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General Counsel Charles F. Robinson
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Dean Christopher F. Edley, Jr.
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Dear General Counsel Robinson and Dean Edley:

We want to convey our deep appreciation for the challenge you have undertaken. We are grateful for your leadership and the guidance of UC President Mark Yudof in exploring such a contentious and controversial subject as how to best respond to protests on campus. Your demonstrated willingness to discuss, deliberate and offer recommendations for improving campus responses is timely, pertinent and welcome. Furthermore, we particularly appreciated the spirit of openness, collaboration and community you displayed during your meeting here at UC Davis.

We find ourselves in agreement with much of the tone and content of your draft report, "Response to Protests on UC Campuses." Obviously, these are troubling times beset by economic woes and rapid changes in our culture both on campus and off. Our campuses are, in every sense of the word, true communities that embody and reflect the same dynamics as the surrounding world. The notion that our campuses serve as refuges from the world's trouble and turmoil has been overshadowed by recent events, including violence, destruction of property, intimidation, and racial and ethnic strife. These events contribute to the need for each campus to become practiced and proficient in how to respond to crisis events and emergencies in an even-handed, appropriate and safe manner.

As you are aware, campus protests and how to best respond to them have been the subject of debate since Oxford's St. Scholastica Day riot in 1355. More recently, in 1964, UC President Clark Kerr strove to maintain a balance between debate or free speech and the need to protect and safeguard ongoing university operations. Today, nearly 50 years later, we are confronted by many of the same issues. We agree with your assertion that "...free expression, robust discourse

and vigorous debate over ideas and principles are essential to the mission of our university.” We are also in agreement with your finding that university administrations will have to move away from a perspective focused on maintenance of order and rules and regulations to one that fosters and facilitates free speech, discussion and debate. It is similarly important, as your report notes, for protestors to exercise responsibility, to be familiar with the parameters of free speech and to consider the extent to which civil disobedience may impinge on the rights of others and how their specific actions can disrupt, jeopardize and undermine essential campus operations.

It is also worthy to note that UC Davis has a long history of dealing successfully with student protests. The campus has, throughout its history, experienced a multitude of protests around a wide range of issues without incident. At the same time, incidents of violence here and on other campuses, a spate of hate crimes targeting underrepresented groups, and terrorist activities, including the burning of a campus building, have raised concerns over student and faculty safety.

It is within the boundaries of our campus traditions of welcoming and accommodating other points of view that we are currently undertaking an ambitious agenda to explore with students, faculty and staff how we can best accommodate protests and demonstrations while maintaining an environment of mutual respect, dignity and tolerance. We will spend the next academic year exploring these issues with our campus community. Most importantly, we will ask how we can convene and work together to address the issues that face us without compromising our basic mission, the free expression of ideas, and the need for mutual respect and human dignity.

Against that background of recognizing the need for change and adaptation in how we view and accommodate protest and civil disobedience, we offer our comments on the following areas of your report:

“Leaderless groups”

The phenomenon of so-called “leaderless groups” poses a clear challenge to response protocols predicated on contemporary mediation practices. Conventional organizational structures and means of communicating and working with student groups have proven of little value in trying to work with protestors who often appear to have no core constituency or organizational framework beyond the moment. It is clear that the university as a system should develop and share with its campuses a range of best practices in this area that reflect both actual success in the field and an ability to anticipate and adapt to rapidly changing circumstances.

Student conduct penalties

Although the report did not recommend substitution of the internal student judicial process for actions enforceable in court, it clearly remains an area of considerable debate and interest. It may be fruitful to sponsor pilot projects at select campuses to explore the efficacy and costs of relying on conventional student judicial processes as a means of enforcing student disciplinary measures. Similarly, there may be merit in contracting with students prior to their entry into the university to ensure that they agree to conform to student judicial affairs processes and abide by any judgments in the event that they become necessary.

Mandated changes

We are cognizant of those areas of the report that would “require” campuses to undertake specific actions. The dynamic and rapidly changing nature of today’s economic and cultural landscape makes it difficult to assess what methods might work best in individual situations, and protest activity often appears to be episodic and contingent on campus location, population, history, etc. Consequently, we are concerned that system-wide requirements and implementation of “one size fits all” requirements may be expensive, bureaucratic and ultimately difficult to administer. We would much prefer a “best practices” approach that enables campuses to share information, to discuss emerging issues and to learn from one another as we assess what might work best in individual situations.

Expenses related to protests

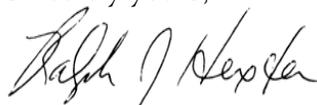
It is understandable but still problematic that the report did not address the issue of campus costs related to protest activities. The specter of university cutbacks is too often ignored by protestors who evince concern over tuition hikes while at the same time participating in activities that incur very real expenses to the university. The cost impacts of overtime, clean-up, property repair, etc. are impossible to budget for in light of ongoing protest activities and remain a very real concern to campuses. Combined with the prospect of litigation commonly filed by protestors, the escalation and risk factors related to such costs remain a very real threat to the university. This may be an area where cost efficiencies might better be realized by spreading risks across the system and consolidating response mechanisms or teams with specific legal expertise within the system-wide office.

Implementation planning

We encourage the system to invite campus participation in discussions related to implementation of new requirements. At a time when the very real prospect of devastating budget cuts casts a very long shadow, the prospect of being assigned even more unanticipated costs is hardly encouraging. It would be our hope that the system would convene a group and a series of meetings to explore what specific recommendations might mean to campuses and to what extent campuses are able, either through stint of funding or staffing, to meaningfully accommodate such new requirements. UC Davis would commit to taking part in such exercises and in exploring potential innovations and progress in learning to deal with protests in a safe and humane manner.

UC Davis remains committed to a course of action that will enable us to work closely with our campus community in an environment that honors and supports free speech and non-violent campus protests. Thank you for your efforts and hard work on behalf of the universities of the UC system. It is greatly appreciated.

Sincerely yours,



Ralph J. Hexter
Provost and Executive Vice Chancellor