

SETTLEMENT AGREEMENT

This Settlement Agreement (hereinafter "Agreement") is entered into by and between The Regents of the University of California and its University of California, Berkeley campus (hereinafter the "University") and the United Auto Workers Local 2865 ("UAW") (collectively referred to as the "parties").

RECITALS

UAW first started representing Academic Student Employees ("ASEs") at the University in 1999.

From 2017 to 2019, UAW filed multiple grievances (the "Grievances") alleging that students enrolled in pedagogy courses and other programs should have been classified as ASEs and been paid for their work in those courses rather than receive course credit. These grievances and their filing dates are listed below:

- BX-01-021-19 (Integrative Biology UGSIs) - May 13, 2019
- BX-01-020-19 (Chemistry Teacher-Scholars) - May 6, 2019
- BX-01-018-19 (Art of Writing) - April 20, 2019
- BX-01-007-19 (EECS Academic Interns) - March 15, 2019
- BX-01-012-18 (Transfer Center) - May 23, 2018
- BX-01-060-17 (Berkeley Connect) - December 19, 2017

The UAW appealed the Grievances through Step II and Step III, and ultimately to arbitration.

In order to avoid the costs and inconvenience of litigation, to promote positive labor relations, and to settle fully and finally all differences that may exist between them over the Grievances, the parties have reached an agreement to resolve this case on the terms and conditions outlined in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises in this Agreement, UAW and the University agree as follows:

1. **PURPOSE OF AGREEMENT:** The purpose of this Agreement is to resolve the claims in the Grievances. UAW acknowledges that this Agreement shall not in any way be construed as an admission by the University, or any of its Board of Regents, officers, agents, or employees (whether current or former) of any improper or unlawful conduct.
2. **WITHDRAWAL OF GRIEVANCE:** UAW hereby agrees to withdraw the Grievances. The Affected Employees and the UAW acknowledge and agree that once this Agreement becomes final all claims raised in the Grievances have been fully and finally resolved to the Affected Employees' and the UAW's satisfaction.
3. **AGREEMENT REGARDING CLASSIFICATION OF ASEs:** The parties agree that the terms set forth in Attachment A shall govern determination of whether individuals should be classified as an ASE or whether individuals may instead take the course at issue for credit. The parties further agree that this settlement and the principles in Attachment A apply to the courses set forth in the Grievances.

4. **RELEASE OF CLAIMS:** The UAW and the Affected Students hereby forever release and discharge the University and its Regents, agents, successors, assigns, affiliates, attorneys, employees, and all other representatives (hereafter collectively referred to as "University Releasees"), from any and all causes of action, judgments, liens, indebtedness, damages, losses, claims (including attorneys' fees and costs), liabilities and demands of whatsoever kind and character that the Affected Students and/or the UAW may now or hereafter have against University Releasees arising from incidents or events occurring on or before the Effective Date of this Agreement relating to the claims brought in the Grievances. This release specifically covers any and all claims arising from or related to the Affected Students' and the UAW's Grievances. [hereafter "Released Claims"].

The release set out in this paragraph, includes any and all claims arising under statutory or common law, including but not limited to: claims under the Immigration Reform and Control Act; the Family Medical Leave Act and the Higher Education Employer-Employee Relations Act; and claims of employment discrimination (such as, but not limited to claims under Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, the California Fair Employment and Housing Act, the Americans with Disabilities Act, the Equal Pay Act of 1963, the Age Discrimination in Employment Act), and claims under the law of contract and tort; and federal and state claims growing out of allegations of retaliation based on alleged or actual whistle-blowing activities; and claims arising under University policies and/or collective bargaining agreements; but excluding claims within the exclusive jurisdiction of the Workers Compensation Appeals Board and any other claims that cannot lawfully be released by private agreement.

5. UAW and the University agree that this Agreement contains a full settlement and resolution of all disputes and issues between the parties relating in any manner to the Grievances. UAW also represents that it is fully authorized by all Affected Students to enter into this Agreement and to release claims that were asserted or could have been asserted in the Grievance. It is also understood and agreed that this Agreement is a full and final release applying to all unknown and unanticipated damages or losses to UAW and the Affected Students resulting from, or in any way related to, the Grievance. The UAW on behalf of itself and the Affected Students hereby waives the provisions of section 1542 of the California Civil Code, which states:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

6. **KNOWLEDGE OF AGREEMENT:** Each of the undersigned parties represent that it has been represented in negotiations for and the preparation of this Agreement by counsel or representatives of its own choosing, and that its representative understands this Agreement and is fully aware of its content and of its legal effects.
7. **MODIFICATION IN WRITING ONLY:** This Agreement may only be modified by a written agreement signed by all parties hereto.
8. **ENTIRE AGREEMENT:** This Agreement states the entire understanding and agreement between the parties with respect to its subject matter, and it supersedes any previous or

contemporaneous written or oral representations, statements, negotiations, or agreements. This Agreement may be modified, or any provision waived, only by signed written agreement of the affected parties.

9. **COUNTERPARTS:** This Agreement may be executed in counterparts. A copy of the Agreement is admissible as the original in any subsequent proceeding.
10. **NO PRECEDENT:** The parties to this Agreement understand and agree that the execution of this document shall not be, and shall not be deemed or construed to be, a precedent or model for the resolution or settlement of any future charge, claim, grievance, complaint, or lawsuit resulting from the same, similar, or different circumstances. The parties also explicitly agree that this Agreement only applies to the University of California, Berkeley, and not to any other campuses within the University of California system.
11. **CALIFORNIA LAW:** This Agreement is made and entered into in the State of California and shall in all respects be interpreted and enforced in accordance with California Law.
12. **SEVERABILITY:** Should it be determined by a court that any term of this Agreement is unenforceable, or should any term of this Agreement be contrary to state or federal law or regulation, that term shall be deemed to be deleted. However, the validity and enforceability of the remaining terms shall not be affected by the deletion of the unenforceable terms.

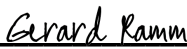
The signatories to this document represent that they have full authority to bind their principals.

FOR THE UNIVERSITY:

FOR UNITED AUTO WORKERS LOCAL 2865:

DocuSigned by:

11/5/2020
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Eugene Whitlock, Chief People & Culture
Officer/Assistant Vice Chancellor-Human
Resources / Date

DocuSigned by:

11/17/2020
FEC526A6C94740F...
Gerard Ramm, UAW 2865 UCB Unit Chair / Date

Attachment A

Settlement for classification grievances involving Undergraduates: BX-01-007-19 (EECS Academic Interns and Lab Assistants), BX-01-018-19 (Art of Writing Tutors), BX-01-020-19 (Chemistry Teacher-Scholars), BX-01-021-19 (IB and MCB UGSIs)

- In order to assist in determining whether an undergraduate student's work falls outside the UAW 2865 bargaining unit, the University shall ensure all of the following factors exist for a student in a particular pedagogy course:
 - Enrolled in a course for course credit that meets regularly.
 - Only takes the course once, limited to one semester.
 - Pedagogy courses are subject to appropriate Senate approval processes.
 - Course requirements will be consistent with the level of academic rigor associated with each class. Opportunities to engage in teaching, grading, tutoring, etc. will not take over all expectations/duties as a student in the course and will be opportunities for learning, not substitution of paid duties.
 - There must be a specific syllabus and instructional content for the pedagogy course distinct from the course(s) in which the student performs instructional duties (for example, students must attend pedagogy classes in addition to the courses for which they perform instructional activities).
 - The student will complete academic assignments, such as writing papers, taking examinations, or completing portfolio projects assessed by the Instructor of Record. The student will receive a final evaluation or grade from the pedagogy course's Instructor of Record.
 - The course provides pedagogical benefits to the student that are described in the syllabus for the pedagogy course (a) as determined by the University's academic judgment; or (b) Determinations of the pedagogical benefit provided to students are not subject to grievance and arbitration.
 - The student will not have sole discretion over the assignment of grades, curriculum choices, content of assessments, or the facilitation of sections or labs for the course that they are assisting.
- If a pedagogy course does not meet the above factors, students performing instructional duties associated with a pedagogy course shall be considered UAW 2865 bargaining unit employees.
- UAW 2865 and UCB agree to form an advisory Labor-Management Committee as a pre-grievance measure for classification issues. This Committee could provide guidance on whether a student is appropriately classified prior to a grievance being filed. This committee shall be responsible for discussing implementation of this agreement to existing instructional activities that are the subject of the UAW grievances.
- The Union shall withdraw BX-01-007-19 (EECS Academic Interns and Lab Assistants), BX-01-018-19 (Art of Writing Tutors), BX-01-020-19 (Chemistry Teacher-Scholars), and BX-01-021-19 (IB and MCB UGSIs).

Proposed Settlement for classification grievances involving Graduate Students: BX-01-060-17 (Berkeley Connect) and BX-01-012-18 (Transfer Center)

The Union agrees to withdraw BX-01-060-17 and BX-01-012-18 on the understanding that Berkeley Connect Fellows and Berkeley Transfer Center Mentors shall not conduct UAW 2865 bargaining unit work, including any form of academic instruction, reading/grading, or tutoring. The parties agree that Berkeley Connect Fellows and Berkeley Transfer Center Mentors shall only provide non-instructional mentorship to undergraduates.