

Article I: GSAUCSD CHE Cafe Ad Hoc Committee Charge

Section I: Statement of Purpose

“BE IT RESOLVED, the GSAUCSD motions to establish an AD HOC committee, as referenced in the committee by-laws (Article IV, Section 1) for GSAUCSD, that will review the reasoning leading to GSA decertifying the CHE Cafe Collective and the events that occurred since the resolution’s passing;

BE IT FURTHER RESOLVED, the AD HOC committee will produce a report to council summarizing the issue and recommending a course of action for future interactions with the CHE Cafe Collective;”

Section II: Member Composition

“BE IT FURTHER RESOLVED, the AD HOC committee formed will be chaired by a GSAUCSD executive, who will be nominated by the GSAUCSD President, confirmed by council and will vote on the committee to break any ties;

BE IT FURTHER RESOLVED, the AD HOC committee will comprise of eight GSAUCSD council representatives, who will be nominated and confirmed by council;”

Section III: Period of Time for which the Committee is Active

“BE IT FURTHER RESOLVED, the AD HOC committee will be required to meet at least twice as an open committee and twice as a closed committee;”

Section IV: Any detailed bylaws and/or other instructions Council deems necessary

“BE IT FINALLY RESOLVED, the AD HOC committee reviews all past and future resolutions regarding the Che Café, and any current draft resolutions be referred to this committee under its tenure.”

Article II: Timeline of GSA/AS’s interaction with the Che Cafe since signing the Master Space Agreement in 2006

Section I: Non-Profit Status

At the time of the Ad Hoc Committee’s formation the CHE Café Collective had been stripped of non-profit status with the IRS.

Research showed that the CHE Café Collective’s non-profit status had been revoked as of 11/15/2010, information that was posted to the IRS website on 7/13/2011.

The [notification of revocation](#) from the IRS stated that “The federal tax exemption of this organization [CHE Café Collective] was automatically revoked for its failure to file a Form 990-series return or notice for three consecutive years.”

In the 11/18/2014 open [committee meeting](#), CHE Café Collective member Rene Vera, a member heavily involved in the financial matters of the CHE Café Collective, asserted that he was in the midst of the process necessary to regain non-profit status, a process which required all backed tax returns to be filed up to the present. He also stated that he was working with an IRS agent directly in the process of seeking retroactive reinstatement.

In the 12/2/2014 closed committee meeting, the committee was informed that the CHE Café Collective had officially regained non-profit status. The [documents](#) confirming this have been made available to the committee, and in a document dated 11/20/2014 the CHE Café Collective was retroactively reinstated as a tax-exempt organization, with an effective start date of 3/7/2014.

Section II: Past-Due in Rent

The Master Space Agreement (MSA) was rewritten in 2006 to make Associated Students (AS) and the Graduate Student Association (GSA) of the University of California, San Diego advisors to the cooperatives following delinquency in rent (~\$18,000.00). AS chose to use reserves as a means for settling most of the debt while the GSA establish a payment plan with the cooperatives. The GSA and AS both established a co-op committee with joint membership from both student governments and the co-ops.

The MSA outlined that CHE Collective would pay a monthly rent of \$84.00 to use its premises. According to the terms of the agreement, the rent could be increased each year according to increase in the Consumer Price Index (Section 3.2.1). Late payments to rent could be penalized with a \$10/day late fee. In the open committee meeting of 12/1/2014, Sharon Van Bruggen, Director of University Centers, has stated that University Centers has not assessed these late fees as all Coops have had late or missing rent payments.

The MSA further stipulates that, each year, the co-ops submit a full financial report prepared by a certified public accountant. Sharon Van Bruggen has stated that only one such financial statement was furnished between 2005-2014. In this report, rent and utilities for fiscal year of July, 2011, to June, 2012, cost \$4,280.32 ([che128](#)).

According to UCAB presentations to AS and GSA for coop recertification on 11/29/12, all coops have owed some amount of money in rent, utilities, and common area maintenance. As well, all of them did not have financial reports submitted in 2010, and 2011.

The following table compares the current balance and money owed by the four coops in 2014 and 2012, as well as the rent charged per month for the coops' respective leases ([05-1, Coops Recertification Presentation,MSA_2006](#)):

Coop	Balance Owed 9/5/2014*	Rents/Fees owed 10/24/12**	Approx. Rent at MSA signing***
Che Cafe Collective	\$5077.27	\$2,910.00	\$84.00
The Food Coop	\$354.09	\$29,038.00	\$538.40
General Store	\$264.42	\$49,025.00	\$1423.55
Groundworks Bookstore	\$1209.00	\$24,818.00	\$836.36

Section III: Infrastructure Assessments

University Centers infrastructure assessments are based principally off two reports, the ISES report which details projected costs and renovations for buildings over a long period of time, and the 2012 Fire Marshal's report, which identified several fire/life safety issues, which must typically be addressed quickly for buildings to remain open.

On 8/08/2012, the Interim Fire Marshal conducted a Fire and Life Safety inspection with the Associate Director of University Centers which identified 17 safety violations and made 16 recommendations for improved safety of the space. In the fiscal year 2013-2014, the University spent \$43,210.75 addressing several of these recommendations (["Che Cafe Renovations 2014.pdf"](#)). The final recommendation was that the facility undergo fire-suppression system installation. Though the Fire Marshal can only recommend the installation of a fire-sprinkler system, the University has determined the installation is a necessary project for the continued safe operation of the CHE Facility.

The fire-suppression system project was estimated to cost \$300,000 dollars in 2012, and under current inflation adjustment is estimated at \$309,000. There is also a mandatory 15% payment to Facilities Maintenance when work of this nature is done on University property, bringing the total for fire-suppression up to \$355,350.

Point 4 in the Fire Marshal report notes that several areas of the building are not American Disabilities Act (ADA) compliant, and that alteration of the space will trigger an accessibility review which would result in maintenance being required of the restrooms and patio. In total, these triggered renovations are estimated at \$420,900. Including 3% inflation and 15% Facilities Maintenance fee, that brings the triggered renovations to \$498,556.05.

This brings the total to \$844,906.05 (["Che Cafe Draft Facility Review"](#)). The estimated cost of \$844,906.05 categorizes the project as a Minor Capital Improvement project, which requires funding sources to be confirmed as eligible prior to the beginning of construction (["MinorCapApprovalForm.pdf"](#) and ["NSProjectApprovalThresholds.pdf"](#)).

From the ISES report, the total the renovations to the Che Cafe are estimated to be \$1.5 million dollars in the next eight years. Renovations for the next 12 years for the Price Center and Old Student Center are estimated at around \$17.3 million.

Section IV: Safety Assessments

On 8/20/2012, Interim Fire Marshal conducted a Fire and Life Safety Inspection with the Associate Director of University Centers which identified 17 safety violations and made 16 recommendations for improved safety of the space. The Fire Marshal acknowledged that at its construction the CHE facility did not require an automatic sprinkler system. However, the Fire Marshal pointed out that under section 903 (under the California Building Code, which states that if a space has an occupant load of 100 or more, an automatic sprinkler system shall be provided. The Fire Marshal strongly recommended that fire sprinkler systems be installed, stating that if the facility caught fire it may spread to nearby structures via the Eucalyptus tree grove. (["Che Cafe Safety Inspection"](#)).

In the 2013-2014 fiscal year University Centers spent \$43,210.75 on addressing several of these recommendations including a new exit door, proper signage, and additional electrical outlets (["UCEN Addressed Concerns-Che Cafe"](#)).

On April 17, 2014, a Fire Marshal follow-up inspection occurred focusing on four issues: emergency doors, fire extinguishers, extension cords, and exit pathways. The Assistant Director

of University Centers sent an email two hours after the inspection saying that the Fire Marshal signed off on the inspection. The email did not include any language regarding fire sprinkler installation. No documentation has been provided yet as to the extent of the inspection or what violations, if any, were found ([“Annual Fire Marshall Report”](#)).

Section V: Petitions and Che Cafe in the News

The CHE Cafe has received a considerable amount of attention in local, national, and international media outlets since the beginning of the recent conflict with UCSD administration. The late May 2014 UCAB conflict primarily gained local media attention although it did spark a widespread outcry from CHE Cafe supporters on change.org, where 11,855 people signed a petition demanding UCAB to allot funds for the CHE. San Diego’s local NBC 7 released an article on May 23, 2014 titled [“Farewell to the CHE”](#) in which the author highlighted the tension between the UCAB board members and CHE Cafe community and emphasized UCAB’s movement into an executive session as “a surprising turn of events.” Fox News joined the media spectacle early with a May 21, 2014 article titled “California university, Students revolt against failing cafe named for Che Guevarra.”

The UCSD Graduate Student Association voted to de-certify the CHE Cafe Collective of co-op status shortly after UCAB’s decision to not allot funding. The UCAB and GSA decisions sparked a series of responses from the artist community. On June 29, 2014 Zack de la Rocha of Rage Against the Machine posted a statement on Indymedia in the Bay Area, reflecting on the historical importance of the CHE Cafe as a politically-oriented cultural space.

The GSA decision was not widely covered by media outlets, but the Fall 2014 eviction hearing received a sizeable amount of attention. KPBS wrote an article on October 21, 2014, titled, [“Judge Rules in Favor of Eviction Lawsuit Against CHE Cafe at UCSD.”](#) The author claims the UCSD administration served the 30 day eviction notice after the the GSA decertified the CHE of co-op status and called upon the administration to terminate the building lease.

On October 27, 2014, over 200 graduate students signed a [petition](#) demanding administration to end all attacks on the CHE Cafe and co-op community. The petition was sent to all UCSD Vice Chancellors twice, but has received no response (See Appendix A). On November 7, 2014, UCSD Professor Charles Thorpe put out a statement through the San Diego Faculty Association website, recognizing the vitality of the venue as a bridge to the surrounding community.

On November 17, 2014, over 300 members of the San Diego artist community gathered at Tiger!Tiger! in North Park for a CHE Cafe fundraiser benefit film screening of “It’s Gonna Blow”, a film about the San Diego underground music scene from 1986-1999. Attendees included John Reis of Rocket from the Crypt and Drive Like Jehu, Justin Pearson of The Locust and 31G Records, and Rob Crow of Pinback, among others. During this gathering, attendees distributed and signed a petition to boycott playing all events and concerts at UCSD until the conflict is resolved and the CHE Cafe is confirmed to stay. The petition has since reached the artist community far outside of San Diego, including Jello Biafra of the Dead Kennedys, Ian MacKaye of Fugazi, and UC Berkeley Professor Jose Palafox, who played in Swing Kids, Bread and Circuits, and Yaphet Kotto.

The majority of the media attention given to the issue has painted both sides in an extremely negative light. The media seems to understand the conflict through a very superficial

lens. The UCSD administration is often painted as an aggressor and the CHE Collective is depicted as irrational, illogical and/or irresponsible. Media reports rarely contain the voices of the actors most involved in the conflict aside from small snippets - this is the case in regards to both parties. The most extensive report on the CHE conflict was put out recently by Venezuela's state-owned media firm Telesur, in a December 2, 2014 article titled "Spaces of Hope: Radical Movements Need Radical Spaces." This article makes the argument for the necessity of alternative spaces for creating a better world and consists of in-depth interviews with CHE Cafe Collective members, although it lacks the voices of administrators.

Section VI: GSA's history of working with the CHE

Before the 2006 Master Space Agreement (MSA), the Graduate Student Association (GSA), and the Associated Students (AS) leased spaces to the co-operatives and then paid University Centers. The turnover in leadership in both student governments, along with other discrepancies in management of the space led to issues in 2005-2006 when the co-ops did not pay rent. As a result, GSA and AS were held responsible for the back rent. In 2006, the MSA was re-written so that the co-ops would pay UCEN directly, and GSA/AS would act as advisors on the MSA. Both student governments would provide dispute resolution and certify the co-ops. A committee was formed in the 2006-2007 academic year with GSA and AS membership. The committee was chaired by the GSA Vice President for Internal Affairs. Their main accomplishment that year was to settle the rent that was owed (~\$18,000.00) and establish a payment plan with the co-ops. Over time, the committee slowly fell apart and stopped meeting after 2008. After 2008, GSA and AS ended up not working with the co-ops as a result of the breakdown in this committee, so the proceeding certifications by both GSA and AS councils were done improperly.

In the 2011-2012 academic year, the GSA executive brought up issues that the co-ops were violating the MSA in meetings with the co-ops. No official reports were submitted to GSA council. In the Fall of 2012, GSA council passed a council resolution aimed at warning the co-ops to cooperate with the GSA in providing information on non-profit status, rent and other agreements reached by the 2006 MSA. This resolution also gave the GSA President the authority to decertify the CHE, and/or other co-op without council approval. Ultimately, this resolution was considered improper as it violated several components of the 2006 MSA relating to notice and the necessity for council approval.

Since 2012, GSA executives and GSA appointed committee members to the University Centers Advisory Board (UCAB) met over the course of the 2013-2014 academic year. These meetings included CHE representatives. During this time, UCAB requested updates of the CHE's 501(c) non-profit status on multiple occasions. UCAB also submitted a default on rent notice in October of 2013. During this time, several GSA executives worked through UCAB and the GSA appointed membership on this committee with the Che Cafe Collective.

Following the passing of council resolution 09 ([CR-09](#)) in May of 2014, the GSA President, Rahul Kapadia, PhD, provided two weeks notice to the Che Cafe Collective and followed the various protocols in decertifying the Che Cafe Collective in a public meeting and in accordance with the 2006 Master Space Agreement. On June 2, 2014, the GSA council voted in the affirmative for the decertification of the Che Cafe Collective (24-2-3) in [council resolution 10 \(CR-10\)](#) in accordance with the 2006 MSA.

On August 25, 2014, the Che Cafe Collective filed a civil suit against the GSA regarding CR-10. As cited in the court documents, the lawsuit is meant to overturn CR-10 in stating that the GSA acted in collusion with the University in abuse of its advisory authority. This civil suit is ongoing.

In October of 2014, the Che Cafe Collective, along with certain GSA council members pushed for the GSA council to consider recertifying the Che Cafe Collective. At this same meeting, a parallel proposal was put forward to refer all matters regarding the Che Cafe Collective to an Ad Hoc Committee as defined in council resolution 01 ([CR-01](#)) and was passed in the first council meeting of the 2014-2015 academic year. The goal of this Ad Hoc committee is to put together a timeline and release a neutral report to council with its findings. Following this report, the committee will also submit a proposal to council from discussions in both open committee meetings.

Section VII: Court Rulings

On 7/7/2014, complaint was filed with the Superior Court of San Diego County on behalf of the CHE Cafe Collective against the Regents of the University of California ([CHE complaint 7-7-2014.pdf](#)). The complaint was in response to the notice of eviction given to CHE Cafe Collective by UCSD on 6/13/2014 ([01.pdf](#)). The complaint included claims stemmed from breach of contract of the MSA. On 7/30/2014, the CHE Cafe Collective requested a dismissal without prejudice, the complaint was dismissed on 7/31/2014 ([CHE rfd.pdf](#)). This was after an attempt by the Che Cafe Support Network to broker a settlement in the case ([Che Cafe v. UC Regents Settlement Proposal Letter 072914.pdf](#)).

On 8/11/2014, a commercial unlawful detainer (one of the first steps in evicting a tenant) was filed with the Superior Court of San Diego County on behalf of the Regents of the University of California against the CHE Cafe Collective ([Regents unlawful detainer.pdf](#)). UC Regents requested a forfeiture of the lease agreement made with the CHE Cafe Collective and damages at the rate of \$2.80 per day from 7/15/2014 through the entry of judgement on the unlawful detainer. The judge ruled in the Regents favor on 11/4/2014 stating that the rental agreement was cancelled, lease forfeited, and CHE Cafe Collective owes \$263 in holdover damages ([unlawful detainer judgement 11-4-14.pdf](#)). A writ of possession has been issued for the property on 12/12/2014. To date, San Diego sheriff's office has not received the documents to serve the eviction notice to the CHE Cafe Collective, though could at any time.

On 8/25/2014, a writ of mandamus (request for a temporary restraining order, preliminary injunction and declaratory relief) was filed with the Superior Court of San Diego County on behalf of the CHE Cafe Collective and a single UCSD student against both the Regents of the University of California and the Graduate Student Association of the University of California San Diego.

On 9/4/2014, the CHE Cafe Collective filed an additional application for a temporary restraining order ([TRO](#)) against both the Regents of the University of California and the Graduate Student Association of UCSD.

On 11/20/2014, in regards to the judgement placed on the commercial unlawful detainer that was filed with the Superior Court of San Diego County on behalf of the Regents of the University of California against the CE Cafe Collective, CHE Cafe Collective submitted an

appeal to the court decision, no decision on the appeal has been made yet ([CHE notice of appeal.pdf](#)).

Vote to pass to GSA council - **7/0/1 - yes/no/abstain certified by Don Johnson (Chair) and Jon Monk (GSA Council Chair)**

Signed Committee Membership:

Don Johnson, Chair - VP Diversity, Service, Equity and Inclusion, Chemistry & Biochemistry

Jon Monk, GSA Council Chair - GSA President, Nanoengineering

Kyle Adam Blair - GSA Council Representative, Music

Travis Chamberlain - GSA Council Representative, Science Studies

Paolo Gabriel - GSA Council Representative, ECE

Dan Jacobsen - GSA Council Representative, Bioengineering

Vladimir Jovanovic - GSA Council Representative, Neuroscience

Troy Araiza Kokinis - GSA Council Representative, History

Amelia Ray - GSA Council Representative, Chemistry & Biochemistry

Nathaniel Wood Cohan - GSA Council Representative, Chemistry & Biochemistry

Appendix A

1. [Court Documents](#)
2. [Ad Hoc GSAUCSD CHE Committee Agendas](#)
3. [Ad Hoc GSAUCSD CHE Committee Minutes](#)
4. [All Folders available to committee](#)
5. [Petition signer comments](#)