

THE ANIMATION GUILD CBA FROM A TO Z

*What every Guild member should know about
their collective bargaining agreement*

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The Animation Guild CBA from A to Z

Introduction

Do you know what an *expedited arbitration* is? Are you familiar with the National Labor Relations Act, as amended in 1947? Unless you're an attorney or have a lot of free time to learn contract law, the examples cited above could just as easily be in Pig Latin (*Porky Pig Latin*) for all the sense they make.

That's the purpose of this booklet. We're going to state in simple language what it's taken the lawyers fifty years to gum up so thick that even Aladdin's Genie couldn't get through it.

CAVEAT: (That's "warning," to you and me) This booklet is meant as an explanation *only*; it is not in any way a legally binding document. This book is our interpretation of the CBA, which may or may not be the interpretation of the producers. The language on these pages is not binding and cannot be cited for either grievance or arbitration purposes or for use in negotiating a personal services contract (does anyone still have one of those?). The page numbers after each item will be the location of the legal language in the Goldenrod* CBA, dated August 1, 2003 through July 31, 2006.

CONVENTIONS: No, this does not refer to District Two or anything to do with political parties. It has to do with things you will find throughout this booklet. For instance, the page numbers citing the corresponding CBA pages is one convention.

We use the acronym "CBA" (short for "collective bargaining agreement") for what is often referred to as "the Guild contract". This is so you don't get confused between the Guild contract and your "personal service contract," which is that document you may have had to sign with your employer when you got hired, promising to hand over your first-born child if you even think of violating it ...

* the color yellow on steroids ...

Introduction



Whenever you see the drawing of Animation Guild President Kevin Koch, these will be Kevin's own observations based on his direct conversations with members.

KEVIN SAYS: This booklet will contain the things that are *in* the CBA, the things that *aren't* in the CBA and explanations of the health and pension plans.

When you see the drawing of the Animation Guild's Business Representative, Steve Hulett, these comments will be Steve's opinions and advice.



STEVE SAYS: Throughout the booklet you will find the answers to the many frequently asked questions that I deal with on a daily basis. (There are state and Federal laws, there are CBA rules, and there are the realities of the workplace that sometimes deviate from laws and CBA rules. But we'll get into the messy details as we encounter them.)

With each section of this booklet, we'll give you the "source" for our opinion: the article, section and page number of the CBA that we're quoting.

So there you have it, a plain language, easy to understand, retelling of the greatest story never told, the Animation Guild CBA. Are there any questions? Of course there are. That's what this booklet is all about. Read on!

Better terms and conditions

Source: Article 3, section C; CBA pgs. 7-8

➤ **Can I negotiate better terms and conditions than the CBA?**

YES. Any individual is free to negotiate better terms and conditions than those in the CBA. The Producers, if they want, can adjust compensation, conditions and benefits, but they *can never be less than the minimums* described in the CBA.



KEVIN SAYS: This paragraph is incredibly important, especially when speaking to non-Guild people about the benefits of a Guild CBA. Many people have the misconception that if they work under a Guild Agreement, benefits that they currently have that are better than the minimums will immediately be taken away. If that happens, it's only because the employer chooses it to happen. People are always free to negotiate and keep their better deals. Guild CBAs only stipulate *minimums*, not *maximums*.

STEVE SAYS: Any employer that gives you the excuse that they can't give you something because the Guild won't let them is using us as a scapegoat. Nothing in our CBA prohibits you from getting a *better deal*. The terms and conditions in the CBA are *floors*, not *ceilings*!



CBA

See Collective bargaining agreement, page 4

CGI

***Source: Article 21, section L, “Computer As A Tool,” CBA
p. 54***

➤ ***Is CGI under the Guild’s jurisdiction?***

Artists performing duties on a computer that are traditionally covered under the CBA will still be covered by the CBA. The computer is another tool, like a pencil or a paint brush.



KEVIN SAYS: Before this clause was negotiated, more than one employer tried to use the introduction of computers to claim that a job done on a computer was not under the Guild’s jurisdiction. The Guild and the employer have the right to negotiate new classifications and rates, but this clause makes it clear that all CG work is under our jurisdiction.

Collective bargaining agreement

➤ ***What is the collective bargaining agreement?***

It’s just the official term for our Guild contract. We use the term in this book to differentiate the Collective bargaining agreement (or “CBA”) from other contracts, such as your personal service contract.

Commercials

Source: Article 4, section G, CBA pg. 9

➤ ***Does the CBA cover commercials?***

Yes. See under Documentaries, page 13.

Computers

See CGI, page 4

Contract Services Administration Trust Fund

Source: Article 22. CBA pgs. 54-55

➤ ***What is the Contract Services Administration Trust Fund?***

The Producer pays the Contract Services Administration Trust Fund (“CSATF”) \$.03 for each hour worked or guaranteed under the CBA. That means \$.03 for every hour worked by every man, woman and Beast covered by this CBA.

Anyone interested in getting employment information on an individual on a specific motion picture can contact the CSATF, who in turn will contact the Producer to try and get the information. The Producer will make a good faith effort to get the information to the CSATF.

STEVE SAYS: Since we don't have a work roster — as do many other IA locals — CSATF doesn't have any information on our members. Studios have learned over the years that they have to contact the Guild directly to obtain info.

Co-Operative Committee

Source: Article 21, section M, CBA pg. 54

➤ **What is the Co-Operative Committee?**

The Co-Operative Committee will meet occasionally to explore ways to increase employment opportunities under the CBA.



KEVIN SAYS: As I write this, we have just had our first meeting of the Co-Operative Committee. So we'll just have to see how co-operative the committee is ...

CSATF

See Contract Services Administration Trust Fund, page 5

Daily employment

Source: Article 5, section B; CBA pgs. 19-20

➤ **How does “daily employment” work?**

Daily employees are guaranteed a minimum of 4 hours in any one day. The first 8 hours are paid at 117.719% of the hourly rate for the employee's classification. This is not an above scale payment.

It is because vacation and holiday pay are included in the rate. Time worked over eight hours is paid at time-and-a-half of the hourly rate.

You must receive written notice from the Producer before you start work that they intend to pay you as a daily employee.

You must receive at least 7 calendar days (not work days) written notice from the Producer if your status is to be changed from Daily to Weekly or from Weekly to Daily, except when production schedules make that notice impractical or impossible.

The Producer cannot change a weekly employee to a daily employee to get out of having to pay for a holiday. See Article 6 (“HOLIDAYS”).

Deductions for time off

Source: Article 4, section F; CBA pg. 8

➤ ***Can I be punished for taking time off?***

If you are late or take time off, they can only deduct the time lost from your pay, they cannot dock you additional time as punishment.

Disciplinary notices

See Discipline and discharge, page 8

Discipline and discharge

Source: Article 16; CBA pgs. 42-43

- ***How many writeups must the employer give before I can be fired?***

Before any employee can be discharged for unsatisfactory work performance, they must be given 2 written notices. If the notices can't be given to the employee, the Producer notifies the Business Representative of the Guild.

The 1st notice must clearly state why the employee's work performance is considered unacceptable. It also must warn of possible discipline, including discharge, if the work does not improve.

There must be at least 5 working days before a 2nd notice may be given. The second notice, if final, tells you the time you are being terminated, which can be immediate.

Copies of any notices given to an employee must also be given to the Business Representative within 2 working days.

Any violation of a provision in Article 16 must be arbitrated in an Expedited Arbitration, unless the parties agree otherwise in writing. Then it is submitted to a Regular Arbitration, but the authority of the Arbitrator to award damages or remedies is the same as in an Expedited Arbitration.

➤ **What are my rights if I'm written up?**

An employee has the right to challenge a disciplinary memo using the grievance and arbitration procedure. The memo is admissible evidence in that hearing, however, there is a 1 year time limit. After a year, the memo is no longer admissible. If an employee does not challenge a disciplinary memo, it is not considered an admission of guilt.

STEVE SAYS: I have a policy of contacting any member for whom I have received a disciplinary notice from an employer. These calls, and all other matters involving disciplinary grievances, are kept strictly confidential.



If you do not want to challenge a disciplinary notice, it is very unlikely we would pursue the matter without your cooperation. (I would only make an exception if an employer has clearly violated the CBA or state or Federal laws — if, for example, they fired you for reasons related to race, gender or religion.)

But if you want to challenge a disciplinary notice, and especially if the employer has forgotten to send me a copy, don't wait to hear from me — *call me at once!*

➤ **Do I have to sign the employer's writeup?**

STEVE SAYS: Often an employer will ask you to sign a disciplinary notice. Typically the language above the signature line makes it clear that you are only signing to acknowledge that you received the notice. If this is the case, we suggest you sign, since there is no way this can be used against you.



Discipline and discharge

I have never known a case of an employer demanding someone sign to acknowledge their guilt in a disciplinary matter, but even if you signed such an admission, we would argue the notice is still grievable on the facts.

➤ ***Under what circumstances can I be fired without a written notice?***

An employee does not have to be warned about disciplinary action in cases involving:

- dishonesty
- alcohol or drug use
- fighting
- gross insubordination
- recklessness resulting in serious accident while on duty
- gambling
- or other offenses of a similar nature.



KEVIN SAYS: For these offenses, they can fire you on the spot without having to write you up. This is not to say that we can't file a grievance if someone gets fired unfairly (although these can be difficult cases to prove.)

Dismissal pay

Source: Article 14; CBA pgs. 33-36

➤ ***What is dismissal pay?***

Dismissal pay, sometimes called “severance pay,” is due to you after a layoff from a Guild shop.

➤ **How much dismissal pay will I get?**

The base pay for your dismissal pay is either your rate of pay as of your date of layoff, or one hundred and fifty percent of minimum scale for your category, whichever is less.

- If you worked at least three months for your last employer but less than six, you will be owed 1 1/4 days' base pay.
- If you worked at least six months for your last employer but less than one year, you will be owed 1 weeks' base pay.
- If you worked one year or more, you will be owed two weeks' base pay.

➤ **When will I get my dismissal pay?**

Dismissal pay is due to you one hundred and ten days after your last day of work if you were laid off (but not if you resigned or were fired for cause), *and* you worked for your previous Guild employer for at least ninety days.

If, in the one hundred and ten days since your layoff, you have refused any work from your former employer (even freelance), you will not qualify for dismissal pay.

If you accept a job from your former employer within the one-hundred-and-ten day period (even a freelance job), you will not lose your dismissal pay, but the one-hundred-and-ten day qualification period will restart on the day you are subsequently laid off.

You are eligible for dismissal pay if you left a job at the end of your personal service contract, provided the employer did not offer you further employment.

Dismissal pay

You qualify for dismissal pay even if you have gone to work for another employer, Guild or non-Guild.

➤ ***What is the definition of “continuous employment” for dismissal pay?***

For the Dismissal Pay Article only, continuous employment begins from your starting date and can be broken by:

- Voluntary resignation, which includes turning down a job assignment;
- Discharge for cause;
- Layoff for more than 110 days;
- If you are absent due to illness or injury for more than 12 months; or
- Unauthorized leave of absence.

If you are re-hired after your continuous employment is broken, you are considered a new employee for Dismissal Pay purposes, but not for Seniority.

Employees who are fired for cause or who voluntarily resign (which includes turning down a job assignment) or are discharged due to physical incapacity, epidemic, fire, action of elements, strikes, walk-outs, labor disputes, governmental order, court order or order of any other legally constituted body, act of God, public enemy (including but not limited to James Cagney), war, riot, civil commotion or anything else beyond the control of the Producer, are not entitled to Dismissal Pay.

➤ ***How long after layoff do I have to wait to receive dismissal pay?***

Dismissal pay is triggered one hundred and ten days after layoff. Your former employer is required to send your dismissal pay automatically, without your having to request it.

In most cases, you should receive your dismissal pay within two to three weeks of your becoming eligible for it. Bear in mind that there is a one-hundred-and-twenty-day time limit for filings grievances for non-payment of dismissal pay; so, if there are problems or delays, contact the Guild office promptly.

Documentaries, commercials, educational and industrial films

Source: Article 4, section G, CBA pg. 9

➤ ***Does the CBA cover documentaries?***

The Producer and The Guild agree to negotiate separate agreements for the production of documentaries, commercials, and educational and industrial films.

STEVE SAYS: The Guild has jurisdiction over all these kinds of films, so unless we negotiate a separate agreement, the terms of the standard CBA will apply.



KEVIN SAYS: Good news for all those animators working on documentaries ...

Dues and fees

Source: Article 3, sections A and B; CBA pgs. 4-5

➤ ***What happens if someone doesn't pay their dues or fees?***

After the 30th day of their first employment, every employee hired by the Producer must remain a member in good standing of the Guild. The requirement of Guild membership can only be changed if state laws change.



KEVIN SAYS: This is what is sometimes called a “union security” clause. It means that everyone pays their fair share — no one gets to freeload by taking the benefits of working under the Guild contract and not paying for it.

The Producer can employ or continue to employ someone who is not a member or doesn't become a member of the Guild until:

- the Guild gives the Producer written notice that an employee is not a member or hasn't become a member as required, meaning they haven't paid their dues and/or their initiation fee *and*
- the employee fails to pay their dues or initiation fee within 3 working days after the Producer has received the notice. After that, the Guild, through another written notice can request the discharge of the employee for non-membership. The day the Producer receives the second notice, the employee will be discharged as of the end of their shift.

STEVE SAYS: This hardly ever happens, because we give everyone ample opportunity to pay, or make arrangements, before we “lower the boom”.



Educational films

➤ ***Does the CBA cover educational films?***

Yes. See under Documentaries, page 13.

Employers

Source: CBA pg. 1

➤ ***Who is signed to the CBA?***

Many, but not all, of our signator employers have banded together into what is called a *multi-employer bargaining unit*. All this means is that these companies sit down at the same table, at the same time, to negotiate their CBAs with the Animation Guild. They each sign the CBA as separate companies, but by negotiating jointly, they save themselves, and us, a lot of hassle keeping track of which contract is which.

As of the 2003-2006 CBA, the companies in the multi-employer bargaining unit are (in alphabetical order):

- Adelaide Productions, Inc.
- Cartoon Network Studios, Inc.
- Columbia Pictures Industries, Inc.
- DreamWorks Animation LLC
- DreamWorks Television LLC
- Fox Animation Los Angeles
- Fox TV Animation, Inc.
- Metro-Goldwyn-Mayer Animation, Inc.

(continued)

Employers

- RichCrest Animation
- Touchstone Television Productions, LLC
- Universal Cartoon Studios LLC
- Walt Disney Pictures and Television
- Warner Bros. Animation, Inc.

The fact that a company is not on this list *does not mean that they aren't signed to the Guild CBA*, only that (for whatever reason) they preferred to negotiate separately with the Guild. (If you have any questions whether a company is signed to the CBA, call the Guild office.)

In the remainder of the CBA, all the employers are jointly referred to as the “Producer”.

“Exempt” employees

Source: Article 4 section B; CBA pg. 7

➤ *What is an “exempt” employee?*

STEVE SAYS: “Exempt” means that state and/or Federal labor regulations do not require that you receive time-and-a-half after 8 hours of work (double-time on the 7th day or after 14 elapsed hours) because you work in a job category that doesn’t require that overtime be paid. In general, if the government considers you “creative” or “professional,” it might not require overtime be paid to you.



If you have a job that follows the work set down by a person working in the “creative” classification — in other words you follow somebody else’s original work — you could very well

be “non-exempt” (meaning that you must be paid overtime.)
Simple, yes? Simple *no*. Call us if you have questions.

Firing

See Discipline and discharge, p. 8

“Five out of seven”

see Workweek, page 70

Forty-hour notice

Source: Article 12(A)6; CBA pgs. 32-33

➤ *How does “forty-hour notice” of layoff work?*

The Producer must give you 5 days’ notice or 5 days’ pay when you are laid off, as long as the layoff was not caused by an act of God or something else beyond the Producer’s control. A weekly employee can be let go before the end of their 5 day workweek, but they must be paid for the full 5 days. The layoff notice can be given orally, but must be confirmed in writing and given to the person being laid off.

➤ *Can the employer extend my “forty-hour notice”?*

Without additional notice, the Producer can extend you past your dismissal date to complete an assignment. In this case, they can prorate your pay and only compensate you for the extra days worked, not another complete 5 days.

Freelance

Source: Article 4(E); CBA pg. 8

➤ ***Am I entitled to overtime for freelance work?***

Homework for weekly employees is voluntary. If you are required to do homework (“*We’ve got to get this scene/storyboard/timing sheet out by tomorrow!*”) then overtime applies, and will be paid according to Article 5 of the CBA.

➤ ***What is the difference between “freelance” and independent subcontracting?***

STEVE SAYS: Article 4(E) applies to freelance employees, not “independent subcontractors.” The latter are, by definition, not employees of the animation studio, and nothing in the CBA applies to them. (See under Independent subcontractors, page 36.)



➤ ***Do I get health or pension benefits if I’m “freelance”?***

If you are just a “freelancer” and not an independent subcontractor, then your Guild employer must make health and pension contributions. This applies whether you’re working on the premises or at home.

Golden hours

Source: Article 5(D); CBA pg. 20

➤ **What are “golden hours”?**

If you work over fourteen hours in a row, counting your meal breaks, the time over fourteen hours is paid at double the hourly rate.

Grievances

Source: Article 15; CBA pgs. 36-41

➤ **How does the grievance procedure work?**



KEVIN SAYS: Along with wage minimums and health and pension benefits, there's an argument to be made that the grievance procedure is what the Guild is all about. This is the way that we resolve any and all disputes that arise between the Guild and the employers.

STEVE SAYS: How does this work? Here's the short version.

STEP ONE: If you have a problem, you call me. I call the studio and try to settle the problem over the phone.



If we can't make a deal, we go to **STEP TWO:** I write a letter which contains the specific CBA section violated, the date(s), specific facts and details of the violation, the name of the

production (if any), the remedy sought and **the name(s) of the individuals** who are filing the grievance, unless it's a group claim.

➤ **Do I have to give my name?**

STEVE SAYS: The bold text in the last sentence is really important. We can't do anything if you aren't willing to come forward, unless it's a group claim, such as for all the employees of a certain department or employer.



KEVIN SAYS: We know it can be scary to speak out in these times of layoffs and lean employment, but if your rights are being violated, or you are abused such as being asked to work free overtime, it's important to let us know. That's the only way we ever find out... if you tell us.

STEVE SAYS: If we still don't come to a mutual agreement, we go to ...



STEP THREE: an Informal Arbitration, sometimes called a reconciliation. We both lay out the problem to two Arbitrators – one repping the Guild and the other the company — who then suggest solutions.

If there is still no settlement, or if we don't want to submit to the Step Three Arbitrators assigned, we go to **STEP FOUR:** the Full Arbitration.

➤ ***Are there time limits to filing a grievance?***

Grievances have time limits, which vary according to the nature of the complaint. If you wait until after the time limit, you are what the lawyers call “time-barred,” a fancy term for “you snooze, you lose”.

- Step Two for grievances of payment of wages must be presented within 365 calendar days.
- Step Two for grievances of Dismissal Pay must be presented within 120 calendar days after the date the employee is eligible for Dismissal Pay.
- Step One for grievances involving violations of Article 12 (“SENIORITY”) or Article 16 (“DISCIPLINE AND DISCHARGE”) must be presented within 10 days after the occurrence.
- Step Two for any other grievance must be presented within 60 calendar days after the occurrence.

➤ ***How does an arbitration work?***

If Steps One, Two and Three crash and burn, the grieving party can proceed to a Regular Arbitration by delivering a written demand for arbitration. An Arbitrator must be agreed to by both parties in the dispute and the Arbitrator must promptly hear the matter and settle the dispute. If the parties can’t agree on an Arbitrator, the grieving party may request a list of 5 names of Arbitrators from the Federal Mediation and Conciliation Service (“FMCS”). The Guild and the Producer’s representative are each allowed to take two names off the list. The one that remains is then the Arbitrator for the grievance. The selection of the Arbitrator must be made within 5 days of receiving the list from the FMCS. The Arbitrator will then set the time and place of the hearing if the two parties have been unable to agree.

The Arbitration is then limited to what was in the written letter submitted in Step Two. The Arbitrator may only interpret the CBA, and cannot amend, modify or change anything in it. The decision of the Arbitrator is binding on all parties and anyone else subject to the CBA. An Arbitrator cannot determine jurisdictional disputes between our Local and another labor organization.

The fees and expenses of the Arbitration must be split equally between the parties in the dispute.

➤ ***What is an “expedited arbitration”?***

In cases involving seniority violations or issues of discipline and discharge, the grieving party may choose to proceed from Steps One and Two directly to an Expedited Arbitration. They should inform the other party in writing.

An Expedited Arbitration must be heard within 10 days, providing the Arbitrator selected is available. If the Arbitrator is unavailable, the hearing will start as soon as mutually agreed by the parties. This is a somewhat less formal hearing than a Regular Arbitration. There are no post-hearing briefs and no stenographic record. Before or during the hearing, the parties may submit written statements of the facts. The Arbitrator may give his decision orally at the conclusion of the hearing and then confirm it in writing in 3 days, or they can just issue it in writing in the 3 days. The decision of the Arbitrator is final and binding on all parties and any employees concerned. The Arbitrator has the power to award wage payments, adjustments and/or damages not to exceed \$15,000. The decision of the Arbitrator is non-precedential, meaning it can't be offered or admitted as evidence in any other proceeding.

The fees and expenses of the Arbitration must be split equally between the parties in the dispute.

STEVE SAYS: The good news about expedited arbitration is that it's faster. The bad news is the \$15,000 cap. (In most arbitration cases, one side or the other can point to earlier decisions by an arbitrator to bolster their case. An expedited arbitration is the one kind of arbitration that this isn't true.)



- ***What happens if we win a grievance and the employer still blows us off?***

The Superior Court of California may also enforce any decision or award made by the Arbitrator.



KEVIN SAYS: An important point — if either party, the Guild or the employer, tries to ignore an arbitrator's ruling, they can be sued in state court.

Guarantees

Source: Article 5, CBA pgs. 17-21

- ***What is the guarantee for weekly employees?***

Weekly employees are guaranteed forty hours a week.

- ***Is there a guarantee for daily employees?***

There must be at least 4 hours guaranteed on the 6th and 7th days.

Health Plan

The full details of the Health Plan are too complicated to cover in this booklet. For a full breakdown of your benefits, contact:

- Motion Picture Industry Pension and Health Plan (MPIPHP)
POB 1999
Studio City, CA 91614-0999
(818) 769-0007 or (310) 769-0007
outside southern California, toll-free: (888) 369-2007
<http://www.mpiphp.org>

Ask for (or download from the above website) a copy of the Health Plan's Summary Plan Description.

➤ ***How do I initially qualify for benefits?***

Your Guild-shop employer will begin making contributions into your Health Plan, Pension Plan and Individual Account Plan from your first day of work, regardless of your membership status.

You can only be covered for health benefits under the MPIPHP from contributions made by your employer for hours you have worked at a Guild shop. Non-Guild employers cannot contribute into our Health Plan.

If you have never been eligible before, or have been ineligible for 5 (or more) preceding six-month eligibility periods (2.5 years or 30 months), you need to earn a minimum of 600 hours in one (or 2 consecutive) six-month Qualifying Periods. There is a list of qualifying periods online at <http://www.mpiphp.org/benefits/qualperiods.htm>.

Some employers have been willing to cover new employees under their corporate health insurance until the Guild health insurance kicks in. Ask your employer's HR department for details.

➤ ***How do I maintain my current coverage?***

After you initially qualify, you need to earn a minimum of 300 hours during each applicable Qualifying Period.

➤ ***What is a "bank of hours," and how can I use it to extend my health coverage?***

Hours that you work at a Guild shop that have not been used for your initial or ongoing qualification for benefits, go into what is called your "bank of hours".

As long as the number of hours in your bank combined with your work hours equal 300 or more, and you are still available for work in the motion picture industry, you will be offered a Bank of Hours extension in the event you do not qualify based on earned hours. You will be sent an extension form about two weeks prior to the end of your benefit period. You must sign and return the extension form to the Health Plan office in order to receive the Bank of Hours extension.

➤ ***What happens if I still don't qualify after all of my extensions have been used up?***

COBRA is an acronym for a Federal law that requires employer-funded health plans to offer self-paid coverage as an option to those who would otherwise be due to lose their health insurance due to unemployment.

You will be given the option to continue your coverage by self-payment of premiums through COBRA for an 18-month period, minus any temporary disability extensions granted after your initial qualifying event. Once you have exhausted 18 consecutive months of extended coverage, you will be offered a direct conversion policy through the hospital/medical plan in which you are enrolled. You also have the option to enroll directly into the conversion policy, within 31 days of your loss of eligibility, without first paying for COBRA.

➤ ***How long can I pay for COBRA and how much will it cost?***

The maximum period for extended coverage is 18 months. For example, if you use a temporary disability extension and do not qualify for the next benefit period, you will be entitled to 12 months of COBRA coverage. The cost of these benefits will depend on the number of dependents you wish to cover, and whether you elect the so-called Noncore benefits (hospital, medical, prescription, dental and vision) or just the Core benefits (hospital, medical and prescription only).

➤ ***I have a new dependent and need to add him/her to my coverage.***

You need to complete a new beneficiary/enrollment card. Return this card to the Health Plan office with a copy of the marriage/birth certificate (or hospital record) and the Health Plan will add your dependent as of the date of marriage/date of birth. For non-biological children, a separate application and additional documentation (e.g. placement agreements, legal guardianship documents) will be required.

➤ ***Can I add my same-sex domestic partner?***

Plan benefits are available to qualified same-sex domestic partners of Health Plan participants. Contact the Health Plan office.

➤ ***My divorce is final this month and I need to take my ex-spouse off of my coverage. What do I need to do?***

You need to complete a new beneficiary/enrollment card, indicating the date of divorce in the appropriate space. Return this card to the Health Plan office with a copy of the page of your divorce documents with the dissolution of marriage date. Your ex-spouse will be covered through the end of the month of the divorce date; he/she will be given the option to continue coverage by self-payment through COBRA. If a current mailing address for the ex-spouse is not provided to the Plan office, the COBRA notification will be sent to the last known address.

STEVE SAYS: *This is important!* If you do not report to the Health Plan your divorce from a beneficiary, the Plan will hold you financially responsible for any claims filed by your ex-spouse after the end of the month of the divorce date.



➤ ***My child will be 19 next month. What happens to his/her coverage?***

As long as he/she is a full-time student and depends on the participant for primary support, coverage will continue until age 23. To be considered full-time, the student must complete 12 units per semester, or 10 units per quarter. To ensure continued coverage, you must send the Health Plan a copy of the schedule of classes at the beginning of each session. At the end of each session, you must

Health Plan

send the Health Plan a copy of the grades. If he/she is not a full-time student, he/she has the option to continue coverage by self-payment of premium through COBRA.

Student eligibility will terminate at the end of the month in which he/she withdrew from class, bringing the course load to below full-time. He/she will be given the option to continue their coverage by self-payment of premium through COBRA.

- ***I want to transfer from my HMO (or pre-paid dental plan) into the Blue Cross/MPIHP (or Delta Dental Plan).***

Please send the Health Plan a letter, with your signature and Social Security number, stating that you would like to change your enrollment from the HMO or prepaid dental plan in which you are currently enrolled, to the Blue Cross/MPIHP Plans. Your plan change will be effective on the first of the month following our receipt of your letter.

- ***When can I enroll into an HMO or prepaid dental plan?***

You can enroll during Open Enrollment, which is in July of each year, for an effective date of August 1.

Hirings and layoffs

Source: Article 12; CBA pgs. 30-33

- ***Do hiring and layoffs have to be by seniority?***

Seniority is cumulative from the first day of employment with a Producer. There are several instances that can break your

seniority. They are: getting fired for cause, voluntary resignation (which includes turning down a job assignment), unauthorized leave of absence, if you are laid off for more than 12 months or if you are absent for more than 12 months because of illness or injury. None of the above can be combined to try and break your seniority.

If additional personnel are required by the Producer, they agree to give first preference to those on layoff with seniority... but they can say that the merit and ability of those with seniority don't meet their current standards.

If the Producer decides there are no qualified available persons eligible for recall, they agree to give preference to other qualified available Guild members that have 6 months or more experience, but like above, they can decide, all by themselves, that the merits and abilities of those Guild-member applicants just don't cut it. It does say that their discretion is to be fair and reasonable and without illegal discrimination of any kind. And aren't all Producers that we work for fair and reasonable? Of course they are!

Should the Producer decide to hire someone with less than 6 months experience in Los Angeles County, they must send the Guild a summary of the employee's experience within 10 days. The Producer's choice to hire the newbie is upheld unless the Guild can prove the decision was arbitrary.

If there are no qualified available people under Article 12 of the CBA, then the Producer can hire anyone they want.

When layoffs happen, they are to follow the principle of seniority. However, as above, it's at the sole discretion of the Producer to

Hirings and layoffs

determine merit and ability. And not everyone who hires and lays off has knowledge of our seniority clause.

Layoffs or reclassifications should not make the work burden on those still employed unreasonable or abnormal.



KEVIN SAYS: If you work as an artist or writer, the seniority clause is relatively weak unless you can prove illegal discrimination. If you work in a technical job the CBA has a little more teeth, but even then the seniority clause still considerably favors the Producer's judgement.

STEVE SAYS: The seniority clause says that the Producers agree to it in principle, but judging merit and ability of employees is solely at their discretion. And while they acknowledge the practice of promoting from within, they are free to hire new talent. In my experience, some supervisors don't even know there *is* a seniority clause, in which case it might be worth pointing it out to them.



The Guild can be of great assistance on a case-by-case basis in grieving unfair hires and layoffs, but the seniority clause by itself is usually not the best way to make the argument on your behalf.

Holidays and holiday pay

Source: Article 6; CBA pgs. 21-23

➤ ***What are the paid holidays?***

There are nine paid holidays in the CBA. At most studios they are as follows:

- New Year's Day;
- Presidents' Day;
- Good Friday;
- Memorial Day;
- Fourth of July;
- Labor Day;
- Thanksgiving;
- The day after Thanksgiving;
- and Christmas Day.

The DreamWorks and Nickelodeon CBAs list Martin Luther King Day as an official contract holiday in place of Good Friday. Other studios may give you Martin Luther King Day as a paid day off, but their CBAs don't require them to do so. If you are uncertain about your studio's policy, ask your HR department or call the Guild office.

You are paid straight time for each of these holidays that you don't work. If you are required to work on a holiday, you are paid double-time.

➤ ***What happens if a holiday falls on a weekend?***

If a holiday would be your 6th day of work, then the day before, the 5th day would be your holiday, unless the Producer and employee agree to trade it for a different day off.



KEVIN SAYS: Fortunately, 99.9% of us work Monday through Friday. Otherwise, I think every payroll department in town would implode ...

STEVE SAYS: It gets a little more complicated if you're not working a Monday-Friday workweek. Let's say you're working Tuesday through Sunday and Monday is President's Day. Instead of Monday being the holiday, which would be your 6th day, you would be given Sunday off and Monday would be your regular day off at straight time pay.



KEVIN SAYS: This means you would work the holiday at double-time, then have the next day off as your holiday at straight time.

(See also under Workweek, page 70)

➤ **What is an “extended holiday”?**

“Extended Holiday” – Terrific! More days off in a row! This paragraph of the C.B.A. provides that if the employee and studio agree, you can work an extra day at straight time earlier in the week and get an extra day off attached to the holiday, be it Memorial Day or the Fourth of July or whatever...

➤ **What happens if a holiday falls during my vacation?**

Each holiday counts as the equivalent of eight hours out of forty.

If a holiday comes during your vacation, and the holiday is on a day that you would have normally worked, then you are entitled to an extra vacation day or an extra day's pay, at the Producer's discretion.

➤ **How does a daily employee receive holiday pay?**

Source: Article 5(b)1, pgs. 19-20: For daily employees, vacation and holiday pay are included in the daily rate, which is paid at 117.719% of the hourly rate for the employee's classification.

➤ **How do I get my unpaid holiday and vacation pay?**

After March 15, an employee can request (usually in writing – different studios have different policies) holiday pay for those holidays that were not worked in the previous year. The holiday pay is computed at 3.719% of the employee's yearly straight time earnings.

When your company computes the amount of holiday pay owed you, they'll factor in the holidays that you were paid within a payroll week and the holidays that you worked. If you worked the whole year, the amount of money the company paid you will "zero out" against the 3.719% (even if you worked some of those holidays at double time.)

You might think, "Wowsers! When I do the math, I got paid *more* than 3.719%! So I owe the company money." But that can't happen. The company either owes you additional holiday pay – which could happen if you worked a partial year — or the sum "zeroes out."

STEVE SAYS: This complicated paragraph protects animation employees who don't work a full year. If you worked, say, July and August, you might work during a time when there is only one paid holiday. But if you worked November 2 to January 2, you will work in an eight-week stretch that has *four* paid holidays. So the complicated math



Holidays and holiday pay

in the paragraph above is there to make sure everyone is paid equally, no matter what time of the year they worked.

The following is the method for paying vacations and holidays:

1. Producers who pay for vacations and holidays on a weekly basis will continue to do so.

2. Producers who currently pay for vacations and holidays at the end of the year will now use the following procedure:

a. Around March 15th (Beware the Ides of March!), employees who are still working can request vacation and holiday pay, or schedule their vacations. Employees not currently working can also claim their vacation and holiday pay. Usually this must be in writing, but the procedure varies by studio.

STEVE SAYS: Some employers pay unpaid vacation pay as soon as you're laid off, rather than waiting for you to claim it. Before you file a claim for unpaid pay, be sure you haven't already gotten it.

We make every effort to help you get the money you are owed, but you must also follow your employer's procedures. When the studio sends us letters telling us you have unclaimed money, we send letters to you urging you to write and collect it. Different studios have different procedures, so check with your former employer.

b. If the vacation and holiday is not claimed by June 1 of the following year, the unclaimed vacation and holiday pay will be paid into the Motion Picture Industry Pension Plan and you will no longer be able to claim it until you retire.

Example: You earned vacation and holiday pay in 2004. If you haven't claimed it by June 1, 2006, it will be paid to the retirement fund.

Homework assignments

See Freelance, page 18

IATSE

➤ ***What do the initials “IATSE” stand for?***

On our side, the CBA is signed by (take a deep breath): The International Alliance of Theatrical Stage Employees and Moving Picture Technicians, Artists and Allied Crafts of the United States, its Territories and Canada, *and* The Animation Guild and Affiliated Optical Electronic and Graphic Arts, Local #839 of the International Alliance of Theatrical Stage Employees and Moving Picture Technicians, Artists and Allied Crafts of the United States, its Territories and Canada.

It sounds complicated, but essentially we are The Animation Guild – an organization of artists, writers and technicians— that exists and functions under the wide umbrella of the IATSE, an organization of many labor unions and guilds that represent workers in Canada, the United States, and its possessions.

Both of these (and there *are* only *two* entities above) are thankfully referred to in the remainder of the CBA as the “Union” or as the “Guild”.

➤ *Isn't that name redundant, as well as unnecessarily long?*



KEVIN SAYS: It may seem redundant, but the first part, better known as the I.A.T.S.E., is the international to which we belong. Therefore, technically, although this is probably the only place you'll see it written out this way, they're part of our very long name. Since the CBA is between both the IA and ourselves, their name is first, then comes our name, which contains their name.

STEVE SAYS: Our name is long, even minus the IA part, because at the 1982 IATSE convention we added “and Affiliated Optical Electronic and Graphic Arts” to better reflect our changing membership and jurisdiction. We are no longer a guild of writers and graphite artists, but pixel artists as well (not to mention the members who function as technical directors, animation checkers, stock librarians and the wide array of classifications that have found their way into our CBA over the years.)



Independent subcontractors

➤ *What is the difference between “freelance” and independent subcontracting?*

Let's get our definitions straight: we refer to “freelancers” as those employees who work at home or away from the studio premises, typically (but not exclusively) at piece rates.

Freelancers are not the same as independent subcontractors. A freelancer is as much an employee as somebody who sits at a desk

on the studio premises for forty hours a week. There is a simple test: is your employer taking taxes out of your paycheck? If the answer is yes, you're an employee. End of discussion.

Freelancers are employees, independent subcontractors are not. Terms and conditions for freelancers are set in the CBA (see under "Freelance," page 18). Independent subcontractors are not covered under the Guild CBA since they are not employees of the company they are performing work for. If you're an independent subcontractor, you get no Guild benefits or CBA protections.

As an independent subcontractor, you will be responsible not only for health insurance, but also for taxes, Social Security, etc., and you will need to have a business license. In addition to sales and income taxes, you may owe business taxes and fees to the city in which you reside.

In order to be *a'bona fide* independent subcontractor, you must be truly independent. Federal and state tax regulations define what kinds of work can legally be considered as independent subcontracting. Rule of thumb: the work must be of a nature that is independent of the direction and control of the company for which the work is being performed.

So, for example, it would be very difficult for a company to claim that work such as animation, assistant animation, sheet timing, checking, or any form of clean-up, could be done by independent subcontractors, since the nature of the work is defined by the control and supervision exercised by the employer.

On the other hand, most writing and storyboard work could be subcontracted ... but not rewrites, revisions, story editing, cleanups,

etc. Pre-production models and visdev could probably be independently subcontracted, but if the company starts to require any kind of revisions, then by definition the work is no longer “independent”.

Individual Account Plan (IAP)

see Pension Plan, page 45

Industrial films

➤ *Does the CBA cover industrial films?*

Yes. See under Documentaries, page 13.

Initiation fee

see Dues and Fees, page 14

Interns

see under Trainees, page 64

Jury duty

Source: Article 17, section C; CBA pg. 44

➤ *Does the Guild CBA guarantee jury duty pay?*

No. However, all of our major employers have informed us that they have policies of paying for jury duty. Ask your employer's HR department about your company's policy. (If they tell you they don't pay for jury duty, inform the Guild office.)

➤ ***Do I lose seniority if I'm on jury duty?***

When you take a leave of more than 30 days in a row, the days over 30 are deducted from your continuous employment record, *unless the leave is for jury duty*. The Producer is supposed to notify the Guild if there is a leave longer than 30 days, but if they happen to forget to notify the Guild... nothing happens.

Layoffs

➤ ***Do layoffs have to be by seniority?***

See under Hirings and layoffs, page 28.

➤ ***How much advance notice of layoff am I entitled to?***

See under Forty-hour notice, page 17.

Leave of absence

Source: Article 17, Section B; CBA pg. 44

➤ ***Do I lose seniority if I take a leave of absence?***

If your first leave of absence is 30 days in a row or less, it does not break your continuous employment record.

Loan-outs

Source: Article 11; CBA pg. 29

➤ ***What happens if I am “loaned out” to another employer?***

If you are loaned out, you retain your seniority with the loaning Producer and you must be paid no less than the hourly rate for your classification. If the loan out causes you any additional expenses, those are to be paid by the borrowing Producer.

Materials, tools and equipment

Source: Article 4, section H; CBA pg. 9

➤ ***Does the producer have to supply materials, tools and equipment?***

If you are required to work outside the studio, the Producer will furnish the materials and tools that would normally be available in the studio. They will also supply equipment unless the employee has their own equipment.

Minimum rates

Source: CBA, pages 64-90

➤ ***What is the minimum rate for my job category?***

You'll find the minimum rates of pay on pages 64-90 of the CBA. Remember that just because your job title is not listed in the CBA

does not mean you aren't covered. If you have any questions, let us know.

Multi-employer bargaining unit

See Employers, page 15

Negotiating

➤ ***Can I negotiate better terms and conditions than the CBA?***

Yes. See Better terms and conditions, page 3.

New classifications

Source: Article 21, section C; CBA pg. 47

➤ ***How are new classifications negotiated into the CBA?***

If any new classifications are created during the life of the CBA, the Guild and Producers will negotiate wage scales and they will become part of the CBA.



KEVIN SAYS: If the employer creates a new classification that uses what we call the “tools of the trade,” that classification is considered as being under the Guild’s jurisdiction.

STEVE SAYS: Otherwise, all they’d have to do is call us all sanitary engineers, and pay us minimum wage ...





KEVIN SAYS: Not that they'd ever do such a thing ...

STEVE SAYS: (coughing)



KEVIN SAYS: Anyway, this section gives either side the right to negotiate new classifications without having to wait for the next CBA negotiations.

On-call

Source: Article 4, section B; CBA pg. 7

See also "Exempt" employees, page 16

➤ **What does "on-call" mean?**

Weekly employees who are considered exempt under the Fair Labor Standards Act of 1938, as amended, AND whose rate is 110% of scale (*Scale plus 10%*) can be employed on an "On-Call" basis at the Producer's option, *if the employee agrees to it.* (An "On-Call" employee is not subject to the HOURS provision in Article 5 and may be required to work overtime on a regularly scheduled workday without additional pay. If a regular employee (*not "On-Call," see Article 5, Paragraph A.*) is required to work a 6th or 7th day (*as defined later*), they'll be paid time-and-a-half (1 1/2 times) the *minimum* weekly rate divided by 5 for each day worked.



KEVIN SAYS: In other words, you get time-and-a-half for a 6th or 7th day, but the time-and-a-half is based on one day's pay of your *minimum weekly rate*. It is not calculated on your current pay rate or on the daily minimums.

Outsourcing

See Subcontracting, page 61

Overtime

Source: Article 5; CBA pgs. 17-21

➤ **What overtime am I entitled to during the workweek?**

Any time worked over 8 hours a day or 40 hours a week is paid at time-and-a-half, based on the hourly rate for the employee's classification.

STEVE SAYS: For example, if you work at the minimum rate of animator between August 1, 2004 and July 31, 2005, you would earn \$1,375.32 per week. If you worked five days in a row – the whole workweek – and put in a total of four extra hours on Friday, you would be working those four extra hours at time and a half, and so would get an extra \$206.28 on your check – time and a half of the hourly minimum \$34.38, which comes to \$51.57, multiplied by four.)



➤ ***What overtime am I entitled to on the sixth and seventh day?***

A sixth day is paid at time-and-a-half, a seventh day is paid at double the employee's hourly rate (the actual rate paid, that is, not the minimum — that's state law).

➤ ***Can overtime be compounded?***

No. What this means is, if you are working a back-breaking schedule and living at the studio, and your double time hours shift into the next day, you are not going to get double-double. You will end up back at straight time.



KEVIN SAYS: You'll also end up in a coma, but that's another issue...

➤ ***If I miss time during the week, do I still get overtime?***

If you miss up to 8 hours of work on your regularly scheduled workday, then the following is used to determine if you're eligible for overtime pay:

- If you're absent because of a holiday where no work is scheduled.
- If you're absent because of an illness where you were paid sick leave or if you were involved in an accident on the job.
- Where you came to work ready and willing, but were laid off due to lack of work.
- Where you were granted a leave of absence during normal working hours to conduct Guild business.

See also Golden Hours, page 19.

Pay rates

See *Minimum wages, page 40*

Payroll week

Source: *Article 5, paragraph 1; CBA pg. 17*

➤ ***What is the payroll week? Is it the same as the workweek?***

The payroll week begins on Sunday and ends on Saturday. Make sure you don't confuse the payroll week with the work week. They can be, and often are, different.

Pension Plan

For a full breakdown of your benefits under the Pension Plan and the Individual Account Plan (IAP), contact:

- Motion Picture Industry Pension and Health Plan (MPIPHP)
POB 1999
Studio City, CA 91614-0999
(818) 769-0007 or (310) 769-0007
outside southern California, toll-free: (888) 369-2007
<http://www.mpiphp.org>

Ask for (or download from the website) a copy of the Pension Plan's Summary Plan Description.

➤ ***When will my employer start to contribute into my pension account?***

Your Guild-shop employer will begin making contributions into your Health Plan, Pension Plan and IAP from your first day of work, regardless of your membership status.

You can only be covered for pension or IAP benefits under the MPIP/HP from contributions made by your employer for hours you have worked at a Guild shop. Non-union employers cannot contribute into our Pension Plan or IAP.

➤ ***What is “vesting”?***

“Vesting” is a term that pertains to the portion of your benefits that may not be forfeited.

The fact that you have a vested benefit does not mean, however that you automatically have the right to receive a pension; you must still satisfy all other requirements that exist for a retirement or death benefit. For example, if you die before retirement and are not married, no benefits are payable to your Beneficiary under the Pension Plan (except Employee Contributions under the Pension Plan.)

➤ ***When will I be “vested”?***

To be considered vested in your Employer-derived Benefits from the Pension Plan and Individual Account Plan, you must:

- Have at least one Vested Hour on or after December 26, 1999, and have 5 Vested Years. If you incur a Break in Service prior to earning one Vested Hour on or after December 26, 1999, you shall not become vested until you earn one Vested Year after December 26, 1999, and have 5 Vested Year); or,
- Be a Participant affiliated with a union that participates in the Plans, and have 10 Vested Years; or
- Attain your Normal Retirement Age while you are working in the Industry.
- FOR IAP ONLY - Be a Participant who is credited with 400 Credited Hours in a single Computation Year and one or more Credited Hours on or after August 1, 2000. If you incur a Break in Service prior to earning one Credited Hour on or after August 1, 2000, you will not become vested in your IAP benefit until you earn 400 Credited Hours in a single Computation Year beginning on or after December 26, 1999.

➤ ***How much do I pay for my pension?***

Nothing. Since October 28, 1990, all contributions received by the Pension Plan (other than unclaimed vacation & holiday pay) are Employer contributions.

➤ ***Do I have to retire when I reach a certain age?***

No. You may continue working as long as you like. Retirement under these Plans is voluntary. There is no mandatory retirement age.

If you work past the age of 70 years and six months, your pension payments will automatically begin by April 1 of the following calendar year even if you are still working.

➤ ***How can I find out what I will receive when I retire?***

Each year the Plans send you a statement showing your monthly accrued benefit and Credited Hours received on your behalf. This annual statement also shows your Individual Account Plan balance as of the end of the prior year. If you have not received such a Statement, contact the MPIPHP Pension Department, (818) 769-2007 ext. 627, and make sure they have your current address.

If you are vested, you may contact the MPIPHP and request a Retirement Benefit Calculation (“RBC”) statement, which will show your potential monthly benefit from the Pension Plan under the options available at retirement for a 10-year time-span. Please keep in mind that these are estimates.

Personal service contracts

Source: Article 21, section I; CBA pgs. 52-53

See also: Better terms and conditions, page 3

➤ ***What is a “personal service contract”?***

A personal service contract (or PSC) is any agreement reached directly between you and your employer, usually (but not always) when you’re first hired, that determines such items as your overscale rate of pay, screen credit, or anything else that either you or the employer wants to clarify in writing.

➤ ***Is my personal service contract affected by the CBA?***

The CBA provides that any PSC you sign will be deemed to include the Guild CBA and all of its provisions.

- ***If my PSC contradicts the Guild contract, which takes precedence?***

Even if something in your PSC is a lesser term or condition than the Guild CBA, the CBA takes precedence.

- ***Does the studio have to send the Guild a copy of my PSC?***

Only if you're working away from the premises.

STEVE SAYS: If you're negotiating a personal service contract with a Guild-shop employer and you have questions, call me at the Guild office, and fax me the entire PSC or the parts you have questions about. I've seen hundreds of personal service contracts, and I can almost certainly help you wade through the legal sludge. And if your question is something I can't answer, I'll consult our legal counsel without cost to you. I can't help you actually negotiate your PSC with the studio, but this is the next best thing.



Picketing

Source: Article 21, section J; CBA pg. 53

- ***Can the Guild picket a union shop during the term of the CBA?***

Not during the term of the CBA. The only exception is if the employer has failed to comply with an arbitration award (see Grievances, page 19.) Nor can the employer stage a “lockout” and refuse to allow employees to work.

Picketing

However, the producer cannot discipline any employee who refuses to cross an IATSE picket line. Nor can the employer require an employee to cross any picket line where there is “actual and imminent danger of bodily harm”.



KEVIN SAYS: The so-called “no-strike clause” does not mean that the Guild can never go on strike, only that we cannot strike *while the CBA is in effect*. If and when the CBA expires, and negotiations for a new contract have broken down or reached what the lawyers call “impasse,” the Guild has the same rights as any other labor organization to call (or not call) a strike.

Piece work

Source: CBA, pages 76 and 77

- ***How are health and pension contributions calculated if I’m working at a “piece rate”?***

STEVE SAYS: On pages 76 and 77 of the CBA you will find health and pension hourly minimums for unit-rate storyboards and scripts. Like everything else in the CBA, these are *minimums*. And like many other things in the CBA, they are a lot lower than we would like them to be.



Studios have paid freelance employees unit or “piece work” rates for work other than scripts or storyboards. The guild’s position has always been that employees working under the terms of the CBA must earn at least the minimum hourly rate listed in the CBA, and they must be paid h & w for *the hours they actually work*, not just the

minimums on these pages. Freelance employees should have a clear understanding *in advance* that their benefits are to be paid on this basis, whether they are being paid some kind of unit rate or not.

Posting of notices

Source: Article 21, section A; CBA pg. 46

➤ ***Does the Guild have the right to post notices at the studio?***

The Guild is allowed to post official bulletins or Guild notices on company bulletin boards as long as they are not political.

Precedence

Source: Preface, section 4, and Authority of Union and Producer; CBA pgs. 2-3

➤ ***Does the CBA take precedence over other agreements?***

The Guild warrants and agrees that nothing in its Articles of Incorporation, Constitution or By-laws conflicts with the CBA. The Producer also warrants and agrees that it has no contracts or other conflicts that would block them from carrying out the terms and conditions of the CBA.

The section entitled “Authority of Union and Producer” takes this one step further. This section states that neither the Guild nor the Producers will make any *new* rules that conflict with the CBA. They will also not take any actions that block the complete fulfillment of all the terms and conditions.

It also states that nothing in Local 839's CBA can supercede or contradict anything in the I.A.T.S.E.'s Constitution and By-laws, and conversely, nothing in the CBA can interfere with any obligation the Local owes to the IA.

STEVE SAYS: The Animation Guild CBA takes precedence over *any other agreements that the Producer has made*. So the studio can't say: "Gee, sorry about your Guild CBA, but we just signed a new show and we have to pay everyone \$10 an hour to make our budget." *Everyone working under the CBA has to make at least the minimum rate in the classification in which they work.*



The points to remember: Better conditions in the CBA trump lesser conditions in your Personal Service Contract (so if there's a conflict between the two, the CBA wins); state laws outrank the CBA; Federal laws outrank state laws.

Probationary period

Source: Article 16, section A; CBA pg. 42

See also Discipline and Discharge, page 8

➤ ***What is a "probationary period"?***

There is a sixty day probation period when you are first hired, or rehired after a break in seniority, when the Producer may discharge or discipline you for any reason. The Producer may also request that the probation period be extended for another 30 days. After your probation period is complete, you can only be disciplined or discharged for cause as outlined in Article 16 (CBA page 42).

Producer's rights

Source: Article 19; CBA pgs. 45-46

See also Subcontracting, page 61

➤ ***What rights do producers have beyond the Guild CBA?***

This paragraph says that the Producers have the right to do anything necessary and lawful to run their businesses, as long as it doesn't contradict the CBA. Not everything is spelled out, but one item of interest says that they have the right to subcontract out work.

Production schedules

Source: Basic Purposes Of Agreement, paragraph 1; CBA pgs. 1-2

➤ ***Do producers have to discuss production schedules with the Guild?***

In the interest of helping members find uninterrupted work, the Producers agree to discuss production schedules and personnel needs with the Guild. You'll find this information in the *Peg-Board's* "What's Happening In Animation" articles, on the website, via e-mail, or by calling the Guild's office. If you've been given a layoff date, this gives you time to find out what else is going on so you might be able to secure another job before the current one ends.

Recognition

Source: Article 2; CBA pgs. 3-4

➤ ***Does the employer have to recognize the Guild?***

The Producer agrees that the IA is the exclusive bargaining representative for all the classifications that are employed by the Producer. The Guild makes the agreement on behalf of those employees and guarantees that the majority of them are members of the Guild in good standing.

The Local Union has submitted the terms of the CBA to the membership, which has approved them.

Residuals

Source: Article 18, section D; CBA pg. 45

➤ ***How are residuals paid under the Guild CBA?***

Supplemental markets are explained in the I.A.T.S.E. & M.P.T.A.A.C. Basic Agreement. And what are “supplemental markets?” As of this writing, they are DVD discs and VHS tapes, and they comprise over \$300 million worth of “residuals” that flow into our Motion Picture Industry Health and Pension Plan.



KEVIN SAYS: You might have been under the misconception that employers under our CBA don't have to pay residuals or supplemental markets. In fact, as of this writing they pay *more* under the IA Basic Agreement than they do under the SAG, DGA or WGAw contracts.

The difference is that our residual and supplemental market payments are paid *directly into our benefit funds*, rather than to individuals as in the other Hollywood guilds.

So, unlike the guild CBAs that pay what are sometimes called “pocket residuals”, in the last twenty years we haven’t had to go on long strikes or make major money concessions to keep our health and pension plans solvent. In fact, thanks in large part to supplemental markets our health and pension plans are the most stable union plans in Hollywood, and that’s with *no employee contributions* (again, unlike the other guilds).

Safety

Source: Article 21, section D; CBA pgs. 47-50

➤ ***How does the CBA protect us from safety problems?***

The Producer will make the place of employment safe and healthful. Both Producers and employees will comply with occupational safety and health standards.

Employees must rigidly follow safety regulations. Failure to do so can result in disciplinary action, including discharge. However, you cannot be punished for refusing to work in a dangerous environment. It is the responsibility of the individual to help prevent accidents.



KEVIN SAYS: Most of the safety section of the CBA has to do with setting up an apparatus for addressing and dealing with safety problems. (And for those inclined to make jokes or deny that there are any safety issues in our business, I have three words: carpal tunnel syndrome.)

➤ ***Can I be fired for not completing safety training?***

If you do not successfully complete required training courses, you can be subject to disciplinary action.

STEVE SAYS: The CBA says that you can be disciplined or fired for refusing to complete a required safety course. However, at this time there is no required safety course for Animation Guild members. If there ever is, I *assume* somebody will let us know before they start firing people. Maybe I'm too optimistic.



Scope of Agreement

Source: Article 1; CBA pg. 3

➤ ***When and where is the CBA valid?***

This article explains where the CBA is valid. It applies to anyone hired by a Producer to work in Los Angeles County or hired by a Producer whose studio is in Los Angeles County to work outside of the County. It also applies to all the job classifications listed in the back of the CBA, unless you would be required to work under a different union's CBA.

STEVE SAYS: This is a complicated area. Call us if you live outside Los Angeles County and you pick up work on a freelancer.



Screen credits

Source: Article 21, section B; CBA pg. 47

➤ ***Who is entitled to screen credits?***

The CBA says that screen credit should be given to animation, story, background and layout in theatrical pictures and tv shows that are a half-hour (or more) in length. There's no screen credit requirement for shorts (in television or theatres) and there's no requirement to credit other classifications, although it's often done. (In other words, if you're a designer who has been left off the credit card at the front or back of a show, there's no grievance that can be filed because there is no requirement in the CBA that you be listed in the credits.)

Right now, writers who work on television shows that air weekly are covered by a credit manual that the studios have agreed to on a year to year basis. The manual outlines how writers are to be credited on half-hour shows ("Written by," "Story by," etc.) The credits manual is online at our website at <http://www.mpsc839.org>; click on the Contracts tab and look for the Credit Arbitration Manual.

Seniority

see *Hirings and Layoffs*, page 28

Severance pay

See Dismissal pay, page 10

Shop requirements

See Dues and fees, page 14

Shop stewards

Source: Article 21, section F; CBA pg. 51

➤ ***What are shop stewards, and how are they appointed?***

The Business Representative may appoint Stewards to inspect all of the working conditions of the CBA. The Steward is permitted to perform these duties as long as they don't interfere with their work or with production activities. The Guild must discuss the matter with the Producer before appointing a Steward.

STEVE SAYS: By long tradition, Executive Board members have served as shop stewards at most of our signator studios. Another long tradition is, anyone who calls up to ask who the shop steward is gets asked to be shop steward. (Our batting average runs about .500 on this particular tradition.)



If you're interested in being a shop steward, contact the Guild office.

Sick leave

Source: Article 7; CBA pg. 23

➤ ***How does sick leave work?***

If a Producer has a policy of granting sick leave, that policy will continue for the duration of the CBA. This means, they can't change it in between contract terms (which are usually three years long.)

➤ ***Why isn't sick leave guaranteed in our CBA?***

STEVE SAYS: For a brief time years ago, at some smaller studios, we had limited amounts of sick leave in the CBA. Today, most studios have sick-day policies that are guaranteed to continue during the term of the CBA.



Status slips

Source: Article 3, section c; CBA pg. 5

➤ ***What is a "status slip"?***

The Producers agree to inform the Guild in writing within 7 days of the hiring of any employee subject to the CBA. They will provide the employee's name, address, social security number, classification, wage and date of employment.

They must also inform the Guild in writing within 7 days of either layoff or permanent promotions.

STEVE SAYS: These are what we call the “Status Slips” that let us know when and where you’re working and when you’re laid off. It helps us keep track of employed and unemployed members, which is important for our “availability” lists that we send to studios looking for new employees.



Contact the Guild office if you’re not sure if we have you listed with the correct employment status.



KEVIN SAYS: An example of what they meant by “permanent promotions” would be if you moved into management and were therefore no longer covered by our CBA. But, as you know, nothing is permanent in our industry anymore.

Strikes

See Picketing, page 49

Studio pass

Source: Article 20; CBA pg. 46

- ***Does the Business Representative have the right to visit the studio?***

The Business Representative must be given a pass to visit any portion of the studio during working hours, provided the visit doesn’t unreasonably interrupt production.

STEVE SAYS: Over the years I’ve had members ask me, “Why are you walking around the studio all the time? What



good does that do?” Well, studio visits are one of the most important jobs I have. They keep me in touch with Guild members, keep me up on industry “scuttlebutt,” and these visits send a message to studio management that the guild is checking for breaches of our CBA. (The head of one studio saw me on the stairwell once and said, “You here again?” I smiled and replied, “Just trolling for grievances...”)

Subcontracting

Source: Article 21, section E; CBA pgs. 50-51

➤ ***Can the producers legally subcontract work?***

The Producer may subcontract in Los Angeles County as long as the work is performed at wages and conditions at least as good as those in the CBA, meaning scale or above.

Before work is subcontracted, the Producer agrees to discuss the matter with the Business Representative.

The Producer has the right to subcontract any work outside of Los Angeles County as long as they give 14 days written notice of the name of the production, the general nature and approximate length of the work to be performed. The information cannot be divulged by the Guild and must be held in strictest confidence.

- **Why do we have such a liberal (read: lousy) subcontracting clause? Can't we do something to stop the runaway production?**



KEVIN SAYS: In the late sixties and seventies, the studios began heavily shipping work overseas, at first entirely in TV, then in features as well. In 1979 and again in 1982, we had two lengthy strikes over the issue.

STEVE SAYS: In '79 we were successful in getting a clause protecting members when work was sent overseas; in '82 we were unsuccessful in keeping that clause. Since that time, the Guild has worked with other unions and guilds to get Federal and state legislation that would keep work in the U.S.



Subcontracting, independent

See *Independent subcontracting*, page 36

Superstition

Source: Article 13; CBA pg. 33

- **Why is there no Article 13?**

STEVE SAYS: There is no Article 13 because some people think the number "13" is unlucky. You didn't know lawyers were superstitious, did you?



KEVIN SAYS: Well, *I'm* no lawyer, but if you read what used to be in Article 13, you'd agree it was unlucky, too ...

Supplemental markets

See Residuals, page 36

Technological change

Source: Article 4, section I; CBA pgs. 9-17

➤ *What are the provisions for technological change?*

The technological change clause covers eight full pages of the CBA, is very complicated and goes into great detail defining the terms used, such as “Technological Change” itself and “Qualified Years”. It boils down to this:

The Producer has the right to make technological changes. If the change displaces an employee, the Producer must retrain that employee for the position they currently hold or for another available position with the Producer. If the employee is permanently displaced, they are entitled to displacement pay based on how long they have worked for that Producer.

Term of agreement

Source: Article 23; CBA pgs. 55-56

➤ *How long is the CBA in effect?*

The Guild and the animation producers negotiate the term of the Guild CBA. The International negotiates pension, IAP, health and CSATF under the terms of the IATSE Basic Agreement, which is almost always for the same term as the Guild CBA.

STEVE SAYS: Of course, the term of the CBA will vary depending on the deal struck at the time. Over the last twenty years or so, the average CBA has lasted three years. The current CBA expires July 31, 2006.



Shortly before the end date of the CBA, either the Producer or the Guild can request renegotiations. The request must be in writing and outline the proposals or recommendations pertaining to “Wage Scales, Hours of Employment and Working Conditions”. The parties agree to negotiate in good faith on those proposals and counter-proposals.

Trainees

Source: Article 24; CBA pgs. 56-57

➤ ***How does the CBA apply to trainees?***

A Talent Development Program has been established by the Producers that allows them to hire Trainees at a lower pay scale, and let them go without cause. The Producer must notify the Guild of the name and hire date of each Trainee.

The normal length of time for Trainees is 18 months. The Producer can place a Trainee in a regular position before the end of the 18 months, paying them the normal rate for that classification. A Trainee may also be given additional time to complete the program where extenuating circumstances exist.

Trainees who don't complete the Talent Development Program do not get Seniority and if they are let go from the Program, they are not eligible for the Grievance Procedure.

Trainees must become members of the Guild in good standing on or after the first 90 days. If a Trainee is already a Guild member when they begin the Program, they must remain in good standing.

Trainees *may not* do production work unless, after the first 30 days, the Producer is also carrying a full complement of non-Trainees that equal their normal number of staff members.

The provisions of the CBA apply to Trainees, except where it may not be practical to apply them to the Talent Development Program. So, they apply unless they don't apply and since it doesn't go into any more detail than that, good luck to you on this one!

STEVE SAYS: Trainees are not the same as apprentices, who are paid at slightly higher minimums; also, apprentices are working under the CBA from their date of hire.



We've had recent problems with studios hiring people to work on production and calling them "interns," as an excuse for not paying minimums and/or benefits. By definition, an intern is an unpaid college student who earns academic credit for observing production (but *not* by actually working under the Guild's jurisdiction.)

Please contact the Guild office if you know of "interns" who are working on production.

Union security

See Dues and fees, page 14

Vacations

Source: Article 8; CBA pgs. 24-29

➤ ***How much vacation time am I entitled to?***

All weekly employees are entitled to vacation as follows:

- Employees with 1 year of *continuous* employment with the *same Producer* get 2 weeks paid vacation.
- Employees who have been with the Producer more than 1 continuous year accumulate vacation at the rate of 1 week every 6 months.
- Employees who are terminated with less than 1 year of continuous employment are paid vacation at the rate of 4% of their straight time earnings.
- You cannot claim a 6th or 7th workday as part of your vacation.
- If a portion of your vacation is less than a full payroll week, you can request the rest of the payroll week off without pay. This must be agreed to by both employee and Producer.
- The Producer may compute vacation pay on one of three schedules other than a calendar year. They are: the employee's personal income tax earnings year, the employee's anniversary year or the studio's established fiscal vacation year. The Producer must notify the Guild if they intend to do this.

STEVE SAYS: Most "employee's personal income tax earnings years" are the same as a calendar year, January 1 to December 31. Almost all studios follow an employee's anniversary year when computing vacation time.



Remember: two weeks vacation per year is the *minimum*. You can always negotiate for more.

➤ **Can I lose my vacation time once I've earned it?**



KEVIN SAYS: As regards both vacations and holidays, there's an important principle of state law that applies. If you have earned a paid vacation or a paid holiday, either under the Guild CBA or under the policies of a non-Guild employer, then that earned vacation/holiday cannot be taken away from you.

Of course, a non-Guild employer can change their policies as regards *future* vacations, or cancel *future* holidays. But for vacations and holidays you have already earned, the employer must either give you the time off with pay or compensate you. *This applies whether you're working for a Guild or non-Guild shop.*

➤ **How do I arrange to take my vacations?**

Your vacation must be taken at a time that is approved by the Producer. The Producer should give the employee as much notice as possible in approving vacation time.

STEVE SAYS: Most employers have a policy that for as long as you continue to be employed, you must *take* vacation time in order to be *paid* vacation pay. Other employers automatically pay out the unused vacation pay every March 15th.



The employer may also require you to take your vacation within a year of when you earned it. On occasion, this has led to cat-fights between the human resources and production departments, when an employee's vacation deadline comes up in the middle of a busy project. (Let us know if you're stuck in the middle of one of these catch-22 scenarios.)

➤ ***When will I qualify for a third week of vacation?***

STEVE SAYS: There's a long section of Article 8 having to do with determining when employees become eligible for a third week of vacation. In general it comes down to this: if you work eight years for the same employer, give or take some relatively short layoffs, you will *probably* qualify for a third week of vacation. The bottom line, as it is so often for matters in this book: if you have questions, let us know.



➤ ***How does a daily employee receive vacation pay?***

If you're a daily employee, your paycheck includes vacation and holiday pay. See under Daily Employment, page 6.

➤ ***How do I get my unpaid vacation pay?***

If you have worked less than a year for the same employer, upon layoff you will be due a check for four percent of your straight-time earnings. Remember that if you work for the same employer for more than a year, so long as you continue to be employed the employer will probably require you to take a vacation in order to be paid for it.

The procedure is the same for claiming unpaid vacation and holiday pay (see under Holidays and holiday pay, page 31).

Wage reductions

Source: Article 4, section A; CBA pg. 7

➤ ***Can my wages be reduced because of the CBA?***

No. Pay rates currently being received by employees cannot be decreased because of the CBA. If the Guild negotiates a new CBA with a non-Guild employer or a new rate for your category, and if you are being paid overscale, the employer cannot lower your rate to the Guild minimum.

Work schedule

Source: Article 5, section a(4); CBA pg. 19

➤ ***How and when can the employer change my work schedule?***

The Producer is supposed to give at least 5 days advance notice if there's going to be a change in an employee's regular weekly schedule. However, that can be waived if production problems make the 5 days notice impractical or impossible. If you request a delay for the start of the new schedule due to unusual or emergency circumstances, the Producer can't unreasonably deny your request.

Workweek

Source: Article 5, section a(4); CBA pg. 19

- ***Is the workweek always Monday through Friday?, What does “five out of seven” mean?***

The workweek does not *have* to be Monday through Friday. It can be any five days out of seven, as long as there are two days off in a row. A weekly employee is also guaranteed at least one week’s employment.

So, the workweek could be:

- Tuesday through Saturday, with Sunday as the sixth day and Monday as the seventh;
- Wednesday through Sunday, with Monday as the sixth day and Tuesday as the seventh;
- Thursday through Monday, with Tuesday as the sixth day and Wednesday as the seventh; etc.

Remember: even though the workweek may not be Monday through Friday, the payroll week is always Sunday to Saturday (see Payroll week, page 45).

- ***Can I ask to work a short workweek?***

If you are a weekly employee and you can’t work a full week, whether it’s in the studio or at home, you must apply to the Guild for a waiver. This waiver is almost always granted by the Guild.

This is so that all agreements to work a short workweek are in writing.

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designed by Jeffrey Massie

published by:

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version 1.0; covers 2003-2006 CBA