

May 2024

**Strike Resource for Faculty Instructors of Record and Principal Investigator Supervisors Who Supervise Graduate Student Employees**

The Frequently Asked Questions below and the table at the end of this document are being provided as a resource for supervisors of graduate student employees in case of a strike by UAW Local 4811 (BR/BX, RA, PX units).

**UAW Strike**

UAW has authorized a strike vote, likely to be held the week of May 13, 2024. If the strike vote is successful, UAW’s Executive Board will have the authority from their members to call a system-wide strike. UAW may also vote to engage in a strike at certain locations, like UCLA and UCSD.

The Union claims the potential strike relates to alleged unfair labor practices connected to ongoing campus protests concerning the war in the Middle East. The University disagrees with the Union’s position and views this as an illegal strike that violates the terms of the collective bargaining agreements between the parties, which include no-strike provisions. As a result, the University will explore all available legal options to bring the strike to an end as soon as possible.

UC has a long tradition of respecting the civil expression of individual views, and individual graduate student employees are free to exercise their rights so long as such participation is during non-work time, does not conflict with their agreed upon work duties, or violate established University policies including the Student Code of Conduct.

**Sympathy Strikes**

As of this time, the University has not been informed that any other Unions will participate in a sympathy strike in support of UAW. However, because unions that strike in sympathy with a primary striking union “step into the shoes” of the primary striking union for purposes of state labor laws, the University considers any union that strikes in sympathy with UAW to be in violation of the Higher Education Employer-Employee Relations Act. Additionally, the University’s other collective bargaining agreements prohibit strikes and sympathy strikes during the terms of those agreements and should a strike vote occur, the University will send notice to its other unions reminding them of those obligations.

=====

**FAQs for UC Supervisors regarding Strike Activity**

**1. Can we ask graduate student employees if they plan to strike?**

No. Faculty, Instructors of Record, and Principal Investigators should not survey or communicate with graduate student employees concerning their intention to participate or not participate in a strike, only whether or not they are planning to be at work on specific dates. Asking graduate student employees about their intention to strike or participate in other union activities could be found to violate employee rights under the applicable labor laws. While we believe the strike is unlawful, we do not want to create additional legal risks related to alleged retaliation or interference claims.

**2. Can we ask graduate student employees if they plan to come to work?**

Yes. If UAW takes a strike vote, Faculty, Instructors of Record, and Principal Investigators can ask their employees whether they plan to perform their duties for the day or week. For example, the following questions can be asked: "I need to ensure research or instructional continuity in the coming weeks so that students' courses are covered, and students can complete their credits for the [semester/quarter] and, where applicable, graduate. Are you planning to work on [date]?" It is important to understand, however, that employees may refuse to answer or may provide incorrect information and therefore we encourage departments to engage and research and academic continuity planning now.

**3. Can we respond to questions asked by graduate student employees about the strike?**

No, questions from graduate student employees about the strike should be directed to UAW representatives, including questions regarding union membership, union activities, and strike-related activities. However, nothing prevents you from engaging in normal conversations with graduate student employees concerning subjects not related to union membership, union activities, or strike activities.

**4. Should managers and supervisors, including instructors of record, principal investigators, and department chairs, meet with striking employees to hear their concerns and try to resolve them?**

No. Generally, it is impermissible to engage in direct dealing with represented employees, such as by soliciting and/or trying to resolve their grievances related to the strike. Regardless of whether the strike is lawful or not, only the Labor Relations team of the Office of the President may meet with the Union to address concerns and resolve disputes related to the systemwide strike. This is true even though the University does not agree with the UAW's assertion that the conflict and conduct underlying the strike is connected to terms and conditions of employment.

**5. If the graduate student employee doesn't come to work as a result of a strike, will the graduate student employee's pay continue?**

Generally, no. If any graduate student employee does not report to work as assigned, UC will presume — absent prior authorization or medical certification — that their work absence during a strike period is strike related. Graduate student employee pay will be reduced for absences during the strike unless the employee is on authorized leave, making it critical that attendance is tracked and absences are reported accurately. As is always the case, authorization for an absence may or may not be granted, depending on operational, educational, and research necessity and without regard to the employee's reason for the requested leave. **Please review decisions with campus Academic Personnel and Labor Relations prior to taking actions.**

**6. If a graduate student employee works during the strike, will they be paid?**

Graduate student employees will not be paid for striking and it is critical that the University ensure that pay is aligned with work performed. If a graduate student employee performs work during a particular day, however, the employee should receive their normal compensation for that day. Pay will be based on leave recording which is why it is critical to monitor attendance and report absences accurately, irrespective of whether or not the absence is due to a strike.

**7. Will graduate student employees be paid if they go on strike?**

No. We value our employees and fully respect represented employees' right to engage in protected activity, including a lawful strike. However, since striking employees are, by definition, not working, they are not eligible to receive their regular pay. Additionally, federal guidelines indicate that we are not able to pay employees on federal grants if they are not working. Employees who wish to receive their regular pay may perform their work during this time. Finally, as stated above, the University does not believe that this is a lawful strike.

**8. What are my obligations to report absences by graduate student and other employees due to the strike?**

As a supervisor, it is critical that you accurately track attendance and approve or reject absence submissions by graduate student employees in local time and attendance systems due to the strike. While this is true in all cases, it is especially true for extramurally funded work, such as federal grants or state contracts. The University cannot use extramural funds as compensation for an absent performance. Only those costs which advance the goals of a project may be directly charged to that project; paying a graduate student out of a grant for an absence that should be unpaid will jeopardize the grant award, the Principal Investigator's reputation with the funding agency, and the University's ability to receive future awards.

**9. When a strike is called or supported by a union, are graduate student employees represented by those unions able to come to work?**

Graduate student employees who decide not to participate in the strike are free to come to work. The law protects the right of all employees to cross a picket line. Under the labor laws, graduate student employees are free to make up their own minds about crossing a picket line and continuing to work. Any graduate student employee, including a union member, has a right to refuse to participate in a work stoppage.

**10. What can a graduate student employee do if they want to work, but are being confronted by picketers or striking employees and blocked from entering the work site?**

Pickets are lawful so long as they are peaceful, do not block access for other employees, do not interfere with the normal course of University business, and do not prohibit non-striking employees from working. In addition, non-striking employees should avoid confrontations and need not respond to any comments that picketers may direct at them. Non-striking employees should not invite or engage in any exchanges, which might inflame the situation. If any employee feels they are being harassed or prevented from working by picketers or striking employees, the employee should notify their supervisor or contact Academic Personnel and Labor Relations.

**11. Can graduate student employees engage in picketing or protesting on their own time?**

Yes. As stated above, UC has a long tradition of respecting the civil expression of individual views. Individual graduate student employees are free to express their rights so long as such participation is during non-work time, does not conflict with their agreed upon work duties, or violate established University policies including the student code of conduct.

**12. How should managers and supervisors respond if a represented employee talks about the strike, their personal strike plans, or goes out on strike?**

In response to a question about the strike, supervisors should direct graduate student employees to their union for further information.

If represented graduate student employees ask for more information or for your opinion about the strike, you should explain that while you support and care about your students, you cannot talk more about the process at this time.

It is critical that employees understand what to say and what not say during these conversations because it is unlawful to discourage or retaliate against employees because they have engaged in lawful strike activity. While the University believes the strike by UAW is an illegal one, we should not take any actions that create legal risk. Retaliation in this context can include treating represented employees negatively, giving them the “cold shoulder,” discouraging participation in a strike, increasing their workload in anticipation of a strike, or changing the terms and conditions of their employment because of the strike. This is true even if the employee’s absence will cause disruption to the instruction or research work of the institution.

**13. What happens if an employee strikes, but they are the primary person responsible for the maintenance and care of biological research materials?**

It is in everyone’s best interest for PIs and supervisors to communicate with essential personnel as soon as possible. PIs and supervisors should keep conversations focused on the research project rather than on an employee’s intention to strike. See question number two above. PIs and supervisors should not ask whether unit level employees are going out on strike. Research continuity plans should be put in place to mitigate disruption during the strike, anticipating that unit employees will not be in the lab during that time. If there are health and safety concerns related to labor disruptions, the campus labor relations office should be contacted.

**14. What can be said to employees in advance of a strike regarding their strike plans?**

You cannot ask a worker whether they intend to strike. However, student employees have a dual role: they are students as well as employees. As a result, you can and should ask students whether they intend to fulfill their academic responsibilities and obligations to a research project, including during a potential strike. In having these conversations, you should keep the focus on academic and project responsibilities and not on whether students are striking.

**15. Can UAW penalize its members for not striking?**

This depends on the UAW’s by-laws and applicable state law.

**16. If an employee asks whether they can resign from the union, how should I respond?**

All questions regarding union membership should be referred to the employee’s union.

**GUIDELINES FOR SUPERVISORS OF GRADUATE STUDENT EMPLOYEES**

Permissible Actions	Impermissible Actions to Avoid
<ul style="list-style-type: none"> <li>• Do take lawful steps to ensure safety and security at University campuses and properties. Report misconduct or threats to safety and security.</li> <li>• Do accurately report absences.</li> <li>• Do take lawful steps to ensure unobstructed entrances and exits.</li> <li>• Do take lawful steps to ensure continuity of operations. Do plan for potential disruption of ongoing research as a result of a strike. Plans for the preservation of experimental materials and the like must be carefully prepared</li> <li>• Do refer employees to their union if they have questions regarding union membership, union activities, and potential strike activity.</li> <li>• Do plan for supporting student academic progress, including alternate methods of instructional delivery and educational continuity.</li> <li>• Do stay in close contact with your local Labor Relations and Academic Personnel Offices and promptly report threats to safety and security, violence, or other misconduct or dangerous circumstances.</li> </ul>	<ul style="list-style-type: none"> <li>• Do not photograph, video, or generally “monitor” employees striking activity for reasons unrelated to ensuring safety, security, and access. This includes refraining from monitoring or perusing employees’ social media.</li> <li>• Do not survey or communicate with employees, including Senate Faculty, UAW unit members, and other employees, regarding their intention to participate in or support a strike. Such communication can be found to violate employee rights.</li> <li>• Do not make statements to employee intended to elicit a response concerning their union activity or union sympathies.</li> <li>• Do not tweet or otherwise make comments on social media condemning or praising employees protected activities, including strike activity.</li> <li>• Do not ask employees about their protected activities nor the protected activities of others. Protected activity includes strikes and protests concerning terms and conditions of employment or bargaining.</li> <li>• Do not discipline, discharge, or reprimand employees for protected activity, including lawful strike activity.</li> <li>• Do not deal directly, solicit grievances, or make promises to employee, including Senate and Unit 18 faculty and student employees, based on their participation/non-participation in, or support/non-support, for a strike.</li> </ul>