



---

DATE ISSUED: August 11, 2006

GENERAL ORDER O-17

Page 1 of 4

---

**SUBJECT: PROCEDURES FOR EXCLUDING INDIVIDUALS FROM THE BERKELEY CAMPUS PURSUANT TO 626 PC**

**I. PURPOSE** - To describe the procedure for implementing the exclusions under sections 626.4 and 626.6 of the California Penal Code (PC). These sections give the chief administrative officer of a campus (or an officer or employee designated by the chief administrative officer to maintain order on the campus) the authority to exclude disruptive persons from the campus. This authority has been limited by a State Supreme Court decision (*Braxton v. Municipal Court* (1973) 10 Cal.3d 138), which defines the basis for exclusion and requires that, in many cases, a hearing be held before an exclusion order is implemented. Section 626 PC also provides that an individual entering the campus after being excluded is guilty of a misdemeanor.

**II. POLICY**

1. Designated UCPD Officers may exclude individuals or request exclusion of individuals under the authority in sections 626.4 or 626.6 of the California Penal Code pursuant to the procedures below.
2. Under campus policy, the Chancellor, as the chief administrative officer of the Berkeley Campus, has delegated authority, both to recommend exclusion and in cases which involve risk of significant injury to persons or property, to exclude individuals, to the Chief of Police. The Chief hereby re-delegates this authority to UCPD officers of the rank of Sergeant and above pursuant to the campus policy.
3. Exclusion from campus, particularly of a student or employee, is a significant action that must be undertaken judiciously.

**III. DEFINITIONS**

4. "Designated UCPD Officers" for the purposes of excluding individuals pursuant to this order refers to UCPD officers of the rank of sergeant and above to whom this authority is delegated.

**IV. PROCEDURES**

5. Summary Exclusion of Student or Employee under Section 626.4 PC:
  - a. A designated UCPD Officer may summarily exclude an individual from the campus and its facilities when they have reasonable cause to believe that the individual has incited or engaged in any activity which (1) willfully disrupts the orderly operation of the Berkeley campus and (2) is illegal under criminal statutes other than section 626.4 PC. More specifically, the individual's conduct or behavior must constitute or incite a substantial and material physical disruption incompatible with the peaceful functioning of the campus and its facilities, and the exclusion must be necessary to prevent significant injury to persons on campus or to University



---

DATE ISSUED: August 11, 2006

GENERAL ORDER O-17

Page 2 of 4

---

**SUBJECT: PROCEDURES FOR EXCLUDING INDIVIDUALS FROM THE BERKELEY CAMPUS PURSUANT TO 626 PC**

property. The circumstances may include, but are not limited to the following types of behavior: assault, battery, physical obstruction of ingress to and egress from buildings, refusal to leave a public building upon request after its regular closing, destruction of property, incitement or participation in a riot, remaining at the scene of a riot after a lawful order to disperse, resisting a police officer, and physical intimidation of students or instructors seeking to attend classes.

- b. The excluded individual shall be given written notice of the exclusion. The UCPD form will be used. The notice shall include the date and time it becomes effective, the duration of the exclusion (which may not exceed 14 days) and their right to a hearing. The notice shall be personally served or sent by certified mail with return receipt requested.
  - 1) In most cases the subject being excluded will be arrested or detained and it will be possible to serve the written notice in person. In rare cases in which this is not possible the notice shall be given verbally and followed up with the written notice sent by certified mail with return receipt requested mailed at least by the next business day.
- c. Copies of the written notice and a written police report describing the basis for the exclusion shall be delivered within 18 hours, regardless of the day of the week, to the Chief of Police for review. The On-duty patrol supervisor is responsible for seeing that the deliveries occur within the time frame.
- d. The written report shall include the following:
  - 1) a description of the excluded individual, including, if available, the person's name, address and phone number;
  - 2) a statement of facts giving rise to the exclusion of the individual;
  - 3) a reference to the statutes, other than 626.4 PC, that allegedly have been violated;
  - 4) the time the exclusion order was served and became effective; and
  - 5) a summary of any action taken by the police (i.e., citation or arrest).
- e. Interim review of Exclusion: The Chief of Police shall review the report and shall confirm or deny the exclusion within twenty-four (24) hours after personal service or mailing the notice to the person excluded. If the order is not confirmed in writing within this period, it shall automatically be nullified and the individual shall be notified in writing as soon as possible.





---

DATE ISSUED: August 11, 2006

GENERAL ORDER O-17

Page 3 of 4

---

**SUBJECT: PROCEDURES FOR EXCLUDING INDIVIDUALS FROM THE BERKELEY CAMPUS PURSUANT TO 626 PC**

- f. In the absence of the Chief, the authority for interim review may be and is delegated to the individual authorized to act on the Chief's behalf (the acting Chief). In the absence of the Chief or Acting Chief, authority is given to the Assistant Chancellor/Chief of Staff.
  - g. An individual who has been summarily excluded may submit a written request to the Vice Chancellor of Administration for a hearing pursuant to the campus policy.
6. Exclusion of Student or Employee in Cases Not Involving Risk of Significant Injury to Persons or Property:
- a. If a designated UCPD officer determines that there is reasonable cause to believe that an individual has willfully disrupted the orderly operation of the Berkeley campus, he/she may recommend that the individual be excluded from the campus subject to a review of the proposed exclusion at a formal hearing.
  - b. The recommendation should be forwarded with a written police report describing the basis of the recommendation to the Chief of Police, who shall review the report and determine whether to accept or reject the recommendation. If the recommendation is accepted, the individual shall be notified in writing, personally served or sent by certified mail with return receipt requested, of the recommendation for exclusion, informing him or her of the proposed exclusion and the date, time, and place of the hearing which shall be held at least twenty-four (24) hours after the receipt of the notice. The Chancellor has designated the following to serve as hearing officers: the Vice Chancellor of Administration, the Associate Vice Chancellor of Administration, and the Assistant Vice Chancellor for Human Resources. The Chancellor may designate other officials to serve as hearing officers as needed. The procedures for the hearing are contained in campus policy.
  - c. The exclusion order will not become effective until the hearing officer has upheld it.
    - 1) If the hearing officer sustains the exclusion, he/she will determine its duration, which may not exceed fourteen calendar days from its implementation.
7. Exclusion of Individuals who are not students or employees of the University (626.6 PC)
- a. Under section 626.6 PC, a designated UCPD officer may summarily exclude an individual who is not a student or employee of the University and who is not required by his or her employment to be on the campus or other University facility, when it reasonably appears that the individual is committing an act likely to interfere with the peaceful conduct of the activities of the campus, or has entered the campus for the purpose of committing any such act.



---

DATE ISSUED: August 11, 2006

GENERAL ORDER O-17

Page 4 of 4

---

**SUBJECT: PROCEDURES FOR EXCLUDING INDIVIDUALS FROM THE BERKELEY CAMPUS PURSUANT TO 626 PC**

- b. Written notice of exclusion shall be provided to the individual by having notification personally served or sent by certified mail, with return receipt requested (pursuant to ¶5.b.1 above). The notice shall inform the individual that if he or she reenters the campus or facility within seven (7) days, he or she will be guilty of a misdemeanor.
  - c. Unlike individuals excluded from campus under 626.4 PC, individuals excluded from the campus or other University facility under this section do not have the right to a hearing concerning the exclusion. If that individual fails to leave, or if the individual willfully and knowingly reenters the campus or facility within seven (7) days after being directed to leave, he or she is guilty of a misdemeanor punishable by law.
  - d. Whenever a designated UCPD Officer has excluded an individual from the Berkeley Campus under the authority of section 626.6 PC, a written police report should be submitted containing the following information:
    - 1) A description of each individual excluded, including the person's name and (if available) his/her local address and telephone number.
    - 2) A statement of the facts that justify the exclusion. This statement must describe the specific conduct of each individual, cite the pertinent section(s) of the California Penal Code that the individual allegedly violated, and any action taken by the police with respect to issuing a citation or making an arrest.
8. Reinstatement of an Excluded Individual  
If, at any time during a period of exclusion, information is presented to the Chief of Police that demonstrates the excluded individual no longer constitutes a substantial and material threat to the orderly operation of the campus, this exclusion order shall be lifted. The excluded individual shall be notified of this action immediately by having the notification personally served or sent by certified mail with return receipt requested.

A handwritten signature in black ink, appearing to read "Victoria L. Harrison".

Victoria L. Harrison  
Chief of Police

REFERENCE: Berkeley Campus Procedures for Implementing Section 626 of the State Penal Code, approved 9/15/00.

REVISIONS: Converted from Division Order DO-P-09-95, dated December 1, 1995.