COLLECTIVE BARGAINING GLOSSARY

**Administrative Law Judge (ALJ)**
Under the California public sector collective bargaining laws, an agent of the Public Employment Relations Board (PERB) appointed to conduct a representation or unfair practice hearing.

**Agency Fee**
A provision of Higher Education Employer-Employee Relations Act (HEERA) which requires employees in the bargaining unit, who are not members of union, to pay a fee to the union as a condition of employment. By law, the fee cannot exceed the dues amount.

**Arbitration**
A procedure involving an impartial third party to whom disputing parties submit their differences for decision, usually in accordance with a formal, written procedure. In a collective bargaining context, the procedure for selection of an arbitrator is generally written into the collective bargaining agreement.

**Authorization Card**
A statement signed by an employee designating a union to act as his or her representative in collective negotiations. Unions, to demonstrate employee support for the organization and to either demand recognition from an employer or request an election for an appropriate bargaining unit, use authorization cards.

**Bargaining Unit**
A group of employees agreed to by unions and the employer or designated by an administrative agency, such as the Public Employment Relations Act (PERB), as constituting an appropriate unit for the purposes of collective bargaining. A community of interest among employees determines appropriateness. This is demonstrated by similar jobs, commonality of work environment, skills, educational requirements, etc.

**Certification**
The formal determination by an administrative agency, such as PERB, that a union is the majority choice and hence the exclusive bargaining representative of all employees in a particular bargaining unit. The determination usually follows a secret ballot election of employees in the bargaining unit.

**Challenged Ballot**
A vote questioned by one of the parties to a representation election. Votes may be challenged when the eligibility of the voter is in question. Challenged ballots are kept sealed and are opened and counted only if their number is sufficient to affect the outcome of the election.

**Check off**
Check off is the payroll deduction of fees from the pay of employees in the bargaining unit. It can be union membership dues, agency (fair share) fees for nonmembers and assessments. This money is turned over to the union.
Collective Bargaining (Labor Contract Negotiations)
A method of bilateral decision-making in which the employer and the exclusive representative of the employees determine wages, hours, and terms of conditions of employment for all workers in a bargaining unit through direct negotiations. The bargaining normally results in a written contract (memorandum of understanding) that is mutually binding and sets wages, grievance procedures, and other conditions of employment to be observed for a stipulated time.

Collective Bargaining Agreement (Contract, Labor Contract)
A written agreement or contract arrived at as the result of negotiations between an employer and a union. It usually contains provisions on conditions of employment and the procedures to be used in setting disputes during the term of the contract. It is referred to as a memorandum of understanding (MOU) when the agreement is between a union and a public employer.

Confidential Employee
According to the Higher Education Employer-Employee Relations Act (HEERA), any employee who is required to develop or present management positions with respect to meeting and conferring or whose duties normally require access to confidential information which contributes significantly to the development of those management positions.

Decertification
The withdrawal by PERB of a union's designation as exclusive representative. It is usually preceded by a desertification election that has been called because of the submission of a petition expressing employee dissatisfaction with the union and requesting decertification.

Employee
According to HEERA, any employee of the Regents of the University of California, the Directors of Hastings College of the Law, or the Trustees of the California State University. However, managerial and confidential employees and employees whose principal place of employment is outside the State of California at a worksite with 100 or fewer employees shall be excluded from coverage under this chapter.

Employee Organization
A union. HEERA defines employee organization as "any organization which includes employees of the University and Lawrence Livermore Laboratory and which has as one of its primary purposes representing its members in employer-employee relations" (i.e., regarding hours, wages and other terms and conditions of employment).

Exclusive Representative
The employee organization designated as the collective bargaining agent for all employees, both members and nonmembers, in a unit.

Fair Share
See Agency Fee
HEERA
The Higher Education Employer-Employee Relations Act (HEERA) is a law passed by the California State Legislature, giving University of California employees the right to decide whether they want collective bargaining as the one means of determining their wages, hours and working conditions. Employees will make this decision by secret ballot. The elections will be conducted by PERB the State Public Employment Relations Board.

Impasse
A situation in collective bargaining that occurs when the employer and the union, both bargaining in good faith, fail to reach agreement. Impasses are often resolved by the intervention of a neutral party such as a mediator, fact finder, or arbitrator.

Managerial Employee
According to the HEERA, any employee having significant responsibilities for formulating or administering policies and programs. No employee or group of employees shall be deemed managerial employees solely because the employee or group of employees participates in decisions with respect to courses, curriculum, personnel and other matters of educational policy.

Management Rights Clause
A provision in a collective bargaining agreement that expressly reserves certain rights and responsibilities to management and specifies that the exercise of these rights and responsibilities shall not be the subject of negotiations, grievances, or arbitrations.

Mediation
A process in which a neutral third party assists parties in a bargaining dispute to come to a voluntary agreement. The mediator may suggest to the parties various proposals and methods for resolution of disputes, but he has no formal power to force a settlement.

Meet-and-Confer
Periodic discussions on wages, hours, and conditions of employment between the employer and the exclusive representative of the bargaining unit that results in a binding agreement. This is usually referred to as the bargaining or negotiating process.

Memorandum of Understanding
A written collective bargaining agreement (contract) between a public agency and an employee organization (union) setting forth agreed terms and conditions of employment.

Public Employment Relations Board (PERB)
The five-member board appointed by the Governor to administer the Meyers-Milias-Brown Act, the Educational Employment Relations Act, the State Employer-Employee Relations Act and the Higher Education Employer Employee Relations Act. Its duties are analogous to the National Labor Relations Board.
Recognition
The acceptance by a public employer of a union as the exclusive representative of employees in a bargaining unit. Recognition is a major step in the establishment of a collective bargaining relationship and usually follows an election in which the majority of employees voting have selected an organization to represent them. Under certain conditions, (i.e. where there is no doubt that the employee organization represents a majority), employers may voluntarily recognize an organization without an election.

Representation Election
An election conducted by an administrative agency such as PERB to allow employees to express their choice of either "No Representation" or an exclusive representative from the unions showing legitimate evidence of interest in being the exclusive representative for that unit. Although the ballot reads "No Representation," it means "no [exclusive] representation." If the majority of votes are cast for "No Representation," employees continue to have the same nonexclusive representation rights as before the election.

Run-Off Election
A second representation election conducted when no choice (including "No Representation") wins a majority of the valid votes cast in the first election. The run-off is between the two choices receiving the most votes in the first election.

Scope of Bargaining
The subject matter that employers and exclusive representatives (unions) may bring within the area of the collective bargaining agreement of memorandum of understanding (contract).

HEERA states that the scope of representation is limited to "wages, hours, and terms and conditions of employment."

Showing of Interest
The support among employees in a proposed bargaining unit that the union must demonstrate in justifying its claim for status as the bargaining representative before elections are held. The most common evidence of support is an authorization card signed by thirty percent of the employees in the proposed unit.

Strike
A work stoppage by a group of employees intended to express a grievance, enforce a demand for higher wages or for other changes in conditions of employment, obtain recognition, or resolve a dispute with management.

There is a question as to whether strikes by University of California employees would be considered legal. A plurality of the California Supreme Court has determined that public employees have a common law right to strike. However, that right is not an absolute one. It is further unclear whether and to what extent the four major statutes governing public sector labor relations in California, such as HEERA, supersedes this common law right. In the only decisions to date from the PERB, decided under EERA, the statute pertaining to K-12 and community college employees, teacher strikes have been found unlawful under the facts of the case.
**Supervisor**
According to the HEERA, any individual, regardless of the job description or title, having authority, in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. Employees whose duties are substantially similar to those of their subordinates shall not be considered to be supervisory employees.

**Unfair (Labor) Practice**
Action by an employer or union that violates certain provisions of HEERA.