

Pay Guidance FAQs

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1. Why are we asking our employees to attest to their work performed over the strike?

The University has several legal responsibilities as a public institution and a recipient of grant funds to align compensation with work provided to the institution. These obligations are set forth in Uniform Guidance, 2 Code of Federal Regulations (C.F.R.) Part 200, Art. IX, Sec. 9 of the California Constitution, and Regents Policy 7303: Policy on the Services Obligations and Leaves of Absence.

In sum, those rules provide that we cannot legally pay our employees or gift them funds (e.g., paying people for work that was not performed is regarded as a gift of funds) if they did not provide a service to the institution. Consistent with those obligations, we are asking our employees who are in UAW units or who could lawfully support the strike to attest to whether they withheld labor during the strike. We will use that information to comply with our legal obligations to align their pay to the work performed.

2. What are we doing to reduce the impacts of these pay changes on our employees?

We respect our employees' decision to engage in a strike and to lawfully withhold their labor. That principled decision results in a reduction of pay associated with labor withheld. We are taking steps to reduce the impacts of those reductions by providing an option to spread out reimbursement of overpayments associated with the strike over multiple pay periods, offering direct pay options, providing additional appointments when available, and working to increase work on grants when it comports with the terms of the grant.

3. How can departments support employees impacted by these pay changes?

If there are opportunities to provide additional work to student employees in subsequent terms, we support providing that work when allowed under the collective bargaining agreements and the terms of applicable grants. Employees may also be directed to each campus' support services.

Faculty and staff should not pay employees directly for work missed due to the strike. All payments for work performed for the institution must come through the institution and are subject to appropriate payroll taxes and deductions.

4. Are employees required to fill out the self-attestation forms?

Yes, for UAW employees who withheld labor over the strike. We are asking them to fill out the self-attestation forms to ensure that we can accurately pay them for work performed over the strike. Absent information from the employee that labor was withheld, we will issue pay based on information from our departments regarding work performed or not performed, relying on our normal processes for verifying effort and pay.

Faculty members who withheld labor in support of the strike should also fill out attestation forms.

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5. How should leave information provided on the self-attestation forms and information received from campuses be recorded?

Campuses should divide attestation forms and information they have received about work missed over the strike into the two groups below, treating each group in the manner outlined below.

Group one – (1) all current and former employees who have submitted attestation forms; and (2) credible information associated with striking UAW employees: For current and former employee-submitted attestation forms that contain information regarding work missed over the strike, campuses should follow the overpayment process outlined in the updated technical guidance, which will be distributed the week of January 30th. Please review that guidance carefully as updates have been made to certain parts of the overpayment process to streamline the work. This overpayment process includes an accounting of the overpayment amounts and payment options, including direct pay or payroll deduction. Overpayments will be a net calculation, as further explained in the technical guidance. Overpayment justification/validation templates will be included with the updated technical guidance. Partial and full day absences should be included in the overpayment calculation.

Campuses should also follow the overpayment process for credible information about leave or work missed over the strike by a UAW employee. Credible information generally means the missed time is supported by objective information. For example, there is information that the employee canceled sections, missed research work, failed to submit grades, or otherwise did not perform their assigned duties. Time recorded as missed work by campuses should align with the information about the employee's missed work, limiting any time recorded to those duties and days supported by the campuses' credible information.

Group two - credible information about work missed over the strike by Senate Faculty: Credible information received about Senate Faculty who withheld labor in connection with the strike but no attestation form was submitted, should be recorded. Further guidance about how to manage this information will be distributed in the coming weeks.

Pay rate calculations performed will be based on fall term/semester pay rates in place at the time the work was withheld. Overpayment calculations will not be impacted by future pay increases (including the April 1, 2023 pay increases) or winter/spring term appointment changes.

Important note: If employees are subject to FICA (Social Security and Medicare Taxes), the overpayments will affect their Social Security and Medicare wages for the 2022 tax year, thus IRS Form W-2c, Corrected Wage and Tax Statement, will be issued after the employee repays the money owed. If the employee is a student who qualifies for the FICA exception, the overpayments will have no impact on the originally issued W-2 for the tax year 2022. More information about updated W-2s will be provided in the technical guidance distributed the week of January 30th.

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6. What happens if employees do not submit attestation forms?

Employees were only directed to fill out self-attestation forms if they withheld labor over the course of the strike. If we do not receive information that labor was withheld, we will issue pay and record time following our normal processes.

For those employees who submitted leave through a regular leave reporting process — Postdoctoral Scholars, Academic Researchers, and hourly Academic Student Employees — leave should have already been recorded at the time it was taken based on their previously submitted leave information.

For Graduate Student Researchers and salaried Academic Student Employees, leave will be recorded based on information provided by the department, relying on our normal processes for verifying effort and pay.

7. When should self-attestations forms be submitted and can campuses extend the deadlines?

The following timelines apply to the attestation process:

- *January 13, 2023*: Self-attestation forms provided to student employees, other employees, faculty (as appropriate), and departments.
- *January 23, 2023*: Self-attestation forms and credible information due back to the office designated by the campus. Campuses should coordinate internally to collect credible information.
- *January 23, 2023 - February 24, 2023*: Campuses coordinate internally to ensure all attestations forms are completed and credible information is submitted. Campuses submit overpayment information using the process and form described in the updated technical guidance, which will be provided to campuses the week of January 30th.
- *February 24, 2023*: Deadline for submission of Group One information through the overpayment process using the templated excel spreadsheet that will be provided in the updated technical guidance.

8. If one has information that work was not performed, can that information be reported?

Yes, credible information that work was not performed over the course of the strike can be provided to one's department administrator, campus academic personnel office, or labor relations office. Submitted information will be used to process overpayments as described above.

While credible information can be submitted as described above, we are not asking nor should faculty, PIs, or other employees directly ask employees to submit attestations or ask about whether they plan to submit attestations. Attestation forms will be shared on a limited basis with PIs and others as necessary to ensure accurate processing of pay and verify compliance with grants.

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PIs should follow their normal processes for verifying time and effort, the attestation process is primarily a pay process.

9. How will employees be protected if they attest that they withheld labor during the strike?

Employees are protected from retaliation related to their participation in lawful strike activities, and for their good faith completion of the attestation form related to that participation. The institution takes retaliation seriously. Employees who believe that have been subject to retaliation should contact their union representative. Faculty should contact their local AP office.

Employees can also utilize anonymous reporting options available at:

<https://secure.ethicspoint.com/domain/media/en/gui/23531/index.html>

Overpayment recovery will be processed in a manner that does not impact an employee's Job FTE or the benefits associated with that FTE.

10. What happens if employees fill out the self-attestation form, but they no longer work for the University?

Employees who withheld labor and who no longer work for the University will receive an overpayment statement from the University. Failure to pay will not impact an employee's underlying student status or degree completion.

11. How does the attestation process impact past and future charges on grants?

Questions regarding grant charges should be directed to your local Sponsored Project Office. The University has also formed a workgroup of experts from the campuses and UCOP to help these offices answer questions related to grant charges associated with the strike. Campus offices may contact the research workgroup by emailing: RPAC@ucop.edu.

12. Will there be more information about pay guidance provided in the future?

The University will continue to update its FAQs as it receives additional questions. Please reach out to your local Academic Personnel or Labor Relations offices with questions.

13. How should campuses respond to emails from employees regarding payroll deductions?

Campuses can respond to emails from employees indicating that they do not consent to payroll deductions with the below templated response. Please reach out to your local labor relations office if you would like to make changes to this template.

"Thank you for your message. Please note that the University has obligations under state and federal law to align pay with work performed for the institution. There is also an expectation for all of our employees that their time and leave will be recorded accurately and honestly. Therefore, if you missed work over the course of the work stoppage last year, you are encouraged to accurately complete the attestation form that you received from your campus on January 13, 2023, and submit it to your department. Note that due to the holiday weekend, the deadline to submit attestation forms had been extended to January 23, 2023, and has now passed. Employees

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who submit information regarding labor withheld will receive an accounting of the pay associated with their leave and information about payroll and direct pay options.

If you want the institution to consider additional information, like the information included in this email, please be sure to include it on your completed attestation form.”

14. Did the University engage with the union prior to implementing pay guidance and the attestation forms?

Yes. The University has been communicating with UAW since before the strike began on a self-attestation for covering work missed over the work stoppage period. This included sharing copies of the attestation forms with the UAW for feedback. Over the course of our discussions, we have traded versions of the form and the University made modifications based on the union’s feedback. We have also agreed to provide the union with copies of the completed forms for full transparency.

15. What should departments do with attestation forms after they submit leave information and use the information to ensure grant compliance?

Departments should retain copies of the forms in the same confidential manner that they would store other leave information for an employee. They should also provide copies of the completed forms for UAW members to their local labor relations office so that the institution can provide copies to the union.

16. What should campuses do with attestation forms that include information that work was performed over the strike?

While we only asked employees to fill out attestation forms if they missed work over the strike, many employees submitted attestation forms indicating that they performed work over the strike. That information should be kept confidentially, as highlighted above, but may be shared to verify effort or time on grants, and to ensure proper payment of wages.