

January 9, 2025

CYNTHIA LARIVE
Chancellor

LORI KLETZER
Campus Provost and Executive Vice Chancellor

Re: INTERIM Conduct Regulations (Time, Place, and Manner Policy)

Dear Cindy and Lori,

The Academic Senate has reviewed the Interim Conduct Regulations (Time, Place, and Manner Policy). Our Committee on Academic Freedom (CAF), Committee on Academic Personnel (CAP), Committee on Courses of Instruction (CCI), Committee on Diversity, Equity, and Inclusion (CODEI), Committee on Educational Policy (CEP), Committee on Faculty Welfare (CFW), Committee on Library and Scholarly Communication (COLASC), Committee on Research (COR), Committee on Teaching (COT), Committee on Planning and Budget (CPB), Privilege and Tenure (P&T), Committee on Rules, Jurisdiction, and Elections (CRJE), and Graduate Council (GC) have responded. The committees were thoughtful and comprehensive with their responses.

While a substantial number of issues were raised, several were common. The single overarching issue across multiple committee responses was a persistent lack of precision running through multiple aspects of the policy, and potential issues that could arise from this. This was flagged in multiple aspects of the draft policy, with both language used and processes described. In the view of most committees, non-specific language, the lack of well-defined terms, and in many places a lack of clarity in process descriptions leaves far too much room for multiple interpretations, and raises the potential for confusion, misinterpretation, and potential abuse on the part of those charged with implementing and enforcing the policy. CAF perhaps summarized these concerns best in their opening statement: "...the current policy may hinder academic freedom and campus expression due to vague language, unclear process, the potential for inconsistent enforcement and disproportionate response."

Together, these observations suggest substantial clarifying revision work as a main task in formulating UCSC-specific language for our TPM policy, and implementation guidelines. The following represents a summary of these issues, organized by main themes raised.

Provision IV.4: Masking

While we note that the masking policy/guidance has been amended, the provisions and language¹ on masking were nevertheless one of the areas of most comment. Main areas of concern focused on the difficulty in determining "intent" and or mental posture (e.g. "threatening" or

¹ No person shall wear a mask or personal disguise or otherwise conceal their identity with the intent of intimidating any person or group or for the purpose of evading or escaping discovery, recognition, or identification in the commission of violations of law or policy.

“intimidation”), the potential for discrimination related to attire, and the potential for infringing on legitimate reasons for why an individual might wish to conceal their identify (e.g. doxing).

CAF, CEP, CFW, CPT, and CODEI were all critical of language regarding understanding intent or intimidation. CEP commented: “it is unclear how University officials will assess an individual's intent for wearing a mask: What criteria will be used to identify intentions that are permissible (e.g., health-related, cultural, or safety-oriented) vs. intentions that violate policy (e.g., evading identification).” CODEI worried that this language could be perceived as impacting or even targeting those who wear headscarves or face coverings for religious or cultural reasons, as these practices would now tend to attract the scrutiny of law enforcement, perhaps leading to implicit bias. CFW concurred, stating: “In the absence of clarity and guardrails, we are concerned about the misuse of this regulation to discriminate against individuals wearing face coverings for religious and other purposes.”

CFW and CAF focused on the difficulty of determining what might constitute “intimidation”. These committees also felt the draft language was too vague, and they were equally troubled by what they saw as not real definition of “intimidation” in reference to mask wearing, noting it is not clear what the standard for intimidation would be. They noted that a prohibition focused on an intent to intimidate gives rise to a two-fold problem: the lack of clear guidance on what constitutes intimidation from the perspective of an outside observer, and then how one could determine if this was in fact “intended” (what seems to be prohibited by the current language).

Finally, there were also concerns that masking provisions could impinge on genuine concerns of identification for purposes of retaliation: CEP commented that it could also impact students who were exercising free speech rights but had legitimate safety concerns “such as avoiding harassment or doxing during protests.”

We note that the updated guidelines from UCOP (distributed November 27, 2024) now make more clear that masks are only prohibited if engaging in prohibited conduct, and masking is expressly allowed in all other circumstances. While this policy addition² to a degree addresses some concerns above, it does not address other central issues with proscribing objective behavior, as opposed to assuming intention (i.e. defining what constitutes “threat” or “intimidation”). Language first explicitly recognizing that masking is allowed in almost all circumstances, and then focusing on objectively determinable actions or behaviors, would help clarify the policy.

Process Concerns

Many of the reviewing committees also found the language of the interim policy to be troubling in its lack of specificity regarding process, especially regarding approving demonstration or protest activities, as well as dealing with discipline.

Permission and Permitting

The policy is currently silent on what a “pre-approval” process will look like, and who will be responsible for adjudicating requests. Clear and specific protocols for permission and permitting

² IV.5 Wearing a mask or face covering is permissible for all persons who are complying with University policies and applicable laws.

need to be added to UCSC-specific guidelines. Some of the questions raised include: Will there be an appealable process by which structures are approved, barring any proposed unreasonable uses, in terms of size, duration of use, etc.? Where will the application process for “pre-approval” be located and will it be easily accessible to the campus community? As GC observed, the current wording of the policy would it make easy to limit an event for any number or reasons, including simply by not approving the setup of structures for weather protection.

Accessibility and Transparency

Several committees were concerned with accessibility and transparency of policies. They noted that rather than a current coherent UCSC policy in a single location, many aspects are links to outside sources. Even following the links, the policies were found to be confusing in many cases (i.e., not in “plain language”). Finally, as noted above, there are instances where key terms are undefined. One such example is “university official.” The policy states that a student can be a “university official” but no definition is provided for this (noted by CRJE and CPB). Equally vague, and extremely important, is the use of the term “disruption.” CEP commented: “This lack of clarity could send the message that even peaceful protests are viewed as “disruptions”; even worse, it could lead to inconsistent enforcement and the perception of targeted application.” This begs the key question of who will determine when a “disruption” has taken place, and what are the criteria for this?

Due Process in Enforcement

The lack of clarity in definitions and processes required for maintaining free speech activities leads to an issue of due process. If members of the campus community do not have clear guidance on what is required of them in terms of permitting and conduct, how can any adjudication of an alleged violation be deemed to be fair? Due to lack of clarity, committees overall thought the current draft gives an unacceptable level of discretion to those responsible for policy promulgation and enforcement. Finally, some committees also noted that much of the conduct outlined seems to single out undergraduates.

Finally, CCI raised a concern about use of California Penal Code 626.4. Specifically, that students banned from campus pursuant to this statute should be informed clearly of their right to petition, as well as given a clear summary of process and timeline. This committee would like to see this information included as part of the cohort of documents referred to in the interim policy. CRJE also wrote, “The committee asks about independent supervisory bodies and appeal processes at various stages of the Policy implementation process because as currently written, with the exception of the Police Accountability Board, the policy only allows recourse to courts of law.” CCI notes that students need to be made aware of administrative options such as petitions that they may need to take advantage of while they are unable to access all the resources in situations where they are barred from campus.

Tiered Response Model³

³ <https://www.ucsc.edu/sb108/>; point 6. How the campus may respond to activities that threaten the safety of students, faculty, or staff, and disrupt their ability to access the campus or buildings, the educational process, or activities on campus. The notification will include strategies consistent with current law for how the university intends to ensure students can safely access buildings and activities on campus.

The experience of last year's campus protests have left many with the sense that escalation to police involvement in protest activities is inevitable. However, multiple committees felt that the policy and tiered response model, as written, does not do enough to avoid this, and to clearly indicate how decisions about when law enforcement would move to citations or arrests would be made.

The campus website dedicated to Senate Bill 108, the progenitor of this interim policy, lists a tiered response framework under section 6.4, in order of escalation. COT noted that a tiered response provision is rooted in the best practices and recommendations of the Robinson-Edley report. However, COT also notes that Robinson-Edley lists mediation and de-escalation prior to citations or engagement by police. While the tiered response model is in one sense predicated on de-escalation, several committees observed that it is not specific enough here, and in particular that it makes no mention of mediation. The lack of any explicit reference to mediation, or some related approach, is noted by CAF and CODEI as well. CODEI notes that without mediation, a perceived escalation may place at risk more vulnerable members of our campus community, that police presence often leads to problematic issues regarding oversight of law enforcement and can put at risk historically marginalized communities or those who are subject to ancestral bias.

Campus Affiliation and Identification Requests

A key aspect of the current model is that it differentiates between campus and non-campus affiliates, based on showing identification upon request. However, CODEI notes that aspects of requesting identification requirement are currently not clear. For example: who can ask for identification? How will someone be asked to prove their identity (UCSC ID only or other?). They also worry that without clear language regarding circumstances in which IDs are required, and if the consequences for not complying are also not clearly articulated, this regulation could be open to abusive interpretation, giving too much power to University and government authorities (CFW p.1)

Several committees also worried about implicit bias linked to ID requests. CPT voiced concern with the manner in which "discretion and judgement may be influenced" by those charged with making this distinction, raising a danger of implicit bias. CRJE notes that this would seem to focus more on students (as opposed to other campus community members) since the language appears to be more prescriptive for them than it is for faculty, employees, and other affiliates. CRJE goes on to ask how "reasonable fear" and "personal safety" will be assessed, and if implicit bias could well play into such assessments?

Criteria for Police Involvement, and Associated Costs

Finally, as noted above, a key aspect in the lack of clarity noted by committees is the need for clearer criteria and framework for progression to police involvement. The draft⁴ simply states that *"People who refuse to change their conduct as directed may be cited for a violation of the relevant University policy. If they are breaking the law they may be cited, detained and arrested for unlawful*

⁴ <https://www.ucsc.edu/sb108/>: **point 6.** How the campus may respond to activities that threaten the safety of students, faculty, or staff, and disrupt their ability to access the campus or buildings, the educational process, or activities on campus. The notification will include strategies consistent with current law for how the university intends to ensure students can safely access buildings and activities on campus.

behavior, or subject to other police actions.” Beyond being vague in terms of how or under what conditions these stages of escalation would proceed, this language leaves the impression that once called to assess a situation, the police will be uniquely responsible for determining when and how escalation to citations or arrest will proceed, under any circumstance. While the draft rightly notes that not all possible scenarios can be addressed, nevertheless taken together committee responses indicate that a more specific framework on when and how escalation to police involvement would occur. More clarity here would go a long way to assure campus community members that absent immediate threats to safety, such actions would occur only within a clear framework. This might include specific guidelines regarding warnings, time-frames, conduct specifics, and how/when the decision to refer matters to the police are made.

Second, UCSC is unique among all UC campuses in that it has constrained access points to the main campus, posing important issues for all campus residents, including both students as well as families with children, in addition to academic freedom issues related to access to research and library facilities. CPB specifically notes this issue, in that the reliance on only two primary campus entrances continues to pose major challenges and presents a need for long-term planning that should include exploring options for additional access points, and/or optimizing the use of existing secondary roads (CPB p.2). Finally, there is a perception that closing campus entrances is a “red line” that would precipitate police involvement potentially in a different manner than other forms of access blockage, but this is nowhere treated in the current draft policy.

Finally, CPB also raised the issue of campus costs if escalation reaches a point where multiple law enforcement agencies become involved (referred to as “mutual aid”): “Questions remain about how costs—such as those related to strike responses, campus closures, or enforcement measures—will be managed...”)

Summary

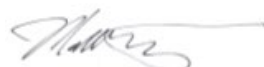
Together, the committee responses indicate that Senate faculty feel important clarifications are required to existing policy. These would serve to clarify process, highlight protections for free speech and expression, and provide guardrails and fairness in policy implementation. These might take the form of modifications to existing documents, or as a separate memorandum clarifying terms used and specifics or scenarios of implementation. The main recommendations of committees can be synthesized as:

- Clearly defining terms used in all aspects of the policy.
- Avoiding any interpretation regarding state of mind or “intent” in any aspect of the policy, but sticking to objective, observable actions and behaviors.
- Providing a more clear framework and guardrails for a Tiered Response implementation that would involve police. Including mediation or a similar approach as explicit elements (as indicated in the Robinson-Edley report), and finally outlining more clearly the framework for decisions on escalation to police involvement or action, and bodies beyond the police (e.g. administration or any campus safety groups) that might be involved in such decisions.
- More clear, unified, accessible and readable (“plain language”) synthesis of key policies and collection of all relevant documents, cited in a single UCSC location.

- Clear documentation of processes needed to request authorization for demonstrations, and processes for appealing/reviewing decisions.
- Clear documentation regarding processes around Penal Code 626.4, including rights to appeal decisions.

On behalf of the Senate, I thank you for the opportunity to provide comment on this significant campus policy.

Sincerely,



Matthew McCarthy, Chair
Academic Senate, Santa Cruz Division

Enc: Senate Committee Responses (Bundled)

cc: Roger Schoenman, Chair, Committee on Academic Freedom
Greg Gilbert, Co-Chair, Committee on Academic Personnel
Susan Gillman, Co-Chair, Committee on Academic Personnel
Amanda Rysling, Chair, Committee on Courses of Instruction
Gabriela Arredondo, Chair, Committee on Diversity, Equity, and Inclusion
Tanner WouldGo, Chair, Committee on Educational Policy
Yat Li, Chair, Committee on Faculty Welfare
Chad Saltikov, Chair, Graduate Council
Jeffery Erbig, Chair, Committee on Library and Scholarly Communication
Raphael Kudela, Chair, Committee on Planning and Budget
Roberto Manuchi, Chair, Committee on Privilege and Tenure
Nirvikar Singh, Chair, Committee on Research
Eleonora Pasotti, Chair, Committee on Rules, Jurisdiction and Elections
Megan Thomas, Chair, Committee on Teaching
Matthew Mednick, Executive Director, Academic Senate

December 17, 2024

MATTHEW MCCARTHY
Academic Senate Chair

Re: INTERIM Conduct Regulations (Time, Place, and Manner)

Dear Matthew,

The Committee on Academic Freedom (CAF) is grateful for the opportunity to review the revised “Interim Time, Place, and Manner” policy (TPM), first introduced over the summer of 2024 at the University of California. We have some concerns about the policy, particularly because the interim policy was implemented over the summer without any opportunity for Senate review. This policy has important implications for academic freedom, and we believe shared governance requires consultation. We are hopeful that input from the current review process will result in an improved policy. Our general concern is that aspects of the current policy may hinder academic freedom and campus expression due to vague language, unclear process, the potential for inconsistent enforcement and disproportionate response. While we appreciate that the policy seeks to align campus regulations with state and federal law, we believe that the policy must be carefully designed to protect the expressive rights of all community members and viewpoints while also preserving the rights of those impacted by disabling disruptions.

Time, place, and manner restrictions of traditional public forums must adhere to constitutional principles as defined in *Ward v. Rock Against Racism*, 491 U.S. 781 (1989): specifically, they must be **content-neutral, narrowly tailored to serve a legitimate government interest, and provide ample alternative channels for expression**. The policy recognizes these obligations but could go further in balancing restrictions with robust mechanisms for supporting expressive activities. Specifically, the process for obtaining permission (and determining when it is necessary) to engage in such activities must be transparent, fair, and expedient, ensuring that no individual or group is unjustly hindered in exercising their constitutional rights.

CAF members also recognize the importance of balancing expressive rights with the other rights of campus community members, including:

- the right to access education without undue disruption;
- the right to conduct academic work in a productive and safe environment; and
- the right of campus employees to access their workplaces without obstruction.

To that end, we welcome a well-implemented TPM policy that complies with state and federal laws while also facilitating expressive and protest activities in a manner compatible with the broader campus mission. Such a policy will ensure that protest and activism remain vibrant while respecting the needs of the community as a whole.

Content Neutrality and Narrow Tailoring

The policy could more explicitly address the requirement for content neutrality and narrowly tailored restrictions. For example:

Content Neutrality: The language of the current policy is ambiguous about specific applications. To ensure that enforcement remains objective, we suggest explicitly clarifying that viewpoint neutrality will be upheld, with safeguards to prevent any undue limitation on speech based on the content or perspective expressed. Senate Bill 108 reinforces the need for policies that foster the free exchange of diverse ideas, but without clear definitions and practices, the risk of discriminatory or uneven application remains. The lack of clarity in the policy, and the lack of a clearly defined process (addressed below more specifically), also risk chilling expressive activity.

Further, under SB 108, each campus is now responsible for fostering ideologically diverse viewpoints in alignment with educational goals. While diversity of thought is crucial, mandated ideological balance could risk encroaching on academic freedom by compelling faculty to promote certain viewpoints. We suggest the policy and any related policies address this carefully to uphold academic freedom while encouraging respectful discourse, without mandating viewpoint inclusion that could limit intellectual inquiry.

Narrow Tailoring: The policy should also be more narrowly tailored to address only those restrictions necessary to achieve substantial governmental interests such as preventing actions that directly or substantially disrupt campus operations or public safety. For example, while PACAOS 30.30 mentions protecting access to educational facilities, the broad terms "blocking" and "obstructing" in Section IV of FOA-013 lack clarity on how lawful, peaceful protests (e.g., using crosswalks to lawfully cross the street during demonstrations) might be impacted. We recommend that lawful protest activities in common campus areas, like crosswalks when the light is green, should not be considered obstruction unless they pose a clear, substantial disruption to campus operations. As noted in FOA-013, civil disobedience is not protected speech. However, we suggest that clear definitions of what constitutes civil disobedience be added to the policy (e.g blocking roadways).

Further, the term "appropriate measures" in the context of enforcing campus rules against "blocking or obstructing ingress or egress" is undefined. To prevent overly punitive or disproportionate responses, we suggest specifying that enforcement actions will undertake the least restrictive means necessary to safely preserve access, avoiding overly broad interpretations of what constitutes a disruption. Moreover, we look forward to further clarification of the tiered response policy with emphasis on de-escalation and mediation.

With regard to IV.4 on mask wearing, we are concerned about implementation due to the vague definition of intimidation. Such a policy can only be meaningfully enforced if there is a clear definition of what constitutes intimidation. The current policy relies on intent, which is difficult to determine. At the same time, we recognize that mask wearing for the purpose of intimidation is a potentially serious problem with deep chilling effects. Any definition of intimidation should, of course, be content neutral.

Further, we have heard a great deal about the process of holding accountable those involved in disruptive or violent acts. There has been little to no discussion of holding the police accountable for excessive or inappropriate actions. We encourage the campus to empower the Police Accountability Board to pursue complaints by outlining a clear process through which such complaints will be evaluated, first by the administration and then by the board itself.

Alternative Channels and Robust Processes for Expression

The effectiveness of time, place, and manner restrictions hinges on the availability of ample alternative channels for expression. To that end:

- The permitting process for organized expressive activities must be transparent, accessible, and efficient. Currently, information about how to obtain permits for events or protests is fragmented and unclear. For example:
 - The *Free Speech at UC Santa Cruz* website includes incomplete guidance, such as the “Act” page’s unfinished sentence: “Groups, organizations and individuals planning an event or protest that are not RSOs make space reservations through?”
 - The linked “Major Events” policy uses technical, bureaucratic language that may deter individuals unfamiliar with campus procedures. Indeed, the term “major events” in the TPM policy is itself institutional jargon and should be parenthetically defined or replaced with plain language.
 - Other parts of the policy are similarly opaque. For example, the sentence “This policy does not repeat all definitions or terms found in other University policies and does not repeat the many self-executing provisions of other University policies” is difficult to understand. What is the meaning of “self-executing provisions”? How can provisions of the policy be “self executing” when the provisions are executed in response to violations? Why are relevant definitions not repeated in the policy itself? The policy links to the text of other policies in a way that is not accessible to the general public whose behavior is meant to conform to it. We underscore our call for plain language to be used in the TMP policy to make it accessible to its primary audiences: the campus community and the general public.
 - The general process is unclear. In our perusal of the website, we were not easily able to understand when permits are required and whether they are necessary only for events, such as concerts, or also when a group of people wishes to display signs or engage in protest activities somewhere on campus. This information should be plainly available as there is now a great deal of confusion about what the policy requires. That time, place and manner policies have been on the books but unenforced contributes to confusion about the current policy.

To address these gaps, the university should:

- Publish the policy using only clear, accessible language that the general public can understand.
- Publish clear, plain-language guidelines for when permits are necessary, and detail the process of obtaining permits, including timelines and expectations for approval.
- Provide assurances that the process is viewpoint-neutral and adheres to strict legal standards.

- Include detailed explanations of the permitting process in training materials, emphasizing that the policy exists to facilitate, not hinder, expressive activities.

These steps will help dispel concerns that the policy is designed to suppress certain viewpoints, and ensure that expressive rights are protected.

The implementation of this policy presents additional challenges. Faculty, staff, and students are often unaware of the existing permitting structure for organized expressive activities. Any new training created by the campus on time, place and manner should include specific details on how to obtain permits and emphasize that the policy aims to facilitate the orderly expression of viewpoints, not suppress activism. The policy's intent to permit expression, rather than restrict it, should be clearly communicated in all outreach efforts. Concrete examples of how the permitting process has enabled diverse forms of expression could help build trust and encourage compliance.

Disclaimers and Academic Freedom

In reviewing the various policies associated with time, place and manner, we note that the related "Policy on Use of University Property" introduces problematic language regarding disclaimers. Specifically, the phrase "reasonably be construed" is ambiguous and subjective. What constitutes reasonable? Who determines reasonableness? The lack of clear standards risks arbitrary enforcement and a chilling effect on speech. Further, faculty titles reflect professional achievements and years of research and training. These titles are not simply institutional property. Requiring disclaimers misunderstands the nature of academic credentials and imposes a burden of self-censorship and "disclaimer management" on faculty members. Practically, faculty cannot control how others refer to them, such as in news articles or public forums. Information about institutional affiliations is readily available, making disclaimers irrelevant in many cases. It is also impracticable for a faculty member to interrupt an interview on television or radio to issue such a disclaimer when discussing their research or area of expertise.

Most importantly, based on *Demers v. Austin*, 746 F.3d 402 (9th Cir. 2014), it is established that faculty speak as private citizens in their teaching and research roles. We do not speak for the University of California and faculty speech is thus subject to First Amendment protections. Thus, we recommend exempting academic speech from disclaimer requirements. Faculty expression in teaching, research, and public commentary does not imply institutional endorsement and should not be constrained by unnecessary governmental burdens.

Recommendations

To address these issues, we have the following recommendations:

- Provide a clear pathway for organizing events and protests that is easy to navigate, efficient and fair.
- Provide explicit definitions for terms such as "disruptive," "non-interference," and "involuntary audiences" to ensure clear, consistent application that does not risk arbitrary enforcement.

- Use plain language to make policy accessible to the campus community and general public.
- Specify that lawful use of campus pathways (such as lawfully entering crosswalks on a green light during protests) is permitted, and avoid interpreting non-obstructive protest activities as “disruptions” without substantial impact on campus functions.
- Remove requirements for disclaimers in faculty speech or academic settings. Clear guidelines aligning with established legal principles could reinforce the fact that faculty do not represent the university in their research or teaching roles.
- Outline enforcement actions to ensure responses are proportionate, and introduce a transparent review process for affected individuals to appeal any restrictions on their activities.

By adopting these clarifications and guidelines, we believe the policy will better reflect the University of California’s dedication to free expression and academic freedom, supporting a vibrant campus in all domains of the campus mission. We look forward to further discussions on refining this policy to protect the rights of students, faculty, and staff.

Sincerely,

lsl

Roger Schoenman, Chair

Committee on Academic Freedom

cc: Greg Gilbert, Co-Chair, Committee on Academic Personnel
Susan Gillman, Co-Chair, Committee on Academic Personnel
Amanda Rysling, Chair, Committee on Courses of Instruction
Gabriela Arredondo, Chair, Committee on Diversity, Equity, and Inclusion
Tanner WouldGo, Chair, Committee on Educational Policy
Yat Li, Chair, Committee on Faculty Welfare
Chad Saltikov, Chair, Graduate Council
Jeffery Erbig, Chair, Committee on Library and Scholarly Communication
Raphael Kudela, Chair, Committee on Planning and Budget
Roberto Manduchi, Chair, Committee on Privilege and Tenure
Nirvikar Singh, Chair, Committee on Research
Eleonora Pasotti, Chair, Committee on Rules, Jurisdiction and Elections
Megan Thomas, Chair, Committee on Teaching

October 31, 2024

MATTHEW MCCARTHY
Chair, Academic Senate


Re: Divisional Review Interim Conduct Regulations (Time, Place, and Manner) Policy

Dear Matthew,

During its meeting of October 31, 2024, the Committee on Academic Personnel (CAP) discussed the interim Conduct Regulations (Time, Place, and Manner) Policy. CAP understands that all UC campuses were required to implement some version of this policy by October 1, 2024, and that this policy is in force, but may be revised based on constituent feedback from this review.

CAP considered a number of different scenarios under these regulations to gauge whether there is a clear place where CAP would become involved. A faculty member could conceivably include in their personal statement a reference to strike-related disciplinary actions as impeding research productivity. But CAP concludes that this unlikely possibility would be dealt with on a case-by-case basis. Therefore, we do not believe that the kinds of disciplinary actions potentially associated with these regulations would become a regular or problematic part of personnel actions or advancement considerations.

Sincerely,



Susan Gillman
Co-Chair, Committee on Academic Personnel



Gregory Gilbert
Co-Chair, Committee on Academic Personnel

cc: Roger Schoenman, Chair, Committee on Academic Freedom
Yat Li, Chair, Committee on Faculty Welfare
Amanda Rysling, Chair, Committee on Courses of Instruction
Tanner Wouldgo, Chair, Committee on Educational Policy
Gabriella Arredondo, Chair, Committee on Diversity, Equity, and Inclusion
Jeffrey Erbig, Chair, Committee on Library and Scholarly Communication
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Raphe Kudela, Chair, Committee on Planning and Budget
Roberto Manduchi, Chair, Committee on Privilege and Tenure
Eleonora Pasotti, Chair, Committee on Rules, Jurisdiction, and Elections
Chad Saltikov, Chair, Graduate Council
Senate Executive Committee

December 17, 2024

MATTHEW MCCARTHY
Academic Senate Chair

RE: Interim Campus Time, Place, Manner Policy

Dear Matthew,

The Committee on Courses of Instruction (CCI), has reviewed and responded to the Interim Conduct Regulations (Time, Place, Manner) Policy FOA-013 enacted on September 13, 2024 in response to State Senate Bill 108.

Many CCI members echoed the concerns already expressed comprehensively by other Senate committees in their correspondence on this issue, especially concerns about the broad and underspecified language of the policy itself, which leaves a great deal of room for ad hoc interpretation and administrator discretion in the policy's application.

CCI is particularly interested in students' rights and responsibilities, as CCI oversees petitions for exceptions to academic policy and grade grievances. We are concerned that students are often not aware of the option to file petitions before this committee. This lack of awareness has the potential to interact with the enforcement of the Interim Time, Place, Manner Policy, because students may especially benefit from seeking exceptions to academic policy (such as late drops or withdrawals from classes) in the event that they experience consequences from the enforcement of the Interim Policy.

CCI would like to be clear that the committee does not have an expectation that petitions arising from this policy's enforcement would necessarily be approved. As with all other petitions that come before us, each one in this circumstance would be evaluated on its own merits. But the gaps in students' awareness of petitions as an avenue to redress the impact of adverse circumstances on their paths to graduation is a pervasive equity issue on this campus, which the committee would not want to see amplified by any new policy. For this reason, we strongly recommend that not only should students be made aware of the petition processes in general, but also that this awareness should especially be shared with affected students whenever the Interim Time, Place, Manner Policy is invoked. This is particularly important because there is currently no campus guidance when students are banned from campus (by using California penal code 535.4) where petitions might be mentioned. As such, it is appropriate to reference the CCI petition process within the TPM policy.

We further note that, in matters that are disciplinary and not academic, advisors may not be informed of students being barred from campus; thus, the normal pathways that support student success may not function on behalf of students who are identified as possible violators of this policy before their cases are adjudicated.

Some CCI committee members further suggested that the enactment of this policy raises the need for clarification about whether and how students may be banned from campus for violating the Interim Policy, and if so, what students' and faculty's rights and responsibilities are when such bans occur. These CCI members were concerned that there is the potential for great harm even to students who are ultimately found innocent in conduct proceedings, because they may be barred from campus — and so experience a loss of housing, a loss of access to the instruction in courses in which they are enrolled, and a loss of access to any other support resources on campus on which they rely — while their cases are being reviewed. Because advisors are not automatically involved in such cases, these CCI members even more strongly emphasized the need for students to be aware of administrative options such as petitions that they may need to take advantage of while they are unable to access all the resources usually available to a UCSC student.

In sum, we offer the standard CCI petition processes as one of the few avenues that students could use to mitigate adverse effects on their educational outcomes that could arise from the enforcement of the Interim Time, Place, Manner Policy, and strongly urge that students be made aware of their options.

Sincerely,



Amanda Rysling, Chair
Committee on Courses of Instruction

cc: Roger Schoenman, Chair, Committee on Academic Freedom
Greg Gilbert, Co-Chair, Committee on Academic Personnel
Susan Gillman, Co-Chair, Committee on Academic Personnel
Yat Li, Chair, Committee on Faculty Welfare
Gabriela Arredondo, Chair, Committee on Diversity, Equity, and Inclusion
Roberto Manduchi, Chair, Committee on Privilege and Tenure
Nirvikar Singh, Chair, Committee on Research
Tanner WouldGo, Chair, Committee on Educational Policy
Jeffrey Erbig, Chair, Committee on Library and Scholarly Communication
Raphael Kudela, Chair, Committee on Planning and Budget
Eleonora Pasotti, Chair, Committee on Rules, Jurisdiction and Elections
Megan Thomas, Chair, Committee on Teaching
Chad Saltikov, Chair, Graduate Council

December 9, 2024

MATTHEW McCARTHY
Chair, Academic Senate

Re: Interim Time, Place, Manner Policy

Dear Matt,

The Committee on Educational Policy (CEP) has reviewed policy FOA-013, the Interim Conduct Regulations (Time, Place, Manner), which was revised in response to SB 108. While members recognize that the policy's revision intends to balance free expression with operational continuity, we are concerned that some of the provisions will likely have a negative impact on undergraduate education. Below, we highlight key issues for the administration to consider:

1. The TPM policy's emphasis on "orderly operations" raises questions about whose voices are prioritized in campus spaces. Historically, institutions have invoked "order" to suppress movements advocating for equity and social justice. CEP urges the administration to evaluate whether the operational priorities reflected in this policy align with the university's Principles of Community, which call for an atmosphere of respect, inclusion, and support for all individuals.
2. The TPM policy emphasizes the importance of avoiding disruptions to campus operations but does not appropriately define what constitutes a "disruption." When does, for instance, a peaceful protest become a "disruption"? This lack of clarity could send the message that even peaceful protests are viewed as "disruptions"; even worse, it could lead to inconsistent enforcement and the perception of targeted application. Thus, we suggest that the policy include precise, operational definitions of "disruption" that differentiate between significant interferences with university operations (e.g., blocking access to campus or buildings) and peaceful protests.
3. The revised policy states that no person may conceal their identity while on University property or refuse to provide identification to evade or escape recognition (Section IV.4). While this change provides more context around concealment, it's still unclear how University officials will determine *when the demand for identification is necessary*. This lack of clarity may lead to inconsistent application of unknown criteria and the targeting of certain groups/expressive activity types. Moving forward, explicit criteria for how University officials will determine when identification is necessary should be explicitly named.
4. The revised policy allows for masks and face coverings in accordance with the University policies and applicable laws (Section IV.5). However, it is unclear how University officials will assess an individual's intent for wearing a mask: What criteria will be used to identify intentions that are permissible (e.g., health-related, cultural, or safety-oriented) vs. intentions that violate policy (e.g., evading identification). What specific procedures will

be followed to ensure that assessment of mask usage does not unfairly target groups who have permissible reasons for wearing them?

5. While this provision on masks is intended to promote safety, it may disproportionately impact students from marginalized communities who may wear masks for cultural, religious, or safety reasons, such as avoiding harassment or doxxing during protests. Additionally, it is clear that mask-wearing for health reasons is accepted post-pandemic. How will mask wearing be appropriately judged by university officials, who will need to determine whether someone is wearing a mask to conceal identity or for personal or safety reasons? Will exceptions be made for masking when used as a protective measure or a cultural practice?
6. The policy raised equity concerns: Studies show that marginalized groups—particularly students of color, LGBTQ+ students, and those advocating for racial justice, disability rights, and climate change—are more likely to face scrutiny, penalties, and enforcement actions under TPM policies. Further, studies on campus protests nationally demonstrate that activism led by marginalized groups often receives harsher responses due to the controversial nature of their causes and implicit biases in enforcement practices. How can this policy account for these concerns and ensure that students won't be unfairly targeted?
7. Members note the “chilling” effect that TPM policies may have on student expression, both inside and outside the classroom. By emphasizing restrictions, these policies may discourage students from engaging in forms of expression that promote critical thinking, civic engagement, and leadership. The lack of clarity in this policy's enforcement and lack of nuance in its provisions may inadvertently create an atmosphere where students are deterred from advocacy and even engaging in controversial topics. The university must ensure that the TPM policy is implemented in a manner that encourages, rather than stifles, student expression. To that end, we encourage the administration to provide ample opportunities to gather feedback from the campus community, specifically from student organizations/groups that are most impacted by this policy.

CEP values both safety and continuity of learning. However, it is essential that these values are balanced with equity, inclusion, and students' holistic development. As they stand, the provisions in policy FOA-013 risk creating inequities, stifling student expression, and negatively harming students' overall educational experiences.

Sincerely,



Tanner WouldGo, Chair
Committee on Educational Policy

cc: Roger Schoenman, Chair, Committee on Academic Freedom
Greg Gilbert, Co-Chair, Committee on Academic Personnel
Susan Gillman, Co-Chair, Committee on Academic Personnel

Gabriela Arredondo, Chair, Committee on Diversity, Equity, and Inclusion

Yat Li, Chair, Committee on Faculty Welfare

Roberto Manduchi, Chair, Committee on Privilege and Tenure

Nirvikar Singh, Chair, Committee on Research

Senate Executive Committee

Amanda Rysling, Chair, Committee on Courses of Instruction

Megan Thomas, Chair, Committee on Teaching

Jeffery Erbig, Chair, Committee on Library and Scholarly Communication

Raphael Kudela, Chair, Committee on Planning and Budget

Eleonora Pasotti, Chair, Committee on Rules, Jurisdiction and Elections

Chad Saltikov, Chair, Graduate Council

December 16, 2024

MATTHEW MCCARTHY
Chair, Academic Senate

Re: Divisional Review - Interim Campus Policy on Conduct Regulations (Time, Place, and Manner)

Dear Matthew,

During its meeting of November 7, 2024, the Committee on Faculty Welfare (CFW) reviewed the interim campus policy on Conduct Regulations (Time, Place, and Manner). CFW members expressed a number of concerns about these new regulations.

Overall, members raised concerns about the lack of specificity and clarity in the regulations, which can have significant consequences, including the infringement of the right to free speech and a misuse of the regulatory power towards discriminatory ends. CFW members were primarily concerned about the potentially harmful consequences of Conduct Regulation #4. It is worth quoting the regulation here: “No person, while on University property, may conceal their identity or refuse to provide their identification for the purpose of evading or escaping discovery, recognition, or identification in the commission of violation of applicable University policy or local, state, or federal laws...” CFW members found the language of this regulation to be vague, leaving open the possibility for the abuse of power by University or government authorities. For one, it is unclear how authorities will determine intent, or even if intent can, in all circumstances, be determined by authorities without abridging the right to free speech. We are very concerned this regulation can be harshly interpreted. Secondly, the consequences of not complying with this regulation are not clearly stated. Most broadly, CFW found that this regulation gives too much power to University and government authorities, and to be wanting in guardrails and other protections for those exercising their right to free speech on campus.

CFW members were also concerned about Conduct Regulations #1 and #2. CFW members found these regulations to be overly restrictive of free speech on campus, and, similar to Conduct Regulation #4, vaguely defined. In particular, should the University adopt these policies, CFW would like the regulations to clearly specify the process of authorizing temporary structures, including camps and/or other housing structures. Who approves such structures and what does the pre-approval process entail? What are the protections for the expression of free speech once structures are established?

We note that the interim campus policy on Conduct Regulations (Time, Place, and Manner) were revised on November 27, 2024. CFW has concerns about the newly drafted changes to Conduct Regulation #5, which, similar to Conduct Regulation #4, is vaguely worded and open to the misuse of power. Does this regulation allow authorities to require a person wearing a mask, for health reasons, to remove their mask? We believe the University should not enable authorities to do so, and at the very least would like legal definitions and protections clearly stated. What are legal protections for the mask-wearing individual in these circumstances? And what are the consequences of not complying with this regulation, particularly for health reasons? In the absence of clarity and guardrails, we are concerned about the misuse of this regulation to discriminate against individuals wearing face coverings for religious and other purposes.

Considering the concerns outlined above, CFW strongly urges leadership to reconsider and revise the interim campus policy on Conduct Regulations (Time, Place, and Manner). CFW believes the current language of the regulations lacks the clarity and safeguards necessary to protect individuals' rights to free expression and personal privacy while on campus.

Sincerely,



Yat Li, Chair

Committee on Faculty Welfare

cc: Roger Schoenman, Chair, Committee on Academic Freedom
Gregory Gilbert, Chair, Committee on Academic Personnel
Susan Gillman, Chair, Committee on Academic Personnel
Amanda Rysling, Chair, Committee on Courses of Instruction
Tanner Wouldgo, Chair, Committee on Educational Policy
Gabriella Arredondo, Chair, Committee on Diversity, Equity, and Inclusion
Jeffrey Erbig, Chair, Committee on Library and Scholarly Communication
Nirvikar Singh, Chair, Committee on Research
Megan Thomas, Chair, Committee on Teaching
Raphe Kudela, Chair, Committee on Planning and Budget
Roberto Manduchi, Chair, Committee on Privilege and Tenure
Eleonora Pasotti, Chair, Committee on Rules, Jurisdiction, and Elections
Chad Saltikov, Chair, Graduate Council
Senate Executive Committee

December 11, 2024

MATTHEW McCARTHY
Chair, Academic Senate

Re: Interim Time, Place, Manner Policy

Dear Matt,

The Committee on Diversity, Equity, and Inclusion (CODEI) has conducted our review of UC Santa Cruz's interim Campus Time, Place, Manner Policy. Our determination responds to this policy within the purview of a DEI framework, and has been reviewed after careful consideration amongst CODEI committee members during the fall 2024 quarter.

CODEI appreciates the need for such guidelines. However, we write with concern about the way in which this policy is written as well as the manner through which the policy may be enforced. Essentially, the current wording of the policy is so general that its interpretation could lead to some communities becoming disadvantaged more so than others. The policy as it stands utilizes general language, which leads to problematic implementation of enforcement. When this policy is enforced, it is crucial to carefully consider and address potential inequities that could disproportionately impact historically marginalized communities.

Enforcement should be such that it does not single out any one community. The current policy fails to consider individuals wanting to engage in public expression who have a medical need to mask or religious/cultural observances for head/face coverings, thus potentially discriminating against them. For example, the section from the digital Guidelines for Public Expression Activities stating that placards must be held by hand excludes wheelchair users or others with limited to no hand usage. The policy also restricts facial mask usage, under the guise that mask wearing ensures identity concealment "to intimidate others or to evade recognition during any violations" (Newscenter, "Important information," Naiman). Despite the 11/27/24 revision, such a policy invites us to contemplate the motivation of a university administration that might unjustly refuse consideration of individuals with medical needs. The policy also seemingly targets those who wear head scarves or face coverings because of personal, religious, or cultural practices. The policy in principle allows for medical, personal, religious, or cultural reasons for mask wearing but in practice does not protect those who do wear masks from scrutiny. This would not be equitable treatment of those who do and do not wear masks. For these reasons, the policy should remove the injunction against mask-wearing.

As faculty members and students of the UC Santa Cruz community, we write with the knowledge from previous strikes that disciplinary hearings have not happened in an equitable manner. Enforcement needn't be discriminatory, but the vagueness of the current campus Time, Place, Manner Policy leads towards potentially inept and biased enforcement. We emphasize that caution should be prioritized when police are called, particularly non-UC officers, in the event of protests and other forms of public expression. The unfortunate truth is, once the CP/EVC hands the situation over to the police (both UC and non-UC forces), it is difficult to protect all communities equally according to policies and practices of the UC. Enforcement of these policies should take into consideration historically recognized ancestral bias. The policy, as it is currently written, fails to acknowledge how policing in the future will be fair and applicable across all segments of the community who might be involved with, and affected by, recent events. Questions of culpability emerge when putting this policy into practice. For example, who can ask for identification? How

will someone be asked to prove their identity? Will university IDs be sufficient? How will the police be monitored by university personnel to ensure that university policies and standards regarding DEI are upheld in police actions?

Regarding the question of who these guidelines are protecting: while immediate protection of faculty and staff who live and work on campus has been prioritized, the protection of the individuals participating in public expression themselves is unclear. The university administration needs to protect the entire campus community. While this policy seems heavily influenced by the Gaza protests during spring 2024, as well as previous strikes over tuition and salary, the current language of the policy does not equally protect members of the UC Santa Cruz community, nor does it attend to freedom of speech or to protecting the right to conduct public expression activities. Refer to Section 3 of Policy FOA-013, wherein "major events are subject to the Division of Student Affairs and Success Major Events Policy"; as well as the digital Guidelines for Public Expression Activities, wherein the UC Santa Cruz Student Handbook is explicitly identified: both of these quoted instances singly draw attention to students, whereas other members of the community are not singled out.

In summary, CODEI determines that, as they are currently worded, both versions of the Interim Campus Time, Place, Manner policies are inequitable. They implicitly bring unwarranted attention to undergraduate students, and not to the university population in general. They do not protect those who mask for religious or medical reasons. Furthermore, CODEI questions the general language of the Interim Campus Time, Place, Manner Policy, which leads to problematic implementation and oversight of law enforcement (by both UC and non-UC forces), thereby singling out – or putting at risk – historically marginalized communities or those who are subject to ancestral bias.

Sincerely,



Gabriela Arredondo, Chair
Committee on Diversity, Equity, and Inclusion

cc: Roger Schoenman, Chair, Committee on Academic Freedom
Greg Gilbert, Co-Chair, Committee on Academic Personnel
Susan Gillman, Co-Chair, Committee on Academic Personnel
Yat Li, Chair, Committee on Faculty Welfare
Roberto Manduchi, Chair, Committee on Privilege and Tenure
Nirvikar Singh, Chair, Committee on Research
Senate Executive Committee
Amanda Rysling, Chair, Committee on Courses of Instruction
Tanner Would Go, Chair, Committee on Educational Policy
Megan Thomas, Chair, Committee on Teaching
Jeffery Erbig, Chair, Committee on Library and Scholarly Communication
Raphael Kudela, Chair, Committee on Planning and Budget
Eleonora Pasotti, Chair, Committee on Rules, Jurisdiction and Elections
Chad Saltikov, Chair, Graduate Council

December 10, 2024

MATTHEW MCCARTHY
Academic Senate Chair

RE: Interim Campus Time, Place, Manner Policy

Dear Chair McCarthy,

The Committee on Library and Scholarly Communication (COLASC) has reviewed the Interim Campus Time, Place, Manner Policy. As one of the few Senate committees that oversee a particular space on campus, we determined the interim policy to fall within our purview, and, as such, we offer the following comments.

As some of the principal gathering places on university campuses, libraries are often sites of protest and the free expression of speech. UCSC Libraries have not been the center of protests in recent years, but they have been historically, and, as such, there are already procedures in place that balance rights of expression with public safety. We are concerned that this new policy can potentially interfere with what have already shown to be working strategies at our libraries should they become sites of protest again in the future, particularly when considering the imprecision of the policy's wording.

COLASC acknowledges the impacts of protests at libraries: they can be disruptive to students who need that space, property destruction is consequential, and preventing people from leaving the library poses a significant safety risk. At the same time, the experience of library administration and staff has been that students also recognize these impacts and that clear procedures and lines of communication, rather than top-down punishment, has been the best organizational approach.

Our libraries curate numerous records that evidence the long history of student activism on our campus and beyond, and we reaffirm our support for those values. Whatever impact protests have on the behavioral norms at our libraries, such as quietness and order, we do not prize these norms over the more fundamental right of free speech. The broad strokes of this policy threaten the role of the libraries as civic spaces, and, as such, we recommend that the policy be reconsidered in consultation with the entirety of our campus community.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Erbig".

Jeffrey Erbig, Chair

Committee on Library and Scholarly Communication

Cc: Roger Schoenman, Chair, Committee on Academic Freedom
Greg Gilbert, Co-Chair, Committee on Academic Personnel
Susan Gillman, Co-Chair, Committee on Academic Personnel
Yat Li, Chair, Committee on Faculty Welfare
Gabriela Arredondo, Chair, Committee on Diversity, Equity, and Inclusion
Roberto Manduchi, Chair, Committee on Privilege and Tenure
Nirvikar Singh, Chair, Committee on Research
Amanda Rysling, Chair, Committee on Courses of Instruction
Tanner WouldGo, Chair, Committee on Educational Policy
Raphael Kudela, Chair, Committee on Planning and Budget
Eleonora Pasotti, Chair, Committee on Rules, Jurisdiction and Elections
Megan Thomas, Chair, Committee on Teaching
Chad Saltikov, Chair, Graduate Council

November 21, 2024

MATTHEW MCCARTHY
Academic Senate Chair

Re: Interim Time, Place, and Manner Policy

Dear Matthew,

The Committee on Research (COR) is one of the Academic Senate committees tasked with commenting on the Interim, Time, Place, and Manner Policy (Policy). The underlying issues at stake in the case of this policy are, of course, fundamental to our mission as academics in a public university.

The sense of COR is that there are two related aspects of the Policy that require very careful consideration, and meticulous attention to the wording and its implications.

1. The Policy as currently written is worded so broadly that it risks stifling free speech, expanding unwarranted surveillance, and eroding the university as a distinct institutional site of free expression.
2. At the same time, the wording of the Policy is imprecise at crucial points, so that the nature and extent of the harms that the policy seeks to mitigate are left too vague to be informative of the actual reasons why we might all agree on a minimal set of guidelines for conduct and action that protect against those harms.

We suggest that reworking the Interim Policy will require more than the inputs of a few Senate members, but rather an inclusive and concerted effort of the whole campus community.

Sincerely,
lsl
Nirvikar Singh, Chair
Committee on Research

cc: Greg Gilbert, Co-Chair, Committee on Academic Personnel
Susan Gillman, Co-Chair, Committee on Academic Personnel
Amanda Rysling, Chair, Committee on Courses of Instruction
Gabriela Arredondo, Chair, Committee on Diversity, Equity, and Inclusion
Tanner WouldGo, Chair, Committee on Educational Policy
Yat Li, Chair, Committee on Faculty Welfare
Chad Saltikov, Chair, Graduate Council
Jeffery Erbig, Chair, Committee on Library and Scholarly Communication
Raphael Kudela, Chair, Committee on Planning and Budget
Roberto Manduchi, Chair, Committee on Privilege and Tenure
Eleonora Pasotti, Chair, Committee on Rules, Jurisdiction and Elections
Megan Thomas, Chair, Committee on Teaching

December 9, 2024

MATTHEW McCARTHY
Chair, Academic Senate

Re: Interim Time, Place, and Manner Policy

Dear Matt,

The Committee on Teaching (COT) has reviewed the interim Time, Place, and Manner UC Santa Cruz policy.

We wish to echo the Committee on Research's articulation of a core problem with the policy: "The Policy as currently written is worded so broadly that it risks stifling free speech, expanding unwarranted surveillance, and eroding the university as a distinct institutional site of free expression. . . . At the same time, the wording of the Policy is imprecise at crucial points, so that the nature and extent of the harms that the policy seeks to mitigate are left too vague to be informative of the actual reasons why we might all agree on a minimal set of guidelines for conduct and action that protect against those harms."

As members of the Committee on Teaching, we want to enumerate some of the ways that we see that this policy is having and can be expected to have direct and harmful, if unintended, effects on our ability to teach as well as our students' ability to learn.

- 1) We know from our experiences last spring that an administrative response of escalation, and particularly of engaging police action, has downstream and dramatic negative impacts on teaching and learning. When students are traumatized by police action, arrested, and/or banned from campus, this harms their ability to learn, and our ability to teach them. This policy, we note, describes an administrative response of escalation and engaging police action in the "tiered response" description (part 6 <https://www.ucsc.edu/sb108/>) which moves immediately from a first step (which may be repeated multiple times) of informing people of a violation and asking them to change their conduct, to a second step of escalating to UCPD "police action." Though we are told that this process is "rooted in the best practices and recommendations of the Robinson-Edley report," that report starts with mediation and de-escalation, before describing administrative citation or police action.
- 2) We know that instructors of courses on or about social justice movements and tactics are being put in a position of having to ask themselves if their course design and pedagogical practices are putting their students (or themselves) at risk of running into violations of policy. In other words, the policy is itself obstructing the core teaching mission of the university. To give a concrete example: An instructor of a course on music, who has designed the course to teach students song and dance that originated in a protest movement, wonders whether asking her students to engage in class learning activities could be construed as violating policy. Many of our colleagues teach about social justice movements, and engaging our students in the world in which we are living is central to our mission and pedagogical practice. Indeed, UC Santa Cruz has a distinctive commitment to inviting students to explore activism through events like the

Practical Activism Conference and honoring social justice activists like John R. Lewis whose work challenged the principles behind "Time, Place and Manner."

- 3) Related to the point above: If faculty are ourselves wondering whether our own actions and course designs might run afoul of this vague yet sweeping policy, imagine the uncertainty and worry this creates for students, who are now in a position of having to make judgements about whether the activities that they are undertaking in connection with class projects and/or independent research (in the case of graduate students in particular) may be perceived as violations of this policy by those in a position to enforce it. This uncertainty and stress is harmful to students, as documented in research on trauma-informed teaching.
- 4) This policy outlines escalation and police action, but also more broadly chills social justice activism, and both of these things are counter to our campus's purported and intended mission to promote DEI. We are concerned that this policy could have negative effects on students already structurally vulnerable to police action, apprehension by law enforcement, and other forms of institutionalized racism; this in turn harms our ability to support and teach them.

In sum, we are concerned that the policy puts faculty in a position of not being able to fulfill our mission as teachers.

Sincerely,



Megan Thomas, Chair
Committee on Teaching

cc: Roger Schoenman, Chair, Committee on Academic Freedom
Greg Gilbert, Co-Chair, Committee on Academic Personnel
Susan Gillman, Co-Chair, Committee on Academic Personnel
Gabriela Arredondo, Chair, Committee on Diversity, Equity, and Inclusion
Yat Li, Chair, Committee on Faculty Welfare
Roberto Manduchi, Chair, Committee on Privilege and Tenure
Nirvikar Singh, Chair, Committee on Research
Senate Executive Committee
Amanda Rysling, Chair, Committee on Courses of Instruction
Tanner WouldGo, Chair, Committee on Educational Policy
Jeffery Erbig, Chair, Committee on Library and Scholarly Communication
Raphael Kudela, Chair, Committee on Planning and Budget
Eleonora Pasotti, Chair, Committee on Rules, Jurisdiction and Elections
Chad Saltikov, Chair, Graduate Council

November 26, 2024

MATTHEW McCARTHY
Chair, Academic Senate

Re: Divisional Review of Interim Time, Place, and Manner Policy

Dear Matt,

At its meeting of November 14, 2024, the Committee on Planning and Budget (CPB) discussed our campus' Time, Place, and Manner Policy. In the context of our charge, CPB's discussion centered on the potential financial and logistical implications of the policy and its alignment with long-term campus planning priorities.

One area of consideration is the policy's potential impact on campus infrastructure and emergency preparedness. The reliance on only two primary campus entrances continues to pose challenges, particularly in emergencies such as fires or earthquakes. CPB encourages long-term planning to address this issue, including exploring options for additional access points or optimizing the use of existing secondary roads, such as the one near the Women's Center or the Arboretum. This could, for example, be fully paved and integrated with a keycard gate or retractable bollards so that it serves as an emergency entry/exit point but during non-emergencies is not available for use.

CPB also discussed the financial implications associated with implementing and enforcing the policy. Questions remain about how costs—such as those related to strike responses, campus closures, or enforcement measures—will be managed and whether funding support from UCOP is available for such expenses, particularly if the policy reflects a systemwide mandate. We believe that careful planning and transparency in resource allocation are essential to ensure that the policy does not create unintended financial burdens for the campus.

While not directly in CPB's purview, we also note that interpretation of the guidelines is challenging. For example, "campus official" is not defined, and it is also not clear how to interpret the intent of masking, particularly post-COVID. If there is more information as to how these guidelines should be interpreted (noting that Section I indicates that definitions may be available in other University documents), we suggest providing links to those documents so that this proposed policy can be clearly interpreted.

Thank you for the opportunity to provide feedback.

Sincerely,



Raphael M. Kudela, Chair
Committee on Planning and Budget

cc: Gabriela Arredondo, Chair, Committee on Diversity, Equity, and Inclusion
Jeffrey Erbig, Chair, Committee on Library and Scholarly Communication
Greg Gilbert, Co-Chair, Committee on Academic Personnel
Susan Gillman, Co-Chair, Committee on Academic Personnel
Yat Li, Chair, Committee on Faculty Welfare
Roberto Manduchi, Chair, Committee on Privilege and Tenure
Eleonora Pasotti, Chair, Committee on Rules, Jurisdiction, and Elections
Amanda Rysling, Chair, Committee on Courses of Instruction
Chad Salitkov, Chair, Graduate Council
Roger Schoenman, Chair, Committee on Academic Freedom
Nirvikar Singh, Chair, Committee on Research
Megan Thomas, Chair, Committee on Teaching
Tanner WouldGo, Chair, Committee on Educational Policy
Melissa Caldwell, Vice Chair, Academic Senate
Matthew Mednick, Executive Director, Academic Senate

December 12, 2024

MATTHEW MCCARTHY
Academic Senate Chair

Re: Interim Time, Place, and Manner Policy

Dear Matthew,

The Committee on Rules, Jurisdiction, and Elections (CRJE) met on October 31 and on December 9, 2024 to review the Interim, Time, Place, and Manner Policy (Policy). The committee notes several places where the Policy is unclear in regard to interaction and conformity with existing policies. The committee is concerned that the policy is written in a vague language that may lead to arbitrary implementation and the chilling of freedom of expression on campus. The committee raises questions around two main concerns: the unclear boundaries of prohibited conduct and lack of clarity about due process.

To open, CRJE has queries regarding boundaries for prohibited conduct. The committee notes a potential lack of conformity in that leafleting, postering, gathering in large groups, and the use of amplified sound are not listed in the [Policy](#) that is currently under review; yet these prohibitions appear in the [Laws & Policies document](#) that is linked from [SB 108 TPM](#). They also appear in the [Student Code of Conduct \(SCC\)](#). The committee asks why **all prohibited conduct is not listed** under the Policy, for the sake of clarity.

The committee also asks for **clarification regarding permissible conduct**. The committee has questions about conformity between the [Laws & Policies document](#) and the [Policy](#). For example, the [Laws & Policies document](#) (with reference to [40.00 POLICY ON USE OF UNIVERSITY PROPERTIES](#)) states that with regard to amplified sound, the requirement for “advance approval is in order to ensure classes, meetings, and other activities are not disturbed.” Such language indicates that if such disturbance is not reasonably present, amplified sound in all public areas must be allowed. Given recent incidents in Quarry Plaza, the committee asks whether it might not be useful for enforcing authorities to be reminded of the language in the policy to enable appropriate enforcement. As a further example, the [Laws & Policies document](#) (with indirect reference to [30.00 POLICY ON SPEECH AND ADVOCACY](#)) states that with regard to distribution of literature, such conduct “may not obstruct the ingress and egress from university buildings.” Such language indicates that if such obstruction is not reasonably present, leafleting in all public areas must be allowed. The committee asks why such language is not included explicitly, in order to clarify interpretation and prevent arbitrary and chilling enforcement.

In this context, the committee also asks that the **class of spaces** in which speech activity is allowed be specified. In [30.00 POLICY ON SPEECH AND ADVOCACY](#), 30.32 states: “Forums: The right to use

particular locations at University of California campuses for speech activities is largely a function of the character and/or location of the property where the speech occurs. The broadest rights are in areas that are open to the public for expressive activities, and not limited to specific purposes or topics (“public” or “traditional” forums). Rights are much narrower in other locations such as but not limited to lecture halls, classrooms or business offices (“non-public forums”).” In [40.00 POLICY ON USE OF UNIVERSITY PROPERTIES](#), 40.41 states: “For the purpose of these regulations, “university grounds open to the public” are defined as the outdoor areas of the campus (e.g., lawns, patios, plazas) that are at least 100 feet from the entrances/exits of campus buildings and parking lots, and that are also a safe distance from the curbing of campus roads.” The committee suggests that the Policy directly state or explicitly link to these passages so as to provide an affirmative and clear statement regarding where and how speech is *not* prohibited.

A further area with possible non-conformity is the **treatment of different actors**. The [Policy](#) discusses conduct prohibited to all individuals on campus. However, the [Faculty Code of Conduct](#) (FCC) and the [Student Code of Conduct](#) (SCC) do not overlap. The FCC is not as specific about individual issues as is the SCC; rather, it notes more generally that faculty have to follow university policy and state/federal law. The committee asks 1) whether this means that faculty are allowed to leaflet, poster, assemble and use amplified sound where students are not, and 2) how these restrictions affect different categories of university employees who are not Senate members. The committee believes that the Policy needs to clarify how it is connected to existing policy such as codes of conduct. For example, does the Policy and associated sanctions supersede existing regulations stated in the FCC?

The [Policy](#) states that “any individual found to be in violation of this policy may be subject to administrative/disciplinary action in accordance with applicable university policies, including policies on conduct, collective bargaining agreements, and/or legal or criminal penalties.” The committee notes that rather than merely listing “related” policies at the bottom of the document, the Policy could add clarity by linking to the specific policies in the body of the quoted sentence.

Moving on to the committee’s second set of concerns, the committee asks for clarification regarding the process by which prohibited conduct is to be evaluated. This includes prohibited conduct as currently explicitly listed in the [Policy](#) but also all other prohibited conduct, such as leafleting and amplified sound. The committee welcomes the revision to the [Policy](#) issued on November 27, 2024, but believes the revision does not address existing due process weaknesses.

To start, the [Policy](#) refers to university officials acting in their official capacity during an event. In [100.00 POLICY ON STUDENT CONDUCT AND COMMUNITY AGREEMENTS](#), 102.16 refers to: “University official or other public official acting in the performance of their duties while on University property or at official University functions” and adds “for the purposes of this policy, “University official” also includes student employees when performing in the course of their assigned duties.” The

Policy does not define who is a **public or university official**. For sake of due process, the committee asks that an explicit definition be included in the Policy.

The committee also asks how the **tiered-response** approach indicated in [SB 108 TPM](#), No.6 connects with current disciplinary procedures. [SB 108 TPM](#), No.6 states that “if violation of policy or law poses an immediate threat to life safety,” the University will act accordingly and mobilize the University of California, Santa Cruz police department, Campus Fire Marshal and/or other police resources to respond. [30.00 POLICY ON SPEECH AND ADVOCACY](#), 30.30 states that “The time, place, and manner of exercising the constitutionally protected rights of free expression, speech, assembly, and worship are subject to campus regulations that shall provide for non-interference with University functions and reasonable protection to persons against practices that would make them involuntary audiences or place them in reasonable fear, as determined by the University, for their personal safety.”

It is not clear to the committee how spatially circumscribed use in campus public spaces of leafleting and use of amplified sound (by masked or unmasked individuals), necessarily and *a priori* constitutes forbidden conduct as stated in 30.30. The committee therefore seeks clarification as to how [30.00 POLICY ON SPEECH AND ADVOCACY](#), 30.30 **interacts** with the [Policy](#) and [SB 108 TPM](#), No.6. The committee also asks when and how the tiered-response approach **extends to faculty** and other categories of employees (Unit 18 lecturers, Graduate Student Instructors, etc.) within the campus community.

Further, the committee notes that the Police Accountability Board’s purview is limited to police action. It therefore asks, beside police actions, how “**reasonable fear**” and “**personal safety**” will be assessed. Noting that the administration might exhibit conflicts of interest, the committee asks what independent **supervisory body** and appeal procedures will govern the aforementioned decision and implementation process.

With a concern for basic due process that is guaranteed in our legal system, and expected in a public institution, the committee asks, related to all prohibited conduct, by whom and by what metrics **evidence** will be collected, evaluated, and shared with individuals accused of prohibited conduct. Here too, the committee asks what supervisory body independent of the administration will ensure due process, and how such a body is appointed and regulated.

The committee asks about independent supervisory bodies and appeal processes at various stages of the [Policy](#) implementation process because as currently written, with the exception of the Police Accountability Board, the policy only allows recourse to courts of law. This raises concerns regarding unfair cost barriers, as well as a misuse of publicly funded university resources (especially salient in times of austerity).

Related to the latter point, the committee asks why in [SB 108 TPM](#), No.6 there is only discussion of a phased escalatory process, and no discussion of **mediation**, in order to limit militarization on campus. The committee thus asks why mediation is not engaged with a specific set of steps (at least as detailed as the escalatory process discussed in [SB 108 TPM](#), No.6).

While not directly in the committee's purview, the committee finds the **deliberation process insufficient**. As argued, the committee believes that the Policy as currently written introduces vague policies that allow for arbitrary implementation and cast a chill on free speech. Especially in these times, as the independence and quality of democratic institutions is under stress, freedom of speech and dissent on university campuses is of the utmost importance. Further, the Policy presents a substantial change in policy because it refers to policies that were until recently not enforced;¹ hence, the policies are new in the legally substantial sense that they represent a fundamental departure from historical practice.

Given that the Policy affects basic constitutional rights of every individual on campus, the committee believes that an inclusive review and deliberation by the whole campus community is required. The committee is aware of many Senate members who were not abreast of the details and background of the Policy, and were therefore not in a position to deliberate in the Senate meeting of November 23. Further, that Senate meeting devoted limited time to the discussion of the Policy; discussion consisted of a total of nine minutes with introductory presentations, followed by a mere 12 minutes of Q&A, which took place beyond the scheduled meeting time. The committee laments the fact that there is no further possibility for joint deliberation, as no Senate meeting is scheduled prior to the current December 18 deadline for comments.

In sum, because the Policy's statement of prohibited conduct is vague, what constitutes permissible conduct in time, place, and manner is not clear, and must be explicitly asserted. Moreover, due process concerns demand additional elaboration of the Policy. Thank you for the opportunity to comment on the interim Time, Place, and Manner Policy.

Sincerely

lsl

Eleonora Pasotti, Chair

Committee on Rules, Jurisdiction and Elections

¹ The UAW 4811 Statement to UCSC Academic Senate, delivered in person at the Senate meeting of 11/23/24, alleges an incident in Quarry Plaza on October 7, 2024 in which a student was arrested for using amplified sounds without a permit and wearing a mask. In a separate alleged incident on October 8, 2024, union members were threatened with arrest and student charges for using amplified sounds without a permit. Further, allegedly, student groups providing food to campus workers were told to stop because their tables were deemed "unauthorized structures;" and a member of a local carpenters union was instructed to cease distributing literature outside the Bay Tree Bookstore. Prior to 2024, in the committee's view, such conduct did not lead to (threats of or actual) arrest.

cc: Roger Schoenman, Chair, Committee on Academic Freedom
Greg Gilbert, Co-Chair, Committee on Academic Personnel
Susan Gillman, Co-Chair, Committee on Academic Personnel
Amanda Rysling, Chair, Committee on Courses of Instruction
Gabriela Arredondo, Chair, Committee on Diversity, Equity, and Inclusion
Tanner WouldGo, Chair, Committee on Educational Policy
Yat Li, Chair, Committee on Faculty Welfare
Chad Saltikov, Chair, Graduate Council
Jeffery Erbig, Chair, Committee on Library and Scholarly Communication
Raphael Kudela, Chair, Committee on Planning and Budget
Roberto Manduchi, Chair, Committee on Privilege and Tenure
Nirvikar Singh, Chair, Committee on Research
Megan Thomas, Chair, Committee on Teaching

December 11, 2024

MATTHEW McCARTHY
Chair, Academic Senate

Re: Divisional Review of Interim Time, Place, and Manner Policy

Dear Matt,

At its meeting of November 21, 2024, Graduate Council (GC) discussed our campus' Time, Place, and Manner Policy. We appreciate the opportunity to comment on this interim policy, the stated purpose of which is to balance protection of free speech while also regulating expression in ways that, according to this policy, protect "the right to access to education, residences, and campus facilities free from obstruction." We have the following comments and questions about aspects of this interim policy that may have implications for the mentoring and advising of graduate students or postdoctoral researchers, but also about aspects from a broader faculty perspective:

- As a general comment, GC does not think that the title "time, place, and manner policy" is a good choice. While it is reasonable to regulate place and manner, the regulation of time of free speech (which is actually not *directly* addressed in the interim policy) seems not appropriate. GC is worried that the wording of IV.1 is *indirectly* aimed at limiting the length of a free speech event. More precisely, the current wording of the policy makes it too easy to limit the duration of a potential protest, by simply not approving the setup of a tent for weather protection or for overnight stay, even if the event does not affect the normal functioning of campus. We observe that the setting up of structures for weather protection and for comfort or aid are not only beneficial [in conflict situations] but that denying the approval of structures is overstepping in a potentially harmful manner.
- GC wondered what "pre-approval" would entail. What is the process and who adjudicates?
- In the second paragraph of IV, the part "regardless of whether expression is involved" should not be in a policy regulating free expression.
- Does this policy's statement on compliance imply in either its spirit or letter a need for additional explanation of a timeline for any disciplinary actions or to define disciplinary actions that would be the result of a graduate student or postdoctoral researcher charged with not complying with conduct regulations of this policy?
- Would the current policy enable any new, temporary limitations of access by graduate students or postdoctoral researchers to non-teaching spaces such as Westside Research Park? Is there any intent in this interim policy to enable the exclusive use of any research spaces by campus authority should violations of any of the TPM by student groups take place?

- As a side note, the current notification at <https://www.ucsc.edu/sb108> seems to need grammatical corrections. We believe the sentence “1. The campus’s time, place, and manner and policy, which identifies the allowable parameters of free speech activities and the campus, as well as other policies that could relate to expressive activities” should read “1. The campus’s time, place, and manner **and** policy, which identifies the allowable parameters of free speech activities **andon** the campus, as well as other policies that could relate to expressive activities.”

Sincerely,



Chad Saltikov, Chair
Graduate Council

cc: Gabriela Arredondo, Chair, Committee on Diversity, Equity, and Inclusion
Jeffrey Erbig, Chair, Committee on Library and Scholarly Communication
Greg Gilbert, Co-Chair, Committee on Academic Personnel
Susan Gillman, Co-Chair, Committee on Academic Personnel
Raphe Kudela, Chair, Committee on Planning and Budget
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Eleonora Pasotti, Chair, Committee on Rules, Jurisdiction, and Elections
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Roger Schoenman, Chair, Committee on Academic Freedom
Nirvikar Singh, Chair, Committee on Research
Megan Thomas, Chair, Committee on Teaching
Tanner WouldGo, Chair, Committee on Educational Policy
Melissa Caldwell, Vice Chair, Academic Senate
Matthew Mednick, Executive Director, Academic Senate