrangements

Reservations for use of Limited-Public Grounds or Special Use Areas (Students only) must be made through one of the Authorized University Offices listed below.

All arrangements for services, such as, but not limited to, police, security, portable toilets, trash bins, and custodial services, must be coordinated through the applicable Authorized University Office, including for Expressive Activities organized by "Student Governments" or "Student Registered Campus Organizations."

3. Expressive Activity Types and Corresponding Authorized University Offices

- a. Student Governments or Student Registered Campus Organizations: [Student Life](#)
- b. Political or Governmental Expressive Activities: [Government Relations](#)

c. Labor Relations Expressive Activities: Labor and Employee Relations

d. All Other Expressive Activities, including Staff Registered Campus Organizations: Campus Life Services (Facilities Services or Office of Senior Associate Vice Chancellor)

All individuals or organizations using University Property for Expressive Activities must avoid any unauthorized implication that they are sponsored, endorsed, or favored by the University.

4. Event Forms and Approval Process

- a. The appropriate Event Form must be submitted 10-calendar days in advance to the applicable Authorized University Office for review and approval of all Expressive Activities held in Limited Public and Special Use Areas (Students Only).
- b. There should be no expectations that requests for use of Limited-Public or Special-Use Grounds (University Students only) will be approved, especially if the request is submitted with fewer than 10-calendar days' notice.
- c. **Student Organizers** must submit an Event Form through their Student Government or Student Registered Campus Organization in OrgSync for review and approval by UCSF's Student Life.
- d. **Non-Student Organizers** must submit an Expressive Activity Event Form (Attachment B) to the applicable Authorized University Office (see C.3 above).
- e. It is the responsibility of Facility Operators to redirect individuals and organizations planning Expressive Activities to the appropriate Event Form and the Authorized University Office so that Expressive Activity logistics can be reviewed and approved in advance.

5. Denials / Event Closures

- a. A request for use of Limited-Public and Special-Use Grounds (Student Only) may be denied by an Authorized University Office if the nature of the proposed event would be inappropriate or unsafe for the space requested or does not otherwise meet applicable policies and procedures, including Time, Place, and Manner restrictions.
- b. Should a scheduling conflict arise, the University will follow its space prioritization procedures (See "Related Information" below), which gives priority to use of University Property foremost to accommodate the University's business needs.
- c. University Property may be used only for the intended purpose stated on the Event Form. If other activities occur, a University Official may cancel the reservation and close the event.

6. Appeal Committee

The University has established an Expressive Activity Review Committee to review applications that have been denied by an Authorized University Office to ensure that policies and procedures were applied in a reasonably consistent basis, ensured viewpoint neutrality.

- a. The Expressive Activity Review Committee is comprised of representatives from UCSF Police Department, Risk Management Services, Chancellor's Office, Office of Diversity and Outreach, and the applicable Authorized University Office.
- b. Should an Authorized University Office deny the use of University Grounds for an Expressive Activity, a written appeal may be made to the Expressive Activity Review Committee within two business days of receipt of the denial. The Expressive Activity Review Committee will review the appeal and issue a written and final decision within two business days of appeal receipt, though the decision time frames may be extended for good cause and with notice to the parties.

- c. Under no circumstances may the Expressive Activity be held during the time a denial is being appealed or before resolution of the appeal.

D. Non-University Speakers

1. “Non-University Speakers” **without an invitation** are only permitted to speak at an Expressive Activity on public grounds.
2. An Expressive Activity that includes an **invited** Non-University Speaker on either Limited-Public or Special-Use Grounds (Students) is only permitted when arrangements have been made in advance as described in Sections C.2/3. No invitation may be made to a Non-University Speaker until all arrangement procedures have been followed and approvals received.

E. Costs for Grounds and Services

1. Use of University Grounds is either free or fee based, depending on the type of University Ground being used (list below). If the Ground’s use is fee-based, all Expressive Activities organized by off-campus groups incur the same rate to use the University Ground, regardless of the viewpoint expressed. Student groups organizing Expressive Activities are eligible for the on-campus rate for the use of fee-based University Grounds; the on-campus rate also does not vary dependent on viewpoint.
 - Use of Public Grounds is free
 - Use of outdoor Limited-Public Grounds is free
 - Use of indoor Limited-Public Grounds is fee based*
 - Use of Special-Use Grounds varies in cost (from free to fee-based) depending on the space (per Facility Operators)

* Rental rates for the various Limited-Public Grounds are set by each Facility Operator and published on the Facility Operator’s respective website. Operators update their rates from time-to-time, typically on an annual basis.
2. Use of a University Service (porta potties, trash / recycling bins, chairs, etc.) is fee based and subject to change from time-to-time and depends on attendance size, location, event length, and set up (e.g., march, seated lecture). All Expressive Activities organized by off-campus groups incur the same rate for services, regardless of the viewpoint expressed. Student groups organizing Expressive Activities are eligible for the on-campus rate; the on-campus rate also does not vary dependent on viewpoint.
3. The Servicing Department has responsibility for disclosing estimated costs for requested services, based on information submitted on the OrgSync Event Form or the Expressive Activities Event Form.
4. The individual or organization has full responsibility for complying with all applicable payment procedures and deadlines, including but not limited to paying upfront for estimated costs associated with making the space reservation, where applicable. Failure to pay all upfront fees will result in the cancellation of the University facility reservation.
5. Furthermore, the individual or organization has responsibility for all post-event costs, such as, but not limited to damages to facilities or University resources expended to remove event fliers not removed by the Organizer.

F. Security Review

1. A security review by the UCSF Police Department is required for any Expressive Activity that is planned in advance. To conduct this review, an OrgSync Event Form or Expressive Activities Event

Form (Section 3) must be completed in advance and submitted to the Authorized University Office (Section 2).

Use of security and/or police services is based on an hourly rate, which is subject to change from time-to-time. All Expressive Activities organized by off-campus groups incur the same hourly rate for security or police services, regardless of the viewpoint expressed. Student groups organizing Expressive Activities are eligible for the on-campus group security or police hourly rate; the on-campus rate also does not vary dependent on viewpoint.

2. Hourly rates for security and police are published on the UCSF Police Department website.
3. Costs for security or police services will be the responsibility of the Organizer. If, however, the UCSF Police Department ascertains that a specific activity requires additional security or police personnel based on anticipated security concerns, such additional security or police costs will be borne by the University.
4. The UCSF Police Department is solely responsible for the contracting, scheduling, and posting of any security or police personnel on University Property. Organizers may not contract with third-party providers of security or police services without advance approval from the UCSF Police Department.

G. Insurance

1. To ensure protection of participants and University Property, Expressive Activities organized in advance by Student Government or Student Registered Campus Organizations must have insurance coverage in accordance with the University's Risk Management program.
2. Furthermore, Expressive Activities Organized in advance by non-affiliates also require insurance coverage in accordance with the University's Risk Management program.
3. Risk Management policies and procedures are referenced in "Related Information" below.

H. Posting

1. Display of material on University Property including, but not limited to, advertisements, art, notices, flyers, posters, banners or literature may only be posted in designated areas.
2. All promotional materials for Expressive Activities held on University Property shall include a disclaimer that makes clear that the activity is not sponsored by the University and must avoid any unauthorized implication that they are sponsored, endorsed, or favored by the University.

I. Other Applicable Policies

1. Compliance with University Policies and the Law

All persons on University Property for any reason, including non-affiliates, are required to abide by University policies and procedures and applicable laws.

- a. To facilitate reading, potentially applicable policies and procedures are summarized in this Section I and/or listed in "Related Information" below. Even if a University policy or procedure is not summarized or referred to herein, compliance with all University policies and procedures is required.
- b. Violations of any of the policies and procedures outlined or referenced in this document may result in suspension of space use privileges.
- c. Violation of University policies may subject a person to possible legal penalties. If the person committing such a violation is a Student or Employee of the University of California, that person may also be subject to disciplinary action in accordance with University of California and/or UCSF policies including, but not limited to applicable collective bargaining agreements, Faculty Code of

Code of Conduct, and the University of California Policies Applying to Campus Activities, Organizations, and Students (PACAOS) with campus implementing regulations. (See “Related Information” below.)

2. Fundraising

- a. Organizers of Expressive Activities held on University Property may not charge admission, unless approved in advance by an Authorized University Office and in accordance with the University’s Fundraising guidelines. (See “Related Information” below.)
- b. Furthermore, an Expressive Activity may not include the sales of promotional material, unless a sales permit has been approved by an Authorized University Office and issued in accordance with the University Fundraising guidelines. (See “Related Information” below.)

3. Alcohol

- a. Possession of open containers of alcoholic beverages on the University’s Public Grounds is a violation of law and subject to prosecution. Alcohol may only be served in accordance with the University’s alcohol policies, which limits alcohol sale and consumption to specific locations and in accordance with guidelines that promote responsible behavior. (See “Related Information” below.)

4. Open Flames and Serving of Food

- a. Use of an open flame during an Expressive Activity is prohibited. Any exception must be pre-approved in advance and in writing by the Campus Fire Marshal: <https://ehs.ucsf.edu/fire-prevention> .
- b. The serving of food to the public during an Expressive Activity is only permitted for events planned in advance and when Temporary Food Event Application has been approved by the department of Environmental Health & Safety: <https://ehs.ucsf.edu/food-safety> .

5. Robinson-Edley Report

The Robinson-Edley Report contains 49 best practices and is used as a guide by the UCSF Police Department when participants in an Expressive Activity choose to engage in Civil Disobedience or possibly violate laws and regulations.

<https://campusprotestreport.universityofcalifornia.edu/documents/implementation-report.pdf>

6. Community Expectations

To maintain UCSF’s status as a global leader in education, research, and patient care, UCSF is committed to building a broadly diverse community, nurturing a culture that is welcoming and supportive of all, and engaging diverse ideas. Individuals on University Property are expected at all times to uphold the principals and standards of UCSF’s Code of Conduct .

7. Whistleblower Policy

Individuals are encouraged to use the University Whistleblower Policy if they have a good faith belief that an activity has occurred or is continuing to occur that is not in compliance with federal or state law or University policy.

Attachments

- Attachment A: University's Public Grounds, Limited Public Grounds, and Special-Use Grounds
- Attachment B: Expressive Activity Event Form

References

Codes of Conduct:

- A. UCSF Campus Code of Conduct
- B. Faculty Code of Conduct
- C. Policy on Student Conduct and Discipline
- D. UC Abusive Conduct in the Workplace
- E. Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California

Other References:

- A. UC Anti-Discrimination Policy
- B. UC Diversity Statement
- C. University of California Policies Applying to Campus Activities, Organizations and Students (PACAOS) with UCSF Implementing Regulations (PACAOS)
- D. UCSF Social Media Policy and Best Practices
- E. UCSF Police Department Policies & Procedures
- F. Robinson-Edley Report
- G. UCSF Access Guidelines for Employee Organizations
- H. Space Prioritization Policies
- I. UCSF Brand Identity
- J. University Support, Sponsorship, or Endorsement
- K. Student Government and RCO Fundraising Guidelines
- L. Service of Alcoholic Beverages
- M. Higher Education Employer-Employee Relations Act (HEERA)

Subject area

Physical Facilities

Policy number

Responsible office
Office of the Executive Vice Chancellor and Provost

Effective
May 7, 2020

Reviewed
August 30, 2024

Related Information

- [050-11: Personal Use of University Property](#)
- [150-17: Identification Cards](#)
- [150-30: UCSF Industry Relations Policy](#)
- [200-31: Alcohol Policy](#)
- [450-16: Fundraising Events](#)
- [600-26: Use of Campus Public Spaces and Special Use Areas](#)

EXHIBIT A(7)



Andy Kahn <andy@upte.org>

Notice of speech policy

Andy Kahn <andy@upte.org>

Fri, Nov 15, 2024 at 8:50 AM

To: "Ng, Keenan-Winston" <Keenan.Ng@ucsf.edu>, "Roller, Aviva" <Aviva.roller@ucsf.edu>, seva.cuevas@ucsf.edu

Cc: Matias Campos <mcampos@upte.org>

Dear Mr. Ng: Your letter to Matias about the UCSF policy banning "unauthorized" structures has been referred to me for response. This is to remind you that I represent UPTE as an attorney as to the UCSF Expressive Activities Policy and therefore I alone should be contacted by you about this policy, per Cal. Bar Rules of Professional Conduct Rule 9.42. There is no legal obligation on UCSF's part to enforce a policy which I have already explained both in writing and orally is unconstitutional and violative of HEERA, and was implemented recently without bargaining first when there should instead by law be a standstill until negotiations are concluded. I am guessing that your notice has to do with UPTE's erection of a canopy during the Regents meeting. When it is raining outside as it was that day, it is absurd for UCSF to argue that we should not have a canopy to protect our signs and leaflets from destruction, when this canopy hurts UCSF's interests in no way: such canopy is not placed in the way of anyone's passage and is manned at all times so it cannot blow away. Paragraph 8 of my 11/1 memo to UCSF asked it to authorize our use of such canopy on condition it not block passage. You ignored this request. We reiterate this request for authorization (without waiving our view that UCSF has no legal right to demand such request for authorization).

Andy Kahn, UPTE General Counsel

andy@upte.org

2855 Telegraph Ave. #602

Berkeley CA 94705

(510) 849-7025

EXHIBIT B(1)



Andy Kahn <andy@upte.org>

Fwd: [AggieService #00870090] Notice Regarding Update to Freedom of Expression Policy

Amy Fletcher <ahfletcher2010@gmail.com>

Fri, Sep 6, 2024 at 3:41 PM

To: Andy Kahn <andy@upte.org>

Hi Andy,

I just wanted to share this with you!

Amy

----- Forwarded message -----

From: **Shaikha Shahtaj** <sshahhtaj@ucdavis.edu>

Date: Fri, Sep 6, 2024 at 2:31 PM

Subject: [AggieService #00870090] Notice Regarding Update to Freedom of Expression Policy

To: esalcedo@afscme3299.org <esalcedo@afscme3299.org>, ahfletcher2010@gmail.com <ahfletcher2010@gmail.com>, colby@upte.org <colby@upte.org>, merazo@teamsters2010.org <merazo@teamsters2010.org>, jfuentes@teamsters2010.org <jfuentes@teamsters2010.org>, laff4920president@gmail.com <laff4920president@gmail.com>, tbittner@ucaft.org <tbittner@ucaft.org>, sjmcdonnell@me.com <sjmcdonnell@me.com>, kt.arosteguy@gmail.com <kt.arosteguy@gmail.com>, blavington@calnurses.org <blavington@calnurses.org>, grievance@fupoa.org <grievance@fupoa.org>, ericschneider@fupoa.org <ericschneider@fupoa.org>, neal.sweeney@uaw5810.org <neal.sweeney@uaw5810.org>

Dear Union Leadership,

Please see attached notice regarding an update to the University's freedom and expression policy. Please let us know if you have any questions.

Best,
Shaikha

Please "reply all" when responding to ensure your communication remains attached to this case. Thank you!

Shaikha Shahtaj, J.D.

Labor Relations Consultant

UC Davis Employee and Labor Relations

Email: sshahhtaj@ucdavis.edu

2 attachments**Notice #00870090- Update to Freedom of Expression Policy.pdf**

212K

**Attachment 1: Policy 400-1.pdf**

119K



UNIVERSITY OF CALIFORNIA, DAVIS

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EMPLOYEE & LABOR RELATIONS
HUMAN RESOURCES
ONE SHIELDS AVENUE
DAVIS, CALIFORNIA 95616
Tel. (530) 752-053

September 6, 2024

AFSCME Local 3299
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UPTE Local 6
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Teamsters Local 2010
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FUPOA
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ericschneider@fupoa.org

UAW Local 5810
neal.sweeney@uaw5810.org

Sent via email

Re: Notice #00870090- Update to Freedom of Expression Policy

Dear Union Leadership,


Pursuant to SB 108, the University is required to provide the legislature and its campus communities with notifications that describe its strategies and efforts to protect safety and access to educational opportunities and campus space and buildings. A report detailing these strategies and efforts is due to the legislature by October 1, 2024. In compliance with the law, UC Davis and UC Davis Health is providing notice to its stakeholders of these strategies and efforts, which include the changes to the university's rules described above. These safety and educational opportunity access rule updates will continue to ensure union access to UC facilities consistent with the requirements of HEERA.

Given the timelines set forth in SB 108, these safety and educational rule updates are being implemented before October 1, 2024. For UC Davis, The Chapter 400, Campus Climate- Section 01, Freedom of Expression policy was implemented on August 21, 2024. Please find a copy of the updated policy attached.

If you have any inquiries or concerns regarding the information provided in this notice or would like to meet and confer regarding any negotiable impacts to union access. please contact me via email at fncosta@ucdavis.edu by September 20, 2024, 14 days from the date of this notice.

Sincerely,

Natasha Costa

Natasha Costa 
Labor Relations Consultant
Employee and Labor Relations



cc: File

Attachments:

Attachment #1: *400-1 Policy*

EXHIBIT B(2)

Chapter 400, Campus Climate
Interim Section 01, Freedom of Expression

Date: 8/21/2024

Supersedes: 1/4/2024, rev. 2/27/2024

Responsible Department: Office of the Chancellor

Source Document: N/A

I. Preamble

Independent thought and diversity of opinions are the essence of the University, and freedom of expression is necessary for the University to fulfill its mission of producing and disseminating knowledge. Without the ability of its members to freely hear, express, and debate different ideas and points of view, the University would lack the culture of free inquiry that lies at the foundation of the academic enterprise. In furtherance of this mission, the University's Principles of Community aspire to create an environment committed to the highest standards of civility, respect, and decency.

Accordingly, the University resolutely affirms the following principles:

- A. All members of the University community have the right to express and debate their views, to voice criticism of existing practices and policies, and to protest against laws, policies, actions, and opinions with which they disagree.
- B. In performing its teaching, research, and public service missions, the University has the obligation to cultivate an environment that allows the members of the University community to conduct their work and activities in accordance with the highest standards of freedom of expression and independent thought.
- C. University policies are to be interpreted and applied in a manner that protects and promotes free and open debate and discussion to ensure the highest standards of freedom of expression and independent thought for the members of the University community. The First Amendment to the U.S. Constitution and Article 1, Sections 2 and 3, of the California Constitution set a floor, not a ceiling with respect to expressive activity, and the University is committed to fostering expressive rights in excess of these protections.

II. Purpose

This section describes the policy and procedures for the protection and encouragement of free expression, association, discussion, and debate at UC Davis.

III. Policy

- A. The University is committed to ensuring that all persons may exercise their constitutionally protected rights of free expression, speech, assembly, and worship, even in instances in which the positions expressed may be viewed by some as controversial or unpopular.
 - 1. The freedom to experiment; to present and examine alternative data and theories; to hear, express, and debate various views; and to voice criticism of existing practices and values are important aspects of an academic environment.
 - 2. It is the University's responsibility to ensure an ongoing opportunity for the expression of diverse viewpoints.
 - 3. The University recognizes, supports, and must not abridge the constitutional rights of faculty/academics, students, or staff to participate in political activity, either as individuals or as members of a group.

4. On University property open to the public, all individuals may exercise the constitutional protected rights of free expression, speech, assembly, and worship (including distribution or sale of noncommercial literature incidental to the exercise of these freedoms (see [University of California \(UC\) Policies Applying to Campus Activities, Organizations and Students PACAOS Section 40.40](#)).
 5. The University strives to ensure that, at any meeting, event, or demonstration, constitutionally protected free expression is not infringed, and will take necessary steps to support the continuing openness and effectiveness of channels of communication among members of the University community.
 6. The content of the views expressed is not an appropriate basis for restriction on expression, assembly, or demonstration.
 7. University policies are to be interpreted and applied in accordance with the First Amendment of the U. S. Constitution and Article 1, Sections 2 and 3, of the California Constitution to ensure the highest standards of freedom of expression, independent thought, and dissemination of knowledge.
 8. Religious, political, and ideological Registered Student Organizations (RSO) and other campus organizations must have access to University property on the same basis as all other campus organizations (see [UC PACAOS Section 41.11](#), and [Section 270-05](#) for definitions of campus organizations).
- B. The University has aspirational [Principles of Community](#) and affirms its commitment to the highest standards of respect, civility and decency toward all. The University recognizes that some speech may be considered to be offensive and uncivil to some people; that alone is not a lawful basis for limiting speech. The University has a responsibility to protect employees and students from unlawful discrimination and harassment and will take appropriate corrective action as required by law and University policy. (See VI.C, below for the relevant University policies on discrimination and harassment.)

IV. Time, Place, and Manner Regulations

- A. The University, as an educational institution, has various core goals and interests, the protection and promotion of which are essential to its effective functioning, including:
 1. the opportunity of all members of the University community to attain their educational objectives;
 2. the generation and maintenance of an intellectual and educational atmosphere throughout the University community; and
 3. the protection of the health, safety, welfare, property, and civil and human rights of all members of the University community, and the safety and property interests of the University.
- B. Consistent with UC [PACAOS Section 30.00](#), the University has adopted policies that provide for non-interference with University functions, referred to as time, place, and manner regulations.
 1. Consistent with the First Amendment of the U.S. Constitution, time, place, and manner regulations are reasonable limitations on when, where, and how public speech or assembly may occur.
 2. Time, Place, and Manner Regulations

- a. All individuals or organizations using University properties and services must avoid any unauthorized implication that they are sponsored, endorsed, or favored by the University (see UC [PACAOS Section 41.00](#)).
- b. As a State instrumentality, the University must remain neutral on religious and political matters. The University cannot sponsor or fund religious or political activities, except when authorized for University purposes by the Regents of the UC, the UC President, or their designees (see [UC PACAOS Section 41.10](#)).
- c. All public spaces, including but not limited to sidewalks, lobbies, courtyards, hallways, and other paths, thoroughfares, and open areas must be maintained to permit safe access and travel for pedestrians, and, where appropriate, bicycles and other vehicles. No person may restrict the movement of another person or persons by, among other means, blocking or obstructing their access to roadways, walkways, buildings, parking structures, fire lanes, windows, doors or other passageways to university property, or otherwise denying a person access to a University facility or space, or imposing checkpoints or other mechanisms to exclude persons on the basis of protected characteristics or viewpoint.
- d. The University has designated a site on the Quad for “symbolic speech,” where symbolic structures may be placed (see [Section 270-20](#)).
- e. Amplified sound may be used at outdoor events provided an approved amplified sound permit is obtained through Conference & Event Services (CES) prior to the event (see [Section 270-20](#); [Center for Student Involvement Policies, Amplified Sound](#)).
- f. Use of University properties for overnight camping is prohibited (see [Section 270-20](#)).
- g. Areas of University buildings generally accessible to the UC Davis community are typically open between 7:00 a.m. and 5:30 p.m., unless otherwise specified (see [Section 360-30](#)).
- h. Protests and civil disobedience have played an historic role on the University campuses, in bringing important and beneficial changes within society, and in the development of our democracy. However, civil disobedience is not protected speech under the Constitution. The Constitution does not guarantee any right to engage in civil disobedience - which, by its very definition, involves the violation of laws or regulations - without incurring consequences. Civil disobedience may have a negative effect on the protected interests of others and may interfere with University business or threaten public safety or University assets, in ways that require the University to act to protect those other interests.
- i. Additional time, place, and manner regulations:
 - 1) Reservation and use of University properties by University departments and organizations (see Sections [270-05](#) and [270-20](#)).
 - 2) Reservation and use of University properties by non-University organizations. (See Sections [270-20](#) and [270-80](#)).
 - 3) Fundraising on University properties (see [Section 270-16](#)).
 - 4) Commercial activities on University properties (see [Section 270-25](#)).
 - 5) Distribution of information and literature on University properties (see [Section 310-25](#)).

- 6) Posting of information on University property (see [Section 310-27](#)).

V. Further Information

For additional information and assistance, contact the [Office of the Campus Counsel](#); 530-754-6295.

VI. References and Related Policies

- A. [California Senate Bill: SB-108 Budget Act of 2024](#).
- B. [UC Regents Policy Sections 100000-100015, Regulations Governing Conduct of Non-Affiliates in the Buildings and the Grounds of the University of California](#).
- C. [UC Policies Applying to Campus Activities, Organizations and Students \(PACAOS\)](#):
 - 1. [Section 10.00, Preamble and General Provisions](#).
 - 2. [Section 20.00, Policy on Nondiscrimination](#).
 - 3. [Section 30.00, Policy on Speech and Advocacy](#).
 - 4. [Section 40.00, Policy on Use of University Properties](#).
 - 5. [Section 50.00, Policy on Campus Emergencies](#).
 - 6. [Section 70.00, Policy on Registered Campus Organizations](#).
 - 7. [Section 100.00, Policy on Student Conduct and Discipline](#).
- D. UC Davis Policy and Procedure Manual:
 - 1. [Section 270-05, Campus Organizations](#).
 - 2. [Section 270-16, Fundraising on University Property](#).
 - 3. [Section 270-20, Use and Reservation of University Properties/ and Event Arrangements](#).
 - 4. [Section 270-25, Commercial Activities](#).
 - 5. [Section 270-80, Major Events Sponsored by Registered Student Organizations \(RSOs\) and Other Non-University Organizations](#).
 - 6. [Section 310-25, Distribution of Information and Literature](#).
 - 7. [Section 310-26, Distribution of Periodical Publications](#).
 - 8. [Section 310-27, Temporary Postings](#).
 - 9. [Section 360-30, Operation and Maintenance of Buildings](#).
 - 10. [Section 380-21, Employee Organization Access Regulations](#).
 - 1. [Section 380-30, Abusive Conduct in the Workplace](#).
 - 11. [Section 390-12, Change in Campus Operating Status](#).
 - 12. [Section 390-20, Maintenance of Order](#).
 - 13. [Section 390-25, Suspension of Individuals During Declared State of Emergency](#).
- E. University Policies on Discrimination and Harassment:
 - 1. [UC Policy on Sexual Violence and Sexual Harassment](#); [UC Davis Section 400-20, Sexual Violence and Sexual Harassment](#); [UC PACAOS Section 102.09, Policy on Student Conduct and Discipline](#).

2. [UC Anti-Discrimination Policy](#); UC Davis [Section 380-10, Affirmative Action in the Workplace](#); [Section 400-15, Complaints of Discrimination and Harassment](#).
 3. [Academic Personnel Manual Section 015, Faculty Code of Conduct, and UCD-015, Procedures for Faculty Misconduct Allegations](#).
- F. [UC Davis Center for Student Involvement \(CSI\) Policies](#):
1. Amplified Sound Policy.
 2. Symbolic Structures Policy.
- G. California Code of Regulations Applying to Individuals Who are not Faculty/Academics, Students, and Staff:
- [California Code of Regulations](#), Title 5, Sections 100000-100015, Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California:.
1. Section 100004, Approval for Activity on University of California Property.
 2. Section 100005, Camping and Storage of Personal Belongings.
 3. Section 100006, Commercial Activities.
 4. Section 100007, Curfew.
 5. Section 100012, Passage on University Property.
 6. Section 100013, Prohibit Conduct.
 7. Section 100014, Signs, Posters, Placards, Banners, Handbills, Displays/Structures.

EXHIBIT B(3)



Andy Kahn <andy@upte.org>

Fwd: UPTE's response to recent UCD & UCDH notices of speech restrictions

I

----- Forwarded message -----

From: **Andy Kahn** <andy@upte.org>

Date: Tue, Sep 10, 2024 at 11:24 AM

Subject: UPTE's response to recent UCD & UCDH notices of speech restrictions

To: <jmparnell@ucdavis.edu>, fncosta@ucdavis.edu <fncosta@ucdavis.edu>, sshajtaj@ucdavis.edu <sshajtaj@ucdavis.edu>

Cc: Dianna Hampton <dianna.hampton@upte.org>, Colby Flores-Hartin <colby@upte.org>, Treasurer _ <treasurer@upte.org>, Deborah Young <debyoung@upte.org>

Attached please find UPTE's response to the recent notices sent by UCD and UCDH of speech restrictions, including a demand for bargaining and for standstill on enforcement of the restrictions in question, and related RFIs. We request a response to the RFI's prior to a bargaining meeting, thanks.

--

Andy Kahn, UPTE General Counsel

andy@upte.org

(510) 849-7025



Access UCD memo from UPTE.pdf
200K

Sept. 10, 2024

TO: UC Davis Management & Counsel, Including UCD Health
FROM: Andy Kahn, UPTE General Counsel
RE: Expressive Activities Policies/Regulations at UCD/UCDH

I'm writing on UPTE's behalf in response to the recent notice you sent us of speech policies. We request to bargain these issues. Various portions of the UCD Policy and Procedures Manual and UCDH's preexisting Access Regulations for Employee Organizations ("UCDH Regs") do not meet the reasonableness requirement of the Access articles of our CBAs. Moreover, these policies and regulations violate HEERA and our constitutional speech rights in several ways. We have the following concerns, proposals, and requests for information relevant to bargaining both these policies/regulations and our currently-open statewide Access article, as well as relevant to our potential grievance:

1. Legal Standards

Strict scrutiny would be applied here by the courts: see, e.g., *Shaw v. Burke*, 2018 U.S. Dist. LEXIS 7584, *22 (C.D. Cal. 2018) ("Given the traditional purpose of the open, outdoor areas of universities, such as the "Mall" on Pierce's campus, the Court finds that these areas are traditional public fora, regardless of Pierce's regulations naming them non-public fora. *Id.*; *Bowman*, 444 F.3d at 979 ('College campuses traditionally and historically serve as places specifically designated for the free exchange of ideas.').") This strict scrutiny requires time/place/manner restrictions be narrowly tailored to important governmental interests and leave ample alternative opportunities to reach the intended audience.

HEERA provides our representatives with the "right to use institutional facilities at reasonable times for the purpose of meetings". Gov. Code sec. 3568. HEERA also protects employees' rights to engage in union speech in non-work areas absent compelling contrary interests. See, e.g., *Cal. Public Sector Labor Relations* (Cal. Bar 2024) ("To establish reasonableness, the employer must show that its regulation is (1) necessary to the efficient operation of the employer's business and/or safety of its employees and others; and (2) narrowly drawn to avoid overbroad, unnecessary interference with the exercise of statutory rights." (citing *County of Tulare* (2020) PERB Dec. No. 2697-M, p. 20 (employer rule regulating union activity must not use vague or overbroad language); *County of Riverside* (2012) PERB Dec. No. 2233-M, p. 7).

2. Lack of Clarity as to Standards to be Applied at UCDH

UCD and UCDH need to clarify to what extent the UCD Policy Manual provisions apply to UCDH, as the breadth of the coverage section in Policy 270-20 Sec. I(B) would appear to bring in UCDH (“University properties includes all UC Davis owned or operated indoor and outdoor areas”, and the Policy Revision states coverage outside Davis was its intent). However, the separate UCDH Access Regulations are inconsistent with the Policy Manual provisions (for example, UCDH having a separate list of permissible outdoor areas, and having a ban on sound amplification within 225 feet when instead the Policy Manual lacks such a rule, but the UCDH Reg does not require advance reservation like UCD Policy 270-20). So we don’t know whether/when we are supposed to adhere to Policy Manual restrictions when we want to protest outside UCDH. Please clarify.

3. Policy 270-20 Ambiguity/Mandate for Prior Reservation

Section III appears to ban usage of any UCD-owned outdoor property in order to hold any kind of labor gathering absent a prior reservation:

III. Regulations Governing Use

A. Use by non-University organizations or individuals

1. The following types of non-University organizations may request to reserve University properties on an occasional, nonrecurring basis: *** i. Employee organizations (see Section 380-21) in accordance with the access provisions of the applicable collective bargaining agreement. ***

2. Non-University organizations or individuals are eligible to use University indoor facilities without a reservation *when sponsored by a UC Davis department or campus organization.*

The final subsection above recognizes there can be usage without a prior reservation only for indoor space, not outdoor space. But that would be too extreme for it to be constitutional: regulations requiring advanced permission from government officials for small groups to engage in speech on exterior spaces like campuses have repeatedly been found unconstitutionalⁱ particularly where as here, there are no time limits on how long the administrative decisions will take,ⁱⁱ and the standards are vague.ⁱⁱⁱ Furthermore, a pre-reservation requirement is a CBA violation because our CBAs’ Access articles expressly permit unscheduled meetings. It is urgent that UCD clarify this Policy and also provide in its Policies some time limits for administrators’ responses to requests to use exterior spaces for meetings and protests, and clearer standards for administrators to apply.

4. Excessive Limits on Exterior Spaces Available for Protests

Section IV of Policy 270-20 provides:

C. Reservation of outdoor areas

1. The following outdoor areas are reserved through CES:

- a. The Main Quad
- b. MU Patio
- c. Aggie Stadium
- d. Schaal Aquatics Center
- e. RMI Good Life Garden
- f. Recreation Pool
- g. Alpha Phi Picnic Grounds
- h. Recreational Fields
- i. Arboretum Spaces (including the Gazebo)

- 4. All other outdoor areas are typically available for reservation through CES, as long as the event does not adversely affect on University operations in the vicinity.

There are numerous other outdoor areas owned or operated by UCD and suitable for rallies beyond those listed in section 1 above, including (for example) those spaces listed in the UCDH Reg and the lawns on both sides of Mrak Hall where we have rallied before. Very little if any official UC business ever takes place on outdoor areas nor in buildings with windows open so there is little legitimate business rationale for excluding numerous outdoor areas from this list. Subsection 4 offers unions very little relief from this overly-narrow list because it is unconstitutionally vague and overbroad. An ordinary rally during negotiations by a large group of angry employees will quite arguably “adverse affect [] University operations” because it will be loud enough to distract students in class, patients, or other staff doing their work – but this is the price of free speech in our society. This is made clear by the seminal California Supreme Court case on this issue, *In Re Brown*, 9 Cal.3d 612, 619-20 (1973) and similar decisions. The *Brown* Court struck down convictions of leaders of a loud demonstration at a university campus for having disturbed classes. The Court held a statute banning disturbing the peace could not under the state and federal constitutions be applied against these demonstrators because there was no showing they were solely trying to make noise to disturb rather than in part engaging in communication:

The Attorney General seeks to preserve the convictions of violating section 415 on the basis of the language in that section prohibiting "maliciously and wilfully

disturbing the peace or quiet . . . by loud or unusual noise." He states that there is substantial evidence that petitioners made loud noises which disrupted class and campus functions. The statute, however, cannot be interpreted consistent with the First Amendment and traditional views as making criminal all loud shouting or cheering which disturbs and is intended to disturb persons. When the word "noise" in the statute is properly construed consistent with the First Amendment and traditional views, it encompasses communications made in a loud manner only when there is a clear and present danger of violence or when the communication is not intended as such but is merely a guise to disturb persons.

In light of this caselaw, you should narrow this section to merely regulate those activities posing a risk of violence or of noise intended solely to disturb rather than engage in speech.

REQUESTS FOR INFORMATION: Do UCD/UCDH believe that *In re Brown* is no longer good law or somehow is inapplicable to one or more of its facilities? If so, please set forth the basis for such belief.

5. Blanket prohibitions upon flyering vehicles or near residences:

Policy 310-25 (III)(A)(3) and UCDH Reg. IX(A)(1) both ban leaving leaflets on cars. However, in parking lots where there is little vehicular traffic (as is true for many UCD/UCDH lots), there is no excuse recognized by courts for banning protestors from leaving noncommercial leaflets on vehicles.^{iv} We urge UCD to narrow its ban to only commercial handbilling, or at most those few parking lots when and where there is so much traffic that a substantial likelihood exists of cars running into a handbiller.

Policy 310-25(III)(A)(1) says "materials may not be distributed in outdoor areas surrounding University property student residential facilities." This is overbroad because some of these outdoor areas are public in nature. Appellate court precedent has long protected the constitutional right to handbill on walkways in residential areas, following the leading case of *Martin v. Struthers*, 319 US 141 (1943). See, e.g., *Van Nuys Pub. Co. v. City of Thousand Oaks*, 5 Cal.3d 817 (1971).

REQUESTS FOR INFORMATION: Does UCD/UCDH have any data on its parking lot usage that it believes to support prohibition on leaving noncommercial leaflets on cars? Does UCD have any negative experiences with noncommercial flyering near dormitories which justify its ban?

6. UCDH's Ban on Picketing/Demonstrating within 50 feet or 25 feet of doors

UCDH bans any picketing, even by just one person, within 50 feet of any building where patient care occurs (or 25 feet of other buildings) – even if the picketer is not shouting and even though there is plenty of space on the sidewalks for pedestrians to pass by this picketer without engaging. (Reg. Sec. II(5)(b) and (c)). Such bans render picketing wholly ineffective. Such bans often in effect push picketing off into roadways where it could interfere with vehicle traffic. UCDH might have a legitimate concern with a demonstrator approaching someone who is gravely ill and arriving at an ER in order to obtain immediate care, but UCDH can regulate against this problem with a much-narrower regulation. Blanket distance limits like these have consistently been struck down by the courts as overbroad restrictions on speech: see, e.g., *McCullen v. Coakley* (2014) 573 U.S. 464 (35-foot buffer zone invalidated); *UFCW Int’l Union v. IBP, Inc.* (8th Cir. 1988) 857 F.2d 422 (striking down statute barring more than two pickets within 50 feet of entrance); *Howard Gault Co. v. Texas Rural Legal Aid, Inc.* (5th Cir. 1988) 848 F.2d 544, 561 (“Little imagination is required to envisage circumstances where groups of demonstrators, substantially larger than two persons, standing at closer quarters than fifty feet would not threaten the safe flow of traffic nor unreasonably interfere with free ingress or egress from nearby buildings.”). For similar reasons, UCDH’s limits violate HEERA as well. They need to be substantially relaxed. Most other UC facilities’ policies are not this restrictive.

REQUEST FOR INFORMATION: Can UCDH point to any locations where the current volume of pedestrian traffic would cause it to be slowed up significantly by one or two picketers being 10-20 feet away from the door as opposed to one or two leafletters?

6. Policy 310-25’s Limits on Tabling

Policy 310-25 (III)(A)(2) states: “2. Distribution of literature at outdoor tables is restricted to designated areas near the Memorial Union (MU), and the Silo.” Considering that rallies can occur at many other locations, and during these rallies we often set up a table temporarily in order to make various pieces of literature available to our members and the public, this restriction is unlawfully narrow. Small tables create an even less obstacle to pedestrian traffic than large numbers of protestors. UCD’s limit on tabling during rallies is contrary to settled law: see, e.g., *ACLU v. City of Las Vegas*, 466 F.3d 784, 799 (9th Cir. 2006) (“We hold that the erection of tables in a public forum is expressive activity protected by our Constitution to the extent that the tables facilitate the dissemination of First Amendment speech.”).

REQUEST FOR INFORMATION: Can UCD/UCDH point to any specific place where protest rallies are allowed where protestors would create an undue threat to pedestrian traffic by temporarily using a table during their rally?

7. Bans on “disruption” from speech (Policies 270.80(III)(B); 270-20(II(B(2)(4)):

These are both HEERA violations and unconstitutional under the *Brown* line of cases discussed above. UCD/UCDH must tolerate disruption when it occurs due to free speech outside its doors unless protestors are about to incite violence or aim solely to disturb through noise rather than communicate a message.

8. Restrictions on sound amplification and drums: Sound amplification and drumming has repeatedly been found constitutionally-protected against pre-approval requirements.^v Policy 270-20(IV)(C)(4) requires a permit for any amplification without providing specific standards for obtaining a permit, while UCDH Reg. V(F) bans drums and amplification within 225 feet of several buildings. If UC promulgated these restrictions out of concern for potential disturbance of sleeping patients, such concerns can be addressed with a much narrower restriction than these. Amplification is often required when meeting outside due to competing sources of noise, just to stay at the same decibel level as these sources in order to be heard by attendees. Constitutional protection for speech means UC cannot ban amplification for speech not exceeding other noise sources which UC allows on its property (such as large trucks and leafblowers – but our members report frequently hearing such sounds at UCD/UCDH). Some outdoor meeting areas are so large that attendees at one end of the area cannot hear speakers at the other end, even if they speak loudly, unless the speech is amplified. Using amplification for outdoor meetings is within our HEERA rights also. There are no time standards in UCD policies for when a decision to grant or deny permission will be rendered after we apply, nor does Policy 270-20(IV)(C)(4) contain any substantive standards to limit the discretion of UC decisionmakers.

While many other UC campuses’ speech policies are drafted without proper regard for constitutional standards, UCDH’s 225 feet is significantly farther than all others we’ve seen: see. e.g., UCSD Policy 510-1 sec. III(C)(listing numerous designated areas for amplification, and saying even in non-designated areas amplification permitted 150 feet away from buildings). For all these reasons, UCDH’s Policy and Reg must be severely scaled back and clarified before they are constitutionally enforceable.

REQUESTS FOR INFORMATION: Can UCDH point to any data justifying the 225-foot limit? Were there particular protests which gave rise to this provision? (If so, please provide a complete description, including any decibel readings taken). Please provide us a copy of any guidelines which any UCD decisionmakers use in deciding upon requests to use amplification.

CONCLUSION

The above-cited UCD/UCDH Policies – ones not heretofore enforced nor even mentioned before to UPTE staff or member leaders (at least not in recent years), but now revived by your recent notice – are causing UPTE to reconsider many of its plans for protesting UCD’s employment practices in the near future. This chilling effect is an irreparable harm warranting preliminary injunctive relief from the courts.^{vi} Accordingly, we need UCD and UCDH to assure us that it will not seek to enforce the provisions challenged above while we are bargaining over these issues, nor without at least 30 days’ prior notice that they will be enforced. That is the least UCD/UCDH should be doing to try to cure their unlawful unilateral imposition of the new enforcement policy without prior notice to UPTE and opportunity to bargain. There is no legal justification for immediate unilateral imposition arising from SB 108, as this merely required a report to legislators by 10/1, not adoption of new restrictions.

We strongly suggest UCD/UCDH consider adopting separate and more liberal rules for protests by recognized employee organizations as is permissible under *Perry Ed’n Assn v. Perry Local Educators* (1983) 460 US 37.

We request that UCD/UCDH allow our deadline for grieving these problems to be tolled until a meeting between the parties can occur, in order to avoid for the benefit of both parties potentially-unnecessary grievance paperwork under three contracts. I am available 9/30, 10/1 or 10/2 for a zoom meeting.

Thank you for your prompt attention to these matters.

ⁱ See *Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1039 (9th Cir. 2006) (“Small groups, however, can also “march” and “assemble” for expressive purposes, and can do so without interfering with the free flow of traffic (except in the trivial respect that anyone walking on a public sidewalk or roadway takes up space and therefore prevents someone else from traveling precisely the same route). Without a provision limiting the permitting requirements to larger groups, or some other provision tailoring the regulation to events that realistically present serious traffic, safety, and competing use concerns, significantly beyond those presented on a daily basis by ordinary use of the streets and sidewalks, a permitting ordinance is insufficiently narrowly tailored to withstand time, place, and manner scrutiny.”) (citing, inter alia, *Douglas v. Brownell*, 88 F.3d 1511, 1523-24 (8th Cir. 1996) (striking down a five-day advance notice requirement for processions of ten or more persons on streets, sidewalks, and public ways on the grounds that it was unjustifiably long and applied to groups as small as ten). The *Food Not Bombs* court also found unconstitutional the failure of an advance permit requirement to include an exception for spontaneous speech, a similar problem as exists with UCD’s Policy.

ⁱⁱ See, e.g., *Long Beach Lesbian & Gay Pride, Inc. v. City of Long Beach*, 14 Cal. App. 4th 312, 332 (1993) (“Plaintiffs’ primary grievance is with the failure to require a decision within a specific time after the application is made. Plaintiffs do not purport, or ask us, to dictate what a reasonable, acceptable time is. They only complain that to leave the matter open-ended impermissibly places the fate of a parade application in official limbo, both chilling and freezing the applicant’s free

¹⁰See, e.g., *Ketchens v. Reiner*, 194 CA3d 470, 480 (1987) (“The question is not a close one. ‘The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.’ (*Elrod v. Burns* (1976) 427 U.S. 347, 373”).

EXHIBIT B(4)



Andy Kahn <andy@upte.org>

[AggieService #00870090] UPTE Meeting Request- Updated Freedom of Expression Policy

AggieService <aggieservice@ucdavis.edu>

Fri, Oct 4, 2024 at 1:21 PM

To: "andy@upte.org" <andy@upte.org>

Please "reply all" when responding to ensure your communication remains attached to this case. Thank you!

Good Afternoon Andy,

Thank you for reaching out regarding the University notice sent in September. I have sent an updated notice today concerning the freedom of expression policy. I wanted to confirm that I have received your request to meet. Please let me know if you would still like to meet and our office will begin to schedule a meeting regarding all changes to both the 400-1 and 270-20 policy.

Best,

Natasha Costa, J.D.
Labor Relations Consultant
Telephone: (530) 304-4744

CONFIDENTIALITY NOTICE: This e-mail communication and any attachments may contain confidential and privileged information for the use of the designated recipients named above. If you are not the intended recipient, you are hereby notified that you have received this communication in error and that any review, disclosure, dissemination, distribution or copying of it or its contents is prohibited. If you have received this communication in error, please notify me immediately by telephone at (530) 754-1680 and destroy all copies of this communication and any attachments.

2 attachments

**Access UCD memo from UPTE.pdf**

200K

**Notice #00870090- Update to Freedom of Expression Policy.pdf**

217K

EXHIBIT C(1)



Human
Resources
BERKELEY LAB

Employee/Labor Relations

September 6, 2024

Mr. Eduardo De Ugarte
Chair
UPTE-CWA 9119 Chapter 184 (LBNL)
1 Cyclotron Road
Berkeley, CA 94720

Sent electronically via e-mail to: Eduardo De Ugarte edeugarte@lbl.gov

RE: Notice of Revised Policy of Use of Lab Facilities and Expressive Activity

Dear Mr. De Ugarte:

The Lawrence Berkeley National Laboratory (the Lab) is providing courtesy notice of our new “Policy on use of Lab Facilities and Expressive Activity.” The purpose of this policy is to facilitate the effective use and enjoyment of the facilities and services of Berkeley Lab. This policy is necessary to promote effective stewardship and use of Berkeley Lab facilities in support of the research mission. As such, this document outlines the appropriate use of the Lab facilities, including standards of conduct, while on LBNL property.

Please let Heather Dawson know if you would like to meet and confer regarding any negotiable impacts to union access.

This policy will become effective on September 9, 2024..

Sincerely,

Nam C. Van

Nam C. Van
ELR Manager
LBNL

cc: Heather Dawson

EXHIBIT C(2)

Chapter 400, Campus Climate
Interim Section 01, Freedom of Expression

Date: 8/21/2024

Supersedes: 1/4/2024, rev. 2/27/2024

Responsible Department: Office of the Chancellor

Source Document: N/A

I. Preamble

Independent thought and diversity of opinions are the essence of the University, and freedom of expression is necessary for the University to fulfill its mission of producing and disseminating knowledge. Without the ability of its members to freely hear, express, and debate different ideas and points of view, the University would lack the culture of free inquiry that lies at the foundation of the academic enterprise. In furtherance of this mission, the University's Principles of Community aspire to create an environment committed to the highest standards of civility, respect, and decency.

Accordingly, the University resolutely affirms the following principles:

- A. All members of the University community have the right to express and debate their views, to voice criticism of existing practices and policies, and to protest against laws, policies, actions, and opinions with which they disagree.
- B. In performing its teaching, research, and public service missions, the University has the obligation to cultivate an environment that allows the members of the University community to conduct their work and activities in accordance with the highest standards of freedom of expression and independent thought.
- C. University policies are to be interpreted and applied in a manner that protects and promotes free and open debate and discussion to ensure the highest standards of freedom of expression and independent thought for the members of the University community. The First Amendment to the U.S. Constitution and Article 1, Sections 2 and 3, of the California Constitution set a floor, not a ceiling with respect to expressive activity, and the University is committed to fostering expressive rights in excess of these protections.

II. Purpose

This section describes the policy and procedures for the protection and encouragement of free expression, association, discussion, and debate at UC Davis.

III. Policy

- A. The University is committed to ensuring that all persons may exercise their constitutionally protected rights of free expression, speech, assembly, and worship, even in instances in which the positions expressed may be viewed by some as controversial or unpopular.
 - 1. The freedom to experiment; to present and examine alternative data and theories; to hear, express, and debate various views; and to voice criticism of existing practices and values are important aspects of an academic environment.
 - 2. It is the University's responsibility to ensure an ongoing opportunity for the expression of diverse viewpoints.
 - 3. The University recognizes, supports, and must not abridge the constitutional rights of faculty/academics, students, or staff to participate in political activity, either as individuals or as members of a group.

4. On University property open to the public, all individuals may exercise the constitutional protected rights of free expression, speech, assembly, and worship (including distribution or sale of noncommercial literature incidental to the exercise of these freedoms (see [University of California \(UC\) Policies Applying to Campus Activities, Organizations and Students PACAOS Section 40.40](#)).
 5. The University strives to ensure that, at any meeting, event, or demonstration, constitutionally protected free expression is not infringed, and will take necessary steps to support the continuing openness and effectiveness of channels of communication among members of the University community.
 6. The content of the views expressed is not an appropriate basis for restriction on expression, assembly, or demonstration.
 7. University policies are to be interpreted and applied in accordance with the First Amendment of the U. S. Constitution and Article 1, Sections 2 and 3, of the California Constitution to ensure the highest standards of freedom of expression, independent thought, and dissemination of knowledge.
 8. Religious, political, and ideological Registered Student Organizations (RSO) and other campus organizations must have access to University property on the same basis as all other campus organizations (see [UC PACAOS Section 41.11](#), and [Section 270-05](#) for definitions of campus organizations).
- B. The University has aspirational [Principles of Community](#) and affirms its commitment to the highest standards of respect, civility and decency toward all. The University recognizes that some speech may be considered to be offensive and uncivil to some people; that alone is not a lawful basis for limiting speech. The University has a responsibility to protect employees and students from unlawful discrimination and harassment and will take appropriate corrective action as required by law and University policy. (See VI.C, below for the relevant University policies on discrimination and harassment.)

IV. Time, Place, and Manner Regulations

- A. The University, as an educational institution, has various core goals and interests, the protection and promotion of which are essential to its effective functioning, including:
 1. the opportunity of all members of the University community to attain their educational objectives;
 2. the generation and maintenance of an intellectual and educational atmosphere throughout the University community; and
 3. the protection of the health, safety, welfare, property, and civil and human rights of all members of the University community, and the safety and property interests of the University.
- B. Consistent with UC [PACAOS Section 30.00](#), the University has adopted policies that provide for non-interference with University functions, referred to as time, place, and manner regulations.
 1. Consistent with the First Amendment of the U.S. Constitution, time, place, and manner regulations are reasonable limitations on when, where, and how public speech or assembly may occur.
 2. Time, Place, and Manner Regulations

- a. All individuals or organizations using University properties and services must avoid any unauthorized implication that they are sponsored, endorsed, or favored by the University (see UC [PACAOS Section 41.00](#)).
- b. As a State instrumentality, the University must remain neutral on religious and political matters. The University cannot sponsor or fund religious or political activities, except when authorized for University purposes by the Regents of the UC, the UC President, or their designees (see [UC PACAOS Section 41.10](#)).
- c. All public spaces, including but not limited to sidewalks, lobbies, courtyards, hallways, and other paths, thoroughfares, and open areas must be maintained to permit safe access and travel for pedestrians, and, where appropriate, bicycles and other vehicles. No person may restrict the movement of another person or persons by, among other means, blocking or obstructing their access to roadways, walkways, buildings, parking structures, fire lanes, windows, doors or other passageways to university property, or otherwise denying a person access to a University facility or space, or imposing checkpoints or other mechanisms to exclude persons on the basis of protected characteristics or viewpoint.
- d. The University has designated a site on the Quad for “symbolic speech,” where symbolic structures may be placed (see [Section 270-20](#)).
- e. Amplified sound may be used at outdoor events provided an approved amplified sound permit is obtained through Conference & Event Services (CES) prior to the event (see [Section 270-20](#); [Center for Student Involvement Policies, Amplified Sound](#)).
- f. Use of University properties for overnight camping is prohibited (see [Section 270-20](#)).
- g. Areas of University buildings generally accessible to the UC Davis community are typically open between 7:00 a.m. and 5:30 p.m., unless otherwise specified (see [Section 360-30](#)).
- h. Protests and civil disobedience have played an historic role on the University campuses, in bringing important and beneficial changes within society, and in the development of our democracy. However, civil disobedience is not protected speech under the Constitution. The Constitution does not guarantee any right to engage in civil disobedience - which, by its very definition, involves the violation of laws or regulations - without incurring consequences. Civil disobedience may have a negative effect on the protected interests of others and may interfere with University business or threaten public safety or University assets, in ways that require the University to act to protect those other interests.
- i. Additional time, place, and manner regulations:
 - 1) Reservation and use of University properties by University departments and organizations (see Sections [270-05](#) and [270-20](#)).
 - 2) Reservation and use of University properties by non-University organizations. (See Sections [270-20](#) and [270-80](#)).
 - 3) Fundraising on University properties (see [Section 270-16](#)).
 - 4) Commercial activities on University properties (see [Section 270-25](#)).
 - 5) Distribution of information and literature on University properties (see [Section 310-25](#)).

- 6) Posting of information on University property (see [Section 310-27](#)).

V. Further Information

For additional information and assistance, contact the [Office of the Campus Counsel](#); 530-754-6295.

VI. References and Related Policies

- A. [California Senate Bill: SB-108 Budget Act of 2024](#).
- B. [UC Regents Policy Sections 100000-100015, Regulations Governing Conduct of Non-Affiliates in the Buildings and the Grounds of the University of California](#).
- C. [UC Policies Applying to Campus Activities, Organizations and Students \(PACAOS\)](#):
 - 1. [Section 10.00, Preamble and General Provisions](#).
 - 2. [Section 20.00, Policy on Nondiscrimination](#).
 - 3. [Section 30.00, Policy on Speech and Advocacy](#).
 - 4. [Section 40.00, Policy on Use of University Properties](#).
 - 5. [Section 50.00, Policy on Campus Emergencies](#).
 - 6. [Section 70.00, Policy on Registered Campus Organizations](#).
 - 7. [Section 100.00, Policy on Student Conduct and Discipline](#).
- D. UC Davis Policy and Procedure Manual:
 - 1. [Section 270-05, Campus Organizations](#).
 - 2. [Section 270-16, Fundraising on University Property](#).
 - 3. [Section 270-20, Use and Reservation of University Properties/ and Event Arrangements](#).
 - 4. [Section 270-25, Commercial Activities](#).
 - 5. [Section 270-80, Major Events Sponsored by Registered Student Organizations \(RSOs\) and Other Non-University Organizations](#).
 - 6. [Section 310-25, Distribution of Information and Literature](#).
 - 7. [Section 310-26, Distribution of Periodical Publications](#).
 - 8. [Section 310-27, Temporary Postings](#).
 - 9. [Section 360-30, Operation and Maintenance of Buildings](#).
 - 10. [Section 380-21, Employee Organization Access Regulations](#).
 - 1. [Section 380-30, Abusive Conduct in the Workplace](#).
 - 11. [Section 390-12, Change in Campus Operating Status](#).
 - 12. [Section 390-20, Maintenance of Order](#).
 - 13. [Section 390-25, Suspension of Individuals During Declared State of Emergency](#).
- E. University Policies on Discrimination and Harassment:
 - 1. [UC Policy on Sexual Violence and Sexual Harassment](#); [UC Davis Section 400-20, Sexual Violence and Sexual Harassment](#); [UC PACAOS Section 102.09, Policy on Student Conduct and Discipline](#).

2. [UC Anti-Discrimination Policy](#); UC Davis [Section 380-10, Affirmative Action in the Workplace](#); [Section 400-15, Complaints of Discrimination and Harassment](#).
 3. [Academic Personnel Manual Section 015, Faculty Code of Conduct, and UCD-015, Procedures for Faculty Misconduct Allegations](#).
- F. [UC Davis Center for Student Involvement \(CSI\) Policies](#):
1. Amplified Sound Policy.
 2. Symbolic Structures Policy.
- G. California Code of Regulations Applying to Individuals Who are not Faculty/Academics, Students, and Staff:
- [California Code of Regulations](#), Title 5, Sections 100000-100015, Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California:.
1. Section 100004, Approval for Activity on University of California Property.
 2. Section 100005, Camping and Storage of Personal Belongings.
 3. Section 100006, Commercial Activities.
 4. Section 100007, Curfew.
 5. Section 100012, Passage on University Property.
 6. Section 100013, Prohibit Conduct.
 7. Section 100014, Signs, Posters, Placards, Banners, Handbills, Displays/Structures.

EXHIBIT C(3)

Sept. 10, 2024

TO: LBNL Management & Counsel c/o Heather Dawson & Nam Van
 FROM: Andy Kahn, UPTE General Counsel
 RE: LBNL's New Policy Restricting Expressive Activities

I'm writing on UPTE's behalf in response to the notice you sent us on 9/6 of new speech restrictions immediately going into effect on 9/9 ("the Policy"). We request to bargain these issues. Several provisions of the Policy do not meet the reasonableness requirement of the Access articles of our CBAs. Moreover, these provisions violate HEERA and our constitutional speech rights in several ways. LBNL's immediate adoption of them prior to bargaining was not justified by SB 108 (as all this bill required by 10/1 was a report to legislators, not immediate adoption of new restrictive policies). We have the following concerns, proposals, and requests for information relevant to bargaining both this Policy and our currently-open statewide Access article, as well as relevant to our potential grievance:

1. Legal Standards

Strict scrutiny would be applied here under the First Amendment and State Constitution by the courts: see, e.g., *Shaw v. Burke*, 2018 U.S. Dist. LEXIS 7584, *22 (C.D. Cal. 2018) ("Given the traditional purpose of the open, outdoor areas of universities, such as the "Mall" on Pierce's campus, the Court finds that these areas are traditional public fora, regardless of Pierce's regulations naming them non-public fora. Id.; *Bowman*, 444 F.3d at 979 ('College campuses traditionally and historically serve as places specifically designated for the free exchange of ideas.').") This strict scrutiny requires time/place/manner restrictions be narrowly tailored to important governmental interests and leave ample alternative opportunities to reach the intended audience.

California courts have an even broader view than federal courts of where speech is protected, holding for example that walkways and parking lots outside secure facilities must allow leafletting despite security concerns in *Prisoners Union v. Cal. Dept. of Corrections* (1983) 135 CA3d 930 and *UC Nuclear Weapons Lab Conversion Project v. Lawrence Livermore Lab.* (1984) 154 CA3d 157. In *Carreras v. Anaheim* (9th Cir. 1985) 768 F.2d 1039, 1045, the Ninth Circuit stated: "the test under California law is whether the communicative activity 'is basically incompatible with the normal activity of a particular place at a particular time.' [Citations.]" Applying that test, the court found leafletting could not be barred on the exterior walkways and parking areas of a stadium. Applying the same

"basic incompatibility" test, the Ninth Circuit held the parking lot and walkways of a venue for sports and music also must under California law permit such speech. *Kuba v. 1-A Agricultural Assn.* (9th Cir. 2004) 387 F.3d 850, 857.

As you know, HEERA provides our representatives with the "right to use institutional facilities at reasonable times for the purpose of meetings". Gov. Code sec. 3568. HEERA also protects employees' rights to engage in union speech in non-work areas absent compelling contrary interests. See, e.g., *Cal. Public Sector Labor Relations* (Cal. Bar 2024)("To establish reasonableness, the employer must show that its regulation is (1) necessary to the efficient operation of the employer's business and/or safety of its employees and others; and (2) narrowly drawn to avoid overbroad, unnecessary interference with the exercise of statutory rights." (citing *County of Tulare* (2020) PERB Dec. No. 2697-M, p. 20 (employer rule regulating union activity must not use vague or overbroad language); *County of Riverside* (2012) PERB Dec. No. 2233-M, p. 7).

2. Policies Against "Disruption" and Amplification

Policy 1(b) makes it a violation to "[o]bstruct or disrupt operations, research, administration, disciplinary procedures, or other activities, including invitation only events}. Policy 1(g) makes it a violation to "[e]ngage in the production of disruptive amplified or non-amplified sound without prior authorization." There are several serious practical and legal problems with these provisions:

First, "disruption" is totally unclear. Does it apply, for example, to handing out literature to visitors to LBNL which merely causes them to ask hard questions of management?

Second, "disruption" is often the result of angry speech protected by the First Amendment and California Constitution. An ordinary rally during negotiations by a large group of angry employees could well be loud enough to distract someone inside during a meeting – but this is the price of free speech in our society. This is made clear by the seminal California Supreme Court case on this issue, *In Re Brown*, 9 Cal.3d 612, 619-20 (1973) and similar decisions. The *Brown* Court struck down convictions of leaders of a loud demonstration at a university campus for having disturbed classes. The Court held a statute banning disturbing the peace could not under the state and federal constitutions be applied against these demonstrators because there was no showing they were solely trying to make noise to disturb rather than in part engaging in communication:

The Attorney General seeks to preserve the convictions of violating section 415 on the basis of the language in that section prohibiting "maliciously and wilfully disturbing the peace or quiet . . . by loud or unusual noise." He states that there is substantial evidence that petitioners made loud noises which disrupted class and

campus functions. The statute, however, cannot be interpreted consistent with the First Amendment and traditional views as making criminal all loud shouting or cheering which disturbs and is intended to disturb persons. When the word "noise" in the statute is properly construed consistent with the First Amendment and traditional views, it encompasses communications made in a loud manner only when there is a clear and present danger of violence or when the communication is not intended as such but is merely a guise to disturb persons.

In light of this caselaw, you should narrow the two sections banning "disruption" to merely regulate those activities posing a risk of violence or of noise intended solely to disturb rather than engage in speech.

REQUESTS FOR INFORMATION: Does LBNL believe that *In re Brown* is no longer good law or somehow is inapplicable to one or more of its facilities? If so, please set forth the basis for such belief.

The provision requiring permission for amplification is unconstitutional because it applies to even a single bullhorn in areas where there is already noise, making it overbroad. Sound amplification and drumming has repeatedly been found constitutionally-protected against pre-approval requirements.ⁱ Amplification is often required when meeting outside due to competing sources of noise, just to stay at the same decibel level as these sources in order to be heard by attendees. Constitutional protection for speech means LBNL cannot ban amplification for speech not exceeding other noise sources which LBNL allows on its property (such as large trucks, leafblowers, and operational noise, which our members report frequently hearing at LBNL). Some outdoor meeting areas are so large that attendees at one end of the area cannot hear speakers at the other end, even if they speak loudly, unless the speech is amplified. Using amplification for outdoor meetings is within our HEERA rights also. The policies at many other UC facilities grant advance permission to use amplification during the midday hours when many people are on lunch, so we recommend LBNL do so as well.

This amplification provision is further unconstitutional because LBNL decision-makers have no time limits on how long their decisions will take on applications to use amplified sound,ⁱⁱ and there are no substantive standards they must follow (so we have no idea when and whether a request will be granted).ⁱⁱⁱ Other parts of the UC system in their policies generally provide some guidance in the form of decibel levels. Moreover, many recognize their constitutional duty to factor in competing noise in the background.

It is urgent that LBNL narrow these two provisions, and if it persists in banning some amplification without preapproval, provide some time limits for administrators' responses to requests to use amplification and clearer standards for administrators to apply.

REQUEST FOR INFORMATION: Please provide us a copy of any guidelines which any LBNL decisionmakers use in deciding upon requests to use amplification.

3. Apparent Prohibition on Union Representatives Attending Protests with LBNL Employees

In Section 4, the Policy states: “An individual or individuals who do not hold an appointment to the Laboratory are not permitted on site or in LBNL facilities for the purpose of engaging in protest or demonstration activities.” However, staff of UPTE and other unions have repeatedly been allowed to attend rallies with their members. Allowing them to do so actually aids LBNL in ensuring everyone in the rally avoids misconduct, as the unions have a strong interest in preventing misconduct (as dealing with employee arrests and discipline and lawsuits against employees and/or the union are all quite burdensome for a union). LBNL is entitled under the federal and state constitutions to treat union representatives more favorably than other non-affiliates: see *Perry Ed’n Assn v. Perry Local Educators* (1983) 460 US 37. LBNL is required by HEERA to treat them more favorably in this instance. Moreover, basic constitutional principles of non-discrimination actually apply in favor of allowing union staff because such staff pose no more danger to LBNL’s legitimate interests than do the protesting LBNL employees.

REQUEST FOR INFORMATION: Is LBNL’s exclusion of union staff from employees’ rallies based on any instances of misconduct by such staff? If so, please provide complete details.

4. Excessive Limits on Exterior Spaces Available for Protests

Section 4 of the Policy only allows three areas for employee protests (two food truck stops and Lot F). However, one food truck space has little meaning as a practical matter because upcoming renovation will eliminate this space. Lot F is among the least effective areas to protest because it is so far from our members’ workplaces and from the decisionmakers’ whose decisions are being protested. Moreover, forcing us there actually is worse in terms of LBNL’s legitimate needs because UAW rallies there have caused traffic blocking.

There are numerous other outdoor areas at LBNL and its satellite locations suitable for rallies, including (for example) the parking areas and walkways outside the auditorium in Building 50 where we leafletted recently. The Policy’s elimination of this space for us to use is patently retaliation against UPTE’s recent leafletting of visitors at a meeting there. Almost no LBNL business ever takes place on outdoor areas (and very little takes place inside within earshot of protestors outdoors), so there is no legitimate rationale for excluding most of the outdoor areas from this list. Your new regs are simply shielding LBNL

management from constitutionally-protected literature criticizing them of the sort we recently provided to visitors, and reducing our ability to gather enough members to make an impression.^{iv} This elimination of access violates HEERA and the state and federal constitutions.

REQUESTS FOR INFORMATION: Can LBNL point to any incidents justifying its ban on using the area near Building 50 and other outdoor areas? If so, please provide a complete description. Does LBNL believe the *UC Nuclear Weapons Lab* decision is no longer good law in California or somehow inapplicable here? If so, please provide a complete explanation.

5. Ambiguity in Ban on Posting and Literature

The Policy's final sentence states: "Advertisements, posters, and literature related to events/ services/goods of non-Berkeley Lab persons or organizations are also prohibited." This could be read by unsophisticated employees as banning them from distributing union literature on non-work time or posting it on the bulletin board, rights obviously protected under HEERA and our CBAs. This sentence should be clarified by adding a qualifier such as "This does not apply to the organizations representing LBNL employees."

CONCLUSION

The above-cited provisions are causing UPTe to reconsider many of its plans for protesting LBNL's employment practices in the near future. This chilling effect is an irreparable harm warranting preliminary injunctive relief from the courts.^v Accordingly, we need LBNL to assure us that it will not seek to enforce the provisions challenged above while we are bargaining over these issues, nor without at least 30 days' prior notice that they will be enforced. That is the least LBNL should be doing to try to cure its unlawful unilateral imposition of these policies without prior notice to UPTe and opportunity to bargain.

We request LBNL allow our deadline for grieving these problems to be tolled until a meeting between the parties can occur, in order to avoid for the benefit of both parties potentially-unnecessary grievance paperwork under three contracts. I'm currently available for a meeting on these issues on Sept. 30, Oct. 1 or Oct. 2.

Thank you for your prompt attention to these matters.

ⁱ See, e.g., *Cuvillo v. City of Vallejo*, 944 F.3d 816, 825 (9th Cir. 2019)(striking down requirement for preapproval of all amplification, noting "The United States Constitution and California Constitution protect bullhorns, and other sound-amplifying devices, as 'indispensable instruments' of public speech. *Saia v. People of State of New York*, 334 U.S. 558, 561, 68 S. Ct. 1148, 92 L. Ed. 1574 (1948); *Wollam v. City of Palm Springs*, 59 Cal. 2d 276, 29 Cal. Rptr. 1, 379 P.2d 481, 485 (Cal. 1963). In a crowded park or bustling intersection, where a single voice is easily drowned out, volume enables speech. See *Wollam*, 379 P.2d at

486. A restriction on volume, then, can effectively function as a restriction on speech. *Saia*, 334 U.S. at 561-62; *Wollam*, 379 P.2d at 486 ('The right of free speech necessarily embodies the means used for its dissemination because the right is worthless in the absence of a meaningful method of its expression.'")

ⁱⁱ See, e.g., *Long Beach Lesbian & Gay Pride, Inc. v. City of Long Beach*, 14 Cal. App. 4th 312, 332 (1993) ("Plaintiffs' primary grievance is with the failure to require a decision within a specific time after the application is made. Plaintiffs do not purport, or ask us, to dictate what a reasonable, acceptable time is. They only complain that to leave the matter open-ended impermissibly places the fate of a parade application in official limbo, both chilling and freezing the applicant's free speech intentions and expectations. The City has not contested the legal proposition that avoidance of limbo requires a deadline for action following application. We believe the authorities cited above support that requirement. Accordingly, Chapter 5.60's failure to include such an express limit is improper.").

ⁱⁱⁱ See, e.g., *Smith v. County of Los Angeles*, 24 Cal. App. 4th 990, 999 (1994) ("The Supreme Court has repeatedly held that an ordinance " "which . . . makes the peaceful enjoyment of freedoms which the Constitution guarantees contingent upon the uncontrolled will of an official--as by requiring a permit or license which may be granted or withheld in the discretion of such official--is an unconstitutional censorship or prior restraint upon the enjoyment of those freedoms." ' ' ' (*FW/PBS, Inc. v. City of Dallas*, supra, 493 U.S. at p. 226 [citing *Shuttlesworth v. City of Birmingham* (1969) 394 U.S. 147, 151) Addressing the constitutionality of a parade permit requirement, *Shuttlesworth* held "that a law subjecting the exercise of First Amendment freedoms to the prior restraint of a license, without narrow, objective, and definite standards to guide the licensing authority, is unconstitutional." (394 U.S. at pp. 150-151 [22 L.Ed.2d at p. 167]").

^{iv} See *NAACP v. City of Richmond* (9th Cir. 1994) 743 F.2d 1346 ("The size of a crowd and its enthusiasm for a cause may generate sufficient passion to sway the undecided."). This issue is particularly profound for our members working at LBNL's satellite locations because making them travel to Lot F or the food truck areas in order to participate in a rally is extraordinarily-burdensome.

^v See, e.g., *Ketchens v. Reiner*, 194 CA3d 470, 480 (1987) ("The question is not a close one. 'The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.' (*Elrod v. Burns* (1976) 427 U.S. 347, 373").

EXHIBIT C(4)



Andy Kahn <andy@upte.org>

UPTe's objections to new LBNL policy restricting rallies

Heather Dawson <hrdawson@lbl.gov>

Fri, Sep 27, 2024 at 3:48 PM

To: Andy Kahn <andy@upte.org>

Cc: ncvan@lbl.gov, Eduardo De Ugarte <edeugarte@lbl.gov>, Todd Kolze <tkolze@upte.org>

Dear Andy,

Thank you for your correspondence. As stated in our notice, LBNL is willing to bargain effects on the union's HEERA protected access rights. LBNL has the right to set reasonable rules for the management of its property and reasonable time, place and manner restrictions related to expressive activity. LBNL's rules and these updates are reasonable and are not directed at the content of the speech or the union-affiliation of the individual. The purpose of the policy is to facilitate the safe and effective use and enjoyment of the facilities and services of Berkeley Lab. This policy is necessary to promote effective stewardship and use of Berkeley Lab facilities in support of the research mission.

Please also see LBNL's response to your related Request for Information submitted on 9/10/24. Additionally, we are available to meet with you via Zoom next week on October 1, 2024 at 10:00 AM.

Please let me know if the proposed time will work on your end or if we should look for alternate dates.

Sincerely,
Heather

On Tue, Sep 10, 2024 at 10:31 AM Andy Kahn <andy@upte.org> wrote:

[Quoted text hidden]

--

Heather Dawson (She/Her)
Employee and Labor Relations Consultant
Lawrence Berkeley National Laboratory
Email: hrdawson@lbl.gov
Phone: (510) 610-6907 (mobile)

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RFI #15-24-RXTX Policy on Use of Lab Facilities and Expressive Activity.pdf

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Human Resources

EMPLOYEE & LABOR RELATIONS

9/27/24

Andy Kahn
UPTE General Counsel
(Sent via email to andy@upte.org)

Dear Andy Kahn,

This is a response to your request for information regarding the Policy on Use of Lab Facilities and Expressive Activity (RFI #15-24-RXTX) dated 9/10/24. Your specific requests and LBNL's responses are listed below.

1. Does LBNL believe that In re Brown is no longer good law or somehow is inapplicable to one or more of its facilities? If so, please set forth the basis for such belief.

Item #1 is not presumptively relevant, and we object to the request on the basis of relevance, that it calls for a legal conclusion, and that it seeks privileged information.

2. Please provide us a copy of any guidelines which any LBNL decisionmakers use in deciding upon requests to use amplification.

There are no specific guidelines. This provision is based on section 321 of the UC Berkeley policy which has similar language.

3. Is LBNL's exclusion of union staff from employees' rallies based on any instances of misconduct by such staff? If so, please provide complete details.

LBNL requests clarification on what is meant by *union staff* as the LBNL policy does not refer to *union staff*.

4. Can LBNL point to any incidents justifying its ban on using the area near Building 50 and other outdoor areas? If so, please provide a complete

Lawrence Berkeley National Laboratory

One Cyclotron Road / Berkeley, California 94720 / phone 510-486-4000



description.

As a secure federal facility, Berkeley Lab cannot be looked at in the same lens as a public forum. Precedent exists to limit locations where protest activity may occur to exclude such areas as inside buildings, spaces directly in front of them, and other areas of the lab site that are unsafe due to geographic conditions. Berkeley Lab is situated on a steep hillside. Roads and pedestrian walkways are very narrow. Many parking lots, such as the one in front of Building 50 only have one narrow entrance and exit point. Berkeley Lab must ensure that access to all roads and buildings remains safe to vehicular and pedestrian traffic and clear for emergency response. Similar language also exists in the U.C. Berkeley's policy, section 321. Limiting the locations where protest activity can occur promotes the safety and operational efficiency of the Lab.

The policy also recognizes the importance of designating places for free speech activities that are meaningful as they allow maximum visibility for individuals practicing their free speech rights. This is why food vendor areas on site and the F-lot parking area where the majority of employees and visitors enter the Lab, were identified as sensible locations to maximize the exposure of union activity but limit disruption to Lab operations.

Does LBNL believe the UC Nuclear Weapons Lab decision is no longer good law in California or somehow inapplicable here? If so, please provide a complete Explanation.

The above item is not presumptively relevant, and we object to the request on the basis of relevance, that it calls for a legal conclusion, and that it seeks privileged information.

If you have any questions, I can be reached at (510) 610-6907 or at hrdawson@lbl.gov.

Regards,

Heather Dawson

Heather Dawson (She/Her)
Employee and Labor Relations Consultant
Lawrence Berkeley National Laboratory
Email: hrdawson@lbl.gov
Phone: (510) 610-6907 (mobile)

EXHIBIT C(5)



Andy Kahn <andy@upte.org>

Re: UPTE's objections to new LBNL policy restricting rallies

Andy Kahn <andy@upte.org>

Mon, Oct 21, 2024 at 2:20 PM

To: Heather Dawson <hrdawson@lbl.gov>

Cc: ncvan@lbl.gov, Eduardo De Ugarte <edeugarte@lbl.gov>, Todd Kolze <tkolze@upte.org>

Now that LBNL has had a few weeks since I clarified what our RFI #3 meant by union "staff", UPTE would like a response to this RFI prior to the meeting on Weds if possible, thanks. Our proposal to LBNL is that you have a simple policy like UCSB's (copy attached) which neither limits locations, nor bars union staff from joining their members at rallies, nor requires advance permission for a single bullhorn. UCSB confirmed a few weeks ago that the attached policy is not being changed for employee organizations although it has adopted much stricter policies for outside organizations. We are not really an outside organization (as our members can be discharged for misconduct on LBNL premises, unlike what an outside protestor faces, and LBNL can negotiate added protections given our own duty to bargain, unlike outside protestors). The law fully protects public employers in having a less restrictive policy for employee organizations than outside organizations: see *Perry Ed'n Assn v Perry Local Educators*, 460 US 37(1983). Thank you for considering these issues in advance of our meeting.

Andy Kahn, UPTE General Counsel
andy@upte.org
2855 Telegraph Ave. #602
Berkeley CA 94705
(510) 849-7025

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Campus Access Regulations for Employee Organizations

Some of our employees are organized into fourteen collective bargaining units e.g., clerical, service, technical. Each of these units is represented by an employee organization, e.g., IBT-Teamsters, AFSCME, UPTE. Some of these employee organizations have also expressed an interest in representing groups of non-represented employees. The State law that governs collective bargaining rights for University employees (Higher Education Employer-Employee Relations Act) guarantees employees and employee organizations certain rights to conduct representational business, subject to the reasonable regulations by the University. Such activities include meetings, distribution of literature, and other related communications. These rights are generally called "access" rights, which, in a practical sense, means the law protects the employee organization's access to employees it wishes to represent. Unions are also provided certain limited access rights to non-represented employees.

Employee representatives are knowledgeable and generally cooperative regarding access regulations, but questions and issues may arise. Please feel free to contact one of the Employee & Labor Relations staff for assistance.

I. Purpose and Scope

- A. The following campus access regulations provide guidance to allow employee organizations reasonable access to University grounds, facilities, and employees while ensuring no disruption to University activities and programs or interference in restricted areas.
- B. These regulations do not apply to employee organizations or their representatives when they are representing employees in grievances filed under a collective bargaining agreement (contract) or complaints pursuant to the Personnel Policies for Staff Members (PPSM). In such cases, the appropriate contract or PPSM provisions shall apply. In the event these regulations conflict with a contract or PPSM, the contract or PPSM will control.
- C. The University reserves the continued right to add to, delete from, or modify these regulations pursuant to its rights under the Higher Education Employer-Employee Relations Act (HEERA) and applicable collective bargaining agreement provisions.
- D. The University reserves the right to deny, in whole or in part, any request for access, as appropriate, provided that any restrictions on access are consistent with the University's rights under the HEERA and applicable collective bargaining agreement provisions.



II. Definitions

- A. University- As used in these regulations, the term University or campus includes the Santa Barbara campus property as well as all University facilities and properties operated by the campus, including facilities rented by the University or otherwise under University control.
- B. Employee Organizations – Independent organizations which exist for the purpose, in whole or in part, of dealing with University management concerning matters within the scope of representation under HEERA.
- C. Representative – Any person acting in the interest of or on behalf of an employee organization/union, including both University and non-University personnel unless otherwise specifically exempted.
- D. Employee Organization Business – All legal activities of an employee organization/union including, but not limited to, meetings, dues collections, soliciting, distributing, and organizing.
- E. Restricted Areas – Areas designated for Official University Activities only. The activities of employee organizations and their representatives are restricted in these areas. Restricted areas include, but are not limited to:
 - 1. Private residential areas of students, including dining halls and kitchens.
 - 2. Food preparation areas in University facilities.
 - 3. Academic and research areas while instruction, counseling/advising, or research is in progress.
 - 4. Research areas when the health, safety, or security of individuals or the research could be adversely affected.
 - 5. Confidential and/or secured work areas.
 - 6. Patient care and clinical areas in Student Health, including student/patient medical records areas.
- F. Public Areas- For the purpose of these access regulations, public areas of the campus grounds are defined as the outdoor areas of the campus (lawns, patios, plazas) that are adjacent to campus buildings and parking lots.

III. General Rules

- A. Employee organizations and their representatives are generally permitted to conduct employee organization business in non-restricted areas during employees' non-work time. For the purposes of these regulations only, established rest periods are not considered work time. Employee organizations and their representatives are strictly prohibited from conducting employee organization business during an employee's work time. The conducting of employee organization business must not be disruptive to other employees who are on their work time.



- B. Employee organizations are required to provide the Manager, Employee & Labor Relations or designee with names and contact information of representatives engaged in representational activities on the Santa Barbara campus or properties. Employee organizations are required to provide accurate and timely updates to Employee & Labor Relations as changes are made in representation.
 - C. Representatives of employee organizations on University property are required to identify themselves upon request by University officials acting in the performance of their duties. Additionally, the University official may request employee organization representatives to state the nature of their visit.
 - D. Employee organizations and their representatives are prohibited from using University resources, facilities and equipment for employee organization business, including, but not limited to, automobiles, computers, projectors, office supplies, telephones, fax machines, and photocopy and reproduction equipment.
- IV. Time, Place and Manner Regulations
- A. Employee organizations are subject to the following access regulations that provide for non-interference with University functions and reasonable protection to persons from practices that would make them involuntary audiences.
 - 1. In the event that the architecture of a building includes entrances with stairs or landings, no distribution may take place on the stairs or landings. (This restriction applies to both landings in front of the main entrance to the Davidson Library.)
 - 2. All activity in public areas must be conducted in such a way that traffic is not impeded and the normal activities in classrooms and offices are not disrupted.
 - 3. Tables or moveable stands may not be placed in areas where passages to any entrance or walkways are blocked, where the free flow of pedestrian traffic is restricted, or where emergency fire lanes are blocked.
 - 4. Sound amplification should not interfere with operations of the campus.
 - 5. Interference with ingress and egress to buildings and University functions or activities; disturbance of offices, laboratories, classrooms, study facilities, and patient care and research areas; and harm to University property are prohibited.
 - 6. Involuntary Audiences- Persons on University property have the right to be protected from becoming part of an audience for an event or activity against their will.
 - B. Handbilling – Employee organizations are permitted to distribute free informational materials relating to the organizations’ representational purpose to consenting employees in public areas of campus. Such distribution shall only take place outside of all works areas and should only occur outside recipients’ scheduled work time.



1. Literature may be handed to interested persons or posted appropriately in designated areas for their information, but it may not simply be left unattended on campus grounds or facilities.
2. No flyers, announcements or literature of any kind may be placed on automobiles (e.g., under the windshield wipers) on University property.

V. Meeting Rooms

- A. Employee organizations and their representatives may request to use general purpose meeting rooms to conduct meetings for gatherings, solicitations, and events when such meeting rooms are not in use for University purposes. Employee organizations should contact Employee & Labor Relations for assistance in scheduling general purpose rooms.
- B. Employee organizations access to meeting rooms may be limited or curtailed based on operational needs. Employee organizations may be excluded from use of a meeting area if an alternate meeting area is provided in reasonable proximity.
- C. When costs are incurred for use of University facilities, employee organizations will bear such costs. Space rental or usage fees will be charged to employee organizations for use of facilities for which all users, other than student organizations, are charged. Labor, equipment, and other event related fees and charges will apply.

VI. Bulletin Boards

- A. Written materials may be posted on general purpose bulletin boards or pre-designated employee organization bulletin boards when the following criteria are met:
 1. Identification – letterhead or signature of responsible party and name of employee organization.
 2. Date – postings must be dated with the current month, day, and year of posting.
- B. Postings are subject to removal 30 calendar days from the date of posting.
- C. No literature or other materials may be affixed to doors, walls, floors, ceilings, elevators, light fixtures, trash cans, or stairways at any time.
- D. The use of bulletin boards which are not general purpose bulletin boards or pre-designated employee organization bulletin boards by employee organizations and their representatives is prohibited at all times.



VII. Mail

- A. Mail sent to University employees through the U.S. Postal Service, where postage has been pre-paid by the employee organization will be delivered to the employee in the normal manner.
- B. In locations where employee mailboxes exist, employee organizations and their representatives may reasonably use such boxes for distribution of mail, provided the boxes are not located in a confidential and/or restricted work area. If employee mailboxes are located in a confidential and/or restricted area, arrangements should be made with the Employee & Labor Relations office to distribute the information.
- C. Use of the campus mail system for employee organization business is strictly prohibited.

VIII. Employee Lounges and Break Areas

Where employee lounges and break areas exist in non-restricted areas, one-to-one solicitation of consenting employee is permitted. Employee lounges and break areas are not generally available to reserve for meetings. Where permitted, employee organizations usage of employee lounges and break areas for meetings must be approved, in advance, by Employee & Labor Relations.

Where the information presented in this document or elsewhere on this site is in conflict with University policies, procedures or applicable collective bargaining agreements, the terms of those University policies, procedures and agreements shall govern.

EXHIBIT C(6)

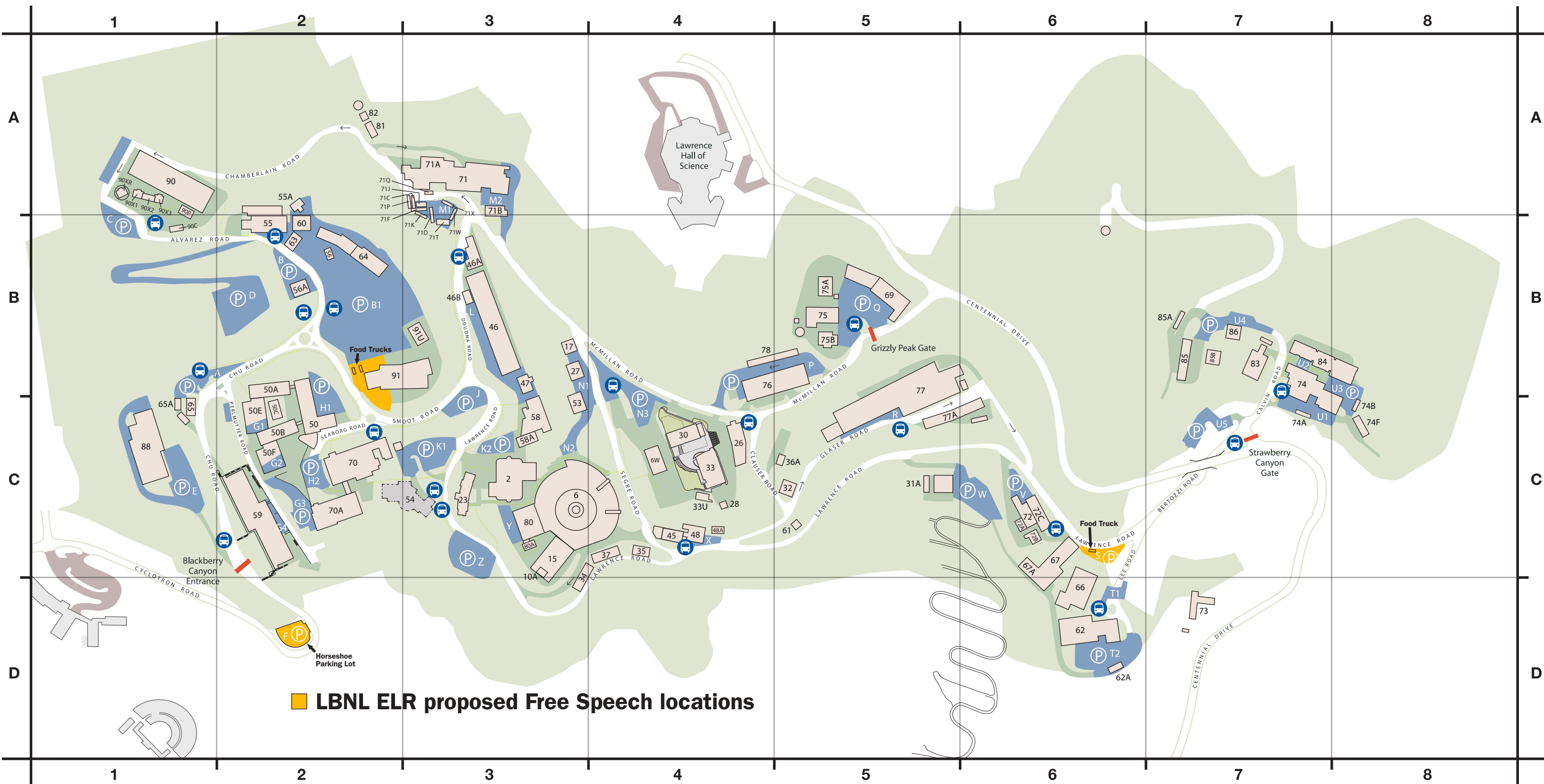




EXHIBIT C(7)

Nov. 2, 2024

TO: LBNL Management c/o Heather Dawson

FROM: Andy Kahn, UPTE General Counsel

RE: Write-up of our proposals on Speech Policy; Request for Information

After considering your comments at the meeting, the following are our proposals for modifications to the LBNL Speech Policy, explanations of our proposals, and additional RFIs:

Policy Section (1)(g)(ban on “disruptive” noise without authorization): Replace with: “(g) Making noise creating an imminent likelihood of violence or made for the primary purpose of disrupting operations; making noise which is disruptive and not in connection with an employee organization’s protest activity; using without authorization more than a single one of each of the following devices at Principal Protest Locations (identified in section 4): bullhorn, drum, whistle, and other noisemaker; or using any drum, whistle, noisemaker or bullhorn at an Additional Location (identified in Section 4) without authorization. Authorization will be granted to employee organizations unless the resulting noise level in a work area is likely to exceed 60 decibels. LBNL will render decisions on requests for authorization by employee organizations within 3 business days absent emergency conditions precluding a decision from being made in such time period. The Lab may revoke a prior authorization if the protestor’s device in fact causes noise exceeding the above-specified level. No suspension of the access or employment of a protestor involved in an employee organization protest will be imposed for a violation of the foregoing requirements unless the protestor has first ignored a request by Security to reduce their volume to the required level”.

RATIONALE: Use of a single bullhorn by a union is commonplace and should not involve a burdensome application process at Lot F or food truck areas because they are far from most workplaces. Applications would still be required for other protest locations. Our proposal provides much more clarity than the vague term “disruptive”. Our proposal protects protestors from losing their future access because they disrupted work but were unaware at the time they were doing so (as they cannot simultaneously be inside the building at the same time in order to realize they created a problem). We took the 60-decibel standard from UCI’s speech policy but are flexible about the precise number.

REQUEST FOR INFORMATION: Has the Lab ever done sound level readings while a protest was occurring outside? If so, where were such readings taken and what were the readings? What were the responses to such readings of the Lab and protest organizers?



Policy Section 4's Ban on Non-Employees: Add "However, a rally sponsored by an employee organization representing Lab employees may also be attended by up to ten representatives of the organization who are not Lab employees if they have agreed in writing to not engage in any misconduct on Lab premises for which a Lab employee would be suspended or discharged."

RATIONALE FOR PROPOSAL: In addition to the reasons covered at our meeting, the Policy's current ban on nonemployees visiting for protest or demonstration reflects discrimination against speech based on content, which is clearly illegal: if any employee wants to invite a few dozen friends to come up and hold a meeting outside to discuss something, or hold a celebration, while that isn't technically a "demonstration" or "protest", it still can interfere with traffic on the roads or sidewalks, distract work and generate a burden on Security staffing perhaps greater than a small protest. Moreover, under the Policy as currently written, employees can invite large groups of non-employee friends to engage in non-speech activities which are lawful but represent an even greater burden on Security than UPTE staff attending a rally, yet are not barred from doing so by LBNL Policy: for example, a group doing (a) their own outdoor scientific experiment not authorized by UC; (b) having a big party with free food and drink for friends, students, employees, etc; (c) running around chasing turkeys or mountain lions or other wildlife; (d) hanging out with a motorcycle gang revving their engines; (e) displaying and admiring a group of classic cars; or (f) driving several large noisy trucks generating diesel fumes like Alhambra water trucks. Our proposal helps cure the illegal discrimination in the existing Policy.

We make our proposal to limit the number of attendees who are not Lab employees in order to reduce potential burdens on LBNL Security without conceding that the rationale provided us for LBNL's Policy – short-staffing in Security – is legally-justifiable: speech rights cannot depend on whether the government regulating speech is choosing not to adequately fund its police or security workforce. That would mean poor people in poor communities or working for poorer agencies with lower police staffing would be deprived of the means of protesting their poverty.

When it comes to our union officers who are UC employees, they are subject to the same discipline if they engage in misconduct at LBNL as on any other part of the UC system's properties. Hence LBNL's legitimate interests are fully protected if they choose to attend rallies in solidarity with LBNL employees. Nonetheless, we're willing to limit their numbers and obtain written assurances from them in order to accommodate LBNL's stated security concerns.

Policy Section 4's Limits on Locations: Label the three previously-specified locations as "Principal Protest Locations". Then add: "The attached map contains Additional Locations where protests by employee organizations will be permitted if this does not cause the total number of protests occurring at the same time to exceed five. At an Additional Location no protest may block a sidewalk or entranceway, have more than two handbillers per entranceway, nor handbill closer than 5 feet from the entranceway. Unless the rally organizer can demonstrate to Security that the rally would not likely block vehicle or pedestrian access, each protest at an Additional Location shall be limited to no more than 200 participants. If a protest organizer learns there will more than 2 protests occurring simultaneously on the main Lab campus, they shall promptly

notify Security so it can arrange for appropriate staffing. The foregoing limits on protest locations do not apply to satellite facilities away from the main Lab campus such as Potter, OCFO, JBEI and ABPDU.”

RATIONALE FOR PROPOSAL: Your team explained the limited number of permissible locations in the current Policy was in part based on concerns for limited security staffing. This only made sense to us if your concern was multiple rallies going on at the same time (because the designated locations themselves are not easier to handle for Security; Lot F is more burdensome to Security because of its distance very far from the bulk of the buildings and staff whom Security is otherwise dealing with, and Lot F creates more of a problem for Security of protestors clogging the main roadway into the Lab than other locations would). Accordingly, our proposal ensures that LBNL Security would not have to deal with more than two rallies at the same time without prior warning, nor with huge rallies in small spaces, thereby largely solving the workload problem, while also respecting our right to continue our past practice of rallying at the above-specified locations, our need to be able to handbill visitors, and our need to rally closer to where our members work and/or management decisionmakers work. (However, as noted above, we do not concede that Security staffing is a legally-legitimate basis for restricting speech, because the staffing level is within the employer’s primary control and if it chose to limit security staffing in order to limit protests critical of the employer, that would severely undermine HEERA speech rights).

As noted in our original objections, it would not be reasonable to require employees of the Lab’s off-campus facilities in Emeryville etc to travel up to the main Lab campus if they wished to join a protest, as the time consumed in travel would likely exceed the time allowed for lunch breaks. For rallies before and after work, such travel would unreasonably cut into the other demands on their time such as childcare. Also, these off-campus facilities do not have the same features of narrow roads and steep hills upon which the Lab justifies its restrictions, and appear to be next to public sidewalks where the Lab probably has no authority anyway to preclude protest activities. Our proposal clarifies that protests are not barred there.

REQUESTS FOR INFORMATION: Do you know of any examples of multiple rallies actually occurring at the same time at the Lab? If so, please describe. Was the Policy intended to restrict protest locations for Lab employees working at the off-campus facilities in Emeryville etc? If so, what is the rationale for such restriction?

Policy Section 6: Add “However, literature may be distributed and printed materials posted by employee organizations representing Lab employees in locations where previously permitted or as otherwise required by law.”

Policy Section 8: Add “No suspension or loss of employment nor suspension of or ban on access will be imposed without just cause against any employee organization official for violation of this Policy. Prior to taking such action, the Lab shall provide the individual and organization with notice of intent to take such action and an opportunity to respond prior to final decision. If the organization disagrees with the Lab’s decision, access suspension shall not be

effective until its merits have been adjudicated absent clear and convincing evidence that the individual's continued presence represents an immediate danger to persons, property or operations. The Lab shall proceed to expedited arbitration on the issues if so requested by the organization."

RATIONALE FOR PROPOSAL: Given the vagueness and complexities of LBNL's policies, UPTe is legitimately worried that it could see staffpersons banned for life for unintentional violations. As noted at the meeting, we invest vast amounts of resources in training each staffperson on the complexities of each location's practices and personnel. Thus for LBNL to suspend or terminate a staffperson's access would deal our organization a crushing blow. Hence LBNL should not impose such bans without just cause and some minimal pre-deprivation due process. Current CBA access language does not permit administrative exclusion of individual staffpersons but rather limits UC to suing UPTe in order to obtain compliance. However, UCOP is seeking to alter this CBA provision to permit such exclusion, and we suspect you view yourselves as entitled to suspend access even without express CBA authorization. The above proposal will help ensure any such suspensions or bans will be warranted by the union official's misconduct and not the result of management hostility to the content of their speech. The above proposal does not significantly increase UC's litigation burdens, as exclusions of union officials can already be challenged through a PERB charge or lawsuit under state and federal constitution (including preliminary injunctions because deprivation of access causes irreparable harms). Our proposal would encourage the parties to select a neutral to resolve the issue faster and with potentially more knowledge of LBNL than PERB and courts can normally provide. (The above draft does not mandate the organizations go to arbitration because legally that requires both parties' consent so cannot be done via UC policy).

Thanks for your consideration. If you have any questions, I can be reached at (510) 849-7025 or andy@upte.org.

Cc: Ed DeUgarte; Todd Kolze

EXHIBIT D(1)

July 23, 2024

VIA E-MAIL: sara@upte.org

Sara Bowden
UPTE, Local 9119
2855 Telegraph Ave. Ste. 602
Berkeley, CA 94705

RE: Updated UCI Health Access Regulations

Dear Ms. Bowden:

The purpose of this letter is to notify you that the University of California, Irvine – Health (“UCI Health”) has expanded the existing UCI Health Access Regulations to include the ambulatory clinics and new Community Health locations. A copy of the updated UCI Health Access Regulations is attached for reference.

We appreciate your cooperation and support in complying with all applicable Access Regulations and collective bargaining agreement provisions. If you have any questions or would like to discuss further, please feel free to contact me at (949) 237-4999 or via email at jeffrey.hughes@uci.edu.

Sincerely,



Jeff Hughes
Workforce Relations Manager

Enc. UCI Health Access Regulations



ACCESS REGULATIONS

I. PURPOSE

- A. The following regulations provide reasonable access to University grounds, facilities and employees while ensuring that activities will not disrupt daily work activities, teaching, and research, and will not adversely affect UCI Health patient welfare or visitor experience at the institution.
- B. In the event these rules conflict with a Memorandum of Understanding or CBA, the Memorandum of Understanding or CBA shall control.
- C. As used in this document, the term "University" includes all UCI Health locations.
- D. These regulations apply to all UCI Health locations.

II. BACKGROUND

There are many organizations and individuals who desire to solicit or otherwise establish contact with University employees for various reasons. These regulations are promulgated to ensure the highest level of respect and service to our patients and visitors, as well as to our employees.

III. DEFINITIONS

- A. Outside Organizations and Individuals
Organizations and individuals not affiliated with the University, such as retail vendors and nonprofit organizations.
- B. Employee Organizations
Independent organizations that exist for the purpose, in whole or in part, of dealing with University management concerning grievances, labor disputes, wages, hours and other terms and conditions of employment of employees, as defined by Section 3562(f) of the Higher Education Employer-Employee Relations Act (HEERA).
- C. University Affiliated Organizations
Organizations that are directly affiliated with the University, such as student organizations or outreach groups.
- D. University Unit
Any academic or nonacademic department or division or any other official University entity, including any official department, school, or institute of the University, the University Extension, or any part thereof, or any authorized



student government.

E. Official University Activities

All UCI Health patient care activities; academic classes, research and related activities; normal daily operations of University units; and programs or activities sponsored by University units in the course of fulfilling their University mission.

F. Representative

Any person acting in the interest of or on behalf of one of the organizations outlined in Sections III. A through III. C above.

G. Prohibited Areas

Areas designated for Official University Activities only. The activities of the organizations and individuals identified in Sections III. A through III. C above are prohibited in these areas.

Prohibited areas include, but may not be limited to:

1. Patient and clinical areas, including, but not limited to:
 - a. Nursing Stations, Medication Rooms, Chart Rooms, and rooms that function as or are in the nature of such rooms;
 - b. Patient and/or visitor lounges including patient conference rooms, sitting rooms, and solaria;
 - c. Libraries or study areas, unless specifically included in the non-restricted meeting areas list below;
 - d. Patient floor and operating room area corridors;
 - e. Patient rooms, operating rooms, laboratories, clinics, and other treatment and patient care areas; and
 - f. Any areas and rooms where patient information is generally handled.
2. Academic and research areas.
3. Confidential and/or secured work areas, including, but not limited to, the following areas: Medical Records, Cashier's Office, Radiation Areas, Information Services/Computing, Telecommunications, Central Plant, Administration Offices.

H. Restricted Access Areas

Areas designated for Official University Activities and may be used only with advanced written approval from Human Resources – Workforce



Relations (EWR@uci.edu). Restricted access areas include lobbies, interior hallways, all visitor/patient entrances and exits, and the UCIMC Healing Garden, including its surrounding paths and walkways.

All conference/meeting rooms not specifically designated and listed in “Non-Restricted Meeting Areas” below are deemed restricted and inappropriate for use by individuals or organizations as defined in Section III. A thru III. C, above.

I. Non-Restricted Meeting Areas

University locations where the organizations and individuals identified in Sections III. A through

111.C may conduct for gatherings, solicitations, and events. Reservations may be required (see Section VIII, below, for additional details).

The following is a full and exclusive list of Non-Restricted Meeting Areas for UCIMC:

1. The lawn immediately in front of Building 55, Edward Shanbrom, MD Hall
2. The external breezeway on the internal side of Building 22A.
3. The external sidewalk on the south side of Building 3.
4. The Manchester entrance to the Manchester Pavilion (Building 200).
5. The west entrance to the Chapman Pavilion.
6. Designated meeting rooms listed below:

Douglas Hospital	1806, 3005
Building 53	Auditorium, 1001 and Classroom D, 121
Library	2103, 2104, 2105, 2106, 2107, 2114 and 2116
Pavilion III	223
Building 3	101

Please refer to [map](#) that indicates the locations of the Non-Restricted Meeting Areas other than the Designated Meeting Rooms.

NOTE: Access to any one of these areas may be temporarily

restricted as needed due to construction related activities.

The following is a full and exclusive list of Non-Restricted Meeting Areas for UCI Health ambulatory clinics that are not part of the Community Network:

1. Designated meeting rooms listed below:

Birch Urology	20350 SW Birch Street, Suite 210	Conference Room 121
Newport Heights Sleep Med and Behavioral	20350 SW Birch Street	Conference Room 121
FQHC Anaheim	2441 W La Palma Ave., Suite # 100	Staff Lounge Room 112
FQHC Santa Ana	800 North Main St.	Staff Lounge Room 2021
Chao Irvine - CIACC	19208 Jamboree Road	Conference Room 2144
Beckman Laser Institute	1002 Health Sciences Rd., E	Outdoor patio or A120
GHEI Irvine Ophthalmology	850 Health Center Rd.	Staff Lounge Room 1112
Gottschalk Plaza Multi	1 Medical Plaza Drive	Staff Lounge Room 1622
Laguna Hills -Primary Care	23961 Calle De La Magdalena	Conference/Lounge (251)
ALS & Neuromuscular Center	200 South Manchester, Suite 110	Staff Lounge 110-T
Clinic Aesthetics and Plastic Surgery	200 South Manchester, Suite 650	Staff Break Room 633
Manchester OBGYN	200 South Manchester, Suite 600	Conference Room 6149
Chao Oncology Clinics	101 The City Drive, Bldg. 23, 2nd Fl.	Conference Room 403
Clinic ENT	101 The City Drive Pav #2	Staff Lounge Room 114



Clinic Internal Medicine	101 The City Drive Pav #3	Conference Room/Staff Lounge Room 146
Clinic Orthopaedics	101 The City Drive Pav #3	Conference Room/Staff Lounge Room 146
Clinic Surgical Specialties - Vascular	101 The City Drive Pav #3	Conference Room/Staff Lounge Room 146
Clinic Urology	101 The City Drive Pav #3	Conference Room/Staff Lounge Room 146
DHI Orange	101 The City Drive, Bldg. 22C, 3rd	First Floor Conference Room
GHEI Orange Ophthalmology	101 The City Drive Pav #2 2nd Fl.	Staff Lounge Room 214
Neuro-Diagnostics (PAV 1, Orange Campus)	101 The City Drive, Pav #1	Staff Lounge Room 130
Occupational Medicine	101 The City Drive Pav #3	Staff Lounge 1622
Orange Multispecialty	101 The City Drive Pav #1	Staff Lounge Room 130
Pavilion I Neuroscience	101 The City Drive, Pav #1	Staff Lounge Room 130
Senior Health Center	101 The City Drive Pav #4	127c
Clinic Cardiovascular	101 The City Drive Pav #4	Conference Room/Staff Lounge Room 127
Surgical Specialties	101 The City Drive Pav #3	Conference Room/Staff Lounge Room 146
Cardiac Cath Lab	101 The City Drive, Douglas Hospital, 2nd Fl., Cath Lab	Cafeteria
Newport Beach	2161 San Joaquin Hills Rd.	Staff Lounge
Macarthur Primary	4000 Macarthur Boulevard, Suite 110	Staff Breakroom



Main Street Orange Primary Care	293 S Main St., #200	Staff Breakroom
Pacific Breast Care Center/ Infusion & Oncology	1640 Newport Blvd., Suite 200	Conference Room Suite 400
Pacific Plastics	1640 Newport Blvd., Suite 240	Conference Room Suite 400
Pacific Primary Care & Multispecialty	1640 Newport Blvd., Suite #100	Staff Breakroom (room 166)
Placentia ENT / Multispecialty	1041 E. Yorba Linda Blvd., Ste 308	Staff Lounge 308c
Susan Samueli Ctr for Integrative Med	856 Health Sciences Rd., Suite 2600	Staff Breakroom
Tustin Primary Care	1451 Irvine Blvd., Pod 200	Staff Breakroom
Yorba Linda Primary Care Multi & Oncology	18638 Yorba Linda Blvd.	Staff Breakroom (Room 1120A)
Wen Center All Departments	19200 Jamboree Rd.	Staff Lounge 1234

The following is a full and exclusive list of Non-Restricted Meeting Areas for the Fountain Valley Community Network location:

1. Designated meeting rooms listed below:

17100 Euclid	Saltzer, 214
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The following is a full and exclusive list of Non-Restricted Meeting Areas for the Lakewood Community Network location:

1. Designated meeting rooms listed below:

3700 E. South	Conference Rooms A, B, and C (located in basement)
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The following is a full and exclusive list of Non-Restricted Meeting Areas for the Los Alamitos Community Network location:

1. The external sidewalk on Katella Avenue.
2. The external sidewalk on Cherry Street.
3. Designated meeting rooms listed below:

3751 Katella	Upstairs Conference Room, Library
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The following is a full and exclusive list of Non-Restricted Meeting Areas for the Placentia Linda Community Network location:

1. Designated meeting rooms listed below:

1301 N. Rose	Meeting Room 1, Meeting Room 2
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The following is a full and exclusive list of Non-Restricted Meeting Areas for ambulatory clinics throughout the Community Network. Use of the other Community Network non-restricted areas may also be available for the below locations.

1. Designated meeting rooms listed below:

Anaheim Hills Primary Care 751 E. Weir Canyon	Employee lounge; external sidewalk in front of office
Yorba Linda Multi-Specialty 16671 Yorba Linda	Conference Room in Suites 200 and 210
North County Gastroenterology 16671 Yorba Linda	Conference Room in Suites 200 and 210
Yorba Linda Women's Health 16671 Yorba Linda	Conference Room in Suites 200 and 210
Fullerton Orthopedic 680 Langsdorf	The Breeze (breezeway from front to back of building), Food Court facing Nutwood St.
Fullerton Orthopedic Yorba Linda 16611 Yorba Linda	Conference Room
Primary Care Brea 380 W. Central	Conference Room



Fountain Valley Multi-Specialty 11180 Warner	Common Area in Main Lobby
Primary Care Los Alamitos 3851 Katella	Common Area in Main Lobby
Lakewood Multi- Specialty 3650 East South	Common Hall Area by Elevator

IV. GENERAL RULES

- A. All persons on UCI Health property are required to wear the official identification provided for this purpose (e.g., visitor name tag, identification badge, etc.). Upon request of University officials, individuals may be asked to sign in at the front desk or reception area upon arrival. Photos of individuals identified in Section III may be provided to security, reception, and/or other designated UCI personnel as a safety precaution.
- B. Representatives of organizations and individuals identified in Sections III. A through III. C, above, must comply with the Access provisions in their respective CBA, which includes conducting union activities during non-work time in non-prohibited areas.
- C. The University reserves the continued right to add to, delete from, or modify these regulations pursuant to the Higher Education Employer-Employee Relations Act (HEERA).

V. BULLETIN BOARDS

Written materials may be posted on general purpose bulletin boards only; bulletin boards specifically designated for official University business may not be utilized by the organizations and individuals identified in Sections III. A through III. C, above. No literature or other materials may be affixed anywhere else, such as walls, floors, ceilings, elevators, or stairwells, at any time. Postings concerning activities other than Official University Activities are subject to removal 30 calendar days from date of posting. Postings may be removed before the 30-day period if the activity date listed on the written material has elapsed.

- A. Postings must be no larger than the standard letter size of 8.5 x 11 inches.
- B. Postings must be on letterhead and/or include the name of the responsible organization and/ or individual.



C. Postings must be dated with the current month, day, and year of posting.

Postings that do not meet these criteria may be removed and discarded.

VI. EMPLOYEE LOUNGES

Where employee lounges exist in non-prohibited areas, one-to-one solicitation of consenting employees is permitted and access by Employee Organizations should be in compliance with the applicable CBA.

VII. HAND BILLING

Hand billing is authorized in Non-Restricted Areas. This includes any area not expressly designated as Restricted or Prohibited in accordance with Section III, above. No hand billing of any material will be allowed by any organization or individuals in any Restricted Access or Prohibited areas. Hand billing includes both print materials and electronic distribution, such as through QR codes.

VIII. SCHEDULING THE USE OF NON- RESTRICTED MEETING AREAS

All organizations and individuals identified in Sections III. A through III. C, above, shall follow the procedures below to schedule access to Non-Restricted Meeting Areas:

A. For UCIMC in Orange: Call the UCIMC Facilities Department at (714) 456-5189 to request a meeting room or area. Requests should be made in writing at least 10 days in advance of the event. Requests must include the following information:

1. Name of the organization or individual making the request
2. Name and/or purpose of the event
3. Date and day of the event
4. Start and end times of the event
5. Expected attendance
6. Whether authorization to use sound amplification equipment is being sought

B. Scheduling requests for UCI Health ambulatory clinic locations that are not part of the Community Network should be directed to the contacts in the chart below at least 24 hours in advance. Requests sent with less notice may be granted, if feasible. Requests should include the same information listed in Section VIII. A, above.

Birch Urology	Alana Bettencourt
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Newport Heights Sleep Med and Behavioral	Courtney Hinrichs
FQHC Anaheim	Juan Macedonio
FQHC Santa Ana	Anna Pena/ Leanne Funada
Chao Irvine - CIACC	Lissa Campos
Beckman Laser Institute	Andrea Giancarli
GHEI Irvine Ophthalmology	Susana Miranda
Gottschalk Plaza Multi	Dena Mater
Laguna Hills -Primary Care	Natalie Hokanson/Jenn Griffin
ALS & Neuromuscular Center	Josue Najera
Clinic Aesthetics and Plastic Surgery	Sidalia Sousa
Manchester OBGYN	Tanya Jordan
Chao Oncology Clinics	Lissa Campos
Clinic ENT	Patrick Pazon
Clinic Internal Medicine	Jennifer Mace
Clinic Orthopaedics	Michelle Duran
Clinic Surgical Specialties - Vascular	Sanam Shirzadegan/Diana Sistoza
Clinic Urology	Kathleen Arreola
DHI Orange	Yvonne Nguyen
GHEI Orange Ophthalmology	Marlen Carlos



Neuro-Diagnostics (PAV 1, Orange Campus)	Maryam Hashemi
Occupational Medicine	Candace Feetham
Orange Multispecialty	Teresa Martinez Gonzalez
Pavilion I Neuroscience	Julie Navales
Senior Health Center	Jaime Bennett/Jennifer Mace
Clinic Cardiovascular	Sanam Shirzadegan/Diana Sistoza
Surgical Specialties	Kathleen Arreola
Cardiac Cath Lab	Laurie Armendariz
Newport Beach	Miranda Gallegos
Macarthur Primary	Miriam Fear-Cervantes/Jenn Griffin
Main Street Orange Primary Care	Jose Cervantes/Jenn Griffin
Pacific Breast Care Center/ Infusion & Oncology	Lucille Valdivia & Cheryl Vlasich
Pacific Plastics	<i>Pending</i>
Pacific Primary Care & Multispecialty	Miriam Fear-Cervantes/Jenn Griffin
Placentia ENT / Multispecialty	Mark Gonzalez
Susan Samueli Ctr for Integrative Med	Mitchell Beasley
Tustin Primary Care	Jose Cervantes/Jenn Griffin



Yorba Linda Primary Care Multi & Oncology	Natalie Hokanson/ Jenn Griffin
Wen Center All Departments	Dena Mater

- C. Scheduling requests at the Fountain Valley, Lakewood, Los Alamitos, and Placentia Linda Community Network locations should be emailed to their local HR contacts at least 72 hours in advance. Requests sent via email or text with less than 72 hours' notice may be granted, if feasible. Requests should include the same information listed in Section VIII. A, above.
- D. Scheduling requests at the Community Network ambulatory clinic locations should be emailed to Manager, Market Operations OCLA and/or Fountain Valley Community Network local HR at least 72 hours in advance. Start and end times for events must be during regular business hours (8:00 a.m. to 5:00 p.m.). Requests sent via email with less than 72 hours' notice may be granted, if feasible. Requests should include the same information listed in Section VIII.A, above.
- E. When additional costs are incurred, Facilities Management will initiate the process to bill the requesting organization or individual. A use fee will normally not be charged except for use of rooms for which all users, other than student organizations, are charged a fee.
- F. When a room is utilized at a time not on the normal open/close schedule, charges may be levied for environmental conditioning, special cleaning, and opening/closing.
- G. Use of space is subject to availability. Room reservations shall not be cancelled by the University except where unforeseen or emergent circumstances require the room to be used for purposes such as teaching, patient care, or staff conferences. If a reserved room is canceled, the University will attempt to provide a comparable alternative.
- H. The University reserves the right to deny, in whole or in part, any request for access, as appropriate, provided that any restrictions on access are consistent with the University's obligations under the Higher Education Employer-Employee Relations Act (HEERA) and applicable CBAs.



IX. PROHIBITED ACTIVITIES

- A. The organizations and individuals identified in Section III. A through III. C, above, are prohibited from using University facilities and equipment, including, but not limited to, automobiles, computers, projectors, office supplies, and photocopy and reproduction equipment.
- B. Interference with entrances to University buildings, property, including but not limited to ambulance bays, roundabouts, and patient transport/drop-off areas, functions, and activities; disturbance of University offices, classes, study facilities, and patient care and research; and harm to University property are prohibited.
- C. Use of sound amplification equipment on University grounds is prohibited unless prior written authorization is obtained by following the procedures in Section VIII, above.

EXHIBIT D(2)



ACCESS REGULATIONS

I. PURPOSE

- A. The following regulations provide reasonable access to University grounds, facilities and employees while ensuring that activities will not disrupt daily work activities, teaching, and research, and will not adversely affect UCI Health patient welfare or visitor experience at the institution.
- B. In the event these rules conflict with a Memorandum of Understanding or CBA, the Memorandum of Understanding or CBA shall control.
- C. As used in this document, the term "University" includes all UCI Health locations.
- D. These regulations apply to all UCI Health locations.

II. BACKGROUND

There are many organizations and individuals who desire to solicit or otherwise establish contact with University employees for various reasons. These regulations are promulgated to ensure the highest level of respect and service to our patients and visitors, as well as to our employees.

III. DEFINITIONS

- A. Outside Organizations and Individuals
Organizations and individuals not affiliated with the University, such as retail vendors and nonprofit organizations.
- B. Employee Organizations
Independent organizations that exist for the purpose, in whole or in part, of dealing with University management concerning grievances, labor disputes, wages, hours and other terms and conditions of employment of employees, as defined by Section 3562(f) of the Higher Education Employer-Employee Relations Act (HEERA).
- C. University Affiliated Organizations
Organizations that are directly affiliated with the University, such as student organizations or outreach groups.
- D. University Unit
Any academic or nonacademic department or division or any other official University entity, including any official department, school, or institute of the University, the University Extension, or any part thereof, or any authorized



student government.

E. Official University Activities

All UCI Health patient care activities; academic classes, research and related activities; normal daily operations of University units; and programs or activities sponsored by University units in the course of fulfilling their University mission.

F. Representative

Any person acting in the interest of or on behalf of one of the organizations outlined in Sections III. A through III. C above.

G. Prohibited Areas

Areas designated for Official University Activities only. The activities of the organizations and individuals identified in Sections III. A through III. C above are prohibited in these areas.

Prohibited areas include, but may not be limited to:

1. Patient and clinical areas, including, but not limited to:
 - a. Nursing Stations, Medication Rooms, Chart Rooms, and rooms that function as or are in the nature of such rooms;
 - b. Patient and/or visitor lounges including patient conference rooms, sitting rooms, and solaria;
 - c. Libraries or study areas, unless specifically included in the non-restricted meeting areas list below;
 - d. Patient floor and operating room area corridors;
 - e. Patient rooms, operating rooms, laboratories, clinics, and other treatment and patient care areas; and
 - f. Any areas and rooms where patient information is generally handled.
2. Academic and research areas.
3. Confidential and/or secured work areas, including, but not limited to, the following areas: Medical Records, Cashier's Office, Radiation Areas, Information Services/Computing, Telecommunications, Central Plant, Administration Offices.

H. Restricted Access Areas

Areas designated for Official University Activities and may be used only with advanced written approval from Human Resources – Workforce



Relations (EWR@uci.edu). Restricted access areas include lobbies, interior hallways, all visitor/patient entrances and exits, and the UCIMC Healing Garden, including its surrounding paths and walkways.

All conference/meeting rooms not specifically designated and listed in “Non-Restricted Meeting Areas” below are deemed restricted and inappropriate for use by individuals or organizations as defined in Section III. A thru III. C, above.

I. Non-Restricted Meeting Areas

University locations where the organizations and individuals identified in Sections III. A through

111.C may conduct for gatherings, solicitations, and events. Reservations may be required (see Section VIII, below, for additional details).

The following is a full and exclusive list of Non-Restricted Meeting Areas for UCIMC:

1. The lawn immediately in front of Building 55, Edward Shanbrom, MD Hall
2. The external breezeway on the internal side of Building 22A.
3. The external sidewalk on the south side of Building 3.
4. The Manchester entrance to the Manchester Pavilion (Building 200).
5. The west entrance to the Chapman Pavilion.
6. Designated meeting rooms listed below:

Douglas Hospital	1806, 3005
Building 53	Auditorium, 1001 and Classroom D, 121
Library	2103, 2104, 2105, 2106, 2107, 2114 and 2116
Pavilion III	223
Building 3	101

Please refer to [map](#) that indicates the locations of the Non-Restricted Meeting Areas other than the Designated Meeting Rooms.

NOTE: Access to any one of these areas may be temporarily

restricted as needed due to construction related activities.

The following is a full and exclusive list of Non-Restricted Meeting Areas for UCI Health ambulatory clinics that are not part of the Community Network:

1. Designated meeting rooms listed below:

Birch Urology	20350 SW Birch Street, Suite 210	Conference Room 121
Newport Heights Sleep Med and Behavioral	20350 SW Birch Street	Conference Room 121
FQHC Anaheim	2441 W La Palma Ave., Suite # 100	Staff Lounge Room 112
FQHC Santa Ana	800 North Main St.	Staff Lounge Room 2021
Chao Irvine - CIACC	19208 Jamboree Road	Conference Room 2144
Beckman Laser Institute	1002 Health Sciences Rd., E	Outdoor patio or A120
GHEI Irvine Ophthalmology	850 Health Center Rd.	Staff Lounge Room 1112
Gottschalk Plaza Multi	1 Medical Plaza Drive	Staff Lounge Room 1622
Laguna Hills -Primary Care	23961 Calle De La Magdalena	Conference/Lounge (251)
ALS & Neuromuscular Center	200 South Manchester, Suite 110	Staff Lounge 110-T
Clinic Aesthetics and Plastic Surgery	200 South Manchester, Suite 650	Staff Break Room 633
Manchester OBGYN	200 South Manchester, Suite 600	Conference Room 6149
Chao Oncology Clinics	101 The City Drive, Bldg. 23, 2nd Fl.	Conference Room 403
Clinic ENT	101 The City Drive Pav #2	Staff Lounge Room 114



Clinic Internal Medicine	101 The City Drive Pav #3	Conference Room/Staff Lounge Room 146
Clinic Orthopaedics	101 The City Drive Pav #3	Conference Room/Staff Lounge Room 146
Clinic Surgical Specialties - Vascular	101 The City Drive Pav #3	Conference Room/Staff Lounge Room 146
Clinic Urology	101 The City Drive Pav #3	Conference Room/Staff Lounge Room 146
DHI Orange	101 The City Drive, Bldg. 22C, 3rd	First Floor Conference Room
GHEI Orange Ophthalmology	101 The City Drive Pav #2 2nd Fl.	Staff Lounge Room 214
Neuro-Diagnostics (PAV 1, Orange Campus)	101 The City Drive, Pav #1	Staff Lounge Room 130
Occupational Medicine	101 The City Drive Pav #3	Staff Lounge 1622
Orange Multispecialty	101 The City Drive Pav #1	Staff Lounge Room 130
Pavilion I Neuroscience	101 The City Drive, Pav #1	Staff Lounge Room 130
Senior Health Center	101 The City Drive Pav #4	127c
Clinic Cardiovascular	101 The City Drive Pav #4	Conference Room/Staff Lounge Room 127
Surgical Specialties	101 The City Drive Pav #3	Conference Room/Staff Lounge Room 146
Cardiac Cath Lab	101 The City Drive, Douglas Hospital, 2nd Fl., Cath Lab	Cafeteria
Newport Beach	2161 San Joaquin Hills Rd.	Staff Lounge
Macarthur Primary	4000 Macarthur Boulevard, Suite 110	Staff Breakroom



Main Street Orange Primary Care	293 S Main St., #200	Staff Breakroom
Pacific Breast Care Center/ Infusion & Oncology	1640 Newport Blvd., Suite 200	Conference Room Suite 400
Pacific Plastics	1640 Newport Blvd., Suite 240	Conference Room Suite 400
Pacific Primary Care & Multispecialty	1640 Newport Blvd., Suite #100	Staff Breakroom (room 166)
Placentia ENT / Multispecialty	1041 E. Yorba Linda Blvd., Ste 308	Staff Lounge 308c
Susan Samueli Ctr for Integrative Med	856 Health Sciences Rd., Suite 2600	Staff Breakroom
Tustin Primary Care	1451 Irvine Blvd., Pod 200	Staff Breakroom
Yorba Linda Primary Care Multi & Oncology	18638 Yorba Linda Blvd.	Staff Breakroom (Room 1120A)
Wen Center All Departments	19200 Jamboree Rd.	Staff Lounge 1234

The following is a full and exclusive list of Non-Restricted Meeting Areas for the Fountain Valley Community Network location:

1. Designated meeting rooms listed below:

17100 Euclid	Saltzer, 214
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The following is a full and exclusive list of Non-Restricted Meeting Areas for the Lakewood Community Network location:

1. Designated meeting rooms listed below:

3700 E. South	Conference Rooms A, B, and C (located in basement)
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The following is a full and exclusive list of Non-Restricted Meeting Areas for the Los Alamitos Community Network location:

1. The external sidewalk on Katella Avenue.
2. The external sidewalk on Cherry Street.
3. Designated meeting rooms listed below:

3751 Katella	Upstairs Conference Room, Library
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The following is a full and exclusive list of Non-Restricted Meeting Areas for the Placentia Linda Community Network location:

1. Designated meeting rooms listed below:

1301 N. Rose	Meeting Room 1, Meeting Room 2
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The following is a full and exclusive list of Non-Restricted Meeting Areas for ambulatory clinics throughout the Community Network. Use of the other Community Network non-restricted areas may also be available for the below locations.

1. Designated meeting rooms listed below:

Anaheim Hills Primary Care 751 E. Weir Canyon	Employee lounge; external sidewalk in front of office
Yorba Linda Multi-Specialty 16671 Yorba Linda	Conference Room in Suites 200 and 210
North County Gastroenterology 16671 Yorba Linda	Conference Room in Suites 200 and 210
Yorba Linda Women's Health 16671 Yorba Linda	Conference Room in Suites 200 and 210
Fullerton Orthopedic 680 Langsdorf	The Breeze (breezeway from front to back of building), Food Court facing Nutwood St.
Fullerton Orthopedic Yorba Linda 16611 Yorba Linda	Conference Room
Primary Care Brea 380 W. Central	Conference Room



Fountain Valley Multi-Specialty 11180 Warner	Common Area in Main Lobby
Primary Care Los Alamitos 3851 Katella	Common Area in Main Lobby
Lakewood Multi- Specialty 3650 East South	Common Hall Area by Elevator

IV. GENERAL RULES

- A. All persons on UCI Health property are required to wear the official identification provided for this purpose (e.g., visitor name tag, identification badge, etc.). Upon request of University officials, individuals may be asked to sign in at the front desk or reception area upon arrival. Photos of individuals identified in Section III may be provided to security, reception, and/or other designated UCI personnel as a safety precaution.
- B. Representatives of organizations and individuals identified in Sections III. A through III. C, above, must comply with the Access provisions in their respective CBA, which includes conducting union activities during non-work time in non-prohibited areas.
- C. The University reserves the continued right to add to, delete from, or modify these regulations pursuant to the Higher Education Employer-Employee Relations Act (HEERA).

V. BULLETIN BOARDS

Written materials may be posted on general purpose bulletin boards only; bulletin boards specifically designated for official University business may not be utilized by the organizations and individuals identified in Sections III. A through III. C, above. No literature or other materials may be affixed anywhere else, such as walls, floors, ceilings, elevators, or stairwells, at any time. Postings concerning activities other than Official University Activities are subject to removal 30 calendar days from date of posting. Postings may be removed before the 30-day period if the activity date listed on the written material has elapsed.

- A. Postings must be no larger than the standard letter size of 8.5 x 11 inches.
- B. Postings must be on letterhead and/or include the name of the responsible organization and/ or individual.



C. Postings must be dated with the current month, day, and year of posting.

Postings that do not meet these criteria may be removed and discarded.

VI. EMPLOYEE LOUNGES

Where employee lounges exist in non-prohibited areas, one-to-one solicitation of consenting employees is permitted and access by Employee Organizations should be in compliance with the applicable CBA.

VII. HAND BILLING

Hand billing is authorized in Non-Restricted Areas. This includes any area not expressly designated as Restricted or Prohibited in accordance with Section III, above. No hand billing of any material will be allowed by any organization or individuals in any Restricted Access or Prohibited areas. Hand billing includes both print materials and electronic distribution, such as through QR codes.

VIII. SCHEDULING THE USE OF NON- RESTRICTED MEETING AREAS

All organizations and individuals identified in Sections III. A through III. C, above, shall follow the procedures below to schedule access to Non-Restricted Meeting Areas:

A. For UCIMC in Orange: Call the UCIMC Facilities Department at (714) 456-5189 to request a meeting room or area. Requests should be made in writing at least 10 days in advance of the event. Requests must include the following information:

1. Name of the organization or individual making the request
2. Name and/or purpose of the event
3. Date and day of the event
4. Start and end times of the event
5. Expected attendance
6. Whether authorization to use sound amplification equipment is being sought

B. Scheduling requests for UCI Health ambulatory clinic locations that are not part of the Community Network should be directed to the contacts in the chart below at least 24 hours in advance. Requests sent with less notice may be granted, if feasible. Requests should include the same information listed in Section VIII. A, above.

Birch Urology	Alana Bettencourt
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Newport Heights Sleep Med and Behavioral	Courtney Hinrichs
FQHC Anaheim	Juan Macedonio
FQHC Santa Ana	Anna Pena/ Leanne Funada
Chao Irvine - CIACC	Lissa Campos
Beckman Laser Institute	Andrea Giancarli
GHEI Irvine Ophthalmology	Susana Miranda
Gottschalk Plaza Multi	Dena Mater
Laguna Hills -Primary Care	Natalie Hokanson/Jenn Griffin
ALS & Neuromuscular Center	Josue Najera
Clinic Aesthetics and Plastic Surgery	Sidalia Sousa
Manchester OBGYN	Tanya Jordan
Chao Oncology Clinics	Lissa Campos
Clinic ENT	Patrick Pazon
Clinic Internal Medicine	Jennifer Mace
Clinic Orthopaedics	Michelle Duran
Clinic Surgical Specialties - Vascular	Sanam Shirzadegan/Diana Sistoza
Clinic Urology	Kathleen Arreola
DHI Orange	Yvonne Nguyen
GHEI Orange Ophthalmology	Marlen Carlos



Neuro-Diagnostics (PAV 1, Orange Campus)	Maryam Hashemi
Occupational Medicine	Candace Feetham
Orange Multispecialty	Teresa Martinez Gonzalez
Pavilion I Neuroscience	Julie Navales
Senior Health Center	Jaime Bennett/Jennifer Mace
Clinic Cardiovascular	Sanam Shirzadegan/Diana Sistoza
Surgical Specialties	Kathleen Arreola
Cardiac Cath Lab	Laurie Armendariz
Newport Beach	Miranda Gallegos
Macarthur Primary	Miriam Fear-Cervantes/Jenn Griffin
Main Street Orange Primary Care	Jose Cervantes/Jenn Griffin
Pacific Breast Care Center/ Infusion & Oncology	Lucille Valdivia & Cheryl Vlasich
Pacific Plastics	<i>Pending</i>
Pacific Primary Care & Multispecialty	Miriam Fear-Cervantes/Jenn Griffin
Placentia ENT / Multispecialty	Mark Gonzalez
Susan Samueli Ctr for Integrative Med	Mitchell Beasley
Tustin Primary Care	Jose Cervantes/Jenn Griffin



Yorba Linda Primary Care Multi & Oncology	Natalie Hokanson/ Jenn Griffin
Wen Center All Departments	Dena Mater

- C. Scheduling requests at the Fountain Valley, Lakewood, Los Alamitos, and Placentia Linda Community Network locations should be emailed to their local HR contacts at least 72 hours in advance. Requests sent via email or text with less than 72 hours' notice may be granted, if feasible. Requests should include the same information listed in Section VIII. A, above.
- D. Scheduling requests at the Community Network ambulatory clinic locations should be emailed to Manager, Market Operations OCLA and/or Fountain Valley Community Network local HR at least 72 hours in advance. Start and end times for events must be during regular business hours (8:00 a.m. to 5:00 p.m.). Requests sent via email with less than 72 hours' notice may be granted, if feasible. Requests should include the same information listed in Section VIII.A, above.
- E. When additional costs are incurred, Facilities Management will initiate the process to bill the requesting organization or individual. A use fee will normally not be charged except for use of rooms for which all users, other than student organizations, are charged a fee.
- F. When a room is utilized at a time not on the normal open/close schedule, charges may be levied for environmental conditioning, special cleaning, and opening/closing.
- G. Use of space is subject to availability. Room reservations shall not be cancelled by the University except where unforeseen or emergent circumstances require the room to be used for purposes such as teaching, patient care, or staff conferences. If a reserved room is canceled, the University will attempt to provide a comparable alternative.
- H. The University reserves the right to deny, in whole or in part, any request for access, as appropriate, provided that any restrictions on access are consistent with the University's obligations under the Higher Education Employer-Employee Relations Act (HEERA) and applicable CBAs.



IX. PROHIBITED ACTIVITIES

- A. The organizations and individuals identified in Section III. A through III. C, above, are prohibited from using University facilities and equipment, including, but not limited to, automobiles, computers, projectors, office supplies, and photocopy and reproduction equipment.
- B. Interference with entrances to University buildings, property, including but not limited to ambulance bays, roundabouts, and patient transport/drop-off areas, functions, and activities; disturbance of University offices, classes, study facilities, and patient care and research; and harm to University property are prohibited.
- C. Use of sound amplification equipment on University grounds is prohibited unless prior written authorization is obtained by following the procedures in Section VIII, above.

EXHIBIT D(3)



Andy Kahn <andy@upte.org>

UPTE proposals on speech policies

Andy Kahn <andy@upte.org>

Tue, Nov 5, 2024 at 9:35 AM

To: Jeffrey Hughes <jeffrey.hughes@uci.edu>, Leslie Kleiman <leslie.kleiman@uci.edu>

Cc: Sara Bowden <sbowden@upte.org>, Tristan Puig <tristan@upte.org>, Jeff Welsh <jwelsh@upte.org>

Attached are our specific proposals and additional RFIs.

Andy Kahn, UPTE General Counsel

andy@upte.org

2855 Telegraph Ave. #602

Berkeley CA 94705

(510) 849-7025

2 attachments

**UCI-C Speech Regs UPTE Proposal.pdf**

176K

**UCIH access UPTE proposal Nov 2024.pdf**

166K

Nov. 5 2024

TO: UC Irvine Health management
FROM: Andy Kahn, UPTE General Counsel
RE: UCIH's Expressive Activities Policies

UPTE proposes the following amendments to UCIH Policy in order to bring it into conformity with HEERA, the CBA and the state and federal constitutions:

Sec. III.G.2 (Overbroad prohibition on accessing “academic and research areas”): Insert after “academic and research area” the following: “when research, instruction or a work meeting is occurring”.

Sec. III.3.H (Restrictions on Picketing/Rallying and Ban on Leafletting at “all visitor/patient entrances and exits”): Insert “within 5 feet of” such entrances/exits.

Subsection 3(H)’s Designation of Healing Garden as Restricted Area: While the best way to cure the problems caused by this classification (and the related handbilling ban in every restricted area) is to move the Garden to the list of Non-Restricted areas, we could live with the “restricted” label for the Garden if it had the following exceptions: “No advanced permission for the Healing Garden is required for any employee organization event meeting the following criteria: less than 50 participants and no more than one bullhorn; when bullhorn not being operated then one other noisemaking device (drum, whistle or megaphone) may be used; use of bullhorn and noisemaking devices shall be confined to the half of the Garden farthest from the Douglass Hospital doors; the decibel levels resulting from the bullhorn must be adjusted to stay below 60db in work areas, and below 85 db for any nonconsenting listeners; and if any patient or family member is sitting in the Garden and requests use of bullhorn or noisemaking device cease while they are there, organizers shall immediately comply. There shall be no citation for violation of a specified decibel level unless UCIH first have given notice that such level was violated but the organizer fails to promptly lower sound below such level. Failure or an organization to obtain a reservation for the Garden puts such organization’s event at risk of being relocated due to another group having previously reserved this space.”

In first sentence in Section III.3.H correct clerical error and delete “and” from “Areas designated for Official University Activities and may be used . . . “



Art. III(3)(I)(Limited List of Non-Restricted Areas): Add the following areas:

UCIH Douglass campus: all sidewalks and all parking areas (so long as there is no interference with passage of pedestrians or vehicles)

Fountain Valley: cafeteria, East Tower lawn (in front of the building), and East Tower outdoor seating area (behind the building).

Lakewood: cafeteria; CLS breakroom; Pharmacy breakroom.

Los Alamitos: open picnic tables in courtyard near main entrance (we have tabled there and met with members there multiple times, and one of those times the CEO came over and introduced himself, all with no objection to our presence); cafeteria; CLS/pharmacy shared breakroom; Rehab services breakroom; CSW breakroom.

Placentia Linda: cafeteria; small courtyard areas staff use for breaks

Fountain Valley: cafeteria; central outdoor lawn with picnic tables; Case Manager/Social Worker break room and offices when not used for work; small open lounge area past the main entrance (through the security doors and to the right)

Section V (All billboard postings removed after 30 days): Combine last two sentences of first paragraph as follows: “Postings concerning activities other than Official University Activities may be removed after the activity date shown on the posting has elapsed.” This would preserve our HEERA right to leave up postings which are not about time-specific events such as information on how to join UPTE or identifying their workplace rep (rather than have to remove, revise and repost such items every 30 days as current reg absurdly requires of us).

Section VIII (Requirement for Pre-Scheduling All Non-Restricted Areas): Begin this section with “An organization must give advance notice to use outdoor Non-Restricted Areas only if it intends to gather more than 50 individuals within an area, intends to use more than one bullhorn plus one noisemaking device, or wishes to use a bullhorn or noisemaking device within 25 feet of a regularly-used doorway. If the event is not scheduled in advance, the resulting noise level shall not exceed 45 db in work areas after the group has been warned that it has exceeded such level. Advance notice of 2 business days and a UCIH response within one business day shall be given for an event with 50-100 participants and an additional day for each group of 50 added participants. UCIH may deny permission only if an area has already been reserved by another group or it appears likely the event will violate other UCIH policy.”

Amend VIII.A provision about 10 days’ notice at UCIMC by inserting “Requests sent with less notice may be granted, if feasible.” We believe this is merely a clarification of existing

policy as the current provision says 10 days' notice "should" be given rather than "must" be given. **If this is a misinterpretation of your policy please notify us of this immediately.**

Amend Section VIII.D cap on 8am-5pm meeting times with employees of Network clinics by inserting at end of sentence "or one hour earlier or later if a supervisor or security is on duty."

Sec. IX(B)(Ban on "disturbance of University offices, classes, study facilities, and patient care and research"): Insert new sentence at end: "'Disturbance' does not apply to employee organization rallies outside UCIH facilities unless causing an immediate threat of violence, making noise intended solely to disturb rather than engage in speech, or using bullhorns or other noisemaker in a manner as to exceed 60db in interior working areas or 85db at 25 feet from nonconsenting listeners outdoors and then failing to comply with a UCIH request to lower their noise level." The 60 db interior level comes from UCI's own policy. The 85db exterior limit comes from UCLA and CSULB policies (though we are clearer here in not attempting to protect the ears of voluntary attendees at our rallies, as they are assuming the risk of loud noise; we focus only on those people whose interests are relevant, those needing to walk close to our sound in order to get to or from medical care or work). We are open to additional limits if you have evidence that our proposal would insufficiently protect legitimate UCIH interests.

Sec. IX(C)(Mandating permission for amplification at all outdoor events): Add at the end "except that permission shall not be needed for a single bullhorn used by an employee organization at least 25 feet from doors regularly in use." The burdens on both parties of constant applications for permission for the same ordinary thing (using one bullhorn at a union rally) are best avoided by simply deciding in policy on appropriate limits for such bullhorn use, as we have done above in defining "disturbance". We're open to additional limits if you have evidence that our proposal would insufficiently protect legitimate UCIH interests, but we cannot accept the current requirement for permission for every bullhorn use as that is very overbroad, very burdensome due to the administrative work and delays involved, and illegal. If we can work out the terms for using a single bullhorn without needing to apply for permission each time, then we will ignore the illegal absence of standards and decision deadlines for someone who wants to use amplification beyond a single bullhorn.

cc: Jeff Welsh; Sara Bowden

EXHIBIT D(4)

October 31, 2024

Andy Kahn
UPTE General Counsel
2855 Telegraph Ave. #602
Berkeley CA 94705

VIA E-MAIL – andy@UPTE.org

RE: Access Regulations

Dear Andy,

The University of California, Irvine (UCI) is providing this written response as a follow up to our meeting regarding UCI's updated Access Regulations.

During our meeting, UCI attempted to discuss the concerns outlined in your written response letters. UCI clarified to the Union that the majority of the provisions for which the Union expressed concerns were existing provisions within UCI's prior Access Regulations. In an effort to understand the Union's concerns, UCI asked the Union to provide specific examples of issues or incidents related to the provisions cited. The Union was unwilling to do so, and simply referred to their written response letters.

It is important to emphasize that the updated Access Regulations for Campus and Health are substantially the same as the University's previous regulations. To our knowledge, no objections were previously received regarding the provisions for which the Union is now expressing concerns. In particular, the Union raised concerns regarding the following provisions, which remain unchanged from the prior versions of the regulations from 2012 (Health) and 2013 (Campus):

Health:

- Sec. II.B, F (Definitions of Employee Organizations and Representatives) – these definitions were unchanged and were in the 2012 regulations.
- Sec. III. G.2 (Prohibition on accessing “academic and research areas”) – these areas were in the 2012 regulations under “prohibited,” as they are used for instruction, counseling/advising, and research.
- Sec. III.3.H. and VII (Restrictions on Picketing/Rallying and Ban on Leafletting at “all visitor/patient entrances and exits) – as indicated in both the prior and current versions, visitor/patient entrances and exits surrounding the building, as well as the Healing Garden, are restricted access areas.
- Sec. VIII (Requirement for Pre-Scheduling All Non-Restricted Areas) – this language remains unchanged from the 2012 version. While the Medical Center has and continues to request 10 days' notice, other locations require less notice (24-72 hours). You also

mention that the CBA contains language about conducting unscheduled meetings. As provided in the access regulations, if the access regulations conflict with the CBA, the CBA shall control.

- Sec. IX(B) (ban on “disturbance of University offices, classes, study facilities, and patient care and research”) – this information was included in the 2012 regulations.
- Sec. IX(C) (mandating permission for amplification at all outdoor events) – this information was included in the 2012 regulations.

Campus:

- List of Prohibited Areas in B(5) – research areas were included as a prohibited area in the 2013 version of the regulations.
- Excessive Restrictions on Hand Billing (Section I) – the two areas where hand billing is permitted remains unchanged from the 2013 version of the regulations – numbered parking lots (exclusive of parked vehicles) and employee entrances to campus buildings.
- Inclusion of Policy 900-10 – this policy was included in the 2013 version of the regulations and notes that the University has the right to apply time, place, and manner restrictions on any activity conducted on University property. You note that one of the requirements in the policy – providing 3 weeks’ notice of a meeting – conflicts with the CBA’s Access Articles. As noted in the regulations, in the event these rules conflict with a CBA, the CBA shall control.

You also asked that we provide you with specific incidents or issues that may have resulted in the University updating these regulations. As noted in my email to you on August 22, 2024, the regulations are not being updated to address any one particular incident. Rather, as stated in the purpose section in the regulations, these reasonable access regulations are designed to ensure that activities will not disrupt daily work activities, teaching, and research, or adversely affect patients’ welfare or any visitor’s experience. Nevertheless, UCI has made this Union (and other Unions) aware of access and amplified sound violations, including when UPTE organized a protest in the Healing Garden with amplified sound and without appropriate permits. It is our expectation that all unions, including UPTE, comply with applicable access regulations and collective bargaining requirements. This is not new – this has always been the case.

I would like to reiterate what we stated in our original notice. The University is prepared to bargain over any identified effects on the Union’s HEERA-protected access rights. As you know and as cited in your letter, however, the University has the right to set reasonable rules for the management of its property and reasonable time, place, and manner restrictions related to expressive activity. The University’s rules and these updates are reasonable and are not directed at the content of the speech or the union affiliation of the individual. These rules are necessary to ensure that all our community members can use our property to learn, research, and engage in meaningful discourse and debate regarding matters of importance.

Please let me know if you have any additional questions, concerns, or additional requests for information, or if you would like to schedule additional time to meet.

Jeff Hughes



Workforce Relations Manager, UCI

cc: Leslie Kleiman, Sr. Director, Workforce Relations, UCI
Joan Mountain, Policy and Compliance Specialist, UCI
Kadie Manion, Lead Organizer, UPTE-CWA 9119
Sara Bowden, Organizer, UPTE-CWA 9119
Tristan Puig, Organizer, UPTE-CWA 9119

EXHIBIT E(1)

September 19, 2024

VIA EMAIL - sbowden@upte.org

Sara Bowden
UPTE, Local 9119
2855 Telegraph Ave. Ste. 602
Berkeley, CA 94705

RE: Updated UCI Campus Access Regulations

Dear Sara:

As a follow up to UCI's recent letter regarding updated UCI Health Access Regulations, the purpose of this letter is to notify you that UCI has also updated the UCI Campus Access Regulations. A copy of the updated UCI Campus Access Regulations is attached for reference. Please refer to the following link for the existing UCI Campus Access Regulations: [Existing Campus Access Regulations](#).

As you know, the University has the right to set reasonable rules for the management of its property and reasonable time, place, and manner restrictions related to expressive activity. The University's rules and these updates are reasonable and are not directed at the content of the speech or the union-affiliation of the individual. These rules are necessary to ensure that all of our community members can use our property to learn, research, and engage in meaningful discourse and debate regarding matters of importance.

I also want to highlight that SB 108 requires the University to provide a report to the Legislature by October 1 regarding the institutional policies that ensure safety and access to educational opportunities and campus spaces and buildings, as well as the university's efforts to ensure their consistent enforcement. Given that timeline, we must move forward with the implementation of these updates now. However, we are more than willing to meet to bargain over any identified effects on the union's HEERA protected access rights.

We appreciate your cooperation and support in complying with all applicable Access Regulations and collective bargaining agreement provisions. If you have any questions or would like to schedule time to meet, please feel free to contact me at (949) 237-4999 or via email at jeffrey.hughes@uci.edu.

Sincerely,



Jeff Hughes
Workforce Relations Manager
Enc. UCI Campus Access Regulations

EXHIBIT E(2)

UCI Campus Access Regulations

Responsible Office: Human Resources

Revised: September 2024

A. References

- [Higher Education Employer-Employee Relations Act \(HEERA\)](#), Sections 3568 and 3581.7
- [Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California](#)
- UCI Administrative Policies & Procedures
 - [Section 900-10](#), Policy on Use and Scheduling of UC Irvine Properties
 - [Section 900-11](#), Guidelines for Scheduling Campus Properties through Student Center & Event Services
 - [Section 900-12](#), Policy on Posting and Distribution of Literature and Materials
 - [Section 900-20](#): Withdrawal of Consent to Remain on Campus and in UCI-Operated Facilities
 - [Section 900-23](#): UCI Guidance Concerning Disruption of University Activities
- [Collective Bargaining Agreements](#)
- [Personnel Policies for Staff Members \(PPSM\)](#)
- [UCI PACAOS 70.00 on Registered Campus Organizations](#)
- [UC Irvine Health Access Regulations, July 2024](#)

B. Authority and Responsibility

The Vice Chancellor and Chief Human Resources Officer, or their designee(s), shall oversee and administer these Access Regulations.

C. Definitions

1. Employee Organization

Organizations that exist for the purpose, in whole or in part, of dealing with University management concerning grievances, labor disputes, wages, hours, and other terms and conditions of employment of employees, as defined by Section 3562(f) of the Higher Education Employer-Employee Relations Act (HEERA).

2. Non-Affiliate (*a/so* Outside Organizations and Individuals)

Any person who is not any of the following: a student, officer, official volunteer, employee, Regent, or emeritus of the University of California or a member of a

household authorized to reside in University Property. This includes, but is not limited to, retail vendors, employee organizations, and nonprofit organizations.

3. University Affiliated Organizations

Organizations that are directly affiliated with the University, such as student organizations or outreach groups. Refer to [UCI PACAOS 70.00 on Registered Campus Organizations](#).

4. Representative

Any person acting in the interest of or on behalf of an employee organization, including both University employees and non-affiliates.

5. Prohibited Areas

Work areas deemed to be inappropriate for employee organization business and thus prohibited from use. They include, but are not limited to:

- a. Clinical laboratories, patient care including counseling and mental health services, and clinical areas;
- b. Academic areas while instruction, counseling/advising, or research are in progress;
- c. Research areas;
- d. Private residential areas of students; and
- e. Confidential and/or secured work areas, such as, but not limited to, student and patient record areas, Cashier's Office, radiation areas, computer operations, Telecommunications, and the Central Plant.

6. Non-Restricted Meeting Areas

University locations where organizations and individuals, defined in Section C, may conduct gatherings, solicitations and events. Reservations may be required, and time, place, and manner restrictions may apply. See [Sec. 900-10: Policy on Use and Scheduling of UC Irvine Properties](#).

Note: Employee organizations and their representatives may be excluded from an otherwise appropriate work area if a facility is provided which is in reasonable proximity to the work area.

D. Background

There are many organizations and individuals who desire to solicit or otherwise establish contact with University employees for various reasons. These regulations are promulgated to ensure the highest level of respect and service to students, employees, visitors, and others.

E. Purpose

1. The following regulations provide reasonable access to UCI Campus (“campus”) grounds, facilities, and employees while ensuring that activities do not disrupt daily work activities, teaching, and research on campus. For UCI Health, please review the [UC Irvine Health Access Regulations](#).
2. In the event these rules conflict with a Collective Bargaining Agreement (CBA) and/or Personnel Policy for Staff Members (PPSM), the CBA and/or PPSM shall control.
3. As used in this document, the term “University” includes all campus locations.

F. General Rules

1. Representatives of employee organizations must comply with the access provisions in their respective CBA, as applicable, which includes conducting union activities during non-work time in non-prohibited areas and providing proper notice to Workforce Relations or Academic Personnel (in advance or in the case of unscheduled meetings, upon arrival).
2. Representatives of employee organizations and those identified in Section C., above, are required to identify themselves upon request by University officials acting in the performance of their duties. Individuals may be required to wear a visitor name tag or identification badge, as well as sign in at a reception area upon arrival.
3. Unless approved in advance, outside organizations and their representatives are prohibited from using University facilities and equipment such as, but not limited to: automobiles, computers, projectors, telephones, fax machines, office supplies, and photocopying and reproduction equipment.
4. The following activities are prohibited: interference with entrances to buildings and University functions or activities; disturbance of offices, classes, study facilities, and patient care and research; and harm to property.
5. Property use is subject to [Sec. 900-10: Policy on Use and Scheduling of UC Irvine Properties](#). This Policy includes, but is not limited to, the

following:

- a. Time, place, and manner restrictions;
 - b. Expectations for compliance with University policies and State laws while using designated outdoor spaces;
 - c. Restrictions on the use of amplified sound and requirements to obtain amplified sound permits prior to use;
 - d. Restrictions on the use of vehicles, equipment, signs, and structures on campus; and
 - e. Information regarding appropriate UCI property use hours.
6. Non-affiliates are subject to [Regents' Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California](#).
 7. Non-affiliates, staff, faculty and other academic appointees are subject to [Sec. 900-23: UCI Guidance Concerning Disruption of University Activities](#).
 8. The University reserves the continued right to add to, delete from, or modify these regulations pursuant to the [Higher Education Employer-Employee Relations Act \(HEERA\)](#), Sections 3568 and 3581.7.

G. Bulletin Boards

A list of designated bulletin boards is available upon request from Human Resources. No literature or other materials may be affixed to walls, floors, ceilings, elevators, or stairways at any time (see [Sec. 900-12, Policy on Posting and Distribution of Literature and Materials](#), for additional information including date of removal).

Bulletin boards may be used to display appropriate materials, subject to the following campus criteria:

1. **Size** - Standard letter size;
2. **Identification** – Postings must be on letterhead and/or include the name of the responsible organization and/or individual; and
3. **Date posted** – Any materials posted must be dated with the current month, day, and year of posting.

Display materials and posting requirements may also be subject to [Sec. 900-12.B. Posting and Distributing Regulations](#). Consult with the campus departments managing their department-controlled bulletin board on any additional posting requirements that may apply.

H. Employee Lounges

Where employee lounges exist in non-prohibited areas, solicitation of consenting employees is permitted and access by employee organizations should be in compliance with the applicable CBA.

I. Hand Billing

Representatives of employee organizations may distribute leaflets, bulletins, or authorization cards to consenting employees only in the following areas on campus:

1. Numbered parking lots. (Materials may not be placed on parked vehicles.)
2. Employee entrances to campus buildings.

Hand billing is not authorized in prohibited areas as defined in Section C.

Hand billing includes both print materials and electronic distribution, such as through QR codes.

J. Mail

1. Mail sent to University employees through the U.S. Postal Service, where postage has been prepaid by the employee organization, will be delivered.
2. Reasonable access may be permitted to departmental mailboxes where they exist in nonrestricted areas, on consultation with Workforce Relations Consultants at campus.
3. Use of the campus mail system is prohibited, except as provided above.

K. Meeting Rooms and Event Spaces

1. To use University facilities, such as meeting rooms and event spaces, outside organizations and individuals must follow procedures outlined by UCI Student Center & Event Services. (See [Sec. 900-10, Policy on Use and Scheduling of UC Irvine Properties](#), and [Sec. 900-11, Guidelines for Scheduling Campus Properties through Student Center & Event Services](#)).
2. Employee organizations must submit a completed [Statement of Understanding](#) to Student Center & Event Services prior to reserving a room. Student Center & Event Services will forward the completed form to Workforce Relations.
3. When costs are incurred, Student Center & Event Services will initiate the

process to bill the outside organizations and individuals.

- a. Space rental fees will be charged to employee organizations for use of facilities for which all users, other than student organizations, are charged. Labor, equipment, and other event-related fees will apply.
- b. When a room is utilized on the campus at a time other than the normal open/close schedule, charges may be levied for environmental conditioning, special cleaning, and opening/closing.

EXHIBIT E(3)

Sept. 20, 2024

TO: UCI Campus Management

FROM: Andy Kahn, UPTE General Counsel

RE: UCI's Expressive Activities Policies

I'm writing on UPTE's behalf in response to our receiving on 9/19 new speech-restrictive UCI policies going into effect immediately. The amount of notice which UCI provided was far too short to be reasonable. SB 108 provides no excuse for this short notice and your immediate unilateral implementation, as the Legislature did not order revisions of UC policy by 10/1 -- it merely asked for a report, to which you could have responded that draft new policies had been circulated to labor groups for the HEERA-mandated bargaining process. Also, other campuses sent us new policies weeks ago. We demand you hold in abeyance as to UPTE and its members the questionable provisions of these policies discussed below.

These provisions do not meet the reasonableness requirement of the Access articles of our CBAs. These provisions in substance violate our HEERA rights and constitutional speech rights in many ways. We request to bargain these provisions and their effects. We have the following proposals, comments and requests for information relevant to bargaining over these Policies and the Access articles in statewide CBA negotiations,ⁱ and to our potential grievance:

Legal Standards Applicable Here: It's likely a court would hold UCI's exterior areas represent a public forum.ⁱⁱ Accordingly, UCI's Policies will probably be subject to strict scrutiny requiring narrow tailoring to compelling governmental interests. However, even if deferential scrutiny applies, UCI's Policies are unlikely to be upheld for reasons set forth below. HEERA provides our representatives with the "right to use institutional facilities at reasonable times for the purpose of meetings". Gov. Code sec. 3568. HEERA also protects employees' rights to engage in union speech in non-work areas absent compelling contrary interests. See, e.g., *Cal. Public Sector Labor Relations* (CEB 2024) ("To establish reasonableness, the employer must show that its regulation is (1) necessary to the efficient operation of the employer's business and/or safety of its employees and others; and (2) narrowly drawn to avoid overbroad, unnecessary interference with the exercise of statutory rights." (citing *County of Tulare* (2020) PERB Dec. No. 2697-M, p. 20 (employer rule regulating union activity must not use vague or overbroad language); *County of Riverside* (2012) PERB Dec. No. 2233-M, p. 7)).



Finally, it would be constitutionally-permissible for UC to treat speech by recognized bargaining representatives more favorably than that of outside groups having no connection to UC: see, e.g., *Perry Ed'n Assn v. Perry Local Educators* (1983) 460 US 37. Employees who commit misconduct on UC property are subject to severe disciplinary consequences (such as loss of employment), and their unions have a continuing relationship with UC, unlike protestors from outside groups. Thus the bad behavior of some outside protestors on the Palestine issue are absolutely no justification -- either legally or practically -- for UCI now restricting the speech of UC employees and their unions as it has done here.

Overbroad List of Prohibited Areas in B(5): HEERA protects union visitation of worksites absent disruption of operations. Your list in subsection (c) bans any accessing of "research areas" without being clear that if no research is interrupted during the visit, then a union visit poses no threat to UC and legally must be allowed. In the prior subsection of this list of prohibited areas, it is made clear there has to be ongoing work which could be interrupted ("(b) Academic areas while instruction, counseling/advising or research are in progress"), so at minimum a similar qualifier should be added to subsection (c)'s reference to "research areas".

Overbroad and Vague "Disturbance" Standard: Section F(4) bans "disturbance" even when that is the unintended consequences of ordinary protest speech outside university buildings. This is impermissibly vague and overbroad: the controlling case is *In Re Brown*, 9 Cal.3d 612, 619-20 (1973) where the Court struck down convictions of leaders of a loud demonstration at a university campus for having disturbed classes. The Court held a statute banning disturbing the peace could not under the state and federal constitutions be applied against these demonstrators because there was no showing they were solely trying to make noise to disturb rather than in part engaging in communication:

The Attorney General seeks to preserve the convictions of violating section 415 on the basis of the language in that section prohibiting "maliciously and wilfully disturbing the peace or quiet . . . by loud or unusual noise." He states that there is substantial evidence that petitioners made loud noises which disrupted class and campus functions. The statute, however, cannot be interpreted consistent with the First Amendment and traditional views as making criminal all loud shouting or cheering which disturbs and is intended to disturb persons. When the word "noise" in the statute is properly construed consistent with the First Amendment and traditional views, it encompasses communications made in a loud manner only when there is a clear and present danger of violence or when the communication is not intended as such but is merely a guise to disturb persons.

In light of this caselaw, you need to narrow this prohibition to merely punish conduct either (1) intended to disturb rather than engage in speech, or (2) presenting a clear and present danger of violence.

REQUESTS FOR INFORMATION: Does UCI have any reason to believe *Brown* is no longer good law or is inapplicable to some of its outdoor spaces? If so, please set forth the basis for such belief.

Excessive Restrictions on Hand Billing (Section I): The only two areas you are allowing unions to handbill are numbered parking lots and employee entrances. This omits interior break areas and exterior sidewalks and lawns where our handing an employee a leaflet poses no threat to legitimate UCI interests and is HEERA-protected. Section I as currently worded is a blatant violation of both HEERA and the federal and state constitutional guarantees of free speech. This is especially true because it treats us worse than other organizations deemed by UCI to be “non-affiliates” or “outside organizations”, but not covered by this HR Access Regulation but instead only by UCI Administrative Policies which lack such ban on noncommercial handbilling on lawns and sidewalks away from employee entrances. Section I also appears to contradict Section H which purports to allow union “solicitation” in break areas, unless somehow the word “solicitation” should be construed as allowing only talking and not handing over any documents. While other UC campuses’ new policies are not a model of legality, no other is attempting this sort of limit on union speech.

Finally, this provision violates HEERA and constitutional guarantees in barring us from leaving leaflets on vehicles, especially as we’re more than willing to clean up or pay for UC’s cleanup should drivers stupidly choose to violate litter laws.ⁱⁱⁱ

The HR Access Regulation incorporates several UCI Administrative Policies which as applied to us violate HEERA, and as applied to everyone violate their constitutional rights:

Policy 900-10(A)(3) Bans on “Disrupting”: These violate the vagueness and overbreadth doctrines of the PERB and court cases discussed above. These problems are not cured by Policy 900-23, as this deals with disruptions in the middle of someone else’s speaking engagement, not with the fact a picketline of angry striking employees might be heard inside a UCI building but the class or other work can nonetheless carry on: is distraction of a non-striking staffmember doing their work sufficient “disruption” to violate this Policy? If distraction is enough, how could any union staffperson or UPTE member prevent themselves from suffering serious discipline except by picketing silently?

Policy 900-10(C)(1) Requirement for Advance Application for Every Event Three Weeks in Advance: Most campuses only require advance applications for Major Events (generally

defined as gatherings of 300 or 400 or more). UCI is alone in seeking an application in advance for every event, which is especially burdensome because UCI is demanding 3 weeks' notice. It does not take 3 weeks for UC officials to decide whether a union should be allowed to meet briefly with 5 or 10 members in an unused conference room or on a sidewalk or lawn, as we could not possibly present an operational problem with such a meeting. This Policy is contrary to clear Ninth Circuit precedent striking down government requirements for preapproval of all events no matter their size.^{iv} The Policy lacks clear substantive standards for UCI decisionmakers, also dooming it under established HEERA standards and constitutional caselaw.^v The Policy lacks the constitutionally-mandated provision requiring administrators to decide requests promptly.^{vi} This Policy's requirement that we give 3 weeks' notice of a meeting is also a plain violation of HEERA as PERB views advance notice requirements for organizers to meet with employees as unreasonable and unlawful: *Long Beach USD* (1987) PERB Decision No. 608, p. 16. Our CBA's Access Articles entitle us to have unscheduled meeting with employees without prior notice to UCI. This Policy needs to be revised to only require preapplication for gatherings of several hundreds in places not designed to accommodate such large crowds, and to set both substantive and procedural standards for UCI administrators receiving such applications.

REQUESTS FOR INFORMATION: If the above-challenged provisions arise from negative UCI experiences with the types of activities being restricted, please provide us a complete description of all such incidents. Please provide any guidelines used by any UCI decisionmaker in addressing applications for events sponsored by unions or others deemed non-affiliates. Does UCI believe the caselaw we reference to no longer be good law or somehow inapplicable to any of its facilities? If so, please set forth the basis for such belief.

Excessive Regulation of Bullhorn Use: The requirement in 900-10(D)(3) that we obtain permission in advance for any sound amplification anywhere is contrary to appellate court precedent in the Ninth Circuit and elsewhere.^{vii} Your Policy also lacks the necessary substantive standards to guide management discretion in granting permission, and the necessary prompt deadline for management to respond to requests for permission. Amplification is often required when meeting outside due to competing sources of noise, just to stay at the same decibel level as these sources in order to be heard by attendees. Constitutional protection for speech means UC cannot ban amplification for speech not exceeding other noise sources which UCI allows on its property (such as large trucks and leafblowers – but our members report frequently hearing such sounds at UCI). Unlike UCSD's policy, UCI's improperly makes no allowance for competing sources of noise already in the environment. Some outdoor meeting areas are so large that attendees at one

end of the area cannot hear speakers at the other end, even if they speak loudly, unless the speech is amplified.

Section 900-10(D)(3) 's ban on any amplification outside of 12pm-1pm is absurdly overbroad and not being attempted at other campuses, as a single bullhorn before or after normal business hours in the many areas of UCI with no residences nearby could disturb very few people. Many UCI buildings are so well sound-proofed that little bullhorn use outside can be heard by anyone inside trying to work, so this 12-1pm limit is overkill. Moreover, many employees do not have time during the 12-1pm period to travel to and from a rally and have a meal, so that holding rallies before and after work are necessary to having a decent turnout, and then amplification is necessary for a speaker to reach the back of the crowd.

REQUESTS FOR INFORMATION: Does UCI believe the caselaw we reference to no longer be good law or somehow inapplicable to any of its facilities? If so, please set forth the basis for such belief. Do these restrictions on amplification result from any particular incidents? If so, please describe those in detail. What guidelines are followed by UCI decisionmakers in deciding upon a request for use of a bullhorn?

Requirement of Insurance of \$1 Million for Every Event: This requirement in section 900-10(C)(3)(h)^{viii} is unreasonable as applied to employee organizations' events of the sort UPTE holds, as UCI has ample protection already from the facts that (1) at worst, we're just walking around with a bullhorn and picket signs, rather than being engaged in more hazardous activities; (2) UC can discipline its employees should they engage in misconduct on UC's property; (3) UPTE would indemnify UC, with UPTE having revenues and assets making this assurance quite meaningful; and (4) UC has vast governmental immunities from suit by anyone who claims injury from our rally (see, e.g., Gov. Code section 820.2's discretionary immunity). All that an insurance requirement does is force us to spend time dealing with our insurer and paying an added premium -- time and money we should instead be allowed to devote to organizing for the betterment of our members. Similar insurance requirements have been struck down by courts as insufficiently tailored to a legitimate government interest.^{ix} Few other campuses are trying to require insurance.

REQUESTS FOR INFORMATION: Does UC have any claims experience justifying the requirement of a \$1 million insurance policy for UPTE to conduct events? Does UCI believe the caselaw we reference to no longer be good law or somehow inapplicable to any of its facilities? If so, please set forth the basis for such belief.

Potential Limits on Tabling and Shading: Section 900-10(D)(4) requires advanced management permission (10 days prior to the event) for demonstrators to have any

“structure” after they file a “detailed drawing” with UCI Environmental Health & Safety. It is unclear if “structure” includes the typical folding table for fliers/water and lean-to for shade which UPTe and other unions set up during rallies at UCI and elsewhere. If this Policy is intended to extend to folding tables and temporary shade during rallies, it is a violation of HEERA and state and federal constitutions. Not only is that due to its overbreadth, but also as written the Policy improperly fails to provide (1) clear substantive standards for management decisions on requests to use a table or shade at a rally, and (2) a prompt time limit for management to respond to a request for permission to have a table or shade. See *ACLU v. City of Las Vegas*, 466 F.3d 784, 799 (9th Cir. 2006)(striking down city requirement for advanced permission for table during rallies, holding “We hold that the erection of tables in a public forum is expressive activity protected by our Constitution to the extent that the tables facilitate the dissemination of First Amendment speech.”). Many campuses do not require advanced permission for the sort of tabling we do (small table used during a rally).

REQUESTS FOR INFORMATION: If the Policy applies to a card table or a shade, do such restrictions result from any particular incidents? If so, please describe those in detail. What guidelines are followed by UCI decisionmakers in deciding upon a request for use of a table or shade? Does UCI believe the caselaw we reference to no longer be good law or somehow inapplicable to any of its facilities? If so, please set forth the basis for such belief.

CONCLUSION

UCI’s new speech restrictions are an outrageous effort to use concerns over Palestine protests as a “Trojan Horse” to smuggle in extreme new restrictions on union and employee speech – speech having nothing to do with the misconduct of some Palestine protestors. These restrictions are causing us to reconsider many of our plans for protesting UC’s employment practices in the near future. This chilling effect is an irreparable harm warranting preliminary injunctive relief from the courts.^x Accordingly, we need UCI to assure us that it will not seek to enforce the provisions challenged above while we engage in meeting over these issues, nor without at least 30 days’ prior notice that they will be enforced.

Thank you for your prompt attention to these matters: we request a response within 10 days offering prompt dates for negotiations or discussion of the issues above.

In order to avoid potentially-unnecessary paperwork for both sides, we request that UCI agree (as has UCIH and other campuses and med centers) that our deadline for grieving these Policies as unreasonable under the CBAs’ Access articles will not start to run until such discussion occurs.

ⁱ In such bargaining, UC management recently proposed to allow itself to ban UPTE staffpersons for life for any violation of any UC access policy such as these UCI policies, and to discipline individual employees as well for any access violation. Accordingly, UCI's enormous tightening of its restrictions on our speech is of grave concern to our membership and needs to be immediately reconsidered by UCI leaders.

ⁱⁱ See, e.g., *Shaw v. Burke*, 2018 U.S. Dist. LEXIS 7584, *22 (C.D. Cal. 2018) ("Given the traditional purpose of the open, outdoor areas of universities, such as the 'Mall' on Pierce's campus, the Court finds that these areas are traditional public fora, regardless of Pierce's regulations naming them non-public fora. Id.; *Bowman*, 444 F.3d at 979 ('College campuses traditionally and historically serve as places specifically designated for the free exchange of ideas.').")

ⁱⁱⁱ See, e.g., *Klein v. City of San Clemente*, 584 F.3d 1196, 1208 (9th Cir. 2009) (striking down ban on windshield leafletting). Accord, *Krantz v. City of Fort Smith*, 160 F.3d 1214, 1222 (8th Cir. 1998); *Horina v. Granite City*, 538 F.3d 624, 638 (7th Cir. 2008).

^{iv} See *Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1039 (9th Cir. 2006) ("Small groups, however, can also 'march' and 'assemble' for expressive purposes, and can do so without interfering with the free flow of traffic (except in the trivial respect that anyone walking on a public sidewalk or roadway takes up space and therefore prevents someone else from traveling precisely the same route). Without a provision limiting the permitting requirements to larger groups, or some other provision tailoring the regulation to events that realistically present serious traffic, safety, and competing use concerns, significantly beyond those presented on a daily basis by ordinary use of the streets and sidewalks, a permitting ordinance is insufficiently narrowly tailored to withstand time, place, and manner scrutiny.") (citing, inter alia, *Douglas v. Brownell*, 88 F.3d 1511, 1523-24 (8th Cir. 1996) (striking down a five-day advance notice requirement for processions of ten or more persons on streets, sidewalks, and public ways on the grounds that it was unjustifiably long and applied to groups as small as ten). The *Food Not Bombs* court also found unconstitutional the failure of an advance permit requirement to include an exception for spontaneous speech, a similar problem as exists with UCI's Policy but which other campuses' policies address such as UCSD.

^v See, e.g., *Smith v. County of Los Angeles*, 24 Cal. App. 4th 990, 999 (1994) ("The Supreme Court has repeatedly held that an ordinance ' ' "which . . . makes the peaceful enjoyment of freedoms which the Constitution guarantees contingent upon the uncontrolled will of an official--as by requiring a permit or license which may be granted or withheld in the discretion of such official--is an unconstitutional censorship [***11] or prior restraint upon the enjoyment of those freedoms." ' ' " (*FW/PBS, Inc. v. City of Dallas*, supra, 493 U.S. at p. 226 [107 L.Ed.2d at p. 618] [citing *Shuttlesworth v. City of Birmingham* (1969) 394 U.S. 147, 151 (22 L.Ed.2d 162, 167, 89 S.Ct. 935)].) Addressing the constitutionality of a parade permit requirement, *Shuttlesworth* held "that a law subjecting the exercise of First Amendment freedoms to the prior restraint of a license, without narrow, objective, and definite standards to guide the licensing authority, is unconstitutional." (394 U.S. at pp. 150-151).

^{vi} See, e.g., *Long Beach Lesbian & Gay Pride, Inc. v. City of Long Beach*, 14 Cal. App. 4th 312, 332 (1993) ("Plaintiffs' primary grievance is with the failure to require a decision within a specific time after the application is made. Plaintiffs do not purport, or ask us, to dictate what a reasonable, acceptable time is. They only complain that to leave the matter open-ended impermissibly places the fate of a parade application in official limbo, both chilling and freezing the applicant's free speech intentions and expectations. The City has not contested the legal proposition that avoidance of limbo requires a deadline for action following application. We believe the authorities

cited above support that requirement. Accordingly, Chapter 5.60's failure to include such an express limit is improper.”).

^{vii} See, e.g., *Cuviello v. City of Vallejo*, 944 F.3d 816, 825 (9th Cir. 2019)(striking down requirement for preapproval of all amplification, noting “The United States Constitution and California Constitution protect bullhorns, and other sound-amplifying devices, as ‘indispensable instruments’ of public speech. *Saia v. People of State of New York*, 334 U.S. 558, 561, 68 S. Ct. 1148, 92 L. Ed. 1574 (1948); *Wollam v. City of Palm Springs*, 59 Cal. 2d 276, 29 Cal. Rptr. 1, 379 P.2d 481, 485 (Cal. 1963). In a crowded park or bustling intersection, where a single voice is easily drowned out, volume enables speech. See *Wollam*, 379 P.2d at 486. A restriction on volume, then, can effectively function as a restriction on speech. *Saia*, 334 U.S. at 561-62; *Wollam*, 379 P.2d at 486 (‘The right of free speech necessarily embodies the means used for its dissemination because the right is worthless in the absence of a meaningful method of its expression.’”)

^{viii} This states: “Off-campus organizations, public service agencies, and off-campus University or University-related groups sponsoring campus events and meetings must sign a statement of financial responsibility and file it with a scheduling office prior to an event or meeting. The organization using UC Irvine properties must name UC Regents as additional insured at a minimum of one million dollars on their existing liability insurance policy for the date(s) of the event. UC Regents must also be named a certificate holder. Campus events are reviewed by scheduling offices according to liability and risk factors. Additional insurance requirements may be imposed following the scheduling office's consultation with campus Insurance & Risk Management.”

^{ix} See, e.g., *Long Beach Lesbian & Gay Pride, Inc. v. City of Long Beach* (1993) 14 Cal. App. 4th 312, 341 (“Other courts that have reviewed parade insurance requirements have uniformly found them to overreach, in view of the overlapping utility and availability of other means of protection as referred to above, and the concomitant absence of a history of claims and hence need for expensive, high-limit coverage. [cites].); *iMatter Utah v. Njord* (D. Utah 2013) 980 F. Supp. 2d 1356 (reviewing recent caselaw striking down insurance requirements for protest events).

^x See, e.g., *Ketchens v. Reiner*, 194 CA3d 470, 480 (1987)(“The question is not a close one. ‘The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.’ (*Elrod v. Burns* (1976) 427 U.S. 347, 373”).

EXHIBIT E(4)

October 31, 2024

Andy Kahn
UPTE General Counsel
2855 Telegraph Ave. #602
Berkeley CA 94705

VIA E-MAIL – andy@UPTE.org

RE: Access Regulations

Dear Andy,

The University of California, Irvine (UCI) is providing this written response as a follow up to our meeting regarding UCI's updated Access Regulations.

During our meeting, UCI attempted to discuss the concerns outlined in your written response letters. UCI clarified to the Union that the majority of the provisions for which the Union expressed concerns were existing provisions within UCI's prior Access Regulations. In an effort to understand the Union's concerns, UCI asked the Union to provide specific examples of issues or incidents related to the provisions cited. The Union was unwilling to do so, and simply referred to their written response letters.

It is important to emphasize that the updated Access Regulations for Campus and Health are substantially the same as the University's previous regulations. To our knowledge, no objections were previously received regarding the provisions for which the Union is now expressing concerns. In particular, the Union raised concerns regarding the following provisions, which remain unchanged from the prior versions of the regulations from 2012 (Health) and 2013 (Campus):

Health:

- Sec. II.B, F (Definitions of Employee Organizations and Representatives) – these definitions were unchanged and were in the 2012 regulations.
- Sec. III. G.2 (Prohibition on accessing “academic and research areas”) – these areas were in the 2012 regulations under “prohibited,” as they are used for instruction, counseling/advising, and research.
- Sec. III.3.H. and VII (Restrictions on Picketing/Rallying and Ban on Leafletting at “all visitor/patient entrances and exits) – as indicated in both the prior and current versions, visitor/patient entrances and exits surrounding the building, as well as the Healing Garden, are restricted access areas.
- Sec. VIII (Requirement for Pre-Scheduling All Non-Restricted Areas) – this language remains unchanged from the 2012 version. While the Medical Center has and continues to request 10 days' notice, other locations require less notice (24-72 hours). You also

mention that the CBA contains language about conducting unscheduled meetings. As provided in the access regulations, if the access regulations conflict with the CBA, the CBA shall control.

- Sec. IX(B) (ban on “disturbance of University offices, classes, study facilities, and patient care and research”) – this information was included in the 2012 regulations.
- Sec. IX(C) (mandating permission for amplification at all outdoor events) – this information was included in the 2012 regulations.

Campus:

- List of Prohibited Areas in B(5) – research areas were included as a prohibited area in the 2013 version of the regulations.
- Excessive Restrictions on Hand Billing (Section I) – the two areas where hand billing is permitted remains unchanged from the 2013 version of the regulations – numbered parking lots (exclusive of parked vehicles) and employee entrances to campus buildings.
- Inclusion of Policy 900-10 – this policy was included in the 2013 version of the regulations and notes that the University has the right to apply time, place, and manner restrictions on any activity conducted on University property. You note that one of the requirements in the policy – providing 3 weeks’ notice of a meeting – conflicts with the CBA’s Access Articles. As noted in the regulations, in the event these rules conflict with a CBA, the CBA shall control.

You also asked that we provide you with specific incidents or issues that may have resulted in the University updating these regulations. As noted in my email to you on August 22, 2024, the regulations are not being updated to address any one particular incident. Rather, as stated in the purpose section in the regulations, these reasonable access regulations are designed to ensure that activities will not disrupt daily work activities, teaching, and research, or adversely affect patients’ welfare or any visitor’s experience. Nevertheless, UCI has made this Union (and other Unions) aware of access and amplified sound violations, including when UPTE organized a protest in the Healing Garden with amplified sound and without appropriate permits. It is our expectation that all unions, including UPTE, comply with applicable access regulations and collective bargaining requirements. This is not new – this has always been the case.

I would like to reiterate what we stated in our original notice. The University is prepared to bargain over any identified effects on the Union's HEERA-protected access rights. As you know and as cited in your letter, however, the University has the right to set reasonable rules for the management of its property and reasonable time, place, and manner restrictions related to expressive activity. The University's rules and these updates are reasonable and are not directed at the content of the speech or the union affiliation of the individual. These rules are necessary to ensure that all our community members can use our property to learn, research, and engage in meaningful discourse and debate regarding matters of importance.

Please let me know if you have any additional questions, concerns, or additional requests for information, or if you would like to schedule additional time to meet.

Jeff Hughes



Workforce Relations Manager, UCI

cc: Leslie Kleiman, Sr. Director, Workforce Relations, UCI
Joan Mountain, Policy and Compliance Specialist, UCI
Kadie Manion, Lead Organizer, UPTE-CWA 9119
Sara Bowden, Organizer, UPTE-CWA 9119
Tristan Puig, Organizer, UPTE-CWA 9119

Exhibit F(1)



Human Resources
10920 Wilshire Blvd.
Suite 400
Los Angeles, CA 90095

Andy Kahn
UPTE

July 29, 2024
Sent via e-mail.

Re: RFI No. MC-RFI 24-11 UPTE (Access Guidelines)

Dear Mr. Khan:

This letter acknowledges the filing of the above-referenced request for information received on July 17, 2024.

Our office will be in contact if there is any clarification needed about the information being requested.

If you have any questions, or wish to discuss this matter, please contact Maurice McGlothern, Labor Relations Manager at (424) 832-6829 or via email at mmcglothern@mednet.ucla.edu.

Sincerely,

A handwritten signature in black ink that reads "Nohemi R. Salazar".

Nohemi Rosales-Salazar
Labor Relations Specialist

Enclosure

cc: Maurice McGlothern, Labor Relations Manager

Exhibit F(2)



University of California Los Angeles Health Sciences

Access Guidelines

Regulations Governing the Use of ~~Health System~~ University Facilities and Access to ~~UCLA Health~~ University Employees by Employee Organizations and their Representatives

To provide the ‘reasonable regulations’ mentioned in HEERA and the various collective bargaining agreements between the University and various unions, and to meet concerns regarding the effect of access on patient privacy, **operations** and safety, the **UCLA Health Sciences** has promulgated these access guidelines regarding leafleting, demonstrating, picketing and other expressive activities. These access guidelines are a product of ~~the Health Sciences~~ balancing free speech rights with safe egress and ingress to all ~~the UCLA Health Sciences~~ buildings, along with access to employees and the privacy and safety rights of patients and their families.

Employee organizations (**e.g. Labor Unions**) are required to **inform** ~~register with~~ the Labor Relations office **of any changes to their representatives**. In these **access** guidelines, which are applicable to all **UCLA Health System** buildings, including but not limited to, hospitals, community clinics, clinics in the 100, 200 and 300 Medical Plaza, Wilshire Center, Faculty Practice Group—~~Century Office~~, and the Santa Monica Bay Physicians Administrative Offices, the term representative is used to define any person acting in the interest of or on behalf of **an** ~~registered~~ employee organization, including both University and Non-University personnel unless otherwise ~~specifically authorized~~ **stated to the contrary**. The term “employee organization business” is used to define all legal activities of an employee organization, including, but not limited to, meetings, campaigning, distributing and picketing.

I. Use of University Facilities

- A. **Designated** general purpose meeting rooms, when not in use for University purposes, such as teaching, learning, research, patient care, or meetings, may be scheduled by employee organizations subject to the same time, place and manner regulations as other registered campus organizations using such facilities. The meeting rooms available for this purpose are attached hereto and for **scheduling please send an email request to the contact person/number for scheduling is the UCLA Health Labor Relations email at: uclahealthlaborrelations@mednet.ucla.edu**

- ~~Westwood~~ Human Resources, Labor Relations, (310) 794-0500
- ~~Santa Monica Hospital~~ Administration, (310) 319-4813
- ~~Faculty Practice Group, Community Practice Network and Santa Monica Bay Physicians~~ Andi Dow Ealey, (310) 301-5252.

- B. Employee organizations and their representatives may reasonably use **general purpose bulletin boards**. The use of other bulletin boards by employee organizations and their representatives is prohibited at all times. ~~Materials must be provided to the Labor Relations office at the time of posting~~ Posted materials must be dated and initialed by the union representative responsible for the posting and ~~unless mutually agreed upon,~~ shall not remain posted for a period of more than thirty (30) calendar days. No literature or other materials may be affixed at any time to **UCLA Health Sciences** facilities such as, but not limited to, walls, glass windows and entry ways, ceilings, floors, light fixtures, doors, elevators, stairways and automobiles in parking lots. Materials posted in prohibited locations, as well as those that are incendiary, discriminatory in nature or that unduly call into question **UCLA Health's Science's** ability to render quality services, will be removed. Organizations may be charged for the cost incurred in removal or repair of facilities caused by inappropriate or prohibited postings for which they are responsible.
- C. U.S. mail, which is received by the University bearing an employee's name and an accurate address, will be distributed to the employee in the normal manner. Employee organizations and their representatives are strictly prohibited from the use of the **UCLA Health Science's** mail system. In locations where employee mail boxes exist, employee organizations and their representatives may reasonably use such boxes, provided the boxes are not located in a confidential and/or restricted area and such use is not disruptive. If employee mail boxes are located in a confidential and/or restricted area, arrangements can be made with the Labor Relations office to distribute organization information in the same manner that other such information is distributed.
- D. Employee organizations ~~and their University employee~~ and non-employee representatives are prohibited from using University facilities and equipment such as, but not limited to, **secure email/internet**, automobiles, computers, projectors, office supplies, photocopying and reproduction equipment.
- E. **Secure Email/Internet connection** is made available to staff for the purpose of conducting University business. While personal use by staff is permitted for incidental purposes, it is a business communication tool and should be regarded as such.

Use of University telephones within the Health System Sciences is generally restricted to University business. Incidental use of University telephones by staff for other than University business is considered a privilege and should not be abused.

Staff use of University telephones, electronic mail and other electronic communications by employee organizations and their University employee and non-employee representatives must conform to applicable University policies and collective bargaining agreement provisions. Any exception requires the express written consent of the UCLA Health Labor Relations Director.

- F. Employee Organizations and their representatives who are not University employees, or who are not employed at the facility visited, may visit the facility at reasonable times and upon notice to UCLA Health Labor Relations to discuss with the University or bargaining unit members matters pertaining to their applicable Agreement.
- G. Employee organizations and their representatives, when conducting employee organization business at any UCLA Health location, must identify themselves upon arrival as an employee representative and state the nature of their visit. All individuals visiting a UCLA Health Science location must have legitimate business reasons for being there and must identify those reasons when requested by UCLA Health Science staff.

II. Access to Employees

- A. Employee organizations and their representatives may reasonably conduct employee organization business in non-work areas during the employee's non-work time. For the purpose of these guidelines only, meal, breaks and rest periods are not considered work time.
- B. Employee organizations and their representatives are permitted in employee work areas only when:
 - 1) The visit is pre-approved at least 24 hours in advance by department management,
 - 2) Employees are not on work time as defined above,
 - 3) The conducting of employee organization business is not disruptive to other employees who are working and those that are not, and

- 4) The work area is appropriate for such business. Work areas deemed to be inappropriate and thus prohibited from use for such business include, but are not limited to, the following areas:
 - a. Patient care areas, clinical laboratories, and clinical areas;
 - b. Academic areas while instruction, learning, counseling or research is in progress;
 - c. Research areas when the health, safety, or security of individuals or the research could be adversely affected;
 - d. **Kitchen and other food preparation areas;**
 - e. Those areas delineated in the applicable collective bargaining Agreement.

NOTE: Employee organizations and representatives may be excluded from an otherwise appropriate work area if the Department makes available a facility which is in reasonable proximity to the work area.

- e. Access to confidential and/or secured work areas, such as, but not limited to, **the UCLA Health Science Executive Suite**, Administrator's offices, student and patient record areas, cashier's office, radiation areas, research areas, computer operations areas, etc., is limited solely to employees who are assigned to such areas or others who have specific authorization to be in such areas.
- f. Employees are strictly prohibited from participating in and conducting employee organization business during work time. Under no circumstances are these **access** guidelines to be interpreted or applied so as to impede, disrupt, or interfere with the normal operations of **the UCLA Health Science** facilities.

III. Access to Designated RRUMC Table(s) by Employee Organizations

- A. The following procedures will apply to all employee organizations requesting to use the designated table(s) near the RRUMC cafeteria on the B-level. Reservations must

be made in writing (including email) and will be scheduled on a first come, first served basis.

- 1) Requests are to be made ~~in writing to Health System Human Resources, Labor Relations, 10920 Wilshire Blvd, Suite 890, Los Angeles, CA 90095;~~ **to UCLA Health Labor Relations email at:** uclahealthlaborrelations@mednet.ucla.edu atysarczyk@mednet.ucla.edu or via fax: (310) 794-2752.
- 2) The written request should be submitted at least 7 days in advance of the requested time. Requests that are not submitted more than 24 hours in advance of the requested time cannot be accommodated. In the event of conflicting requests, scheduling will be based upon the date the written request was received, on a first come, first served basis.
- 3) **The available time period in which** a ~~The table~~ **can be reserved** ~~provided~~ on the B-level is ~~available~~ between 7:30 a.m. and 7:00 p.m. Monday through Friday. Requests to reserve the table for a time that is outside this time frame must be submitted in writing to ~~the Labor Relations Director~~.
- 4) If other activities have been scheduled or the B-level is in use for other activities, the designated tables and/or space may be occupied simultaneously.

IV. Picketing/Demonstration Location(s) and Literature Tables/Picketing Hubs

- A. The University must balance free speech rights with safe ingress and egress to the **UCLA Health Science** facilities, along with access to employees and the privacy and safety rights of patients and families. The University's Regulations on Activities, Registered Organizations and Use of Properties can be found at:

<https://sole.ucla.edu/file/4efd2db6-2863-447e-acb3-ca109fa5b33c>
www.saonet.ucla.edu/campus_regs.

Employee organizations and their representatives may engage in reasonable activities such as outside picketing and setting up literature tables in designated areas at the **UCLA Health Science's** RRUMC, SMH and **WVMC** locations, as set forth below. Such picketing and leafleting shall not interfere or disrupt operations or impede the ingress or egress at **UCLA Health Science** locations.

- 1) Picketing and demonstrations shall be limited to the following areas:

- a. Westwood Plaza, public sidewalk, east sidewalk in front of Medical Plaza from the corner of Le Conte up to the driveway adjacent to Ueberroth.
 - b. Westwood Boulevard from Le Conte on the west side of the CHS complex to the end of the Jules Stein circular driveway (traffic light).
 - c. Public sidewalk in front of RRUMC (west sidewalk), north valet entrance to south valet exit only.
 - d. At SMH on 16th Street (on the corner of Arizona) leaving the patient drop-off circular driveway (Arizona entrance pathway) unobstructed.
 - e. Public sidewalk in front of WFMC on Medical Center Drive and Sherman Way.
- 2) At no time shall there be leafleting, picketing, demonstrating or the interference of ingress and egress at the Emergency Room entrances at RRUMC, SMH and WVMC.
 - 3) At no time shall there be leafleting, picketing, demonstrating or the interference of ingress and egress in University parking structures or lots.
 - 4) At no time shall leafleting, picketing, and demonstrating interfere with the ingress and egress at UCLA Health loading docks.
 - 5) There shall be no leafleting, picketing, demonstrating or the interference of ingress and egress inside any UCLA Health Science facility.
 - 6) Employee organization tables intended for use as demonstration headquarters, literature booths, voting venues, etc. are limited to the following areas:
 - a. Westwood Plaza, public sidewalk, east sidewalk in front of Medical Plaza (Le Conte & Westwood, next to Ueberroth).
 - b. ~~Westwood Boulevard and Jules Stein circular driveway in front of Semel Institute (Across from Doris Stein Institute).~~
 - 7) Entrances and exits of adjacent buildings and patient drop-off areas at curbsides are to be kept free from obstruction, which includes ~~the Jules Stein and Doris Stein Institutes~~ circular driveways and parking lot entrances.

- 8) Sidewalks must be kept available for normal pedestrian traffic at all times.
- 9) Drums, megaphones and/or other amplified noises or sounds shall not be permitted in front of or in proximity to RRUMC and SMH. Such mechanisms may be permitted in other designated picketing and demonstration areas to the extent they do not violate local ordinances.
- 10) **Under no circumstances may drums, megaphones and/or other amplified noise or sounds be permitted inside any UCLA Health building.**

V. Banners/Signs/Postings/Announcements

- A. Signs, posters, paint, chalk or ink messages are prohibited from being affixed, placed on an easel or applied to the walls, windows, floors or other surfaces of ~~the~~ **UCLA Health Science** facilities. Designated bulletin boards are available for use in accordance with existing procedures.
- B. Signage or announcements of any sort are not permitted in unauthorized areas of the workplace, which include, but are not limited to, office desks, hallways, stairwells, elevators, and offices and/or cubicles that are in plain view to visitors and/or other staff members.

VI. Photography and Filming

- A. It is the policy of the **UCLA Health Sciences** that the disclosure of any information to the media or any filming or photography by the media and other outside organizations shall be done in a manner that maintains the privacy of patients, visitors and employees, and complies with any applicable laws or rules, including the **UCLA Health Science's** policy on Photography and Filming.

The University reserves the continued right to add, delete from, or modify the above access guidelines made pursuant to HEERA Section 3568 and applicable contracts and policies.

References:

Health Sciences Policy 0308 (Photography and Filming)
 Health Sciences Policy 0318 (Signs and Literature)
 Health Sciences Policy 7302 (Telephones – Use of University Telephones)
 Operating Room Services Policy 127 (Electronic Mail/Internet: Use Of

Exhibit F(3)

July 17, 2024

TO: UCLA Health Labor Relations c/o Jeremiah Smiddy; Ellen Shadur, Esq.

FROM: Andy Kahn, UPTE General Counsel

RE: UCLAH's Proposed Access Guidelines

I'm writing in response to the notice we received on July 9th of your proposed union access guidelines. The notice letter which was attached was dated June 9, but as it was sent on July 9, we assume the June date was just a typo and the revisions will not be implemented until at least after August 8. We request to bargain these Guidelines and their effects. We have the following proposals, comments and requests for information relevant to such bargaining:

Preamble (Notification of Changes in Representatives): If UCLAH wants to assign this notice burden to unions, then UCLAH should equally be required to notify unions of all changes in Labor Relations staff.

Section I(A)(Meeting Rooms): UCLAH is inserting the word "designated" and there is a reference to a list of available rooms being attached, but this list was not attached to what we were sent. Please supply it to us as soon as possible. What is UCLAH's rationale for inserting "designated"? We don't think it's appropriate to insert "designated" because our HEERA right to use institutional facilities is not conditioned upon management preapproval in a formal guideline of the union's use of a particular room. Moreover, as renovations and changes in use frequently occur in UCLAH buildings, some space which wasn't previously being used by UCLAH for meetings may in the future become meeting space. We shouldn't have to await a revision of these Guidelines before being able to use such space for meetings consistent with how others are using it.

Section I(D)(Email/Internet): We question why UCLAH wants to bar unions from using its secure email/internet, unless we're assured that there's another way to access employee work email and the internet when we're in UCLAH buildings. As you know, nowadays in almost every meeting the attendees need internet access to documents: the two go hand in hand. PERB has held union use of employees' work email is within unions' statutory rights to use "other means of communication" provided by employers (*LAUSD* (2018) PERB Dec. No. 2588), so a flat ban on union use of employer email and internet is impermissible, but if your proposal does not envision a flat ban, please explain.

Section II(B)(Mandating 24-hr Notice of Visits Even When Less Notice is Reasonable): As worded, UCLAH's proposed revision would strip its department management from approving a union visit on less than 24 hours' notice, even though such management had determined the amount of notice provided by the union was sufficient to prevent any operational problem. This is very objectionable to UPTE. On numerous occasions we just need to drop by and hand a member a document or pick one up from a member. Or the member wants to ask a quick urgent question, or we urgently need to ask them a quick question about some urgent pending issue. We don't always know 24 hours in advance of our need for this brief exchange. That's why our current CBA contains language which would be violated by this Guideline. Article 2, C1 states: "In the case of visits for the purpose of conducting unscheduled meetings with bargaining unit members, the union representative shall give advance notice **upon arrival** in accordance with local campus/hospital/ laboratory procedures."

We think what the Guideline should do instead of precluding department managers from conforming to the CBA and stripping them of their current right to approve visits on short notice is instead add something to the effect of "Employee organization requests made with less than 24 hours advance notice are disfavored" so union representatives try to give such notice when practicable, but the unscheduled visits authorized by our CBA can still take place.

II(B)(4)(Adding Kitchens and Executive Suite to List of Work Areas Deemed Impermissible for Visitation): UCLAH proposes to add a subsection banning all union visits to all kitchens and other food prep areas. What is UCLAH's rationale for this proposal? As a former kitchen worker myself and long-time attorney for unions representing kitchen workers, I assure you that plenty of non-work conversation takes place in kitchens without it interfering with work or public health or safety. (There is often downtime between breakfast and lunch, lunch and dinner, and after dinner). What would be acceptable to us would be to ban unions conducting business in kitchens and food prep areas "when such use could adversely impact health or safety", similar to how subsections (b) and (c) impose limits conditioned upon what's going on in those spaces at the time the union wishes to visit ("academic areas while instruction ... or research is in progress"; "research areas when the health, safety or security of individuals or the research could be adversely affected").

As for the proposed new ban on going to the Executive Suite, this violates the rights of employees and unions under HEERA and the state and federal constitutions to deliver petitions to senior government officials. If UCLAH's problem is that such petitioners are making too much noise or able to see confidential documents left on a table or overhear confidential conversations, then there are other narrower ways to deal with such concerns

than a flat ban on union supporters ever going there. Relegating unions and workers to sending emails is inadequate: the fact that a group cares enough about an issue to join in the personal delivery is part of the message sent by such deliveries,¹ and if the UCLAH official has questions which they want to pose about the employees' petition, those can be answered quickly in real time. If UCLAH's proposal stems from any such visits creating operational problems for UCLAH, please provide a complete description of those incidents.

IV(A)(1)Picketing/Demonstration Locations): It is unreasonable and violative of HEERA and the federal and state constitutional rights of free speech for UCLAH to limit picketing and demonstrations to the few locations listed, especially when there are many other locations closer to members' worksites and/or more visible to the public. The Guidelines do not define "demonstrations", leaving unions with inadequate notice of how to conform to these Guidelines. Obviously a demonstration with, say, only 5-10 people in attendance poses nearly no risk practically anywhere on the large outdoor spaces and sidewalks outside most UCLAH facilities. Thus the Guidelines are overbroad in restricting all demonstrations to merely five locations. Moreover, it would be unlawful and unfair for UCLAH to restrict labor demonstrations and picketing more than it restricts non-labor groups, so please supply us a copy of any UCLAH policies applicable to demonstrations and picketing by non-labor groups.

IV(A)(2)(Ban on Leafletting and Picketing at Emergency Room Entrances): We have no problem with banning interference with ingress or egress. However, not all picketing or leafletting involves such interference. We're legally entitled by the constitutional guarantees of free speech and HEERA to picket and leaflet staff using ER entrances and ER patients and their family members. As healthcare professionals, our members know when a sick person walking in should not be approached due to their suffering some serious medical problem which requires medical attention without delay, but if there is to be any restriction on demonstrators in front of ERs, then it should be limited to this problem, rather than also banning us from leafletting staff, leafletting family members and friends waiting outside the ER for someone inside to be done with medical treatment, and leafletting people exiting after treatment was obtained.

IV(A)(3)(Ban on Picketing/Leafletting at Parking Structures and Lots): Again, we understand the need to ban interference with ingress or egress, but this Guideline goes further to flatly ban all picketing, leafletting or demonstrating in a parking lot or structure, even when such

¹ See, e.g., *NAACP, Western Region v. Richmond*, 743 F.2d 1346, 1356 (9th Cir. 1984)("The size of a crowd and its enthusiasm for a cause may generate sufficient passion to sway the undecided.").

expressive activities aren't interfering with any vehicles or pedestrians. This Guideline is overbroad and violates both constitutional guarantees² and HEERA.

IV(A)(5)(Ban on Leafletting and Demonstrating Inside any UCLAH Facility): Again, without us knowing exactly what is meant by "demonstrating", this Guideline is hopelessly vague. Perhaps this Guideline bans workers from assembling on their breaktime to go visit their manager to complain about an employment practice? Such activity is well within their HEERA rights. Also, we have a HEERA right to pass out leaflets to our unit members in non-work areas on non-work time, yet this Guideline would seem to ban such activity. Finally, we believe some areas inside UCLAH facilities meet the California courts' *Pruneyard* standard for state constitutional protection of speech inside buildings used by the public to congregate, such as courtyards and cafeterias, where the right to leaflet should be respected.

IV(A)(6)(b)(Limits on Table Locations): What is UCLAH's rationale for proposing to eliminate union tabling at the Jules Stein circular driveway across from the Doris Stein Institute and thus limit tabling to a single location? Why couldn't a union have a table at the four other locations where section A(1) allows unions to hold demonstrations? Please provide us a copy of any UC policies addressing tables set up by non-labor groups. But even without discrimination between groups, this Guideline violates both HEERA and constitutional rights.³

IV(A)(9)(Ban on Drums, Megaphones and Sound Amplification Near RRUMC & SMH): This ban is overbroad and violates both HEERA and constitutional speech guarantees due to the fact that amplification is often required to reach the back of large crowds, yet UCLAH concedes in section A(1) that sidewalks in front of RRUMC and SMH are appropriate places for demonstrations. Bans on amplified sound have repeatedly been overturned by courts.⁴

² See, e.g., *Prisoners Union v. Dept. of Corrections* (1982) 135 CA3d 930 (striking down ban on handbilling in parking lot, despite heightened security concerns involved with prisons); *Klein v. City of San Clemente*, 584 F.3d 1196, 1208 (9th Cir. 2009)(striking down ban on windshield leafletting). Accord, *Krantz v. City of Fort Smith*, 160 F.3d 1214, 1222 (8th Cir. 1998); *Horina v. Granite City*, 538 F.3d 624, 638 (7th Cir. 2008).

³ See, e.g., *ACLU v. City of Las Vegas*, 466 F.3d 784, 799 (9th Cir. 2006)("We hold that the erection of tables in a public forum is expressive activity protected by our Constitution to the extent that the tables facilitate the dissemination of First Amendment speech.").

⁴ See, e.g., *Cuviello v. City of Vallejo*, 944 F.3d 816, 825 (9th Cir. 2019)("The United States Constitution and California Constitution protect bullhorns, and other sound-amplifying devices, as 'indispensable instruments' of public speech. *Saia v. People of State of New York*, 334 U.S. 558, 561, 68 S. Ct. 1148, 92 L. Ed. 1574 (1948); *Wollam v. City of Palm Springs*, 59 Cal. 2d 276, 29 Cal. Rptr. 1, 379 P.2d 481, 485 (Cal. 1963). In a crowded park or bustling intersection, where a single voice is easily drowned out, volume enables speech. See *Wollam*, 379 P.2d at 486. A restriction on volume, then, can effectively function as a restriction on speech. *Saia*, 334 U.S. at 561-62; *Wollam*, 379 P.2d at 486 ('The right of free speech necessarily embodies the means used for its dissemination because the right is worthless in the absence of a meaningful method of its expression.'")

Also, drums are needed to lead chants and have been found constitutionally-protected.⁵ If UCLAH promulgated these restrictions out of concern for potential disturbance of sleeping patients, such concerns can be addressed with a much narrower restriction than this one.

IV(A)(10)(Ban on Sound Amplification Inside Any UCLAH building): This revision is unacceptable to us because sound amplification is often required when meeting in a large meeting room for attendees to be able to hear each other (as the statewide negotiating committees discovered during their recent sessions inside a UCSF meeting room). A ban on any amplification anywhere inside a UCLAH building, even when the room's doors are closed and such amplification does not disturb anything else going on in the building, is overbroad, unreasonable, and violates HEERA. Can UCLAH point to any particular events using amplified sound indoors which give rise to its proposal?

V(A) (Signs on Easels/Chalk): As written, this prohibition can be construed to ban us while using a meeting room from having a poster on an easel at the front of the room on which we write down ideas suggested by the attendees, which is obviously a common practice in meetings and thus HEERA-protected. We have also seen UC hallways contain directional signs to a meeting left on easels to serve as a guide to those unfamiliar with the layout of the building. What perhaps UCLAH actually intended was to limit this restriction to posters left on easels unattended in hallways but not in connection with a meeting?

As for chalk, UPTe has conducted many meetings in classrooms with chalkboards and used them in connection with its meeting to convey important information. The Guideline is so broadly written as to appear to ban this use of chalk and therefore requires narrowing. Does UCLAH intend for the ban on chalk to include sidewalks outside UCLAH facilities? If so, this would violate HEERA and constitutional free speech guarantees, according to many legal scholars.⁶

⁵ See, e.g., *U.S. v. Doe*, 968 F.2d 86, 87 (D.C. Cir. 1982) (“There can be no question that beating a drum in the context of a clearly identified anti-war demonstration is expressive conduct protected by the First Amendment. See, e.g., *Ward v. Rock Against Racism*, 491 U.S. 781, 790, 105 L. Ed. 2d 661, 109 S. Ct. 2746 (1989)”).

⁶ See, e.g., Prof. Marie A. Failing, “Talking Chalk: Defacing the First Amendment in the Public Forum”, 115 *W. Va. L. Rev.* (2012)(available at: <https://researchrepository.wvu.edu/wvlr/vol115/iss2/8>); F. LoMonte & P. Fiku, “Watch Where You Chalk, ‘Cause the Sidewalks Talk: The First Amendment and Ephemeral ‘Occupations’ of Public Property”, 47 *Vt. L. Rev.* (2023)(available at <https://brechner.org/wp-content/uploads/2023/11/Watch-Where-You-Chalk-Cause-the-Sidewalks-Talk-The-First-Amendment-and-Ephemeral-Occupations-of-Public-Property.pdf>). If it is your intent that your Guideline ban chalking of sidewalks, please supply us a copy of any UC policies or guidelines similarly restricting non-labor speakers. See, e.g., *Ballentine v. Tucker*, 28 F.4th 54 (9th Cir. 2022)(holding First Amendment violated by selectivity in prosecution of chalking). Because UPTe is able and willing to clean up after any sidewalk chalking it does, there is no rationale for a chalking ban by UC here which would pass constitutional muster.

CONCLUSION

UCLAH's promulgation of new speech restrictions and re-promulgation of questionable existing guidelines is causing UPTE to reconsider many of its plans for protesting UCLAH's unfair practices in the near future. This chilling effect is an irreparable harm warranting preliminary injunctive relief from the courts.⁷ Accordingly, we request you assure us that UCLAH will not seek to enforce the provisions challenged above while we are bargaining over these issues, nor without at least 30 days' prior notice that they will be enforced.

Thank you for your prompt attention to our proposals and requests for information. We are available to bargain these issues at your earliest convenience, and propose to do so via zoom anytime Aug. 14th through 21st, preferably Aug. 19th.

cc: Aaron Rosenfield

⁷ See, e.g., *Ketchens v. Reiner*, 194 CA3d 470, 480 (1987) ("The question is not a close one. 'The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.' (*Elrod v. Burns* (1976) 427 U.S. 347, 373"). UCLAH should take the constitutional defects in its Guidelines seriously because if UPTE is forced to sue and prevails on any issue, both the Federal Civil Rights Act (42 USC 1988) and the state private attorney general statute (CCP 1021.5) will almost certainly compel UC to pay attorneys fees to UPTE at market rates for civil litigators. See, e.g., *Press v. Lucky Stores*, 34 C.3d 311 (1983) (1021.5 fees awarded for litigating right to distribute petitions); *ILWU v. LAXT*, 64 CA4th 287, 302-3 (1999) (statutory fee awards to union counsel are at market rates for private civil litigators even though higher than actual rates paid to union's lawyer); *Sokolow v. County of San Mateo*, 213 CA3d 231, 245 (1989) ("Section 1988 requires a strong showing of special circumstances to justify denying an award of attorney fees to the prevailing party in a section 1983 claim. [Citation.] . . . [G]ood faith is not a special circumstance justifying denial of attorney fees under section 1988. [Citation.]"); *Dem. Party of Wash. State v. Reed*, 388 F.3d 1281 (plaintiff's ability to pay and uniqueness of claims no defense to fee award under section 1988).

Exhibit F(4)



Human Resources
10920 Wilshire Blvd.
Suite 400
Los Angeles, CA 90095

Andy Kahn
UPTE

July 29, 2024
Sent via e-mail.

Re: RFI No. MC-RFI 24-11 UPTE (Access Guidelines)

Dear Mr. Khan:

This letter acknowledges the filing of the above-referenced request for information received on July 17, 2024.

Our office will be in contact if there is any clarification needed about the information being requested.

If you have any questions, or wish to discuss this matter, please contact Maurice McGlothern, Labor Relations Manager at (424) 832-6829 or via email at mmcglothern@mednet.ucla.edu.

Sincerely,

A handwritten signature in black ink that reads "Nohemi R. Salazar".

Nohemi Rosales-Salazar
Labor Relations Specialist

Enclosure

cc: Maurice McGlothern, Labor Relations Manager

Exhibit F(5)

RESETTING UC'S PRIORITIES

**UP
TE**
CWA 9119

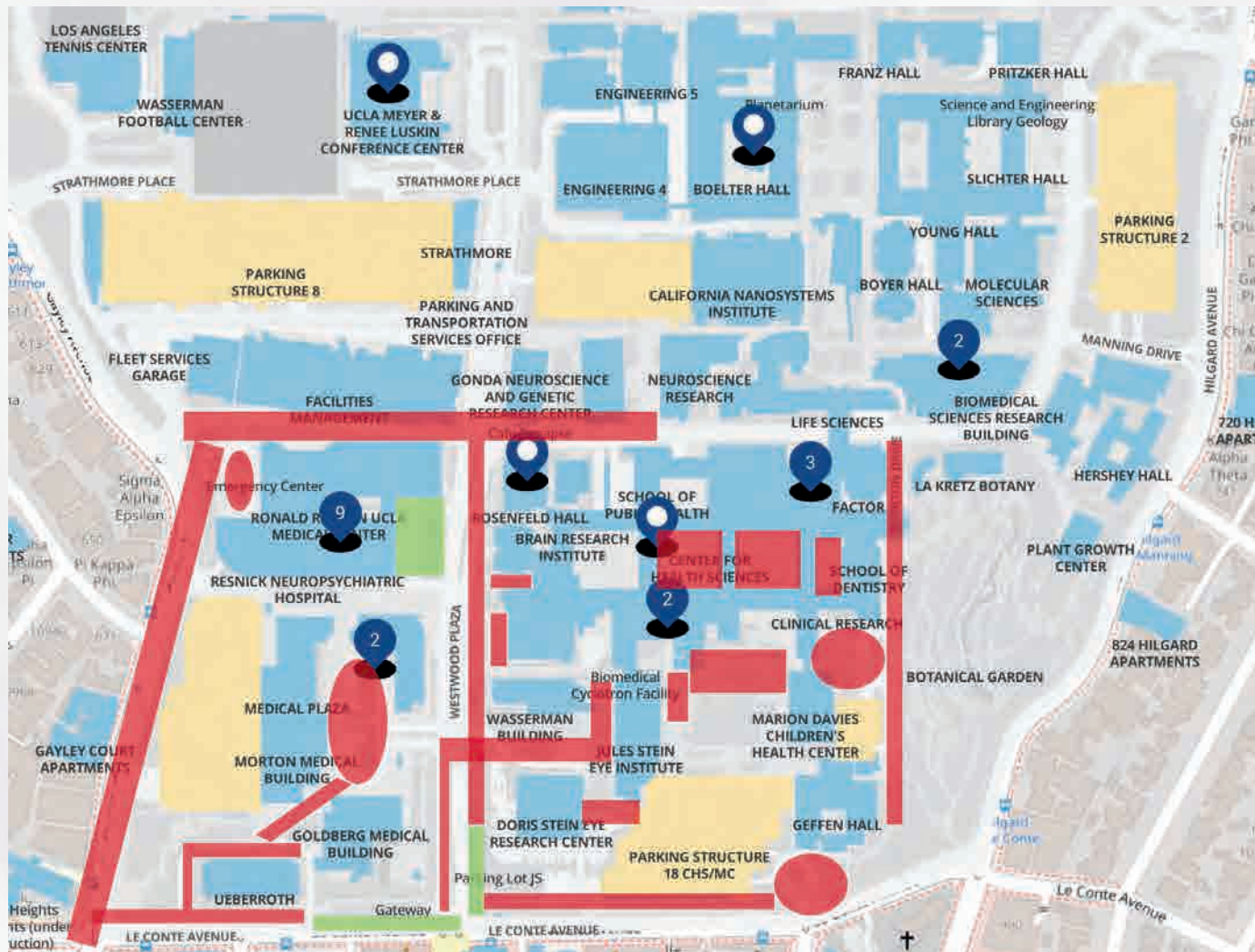


Exhibit G(1)



Andy Kahn <andy@upte.org>

Re: Updated UCLA Time, Place and Manner (TPM) Policies Now in Effect

Andy Kahn <andy@upte.org>

Wed, Sep 4, 2024 at 10:20 PM

To: Aaron Rosenfield <aosenfield@upte.org>

Cc: Flora Lloyd <flora@upte.org>, Paul Waters-Smith <pwaters.smith@upte-cwa.org>

On Wed, Sep 4, 2024 at 6:01 PM Aaron Rosenfield <aosenfield@upte.org> wrote:

Begin forwarded message:

From: UCLA CHR LABOR RELATIONS <labor.relations@chr.ucla.edu>

Date: September 4, 2024 at 5:40:06 PM PDT

Cc: UCLA CHR LABOR RELATIONS <labor.relations@chr.ucla.edu>

Subject: Updated Interim Time, Place and Manner (TPM) Policies Now in Effect

Dear Union Representative:

Pursuant to SB 108, the University is required to provide the legislature and its campus communities with notifications that describe its strategies and efforts to protect safety and access to educational opportunities and campus space and buildings. A report detailing these strategies and efforts is due to the legislature by October 1, 2024. In compliance with the law, UCLA is providing notice to its stakeholders of these strategies and efforts, which include the changes to the university's rules described above. These safety and educational opportunity access rule updates will continue to ensure union access to UC facilities consistent with the requirements of HEERA. That said, please let me know if you would like to meet to

and confer regarding any negotiable impacts to union access.

Given the timelines set forth in SB 108, these safety and educational rule updates are being implemented effective immediately. Please note the 60 calendar day comment period.

Anthony Solana, Jr.

Director

UCLA Employee & Labor Relations

asolana@chr.ucla.edu



From: Administrative Vice Chancellor Michael J. Beck and Vice Chancellor for Student Affairs Monroe Gorden, Jr. <AdminVC@bp.e.ucla.edu>

Sent: Wednesday, September 4, 2024 10:01 AM

To: Solana, Anthony <asolana@chr.ucla.edu>

Subject: Updated Interim Time, Place and Manner (TPM) Policies Now in Effect

You may provide feedback through Nov. 4, 2024.



Office of the Administrative Vice Chancellor

Office of the Vice Chancellor for Student Affairs

Key takeaways:

- We have revised long-standing policies around public expression activities, events and use of UCLA properties
- Updates aligned with mandatory directives issued by the UC Office of the President
- The revised interim policies are effective immediately and open to 60-day public comment beginning today through November 4, 2024
- Policies apply to all members of the Bruin community and visitors; non-compliance may lead to penalties or discipline
- Important reminders for Public Expression Activities

12/18/24, 2:11 PM



upte.org Mail - Re: Updated UCLA Time, Place and Manner (TPM) Policies Now in Effect



Dear Bruin Community:

As we approach another academic year, we want to provide an update on the comprehensive overhaul of **UCLA's Time, Place and Manner (TPM) policies**. These policies govern certain uses of UCLA property, including supporting our community in hosting events on campus and defining when, where and how Bruins and visitors can exercise their First Amendment rights on campus.

Representatives from the Offices of the Administrative Vice Chancellor; Student Affairs; Campus Safety; Equity, Diversity and Inclusion; ASUCLA; Legal Affairs; and Administrative Policies and Compliance, along with faculty, staff and student stakeholders across campus, have reviewed, discussed and revised longstanding policies around public expression activities, events and use of UCLA properties.

The mandatory directives issued by the UC Office of the President this summer have been incorporated into these policy updates.

These efforts have culminated in the development of a revised series of TPM policies, effective immediately, which include the following:

1. [UCLA Policy 850: General Use of UCLA Property](#)
2. [UCLA Policy 852: Public Expression Activities](#)
3. [UCLA Policy 860: Organized Events](#)
4. [UCLA Policy 862: Major Events](#)

These policies are in effect now on an interim basis to provide direction to the UCLA community until the final policies are approved through the continuing formal review process, in accordance with [UCLA Policy 100](#). We will obtain additional feedback from the campus community through a 60-day public review process beginning today, September 4, 2024, through November 4, 2024. To provide feedback, visit the [Administrative Policies & Procedures website](#).

To align with the university's mission of teaching, research and public service, and together with [UCLA's Principles of Community](#) and [True Bruin Values](#), the revised TPM policies aim to uphold [UCLA's commitment to freedom of expression](#), while prioritizing the safety, respect and well-being of our community as well as fulfilling the academic mission and maintaining other general campus operations and university functions. In line with our obligations under the First Amendment, these policies will apply regardless of the viewpoints expressed.

1. UCLA Policy 850: General Use of UCLA Property

This policy covers various provisions of the [University of California Policies Applying to Campus Activities, Organizations, and Students](#) and outlines the general use of university property.

Key changes include:

1. New definition of “grounds generally open to the public” is now “ [Areas for Public Expression](#).”
Such areas will include the following **outdoor locations**:
 - i. Meyerhoff Park;
 - ii. Southeast corner of Dickson Court South;
 - iii. Bruin Plaza between Pauley Pavilion and Meyerhoff Park;
 - iv. Plaza between Pauley Pavilion and James West Alumni Center;
 - v. East Bruin Walk between the Student Activities Center, Ackerman and north tip of Gateway Plaza;
 - vi. West outdoor entrance area of Murphy Hall; and
 - vii. Lawns and walkways between Meyerhoff Park, Student Activities Center, Janss Steps and east side of Powell Library.
2. Tents, campsites or other temporary housing or other structures are not permitted on UCLA property unless they are specifically pre-approved and permitted by the UCLA Events Office and in line with campus policies.
3. Distribution of commercial literature will require prior written agreement.
4. Event Food Permits
 - i. Campus affiliates and non-affiliates are eligible for up to four public event food permits per academic year.
5. Added definition of amplified sound and associated permissions that will be required for use of amplified sound.

2. UCLA Policy 852: Public Expression Activities

This policy was formulated to provide reasonable access for open association, discussion and debate, while at the same time providing for the safe and orderly operation of the campus. “Public Expression Activities” include leaf-letting, marches, picketing, protesting, speech-making, demonstration, petition

circulation, distribution and sale of non-commercial literature incidental to these activities and similar speech-related activities.

The designated Areas for Public Expression (as noted above) on campus may be used regardless of affiliation with UCLA and without prior scheduling on a first-come basis, provided there are no scheduled organized/major events in that area.

Public Expression Activities, as defined in Policy 852, outside the designated areas are permitted in accordance with UCLA Policy 860: Organized Events and UCLA Policy 862: Major Events, and consistent with [UCLA Policy 850: General Use of UCLA Property](#).

3. UCLA Policy 860: Organized Events

This policy defines the scope, details and conditions under which university and non-affiliate individuals and groups may use UCLA property for organized events.

Key changes include:

1. Defined "Organized Event."
2. Requests for Organized Events are to be submitted via the [Events Online \(EOL\) notification and registration system](#) at least 10 days prior to the planned event. Completion of submission does not guarantee approval.
3. Added procedures by category of Event Requestor (i.e., Registered Campus Organization, University unit, or non-affiliate).
4. Amplified sound requires prior approval if used outside designated locations/hours specified in Policy 850.
5. Clarified that all event organizers are required to pay event production costs and Audience Management Fees (defined as basic fees, including, but not limited to, equipment rentals, services and staffing costs, including UCLA PD protection services, associated with audience safety for a Major or Organized Event).

4. UCLA Policy 862: Major Events

The policy defines the scope, details and conditions under which university and non-affiliate individuals and groups may use UCLA property for major events.

Key changes include:

1. Revised definitions of “Major Event,” “Safety and Security Criteria” and “Interference Criteria.”
2. Policy will now also apply to major events sponsored by university units, and not be limited to those by non-affiliates.
3. Major Events to be submitted via the [Events Online \(EOL\) notification and registration system](#) at least 15 days prior to the planned event. Completion of submission does not guarantee approval.
4. Added a matrix (attachment B) for who can determine an event as a major event and who can ultimately approve a major event.
5. Added the “rules of engagement” as an attachment as a requirement for all event organizers.
6. Clarified that all event organizers are required to pay event production costs and Audience Management Fees (defined as basic fees, including, but not limited to, equipment rentals, services, and staffing costs, including UCLA PD protection services, associated with audience safety for a Major or Organized Event).
7. Security costs associated with a demonstration to be paid by the University within stated restrictions. Once caps are reached, no new major event is to be scheduled for the rest of the academic year except those already scheduled and approved.

Summary of Important Reminders for Public Expression Activities Governed by These Policies

Time:

- Between midnight and 6:00 a.m., UCLA's paved walkways and lawns, including Areas for Public Expression, are closed to all activities, except traveling to/from buildings, crossing campus, or participating in Official University Functions, Organized or Major Events as defined in [UCLA Policy 850](#).

Place:

- Use the designated [Areas for Public Expression](#), consistent with [UCLA Policy 852](#).

Note: Public expression activities are permitted in other spaces, in accordance with [UCLA Policy 860: Organized Events](#) or [UCLA Policy 862: Major Events](#), and consistent with [UCLA Policy 850: General Use of UCLA Property](#).

Manner:

DOs:

- Do remain peaceful and respectful. Follow university and UCLA policies and the law.
- Do express yourself (for example: chant, sing, use your voice) in a manner that is not disruptive to those who are learning, teaching, working or involved in university operations, and in a manner that does not drown out a speaker associated with an approved organized/major event.
- Do follow guidelines and timeframes for amplified sound in each Area for Public Expression.
- Do start the process to request to use a location/venue for your event outside designated Areas for Public Expression.
- Do carry your poster, sign, banner, flag or display by hand and don't attach it to University property (exterior, and interior except in approved areas).
- Do familiarize yourself with the policies on the sizes, materials and restrictions of posters, signs, banners, flags and other similar displays and follow them.
- Do identify yourself when asked by Designated University Officials who present their credentials (e.g. Bruin ID) and are implementing campus policies or state regulations.

DON'Ts:

- Don't disrupt classes, workplaces, events or other university activities.
- Don't restrict access to any university facility or space, or block pedestrian or vehicular access to streets, walkways, buildings, parking structures or fire lanes.
- Don't damage or mark UCLA property, including projection of unauthorized visual displays, chalking, graffiti or other vandalism.
- Don't bring unauthorized items such as temporary installations and/or physical structures on UCLA property during demonstrations or related activities.
- Don't set up tents, campsites or other temporary housing or other structures on UCLA property unless they are specifically pre-approved and permitted by the UCLA Events Office and in line with



campus policies.



- Don't use amplified sound when marching outside Designated Areas for Public Expression.
- Don't conceal your identity with the aim of intimidating any person or group or to evade recognition or identification with the intent to violate university or UCLA policies or laws.

Please refer to this [Summary of Important Reminders for Public Expression Activities](#) as a quick reference.

These policies apply to all community members, including faculty, staff, students, student groups and labor unions, as well as to non-affiliates as specified. Designated university officials will actively and consistently enforce rules and requirements pertaining to events, public expression activities and other general use of UCLA properties subject to these policies. Non-compliance may result in legal penalties; if the person is a student or employee, that person may also be subject to discipline in accordance with university and UCLA policies and any relevant collective bargaining agreements. **Any individual or registered campus organization planning a public expression activity or campus event must review these policies and become familiar with their requirements in advance.**

For questions pertaining to these policies or the policy review process, please contact Anna Joyce, director of administrative policies and strategic initiatives, at AJoyce@compliance.ucla.edu. For all other inquiries, please contact AdminVC@ucla.edu.

Thank you for your continued commitment to fostering a vibrant and respectful campus community. Together, we can ensure that UCLA remains a place where diverse voices are both valued and protected in a safe and orderly fashion.

Sincerely,

Michael J. Beck

Administrative Vice Chancellor

Monroe Gorden Jr.

Vice Chancellor for Student Affairs



UCLA

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Los Angeles, CA 90024-6971

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This email was sent to asolana@chr.ucla.edu via BruinPost. To contact the sender, please reply to this email or send an email to AdminVC@ucla.edu.

Exhibit G(2)



UCLA Interim Policy 850: General Use of UCLA Property

Issuing Officer: Administrative Vice Chancellor

Responsible Department: Administrative Vice Chancellor's Office

Effective Date: September 4, 2024

Supersedes: UCLA Regulations on Activities, Registered Campus Organizations, and Use of Properties, dated 9/25/2017

- I. PURPOSE & SCOPE**
- II. DEFINITIONS**
- III. POLICY STATEMENT**
- IV. GENERAL USES OF UCLA PROPERTY**
- V. ADMINISTRATIVE EXCLUSION FROM UNIVERSITY PROPERTY**
- VI. EXCLUSION FROM UCLA PROPERTY DURING A STATE OF EMERGENCY**
- VII. REFERENCES**
- VIII. ATTACHMENTS**

I. PURPOSE & SCOPE

This Policy and related policies and procedures (“Use Policies”) implement various provisions of the University of California Policies Applying to Campus Activities, Organizations, and Students (“University Policies”) issued by the President of the University of California. These Use Policies govern the use of UCLA Property.

This Policy and the following Use Policies authorize certain uses of UCLA Property and establish procedures for such uses:

1. [UCLA Policy 852: Public Expression Activities](#)
2. [UCLA Policy 860: Organized Events](#)
3. [UCLA Policy 862: Major Events](#)

In addition to this Policy and related Use Policies, Non-Affiliates must comply with The Regents of the University of California’s Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California (“Regulations”), see Section VII. References. For sections in the Regulations that require prior approval by a Designated University Official that is not designated in this Policy, contact the UCLA Events Office.

Individuals on UCLA Property or in attendance at an Official University Function or Organized/Major Event, assume an obligation to conduct themselves in a manner compatible with the University’s responsibilities as an educational institution. This means that all persons are responsible for complying with applicable University and UCLA policies. The Use Policies are designed to protect and promote the rights of members of the University, prevent interference with UCLA functions or activities, and assure compliance with all pertinent laws and other applicable University Policies.

II. DEFINITIONS

For purposes of this Policy:

See Attachment A.

III. POLICY STATEMENT

For the benefit of all individuals on UCLA Property, Students, Employees, and Non-Affiliates are expected to conduct themselves in a manner conducive to the achievement of UCLA's mission of teaching, research, and public service and in accordance with this Policy, related Use Policies and any other relevant University and UCLA policies. Violation of University or UCLA policies may subject a person to legal penalties; if the person is a Student or Employee, that person may also be subject to discipline in accordance with University and UCLA policies and any relevant collective bargaining agreements.

The University derives its basic authority from the State of California Constitution, Article I, Section 9. All pertinent federal, State, and local laws and University and UCLA policies are in force on UCLA Property and policies may be enforced by Designated University Officials and laws may be enforced by off-campus agencies.

IV. GENERAL USE OF UCLA PROPERTY

A. Prohibited Uses/Conduct on UCLA Property

Individuals on UCLA Property may *not*:

1. block entrances to or otherwise interfere with the free flow of campus traffic (pedestrian or vehicular) into and out of campus facilities, or along walkways or roadways;
2. knowingly and willfully interfere with the peaceful conduct of activities or another individual's ability to participate in their educational program on UCLA Property;
3. delay or linger without lawful purpose for being on UCLA Property and for the purpose of committing a crime or violation of these policies or laws;
4. engage in the production of amplified or non-amplified sound that substantially disrupts campus activities as provided in section IV.C.7 of this Policy;
5. erect any Temporary Structure or encampment on UCLA Property, except in accordance with [UCLA Procedure 850.1](#);
6. Camp overnight (between the hours of midnight and 6am), except as part of an Official University Function, Organized or Major Event and in compliance with the rules of that official function or event;
7. engage in abusive, threatening, harassing, or intimidating conduct, as defined in [UC Policy Abusive Conduct in the Workplace](#), [UC Anti-Discrimination Policy](#), and [UC Sexual Violence and Sexual Harassment](#) Policy, toward any person
8. exhibit disorderly or lewd conduct as defined by law;
9. urinate or defecate in any place on UCLA Property other than a designated restroom or other facility designated for the sanitary disposal of human waste;
10. participate in a disturbance of the peace or unlawful assembly;
11. use, possess, sell, or manufacture narcotics or illegal drugs;
12. use, sell, advertise, promote or distribute marijuana or tobacco on UCLA Property ([see UCLA Policy 810](#) for additional restrictions and research exceptions);
13. use or possess any prohibited weapons or incendiary or destructive devices ([see UCLA Policy 131](#));
14. provide alcohol to anyone under the age of 21;
15. bring animals on campus contrary to [UCLA Policy 135](#);
16. fail to comply with the directions of a Designated University Official acting in the performance of their duties;

17. rummage through or remove any discarded item from any waste can, trash can, dumpster, recycling container, or any designated University waste or recycling center without authorization from Facilities Management;
18. engage in the damage, destruction, theft or misuse of UCLA Property or equipment;
19. conceal one's identity with the aim of intimidating any person or group, or for the purpose of evading or escaping discovery, recognition, or identification in the commission of violations of University or UCLA policies or State, municipal or federal laws;
20. disturb plants and wildlife in any way, including climbing or placing objects in trees or bushes or attaching items to them;
21. place, affix, or apply (except as provided for in this Policy and in UCLA Policy 852: Public Expression Activities) any sign, poster, banner, flag, or similar display, paint, chalk or ink messages to UCLA Property buildings and structures, including but not limited to the following: walls, windows, floors or other surfaces of UCLA Property buildings or structures, streets, walkways, utility poles, construction fences, trees or shrubbery. See section IV.C.3&5 for permitted uses; and
22. place, affix, or apply (except as provided for in this Policy and in UCLA Policy 852: Public Expression Activities) any sign, poster, banner, flag, or similar display, paint, chalk or ink messages inside UCLA Property buildings and structures where such displays are placed, attached, or affixed in a manner which makes the display clearly visible to the outside. Displays inside UCLA Property buildings and structures that are not clearly visible to the outside or otherwise permitted by University/UCLA policy may be displayed only in compliance with all applicable departmental and building policies related to attaching, displaying or affixing items to walls or other surfaces of UCLA Property. Where departments and/or buildings do not have such policies, placing, affixing or applying must be approved by the University Unit head in a viewpoint-neutral manner and consistent with this Policy and related University and UCLA policies. See section IV.C.3&5 for permitted uses.

B. Required Identification

All persons on UCLA Property are required, for reasonable cause, to identify themselves to, and comply with instructions of Designated University Officials acting in the performance of their duties.

C. Restricted Uses of UCLA Property

The following uses of UCLA Property are limited and/or prohibited unless prior written approval has been granted in accordance with this Policy and/or other applicable policies:

1. Time of Use

Between the hours of midnight and 6:00 a.m., paved pedestrian walkways and lawns on UCLA Property are closed to all activities except coming and going to/from a University building, crossing the campus, or as part of an Official University Function, Organized or Major Event.

2. Specific Facilities/Areas

a. University Residence

The University Residence building and grounds are intended only to be: (a) the home of the Chancellor and family; and (b) the venue for periodic special University events hosted by the Chancellor. The University Residence, while on the main UCLA campus, is not intended to be generally accessible to the University community or to the general public, except by invitation or by permission of the Residence Manager, the Chancellor, or the Associate of the Chancellor.

b. Faculty Club

The dining rooms and meeting rooms of the UCLA Faculty Center building are restricted to members of the UCLA Faculty Center Association, Inc., their guests, and invitees attending scheduled events held inside the Faculty Club building.

c. Luskin Conference Center/Inn at UCLA

The dining rooms, meeting rooms, and guest rooms of the Luskin Conference Center and the Inn at UCLA are restricted to their registered guests, invitees attending scheduled events, and restaurant patrons.

d. Facilities/Areas for Instructional and Non-Instructional Use

Not all UCLA Property is available for reservation or request for non-instructional purposes and specific facilities have been approved for academic purposes. Except in general assignment classrooms, Deans and Provosts have the right to set priorities for the scheduling of the use of their respective department facilities. Organized/Major Events in these areas may be held only in accordance with UCLA Policy 860: Organized Events or UCLA Policy 862: Major Events. When Organized/Major Events are held in these areas, they are considered “limited Public Fora.”

The Office of the Registrar is responsible for the scheduling of general classroom assignment facilities, see [UCLA Policy 870](#). Organized/Major Events in these areas may be held only in accordance with UCLA Policy 860: Organized Events or UCLA Policy 862: Major Events. When Organized/Major Events are held in these areas, they are considered “limited Public Fora.”

Priority for the use of UCLA Property will be given to University Units and Registered Campus Organizations.

e. On-Campus Housing Community

On-Campus Housing Community is governed by all applicable University and UCLA policies and will additionally be subject to specific regulations as established by Residential Life, see <https://reslife.ucla.edu/rules/on-campus-housing-regulations#d8>

f. Areas for Public Expression

Areas for Public Expression are “designated Public Fora.” These areas are made available for Public Expression Activities as outlined in UCLA Policy 852: Public Expression Activities. Areas of campus other than Areas for Public Expression are not “designated Public Fora.”

g. UCLA Health Facilities

UCLA Health is an integral part of the UCLA campus and its properties are governed by all applicable University and UCLA policies and will additionally be subject to specific regulations established by UCLA Health.

3. Posting, Displaying, and Distributing Non-Commercial Literature

Posting, displaying, or distributing any material or literature in the On-Campus Housing Community, the UCLA Health System, or Areas for Public Expression, must be in accord with this Policy, UCLA Policy 852: Public Expression Activities, and the specific regulations applicable to those areas. See ResLife Regulations: <https://reslife.ucla.edu/regulations#d8>; and UCLA Health System Policy 0318.

a. Posting and Displaying Posters, Signs, Banners, and other similar Displays

Posters, signs, banners, and other similar displays, including sign-boards (self-standing A-frames) and literature may be posted and/or displayed on UCLA Property only as provided below:

- i. In accordance with Section IV.A.21&22 above.
- ii. Individuals and groups may post literature, signs, or announcements on interior digital and interior non-digital displays operated by University Units in accordance with the University Unit’s regulations concerning such boards. Such regulations must be viewpoint neutral and applied only on a viewpoint-neutral basis. Where University Units do not have such regulations, postings must be approved by the University Unit in a viewpoint-neutral basis and consistent with this Policy and related University and UCLA policies.
- iii. To maintain a uniform standard of aesthetics for UCLA Property, the UCLA Campus

Architect must approve all outdoor and outdoor facing digital or non-digital displays not associated with an Organized/Major Event. Approval must be given or refused only on a viewpoint-neutral basis.

- iv. Instructors may post communications related to their academic programs that is not protected by the Family Educational Rights and Privacy Act (FERPA) on their own door.
- v. Individuals and groups may place posters, signs, banners, or other similar displays (including sign boards and directional event signs), or literature advertising an Organized/Major Event or Official University Function only in locations authorized by the appropriate [campus venue](#) and/or the UCLA Events Office. See UCLA Policy 860: Organized Events or UCLA Policy 862: Major Events. All items must also be promptly removed following the event.
- vi. Registered Campus Organizations (RCOs) and Authorized Student Governments may have signboards (self-standing A-frames) on UCLA Property not related to an Organized/Major Event as long as doing so complies with UCLA Procedure XXX: Signboards on UCLA Property (Add Updated Link).
- vii. University Units and Faculty Club must obtain approval from UCLA Events Office to have signboards (self-standing A-frames) on UCLA Property not related to an Organized/Major Event.
- viii. ASUCLA may post and display posters, signs, banners, (not related to an Organized/Major Event), and other similar displays in or adjacent to ASUCLA-Operated Properties in accordance with this Policy.
- ix. Authorized Student Government campaign signs may be placed along “election walk” (the area north of Bruin Walk and west of Powell library) in accordance with the respective [Authorized Student Government Election Board’s specifications](#). Candidates must remove their signs within 48 hours after their participation in the election has concluded.
- x. In accordance with [ASUCLA banner guidelines](#), RCOs, Authorized Student Governments, and University Units may request to reserve the following banner locations through ASUCLA Events Services:
 - a. the banner space that spans between the UCLA Store and the Student Activity Center at the beginning of East Bruin Walk, and
 - b. the internal facing banner space attached to the bridge on the second floor connecting Kerckhoff Hall and Ackerman Union.

Reservation requests will be approved or denied only on a viewpoint-neutral basis.

- xi. UCLA Strategic Communications controls the banner spaces along the street and walkway light poles within UCLA Property and will control the displays and messages on those spaces in its sole discretion.
 - xii. Posters, signs, banners or other similar displays, including sign-boards and literature announcing any Official University Function or Organized/Major Event must provide accurate information about the details of the function or event, including the time, location, speakers, and ticketing requirements.
 - xiii. Posters, signs, banners, or other similar displays, including sign-boards and literature advertising any Official University Function or Organized/Major Event for which a donation is requested must make clear that such a donation is not required as a condition of admission nor may a specific amount of donation be indicated.
- b. Transporting Posters, Signs, Banners, Flags, and other similar Displays
- Except as provided in this Policy and UCLA Policy 852: Public Expression Activities, all posters, signs, banners, flags, and other similar displays must be hand carried and not in any way affixed, fastened, or

attached to the premises; they may not be self-supporting and placed for display; nor leaned against any wall, partition, or other UCLA Property.

The sizes and restrictions of posters, signs, banners, flags, and other similar displays must be in accordance with the [Section 100014 of the Regulations](#) and [Los Angeles Municipal Code Section 55.07](#)

c. Distribution of Non-Commercial Literature

Non-Commercial Literature may be distributed only as provided below:

i. On Areas for Public Expression (Designated Public Fora)

Individuals may distribute Non-Commercial Literature only on Areas for Public Expression (see Policy 852: Public Expression Activities, Attachment A: Map) provided that:

- a. the free flow of pedestrian or vehicular traffic at any point is not obstructed;
- b. literature or materials are not forced upon others;
- c. literature is not placed on or in vehicles parked on UCLA Property; and
- d. all individuals will be responsible to ensure that their literature does not litter the area; and literature advertising any on-campus program for which a donation is requested must make it clear that such a donation is not required.

To use tables, booths, and other like structures and portable displays to facilitate distribution in the Areas for Public Expression, prior approval is required by the UCLA Events Office and if approved, tables or portable displays must be attended at all times by the individuals or groups sponsoring the distribution. Approval will be given on a first come, first served basis, based on the Interference Criteria and be given or refused only on a content-neutral basis and viewpoint-neutral basis.

ii. On areas of UCLA Property other than Areas for Public Expression

Areas of UCLA Property other than Areas for Public Expression are not designated Public Fora.

RCOs, Authorized Student Governments, University Units, Support Groups, and Employee Organizations may distribute Non-Commercial Literature in buildings or programs on UCLA Property that are not Areas for Public Expression only in accordance with the following provisions:

- a. compliance with the restrictions stated in Section IV.C.3 of this Policy; and
- b. literature may be distributed in rooms or areas reserved for meetings or programs only by the RCO, Authorized Student Government, University Unit, Support Group, or Employee Organization that has reserved the room or area.

The Event Organizer of an Organized/Major Event may distribute literature at their event as approved by the appropriate campus venue and/or the UCLA Events Office or SOLE.

Except as provided in this Policy, no individual may distribute literature in buildings on UCLA Property.

4. Commercial Activities

The campus prohibits non-University commercial activities on campus except by special arrangement by a formal written agreement with the appropriate Designated University Official. In order to determine the appropriate Designated University Official, contact one of the following:

- a. SOLE for activities organized by an RCO and Authorized Student Government;
- b. UCLA Events Office for non-RCO and non-Authorized Student Government organized activities; and
- c. Residential Life for activities in On Campus Housing Community.

The fact that an individual may be paid to circulate petitions or distribute literature does not by itself make the circulation or distribution a commercial activity.

Marketing of credit cards must comply with the *UC Policy and Supplemental Guidelines on the Marketing of Credit Cards to Students* (see <https://policy.ucop.edu/doc/2710541/PACAOS-Appendix-D>).

5. Posting, Displaying, or Distributing Commercial Literature or Products

Commercial literature or products may be distributed on UCLA Property only after prior authorization by a formal written agreement with the appropriate Designated University Official. In order to determine the appropriate Designated University Official, contact one of the following:

- a. SOLE for activities organized by RCO's and Authorized Student Governments;
- b. UCLA Events Office for activities organized by non-RCO's and non-Authorized Student Governments;
- c. ASUCLA for commercial literature or products distributed on ASUCLA-Operated Property; and
- d. Residential Life for activities on On-Campus Housing Community.

RCOs, Authorized Student Governments, University Units, Employee Organizations, and Support Groups may, however, distribute material incidental to their purposes at their own meetings and programs.

6. Food and Drink

Food, drinks, and other ingestible items may be sold or distributed on UCLA Property (whether inside or outside an Area of Public Expression) only in accordance with the following provisions:

a. Public Events

For Public Food Events, food, drinks, and other ingestible items may not be sold or distributed on UCLA Property, unless the following conditions are met:

- i. Authorized by the appropriate Designated University Official, the UCLA Events Office for non-RCO and non-Authorized Student Government organized activities, SOLE for activities organized by an RCO and Authorized Student Government, and Residential Life for events on On-Campus Housing Community; and
- ii. Obtain a temporary food permit, in accordance with EH&S' *Guidelines for Food Safety at Temporary Events*, that is required to sell or give away food or drink on campus, unless one of the following exemptions applies:
 - (a) all aspects of food service are handled by a caterer (see Caterers below); or
 - (b) the event is limited to a Private Food Event.

In accordance with the conditions above, RCOs, Authorized Student Governments, University Units and Non-Affiliates will be allowed up to four (4) approved days per academic year for Public Food Events.

b. Private Food Events

For casual gatherings or events with food at Private Food Events, (i.e., providing refreshments for meetings or department potlucks) a temporary food permit is not required, see EH&S' *Guidelines for Food Safety at Temporary Events*.

Private Events must comply with the campus venue policies.

c. Caterers

Caterers must have valid health permits. Prior approval is required from ASUCLA Catering in order to utilize caterers other than ASUCLA Catering to distribute food or drink inside ASUCLA-Operated Properties. Prior approval is required from Housing & Hospitality Services (HHS) and/or the Office of Residential Life (ORL) in order to utilize caterers other than UCLA Catering to distribute food or drink inside HHS/ORL managed facilities. Other campus venue locations may have additional restrictions related to food and drink services.

d. Alcoholic Beverages

No person may drink or consume any alcoholic beverage, or possess an alcoholic beverage outdoors, in an open container on UCLA Property, except as an invited guest at an approved Organized/Major Event, Official University Function, or within the boundaries of a permitted restaurant.

No person under the age of 21 may drink or consume any alcoholic beverage, or possess an alcoholic beverage in an open container on UCLA Property.

Consumption of alcoholic beverages at an Official University Function or Organized/Major Event are also subject to the terms of the *UCLA Alcohol Policy*. Add Link

Possession, consumption, or distribution of alcoholic beverages within or on grounds immediately adjacent to the On Campus Housing Community are subject to the terms of the UCLA On Campus Housing Student Handbook.

(see: <https://reslife.ucla.edu/rules/on-campus-housing-regulations>)

7. Amplified and Non-Amplified Sound

a. Approval to use Amplified Sound

In order to avoid noise that substantially disrupts campus activities or operations, to use amplified sound on UCLA Property, prior approval is required by one of the following:

- i. SOLE, for activities organized by RCO's and Authorized Student Governments;
- ii. UCLA Events Office, for activities not organized by an RCO or an Authorized Student Government;
- iii. Residential Life for activities on On Campus Housing Community; and/or
- iv. Campus Venue Manager for activities in areas under their control.

See UCLA Policy 852: Areas for Public Expression for permitted use of amplified sound on the Areas for Public Expression.

Approval will be based on the Interference Criteria and given or refused only on a content-neutral basis and viewpoint-neutral basis.

b. Amplified and Non-Amplified Devices

Hand-held or portable amplification (examples include but are not limited to: bullhorns, portable amplifiers, portable speakers, etc.) are considered sound amplification devices under this Policy and all amplified sound is subject to the sound level limitations outlined in this Policy.

Non-amplified actions such as but not limited to drums and manual noise makers are considered amplified sound under this Policy and is subject to the sound level limitations outlined in this Policy.

c. Sound Levels

It is the responsibility of the approved user (individual or group) of the amplified and non-amplified sound not to exceed 85 decibels (pursuant to the [California Code of Regulations, Title 8, Section 5097](#)), 25 feet from the amplified or non-amplified sound source or otherwise substantially disrupt campus operations.

This section does not apply to certain approved outdoor Official University Functions or Organized/Major Events, for example but not limited to concerts, festivals, or Division of Intercollegiate Athletics activities and University sponsored and approved activities including but not limited to the marching band, that may go over 85 decibels. The UCLA Events Office will monitor complaints from these events/activities and recommend appropriate adjustments.

8. Marching Associated with a Public Expression Activity

Marching on UCLA Property associated with a Public Expression Activity may occur throughout outdoor hardscape spaces on UCLA Property not otherwise reserved for other activities, and in accordance with this Policy, UCLA Use Policies, and University policies. Amplified sound is not permitted during the marches and the marches must be constantly moving. Gathering locations are permitted in the Areas for Public Expression in accordance with UCLA Policy 852: Public Expression Activities and gathering locations outside these areas are permitted in accordance with the UCLA Policy 860: Organized Events or UCLA Policy 862: Major Events.

9. Use of the UCLA Name, Seal, and Trademarks

The use of the UCLA Marks (collectively refers to the UCLA campus names, primary logos, seal and trademarks) that is not expressly authorized in [UCLA Policy 110](#) requires approval from the appropriate University official as outlined in UCLA Policy 110.

10. Tents, Structures, Equipment, and Encampments

Except as provided in this Policy, UCLA Policy 852: Public Expression Activities, related Use Policies and in accordance with *UCLA Procedure 850.1, Placement of Temporary Structures on the UCLA Campus* (see <http://www.adminpolicies.ucla.edu/APP/Number/850.1>), no individual will build, erect, construct, set up, place, or maintain (or attempt such) in or upon UCLA Property, any campsite, tent or other Temporary Structure, platform, booth, bench, table, building, sound system, or other structure or display.

11. Fires and Flammable Material

Campfires, portable stoves, Open Fires and other fires are prohibited on UCLA Property without written permission from the campus Fire Marshal. Any torches, flammable outdoor displays, or Open Fires must be approved by the campus Fire Marshal and Chief of Police.

V. ADMINISTRATIVE EXCLUSION FROM UCLA PROPERTY

The California Legislature has codified certain aspects of [Regents Bylaw 31](#), which provides Chancellors delegated responsibility for the internal administration, operation, and discipline of their campuses. This authority includes the authority to order individuals to leave campus for specified conduct pursuant to statutory provisions, including Penal Code section 626.4 for UCLA Students and Employees (affiliates) and Penal Code sections 415.5, 626.6, and 626.7 for Non-Affiliates. Under the Penal Code, the standard for excluding a UCLA affiliate from UCLA Property is different from the standard for excluding a Non-Affiliate from UCLA Property.

When ordering exclusion of a Student or Employee under Penal Code section 626.4, UCLA will provide the individual subject to the order with written notice that identifies their due process rights. These due process rights will include the right to file a written appeal of the exclusion by sending an email to adminvc@admin.ucla.edu. Any appeal will be heard by a neutral hearing officer within seven (7) days of receipt of such appeal.

This authority under California law is in addition to University administrative measures available to address individual conduct that interferes with the operation of the campus including, but not limited to, C.C.R. §100000 ([Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California](#) ("Regulations")), the [UCLA Student Conduct Code](#), sections III.G. (exclusion from campus areas) and IV. (interim exclusion and suspension), [University Policy on Faculty Conduct and the Administration of Discipline](#), section II (suspension and involuntary leave); and Policy 62, section III.C.3., [UC Personnel Policies for Staff Members](#) (suspension and removal of employee from the workplace).

VI. EXCLUSION FROM UCLA PROPERTY DURING A STATE OF EMERGENCY

The Chancellor may declare a campus state of emergency to exist when:

- a) conditions exist on or within the vicinity of the campus which result from natural or man-made disasters, or civil disorders which pose the threat of serious injury to persons or damage to property, or other seriously disruptive events; and
- b) extraordinary measures are required immediately to avert, alleviate, or repair damage to UCLA Property or to maintain the orderly operation of the campus.

During a State of Emergency, the campus will be managed according to policies and procedures set forth in the [*UCLA Emergency Operation Plan*](#), located at

<https://ucla.app.box.com/s/gsqaiewodjbjidcoafhbtgrc74y8n44a>.

When feasible, the campus will consult with the University President before declaring a state of emergency to exist on the campus. In any event, the President must be notified as soon as possible.

During a state of emergency, the Chancellor or other officials designated by the Chancellor may exclude a Student, Employee, or any individual on UCLA Property where there is reasonable cause to believe that the individual has engaged in any of the following:

1. activity which willfully disrupts the orderly operations of the campus;
2. activity in violation of the campus emergency orders; or
3. the individual's presence on campus would lead to violation of campus emergency orders or willful disruption of the orderly operation of the campus.

Procedures to exclude, notify, and the right to a hearing will generally follow Section V of this Policy, however individuals excluded from campus during a state of emergency, will not, during the state of emergency enter specified areas of the campus or engage in specific activities, as set forth in the written notice. The notice will be sent to the excluded individuals as soon as reasonably possible. The length of exclusion will be limited to the minimum extent necessary to protect the health and safety of the individuals or property or to maintain the orderly operation of the campus. A hearing requested within fourteen (14) calendar days of the exclusion notice will be conducted as soon as reasonably possible after the state of emergency has ended.

Violation of any condition of the exclusion during the state of emergency will subject Students and Employees to disciplinary proceedings based upon such violation and in accordance with University and campus policies and procedures.

VII. REFERENCES

1. [UCLA Policy 852: Public Expression Activities](#)
2. [UCLA Policy 860: Organized Events](#)
3. [UCLA Policy 862: Major Events](#)
4. [UCLA Policy 850.1: Placement of Temporary Structure on UCLA Campus](#)
5. [Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California](#)
6. [UC PACAOS 30: Policy on Speech and Advocacy](#)
7. [UC PACAOS 40: Policy on Use of University Properties](#)
8. [California Code, Penal Code Section 415.5](#)
9. [California Code, Penal Code Section 626.4](#)
10. [California Code, Penal Code Section 626.6](#)
11. [California Code, Penal Code Section 626.7](#)
12. [UC Policy on Safeguards, Security and Emergency Management](#)

VIII. ATTACHMENTS

A. Definitions

Issuing Officer

/s/ Michael J. Beck

Administrative Vice Chancellor

Questions concerning this policy or procedure should be referred to
the Responsible Department listed at the top of this document

Attachment A: Definitions

Advance Ticketing means to either sell or take registrations for a Ticket to an event ahead of the date of the event.

Areas for Public Expression, also referred to as “grounds generally open to the public” per UC Policy, are grounds open to the public and the University community for Public Expression. See UCLA Policy 852: Public Expression Activities. Attachment A for a map of these areas. All other areas of UCLA Property are not generally open to the public.

ASUCLA, the Associated Students UCLA (ASUCLA) is a not-for-profit association comprised of, individually or collectively, the following four entities: Graduate Students Association; Undergraduate Students Association; Student Media; and Services & Enterprises.

ASUCLA-Operated Properties refers to Ackerman Union, Kerckhoff Hall, North Campus Student Center, LuValle Commons, and Court of Sciences Student Center.

Audience Management Fees refers to basic fees including but not limited to, equipment rentals, services, and staffing costs (including UCLAPD protection services) associated with audience safety for a Major or Organized Event. This does not include security costs associated with speech related demonstrations or demonstrations related to an Organized or Major Event.

Authorized Representative is any one of the three (3) individuals listed on a Registered Campus Organization’s registration form as submitted to the Student Organizations, Leadership & Engagement (SOLE) Office; an Authorized Representative agrees to act as an official contact person with the University and to assume responsibility for the planning, implementation, and outcomes of the Organization’s activities. Only UCLA Students or Employees may serve as Authorized Representatives.

Authorized Student Government refers to either or both the Graduate Students Association and/or the Undergraduate Students Association.

Campfire is a fire which is used for cooking, personal warmth, lighting, ceremonial, or aesthetic purposes, including fires contained within outdoor fireplaces, and enclosed stoves with flues or chimneys, stoves using jellied, liquid, solid or gaseous fuels, portable barbeque pits and braziers, or space heating devices which are used outside any structure, mobile home, or living accommodation mounted on a motor vehicle.

Camping refers to (i) sleeping outdoors or indoors with or without bedding, hammock, or similar device, structure, protection, or equipment; (ii) establishing or attempting to establish, temporary or permanent living quarters at any location on UCLA Property other than residence halls, apartments, or other University managed facilities specifically designated for overnight lodging; or (iii) establishing or maintaining outdoors, or in or under any structure not designated for human occupancy, a temporary or permanent place for cooking, storing of personal belongings, or sleeping by setting up any bedding, sleeping bag, mattress, tent, or other sleeping equipment, or by setting up any cooking equipment.

Campus Venue Scheduler is the UCLA department that schedules event locations within their areas of responsibility and initiates the Events Online (EOL) Application for Event Organizers.

Designated University Official is the UCLA official designated or otherwise authorized to engage in the relevant operation or function.

Emeriti is a retired UCLA Employee, either member of the faculty or staff, upon whom has been conferred formal emeriti status.

Employee is any person who is listed in the campus payroll system, regardless of the percentage of time associated with the person’s employment.

Employee Organization is an independent organization which exists for the purpose, in whole or in part, of dealing with University management concerning grievances, labor disputes, wages, hours, and other terms and conditions of employment of employees, officially recognized by UCLA and as defined by Section 3562(f) of the Higher Education Employer-Employee Relations Act (HEERA).

Event Capacity is the maximum number of people authorized by the University to attend a particular event, taking into account all relevant factors, including but not limited to the maximum capacity of the venue, any security recommendations or requirements imposed by UCLAPD/Office of Campus Safety, UCLAFD, and any equipment, furnishings, supplies, and/or decorations arranged by the Event Organizer.

Event Online (EOL) Registration is the University's official event notification and registration system required for events on University Property.

Event Organizers are individuals or groups who sponsor and/or coordinate an Organized and/or Major Event. The Event Organizer can be either an RCO, University Unit, or Non-Affiliate.

Interference Criteria refers to criteria that consist of the following: (a) the proposed location of the event, (b) the proximity of the event to other activities or locations that may interfere, obstruct, or lessen the effectiveness of the security measures being implemented (c) the estimated number of participants, (d) the time of the day the event is to take place, (e) the expected duration of the activity; (f) the activity's timing in relation to the academic calendar (for example, proposed scheduling during the first week of classes or during final examination week); (g) the expected noise level to be generated by the activity; (h) the need for and/or availability of University resources and personnel to facilitate, oversee, or control the activity; and (i) any similar viewpoint neutral considerations relevant to assessment of potential disruption to campus functions or activities, provided however that events in Areas for Public Expression will be considered both in a viewpoint and content-neutral manner.

Major Event is any planned gathering, including but not limited to celebrations, dances, lectures, forums, performances, rallies, social gatherings, concerts, speaker presentations, and conferences on UCLA Property at which one or more of the following conditions apply:

- Over 350 persons are anticipated to attend and the event is not hosted by a University Unit;
- The Chancellor or the Chancellor's designee determines based on the Safety and Security Criteria and the assessment of the UCLA Police Department (UCLAPD) that the event is likely to significantly affect campus safety and or significantly affect campus services (including kiosk guards, service roads, or parking); and/or
- The Chancellor or the Chancellor's designee determines based on the Interference Criteria that the event has a substantial likelihood of significantly interfering with other campus functions or activities.

Non-Affiliate is any person who is not a Student, officer, Official Volunteer, Employee, or emeritus of UCLA, nor a Regent of the University of California, nor a member of a household authorized to reside on UCLA Property.

Non-Commercial Literature is any printed and/or written material referring to an event, activity, or service that is not conducted for private business or personal gain. The content should promote educational, cultural, and informational programs that support the University's mission. It must not advertise or promote products, merchandise, commercial services, or ventures.

Official University Function refers to scheduled academic classes, research and activities; and normal daily operations of University Units.

Official Volunteer refers to any person who is: (i) listed as an officer of the UCLA Alumni Association, including its committees or related clubs; (ii) listed as an officer of a formally recognized UCLA Support Group; or (iii) formally registered through UCLA Campus Human Resources and authorized to provide volunteer services on behalf of the University in campus facilities.

On- Campus Housing Community refers to UCLA Residence Halls related areas located on the main UCLA Westwood campus, known as "The Hill."

Open Fire is any fire, controlled or uncontrolled, including a Campfire, burning outside of any structure, mobile home, or living accommodation mounted on a motor vehicle.

Organized Event is any planned gathering, including but not limited to celebrations, dances, lectures, forums, performances, rallies, social gatherings, concerts, speaker presentations, conferences, and programs or activities by University Units in the course of fulfilling their University mission, and Registered Campus Organizations and Non-Affiliates with contracts with the University.

Public Expression Activities means leaf-letting, marches, picketing, protesting, speech-making, demonstration, petition circulation, distribution and sale of non-commercial literature incidental to these activities, and similar speech related activities.

Public Food Event refers to a giveaway or sale of food in a public area, examples include but not limited to, Bruin Plaza, Bruin Walk, Court of Sciences, Student Activity Lounge, or CHS Courtyard, where the consumers of the food are not registered or tracked, and the organizers are not licensed food handlers.

Private Food Event refers to a meeting, banquet, social, or potluck style gathering where food is provided to invited, registered, ticketed guests only. This includes refreshments provided for a lecture, panel or reception as well as any event that is professionally catered by licensed food handlers.

Regents, also referred to as the Regents of the University of California, is a twenty-six (26) member board, established under Article IX, Section 9 of the California Constitution to govern the affairs of the University and its various campuses and allied entities.

Registered Campus Organization refers to organizations whose membership is predominately comprised of UCLA Students and/or Employees that obtain recognition as a Registered Campus Organization by registering through SOLE and complying with the requirements and procedures in UCLA Policy XXX.

Safety and Security Criteria refers to criteria that consist of the following: (a) nature of the event, that includes: (i) the estimated number of participants, (ii) whether alcohol is intended to be served, (iii) the estimated duration of the event, and (iv) any objective and credible evidence regarding possible threats to campus safety or security; (b) the proximity of the event to other activities or locations that may interfere, obstruct, or lessen the effectiveness of the security measures being implemented; (c) the resources needed to secure the event; (d) the anticipated weather conditions; and (e) any similar viewpoint neutral considerations relevant to assessment of campus safety, security, and services, provided however that events in Areas for Public Expression will be considered both in a viewpoint and content-neutral manner.

Security Assessment Meeting is a meeting between the Event Organizer and UCLAPD, UCLAFD, and/or SOLE Advisor for RCO events or Events Office for non-RCO Events, and Campus Venue Scheduler, as well as any other necessary participants, to discuss security concerns and determinations for the Major Event and options for addressing security needs, such a meeting is required if UCLAPD determines that the Major Event has substantial security needs.

Senior Administrator is any Employee holding the title of Director or above, including, but not limited to the following: Chancellor, Vice Chancellors, Provosts, Vice Provosts, Deans, Associate or Assistant Vice Chancellors or Vice Provosts, Associate Deans, Assistant Deans, Department Chairs, Division Chiefs, Chief Executive Officers, Executive Directors, and Directors.

Student as defined by the [Student Code of Conduct](#).

The term Student does not include individuals registered with a program of UCLA Extension or individuals registered through UCLA Extension in a concurrent enrollment program.

Support Group is any group, organization, foundation, or association other than a campus alumni association or campus foundation: (i) whose primary purpose is to provide assistance through fundraising, public outreach, and other activities in support of the University's mission; or (ii) whose representatives or activities make the entity indistinguishable from the University itself; or (iii) that acts as an agent of or intermediary for the University.

Such groups are governed by the University of California Policy on Support Groups, campus Foundations, and Alumni Associations and the University Of California Administrative Guidelines For

Support Groups, as well as by this policy.

(See www.ucop.edu/ucophome/coordrev/policy/2-12-04support-guidelines.html.)

Temporary Structure refers to tents, trailers/modular buildings, sculptured objects, or similar assemblages. Temporary Structures include trailers or modular buildings approved by UCLA Fire Department that may be erected for longer periods of time to accommodate University Units or for construction project site services.

Ticket is any type of evidence of an attendee's right of entry to a venue which can be verified. A ticket includes but is not limited to a paper or electronic ticket with a barcode that is scanned to permit entry, a wristband that is issued based on a list of attendees, a list of eligible attendees where ID is verified against the list to permit entry.

University Guarantor is a University Unit that bears financial, legal and procedural responsibility for all University costs and commitments related to an Organized or Major Event, including the responsibility for all costs owed to the University that an Event Organizer is required to pay but fails to pay and for all contractual obligations to the University that an Event Organizer is required to satisfy but does not. For Major Events, a University Guarantor is also responsible to certify in writing that it approves the Major Event Security Assessment Form and will send a representative to the Security Assessment Meeting.

UCLA Property means UCLA main Westwood and South campuses, and other properties owned by the Regents and operated by UCLA.

University Property Use Form is the event registration form that Non-RCO Major Event Organizers must complete and submit to the Campus Venue Scheduler.

University Residence is the following overall area of the UCLA campus, comprising approximately 13 acres:

Northern boundary: Sunset Boulevard (*see note below*)

Western boundary: Royce Drive (eastern curb line)

Southern boundary: Charles E. Young Drive North (northern curb line)

Eastern boundary: Parking Structure 3 (western entry drive)

Note: The actual property line of the property owned by The Regents is 36 inches south of the east/west curb line on the south side of Sunset Boulevard. The intervening property to the Sunset Boulevard curb line is owned by the City of Los Angeles and is public property. Shrubbery and other landscaping have been planted in order to delineate UCLA's specific property line.

University Unit is any academic or nonacademic department or division or any other official University entity, including any official department, school, or institute of UCLA, the University Extension, or any officially recognized part thereof, or any authorized student government. For avoidance of doubt, this definition includes the Center for the Art of Performance at UCLA ("CAP"), the UCLA Alumni Association and ASUCLA.

Attachment A: Definitions

Advance Ticketing means to either sell or take registrations for a Ticket to an event ahead of the date of the event.

Areas for Public Expression, also referred to as “grounds generally open to the public” per UC Policy, are grounds open to the public and the University community for Public Expression. See UCLA Policy 852: Public Expression Activities. Attachment A for a map of these areas. All other areas of UCLA Property are not generally open to the public.

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ASUCLA-Operated Properties refers to Ackerman Union, Kerckhoff Hall, North Campus Student Center, LuValle Commons, and Court of Sciences Student Center.

Audience Management Fees refers to basic fees including but not limited to, equipment rentals, services, and staffing costs (including UCLAPD protection services) associated with audience safety for a Major or Organized Event. This does not include security costs associated with speech related demonstrations or demonstrations related to an Organized or Major Event.

Authorized Representative is any one of the three (3) individuals listed on a Registered Campus Organization’s registration form as submitted to the Student Organizations, Leadership & Engagement (SOLE) Office; an Authorized Representative agrees to act as an official contact person with the University and to assume responsibility for the planning, implementation, and outcomes of the Organization’s activities. Only UCLA Students or Employees may serve as Authorized Representatives.

Authorized Student Government refers to either or both the Graduate Students Association and/or the Undergraduate Students Association.

Campfire is a fire which is used for cooking, personal warmth, lighting, ceremonial, or aesthetic purposes, including fires contained within outdoor fireplaces, and enclosed stoves with flues or chimneys, stoves using jellied, liquid, solid or gaseous fuels, portable barbeque pits and braziers, or space heating devices which are used outside any structure, mobile home, or living accommodation mounted on a motor vehicle.

Camping refers to (i) sleeping outdoors or indoors with or without bedding, hammock, or similar device, structure, protection, or equipment; (ii) establishing or attempting to establish, temporary or permanent living quarters at any location on UCLA Property other than residence halls, apartments, or other University managed facilities specifically designated for overnight lodging; or (iii) establishing or maintaining outdoors, or in or under any structure not designated for human occupancy, a temporary or permanent place for cooking, storing of personal belongings, or sleeping by setting up any bedding, sleeping bag, mattress, tent, or other sleeping equipment, or by setting up any cooking equipment.

Campus Venue Scheduler is the UCLA department that schedules event locations within their areas of responsibility and initiates the Events Online (EOL) Application for Event Organizers.

Designated University Official is the UCLA official designated or otherwise authorized to engage in the relevant operation or function.

Emeriti is a retired UCLA Employee, either member of the faculty or staff, upon whom has been conferred formal emeriti status.

Employee is any person who is listed in the campus payroll system, regardless of the percentage of time associated with the person’s employment.

Employee Organization is an independent organization which exists for the purpose, in whole or in part, of dealing with University management concerning grievances, labor disputes, wages, hours, and other terms and conditions of employment of employees, officially recognized by UCLA and as defined by Section 3562(f) of the Higher Education Employer-Employee Relations Act (HEERA).

Event Capacity is the maximum number of people authorized by the University to attend a particular event, taking into account all relevant factors, including but not limited to the maximum capacity of the venue, any security recommendations or requirements imposed by UCLAPD/Office of Campus Safety, UCLAFD, and any equipment, furnishings, supplies, and/or decorations arranged by the Event Organizer.

Event Online (EOL) Registration is the University's official event notification and registration system required for events on University Property.

Event Organizers are individuals or groups who sponsor and/or coordinate an Organized and/or Major Event. The Event Organizer can be either an RCO, University Unit, or Non-Affiliate.

Interference Criteria refers to criteria that consist of the following: (a) the proposed location of the event, (b) the proximity of the event to other activities or locations that may interfere, obstruct, or lessen the effectiveness of the security measures being implemented (c) the estimated number of participants, (d) the time of the day the event is to take place, (e) the expected duration of the activity; (f) the activity's timing in relation to the academic calendar (for example, proposed scheduling during the first week of classes or during final examination week); (g) the expected noise level to be generated by the activity; (h) the need for and/or availability of University resources and personnel to facilitate, oversee, or control the activity; and (i) any similar viewpoint neutral considerations relevant to assessment of potential disruption to campus functions or activities, provided however that events in Areas for Public Expression will be considered both in a viewpoint and content-neutral manner.

Major Event is any planned gathering, including but not limited to celebrations, dances, lectures, forums, performances, rallies, social gatherings, concerts, speaker presentations, and conferences on UCLA Property at which one or more of the following conditions apply:

- Over 350 persons are anticipated to attend and the event is not hosted by a University Unit;
- The Chancellor or the Chancellor's designee determines based on the Safety and Security Criteria and the assessment of the UCLA Police Department (UCLAPD) that the event is likely to significantly affect campus safety and or significantly affect campus services (including kiosk guards, service roads, or parking); and/or
- The Chancellor or the Chancellor's designee determines based on the Interference Criteria that the event has a substantial likelihood of significantly interfering with other campus functions or activities.

Non-Affiliate is any person who is not a Student, officer, Official Volunteer, Employee, or emeritus of UCLA, nor a Regent of the University of California, nor a member of a household authorized to reside on UCLA Property.

Non-Commercial Literature is any printed and/or written material referring to an event, activity, or service that is not conducted for private business or personal gain. The content should promote educational, cultural, and informational programs that support the University's mission. It must not advertise or promote products, merchandise, commercial services, or ventures.

Official University Function refers to scheduled academic classes, research and activities; and normal daily operations of University Units.

Official Volunteer refers to any person who is: (i) listed as an officer of the UCLA Alumni Association, including its committees or related clubs; (ii) listed as an officer of a formally recognized UCLA Support Group; or (iii) formally registered through UCLA Campus Human Resources and authorized to provide volunteer services on behalf of the University in campus facilities.

On- Campus Housing Community refers to UCLA Residence Halls related areas located on the main UCLA Westwood campus, known as "The Hill."

Open Fire is any fire, controlled or uncontrolled, including a Campfire, burning outside of any structure, mobile home, or living accommodation mounted on a motor vehicle.

Organized Event is any planned gathering, including but not limited to celebrations, dances, lectures, forums, performances, rallies, social gatherings, concerts, speaker presentations, conferences, and programs or activities by University Units in the course of fulfilling their University mission, and Registered Campus Organizations and Non-Affiliates with contracts with the University.

Public Expression Activities means leaf-letting, marches, picketing, protesting, speech-making, demonstration, petition circulation, distribution and sale of non-commercial literature incidental to these activities, and similar speech related activities.

Public Food Event refers to a giveaway or sale of food in a public area, examples include but not limited to, Bruin Plaza, Bruin Walk, Court of Sciences, Student Activity Lounge, or CHS Courtyard, where the consumers of the food are not registered or tracked, and the organizers are not licensed food handlers.

Private Food Event refers to a meeting, banquet, social, or potluck style gathering where food is provided to invited, registered, ticketed guests only. This includes refreshments provided for a lecture, panel or reception as well as any event that is professionally catered by licensed food handlers.

Regents, also referred to as the Regents of the University of California, is a twenty-six (26) member board, established under Article IX, Section 9 of the California Constitution to govern the affairs of the University and its various campuses and allied entities.

Registered Campus Organization refers to organizations whose membership is predominately comprised of UCLA Students and/or Employees that obtain recognition as a Registered Campus Organization by registering through SOLE and complying with the requirements and procedures in UCLA Policy XXX.

Safety and Security Criteria refers to criteria that consist of the following: (a) nature of the event, that includes: (i) the estimated number of participants, (ii) whether alcohol is intended to be served, (iii) the estimated duration of the event, and (iv) any objective and credible evidence regarding possible threats to campus safety or security; (b) the proximity of the event to other activities or locations that may interfere, obstruct, or lessen the effectiveness of the security measures being implemented; (c) the resources needed to secure the event; (d) the anticipated weather conditions; and (e) any similar viewpoint neutral considerations relevant to assessment of campus safety, security, and services, provided however that events in Areas for Public Expression will be considered both in a viewpoint and content-neutral manner.

Security Assessment Meeting is a meeting between the Event Organizer and UCLAPD, UCLAFD, and/or SOLE Advisor for RCO events or Events Office for non-RCO Events, and Campus Venue Scheduler, as well as any other necessary participants, to discuss security concerns and determinations for the Major Event and options for addressing security needs, such a meeting is required if UCLAPD determines that the Major Event has substantial security needs.

Senior Administrator is any Employee holding the title of Director or above, including, but not limited to the following: Chancellor, Vice Chancellors, Provosts, Vice Provosts, Deans, Associate or Assistant Vice Chancellors or Vice Provosts, Associate Deans, Assistant Deans, Department Chairs, Division Chiefs, Chief Executive Officers, Executive Directors, and Directors.

Student as defined by the [Student Code of Conduct](#).

The term Student does not include individuals registered with a program of UCLA Extension or individuals registered through UCLA Extension in a concurrent enrollment program.

Support Group is any group, organization, foundation, or association other than a campus alumni association or campus foundation: (i) whose primary purpose is to provide assistance through fundraising, public outreach, and other activities in support of the University's mission; or (ii) whose representatives or activities make the entity indistinguishable from the University itself; or (iii) that acts as an agent of or intermediary for the University.

Such groups are governed by the University of California Policy on Support Groups, campus Foundations, and Alumni Associations and the University Of California Administrative Guidelines For

Support Groups, as well as by this policy.

(See www.ucop.edu/ucophome/coordrev/policy/2-12-04support-guidelines.html.)

Temporary Structure refers to tents, trailers/modular buildings, sculptured objects, or similar assemblages. Temporary Structures include trailers or modular buildings approved by UCLA Fire Department that may be erected for longer periods of time to accommodate University Units or for construction project site services.

Ticket is any type of evidence of an attendee's right of entry to a venue which can be verified. A ticket includes but is not limited to a paper or electronic ticket with a barcode that is scanned to permit entry, a wristband that is issued based on a list of attendees, a list of eligible attendees where ID is verified against the list to permit entry.

University Guarantor is a University Unit that bears financial, legal and procedural responsibility for all University costs and commitments related to an Organized or Major Event, including the responsibility for all costs owed to the University that an Event Organizer is required to pay but fails to pay and for all contractual obligations to the University that an Event Organizer is required to satisfy but does not. For Major Events, a University Guarantor is also responsible to certify in writing that it approves the Major Event Security Assessment Form and will send a representative to the Security Assessment Meeting.

UCLA Property means UCLA main Westwood and South campuses, and other properties owned by the Regents and operated by UCLA.

University Property Use Form is the event registration form that Non-RCO Major Event Organizers must complete and submit to the Campus Venue Scheduler.

University Residence is the following overall area of the UCLA campus, comprising approximately 13 acres:

Northern boundary: Sunset Boulevard (*see note below*)

Western boundary: Royce Drive (eastern curb line)

Southern boundary: Charles E. Young Drive North (northern curb line)

Eastern boundary: Parking Structure 3 (western entry drive)

Note: The actual property line of the property owned by The Regents is 36 inches south of the east/west curb line on the south side of Sunset Boulevard. The intervening property to the Sunset Boulevard curb line is owned by the City of Los Angeles and is public property. Shrubbery and other landscaping have been planted in order to delineate UCLA's specific property line.

University Unit is any academic or nonacademic department or division or any other official University entity, including any official department, school, or institute of UCLA, the University Extension, or any officially recognized part thereof, or any authorized student government. For avoidance of doubt, this definition includes the Center for the Art of Performance at UCLA ("CAP"), the UCLA Alumni Association and ASUCLA.



UCLA Interim Policy 852: Public Expression Activities

Issuing Officer: Administrative Vice Chancellor

Responsible Department: Administrative Vice Chancellor's Office

Effective Date: September 4, 2024

Supersedes: UCLA Regulations on Activities, Registered Campus Organizations, and Use of Properties, dated 9/25/2017

- I. PURPOSE AND SCOPE**
- II. DEFINITIONS**
- III. POLICY STATEMENT**
- IV. REGULATIONS GOVERNING PUBLIC EXPRESSION ACTIVITIES**
- V. REFERENCES**
- VI. ATTACHMENTS**

I. PURPOSE AND SCOPE

UCLA is committed to First Amendment rights as a fundamental feature of our democracy and a crucial dimension of UCLA's institutional and academic culture. In order to carry on its work of teaching, research, and public service, UCLA has an obligation to maintain conditions under which UCLA's mission can go forward freely, in accordance with the highest standards of quality, institutional integrity, and freedom of expression, with full recognition by all concerned of the rights and privileges, as well as the responsibilities of those who are present at UCLA. The time, place, and manner of exercising the constitutionally protected First Amendment rights are subject to this Policy and related Use Policies, which have been formulated to provide reasonable access for open association, discussion, and debate while at the same time providing for the safe and orderly operation of the campus.

In addition to this Policy and related Use Policies, as outlined in UCLA Policy 850: General Use of UCLA Property, Non-Affiliates must comply with The Regents of the University of California's Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California ("Regulations"), see Section V. References. Affiliates and Non-Affiliates alike must comply with applicable California law. For sections in the Policy that require prior approval by a Designated University Official that are not designated in this Policy, contact the Office of Administrative Vice Chancellor or UCLA Events Office.

II. DEFINITIONS

For the purposes of this Policy:

See [UCLA Policy 850: General Use of UCLA Property](#) Attachment A

III. POLICY STATEMENT

UCLA has designated certain areas of the UCLA Property for Public Expression Activities. UCLA may and does impose reasonable and content-neutral and viewpoint-neutral time, place, and manner regulations on the exercise of Public Expression Activities in these designated areas, in order to preserve the safe and orderly operation of the campus. Public Expression Activities may be directed to cease subject to the review and approval by the Chancellor or a Designated University Official based on the

Safety and Security Criteria and/or the Interference Criteria that will be evaluated in a content-neutral and viewpoint-neutral manner.

Public Expression Activities are permitted in the Areas for Public Expression, which are considered “designated Public Fora.” Individual rights in other spaces are governed in UCLA Policy 850: General Use of UCLA Property. Public Expression Activities are permitted in other spaces with approval in accordance with UCLA Policy 860: Organized Events or UCLA Policy 862: Major Events.

IV. REGULATIONS GOVERNING PUBLIC EXPRESSION ACTIVITIES

A. Areas for Public Expression (“designated Public Fora”)

UCLA has designated Areas for Public Expression on UCLA Property that may be used regardless of affiliation with UCLA and without prior scheduling on a first-come basis provided that there are no scheduled Organized or Major Events. The University will ensure that at least one of the Areas for Public Expression will be available at all times.

Public Expression Activities are not permitted at any time on the grounds of the University Residence, including the lawn area of the Ralph Cornell Grove.

1. **Place:** The Areas for Public Expression are outlined below and in Attachment A, Map of Areas for Public Expression.
 - a. Meyerhoff Park
 - b. *Bruin Plaza between Pauley Pavilion and Meyerhoff Park
 - c. **Plaza between Pauley Pavilion and James West Alumni Center
 - d. East Bruinwalk between the Student Activities Center, Ackerman and north tip of Gateway Plaza
 - e. Lawns and walkways between Meyerhoff Park, Student Activities Center, Janss Steps, and east side of Powell Library
 - f. Southeast corner of Dickson Court South
 - g. West outdoor entrance area of Murphy Hall

*Bruin Plaza is frequently reserved for Registered Campus Organizations (RCOs) and University Units. To use this space for Public Expression Activities, prior approval is required from either SOLE for RCOs or the UCLA Events Office for Non-RCO Events. Public Expression Activities that have not been pre-approved by SOLE or the UCLA Events Office may be relocated or denied access depending on the availability of other Public Expression Areas or impact to any University operation including scheduled events.

**The plaza between Pauley Pavilion and James West Alumni Center is utilized by events scheduled in Pauley Pavilion including UCLA athletic events. To use this space for Public Expression Activities, prior approval is required from UCLA Recreation. Public Expression Activities that have not been pre-approved by UCLA Recreation may be relocated or denied access depending on the availability of other Public Expression Areas or impact to any University operations including scheduled events.

2. **Time:** The Areas for Public Expression are open between the hours of 6:00am and 12:00 midnight. Between the hours of 12:00 midnight and 6:00am these areas and all other areas of campus are closed to all activities, including Areas for Public Expression, except the coming and going to/from a University building, crossing the campus, or as part of an Official University Function, Organized or Major Event.
3. **Manner:**
 - a. Individuals and groups may not impede or disrupt foot and vehicular traffic. Obstructing, disrupting, or otherwise interfering with the instructional, research, or administrative operations of the University, or any other person having lawful business with the University is not

permissible. Reasonable access to and exit from classrooms, laboratories, parking structures, offices and buildings must be provided at all times.

- b. Violations of law are not permitted.
 - c. Activities such as posting, displaying, carrying, and/or distributing posters, signs, banners, flags, or other similar displays, literature (including distribution of non-commercial literature) and tables, or other portable displays must be in accordance with UCLA Policy 850: General Use of UCLA Property and section IV.4 of this Policy.
 - d. Marching associated with a Public Expression Activity is governed by UCLA Policy 850: General Use of UCLA Property.
 - e. The following applies to Amplified Sound on the Areas for Public Expression:
 - i. Amplified sound is permitted on BruinWalk without prior approval, except between the hours of midnight and 6am. When there is an Organized/Major Event in Bruin Plaza sound levels must be below 85 decibels and amplified sound not associated with the scheduled event is not permitted during the time of the event.
 - ii. Amplified Sound is not permitted on Dickson Court South or on BruinWalk in front of Engineering 6, except when approved by the UCLA Events Office as part of an Organized/Major Event.
 - iii. In the other Areas for Public Expression, Amplified Sound is permitted from 12pm-1pm without prior approval, provided sound levels do not disrupt academic activities in adjacent buildings. Amplified Sound is not permitted on the 10th & 11th weeks of a quarter without prior approval from the UCLA Events Office.
 - iv. Except as expressly provided in this paragraph (e), use of Amplified Sound and sound levels must be in accordance with UCLA Policy 850: General Use of UCLA Property.
4. **Additional Regulations for East Bruin Walk:** In accord with UCLA Policy 850: General Use of UCLA Property, the following additional regulation below applies:

Tables on East Bruin Walk

The existing tables on East Bruin Walk can be utilized on a first-come basis except when a Designated University Official reserves a few tables for the purpose of maintaining access for Registered Campus Organizations. Due to the limited space available on East Bruin Walk, table usage will be limited to one table per organization.

When using a table on East Bruin Walk, the display area is limited to the table and the area immediately behind it. Displays on East Bruin Walk must be attended at all times. The name of the sponsoring organization must be visible at the table.

V. REFERENCES

1. [UCLA Policy 850: General Use of University Property](#)
2. [UCLA Policy 860: Organized Events](#)
3. [UCLA Policy 862: Major Events](#)
4. [UCLA Policy 850.1: Placement of Temporary Structure on UCLA Campus](#)
5. [Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California](#)
6. [UC PACAOS 30: Policy on Speech and Advocacy](#)
7. [UC PACAOS 40: Policy on Use of University Properties](#)
8. [UC APM-010: Academic Freedom](#)
9. [OGC Guidance on political activities](#)

VI. ATTACHMENTS

- A. Map of Areas for Public Expression

Issuing Officer

/s/ Michael J. Beck

Administrative Vice Chancellor

**Questions concerning this policy or procedure should be referred to
the Responsible Department listed at the top of this document**



UCLA Interim Policy 860: Organized Events

Issuing Officer: Administrative Vice Chancellor

Responsible Department: Administrative Vice Chancellor's Office

Effective Date: September 4, 2024

Supersedes: UCLA Regulations on Activities, Registered Campus Organizations, and Use of Properties, dated 9/25/2017 and UCLA Policy 860, dated 9/23/2008

I. PURPOSE & SCOPE

II. DEFINITIONS

III. POLICY STATEMENT

IV. PROCEDURES

V. REFERENCES

I. PURPOSE AND SCOPE

UCLA is committed to supporting the UCLA community to host events on UCLA Property that supplement and support University's teaching, research, and public service mission. Toward that end, UCLA makes certain facilities and outdoor areas available to the UCLA community for events with written permission, when all terms and conditions are met.

This Policy operates in conjunction with related University of California ("University") and campus Use Policies, as outlined in [UCLA Policy 850: General Use of UCLA Property](#). In addition to this Policy and related Use Policies, Non-Affiliates must comply with The Regents of the University of California's Regulations Governing Conduct of Non-Affiliates in the Buildings and Grounds of the University of California ("Regulations"), see Section V. References.

This Policy sets forth the conditions under which affiliate and Non-Affiliate individuals and groups may utilize UCLA Property for Organized Events.

II. DEFINITIONS

For the purposes of this Policy:

See [Policy 850: General Use of UCLA Property](#), Attachment A

III. POLICY STATEMENT

This Policy and related Use Policies establishes provisions for Organized Events on UCLA Property. In addition, events with visiting dignitaries as outlined in [UCLA Policy 106](#) must follow UCLA Policy 106 and [UCLA Procedure 860.2](#), and events that constitute a Major Event must comply with UCLA Policy 862: Major Events.

Privileges of scheduling events on UCLA Property may be revoked for Event Organizers that repeatedly violate and/or significantly violate any University or UCLA policies or laws.

Organized Events must comply with UCLA's obligations under applicable federal and state law and policy to provide accessibility pursuant to the Americans with Disabilities Act and the Equal Education Opportunities Act, Title VI of the Civil Rights Act.

The University derives its authority from the State of California Constitution, Article I, Section 9. All pertinent federal, state, and local laws, and University and UCLA policies are in force on UCLA Property and policies may be enforced by Designated University Officials and laws may be enforced by off-campus agencies.

All persons on UCLA Property are required to abide by University and UCLA policies. Violation of University or UCLA policies may subject a person to legal penalties; if the person is a Student or Employee, that person may also be subject to University discipline in accordance with University and UCLA policies and any relevant collective bargaining agreements.

A. Campus Venue Scheduling and Policies

In addition to this Policy and related Use Policies, as outlined UCLA Policy 850: General Use of UCLA Property, an Event Organizer must comply with the specific requirements and scheduling procedures of the Campus Venue Scheduler that may host the Organized Event. The policies and scheduling procedures for each specific Campus Venue Scheduler may vary.

Reservations are finalized only after arrangements have been approved in accordance with this Policy. Permission to use UCLA Property is not to be construed as endorsement by the University.

B. Event Online (EOL) Registration

The Events Online (EOL) Registration is the University's official event notification and registration system for events on UCLA Property. An Organized Event that includes any of the following must complete an EOL Registration:

1. Non-Affiliates expected as attendees;
2. A Non-Affiliate as a guest speaker with more than 50 attendees;
3. Non-academic in-person activities with more than 50 UCLA Students and/or Employees;
4. Alcohol;
5. Tenting;
6. Media coverage; or
7. Distribution or the sale of food and/or merchandise.

All requests must be submitted through EOL Registration for appropriate review and approval at a minimum of ten (10) working days prior to the execution or administration of any Organized Event. The Campus Venue Scheduler is responsible for initiating the EOL Registration that will send a registration form to the Event Organizer (see Section IV. Procedures).

Any EOL Registration submitted after the ten (10) working days will be subject to denial and/or cancellation. Exceptions to the minimum of ten (10) working days will be considered by SOLE and/or the UCLA Events Office for Registered Campus Organizations and University Unit Event Organizers only in the following circumstances:

- i. RCO or University Unit Event Organizers are unable to confirm the availability of a speaker/performer or meet the availability of the speaker/performer within the minimum timeframe; and/or
- ii. RCO or University Unit Event Organizers request an Organized Event and the nature of the event is time sensitive such that it could not take place if prior to the minimum timeframe were met.

As part of the review process, the EOL Registration notifies via email, applicable campus service providers and administration based on the Event Organizer's requirements as stated via a checklist on the registration form. The notified campus service providers and/or administration will review the notification(s) and as applicable, make any comments and/or stipulations such as health and safety permits/requirements to the Organized Event that may need to be completed prior to approval.

If aspects of an approved Organized Event change or had not been disclosed by the Event Organizer at the time of approval, UCLA reserves the right to deem the Organized Event as a Major Event, subject to UCLA Policy 862 (to the extent that policy applies) and/or other applicable University or UCLA policies.

C. Contracted Services

UCLA retains first right of refusal for all contracted services, goods, and/or equipment to facilitate the use of any UCLA Property. All services, goods and/or equipment required for such use must coordinate and execute all such services, goods, and/or equipment with Campus Venue Scheduler policies.

D. Pre-Event Requirements

Event Organizers must comply with all pre-event requirements as established in other policies including but not limited to SOLE, the UCLA Events Office, UCLAPD/Office of Campus Safety, Risk Services, Registrar's Office, ASUCLA, and the facility manager. A variety of permits and/or waivers may be required, for example, to distribute food or drinks or to film the event. The SOLE and/or the UCLA Events Office is responsible for determining whether an Event Organizer has complied with all relevant policies and obtained the necessary permits and/or waivers.

E. Outdoor Sound Amplification

Except as provided in UCLA Policy 852: Public Expression Activities, all Organized Events utilizing sound amplification systems must obtain specific approval for such amplification in advance from the UCLA Events Office for non-RCO Organized Events or SOLE for RCO Organized Events. All sound amplification systems and sound levels must comply with UCLA Policy 850: General Use of UCLA Property.

F. Costs

All Event Organizers will be charged (1) event production fees, which includes but not limited to, use of the venue and other equipment and service costs in accordance with standard rate tables of the administrative bodies involved and (2) Audience Management Fees. See UCLA Policy 862 for security costs associated with Public Expression Activities related to an event.

Event Organizers requiring special facility arrangements, including, but not limited to equipment, staffing, or security for their event may be charged fees in accordance with standard rate tables of the administrative bodies involved. In such cases, deposits and financial accountability may be required. UCLA has the right to cancel any Organized Event that fails to pay necessary fees. If payment cannot be made for all applicable fees prior to the Organized Event date, payment arrangements must be made in advance with the appropriate Campus Venue Scheduler.

G. Advance Ticketing

When Advance Ticketing is used for an Organized Event, UCLA Central Ticket Office (CTO) must be contacted to coordinate the ticket process or to approve an online vendor. Contact the Venue Scheduler or UCLA Central Ticketing (CTO) at 310-206-6161 or cto@tickets.ucla.edu.

H. Appeal Process for Denial of Use of Property

If an Event Organizer feels that the denial of a property use request violates University or UCLA policies, the Event Organizer may submit an appeal for final determination.

An Event Organizer may submit an appeal to the appropriate appeals officer, as outlined below, within two (2) business days of the notification of denial or cancellation of property use. The appeals officer will respond to the appeal within three (3) business days following the receipt of the appeal.

1. Registered Campus Organization and other student related events, submit appeals to the Vice Chancellor of Student Affairs or designee; and
2. University Units, Support Groups, and Non-Affiliates, submit appeals to the Administrative Vice Chancellor or designee.

A successful appeal does not guarantee the Event Organizer's venue of choice.

I. Safety Cancellation of an Organized Event

If during an Organized Event an imminent threat to safety or property arises, avoidance or minimization of which requires cancellation of the event, authority to cancel the event rests with a Senior Administrator or UCLA Fire Marshall that is present and available. If no such person is present or available, authority is designated to the highest-ranking UCLAPD officer at the event.

J. Public Expression Activities Connected to an Organized Event

During the process of coordinating an Organized Event, the University is made aware of any actual or suspected planned Public Expression Activity that could disrupt the event, the event will be deemed a Major Event and subject to UCLA Policy 862, Major Events.

If during the Organized Event, Public Expression Activities occur, a Designated University Official may, based on the Safety and Security Criteria and/or the Interference Criteria, designate a location/area that is proximate to the Organized Event for the Public Expression Activity.

For Public Expression Activities not connected to an Organized Event, see Policy 852: Public Expression Activities.

For marches associated with Public Expression Activity, see UCLA Policy 850: General Use of UCLA Property.

K. Notice of Safety Considerations by Event Organizers and Senior Administrators

Notifying the University of any possible demonstrations related to an Organized Event is critical as it enables the University to proactively coordinate and communicate with potential demonstrators in advance of an event. In doing so, UCLA becomes better positioned to promote the free speech rights and physical safety of all parties- including the invited speaker and any demonstrators or counter-demonstrators.

Prior to any Organized Event, any Event Organizer or Senior Administrator affiliated with an Organized Event and/or who becomes aware of a possible demonstration likely to occur at the Organized Event should promptly alert the Administrative Vice Chancellor ("AVC") at adminvc@ucla.edu or UCPD at 310-825-1491.

IV. PROCEDURES

Scheduling of Organized Events is subject to availability on a first-come first-serve basis, and in the instance when there is more than one event request, priority for the use of UCLA Property will be given first to University Units and Registered Campus Organizations. All proposed Organized Events will be reviewed and approved in a viewpoint-neutral manner, provided however that Organized Events in Areas for Public Expression will be approved both in a viewpoint and content-neutral manner.

All Event Organizers must follow the procedures below to request and host an Organized Event that does not constitute as a Major Event, see UCLA Policy 862 to request a Major Event.

1. University Units Requesting an Organized Event

The following steps are for University Units to request an Organized Event:

- a. Event Organizer will contact Campus Venue Scheduler to request a venue at a minimum of **ten (10) working days**. Requesting a campus venue does not guarantee or automatically approve the location or Organized Event. The requested Organized Event and location are subject to review and approval as outlined below.
- b. If Tickets will be utilized, contact the Central Ticket Office (CTO) at least **ten (10) working days** prior to the Organized Event.
- c. The Campus Venue Scheduler will determine whether the event may trigger the Major Events Policy. In determining whether the event is a Major Event, the Campus Venue Scheduler will

consider the Interference Criteria. If considered a Major Event, the Campus Venue Scheduler will contact the UCLA Events Office.

- i. If the Organized Event is deemed a Major Event, the Event Organizer must follow the requirements as outlined in UCLA Policy 862 and notify the UCLA Events Office.
 - ii. If the Organized Event is not a Major Event, the Event Organizer will continue to follow the procedures in this Policy.
- d. The Event Organizer is required to advise the Campus Venue Scheduler and the UCLA Event's Office of information concerning any known or suspected planned demonstration or other potentially disruptive activity that might occur during the event.
- e. At least **ten (10) working days** prior to the Organized Event, contact Insurance and Risk Management to discuss insurance assessments.
- f. Fill out and submit EOL Registration form that will be sent by the Campus Venue Scheduler, who initiates the EOL Registration.
- g. Notifications will be sent to applicable campus providers and/or administration that will review, comment and/or add stipulations to be completed prior to approval.
- h. The EOL Registration will send the request to the department head or designee of the University Unit requesting the Organized Event for final approval.

Note: By approving the Organized Event the department head has accepted the responsibility of University Guarantor for the Organized Event.

- i. The EOL Registration will send the University Unit (Event Organizer) notification of approval.

2. Registered Campus Organizations (RCO) Requesting an Organized Event

RCO weekly meetings are generally not an Organized or Major Event, see Policy XXX Registered Campus Organizations. However, if the presence of a third-party speaker or guest is reasonably likely to result in a demonstration or substantial disruption to campus activities, this may trigger a Major Event subject to Policy 862. For questions and guidance, contact the RCO SOLE Advisor.

The following steps are for RCOs to request an Organized Event:

- a. Prior to making any arrangements or reservations, contact your SOLE advisor first, to discuss and obtain initial consent about the scope of the event, including but not limited to: the nature of the program; number of anticipated guests; any external participants; desired location; and funding sources. The Event Organizer is required to advise the SOLE Advisor of information concerning any known or suspected planned demonstration or other potentially disruptive activity that might occur during the event.
- b. Contact Campus Venue Scheduler at a minimum of **ten (10) working days** to reserve location. Reserving a campus venue does not guarantee or automatically approve the location or Organized Event. The requested Organized Event and location are subject to review and approval as outlined below.
- c. The SOLE advisor and/or Campus Venue Scheduler will determine whether or not the Organized Event will trigger the Major Events Policy. In determining whether the event is a Major Event, the SOLE advisor and/or Campus Venue Scheduler will consider the Interference Criteria. If considered a Major Event, the SOLE Advisor and/or Campus Venue Scheduler will contact the UCLA Events Office.
 - i. If the Organized Event is deemed a Major Event, the Authorized Representative of the RCO must follow the requirements as outlined in UCLA Policy 862.
 - ii. If the Organized Event is not a Major Event, the Authorized Representative of the RCO will continue to follow the procedures in this Policy.

- d. If Tickets will be utilized, contact the Central Ticket Office (CTO) at least **ten (10) working days** prior to the Organized Event.
- e. In compliance with UC Business and Finance Bulletin BUS-63 (<https://policy.ucop.edu/doc/3520339/BFB-BUS-63>), submit proof of event insurance at least **ten (10) working days** prior to the Organized Event. Event Organizers are encouraged to apply for insurance coverage at the earliest possible time to allow for processing of their insurance application and for underwriting. Please note that submission of an application does not guarantee coverage.

RCO Event Organizers should follow the procedures described at <https://ucla.campusconnexionsuc.com/student-campus-groups/registered-campus-organization/event-liability.html> to arrange for insurance through the approved University provider (at the time of Policy enactment, Mercer was the approved insurance carrier).

- f. The RCO Authorized Representative will fill out and submit the EOL Registration form that will be sent by the Campus Venue Scheduler, who initiates the EOL Registration.
- g. Notifications will be sent to applicable campus providers and/or administration that will review, comment and/or add stipulations to be completed prior to approval.
- h. The EOL Registration will send the request to your SOLE advisor for final approval.

Note: The RCO requesting the Organized Event accepts full responsibility for the Organized Event.

3. Organized Event Requests by Non-Affiliates

Non-Affiliates must have a University Guarantor to schedule an Organized Event on UCLA Property. A guaranty may be approved in one of the following ways:

a. Departmental Guaranty

A University Unit or Authorized Student Government, may guaranty an Organized Event proposed by a Non-Affiliate group (Institution) when the group or event has a direct programmatic relationship to the purposes of the guarantying University Unit. Such a guaranty may be given or refused only on a viewpoint-neutral basis, provided however that a guaranty for an Organized Event in an Area for Public Expression will be given or refused both on a viewpoint and content- neutral basis.

b. Institutional Guaranty

An Organized Event proposed by a non-University group that has no direct programmatic relationship to a University Unit may be guaranteed by the University as an institution. Such communication will be submitted to the UCLA Events Office and subject to review by the Administrative Vice Chancellor, which will make a recommendation to the Chancellor or designee, who may grant an Institutional Guaranty. Such a guaranty may be given or refused only on a viewpoint-neutral basis, provided however that a guaranty for an Organized Event in an Area for Public Expression will be given or refused both on a viewpoint and content- neutral basis.

c. Off-Campus Event Guaranty

Organized Events for which there will be a general appeal to an off-campus audience, including events involving off-campus publicity, promotion, ticketing, or media coverage or which are organized, produced, or funded by an off-campus entity, must have an Institutional Guaranty as defined above, or may be authorized only by one of the following University Units, who will act as the University Guarantor:

- i. UCLA Events Office
- ii. UCLA Live/Art of Performance
- iii. UCLA Performing Arts

- iv. UCLA Housing and Hospitality Services
- v. UCLA Department of Intercollegiate Athletics
- vi. UCLA Student Affairs
- vii. UCLA Extension (UNEX)
- viii. UCLA External Affairs
- ix. ASUCLA Services & Enterprises
- x. UCLA School of the Arts & Architecture
- xi. UCLA School of Theater, Film & Television
- xii. UCLA Herb Alpert School of Music
- xiii. UCLA Anderson School of Management
- xiv. UCLA Luskin School of Public Affairs
- xv. UCLA Luskin Conference Center
- xvi. UCLA College of Letters and Science

Any such guaranty may be given or refused only on a viewpoint-neutral basis, provided however that a guaranty for an Organized Event in an Area for Public Expression will be given or refused both on a viewpoint and content-neutral basis.

Once the University Guarantor has been established, the following steps are for Non-Affiliates to request an Organized Event:

1. Contact Campus Venue Scheduler at a minimum of **ten (10) working days** to reserve location. Reserving a campus venue does not guarantee or automatically approve the location or Organized Event. The requested Organized Event and location are subject to review and approval as outlined below.
2. The Campus Venue Scheduler will confirm the University Guarantor and determine whether or not the event may trigger the Major Events Policy. In determining whether the event is a Major Event, the Campus Venue Scheduler will consider the Interference Criteria. If considered a Major Event, the Campus Venue Scheduler will contact the Events Office.
 - i. If the Organized Event is deemed a Major Event, the Event Organizer must follow the requirements as outlined in UCLA Policy 862 and notify the Events Office.
 - ii. If the Organized Event is not a Major Event, the Event Organizer will continue to follow the procedures in this Policy.
3. If Tickets will be utilized, contact the Central Ticket Office (CTO) at least **ten (10) working days** prior to the Organized Event.
4. In compliance with UC Business and Finance Bulletin BUS-63 (<https://policy.ucop.edu/doc/3520339/BFB-BUS-63>), submit proof of event insurance at least **ten (10) working days** prior to the Organized Event. Event Organizers are encouraged to apply for insurance coverage at the earliest possible time to allow for processing of their insurance application and for underwriting. Please note that submission of an application does not guarantee coverage.

Non-Affiliates (Event Organizers) must submit to the UCLA Events Office a Certificate of Insurance naming “THE REGENTS OF THE UNIVERSITY OF CALIFORNIA” as an additional insured and including an additional insured endorsement with General Liability coverage defined by the UCLA Office of Risk Management, but not less than one million dollars (\$1,000,000) per occurrence.

Organized Events booked on ASUCLA Operated Properties must also submit Certificate of Insurance naming Associated Students UCLA as additionally insured.

Note: The event cannot proceed unless the Certificate is provided to the UCLA Events Office in advance of the event.

The Non-Affiliate Event Organizer may purchase coverage by going to <https://ucla.campusconnexionsuc.com/student-insurance/tenant-user-liability-insurance.html> constituents, or another insurance provider of their choosing. Depending on the risks associated with the event, the Event Organizer may be required to provide higher amounts of general liability coverage, additional types of insurance, or both.

5. The Event Organizer is required to advise the Campus Venue Scheduler of information and the UCLA Events Office concerning any known or suspected planned demonstration or other potentially disruptive activity that might occur during the event.
6. The University Guarantor will fill out and submit the EOL Registration form sent by the Campus Venue Scheduler, who initiates the EOL Registration.
7. Notifications will be sent to applicable campus providers and/or administration that will review, comment and/or add stipulations to be completed prior to approval.
8. The EOL Registration will send the request to the University Guarantor for final approval.
9. The University Guarantor will notify the Non-Affiliate (Event Organizer) of the approval.

Individual Employees and Students that are requesting an Organized Event for personal activities, not associated with the University, are required to follow the Organized Event steps by Non-Affiliates.

V. REFERENCES

1. [UCLA Policy 850: General Use of UCLA Property](#)
2. [UCLA Policy 852: Public Expression Activities](#)
3. [UCLA Policy 862: Major Events](#)
4. [UCLA Policy 106: Visiting Dignitaries](#)
5. [UCLA Policy 860.2: Security Arrangements for Special Visitors](#)
6. [UCLA Policy 850.1: Placement of Temporary Structure on UCLA Campus](#)
7. [Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California](#)
8. [UC PACAOS 30: Policy on Speech and Advocacy](#)
9. [UC PACAOS 40: Policy on Use of University Properties](#)
10. [Robinson-Edley Report on Response to Protests on UC Campuses.](#)

Issuing Officer

/s/ Michael J. Beck

Administrative Vice Chancellor

**Questions concerning this policy or procedure should be referred to
the Responsible Department listed at the top of this document**



UCLA Interim Policy 862: Major Events

Issuing Officer: Administrative Vice Chancellor
Responsible Department: Administrative Vice Chancellor's Office
Effective Date: September 4, 2024
Supersedes: UCLA Interim Policy 862, dated 5/9/2018

I. PURPOSE & SCOPE
II. DEFINITIONS
III. POLICY STATEMENT
IV. PROCEDURES
V. REFERENCES
VI. ATTACHMENTS

I. PURPOSE & SCOPE

UCLA is committed to supporting the UCLA community to host events on campus that supplement and support our mission of teaching, research, and public service. Toward that end, UCLA makes certain facilities and outdoor areas available to the UCLA community for events with written permission, when all terms and conditions are met.

This Policy operates in conjunction with related University of California (“University”) and campus Use Policies, as outlined in [UCLA Policy 850: General Use of UCLA Property](#). In addition to this Policy and related Use Policies, Non-Affiliates must comply with The Regents of the University of California’s Regulations Governing Conduct of Non-Affiliates in the Buildings and Grounds of the University of California (“Regulations”), see Section V. References.

This Policy sets forth the conditions under which University and Non-Affiliate individuals and groups may utilize UCLA Property for Major Events. This Policy does not apply to residential or day camps organized on UCLA Property with the permission of a University Unit where the majority of attendees are 18 years old or younger.

II. DEFINITIONS

For the purposes of this Policy:

See [Policy 850: General Use of UCLA Property](#), Attachment A

III. POLICY STATEMENT

This Policy and related Use Policies establishes provisions for Major Events on UCLA Property. In addition, visiting dignitaries as outlined in [UCLA Policy 106](#) must follow UCLA Policy 106 and [UCLA Procedure 860.2](#). Organized Events that do not constitute a Major Event must follow UCLA Policy 860: Organized Events. Event Organizers that repeatedly violate and/or significantly violate any University or UCLA policies or laws, may have their privileges of scheduling events on UCLA Property revoked.

Major Events must comply with UCLA’s obligations under applicable federal and state law and policy to provide accessibility pursuant to the Americans with Disabilities Act and the Equal Education Opportunities Act, Title VI of the Civil Rights Act.

The University derives its basic authority from the State of California Constitution, Article I, Section 9. All pertinent federal, state, and local laws, and University and UCLA policies are in force on UCLA Property and policies may be enforced by Designated University Officials and laws may be enforced by off-campus agencies.

All persons on UCLA Property are required to comply with University and UCLA policies. Violation of University or UCLA policies may subject a person to legal penalties; if the person is a Student or Employee, that person may also be subject to University discipline in accordance with University and UCLA policies and any relevant collective bargaining agreements.

Any determination by the Chancellor or the Chancellor's designee(s) (see Attachment B) that an event constitutes a Major Event will be based on their assessment of the Safety and Security Criteria or Interference Criteria as defined in UCLA Policy 850: General Use of UCLA Property, Attachment A: Definitions.

A. Campus Venue Scheduling and Policies

See [UCLA Policy 860: Organized Events](#), Section III.A.

B. Event Online (EOL) Registration

The Events Online (EOL) Registration is the University's official event notification and registration system for events on UCLA Property. A confirmed EOL Registration is only part of the approval process for Major Events and no Major Event may occur without both (1) an EOL Registration and (2) written approval from one of the Chancellor's designees (see Attachment B).

All property use requests must be submitted through EOL Registration for appropriate review at a minimum of fifteen (15) working days, preferably twenty (20) working days prior to the execution or administration of any Major Event. The Campus Venue Scheduler is responsible for initiating the EOL Registration that will send a registration form to the Event Organizer (see Section IV. Procedures).

Any EOL Registration submitted after fifteen (15) working days will be subject to denial and/or cancellation. Exceptions to the minimum of fifteen (15) working days will be considered by SOLE and/or the UCLA Events Office only in the following circumstances:

1. **For all Event Organizers:** if a good faith request for an Organized Event that has already identified all aspects of the event including speaker/performer and was deemed a Major Event by the Chancellor or Chancellor designees(s) (see Attachment B) that would place the event date after the fifteen (15) day minimum.
2. **For RCO and University Unit Event Organizers only:** if you are unable to confirm the availability of a speaker/performer or meet the availability of the speaker/performer within the minimum timeframe
3. **For RCO and University Unit Event Organizers only:** for a request of a Major Event and the nature of the event is time sensitive and did not occur prior to the minimum timeframe.

As part of the review process, the EOL Registration notifies via email, applicable campus service providers and administration based on the Event Organizer's requirements as stated via a checklist on the registration form. The notified campus service providers and/or administration will review the notification(s) and as applicable, make any comments and/or stipulations, such as health and safety permits/requirements to the Major Event that may need to be completed prior to final approval by one of the Chancellor's designees (see Attachment B).

C. Contracted Services

See [UCLA Policy 860: Organized Events](#), Section III.C.

D. Pre-Event Requirements

See [UCLA Policy 860: Organized Events](#), Section III.D.

E. Outdoor Sound Amplification

See [UCLA Policy 860: Organized Events](#), Section III.E.

F. Costs

All Event Organizers will be charged (1) event production fees, which include but not limited to, use of the venue and other equipment and service costs in accordance with standard rate tables of the administrative bodies involved and (2) Audience Management Fees.

Event Organizers requiring special facility arrangements, including, but not limited to equipment, staffing, or security for their event may be charged fees in accordance with standard rate tables of the administrative bodies involved. In such cases, deposits and financial accountability may be required. UCLA has the right to cancel any Major Event that fails to pay necessary fees. If payment cannot be made for all applicable fees prior to the Major Event date, payment arrangements must be made in advance with the appropriate Campus Venue Scheduler.

All Event Organizers will **not** be charged for any security costs incurred to respond to Public Expression Activities in connection with their Major Event or for any anticipated additional security required by UCLA based on the Safety and Security Criteria or Interference Criteria.

In order to properly balance UCLA's interest in making its venues available with the need for fiscal responsibility and other important educational and public service priorities of the University, UCLA will not spend more than:

1. \$500,000 in total per academic year on security costs incurred to respond to Public Expression Activities in connection with Major Events hosted by RCOs.
2. \$500,000 in total per academic year on security costs incurred to respond to Public Expression Activities in connection with Major Events hosted by University Units.
3. \$250,000 in total per academic year on security costs incurred to respond to Public Expression Activities in connection with Major Events hosted by Non-Affiliates.

Once an applicable cap has been reached, no new Major Event subject to that cap will be scheduled for the remainder of the academic year, except that any Major Event that is already scheduled and approved pursuant to this Policy will be permitted to proceed and UCLA will pay for security costs attributable to Public Expression Activities in connection with such event notwithstanding the cap.

G. Security/Interference Assessment

UCLAPD and the Operational Assessment Team (OAT) will conduct a security/interference assessment based on information provided on the Major Event security assessment form and other information UCLAPD/OAT may obtain.

UCLAPD will assess security needs using the Safety and Security Criteria based on objective and credible evidence of specific risks and the OAT will assess the Interference Criteria.

UCLAPD/OAT will make security/interference determinations that, in UCLAPD's/OAT's professional judgment, will address security threats and potential interference identified as a result of the evaluation. The goals of UCLAPD's/OAT's security/interference determinations will be to:

1. Minimize risks to the health and safety of the event participants and audience;
2. Minimize risks of interference to the campus and surrounding community;
3. Support the ability of the Event Organizers to successfully hold the event; and
4. Respect the exercise of rights of free expression by the Event Organizer, participants, and the community, including lawful demonstrators.

Required security measures and measures to minimize interference may include adjusting the venue, date, and/or time of the event; providing additional law enforcement or other safety-related personnel; imposing controls or security checkpoints; requiring increased ticketing measures as described below; and creating buffer zones around the venue.

H. Advance Ticketing

Advance Ticketing is required for all Major Events. Central Ticket Office (CTO) must be contacted to coordinate the Advance Ticketing process, however for Major Events where Tickets are complimentary to attendees and UCLAPD has determined as part of the security assessment, as outlined in this Policy, that the event does not have substantial security needs, Advanced Ticketing can be coordinated through CTO or online vendor approved by CTO.

An official college-, university- or state-issued identification is required for Ticket pickup at the event. The number of Tickets held, reserved, sold, and/or issued cannot exceed the venue capacity. No standby line will be allowed unless advance approval provided by UCLA Fire Department and with limited standby Tickets offered. For more information about the ticketing process, contact CTO at 310-206-6161 or cto@tickets.ucla.edu.

I. Appeal Process

An Event Organizer may appeal a University decision related to the Major Events Policy if they feel the following occurred:

1. A denial of use of property violates University or UCLA policies;
2. A University required security measure is abuse of discretion; and/or
3. A University restriction imposed is not view-point neutral.

The Event Organizer may submit an appeal for final determination to the appropriate appeals officer as outlined below, within two (2) business days of notification of item 1 above and/or receipt of the security assessment for items 2 & 3 above. The appeals officer will respond to the appeal within (3) business days following receipt of the appeal.

All Event Organizers may submit their appeals to the Chief Compliance and Audit Officer or designee.

A successful appeal does not guarantee the Event Organizer's venue of choice.

J. Safety Cancellation of a Major Event

See [UCLA Policy 860: Organized Events](#), Section III.I.

K. Public Expression Activities Connected to a Major Event

In the event the University has actual or suspected knowledge of planned Public Expression Activity that could disrupt a Major Event, a UCLA representative or the Event Organizer will prior to the beginning of the event announce the rules of participation, see Attachment C. For marches associated with a Public Expression Activity, see UCLA Policy 850: General Use of UCLA Property.

L. Notice of Safety Considerations by Event Organizers and Senior Administrators

See [UCLA Policy 860: Organized Events](#), Section III.K.

IV. PROCEDURES

Scheduling of Major Events subject to availability on a first-come first-serve basis and in the instance, there is more than one event request, priority for the use of UCLA Property will be given to University Units and Registered Campus Organizations All proposed Major Events will be reviewed and approved in a viewpoint-neutral manner, provided however that Major Events in Areas for Public Expression will be approved both in a viewpoint and content-neutral manner.

If UCLAPD, OAT, SOLE, or Campus Venue Scheduler determines that, because of new information it has received or changing circumstances, its assessment must be modified, it will schedule additional meetings or communications with Event Organizers and other appropriate stakeholders to discuss its revised recommendations.

All Event Organizers must follow the following procedures to host a Major Event (see Attachment A for the flowchart of *UCLA's Approval Process for Major Events*):

1. University Units Hosting a Major Event

The following steps are required for University Units to host a Major Event:

- a. Contact Campus Venue Scheduler at a minimum of **fifteen (15), preferably twenty (20) working days** to reserve event location. Reserving a campus venue does not guarantee or automatically approve the location or Major Event. The requested Major Event and location is subject to review and approval as outlined below.
- b. The Event Organizer is required to advise the Campus Venue Scheduler and the UCLA Events Office of information concerning any known or suspected planned demonstration or other potentially disruptive activity that might occur during the event.
- c. Complete and submit the EOL Registration form that will be sent by the Campus Venue Scheduler, who initiates the EOL Registration. Notifications will be sent to applicable campus providers and/or administration that will review, comment, and/or add stipulations to be completed prior to approval.
- d. Contact the Central Ticket Office (CTO) at least **fifteen (15) days prior to the Major Event date, preferably twenty (20) working days**.
- e. Complete and submit a Major Event security assessment form at least **fifteen (15) working days** prior to the Major Event. Contact UCLAPD Special Events at 310-825-6543 or at SpecialEvents@ucpd.ucla.edu to request the Major Event security assessment form.

UCLAPD/OAT will conduct a security/interference assessment as outlined in Section III.G.

- i. If UCLAPD and/or OAT determines the event has substantial security needs and/or potential interference, the Event Organizer must schedule a Security/Interference Assessment Meeting with UCLAPD/OAT no later than **ten (10) working days** prior to the event date. The meeting will include, as necessary, the following: the SOLE Advisor for RCO events or UCLA Events Office for non-RCO events, the Campus Venue Scheduler or designee; and one or more representatives from the Event Organizer (including, in the case of an RCO, at least one signatory). The representatives of the Event Organizer serving as first contacts will be made known to UCLAPD/OAT at this time and will be present at meetings and available for consultation throughout the event-planning period. The Event Organizer is required to advise the security assessment team and OAT of information concerning any known or suspected planned demonstrations or other potentially disruptive activity that might occur during the event. UCLAPD/OAT will discuss security and interference concerns and determinations at the Security/Interference Assessment Meeting, and meeting participants will discuss options for addressing security and interference concerns that UCLAPD/OAT have identified.
 - ii. The UCLAPD Police Chief or designee may inform others, including but not limited to representatives from local municipal and community entities about the event. UCLA Government and Community Relations may be included in these communications as a liaison to elected officials and/or surrounding community groups. The UCLAPD Police Chief or any member of this group may request additional meetings in advance of the event to discuss concerns.
- f. Meet with the Campus Venue Scheduler, in consultation with the UCLA Events Office, to review event details at least **ten (10) working days**, prior to the Major Event. The Campus Venue Scheduler will schedule an event coordination meeting with the University Unit (Event Organizers) to exchange information about the event and discuss logistical expectations. The

UCLA Events Office may request an additional meeting to ensure that all instructions given (e.g., at the event coordination meeting) have been carried out.

- g. At least **ten (10) working days** prior to the Major Event, designate to UCLA Strategic Communications a representative who is responsible for media relations, so they know with whom to coordinate regarding logistical matters involving media organizations.

Any publicity materials for the Major Event must comply with but not limited to, UCLA Policy 110: *Use of the University's Names, Seals, and Trademarks*, available at <http://www.adminpolicies.ucla.edu/pdf/110.pdf>.

- h. At least ten **(10) working days** prior to the Major Event, contact Insurance and Risk Management to discuss insurance assessments.
- i. When the steps above have been completed, the EOL Registration will send the request to the department head of the University Unit requesting the Major Event for final confirmation.

Note: By confirming the Major Event the department head has accepted the responsibility of University Guarantor for the Major Event.

- j. Once the department head has confirmed the Major Event, contact the appropriate Chancellor's designee (see matrix, attachment B) for final approval of the Major Event in writing (email notification is sufficient).
- k. The EOL Registration will send the University Unit notification of confirmation and the Chancellor's designee will email the University Unit the final approval.

2. Registered Campus Organizations (RCO) Hosting a Major Event:

The following steps are required for RCOs to host a Major Event

- a. Prior to making any arrangements or reservations, contact your SOLE advisor first, to discuss and obtain initial consent about the scope of the event, including but not limited to: the nature of the program; number of anticipated guests; any external participants; desired location; and funding sources. The Event Organizer is required to advise the SOLE advisor of information concerning any known or suspected planned demonstrations or other potentially disruptive activity that might occur during the event.
- b. Contact Campus Venue Scheduler to reserve location at a minimum of **fifteen (15), preferably twenty (20) working days**. Reserving a campus venue does not guarantee or automatically approve the location or Major Event. The requested Major Event and location is subject to review and approval as outlined below.
- c. The RCO Authorized Representative will fill out and submit the EOL Registration form sent by the Campus Venue Scheduler, who will initiate the EOL Registration. EOL Registration notifications will be sent to applicable campus providers and/or administration that will review, comment and/or add stipulations to be completed prior to approval.
- d. Contact the Central Ticket Office (CTO) at least **fifteen (15), preferably twenty (20) working days** prior to the Major Event date.
- e. The Authorized Representative will complete and submit a Major Event security assessment form at least **fifteen (15) working days** prior to the Major Event. Contact UCLAPD Special Events at 310-825-6543 or at SpecialEvents@ucpd.ucla.edu to request the Major Event security assessment form. See Section IV.1.e of this Policy for more details and requirements
- f. Meet with your SOLE Advisor to review event details at least **ten (10) working days** prior to the Major Event. The SOLE Advisor will schedule an event coordination meeting to exchange information about the event and discuss logistical expectations. The SOLE Advisor may request

an additional meeting to ensure that all instructions given (e.g., at the event coordination meeting) have been carried out.

- g. At least **ten (10) working days** prior to the Major Event, designate to your SOLE Advisor a representative who is responsible for media relations, so that UCLA Strategic Communications knows with whom to coordinate regarding logistical matters involving media organizations.

Any publicity materials for the Major Event must comply with but not limited to, UCLA Policy 110: *Use of the University's Names, Seals, and Trademarks*, available at <http://www.adminpolicies.ucla.edu/pdf/110.pdf>.

- h. In compliance with UC Business and Finance Bulletin BUS-63 (<https://policy.ucop.edu/doc/3520339/BFB-BUS-63>), submit proof of event insurance at least **ten (10) working days** prior to the Major Event. Event Organizers are encouraged to apply for insurance coverage at the earliest possible time to allow for processing of their insurance application and for underwriting. Please note that submission of an application does not guarantee coverage.

RCO Event Organizers should follow the procedures described at <https://ucla.campusconnexionsuc.com/student-campus-groups/registered-campus-organization/event-liability.html> to arrange for insurance through the approved University provider (at the time of Policy enactment, Mercer was the approved insurance carrier).

If insurance through the approved University provider is not approved for the event, the RCO can obtain insurance through another provider, as long as the insurance coverage is identical to the coverage provided by the approved University provider.

If insurance through another provider is also not approved, contact the Director of Insurance and Risk Management, who will consult as applicable with the AVC, OAT, or other appropriate office, to determine and assess the risks and liabilities of a non-insured event.

Note: If you are unable to obtain insurance, your event may not proceed.

- i. When the steps above have been completed, the EOL Registration will send the request to your SOLE advisor for confirmation of the Major Event.

Note: The RCO requesting the Organized Event accepts full responsibility for the Major Event.

- j. Once the Sole Advisor has confirmed the Major Event, contact the appropriate Chancellor's designee (see Attachment B) for final approval of the Major Event in writing (email notification is sufficient).
- k. The EOL Registration will send the RCO Authorized Representative notification of confirmation and the Chancellor's designee will email the RCO Authorized Representative the final approval.

3. Non-Affiliates Hosting a Major Event

Non-Affiliates must have a University Guarantor to schedule a Major Event on UCLA Property. [See Section IV.3 of UCLA Policy 860: Organized Events](#) for approved University Guarantors.

Individual Employees and Students that are requesting a Major Event for personal activities, not associated with the University, are required to follow the Major Event steps by Non-Affiliates.

Once the University Guarantor has been established the following steps are for Non-Affiliates to host a Major Event

- a. Contact Campus Venue Scheduler to reserve location at a minimum of **fifteen (15), preferably twenty (20) working days**. Reserving a campus venue does not guarantee or automatically approve the location or Major Event. The requested Major Event and location is subject to review and approval as outlined below.

- b. The Event Organizer is required to advise the campus venue of information concerning any known or suspected planned demonstrations or other potentially disruptive activity that might occur during the event.
- c. The University Guarantor (University Unit, Institutional or Off-Campus Event Guaranty, as applicable) will fill out and submit an EOL Registration form sent by the Campus Venue Scheduler, who initiates the EOL Registration. EOL Registration notifications will be sent to applicable campus providers and/or administration that will review, comment, and/or add stipulations to be completed prior to approval
- d. Contact the Central Ticket Office (CTO) at least **fifteen (15), preferably twenty (20) working days** prior to the Major Event date.
- e. Complete and submit a Major Event security assessment form at least **fifteen (15) working days** prior to the Major Event. Contact UCLA PD Special Events at 310-825-6543 or at SpecialEvents@ucpd.ucla.edu to request the Major Event security assessment form. See Section III.G. of this Policy for more details and requirements.
- f. Meet with the Campus Venue Scheduler, in consultation with the UCLA Events Office, to review event details at least **ten (10) working days**, prior to the Major Event. The Campus Venue Scheduler will schedule an event coordination meeting with the Non-Affiliate (Event Organizers) to exchange information about the event and discuss logistical expectations. The UCLA Events Office may request an additional meeting to ensure that all instructions given (e.g., at the event coordination meeting) have been carried out.
- g. At least **ten (10) working days** prior to the Major Event, designate to the UCLA Events Office a representative who is responsible for media relations, so that UCLA Strategic Communications knows with whom to coordinate regarding logistical matters involving media organizations.

Any publicity materials for the Major Event must comply with UCLA Policy 110: *Use of the University's Names, Seals, and Trademarks*, available at <http://www.adminpolicies.ucla.edu/pdf/110.pdf>.

- h. In compliance with UC Business and Finance Bulletin BUS-63 (<https://policy.ucop.edu/doc/3520339/BFB-BUS-63>), submit proof of event insurance at least **ten (10) working days** prior to the Major Event. Event Organizers are encouraged to apply for insurance coverage at the earliest possible time to allow for processing of their insurance application and for underwriting. Please note that submission of an application does not guarantee coverage.

Non-Affiliates (Event Organizers) must submit to the UCLA Events Office a Certificate of Insurance naming "THE REGENTS OF THE UNIVERSITY OF CALIFORNIA" as an additional insured and including an additional insured endorsement with General Liability coverage defined by the UCLA Office of Risk Management, but not less than one million dollars (\$1,000,000) per occurrence.

Major Events booked on ASUCLA Operated Properties must also submit Certificate of Insurance naming Associated Students UCLA as additionally insured.

The event cannot proceed unless the Certificate is provided to the UCLA Events Office at least **ten (10) working days** prior to the event.

The Non-Affiliate Event Organizer may purchase coverage by going to <https://ucla.campusconnexionsuc.com/student-insurance/tenant-user-liability-insurance.html> constituents, or another insurance provider of their choosing. Depending on the risks associated with the event, the Event Organizer may be required to provide higher amounts of general liability coverage, additional types of insurance, or both.

Note: If you cannot provide proof of insurance, the Major Event will be cancelled.

- i. When the steps above have been completed, the EOL Registration will send the request to the University Guarantor for final confirmation.
- j. Once the EOL Registration is confirmed, the University Guarantor will contact the appropriate Chancellor's designee (see Attachment B) for final approval of the Major Event in writing (email notification is sufficient).
- k. The University Guarantor will notify the Non-Affiliate of final approval.

V. REFERENCES

1. [UCLA Policy 850: General Use of UCLA Property](#)
2. [UCLA Policy 860: Organized Events](#)
3. [UCLA Policy 850.1: Placement of Temporary Structure on UCLA Campus](#)
4. [UCLA Policy 106: Visiting Dignitaries](#)
5. [UCLA Policy 860.2: Security Arrangements for Special Visitors](#)
6. [UCLA Policy 863: Filming and Photography on Campus](#)
7. [UCLA Policy 110: Use of the University's Names, Seals and UCLA Trademarks](#)
8. [Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California](#)
9. [UC PACAOS 30: Policy on Speech and Advocacy](#)
10. [UC PACAOS 40: Policy on Use of University Properties](#)
11. [UC Business and Finance Bulletin BUS-63: Insurance Requirements and Certificates of Insurance](#)
12. [Robinson-Edley Report on Response to Protests on UC Campuses.](#)

VI. ATTACHMENTS

- A. UCLA Approval Process for Major Events Flowchart
- B. Chancellor's Designee Matrix for Determining and Approving a Major Event
- C. Announcement of Rules of Engagement

Issuing Officer

/s/ Michael J. Beck

Administrative Vice Chancellor

Attachment A: UCLA Approval Process for Major Events Flowchart

UCLA Policy 862 sets forth the process for the required review and approval for Major Events, and it is strongly recommended that you read the Policy prior to requesting a Major Event.

Requesting a Major Event by Affiliation



Attachment B: Chancellor's Designees Matrix for Determination and Approval of Major Events

Determination of Major Events

Event Organizer	Campus Venue Scheduler	UCLA PD	Event's Office	SOLE
University Unit	√	√	√	
RCO	√	√	√	√
Non-Affiliates	√	√	√	

Final Approval of Major Event

Event Organizer	Senior Advisor to the Chancellor and Chief of Staff	Administrative Vice Chancellor	Vice Chancellor Student Affairs
University Unit	√	√	
RCO	√		√
Non-Affiliates	√	√	

*Note: the Chancellor has the authority to determine if any event is a Major Event and approve any Major Event

Attachment C: Announcement of Rules of Engagement

In the event the University suspects or has actual knowledge of planned demonstrations that could disrupt the event, an explicit notice to the audience will be provided at the beginning of the event.

A UCLA representative or Event Organizer will make an announcement that contains the following elements, articulated consistently across events in both substance and tone, regardless of the viewpoints expressed by the speaker or demonstrators:

1. UCLA respects freedom-of-speech, including the lawful freedom-to-protest;
2. protests may not be so disruptive as to silence the invited speaker from communicating with a willing audience;
3. after a warning, protestors whose actions prevent the event from proceeding will be escorted out, be subject to arrest, and will be held accountable under relevant laws and University policies.

For your convenience, a sample announcement is below.

— SAMPLE ANNOUNCEMENT TEXT —

Good evening. My name is [**YOUR NAME, TITLE**]

Thank you for attending this event. Freedom of speech, which allows for the open exchange of ideas, is a core value at UCLA. As a learning environment, we never shy away from disagreement. Each member of the UCLA community has the right to present speakers and programs, as well as the right to protest speech.

Today's speaker is brought to us by [**UNIVERSITY UNIT**], which is hosting this event and invited [**SPEAKER NAME**] to UCLA. We understand that this talk may prompt sharp disagreement, and we recognize and value the rights of individuals to express their views. But the University will not permit a response or a protest that is so disruptive so as to effectively silence the invited speaker and prevent them from communicating with a willing audience.

Campus officials are present and prepared to approach any individual or group who create a disruption. They will be warned and, if the disruption continues, they will be required to leave and are subject to arrest by the university Police Department. Those individuals could be held accountable under UCLA policy as well as any applicable criminal laws.

Our goal tonight is to have a peaceful and respectful event. Please be mindful of other audience members and thank you for your attention.

Exhibit G(3)

September 5, 2024

TO: UCLA Management & Counsel

FROM: Andy Kahn, UPTE General Counsel

RE: UCLA's Expressive Activities Policies/Regulations

I'm writing on UPTE's behalf in response to our being notified on 9/4 of immediate unilateral implementation by UCLA of Time Place and Manner Regulations ("the Regs"). Their unilateral imposition prior to bargaining is not justified by SB 108, which merely required a report to legislators by 10/1, not immediate implementation of new regulations contrary to HEERA's general rule requiring notice to unions and an opportunity to bargain prior to management implementation.

We explain below that the content of these Regs does not meet the reasonableness requirement of the Access articles of our CBAs. Moreover, these regulations violate HEERA and our constitutional speech rights in several ways. We request to bargain the contents of such regulations and their effects. We request the objectionable provisions cited below be held in abeyance until such bargaining occurs as a partial cure for their unilateral implementation and to avoid further irreparable harms to us, our members and other unions.

We have the following concerns, proposals, and requests for information relevant to bargaining both these regulations and our currently-open statewide Access article, as well as relevant to our potential grievance:

1. Legal Standards

Strict scrutiny would be applied here by the courts to the Regs concerning outdoor areas: see, e.g., *Shaw v. Burke*, 2018 U.S. Dist. LEXIS 7584, *22 (C.D. Cal. 2018) ("Given the traditional purpose of the open, outdoor areas of universities, such as the "Mall" on Pierce's campus, the Court finds that these areas are traditional public fora, regardless of Pierce's regulations naming them non-public fora. Id.; *Bowman*, 444 F.3d at 979 ('College campuses traditionally and historically serve as places specifically designated for the free exchange of ideas.').") This strict scrutiny requires time/place/manner restrictions be narrowly tailored to important governmental interests and leave ample alternative opportunities to reach the intended audience.

As you know, HEERA provides our representatives with the "right to use institutional

facilities at reasonable times for the purpose of meetings”. Gov. Code sec. 3568. HEERA also protects employees’ rights to engage in union speech in non-work areas absent compelling contrary interests. See, e.g., *Cal. Public Sector Labor Relations* (Cal. Bar 2024)(“To establish reasonableness, the employer must show that its regulation is (1) necessary to the efficient operation of the employer’s business and/or safety of its employees and others; and (2) narrowly drawn to avoid overbroad, unnecessary interference with the exercise of statutory rights.” (citing *County of Tulare* (2020) PERB Dec. No. 2697-M, p. 20 (employer rule regulating union activity must not use vague or overbroad language); *County of Riverside* (2012) PERB Dec. No. 2233-M, p. 7).

Finally, lest there be concern among some management representatives that the law somehow requires recognized bargaining representatives to be treated the same as an outside protest group, the settled law is to the contrary (*Perry Ed’n Ass v. Perry Local Educators* (1983) 483 US 60), as employees and their bargaining agents have unique interests and are uniquely subject to loss of their livelihoods should they engage in misconduct on their employer’s property, unlike an outside group. We recommend UCLA create a separate TPM policy solely for employee organizations rather than including them in the Regs sent us.

2. Policy 850 IV A 4 – Ban on Disruption

This Policy is overly vague and overbroad under the seminal California Supreme Court case on this issue, *In Re Brown*, 9 Cal.3d 612, 619-20 (1973) and similar decisions. The *Brown* Court struck down convictions of leaders of a loud demonstration at a university campus for having disturbed classes. The Court held a statute banning disturbing the peace could not under the state and federal constitutions be applied against these demonstrators because there was no showing they were solely trying to make noise to disturb rather than in part engaging in communication:

The Attorney General seeks to preserve the convictions of violating section 415 on the basis of the language in that section prohibiting "maliciously and wilfully disturbing the peace or quiet . . . by loud or unusual noise." He states that there is substantial evidence that petitioners made loud noises which disrupted class and campus functions. The statute, however, cannot be interpreted consistent with the First Amendment and traditional views as making criminal all loud shouting or cheering which disturbs and is intended to disturb persons. When the word "noise" in the statute is properly construed consistent with the First Amendment and traditional views, it encompasses communications made in a loud manner only when there is a clear and present danger of violence or when the communication is not intended as such but is merely a guise to disturb persons.

In light of this caselaw, you should narrow these sections to merely ban those activities posing a risk of violence or making noise intended solely to disturb rather than engage in speech.

REQUESTS FOR INFORMATION: Does UCLA believe *In re Brown* is no longer good law or somehow is inapplicable to one or more of its facilities? If so, please set forth the basis for such belief.

3. Policy 850 IV A 21 - Chalking Sidewalks

This ban on chalking upon sidewalks is contrary to what UCSD is doing, which is allowing chalking except on areas covered by overhangs so as to prevent the rain from cleaning the area. UCSD and UCLA have no materially-different interests at stake. Even UCSD's policy is too restrictive because we're committed to cleaning up after ourselves rather than relying on the rain to do so. Constitutional law scholars agree that chalking is protected expression where, as here, the public entity which owns the property will incur no clean-up costs.ⁱ

4. Policy 850 – IV(C)(3)(c) Ban on Leafletting Cars, or With a Table Absent Prior Permission, or Inside Buildings Except in Reserved Rooms

This subsection provides in pertinent part (with key provisions highlighted):

c. Distribution of Non-Commercial Literature

Non-Commercial Literature may be distributed only as provided below:

i. On Areas for Public Expression (Designated Public Fora)

Individuals may distribute Non-Commercial Literature only on Areas for Public Expression *** provided that: *** c. **literature is not placed on or in vehicles parked on UCLA Property**; and *** **To use tables**, booths, and other like structures and portable displays to facilitate distribution in the Areas for Public Expression, **prior approval is required** by the UCLA Events Office and if approved, tables or portable displays must be attended at all times by the individuals or groups sponsoring the distribution. Approval will be given on a first come, first served basis, based on the Interference Criteria and be given or refused only on a content-neutral basis and viewpoint-neutral basis.

ii. On areas of UCLA Property other than Areas for Public Expression

Areas of UCLA Property other than Areas for Public Expression are not designated Public Fora. RCOs, Authorized Student Governments, University Units, Support Groups, and **Employee Organizations may distribute Non-Commercial Literature in**

buildings or programs on UCLA Property that are not Areas for Public Expression only in accordance with the following provisions:

- a. compliance with the restrictions stated in Section IV.C.3 of this Policy; and
- b. literature may be distributed in rooms or areas reserved for meetings or programs only by the RCO, Authorized Student Government, University Unit, Support Group, or Employee Organization that has reserved the room or area.**

The Event Organizer of an Organized/Major Event may distribute literature at their event as approved by the appropriate campus venue and/or the UCLA Events Office or SOLE. **Except as provided in this Policy, no individual may distribute literature in buildings on UCLA Property.**

In parking lots where there is little vehicular traffic (as is true for many UCLA lots), there is no excuse recognized by courts for banning protestors from leaving noncommercial leaflets on vehicles.ⁱⁱ We urge UCLA to narrow its ban to any parking lots where it can show so much traffic that a substantial likelihood exists of cars running into a handbiller.

REQUEST FOR INFORMATION: Does UCLA have any data on its parking lot usage that it believes to support prohibition on leaving noncommercial leaflets on cars?

The use of a single small card table temporarily during a rally in a large open space rather than on a narrow sidewalk does not pose such a threat that it justifies requiring preapplication for approval. This is especially problematic because UCLA policy provides us no assurance as to how quickly we would receive a response to such an application. This provision violates both HEERA and the constitutions. See, e.g., *ACLU v. City of Las Vegas*, 466 F.3d 784, 799 (9th Cir. 2006) (“We hold that the erection of tables in a public forum is expressive activity protected by our Constitution to the extent that the tables facilitate the dissemination of First Amendment speech.”).

Finally, no citations are needed for the obvious proposition that union representatives have a HEERA right to distribute literature to our unit members in non-work areas even without reserving them in advance, such as in break rooms and cafeterias. The intent of the drafter may have been to merely say that if an organization reserves a room, then it alone can determine who gets to distribute literature there, but that is not how this reg has been worded. As worded currently, it is a ban on literature distribution by unions inside any UCLA building with a narrow exception for reserved rooms, and thus violates HEERA. This is essentially a pre-reservation requirement but that is contrary to the provision of our CBAs’ Access articles expressly permitting unscheduled meetings. HEERA bars employer

requirements for prior visitation notice from unions: *Long Beach USD* (1987) PERB Dec. No. 608 at p. 16.

5. Policy 850(IV)(C)(3)(a)(iii) Requirement for Architect Review

It is very burdensome for unions to have to submit in advance a plan for architect review when they wish to engage in some display during a rally, but this section states:

iii. To maintain a uniform standard of aesthetics for UCLA Property, the UCLA Campus Architect must approve all outdoor and outdoor facing digital or non-digital displays not associated with an Organized/Major Event. Approval must be given or refused only on a viewpoint-neutral basis.

Given that union displays during union rallies last for no more time than most Organized/Major Events, there is no legitimate university interest in making us submit display plans to an architectural official. Just as bad from both a constitutional and practical perspective, there is no deadline for the Architect to get back to us about a planned displayⁱⁱⁱ and the standards to be applied by the Architect are completely unclear (making the promise of viewpoint neutrality merely a hope).^{iv}

REQUEST FOR INFORMATION: Please provide any existing written standards or guidelines followed by the Architect for their decision-making on requests like these.

7. Policy 850 (IV)(C)(7) Restrictions on sound amplification:

Sound amplification has repeatedly been found constitutionally-protected, and hence broad requirements for preapproval have been invalidated by the Ninth Circuit.^v Amplification is often required when meeting outside due to competing sources of noise, just to stay at the same decibel level as these sources in order to be heard by attendees. Constitutional protection for speech means UC cannot ban amplification for speech not exceeding other noise sources which UC allows on its property (such as large trucks and leafblowers – but our members report frequently hearing such sounds at UC). Some outdoor meeting areas are so large that attendees at one end of the area cannot hear speakers at the other end, even if they speak loudly, unless the speech is amplified via a bullhorn. Use of drums is treated by this policy as the same as amplification, but drumming during chants has equal or greater legal protection.^{vi} Using amplification for outdoor meetings is within our HEERA rights also. In addition to lacking substantive criteria for refusing amplification, there are no time standards in these Regs for when a decision to grant or deny permission will be rendered after we apply, making it impossible to plan ahead because obviously a different location might be chosen by protest groups like UPTe if amplification is rejected at the initially-requested location, rather than abandoning the idea entirely of using amplification.

We suggest UCLA join UCSD in simply declaring in advance that some areas are permitted for use of a bullhorn during certain times of the day: see UCSD Policy 510-1 sec.

III(C)(listing numerous designated areas for amplification, and saying even in non-designated areas amplification permitted 150 feet away from buildings).

REQUEST FOR INFORMATION: Please provide us a copy of any internal guidelines which any UCLA decisionmakers use in deciding upon requests to use amplification.

8. Policy 850(IV)(C)(3)(b) Caps on Size of Signs/Banners

This provision coupled with the cited UCOP regulation caps all non-affiliate signs at 30" x 30" without prior written UCLA permission. However, no official has been designated to address requests for a larger sign. While this standard would make some sense if limited to signs held across pedestrian traffic on a narrow sidewalk, it makes no sense for a banner held off a sidewalk away from pedestrian traffic. UCLA should allow all signs up to normal banner size (4' x 6') if held on the edge of the sidewalk rather than across it. If UCLA is insistent on setting a smaller size as a general rule, then it needs to narrow the circumstances under which a permit must be requested to the more crowded of UCLA's walkways, as UCLA's campus has many large open spaces where one or more banners can be displayed by protestors many dozens of yard away from any pedestrian traffic without creating any real problems for UCLA.

REQUEST FOR INFORMATION: Please provide us a copy of any internal guidelines which any UCLA decisionmakers use in deciding upon requests to use a sign larger than 30"x30".

9. Policy 852's Limited List of Outdoor Spaces for Protests

The map in this Policy reflects a radical elimination of most of the outdoor spaces we have been using without objection to hold meetings and rallies. This Policy forces relocation of our assemblies farther away from most of our members' workplaces, making attendance much less likely and thereby hurting our organization and diluting our message.^{vii} Moreover, those who attend will need to spend more time in transit, reducing the amount of time that exempt employees have left for their work, so is contrary to UCLA's own legitimate interests. This Policy only serves the illegitimate interests of lowering turnout and often preventing us from having our protests within eyeshot of decisionmakers whose decision we are challenging. Our situation is factually and legally different from that of an outside group which would treat UCLA campus essentially as a park in order to protest the conduct of foreign governments or officials far removed from UC administration.

Finally, we have tried to apply in the past for use of the main quads and been ignored. Accordingly, now designating them with an asterisk in the Policy as requiring an application is tantamount to denying us any use of them, contrary to our prior usage of such spaces.

REQUEST FOR INFORMATION: Where would UPTE and other unions apply to use the main quads for speech? What would be the procedure and standards used?

CONCLUSION

The above-cited UCLA Policies are causing UPTE to reconsider many of its plans for protesting UC's employment practices in the near future. This chilling effect is an irreparable harm warranting preliminary injunctive relief from the courts.^{viii} Accordingly, we need UCLA to assure us that it will not seek to enforce the provisions challenged above while we are bargaining over these issues, nor without at least 30 days' prior notice that they will be enforced. I'm available to meet on this via zoom on Sept. 30, Oct. 1 or Oct. 2.

We request that UCLA allow our deadline for grieving these problems to be tolled until a meeting between the parties can occur, in order to avoid for the benefit of both parties potentially-unnecessary grievance paperwork under three contracts. Thank you for your prompt attention to these matters.

ⁱ See, e.g., Prof. Marie A. Failinger, "Talking Chalk: Defacing the First Amendment in the Public Forum", 115 *W. Va. L. Rev.* (2012)(available at: <https://researchrepository.wvu.edu/wvllr/vol115/iss2/8>); F. LoMonte & P. Fiku, "Watch Where You Chalk, 'Cause the Sidewalks Talk: The First Amendment and Ephemeral 'Occupations' of Public Property", 47 *Vt. L. Rev.* (2023)(available at <https://brechner.org/wpcontent/uploads/2023/11/Watch-Where-You-Chalk-Cause-the-Sidewalks-Talk-The-First-Amendment-andEphemeral-Occupations-of-Public-Property.pdf>).

ⁱⁱ See, e.g., *Klein v. City of San Clemente*, 584 F.3d 1196, 1208 (9th Cir. 2009)(striking down ban on windshield leafletting); *Krantz v. City of Fort Smith*, 160 F.3d 1214, 1222 (8th Cir. 1998)(same); *Horina v. Granite City*, 538 F.3d 624, 638 (7th Cir. 2008)(same).

ⁱⁱⁱ See, e.g., *Long Beach Lesbian & Gay Pride, Inc. v. City of Long Beach*, 14 Cal. App. 4th 312, 332 (1993)("Plaintiffs' primary grievance is with the failure to require a decision within a specific time after the application is made. Plaintiffs do not purport, or ask us, to dictate what a reasonable, acceptable time is. They only complain that to leave the matter open-ended impermissibly places the fate of a parade application in official limbo, both chilling and freezing the applicant's free speech intentions and expectations. The City has not contested the legal proposition that avoidance of limbo requires a deadline for action following application. We believe the authorities cited above support that requirement. Accordingly, Chapter 5.60's failure to include such an express limit is improper.").

^{iv} See, e.g., *Smith v. County of Los Angeles*, 24 Cal. App. 4th 990, 999 (1994)("The Supreme Court has repeatedly held that an ordinance " "which . . . makes the peaceful enjoyment of freedoms which the Constitution guarantees contingent upon the uncontrolled will of an official--as by requiring a permit or license which may be granted or withheld in the discretion of such official--is an unconstitutional censorship or prior restraint upon the enjoyment of those freedoms." " (*FW/PBS, Inc. v. City of Dallas*, supra, 493 U.S. at p. 226 [citing *Shuttlesworth v. City of Birmingham* (1969) 394 U.S. 147, 151] Addressing the constitutionality of a parade permit requirement, *Shuttlesworth* held "that a law subjecting the exercise of First Amendment freedoms to the prior restraint of a license, without narrow, objective, and definite standards to guide the licensing authority, is unconstitutional." (394 U.S. at pp. 150-151 [22 L.Ed.2d at p. 167]").

^v *Cuviello v. City of Vallejo*, 944 F.3d 816, 825 (9th Cir. 2019)(striking down requirement for seeking permit for amplification even for a single bullhorn in every venue even if already noisy: “The United States Constitution and California Constitution protect bullhorns, and other sound-amplifying devices, as ‘indispensable instruments’ of public speech. *Saia v. People of State of New York*, 334 U.S. 558, 561, 68 S. Ct. 1148, 92 L. Ed. 1574 (1948); *Wollam v. City of Palm Springs*, 59 Cal. 2d 276, 29 Cal. Rptr. 1, 379 P.2d 481, 485 (Cal. 1963). In a crowded park or bustling intersection, where a single voice is easily drowned out, volume enables speech. See *Wollam*, 379 P.2d at 486. A restriction on volume, then, can effectively function as a restriction on speech. *Saia*, 334 U.S. at 561-62; *Wollam*, 379 P.2d at 486 (“The right of free speech necessarily embodies the means used for its dissemination because the right is worthless in the absence of a meaningful method of its expression.”))

^{vi} See, e.g., *U.S. v. Doe*, 968 F.2d 86, 87 (D.C. Cir. 1982)(“There can be no question that beating a drum in the context of a clearly identified anti-war demonstration is expressive conduct protected by the First Amendment. See, e.g., *Ward v. Rock Against Racism*, 491 U.S. 781, 790, 105 L. Ed. 2d 661, 109 S. Ct. 2746 (1989)”).

^{vii} See, e.g., *NAACP, Western Region v. Richmond*, 743 F.2d 1346, 1356 (9th Cir. 1984)(“The size of a crowd and its enthusiasm for a cause may generate sufficient passion to sway the undecided.”).

^{viii} See, e.g., *Ketchens v. Reiner*, 194 CA3d 470, 480 (1987)(“The question is not a close one. ‘The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.’ (*Elrod v. Burns* (1976) 427 U.S. 347, 373”).

Oct.28, 2024

TO: UCLA-C Managememnt COP c/o Anthony Solana &
FROM: Andy Kahn, UPTE General Counsel
RE: Further proposal on speech policy

While UCLA-C should simplify matters by simply adopting UCSB's policy for employee organizations and leave them out of the more general policy applicable to non-affiliates, UPTE is also willing to live with these policies if all the problems identified in its two prior memos are fixed in UCLA-C's general policies. Among the fixes would be the following in bold or strikeout:

1. Policy 850(IV)(A)(4)(Ban on Disruptive noise)

Modify as follow: "engage in the production of amplified or non-amplified sound that substantially disrupts campus activities as provided in section IV.C.7 of this Policy, **and for an employee organization, was intended to disrupt or caused a threat of imminent violence.**"

2. Policy 850(IV)(A)(21)(Ban on chalking)

Modify by adding: "**except that an employee organization may use chalk on a sidewalk to engage in protected protest activities if it has previously committed in writing to clean up within 72 hours, and does in fact do so.**"

3. Policy 850(IV)(C)(3)(c(i)(restrictions on tables and literature):

i. On Areas for Public Expression (Designated Public Fora)

Individuals may distribute Non-Commercial Literature only on Areas for Public Expression *** provided that: *** c. literature is not placed on or in vehicles parked on UCLA Property **except by an employee organization in connection with other protected activities**; and *** To use tables, booths, and other like structures and portable displays to facilitate distribution in the Areas for Public Expression, prior approval is required by the UCLA Events Office and if approved, tables or portable displays must be attended at all times by the individuals or groups sponsoring the distribution, **except that no prior approval is required for an employee organization to set up a card table during a rally it is sponsoring so long as this does not block passage.** Approval will be given on a first come, first served basis, based on the Interference Criteria and be given or refused only on a content-neutral basis and viewpoint-neutral basis.

ii. On areas of UCLA Property other than Areas for Public Expression



Areas of UCLA Property other than Areas for Public Expression are not designated Public Fora. RCOs, Authorized Student Governments, University Units, Support Groups, and Employee Organizations may distribute Non-Commercial Literature in buildings or programs on UCLA Property that are not Areas for Public Expression only in accordance with the following provisions:

- a. compliance with the restrictions stated in Section IV.C.3 of this Policy; and
- b. literature may be distributed in rooms or areas reserved for meetings or programs only by the RCO, Authorized Student Government, University Unit, Support Group, or Employee Organization that has reserved the room or area, **or otherwise where protected by HEERA.**

The Event Organizer of an Organized/Major Event may distribute literature at their event as approved by the appropriate campus venue and/or the UCLA Events Office or SOLE. Except as provided in this Policy, no individual may distribute literature in buildings on UCLA Property. **This Policy shall not be construed to preclude employee organizations from handing literature to employees in break areas.**

4. Amplified and Non-Amplified Sound

Modify Policy 850(IV)(

- a. Approval to use Amplified Sound

In order to avoid noise that substantially disrupts campus activities or operations, to use amplified sound on UCLA Property, **except for an employee organization conducting a rally with more than 10 attendees using a single bullhorn, drum and whistle**, prior approval is required by one of the following:

- i. SOLE, for activities organized by RCO's and Authorized Student Governments;
- ii. UCLA Events Office, for activities not organized by an RCO or an Authorized Student Government;
- iii. Residential Life for activities on On Campus Housing Community; and/or
- iv. Campus Venue Manager for activities in areas under their control.

- b. Amplified and Non-Amplified Devices

Hand-held or portable amplification (examples include but are not limited to: bullhorns, portable amplifiers, portable speakers, etc.) are considered sound amplification devices under this Policy and all amplified sound is subject to the sound level limitations outlined in this Policy.

Non-amplified actions such as but not limited to drums and manual noise makers are considered amplified sound under this Policy and is subject to the sound level limitations outlined in this Policy.

c. Sound Levels

It is the responsibility of the approved user (individual or group) of the amplified and non-amplified sound not to exceed 85 decibels (pursuant to the California Code of Regulations, Title 8, Section 5097) , 25 feet from the amplified or non-amplified sound source or otherwise substantially disrupt campus operations **except that for employee organizations the decibel level 25 feet from the source may exceed such level if the listeners within such radius are voluntarily attending a rally, unless the sound source causes interior decibel levels when work is occurring to exceed 45 decibels.**

5. Size of Signs

Modify Policy 850(IV)(C)(3)(b) by adding at the end: **However, employee organizations may without prior approval use signs exceeding 30 inches up to 4' by 6' if not displayed so as to block passageway.**

6. Policy 860 Organized Events' Need for Permission

Modify by adding at front: **Employee organizations do not need permission to conduct an Organized Event. However, they will not have priority for space they attempt to use for an Organized Event unless they make a reservation.**" Then modify requirements for RCO so clear we can qualify by deleting majority requirement and easing burdens, or reduce burdens to obtain Guarantor include time limits on UCLA response to requests and specific standards.

7. Policy 852 Limits on Areas: add: **"Employee organizations may also conduct rallies in the walking areas adjacent to the buildings where their members work or in the open spaces near Murphy Hall, so long as no more than two handbillers per door and they stay at least 5 feet from the doorway."**

Exhibit H(1)

university's teaching, research and service missions while protecting and respecting the right to assemble and protest. It is the university's explicit intention to accomplish these goals with the least possible show or use of force or other means of control. In situations where this objective cannot be met, clear protocols for escalation identified in the Police Operations Plan approved by the Vice Chancellor and Chief Operating Officer and provided to the POG will be understood and strictly observed by all law-enforcement personnel. The Chancellor has the ultimate authority over and responsibility for the university's involvement in assemblies, protests and demonstrations, and the POG is expected to continually brief and coordinate with the Chancellor.

In the rare event of an imminent and substantial threat of harm to persons or property, and with no reasonable opportunity to consult with the Chancellor or designee, UC Merced Police will follow the approved Police Operations Plan for responding. The Chief of Police is responsible for exercising sound judgment and appropriate restraint.

VII. REVISION HISTORY

Date	Action/Summary of Changes
September 19, 2024	Policy revised and issued in interim. Revisions include: <ul style="list-style-type: none"> • Mandatory revisions required by California State Senate Bill 108, SEC. 219, 34 implemented under UC Merced's Campus Climate Initiative • Technical updates to contact information and resources • Clarifications around disruptions of a university activity, proximity of activities, unauthorized structures, and consequences • Updated Policy owner to Assistant Chancellor and COS
May 1, 2024	Policy revised and issued in interim. Revisions include: <ul style="list-style-type: none"> • Changed Policy owner and POG oversight to VCSA • Clarified and added language around posting/Signage • Added language around camping • Moved POG membership/roles & responsibilities to Appendix
November 20, 2019	Revised to address comments received during interim period. Final Policy Issued
January 9, 2018	Original Interim Policy Issued



Expressive Activities and Assembly: Protests, Demonstrations, Non-University Speakers and Signage on Campus and in University Facilities (INTERIM)

Responsible Official:	Assistant Chancellor and Chief of Staff to the Chancellor
Responsible Office:	Chancellor's Office
Issuance Date:	09/19/2024
Effective Date:	09/19/2024
Summary:	Describes the University's policy on expressive activities and assembly, including protests, demonstrations, outside speakers and Signage, including time, place and manner procedures implemented pursuant to this Policy.
Scope:	This Policy applies to all University Employees, Students and Non-Affiliates. It applies to all areas of university operations, programs, and facilities, including off-campus locations where university programs and business are conducted.

Contact:	Assistant Chancellor and Chief of Staff to the Chancellor
Email:	corilucero@ucmerced.edu
Phone:	(209) 228-4417

I. REFERENCES AND RESOURCES

Federal and State Laws and Regulations

- [Amendment I of the Constitution of the United States](#)
- [California Penal Code §§ 626-626.11](#)
- [California Penal Code § 647c](#)
- [California Penal Code § 185](#)

University of California Policies and Procedures

- [Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California](#)
- [Policies Applying to Campus Activities, Organizations and Students \(PACAOS\)](#)
 - [PACAOS-30: Policy on Speech and Advocacy](#)
 - [PACAOS-40: Policy on Use of University Properties](#)
- [UC Anti-Discrimination Policy](#)
- [UC Personnel Policies for Staff Members \(PPSM\)](#)
- [Academic Personnel Manual \(APM\)](#)
 - [APM-010: Academic Freedom](#)
 - [APM-011: Academic Freedom, Protection of Professional Standards, and Responsibilities of Non-Faculty Academic Appointees](#)
 - [APM-015: The Faculty Code of Conduct](#)
- [UC Community Safety Plan](#)

UC Merced Policies and Resources

- [UC Merced Campus Climate Initiative](#)
- [UC Merced Police Department Policies](#)
- [UC Merced Code of Student Conduct](#)
- [UC Merced Academic Personnel Policies & Procedures \(MAPP\)](#)
- [UC Merced Police Accountability Board](#)

II. SUMMARY AND SCOPE

Free and open expression and association, discussion and debate are important aspects of the educational environment and are part of the rich culture and history of the University. The right to free expression and association should be actively protected and encouraged, even where the issues and positions advocated are controversial and unpopular.

The University of California, Merced (“UC Merced”) is committed to assuring that all persons may exercise the constitutionally protected rights of free expression, speech, assembly, and



worship. In order to carry out its mission of teaching, research, and public service, the University has an obligation to maintain conditions under which the work of the University can go forward freely, in accordance with the highest standards of quality, institutional integrity, and freedom of expression, with full recognition by all concerned of the rights and privileges, as well as the responsibilities, of those who comprise the University. Each member of the University shares responsibility for maintaining conditions conducive to the achievement of the University's mission of teaching, research, and public service.

This Policy and associated procedures are designed to protect and promote the rights of members of the university community, including the right to freedom of expression, to prevent interference with university functions or activities, to protect university facilities and to assure compliance with all pertinent laws and other applicable University policies. They address the rights and responsibilities of all UC Merced Students, Employees, and Non-Affiliates, including members of the public. This Policy and associated procedures apply to all areas of university operations and programs and to all university facilities, including off-campus locations where university programs and business are conducted.

III. DEFINITIONS

Civil Disobedience: The refusal to comply with certain laws as a peaceful form of protest. Civil disobedience by definition involves a violation of law or regulation and is not protected speech under the state or federal constitutions. Those engaging in Civil Disobedience may be held accountable for violations of law, regulation and/or University policies.

Designated University Official: Vice Chancellor and Chief Operating Officer

Employees: All University staff, faculty, and other academic appointees, including graduate Student Employees, postdoctoral scholars, fellows and visiting scholars.

Freedom of Assembly: The right to hold public meetings and form associations without the interference of the government.

Freedom of Speech: The legal right to express one's opinions freely. Also referred to as "free speech".

Grounds Open to the Public: These are grounds generally open to the public and to the University Community for public expression. The outdoor areas of the campus (e.g., lawns, patios, plazas) that are at least 30 feet from: a. university residential facilities; b. buildings, facilities, or areas where such use could impair entrance to or exit from the building, facility or

area, or interfere with activities therein; c. parking lots; d. walkways and roadways; and e. libraries. Outdoor recreational areas (e.g., playing fields, courts, swimming pools) and grounds adjacent to designated “private residences” (e.g., the residences of the chancellor and faculty/staff, etc.) are excluded from this definition. All other areas of University Property are not generally open to the public.

Merced Irrigation District (MID) Easements: The area extending 75 feet in both directions from the center point of the Fairfield and LeGrand Canals.

Non-Affiliates: Any person who is not a Student, officer, official volunteer, Employee, Regent, or emeritus of the University of California.

Non-University Speaker: Any person or group that proposes to engage in expressive activity on campus, not including speakers participating in programs, meetings, lectures or other events hosted by the University or faculty as part of University business or education or research activities.

Public Areas of Indoor Facilities: Communal areas inside buildings that are routinely open to the public including lobbies. Excluded from this definition are internal and external stairs and landings, private offices, office hallways, classrooms, and rooms subject to reservations.

Registered Campus Organization (RCO): Any group whose membership is comprised predominantly of UC Merced Students, faculty, and/or staff that is registered with the Office of Student Involvement (“OSI”) in order to have access to university facilities and/or resources.

Signage: The display of signs (hand-written, digitally displayed or printed words/images) that do not serve official University business purposes including advertisements, notices, flyers, posters, banners, handbills, placards, literature for noncommercial purposes, or promotion of events/goods/services/causes on University Property, whether fixed, hand-held, or standing.

Student: An individual for whom the University maintains Student records and who: (a) is enrolled in or registered with an academic undergraduate or graduate program of the University; (b) has completed the immediately preceding term, is not presently enrolled, and is eligible for re-enrollment; or (c) is on an approved educational leave or other approved leave status or is on filing-fee status.

University House: The Merced residence of the Chancellor of UC Merced.



University Property: Any university-owned, -operated or -leased property, including all university grounds and structures or such other property as shall be designated as property subject to University policy.

IV. POLICY TEXT

A. GENERAL PROVISIONS

University Properties shall be used in accordance with federal, state and local laws and shall not be used for the purpose of organizing or carrying out unlawful activity. All persons on University Property are required to abide by university policies and procedures.

B. TIME, PLACE AND MANNER

The time, place and manner of exercising constitutionally protected rights of free expression, speech, assembly and worship are subject to the procedures below that provide for noninterference with university functions, and provide reasonable protection to persons from practices that would make them involuntary audiences, or place them in reasonable fear, as determined by the university, for their personal safety.

Subject to the procedures implementing this Policy, on University Grounds Open to the Public and in Public Areas of Indoor Facilities, all persons may exercise the constitutionally protected rights of free expression, speech and assembly. Such activities must not, however, interfere with the right of the university to conduct its affairs in an orderly manner and to maintain its property. Further, no activities may interfere with the university's obligation to protect the rights of all to teach, study and fully exchange ideas. Physical force, the threat of force, and other coercive activities used to subject anyone to speech of any kind are expressly prohibited.

The University House is a residence and is not open to the public. Activities on the University House grounds, including driveways and lawn areas, other than those sponsored and approved by the Office of the Chancellor are prohibited.

C. NON-UNIVERSITY SPEAKERS

Non-University Speakers or entities (often referred to as “outside speakers”) may be invited to participate in events sponsored in university facilities upon invitation by the administration, academic divisions or departments, and RCOs. Non-University Speakers or entities may not schedule the use of university facilities directly, and may not collect funds

on University Property unless sponsored by the administration, academic divisions or departments, or RCOs. The sponsoring division, department or organization is required to reserve facilities for use by Non-University Speakers through the appropriate room reservation system in advance of issuing an invitation to speak or participate in an event and is required to pay all fees associated with the use of university facilities, including facility and equipment rental fees and security fees, at least 10 days in advance of the scheduled event. Failure to pay all fees will result in the automatic cancellation of the facility reservation. A list of facilities available for use by Non-University Speakers and the associated fee schedules is maintained by [Hospitality Services](#). Estimates of costs related to planned events, including room reservations, security costs, and IT and facilities support are available through [Hospitality Services](#), [UC Merced Police Department](#), the [Office of Information Technology](#) and [Facilities Management](#), respectively. Priority for the use of university facilities will be given to academic and administrative departments of the university and other University of California users.

It is the expectation of the university that all speakers and entities will recognize that the essence of the university is to provide for the free exchange of ideas and the expression of a variety of intellectual perspectives. On-campus programs should be designed in the best interests of the educational process, allowing appropriate opportunities for audience interaction. Non-University Speakers, as well as the audience at speaker events, are expected to comply with all University policies and procedures, and applicable laws.

The only campus areas exempt from the sponsorship requirements set forth in this Policy are the outdoor university Grounds Open to the Public and Public Areas of Indoor Facilities, as defined herein. Use of these areas by Non-University Speakers or persons, however, must be at least 30 feet from building entrances and external stairways, may not involve the use of amplified sound unless pre-approved by OSI, and may not interfere with the normal operation of the university, including other events scheduled by RCOs, the administration, Schools, departments and official units.

D. SIGNAGE ON CAMPUS AND IN UNIVERSITY FACILITIES

The university strictly regulates Signage on University Property that does not meet an official university purpose. Note, however, that the university will not decline to allow Signage on the basis of the content or viewpoint expressed, except where the content violates University policies, or state or federal law. The University does not endorse the content of posted, distributed or exhibited Signage on campus property. Except as specified below, Signage is not permitted on campus or in university facilities without the

express approval of the appropriate campus department as defined herein and may be posted only in designated areas.

The [University's Policies Applying to Campus Activities, Organizations and Students \(PACAOS\)](#) contain specific regulations and procedures relating to Signage that must be followed by all university Employees, Students, and RCOs. The size of Signage on campus displayed by affiliates must not exceed 36" x 36", unless a smaller format is indicated under PACAOS for Signage that is posted. In the event of conflict between this Policy and campus procedures under the PACAOS, the requirements of this Policy shall control.

[Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California](#) contain specific regulations and procedures related to Signage (§100014) that must be followed by all Non-Affiliates. The size of Signage on campus displayed by Non-Affiliates must not exceed thirty inches (30" x 30"). The size of the handles or supports for such signs, posters, placards, or banners shall be limited to one-fourth inch (¼") in thickness by three-fourth inch (¾") in width and shall not extend to more than eighteen inches (18") beyond a single exterior edge of such signs, posters, placards or banners.

OSI maintains an [up-to-date list of all areas designated for posting Signage](#). Signage posted in areas not designated for posting, Signage past the expiration of the posting dates or Signage that has not been properly approved, will be removed by the university at any time.

Signage to advertise events sponsored by an administrative or academic department or division, or relating to educational or research activities undertaken by faculty members, are not subject to the approval requirements of this Policy but must be displayed only in areas designated for posting or within private offices or cubicles and must be removed promptly after the date of any function or activity for which the Signage was prepared.

1. Approval of display of Signage

Any Employee seeking approval for display of Signage other than to advertise events sponsored by an administrative or academic department or division, or relating to educational or research activities undertaken by faculty members, must first obtain the written approval of the Vice Chancellor of the Employee's administrative division, or their designee (for non-academic Employees), or the Dean of the faculty member's School, or their designee (for academic Employees). Any Student or RCO seeking to display Signage must obtain the approval of OSI consistent with [PACAOS](#) (§§ 306 –

310). All approved Signage must be stamped by OSI prior to display. Individuals should present OSI with a copy of the written approval prior to requesting that the Signage be stamped for display.

2. Anonymous Signage posting

In addition to the existing policies and procedures for displaying Signage on campus, the university provides one specified location where both campus affiliates and Non-Affiliates may post Signage without OSI approval.

Please note the views and opinions expressed are those of the person(s) posting the material and do not necessarily reflect the position of UC Merced. Accordingly, the university will not decline to allow posting on the basis of the content or viewpoint expressed, except where the content violates University policies, or state or federal law, including but not limited to direct threats and materials inciting imminent violence. The university will not restrict or remove the display of Signage that the university or others may find critical of the university, controversial or offensive.

Content and viewpoint neutral regulations exist for the aforementioned general posting area, including a size limit of 8.5 inches by 14 inches for all material. Furthermore, the posting area will be cleared by the end of business every Friday, except where a legal holiday or other circumstances prevent OSI staff from doing such, at which point all material will be removed the following business day. The anonymous posting area serves several purposes including allowing Non-Affiliates (i.e. community members) to post material, allow a space for material related to electoral politics, and provide an avenue for those wishing to post anonymously.

3. Designated posting locations for Signage

OSI maintains a current map of designated posting locations for Signage, including the one anonymous posting board. Generally posting, including chalking, is not allowed on classroom chalkboards/dry erase boards, on sidewalks, walkways and buildings, trees, bike path railings, windows (except as approved by specific departments), traffic signs, fixed poles, blue light poles, lamp poles, fountains, benches, trashcans, shrubbery, on top of other approved announcements/flyers, or automobiles. Employees may not post Signage on the inside or outside of doors to private offices, with the exception of materials that are exempt from the requirements of this Policy, as described above.

4. Display of Signage by faculty and staff in the university workplace

The university has the right to require display of Signage by staff and faculty be removed if it determines the material has the effect of undermining the efficient operation of its business or its pursuit of its mission by creating a hostile or disruptive workplace environment. As Employees of the university, both staff and faculty do not have an absolutely unfettered right of freedom of expression in the workplace; however, the university recognizes the principles of academic freedom and will not restrict display of Signage that the university or others may find critical of the university, controversial or offensive. Signage will only be removed if the university has determined that the display has a demonstrated impact that has undermined or is likely to undermine university operations.

5. Display of Signage inside private offices

Subject to the university's right to remove Signage as described above, display of Signage is not restricted within private offices; however, all individuals are encouraged to consider the impact of any controversial or objectively offensive displays on the university community.

6. Display of Signage on doors to private offices

Subject to the university's right to remove Signage as described above, individuals with private offices may display Signage related to events sponsored by an administrative or academic department or division, or relating to educational or research activities undertaken by faculty members on the inside or outside of the door to their office without higher-level approval from relevant Vice Chancellor or Dean as described above.

7. Display of Signage inside open cubicles

Subject to the university's right to remove Signage as described above, display of Signage is not restricted on the interior walls of single-person dedicated cubicles or workspaces; however, all individuals are encouraged to consider the impact of any controversial or offensive Signage on the university community.

8. Display of Signage in shared workspaces

Signage shall not be displayed in shared workspaces except with the approval of all Employees sharing the workspace and the direct supervisor(s) of such Employees.



9. Display of Signage related to electoral politics

Because the university by law does not engage in electoral politics or campaigns and its physical facilities are fundamentally under its control and responsibility, the university generally prohibits on campus and in university facilities the display of Signage related to electoral politics, including campaign posters, stickers, buttons or other materials. This does not preclude individuals from wearing buttons, hats or clothing relating to electoral politics, and does not preclude faculty from utilizing campaign material in the course of their teaching and research activities, if the material is used for education and research purposes and is not used in a manner intended to influence electoral politics. In addition, anonymous bulletin board(s) designated within this Policy may be used for display of Signage related to electoral politics.

10. Unauthorized structures

Unauthorized structures may pose safety risks and can disrupt the functional integrity of university grounds. No one shall erect, build, construct, set up, establish and/or maintain unauthorized structures on University Property without prior written authorization from the Designated University Official under this Policy. For purposes of this paragraph, a “structure or display” means any object larger than two feet in any dimension that is intended to be placed or displayed in a public area, or is left unattended in a public area. Unauthorized structures may include tents, platforms, benches, tables, buildings, barricades, and other structures. Unauthorized structures are subject to immediate impoundment and removal from University Property. The university shall not be liable for the loss of, or damage to, any Unauthorized structures placed in University Property.

11. Display of hand-held Signage

Students, faculty, and staff may display Signage on campus by holding or carrying it by hand or otherwise attaching it to their person. Members of the public may display Signage in the Grounds Open to the Public by holding or carrying it by hand or otherwise attaching it to their person. No advance permission is required.

- a. Hand-held signs constructed of materials that create a hazard to other people are not permitted. Signs constructed of rigid materials, including sticks, poles, wood, metal, hard plastic, or other materials that could be construed as a hazard are not permitted.

- b. Any person holding or carrying a sign shall exercise due care to avoid bumping, hitting, or injuring any other person.
- c. Any person holding or carrying a sign at a speech, performance, or other event shall exercise due care to avoid blocking the view of any other person observing the speech, performance, or event. Depending on the venue, this may mean that signs may be displayed only around the perimeter of a room or an audience.
- d. A law enforcement officer, an usher or any other university Employee if authorized by officials responsible for managing the venue, may warn any person that their sign is being handled in violation of this section. If the violation persists after a clear warning, the law enforcement officer, authorized usher, or other authorized Employee may confiscate the sign or take other appropriate steps to respond to the violation. A law enforcement officer may take any action necessary to keep the peace including but not limited to issuing a criminal trespass warning to the violator.

V. PROCEDURES FOR EXPRESSIVE ACTIVITIES AND ASSEMBLY

The following “Time, Place and Manner” procedures provide a framework for the conduct of assemblies and expressive activities, including speakers, demonstrations and protests, to protect the rights of all persons (demonstrators and non-demonstrators), to ensure that the activity conforms to all applicable university rules, procedures, and state laws, and to address health and safety and risk management issues.

A. TIME: HOURS

Individuals may conduct their assembly, demonstration and protest activities during normal business hours (8:00 a.m. to 5:00 p.m.) in the Public Areas of Indoor Facilities, or at any time on Grounds Open to the Public as defined herein.

After-hours activities may be authorized in the Public Areas of Indoor Facilities, after consultation with the appropriate university officials and approval under Section E: Advanced Arrangements for Planned Activities. After-hours activities in indoor locations require the presence of campus staff and/or faculty acting as activity monitors.



B. PLACE: GROUNDS OPEN TO THE PUBLIC AND PUBLIC AREAS OF INDOOR FACILITIES

On university Grounds Open to the Public and Public Areas of Indoor Facilities, all persons may exercise the constitutionally protected rights of free expression, speech, assembly, worship and distribution of literature incidental to the exercise of these freedoms; however, these activities:

1. Must not interfere with the orderly operation of the campus.
2. Are subject to the time restrictions in section V.A.
3. May not include sales or solicitation without a permit.
4. Are subject to the standard reservation system and fee schedules for university facilities. If the area has been previously reserved for use by a campus organization or University unit, the University shall honor such use and may limit or exclude those without a reservation.
5. May not occur on the Merced Irrigation District (MID) easements, except on bridges open to the public (such as the Scholars Lane bridge).
6. May not take place on internal or external stairs or landings and may not occur in outdoor areas of campus within thirty (30) feet of the following: a. university residential facilities; b. buildings, facilities, or areas where such use could impair entrance to or exit from the building, facility or area, or interfere with activities therein; c. parking lots; d. walkways and roadways; and e. libraries. These restrictions apply to all University Property. Exceptions will be considered subject to the approval process set forth in Section E: Advanced Arrangements for Planned Activities.
7. Tables or moveable stands may not be placed in areas where passages to any entrance or walkways are blocked, where the free flow of pedestrian traffic is restricted, or where emergency fire lanes are blocked. Additional and more restrictive policies may apply to specific facilities or use areas.
8. Student groups using moveable tables or stands at any location on the campus must have prior approval of OSI. Authority for approval rests with the Director of OSI or their designee.



C. MANNER: RULES OF CONDUCT APPLICABLE TO ALL PERSONS, INCLUDING DEMONSTRATORS AND NON-DEMONSTRATORS, AND THE RIGHTS AND RESPONSIBILITIES OF INDIVIDUALS PARTICIPATING IN ASSEMBLY, PROTESTS AND DEMONSTRATIONS

All individuals participating in assembly, protests and demonstrations shall have the following rights and responsibilities, subject to the restrictions regarding time, place and manner set forth in these procedures:

- To exercise the right to Freedom of Speech and expression in a way that demonstrates commitment to civility and respect toward all, is nonviolent and does not result in harm to people or damage to property.
 - To respect the rights of other members of the university community to go about the mission and business of the university without interference.
 - To exercise the right to assemble in a manner consistent with University policies as well as state and federal law, understanding that, while free speech is protected by the First Amendment, Civil Disobedience is not protected speech and may have consequences for those who engage in it.
 - To promote a safe, non-violent, and constructive environment in which community members may engage their right to free speech and assembly, and where the exchange of opinions and ideas from all community members is encouraged.
1. No one may refuse to identify themselves upon request to university officials acting in the performance of their duties.
 2. Wearing masks or face coverings is permissible for all persons who are complying with University policies and applicable laws. No one may wear a mask or personal disguise or otherwise conceal their identity with the intent of intimidating any person or group, or for the purpose of evading or escaping discovery, recognition, or identification while committing violations of law or policy.
 3. No one may intentionally restrict the movement of another person or persons by, among other means, blocking or obstructing their ingress or egress of roadways, walkways, buildings, parking structures, fire lanes, windows, doors or other passageways to University Property, or otherwise denying a person access to spaces on University Property.
 4. No one may congregate in front of elevators, or at the top, bottom or on the steps or landings of stairways. Stairways and elevators may be used to move from floor to floor.

5. No one may block or impede access to any emergency alarm system(s).
6. No one may interfere or tamper with any part of any emergency alarm system.
7. No one may engage in any activity which endangers personal safety, which results in damage to personal or University Property, or which violates the privacy and/or confidentiality of sensitive university records.
8. No one may substantially interfere with, or disrupt, normal university business, classes, or any organized and authorized university activity inside or outside a campus building.

The following factors weigh in favor of a finding that conduct is a disruption of a university activity, but are not exhaustive:

- a. Whether the conduct unduly interferes with any person's ability to participate in a university activity.
- b. Whether the conduct was violent or involved a threat of violence.
- c. Whether the speech or conduct incited an immediate breach of the peace.
- d. Whether the conduct and its effect lasted long enough, either in totality and/or in comparison to any university activity it may have affected, to unduly interfere with that university activity.
- e. Whether the conduct stopped if and when a request to stop was addressed to the individual or group engaging in the conduct.
- f. Whether the conduct caused physical harm or damage to property.
- g. Whether the conduct was coordinated with others' conduct in a way that it caused a cumulative effect that unduly interfered with a university activity.
- h. Whether the conduct was intentionally aimed at unduly interfering with a university activity.
- i. In the case of a university activity that involves a speaker or presenter:
 - i. Whether the conduct unduly interfered with the speaker's or presenter's ability to deliver the speaker's or presenter's message.

- ii. Whether the conduct unduly interfered with the audience's ability to receive the speaker's or presenter's message, including whether the conduct was loud enough to unduly interfere with any audience member's ability to hear the speaker or presenter.
- 9. No one may refuse to follow the lawful directions of a university official or police officer acting in their official capacities.
- 10. No one may interfere with the ability of vehicles to enter or exit a roadway or with the normal flow of vehicular traffic.
- 11. Sound amplification equipment may not be used at any indoor or outdoor location without the prior written approval of OSI. Use of sound amplification equipment will only be approved in accordance with Section 304.00 of the UC Merced Student Handbook. If complaints are received indicating that the amplification sound level is interfering with the normal operations of the campus, the responsible person(s) will be directed to lower the volume by OSI staff. If additional complaints occur, the person(s) in charge of the amplification equipment will be directed to turn off the sound completely. These limitations do not apply to campus-wide events, such as speakers, concerts, dances, rallies, sports events and other outdoor educational, athletic or entertainment events, formally sponsored by an administrative or academic division or department.
- 12. No one may camp, set up or erect a campsite, or occupy a tent or other temporary housing structure on University Property, unless specifically pre-approved by the Designated University Official under this Policy and documented in writing.
- 13. Campfires, open fires and other fires are prohibited on University Property without written permission from the campus fire Marshall. Any torches, flammable outdoor displays or open fires must be approved in writing by the campus fire Marshal and Chief of Police.

D. ENFORCEMENT

Violation of university policies or procedures may subject a person to educational, administrative, legal or other penalties. If the person is a Student or Employee, that person may also be subject to disciplinary action in accordance with university policies, as set forth in the UC Merced Code of Student Conduct (Students), UC Personnel Policies for Staff Members (staff), the Academic Personnel Manual (academic appointees), and any applicable collective bargaining agreements. Non-Affiliates are subject to the Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University

of California. Violation of these Regulations by Non-Affiliates is a misdemeanor and may result in arrest, a monetary fine and imprisonment.

E. ADVANCED ARRANGEMENTS FOR PLANNED ACTIVITIES

UC Merced understands that many forms of assembly, protest and demonstration occur spontaneously. For the events that are planned in advance, by either affiliates of the university (Students and Employees) or Non-Affiliates (public members), coordination with the appropriate offices within the university is encouraged to ensure the success of the event and minimize the potential to disrupt the normal operation of the university.

Although not mandatory, the following procedures are administered by OSI for planned events on campus. OSI will coordinate with other administrative units, including the Office of the Chancellor, the Office of the Executive Vice Chancellor & Provost, Facilities Management, Public Safety and the Protest Oversight Group, as necessary.

1. If the assistance of OSI is desired for a planned event, a representative for the event should prepare a proposal in writing and submit it to OSI at least 48 hours in advance of the planned activity. OSI should be provided further advanced notice if possible, depending on the scale of the event.
2. A proposal for a planned event should include the proposed location and date of the event, the proposed start and end time, the purpose/goal of the event, the anticipated participants, such as Students, staff, faculty, campus administration or community members, the estimated number of participants, and any identified security requirements.
3. If the proposed event includes a march, the sponsoring group should attach a proposed route for the march.
4. If the proposed event includes sound amplification equipment, the use of such equipment must be approved by OSI in writing in advance for all events.

VI. RESPONSIBILITIES

As needed, and if there is enough advanced notice, the Vice Chancellor for Student Affairs and Engagement or designee will convene the Protest Oversight Group (POG) to coordinate the university's involvement in assemblies, protests and demonstrations on campus. The POG is responsible for operating in a manner that continually re-assesses the event and objectives, and emphasizes teamwork, timely and effective communication and actions that support the

VIII. APPENDICES

APPENDIX 1 – PROTEST OVERSIGHT GROUP (POG)

APPENDIX 2 – PROTEST/DEMONSTRATION EVENT PROPOSAL FORM

APPENDIX 1 – PROTEST OVERSIGHT GROUP (POG)

MEMBERSHIP AND RESPONSIBILITIES OF THE POG:

The POG shall consist of the senior administrator, or their designee, from each of the divisions identified below. Responsibilities of each member are as outlined. The Faculty Welfare and Academic Freedom Committee may appoint an ex officio member to the POG who may attend meetings and coordinate with the Office of the Provost in carrying out its responsibilities under this Policy with respect to faculty.

A. Vice Chancellor for Student Affairs – Acting on Behalf of Chancellor:

- Brief Chancellor on all protest activity on University Property
- Set expectations for monitoring and managing the event
- Designate appropriate individual as Chancellor’s representative “on the ground” to event organizers/protest leaders and law enforcement
- Ensure appropriate and effective communication between event organizers/protesters, senior administrators, and law enforcement
- Appoint or designate mediator as appropriate
- Make decisions regarding police action against protesters on the property of UC Merced, except in exigent or emergency situations where the police are required to act immediately to prevent imminent and substantial harm to persons or property

B. Division of the Vice Chancellor for Student Affairs:

- Direct personal communication with Students regarding interpretation of policies, expectations, academics, Student discipline, and general guidance provided by the UC Merced Principles of Community
- Monitor mental and physical health of Students
- Identify and communicate health, safety, security and academic needs of Students to the POG
- Communicate with parents and Student caregivers as appropriate
- Appoint Student Affairs spokesperson for media interviews, if appropriate, in consultation with the Division of External Relations
- Provide planning guidance to Students proposing assembly, protest or demonstration activities

- Designate one or more “on the ground” liaisons if Students are primarily involved in the protest

C. Division of Executive Vice Chancellor & Provost

- Direct communication with faculty regarding all appropriate aspects of faculty involvement in assemblies or protests, interpretation of policies and academic discipline
- Initiate educational opportunities involving faculty, when appropriate, around issues of protest
- Communicate with the Office of the Chancellor all recommendations to alter daily campus business as usual, to facilitate the immediate needs of the Students and faculty regarding the issues of protest or the safety of the campus
- Appoint academic spokesperson for media interviews, if appropriate, in consultation with the Division of External Relations
- May designate one or more “on the ground” liaisons if faculty or instructional staff are primarily involved in the protest

D. Office of Human Resources:

- Direct communication with Employees and labor union representatives regarding interpretation of policies, expectations, Employee discipline and general guidance related to assemblies or protests
- Monitor mental and physical health of Employees
- Identify and communicate health, safety and security needs of Employees to the POG
- Designate one or more “on the ground” liaisons if staff are primarily involved in the protest

E. Division of External Relations:

- Develop communications/media strategy and news points
- Recommend and provide oversight of all media outlets, interviews, releases and press conferences
- Monitor news coverage and social media to provide real-time feedback to decision-makers
- Designate official event videographer, if appropriate

F. Office of Facilities Management:

Provide facilities support as identified by POG including but not limited to:

- Sanitation and trash receptacles and pick up
- Lighting
- Building-access control
- Grounds maintenance and irrigation control
- Signage
- Facility maintenance
- Safety, health and security equipment needs
- Transportation and parking needs

G. Offices of Fire and Building Safety & Environmental Health and Safety:

- Monitor and provide guidance for meeting the fire, health and safety needs during sustained protests

H. Chancellor's Office – Chief of Staff:

- Provide communication to governmental entities as appropriate, in coordination with the Office of University Communications
- Identify independent community observers
- Provide direct communication with the UC Office of the President

I. Department of Public Safety:

- Provide continuous and appropriate levels of security for the safety of all involved people and UC property
- Develop Police Operations Plan, approved by the Vice Chancellor and Chief Operating Officer, and provide to POG
- Ensure all on and off-campus responding law-enforcement personnel are thoroughly briefed on the chancellor's authority and the approved Police Operations Plan
- Identify one UC Merced police official responsible for giving an order to use force prior to deployment and establish direct line of communication with the Chancellor's on the ground representative

- As needed, and upon the directive of the Chancellor or designee, activate the POG Operations Center and provide 24/7 staffing for the center to monitor the event and coordinate communications and response
- Provide proactive planning guidance to affiliates if requested
- Identify staffing needs and proactively request appropriate levels of staffing from UC campuses, CSU campuses, CHP, local law enforcement agencies, fire and EMS when appropriate for the safety, security and timely response of or to the needs of the community
- Provide violence-prevention education and advocacy support as appropriate
- Establish, if necessary, field incident command post and communicate the location to the POG
- Assist in identifying Non-Affiliates participating in a sustained or encampment protest

AFTER-ACTION REPORTING

The office of the Vice Chancellor for Student Affairs will compile an after-action report to be made available to the Chancellor, Protest Oversight Group and UC Office of the President as needed to facilitate process improvement. A summary of observations and recommendations from the neutral observers, if applicable, must be included in the after-action report. Any Student or Employee disciplinary actions arising from assembly/protest activity will be included in the after-action report.



APPENDIX 2 – PROTEST/DEMONSTRATION EVENT PROPOSAL FORM



Protest/Demonstration Event Proposal Form

Prior to sponsoring a peaceful assembly, the sponsoring organization, whether affiliated or not affiliated with UC Merced, is encouraged to prepare a written proposal for the event at least 48 hours in advance of any activity and submit it to the Office of Student Involvement (OSI).

Sponsoring organizations are encouraged to give OSI notice further in advance where possible, depending on the scale of the event. OSI will coordinate with other campus administrative units, including the Divisions of the Chancellor, the Executive Vice Chancellor & Provost, Offices of Facilities Management, Public Safety and the Protest Oversight Group, as necessary. Estimates of costs related to planned events, including room reservations, security costs, and IT and facilities support are available through [Hospitality Services](#), [UC Merced Police Department](#), the [Office of Information Technology](#) and [Facilities Management](#), respectively.

The proposal should include the following information to the extent available:

1. Proposed date of the event:
2. Proposed location of the event:
3. Proposed start and end time:
4. Estimated number of participants:
5. Security requirements:
6. Proposed use of sound amplification:
7. If the proposed event includes a march, the sponsoring group should attach a proposed route.

Note: Any use of amplified sound on campus must be approved in advance by OSI.

Exhibit H(2)



Andy Kahn <andy@upte.org>

UC Merced's new speech policy - UPTe cease and desist and RFI

Andy Kahn <andy@upte.org>

Thu, Oct 3, 2024 at 11:38 AM

To: ngonzales8@ucmerced.edu, laborrelations@ucmerced.edu

Cc: Deborah Young <debyoung@upte.org>

Bcc: Arthur Liou <aliou@leonardcarder.com>, Kate Hallward <khallward@leonardcarder.com>, Julia Lum <jlum@leonardcarder.com>, Paul Waters-Smith <pwaters.smith@upte-cwa.org>

Attached please find UPTe's objections to UC Merced's new speech policy, requests for information, and bargaining proposal.

Andy Kahn, UPTe General Counsel

andy@upte.org

2855 Telegraph Ave. #602

Berkeley CA 94705

(510) 849-7025

2 attachments



Access UCM response by UPTe.pdf

206K



UCSB_CampusAccess_Regs for Unions_2016 (1).pdf

262K

Oct. 3, 2024

TO: UCM Campus Management
FROM: Andy Kahn, UPTE General Counsel
RE: UCM's Expressive Activities Policies

I'm writing on UPTE's behalf in response to our just receiving new speech-restrictive UCM policies which apparently went into effect on 9/19 with no prior notice to us. SB 108 provides no excuse for not providing us reasonable advance notice and an opportunity to bargain, as the Legislature did not order revisions of UC policy by 10/1 -- it merely asked for a report by then, to which you could have responded that draft new policies had been circulated to labor groups for the HEERA-mandated bargaining process. Also, other campuses sent us new policies weeks ago. We demand you hold in abeyance as to UPTE and its members the questionable provisions of these policies discussed below.

These provisions in substance violate our HEERA rights and constitutional speech rights in many ways. We request to bargain these provisions and their effects. We have the following proposals, comments and requests for information relevant to bargaining over these Policies and the Access articles in statewide CBA negotiations,ⁱ and to our potential grievance:

General Legal Standards Applicable Here: It's likely a court would hold UCM's exterior areas represent a public forum.ⁱⁱ Accordingly, UCM's Policies will probably be subject to strict scrutiny requiring narrow tailoring to compelling governmental interests. However, even if deferential scrutiny applies, UCM's Policies are unlikely to be upheld for reasons set forth below. HEERA provides our representatives with the "right to use institutional facilities at reasonable times for the purpose of meetings". Gov. Code sec. 3568. HEERA also protects employees' rights to engage in union speech in non-work areas absent compelling contrary interests. See, e.g., *Cal. Public Sector Labor Relations* (CEB 2024) ("To establish reasonableness, the employer must show that its regulation is (1) necessary to the efficient operation of the employer's business and/or safety of its employees and others; and (2) narrowly drawn to avoid overbroad, unnecessary interference with the exercise of statutory rights." (citing *County of Tulare* (2020) PERB Dec. No. 2697-M, p. 20 (employer rule regulating union activity must not use vague or overbroad language); *County of Riverside* (2012) PERB Dec. No. 2233-M, p. 7).



Finally, it would be constitutionally-permissible for UCM to treat speech by recognized bargaining representatives more favorably than that of outside groups having no connection to UCM: see, e.g., *Perry Ed'n Assn v. Perry Local Educators* (1983) 460 US 37. Employees who commit misconduct on UC property are subject to severe disciplinary consequences (such as loss of employment), and their unions have a continuing relationship with UC, unlike protestors from outside groups. Thus the bad behavior of some outside protestors on the Palestine issue are absolutely no justification -- either legally or practically -- for UCM now restricting the speech of UC employees and their unions as it has done here. UCSB has a separate and less restrictive policy for employee organizations, and UCM should do the same.

Overly-Narrow and Underinclusive List of Grounds Open to the Public And Unlawful 30-foot Zones: The Policy implies that no speech rights exist at all for non-affiliates (such as our staff) except for areas defined as Grounds Open to the Public. (For example, under section 11 on display of signage on University grounds, non-employees such as union staff can only display a sign while on Grounds Open to the Public). That makes it essential that the Policy have a clear and legally-proper definition of such grounds. The current definition is neither. The relevant clauses in your Definition are as follows:

Grounds Open to the Public: These are grounds generally open to the public and to the University Community for public expression. The outdoor areas of the campus (e.g., lawns, patios, plazas) that are at least 30 feet from: *** b. buildings, facilities, or areas where such use could impair entrance to or exit from the building, facility or area, or interfere with activities therein; c. parking lots; d. walkways and roadways;****

If the Policy is claiming that being 30 feet from a building is impermissible if speech there might be so loud as to be heard inside the building and possibly disrupt a class or other operation, then such definition is totally overbroad and too vague. One case applicable is *In Re Brown*, 9 Cal.3d 612, 619-20 (1973) where the Court struck down convictions of leaders of a loud demonstration at a university campus for having disturbed classes. The Court held a statute banning disturbing the peace could not under the state and federal constitutions be applied against these demonstrators because there was no showing they were solely trying to make noise to disturb rather than in part engaging in communication:

The Attorney General seeks to preserve the convictions of violating section 415 on the basis of the language in that section prohibiting "maliciously and wilfully disturbing the peace or quiet . . . by loud or unusual noise." He states that there is substantial evidence that petitioners made loud noises which disrupted class and campus functions. The statute, however, cannot be interpreted consistent with the First Amendment and traditional views as making criminal all loud shouting or

cheering which disturbs and is intended to disturb persons. When the word "noise" in the statute is properly construed consistent with the First Amendment and traditional views, it encompasses communications made in a loud manner only when there is a clear and present danger of violence or when the communication is not intended as such but is merely a guise to disturb persons.

In light of this caselaw, you need to clarify the "interference" provisions in the Definitions and V(B)(6) to narrow their exclusions to simply when being within 30 feet of a building due to unique configuration of the entrance walkways is likely to cause blocking. Merely being within 30 feet of a door cannot be presumed to impermissibly risk blocking. Appellate courts have repeatedly struck down blanket distance limits: see.e.g., *McCullen v. Coakley* (2014) 573 U.S. 464 (35-foot buffer zone invalidated); *UFCW Int'l Union v. IBP, Inc.* (8th Cir. 1988) 857 F.2d 422; *Howard Gault Co. v. Texas Rural Legal Aid* (5th Cir. 1988) 848 F.2d 544, 561 ("Little imagination is required to envisage circumstances where groups of demonstrators, substantially larger than two persons, standing at closer quarters than fifty feet would not threaten the safe flow of traffic nor unreasonably interfere with free ingress or egress from nearby buildings."). While other UC campuses' policies are not models of legality, only UCD is trying to impose a distance limit on unions' non-healthcare access, so UCM should substantially modify this provision so as to not make the same mistake.

REQUESTS FOR INFORMATION: Does UCM have any reason to believe the caselaw cited above is no longer good law or is inapplicable to some of its outdoor spaces? If so, please set forth the basis for such belief.

Even worse than the above provisions are those in the Definition and V(B)(6) which mandate we always stay at least 30 feet away from walkways, roadways and parking areas. There is no legitimate reason to ban all speech on all walkways, let alone 30 feet from a walkway. Absent proof that speech activity is taking up so much room on a walkway that it will block passageway, speech on walkways is clearly protected by the state and federal constitutions and HEERA. Walkways are constantly used for speech by everyone travelling in a group of two or more; the sole lawful basis for precluding their use for this purpose would be when a crowd is assembled so large as to block pedestrian passage. While other UC campuses' new policies are not a model of legality, no other campus is attempting this sort of severe limit on speech by unions and others.

The Definition and V(B)(6) violate HEERA and constitutional guarantees in barring us from inside parking areas, especially as we're more than willing to clean up or pay for UC's cleanup should drivers stupidly choose to violate litter laws after they receive our fliers, and UCM's parking areas are reported by our members as not being so busy that there is a

significant likelihood of cars running into leafletters or cause any other conflict between drivers and pedestrians.ⁱⁱⁱ

The bans on being within 30 feet of a walkway, roadway or parking area sweep so incredibly broadly that we believe you have eliminated more than 80 percent of the open areas on campus from having speech activities.

REQUESTS FOR INFORMATION: What specific spaces does UCM include within its current definition of Grounds Open to the Public? Please provide a map. If you dispute our estimate that over 80% of the open areas of campus have been eliminated from speech access, please explain. If UCM is basing its ban on using parking areas on the prospect of vehicle-pedestrian conflicts, UPTe requests all available data on traffic volumes within UCM lots in the last year. If UCM is basing its bans on speech in walkways or parking areas upon prior problems arising from speech in such areas, please provide a copy of all records concerning such incidents.

Unreasonable and Unlawful Regulation of Bullhorn Use: Your requirement in Section V(C)(11) that we obtain permission in advance for any sound amplification anywhere is contrary to appellate court precedent in the Ninth Circuit and elsewhere.^{iv} Your Policy also lacks the necessary substantive standards to guide management discretion in granting permission, dooming it under established HEERA standards and constitutional caselaw.^v The Policy also lacks the constitutionally-mandated provision requiring administrators to decide requests promptly.^{vi} These are serious problems because amplification is often required when meeting outside due to the large size of the meeting space or competing sources of noise (just to stay at the same decibel level as these sources in order to be heard by attendees). Constitutional protection for speech means UC cannot ban amplification for speech not exceeding other noise sources which UCM allows on its property (such as large trucks and leafblowers – but our members report frequently hearing such sounds at UCM). Unlike UCSD’s policy, UCM’s Policy improperly makes no allowance for competing sources of noise already in the environment.

REQUESTS FOR INFORMATION: Does UCM believe the caselaw we reference to no longer be good law or somehow inapplicable to any of its facilities? If so, please set forth the basis for such belief. Do these restrictions on amplification result from any particular incidents? If so, please describe those in detail. What guidelines are followed by UCM decisionmakers in deciding upon a request for use of a bullhorn?

Limits on Tabling and Shading: Section 10 requires advanced management permission for demonstrators to have any “structure”, defined so broadly as to include a small card table set up and attended by demonstrators the entire time and used simply to keep literature

and snacks and water clean and dry. The definition also appears to apply to a temporary shade longer than two feet in a direction used during a rally of the sort frequently set up by UPTE and other unions during rallies to keep members from excessive exposure to sun or rain. No standards for management approval are set forth in the Policy, nor any deadline for UCM deciding on requests for approval. All this violates HEERA and state and federal constitutions, given that a ready alternative to UCM is simply to ban blocking of passageway by a table or shade. See *ACLU v. City of Las Vegas*, 466 F.3d 784, 799 (9th Cir. 2006)(striking down city requirement for advanced permission for table during rallies, holding “We hold that the erection of tables in a public forum is expressive activity protected by our Constitution to the extent that the tables facilitate the dissemination of First Amendment speech.”). Many campuses do not require advanced permission for the sort of small-scale tabling that we do.

REQUESTS FOR INFORMATION: Do these restrictions result from any particular incidents? If so, please describe those in detail. What guidelines are followed by UCM decisionmakers in deciding upon a request for use of a table or shade? Does UCM believe the caselaw we reference to no longer be good law or somehow inapplicable to any of its facilities? If so, please set forth the basis for such belief.

Ban on Chalking: Constitutional law scholars agree that U.S. Supreme Court precedent bars governments from banning chalking on walkways where, as here, those who wish to engage in chalking agree to clean up after themselves and able to do so, and hence no public costs would be incurred.^{vii} UCSD expressly permits chalking and UCM should follow suit.

CONCLUSION

UCM’s new speech restrictions unfortunately appear to be part of a larger effort at UC to use concerns over Palestine protests as a “Trojan Horse” to smuggle in new restrictions on union and employee speech – speech having nothing to do with the misconduct of some Palestine protestors. **We have a simple proposal to cure the problems above: adopt for employee organizations and their members a separate policy which is less restrictive than other outside groups, such as the UCSB policy attached.**^{viii} UCSB got it right – neither law nor practical concerns justify imposing the same harsh limits on UC employee organizations as are imposed on outside organizations.

Your restrictions are causing us to reconsider many of our plans for protesting UC’s employment practices in the near future. This chilling effect is an irreparable harm warranting preliminary injunctive relief from the courts.^{ix} Accordingly, we need UCM to assure us that it will not seek to enforce the provisions challenged above against UPTE and

its member engaged in labor speech while we engage in discussing these issues, nor without at least 30 days' prior notice that they will be enforced.

Thank you for your prompt attention to these matters.

ⁱ In such bargaining, UC management recently proposed to allow itself to ban UPTE staffpersons for life for any violation of any UC access policy such as these UCM policies, and to discipline individual employees as well for any access violation. Accordingly, UCM's enormous tightening of its restrictions on our speech is of grave concern to our membership and needs to be immediately reconsidered by UCM leaders.

ⁱⁱ See, e.g., *Shaw v. Burke*, 2018 U.S. Dist. LEXIS 7584, *22 (C.D. Cal. 2018) ("Given the traditional purpose of the open, outdoor areas of universities, such as the 'Mall' on Pierce's campus, the Court finds that these areas are traditional public fora, regardless of Pierce's regulations naming them non-public fora. Id.; *Bowman*, 444 F.3d at 979 ('College campuses traditionally and historically serve as places specifically designated for the free exchange of ideas.').")

ⁱⁱⁱ See, e.g., *Prisoners Union v. Cal. Dept. of Corrections* (1983) 135 CA3d 930 (parking area near prison held public forum despite security concerns); *UC Nuclear Weapons Lab Conversion Project v. Lawrence Livermore Lab.* (1984) 154 CA3d 157 (similar at lab); *Carreras v. Anaheim* (9th Cir. 1985) 768 F.2d 1039, 1045 (holding that under California law, leafletting could not be barred on the exterior walkways and parking areas of stadium); *Kuba v. 1-A Agricultural Assn.* (9th Cir. 2004) 387 F.3d 850, 857 (parking lot and walkways of stadium held public forum under California law). *Klein v. City of San Clemente*, 584 F.3d 1196, 1208 (9th Cir. 2009) (striking down ban on windshield leafletting, similar to *Krantz v. City of Fort Smith*, 160 F.3d 1214, 1222 (8th Cir. 1998) and *Horina v. Granite City*, 538 F.3d 624, 638 (7th Cir. 2008)).

^{iv} See, e.g., *Cuviello v. City of Vallejo*, 944 F.3d 816, 825 (9th Cir. 2019) (striking down requirement for preapproval of all amplification, noting "The United States Constitution and California Constitution protect bullhorns, and other sound-amplifying devices, as 'indispensable instruments' of public speech. *Saia v. People of State of New York*, 334 U.S. 558, 561, 68 S. Ct. 1148, 92 L. Ed. 1574 (1948); *Wollam v. City of Palm Springs*, 59 Cal. 2d 276, 29 Cal. Rptr. 1, 379 P.2d 481, 485 (Cal. 1963). In a crowded park or bustling intersection, where a single voice is easily drowned out, volume enables speech. See *Wollam*, 379 P.2d at 486. A restriction on volume, then, can effectively function as a restriction on speech. *Saia*, 334 U.S. at 561-62; *Wollam*, 379 P.2d at 486 ('The right of free speech necessarily embodies the means used for its dissemination because the right is worthless in the absence of a meaningful method of its expression.'")

^v See, e.g., *Smith v. County of Los Angeles*, 24 Cal. App. 4th 990, 999 (1994) ("The Supreme Court has repeatedly held that an ordinance " "which . . . makes the peaceful enjoyment of freedoms which the Constitution guarantees contingent upon the uncontrolled will of an official--as by requiring a permit or license which may be granted or withheld in the discretion of such official--is an unconstitutional censorship [***11] or prior restraint upon the enjoyment of those freedoms." " " (*FW/PBS, Inc. v. City of Dallas*, supra, 493 U.S. at p. 226 [107 L.Ed.2d at p. 618] [citing *Shuttlesworth v. City of Birmingham* (1969) 394 U.S. 147, 151 (22 L.Ed.2d 162, 167, 89 S.Ct. 935)].) Addressing the constitutionality of a parade permit requirement, *Shuttlesworth* held "that a law subjecting the exercise of First Amendment freedoms to the prior restraint of a license, without narrow, objective, and definite standards to guide the licensing authority, is unconstitutional." (394 U.S. at pp. 150-151).

^{vi} See, e.g., *Long Beach Lesbian & Gay Pride, Inc. v. City of Long Beach*, 14 Cal. App. 4th 312, 332 (1993) ("Plaintiffs' primary grievance is with the failure to require a decision within a specific time

after the application is made. Plaintiffs do not purport, or ask us, to dictate what a reasonable, acceptable time is. They only complain that to leave the matter open-ended impermissibly places the fate of a parade application in official limbo, both chilling and freezing the applicant's free speech intentions and expectations. The City has not contested the legal proposition that avoidance of limbo requires a deadline for action following application. We believe the authorities cited above support that requirement. Accordingly, Chapter 5.60's failure to include such an express limit is improper.”).

^{vii} See, e.g., Prof. Marie A. Failing, “Talking Chalk: Defacing the First Amendment in the Public Forum”, 115 W. Va. L. Rev. (2012)(available at: <https://researchrepository.wvu.edu/wvlr/vol115/iss2/8>); F. LoMonte & P. Fiku, “Watch Where You Chalk, ‘Cause the Sidewalks Talk: The First Amendment and Ephemeral ‘Occupations’ of Public Property”, 47 Vt. L. Rev. (2023)(available at <https://brechner.org/wpcontent/uploads/2023/11/Watch-Where-You-Chalk-CausetheSidewalks-Talk-The-First-Amendment-andEphemeral-Occupations-of-Public-Property.pdf>).

^{viii} We exclude from our proposal UCSB’s ban on leafletting cars, which is currently under discussion with them.

^{ix} See, e.g., *Ketchens v. Reiner*, 194 CA3d 470, 480 (1987)(“The question is not a close one. ‘The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.’ (*Elrod v. Burns* (1976) 427 U.S. 347, 373”).



Campus Access Regulations for Employee Organizations

Some of our employees are organized into fourteen collective bargaining units e.g., clerical, service, technical. Each of these units is represented by an employee organization, e.g., IBT-Teamsters, AFSCME, UPTE. Some of these employee organizations have also expressed an interest in representing groups of non-represented employees. The State law that governs collective bargaining rights for University employees (Higher Education Employer-Employee Relations Act) guarantees employees and employee organizations certain rights to conduct representational business, subject to the reasonable regulations by the University. Such activities include meetings, distribution of literature, and other related communications. These rights are generally called "access" rights, which, in a practical sense, means the law protects the employee organization's access to employees it wishes to represent. Unions are also provided certain limited access rights to non-represented employees.

Employee representatives are knowledgeable and generally cooperative regarding access regulations, but questions and issues may arise. Please feel free to contact one of the Employee & Labor Relations staff for assistance.

I. Purpose and Scope

- A. The following campus access regulations provide guidance to allow employee organizations reasonable access to University grounds, facilities, and employees while ensuring no disruption to University activities and programs or interference in restricted areas.
- B. These regulations do not apply to employee organizations or their representatives when they are representing employees in grievances filed under a collective bargaining agreement (contract) or complaints pursuant to the Personnel Policies for Staff Members (PPSM). In such cases, the appropriate contract or PPSM provisions shall apply. In the event these regulations conflict with a contract or PPSM, the contract or PPSM will control.
- C. The University reserves the continued right to add to, delete from, or modify these regulations pursuant to its rights under the Higher Education Employer-Employee Relations Act (HEERA) and applicable collective bargaining agreement provisions.
- D. The University reserves the right to deny, in whole or in part, any request for access, as appropriate, provided that any restrictions on access are consistent with the University's rights under the HEERA and applicable collective bargaining agreement provisions.



II. Definitions

- A. University- As used in these regulations, the term University or campus includes the Santa Barbara campus property as well as all University facilities and properties operated by the campus, including facilities rented by the University or otherwise under University control.
- B. Employee Organizations – Independent organizations which exist for the purpose, in whole or in part, of dealing with University management concerning matters within the scope of representation under HEERA.
- C. Representative – Any person acting in the interest of or on behalf of an employee organization/union, including both University and non-University personnel unless otherwise specifically exempted.
- D. Employee Organization Business – All legal activities of an employee organization/union including, but not limited to, meetings, dues collections, soliciting, distributing, and organizing.
- E. Restricted Areas – Areas designated for Official University Activities only. The activities of employee organizations and their representatives are restricted in these areas. Restricted areas include, but are not limited to:
 - 1. Private residential areas of students, including dining halls and kitchens.
 - 2. Food preparation areas in University facilities.
 - 3. Academic and research areas while instruction, counseling/advising, or research is in progress.
 - 4. Research areas when the health, safety, or security of individuals or the research could be adversely affected.
 - 5. Confidential and/or secured work areas.
 - 6. Patient care and clinical areas in Student Health, including student/patient medical records areas.
- F. Public Areas- For the purpose of these access regulations, public areas of the campus grounds are defined as the outdoor areas of the campus (lawns, patios, plazas) that are adjacent to campus buildings and parking lots.

III. General Rules

- A. Employee organizations and their representatives are generally permitted to conduct employee organization business in non-restricted areas during employees' non-work time. For the purposes of these regulations only, established rest periods are not considered work time. Employee organizations and their representatives are strictly prohibited from conducting employee organization business during an employee's work time. The conducting of employee organization business must not be disruptive to other employees who are on their work time.

- B. Employee organizations are required to provide the Manager, Employee & Labor Relations or designee with names and contact information of representatives engaged in representational activities on the Santa Barbara campus or properties. Employee organizations are required to provide accurate and timely updates to Employee & Labor Relations as changes are made in representation.
 - C. Representatives of employee organizations on University property are required to identify themselves upon request by University officials acting in the performance of their duties. Additionally, the University official may request employee organization representatives to state the nature of their visit.
 - D. Employee organizations and their representatives are prohibited from using University resources, facilities and equipment for employee organization business, including, but not limited to, automobiles, computers, projectors, office supplies, telephones, fax machines, and photocopy and reproduction equipment.
- IV. Time, Place and Manner Regulations
- A. Employee organizations are subject to the following access regulations that provide for non-interference with University functions and reasonable protection to persons from practices that would make them involuntary audiences.
 - 1. In the event that the architecture of a building includes entrances with stairs or landings, no distribution may take place on the stairs or landings. (This restriction applies to both landings in front of the main entrance to the Davidson Library.)
 - 2. All activity in public areas must be conducted in such a way that traffic is not impeded and the normal activities in classrooms and offices are not disrupted.
 - 3. Tables or moveable stands may not be placed in areas where passages to any entrance or walkways are blocked, where the free flow of pedestrian traffic is restricted, or where emergency fire lanes are blocked.
 - 4. Sound amplification should not interfere with operations of the campus.
 - 5. Interference with ingress and egress to buildings and University functions or activities; disturbance of offices, laboratories, classrooms, study facilities, and patient care and research areas; and harm to University property are prohibited.
 - 6. Involuntary Audiences- Persons on University property have the right to be protected from becoming part of an audience for an event or activity against their will.
 - B. Handbilling – Employee organizations are permitted to distribute free informational materials relating to the organizations’ representational purpose to consenting employees in public areas of campus. Such distribution shall only take place outside of all works areas and should only occur outside recipients’ scheduled work time.



1. Literature may be handed to interested persons or posted appropriately in designated areas for their information, but it may not simply be left unattended on campus grounds or facilities.
2. No flyers, announcements or literature of any kind may be placed on automobiles (e.g., under the windshield wipers) on University property.

V. Meeting Rooms

- A. Employee organizations and their representatives may request to use general purpose meeting rooms to conduct meetings for gatherings, solicitations, and events when such meeting rooms are not in use for University purposes. Employee organizations should contact Employee & Labor Relations for assistance in scheduling general purpose rooms.
- B. Employee organizations access to meeting rooms may be limited or curtailed based on operational needs. Employee organizations may be excluded from use of a meeting area if an alternate meeting area is provided in reasonable proximity.
- C. When costs are incurred for use of University facilities, employee organizations will bear such costs. Space rental or usage fees will be charged to employee organizations for use of facilities for which all users, other than student organizations, are charged. Labor, equipment, and other event related fees and charges will apply.

VI. Bulletin Boards

- A. Written materials may be posted on general purpose bulletin boards or pre-designated employee organization bulletin boards when the following criteria are met:
 1. Identification – letterhead or signature of responsible party and name of employee organization.
 2. Date – postings must be dated with the current month, day, and year of posting.
- B. Postings are subject to removal 30 calendar days from the date of posting.
- C. No literature or other materials may be affixed to doors, walls, floors, ceilings, elevators, light fixtures, trash cans, or stairways at any time.
- D. The use of bulletin boards which are not general purpose bulletin boards or pre-designated employee organization bulletin boards by employee organizations and their representatives is prohibited at all times.



VII. Mail

- A. Mail sent to University employees through the U.S. Postal Service, where postage has been pre-paid by the employee organization will be delivered to the employee in the normal manner.
- B. In locations where employee mailboxes exist, employee organizations and their representatives may reasonably use such boxes for distribution of mail, provided the boxes are not located in a confidential and/or restricted work area. If employee mailboxes are located in a confidential and/or restricted area, arrangements should be made with the Employee & Labor Relations office to distribute the information.
- C. Use of the campus mail system for employee organization business is strictly prohibited.

VIII. Employee Lounges and Break Areas

Where employee lounges and break areas exist in non-restricted areas, one-to-one solicitation of consenting employee is permitted. Employee lounges and break areas are not generally available to reserve for meetings. Where permitted, employee organizations usage of employee lounges and break areas for meetings must be approved, in advance, by Employee & Labor Relations.

Where the information presented in this document or elsewhere on this site is in conflict with University policies, procedures or applicable collective bargaining agreements, the terms of those University policies, procedures and agreements shall govern.

Exhibit H(3)



Andy Kahn <andy@upte.org>

UC Merced's new speech policy - UPTE cease and desist and RFI

Norma Gonzales <ngonzales8@ucmerced.edu>

Fri, Oct 4, 2024 at 12:56 PM

To: Andy Kahn <andy@upte.org>, Labor Relations Analyst <laborrelations@ucmerced.edu>

Cc: Deborah Young <debyoung@upte.org>

Good afternoon Andy,

Thank you for reaching out and I am responding to acknowledge receipt of your email. We will respond to your email as soon as possible. Feel free to let me know if you have any questions in the meantime.

Sincerely,



Norma Gonzales
she/her/hers

**DIRECTOR, EMPLOYEE & LABOR
RELATIONS**

HUMAN RESOURCES

5200 Lake Road | Merced, California 95343
www.hr.ucmerced.edu | 209.455.0582

We work flexibly in HR. I am sending this email at a time that works well for me, there is no expectation for you to respond outside of your own working hours.

We would love your feedback, please tell us how we did. [HR Survey](#)

From: Andy Kahn <andy@upte.org>

Sent: Thursday, October 3, 2024 11:38 AM

To: Norma Gonzales <ngonzales8@ucmerced.edu>; Labor Relations Analyst <laborrelations@ucmerced.edu>

Cc: Deborah Young <debyoung@upte.org>

Subject: UC Merced's new speech policy - UPTE cease and desist and RFI

Attached please find UPTE's objections to UC Merced's new speech policy, requests for information, and bargaining proposal.

12/18/24, 12:54 PM

upte.org Mail - UC Merced's new speech policy - UPTe cease and desist and RFI

Andy Kahn, UPTe General Counsel

andy@upte.org

2855 Telegraph Ave. #602

Berkeley CA 94705

(510) 849-7025



Andy Kahn <andy@upte.org>

UC Merced's new speech policy - UPTE cease and desist and RFI

Norma Gonzales <ngonzales8@ucmerced.edu>

Tue, Oct 8, 2024 at 8:04 AM

To: Andy Kahn <andy@upte.org>, Labor Relations Analyst <laborrelations@ucmerced.edu>

Cc: Deborah Young <debyoung@upte.org>, Jesus Landeros <jlanderos6@ucmerced.edu>

Dear Andy,

Thank you for your correspondence. UC Merced wants to reiterate that we are more than willing to sit down and bargain over any effects on the union's HEERA protected access rights. As you know and as cited in your letter, however, the University has the right to set reasonable rules for the management of its property and reasonable time, place and manner restrictions related to expressive activity. The university's rules and these updates are reasonable and are not directed at the content of the speech or the union-affiliation of the individual. These rules are necessary to ensure that all of our community members can use our property to learn, research, and engage in meaningful discourse and debate regarding matters of importance. *Further, these updates are substantially the same as the University's previous rules and/or the law.*

We also want to highlight that SB 108 required the University to provide a report to the Legislature by October 1 regarding the institutional policies that ensure safety and access to educational opportunities and campus spaces and buildings, as well as the University's efforts to ensure their consistent enforcement. Given that timeline, we moved forward with the implementation of these updates now.

Please let me know when you are available to meet. Jesus Landeros, Labor Relations Consultant, or I will work on securing dates to meet with you. We look forward to working with you.

Best regards,

Norma



Andy Kahn <andy@upte.org>

UC Merced's new speech policy - UPTE cease and desist and RFI

Andy Kahn <andy@upte.org>

Tue, Oct 8, 2024 at 10:15 AM

To: Norma Gonzales <ngonzales8@ucmerced.edu>

Cc: Labor Relations Analyst <laborrelations@ucmerced.edu>, Deborah Young <debyoung@upte.org>, Jesus Landeros <jlanderos6@ucmerced.edu>

As for your comment about the new rules being similar to prior ones, please supply a red-lined version or at least show me where the prior rules contained the provisions which we're now challenging, thanks. However, even if these provisions were not unilateral changes, their content would still be bargainable locally given that UCOP said at the statewide table that access rules must be bargained locally. Given UCOP's bargaining demand for the right to ban union staff who violate access rules and discipline employees who do so, it is essential that UC Merced provide the info we requested and reconsider these rules. I'm available any time during week of 10/21 to discuss these. Hopefully we will have received the requested info before then. Thanks.

Andy Kahn, UPTE General Counsel

andy@upte.org

2855 Telegraph Ave. #602

Berkeley CA 94705

(510) 849-7025



Andy Kahn <andy@upte.org>

UC Merced's new speech policy - UPTE cease and desist and RFI

ucm laborrelations <laborrelations@ucmerced.edu>

Tue, Oct 15, 2024 at 11:04 AM

To: Andy Kahn <andy@upte.org>

Cc: Deborah Young <debyoung@upte.org>, Jesus Landeros <jlanderos6@ucmerced.edu>, Norma Gonzales <ngonzales8@ucmerced.edu>

Hello Andy,

I am following up informing you that our UCM Calendar for this week is full and our only availability is the week of October 21-25. Could you please provide us with some dates and times that will work for you, and I am happy to schedule this meeting for us.

Thank you,



Labor Relations

HUMAN RESOURCES

5200 Lake Road | Merced, California 95343
www.hr.ucmerced.edu

We work flexibly in HR. I am sending this email at a time that works well for me, there is no expectation for you to respond outside of your own working hours.



Andy Kahn <andy@upte.org>

UC Merced's new speech policy - UPTE cease and desist and RFI

Andy Kahn <andy@upte.org>

Fri, Oct 18, 2024 at 3:21 PM

To: ucm laborrelations <laborrelations@ucmerced.edu>

Cc: Deborah Young <debyoung@upte.org>, Jesus Landeros <jlanderos6@ucmerced.edu>, Norma Gonzales <ngonzales8@ucmerced.edu>, Izuniga11@ucmerced.edu

Next Friday 2-4 would work best for me and Luis Zuniga who will be joining us (if not called in for duty). Second best would be next Tues 3-4. An hour should be enough time.

Andy Kahn, UPTE General Counsel

andy@upte.org

2855 Telegraph Ave. #602

Berkeley CA 94705

(510) 849-7025



Andy Kahn <andy@upte.org>

UC Merced's new speech policy - UPTE cease and desist and RFI

Norma Gonzales <ngonzales8@ucmerced.edu>

Thu, Oct 31, 2024 at 7:39 AM

To: Andy Kahn <andy@upte.org>

Cc: Deborah Young <debyoung@upte.org>, Jesus Landeros <jlanderos6@ucmerced.edu>, Luis Zuniga <lzuniga11@ucmerced.edu>

Good morning Andy,

My apologies for the delay in getting back to you. We would like to schedule the meeting either next week or the following week. Can you send us some days of your availability again, please? I will work on coordinating the meeting with you, Luis, UCM general counsel and myself.

Thank you,



Andy Kahn <andy@upte.org>

UC Merced's new speech policy - UPTe cease and desist and RFI

Andy Kahn <andy@upte.org>

Thu, Oct 31, 2024 at 4:08 PM

To: Norma Gonzales <ngonzales8@ucmerced.edu>

Cc: Deborah Young <debyoung@upte.org>

Sorry, right now it looks like our first availability for this meeting is after Thanksgiving. But I'm happy to move the process along sooner via email. I have had several meetings with different campuses and while all listened politely, none came with any authority to change anything. Another meeting where workers and union staff express anger at such policies and management listens politely and promises to relay our concerns to decisionmakers, that isn't a very useful use of anyone's time. I request UCM provide us a written response to each of the points I made. I made a concrete proposal (UCSB), and I pointed out the various legal and practical problems that the current reg has which would be avoided by adopting our proposal. If UCM is going to reject that, then I will come back with a heavily-revised version of UCM's policy to try to move things forward. Getting a written response will help me craft such a proposal in a manner more to your liking. Thanks.

Andy Kahn, UPTe General Counsel

andy@upte.org

2855 Telegraph Ave. #602

Berkeley CA 94705

(510) 849-7025

Exhibit I(1)



Andy Kahn <andy@upte.org>

Fw: 091824 Notice of Updated UCSD Time, Place and Manner (TPM) and Revised Policies, 9/19

Jeff Welsh <jwelsh@upte.org>
To: Andy Kahn <andy@upte.org>
Cc: Flora Lloyd <flora@upte.org>

Wed, Sep 18, 2024 at 5:40 PM

It's UCSD's turn. They gave us 6 and a half hours of notice.

Jeff Welsh
UPTE-CWA 9119
619-674-1871
www.upte.org

From: Gunn, Lindsay <lgunn@UCSD.EDU>
Sent: Wednesday, September 18, 2024 5:26 PM
Cc: laborrelations <laborrelations@ucsd.edu>; HS Labor Relations Mailbox <hs-laborrelations@health.ucsd.edu>; Medina, Lissette <lmedina@health.ucsd.edu>; Crockett, Otis <ocrockett@ucsd.edu>; Aquino, Roselyn <r3aquino@UCSD.EDU>; High, Jaime <jhigh@UCSD.EDU>; Henry, Jennifer <j1henry@UCSD.EDU>; Connolly, Jonathan <jconnolly@UCSD.EDU>; Wiegand, Noelia <nwiegand@UCSD.EDU>; Chavez, Samantha <sdchavez@health.ucsd.edu>; Roling, Rachel <rroling@health.ucsd.edu>; Li, Michael <mil115@ucsd.edu>
Subject: 091824 Notice of Updated UCSD Time, Place and Manner (TPM) and Revised Policies, 9/19

Dear Union,

Pursuant to SB 108, the University is required to provide the legislature and its campus communities with notifications that describe its strategies and efforts to protect safety and access to educational opportunities and campus space and buildings. A report detailing these strategies and efforts is due to the legislature by October 1, 2024. In compliance with the law, UCSD is providing notice to its stakeholders of these strategies and efforts, which include the changes to the university's rules described above. These safety and educational opportunity access rule updates will continue to ensure union access to UC facilities consistent with the requirements of HEERA. That said, please let [Campus Labor Relations](#) and [Health Labor Relations](#) know if you would like to meet and confer regarding any negotiable impacts to union access.

Given the timelines set forth in SB 108, these safety and educational rule updates are being implemented before October 1, 2024, with anticipated implementation on September 19, 2024.

Thank you,

Lindsay

Lindsay Gunn
Labor Relations Sr. Analyst
Human Resources, Strategy and Policy
University of California San Diego
[9500 Gilman Drive #0921 | La Jolla, CA 92093-0921](#)

T: 858.822.5510 | F: 858.534.8870 | lgunn@ucsd.edu
[Labor Relations](#)



3 attachments



TPM Revisions - PPM 510-1 IX.pdf

355K



PPM 510-1, V.A Major Events Policy Revision.pdf

165K



No camping-fencing PPM 516-10.3 Revision.pdf

63K

Exhibit I(2)



[Search](#) | [A–Z Index](#) | [Numerical Index](#) | [Classification Guide](#) | [What's New](#)

USE OF UNIVERSITY PROPERTIES

Section: 510-1, IX

Effective: ##/##/202#

Supersedes: 10/04/2010

Next Review Date: ##/##/####

Issuance Date: ##/##/####

Issuing Office: Vice Chancellor – Chief Financial Officer, Vice Chancellor – Operations Management and Capital Programs, Vice Chancellor – Student Affairs and Campus Life

SECTION IX

INTERIM EXPRESSIVE ACTIVITY TIME, PLACE, AND MANNER POLICY

POLICY SUMMARY

The *Expressive Activity Time, Place, and Manner Policy*, in conjunction with other University Policies and applicable laws, describes UC San Diego's time, place, and manner requirements for Expressive Activity while on University Property, including serving as UC San Diego's implementing procedures for PACAOS Section 30.00.

SCOPE

Except as otherwise provided, the *Expressive Activity Time, Place, and Manner Policy* applies to all persons on University Property, including all University Affiliates and University Non-affiliates. This Policy does not apply to University Supported Activities conducted or organized by University Officials acting within the course and scope of their assigned duties and responsibilities with the knowledge and approval of their Vice Chancellor or, in the case of the Health System, the Chief Executive Officer, UC San Diego Health.

DEFINITIONS

For purposes of this Policy, the definitions in PACAOS 14.00, the *University of California Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California*, and those listed below apply:

1. **Ambient Noise** means background noise in an environment, often a composite of sounds from many sources (e.g., traffic at a busy intersection, construction, crowd noise).
2. **Amplified Sound** means sound that is made louder or stronger by using an instrument, device, or other equipment (e.g., bullhorns, amplifiers).
3. **Authorized Student Government** means the UC San Diego student governments authorized by the Chancellor's Office. Authorized Student Governments include Associated Students, Graduate and Professional Student Association, and undergraduate college councils.
4. **Expressive Activity** means any speech or conduct protected by the First Amendment to the United States Constitution and the California Constitution. Expressive Activity may include, but is not limited to, certain assemblies, demonstrations, speeches, distributing and posting Literature, carrying signs, and/or circulating petitions.



5. **Literature** means printed material used to communicate information.
6. **Information Tabling Areas** means the outdoor university locations identified on Appendix A.
7. **Non-Commercial** means an activity not intended to have profit as its primary purpose.
8. **Reservable Areas** means the outdoor university locations identified on Appendix B that may, with a reservation, be used for certain events and/or tabling; requests for reservations must be made using the links provided in Appendix B and any/all reservations for, and uses of, such areas are subject to location-specific rules that may be communicated as part of the reservation process.
9. **Structure or Display** means any object (including fencing, tents, platforms, booths, and electronics) larger than two feet in any dimension that is placed or displayed in an outdoor area for 10 or more minutes and/or is left unattended in a public area. This does not include objects entirely supported or carried by a single person that do not extend more than one foot from that person (e.g., a signboard supported over a person's shoulders).
10. **Tabling** means staffing a single table, no larger than 6 feet by 3 feet, solely for purposes of distributing and/or collecting information. Tabling (for purposes of this Policy) cannot/does not include providing food or beverages, playing/conducting games, providing/offering prizes, and/or using Amplified Sound.
11. **University Affiliate** means any person who is a student, officer, official volunteer, employee, Regent, emeritus of the University, or a member of a household authorized to reside in University Property, including as such terms are used in Section 100001.A.1–100001.A.4 of the Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California.
12. **University Non-affiliate** has the definition provided in Section 100001 of the Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California.
13. **University Official** includes any person employed by the University while performing in the course and scope of their assigned duties and responsibilities.
14. **University Policy** means the written regulations of the University, including, but not limited to, the UC San Diego Policy and Procedure Manual ("PPM") and other University policies, including Regental and/or systemwide university policies (e.g., PACAOS).
15. **University Property** means any University-owned, -operated, -leased, -controlled, or -maintained property, including all University grounds and structures or such other property as may be designated by the campus as property subject to University Policy, including "Property" as defined in PACAOS 14.20 and "University Property" as defined in the Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California.
16. **University Supported Activity** means any activity on, or off-campus which is initiated, organized, or supervised by the University. University Supported Activities include, but are not limited to, classes, research, lectures, administrative and student services, meetings, housing, programs, and events (including any such activities that may be conducted virtually (e.g., videoconferencing)).



POLICY STATEMENT

Expressive Activity on University Property is permitted and encouraged provided that it complies with this Policy, all other University Policies, and applicable laws.

The time, place, and manner rules in this Policy are designed to protect the rights, safety, and property of the University community and the ability of the University to perform its functions while assuring that all persons may exercise the constitutionally protected right of free expression. The University will administer this Policy without regard to the viewpoint of the person or persons engaging in Expressive Activity.

Expressive Activity and other conduct that does not comply with this Policy is prohibited. Failure to comply with this Policy may result in discipline and/or civil and/or criminal legal liability.

A. OTHER RELATED/RELEVANT POLICIES

This Policy, among other things, requires compliance with other University Policies. For ease of reference, other University Policies that also touch on Expressive Activities include, but are not limited to:

- Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California
(<https://policy.ucop.edu/doc/3000127/NonAffiliateRegs#:~:text=No%20non%2Daffiliate%20shall%20solicit,profit%20or%20otherwise%2C%20except%20as>)
- UC San Diego's Student Conduct Procedures (<https://adminrecords.ucsd.edu/PPM/docs/160-10.pdf> (PPM 160-10))
- UC San Diego Residential Life Community Standards
(<https://sage.ucsd.edu/procedures/index.html#UC-San-Diego-Residential-Life-C>)
- UC San Diego Policies relating to Use of University Properties
(<https://adminrecords.ucsd.edu/ppm/docs/toc510.HTML> (PPM 510-1 Section I-XIII)), including:
 - the Policy on Major Events on Campus (<https://adminrecords.ucsd.edu/ppm/docs/510-1.5a.HTML> (PPM 510-1 Section V.A) certain events and activities, generally including those with more than 100 expected attendees, are subject to PPM 510-1 Section V.A)
 - the Use of University Properties for Commercial Purposes
(<https://adminrecords.ucsd.edu/ppm/docs/510-1.10.HTML> (PPM 510-1 Section X))
- UC San Diego's Policy relating to Environmental Sanitation-Housing
(<https://adminrecords.ucsd.edu/ppm/docs/516-10.3.pdf> (PPM 516-10.3), which, in part, prohibits and/or restricts camping, fires, digging, and/or fencing)
- University of California Policy re: Anti-Discrimination (<https://policy.ucop.edu/doc/1001004/Anti-Discrimination>)
- University of California Policies Applying to Campus Activities, Organizations, and Students ("PACAOS" (<https://www.ucop.edu/student-equity-affairs/policies/pacaos.html>)), including:
 - the Policy on Speech and Advocacy (<https://policy.ucop.edu/doc/2710523/PACAOS-30> (PACAOS 30))
 - the Policy on Use of University-Properties
(<https://policy.ucop.edu/doc/2710524/PACAOS-40> (PACAOS 40), which, in part, includes requirements for individuals to identify themselves upon request to University Officials acting in the performance of their duties)
 - the Policy on Student Conduct and Discipline
(<https://policy.ucop.edu/doc/2710530/PACAOS-100> (PACAOS 100))
 - the Policy and Supplemental Guidelines on the Marketing of Credit Cards to Students
(<https://policy.ucop.edu/doc/2710541/PACAOS-Appendix-D> (PACAOS Appendix D))



B. GENERAL RULES

1. **Permitted Conduct.** Subject to the rules in this Policy, other University Policies, and applicable laws, between the hours of 6:00 a.m. and 11 p.m., Expressive Activity is permitted on outdoor University Property that is open to the public (excluding athletic fields/courts, parking lots and garages, the Epstein Family Amphitheater, vehicles, and maritime vessels). The outdoor University Property that is open to the public is subject to change at any time, with or without notice. All persons subject to this policy are required to follow the instructions of authorized University Officials regarding whether a particular space is open or closed to the public. Expressive Activities with more than 75 people are considered Major Events and are also subject to the rules and regulations stated in the Major Events Policy, PPM 510-1, Section V.A.
2. **Time of Use.** Between the hours of 11 p.m. and 6:00 a.m., outdoor open spaces, lawns, walkways, bike paths, roadways, crosswalks, fire lanes, parking lots, parking structures, and/or other thoroughfares are closed to all activities except coming and going to/from a University building, crossing the campus, or as part of a University Supported Activity.
3. **Prohibited Conduct.** Demonstrations, assemblies, and other conduct are prohibited whenever they:
 - a. Unreasonably disrupt or interfere with a University Supported Activity; a permitted Expressive Activity; University operations, business, academics, or co-curricular activities; the operations of businesses, lessees, or vendors authorized by the University; and/or the orderly conduct of the activities of the University (including, but not limited to, obstructing access to programs, activities, and/or campus areas that are ordinarily available to students).
 - b. Intimidate, harass, and/or obstruct any University Affiliate or other person having lawful business with the University.
 - c. Violate a person's reasonable expectation of privacy and/or constitute an unauthorized intrusion into an individual's personal life or affairs.
 - d. Constitute physically abusive, threatening, and/or intimidating conduct toward any person that would put a reasonable person in fear for their physical safety.
 - e. Interfere with and/or limit the free movement of another person in a manner that a reasonable person would find intimidating and/or offensive (e.g., surrounding people, blocking paths of travel, and/or surrounding vehicles).
 - f. Restrain, detain, and/or confine another person by making that person stay or go somewhere against that person's will.
 - g. Block, obstruct, and/or limit access to entrances, exits, stairways, ramps, and/or elevators, or otherwise interfere with the free flow of traffic in or out of campus buildings.
 - h. Obstruct pedestrian and/or vehicular traffic on lawns, walkways, bike paths, roadways, crosswalks, fire lanes, parking lots, parking structures, and/or other thoroughfares.
 - i. Constitute an unlawful assembly (i.e., when two or more persons assemble together to do an unlawful act, or do a lawful act in a violent, boisterous, or tumultuous manner).



- j. Damage or pose an unreasonable risk of damage to the environment (e.g., trees, vegetation, wildlife), University property, and/or property of others.
 - k. Violate other University Policies or local, state, or federal laws.
4. **Sign Handles.** Handles or supports for signs, posters, placards, flags, and/or banners must be made of wood. The use of metal stakes, clubs, and/or pipes is prohibited. The size of wood handles or supports is limited to one-fourth of an inch (1/4") in thickness by three-fourths of an inch (3/4") in width and may extend no more than 18 inches beyond a single exterior edge of a sign, poster, placard, flag, and/or banner.
 5. **No Indoor Parades or Demonstrations with Noisemakers.** Parading, demonstrating, and/or picketing inside any University building while using noisemakers, such as whistles, pots and pans, or bullhorns, is prohibited.
 6. **No Endorsement.** Individuals and organizations may not represent that Expressive Activity is endorsed, sponsored, and/or sanctioned by the University without the written consent of the Chancellor or their designee.
 7. **No Disguises.** No person may wear a mask, personal disguise, and/or otherwise conceal their identity with the intent of intimidating any person or group, or for the purpose of evading or hindering discovery, recognition, or identification in the commission of violations of University Policy, University regulations, and/or local, state, or federal laws.
 8. **No Unlawful Assemblies.** No person may remain present in any University area (including the location of any riot, rout, or unlawful assembly) after they have been warned to disperse, except peace officers, persons assisting peace officers, and University Officials acting in the course and scope of their assigned duties.
 9. **Reserving Certain Areas.** Reservable Areas are campus spaces expressly designated by the campus as available to be reserved for Expressive Activity. Reservable Areas are subject to change without notice. Reservations for Reservable Areas may be limited in area, duration, and/or frequency, so as to allow different people and groups meaningful opportunities to access such spaces. Disrupting or interfering with an event or activity that has reserved space in compliance with this Policy is prohibited. Events and/or activities occurring in a Reservable Area, including by those with a reservation, must still comply with all the rules stated in this Policy, as well as any specific rules communicated by the department responsible for the specific Reservable Area space.
 10. **Consequences.** Failure to comply with this Policy or the directives of University Officials administering this Policy may constitute a trespass, disorderly conduct, an unlawful assembly, and/or other unlawful conduct and may subject such persons to arrest and prosecution, and/or may result in disciplinary action and sanctions per University Policy, applicable collective bargaining agreements, and applicable federal, state, and local law.

C. DEMONSTRATIONS/GATHERINGS

1. Individuals and organizations may engage in demonstrations or gatherings on outdoor University Property (excluding athletic fields/courts, parking lots and garages, the Epstein Family Amphitheater, vehicles, and maritime vessels), provided that such activities comply with this Policy, local, state, and federal laws, and other applicable University rules. Demonstrations or gatherings with more than 75 people must also comply with the Major Events Policy, PPM 510-1, Section V.A.



2. Individuals and organizations are prohibited from picketing or organizing picketing that is focused on and takes place in front of any University Property that is a residence or dwelling of an individual, including as prohibited by Sections 52.2001-2003 of the San Diego Municipal Code.

D. STRUCTURES AND EQUIPMENT

1. Unless permission is first obtained from UC San Diego's department of Environment Health and Safety, erecting, maintaining, using, or occupying Free-standing equipment or Structures or Displays on University Property (other than information tables expressly permitted by Section D.2) is prohibited. All Free-standing equipment or Structures or Displays on University Property must be made available for inspection upon request by a University Official, must not pose a danger to people and/or property, and must not interfere with or disrupt University Supported Activities or other University business. Even when approved by an authorized University Official, Free-standing equipment or Structures or Displays on University Property may not be installed before 7:00 a.m. and must be fully removed by 8:30 p.m. each day. Approved Free-standing equipment or Structures or Displays on University Property may be erected on University property for no more than three consecutive days and no more than six total days in an academic quarter. Any Free-standing equipment, Structures or Displays that fail to meet the requirements of this Policy or any other University Policy may be removed by the University at the expense of the person or group that installed it.
2. Tabling in an Information Tabling Area is normally permitted, without a reservation, in accordance with the limitations set forth in Appendix A. Such Tabling may include no more than 2 chairs and no more than 20 people staffing the table at any one time. Information tables and accompanying materials/literature may not be left unattended. Information tables must be completely removed at the conclusion of the applicable time period identified in Appendix A. Tabling without a reservation is not permitted in Reservable Areas when such areas have been reserved by others.

E. AMPLIFIED SOUND

1. Amplified Sound may not be used within 150 feet of any residential building or health care facility.
2. Non-handheld Amplified Sound that constitutes a Structure or Display must also comply with the requirements of Section D.1 (above).
3. The maximum decibel level for Amplified Sound may not exceed 90 dBA when measured 50 feet or more from the sound source. The average decibel level measured over any 15 second period may not exceed 75 dBA when measured 50 feet or more from the sound source.
4. Ambient Noise will be considered when administering sound limitations. If Ambient Noise reaches, and/or exceeds 90 dBA, Amplified Sound may be increased so it may be intelligibly heard at the edge of a crowd or 50 feet from the speaker, whichever is lesser, but under no circumstances may it exceed 105 dBA.
5. Groups or individuals exceeding maximum allowable decibel levels will generally be given one warning and requested to reduce the volume to allowable levels. Exceeding allowable levels is a violation of this Policy.

F. POSTING OF LITERATURE, SIGNS, and BANNERS

1. Non-Commercial Literature may be posted on designated bulletin boards, kiosks, and other designated locations if it does not damage University Property and/or otherwise violate this Policy. Prior approval is not required for posting in these locations unless specifically noted. See



Appendix C for a list of applicable posting requirements relating to certain bulletin boards, kiosks, and other locations.

2. Adhesive materials (e.g., glue, decals, stickers), markers, paint, ink, chalk (except as authorized in Section H, below), posters, signs, banners, and/or other written or graphic material may not damage, be placed on or against, attached to, and/or written on any structure or natural feature of the campus, including, but not limited to, the ground, trees, doors, signs, light poles, waste receptacles, building exteriors, building surfaces, windows, fences, and/or walkways. Damaging University Property may result in discipline and/or civil or criminal liability.
3. Projection of images onto University buildings is prohibited.
4. Postings are limited to two per individual location. Postings exceeding this requirement may be removed by the University, including the department responsible for the location. Posting on top of other allowable postings and/or removing other postings is prohibited without authorization of the department responsible for the location.
5. Painters' tape or other non-destructive and removable hanging material may be used to post flyers at approved posting locations. The use of paste, glue, nails, masking tape, and/or duct tape is prohibited. Staples and tacks may be used on bulletin boards.
6. Postings for events and activities must indicate the name of the sponsoring organization or group, the nature of the event or activity, and the date, time, and location of the event or activity.
7. Within 48 hours after the event or activity, postings for events or activities must be removed by the sponsoring organization, group, or individual. Postings unrelated to an event or activity must include the date on which they were posted. In order to foster opportunities to post, the University may remove any posting that is more than 10 days old. Approved posting locations may impose additional, reasonable rules regarding time limits for postings.
8. Postings on or within kiosks and bulletin boards maintained by Authorized Student Governments must be approved by the respective Authorized Student Government prior to posting.
9. The University may designate posting locations for special-purpose notices (e.g., ride boards, housing information). Use of these locations is subject to any specific special-purpose rules created by the University.

G. DISTRIBUTION OF LITERATURE

1. Non-Commercial Literature may be distributed on outdoor University Property (excluding athletic fields/courts, parking lots and garages, the Epstein Family Amphitheater, vehicles, and maritime vessels) provided that the distribution does not disrupt the orderly conduct of University operations and is not forced upon others.
2. By allowing the posting, distribution, and exhibition of Literature on University Property by individuals and/or organizations, the University does not express or imply any endorsement of the content of such Literature. The University is not responsible and/or liable for the views and/or actions of persons engaging in these activities.

H. CHALKING

1. Chalking is permitted only on non-covered concrete or asphalt sidewalks and only when using water-soluble stick chalk. Chalking is prohibited on all other surfaces including, but not limited to,

roadways, buildings, windows, steps, seating walls, benches, tables, signs, poles, columns, waste receptacles, trees, and other surfaces, structures, and/or fixtures.

2. Chalking that damages University Property is prohibited. Damaging University Property may result in discipline and/or civil and/or criminal liability.
3. The University is not responsible for ensuring that chalking is maintained for any specific duration. Chalking may be cleaned by the University prior to a scheduled event, as part of regular maintenance, and/or as necessary if or when rain does not fully wash it away.

RESPONSIBILITIES

- A. Individuals, organizations, and groups are solely responsible for their Expressive Activity, on- or off-campus, and are acting voluntarily at their own risk, with no right to seek indemnification from the University for the consequences of their actions.
- B. Questions about the application and/or interpretation of this Policy should be made to the Director – Center for Student Accountability, Growth, and Education or their designee.

APPEALS

- A. Any student or student organization denied prior approval to use University Property for Expressive Activity may appeal the decision in writing to the Vice Chancellor – Student Affairs and Campus Life within 5 business days of the date of the notification. Any other person denied prior approval to use University Property for Expressive Activity may appeal the decision in writing to the Vice Chancellor – Operations Management and Capital Programs within 5 business days of the date of the notification.
- B. The appeal must sufficiently explain the grounds for the request in accordance with Section C below and include all the supporting reasons, information, arguments, and documents.
- C. Appeals may be based on only one or more of the following reasons:
 1. Failure to follow University Policy; or
 2. Arbitrary and capricious justification for the decision to deny use.
- D. The Vice Chancellor or their designee will review the appealing party's request, including their statements, information, and reasons for the request, any response or documentation submitted by the University Official who denied the initial request, and any other relevant information that the Vice Chancellor deems necessary to evaluate the appeal.
- E. Appealing parties will be notified in writing of the decision by the Vice Chancellor or their designee within 7 business days of the date the appeal request was submitted for review. A brief statement explaining the basis of the decision will be included with this notice. The result of the appeal request is final.

FORMS

None

RELATED INFORMATION

[California State Constitution](#)

[California Higher Education Employer-Employee Relations Act \(HEERA\)](#)



[*Free Expression at UC San Diego*](#)

[*Library Use and Conduct Policies*](#)

[*Regulations Governing Conduct of Non-Affiliates in the Building and on the Grounds of the University of California*](#)

[*Reserving Space at UC San Diego*](#)

[*Residential Life Community Standards*](#)

San Diego Municipal Code – Sections 51.2001-2003

UC San Diego Policy and Procedure Manual (PPM)

- [*Student Conduct Procedures*](#) (PPM 160-10)
- [*Use of University Properties*](#) (PPM 510-1 Section I-XIII)
- [*Policy on Major Events on Campus*](#) (PPM 510-1 V)
- [*Environmental Sanitation – Housing*](#) (PPM 516-10.3)

United States Constitution, [*First Amendment*](#)

University of California Policies Applying to Campus Activities, Organizations, and Students (PACAOS)

- [*Definitions*](#) (Section 14.00)
- [*Policy on Speech and Advocacy*](#) (Section 30.00)
- [*Policy on Use of University Properties*](#) (Section 40.00)
- [*Policy on Student Conduct and Discipline*](#) (PACAOS 100)
- [*University of California Policy and Supplemental Guidelines on the On-campus Marketing of Credit Cards to Students*](#) (Appendix D)

[*University of California Policy re: Anti-Discrimination*](#)

[*University Centers Facilities Usage Policies and Procedures*](#) (includes Library Walk, Price Center Plaza and Town Square)

FREQUENTLY ASKED QUESTIONS (FAQ'S)

See [*Free Expression at UC San Diego*](#)

REVISION HISTORY

2024-09-19: Policy update

2010-10-04: Policy update

1981-04-01: Initial implementation of policy



**APPENDIX A –
 Information Tabling Areas**

OUTDOOR AREAS	TIMES
Eleanor Roosevelt College Admin Bldg Plaza	11:30 am – 1:30 pm
Eleanor Roosevelt College Residence Halls Green	11:30 am – 1:30 pm
Library Walk*	6:00 am – 11:59 pm
Matthews Quad*	6:00 am – 11:59 pm
Revelle College Plaza*	11:30 am – 1:30 pm
Sixth College East Lawn*	11:30 am – 1:30 pm
Sun God Lawn*	11:30 am – 1:30 pm
Thurgood Marshall College Solis Quad	11:30 am – 1:30 pm M-F
Town Square*	6:00 am – 11:59 pm
Warren College Student Activity Center, <i>sidewalk area near shuttle stop</i>	11:30 am – 1:00 pm 5:00 pm – 7:00 pm
Warren Mall*	11:30 am – 1:30 pm

*except when such area has been reserved by others.



APPENDIX B –
Reservable Areas

RESERVABLE OUTDOOR AREAS	CONTACT
Library Walk	Reservations.ucsd.edu
Matthews Quad	Reservations.ucsd.edu
Revelle Plaza	https://revelle.ucsd.edu/student-life/reservations/plaza-form.html
Ridge Walk, <i>select areas only</i>	Reservations.ucsd.edu
Sixth College East Lawn	https://sixth.ucsd.edu/contact/index.html
Sun God Lawn	Reservations.ucsd.edu
Student Center Courtyard	Reservations.ucsd.edu
The Hump	Reservations.ucsd.edu
Town Square	Reservations.ucsd.edu
Warren Mall	Reservations.ucsd.edu



APPENDIX C

UC SAN DIEGO SUMMARY OF POSTING GUIDELINES

Please review the links to learn more about specific posting requirements in various UC San Diego Grounds and Facilities. Questions or concerns about the individual requirements can be directed to the offices and persons listed within this document.

Undergraduate Colleges and Residential Areas

In addition to campus-wide posting rules, undergraduate colleges and/or residential areas have implemented the following posting rules:

EIGHTH COLLEGE (Theatre District Living and Learning Neighborhood)

- Contact Eighth College at 858-246-4577 or eighthcollege@ucsd.edu for more information.

ELEANOR ROOSEVELT COLLEGE (ERC)

- The ERC Residence Life office allows posting of 3 to 4 butcher paper posters and 5 to 6 8.5x11 small brochures. Contact the ERC Residence Life Office at (858) 534-2261 or ercreslife@ucsd.edu for more information.

MARSHALL COLLEGE

- See: https://marshall.ucsd.edu/_files/res-life/ra-apps-and-docs/Marshall%20College%20Posting%20Policy%202016.pdf

MUIR COLLEGE

- See: <https://muir.ucsd.edu/posting/index.html#Other-John-Muir-College-Areas>

REVELLE COLLEGE

- See: <https://revelle.ucsd.edu/res-life/policies/posting.html>

SIXTH COLLEGE (North Torrey Pines Living and Learning Neighborhood)

- See: <https://sixth.ucsd.edu/residence-life/policies-and-guidelines/index.html#Posting-Policy>

SEVENTH COLLEGE

- See: https://seventh.ucsd.edu/_files/residence-life-files/seventh-college-posting-guidelines_2021-22.pdf

WARREN COLLEGE

- See: <https://warren.ucsd.edu/res-life/policies.html#Posting-Policy>



University Center

PRICE CENTER & STUDENT CENTER

- See: <https://universitycenters.ucsd.edu/events-and-reservations/University-Centers-Posting-Policy.pdf>

Other

GEISEL LIBRARY & WONG AVERY LIBRARIES

- See: <https://library.ucsd.edu/about/policies/posting-fliers.html>; Contact UC San Diego Library at (858) 534-0134 for more information.

GRADUATE AND FAMILY HOUSING

- Contact Graduate Family Housing at (858) 534-4723 or gradfamilyhousing@ucsd.edu for more information.

GILMAN DRIVE BRIDGE

- Contact the Revelle College Dean of Student Affairs Office at (858) 534-3493 for more information.

LA JOLLA VILLAGE DRIVE BRIDGE

- The City of San Diego permits banners made of cloth to be attached to the bridge with string or rope. Contact the City of San Diego for prior approval at (619) 236-5555.

SCHOOL OF MEDICINE

- Contact the School of Medicine Student Affairs Office at somosa@ucsd.edu for more information.

VILLAGE AT TORREY PINES

- Contact the Village at Torrey Pines at (858) 534-9380 or thevillage@ucsd.edu for more information.



UC San Diego

Policy & Procedure Manual



[Search](#) | [A–Z Index](#) | [Numerical Index](#) | [Classification Guide](#) | [What's New](#)

USE OF UNIVERSITY PROPERTIES

Section: 510-1 Section V.A

Effective: 11/29/2022

Supersedes: 02/28/2020

Review Date: 11/29/2025

Issuance Date: 11/29/2022

Issuing Office: [Vice Chancellor - Resource Management & Planning](#), [Vice Chancellor Student Affairs](#)

INTERIM POLICY ON MAJOR EVENTS ON CAMPUS

Responsible Executives: Vice Chancellor – Student Affairs and Vice Chancellor – Operations Management and Capital Programs

Contact: For Student Organizations: Center for Student Involvement, getinvolved@ucsd.edu, 858-534-0501
For All Other Non-University Sponsors: Risk Management, ehsrisk@ucsd.edu and 858-534-2454

1. Summary

The University of California, San Diego is committed to ensuring that all persons may exercise the constitutionally protected right of free expression and that there is an ongoing opportunity for the expression of a variety of viewpoints.

Accordingly, UC San Diego makes available certain designated facilities for use by students, alumni, and the community at large. Each facility has a facility manager, and each facility has rules for reservation, including fees and other requirements.

UC San Diego has a strong interest in ensuring that events on its properties do not disrupt university functions or activities, pose unreasonable danger to people or property, or conflict with other events.

Therefore, all Major Events with a Non-University Sponsor at UC San Diego must comply with this policy. Failure to comply with this policy may result in discipline, civil and criminal liability, and/or cancellation of the event.

The University will administer this policy without regard to the viewpoint of the event Sponsor or the persons performing at or attending the event and will implement this policy in a manner consistent with the constitutionally protected rights of freedom of speech and assembly.

2. Scope

This policy applies to all Major Events on the University property that are planned or organized by Non-University Sponsors. This Policy does not apply to events or activities conducted or organized by University Officials acting within the course and scope of their assigned duties and responsibilities with the knowledge and approval of their Vice Chancellor or, in the case of the Health System, the Chief Executive Officer, UC San Diego Health.

3. General Rules

3.1. Definitions

3.1.1 **Academic Unit:** A college, school, organized research unit, academic center, academic



division, or an academic department of the University of California San Diego.

- 3.1.2 **Administrative Unit:** An organized division of UC San Diego that is not an Academic Unit. Administrative Departments include recognized student governments, namely, the Associated Students of UC San Diego and the UC San Diego Graduate Student Association.
- 3.1.3 **Event Sponsor:** The person or entity that is responsible for planning the event, including without limitation, determining the Event's program or content and advertising the event.
- 3.1.4 **Facility Manager:** The University employee responsible for operating or managing a particular University facility or location. For some locations, the Facility Manager is referred to as the "event manager."
- 3.1.5 **Major Event:** A planned gathering including but not limited to parties, dances, lectures, forums, performances, rallies, demonstrations, social gatherings, concerts, speaker presentations, and conferences, at which one or more of the following conditions apply:
 - (1) The Event Sponsor anticipates over 75 persons are likely to be in attendance at the Event at any one time; or
 - (2) The Event requires completion of a campus Use of Alcohol Permit issued through the UC San Diego Police Department.

In addition to the above, the University may on its own initiative designate an event to be a Major Event if the University reasonably determines that more than 75 persons are likely to attend the event at any one time or that the nature of the event poses unusual security risks. If the University designates an event as a Major Event, the University will give notice to the Event Sponsor and the Event Sponsor may contest that determination by submitting a written appeal in accordance with the appeals process specified in this policy.

A Major Event does not include classes, department meetings and seminars, concerts, performances, conferences, camps, or athletic practices, contests, or tournaments authorized and sponsored by the University as part of the ordinary operations of the University.

- 3.1.6 **Non-University Sponsor:** An Event Sponsor who is (1) an individual not currently employed by the University, (2) an employee of the University acting outside the course and scope of their University employment or without the knowledge and approval of their Vice Chancellor or, in the case of an employee of the Health System, the Chief Executive Office, UC San Diego Health, or (3) a group, association, corporation, registered student organization, or other combination of individuals that is not an Academic Department or an Administrative Department.
- 3.1.7 **Open to the Public:** A term used to describe campus events that anyone may attend, including individuals who are not University of California faculty, staff, or students.
- 3.1.8 **PPM:** The UC San Diego Policy & Procedure Manual, available at <http://adminrecords.ucsd.edu/PPM/index.html>.
- 3.1.9 **Spontaneous Events.** Demonstrations, protests, vigils, or other assemblies which are occasioned by and are in response to news or public affairs coming into public knowledge less than seven calendar days before the Event occurs.
- 3.1.10 **University:** The Regents of the University of California.
- 3.1.11 **University Property:** Any building or outdoor space owned, operated, or leased by the



San Diego campus of the University.

3.2. Major Events with a Non-University Sponsor

- 3.2.1 For Major Events with a Non-University Sponsor, the rules stated in this Section 3.2 apply.
- 3.2.2 To host a Major Event on University Property, all Non-University Sponsors must first obtain permission from the University. All Major Events organized by Non-University Sponsors must comply with all of the Major Event Requirements stated in Section 3.4 as well as all rules and regulations established by the relevant Facility Manager. All Major Events with Non-University Sponsors must follow the Event Approval Process stated in Section 4 of this Policy, unless the Major Event qualifies as a Spontaneous Event, in which case the rules stated in Section 3.3 (Spontaneous Events) apply. Holding a Major Event on University Property without proper permission is prohibited and may result in discipline and/or criminal or civil liability for the Major Event sponsors, promoters, or organizers, and may result in termination of the Major Event by the University.
- 3.2.3 Non-University Sponsors may not publicly advertise or promote a Major Event before receiving permission to hold the Major Event as provided in this Policy. Public advertising or promotion of a Major Event before receiving permission will be grounds for denying permission to hold the Major Event on University Property. Submitting an application for permission to hold a Major Event does not guarantee that permission will be granted or will be granted for the date, time, or facility requested. Because review of applications to hold a Major Event necessarily takes time, Non-University Sponsors are highly encouraged to submit applications as early as possible and not to make any financial commitments related to a proposed Major Event until formal, written permission has been granted.
- 3.2.4 As a condition of use of University Property, Non-University Sponsors agree to be solely responsible for their Major Events, including without limitation, the Major Event's content, planning, advertising, security, implementation, and costs. The University is not responsible for the content, planning, advertising, security, implementation, or costs of Major Events organized by Non-University Sponsors. Non-University Sponsors agree to reimburse the University for any damage or injury arising from their Major Events and agree to defend and indemnify the University from all losses, liabilities, or claims arising from their Major Events. The University may provide assistance, guidance, and suggestions to Non-University Sponsors regarding their Major Events, but such assistance, guidance, or suggestions will not eliminate, alter, or limit the sole responsibility of Non-University Sponsors for their Major Events. Non-University Sponsors may be required to sign a contract in order to obtain permission to host a Major Event on University Property.
- 3.2.5 Non-University Sponsors must comply with all University policies. At all times during the Major Event, every Non-University Sponsor must have a responsible person on-site supervising the Major Event and serving as a point of contact for University officials. Non-University Sponsors may not prohibit, limit, interfere with, or impede University employees or agents responsible for health, safety, or welfare from accessing the Major Event or any space occupied by or for the Major Event.
- 3.2.6 If the University reasonably concludes that an imminent threat to safety or property exists or if the Major Event is not in compliance with all University policies, including but not limited to the Major Event Requirements stated in Section 3.4, the University may, in its discretion, prevent the start of the Major Event, relocate the Major Event from one place to another, or terminate a Major Event in progress.
- 3.2.7 Nothing in this policy limits the authority of UC San Diego Police or other appropriate law enforcement authorities to declare an unlawful assembly and order immediate dispersal or otherwise enforce criminal laws.



3.3. Spontaneous Events

- 3.3.1 For Spontaneous Events where 75 or more people are anticipated to participate, the rules stated in this Section 3.3 apply.
- 3.3.2 Spontaneous Events do not require University permission; however, except as otherwise provided in Section 3.3.4, Non-University Sponsors of a Spontaneous Event must provide notice via email to the Vice Chancellor – Student Affairs and Campus Life (ycsa@ucsd.edu) and to the Vice Chancellor – Operations Management and Capital Planning (vcomcp@ucsd.edu) at least 24 hours in advance of the Spontaneous Event. The notice must include the name of the organizer, the news or public affairs occasioning the Spontaneous Event, and the intended location of the Spontaneous Event. The organizer of the Spontaneous Event must have a copy of the required notice at the Spontaneous Event and must produce a copy of the notice to University Officials upon request. Organizing or promoting a Spontaneous Event without providing the required notice is prohibited and may result in discipline and/or criminal or civil liability. The University reserves the right to terminate Spontaneous Events if the required notice has not been timely provided.
- 3.3.3 When the notice required in Section 3.3.2 has been timely provided, Spontaneous Events may use any outdoor space on the UC San Diego main campus that is available for Expressive Activity under Policy and Procedure Manual 510-1, Section IX. Spontaneous Events must remain outdoors and may not use or enter a University Facility.
- 3.3.4 Spontaneous Events are exempt from the notice requirement of Section 3.3.2 under either of the following circumstances:
 - (1) The Spontaneous Event takes place at the corner of Library Walk near the silent tree in front of Geisel Library.
 - (2) The Spontaneous Event consists of a sidewalk march where the participants are consistently moving and where the march does not impede traffic, block the entrances or exits of buildings or parking lots or garages, or create excessive noise.
- 3.3.5 No Alcoholic Beverages may be served or consumed at a Spontaneous Event.
- 3.3.6 Notwithstanding any other provision of this Policy, all Spontaneous Events must comply with the Major Event Requirements stated in Section 3.4.3, Section 3.4.4, and Section 3.4.5. Spontaneous Events may not displace, disrupt, or interfere with another event, with University business or operations, or the business or operations of persons or entities authorized by the University to be on campus.
- 3.3.7 If the University reasonably concludes that a threat to safety or property exists or if the Spontaneous Event is not in compliance with all University policies, including but not limited to the Major Event Requirements stated in Section 3.4.3, the University may prevent the start of a Spontaneous Event, relocate the Spontaneous Event from one place to another, or terminate a Spontaneous Event in progress. Failure to follow the instructions of an authorized University Official or to comply with the Major Events Requirements of this policy may result in discipline and/or civil and/or criminal liability.
- 3.3.8 Nothing in this policy limits the authority of UC San Diego Police or other appropriate law enforcement authorities to declare an unlawful assembly and order immediate dispersal or otherwise enforce criminal laws.

3.4. Major Event Requirements

- 3.4.1 Major Events may not exceed the maximum room capacity established by the Campus Fire Marshal.



- 3.4.2 The possession and/or consumption of Alcoholic Beverages at Major Events is prohibited unless service is provided by an Alcohol Beverage Control (ABC)-licensed supplier under contract, and the ABC-licensed supplier provides the University with proof of liquor liability insurance coverage from an established and licensed insurance company for at least one million dollars (\$1,000,000) per occurrence, with The Regents of the University of California endorsed as an additional insured. If the event will take place on the La Jolla campus, a campus Use of Alcohol Permit issued through the UC San Diego Police Department is also required. If the event will be at a location that is not part of the La Jolla campus, permits for possession and distribution of alcohol must be obtained by ABC-licensed suppliers under contract. Under no circumstances will an individual under the age of 21 be served alcohol. If alcohol is served at an event, non-alcoholic beverages and food must be provided throughout the event. Non-alcoholic beverages must be prominently displayed and served in the same place as alcoholic drinks. Compliance with PPM 510-1, Section XIII, Alcoholic Beverages Policy, or any successor policy, is required.
- 3.4.3 Major Events must not:
- (1) Unreasonably disrupt or interfere with University business, functions, or activities or disrupt or interfere with the permitted activities of University affiliates, partners, lessees, or invitees.
 - (2) Violate the legal rights of other persons, endanger their physical safety, or unreasonably disrupt, interfere, or obstruct viewing or hearing of an expressive activity of another person or group that is in compliance with University policy.
 - (3) Obstruct or interfere with the ingress or egress to any University facility; obstruct or interfere with the use of any walkways, roadways, or fire lanes; or unreasonably limit the free movement people through the UC San Diego campus.
 - (4) Include any activity that damages or poses an unreasonable risk of damage to the environment (e.g., trees and other vegetation, wildlife) or to property.
 - (5) Take place inside of or within 150 yards of a University residential facility during (i) residential quiet hours (i.e., between 11 p.m. and 8 a.m. Sunday through Thursday or between midnight and 8 a.m. Friday and Saturday) or (ii) during finals week.
 - (6) Constitute an unlawful assembly (i.e., when two or more persons assemble together to do an unlawful act, or do a lawful act in a violent, boisterous, or tumultuous manner).
 - (7) Violate any other University Policy (including PPM 510-1, Section IX, Section B ("General Rules")), any facility rules established by an appropriate Facility Manager, or local, state, or federal law.
- 3.4.4 Outdoor amplified sound may only be used if the amplified sound complies with the requirements provided in PPM 510-1, Section IX. Indoor amplified sound may only be used if the amplified sound is limited so that it cannot be heard more than 50 feet from the room where the Major Event is taking place, unless otherwise specified by local facility regulations, in which case the local facility regulations will apply.
- 3.4.5 No Major Events may take place between the hours of 11 p.m. and 6 a.m. Specific facility regulations or other campus policies may impose more restrictive hours of availability. Additional charges may be applicable to Major Events that continue beyond normal operating hours.
- 3.4.6 Major Events by Non-University Sponsors may take place indoors only in facilities designated as available to Non-University Sponsors for such events and only with an



advance reservation from the University. If the University has good-faith concerns about public safety associated with a Major Event, the University reserves the right to relocate the Major Event to a different venue and/or to a different date or time than what was requested by the Non-University Sponsor. The University reserves the right to alter at any time without notice the facilities that are available to Non-University Sponsors for Major Events. Non-University Sponsors may not rely on the availability of a particular venue until the University has given final approval for the Major Event in writing.

- 3.4.7 At least two weeks before a Major Event, Non-University Sponsors must submit for review and approval a reasonable security plan that addresses foreseeable risks associated with the proposed Major Event.
- (1) The University may require changes to the Non-University Sponsor's proposed security plan as a condition of approving the Major Event if the proposed security plan is unreasonable.
 - (2) The reasonableness of a proposed security plan will be assessed without regard to the viewpoint of the Non-University Sponsor or any speaker or performer at a proposed Major Event. Factors that may be considered in assessing the reasonableness of a proposed security plan may include, among other things:
 - the proposed location of the event,
 - the estimated number of participants,
 - the age of the people attending the event,
 - the presence of valuable property or large sums of money,
 - the presence of alcohol or illegal drugs,
 - whether the event is Open to the Public, ticketed, or limited to University affiliates,
 - the time of day that the event is to take place,
 - the date and day of the week of the event,
 - the proximity of the event to other activities, events, or locations that may interfere, obstruct, or lessen the effectiveness of the security measures being implemented or may otherwise heighten risks,
 - the anticipated weather conditions,
 - the estimated duration of the event,
 - credible information about potential security dangers at the event,
 - prior history or experience with events of a similar nature, and
 - any other considerations that in the professional judgment of the UC San Diego Police Department are relevant to assessment of security needs.
 - (3) External security firms hired to work at a Major Event must be provided by an approved University vendor.
 - (4) The University reserves the right to provide additional security at a Major Event for the protection of public safety or University property. The University will not charge special fees to a Non-University Sponsor if the University decides to provide additional security over and above the security required of the Non-University Sponsor under the approved security plan. The provision of additional security by the University does not relieve Non-University Sponsors from responsibility, including legal liability, for the security of their Major Events.
- 3.4.8 Permission to hold a Major Event on University Property may be denied or rescinded on any of the following grounds:
- (1) the application for permission to hold the Major Event is not fully completed and submitted in a timely manner and in accordance with the manner prescribed in this Policy.



- (2) the application for the proposed Major Event does not comply with the requirements of the facility the applicant wishes to use.
- (3) the proposed Major Event is reasonably likely to exceed the capacity of the facility the applicant wishes to use or is incompatible with the proposed facility.
- (4) the application seeks to use a facility that the University has not designated as available for Major Events by Non-University Sponsors.
- (5) the application seeks to use a facility or other campus location that is not available at the date or time requested.
- (6) the applicant has not timely complied with the requirements of the facility where the Major Event is to take place, such as paying user fees, providing insurance certificates, providing security deposits, or signing a contract.
- (7) the application contains a material falsehood or misrepresentation.
- (8) the applicant has not submitted a reasonable security plan.
- (9) the applicant fails to attend a mandatory event coordination meeting.
- (10) the applicant or the person on whose behalf the application for permission was made (i) has on prior occasions damaged University Property and has not paid in full for such damage or (ii) has other outstanding and unpaid debts to the University.
- (11) the applicant is on probation or suspension or has been dismissed from the University for misconduct or currently has misconduct charges pending for which probation, suspension, or dismissal is a possible sanction.
- (12) the proposed Major Event conflicts with other events, functions, or activities.
- (13) the proposed Major Event is prohibited by law, by this policy (including without limitation Section 3.4.3), or by other University policies.

3.4.9 If permission to hold a Major Event is denied, the University will communicate the denial in writing and will provide the reasons why permission was denied.

4. Event Approval Process

4.1. Students and Registered Student Organizations Events

- 4.1.1 The following procedures must be followed by students and student organizations that wish to hold Major Events on University Property.
- 4.1.2 Students or, in the case of student organizations, at least one principal member of a Student Organization seeking to use University Property to hold a Major Event must:
 - (1) Review the Triton Activities Planner (TAP) instructions available from the Center for Student Involvement at <http://tap.ucsd.edu>.
 - (2) Make a preliminary facility hold for the desired location for the Event three weeks or more prior to the Event. If security arrangements and other preparations cannot reasonably be made by the desired date, the Event may not be approved for the date and time requested. A hold is not a guarantee of availability or approval.
 - (3) Comply with the local facility policies for the desired location as established by the



Facility Manager. Facility policies and requirements vary by location. Contact the Facility Manager for details and information. A preliminary hold or reservation or indication of availability does not constitute approval of the use of the venue at the proposed date and time. Final approval requires written approval of the local Facility Manager and may require the signing of a contract in a form acceptable to the Facility Manager.

- (4) At least three weeks prior to the desired date for the Event, complete and submit the TAP online at <http://tap.ucsd.edu>. The Event proposal will be reviewed by the Center for Student Involvement and may also be reviewed by the local facility manager, UC San Diego Police Department, and others as needed to assess security and logistical requirements.
- (5) Discuss Event details with the assigned Center for Student Involvement Student Organizations Advisor at least three weeks prior to the Major Event.
- (6) At least one week prior to the Event, submit proof of Event insurance to the Center for Student Involvement. Acceptable proof of insurance requires, at a minimum, a certificate of insurance from an established and licensed insurance company that names "THE REGENTS OF THE UNIVERSITY OF CALIFORNIA" as an additional insured with General Liability coverage of not less than one million dollars (\$1,000,000) per occurrence. Events with alcohol will also require liquor liability insurance as outlined in Section 3.4.2 Event Requirements. The University offers event insurance to Registered Student Organizations. For more information, visit <http://ucsd.campusconnexionsuc.com/Constituency/Registered-Student-Organization>.
- (7) Comply with all University policies and all applicable laws and regulations.

- 4.1.3 The Center for Student Involvement will typically complete final review of Event proposals one week prior to the desired date of the Event, assuming all information from the Event Sponsors has been timely submitted. The Center for Student Involvement Student Organizations Advisor may request additional information about the Event and discuss logistical expectations with Event Sponsors. The Center for Student Involvement may require Event Sponsors to attend an event coordination meeting to discuss planning, logistics, or security. The Center for Student Involvement may require additional meetings to ensure that all requirements agreed to at the event coordination meeting have been carried out. Event Sponsors must attend all required meetings.

4.2. Non-University Sponsors Other than Students and Registered Student Organizations

- 4.2.1 The following procedures must be followed for Non-University Sponsors other than students or registered student organizations for Major Events.
- 4.2.2 Non-University Sponsors other than Registered Student Organizations must:
- (1) At least five weeks in advance of the desired date for the Major Event, request permission to reserve University Property by contacting the Facility Manager for the venue where the Major Event is desired to take place. Facility policies and requirements vary by location. Contact the Facility Manager for details and information. A preliminary hold or reservation or indication of availability does not constitute approval of the use of the venue at the proposed date and time. Final approval requires written approval of the local Facility Manager and may require the signing of a contract in a form acceptable to the Facility Manager.
 - (2) At least two weeks prior to the Major Event, submit proof of Event insurance in a form that is acceptable to the UC San Diego department of Risk Management. Acceptable proof of insurance requires, at a minimum, a certificate of insurance from an



established and licensed insurance company that names “THE REGENTS OF THE UNIVERSITY OF CALIFORNIA” as an additional insured with General Liability coverage of not less than one million dollars (\$1,000,000) per occurrence. Events with alcohol will also require liquor liability insurance as outlined in Section 3.4.2 Event Requirements. Event liability insurance that is approved by UCSD may be purchased from this website:

<http://ucsd.campusconnexionsuc.com/Constituency/Tenant-User>

(3) Comply with all University policies and all applicable laws and regulations.

- 4.2.3 The University will endeavor to complete final review of Major Event proposals one week prior to the desired date of the Event, assuming all information from the Event Sponsor has been timely submitted. The University may request additional information about the Event and discuss logistical expectations with Event Sponsors. The University may require Event Sponsors to attend an event coordination meeting to discuss planning, logistics, or security. The University may require additional meetings to ensure that all requirements agreed to at the event coordination meeting have been carried out. Event Sponsors must attend all required meetings.

5. Appeals

If a Non-University Sponsor wishes to contest any decision of the University under this policy, the Non-University Sponsor must submit a written appeal to the Vice Chancellor – Operations Management and Capital Programs within seven calendar days of receiving notice of the decision. Appeals must be based on one of the two following grounds: (a) failure to follow University Policy or (b) arbitrary and capricious justification for the decision to deny permission. The Vice Chancellor – Operations Management and Capital Programs may conduct an inquiry into the facts and circumstances and will respond to the appeal within seven business days.

6. Related Documents and Policies

1. University of California Policies Applying to Campus Activities, Organizations and Students (PACAOS): <http://ucop.edu/student-affairs/policies/student-life-policies/pacaos.html>
2. Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California: <http://policy.ucop.edu/doc/3000127/NonAffiliateRegs>
3. PPM 440-4, Licensed Real Property: <http://adminrecords.ucsd.edu/PPM/docs/440-4.html>
4. PPM 510-1, Section IX, Expressive Activity Time, Place, and Manner Policy: <http://adminrecords.ucsd.edu/PPM/docs/510-1.9.HTML>
5. PPM 510-1, Section XIII, Alcohol Policy: <http://adminrecords.ucsd.edu/PPM/docs/510-1.13.HTML>

7. Revision History

11/29/2022 Policy revised to account for events at Park & Market.

09/19/2024 Policy revised to account for Spontaneous Events and other changes.



UC San Diego

Policy & Procedure Manual

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ENVIRONMENT, HEALTH & SAFETY

Section: 516-10.3

Effective: XX/XX/2024

Supersedes: 07/19/2010

Review Date: TBD

Issuance Date:

XX/XX/2024

Issuing Office: [Environment, Health & Safety](#)

ENVIRONMENTAL SANITATION – HOUSING, FIRES, FENCING, AND ELECTRICITY AND WATER USAGE

I. REFERENCES

- A. California Health and Safety Code
- B. California Code of Regulations, Title 19 Public Safety, Division 1 Fire Marshal
- C. California Code of Regulations, Title 24 California Fire Code

II. POLICY

A. No Camping

Only buildings designed, constructed, and maintained for sleeping and/or dwelling may be used for that purpose. Except in spaces the university has designated for sleeping or dwelling purposes, it is prohibited to use any university property, facility, building space, or outdoor space, or to use any vehicle located on university property (whether privately owned or owned by the university) for (a) temporary or permanent living accommodations purposes, (b) sleeping or making preparations to sleep (including the laying down of bedding), or (c) erecting, building, maintaining, or occupying any campsite or tent or other structure for sleeping, unless approved in advance by the Environment, Health and Safety (EH&S) Office.

B. No Fires, Digging, or Fencing

Unless approved in advance by the Environment, Health and Safety (EH&S) Office or an authorized University Official, the following activities are prohibited on or in university property, facilities, building spaces, or outdoor spaces: (a) starting a fire or making a campfire, operating a grill or barbecue, or possessing or using propane tanks, (b) doing any digging or earth breaking, or (c) setting up, building, or maintaining fencing, enclosures, barriers, or structures.

C. No Unauthorized Outdoor Use of University Electricity or Water

Connecting to electrical outlets or water pipes of the university for use in outdoor spaces without permission from an authorized University Official is prohibited. This prohibition includes running electrical cords or hoses from inside buildings to outside spaces and connecting electrical cords or hoses to existing fixtures outside of buildings. Use of generating devices such as generators and portable power units capable of generating 100 VAC or higher is also prohibited, unless approved in advance by the Environment, Health and Safety (EH&S) Office.

III. PROCEDURES

A. Use of University Facilities for Cooking, Sleeping and/or Dwelling Purposes

The University provides specific facilities for dwelling and sleeping purposes. They include, but are not necessarily limited to: residence halls, apartments, and appropriate hospital and shipboard facilities.

B. Sanitation and Safety in Dwellings and Other Human Occupancy Areas

1. Plans and construction for all dwelling units and areas involving human occupancy shall comply with applicable codes and standards.
2. All facilities shall comply with applicable codes and standards and be maintained in a safe and sanitary manner. EH&S will provide direction, instruction, and advice to the administrative units responsible for these areas and perform inspections as required by the applicable codes, standards, policies, and agreements.

C. Requests for Exceptions to Policy

Requests for permission to conduct activities prohibited by this Policy must be submitted in writing to ehs@ucsd.edu at least seven business days in advance. Requests for exceptions to policy will be denied unless EH&S determines that granting the exception is in the best interest of the university, will further the university's mission, and will be in compliance with all other university policies.

IV. RESPONSIBILITY

- A. All plans for new construction and renovations will be processed through the Office Planning, Design and Construction, or Facility Maintenance and the EH&S Office for review and approval by the Campus Fire Marshal, as described in PPM 516-12.1, General Safety -- Construction/Renovations and Alterations.
- B. The administrative units responsible for each space or area shall arrange for maintenance of safe and sanitary facilities and for ensuring that occupancy is in compliance with the applicable codes, policies, and procedures. The EH&S Office may assist by consulting and conducting routine surveys of the facilities.

Exhibit I(3)



Andy Kahn <andy@upte.org>

UPTE's objections to new UCSD Speech Policies

Andy Kahn <andy@upte.org>

Thu, Sep 19, 2024 at 4:48 PM

To: laborrelations <laborrelations@ucsd.edu>, hs-laborrelations@health.ucsd.edu, "lgunn@ucsd.edu" <lgunn@ucsd.edu>

Cc: Flora Lloyd <flora@upte.org>, Jeff Welsh <jwelsh@upte.org>

Bcc: Benjamin Dictor <ben@eisnerdictor.com>, Dan Russell <dan@upte.org>, Paul Waters-Smith <pwaters.smith@upte-cwa.org>, Arthur Liou <aliou@leonardcarder.com>, Kate Hallward <khallward@leonardcarder.com>, Julia Lum <jlum@leonardcarder.com>

Attached please find UPTE's objections to several of the new UCSD speech policies announced yesterday, our demand these be held in abeyance pending bargaining, our demand for bargaining, and our requests for information. Please hit reply all with your available dates for bargaining, thanks.

Andy Kahn, UPTE General Counsel

andy@upte.org

2855 Telegraph Ave. #602

Berkeley CA 94705

(510) 849-7025

**Access UCSD memo UPTE.pdf**

204K

Sept. 19, 2024

TO: UCSD Management

FROM: Andy Kahn, UPTE General Counsel

RE: UCSD's Expressive Activities Policies

I'm writing on UPTE's behalf in response to our receiving yesterday at 5:36pm new UCSD speech-restrictive policies going into effect today. The amount of notice which UCSD provided was far too short to be reasonable. SB 108 provides no excuse for this short notice and your immediate unilateral implementation, as the Legislature did not order revisions of UC policy by 10/1 -- it merely asked for a report, to which you could have responded that draft new policies had been circulated to labor groups for the HEERA-mandated bargaining process. Also, other campuses sent us new policies weeks ago. We demand you hold these Policies in abeyance as to UPTE and its members on the questionable provisions of Sections V and IX of Policy 510-1 discussed below.

These provisions do not meet the reasonableness requirement of the Access articles of our CBAs. These provisions in substance violate our HEERA rights and constitutional speech rights in many ways. We request to bargain the contents of such Policies and their effects. We have the following proposals, comments and requests for information relevant to bargaining over these Policies and the Access articles in statewide CBA negotiations,ⁱ and to our potential grievance:

Legal Standards Applicable Here: It's likely a court would hold UCSD's sidewalks and other exterior areas represent a public forum like regular college campuses.ⁱⁱ (UC has told courts successfully that its healthcare operations are engaged in an educational enterprise rather than merely being a healthcare provider).ⁱⁱⁱ Accordingly, UCSD's Policy will probably be subject to strict scrutiny requiring narrow tailoring to compelling governmental interests. However, even if deferential scrutiny applies, UCSD's Policy is unlikely to be upheld for reasons set forth below. HEERA provides our representatives with the "right to use institutional facilities at reasonable times for the purpose of meetings". Gov. Code sec. 3568. HEERA also protects employees' rights to engage in union speech in non-work areas absent compelling contrary interests. See, e.g., *Cal. Public Sector Labor Relations* (CEB 2024) ("To establish reasonableness, the employer must show that its regulation is (1) necessary to the efficient operation of the employer's business and/or safety of its employees and others; and (2) narrowly drawn to avoid overbroad, unnecessary interference with the exercise of statutory rights." (citing *County of Tulare* (2020) PERB Dec.



No. 2697-M, p. 20 (employer rule regulating union activity must not use vague or overbroad language); *County of Riverside* (2012) PERB Dec. No. 2233-M, p. 7).

Finally, it would be constitutionally-permissible for UC to treat speech by recognized bargaining representatives more favorably than that of outside groups having no connection to UC: see, e.g., *Perry Ed'n Assn v. Perry Local Educators* (1983) 460 US 37. Employees who commit misconduct on UC property are subject to severe disciplinary consequences (such as loss of employment), and their unions have a continuing relationship with UC, both unlike protestors from outside groups. Thus the bad behavior of some outside protestors on the Palestine issue are absolutely no justification -- either legally or practically -- for UCSD now restricting the speech of UCSD employees and their unions as it has done here.

Overbroad and Vague "Disrupt" Standard: The primary standard in these Policies is that expressive actions not have the effect of disrupting UC operations. See, e.g., Secs. IX(B)(3); V(3.4.3.). This is impermissibly overbroad: the controlling case is *In Re Brown*, 9 Cal.3d 612, 619-20 (1973) where the Court struck down convictions of leaders of a loud demonstration at a university campus for having disturbed classes. The Court held a statute banning disturbing the peace could not under the state and federal constitutions be applied against these demonstrators because there was no showing they were solely trying to make noise to disturb rather than in part engaging in communication:

The Attorney General seeks to preserve the convictions of violating section 415 on the basis of the language in that section prohibiting "maliciously and wilfully disturbing the peace or quiet . . . by loud or unusual noise." He states that there is substantial evidence that petitioners made loud noises which disrupted class and campus functions. The statute, however, cannot be interpreted consistent with the First Amendment and traditional views as making criminal all loud shouting or cheering which disturbs and is intended to disturb persons. When the word "noise" in the statute is properly construed consistent with the First Amendment and traditional views, it encompasses communications made in a loud manner only when there is a clear and present danger of violence or when the communication is not intended as such but is merely a guise to disturb persons.

In light of this caselaw, you should provide a narrowing definition of "unreasonably disturb" at the outset of these policies to merely punish noise (1) intended solely to disturb rather than engage in speech, or (2) presenting a clear and present danger of violence.

REQUESTS FOR INFORMATION: Does UCSD have any reason to believe *Brown* is no longer good law or is inapplicable to some of its outdoor spaces? If so, please set forth the basis for such belief.

Excessive Regulation of Bullhorn Use: Your requirement that we obtain permission in advance for any sound amplification anywhere is contrary to appellate court precedent in the Ninth Circuit and elsewhere.^{iv} Your Policy lacks the necessary substantive standards to guide management discretion in granting permission,^v and the necessary prompt deadline for management to respond to requests for permission.^{vi} Amplification is often required when meeting outside due to competing sources of noise, just to stay at the same decibel level as these sources in order to be heard by attendees. Constitutional protection for speech means UC cannot ban amplification for speech not exceeding other noise sources which UC allows on its property (such as large trucks and leafblowers – but our members report frequently hearing such sounds at UCSD). Some outdoor meeting areas are so large that attendees at one end of the area cannot hear speakers at the other end, even if they speak loudly, unless the speech is amplified. UPTe and other unions have used a bullhorn at every rally in recent months, all without objection from police or UC officials.

Your ban on any amplification within 150 feet of any UCSD health care facility is excessive because most of these are soundproofed well enough that delivery of care inside would not be disrupted by someone with a bullhorn closer than this distance, as various unions have shown through their prior activities at UCSD. Moreover, several facilities one could call “health care facilities” are not occupied by patients (such as labs) or are open to patients only during normal business hours, making UCSD’s ban on amplification within 150 feet of such facilities or outside patient care hours quite overbroad.

REQUESTS FOR INFORMATION: Does UCD believe the caselaw we reference to no longer be good law or somehow inapplicable to any of its facilities? If so, please set forth the basis for such belief. Do these restrictions on amplification result from any particular incidents? If so, please describe those in detail. What guidelines are followed by UCD decisionmakers in deciding upon a request for use of a bullhorn?

Requirement for Excessive Advance Notice for Every “Major Event” (over 75 attendees): Requirements for lengthy periods of advanced application for permission from government officials to engage in speech on large exterior spaces fitting many hundreds more have repeatedly been found unconstitutional. Here, UPTe and other unions have repeatedly held outdoor meetings/rallies over 75 people (with a bullhorn) without prior UC permission, but without complaint from police or UC officials about our conduct during such events.^{vii} UCSD’s new requirement not only is an unlawful unilateral change, but violates PERB’s holding that employer requirements for advanced notice from organizers to meet with

employees are unreasonable and unlawful. *Long Beach USD* (1987) PERB Decision No. 608, p. 16.

Here, groups like us are required to give 5 weeks' notice (Section V (4.2.2), but students can apply only 3 weeks in advance (4.1.2), strongly suggesting that unless deluged with student applications (of which we have seen no evidence), UCSD officials are likely capable of deciding our applications in much less than 5 weeks. You set no firm deadline for UCSD officials to respond to applications, merely promising an effort to respond one week prior to the planned event (4.2.3). A denial merely one week from the event leaves us no reasonable opportunity to negotiate alternatives satisfactory to UCSD while still allowing our members and supporters to plan their schedules (in light of childcare, eldercare and the many other demands on their time). This late answer is especially outrageous because your Policy bans us from advertising the event prior to approval (3.2.3), even if our ad says the location is not yet confirmed so attendees should doublecheck with us before showing up. These restrictions on our holding a 76-person meeting in a large auditorium already designed for hundreds are downright absurd.

All this is especially problematic because there are no standards set forth for management denying permission (merely a non-exclusive list of potential reasons for denial). So we have no real way of predicting that we will receive permission. Given that UCSD has several large meeting rooms and outdoor spaces where a rally of 76 or more UPTE members will impose no threat of blocking traffic or other threats to legitimate UCSD interests, it is essential that UCSD narrow the definition of Major Events (for example, UCD uses 400 attendees as its cutoff, and UCB and UCI use 300) and reduce the amount of advance notice and provide specific substantive standards and quicker approvals of requested Major Events.

There is no legitimate UCSD operational need to mandate we give 5 weeks' notice and wait 4 weeks for a response to have 76 members attend a lunch meeting in one of UCSD's many sound-proofed rooms capable of seating hundreds.

REQUESTS FOR INFORMATION: If the above-challenged Policy provisions arise from negative UCSD experiences with the types of activities being restricted, please provide us a complete description of all such incidents. Please provide any guidelines used by any UCSD decisionmaker in addressing applications for Major Events.

Requirement of Insurance of \$1 Million for Every Major Event: This requirement in section 4.2.2. is unreasonable as applied to employee organizations' events of the sort UPTE holds, as UCSD has ample protection already from the facts that (1) at worst, we're just walking around with a bullhorn, picket signs and maybe an ordinary banner, rather than being engaged in more hazardous activities; (2) UC can discipline employees should they engage

in misconduct on UCSD's property, (3) UPTE's assurance of indemnification (3.2.4), with revenues and assets making that quite meaningful, and (4) UC has vast governmental immunities from suit by anyone who claims injury from our rally (see, e.g., Gov. Code section 820.2's discretionary immunity). All that an insurance requirement does is force us to spend time dealing with our insurer and paying an added premium -- time and money we should instead be allowed to devote to organizing for the betterment of our members. Similar insurance requirements have been struck down by courts as insufficiently tailored to a legitimate government interest.^{viii}

REQUESTS FOR INFORMATION: Does UC have any claims experience justifying the requirement of a \$1 million insurance policy for UPTE to conduct a rally with 76 participants?

Excessive Limits on Tabling: Section IX(D) and Appendix A improperly require advanced management permission for demonstrators to have a table for fliers and food at many of the times when UC employees would hold a rally -- before or after work. The exceptions in Appendix A for midday at some locations do not include most locations where UC unions have held rallies in the past using a folding card table or two to hold leaflets, food and signs -- with no objection from UCSD. This Policy improperly fails to provide (1) clear substantive standards for management decisions on requests to use a table at a rally, and (2) a time limit for management to respond to a request for permission to have a table. See *ACLU v. City of Las Vegas*, 466 F.3d 784, 799 (9th Cir. 2006) ("We hold that the erection of tables in a public forum is expressive activity protected by our Constitution to the extent that the tables facilitate the dissemination of First Amendment speech.").

Excessive Limits on Chalking: Section IX(H) correctly recognizes that chalking is a protected form of speech.^{ix} But it then goes on to defy this principle by insisting that chalking never occur in an outdoor spaces under an overhang -- even if the protestor is willing and able to wash their chalk off immediately -- as if San Diego's highly-infrequent rain-showers are the only legitimate way to cleanse chalk off sidewalks? UPTE is willing and able to clean its chalk off via bringing in buckets of its own water and soft brushes so as to ensure its chalking causes no damage nor expense to UC. For protestors willing to make assurances like this and likely to carry them out (as we are), there are no legitimate governmental interests in blocking our use of chalk to deliver messages under the many overhangs on UCSD campus.

CONCLUSION

To put it bluntly, UCSD's new speech restrictions are an outrageous effort to use concerns over Palestine protests as a "Trojan Horse" to smuggle in extreme new restrictions on union

and employee speech -- restrictions having nothing to do with the misconduct of some Palestine protestors. These restrictions are causing us to reconsider many of our plans for protesting UC's employment practices in the near future. This chilling effect is an irreparable harm warranting preliminary injunctive relief from the courts.^x Accordingly, we need UCSD to assure us that it will not seek to enforce the provisions challenged above while we engage in meeting over these issues, nor without at least 30 days' prior notice that they will be enforced.

Thank you for your prompt attention to these matters: we request a response within 10 days offering prompt dates for negotiations or discussion of the issues above.

In order to avoid potentially-unnecessary paperwork for both sides, we request that UCSD agree (as have other campuses) that our deadline for grieving these Policies as unreasonable under the CBAs' Access articles will not start to run until such discussion occurs.

ⁱ In such bargaining, UC management recently proposed to allow itself to ban UPTE staffpersons for life for any violation of any UC access policy such as these UCSD policies, and to discipline individual employees as well for any access violation. Accordingly, UCSD's enormous tightening of its restrictions on our speech is of grave concern to our membership and needs to be immediately reconsidered by UCSD leaders.

ⁱⁱ See, e.g., *Shaw v. Burke*, 2018 U.S. Dist. LEXIS 7584, *22 (C.D. Cal. 2018) ("Given the traditional purpose of the open, outdoor areas of universities, such as the 'Mall' on Pierce's campus, the Court finds that these areas are traditional public fora, regardless of Pierce's regulations naming them non-public fora. Id.; *Bowman*, 444 F.3d at 979 ('College campuses traditionally and historically serve as places specifically designated for the free exchange of ideas.').")

ⁱⁱⁱ *Regents v. Sup. Ct. of S.F. (Parnassus Neighborhood Ass'n)* (2024) 102 CA5th 852.

^{iv} See, e.g., *Cuviello v. City of Vallejo*, 944 F.3d 816, 825 (9th Cir. 2019) (striking down requirement for preapproval of all amplification, noting "The United States Constitution and California Constitution protect bullhorns, and other sound-amplifying devices, as 'indispensable instruments' of public speech. *Saia v. People of State of New York*, 334 U.S. 558, 561, 68 S. Ct. 1148, 92 L. Ed. 1574 (1948); *Wollam v. City of Palm Springs*, 59 Cal. 2d 276, 29 Cal. Rptr. 1, 379 P.2d 481, 485 (Cal. 1963). In a crowded park or bustling intersection, where a single voice is easily drowned out, volume enables speech. See *Wollam*, 379 P.2d at 486. A restriction on volume, then, can effectively function as a restriction on speech. *Saia*, 334 U.S. at 561-62; *Wollam*, 379 P.2d at 486 ('The right of free speech necessarily embodies the means used for its dissemination because the right is worthless in the absence of a meaningful method of its expression.'")

^v See, e.g., *Smith v. County of Los Angeles*, 24 Cal. App. 4th 990, 999 (1994) ("The Supreme Court has repeatedly held that an ordinance " "which . . . makes the peaceful enjoyment of freedoms which the Constitution guarantees contingent upon the uncontrolled will of an official--as by requiring a permit or license which may be granted or withheld in the discretion of such official--is an unconstitutional censorship [***11] or prior restraint upon the enjoyment of those freedoms." " " (*FW/PBS, Inc. v. City of Dallas*, supra, 493 U.S. at p. 226 [107 L.Ed.2d at p. 618] [citing *Shuttlesworth v. City of Birmingham* (1969) 394 U.S. 147, 151 (22 L.Ed.2d 162, 167, 89 S.Ct. 935)].) Addressing the constitutionality of a parade permit requirement, *Shuttlesworth* held "that a law

subjecting the exercise of First Amendment freedoms to the prior restraint of a license, without narrow, objective, and definite standards to guide the licensing authority, is unconstitutional." (394 U.S. at pp. 150-151).

^{vi} See, e.g., *Long Beach Lesbian & Gay Pride, Inc. v. City of Long Beach*, 14 Cal. App. 4th 312, 332 (1993) ("Plaintiffs' primary grievance is with the failure to require a decision within a specific time after the application is made. Plaintiffs do not purport, or ask us, to dictate what a reasonable, acceptable time is. They only complain that to leave the matter open-ended impermissibly places the fate of a parade application in official limbo, both chilling and freezing the applicant's free speech intentions and expectations. The City has not contested the legal proposition that avoidance of limbo requires a deadline for action following application. We believe the authorities cited above support that requirement. Accordingly, Chapter 5.60's failure to include such an express limit is improper.").

^{vii} Here a few examples of locations where multiple large union actions involving more than 75 persons and a bullhorn have been held without incident:

- Numerous union gatherings and informational pickets have been held outside Komen Outpatient Pavillion near the UCSD Jacobs Medical Center in La Jolla without incident, including one by UPTe a few weeks ago by over 260 UPTe members.
- Numerous union gatherings and pickets have been held outside Thornton Pavilion near the UCSD Jacobs Medical Center in La Jolla without incident, including one by striking UPTe Optometrists in February.
- Numerous union gatherings and informational pickets have been held outside the ACTRI building near the UCSD Jacobs Medical Center in La Jolla without incident.
- Numerous union gatherings and pickets have been held in front of UCSD Medical Center inpatient tower in Hillcrest without incident, including by UPTe members a few weeks ago.
- Multiple unions and other organizations have held numerous large demonstrations and pickets involving hundreds of individuals on the main UCSD campus in La Jolla without incident, including in front of the Geisel Main Library, near the student center, near the medical school complex, and numerous other locations, including by UPTe members near the student center in June.

^{viii} See, e.g., *Long Beach Lesbian & Gay Pride, Inc. v. City of Long Beach* (1993) 14 Cal. App. 4th 312, 341 ("Other courts that have reviewed parade insurance requirements have uniformly found them to overreach, in view of the overlapping utility and availability of other means of protection as referred to above, and the concomitant absence of a history of claims and hence need for expensive, high-limit coverage. [cites.]; *iMatter Utah v. Njord* (D. Utah 2013) 980 F. Supp. 2d 1356 (reviewing recent caselaw striking down insurance requirements for protest events).

^{ix} See, e.g., Prof. Marie A. Failing, "Talking Chalk: Defacing the First Amendment in the Public Forum", 115 *W. Va. L. Rev.* (2012) (available at: <https://researchrepository.wvu.edu/wvllr/vol115/iss2/8>); F. LoMonte & P. Fiku, "Watch Where You Chalk, 'Cause the Sidewalks Talk: The First Amendment and Ephemeral 'Occupations' of Public Property", 47 *Vt. L. Rev.* (2023) (available at <https://brechner.org/wpcontent/uploads/2023/11/Watch-Where-You-Chalk-Cause-theSidewalks-Talk-The-First-Amendment-andEphemeral-Occupations-of-Public-Property.pdf>).

^x See, e.g., *Ketchens v. Reiner*, 194 CA3d 470, 480 (1987) ("The question is not a close one. 'The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.' (*Elrod v. Burns* (1976) 427 U.S. 347, 373").

Exhibit I(4)



Andy Kahn <andy@upte.org>

UPTe's objections to new UCSD Speech Policies

Aquino, Roselyn <r3aquino@ucsd.edu>

Thu, Sep 26, 2024 at 11:35 AM

To: Andy Kahn <andy@upte.org>, Jeff Welsh <jwelsh@upte.org>

Cc: laborrelations <laborrelations@ucsd.edu>, HS Labor Relations Mailbox <hs-laborrelations@health.ucsd.edu>, Flora Lloyd <flora@upte.org>, "Medina, Lissette" <lmedina@ucsd.edu>

Dear Andy and Jeff,

Thank you for the below correspondence, and I'm acknowledging receipt of Jeff's recent email (attached). UCSD wants to reiterate what we stated in our original notice- we are more than willing to sit down and bargain over any effects on the Union's HEERA protected access rights. As you know, the University has the right to set reasonable rules for the management of its property and reasonable time, place and manner restrictions related to expressive activity. The University's rules and these updates are reasonable and are not directed at the content of the speech or the union-affiliation of the individual. These rules are necessary to ensure that all of our community members can use our property to learn, research, and engage in meaningful discourse and debate regarding matters of importance.

I also want to highlight that SB 108 requires the University to provide a report to the Legislature by October 1 regarding the institutional policies that ensure safety and access to educational opportunities and campus spaces and buildings, as well as the University's efforts to ensure their consistent enforcement. Given that timeline, we must move forward with implementation of these rules now but again, are more than willing to bargain over effects as stated above.

As for meeting availability, we will gather joint availability between Campus Labor Relations and Health Labor Relations and will get back to you.

Thank you,

Rose

Roselyn Aquino

Director of Labor Relations

Human Resources, Strategy and Policy

University of California San Diego

[9500 Gilman Drive #0922 | La Jolla, CA 92093-0922](#)

T: 858.534.0295 | C: 858.260.8667 | F: 858.534.8870 | r3aquino@ucsd.edu | www.ucsd.edu

<https://blink.ucsd.edu/sponsor/hr/divisions-units/labor-relations.html>



Out of Office   

[Quoted text hidden]

----- Forwarded message -----

From: Jeff Welsh <jwelsh@upte.org>

To: laborrelations <laborrelations@ucsd.edu>, Labor Relations <lradmin@ucsd.edu>, HS Labor Relations Mailbox <hs-laborrelations@health.ucsd.edu>, UCSD Health Service Management <hhr@health.ucsd.edu>

Cc: Andy Kahn <andy@upte.org>, Flora Lloyd <flora@upte.org>, "karina@upte.org" <karina@upte.org>, Noah Streng <noah@upte.org>, "will@upte.org" <will@upte.org>

Bcc:

Date: Thu, 26 Sep 2024 18:12:36 +0000

Subject: Follow-up info for you're new speech restrictions

Labor Relations,

I wanted to alert you to a recent development on this issue: UCSB has notified us that its restrictive speech regs applicable to the general public will not apply to employee organizations; instead, a much less restrictive policy will apply (attached). We don't see why UCI would trust its employees and their elected representatives any less than UCSB would as another location of the same employer. Thanks for considering this. We look forward to meeting with you to discuss it.

Jeff Welsh

UPTE-CWA 9119

619-674-1871

www.upte.org

3 attachments



Access UCSD memo UPTE.pdf

204K



UCSB_CampusAccess_Regs for Unions_2016 (1).pdf

262K



Follow-up info for you're new speech restrictions.eml

374K

Exhibit I(5)



Subject: Follow-up info for you're new speech restrictions



Jeff Welsh <jwelsh@upte.org>

to laborrelations, Labor Relations, HS Labor Relations Mailbox, UCSD Health Service Management, Andy Kahn, Flora Lloy
Labor Relations,

I wanted to alert you to a recent development on this issue: UCSB has notified us that its restrictive speech regs a
instead, a much less restrictive policy will apply (attached). We don't see why UCI would trust its employees and th
location of the same employer. Thanks for considering this. We look forward to meeting with you to discuss it.

Jeff Welsh

UPTe-CWA 9119

619-674-1871

www.upte.org

One attachment • Scanned by Gmail





Andy Kahn <andy@upte.org>

Follow-up info for you're new speech restrictions

Samuel A Najera <alex.najera@ucr.edu>

Thu, Sep 26, 2024 at 12:19 PM

To: Jeff Welsh <jwelsh@upte.org>, "labor.relations@ucr.edu" <labor.relations@ucr.edu>

Cc: Andy Kahn <andy@upte.org>, Flora Lloyd <flora@upte.org>

Hello Jeff,

You mention UCI in your email but you emailed UCR. Not sure if we were your intended recipient.

Thank you,

Alex

[Quoted text hidden]



Andy Kahn <andy@upte.org>

Follow-up info for you're new speech restrictions

Jeff Welsh <jwelsh@upte.org>

Thu, Sep 26, 2024 at 12:32 PM

To: Samuel A Najera <alex.najera@ucr.edu>, "labor.relations@ucr.edu" <labor.relations@ucr.edu>

Cc: Andy Kahn <andy@upte.org>, Flora Lloyd <flora@upte.org>

Hi Alex,

Apologies, that was a typo. You were the intended recipient. Thanks for checking.

Jeff Welsh

UPTE-CWA 9119

619-674-1871

www.upte.org

From: Samuel A Najera <alex.najera@ucr.edu>**Sent:** Thursday, September 26, 2024 12:19 PM**To:** Jeff Welsh <jwelsh@upte.org>; labor.relations@ucr.edu <labor.relations@ucr.edu>**Cc:** Andy Kahn <andy@upte.org>; Flora Lloyd <flora@upte.org>**Subject:** RE: Follow-up info for you're new speech restrictions

[Quoted text hidden]

Exhibit I(6)



Andy Kahn <andy@upte.org>

UPTe's objections to new UCSD Speech Policies

Aquino, Roselyn <r3aquino@ucsd.edu>

Thu, Oct 24, 2024 at 10:49 AM

To: Andy Kahn <andy@upte.org>

Cc: Jeff Welsh <jwelsh@upte.org>, HS Labor Relations Mailbox <hs-laborrelations@health.ucsd.edu>, Flora Lloyd <flora@upte.org>, "Medina, Lissette" <lmedina@ucsd.edu>, "High, Jaime" <jhigh@ucsd.edu>

Andy,

Thanks for your patience. We have availability to meet next Friday, November 1 after 3p. Please let me know if that works for your group, otherwise I'll work on finding additional dates and times.

As to your question, the threshold is 100. Thank you for pointing out the inconsistency, and it will be corrected in the future.

Thanks,

Rose

[Quoted text hidden]

Exhibit J(1)



Andy Kahn <andy@upte.org>

Fwd: Notice of Implementation of Interim Time, Place, and Manner Policy

Bill Spencer <bspencer@upte.org>
To: andy@upte.org

Thu, Sep 19, 2024 at 10:27 AM

Sent from my iPhone Begin

forwarded message:

From: 'David Tuttle' via UC Santa Cruz <ucsc@upte.org>
Date: September 10, 2024 at 5:08:20 PM PDT
To: ucsc@upte.org, Frank Garden <fgarden@ucsc.edu>, syvo@ucsc.edu **Subject:**
Notice of Implementation of Interim Time, Place, and Manner Policy Reply-To:
David Tuttle <datuttle@ucsc.edu>

Please find the attached letter from Director Kasper as well as a copy of the Interim Policy

--

David Tuttle, J.D.
Associate Director, Labor Relations
Staff Human Resources, Employee & Labor Relations
University of California, Santa Cruz

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You received this message because you are subscribed to the Google Groups "UC Santa Cruz" group.
To unsubscribe from this group and stop receiving emails from it, send an email to ucsc+unsubscribe@upte.org.
To view this discussion on the web visit <https://groups.google.com/a/upte.org/d/msgid/ucsc/CAFktrDrDbh0XpMBx%3DBjGLMx1wzbbuCmsxYGV-JUQbJW-xF88hQ%40mail.gmail.com>.
For more options, visit <https://groups.google.com/a/upte.org/d/optout>.

2 attachments

FOA0013 Conduct Regulations (TPM).pdf
178K

12/18/24, 3:52 PM

upte.org Mail - Fwd: Notice of Implementation of Interim Time, Place, and Manner Policy



UPTE (H, TX, RX) Interim TPM Union Notice, 9.10.24.pdf

93K



STAFF HUMAN RESOURCES- EMPLOYEE & LABOR RELATIONS

SANTA CRUZ, CALIFORNIA 95064

Sent Via Electronic Email

September 10, 2024

UPTE-CWA Local 9119
ucsc@upte.org

Subject: Notice of Implementation of Interim Time, Place, and Manner Policy

Dear UPTE colleagues:

It is the intent of the Legislature that the University of California foster freedom of expression and the free exchange of ideas that comply with state and federal law and campus policies while also protecting student, staff, and faculty safety and access to educational opportunities. In accordance with SB 108, the University is required to provide certain notifications that describe its strategies and efforts to protect free expression, safety and access to educational opportunities and campus space and buildings. A report detailing these strategies and efforts is due to the legislature by **October 1, 2024**.

In compliance with these requirements, UC Santa Cruz is providing notice to its stakeholders of these strategies and efforts, which include an interim Time, Place, and Manner policy to meet the above-referenced requirements. These safety and educational opportunity access rule updates will continue to ensure union access to UC facilities consistent with the requirements of HEERA. The University is committed to transparency and open communication and as such has scheduled a meeting to discuss any impact the implementation of this policy might have on your members. The meeting is scheduled for:

September 16, 2024 at 1pm -2pm

Please RSVP for this meeting to syvo@ucsc.edu and we will provide you with the zoom link.

Given the timelines set forth in SB 108, this policy is being implemented on an interim basis, as of September 30, 2024, in accordance with the campus process for interim policies.

Sincerely,

/s/

Scott Kasper, PsyD
Employee and Labor Relations Director

Exhibit J(2)

INTERIM Conduct Regulations (Time, Place, and Manner)

(Policy FOA-013)

I. Purpose of the Policy

All persons may exercise their constitutionally protected rights of free expression, speech, assembly, and worship, even in instances in which the positions expressed may be viewed by some as controversial, unpopular, or offensive. This policy protects the right to free speech and expressive activities at UC Santa Cruz while preserving the right to access to education, residences, and campus facilities free from obstruction. Examples of common expressive activity include peaceful demonstrations, protests, assemblies, rallies, vigils, picketing, speech-making, and leafleting. This Policy applies to all persons, including all University students and employees, as well as guests and non-affiliates. This policy does not repeat all definitions or terms found in other University policies and does not repeat the many self-executing provisions of other University policies.

II. Definitions

Civil Disobedience: The refusal to comply with certain laws as a peaceful form of protest. Civil disobedience, by definition, involves a violation of law or regulation and is not protected speech under the state or federal constitutions. Those engaging in Civil Disobedience may be held accountable for violations of law, regulation, and/or university policies.

University Controlled Property: includes the buildings and grounds that are operated by, or under the control of, the Regents of the University of California.

III. Detailed Policy Statement

UC Santa Cruz promotes our [Principles of Community](#) and affirms its commitment to an environment that values and supports every person in an atmosphere of respect, civility, honesty, cooperation, professionalism, and fairness. In support of this commitment, the university outlines the following standards:

1. All individuals may exercise the constitutionally protected rights of free expression, speech, assembly, and worship on University Controlled Property open to the public. Such activities may not interfere with the orderly operation of the campus and must be conducted in accordance with applicable conduct and time, place, and manner

regulations. See for example, [UC Policies Applying to Campus Activities, Organizations and Students \(PACAOS\) Section 40.40](#) and [IV. of this policy](#)).

2. UC Santa Cruz will not restrict expression, assembly, or demonstration based on the viewpoint of the views expressed.
3. Major events are subject to the [Division of Student Affairs and Success Major Events Policy](#).
4. Public Safety will be monitored. The university will take appropriate safety and security measures to ensure access to education, residences, and campus facilities remain free from obstruction.

IV. Conduct Regulations (Time, Place, and Manner)

The Constitution does not guarantee any right to engage in civil disobedience without incurring consequences. Civil Disobedience may have a negative effect on the protected interests of others and may interfere with university operations or assets and/or threaten public safety in ways that require the university to act to protect those interests.

The following conduct regulations apply to all persons. These regulations apply regardless of whether expression is involved and regardless of whether the activity constitutes Civil Disobedience. These regulations may impact expressive activities and, consistent with the First Amendment of the U.S. Constitution, they are reasonable limitations on when, where, and how public speech or assembly may occur.

1. No person shall camp, set up, or erect a campsite or occupy a tent or other temporary housing structure on University Controlled Property unless specifically pre-approved.
2. No person shall erect, build, construct, set up, establish, and/or maintain unauthorized structures on University Controlled Property.
3. No person shall restrict the movement of another person or persons by, among other means, blocking or obstructing their ingress or egress of roadways, walkways, buildings, parking structures, fire lanes, windows, doors, or other passageways on or to University Controlled Property, or otherwise deny a person access to a University Controlled Property.
4. No person shall wear a mask or personal disguise or otherwise conceal their identity with the intent of intimidating any person or group or for the purpose of evading or escaping discovery, recognition, or identification in the commission of violations of law or policy.

5. No person shall refuse to identify themselves while on University Controlled Property to University officials who are acting in the performance of their duties in situations where assistance or intervention is needed.

Compliance

Any individual found to be in violation of this policy may be subject to administrative/disciplinary action in accordance with applicable university policies, including policies on conduct, collective bargaining agreements, and/or legal or criminal penalties.

V. Getting Help

If you need help with ...	Contact ...
Questions regarding this policy	Associate Vice Chancellor, Risk and Safety Services Clement Stokes, costokes@ucsc.edu , 831-239-4060, or https://riskandsafety.ucsc.edu

V. Applicability and Authority

This policy on Conduct Regulations (Time, Place, and Manner) applies to all individuals on University Controlled Property.

The Vice Chancellor for Finance, Operations, and Administration is the campus authority for the Conduct Regulations (Time, Place, and Manner) policy. This policy was reviewed and approved by Campus Provost and Executive Vice Chancellor on September 10, 2024.

VI. Related Policies/References

Related Policies and Procedures

[*Academic Personnel Manual Section 015, Faculty Code of Conduct, and UC Santa Cruz CAPM 2.015, Faculty Conduct and the Administration of Discipline*](#)

California Code of Regulations, [*Title 5, Sections 100000-100015, Regulations Governing*](#)

California Senate Bill, [*SB-108 Budget Act of 2024*](#).

[*UC Regents Policy Sections 100000-100015, Regulations Governing Conduct of Non-Affiliates in the Buildings and the Grounds of the University of California*](#).

UC Policies Applying to Campus Activities, Organizations and Students (PACAOS):

1. [Section 10.00, Preamble and General Provisions.](#)
2. [Section 20.00, Policy on Nondiscrimination.](#)
3. [Section 30.00, Policy on Speech and Advocacy.](#)
4. [Section 40.00, Policy on Use of University Properties.](#)
5. [Section 50.00, Policy on Campus Emergencies.](#)
6. [Section 70.00, Policy on Registered Campus Organizations.](#)
7. [Section 100.00, Policy on Student Conduct and Discipline.](#)

UC Policies on Discrimination and Harassment:

[UC Abusive Conduct in the Workplace.](#)

[UC Sexual Violence and Sexual Harassment](#)

[UC PACAOS Section 102.09, Policy on Student Conduct and Discipline.](#)

[UC Anti-Discrimination Policy](#)

UC Santa Cruz Administrative Policies:

[Non-research Animals](#)

[Service/Support Animals](#)

[Workplace Violence](#)

UC Santa Cruz, Division of Student Affairs and Success, [Major Events Policy](#)

VII. Revision History

September 13, 2024: This is a new policy.

Exhibit J(3)



Andy Kahn <andy@upte.org>

Fwd: Notice of Implementation of Interim Time, Place, and Manner Policy

Andy Kahn <andy@upte.org>

Sat, Sep 28, 2024 at 1:29 PM

To: "datuttle@ucsc.edu" <datuttle@ucsc.edu>

Cc: Bill Spencer <bill.spencer@upte.org>, Frank Garden <fgarden@ucsc.edu>, syvo@ucsc.edu

I'm UPTE's General Counsel writing in response to the new policy below. UPTE's past practice at your campus (and elsewhere) is that during rallies, we set up a card table to hold leaflets/food/water and we set up a temporary shade to keep our members from suffering from excessive exposure (sun or rain). We wonder if these would constitute unauthorized "structures" within the meaning of section 2 of UCSC's new policy. If so, this would represent a unilateral change not justified by SB 108, which merely called for a report by 10/1, not unilateral implementation of new policies (i.e., it did not amend HEERA's requirement for reasonable advanced notice and opportunity to bargain). If it was UCSC's intent to require we seek authorization for a card table and/or shade, we wish to bargain such restriction if you will not grant such authorization now. We believe such restriction would violate our constitutional and HEERA rights because (1) not limited to narrow sidewalks where a small temporary table or shade might possibly create a problem, (2) not containing clear substantive standards for approval, and (3) not providing UC officials with a deadline for responding to a request for authorization. See. e.g. *ACLU v. City of Las Vegas*. 466 F.3d 784, 799 (9th Cir. 2006)(striking down requirement for preauthorization of a table during rallies, noting: "We hold that the erection of tables in a public forum is expressive activity protected by our Constitution to the extent that the tables facilitate the dissemination of First Amendment speech."); *Long Beach Lesbian & Gay Pride v. City of Long Beach*, 14 CA4th 312, 324-6, 332 (1993) (reiterating constitutional requirements for clear substantive standards and reasonably-prompt deadline for government officials asked for approval of speech).

Thank you your consideration of this query.

[Quoted text hidden]

2 attachments

**FOA0013 Conduct Regulations (TPM).pdf**

178K

**UPTE (HX, TX, RX) Interim TPM Union Notice, 9.10.24.pdf**

93K

Exhibit K(1)

August 29, 2024

Sent Via Electronic Mail

Dear Union Partners,

Pursuant to California State Senate Bill 108, the University of California is required to provide the legislature and its campus communities with notifications that describe its strategies and efforts to protect safety and access to educational opportunities and campus space and buildings. A report detailing these strategies and efforts is due to the legislature by October 1, 2024.

In compliance with the law, UC Riverside is providing notice to its stakeholders of these strategies and efforts, which include two revised policies relating to use of campus space. These safety and educational opportunity access rule updates will continue to ensure union access to UC Riverside facilities consistent with the requirements of HEERA and will provide clearer and up-to-date direction to the campus community.

1. **700-20: Policy Prohibiting Camping on University Property**. California law prohibits camping on campus and other University property, without permission. This policy follows this law and allows camping (or use of camping equipment) with the permission of the Vice Chancellor for Student Affairs (for student requests) or the Vice Chancellor for Planning, Budget & Administration (for all other requests).
2. **700-70: Revisions to Time, Place and Manner Policy**. The revised Policy applies to Expressive Activities on campus and is designed to ensure that demonstrations, assemblies, rallies, and similar activities do not infringe on the rights of individuals or groups, harm University property, or disrupt University programs or activities. The revisions comply with systemwide direction and include provisions regarding identification and compliance with campus officials. The revisions also re-organize restrictions into logical categories to make the policy easier to follow and apply.

Given the timelines set forth in Senate Bill 108, the attached safety and educational rule updates are being implemented before October 1, 2024, with expected implementation to occur no later than September 3, 2024, in interim status during the 30-day union notice period. Please let this office know if you would like to meet to and confer regarding any negotiable impacts to union access. Any response should be received by this office at labor.relations@ucr.edu by September 29, 2024.

Sincerely,

Alex Nájera
Associate Vice Chancellor, Human Resources

Enclosures: Policy 700-20: Policy Prohibiting Camping on University Property
Policy 700-70: Revised Time, Place and Manner Policy

CC: UCR Employee and Labor Relations

Exhibit K(2)

Sept. 10, 2024

TO: UCR Labor Relations

FROM: Andy Kahn, UPTE General Counsel

RE: Legal problems with UCR's New Speech Regulations

Prompted by UCOP's threats in bargaining to institute discipline against employees and UPTE staff for any access violation, UPTE searched for UCR's access policies and just learned of the new UCR regulation of speech activities (Policy 700-70) effective 9/3 which was adopted without prior notice and bargaining. This violates HEERA and is not excused by SB 108, which merely called for a UC report by 10/1, not adoption of new restrictions without prior notice and opportunity to bargain. This Policy's substance is unreasonable and hence violate the Access articles of our CBAs. Moreover, several provisions violate HEERA and the federal and/or state constitutions. We request to bargain these issues. We have the following proposals, comments and requests for information relevant to such bargaining and also statewide bargaining over our CBAs' Access articles, as well as to our potential grievance.

Legal Standards Applicable Here:

Strict scrutiny would be applied here by the courts: see, e.g., *Shaw v. Burke*, 2018 U.S. Dist. LEXIS 7584, *22 (C.D. Cal. 2018) ("Given the traditional purpose of the open, outdoor areas of universities, such as the "Mall" on Pierce's campus, the Court finds that these areas are traditional public fora, regardless of Pierce's regulations naming them non-public fora. Id.; *Bowman*, 444 F.3d at 979 ('College campuses traditionally and historically serve as places specifically designated for the free exchange of ideas.').") This strict scrutiny requires time/place/manner restrictions be narrowly tailored to important governmental interests and leave ample alternative opportunities to reach the intended audience.

As you know, HEERA provides our representatives with the "right to use institutional facilities at reasonable times for the purpose of meetings". Gov. Code sec. 3568. HEERA also protects employees' rights to engage in union speech in non-work areas absent compelling contrary interests. See, e.g., *Cal. Public Sector Labor Relations* (Cal. Bar 2024) ("To establish reasonableness, the employer must show that its regulation is (1) necessary to the efficient operation of the employer's business and/or safety of its employees and others; and (2) narrowly drawn to avoid overbroad, unnecessary interference with the exercise of statutory rights." (citing *County of Tulare* (2020) PERB Dec. No. 2697-M, p. 20 (employer rule regulating union activity must not use vague or overbroad language); *County of Riverside* (2012) PERB Dec. No. 2233-M, p. 7).

The new Policy violates these legal standards in the following provisions:

1. Requirement for Preapproval of Any Activities After 8pm or before 8am in 700-70(A)(1):

This time limit is earlier in the evening and later in the morning than most campuses' policies. A number of our members have shifts which end or start after 8pm or end or start before 8am who would like to

participate in union activities on their way into or out of work. There are no standards set forth for management approval¹, nor any time limit on when administrators must decide our applications for approval², both rendering this requirement legally further improper.

REQUEST FOR INFORMATION: IF UCR has any internal guidelines for rendering decisions on requests for earlier or later times for handbilling or picketing, please supply us a copy.

2. Requirement for Preapproval of Any Sound Amplification in 700-70(C)(1):

Once again, this provision lacks any substantive standard to be applied and any time limit for administrative decisions upon our application. These problems make it clearly violative of HEERA and the state and federal constitutions. Also, this requirement applies to the use of a single megaphone in large outdoor spaces with high existing noise, and thus is overbroad. Some amplification is often required to reach the back of even modest crowds when outdoors in order to compete with other sound sources in the area which UCR hasn't regulated such as large trucks. The Ninth Circuit struck down a similar

¹ See, e.g., *Smith v. County of Los Angeles*, 24 CA4th 990, 999 (1994) ("The Supreme Court has repeatedly held that an ordinance " "which . . . makes the peaceful enjoyment of freedoms which the Constitution guarantees contingent upon the uncontrolled will of an official--as by requiring a permit or license which may be granted or withheld in the discretion of such official--is an unconstitutional censorship [***11] or prior restraint upon the enjoyment of those freedoms." ' ' " (*FW/PBS, Inc. v. City of Dallas*, supra, 493 U.S. at p. 226 [107 L.Ed.2d at p. 618] [citing *Shuttlesworth v. City of Birmingham* (1969) 394 U.S. 147, 151 (22 L.Ed.2d 162, 167, 89 S.Ct. 935)]). Addressing the constitutionality of a parade permit requirement, *Shuttlesworth* held "that a law subjecting the exercise of First Amendment freedoms to the prior restraint of a license, without narrow, objective, and definite standards to guide the licensing authority, is unconstitutional." (394 U.S. at pp. 150-151 [22 L.Ed.2d at p. 167]"); *Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1039 (9th Cir. 2006) ("Small groups, however, can also 'march' and 'assemble' for expressive purposes, and can do so without interfering with the free flow of traffic (except in the trivial respect that anyone walking on a public sidewalk or roadway takes up space and therefore prevents someone else from traveling precisely the same route). Without a provision limiting the permitting requirements to larger groups, or some other provision tailoring the regulation to events that realistically present serious traffic, safety, and competing use concerns, significantly beyond those presented on a daily basis by ordinary use of the streets and sidewalks, a permitting ordinance is insufficiently narrowly tailored to withstand time, place, and manner scrutiny.").

² See, e.g., *Long Beach Lesbian & Gay Pride, Inc. v. City of Long Beach*, 14 CA4th 312, 332 (1993) ("Plaintiffs' primary grievance is with the failure to require a decision within a specific time after the application is made. Plaintiffs do not purport, or ask us, to dictate what a reasonable, acceptable time is. They only complain that to leave the matter open-ended impermissibly places the fate of a parade application in official limbo, both chilling and freezing the applicant's free speech intentions and expectations. The City has not contested the legal proposition that avoidance of limbo requires a deadline for action following application. We believe the authorities cited above support that requirement. Accordingly, Chapter 5.60's failure to include such an express limit is improper.").

requirement for permission for any amplified sound in a public place.³ Unlike what many other UC campuses do, your regulation does not take into account background noise levels.⁴

REQUESTS FOR INFORMATION: What are the criteria for approval for amplified sound at UCR? Who would be the official for us to apply to hold an outdoor rally with a bullhorn? What procedures would be followed? What incidents if any involving noise by union protests have negatively impacted UCR?

3. Requirement for Preapproval of any Tabling in 700-70(C)(2):

This requirement that we obtain prior management consent for bringing even a small folding table to hold fliers and food for temporary use during a rally violates both HEERA and constitutional rights.⁵ This is especially true because of the absence of any substantive standards and any requirement that UCR officials render a prompt decision on any request e make for a table.

REQUEST FOR INFORMATION: Has UCR suffered any operational problems due to a protestor's use of a table during the protest? If so, please describe in detail.

4. Ban on Any Disruption, Even if the Unintended Consequence of Free Speech (700-70(C)(3)):

Unless protest speech is designed solely to disturb what is going on inside facilities rather than communicate, the fact such speech has the effect of disturbing others does not deprive it of constitutional protection under the California Supreme Court's landmark decision of *In Re Brown*, 9 Cal.3d 612, 619-20 (1973) and similar decisions. The *Brown* Court struck down convictions of leaders of a loud demonstration at a university campus for having disturbed classes. The Court held a statute banning disturbing the peace could not under the state and federal constitutions be applied against these demonstrators because there was no showing they were solely trying to make noise to disturb rather than in part engaging in communication:

The Attorney General seeks to preserve the convictions of violating section 415 on the basis of the language in that section prohibiting "maliciously and wilfully disturbing the peace or quiet . . . by loud or unusual noise." He states that there is substantial evidence that petitioners made loud noises which disrupted class and campus functions. The statute, however, cannot be interpreted consistent with the First Amendment and traditional views as making criminal all loud shouting

³ See *Cuviello v. City of Vallejo*, 944 F.3d 816, 825 (9th Cir. 2019) ("The United States Constitution and California Constitution protect bullhorns, and other sound-amplifying devices, as 'indispensable instruments' of public speech. *Saia v. People of State of New York*, 334 U.S. 558, 561, 68 S. Ct. 1148, 92 L. Ed. 1574 (1948); *Wollam v. City of Palm Springs*, 59 Cal. 2d 276, 29 Cal. Rptr. 1, 379 P.2d 481, 485 (Cal. 1963). In a crowded park or bustling intersection, where a single voice is easily drowned out, volume enables speech. See *Wollam*, 379 P.2d at 486. A restriction on volume, then, can effectively function as a restriction on speech. *Saia*, 334 U.S. at 561-62; *Wollam*, 379 P.2d at 486 ('The right of free speech necessarily embodies the means used for its dissemination because the right is worthless in the absence of a meaningful method of its expression.'"))

⁴ See, e.g., UCSD Reg. 510-1.9 (III)(D) ("When enforcing the sound limitations, the ambient sound dba shall be taken into consideration. Should the ambient sound approach, reach or exceed the 90 dba limit, amplified sound may be increased so that it may be intelligibly heard at the edge of the assembled crowd or 50 feet from the speaker, whichever is greater.") <https://adminrecords.ucsd.edu/ppm/docs/510-1.9.HTML>.

⁵ See, e.g., *ACLU v. City of Las Vegas*, 466 F.3d 784, 799 (9th Cir. 2006) ("We hold that the erection of tables in a public forum is expressive activity protected by our Constitution to the extent that the tables facilitate the dissemination of First Amendment speech.").

or cheering which disturbs and is intended to disturb persons. When the word "noise" in the statute is properly construed consistent with the First Amendment and traditional views, it encompasses communications made in a loud manner only when there is a clear and present danger of violence or when the communication is not intended as such but is merely a guise to disturb persons.

This caselaw requires narrowing of the new ban on any disturbing of operations to situations where violence is threatened or protestors have no desire to communicate but instead merely a desire to disrupt.

REQUEST FOR INFORMATION: Does UCR believe the *Brown* decision is no longer good law or inapplicable to any of its facilities? If so, please set forth in detail the basis for such belief.

CONCLUSION

UCR's new regulation is causing UPTE to reconsider many of its plans for protesting UC's unfair practices in the near future. This chilling effect is an irreparable harm warranting preliminary injunctive relief from the courts.⁶ Accordingly, we request you assure us that UCR will not seek to enforce the provisions challenged above while we are bargaining over these issues, nor without at least 30 days' prior notice that they will be enforced. We further request that we meet over these issues. I am available over zoom anytime Sept. 30, Oct. 1 or Oct. 2.

We further request that until 7 days after such meeting our deadline for filing grievances be tolled so we don't all waste time on three grievances which could be avoided by meeting.

cc: Jeff Welsh

⁶ See, e.g., *Ketchens v. Reiner*, 194 CA3d 470, 480 (1987) ("The question is not a close one. 'The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.' (*Elrod v. Burns* (1976) 427 U.S. 347, 373)").

Exhibit L(1)

Home (<https://studentaffairs.berkeley.edu>) / Student Affairs Policies

(<https://studentaffairs.berkeley.edu/student-affairs-policies/>) / Berkeley Campus Regulations Implementing University Policies

Berkeley Campus Regulations Implementing University Policies

In order to carry on its work of teaching, research, and public service, the University has an obligation to maintain conditions under which the work of the University can go forward freely, in accordance with the highest standards of quality, institutional integrity, and freedom of expression, with full recognition by all concerned of the rights and privileges, as well as responsibilities, of those who comprise the University community.

The following Berkeley Campus Regulations implement various provisions of the University of California Policies Applying to Campus Activities, Organizations, Guests/Non-Affiliates and Students ("University Policies") issued by the President of the University effective August 15, 1994. Please note the following numbering conventions correspond to the number of the University of California policy (<https://www.ucop.edu/student-equity-affairs/policies/pacaos.html>). These regulations govern aspects of campus organizations and non-affiliates, use of University facilities, and time, place, and manner of public expression for which implementing campus regulations are required by the University Policies. The regulations address the rights and responsibilities of guests/non-affiliates and members of the University community, including faculty, staff and students, and provide standards for sustaining this community. They do not repeat all of the definitions or terms found in the University Policies, nor do they repeat the many self-executing provisions of the University Policies. Members of the University community may propose amendments to these regulations by filing proposals with the Office of the Associate Vice Chancellor, Dean of Students for review and possible recommendation to the Chancellor.

General Definitions

a. Property

The term "property" refers to all land, buildings, facilities or other grounds or structures, or any item in possession of or owned, used, maintained or controlled by the University or designated by the campus as subject to these policies. Property also includes computers and network systems owned, maintained or controlled by the University or funded by University budgets or designated by the campus as subject to these policies.

b. Student

The term "student" refers to an individual who: (a) is enrolled in or registered with an

academic program of the University of California, Berkeley; (b) has completed the immediately preceding term and is eligible for re-enrollment, including the recess periods between academic terms; or

- a. is on an approved educational leave, or other approved leave status, or on filing-fee status. For the purposes of this document, this definition includes students enrolled in programs such as Summer Bridge and those who have submitted an application, but whose admission has been deferred to the spring semester and who are enrolled in Extension programs.

c. Recognition

“Recognition” refers to the process by which any group or organization of students, faculty, or staff at the University of California, Berkeley applies for and obtains formal status as a registered, sponsored, or affiliated campus organization or sponsored departmental organization. Individuals and organizations may not in any way represent that their activities are endorsed, sponsored, or sanctioned by the University without the express written consent of an authorized University official. The group and its members are wholly responsible for their activities, on- or off-campus. The university does not provide liability insurance coverage for student organizations. Specific information regarding event specific coverage can be found by contacting The Office of Risk Services. Any individual or group of individuals participating in or conducting organization activities does so voluntarily and at its own risk.

d. Registered Student Organization;

The term “registered campus organization” refers to a group which is organized primarily for students of the Berkeley campus and which has complied with the registration requirements set forth in these regulations and with procedures established by the LEAD Center. The campus registers organizations for the purpose of authorizing the use of certain campus facilities and services. Registered campus organization status does not include the recognition of any off-campus activity conducted by the group as a whole or by individual members of the group. Individuals and organizations may not in any way represent that their activities are endorsed, sponsored, or sanctioned by the University without the express written consent of an authorized University official. The group and its members are wholly responsible for their activities, on- or off-campus. The university does not provide liability insurance coverage for student organizations. Any individual or group of individuals participating in or conducting organization activities does so voluntarily and at its own risk.

e. Sponsored Campus Organization

A “sponsored” campus organization refers to a group organized primarily for students of the Berkeley campus whose purposes and practices further the University's purposes as an educational institution and are consistent with University policy. Such groups are approved by the LEAD Center and are authorized to use the Berkeley campus name, and certain facilities and administrative resources. Sponsorship may be granted to groups such as honors groups, academically oriented groups, and service and recreational groups. Individuals and organizations may not in any way represent that their activities are endorsed, sponsored, or sanctioned by the University without the express written consent of an authorized University official. The group and its members are wholly responsible for their activities, on- or off-campus. The university does not provide liability insurance coverage for student organizations. Any individual or group of individuals participating in or conducting organization activities does so voluntarily and at its own risk. The University provides liability insurance coverage for most on-campus events held by Registered Student Organizations. Specific information can be found through Risk Services.

f. Affiliated Campus Organization

An “affiliated” campus organization refers to a living group intended primarily for students of the Berkeley campus whose purpose and practices further the University's purpose as an educational institution and are consistent with University policy. Such groups are approved by the LEAD Center and are authorized to use the Berkeley campus name, and certain facilities and administrative resources. Affiliate status may be granted to groups such as those fraternities and sororities with living units. Individuals and organizations may not in any way represent that their activities are endorsed, sponsored, or sanctioned by the University without the express written consent of an authorized University official. The group and its members are wholly responsible for their activities, on- or off-campus. The university does not provide liability insurance coverage for student organizations. Any individual or group of individuals participating in or conducting organization activities does so voluntarily and at its own risk.

g. Sponsored Departmental Organization

A “sponsored departmental organization” refers to any group of students, faculty and/or staff from a college, school, department, or other unit or combination of units of the University who organize to become involved in a common unit activity not involving the representation of employees, and who obtain formal approval from the unit in compliance with the registration requirements set forth in these regulations for the purpose of conducting group

activities or using campus facilities. Individuals and organizations may not in any way represent that their activities are endorsed, sponsored, or sanctioned by the University without the express written consent of an authorized University official. The group and its members are wholly responsible for their activities, on- or off-campus. The university does not provide liability insurance coverage for student organizations. Any individual or group of individuals participating in or conducting organization activities does so voluntarily and at its own risk.

h. Employee Organization;

As defined by Section 3562(g) of the Higher Education Employer-Employee Relations Act (HEERA), the term “employee organization” means any organization in which employees participate and which exists for the purpose, in whole or in part, of dealing with higher education employers concerning grievances, labor disputes, wages, hours, and other terms and conditions of employment.

i. “Instructional use of facilities” refers to the use of facilities by authorized University staff for approved academic purposes. The Office of the Registrar is responsible for the scheduling of classroom facilities for these purposes.

j. Guests or non-affiliates;

A “guest or non-affiliate” refers to a member of the public that is not affiliated with the University at the time of action or contact associated with these rules and regulations. If the guest/non-affiliate that engages in any of the below listed acts refuses to stop or leave University property, upon request, the person may be subject to immediate exclusion and/or criminal prosecution.

100. Regulations Concerning the Recognition of Campus Organizations

110. Scope and Purpose

111. The purpose of these regulations is to promote opportunities and advantages of association among students, faculty, staff and guests/non-affiliates within the intellectual community of the Berkeley campus, and to assure that these activities will not interfere with the educational responsibilities of the University.

120. Formation of Campus Organizations

121. Groups of students, faculty and/or staff may apply for campus organization status by filing the following information with the appropriate campus office:

- a. A copy of its constitution or an equivalent document, and by-laws including the organization’s name, purposes, requirements for membership, method of selecting officers, organizational structure, procedure for operation and dissolution, amendments, and non discrimination

and non-hazing clauses. In addition, an organization may be required to submit a copy of its constitution at the beginning of each semester that continued recognition is sought. The constitution is a public document available for inspection, as are correspondence, forms, and other documents maintained by the University on a recognized campus organization.

- b. At the time of application for recognition and at the beginning of each Fall semester thereafter, the names of at least four responsible officers or authorized representatives of the organization, the name of its University adviser, if any, and a statement that specific functions and activities in the organization as defined herein is limited to students, faculty and staff of the Berkeley campus. The recognition form includes the names, addresses, phone numbers and electronic mail addresses of the officers or authorized representatives of the student organization. At least one of the officers or authorized representatives must release their electronic mail address or phone number to be viewed on the LEAD Center website. This is a public document available for inspection, as are correspondence, forms and other documents, including constitutions and articles maintained by the University on a registered campus organization.
- c. Amendments to any of the above as they occur.

122. Recognized campus organizations must be non-commercial in nature, and the use of campus facilities by such organizations may not result in personal financial benefit to any individual or private enterprise.

123. Pursuant to University policy, the campus may not sponsor political or religious activities, except when authorized for University purposes by The Regents or the President or their designees. However, religious and political organizations may have access to campus facilities on the same basis as all other recognized campus organizations in accordance with University of California and the University of California, Berkeley campus regulations and policies.

130. Membership in Campus Organizations

131. The following functions and activities in recognized campus organizations or registered student organizations must be reserved to students, faculty, and staff of the Berkeley campus. Other persons may be admitted to membership in a campus organization, but may not perform any of the following functions and activities:

- a. Holding office in the organization;
- b. Presiding, officiating, voting, or making or seconding motions at any meeting of the organization;
- c. Working at tables or distributing materials on the campus on behalf of the organization, with the exception that others may assist active members in working at tables or distributing non-

commercial literature, announcements, or statements provided that an active member is at all times present and responsible for the table or the distribution;

d. Soliciting funds on the campus on behalf of the organization.

The above sections are not intended as a comprehensive description of "active membership," and other functions or acts may also indicate that a person is participating as an active member of an organization.

132. The participation of any person who is not a University of California, Berkeley, student, faculty or staff member who engages in any of the above functions or acts reserved for students, faculty, and staff of the Berkeley campus, constitutes grounds for revocation of the recognition of a campus organization.

140. Financial Responsibilities of Officers

141. All officers or authorized representatives of a campus organization are individually and jointly responsible for the financial obligations of the organization, including payment in full of debts to the University incurred by the campus organization during the tenure of the officer or authorized representative.

150. Use of University Name

151. Only an organization that is officially sponsored by or affiliated with the University or a unit of the Berkeley campus may use the name of the University of California, Berkeley or abbreviations thereof as part of its own name. Other terms, such as "at Berkeley," may be used by a registered campus organization as part of its name. Organizations who do not have permission to currently use the Berkeley and Cal trademarks, must receive approval from the Office of Marketing & Business Outreach

152. Events or activities conducted by recognized campus organizations or by others must not be advertised or promoted in such a way as to suggest that the function is sponsored or endorsed by the University, particularly through the misuse of the University name, trademarks, or logos. This is especially true of off-campus activities or events conducted by or engaged in by the organization as a whole or by individual members of the organization.

160. Denial or Revocation of Recognition of Campus Organization Status

161. Recognized campus organizations or organizations seeking to be recognized by the campus are required to comply with University policies and campus regulations or they will be subject to revocation of registration, loss of privileges, or other sanctions for violation of such policies. Procedures for denying or revoking recognition of campus organization status for violation of policies or regulations are set forth in the applicable provisions of the Code of Student Conduct governing individual and organizational misconduct for students.

170. Student Government

171. The Chancellor may authorize or discontinue student governments as official units of the University that are responsible for representing student constituencies comprising either the student body as a whole or particular segments of it. The Chancellor may also assign to such student governments specific powers and responsibilities concerning student affairs. Prior to authorization or discontinuance of student government, the Chancellor shall consult with students, including the current student governments.

172. Student governments shall be responsible for litigation costs incurred by the University as a result of violations of University or campus rules or guidelines by the student government.

173. Compulsory fees to support student governments may be established or discontinued only after an election in which two-thirds of a voting pool vote in favor of the measure. A voting pool is determined by the Chancellor and is at least 20% of the registered students. The number of registered students is determined by using the campus' official third week enrollment count report. It would be prudent for all measures establishing or discontinuing compulsory student government fees to be reviewed by the Chancellor or his/her designee prior to inclusion on the ballot to reduce risk of rejection by the Chancellor after the election. Any election involving changes in compulsory student government fees must be monitored by an impartial group not affiliated with the student government.

All referendum results are advisory to the Chancellor and subject to final decision by the Chancellor and approval by The UC Regents. Changes in the levels of established compulsory fees for the support of student government may be recommended by the Chancellor to The UC Regents following a favorable vote by a simple majority of students who vote on the measure. The Chancellor may require any referendum establishing or increasing compulsory student government fees to provide that a portion of the fee revenue be set aside for financial aid purposes in an amount necessary to meet the resulting increase in financial need.

174. The implementation of student participation in the governance of the campus shall be carried out in administrative units through the appointment of student nominees to the Chancellor's advisory committees and other advisory administrative committees on campus. Upon request, the office of the Vice Chancellor for Student Affairs will provide the names of nominees available to serve on advisory committees. Procedures for implementation of student participation on advisory committees in academic units shall be established through the Berkeley Division of the Academic Senate.

175. Guidelines and procedures for the use of student government fee funding by registered student organizations and activities are available from the LEAD Center.

176. Student governments shall have the right to address and take positions on public issues, as consideration of such matters serves the University's educational purposes. Positions on issues taken by student governments shall not be represented as or deemed to be official positions, sponsored, endorsed, or favored by the University. Expenses related to student lobbying for these positions must be funded by voluntary student fees. This does not affect the right of any student, as an individual, to petition government officials or bodies.

177. The Chancellor is responsible for the fiscal soundness of student government. In the discharge of this responsibility, the Chancellor may audit the finances of student governments and exercise control over expenditures of their funds when and to the extent necessary to maintain financial solvency of student governments, and when necessary may take action to ensure that any activity under the control of student governments is operated in accordance with sound business practices consonant with University policies and procedures applicable to such practices.

200. Regulations Concerning the Use of University Facilities and Services

210. Scope and Purpose

211. These regulations authorize the use of University facilities and services and establish procedures for such uses. The use of University facilities and services not authorized herein or pursuant to other University policies are prohibited. The rights, obligations and liabilities of authorized users and of other persons seeking to use the Berkeley campus are also governed by provisions of the Berkeley campus and University Policies and by state and federal law. All persons on campus property must abide by University policies and campus regulations and must identify themselves upon request to University officials acting in the performance of their duties.

212. The purpose of these regulations is to facilitate the effective use and enjoyment of the facilities and services of the Berkeley campus as an educational institution. Orderly procedures are necessary to promote the use of facilities and services by students and University personnel, to conserve and protect facilities and services for educational use, and to prevent interference with University functions.

220. Reservation of Facilities and Requests for Services for Non- Instructional Meetings or Other Activities

221. Not all University facilities and services are available for reservation or request for non-instructional purposes. Information concerning reservation and request procedures for designated facilities and services available for non-instructional use may be obtained from Event Services at the ASUC Student Union, or the Office of the Registrar's Classroom Scheduling Department.

222. Designated University facilities and services may be reserved or requested for meetings and other noncommercial activities, in accordance with established procedures, by:

- a. Recognized campus organizations, for events related to the purposes of the organizations. Under special circumstances, non-recognized groups may gain approval from the LEAD Center for use of facilities;
- b. The recognized student government and its sponsored agencies, official alumni organizations and similar University-related organizations, and colleges, schools, departments and other units of the University, for events related to their purposes;
- c. Members of the faculty and staff for extracurricular events related to their duties or University activities;

d. Non-University organizations upon invitation of student governments, other University units, or recognized campus organizations, subject to the following provisions:

1. The use must confer a benefit to the University;
2. The use must be pursuant to a written agreement setting forth the terms and conditions of the proposed use;
3. The use by the applicant must be occasional rather than frequent;
4. The use must not interfere with any organized University activity or event;
5. Organizations and/or individuals with campus affiliation shall be granted priority over non-affiliated organizations and individuals;
6. Consideration must be given to the availability of comparable non-University facilities and services which could accommodate the proposed use.

223. Reservations or requests shall be made at least 48 hours in advance, excluding weekends and holidays, to the appropriate campus office in accordance with following procedures:

- a. Applications shall be completed on forms provided by the University. Reservations or requests shall normally be made for use during the current academic year, and will be granted in the order of application, unless consideration of format, room size, equitable distribution of facilities or the like requires exceptions. Inquiries for specific exceptions shall be directed to the office where the reservation is made.
- b. Reservation of facilities or requests for services by recognized campus organizations must be made with and approved by Event Services at the ASUC Student Union or the appropriate campus unit in accordance with established procedures.
- c. The recognized student government and its agencies, official alumni organizations and similar University Related organizations, and colleges, schools, departments, and other units of the University, may make reservations or requests in accordance with established procedures.

224. Non-transferability of Authorization

A recognized campus organization must reserve campus facilities or request services through one of its officers or authorized representatives. A recognized campus organization, its officer, or any authorized representative applying to reserve facilities or request services on behalf of the organization assumes responsibility for costs associated with the use of those facilities or services, for damage to the facilities by group members, or for monetary sanctions applied for failure of group members to comply with University regulations or terms and conditions of authorization which may occur in connection with the use of facilities or services. No organization other than the reserving organization may use the facility reserved or service requested. The reserving

organization may not transfer control of the event for which the facilities were reserved or the services requested to any other organization, group, or individual speaker. This section applies to areas for public expression (section 330) as well as other indoor or outdoor facilities.

225. The University may charge recognized campus organizations, campus departments, and other groups for the use of its facilities or services in accordance with established fee schedules. Information concerning the fee schedules may be obtained from the office at which the reservation is made or from which the service is requested. Users of facilities and services must pay the University directly for the facilities or services provided.

226. All campus health and safety standards must be met and special security provisions may be required depending upon the nature of the proposed use.

227. Security, performance, and/or liability bonds may be required. Consistent with University policy, and depending upon the nature of the proposed event, the user may be required to provide its own public liability and other insurance naming The Regents of the University of California as additionally insured for any public events to be held in University facilities. If security is required, the user(s) must work with the University of California Police Department to determine coverage.

228. In the event that the proposed use takes the form of a lease or license to use real property, the approval of The Regents or its Officers may be required.

230. Commercial Activity and Fundraising on Campus

231. Off campus vendors and commercial entities are permitted access to University properties only when sponsored by a University department, student government, or Registered campus organization. Off campus vendors and commercial entities may only sell products or services with both the approval of the Chancellor or Chancellor's designee, and in conjunction with a reserved space. Off campus vendors and commercial entities may not:

1. Promote, sell or give out Coca-Cola products;
2. Sell Cal apparel;
3. Market credit cards;
4. Compete with current vendors on campus; and
5. Offer meal replacements.

Current Sponsorship Agreements with CUBS and Kaplan will be honored until expiration.

Special exceptions may be considered by the Chancellor's Designee.

232. University facilities are available to registered campus organizations and student government for noncommercial events related to the purposes of the organization. Noncommercial fundraising refers to income generating activity that is not conducted primarily for private business or personal profit. Subject to the provisions of Section 300 et seq., a recognized campus organization may sell

for non-commercial purposes materials clearly related to the purposes of the organization; may collect dues, initiation fees, donations, and admissions charges at its table in the public expression areas and at meetings; and may solicit funds in announcements, posters, and handbills.

233. A recognized campus organization using the campus to raise funds must have an approved Fundraising Permit through Event Services at the ASUC Student Union, and keep adequate records showing the means by which funds were raised on the campus, the purposes for which funds were solicited, the uses for which the funds have been or will be spent, and the amounts thereof. These records must be kept current and available for inspection by the University upon request. All collections of monies must be approved through Event Services at the ASUC Student Union at least 14 days in advance of the event, including establishing a cash handling procedure in coordination with University of California Police Department

234. The recognized student government and its sponsored agencies, official alumni organizations, and similar University-related organizations, and colleges, schools, departments, and other units of the University may use campus facilities for fund-raising in accordance with established procedures.

235. In recognition of the University's obligation as a major employer in the community and for the purpose of promoting education, the Chancellor or the Chancellor's designee may approve a limited number of fundraising programs for charitable organizations and public service agencies in accordance with University policies.

236. Except as provided in these regulations, commercial activity on the Berkeley campus is prohibited.

240. Sanctions for Violation of Regulations Governing the Reservation, Request, or Use of Facilities and Services

241. Violation of any campus regulation or terms or conditions of authorization governing reservations, requests, or use of campus facilities and services may result in loss of organizational or individual privileges for a specified period of time. A violation may also be grounds for revocation of recognition of campus organizational status. Any person or group involved in the willful or deliberate violation of this section may forfeit the privilege to reserve facilities and may be subject to relevant disciplinary action, including monetary sanctions and/or reimbursement for damages and injury.

250. Denial of Facility Reservations

251. Any applicant who is denied a reservation for use of University facilities may appeal in writing to the Vice Chancellor for Student Affairs or a designee. An applicant who is denied a request on the basis of a clear and present danger to the orderly operation of the campus shall be offered the opportunity for prompt review upon submission of the appeal in writing to the Chancellor.

260. Use of Campus Computing Services

The University of California, Berkeley recognizes the value and potential for faculty, students, and staff to use University computing and network services and resources. The ease of use of these multimedia tools provides individuals with a wide range of opportunities for the presentation of diverse information, and allows administrative units to conduct official business in support of the University's mission. The University encourages and supports the freedom of expression and an open environment for the pursuit of scholarly inquiry. The contents of all electronic media under University jurisdiction (i.e., computers, servers and network systems owned, maintained or controlled by the University or funded by University budgets) must, however, comply with University of California and Berkeley campus policies as well as local, state and federal laws. Copies of campus policies may be accessed through the Information Services & Technology website.

300. Regulations Concerning the Time, Place, and Manner of Public Expression

310. Scope and Purpose

311. The University has a special obligation to protect free inquiry and free expression. On University grounds open to the public generally, all persons may exercise the constitutionally protected rights of free expression, speech and assembly. Such activities must not, however, interfere with the right of the University to conduct its affairs in an orderly manner and to maintain its property, nor may they interfere with the University's obligation to protect the rights of all to teach, study, and freely exchange ideas. These regulations purport to assure the right of free expression and advocacy on the Berkeley campus, to minimize conflict between the form of exercise of that right and the rights of others in the effective use of University facilities, and to minimize possible interference with the University's responsibilities as an educational institution.

312. These regulations provide authorization for certain uses of University facilities, and establish procedures for such authorized uses. Such uses must conform to these regulations, Berkeley campus and University policies, and state and federal laws that may protect or regulate matters of public expression on the Berkeley campus.

320. General Provisions

321. All individuals on University property or in attendance at an official University function assume an obligation to conduct themselves in a manner compatible with the University's responsibilities as an educational institution. This means that all persons are responsible for complying with applicable University and Berkeley campus policies, including but not limited to the listed prohibitions.

No person on University property or at official University functions may:

- a. block entrances to or otherwise interfere with the free flow of traffic into and out of campus buildings;
- b. have unauthorized entry to, possession of, receipt of, or use of any University services; equipment; resources; or properties, including the University's name, insignia, or seal;

- c. engage in physical abuse including but not limited to sexual assault, sex offenses, and other physical assault; threats of violence; or other conduct that threatens the health or safety of any person;
- d. obstruct or disrupt teaching, research, administration, disciplinary procedures, or other University activities;
- e. engage in the production of amplified or non-amplified sound that disrupts campus activities;
- f. exhibit disorderly or lewd conduct;
- g. participate in a disturbance of the peace or unlawful assembly;
- h. unlawfully manufacture, distribute, dispense, possess, use, or sell, or attempt to unlawfully manufacture, distribute, dispense, possess, use, or sell controlled substances, identified in federal and state law or regulations;
- i. manufacture, distribute, dispense, possess, use, or sell, or attempt to manufacture, distribute, dispense, possess, use, or sell alcohol that is unlawful or otherwise prohibited by, or not in compliance with, University policy or campus regulations;
- j. possess, use, store, or manufacture explosives, firebombs, or other destructive devices;
- k. possess, use, store, or manufacture a firearm or other weapon.;
- l. engage in the theft of, conversion, of, destruction of, or damage to any property of the University, or any property of others while on University premises, or possession of any property when the individual had knowledge or reasonably should have had knowledge that it was stolen;
- m. fail to comply with the directions of a University official or other public official acting in the performance of his or her duties while on University property or at official University functions; or resisting or obstructing such University or other public officials in the performance of or the attempt to perform their duties;
- n. camp or lodge on University property other than in authorized facilities;
- o. climb up or repel down any tree, building, or structure on University property;
- p. participate in indecent exposure or public nudity on University property, except for specifically designated "clothing optional areas" of campus gymnasiums and pools (this policy applies to all with the exception of babies and young children). This prohibition does not apply to appropriate visual or performing arts productions, or academic programs or classes scheduled or sponsored by campus academic units or departments as determined by the departmental chair or unit director. (See the Policy Statement Concerning Public Nudity And Sexually Offense Conduct for more information.)

Selected sections of the UC Berkeley Code of Student Conduct are reiterated in this section above for emphasis and application to all individuals on University property.

322. The University acknowledges and respects the rights of members of the University community as individuals to engage in personal political activity. However, when using University facilities, members of the University community must keep their personal political activity separate from their institutional role and from university activities. Personal political activity should not be engaged in in such a manner as to incorrectly represent University support or endorsement. Neither University funds, equipment, instructional programs nor other resources may be used for such personal political activity.

a. The University House is primarily a personal residence and is not open to the public. The use of University House is limited to the residence of the Chancellor's family and guests and the venue for periodic special University events hosted by the Chancellor. It is not open to the public, and is accessible by invitation only. The property is not a designated area for public expression. Rallies, demonstrations and other forms of public expression by members of the University community or the general public are not permitted at any time on the grounds of The University House. Given the nature of the University House as a residential home, any such assembly advocacy activity may not occur within 50 feet of the property boundaries between the hours of 10pm and 7am daily. The following described areas of the Berkeley campus comprise "The University House" for the purposes of this regulation:

1. The University House property on the Berkeley campus lies within a boundary defined on the north by a wood fence and contiguous chain link fences paralleling the south side of Hearst Avenue, starting at a point a) 160 feet west of the extended centerline of Scenic Avenue and Hearst to a point b) 500 feet east of that centerline where the property is bound by a chain link fence that turns south about 40 feet to point c) and then parallels the north side of Haviland Road approximately 280 feet to point d) where it turns west for about 180 feet to point e), then northwest about 60 feet crossing the North Fork of Strawberry Creek to a double leaf garden gate at point f) where the property leaves the fence and generally follows the north side of the unimproved access road about 80 feet to a point g) along the north edge of pavement of University House Drive where it follows the edge of asphalt and brick pavement past the brick entry stairs to point h) at the back of the sidewalk and follows along University House Drive for 300 feet ending at point i) at the end of a garden hedge and extends north about 40 feet across the house motor court entrance through the chain link fence to point a). See map (<https://www.berkeley.edu/map>) (PDF).

330. Areas for Public Expression

331. The Sproul Plaza and Lower Sproul Plaza have traditionally been designated as areas for public expression. These areas are open to the public generally between the hours of 6:00 a.m. and 12:00 midnight. Between the hours of midnight and 6 a.m., these areas are generally closed to all activities except coming and going to a University building or crossing the campus. During open hours, Upper and Lower Sproul Plaza, not including Savio Steps may be used without reservation for discussion or public expression which does not require or involve sound amplification equipment. Upper Sproul Plaza South Tree Line, Lower Sproul Plaza, and the Savio Steps may be reserved through Event Services at the ASUC Student Union for use by recognized campus organizations or non-University groups in accordance with facility use regulations and established office procedures. However, use of these areas for discussion or public expression may be limited when such use interferes with the orderly conduct of University business or authorized events.

332. Statement on Free Speech

340. Sound Amplification

341. The use of sound amplification equipment for functions or events that are not officially authorized by the University is not permitted. Acoustic or ambient sound, such as that generated through musical instruments may be limited when such use interferes with the orderly conduct of University business or authorized events.

342. During periods of instruction or employment, sound amplification will be permitted for authorized events on the Savio (Sproul Hall) steps and in the Lower and Upper Sproul Plaza between noon and 1:00 p.m. and between 5:00 p.m. and 7:00 p.m seven days a week. The amplification of programs which are predominantly musical shall be permitted only in Lower Sproul Plaza. Amplified sound outside of the aforementioned locations and times is not permitted without the authorization of the surrounding Building Coordinators and the campus department managing the facility. No sound amplification will be allowed beginning the day after the last day of instruction of the semester through the final examination period. Amplified sound at the Sather Gate Crescent has additional sound restrictions due to musical group performances. Amplified sound approvals from all Building Coordinators must be sent to Event Services at least 3 days prior to the event or amplified sound will not be allowed.

343. In accordance with established procedures, applications for the use of sound amplification equipment or space in these areas will be approved by Event Services at the ASUC Student Union so as to ensure adequate access by all authorized users.

344. Recognized campus organizations, the authorized student government and its agencies, official alumni groups, and colleges, schools, departments and other units of the Berkeley campus may request amplification equipment for use on the Savio (Sproul Hall) steps. This equipment will be provided by Event Services at the ASUC Student Union without charge and upon a minimum of 48 hours notice excluding weekends and holidays. Groups not canceling reservations of these facilities at least 24 hours in advance of the scheduled event may be liable for the costs of providing sound amplification equipment if alternative arrangements cannot be made and may not be able to schedule events on the Savio (Sproul Hall) steps and Lower Sproul Plaza for one month.

346. The volume and direction of sound amplification will be controlled by the providing campus office so as not to interfere with other campus or community activities. Where appropriate, decibel readings may be used to monitor the volume and direction of sound being generated. Event Services at the ASUC Student Union is responsible for monitoring the volume and overall conduct of programs on both Upper and Lower Sproul Plaza.

350. Tables and Other Display Material

351. Only recognized campus organizations, the recognized student government and its agencies, official alumni groups, and colleges, schools, departments and other units of the Berkeley campus may maintain a table, chairs, or other display materials in specific areas designated by Event Services at the ASUC Student Union in any of the following locations:

- a. The Upper Sproul Plaza area between Bancroft Way and Sather Gate, not including the Savio (Sproul Hall) steps, the circle by Sather Gate, and the brick area between the Savio steps and Ludwig's Fountain;
- b. Lower Sproul Plaza;
- c. North Gate;
- d. the Tolman Hall area;
- e. the area between Kroeber Hall and the Law School buildings.

Additional locations may be permitted for special campus or University wide events at the discretion of Event Services at the ASUC Student Union in conjunction with the surrounding building coordinators, the fire marshal, and UCPD. Requests must be made at least 14 days in advance of the event.. Specific locations for tables or other display materials are available on a daily first-come, first-served basis. Individuals that are not members of recognized campus organizations, the recognized student government and its agencies, official alumni groups, and colleges, schools, departments and other units of the Berkeley campus may stand to distribute non-commercial announcements, statements, materials, but may not set up a table, chair(s), or other display materials.

352. Tables and other display materials may not block any entrance or walkway, or otherwise restrict the free flow of vehicular or pedestrian traffic. No display materials may be placed on or against, or be attached to any structure or natural feature of the campus, including, but not limited to the sides of doors or buildings, fountains, posts, waste receptacles, trees or stakes.

353. Tables or other display areas must be staffed at all times by students, faculty or staff of the University who are representatives of the sponsoring organization. The name of the sponsoring organization must be clearly displayed on each table and item on display.

354. Tables, display areas or other materials may be used to distribute and exhibit non-commercial announcements, statements, and materials for fundraising in accordance with Section 200 of the regulations above. Organizations may not leave flyers, announcements or literature of any kind

unattended on campus grounds or in classrooms, or otherwise affix or insert such materials into campus lawns or grounds.

355. Tables may be no larger than three feet by six feet and no poster may extend beyond the sides of, or more than one foot above the tables. Any other display materials must be behind and within three feet of the table. Such displays may not extend more than ten feet high or three feet wide. Displays larger than stated must receive an approved Display Permit through Event Services at the ASUC Student Union

360. Posters, Notices, Handbills and Leaflets

361. Except as permitted herein, no posters, handbills, or any other form of announcement or statement may be placed on or against, attached to, or written on any structure or natural feature of the campus including, but not limited to the sides of doors or buildings, windows, the surface of walkways or roads, Sather Gate, fountains, posts, waste receptacles, trees or stakes. Nor may any chalk, paint or permanent markings be made on such structures.

362. Recognized campus organizations may chalk on classroom chalkboards if given approval by the professor using the classroom during that time. At the end of the approving professor's time in the classroom, the chalking must be removed unless permission is given from the next professor utilizing the classroom. Chalking may only be made on safely reachable parts of the classroom chalkboard. Student organizations using chalkboards in classrooms during non-class times must erase the chalkboards when they vacate the premises.

363. The general public may post notices or announcements on bulletin boards and kiosks designated for this purpose. All information currently available concerning the location of these boards and kiosks may be obtained from the ASUC Student Union.

364. Anyone may personally distribute non-commercial announcements, statements, or materials in any outdoor area of the campus consistent with the orderly conduct of University affairs, the maintenance of University property, and the free flow of vehicular and pedestrian traffic. Efforts must be made to avoid litter. Particular circumstances at particular times may require some limitations.

365. Recognized campus organizations may have noncommercial organizational announcements posted on designated University bulletin boards for a service fee according to established procedures. Announcements to be posted on University bulletin boards must be brought to the ASUC Student Union for acknowledgement of active group status. Posting by the University will then happen once the materials are taken to Mail Service. The posting of announcements or materials by employee organizations is subject to the regulations established by the Labor Relations Office. Announcements may not exceed 11" x 14" in size, and will be removed at regular intervals.

366. All materials must clearly indicate the name of the campus, recognized campus organization, University unit or any other individual or organization permitted to post or exhibit.

367. Use of departmental bulletin boards or display cases for posting of announcements by recognized campus organizations must be in accordance with the rules of the department.

368. Recognized campus organizations may seek approval from the ASUC Student Union to display portable non-commercial organizational announcements or statements of the size appropriate to standard portable easels, in any of the following locations:

- a. North Gate;
- b. Moses Court;
- c. Engineering Quad;
- d. Lower Sproul Plaza;
- e. Kroeber Plaza;
- f. Wurster Courtyard
- g. Campanile Esplanade;
- h. Memorial Glade;
- i. VLSB Lawn;
- j. Dwinelle Plaza;
- k. Wheeler Plaza;
- l. Barrows Courtyard;
- m. West Crescent Lawn

Announcements or statements placed at any of the above locations must not be chained or otherwise affixed to any existing campus facility or structure, and must be removed at regular intervals or within one week of the conclusion of any advertised event.

369. Recognized campus organizations may display signboards on Sather Gate Bridge according to established procedures and with authorization of the ASUC Student Union.

Temporary Amendment to the Berkeley Campus Regulations

Notwithstanding the terms of any other campus policy or regulation, on an interim basis between the date of adoption of this interim policy and January 22, 2019, the following regulation shall be in effect regarding Lower Sproul Plaza: Lower Sproul Plaza shall be subject to the Major Events Policy. Amplified sound in Lower Sproul Plaza that is permitted between the hours of noon-1 PM and 5 PM-7 PM pursuant to Berkeley Campus Regulations section 342 shall be limited to events that are predominantly musical. Predominantly musical events are events that do not include more than incidental amplified speaking that occurs as part of the presentation of primarily musical content. ASUC Event Services may adopt additional viewpoint-neutral policies regarding the use of amplified sound in, and reservation of, Lower Sproul Plaza; and

Notwithstanding the terms of any other campus policy, on an interim basis between the date of adoption of the interim policy and January 22, 2019, the West Crescent shall be designed as an area available for public expression pursuant to the provisions of the Berkeley Campus Regulations governing Lower Sproul Plaza, specifically sections 331, 341-346; and the West Crescent shall be exempt from the Major Events Policy.

References to the Center for Student Leadership in the Berkeley Campus Regulations section 221, 223, 331, 343, 344 and 346 hereby refer to ASUC Event Services.

Last updated on Oct. 30, 2018

- › [Student Affairs Policies \(https://studentaffairs.berkeley.edu/student-affairs-policies/\)](https://studentaffairs.berkeley.edu/student-affairs-policies/)

Grievance (<https://studentaffairs.berkeley.edu/student-affairs-policies/grievance/>)

Berkeley Campus Regulations Implementing University Policies
(<https://studentaffairs.berkeley.edu/student-affairs-policies/berkeley-campus-regulations-implementing-university-policies/>)

University of California Policy on Substance Abuse

(<https://studentaffairs.berkeley.edu/student-affairs-policies/university-of-california-policy-on-substance-abuse/>)

University of California, Berkeley Statement on Free Speech

(<https://studentaffairs.berkeley.edu/student-affairs-policies/university-of-california-berkeley-statement-on-free-speech/>)

SB108 (<https://studentaffairs.berkeley.edu/student-affairs-policies/sb108/>)

Accommodation of Religious Creed (<https://studentaffairs.berkeley.edu/student-affairs-policies/accommodation-of-religious-creed/>)

Classroom Note-Taking & Recording Policy (<https://studentaffairs.berkeley.edu/student-affairs-policies/classroom-note-taking-recording-policy/>)

PC 626 (<https://studentaffairs.berkeley.edu/student-affairs-policies/pc-626/>)

Alcohol (<https://studentaffairs.berkeley.edu/student-affairs-policies/alcohol/>)

Respect & Civility in the Campus Community (<https://studentaffairs.berkeley.edu/student-affairs-policies/respect-civility-in-the-campus-community/>)

Berkeley Campus Policy Governing Student Dances

(<https://studentaffairs.berkeley.edu/student-affairs-policies/berkeley-campus-policy-governing-student-dances/>)

CALPIRG (<https://studentaffairs.berkeley.edu/student-affairs-policies/calpirg/>)

Statement of Understanding: The ASUC (<https://studentaffairs.berkeley.edu/student-affairs-policies/statement-of-understanding-the-asuc/>)

Agreement: The Daily Californian Journalism Training Project

(<https://studentaffairs.berkeley.edu/student-affairs-policies/agreement-the-daily-californian-journalism-training-project/>)

Cal Community Values (<https://studentaffairs.berkeley.edu/student-affairs-policies/cal-community-values/>)

How to Protest Safely (<https://studentaffairs.berkeley.edu/student-affairs-policies/how-to-protest-safely/>)

Fire Season Preparedness: Resources & Information

(<https://studentaffairs.berkeley.edu/student-affairs-policies/fire-season-preparedness-resources-information/>)

 (<https://www.instagram.com/ucberkeleylife/?hl=en>)

 (<https://www.tiktok.com/@ucberkeley>)

 (<https://www.youtube.com/@UCBStudentAffairs>)

Division of Student Affairs

250 Sproul Hall

UC Berkeley

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vcsa@berkeley.edu (<mailto:vcsa@berkeley.edu>)

Berkeley Life Blog (<https://life.berkeley.edu/>)

Report Website Problems (<mailto:sawebmaster@berkeley.edu>)

Privacy Policy (<https://security.berkeley.edu/privacy-statement-uc-berkeley-websites>)

Accessibility (<https://dap.berkeley.edu/get-help/report-web-accessibility-issue>)

Nondiscrimination (<https://ophd.berkeley.edu/policies-and-procedures/nondiscrimination-policy-statement>)

University
of California
Berkeley

(<http://berkeley.edu>)

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Exhibit L(2)



Andy Kahn <andy@upte.org>

UPTE's demand for bargaining and suspension of certain UCB speech regulations

Andy Kahn <andy@upte.org>

Tue, Oct 1, 2024 at 8:55 AM

To: hradmin_elr@berkeley.edu, bianca_bowman@berkeley.edu

Cc: Todd Kolze <tkolze@upte.org>, Dan Russell <dan@upte.org>

Bcc: Dan Cao <dcao@upte.org>, Kate Hallward <khallward@leonardcarder.com>, Julia Lum <jlum@leonardcarder.com>, Benjamin Dictor <ben@eisnerdictor.com>, Arthur Liou <aliou@leonardcarder.com>, Paul Waters-Smith <pwaters.smith@upte-cwa.org>

Please see attached letter from UPTE about UC Berkeley's speech regs which includes requests for bargaining and information. Separately attached is the UCSB speech reg which we're proposing as a model for UCB: it applies to employee organizations in lieu of a more restrictive policy for outside groups.

Andy Kahn, UPTE General Counsel

andy@upte.org

2855 Telegraph Ave. #602

Berkeley CA 94705

(510) 849-7025

2 attachments

**Access Regs Berkeley campus UPTE memo.pdf**

188K

**UCSB_CampusAccess_Regs for Unions_2016 (1).pdf**

262K

Oct. 1, 2024

TO: UCB Management & Counsel
FROM: Andy Kahn, UPTE General Counsel
RE: UCB's Regs Restricting Expressive Activities

I'm writing on UPTE's behalf in response to the UCB Regulations restricting speech ("the Regs") because UCOP has proposed in statewide negotiations that any violations be punishable via access bans on union representatives and disciplining any member leaders involved. UCOP has also stated that access restrictions are solely up to each location to negotiate with UPTE, and therefore existing regs are open now for bargaining given the imminent expiration of our CBAs.

We request immediate suspension as to UPTE and its members of various provisions of Regs which we reasonably believe to be illegal either under HEERA or the federal and state constitutions (or all of these). Several provisions also do not meet the reasonableness requirement of our CBAs' Access articles. We have the following concerns, bargaining proposals, and requests for information relevant to bargaining both these Regs and our currently-open statewide Access article, as well relevant to our potential grievance:

1. Legal Standards

Strict scrutiny would be applied here under the First Amendment and State Constitution by the courts: see, e.g., *Shaw v. Burke*, 2018 U.S. Dist. LEXIS 7584, *22 (C.D. Cal. 2018) ("Given the traditional purpose of the open, outdoor areas of universities, such as the "Mall" on Pierce's campus, the Court finds that these areas are traditional public fora, regardless of Pierce's regulations naming them non-public fora. Id.; *Bowman*, 444 F.3d at 979 ('College campuses traditionally and historically serve as places specifically designated for the free exchange of ideas.').") This strict scrutiny requires time/place/manner restrictions be narrowly tailored to important governmental interests and leave ample alternative opportunities to reach the intended audience.

California courts have an even broader view than federal courts of where speech is protected, holding for example that walkways and parking lots outside secure facilities must allow leafletting despite security concerns in *Prisoners Union v. Cal. Dept. of Corrections* (1983) 135 CA3d 930 and *UC Nuclear Weapons Lab Conversion Project v. Lawrence Livermore Lab.* (1984) 154 CA3d 157. In *Carreras v. Anaheim* (9th Cir. 1985) 768 F.2d 1039, 1045, the Ninth Circuit stated: "the test under California law is whether the

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communicative activity ‘is basically incompatible with the normal activity of a particular place at a particular time.’ [Citations.]” Applying that test, the court found leafletting could not be barred on the exterior walkways and parking areas of a stadium. Applying the same “basic incompatibility” test, the Ninth Circuit held the parking lot and walkways of a venue for sports and music also must under California law permit such speech. *Kuba v. 1-A Agricultural Assn.* (9th Cir. 2004) 387 F.3d 850, 857.

As you know, HEERA provides our representatives with the “right to use institutional facilities at reasonable times for the purpose of meetings”. Gov. Code sec. 3568. HEERA also protects employees’ rights to engage in union speech in non-work areas absent compelling contrary interests. See, e.g., *Cal. Public Sector Labor Relations* (Cal. Bar 2024)(“To establish reasonableness, the employer must show that its regulation is (1) necessary to the efficient operation of the employer’s business and/or safety of its employees and others; and (2) narrowly drawn to avoid overbroad, unnecessary interference with the exercise of statutory rights.” (citing *County of Tulare* (2020) PERB Dec. No. 2697-M, p. 20 (employer rule regulating union activity must not use vague or overbroad language); *County of Riverside* (2012) PERB Dec. No. 2233-M, p. 7).

Finally, UCB is entitled under the federal and state constitutions to treat recognized unions more favorably than other non-affiliates: see *Perry Ed’n Assn v. Perry Local Educators* (1983) 460 US 37. However, other than as to bulletin boards, UCB is failing to utilize this opportunity, but rather improperly lumping us in with groups having no connection to UCB business but simply wanting to use the UCB campus like a public park to protest foreign governments. We recommend UCB follow UCSB in having a separate policy for recognized employee organizations rather than consign us to “stranger” status, especially because misconduct by employees while on UCB property can be punished through loss of their jobs (and added protections for UC’s legitimate interests achieved through mandatory bargaining), whereas a random protestor from outside the UCB community has merely the incentives provided by criminal law to avoid misbehavior (they face neither loss of their jobs nor a duty to bargain in good faith with UCB administration).

2. Regs Against “Disruption” and Sound Amplification

Reg 321 makes it a violation to “d. obstruct or disrupt teaching, research, administration, disciplinary procedures, or other University activities; e. engage in the production of amplified or non-amplified sound that disrupts campus activities”. Reg 341 states: “The use of sound amplification equipment for functions or events that are not officially authorized by the University is not permitted. Acoustic or ambient sound, such as that generated through musical instruments may be limited when such use interferes with the orderly conduct of University business or authorized events.” Reg 342 states:

During periods of instruction or employment, sound amplification will be permitted for authorized events on the Savio (Sproul Hall) steps and in the Lower and Upper Sproul Plaza between noon and 1:00 p.m. and between 5:00 p.m. and 7:00 p.m. seven days a week. The amplification of programs which are predominantly musical shall be permitted only in Lower Sproul Plaza. Amplified sound outside of the aforementioned locations and times is not permitted without the authorization of the surrounding Building Coordinators and the campus department managing the facility. *** Amplified sound approvals from all Building Coordinators must be sent to Event Services at least 3 days prior to the event or amplified sound will not be allowed.

There are several serious practical and legal problems with these provisions:

First, “disruption” and “interference” are totally unclear. Does it include distraction of anyone reading or writing about some matter covered by a university education? If students and their teacher in a classroom can overhear a protest outside but nonetheless can hear each other enough to proceed with the class, does the distraction violate the Regs?

Moreover, “disruption” is often the result of angry speech protected by the First Amendment and California Constitution and HEERA. An ordinary rally during negotiations by a large group of angry employees could well be loud enough to distract someone inside during a meeting – but this is the price of free speech in our society. This is made clear by the seminal California Supreme Court case on this issue, *In Re Brown*, 9 Cal.3d 612, 619-20 (1973) and similar decisions. The *Brown* Court struck down convictions of leaders of a loud demonstration at a university campus for having disturbed classes. The Court held a statute banning disturbing the peace could not under the state and federal constitutions be applied against these demonstrators because there was no showing they were solely trying to make noise to disturb rather than in part engaging in communication:

The Attorney General seeks to preserve the convictions of violating section 415 on the basis of the language in that section prohibiting "maliciously and wilfully disturbing the peace or quiet . . . by loud or unusual noise." He states that there is substantial evidence that petitioners made loud noises which disrupted class and campus functions. The statute, however, cannot be interpreted consistent with the First Amendment and traditional views as making criminal all loud shouting or cheering which disturbs and is intended to disturb persons. When the word "noise" in the statute is properly construed consistent with the First Amendment and traditional views, it encompasses communications made in a loud manner only when there is a clear and present danger of violence or when the communication is not intended as such but is merely a guise to disturb persons.

In light of this caselaw, you should narrow the two sections banning “disruption” and “interference” to merely regulate those activities posing a risk of violence or noise intended solely to disturb rather than engage in speech.

REQUESTS FOR INFORMATION: Does UCB believe that *In re Brown* is no longer good law or somehow is inapplicable to one or more of its facilities? If so, please set forth the basis for such belief. Please answer our questions above about how UCB defines “disruption” and “interference”.

Second, the amplification provisions are unconstitutional because they apply to even a single bullhorn in an area where there is already noise, making them fatally overbroad. Sound amplification and drumming has repeatedly been found constitutionally-protected against pre-approval requirements.ⁱ Amplification is often required when meeting outside due to competing sources of noise, just to stay at the same decibel level as these sources in order to be heard by attendees. Constitutional protection for speech means UCB cannot ban amplification for speech not exceeding other noise sources which UCB allows on its property (such as large trucks and leafblowers – but our members report frequently hearing such sounds at UCB). Some outdoor meeting areas are so large that attendees at one end of the area cannot hear speakers at the other end, even if they speak loudly, unless the speech is amplified. Using amplification for outdoor meetings is within our HEERA rights also. The policies at several other UC facilities grant advance permission to use amplification during the midday hours when many people are on lunch, and we recommend UCB do so as well (as you have already done for student groups on Sproul Plaza). We note that we have repeatedly used a bullhorn at our rallies at UCB without prior permission but without complaint by UC police or other officials, proving a single bullhorn in most situations on the UCB campus does not truly interfere with UCB operations.

Third, these amplification provisions are further unconstitutional because UCB decision-makers have no time limits on how long their decisions will take on applications to use amplified sound,ⁱⁱ and there are no substantive standards they must follow (so we have no idea when and whether a request will be granted).ⁱⁱⁱ Other locations in the UC system in their policies generally provide some guidance in the form of decibel levels, such as UCSD. Moreover, some like UCSD recognize their constitutional duty to factor in competing noise in the background.

It is urgent that UCB narrow these provisions and if you persist in banning some amplification without preapproval, provide some time limits for administrators’ responses to requests to use amplification and clearer standards for administrators to apply.

REQUEST FOR INFORMATION: Please provide us a copy of any guidelines which any UCB decisionmakers use in deciding upon requests to use amplification.

3. Impermissible Ban on Tabling by Unions

Reg. 351 provides in pertinent part: “Individuals that are not members of recognized campus organizations, the recognized student government and its agencies, official alumni groups, and colleges, schools, departments and other units of the Berkeley campus may stand to distribute non-commercial announcements, statements, materials, but may not set up a table, chair(s), or other display materials.” However, this complete ban is unnecessary and overbroad because a separate reg (352) bans any restricting of the flow of traffic with a table, so all that appears to be accomplished by the total ban in Reg 351 is better prevention of blocking. However, there is no need to go this far: picket signs could equally be used to block traffic by irresponsible picketers, yet are not banned. All that the tabling ban really accomplishes is preventing protestors from better informing their audience about mistakes by UC administrators by distributing literature rather than merely chanting and speeches. This is disappointing on the part of a university supposedly devoted to educating students on reading and writing (and indeed to celebrating the written word). More importantly, this tabling ban is contrary to HEERA and settled Ninth Circuit law: see, e.g., *ACLU v. City of Las Vegas*, 466 F.3d 784, 799 (9th Cir. 2006) (“We hold that the erection of tables in a public forum is expressive activity protected by our Constitution to the extent that the tables facilitate the dissemination of First Amendment speech.”). Finally, this Reg has long gone unenforced against us during the many times we have had a card table at our rallies on UCB campus, confirming that a table does not generally in practice interfere with passage on a campus with as much space as UCB’s.

4. Impermissible Ban on Chalking Sidewalks

Reg 361 states in relevant part: “Except as permitted herein, no posters, handbills, or any other form of announcement or statement may be placed on or against, attached to, or written on any structure or natural feature of the campus including, but not limited to *** the surface of walkways or roads Nor may any chalk, paint or permanent markings be made on such structures.” However, by contrast, UCSD allows chalking so long as it is placed in an area without any overhang where eventually the rain will clean it up. UCB should at least allow this much chalking, and should go further and allow it without the overhang restriction for groups such as us willing to commit to cleaning up and with the resources to do so. Constitutional law scholars have opined that chalking is protected at least when public funds need not be used to clean up.^{iv}

CONCLUSION

Our bargaining proposal on all the issues in this memo is that UCB simply copy UCSB’s policy (copy attached) except for its ban on leafletting vehicles. The above-cited provisions

of UCB Regs and UCOP threats of discipline and banning are causing UPTe to reconsider many of its plans for protesting UC's employment practices in the near future. This chilling effect is an irreparable harm warranting preliminary injunctive relief from the courts.^v Accordingly, we need UCB to assure us it will not seek to enforce the provisions challenged above while we are bargaining over these issues, nor without at least 30 days' prior notice that they will be enforced.

We request UCB allow our deadline for grieving these problems to be tolled until a meeting between the parties can occur, in order to avoid (for both parties' benefit) potentially-unnecessary grievance paperwork under three contracts.

Thank you for your prompt attention to these matters.

ⁱ See, e.g., *Cuviello v. City of Vallejo*, 944 F.3d 816, 825 (9th Cir. 2019)(striking down requirement for preapproval of all amplification, noting "The United States Constitution and California Constitution protect bullhorns, and other sound-amplifying devices, as 'indispensable instruments' of public speech. *Saia v. People of State of New York*, 334 U.S. 558, 561, 68 S. Ct. 1148, 92 L. Ed. 1574 (1948); *Wollam v. City of Palm Springs*, 59 Cal. 2d 276, 29 Cal. Rptr. 1, 379 P.2d 481, 485 (Cal. 1963). In a crowded park or bustling intersection, where a single voice is easily drowned out, volume enables speech. See *Wollam*, 379 P.2d at 486. A restriction on volume, then, can effectively function as a restriction on speech. *Saia*, 334 U.S. at 561-62; *Wollam*, 379 P.2d at 486 ('The right of free speech necessarily embodies the means used for its dissemination because the right is worthless in the absence of a meaningful method of its expression.'")

ⁱⁱ See, e.g., *Long Beach Lesbian & Gay Pride, Inc. v. City of Long Beach*, 14 Cal. App. 4th 312, 332 (1993)("Plaintiffs' primary grievance is with the failure to require a decision within a specific time after the application is made. Plaintiffs do not purport, or ask us, to dictate what a reasonable, acceptable time is. They only complain that to leave the matter open-ended impermissibly places the fate of a parade application in official limbo, both chilling and freezing the applicant's free speech intentions and expectations. The City has not contested the legal proposition that avoidance of limbo requires a deadline for action following application. We believe the authorities cited above support that requirement. Accordingly, Chapter 5.60's failure to include such an express limit is improper.").

ⁱⁱⁱ See, e.g., *Smith v. County of Los Angeles*, 24 Cal. App. 4th 990, 999 (1994)("The Supreme Court has repeatedly held that an ordinance " "which . . . makes the peaceful enjoyment of freedoms which the Constitution guarantees contingent upon the uncontrolled will of an official--as by requiring a permit or license which may be granted or withheld in the discretion of such official--is an unconstitutional censorship or prior restraint upon the enjoyment of those freedoms." " (*FW/PBS, Inc. v. City of Dallas*, supra, 493 U.S. at p. 226 [citing *Shuttlesworth v. City of Birmingham* (1969) 394 U.S. 147, 151) Addressing the constitutionality of a parade permit requirement, *Shuttlesworth* held "that a law subjecting the exercise of First Amendment freedoms to the prior restraint of a license, without narrow, objective, and definite standards to guide the licensing authority, is unconstitutional." (394 U.S. at pp. 150-151 [22 L.Ed.2d at p. 167]").

^{iv} See, e.g., Prof. Marie A. Failing, "Talking Chalk: Defacing the First Amendment in the Public Forum", 115 *W. Va. L. Rev.* (2012)(available at: <https://researchrepository.wvu.edu/wvllr/vol115/iss2/8>); F. LoMonte & P. Fiku, "Watch Where You Chalk, 'Cause the Sidewalks Talk: The First Amendment and Ephemeral 'Occupations' of Public Property", 47 *Vt. L. Rev.* (2023)(available at <https://brechner.org/wpcontent/uploads/2023/11/Watch-Where-You-Chalk-Cause-theSidewalks-Talk-The-First-Amendment-andEphemeral-Occupations-of-Public-Property.pdf>).

^vSee, e.g., *Ketchens v. Reiner*, 194 CA3d 470, 480 (1987)("The question is not a close one. 'The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.' (*Elrod v. Burns* (1976) 427 U.S. 347, 373)").



Campus Access Regulations for Employee Organizations

Some of our employees are organized into fourteen collective bargaining units e.g., clerical, service, technical. Each of these units is represented by an employee organization, e.g., IBT-Teamsters, AFSCME, UPTE. Some of these employee organizations have also expressed an interest in representing groups of non-represented employees. The State law that governs collective bargaining rights for University employees (Higher Education Employer-Employee Relations Act) guarantees employees and employee organizations certain rights to conduct representational business, subject to the reasonable regulations by the University. Such activities include meetings, distribution of literature, and other related communications. These rights are generally called "access" rights, which, in a practical sense, means the law protects the employee organization's access to employees it wishes to represent. Unions are also provided certain limited access rights to non-represented employees.

Employee representatives are knowledgeable and generally cooperative regarding access regulations, but questions and issues may arise. Please feel free to contact one of the Employee & Labor Relations staff for assistance.

I. Purpose and Scope

- A. The following campus access regulations provide guidance to allow employee organizations reasonable access to University grounds, facilities, and employees while ensuring no disruption to University activities and programs or interference in restricted areas.
- B. These regulations do not apply to employee organizations or their representatives when they are representing employees in grievances filed under a collective bargaining agreement (contract) or complaints pursuant to the Personnel Policies for Staff Members (PPSM). In such cases, the appropriate contract or PPSM provisions shall apply. In the event these regulations conflict with a contract or PPSM, the contract or PPSM will control.
- C. The University reserves the continued right to add to, delete from, or modify these regulations pursuant to its rights under the Higher Education Employer-Employee Relations Act (HEERA) and applicable collective bargaining agreement provisions.
- D. The University reserves the right to deny, in whole or in part, any request for access, as appropriate, provided that any restrictions on access are consistent with the University's rights under the HEERA and applicable collective bargaining agreement provisions.



II. Definitions

- A. University- As used in these regulations, the term University or campus includes the Santa Barbara campus property as well as all University facilities and properties operated by the campus, including facilities rented by the University or otherwise under University control.
- B. Employee Organizations – Independent organizations which exist for the purpose, in whole or in part, of dealing with University management concerning matters within the scope of representation under HEERA.
- C. Representative – Any person acting in the interest of or on behalf of an employee organization/union, including both University and non-University personnel unless otherwise specifically exempted.
- D. Employee Organization Business – All legal activities of an employee organization/union including, but not limited to, meetings, dues collections, soliciting, distributing, and organizing.
- E. Restricted Areas – Areas designated for Official University Activities only. The activities of employee organizations and their representatives are restricted in these areas. Restricted areas include, but are not limited to:
 - 1. Private residential areas of students, including dining halls and kitchens.
 - 2. Food preparation areas in University facilities.
 - 3. Academic and research areas while instruction, counseling/advising, or research is in progress.
 - 4. Research areas when the health, safety, or security of individuals or the research could be adversely affected.
 - 5. Confidential and/or secured work areas.
 - 6. Patient care and clinical areas in Student Health, including student/patient medical records areas.
- F. Public Areas- For the purpose of these access regulations, public areas of the campus grounds are defined as the outdoor areas of the campus (lawns, patios, plazas) that are adjacent to campus buildings and parking lots.

III. General Rules

- A. Employee organizations and their representatives are generally permitted to conduct employee organization business in non-restricted areas during employees' non-work time. For the purposes of these regulations only, established rest periods are not considered work time. Employee organizations and their representatives are strictly prohibited from conducting employee organization business during an employee's work time. The conducting of employee organization business must not be disruptive to other employees who are on their work time.

- B. Employee organizations are required to provide the Manager, Employee & Labor Relations or designee with names and contact information of representatives engaged in representational activities on the Santa Barbara campus or properties. Employee organizations are required to provide accurate and timely updates to Employee & Labor Relations as changes are made in representation.
- C. Representatives of employee organizations on University property are required to identify themselves upon request by University officials acting in the performance of their duties. Additionally, the University official may request employee organization representatives to state the nature of their visit.
- D. Employee organizations and their representatives are prohibited from using University resources, facilities and equipment for employee organization business, including, but not limited to, automobiles, computers, projectors, office supplies, telephones, fax machines, and photocopy and reproduction equipment.

IV. Time, Place and Manner Regulations

- A. Employee organizations are subject to the following access regulations that provide for non-interference with University functions and reasonable protection to persons from practices that would make them involuntary audiences.
 - 1. In the event that the architecture of a building includes entrances with stairs or landings, no distribution may take place on the stairs or landings. (This restriction applies to both landings in front of the main entrance to the Davidson Library.)
 - 2. All activity in public areas must be conducted in such a way that traffic is not impeded and the normal activities in classrooms and offices are not disrupted.
 - 3. Tables or moveable stands may not be placed in areas where passages to any entrance or walkways are blocked, where the free flow of pedestrian traffic is restricted, or where emergency fire lanes are blocked.
 - 4. Sound amplification should not interfere with operations of the campus.
 - 5. Interference with ingress and egress to buildings and University functions or activities; disturbance of offices, laboratories, classrooms, study facilities, and patient care and research areas; and harm to University property are prohibited.
 - 6. Involuntary Audiences- Persons on University property have the right to be protected from becoming part of an audience for an event or activity against their will.
- B. Handbilling – Employee organizations are permitted to distribute free informational materials relating to the organizations' representational purpose to consenting employees in public areas of campus. Such distribution shall only take place outside of all works areas and should only occur outside recipients' scheduled work time.



1. Literature may be handed to interested persons or posted appropriately in designated areas for their information, but it may not simply be left unattended on campus grounds or facilities.
2. No flyers, announcements or literature of any kind may be placed on automobiles (e.g., under the windshield wipers) on University property.

V. Meeting Rooms

- A. Employee organizations and their representatives may request to use general purpose meeting rooms to conduct meetings for gatherings, solicitations, and events when such meeting rooms are not in use for University purposes. Employee organizations should contact Employee & Labor Relations for assistance in scheduling general purpose rooms.
- B. Employee organizations access to meeting rooms may be limited or curtailed based on operational needs. Employee organizations may be excluded from use of a meeting area if an alternate meeting area is provided in reasonable proximity.
- C. When costs are incurred for use of University facilities, employee organizations will bear such costs. Space rental or usage fees will be charged to employee organizations for use of facilities for which all users, other than student organizations, are charged. Labor, equipment, and other event related fees and charges will apply.

VI. Bulletin Boards

- A. Written materials may be posted on general purpose bulletin boards or pre-designated employee organization bulletin boards when the following criteria are met:
 1. Identification – letterhead or signature of responsible party and name of employee organization.
 2. Date – postings must be dated with the current month, day, and year of posting.
- B. Postings are subject to removal 30 calendar days from the date of posting.
- C. No literature or other materials may be affixed to doors, walls, floors, ceilings, elevators, light fixtures, trash cans, or stairways at any time.
- D. The use of bulletin boards which are not general purpose bulletin boards or pre-designated employee organization bulletin boards by employee organizations and their representatives is prohibited at all times.



VII. Mail

- A. Mail sent to University employees through the U.S. Postal Service, where postage has been pre-paid by the employee organization will be delivered to the employee in the normal manner.
- B. In locations where employee mailboxes exist, employee organizations and their representatives may reasonably use such boxes for distribution of mail, provided the boxes are not located in a confidential and/or restricted work area. If employee mailboxes are located in a confidential and/or restricted area, arrangements should be made with the Employee & Labor Relations office to distribute the information.
- C. Use of the campus mail system for employee organization business is strictly prohibited.

VIII. Employee Lounges and Break Areas

Where employee lounges and break areas exist in non-restricted areas, one-to-one solicitation of consenting employee is permitted. Employee lounges and break areas are not generally available to reserve for meetings. Where permitted, employee organizations usage of employee lounges and break areas for meetings must be approved, in advance, by Employee & Labor Relations.

Where the information presented in this document or elsewhere on this site is in conflict with University policies, procedures or applicable collective bargaining agreements, the terms of those University policies, procedures and agreements shall govern.

Exhibit M(1)



Campus Access Regulations for Employee Organizations

Some of our employees are organized into fourteen collective bargaining units e.g., clerical, service, technical. Each of these units is represented by an employee organization, e.g., IBT-Teamsters, AFSCME, UPTE. Some of these employee organizations have also expressed an interest in representing groups of non-represented employees. The State law that governs collective bargaining rights for University employees (Higher Education Employer-Employee Relations Act) guarantees employees and employee organizations certain rights to conduct representational business, subject to the reasonable regulations by the University. Such activities include meetings, distribution of literature, and other related communications. These rights are generally called "access" rights, which, in a practical sense, means the law protects the employee organization's access to employees it wishes to represent. Unions are also provided certain limited access rights to non-represented employees.

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- C. The University reserves the continued right to add to, delete from, or modify these regulations pursuant to its rights under the Higher Education Employer-Employee Relations Act (HEERA) and applicable collective bargaining agreement provisions.
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- C. Representative – Any person acting in the interest of or on behalf of an employee organization/union, including both University and non-University personnel unless otherwise specifically exempted.
- D. Employee Organization Business – All legal activities of an employee organization/union including, but not limited to, meetings, dues collections, soliciting, distributing, and organizing.
- E. Restricted Areas – Areas designated for Official University Activities only. The activities of employee organizations and their representatives are restricted in these areas. Restricted areas include, but are not limited to:
 - 1. Private residential areas of students, including dining halls and kitchens.
 - 2. Food preparation areas in University facilities.
 - 3. Academic and research areas while instruction, counseling/advising, or research is in progress.
 - 4. Research areas when the health, safety, or security of individuals or the research could be adversely affected.
 - 5. Confidential and/or secured work areas.
 - 6. Patient care and clinical areas in Student Health, including student/patient medical records areas.
- F. Public Areas- For the purpose of these access regulations, public areas of the campus grounds are defined as the outdoor areas of the campus (lawns, patios, plazas) that are adjacent to campus buildings and parking lots.

III. General Rules

- A. Employee organizations and their representatives are generally permitted to conduct employee organization business in non-restricted areas during employees' non-work time. For the purposes of these regulations only, established rest periods are not considered work time. Employee organizations and their representatives are strictly prohibited from conducting employee organization business during an employee's work time. The conducting of employee organization business must not be disruptive to other employees who are on their work time.



- B. Employee organizations are required to provide the Manager, Employee & Labor Relations or designee with names and contact information of representatives engaged in representational activities on the Santa Barbara campus or properties. Employee organizations are required to provide accurate and timely updates to Employee & Labor Relations as changes are made in representation.
- C. Representatives of employee organizations on University property are required to identify themselves upon request by University officials acting in the performance of their duties. Additionally, the University official may request employee organization representatives to state the nature of their visit.
- D. Employee organizations and their representatives are prohibited from using University resources, facilities and equipment for employee organization business, including, but not limited to, automobiles, computers, projectors, office supplies, telephones, fax machines, and photocopy and reproduction equipment.

IV. Time, Place and Manner Regulations

- A. Employee organizations are subject to the following access regulations that provide for non-interference with University functions and reasonable protection to persons from practices that would make them involuntary audiences.
 - 1. In the event that the architecture of a building includes entrances with stairs or landings, no distribution may take place on the stairs or landings. (This restriction applies to both landings in front of the main entrance to the Davidson Library.)
 - 2. All activity in public areas must be conducted in such a way that traffic is not impeded and the normal activities in classrooms and offices are not disrupted.
 - 3. Tables or moveable stands may not be placed in areas where passages to any entrance or walkways are blocked, where the free flow of pedestrian traffic is restricted, or where emergency fire lanes are blocked.
 - 4. Sound amplification should not interfere with operations of the campus.
 - 5. Interference with ingress and egress to buildings and University functions or activities; disturbance of offices, laboratories, classrooms, study facilities, and patient care and research areas; and harm to University property are prohibited.
 - 6. Involuntary Audiences- Persons on University property have the right to be protected from becoming part of an audience for an event or activity against their will.
- B. Handbilling – Employee organizations are permitted to distribute free informational materials relating to the organizations' representational purpose to consenting employees in public areas of campus. Such distribution shall only take place outside of all works areas and should only occur outside recipients' scheduled work time.



1. Literature may be handed to interested persons or posted appropriately in designated areas for their information, but it may not simply be left unattended on campus grounds or facilities.
2. No flyers, announcements or literature of any kind may be placed on automobiles (e.g., under the windshield wipers) on University property.

V. Meeting Rooms

- A. Employee organizations and their representatives may request to use general purpose meeting rooms to conduct meetings for gatherings, solicitations, and events when such meeting rooms are not in use for University purposes. Employee organizations should contact Employee & Labor Relations for assistance in scheduling general purpose rooms.
- B. Employee organizations access to meeting rooms may be limited or curtailed based on operational needs. Employee organizations may be excluded from use of a meeting area if an alternate meeting area is provided in reasonable proximity.
- C. When costs are incurred for use of University facilities, employee organizations will bear such costs. Space rental or usage fees will be charged to employee organizations for use of facilities for which all users, other than student organizations, are charged. Labor, equipment, and other event related fees and charges will apply.

VI. Bulletin Boards

- A. Written materials may be posted on general purpose bulletin boards or pre-designated employee organization bulletin boards when the following criteria are met:
 1. Identification – letterhead or signature of responsible party and name of employee organization.
 2. Date – postings must be dated with the current month, day, and year of posting.
- B. Postings are subject to removal 30 calendar days from the date of posting.
- C. No literature or other materials may be affixed to doors, walls, floors, ceilings, elevators, light fixtures, trash cans, or stairways at any time.
- D. The use of bulletin boards which are not general purpose bulletin boards or pre-designated employee organization bulletin boards by employee organizations and their representatives is prohibited at all times.



VII. Mail

- A. Mail sent to University employees through the U.S. Postal Service, where postage has been pre-paid by the employee organization will be delivered to the employee in the normal manner.
- B. In locations where employee mailboxes exist, employee organizations and their representatives may reasonably use such boxes for distribution of mail, provided the boxes are not located in a confidential and/or restricted work area. If employee mailboxes are located in a confidential and/or restricted area, arrangements should be made with the Employee & Labor Relations office to distribute the information.
- C. Use of the campus mail system for employee organization business is strictly prohibited.

VIII. Employee Lounges and Break Areas

Where employee lounges and break areas exist in non-restricted areas, one-to-one solicitation of consenting employee is permitted. Employee lounges and break areas are not generally available to reserve for meetings. Where permitted, employee organizations usage of employee lounges and break areas for meetings must be approved, in advance, by Employee & Labor Relations.

Where the information presented in this document or elsewhere on this site is in conflict with University policies, procedures or applicable collective bargaining agreements, the terms of those University policies, procedures and agreements shall govern.

Exhibit M(2)



Andy Kahn <andy@upte.org>

Fwd: UPTE Concerns about UCSB Speech Policy

Andy Kahn <andy@upte.org>
To: Andy Kahn <andy@upte.org>

Fri, Sep 27, 2024 at 12:10 PM

Andy Kahn, UPTE General Counsel
andy@upte.org
2855 Telegraph Ave. #602
Berkeley CA 94705
(510) 849-7025

----- Forwarded message -----

From: **Sydney Roberts** <sydney.roberts@ucsb.edu>
Date: Fri, Sep 27, 2024 at 10:50 AM
Subject: Re: UPTE Concerns about UCSB Speech Policy
To: Andy Kahn <andy@upte.org>
CC: Aaron Rosenfield <arosenfield@upte.org>, Sam F <samueldfeinstein@gmail.com>, Stacy Robinson <stacy.robinson@hr.ucsb.edu>

Hi Andy,

I see that language in the footer of the document and appreciate your follow-up. That language was meant to apply to future changes to law, CBAs, and/or policy that might conflict with that document, which was drafted in 2016. The UC Santa Barbara Campus Regulations have been in effect, largely unchanged, for decades, and were carefully considered in 2016 when our Access Regs for Unions were created. I reached out to and confirmed with UCSB's prior Labor Relations Manager that she drafted our Access Regs for Unions with the intent that, where the broader UC Santa Barbara Campus Regulations applicable to non-affiliates addressed the same subjects, the language in the Access Regs for Unions would apply. This was done to ensure that the access rights of exclusive representatives were honored, with the understanding that the reasonableness of a time, place and manner restriction must take into account the HEERA rights of exclusive representatives. Where the HEERA rights of exclusive representatives would not impact the reasonableness of a restriction on non-affiliate conduct in the UC Santa Barbara Campus Regulations - for example the prohibition on encampments - such language applies to exclusive representatives.

So, to be clear, no, the 25-foot limit does not apply to exclusive representatives, nor do the other provisions in the UC Santa Barbara Campus regulations where those subjects are specifically addressed in our Union Access Regs.

With respect to the issue of placing flyers on automobiles, we believe banning this conduct in University parking lots is reasonable and permissible. In any event, having provided the legally-required notice of this restriction to all unions over 8 years ago without objection - and notably after the cases you cited were decided - we do not agree that we have an obligation to reconsider or meet and confer regarding this restriction. However, we would be happy to meet with you to discuss this issue and learn about any specific concerns you have about this restriction and its impact, if any, on the rights of exclusive representatives to their members.

Please reach out any time if you have questions or would like to discuss.
Thank you and have a nice weekend,
Sydney

On Fri, Sep 20, 2024 at 2:08 PM Andy Kahn <andy@upte.org> wrote:

Our concerns are as follows: (1) The 2016 document states: "Where the information presented in this document or elsewhere on this site is in conflict with University policies, procedures or applicable collective bargaining agreements, the terms of those University policies, procedures and agreements shall govern." That leaves us wondering if the new policy's 25-foot limit and other provisions we challenged now apply to us. Please confirm they do not. (2) One issue where there's complete alignment between the 2016 document and the new policy is on UCSB banning fliers on windshields. Please advise why UCSB believes such ban is permissible given the caselaw I cited and UPTE's willingness to bear the burden of cleaning up should drivers be so dumb as to risk littering citations (and for employees, employment discipline for littering). Thanks.



Andy Kahn, UPTE General Counsel
andy@upte.org
2855 Telegraph Ave. #602
Berkeley CA 94705
(510) 849-7025

On Fri, Sep 20, 2024 at 1:27 PM Sydney Roberts <sydney.roberts@ucsb.edu> wrote:

Hello Andy,

Thank you for your outreach.

We understand that the exclusive representatives of UCSB employees have rights beyond those set forth for other non-affiliates in the Regents' Regulations and the UC Santa Barbara Campus Regulations that you referenced. Those rights are addressed in the attached document, "Campus Access Regulations for Employee Organizations."

Formal notice of these regulations was provided to all UC unions, including UPTE, on July 19, 2016, and the regulations went into effect on the UC Santa Barbara campus on September 6, 2016. A copy of the union notices provided are also attached. These regulations have not been changed since that time.

I hope this provides the clarification you requested and addresses your concerns.

Please reach out to me if you have any questions or if concerns remain. I would be happy to speak with you.
Thanks and have a great weekend.
Sydney

On Thu, Sep 5, 2024 at 2:55 PM Andy Kahn <andy@upte.org> wrote:

Attached please find UPTE's demand to bargain over these issues at your campus and not enforce certain provisions pending a discussion, along with an RFI. Thanks for considering these issues.

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Andy Kahn, UPTE General Counsel
andy@upte.org
(510) 849-7025

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Sydney Roberts
Director of Employee & Labor Relations
Office: (805) 893-4210
Email: sydney.roberts@ucsb.edu
UC SANTA BARBARA

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UC SANTA BARBARA



PROOF OF SERVICE

I declare that I am a resident of or employed in the County of _____,
State of _____. I am over the age of 18 years. The name and address of my
Residence or business is _____

On _____, I served the _____
(Date) (Description of document(s))

_____ in Case No. _____.
(Description of document(s) continued) PERB Case No., if known)

on the parties listed below by (check the applicable method(s)):

placing a true copy thereof enclosed in a sealed envelope for collection and
delivery by the United States Postal Service or private delivery service following
ordinary business practices with postage or other costs prepaid;

personal delivery;

electronic service - I served a copy of the above-listed document(s) by
transmitting via electronic mail (e-mail) or via e-PERB to the electronic service
address(es) listed below on the date indicated. *(May be used only if the party
being served has filed and served a notice consenting to electronic service or has
electronically filed a document with the Board. See PERB Regulation 32140(b).)*

(Include here the name, address and/or e-mail address of the Respondent and/or any other parties served.)

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct and that this declaration was executed on _____,
(Date)
at _____.
(City) (State)

brianna castro

(Type or print name)

(Signature)