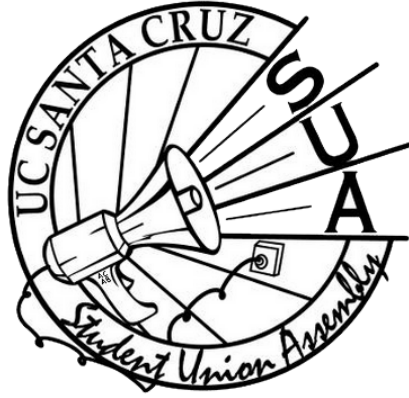


# Student Union Assembly of UC Santa Cruz

Winter 2015



## ***Resolution Denouncing the UCSC Administration Unconstitutionally Denying the Right to Due Process to the Highway 17 Six***

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**Sponsors:** Dylan Quitiquit Hoffman (Porter College Appointed Representative), Adham Taman (Porter College Appointed Representative), Suini Torres (Oakes College Appointed Representative)

**WHEREAS,** The Fifth Amendment to the United States Constitution states that "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, **nor be deprived of life, liberty, or property, without due process of law**; nor shall private property be taken for public use, without just compensation."<sup>1</sup>;

**WHEREAS,** The 14th Amendment to the United States Constitution states 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; nor deny to any person within its jurisdiction the equal protection of the laws."<sup>2</sup>

**WHEREAS,** The University of California is a branch of the California State Government and thus is bound to comply with the 14th amendment of the US Constitution in administering judicial punishment;

**WHEREAS,** In the Supreme Court Case *Braxton v. Municipal Court* (1973) the Supreme Court concluded that University Administration could suspend the right to due process and administer suspension under the very strict circumstances as follows: "[. . .] hence we interpret section 626.4 to require 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situation is such an exigent one that the continued presence on the campus of the person from whom consent to remain is withdrawn constitutes a substantial and material threat of significant injury to persons or property. (§ 626.4, subd. (c).)"<sup>3</sup>

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<sup>1</sup> [http://www.archives.gov/exhibits/charters/constitution\\_transcript.html](http://www.archives.gov/exhibits/charters/constitution_transcript.html)

<sup>2</sup> <https://www.law.cornell.edu/constitution/amendmentxiv>

<sup>3</sup> <http://scocal.stanford.edu/opinion/braxton-v-municipal-court-30239>

**WHEREAS**, The American Civil Liberties Union advises students that, “Under the United States and California Constitutions, California’s public schools must provide students due process of law before imposing fines or restitution, and before suspending or expelling them for misconduct. “Due process” means that you must be provided with notice of the charges and evidence against you and an opportunity to challenge those charges in fair proceedings. Even for a suspension of ten days or less, a public university or college student is entitled to:

- An oral or written notice of the charges against the student,
- An explanation of the evidence against the student,
- An opportunity to contest those charges, and
- A fair and unbiased adjudicator.”,

and these guidelines were not followed by the University Judicial Services in this case.<sup>4</sup>;

**WHEREAS**, Six UCSC Students were arrested following a demonstration on the Highway 17 on March 3rd, 2015 and finally charged with two misdemeanors: Public Nuisance and Resisting Arrest<sup>5</sup>;

**WHEREAS**, Neither of these two charges are violent charges and this was a peaceful action;

**WHEREAS**, These students were immediately issued a suspension for their actions without due process of notice and a judicial hearing, representing an unconstitutional abridgement of their rights;

**WHEREAS**, The demonstration was peaceful and did not constitute a ‘substantial and material threat of significant injury to persons or property’ on campus and thus does not warrant the suspension of the student’s right to due process. Additionally the demonstration was off campus. The administration in this case acts outside of this very narrow interpretation of these special privileges;

**WHEREAS**, this suspension denies these individuals to access to their belongings, necessary health care, food, and shelter through finals week of the Winter 2015 quarter, resulting in the serious potential of academic failure due to lack of access to their educations;

**WHEREAS**, This type of harsh punishment holds zero precedent and is being denounced by both undergraduate and graduate student populations, as well as faculty, as existing to intimidate student activists and discourage disruptive action;

**WHEREAS**, Our University claims to be the “Original Authority on Questioning Authority” and yet attempts to suffocate student activism with unconstitutionally administered judicial charges;

**THEREFORE BE IT RESOLVED**, That the Student Union Assembly of the University of California, Santa Cruz will condemn the administration’s issuance of an open ended suspension without respecting these students right to due process and that the Student Union Assembly Chair, Justin Lardinois, will write a letter a strongly condemning this judicial action by no later than March 15th, 2015.

**THEREFORE BE IT FURTHER RESOLVED**, That the SUA shall stand in firm opposition to administration’s student judicial services use of intimidation through judicial charges, particularly when the way those charges are administered stands as an abridgement of the constitutional rights of students. The SUA will support an investigation into Student Judicial Services on behalf of the rights of these students if one occurs.

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<sup>4</sup> <https://www.aclunc.org/our-work/know-your-rights/civil-disobedience-public-universities>

<sup>5</sup> <http://www.ksbw.com/news/uc-santa-cruz-suspends-6-students/31641800>