



Student Union Assembly (SUA), Office of the Chair

1156 High Street, Santa Cruz, CA 95064  
Student Union Assembly 2<sup>nd</sup> floor, c/o Soar

March 12<sup>th</sup>, 2015

To: Clifford Golz, Student Conduct Officer  
Alma Sifuentes, Associate Vice Chancellor, Campus Life/Dean of Students  
Alison Galloway, Campus Provost/Executive Vice Chancellor  
George Blumenthal, Chancellor

RE: Violation of the Right to Due Process of the Highway 17 Six

Section 1 of the Fourteenth Amendment to the United States Constitution proclaims that “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, **without due process of law**” (emphasis added). As a California public institution, the University of California is subject to the Fourteenth Amendment.

On Tuesday, March 3, 2015, six undergraduate UCSC students, henceforth referred to as the “Highway 17 Six,” engaged in a protest on Highway 17. They were arrested, charged with felonies (later dropped) and misdemeanors, and issued emergency suspensions by UCSC.

The Student Union Assembly recognizes and acknowledges that under Section 53.00 of University Policy, which itself draws authority from Sections 626.4 and 626.6 of the California Penal Code, the Chancellor or his designee may issue an emergency suspension without a prior hearing during a state of emergency.

However, as Section 53.00 itself notes, the Chancellor’s power to issue emergency suspensions is limited by the California Supreme Court ruling *Braxton v. Municipal Court* (1973) 10 Cal.3d 138. Under *Braxton*, a campus official issuing a suspension must provide “notice and a hearing on alleged misconduct before the issuance of any exclusion order unless the campus administrator reasonably finds that the situation is such an exigent one that the continued presence on the campus of the person from whom consent to remain is withdrawn constitutes **a substantial and material threat of significant injury to persons or property.**”

The emergency suspensions issued to the Highway 17 Six did not meet the *Braxton* standard. The individuals did not engage in violent acts, have not been charged with violent crimes, did not and have not advocated for violence against persons or property, and so do not present a substantial and material threat to the aforementioned.



Student Union Assembly (SUA), Office of the Chair

1156 High Street, Santa Cruz, CA 95064  
Student Union Assembly 2<sup>nd</sup> floor, c/o Soar

The Student Union Assembly further recognizes and acknowledges that the University has the jurisdiction over the off campus conduct of its students.<sup>1</sup> However, this does not preclude the requirement of Section 626.4 of the California Penal Code that the recipient of an emergency suspension has “has willfully disrupted the orderly operation of the campus.” The aforementioned protest took place on Highway 17, over two miles away from campus, and the thousands of students who came to campus that day can attest that the protest did not disrupt campus operations.

Finally, Section 53.10 only allows the Chancellor to issue emergency suspensions during a state of emergency. University policy defers<sup>2</sup> to the University of California system-wide *Policy on Safeguards, Security and Emergency Management* for the requirements for declaring a state of emergency. Under the *Policy*, the Chancellor may declare a state of emergency when:

Emergent conditions exist on or within the vicinity of the campus as a result of a natural or man-made disaster, a civil disorder which poses the threat of serious injury to persons or damage to property, or based on other seriously disruptive events; and

Extraordinary measures are required immediately to avert, alleviate, or repair damage to University property or to maintain the orderly operation of the campus.<sup>3</sup>

As noted above, the protest did not occur “within the vicinity of the campus,” nor was immediate action necessary to “to avert, alleviate, or repair damage to University property or to maintain the orderly operation of the campus.” Regardless, it appears that the Chancellor did *not* declare a state of emergency on March 3, and as a result there was no authority to issue emergency suspensions.

In conclusion, the Student Union Assembly asserts that the emergency suspensions issued to the Highway 17 Six were a violation of University Policy, were inconsistent with the California Penal Code, and ran contrary to the Fourteenth Amendment guarantee of the right to due process, and are therefore unconstitutional.

---

<sup>1</sup> University Policy, Section 101.10

<sup>2</sup> University Police, Section 51.00

<sup>3</sup> *Policy on Safeguards, Security and Emergency Management*, University of California, Office of the President, <http://policy.ucop.edu/doc/3500507/SafeSecEmergMngmt>



Student Union Assembly (SUA), Office of the Chair

1156 High Street, Santa Cruz, CA 95064  
Student Union Assembly 2<sup>nd</sup> floor, c/o Soar

The Student Union Assembly condemns the suspensions of the Highway 17 Six and demands that they be lifted by campus administration. Furthermore, SUA demands that any further sanctions against the Highway 17 Six, or against any students engaging in activism, be issued *only* after students are provided a hearing and *only* under circumstances consistent with all relevant laws and policies. SUA finally demands that the right to due process be respected at all stages of the student judicial process.

Sincerely,  
Justin Lardinois  
Chair, Student Union Assembly.

cc: Highway 17 Six