



**PERB**  
California Public Employment  
Relations Board

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August 15, 2023

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1111 Franklin Street, 8th Floor  
Oakland, CA 94607

Re: *International Union, United Automobile, Aerospace and Agricultural Implement  
Workers of America(UAW), AFL-CIO and its Local Union 2865, et al. v.  
Regents of the University of California (San Diego)*  
Unfair Practice Charge No. SF-CE-1432-H  
**COMPLAINT**

Dear Parties:

The Office of the General Counsel has issued the enclosed COMPLAINT in the above-entitled matter. The Respondent is required to file an **ANSWER** within twenty (20) calendar days from the date of service of the COMPLAINT, pursuant to PERB Regulation 32644.<sup>1</sup> The required contents of the **ANSWER** are described in PERB Regulation 32644(b).

If you have not filed a Notice of Appearance form, one should be completed and returned with your **ANSWER**. Please be aware that once legal counsel is designated, PERB will only correspond with that individual(s).

An informal settlement conference will be scheduled shortly. Please direct all inquiries, filings and correspondence to the undersigned. Designated legal counsel

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<sup>1</sup> PERB's Regulations are codified at California Code of Regulations, title 8, section 31001 et seq. The text of PERB's Regulations may be found at [www.perb.ca.gov](http://www.perb.ca.gov).

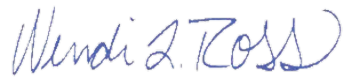
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who do not attend the Informal Conference for any reason, must designate in writing consent that the meeting go forward in their absence, including, but not limited to the execution of a settlement agreement.

Sincerely,



Wendi L. Ross

Deputy General Counsel

WLR

Enclosure

STATE OF CALIFORNIA

PUBLIC EMPLOYMENT RELATIONS BOARD



INTERNATIONAL UNION, UNITED  
AUTOMOBILE, AEROSPACE AND  
AGRICULTURAL IMPLEMENT WORKERS OF  
AMERICA(UAW), AFL-CIO AND ITS LOCAL  
UNION 2865, et al.,

Charging Parties,

v.

REGENTS OF THE UNIVERSITY OF  
CALIFORNIA (SAN DIEGO),

Respondent.

Case No. SF-CE-1432-H

COMPLAINT

It having been charged by Charging Parties that Respondent engaged in unfair practices in violation of Government Code section 3571, the General Counsel of the Public Employment Relations Board (PERB), pursuant to Government Code sections 3563(h), 3563.2, and 3551(a) and California Code of Regulations, title 8, section 32640, issues this COMPLAINT on behalf of PERB and ALLEGES:

1. Respondent is an employer within the meaning of Government Code section 3562(g). Respondent is also a "public employer" within the meaning of Government Code section 3552(c).

2. International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO and its Local Union 2865 (Local 2865) is the exclusive representative, within the meaning of Government Code sections 3562(i) and 3552(a) of Respondent's employees in Academic Student Employee unit (BX Unit) and Graduate Student Researcher unit (BR Unit).

International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO and its Local Union 5810 (Local 5810) is the

exclusive representative, within the meaning of Government Code sections 3562(i) and 3552(a) of Respondent's employees in the Academic Researchers Unit (AR Unit) and Postdoctoral Scholar Unit (PX Unit). Local 2865 and Local 5810 are collectively referenced herein as the "Charging Parties" and the BX Unit, BR Unit, AR Unit, and PX Unit are collectively referenced herein as the "Unit."

### **RETALIATION/DISCRIMINATION**

3. Unit members exercised rights guaranteed by the Higher Education Employer-Employee Relations Act, as follows:

- a. In November and December 2022, they participated in a systemwide strike.
- b. On May 5, 2023, they protested over working conditions, including at the Respondent's alumni awards celebration event by, for example, holding signs and banners such as "[UCSD Chancellor Pradeep] Khosla keep Your Promise – Respect the Contract," and chanted: "What do we want? Our promised wages. When do we want them? Now!"
- c. On or about May 5, 2023, they presented Respondent's "Associate Vice Chancellor Harrelson" with a letter summarizing their work-related concerns.
- d. On or around May 30, 2023, they engaged in concerted activity by using chalk to write labor-related slogans, such as "Living Wage Now" on concrete surfaces, outside of Respondent's building that is part of the Scripps Institute of Oceanography (SIO).

4. On or about June 9, 2023, Respondent, acting through its agent April Bjornsen, Assistant Dean, Graduate Student Affairs at Respondent's Office of Student

Conduct, took adverse action by sending some Unit members misconduct charges under the Respondent's Student Contract Procedures, relating to a claim that some Unit members physically "assaulted" (i.e., bumped) Khosla during the event on May 5, 2023.

5. Respondent took the actions described in paragraph 4 because of the Unit employees' activities described in each subparagraph of paragraph 3, and thus violated Government Code section 3571(a).

6. On or about June 29, 2023, Respondent, acting through its management personnel, took further adverse action against three Unit members as follows: arresting two graduate student workers and one postdoctoral school student and charging them with felony vandalism and conspiracy to commit a crime, for allegedly chalking messages such as "Living Wage Now" at SIO on May 30, 2023.

7. Respondent took the actions described in paragraph 6 because of the Unit employees' activities described in each subparagraph of paragraph 3, and thus violated Government Code section 3571(a).

8. On or about July 18, 2023, Respondent's management agents, acting through its campus police, took further adverse action against a Unit member, by executing a search warrant—regarding the chalking allegation at SIO—at a Unit member's personal residence to seize, for example, "Evidence of membership or affiliation with university organization, paraphernalia to include any reference to 'UAW' or 'AFSCME' and any drawings, writings, objects or graffiti depicting names, initials, logos, monikers, slogans or mention of UAW or AFSCME membership or affiliation, activity or identity, whether memorialized electronically....," and thereby seized the Unit member's property, including electronic devices such as laptops, hard-drives, and the

Unit member's cell phone.

9. Respondent took the actions described in paragraph 8 because of the Unit employee's activities described in each subparagraph of paragraph 3, and thus violated Government Code section 3571(a).

### **UNLAWFUL CONSULTATION**

10. Respondent's "San Diego Office of Student Conduct" is a group of "full-time professional staff members" who "offer[] consulting and advising to faculty and staff regarding potential (and/or actual) student conduct cases and incidents."

11. In or about May or June 2023, Respondent's administrators consulted with a "UCSD Office of Student Conduct" to issue "Non-Academic Misconduct Incident" disciplinary charges against Unit members in their capacity as "students" regarding the alleged physical assault on Khosla during a May 5, 2023 employee protest.

12. By Respondent's conduct in paragraph 11, it consulted with an "academic, professional, or staff advisory group," concerning negotiable matters in violation of Government Code section 3571(f).

13. This conduct also interfered with the rights of Unit employees to be represented by Charging Parties in violation of Government Code section 3571(a).

### **BYPASSING/DIRECT DEALING**

14. By the conduct described in paragraph 4, Respondent's agents communicated directly with Unit members about employment-related matters, in an effort/attempt to bypass, undermine and derogate the authority of Charging Parties in violation of Government Code section 3571(c).

15. This conduct interfered with the rights of Unit employees to be represented by Charging Parties in violation of Government Code section 3571(a).

## **UNILATERAL CHANGE**

16. Prior to June or July 2023, Respondent did not have a policy restricting Unit members ability to engage in speech concerning Unit-member advocacy of employee working conditions.

17. By the conduct described in paragraphs 4, 6, and/or 8, Respondent implemented a new policy that restricts Unit members from engaging in speech directly relating to Unit member advocacy of employee working conditions.

18. Respondent engaged in the conduct described in paragraph 17 without prior notice to Charging Parties and without having afforded Charging Parties an opportunity to meet and confer over the decision to implement the change in policy and/or the effects of the change in policy.

19. By the acts and conduct described in paragraphs 17 and 18, Respondent failed and refused to meet and confer in good faith in violation of Government Code section 3571(c).

20. This conduct also interfered with the rights of Unit employees to be represented by Charging Parties in violation of Government Code section 3571(a).

## **INTERFERENCE**

21. By the acts and conduct described in paragraphs 4, 6, and/or 8, Respondent independently interfered with employee rights guaranteed by the Higher Education Employer-Employee Relations Act in violation of Government Code section 3571(a).

**PROHIBITION ON PUBLIC EMPLOYERS DETERRING OR DISCOURAGING  
UNION MEMBERSHIP § 3550**

22. By Respondent's acts and conduct described in paragraphs 4, 6 and/or 8, Respondent violated Government Code section 3550 and committed an unfair practice under PERB Regulation 32611(a) and (d).

Any amendment to the complaint shall be processed pursuant to California Code of Regulations, title 8, sections 32647 and 32648.

DATED: August 15, 2023

J. Felix De La Torre  
General Counsel

By   
\_\_\_\_\_  
Yaron Partovi  
Senior Regional Attorney



## PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Los Angeles, California. I am over the age of 18 years and not a party to the within entitled cause. The name and address of my residence or business is Public Employment Relations Board, Los Angeles Regional Office, 425 W. Broadway, Suite 400, Glendale, CA, 91204-1269.

On August 15, 2023, I served the Complaint and Cover Letter regarding Case No. SF-CE-1432-H on the parties listed below by

I am personally and readily familiar with the business practice of the Public Employment Relations Board for collection and processing of correspondence for mailing with the United States Postal Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at Los Angeles, California.

Personal delivery.

Electronic service (e-mail).

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I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on August 15, 2023, at Glendale, California.

Michael Friedlander

(Type or print name)



(Signature)