

# **A NEUTRAL ARBITRATOR'S IN-DEPTH ANALYSIS CONFIRMS THAT THE UNIVERSITY OF CALIFORNIA ABSOLUTELY CAN AND SHOULD PROVIDE WAGE INCREASES TO UC CLERICALS**

## **A SUMMARY OF ARBITRATOR GERALD R. MCKAY'S FEBRUARY 2005 FACT-FINDING REPORT**

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### **The Neutral Arbitrator's Primary Findings:**

1. UC Diverts Money Earmarked for Clerical Wages to Other Purposes
2. UC Makes a Huge Profit Every Year, Partially at the Expense of Its Employees
3. UC Pays Its Clericals Far, Far Less Than CSU and Other Comparable Employers

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Electronic or hard copies of the full report can be obtained by contacting CUE at 510-841-0700 or 510-845-2221 or emailing <[berkeleycue@earthlink.net](mailto:berkeleycue@earthlink.net)> or <[clericals@cueunion.org](mailto:clericals@cueunion.org)>.

## Background and Summary

In August 2004, the State of California established a fact-finding panel to recommend a settlement of the current impasse between the University of California and the union representing UC clericals, the Coalition of University Employees (CUE). This panel, appointed pursuant to Section 3591 of the California Government Code, was made up of one member appointed by the University (Peter Chester, a University Labor Relations Assistant Director), one member appointed by CUE (Henry C. Levy, a certified public accountant) and a neutral Chairperson selected jointly by the parties – widely respected Arbitrator Gerald R. McKay. The panel held a five-day evidentiary hearing in November 2004, and the parties (CUE and UC) submitted over a thousand pages of documents for the panel to review.

Neutral fact-finder and Arbitrator McKay has now issued his fact-finding report, which became public for the first time on February 17, 2005. (It became public 10 days after the report was issued to CUE and UC, as required by the temporary confidentiality provision in the California Government Code.) In the report, McKay takes the University to task for failing to offer any wage increases to clerical employees when UC can clearly afford to do so and when such increases are desperately needed by employees who are paid far, far less than comparable employees elsewhere. As McKay summarized: **“There are fundamental flaws in the University’s basic position”** (McKay Decision, page 15), and **“there is no question that the University is in a position to afford a wage increase for the clerical employees... Ultimately, the University may or may not prevail in its refusal to provide a wage increase to clerical employees, but the University’s claim that it does not have the money to spend on them is not supported by the evidence.”** (McKay Decision, pages 18 & 19).<sup>1</sup>

**In short, it has now been proven after a 5-day trial before a neutral decision maker: CUE is right and UC is wrong on the issue of whether UC can and should provide wage increases.**

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## The Neutral Arbitrator's Primary Findings

### 1. UC Diverts Money Earmarked for Clerical Wages to Other Purposes

Several findings made by Arbitrator McKay will be particularly shocking to the UC community, the Legislature, the Governor and the people of California. First, McKay fully confirmed what CUE has been asserting for a long time – UC diverts money earmarked for clerical wage increases, instead spending the money on other purposes or adding the money to reserves. **Last year alone, the University diverted \$20 million intended for clerical wage increases, choosing to spend the money on other purposes or add the money to UC reserves.** (McKay Decision, pp. 5-6 & 15-16).

As Arbitrator McKay explained, in 2003-04, the University had \$20 million in “non-State” money (money from sources other than the State) earmarked toward clerical wages. The cash-strapped State of California was unable to kick in an additional \$10 million (which, when combined with the \$20 million in non-State money earmarked for clerical increases, would have permitted the University to provide an across-the-board six-percent wage increase for all clericals). UC used this as excuse to take its \$20 million in non-State money and divert it away from clerical wage increases. (McKay Decision, pages 5-6 & 15-16). **This \$20 million includes money earned by the University on research contracts, grants and other such funding sources that build in a particular percentage increase each year for wages. Yet, the University takes that money and does not spend it on wage increases.**

Another way of putting it: UC clerical wages are 1/3 funded by the State, and that funding source has not come up for several years. However, clerical wages are 2/3 funded by many other revenues sources that have been skyrocketing (including medical center revenues, which fund the wages of approximately 4000 clericals). **Yet UC refuses to look at all of its available resources in determining a fair wage offer** (McKay Decision, page 18),

## UC DIVERTS MONEY, continued

**instead taking advantage of the State' fiscal crisis by using frozen State funding as an excuse to offer no wage increases.**

Adding insult to injury, there are numerous other employee groups at UC that have received wage increases in the last year – this includes a number of employee groups whose funding comes almost exclusively from the State, and for whom the State provided no money for wage increases. **In other words, for the groups whose funding has been frozen, UC has nevertheless taken money from its ample non-State funds in order to give these employees increases; yet for clericals, whose wage funding sources are on the rise, the University declines to give raises, instead diverting their funding elsewhere.** (McKay Decision, pp. 6-7 & 16-17).

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## 2. UC Makes a Huge Profit Every Year, Partially at the Expense of Its Employees

**UC tells the public that it is having a fiscal crisis. Nothing could be further from the truth. As Arbitrator McKay found, in 2003-04 alone the University had a net income (revenues minus expenses) of \$786 million.** In the corporate world, this would be termed “annual profit.” But because UC is a nonprofit, UC calls it simply “annual net income” – the excess revenue taken in during the year but not spent. This was the best bottom-line number UC has ever had, according to data presented at fact-finding. But previous years were also quite profitable for UC. For instance, in 2002-03, UC had a net income of \$559 million. (McKay Decision, p. 8).

These profit figures are calculated after taking into account the fact that UC spent between 2 and 2.5 billion dollars on capital projects each of the last two years. In other words, even after spending extraordinary sums on construction, UC is still netting a very high profit.

While UC undoubtedly has many important items to spend its money on, Arbitrator McKay noted that the University’s chief witness on financial matters admitted under oath that **he did not predict any change in UC’s pattern of taking in many millions of dollars more than it spends each year.** (McKay Decision, page 8).

**One of many contributing reasons that UC made such an extraordinary profit last year: it declined to spend the \$20 million in non-State money earmarked for clerical wages, mentioned above.** Of course, had it spent that money for the intended purposes of clerical wage increases, UC still would have had an extremely healthy profit of \$766 million. But, in the utmost irony, Arbitrator McKay’s report leads us to understand how UC actually does better financially in years such as 2003-04, in which it uses the State’s fiscal crisis as an excuse to withhold wage increases.

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### 3. UC Pays Its Clericals Far, Far Less Than CSU and Other Comparable Employers

**As Arbitrator McKay found, “clerical employees are among the lowest paid employees working in the University system.”** (McKay Decision, page 9).

But the most shocking wage disparities are found when UC is compared to comparable employers. McKay notes that even UC thinks its clericals are paid at below market wages. (McKay Decision, page 9). And the gaps are even greater than UC acknowledges – **McKay found that when assistant positions at UC are compared to comparable positions at CSU, UC clericals “earned approximately 22.7% less.”** (McKay Decision, page 10). **McKay also found that for library assistants the wage gap is even more egregious – 33%.** (McKay Decision, page10).

The fact that UC pays clericals wages that are so much lower than wages at CSU is especially troubling because CSU is 72% state funded, while UC is less than 15% state funded (McKay Decision, page 5), meaning that the State’s fiscal crisis has led to very real cuts in CSU’s overall available revenues, unlike the situation at UC.

McKay also explained how clericals are falling further and further behind – **while the cost of living has increased 26.3% in the past 7 years, clerical pay ranges have gone up by only 9.5% in the same time period.** (McKay Decision, page 9).

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## What's Next

As a stopgap measure to slow the rate at which clericals are falling further behind, **Arbitrator McKay recommended immediate 1% - 2% retroactive wage increases for the primary clerical classifications at UC (Administrative Assistants), as well as wage increases that would provide Library Assistants with immediate parity with their clerical colleagues.** (McKay also recommended other equity increases for nutrition workers at UCSD and Irvine dispatchers.) (McKay Decision, pages 20-21 & 24).

So far, UC has simply ignored this scathing report. CUE, however, will not let the matter drop. CUE members have several options, including the right to vote on whether to call a strike to protest what everyone now knows to be the University's completely immoral and inappropriate pay practices, and to force the University to take CUE seriously when it demands an end to those practices.

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<sup>1</sup>The University's panel member, Mr. Chester, disagreed with Arbitrator McKay's findings on the subject of wages, while the Union's panel member, Mr. Levy, disagreed with Arbitrator McKay's findings on two other subjects, benefits and parking, where Arbitrator McKay declined to suggest any changes in the University's policies.

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