What is a “BYA”? BYA stands for “By Agreement”. By agreement, for the purposes of non-academic, non-represented staff positions at UCSB, refers to the agreed upon rate of pay for a body of work that has unusual or unique pay circumstances (as determined by the Compensation Unit) making it difficult to pay according to normal pay and classification standards. For example, someone may be hired to perform work at the university for one hour yet they had to spend a lot of time prior to arriving preparing themselves for that one hour of work. A “by agreement” appointment would allow you to fully compensate that person with a flat amount for the approximate time they may have spent rehearsing, researching, planning, designing and creating, in preparation for their one hour of time spent at the university. BYA positions are primarily limited appointments.

Some BYA positions have pay circumstances similar to that of an hourly worker. In these instances, flat rate compensation is determined by calculating an agreed upon hourly wage multiplied by total hours worked per month (including appropriate overtime pay if hours exceed 40 in a work week).

What kinds of positions are coded as BYA? There are a few titles in the system that are officially coded as BYA. Only the following titles can be assigned a DOS (Description of Service) code of BYA:

- Recreation Program Instructor (tc 4011) (non-exempt)
- Resident Advisor (4122) (live-in only) (non-exempt)
- Coaches (various title codes) (exempt & non-exempt)
- Unclassified (tc 9999) “Special Presenter/Speaker” (non-exempt)

Who reviews and approves BYA appointments? Only the Compensation Unit of Human Resources has authority to review and approve requests for non-academic staff BYA appointments.

When can I pay someone on a BYA? You can request to use a BYA title code if the duties being performed fit within the description of the desired BYA classification.

Examples of Appropriate Uses of BYA:

- Special Speaker/Presenter for a department retreat = 9999 Unclassified “Special Presenter/Speaker”
- Aerobics Instructor during the noon hour = 4011 Recreation Program Instructor
- Guest Singer/Performer at a university sponsored event = 9999 Unclassified “Special Presenter/Speaker”
- Non Faculty person attends an event and serves as a UC panelist = 9999 Unclassified “Special Presenter/Speaker”

Examples of Inappropriate Uses of BYA:

- To pay an employee for some extra work or a special project they did for the department
- To pay an employee for outstanding performance during a really difficult time in the department
- To pay a 100% time EXEMPT employee for doing work for another dept (non-teaching)
- To pay an employee to attend a workshop over the weekend
- To pay a student for participating in someone’s research experiment

What is the process for hiring someone on a BYA? First consult with your Compensation Analyst to determine if the position you are trying to fill meets the criteria of one of the BYA classifications. Second, enter the BYA job description into the on-line classification system for final review and approval by HR. Third, input the BYA appointment into PPS using the DOS code BYA. Do NOT input an hourly or monthly rate or hours worked on the appointment screen in PPS. Payment for these positions should be processed using the monthly manual pay screen in PPS.

Non-Exempt BYA’s: If the position is non-exempt, please make every effort to estimate correctly the number of hours worked and multiply that by the agreed upon hourly rate for audit purposes. Do NOT input an hourly or monthly rate or hours worked on the appointment screen in PPS - instead input the flat monthly amount that you’ve computed on the side, using the monthly manual pay screen. This amount should minimally meet the minimum wage requirements for CA. FLSA rules governing hourly employees still apply so be sure and calculate premium overtime if the employee works over 40 hours in a work week. If the employee works 50% or more in a given calendar month, then they may be eligible to earn sick leave and holiday pay (if there are any holidays in the month).
How to avoid the use of BYA (By Agreement) on federally funded projects

If a funding source is federal funds or federal flow-through funds a department cannot use the DOS code By Agreement (BYA) as a payment method, as it will not allow the payroll data to be captured in the new Effort Reporting System (ERS) (replacing the old paper PARs). If an employee/employer relationship exists you cannot use the BYA DOS code and you must find an alternative solution. Below are some scenarios of when BYA has been used in the past and how these should be paid going forward.

Past Scenarios and Going-Forward Solutions

Non-UC Students:

1. Student of other college/univ works for one month in summer to perform work on a research project. Student is given a list of tasks to perform to meet expectation for payment: PI wants to pay them a lump sum BYA and does not want to track hours.
2. City College and/or High School Students are paid to assist in the lab to gain experience and dept wants to pay them as Interns on a Form 5.
3. A dept is unable to find UCSB students to fill open Student Assistant positions so they’d like to hire non-UCSB students for one quarter on a BYA.
4. A UCSB student graduates and the dept wants to keep them employed for one more quarter so they can finish up their projects or train incoming students and they would like to place them into a BYA title.

Appropriate Form of Payment: Because an employee/employer relationship exists in these scenarios, these non-UC students should be paid through the payroll system as “Non-UC Student Assistants” (see new title codes 4923-4925)*. These would be limited appointment employees with a DOS code of REG. A job description should be submitted to HR via OACIS for review and approval and hours worked should be tracked and reported using a timesheet.

* This is a new job series that replaces the former 9995 Special Student Assistant BYA title. For more information, go to the HR website at http://hr.ucasb.edu/comp/non-uc_students_info.php.

Non-UC Employees/Community Members:

1. PI asks a local religious/community leader to come speak at a conference for one day. The PI wants to pay the person $1000 on a Form 5.

Appropriate Form of Payment: Because the person is NOT an employee of UCSB and they are a recognized expert in their field, they can be paid as an Independent Contractor through the Purchasing Department. This type of work is considered a personal and professional service, defined as being infrequent, technical, or unique functions performed by an independent contractor. The selection of an independent contractor providing personal and professional services is usually based on skill, knowledge, reputation, and creativity. Examples of personal or professional services are trainers, speakers, translators, technical writers and editors, web designers, art models, practitioners of medicine and the medical arts, suppliers of architectural and engineering services, researchers, and the performing artists. To process this type of agreement complete and submit a Request for Services Form to the

If the Purchasing department rejects the scenario as an Independent Contractor, and instead says that an employee/employer relationship exists, then because this is being paid for with federal funds, this person would need to be paid through the payroll system as a limited appt employee with a DOS code of REG. The department must create a job description in OACIS and send it to HR for classification review and approval. An hourly rate or salary within the appropriate classification level must be assigned and hours or % time worked must be tracked and reported using a timesheet.

Note: If this were funded differently (non-federal funds), a BYA payment, under the title code ‘9999 Special Speaker/Presenter’, would be appropriate also. This would require a job description to be reviewed and approved by HR.

UC Staff Employees:

1. A full-time UCSB employee is asked by another department to give a presentation to their staff after regular business hours. The presentation is relevant to the employee’s personal knowledge and skill and the presentation will benefit the employees in the other department. The department wants to pay them a BYA.

Appropriate Form of Payment: Because this person is already employed full-time at the University — AND— they are being paid with federal funds, they cannot be paid with a BYA. Depending on the exemption status of the employee, they MAY be eligible to receive additional compensation in the form of Dual Employment. Please refer to the Dual Employment policy located on the HR website at http://hr.ucsb.edu/employment/dual_employment_policy.php for more information.

Note: If this were funded differently (non-federal funds), a BYA payment, under the title code ‘9999 Special Speaker/Presenter’, may be appropriate. This would require a job description to be reviewed and approved by HR.

UC Undergrad Students:

1. Student of other college/univ works for one month in summer to perform work on a project and PI wants to pay them a lump sum BYA.
2. Student works in a Professor’s lab assisting with research and the dept wants to pay them on a Form 5.

Appropriate Form of Payment: Because the person is an Undergraduate Student and a case could be made that an employee/employer relationship exists, these scenarios should be paid through the payroll system using the regular Student Assistant series (tc 4919-4922). The DOS code should be REG and hours worked should be tracked and reported using a timesheet.

UC Graduate Students:

1. Dept wants to pay a stipend to several Graduate Students to mentor/supervise Undergraduate Students for one quarter.
2. Dept wants to pay a BYA to a Graduate Student to serve as a Panelist and/or Facilitator at a Summer Institute or Conference.
3. PI wants to pay a BYA lump sum to a Graduate Student for giving a special presentation at a conference.

**Appropriate Form of Payment:** Because the person is a Graduate Student and a case could be made that an employee/employer relationship exists, these scenarios should be paid through payroll using the regular Student Assistant series (to 4919-4922). The DOS code should be REG and hours worked should be tracked and reported using a timesheet.

**Note:** Graduate Students cannot work in excess of 75% time during the school year (unless by exception of the Graduate Division). They can work up to 100% in summer.

**UC Fiscal Year Academic Appointees (including Postdoctoral Scholars):**

1. Faculty member wants to pay a stipend to a researcher for doing a special project for performing additional activities or serving as a mentor

**Appropriate Form of Payment:** Fiscal year employees are not allowed to earn in excess of their 100% time appointments. Postdoctoral Scholars by definition must be 100% while other titles may be at less than 100% time. 100% time employees may ask to reduce their percentage of time temporarily to accommodate other employment. Appointees at less than 100% time may be compensated with an appropriate title and title codes using REG pay.

**UC Faculty (Professor or Lecturer):**

1. Dept Chair wants to pay a faculty member a BYA for a one-day speaking engagement.
2. PI wants to pay a stipend to a Professor or Lecturer for participating in a Summer Institute as a panelist and/or facilitator

**Appropriate Form of Payment:** Professors and Lecturers can be paid for speaking engagements as Faculty Consultants through the payroll system using DOS code FCA. This amount will not be included in the Effort Reporting System because it is not for rendered.

**Note:** The above applies to UC employees on any campus. If an intercampus payment is to be made, the department must verify that the policies at both the home campus and UCSB allow payment.

**Need to discuss specific situations?**

Please Contact:

Human Resources-Compensation
Academic Personnel-Academic Personnel
Graduate Division-Graduate Students & Postdocs
NON-UC STUDENT ASSISTANT POSITIONS

A new job series has been established for non-UC students at UCSB! Instead of using the 9995 Unclassified title, we now have a job series to address the need for hiring non-UC students. Similar to the UC Student Assistant series, the Non UC Student Assistant series has three levels, with three separate pay structures:

- Non UC Student Assistant II (4923) -- $8.00 - $11.00/hr
- Non UC Student Assistant III (4924) -- $9.50 - $13.50/hr
- Non UC Student Assistant IV (4925) -- $11.00/hr → no max

This new series can be used to temporarily fill student positions with non-UCSB or temporarily unregistered UCSB students. This is a temporary solution and should only be used on a quarter-by-quarter basis to fill student positions. These titles are coded as “limited appointments” (not casual restricted). The following lists are examples of appropriate and inappropriate uses of the Non UC Student Assistant title:

Examples of Appropriate Uses:
1. Other University, City College or H.S. Student hired temporarily due to unavailability of UCSB students.
2. UCSB student who is taking one quarter off due to personal or financial reasons.
3. Newly graduated student who stays on for one quarter to help department or train new incoming students.
4. Student from a special needs school, such as, Devereux, Work Inc., etc.

Examples of Inappropriate Uses:
1. Non-student community member hired due to unavailability of UCSB students
2. Non-student married to a UCSB student and living/working in UCSB off-campus housing
3. UC Extension Student, Adult Ed Student, etc.

Job Descriptions: Signed job descriptions are required for Non UC Student Assistant positions and should be sent to Compensation via OACIS for review and approval. Please indicate your reason for needing to hire a Non UC Student Assistant on the action justification tab in OACIS (i.e. ‘Recently graduated student staying on for one quarter’, ‘UCSB Student taking one quarter off’, etc.)

Appointment Information: All Non UC Student Assistants will be hired as limited appointments, not to exceed 1000 hours in any rolling 12 months. These positions are not meant to be career. These are non-exempt positions and therefore FLSA (overtime) rules apply. Be sure and calculate premium overtime if the employee works over 40 hours in a work week. If the employee works 50% or more in a given calendar month, then they are eligible to earn sick leave and holiday pay (if there are any holidays in the month).

Please note that in longer term cases of being unable to find UC students to fill student positions, it is very important to have the work classified into the appropriate non-student title or bargaining unit title when the work is identified as such (i.e. Food Service Workers, Clerical, Custodians, etc.). We have a legal obligation to pay negotiated bargaining unit wages for these positions when no students are available to fill them, even if that means having a student and a non-student working side-by-side earning different wages for similar work.