

## **ARTICLE 1 ACCESS**

### **A. GENERAL PROVISIONS**

1. The parties acknowledge that it is in the union's interest that it be granted access to University facilities for the purposes of ascertaining whether the terms of this Agreement are being met; engaging in the investigation, preparation, and adjustment of grievances; conducting union meetings; explaining to bargaining unit members their rights and responsibilities under the Agreement; and informing bargaining unit employees of union activities. In the interest of facilitating these purposes, and in accordance with local campus/hospital/LBNL procedures, the parties agree to this Article.
2. The University has the right to enforce reasonable access rules and regulations as promulgated at each campus/hospital/LBNL.

### **B. ACCESS BY THE UNION/UNION REPRESENTATIVES - GENERAL PROVISIONS**

1. Designated union representatives who are not University employees, or who are not employed at the facility visited, may visit the facility at reasonable times and upon notice to discuss with the University or bargaining unit members' matters pertaining to this Agreement. In the case of visits for the purpose of conducting unscheduled meetings with bargaining unit members, the union representative shall give notice upon arrival in accordance with local campus/hospital/LBNL procedures.
2. UPTE will furnish the University with a written list of all UPTE representatives, UPTE designated employee representatives and officers who are authorized by the union to conduct union business. This list shall be maintained in a timely manner by UPTE and any changes, additions or deletions to the list must be made in writing to the University.
3. Such internal union business as membership recruitment, campaigning for union office, hand billing and all other union activities shall take place during non-work time. Employee rest and meal periods are non-work time for the purposes of this Article.
4. **Patient Care Areas**  
  
Union representatives shall have access to patient care areas only as necessary for travel to and from union business. UPTE representatives shall not contact employees in, linger in, or use patient care areas when conducting union business. When the designated campus/hospital/LBNL official and the union representative mutually agree that a visit to a patient

care area is necessary to adjust grievances, and contract related issues, access to patient care areas will be granted. "Patient care area" includes:

- a. Chart rooms and rooms that function as or are in the nature of chart rooms;
- b. Nursing stations;
- c. Patient and/or visitor lounges including patient conference rooms, sitting rooms, and solaria;
- d. Libraries or study areas located within patient care areas;
- e. Patient floor and operating room area corridors; and
- f. Patient rooms, operating rooms, laboratories, clinics, and other treatment and patient care areas.

### **C. EMPLOYEE REPRESENTATIVES**

1. The University shall recognize UPTE designated employee representatives who are members of the bargaining unit. The function of the UPTE designated employee representative shall be to inform employees of their rights under this Agreement, to ascertain that the terms and conditions of this Agreement are being observed, and to investigate and assist in the processing of grievances.
2. For the purposes of receiving paid release time as provided in this section, UPTE may designate four (4) unit employees as "UPTE designated employee representatives" at each campus/hospital/LBNL. Additionally, in the event a campus/hospital/LBNL has more than two-hundred (200) employees, UPTE may designate one (1) additional UPTE-designated employee representative for each additional one hundred (100) bargaining unit members thereafter, up to a maximum of seven (7) UPTE designated employee representatives. UPTE shall not designate more than one (1) UPTE designated employee representative per department of 100 employees or less. For each additional one-hundred (100) employees, or fraction thereof, in a department UPTE shall be allowed one (1) additional representative in that department.
  - a. The total cumulative use of paid release time for the UPTE designated employee representative shall be limited to ten (10) hours in any one (1) month. University-convened meetings pursuant to Article 10 - Grievance Procedure, shall not be deducted from this block of time.

- b. The use of the maximum of ten (10) hours shall be for health and safety or grievance-related activities such as:
  - 1) Review and discussion with employees and management regarding health and safety issues;
  - 2) the initial hand-delivered filing of a grievance and the retrieval of University documents provided pursuant to a written request for information related to a grievance;
  - 3) one-on-one meetings with a grievant concerning a filed grievance, or an alleged violation of this Agreement which is at the Informal Review stage of Article 10 - Grievance Procedure;
  - 4) meetings with the University representative to whom written grievances are presented or to whom documents related to filed grievance(s) are presented/signed or with whom time limit agreements are achieved;
  - 5) Informal Review meetings held pursuant to Section E. of Article 10 - Grievance Procedure;
- c. A request for release time will be made to the UPTE designated employee representative's supervisor prior to the activity. Such approval shall be granted solely on the basis of operational needs and shall not be denied unreasonably.
- d. At its sole discretion, the University may authorize use of release time for more than ten (10) hours in a month per department. The exercise of this discretion and/or the enforcement by the University of the ten (10) hour maximum shall under no circumstances establish a precedent for the UPTE designated employee representative or department involved nor shall the allowance of greater than ten (10) hours in a month for an UPTE designated employee representative have any effect or bearing on the ability of the University to enforce the ten (10) hour maximum on any other UPTE designated employee representative.
- e. Should a question of possible abuse of these release time provisions arise, the University will so notify UPTE, and the parties will attempt to resolve the matter. If a question remains, the University may take corrective action when warranted.
- f. In the event that release time granted under Section C.2.a. above is not sufficient for the representative's duties and additional time is not

granted under Section C.2.d. above, the employee representative may elect to use vacation time in accordance with Article 43 - Vacation, or leave in accordance with Article 17 - Leaves for Union Business.

**D. MEETING ROOMS AND BULLETIN BOARDS**

1. UPTe shall be granted use of general purpose meeting rooms. Such use shall be arranged in accordance with the usual practice for employee organizations and will not be unreasonably denied. Where the usual practice involves providing advance notice to a designated campus/hospital/LBNL, UPTe shall observe such practice. Except for LBNL, room reservations shall not be canceled by the University except where unforeseen circumstances require the room to be used for purposes such as teaching, or patient care-related purposes or staff conferences. If a reserved room is canceled, the University will attempt to provide a comparable alternative.
2. UPTe shall have access to general purpose bulletin boards and shall have the use of those bulletin boards subject to campus custom, usage and practice. Any materials posted must be dated and initialed by the union representative responsible for the posting. At those locations where the University is responsible for posting material on bulletin boards, the University will post copies of the UPTe-provided material within one (1) business day.

**E. MAIL DELIVERY**

United States mail which is received by the University bearing an employee name and accurate address will be placed in the employee mailboxes in the normal manner. In departments where employee mailboxes exist, the union shall have reasonable use of them. In departments where individual mailboxes are in a restricted work area, UPTe may make arrangements with the responsible University official in the restricted work area to have the UPTe mail placed in the employee mailboxes. Where mailboxes do not exist for employees, the University will distribute UPTe mail to employees by the normal method.

**F. ACCESS TO EMPLOYEE HOME ADDRESS AND TELEPHONE NUMBERS**

1. On a monthly basis, the University shall provide UPTe with an electronic list via File Transfer Protocol (FTP) of all employees in the bargaining unit. The list will include the following: name, title, title code, date of hire, annual salary rate, percentage appointment, appointment type, work telephone number, work location, campus mailing address and hiring unit. In addition, the list will include the home address and telephone number of bargaining unit members unless the employee has specifically requested that the home

information not be released. The list will also include personal cell and personal e-mail, if known, unless the employee has requested such information not be released. The University will provide UPTe a weekly list of changes (e.g. new hire, corrections, transfers, salary changes) via FTP that have occurred within the bargaining unit.

2. The Union will inform bargaining unit employees of their right to designate their home address and telephone number as well as their personal e-mail and personal cellular phone number as confidential.
3. The University will delete from bargaining-unit employees' employment forms the option of withholding home addresses, personal email addresses, personal cell and home phone numbers from the Union.
4. Upon written request by UPTe, the University will provide the undisclosed home addresses to a mutually agreed-upon mailing service firm through which UPTe can correspond with said individuals. The mailing service shall keep confidential the home address of the employees who have requested that the home information not be released. UPTe will bear all costs associated with this service.
5. Employee work and home addresses and telephone numbers, personal e-mail and personal cellular phone numbers shall be maintained as confidential by the Union. The Union shall take all reasonable steps to ensure the confidentiality of all information provided to it under this Article.
6. The Union agrees to defend, indemnify and hold harmless the University of California (including its subdivisions and employees) from any claim, suit or liability of any nature arising from (a) a challenge to this Section F.; or (b) any action of the Union taken pursuant to, or in violation of, this Section F. The Regents will give the Union prompt written notice of any claim, suit or liability which it contends is subject to this provision.
7. **Lawrence Berkeley National Laboratory (LBNL)**

The Laboratory shall continue to provide its monthly list and change list on a weekly basis.

#### **G. DISTRIBUTION AND POSTING OF THE AGREEMENT**

In consultation with the Union, the University shall prepare the official version of this Agreement, which will then be posted electronically.

1. Posting of this Agreement

- a. Within ten (10) calendar days following ratification, the University shall provide UPTE with an electronic copy of the draft official version of the contract for UPTE Review and concurrence.
- b. The University will not post the UC version of the agreement to its website until UPTE has had at least ten (10) days to review the draft as referenced above in Article(2)(1)(a).
- c. The University and UPTE will use their best efforts to ensure that this agreement is posted within one hundred and twenty (120) calendar days following ratification.
  - 1.) Both parties must approve the camera ready copy of the Agreement ready for posting.
  - 2.) The University shall make appropriate arrangement for UPTEs access to the work site to facilitate UPTE distribution of the contract to each member.

#### **H. TELEPHONE**

Employee representatives may use University telephones for the purpose of conducting union business which is specifically authorized by Article 10 - Grievance Procedure. Employees are responsible for paying any costs associated with such telephone usage in accordance with the departmental procedures in effect at the time. The frequency and duration of permitted phone calls shall not be such as to interfere with or disrupt the employee's completion of work assignments, nor impair the efficiency of University operations. The University may audit employee representatives' use of the telephone system to the same extent as it may audit other employees' use of such equipment.

#### **I. E-MAIL USE**

UPTE designated employee representatives may use their University e-mail account for the purpose of conducting union business which is specifically authorized by Article 10 - Grievance Procedure. Such use shall also conform to and be in accordance with applicable University/Laboratory policy regarding electronic mail/electronic communications.

#### **J. NEW EMPLOYEE ORIENTATIONS**

1. The University shall notify all newly-hired employees, and shall notify UPTE no less than 15 days in advance of scheduled new employee orientations, in which the University advises one or more newly-hired employees in an UPTE-represented bargaining unit (hereinafter, "new employees") of information regarding employment status, rights, benefits, duties,

responsibilities, or any other employment-related matters. The University's notice shall include the name, payroll title, and department of all UPTE-represented new employees anticipated to attend. If additional, newly-hired employees are directed to attend the new employee orientation, after the 15 day notice (above), the University will provide an updated list 3 days in advance of the new employee orientation.

2. At the University's new employee orientations, packets of information supplied by UPTE, which may include information about the time and location of UPTE meetings, shall be distributed to all UPTE-represented employees. UPTE shall be solely responsible for providing sufficient numbers of said packets of information to the University prior to the new employee orientations.
3. At all the orientation meetings as defined in Section J.1. above, the Union shall be afforded thirty (30) minutes to meet privately with all UPTE-represented new employees who are present, during the new employee orientation meeting, who shall remain on without-loss-of-pay status during the 30 minute meeting, outside of the presence of management personnel. Up to two (2) of the Union's representatives maybe bargaining unit members, and such bargaining unit members shall be on release time as per Article 1.C.2. Time used for these meetings will be deducted from the 10 hours/month noted in Article 1.C.2. A copy of the orientation's completed sign-in sheet must be sent to the Union within ten (10) calendar days after the new employee orientation.
4. The University and UPTE agree to meet and discuss on a campus/hospital/LBNL basis, over arrangements to accomplish the goals of this section.
5. In the event a formal in-person University new employee orientation is not held for a new employee, or a new employee does not attend a University new employee orientation, UPTE shall have the right to hold an individual or group orientation session with all new UPTE represented employees, without the presence of University officials, within fifteen (15) days of its request to hold a new employee orientation.
6. The UPTE orientation session shall be during working hours and shall not exceed thirty (30) minutes.
7. The Union representative at the UPTE orientation session listed above may be bargaining unit members, and such bargaining unit members (up to 2) may be on release time as per article 1.C.2, if the UPTE orientation is held during the Union representative normal work time. Time used for these meetings will be deducted from the 10 hours/month noted in Article 1.C.2.

## **ARTICLE 2 AGREEMENT**

This Agreement, effective August 8, 2019, is entered into between The Regents of the University of California, a corporation (hereinafter referred to as the "University", or "management", or "employer"), represented by the Office of the President of the University of California system, and University Professional and Technical Employees - Communications Workers of America Local 9119 union, (hereinafter referred to as "UPTE" or the "union"), pursuant to the provisions of the Higher Education Employer-Employee Relations Act (HEERA).

### **A. PURPOSE**

1. It is the intent and purpose of the parties that this Agreement constitutes an implementation of the provisions of HEERA, and provides for orderly and constructive employment relations in the public interest, in the interests of the employees represented by UPTE, and in the interests of the University.
2. The parties hereby acknowledge that this Agreement represents an amicable understanding reached by the parties as a result of the unlimited right and opportunity of the parties to make any and all demands with respect to employer-employee relationship that exists between them relative to the scope of bargaining.

### **B. EXCLUSIVE REPRESENTATIVE**

The University recognizes UPTE-CWA 9119, which was certified by the Public Employment Relations Board (PERB) on April 15, 1996 in SF-PC-1051-H as the sole and exclusive representative for the purposes of collective bargaining with respect to wages, hours, and terms and conditions of employment for all employees, excluding employees defined by HEERA as managerial, supervisory and/or confidential and all student employees whose employment is contingent upon their status as students, in the bargaining unit.

### **C. EMPLOYEE DEFINED**

The term "employee" as used in this Agreement shall refer to employees of the University of California, including Lawrence Berkeley National Laboratory (LBNL), in the unit except for those excluded pursuant to B., above.

The classifications and title codes included in the unit are listed in Appendix A.

### **D. CREATION OF NEW CLASSIFICATIONS**

1. UPTE recognizes that the University has the exclusive right to establish new title codes and titles for any individual, position, or title included in or



excluded from the bargaining unit, as defined in Section B. of this Article. The University shall advise UPTE of any such new title/title code.

2. When the University creates a new classification and title within the bargaining unit, the University shall provide a notice to UPTE of the classification's bargaining unit assignment at least sixty (60) calendar days before the proposed date of implementation. The notice to the union shall include a statement of reason(s) for the creation of the new classification. UPTE shall have thirty (30) calendar days after mailing of such notice to contest the University's assignment of the newly created classification/title to the bargaining unit. Employees shall not be placed in the new classification/title until the thirty (30) day notice period is complete. If UPTE does not contest the bargaining unit assignment of the newly created position within the thirty (30) calendar day notice period, the unit assignment of the new classification shall be deemed agreeable to the parties and employees shall be assigned to the newly created classification.
  - a. If the new classification is in the bargaining unit in accordance with the provisions of Section D.1. above, the University and UPTE shall meet and confer regarding the salary range and ancillary pay practices for that new classification, except that the salary rate for a newly established Per Diem position shall be in accordance with the provisions of Article 31 - Positions/Appointments.
  - b. If UPTE contests the bargaining unit assignment of the newly created classification/title within thirty (30) calendar days from the date on which the University's notice was mailed, the University and UPTE shall meet and confer in an effort to reach agreement on the bargaining unit assignment for the classification. If the parties are unable to reach agreement regarding the bargaining unit assignment of the title/classification, the dispute shall be submitted to PERB for resolution.
  - c. No employees shall be assigned to the newly established classification or title until the bargaining unit assignment is either agreed to or resolved by PERB, although the duties associated with the position may be assigned to the affected employees.
3. When the University creates a new classification and title outside the bargaining unit the University shall mail a notice to UPTE of the classification's bargaining unit assignment, if any. UPTE shall notify the University within thirty (30) calendar days of the mailing of the notice if UPTE intends to challenge the University's bargaining unit assignment of the new title and classification. The parties will meet to discuss UPTE's concerns. Following the discussions, any unresolved disputes may be submitted to PERB for resolution.

## **E. RECLASSIFICATION FROM UNIT TO NON-UNIT POSITIONS**

In the event the University determines that a position or title should be reclassified or designated for exclusion from the unit, or the University intends to replace the major portion of a bargaining unit position with a position in a classification outside of the unit, the University shall notify UPTe in writing at least thirty (30) calendar days prior to the proposed implementation. If UPTe determines to challenge the University's proposed action, it shall notify the University in writing within thirty (30) calendar days from the date on which the University's notice was mailed, and the proposed effective date will be extended by thirty (30) calendar days. During such an extension, the parties will meet and discuss the University's proposed action. If the parties are unable to reach agreement regarding the University's proposed action, the University may commence PERB unit modification procedures, as outlined under PERB regulations. Until the bargaining unit assignment is either agreed to by the parties or finally resolved through the PERB unit modification procedures:

1. the affected position(s) or title(s) shall remain in the unit and shall remain covered by all provisions of this agreement
2. the University may, in compliance with Article 6 - Compensation, Section G. Other Increases of this Agreement, increase compensation for the affected position(s) or title(s), and
3. the duties associated with the proposed reclassification may be assigned to the affected employee(s).

## **F. ABOLITION OF CLASSIFICATIONS**

The University shall inform UPTe when classifications are abolished. The University will provide UPTe with sixty (60) calendar days notice of its intent to abolish a classification. The notice to the Union shall include a statement of the reason(s) for the abolition. In the event employees will be affected by the abolition of a classification, the University and UPTe shall, following the request of UPTe, meet and confer about such effects at least thirty (30) days before the intended date of implementation unless the parties agree otherwise. The University shall not abolish the classification unless the parties have reached agreement through the meet and confer process over effects of the decision, or conclusion of the impasse process

**ARTICLE 3  
ARBITRATION**

**A. GENERAL CONDITIONS**

1. An appeal to arbitration may be made only by the union and only after the timely exhaustion of Article 10 – Grievance Procedure. The appeal to arbitration must be signed by the President of UPTE-CWA Local 9119 or their designee, and filed with the Office of Labor Relations, Office of the President. An appeal to arbitration may be made in the following ways:
  - a. **Hand Delivery:** When hand delivered, proof of service must accompany the appeal to arbitration. The date of receipt will be used to determine the date of the appeal for hand-delivered appeals.
  - b. **United States Mail:** When mailed, the appeal must arrive in an envelope with a U.S. Postal Service Postmark. The U.S. Postal Service Postmark will be used to determine the date of the appeal for mailed appeals.
  - c. **Email to [AppealAGrievance@ucop.edu](mailto:AppealAGrievance@ucop.edu).**
    - 1) **Email submissions must include PDFs of all documents, information and signatures necessary to be in compliance with the Arbitration provisions of this Agreement.**
    - 2) **The ‘date of filing’ for emailed Appeals to Arbitration shall be the date received on the University server, provided that the appeal is received during business hours. If an appeal to Arbitration is received outside of normal business hours, the following business day will be deemed the filing date of the Appeal to Step 3.**
    - 3) **The University shall acknowledge receipt of the Union’s Appeal to Arbitration through a computer-generated, automatic email response.**
2. For the purposes of this Article, time limits are calculated in calendar days, and deadlines which fall on a day which is not a University/campus business day will automatically be extended to the next business day. All time limits may be extended by written agreement of the parties in advance of the expiration of the time limit. The union's failure to meet any time limit, or extension to a time limit, will render the Appeal to Arbitration ineligible for further processing and the University's last answer will be considered final.
3. If the appeal to arbitration is withdrawn or an arbitration hearing otherwise does not take place, the University's last answer will be considered final.

4. The decision of the arbitrator on any issue properly before them shall be final and binding.
5. An appeal to arbitration shall not prohibit efforts by the University and UPTE to resolve the grievance during the time the appeal is pending and until such time that an arbitrator has rendered their decision.
6. UPTE shall have full authority to settle, withdraw or otherwise dispose of any grievance brought on behalf of the union and/or on the behalf of employees. An agreement by the parties to settle, withdraw, or otherwise dispose of a grievance appealed to arbitration shall be binding upon the grievant(s).
7. Where two (2) or more grievances are appealed to arbitration, all grievances by or related to the same employee(s), or grievances which relate to the same incident, issue or course of action, may be consolidated by agreement of the parties.

**8. TIME LIMITS**

**a. Initial Filing**

An appeal to arbitration must be filed within thirty (30) calendar days of the issuance of the University's Step 3 decision, or when the Step 3 decision would have been due, to the union. Appeals which do not contain the appropriate union signature will be considered ineligible for appeal to arbitration.

**b. University Acknowledgment of Receipt**

Within fifteen (15) calendar days of the postmark or, in the case of hand delivery and emailed submissions, the date of receipt of the union's appeal to arbitration, the University shall mail to the union an acknowledgment of the receipt of the appeal and the identity of the location to which all relevant correspondence should be directed.

**c. Scheduling of the Hearing Date**

Within ninety (90) calendar days from the date the grievance was originally appealed to arbitration, the parties shall select an arbitrator and schedule an arbitration date. Should the parties be unable to agree to a hearing date, the authority to schedule the hearing rests with the arbitrator. The parties may extend the ninety (90) day limit for scheduling the arbitration by mutual written agreement in advance of the expiration of the time limit. In such cases the arbitrator shall be provided with a copy of the written agreement.

**d. UPTE Request that a Grievance Be Placed in Abeyance**

Should UPTE make a request that the grievance be placed in abeyance for any reason, the period of abeyance shall not exceed ninety (90) days, except in cases of sexual harassment where it shall be one-hundred-eighty (180) days. The provisions of Section H.1 shall apply to grievances placed in abeyance by UPTE. Failure by UPTE to reactivate the grievance within the ninety (90) or one-hundred-eighty (180) day time limit following agreement by the parties that it be held in abeyance will render the grievance ineligible for arbitration and the last preceding University written answer shall become final.

9. An appeal of an expedited grievance to arbitration may be made only by UPTE in accordance with this section. Requests for arbitration under the expedited grievance, Section F.2.e., of Article 10 - Grievance Procedure must include a copy of the completed grievance form.

## **B. DEFINITIONS**

For the purposes of this Article, the terms:

1. "Grievant" means any employee covered by this contract who has a grievance or complaint (as defined by this Article);
2. "Witness", for the purposes of release time, means any employee covered by this contract who is serving as a witness in a grievance proceeding;
3. "Employee Representative" means any employee covered by this contract who is a designated union representative of UPTE, in accordance with the provisions of Article 1 - Access; and
4. "UPTE Representative" means any person who is a non-university employee acting in the interest of or on behalf of UPTE.
5. "The Parties" means the University and
  - a. the grievant; and/or
  - b. the "UPTE representative" or the "employee representative" serving as the grievant's representative.

## **C. EMPLOYEE REPRESENTATION**

Union representation at the arbitration hearing may consist of up to two (2) representatives, with only one (1) of the two (2) representatives being eligible for without-loss-of-straight-time-pay status. Only one (1) of these individuals may be designated as the employee advocate for the duration of the hearing.

## **D. SELECTION OF ARBITRATOR**

Within forty-five (45) calendar days of the date of the appeal to arbitration, the arbitrator shall be selected using the following permanent panel procedures:

1. On a case by case basis, the parties may agree to the selection of any qualified and available person to serve as an arbitrator. Absent such

agreement, the parties may agree to the selection of an arbitrator from their respective panel.

2. In the event the parties cannot agree to an arbitrator, the parties shall select the names of seven (7) arbitrators from the appropriate panel, as provided in Section L.6. below, by blind lot. The parties shall then alternately strike one (1) name each from the seven names. The first strike will be determined by a flip of a coin, and the last name remaining shall be the arbitrator.
3. If both parties disagree with the arbitrator who has been selected, the process shall be repeated once in its entirety.
4. A separate arbitrator shall be selected for each grievance appealed to arbitration, unless the parties agree otherwise in writing.
5. The parties may agree in writing to extend the forty-five (45) day limit for selecting the arbitrator. Failure to select the arbitrator within forty-five (45) calendar days, or to achieve a written extension of the time period, will render the appeal to arbitration ineligible for further processing and the University's last answer will be considered final.
6. If UPTE initiates the selection process in writing to the University with a preferred arbitrator from the arbitration panel and there is no written University response by the deadline for selection of the arbitrator (forty-five [45] days from UPTE's appeal to arbitration), then the UPTE choice shall be final, unless UPTE initiates the selection process within fifteen (15) business days of the deadline for selection of the arbitrator. In such case, the University shall have fifteen (15) business days to respond to UPTE's choice of an arbitrator and the period for scheduling the arbitration hearing shall be extended by fifteen (15) business days.
7. All arbitrability disputes, substantive or procedural, shall be subject to arbitration under this Article 3 including disputes arising from University claims that UPTE has lost the right to pursue arbitration of a pending grievance because of untimely processing or that the grievance is ineligible for further processing.
8. The process set forth herein to pursue an arbitrability hearing when the University claims that UPTE has failed to select an arbitrator in a timely manner shall be the exclusive process for such purpose, superseding and/or replacing any other claimed process.
9. When the University refuses to proceed to arbitration on a grievance on the grounds that UPTE has failed to participate in the selection of arbitrators in a timely manner as required by Article 3, Section D.5. of the contract, only UPTE will make a demand for arbitration of that issue in writing to the Office of the President within thirty (30) days of the postmark of the campus notification to the union that the case is ineligible for further processing.

#### **E. SCOPE OF ARBITRATION**

1. Unless there is an agreement by both parties to modify the scope of the hearing, the issue(s) to be heard by the arbitrator shall solely and in its entirety be restricted to the issue(s) stated by Step 3. Issues or allegations which were known or should have been known to either party but not introduced by the Step 3 process shall not be introduced by either party at the arbitration hearing, except as provided in Section E.2. below.
2. When practicable, the University shall inform UPTE in writing of its intent to assert the issue of arbitrability prior to the selection of the arbitrator in its Acknowledgement of receipt, according to Section A.8.b. above. The issue(s) of arbitrability shall be resolved in a hearing prior to and separate from the hearing (if any) about the substantive facts and/or allegations in dispute, except as provided in Section E.3. below. In such case, the parties shall use the selection process described in Section D. above to select two arbitrators. The first arbitrator will be selected to hear the issues of arbitrability, and the second arbitrator will be selected to decide the merits of the case if the issues are determined to be arbitrable. Unless either party requests a full and complete arbitration proceeding on the arbitrability issue, the first arbitrator shall issue either a bench decision, or upon either party's request, a written decision within seven (7) calendar days of the completion of the arbitrability hearing. In the event that the first arbitrator, as a result of the hearing referenced above determines a matter to be arbitrable, the first arbitrator shall have no authority to decide the issues pursuant to the merits of the case. A hearing on the merits of the case will be scheduled with the second arbitrator, unless the parties agree otherwise.
3. If, following the University's acknowledgement of UPTE's appeal to arbitration in Section A.8.b. the University raises for the first time issue(s) of arbitrability, a single hearing on the issue of arbitrability and the substantive facts will be held, unless the parties agree otherwise. If the arbitrator finds the grievance to be not arbitrable, the substantive facts of the case need not be heard and the grievance shall be denied. If the arbitrator finds in favor of arbitrability, the hearing shall proceed to the substantive issues raised.
4. Section E.1. and Section E.2. above shall not prevent the parties from agreeing in writing to combine the arbitrability hearing with the hearing on the merits of the case.
5. If the union requests a postponement of the scheduled arbitration hearing following the University's raising issue(s) of arbitrability, the hearings on arbitrability and facts, if any, shall be separate, and the provisions of Section E.3. above, shall apply.

#### **F. ARBITRATION PROCEEDING**

1. The parties will attempt to agree on a location for the arbitration hearing.
2. The arbitration hearing shall be closed to anyone other than the participants in the arbitration hearing, unless the parties otherwise agree in writing.

Participants include designated representatives, the grievant(s), and other witnesses, who shall each be sequestered if providing testimony, unless otherwise agreed to by the parties.

3. The arbitration hearing shall provide an opportunity for UPTe and the University to examine and cross-examine witnesses under oath or affirmation, and to submit relevant evidence.
4. Settlement discussions, including but not limited to, settlement offers made any time during the Grievance and/or Arbitration Procedure shall not be introduced as evidence in the arbitration hearing.
5. Either or both parties may, at their discretion, file briefs with the arbitrator. The order and time limits of briefing shall, on a case-by-case basis, be as agreed upon by the parties or as specified by the arbitrator. Briefing time limits shall be extended by the Arbitrator upon the agreement of both parties.
6. The arbitrator shall consider the evidence presented and render a written decision within thirty (30) calendar days of the close of the record of the hearing.
7. In all cases appealed to arbitration pursuant to the terms of this Article and this Agreement, UPTe has the burden of initiating the steps in the procedure. With the exception of those cases in which the issue is that of actions taken by the University pursuant to Article 7 - Corrective Action /Discipline and Dismissal, UPTe shall have the burden of proof. In cases in which the issue is that of actions taken by the University pursuant to Article 7 - Corrective Action / Discipline and Dismissal, the burden of proof shall be the University's.
8. Prior to the hearing, the parties may endeavor to exchange the names of known witnesses and relevant materials to be introduced at the hearing.

#### **G. AUTHORITY OF THE ARBITRATOR**

1. The arbitrator's authority shall be limited to determining whether the University has violated the provision(s) of this Agreement. The arbitrator shall not have jurisdiction or authority to add to, amend, modify, nullify or ignore in any way the provisions of this Agreement and shall not make any award which would, in effect, grant UPTe or the employee(s) any terms which were not obtained in the negotiation process.
2. The arbitrator shall have the authority to subpoena documents and to require the attendance of witnesses upon the reasonable request of either party but not upon their own motion.
3. The expense of service and appearance fees, if any, shall be borne entirely by the party requesting the subpoena of witnesses and each party shall, in



advance of the hearing date, inform the other party of the identity of witnesses it subpoenaed.

4. The arbitrator shall have the obligation of assuring that all necessary facts and considerations are brought before them by the representatives of the parties at the hearing. In all respects they shall assure that the hearing is a fair one. The arbitrator shall be the sole judge of the relevancy and materiality of the evidence and testimony offered. The arbitrator may receive and consider evidence but shall give appropriate weight to any objections made. All documents to be considered by the arbitrator shall be filed at the hearing, or within the post-hearing time lines agreed to by the parties during the hearing.

#### **H. ARBITRATION REMEDIES**

1. No remedy by an arbitrator with respect to any grievance which shall be submitted to them shall in any case be made retroactive to a date earlier than thirty (30) calendar days prior to the filing of the Step 1 grievance, except for the correction of mathematical, calculation, recording or accounting errors relating to the payment of wages. For grievances involving the correction of mathematical, calculation, recording or accounting errors relating to the payment of wages, an award of an arbitrator shall not in any case be made retroactive to a date earlier than three (3) years prior to the initiation of the written grievance in Step 1 of the Grievance Procedure. Additionally, no remedy shall be provided for any period of time during the grievance and/or arbitration procedure for which an extension of time limits has been granted at the request of UPTE; any period of time between the date a hearing was originally scheduled to be held, and due to a request from UPTE to postpone or change the scheduled hearing, the rescheduled date of the hearing; or any time an employee was on strike.
2. In any decision of a grievance appealed to arbitration involving retroactive payments, the appropriate University and UPTE representatives shall expeditiously determine the identity of the payees and the specific amount owed each payee. Such amount of payment shall be final and no employee or group of employees may subsequently grieve the amounts owed.
3. Remedies involving monetary payment and/or credit shall be limited in their calculation to the utilization of the employee's actual and appropriate wage or benefit amount at the time of the violation and shall not include the awarding of interest or any other payment/credit unrelated to a University benefit amount or the employee's hourly wage.
4. Upon the motion of either party, or at their own discretion, an arbitrator may retain jurisdiction in cases involving an award of retroactive monetary payment and/or credit.
5. If the grievance is sustained in whole or in part, the remedy shall not exceed restoring to the employee the pay, benefits or rights lost less any

compensation from any source, including but not limited to Workers' Compensation, Unemployment Compensation or other employment.

**I. COST OF ARBITRATION**

1. The cost of the arbitrator and expenses of the hearing will be shared equally by the University and UPTE. If either party requests that a stenographic record of the hearing be made and/or transcripts of the stenographic record or a taped record be provided, the parties shall equally share the entire cost of such service and the cost of the provision of a transcript to each party and the arbitrator.
2. In the event either party requests the cancellation or postponement of a scheduled arbitration proceeding which causes an arbitrator to impose a cancellation or postponement fee, the party requesting such cancellation or postponement shall bear the full cost of the cancellation/postponement fee. In the event the parties agree to settle or postpone the arbitration during the period of time in which the arbitrator will charge a cancellation/postponement fee, the parties will equally bear the cost of the fee, unless the parties agree otherwise.

**J. PAY STATUS**

1. The grievant, as defined in Article 10 - Grievance Procedure, Section A.4.a, (one (1) grievant in a group grievance) shall be in a without-loss-of-straight-time-pay status at the arbitration hearing.
2. The University and UPTE shall establish a reasonable schedule for witness(es)' testimony at the arbitration proceeding. Employee witnesses who appear at the arbitration hearing at the request of UPTE shall be in a without-loss-of-straight-time-pay status for the time spent actually giving testimony or waiting to testify in accordance with the established schedule. Every effort shall be made by UPTE to avoid the presentation of repetitive witnesses.
3. Total release time for the grievant, employee representative and witness(es) for travel to/from the hearing and for participation in the hearing shall not exceed either their normally scheduled hours of work for the day(s) of the hearing or their actual participation in the hearing. Participants shall travel to/from the hearing via the most reasonable method of transportation available.
4. Not more than one (1) employee representative will be released in without-loss-of-straight-time-pay status for attendance at any one (1) arbitration hearing.
5. The University shall not be responsible for any lodging, travel expenses or other expenses incurred by grievants, witnesses, employee or UPTE representatives with regard to the union's presentation in the arbitration hearing.

**K. EXPEDITED ARBITRATION**

The parties may agree to use an expedited form of arbitration, to be agreed to by the parties and the arbitrator.

**L. ARBITRATION PANEL**

1. The parties will make an attempt to agree on the panel of thirty (30) arbitrators, with fifteen (15) on a Northern Panel, and fifteen (15) on a Southern Panel. Nothing shall preclude the parties from including an arbitrator on both the Northern and Southern lists. If agreement cannot be reached on the names of the arbitrators on each list, the remaining number of arbitrators needed to complete a panel will be selected alternately by the parties. The party selecting first shall be determined by a flip of a coin.
2. After one (1) year from the date the panel members were initially selected, and annually thereafter, each party shall have the right to eliminate up to one (1) arbitrator from the panel. A party exercising this right shall notify the other party in writing of the name of the arbitrator to be stricken from the panel.
3. In replacing arbitrators who were eliminated from the panel, the procedure in Section L.1. shall be used again, but any arbitrator eliminated in Section L.2. above, may not be placed back on the panel until at least one (1) year from the date on which such arbitrator was stricken.
4. In the event one (1) vacancy in the panel of arbitrators occurs, other than the elimination of an Arbitrator by the parties pursuant to Section L.3. above, such vacancy may be filled by the parties within thirty (30) calendar days, using the procedures in Section L.1. and 2. above, if the parties agree that a replacement is necessary. In the event more than one vacancy in the panel of arbitrators occurs, such vacancy shall be filled by the parties within thirty (30) calendar days by using the procedures in Section L.1. and 2. above, unless both parties agree that no replacement is necessary prior to the annual panel review.
5. The Northern list of arbitrators shall be used for arbitrations arising at the Davis, the Office of the President, Lawrence Berkeley National Laboratory, Berkeley, San Francisco, Santa Cruz and Merced locations unless the parties agree to use an arbitrator from the Southern panel. The Southern list of arbitrators shall be used for arbitrations arising at the Santa Barbara, Los Angeles, Irvine, Riverside, and San Diego locations, unless the parties agree to use an arbitrator from the Northern panel.
6. The Lists of Arbitrators are:

	<b>NORTH</b>	<b>SOUTH</b>
<b>1</b>	<b>William Cahill Two Embarcadero Center, #1500 San Francisco, CA 94111</b>	<b>Terri Tucker 10573 W. Pico Blvd. No. 235 Los Angeles, CA 90064</b>

	<p>Ph (415) 774 2662  Fax (415) 982-52  Email: <a href="mailto:jnixon@jamsadr.com">jnixon@jamsadr.com</a></p>	<p>Ph (310) 446-0635  Fax (866) 446-8779  Email: <a href="mailto:tatucker.adr@gmail.com">tatucker.adr@gmail.com</a></p>
2	<p>Daniel F. Altemus  735 Rosemount Road  Oakland, CA 95610  Ph (510) 893-4676  Email: <a href="mailto:dan.altemus@gmail.com">dan.altemus@gmail.com</a></p>	<p>Paul Roose  Golden Gate Dispute Resolution  1300 Clay St. Suite 600  Oakland, CA 94612  Ph (510) 466-6323  Fax (510) 466-6324  Email: <a href="mailto:paul.roose@ggdr.net">paul.roose@ggdr.net</a></p>
3	<p>Robert Hirsch  P.O. Box 170428  San Francisco, CA 94117  Ph (415) 362-9999  Email: <a href="mailto:Rmhirsch@gmail.com">Rmhirsch@gmail.com</a></p>	<p>Fred Horowitz  P.O. Box 3613  Santa Monica, CA 90408-3613  Ph (310) 829-6064  Fax (310) 449-1049  Email: <a href="mailto:FRHorowitz@aol.com">FRHorowitz@aol.com</a></p>
4	<p>Alexander Cohn  P.O. Box 4006  Napa, CA 94558  Ph (707) 226-7096  Fax (707) 252-4067  Email: <a href="mailto:acohnarb@comcast.net">acohnarb@comcast.net</a></p>	<p>Jan Stiglitz  225 Cedar Street  San Diego, California 92101  Ph (619) 525-1697  Fax (619) 615-1497  Email: <a href="mailto:js@cwsl.edu">js@cwsl.edu</a></p>
5	<p>Fred Horowitz  P.O. Box 3613  Santa Monica, CA 90408-3613  Ph (310) 829-6064  Fax (310) 449-1049  Email: <a href="mailto:FRHorowitz@aol.com">FRHorowitz@aol.com</a></p>	<p>Luella Nelson  4096 Piedmont Avenue #159  Oakland, CA 94611-5221  Ph (510) 658-4959  Fax (510) 658-9423  Email: <a href="mailto:luella.nelson@SBCGlobal.net">luella.nelson@SBCGlobal.net</a></p>
6	<p>Ronald Hoh  3353 Cottage Way #99  Sacramento, CA 95825  Ph (916) 202-7718  Fax (916) 979-9131  Email: <a href="mailto:ronhoh@naarb.org">ronhoh@naarb.org</a></p>	<p>Louis Zigman  473 South Holt Avenue  Los Angeles, CA 90048  Ph (310) 556-3748  Fax (310) 550-8439  Email: <a href="mailto:ziggyjudge@aol.com">ziggyjudge@aol.com</a></p>
7	<p>John B. LaRocco  2001 H Street,  Sacramento, CA 95811-3109</p>	<p>Jill Klein  2470 Lambert Drive  Pasadena, CA 91107-2507</p>

	<p>Ph (916) 446-9048  Fax: (916) 446-6963  Email: <a href="mailto:Earoccoj@laroccoarb.net">Earoccoj@laroccoarb.net</a></p>	<p>Ph (626) 449-0766  Fax (626) 449-0396  Email: <a href="mailto:jill_klein@standfordalumni.org">jill_klein@standfordalumni.org</a></p>
8	<p>Andrea Dooley  953 W. MacArthur Blvd., #8  Oakland, CA 94608  Ph (510) 719-3089  Email: <a href="mailto:andrealdooley@gmail.com">andrealdooley@gmail.com</a></p>	<p>Kenneth A. Perea  P.O. Box 2788  Del Mar, CA 92014-2788  Ph (858) 756-6513  Fax (858) 756-6965  Email: <a href="mailto:pereapar@yahoo.com">pereapar@yahoo.com</a></p>
9	<p>Katherine Thompson  3060 El Cerrito Plaza # 333  El Cerrito, CA 94530  Ph (510) 528-3005  Email: <a href="mailto:Kthomson@naarb.org">Kthomson@naarb.org</a></p>	<p>Andrea Dooley  953 W. MacArthur Blvd., #8  Oakland, CA 94608  Ph (510) 719-3089  Email: <a href="mailto:andrealdooley@gmail.com">andrealdooley@gmail.com</a></p>
10	<p>Bonnie Castrey  P.O. Box 5007  Huntington Beach, CA 92615  Ph (714) 963-7114  Cell (714) 747-9882  Email: <a href="mailto:bcastrey@earthlink.net">bcastrey@earthlink.net</a></p>	<p>Doug Collins  703 Pier Avenue Suite B # 805  Hermosa Beach, CA 90254-3943  Ph (310) 372-8959  Cell (818) 427-4166  Email: <a href="mailto:doug.collins@roadrunner.com">doug.collins@roadrunner.com</a></p>
11	<p>Luella Nelson  4096 Piedmont Avenue #159  Oakland, CA 94611-5221  Ph (510) 658-4959  Fax (510) 658-9423  Email: <a href="mailto:luella.nelson@SBCGlobal.net">luella.nelson@SBCGlobal.net</a></p>	<p>Robin Matt  1575 Spinnaker Drive #105B-152  Ventura, CA 93001  Ph (805) 650-1729  Email: <a href="mailto:rmatt.arbitration@yahoo.com">rmatt.arbitration@yahoo.com</a></p>
12	<p>Paul Roose  Golden Gate Dispute Resolution  1300 Clay St. Suite 600  Oakland, CA 94612  Ph (510) 466-6323  Fax (510) 466-6324  Email: <a href="mailto:paul.roose@ggdr.net">paul.roose@ggdr.net</a></p>	<p>Phil Tomoush  P.O. Box 1128  Torrance, CA 90505  Ph (800) 747-9245  Fax (800) 903-4266  Email: <a href="mailto:Philiptamoush@verizon.net">Philiptamoush@verizon.net</a></p>
13	<p>Barry Winograd  1999 Harrison Street, Suite 1400  Oakland, CA 94612  Ph (510) 273-8755</p>	<p>Paul Crost  5318 East 2nd Street  Long Beach, California 90803  Ph (562) 603-8433</p>

	<p>Fax (510) 273-8746  Email: <a href="mailto:winmedarb@aol.com">winmedarb@aol.com</a></p>	<p>Email: <a href="mailto:pecrost@gmail.com">pecrost@gmail.com</a></p>
14	<p>Carol Vendrillo  46 Seabreeze Drive  Richmond, CA 94804  Ph (510) 703-4131  Email: <a href="mailto:Vendrillo@aol.com">Vendrillo@aol.com</a></p>	<p>Walter Daugherty  P.O. Box 4386  Valley Village, CA 91617-0386  Ph (818) 788-2627  Fax (818) 788-2627  Email: <a href="mailto:waltarb@roadrunner.com">waltarb@roadrunner.com</a></p>
15	<p>Wilma Rader  570 Santa Clara Avenue  Berkeley, CA 94707-1647  Ph (510) 527-3048  Email: <a href="mailto:wrkrader@gmail.com">wrkrader@gmail.com</a></p>	<p>Bonnie Castrey  P.O. Box 5007  Huntington Beach, CA 92615  Ph (714) 963-7114  Cell (714) 747-9882  Email: <a href="mailto:bcastrey@earthlink.net">bcastrey@earthlink.net</a></p>
16	<p>Andrea Dooley  953 W. MacArthur Blvd., #8  Oakland, CA 94608  Ph (510) 719-3089  Email: <a href="mailto:andrealdooley@gmail.com">andrealdooley@gmail.com</a></p>	<p>Luella Nelson  4096 Piedmont Avenue #159  Oakland, CA 94611-5221  Ph (510) 658-4959  Fax (510) 658-9423  Email: <a href="mailto:luella.nelson@SBCGlobal.net">luella.nelson@SBCGlobal.net</a></p>
17	<p>Paul Roose  Golden Gate Dispute Resolution  1300 Clay St. Suite 600  Oakland, CA 94612  Ph (510) 466-6323  Fax (510) 466-6324  Email: <a href="mailto:paul.roose@ggdr.net">paul.roose@ggdr.net</a></p>	<p>Paul Roose  Golden Gate Dispute Resolution  1300 Clay St. Suite 600  Oakland, CA 94612  Ph (510) 466-6323  Fax (510) 466-6324  Email: <a href="mailto:paul.roose@ggdr.net">paul.roose@ggdr.net</a></p>

**ARTICLE 4  
UNIVERSITY BENEFITS**

**A. HEALTH AND WELFARE GENERAL CONDITIONS – Part I**

Eligible employees may participate in a number of benefits programs generally available to other eligible staff employees of the University and non-represented employees at LBNL.

1. The University's health and welfare plans provide an annual open enrollment period during which eligible employees may elect to change plan or coverage options. Open enrollment provides an opportunity for employees to choose among plans due to changes in circumstances of the employees, changes in the coverage and costs of each plan, and changes in plan availability, which may change from year to year.
  - a. The University may, at its option, alter its health and welfare programs, including the retiree health benefit program. Such alterations include, but are not limited to altering eligibility criteria, establishing new coverage, altering or deleting current coverage, change the carrier for established plans or programs, changing the administrator of such plan, or altering employee and University monthly rates of contribution. However, the University will notice the union and, upon request, meet to discuss the alterations the Union was advised of. In no event shall these discussions delay implementation of the University's objectives. In the event the University makes such alterations, the changes will apply to employees eligible for benefits within the unit in the same manner as they apply to other eligible staff employees at the same campus or non-represented employees at LBNL.
  - b. The sole exceptions to the University's ability to make changes without negotiations pursuant to §A.1.a., shall be:
    - 1) any alterations proposed by the University which affect only bargaining unit employees.
    - 2) changes to the monthly contributions, contained in Appendix F, to be paid in calendar years 2019, 2020, 2021 and 2022 by employees in the bargaining unit depending upon the medical plan they have selected, their coverage and their applicable pay band;
    - 3) for Calendar Years 2019, 2020, 2021 and 2022: employee premium increases for Kaiser and Health Net Blue and Gold

that exceed \$25/month for each coverage category, using the prior year's employee monthly premium as the benchmark for determining the \$25 threshold; and

In such case(s), the University agrees to meet and confer with respect to the proposed change.

- c. When any one of the exceptions outlined in §A.1.b. above are met, the University agrees to meet and confer with respect to the proposed change(s) only, provided UPTE serves upon the Office of the President, director of Labor Relations, written notice of its intent to negotiate over the identified exception(s) in §A.1.b. within thirty (30) calendar days from the date on which the University issued its written notice of the proposed change(s).
- d. Costs that exceed current University contributions, and employee costs for plans to which the University does not contribute, are to be paid by unit employees, normally through payroll deduction.
- e. Employees shall pay the healthcare premium costs, in accordance with Section A.1.d. above, as follows:
  - a. Effective the first full pay period following ratification, employees shall pay the 2018 healthcare premium costs, in accordance with Appendix F.
  - b. In subsequent calendar years, subject to §A.1.e.3) below, employees shall pay the amount appropriate to the employee's pay band and the employee's selected coverage category (single, adult + children, two adults, or family) and health plan.
  - c. Beginning in calendar year 2020 increases in employee contribution rates for the Kaiser and Health Net Blue and Gold plans shall not exceed \$25 per month over the prior year, for each coverage category, for each year of the Agreement.

## **B. EFFECT OF ABSENCES FROM WORK ON BENEFITS**

- 1. **Temporary Layoff/Temporary Reduction in Time/Furlough** – Health plan contributions by the University will be provided for unit employees, in accordance with Section C below, when the employee is affected by the following conditions lasting up to (four) 4 months: a temporary layoff; a temporary reduction in time below the hours required to be eligible for health benefits; or a furlough. For health benefits to remain in force, employees on temporary layoff or furlough must comply with the terms of the applicable benefit documents, rules and/or regulations



2. **Military Leave** – An eligible employee on military leave with pay for emergency National Guard duty or Military Reserve Training shall receive those benefits related to employment that are granted in the University’s Military Leave policy and its related documents.
  
3. **Leaves of Absence Without Pay**
  - a. Approved leave without pay shall not be considered a break in service and, except as provided in Section 3.c. below, shall not determine eligibility for benefits.
  
  - b. Except as provided in Section 3.c. below, an eligible employee on approved leave without pay may, on accordance with the benefit documents, rules and regulations, elect to continue University-sponsored benefits for the period of time specified in the benefit documents, rules and regulations.
  
  - c. An employee on an approved Family and Medical Leave (FML) shall be entitled, if eligible, to continue participation in health benefit coverage (medical, dental, and vision) as if on pay status as follows:
    - 1) When the employee is on an FML leave that runs concurrently under the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA): Continued coverage for up to twelve (12) workweeks in a calendar year.
  
    - 2) When the employee is on a Military Caregiver Leave under the FMLA: Continued coverage for up to twenty-six (26) workweeks in a single twelve month period. For purposes of Military Caregiver Leave, the “single twelve month period” is the period beginning on the first day the employee takes the leave and ending twelve (12) months after that date.
  
    - 3) When the employee is on Qualifying Exigency Leave under the FMLA: Continued coverage for up to twelve (12) workweeks in a calendar year.
  
    - 4) When the employee is on a Pregnancy Disability Leave under the California Pregnancy Leave Law, regardless of whether any of the leave runs concurrently with the FMLA: Continued coverage for up to four (4) months in a twelve month period. If any of the Pregnancy Disability Leave runs concurrently under the FMLA, the continued coverage provided for that portion of the leave will count toward the employee’s FMLA entitlement for up to twelve (12) workweeks of such coverage in a calendar year.

5) When the employee is on an FML leave under the CFRA that does not run concurrently under the FMLA (e.g., Parental Leave): Continued coverage for up to twelve (12) workweeks in a calendar year.

d. Group insurance coverage not addressed in Section 3.c. above shall be continued in accordance with the provisions of the applicable group insurance regulations.

### **C. ENUMERATION OF UNIVERSITY BENEFITS**

1. For informational purposes only, a brief outline of benefits in effect on the date the Agreement is signed is found at <http://ucnet.universityofcalifornia.edu/compensation-and-benefits/index.html>. UPTE understands and agrees that the descriptions contained in the above referenced link do not completely describe the coverage or eligibility requirements for each plan, the details of which have been independently communicated to UPTE.
2. Specific eligibility and benefits under each of the various plans are governed entirely by the terms of the applicable Plan Documents, custodial agreements, University of California Group Insurance Regulations, group insurance contracts, and state and federal laws. Employees in an ineligible classification are excluded from coverage, regardless of appointment percent and average regular paid time. For details on specific eligibility for each program, see the applicable documents, agreements, regulations, or contracts.

### **D. JOINT BENEFITS COMMITTEE**

The University and UPTE will establish a Joint Benefits Committee that will meet at least four times annually to discuss employee benefits.

1. The University will provide information on specifications, cost, usage, surveys and evaluations of benefits plans.
2. UPTE will provide responses, identify problems and issues and any union evaluations or surveys of benefits plans.
3. The University will grant release time for up to four (4) career employees, not more than one (1) per campus/hospital/LBNL to participate in this committee. Release time is without loss of straight-time pay and will allow for reasonable travel time.

## **E. REDUCED FEE ENROLLMENTS**

1. An employee who has retired within four (4) months of the date of separation from University service and who is an annuitant of a retirements system to which the University contributes, and who meets the admission requirements of the University, is eligible for two-thirds (2/3) reduction of both the University registration fee and the University educational fee as described below. An individual so registered is ineligible for the services and facilities of the counseling centers, gymnasias, or student health services, other than those to which the retired employee may be otherwise entitled.
2. For an employee on the quarter system, the reduced fee limit is nine (9) units or three (3) regular session University courses per quarter, whichever is greater.
3. For an employee on the semester system, the reduced fee limit is six units or two regular session University courses, whichever is greater.

## **F. RETIREMENT BENEFITS GENERAL CONDITIONS – Part II**

1. Eligible employees may participate in a number of retirement plans generally available to other eligible staff employees of the University.
2. The University maintains several retirement and savings plans for eligible University employees. As of December 20, 2013, such plans include but are not limited to the UC Retirement Plan (UCRP), Tax-Deferred 403(b) Plan, Defined Contribution Plan (DC Plan) and 457(b) Deferred Compensation Plan, which collectively constitute the University of California Retirement System (UCRS). The University may, at its option, amend and/or terminate the existing UCRS plans, to the extent permitted by law and consistent with the plan terms, and establish new retirement and/or savings plans for the UCRS. In the event the University makes such alterations, the changes will apply to employees eligible to participate in the UCRS plans within the unit in the same manner as they apply to other eligible staff employees at the University. Such alterations include, but are not limited to altering eligibility criteria; altering or deleting current benefits, implementing the UCRP 2013 Tier for employees hired, rehired following a break in service, or who become UCRP eligible on or after July 1, 2013, altering employee and University rates of contribution, and changing the carrier or administrator of the UCRP for established plans or programs.
3. The University agrees to meet and confer with respect to the following proposed change(s), which represent the sole exceptions to the provisions of Section F.2., above:

- a. any alterations proposed by the University that affect only bargaining unit employees,
- b. any alterations proposed by the University other than the UCRP 2013 Tier that reduce the UCRP retirement benefits formula of bargaining unit employees, and/or
- c. any increases in employee UCRP contributions that exceed the following, expressed as a percentage of covered compensation:
  - 1) For all unit employees in the 1976 Tier, a total contribution of 8% (minus the \$19 offset) effective the payroll period that includes January 1, 2014<sup>1</sup> and an additional 1% increase for a total of 9% (minus the \$19 offset) effective the payroll period that includes July 1, 2014.
  - 2) For all unit employees in the UPTe 2013 UCRP Tier for unit members, will contribute a gross rate of 9% effective July 1, 2014.

4. **2013 Post Employment Benefit Changes**

- a. The University shall implement the 2013 UCRP Tier for unit members covered by this Agreement that are hired, rehired following a break in service, or who become UCRP-eligible on or after July 1, 2013. The 2013 Tier benefit provisions shall apply, with two exceptions. First, the age factors and earliest retirement age shall be the same as for the 1976 Tier (age factors beginning with 0.0110 at age 50 up to 0.0250 at age 60). Second, a lump-sum cash out of pension benefits may be elected by a retiring unit member in a manner consistent with 1976-Tier rules.
  - b. All unit members hired, rehired following a break in service, or who become UCRP-eligible after the date of ratification or December 20, 2013, whichever is earlier, will be subject to the new Graduated Retiree Health Program Eligibility.
5. In the event this Agreement expires, the parties agree that the terms of this Article 4 – University Retirement and Savings Plans, preserve the status quo and will continue in full force and effect unless otherwise expressly modified by mutual agreement of both parties.

## **G. EFFECTS OF ABSENCES FROM WORK**

1. **Leaves Of Absence Without Pay** – Approved leave without pay shall not be considered a break in service. The provisions of the applicable retirement plan regulations determine the effects of such leave without pay on retirement benefits.
2. **Family and Medical Leave** – Retirement benefits shall be continued in accordance with the provisions of the applicable retirement plan regulations.

## **H. ENUMERATIONS OF UNIVERSITY BENEFITS**

1. For informational purposes only, a brief outline of the UCRS in effect is found at: <http://ucnet.universityofcalifornia.edu/compensation-and-benefits/retirement-benefits/index.html>. UPTE understands and agrees that the descriptions contained in the above referenced link do not completely describe the coverage or eligibility requirements for each plan,
2. Specific eligibility and benefits under each of the various plans are governed entirely by the terms of the applicable Plan Documents and regulations, and state and federal laws. Employees in an ineligible classification are excluded from coverage, regardless of appointment percent and average regular paid time. For details on specific eligibility for each plan, refer to the applicable documents, agreements, regulations, or contracts.

**ARTICLE 5  
CAMPUS/LABORATORY CLOSURE**

**A. GENERAL PROVISIONS**

Consistent with the University's management rights, including its right to determine the orderly, effective and efficient operation of the University, the University may elect at one (1) or more of its locations including the Laboratory, to curtail or shut down some or all of its activities, on a location-by-location basis, for periods of specific duration. By way of example and not limitation, such periods may represent: opportunities for energy/cost savings; adjustments to reduce levels of work activity due to transition periods in the academic calendar; "seasonal" or "holiday" influences on scheduled work activities; the occurrence at or on University facilities of major public events; and/or the occurrence of emergency or "forces of nature" situations adversely affecting normal University operations. When feasible, the University shall provide UPTe and affected members of the bargaining unit with forty-five (45) calendar days advance notice of a closure. In the event an alleged violation of the notice is grieved/arbitrated, any remedy or arbitrator's award or decision acknowledging improper notice shall be limited to an amount of back pay and/or reinstatement of benefits which would make the employee whole for the number of days the notice was deficient.

**B. PAY STATUS**

During a total or partial closure or curtailment of operations described in Section A. above, whether or not the University is able to anticipate such event, one or a combination of the following pay-status options shall apply to affected employees.

1. Employees may elect to use accumulated vacation leave during the closure period. Newly- employed unit members will be allowed to use accrued vacation even if the required six (6) continuous months or quadri-weekly cycles on pay status have not been completed. Employees without sufficient accrued vacation time will be allowed to use up to three (3) days vacation leave prior to actual accrual.
2. Employees may elect to use accrued compensatory time to cover the scheduled time off or to offset the use of vacation time.
3. Employees who do not use vacation or compensatory time off may elect to take a leave without pay during the closure. Notwithstanding the provisions of Article 43 - Vacation, and Article 39 - Sick Leave, if an employee is in leave-without-pay status due to a location closure which is three (3) consecutive days or less in duration, such a full-time or part-time employee shall continue to accrue vacation and sick leave at her/his normal rate.

**C. UNPAID STATUS**

Employees who do not select from Section B.1., 2., or 3., above or who do not qualify for Section B1., 2., or 3., above, shall, for the period of time necessary, be placed in a leave-without-pay status. The hourly accrual provisions in Section B.3. above, related to location closure(s) shall also apply to employees who are placed in leave-without-pay status.

**ARTICLE 6  
COMPENSATION**

**A. GENERAL PROVISIONS**

1. **Effective date of salary increases** - Salary increases shall be effective on the first full biweekly or monthly pay period on or after the effective date.
2. **Salary Rates** - The applicable salaries are reflected on the *Corporate Title Code System Lookup* (TCS) at: <https://tcs.ucop.edu/tcs/jsp/homePage.htm>. In the event this web page expires and is replaced by a new title code system and corresponding web page, the University will provide 30 days' notice to union advising where such title code and salary information can be found online. The parties recognize that the actual salary rates paid to employees may slightly vary from those reflected in Appendix A due to rounding.
3. Unless otherwise specified, pay increases (regardless of type) shall be base-building only up to the maximum of the applicable salary range. The campus or Medical Center's normal pay practices shall be followed in implementing pay increases.

**4. Range Adjustments**

a. Range with Steps

1. When applying a range adjustment to ranges with steps, the adjustment shall apply equally to all steps within the range. The resultant step salary shall apply to all employees on the step.
2. Employees whose pay exceeded the salary range maximum before the rate increase was applied to the range are eligible for an increase only up to the new salary range maximum.
3. Employees whose pay equals or exceeds the salary range maximum after the range adjustment is applied are not eligible for a salary increase.

b. Ranges without Steps

1. When applying a range adjustment to ranges without steps, the adjustment shall apply to the minimum and the maximum of the range, only.
2. In addition, each employee within the salary range shall receive the same percentage increase to their salary as applied to the minimum and the maximum salary range.



3. Employees whose pay equals or exceeds the salary range maximum before the range adjustment was applied to the maximum are eligible for an increase only up to the new salary range maximum.
4. Employees whose pay exceeds the salary range maximum after the range adjustment is applied to the maximum are not eligible for an increase.

**5. Merit Increases**

- a. Merit increases will be provided in accordance with the campus or hospital merit program guidelines, and
  - b. A non-probationary employee is eligible for a merit increase when
    1. her/his salary is within the salary range, and
    2. s/he has received an overall performance rating of satisfactory or above. Employees who are not provided a performance evaluation shall be deemed “satisfactory,” and
  - c. Employees shall receive a step increase.
6. **Order of Increases** – If more than one salary adjustment takes place on the same date, actions occur in the following order:
- a. Salary Range adjustment
  - b. Merit increase
  - c. Equity increase
  - d. Increase resulting from promotion or reclassification.

**B. ACROSS THE BOARD SALARY INCREASES AND STEP INCREASE (EXCEPT LBNL)**

1. Effective July 1, 2019 for monthly paid employees and July 14, 2019 for bi-weekly paid employees the University will increase all salary ranges in the unit by three percent (3%) across the board, by applying the provisions of Section A.1. above.
2. Effective January 1, 2020, the University will increase all salary ranges in the unit by three percent (3%) across the board, by applying the provisions of Section A.1. above.

3. Effective July 1, 2020, the University will increase all salary ranges in the unit by three percent (3%) across the board, by applying the provisions of Section A.1. above.
4. Effective July 1, 2021, the University will increase all salary ranges in the unit by three and a half percent (3.5%) across the board, by applying the provisions of Section A.1. above.
5. Effective January 1, 2022, the University shall provide a one-step within range increase to non-probationary career employees, who receive a performance rating of satisfactory or better on their more recent performance evaluation.
6. Effective July 1, 2022, the University will increase all salary ranges in the unit by three percent (3%) across the board, by applying the provisions of Section A.1. above.
7. Effective July 1, 2023, the University will increase all salary ranges in the unit by three and a half percent (3.5%) across the board, by applying the provisions of Section A.1. above.
8. Effective January 1, 2024, the University shall provide a one-step within range increase to non-probationary career employees, who receive a performance rating of satisfactory or better on their more recent performance evaluation.
9. Effective July 1, 2024, the University will increase all salary ranges in the unit by three percent (3%) across the board, by applying the provisions of Section A.1. above.
10. Unless otherwise noted above in Section B.1., BTSAs at UCSB and UCI are excluded from receiving the three percent (3%) across the board salary increase provided for at ratification.
11. A labor management work group will be created and will begin work no later than September 15, 2019, on examining step structures, including a performance based step program.

**C. LOCATION SPECIFIC SALARY RANGE ADJUSTMENTS**

The University retains the right to propose additional location-specific salary and range adjustments.

**D. OTHER INCREASES**

By mutual agreement, the University may increase, during the term of this Agreement, salary rates or ranges, shift differentials, on-call rates and or extend the coverage of such rates, for selected individuals and/or classifications at selected locations.

**E. REMOTE LOCATION/SEA PAY**

Where remote location and sea pay provisions currently exist, they shall remain in force throughout the life of this Agreement.

The University agrees to meet and confer with the Union on sea pay provisions within three (3) months of ratification of this Agreement.

**F. EMPLOYEES AWARD PROGRAMS**

The University retains the right to continue, modify or abolish campus/hospital/LBNL employee award programs. Employee award programs, for members of the bargaining unit may be implemented according to local procedures. Employee award programs are available, if any, to employees in the unit according to the University's notice to UPTe and resulting meeting and discussing, if requested by UPTe.

- G.** The range and rate adjustments, base or non-base, if any, provided in this Article shall not be subject to Article 10- Grievance Procedure, or Article 3 – Arbitration Procedure, of this Agreement.

**H. LAWRENCE BERKELEY NATIONAL LABORATORY (LBNL)**

1. Fiscal Year 2018 (October 1, 2017) individual increases for Research Professional Unit employees will be from a merit pool of 3.0% of the September 30, 2017 payroll base. The merit pool/allocation will be distributed in the Lab's customary merit-based manner using the FY18 matrix (attached). The minimum increases identified on the matrix will utilize as close to 100% of the available allocation, as calculations permit. In order to be eligible for the FY18 salary increase of October 1, 2017, an employee must have been in the RX bargaining unit on September 30, 2017, eligible for an annual performance evaluation, and continue to be in the bargaining unit on the date payroll distribution is processed in the Human Resources Information System (HRIS). Retroactive pay increases for Fiscal Year 2018 will be implemented within one hundred twenty (120) days of wage agreement ratification, excluding the annual holiday shutdown period. Salary ranges for FY18 will be increased by 2%.

2. Fiscal Year 2019 (October 1, 2018) individual increases for Research Professional Unit employees will be from a merit pool of 3% of the September 30, 2018 payroll base. The merit pool/allocation will be distributed in the Lab's customary merit-based manner using an FY19 matrix to be provided to UPTe once established. The minimum increases identified on the matrix will utilize as close to 100% of the available allocation, as calculations permit. In order to be eligible for the FY19 salary increase of October 1, 2018, an employee must have been in the RX bargaining unit on September 30, 2018, eligible for an annual performance evaluation, and continue to be in the bargaining unit on the date payroll distribution is processed in HRIS. Retroactive pay increases for FY19 will be implemented within one hundred twenty (120) days of implementation of FY18 wage increases, excluding the annual holiday shutdown period. Salary ranges for FY19 will be increased by 2%.
3. Fiscal Year 2020 (October 1, 2019) individual increases for Research Professional Unit employees will be from a merit pool of 3% of the September 30, 2019 payroll base. The merit pool/allocation will be distributed in the Lab's customary merit-based manner using an FY20 matrix to be provided to UPTe once established. The minimum increases identified on the matrix will utilize as close to 100% of the available allocation, as calculations permit. In order to be eligible for the FY20 salary increase of October 1, 2019, an employee must be in the RX bargaining unit on September 30, 2019, eligible for an annual performance evaluation, and continue to be in the bargaining unit on the date payroll distribution is processed in HRIS. Retroactive pay increases for FY20, if applicable, will be implemented within one hundred twenty (120) days of implementation of FY19 wage increases, excluding the annual holiday shutdown period. To be eligible for the retroactive pay increase, an employee must be in the RX bargaining unit on the date of ratification and continue to be in the RX bargaining unit on the date the increases are processed in HRIS.
4. Fiscal Year 2021 (October 1, 2020) individual increases for Research Professional Unit employees will be from a merit pool of 3% of the September 30, 2020 payroll base. The merit pool/allocation will be distributed in the Lab's customary merit-based manner using an FY21 matrix to be provided to UPTe no later than September 15, 2020. The minimum increases identified on the matrix will utilize as close to 100% of the available allocation, as calculations permit. In order to be eligible for the FY21 salary increase of October 1, 2020, an employee must be in the RX bargaining unit on September 30, 2020, eligible for an annual performance evaluation, and continue to be in the bargaining unit on the date payroll distribution is processed in HRIS.
5. For any subsequent fiscal years covered by the systemwide collective bargaining agreement, individual increases for LBNL employees will be subject

to reopen negotiations at the local level. Should an LBNL wage agreement extend beyond the expiration of the systemwide collective bargaining agreement, that wage agreement will remain active until the end of the fiscal year covered by that agreement.

6. Disputes arising from Research Professional employees receiving increases less than the matrix minimum for the appropriate quartile and performance rating are subject to the grievance and arbitration provisions of the agreement between the University of California and University Professional and Technical Employees, with the following exceptions:
  - Employees who have received increases within the preceding six months.
  - Employees who have reached the maximum of their ranges.
  - Employees who are red-circled.
7. If more than one salary action takes place on the same date, the order of salary actions will be as follows:
  - Salary range adjustment.
  - Merit adjustment.
  - Equity adjustment.
  - Promotion/Reclassification.
  - Bottom of the range adjustment for employees below the minimum of salary range.

Employees who have reached the maximum of their ranges or who are “red-circled” will be eligible to receive increases in the form of a non-base building lump sum payment.

8. The following types of employees are not eligible for merit increases and will be excluded from calculating the payroll base:
  - Limited employees.
  - Rehired retirees.
  - Probationary employees.
  - Employees with a performance appraisal rating of less than satisfactory.
9. The Laboratory will provide to UPTE information concerning the merit pool distribution for each fiscal year (FY18, FY19, FY20, FY21) within sixty (60) days following implementation of increases/retroactive increases for the respective fiscal year. Such information will include employee name, employee number, job code, job title and wage increase amount. This information will be provided electronically in a Microsoft Excel spreadsheet to UPTE Local 184 and to the UPTE systemwide office. As in previous fiscal years, any undistributed portion of the merit allocation will be distributed 'across-the-board' to all employees who received a wage increase, based on the above eligibility requirements.

10. Employee wage increases for promotions, reclassifications and individual equity adjustments shall be at the Laboratory's sole discretion, based upon business need. For each fiscal year (FY18, FY19, FY20, and FY21) the Laboratory will provide to UPTe information concerning such wage adjustments within sixty (60) days following the implementation of increases/retroactive increases for the respective fiscal year. Such information will include employee name, employee number, job code, job title, wage increase amount and reason for adjustment. This information will be provided electronically in a Microsoft Excel spreadsheet to UPTe Local184 and to the UPTe Systemwide office.

11. Salary ranges may be increased at the Laboratory's sole discretion. For FY18 and FY19, salary ranges will be increased by 2% each fiscal year. For fiscal years FY20 and FY21, the Laboratory will provide UPTe with thirty (30) days advance notice regarding whether the salary ranges will be increased, and if so, the amount of the increase. Upon UPTe's request, the Laboratory will schedule a meeting to discuss the union's concerns relative to the basis for such decisions.

12. For non-exempt (hourly paid) employees, all hourly rates will be rounded to the nearest penny. For exempt (monthly paid) employees, all monthly rates will be rounded to the nearest dollar.

13. For the term of this collective agreement, only employees involuntarily laid-off or who retire between the ratification date of this section of the agreement and the date payroll is processed in HRIS shall receive a FY18 and FY19 salary increase in the form of a non-base-building lump sum payment. This lump sum payment will not be considered covered compensation for retirement purposes or included in the calculation of Highest Average Plan Compensation (HAPC).

The following types of employees are not eligible for the non-base-building lump sum payment referred to in this paragraph 13 and will be excluded from calculating the payroll base:

- Limited employees.
- Rehired retirees.
- Probationary employees.
- Employees with a performance appraisal rating of less than satisfactory.

**FY2018 UPTe RX  
Matrix**

<b>Rating</b>	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>
Outstanding	6.9%	6.6%	6.3%	6.0%
Excellent	5.7%	5.4%	5.1%	4.8%
Very Good	4.5%	4.2%	3.9%	3.6%
Good	3.3%	3.0%	2.7%	2.4%
Acceptable	1.8%	1.8%	1.8%	1.8%



**ARTICLE 7**  
**CORRECTIVE ACTION / DISCIPLINE AND DISMISSAL**

**A. GENERAL PROVISIONS**

1. The University shall have the authority to discipline or dismiss a non-probationary career employee for just cause. For purposes of illustration but not limitation, such actions may be taken for misconduct or failure to perform satisfactorily.
2. A non-probationary career employee who alleges that discipline and/or dismissal is not based on just cause may appeal such action pursuant to the provisions of Article 10, Grievance Procedure.

**B. TYPE OF DISCIPLINE**

1. The University may discipline an employee by written warning, suspension without pay, disciplinary demotion, salary decrease, or dismissal. A disciplinary salary decrease shall be limited to a maximum of ten percent (10%) of an employee's salary and to a maximum length of thirty (30) calendar days.
2. A performance evaluation, counseling memo, or an oral reprimand is not considered discipline and is therefore not subject to Article 10, Grievance Procedure of this Agreement, although each may be used to demonstrate that an employee had knowledge of her/his actions which could subsequently lead to discipline.
3. At least one (1) written warning shall precede any other corrective action except when corrective action is the result of performance or conduct that an employee knew or reasonably should have known, was unsatisfactory. Such performance or conduct includes but is not limited to dishonesty, theft or misappropriation of University property, fighting on the job, insubordination, making verbal or physical threats, acts or conduct which could endanger themselves or others, or other serious misconduct of a nature which requires removing the employee from the premises.

**C. INVESTIGATORY LEAVE**

1. The University may place an employee on paid investigatory leave without prior notice in order to review or investigate allegations of employee misconduct which warrant relieving the employee immediately from all work duties and removing the employee from the premises.



2. The investigatory leave must be confirmed in writing to the employee and UPTE normally not later than three (3) working days after the leave is effective. The confirmation must include the reason(s) for and the expected duration of the leave.
3. On conclusion of the investigation, the employee and UPTE shall be informed in writing of the disciplinary action, if any, to be taken. If a disciplinary suspension is imposed, up to fifteen (15) work days of the investigatory leave may be converted to an unpaid disciplinary suspension provided the notice and employee responses provision of this Article have been followed before the final decision is made.

#### **D. NOTICE OF DISCIPLINARY ACTIONS**

1. Except as provided in Section D.4., below, written notice of intent to suspend, demote, decrease salary or dismiss shall be given to the employee, either by delivery of the notice to the employee in person or by placing the notice of intent in the U.S. mail, first class postage paid, in an envelope addressed to the employee at the employee's last known home address. It shall be the responsibility of the employee to inform the University in writing of any change in their address. The notice of intent shall be accompanied by Proof of Service indicating the date on which the notice of intent was personally delivered or mailed, and this shall constitute the "date of issuance" of the notice of intent.
2. The notice of intent shall:
  - a. inform the employee of the disciplinary action intended, the reason(s) for the disciplinary action, and the effective date of the disciplinary action;
  - b. include a copy of the charge(s) and material(s) upon which the disciplinary action is based, and;
  - c. inform the employee that he or she has a right to respond either orally or in writing within ten (10) business days from the date of issuance of the notice of intent in accordance with Section E. below, and to whom to respond.
3. A copy of the notice of intent shall be sent to UPTE.
4. When the duration of a suspension would be five (5) work days or less, the affected employee(s) shall, prior to the implementation of such suspension, be informed in writing of the action to be taken, the reason(s) for the disciplinary action, and the effective date of the disciplinary action.

## **E. EMPLOYEE RESPONSE**

The employee shall be entitled to respond, orally or in writing, to the notice of intent described above. The response must be received within ten (10) business days from the date of issuance of the notice of intent, in accordance with instructions given by the University in the written notice of intent sent to the employee. A request for an extension of the ten (10) business days shall not be unreasonably denied. If the employee chooses to respond orally, the employee may have present a Union representative, provided the representative is not a University employee who has been designated as supervisory, managerial, or confidential.

## **F. MANAGEMENT ACTIONS**

- a. After review of the employee's timely response, if any, the University shall notify the employee of the action to be taken, and the effective date of the action. The action may not include discipline more severe than that described in the notice of intent; however, the University may reduce the discipline without the issuance of further notice of intent.
- b. The effective date of the action shall follow the employee's timely response if received by the ten (10) day response deadline. If no response is received by the tenth (10th) business day following the issuance of the notice of intent, the action may be implemented on the eleventh (11th) business day following the issuance of the notice of intent.

**ARTICLE 8  
DEVELOPMENT AND TRAINING**

**A. GENERAL CONDITIONS**

1. Employees may participate in career-related or position-related development programs, subject to approval by the University. Unless the University determines the proposed training/development is not position- or career-related, or denies release time based on operational considerations, employees shall be granted flexible or alternate work scheduling, leave without pay, leave at full or part pay, full or part payment of fees and expenses, and/or temporary or part-time reassignment in another department, provided that:
  - a. the employee has completed her/his probationary period; and
  - b. the employee's performance is satisfactory or better; and
  - c. participation in education or training programs during scheduled work hours is approved in advance by the University.
2. When the University requires attendance at an educational or training program, the University will pay the fees and related costs for materials, travel and per diem, and the employee's attendance at the actual program shall be considered time worked. However, when an individual is hired with the understanding that specific additional training is to be obtained or completed, that individual may be required to participate in such training on off-duty time, without expense to the University.
  - a. Education or training which is suggested or recommended, but not required, is not "required" within the meaning of this Article.
  - b. Education or training for the acquisition or maintenance of a license shall not qualify as "required" within the meaning of this Article.
3. Employees attending University courses or seminars shall be eligible for fee reductions applicable to other staff employees at their campus/hospital/LBNL. Employees attending University courses or seminars shall not be eligible for the services or facilities of counseling centers, gymnasias, or student health services incidental to such reduced-fee registration.
4. Non-probationary career employees who are residents of the State of California are eligible to enroll in regular session courses for up to nine (9) units or three (3) courses per quarter or semester, upon payment of one-third of the University Registration Fee (URF) and one-third of the University Educational Fee (UEF). In the event the University provides

additional URF and UEF reductions to other eligible staff employees, the employees in this unit shall receive such fee reductions, to the same degree that other staff employees are so eligible.

5. Eligibility for discounts for other University of California courses and programs, including University Extension courses, are at the sole discretion of the University.
6. Campus/hospital/LBNL staff training programs shall be available to employees covered by this Agreement to the same extent they are provided to all other staff employees.
7. Nothing contained in this Agreement will preclude the University from granting additional training and career development opportunities.
8. In the event the University establishes new training programs open to all staff employees, bargaining unit employees shall be eligible to participate in such programs to the same degree as other staff employees.

**B. RELEASE TIME AND SCHEDULING**

1. An employee who has completed the probationary period who wishes to participate in a development program during work time shall request advance approval in accordance with departmental procedures. On completion of the program, the employee may be required to submit verification of successful completion of the program and attendance at the program. Participation in educational or training programs during scheduled work hours must be approved by the University in advance. Such leaves must not interfere with staffing requirements.
2. A non-probationary employee is eligible for up to forty (40) hours of paid release time for job-related training per calendar year, prorated based on appointment rate. Except as described below, such paid release time may not be accumulated or carried over from year to year, and must be scheduled according to staffing requirements. Training courses provided by the University shall be included in the forty (40) hours. Time spent, if any, in career-related training programs shall count against the forty (40) hours.

No later than November 1 of any year, an employee may submit a written request in accordance with departmental procedures to carry over paid release time for job-related training. Such requests will be considered on a case by case basis and shall not be unreasonably denied. Any hours approved for carry over must be used within one (1) calendar year.

3. The provisions of Section B do not apply to home study courses.

4. Development Leave Hours may be used for the time spent taking certification exams that are in furtherance of career-related or position related development.

### **C. PILOT PROGRAM**

The University may establish, on a campus by campus basis, a pilot program for the professional training and development of Bargaining unit employees.

### **D. DISPUTES**

1. Disputes arising from this Article may be appealed to the department head in writing within thirty (30) days of the denial. The department head, or his/her designee, shall respond in writing within 10 days stating reasons the appeal is denied. If the department head fails to provide the required response within ten (10) days, the employee may file a grievance in accordance with Article 10 – Grievance Procedure only through Step Two of the grievance procedure. In no circumstances shall such grievances be eligible for appeal to Step 3 of Article 10 – Grievance Procedure, or Article 3 – Arbitration Procedure. The remedy for grievances alleging a violation of this Development article shall be limited to providing the written reasons for the denial of training.
2. If an employee is denied leave for education or training based on operational considerations on three (3) separate and consecutive occasions, the department head, or his/her designee, shall discuss with the employee the possibility of scheduling alternative education or training for a future date when operational considerations do not bar such participation.

### **E. LAWRENCE BERKELEY NATIONAL LABORATORY (LBNL)**

1. Position-related programs are directly related to the work assignments or conditions of the employee's current position. In improving performance or mastering responsibilities in the present job, the supervisor takes the lead by identifying development objectives along with corresponding action plans. This is done in conjunction with the employee performance evaluation process. All career employees are eligible for position-related programs. Employees in non-career appointments are eligible for position-related programs only when such training is specifically necessary for such employees to perform their respective assignments.
2. Career-related programs are related to the development of skills, knowledge, and other qualifications that prepare an employee for other positions within LBNL for which an employee (as evaluated by the supervisor, department head, and Human Resources Operations Manager

or designee) might be an effective competitor. In career planning and development, the employee takes the lead by self-assessing skills, values, career interests, and choices. After completion of the self-assessment, the employee discusses with the supervisor areas of interest to be developed. The supervisor is encouraged to act as the coach and advisor to the employee, helping to map out agreed-on developmental objectives along with corresponding action plans. All career employees are eligible for career-related programs. Employees in non-career appointments are not eligible for career-related programs.

3. Educational enrichment programs are related to an employee's personal or career interests outside LBNL that are not related to LBNL's positions for which an employee might be an effective competitor. For example, a course such as music would be considered an educational enrichment program. Educational enrichment programs are the employee's responsibility and are not eligible for benefits under this policy.
4. Attendance at all courses, seminars, and conferences of an instructional nature given by accredited universities and colleges, institutes, professional associations, and commercial training organizations is considered part of LBNL's education and training activities and may be part of a formal employee development plan. For administrative purposes, attendance at scientific meetings, professional society meetings, research conferences, and industrial conventions and shows is considered a work assignment and is not necessarily part of a development plan.
5. Every career employee is eligible to request a formal development plan. A formal development plan is developed by the employee and his/her supervisor and should be realistic and state job or career goals that are attainable within LBNL's job classification structure. Plans should be structured so that completion of the development program should result in greater employee capability. Formal plans often include a time frame longer than one year. When an employee takes three or more LBNL-supported courses or training programs in a fiscal year, the development plan must be formalized by using the Employee Development Plan form. At a minimum, the plan should include developmental objectives and corresponding action plans for improving or mastering performance in the current position, qualifying for other LBNL positions, or obtaining a specific degree or specialty certificate of value to LBNL's mission.
6. **On-Site Training:**

A division director or department head is responsible for arranging specialized training with a department or division. Assistance or advice in any phase of a desired program may be obtained from the Training Administrator in the Human Resources Department. Various

organizational units within LBNL, including the Environment, Health and Safety Division, Computing Sciences Directorate, and Human Resources Department, are responsible for developing and/or providing training programs to LBNL employees in their areas of expertise and that are required by law or will enhance employee performance. Procedures for attending interdepartmental training may be found on the Employee Self Service Web site. The Workforce Diversity Office is responsible for administering apprenticeship training programs, other special skills training, and internships.

**7. Off-Site Training:**

With the approval of his or her supervisor and department head or division director, an employee may attend off-site training (e.g., outside seminars and workshops) that will be of direct benefit to the employee's assignment. The division director or department head will approve attendance at off-site training only when the benefits to LBNL will, in his or her judgment, more than offset the costs involved, when the required skill or knowledge is not readily available through LBNL training resources, and when the employee's time away from LBNL will not adversely impact current work demands. The division will pay course fees, travel, and all other expenses as necessary.

**8. College Degrees, Specialty Certificates, and College Level Courses:**

Career employees who have passed probation may take college-level, specialty certificate, and continuing education courses as described below. Satisfactory job performance is a prerequisite to participation in these Tier 1 and Tier 2 programs. The employee must have an Employee Development Plan approved by his or her supervisor, division director, or the Operations Department Head, and the Human Resources Operations Manager or designee. Approval is based on:

- a. Relevance to LBNL's mission.
- b. Mutual benefit to the employee's career and the long-term interests of LBNL.
- c. Whether there is a reasonable expectation that the employee shall remain as a employee of LBNL for a sufficient period of time to provide a fair return for the training costs.
- d. Whether the proposed curriculum and timetable are realistic.

- e. Whether the department/division's work needs can be met during any employee absences due to attending class.

Employees may be reimbursed as noted below for tuition, laboratory fees, educational fees, and other fees required for registration when the employee submits proof of successful course completion and receipts for payment of fees to the Training Administrator in the Human Resources Department. Nonresident tuition is not reimbursable. Successful completion is receipt of a grade of at least a "C" for undergraduate work or "B" for graduate work if the institution uses the "A-F" system of grading. If there is a choice between receiving a letter grade or a "Pass/Fail" evaluation, the employee must take the letter grade. Reimbursement is also allowed when an employee is forced to withdraw from a course because of work requirements, provided he/she submits evidence from the instructor that the employee's work in the course was satisfactory at the time of forced withdrawal. When necessary, the Human Resources Operations Manager or designee may advance payment of the costs provided the employee agrees to return the payment if the employee is unable to provide evidence of satisfactory completion. Employees who are eligible for the University of California Reduced-Fee Enrollment Benefit must take advantage of that benefit. Employees who terminate employment before the end of the quarter or semester are not eligible for reimbursement of fees unless the termination is due to an involuntary layoff and when the employee was notified of layoff after the beginning of the class. Employees whose fees have been paid through an advance agreement must repay the advance at termination.

Time off with pay may be granted when the employee's absence will not adversely affect progress of work, in accordance with the following provisions:

- The employee must remain in career status during the entire quarter or semester.
- The course or courses must be listed on the Employee Development Plan and approved before registration for each academic quarter or semester.
- Time off to attend and register for approved courses may be allowed only when such courses cannot reasonably be taken outside the employee's scheduled working hours.
- Time off with pay may not exceed six hours per week, including time for travel and registration. Time off with pay is not allowed for study, library, or faculty consultation time. Additional time required must be accounted for by an adjusted work schedule or by use of vacation credit.
- Time off with pay to take Web/Internet based courses is not allowed.



a. **Tier 1:**

College-level courses leading to an academic degree (A.A., B.S., Ph.D., etc.) or a specialty certificate (Certified Compensation Professional, Certified Cisco Network Technician, Integrated Circuit Engineering, etc.). Degree courses must be offered by an accredited college or university. Specialty certificate courses must be offered by an accredited college or university, university extension program, or recognized professional society. Continuing education units (CEUs) may be reimbursed under Tier 1 when they are part of an approved degree or specialty certificate program. These may be either position- or career-related programs. The employee must exhibit satisfactory progress towards attainment of the degree or certificate for continued eligibility under Tier 1, with the understanding that unanticipated department/division work needs may affect that progress. Employees may be reimbursed 100% for tuition, laboratory fees, educational fees, and other fees required for registration when the employee submits proof of successful course completion and receipts for payment of fees to the Training Administrator in the Human Resources Department.

b. **Tier 2:**

Career-related academic programs not leading to an academic degree or a specialty certificate. Courses must be offered by an accredited college or university. Continuing education units (CEUs) may be reimbursed under Tier 2 only when offered by a university or college continuing education program. Employees may be reimbursed two-thirds for tuition, laboratory fees, educational fees, and other fees required for registration when the employee submits proof of successful course completion and receipts for payment of fees to the Training Administrator in the Human Resources Department.

9. **Government Licensing and/or Professional Certification:**

For the purposes of this section, government licenses and/or professional certifications are those licenses and certifications required by the employee to hold his or her current position as documented in the position description. Continuing education credit (CEU) courses required for the maintenance of a professional license or certification as noted above are considered position-related courses. The course must be approved by the licensing or certifying agency. The request for course fee reimbursement is the same as for all other position-related training. Fees for license or

certifications renewals as defined above are an allowable expenditure. The request is made in writing to the Financial Services Department and must include:

- Request for Issuance of Check form with valid project ID and approval;
- Endorsement by the cognizant division director that the cost is allowable as cited; and
- Copy of the license renewal or issuance documentation.

**ARTICLE 9  
DURATION OF AGREEMENT**

A. The terms and conditions of this Agreement shall remain in full force and effect commencing on December 20, 2013, and shall terminate at 11:59 p.m. on September 30, 2017, unless the University and UPTE agree to extend any or all of the terms and conditions.

**B. CONDITIONAL RE-OPENER NEGOTIATIONS**

The parties will engage in re-opener bargaining if the circumstances outlined in Article 4 – University Benefits, Section A.1.b. and/or F.2. are satisfied. Obligations to meet and confer shall be made in accordance with the following:

1. UPTE shall, no later than thirty (30) calendar days from receiving written notice of the circumstances triggering the conditional re-openers above, serve upon the Office of the President, Director of Labor Relations written notice of its intent to negotiate those triggered sections of the Agreement.
2. The University shall, no later than thirty (30) calendar days of receiving UPTE's intent to re-open the triggered sections of the article identified above, serve upon the President of UPTE-CWA Local 9119, notice of its intent to re-negotiate the nearest and upcoming across the board wage increase, if any, set forth in Article 6 – Compensation.

**C. FULL CONTRACT NEGOTIATIONS**

In order to facilitate the negotiations of a successor to this Agreement or this Agreement as amended, UPTE and the University shall each present its written proposals for a successor Agreement to each other no later than April 1 2017. Negotiations shall commence on or about April 1, 2017, unless otherwise mutually agreed to by the parties.

D. Except for Compensation, if either party fails to submit an article in its comprehensive set of successor proposals in the agreed upon form by the prescribed dates, that party will be deemed to propose current contract language for such article. With respect to Article 6 - Compensation, if UPTE fails to present its compensation proposal as part of its comprehensive set of successor proposals by April 1, 2017, UPTE will be deemed to have waived its right to meet and confer over the Compensation Article for the 2017-18 fiscal year.

**ARTICLE 10  
GRIEVANCE PROCEDURE**

**A. GENERAL CONDITIONS**

1. A grievance is a written complaint by an individual employee, a group of employees, or UPTE that the University has violated a specific provision of this Agreement. The University shall not have the right to use the grievance procedure.
2. No employee shall be subject to reprisal for using or participating in the grievance procedure of this Agreement.
3. **Filing**
  - a. All grievances must be filed with the campus/hospital/LBNL Labor Relations office at the campus/hospital/laboratory that employs the grievant within the time frames specified in this Article, on a form agreed to by the parties (see Appendix C). If the grievance is for more than one (1) employee, all individuals adversely affected will be identified on the grievance form by UPTE to the extent UPTE knows who the affected employees are at the time of filing.
  - b. The grievance form must be signed and dated by the employee(s) or the employee's representative upon submission to the University. Union grievances must be signed by the UPTE President or designee. UPTE will identify designee(s) in writing to the University.
  - c. The grievance form (see Appendix C) shall be furnished to the employee by either UPTE or the University designee, although failure of a University Representative to provide a grievance form upon request shall not constitute cause for an extension of the time lines for filing, nor shall the employee or UPTE be able to grieve the University's failure to provide a grievance form.
    1. Only one subject matter shall be covered in any one grievance. A formal grievance must:
      - a.) identify the specific Article(s) and Section(s) of this Agreement alleged to have been violated;
      - b.) describe the action(s) which allegedly violated the identified Article(s) and Section(s);
      - c.) identify the date(s) of the action(s);

d.) list the affected individual(s) known at the time of filing;  
and

e.) describe the remedy requested.

2) Receipt of the grievance shall be acknowledged in writing by the University as soon as practicable following receipt, and sent to the non-work address listed on the grievance form. If the grievance is incomplete or does not identify the information required in Section A.3.c.1). above, the University will advise the representative to complete the required information within seven (7) days of the date of the acknowledgement. The provision of information does not in any way extend the original thirty (30) days to file the grievance.

3) For the initial filing of a grievance, the date filed shall be the date received. However, if the grievance is mailed, the date of the US Postal Service postmark shall be considered the date filed. For grievance appeals and responses, the date of issuance shall be the date hand-delivered, or the date of the US Postal Service postmark, if mailed. Grievances may be filed by facsimile where UPTe and the University have mutually agreed in writing that grievances may be filed by facsimile. Additionally, if a grievance is filed by facsimile, a signed hard copy must be received by the University within five (5) business days. The date and the time registered by the University's facsimile machine shall constitute the official date of receipt. If the registered date on the facsimile falls outside the campus's business hours, the following business day shall constitute the official date of receipt.

4) Appeals to Step 3 may be filed electronically in accordance with Section F.3.b.3. below. Locations, at their sole, non-grievable discretion, may choose to provide for electronic filing of grievances and Step 2 appeals. Locations will provide UPTe with procedures for electronic filing.

d. No remedy shall exceed restoring to the grievant the pay, benefits or rights lost as a result of the violation of the contract, less any income earned from any other source including, but not limited to, workers' compensation, or any other employment.

#### 4. **TERMS / DEFINITIONS**

For the purposes of this Article, the terms:

- a. **"Grievant"** means any eligible employee covered by this contract who has a grievance or complaint (as defined by this Agreement);
- b. **"Other Grievance Representative"** means any person representing an employee covered by this contract, other than an UPTE-designated employee representative or an UPTE representative, in the resolution of their grievance other than a person who has been designated as supervisory, managerial, or confidential;
- c. **"UPTE-designated Employee Representative"** means any employee covered by this contract who is a designated union representative of UPTE, in accordance with the provisions of Article 1 - Access, Section C.;
- d. **"UPTE Representative"** means any person who is a non-university employee designated by UPTE to act in the interest of or on behalf of UPTE;
- e. **"The Parties"** means the University and
  - 1) the **"grievant(s)"**, when the grievant(s) is self-represented or is represented by an individual, as defined in Section A.4.b. above; or
  - 2) the **"UPTE representative"** or the **"UPTE-designated employee representative"** when the grievant(s) is represented by an individual, as defined in Section A.4.d. or Section A.4.c. above; or
  - 3) UPTE, when UPTE is itself the grievant.
- f. **"witness"** means any employee who is serving as a witness in a grievance proceeding; for the purposes of release time, said employee must be covered by this contract.

## **B. EMPLOYEE REPRESENTATION**

A grievant shall have the right to be represented at all steps of the grievance procedure by an UPTE representative or an UPTE-designated employee representative, or any other one (1) person of the grievant's choice other than a University employee who has been designated as supervisory, managerial, or confidential.

### **C. TIME LIMITS**

1. Other than the time limits for the initial filing of a grievance, the time limits as specified in this article may be extended by mutual agreement of the parties. Extensions must be confirmed in writing and must be signed by the parties in advance. The parties may mutually agree to skip any steps of the grievance procedure. Such an agreement must be confirmed in writing by both parties.
2. Deadlines that fall on a day that is not a regular business day will automatically be extended to the next business day.
3. If a grievance is not appealed to the next step of the procedure within applicable time limits, and an extension has not been agreed to in advance, the grievance will be considered resolved on the basis of the last University response to the grievance and shall be considered ineligible for further appeal.
4. **Request that a Grievance Be Placed in Abeyance-** Should the grievant and/or UPTE make a request that the grievance be placed in abeyance for any reason, the period of abeyance shall not exceed ninety (90) days, except in cases of sexual harassment where it shall be one-hundred-eighty (180) days. Failure by UPTE to reactivate the grievance within the ninety (90) day time limit (except in the case of sexual harassment where it shall be one-hundred-eighty (180) days) following agreement by the parties that it be held in abeyance will render the grievance ineligible for arbitration and the last preceding University written answer shall become final.

### **D. GRIEVANTS WHO HAVE RESIGNED**

Grievants who voluntarily resign or retire their employment with the University shall have their pending grievances immediately withdrawn and will not benefit by any subsequent settlement or disposition of any individual, union, or group grievance.

However, if the group or union grievance is related to the implementation of a compensation provision negotiated in a UC/UPTE Agreement, the grievance may be continued if it has moved to Step 2 before the date of the employees' resignation or retirement. The foregoing provision shall not apply to LBNL.

### **E. GRIEVANCE PROCEDURE - INFORMAL REVIEW**

Before commencing the formal grievance procedure, an individual employee, or group of employees, with or without their representative, may first attempt to resolve informally the grievance with the immediate supervisor.

## F. GRIEVANCE PROCEDURE - FORMAL REVIEW

### 1. Step 1:

- a. All grievances (individual, group, or union) must be filed either by U.S. mail, hand delivery, or facsimile (consistent with Section A.3.c.3. above) and received by the Labor Relations Office at the campus/hospital/LBNL which employs the grievant(s) within thirty (30) calendar days after the date on which the employee or UPTE knew or could be expected to know of the event or action giving rise to the grievance. Informal attempts of settlement to resolve shall not extend time limits including the initial thirty (30) day filing limit.
- b. Grievances received after the filing deadline will be processed solely for the purposes of determining whether the grievance was untimely. Any formal grievance which is not received in accordance with Section F.1. or this section, shall be reviewed only in accordance with the review procedures in Section Q.
- c. **University Review:**
  - 1) The University's written response will be issued to the grievant and the representative, if any, within fifteen (15) calendar days after the formal grievance is filed. If the response is not issued within this time limit, or if the grievance is not resolved at Step 1, the grievance may proceed to Step 2.
  - 2) Resolution of the grievance at Step 1 or earlier, although final, shall not be precedent-setting.
- d. **Sexual Violence and Sexual Harassment Complaint Resolution Procedures:**
  - 1) An employee alleging **sexual violence** / sexual harassment may elect to substitute a campus/hospital/laboratory Sexual Violence and Sexual Harassment Complaint Resolution Procedure for Step 1 of the Grievance Procedure. An employee who elects to use the Sexual Violence and Sexual Harassment Complaint Resolution Procedure may return to the grievance procedure only if they filed a grievance within the thirty (30) day time limit for filing. An employee who elects to resume the regular grievance procedure in place of the Sexual Violence and Sexual Harassment Complaint Resolution Procedure shall do so by sending written notice to the University. The University's Step 1 Grievance response will be issued within fifteen (15) calendar days after the notice



is received by the designated University official. If the second step of the grievance is not invoked by the grievant or UPTE, the University will hold the grievance in abeyance for up to one-hundred-eighty (180) days.

- 2) If no report issues from the sexual violence and sexual harassment process or the employee elects to use the sexual violence and sexual harassment process and for any reason the grievance is in abeyance for more than one-hundred eighty (180) days, the case will be considered withdrawn by the grievant, unless expressly confirmed in writing to be in abeyance. Any request for extension of an abeyance will be subject to new deadlines pursuant to this Section.
- 3) Grievances that allege violations involving sexual violence and/or sexual harassment that were the subject of an investigation by the University are subject to the limits set forth in Article 25, Section C of this agreement and cannot be moved to the arbitration level until sixty (60) days after the finalization of the Title IX report.
- 4) Evidence no matter how categorized, relied upon or included into the Title IX report can be introduced at the arbitration hearing when a grievance alleges violations of sexual violence and/or sexual harassment.

## 2. **Step 2**

- a. If the grievance is not resolved at Step 1, the grievant or the Union may proceed to Step 2 by filing a written appeal with the Labor Relations Office within fifteen (15) calendar days of the date the written response is issued or, if not issued, is due.
- b. Unless the parties agree otherwise, the designated University local official shall convene a meeting with the grievant(s) and the grievant's representative, if any, to attempt to resolve the grievance. The meeting shall be convened no later than fifteen (15) calendar days following receipt of the appeal to Step 2. During the Step 2 meeting, the parties shall discuss information and contentions relative to the grievance.
- c. During the Step 2 process, the parties may agree in writing to amend the alleged violations stated in the original grievance.
- d. If requested by the grievant, a second UPTE representative may participate in the Step 2 meeting. In the event a second UPTE

representative attends, only one representative may actively participate in the grievance meeting, and the University shall pay release time for only one representative.

- e. If a grievance that alleges a violation of Article 7 - Corrective Action/Discipline and Dismissal only is not satisfactorily resolved at Step 2, UPTe may appeal directly to arbitration in accordance with Article 3 - Arbitration Procedure.
- f. A written decision shall be issued within fifteen (15) calendar days following the Step 2 meeting, or receipt of the Step 2 appeal if it is agreed that no meeting will be held.

### 3. **Step 3**

- a. All grievances that are not satisfactorily resolved at Step 2 may be appealed to Step 3. The appeal must be filed with the Director of Labor Relations in the Office of the President within thirty (30) calendar days of the date the University's Step 2 written answer was issued or, if no University answer was issued, within thirty (30) calendar days of the date the University's answer was due.
- b. An appeal to Step 3 shall be accomplished as follows:
  - 1) Delivery by U.S. Mail;
  - 2) Personal Presentation with mutual acknowledgment from the person delivering the document(s) and the person accepting delivery of document(s) by signing and dating the document(s) and each of them retaining one of the signed and dated documents; or
  - 3) Email to [AppealAGrievance@ucop.edu](mailto:AppealAGrievance@ucop.edu).
    - a) Email submissions must include PDFs of all documents, information and signatures necessary to be in compliance with the Grievance Procedure provisions of this Agreement.
    - b) The 'date of filing' for emailed Appeals to Step 3 shall be the date received on the University server, provided that the appeal is received during business hours. If a Step 3 appeal is received outside of normal business

hours, the first following business day will be deemed the filing date of the Appeal to Step 3.

- c) The University shall acknowledge the Union's Appeal to Step 3 through a computer-generated, automatic email response.
- c. The Step 3 appeal shall identify all unresolved issues, alleged violations and remedies and shall be signed and dated by the grievant or their representative. The subject of the grievance as stated at Step 2 shall constitute the sole and entire subject matter of the appeal to Step 3.
- d. The Office of the President Office of Labor Relations official shall issue the University's written answer to a Step 3 appeal within thirty (30) calendar days of the receipt of the appeal. The answer will be issued to the grievant when self-represented, or to the employee's representative.
- e. By mutual agreement between the University and UPTE, Step 3 may also be the first step in the Grievance Procedure when UPTE is filing a grievance on behalf of employees at more than one location. Such a grievance must be filed within ~~30~~ thirty (30) calendar days of the action that gave rise to the grievance and follow all other requirements of Section A.3 - Filing, above.

#### **4. Appeals to Arbitration**

If an appeal to arbitration is not postmarked, hand delivered, or electronically filed within thirty (30) calendar days of the issuance of the University's Step 3 answer, Section C. of this Article shall apply.

### **G. UNION GRIEVANCES**

UPTE shall have the right to present grievances under this procedure on behalf of an individual employee, on behalf of a group of employees, or on behalf of itself. It shall be the Union's responsibility to inform an employee that it is bringing a grievance.

### **H. GROUP GRIEVANCE**

A group grievance is defined as a grievance that covers more than one employee, and that involves like circumstances and facts. A group grievance must be so identified on the grievance form at Step 1. If an employee wishes to withdraw from

a group grievance represented by UPTE, the employee shall notify UPTE. UPTE shall in turn notify the University in writing if the employee is to be withdrawn.

**I. CONSOLIDATION OF GRIEVANCES**

Grievances of two or more employees, as well as multiple grievances by or related to the same employee, or which relate to the same incident, issue, alleged violation, facts, or course of conduct, may be consolidated. Consolidation or severance of grievances shall occur by mutual written agreement.

**J. OFFERS OF SETTLEMENT**

Settlement offers made at any stage of this procedure, including informal resolution, shall not be introduced as evidence in subsequent steps, and shall not be precedent setting.

**K. RETROACTIVITY**

Settlement of grievances may or may not be retroactive as equities of a particular case may demand. In any case where it is determined that the settlement shall be applied retroactively, except for the correction of mathematical, calculation, recording or accounting errors relating to the payment of wages, the maximum period of retroactivity allowed shall not in any case be made retroactive to a date earlier than thirty (30) calendar days prior to the initiation of the written grievance in Step 1.

**L. EXCLUSIVE PROCEDURE**

The Grievance Procedure set out in this Article shall be exclusive and shall replace any other grievance procedure for adjustment of any disputes arising from the alleged violation of this Agreement. Unless otherwise indicated within this Agreement, any previous grievance procedure or other procedure in existence or adopted by the University shall not apply to employees covered by this Agreement for any purposes whatsoever.

**M. RELEASE TIME AND PAY STATUS FOR GRIEVANTS, EMPLOYEE REPRESENTATIVES AND/OR WITNESSES**

**University-Convended Meetings**

1. If the University convenes a meeting involving the parties to a grievance for the purposes of resolving the grievance and/or completing the steps of the Grievance Procedure, the grievant(s), witness(es), if any, and UPTE-designated employee representatives eligible to attend such meeting pursuant to this article and Article 1 – Access, Section C. shall be in without-loss-of-straight-time-pay status during the meeting provided:

- a. such meeting occurs during the regularly scheduled hours of work of the grievant(s), UPTE-designated employee representative, and/or witness(es); and
  - b. advance request is made and approval is received from the supervisor of the grievant(s), the witness(es), and/or the UPTE-designated employee representative. Approval to attend shall be made on an operational needs basis and shall not be unreasonably denied.
2. A grievant or the representative may request the availability of bargaining unit employee witnesses for University-convened grievance meetings. The availability of bargaining unit employee witnesses shall be determined by their immediate supervisor(s) on the basis of operational needs, and such requests shall not be denied unreasonably. Witnesses shall be in a without-loss-of-straight-time-pay status if the information they provide pertains to the subject of the grievance and the criteria enumerated above (Section M.1.a.1. and Section M.1.a.2.) are met. Grievants and UPTE agree that every effort shall be made to avoid the presentation of repetitive witnesses and the absence of any or all witnesses shall not require the meeting to be recessed or postponed.
3. The University is not responsible for any travel or lodging expenses or any other expenses incurred by the representative, grievant or union witnesses.
4. Paid release time for UPTE designated employee representatives for purposes other than University convened meetings shall be provided in accordance with Article 1 – Access.

**N. EXCLUSION OF LIMITED APPOINTMENT EMPLOYEES AND PROBATIONARY EMPLOYEES**

The retention or release of limited appointment employees and probationary employees, or the non-scheduling of per diem employees, if applicable, is at the sole discretion of the University, and shall not be subject to Article 10 – Grievance Procedure or Article 3 – Arbitration Procedure of this Agreement.

**O. OTHER REPRESENTATION**

Grievants may choose a representative other than an UPTE representative for purposes of grievance representation and adjustment. In the event the University is involved in the resolution of a grievance from a grievant or group of grievants who are self-represented or represented by someone other than an UPTE representative:

1. The University shall provide UPTE with a copy of the grievance and the proposed resolution, indicating the grievant or grievants have chosen a representative other than UPTE.
2. UPTE shall have ten (10) calendar days from the date the University provides the material referenced above in which to comment in writing on the proposed resolution.
3. The University shall not implement the proposed resolution of the grievance until timely receipt and review of UPTE's written comments, if any.
4. The resolution of grievances presented by someone other than an UPTE representative shall be consistent with the terms of this Agreement.

**P. GRIEVANCE FILE**

Records involving the processing of an employee's grievance, such as the grievance form, step appeals/responses, and settlement documents, will be kept in a file separate from the employee's personnel file. It is not the intent of this section to exclude from the employee's personnel file final disciplinary action documents, including those that result from a settlement agreement.

**Q. REVIEW OF GRIEVANCES CLOSED FOR PROCEDURAL DEFECTS**

When the University determines a grievance is ineligible for further processing due to procedural defects, including but not limited to timeliness, UPTE may make a written appeal to the Office of the President Labor Relations, consistent with Section F.3.b. of this article, within thirty (30) days of the postmark of the notification to the grievant(s). This appeal is solely limited to a review of the procedural issue(s). If the Office of the President denies this appeal UPTE may appeal the issue of the closure of the grievance directly to arbitration per Article 3 - Arbitration, within thirty (30) calendar days of the issuance of the denial of the appeal.

## **ARTICLE 11 HEALTH AND SAFETY**

### **A. UNIVERSITY AND EMPLOYEE COMMITMENT TO HEALTH AND SAFETY**

1. The University of California is committed to providing all employees a safe work environment.
2. The University shall make reasonable attempts to furnish and maintain in safe working condition the workplace and equipment required to carry out assigned duties. The University shall manage its operations in compliance with established campus/hospital/LBNL health and safety policies and procedures.
3. No employee shall be retaliated against for identifying and/or expressing concern about any safety-related issue.
4. A critical component of the University's health and safety program is employees following safe work practices and working safely. All employees shall comply with the University's established campus/hospital/LBNL health and safety policies and procedures and this article.

### **B. ASSIGNMENT**

1. Employees shall receive health and safety education and/or training applicable to their job functions.
2. Prior to working with hazardous materials or in a hazardous environment, such as employees working with animals with contagious diseases and/or in laboratories using hazardous chemicals, employees will receive information and training pertaining to the health and safety protocols in the employee's department, an explanation of the health and safety rights and responsibilities of both the employer and the employee, instructions concerning known specific hazards of the employee's job, and the procedures available to employees to abate or report any unsafe or unhealthy working conditions. When assigned duties include an imminent risk to life and health, as determined by a University health and safety professional the University shall provide training and information to the employee prior to the employees assuming such duties.
3. Abnormally hazardous or dangerous tasks shall be defined as those tasks having dangers or hazards which are objectively identifiable as constituting a clear and imminent life-threatening danger, and/or dangers or hazards substantially greater than the dangers or hazards inherent to

the usual scope of a given job and for which the employee has not been trained and equipped.

4. An employee shall not be assigned to any abnormally dangerous or hazardous task at the employee's place of employment.
5. All employees must notify their immediate supervisor as soon as they consider an assigned task to be abnormally hazardous or dangerous. The employee shall then identify the components of the assignment that they allege to be abnormally hazardous or dangerous.
  - a. In attempting to resolve the employee's claim, the supervisor, at his or her sole discretion, may attempt to make workplace task performance and/or task assignment changes consistent with health and safety considerations and the availability of additional or alternate personnel.
  - b. If the supervisor does not make assignment changes, he or she shall have the employee's claim assessed by a health and safety professional person responsible, in accordance with campus/hospital/LBNL procedures, for the assessment of abnormally hazardous or dangerous conditions.
    - 1) If, in the assessment of the University, the assignment is abnormally hazardous or dangerous, the supervisor shall follow campus/hospital/LBNL procedures to remedy the abnormally hazardous or dangerous situation prior to assigning the work to the employee. Once the modifications which remedy the abnormally hazardous or dangerous situation are made, the employee may be required to perform the work.
    - 2) If, in the assessment of the University, the assignment is not abnormally hazardous or dangerous, the supervisor may order the employee to perform the assignment or, at the supervisor's sole discretion, assign the affected employee to other available work consistent with the work usually performed by the employee or may assign another qualified employee to perform the assignment.
6. If the employee refuses to perform tasks assigned in accordance with Section B.5.b.1. and Section B.5.b.2. above, he or she may be subject to discipline.



## C. **INFORMATION AND TESTS**

1. The University, upon receiving any chemical or substance containing hazardous material, will obtain the Safety Data Sheet (SDS) from the vendor, unless the latest version of the SDS is already on hand and available. The SDS shall be made available to the employee or UPTE on request. The University shall maintain such information, including maintenance in electronic form, if the employee has ready access to a computer.
2. When an SDS provides that certain safety equipment (for example, but not limited, to rubber gloves, face masks, etc.) is required for safe handling of a hazardous substance, the required safety equipment shall be reasonably accessible to the employees who are required, as part of their job duties, to use that hazardous substance. The University shall provide employees who may come in contact with hazardous substances (within then-current definitions under applicable law) with adequate information or training regarding the proper handling of said substances, to the extent appropriate and related to their jobs.
3. In compliance with State and Federal law, the University shall provide to affected employee(s) access to data regarding toxic chemicals, seismic safety and asbestos reports. Such existing data shall be readily available and provided to the union or employee within fifteen (15) calendar days following a request.
4. In the case of a suspected outbreak of a communicable disease or nuclear, biological, or chemical contamination and when the University requires testing for such communicable disease or contamination of patients and/or employees the University shall offer such tests for bargaining unit employees within the appropriate affected work areas at no cost to the employees.
5. Pursuant to State and Federal law, upon written request, UPTE shall receive any health and safety information subject to public disclosure, within the time frame specified by applicable law.

## D. **PROTECTIVE CLOTHING**

### 1. **General Provisions**

Protective work clothing is attire worn over or in place of regular clothing to protect the employee's clothing from damage or abnormal soiling or to maintain a sanitary environment and includes laboratory coats, shop coats, aprons, scrubs, and surgical gowns. Protective work clothing is provided by the University. Safety equipment protects the employee and

includes head covers, gloves, goggles, prescription safety glasses, and safety shoes. At the reasonable request of the employee, the University shall provide safety equipment.

## **2. Replacement**

- a. Protective work clothing and safety equipment, except prescription lenses and sized safety shoes, which were provided to an employee by the University for use on the job, shall be returned upon completion of the assignment. University-provided items damaged or worn out in the performance of duties shall be repaired or replaced by the University. An employee required to wear prescription safety glasses will pay for the medical eye examinations. The University shall supply the safety lenses and frames selected by the University.
- b. Where federal and/or state safety regulations or the University requires an employee to wear safety-shoes, the University will provide the employees with safety shoes or reimburse the employee up to \$110 per year for the employee's purchase of safety shoes (upon proof of purchase). This provision shall not apply at locations where current safety shoe purchase/reimbursement programs exceed those required by this paragraph.

## **3. Shoes Restricted to the Worksite**

In those work locations where the University does not permit employees to wear or take home the shoes s/he wears at the work site, the University will, when those shoes are worn out, either supply the employee with replacement shoes or reimburse the employee for the reasonable replacement cost of her/his work shoes. Both the determination of when shoes are worn out, and the decision to either provide replacement shoes or reimburse the employee for reasonable costs of replacing worn-out shoes, are at the sole non-grievable, non-arbitable discretion of the University.

## **E. TOOLS AND EQUIPMENT**

1. The University shall furnish and make reasonable attempt to maintain in safe working conditions the workplace tools and equipment required for employees to carry out the duties of their positions.
2. The University shall have no responsibility to provide, maintain and/or reimburse employees for tools and/or equipment which are not the property of the University. Additionally, the University is not required to

provide equipment different than that which is determined by the University to be necessary for the safe conduct of University business.

**F. COMPLAINTS, DISPUTES, AND GRIEVANCES**

1. If an employee believes he or she is exposed to, or aware of an unsafe work environment, that employee has a responsibility to immediately report the issue to his or her supervisor, without reprisal.
2. Employees have the right to report health and safety complaints or violations to the Office of Environmental Health & Safety, University Risk Services, University Safety Committees, and or to the appropriate regulatory agency.
3. In the event an employee believes he or she is performing a hazardous job with insufficient training, the employee shall immediately inform his or her supervisor. After such consultation, the employee may contact the Environmental Health and Safety Department (EH&S) to request additional health and safety review of the matter. In such instances, a staff member from the EH&S department shall respond to the employee as soon as practicable.
4. Specific and/or general campus/hospital/LBNL health and safety concerns may be raised in the labor/management meetings as defined in Article 15 – Labor/Management Meetings. When the union identifies Health and Safety as an agenda item, a Health and Safety professional will attend the Labor/Management meeting.
5. If, as a result of a grievance or arbitration decision or as the result of an agreement between the University and UPTE, it is determined that an abnormally hazardous and dangerous assignment was made, the University shall attempt to correct such situation within a reasonable time and utilizing such funds as may be specifically budgeted for the particular efforts with either administrative or engineering controls. If, as a result of the filing of a grievance relative to the provision of information and training prior to the assumption of duties which include an imminent risk to life and health, the University and UPTE agree as to the failure to provide such information and training, the University shall attempt to correct such situation within a reasonable time and utilizing such funds as may be specifically budgeted for the particular efforts.
6. This Article does not cover mental or emotional reactions to or perceptions of the work environment, or physical reactions arising from mental or emotional reactions to or perceptions of the work environment.

G. **COMPLIANCE**

The University and UPTE acknowledge that the University's ability to comply with the provisions of this Article is subject to the availability of specifically budgeted funds for the particular efforts which may be necessary in order for the University to meet its obligations under this Article and/or pursuant to any settlement, and/or award rendered pursuant to a grievance related to the provisions of this Agreement and Article. The University and UPTE agree that the availability of such specifically budgeted and available funds shall be a contingency upon which the University's compliance with a settlement, award and/or order of enforcement of such decision relative to a grievance related to this Article shall be dependent.

## **ARTICLE 12 HOLIDAYS**

### **A. UNIVERSITY HOLIDAYS**

The University shall observe the following days as administrative holidays:

- New Year's Day
- Martin Luther King, Jr. Day
- Third Monday in February (or announced equivalent)
- Cesar Chavez Day (Last Friday in March or announced equivalent) (Also see Section G.3 for LBNL)
- Last Monday in May
- Fourth of July
- Labor Day
- Veterans' Day (November 11th) (including Lawrence Berkeley National Laboratory if approved by the DOE) (Also see Section G.3 for LBNL)
- Thanksgiving Day
- Friday following Thanksgiving Day (or announced equivalent)
- December 24 (or announced equivalent)
- December 25
- December 31 (or announced equivalent)

Unless an alternate day is designated by the University, when a holiday falls on Saturday, the preceding Friday is observed as the holiday, and when the holiday falls on Sunday the following Monday is observed as the holiday.

### **B. ELIGIBILITY**

1. An employee is eligible for holiday pay if the employee is in pay status at least fifty percent (50%) of the hours in the month or quadri-weekly cycle, excluding holiday hours. Pay is based on eligibility determined by the quadriweekly cycle, defined as the two (2) bi-weekly pay periods immediately preceding the bi-weekly pay period in which the holiday occurs.
2. An employee on pay status on the employee's last scheduled work day before the holiday and first scheduled work day after the holiday shall be eligible to receive holiday compensation as provided in Section C., below. No employee shall be eligible for compensation for any holiday which is immediately preceded by or followed by an unauthorized unpaid absence or a disciplinary suspension.
3. New and rehired employees shall be eligible to receive pay or compensatory time off for holidays preceding their first day of work provided the holiday is the first working day(s) of the month or quadri-

weekly cycle.

4. A terminating employee shall be eligible to receive pay for holidays immediately following the employee's last day of work provided the holiday is the last working day(s) of the month or quadri-weekly cycle. Pay is based on eligibility determined by the quadriweekly cycle, defined as the two (2) bi-weekly pay periods immediately preceding the bi-weekly pay period in which the holiday occurs.
5. An eligible employee who is on approved leave without pay or temporary layoff for a period of not more than twenty (20) calendar days, including holidays, shall be eligible to receive pay for any holiday occurring during that period.

## **C. HOLIDAY TIME/PAY**

### **1. Compensation For Holidays Not Worked**

- a. An eligible full-time employee shall receive eight (8) hours of holiday pay, regardless of the number of hours in her/his shift, and regardless of whether or not it was worked, except as provided in Section B. 2. above.
- b. An eligible part-time employee shall receive proportionate holiday pay, up to the maximum of eight (8) hours per holiday, as provided in Section B.2., above. Such holiday pay is calculated on the number of hours in pay status in the month or quadri-weekly cycle in which the holiday falls, excluding holiday hours.
- c. A full time employee on an alternate work schedule who is normally scheduled to work more than eight (8) hours on the day on which the holiday is observed shall be allowed to make up the difference between the eight (8) hours of holiday pay and the employee's normally scheduled hours by one of the following methods, in the workweek in which the holiday falls:
  - 1) use of vacation time, subject to the provisions of Article 43 - Vacation;
  - 2) use of compensatory time, subject to the provisions of Article 13- Hours of Work; or
  - 3) working additional straight time hours scheduled at the sole discretion of the University.

### **2. Compensation For Holidays Worked**

- a. With the exception of the provisions in Section C.2.b., below, an employee required to work on a holiday listed above shall be paid at the employee's regular straight-time rate of pay for the hours actually worked. In addition, an eligible employee shall receive either compensatory time off or holiday pay at the option of the University at the regular straight-time rate, including any shift differential.
- b. An employee shall be paid at the rate of time and one-half times (1 1/2) regular pay for hours actually worked on Fourth of July, Labor Day, Memorial Day, December 25th, Thanksgiving Day, and New Years Day, and no alternate dates may be designated by the University.
- c. A full time employee may be required to actually work her/his normally scheduled number of work days, excluding the holiday(s), at the straight time rate during weeks in which a holiday(s) occurs. In the event an employee is required to work her/his scheduled number of days on four (4) or more such weeks in a calendar year, the holiday hours in the fourth (4th) holiday week and beyond shall be counted as hours worked. This provision does not apply to employees who are employed to cover only weekend or only holiday schedules.

#### **D. RELIGIOUS OBSERVANCE**

By charging time off to vacation, compensatory time off, or leave without pay, an employee may observe a special or religious holiday if the University determines that work schedules permit. Such requests shall not be unreasonably denied.

#### **E. RESTRICTIONS**

1. In the administration of the provisions of this Article there shall be no duplication, pyramiding, or compounding of any premium wage payments provided herein with any other wage payments provided in any other provision of the Agreement.
2. Holiday pay shall not count as time worked for the purpose of calculating overtime, except as provided in Section C.2., above.

#### **F. MAJOR HOLIDAYS**

Major holidays are designated for scheduling purposes, only. Major holidays are defined as the two (2) day holiday period for Thanksgiving, December 25 and January 1. The University will guarantee each member of the bargaining unit the

opportunity to take one (1) of those two-day periods off regardless of the dates on which the University celebrates those holidays. Operational needs permitting, the University shall grant one (1) additional two (2)-day period off. Straight time holiday pay eligibility shall be determined by the official University holiday schedule. This provision does not apply to employees who are employed to cover only weekend or only holiday schedules.

**G. LAWRENCE BERKELEY NATIONAL LABORATORY (LBNL)**

1. A new full-time employee will be paid for any holiday immediately preceding his or her first day of work if the holiday is the first working day(s) of a pay period. This rule does not apply to part-time employees.
2. A terminating full-time employee shall receive pay for any holiday immediately following his or her last day of work if the holiday is the last working day(s) of a pay period. This rule does not apply to part-time employees.
3. In lieu of using the Administrative Holiday during the winter shut-down, it may be used as a floating holiday, with supervisory approval, on Cesar Chavez Day (the last Friday in March) or Veterans' Day (November 11). LBNL will be open on both Cesar Chavez Day and Veterans' Day and closed during the winter shut-down. Employees electing to use the floating holiday on either Cesar Chavez Day or Veterans' Day will be required to use an additional vacation day or leave-without-pay day during the winter shut-down. The floating holiday must be taken during the calendar year and cannot be accrued for future use. Nonexempt employees working on Cesar Chavez Day and Veterans' Day will be paid for hours worked only. They will not receive additional holiday pay.



**ARTICLE 13  
HOURS OF WORK**

**A. STANDARD WORKWEEK**

A workweek is a period of time consisting of seven (7) consecutive days. A standard workweek is from Sunday morning (12:01 a.m.) to midnight the following Saturday. Workweeks beginning and ending on a day other than the above may be established by the University.

**B. WORK SCHEDULES**

1. Work schedules are established by the University. Employee work schedules will be made known to the employees in accordance with the provisions of Section C. of this Article.
2. A work schedule is the normal hours of work for an employee within a workweek.
3. A standard full time work schedule shall be eight (8) hours per day, excluding meal periods, on five (5) consecutive days. An alternate (flexible) full time work schedule may consist of forty (40) hours in one workweek or eighty (80) hours within two consecutive workweeks.

**C. SCHEDULE/SHIFT ASSIGNMENTS**

1. Employees will be made aware of their work schedule/shift assignment in the following manner:
  - a. When practicable, the University will provide an employee with at least five (5) work days' notice prior to changing her/his work schedule for a period of less than four (4) workweeks duration.
  - b. When practicable, the University will provide an employee with at least fifteen (15) work days' notice prior to changing her/his work schedule/shift for a period of at least four (4) workweeks duration.
  - c. Employees who do not have fixed work schedules and shift assignments will be made aware of their work schedule/shift assignment when feasible.

If the employee's supervisor fails to provide notice of a shift change pursuant to Section C.1.a. and b. of this Article on three (3) or more occasions, failure to provide such notice on the third or subsequent occasion shall be grievable and arbitrable.

2. An employee may file a written indication of preference for a particular shift (i.e., day, evening, night) with her/his immediate supervisor. When assigning work schedules and shifts to employees, the University will also consider the skills, knowledge, and abilities of the employees who normally perform the work involved prior to deciding upon the shift assignment. In the event two (2) department career employees with substantially equal qualifications have expressed a preference, the University may use departmental seniority to make the shift assignment.
3. The University may, at its sole non-grievable discretion, grant employee requests for flexible working hours, or shift assignments.
4. **Alternate Work Schedules**
  - a. Employees may request alternate work schedules. The University will review the feasibility of implementing alternate work schedules in those work units for which the employee(s) indicate(s) there is an interest in such schedules.
  - b. Where practicable, the parties will, at the local campus/hospital/LBNL labor-management meetings, identify problems and concerns related to existing alternate work schedules.
  - c. In the event the University decides to abolish, establish or change alternate work schedules in work areas, the University shall inform UPTE at least thirty (30) calendar days prior to taking such action.
  - d. Nothing in this section shall infringe upon, interfere with or diminish in any way the University's right to ensure adequate staffing and coverage to meet operational requirements and necessities in an efficient and orderly manner.

#### **D. MEAL PERIODS**

A meal period of at least one-half (1/2) hour is provided for any work period of six (6) continuous hours or more. Meal periods are neither time worked nor time on pay status. Whenever an employee is required to perform work or is not substantially relieved of work-related duties during a meal period, the meal period shall be considered time worked. The University may reschedule an employee's meal period during the work day when operational needs preclude relieving the employee of work-related duties during the originally scheduled meal period, however, regularly scheduled meal periods shall normally be provided.

**E. REST PERIODS**

1. Two rest periods of fifteen (15) minutes shall normally be granted during an eight (8) or ten (10) hour shift. Three rest periods of fifteen (15) minutes shall normally be granted during a twelve (12) hour shift. A part time employee shall normally be granted one fifteen (15) minute rest period for each work period of three (3) continuous hours or more, not to exceed two (2) rest periods per day.
2. Operational requirements may restrict the granting of rest breaks.
3. Rest periods shall not be taken at the beginning or end of a work period or accumulated for use at a later time. The combining of rest periods with meal periods for some, any or all employees of a department/division shall be at the discretion of the University.

**F. CHANGING AND CLEAN UP TIME**

The University shall determine when clean-up time or uniform changing time is necessary for employees. When the University requires that the employee must change into or out of uniform, or must engage in special washing or cleaning procedures, the time spent in such activities shall be considered as time worked.

**G. TRAVEL TIME**

1. Travel time between home and the work place is not time worked.
2. Assigned travel during an employee's regular working hours on work days is time worked.
3. Assigned travel that keeps an employee away from home overnight and that occurs outside the employee's normal working hours is not considered as hours of work. However, assigned travel that does not keep an employee away from home overnight is considered as hours worked, as is travel that occurs during the hours an employee normally works when the travel occurs on the employee's days off.
4. The department head may designate other travel as time worked.

**H. CALL-BACK**

1. Call-back applies to an employee who is not in on-call status and is called back to the campus to work in her/his department after completing a shift and leaving the campus but before her/his next scheduled shift.

2. An employee called back to the work site may be assigned by the University to perform available work, and shall be paid for the time actually worked upon return to the campus/hospital/LBNL, or a minimum of four (4) hours, whichever is greater. Call-back time, whether worked or not, is considered time worked for the purpose of calculating hours of overtime.

## **I. ON-CALL**

The University retains the right to determine the need for, and the assignment of, on-call time. An employee is not considered to be in on-call status unless s/he has previously been scheduled by the University to be on-call. Employees in on-call status are required to inform the employer how they can be reached or to carry a pager in order to receive a call to work. An employee in on-call status is not eligible for minimum call-back payments. An employee in on-call status who is called to perform work or to return to the work site will be paid at her/his regular rate of pay for the time worked. Payment for on-call time paid at the on-call rate is included as part of compensation in calculating the regular rate when determining premium overtime pay.

1. Unrestricted on-call is time during which an employee is free to engage in activities for their own purposes but is required to be available for work or timely return to the work site when called to work. Time in unrestricted on-call status is not counted as hours worked or time on regular pay status when employees are not required to be at the work location or to actually perform work from a location other than the work location. Unrestricted on-call will be compensated at the on-call rate, as listed in Appendix A.
2. Restricted on-call is time during which the employee is required to restrict personal activities so that time cannot be effectively used for their own purposes. Restricted on-call will be considered hours worked and will be paid at the employee's normal pay rate (or overtime if appropriate).

## **J. OVERTIME**

### **1. Definition**

Overtime is time worked which exceeds the hours of a full-time employee's regular daily schedule on pay status or exceeds forty (40) hours on pay status in a workweek.

- a. Pay status includes time worked and paid leave such as sick leave, vacation leave, holidays, military leave, compensatory time off and administrative leave with pay.

- b. Overtime hours are compensated at one and one-half times (1 1/2x) the straight-time rate only when an employee has actually worked in excess of forty (40) hours in the scheduled workweek.
- c. Overtime hours do not count toward accumulation of sick leave, vacation, holiday, or retirement service credit.
- d. Actual time worked for the purpose of computing overtime does not include hours paid in non-work status, such as sick leave pay, vacation pay, holiday pay, compensatory time, and paid leave of absence pursuant to Article 18, Leaves of Absence, except as provided in Article 12, Holidays, Section C.2.

2. **Assignment of Overtime**

- a. The University shall decide when overtime is needed. Overtime must be approved in advance by the University. As soon as practicable after the need for overtime is determined, the University shall notify the employee that overtime must be worked. Employees are expected to work overtime when such work is assigned.
- b. The University will assign overtime work by rotation based on departmental seniority of those employees on the same shift who normally perform the work involved. For purposes of this Article, rotation means that the last employee to work overtime will be the last considered for new overtime assignments. For the purposes of this Article, departmental seniority may be defined by each department at the campus/hospital/LBNL. Such seniority is applied in the following manner:
  - 1) When there are employees volunteering to work the overtime, assignment of that overtime shall be based on greatest seniority, provided the employee(s) have the required skills, knowledge and ability to do the job.
  - 2) When no employee volunteers to work the overtime, assignment of that overtime shall be based on inverse order of seniority, provided the least senior employee has the skills, knowledge and ability necessary to perform the job.
- c. The University shall assign overtime to employees irrespective of their place on the seniority or rotation list(s) when the necessary skills, knowledge or abilities are not possessed by the employee who would otherwise be assigned in accordance with the above provisions.

### 3. **Compensation of Overtime**

In accordance with the following paragraphs, overtime shall be compensated at the appropriate rate either by pay or compensatory time off.

- a. Unless the employee and the University agree otherwise, overtime will be paid. An employee may, upon hire and thereafter during the month of June, file a written indication of preference for either compensatory time off or pay with her/his immediate supervisor. The University shall grant the preference indicated. If no preference is indicated to the department in the annual June period for changes, the employee's previous election shall continue.
- b. Compensatory time shall be paid or scheduled by the University in accordance with departmental needs. Accumulation of compensatory time is limited to a maximum of two-hundred forty (240) hours. An employee shall be paid for hours of overtime which exceed this limit. An employee may request to schedule the use of banked compensatory time. An employee's request for the scheduling of banked compensatory time shall be granted subject to the needs of the University and shall not be unreasonably denied.
- c. Overtime shall be reported and paid on the basis of the nearest quarter (1/4) hour.
  - 1) Designated hospital-based eight (8) hour employees who are assigned to a fourteen (14) consecutive day work period,
    - a) shall be compensated at one and one-half times (1 1/2x) the regular-straight time rate for hours worked which exceed eight (8) hours of actual work in any work day within the fourteen (14) day work period, and
    - b) shall receive the time and one-half (1 1/2x) overtime rate after eighty (80) hours of actual work in the fourteen (14) day period.
  - 2) Any payment at the time and one-half (1 1/2x) rate for daily overtime hours worked within the fourteen (14) day work period shall be credited toward any time and one-half (1 1/2x) compensation due for hours worked in excess of eighty (80) hours of actual work in the work period.

**4. Premium Overtime**

a. Premium overtime shall be calculated on the straight time rate.

- 1) Employees shall be compensated at one and one-half (1 1/2x) times the straight rate for hours actually worked which exceed the hours of a regularly scheduled shift of eight (8) hours or more a day.
- 2) Regardless of the employee's assigned shift, the University shall pay double time pay for hours worked over twelve consecutive hours in a day.
- 3) This provision shall become effective for employees paid on a monthly basis the pay period beginning on October 1, 2019 and for those employees paid by bi-weekly the pay period beginning October 6, 2019.

**K. CONSECUTIVE DAYS OF WORK**

Employees will be paid one and one-half times (1 1/2x) their straight-time rate in the following circumstances, until a day off is granted:

1. when employees regularly scheduled to work eight (8) hours per day work more than six (6) continuous full shifts for more than six (6) consecutive days;
2. when employees regularly scheduled to work ten (10) hours per day work more than five (5) continuous full shifts for more than five (5) consecutive days; and
3. when employees regularly scheduled to work twelve (12) hours per day work more than four (4) continuous full shifts for more than four (4) consecutive days.

The consecutive days of work provisions may be waived by the employee, either at her/his request or as the result of a scheduling change requested by the employee which results in such consecutive days of work.

**L. GENERAL PROVISIONS**

1. There shall be no duplication, pyramiding, or compounding of any premium wage payments.
2. This Article shall not be construed as a guarantee of or limitation on the number of hours per work day or workweek.

3. Where remote location pay, sea pay, and special Mt. Hamilton and Lick Observatory pay provisions currently exist, they shall remain in force throughout the life of this Agreement.

**M. PRINCIPAL TELESCOPE TECHNICIANS AT UC SANTA CRUZ, LICK OBSERVATORY**

1. UCO/Lick Observatory Principal Telescope Technicians may be assigned to work regular or alternate schedules. UCO/Lick Observatory Principal Technicians are not subject to the Schedule/Shift Assignment or the Consecutive Days of Work provisions included under Article 13, Hours of Work.
2. When practicable, the University will provide UCO/Lick Observatory Principle Telescope Technicians with at least five (5) work days' notice prior to changing the work schedule / shift for a period of less than four (4) workweeks duration.
3. When practicable, the University will provide UCO/Lick Observatory Principal Telescope Technicians with at least 15 (fifteen) work days' notice prior to changing the work schedule / shift for a period of at least four (4) workweeks duration.
4. UCO/Lick Observatory Principal Telescope Technicians who do not have fixed work schedules and shift assignments will be made aware of their work schedule / shift assignment when feasible.

**N. LAWRENCE BERKELEY NATIONAL LABORATORY (LBNL)**

**1. Definitions**

- a. **Calendar Day:** A calendar day is the 24-hour period from midnight of one day to midnight of the next day.
- b. **Calendar Week:** A calendar week extends from 12:01 a.m. Sunday to midnight the following Saturday.
- c. **Standard Laboratory Workday:** The standard workday is 8 hours in a 24 hour period on pay status with an unpaid meal break of at least 30 minutes (whether exempt or non-exempt).
  - 1) **Day Shift:** The standard day shift workday for full-time employees is 8 hours per day, 8:00 a.m. to 4:00 p.m.
  - 2) **Swing Shift:** The standard swing shift workday for full-time employees is 8 hours per day, 4:00 p.m. to midnight.



- 3) **Owl Shift:** The standard owl shift workday for full-time employees is 8 hours per day, midnight to 8:00 a.m.
  - 4) **Exceptions:** Supervisors may establish workday schedules, with division management approval, other than the standard Laboratory workday if necessary to meet operational needs in certain operating situations such as Laboratory protection, accelerator and computer operations, and scientific experiments in which experimental needs determine coverage requirements. Additional exceptions may be allowed as defined in the section on Flextime below.
- d. **Standard Laboratory Workweek:** Normally, a workweek consists of five consecutive workdays, Monday through Friday, within a calendar week.
  - e. **Work Schedule:** The daily, weekly, or monthly hours that an employee is assigned to work.
  - f. **Full Time:** A schedule involving complete workweeks or calendar months.
  - g. **Variable Time:** A schedule with no fixed percentage of time or schedule. Hours worked will vary depending on operational needs.

## 2. **Scheduling and Work Location**

- a. **Determination of Individual Work Schedule:** Employee work schedules are determined by the designated supervisor of the work unit, within division policy, to ensure that the work unit's operational needs have appropriate coverage.
- b. **Non-Exempt Employees:** The regular number of hours worked by full-time, non-exempt employees is 40 hours in a workweek. Work beyond 8 hours in a day or 40 hours in a week is subject to additional compensation only under the circumstances described in the section on Overtime below.
- c. **Meal Periods:** Any work schedule of six continuous hours or more shall provide employees with a meal period of at least one-half hour. Meal periods, which should be duty-free, are neither time worked nor time on pay status.
- d. **Rest Periods:** A full-time, nonexempt employee may be granted two 15-minute rest periods, one to be taken in the work period prior

to the meal period and one in the work period following the meal period. A part-time employee may be granted one 15-minute rest period for each work period of three continuous hours or more, not to exceed two rest periods per day. Rest periods may not be taken at the beginning or end of the work period, and time not used for rest periods may not be accumulated to be used at a later date. Scheduling of rest periods is subject to the approval of the employee's supervisor. Abuse of rest periods may result in disciplinary action. Such rest periods shall be considered time worked.

- e. **Work Location:** All employees are required to perform their work at an official Laboratory location, except while on travel status or through an approved telecommuting agreement, unless specific approval has been granted for work at another location. Official laboratory locations include, but are not limited to, the facilities in the San Francisco Bay Area, and locations such as the Washington, DC Office and Fermi Lab where Laboratory employees also reside. Agreements to perform work at alternative work sites must be in compliance with Laboratory policies.
- f. **Use of Work Time for Personal Business:** No portion of time due the Laboratory may be devoted to private purposes and no outside employment may interfere with the performance of Laboratory duties. Use of Laboratory telephones for brief calls within the local commuting area is permitted, when required by changes in work plans, emergencies, or coordination of work activities with family members or others who can be reached only during working hours.

### 3. Overtime

- a. **Definition:** Overtime in most cases is actual time worked in excess of 8 hours per day or 40 hours per week in order to cover emergencies or to meet job responsibilities. Paid holiday leave is considered to be time worked. Sick leave, vacation, military leave, court leave, and any other leaves with pay are not considered to be time worked for purposes of compensation for overtime.
- b. **Policy:** Only non-exempt employees are eligible for overtime pay. All overtime must be approved in advance by the employee's supervisor.
- c. **Pay for Overtime:** Overtime for non-exempt employees will be paid at the rate of 1 ½ times the regular hourly rate for hours worked in excess of eight hours per day or 40 hours per week. All overtime must be compensated, even if not approved in advance.

Granting compensatory time off in lieu of overtime pay is prohibited.

- d. **Pay for Overtime Meals:** Employees may be paid overtime for meals if all the conditions set forth in Laboratory policy regarding Laboratory-Hosted (Funded) Meetings concerning payment for food services are met, and one of the following conditions applies: 1) The work situation requiring the overtime is such that the employee is held over or called in early, without prior notice, so that the combined regular work shift and overtime assignment totals a minimum of two hours over the regular work shift, or 2) The work situation requiring the overtime is such that the employee is called in, without prior notice, on a day off, holiday, or call-back basis for a minimum of 5 hours.

#### 4. **Pay for Travel Time (Non-exempt employees)**

Travel between an employee's home is not considered time worked. Travel on Laboratory business during an employee's normal working hours (including travel during those hours on the employee's day off) is considered time worked. Travel outside normal working hours is considered time worked when it occurs on a scheduled day of work and is to or from a work location outside the normal commuting area of the assigned workplace.

#### 5. **Call-In Pay**

Non-exempt employees who are called in for short jobs outside their regular weekly schedule will be paid for a minimum of four hours or the hours worked, whichever is greater. Such pay will include shift differential and overtime if appropriate.

#### 6. **On-Call**

The University retains the right to determine the need for, and the assignment of, on-call time. An employee is not considered in on-call status unless assigned on-call by the University. Employees in on-call status are required to inform the employer how they can be reached or to carry a pager in order to receive a call to work. An employee in on-call status is not eligible for minimum call-back payments. An employee in on-call status who is called to perform work or to return to the work site will be paid at the regular rate of pay for the time worked. Payment for on-call time paid at the on-call rate is included as part of compensation in calculating the regular rate when determining premium overtime pay.

- a. Unrestricted on-call is time during which an employee is free to engage in activities for their own purposes but is required to be available for work or timely return to the work site when called to work. Time in unrestricted on-call status is not counted as hours worked or time on regular pay status when employees are not required to be at the work location or to actually perform work from a location other than the work location. Unrestricted on-call will be compensated at the on-call rate, as listed in Appendix A.
- b. Restricted on-call is time during which the employee is required to restrict personal activities so that time cannot be effectively used for their own purposes. Restricted on-call will be considered hours worked and will be paid at the employee's normal pay rate (or overtime if appropriate).
- c. If the University proposes to establish an on-call rate for a title in the unit at a location where no rate is listed, the University shall meet and confer with UPTe. When employees in this unit at the location are assigned to work on-call, they shall be paid according to Appendix A. Current on-call rates where established will remain the same for the duration of this contract.

## 7. **Flexible Work Options**

Flexible work options are tools managers and supervisors can use to help meet the work/life balance needs of their employees while simultaneously ensuring that the work unit's operational needs are met. While the Lab supports the use of flexible work options wherever possible, they do not change the basic terms and conditions of Laboratory employment and are not entitlements. Granting or denial of a request for a flexible work option, or rescission of an approved flexible work option, is not subject to the grievance or arbitration procedure. The Laboratory currently has two flexible work options that may be considered: Flextime and Telecommuting Agreements. Approval of both options must be within the provisions of **N.1** and **N.2** above.

### a. **Flextime**

- 1) **General:** It is the intent, except as noted below, to make flexible working hours available to all employees by allowing employees to redistribute their daily work hours within a framework defined by division management that is within the provisions of **N.1** and **N.2** above. The goal is to allow employees some flexibility regarding their daily work schedule, compatible with effective job accomplishment and work unit operational needs. Division/department

management may determine that there are specific scientific and/or operational necessity reasons during which a regular, ongoing flextime schedule cannot be implemented. If scientific or operational requirements make regular, formal flextime practices unfeasible, arrangements can be made between the supervisor and employee on an ad hoc basis.

- 2) **Operating Guidelines:** In reviewing a request for flextime, supervisors should consider 1) the minimum staffing required to ensure that normal services and functions of a work unit will be available during the standard workday, and 2) the amount of time an employee is expected to be on the job during a given time period.
- 3) **Core Hours:** The time when employees are normally expected to be at work: 9:30 a.m. through 11:30 a.m. and 1:30 p.m. through 3:30 p.m.
- 4) **Responsibilities:** Division directors are responsible for implementation of this policy, will determine whether flextime is appropriate within the division, and will approve employee's flextime schedules. Supervisors are responsible for ensuring that employees in their work units understand and meet work-unit operating guidelines and that the work unit operates effectively; this means identification of essential tasks, operations, and functions that must be accomplished at certain times during the workday and the development of coverage requirements. Employees are responsible for accurately reporting their time worked. It is the responsibility of employees working flextime and supervisors to communicate changes of personal or job schedule to those whom the changes may affect.

b. **Telecommuting**

- 1) **General:** Telecommuting is a work option in which employees fulfill their job responsibilities at home or another approved location. The arrangement may cover all or part of the employees' scheduled hours and may be on an intermittent/occasional basis or on a regular schedule. Telecommuting arrangements must be consistent with Laboratory policy and do not change the basic terms and conditions of Laboratory employment. An employee's performance while telecommuting is measured using the same standards that apply when the work is performed at the Laboratory and will be documented in the annual

performance review. Telecommuting agreements may be terminated at any time by either the employee or the supervisor. When possible, a 30 days' notice should be provided. Telecommuting is voluntary and is not an entitlement.

- 2) **Approvals:** Approval of an employee's request to telecommute is based on the operational needs of the work unit. A regular telecommuting schedule must be approved by the Division Director or Department Head (or designee). Occasional or intermittent telecommuting arrangements require supervisor approval. Telecommuting agreements involving nonexempt employees require concurrence of the Manager, Employee and Labor Relations.
- 3) **Types of telecommuting arrangements:** Telecommuting can be on an intermittent or occasional basis or on a regular part- or full-time schedule. A regular telecommuting schedule requires a written agreement, not to exceed 12 months, between the supervisor and employee. Agreements expire automatically on the stated end date unless reviewed and renewed prior to that date. Renewal is subject to the work unit's operational needs and the supervisor's assessment of the employee's performance. Changes in the terms of a telecommuting agreement within the 12-month period, e.g. change in off-site work location or telecommuting schedule, are to be documented as they occur. If, in the opinion of the supervisor, an intermittent telecommuting arrangement begins to occur frequently while still not on a regular schedule, the supervisor may require a written agreement. The agreement may be found at the HR Forms webpage.

## 8. **Special Provisions for Employees at the Advanced Light Source and Human Genome Center Project**

### a. **Changes in Work Shifts**

During the life of this Agreement, the Employer may institute new work shifts, which includes elimination of one or more shifts and/or changes in workweeks. Any changed work shift will be first offered to employees in the order of their classification seniority. However, in all cases, all employees going to the new shift/week must, in the Employer's judgment, currently have the requisite knowledge, skill and efficiency to perform the work. The Employer's judgment must be exercised in good faith and is subject to the Grievance-Arbitration procedures.

b. **Changes in Shift Assignments**

Shift changes, whether indefinite or temporary, must be posted at least thirty (30) calendar days in advance except in cases of emergency or except where the employee involved agrees in writing to waive the period of notice. In this event, a copy of the written waiver shall be furnished to the Union. No employee shall be compelled to enter into any such waiver. Where the proper thirty (30) days of notification is not given, except in bona fide emergency situations, the first day of the shift change shall be paid for at the overtime rate of time and one-half (1-1/2). Temporary shift changes shall be based on business need and shall not be used as discipline. In the case of temporary shift change, the affected employees shall be notified of the expected duration the shift change. Pairs of employees can request shift changes which shall be granted if, in the Employer's judgment, the employees currently have the requisite knowledge, skill and efficiency to perform the work. The Employer's judgment must be exercised in good faith and is subject to the Grievance-Arbitration procedures.

c. **The ALS 7-3-7-4-Alternate Work Schedule**

The ALS 7-3-7-4 alternate work schedule provides for employee work twenty-four (24) hours per day, seven (7) days per week, consecutive days off, and no rotation involving the owl shift. The ALS 7-3-7-4 alternate work schedule is as follows: Seven (7) consecutive days of work, followed by three (3) consecutive days off, followed by another seven (7) consecutive days of work, and then four (4) consecutive days off. At the end of this 7-3-7-4 cycle, the pattern repeats. Employees working the ALS 7-3-7-4 alternate work schedule are not subject to the Consecutive Days of Work provisions included in Section K of this article. In each seven (7) workday series, the first day is a nine (9)-hour shift with one (1) hour scheduled overtime. Each subsequent workday (days two (2) through seven (7)) in the series is an eight and a half (8.5) hour shift with a half-hour (1/2) scheduled overtime. Only employees assigned to work on the ALS 7-3-7-4 alternate work schedule are entitled to this scheduled overtime.

This table summarizes the 7-3-7-4 repeating cycle:

Work Days	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Hrs+ Hrs SOT
5			Workday 1 9 hours	Workday 2 8.5 hours	Workday 3 8.5 hours	Workday 4 8.5 hours	Workday 5 8.5 hours	40+3
4	Workday 6 8.5 hours	Workday 7 8.5 hours	Day off	Day off	Day off	Workday 1 9 hours	Workday 2 8.5 hours	32+2.5
5	Workday 3 8.5 hours	Workday 4 8.5 hours	Workday 5 8.5 hours	Workday 6 8.5 hours	Workday 7 8.5 hours	Day off	Day off	40+2.5
(5)	Day off	Day off						3 Week Total 112+8

Scheduled overtime hours worked as part of the ALS Alternate Work Schedule are counted toward accumulation of retirement service credit and calculation of HAPC. Additional hours worked during a 34.5 hour week, by employees on the ALS Alternate Work Schedule, will be paid at the overtime rate, provided other requirements for hours to be counted as overtime have been met. Such additional hours will not be counted toward accumulation of retirement service credit and calculation of HAPC.



**ARTICLE 14**  
**INDEMNIFICATION**

Pursuant to and as regulated by the terms, limitations and qualifications of California Government Code 995 et seq., the University of California shall provide the defense and indemnification for University employees within the unit covered by this Agreement who are sued on account of acts or omissions arising from the course and scope of their employment with the University. The provisions of and applications of the Indemnification provision are not subject to Article 10 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.

**ARTICLE 15  
LABOR- MANAGEMENT MEETINGS**

**A. LOCAL LABOR-MANAGEMENT MEETINGS**

The University and UPTE agree to meet, following UPTE's written request, up to four (4) times per year unless the parties mutually agree otherwise. Each party shall designate a chair, who shall have responsibility to make arrangements for scheduling the labor-management meeting and for drawing up the agenda. Non-employee UPTE representative(s) may attend the meetings.

1. Up to two (2) bargaining unit employees shall be released in a without-loss-of-straight-time pay status to attend each scheduled meeting, provided UPTE has given the University at least seven (7) calendar days' notice of her/his selection. The parties may agree to allow additional unit employees to attend the meetings and may, by mutual agreement, agree to place those attendees in a without-loss-of-straight-time status while in attendance at the meeting(s).
2. Items to be included and discussed at the meetings are to be submitted at least seven (7) calendar days prior to the scheduled date of the meeting. Items not so submitted need not be responded to at the meeting. Appropriate agenda items for such meetings include:
  - a. administration of the Agreement;
  - b. dissemination of general information of interest to the parties;
  - c. health and safety matters regarding bargaining unit employees;
  - d. general nondiscrimination-related issues, not pertaining to the facts of an individual employee's complaint(s);
  - e. information regarding personnel transactions and vacancies;
  - f. giving representatives an opportunity to express their views, or to make suggestions on subjects of interest to employees of the bargaining unit;
  - g. subcontracting issues;
  - h. staffing issues;
  - i. alleged violations of Article 35 – Respectful and Fair Treatment, Section A., and

- i. additional items mutually agreed to by the parties for placement on the agenda.

**B. UNIVERSITY-WIDE LABOR-MANAGEMENT MEETINGS**

1. The University (Office of the President Office of Employee & Labor Relations) and UPTE agree to meet, following UPTE's written request, at least once per year to discuss items such as the administration of this Agreement. Additionally, the University and UPTE agree to meet at least once per year, following UPTE's written request, to discuss the fringe benefit plans, coverages, benefit schedules, carriers, providers, premium rates, eligibility criteria and the amounts, if any, of University and/or employee contributions. The agenda of the meeting(s) shall be determined by mutual agreement of the parties at least seven (7) calendar days prior to the scheduled meeting date.
2. UPTE may request release time for up to a total of eleven (11) bargaining unit employees (but no more than one from each campus/hospital or Laboratory). Such representatives will be released from work in a without-loss-of-straight-time status to attend the scheduled meeting(s), provided UPTE has given the University at least seven (7) calendar days notice of her/his selection. The parties may mutually agree to allow additional unit employees to attend the meetings and may, by mutual agreement, agree to place those attendees in a without-loss-of-straight-time status while in attendance at the meeting(s).

**C. RELEASE TIME**

1. Release time provided shall be in accordance with the provisions of Section A.1., Section B.2., and Section C.2., of this Article.
2. Without-loss-of-pay-status release time will be provided for the duration of the meeting, and for reasonable travel time to and from the meeting. Up to a total of eight (8) hours in one day release time may be provided for attendance at a university-wide labor/management meeting. Any travel and subsistence incurred by the employee(s) attending the meeting(s) shall be the responsibility of the employees or UPTE.

**ARTICLE 16**  
**LAYOFF AND REDUCTION IN TIME**

**A. GENERAL CONDITIONS**

1. Layoffs may be temporary or indefinite and may occur because of budgetary reasons, curtailment of operations, lack of work, reorganization, or redefinition of the University's or department's needs.
2. The University shall have the sole right to determine:
  - a. when temporary or indefinite layoffs in career positions shall occur, the units of layoff, and the unit in which the layoffs shall occur, and
  - b. which classification and/or positions are to be subject to layoff.
3. If the University determines that a layoff is necessary, it will be accomplished in accordance with the provisions of this Article.
4. When the University determines that there is to be a change in a layoff unit within the bargaining unit, it shall give UPTE advance notice of at least thirty (30) calendar days, if feasible, and upon request shall meet and discuss such proposed changes. Changes to a layoff unit shall not occur more frequently than each one-hundred twenty (120) calendar days.
5. The terms of this Article shall not apply to probationary or non-career employees, except as specifically provided in this Article.
6. The procedures for fulfilling the terms of this Article may vary by campus. However, campus procedures must be consistent with the provisions of this Article.

**B. DEFINITIONS**

1. A layoff is an involuntary:
  - a. separation of an employee from employment as implemented in accordance with the provisions of this Article, or
  - b. transfer of a career employee to a non-career position, or
  - c. reduction in the appointment rate of an individual employee, or
  - d. reassignment of an employee in a full-time career position to a partial-year career position, to a limited appointment position, or to a part-time position at a fixed or variable percentage of time.

2. A temporary layoff is one for which the University specifies an affected employee's date for return to work of not more than one-hundred twenty (120) calendar days from the effective date of the layoff.
3. An indefinite layoff is one for which the affected employee receives no date for return to work, or no date of restoration to her/his former appointment rate.

## **C. TEMPORARY LAYOFF**

If the University determines that a temporary layoff of one-hundred twenty (120) calendar days or less is imminent, it shall be implemented in accordance with the provisions of this Section.

### **1. Notice**

When the University identifies particular employee(s) to be affected by a temporary layoff, it shall give the individual employee written notice of the expected beginning and ending dates of the temporary layoff as follows:

- a. The University shall give, if feasible, fifteen (15) calendar days notice of the expected beginning and ending dates of the layoff to the affected employee(s).
- b. If less than fifteen (15) calendar days notice is granted for temporary layoff, the affected employee(s) may receive straight time pay in lieu of notice for each additional day the employee(s) would have been on pay status had the employee(s) been given fifteen (15) calendar days notice. Pay in lieu of notice is provided for reductions in appointment rate only for the difference between the two rates.
- c. If the ending date of the temporary layoff is changed and the total duration of the temporary layoff is less than one-hundred twenty (120) calendar days, the University shall give the affected employee fourteen (14) calendar days notice of the date to return to work. The employee shall return to work on the date provided in the notice, unless the employee and the University agree otherwise.
  - 1) The employee shall return to work on the date provided in Section C.1., Notice, above, and shall notify the University in advance if he/she is unable to do so. The University and the employee shall attempt to establish a mutually agreeable return date. If, due to operational considerations, the University cannot accommodate the employee's request for

an alternate return date, he/she will be considered to have resigned effective on the date provided in the notice in Section C.1., above.

- 2) Notice of a change in temporary layoff dates does not invoke the pay in lieu of notice provisions of this Article.

## 2. **Conversion Of Temporary To Indefinite Layoff**

For conversion from temporary layoff to indefinite layoff, the University shall give thirty (30) calendar days notice, if feasible. If less than thirty (30) calendar days notice is given, the employee will receive fifteen (15) calendar days pay in lieu of notice.

3. The University may institute the State of California Work Sharing Unemployment Insurance Program on each campus/hospital/LBNL where applicable.

## **D. INDEFINITE LAYOFF**

The University shall effectuate indefinite layoffs as follows.

### 1. **Alternatives To Layoff**

In order to avoid a layoff, the University may reassign an employee to a position for which the employee is qualified at the same or greater percentage of time and at the same or higher rate of pay. Such action will nullify the layoff.

### 2. **Selection For Layoff**

- a. The order of indefinite layoff of employees in the same classification within the unit of layoff shall be in inverse order of seniority. In the event all employees in a unit of layoff are equally affected by layoff of ten percent (10%) or less, seniority provisions do not apply.
- b. "Seniority" is calculated by full-time-equivalent months (or hours) of University service. Employment prior to a break in service shall not be counted. When employees have the same number of full-time-equivalent months (or hours), the employee with the most recent date of appointment shall be considered the less senior employee.
- c. Regardless of seniority, the department may elect to invite all employees in the same class within a layoff unit to volunteer for layoff. In that case, the union shall be notified of the invitation at the

same time the invitation is transmitted to the employees. The union shall also be informed of the identities of volunteers before the layoff occurs.

- d. The University may retain employees irrespective of seniority who possess special knowledge, skills, or abilities which are not possessed by other employees in the same classification in the layoff unit and which are necessary to perform the ongoing functions of the department. If an employee with less seniority is to be retained, the University shall notify the union in advance of the layoff date and in writing of the special knowledge, skills and abilities which support the retention of the less senior employee.
- e. The department head shall select employees for layoff, but shall minimize indefinite layoffs from career positions by first reviewing the necessity for existing limited appointment and casual/restricted positions within the department.
- f. Where electronic job placement bulletin boards are in use, the University shall provide bargaining unit members access to such placement bulletin boards to the same degree as such bulletin boards are made available to other staff employees. Employees who are laid off will be provided information about other University locations job placement bulletin boards according to local procedures.

### 3. **Notice**

- a. When the University identifies particular employees to be affected by an indefinite layoff, it shall give individual written notice of the effective date of the layoff to each affected employee and the union. Advance notice will be provided as follows:

For indefinite layoff, the University shall give sixty (60) calendar days notice, if feasible. The University may pay up to thirty (30) days of the sixty (60) days notice period in lieu of notice. In no event shall an employee receive less than thirty (30) days notice of indefinite layoff or pay in lieu of notice. For conversion from temporary to indefinite layoff, the University shall give thirty (30) calendar days notice, if feasible.

- b. An employee shall be provided all rights under Sections D.4. and D.5., below, beginning at the time of notification of his/her indefinite layoff.

- c. An employee shall receive at the time of layoff, information on how to activate preference and recall rights according to local campus/hospital/LBNL procedures. Eligible employees must indicate an interest in and eligibility for the specific preference and/or recall rights. If the employee requests information about preference, recall and active vacant openings, the University will provide the information about how to access related job opening information. The University will, upon the employee's employment application, confirm the eligibility for preference or recall and will assess the employee's qualifications.

#### 4. **Recall**

- a. Career employees who are indefinitely laid off shall have a right to be recalled in order of seniority of those employees applying for recall to an active, vacant career position for which the employee is qualified in the same classification and department from which they were laid off. An active career position is a position which the University, in its sole discretion, determines to fill. The eligible employee shall file a timely application for recall and self-identify that they are eligible for recall.
- b. Career employees who are eligible for recall shall retain recall eligibility based on the amount of University service at the time the layoff occurs as follows:
  - 1) for one (1) year for up to five (5) years University service,
  - 2) for two (2) years for up to ten (10) years University service,
  - 3) for three (3) years for more than ten (10) years University service.
- c. Employees recalled from layoff status who are not returned to their same job and who fail to perform satisfactorily, as determined by the University, may at any time during the six (6) months following such recall be returned to layoff status with restoration of the unused portion of their recall rights.
- d. The right to recall terminates at the end of the eligibility period.

#### 5. **Preferential Rehire**

- a. A non-probationary career employee who is indefinitely laid off shall have preferential rehire status for an active vacant career position. An active career position is a position which the University, in its



sole discretion, determines to fill. The eligible employee shall file a timely application for preference and self-identify that they are eligible for rehire preference according to this Section.

- b. Such employees are rehired provided:
  - 1) the active, vacant career position is in the same bargaining unit and at the same campus/hospital/LBNL as the position from which the employee was laid off; and
  - 2) the active, vacant career position is in a class with the same or lower salary range maximum as the class from which the employee was laid off; and
  - 3) the active, vacant career position is at the same or lesser percentage of time as the position from which the employee was laid off, except as provided in Section D.6.
- c. The laid off non-probationary career employee will, along with any other qualified laid off University employees, be given preferential consideration for an active vacant career position which is being filled by the campus/hospital/LBNL, provided the conditions in Sections D.5.b.1-3. above are met. Qualified laid off University employees will be interviewed for the position. In order to be placed in such a position, the employee must be fully qualified to perform the duties of the position.
- d. Employees who are eligible for preferential rehire status with less than five (5) years of seniority at the time the layoff occurs shall retain preferential rehire status eligibility for one year. Employees who are eligible for preferential rehire status with five (5) years, but less than ten (10) years seniority at the time the layoff occurs shall retain preferential rehire status eligibility for two (2) years. Employees who are eligible for preferential rehire status with ten (10) years or more seniority shall retain preferential rehire status eligibility for three (3) years. An employee may exercise her/his rights to preferential rehire immediately after the employee receives written notification of layoff and meets with the campus/hospital/LBNL representative designated in the layoff notice.
- e. Employees preferentially rehired from layoff status who fail to perform satisfactorily may, at any time during the six (6) months following such return, be returned to layoff status with restoration of full preferential rehire status. In addition, an employee, at her/his option, may request to be returned to layoff status within sixty (60)

calendar days of rehire. The time on job status will not be counted as part of preferential rehire eligibility time.

f. According to local procedures, employees who are on layoff status and who indicate an interest in University-offered training classes will be offered classes when there are spaces available after the location's deadline for active employees to sign up.

g. Preferential Rehire Termination

The preferential consideration described above shall terminate at the end of the period of eligibility described in Section D.5.d. above, or if an employee:

1. refuses an offer to return, at the same or greater percentage of time, to that department/division and class from which laid off; or
2. accepts any career position; or
3. refuses two (2) offers of employment for a career position at the same or higher salary level and the same percentage of time as the position held by the employee at the time of layoff.

6. If an employee voluntarily reduces her/his time due to budgetary reasons, curtailment of operations, lack of work, reorganization, or redefinition of the University's or department's needs within one (1) year prior to her/his layoff, the employee is entitled to recall/rehire rights to a percentage appointment equal to that from which the employee voluntarily stepped down. In order to be eligible for such increased recall/rehire rights, the employee must submit to her/his supervisor a written statement confirming the offer for the voluntary reduction in time when the voluntary reduction in time occurs and her/his supervisor must approve the voluntary reduction in time.

7. **Severance** - Effective through September 30, 2017, career employees who receive their notice of indefinite layoff may elect severance pay either a) or b) below within fourteen (14) calendar days as follows: If the employee does not timely elect either a) or b), and notify the University according to local procedures, the employee will be determined to have elected b).

a. A career employee who has received her/his notice of indefinite layoff may elect, in writing to receive severance pay in lieu of preferential rehire and recall rights with reduced severance, within

fourteen (14) calendar days of receipt of the notice of layoff. Election is irrevocable. Each campus department shall, in each instance of layoff, not reduction in time, offer severance in lieu of preferential rehire and recall rights with reduced severance to all employees in the department affected by the layoff. Employees who are reduced in time may elect only severance pay (proportional to their reduction in time) in lieu of preferential rehire and recall rights. Severance pay shall be in accordance with the following:

- 1) Employees who elect severance pay in lieu of preference/recall with reduced severance shall be paid a lump sum amount of one week (five (5) workdays, based on eight-hour (8-hour) days) of salary for each full year of service from the most recent break in service, up to a maximum of sixteen (16) weeks of base pay.
- 2) Employees who are laid off following a reduction in time that occurred within sixty (60) calendar days of the layoff notice shall be eligible for severance, or reduced severance, on the basis of their percentage of appointment just prior to their reduction in time.
- 3) This section shall not apply to temporary layoff (except as provided in Sections D.7.a. and D.7.a.2. above).

**b. Reduced Severance (with Preference and Recall)**

- 1) A career employee who has received her/his notice of indefinite layoff may elect, in writing, to receive preferential rehire and recall rights with reduced severance, as an alternative to severance (Section 7.a. above) within fourteen (14) calendar days of receipt of the notice of layoff. Election is irrevocable. Each campus department shall, in each instance of layoff, not reduction in time, offer severance in lieu of preferential rehire and recall rights with reduced severance to all employees in the department affected by the layoff. Reduced severance pay shall be in accordance with the following:
  - a) Employees with less than five (5) years of service receive no reduced severance.
  - b) Employees with five (5) or more years of service receive four (4) weeks or twenty (20) work days,

based on eight-hour (8-hour) days, reduced severance.

- c) Employees with thirteen (13) or more years of service receive eight (8) weeks or forty (40) work days, based on eight-hour (8-hour) days, reduced severance.
- 2) Employees who are laid off following a reduction in time that occurred within sixty (60) calendar days of the layoff notice shall be eligible for reduced severance on the basis of their percentage of appointment just prior to their reduction in time.
- 3) This Section shall not apply to temporary layoff (except as provided in Sections D.7.a. and D.7.a.2. above).
- c. UPTE will be notified if an employee has been provided severance or reduced severance. Should, as a result of a grievance, arbitration, or settlement agreement an employee be returned to work, the severance or reduced severance received will be deducted from the back pay award, if any, or credited as an advance on earnings, if proportional severance is to be returned. An employee cannot be returned to work without first repaying the severance or reduced severance or signing a severance repayment agreement. The employee's failure to complete her/his severance repayment obligation shall not increase the University's back pay liability, if applicable.
- d. When an employee is rehired to a career position before the expiration of the number of weeks for which the employee has received severance payments, he or she will be required to pay back the remaining severance amounts as a condition of employment. The repayment will be on a proportional basis if the rehired position is a different percentage than the original appointment.

If a career employee is rehired after previous layoff and severance payment and then subsequently laid off again, he/she may be eligible for additional severance based on employee's election in Section D.7 for the severance-eligible layoff. The employee's previous layoff election of severance or preference and recall with reduced severance will remain the same for any additional layoff action that occurs and the employee may be eligible for additional severance based on the following:

- 1) Option 1 (break in service upon original layoff) - employee is eligible only for severance based on service credit earned after break in service.
- 2) Option 2 (no break in service) - employee is eligible for severance repaid by employee plus severance based on additional service credit.

#### **E. CONTINUITY OF SERVICE UPON REEMPLOYMENT**

1. A layoff of one-hundred twenty (120) calendar days or less does not create a break in service.
2. Reemployment in a career position within the period of right to recall or preferential rehire does not create a break in service.
3. Seniority accrues, and benefit accruals are accumulated, only when an employee is on pay status.

#### **F. LAWRENCE BERKELEY NATIONAL LABORATORY (LBNL)**

##### **1. Severance**

Career employees (excluding term appointees) who are eligible for vacation and sick-leave credits and are laid off from employment for an indefinite period due to lack of work or lack of funds are eligible for severance payments in accordance with the following provisions. Career employees who are on temporary layoff status, temporary reduction in time, or permanently reduced in time are not eligible for severance payments.

##### **a. Definitions**

- 1) **Continuous Service:** Service is continuous if an employee is on pay status each month without a break in service. A break in service occurs when there is a separation from Laboratory employment status.

- a) Periods on an approved leave without pay for military service; illness or injury compensable by workers' compensation; assignment to another research organization at the direction of the Laboratory; or an

approved leave without pay for any period of thirty (30) calendar days or less are counted as periods of continuous service for the purposes of severance pay, as are periods on pay status before and after any other approved leave without pay.

- b) Periods of employment before a break in service are not counted as periods of continuous service for purposes of severance pay.
  - c) Periods of employment as a student assistant, graduate student research assistant (GSRA), or other trainee positions are not counted as periods of continuous service for purposes of severance pay.
  - d) Periods of employment on variable time (once called indeterminate time) are not counted as periods of continuous service for purposes of severance pay.
  - e) Time spent as a postdoctoral fellow is counted toward calculating severance payment if the postdoctoral fellow continued their employment in a career appointment without a break in service.
  - f) When a limited appointment has been designated as a career appointment after attaining one thousand (1,000) hours of qualifying service in any twelve (12) consecutive months without a break in service of at least one hundred twenty (120) consecutive calendar days, these hours on pay status will be counted for purposes of severance pay. Qualifying service includes all time on pay status in one or more limited appointments at the University. However, only those hours worked at the Laboratory will be counted toward calculation of the severance payment.
  - g) Continuous service is reestablished when an employee is rehired from recall or preferential rehire status from the Laboratory.
- 2) **Equivalent Job:** An equivalent job is any career position with the Laboratory or the University at a beginning salary at

least equal to the salary paid the employee in the job from which that employee was laid off, regardless of salary range.

- 3) **One Week's Pay:** One (1) week's pay for nonexempt hourly rated employees is defined as the basic hourly rate (excluding shift differential and overtime) times forty (40) hours or the specifically approved work week. One (1) week's pay for full time exempt employees is defined as the hourly equivalent of the monthly rate times forty (40) hours (or, for part-time exempt employees, times the percentage time equivalent).

**b. Severance Payment Calculations and Methods of Payment**

- 1) The severance payment will be made in an amount equal to one (1) week's pay for each year of continuous full-time-equivalent Laboratory service (including service at Lawrence Livermore National Laboratory and Los Alamos National Laboratory while these labs were managed by the University of California). A fractional year of full-time service of six (6) months or more is counted as one (1) year of service. The severance payment is not to exceed a total of twenty six (26) weeks' pay.
- 2) Severance will be paid in a lump sum at the time of termination.

**c. Limitations**

- 1) Severance payments will not extend the period of employment beyond the date of termination due to layoff.
- 2) Severance payments made to an employee will not include payment for any period of service for which the employee has previously received such payment.
- 3) Severance payments will not be provided to an employee who has received a formal notification of layoff and who transfers to another Laboratory position or University career position without a break in service or to an employee who refuses a transfer to an equivalent job with the Laboratory or the University.
- 4) Severance payments will not be made to any employee who terminates for any reason other than layoff, with the following exceptions:

- a) An employee who resigns after receiving formal notification of layoff but before the effective date of layoff may be provided severance payments with the approval of the Chief Operating Officer (COO) or designee.
- b) An employee who resigns in lieu of another employee who would have been laid off may be provided severance payments with the approval of the COO or designee. Normally, such approval will be given only if the resignation will not have a detrimental effect on work in progress and if the employee concerned had not announced plans to resign or retire before the announcement of a layoff within the employee's division.
- d. **Duplicate Pay:** An employee at the Laboratory shall not receive duplicate pay for any period during which s/he has received severance pay. In the event an employee is compensated by the Laboratory for any period during which s/he received severance pay, the employee shall be responsible for returning the severance pay for that period.
- e. **Repayment Upon Rehire:** Should an individual who has received severance payments be rehired at the Laboratory before the expiration of the number of weeks for which the employee has received severance payments, the amount of the balance will be repaid to the Laboratory.

## 2. **Re-Employment from Layoff**

- a. **Right to Recall to Layoff Division**
  - 1) Only career employees who have passed probation and who did not volunteer for the layoff are eligible for recall.
  - 2) An employee has the right to recall for three years from the date of layoff.
  - 3) An employee who is separated or whose time is reduced because of layoff will be recalled in order of seniority into any active and vacant career position for which the employee is qualified when the position is in the same class and layoff unit and at the same or lesser percentage of time as the position held by the employee at the time of layoff.



- 4) A layoff unit manager may reject an employee for recall only if the employee lacks qualifications required for the position. Reasons for rejection will be provided by the layoff unit manager, in writing, to the Head of the Human Resources Department for review and approval.
- 5) An employee who is recalled for a position different from the one held at the time of layoff may, on written notification, be required to serve a trial employment period of up to six months on rehire. An employee who is required to serve a trial employment period may, at any time during the trial employment period, return to layoff status at the employee's or the layoff unit manager's discretion. Time spent in trial employment will not count against the period of eligibility for recall or preference for rehire.
- 6) Right to recall terminates if an employee:
  - a) refuses an offer to return to the layoff unit division and job title/code from which he or she was laid off at the same or greater percentage of time,
  - b) refuses two offers of re-employment for career positions at the same or higher salary level and the same or greater percentage of time as the position he or she held at the time of layoff,
  - c) accepts a career position at the same or higher salary level and the same or greater percentage of time as the position he or she held at the time of layoff, or
  - d) retires.
- 7) Right to recall continues during, but is not extended by, periods of temporary, non-career Laboratory employment.
- 8) Right to recall is suspended if an employee does not respond to written notice of an employment opportunity or if the employee does not respond in the affirmative to periodic inquiries about continuing his/her right(s) after one year. Right to recall may be reinstated, however, on written request of the employee and approval of the Head of the Human Resources Department.

**b. Preference for Re-Employment**

- 1) Only career employees who have passed probation and who did not volunteer for the layoff are eligible for preference for rehire rights.
- 2) An employee with less than five years of seniority has preference for re-employment for one year from the date of layoff. An employee with at least five but less than 10 years of seniority has preference for re-employment for two years from the date of layoff. An employee with 10 years or more of seniority has preference for re-employment for three years from the date of layoff.
- 3) An employee who is separated or whose time is reduced because of layoff or who has received written notice of layoff or reduction in time within the two calendar months before the layoff date will be granted preference for re-employment or transfer to any active and vacant career position at the Laboratory for which the employee is qualified when the position is (1) at the same salary level or lower (as determined by the salary-range maximum) and (2) at the same or lesser percentage of time as the position held by the employee at the time of layoff. When written notice of layoff or reduction in time is given more than two months prior to the layoff date, the Head of Human Resources may authorize that preference for re-employment begin with the date of layoff notice.
- 4) During the two calendar months preceding the layoff date or beginning from the date of layoff notice (whichever is later), the Layoff Coordinator will give employees on preferential rehire status Laboratory-wide consideration for positions in the same job code and at the same or lesser percentage of time as the job from which the employee was laid off. In addition, during the preference eligibility period, preference will be given for any job that meets the requirements as noted in the above paragraph for which the employee requests to be considered within two weeks of the posting date of the position.
- 5) An employee who has been terminated due to indefinite layoff will be given first consideration for preference for

employment to active and vacant career positions, as described above, for which he/she has applied.

- 6) A layoff unit manager may reject an employee with preference for re-employment or transfer only if the employee lacks qualifications required for the position. Reasons for rejection will be provided by the layoff unit manager in writing to the Head of the Human Resources Department for review and approval.
- 7) An employee who is reassigned at his or her request during the pre-termination preference for re-employment period or rehired under preference for re-employment may, on written notification, be required to serve a trial employment period of up to six months. An employee who is required to serve a trial employment period may at any time during the trial employment period return to layoff status at the employee's or the layoff unit manager's discretion with 30 days written notice. Time spent in trial employment will not count against the period of eligibility for recall or preferential rehire.
- 8) Right to preference for re-employment terminates if an employee:
  - a) refuses an offer to return to the layoff unit and job title/code from which he or she was laid off at the same or greater percentage of time,
  - b) refuses two offers of re-employment for career positions at the same or higher salary level and the same or greater percentage of time as the position he or she held at the time of layoff,
  - c) accepts any career position, or
  - d) retires.
- 9) Right to preference for re-employment continues during, but is not extended by, periods of temporary Laboratory employment.
- 10) Right to preference for re-employment is suspended when an employee does not respond to written notice of an employment opportunity or if the employee does not respond to periodic inquiries about continuing his/her right(s) after one year. Preference for rehire may be reinstated, however,

on written request of the employee and approval of the Head of the Human Resources Department.

- c. **Re-Employment at Another University Location:** If a person on recall and/or preferential rehire status desires to be considered for employment at a University of California campus or another laboratory, the Head of the Human Resources Department will provide the manager at that location with a copy of the individual's resume and a written request for consideration.
- d. **Benefits on Re-Employment:** When a person is re-employed within the period of right to recall and/or preference for re-employment, the periods before and after layoff are considered as continuous service for the limited purpose of applying University policies concerning sick leave, vacation, holidays, probationary period, reduced fee enrollment, seniority points for layoff, military leave, and merit salary increases. All prior sick leave credit will be reinstated during the period of eligibility up to a period of three years. Benefits and credits for service, including those relating to retirement systems, do not accrue for periods on recall and/or preferential rehire status. The employee should contact the Benefits Office/Department immediately upon re-employment for assistance.
- e. **Records and Reports:** The Human Resources Department Layoff Coordinator will maintain a current roster of all persons on recall and preferential rehire status and will record all referrals, offers of employment, rejections of persons by layoff unit managers and refusals of employment offers by individuals on the preferential rehire list.
- f. **Voluntary Reduction in Force:** If an employee voluntarily reduces his or her time within one (1) year prior to layoff because of budgetary or operational considerations that, in the judgment of the Laboratory, make it necessary to reduce the hours of the workforce, the employee is entitled to recall/rehire rights at a percentage of time equal to that from which the employee voluntarily reduced his or her time. The request for the voluntary reduction must be submitted by the employee in writing and approved by the supervisor and must state the effective date and the percentage of the reduction in time.

**ARTICLE 17  
LEAVES FOR UNION BUSINESS**

**A. GENERAL PROVISIONS**

**1. Employee Eligibility for Leave**

For each campus/hospital/LBNL with more than five hundred (500) bargaining unit employees the University shall grant no more than two (2) non-probationary, career employees, bargaining unit representatives (522 days) paid reimbursed leave or reduction in time for union business per calendar year without loss of compensation. However, only one employee shall be released per department per leave. For each campus/hospital/LBNL with less than or equal to five hundred (500) bargaining unit employees the University shall grant no more than one (1) non-probationary, career employee, bargaining unit representative (261 days) paid reimbursed leave or reduction in time for union business per calendar year without loss of compensation. The University may postpone the leave when it can demonstrate compelling business needs.

**2. Pay Status**

During the paid reimbursed leave, the employee shall be paid by the University and shall continue to accrue service credit; and shall retain all benefits to which the employee was entitled prior to the start of the leave. Employee benefit contributions will continue to be deducted during the leave.

- a. During the paid reimbursed leave, the employee shall be eligible for increases in accordance with campus practices.
- b. Any leave granted in accordance with this section shall not constitute a break in service
- c. During the paid reimbursed leave, the employee shall not be eligible for Workers Compensation benefits arising out of an injury occurring during the leave from the University. While on paid reimbursed leave, University employees shall be covered by UPTe's Workers Compensation carrier.

**3. Union Reimbursement**

The Union shall reimburse the University for actual costs of employee compensation, including salary plus all benefits paid to the employee for the time the employee is on leave without loss of compensation. The Union shall submit payment to the University within thirty (30) days of receipt of confirmation of

payment to the employee. The University has the right to terminate the leave if the Union fails to provide timely payment.

- a. Beginning October 1, 2019, the University will bill UPTE within six (6) months of usage of leave for union business.
- b. This provision does not apply to any union business leave utilized prior to the ratification of this contract.

4. **Long-Term Leave of Absence**

Upon at least thirty (30) calendar days advance written request to the local Labor Relations office from UPTE and the employee, no more than one (1) non-probationary, career employee, bargaining unit representative per department per campus/hospital and LBNL shall be granted a leave of absence to engage in Union business pursuant to A.1. above. The duration of the leave of absence shall be specified at the time the employee commences the leave. No such leave shall be granted unless the written request specifies the duration of the leave.

- a. Such leaves of absence shall be for a period of not less than thirty (30) calendar days. In no situations shall the leave of absence be granted for a period of more than three (3) years.
- b. The University, due to operational requirements, may postpone the date such leave of absence is scheduled to begin.

5. **Short-Term Leave**

- a. Subject to operational considerations, upon at least thirty (30) calendar days written request to the local Labor Relations office from UPTE and the employee, no more than one (1) non-probationary, career employee, bargaining unit representative per department per campus/hospital and LBNL, pursuant to A.1. above, will be granted a leave of absence for union business for not less than two (2) days and not longer than twenty-nine (29) days. Requests for this short-term leave shall not be unreasonably denied.

6. **One Day Leave**

Upon fourteen (14) calendar days' advance notice to her/his supervisor, with a copy to the local LR office, no more than (1) designated local Union officer and/or local Union steward, per department, per campus/hospital/laboratory, who are non-probationary career employees shall be granted one (1) day of paid reimbursed leave for union business, subject to the operational needs of the University. Permission for such leave shall not be granted for a period of less than

one (1) day, and such permission shall not be granted to any individual officer or steward more than once per month.

**7. Reduction in Time**

The University will approve requests from employees for temporary reductions in time for up to three (3) calendar years for union business. No more than one (1) non-probationary, career employee, bargaining unit representative per department per campus/hospital and LBNL shall be granted a reduction in time to engage in Union business, pursuant to A.1. above. Requests for reduction in time will not be unreasonably denied.

**8. Attendance at Local Union Meetings**

Upon seven (7) calendar days advance written notice to her/his supervisor, local union officers and local employee representatives included on the list provided to the University by UPTE, as set forth in Section B.2. of Article 1 - Access, shall be granted time off without pay or, at the employee's option, such time would be charged to accrued compensatory time off or accrued vacation time, to attend local union meetings. Approval for such leave shall not be granted for a period to exceed four (4) hours and such approval shall not be granted to any individual employee more than once per month. The supervisor may grant additional time over four (4) hours on a case-by-case basis. The granting of such approval to local employee representatives and officers shall be subject to the operational needs of the University and may be granted to one (1) or more but not necessarily all such employees on the same shift in the same operational area. Such approval shall not be unreasonably denied.

**B. RETURN FROM LEAVE**

The University shall not be required to return an employee on a leave of absence for union business prior to the return date specified at the start of the leave.

1. For leaves longer than sixty (60) days, at least forty-five (45) calendar days prior to the completion of the long-term leave of absence, the Union shall notify the University of the employee's intent to return to the University's employ and the employee shall likewise so advise the University. For long-term leaves of sixty (60) days or less, at least fifteen (15) days' notice shall be required if the requested return date is other than the return date specified at the start of the leave.
2. Upon return, the employee shall be placed in the same position from which the employee took the leave of absence and at the rate of pay which would place the employee at the same relative position in the range for the position as that range exists when the employee returns. Placement of the employee in his/her previous position shall be consistent with staffing reductions and/or layoffs which may have occurred during the period of the paid reimbursed leave.

**ARTICLE 18  
LEAVES OF ABSENCE**

**A. GENERAL PROVISIONS**

Subject to the provisions of this Article and any applicable law, leaves of absence may be with or without pay, may be for medical purposes and/or non-medical reasons, and are subject to the approval of the University. Nothing shall preclude the University, on a campus-by-campus basis, from establishing, implementing, or continuing a Catastrophic Illness or Injury Leave policy covering bargaining unit employees.

If applicable state or federal law requires that the University offer any leave in a manner that is more generous to employees than is currently provided in this Article, the University will comply with the law. The University will provide notice to UPTE no less than 30 days prior to implementing any such change.

**1. Definitions**

- a. Non-medical leaves of absence, with or without pay, include: Family and Medical Leave (“FML”) taken for certain purposes (to care for a family member with a serious health condition, Parental Leave, Military Caregiver Leave, and Qualifying Exigency Leave), as well as leave for jury duty, voting, blood donations, administrative or legal proceedings, emergencies, and University functions.
- b. Medical Leaves with or without pay, include: FML taken because of the employee’s own serious health condition or the employee’s pregnancy disability, Pregnancy Disability Leave (whether or not it qualifies as FML), and Disability Leave.
- c. FMLA is the federal Family and Medical Leave Act of 1993.
- d. CFRA is the California Family Rights Act of 1995.
- e. PDLL is the California Pregnancy Disability Leave Law, which is part of the California Fair Employment & Housing Act.

**2. Use of Family And Medical Leave (FML) Entitlement**

- a. If an employee eligible for FML takes a leave for an FML-qualifying reason (as defined in Section B. below), the absence from work shall be deducted from the employee's FML entitlement.
- b. If an employee is ineligible for FML or has exhausted her/his calendar year entitlement and requests leave for a serious health



condition that would qualify as a disability, an approved disability leave of absence may be provided for the period(s) an eligible employee is absent from work for verifiable medical reasons as provided in Section C. and Section D. of this Article.

**3. Benefit Eligibility While On Leave Without Pay**

- a. Special Benefit Eligibility for FML Leaves – A benefits-eligible employee shall have University-provided health benefits continued for the period of the FML Leave in accordance with Section B.1.h. of this Article.
- b. An approved leave without pay shall not be considered a break in service.
- c. The provisions of Article 39 - Sick Leave, Article 43 - Vacation, and Article 4 - University Benefits shall apply when employees are on an approved leave without pay.
- d. A benefits-eligible employee on an approved leave without pay other than an FML Leave may elect to continue University-sponsored insurance coverages (as determined by plan documents and/or regulations) for the period of the leave by remitting the entire premium amount due for the period of the approved leave, in accordance with the provisions of the applicable plan(s). Regulations of the retirement systems determine the effects of leave without pay on retirement benefits. See Section B.1.h. below for Benefit Eligibility when an employee is on an unpaid FML Leave.

**4. Requests for Leave**

Except as provided under Section B.1.e – Family and Medical Leave (FML)/Notification below, requests for leaves of absence and extensions, with or without pay, shall be submitted in writing to the University. Such requests shall be submitted sufficiently in advance of the requested leave date to provide the University time to assess the operational impact of granting the request. All requests for leaves of absence shall contain the requested beginning and end date of the leave, and any additional information as required.

**5. Duration**

- a. The start date of the leave, the terms of the leave and the date of return from the leave are determined when the leave is granted, and shall be communicated to the employee, in accordance with the provisions of this Article. For leaves other than FML, written

confirmation shall be provided when the University determines such confirmation is appropriate. For leaves that are FML, see Section B.1.c. below.

- b. Except as provided for under Section C. – Pregnancy Disability Leave, Section D. – Disability Leaves Other than Pregnancy Disability Leave, or Section F.2. – Personal Leaves of Absence Without Pay below, the aggregate maximum of leaves taken in any combination shall not exceed six (6) months in any one (1) year period unless otherwise required by law.
- c. No employee with a predetermined appointment end date or predetermined date of separation shall be granted a leave of absence beyond her/his appointment end date or the predetermined date of separation.

**6. Return to Work**

- a. Except as provided in Section B. – Family and Medical Leave (FML), Section C. – Pregnancy Disability Leave, and Article 21 - Military Leaves, an employee who has been granted an approved leave with or without pay shall be reinstated to the same or a similar position in the same department upon expiration of the leave, in accordance with the Provisions of this Article. If the position held has been abolished or affected by layoff during the leave, the employee shall be afforded the same considerations which would have been afforded had that employee been working when the position was abolished or affected by layoff.
- b. Failure to provide a medical release to return to work, as required in Section B.1.i.(1)(b). and Section D.3. below, or as may be required in Section C.4.e., may result in the delay of reinstatement until the employee submits the required medical release certification.
- c. An employee who has exhausted her/his original leave entitlement and who has been granted additional leave under another section of this Article shall be reinstated in accordance with the provisions of the section under which the additional leave was granted. The employee shall be advised in writing, at the time the additional leave is granted.
- d. An employee who fails to return to work from a leave of absence on the approved anticipated date of return shall be considered to have abandoned her/his job, in accordance with Article 35 – Resignation/Job Abandonment.

## B. FAMILY AND MEDICAL LEAVE (FML)

An employee who is eligible for Family and Medical Leave (FML) and has not exhausted her or his FML entitlement for the leave year, as discussed below, may take FML for any of the following six reasons, as described in greater detail in this Section below:

- Due to the employee's own serious health condition (see Section B.2.)
- To care for a family member with a serious health condition (see Section B.3.)
- As Pregnancy Disability Leave (see Section B.4.)
- As Parental Leave (see Section B.5.)
- As Military Caregiver Leave (see Section B.6.)
- As Qualifying Exigency Leave (see Section B.7.)

FML is unpaid leave, except as otherwise provided in this Article. See Section B.1.g. below.

### 1. General Provisions for FML

#### a. Definitions

- 1) **“Child”** means a biological child, adopted child, foster child, stepchild, legal ward, or child for whom the employee stands in *loco parentis*; provided that the child is either under 18 years of age or incapable of self-care because of a mental or physical disability.
- 2) **“Parent”** means a biological parent, foster parent, adoptive parent, stepparent, legal guardian or individual who stood in *loco parentis* to the employee when the employee was a child. "Parent" does not include the employee's grandparents or mother-in-law or father-in-law unless they stood in *loco parentis* to the employee when the employee was a child.
- 3) **“Spouse”** means a partner in marriage.
- 4) **“Serious health condition”** is an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition that involves either inpatient care or continuing treatment, including, but not limited to, treatment for substance abuse.
  - a) **“inpatient care”** means a stay in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity. A person is considered an

“inpatient” when a health care facility formally admits her or him to the facility with the expectation that s/he will remain at least overnight and occupy a bed, even if it later develops that such person can be discharged or transferred to another facility and does not actually remain overnight.

b) “incapacity” means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

c) “continuing treatment” means ongoing medical treatment or supervision by a health care provider, as defined below.

5) **“Health Care Provider”** is an individual who is a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; a podiatrist, dentist, clinical psychologist, optometrist, chiropractor (limited to the treatment of the spine to correct a subluxation as demonstrated by x-ray to exist), physician assistant, nurse practitioner or nurse midwife performing within the scope of her/his duties as defined under State Law; a Christian Science practitioner; or any health care provider that the employee's health plan carrier recognizes for purposes of payment.

**b. Eligibility Criteria for FML**

1) Employees who have at least twelve (12) cumulative months of University service, and have worked at least 1,250 hours of actual service (as defined below) during the twelve (12) month period immediately preceding the commencement of the leave are eligible for FML under the FMLA and CFRA and shall be granted up to a total of twelve (12) workweeks of FML Leave in the calendar year if leave is requested for an FML-qualifying reason, except as otherwise provided in this Article. If the employee is taking FML as Military Caregiver Leave, the employee shall be eligible for up to 26 workweeks of leave in a single 12-month leave period. If the employee is taking FML as Pregnancy Disability Leave, the employee shall be eligible for FML for the period of actual disability up to 4 months per pregnancy. For the purposes of this Article and Section B. only, all prior University service, including service with the

Department of Energy Laboratories, shall be used to calculate the twelve (12) month service requirement.

- 2) **"1,250 Hours of Actual Service"** is time actually spent at work and does not include any paid time off, such as vacation, compensatory time, or sick leave, holidays not worked, or time spent in unrestricted on-call status. However, for employees granted military leave, all hours that would have been worked had the employee not been ordered to military duty shall be used to calculate the 1,250 actual hours of work requirement.

c. **Duration of Leave**

FML shall not exceed twelve (12) workweeks in any calendar year except when it is used for Pregnancy Disability Leave or Military Caregiver Leave. If the employee is taking FML as Pregnancy Disability Leave, the employee shall be eligible for leave for the period of actual disability up to four (4) months per pregnancy. If the employee is taking FML for Military Caregiver Leave, the employee shall be eligible for up to 26 workweeks of leave in a single 12-month leave period.

For the purposes of FML, twelve (12) workweeks is equivalent to four-hundred eighty (480) hours of scheduled work for full-time career and limited appointment employees who are normally scheduled for an eight (8) hours per day five (5) days per workweek (8/40) schedule. While the use of FML need not be consecutive, in no event shall an employee's aggregate use of FML exceed a total of twelve (12) workweeks within a calendar year (or 26 workweeks in the single 12-month leave period if the employee is taking FML as Military Caregiver Leave or four (4) months per pregnancy if the employee is taking FML as Pregnancy Disability Leave).

- 1) **Hourly Conversion for Part-time or Alternately Scheduled Employees:** For employees who work part-time or a schedule other than an 8/40, the number of FML hours for which the employee is eligible shall be adjusted in accordance with her/his normal weekly work schedule. An employee whose schedule varies from week to week is eligible for a pro-rated amount of FML based on her/his hours worked over the twelve (12) months immediately preceding the leave.
- 2) Any leave taken by an eligible employee that qualifies as FML (including leave for a Work-Incurred Injury or Illness under Article 45) will be designated as such by the University and will be counted against the employee's leave entitlement

whether the leave is paid or unpaid. Such deductions will be made in increments that correspond to the amount of leave time actually taken by the employee (which could be weeks, days, hours, and/or partial hours).

- 3) If the employee has exhausted her/his entitlement to FML Leave, s/he may apply for additional leave pursuant to this Article.

d. **Forms in Which FML May Be Taken**

FML generally may be taken as a block leave or, in certain circumstances discussed below, on an intermittent or reduced schedule basis.

- 1) **Employee Requests for FML on an Intermittent or Reduced Schedule Basis**

When medically necessary and supported by medical certification, the University shall grant an eligible employee's request for FML for the employee's serious health condition, to care for a family member with a serious health condition, or as Military Caregiver Leave on an intermittent or reduced schedule basis, including absences of less than one (1) day. When granted, the University will count only the time actually spent on the intermittent leave or reduced work schedule toward the employee's FML entitlement for the applicable year.

An employee may take FML for Qualifying Exigency Leave on an intermittent or reduced schedule basis.

For requests to take FML as Pregnancy Disability Leave on an intermittent or reduced schedule basis, see Section C. below.

For requests to take FML as Parental Leave on an intermittent or reduced schedule basis, see Section B.5.e. below.

- 2) **Temporary Transfer to Accommodate Intermittent Leave or Reduced Work Schedule**

When the employee requests FML on an intermittent or a reduced schedule basis due to the planned medical treatment for the employee's serious health condition or the serious health condition of a family member, the University may, at its

sole, non-grievable discretion, require the employee to transfer temporarily to an available alternate position for which the employee is qualified and which better accommodates the employee's recurring need for leave. Such alternative position shall have equivalent pay and terms and conditions of employment, but does not need to have equivalent duties.

**e. Notification**

- 1) If the employee learns of the event giving rise to the need for FML more than thirty (30) calendar days in advance of the leave's anticipated initiation date, the employee shall give the University at least thirty (30) calendar days' notice of the need for leave. An employee who fails to give thirty (30) days' notice for a foreseeable leave with no reasonable basis for the delay, may have the FML leave delayed until thirty (30) days after the date on which the employee provides notice.
  - a) If the need for leave is foreseeable due to the planned medical treatment of the employee (due to the employee's serious health condition or pregnancy disability) or the planned medical treatment of the employee's family member with a serious health condition, the employee shall make reasonable efforts to schedule the treatment so as to not unduly disrupt the University's operations, subject to the approval of the health care provider.
  - b) If the need for leave is unforeseeable or actually occurs prior to the anticipated date of foreseeable leave, the employee shall provide the University with as much notice as practicable and, at a minimum, notify the University within five (5) calendar days after learning of the need for leave.
- 2) The University shall determine whether the employee meets the eligibility requirements and qualifies for an FML Leave and shall, within five (5) days of that determination, notify the employee whether the leave is designated or provisionally designated as FML Leave. The start date of the leave, the terms of the leave and the date of return from the leave are determined when the leave is granted.
- 3) Extensions to an FML Leave may be granted, up to the aggregate maximum of twelve (12) workweeks in a calendar year (or 26 workweeks in a single 12-month leave period if FML

is being taken as Military Caregiver Leave or four (4) months per pregnancy if FML is taken as Pregnancy Disability Leave). If an employee's need for leave continues after her or his FML entitlement has been exhausted, the employee may be eligible for a Disability Leave in accordance with Section D. of this Article or may request a Personal Leave in accordance with Section F. of this Article.

**f. Certification and Other Supporting Documentation**

**1) Certification When FML is Taken for the Employee's Own Serious Health Condition**

When FML is requested for the employee's own serious health condition, the University may, at its discretion, require that an employee's request for leave be supported by written certification issued by the employee's health care provider. When certification is required by the University, such requirement shall be made to the employee in writing. Certification may be provided by the employee on a form given to the employee by the University and shall, regardless of the format in which it is provided, include:

- a) a certification that the employee has a serious health condition as defined in Section B.1.a.(4). above, and
- b) a statement as to whether the employee is unable to perform any one or more of the essential assigned functions of the position, and
- c) the date on which the employee's serious health condition began, if known, the probable duration of the condition and the employee's probable date of return, and
- d) whether it will be medically necessary for the employee to take leave intermittently or to work on a reduced work schedule, and if so, the probable duration of the need for such schedule, and,
- e) if the condition will result in periodic episodes of incapacity, an estimate of the duration and frequency of episodes of incapacity.



2) **Certification When FML Is Taken to Care for the Employee's Family Member with a Serious Health Condition**

When FML is requested so that the employee may care for a family member with a serious health condition, the University may, at its discretion, require that an employee's request for leave be supported by written certification issued by the family member's health care provider. When certification is required by the University, such requirement shall be made to the employee in writing. Certification may be provided by the employee on a form given to the employee by the University and shall, regardless of the format in which it is provided, include:

- a) certification that the employee's family member has a serious health condition as defined in Section B.1.a.(4)., above, and
- b) a statement that the family member's serious health condition warrants the participation of the employee to provide supervision or care (which includes psychological comfort) during the period of the family member's treatment or incapacity, and
- c) whether the employee's family member will need supervision or care over a continuous period of time, intermittently, or on a reduced schedule basis; the leave schedule the employee will need in order to provide that supervision or care; and the probable duration of that need for leave.

In addition, the employee will be required to certify either on the same form or separately what care s/he will provide the family member and the estimated duration of the period of care.

3) **Certification When FML Is Taken as Pregnancy Disability Leave**

When FML is taken as Pregnancy Disability Leave, the employee may be required to provide a certification in accordance with Section C.4. below.

4) **Certification When FML Is Taken for Military Caregiver Leave**

When Military Caregiver Leave is requested, the employee may be required to provide a certification completed by an authorized health care provider of the covered service member which includes health care providers affiliated with the Department of Defense, the Veterans Administration, and TRICARE, as well as any health care provider (as defined in Section B.1.a.(5). above) who is treating the covered service member. The certification should provide information sufficient to establish entitlement to Military Caregiver Leave, including information establishing that the service member is a covered service member for purposes of Military Caregiver Leave and that she or he has a covered relationship with the employee, as well as an estimate of the leave needed to provide the care. When the covered service member is a covered veteran, the employee may be required to provide information establishing her or his veteran status, the date of separation from the Armed Forces, and that separation was other than dishonorable.

5) **Certification When FML Is Taken for Qualifying Exigency Leave**

When Qualifying Exigency Leave is requested, an employee may be required to provide a copy of the military member's active duty orders. Employees may also be required to provide certification of: 1) the reasons for requesting Qualified Exigency Leave, 2) the beginning and end dates of the qualifying exigency, and 3) other relevant information.

6) **Confirmation of Family Relationship**

The University may, at its sole non-grievable discretion, require that an employee complete a Declaration of Relationship form to certify her/his relationship with the child when the employee is requesting FML as Parental Leave or to certify his/her relationship with the family member when the employee is requesting FML to care for a family member with a serious health condition. The employee's failure to provide a completed Declaration of Relationship form within fifteen (15) calendar days of the University's request may result in discontinuance of the leave until the required documentation is provided. If the employee fails to provide the completed

Declaration of Relationship form within a reasonable time as requested, FML leave will be denied.

7) **Questioned Medical Certifications**

Should the University have a good faith, objective reason to doubt the validity of the employee's certification for her/his own serious health condition, the University may, at its sole non-grievable discretion, require that the employee obtain a second medical opinion from a second health care provider selected by the University. Should the second medical opinion differ from the opinion of the employee's own health care provider, the University may, at its sole non-grievable discretion, require a third medical opinion from a third health care provider, jointly selected by the employee and the University. The University shall bear the cost of the second and third opinions, and the third opinion shall be final.

8) **Additional Certification and/or Recertification**

If additional FML is requested beyond the period supported by the certification previously provided or the circumstances of the leave have changed, the University may, at its sole non-grievable discretion, require the employee to obtain recertification. Also, when the certification states that the serious health condition of the employee or the employee's family member will last indefinitely, the University may, at its sole non-grievable discretion, require the employee to provide a new certification, but not more frequently than every 30 days. Such requests for subsequent certification and/or recertification shall be in writing. If certification and/or recertification is required, the employee shall return the certification within fifteen (15) calendar days of the University's request, where practicable.

9) **Failure to Provide the Requested Certification and/or Recertification**

For FML taken as Pregnancy Disability Leave, see Section C.4.d. below.

An employee's failure to provide the certification and/or recertification for a foreseeable leave other than Pregnancy Disability Leaves within the requested time may result in delay of the leave until the required certification is received. An employee's failure to provide certification for an

unforeseeable leave other than Pregnancy Disability Leave within the requested time period may result in discontinuance of the leave until the required certification is provided. If the employee fails to provide certification or recertification within a reasonable time as requested, FML Leave will be denied.

If the employee fails to provide a complete and sufficient certification and/or re-certification, the employee shall be given fifteen (15) calendar days to perfect the certification and/or recertification. Failure to perfect an incomplete or insufficient certification and/or recertification within the requested time period may result in delay of the leave or discontinuance of the leave until the required certification and/or recertification is provided. If the employee fails to provide a complete and sufficient certification and/or recertification, FML will be denied.

**g. Use of Accrued Paid Leave**

FML Leave is unpaid, except for the use of sick leave and/or the use of accrued vacation and/or the use of accrued compensatory time off (CTO), as provided in this Article:

- 1) An employee on FML for her/his own serious health condition:
  - a) shall use accrued sick leave in accordance with the University's disability plan requirements; or
  - b) if not eligible for University disability benefits and not on leave as a result of a work-incurred injury or illness, shall use all accrued sick leave and all accrued vacation time and all compensatory time prior to taking leave without pay; or
  - c) if on leave due to a work-incurred injury or illness, may use accrued sick leave and vacation as provided in Article 45 - Work Incurred Injury or Illness prior to taking leave without pay.
- 2) An employee on FML to care for a family member with a serious health condition or taking FML as Military Caregiver Leave may use sick leave in accordance with Article 39 - Sick Leave, Section B.3., and shall use accrued vacation time and compensatory time prior to taking leave without pay.

- 3) An employee on FML for Pregnancy Disability Leave shall use accrued sick leave in accordance with the University's Disability Plan. If sick leave is exhausted, the employee may elect to use accrued vacation and/or accrued compensatory time prior to taking leave without pay.
- 4) An employee taking FML as Parental Leave may elect to use accrued vacation leave, accrued compensatory time or PTO (where applicable) and /or up to thirty (30) days of accrued sick leave in accordance with Article 39 – Sick Leave, Section B.6., prior to taking leave without pay.
- 5) An employee taking FML as Qualifying Exigency Leave shall use accrued vacation time and accrued compensatory time prior to taking leave without pay.

**h. Continuation of Health Benefits**

An eligible employee who is on an approved FML shall be entitled to continue participation in health plan coverage (medical, dental, and vision) as follows:

- 1) When the employee is on FML that runs concurrently under the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA): Continued coverage for up to twelve (12) workweeks in a calendar year.
- 2) When the employee is on a Military Caregiver Leave under the FMLA: Continued coverage for up to twenty-six (26) workweeks in a single twelve-month period. For purposes of Military Caregiver Leave, the "single twelve-month period" is the period beginning on the first day the employee takes the leave and ending twelve (12) months after that date.
- 3) When the employee is on a Qualifying Exigency Leave under the FMLA: Continued coverage for up to twelve (12) workweeks in a calendar year.
- 4) When the employee is on a Pregnancy Disability Leave under the California Pregnancy Disability Leave Law, regardless of whether any of the leave runs concurrently with the FMLA: Continued coverage for up to four (4) months in a twelve-month period. If any of the Pregnancy Disability Leave runs concurrently under the FMLA, the continued coverage provided for that portion of the leave will count towards the

employee's FMLA entitlement to up to twelve (12) workweeks of such coverage in a calendar year.

- 5) When the employee is on FML under the CFRA that does not run concurrently under the FMLA (e.g., Parental Leave after an employee's FMLA entitlement has been exhausted): Continued coverage for up to twelve (12) workweeks in a calendar year.

i. **Return from FML**

1) **Required Notice and Documentation**

- a) The employee shall provide reasonable notice to her/his employing department of her/his anticipated return to work.
- b) An employee returning from FML for her/his own serious health condition must provide a written medical release to return to work prior to returning to work. For returns after Pregnancy Disability Leave, see Section C.4.e. below.
- c) The employee who has been medically released to perform the essential assigned functions of her/his job, shall be reinstated in accordance with the provisions of Section B.1.i.(2). below.
- d) Failure to provide a medical release to return to work may result in the delay of reinstatement until the employee submits the required medical release certification.

2) **Reinstatement Rights**

When an employee has been granted an approved FML for any purpose other than Pregnancy Disability and returns within twelve (12) workweeks of the initiation of the leave (or within 26 workweeks if the FML was taken for Military Caregiver Leave), s/he shall be reinstated to the same or an equivalent position upon expiration of the leave. For an employee's return to work rights after Pregnancy Disability Leave, see Section C.5. below. If the position has been abolished or otherwise affected by layoff and an equivalent position is not available, the employee shall be afforded the same considerations which would have been afforded had the

employee been working when the position was abolished or affected by layoff. No employee with a predetermined appointment end date or predetermined date of separation shall be granted a leave of absence beyond her/his appointment end date or the predetermined date of separation. As stated in Section B.1.i.(1) (b), above, an employee who has been granted an FML for her/his own serious health condition, must provide a written medical release to return to work prior to her/his return to work.

**2. FML for Employee’s Serious Health Condition**

FML for the employee’s own serious health condition is leave taken when the employee’s own “serious health condition,” as defined in Section B.1.a.(4). above, renders the employee unable to perform any one or more of the essential functions of the employee’s position.

**3. FML to Care for Employee’s Family Member with a Serious Health Condition**

FML to care for a family member with a serious health condition is leave to care for the employee's child, parent, spouse or same or opposite sex domestic partner who has a “serious health condition,” as defined in Section B.1.a.(4). above, that warrants the participation of the employee to provide care (including psychological care and comfort) during a period of the family member’s treatment or to provide supervision of the family member.

**4. FML as Pregnancy Disability Leave**

When an employee who takes Pregnancy Disability Leave pursuant to Section C. below is eligible for FML, her Pregnancy Disability Leave will be counted against her FML entitlement under the FMLA as well as her Pregnancy Disability Leave entitlement under PDLL.

**5. FML as Parental Leave**

FML taken as Parental Leave is leave taken to bond with the employee's newborn, to bond with a child placed with the employee for adoption or foster care, or to attend to matters related to the birth, adoption, or placement of the child. The following special provisions apply to Parental Leave:

**a. Time Limit for Parental Leave**

Parental leave must be initiated and concluded within one (1) year of the birth or placement of the child with the employee.

b. **Eligibility for Parental Leave**

An employee taking Parental Leave must meet the eligibility requirements for FML set forth in Section B.1.b. above except when the employee is taking Parental Leave immediately following FML taken as Pregnancy Disability Leave; in those circumstances, an employee who was eligible for FML under the FMLA at the beginning of her Pregnancy Disability Leave shall be granted a Parental Leave under CFRA for up to twelve (12) workweeks after her Pregnancy Disability Leave, provided that she has not exhausted her FML entitlement under CFRA for that leave year.

c. **Advance Notice**

The employee shall request Parental Leave sufficiently in advance, if possible, of the expected birth date of the child or placement of a child for adoption or foster care, in order to allow the University to plan for the absence of the employee, but the employee shall not be required to provide more than thirty (30) days advance notice. The anticipated date of return from Parental Leave shall be set at the time such leave commences, or if requested in conjunction with FML taken as Pregnancy Disability Leave, shall be set at the time such Pregnancy Disability Leave commences. Parental Leave, when taken because of the adoption or placement of the child with the employee could commence prior to the date of placement.

d. **Duration of Parental Leave**

Parental Leave, alone, shall not exceed twelve (12) workweeks within a calendar year as defined in Sections B.1.b.(1). and B.1.c. above. However, when FML for Parental Leave is combined with FML for Pregnancy Disability Leave, the total FML Leave shall not exceed seven (7) months in a calendar year.

e. **Forms in which Parental Leave May Be Taken**

The University shall grant a Parental Leave of less than two (2) weeks duration on any two (2) occasions during a calendar year. The University, at its sole non-grievable discretion, may require that any additional Parental Leave requested during this same time period be for a minimum duration of two (2) weeks, unless otherwise required by law.



## 6. **FML as Military Caregiver Leave**

An eligible employee may take Military Caregiver Leave to care for a family member who is a “covered servicemember” undergoing medical treatment, recuperation or therapy for a “serious injury or illness,” consistent with the definitions of those terms in Section B.6.b. below.

### a. **Eligibility Criteria and Duration Specific to Military Caregiver Leave**

An eligible employee is entitled to up to twenty-six (26) workweeks of Military Caregiver Leave during a single twelve-month (12-month) leave period. The employee must be a spouse, domestic partner, parent, son, daughter or next of kin of the covered service member to be eligible for this type of leave and must meet the eligibility requirements for FML set forth in Section B.1.b. above.

### b. **Definitions Specific to Military Caregiver Leave**

#### 1) **“Covered service member”** means:

- a) a current member of the Armed Forces (including a member of the National Guard or Reserves) who, because of a “serious injury or illness,” is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list or
- b) a covered veteran who is undergoing medical treatment, recuperation, or therapy for a “serious injury or illness.”

#### 2) **“Covered veteran”** means an individual who was a member of the Armed Forces (including a member of the National Guard or Reserves) who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes Military Caregiver Leave to care for a covered veteran.

#### 3) **“Outpatient status”** means the status of a servicemember assigned to (a) a military medical treatment facility as an outpatient; or (b) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

- 4) **“Serious injury or illness”** means
- a) For a current member of the Armed Forces (including a member of the National Guard or Reserves): an injury or illness that was incurred by the covered service member in the line of duty on active duty in the Armed Forces or that existed before the beginning of the covered servicemember’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces, and that may render the covered servicemember medically unfit to perform the duties of her or his office, grade, rank, or rating;
  - b) For a covered veteran: an injury or illness that was incurred by the covered veteran in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the member became a veteran.
- 5) **“Parent of a covered servicemember”** means a covered servicemember’s biological, adoptive, step or foster father or mother or any other individual who stood in loco parentis to the covered service member. The term does not include parents “in law.”
- 6) **“Son or daughter of a covered servicemember”** means the covered servicemember’s biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered service member stood in loco parentis, and who is of any age.
- 7) **“Next of kin”** means (a) the nearest blood relative of the covered service member (other than the covered service member’s spouse, domestic partner, parent, son or daughter) or (b) the blood relative who the covered servicemember has designated in writing as her or his nearest blood relative for purposes of Military Caregiver Leave.
- 8) **“Single 12-month leave period”** means the period beginning on the first day the employee takes Military Caregiver Leave and ends twelve (12) months after that date. (This leave period differs from the calendar year definition of the leave year used for determining eligibility for other types of FML at the University.)

c. **Leave Entitlement**

Military Caregiver Leave is applied on a per-covered service member, per-injury basis. Eligible employees may take more than one (1) period of twenty-six (26) workweeks of leave if the leave is to care for a different covered servicemember or to care for the same servicemember with a subsequent serious injury or illness, except that no more than twenty-six (26) workweeks of leave may be taken within any “single twelve-month (12-month) period.”

If an eligible employee does not use all of her or his twenty-six (26) workweeks of leave entitlement to care for a covered service member during this single twelve-month (12-month) leave period, the remaining part of the twenty-six (26) workweek entitlement to care for the covered servicemember for that serious injury or illness is forfeited.

As with other types of FML, this leave may also be taken on an intermittent or reduced schedule basis. If the need for intermittent or reduced schedule leave is foreseeable based on the planned medical treatment of the covered servicemember, the employee may be required to transfer temporarily, during the period that the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee’s regular position.

7. **FML as Qualifying Exigency Leave**

Qualifying Exigency Leave is an additional type of FML available to eligible employees. If the military member is the spouse, domestic partner, son, daughter or parent of the employee, the employee may take Qualifying Exigency Leave to attend to any “qualifying exigency” while the military member is on “covered activity duty or call to covered active duty status” (or has been notified of an impending call or order to covered active duty).

a. **Definitions Specific to Qualifying Exigency Leave**

- 1) **“Son or daughter on covered active duty or call to covered active duty status”** means the employee’s biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis, who is on covered active duty or call to covered active duty status, and who is of any age.

- 2) **“Covered active duty or call to covered active duty status”** means:
- a) For purposes of members of the Regular Armed Forces: duty during the deployment of the member with the Armed Forces to a foreign country.
  - b) For purposes of a member of the Armed Forces Reserve: duty during the deployment to a foreign country under a Federal call or order to active duty in support of a contingency operation pursuant to 10 U.S.C. sections 12302, 12304, 12305, or 12406 668 and 12301A; 10 U.S.C. chapter 15; or any other provision of law during a war or during a national emergency declared by the President or Congress so long as it is in support of a contingency operation.
- 3) **“Armed Forces Reserve”** includes the Army National Guard of the United States, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard of the United States, Air Force Reserve and Coast Guard Reserve, and retired members of the Regular Armed Forces or Reserves who are called up in support of a contingency operation pursuant to 10 U.S.C. sections 12302, 12304, 12305, or 12406, 668 and 12301A; 10 U.S.C. chapter 15; or any other provision of law during a war or during a national emergency declared by the President or Congress so long as it is in support of a contingency operation.<sup>2)</sup>
- 4) **“Qualifying exigency”** is defined as any one of the following, provided that the activity relates to the military member’s covered active duty or call to covered active duty status:
- a) Short notice deployment to address issues that arise due to the military member being notified of an impending call to active duty seven (7) or fewer calendar days prior to the date of deployment;
  - b) Military events and activities, including official ceremonies;
  - c) Childcare and school activities for a child of the military member who is either under age eighteen (18) or incapable of self-care because of a mental or physical disability at the time that Qualifying Exigency Leave is to commence;

- d) Financial and legal arrangements to address the military member's absence or to act as the military member's representative for purposes of obtaining, arranging, or appealing military service benefits while the military member is on covered active duty or call to covered active duty status and for the ninety (90) days after the termination of the military member's covered active duty status;
- e) Counseling (provided by someone other than a health care provider) for the employee, for the military member, or for the child of the military member who is either under age eighteen (18) or incapable of self-care because of a mental or physical disability at the time the Qualifying Exigency Leave is to commence;
- f) Rest and Recuperation (up to fifteen (15) days of leave for each instance) to spend time with the military member who is on short-term, temporary Rest and Recuperation leave during the period of deployment;
- g) Post-deployment activities, including (a) attendance at ceremonies sponsored by the military for a period of ninety (90) days following termination of the military member's covered active duty status and (b) addressing issues that arise from the death of the military member while on covered active duty status;
- h) Arranging for care for the parent of the military member or providing care for the parent on an urgent, immediate need basis (but not on a routine, regular, or everyday basis), where the parent is incapable of self-care and is the biological, adoptive, step, or foster father or mother of the military member, or any other individual who stood in loco parentis to the military member when the military member was under 18 (eighteen) years of age; and
- i) Additional activities related to the military member's covered active duty or call to covered active duty status when the employer and employee agree that such activity qualifies as an exigency and agree to both the timing and duration of the leave.

## **C. PREGNANCY DISABILITY LEAVE**

During the period when an employee is disabled because of pregnancy, childbirth, or related medical condition, she is entitled to and the University shall grant her request for Pregnancy Disability Leave. Pregnancy Disability Leave may also be used for prenatal care.

For an employee disabled by pregnancy, childbirth or related medical condition, no eligibility requirements apply, such as minimum hours worked or length of service. If the employee is eligible for FML under the FMLA, pursuant to Section B.1.b. above, such leave shall be deducted from an employee's FML entitlement under the federal FMLA as well as her entitlement under the PDLL.

Pregnancy Disability Leave may be taken as a block leave or, when medically advisable, on an intermittent or reduced schedule basis. Only the amount of leave time actually taken may be counted against the employee's Pregnancy Disability Leave entitlement.

### **1. Duration**

- a. An employee is entitled to Pregnancy Disability Leave for the period of actual disability up to four (4) months per pregnancy.
- b. If the employee continues to be disabled by pregnancy, childbirth, or related medical condition beyond four (4) months, a medical disability leave of absence may be granted in accordance with Section D. below.
- c. Following Pregnancy Disability Leave, the employee may be eligible for Parental Leave, pursuant to Section B.5. above, to care for her newborn child. The total FML taken for a combination of Pregnancy Disability Leave and Parental Leave shall not exceed seven (7) months in a calendar year.

### **2. Use of Accrued Paid Leave**

Pregnancy Disability Leave may consist of leave with or without pay; however, an employee shall be required to use accrued sick leave in accordance with the University's Disability Plan. If sick leave is exhausted, the employee may elect to use accrued vacation time prior to taking leave without pay.

### **3. Transfer and Other Reasonable Accommodations As Alternatives To Or In Addition To Pregnancy Disability Leave.**

- a. **Transfer at the Request of the Employee.** The University shall temporarily transfer a pregnant employee to a less strenuous or hazardous position upon the request of the employee when such transfer is medically advisable according to the employee's health care provider, if the transfer can be reasonably accommodated. For the purpose of this section, a temporary transfer includes a temporary modification of the employee's own position to make it less strenuous or hazardous. A temporary transfer under this section is considered time worked and shall not be counted toward an employee's entitlement of up to four (4) months of Pregnancy Disability Leave, unless the employee is also taking leave on an intermittent or reduced schedule basis. When the employee's health care provider certifies that the transfer is no longer medically advisable, the University shall return the employee to her same position or a comparable position in accordance with Section C.5. below.
  
- b. **Transfer to Reasonably Accommodate Employee's Need for Intermittent or Reduced Schedule Leave.** When the employee's health care provider states in a medical certification that it is medically advisable for the employee to take Pregnancy Disability Leave on an intermittent or reduced schedule basis, the University may, at its sole non-grievable discretion, transfer the employee temporarily to an available alternative position that meets the needs of the employee, provided the employee meets the qualifications of the alternative position. When the employee's health care provider certifies that the intermittent or reduced schedule leave is no longer medically advisable, the University shall return the employee to her same position or a comparable position in accordance with Section C.5. below.
  
- c. **Other Reasonable Accommodations.** If the employee's health care provider certifies that reasonable accommodation(s) other than transfer and/or leave on an intermittent or reduced schedule basis are medically advisable, the University shall engage in the interactive process with the employee to identify and implement the reasonable accommodation(s) that are appropriate under the circumstances.

#### 4. **Certification**

- a. When an employee requests a reasonable accommodation, transfer, or leave due to pregnancy, childbirth, or related medical condition, the University may, at its discretion, require that the employee's request be supported by written medical certification issued by the employee's health care provider.

- b. When a medical certification is requested in connection with the employees' request for reasonable accommodation or transfer, it shall contain the following: (a) a description of the requested accommodation or transfer, (b) a statement describing the medical advisability of the requested reasonable accommodation or transfer, and (c) the date on which the need for reasonable accommodation became or will become medically advisable and the estimated duration of need for the reasonable accommodation or transfer.
- c. When a medical certification is requested in connection with an employee's request for leave, it shall contain the following: (a) a statement that the employee needs to take Pregnancy Disability Leave because she is disabled by pregnancy, childbirth, or a related medical condition, and (b) the date on which the employee became disabled because of pregnancy and the estimated duration of the leave.
- d. Failure to provide certification for reasonable accommodation, transfer, or leave within the requested time period or as soon as reasonably possible under the circumstances may result in delay of the reasonable accommodation, transfer, or leave until the required certification is provided.
- e. The University may, at its discretion, require that an employee returning to work immediately following Pregnancy Disability Leave provide a written medical release prior to returning to work.

## **5. Reinstatement after Pregnancy Disability Leave**

The date of reinstatement after Pregnancy Disability Leave is typically determined by agreement between the University and the employee when the leave is granted. If the actual reinstatement date differs from the original agreement or no agreement was made, the University shall reinstate the employee within two business days or, when two business days is not feasible, as soon as possible after the employee notifies the University of her readiness to return.

An employee who has taken Pregnancy Disability Leave shall be reinstated to the same position, provided that the employee returns to work immediately upon termination of the Pregnancy Disability Leave and provided that the aggregate duration of all leaves granted for a given pregnancy does not exceed four (4) months. If the same job has been abolished or affected by layoff, the employee shall be reinstated to a comparable position if the employee would have been entitled to the comparable position if she had been continuously working rather than on leave. If a comparable position is not available on the employee's scheduled date of reinstatement but a



comparable position or positions become available within sixty (60) days thereafter, the University shall notify the employee of the position(s). If the employee is reinstated within that sixty-day (60-day) period, the period between the employee's originally scheduled date of reinstatement and her actual reinstatement shall not be counted for purposes of any employee pay or benefits.

**6. Continuation of Health Benefits**

A benefits-eligible employee on Pregnancy Disability Leave shall be entitled to continue participation in health plan coverage (medical, dental, and vision) as set forth in Section B.1.h.(4). above, whether or not the Pregnancy Disability Leave also qualifies as FML.

**D. DISABILITY LEAVES OTHER THAN PREGNANCY DISABILITY LEAVE**

A disability leave of absence is the period(s) for which an eligible career employee is granted leave from work for medical reasons in accordance with Section D.1. below. This leave includes the combined use of accrued sick leave and the disability leave of absence without pay in accordance with the provisions of this Article and Article 39 - Sick Leave. Disability leaves of absence with or without pay are provided for leaves due to non-work related illnesses or injuries.

**1. Eligibility**

An employee may be eligible for a disability leave of absence with or without pay when s/he has exhausted her/his twelve (12) workweek FML entitlement in a calendar year, or s/he is not otherwise eligible for FML Leave, or the employee has exhausted her four (4) month entitlement to Pregnancy Disability Leave under the Pregnancy Disability Leave Laws, and s/he:

- a. is medically incapable of performing the essential assigned functions of her/his job due to a non-work related illness or injury, and
- b. has furnished evidence of disability satisfactory to the University.

**2. Duration**

- a. When the use of accrued sick leave and a disability leave of absence without pay are combined, a disability leave may be granted by the University for a total period of verified disability consistent with the University's obligation to reasonably accommodate a disabled employee.

- b. An employee granted a disability leave who is also applying for University disability benefits for non-work related disability purposes shall use all accrued sick leave in accordance with the University's disability plan prior to taking the disability leave without pay.
- c. An employee who is receiving long term disability payments from a retirement system to which the University contributes will be medically separated on the basis of medical condition in accordance with Article 20 – Medical Separation of this Agreement.

3. **Return To Work**

The employee shall not be reinstated from a medically-related leave of absence until a medical release certification is provided to the University within the time limits specified by the department. A medical release certification shall include a statement by the employee's health care provider of the employee's ability to perform the essential functions of the position, with or without reasonable accommodation.

**E. Military Spouse/Domestic Partner Leave**

An employee who is a spouse or domestic partner of a member of the Armed Forces, National Guard, or Reserves may take this leave during a “qualified leave period” when the employee’s spouse or domestic partner is on leave from a period of military conflict. “Qualified leave period” means the period during which the “qualified member” is on leave from deployment during a period of military conflict. An eligible employee shall be entitled to up to a maximum of ten (10) days of unpaid leave during a qualified leave period.

1. **Definitions Specific to Military Spouse/Domestic Partner Leave**

- a. **“Qualified member”** means a person who is any of the following:
  - 1) A member of the Armed Forces of the United States who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States, or
  - 2) A member of the National Guard who has been deployed during a period of military conflict, or
  - 3) A member of the Reserves who has been deployed during a period of military conflict.
- b. **“Period of military conflict”** means either of the following:

- 1) A period of war declared by the United States Congress, or
- 2) A period of deployment for which a member of a reserve component is ordered to activity duty, as defined in Military & Veterans Code section 395.10.

## 2. **Eligibility**

To be eligible, an employee must satisfy all of the following criteria:

- a. Be a spouse or domestic partner of a “qualified member”;
- b. Perform services for the University for an average of twenty (20) or more hours per week;
- c. Provide the University with notice, within two business days of receiving official notice that the qualified member will be on leave from deployment, of the employee’s intention to take the leave; and
- d. Submit written documentation certifying that the qualified member will be on leave from deployment during the time that leave is being requested by the employee.

## 3. **Substitution of Paid Leave**

This leave is unpaid leave, except that an employee shall use accrued vacation time and compensatory time off (CTO) prior to taking leave without pay.

## **F. PERSONAL LEAVES OF ABSENCE WITHOUT PAY**

1. A non-probationary career employee may be granted a Personal Leave of Absence without Pay at the sole non-grievable discretion of the University. Such leave shall not exceed six (6) calendar months. Personal Leave without Pay shall not be considered a break in service and shall not determine eligibility for benefits except that the regulations of the retirement systems must be specifically checked to determine the effects of such leave without pay on retirement benefits.
2. Notwithstanding the foregoing, the University at its sole non-grievable discretion may approve extension of a personal leave of absence without pay for a total leave of not normally more than twelve (12) months.

## **G. LEAVES OF ABSENCE WITH PAY**

### **1. Jury Duty/Grand Jury Duty**

A full-time employee in a career position on any shift or work schedule who is summoned to required jury duty shall be granted leave with pay for actual time spent on jury service and in related travel, not to exceed the number of hours in the employee's normal work day and the employee's normal workweek. A part-time employee in a career position who is summoned to required jury duty shall be granted leave with pay for actual time spent on jury service and in related travel which occur during the employee's regularly scheduled hours of work. When an employee's scheduled jury duty hours do not generally coincide with the employee's scheduled shift, the University will, upon request of the employee and subject to operational needs, change the employee's shift assignment. In the event the employee's shift assignment is changed to a shift that has a shift differential, such differential shall not apply when the change in assignment is made to accommodate the employee's jury duty.

### **2. Voting**

An employee shall be granted leave with pay, up to a maximum of two (2) hours, for voting in a statewide primary or general election if the employee is scheduled to work eight (8) hours or more on that day and does not have time to vote outside of working hours.

### **3. Blood Donations**

An employee may be granted leave with pay, up to a maximum of two (2) hours, for donating blood during regularly scheduled hours of work.

### **4. Administrative Or Legal Proceedings**

a. When an employee is attending administrative or legal proceedings as directed by the University or is subpoenaed by the University to appear as a witness in an administrative or legal proceeding, leave without loss of straight time pay will be granted for actual time spent in the proceedings and in related travel not to exceed the number of hours in the employee's normal work day and workweek.

b. An employee subpoenaed by the State or a political subdivision thereof when the State or political subdivision is prosecuting a person for an offense that the employee, by virtue of being on University premises during scheduled work hours, witnessed shall be granted leave without loss of straight time pay for actual time spent in the

proceedings and in related travel time not to exceed the employee's normal work day and workweek.

- c. The granting of leave without loss of straight time pay status for other employment-related situations where an employee has been subpoenaed shall be at the sole non-grievable, non-arbitrable discretion of the University.

## **5. Emergencies**

In the event of natural or man-made emergencies, an employee may be granted leave with straight time pay during regularly scheduled hours of work for the period of time authorized by the University. The granting of such leave and the period of time shall be at the sole, non-grievable discretion of the University.

## **6. University Functions**

At the sole, non-grievable discretion of the University and on a campus by campus or within a campus basis, an employee may be granted leave during regularly scheduled hours of work to attend Commencement exercises, Charter Day exercises and other University meetings or functions as designated by the University. Such leave, when granted, shall be without loss of straight-time pay.

## **H. CATASTROPHIC LEAVE PROGRAMS**

Bargaining unit employees may participate, as donors and recipients, in Catastrophic Leave programs according to local campus/hospital/LBNL procedures and Article 39 - Sick Leave, Section G.

## **I. LEAVE FOR BONE MARROW OR ORGAN DONATION**

An employee who wishes to donate bone marrow to another person may use up to five (5) calendar days of accrued vacation, sick leave, compensatory time off, and/or leave without pay during a calendar year.

An employee who wishes to donate an organ for transplant may use up to thirty (30) calendar days of accrued vacation, sick leave, compensatory time off, and/or leave without pay during a calendar year.

An employee may be required to submit medical documentation supporting the request for leave and/or return to work.

Additional leave may be available to an employee donating bone marrow or an organ under Family and Medical Leave (see Section B. of this Article above) if the employee's condition qualifies as a serious health condition under the circumstances.

## J. LAWRENCE BERKELEY NATIONAL LABORATORY

### Bereavement Leave

LBNL recognizes the importance of family and the difficulties employees face following the death of a family member or another person close to the family. The Laboratory provides time off for this purpose.

1. **Eligibility for bereavement leave:** All employees are eligible to take paid or unpaid bereavement leave. Employees eligible to accrue sick leave may use a portion of their accrued sick leave for paid bereavement leave.
  
2. **Use of bereavement leave**
  - a. For the death of a family member (spouse, domestic partner, parent, child, sibling, grandparent, grandchild, in-law, or step-relative in the same relationship) or person residing in the employee's household: Up to ten (10) days for each family member or person residing in the household.
  - b. For the death of an individual who is not a family member or person residing in the employee's household: In total, up to five (5) days in a calendar year.
  - c. If an employee requires more than the time allowed for bereavement leave, he/she may request an unpaid personal leave of absence or may use any accrued vacation leave.
  - d. An employee may not use accrued sick leave as bereavement leave:
    - i. As a personal day off. Employees must use vacation for a personal day off.
    - ii. After his/her effective date of separation, retirement or layoff.
    - iii. In excess of his/her scheduled hours of work (e.g., an employee scheduled to work six hours a day would not take eight hours of bereavement leave a day) up to a maximum of eight hours per day and 40 hours per week, including extended workweek situations.
    - iv. During work deferment or leave without pay.

- v. On an intermittent basis for purposes of eligibility for holiday pay and employer-paid contributions toward benefits. However, if the employee is taking FML on an intermittent or reduced-schedule basis, refer to Section B of this Article for further details.
- 3. **Evidence of the need for bereavement leave:** An employee may be required to submit satisfactory proof of the bereavement.
- 4. **Return to work**
  - a. An employee is expected to return to work no later than the next regularly scheduled workday after the bereavement leave has ended.
  - b. An employee who unexpectedly cannot return to work on the next regularly scheduled workday after the bereavement leave has ended must notify his/her supervisor soon as possible to explain the reason for the absence.
  - c. Failure to return to work after the bereavement leave has ended without supervisory approval is considered an unauthorized absence. Five consecutive workdays of unauthorized absence constitutes job abandonment under Article 35 – Resignation/Job Abandonment.
- 5. **Misuse of Leave**
  - a. Misrepresenting reasons for requesting time off, including but not limited to misrepresentations that could lead to concerns of conflict of interest and/or fraud, may result in disciplinary action, suspension without pay, and/or termination from employment.
  - b. Employees on an approved leave of absence for which a medical certification is required may jeopardize their right to leave benefits and or their continued employment by engaging in activities incompatible with the medical certification submitted in support of the leave.

**ARTICLE 19**  
**MANAGEMENT RIGHTS**

- A. Management of the University is vested exclusively in the University. The parties agree that all rights not specifically granted in this Agreement are reserved solely to the University. Except as otherwise provided in this Agreement, UPTe agrees that the University has the right to make and implement decisions relating to areas including but not limited to those enumerated below. Although the University may upon request consult with UPTe concerning the following areas, the University is not obligated to bargain with UPTe as to such areas during the term of this Agreement.
- B. Examples of the rights reserved solely to the University administration and its agents and officials include, but are not limited to, the right:
1. to establish the University's missions, programs, objectives, activities, and priorities;
  2. to plan, supervise, direct and control the use of resources to achieve the University's missions, programs, objectives, activities, and priorities;
  3. to develop, implement and administer affirmative action programs;
  4. to establish and administer procedures, rules and regulations and determine the methods and means by which operations are to be carried on;
  5. to introduce new or improved methods, programs, equipment, or facilities or change or eliminate existing methods, equipment, or facilities;
  6. to determine the location or relocation, reorganization, or discontinuance of operations; to determine where employees shall work; or subcontract all or any portion of any operation;
  7. to assign, reassign and schedule work; to determine the need for overtime;
  8. to establish the size, composition, and qualifications of the work force;
  9. to recruit, hire, develop, train, evaluate, promote, transfer, demote, or layoff limited appointment, career, or probationary employees;
  10. to determine the basis for, and to determine the amount granted for merit increases;



11. to establish, modify, and enforce standards of performance, conduct, and safety for employees; and to determine the process by which employee performance is evaluated;
  12. to reprimand, suspend, release, or otherwise discipline or discharge employees for misconduct or failure to perform satisfactorily;
  13. to maintain safety standards and programs;
  14. to determine and modify job classifications and job descriptions.
- C. The above enumerations of management rights are not inclusive and do not exclude other management rights not specified, nor shall the exercise or non-exercise of rights retained by the University be construed to mean that any right is waived.
- D. No action taken by the University with respect to a management right shall be subject to the grievance or arbitration procedure or collateral suit, unless the exercise thereof violates an express written provision of this Agreement.

## **ARTICLE 20 MEDICAL SEPARATION**

### **A. GENERAL CONDITIONS**

1. When the University determines that a non-probationary career employee is unable to satisfactorily perform the essential assigned functions of her/his position due to any disability or other medical condition, that employee may be medically separated. Prior to medical separation the University will determine what accommodation, if any, may be reasonably provided. Such accommodation, if any, shall be provided in accordance with the provisions of Article 33 - Reasonable Accommodation. An employee who is medically separated is eligible for special reemployment procedures as set forth in Section E. below.
2. Except as provided in Section A.3. below, a medical separation shall be based on:
  - a. a University statement describing the essential functions the employee is not able to perform satisfactorily; and
  - b. any pertinent information, including medical information provided by the employee's licensed health practitioner and/or the University's physician, and/or work-related information provided by appropriate University officials.
3. A medical separation may also be based on the employee's receipt of long-term disability payments from a retirement system to which the University contributes, such as UCRS or PERS.
4. If an employee who is on an approved leave of absence related to a medical condition has a specific return to work date established by a health practitioner licensed by the State in which s/he practices and such return to work date is within one-hundred eighty (180) days of the beginning of leave of absence, the employee shall not, during the period between the beginning of the leave of absence and the return-to-work date (a maximum of one-hundred eighty (180) days), be medically separated.

### **B. PROOF OF DISABILITY OR OTHER MEDICAL CONDITION**

Proof of the employee's disability is required and is subject to verification by the University. When the University requests a medical opinion as verification of disability, the University shall pay the costs of the medical examination(s) requested.

**C. NOTICE OF INTENT TO MEDICALLY SEPARATE**

A written notice of intent to medically separate shall be given to the employee either by delivery of the notice to the employee in person, or by placing the notice of intent in the U.S. mail, first class postage paid, in an envelope addressed to the employee at the employee's last known home address. Proof of service shall accompany the notice of intent. The notice shall:

1. inform the employee of the action intended, the reason for the action and the effective date of the action;
2. inform the employee of the right to respond and to whom to respond within ten (10) calendar days from the date of issuance of such notice of intent, in accordance with the instructions given by the University in the written notice provided to the employee.

A copy of the notice of intent shall be provided to UPTE. The University shall place a copy of the notice in the U.S. mail to UPTE the same day (or the next business day) it provides the notice to the employee.

**D. EMPLOYEE NOTICE**

After review of the employee's timely response, if any, the University shall notify the employee of any action to be taken. An effective date of separation shall follow the employee's timely response or, if no response is provided, shall be at least fifteen (15) calendar days from the date of issuance of the notice of intention to separate, pursuant to Section C. above.

**E. REEMPLOYMENT**

1. For a period of one (1) year following the date of a medical separation, a medically separated former non-probationary career employee may be selected for a position without the requirement that the position be publicized. However, if the former employee is receiving disability benefits from a retirement system to which the University contributes the period shall be three (3) years from the date benefits commenced. In order to be eligible for rehire under this Article, the medically separated employee must provide a medical certification from a University-approved medical physician describing in detail the medically separated employee's ability to return to work.
2. If a non-probationary career employee separated under this Article is re-employed within one hundred eighty (180) calendar days, a break in service does not occur. If a non-probationary career employee is receiving disability payments from a retirement system to which the

University contributes and is re-employed within three (3) years, a break in service does not occur.

## **ARTICLE 21 MILITARY LEAVES**

### **A. GENERAL PROVISIONS**

An employee is entitled to Reserve Training Leave for Inactive Duty, Temporary Military Leave for Active Duty Training, Extended Military Leave, Emergency National Guard Leave, and Military Leave for Physical Examinations provided that the employee gives advance verbal or written notice of the leave except when such notice is precluded by military necessity, impossibility or unreasonableness. In any event, the University may require verification of an employee's military orders for leaves of thirty (30) or more days.

### **B. ELIGIBILITY FOR PAY AND BENEFITS**

#### **1. General Provisions**

An employee granted reserve training leave for inactive duty, temporary military leave for active-duty training or extended military leave is entitled to receive regular University pay for the first thirty (30) calendar days of such leave in any one fiscal year (July 1<sup>st</sup> through June 30<sup>th</sup>; October 1<sup>st</sup> through September 30<sup>th</sup> at LBNL), but not to exceed the actual period of service, provided:

- a. The employee has at least twelve (12) months of continuous University service immediately prior to the granting of the leave (any prior full-time military service shall be included in calculating this University service requirement); and
- b. Such payment for reserve training, temporary and extended military leave in any combination, in addition to any University payment for military leave for physical examinations, does not exceed the pay due for a period of thirty (30) calendar days in any one fiscal year (July 1<sup>st</sup> through June 30<sup>th</sup>; October 1<sup>st</sup> through September 30<sup>th</sup> at LBNL).

#### **2. Part-Time Employee**

An eligible part-time employee shall receive pay in proportion to the average percent of full-time worked during the three (3) completed monthly pay periods immediately preceding the leave.

**3. Ineligible Employee**

An employee not eligible for military leave pay may have such absence charged to accrued vacation or accrued compensatory time off, or the military leave may be without pay.

**4. Service Credit And Benefits**

An employee on temporary military leave for active-duty training or extended military leave, who is not on pay status shall receive length-of-service credit, provided that the employee returns to University service at the expiration of the leave in accordance with applicable State and Federal laws. Such employee shall accrue vacation and sick leave and receive holiday pay only in accordance with Article 43 - Vacation Leave, Article 39 - Sick Leave, and Article 12 - Holidays. If on pay status, provided that the employee returns to University service at the expiration of the leave in accordance with applicable State and Federal Laws, the employee shall receive regular benefits. Retirement benefits and service credit shall be continued in accordance with the provisions of the applicable retirement system regulations. Health benefits may be continued at the employee's request and expense for the time period outlined under the University's group insurance regulations.

**C. RESERVE TRAINING LEAVE FOR INACTIVE DUTY**

Reserve training leave for inactive duty shall be granted to any employee who, as a member of a reserve component of the United States Armed Forces, must perform inactive duty such as weekly or monthly meetings or weekend drills.

**D. TEMPORARY MILITARY LEAVE FOR ACTIVE-DUTY TRAINING**

Temporary military leave for active-duty training shall be granted to any employee who, as a member of a reserve component of the United States Armed Forces, is ordered to full-time active military duty for training for a period not to exceed 180 days, including time spent traveling to and from such duty.

**E. EXTENDED MILITARY LEAVE**

Extended military leave shall be granted to an employee who enlists or is ordered into active duty in the United States Armed Forces or a reserve component or who is ordered into active Federal military duty as a member of the National Guard or Naval Militia. Such leave shall be granted for active-duty service of any length or for active-duty training more than one-hundred eighty (180) days.

1. **Period Of Leave**

An employee shall be granted extended military leave for the initial period of enlistment, service, or tour of duty for a period not to exceed five years. In addition, leave shall be granted for a period up to six (6) months from the date of release from duty if the employee requests such extension.

2. **Service Credit And Benefits**

An employee granted extended military leave shall receive a lump-sum payment for earned salary, accrued vacation, and accrued overtime or compensatory time off. Upon written request, an employee may elect to retain accrued vacation on the records for a period not to exceed one-hundred eighty (180) days. Vacation credits retained on the records in excess of one-hundred eighty (180) days shall be paid out at the pay rate in effect at the time of payment, taking into account any salary increases that may have occurred in the previous one-hundred eighty (180) day period. Sick leave credit shall be retained on the records.

3. **Probationary Employee**

An employee who was serving a probationary period at the time extended military leave became effective shall be required to complete the probationary period upon reinstatement.

- a. If the probationary employee served in active military service for a period of more than thirty (30) days, s/he shall not be separated from employment by management action except for cause for six months from the date of reinstatement.
- b. If the probationary employee served in active military service for a period more than one-hundred eighty (180) days, s/he shall not be separated from employment by management except for cause for one year from the date of reinstatement.

**F. EMERGENCY NATIONAL GUARD LEAVE**

Military Leave shall be granted to an employee who as a member of the National Guard is called to active duty during a state of emergency by proclamation of the Governor of the State of California. An employee who as a member of the National Guard is called to active federal military duty at the request of the President of the United States is not eligible for emergency National Guard leave, but shall be granted extended military leave as set forth in Section D.

**1. Eligibility For Pay**

An employee granted military leave for emergency National Guard duty is entitled to receive regular University pay for a period not to exceed thirty (30) calendar days in any one fiscal year. An employee is eligible for pay regardless of the length of University service, and such pay is in addition to any University payment for reserve training leave, temporary military leave for active-duty training, extended military leave, and military leave for physical examinations.

**2. Benefits**

An employee on military leave with pay for emergency National Guard duty shall receive all benefits related to employment which are granted when an employee is on pay status. If not on pay status, the employee shall receive length-of-service credit, provided that the employee returns to University service immediately after the emergency service is over. Such employee shall accrue vacation and sick leave and receive holiday pay in accordance with Article 43 - Vacation, Article 39 - Sick Leave and Article 12 - Holidays.

**G. PHYSICAL EXAMINATION**

1. Military leave with pay shall be granted to an employee in accordance with Section B., regardless of length of service, when the employee is required to take a pre-induction or pre-enlistment physical examination to fulfill a commitment under a Selective Service or comparable law, or during a period of war or comparable national emergency.
2. Time off for other physical examinations in connection with military service may be charged to accrued sick leave, accrued vacation leave, or accrued compensatory time off, or shall be without pay.

**H. REINSTATEMENT**

Following release from military service, an employee shall have such right to return, and only such right, as may be required by State and Federal law in effect at the time the employee applies for reinstatement. Upon reinstatement, an employee shall receive salary range adjustments applicable to the employee's position during the military leave as provided by the Agreement.



**ARTICLE 22  
MOVING EXPENSES**

**A. POLICY**

Payment for moving expenses may be granted by the University when an employee moves from one University work location to another University work location at the University's request. No expenses shall be paid to an employee if the University determines that the new work location is within reasonable commuting distance of the previous location.

**B. EXPENSES TO BE PAID**

Expenses approved in advance by the University and supported by invoices and receipts may be paid for costs incurred for packing, insurance, transportation, storage in transit (not to exceed thirty (30) calendar days), unpacking and installation of the employee's household effects at a new location. Actual travel expenses for the employee and the employee's immediate family may be paid by the University, not to exceed air coach transportation cost and/or the University allowance for individuals for the cost of meals en route for the employee and the employee's immediate family.

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Policies, procedures, definitions, qualifications, calculations, and rates relative to moving expenses at the Laboratory shall be in accordance with Laboratory policy for other staff employees at the Laboratory.

**D.** The terms of this Article are not subject to grievance and arbitration provisions of this Agreement.

**ARTICLE 23  
MULTIPLE APPOINTMENTS**

**A. GENERAL PROVISIONS**

Employees with multiple appointments will be covered by the provisions of this Agreement only for the time in which the employees are working in any appointment(s) which would place her/him in the unit, except that the time worked in per diem appointments is covered only by the provisions listed in Article 31 - Positions/Appointments.

**B. BENEFITS**

In the event an individual has multiple appointments, the employee shall be eligible to participate in the benefits provided in Article 4 - University Benefits, according to the UCRS Regulations.

**ARTICLE 24**  
**NO STRIKES**

- A.** During the term of this Agreement or any written extension thereof, the University agrees that there shall be no lockouts by the University. UPTE, on behalf of its officers, agents, and members agrees that there shall be no strikes, stoppages or interruptions of work, or other concerted activities, including sympathy strikes, which interfere directly or indirectly with University operations during the life of this Agreement or any written extension thereof. UPTE, on behalf of its officers, agents, and members, agrees that it shall not in any way authorize, assist, encourage, participate in sanction, ratify, condone, or lend support to any activities in violation of this Article.
- B.** Any employee who violates this Article shall be subject to discipline up to and including termination employment. Any discipline imposed on career employees based on a violation of this Article shall be in accordance with Article 7 – Corrective Action/Discipline and Dismissal.
- C.** For purposes of sympathy strikes only if an individual fails to work as scheduled, he/she shall not be paid and shall be subject to progressive discipline only as he/she would be for any other absence and not for participating in a sympathy strike.
- D.** UPTE shall immediately take whatever affirmative action is necessary to prevent and bring about an end to any concerted activity in violation of this Article. Such affirmative action shall include but not be limited to sending written notice to the home address of all employees engaged in prohibited activity informing them that the concerted activity is in violation of this Article, that engaging in such activity may lead to disciplinary action, and stating that employees engaged in prohibited activity must cease such activity and immediately return to work.
- E.** Nothing herein constitutes a waiver of the University's right to seek appropriate legal relief in the event of a violation of this article.

**ARTICLE 25  
NONDISCRIMINATION IN EMPLOYMENT**

**A. GENERAL PROVISIONS**

1. Within the limits imposed by law or University policies, the University shall not discriminate against or harass employees on the basis of race, color, religion, marital status, national origin, ancestry, sex (including gender, pregnancy, childbirth, medical conditions related to pregnancy and childbirth, breastfeeding, and medical conditions related to breastfeeding), sexual orientation, gender expression, gender identity, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), HIV status, status as a covered veteran (special disabled veteran, recently separated veteran, Vietnam era veteran or any other veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized), service in the uniformed services (including service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Act of 1994 (USERRA), as well as state military and naval service), age, citizenship, union activity or union affiliation.
2. General discrimination-related issues not related to any individual's specific complaint may be raised in the labor/management meetings defined in Article 15 - Labor-Management Meetings.

**B. SEXUAL HARASSMENT DEFINED**

Unwelcome sexual advances, requests for sexual favors and other verbal or physical contact of a sexual nature constitute sexual harassment when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of employment, or participation in other University activity;
2. submission to or rejection of such conduct by an individual is used as a basis for evaluation in making personnel decisions affecting an individual; or
3. such conduct could reasonably be assumed to have the purpose or effect of interfering with an individual's performance or creating an intimidating, hostile, or offensive working environment.

**C. GRIEVANCES**

For discrimination complaints to be eligible for processing under the grievance procedure, the complaint must be eligible in accordance with Section C.1., 2., or 3., and the employee or her/his representative must file a grievance at Step 1 within

thirty (30) calendar days of the date the employee knew or should have known of the alleged discrimination.

1. Allegations of a violation of this Article alone are subject to the Grievance Procedure of this Agreement through Step 2 only.
2. An alleged violation of this Article and a non-arbitrable Article shall be subject to the grievance procedure insofar as the other Article is grievable, although it shall not be subject to Arbitration.
3. Allegations of a violation of this Article, when made in connection with a provision of another Article that is grievable beyond Step 2, shall be eligible for appeal to the same degree that the contract provisions to which the grievance is connected is grievable and/or arbitrable.

**D. SEXUAL VIOLENCE / SEXUAL HARASSMENT COMPLAINT RESOLUTION PROCEDURE**

With regard to grievances alleging sexual violence or sexual harassment, refer to the Sexual Violence/Sexual Harassment Complaint Resolution Procedures outlined in Article 10, Grievance Procedure, Section F.

**ARTICLE 26**  
**OUT OF CLASS PAY / TEMPORARY ASSIGNMENT**

- A. An employee who is temporarily assigned by the University to perform all of the functions of a position in a higher classification for twenty (20) consecutive working days or more shall be paid as follows:

Either one step over the regular salary, or the minimum of the higher position's range or at least four percent (4%), whichever is higher.

Such pay will become effective on the twenty-first day of the assignment retroactive to the first day of the assignment.

- B. When the University temporarily assigns an employee some but not all of the duties of a position in a higher classification, the University may pay all or part of the payments indicated above
- C. An employee who is temporarily assigned to perform the duties of a position in a lower paying classification shall continue to receive the employee's regular rate of pay.

**ARTICLE 27  
PARKING**

**A. GENERAL PROVISIONS**

1. The University shall provide to employees covered by this Agreement parking and parking-related services at each campus/hospital/LBNL to the same extent and under the same conditions as normally provided for other University staff employees at the employee's location.
2. It is understood and agreed that parking spaces designated for employees may from time to time be eliminated or reassigned due to construction, special events, and/or operational needs of the University.

**B. LOCAL PARKING MEETINGS**

Local Labor/Management Meetings shall be scheduled by mutual agreement to address parking issues and alternative transportation. Up to three (3) members shall be released pursuant to Article 15 - Labor/Management Meetings in without-loss-of-straight-time status.

**C. PARKING AND TRANSPORTATION RATES FOR EACH FISCAL YEAR**

The University shall limit the parking increase for each contract year by the amounts or percentages indicated in Appendix E using the prior year as the benchmark for determining rates for the following year.

The parking rates provided will be the same as for other University staff at the employee's location subject to the caps provided to the Union.

**D. PARKING ENFORCEMENT AT LBNL**

LBNL Parking Policy, RPM 1.04, including the referenced *Parking Enforcement System for LBNL Employees and Non-Employees Eligible for Parking Privileges* describes penalties for parking violations as "discipline" or "disciplinary action." For the purposes of this policy only, the term "discipline" or "disciplinary action" for parking violations means parking sanctions (e.g., suspension or revocation of parking privileges) and/or vehicle immobilization as described in the policy. Disciplinary or corrective action up to and including dismissal as specified in Article 7 - Corrective Action/Discipline and Dismissal, shall not be imposed for parking violations in and of themselves. This does not prevent the Laboratory from disciplining an employee whose violation of this policy rises to the level of misconduct under the terms of Article 7 - Corrective Action/Discipline and Dismissal.

Records of parking violations and any related parking sanctions that may be imposed shall not be included in the employee's personnel file. However, copies of disciplinary actions for violations of this policy that rise to the level of misconduct will be placed in the employee's personnel file as in the case of any other disciplinary action.

**ARTICLE 28  
PAYROLL DEDUCTIONS**

**A. DEDUCTIONS**

1. General Conditions

- a. UPTE has the exclusive right of dues deductions authorized under Government Code section 1152 for all employees in the TX unit.
- b. UPTE shall establish its dues amount and shall certify its amount to the University. The University shall deduct from the members retirement gross earnings the amount certified by UPTE.
- c. The University shall remit deductions to UPTE on a monthly basis.
- d. The University shall make every effort to redirect bargaining unit employees or non-unit voluntary members to UPTE regarding dues related inquiries.

2. Dues Amount Change

- a. The Union may change the certified dues amount once in a twelve-month period without cost to UPTE. Any annual changes in the amount to be deducted for union dues shall be certified to the University, in writing, at least thirty (30) calendar days prior to the effective date of the dues amount change.
- b. All costs associated with accomplishing additional changes in the dues amount (machine, programming, etc.) shall be paid by the Union at the same rates that apply to other employee organizations described in the University Accounting Manual. The University shall provide the Union with estimated costs and an estimated time of completion and the Union shall pay the agreed-upon costs before the University makes the change.

**B. ELECTRONIC TRANSMISSION OF DEDUCTION INFORMATION**

1. Certification and Maintenance of Deduction Information

- a. The Union will certify to the University to begin deductions or to cease deductions. For bargaining unit members, deductions shall be from in unit earnings based on retirement gross earnings.
- b. UPTE will either deliver an electronic file in Excel (\*.xls) format to the University's campus appropriate office or upload files to the FTP website, in accordance with Section 2 below. The University shall provide notice of the changes to the administrative process at least thirty (30) calendar days in advance of the change.



- c. For employees who are paid monthly, the dues file shall be transmitted electronically no later than the 15th of each month or four (4) calendar days prior to the pay confirm date for the month, whichever occurs first. For employees who are paid bi-weekly, the dues file shall be transmitted no later than the Friday before the end of the pay period.
  - d. The University agrees the changes will be made in time to affect the next payroll with a pay begin date that falls on or after the date the deduction certification is received.
  - e. The Union will solely maintain the dues deduction authorization, signed by the employee from whose salary or wages the deduction is to be made.
  - f. If an employee is separated from the University or transferred out of the TX unit and is still employed by the University in a non-unit title code, or if the employee holds appointments in a TX covered title code and a non-unit title code simultaneously, the University shall not deduct dues from the non-unit earnings unless explicitly authorized by the Union to do so as a non-unit voluntary member.
  - g. The University will direct employee questions or concerns, or requests to change or cancel deductions, to UPTE.
2. UPTE list to be submitted in the format provided in Appendix H and shall include:
- a. Location/Business Unit Code
  - b. Campus Name
  - c. Bargaining Unit or unrepresented
  - d. Employee Identification Number
  - e. Employee Name (Last, First)
  - f. Action Codes: "A" = Add; "C" = Change; "S" = Stop
  - g. Deduction Codes: "D" = Dues; UD = Non-Unit Voluntary Member Dues

### **C. FEES FOR PROVIDING PAYROLL DEDUCTIONS**

1. The University shall charge UPTE \$.07 per employee for calculation and reporting and \$10.00 for each monthly union payroll deduction remittance. Such charges shall be deducted from the total check remittance.
2. For the purpose of voluntary deductions for the Union, COPE fees charged to the Union shall not exceed the actual costs incurred by the University to establish such deductions.

#### **D. INFORMATION TO ACCOMPANY REMITTANCE**

The University shall submit a monthly standard earnings (based on retirement gross where applicable) and deduction report which shall contain, by campus, an alphabetical list of all employees in the bargaining unit and non-unit voluntary members on dues deduction status. The report shall include the employee identification number, employee name, amount withheld, and earnings that are the basis for the deduction. The report shall be provided electronically via the FTP site. Any costs associated with union-requested changes in the deduction report referenced above shall be fully paid by the Union.

#### **E. CORRECTION OF ERRORS**

1. If the University's error resulted in deductions less than the correct amount, the University shall make the additional required deductions from the effected employee(s) subsequent earnings to make up the difference between the actual and correct amounts in accordance with current payroll policy regarding additional deductions. However, additional deductions from the employee(s)'s subsequent earnings shall not exceed two times the normal dues amount in any given pay period.
2. If the error results in payment of more than the correct amount and the Union has received the funds, the Union shall reimburse the employees accordingly.
3. If the parties cannot agree on the amount of the appropriate deduction only the union may file a grievance concerning the same.
4. The University shall include a communication to the employee if deducting supplemental dues in excess of the normal contributions in accordance with E.1 above with concurrent notice to UPTE.

#### **F. INDEMNIFICATION**

The Union specifically agrees that the University shall assume no obligation other than that specified in this article, or any financial liability, including the payment of any retroactive dues arising out of the provisions of this article. Further, the Union agrees that it will reimburse the University for any reasonable costs and indemnify and hold the University, including its agents and affiliates, harmless from any claims, actions, or proceedings by any person or entity arising from any deductions made in accordance with this article. Reasonable costs shall include all fees and costs associated with defending the claim and retaining separate and independent outside counsel, including but not limited to separate outside counsel's attorney's fees and costs.

## **ARTICLE 29 PERFORMANCE EVALUATION**

### **A. DEFINITION**

Performance Evaluation is a constructive process to acknowledge the performance of a non-probationary career employee. An employee's evaluation shall be sufficiently specific to inform and guide the employee in the performance of her/his duties. Performance evaluation is not in and of itself a disciplinary procedure.

### **B. EVALUATION OF EMPLOYEES**

1. The performance of each employee shall be evaluated at least annually, in accordance with a process established by the University. Nothing in this Article shall prohibit the written evaluation of any employee more frequently than once annually.
2. The performance of non-probationary career employees shall be evaluated in writing at least annually on a schedule and in a manner in accordance with the campus/hospital/LBNL determined performance evaluation procedure(s). At the time of evaluation, the employee shall be given a copy of the evaluation and shall have the opportunity to provide written comments regarding the evaluation or add relevant materials which may supplement or enhance the evaluation. The comments or additional relevant materials, if any, shall be attached to the employee's evaluation and placed in the employee's personnel file.
3. In the event a non-probationary career employee does not receive the written evaluation, the employee's performance for the year period shall be deemed to have been satisfactory for the purposes of salary increase.
4. The annual period within which written performance evaluations of non-probationary career employees are to be provided shall be determined by the University on a campus by campus basis.
5. Except in the case of minor or non-substantive changes, the University will give at least forty-five (45) calendar days notice prior to implementing a new performance form or written performance standard and will provide a copy of the proposed form or written standard to UPTE.

### **C. NOTICE**

1. An employee who receives an overall "needs improvement" rating shall have received notice of her/his deficiencies, including information about how to correct such deficiencies, prior to receiving such overall evaluation.

2. In the event an employee has not received notice of deficiencies in sufficient time to correct her/his deficiencies prior to receiving the overall "needs improvement" rating, s/he may request and, within thirty (30) calendar days shall receive, a re-evaluation of her/his performance. The thirty (30) day period may be extended by mutual agreement.

**D. DISPUTES**

1. A non-probationary career employee who receives a written performance evaluation with an overall rating of less than satisfactory may file a grievance pursuant to the provisions of Article 10 - Grievance Procedure of this Agreement. Such grievance concerning the content of a performance evaluation rating the employee as less than satisfactory shall be eligible to be processed through Steps 1 and 2 of the Grievance Procedure but shall not be eligible for review at Step 3 of the Grievance Procedure. The remedy for such a grievance shall be limited to revision of the section(s) being grieved and revision of the rating(s) in question.
2. Disputes arising regarding the performance evaluation of employees, including but not limited to the form, timing, procedure, impact and effects, shall not be subject to Article 10 - Grievance Procedure of this Agreement, except as set forth in Section D.1. above.

## **ARTICLE 30 PERSONNEL FILES**

### **A. GENERAL PROVISIONS**

#### **1. Location of Personnel Files**

Personnel files may be located in an employee's employing department and/or the campus/medical center/laboratory Human Resources Department.

#### **2. Information in the Files**

- a. An employee's personnel file(s) contain information pertaining, but not limited, to: employment, such as the application for employment, tests, and letters or statements of reference; pay and benefits; training; conduct; education, honors and awards; duties and job classification; performance; discipline, release, and dismissal actions; attendance; and other relevant or necessary information specified by the University.
- b. Copies of letters of disciplinary action, along with copies of proofs of service that accompany the letters, upon being provided to an employee, shall be placed in the employee's personnel file(s). The employee's written comments, if any, regarding such letters shall be placed in his or her personnel file(s). Such comments shall not require the University to change or alter the letters or the actions indicated by the letters.
- c. Letters of disciplinary action shall, upon written request of the employee, be removed from the employee's personnel file(s) if there have been no other disciplinary actions of the same or of a similar kind for a two-year (2-year) period, unless required by law. If there have been no other disciplinary actions of the same or similar kind for a two-year (2-year) period, materials which would be removed upon an employee's request which are more than two (2) years old will not be used or relied upon to take or support disciplinary action. The employee shall receive the written request and the document(s) back.
- d. Upon the employee's written request, counseling memoranda and/or written records of discussions will be removed from the employee's personnel file if there have been no other such memoranda relating to, or disciplinary action on, the same or similar issue(s) for a two-year (2-year) period. Counseling

memoranda and/or written records of discussion, in and of themselves, are not discipline nor are they grievable/arbitrable.

- e. Items placed in an employee's personnel file(s) shall contain the date of the document's creation, and its source, and may contain the date on which the information was placed in the file.

**B. EMPLOYEE AND/OR REPRESENTATIVE REVIEW OF PERSONNEL FILE(S)**

An employee shall, upon written request to the University, have the opportunity to review his or her personnel file(s) within a reasonable time in the presence of a representative of the University.

1. An employee shall be granted a reasonable amount of time in without-loss-of-straight-time pay status to review his or her personnel file(s). When granting such requests, the immediate supervisor shall take into account the frequency of such requests and the amount of time the employee is or will be engaged in such activity and the impact on operational requirements.
2. An individual of the employee's choice may accompany the employee when the employee is reviewing his or her personnel file(s).
3. Alternatively, an individual employee may authorize a designated representative to review the employee's personnel file(s) on the employee's behalf. Such written authorization shall be valid for a period of thirty (30) calendar days from the date of the signature of the authorization or within a written time limit specified by the employee.
4. When the employee has chosen a member of the Unit to assist in the review of the file(s), that person's release time shall be in accordance with the provisions of this Agreement.

**C. PROTECTED INFORMATION**

Records protected by recognized legal privilege and records excepted from disclosure by law may be withheld from the employee and/or the employee's representative.

**D. GRIEVANCE-RELATED FILES**

Records involving the processing of an employee's grievance, such as the grievance form, step appeals/responses, and settlement documents, will be kept in a file separate from the employees' personnel file. It is not the intent of this section to exclude from the employee's personnel file final disciplinary action documents, including those that result from a settlement agreement.

**E. DUPLICATION COSTS**

Employees shall receive, without cost, a first copy of documents, or extracts thereof, that are located in his or her personnel file. However, employees may be charged the same fees as are customarily charged other staff employees for additional copies of documents in the employee's personnel file.

**ARTICLE 31  
POSITIONS /APPOINTMENTS**

**A. CAREER APPOINTMENTS**

1. Career appointments are established at a fixed or variable percentage of time at fifty percent (50%) or more of full-time and are expected to continue for one (1) year or longer.
2. A career appointment may also be established by conversion from a limited appointment pursuant to Section B.2. of this Article.

**B. LIMITED APPOINTMENTS**

1. A limited appointment is established at any percentage of time, fixed or variable, during which the appointee is expected to be on pay status for less than one thousand (1,000) hours in a rolling twelve (12)-month period.
2. In the event that a limited appointment employee attains 1,000 hours of qualifying service within a rolling twelve (12) months, without a break in service of at least one hundred twenty (120) consecutive calendar days, the incumbent's appointment shall convert to career. The University shall notify the employee of the eligibility for conversion.
  - a. Qualifying service includes all time on pay status in one or more limited appointments at the campus/hospital/LBNL. Pay status shall not include on-call or overtime hours.
  - b. Such career conversion shall be effective on the first day of the month following attainment of one thousand (1000) hours of qualifying service.
  - c. Any break in service of one hundred twenty (120) days or longer shall result in a new 12-month period for purposes of calculating the one thousand hour (1000-hour) requirement.
3. The automatic conversion to career status, as provided in Section B.2. above, will not occur when:
  - a. An employee who was hired as a replacement for another person who is on an extended leave that exceeds one thousand (1,000) hours; or
  - b. The position into which the employee is hired is not an "ongoing" position, in that the position is established and funded for less than a year at any percent of time, or



- c. The funding for the position is “one time” funding, of eighteen (18) months or less, or
  - d. The employee was hired specifically to work on a short-term project lasting no more than one year.
- 4. Employees in limited appointments may have their appointment terminated or have their time reduced at the sole discretion of the University and without recourse to the grievance and arbitration procedures of this Agreement.
  - 5. An employee who is appointed to a limited appointment will be automatically terminated as of the last day of the appointment unless there is an earlier separation or a formal extension of the appointment.
  - 6. The release of casual employees for the sole purpose of avoiding career status is inconsistent with the University’s intent.
  - 7. The reduction in time of a casual employee who is approaching career conversion, and the subsequent splitting of their position into two lesser positions, done for the sole purpose of avoiding the employee’s career status is inconsistent with the University’s intent.
  - 8. Employees in limited appointments are at will, except that that University will not terminate limited appointment employees for the purpose of denying them career status. The termination of a limited appointment because the position lacks funding or for other work-related reasons, does not constitute a termination designed to deny a limited appointment career status.

**C. REASSIGNMENT**

The reassignment of an employee in a full-time career appointment to a partial-year appointment, to a part-time career appointment, or to a limited appointment, at a fixed or variable percentage of time shall be considered a reduction in time and must be carried out in accordance with the provisions of Article 16 - Layoff and Reduction in Time.

**D. PARTIAL-YEAR APPOINTMENTS**

**1. General Provisions**

Partial-year appointments are career appointments established with regularly scheduled periods during which the incumbents remain employees but are not at work. These scheduled periods during which employees are not at work are designated as furloughs and are without pay.

Furlough periods are not to exceed a total of three (3) months in each calendar year.

When calculating time in pay status during a calendar year the University shall include any period of time for which an employee receives pay for time worked, or for time on paid leave. Paid leave time includes compensatory time off, sick leave, extended sick leave, vacations, holidays, or military leave with pay. Lump-sum payments for terminal vacation do not represent time on pay status.

**2. Pay**

Employees with partial-year career appointments may choose either to receive paychecks during pay periods worked only, or to distribute their pay so that they will receive twelve (12) (or the bi-weekly equivalent) paychecks throughout the year. Employees who occupy partial-year career positions and who elect the pay-over-twelve (12) months option must occupy the partial-year career position at least nine (9) months (or the bi-weekly equivalent) before receiving pay during the furlough period.

**3. Benefits**

An employee in a designated partial-year career appointment shall be provided the University's contribution to the cost of applicable University-sponsored benefits in accordance with the provisions of Article 4 - University Benefits. For health plans which require an employee contribution, employees on furlough must remit the amount of the employee's contributions in accordance with the applicable plan rules to remain in force.

4. Benefit coverage, including all types of insurance coverage, shall be in accordance with applicable plan rules.

5. Time on furlough is not qualifying time for vacation leave, sick leave, holiday pay, or service computation for seniority or retirement.

**E. REHIRED RETIREES**

Rehired Retirees working in positions covered by this unit will be eligible to elect to waive future retirement accruals to the same extent that other rehired retirees in staff positions are eligible.

**F. PER DIEM APPOINTMENTS**

1. Per Diem appointments are appointments at any percentage of time regardless of the duration of the appointments. These appointments are

established to complement career and limited appointments when necessary to maintain appropriate staffing of the University.

2. Employees who are in per diem title codes are covered by per diem salary rates, established at fifteen percent (15%) over the midpoint of the range.
3. Employees in per diem appointments may be disciplined, released or have their time reduced at the sole discretion of the University and without recourse to Article 10, Grievance Procedure or Article 3, Arbitration Procedure of this Agreement, except as set forth in Section G.4. of this Article.
4. Special Per Diem Rights

Per Diem employees who work on thousand (1,000) hours, exclusive of overtime and on-call hours, within a twelve (12) month period, and who provide the University with a commitment to work in the future at least 50% time, will be eligible for coverage by Article 7 – Corrective Action/Discipline and Dismissal and the related portions of Article 3 – Arbitration Procedure and Article 10 – Grievance Procedure. a. failure to comply with minimum scheduling requirements may result in release from employment at any time at the sole discretion of the University and without access to Article 10 – Grievance Procedure. b. In the event a Per Diem employee rescinds her/his fifty percent (50%) work commitment, or fails to work fifty percent (50%) time or one thousand (1,000) hours as scheduled within a twelve (12) month period, s/he waives her/his right to Articles 3 – Arbitration Procedure, 7 – Corrective Action/Discipline and Dismissal, and 10 – Grievance Procedure. 5. Use of Article 10 – Grievance Procedure, and Article 3 – Arbitration Procedure of this Agreement by employees in Per Diem positions is limited to alleged violations of the Wage, Overtime, and Work Rules provisions of the Agreement. G

#### **G. LAWRENCE BERKELEY NATIONAL LABORATORY (LBNL)**

1. The definitions of career, limited, term and rehired retiree appointments that are currently in effect at the Laboratory shall remain in effect.
2. When a vacant position is designated as a term appointment, the Laboratory shall provide a notice to UPTe at least five (5) working days before the proposed date of posting. The notice to the union shall include the business reason(s) for the term appointment designation. Upon UPTe's request, the parties shall meet to discuss the union's concerns. If a meeting is requested during the notice period but cannot reasonably be scheduled prior to the proposed posting date, posting may be delayed up to two (2) weeks to allow time for such a meeting to occur.

3. Term appointments apply to staff hired to work on a specified project of clearly limited duration for six (6) months to three (3) years. If the initial appointment is between six (6) and twelve (12) months, the individual must be on a fixed one hundred percent (100%) schedule. If the initial appointment is one (1) year or more, the appointment must be fixed at fifty percent (50%) time or more. Time spent in term appointments is cumulative.
4. Extensions of term appointments beyond three (3) years, to a maximum of five (5) years, will be considered on a case-by-case basis and require an explicit written agreement between LBNL and the President of UPTE Local 184 or designee.
5. Term employees do not serve a probationary period, unless the initial appointment is for longer than one (1) year.
6. Term employees are not eligible for career-related or educational enrichment programs described in Article 8 – Development and Training of this agreement. Term employees are eligible for time off with pay for class attendance and reimbursement of course fees for position-related programs when such training is specifically determined by Lab management to be necessary for them to perform their respective assignments.
7. The layoff and severance provisions described in Article 16 – Layoff and Reduction in Time of this agreement do not apply to term employees.
8. Employees in term appointments are automatically terminated as of the last day of their appointment unless there is a written notice of extension of the appointment. Employees in term appointments may be terminated before the end of their appointment for disciplinary reasons or substandard performance. The appointment may also be terminated early for lack of funds, lack of work, or changes in operational/business needs in which case, whenever possible, an employee should be given at least thirty (30) days' advance written notice that his/her appointment will be terminated. The early termination of a term appointment is not grievable or arbitrable.
9. Once a position has been designated as a term appointment per #2 above, the posting of any additional term appointments supporting the same project requires an explicit written agreement between LBNL and the President of UPTE local 184 or designee if the appointment dates of the positions overlap.
10. LBNL will provide UPTE with an annual term appointment report. Each year's report will be due by the end of January for the prior calendar year. The report will include the number of term appointments filled, the number of term appointments extended beyond the initial term, the number of term appointments converted to career, and the number of career positions filled during the calendar year.

**ARTICLE 32  
PROBATIONARY PERIOD**

**A. GENERAL CONDITIONS**

1. Employees appointed to career positions shall serve a probationary period of six (6) months of continuous service at one-half (1/2) time or more without a break in service, commencing on the first day of actual work.
2. Time on leave, with or without pay, is not qualifying service for the completion of the probationary period.
3. During a full probationary period, the employees' work performance and general suitability for University employment shall be evaluated in writing, at or near the midpoint.
4. Employees who are rehired following a break in service of one (1) year or less shall not be required to serve a new probationary period, provided:
  - a. rehire occurs in the same class and specialty within the same department, and
  - b. the rehired employee had regular status in that class at the time of termination.

Otherwise rehired employees serve a probationary period. This Section does not apply to employees rehired pursuant to Article 16 – Layoff and Reduction in Time sections on preference and recall.

**B. TRANSFER FROM NON-CAREER TO CAREER POSITIONS**

1. A non-career employee appointed, transferred or promoted to a career appointment within the unit may, at the sole discretion of the University, be required to serve a six (6) month probationary period upon employment in the career position.
2. However, a non-career employee in a limited appointment who has met the criteria in Article 31 - Positions/Appointments Section B.2. for conversion to career status and who has worked in the same limited appointment in which s/he is directly converted will have such time in that appointment applied against the probationary period for the new career appointment. For the purposes of this provision, "same appointment" means an appointment in the same department/unit and with the same duties as the appointment to which the individual was assigned prior to conversion, and which reports to the same supervisor as did the previous limited appointment.

3. A non-career employee in a limited appointment who has at least six (6) months of continuous service at fifty percent (50%) time or more in a non-career appointment and who is appointed or is converted in accordance with Article 31 – Positions/Appointments, Section B.2. to a career position with substantially similar job duties shall have three (3) months service credit toward completion of her/his probationary period in the new career position.

**C. EXTENSION OF PROBATIONARY PERIOD**

The University may choose to extend an employee's probationary period. Such an extension shall be for a specific period of time not to exceed three (3) months. At least seven (7) calendar days prior to the effective date of the probationary period extension, the University shall provide the employee with written notification of the extension of the probationary period, including the period's end date and the reason(s) for the extension.

**D. RELEASE DURING PROBATIONARY PERIOD**

Prior to the completion of the probationary period, an employee may be released at the sole discretion of the University. The employee shall be informed of the general reason(s) for her/his release.

**E. DISPUTES**

1. Except for the University's failure to provide a performance evaluation pursuant to Section A.3. above, actions taken by the University under the provisions of this Article are not subject to the grievance or arbitration procedures of the Agreement.
2. In the event an employee alleges that the University failed to provide a performance evaluation as provided in Section A.3. above, the remedy shall be limited to evaluating the employee's performance in writing.

**ARTICLE 33  
REASONABLE ACCOMMODATION**

**A. GENERAL PROVISIONS**

The University provides reasonable accommodation to otherwise qualified employees who become disabled and need assistance to perform the essential functions of their positions. The interactive process shall be used to determine what, if any, reasonable accommodation will be made. Reasonable accommodations shall be provided in the following, non-exclusive scenarios:

1. When an employee with a disability needs an accommodation to enable him or her to perform the essential functions of the position.
2. When an employee with a disability needs an accommodation to enable him or her to gain access to his or her workstation; and
3. When an employee with a disability needs an accommodation to enjoy equal benefits and privileges of employment.

**B. THE INTERACTIVE PROCESS**

1. Upon receipt of an employee's request for an accommodation, the parties will engage in the interactive process, which is an ongoing dialogue between the employee and appropriate representatives of the University about possible options for reasonably accommodating the employee's disability. Options may include, but are not limited to: assistive devices; modification of existing facilities; and restructuring the job. Both the University and the employee are expected to participate in the interactive process, so as to ensure timely, good faith communications and a reasonable accommodation, if any, for the employee with a disability. The employee may have his or her representative participate in this dialogue.

During the interactive process the University considers information related to: the essential functions of the job; functional limitations; possible accommodations; the reasonableness of possible accommodations; and implementation of a reasonable accommodation. This information will be used by the University to determine what, if any, reasonable accommodation will be made.

2. The University will process requests for reasonable accommodation and provide accommodations where reasonable and appropriate and in as short a time frame as reasonably possible. The parties recognize, however, that the time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information.

Should an employee wish to receive an update as to the status of his/her request, he/she may contact the assigned University representative. The University representative will respond to the employee's request for updated information in a timely manner.

**C. MEDICAL DOCUMENTATION**

The employee is responsible for providing medical documentation to assist in understanding the nature of the employee's functional limitations. When necessary, the University may require that the employee be examined by a University-appointed licensed healthcare provider. In such a case, the University shall pay the costs of any medical examinations requested or required by the University.

**D. SPECIAL SELECTION FOR OTHER POSITIONS**

A non-probationary career employee who becomes disabled and who has received vocational rehabilitation services may be selected for a position without the requirement that the position be publicized.

**E. TRIAL EMPLOYMENT**

When recommended by a vocational rehabilitation counselor and approved by the appropriate University official, a non-probationary career employee who becomes a qualified employee with a disability may be offered temporary trial employment to evaluate the employee's interests and abilities. The length of this trial employment, which shall not exceed one (1) year, shall be determined by the counselor in consultation with the employing department/division head. Positions used for trial employment shall not be designated as career positions, except that an employee shall maintain benefits to the extent permitted by benefit plan rules.



**ARTICLE 34**  
**RELEASE TIME FOR BARGAINING**

**A. NOTICE**

UPTE shall provide in writing the names of the designated permanent members of its bargaining team to the Office of Labor Relations at least thirty (30) calendar days prior to the first scheduled bargaining session. In the event any designated member is to be permanently replaced, the name of the permanent replacement shall be communicated in writing to the Office of Labor Relations. The Office of Labor Relations shall acknowledge in writing the newly designated permanent replacement, and inform the appropriate work location. Such notification of a permanent replacement shall be made to the Office of Labor Relations two (2) workweeks prior to the first scheduled bargaining session to be attended by the replacement employee. Alternates or substitutes for any of the designated team members may be permitted when UPTE has provided the University with the name and work location of the replacement at least two (2) weeks in advance of the date of the change, unless the parties agree to a shorter notice period.

**B. RELEASE TIME**

**1. Pre-Bargaining Release Time for Successor Negotiations**

Unless mutually agreed otherwise, up to nine (9) UPTE representatives (no more than one (1) from each campus) shall receive five (5) days of paid release time in order to provide the University with a comprehensive set of initial proposals for the beginning of bargaining. UPTE shall notify the University two (2) weeks prior to the dates requested for meetings pursuant to this Section and shall designate the UPTE representatives for purposes of the Section.

**2. Release Time for Negotiations**

UPTE shall designate as a bargaining team member for the unit not more than one (1) active status bargaining unit employee per campus, for a total of no more than eleven (11) bargaining unit employees. These designated team representatives shall be in without-loss-of-straight-time-pay and benefits status for attendance at scheduled bargaining sessions for the unit including reasonable travel time to attend bargaining sessions. Without-loss-of-straight-time-pay status shall be provided only for bargaining sessions, and only for the days which the member would have been scheduled to work had s/he not been released from her/his work assignments to attend scheduled bargaining sessions. The hours for which any of the designated union bargaining team members are in without-loss-of-straight-time-pay status shall not exceed the bargaining

team member's actual scheduled work hours for any one day of a scheduled bargaining session and shall not exceed forty (40) hours per week. Time in without-loss-of-straight-time-pay status for the purpose of bargaining shall not count in the calculation of overtime, and will not result in any double payment for the hours in such status. Deviation from this paragraph may be made only by mutual agreement of the parties on a case-by-case basis.

- C. Bargaining sessions are defined as the pre-scheduled face-to-face meetings, and related caucuses during meeting days, for the purpose of negotiating terms and conditions of an Agreement. If no meeting actually takes place during the scheduled meeting day as the result of the University's unavailability to appear at the bargaining table, or the University agrees that a full-day union bargaining team caucus is necessary to the bargaining process, the University may designate a day without a face-to-face meeting as a "bargaining session".
- D. An employee designated as a bargaining team member for the unit shall provide her/his supervisor with written notice of their intent to attend scheduled bargaining sessions as soon as practicable following the scheduling of bargaining sessions. A bargaining team representative may be denied release time for bargaining, either in paid or unpaid status, if her/his supervisor is not provided at least fourteen (14) calendar days prior notice of her/his need for release time, unless the parties agree to a shorter notice period.
- E. UPTC committee members present at each bargaining session shall provide their signature on the attendance roster provided by the University at each bargaining session.
- F. Reasonable travel time means actual travel, via the most expeditious method of transportation available, to and from scheduled bargaining sessions for the designated employees.
- G. Attendance by a bargaining team member at scheduled bargaining sessions shall constitute fulfillment of the employee's work obligation for that day.
- H. The University shall make a good faith effort to modify a bargaining team member's work schedule in order to accommodate her/his participation in bargaining sessions.

**ARTICLE 35  
RESIGNATION / JOB ABANDONMENT**

**A. RESIGNATION**

1. Employees who voluntarily separate from employment with the University, other than retirement, are considered to have resigned their employment with the University.
2. Upon the employee's submission of a written notice of resignation there shall be no withdrawal or rescinding of the resignation except by the written mutual agreement of the University and the employee.
3. In the event an employee provides an oral notice of resignation, s/he may rescind such notice within two (2) scheduled work days following the oral notice. If such oral notice is not rescinded within the two (2) work-day limit, there shall be no withdrawal or rescission of her/his resignation except by the written mutual agreement of the University and the employee.

**B. JOB ABANDONMENT**

Failure to report to work as scheduled for five (5) consecutive work days may be treated by the University as an employee's job abandonment resulting in her/his resignation:

1. In the case of job abandonment, the University shall provide the employee and the Union with written notification of its intent to separate her/him. This notification shall include the reasons for the separation, the employee's right to respond to the University within fourteen (14) calendar days, and a Proof of Service. The notification shall be sent to the employee's last known mailing address.
2. The employee shall have fourteen (14) calendar days from the mailing of such notice to respond to the University prior to her/his separation. The response may, at the option of the employee, be in writing or may be a meeting with a designated University official. The official must have the authority to effectively recommend reinstatement of the employee.
3. Following the employee's timely response, or if no response was provided within fourteen (14) calendar days, the decision of the designated University official is not subject to the grievance and/or arbitration provisions of this Agreement.

**C. FINAL PAYCHECK**

1. With the exception of retirement, the final paycheck (including earnings to date, overtime, compensatory time and vacation hours) shall be paid to the employee no later than the next regular pay day in which the earnings for the dates worked would normally be paid. If the employee gives at least fifteen (15) calendar days' notice of his/her intention to resign, the final paycheck will be provided on the last day of work. Retirement compensation shall be provided pursuant to retirement plan regulations.
  
2. Upon the employee's request, the final paycheck may be mailed to an address designated by the employee. Otherwise, the final check will be paid to the employee through the employee's normal election: paper check or electronic deposit. If the date of pay falls on a Saturday, Sunday, or weekday holiday, actual payment may be on the next business day. Monday through Friday will be considered business days at all locations including Medical Centers and other 24-hour/7-day operations.

ARTICLE 36  
RESPECTFUL AND FAIR TREATMENT

- A. UPTE and the University recognize that respectful, fair treatment of others promotes a work environment and organizational culture that supports and values all members of the University community. Therefore, officers of the University shall treat members of the bargaining unit with dignity and respect in all interactions. In addition, members of the bargaining unit shall treat officers of the University with dignity and respect in all interactions.
- B. Nothing in this Article shall be construed to change established University policies and practices about political expression and/or freedom of speech; nor shall anything in this Article impede normal expression in labor-management communications.
- C. The University and UPTE agree that concerns about alleged violations of this article may be discussed at local labor management meetings pursuant to Article 15.
- D. Any complaints arising from this Article, Sections A., B., and C. above shall be grievable only through Step Two of the grievance process.

**ARTICLE 37**  
**SEVERABILITY**

If any provision of this Agreement is found to be contrary to law by a court of competent jurisdiction, such provision shall be of no force or effect; but the remainder of this Agreement shall continue in full force and effect. The parties shall promptly meet and confer in good faith with respect to any provision found to be in contravention of the law, in order to agree on a substitute provision.

**ARTICLE 38  
SHIFT DIFFERENTIAL**

**A. GENERAL PROVISIONS**

Non-exempt eligible employees who are regularly assigned to an evening or night shift shall be paid a shift differential for all hours including overtime which are worked, in accordance with the following provisions. These provisions only apply to those working in titles with established shift differential rates as listed by location in Appendix A. Work that is scheduled during the evening or night hours on the basis of convenience to the employee shall not be considered an assigned evening or night shift for the purpose of receiving shift differential.

**B. EVENING AND NIGHT SHIFTS**

An evening or night shift differential shall be paid for all hours of a shift when four (4) hours or more of a shift are worked after 5:00 p.m. and before 8:00 am.

**C. TEMPORARY ASSIGNMENT TO SHIFT WITHOUT A DIFFERENTIAL**

When an employee who usually works on an evening or night shift is temporarily assigned to a day shift for a period of four (4) working days or less, the employee shall continue to receive any shift differential. A temporary change of four (4) working days or less in shift assignment initiated by the employee is not covered by this provision.

**D. SHIFT DIFFERENTIAL WHEN ON PAID LEAVE**

The shift differential shall be included in payments for all types of paid leave, provided that the employee would have been expected to work that shift or shifts if the employee were not on paid leave.

**E. SHIFT ASSIGNMENTS TO TITLES WITHOUT ESTABLISHED SHIFT DIFFERENTIAL RATES**

Prior to assigning a shift differential rate to a classification that does not have an established rate, the University will provide notice and the opportunity to meet and confer with UPTe over the shift differential rate to be assigned to that classification.

**F. DAY SHIFT EMPLOYEE ELIGIBILITY FOR SHIFT DIFFERENTIALS**

An employee regularly assigned to a day shift of eight (8) hours or longer shall be paid a shift differential for overtime hours when: 1. the overtime hours are worked after 5:00 p.m. and before 8:00 a.m., 2. the total overtime hours in one twenty-four (24) hour day are equal to at least one-half (1/2) of the number of regular

hours in the employee's day shift, and 3. the overtime is not compensated at a premium rate.

## **G. LAWRENCE BERKELEY NATIONAL LABORATORY (LBNL)**

### **1. General**

Shift differential is extra pay in addition to base pay for non-day shift work. A non-exempt employee is paid this differential when required to work on an assigned swing or owl shift. The amount of the differential is 7.5% for swing shift and 15% for owl shift. For purposes of computing shift pay, a swing shift consists of the hours from 4:00 p.m. to 12:00 midnight and an owl shift from 12:00 midnight to 8:00 a.m.. To qualify for payment of shift differential, a minimum of four hours must be scheduled during the above periods. Work which is scheduled during the swing or owl shifts for the convenience of the employee is not considered an assigned swing or owl shift and no differential will be paid.

### **2. Overtime**

Overtime pay for employees who receive shift differential pay and work during non-day shifts is based on the employee's base pay and shift rate.

### **3. Temporary Assignments**

Employees who usually work a swing or owl shift continue to receive the shift differential when assigned temporarily by their supervisor to a day shift for four days or less. A change in shift assignment initiated by the employee is not covered by this provision and no differential will be paid.

### **4. Paid Leave**

Shift differential is included for all types of paid leave based on the shift an employee would have worked.

### **5. Terminal Vacation Pay**

Terminal vacation is paid at the appropriate shift differential rate when the employee has been permanently assigned to swing or owl shift or when a temporary swing or owl shift has extended over 90 days.



**ARTICLE 39  
SICK LEAVE**

**A. ACCUMULATION OF SICK LEAVE CREDIT**

1. If a campus/hospital/LBNL implements the Factor Accrual System, an eligible employee shall earn sick leave credit at the rate of .046154 hours per hour on pay status, including paid holiday hours but excluding all paid overtime hours.
2. If a campus/hospital/LBNL uses the Table Accrual System, an eligible employee shall earn sick leave credit at the rate of eight (8) hours per month for full-time employment. Sick leave credit is earned proportionately, as set forth in the Sick Leave Credit Table below, for hours on pay status over one-half (1/2) of the full-time working hours of the month but less than full-time.
3. Until a campus/hospital/LBNL implements the Factor Accrual System, current accrual practices will remain in place.

**SICK LEAVE CREDIT TABLE**

Number of Hours on Pay Status

160-Hour*	168-Hour*	176-Hour*	184-Hour*	Percent of Time on Pay Status	Hours of Sick Leave Earned
0-79	0 - 83	0-87	0-91	0-49	0
80 - 89	84 - 94	88-98	92-103	50-56	4
90 - 109	95 - 115	99-120	104-126	57-68	5
110 - 129	116 - 136	121-142	127-149	69-80	6
130 - 149	137 - 157	143-164	150-172	81-93	7
150 - 160	158 - 168	165-176	173-184	94-100	8

\*Hours on pay status, including paid holiday hours, but excluding all paid overtime hours.

4. An employee must be on pay status for at least one-half (1/2) of the working hours of a month or quadri-weekly cycle to earn sick leave credit for that month or quadri-weekly cycle. Time on pay status in excess of a full-time work schedule does not earn sick leave credit. Sick leave is earned during leave with pay. For the purposes of this Agreement, a quadri-weekly cycle is defined as two bi-weekly pay periods designated by the University to be considered as one unit for the purpose of leave accrual.

5. For employees on either system, earned sick leave for each month or quadri-weekly cycle is credited on the first day of the following month or quadri-weekly cycle, except that proportionate sick leave credit for an eligible employee who is separating from employment shall be credited at the completion of the last day on pay status.
6. The number of sick leave hours which may be accumulated is unlimited.

## **B. ELIGIBILITY AND USE OF ACCUMULATED SICK LEAVE**

### **1. General Provisions**

- a. Requests for the use of sick leave shall be made in accordance with campus or departmental procedures.
- b. Sick leave is to be used for medical appointments with advance approval, personal illness or personal disability; and for the death or serious illness of others as provided in Section B.3. and Section B.4. below. In the case of medical appointments, a request for sick leave shall not be unreasonably denied.
- c. Sick leave shall not be used prior to the time it is credited. Sick leave shall not be used in excess of the employee's normally scheduled hours or work for the day or days for which the sick leave is claimed. Sick leave shall not be used beyond a predetermined date of separation, including retirement or layoff, or beyond a predetermined date beginning a leave of absence without pay.

### **2. Pregnancy**

A pregnant employee on approved leave without pay on the date certified by her doctor as the date on which she is no longer able to work or the date of delivery, whichever is earlier, can use sick leave beginning with that day and continuing through the period that she is physically unable to perform the normal duties of her job. A pregnant employee may also be eligible for Pregnancy Disability Leave as provided in Article 18 - Leaves of Absence, Section C.

### **3. Care of Others**

Up to thirty (30) days of accumulated sick leave per year may be used when the employee is required to be in attendance or to provide care for either:

- a. The serious illness of the employee's parent, spouse, same or opposite sex domestic partner, child(ren), brother, sister, grandparent, grandchildren, father-in-law, mother-in-law, son-in-law, daughter-in-law, or step-relatives; or any other person for whom the employee has a personal obligation who is residing in the employee's household; or
- b. The employee's spouse, parent(s) or child(ren), suffering from a "serious health condition" as defined in Article 18 - Leaves of Absence, Section B.1.d.; or
- c. Sick leave granted under this section may be used to offset unpaid Family Care and Medical Leave granted pursuant to Article 18 - Leaves of Absence.

#### 4. **Bereavement**

Sick leave for bereavement purposes may be used as follows:

- a. Up to five (5) days of accumulated sick leave per occurrence may be used when attendance is required due to the death of the employee's parent, spouse, same or opposite sex domestic partner, children, brother, sister, grandparent, grandchildren, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, or step-relatives; or any other person for whom the employee has a personal obligation who is residing in the employee's household.
- b. In the event an employee has a personal obligation for a person other than someone in Section B.4.a., above, the employee shall be permitted to use up to five (5) days of accrued sick leave per calendar year for funeral attendance/bereavement.

#### 5. **Illness While on Vacation**

If, while on vacation, an employee becomes ill and is under the care of a physician and submits a physician's statement, the employee may use accumulated sick leave for that personal illness. Sick leave may not be used for illness of a family member during the employees' vacation.

#### 6. **Parental Leave**

Up to thirty (30) days of accumulated sick leave per year may be used for Parental Leave, as defined in Article 18 – Leaves of Absence, Section B.1.g.4).

### **C. SICK LEAVE PAY**

Sick leave is paid at the employee's straight-time rate of pay including any shift differential, provided that the employee would have been expected to work that shift or shifts if not on sick leave.

### **D. SICK LEAVE NOTIFICATION AND VERIFICATION**

1. No sick leave pay shall be payable to an employee unless the employee's immediate supervisor or designee is notified of the illness/disability and the probable duration thereof as soon as possible, but in no event later than the beginning of the employee's work day except when the University determines that the employee's failure to notify is due to extreme circumstances beyond the control of the employee. Subsequent to an employee's notice of illness/disability, no time for which the employee has requested and/or received sick leave authorization may be charged to accumulated/anticipated compensatory time, leave with pay, vacation, or holiday time, except as provided in Article 18, Leaves of Absence.
2. Any employee who anticipates a series of three (3) or more medical appointments which will require a repeated use of sick leave, or who knows in advance the date and/or time of scheduled appointments, shall inform his or her immediate supervisor of the anticipated or known schedule of treatment.
3. The University may require reasonable documentation of an employee's sick leave absence when an absence exceeds three (3) consecutive scheduled days of work, or for shorter periods when:
  - a. it appears to be justified and,
  - b. notice has been provided to the employee prior to his or her return to work, that documentation will be required, or
  - c. the employee has been given advance written notice that documentation will be required.
4. Employees who have unscheduled absences due to illness on a scheduled work day preceding or following a holiday may be required to bring a medical verification of illness to the employee's supervisor on the employee's return to work in order for the absence to be authorized.
5. When medical documentation is required by the University, it shall be from a health practitioner licensed by the state in which he or she practices to diagnose and certify illness or disability or from an authorized representative of a recognized treatment program.

6. The University may have an employee claiming disability examined by a physician or physicians of its choosing, in accordance with Article 18 - Leaves of Absence. The University shall pay the reasonable costs of any such medical examination and, when practical, shall send the employee to a physician of its choosing on the employee's work time.
7. When the University has determined that an employee's repeated use of sick leave is abusive, and has given the employee prior written notice that accrued sick leave use may be denied on future instances of illness, such employee may be denied the ability to use his or her accrued sick leave when absent due to illness.

#### **E. TRANSFER AND REINSTATEMENT OF SICK LEAVE**

1. **Transfer/Promotion/Demotion to positions covered by this Agreement**
  - a. An employee transferred, promoted, or demoted without a break in service to a position that does accumulate sick leave shall have any accumulated sick leave transferred.
  - b. An employee transferred, promoted, or demoted to a position that does not accumulate sick leave shall have his or her accumulated sick leave held in abeyance. If the employee subsequently moves without a break in service to a position which does accumulate sick leave, the previously accumulated sick leave shall be restored.
  - c. An employee who has been laid off and is recalled or preferentially rehired within the employee's period of recall or preferential rehire eligibility shall have all sick leave accumulated from prior service reinstated.
2. **Reemployment in positions covered by this Agreement**
  - a. An employee reemployed from University service or State of California service into the bargaining unit after a break in service of less than fifteen (15) calendar days shall have all sick leave accumulated from prior service reinstated if the new position is one which accumulates sick leave.
  - b. An employee reemployed in this bargaining unit after a break in service of more than fifteen (15) calendar days but less than six (6) months shall have sick leave accumulated from prior service up to a maximum of eighty (80) hours reinstated. For purposes of this

Section E.2. only, "sick leave accumulated from prior service" includes sick leave accumulated in State of California service.

**3. Transfer/Promotion/Demotion to positions not covered by this Agreement**

- a. An employee who is transferred, promoted, or demoted into a position not covered by this Agreement shall have the accumulation, use, and transfer of sick leave governed by the policies and/or contract covering employees in that unit or personnel program.
- b. This Article shall apply to employees with split/multiple appointments in accordance with the provisions of Article 23 - Multiple Appointments.

**F. CONVERSION OF SICK LEAVE ON RETIREMENT**

Upon retirement, members of the University of California Retirement System shall have their accumulated sick leave converted to retirement service credit at the rate authorized by the University of California Retirement System for each day of unused accumulated sick leave.

**G. CATASTROPHIC LEAVE**

When the University implements a catastrophic leave program at a campus/hospital/LBNL, or a department at any of these locations, the provisions of the program shall apply equally to eligible employees covered by this Agreement.

## **ARTICLE 40 SUBCONTRACTING**

### **A. GENERAL PROVISIONS**

1. The University retains the right to subcontract all or any portion of operations. When the University decides to subcontract, and such subcontract will result in the layoff of employees in the bargaining unit, the University will provide UPTE with a copy of the Request for Proposals (RFP) seven (7) calendar days after it is issued. In the event no RFP is issued and the subcontract will result in bargaining unit employee layoffs, the University will give at least sixty (60) calendar days notice prior to the commencement of work by the contractor.
2. Prior to the commencement of the work that has been subcontracted and following receipt of a timely request from UPTE, the University shall meet with UPTE to discuss the effects of subcontracting upon bargaining unit employees who may be laid off. Failure to conclude such discussions, if any, prior to the date on which the subcontracted work begins, shall not preclude the University from implementing the subcontracting on the date agreed upon by the University and the subcontractor or the layoff of employees pursuant to Article 16 - Layoff and Reduction in Time.

### **B. DISPLACEMENT OF EMPLOYEES**

1. Except as provided below, the University of California will not contract out services that result in the layoff of non-probationary career bargaining unit employees.
2. Examples of instances in which a contract for such services may be appropriate include:
  - a. The need to obtain special services and equipment that are not available internally;
  - b. The need to obtain special expertise or efficiencies that are better provided through an outside contractor than by the University; and
  - c. Financial necessity.
3. Where financial necessity is the reason for the exception, before contracting for work which is fully or partially supported from state funds, including those at the teaching hospitals, the University shall first seek funding from the Legislature to address the financial necessity.

4. When the University has determined to contract for services it will provide UPTE with a copy of any RFP within seven (7) calendar days after it is issued pursuant to Section A.2. above. Such notice shall demonstrate the appropriateness for the contract, in accordance with Section B.2. above.
  - a. If UPTE asks to meet with the University about the proposed contract for services, such a meeting will occur as soon as practicable following the University's receipt of the request. The meeting will not delay the commencement of the contract.
  - b. If UPTE believes that the University failed to comply with the provisions of Section B. above, it can file a formal complaint with the Office of the President, Office of Labor Relations. The Office of the President shall make the final determination as to whether the contract meets the conditions in Section B. The Office of the President decision is not grievable or arbitrable.

**C. EFFECT OF CONTRACT ON EMPLOYEES**

To minimize the effects of layoff, when a non-probationary career bargaining unit employee is notified of layoff because the University entered into a contract for services that the employee performed, the University will make available another bargaining unit position for which the employee is qualified. The position will be at the same campus/hospital/LBNL from which the employee was laid off. Where the provisions in this article are inconsistent with the provisions of Article 16 - Layoff and Reduction in Time, the provisions of this Article and Section shall control.

1. The available position shall be offered at the same duration, percent time, and appointment type held by the employee when displaced.
  2. The available position shall be offered at the same base rate of pay earned by the employee when displaced.
  3. The right to be offered a position pursuant to this section shall begin on the date an employee is notified of layoff (displacement).
  4. The right of the displaced non-probationary career employee to be offered a position pursuant to this section shall terminate upon acceptance or refusal of the offered position at the same base rate of pay.
  5. A displaced non-probationary career employee who refuses an offered position at the same base rate of pay shall be placed in layoff status.
- D. Nothing in this article shall be interpreted as prohibiting action, which must be taken to establish or maintain eligibility for any federal program, contract or grant



– including the contract requirements contained in the agreement between the University and the Department of Energy – where ineligibility would result in a loss of federal funds to the University of California.

**ARTICLE 41**  
**TRANSFER/PROMOTION/RECLASSIFICATION**

**A. GENERAL PROVISIONS**

Until a campus/hospital/LBNL implements an electronic recruitment system, a notice of vacant positions shall be distributed and/or posted in accordance with current practice(s). Prior to implementing an electronic recruitment system, the campus will provide to all employees information about the employee application process under the new system. Any new electronic recruitment process shall be generally accessible to employees and shall have a method available for employees to determine classifications or positions that are generally available to all employees for application, in accordance with the campus system. Upon written request, the University shall provide or make accessible to UPTE a regular list of and information about positions that are under recruitment.

**B. RELEASE TIME FOR UNIVERSITY INTERVIEWS**

Employees who are scheduled for a job interview at the same location as the employee's current position shall be granted reasonable time off with pay, as determined by the University, if the interview has been scheduled during the employee's normal work hours. An employee scheduled for a job interview at a campus/hospital/LBNL other than where the employee is currently employed shall be granted reasonable time off with pay, as determined by the University, for an amount of time normally equal to the time that would be required for an interview on the employee's own campus/hospital/LBNL, if the interview has been scheduled during the employee's normal work hours.

**C. FILLING VACANT POSITIONS**

1. An active vacant bargaining unit position shall be filled in the following order:
  - a. by recall of a qualified indefinitely laid off non-probationary career employee in accordance with Article 16 - Layoff and Reduction in Time
  - b. by preferential rehire of a qualified indefinitely laid off non-probationary career employee in accordance with Article 16 - Layoff and Reduction in Time
  - c. by any other qualified applicant.
2. When "other qualified applicants" are substantially equally qualified, the University shall first consider providing transfer and promotion

opportunities to qualified career employee applicants, including considering their work performance history and experience.

3. In those instances where the University is considering the employment qualifications of individuals available for reasonable accommodation or reemployment following medical separation, the provisions of Section C.1. need not apply.

#### **D. EMPLOYEE TRANSFERS/PROMOTIONS**

1. In considering an employee for transfer and promotion, the University shall consider the employee's University work performance and experience.
2. Upon promotion, an employee shall be compensated at a rate at least equivalent to the minimum of the salary range of the new class. In addition, the University at its sole discretion may determine that the employee should receive an increase to greater than the minimum of the salary range of the new class. The University may exercise this sole discretion on a location-by-location basis and on a promotion-by-promotion basis and on a non-precedential basis. In those instances where such discretion is exercised the resultant individual rate of pay shall not exceed the maximum of the position salary range.
3. Upon upward reclassification, an employee shall be granted at least a salary increase to the minimum of the salary range of the new class, with at least a four percent (4%) increase, provided that the new rate does not exceed the maximum of the new class.
4. In accordance with campus/hospital/LBNL practice, the University shall inform employees of career development and/or training programs which might assist them with transfers and/or promotions.
5. An eligible employee who has been laid off and is rehired at another University location within the employee's period of recall will be eligible for the following, only if the employee is eligible for recall, as a result of no break in service:
  - a. reinstatement of all sick leave accumulated from prior service,
  - b. reinstatement of vacation accrual rate,
  - c. calculation of University service based on full-time equivalent months (or hours) of University service, and
  - d. buy-back of UCRS service credit according to the University Benefit Regulations.

6. Decisions or actions regarding the promotion or transfer of an employee are not subject to the Grievance and Arbitration provisions of this Agreement.

**E. MOVEMENT BETWEEN POSITIONS/REASSIGNMENT AND REQUESTS FOR RECLASSIFICATION**

**1. Request for Classification Review**

- a. An employee may request a review of the classification of her or his position. The review shall be based on the employee's job description, as approved by the employee's supervisor.
- b. If the employee makes the request for review of a classification and the supervisor fails to respond within thirty (30) calendar days, the employee may forward the request to the designated University office responsible for classification review.
- c. The response from the University office shall be directed to the supervisor with a copy to the employee.
- d. The University's decision to reclassify or not to reclassify is not subject to the Grievance and Arbitration provisions of this Agreement. However, an employee may request a review of a decision denying a reclassification. The request for a review shall be made in writing to the Human Resources Office within thirty (30) calendar days of the date on which the reclassification decision was issued. The request shall state the basis upon which the employee is requesting a review. The result of the review shall be issued in writing by a representative of the Human Resources Office. The representative who issues the second decision may not be the same individual who performed the initial review.

**2. Salary Adjustments**

- a. Any salary increase resulting from a reclassification shall be retroactive to the first of the month following the date on which the request to the designated University office was received.
- b. Upon movement between positions with different salary range maximums, or the reclassification of the employee's position, an employee shall receive a salary that is within the range of the new classification.

**ARTICLE 42  
TRAVEL REIMBURSEMENT**

**A. GENERAL PROVISIONS**

Employees are eligible to receive travel reimbursement in accordance with applicable University or Laboratory policies and/or procedures.

**B. REIMBURSEMENTS**

1. The policies, procedures, definitions, qualifications, calculations, covered hours and rates relative to travel reimbursement(s) shall be applied, changed, or implemented for employees covered by this Agreement in the same manner as for other staff employees in the University, except as provided in Section C. below.
2. The University may determine, on a department-by-department basis and consistent with the Business and Finance Bulletin, the requirements for reporting travel expenses.
3. Reimbursement rates reflect the maximum daily reimbursement provided for specific subsistence expenses, including meals. Only actual reasonable expenses may be reimbursed, including but not limited to mileage, transportation, toll fees, and parking fees.
4. When subsistence expense(s) are paid directly by the University, the employee's per diem reimbursement eligibility will be reduced accordingly.
5. University-approved out-of-state lodging expenses will be reimbursed based on the expenses actually incurred as supported by receipts, provided the University gave prior approval for or requires actual-expense reimbursements.

**C. LAWRENCE BERKELEY NATIONAL LABORATORY (LBNL)**

Policies, procedures, definitions, qualifications, calculations, covered hours and rates relative to per diem rates at the Laboratory shall be applied, changed, or implemented for employees covered by this Agreement in the same manner as for other staff employees at the Laboratory.

**ARTICLE 43  
VACATION**

**A. VACATION ACCRUALS/CREDIT**

1. If a campus implements the following Factor Accrual System, an eligible employee shall earn vacation credit each month or quadri-weekly cycle based on the number of hours on pay status for that month or quadri-weekly cycle at the following rates:

Years of Qualifying Accumulated Service	Per Hour on Pay Status*	Approximate Yearly Earnings**	Maximum Balance
Less than 10	.057692	15 days	240 hours
10 but less than 15	.069231	18 days	288 hours
15 but less than 20	.080769	21 days	336 hours
20 or more	.092308	24 days	384 hours

\* Hours on pay status, including paid holiday hours, but excluding all paid overtime hours.

\*\* Full-time rate.

2. For campuses retaining the Table Accrual System, an eligible employee shall earn vacation credit each month based on the number of hours on pay status for that month at the following rates:
  - a. ten (10) hours per month for a full-time employee with less than ten (10) years of qualifying service;
  - b. twelve (12) hours per month for a full-time employee with at least ten (10) but less than fifteen (15) years of qualifying service;
  - c. fourteen (14) hours per month for a full-time employee with at least fifteen (15) but less than twenty (20) years of qualifying service; and
  - d. sixteen (16) hours per month for a full-time employee with twenty (20) years or more of qualifying service.
3. Earned vacation for each month or quadri-weekly cycle is credited on the first day of the following month or quadri-weekly cycle, except that proportionate vacation credit for an eligible employee who is separating from employment shall be credited at the completion of the last day on pay status.
4. Employees in titles formerly covered by the Administrative & Professional Staff Program (A&PS) as of September 1, 1997, shall continue to accrue vacation under the A&PS schedule until whichever event occurs first: a

break in service of four (4) or more months, or transfer out of the unit. Upon return to University service after a break in service of four (4) or more months, or to the unit from a position outside the unit, such an employee shall earn vacation in accordance with Section A.1. or A.2., above.

## **B. ELIGIBILITY**

1. An employee is eligible to earn vacation credit from her/his date of hire, prorated in accordance with Section A., above, if appointed at fifty percent (50%) or more of full-time for a period of six (6) months or more. An employee who is not eligible to earn vacation because of a part-time or short term appointment becomes eligible to earn vacation after six (6) continuous months or quadri-weekly cycles on pay status at fifty percent (50%) time or more. For the purposes of this Article, a month of qualifying service is a month of service at one-half (1/2) time or more and a quadri-weekly cycle is defined as two (2) bi-weekly pay periods designated by the University.
2. An employee does not earn vacation credit for time on pay status in excess of a full-time work schedule.

## **C. VACATION SCHEDULING**

1. An employee may request vacation.
2. The University has the sole discretion to approve or disapprove vacation requests. Vacation requests shall not be unreasonably denied. An approved vacation request shall not be unreasonably canceled.
3. Vacation leave requested by an employee will be scheduled in accordance with the University's operational needs and departmental procedures. Departmental procedures which restrict an employee's ability to schedule vacation shall be based on operational needs.

## **D. VACATION CREDIT USE**

No vacation shall be used prior to the time it has accrued, except as provided in Article 5 - Campus/Laboratory Closure.

## **E. VACATION MAXIMUMS**

1. A full-time employee shall not accrue vacation in excess of the maximum of two (2) times the employee's annual accumulation. A part-time employee shall accrue vacation to a pro-rated maximum number of hours as a full-time employee with comparable years of service.

2. Sixty (60) days prior to an employee accruing the maximum amount of vacation, s/he shall be given notice that the maximum accrual will be reached. The employee must request the scheduling of vacation prior to her/his reaching the maximum accrual. If the employee's request to use such accrued vacation is denied due to operational considerations, that employee shall have an additional four (4) months within which s/he must take the vacation to bring her/his vacation accruals below the maximum. Normal vacation shall continue to accrue during the additional four (4) month period.

#### **F. VACATION PAY**

1. Pay for accumulated vacation shall be at the employee's straight-time rate, including any shift differential paid to employees permanently assigned to a shift which provides a differential.
2. An employee who separates from employment or who is granted extended military leave shall be paid for any accumulated vacation through the employee's last day of work, except that an employee who is retiring may use accumulated vacation up to the effective date of retirement.
3. An employee released during her/his probationary period shall be paid for accrued vacation time.

#### **G. TRANSFER OF VACATION CREDIT**

An employee who is transferred, promoted, or demoted to another position at a University campus in which vacation credit can be accumulated shall have any accumulated vacation credit transferred, unless such transfer is in conflict with the terms covering the new position. An employee who is transferred, promoted, or demoted to a position at a campus in which vacation credit does not accumulate shall be paid for any accumulated vacation at the time of transfer. An employee who is transferred, promoted, or demoted to or from a Lawrence Berkeley National Laboratory position shall be paid for any accumulated vacation at the time of transfer.

#### **H. DONATIONS FOR CATASTROPHIC LEAVE**

Any bargaining unit employee may participate in a campus/hospital/LBNL 's Catastrophic Illness/Injury Leave program, if any, in accordance with the provisions of that location's program.



**ARTICLE 44  
WAIVER**

- A. The University and UPTE acknowledge that:
1. During the negotiations which resulted in this Agreement, each party had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining;
  2. This Agreement constitutes the entire contract arrived at by the parties after the exercise of that right and opportunity;
  3. This Agreement supersedes and replaces the specific rights and/or procedures set forth under the various personnel programs and policies, which previously applied to employees covered by this Agreement.
- B. As a result of the acknowledgments in Section A. above, the University and UPTE agree that, for the term of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter referred to, or covered within this Agreement, or with respect to any subject or matter not specifically referred to or covered by this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement.
- C. Notwithstanding Section B. above, the articles in this contract may be reopened for negotiation at any time by mutual agreement of the parties.

**ARTICLE 45  
WORK-INCURRED INJURY OR ILLNESS**

**A. GENERAL PROVISIONS**

This Article defines the application of sick leave and vacation for employees who are unable to work due to a work-incurred injury or illness compensable under the California Workers' Compensation Act, and provides extended sick leave benefits for such employees when sick leave is exhausted and employees are still unable to work because of such injury or illness.

1. An employee unable to perform the normal duties of their job due to a work-incurred illness or injury compensable under the California Workers' Compensation Act may be granted leave for the duration of a verified disability but not to exceed twelve (12) months or a predetermined date of separation, whichever comes earlier, unless additional leave is otherwise required by law.
2. Work-Incurred Injury or Illness Leave runs concurrently with Family and Medical Leave.
3. An approved leave of absence for work-incurred illnesses or injuries shall not be considered a break in service.
4. Employees who are unable to work due to a work-incurred injury or illness compensable under the California Workers' Compensation Act are eligible to use accrued sick leave and vacation as provided below. When sick leave is exhausted and when employees are still unable to work because of such illness or injury, employees may use extended sick leave or leave without pay as provided below.
5. An employee shall notify their supervisor of the need for leave for a work-incurred injury or illness, or any extension of such leave, as soon as practicable after the need for such leave or extension is known. This notification shall include written medical certification of the need for such leave or extension, and the anticipated return to work date.

**B. EXTENSIONS OF WORK-INCURRED INJURY OR ILLNESS LEAVE**

In the event an employee requires an extension to their work-incurred injury or illness leave, they shall provide the University with a statement from their licensed health care practitioner of the need for the extension and the anticipated return to work date.

1. Such a statement must be provided ten (10) calendar days prior to the date the employee was previously scheduled to return to work.
2. In the event prior notice is not provided, the University will not pay extended sick leave to the employee for the period between the previously scheduled return date and the date the statement is received.

#### **C. RETURN FROM WORK-INCURRED INJURY OR ILLNESS LEAVE**

- 1. Prior to returning to work, an employee granted a work-incurred injury or illness leave must provide the University with a statement from their licensed health care practitioner of the employee's ability to return to work. When possible, an employee granted a work-incurred injury or illness leave must provide the University with ten (10) calendar days notice of their ability to return to work. If the health care practitioner's return to work statement specifies restrictions, the University will consider what accommodation, if any, will reasonably be made in accordance with Article 33 – Reasonable Accommodation.**
- 2. If the position held has been abolished during the leave, the employee shall be afforded the same considerations which would have been afforded had that employee been actively working when the position was abolished.**

#### **D. SUPPLEMENTAL SICK LEAVE AND VACATION**

- 1. An employee who accrues sick leave and vacation shall be permitted to use accrued sick leave and vacation to supplement temporary disability payments received under the California Workers' Compensation Act. An employee shall exhaust their accrued sick leave prior to using their accrued vacation.**
- 2. Sick leave and vacation payments shall be the difference between the amount payable to the employee under the Workers' Compensation Act and the employee's regular salary. The additional payment made to an employee to provide the employee with full salary prior to receipt of disability payments shall be deemed an advance temporary disability payment within the Workers' Compensation Act.**
- 3. An employee who receives advance temporary disability payment shall reimburse the University for such payment. The reimbursement is used to restore proportionate sick leave and vacation credit as appropriate.**

#### **E. EXTENDED SICK LEAVE**

- 1. An employee who is receiving temporary disability payments and who has exhausted all accrued sick leave shall receive extended sick leave payments from the University in an amount equal to the difference between the payments from Workers' Compensation and eighty percent (80%) of the basic salary plus any shift differential which the employee would have received. If such an employee returns to part-time University duties, the earnings plus any temporary disability payments, if less than eighty percent (80%) of basic salary plus shift differential, shall be supplemented to eighty percent (80%) by extended sick leave payments, provided the employee continues to be medically authorized for Workers' Compensation temporary disability. Total extended sick leave payments**

shall not exceed twenty-six (26) weeks for any one injury or illness or one hundred percent (100%) of original pay plus shift differentials.

2. An eligible employee who does not have sufficient accrued sick leave to cover the three (3) calendar days waiting period for receiving Workers' Compensation payments shall receive extended sick leave payment to cover any part of the waiting period not covered by sick leave. Payment shall be made only after determination that the injury or illness is compensable under Workers' Compensation.
3. An employee who elects not to use all sick leave is not eligible for extended sick leave benefits.

#### **F. EFFECT ON PAY STATUS**

##### **1. Supplemental Leave**

An employee who is receiving temporary disability payments and supplemental sick leave or vacation as described in Section D. above is considered on regular pay status for purposes of application of provisions of this Agreement, except completion of the probationary period. Sick leave and vacation accrued during this period may be used as soon as they accrue.

##### **2. Extended Sick Leave**

An employee who is receiving temporary disability payments and extended sick leave benefits as described in Section E. above is considered to be on regular pay status for purposes of application of provisions of this Agreement, except completion of the probationary period. Sick leave and vacation accrued during this period is credited to the employee only upon return to work. However, if an employee separates without returning to work, the employee shall be paid for vacation accrued during the period the employee received extended sick leave payment

##### **3. Leave Without Pay**

An employee on leave without pay and receiving temporary disability payments accrues sick leave and vacation on the same basis as if regularly employed, but such accrual is credited to the employee only upon return to work. If an employee separates without returning to work, no payment shall be made for such vacation credit.

#### **G. SEPARATION**

An employee shall not use vacation, sick leave, or extended sick leave to supplement Workers' Compensation payments beyond a predetermined date of

separation or leave without pay. Any vacation credit remaining on the date of separation shall be paid on a lump-sum basis.

**H. LIGHT DUTY**

Subject to operational considerations and budgetary constraints, the University will endeavor, on a case by case basis, to modify duties consistent with documented medical restrictions, for employees who have experienced work related injuries. This section shall not be construed as a guarantee of a specific form of accommodation nor shall accommodation in one case establish a precedent for similar or dissimilar circumstances.

## **ARTICLE 46 WORK RULES**

### **A. GENERAL PROVISIONS**

1. The University has the sole right to promulgate, supplement, alter, modify, amend, and rescind, work rules. For the purposes of this Article, work rules are defined as rules promulgated by the University which regulate employees relative to and affecting their employment. Work rules may be implemented only for reasons of bona-fide business and/or health and safety necessity.
2. For the purpose of general definition under this article, work rules shall be understood to mean rules governing work determined by the University to be required for the purpose of ensuring the orderly and efficient operation of the University and for ensuring the health and safety of employees and others. Work rules promulgated by the University shall be consistent with the provisions of this Agreement.

### **B. NOTICE**

At least forty-five (45) calendar days prior to the implementation of new or changed work rules, the University shall inform UPTE. Upon receipt of a written request from UPTE received within thirty (30) calendar days of notice, the campus/hospital/LBNL shall meet and discuss the proposed work rules with UPTE prior to the proposed implementation date. The University shall provide responses to alternatives suggested by UPTE. Such responses shall be in writing if requested by UPTE.

### **C. APPLICATION AND GRIEVABILITY**

1. The University will reasonably enforce its work rules for employees during working hours and/or when they are on University premises. The University may implement work rules governing employees during non-working hours only for reasons of health and safety necessity.
2. In the event the University's enforcement/application of its work rules is inconsistent with any portion of this article, a grievance may be filed in accordance with the provisions of Article 10 - Grievance Procedure, and appealed to Arbitration in accordance with the provisions of Article 3 - Arbitration Procedure of this Agreement.
3. In the event the application of a work rule is appealed to arbitration, the Arbitrator shall have no authority to newly fashion or to modify the work rule, although she/he may consider the reasonableness of the grieved work rule when rendering her/his decision and related remedy.

## **ARTICLE 47 UNIFORMS**

### **A. General Provisions**

Uniforms are attire required by the University to be worn in the performance of assigned duties.

### **B. Purchasing And Reimbursement**

1. The University shall have the sole discretion to determine if a uniform shall be worn, who shall wear a uniform and the conditions under which it must be worn. Employees shall wear the uniform and maintain a proper appearance as specified by the University.
2. When a uniform is required by the University, an employee shall be responsible, at the time of employment, for the purchase of uniform components specified by the University.
3. Where the University currently provides either uniforms or reimbursement for uniforms and, for as long as the University continues its requirement that the uniform be worn, it will provide, at its sole non-grievable, non-arbitrable discretion, either the uniform or the reimbursement for the uniform at the current rate.

### **C. Laundering**

Where laundering of uniforms is currently provided by the University, such laundering shall continue while the requirement for uniforms continues.

## **Appendix A**

### Salary Rates

The University maintains information on applicable salaries on the *Corporate Title Code System Lookup* (TCS) at: <https://tcs.ucop.edu/tcs/jsp/homePage.htm>. In the event this web page expires and is replaced by a new title code system and corresponding web page, the University will provide 30 days notice to union advising where such title code and salary information can be found online.

UPTE maintains additional information at the following sites:

RX: <http://upte.org/contract-rx/rates/>

TX: <http://upte.org/contract-tx/rates/>



## Appendix B LBNL Salary Ranges

Effective Date: October 1, 2013

Job Code	Job Title	FLSA (*)	Grade	Min/ Hour	Q2	Midpt/ Hour	Q3	Max/ Hour
650.1	Accelerator Operator	NE	T76	\$ 24.38	\$ 27.15	\$ 29.92	\$ 32.69	\$ 35.46
650.2	Accelerator Oper Principal	NE	T52	\$ 28.40	\$ 31.97	\$ 35.54	\$ 39.10	\$ 42.67
650.3	Accelerator Operator, Spec.	NE	O53	\$ 31.91	\$ 35.50	\$ 39.09	\$ 42.68	\$ 46.27
700.1	Drafter I	NE	T30	\$ 21.17	\$ 23.56	\$ 25.96	\$ 28.35	\$ 30.74
700.2	Design/Drafter II	NE	T37	\$ 24.04	\$ 26.77	\$ 29.50	\$ 32.22	\$ 34.95
700.3	Designer III	NE	T53	\$ 28.95	\$ 32.24	\$ 35.52	\$ 38.81	\$ 42.09
702.1	Electronics Engr TechnologistI	NE	T30	\$ 21.17	\$ 23.56	\$ 25.96	\$ 28.35	\$ 30.74
702.2	Electronics Egr TechnologistII	NE	T37	\$ 24.04	\$ 26.77	\$ 29.50	\$ 32.22	\$ 34.95
702.3	Electronics Eg TechnologistIII	NE	T42	\$ 27.35	\$ 30.53	\$ 33.71	\$ 36.88	\$ 40.06
702.4	Electronics Eg Technologist IV	NE	T44	\$ 30.31	\$ 34.08	\$ 37.85	\$ 41.62	\$ 45.39
706.1	Mechanical Engr Tech I	NE	T30	\$ 21.17	\$ 23.56	\$ 25.96	\$ 28.35	\$ 30.74
706.2	Mechanical Engr Tech II	NE	T37	\$ 24.04	\$ 26.77	\$ 29.50	\$ 32.22	\$ 34.95
706.3	Mechanical Engr Tech III	NE	T42	\$ 27.35	\$ 30.53	\$ 33.71	\$ 36.88	\$ 40.06
706.4	Mechanical Engr Tech IV	NE	T44	\$ 30.31	\$ 34.08	\$ 37.85	\$ 41.62	\$ 45.39
707.1	Mech Engr Machinist Asst I	NE	T30	\$ 21.17	\$ 23.56	\$ 25.96	\$ 28.35	\$ 30.74
707.2	Mechanical Engr Machinist II	NE	T37	\$ 24.04	\$ 26.77	\$ 29.50	\$ 32.22	\$ 34.95
707.3	Mechanical Engr Machinist III	NE	T53	\$ 28.95	\$ 32.24	\$ 35.52	\$ 38.81	\$ 42.09
707.4	Mechanical Engr Machinist IV	NE	O54	\$ 31.34	\$ 34.90	\$ 38.47	\$ 42.03	\$ 45.59
720.0	Lead Technologist	NE	T69	\$ 30.82	\$ 34.33	\$ 37.83	\$ 41.34	\$ 44.84
741.1	Health/Safety Tech	NE	O70	\$ 22.80	\$ 25.39	\$ 27.99	\$ 30.58	\$ 33.17
741.2	Health/Safety Tech Sr	NE	O71	\$ 23.59	\$ 26.28	\$ 28.97	\$ 31.65	\$ 34.34
741.3	Health/Safety Tech Principal	NE	O72	\$ 25.50	\$ 28.47	\$ 31.45	\$ 34.42	\$ 37.39
741.4	Health/Safety Tech Specialist	NE	O73	\$ 30.31	\$ 33.85	\$ 37.38	\$ 40.92	\$ 44.45
744.1	Animal Technician 1	NE	T19	\$ 15.56	\$ 17.46	\$ 19.36	\$ 21.26	\$ 23.16
744.2	Animal Technician 2	NE	T25	\$ 18.28	\$ 20.52	\$ 22.76	\$ 25.00	\$ 27.24
744.3	Animal Technician 3	NE	T30	\$ 21.17	\$ 23.56	\$ 25.96	\$ 28.35	\$ 30.74
747.1	Radiation Control Tech I	NE	O60	\$ 23.04	\$ 25.66	\$ 28.29	\$ 30.91	\$ 33.53
747.2	Radiation Control Tech II	NE	O61	\$ 24.99	\$ 27.84	\$ 30.68	\$ 33.53	\$ 36.37
747.3	Radiation Control Tech III	NE	O62	\$ 27.61	\$ 30.83	\$ 34.05	\$ 37.26	\$ 40.48
747.4	Radiation Control Tech IV	NE	O63	\$ 30.88	\$ 34.48	\$ 38.08	\$ 41.68	\$ 45.28
750.1	Telecomm Network/Data Comm T 1	NE	U31	\$ 21.17	\$ 23.56	\$ 25.96	\$ 28.35	\$ 30.74
750.2	Telecomm Network/Data Comm T 2	NE	U32	\$ 24.04	\$ 26.77	\$ 29.50	\$ 32.22	\$ 34.95
750.3	Telecomm Network/Data Comm T 3	NE	U33	\$ 27.35	\$ 30.53	\$ 33.71	\$ 36.88	\$ 40.06
751.1	High Performance Comp Tech 1	NE	U39	\$ 17.87	\$ 19.90	\$ 21.94	\$ 23.97	\$ 26.00
751.2	High Performance Comp Tech 2	NE	U40	\$ 21.17	\$ 23.56	\$ 25.96	\$ 28.35	\$ 30.74
751.3	High Performance Comp Tech 3	NE	U41	\$ 24.04	\$ 26.77	\$ 29.50	\$ 32.22	\$ 34.95
751.4	High Performance Comp Tech 4	NE	U42	\$ 27.35	\$ 30.53	\$ 33.71	\$ 36.88	\$ 40.06
751.5	High Performance CompTech Lead	NE	U43	\$ 30.82	\$ 34.33	\$ 37.83	\$ 41.34	\$ 44.84
795.1	Research Technician	NE	T23	\$ 17.87	\$ 19.90	\$ 21.94	\$ 23.97	\$ 26.00
795.2	Research Technician Sr	NE	T30	\$ 21.17	\$ 23.56	\$ 25.96	\$ 28.35	\$ 30.74
795.3	Research Technician Princ	NE	T37	\$ 24.04	\$ 26.77	\$ 29.50	\$ 32.22	\$ 34.95
795.4	Research Specialist	NE	T42	\$ 27.35	\$ 30.53	\$ 33.71	\$ 36.88	\$ 40.06
797.1	Graphics Designer I	NE	O46	\$ 18.55	\$ 20.66	\$ 22.77	\$ 24.87	\$ 26.98
797.2	Graphics Designer II	NE	O47	\$ 26.50	\$ 29.51	\$ 32.52	\$ 35.53	\$ 38.54
797.3	Graphics Designer III	NE	O48	\$ 29.15	\$ 32.46	\$ 35.77	\$ 39.08	\$ 42.39
797.4	Graphics Designer IV	NE	O49	\$ 32.07	\$ 35.71	\$ 39.35	\$ 42.98	\$ 46.62
798.1	Videographer/Photo Spec I	NE	O41	\$ 20.74	\$ 23.07	\$ 25.41	\$ 27.74	\$ 30.07
798.2	Videographer/Photo Spec II	NE	O42	\$ 23.84	\$ 26.52	\$ 29.20	\$ 31.88	\$ 34.56
798.3	Videographer/Photo Spec III	NE	O43	\$ 27.40	\$ 30.48	\$ 33.57	\$ 36.65	\$ 39.73
798.4	Videographer/Photo Spec IV	NE	O44	\$ 31.51	\$ 35.05	\$ 38.60	\$ 42.14	\$ 45.68

## APPENDIX C GRIEVANCE FORM

<b>UPTE RESEARCH AND TECHNICAL UNIT GRIEVANCE FORM</b>	<p>Allegations of a violation of Agreement in effect between the University and UPTE must be filed in on this form. See your Agreement for details regarding the filing of a grievance. <b>PLEASE PROVIDE THE INFORMATION REQUESTED IN ACCORDANCE WITH ARTICLE 10, GRIEVANCE PROCEDURE OF THE TECHNICAL, RESEARCH SUPPORT PROFESSIONALS AGREEMENT.</b> A separate grievance form is required for grievances occurring in each unit. <u>If you wish to file a grievance or want more information about possibly filing a grievance, please contact your local UPTE representative. Refer to: <a href="http://www.upte-cwa.org/contacts/index.html">http://www.upte-cwa.org/contacts/index.html</a> or call: 1-510-704-8783 (UPTE).</u></p>		
GRIEVANT'S NAME		NAME OF GRIEVANT'S IMMEDIATE SUPERVISOR	
CAMPUS/MEDICAL CENTER/LABORATORY	DEPARTMENT/DIVISION	WORK TELEPHONE	
EMPLOYEE CLASSIFICATION TITLE		NON-WORK ADDRESS TO WHICH CORRESPONDENCE MAY BE SENT TO GRIEVANT	
EMPLOYEE EMPLOYMENT STATUS <input type="checkbox"/> Career/Regular <input type="checkbox"/> Probationary <input type="checkbox"/> Full Time <input type="checkbox"/> Casual/Temporary <input type="checkbox"/> Per Diem <input type="checkbox"/> Part Time		GRIEVANT'S NORMAL HOURS OF WORK	
IF REPRESENTED IN THIS GRIEVANCE, PROVIDE THE FOLLOWING:			
REPRESENTATIVE'S NAME	REPRESENTATIVE'S ORGANIZATION	REPRESENTATIVE'S TELEPHONE NUMBER	
REPRESENTATIVE'S NON-WORK ADDRESS, CITY, STATE, ZIP			
TYPE OF GRIEVANCE: <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> GROUP (LIST ALL GRIEVANTS) <input type="checkbox"/> UNION (MUST BE SIGNED BY THE PRESIDENT OR DESIGNEE)		SPECIFIC ARTICLE(S) & SECTION(S) OF THE CONTRACT ALLEGED TO BE VIOLATED:	
DATE OF ACTION CAUSING GRIEVANCE ____/____/____	DATE OF INFORMAL DISCUSSION WITH SUPERVISOR ____/____/____	DATE OF INFORMAL RESPONSE ____/____/____	
ALLEGED VIOLATION OF AGREEMENT			
REMEDY REQUESTED			
GRIEVANT'S AND/OR REPRESENTATIVE'S SIGNATURE			DATE

### GRIEVANCE REVIEW -- STEP 1

DATE STEP 1 GRIEVANCE RECEIVED BY UC	DATE OF UC RESPONSE	
STEP 1 DECISION		
SIGNATURE OF STEP 1 REVIEWER	PRINTED NAME AND TITLE OF STEP 1 REVIEWER	TELEPHONE NUMBER
<input type="checkbox"/> I DO NOT ACCEPT AND APPEAL THE STEP 1 RESPONSE TO THE SECOND STEP (STATE SUBJECT BELOW)	GRIEVANT'S AND/OR REPRESENTATIVE'S SIGNATURE	DATE
SUBJECT OF GRIEVANCE AT STEP 2, IF DIFFERENT THAN SUBJECT OF GRIEVANCE AT STEP 1.		

### GRIEVANCE REVIEW -- STEP 2

DATE STEP 2 APPEAL POSTMARKED/HAND-DELIVERED	DATE STEP 2 APPEAL RECEIVED BY UC	DATE OF UC RESPONSE	DECISION ATTACHED <input type="checkbox"/> YES <input type="checkbox"/> NO
SIGNATURE OF STEP 2 REVIEWER		PRINTED NAME AND TITLE OF STEP 2 REVIEWER	
<input type="checkbox"/> I DO NOT ACCEPT AND APPEAL THE STEP 2 RESPONSE TO THE THIRD STEP (STATE SUBJECT BELOW)	GRIEVANT'S AND/OR REPRESENTATIVE'S SIGNATURE	DATE	
SUBJECT OF GRIEVANCE AT STEP 3, IF ANY ISSUE(S) OF GRIEVANCE AT STEP 2 HAS BEEN RESOLVED.			

### GRIEVANCE REVIEW -- STEP 3

DATE STEP 3 APPEAL POSTMARKED/HAND-DELIVERED	DATE STEP 3 APPEAL RECEIVED BY UC	DATE OF UC RESPONSE	DECISION ATTACHED <input type="checkbox"/> YES <input type="checkbox"/> NO
SIGNATURE OF STEP 3 REVIEWER		PRINTED NAME AND TITLE OF STEP 3 REVIEWER	

## **APPENDIX D Enumeration of University Benefits**

### **LISTING OF BENEFITS**

The following is a brief listing of benefits provided to University employees, effective January 1, 2013. More information can be found in general University benefits publications and individual summary plan descriptions. Specific eligibility and benefits under each plan are governed entirely by the terms of the applicable plan documents, custodial agreement, University of California Group Insurance Regulations, group insurance contracts, and state and federal laws. Employees in an ineligible class are excluded from coverage regardless of appointment percent and average regular paid time. For details on specific eligibility of each health and welfare program, see the Group Insurance Regulations. These benefits and amounts may be subject to change based on the renewal of this insurance annually by the University.

**1. Medical Program**

A variety of plans (e.g., Health Maintenance Organization (HMO), Preferred Provider Organizations (PPO), etc.) are available to employees who qualify based on their appointment and their eligible dependents. Choice of plans may vary from location to location.

**2. Dental Program**

Dental plans are available to employees who qualify based on their appointment and their eligible dependents.

**3. Vision Program**

A comprehensive vision plan is available to employees who qualify based on their appointment and their eligible dependents.

**4. Life Insurance**

**a. Basic/Core (University-Paid)**

Employees who are members of a defined benefit plan to which the University contributes are automatically covered by a Basic term life insurance policy.

b. **Supplemental and Dependent (Employee-Paid)**

Additional life insurance is available to employees who qualify based on their appointment. Optional personal life insurance and dependent life insurance may be purchased by the employee.

5. **Accidental Death & Dismemberment (AD&D) Insurance**

UC offers the AD&D plan to help protect employees and their eligible family members from the unforeseen financial hardship of a serious accident that causes death or dismemberment. Employees who qualify based on their appointment may purchase Optional AD&D insurance. A variety of coverages and amounts of coverage are available.

6. **Business Travel Accident Insurance**

Employees who are traveling on official University business are covered by the University's travel insurance program that provides Accidental Death benefit of the lesser of 10 times annual salary or \$500,000 and Dismemberment benefit based on a scheduled percent of benefit.

7. **Disability Insurance**

a. **Short Term (University-Paid)**

Employees who are members of a defined benefit plan to which the University contributes are automatically covered by a basic short-term disability plan.

b. **Supplemental (Employee-Paid)**

Additional disability insurance which covers both short- and long-term disabilities may be purchased by employees who are members of a defined benefit plan to which the University contributes. Employees may choose a waiting period.

8. **Legal Expense Insurance Plan**

A legal expense insurance plan is available to employees who qualify based on their appointment. The legal plan provides employees and their eligible dependents with coverage for basic legal services associated with preventive, domestic, consumer and defensive legal matters.

9. **Pension Benefits – UC Retirement Plan (UCRP)**

UCRP is a defined benefit plan for which participation is mandatory for eligible employees, as determined by the type, percentage and duration of their appointments.

UCRP provides retirement income, adjusted for cost-of-living increases, for eligible employees, and their contingent annuitants. UCRP also provides pre-retirement disability income for eligible employees and, pre-retirement survivor income for their eligible survivors. Also, for eligible employees who became UCRP members prior to July 1, 2013 and have not incurred a break in service, UCRP provides post-retirement survivor income to eligible survivors and a lump sum cashout option for members in lieu of monthly retirement income (provided the member elected this option).

10. **Voluntary UC Retirement Savings Program (UCRSP)**

- a. Tax-Deferred 403(b) Plan – participation through voluntary pretax salary deferrals
- b. 457(b) Deferred Compensation Plan – participation through voluntary pretax salary deferrals
- c. Defined Contribution Plan – participation through voluntary after-tax contributions or for non-career employees, a mandatory contribution in lieu of Social Security (safe harbor).

All University employees except students who normally work fewer than 20 hours per week are eligible to participate in the UCRSP.

The plans offer a variety of investment options to meet the diverse needs of different types of investors and to allow for individual decisions to meet a variety of long-term financial goals.

11. **Tax Effective Salary Reduction Programs**

- a. Tax Savings on Insurance Premiums (TIP)

Employees enrolled in certain health insurance plans are automatically enrolled in TIP, unless the employee makes an election to withdraw. After the University contribution, if any, is applied the net insurance premiums are deducted from gross pay before federal and state taxes.

- b. Health Flexible Spending Account (Health FSA)

The Health FSA is available to employees who qualify based on their appointment and allows employees to pay for eligible out-of-pocket health care expenses on a pretax, salary reduction basis.

c. **Dependent Care Flexible Spending Account (Depcare FSA)**

DepCare is available to employees who qualify based on their appointment and allows employees to pay for eligible dependent care expenses on a pretax, salary reduction basis.

d. **Pretax Transportation Program**

Federal and State tax laws make it possible for the University to offer eligible employees who pay for parking, transit passes or vanpooling by payroll deductions to do so on a pretax basis, subject to certain limits Eligibility varies according to UC location.

12. **Auto/Homeowner Insurance**

Auto and home insurance policies are available which may be purchased by employees who qualify based on their appointment.

13. **Family Care Referral Service**

A resource for finding childcare, eldercare, and other family care providers is available to employees who qualify based on their appointment.

14. **Death Payments**

Upon the death of an employee who has been on pay status at least 50% time at least six continuous months prior to death a sum equal to the deceased's regular salary for one month shall be paid to the deceased's spouse, or if there is no spouse, to the employee's eligible dependent(s), or if there is neither a surviving spouse nor eligible dependent(s), to the beneficiary designated in the deceased's Basic life insurance policy.

There is also a \$7,500 lump sum death benefit payable to beneficiaries of deceased UCRP members.

All monies due and payable to the employee at the time of death shall be paid to the employee's surviving spouse and/or eligible dependent(s).

## **Appendix E**

### Parking

Each location may increase monthly parking rates annually for the life of the Agreement in accordance with the chart below:

Berkeley Campus	10% maximum
Davis Campus	\$5 maximum
Davis Health System	\$10 maximum
Irvine Campus	\$10 maximum
Irvine Medical Center	\$12 maximum
Los Angeles Campus	\$15 maximum
Los Angeles Health System	\$15 maximum
Merced Campus	\$5 maximum
Riverside Campus	\$10 maximum
San Diego Campus	\$10 maximum
San Diego Health System	\$10 maximum
San Francisco Campus & Health System	10% maximum
Santa Barbara Campus	Please see attached
Santa Cruz Campus	10% maximum
Lawrence Berkeley National Laboratory	No charge



**Santa Barbara**

<b>Permit Name</b>	<b>Permit Description</b>	<b>(cap level)</b>
"B" Annual or "B" Multi-Year (Monthly Rate)	Annual or Multi-Year Staff Permit	+\$10
"B" Quarterly (Fall/Winter/Spring/Summer)	Quarterly Staff Permit	+\$32
"B" One-Month	One-Month Only Staff Permit	+\$15
"M" Motorcycle (Monthly Rate)	Annual Motorcycle Permit	+\$5
"B" Carpool (Monthly Rate)	Annual Carpool Permit	+\$10
"N/WE" Annual or Monthly (Monthly Rate)	Annual or One-Month Night & Weekend Permit	+\$4

\*Permit requirement for motorcycles currently suspended during pilot period. Campus may reinstate the rate of \$18.75 per month, plus annual increases within agreed cap level. Campus will provide 30-day notice to union prior to reinstating the rate.

\*\*Carpool permit is at a reduced rate during pilot period. Campus may reinstate the rate to the same amount as the Annual and Multi-Year Rate, plus annual increases within agreed cap level between 2013 and 2018. Campus will provide 30-day notice to union prior to reinstating the rate.

## APPENDIX F

### 2014 Medical Plan Cost

#### 2014 Medical plan costs - \$51,000 and under

Plan		Self	Self + Child(ren)	Self + Adult	Family
Blue Shield Health Savings Plan	Employee Cost	\$9.67	\$17.41	\$21.19	\$28.92
Health Net Blue & Gold	Employee Cost	\$29.49	\$51.17	\$109.50	\$131.18
Kaiser Permanente	Employee Cost	\$11.78	\$21.20	\$25.80	\$35.21
UC Care	Employee Cost	\$71.96	\$127.83	\$198.99	\$254.87
Western Health Advantage	Employee Cost	\$11.78	\$21.20	\$25.80	\$35.21
Core	Employee Cost	\$0.00	\$0.00	\$0.00	\$0.00

**2014 Medical plan costs - \$51,001–\$101,000**

<b>Plan</b>		<b>Self</b>	<b>Self + Child(ren)</b>	<b>Self + Adult</b>	<b>Family</b>
Blue Shield Health Savings Plan	Employee Cost	\$45.72	\$82.30	\$103.49	\$140.06
Health Net Blue & Gold	Employee Cost	\$65.54	\$116.06	\$191.80	\$242.32
Kaiser Permanente	Employee Cost	\$47.83	\$86.09	\$108.10	\$146.35
UC Care	Employee Cost	\$108.01	\$192.72	\$281.29	\$366.01
Western Health Advantage	Employee Cost	\$47.83	\$86.09	\$108.10	\$146.35
Core	Employee Cost	\$0.00	\$0.00	\$0.00	\$0.00

**2014 Medical plan costs - \$101,001–\$151,000**

<b>Plan</b>		<b>Self</b>	<b>Self + Child(ren)</b>	<b>Self + Adult</b>	<b>Family</b>
Blue Shield Health Savings Plan	Employee Cost	\$82.72	\$148.90	\$177.25	\$243.42
Health Net Blue & Gold	Employee Cost	\$102.54	\$182.66	\$265.56	\$345.68
Kaiser Permanente	Employee Cost	\$84.83	\$152.69	\$181.86	\$249.71
UC Care	Employee Cost	\$145.01	\$259.32	\$355.05	\$469.37
Western Health Advantage	Employee Cost	\$84.83	\$152.69	\$181.86	\$249.71
Core	Employee Cost	\$0.00	\$0.00	\$0.00	\$0.00

**Medical plan costs - \$151,001 and above**

<b>Plan</b>		<b>Self</b>	<b>Self + Child(ren)</b>	<b>Self + Adult</b>	<b>Family</b>
Blue Shield Health Savings Plan	Employee Cost	\$121.03	\$217.86	\$253.67	\$350.49
Health Net Blue & Gold	Employee Cost	\$140.85	\$251.62	\$341.98	\$452.75
Kaiser Permanente	Employee Cost	\$123.14	\$221.65	\$258.28	\$356.78
UC Care	Employee Cost	\$183.32	\$328.28	\$431.47	\$576.44
Western Health Advantage	Employee Cost	\$123.14	\$221.65	\$258.28	\$356.78
Core	Employee Cost	\$0.00	\$0.00	\$0.00	\$0.00

## DANR Counties – ANR Employees by County

<u>County</u>	<u>Campus Pay rate</u>
Alameda	UCB
Amador	UCD
Butte	UCD
Calaveras	UCD
Colusa	UCD
Contra Costa	UCB
El Dorado	UCD
Fresno	UCD
Glenn	UCD
Humboldt - Del Norte	UCD
Inyo-Mono	UCD
Imperial	UCR
Kern	UCD
Kings	UCD
Lake	UCD
Lassen	UCD
Los Angeles	UCLA
Madera	UCD
Marin	UCB
Mariposa	UCD
Merced	UCD
Mendocino	UCD
Modoc	UCD
Monterey	UCSC
Napa	UCD
Orange	UCLA
Placer - Nevada	UCD
Plumas- Sierra	UCD
Riverside	UCR
Sacramento	UCD
San Benito	UCD
San Bernadino	UCR
San Diego	UCLA
San Francisco-San Mateo	UCB
San Joaquin	UCD
San Luis Obispo	UCLA
Santa Barbara	UCLA
Santa Clara	UCB
Santa Cruz	UCSC
Shasta - Trinity	UCD
Siskiyou	UCD
Sonoma	UCD
Solano	UCD
Stanislaus	UCD
Sutter-Yuba	UCD
Tehama	UCD
Tulare	UCD
Tuolumne	UCD
Ventura	UCLA
Yolo	UCD