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LEGAL

Berkeley TAs Are Awarded Millions in Back Pay

By *Alexander C. Kafka* | JANUARY 15, 2020

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An arbitrator ruled this week that the University of California at Berkeley must stop employing teaching assistants for less than the 10-hour weekly threshold at which they would contractually receive partial tuition reimbursement and other benefits beyond their salaries. The ruling also awards them back pay in the millions.

A graduate or undergraduate teaching assistant who worked eight hours a week in the fall of 2019 and didn't receive tuition and fee remission will receive about \$7,500 in back pay from the university, the UAW said. The ruling applies only to Berkeley's department of electrical engineering and computer science, but UAW 2865 represents 18,000 academic student employees at UC, including graduate and undergraduate TAs, readers, graders, and tutors, and it is urging students in various academic disciplines to take action on their own campuses to force similar concessions.

Nathan Kenshur is a UAW steward at Berkeley, an undergraduate in math and history, and a math tutor. "Our contract is our strongest asset, and this win is the result of its successful enforcement," he said in a statement. "We encourage workers at all UC

campuses to look to their union when they are treated unfairly — and we hope that those who don't have a union consider organizing one.”

The ruling on Monday was in response to a grievance, filed by the UAW in August 2017, that said Berkeley exploited student employees by employing them under the 10-hour (or 25 percent of full time) threshold at which they would contractually receive — in addition to their salaries — tuition reimbursement and child-care benefits and, in some cases, health-care benefits too. For example, Jerry Song, a junior in Berkeley's EECS department, earns \$876.46 a month working eight hours a week as a teaching assistant for “Introduction to Database Systems.”

The arbitrator ruled in favor of the union, ordering Berkeley to distribute the back pay and to stop denying student employees the tuition reimbursement that would come with 10 hours or more of weekly work. The ruling also requires TAs to be hired for 10, not eight, hours a week.

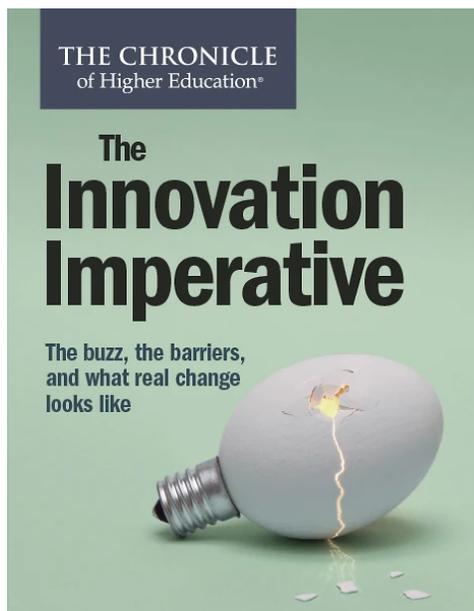
The union said the back pay will total \$5 million and be distributed among more than 1,000 current and former student teaching assistants. Seventy percent of graduate and undergraduate teaching assistants at Berkeley are members of the UAW, it says, but all student academic employees are covered under its contractual terms, and the electrical engineering and computer-science department employs more than 300 TAs.

Berkeley says the exact back-pay figure will be more than \$1.5 million, but that the amount has yet to be determined.

“While we are disappointed with the arbitrator's decision, we accept the decision and will abide by it,” Janet Gilmore, a Berkeley spokeswoman, said in a statement on Wednesday. “The University and the EECS faculty believed that appointments should be kept at 20 percent or less in order not to interfere with student academic performance.”

Song said teaching assistants are “a little bit nervous to see what the results of this will be” because they are afraid more 10-hour-per-week appointments will mean fewer prized teaching opportunities for students. “Everyone's hoping that the university will allocate more money to computer science” to make up the difference, he said.

Berkeley, which expanded its computer-science offerings in a new data-sciences division in late 2018, is considered to be among an elite group in the field, along with Carnegie Mellon University, the Massachusetts Institute of Technology, Stanford, and the University of Washington. As at many universities, interest in computer-science courses has grown quickly, with enrollment in "Foundations of Data Science" soaring from 100 in 2015 to 1,300 in 2018, and enrollment in the upper-level "Principles and Techniques of Data Science" increasing from 100 in 2016 to 800 students during that same period.



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Other universities, too, are trying to figure out how to deal with the daunting growth of their computer-science divisions.

“Our need for TAs has risen much faster than the university's willingness to pay for TAs,” says Ed Lazowska, a professor of computer science at the University of Washington. “This is true of computer-science programs nationally. A significant proportion of our TA funds come from other sources: unrestricted gifts, vacant staff and faculty positions, etc. We are siphoning funds from everywhere in order to pay for TAs.”

Kenshur told *The Chronicle* that “the TA system faces pressure as enrollments expand quickly. However, tuition revenue and other income sources increase along with enrollment. So the solution to expanding enrollment is not to exploit undergrad labor by circumventing contractually guaranteed rights for workers,” he said, “but rather by using the resources which come with enrollment to adequately compensate workers.”

He said the issue is not “a shortage of undergraduate labor, but rather a desire by the university to cut costs at the expense of students working through college.”

William R. Pokorny is a higher-education-employment expert with the Chicago law firm Franczek P.C. He said that while the ruling is a direct win only for the Berkeley students, administrators and students alike throughout the University of California system are bound to take notice.

The win, in itself, stands out, Pokorny says, as the National Labor Relations Board, under the Trump administration, is proposing a rule that would keep many graduate students from unionizing because they are not employees.

“Students at other universities, and other universities themselves,” he said, “will be paying attention to” the Berkeley ruling “if only as an illustration of what a union can do for you.”

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