

## INFORMATION ON RIGHTS AND RESPONSIBILITIES CONCERNING PEACEFUL PROTEST AT UC DAVIS

### 1. UC Davis Free Speech Protections

Free exchange of ideas is the very foundation of a successful university community.

The “Central Functions” of the University are “to provide and sustain an environment conducive to sharing, extending, and critically examining knowledge and values, and to furthering the search for wisdom.” (Academic Personnel Manual (“APM”), Policy 015; <http://www.ucop.edu/acadpersonnel/apm/apm-015.pdf>)

“The principles of academic freedom protect freedom of inquiry and research, freedom of teaching, and freedom of expression and publication. These freedoms enable the University to advance knowledge and to transmit it effectively to its students and to the public.” (APM 010, “Academic Freedom,” <http://www.ucop.edu/acadpersonnel/apm/apm-010.pdf>)

“We affirm the right of freedom of expression within our community and affirm our commitment to the highest standards of civility and decency towards all. We recognize the right of every individual to think and speak as dictated by personal belief, to express any idea, and to disagree with or counter another’s point of view, limited only by university regulations governing time, place and manner. We promote open expression of our individuality and our diversity within the bounds of courtesy, sensitivity and respect.” (UC Davis Principles of Community; <http://occr.ucdavis.edu/poc/>)

To this end, campus policies liberally support free speech, but do include limited “time, place and manner” regulations to protect the health and safety of the campus community and to ensure the ability of students, staff and faculty to accomplish the university’s mission. The limited regulations that have been developed concerning free speech are designed to ensure that such freedoms do not unduly infringe on the rights and freedoms of others.

### 2. Relevant UC Davis Time, Place and Manner Requirements

Relevant Davis campus policy is described in UC Davis Policy and Procedure (“UCDP&PM”) section 270-20, “Use and Reservation of University Properties/Event Arrangements,” (<http://manuals.ucdavis.edu/PPM/270/270-20.pdf>) , which describes the process by which University and non-University groups may request to reserve University facilities and the fees for any reservation which is granted. The general campus policy regarding use of University property is also described:

#### II. Policy

A. University properties shall be used only in accordance with the provisions described in UC Policies Applying to Campus Events, Organizations, and Students; Section 40.00, Policy on Use of University Properties.

B. Public expression in the form of freedom of speech and advocacy may be exercised on University properties at such times and places and in such a manner as is compatible with the use of the property and as follows:

1. Assures orderly conduct.
2. Avoids disruption or interference with University operations.
3. Allows for the free flow of persons and traffic.
4. Avoids disruption or interference with the ability of the University to carry out its responsibilities as an educational institution
5. Protects the rights of all individuals who use University properties.
6. Protects persons against practices that would make them involuntary audiences.
7. Assures the safety of all members of the University community.
8. Does not interfere with property entrances or exits.

C. Use of University properties for overnight camping is prohibited.

D. UCD departments and organizations (see Section 270-05), and non-University organizations meeting the criteria described in III.A.1, below, are eligible to reserve University properties.

In general, campus buildings are normally open for campus business between 7:00 a.m. and 5:30 p.m. (UCDP&PM section 360-30.VI.C.1.; <http://manuals.ucdavis.edu/PPM/360/360-30.pdf>) Certain university functions, and commercial enterprises leasing campus space, may have different business hours, which are generally posted at each such location.

Additional information concerning rights of expression and peaceful protest on campus are found in the campus brochure entitled "Freedom of Expression, Peaceful Protest, and Civil Disobedience on Campus: Rights and Responsibilities" ([http://csi.ucdavis.edu/forms/peaceful\\_protest.pdf](http://csi.ucdavis.edu/forms/peaceful_protest.pdf)), and website resources provided by the Office of Campus Community Relations (<http://occr.ucdavis.edu/poc/free-expression.html>) and the Center for Student Involvement ([http://campusunions.ucdavis.edu/?page\\_id=925](http://campusunions.ucdavis.edu/?page_id=925)).

### **3. Student Conduct Policies**

"As members of our academic community and of society at large, students have both rights and responsibilities, and are expected to comply with the general law, University policies, and campus regulations. The University's Standards of Conduct for Students prohibit conduct that impairs, interferes with, or obstructs its "missions, processes, and functions" of teaching, research, learning, and public service. See the UC "Policy on Student Conduct and Discipline," revised May 17, 2002, Sections 101.00 and 102.00." (<http://sja.ucdavis.edu/scs.html>)

Students may be disciplined for violating or attempting to violate the University of California Standards of Conduct for Students, which include, among others, the following:

#### **102.04**

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 student had knowledge or reasonably should have had knowledge that it was stolen.

**102.06**

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.

**102.13**

Obstruction or disruption of teaching, research, administration, disciplinary procedures, or other University activities.

**102.14**

Disorderly conduct.

**102.15**

Participation in a disturbance of the peace or unlawful assembly.

**102.16**

Failure to identify oneself to, or 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.

**4. Faculty Conduct Policies**

The Faculty Code of Conduct describes faculty rights and obligations, including the right to enjoy constitutionally protected freedom of expression. (Academic Personnel Manual ["APM"], Policy 015, Part I.) Faculty members are also subject to discipline for conduct in violation of the Faculty Code of Conduct. Types of "unacceptable conduct" described in the Code include the following (APM 015, Part II. C):

1. Intentional disruption of functions or activities sponsored or authorized by the University.
2. Incitement of others to disobey University rules when such incitement constitutes a clear and present danger that ... abuse against persons or property will occur ....
3. Unauthorized use of University resources or facilities on a significant scale for personal, ... [or] political ... purposes.
4. {H}arassment of another member of the University community, that interferes with that person's performance of University activities.

5. [H]arassment, against University employees on political grounds, ... or for other arbitrary or personal reasons.

Notwithstanding the Code, "like all other members of the University community, faculty members are subject to the general rules and regulations of the University such as those pertaining to parking, library privileges, health and safety, and use of University facilities." (APM 016, Section I)

#### **5. State regulations applying to individuals not affiliated with the University**

In 2009, pursuant to California Education Code 92440.5, regulations were adopted (5 CCR 100000 et seq.) to address the conduct of non-affiliates (persons who are not students, officers, or employees of the University of California) when that conduct is a threat to persons or property or constitutes interference with functions or activities of the University. Violation of these regulations is punishable as a misdemeanor. These regulations do not apply to the conduct of students, officers, or employees of the University; their conduct is governed by other University regulations.

Violation of any of these regulations is a misdemeanor.

#### **§ 100004. Approval for Activity on University of California Property**

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.

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#### **§ 100005. Camping and Storage of Personal Belongings**

No non-affiliate on University property shall, without authorization from a Designated University Official:

A. Camp, occupy camp facilities, use camp paraphernalia, or store personal property on University property.

B. Bring any tent or other housing structure on University property, or occupy any such tent or housing structure.

C. Set up a household or campsite on University property.

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E. Store personal possessions on University property. For purposes of this section, "storage of personal possessions" means leaving items unattended, that is, not in the owner's immediate

personal custody and control.

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#### **§ 100007. Curfew**

No non-affiliate shall enter or otherwise remain on University Property between the hours of midnight to 6:00 a.m., or at such other times as published or posted by the campus or University location. This curfew shall not apply to University housing residents or their invited guests, invited guests of University faculty, emeritus or staff, persons possessing valid written authorization from the Designated University Official, or those on legitimate University related business or attending a specific University sponsored event. Those persons possessing a valid written authorization, or attending a specific event, shall be allowed to remain and use the facilities as specified in their authorization or through the duration of the specific event, after which time they shall leave the property without any appreciable delay. This curfew also shall not apply to people proceeding directly across a roadway or path that has been designated by the Designated University Official as open to the public during curfew hours.

#### **§ 100010. Fires**

Non-affiliates shall not start or maintain campfires, portable stoves, open fires and other fires on University property except as expressly authorized by the Designated University Official, and subject to such requirements regarding location, time, and fire safety precautions as the Designated University Official may impose.

#### **§ 100012. Passage on University Property**

No non-affiliate shall remain on University property if directed to leave that University property by the chief administrative officer of the campus or facility, or an officer or employee designated by the chief administrative officer to maintain order on the campus or facility, upon the reasonable determination of that officer or employee that the non-affiliate is committing an act that is likely to interfere with the peaceful conduct of the activities of the campus or facility or has entered the campus or facility with the purpose of committing any such act.

#### **§ 100013. Prohibited Conduct**

No non-affiliate on University property shall:

G. Knowingly and willfully interfere with the peaceful conduct of the activities of the campus or facility by intimidating, harassing or obstructing any University employee, student, or any other person.

H. Delay or linger without lawful purpose for being on the property and for the purpose of committing a crime or violation of these policies as opportunity may be discovered.

I. Use University facilities not generally open to the public, including but not limited to, showers, storage lockers, study lounges or recreational facilities, without authorization of a Designated University Official.

....

L. Wear a mask, personal disguise, or otherwise conceal his/her 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 University policy, University regulations or municipal, state, or federal laws.

M. Disturb plants and wildlife in any way, including climbing or placing objects in trees or bushes or attaching items to them without authorization of a Designated University Official.

N. Attempt to engage in any of the above offenses.

## 6. California Penal Code Provisions

**Public Nuisance (Penal Code section 370):** “Anything which is injurious to health, ..., or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a public nuisance.

**Trespass (Penal Code section 602(q)):** “[E]very person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor.... Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly employed guard, watchman, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances would indicate to a reasonable person that the person has no apparent lawful business to pursue.”

**Disorderly conduct (Penal Code section 647):** “Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor: .... **(e)** Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.”

**Obstruction of Place Open to the Public (Penal Code section 647c):** “Every person who willfully and maliciously obstructs the free movement of any person on any street, sidewalk, or other public place or on or in any place open to the public is guilty of a misdemeanor.”

**Unlawful assembly (Penal Code section 407):** “Whenever two or more persons assemble together to do an unlawful act, or do a lawful act in a violent, boisterous, or tumultuous manner, such assembly is an unlawful assembly.

**Participation in rout and unlawful assembly (Penal Code section 408):** “Every person who participates in any rout or unlawful assembly is guilty of a misdemeanor.

**Remaining present at place of riot, etc., after warning to disperse (Penal Code section 409):** “Every person remaining present at the place of any riot, rout, or unlawful assembly, after the same has been lawfully warned to disperse, except public officers and persons assisting them in attempting to disperse the same, is guilty of a misdemeanor.”

**Violation of Notice of Withdrawal of Consent to Remain on Campus (Penal Code section 626.4):**

Consent to remain on a university campus may be withdrawn by an authorized university official whenever there is reasonable cause to believe that an individual has willfully disrupted the orderly operation of the campus. Remaining on campus following such a notice is a misdemeanor.

**Failure to Leave Campus When Directed to Do So (Penal Code section 626.6):** If an individual who is not affiliated with the UC Davis campus enters the campus and it reasonably appears to an authorized university official that “the person is committing any act likely to interfere with the peaceful conduct of the activities of the campus or facility, or has entered the campus or facility for the purpose of committing any such act, the authorized official may direct that person to leave the campus or facility. Failure to so leave is a misdemeanor.

**7. Contacts for More Information:**

In addition to the information and web links provided above, you may contact the following offices for more information on reserving facilities, planning events, or conducting a peaceful protest:

- Conferences and Event Services 752-2813
- Campus Unions Center for Student Involvement 752-2027
- ASUCD (student government) 752-1990
- GSA (graduate student government) 752-6108
- Student Judicial Affairs 752-1128
- Campus Police 752-1230