



Postdoctoral Scholar (PX) UC-UAW Agreement Contract Training UCLA

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THE OFFICE OF POSTDOCTORAL AND VISITING SCHOLAR SERVICES (OPVSS)

- Located in the Graduate Division, OPVSS is responsible for authorization and administration of all Postdoctoral Scholars and Visiting Scholars at UCLA, policy development and compliance, advisement and counseling, training and education, fellowship payments, and NRSA grants management.
- <http://www.gdnet.ucla.edu/postdocs.html>

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OPVSS CONTACTS

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EMPLOYEE & LABOR RELATIONS

- **Interprets University policies and procedures, collective bargaining agreements and applicable statutes and regulations.**
- **Identifies strategic systems for effective supervision, performance management and corrective action.**
- **Delivers regular and customized training in coordination with other CHR units on such topics as Performance Management, Taking Corrective Action, Navigating Staff Personnel Policies and Contracts, FLSA and FMLA.**
- **Represents UCLA in system-wide and local collective bargaining for new and existing contracts.**

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EMPLOYEE & LABOR RELATIONS

- Represents UCLA in fact-findings, grievances, arbitrations, administrative reviews, APM 140 hearings and unfair labor practice charges.
- Conducts meet and discuss conferences with represented and unrepresented groups of employees.
- Act as liaison with general counsel.
- <http://www.chr.ucla.edu/>
- General contact number: (310) 794-0860 or extension 40860



HOW WE GOT HERE

- **The California collective bargaining law, HEERA, passed in 1979, regulates labor relations between the University of California, its employees and the labor organizations that represent their employees.**
- **HEERA is administered by the Public Employment Relations Board (PERB) and they conduct elections, determine representation election questions and investigate and make decisions regarding unfair labor practice (ULP) charges.**



UAW ORGANIZES POSTDOCS

- **The Postdoctoral Scholar (PX) Bargaining Unit was first established by PERB in 2004.**
- **HEERA was changed in 2005 to allow unions to gain representation via “card check.”**
- **In July 2006, UAW made it’s first attempt at representation for Postdoctoral Scholars.**



UAW ORGANIZES POSTDOCS

- **In November 2008, PERB recognized the UAW as the exclusive representative of the Postdoctoral Scholars, including Paid Directs and Fellows based on the cards submitted.**
- **Negotiations were completed and the contract became effective August 12, 2010.**



THE BARGAINING UNIT

- **The unit includes Postdoctoral Scholar:**
 - **Employees (3252)**
 - **Fellows (3253)**
 - **Paid Directs (3254)**
- **HEERA considers all appointees to these titles to be “employees” for the purpose of collective bargaining and exclusive representation.**

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3252: PDS – EMPLOYEE

- **An appointment is made to the title “Postdoctoral Scholar – Employee” when:**
 1. **The agency funding the salary requires or permits the appointee to be an employee of the University**
OR
 2. **whenever General Funds, Opportunity Funds or other University discretionary funds are used to support the position.**



3253: PDS – FELLOW

- **An appointment is made in the title “Postdoctoral Scholar – Fellow” when:**
 - 1. The postdoctoral scholar has been awarded a fellowship or traineeship for postdoctoral study by an extramural agency, and;**
 - 2. the fellowship or traineeship is paid through a University account through the Graduate Division (i.e., Form 10).**

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3254: PDS – PAID DIRECT

- **An appointment is made to the title “Postdoctoral Scholar – Paid Direct” when:**
 - 1. The doctoral scholar has been awarded a fellowship or traineeship for postdoctoral study by an extramural agency, and;**
 - 2. The agency pays the fellowship or traineeship directly to the postdoctoral scholar rather than through the University.**
 - 3. Proof of Funding must be provided with Appointment packet.**

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EXCLUSIVE REPRESENTATION: THE LAW

- **When a union is an exclusive representative it represents all employees in the bargaining unit**
 - **The union has the exclusive right and authority to negotiate with UC management about the wages, hours, benefits and working conditions that the employer provides to the employees it represents.**

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EXCLUSIVE REPRESENTATION: THE LAW

- The union, in exchange for its representation of all employees in the bargaining unit, has the right to receive dues/fees from each employee.
 - **Dues:** payments made by employees who are members of the union (these employees have the right to vote): 1.15%
 - **Fees:** payments made by employees who do not join the union but are still represented by the union: .865%

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WHAT'S NEW: INCREASED ADMINISTRATIVE WORK

- **The University's obligations regarding the input of data and the keeping of records required by the contract will increase significantly.**
 - **The UAW has a right to all salary and appointment information about all individuals in a Postdoc title (Postdoc – Employee, Postdoc – Fellow, Postdoc – Paid Direct).**
 - **All appointment and salary information must be in the payroll system in order to make sure it can be shared with the union**
 - **The union receives basic employee information via a File Transfer Protocol (FTP); changes to Postdoc information are reported weekly as a “change report”.**



UC-UAW CONTRACT / APM

- **APM 390 is abolished**
- **Definition of Postdoctoral Scholar has NOT changed**
 - **Have Ph.D. or other terminal advanced degree; engaged in temporary & defined period of work of advanced training ... under direction & supervision of faculty mentors.**
- **Postdoctoral Scholars do not “own” the work. Postdoctoral Scholar are “trainees” carrying out research.**
- **When a Postdoc appointment ends, the University is not obligated to replace her/him with another Postdoc, unless required by the training grant.**
- **Relationship with supervisor still involves performance and research expectations.**



EFFECT ON ACADEMIC JUDGMENT

- The University protected Academic Judgment in large part by keeping it out of the contract
 - What is not in the contract is retained as a right;
- No change to the PI's ability to direct
 - what research is done
 - how it is performed
 - Nature of products (e.g. publications, materials, film, etc.)
- The University protected from the grievance & arbitration procedures



MANAGEMENT AND ACADEMIC RIGHTS

- For the purposes of this contract the term “Academic Rights” is used in the employment context.
- Because the labor agreement deals with the “supervisory-employee” relationship, the University addressed only those forms of academic judgment that affect the “employment” relationship.
 - “For the purpose of this Agreement only, academic rights are those management rights exercised by faculty and academic administrators in the performance of their supervisory and mentoring responsibilities in the academic domain.”
- *Article 14 – Management and Academic Rights*

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SUPERVISOR / POSTDOC RELATIONSHIP

- **Supervisor**
 - The term “supervisor” is used throughout the Agreement to refer to the person who is responsible for mentoring / performance evaluation, appointment decisions, etc.
 - The term “Mentor” is not used, although “mentoring” is referenced.
- Supervisor is used because the Agreement reflects terms and conditions of *employment*, and therefore the relationships *covered by the labor agreement* are those of supervisor/employee.



MENTORING

- Retained “mentoring” as an academic rather than a “supervisory” matter.
 - No Mentoring Article, as initially proposed by the UAW, viewing it as an extension of the faculty/student relationship.
- Processes associated with mentoring are found in Individual Development Plans and Progress Assessments.

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INDIVIDUAL DEVELOPMENT PLANS

- Development of an IDP is **OPTIONAL** – a PI cannot require a Postdoc to develop one.
- The Postdoc is responsible for the development of her/his IDP.
- The Supervisor may designate another qualified individual who can work with the Postdoc on her/his IDP.
- The IDP may be used as part of the foundation for the Performance Assessment.
- Process for developing IDP is outlined in the contract.
- The supervisor or Designee provides advice about revision
- The process serves as a communication tool.

- *Article 10 – Individual Development Plans and Progress Assessments*

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PROGRESS ASSESSMENTS

- Supervisor “shall provide the Postdoc with at least one written review per 12-month period”.
- Supervisor must communicate research and progress expectations for coming year; no specific time frame.
 - Failure to do so could impact ability to discipline for performance
- When putting expectations in writing, supervisor may use a pre-established form.
- Contents of IDPs, Progress Assessments, and Annual Reviews are not grievable.



ANNUAL EVALUATION

- Provides an assessment of the postdoctoral scholar's progress and overall performance.
- Signed by the Postdoctoral Scholar and Faculty Mentor.
- Template at:
<http://www.gdnet.ucla.edu/gss/postdoc/pdevaluation.pdf>
- Submit the Annual Evaluations for Reappointments and salary increases during the appointment year.

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RECRUITING & APPOINTMENT

- The University has the exclusive non-grievable right to appoint, reappoint, or not appoint / reappoint a Postdoc.
- The University may *reappoint* a Postdoc to a different title, even though s/he may be doing the same work.
- If the University moves an employed Postdoc to a title outside the bargaining unit, it must notify the UAW. Contact OVPSS for assistance.
- *Article 26 - Titles and Classifications*



HEALTH & SAFETY

- “Safety has no sides”
- Research may be inherently hazardous and appropriate actions should be taken to minimize hazards.
- Claims of “stress due to workplace hazards” are explicitly excluded from the H&S article
 - Postdoc may refuse to perform work s/he believes is hazardous and about which s/he has not been properly trained.
 - May ask for an EH&S Assessment
- *Article 8 – Health and Safety*



HEALTH & SAFETY

- **Supervisor must document training and information provided to Postdoc**
- **No retaliation for filing a complaint**
- **Identified procedures to follow in an OSHA inspection**
 - **Work through campus Labor Relations Office**
- **Labor-Management Committee meets 2x per year**
 - **Release Time for Postdoc to attend the meeting**

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TIME WORKED

- Postdocs are considered “exempt” under the Fair Labor Standards Act (FLSA)
- Postdoc work norm remains “at least 40 hours per week”
- Time worked and time off is accounted for in terms of “days” rather than hours
- Supervisor still verifies absences
 - Postdoc cannot independently determine her/his schedule – supervisor still approves
 - Emphasis is on meeting professional goals and on demonstrating research and creative capabilities, rather than working a specified number of hours.
- *Article 25 – Time and Effort Commitment*

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TIME OFF

- Allowed 24 personal days off during the year (up from 20)
- Eligible for 12 sick days during the year
- Supervisor cannot unreasonably deny time off
 - Work considerations – especially directly related to research – still prevail
- Personal Time Off must be requested and approved in advance
- “Use-it-or-lose-it” form of time off
- UC may not unreasonably deny a request for a religious holiday
- Departments must track internally time will not accrue in EDB
- *Article 18 – Personal Time Off*
- *Article 9 – Holidays*
- *Article 23 – Sick Leave*



LEAVES OF ABSENCE

- In compliance with all laws.
- Similar to APM.
- Now Grievable & Arbitrable.
- Contact Academic Personnel for assistance with Leave questions.
- *Article 13 – Leaves of Absence*



PERSONNEL FILES

- One “personnel” file at each location, even though numerous files with Postdoc information may exist.
- A “Personnel File” has “formal” documents as listed in the article
- A personnel file does not have grievance materials in it, but will contain disciplinary materials.
- Supervisors may keep a personal file, but information in it cannot be used in future actions unless a copy has made it to the Personnel File
- OPVSS is the OFFICE of RECORD.
- Departments must send OPVSS copies of all pertinent information
- *Article 19 – Personnel Files*



PERSONNEL FILES

- **Materials to be retained in a Personnel File**
 - Any material in the personnel file must be copied to the Postdoctoral Scholar and OPVSS.
 - UC must be able to pull files w/in 5 working days
 - E-mails may be placed in a personnel file
 - If you send an e-mail to a Postdoc to memorialize a conversation but do not immediately send to the personnel file, it can still be used as a record, and – if used as a foundation for discipline, send a proof of knowledge. This is because the Postdoc received and is therefore aware of it.



DISCIPLINE & DISMISSAL

- **The University retains the right to discipline or dismiss for just cause and the process is outlined in the contract.**
- **Seek assistance from your Administrative Staff and Employee and Labor Relations – Campus Human Resources.**
- **Disciplinary Actions will be grievable and arbitrable.**
- ***Article 5 – Discipline and Dismissal***



DISCIPLINE & DISMISSAL

- **Three forms of discipline:**
 - Letter of Warning
 - Suspension
 - Dismissal
- Dismissal normally preceded by at least one letter of warning.
- UC may proceed to dismissal without written warning when seriousness of misconduct or performance warrants.
- *Article 5 – Discipline and Dismissal*

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GRIEVANCE & ARBITRATION

- **A Grievance is:** “a claim by an individual Postdoctoral Scholar, a group of Postdoctoral Scholars, or the UAW that the University has violated a specific provision of this Agreement during the term of the Agreement.”
- Some issues are excluded from the grievance procedure, and/or the arbitrator’s authority.
 - Content of Individual Development Plans, Progress Assessments, Annual Reviews are not grievable.
 - Arbitrator cannot add to, amend, modify, nullify, or ignore in any way the provisions of the contract, nor does the arbitrator have the authority to review any academic judgment.
 - The arbitrator has no authority or jurisdiction to substitute her/his judgment for an academic judgment of the University and its agents.
- The campus steps in the grievance process allow for review by the Dean and/or Vice Provost
- Seek assistance from Employee and Labor Relations if you find yourself in this situation
- *Article 7 – Grievance and Arbitration*



LAYOFFS

- UC has sole discretion to determine layoffs.
- Layoffs are for “lack of funds” only.
- Layoffs are not discipline and cannot be used as a substitute for discipline.
- *Article 12 - Layoff*



LABOR MANAGEMENT COMMITTEES

- Designate quarterly meetings to discuss issues of concern, such as:
 - Health care benefits matters
 - Leaves of absence
 - Issues of interest to International Postdocs
 - Childcare issues
 - Professional development issues
 - Extramural funding agency guidelines pertaining to matters such as leaves for Postdocs
- These meetings will allow for on-going discussions and flow of information
- *Article 11 – Labor Management Committees*

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APPOINTMENTS

Appointments & Reappointments are at the sole discretion of the University.

- Offer Letter – between PI and Postdoc
- Notice of Appointment – issued by OPVSS Graduate Division to Postdoc with a copy to the department
-
- Offer Letter Template is available on the Grad Division website:
<http://www.gdnet.ucla.edu/ucla/gss/pdsappmnttemp.pdf>
- *Article 2 – Appointments (Section 2C)*



DEFINING THE HOME DEPARTMENT

- **The Home Department is the department that issues the Offer Letter, which then OPVSS lists in the Notice of Appointment.**
- **The home department has fiduciary and overall responsibility for the PDS during the appointment period regardless of any changes in funding. For example, a home department may not pay the salary, but it is responsible to ensure the PDS gets paid.**
- **If the postdoctoral scholar changes her/his primary mentor or research project during the appointment period then the home department may change.**



DEFINING THE MENTOR

- **The Mentor is the faculty member designated in the Offer Letter, which then OPVSS lists in the Notice of Appointment.**
- **The mentor has academic responsibility for the PDS during the appointment period regardless of whether the PDS has co-mentors.**

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APPOINTMENT PROCESS

- **Appointment Types:**
 - New
 - Reappointment
 - Revision

Appointment Guidelines and Forms for Postdoctoral Scholars

- <http://www.gdnet.ucla.edu/gss/postdoc/frmsintro.htm>

Appointment Processing Checklist

- <http://www.gdnet.ucla.edu/gss/postdoc/pdcklist.pdf>

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APPOINTMENTS

- The initial appointment must be exactly twelve months.
- Subsequent reappointments are at management discretion and are also twelve months.
- Subsequent appointments may be shorter than a year, under limited circumstances.
 - Funding is available for less than a full year
 - Continuation of project is less than one year.
 - Visa Limitations
 - At request of Postdoc UC may bridge appointment for less than a year.
- Appointments to the Postdoctoral Scholar titles are full-time (100%), based on the expectation that the Postdoctoral Scholar will be fully involved in scholarly pursuits.

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EXCEPTIONS

The initial appointment of a Postdoctoral Scholar at the University must be for exactly twelve months.

Associate Dean M. Belinda Tucker will consider the following types of requests for exception:

- The appointment is below 100% (often in connection with addition of lectureship or to devote time to child care).
- The appointment is beyond the five year limit (must include justification of continued need for training).
- Reappointment is less than one year (initial appointment must be one year). (Reappointments that terminate early must have a completed Exception Request Form.)

To submit a request for exception to the terms of the union contract:

- The Department submits a complete **Postdoctoral Scholar Exception Request Form** from the appointee (postdoctoral scholar) and with the written concurrence of the supervisor (faculty mentor) to Mike Flaxman, 1237 Murphy Hall, Mailcode 141901.

<http://www.gdnet.ucla.edu/gss/postdoc/frmsintro.htm#exceptions>



HEALTH BENEFITS

- **The Postdoc Health Benefit Plan (PSBP) will continue without changes for 2011 – UC continues to pay as it has in the past.**
- **In 2012, Postdocs begin paying for a set percentage of UC benefits – we will need to establish a system for collecting from Paid Directs.**

Article 3 - Benefits



PSBP: UNIVERSITY CONTRIBUTIONS

- **For the 3252 employee category, 100% of the premium must be paid by the sponsoring department, with the exception of PPO medical enrollments, which have varying contribution levels depending on the number of enrolled dependents (30/60/60/90).**
- **For the 3253 and 3254 categories, the level of department contribution may vary, but the University encourages the recommended contribution levels where funding permits.**
- **We encourage departments to build the University-paid contribution of benefits premiums into their budgets so that all three categories of postdoctoral scholars will have a uniform level of contributions.**



PSBP: UNIVERSITY CONTRIBUTIONS

- **The following benefits require 100% University contribution on behalf of ALL postdoctoral scholars (employees, fellows and paid-directs):**
 - **Workers Compensation**
 - **Life Insurance, including AD&D**
 - **Short-term Disability**
- **The postdoctoral scholar CANNOT be required to personally pay any of the costs of these benefits.**

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RETIREMENT BENEFITS

- UCRP Eligibility
 - If, prior to Postdoc appointment, the Postdoc was a UC employee, s/he will be UCRP eligible.
 - To avoid UCRP liability, the Postdoc must have a **break in service**, or UC will pay the UC share of UCRP.

Article 3 - Benefits

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COMPENSATION

Effective September 1, 2010

- **One-time across the board (ATB) increase for all Postdocs employed on August 12, 2010, and still employed on September 1, 2010;**
- **Postdocs paid under \$47,000 received a 3% salary increase; those earning \$47,000 or more received a 1.5% increase.**
- **Continues for the total time of the appointment and reappointment**
- **Now the new minimum salary for ALL Postdocs is \$37,740.**

Article 4 - Compensation

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COMPENSATION

Effective June 1, 2011

- All newly appointed Postdocs must receive at least the NIH rate for her/his years of experience as a Postdoctoral Scholar.

The parties agreed to phase in the application of the NIH scale to Postdocs holding a Postdoc appointment as of the contract ratification because:

- about 1/3 of all Postdocs are paid quite a bit below the NIH experience step (based on her/his experience), and
- grants covering those Postdocs may not have the funding to provide increases sufficient to move the Postdocs to the applicable NIH experience step.

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COMPENSATION

Effective June 1, 2011

- The University begins moving currently appointed Postdocs to (or toward) the applicable NIH step on reappointment.
- The reappointment decision:
 - Do I want the Postdoc for another year?
 - Do I have the funds?
- No requirement to reappoint.



COMPENSATION

0 (0 - 11 months exp)	\$37, 740
1 (12 – 23 months exp)	\$39, 756
2 (24 – 35 months exp)	\$42, 624
3 (36 – 47 months exp)	\$44, 304
4 (48 – 60 months exp)	\$45, 960
5 (61 – 72 months exp)	\$47, 940
<i>By exception</i>	

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COMPENSATION

Phase in:

- If a Postdoc is below the applicable experience step, see how much it would cost to move her/him to the applicable experience step.
 - If more than 3% increase, the University only need pay the Postdoc a 3% increase.
 - Once the Postdoc is on step, the s/he must move at least to the next NIH step on reappointment.



COMPENSATION

Phase in:

- If a Postdoc is already above the applicable NIH step based on her/his experience, future reappointments must be at least to the appropriate NIH experience level.
 - 2% per year upon reappointment

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WEB RESOURCE LOCATIONS

- **For the Agreement:**
atyourservice.ucop.edu/employees/policies_employee_labor_relations/collective_bargaining_units/post_docs/
- **For Offer Letter Template:**
<http://www.gdnet.ucla.edu/ucla/gss/pdsappmnttemp.pdf>
- **For UAW Deduction Authorization Form:**
- **Postdoctoral Scholars Information:**
<http://www.gdnet.ucla.edu/postdocs.html>



WHO TO CONTACT

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- **Maurita Ploesch – Labor Relations**
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QUESTIONS?

