

December 16, 2009

Harry Le Grande  
Office of the Vice Chancellor  
for Student Affairs  
102 Sproul Hall  
University of California  
Berkeley, CA 94720-2430

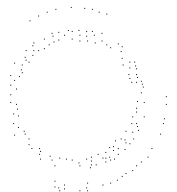
by email ([studentaffairs@berkeley.edu](mailto:studentaffairs@berkeley.edu))  
([vcsa@berkeley.edu](mailto:vcsa@berkeley.edu))  
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**RE: ZACHARY J. BOWIN  
INTERIM SUSPENSION AND STUDENT CONDUCT CHARGES  
HEARING – DEC. 17, 2009 – 4:00 PM**

Dear Vice Chancellor Le Grande:

I am writing you on behalf of Zachary J. Bowin, an undergraduate student who was served a Notice of Interim Suspension on the evening of December 14, 2009. I am authorized by Mr. Bowin to act as his Advisor for purposes of the Campus Code of Student Conduct. In my December 15 letter to you, I have already set out my client's objections to the imposition of this overly broad and improperly imposed disciplinary sanction.

Mr. Bowin participated in a peaceful campus protest against University budget cuts on the evening of December 11. He has not committed any illegal acts and he has condemned the disturbance and damage to the Chancellor's house that occurred at the end of the protest rally. At this time, he remains one of the few individuals arrested by UC police that evening. The Alameda County District Attorney has not yet decided whether to prosecute the case and no jury or judge has convicted Mr. Bowin on any charges. This letter follows several email exchanges with your Office and a telephone



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conversation today with Assistant Dean Susan Trageser, following my request for informal resolution of the pending charges. I also asked Ms. Trageser how Zachary could “mak[e] alternate arrangements regarding [his] academic coursework,” as he was invited to do in your Notice of Suspension (p.3).<sup>1</sup>

Much to my chagrin, I learned today that Campus Life and Leadership does not engage in informal resolutions for *interim suspensions*. Where that policy is conveyed is a mystery to me, as I have a different sense from reading the Campus Code of Conduct. *See, e.g.*, General Overview (“Ideally, claims can be resolved informally through discussions with SJA [Office of Student Conduct] staff”); Sec. I(D) (“Students charged with violations of the Code are encouraged to fully explore informal resolution of their case”); Sec. VII (C) (“Whenever it is possible and reasonable to do so, student conduct cases will be handled in an informal manner that encourages students to learn from their experiences and be positive contributors to the community”).

I learned through my discussion with Dean Trageser that certain—in fact *most*—procedural safeguards embedded in the Campus Code (and in U.S. and California constitutional and decisional law) do not apply to interim suspensions. I do not see any reference to this important piece of information in the Code itself, the appendices or on the Office website. In my law practice and scholarly research, I have never known any American judicial or quasi-judicial institution that categorically rejects opportunities for informal dispute resolution. As this opportunity was foreclosed, however, Mr. Bowin is exercising his right under Section VI (105.08) to a “prompt hearing.” Ms. Trageser advised me that a hearing would be convened at the Office of Student Conduct (2536 Channing Way) on December 17, 2009 at 4 PM.

I am hereby requesting in advance of the hearing:

1. Copies of all “supporting evidentiary material” and “complaints received by [your] office” as referenced in your Notice of Suspension (p. 1), and any other evidence in support of the interim suspension.

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<sup>1</sup> Dean Trageser advised me that any arrangements could only be made after a hearing on the interim sanctions.

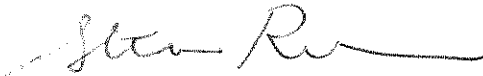
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2. Documentation of the duration of the interim suspension. Sec. VI (105.08).
3. Documentation of the Chancellor's review of the interim suspension within 24 hours, including his recusal, if any. *Id.*
4. The written procedures, guidelines or other written authority governing hearings for interim suspensions, including: (1) standards for review and burden of proof; (2) hearing procedures; and (3) provisions for the suspension of due process protections or evidentiary rules.<sup>2</sup>
5. A list of Advisory Review Committee members who will conduct the hearing.

Finally, please provide the Committee members in advance of the hearing with a copy of this letter and my letter of December 15, 2009.

Thank you for your prompt attention to this matter.

Sincerely,



STEPHEN A. ROSENBAUM  
Lecturer

c: Jonathan Poullard ([poullard@berkeley.edu](mailto:poullard@berkeley.edu))  
Christina Gonzales ([cgonzales@berkeley.edu](mailto:cgonzales@berkeley.edu))  
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<sup>2</sup> In an email today, Ms. Trageser advised me that “[t]he hearing panel would only be deciding whether to uphold, lift, or modify the interim suspension,” but she provided no written authority for this.