

Immediate Stay Requested by October 24, 2025, 4:30 p.m. (trial court ordered disclosure of confidential document by Oct. 24)

No. _____

In the Supreme Court of the State of California

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA,
Respondent and Petitioner,

vs.

ALAMEDA COUNTY SUPERIOR COURT,
Respondent;

UCLA FACULTY ASSOCIATION, and COUNCIL OF
UNIVERSITY OF CALIFORNIA FACULTY ASSOCIATIONS,
Petitioners and Real Parties in Interest in Court of Appeal.

**APPLICATION FOR IMMEDIATE TEMPORARY STAY
PENDING DECISION ON PETITION FOR REVIEW**

After Ruling of the First Appellate District, Division Three,
No. A174586, Telephone: 415-865-7294

From Order, Judgment and Writ of Alameda County Superior Court,
No. 25cv143076, Judge Rebekah Evenson, Department 24,
Telephone: 510-267-6940, Email: dept24@alameda.courts.ca.gov

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The Regents of the University of California

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I. INTRODUCTION

Petitioner The Regents of the University of California (“the University”) brings this application to obtain an immediate stay of an order requiring the University to disclose a confidential U.S. Department of Justice (“DOJ”) settlement proposal (the “Confidential Settlement Proposal”) that is exempt from disclosure under the California Public Records Act (“PRA”).

The trial court ordered the University to disclose the Confidential Settlement Proposal by October 24, 2025, yet the Court of Appeal summarily denied the University’s appellate petition for a writ of mandate and request for a stay pending appellate review. An immediate temporary stay from this Court is therefore necessary to afford the University the opportunity to exercise its appellate rights and afford this Court time to decide the University’s concurrently filed Petition for Review. If a stay is not ordered, this confidential material will have been made public and the University will suffer irreparable harm, all without the University having even received any reasoned appellate decision addressing the matter.

The Confidential Settlement Proposal relates to a DOJ investigation of certain activities at University of California, Los Angeles (“UCLA”). Labeled “RULE 408 PROPOSED VOLUNTARY RESOLUTION AGREEMENT” and referencing “Federal Rule of Evidence 408” throughout, it sets forth a proposal of the terms on which the DOJ is willing to voluntarily

resolve threatened litigation against UCLA and other pending federal investigations.

Settlement proposals like this are exempt from PRA disclosure under *Board of Trustees of California State University v. Superior Court* (2005) 132 Cal.App.4th 889 (CSU) and other cases as records relating to ongoing litigation. Accordingly, after the trial ordered disclosure (that order is attached as Exhibit B hereto), the University sought appellate review by filing a Petition for Writ of Mandate (“Writ Petition”), and immediate stay request, with the First District, Division Three on October 20, 2025. Two days later, on October 22, 2025, the First District summarily denied the University’s writ petition and stay request. (Order, attached as Exhibit A.)

As detailed in the University’s concurrently filed Petition for Review, this Court’s review is warranted for several reasons, including the significance of the question presented. At a minimum, given the gravity of the issues presented and the fact that prior published Court of Appeal decisions have held that settlement proposals are exempt from disclosure, this Court should grant review and transfer the matter to the Court of Appeal with directions to issue a reasoned appellate opinion on these issues.

To preserve the effectiveness of the University’s Petition for Review and this Court’s jurisdiction, the University respectfully requests that this Court issue an immediate stay of the trial court’s October 14, 2025 disclosure order during the pendency of

this Court’s consideration of the University’s concurrently filed petition for review.

II. RELEVANT BACKGROUND

The relevant background is set forth in the University’s accompanying Petition for Review, so we provide only a brief summary here of the portions relevant to this stay request.

In July 2025, the DOJ sent the University a Notice of Findings letter stating the DOJ had completed an investigation and had found that UCLA’s response to students’ complaints of antisemitism violated UCLA’s obligations under federal law. (Ex. B at 2.) The DOJ further indicated in its letter that it sought to enter into a voluntary resolution, and the University should reach out to DOJ if the University was interested in doing so. (*Ibid.*) The letter added that unless there was reasonable certainty of a resolution, the United States “is prepared to file a complaint in federal district court by September 2, 2025.” (*Ibid.*)

On August 8, 2025, the DOJ sent the document at issue in this case to the University—a confidential settlement proposal intended to launch confidential settlement discussions (the “Confidential Settlement Proposal”). (Ex. B at 3.) The document is marked “RULE 408 PROPOSED VOLUNTARY RESOLUTION AGREEMENT” and contains a header on every page referencing Federal Rule of Evidence 408. (Ex. B at 21-22.)

On August 15, 2025, two groups, UCLA Faculty Association and Council of University of California Faculty Associations (the “PRA Requestors”), sent records requests under the PRA to UCLA and to the University of California, Office of the President (“UCOP”) seeking disclosure of the Confidential Settlement Proposal. (Ex. B at 5.) On August 19, 2025, UCOP responded by denying the request on the grounds the Confidential Settlement Proposal is exempt from disclosure under: (1) Gov. Code § 7927.200 (pending litigation); (2) Gov. Code § 7929.705 (settlement communications); (3) Gov. Code § 7927.500 (draft settlement demand); and (4) Gov. Code § 7922.000 (catch all). (*Ibid.*) On September 2, 2025, UCLA denied the request for similar reasons. (*Ibid.*)

On September 17, 2025, PRA Requestors filed a petition for writ of mandate in the trial court with an *ex parte* application that demanded immediate and sweeping relief, which the University opposed. (Ex. B at 7.) On September 19, 2025, the trial court held a hearing on the *ex parte* application, despite the lack of any showing by PRA Requestors, set an expedited briefing schedule and hearing on the merits. (*Ibid.*) The trial court held a further hearing on October 10, 2025. (*Ibid.*)

On October 14, 2025—less than a month after PRA Requestors filed their writ petition and with little time for briefing—the trial court issued its order granting the writ petition and ordering the University to disclose the Confidential Settlement Proposal by October 24, 2025. (See generally Ex. B.)

Pursuant to Government Code section 7923.500, the University's only avenue to obtain review of the trial court's order is a petition for writ of mandate to the Court of Appeal. (Gov. Code § 7923.500; see also *Filarsky v. Superior Court* (2002) 28 Cal.4th 419, 426-427.) Accordingly, on October 20, 2025, the University filed its Writ Petition with the First District, Division Three. (See generally Petition for Writ of Mandate.) The University requested the Court of Appeal issue an immediate stay by October 24, 2025—the date of ordered disclosure—and to reverse the trial court's decision. (See *ibid.*)

Two days later, on October 22, 2025, the First District issued a one-sentence order stating that it denied the University's petition and its request for immediate stay. (Ex. A.) As such, the trial court's order requiring disclosure of the Confidential Settlement Proposal by October 24, 2025 remains in effect. (See Ex. A & B.) Without relief from this Court, the University will be compelled to publicly disclose this confidential information without having ever received a reasoned appellate decision on the matter.

III. A TEMPORARY STAY IS NECESSARY TO PRESERVE THE STATUS QUO UNTIL THE PETITION FOR REVIEW IS DECIDED

In assessing a petition for review, this Court has the power to issue a temporary stay until the petition is decided. (See Cal. Rules of Court, Rule 8.111(a); *People ex rel. San Francisco Bay Conservation & Development Com. v. Emeryville* (1969) 69 Cal.2d

533, 538-539 [discussing Supreme Court’s power to issue a stay to “preserve the status quo pending determination of the appeal”]; Eisenberg et al., Cal. Practice Guide: Civil Appeals & Writs (The Rutter Group, 2025 Update) ¶ 15:240b [“If there is an urgent need for immediate supreme court action (e.g., threatened destruction of property), a request for an *immediate temporary stay* should be directed to the supreme court in conjunction with the petition for review” (italics in original)].)

Here, for several reasons, a temporary stay is warranted to afford this Court time to decide whether to grant review or a grant and transfer.

First, the trial court ordered disclosure of the records at issue by October 24, 2025, and the Court of Appeal has summarily denied the University’s writ petition challenging that order. (See Exs. A & B.) If a temporary stay is not issued, the University will be forced to make the disclosure. (See *ibid.*) The University thus faces a textbook risk of irreparable harm: if no temporary stay is issued, it will forever be deprived of its opportunity to challenge the trial court’s ruling or to even have a reasoned decision on why its appeal has been denied. (E.g., *O’Grady v. Superior Court* (2006) 139 Cal.App.4th 1423, 1439 [compelled disclosure as irreparable harm].)

Second, the University’s accompanying petition for review demonstrates compelling grounds for a grant of review or a grant

and transfer. (See generally Petition for Review.) This Court needs to preserve its jurisdiction to assess those grounds, and to prevent irreparable harm from occurring before it makes its decision.

Third, because a writ of mandate is the only procedural mechanism by which the University can challenge the trial court's ruling, the University is entitled to a decision on the merits. (See *Powers v. City of Richmond* (1985) 10 Cal.4th 85, 110 (*Powers*) ["[T]he only mode of appellate review in PRA cases, shows that it was intended not to impair judicial power but to make the appellate remedy more effective for litigants seeking disclosure of public records."].) While that did not obligate the Court of Appeal to issue a reasoned decision, coupled with the compelling showing of merit that the University made in its writ petition, it is reason why a grant and transfer would be warranted in this case. (Cal. R. Ct., Rule 8.500(b)(4).) However, without a temporary stay, the irreparable harm of a public disclosure will occur and there will be no opportunity for this Court to even consider whether a grant and transfer may be warranted.

Finally, any balance of hardships and the public interest both favor issuing a temporary stay in this case. The public interest favors ensuring that the exemptions from disclosure are correctly applied and exempt records are not incorrectly ordered to be provided. (*CSU, supra*, 132 Cal.App.4th at pp. 899-900.)

Further, there is a compelling public interest in ensuring that the University's appeal is decided on its merits. (See *Powers, supra*, 10 Cal.4th at p. 110.) At this stage, all the University is asking for is a temporary stay that will enable it to have the opportunity to have its appeal decided on the merits rather than suffering irreparable harm before this Court even considers the University's petition.

IV. CONCLUSION

For the reasons stated, this Court should issue a temporary immediate stay until this Court can rule on the University's petition for review.

DATED: October 23, 2025

UNIVERSITY OF CALIFORNIA
OFFICE OF THE GENERAL
COUNSEL

REED SMITH LLP

By /s/ Raymond A. Cardozo
Raymond Cardozo

Attorney for Respondent and
Petitioner The Regents of the
University of California

Document received by the CA Supreme Court.

EXHIBIT A

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA,

Petitioner,

v.

THE SUPERIOR COURT OF
ALAMEDA COUNTY,

Respondent;

UCLA FACULTY ASSOCIATION et
al.,

Real Parties in Interest.

A174586

(Alameda County
Super. Ct. No. 25CV143076)

BY THE COURT:*

The petition for writ of mandate or other appropriate writ and request
for immediate stay are denied.

Dated: 10/22/2025

Fujisaki, Acting P.J.
Presiding Justice

* Fujisaki, Acting P.J., Petrou, J., and Rodríguez, J.

EXHIBIT B

FILED
Superior Court of California
County of Alameda
10/14/2025
Clad Flake, Executive Officer / Clerk of the Court
By: *[Signature]* Deputy
A. Rios

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

UCLA FACULTY ASSOCIATION and
COUNCIL OF UNIVERSITY OF
CALIFORNIA FACULTY ASSOCIATIONS,

Plaintiffs/Petitioners,

v.

REGENTS OF THE UNIVERSITY OF
CALIFORNIA,

Defendant/Respondent.

No. 25CV143076

ORDER AND JUDGMENT GRANTING
PETITION FOR WRIT OF MANDATE

Date: October 10, 2025
Time: 9:00 AM
Dept.: 24

The Petition of UCLA Faculty Association and Council of University of Faculty Associations (collectively, "Faculty Association") for Writ of Mandate came on for hearing on October 10, 2025, in Department 24, the Honorable Rebekah Evenson presiding. Counsel appeared on behalf of the Faculty Association and on behalf of the Regents of the University of California ("University"). After consideration of the record herein and the argument of counsel, IT IS ORDERED: The Petition for Writ of Mandate is GRANTED. The Court enters JUDGMENT in favor of Petitioners.

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Document received by the CA Supreme Court.

1 BACKGROUND

2 On July 29, 2025, the United States Department of Justice (“DOJ”) sent a letter to the
3 University at the University’s Office of General Counsel stating that the DOJ had completed an
4 investigation and “found that UCLA’s response to its students’ complaints of antisemitism on
5 UCLA’s campus violated its obligations under the Equal Protection Clause of the Fourteenth
6 Amendment and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (Title VI).”

7 The DOJ letter regarding antisemitism at UCLA concludes:

8 Having determined that UCLA was deliberately indifferent to the hostile
9 environment for Jewish and Israeli students created by the protest encampment, the
10 Department now seeks to enter into a voluntary resolution agreement with the
11 University to ensure that the hostile environment is eliminated and reasonable steps
12 are taken to prevent its recurrence.

13 If you are interested in resolving this matter along these lines, please contact please
14 reach out [sic] to [the DOJ] by August 5, 2025. Unless there is reasonable certainty
15 that we can reach an agreement in this matter, the United States is prepared to file
16 a complaint in federal district court by September 2, 2025.

17 (Woodall Dec., ¶6 [with hyperlink]; Cisneros Dec., Exh. C.)¹

18 On August 1, 2025, the United States National Science Foundation (NSF) sent a letter to
19 UCLA stating that NSF is suspending federal grant awards to UCLUA because “NSF has
20 identified the following specific examples of noncompliance: • UCLA engages in racism, in the
21 form of illegal race-based preferences in admissions practices; • UCLA fails to promote a
22 research environment free of antisemitism and bias; • UCLA discriminates against and endangers
23 women by allowing men in women’s sports and private women-only spaces.” The letter
24 concludes: “NSF is willing to work with UCLA to identify corrective actions to bring UCLA
25 into compliance. UCLA must acknowledge in writing its willingness to discuss these corrective
26 actions by August 15.” (Petition, Exh. D.)

¹ The Court takes judicial notice of the existence of the documents identified in the
hyperlinks in the Petition and in the Woodall Declaration, but the Court does not take judicial
notice of the truth of the statements made in the various documents. (*LG Chem, Ltd. v. Superior
Court of San Diego County* (2022) 80 Cal.App.5th 348, 362 fn 7.)

1 Allison Woodall, the Deputy General Counsel for Education Affairs, Employment, and
2 Governance at the University of California, states: “The federal government is currently
3 undertaking investigations of the University and UCLA specifically on multiple subjects, which
4 are broader than the alleged antisemitism-related issues on the UCLA campus that the DOJ
5 identified in its July 29, 2025, Notice of Findings. Federal government investigations are often
6 confidential, particularly when they are in process. On the current slate of pending
7 investigations, the federal government has made public the fact of some investigations, but not
8 all.” (Woodall Supp. Dec., ¶3.)

9 On August 8, 2025, the DOJ sent the document at issue in this case to the University.
10 (Woodall Dec., ¶9.)

11 On August 11, the University issued a press release stating:

12 Earlier today, University of California President James B. Milliken and Board of
13 Regents’ Chair Janet Reilly convened an emergency meeting of UC’s Board of
14 Regents to discuss a path forward after the federal administration suspended
15 UCLA’s lifesaving research funding and demanded a devastating \$1 billion
16 settlement payment. UC’s leadership spent recent days evaluating the demand,
17 updating the UC community, and engaging with stakeholders. Our focus remains
18 on protecting students’ access to a UC education and promoting the academic
19 freedom, excellence, and innovation that have always been at the heart of UC’s
20 work.

21 (Petition, Exh. E.)

22 On August 12, 2025, the University issued a press release captioned “Join the Movement
23 to Defend UC.” (Petition, ¶ 27 and fn 13 [hyperlink].) The release states:

24 Last week, the Trump Administration demanded a \$1 billion settlement from
25 UCLA after previously freezing \$584 million in research grants. It was an
26 unprecedented attack on public higher education.

The impact of this demand goes far beyond UCLA. It’s designed to devastate the
entire University and to hinder our ability to carry out our transformative work in
education, health care and research across California and the nation.

The federal government’s actions don’t just threaten UCLA, they put the entire
nation at risk. UC needs your voice to protect our students, staff, faculty and our
mission.

1 Pledge to Stand Up for UC

2 For more ways to spread the word, check out and share our new Stand Up for
3 UC website.

4 This easy-to-share page includes a variety of resources to inspire others to get
5 involved and speak out, including sample social media posts and downloadable
6 graphics.

7 The University has a “Stand Up for UC” campaign website. (Petition, ¶27 and fn 14
8 [hyperlink].) This website states: “Stand Up for UC. UC’s future is at risk. The federal
9 government’s demand of \$1 billion from UCLA puts the entire University of California system
10 at risk. Stand with us to protect UC.” The website later states:

11 At stake: Education and innovation

12 The University of California embodies the ambition of our state and ignites the
13 potential of people. We produce the discoveries, leaders and services that create
14 new opportunities here in California and across the nation. Here’s what’s at stake:

- 15 • Access to education
- 16 • Life-changing medical treatments for common diseases
- 17 • Technological innovations that grow the U.S. economy
- 18 • Research that protects our national security
- 19 • Inventions that propel leading industries

20 The website contains links inviting members of the public to “Take the pledge,” to “Tell your
21 story,” to “Spread the word,” to “Show your UC pride,” to Speak Up for Science” and “Join us
22 in asking Congress to reject drastic cuts to research” with another link to “Email your
23 lawmakers,” and to “Become a UC advocate.” (Petition, ¶27 and fn 14 [hyperlink].)

24 The University has a website for “Federal updates” that contains various University
25 statements, press releases, and updates regarding federal policy. (Petition, ¶30 and fn 16
26 [hyperlink].) The website states:

1 The future of the nation’s leading public university system is at stake.

2 The federal government’s demand of \$1 billion from the University of California,
3 Los Angeles would devastate the nation’s best public university, cut off life-saving
4 care, halt tech and economic growth, and reduce educational access.

5 From medical therapies that save lives to technologies that grow the U.S. economy
6 and research that protects our national security, Americans across the country
7 depend on the University of California.

8 Right now, we need your help. We must stand together to protect our students, staff,
9 faculty and our mission.

10 On August 15, 2025, Petitioners submitted separate Public Records Act requests to the
11 UCLA campus and to the University Office of the President (“UCOP”) seeking a copy of the
12 document sent by the DOJ that, according to a University of California press release, demanded
13 that the University of California pay \$1 billion to the federal government. (Petition, ¶19, Exhs.
14 A & D.)

15 On August 19, 2025, UCOP’s General Counsel denied Petitioner’s Public Records Act
16 request in an email, stating that the document was exempt from disclosure pursuant to
17 Government Code sections 7927.200 (pending litigation), 7927.705 (records exempt or
18 prohibited pursuant to federal or state law), 7927.500 (draft settlement demand or response), and
19 7922.000 (catchall exemption). (Petition, Exh. B.)

20 On September 2, 2025, the UCLA Director, UCLA Information Practices, separately
21 denied the Public Records Act request in a letter. (Petition, Exh. C.)

22 On September 15, 2025, the Los Angeles Times (“LA Times”) published a story stating
23 that it had obtained a copy of the document. The LA Times story contains information about the
24 document, including what the LA Times represents were direct quotations from the document.
25 (Cisneros Dec., Exh. A.)

26 On September 15, 2025, the University published a message from University of
California President James B. Milliken acknowledging the LA Times story. (Cisneros Dec.,
Exh. B.) The message states:

1 I know that many of you are closely following the federal administration's actions
2 against UCLA — including the suspension of critical research funding this summer
3 and a demand that the university pay the federal government over \$1 billion. Today,
4 the LA Times published a story summarizing some of the administration's
5 demands.

6 As we consider the unprecedented action against UCLA, it is important to keep in
7 mind that the federal government is also pursuing investigations and actions in
8 various stages against all 10 UC campuses. So, while we are first focused on the
9 direct action involving UCLA, we must also consider the implications of expanded
10 federal action.

11 This represents one of the gravest threats to the University of California in our 157-
12 year history. Losses of significant research and other federal funding would
13 devastate UC and inflict real, long-term harm on our students, our faculty and staff,
14 our patients, and all Californians. It would also end life-saving research from which
15 all Americans benefit.

16 Let me provide a little more context about what's at stake. The University of
17 California receives more than \$17 billion each year in federal support. That includes
18 \$9.9 billion in Medicare and Medicaid funding, \$5.7 billion for research and
19 program support, and \$1.7 billion in student financial aid.

20 The funds at risk support the doctors and nurses who care for millions of
21 Californians each year, the researchers working to find new cures and make
22 important technological discoveries, and the financial aid that keeps UC accessible
23 for students of all backgrounds. A substantial loss of this federal funding would be
24 devastating for our mission and for the people who depend on us most. It will mean
25 fewer classes and student services, reduced access to health care, tens of thousands
26 of lost jobs across the state, and an exodus of world-class faculty and researchers
to other states or countries.

Many of our campuses have already experienced layoffs and other negative impacts
in recent months because of cuts to federal research funding and other financial
pressures. But this is minor in comparison to the threat that looms. As the state's
second-largest employer, with a presence in every county in California, these
reductions would have a detrimental ripple effect across the entire state economy.
The work happening across UC saves lives, drives economic growth and creates
opportunity for families in every community. Far too many people depend on us
for the University to retreat from its mission. We must do all we can to avoid the
harmful possibilities I've outlined. That's why we are working with elected
officials in Sacramento and Washington, D.C., to evaluate every option to resolve
this conflict to continue serving communities across the state.

1 The University of California has weathered many challenges since its founding. We
2 will do so again — but it will undoubtedly be a difficult process for our community.
3 The fact is that we are in uncharted waters. Our top priority now is protecting this
institution — its resources, its mission and its values — for the sake of everyone
we serve.

4 I ask all of you to come together as a community — in support of our students, our
5 patients and one another — as we navigate what lies ahead. It will take all of us
6 working together to protect UC, the greatest public university in the nation.

7 On September 17, 2025, Petitioner filed its Verified Petition for Alternative Writ of
8 Mandate Under the Public Records Act.

9 **PROCEDURE.**

10 The Public Records Act requires prompt resolution of disputes regarding public
11 documents. Government Code section 7923.005 states: “the court shall set the times for hearings
12 and responsive pleadings with the object of securing a decision as to the matters at issue at the
13 earliest possible time.”

14 On September 17, 2025, the Faculty Association filed the Petition of Writ of Mandate
15 and an ex parte application. The University filed an opposition to the ex parte application, and
16 on September 19, 2025, the Court held a hearing. Counsel for both the Faculty Association and
17 the University were present in the courtroom. The Court thereafter issued an order on
18 scheduling.

19 Both parties submitted briefing in response to the September 19, 2025, scheduling order,
20 and both parties appeared and presented argument at the October 10, 2025, hearing.

21 Counsel for the University informed the Court that the DOJ was aware of this case. The
22 DOJ has not filed a memorandum or appeared or otherwise indicated that it wants to assert the
23 interests of the federal government in this case.

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1 LEGAL STANDARD

2 The Public Records Act and the California Constitution provide the public with a broad
3 right of access to government information. The Public Records Act states: “access to
4 information concerning the conduct of the people’s business is a fundamental and necessary right
5 of every person in this state.” (Gov. Code § 7921.000.)

6 The right to access public information is enshrined in the California Constitution. (Cal.
7 Const., art. I, § 3, subd. (b)(1); *Los Angeles County Bd. of Supervisors v. Superior Court* (2016)
8 2 Cal.5th 282, 290-291.) The Constitution directs that “[a] statute . . . shall be broadly construed
9 if it furthers the people's right of access, and narrowly construed if it limits the right of access.”
10 (Cal. Const., art. I, § 3, subd. (b)(2).) “Given the strong public policy of the people’s right to
11 information concerning the people’s business . . . , and the constitutional mandate to construe
12 statutes limiting the right of access narrowly . . . , all public records are subject to disclosure
13 unless the Legislature has *expressly* provided to the contrary.” (*City of San Jose v. Superior*
14 *Court* (2017) 2 Cal.5th 608, 617 [emphasis in original]; *see also Voice of San Diego v. Superior*
15 *Court* (2021) 66 Cal.App.5th 669, 683.)

16 A state agency opposing release of a document has the burden of demonstrating that the
17 document in question is exempt from disclosure. (Gov. Code §§ 7922.000, 7922.540(c); *ACLU*
18 *v. Superior Court* (2011) 202 Cal.App.4th 55, 85.) “Our Constitution requires that these
19 exemptions be narrowly construed.” (*Iloh v. Regents of University of California* (2023) 87
20 Cal.App.5th 513, 524.)

21 The Court is mindful of the heightened sensitivity and public concern about the
22 differences in policies and priorities between the State of California and the federal government.
23 The current political tensions play no role in the Court’s determination of this matter.

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1 EXEMPTION FOR PENDING LITIGATION (Government Code section 7927.200)

2 The University's primary opposition to disclosing the document sought by the Faculty
3 Association rests on the Public Record Act's exemption for documents related to pending
4 litigation, Government Code section 7927.200. However, the University's invocation of the
5 pending litigation exemption stretches that exemption beyond its plain meaning and beyond any
6 court's application of it.

7 Government Code section 7927.200 states: "Except as provided in Sections [not
8 applicable in this case], this division does not require disclosure of any of the following records:
9 (a) Records pertaining to pending litigation to which the public agency is a party, until the
10 pending litigation has been finally adjudicated or otherwise settled."

11 The University seeks to withhold the document at issue in this case even though it was
12 not created by the University, was not created in the course of pending litigation, does not
13 primarily address threatened litigation, and the University has already publicized portions of the
14 document and attempted to rally the public to support the University's opposition to the demands
15 made in the document. The University cites no authority that would exempt disclosure of such a
16 document under the pending litigation exemption, and the Court is not aware of any.

17 The pending litigation exemption on its face applies only to records "pertaining to
18 pending litigation." *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 372, states: "it would
19 seem that this [pending litigation exemption] was primarily designed to prevent a litigant
20 opposing the government from using the [Public] Records Act's disclosure provisions to
21 accomplish earlier or greater access to records pertaining to pending litigation or tort claims than
22 would otherwise be allowed under the rules of discovery, rather than being aimed solely at
23 preventing discovery of a limited class of documents falling within the purview of the attorney-
24 client ... privilege[]." Consistent with this purpose, the pending litigation has generally been
25 applied only to documents created by the public entity. (*County of Los Angeles v. Superior*
26 *Court (Axelrad)* (2000) 82 Cal.App.4th 819, 832 ["The issue to be resolved by the trial court is

whether the documents sought were specifically prepared by the County for use in litigation”]; *Poway Unified School Dist. v. Superior Court (Copley Press)* (1998) 62 Cal.App.4th 1496, 1504 [“exemption was intended “to protect only documents created by the public entity”].) The pending litigation exemption therefore has traditionally been applied only to documents “(1) that the agency prepared; (2) for its own use in litigation; and (3) that it had an interest in not disclosing until after the litigation has finalized.” (*Board of Trustees of California State University v. Superior Court* (2005) 132 Cal.App.4th 889, 898 (“*CSU*”).)

Nonetheless, courts subsequently expanded the exemption to include documents prepared by a state entity not only during active litigation, but also in anticipation of litigation. *Fairley v. Superior Court* (1998) 66 Cal.App.4th 1414, 1422, held that the “pending litigation” exemption can apply to documents prepared by the public entity “in anticipation of litigation.” In so expanding the litigation exemption, the *Fairly* court cautioned that any determination whether a state entity prepared the document in anticipation of litigation requires an examination of the document and the purposes of the state entity. “[A] document is protected from disclosure only if it was specifically prepared for use in litigation. ... A document or report prepared for a dual purpose is privileged, or not privileged, depending on the ‘dominant purpose’ behind its preparation.” (*Id.* at p. 1420, quoting *City of Hemet v. Superior Court* (1995) 37 Cal.App.4th 1411, 1420 & 1419.)

In *CSU*, the court extended the scope of the litigation exemption in a different direction. (*CSU, supra*, 132 Cal.App.4th at p. 898.) While *Fairly* expanded the exemption to cover pre-litigation documents, *CSU* expanded the exemption to encompass settlement documents prepared by third parties and exchanged in confidence as part of negotiations to settle ongoing litigation. The *CSU* court held the exemption includes settlement communications from litigation adversaries that are “[1] litigation documents, [2] when sought by persons or entities not party to the litigation, [3] which the parties do not intend to be revealed outside the litigation.” (*CSU, supra*, 132 Cal.App.4th at p. 900.) The *CSU* court reasoned: “If third persons were able to

1 obtain, through the PRA, all correspondence between opposing attorneys and clients in pending
 2 litigation or tort claims, it would eviscerate the parties' ability to vigorously litigate and protect
 3 their clients' interests. ... If parties outside of the litigation were able to obtain such documents
 4 through a PRA request, the ability to communicate openly and freely during litigation would be
 5 severely hampered." (*CSU, supra*, at p. 899.)

6 The *CSU* court did not have occasion to examine whether its expansion of the litigation
 7 exemption applies to pre-litigation settlement demands. Assuming, without deciding, that a pre-
 8 litigation settlement demand from a third party could be covered by the Public Records Act's
 9 pending litigation exemption, the Faculty Association raises significant arguments that the
 10 document at issue in this case is not a "litigation document" and that the parties did not intend to
 11 keep its contents confidential.²

12 13 Litigation Document

14 To determine whether a document that is prepared outside of any pending litigation is a
 15 "litigation document" covered by the litigation exemption, courts must examine the dominant
 16 purpose animating the document's preparation. *Fairley, supra*, 66 Cal.App.4th at pp. 1422,
 17 states: "[t]he construction we give to 'pending litigation,' which focuses on the purpose of the
 18 document, serves to protect documents created by a public entity for its own use in anticipation
 19 of litigation ... In this way, a litigant opposing a public entity is prevented from taking unfair
 20 advantage of the public agency status of his or her opponent." *Fairley, supra*, 66 Cal.App.4th at
 21 1420-1421, adopted the analysis in *City of Hemet v. Superior Court* (1995) 37 Cal.App.4th 1411,
 22 1419, which held that the pending litigation exemption served a purpose similar to the attorney

23
 24 ² The Faculty Association contends that it is not a "stranger" to the litigation and is "more
 25 akin to Real Parties in Interest than non-parties." (Petition, ¶70.) The Faculty Association's
 26 members may be particularly affected by the outcome of any litigation, but every member of the
 public has a right to public records under the Public Records Act. (*Los Angeles Unified School
 Dist. v. Superior Court* (2014) 228 Cal.App.4th 222, 248 ["What is material is the *public* interest
 in disclosure, not the private interest of the requesting party...."].)

1 client privilege. *Hemet, supra*, 37 Cal.App.4th at 1418-1419, states: “if a report is prepared in the
2 usual course of business for a purpose independent of possible legal consultation, no privilege is
3 created even if the document is later sent to counsel. ... A document or report prepared for a dual
4 purpose is privileged, or not privileged, depending on the “dominant purpose” behind its
5 preparation.”

6 The University contends that it would be inappropriate to examine the dominant purpose
7 of the document at issue in this case, pointing out that in *CSU* the court did not examine the
8 dominant purpose of the settlement demand. But in *CSU* the litigation was already pending at
9 the time the Public Records Act request was submitted, and the request specifically sought
10 communications regarding settlement of pending litigation. (*CSU, supra*, 132 Cal.App.4th at p.
11 893.) There was no dispute about whether the demanded documents might have served a dual
12 purpose, and the *CSU* court did not need to address that question. Here, in contrast, no litigation
13 is pending. The Court has reviewed the document at issue in camera. The document plainly
14 concerns some matters as to which there has been no threat of litigation.

15 The document addresses a broad range of issues concerning the University. One of the
16 issues addressed by the document is the subject of DOJ’s July 29, 2025, Notice of Findings in
17 which it threatened litigation under Title VI for alleged antisemitism, but the rest of the issues
18 addressed by the document relate to political and economic disputes, including University
19 admissions practices and policies with respect to transgender students, among other matters.

20 The University contends that it is immaterial whether the document primarily addresses
21 the political and economic disputes between the federal government and the University, because
22 a settlement demand for those disputes is also covered by the litigation exemption. At the
23 hearing on October 10, 2025, the University asserted that any correspondence from the federal
24 government aimed at resolving any dispute between the federal government and the University is
25 covered by the litigation exemption. That is because, according to the University, whenever
26 there is a dispute or investigation, there is a potential for future litigation.

1 The University's position cannot be squared with the narrow reading that this Court must
2 apply to the litigation exemption. (*Iloh, supra*, 87 Cal.App.5th at p. 524.) If the University were
3 correct, all correspondence it receives from any source about potentially disputed questions of
4 policy or practice would be swept up in the category of documents created "in anticipation of
5 litigation" and exempt from disclosure under the pending litigation exemption.

6 *Fairley, supra*, 66 Cal.App.4th at p. 1422, which expanded the pending litigation
7 exemption to include documents prepared by a state entity "in anticipation of litigation," does
8 not define that phrase, but does not contemplate such a broad reading. The *Fairley* petitioner had
9 requested the City disclose police department reports concerning his arrest at a time before
10 petitioner had filed a claim against the City. *Fairley* did not elaborate on the phrase "in
11 anticipation of litigation" and remanded the case for the trial court to examine the dominant
12 purpose of the police reports. Although there is no case law under the Public Records Act
13 defining the phrase "in anticipation of litigation," cases in related contexts are instructive.
14 *Nirschl v. Schiller* (2023) 91 Cal.App.5th 386, 401-404, defined the phrase "in anticipation of
15 litigation" in the context of the anti-SLAPP statute (Code Civ. Proc. § 425.16), stating:

16 Protection of prelitigation statements only arises at the point in time when litigation
17 is no longer a mere possibility, but has instead ripened into a *proposed proceeding*
18 that is actually contemplated in good faith and under serious consideration as a
19 means of obtaining access to the courts for the purpose of resolving the dispute. ...
20 the mere fact that litigation is possible - or even likely - if negotiations fail is not
21 enough. ... The critical point ... is that the mere potential or bare possibility that
22 judicial proceedings might be instituted in the future is insufficient. ... Thus, when
23 parties negotiate to resolve a dispute that might ultimately result in litigation - but
24 might also be resolved without litigation - statements made in a prelitigation
25 negotiation are not automatically protected ... just because they relate to
26 settlement.

(*Nirschl, supra*, 91 Cal.App.5th at pp. 401-404 [cleaned up].) The *Nirschl* court's analysis of the
phrase "in anticipation of litigation" takes an appropriately restrictive view, consistent with the
Public Records Act's mandate to construe exemptions narrowly.

1 The document sought by the Faculty Association was not created for the dominant
2 purpose of settling litigation or resolving a dispute for which litigation was contemplated in good
3 faith. Although the University could reasonably anticipate litigation in good faith over the
4 antisemitism complaints raised in the DOJ's July 29, 2025, letter, the University has not
5 demonstrated that DOJ created and transmitted the document for the "dominant purpose" of
6 resolving Title VI litigation. As Woodall states, the document "includes reference to or proposes
7 settlement terms related to several of the other areas of [federal government] investigation, in
8 addition to proposing settlement of the DOJ's antisemitism-related investigations." (Woodall
9 Supp. Dec., ¶3.) The document's dominant purpose was to resolve the myriad other disputes
10 between the executive branch of the United States and the State of California. The other
11 disputes, including controversies about University policies for admission of students, hiring of
12 faculty, and selection of curriculum, will likely be addressed in the political arena or in the
13 federal and state budgeting processes. Some of those issues were addressed by the federal
14 government's decision to revoke federal grants, as explained in the NSF's August 1, 2025, letter.
15 (Petition, Exh. D.) There is no evidence in the record that litigation over those issues is
16 imminent or contemplated in good faith.

17 A document primarily addressed to resolving political and economic disputes is not
18 covered by the Government Code section 7927.200 litigation exemption. Only a document
19 primarily addressed to resolving litigation can be covered by the litigation exemption. The
20 California Constitution and appellate authority state that the Public Records Act's exemptions
21 are to be "narrowly construed." Courts have no authority to expand the "pending litigation"
22 exemption so that it becomes an exemption for all documents related to a "pending disputed
23 issue of public policy."

24 Because the dominant purpose of the document is to address non-litigation policy
25 disputes, it is not covered by the Government Code section 7927.200 litigation exemption. Even
26

1 if it were a litigation document, the University fails to show that there was an expectation that the
2 document would be kept confidential.

3 4 Expectation of Confidentiality

5 *CSU* expanded the scope of the litigation exemption to include documents that are
6 exchanged in the litigation context where the state entity and the opposing party have a
7 reasonable expectation of confidentiality. The *CSU* court held: “correspondence from an
8 opposing counsel or party (like correspondence prepared by the defendant public agency or its
9 counsel), that is in the possession of the governmental entity being sued, is also protected under
10 [the litigation exemption] if it was intended that such correspondence not be disclosed outside
11 the litigation.” (*CSU, supra*, 132 Cal.App.4th at p. 900.)³ In expanding the reach of the
12 litigation exemption to include communications exchanged in the course of litigation, the *CSU*
13 court noted that “parties to the litigation have a strong interest in protecting such
14 communications between counsel from disclosure to third parties while litigation is pending. In
15 fact, to allow disclosure to the public of such documents would chill the parties’ ability in many
16 cases to settle the action before trial.” (*CSU, supra*, at p. 899.) That rationale only holds water if
17 the parties to the litigation demonstrate that they do not intend for the information to be revealed
18 outside the litigation. (*CSU, supra*, at p. 900.)

19 In this respect, it is important to remember that most communications between opposing
20 counsel are exchanged with little expectation of confidentiality. Trial court records are replete
21 with copies of correspondence between counsel regarding discovery disputes, among other
22 matters. (See, e.g., *Green Tree Headlands LLC v. Crawford* (2023) 97 Cal.App.5th 1242, 1250-
23 1251 [stating contents of “meet-and-confer correspondence”].) Thus, the *CSU* court indicated

24
25 ³ In tying public access to public records to the expectations of third parties, *CSU* did not
26 address Government Code section 7921.005 (formerly Gov. Code § 6253.3), which states: “A
state or local agency may not allow another party to control the disclosure of information that is
otherwise subject to disclosure pursuant to this division.”

1 that “parties should make clear their intent to keep such correspondence confidential. Counsel in
2 actions involving governmental entities could place a heading on such correspondence stating
3 that it is confidential, and not to be disclosed to individuals or entities outside the litigation, or,
4 the parties could agree on a protective order as to such documents at the outset of the litigation.”
5 (*CSU, supra*, 132 Cal.App.4th at p. 901.)

6 The University has failed to demonstrate that it and the DOJ had a reasonable expectation
7 that the document would be kept confidential. Although the DOJ affixed a “confidentiality”
8 heading on the document, there is no factual record regarding the DOJ’s expectations beyond the
9 headers that the DOJ placed on the document. The University states: “As far as we are aware,
10 the DOJ has not demonstrated a willingness or desire to have the document disseminated to the
11 public.” (Woodall Dec., ¶12.) A lack of evidence about willingness to disclose is not evidence
12 of a stated intent or agreement that there will be no disclosure. (*AirWair International Ltd. v.*
13 *Pull & Bear Espana SA* (N.D. Cal. 2021) 2021 WL 2914082, at *9 [“The absence of evidence is
14 not evidence of absence”].)

15 Allison Woodall states: “The University determined that it was important that the
16 confidence indicated by the DOJ not be breached because it could hinder either party in their
17 ability to be candid and forthcoming. The Draft Settlement Agreement is being treated as a
18 highly confidential document within the University. The University’s leadership has directed
19 that it be shared only with a small number of individuals who have been determined to have a
20 need to know about the contents of the document, such as certain executive leaders of the
21 University and a small number of University attorneys and outside counsel.” (Woodall Dec.,
22 ¶¶15-16.)

23 Woodall asserts that the University has an interest in confidentiality so that the University
24 and the federal government could be “candid and forthcoming” in their discussions. (Woodall
25 Dec., ¶15.) Notwithstanding this interest, the University publicized the document through
26 various press releases and launched the “Stand Up for UC” campaign. The University’s press

1 releases and websites reveal not just the existence of the document, but also some of its contents,
2 including but not limited to the headline \$1 billion demand. In addition, the University sought to
3 rally public support for the University in the face of the demands made in the document, and it
4 urged its constituencies to take actions to advocate for the University. (Petition, ¶¶27-28, fn 13
5 [“join-the-movement-to-defend-uc”], fn 14 [“stand-up-for-uc”].) The University’s actions are
6 not consistent with its claim that it intended to keep the contents of the document confidential,
7 and that revealing the contents of the document would chill negotiations that require
8 confidentiality to succeed.

9 The University contends that as a matter of policy, public agencies should have the
10 freedom to decide whether to disclose certain information to the public about a potential
11 settlement, and to withhold other information, and that requiring public entities to choose
12 between full disclosure and no disclosure would disadvantage public agencies because private
13 litigants are free to make strategic decisions about selective disclosure. The Court recognizes the
14 sensitive line the University may wish to take as it navigates its very public disputes with the
15 federal government. Nonetheless, the University is a public entity. (Cal. Const. art. IX, § 9(a)
16 [“The University of California shall constitute a public trust”]; *Campbell v. Regents of University*
17 *of California* (2005) 35 Cal.4th 311, 320 [discussing “The Regents’ constitutional status”].) The
18 University’s status as a public entity provides it with certain benefits, and it also subjects it to the
19 Public Records Act and other responsibilities. Private entities do not need to disclose demand
20 letters or produce internal documents on request, but public entities do. (*Fairley, supra*, 66
21 Cal.App.4th at p. 1422 [“we perceive no grave danger in allowing a litigant or potential litigant
22 to obtain documents from a public agency through the CPRA, rather than waiting to file suit and
23 obtaining the documents through formal discovery. ... the whole purpose of the CPRA is to shed
24 public light on the activities of our governmental entities, and it is a small price to pay to require
25 disclosure of public records even to a litigant opposing the government, outside of the rules of
26

discovery.”] The Public Records Act mandates disclosure of documents maintained by public agencies unless specifically exempted.

Any argument that the Public Records Act requires the University to suffer a disadvantage in high-stakes negotiations is a policy argument more appropriately addressed to the Legislature, or at most, resolved in connection with the catchall exemption (see below). It does not provide a basis for expanding the scope of the litigation exemption.

The Court finds that the University has not met its burden of demonstrating that the document was prepared (or received) by the University in anticipation of litigation, or that the parties acted consistently with an expectation that the document would remain confidential. Accordingly, the Government Code section 7927.200 exemption for pending litigation does not exempt the document from disclosure.

CATCHALL EXEMPTION (Government Code section 7922.000)

The University asserts that the document is also exempt from disclosure because the public interest in withholding the record outweighs the interest in disclosure. Government Code section 7922.000 states: “An agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this division, or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.” This is commonly known as the catchall exemption.

The catchall exemption requires the Court to apply a three-part test: “(1) We determine if there is a public interest served by nondisclosure of the records; (2) If so, we determine if a public interest is served by disclosure of the records; and (3) If both are found, we determine whether (1) clearly outweighs (2). If it does not, the records are disclosed. In applying this test, we keep in mind the public policy favoring disclosure of records dealing with the public's business, the policy of construing exemptions narrowly, and the fact that the burden is on the

1 party resisting disclosure to prove an exemption applies.” (*Los Angeles Unified School Dist. v.*
2 *Superior Court* (2014) 228 Cal.App.4th 222, 243.)

3 The public interest that would be served by nondisclosure of the document is the ability
4 of the University to negotiate with the DOJ in confidence. (Woodall Dec., ¶¶20-24.) That noted,
5 the Faculty Association seeks a single document sent to the University by the DOJ. The
6 disclosure of the document would not prevent counsel for the University from considering the
7 document in a confidential setting. Documents reflecting the University’s internal deliberations
8 might be exempt under the preliminary drafts exemption (Gov. Code § 7927.500), the
9 memorandum from legal counsel exemption (Gov. Code § 7927.205), the exemption based on
10 other statutes incorporating the attorney work product exemption (Gov. Code § 7927.705), or the
11 catchall exemption applying the “deliberative process privilege” (Gov. Code § 7922.000;
12 *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 170
13 [deliberative process].) The University also asserts that public disclosure of the document might
14 chill candid negotiations between the University and DOJ. (Woodall Dec., ¶¶15, 20.) However,
15 this contention is difficult to square with the fact that the University itself has disclosed some of
16 the contents of the document and has invited public participation in advocating for the University
17 and against the DOJ concerning the demands made in the document.

18 On the other hand, disclosure would serve clear public interests. The document concerns
19 issues of public policy and public funding related to the administration of a public entity. “An
20 informed and enlightened electorate is essential to a representative democracy.” (*Times Mirror*
21 *Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1328.) The document was sent by the leadership
22 at the federal DOJ, who are appointed by the President of the United States, to a public
23 university, whose leadership is largely “appointed by the governor or are elected officials.”
24 (*U.C. Nuclear Weapons Labs Conversion Project v. Lawrence Livermore Laboratory* (1984) 154
25 Cal.App.3d 1157, 1163; *see also* Cal. Const. art. IX, § 9(e).)

1 The University has characterized the demands made in the document as “one of the
2 gravest threats to the University of California in our 157-year history.” The University
3 publicized the document through its press releases and initiated the “Stand Up for UC” campaign
4 to rally students, alumni and members of the public to take action to protect the University’s
5 educational mission and to counter demands made by the DOJ in the document. The Court has
6 reviewed the document in camera and, consistent with the University’s public statements, it
7 includes significant demands that, if accepted, would require the University to make substantial
8 changes to its core functions. The public has an interest in knowing what demands the DOJ is
9 making on the University so that the people of California can form fact-based opinions and
10 provide comments to their public and elected officials, and so that they can participate
11 meaningfully in future elections. (*CBS, Inc. v. Block* (1986) 42 Cal.3d 646, 651 [“Implicit in the
12 democratic process is the notion that government should be accountable for its actions. In order
13 to verify accountability, individuals must have access to government files. Such access permits
14 checks against the arbitrary exercise of official power and secrecy in the political process.”]; *The*
15 *California Gun Rights Foundation v. Superior Court* (2020) 49 Cal.App.5th 777, 786 [“Public
16 access laws serve a crucial function. Openness in government is essential to the functioning of a
17 democracy.”])

18 The University has not demonstrated an interest in nondisclosure that clearly outweighs
19 the public interest in disclosure. The University’s central argument is that it would be easier for
20 the University to negotiate with the DOJ if the document were not disclosed to the public. That
21 is not compelling. The document was sent from one public entity to another public entity, it
22 addresses matters of public concern and the expenditure of public funds, and much of its contents
23 has already been made public in the University’s own press releases.

24 ///

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26 ///

1 EXEMPTION FOR PRELIMINARY DRAFTS (Government Code section 7927.500)

2 Government Code section 7927.500 states: “Except as provided in Sections [not
3 applicable in this case], this division does not require disclosure of any preliminary drafts, notes,
4 or interagency or intraagency memoranda that are not retained by a public agency in the ordinary
5 course of business, if the public interest in withholding those records clearly outweighs the
6 public interest in disclosure.”

7 The reference in the statute to “preliminary drafts, notes, or interagency or intraagency
8 memoranda” indicates that it applies to documents created or generated by a state agency and
9 circulated within or among state agencies. The document does not fit within the plain text of the
10 exemption because it was not created by the University. The document was created by the DOJ
11 and then sent to the University. Assuming the preliminary draft exemption could apply to a
12 document received by a state agency, the document at issue in this case is plainly not a
13 preliminary draft. The document contains a “DRAFT” watermark diagonally across every page.
14 (Woodall Dec., ¶11.) However, it is the actual letter that DOJ sent to the University, not an early
15 iteration of a letter that DOJ contemplated sending to the University.

16
17 EXEMPTION BASED ON OTHER STATUTES (Government Code section 7927.705)

18 Government Code section 7927.705 states: “Except as provided in Sections [not
19 applicable in this case], this division does not require disclosure of records, the disclosure of
20 which is exempted or prohibited pursuant to federal or state law, including, but not limited to,
21 provisions of the Evidence Code relating to privilege.”

22 The document was transmitted by the DOJ to the University in an email with the subject
23 line “RULE 408 PROPOSED VOLUNTARY RESOLUTION AGREEMENT” and contains a
24 header on every page referencing Federal Rule of Evidence 408. (see Woodall Dec., ¶¶9-10.)
25 The University argues that the Government Code section 7927.705 exemption applies because
26 settlement offers are confidential pursuant to Federal Rule of Evidence 408 and Evidence Code

1 sections 1152 and 1154. However, Federal Rule of Evidence 408 and Evidence Code sections
2 1152 and 1154 do not render a document confidential; they merely limit the circumstances under
3 which a party can introduce evidence of a settlement offer at trial. (*See Roblox Corporation v.*
4 *WowWee Group Limited* (N.D. Cal. 2023) 2023 WL 8438808, at *1 [Federal Rule of Evidence
5 408 limits the admissibility of settlement offers at trial; it “addresses the admissibility of
6 evidence, not discoverability”]; *Volkswagen of America, Inc. v. Superior Court* (2006) 139
7 Cal.App.4th 1481, 1491 [Evidence Code sections 1152 and 1154 are “directed at the
8 admissibility of evidence, not its discovery”].) The fact that the document might not be used as a
9 trial exhibit does not mean it cannot be discovered or disclosed to the public.

10 Similarly, the fact that the document’s header also states: “CONFIDENTIAL
11 ATTORNEY WORK PRODUCT” is not material. (Woodall Dec., ¶ 10.) Any privilege held by
12 the drafter of the document (the DOJ) was waived when the document was sent to the
13 University.

14 The University also relies on Evidence Code section 1040, which is the official
15 information privilege. Evidence Code section 1040 “establishes two different privileges [for
16 “official information”]—an absolute privilege if disclosure is forbidden by a federal or state
17 statute (subd. (b)(1)), and a conditional privilege in all other cases pursuant to which privilege
18 attaches when the court determines ... that disclosure is against the public interest (subd. (b)(2)).”
19 (*Los Angeles Unified School Dist. v. Trustees of Southern California IBEW-NECA Pension Plan*
20 (2010) 187 Cal.App.4th 621, 628.)

21 Because the University fails to demonstrate that disclosure is forbidden by any statute,
22 the University must demonstrate that disclosure is against the public interest. As explained
23
24
25
26

1 above in the discussion on the catchall exemption, the University has failed to make such a
2 showing.⁴

3 4 IN CAMERA REVIEW OF THE DOCUMENT

5 The Court has reviewed the document in camera pursuant to Government Code section
6 7923.105. (Order of October 6, 2025.) The evaluation of the case as set forth herein takes into
7 consideration the Court's evaluation of the document.

8 9 REQUEST FOR STAY

10 The University requested a stay of enforcement to permit time to seek a writ from the
11 Court of Appeal. The Court GRANTS that request and sets an October 24, 2025, deadline for
12 production. The University must seek any further stay from the Court of Appeal.

13 14 ORDER

15 The Court ORDERS that the Petition of Petitioners UCLA Faculty Association et al for a
16 Writ of Mandate is GRANTED.

- 17 1. The Regents of the University of California is ORDERED to produce the requested
18 document on or before Friday October 24, 2025.
- 19 2. The Faculty Association must submit a Writ of Mandate to the clerk of the court with
20 a \$25 filing fee. (Gov. Code § 70626(a)(1).) The Faculty Association must serve the
21

22
23
24 ⁴ The University's September 2, 2025, letter responding to the Faculty Association's
25 Public Records Act request also relies on Federal Privacy Act of 1974. The University does not
26 mention that law in its memorandum. That argument is waived.

writ. The Faculty Association may serve counsel for the University. The Faculty Association must file proof of service. (Code Civ. Proc. § 1096.)

3. The University must file a return to the writ of mandate within 5 court days of service of the writ. The return on the writ must state whether the University has complied with the writ and, if not, state why not.

JUDGMENT

The Court enters JUDGMENT in favor of Petitioners UCLA Faculty Association et al. and against Respondent Regents of the University of California.

The Petition of Petitioners UCLA Faculty Association et al for a Writ of Mandate is GRANTED. The Regents of the University of California is ORDERED to produce the requested document on or before Friday October 24, 2025.

Any party may file a memorandum of costs at an appropriate time. (Code Civ. Proc. §§ 1032 & 1033.5; California Rules of Court, rule 3.1700.)

Any party may file a motion for an award of attorney's fees at an appropriate time. (Code Civ. Proc. § 1033.5(c)(5); California Rules of Court, rule 3.1702.)

Dated: October 14, 2025


Rebekah Evenson
Judge of the Superior Court
Rebekah Evenson / Judge

Document received by the CA Supreme Court.

PROOF OF SERVICE

The Regents of the University of California v. Alameda County Superior Court; UCLA Faculty Association, et al.,
California Supreme Court No. S_____,
First Appellate District, Division Three, No. A174756,
Alameda County Superior Court No. 25CV143076

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is REED SMITH LLP, 101 Second Street, Suite 1800, San Francisco, CA 94105-3659; ekroll@reedsmith.com. On October 23, 2025, I served the following document(s) by the method indicated below:

PETITION FOR REVIEW OR GRANT AND TRANSFER ORDER RE COURT OF APPEAL'S SUMMARY DENIAL OF PETITION UNDER PUBLIC RECORDS ACT [GOV'T CODE SECTION 7923.500] AND REQUEST FOR IMMEDIATE STAY; and

APPLICATION FOR IMMEDIATE TEMPORARY STAY PENDING DECISION ON PETITION FOR REVIEW

☒	by causing e-service through TrueFiling to the parties listed below:	
☒	by transmitting via email to the parties at the email addresses listed below:	
Abenicio Cisneros (SBN 302765) LAW OFFICE OF ABENICIO CISNEROS 2443 Fillmore Street, #380-7379 San Francisco, CA 94115 Telephone: 707 653 0438 acisneros@capublicrecordslaw.com Thomas B. Harvey (SBN 287198) LAW OFFICES OF THOMAS B. HARVEY 365 E. Avenida De Los Arboles #226 Thousand Oaks, CA 91360-4649 Telephone: 805 768 4440 tbhlegal@proton.me		Attorneys for Petitioners UCLA Faculty Association and Council of University of California Faculty Associations

Document received by the CA Supreme Court.

☒	by causing the document(s) listed above to be placed in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in this Declaration.
Alameda County Superior Court 1225 Fallon Street Oakland, CA 94612	Trial Court Served with Petition for Writ only

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on October 23, 2025, at San Francisco, California.

Eileen Kroll

Eileen Kroll

Document received by the CA Supreme Court.