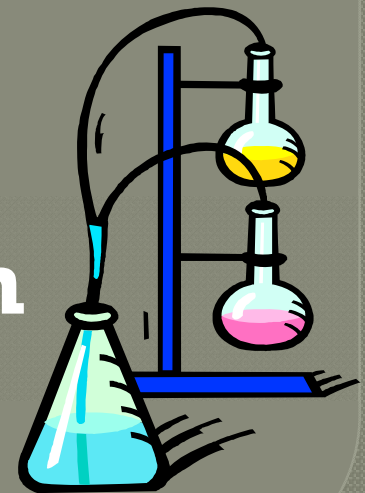




POSTDOCTORAL SCHOLAR (PX)

**UC-UAW Agreement
Contract Highlights
Department Chair Forum
October 8, 2010**



BACKGROUND

UAW ORGANIZES POSTDOCS

- In July 2006, UAW made it's first attempt at representation, but withdrew it before PERB decided the issues.
- In June 2008, after over a year of organizing, the UAW filed its second request for recognition.
- In September 2008, UC petitioned PERB to include the Paid Directs in the PX unit.
- In November 2008, PERB recognized the UAW as the **exclusive representative** of the Postdoctoral Scholars based on the cards submitted.
 - No election occurred.

BACKGROUND

- UC and the UAW have a first contract, effective August 12, 2010 through September 30, 2015.
- APM 390 is no longer in effect.
- Many of the APM terms & conditions have not changed,
- New rules to follow
 - Some changed terms and conditions of employment
 - the union's role in contract administration, and
 - the interface between the new contract provisions and the carry-over of earlier terms.

EXCLUSIVE REPRESENTATION THE BARGAINING UNIT

- The unit includes Postdoctoral Scholar:
 - Employees (3252)
 - Fellows (3253)
 - Paid Directs (3254)
- HEERA considers all appointees to these titles to be “employees” for the purpose of collective bargaining and exclusive representation.

EXCLUSIVE REPRESENTATION

THE LAW

- Under HEERA, when a union is an **exclusive representative** it represents all employees in the bargaining unit (PX).
 - The union has the exclusive right and authority to negotiate with UC management about the wages, hours, benefits and working conditions that the employer provides to the employees it represents.
 - The negotiated terms (the contract) govern most of the University's relationship with Postdocs.

EXCLUSIVE REPRESENTATION

THE LAW

- Under HEERA, the union, in exchange for its representation of all employees in the bargaining unit, has the right to receive dues/fees from each employee.
 - **Dues:** payments made by employees who are members of the union (these employees have the right to vote).
 - **Fees:** payments made by employees who do not join the union but are still represented by the union.
 - Usually, Dues are slightly higher than fees. In the PX unit, dues are 1.15%, and fees are .94%.
- *Article 30 – Union Security*

MUCH IS UNCHANGED

UC-UAW CONTRACT / APM

- Definition of Postdoctoral Scholar has NOT changed
 - Have Ph.D. or other terminal advanced degree; engaged in temporary & defined period of work of advanced training ... under direction & supervision of faculty mentors.
- Postdoctoral Scholars do not “own” the work. Postdoctoral Scholar are “trainees” carrying out research.
- When a Postdoc appointment ends, the University is not obligated to replace her/him with another Postdoc, unless required by the training grant.
- Relationship with supervisor still involves performance and research expectations.

MANAGEMENT AND ACADEMIC RIGHTS

- For the purposes of this contract the term “Academic Rights” is used in the employment context.
- Because the labor agreement deals with the “supervisory-employee” relationship, the University addressed only those forms of academic judgment that affect the “employment” relationship.
 - “For the purpose of this Agreement only, academic rights are those management rights exercised by faculty and academic administrators in the performance of their supervisory and mentoring responsibilities in the academic domain.”
- *Article 14 – Management and Academic Rights*

EFFECT ON ACADEMIC JUDGMENT

- The University protected Academic Judgment in large part by keeping it out of the contract
 - What is *not* in the contract is retained as a right;
- No change to the PI's ability to direct
 - what research is done
 - how it is performed
 - what publications are published
- In these matters, the University's decision is generally protected from the grievance & arbitration procedures, although to the extent that there are specific process requirements, e.g., disciplining a postdoc for failing to perform his duties, the University must follow the procedures outlined in the contract to address the postdoc's lack of performance.

NEW PROVISIONS

- New compensation structure: phased in move to NIH-NRSA experience rates starting June 2011 for new appointees
- Initial appointment must be at least one year. Subsequent appointment is also one year at length with limited exceptions for appointment less than one year.
- **“Just Cause”** as the standard for discipline
- Personal Time off increased from 20 to 24 days
- Clarity about work time and effort commitment
- Postdocs must be provided a written assessment within a 12-month appointment period.
- Clarity regarding Health & Safety Protocols

SUPERVISOR/POSTDOC RELATIONSHIP

- **Supervisor**

- The term “supervisor” is used throughout the Agreement to refer to the person who is responsible for mentoring / performance evaluation, appointment decisions, etc.
- The term “Mentor” is not used, although “mentoring” is referenced.

- Supervisor is used because the Agreement reflects terms and conditions of *employment*, and therefore the relationships *covered by the labor agreement* are those of supervisor/employee.

MENTORING

- Retained “mentoring” as an academic rather than a “supervisory” matter.
 - No Mentoring Article, as initially proposed by the UAW, viewing it as an extension of the faculty/student relationship.
- Processes associated with mentoring are found in Individual Development Plans and Progress Assessments

RECRUITING & APPOINTMENT

- The University has sole discretion to appoint, reappoint, or not appoint/reappoint a Postdoc.
- The University may *reappoint* a Postdoc to a different title, even though s/he may be doing the same work. **However, if** the University moves a Postdoc prior to the expiration of his/her postdoc appointment to a title outside the bargaining unit, **it must notify the UAW.**
- ***Article 26 - Titles and Classifications***

APPOINTMENTS

- Pre-employment – UC has exclusive control
- Two-step appointment process:
 - Offer of employment – same process as always
 - **Appointment letter – new process**
 - a statement about exclusive representation
 - website address for the Union and the Agreement
 - a statement that the University maintains individual personnel files and how to access
- The union does not represent the postdocs until they are employed by the UC. The appointment letter “officially” establishes this relationship.
- **Sample Appointment Letter**
- ***Article 2 – Appointments (Section 2C)***

APPOINTMENTS

- Appointments & Reappointments are at the sole discretion of the University.
- Terms of service
 - The **initial** appointment must be at least **one year**.
 - Subsequent reappointments are at management discretion and are normally one year; may be longer at PI discretion or as required by a grant.
 - **Subsequent** appointments may be **shorter than a year**, under limited circumstances.
 - Funding is available for less than a full year
 - Continuation of project is less than one year
 - Visa Limitations
 - At request of Postdoc UC may bridge appointment for less than a year.

TIME WORKED / TIME OFF

- Postdocs are considered “exempt” under the Fair Labor Standards Act (FLSA)
 - Postdoc work norm remains “at least 40 hours per week”
- Clarified that time worked and time off is accounted for in terms of “days” rather than hours
- Supervisor still verifies absences
 - A Postdoc cannot independently determine her/his schedule – supervisor still approves
 - Emphasis is on meeting professional goals and on demonstrating research and creative capabilities, rather than working a specified number of hours.
- *Article 25 – Time and Effort Commitment*

TIME WORKED / TIME OFF

- Supervisor cannot unreasonably deny time off
 - Work considerations – especially directly related to research – still prevail
- Personal Time Off must be requested and approved in advance
- UC retained the “Use-it-or-lose-it” form of time off: no need to pay off unused time off at end of appointment
- Religious holiday – UC may not unreasonably deny a request for a religious holiday
- *Article 18 – Personal Time Off*
- *Article 9 - Holidays*

INDIVIDUAL DEVELOPMENT PLANS

- Development of an IDP is **OPTIONAL** – a PI cannot require a Postdoc to develop one.
- The Postdoc is responsible for the development of her/his IDP.
- The Supervisor may designate another qualified individual who can work with the Postdoc on her/his IDP.
- The IDP may be used as part of the foundation for the Performance Assessment.
- Process for developing IDP is outlined in the contract.
- The supervisor or Designee provides advice about revision
- The process serves as a communication tool.
- *Article 10 – Individual Development Plans and Progress Assessments*

PROGRESS ASSESSMENTS

- Supervisor “shall provide the Postdoc with at least one written review per 12-month period”.
- Supervisor must communicate research and progress expectations for coming year; no specific time frame.
 - Failure to do so could impact ability to discipline for performance
- When putting expectations in writing, supervisor may use a pre-established form.
- Contents of IDPs, Progress Assessments, and Annual Reviews are not grievable.

DISCIPLINE & DISMISSAL

- Three forms of discipline:
 - Letter of Warning
 - Suspension
 - Dismissal
- Dismissal normally preceded by at least one letter of warning.
- UC may proceed to dismissal without written warning when seriousness of misconduct or performance warrants.
- Just Cause for Discipline & Dismissal
 - Process outlined in the Agreement
 - Disciplinary Actions will be grievable and arbitrable.
- *Article 5 – Discipline and Dismissal*

JUST CAUSE (NOT “JUST BECAUSE”)

Just Cause includes seven universal standards:

1. **Notice:** Prior to imposing discipline, employee must have notice of rules and expectations. May need to prove that employee knew the rules/expectations.
2. **Reasonable Rule or Order:** Must be consistent with labor contract, cannot be arbitrary or capricious.
3. **Sufficient Investigation** must occur prior to the discipline, be thorough, give employee opportunity to respond, & allow for union representation.
4. **Fair Investigation:** The result must not be a foregone conclusion; question assumptions & bias.
5. **Proof:** Level of proof is normally “substantial evidence” but a higher standard may be applied for more serious discipline.
6. **Equal Treatment:** Did the employer apply rules, orders and penalties evenhandedly – applying same standard of justice it would apply to other (favored) employees?
7. **Penalty:** Was the degree of discipline administered reasonably related to either the seriousness of the employee’s offense or to the record of past service?

LAYOFFS

- Layoffs are for “lack of funds” only.
- Layoffs are not discipline and cannot be used as a substitute for discipline.
- *Article 12 - Layoff*

HEALTH & SAFETY

- UC philosophy in contract: “Safety has no sides”
- Contract acknowledges research may be inherently hazardous and appropriate actions should be taken to minimize hazards.
- Postdoc may refuse to perform work s/he believes is hazardous and about which s/he has not been properly trained.
 - May ask for an EH&S Assessment
 - No retaliation for filing a complaint
- Supervisor must document training and information provided to Postdoc
- Identified procedures to follow in an OSHA inspection
- Labor-Management Committee meets 2x per year
 - Release Time for Postdoc to attend the meeting
- *Article 8 – Health and Safety*

COMPENSATION

Effective September 1, 2010

- All Postdocs employed on *August 12, 2010*, and remain appointed in *September 2010* will receive a salary increase as follows:
 - Those earning under and equal to \$47,000 receive a 3% salary increase;
 - those earning more than \$47,000 receive a 1.5% increase.
- The minimum salary for any Postdoc must be \$37,740.
- A new Postdoc appointed must have an annual salary of at least \$37,740.
 - If a postdoc had just received his/her Ph.D. in Summer 2010 and is being appointed on 9/1/2010 and after, s/he can be appointed at \$37,740 (step 0 of NIH/NRSA scale). S/he is not entitled to the ATB of 3% increase for September 2010.
- ***Article 4 - Compensation***

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COMPENSATION

- **Effective June 1, 2011**, All newly appointed Postdocs must be appointed at the salary level commensurate with postdoc experience level based on NIH/NRSA Salary Scale below.

Step	Months of experience	Annual Salary
0	1-11	37,740
1	12-23	39,756
2	24-35	42,624
3	36-47	44,304
4	48-60	45,960
5	61-72	47,940

COMPENSATION

Phase in for salary increases for 2011-2014 (June 1):

- If Postdoc is above the experience step, the University only needs to pay the Postdoc a 2% increase.
- Once the Postdoc is on step, the s/he must move at least to the next NIH step on reappointment.
- If a Postdoc is **below the applicable experience step**, see how much it would cost to move her/him to the applicable experience step.
 - **For 2011-2013:** If more than 3%, the University only needs to pay the Postdoc a 3% increase.
 - **For 2013-2014:** If more than 3.5%, the University only needs to pay the Postdoc a 3.5% increase.

June 2015: All postdocs to be appointed on NIH/NRSA Salary Scale commensurate with postdoc experience.

Web Resource Locations

- For the Agreement:

atyourservice.ucop.edu/employees/policies_employee_labor_relations/collective_bargaining_units/post_docs/

- For Appointment Letter Template:

<http://graduate.ucr.edu/letter.html>

- For UAW Deduction Authorization Form:

(pending receipt of revised from UAW. Please contact Labor Relations Office for a copy.)

- Information for Postdoctoral Scholars:

<http://graduate.ucr.edu/Postdocs.html>

Who To Contact

- Marianne Liu Beckett – Labor Relations
x2-2847 or marianne.beckett@ucr.edu
- Linda Scott – Graduate Division
X2-3387 or gdivls@ucr.edu