Statewide action may be in the works

Berkeley UPTE members strike over unfair labor practices, UC begins to move at the bargaining table

C uring unfair labor prac-
tices, hundreds of striking researchers and techs at UPTE’s Berkeley local succeeded in pressuring UC to finally propose a wage increase in statewide contract bargaining. Strikers also turned out in large numbers at UC Office of the President offices in Oakland and the UC-owned Richmond Field Station. The strong show of unity included actions at other UC campuses around the state. Just the announcement of the intention to strike brought results. A week after receiving the union’s strike notice, UC finally came up with its first proposal for a wage offer, though it was not nearly enough. “The offer UC now has on the table contains only 2.25% in wage increases guaranteed over 3 years, with none retroactive to October 1, 2008, when we should have received the raises,” said UPTE’s chief negotiator, Kevin Rooney, an EH&S tech at UCSF.

“Although the vast majority of RX/TX members are supported by grants and endowments, UC made any increase in the third year contingent on the state budget,” which, he said, will effectively mean no increases.

UC refuses to make the raises retroactive, which would take away more than a half-year’s worth of the first raises and penalize UPTE workers for the university’s stalling at the bargaining table.

“The success of Berkeley’s strike sparked support for a statewide strike. “If UC continues to violate the law by not bargaining in good faith, UPTE members will be forced to strike at all campuses,” noted Tanya Smith, an editor at UCB and UPTE’s local president.

Smith says unilateral changes to benefits and parking costs, as well as UC’s refusal to answer information requests on benefits and pensions, “violate UC’s legal obligation to maintain the status quo until we have a new contract.”

The strike also succeeded in persuading UC to drop all charges against UPTE’s Lawrence Berkeley National Lab bargainer, Victor Dorsett, who had faced harassment from management over his bargaining activities.

A question of priorities

The next day at a regents’ meeting in San Diego, Carolan Buckmaster, a staff research associate who has worked at UCSD for 20 years and currently serves as an UPTE local president, testified that “the majority of us are paid through federal grants which have raises written into them. These federal dollars are already in your bank account.”

UC has admitted that the federal government fully funded all the escalates for grants back to the beginning of the fiscal year, October 1, 2008. Buckmaster called on the regents to pass those increases on to the RX and TX workers for whom they were intended.

UC’s state budget myth

While UC claims the state budget crisis is to blame for lack of salary funding, “only about 18% of UC’s operating expense is funded by the state budget,” noted Max Hechter, UPTE’s Los Angeles president and a staff research associate. UC also expects to receive increased research funding via the federal economic stimulus bill.

“Instead of costing UC money, most researchers and techs actually make money for the university through the sizable ‘overhead cost’ tacked onto every research project. Similarly, health care professionals at the med centers work for a profit-making entity, which continues to thrive financially,” said Hechter.

BREAKING BUDGET NEWS

As this Update goes to press, UC has announced it will propose employee furloughs and/or pay cuts due to declines in state funding, even though only a small proportion of UC’s budget actually comes from the state. UC also has substantial financial reserves to see it through this period, and doesn’t need to balance the budget on those who can least afford it. For employees covered by union contracts, any such proposals will have to be negotiated. Stay tuned to <www.upte.org> for the latest news, and mark your calendars for the next regents’ meeting, JULY 14-16 at UCSF MISSION BAY, to make our voices heard.

UC BUDGET LINKS

<www.ReformTheUC.com>
Dedicated to bringing greater accountability to the UC regents. Email letters to your legislators in support of Senate Constitutional Amendment 21 and Assembly Constitutional Amendment 24 (see story, p. 2). There is a Facebook page under the same name.

<universityprobe.org/2009/04/budget-lies-a-letter-to-the-president-of-uc>
“Budget lies,” a critique of the university’s claims of poverty, by UCB emeritus professor Charles Schwartz.

<berkeleyaft.org/node/170>
“The budget and how it affects you,” by our sister union, UC-AFT.

UPTE’s ANNUAL REPORT

<www.upte.org/about/AnnualReport2009.pdf>
Check out UPTE’s annual report and audit, now available online. If you would like a paper copy mailed to you, please call the system-wide office at (510) 704-UPTE or email info@upte-cwa.org.
UPTE-CWA retirees and activists locked into our contracts. not guaranteed. UPTE is currently current retiree health benefits are is a grim reminder that all our benefits with an annual check of private limited liability corporation, by UC, as well as to all current employees. LNL is now run by a workers, the Lawrence Livermore National Lab has replaced retiree health benefits with an annual check of $2400. This applies to those who retired when the lab was still run by UC, as well as to all current employees. LNL is now run by a UC is a 50% owner. This blow to those on fixed incomes is a grim reminder that all our current retiree health benefits are not guaranteed. UPTE is currently bargaining to have these benefits locked into our contracts. UPTE-CWA retirees and activists are working with Livermore retirees to restore retiree health benefits. The Update will report on future developments.

Santa Cruz students, staff and faculty show their support for UPTE’s Berkeley strike.

Legislators propose to freeze pay of UC executives, put university under legislative oversight

It may have been one lavish pay hike too many. Faced with an unprecedented budget crisis, and in the wake of years of runaway largesse for top UC executives by the regents, state legislators have cried “Enough!” and are reacting with a series of bills aimed squarely at UC.

SB217, introduced with bipartisian support by Sen. Leland Yee (D-San Francisco), would prohibit pay increases for UC executives during budget crises. Supporters of the legislation note that over 400 UC executives earn at least $200,000, and that even the recession and budget crisis have not halted UC’s proclivity for giving lopsided pay increases to top executives.

As recently as May, the regents gave the new chancellors at UC Davis and UC San Francisco increases that were 27% and 12% above the salaries of their predecessors. The bill easily cleared the Senate on a 35-3 vote and has been passed to the Assembly, where approval is also expected.

A similar bill, AB53, would freeze all state salaries above $150,000. Sponsored by Assemblymember Anthony Portantino (D-Pasadena), the bill would prohibit any pay raises, overtime pay, or any other increase in compensation for the duration of the economic crisis. Because UC is constitutionally exempt from legislative control, this bill would not directly affect UC executives, although Portantino said, “I find it hard to imagine that the regents would not take that as a serious indication of what’s to come if they do not act.”

Changing the state’s constitution

Indeed, what could come is indicated by a constitutional amendment introduced in late May by senators Roy Ashburn (R-Bakersfield), Gloria Romero (D-LA) and Leland Yee. SCA 21 would strip UC of its immunity from direct legislative control. If approved by two-thirds of the legislature, it would go to the voters for a simple majority vote.

“Enough is enough,” said Yee, a UC Berkeley graduate. “Their arrogance and autocratic attitude has got to stop. This is a public institution, it’s not a private club for anyone. We’re leaving it to the regents to run the UC, but it ought to be responsive to the people and the state Legislature.”

While SCA 21 has bipartisan support, “more hesitancy seems to be coming from Democrats than from Republicans,” reports UPTE’s legislative coordinator, Rodney Orr. He adds that both bills will make UC more accountable and transparent, while retaining its academic freedom.

Portantino and Assemblymember Brian Nestande (R-Palm Desert) introduced a parallel bill in the Assembly, ACA 24. “At a time when the university has raised student fees and is considering cutting the pay of its lowest-paid workers, it is simply wrong to be giving the two new chancellors more gold-plated benefits,” said Nestande. “If students have to tighten their belts, then everyone in the UC system must also tighten theirs.”

Reacting to the legislative backlash, UC president Mark Yudof recently announced that 30 UC executives would take a one-year temporary pay cut of 5%. At the same time, he proposed that he be given “emergency” powers to take personnel actions without requiring the approval of the regents. “This is a merely a calculated move,” said Orr. “The regents are usually little better than rubber stamps when it comes to approving pay hikes for executives, but at least there was an opportunity for public review. Giving emergency powers to Yudof ensures that even that small scrap of accountability will be eliminated.”

Admin professionals meet in Los Angeles

Administrative professional employees from around the state met in Los Angeles on April 18 to discuss the UC budget, job security, health care, UC’s pension plan, gender pay equity, UC’s “merit” pay system, and other issues.

“It was great to share experiences and concerns,” said Andrea Simpson, a senior analyst at UCLA. “It was clear to all of us that the protection of a union contract is the only real safety net at UC. Without a union contract, we’re not even acknowledged.”

Participants at the meeting also discussed ways of measuring growing support for a union for administrative professionals as well as support for UPTE’s technical, research and health care professional members who are currently in bargaining. The next meeting is in Berkeley on August 15.

New job classifications at UCB

Almost 5,000 non-represented non-academic staff at UC Berkeley were notified that they have new job titles, job descriptions, and pay ranges, due to the new Career Compass program.

This initiative has been under way for several years, with publicly stated goals of developing a set of job families and categories in a logical and consistent structure that can be matched to the market, along with a system that links performance evaluation to those responsibilities.

“While we applaud the goals of standardization and transparency, UPTE is concerned about a number of aspects of the program,” said Lisa Kermish, who serves as UPTE’s vice president and is an administrative analyst at Berkeley.

Chief among them, said Kermish, is accuracy of job descriptions, and availability of additional funding for employees whose new pay range minimum is above their current pay rate. In addition, the specificity of the new job descriptions leads to concerns about loss of seniority protection in layoff situations.

Employees at other campuses who wonder how this news might affect them should note that UCOP intends to implement the program throughout the systemwide once it has been piloted at UCB. Employees without union representation will have few ways of ensuring that any changes are fair and equitable.

If you are an administrative professional, please consider signing the online “commitment card” that registers your support for a union for UC’s administrative professionals. You’ll find it at <www.upte.org/99/ap-card.html>. You are also encouraged to join UPTE. Membership is the most powerful way to take control over your career at UC. If you have questions about the union’s benefits, please contact your local, or email <ap@upte-cwa.org>. 

Who’s next?

UC/Bechtel eliminates retiree health benefits at Livermore

In a stunning setback for workers, the Lawrence Livermore National Lab has replaced retiree health benefits with an annual check of $2400. This applies to those who retired when the lab was still run by UC, as well as to all current employees. LNL is now run by a private limited liability corporation, of which UC is a 50% owner.

“This is surely a calculated move,” said Yee, a UC Berkeley graduate. “Their arrogance and autocratic attitude has got to stop. This is a public institution, it’s not a private club for anyone. We’re leaving it to the regents to run the UC, but it ought to be responsive to the people and the state Legislature.”

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UC taking jobs out of TX/RX units, UPTE winning them back

UPTE’s research has revealed that, for the past several years, UC has been trying to undermine the protections of the union community by moving entire groups of employees out of union-represented job titles and into unrepresented ones.

In some cases, UC has created new job titles and transferred employees into them. In others, it has simply reclassified hundreds of employees out of represented titles into new ones, even though the job duties under the new titles were substantially the same as the old.

UPTE has so far successfully argued 6 out of 6 cases before the state’s Public Employment Relations Board (PERB). In April, PERB agreed that UC had wrongly moved some 200 Clinical Research Coordinators out of UPTE’s research (RX) unit.

PERB also agreed that about 100 Medical Interpretors at the UC medical centers had a community of interest with job titles in the technical unit (TX), and moved them back in. Other titles that went through a similar process include Senior Telescope Technicians, Producer/Directors, and Case Managers.

Technology Support Analyst IIIs were also moved into the TX unit after UC created the new series at UC Office of the President, assigned work being done by Computer Resource Specialists into it, and then refused to include it during bargaining.

Emily Montan, UPTE Berkeley’s chief steward, who argued the case, celebrated the decision bringing TSA IIIs into the union.

Up until now, the state’s PERB was unable to reach a decision bringing TSA IIIs into the union.

UC appeals Cal/OSHA fine for lab worker Sheri Sangji’s death

Sheri Sangji, a 23-year-old staff research associate, died in January, 18 excruciating days after she was burned in a fire in a UCLA chemistry lab. Her death was totally preventable, and the California Division of Occupational Safety and Health (Cal/OSHA) has fined UCLA over $31,000 for safety violations.

UC is now appealing that ruling. The Los Angeles Times (June 6) reported that a university spokesperson admitted that “the May 26 appeal will allow UCLA to stipulate that it admits no fault in connection with Cal/OSHA’s findings, a move aimed at limiting the university’s liability,” such as lawsuits by labor unions or criminal action by prosecutors.

Specific details about how and why the accident happened are still unknown. Friends of Sheri’s have posted an online petition calling for a full investigation to find out what happened and to prevent such accidents from happening again. UPTE encourages members to add their support, and also write to their legislators. You can find the petition at <www.thepetitionsite.com/1/sherisangji>.

Science published an online article May 1 about the Sangji case and what it indicates about the larger issue of lab safety at universities. See “Taken for Granted: the Burning Question of Laboratory Safety” at <sciencerescareers.sciencemag.org/career_magazine/previous_issues/articles/2009_05_01/careedit.at/9000354>.

Being part of the union community

In each case, UPTE was able to show that the unrepresented employees had a “community of interest” with UPTE-represented employees, and thus have them moved back under the protection of the TX or RX contracts.

UC prefers to have unrepresented employees because it has unilateral power over them. It need not bargain wages or working conditions with unrepresented employees. Such employees cannot easily enforce layoff or severance protections, better health and safety standards, protections for pension and health care programs, or provisions for professional development and career advancement. Nor do they have the right to independent arbitration.

Kevin Rooney, the union’s chief negotiator for the RX and TX units, negotiated several of the cases. “We think it is vital that UC not weaken our collective power by splitting us off from the union,” Rooney said.

Bargaining for safety

On April 28 – Workers’ Memorial Day – UPTE asked members to fill out a health and safety survey in memory of Sheri Sangji, and to support our efforts to create a safer working environment (see story at left). We are just beginning to analyze the results. They show overall positive attitudes about safety at UC, but some glaring gaps as well.

Here are some concerns that members listed, from the specific to the general:

- Careless use of liquid nitrogen
- Demolition done with minimal abatement
- No ear or eye protection, and inadequate gloves
- Working alone in a dangerous facility
- No smoke detectors in a lab with chemical hazards
- Concerns about hazardous waste disposal and keeping lab practices up-to-date
- Lab hazards working with aerosols
- Neck, shoulder, back pain
- Work load pressures
- No safety rules
- Hearing loss over 20 years from continual noise
- Safety is a concern, but actual practice is inconsistent
- Safety should be stressed more
- It takes a long time to change things
- Would like annual safety classes
- There’s a nonchalant attitude toward safety
- Less time is spent on safety than is ideal
- Safe workplace, but misguided safety policy and culture
- An atmosphere of risk; safety is a battle

When asked what type of hazards members face on the job, the largest groupings were chemical (62%), radiological (17%), biological (48%), and ergonomic (68%). The “others” included overwork, assault, and dust contaminants. (The numbers don’t add up to 100% because some members deal with more than one hazard.) Eighty percent said they had training, and 20% said they hadn’t.

Only 62% said their department had a designated safety rep; 33% don’t know, and 5% said no. And 71% have never seen the OSHA form 300, which cites the number of work-related injuries and illnesses reported each year. Employers are required to post it in February every year.

The university has a lot of work to do to meet its legal obligations to provide a safe workplace. We have a role, as members and stewards, in making safety a priority. We need to hold the university accountable when it is not providing what we need to protect ourselves—from training, information, supervision, and work practices, to equipment and supplies. And we need to follow safe practices. Although the employer has the primary responsibility to provide a safe workplace, safety is everyone’s business.

Our researcher and tech bargaining team has proposed a joint health and safety committee, but UC may not accept that. As an alternative, UC is talking about establishing a way to address health and safety hazards through monthly labor-management meetings. Problems would be assigned to EH&S staff, who would be responsible to make sure they are addressed. Our members need to be actively engaged in the process.

– Joan Lichterman, UPTE’s health & safety director, is an editor at UC Berkeley

UPTE’s Los Angeles members made use of their cars on Workers’ Memorial Day to raise awareness about the Sangji case and lab safety. From left to right: Max Hechtman, Lynn Keasler, Jay Kurland and Mike Peltz.
In the news

UC regents dodge criticism

Jörg Kelmler, UPTE president, and Leland Lee, a Democrat, representing San Francisco/San Mateo in the California State Senate, coauthored this opinion piece in mid-May.

In an unusual move, UC’s Board of Regents met telephonically in May instead of holding their scheduled 3-day public meeting at UC San Diego. Citing concerns about a possible outbreak of swine flu, UC president Mark Yudof and regents chair Richard Blum felt the usual fanfare that accompanies the regents might interfere with the functioning of the UCSD medical center. Instead, the meeting was conducted as one long conference call—not allowing any contact with the public—and condensed to one day.

The UCSD medical center is more than 10 miles from the main campus, where the meeting was scheduled to be held. As of May 1, when the regents announced their decision, only 11 cases of swine flu had been reported in San Diego county, and public health authorities had not asked for meetings or conferences to be cancelled.

The swine flu appears to be a pretext for rearranging the meeting. We believe the regents may have other reasons for desiring a shorter meeting and one less accessible to the public.

The regents are facing intense pressure from a number of groups questioning their fiscal responsibility and dedication to the mission of the university. Unlike other state officials, the regents are not accountable to voters; they are appointed to 12-year terms by the governor. This lack of accountability shows itself during their meetings, when groups use two of the few avenues at their disposal—media exposure and the public comment period—to draw attention to their policies.

Here are a few things which might concern the regents even more than swine flu:

• Student groups, questioning the necessity of the regents’ desire to raise tuition, had planned to hold protests over the 9.3% tuition increase.
• Employees are upset at proposals for furloughs and pay cuts, as well as stalled contract bargaining.
• Legislators have stepped up calls to reign in the pay of top administrators. Despite public outcry over the compensation of UC executives, the regents continue to award bonuses, perks and hiring of executives earning in excess of $450,000.

Yet the fiscal mismanagement of the regents goes beyond the pay increases to executives. The university is facing a budget gap of $437 million over the next two years. This annual gap of $225 million represents just 1.2% of the UC budget. However, UC’s reserve funds, most recently reported as $6 billion, are enough to fill the gap for the next two decades. Additionally, the university expects to receive hundreds of millions of dollars from the federal stimulus package in increased research spending.

We believe that the small budget gap, large reserves, and varied funding sources help explain why the regents continue the exorbitant pay practices of UC executives. And it also explains why they recently spent $70 million in purchasing two overpriced properties near the Berkeley campus.

Until UC has a board of regents that is accountable to the public, the UC will likely continue these egregious actions. In the meantime, students, employees and legislators will continue to use whatever means we can to ensure the regents keep the best interests of the public in mind.

UPTE health care bargainers present initial proposals

At this spring’s first bargaining session for the more than 2,000 health care professionals (HCPs), 46 UPTE members presented information about the need for experience-based pay, market-rate pay scales, and raises for topped-out employees. UC has already indicated in the first session that it intends to offer raises despite the economic situation in the state. Above, the HX bargaining team takes a break from negotiating. Back row, from left: Chris Radke-Schmidt, Clinical Social Worker, UCSF; Sheila Stittsman, Clinical Social Worker, UCSD; Lisa Brenner, Clinical Laboratory Scientist, UCLA. Front row, from left: Sonia Palacio, Clinical Social Worker, UC; Wendy Felton (chief negotiator), Clinical Laboratory Scientist, UCSF; and Sue McCormick, Clinical Laboratory Scientist, UCD. Not shown: Cara KcKinley, a CLS from UCSC representing student health centers, is also a member of the bargaining team.

Report supports case for majority sign-up legislation

A new report by four leading universities provides more definitive proof that majority sign-up (or “card check”) does not cause union or employer intimidation. That’s been the claim of employers who are opposing historic federal legislation, the Employee Free Choice Act, which would change the rules on how workers can choose union representation.

In fact, the findings indicate that a lack of intimidation by either side—as well as a clear path to forming a union—allows workplaces to function more smoothly.

Data from 34,000 people who joined unions through majority sign-up over a six-year period showed no trace of intimidation by unions or employers, the report from labor studies departments at Rutgers, Cornell, the University of Illinois and the University of Oregon found.

Researchers looked at public sector organizing, which is often done by majority sign-up, from 2003 to the present. “Contrary to business claims, in 1,073 cases of union certification and in at least 1,359 majority-authorization campaigns, there was not a single confirmed incidence of union misconduct,” they said.

The findings shatter the claims the act’s opponents, who charge that majority sign-up would cause unions to intimidate workers to get them to join. The study is available at <www aflcio.org/joinunion/voicework/efca/upload/multistate_etical051409.pdf>.

Livermore lab workers file age-discrimination lawsuit

Over 100 former workers at the Lawrence Livermore National Lab filed age-discrimination claims with the California Department of Fair Employment and Housing in February, after the consortium that manages the lab laid them off last summer.

The total amount claimed for lost wages, emotional distress and attorneys’ fees could be over $10 million. The employees who made the claims come from a wide range of jobs, including scientists, engineers, administrative assistants and maintenance workers. They say lab officials chose them because of their age and higher salaries.

“I loved going to work, I loved my job,” said Elaine Andrews, who had worked at the lab for years, said at a press conference announcing the suit. “The lab director said the layoffs would be done by seniority. That didn’t happen. They went through picking and choosing. It was such an insult. They gave people 30 minutes to clear out their desks.”

The lab is owned by the US Department of Energy, but since late 2007 has been jointly managed by a consortium of private and public entities, including UC, the Bechtel Corporation, and several other private companies. Before then, it was managed solely by UC and considered a stable place to work.

Of the laid-off workers, about 94 percent were over age 40, making them “protected employees” under California’s discrimination laws.