



MOUNTAIN STATES LEGAL
FOUNDATION
FREE COUNTRY. FREE PEOPLE.

2596 South Lewis Way | Lakewood, CO 80227 | Tel: 303.292.2021

May 20, 2024

Ms. Ina Bryant
Interim Chief Campus Counsel,
UCLA Office of the Campus Counsel
Box 951405
Los Angeles, CA 90095
ibryant@conet.ucla.edu

By e-mail and USPS mail

Re: *Notice of Duty to Preserve Evidence for Litigation*

Ms. Bryant,

This letter is a follow up to our May 1, 2024 letter to you. In that letter, we reminded UCLA of its constitutional obligation to move forward with a May 15, 2024 event planned by the Young Americans for Freedom (“YAF”). We warned that failure to do so would render both the University and the responsible individuals liable. After first appearing to change course by approving the event, at the last minute, and well beyond the time to make alternate arrangements, UCLA flip-flopped again, and shut it down. This was an egregious violation of the First Amendment.

We hereby notify you that YAF intends to file a lawsuit in federal court to vindicate its rights. We also write to remind you of your obligation to immediately take steps to preserve relevant materials and to prevent the destruction (intentional or otherwise) of evidence.

As you know, in mid-April 2024, YAF invited the founder of Jihad Watch, Robert Spencer, to provide a much-needed counterpoint to prevailing campus orthodoxy on the Israel-Hamas war. As is appropriate for guest speakers invited to the UCLA campus, the event was to take place in a presentation room in the central Ackerman Student Union building. At the time of our May 1, 2024 letter, UCLA had refused to approve the event on the ground that anti-Israel activists might protest Mr. Spencer’s talk. As we outlined in our letter, UCLA’s decision to shut down YAF’s presentation, rather than providing security against the possibility of destructive or unlawful counter-protests, was a clear violation of the First

Amendment for a number of reasons, including that it handed an unconstitutional “heckler’s veto” to the anti-Israel activists, and because it constituted blatant viewpoint discrimination against pro-Israel messages.

Following our letter, UCLA appeared to change course by approving the event (although without very much time to advertise or promote it). Shockingly however, on the day that it was supposed to occur the event could not proceed as UCLA had approved. Instead, without any warning, when YAF staffers arrived to set up the designated room on May 15, 2024, they were kicked out of the facility and the doors were locked. This time, UCLA did not budge, and YAF was unable to host the event. As they had before, UCLA administrators cited the same security concerns.¹

UCLA had a month to prepare for the event, and its last-second reversal was totally unacceptable. More importantly, its overall course of conduct—sometimes stonewalling, sometimes appearing to approve the event, sometimes finding technical violations of ever-changing procedural “rules,” sometimes literally locking the doors against YAF, and always treating anti-Israel protestors with deference while stubbornly blocking pro-Israel messages—was grossly illegal. YAF intends to seek all appropriate recourse, including injunctive relief, declaratory relief, and damages, including punitive damages, against the University and personally against the individuals responsible.

As the possibility of litigation has been apparent for some time now, UCLA should already have in place systems to prevent the destruction of evidence that may be germane to this matter. At a minimum, UCLA must preserve the following:

- 1) All documents and communications (including, without limitation, e-mails, text messages, instant messaging messages, voice memos, audio recordings, video recordings, social media posts, and any other form of electronic or non-electronic document or communication whether or not stored on a UCLA system) since April 16, 2024 concerning:
 - a. YAF
 - b. Robert Spencer

¹ At the last second, UCLA falsely claimed that it was unable to provide adequate security at the Student Union building, and ordered YAF to relocate the talk to a remote, low traffic, location in an inappropriate facility. This switch was unacceptable, not least because it essentially guaranteed that Mr. Spencer would be speaking to an empty room, especially given the lack of time to publicize a new location. That this was merely a feint on UCLA’s part, not a genuine offer to accommodate YAF’s free speech, is underscored by the fact that, if anyone *was* able to find the new location at the last minute, it was just as likely to be an anti-Israel counter protestor as anyone else. Moreover, UCLA’s claims that the Student Union building could not be secured were patently false. Indeed, UCLA staff *actually locked down* portions of the building on May 15, 2024. Ultimately, UCLA’s strategy was a cynical bait-and-switch ploy meant to suppress the Robert Spencer talk, while attempting to claim that YAF “chose” not to go forward. This is an obvious falsehood.

- c. The May 15, 2024 event
 - d. Security issues involving protests or demonstrations concerning the Israel-Hamas war (including, but not limited to the “encampment” referenced in our May 1, 2024 letter and any protest or other activity in the vicinity of the encampment)
 - e. To the extent not already identified, security issues involving the planned May 15, 2024 Robert Spencer event
 - f. All events planned for or occurring at the Ackerman Student Union from May 1, 2024 to the end of the semester
 - g. Students for Justice in Palestine, the UC Divest Coalition and any other student or non-student organization engaging in protests or demonstrations on the UCLA campus
- 2) All documents and communications referring or related to applications by student organizations to host events or speakers on campus for the period January 1, 2023 to the present
- 3) All documents referring or related to the relative safety and/or security of the Ackerman Student Union as compared with the Computer Sciences building, Young Hall, or any other building purportedly more secure for purposes of hosting the May 15, 2024 event
- 4) All documents and communications involving the following UCLA personnel for the period April 16, 2024 to the present:
- a. Michael J. Beck
 - b. Gene D. Block
 - c. Ina Bryant
 - d. Chet Cohen
 - e. Mike Cohn
 - f. Ella Crowell
 - g. Richard Davis
 - h. Mick Deluca
 - i. Lt. James Echols
 - j. Glen Gibson
 - k. Gawin Gibson
 - l. Philip Goodrich
 - m. Monroe Gorden Jr.
 - n. Yolanda J. Gorman
 - o. Chansoth Hill
 - p. Darnell M. Hunt
 - q. Kristopher Kaupalolo
 - r. Isaac Koh
 - s. Pamela Lewis
 - t. Mary Osako
 - u. Marisa Osborne
 - v. Kenneth Quian
 - w. Emily Rose
 - x. Roland Ruiz
 - y. Jasmine Rush
 - z. Scott Scheffler
 - aa. Patrick Simmons
 - bb. Sgt. Harry Standberry
 - cc. Bill Sweeny
 - dd. John Thomas
 - ee. Jason Zeck

As you know, UCLA's duty to preserve documents is broad, and is not limited to the documents and materials identified in this letter. UCLA's duties are on-going and newly created materials must be preserved along with existing materials.

We tried to warn you UCLA would be held to account if it did not respect the constitutional rights of YAF and its members. We are deeply disappointed that UCLA did not take the warning to heart. If UCLA has a serious proposal to redress the deprivation of YAF's rights and to ensure that similar violations do not recur in the future, we are willing to listen. We can be reached at the email addresses listed below. In the meantime, YAF is preparing its suit and intends to file in due course.

/s/ James Kerwin

James Kerwin, Senior Attorney
William Trachman, General Counsel
MOUNTAIN STATES LEGAL
FOUNDATION
2596 S. Lewis Way
Lakewood, CO 80227
(303) 292-2021
jkerwin@mslegal.org
wtrachman@mslegal.org