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VIA EMAIL

California Polytechnic State University – San Luis Obispo
Civil Rights & Compliance Office
Cal Poly, San Luis Obispo
1 Grand Avenue
San Luis Obispo, CA 93407
Email: crco@calpoly.edu

California Polytechnic State University – San Luis Obispo
Strategic Business Services
Administration & Finance
Attn: Brian Gil
1 Grand Avenue, Building 1, Room 128
San Luis Obispo, CA 93407
Email: pra@calpoly.edu

Re: California Public Records Act Requests

Dear California Polytechnic State University, San Luis Obispo:

The First Amendment Coalition (“FAC”) is a nonprofit public interest organization dedicated to advancing free speech, open and accountable government, and public participation in civic affairs. I am writing on behalf of FAC to address your response to California Public Records Act (“CPRA”) requests submitted by Elizabeth Wilson on September 2, 2022, September 30, 2022, and October 30, 2022.

I understand the following to be the relevant facts, but please advise if you are aware of any other or different facts related to this matter.

Ms. Wilson requested the following records from California Polytechnic State University – San Luis Obispo (“Cal Poly”):

- 9-2-2022 Faculty Resignation
- 9-2-2022 UH Mold
- 9-2-2022 Humphrey-Armstrong Emails
- 9-30-2022 Armstrong-Castro Emails
- 10-30-2022 Andrene Kaiwi-Connor

Ms. Wilson inquired about the status of her requests on January 16, 2023 and was provided with the following information about her requests on January 28, 2023:

- 9-2-2022 Faculty Resignation: Records requested
- 9-2-2022 UH Mold: Records requested
- 9-2-2022 Humphrey-Armstrong Emails: Records requested
- 9-30-2022 Armstrong-Castro Emails: Redacting Needed
- 10-30-2022 Andrene Kaiwi-Connor: Records requested

Support Coordinator Brian Gil stated that he “cannot provide an exact date for completion, but I assure you that we are processing all your requests.”

On March 15, 2023, Ms. Wilson again inquired about her requests and reminded Cal Poly that California Government Code section 7922.535 requires the college to provide an “estimated date and time” when the records will be made available.

On May 4, 2023, Ms. Wilson again inquired about the status of her requests. To date, Ms. Wilson has received no estimated date of disclosure and no records.

We have identified several CPRA violations including:

- Failing to “state the estimated date and time when the records will be made available.” (Gov. Code § 7922.535(a).)
- Failing to provide any assistance as required under Government Code section 7922.600 and failing to respond in any manner whatsoever to the requests, except to acknowledge receipt and indicate that the September 30, 2022 request requires redaction.
- Failing to provide requested records “promptly.” (Gov. Code, § 7922.530, subd. (a).)

The inadequate response to Ms. Wilson’s CPRA request is further evidence of multiple violations of the CPRA. Ms. Wilson submitted her requests in September and October of 2022. It has now been more than 9 months, and Cal Poly has not provided any records or released a determination as to whether it will release any records. This is a violation of Government Code section 7922.535, subdivision (a) (“Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor.”) Even if “unusual circumstances” existed for an extension, we are long past the 14-day extension allowed by Government Code section 7922.535, subdivision (b).

Cal Poly has not produced any records thus far. The CPRA requires that public records be made available “promptly.” (Gov. Code, § 7922.530, subd. (a) [“each state or local agency . . . shall make the records promptly available”].) To date, the department has refused to provide any records whatsoever.

Ms. Wilson is open to a rolling production of documents. A rolling production of documents facilitates the promptness required by the CPRA, which has been repeatedly ignored by Cal Poly.

Cal Poly has refused to comply with its obligation to assist Ms. Wilson with her CPRA request, despite repeated requests. Government Code section 7922.600, subdivision (a) states that, to the extent reasonable under the circumstances, an agency “shall . . . (1) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated. (2) Describe the information technology and physical location in which the records exist. (3) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.” FAC calls on Cal Poly to provide assistance as required.

Given the amount of time that has passed since Ms. Wilson made her requests, her efforts to prompt a proper response, and her willingness to accommodate rolling production, Cal Poly should immediately provide the following:

- A schedule for rolling production;
- An explanation of what searches have been performed thus far and will be performed going forward; and
- A date and time in the near future for a phone call with a representative from Cal Poly to discuss Ms. Wilson’s CPRA requests.

Violations of the CPRA can subject an agency to litigation pursuant to California Government Code section 7923.100, with a prevailing public records requester entitled to attorneys’ fees. (Gov. Code, § 7923.115.)

Very truly yours,

FIRST AMENDMENT COALITION



David Loy
Legal Director