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STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD

UNFAIR PRACTICE CHARGE

DO NOT WRITE IN THIS SPACE: Case No:

Date Filed: 05/21/2024

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: UAW Local 4811 (See Attachment A for full name)
- b. Mailing Address: 2730 Telegraph Ave., Floor 1, Berkeley, CA 95705
- c. Telephone number: (510) 549-3863
- d. Name and title of agent to contact: Margo A. Feinberg, Attorney E-mail Address: margo@ssdslaw.com
Telephone number: (323) 655-4700 Fax No.:
- e. Bargaining Unit(s) involved:

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

- a. Full name: Regents of the University of California
- b. Mailing Address: 1111 Franklin Street, 8th Floor, Oakland, CA 94607
- c. Telephone number:
- d. Name and title of agent to contact: Daniel Menezes, Chief Negotiator E-mail Address: daniel.menezes@ucop.edu
Telephone number: (510) 987-9144 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?

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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-Milias-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:

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.*)

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.)

(Type or Print Name)

/s/
(Signature)

05/21/2024
Date



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STATE OF CALIFORNIA
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UNFAIR PRACTICE CHARGE

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IS THIS AN AMENDED CHARGE? YES If so, Case No. NO

1. CHARGING PARTY: EMPLOYEE EMPLOYEE ORGANIZATION EMPLOYER PUBLIC¹

a. Full name: UAW Local 4811 (See Attachment A for full name)

b. Mailing address: 2730 Telegraph Ave., Floor 1, Berkeley, CA 95705

c. Telephone number: (510) 549-3863

d. Name and title of person filing charge: Margo A. Feinberg, Attorney
Telephone number: 323-655-4700
E-mail Address: margo@ssdslaw.com
Fax No.:

e. Bargaining unit(s) involved: BX/BR, AR, and PX Bargaining Units

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

a. Full name: Regents of the University of California

b. Mailing address: 1111 Franklin Street, 8th Floor, Oakland, CA 94607

c. Telephone number: (510) 987-9220

d. Name and title of agent to contact: Daniel Menezes, Chief Negotiator
Telephone number: (510) 987-9144
E-mail Address: daniel.menezes@ucop.edu
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:

¹ An 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.

5. GRIEVANCE PROCEDURE

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

Yes No

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- Ralph C. Dills Act (Gov. Code, § 3512 et seq.)
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- Meyers-Milias-Brown Act (MMBA) (Gov. Code, § 3500 et seq.)
- A Covered Public Utilities Code Transit Employer (BART (Pub. Util. Code, § 28848 et seq.), Orange County Transportation Authority (Pub. Util. Code, § 40000 et seq.), and supervisory employees of the Los Angeles County Metropolitan Transportation Authority (Pub. Util. Code, § 99560 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 §§ 3550, 3553, 3560(e), 3565, 3570, and 3571(a), (b), and (c); PERB Reg. 32611(a)-(b)

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.)*

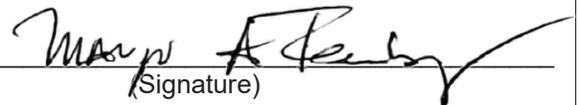
See Attachment A

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 and that this declaration was executed on May 21, 2024
(Date)

at Los Angeles, California
(City and State)

Margo A. Feinberg
(Type or Print Name)


(Signature)

Title, if any: Attorney for Charging Parties

Mailing address: 6300 Wilshire Boulevard, Suite 2000
Los Angeles, CA 90068

Telephone Number: 323-655-4700 E-Mail Address: margo@ssdslaw.com

ATTACHMENT A TO UNFAIR PRACTICE CHARGE

1. Charging Party

Full name: International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO and its Local Union 4811.

2. Introduction and Summary of Charges

As described below, the Regents of the University of California (“the University”) has unilaterally changed the terms and conditions of employment regarding discipline for University employees within the Academic Student Employee and Graduate Student Researcher unit (“BX/BR Unit”), the Postdoctoral Scholar unit (“PX unit”), and the Academic Researchers unit (“RA unit”).

On May 9, 2024, Michael Drake, the Systemwide President of University of California, unilaterally issued a new discipline policy applicable to all employees in the BX/BR, PX, and RA bargaining units. This policy newly mandates that any employee arrested by police or cited for violating a university policy must go through the employee disciplinary process. This sweeping new policy was announced and implemented without any advance notice to UAW Local 4811 or an opportunity to bargain.

The University has thereby violated the Higher Education Employee-Employer Relations Act (“HEERA”), §§ 3571(a), (b) and (c) by unilaterally changing the terms and conditions of employment. This conduct also violated California Government Code sections 3550, 3560(e), 3565, and the Prohibition on Public Employers Deterring or Discouraging Union Membership (“PEDD”), PERB Regulation 32611(a) and (b).

3. STATEMENT OF CHARGES

A. Background

UAW and its Local 4811 are the exclusive representative for matters within the scope of representation for all employees of the University within the BX/BR, PX, and RA bargaining units. Local 4811 and the University are parties to four collective bargaining agreements covering the BR/BX, PX and RA Units: the BR Contract, covering Graduate Student Researchers (<https://uaw2865.org/sr-contract/>); the BX Contract, covering Academic Student Employees (<https://uaw2865.org/ase-contract/>); the PX Contract, covering Postdoctoral Scholars (<https://uaw5810.org/postdoc-contract/>); and the RA Contract, covering Academic Researchers (<https://uaw5810.org/ar-contract-2022/>)

B. The University Unilaterally Announces Sweeping New Discipline Policy For All Employees.

On May 9, 2024, the University of California, Office of the President, unilaterally announced a new policy titled "University of California campus guidelines on determining

disciplinary actions." (Exhibit 1) The announcement describes the policy as "guiding principles for use by UC campuses in determining disciplinary actions." The policy consists of five bulleted points, the third of which states:

Any member of the university community who is arrested for unlawful behavior or cited for a violation of university policy must go through the applicable review process, such as student code of conduct or employee disciplinary process.

(*Id.*) The University did not provide the Union with notice or opportunity to bargain this new discipline policy before it announced the policy publicly on May 9, 2024.

On May 16, 2024, the University of California issued another statement, titled "UC Board of Regents statement on conduct guidelines issued by UC President Michael V. Drake, M.D." (Exhibit 2) This statement declares, "[t]he University of California Board of Regents today endorsed the guidelines issued on May 9, 2024 by President Michael V. Drake, M.D.," and reiterates the third bullet point in the President Drake's guidelines. The statement concludes with, "[t]he Regents further affirmed that amnesty for students, faculty and staff is inconsistent with this guideline." (*Id.*) The University did not provide the Union with notice or opportunity to bargain this discipline policy before it announced the policy publicly on May 16, 2024.

By the above acts, the University has also unilaterally changed the terms and conditions of employment regarding employee discipline. The sweeping new policy mandates the University initiate the employee discipline process based on off-duty conduct, off-campus conduct, and conduct wholly unrelated to their employment. The policy applies to any and all arrests, regardless of whether charges are filed, or a conviction occurs. By tying discipline procedures to arrests, the policy will necessarily have a discriminatory disparate impact on employees of color.¹ The terms and conditions of employment for BX/BR, PX, and RA bargaining unit employees have never included such broad disciplinary measures.

Moreover, by announcing and implementing these changes without notice to the Union, the University has undermined the Union and discouraged public employees from remaining members of an employee organization by undermining the role of the Union as the exclusive representative.

4. CONCLUSION

In summary, the University has violated Cal. Gov. Code §§ 3550, 3560(e), 3565, 3570, and 3571 (a), (b), and (c), and PERB Regulation 32611(a) and (b), by:

- (1) Denying employees and the Union rights guaranteed under HEERA;
- (2) Unilaterally changing the terms and conditions of employment related to discipline procedures; and

¹ "Los Angeles Arrest Map Shows Disproportionate Rates of Arrests for People of Color," *Daily Bruin*, September 24, 2023, <https://dailybruin.com/2023/09/24/los-angeles-arrest-map-shows-disproportionate-rates-of-arrests-for-minorities>

- (3) Deterring and discouraging public employees from remaining members of an employee organization by undermining the role of Local 4811 as exclusive representative.

The Union thus seeks an order finding that the University has violated HEERA and PEDD, and ordering the University to (1) rescind the University's new discipline policy guidelines issued on May 9, 2024 and May 16, 2024, (2) cease and desist from unilaterally changing the terms and conditions of employment related to discipline, (3) meet and confer with the Union in good faith regarding any and all matters within the scope of representation, (4) send notice via email to all employees in the bargaining unit of the Board's decision indicating the University's violations of the law and PERB's remedial order, in addition to physically posting the same at all affected work sites, (5) pay any applicable civil penalties, (6) pay all related attorneys' fees and costs, and (7) provide the Union with all other remedies PERB deems just and proper.

EXHIBIT 1

[Home](#) > [Press Room](#) > [University of California campus guidelines on determining disciplinary actions](#)

University of California campus guidelines on determining disciplinary actions



UC Office of the President May 9, 2024

The University of California Office of the President announced today (Thursday, May 9, 2024) guiding principles for use by UC campuses in determining disciplinary actions:

- UC campuses support and protect nonviolent and lawful protests. We do all we can within the law to facilitate freedom of expression and a vibrant exchange of ideas, while also maintaining a safe environment and access to university facilities for all members of our community.
- All members of the UC community remain subject to all applicable laws and relevant codes of conduct, even while engaging in protest activities.
- Any member of the university community who is arrested for unlawful behavior or cited for a violation of university policy must go through the applicable review process, such as student code of conduct or employee disciplinary process.

- People not affiliated with the university who are involved in criminal activity on UC campuses will be prosecuted by the appropriate agencies in the relevant jurisdictions.

Media Contacts

For media inquiries (reporters only), please email media@ucop.edu

For Health-related media inquiries, please email uhealthnews@ucop.edu

The University of California opened its doors in 1869 with just 10 faculty members and 40 students. Today, the UC system has more than 280,000 students and 227,000 faculty and staff, with 2.0 million alumni living and working around the world.

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EXHIBIT 2

[Home](#) > [Press Room](#) > UC Board of Regents statement on conduct guidelines issued by UC President Michael V. Drake, M.D.

UC Board of Regents statement on conduct guidelines issued by UC President Michael V. Drake, M.D.



UC Office of the President May 16, 2024

The University of California Board of Regents today endorsed [the guidelines issued on May 9 by President Michael V. Drake, M.D.](#)

These guidelines included the following language:

- Any member of the university community who is arrested for unlawful behavior or cited for a violation of university policy must go through the applicable review process, such as student code of conduct or employee disciplinary process.

The Regents further affirmed that amnesty for students, faculty and staff is inconsistent with this guideline.

Media Contacts

The University of California opened its doors in 1869 with just 10 faculty members and 40 students. Today, the UC system has more than 280,000 students and 227,000 faculty and staff, with 2.0 million alumni living and working around the world.

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PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Los Angeles,
State of California. I am over the age of 18 years. The name and address of my
Residence or business is 6300 Wilshire Boulevard, Suite 2000, Los
Angeles, California 90048

On May 21, 2024, I served the Unfair Practice Charge
(Date) (Description of document(s))

(Description of document(s) continued) in Case No. _____
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.)

Office of the General Counsel
Regents of the University of California
1111 Franklin Street, 8th Floor
Oakland, CA 94607

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 May 21, 2024,
(Date)
at Los Angeles, California.
(City) (State)

Emily A. Hero

(Type or print name)


(Signature)