



PROFESSIONAL EMPLOYEES  
ASSOCIATION

# Union Representatives Manual

2012 Edition

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Local 3695



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## 1. Background Information

If you haven't already done so, take some time and learn about the history of UCPEA, its Constitution, and its Bylaws. As the face of the union, members will expect you to be knowledgeable about these matters. Please take a moment to look at the following links:

### **UCPEA History**

<http://tinyurl.com/bt7tjzs>

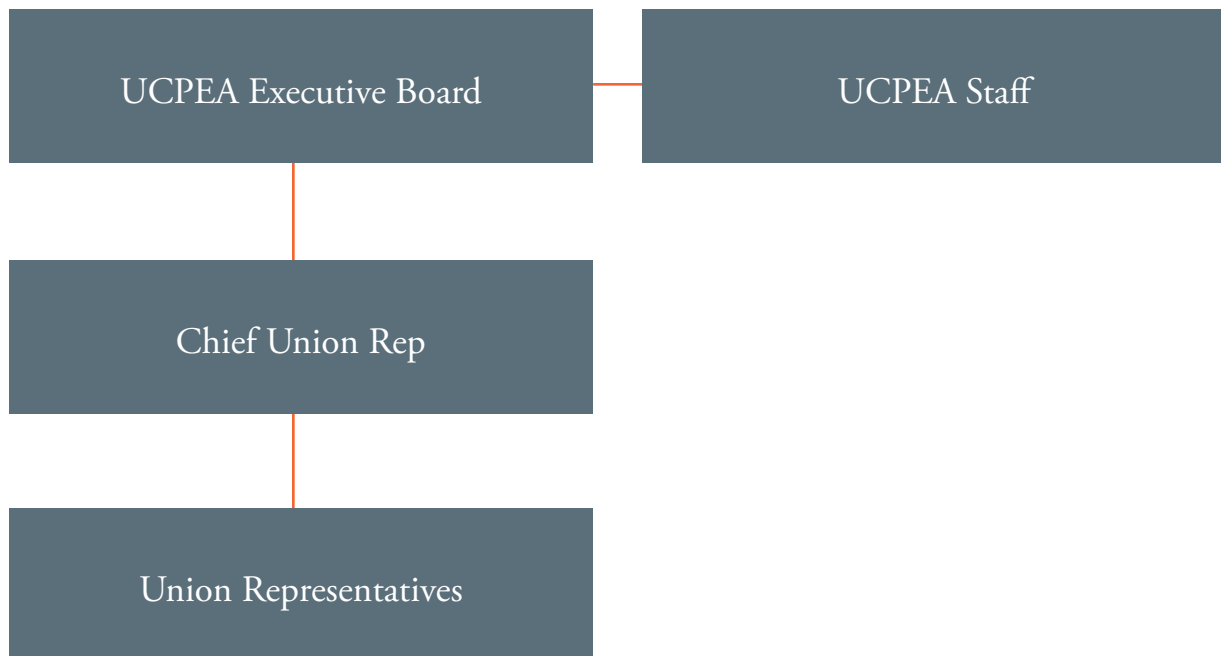
### **UCPEA Contract**

<http://tinyurl.com/cqpe3wt>

### **UCPEA Constitution and Bylaws**

<http://tinyurl.com/cb35tc5>

## 1.1 Organizational Chart



## 1.2 Being a Good Representative

UCPEA Representatives should be knowledgeable about the issues facing members. Part of a good Representative's job is to interface with your area members. That could be as simple as asking everyone about the problems they are having at work each week. If you want to be more formal, you could hold regular meetings, or send out emails. However you do it, keeping members informed and listening to member concerns should be one of your primary responsibilities. In addition, a good Representative needs to be knowledgeable about the contract. Reading through this manual, as well as the contract, is good preparation. But don't expect to become an expert overnight. As you handle different issues, and get more experience, you will become familiar with a wider variety of issues facing our membership. Your expertise will build slowly, so remember to ask questions of senior reps and the UCPEA staff.

When you are meeting with management as a union official, it is important for you to understand you are more than just a worker – you are an equal with management. Behavior that would not be tolerated by your boss, must be accepted by your equal. While threats, extreme profanity, racial epithets, and physical violence are not protected by the equality of this relationship, it does give Representatives some leeway to step outside of their role as an employee. Arguing, “salty language,” challenges to management claims of truthfulness, and raising the threat of legal or collective action must be tolerated. When you are representing the union at a meeting with management, you are an equal. The law forces management to accept these types of behaviors, without retribution, in order to foster a more robust dialogue. Don't feel trapped into subservience at fact-findings or disciplinary hearings. As a rep, when you are meeting with management you need to tune out your employee mentality. Challenge any deceptions they try and sneak by you, and do it with the confidence that you are an equal during labor-management meetings.

## 1.3. Handling Complaints About Other UCPEA Members

Being a union of professional employees, the job ladders of our workplace often put our members into positions of supervision over other UCPEA members. Should an UCPEA employee file a grievance against an UCPEA supervisor, the duty of fair representation still applies to both members. In order to maintain our members' trust in their correspondence with reps, you should advise only the party who first approaches you. If the other party comes to you seeking representation, please refer him/her to the UCPEA office or to another rep in your area or another area.

If you have a situation where one member comes to you with a problem involving another member, such as workplace bullying or harassment, you should listen to their concerns, and begin a diligent investigation. For those issues which may constitute unethical or unprofessional behavior, but not rise to the level of a grievance, direct the employee to the Office of Audit, Compliance, and Ethics.

**Every worker deserves a**

**VOICE  
@  
WORK**

## 2. The Role of the Union Representative

### 2.1 You Are The Union!

#### General Guidelines

- You represent the union to all union members in your area.
- The most immediate help for a member is secured through you.
- A good Representative should be accessible, informed, and objective.
- It is imperative that the information you communicate is accurate.  
No one expects you to know all the answers, but they do expect you to know where to find the answers.  
Call the UCPEA office with any questions you cannot answer.
- You represent your area at Union Rep meetings. Vote according to your members' wishes, not your own.
- Be aware that, as an elected official representing the union, anything you do will be scrutinized.
- Maintain your professional demeanor in all your job duties and union-related responsibilities and endeavors, your work ethic will set the tone for members in your area.

#### Educate

- Introduce yourself to all the professionals in your area.
- Let them know you represent their needs and wishes.
- Let your members know how to contact you.
- Make it clear that, in order for you to be an effective advocate, your area membership needs to communicate their needs and ideas to you.
- Decisions are not made by a few. Decisions should be based on the input of many. Unions are democratic institutions, and UCPEA is no different.
- **REMEMBER: the union is only as strong as its members.**

#### Inform

- Keep members informed through periodic meetings, memos, or emails.
- Distribute all information to your members in a timely manner and report on UCPEA activities, votes and decisions as requested by the Chief Union Representative.

## Recruit

- You should strive for 100 percent membership in your area!
- Always have a supply of membership cards. You can print them from this URL:  
<http://tinyurl.com/bme24ae>
- Personally ask every non-member (agency fee payer) to join the union.  
If you'd like to familiarize yourself with some talking points and answers to possible objections, check out [www.ibew1613.org/stewards/answers.html](http://www.ibew1613.org/stewards/answers.html)
- Introduce yourself to each new employee in your area. Make sure the new employee has received his/her new member packet. Ask them to join the union.

## Represent

- *Know your membership.*
- Attend all Union Representative Meetings.
- After each meeting, report the meeting's proceedings to your area membership by memo, email, or by calling an area meeting.
- Schedule informal (e.g. lunchtime) biweekly or monthly meetings to discuss UCPEA activities, answer questions, and solicit input from your area professionals. If this is impracticable, you could send out periodic emails.
- Encourage all members to take a more active role in the union by joining committees, running for office, or becoming Representatives themselves.

## Relay

- You serve as the liaison between your area's members and the Grievance Team.
- Listen to your member's issues, problems, and grievances carefully.
- Attempt to resolve minor communication difficulties through clarification. Many workplace issues are the result of misunderstandings and misinformation.
- Listen and guide. Avoid personal opinions.
- Never dismiss any members' issue, problem, or grievance as petty.
- As a Union Representative, you might be asked to serve as an intermediary between the membership and management.

## 2.2 Greeting New Members

UCPEA Representatives should make an effort to introduce new members to the union. Making early contact with new employees can help to shape a positive attitude about the union. As you know, an overwhelming majority of UCPEA members are dues payers, and making early contact with new members can help us keep that number high.

When you hear of a new hire in the area, you should seek out the opportunity and make an introduction. Think back to your first day at work, and think of things that you would have liked someone to have told you. This shouldn't be limited to union information, but might include things like the best places to get lunch or the temperament of supervisors. Make sure to explain the benefits that UCPEA has negotiated for our members. Establishing a good working relationship with the members in your area is key to staying abreast of concerns and potential grievances in your area. The new employee should walk away from your introduction knowing that he/she can go to the union if there are any concerns. If there are any UCPEA events coming up, offer to take the new employee with you, and introduce him/her — new members are more likely to attend UCPEA meetings if they are going with someone they know.

## 2.3 Agency Fee Payer vs. Union Member

An agency fee is a monetary assessment paid to a union for services and work performed on behalf of the employees. This includes collective bargaining, contract administration, grievance handling, and other non-political union activities. All UCPEA employees default as agency fee payers, and this leaves them unable to partake in union decision making or activities. Agency fee payers cannot attend any union meetings, vote in union elections, or attend union trainings and social events. Agency fee payers are entitled to all the benefits of the contract, including representation at disciplinary hearings, access to professional development funds, childcare reimbursement, and UCPEA scholarships.

Often times, agency fee payers simply assume that they are full union members, as the University deducts the agency fees from their first paycheck. Be sure to review the Agency Fee List and ask everyone to join the union. Many haven't joined simply because no one has ever asked them! For help in persuading an agency fee payer to become a full member, please see this guide, written by the International Brotherhood of Electrical Workers: [www.ibew1613.org/stewards/answers.html](http://www.ibew1613.org/stewards/answers.html). Membership Cards: <http://tinyurl.com/bme24ae>

## 2.4 The Duty of Fair Representation

The Duty of Fair Representation is a doctrine that encompasses the legal responsibilities of unions to their members. Generally speaking, this responsibility compels unions to fairly represent all employees (both members and agency fee-payers) in the bargaining unit. Fair representation applies to any representational aspect of union activity, including bargaining, grievance handling, and arbitration.

Fair representation issues are most likely to come up in the grievance process. For this reason it is absolutely essential that Union Representatives familiarize themselves with the Duty of Fair Representation. According to material published by the George Meany Center for Labor Studies, most of the "failure to represent" lawsuits are filed by persons who have been discharged. Any Representative who handles a case which he or she believes may result in dismissal should take the utmost care in ensuring fairness during the grievance process. Regardless of what type of grievance you're handling, if you are unsure of about how to proceed, always ask for help.



In order to handle grievances fairly, please follow these guidelines:

- **Consider all grievances solely on their merits.** Never allow personal feelings towards an employee to cloud your judgment; look only at the facts of the case. When handling a grievance, ignore any personal feelings you may have about anyone involved. As a Union Representative, your handling of any grievance should be independent of how you feel about the employee. Treat all employees the same, whether they are longtime union members or agency-fee payers.
- **Process the grievance promptly.** Under section 23.2 of the UCPEA contract, you must file a grievance within 35 days of the issue which gave rise to the grievance. If an employee reports a grievance to you, it is your duty to file the grievance within a timely manner, if the employee wants to. Similarly, the deadlines for filing appeals must be taken with the same gravity of consideration.
- **Investigate the grievance thoroughly.** cursory investigations are not sufficient. It is your responsibility to investigate grievances thoroughly. You must take the time to uncover all of the important facts. Make sure to interview everyone, collect statements, and interview all witnesses. You cannot decide the merits of a grievance until you have completed this step.
- **Take good notes.** As a Union Representative, you should keep good written records of every interview, discussion, and correspondences. It is highly advisable that you keep a paper copy of all grievance information, in addition to any electronic copies. Written notes are invaluable during fact-findings and arbitration hearings, and no one wants to lose a grievance because key information was misplaced.
- **Keep the grievant informed.** According to information from the George Meany Center for Labor Studies, “many lawsuits are filed because discharged grievants... believe the union is trying to hide something by not keeping the grievant advised of the progress.” This responsibility is so easy that it should never go unattended. Make sure to communicate updates in writing.

After conducting a thorough investigation, grievances that lack merit can be dropped. Employees do not have the legal right to force a grievance to arbitration. If UCPEA feels that a grievance is without merit, it does not have to take it to arbitration. Additionally, UCPEA has the ability to settle grievances, as it sees fit. If you ever find yourself with questions about your duties to fairly represent an employee, it is always best to contact the UCPEA office at (860) 487-0850.

If you are interested in reading the text of the law, the Duty of Fair Representation is found in Section 5-272(d) of the Connecticut General Statutes.

## 3. Grievance Handling

### 3.1 Grievance vs. Gripe

Unions were formed by employees to provide workplace justice and dignity. Enforcing contractual rights and grieving contract violations strengthens the rights of all workers. Ensuring that the grievance process is accessible to each member, and assisting members in the use of this process is a critical responsibility of union officials. A grievance procedure safeguards against unfair, arbitrary, and capricious decisions of management.

**What is a complaint?** A complaint is the informal expression of dissatisfaction with aspects of employment or working conditions, by an individual employee or a group, made to the immediate supervisor.

**What is a grievance?** A grievance is the written expression of dissatisfaction, made by an employee, a group

of employees, or a Collective Bargaining Representative. The dissatisfaction that creates a grievance must be either a) a violation of a specific term or condition of the UCPEA contract; or b) a violation of University policy. Additionally, grievances may also arise out of unilateral changes to policies which were “past practices” and never codified in the contract.

**Grievance vs. Gripe.** As a Union Representative, you will eventually be presented with a member issue which does not rise to the level of being a real grievance. As advocates, you must thoroughly investigate all issues presented to you, to determine if they are grievable. Even if the issue isn't grievable, we can often assist the employee through other channels (such as the Office of Audit, Compliance, and Ethics).

## 3.2 Types of Grievances

**Contractual:** Limited to a claim that there has been a violation of a specific term(s) or provision(s) of the Collective Bargaining Agreement or of those conditions of employment, which are specified in the contract.

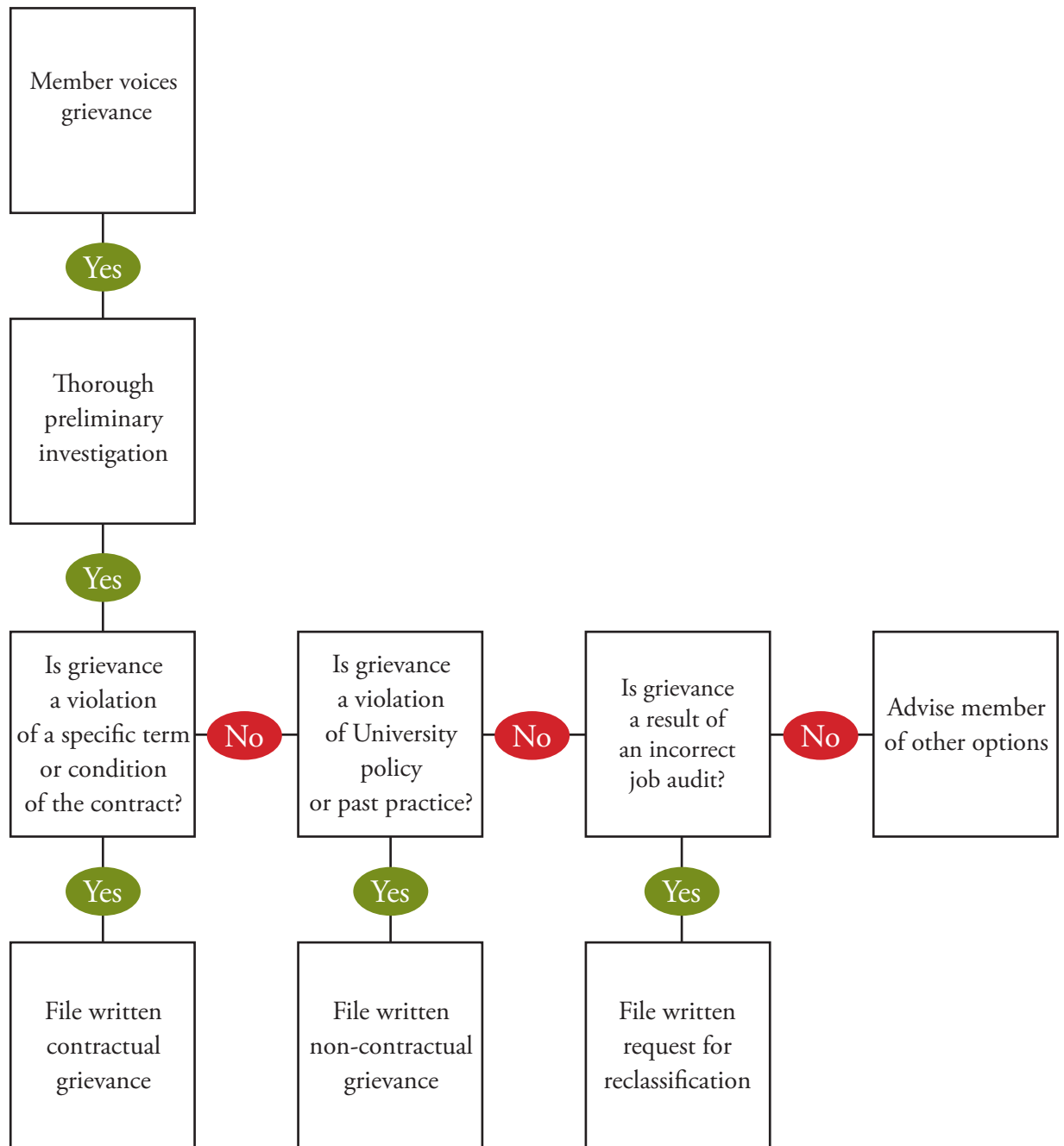
**Non-Contractual:** A dispute concerning the practices and policies of the University of Connecticut.

**Reclassification Appeal:** Appeals of decisions made under article 31.2 shall be processed through the non-contractual grievance process except that the Step I response will be considered an audit report prepared by a classification specialist in Human Resources.

## 3.3 Preparing and Presenting the Case

1. Investigate and research: Who, What, When, Where, Why, How.
2. Write up notes in an organized fashion to guide presentation. Keep accurate notes of all meetings.
3. Anticipate management's arguments and be prepared to mitigate or counter appropriately.
4. Try to narrow the scope of differences between grievant and management. Carefully define the issues you cannot agree upon. Make sure there is an understanding of the issues management is presenting
  - ~ ask questions.
5. Be specific in your request for remedial action. Seek a fair and equitable resolution.
6. Reconcile differences at the lowest possible level. If a satisfactory settlement cannot be reached, remain calm
  - ~ there are additional steps to the grievance procedure if necessary.
7. Treat management respectfully. Avoid getting nasty with the supervisor; don't forget that the employee must work with that supervisor after the meeting. Also, remember that the supervisor may not be responsible for the complaint, and his/her assistance may be enlisted in convincing “higher ups” to resolve the matter in the employee's favor.
8. Advocate to the best of your abilities; don't let management intimidate you or the grievant; demand respect through aggressive, honest dealings with management.
9. Avoid delays whenever possible. They often complicate the situation and frustrate the grievant.
10. Ask for help. You are not expected to know all the answers. The UCPEA staff is there to guide and assist you.

### 3.4 Grievance Intake Flowchart



## 3.5 Information Needed to Process a Grievance

### General: Contract

- Personnel rules and regulations
- Case precedent
- Work site practice
- General principle of labor law

### Specific: "W"'s

#### Who

- is the grievant?
- are the persons involved?
- are the witnesses to the situation?
- else needs to be informed of the situation?

#### What

- are the facts?
- was the incident that gave rise to the complaint?
- was the grievant's involvement in the matter?
- action(s) has management taken?
- section(s) of the contract apply?
- case law, past practice, or other factors bear upon this matter?
- is there a hidden problem or agenda?
- is the employee's past record?
- is the remedial action sought?
- is the bottom line of the settlement?
- is your authority to negotiate?

#### When

- did this occur? recently? in the past? is there any history?

#### Where

- did the complaint occur on the job?

#### Why

- is it a grievance?
- did the situation occur?

#### How

- can this complaint or grievance be settled or negotiated to ensure that the grievant is satisfied with the result?

## 3.6 Procedure for Opening a Grievance File

A. Conduct thorough preliminary investigation

B. Determine if grievance is contractual or non-contractual

C. Gather the following documents:

1. UCPEA Complaint/Grievance Intake form
2. Formally filed and received documents (Grievance, Letter of Complaint, and any responses, etc.)
3. Case intake notes
4. Emails, chronologically
5. Other materials

D. **Notify an UCPEA staff member.** Provide staff member with completed intake form to assign grievance case number, open a working grievance file, and open file in Grievance Tracking Database. Necessary information to provide: member name, accusation of misconduct (primary issue/other issues) and type of grievance.

*Provide updates of dates pertaining to factfindings, step progression, labor board findings, and/or arbitration findings depending on contractual or non-contractual procedure.*

## 3.7 The Contractual Grievance Process

### Step 1 (Immediate Supervisor)

A member has **35 calendar days** from the event giving rise to the contractual grievance to submit the grievance in writing to the immediate supervisor with a copy to Labor Relations. (In no case shall The University of Connecticut administration be obliged to process a grievance, which is submitted 45 days after the event giving rise to the grievance.) An UCPEA Complaint/Grievance Intake Form may be obtained from the UCPEA office or from a Grievance Team member. The employee should complete the form with the assistance of a Grievance Team member or the UCPEA office staff. The immediate supervisor has **14 calendar days** to meet with the grievant and the UCPEA representative and will give his/her decision in writing within **7 calendar days**.

### Step 2 (Vice Presidential Level)

If the member is not satisfied with the decision at Step 1, an appeal may be submitted to the Vice President by UCPEA within **14 calendar days** of the receipt of the decision. The Vice President, Director of designee has **14 calendar days** of the receipt of the grievance to meet with the member and Union Rep (all parties involved at Step 1 are required to be present). Within **7 calendar days** of the hearing the Vice President shall respond in writing.

### Step 3 (Arbitration)

If the grievance is not resolved to the satisfaction of the Union, the grievance can be submitted to American Arbitration Association or the Connecticut Board of Mediation and Arbitration within **14 calendar days** of the receipt of the Step 2 decision - with notice to the Provost or appropriate Vice President and Labor Relations designee. The decision of the arbitrator is final.

## 3.8 Steps to Filing a Contractual Grievance

Events giving rise to contractual grievance and informal attempts to solve problem

### Step I

WITHIN 35 DAYS

Submit grievance in writing to supervisor

|

WITHIN 14 DAYS

Supervisor meets with grievant

|

WITHIN 7 DAYS

Supervisor provides written response

### Step II

WITHIN 14 DAYS

Request by grievant to appeal Step 1 decision to the Vice President  
UCPEA files an appeal with the Vice President

|

WITHIN 14 DAYS

Vice president meets with UCPEA and grievant

|

WITHIN 7 DAYS

Vice President responds to the grievance in writing

### Step III

WITHIN 14 DAYS

If grievant isn't satisfied and grievance qualifies for arbitration, UCPEA can appeal the grievance to the American Arbitration Association or the Connecticut Board of Mediation and Arbitration. To do so, UCPEA must notify the Vice President as well as Labor Relations.

**The decision of the arbitrator is final.**

## 3.9 The Non-Contractual Grievance Process

### Step 1 (Immediate Supervisor)

A member has **35 calendar days** from the event giving rise to the non-contractual grievance to submit the grievance in writing to the immediate supervisor with a copy to Labor Relations. (In no case shall The University of Connecticut administration be obliged to process a grievance, which is submitted 45 days after the event giving rise to the grievance.) An UCPEA Complaint/Grievance Intake Form may be obtained from the UCPEA office or from a Grievance Team member. The employee should complete the form with the assistance of a Grievance Team member or the UCPEA office staff. The immediate supervisor has **14 calendar days** to meet with the grievant and the UCPEA representative and will give his/her decision in writing within **7 calendar days**.

### Step 2 (Non-Contractual Grievance Panel)

If the member is not satisfied with the decision at Step 1, within **14 calendar days** of the receipt of the decision UCPEA will notify the University Labor Relations Designee that the member wishes to appeal to a Non-Contractual Grievance Panel.

#### *Non-Contractual Grievance Panel Selection*

- Within **21 days** of the progression to Step 2, UCPEA selects 3 members (not from the grievant's department). Within **10 days**, the university selects 1 of the 3.
- Within **21 days** of the progression to Step 2, the University selects 3 people in management (not from the grievant's department). Within **10 days**, UCPEA chooses 1 of the 3.
- The 2 people chosen constitute the Non-Contractual Grievance Panel. They will hold a hearing and render a decision, in writing, within **45 days** of receipt of charge. If the decision is unanimous, it is final. If the decision is not, the grievance may go to Step 3.

### Step 3 (Vice Presidential Step)

Within **14 calendar days** of a split decision UCPEA can submit the grievance to Vice President. Within **28 calendar days** from submission the Vice President shall hold a hearing with the grievant and UCPEA Rep and respond in writing. The decision of the Vice President is final.



## 3.10 Steps to Filing Non-Contractual Grievance

### Events giving rise to non-contractual grievance and informal attempts to solve problem

#### Step I

WITHIN 35 DAYS

Submit grievance in writing to supervisor

|

WITHIN 14 DAYS

Supervisor meets with grievant

|

WITHIN 7 DAYS

Supervisor provides written response

#### Step II

WITHIN 14 DAYS

Request by grievant to appeal Step 1 decision to Labor Relations

UCPEA files an appeal for a Non-Contractual Grievance Panel

|

WITHIN 21 DAYS

UCPEA selects 3 members (not from grievant's dept.) for grievance panel

The University selects 3 management employees (not from grievant's dept.) for the grievance panel

|

WITHIN 10 DAYS

UCPEA selects 1 of the 3 University panel candidates

The University selects 1 of the 3 UCPEA panel candidates

|

WITHIN 45 DAYS

The chosen grievance panel will hold a hearing and render their decision in writing

If the decision is split, the grievance may go to Step III

#### Step III

WITHIN 14 DAYS

Grievance in writing to appropriate Vice President

|

WITHIN 28 DAYS

Vice President will hold a hearing and respond in writing

**This decision is final**

## 3.11 The Reclassification Appeals Process

A. Conduct through preliminary investigation

B. Determine if the reclassification decision is grievable

C. Gather the following information:

1. UCPEA Complaint/Grievance Intake Form
2. Job Change Questionnaire Form
3. Job Classification Analysis
4. Job Descriptions Matching Requested UCP Title
5. Case Intake Notes
6. Emails, Chronologically
7. Other Materials

D. Notify UCPEA staff member to open working grievance file, open a file in the Grievance Tracking Database.

## 3.12 Steps to Filing a Reclassification

Meet with supervisor and request that their position be audited

|  
WITHIN 4 WEEKS

Supervisor responds by sending a written request to the Department of Human Resources asking that either a job change questionnaire be sent to the employee or notice that a reclassification cannot be supported at this time

|  
WITHIN 4 WEEKS

The Grievant or UCPEA may notify Human Resources that he/she wishes to appeal to a Non-Contractual Grievance Panel

|  
WITHIN 21 DAYS

UCPEA selects 3 members (not from Grievant's dept) for the grievance panel  
The University selects 3 management employees (not from Grievant's dept) for the grievance panel

|  
WITHIN 10 DAYS

UCPEA selects 1 of the 3 University panel candidates  
The University selects 1 of the 3 UCPEA panel candidates

|  
WITHIN 45 DAYS

The selected panel will request that the job audited by the Department of Human Resources if no audit has previously been conducted

|  
WITHIN 21 DAYS

The audit shall take place and the panel shall recommend a course of action to the Chancellor or higher designee

## 3.13 Procedure for Closing a Grievance File

A. Review the entire file, cull materials that are duplicates or extraneous

B. Put the file in order as follows:

1. Case closure Form
2. Stipulated Agreement, if any
3. UCPEA Complaint/Grievance Intake Form
4. Formally Filed and Received Documents (Grievance, Letter of Complaint, any responses, etc.)
5. Staff Case Notes, if any
6. Emails, chronologically
7. Other materials

C. Fill out the Case Closure Form (CCF). Once a finalized CCF is received, UCPEA staff member will update the Grievance Tracking Report/Database, transfer any important notes from the GTR/Database onto the CCF and staple the form on the inside left flap of the case file.

D. Deliver any other pertinent materials to the UCPEA office. UCPEA staff member will finalize the file and close it in the GTR/Database.

## 3.14 Other Avenues

Representatives should stay informed of other agencies on the UConn campus that promote workplace fairness. Grievances around issues of discrimination and protected status may rise above the contract language, and are best handled in conjunction with the Office of Diversity and Equity (ODE), or the Commission on Human Rights and Opportunities (CHRO). Both agencies conduct their own investigations, and may be useful tools in helping to remunerate employees who have suffered discriminatory treatment. Some grievances may constitute an explicit breach of the University Code of Conduct, but not any specific portion of the UCPEA contract. These issues, such as workplace harassment, can be concurrently pursued through the Office of Audit, Compliance and Ethics. Bear in mind, however, that violations of University policy are grievable under §23.1(b) of the UCPEA contract.

### Office of Diversity and Equity

241 Glenbrook Road  
Wood Hall, Unit 2175  
Storrs, CT 06269  
Phone: (860) 486-2943  
Fax: (860) 486-2437  
Email: [ode@uconn.edu](mailto:ode@uconn.edu)

Those who seek redress through ODE can fill out their intake form  
<http://tinyurl.com/c48ztjj>

### Office of Audit, Compliance and Ethics

9 Walters Avenue, Unit 5084  
Storrs, CT 06269-5084  
Phone: (860) 486-4526  
Fax: (860) 486-4527  
<http://www.audit.uconn.edu>

### Commission on Human Rights and Opportunities

21 Grand Street  
Hartford, CT 06106  
(860) 541-3400  
[www.ct.gov/CHRO](http://www.ct.gov/CHRO)

## 3.15 Forms

### **Grievance Intake Form**

<http://tinyurl.com/cey9uml>

### **Reclassification Appeals Information**

<http://tinyurl.com/dy7w8wg>

you have a  
**voice**  
make it  
**heard**

### 4.1 Weingarten Rights

Under a Supreme Court decision commonly called Weingarten (*NLRB v. J. Weingarten, Inc.* 420 U.S. 251), all unionized employees have the right to request union representation at any “investigatory interview.” An investigatory interview occurs if 1) management questions you to obtain information; and 2) you have a *reasonable apprehension* that your answers could be used as a basis for discipline or other adverse action.

To invoke your Weingarten rights, you need to make a statement like the following: *“If my responses to your questions could lead to my being disciplined or terminated, or adversely affect my personal working conditions, I respectfully request that I be permitted to summon my union representative. Until my union representative arrives, I choose not to answer any questions. These are my rights under Article 22.2 of the UCPEA contract and a Supreme Court decision called Weingarten.”*

At this point, the employer must either provide you with representation of your choosing (you get to pick which representative accompanies you, not the employer), or end the meeting. If they continue to question you, you do not have to answer any questions. It is a violation of the law to be disciplined for invoking your Weingarten rights, or for refusing to answer questions after you are denied representation.

All of your members should be very familiar with their Weingarten rights. Union Representatives should print out statements, like the italicized one above, and give them to members who might be too timid to speak up.

### 4.2 Employer Prohibited Practices Under Labor Law

The Connecticut statute which governs state employees is known as the State Employee Relations Act, or SERA. It closely tracks the language of the National Labor Relations Act, the federal law that defines the rights of union members. The SERA defines certain rights union members have, many of which deal with protecting pro-union employees from firing or discriminatory treatment, on the basis of their union affiliation. The SERA also outlines the responsibilities of unions (such as the duty of fair representation), and bans on certain types of unauthorized strikes.

As a Union Representative, it is unlikely that you will ever be faced with issues like the ones that SERA was designed to deal with. However, you should be familiar with a couple of the basic provisions. Under SERA, it is illegal to fire an employee solely for being an outspoken union member. More broadly, employers are prohibited from acting to restrain your rights to concerted activity. This can potentially include things like banning display of union buttons or not allowing representation during disciplinary hearings. If you feel that a member of management might be acting in a way that hampers your ability to exercise your rights as a union member, please contact the UCPEA office.

If you would like to learn more about SERA and the case law surrounding it, have a look at the following websites:

Full text of the State Employee Relations Act: <http://www.ctdol.state.ct.us/csblr/sera5-270.htm>

For a summary of important case law around SERA, check out the Connecticut State Board of Labor Relation’s webpage: <http://www.ctdol.state.ct.us/csblr/Summ-SERA.htm>

## 4.3 Insubordination

Insubordination is a serious violation of the General Code of Conduct. Members found to be insubordinate can face termination. Generally speaking, an act of insubordination is defined as: “an employee’s refusal to carry out a direct job related work order given by an administrator or supervisor of appropriate authority.”

UCPEA members enjoy protection from claims of insubordination arising out of work orders which are unsafe or illegal. You are allowed to refuse a work order, but only if it puts you in immediate danger of life, limb, or health; or if carrying out the order would violate the law.

Representatives should be mindful of the following: Both internal and UCPEA job descriptions are not all-inclusive. Members may be asked to perform work outside of these job descriptions. The excuse “you can’t make me do it, it isn’t in my job description” simply doesn’t apply.

Members are encouraged to voice their objections to their supervisor before performing work which is in violation of the contract. After making their feelings known, they should carry out the work order, and contact their Union Representative at the first convenient opportunity.

Members must always “work now, grieve later.” If a member feels that work they are performing warrants a temporary salary increase, they cannot suspend that work until their paperwork gets processed. Except in cases where a work order constitutes a violation of law or puts the employee’s health in immediate danger, they must carry out the work order, or risk a charge of insubordination.

## 4.4 University General Rules of Conduct

The University General Rules of Conduct can be found at the URL below. Please note that Section T allows violations of the State Code of Ethics to be subjects of discipline.

**University General Rules of Conduct:** <http://www.audit.uconn.edu/doc/codeofconduct.pdf>

**University Guide to the State Code of Ethics:** <http://www.audit.uconn.edu/doc/codeofethics.pdf>

## 4.5 Compensatory Time

The University’s regular administrative hours are 8 a.m. to 5 p.m., with most employees working a seven-hour work day and a five-day work week. Compensatory time compensates employees who work “extraordinary hours”— hours outside of, and in addition to, the regular workweek. If the employee has prior approval from a supervisor outside of the bargaining to work such hours, compensatory time “shall be afforded.”

Departments that claim that their employees aren’t eligible for compensatory time are violating the contract if they are requiring members to work extraordinary hours. As a Union Representative, you may need to address misconceptions that management may have about comp time. Remember: compensatory time is a legal and contractual right, and no supervisor is permitted to ignore the contract.

Should you encounter a supervisor who is violating the contract by refusing to pay out compensator time or allow members to put in for their comp time, you should inform them, in writing, of the provisions of Article 18 of the UCPEA contract. In this letter, you should restate the supervisor’s position and contrast that position to the rights of the contact. Remember, the contract only requires that comp time be afford for extraordinary hours worked with the prior approval of a supervisor outside of the bargaining unit. Failure to secure pre-approval is legitimate



grounds for rejecting comp time requests. While many supervisors trust their employees to self-report, be sure to stick to the wording of the contract if your supervisor is being stubborn about affording comp time.

### **Using Accrued Comp Time**

Article 18.3 states that “supervisors are encouraged to approve [comp time usage] requests whenever business needs permit.” This language stops short of affirming a right to comp time usage, but makes it clear that the University policy encourages comp time utilization. Because compensatory time expires three years from the date it is accrued, members are encouraged to be diligent about utilizing their accrued comp time.

### **A Note On Non-Exempt Employees Under The Fair Labor Standards Act**

Non-exempt employees accrue comp time within the rules of the Fair Labor Standards Act. To find out your current exemption status, check the top, left corner of your UCPEA job description. The provisions of the FLSA differ from the UCPEA contract in several ways. The language on taking compensatory time is stronger, mandating that the employer grant comp time requests within a reasonable amount of time, unless the request “unduly disrupts the operations of the public agency.” The FLSA also limits the number of hours of comp time you can accrue to 240 (with some exceptions). Non-exempt employees who are retiring, quitting, or otherwise leaving their job get their comp time cashed out.

### **Comp Time Payment Authorization Form**

<http://tinyurl.com/c36lbrt>

## 4.6 Employee Evaluations

Yearly evaluations often generate a lot of member activity. Since documenting a pattern of poor work performance is often the first step towards termination, union reps are often faced with a number of employees who feel they have been unjustly evaluated. As a Rep, you have to investigate each claim brought to you, regardless of how you feel about a particular member’s work performance. Here are a few guidelines of how to deal with evaluation issues:

- Only evaluations with an overall rating of ‘Unsatisfactory’ can be grieved.
- Regardless of the overall rating, members have a right to append a statement to their evaluation, which will become part of their permanent record. There is no time limit on when these rebuttals need to be attached (although a prompt rebuttal sends a stronger message). Employees who wish to rebut their evaluations are not released of the requirement that they sign their evaluations. Failure to sign your evaluation within the stated time limits may constitute insubordination, and doing so does not prevent you from rebutting your evaluation.
- Rebuttals should be concise and explicit. Point-by-point contestations are better than rambling responses. You should make it very clear which comments or ratings you disagree with and why you feel that you have been unjustly rated. Examples of things to mention are: suggestions for improvement that aren’t clear to you; issues that are new to you; or if you feel that you have been evaluated against expectations which exceed your job duties.

## 4.7 Flexible Schedules

According to Article 16.2 of the UCPEA contract, flexible schedules are those schedules which fall “outside of the University’s regular administrative hours.” Those regular administrative hours are defined as 8 a.m. - 5 p.m., Monday through Friday. According to a 2008 Work/Life memo released by University Provost Peter Nichols, flexible schedules are part of the University’s commitment to “fostering an environment that is responsive to employees’ and students’ personal obligations and commitments.” The University has acknowledged, in that same memo, that flexible schedules benefit the University with “improved recruiting and retention, reduced absenteeism, and increased levels of productivity.”

Flexible schedules are always temporary, and are generally granted on short-term basis. If you or one of the members in your area would like to be placed on a flexible schedule, they must fill out the flexible schedule form (linked below), and turn it in to their immediate supervisor. According to the UCPEA contract, management must inform our members within 20 days of receiving the flexible schedule request, if the schedule has been denied. Article 16.1 states that denials must be accompanied by a written reason for denial, which must not be “arbitrary, capricious, or without good business reason.” If a request for a flexible schedule is denied, UCPEA can meet with management, at the member’s request, and attempt to resolve the issue, before continuing with the grievance process.

### **Flexible Schedule Request Form**

<http://tinyurl.com/cenrw3u>

### **Work/Life Flexibility Statement**

<http://worklife.uconn.edu/>



## 4.8 End-Date Employees

The use of temporary and end-dated appointments at the University is limited to the following circumstances:

- a. Employees who are funded by grants and contracts
- b. Employees who are hired to cover positions undergoing job searches
- c. Employees hired to cover for a temporary leave of absence
- d. Employees hired for clearly defined and time limited special projects
- e. Employees hired to cover for an employee who is service in a temporary or interim assignment
- f. Employees hired to cover duties during a departmental reorganization or restructuring

End-dated appointments not funded by a grant or contract are limited to a maximum of three years unless the UCPEA agrees in writing to an extension.

### Notice of Non-renewal

All employees hired on end-date employment authorizations who have been on the appointment for a period of more than 3 years, must have their re-appointment processed 3 months prior to the end of his/her appointment.

All end-date employees who have been on appointment for a period of more than 5 consecutive years must be given a minimum of 3 months notice of non-renewal, in addition to the annual appointment letter. Individuals with five annual appointments are eligible for multiple year appointments.

### Recall Eligibility

All end-date employees who have been on appointment for a period of more than 4 years and are non-renewed, must be offered employment in the same or a similar position if such a position becomes available during the 16 months from the date of non-renewal. Employees on the recall list must notify the University every 6 months of their desire to remain on the recall list. Failure to notify the University continued interest shall result in the removal of the individual from the recall list. These employees must receive notice of all UCPEA vacancies, and granted an interview for all positions for which they meet the minimum qualifications. Employees offered reemployment by the University must accept such an offer within 15 days.

### Just Cause Protection from Discipline

While end-date employees do not have permanent status, they are entitled to just cause protection for discipline after one year of employment.

### A Note on End Dates and Union Busting

Across the nation, employers are abandoning their permanent workforce in favor of flexible or temporary employees. From the employer perspective, such a workforce has many advantages. They are docile and less likely to unionize, as they might be terminated before the end of a union drive. Employers can use temporary agencies and weak laws that determine independent contractor classification to off-load the costs of health insurance, retirement, and even worker's compensation onto their workforce. This race to the bottom harms every working person in America. Over the years, UCPEA has seen the number of end-dates and special payroll hires rise in lockstep with the national trend. As a representative of the union, you should make a concerted effort to reach out to end-date employees. Get them active, we can't afford not to.

### 5.1 Americans with Disabilities Act

The Americans with Disabilities Act of 1990 is a law that prohibits discrimination based on disability. The ADA prohibits employers from discriminating in any job action (hiring, firing, promoting, etc.) on the basis of disability, *real or perceived*. That last clause is important, as individuals do not have to be afflicted with a bona fide disability in order to be treated discriminately.

Additionally, the Americans with Disabilities Act also compels employers to make reasonable accommodations for disabled individuals, provided the individual is otherwise qualified for the job. This could be something like a larger screen for people with eye disorders, ergonomic chairs for an individual with a history of back problems, or leniency with break times for one with diabetes, for example.

Individuals who feel that they have faced disability discrimination at the University should contact Commission on Human Rights and Opportunities, or the Office of Diversity and Equity.

### 5.2 Family and Medical Leave Act

The Family and Medical Leave Act allows for up to 12 weeks of unpaid leave to be taken by eligible employees, for certain eligible reasons. Applying for or using FMLA leave cannot be used as a factor in disciplinary action. Employees requesting FMLA leave must provide 30 days advanced notice, when the occasion for taking the leave is foreseeable. When the occasion for taking the leave is unforeseeable, employees must provide notice as soon as possible. FMLA leave can be taken in increments, and does not have to be utilized all at once.

FMLA leave can be taken for the following reasons:

- Serious health conditions or medical injuries that make one incapable of performing their job
- To care for a spouse, child, or parent who has a serious health condition
- To care for employee's newborn, newly-fostered, or newly-adopted child
- For incapacity due to pregnancy, child birth, or prenatal medical care

Employees are eligible for FMLA coverage only after working for the University for a period of one year; or for 1,250 hours over the past 12 months.

For more info: <http://tinyurl.com/cfxzuq8>

The Department of Labor's FMLA website: <http://www.dol.gov/whd/fmla/>

Reps should also refer members to the FMLA poster:  
<http://www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf>

## 5.3 Occupational Safety and Health Act

### What is Conn-OSHA, and how is it different than OSHA?

The Occupational Safety and Health Act is a federal law. Generally speaking, OSHA does not apply to state employees. However, twenty-six states, including the State of Connecticut, have enacted legislation that extends some of the protections of OSHA to state and public employees. Please be aware that the Connecticut statutes do not mirror OSHA exactly, and that all workplace complaints about health and safety violations must be made through Conn-OSHA, and not the federal Occupational Safety and Health Administration.

### How does Conn-OSHA apply to our membership?

While the vast majority of our members do not routinely perform work that is traditionally considered to have occupational health risks, that does not mean that our workplaces are free from hazards. Repetitive stress injuries, poor workplace ergonomics, indoor air quality issues and the use of potentially hazardous cleaning supplies all have the potential to affect our members. To give an example; as many of our members know, UCPEA was engaged in a long fight to remedy the problem we had with a sick building on the West Hartford Campus. Employees suffered from what OSHA calls “sick building syndrome,” a category of building-related illness defined as “*Associated with complaints of discomfort including headache; nausea; dizziness; dermatitis; eye, nose, throat, and respiratory irritation; coughing; difficulty concentrating; sensitivity to odors; muscle pain; and fatigue.* (OSHA Technical Manual §3 Ch. 2)”

It is important for our membership to be able to identify potential causes of workplace sickness or injury, and know their rights to recourse when they feel that such causes exist.

### State Employees in Connecticut have the right to ...

... file a written request with Conn-OSHA for an inspection of the worksite, if they believe there is a violation of safety or health standards which threatens physical harm. A complaint form for doing so can be found at the following URL: [www.ctdol.state.ct.us/osha/ctosha-7.pdf](http://www.ctdol.state.ct.us/osha/ctosha-7.pdf)

... participate in the inspection process

... state employees also have the right to file such a complaint, or participate in the inspection process without fear of retaliation. See §31-379 of the Connecticut general Statutes

**Additional Information for Union Representatives:** Please familiarize yourself with the following information about office-workplace Health and Safety issues, Sick Building Syndrome and Indoor Air Quality Issues: [www.osha.gov/dts/osta/otm/otm\\_iii/otm\\_iii\\_2.html](http://www.osha.gov/dts/osta/otm/otm_iii/otm_iii_2.html)

Back Injuries and Ergonomics: [www.osha.gov/dts/osta/otm/otm\\_vii/otm\\_vii\\_1.html](http://www.osha.gov/dts/osta/otm/otm_vii/otm_vii_1.html)

### Links and Contact Information

Connecticut Department of Labor, Division of Occupational Safety and Health  
38 Wolcott Hill Road  
Wethersfield, Connecticut 06109  
Kenneth Tucker, Program Manager  
(860) 263-6900  
(860) 263-6940 FAX

Connecticut State OSHA Website: [www.ctdol.state.ct.us/osha/osha.htm](http://www.ctdol.state.ct.us/osha/osha.htm)

Conn-OSHA Information Poster: [www.ctdol.state.ct.us/osha/SHposter.pdf](http://www.ctdol.state.ct.us/osha/SHposter.pdf)

### 6.1 The Union Advantage

This section is taken from the Change to Win Coalition's website (<http://www.changetowin.org>) about the advantages of union membership. Although this brief article speaks only of private sector employment, it is worthwhile to note the significant advantages that come with union membership. This information is good to share with employees who may feel hesitant to become full-fledged members.

*There are real advantages to having a union for you as an individual and for society in general. By forming a union with your co-workers, together you will have the strength to negotiate a legally binding contract with your employer that includes better wages, affordable health care, a secure retirement and a safer workplace. Consider:*

*Better wages: Wages of union members are, on average, 27% higher than those of nonunion workers, according to the U.S. Department of Labor. In 2004, union workers were paid \$781 a week, but nonunion workers only got paid \$612 a week. While all unions workers are better off than nonunion workers, women and minorities are especially so:*

- *Women in unions earn an extra \$170 a week – \$9,000 more a year.*
- *African Americans in unions earn an extra \$150 a week – \$8,000 more a year.*
- *Latinos in unions earn an extra \$225 a week – \$11,650 more a year.*

*Better health care: 81% of union workers have job-related health coverage, while only 50% of non-union workers do. Union families pay 43% less for family coverage than nonunion families – that's a savings of \$1,000 a year.*

*Better pensions: 72% of union workers have a guaranteed, defined benefit pension, compared to only 15% of nonunion workers.*

### 6.2 Professional Development

Funds are available for UCPEA members to attend conferences, workshops and training when management requires the employee to obtain work related training paid for by the University. Funds can also be used for reimbursement for professional membership dues up to \$200 each fiscal year (June 1 through May 31). Members can apply for UCPEA professional development funds by going to [www.ucpea.org](http://www.ucpea.org), clicking on Member Information and scrolling down to the link for Professional Development or by visiting the following website: <http://accessnow.uconn.edu/sites/pd/ucpea/default.aspx>.

For specific questions about professional development funds, contact the UCPEA office.

### 6.3 Tuition Reimbursement / Tuition Waiver

Each year, UCPEA allocates a certain amount of money toward tuition reimbursements and waivers. This amount is currently \$19,500 per year, distributed equally over three installments, for Fall, Spring, and Summer courses. Employees wishing to take courses to develop their skills may apply for reimbursement of tuition and fees, after successful completion of their coursework.

Those seeking more information on Tuition Reimbursement should read the guidelines hosted on the Human Resources Website at: <http://tinyurl.com/ccmag5w>

After reviewing the guidelines, eligible employees are encouraged to apply. The application form can be found at the following URL: <http://tinyurl.com/ccmag5w>

## 6.4 Childcare Reimbursement

UCPEA members with dependents less than 13 years of age may apply for a partial reimbursement of their childcare expenses at state licensed day care facilities. Awards are calculated on a percentage basis, so that the entire childcare fund is used. UCPEA will consider a maximum of \$5,000 per tri-annual filing period, and a maximum of \$250 per week in expenses for camps during the summer or school vacations. The child care reimbursement fund covers day care only, and does not cover lodging, board, care during non-working hours, field trips, or late pick-up charges.

More information on child care reimbursements, including deadlines and application, can be found at the following link: <http://tinyurl.com/bvhux4g>

## 6.5 Sick Leave Bank

The Sick Leave Bank is a testament to the community that UCPEA has built on our campus, and to the generosity of our membership, who have donated thousands of hours to the bank. The Sick Leave bank allows UCPEA employees who have a catastrophic personal illness/injury, and have exhausted their other leave time, to remain out on extended sick leave.

### Who is eligible?

Generally speaking, UCPEA employees who have suffered a very serious or catastrophic illness/injury, AND have used all available sick time, and “as if” sick time, are eligible. This means that they must first draw down all available banked sick leave, vacation days, personal leave, holidays, and compensatory time. After drawing down all of their banked time off, an eligible employee can apply for use of the Sick Leave Bank, by filling out an application online at: <http://tinyurl.com/c9wf2pe>

The Sick Leave Committee is the body in charge of reviewing applications. The Sick Leave Committee shall meet and respond to a request within ten working days.

### Donation of Unused Vacation Time

As a Union Representative, you should encourage all employees to donate to the Sick Leave Bank vacation days that they would otherwise lose. *Donation is easy.* Each year, members have two opportunities to donate, in either July or December and following the receipt of the donation letter. Retirees can donate prior to their retirement, at any time of the year. All you have to do is fill out the form located here: <http://tinyurl.com/c9wf2pe>

You must also write a note in the comments section of your time card and confirm your donation. You can specify from which accruals you would like the donations to come, and donations may be made in half or full-day increments.

Sick Leave Bank Information from the UCPEA website:  
<http://tinyurl.com/c9wf2pe>

### 7.1 Suggested Reading

“Us Versus Them: Laboring in the Academic Factory” Michael Yates. [The Monthly Review](http://monthlyreview.org/100yates.htm). January, 2000.  
[monthlyreview.org/100yates.htm](http://monthlyreview.org/100yates.htm)

[The Troublemaker’s Handbook 2: How to fight Back and Win at Work](#). Jane Slaughter, ed. Labor Notes, 2005.

[The Union Steward’s Complete Guide](#). David Prosten, ed. 2006, Union Communication Services.

[The Legal Rights of Union Stewards](#). Robert M. Schwartz.

### 7.2 Contact Information

18 Dog Lane, Storrs, CT 06268

(860) 487-0850

(860) 487-0050 FAX

The office is open weekdays, from 8:30 a.m. - 4:30 p.m.

Peggy Beckett-Rinker

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