



PERB
California Public Employment
Relations Board

Los Angeles Regional Office
425 W. Broadway, Suite 400
Glendale, CA, 91204-1269
Telephone: (818) 696-6345



September 17, 2021

Margo A. Feinberg, Attorney
Schwartz, Steinsapir, Dohrmann & Sommers, LLP
6300 Wilshire Boulevard, Suite 2000
Los Angeles, CA 90048-5268

Re: *Regents of the University of California and Student Researchers United,
UAW*
Case No. SF-RR-1022-H
Investigative Information Request (PERB Regulation 51140(a))

Dear Ms. Feinberg:

On May 24, 2021, the Student Researchers United, UAW (Petitioner) filed a Request for Recognition Petition (Request) with the Public Employment Relations Board (PERB or Board) under the Higher Education Employer-Employee Relations Act (HEERA) and pursuant to PERB Regulation 51030(a).¹ The Request seeks to represent a proposed systemwide unit of approximately 17,000 Graduate Students Researchers, Trainees, and Fellows at the Regents of the University of California (UC). On August 4, 2021, PERB administratively determined that proof of support was sufficient to meet PERB Regulation 51030(b).

On September 2, 2021, UC filed its employer response claiming that Graduate Student Trainees and Fellows (hereafter "disputed categories") must be excluded from the proposed unit. The UC did not dispute the inclusion of Graduate Student Researchers (including Assistants, collectively "GSRs"), and UC Graduate Student Research Assistant Researchers at Lawrence Berkeley National Laboratory. On September 8, 2021, PERB advised the parties that it was treating the UC's employer response as a denial of recognition pursuant to PERB Regulation 51080(d).

¹ HEERA is codified at Government Code section 3560 et seq. PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq. The text of HEERA and PERB's regulations may be found at www.perb.ca.gov.

On September 8, 2021, Petitioner filed a Petition for Board Investigation pursuant to PERB Regulation 51090 and HEERA section 3575.²

I. Request For Information or Evidence

As part of the undersigned Board agent's duty to investigate the Petition, Petitioner is requested to supply PERB with the following information, by the deadline, and in the manner and format, described in Heading II below:³

- A. Under Appendix A, Category 1, of the Request, the UAW seeks to include "any other Graduate Student appointed to a different academic student title and performing substantially similar work." **UAW is requested to define, with specificity, the criteria used to establish this categorical description, including but not limited to, a discussion of the definition of "substantially similar work" and whether UAW's Request is seeking to include titles, beyond the following:**

1. GSAR-GSHIP, 3274
2. GSAR-NON GSHIP, 3273
3. GSR-FULL FEE REM, 3282
4. GSR-FULL TUIT & PARTIAL FEE REM, 3283
5. GSR-NO REM, 3266
6. GSR-PARTIAL FEE REM, 3276
7. GSR-TUIT & FEE REM, 3284
8. GSR-TUIT & FEE REM-UCSD-GRP B, 3285
9. GSR-TUIT & FEE REM-UCSD-GRP C, 3286
10. GSR-TUIT & FEE REM-UCSD-GRP D, 3287
11. GSR-TUIT & FEE REM-UCSD-GRP E, 3262
12. GSR-TUIT & FEE REM-UCSD-GRP F, 3263
13. GSR-TUIT & FEE REM-UCSD-GRP G, 3264

² Petitioner's September 8, 2021 request for investigation included some information about Petitioner's proposed unit. However, Petitioner's request was not verified i.e. supported by a declaration(s) under penalty of perjury. To the extent Petitioner wishes PERB to consider the information provided in the September 8, 2021 request for investigation, it must verify all factual assertions.

³ PERB Regulation 51140(a) provides, "Whenever a petition filed pursuant to [HEERA] section 3575 regarding a representation matter is filed with the Board, the Board shall investigate and, where appropriate, conduct a hearing . . . or take such other action as deemed necessary to decide the questions raised by the petition."

- B. Under Category 2 of Appendix A of the Request, the UAW also seeks to represent “Research Assistants” as defined by Academic Personnel Manual 112-4-b-47. According to UC, there are no individuals serving as Research Assistants as defined by this provision and such title has not been used since approximately 2012. **UAW must confirm or refute whether this title exists, and whether it is seeking to include this title in the proposed unit. UAW must provide any additional relevant information supporting why this title should be included in the proposed unit.**
- C. In Categories 3 and 4, the UAW seeks to include Graduate Students performing work “substantially similar” to the GSRs and receiving financial remuneration from institutional and individual training grants including but not limited to National Institutes of Health Institutional Training Grants T32, T35, T90/R90, D43, D71, National Institutes of Health Individual Training Grants (F30, F31, and F31-Diversity), Food and Agricultural Sciences National Needs Graduate and Postgraduate Fellowship, National Sciences Foundation Research Traineeship Program, National Science Foundation Program, National Defense Science and Engineering Graduate Fellowship Program, Department of Energy Computational Science Graduate Fellowship, National Aeronautics and Space Administration Space Technology Graduate Research Opportunities Fellowship. **UAW is requested to describe, with specificity, the criteria-used to devise such categories, including but not limited to, a description of the definition of “substantially similar work,” and the types of grant awards that UAW believes would (and would not) establish an employment relationship. Additionally, UAW is requested to describe the manner in which the UC processes or controls the funding awarded to the Graduate Students receiving the above remuneration/grants/fellowships. (Provide specific examples.)**
- D. According to the submissions in this case, there are approximately 3,943 individuals listed in the Request that are not GSRs and who do not have any of the listed grants or fellowships described in Section C, *supra*. **UAW is requested to describe the criteria used to establish this category.**
- E. **With respect to ALL disputed categories (e.g., Fellows and Trainees), explain, in detail, the employer-employee relationship, including purported supervisory structure. Also, describe any similarities and differences in working conditions across all affected disciplines, academic departments, labs or research units. Include specific examples and organizational charts**

for all relevant departments, e.g., Political Science. Nutrition, Sociology, etc.

II. Instructions For Providing The Requested Information

By no later than **September 30, 2021**, Petitioner is requested to file with this office a complete response to each of the above questions (if known) via a sworn declaration under penalty of perjury by witnesses with sufficient personal knowledge and should indicate that the witness, if called, could competently testify about the facts asserted therein. Further, if the response contains facts that are reliant on a writing, the writing must be attached to the declaration and authenticated therein. Service and proof of service pursuant to PERB Regulation 32140 are required.

Upon receipt of the Petitioner's factual statements and evidence, or the expiration of the time allowed for same, the undersigned shall contact each of the parties regarding further case processing steps. Respondent should be on notice that it is highly likely that Respondent will be required to submit a verified response to Petitioner's submission, and extensions of time will only be granted for good cause.

III. Informal Conference(s) and Formal Hearing

Petitioner is requested to meet and confer with UC over **at least three dates** for a PERB informal conference to be held during the month of October 2021. The Petitioner should report to PERB the available dates by no later than **September 27, 2021**. PERB will provide additional details for participating in the informal conference.

If feasible, the parties are highly encouraged to collaborate and submit a stipulated record to PERB for decision. A Board agent will determine whether there are material disputed facts that require a hearing. (PERB Regulation 32207.)

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Please contact Supervising Regional Attorney Ron Pearson if you have any questions concerning this matter.

Sincerely,

A handwritten signature in black ink that reads "Yaron Partovi". The signature is written in a cursive, flowing style.

Yaron Partovi

Senior Regional Attorney

cc: Sandra McDonough, Attorney, Paul, Plevin, Sullivan & Connaughton LLP

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Alameda, California. I am over the age of 18 years and not a party to the within entitled cause. The name and address of my residence or business is Public Employment Relations Board, San Francisco Regional Office, 1330 Broadway, Suite 601, Oakland, CA, 94612-2505.

On September 17, 2021, I served the Letter regarding Case No. SF-RR-1022-H on the parties listed below by

I am personally and readily familiar with the business practice of the Public Employment Relations Board for collection and processing of correspondence for mailing with the United States Postal Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at Oakland, California.

Personal delivery.

Electronic service (e-mail).

Sandra McDonough, Attorney
Paul, Plevin, Sullivan & Connaughton LLP
101 West Broadway, Ninth Floor
San Diego, CA 92101
Email: smcdonough@paulplevin.com

Margo A. Feinberg, Attorney
Schwartz, Steinsapir, Dohrmann & Sommers, LLP
6300 Wilshire Boulevard, Suite 2000
Los Angeles, CA 90048-5268
Email: margo@ssdslaw.com

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on September 17, 2021, at Oakland, California.

L. Chen
(Type or print name)


(Signature)