

ARTICLE 2 AGREEMENT

A. This Agreement is made and entered into on this 2nd day of July, 2004, pursuant to the provisions of Articles 1 through 11 of the Higher Education Employer-Employee Relations Act (HEERA) by and 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 the American Federation of State, County and Municipal Employees (hereinafter referred to as "AFSCME" or the "International Union" or "Union"), represented by the international organization of AFSCME, AFL-CIO.

B. PURPOSE OF AGREEMENT

1. It is the intent and purpose of the parties hereto 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 University, and the interests of the employees represented by AFSCME.
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 the employer-employee relationship which exists between them relative to the scope of bargaining.
3. This Agreement recognizes one certified bargaining unit. Each provision of this Agreement applies to that bargaining unit unless specified otherwise.

C. RECOGNITION

1. Pursuant to and in conformity with the certifications issued by the Public Employment Relations Board (PERB) of the State of California in case number SF-HR-13, the University recognizes AFSCME 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 designated as managerial, supervisory and/or confidential by the University and all student employees whose employment is contingent upon their status as students, in the following described bargaining unit:
 - a. Unit #13 – Patient Care Technical (SF-HR-13)

2. The term "employee" as used in this Agreement shall refer to employees of the University of California including the Lawrence Berkeley Laboratory ("Laboratory") in the above-mentioned unit except for those excluded pursuant to C.1. above.
3. The classes and title codes included in Unit 13 are listed in Appendices A and B.
4. **Meetings With Other Groups**
 - a. The parties acknowledge that it is the policy of the State of California to encourage the pursuit of excellence in teaching, research and learning through the free exchange of ideas among the faculty, students and staff of the University of California. To this end, the parties, while recognizing AFSCME as an exclusive bargaining agent, acknowledge the right of the University to meet for purposes of information and idea exchange, with committees, councils, groups, caucuses and ad hoc organizations when the subject matter of such meetings is not limited to the occupational community of interests of the bargaining unit covered by this Agreement.
 - b. Participants in such meetings shall not be deemed to be meeting under the auspices of HEERA, nor shall such participants be required to adhere to the obligations and responsibilities enumerated under HEERA. Further, the result of such meetings shall in no way require or allow the University on its own action to change or alter the provisions of this Agreement.

D. WAIVER OF UNIT MODIFICATION AND RECLASSIFICATION OF EXCLUDED POSITIONS

The job titles and positions excluded from the unit by the parties' stipulations of March, 1983 and by PERB's Directed Election Order of April, 1983 shall be conclusively deemed to be managerial, supervisory, or confidential, or any indicated combination thereof, as shown on the list appended to said stipulation, and AFSCME expressly waives for the duration of this Agreement any right it may have to seek to include any such title or stipulation by unit modification. AFSCME recognizes that the University has the exclusive right to establish new title codes and titles for any such excluded position or title. The University shall advise AFSCME of any such new title.

In the event the University elects not to establish a new title for some or all excluded positions currently classified in included titles, the University shall, during the term of this Agreement, provide the Union with a list by location of the excluded positions which remain within included titles and the incumbents at that time, if any. The failure to include an excluded position on any such list shall not be evidence that the position should be included in any unit.

E. RECLASSIFICATION FROM UNIT TO NON-UNIT POSITIONS

In the event the University determines that a position should be reclassified or designated for exclusion with the result that the position would be removed from the unit, it shall notify the Union in writing. If the Union believes that the reclassification or designation violates this Agreement, it shall notify the University within 30 calendar days of receipt of the University's notice that it wishes to challenge the matter through expedited arbitration. Subsequent to the Union's notice but prior to selection of an arbitrator, the University shall arrange a meeting to include the employee whose job is in question, a Union representative, and a University representative to review the contents of the employee's job.

F. EXPEDITED ARBITRATION

1. Exclusive Process

The procedure described herein shall be the sole, exclusive procedure for resolving disputes arising under Sections D and E above.

2. Selection of Arbitrator and Scheduling of Hearing

- a. Within five working days of the Union's notice to the University, the arbitrator shall be selected by mutual agreement or by the alternate striking of names.
- b. The hearing shall be held within two weeks of the arbitrator's selection or, if that is not possible, on the arbitrator's first available date thereafter; provided that if the arbitrator has no available date within four weeks, another arbitrator shall be selected.

3. **Pre-hearing Submission and Conduct of the Hearing**

- a. Unless the parties mutually agree to the contrary, each party shall have up to two hours to present its case, but may reserve up to one-half hour of such time to respond to the other party's presentation. The presentation may be made by way of statement by the party's representative, presentation of witnesses or both, but the hearing shall be informal and rules of evidence shall not apply. No transcript or recording shall be kept.
- b. Following the presentations by the parties, up to two hours may be spent in an on-site review of the position or positions in question during which either party or the arbitrator may ask the employee or employees questions about the responsibilities of the position or positions.
- c. The burden of proof and proceeding in this expedited arbitration procedure shall be that of AFSCME.

4. **Decision and Precedence**

- a. The arbitrator shall issue a written award within three working days after the close of the hearing. During this period, the arbitrator may convene the parties for up to an additional two hours if the arbitrator wishes to raise additional questions.
- b. The award shall not include a written opinion and, unless the parties mutually agree to the contrary, shall answer only the issue of whether the job or classification in question should be placed within the bargaining unit. It shall be final and binding but shall not be used as a precedent in any other case.

5. **Standards**

Included in the standards to be used by the arbitrator in reaching his/her decision shall be the following:

- a. All managerial, supervisory, and confidential employees as defined by the Higher Education Employer-Employee Relations Act are excluded. Employees who hold any managerial, supervisory, or confidential appointment, regardless of the percentage of time worked in such appointment, are excluded.

- b. All University student employees whose employment is contingent upon their status as students are excluded.
- c. All employees whose employment is principally outside of the State of California are excluded.

6. Costs

The fee and expenses of the arbitrator shall be shared equally by the parties.

- 7. With the exception of Section G. below, the expedited arbitration procedure referenced herein shall be the sole and exclusive procedure through which the parties shall resolve disputes between them as to the inclusion or exclusion of employees in or from the bargaining unit. This procedure shall be used after discussions between the parties have failed to achieve resolution of such matters.

G. NEW CLASSES

- 1. When the University creates a new class and title within the occupational subgroups (OSG) included in this bargaining unit, the University shall mail a notice to the Union of the bargaining unit assignment, if any, of such class. The Union shall have 30 calendar days after mailing of such notice to contest the University's assignment. If the Union contests the assignment, the University and the Union shall meet and confer in an effort to reach agreement on the bargaining unit assignment for the class. If the parties are unable to reach agreement, the dispute shall be submitted to PERB pursuant to Regulation 32781(a)(2) for resolution. If the Union does not contest the bargaining unit assignment within the 30 calendar day notice period, the unit assignment of the new class shall be deemed agreeable to the parties and PERB shall be so advised. Bargaining unit assignments made by the University which are contested by the Union shall remain as originally assigned by the University until such time as the parties are in mutual agreement as to a different assignment or, if such assignment is referred to PERB within the appeal period stated above, until resolution of the matter by PERB.
- 2. If the inclusion of a new class within the bargaining unit covered by this Agreement is agreed to by the parties or found appropriate by PERB, the University shall assign a pay rate to the class.

3. Assignment by the University of the pay rate to a new class as indicated above shall be consistent with the then-existing compensation and classification methodologies utilized by the University.
4. If the inclusion of a new class in the bargaining unit is agreed to by the parties or found appropriate by PERB but the University's determination of the pay rate is questioned by the Union, the Union shall, within 15 calendar days of the inclusion determination, request in writing that the University meet to discuss the pay rate for the class. If such a request is made, the parties shall meet within 30 calendar days of the request.
5. Pending discussion, if any, of the pay rate for a new class the pay rate originally assigned by the University shall remain in effect. An unquestioned rate or the rate determined appropriate by the University subsequent to any discussion with the Union shall be the rate assigned to the new class. Such rates shall not be subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.

H. ABOLITION OF CLASSES

The University agrees to inform AFSCME when classes are abolished.