

INFORMATION FOR DIRECTORS, MANAGERS, AND SUPERVISORS ABOUT COLLECTIVE BARGAINING AT THE UNIVERSITY OF CALIFORNIA

Collective Bargaining Legislation

In 1979, the State of California enacted the Higher Education Employer-Employee Relations Act (HEERA), a state law that establishes the framework for collective bargaining at the University of California, The California State University, and the Hastings College of the Law. There have been amendments of the law over time.

The Public Employment Relations Board (PERB) is the administrative agency responsible for administering HEERA and adjudicating related complaints.

The law provides employees with the right to form, join, or participate in union activities and their right to not form, join or, participate in union activities. HEERA gives the employees the right to select a union to represent them *exclusively* in their employment relationship with the University. If a union becomes the exclusive representative, the law gives the union the right to negotiate a contract with the University that will determine the terms and conditions of employment for all employees in titles in the collective bargaining unit.

Union Representation

Unions are selected through one of two processes.

A union may submit a petition with a **request for recognition** by submitting **authorization cards** signed by employees in the potential bargaining unit. By signing the cards, the employees are signifying their interest in having the union identified on the authorization card serve as their *exclusive* representative for purposes of collective bargaining. To be recognized, the union will need to submit valid authorization cards to PERB from the majority (50% + 1 employee) of the employees in the proposed collective bargaining unit. To be valid, the employee signatures on the authorization cards must have been obtained within the twelve-month period preceding the petition and the employees must be on payroll status as of the payroll period immediately preceding the petition.

A union may also collect valid signatures from 30% of the employees in the potential bargaining unit and file a **petition to request an election**. To be valid, the employee signatures must have been obtained within the twelve-month period preceding the petition and the employees must be on payroll status as of the payroll period immediately preceding the petition. If sufficient valid signatures are collected, the PERB will then conduct an election and the employees who would be in the bargaining unit are allowed to vote to decide whether they would like to be exclusively represented by the petitioning union. In a representation election, the decision is made by the majority (50% + 1 vote) of those who vote.

The Bargaining Unit

The state collective bargaining law, HEERA, identifies some parameters for collective bargaining units and authorizes the PERB to make bargaining unit determinations within those parameters. Under HEERA, members of a bargaining unit are expected to have a community of interest including a commonality of work skills, working conditions, job duties, supervision, and performance of functionally related services. There is a presumption in favor of systemwide bargaining units with consideration given to the effect upon efficient operations and mission accomplishment. Bargaining units may not include supervisors, managers or confidential employees.

When the union files a request for recognition, the union will describe a proposed bargaining unit to the PERB. The PERB will then assess whether the union has enough support (valid authorization cards) for the petition based upon the bargaining unit that the union has proposed. If the union's showing of support is sufficient, the University will then have the opportunity to respond by either accepting or contesting the union's proposed bargaining unit description. The University may assert that the proposed bargaining unit should be composed in a different way based on its assessment of whether the group of employees the union is seeking to represent really have a community of interest and/or if other employees should be in the unit as well. If necessary, PERB will hold hearings before making a final unit determination.

Management Decisions

Managers and supervisors continue to have the authority to engage in day-to-day management of operations including the employment of individuals in the potential bargaining unit, assignment of work, performance management, and separation of employees due to work reduction or other factors. Managers considering significant changes in policy or operations shall review plans with their local Labor Relations Office before proceeding. If a petition is filed, and depending on the type of petition, management's ability to make certain changes may be restricted for a period of time.

Exclusive Representation

If a union is certified by the PERB as the *exclusive* representative, that union represents all bargaining unit employees for all matters related to wages, hours, and other conditions of employment. The union is authorized to negotiate a binding labor agreement that will cover all employees in the bargaining unit, without regard to individual union membership.

Union Membership

An employee in a bargaining unit has the right to choose whether or not to become a union member. Unions can have union members sign forms to have union dues automatically deducted

from the union members' University pay checks and have the money remitted directly to the union. The terms of the collective bargaining agreement may determine when employees can cancel payroll dues deductions.

Agency Fees

Under HEERA, a union that has been recognized as the exclusive representative for a group of employees in a bargaining unit may choose to set up agency fee deductions which would be mandatory for all employees in the bargaining unit.

Under Sections 3583-3585 of the California State Government code, all employees in the unit would then be required to pay a fee to the union to cover the costs of "...lobbying activities designed to foster collective bargaining negotiations and contract administration or to secure for represented employees advantages in wages, hours, and other conditions of employment in addition to those secured through meeting and conferring with the higher education employer." The decision to implement an agency fee requirement rests with the union.

The statute does provide individual exception to the agency fee payment if the employee is a member of a *bona fide* religion, body or sect that has historically held conscientious objections to joining or financially supporting public employee organizations, in those instances, the employee would not be required to pay the agency fee, but would instead be required to pay a "...service fee to a non-religious, non-labor charitable fund..." Unions with agency fee payment requirements make the decisions concerning conscientious objector status and have procedures in place to consider requests.

The Bargaining Process

If the PERB certifies a bargaining unit, the University is then obligated to bargain with the certified union over the terms and conditions of employment for all employees in the unit. Examples of collective bargaining agreements for employees at the University can be found at the following web site address:

http://atyourservice.ucop.edu/employees/policies/systemwide_contracts/index.html

Talking with Employees about Union Organizational Efforts

Managers and supervisors should say that the University adheres to the principle that representation by a union is a matter of employee choice. Our position is that individuals should be fully informed about their choices and about the process.

Managers and supervisors should avoid any statements about union organizational efforts that could be viewed as coercive or influencing the employee or that could be viewed as persuading employees to exercise or not exercise the right to organize and bargain collectively through representatives of the employees' own choosing.

Managers and supervisors will also want to avoid actions that might be perceived as threatening to employees who are exercising their rights under HEERA. The kind of activities that can be perceived as threatening are: interrogating employees about union activities; conducting surveillance of union activities; attending union organizing rallies or meetings; or making changes in working conditions in order to influence the employee's view of collective bargaining.