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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

FOUNDATION FOR INDIVIDUAL
RIGHTS IN EDUCATION, INC., a
nonprofit corporation,

Petitioner/Plaintiff,

v.

REGENTS OF THE UNIVERSITY OF
CALIFORNIA; UNIVERSITY OF
CALIFORNIA, LOS ANGELES; and DOES
1 THROUGH 5.

Respondent/Defendant.

Case No.

**VERIFIED PETITION FOR
WRIT OF MANDATE AND
DECLARATORY RELIEF FOR
VIOLATIONS OF THE
CALIFORNIA PUBLIC
RECORDS ACT WITH
EXHIBITS A THROUGH H.**

[Gov. Code § 6250 *et seq.*]

1 Under California Code of Civil Procedure sections 1085 and 1060 and
2 Government Code sections 6258 and 6259, Petitioner and Plaintiff the FOUNDATION
3 FOR INDIVIDUAL RIGHTS IN EDUCATION, INC., (“FIRE”) petitions this Court for a
4 writ of mandate and declaratory relief directed to Respondent and Defendant
5 UNIVERSITY OF CALIFORNIA, LOS ANGELES (“UCLA”), ordering it to respond
6 promptly to a public records request, as required by the California Public Records Act.
7 UCLA’s refusal to respond promptly has obstructed and delayed FIRE and the public’s
8 access to important public records.

9 In this verified Petition, FIRE alleges as follows:

10 **INTRODUCTION**

11 1. The California Public Records Act, Government Code section 6250, *et seq.*
12 (“CPRA”), sets forth the procedures which an agency must follow when it receives a
13 request for the disclosure of public records.

14 2. When an agency receives a request for copies of public records “that
15 reasonably describes an identifiable record or records,” the CPRA requires agencies to
16 “make the records promptly available” unless they are exempt from disclosure under
17 the CPRA and to provide “an exact copy” of the requested records “unless impractical
18 to do so.” (Gov. Code § 6253(b).)

19 3. After receiving a request for copies of public records, the CPRA requires
20 agencies to, within “10 days from receipt of the request, determine whether the
21 request, in whole or in part, seeks copies of disclosable public records in the
22 possession of the agency and . . . promptly notify” the requestor of that determination.
23 (Gov. Code § 6253(c).) In “unusual circumstances,” which are specifically defined in
24 the Government Code, the agency may extend the deadline to make this determination
25 for no more than an additional 14 days, but “only to the extent reasonably necessary to
26 the proper processing of the particular request[.]” (Gov. Code § 6253(c).) “[I]f the
27 agency determines the request seeks disclosable public records, the agency shall state
28

1 the estimated date and time when the records will be made available.” (Gov. Code §
2 6253(c).)

3 4. The CPRA explicitly prohibits delay or obstruction of the production of
4 responsive records. (Gov. Code § 6253(d).)

5 5. In response to a March 2018 request from FIRE for copies of disclosable
6 public records concerning a campus speaking appearance by U.S. Secretary of the
7 Treasury Steven Mnuchin, UCLA has repeatedly provided an estimated date and time
8 on which it would make the records available, then unilaterally extended its deadline
9 when each successive estimated date arrived, claiming that its review of the documents
10 was not complete. This pattern has continued for over a year, despite FIRE’s attempt
11 to remind UCLA of its statutory obligation to make disclosable records available
12 “promptly.” (Gov. Code § 6253(b).)

13 6. Petitioner is informed and believes that UCLA has a pattern and practice
14 of unreasonably delaying the production of disclosable public records. In this pattern
15 and practice, UCLA attempts to give the appearance of complying with the CPRA’s
16 requirements by responding to requests with an estimated date when “responsive
17 records” will be released. In actuality, UCLA has not searched for or reviewed
18 responsive records in order to determine whether responsive records exist and which
19 records, or portions thereof, are disclosable. Additionally, UCLA’s estimated date of
20 production bears no relation to the time necessary to produce copies of the record and
21 are repeatedly extended for no permissible reason. In response to FIRE’s request, this
22 pattern has so far repeated five times without explanation or end in sight. These
23 impermissible delays evidence an unreasonable practice of obstructing access to public
24 records in violation of the CPRA’s mandate that records be made available “promptly”
25 and without “delay,” and represent an end-run around the requirement to provide an
26 estimated date for their disclosure within the statutorily-defined timeframe.

27 7. FIRE brings this petition seeking a determination that UCLA has violated
28 the CPRA by (1) failing to properly respond to FIRE’s CPRA Request; (2) failing to

1 “promptly” produce responsive records; (3) delaying and obstructing the production of
2 responsive records; (4) failing to provide an estimated date of availability within the
3 timeframe defined by statute; and (5) allowing a third party to control the disclosure of
4 public records. FIRE also seeks an order mandating UCLA produce without further
5 delay or obstruction all of the disclosable records responsive to FIRE’s CPRA request.

6 **PARTIES**

7 8. Petitioner/Plaintiff FIRE is a nonprofit and nonpartisan organization
8 dedicated to defending the civil liberties of students and faculty at institutions of
9 higher education. Through investigative reporting, media commentary, and advocacy
10 on behalf of students and faculty, FIRE seeks to defend free speech and academic
11 freedom on campus and acts as a watchdog of collegiate institutions. FIRE maintains
12 the website thefire.org, including a section entitled “NewsDesk” where the public can
13 access information about news and current events related to FIRE’s mission. At all
14 times relevant to the Petition, FIRE has been engaged in the business of gathering and
15 disseminating information to the public, including information about the performance
16 and functioning of public higher education institutions in California such as UCLA.

17 9. FIRE is organized under the laws of the Commonwealth of Massachusetts
18 and maintains its principal office at 510 Walnut Street, Suite 1250, Philadelphia,
19 Pennsylvania, 19106. FIRE is a member of the public with the right to enforce its
20 request for records. (Gov. Code §§ 6252(b), (c), 6253, 6258, 6259.)

21 10. Respondent/Defendant UCLA is a public agency within the meaning of
22 Government Code section 6252(d), and is therefore subject to the CPRA. UCLA’s
23 Records Management & Information Practices department processes public records
24 requests and is located at 10920 Wilshire Boulevard, Suite 107, Los Angeles,
25 California, 90024-6541. The University of California, which includes UCLA, is
26 governed by the Regents of the University of California, which under Article IX,
27 Section 9 of the California Constitution has “full powers of organization and
28 governance.”

1 16. According to the *Wall Street Journal*, after a UCLA spokesperson initially
2 said it would post a video on its website of Sec. Mnuchin’s speaking appearance, UCLA
3 spokesperson Peggy McInerny stated the day after the appearance that Secretary
4 Mnuchin had “retracted his permission” for the university to post the video and
5 podcast on its website, “so we are unable to share either recording[.]”³

6 17. On March 2, 2018, Adam Steinbaugh, then a Senior Program Officer and
7 Investigative Reporter at FIRE, issued a request on behalf of FIRE under the CPRA
8 seeking three categories of documents:

9 1. A copy of any video of United States Secretary of the
10 Treasury Steven Mnuchin speaking at the University of
California, Los Angeles.

11 2. A copy of any agreement or contract concerning Sec.
12 Mnuchin’s appearance at UCLA.

13 3. Any communications with Sec. Mnuchin or anyone acting
14 on his behalf concerning the release or non-release of audio or
video of Sec. Mnuchin’s appearance at UCLA.

15 18. A true and correct copy of FIRE’s March 2, 2018, CPRA request to UCLA
16 is attached as **Exhibit A**⁴ (hereinafter, “FIRE’s March 2, 2018 Request” or “the
17 Request”).

18 19. On March 9, 2018, after “numerous requests” under the CPRA for the
19 release of the video, UCLA posted a copy of the video and stated that the United States
20 Treasury Department had consented to the release. According to the *Los Angeles*
21 *Times*, UCLA and the U.S. Treasury Department “had an agreement with the UCLA
22 Burkle Center for International Relations that video of the event would be posted on
23 the center’s website[.]” but, according to spokesperson Peggy McInerny, that consent
24 was withdrawn after the event. Mnuchin later “decided to end his objections to public
25

26 ³ Davidson & Malas, *Mnuchin, Dogged By Protesters, Doesn’t Want Video Posted*, WALL
27 STREET JOURNAL, Feb. 28, 2018, [https://www.wsj.com/articles/mnuchin-dogged-by-
protesters-doesnt-want-video-posted-1519849427](https://www.wsj.com/articles/mnuchin-dogged-by-protesters-doesnt-want-video-posted-1519849427).

28 ⁴ All Exhibits attached hereto are true and correct copies of the documents they purport
to be and are incorporated by reference herein as if set forth in full.

1 release of the video.” McInerny was quoted explaining that the “Treasury Department
2 was aware that the video was the subject of Public Records Act requests and would be
3 made available to requestors through that process on March 9[.]”⁵

4 20. On March 9, 2018, FIRE received a response letter via email to its March
5 2, 2018 Request from Robert Baldrige, UCLA’s Manager of Records Management and
6 Information Practices. Baldrige responded to the first category of the Request by
7 directing FIRE to the link where the video of Mnuchin’s appearance was posted to the
8 UCLA Burkle Center’s website, a permissible form of production under Government
9 Code section 6253(f). Baldrige further noted that, “UCLA received consent from the
10 U.S. Treasury Department on March 9, 2018 to post the full video...” A true and
11 correct copy of Baldrige’s March 9, 2018, letter is attached as **Exhibit B**.

12 21. With respect to the remaining two categories of records in FIRE’s March
13 2, 2018 Request, Baldrige’s March 9 letter extended its deadline to respond to the
14 Request to March 26, 2018, citing Government Code section 6253, subdivision (c).
15 That section authorizes an agency, in four “unusual circumstances” enumerated by the
16 statute, to grant itself up to 14 days’ time—above and beyond the initial 10 days
17 permitted by statute—to make a determination as to whether the request “seeks copies
18 of disclosable public records in the possession of the agency and . . . promptly notify
19 the person making the request of the determination and the reasons therefor.” (Gov.
20 Code § 6253(c).)

21 22. Baldrige’s March 9, 2018, letter cited claimed that the extension was
22 needed to “search for and collect the requested records from field facilities or other
23 establishments that are separate from the office processing the request.” (Gov. Code §
24 6253(c).)

25 23. Petitioner is informed and believes that none of the records were held in
26 field facilities or other establishments that are separate from the office processing the

27 ⁵ Howard Blume, *UCLA posts video with heckling of U.S. Treasury Secretary Steven T.*
28 *Mnuchin*, L.A. TIMES, Mar. 13, 2018, <https://www.latimes.com/local/lanow/la-me-edu-ucla-posts-mnuchin-video-20180313-story.html>.

1 request, and therefore, UCLA was not permitted to extend its deadline to respond by
2 the additional 14 days provided for in “unusual circumstances” as set out in
3 Government Code section 6253(c).

4 24. Baldrige’s March 9 letter stated that UCLA “will respond to your request
5 no later than the close of business on March 26, 2018 with an estimated date that
6 responsive documents will be made available.” (Ex. B.)

7 25. On March 26, 2018, FIRE received a letter sent via email from UCLA,
8 signed by Salima Popat, Senior Public Records Analyst, Information Practices,
9 providing an “estimated date that responsive documents will be made available to you,
10 which is June 29, 2018.” The letter further stated, “As the records are still being
11 compiled and/or reviewed, we are not able at this time to provide you with any
12 potential costs, so that information will be furnished in a subsequent communication
13 as soon as it is known.” A true and correct copy of UCLA’s letter dated March 26, 2018,
14 is attached as **Exhibit C**.

15 26. On June 29, 2018, FIRE received an email from UCLA, signed by “UCLA
16 Information Practices,” stating that “the review process has not yet been completed on
17 the attached Public Records Act request of yours, and so we must revise the estimated
18 availability date to August 31, 2018.” A true and correct copy of the June 29, 2018,
19 email is attached as **Exhibit D**.

20 27. On August 31, 2018, FIRE received an email from UCLA, signed by
21 “UCLA Information Practices,” apologizing for the “delay” and revising the “estimated
22 availability date regarding [FIRE’s] attached request, as the requisite review has not
23 yet been completed.” The email stated that UCLA expected to provide “a response” by
24 November 30, 2018. A true and correct copy of the August 31, 2018, email is attached
25 as **Exhibit E**.

26 28. On November 30, 2018, FIRE received an email signed by UCLA
27 Information Practices that was substantively identical to its August 31 email, except
28

1 that it extended UCLA's expected response date to February 28, 2019. A true and
2 correct copy of the November 30, 2018, email is attached as **Exhibit F**.

3 29. On December 7, 2018, Adam Steinbaugh on behalf of FIRE sent a letter to
4 Robert Baldridge, reminding UCLA of the CPRA's requirement that agencies
5 "promptly" produce responsive records, and asking UCLA to produce the records or
6 explain the delay. A true and correct copy of the December 7, 2018, letter, which was
7 sent via both Certified U.S. Mail and email by Steinbaugh, is attached as **Exhibit G**.

8 30. UCLA never responded to FIRE's December 7, 2018 letter.

9 31. On February 28, 2019, FIRE received another email signed by UCLA
10 Information Practices that was substantively identical to its August 31 and November
11 30 emails, except that it extended UCLA's expected "response" date to April 30, 2019.
12 A true and correct copy of the February 28, 2019, email is attached as **Exhibit H**.

13 32. UCLA has now extended the estimated date of availability (or "response")
14 to FIRE's March 2, 2018 Request by more than one year. UCLA's fifth estimated date
15 of production will mark 424 days since FIRE made its request for records, which are
16 not voluminous, do not require the compilation of data, and do not require
17 consultation with another agency. UCLA has not provided any explanation for its
18 acknowledged "delay" and maintains that a "review process" of unknown duration and
19 scope is underway.

20 33. Petitioners are informed and believe, and on that basis allege, that UCLA
21 has a pattern and practice of delaying production of disclosable public records in a
22 manner inconsistent with the legislature's finding and declaration in enacting the
23 CPRA that "access to information concerning the conduct of the people's business is a
24 fundamental and necessary right of every person in this state." (Gov. Code § 6250.)

25 34. For example, UCLA's student newspaper, the *Daily Bruin*, has
26 documented UCLA's use of this practice: repeatedly granting itself revised estimated
27 dates of production that may appear modest and reasonable in isolation, but
28 cumulatively reflect delay forbidden by the CPRA. *See, e.g.,* Roberto Luna Jr., *UCLA*

1 *continues to delay the Daily Bruin's access to public documents*, Daily Bruin, Apr. 18,
2 2016, [https://dailybruin.com/2016/04/18/ucla-continues-to-delay-the-daily-bruins-](https://dailybruin.com/2016/04/18/ucla-continues-to-delay-the-daily-bruins-access-to-public-documents)
3 [access-to-public-documents](https://dailybruin.com/2016/04/18/ucla-continues-to-delay-the-daily-bruins-access-to-public-documents), which reported:

4 The [UCLA Records Management and Information Practices
5 Office] delayed The Bruin's request four times. The office
6 originally informed The Bruin they would deliver the
7 documents by March 29, but moved the delivery date to April
8 8 on March 30. On April 7, the office postponed the delivery
9 date to April 15. On April 15, the office postponed the date to
10 April 29.

11 35. Moreover, the *Daily Bruin's* website houses a public list of CPRA requests
12 by its journalists.⁶ Some requests — such as those seeking communications between
13 UCLA and a firm that provides guidance on sexual assault policy, or records of
14 discipline of students found responsible for violent or sexual offenses — took more
15 than four years to fulfill. Other requests remain unfulfilled even after four years,
16 according to the website.

17 36. FIRE is a leading national voice on the state of civil liberties in American
18 higher education and disseminates important information about collegiate institutions
19 to the public, including residents of California. This work requires timely access to
20 public records as a means of holding public colleges and universities accountable for
21 their actions. UCLA's repeated, unsubstantiated delays and pattern of obstruction in
22 producing disclosable records damages FIRE's work and frustrates the public's ability
23 to monitor the actions of the largest institution in the University of California system.

24 **CAUSE OF ACTION**
25 **FOR VIOLATIONS OF THE CALIFORNIA PUBLIC RECORDS ACT**
26 *(GOV. CODE §§ 6258, 6259; CODE CIV. PROC. §§ 1060, 1085)*

27 37. FIRE realleges and incorporates herein by reference Paragraphs 1
28 through 36 of this Petition as though set forth in full.

⁶ DAILY BRUIN, *Records Requests*, <http://dailybruin.com/records-requests> (last visited Mar. 20, 2019).

1 38. The CPRA defines the term “public records” to include “any writing
2 containing information relating to the conduct of the public’s business prepared,
3 owned, used, or retained by any state or local agency regardless of physical form or
4 characteristics...” (Gov. Code § 6252(e).)

5 39. The requested records relate to the conduct of the public’s business and
6 were prepared, owned, used or retained by UCLA. Therefore, the records are deemed
7 to be public records pursuant to Government Code section 6252(e).

8 40. Requests for copies of records are governed by Government Code sections
9 6253(b) and (c), which provide that “upon a request for a copy of records that
10 reasonably describes an identifiable record or records, [the agency] shall make the
11 records promptly available” and requires that “[e]ach agency, upon a request for a
12 copy of records, shall, within 10 days from receipt of the request, determine whether
13 the request, in whole or in part, seeks copies of disclosable public records in the
14 possession of the agency and shall promptly notify the person making the request of
15 the determination and the reasons therefor.”

16 41. The only time that an agency may take longer than 10 days to make its
17 determination is in “unusual circumstances.” (Gov. Code § 6253(c).) In that case, the
18 time limit may be extended by written notice by no more than 14 days.

19 42. Government Code section 6253(c) defines unusual circumstances as
20 follows:

21 As used in this section, “unusual circumstances” means the
22 following, but only to the extent reasonably necessary to the
proper processing of the particular request:

23 (1) The need to search for and collect the requested records
24 from field facilities or other establishments that are separate
from the office processing the request.

25 (2) The need to search for, collect, and appropriately examine
26 a voluminous amount of separate and distinct records that are
demanded in a single request.

27 (3) The need for consultation, which shall be conducted with
28 all practicable speed, with another agency having substantial
interest in the determination of the request or among two or

1 more components of the agency having substantial subject
2 matter interest therein.

3 (4) The need to compile data, to write programming language
4 or a computer program, or to construct a computer report to
5 extract data.

6 43. Under Government Code section 6253(c), “When the agency dispatches
7 the determination, and **if** the agency determines that the request seeks disclosable
8 public records, the agency **shall** state the estimated date and time when the records
9 will be made available.” (emphasis added.)

10 44. Government Code section 6253(d) provides “Nothing in this chapter shall
11 be construed to permit an agency to delay or obstruct the inspection or copying of
12 public records.”

13 45. FIRE made a CPRA Request on March 2, 2018, for specific and defined
14 public records. (Ex. A.)

15 46. Within ten days of FIRE’s March 2 CPRA Request, UCLA was required to
16 (1) determine “whether the request, in whole or in part, [sought] copies of disclosable
17 public records in the possession of the agency” and (2) promptly notify FIRE of the
18 “determination and the reasons therefor.”

19 47. UCLA failed to do this.

20 48. Instead, it improperly invoked the statutorily-defined “unusual
21 circumstances” in Baldrige’s March 9, 2018 letter, even though no unusual
22 circumstances existed.

23 49. Even in cases where “unusual circumstances” actually exist, UCLA would
24 never be permitted to take more than 24 days to make a determination and notify the
25 requester of that determination. Therefore, in any case, UCLA was required to make a
26 determination by March 26, 2018, at the latest, as to whether FIRE’s March 2, 2018
27 CPRA Request included, in whole or in part, disclosable records in the possession of
28 UCLA. Under Government Code section 6253(c), if UCLA determined the Request
sought disclosable records in its possession, it was required to promptly notify FIRE of

1 the determination and state the estimated date and time the records would be made
2 available.

3 50. If UCLA determined that responsive records were exempt from disclosure
4 for any reason, it was also required to “justify withholding any record by
5 demonstrating that the record in question is exempt under express provisions of this
6 chapter or that on the facts of the particular case the public interest served by not
7 disclosing the record clearly outweighs the public interest served by disclosure of the
8 record” under Government Code section 6255. “A response to a written request for
9 inspection or copies of public records that includes a determination that the request is
10 denied, in whole or in part,” is also required to be in writing (Gov. Code § 6255) and
11 “set forth the names and titles or positions of each person responsible for the denial
12 (Gov. Code § 6253(d)).

13 51. FIRE never received any communication claiming that records, or any
14 portion thereof, were being withheld by UCLA.

15 52. Instead, by letter dated March 26, 2018, UCLA provided FIRE with the
16 estimated date of June 29, 2018, on which responsive documents would be made
17 available. (Ex. C.)

18 53. Records were not made available on June 29, 2018, as UCLA claimed.
19 Instead, UCLA has so far provided five successive dates on which it delivered a later
20 estimated date of availability.

21 54. UCLA has delayed and obstructed the disclosure of public records in
22 violation of Government Code section 6253 by repeatedly revising its estimated
23 availability date for lengthy periods of time with no discernable end in sight to its
24 alleged “requisite review” of the documents. Petitioner is informed and believes that
25 the specific, requested records are not exempt from disclosure under the provisions of
26 the CPRA, or any other relevant statute, and are specifically required to be disclosed
27 without delay.

1 55. Government Code section 6253.3 prohibits any agency from allowing
2 “another party to control the disclosure of information that is otherwise subject to
3 disclosure pursuant to this chapter.”

4 56. UCLA has improperly allowed Sec. Mnuchin to control the disclosure of
5 some or all of the responsive records, in violation of Government Code section 6253.3.

6 57. The Legislature has deemed access to public records a fundamental and
7 necessary right. To that end, Government Code section 6250 states:

8 In enacting this chapter, the Legislature, mindful of the right
9 of individuals to privacy, finds and declares that access to
10 information concerning the conduct of the people’s business
11 is a fundamental and necessary right of every person in this
12 state.

13 58. The People of California have elevated the right to open government to
14 one protected by their State Constitution. The California Constitution, Article 1,
15 Section 3, Paragraphs (a)–(b) state:

16 The people have the right to instruct their representatives,
17 petition government for redress of grievances, and assemble
18 freely to consult for the common good.

19 The people have the right of access to information concerning
20 the conduct of the people's business, and, therefore, the
21 meetings of public bodies and the writings of public officials
22 and agencies shall be open to public scrutiny.

23 A statute, court rule, or other authority, including those in
24 effect on the effective date of this subdivision, shall be broadly
25 construed if it furthers the people's right of access, and
26 narrowly construed if it limits the right of access.

27 59. UCLA’s improper withholding of the specified public records has
28 impaired FIRE’s ability to gain information necessary to report to the public, including
the citizens of California, on the activities of UCLA and the highest echelons of the
federal government, in violation of its rights under the California Public Records Act.

 60. Government Code section 6258 provides: “Any person may institute
proceedings for injunctive or declarative relief or writ of mandate in any court of

1 competent jurisdiction to enforce his or her right to inspect or to receive a copy of any
2 public record or class of public records under this chapter.”

3 61. Code of Civil Procedure section 1060 provides:

4 Any person interested ... may, in cases of actual controversy
5 relating to the legal rights and duties of the respective parties,
6 bring an original action or cross-complaint in the superior
7 court for a declaration of his or her rights and duties in the
8 premises ... either alone or with other relief ... The declaration
may be had before there has been any breach of the obligation
in respect to which said declaration is sought.

9 62. An actual controversy exists between the parties regarding whether UCLA
10 has delayed and obstructed the production of disclosable public records in response to
11 FIRE’s March 2, 2018 Request, in violation of Government Code sections 6253(d) and
12 6253.3.

13 63. FIRE exhausted any available administrative remedies. FIRE requested
14 copies of disclosable public records from UCLA, but UCLA has failed to timely produce
15 the public records, despite FIRE’s December 7, 2018 letter to UCLA attempting to
16 procure its compliance with the CPRA. (Ex. G.) The only plain, speedy, and adequate
17 remedy left to FIRE is the relief provided by Government Code section 6258.

18 64. When a verified petition shows that records are being improperly
19 withheld, “the court shall order the officer or person charged with withholding the
20 records to disclose the public record or show cause why he or she should not do so.”
21 (Gov. Code § 6259(a).)

22 65. “If the court finds that the public official’s decision to refuse disclosure is
23 not justified under [Government Code] Section 6254 or 6255, he or she shall order the
24 public official to make the record public.” (Gov. Code § 6259(b).

25 66. UCLA has a ministerial duty to perform according to the laws of State of
26 California, including the CPRA.

27 67. UCLA has a present legal duty and present ability to perform its
28 ministerial duties, as required by the CPRA.

1 control the disclosure of public records in violation of Government Code section
2 6253.3.

3 3. This Court set “times for responsive pleadings and for hearings in these
4 proceedings ... with the object of securing a decision as to these matters at the earliest
5 possible time,” as provided in Government Code section 6258.

6 4. This Court enter an order allowing FIRE to recover attorneys’ fees and
7 costs incurred in this action pursuant to Government Code Section 6259 and/or Code
8 of Civil Procedure Section 1021.5; and,

9 5. This Court award such further relief as is just and proper.

10
11 DATED: March 27, 2019

LAW OFFICES OF KELLY AVILES

12
13 By: 
14 Kelly A. Aviles
15 Attorney for Plaintiff/Petitioner
16 FOUNDATION FOR INDIVIDUAL
17 RIGHTS IN EDUCATION
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Exhibit A

From: [Adam Steinbaugh](#)
To: records@ucla.edu
Subject: Records request: Mnuchin appearance
Date: Friday, March 02, 2018 7:30:14 AM

To whom it may concern:

This is a request for the following records pursuant to the California Public Records Act (Gov. Code § 6250 *et seq.*).

Records Requested:

1. A copy of any video of United States Secretary of the Treasury Steven Mnuchin speaking at the University of California, Los Angeles.
2. A copy of any agreement or contract concerning Sec. Mnuchin's appearance at UCLA.
3. Any communications with Sec. Mnuchin or anyone acting on his behalf concerning the release or non-release of audio or video of Sec. Mnuchin's appearance at UCLA.

Request for expedited processing: The records pertain to a matter of public importance and current debate. Providing expedited production of the records will facilitate the public understanding of these matters before they are fully resolved. Any undue delay in production will undermine the purpose of the public records laws, which serve to allow public input and oversight of government affairs.

Fee waiver request: This request is made on behalf of the Foundation for Individual Rights in Education, a nonprofit and nonpartisan organization that works to preserve civil liberties on college campuses. We request a waiver of any fees or costs associated with this request.

This request concerns a matter of public interest. The records are not sought for a commercial or personal interest, but rather for the purpose of providing the public with information concerning civil liberties in higher education.

Please provide a determination, if not responsive records, within ten days, as required by Cal. Gov. Code § 6253(c). If providing the records will take longer, please cite the extenuating circumstances and let me know when I should expect the requested records.

Request for Privilege Log: If any otherwise responsive documents are withheld on the basis that they are privileged or fall within a statutory exemption, please provide a privilege log setting forth (1) the subject matter of the document; (2) the person(s) who sent and received the document; (3) the date the document was created or sent; and (4) the basis on which it is the document is withheld.

Please note that this request does not seek a search of faculty or student email accounts or records. These requests should in no way be construed to include a review or search of email accounts, websites, or other forms of data or document retention which are controlled by students, alumni, or faculty members, nor by governmental or advisory bodies controlled by the same. Any search should be limited to documents held by the administration and/or its staff members, including records created or maintained by persons acting in the capacity of administrators or staff members.

If I can be of assistance in interpreting or narrowing this request, please don't hesitate to ask.

Best,

Adam B. Steinbaugh
Sr. Program Officer and Investigative Reporter
Foundation for Individual Rights in Education
510 Walnut Street
Suite 1250
Philadelphia, PA 19106
[\(215\) 717-3473](tel:2157173473)
adam@thefire.org

This communication may contain information that is confidential or privileged. Unless you are the addressee (or authorized to receive this message by the addressee), you may not use, copy, or disclose the contents of this message or information contained in this message to anyone. If you believe that you have received this message in error, please advise the sender and delete this message.

Exhibit B



INFORMATION PRACTICES
10920 WILSHIRE BOULEVARD, SUITE 107
LOS ANGELES, CA 90024-6543

VIA EMAIL

March 9, 2018

Mr. Adam B. Steinbaugh
Foundation for Individual Rights in Education (FIRE)
Email: adam@thefire.org

RE: Public Records Request - PRR # 18-5443

Dear Mr. Adam B. Steinbaugh:

The purpose of this letter is to confirm that UCLA Information Practices (IP) continues to work on your public records request dated March 2, 2018, herein enclosed. As allowed pursuant to Cal. Gov't Code Section 6253(c), we require additional time to respond to your request, due to the following circumstance(s):

- The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
- The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in the request.
- The need for consultation, which shall be conducted with all practicable speed, with two or more components of the agency having substantial subject matter interest therein.
- The need to compile and/or extract data.

IP will respond to your request no later than the close of business on March 26, 2018 with an estimated date that responsive documents will be made available.

However, at this time, pursuant to California Government Code section 6253, we are able to make the requested video available to you. UCLA received consent from the U.S. Treasury Department on March 9, 2018 to post the full video of Secretary Mnuchin's recent presentation at UCLA to the Burkle Center's website. The link to the video is now posted: <http://www.international.ucla.edu/burkle/multimedia/189606>. This link serves to complete our production in response to your request for the video of the event

Should you have any questions, please contact me at (310) 794-8741 or via email at rbaldrige@ucla.edu and reference the PRR number found above in the subject line.

Sincerely,

Robert Baldrige
Manager, Records Management & Information Practices
(310) 794-8741 | (310) 794-8961 (fax) | records@ucla.edu

Enclosure

Exhibit C



INFORMATION PRACTICES
10920 WILSHIRE BOULEVARD, SUITE 107
LOS ANGELES, CA 90024-6543

VIA EMAIL

March 26, 2018

Mr. Adam B. Steinbaugh
Foundation for Individual Rights in Education (FIRE)
Email: adam@thefire.org

Re: Public Records Request - PRR # 18-5443

Dear Mr. Adam B. Steinbaugh:

UCLA Information Practices (IP) continues to work on your public records request dated March 2, 2018, herein enclosed. As required under Cal. Gov't Code Section 6253, and as promised in our letter to you of March 9, 2018, we are now able to provide you with the estimated date that responsive documents will be made available to you, which is June 29, 2018.

As the records are still being compiled and/or reviewed, we are not able at this time to provide you with any potential costs, so that information will be furnished in a subsequent communication as soon as it is known.

Should you have any questions, please contact me at (310) 794-8741 or via email at spopat@finance.ucla.edu and reference the PRR number found above in the subject line.

Sincerely,

Salima Popat
Senior Public Records Analyst, Information Practices
(310) 794-8741 | (310) 794-8961 (fax) | records@ucla.edu

Enclosure

Exhibit D



Adam Steinbaugh <adam@thefire.org>

RE: Records request: Mnuchin appearance (18-5443)

UCLA Public Records <pra@finance.ucla.edu>
To: "adam@thefire.org" <adam@thefire.org>

Fri, Jun 29, 2018 at 11:36 PM

Dear Mr. Adam B. Steinbaugh,

We apologize, but the review process has not yet been completed on the attached Public Records Act request of yours, and so we must revise the estimated availability date to August 31, 2018. Your patience is very much appreciated.

Best regards,

UCLA Information Practices

records@ucla.edu

(310) 794-8741



Request (18-5443).pdf

81K

Exhibit E



Adam Steinbaugh <adam@thefire.org>

RE: Records request: Mnuchin appearance (18-5443)

UCLA Public Records <pra@finance.ucla.edu>
To: "adam@thefire.org" <adam@thefire.org>

Fri, Aug 31, 2018 at 9:00 PM

Dear Mr. Adam B. Steinbaugh,

Unfortunately, we must revise the estimated availability date regarding your attached request, as the requisite review has not yet been completed. We expect to provide a response by November 30, 2018. We apologize for the delay.

Best regards,

UCLA Information Practices
records@ucla.edu
(310) 794-8741



Request (18-5443).pdf
81K

Exhibit F



Adam Steinbaugh <adam@thefire.org>

RE: Records request: Mnuchin appearance (18-5443)

UCLA Public Records <pra@finance.ucla.edu>
To: "adam@thefire.org" <adam@thefire.org>

Fri, Nov 30, 2018 at 6:14 PM

Dear Mr. Adam B. Steinbaugh,

Unfortunately, we must revise the estimated availability date regarding your attached request, as the requisite review has not yet been completed. We expect to provide a response by February 28, 2019. We apologize for the delay.

Best regards,

UCLA Information Practices
records@ucla.edu
(310) 794-8741



Request (18-5443).pdf
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Exhibit G



December 7, 2018

Robert Baldrige
Manager, Records Management and Information Practices
University of California, Los Angeles
10920 Wilshire Boulevard
Mail Code #143348
Los Angeles, California 90095-1433

Sent via Certified U.S. Mail and Electronic Mail (rbaldrige@ucla.edu)

Re: California Public Records Request – PRR # 18-5443

Dear Mr. Baldrige:

The Foundation for Individual Rights in Education (FIRE) is a nonpartisan, nonprofit organization dedicated to defending liberty, freedom of speech, due process, academic freedom, legal equality, and freedom of conscience on America's college campuses.

This letter is an effort to procure the compliance of University of California, Los Angeles (UCLA) with its obligations under the California Public Records Act. Unfortunately, UCLA has repeatedly delayed the production of records of its agreements and communications with the United States Department of the Treasury concerning Secretary Steven Mnuchin's February 26, 2018 lecture at UCLA.

I. Statement of Facts

On February 26, 2018, United States Secretary of the Treasury Steven Mnuchin appeared at UCLA, where he gave a "short lecture" and a "wide-ranging" interview concerning, among other things, "the Trump administration's stance on North Korea, the impact of the recently

passed tax overhaul and the Trans-Pacific Partnership.”¹ During that event, Mnuchin was “booed and heckled” and “appeared agitated by his critics,” five of whom were arrested.²

Secretary Mnuchin subsequently asked UCLA not to post the video of the appearance. UCLA explained in an emailed statement to the *Wall Street Journal* that Mnuchin had “retracted his permission for the Burkle Center to post its video and podcast of yesterday’s event on its website, so we are unable to share either recording with you.”³ After receiving public records requests, UCLA posted the video and said that it had “received consent from the U.S. Treasury Department on March 9, 2018 to post the full video,” one day after the university said it would comply with the California Public Records Act by preparing a DVD of the video for release.⁴

On March 2, I issued a request under the California Public Records Act seeking copies of the video, any “agreement or contract concerning” his appearance, and any communications with Secretary Mnuchin or his agents concerning the release or non-release of the video or audio.

On March 9, 2018, UCLA provided itself with an extension to March 26, pursuant to Government Code section 6253, subdivision (c), citing a “need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.” UCLA’s form letter provided a space to invoke other unusual circumstances for delay tolerated by that statute, including the need to search for voluminous records, the need to consult with other components of the university with an interest in the records, or the need to compile or extract data. UCLA did not invoke those provisions.

On March 26, 2018, UCLA provided itself with an extension of “the estimated date that responsive documents will be made available to you” to June 29, as “records are still being compiled and/or reviewed.”

On June 29, 2018, UCLA provided sent an email to “revise the estimated availability date to August 31” as “the review process has not yet been completed.”

On August 31, 2018, UCLA sent an email acknowledging that there had been a “delay” and extending the “estimated availability date” to November 30.

¹ University of California, Los Angeles, *U.S. Treasury Secretary Steven Mnuchin in conversation with Marketplace’s Kai Ryssdal*, Feb. 26, 2018, <http://www.international.ucla.edu/burkle/event/12946>.

² Jeremy Bauer-Wolf, *5 Arrested, None Students, at Mnuchin UCLA Talk*, INSIDE HIGHER ED, Mar. 9, 2018, <https://www.insidehighered.com/quicktakes/2018/03/09/5-arrested-none-students-mnuchin-ucla-talk>.

³ Kate Davidson & Nour Malas, Mnuchin, *Dogged By Protesters, Doesn’t Want Video Posted*, WALL STREET JOURNAL, Feb. 28, 2018, <https://www.wsj.com/articles/mnuchin-dogged-by-protesters-doesnt-want-video-posted-1519849427>.

⁴ Catherine Rampell, *After UCLA determined it was legally required to release embarrassing Mnuchin video, Mnuchin gave ‘consent’ for its release*, WASH. POST, Mar. 11, 2018, <https://www.washingtonpost.com/news/rampage/wp/2018/03/11/after-ucla-determined-it-was-legally-required-to-release-embarrassing-mnuchin-video-mnuchin-gave-consent-for-its-release>.

On November 30, 2018, UCLA sent an identical email, again acknowledging a “delay” and extending the date of production to February 28, 2019.

A copy of my request, together with all relevant correspondence with UCLA, is enclosed.

II. UCLA’s One Year “Delay” in Producing Non-Voluminous Records Violates the California Public Records Act Requirement of Prompt Production

The California Public Records Act requires that, excepting records which are expressly exempt from disclosure, a public agency “shall” make requested records “promptly available.” (Gov’t Code, § 6253(b).) No provision within the California Public Records Act may be “construed to permit an agency to delay or obstruct the inspection or copying of public records.” (Gov’t Code, § 6253(d).)

The most recent revised date of production, February 28, 2019, is over one year after Secretary Mnuchin’s speech, and just two days shy of the one-year anniversary of my request for those records. In lieu of producing records, the university has responded on each estimated date of availability by repeatedly providing itself with additional extensions, each ranging from two to three months.

The university has not asserted that the responsive records are in any way voluminous. Instead, the university has repeatedly conceded that there has been a “delay,” offering only a boilerplate statement vaguely averring that a “review process” is still underway. The purpose and participants involved in that review process are unknown, nor is there any explanation identifying what obstacles have caused the delay in that process.

If the university is unable to provide the responsive records on, or in advance of, its fifth estimated date of availability, please apprise me as to what steps have been taken in the “review process,” when those steps were taken, and what obstacles have prevented UCLA from promptly producing the responsive records.

Sincerely,


Adam Steinbaugh, Esq.
Director, Individual Rights Defense Program

Encl.

Exhibit H



Adam Steinbaugh <adam@thefire.org>

RE: Records request: Mnuchin appearance (18-5443)

UCLA Public Records <pra@finance.ucla.edu>
To: "adam@thefire.org" <adam@thefire.org>

Thu, Feb 28, 2019 at 6:22 PM

Dear Mr. Adam B. Steinbaugh,

Unfortunately, we must revise the estimated availability date regarding your attached request, as the requisite review has not yet been completed. We expect to provide a response by April 30, 2019. We apologize for the delay.

Best regards,

UCLA Information Practices
records@ucla.edu
(310) 794-8741



Request (18-5443).pdf
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