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**VIA ELECTRONIC DELIVERY**

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The Honorable Tim Walberg  
Chairman, Committee on Education and the Workforce  
United States House of Representatives  
Washington, D.C. 20515

**Re: Committee on Education and the Workforce – Questions for the Hearing Record**

Dear Chairman Walberg:

We are writing on behalf of our client, the University of California, Berkeley ("UC Berkeley"), which is today responding to the questions for the hearing record that the Committee on Education and the Workforce transmitted to UC Berkeley's Chancellor Dr. Rich Lyons on July 30, 2025. Enclosed please find the Chancellor's responses to those questions.

\* \* \*

Should you have any questions regarding this information or this matter generally, please contact me at your earliest convenience.

Very truly yours,

K. Lee Blalack II  
of O'MELVENY & MYERS LLP

Enclosures (via electronic delivery)

cc:     The Honorable Bobby Scott  
          Ranking Member, Committee on Education and the Workforce, U.S. House of  
          Representatives  
       Jenna Berger, Esq.  
          Investigative Counsel, Committee on Education and the Workforce, U.S. House  
          of Representatives  
       Lexi Boccuzzi  
          Investigator, Committee on Education and the Workforce, U.S. House of  
          Representatives  
       Véronique Pluviose-Fenton, Esq.  
          Staff Director for the Minority, Committee on Education and the Workforce, U.S.  
          House of Representatives  
       Amanda M. Santella, Esq.  
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       Kevin Barstow, Esq.  
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**RESPONSES OF DR. RICHARD K. LYONS**  
**CHANCELLOR, UNIVERSITY OF CALIFORNIA, BERKELEY**  
**TO QUESTIONS FOR THE HEARING RECORD**  
**COMMITTEE ON EDUCATION AND THE WORKFORCE**  
**UNITED STATES HOUSE OF REPRESENTATIVES**

**1. Chancellor Lyons, on February 26, 2024, multiple Jewish students were attacked while attending an event at Zellerbach Playhouse. Charges included assault, battery, civil rights violations, and even riot-related offenses. Why were none of these incidents classified, or even logged, as Clery-reportable hate crimes in your Clery Daily Crime Logs?**

The incidents that occurred at Zellerbach Playhouse on February 26, 2024, and the initial Daily Crime Logs associated with the reported incidents were before my time as Chancellor, and I cannot speak with personal knowledge regarding how these incidents were initially classified.

Based on consultations with relevant staff, my current understanding is that the University of California, Berkeley (“UC Berkeley” or the “University”) maintains a Daily Crime Log, as mandated by the Jeanne Clery Campus Safety Act, 20 U.S.C. § 1092(f), 34 C.F.R. §668.46 (“Clery Act”) which includes all crimes reported to UC Berkeley’s University of California Police Department (“UCPD”) as well as other incidents such as reported injuries or illnesses. Consistent with 34 C.F.R. § 668.46(f), the Daily Crime Log provides brief descriptions of the nature, date, time, and general location for each crime reported to UCPD within its patrol jurisdiction. As required, the Daily Crime Log is populated within two business days of a report with information available to officers in the initial report, but Daily Crime Log entries may be updated within 60 days based on subsequent investigation.

Additionally, UC Berkeley’s Annual Security and Fire Safety Reports, which are published by October 1 each year, capture all Clery Act reportable crimes from the previous calendar year, following rigorous classification review by UC Berkeley’s Clery Compliance Office and regardless of their initial classification on Daily Crime Logs. We expect UC Berkeley’s Annual Security and Fire Safety Report to be published by October 1, 2025, as the Clery Act mandates, and it will reflect all incidents from 2024 in accordance with Clery Act requirements, including any incidents that occurred at Zellerbach Playhouse on February 26, 2024, which are the subject of this question.

**2. California Penal Code 422.6 specifically addresses civil rights violations based on protected characteristics. Several incidents occurring on 2/26/2024 are logged under that statute. How can your university report zero hate crimes on a day when students were physically assaulted because they were Jewish?**

As I noted in response to Question No. 1, the incidents at Zellerbach Playhouse and the initial Daily Crime Logs associated with the reported incidents occurred before my time as Chancellor. Thus, I cannot speak with personal knowledge regarding how these incidents were initially classified.

Based on consultations with relevant staff, however, it is my general understanding that the Daily Crime Logs do not necessarily reflect the final reporting on crimes classified as “hate crimes” under the Clery Act, and that UC Berkeley’s forthcoming Annual Security and Fire Safety Report will include information regarding incidents that occurred in 2024.

As explained above, I am informed that the Daily Crime Logs include all crimes reported to or by a campus police department within their patrol jurisdiction, including crimes that are not

classified as Clery crimes. UCPD officers often use California Penal Code designations or other applicable statutory citations in describing the nature of reported crimes, based on the elements of those statutory offenses and information available to the officers from the initial reports. The descriptions on the Daily Crime Log represent an initial classification, not a final adjudication, of each incident based on information known to the UCPD officer at the time, and the descriptions of those incidents on the Daily Crime Log or other reports, such as the Annual Security and Fire Safety Report, may be updated based on the results of subsequent investigation.

Regardless of how an incident is classified on a Daily Crime Log, the incidents reflected in UC Berkeley's Annual Security and Fire Safety Report are classified according to federal law and the standards set by the Clery Act, not the California Penal Code or University policy. The Clery Act defines a "hate crime" as a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim, and that is the definition that UC Berkeley applies in its Annual Security and Fire Safety Report.

As explained in response to Question No. 1, we expect the Annual Security and Fire Safety Report for calendar year 2024 to be published by October 1, 2025, and will include all Clery-classified crimes in accordance with Clery Act requirements. The incidents that occurred at Zellerbach Playhouse on February 26, 2024, which are the subject of this question, will be reflected in this report.

**3. How do you justify allowing violent, targeted antisemitic attacks to be buried under generic terms like 'battery' or 'injury/illness' in your federally mandated Clery daily crime logs, especially when those incidents involved chants of 'Intifada' and targeted assaults during a Jewish event?**

As explained previously, the incidents at Zellerbach Playhouse in February 2024 and the initial Daily Crime Logs associated with the reported incidents occurred before my time as Chancellor. As a result, I cannot speak with personal knowledge regarding how these incidents were initially classified in the Daily Crime Logs.

Also as explained above, however, I am informed that the Daily Crime Log must include brief descriptions of the nature, date, time, and general location for each crime reported to UCPD within the patrol jurisdiction of the department. These brief descriptions are not indicative of final adjudications regarding any specific incidents, but represent initial classifications based on information known to UCPD at the time the Daily Crime Log is published or within the timeframe that it is updated.

It is important to note that, when reporting multiple incidents related to an event like the one at Zellerbach Playhouse in February 2024, the Daily Crime Log will describe multiple distinct incidents reported to or by UCPD or campus safety during the event. And, because UC Berkeley's Daily Crime Logs include reported crimes and certain non-criminal incidents, some reported incidents that transpire during a disruptive event alongside bias-related incidents may be unrelated. For example, an injury sustained by a UCPD officer in the course of enforcement duties may be described as an "injury/illness" on a Daily Crime Log, whereas an alleged assault targeting an event participant may be described differently, even though both incidents happened

at the same event. Whether an individual incident is described as bias-related will depend on the information known regarding the specific reported incident at the time the Daily Crime Log is published.

**4. To an outside observer, this looks like systematic underreporting of hate crimes in violation of federal law. Given these facts, how confident are you that your institution is in full compliance with all regulations under the Clery Act, including 34 CFR §668.46(c) and (f)?**

I am confident in UC Berkeley's Clery Act compliance procedures. As noted above, the Clery Act mandates a Daily Crime Log which includes brief descriptions of the nature, date, time, and general location for each crime reported to UCPD within their patrol jurisdiction. The Daily Crime Log is populated within two business days of a report with information available to officers immediately following an initial report, but Daily Crime Log entries may be updated within 60 days based on subsequent investigation. And our Clery Compliance Office administers an Annual Security and Fire Safety Report process that involves a thorough evaluation of all reported crimes for Clery classification—regardless of how those crimes were initially classified—and includes multiple levels of review and collaboration with UCPD and other campus offices that maintain information relevant to Clery Act reporting.

As noted above, we expect UC Berkeley's Annual Security and Fire Safety Report to be published by October 1, 2025, as the Clery Act mandates. UC Berkeley will include and classify all incidents from 2024 in accordance with Clery Act requirements. The incidents that occurred at Zellerbach Playhouse on February 26, 2024, which are the subject of this question, will be reflected in this report.

**5. If Jewish students, attending a Jewish event, are assaulted during a violent protest with antisemitic chants and that still doesn't get flagged as a hate crime then what exactly would?**

See my responses to Questions No. 3 and No. 4 above.

**6. Please explain the criteria by which your institution decides when a hate-motivated offense appears as a hate crime in the Daily Crime Log and why that standard appears to shift depending on the victim's identity.**

Based on my understanding of the Clery Act reporting process at UC Berkeley, the standard used to report a hate crime in the Daily Crime Log does not shift depending on the identity of the victim. As explained above, UCPD populates the Daily Crime Logs based on information available to officers at the time of reporting, and may update the Daily Crime Log entries within 60 days if further investigation warrants an update to the initial reporting. Where, after an initial assessment or through further investigation, UCPD determines that an incident meets the elements for a hate crime because it finds that a criminal act was motivated, in whole or in part, by the offender's bias, it is reported as such on the Daily Crime Log. To my knowledge, UC Berkeley does not vary this standard based on the victim's identity.

UC Berkeley's UCPD undergoes various trainings regarding hate-crime standards and reporting, including two recent trainings—one of which was conducted by the Anti-Defamation League—about how antisemitism might present during a crime such that it would impact the hate-crime analysis.

To reiterate: the reporting requirements for Daily Crime Logs differ in many respects from the reporting requirements for the Annual Security and Fire Safety Reports.