



Kriss Worthington

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CONSENT CALENDAR

June 29, 2010

To: Honorable Mayor and Members of the City Council
 From: Councilmember Kriss Worthington
 Subject: Support ACLU Concerns About Punitive Interpretations of UC Student Conduct Code

RECOMMENDATION

Send a letter to the UC Berkeley Chancellor supporting the ACLU's concerns about punitive interpretations of the UC Student Conduct Code.

BACKGROUND

In recent months, UC students have been actively involved in organizing against state budget cuts and UC fee hikes. This awakening of activism in a new generation of students is greatly commendable and highly welcomed; we want to recognize this activism as a wonderful thing for a new generation to do and praise them for standing up for the cause of funding for higher education.

The American Civil Liberties Union (ACLU), on April 6th 2010, wrote a letter to the chancellor of UC Berkeley discussing significant concerns over punitive interpretations of the UC Student Conduct Code. The ACLU's concern over the treatments of individual students who participated in the activism – specifically, over two particular students whose rights have, according to the ACLU's letter, been violated—raises very serious questions. There are alarming interpretations of the Code which the ACLU's letter also raises:

“Interim suspensions were issued without a pre-suspension hearing... These suspensions were issued without affording [students] the absolute minimum process required by the Constitution—notice and an opportunity to be heard—and without meeting the factual predicate for an exception to that requirement.”

“Suspension[s were] interpreted by the University to also require... immediate eviction from... University-leased [student housing] *prior to any opportunity to respond to the charges*” (ACLU's italics).

Discussion of the need for the Code to be reevaluated and rewritten, and most importantly, for the right to due process to be made a priority for students of the school, becomes the overarching theme which a Council-sent letter would echo. The ACLU

notes that the current practices are unlawful and unfair, and asks for immediate attention to the matter by the Chancellor.

Since Berkeley is known as the birthplace of the free-speech movement and students have been powerful leaders on many social movements, it is vitally important that we stand up for students' due process rights and defend their participation in educational advocacy and protest activities.

Consistency and fairness must be a priority for any disciplinary process in a democratic society, especially in such serious matters, and the situation at hand exemplifies the issues with consistency existing now. The City of Berkeley can and should support the students and the ACLU in remedying this injustice.

FINANCIAL IMPLICATIONS

Minimal.

CONTACT PERSON

Councilmember Kriss Worthington 510-981-7170

Attached: ACLU letter to Chancellor Birgeneau, dated 4/6/2010

Attached: Council letter to UC Chancellor

Dear Chancellor Birgeneau,

We write to express our deep concerns about the issues raised in the April 6th letter sent to you by the American Civil Liberties Union of Northern California. We strongly support changing the punitive interpretations of the UC Student Conduct Code that have been unfairly applied to students recently protesting against budget cuts and fee hikes.

Given the evidence provided by the ACLU in its letter regarding violations of the Code, and the failure to provide due process to both Mr. Zachary Bowin and Ms. Angela Miller, as evidenced in the letter from the ACLU, we must request that punitive interpretations of the Code be adjusted to reassure students, future and current, that their rights will not be violated in such a manner as both Bowin's and Miller's were.

Constitutionally mandated, as well as University-dictated, standards for such evidenced violations as the ones the ACLU points out in their letter, must be met. Current suspension policy, especially policy regarding notification of punishments and punitive interpretations to charged students, necessitates immediate attention on the University's part in order to alleviate the Council's concerns over student's rights, as well as the concerns of both the ACLU and students themselves.

Berkeley's efforts and activism in social movements especially motivate the Council to ensure that due process of law is given to every resident of Berkeley, including UC Berkeley students. We do not condone violence or vandalism. In those rare cases that do occur, disciplinary actions should rightfully be pursued.

In all cases in a democratic society, due process must be followed carefully. We call on you to lead the way to scrutinize the interpretations of the Student Conduct Code and to propose needed changes to interpretation as well as any changes needed to the Code itself.

The City of Berkeley hereby supports the students of UC Berkeley and the ACLU of Northern California in calling on the University to remedy this injustice. We thank you for your attention to this serious issue and welcome your response to our expression of concern.

Sincerely,

