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Title: **California, University of and Technical Unit, University Professional and Technical Employees (UPTE), (2005)**

K#: **820804**

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# **K820804**

## **LABOR RELATIONS AT THE UNIVERSITY OF CALIFORNIA**

### **AGREEMENT for the Technical Unit (TX)**

**Between the University of California and the University Professional and Technical  
Employees (UPTE)  
Effective December 22, 2005 – June 30, 2008**

#### **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/Laboratory/hospital 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/Laboratory/hospital.

##### **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/Laboratory/hospital 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 or other distribution of literature, 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/Laboratory 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/Laboratory/hospital. Additionally, in the event a campus/hospital/laboratory has more than two-hundred 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 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 grievance-related activity such as:

- 1) 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;
- 2) 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;

3) 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;

4) 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 a 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 without pay 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/Laboratory/hospital, 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 and a copy of all materials posted must be provided to the appropriate University

representative at the location at the time of 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, 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 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 confidential. Such notice will be provided when the union provides its "Hudson" notice to employees.
3. The University will delete from bargaining-unit employees' employment forms the option of withholding home addresses and 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 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. LBNL**

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

#### **G. PRINTING AND DISTRIBUTION OF AGREEMENT**

1. A copy of this Agreement shall be given by the University to each employee in the Bargaining Unit. The University and UPTE shall split the cost of printing contracts for unit members. In addition, the parties shall each pay for the number of copies they need for administrative and other purposes.

2. The University shall provide UPTE a copy of the tentative agreement language in digital format within 14 calendar days of reaching tentative agreement. A camera-ready copy will be provided to UPTE within 30 calendar days from the parties' agreement of the final text. Within 20 calendar days of UPTE's receipt of the camera-ready copy, UPTE shall confirm the final copy or meet with the University to review corrections. The University shall then deliver the agreed upon camera-ready copy to the UC Printing Services. Within 20 calendar days of receipt of the "blue line" from UC Printing Services, the University shall notify UPTE to meet and review the "blue line." At that time, UPTE shall pay the University one-half (1/2) of the estimated cost of the agreement for the unit members. Upon receipt of full payment from UPTE, each location shall distribute the agreement to members of the unit within 90 calendar days.

#### **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. The use of email accounts shall be protected as outlined in the University's Electronic Communication Policy or RPM 9.01 Computing and Networking as of May 2001 at LBNL. Such use shall also conform to and be in accordance with applicable University policy regarding electronic mail/electronic communications.

#### **J. CAMPUS-WIDE NEW EMPLOYEE ORIENTATION**

1. The University shall notify UPTE in advance of scheduled new employee orientations, if any, upon request of the local UPTE representative.

2. At the University's new employee orientations, if any, packets of information supplied by UPTE, which may include information about the time and location of the UPTE meeting, shall be made available. Employees may attend UPTE's meeting on non-work time, such as lunch or break times.

3. UPTE shall be permitted to meet with the new bargaining unit employees according to campus/hospital/laboratory timetables and

practices immediately after new employee orientation sessions, if any, for the purpose of sharing information with new bargaining unit employees.

4. The University and UPTe agree to meet and discuss on a campus/hospital/laboratory basis over arrangements to accomplish the goals of this section.

## **ARTICLE 2 AGREEMENT**

This Agreement, effective December 22, 2005, 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 December 1, 1994 in SF-PC-1050-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 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

J., 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 his/her designee, and filed with the Office of Labor Relations, Office of the President.

a. 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. 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.

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 Step 3 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 Step 3 answer will be considered final.

4. The decision of the arbitrator on any issue properly before her/him 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 her/his 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 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 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 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 withoutloss-of-straight-time-pay status. Only one (1) of these individuals may be designated as the employee advocate for the course 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 Step 3 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 (45 days from UPTE's appeal to arbitration), then the UPTE choice shall be final unless UPTE initiates the selection process within 15 business days of the deadline for selection of the arbitrator. In such case, the University shall have 15 business days to respond to UPTE's choice of an arbitrator and the period for scheduling the arbitration hearing shall be extended by 10 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, superceding 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 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 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.

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 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. 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, 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 his/her 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 her or him by the representatives of the parties at the hearing. In all respects s/he 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 her/him 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 his or her 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 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 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:

a. Northern List of Arbitrators: b. Southern List of Arbitrators:

Charles Askin

31 Loma Vista

Walnut Creek, CA 94596

(925) 934-1929

Howard Block

Wellington Plaza Suite G

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(510) 527-7205 – fax

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Los Angeles, CA 90049-9117

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Luella Nelson

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(510) 658-4959

R. Douglas Collins

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West Hills, CA 91308-4399

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(925) 885-2165 – fax

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(310) 550-8439 – fax

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(310) 475-8782 – fax

Alexander Cohn

P.O. Box 4006

Napa, CA 94558

(707) 226-7096

George Marshall

854 Pico Boulevard

Santa Monica, CA 90405

(310) 463-7002

a. Northern List of Arbitrators: b. Southern List of Arbitrators:

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Phil Tamoush

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1-800-903-4266 – fax

(310) 540-4978 – home

San Francisco/East Bay office:

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David Hart

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Neil Herring

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**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 Leaves, 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 B1., 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. 2004-05 (fiscal year) SALARY INCREASES (EXCEPT LBNL):**

The University and UPTe agree that the University will not increase the salary ranges for classifications in the unit and will not provide step/merit increases for employees in the unit, effective October 1, 2004.

**B. 2005-06 (fiscal year) SALARY INCREASES (EXCEPT LBNL):**

1. Lump Sum Bonus

Following receipt of written notification from UPTE of its ratification of the Agreement with the University of California, the University will provide a one-time, lump-sum cash bonus of \$220 per employee in the unit, proportional to appointment at the time of payment. The payment shall be provided within 120 days of the date of the Agreement and included in the next regular payroll check.

2. Range Adjustment

Following receipt of written notification from UPTE of its ratification of the Agreement with the University of California, the University will increase by 3.0% the salary ranges (minimums and maximums) for all classifications in the Technical Unit effective October 1, 2005 and will not provide step/merit increases. Each eligible employee shall receive a 3.0% salary increase resultant from the range adjustment. The salary range or rate adjustments for each classification will vary slightly due to rounding.

3. Compensation increases for the contract year 2005-06 of approximately 3.0% shall be provided as a base-building salary adjustment in accordance with Section B.2 above, payable no later than the first pay period one hundred (120) days after the effective date of the Agreement.

4. Eligible employees are in positions in the bargaining unit on the effective date of the increase and at the time of payment.

**C. 2006-07 (fiscal year) SALARY INCREASES (EXCEPT LBNL):**

1. Range Adjustment

Effective October 1, 2006, the University will increase by 2.2% the salary ranges (minimums and maximums) for all classifications in the Technical Unit and will not provide step/merit increases. Each eligible within-range employee shall receive a 2.2% salary increase resultant from the range adjustment. Each above-range employee will receive an adjustment to the extent that the new range maximum exceeds their present rate. The salary range or rate adjustments, for each classification will vary slightly due to rounding. Compensation increases for the contract year 2006-07 of approximately 2.2% shall be provided as a base-building salary adjustment, provided that the funding is allocated to the University \_\_\_\_\_ as \_\_\_\_\_ a

general salary adjustment of 3% pursuant to the State Budget Act as finally adopted and in accordance with Article 9 – Duration, Section A.2..

2. Range Adjustment

Effective October 1, 2006, the University will increase by one-half percent (.5%) the salary ranges (minimums and maximums) for all classifications in the Technical Unit. Each eligible, within-range employee shall receive a .5% salary increase resultant from the range adjustment. Each above-range employee will receive an adjustment to the extent that the new range maximum exceeds their present rate. The salary range or rate adjustments, for each classification will vary slightly due to rounding.

3. Eligible employees are in positions within range in the bargaining unit on the effective date of the increase and at the time of payment.

4. Those employees who remain above the maximum after the above range will receive a one-time, lump sum cash payment equivalent to one-half (1/2) of the 2.7% range adjustment percentage and will receive the other half of the 2.7% range adjustment percentage increase as a base building increase.

5. Those employees who only received a portion of the percentage range adjustment in accordance with Section C.1 and C.2 above, will receive a one-time, lump sum cash payment equivalent to one-half (1/2) of the remaining portion of the 2.7%

range adjustment and will receive the other half of the remaining portion of the 2.7% range adjustment increase as a base building increase.

6. Merit Increases, January 2007

- a. Employees in the TX unit will be eligible, according to local merit programs, provided however, that all eligible employees will receive a minimum one-half step merit increase based on satisfactory or better performance, effective January 1, 2007.

**D. 2007-08 (fiscal year) SALARY INCREASES (EXCEPT LBNL):**

1. Range Adjustment

Effective October 1, 2007, the University will increase by 3.2% the salary ranges (minimums and maximums) for all classifications in the Technical Unit. Each eligible step-based employee shall receive a 3.2% salary increase resultant from the range adjustment. The salary range or rate adjustments, for each classification will vary slightly due to rounding. Compensation increases for the contract year 2007-08 of approximately 3.2% shall be provided as a base-building salary adjustment, provided that the funding is allocated to the University as a general salary adjustment of 4% pursuant to the State Budget Act as finally adopted and in accordance with Article 9 – Duration, Section A.2.

2. Effective October 1, 2007, the University will increase by one-half percent (.5%) the salary ranges (minimums and maximums) for all classifications in the Technical Unit. Each eligible employee shall receive a .5% salary increase

resultant from the range adjustment. The salary range or rate adjustments, for each classification will vary slightly due to rounding.

3. Eligible employees are in positions in the bargaining unit on the effective date of the increase and at the time of payment.

4. Merit Increases, January 2008

- a. Employees in the TX unit will be eligible, according to local merit programs, provided however, that all eligible employees will receive a minimum of a one-half step merit increase based on satisfactory or better performance, effective January 1, 2008.

**E. CAMPUS INDIVIDUAL / TITLE-SPECIFIC / SHIFT DIFFERENTIAL UNIT INCREASES**

**1. AALAS Certification Pay**

- a. AALAS certification pay (ALAT, LAT, LATG, RVT) where management required, a non-base building salary differential will be provided to selected employees in the Animal Tech and Animal Health Tech series. (Animal Technician (9525), Senior Animal Technician (9524), Principal Animal Technician (9523), Animal Health Technician I (9537), Animal Health Technician II (9536), Animal Health Technician III (9535), and Animal Health Technician IV (9534).) Upon completion and presentation of the following certifications, each eligible employee shall receive the following additional compensation:

- ALAT – \$50
- LAT - \$100
- LATG - \$100
- RVT (Registered Veterinary Technician) - \$100

An employee who has achieved LAT, LATG, or RVT certification shall only receive certification pay compensation up to the \$100/month rate, as pay shall not be compounded.

## 2. Shift Differential Rate Increases

- a. The University will increase established shift differential rates by the amount listed below. These increases shall not result in a shift differential rate that exceeds \$1.25 for evenings and \$2.00 for nights.
  - \$0.20 increase effective 6 months after ratification of the Agreement
  - \$0.15 increase effective 18 months after ratification of the Agreement

## F. ELIGIBILITY

To be eligible for increases as specified in this Article employees must be in the bargaining unit or on approved leave on the effective date of the salary increase and at the time of payment.

In addition, employees must be at a within-range salary rate to be eligible for step-based merit increases.

For 2006-07, above-range employees are subject to additional eligibility requirements described in Section C.

## G. ORDER OF INCREASES

If more than one salary adjustment takes place on the same date, actions occur in the following order:

1. Salary range adjustment;
2. Merit Increases
3. Equity increases;
4. Increases resulting from promotion or reclassification.

## H. LAWRENCE BERKELEY NATIONAL LABORATORY

1. Fiscal Year 2005 (October 1, 2004) individual increases for Technical Unit employees will be from a merit pool of 2.5% of the September 30, 2004 payroll base. The salary ranges will be increased by 2.5%. Up to 0.5% will be made available for promotions and reclassifications. The 2.5% merit pool will be distributed in the Lab's normal, merit-based manner using the attached FY 2005 matrix. In order to be eligible for the FY 2005 salary increase of October 1, 2004, an employee must be in the TX bargaining unit on September 30, 2004, eligible for a performance evaluation, and continue to be in the bargaining unit on the date payroll distribution is processed in HRIS.

Retroactive pay increases for Fiscal Year 2005 will be implemented within one hundred twenty (120) days of Side Letter ratification. No separate paychecks will be issued.

Disputes arising from Technical 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:

- a. Employees who have received increases within the preceding six months.
- b. Employees who have reached the maximum of their ranges.
- c. Employees who are red-circled.

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 the the 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.

The Laboratory will provide to UPTE information concerning the normal distribution. Such information will include employee name and wage increase amount. In the same manner as in previous fiscal years, any undistributed amount of the above merit increases will then be distributed across the board to all employees who received a wage increase based on the above eligibility requirements.

The Laboratory will provide to UPTE information concerning the distribution of the promotion and reclassification allocation within sixty (60) days following the end of each fiscal year. Such information will include employee name and wage increase amount.

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.

2. Fiscal Year 2006 (October 1, 2005) individual increases for Technical Unit employees will be from a merit pool of 3.0% of the September 30, 2003 payroll base. Up to 0.5% will be made available for promotions and reclassifications. The 3.0% merit pool will be distributed in the Lab’s normal merit-based manner using an FY06 matrix to be provided to UPTE. In order to be eligible for the FY 2006 salary increase of October 1, 2005, an employee must be in the TX bargaining unit on September 30, 2005, eligible for a performance evaluation, and continue to be in the bargaining unit on the date payroll distribution is processed in HRIS. Salary ranges may be increased for FY06 at the Laboratory’s sole discretion. The Laboratory shall provide UPTE with thirty (30) days advance notice regarding whether the salary ranges will be increased, and if so, the amount of increase. Upon UPTE’s request, the Laboratory will schedule a meeting to discuss the union’s concerns relative to the basis for such decisions.

3. Fiscal Year 2007 (October 1, 2006) individual increases for Technical Unit employees will be from a merit pool of 3.0% of the September 30, 2006 payroll base. Up to 0.5% will be made available for promotions and reclassifications. The 3.0% merit pool will be distributed in the Labs normal merit-based manner using an FY07 matrix to be provided to UPTE. In order to be eligible for the FY 2007 salary increase of October 1, 2006, an employee must be in the TX bargaining unit on September 30, 2006, eligible for a performance evaluation,

and continue to be in the bargaining unit on the date payroll distribution is processed in HRIS.

Salary ranges may be increased for FY07 at the Laboratory’s sole discretion. The Laboratory shall provide UPTE with thirty (30) days advance notice regarding whether the salary ranges will be increased, and if so, the amount of increase. Upon UPTE’s request, the Laboratory will schedule a meeting to discuss the union’s concerns relative to the basis for such decisions.

4. Disputes arising from Technical 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:
  - a. Employees who have received increases within the preceding six months.
  - b. Employees who have reached the maximum of their ranges.
  - c. Employees who are red-circled
5. 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 the 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.
6. The Laboratory will provide to UPTE information concerning the normal distribution method. Such information will include employee name and wage increase amount. In the same manner as in previous fiscal years, any undistributed amount of the above merit increases will then be distributed across the board to all employees who received a wage increase based on the above eligibility requirements.
7. The Laboratory will provide to UPTE information concerning the distribution of the promotion and reclassification allocation within sixty (60) days following the end of each fiscal year. Such information will include employee name and wage increase amount.
8. 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.

#### **I. LOCATION SPECIFIC SALARY AND RANGE ADJUSTMENTS**

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

#### **J. 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.

#### **K. REMOTE LOCATION / SEA PAY**

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

#### **L. INCENTIVE AWARD PROGRAM**

The University retains the right to continue, modify or abolish campus/hospital/laboratory incentive award programs. Incentive Award Programs, if any, for 2004-05, 2005-06, 2006-07, and 2007-08 for members of the bargaining unit may be implemented according to local procedures. Incentive 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.

M. 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.

## **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 for 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, salary decrease, disciplinary demotion, suspension without pay, or dismissal. A disciplinary salary decrease shall be limited to a maximum of 10% of an employee's salary and to a maximum length of thirty (30) calendar days. An oral reprimand is not considered discipline and is therefore not subject to Article 10, Grievance Procedure of this Agreement, although an oral reprimand may be used to demonstrate that an employee had knowledge of her/his actions which could subsequently lead to discipline. At least one (1) written warning shall precede any discipline other than a written warning, except as noted in Section B.2., below.

2. Performance or conduct that an employee knew or reasonably should have known would result in suspension, disciplinary demotion, salary decrease or dismissal do not require a written warning prior to the initiation of such discipline. Such performance or conduct includes but is not limited to dishonesty, theft, misappropriation of University property, fighting on the job, making verbal or physical threats, acts or conduct which could endanger themselves or others, insubordination, 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 her/him from the premises.

2. The investigatory leave must be confirmed in writing to the employee normally not later than three (3) working days after the leave is effective. The confirmation must include the reasons for and the expected duration of the leave.

3. On conclusion of the investigation, the employee 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.

#### **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

such address. Whether delivery is made in person or by mail, the notice of intent shall be accompanied by Proof of Service specifying 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 statement of the charge(s) and a copy of the material(s) upon which the disciplinary action is based, and;
- c. inform the employee that s/he has a right to respond either orally or in writing, to whom to respond, and that response must be received within ten (10) work days from the date of issuance of the notice of intent in accordance with Section E. below.

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**

##### **1. Employee Responsibilities**

a. The employee shall be entitled to respond, orally or in writing, to the notice of intent described above. Such response must be received within ten (10) work 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) work days shall not be unreasonably denied. If the employee chooses to respond orally, the employee may request and, if such request is made, have present a representative, provided the representative is not a University employee who has been designated as supervisory, managerial, or confidential.

##### **2. 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.

b. Such action may not include discipline more severe than that described in the notice of intent; however, the University may reduce such discipline without the issuance of a further notice of intent.

c. 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) calendar day following the issuance of the notice of intent, the action may be implemented on the eleventh (11th) calendar day following the issuance of the notice of intent.

#### **F. PERSONNEL RECORDS**

Maintenance of disciplinary records shall be in accordance with the provisions of Article 30, Personnel Files.

### **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/laboratory. 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/lab/hospital 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. 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.

3. 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.

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

5. Time spent taking the American Association of Laboratory Animal Science (AALAS) certification exam for job-related reasons may be paid as part of the forty (40) hours of paid release time.

### **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**

Disputes arising from this Article may be appealed to the department head in writing within 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 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.

### **E. LAWRENCE BERKELEY NATIONAL LABORATORY**

See Appendix E.

## **ARTICLE 9**

### **DURATION OF AGREEMENT**

**A.** The terms and conditions of this Agreement shall remain in full force and effect commencing on October 1, 2004, and shall terminate at 11:59 p.m. on June 30, 2008, unless the University and UPTE agree to extend any or all of the terms and conditions.

**B.** If the funding is not allocated to the University as a general salary adjustment of 3.0% for 2006-07 and 4.0% for 2007-08, respectively, pursuant to the State Budget Act as finally adopted; and/or if the University does not increase the individual rates on or before October 1, 2006 and October 1, 2007, respectively, Article 6 – Compensation, Sections C and/or D shall be subject to reopener bargaining. UPTE shall serve written notice of its intent to reopen Article 6 – Compensation, Sections C and D no later than November 1, 2006 and/or November 1, 2007, respectively, whichever is applicable.

**C.** In order to facilitate the negotiations of a successor to this Agreement or this Agreement as amended, UPTE shall present its written proposals for a successor Agreement to the University no later than January 1, 2008. The University shall, no later than February 1, 2008 serve upon the President - UPTE-CWA its written proposals for a successor Agreement. Negotiations shall commence on or about March 1, 2008, unless otherwise mutually agreed to by the parties.

**D.** Unless mutually agreed otherwise, up to nine (9) UPTE representatives (no more

than one 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 this Section.

E. 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 January 1, 2008, UPTE will be deemed to have waived its right to meet and confer over the Compensation Article for the 2008-09 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/laboratory Labor Relations office at the campus 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 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. Additionally, a grievance may be filed by facsimile if a signed hard copy is 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.

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 her/his 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 Step 1 filing of a grievance, the time limits as specified in this article may be extended by mutual agreement of the parties. Extensions must be 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 in writing and must be signed by the 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 or hand delivery, and received by the Labor Relations Office at the campus/hospital/laboratory which employs the grievant(s) within 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 Harassment Complaint Resolution Procedures:**

1) An employee alleging sexual harassment may elect to substitute a campus/hospital/laboratory Sexual Harassment Complaint Resolution Procedure for Step 1 of the Grievance Procedure. An employee who elects to use the 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 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) Grievances that allege a violation involving sexual harassment may, at the grievant's option, enter the grievance procedure at Step 2.

3) If no report issues from the sexual harassment process or the employee elects to use the 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 the abeyance will be subject to new deadlines pursuant to this Section.

**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 fifteen (15) calendar days of the date the University's Step 2 written answer was issued or, if no University answer was issued, within fifteen (15) calendar days of the date the University's answer was due.

b. 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.

c. 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.

d. 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 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 or hand delivered 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**

### **1. University-Convened Meetings**

a. 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 UPTEdesignated 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:

1) such meeting occurs during the regularly scheduled hours of work of the grievant(s), UPTEdesignated employee representative, and/or witness(es); and

2) advance request is made and approval is received from the supervisor of the grievant(s), the witness(es), and/or the UPTEdesignated employee representative. Approval to attend shall be made on an operational needs basis and shall not be unreasonably denied.

b. 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 UPTEdesignated 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.

c. The University is not responsible for any travel or lodging expenses or any other expenses incurred by the representative, grievant or union witnesses.

d. Paid release time for UPTEdesignated 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 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. GENERAL CONDITIONS**

1. 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/laboratory health and safety policies and procedures.
2. Within the first month of employment on a job, employees 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, will receive information and training pertaining to the health and safety protocols in her/his 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 responsible for the assessment of

imminent risk to life and health, the University shall provide training and information to the employee prior to the employee assuming such duties.

3. In the event an employee believes s/he is performing a hazardous job with insufficient training, s/he shall immediately inform the department Health and Safety Officer, if any. After such consultation, if any, the employee may contact the Environmental Health and Safety Department 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/laboratory health and safety concerns may be raised in the labor/management meetings defined in Article 15, Labor-Management Meetings. When the union identifies Health & Safety as an agenda item, a Health & Safety professional will attend the Labor/Management meeting.

5. 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.

## **B. ASSIGNMENT**

1. 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.

2. An employee shall not be assigned to any abnormally dangerous or hazardous task at the employee's place of employment.

3. In the event an employee regards an assigned task as abnormally hazardous or dangerous, s/he shall notify her/his immediate supervisor of her/his claim. The employee shall identify the components of the assignment that are objectively identifiable as abnormally hazardous or dangerous.

a. In attempting to resolve the employee's claim, the supervisor, at her/his 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 the assignment changes specified in Section B.3.a, above, s/he shall have the employee's claim assessed by a health and safety professional person responsible, in accordance with campus/hospital/laboratory 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/ Laboratory 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.

4. If the employee refuses to perform tasks assigned in accordance with Section B.3.a and b, above, s/he may be subject to discipline.

### **C. INFORMATION AND TESTS**

1. The University, upon contracting to purchase any chemical or substance containing hazardous material, will obtain the material safety data sheet (MSDS) from the vendor, unless the latest version of the MSDS is already on hand and available. These sheets relative to chemicals and substances used at the work area of an employee shall be made available to the employee or UPTe on request. Such information shall be maintained in the workplace by the University.
2. When a MSDS 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 make reasonable efforts to insure that employees who come in contact with hazardous substances (within the current definitions under applicable law) are provided 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 data shall be readily available and provided to the union or employee within a reasonable time 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.

### **D. PROTECTIVE CLOTHING AND SAFETY EQUIPMENT**

#### **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 review the need to provide safety equipment.

#### **2. Purchase and Replacement**

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 lost or damaged due to employee negligence shall be replaced at the employee's expense. 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.

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.

If an employee believes that a refusal to provide safety equipment or clothing

would result in an abnormally hazardous or dangerous task as defined in and in violation of Article 11, Section B, Health and Safety, the employee may pursue the alleged violation in accordance with Article 11, Sections B, F and G.

### **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 costs 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 the reasonable costs of replacing worn-out shoes, are at the sole non-grievable, non-arbitrable discretion of the University.

### **E. TOOLS AND EQUIPMENT**

1. The University shall furnish and make reasonable attempts 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. DISPUTES**

1. Only disputes regarding the assignment of any abnormally hazardous or dangerous tasks are subject to Article 3, Arbitration Procedure, of this Agreement.
2. 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.

### **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.
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. 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 quadriweekly cycle.
4. 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 8 hours on the day on which the holiday is observed shall be allowed to make up the difference between the 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 will endeavor to 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**

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). The Laboratory 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 leavewithout-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 Monday morning (12:01 a.m.) to midnight the following Sunday. 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/laboratory 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 UPTA 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/laboratory, 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 oncall

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 oncall 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/laboratory. 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.

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.

#### **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. LAWRENCE BERKELEY NATIONAL LABORATORY**

Policies, procedures, definitions, qualifications, calculations, covered hours and rates in effect at PERB's certification of UPTE-CWA Local 9119, on December 1, 1994, shall remain in effect for employees at the Lawrence Berkeley National Laboratory and shall supersede the provisions of this Article where in conflict with the Agreement.

The Side Agreement reached between the Lawrence Berkeley National Laboratory and UPTE, dated June 20, 1997, regarding changes in work shifts and changes in shift assignments shall apply to the Laboratory, including the Human Genome Center project.

#### **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 labormanagement

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; and
- h. 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/laboratory/hospital where applicable.

#### **D. INDEFINITE LAYOFF**

The University shall effectuate indefinite layoffs as follows.

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

a. 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. 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.

d. 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.

e. 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:

1) 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/Laboratory 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/laboratory 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/laboratory, 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/laboratory 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 July 1, 2003 through the Duration of the Agreement, but in any case, no later than June 30, 2008.

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 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 20 work days, based on 8-hour days, reduced severance.

c) Employees with 13 or more years of service receive eight (8) weeks or 40 work days, based on 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**

See Appendix F and Side Letter LBNL Severance Pay re: Layoff and Reduction in Time (Article 16).

**G.** In the event an alleged violation of this Article with regard to notice is grieved/arbitrated, any remedy, settlement 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. In no case shall such amount be calculated for a period of greater than sixty (60) calendar days.

### **ARTICLE 17**

#### **LEAVES FOR UNION BUSINESS**

##### **A. GENERAL PROVISIONS**

##### **1. Employee Eligibility for Leave**

For each campus/hospital/lab with more than 500 bargaining unit employees the University shall grant no more than two FTE (522 days) paid reimbursed leave or reduction in time for union business per calendar year without loss of compensation. For each campus/hospital/lab with less than or equal to 500 bargaining unit employees the University shall grant no more than one FTE (261 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. 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 all costs of employee compensation, including but not limited to, salary plus all benefits paid to the employee for the time the employee is on leave without loss of compensation (36%). 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.

#### **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 1 per department UPTE-represented non-probationary career employee per campus/hospital and laboratory 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 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**

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 1 per department non-probationary career employee, 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 shortterm leave shall not be unreasonably denied.

#### **6. 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. Requests for reduction in time will not be unreasonably denied.

#### **7. 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, 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.

##### **1. Definitions**

a. Non-medical leaves of absence, with or without pay, include: Family Care Leave, leave for jury duty, voting, blood donations, administrative or legal proceedings, emergencies, and University functions.

b. Medical Leaves with or without pay, include Pregnancy Disability Leave, Family Care/Medical Leave, 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.

##### **2. Use Of Family Care And Medical Leave Entitlement**

a. If an employee eligible for a Family Care/Medical Leave takes a leave for her/his own serious health condition, (as defined in Section B.1.d below), the absence from work shall be deducted from the employee's Family Care/Medical Leave entitlement.

b. If an employee is ineligible for Family Care/Medical Leave or if the employee has exhausted her/his calendar year entitlement, 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 Family Care/Medical Leaves – An eligible employee shall have University-provided health benefits continued for the period of the Family Care/Medical Leave in accordance with Section B.9 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. An eligible employee on approved leave without pay may elect to continue University-sponsored insurance coverages (as determined by plan documents 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.

##### **4. Requests For Leave**

Except as provided under Section B.3, Family Care/Medical Leave Notification, 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. Except as provided under Section B.3.b, Family Care/Medical Leave, written confirmation shall be provided when the University determines such confirmation is appropriate.

b. Except as provided for under Pregnancy Disability, Section C.1.a.2, the aggregate maximum of leaves taken in any combination shall not exceed six (6) months in any one (1) year period.

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 Care/Medical Leave, 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 on pay status 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.5 and Section D.3, 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 CARE AND MEDICAL LEAVE**

Family Care Leave includes Parental Leave and Family Illness Leave. Medical Leave is provided for the employee's own serious health condition.

#### **1. Definitions**

a. **Parental Leave** is leave to care for the employee's newborn or a child who has been placed with the employee for adoption, stepchild, legal ward or foster care.

b. **Family Illness Leave** is leave to care for the employee's child, parent, spouse or same or opposite sex domestic partner with a serious health condition.

c. **A Family Member** for the purposes of family care leave is the employee's biological, adopted, or foster child, stepchild or legal ward who is under

eighteen (18) years, a child for whom the employee stands in loco parentis, or an adult dependent child; a biological, foster, or adoptive parent, stepparent or legal guardian, an individual who stood in loco parentis while the employee was a child; spouse; or same or opposite sex domestic partner.

**d. A Serious Health Condition For The Purposes Of Family Illness Leave** is an illness, injury, impairment, or physical or mental condition which warrants the participation of the employee to provide supervision or care during a period of treatment or incapacity including psychological comfort.

**e. Medical Leave** is leave granted for the employee's own serious health condition which makes the employee unable to perform any one or all of the essential assigned functions of the employee's position. An employee disabled because of pregnancy-related conditions is covered under Section C. - Pregnancy Disability, below.

**f. An Employee's Own Serious Health Condition** is an illness, injury, impairment, or physical or mental condition, that renders the employee unable to perform any one or all of the essential functions of the employee's position and involves the following:

- 1) inpatient care in a hospital, hospice, or residential medical care facility, or
- 2) continuing treatment by a health care provider for:
  - a) a period of incapacity of more than three (3) consecutive calendar days, or
  - b) any period of incapacity or treatment due to a chronic serious health condition, or
  - c) any period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective.

**g. A Health Care Provider** is an individual who is licensed in California or is duly licensed in another State or jurisdiction, to hold either a physician's and surgeon's certificate or an osteopathic physician's and surgeon's certificate, or who is duly licensed as 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), nurse practitioner or nurse mid-wife performing within the scope of her/his duties, or Christian Science practitioner or any health care provider that the employee's health plan carrier recognizes for purposes of payment.

**h. "1,250 Hours Of Actual Service"** means time actually spent at work and does not include any paid time off including but not limited to an employee's use of accrued vacation, compensatory time, or sick leave, nor does it include time paid for holidays not worked or time spent in unrestricted on-call status (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).

## **2. Eligibility Criteria And Duration**

a. Employees who have at least twelve (12) cumulative months of University service, and have at least 1,250 hours of actual service during the twelve (12) month period immediately preceding the commencement of the leave, are eligible for and shall be granted up to a total of twelve (12) workweeks of Family Care/Medical Leave in the calendar year. For the purposes of

this Article and Section, only, all prior University service, including service with the Department of Energy Laboratories, shall be used to calculate the twelve (12) month service requirement.

b. **Family Care/Medical Leave** is unpaid leave, except as otherwise provided in this Article.

1) An employee's use of her/his accrued Compensatory Time Off cannot be deducted from the twelve (12) workweek Family Care/Medical Leave maximum, and shall not be granted. All other time off used for family care and/or medical leave purposes, including Work Incurred Injury and Illness leave, shall be deducted from the twelve (12) workweek Family Care/Medical Leave maximum.

2) Family Care/Medical Leave shall not exceed twelve (12) workweeks in any calendar year.

c. If the employee has exhausted her/his entitlement to Family Care/Medical Leave, s/he may apply for additional leave pursuant to this Article.

### **3. Notification**

a. If the employee learns of the event giving rise to the need for leave 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 family care and/or medical leave delayed until thirty (30) days after the date on which the employee provides notice.

1) If the need for leave is foreseeable due to a planned medical treatment or the supervision of a family member's medical treatment, the employee shall make reasonable efforts to schedule the treatment so as to not unduly disrupt the University's operations.

2) 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, within five (5) calendar days after learning of the need for leave.

b. The University shall determine whether the employee meets the eligibility requirements and therefore qualifies for a Family Care/Medical Leave and shall, as soon as practicable, notify the employee whether the leave is designated or provisionally designated as Family Care/Medical 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.

c. Extensions to the Family Care/Medical Leave, up to the aggregate maximum of twelve (12) weeks in a calendar year, may be granted in accordance with Section B.4.e. of this Article.

### **4. Certification**

#### **a. For the Employee's Own Serious Health Condition**

When a leave of absence 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:

- 1) certification that the employee has a serious health condition as defined in Section B.1.f., above, and
- 2) a statement as to whether the employee is unable to perform any one or more of the essential assigned functions of the position including a statement of the function(s) the employee is unable to perform, and
- 3) 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
- 4) whether it will be necessary for the employee to take leave intermittently or to work on a reduced work schedule, and if so, the probable duration of such schedule, and,
- 5) if the condition is chronic and the employee is presently incapacitated, the duration and frequency of episodes of incapacity.

**b. For the Employee's Family Member**

When a leave of absence is requested for the serious health condition of the employee's family member, 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:

- 1) certification that the employee's family member has a serious health condition as defined in Section B.1.d., above, and
- 2) a statement that the family member's serious health condition warrants the participation of the employee to provide supervision or care during a period of the treatment or incapacity or psychological comfort, and
- 3) whether the employee's family member will need care intermittently or on a reduced work schedule and the probable duration that the employee is needed to provide care.
- 4) In addition, the employee will be required to certify either on the form or separately the care s/he will provide the family member and the estimated duration of the period of care.

**c. Confirmation of Family Relationship**

The University may, at its sole non-grievable discretion, require an employee requesting leave to care for a family member with a serious health condition or requesting Parental leave, to provide documentation of the familial relationship or proof of birth, placement for adoption or in foster care. The employee's failure to provide documentation within fifteen (15) calendar days of the University's request may, at the sole non-grievable discretion of the University, result in either

- 1) a delay of the leave until the required documentation is provided or
- 2) if the leave has not begun, it will be denied. If the leave has begun, the leave will not be designated as Family and Medical Care Leave and may be discontinued by the University.

**d. Questioned Medical Opinions**

Should the University question the validity of the employee's certification for her/his own serious health condition the University may, at its sole nongrievable discretion, require the employee to 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 nongrievable discretion, require a third medical opinion from a third health care provider, jointly agreed to 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.

**e. Additional Certification and/or Recertification**

If additional leave is requested or should the circumstances of the leave change, the University may, at its sole non-grievable discretion, require the employee to obtain recertification. Such requests for subsequent certification and/or recertification may be either verbal or in writing.

1) 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.

2) Failure to provide certification and/or recertification for a foreseeable leave within the requested time may result in delay of the leave until the required certification is received. Failure to provide certification for an unforeseeable 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, the leave is not Family Care/Medical Leave and will be denied as family care leave, in accordance with the provisions of Section B.4.c.2.

**f. Failure to Provide Complete Certification and/or Recertification**

If the employee fails to provide a completed certification and/or recertification, the employee shall be given fifteen (15) calendar days to perfect the certification and/or recertification. Failure to perfect an incomplete 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 certification and/or recertification, the leave is not Family Care/Medical Leave will be denied in accordance with the provisions of Section B.4.c.2.).

**5. Return From Family Care/Medical Leave For Own Health Condition**

a. The employee shall provide at least ten (10) days notice to her/his employing department of her/his anticipated return to work.

b. An employee who has been granted a Family Care/Medical Leave for her/his own serious health condition, must provide a written medical release to return to work prior to returning to work.

c. The employee who has been medically released to perform the essential assigned functions of her/his job, shall be returned in accordance with the provisions of Section B.10.

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.

**6. Use Of Accrued Paid Leave**

Family Care/Medical Leave is unpaid, except for the use of sick leave and/or the

use of accrued vacation, as provided in this Article:

a. An employee on leave for her/his own serious health condition:

1) shall use accrued sick leave in accordance with the University's disability plan requirements; or

2) 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 prior to taking leave without pay; or

3) if on leave due to a work-incurred injury or illness, may use accrued sick leave as provided in 45 - Work Incurred Injury or Illness.

b. An employee on leave for her/his own serious health condition shall use accrued vacation time prior to taking leave without pay, if all accrued sick leave has been exhausted.

c. An employee on Family Care Leave for Family Illness may use sick leave in accordance with Article 39 - Sick Leave, Section B.3., and shall use accrued vacation time prior to taking leave without pay.

#### **7. Duration**

For the purposes of Family Care/Medical Leave, only, 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 Family Care/Medical Leave need not be consecutive, in no event shall an employee's aggregate use of Family Care/Medical Leave exceed a total of twelve (12) workweeks within a calendar year.

#### **a. 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 Family Care/Medical Leave hours to 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 Family Care/Medical Leave based on her/his hours worked over the previous twelve (12) weeks preceding the leave.

#### **b. Employee Requests for Reduced Work Schedules**

When medically necessary and supported by medical certification, the University shall grant an eligible employee's request for a reduced work schedule or intermittent leave 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 towards the employee's entitlement of four-hundred eighty (480) hours in a calendar year.

#### **c. Alternate Assignments to Accommodate Intermittent Leave or Reduced Work Schedule**

When the employee requests an intermittent leave or a reduced work schedule, 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 period of leave. Such transfer shall have equivalent pay and terms and conditions of employment, but does not need to have equivalent duties.

#### **8. Parental Leave**

Parental Leave is a form of Family Care/Medical Leave to care for the employee's newborn or a child placed with the employee for adoption, stepchild, legal ward or

foster care. Such leave must be initiated and concluded within one (1) year of the birth or placement of the child. The University shall grant a Parental Leave subject to the limitations described below. If requested and taken immediately following a Pregnancy Disability Leave, an employee eligible for FMLA/CFRA at the beginning of her Pregnancy Disability leave shall be granted the unused portion of CFRA/FMLA leave for Parental Leave purposes, up to a maximum of twelve (12) workweeks. The amount available for use is determined by the amount which the employee has previously used under CFRA/FMLA in the calendar year.

**a. Requests for Parental Leave**

The employee shall request Parental Leave sufficiently in advance of the expected birth date of the child or placement of a child for adoption or foster care to allow the University to plan for the absence of the employee. The anticipated date of return from Parental Leave shall be set at the time such leave commences, or if requested in conjunction with a Family Care/Medical Leave on account of the pregnancy/childbearing disability, shall be set at the time such Family Care/Medical Leave commences. Parental Leave, when taken for adoption, stepchild, legal ward or foster care, could commence prior to the date of placement.

**b. Duration**

Parental Leave, alone, shall not exceed twelve (12) workweeks within a calendar year as defined in Section B.2.b.2. and B.7., above. However, when Parental Leave is combined with a leave for pregnancy-related and/or childbearing disability only, the total Family Care/Parental Leave shall not exceed seven (7) months in a calendar year.

1) An employee on Parental Leave shall use accrued vacation time prior to taking leave without pay.

2) The University shall grant a Parental Leave of at least two (2) weeks duration on any two (2) occasions during a calendar year.

3) 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.

**9. Continuation Of Health Benefits**

An eligible employee who is on an approved Family Care and/or Medical Leave shall be entitled to continue participation in health plan coverage (medical, dental, and vision) as if s/he were on pay status for a period of up to twelve (12) workweeks in a calendar year. However, an employee on an approved Pregnancy Disability Leave who is dually eligible for leave under the federal Family and Medical Leave Act and the California Family Rights Act, shall be entitled for up to twelve (12) workweeks of health plan coverage for the combined Pregnancy Disability Leave/Parental Leave which runs concurrently with FMLA and/or CFRA. Other group insurance coverage and retirement benefits shall be continued in accordance with the provisions of the applicable group insurance and retirement system regulations.

**10. Return To Work**

When an employee has been granted an approved Family Care/Medical Leave of Absence and returns within twelve (12) workweeks of the initiation of the leave, s/he shall be reinstated to the same or an equivalent position upon expiration of the leave. 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 on pay

status 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. An employee who has been granted a Family Care/Medical Leave for her/his own health condition, may be required by the University to provide a written medical release to return to work prior to her/his return to work.

### **C. PREGNANCY DISABILITY LEAVE**

#### **1. Duration**

During the period of verified pregnancy-related and/or childbearing disability, an employee is entitled to and the University shall grant up to four (4) months of Pregnancy Disability Leave for pregnancy/childbearing disability purposes.

##### **a. Duration**

If the employee is eligible for Family Care/Medical Leave, pursuant to Section B, above, such leave shall be deducted from an employee's federal Family and Medical Leave entitlement.

1) If the pregnancy-related/childbearing medical disability continues beyond four (4) months, a medical disability leave of absence may be granted in accordance with Section D., below, for a total medical absence not to exceed six (6) months.

2) Additionally, the employee may be eligible for Parental Leave, pursuant to Section B.8., above, to care for her newborn child. The total Family Care Leave, when combined with a Pregnancy Disability Leave, shall not exceed seven (7) months in a calendar year.

**b. 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.

**c. Additional Family Care Leave in a Calendar Year.** Upon termination of the Pregnancy Disability Leave, which runs concurrently with federal Family Care/Medical Leave, an eligible employee shall also be entitled to the unused portion of CFRA/FMLA leave up to a maximum of twelve (12) workweeks for any covered reason except leave for a pregnancy-related medical condition. The amount available for use is determined by the amount which the employee has previously used under FMLA/CFRA in the calendar year.

**2. As An Alternative To Or In Addition To Pregnancy Disability Leave,** the University shall temporarily transfer a pregnant employee to a less strenuous or hazardous position upon the request of the employee and with the advice of 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 on a reduced work schedule or an intermittent leave schedule.

#### **3. Reduced Work Schedule**

When medically necessary, and supported by medical certification, the University shall grant an employee Pregnancy Disability Leave on a reduced work schedule

or on an intermittent basis including absences of less than one (1) day. Only the time actually spent on the intermittent or reduced leave schedule shall be counted towards the employee's entitlement of four (4) months in any twelve (12) month period.

#### **4. Return To Work**

An employee who has been granted a temporary transfer and/or 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 similar job. If a similar position is not available, the employee shall be afforded the same considerations which would have been afforded had that employee been on pay status when the position was abolished or affected by layoff. The date of reinstatement is determined when the leave is granted.

#### **5. Continuation Of Health Benefits**

An employee on Pregnancy Disability Leave who is also eligible for leave under the federal Family and Medical Leave Act and the State of California Family Rights Act, shall be entitled, if eligible, to continue participation in health plan coverage (medical, dental, and vision) as if on pay status for up to twelve (12) workweeks in the calendar year. Other group insurance coverage and retirement benefits shall be continued in accordance with the provisions of the applicable group insurance and retirement system regulations.

#### **D. DISABILITY LEAVES OTHER THAN FMLA/CFRA/PREGNANCY DISABILITY ENTITLEMENT**

A disability leave of absence is the period(s) 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 Family Care/Medical Leave entitlement in a calendar year, or s/he is not otherwise eligible for Family Care/Medical Leave, or the employee has exhausted her four (4) month entitlement under Pregnancy Disability Leave, 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 not to exceed six (6) months.

b. An employee granted a disability leave who is also applying for University disability for non-work related disability purposes shall use all accrued sick leave in accordance with the University's disability plan prior to taking leave without pay.

c. In the event that the employee's accrued sick leave is greater than six (6)

months, a disability leave of absence without pay in addition to the use of all accrued sick leave, shall not be granted.

d. If an extension to a disability leave of absence within the total six (6) month period is not granted, an employee will be medically separated in accordance with Article 20 - Medical Separation of this Agreement.

e. 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.

### **E. PERSONAL LEAVE 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. 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.

### **F. 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 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 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 which 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 which 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.

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

Sick Leave, Section G.

### **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. 2. 3. 4. 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.

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.

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.

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. 2. 1. 2.

inform the employee of the action intended, the reason for the action and the effective date of the action;

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**

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.

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.

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

### **General Provisions**

1. 2. 3. 4. 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 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).

### **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.

### **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.

### **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.

## **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.

3. Sick leave credit shall be retained on the records.

##### **4. 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**

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.

1. 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.
2. The University may require verification of an employee's military orders to report for a physical examination.

## **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.

#### **C. LAWRENCE BERKELEY NATIONAL LABORATORY**

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, sexual orientation, gender identity, physical or mental disability, medical condition, cancer-related or genetic characteristics, 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), age, citizenship, union activity or affiliation. For the purposes of this Article only, medical condition means any health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured based on competent medical evidence.

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 HARASSMENT COMPLAINT RESOLUTION PROCEDURE**

With regard to grievances alleging sexual harassment, an employee who has timely filed a grievance may elect to substitute the campus/hospital/Laboratory Sexual Harassment Complaint Resolution procedure for Step 1 of the Grievance Procedure. Use of the Sexual Harassment Complaint Resolution procedure shall toll the time limits for Step 1 of the Grievance Procedure only if a grievance has been timely filed, pursuant to Article 10, Grievance Procedure, Section F.1.a. At any time, an employee may elect to resume the regular grievance procedure in place of the alternate procedure by written notice to the University. The University's Step 1 Grievance response will be issued within fifteen (15) calendar days after such notice to return to Step 1 of the Grievance Procedure is received by the designated campus/hospital/Laboratory official.

## **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 20 consecutive working days or more shall be paid as follows:

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

**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/Laboratory 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. In addition, one (1) UPTe representative for northern California and one (1) for southern California shall be designated as the systemwide parking advisers to local parking discussions and will be released in without-loss-of-straight-time status to attend two (2) local meetings per year per location with reasonable travel time.

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

1. At least forty-five (45) calendar days prior to a campus', hospital's or Laboratory's implementation of new or changed parking fees to be charged to employees of this unit, the University shall inform UPTe of its intent to establish or change parking charges.

2. UPTe shall have fifteen (15) calendar days from receipt of the University's notice to request that the University meet with UPTe to discuss the changes.

3. Upon receipt of a timely written request from UPTe, the campus/hospital/Laboratory shall schedule a meeting to discuss with UPTe the new or changed parking charges. Such meeting shall occur within fifteen (15) calendar days following UPTe's request to meet. Continuation of discussions beyond the implementation date specified in the notice to UPTe shall not preclude the University from implementing the new charges on the date specified in the notice to UPTe.

#### **D. GRIEVANCES**

UPTe may grieve the implementation of the parking fee without forty-five (45) calendar days' notice, with the remedy being limited to the reimbursement to affected employees covered by this Agreement of the difference between the new fee and the old fee for the number of days the notice provided was less than forty-five (45) calendar days.

Otherwise, the establishment and implementation of new or changed parking services or charges are at the sole, non-grievable, non-arbitrable discretion of the University.

#### **E. 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 DEDUCTION**

##### **A. GENERAL CONDITIONS**

1. UPTE-CWA shall establish the monthly amount it requires for union members' dues and initiation fees, and the amount required of unit members for agency fees. UPTE shall certify to the University in writing the monthly union dues and agency fee amounts, and the amount of members' initiation fees. The amount of the agency fee shall not exceed the monthly dues that are payable by members of UPTE. The University agrees to deduct from the pay of represented employees the amount of agency fees and dues UPTE has certified in writing.
2. UPTE may change the amounts to be deducted from unit employees' pay once per calendar year. Any annual changes in the amounts to be deducted for UPTE dues or agency fees shall be certified to the University, in writing, at least fortyfive (45) calendar days prior to the effective date of such change. All actual costs associated with changing the dues/agency fee amount (machine, programming, etc.) shall be paid by UPTE, following discussion with UPTE.
3. Dues/agency fee deductions shall be monthly, or, where applicable, more frequently, in accordance with University payroll procedures in place at the time the deduction is made, unless there are insufficient net earnings in that period to cover said deduction.

##### **B. DUES AND FEES**

The payment of fair share fees and union dues through payroll deduction will continue even if the collective bargaining agreement expires.

###### **1. Union Dues**

- a. The University will deduct from the pay of union members who have submitted a written individual authorization for the deduction of union dues, the monthly amount certified by the Union to be the dues required for the employee's membership in the Union. The employee's authorization must be provided on a form agreed upon by the parties.
- b. Dues deductions shall be effective following the University's receipt of the authorization form and completion of the appropriate programming and/or payroll changes.
- c. An employee may at any time cancel her/his authorization for payroll dues

deduction by presenting her or his written request for termination and cancellation to the designated University office. The University will send a copy of the written request for cancellation of dues deduction to UPTE.

## **2. Agency Fees**

a. Employees who do not pay union dues shall pay agency fees as a condition of employment. The amount of the fee shall be deducted by the University from the wages or salary of the employee and paid to UPTE.

b. Employees who are conscientious objectors to the payment of agency fees must apply for objector status with UPTE.

1) UPTE shall determine the validity of the employee's status as a conscientious objector.

2) If UPTE agrees to the objector status of the employee it shall provide monthly to the University proof of payments made to Charitable Organizations.

## **C. PROCESSING PAYROLL DEDUCTIONS FOR DUES AND FEES**

1. For each dues/fee deduction check submitted to UPTE, each campus/lab/hospital shall deduct from the total dues amount remitted, an administrative fee of \$.07 per employee for who dues deductions are being made in addition to \$10.00 for each check remitted. These costs will continue to be charged to UPTE on an ongoing basis.

2. Each campus/lab/hospital shall remit to UPTE, in the form of a check to an address designated by UPTE, an amount representing the dues/fees deductions less any reduction(s) referenced in Section C.1. above. Accompanying the check shall be a standard electronic and printed deduction report, which shall contain by campus/lab/hospital, by local number, an alphabetical listing of the UPTE unit members for who payroll deductions were made. The report shall include the employee identification number, employee name, bargaining unit code, campus code, employee within unit salary, and amount withheld. Any costs associated with changing the deduction report referenced above shall be fully paid by UPTE. The report shall be provided electronically via the FTP site.

## **D. CORRECTION OF ERRORS**

1. If the University fails to make appropriate authorized payroll dues or fee deductions, or any part thereof, the University shall correct the deduction amounts within 30 days of notice from the Union.

2. If the University's error resulted in deductions less than the correct amount, the University shall make the additional required deductions to make up the difference between the actual and correct amounts in accordance with current payroll policy regarding additional deductions. However, additional deductions shall not exceed two times the normal dues amount in any given pay period.

3. 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.

## **E. OTHER DEDUCTIONS**

Payroll deductions shall be made for UPTE-sponsored programs pursuant to the provisions of the University's Accounting Manual requirements. For insured benefit programs the section of the Accounting Manual entitled "Special Regulations for Non-University Insured Benefit Program" applies. For other than insured benefit programs the section of the Accounting Manual entitled "Employee Organizations" applies.

## **F. INDEMNIFICATION**

It is specifically agreed that the University assumes no obligation other than that specified

in Section A., above, or liability, financial or otherwise, arising out of the provisions of this

Article. UPTE shall inform the University when the amount of the monthly dues changes. Such notice should be sent in time to provide for appropriate programming. Further, UPTE hereby agrees that it will reimburse the University for any cost and indemnify and hold the University harmless from any claims, actions, or proceedings by any person or entity, arising from deductions made by the University pursuant to this Article.

## **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/Laboratory 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 nonprobationary 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 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. 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 C.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 period, unless required by law. If there have been no other disciplinary actions of the same or similar kind for a two-year period, materials which would be removed upon an employee's request which are more than two 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 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 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 12 months, without a break in service of at least 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/laboratory/hospital. 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 1000 hours of qualifying service.

c. Any break in service of 120 days or longer shall result in a new 12-month period for purposes of calculating the 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 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 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.

### **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. Lumpsum 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 payover-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.

### **E. LAWRENCE BERKELEY NATIONAL LABORATORY**

The definitions of career, limited, term and rehired retiree appointments that are currently in effect at the Laboratory shall remain in effect.

#### **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 1,000 hours, exclusive of overtime and on-call hours, within a twelve-month (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 50% time or 1000 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.

### **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 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**

1. The University provides reasonable accommodation to otherwise qualified employees who become disabled and need assistance to perform the essential functions of their positions.
2. After receipt of medical documentation from a qualified employee with a disability, and after consultation with the employee, the University will determine what assistance will be offered to the employee. This assistance shall include information about vocational rehabilitation services. The findings in the medical documentation provided by the employee may be subject to confirmation by a University-appointed physician. The University shall pay the cost of a University appointed physician.

## **B. 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.

## **C. 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 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.** 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 eleven (11) bargaining team members from the bargaining unit. 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.

Designated team members who are members of the bargaining unit may be released from their work assignments without loss of straight-time pay to attend scheduled bargaining sessions. 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.** No more than a total of nine (9) bargaining unit employees shall be in without-loss-ofstraight-

time pay and benefits status for attendance at scheduled bargaining sessions for the unit including reasonable travel time to attend bargaining sessions. Without-loss-ofstraight-

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-ofstraight-

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. UPTE shall provide an attendance roster at the end of 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 34**

##### **RELEASE TIME FOR BARGAINING**

A. 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 eleven (11) bargaining team members from the bargaining unit. 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. Designated team members who are members of the bargaining unit may be released from their work assignments without loss of straight-time pay to attend scheduled bargaining sessions. 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. No more than a total of nine (9) bargaining unit employees 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. UPTe shall provide an attendance roster at the end of 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 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. Any complaints arising from this Article, Sections A and B above shall be grievable only through Step Two of the grievance process.

#### **ARTICLE 36**

##### **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**

Eligible employees 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. Shift differential rates by location are listed 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 pm and before 8:00 am.

###### **C. 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.

###### **D. 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.

###### **E. 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.

###### **F. 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 and UPTe must negotiate the shift differential rate to be assigned to that classification.

###### **G. LAWRENCE BERKELEY NATIONAL LABORATORY**

Policies, procedures, definitions, qualifications, calculations, covered hours and rates in

effect at PERB's certification of UPTe-CWA Local 9119, on December 1, 1994, relative to Shift Differential at the Lawrence Berkeley National Laboratory that are in conflict with the Agreement shall remain in effect for employees at the Laboratory. Shift Differential rates are listed in Appendix B.

**ARTICLE 39**

**SICK LEAVE**

**A. ACCUMULATION OF SICK LEAVE CREDIT**

1. After a campus/Laboratory/hospital 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. For campuses retaining 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 fulltime working hours of the month but less than full-time.
3. Until a campus/Laboratory/hospital implements the Factor Accrual System, current accrual practices will remain in place.

**SICK LEAVE CREDIT TABLE**

-----Number of Hours on Pay Status-----

Percent Hours

of Time of Sick

160-Hour\* 168-Hour\* 176-Hour\* 184-Hour\* on Pay Leave

Month Month Month Month Status 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 quadriweekly 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.

## **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 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/laboratory, 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 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/Laboratory 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 his 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/laboratory 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/laboratory 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/laboratory, 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 4% increase, provided that the new rate does not exceed the maximum of the new class.

4. In accordance with campus/hospital/laboratory 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 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 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.
- e. RX ONLY: Beginning July 1, 2006, employees in Staff Research Associate I titles shall be reviewed for reclassification if they are career appointees who have served two full years in the title with at least satisfactory performance. The review shall be conducted by the University in accordance with local classification procedures. The results will be provided to the department, the employee and to UPTe. Upon reclassification to Staff Research Associate II title, the employee will receive at least a 5% increase provided that the new rate does not exceed the maximum of the new class.

### **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**

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 47**

### **UNIFORMS**

#### **A. UNIFORMS**

##### **1. GENERAL PROVISIONS**

Uniforms are attire required by the University to be worn in the performance of assigned duties.

##### **2. PURCHASING AND REIMBURSEMENT**

- a. 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.
- b. 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.
- c. Where the University currently provides either requires 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 nongrievable, non-arbitrable discretion, either the uniform or the reimbursement for the uniform at the current rate.

### **3. LAUNDERING**

Where laundering of uniforms is currently provided by the University, such laundering shall continue while the requirement for uniforms continues.

## **ARTICLE 4**

### **UNIVERSITY BENEFITS**

#### **A. GENERAL CONDITIONS**

1. Eligible employees may participate in a number of benefits programs generally available to other eligible staff employees of the University. The University 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. The University may, at its option, alter its health and welfare programs and/or the retirement system plans (UCRS). Such alterations include, but are not limited to altering eligibility criteria, establishing new coverage, altering or deleting current coverage, altering employee and University rates of contribution, or changing the carrier for established plans or programs. 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/laboratory. The sole exceptions to the above shall be 1) any alterations proposed by the University which affect only bargaining unit employees, and 2) any alterations proposed by the University which reduce the UCRS retirement benefits of bargaining unit employees. In such cases, the University agrees to meet and confer with respect to the proposed change.

2. The University's maximum monthly rates of contribution for bargaining unit employees who are eligible for and elect to enroll in a health plan shall be the same as the contribution rates for such plans for other staff employees.

3. Costs that exceed current University contributions, and employee costs for plans to which the University does not contribute, are to be paid by bargaining unit members, normally through payroll deduction.

#### **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 A.3, above, when the employee is affected by the following conditions lasting up to 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 Leave 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 except that the regulations of the retirement systems determine the effects of such leave without pay on retirement benefits.

b. Except as provided in Section 3.c, below, an eligible employee on approved leave without pay may, in 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 Care and/or Medical Leave shall be entitled, if eligible, to continue participation in health benefit coverage (medical, dental, and vision) as if on pay status for a period of up to twelve (12) workweeks in any 12-month period. However, an employee who exhausts her entitlement to health benefit coverage while on an approved Pregnancy Disability Leave that runs concurrently with federal Family and Medical Leave, shall not be entitled to an additional 12 workweeks of health benefit coverage under the State Family Care and Medical Leave Act. Other group insurance coverage and retirement benefits shall be continued in accordance with the provisions of the applicable group insurance and retirement system regulations.

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

For informational purposes only, a brief outline of benefits in effect on the date the Agreement is signed is found in Appendix D. UPTe understands and agrees that the descriptions contained in Appendix D do not completely describe the coverage or eligibility requirements for each plan, the details of which have been independently communicated to UPTe.

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. The Joint Benefits Committee will review benefits plans prior to their finalization with benefits providers.

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 career employees, not more than one per campus/lab/hospital 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**

An employee who has retired within four months of the date of separation from University service and who is an annuitant of a retirement system to which the University contributes, and who meets the admission requirements of the University, is eligible for two-thirds 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.

1. For an employee on the quarter system, the reduced fee limit is nine units or three regular session University courses per quarter, whichever is greater.

2. For an employee on the semester system, the reduced fee limit is six units or two regular session University courses, whichever is greater.

## **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 PER HOUR APPROXIMATE MAXIMUM

QUALIFYING ON YEARLY ACCUMULATED

SERVICE PAY STATUS\* EARNING\*\* 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 fulltime 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 fulltime 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 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/laboratory'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 her/his job due to a workincurred 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.

2. Work-Incurred Injury or Illness Leave runs concurrently with Family 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 her/his 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 her/his work-incurred injury or illness leave, s/he shall provide the University with a statement from her/his 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 her/his 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 her/his ability to return to work. If a return to work specifies restrictions, the University will consider what accommodation, if any, will reasonably be made.

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 on pay status 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.

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.

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/laboratory 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.

**APPENDIX C GRIEVANCE FORM 99**

|   |   |
|---|---|
| <b>UPTE<br/>TECHNICAL<br/>UNIT<br/>GRIEVANCE<br/>FORM</b> | Allegations of a violation of the Technical Unit Agreement in effect between the University and UPTE must be filled 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 9, GRIEVANCE PROCEDURE OF THE TECHNICAL UNIT AGREEMENT.</b> |
|---|---|

|                        |   |
|------------------------|---|
| <i>GRIEVANT'S NAME</i> | 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<br>_ Career/Regular _ Probationary _ Full Time<br>_ Casual/Temporary _ Per Diem _ 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<br><input type="checkbox"/> GROUP (LIST ALL GRIEVANTS)<br><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<br>____/____/____ | DATE OF INFORMAL DISCUSSION WITH SUPERVISOR<br>____/____/____ | DATE OF INFORMAL RESPONSE<br>____/____/____ |
|--|---|---|

|                                |
|--------------------------------|
| ALLEGED VIOLATION OF AGREEMENT |
| REMEDY REQUESTED               |

|  |      |
|--|------|
| GRIEVANT'S AND/OR REPRESENTATIVE'S SIGNATURE | DATE |
|--|------|

### APPENDIX C GRIEVANCE FORM 100 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<br><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 SECOND 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<br><input type="checkbox"/> YES <input type="checkbox"/> NO |
|--|-----------------------------------|---------------------|---|

|                              |   |
|------------------------------|---|
| SIGNATURE OF STEP 3 REVIEWER | PRINTED NAME AND TITLE OF STEP 3 REVIEWER |
|------------------------------|---|

## ENUMERATION OF UNIVERSITY BENEFITS

### A. HEALTH BENEFITS

1. **Medical Program** – A variety of Health Maintenance Organizations (HMOs) and fee for- service plans are available to cover eligible employees and their eligible family members. Choice of plans may vary from location to location. Eligible parttime employees appointed and paid by the University to work a specified minimum appointment and average regular paid time may be covered by the CORE major medical plan. The plan is available to the employee and eligible family members.

2. **Dental Program** – Dental plans are available to eligible employees. Employees may cover themselves and their family members.

3. **Vision Program** – A vision plan is available to eligible employees. Employees may cover themselves and their eligible family members.

### B. UNIVERSITY OF CALIFORNIA RETIREMENT SYSTEM

1. **University of California Retirement Plan (UCRP)** – Eligible employees covered by this Agreement shall be covered by the University of California Retirement Plan (UCRP). The level of required contributions to UCRP is determined annually by the Plan actuary and the Regents.

a. **UCRP Tier Two Benefits** – The Tier Two membership classification of UCRP was closed on July 1, 1990 and is only available on a continuing basis to active UCRP members who previously elected Tier Two.

2. **Tax-Deferred 403(b) Plan** – Voluntary participation in the UCRS Tax-Deferred 403(b) Plan is available to all University employees except students who normally work less than twenty (20) hours per week. The Plan provides a mix of internally and externally managed investment options.

#### 3. **Defined Contribution Plan (DC Plan)**

a. **Pre-Tax Account** - All current member contributions to the University of California Retirement Plan (UCRP) are redirected to the Pretax Account. Although payroll reductions default to the Savings Fund, participants are offered a mix of internally and externally managed investment options. Redirection is subject to annual Regental review.

b. **Pre-Tax/Safe Harbor Account** - Employees who are not in a UC-sponsored defined benefit retirement plan make mandatory contributions of 7.5% of earnings up to the Social Security wage base to the Pretax Account in lieu of paying the Old Age, Survivors and Disability Insurance portion of Social Security taxes (Safe Harbor contributions). Although payroll reductions default to the Savings Fund, participants are offered a mix of internally and externally managed investment options.

c. **After Tax Account** – Voluntary participation in the After-Tax Account is available to all University employees except students who normally work less than twenty (20) hours per week. Payroll deductions may be invested in a mix of internally and externally managed investment options.

4. **457(b) Deferred Compensation Plan** – Voluntary participation in the UCRS 457(b) Plan is available, effective October 1, 2004, to all University employees except students who normally work less than twenty (20) hours per week. The Plan provides a mix of internally and externally managed investment options.

### C. LIFE INSURANCE

1. **University-Paid** – Two University-Paid life insurance plans—Basic Life and Core Life—provide basic life insurance coverage. The amount varies, depending on your appointment rate and average regular paid time. Eligible employees are automatically covered by the plan for which they qualify.

2. **Supplemental** - Optional personal life insurance and dependent life insurance is available and may be purchased by eligible employees.

#### **D. OTHER INSURANCE**

1. **Accidental Death & Dismemberment Insurance** – eligible employees may purchase Optional AD&D insurance. A variety of coverages and amounts are available to cover employees and their eligible family members.

2. **Business Travel Accident Insurance** – Employees who are traveling on official University business are covered by \$100,000 of accidental death and a scheduled dismemberment insurance.

#### **3. Disability Insurance**

a. **Short-Term Disability Insurance** – Short-Term disability insurance is available to eligible employees. Eligible employees are automatically covered by the plan.

b. **Supplemental Disability Insurance** - Optional supplemental disability insurance may be purchased by eligible employees. This optional coverage augments the Short-Term Disability Insurance referenced above, and provides Long Term Disability coverage.

4. **Legal Expense Insurance Plan** – A legal expense insurance plan may be purchased by eligible employees. The plan is employee-paid through payroll deductions.

5. **Auto/Homeowner Insurance** – Individual auto and home insurance policies are available which may be purchased by eligible employees through payroll deduction.

#### **E. OTHER BENEFITS**

##### **1. Tax Effective Salary Reduction Programs**

a. Retirement Tax Savings Plan – Required monthly participant contributions to the DC Plan Pretax Account are automatically deducted from gross pay before federal and state taxes are calculated.

b. Tax Savings on Insurance Premiums (TIP) – Employees enrolled in certain benefit 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.

2. **Dependent Care Reimbursement Account (DepCare)** – DepCare is available to eligible employees and allows employees to pay for eligible dependent care expenses on a pre-tax, salary reduction basis.

3. **Health Care Reimbursement Account (HCRA)** – The Health Care Reimbursement Account is available to eligible employees and allows them to pay for eligible health care expenses not covered by the employee's medical, dental, or vision plans on a pretax, salary reduction basis.

4. **U.S. Savings Bonds** – Through payroll deductions, investments can be made in United States Series EE Savings Bonds

5. **Death Payments** – Death payments are provided upon the death of an employee who has been on pay status at least fifty percent (50%) time at least six (6) continuous months prior to death. Payment is a sum equal to the deceased's regular salary for one (1) month, and shall be paid to the person or persons in the first of the following categories in which there is a survivor: legal spouse or domestic partner; child or children; parent or parents; or siblings. If there is no survivor in any of the foregoing categories, the benefit will be paid to the estate, or if there is no estate, to the beneficiary designated in the deceased's University-paid life insurance policy. All monies due and payable to the employee at the

time of death shall be paid to the employee's surviving spouse or domestic partner and/or eligible dependent(s).

**6. Alternate Retirement Plans** – Employees covered by alternate retirement plans are subject to plans rules and regulations, and not subject to UCRP coverage.

## **APPENDIX E**

### **LBNL DEVELOPMENT AND TRAINING**

**A.** 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.

**B.** Career-related programs are related to the development of skills, knowledge, and other qualifications that prepare an employee for other positions within the Laboratory 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.

**C.** Educational enrichment programs are related to an employee's personal or career interests outside the Laboratory that are not related to Laboratory 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.

**D.** 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 the Laboratory'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.

**E.** 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 the Laboratory'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 Laboratory-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 Laboratory positions, or obtaining a specific degree or specialty certificate of value to the Laboratory's mission.

**F. 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 the Laboratory, including the Environment, Health and Safety Division, Computing Sciences Directorate, and Human Resources Department, are responsible for developing and/or providing training programs to Laboratory 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.

**G. 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 the Laboratory will, in his or her judgment, more than offset the costs involved,

when the required skill or knowledge is not readily available through Laboratory training resources, and when the employee's time away from the Laboratory will not adversely impact current work demands. The division will pay course fees, travel, and all other expenses as necessary.

**H. 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:

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

**1. 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.

**2. 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.

**I. 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.

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## **APPENDIX F**

### **LBNL LAYOFF AND REDUCTION IN TIME**

**A.** Career employees, excluding term appointees, who are eligible for vacation and sickleave

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.

**B.** The following definitions apply for purposes of severance payments:

1. 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 30 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, nor are periods on pay status as a University of California graduate student research assistant or employee working indeterminate time (except that, for an employee working an indeterminate-time schedule who has attained career status, the period on pay status that qualified the employee for career status and subsequent periods will be counted).

c. Continuous service is reestablished when an employee is rehired from preferential rehire status.

2. 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 for nonexempt hourly rated employees is defined as the basic hourly rate (excluding shift differential and overtime) times 40 hours. One week's pay for exempt employees is defined as the hourly equivalent of the monthly rate times 40 hours.

### **C. Severance Payment Calculations and Methods of Payment**

1. The severance payment will be made in an amount equal to one week's pay for each year of continuous full-time-equivalent Laboratory service (including LLNL and LANL). A fractional year of full-time service of six months or more is counted as one year of service. The severance payment is not to exceed a total of 26

weeks' pay.

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2. An employee will have the option of selecting a lump-sum payment at time of termination or payment in bi-weekly installments.

**D. 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 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 Deputy Director for Operations 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 Deputy Director for Operations 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.

4. Severance payments will not be provided to an employee who transfers to another Laboratory position or University career position or to an employee who refuses a transfer to an equivalent job with the Laboratory or the University.

**E.** 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 credited as an advance on earnings.

**F.** Policies, procedures, definitions and qualifications in effect on June 1, 2003 (as detailed

in the Laboratory's Regulations and Procedures Manual) relative to rights to recall and preference for reemployment that are in conflict with the Agreement shall remain in effect

for employees at the Lawrence Berkeley National Laboratory.

**G.** If an employee voluntarily reduces his or her time within one 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.

**APPENDIX G**

**DANR SALARY REALIGNMENT**

**TECHNICAL UNIT EMPLOYEES BY COUNTY**

Region

Number

Region

County In Which  
Employee Works

Campus

Payrate

1 Northern Butte

Colusa

Del Norte

Glenn

Humboldt

Inyo

Lake

Lassen

Mendocino

Modoc

Mono

Nevada

Placer

Plumas

Shasta

Sierra

Siskiyou

Sutter

Tehama

Trinity

Yuba

UCD

2 North Central Alameda

Alpine

Amador

Calaveras

Contra Costa

El Dorado  
Marin  
Napa  
Sacramento  
San Francisco  
San Joaquin  
San Mateo  
Santa Clara  
Solano  
Sonoma  
Yolo  
UCB  
UCD  
UCD  
UCD  
UCB  
UCD  
UCB  
UCD  
UCD  
UCB  
UCD  
UCB  
UCB  
UCD  
UCD  
UCD  
3 South Central Fresno  
Kern  
Kings  
Madera  
Mariposa  
Merced  
Monterey  
San Benito  
Santa Cruz  
Stanislaus  
Tulare  
Tuolumne  
UCD  
UCD  
UCD  
UCD  
UCD  
UCD  
UCD  
UCSC  
UCD  
UCSC  
UCD  
UCD  
UCD

4 Southern Imperial  
Los Angeles  
Orange  
Riverside  
San Bernardino  
San Diego  
San Luis Obispo  
Santa Barbara  
Ventura  
UCR  
UCLA  
UCLA  
UCR  
UCR  
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UCLA  
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**SIDE LETTER**

**ARTICLE 3**

**ARBITRATION PROCEDURE**

This letter confirms the parties' understanding of the time limits set forth in §A.8.c., Article 3, Arbitration Procedure.

The arbitrator shall only have the authority to schedule the arbitration hearing, should the parties be unable to agree to a hearing date, when a written request to so schedule a hearing date has been made prior to the ninetieth (90th) day. The arbitrator shall have no authority to select a hearing date if a request to do so is made after the ninetieth (90th) day.  
/s/ Gayle Cieszkiewicz /s/ Doug Brown

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Gayle Cieszkiewicz Doug Brown  
Chief Negotiator Negotiator  
University of California UPTe  
October 30, 1996 October 30, 1996

**SIDELETTER**

**CAMPUS GRIEVANCE RESOLUTION COMMITTEE (CRC)  
PROGRAM GUIDELINES**

**1. General**

The parties agree that a Campus Grievance Resolution Committee Program ("CRC") may be implemented at campuses, where they do not already exist. Except for the general guidelines set forth in this sideletter, the particular elements governing the CRC will be negotiated at each participating campus.  
The procedures to be used by each campus CRC shall be determined by agreement between the local parties. While the CRC is intended to be an informal process, individual campuses may agree to use a formal process of testimony including, but not limited to,

examination of witnesses.

## **2. Obligations Of Parties**

The parties at each campus may meet and confer separately over the specific terms of the CRC.

## **3. Subject Matter Excluded From CRC Review**

The parties agree that the subject matter of the grievances suitable for the CRC shall be determined by the parties at each location. CRC is not suited for grievances involving complex contractual interpretations.

## **4. Composition Of The CRC**

Upon submission of a written grievance to the CRC, a panel composed of four members, two

chosen by each side, shall be convened. To foster an impartial panel, the parties shall not

select panel members from the same control unit or individuals who are involved with or have

a vested interest in the outcome of the grievance. The union may only select bargaining unit

employees to serve on the CRC.

## **5. Decisions Of CRC**

The CRC has final and binding authority to adjudicate a grievance only if it reaches a unanimous decision. Such unanimous decisions by the CRC will only address the specific

issues and remedies stated on the grievance form. The CRC shall issue either a unanimous

decision in a written statement that sets forth the reasoning behind their decision or a written

decision that the CRC failed to reach unanimous consensus. The record and findings from

the CRC may not be introduced as evidence in any other proceeding.

## **6. Limitations On CRC's Authority And Remedy**

The CRC's authority and ability to fashion a remedy shall be subject to the same limits placed on an Arbitrator authority as set forth in Article 3, sections G(1) and (4) and H (1)(2)(3) and (5).

## **7. Return To Grievance Procedures**

The CRC shall lose jurisdiction over any grievance following the issuance of its decision but

no later than ten (10) days after the close of the CRC meeting.

## **SIDE LETTER**

### **LBNL HOURS OF WORK**

Lawrence Berkeley National laboratory (LBNL) and University of Professional and Technical

Employees (UPTE) are parties to a collective bargaining relationship. LBNL and UPTE agree

that unless and until changed pursuant to the terms of this Side Letter agreement or the overall

UPTE-UC contract covering the employees covered by this Side Letter, LBNL's Advanced Light

Source will continue to schedule and compensate covered employees in accordance with its

current (i.e. effective on June 20, 1997) work schedules, which provide for employee work twenty four (24) hours per day, seven (7) days per week, consecutive days off, and no rotation involving the owl shift.

#### **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. If an insufficient number of employees select the new shifts/weeks, the Employer will assign employees to it in the inverse order of classification seniority. However, in all cases, all employees going to the new shift/week must, in the Employer's judgement, 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**

Changes in regular shifts 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). The Employer may make temporary shift changes for business reasons, which do not include discipline. The affected employees shall be notified of the expected duration of the shift change. Temporary shift changes 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). The Employer may make temporary shift changes for business reasons, which do not include discipline. The affected employees shall be notified of the expected duration of the shift change. Temporary shift changes 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). 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.

This Side Letter agreement supersedes any conflicting or different LBNL RPM provisions.

However, the RPM's "Hours of Work" and "Reduction in Force" provisions shall remain in effect, except to the extent, if any, to which they are changed by the "Big Table" negotiations for the overall UPTE-UC contract. The Side Letter agreement shall be in effect for two (2) years or the life of the overall UPTE-UC contract covering LBNL ALS

employees, whichever is longer. This Side Letter does not change any RPM provisions other than those addressed herein.

**SIDELETTER**

**RX/TX LABOR/MANAGEMENT COMPENSATION EVALUATION COMMITTEE**

The University and UPTE-CWA hereby agree to meet to discuss issues related to compensation

costs and bargaining unit data for the RX unit and for the TX unit. The purpose of these respective meetings is to:

- a. Separately compare the contractually agreed upon across the board and step increases for the respective bargaining unit as a whole to the actual cumulative annual cost for these increases in each fiscal year of agreed upon compensation increases in the 2004-2008 contracts on the respective bargaining units at each campus/medical center;
- b. mutually identify and agree on standards for analyzing and reporting bargaining unit(s) salary data across UC campuses/medical centers;
- c. estimate the value of turnover savings or costs; and
- d. mutually agree on timing and contents of joint communications to the bargaining unit members about the results of the meetings.

These meetings will occur beginning no later than four months from the effective date of the

contract and will be conducted on a schedule mutually agreed upon by the parties through the

expiration of the contract in order to fulfill the express purposes above. At the initial session, the

parties will set ground rules for subsequent meetings and will consider advice about the project

from a mutually agreed upon compensation consultant who will participate as the parties mutually determine throughout the process. The compensation consultant will be agreed upon

before the meetings begin. The fees for such consultant, if any, will be shared equally by the

parties.

The University and UPTE may each designate up to three individuals to attend the aforementioned meetings. Bargaining unit members designated by the UPTE-CWA shall receive

paid release time and reasonable travel time according to the current contract to attend the

meetings. No more than one representative will attend from a single campus (hospital or campus). Only one bargaining unit member from each location shall be entitled to paid release

time. There will be at least one member of the affected bargaining unit participating on behalf of

the union. Either party, upon notice to the other, can schedule or request an expert to attend a

work session of this committee.

For the University: For UPTE:

/S/ 12/3/05 /S/ 12/3/05

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Shelley Nielsen Date Doug Owen Date  
Chief Negotiator Chief Negotiator  
University of California UPTE

**SIDELETTER**

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For the University: For UPTE:

/S/ 12/3/05 /S/ 12/3/05

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Shelley Nielsen Date Doug Owen Date

Chief Negotiator Chief Negotiator

University of California UPTE

**SIDELETTER**

**Sea Going Employees at UCSD**

The University and the Union agree to continue to meet and confer about the remote location allowance and related provisions for employees at UCSD. Release time will be provided for two (2) San Diego bargaining unit employees to participate in these continued negotiations and discussions. In addition, one (1) UPTE representative may participate in these continued negotiations and discussions.  
For the University: For UPTE:  
/S/ 12/3/05 /S/ 12/3/05

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Shelley Nielsen Date Doug Owen Date  
Chief Negotiator Chief Negotiator  
University of California UPTE

**SIDELETTER**

**University Benefits**

If the University and UPTE engage in the meet and confer process outlined in the last two sentences of Article 4 – University Benefits, Section A., with regard to 1) alterations which affect only bargaining unit employees and/or 2) alterations proposed by the University which reduce the UCRS retirement benefits of bargaining unit employees, the parties understand that the meet and confer process is pursuant to HEERA. In order to effectuate this meet and confer process the University will provide written notice to UPTE as soon as is practicable but in no event later than ninety (90) calendar days prior to the effective date of the proposed changes. Both parties agree to commence the meet and confer process within thirty (30) calendar days of the written notice. The parties further understand that upon the conclusion of the HEERA required impasse procedures for the meet and confer process the University may impose its changes and that the contractual prohibition against strikes and concerted activities provided for in the No Strikes article shall be waived.  
For the University: For UPTE:  
/S/ 12/3/05 /S/ 12/3/05

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Shelley Nielsen Date Doug Owen Date  
Chief Negotiator Chief Negotiator  
University of California UPTE