



Governor Jerry Brown  
Attn: Tom Dyer  
c/o State Capitol, Suite 1173  
Sacramento, CA 95814

September 21, 2017

UNIVERSITY  
PROFESSIONAL  
AND TECHNICAL  
EMPLOYEES

CWA Local 9119  
AFL-CIO



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**RE: Please sign AB 848 into law**

Dear Governor Brown,

In 2004 the University of California San Francisco offshored its medical transcription services to a company in Pakistan. The contractor did not believe she was paid fairly, and threatened to release all of the private medical data onto the open web if she did not get what she wanted. As a result, Assemblymember Liu passed AB 1829 all the way to the Governor's desk, but unfortunately it was vetoed.

In July of 2016 the University of California San Francisco offshored 17% of its IT services to a company called HCL – a contracting company out of India. The workers were given a lay off date of February 28<sup>th</sup> 2017, and were told that they were going to have to train their own replacements. This led to a national outcry after the program “60 minutes” ran a story on the offshoring abuse in March of 2017 and re-ran it again in August. As a result, Assemblymember McCarty has now passed AB 848 all the way to your desk for your consideration.

First, to address how AB 848 and AB 1829 are different, and therefore merit different responses. In Governor Schwarzenegger's veto message he mentions concerns that “an outsourcing ban would be seen as a restriction of foreign trade that could hurt the economy and stymie entrepreneurship.” He called it “an artificial barrier that would thwart the spirit of our citizens and the businesses that will help our economy grow, which could have unintended negative consequences, such as a slow-down of foreign investment in California.”

Aware of this criticism, AB 848 has been well crafted to allow offshoring of public sector services that does not displace an employee. Therefore, foreign trade and investment is still permitted, just not the harming of the public sector workforce at its expense. AB 848 requires all vendors when bidding for contracts with the UC or CSU to disclose which portions of the work may be done offshore, and once made aware of those portions, it prohibits the UC or CSU from displacing employees doing that same work.

Secondly, to address the concern that we heard from your representatives Tom Dyer and Lark Park in our meetings with them that the UC could take care of this issue themselves, and in fact, some “powerful Regents” had demanded that this situation not arise again. These concerns are similar to the “UC constitutional autonomy” confusion that is quite common, so we will respond to each in turn.

As you are acutely aware, Article IX Section 9 of the California State Constitution does grant the UC system a large level of independence with the caveat “subject only to such legislative control as may be necessary to insure the security of its funds and compliance with the terms of the endowments of the university and such competitive bidding procedures as may be made applicable to the university by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services.”

AB 848 addresses “such competitive bidding procedures” for the “purchasing of materials, goods and services” and has therefore been deemed by the Assembly Legislative Counsel as pertaining to UC without a violation of Article IX section 9. But just because the Legislature can step in, does not mean that they should. To examine whether the Legislation should be enacted, one may wish to examine the CA State Auditor’s report from August of 2017 titled “The University of California Office of the President has not Adequately Ensured Compliance with Employee Displacement and Services Contract Policies.”

<https://www.auditor.ca.gov/pdfs/reports/2016-125.1.pdf>

Pages 15, 16, 19 and 20 of this report details the violation found regarding the contract with HCL. A quick summary on page 7 states in relevant part:

“Although the Office of the President was aware of the San Francisco campus’s decision to contract for IT services, it did not follow up to ensure that the campus’s analysis complied with the displacement guidelines. By not enforcing the guidelines, the Office of the President undercut its commitment to requiring adequate justification for displacement decisions. In addition, a lack of clarity in the displacement guidelines may reduce their effectiveness. For example, the displacement guidelines do not address situations in which university locations could provide services by hiring employees rather than by contracting for the services.”

These findings indicate that while the UC could in remote theory enact a policy almost identical to AB 848 without legislative action, were they to do so the UC *does not even listen to itself. They do not follow their own procedures regarding procurement.*


To further drive home this point, a message sent by UCSF Chancellor Sam Hawgood to the entire UCSF workforce in advance of the “60 Minutes” television coverage stated, “Among the workers impacted by this decision, some questioned our decision to ask them to train employees from HCL America, the firm handling a portion of our IT services. We regret that they were directed to train HCL America employees and UCSF intends for this to never happen again. Further, I want to be clear that the decision to contract with HCL America has not resulted in the permanent replacement of any UCSF career employees with H-1B visa holders. Additionally, we have publicly pledged that we will not replace IT employees with H-1B visa workers.”

So while “powerful Regents” were expressing to the UC Office of the President that offshoring should not happen again, UCSF was defending its decision to offshore jobs and continue these cost “efficiencies,” but without workers having to train their own replacements and without misusing the H-1B visa system (which was used during the July-February time frame for the “knowledge transfer” process). *The UC does not even listen to itself.*

In conclusion, we hope that you will see fit to sign AB 848 into law. It is a well-crafted and thoughtful piece of legislation that was not opposed by UC or the CSU.

Thank you in advance for your time and attention to this important matter. We would love to attend a signing ceremony with the IT workers.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Hines-Shaikh". The signature is fluid and cursive, with the first name "J." and the last name "Hines-Shaikh" clearly distinguishable.

President  
UPTE-CWA Local 9119

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Cc:  
Amy Hines-Shaikh  
Legislative and Political Director