Dzens of UPTE members and their supporters from other campus unions attended a systemwide researcher (RX) and tech (TX) bargaining session at UC Santa Cruz in mid-September. Attendees heard presentations by union members who suffer from UC’s below-market-pay structure.

Christine Duncan told the crowd how she was hired last year as a manager in UCSC’s Theater Arts department. After being offered the job, she researched the cost of living and “was slightly appalled to discover the initial salary offer would barely cover rent and car payments, let alone utilities, food, gas, and other necessities.”

While she negotiated an appointment at the top of her UC title, her salary is still low enough to qualify her for housing assistance.

Other UPTE members chimed in about low salaries and the pinch caused by endless cost-shifting of health insurance costs. Ethan Mora, a Santa Cruz staff research associate who also serves as secretary of his union local, said that “while UC insists it needs to attract executives with high pay and bonuses, I feel they should be investing in the foundation of this institution – the students and staff.”

Two members employed at UCSC’s Long Marine Lab made a presentation on the need for hazardous duty pay for undersea diving. Marine tech Mike Kenner said he receives no extra pay because UC doesn’t recognize hazardous occupations. Still, he dives side-by-side with people employed by California Fish and Game, who get a $12.00 per hour hazardous duty premium, and the US Geological Survey, who receive a 25% hazardous duty differential.

Pete Dal Ferro, an UPTE dev tech and assistant diving safety officer, described the inherently dangerous aspects of scuba diving along the Pacific Coast and in deep, cold water – a danger that cannot be completely mitigated no matter how well divers are trained.

UCSC construction inspector Timothy Basquez Sr. asked that UC reward “commitment and accumulated expertise” with career opportunities, rather than by bringing in new employees from the private sector with less experience.

UPTE members at the Berkeley and San Diego campuses also held actions to support the bargaining process, informing the media and their local communities that UC’s stalling on a contract offer is unacceptable.

UC again wants pension contributions from employees

UC announced in mid-September that it intends to reopen bargaining over employee contributions to the $48 billion University of California Retirement System (UCRS).

While UC has not yet made a specific proposal to UPTE, in bargaining with the California Nurses Association, which represents UC nurses, it asked that employees contribute a stunning 12 percent of their salaries to UCRS.

While there are many concerns about how UC has handled pension investments in recent years, the university’s move for new contributions comes while the pension fund, by all indications, remains over-funded and healthy.

“They want to shift costs to employees, which is unacceptable given the fact that our pay, on average, remains far below-market,” said Kevin Rooney, an EH&S tech at UCSC and chief bargainer for UPTE’s researcher and tech (RX/TX) team. “Just as we did in 2006, UPTE will be working in close coalition with UC unions to protect employees’ interests.”

Then, UC tried to get workers to forfeit their 2% mandatory contribution to the DCP (the Defined Contribution Plan, a 401k-style fund), investment of which is controlled by each employee. Now, the university is again saying that it will propose “re-directing” that contribution into UCRS, which is a defined benefit pension controlled by UC.

“That’s a 2% cut to our retirement savings,” said Rooney. “By the university saying this would not affect our take home pay, UC glibly deflects the fact that this cut affects our income when we need it most, in retirement,” he added.

UC’s “contribution holiday”

Both UC and employees made contributions to UCRS before 1991, when contributions were suspended due to the robust health of the fund. Between 1991, employees paid between 1.7 and 3 percent of earnings each year, while UC paid much more – from 4 to 16 percent of salary.

Every year since 1991, workers have given 2% of pay annually to the 401k-style DCP, while UC has contributed nothing to either UCRS or DCP.

“While UC likes to claim employees have had a ‘contribution holiday,’ in reality we have not – year after year, 2% of our salaries have gone into the DCP retirement fund,” said Rooney. “It is UC that has had a ‘holiday’ since 1991,” a break that over time has amounted to over $30 billion.

UC is now publicly acknowledging that it must contribute funds to UCRS. That position is largely due to the sustained activism of union members, who demanded it in the last round of bargaining.

Yes to shared governance

In addition to fairness in possible new contributions, UPTE and other UC unions want to make sure there is public accountability for how funds are managed.

AFSCME, which represents 20,000 UC service and patient care workers, will be collecting signatures to qualify a future ballot measure to set up a 13-member board of directors to share governance with employees and state officials. The measure is supported by Senator Leland Yee (D-San Francisco) and Assemblymember Anthony Portantino (D-La Canada Flintridge), among others.

Last year, legislators passed a non-binding resolution urging the university to set up a similar board, but UC refused. “Despite passing with bipartisan support, the regents ignored it, closed ranks and continue to disrespect their workers,” said Yee at a recent press conference. “ Oversight of these dollars is desperately needed.”

Other state higher education pension funds, such as those at the California State University and community-college systems, give workers a role in managing the funds.
Producer/directors join UPTE’s ranks

In late summer, two new UC job titles came under UPTE-CWA contract – producer/directors and assistant producer/directors.

The union requested the state’s Public Employment Relations Board to add those job titles to the technical (TX) unit, and UC agreed. There are currently 32 positions at UC system-wide under those job titles, and about half of them are at UC San Diego.

“These employees will be fully covered by the union’s TX contract, and they’ll be part of the bargaining process to achieve fair wage increases in difficult times and protect their benefits and pensions,” said Cliff Fried, UPTE’s executive vice president.

The senior producer/director title was also part of UPTE’s request, and a decision on representation for that job title is pending future discussion.

Long-time UPTE member Art Daly, a producer/director at UCSD.

UPTE negotiating over researcher and tech wages, pensions, health care premiums

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Schwarzenegger threatened to cut the pay of about 200,000 state workers to the federal minimum wage until a budget was signed.

While the governor’s attempt to cut employees’ pay did not include UC, the system’s new president, Mark Yudof, wrote a letter in August suggesting he might assist the governor in his budget battle by cutting UC workers’ pay to the minimum.

UPTE immediately launched an effective “e-picket” of Yudof’s office, demanding that UC instead utilize its vast financial resources – the majority of which are not linked to the state’s budget process – to support programs and staff.

“Using staff as political pawns to balance the state budget is not only unfair to us, it undermines the ability to recruit and retain staff and the viability of these state-funded programs,” said Jelger Kalmijn, UPTE’s president.

While the budget was settled before UC employees’ pay could be affected, the governor did place many state contracts on hold, including some at the university, and Yudof issued instructions to campuses to immediately begin layoffs for any employees working on those contracts. For instance, social workers at UCSD on a state contract were temporarily laid off in early September.

Health premiums to rise

While budget negotiations were going on, UPTE’s RX/TX bargaining team continued its hard work negotiating a new contract with UC.

The union’s team has already submitted most of the union’s comprehensive proposal for the new contract. But UC has yet to respond to any of the team’s articles, and has refused to provide information the team needs for the preparation of the remaining contract articles.

UC continues to maintain its position that RX/TX wage increases must be conditioned on the state budget – which will be “flat” this year for UC – even though less than 10% of UPTE’s techs and researchers are paid from state funds. This means that UC will most likely be proposing a 0% pay increase.

On top of that, employee pension contributions and health benefit premiums are also up for negotiation.

“From UC’s current negotiations with the California Nurses Association, we have learned that UC wants a 12% of payroll contribution to the pension plan starting July 1, 2009 and is proposing health benefits increases averaging about 6 to 11 percent next year,” said Kalmijn. “This adds up to a huge pay cut even before we factor in the increased cost of living.”

“Delink” wages from CA budget

The university has used the budget stalemate to slow bargaining, but key legislators are making it clear that UC’s state budget allocation should not be used as a limit for staff raises.

“Less than eighteen percent of the University of California’s budget comes from the state’s general fund,” wrote State Senator Leland Yee (D-San Francisco) to the UC regents in late August, “yet the UC system continues to inappropriately use that allocation as an excuse to limit the wages and wage increases of some of the system’s most valuable employees.”

Calling researchers and techs the “backbone of UC’s tremendous international reputation for excellence,” Yee noted the exceedingly high turnover rate (32%) among them caused by the far-below-market wages at UC.

More than 90% of funding for UC’s RX/TX positions comes not from California’s state budget, but from sources such as the National Institutes of Health, the National Science Foundation, the Department of Defense, and NASA.

“They are receiving funds from these grants that are not necessarily subject to the state’s pay freeze,” Yee told the regents in his letter, noting that UC is prohibited from discriminating against workers based on the fund from which they are paid.

You can read Senator Yee’s letter at <www.upte.org/rx-tx/yeeletter.pdf>.

The Honour family pickets at Livermore lab: at far right, UPTE-CWA member Tom Honour, with wife Cheryl and kids.
Livermore lab picket over bad faith bargaining

UPTE-CWA lawmakers at Lawrence Livermore National Lab recently hit the streets to protest the lab’s refusal to bargain over a wave of layoffs earlier this year.

The lab laid off 500 workers in January and 440 more in May. The lab was a UC operation until October 2007, when it was taken over by Lawrence Livermore National Security (LLNS), a Delaware-based private company. SPSE, the Society of Professionals, Scientists, and Engineers, is an UPTE affiliate and has been demanding to bargain over the layoffs. It has also demanded information from LLNS it needs in order to negotiate a first contract.

LLNS has refused on both counts, prompting SPSE to file a charge with the National Labor Relations Board. The board issued a complaint in mid-September in support of the union, and SPSE picketed to publicize the complaint and demand that LLNS bargain in good faith. LLNS has said it will contest the complaint, which may go to a hearing if not resolved.

Arbitrator finds no merit in denial of merit increase

“This should leave no doubt in anyone’s mind about the importance of a union contract,” said UPTE-CWA lawmaker Tanya Smith on learning that UPTE had prevailed in a grievance over a wrongfully denied merit increase.

Jane Cullen-Smith, a UCB safety inspector, filed a grievance with Smith as her steward when UC denied her a merit increase in January 2007. Although university policy stated that a merit increase was to be granted for employees whose performance was satisfactory in 2006, UC said a less-than-satisfactory evaluation disqualified Cullen-Smith. UC also cited a prior disciplinary action in 2005 for its denial.

Arbitrator Barry Winograd disagreed. The evaluation, he noted, was supposed to cover Cullen-Smith’s performance in 2006. But it was issued months after the merit denial was made and after UPTE had already filed the grievance. “The University’s argument that a paperwork processing delay excuses this lengthy gap of time is not supported by any contract provision, or by a test of reasonableness,” he wrote.

Winograd noted that the contract requires that when an employee does not receive a performance evaluation, her or his performance must be deemed satisfactory. Cullen-Smith did not receive an evaluation in 2006, and the prior discipline fell outside the 2006 review period. Thus, the arbitrator ordered UC to pay Cullen-Smith the increase and restore any pay or benefits that she should have received after January 2007.

“Paperwork delays?” said an incredulous Tanya Smith. “Any fifth-grader could tell you what a lame excuse that was. You really have to feel embarrassed for the UC labor relations officials who argued it. And you have to be angered by thousands of dollars in wasted staff time and arbitrator fees, money that easily exceeded the cost of the merit increase had UC done the right thing and granted it in the first place.”

Smith said the contract language governing performance evaluations, and the union’s right to binding arbitration, are the only reasons Cullen-Smith achieved justice in her case.

Admin professionals concerned about unfair salary system

Over 1000 administrative professionals (APs) participated in UPTE’s recent online workplace issues survey. A majority of respondents cited UC’s “merit-only” salary system as inadequate, unfair, and biased. Eighty-one percent felt that “lack of adequate pay increases” were a major issue, and 56 percent cited “pension security” as a concern.

“This confirms what we’ve been hearing from our coworkers about the challenges we face as one of the only groups of employees at UC still without union representation,” said Susan Orlofsky, an editor at UCSD who has been working to sign her colleagues up for union membership. “With a contract, many of these problems could be fairly addressed.”

UC employs some 14,000 APs in positions such as student affairs officers, programmers, analysts and program representatives. While not yet legally entitled to bargain a contract, many are voluntary UPTE members involved in organizing for union representation.

The survey also showed that APs were interested in union representation to help fight UC’s unfair policies. For a full report, see <www.upte.org/90/survey-results.html>.

State Supreme Court kills whistleblower protections

California’s Supreme Court ruled recently that UC employees who are fired in retaliation for whistleblowing cannot sue in court for monetary damages if the university follows the timetable defined in the state’s whistleblowing law.

The decision followed a suit filed by two employees at Lawrence Livermore National Laboratory who had complained repeatedly to management about unsafe equipment and operations. One was fired and another quit shortly before she was to be fired. An internal complaint officer dismissed allegations that they were fired in retaliation, claiming instead that they were fired for performance reasons. The court said that as long as the university followed the timelines of the law, the employees could not appeal the decision or sue in court.

The court unanimously upheld the letter of the law but three justices said the ruling undermined the purpose of the whistleblowing law. One Supreme Court justice objected that the decision made “the university the judge of its own civil liability and (leaves) its employees vulnerable to retaliation for reporting abuses.” Without independent court review of whistleblower claims, she said, “the law’s protection against retaliation is illusory.”

The 1993 whistleblower law was initially applied in the same manner to state employees, but in 2001 legislation was passed allowing state employees to sue in court even if the state personnel board rejected their complaints.

Legislators are currently working to extend the same protection to UC employees. UC officials have indicated that they do not oppose the bill.

UPTE is working closely with legislators to pass the bill and restore fairness to the process.

Members welcome at UPTE’s convention

Each year, elected delegates from each UC local meet to debate strategy and decide policy for the coming year.

This year’s convention is set for Friday, October 24, through Sunday, October 26, at the Westin San Francisco Airport in Millbrae.

The annual convention is the meeting of the highest body of UPTE. All members are invited to attend and help to chart the course of UPTE for the coming year. If you want to attend as an official delegate from your campus local, please contact your local to find out about the election process and schedule.

Union scholarships for undergraduate and grad students

Since 1992, the Union Plus Scholarship Program has awarded more than $2.5 million to students of working families who want to begin or continue their post-secondary education. Over 1,700 families have benefited from the program.

Applicants are evaluated on academic ability, social awareness, financial need and appreciation of labor by a committee of impartial post-secondary educators. Awards range from $500 to $4,000.

Current and retired members of UPTE-CWA, their spouses and their dependent children may apply for a Union Plus Scholarship. The individual must be accepted into an accredited college or university, community college or recognized technical or trade school at the time the award is issued. Graduate students are also now eligible.

Applications for awards to be issued in the fall must be postmarked by January 31, 2009. The application is online at <www.unionplus.org/benefits/education/scholarships>.
CWA convention backs Obama, sets health care policy

Some 2500 delegates met in Las Vegas this summer at the annual convention of UPTE’s national union, the Communications Workers of America (CWA). Among them were eight elected rank-and-file UPTE delegates. Discussions over the three-day event included a wide range of organizing and contract campaigns, as well as crucial electoral and legislative campaigns.

Labor law reform was at the top of the agenda, as members organized for a mass-ive event in support of the Employee Free Choice Act (see article at right). Delegates also voted unanimously to support Illinois Senator Barack Obama’s presidential bid, citing his support for issues like national health care, fair trade, and retirement security.

Senator Obama addressed the CWA convention by satellite. He stressed that families across the country want real change: “an economy that rewards not just wealth but the work and workers who cre-ate it.” UPTE’s own systemic-wide executive board has also endorsed Obama.

Creating next year’s agenda

UPTE’s delegates to the convention played a leading role in setting national union policy supporting universal, af-fordable health care reform. “Rather than accepting reform strategies that would strengthen the insurance industries’ grip on health care, we presented a resolution supporting strong health care reform,” said UPTE’s vice president, Lisa Kermish, who successfully drafted the resolution. Other resolutions supported CWA’s work to organize the cable and satellite in-dustries, pledged to address climate change issues and a “green” jobs strategy, and industries, pledged to address climate change.

In July, Miller introduced a bill in Congress (H.R. 6660) that would “prohibit the Secretary of Labor from issuing, administering, or enforcing any rule, regulation, or requirement derived from [its] proposal.” Public health professionals, the AFL-CIO, and many others have issued strong protests. However, like other at-tempts to protect workers’ health through-put the history of the United States, H.R. 6660 has not gotten the support it needs in Congress.

Learning about these rules, how they were developed and introduced, and what will happen if they are implemented may spur you to write to your members of Con-gress and Senators to support Miller’s bill – and to spread the word to everyone you know.

For the most up-to-date information and thorough history, from newspaper editorials to National Academy of Sci-ences reports, see <www.defendingscience.org/case_studies/Secret-DOL-Rule.cfm> -- Joan Lichtenman, UPTE’s health and safety director, and an editor at UC Berkeley.

Supporting the right to organize with the Employee Free Choice Act

With union activists gearing up for the presidential and congressional elections just around the corner, cards and member photos from UPTE-CWA supporting the Employee Free Choice Act (EFCA) continue to flow in.

The labor movement set a goal of getting a million signatures supporting the EFCA. At Update press time, some 740,000 people have signed cards calling on the new Congress to immediately pass and the new president to sign the legislation when they take office in 2009. “Hundreds of UPTE members have signed cards and submitted their photos to our na-tional union, CWA, to support the EFCA,” said Rodney Orr, UPTE’s legislative coordinator. CWA has gathered 85,000 support cards from locals as part of the multi-union mobilization.

Protecting workers from anti-union tactics

The EFCA (House Resolution 800, Senate Resolution 1041), which is supported by a bipartisan coalition, is the most important labor legislation in decades. It would allow workers to form a union through “majority sign-up,” requiring an employer to recognize its employees’ union when a majority has signed union authorization cards.

The act would establish stronger penalties for violations of employee rights when work-ers seek to form a union and during first-contract negotiations, and provide mediation and arbitration for first-contract disputes.

Recent research has shown that some 60 million U.S. workers would join a union if they could. But under the current system, employers routinely intimidate, harass, and even fire workers who try to form unions and bargain for their economic well-being.

“We need to pass the EFCA so that workers like me can join a union without running through a meat grinder of employer intimidation,” said Roger Reece, a worker leading the fight for recognition of CWA at Verizon Business in New York and New England.

Following the 2008 elections, CWA’s cards and photos will be added to those of other participating unions. The goal is to gather cards from a million union members to show how strongly workers support the EFCA and to surround the US Capitol with supporters’ photos when the new Congress is sworn in. Learn more at <www.freechoiceact.org>.

Bush administration moves to weaken worker protections

The Bush administration’s Depart-ment of Labor has issued two last-minute rules that would make it harder for future administrations to protect workers exposed to chemicals and toxic hazards, even those known to cause cancer. They would change the procedures for assessing risks, and in-crease permissible exposures to chemicals. And they would add an extra step to delay the rulemaking process for years.

Representative George Miller (D-CA) and Senator Edward M. Kennedy (D-MA) have called on the Department of Labor to withdraw the rules, which were issued in secret and could be instituted with no public hearings.

UPTE San Diego member Chen Ming Chen, one of the “million members” signing up to support the Employee Free Choice Act.