



Human Resources and
Allied Professionals Program



DEMYSTIFYING LABOR RELATIONS

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A Matter of Public Policy

The Higher Education Employer-Employee Relations Act HEERA

In 1978, the California Legislature decided that providing the right to collectively bargaining to higher education employees was in the best interest of the State.

- “The people of the State of California have a fundamental interest in the **development of harmonious and cooperative labor relations** between the public institutions of higher education and their employees.”
- By permitting “the fullest participation by employees in determining their conditions of employment through full freedom of association, self-organization, and **choosing exclusive representatives**”, and
- providing “orderly and clearly defined **procedures for meeting and conferring** and the resolution of impasses, and to define and **prohibit certain practices which are inimical to the public interest.**”

The University’s legal obligations regarding labor relations spill over into all areas of Human Resources



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Understanding the law Employee Rights

The law protects employees from reprisals, discrimination, coercion or interference with the exercise of their HEERA rights, including the right to:

- form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations and for the purpose of meeting and conferring over those matters.
- refuse to join employee organizations or to participate in the activities of these organizations.
 - Employees cannot, however, refuse to pay an agency fee (fair share) in lieu of paying membership dues.



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The Basics Employees

- Of 102,000 employees, **68,600** are in unions (67% of the UC workforce)
- These employees are in **23 bargaining units**, with 23 separate contracts
- UC has an equal obligation to each union



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The Basics The Employer

- Under HEERA, the “institution of higher education”, and its “agents” means
 - The Regents (in the case of the University of California), including
 - any person acting as an agent of the employer (this could be *you*).
- “Managers”, “supervisors”, and “confidential employees” are excluded from collective bargaining
 - Supervisors may form a union, but do not have full collective bargaining rights
 - Confidential employees develop or present management positions with respect to bargaining, or have duties that contribute significantly to bargaining



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The Basics Labor-Management Relations

The relationship between

- the employer and the union **exclusively representing** employees in a **bargaining unit**
- In a bi-lateral process, in which the union has equal standing
- requiring the employer and the exclusive representative to **bargain in good faith** and
- **administer** the resulting terms and conditions of employment in accordance with the intent stated at the bargaining table



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The Basics

Labor-Management Relations

The union has equal standing: what impact does this have on *you*?



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The Basics “Bargaining Units”

- How do we figure out who belongs in which unit?
- An “*appropriate bargaining unit*” is a group of titles that share a community of interests (e.g. similar working environment, occupational category, level of education).
- Proposed by the *union*, influenced by UC *after* the union shows support by employees in the proposed unit
- PERB considers:
 - the effect of the proposed unit on the bargaining relationship and
 - the efficient operations of the UC, and
 - the potential fragmentation of a unit on the employees or representation.
- HEERA presumes that bargaining units will be *systemwide*, except for units of skilled craft employees.



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The Basics "Bargaining Units"

How does the formation of a bargaining unit affect *you*?



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The Basics

"Exclusive Representation"

The union seeks to become the "*Exclusive representative*" of all employees in the bargaining unit.

- The only entity with whom the employer is able to "deal" regarding wages, hours, and terms & conditions of employment
- The employer is no longer able to "deal directly" with employees on these issues
- The employer cannot "deal" or "negotiate" with any other union on these issues
- The relationship will be "ongoing"
- The union has a **right to information** from and about the University, under **HEERA and the Public Records Act**



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The Basics

"Exclusive Representation"

How does a union becoming an exclusive representative affect *you*?



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Understanding the law Union Rights and Responsibilities

Union cannot:

- Fail to represent fairly and impartially all the employees in the unit for which it is the exclusive representative.
- Attempt to cause the employer to violate the law.
- The union is a coalition of employees, and employees have a right to influence union decisions
 - Normally, only *members* can formally influence by voting/leading



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Understanding the law

Union & Employer Rights and Responsibilities

Neither party can:

- Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.
- Refuse or fail to engage in meeting and conferring with the higher education employer.
- Refuse to participate in good faith in the impasse procedure set forth in Article 9 (commencing with Section 3590).



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Understanding the law UC Rights and Responsibilities

The higher education employer cannot:

- Deny to employee organizations rights guaranteed to them (like access to the workplace)
- Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another.
 - However, subject to rules and regulations adopted by [PERB] ..., an employer shall not be prohibited from permitting employees to engage in meeting and conferring or consulting during working hours without loss of pay or benefits.
- Consult with any academic, professional, or staff advisory group on any matter within the scope of representation for employees who are represented by an exclusive representative



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Understanding the law UC & Unions

No reprisals for union activity; no UC interference in the formation of a union, the union – in representing employees, acts as a democracy ...what does this mean for *you*?



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Understanding the Bargaining Process “Good Faith Bargaining”

- **Good-faith bargaining** refers to the duty of the parties to meet at reasonable times and negotiate on matters within the scope of representation
 - with a willingness to reach agreement*
- Neither party is required to make a concession or agree to any proposal.
- Must give the union, in a timely way, information it needs to bargain
 - UC obligation to respond to **Bargaining Information Requests!**



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Understanding the Bargaining Process "Good Faith Bargaining"

How does the good faith bargaining requirement affect *you* (besides all the extra work)?



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The Impact on Human Resources Information Requests under HEERA

For bargaining

- The unions have a legal right to information they believe is necessary to accomplish the bargaining process
 - Generally, union requests are directly related to a bargaining need (a proposal that the union may make or information to let the union respond to a University demand)
 - If the University cannot immediately see the need for the information, it may ask the union to defend its request: *Is the request necessary and relevant to bargaining?*
- The University's failure to respond to a legitimate bargaining information request may enable the union to strike before the completion of the entire bargaining process (including impasse)
- Often, HR professionals are asked to help the University respond to union information requests
 - Because a failure to respond can be used in negative publicity, or as the basis for a strike, the University's need to respond has a very high priority



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The Impact on Human Resources Information Requests under HEERA

For administration

Is management is fulfilling its obligations under the contract?

- E.g., in matters such as scheduling, payment of overtime, moving employees within the salary range, layoff, etc.
- Discrimination, differential treatment ...

As the exclusive representative, the union has a right to information about the employees in the unit

- Because the union is the exclusive representative of employees in the bargaining unit, it has a right to some information about those employees that it would not have absent exclusive representative status
 - Overall performance evaluation rating as compared to merit increase amount

Planning Documents

- Generally, the union does not have the right to receive “deliberation” documents, but it may have a right to access those documents after the process is complete.
- Documents developed for Bargaining or under Attorney-client privilege may remain confidential



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Understanding the Bargaining Process When a Contract Expires

Contracts have a beginning and an end, as agreed-to by the parties.

- These dates may be changed by mutual agreement.
- Bargaining normally starts a couple months before a contract is due to expire, in anticipation of reaching agreement before the expiration date.
- If a contract expires, the *employee* terms and conditions in the contract ***continue as a matter of the STATUS QUO***
 - until new terms and conditions are agreed to or imposed
- The no strikes provision expires, as does arbitration of employee grievances
- Tension in the labor-management relationship may increase



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Understanding the Bargaining Process When a Contract Expires

When contracts expire, how does it affect
you?



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The Impact on Human Resources Resulting Terms and Conditions of Employment

Bargaining can influence non-unionized terms and conditions of employment:

- sometimes unionized terms and conditions spill over into the non-union setting
- Sometimes different policies/procedures will result in the non-union areas
- Examples include:
 - Training
 - Incentive Awards
 - Compensation
 - Merit
 - Range Adjustments
 - Classification
 - Employment Practices
 - Budgeting practices
 - Workers Compensation & Rehabilitation



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The Impact on Human Resources Fact or Fiction?

- The University can make changes for non-represented employees without involving the union
- The University makes it difficult for the Union to get information about the employees it represents
- Unions can bargain away employee legal rights
- Unions take away management's ability to manage
- Unions are always



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The End...

Questions and/or comments?