



Cecilia Lunaparra
Councilmember, District 7

ACTION CALENDAR
July 9, 2024

To: Honorable Members of the City Council
From: Councilmember Cecilia Lunaparra
Subject: Condemning the University of California’s Anti-Labor Actions and Legal Tactics

RECOMMENDATION

Adopt a Resolution Condemning the University of California’s Anti-Labor Actions and Legal Tactics

CURRENT SITUATION AND ITS EFFECTS

In April and May of 2024, workers and students at college campuses around the country, including University of California (UC) campuses statewide, conducted non-violent peace demonstrations. The United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) Local 4811, representing 48,000 academic workers at all 11 UC campuses, alleges that, in response to these nonviolent protests, the UC enacted police violence upon workers, students, and others, unilaterally changed campus and workplace policies in order to discipline and arrest them, and failed to prevent armed right-wing counter-protesters from enacting physical violence against them¹.

UAW Local 4811, which represents many of the workers who were allegedly harmed by the UC’s actions, filed Unfair Labor Practice (ULP) charges against the UC. On May 20, following a strike authorization vote with 79% of participating membership voting “Yes”, UAW Local 4811 began a “stand-up strike” at UC campuses around the state. The UC administration asked the California Public Employment Relations Board (PERB) to end the strike twice. Both times, PERB found no legal reason for doing so. Instead, PERB issued a complaint against the UC alleging serious unfair labor practices.

UAW Local 4811 alleges that, after the UC’s two previous attempts to halt the strike, it went “forum shopping,” which is the practice of pursuing a more advantageous legal venue in order to secure a desired outcome.² They sought a temporary injunction against the strike from Orange County Superior Court Judge Randall J. Sherman,

¹ uaw4811.org/2024-ulp-charges

² latimes.com/california/story/2024-06-07/uc-seeks-to-halt-strike-takes-academic-workers-to-court

appointed by Republican Governor Arnold Schwarzenegger, attempting to usurp PERB's authority over such matters. Legal scholars have compared the UC's actions to those of corporations like Amazon, Starbucks, SpaceX, and Trader Joe's, which use the court system to undermine the National Labor Relations Board (NLRB) and bedrock labor laws by seeking out conservative-leaning judges.³ Such cases do not just harm workers who are directly employed by the companies involved in the litigation, they also set precedents that can erode the rights of countless workers around the country. Similarly, legal scholars have warned that the impact of the UC's attacks on long-standing labor law and PERB's jurisdiction could be felt by hundreds of thousands of public sector workers.⁴

These events have had a significant impact on workers and students in Berkeley, who have witnessed their coworkers, classmates, and community members across the state brutalized and retaliated against by their own employer and university. Moreover, the UC's anti-worker actions in other parts of the state will have a direct material impact on their employees in Berkeley, both at UC Berkeley and Lawrence Berkeley National Laboratory. Berkeley has a long history of campus activism and labor organizing. As the birthplace of the Free Speech Movement, the City of Berkeley has a duty to make it clear to all employers who do business in our city that anti-labor actions and attacks on free speech will not be tolerated.

BACKGROUND

UAW Local 4811 filed or amended Unfair Labor Practice (ULP) charges against the UC on the following dates⁵:

May 3, 2024: On May 1, 2024, an armed group of counter-protesters attacked nonviolent protesters at the University of California Los Angeles (UCLA), hitting them with sticks, spraying them with bear spray, and pelting them with bottles and fireworks, forcing many people, including members of UAW Local 4811, to seek medical care or hospitalization. Though UCLA and the Los Angeles Police Department (LAPD) were on notice of the attacks, they deliberately failed to respond. The following day, on May 2, 2024, UCLA called in LAPD riot police to arrest 200 peaceful student protesters and academic workers exercising their legal right to demonstrate nonviolently, many of whom had survived the previous night's violence from counter-protesters without any police intervention. The UC employed police violence or allowed violence to be used against students, faculty, and academic workers exercising their right to free speech; and. Since then, the UC made unilateral and dramatic changes to long-standing policies on protest and use of force, then used these changed policies to arrest and discipline hundreds of students and academic workers across the state.

³ [nytimes.com/2024/02/15/business/economy/amazon-labor-nlrb.html](https://www.nytimes.com/2024/02/15/business/economy/amazon-labor-nlrb.html)

⁴ x.com/veenadubal/status/1798109232862249346

⁵ uaw4811.org/2024-ulp-charges

May 10, 2024: On May 6, 2024 the UC summoned the police at the University of California San Diego to forcibly eject and arrest UAW Local 4811 members engaged in peaceful protest. The UC's conduct constituted retaliation and discrimination against UAW Local 4811 members for engaging in protected concerted protest activity, in violation of the Higher Education Employee-Employer Relations Act (HEERA).

May 17, 2024: On May 16, 2024 the UC called at least twenty law enforcement agencies to forcibly eject and arrest peaceful protestors at the University of California Irvine. Such escalation and use of outside law enforcement constitutes a unilateral change to the University's workplace speech policy in violation of HEERA.

May 21, 2024: On May 9, 2024, Michael Drake, the President of the UC, unilaterally issued a new discipline policy that 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, another violation of HEERA.

ENVIRONMENTAL SUSTAINABILITY

None.

FISCAL IMPACTS

Minimal staff time is required to send copies of the resolution to state and national leaders.

CONTACT PERSON

Councilmember Cecilia Lunaparra (510) 981-7170

Attachments:

1. [Resolution Condemning the University of California's Anti-Labor Actions and Legal Tactics](#)

RESOLUTION NO. ##,###-N.S.

RESOLUTION CONDEMNING THE UNIVERSITY OF CALIFORNIA'S ANTI-LABOR
ACTIONS AND LEGAL TACTICS

WHEREAS, the City of Berkeley stands with organized labor and respects the labor rights of all workers as demonstrated in Resolution No. 54,533-N.S., which adopted the Labor Bill of Rights as a statement of City of Berkeley policy¹; and

WHEREAS, the University of California (UC) is the largest employer in the City of Berkeley and the City of Berkeley has a vested interest in protecting the rights of all UC workers; and

WHEREAS, the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) Local 4811 represents 48,000 academic student employees, graduate student researchers, academic researchers, and postdoctoral researchers from all 11 UC campuses; and

WHEREAS, UAW Local 4811 filed Unfair Labor Practice (ULP) charges² against the UC, citing management's retaliation and discrimination against workers and students for nonviolently exercising their First Amendment Rights, the UC's failure to protect its workers and students from violence by police and right-wing counter-protesters, and UC President Michael Drake's unilateral changes to UC policy for the purposes of arresting and disciplining workers and students without giving advance notice to UAW Local 4811 or allowing the union to bargain over these changes; and

WHEREAS, 79% of participating union members voted in favor of authorizing a strike over the ULP charges, initiating a stand-up strike beginning on May 20, 2024³; and

WHEREAS, the UC twice sought an injunction against the strike from the California Public Employment Relations Board (PERB), the regulatory body with the "exclusive initial jurisdiction" on questions of public sector labor law, and PERB twice found no legal basis for halting the strike;⁴ and

WHEREAS, PERB issued a thorough complaint against the UC alleging serious unfair labor practices⁵, prompting the UC to reject it and seek a temporary injunction against the strike from the Orange County Superior Court; and

¹ berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/5.%20Labor%20Bill%20of%20Rights%20Resolution%20No.%2054533.pdf

² uaw4811.org/2024-ulp-charges

³ dailybruin.com/2024/05/15/united-auto-workers-local-4811-votes-to-authorize-strike

⁴ latimes.com/california/story/2024-06-07/uc-seeks-to-halt-strike-takes-academic-workers-to-court

⁵ drive.google.com/file/d/1D0VpwqREI_D7RgNd87DPUDnZj9BRRfZF/view

WHEREAS, Noah Zatz, a Professor of Law at UCLA, wrote that “decades of labor law rejects” the UC’s claims that the strike is illegal;⁶ and

WHEREAS, Veena Dubal, a Professor of Law at UC Irvine, compared the UC’s actions to those of union-busting megacorporations, stating that both were “attempting to undermine the bodies governing labor law;”⁷ and

WHEREAS, by undermining PERB, the UC has attempted to undermine the foundation of public sector labor law, which could have far-reaching impacts on the rights of hundreds of thousands of public sector employees;⁸ and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Berkeley that the City of Berkeley condemns the UC’s ULPs against its employees; and

BE IT FURTHER RESOLVED, the City of Berkeley decries the UC’s anti-union legal tactics that undermine the labor rights of hundreds of thousands of public sector workers; and

BE IT FURTHER RESOLVED, the City of Berkeley reaffirms its support for the rights of all workers to be safe from physical and mental harm in their workplaces; and

BE IT FURTHER RESOLVED, the City of Berkeley opposes all forms of illegal retaliation against employees for exercising their First Amendment rights; and

BE IT FURTHER RESOLVED, the City of Berkeley urges the UC to participate in PERB’s resolution process⁹ and resolve the ULPs, as offered by PERB and accepted by UAW Local 4811; and

FINALLY, BE IT RESOLVED, that upon passage, a copy of this Resolution be sent to Governor Gavin Newsom, Regents of the University of California, the President of the University of California Michael Drake, the Chancellor of the University of California Berkeley Richard Lyons, Congresswoman Barbara Lee, State Senator Nancy Skinner, and Assemblymember Buffy Wicks.

⁶ dailybruin.com/2024/05/16/op-ed-uc-offers-deceptive-claims-about-illegality-of-strike-in-letter-to-union-members

⁷ x.com/veenadubal/status/1798109232862249346

⁸ uaw4811.org/updates/gcdo8fb8xj2v80z791r0acsfhlp93

⁹ uaw4811.org/updates/uc-refuses

