

CALIFORNIA POLYTECHNIC STATE UNIVERSITY
San Luis Obispo, California 93407
ACADEMIC SENATE

**Meeting of the
Academic Senate Executive Committee
Tuesday, January 26, 1999
UU220, 3:00-5:00pm**

- I. Minutes: none.
- II. Communication(s) and announcement(s):
- III. Reports:
 - A. Academic Senate Chair:
 - B. President's Office:
 - C. Provost's Office
 - D. Statewide Senators:
 - E. CFA Campus President:
 - F. ASI Representative:
 - G. Other:
- IV. Consent agenda:
- V. Business item(s):
 - A. **Academic Senate and university-wide committee vacancies:** (p. 2)
 - B. **Selection of members to the Academic Senate Student Grievance Board.**
 - C. **Resolution on Revision to the *Bylaws of the Academic Senate* to Add Academic Senate Faculty Ethics Committee:** Executive Committee (pp. 3-12).
 - D. **Resolution on Credit by Examination:** Freberg, chair of the Instruction Committee (p. 13).
- VI. Discussion item(s):
 - A. **Schedule next WASC report.**
 - B. **Meeting on criteria used for admission/selection of students at Cal Poly scheduled for February 23, 1999.**
 - C. **Invitation to Gene Dinielli and Harold Goldwhite to visit with Cal Poly's Academic Senate on March 2, 1999.**
 - D. **Schedule forum on Distance Learning/TeacherNet.**
- VII. Adjournment:

1.19.99

**Academic Senate Committee Vacancies
For 1998-1999**

College of Architecture and Environmental Design

Two academic senators (one 1-year term, one 2-year term)
Grants Review Committee

College of Science and Mathematics

Program Review and Improvement Committee (replacement for Ray Terry)

Library

Library Committee (1 Library Staff and 1 Staff at Large)
Library Representative to the Curriculum Committee

**University Wide Committees Vacancies
For 1998-1999**

ASI Facilities and Operations Committee

(1 Current Vacancy)

Maria Junco

Institutional Animal Care and Use Committee (IACUC)

(1 Current Vacancy)

George Beardsley

Resource Use Committee

(2 Current Vacancies)

**Doug Cerf
John Dobson**

Adopted:

**ACADEMIC SENATE
Of
CALIFORNIA POLYTECHNIC STATE UNIVERSITY
San Luis Obispo, CA**

**AS-____-98/
RESOLUTION ON
REVISION TO THE *BYLAWS OF THE ACADEMIC SENATE*
TO ADD ACADEMIC SENATE FACULTY ETHICS COMMITTEE**

- WHEREAS, The Academic Senate adopted AS-501-98/ETF, Resolution on Faculty Dispute Process, on June 2, 1998 (attached); and
- WHEREAS, President Baker approved Academic Senate resolution AS-501-98/ETF, Resolution on Faculty Dispute Process, on January 6, 1999; and
- WHEREAS, The Resolution on Faculty Dispute Process establishes a formal process for dealing with faculty grievances involving other faculty members; and
- WHEREAS, The Resolution on Faculty Dispute Process calls for the establishment of a Faculty Ethics Committee; therefore, be it
- RESOLVED: That the Faculty Ethics Committee be added to the *Bylaws of the Academic Senate* as follows:

VIII. COMMITTEES

I. SPECIAL STANDING COMMITTEES

1. Faculty Awards
2. Faculty Ethics Committee
3. Fairness Board
4. Grants Review
5. Program Review and Improvement
6. Student Grievance Board

K. COMMITTEE DESCRIPTIONS OF SPECIAL STANDING COMMITTEES

2. Faculty Ethics Committee

a. Membership

The Faculty Ethics Committee shall consist of 7 tenured faculty members appointed by the Executive Committee of the Academic Senate for a two-year term and representing

each of the colleges and Professional Consultative Services. Responsibilities
The committee shall develop procedures appropriate to its functions and shall make periodic reports of its activities to the Academic Senate and to the Provost/Vice President for Academic Affairs. For all disputes that fall within its jurisdiction, the Faculty Ethics Committee shall have the authority to conduct an investigation of the dispute and to make recommendations to the Provost/Vice President for Academic Affairs.

Proposed by: Academic Senate Executive Committee
January 26, 1999

Adopted: June 2, 1998

**ACADEMIC SENATE
Of
CALIFORNIA POLYTECHNIC STATE UNIVERSITY
San Luis Obispo, CA**

**AS-501-98/ETF
RESOLUTION ON
FACULTY DISPUTE PROCESS**

Background: Faculty members have agreed to be civil in their interaction with other faculty as noted in the Cal Poly Faculty Handbook based on the Association of University Professors Code of Ethics. At the present time there is no faculty process to mediate such disputes of civility. Some actions stemming from a lack of civility in faculty matters include: improper labeling of colleagues, improper personal attacks, personal attacks via email with several faculty copied, grant application awards jeopardized by personal attacks, portions of a department's faculty not talking with other portions of the department's faculty, dysfunctional departments, and others.

WHEREAS, University faculty have agreed to act in a collegial manner to one another; and

WHEREAS, There have been a number of faculty disputes where a process has been perceived as absent, or has been viewed by faculty as unfair; unacceptable, or ineffective; therefore, be it

RESOLVED: That a faculty dispute process be established consistent with the attached document utilizing informal solutions first and then formal solutions; and, be it further

RESOLVED: That the a Faculty Ethics Committee be established consistent with the attached document; and, be it further

RESOLVED: That the Faculty Ethics Committee be charged with creating procedures to implement a faculty dispute process consistent with the attached document.

Proposed by: Faculty Affairs Committee
and the Ethics Task Force
Date: April 21, 1998
Revised: June 2, 1998

Please note that this document was updated from the copy in your May 19th agenda to add a more recent AAUP Statement and adding a section on informal/formal processes.

FACULTY DISPUTE PROCESS

Faculty Conduct

California Polytechnic State University at San Luis Obispo maintains high ethical standards for all faculty. In particular, the university endorses the principles set forth in the following *Statement on Professional Ethics by the American Association of University Professors* (June, 1987):

Statement on Professional Ethics

Introduction

From its inception, the American Association of University Professors has recognized that membership in the academic profession carries with it special responsibilities. The Association has consistently affirmed these responsibilities in major policy statements, providing guidance to the professor in his utterances as a citizen, in the exercise of his responsibilities to students, and his conduct when undertaking research. The **Statement on Professional Ethics** that follows, necessarily presented in terms of the ideal, sets forth those general standards that serve as a reminder of the variety of obligations assumed by all members of the profession.

In the enforcement of ethical standards, the academic profession differs from those of law and medicine, whose associations act to assure the integrity of members engaged in private practice. In the academic profession the individual institution of higher learning provide this assurance and so should normally handle question concerning propriety of conduct within its own framework by reference to a faculty group.

Civility between faculty members is a matter of faculty responsibility.

Statement on Professional Ethics

1. Professors, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end professors devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although professors may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.

2. As teachers, professors encourage the free pursuit of learning in their students. They hold before them the best scholarly and ethical standards of their discipline. Professors demonstrate respect for the student as an individuals and adhere to their proper roles as intellectual guide and counselor. Professors make every reasonable effort to foster honest academic conduct and to assure that their evaluations of students reflects each student's true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment

of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.

3. As colleagues, professors have obligations that derive from common membership in the community of scholars. Professors do not discriminate against or harass colleagues. They respect and defend the free inquiry of associates. In the exchange of criticism and ideas professors show due respect for the opinions of others. Professors accept their share of faculty responsibilities for the governance of their institution.

4. As members of an academic institution, professors seek above all to be effective teachers and scholars. Although professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision. Professors give due regard to their paramount responsibilities within their institution in determining the amount and character of work done outside it. When considering the interruption or termination of their service, professors recognize the effect of their decision upon the program of the institution and give due notice of their intentions.

5. As members of their community, professors have the rights and obligations of other citizens. Professors measure the urgency of these obligations in the light of their responsibilities to their subject, to their students, to their profession, and to their institution. When they speak or act as private persons they avoid creating the impression that they speak or act for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

Examples of lack of faculty civility may include the following: faculty deliberately ignoring other faculty; a faculty member interrupting office conversations; personal attacks in singular, group, or E-mail settings; allegations of hidden agendas or implications that a person is out to get them; an unwillingness to work with another faculty member for no specified reasons.

Informal Solution

Informal efforts to resolve a lack of faculty civility are encouraged. Faculty talking with faculty is the most direct method. Expert staff in the Employee Assistance Program are ready and willing to negotiate, mediate, or utilize other dispute resolution techniques to assist in civility issues. A third party may be a necessary catalyst for resolution. These services are available and without charge to faculty members.

Formal Solution

Informal efforts may not solve civility issues, and the use of more formal means may be felt necessary by one or more faculty members. In order that the faculty of California Polytechnic State University at San Luis Obispo be responsible for faculty civility, it is recommended that the Academic Senate create a Faculty Ethics Committee. The purpose of this committee is to investigate and resolve disputes brought by members of the university faculty against colleagues. The Ethics Committee shall consist of 7 tenured faculty members appointed by the Executive Committee of the Academic Senate for a two-year term and representing each of the colleges and Professional Consultative Services. The Faculty Ethics Committee chair shall be elected by members of the committee. The committee shall develop procedures appropriate to its functions and shall make periodic reports of its activities to the Academic Senate and to the Provost and Vice President for Academic Affairs.

Authority of Faculty Ethics Committee

1. Investigation and Resolution of Disputes:

For all disputes that fall within its jurisdiction, the Faculty Ethics Committee shall have the authority to conduct an investigation of the dispute and to make recommendations to the Provost. The Faculty Ethics Committee shall have the authority to determine whether the dispute should be resolved by a formal hearing. The committee may, at its discretion, mediate disputes in cases where the mediation appears likely to provide a resolution or to refer to appropriate dispute resolution resources available by the university (e.g. Employee Assistance Program).

2. Jurisdiction:
 - A. Matters Within the Faculty Ethic Committee's Jurisdiction
 - (1) Violations of AAUP Code of Conduct,
 - (2) Enforcement by the university of regulations or statutes governing the conduct of faculty members not overseen by other jurisdictions,
 - (3) Other disputes that may arise between faculty members that seriously impairs their ability to function effectively as a member(s) of the university.

B. Matters Excluded from the Faculty Ethics Committee's Jurisdiction

- (1) Disputes in which the relief requested is beyond the power of the university to grant
 - (2) Disputes being considered by another dispute resolution entity or under another procedure within the university (e.g. sexual harassment, amorous relationships, etc.)
 - (3) Disputes being heard or litigated before agencies or courts outside the university.

The university shall provide training appropriate to the authority of the Faculty Ethics Committee.

Conduction of Faculty Ethics Committee Investigations

1. Request for Investigation:

Disputes between faculty members are encouraged to be resolved between the parties wherever possible. Assistance to mediate the dispute is encouraged. Where personal resolution is found to be unsuccessful and consultation with the department chair has not resolved the matter, a request for investigation may proceed. There is no requirement that a complainant utilize this informal process before filing a formal complaint.

Investigations by the Faculty Ethics Committee shall be initiated by the submission of a written complaint to the chair of the committee. The complaint must contain:

- (i) a concise statement of the conduct complained of;
 - (ii) the person or persons involved;
 - (iii) the relief requested;
 - (iv) the efforts already made by the complainant to resolve the dispute; and
 - (v) an affirmation that the dispute is not pending in some other forum in or outside the university.

Complaints may contain more than one claim of wrongful action and seek more than one form of relief. Claims should be preferably be presented the quarter after occurrence. The claim must be raised within 12 months of the perceived wrongful action. The complaint may not exceed 5 pages.

Along with the complaint, the complainant may submit supporting or clarifying documentation. These may include written argument by, or on behalf of, the complainant and may mention earlier events alleged to be related to the claim(s). Such argument may not exceed 20 pages. The committee also may request the complainant to submit further documentation where doing so might be vital to the committee's decision.

A quorum shall consist of 5 members of the Faculty Ethics Committee.

The Faculty Ethics Committee may reject complaints that do not meet its criteria without prejudice to the complainant's ability to correct the defects and submit a new complaint. The committee

also may reject complaints that are excessive or too vague or disorganized to provide the basis for effective inquiry.

Should the committee decide the complaint does not fall within its jurisdiction, the committee shall dismiss the complaint. If the complaint falls within the committee's jurisdiction, the committee shall notify the complainant who then shall be required to send to the person or persons whose alleged conduct is the basis for the complaint (hereafter, the other side) a copy of all materials submitted earlier to the committee.

2. Authority to Reject Insubstantial Complaints:

After considering the complaint and accompanying materials, the committee may reject the complaint if, in its judgment, the complaint is insubstantial or the dispute is not sufficiently related to the concerns of the academic community to justify further investigation. In making this determination, the committee may take into account whether the complaining party has made baseless or insubstantial complaints in the past. The committee also may reject complaints if, as evidenced by the complaint and accompanying documentation, the complainant has not made adequate efforts to resolve the dispute prior to invoking these procedures.

3. Response to Request for Investigation:

If the complaint is suitable for investigation, the committee shall request and expect a written response from the other side. The response must meet the same standards specified for complaints: its position stated concisely in no more than 5 pages with a limit of up to 20 pages of supporting or clarifying documentation. The committee also may request the other side to submit further documentation where this might be vital to the committee's endeavors. The committee may set reasonable time requirements for the submission of materials in response to a complaint. If no response is made, the committee may take such inaction into consideration in its resolution of the dispute.

4. Scope and Conduct of the Investigation:

Upon determining that a particular complaint is substantial and within its jurisdiction, the committee shall investigate the complaint. The nature and means employed in pursuing the investigation, including the interviewing of relevant parties and gathering of relevant information, shall be at the discretion of the committee but the investigation shall be as extensive as necessary to resolve the dispute fairly. The committee may conduct its own interviews, request additional evidence from the parties, consult with individuals it considers potentially helpful, and review the written materials already before it. At any stage of the investigation, the committee may exercise its ability and discretion to resolve the dispute through mediation and reconciliation between the parties or refer the matter to an appropriate dispute resolution resource available within the university.

5. Concluding the Investigation:

The investigation shall be concluded when any of the following occur:

- (a) the dispute is resolved with the consent of the parties;
- (b) the committee rejects the complaint for reasons;
- (c) the committee issues its report and recommendation to the Provost;
- (d) the committee determines that a formal hearing should be held.

In its report to the Provost, the committee shall indicate in writing the results of its investigation, including its view of the merits of the claims(s) made in the complaint, the resolution of any factual disputes essential to the committee's conclusion, and the committee's judgment about what actions, if any, should be taken by the university. The report need be no more detailed than necessary to summarize the committee's findings.

Within 30 days after receipt of a report from the committee, the Provost shall, in writing, either affirm or modify the report or refer it back to the committee with objections. The Provost's response shall be delivered to the chair of the committee and to the parties involved. Failure to act within the 30-day time period shall constitute an affirmation of the committee's decision.

If the report is referred back, the committee shall reconsider the case and, taking into account the objections or suggestions of the Provost, the committee shall resubmit the report, with any modifications, to the Provost, who may affirm, modify, or reject it. The Provost's decision shall be final and conclusive, and the matter in question shall be deemed closed, unless either party requests an appeal to the President within 30 days after receipt of a written copy of the provost's decision.

If at any point in its investigation the committee determines that a formal hearing must be held, the dispute may proceed directly to the formal hearing. In such instances, the committee shall prepare a brief report setting forth the reason(s) for moving directly to a formal hearing.

Formal Hearings

1. Disputes for which a Formal Hearing is Appropriate:

Formal hearings shall be held in the following categories of disputes: (a) disputes in which formal hearings are mandated by law, and (b) disputes in which the committee determines that a hearing is appropriate because the issues are so serious and the facts so unclear that live testimony and quasi-judicial procedures are appropriate to resolve the dispute fairly. Formal hearings should be the exception, not the rule, in faculty dispute resolution. No formal hearing shall be held if the complainant expresses the desire, in writing, not to have such a hearing.

2. Preliminary Procedures:

A. Hearing Panel

There shall be a Hearing Panel consisting of members from the Faculty Ethics Committee. The panel members shall have no conflict of interest with the dispute in question. Members will disqualify themselves from participation in any case in which they are a principal or if they feel they cannot be impartial. The Hearing Panel shall decide all cases properly brought before it under the procedures specified in this document.

B. Statement of Charges:

After submission to the committee, the complainant shall, within 30 days, send a Statement of Charges to: the other side and the chair of the committee. The Statement of Charges shall contain the following: (a) a statement, not to exceed 5 pages, of the charge or charges and the relief requested (b) a copy of any supporting or clarifying documentation, not to exceed 20 pages (c) a copy of any further documentation that might be requested by the Hearing Panel, and (d) an initial list of witnesses to be called, accompanied by a brief description of why their testimony would be relevant to the panel (the names of additional witnesses to be communicated when they become known) (e) a copy of any pertinent university policies or procedures, state statutes, contractual agreements, or other documents upon which the complainant relies, and (f) a formal invitation to the other side to attend the hearing. Both parties may be accompanied by counsel of their choice. If the complainant does not submit materials previously listed within the 30-day time limit, the Hearing Panel may take such inaction into consideration in its resolution of the dispute.

C. Answer:

Within 30 days of receipt of the Statement of Charges, the other side shall send an Answer to: the complainant and the chair of the Faculty Ethics Committee. The Answer shall respond to the claims made in the Statement of Charges. It may not exceed 5 pages in length, and any accompanying or clarifying documentation may not exceed 20 pages. The Answer also shall include an initial list of witnesses to be called, accompanied by a brief description of why their testimony would be relevant to the Panel (the names of other witnesses to be communicated when they become known). The Hearing Panel may request the submission of further documentation from an answering party where the panel believes this may be of assistance to it.

The Answer also may contain a challenge to the complainant's entitlement to a formal hearing, in which case the Hearing Panel will consider the decision to grant a formal hearing. In such a case the Hearing Panel shall indicate in writing its reasons for concluding that a hearing is not warranted. Reasons may include the insufficient importance of the dispute or the degree to which the dispute can be resolved fairly based on the paper submissions of the parties.

D. Procedure Where No Answer or Hearing Waived:

The committee shall expect an Answer from the other side. If no Answer is filed or the other side states that no hearing is desired, the Hearing Panel shall resolve the dispute as it deems fair, based on the information submitted by the complainant and independent investigation the Hearing Panel chooses to conduct. In such a case the Hearing Panel shall prepare a written report of its findings. This report shall be submitted to the parties and to the Provost.

E. Time and Place of Hearing:

Upon receipt of the Statement of Charges and the Answer, if the Hearing Panel concludes that a formal hearing should take place, the Hearing Panel shall set a time and place for the hearing. The time ordinarily should be at least 30 days after submission of the Answer, but there should be no unreasonable delay beyond that point.

3. Procedures for Formal Hearings

A. The hearing is to be conducted in private.

B. The responsibility for producing evidence, and the ultimate burden of proof by a preponderance of the evidence that the complainant's allegations are true and a remedy is warranted, rest on the complainant. The Hearing Panel may prescribe the order in which evidence is presented, and the way in which arguments are made in order to facilitate resolving the dispute. Both sides shall be permitted to introduce evidence and make arguments to the Hearing Panel but the Hearing Panel may place reasonable restrictions on the time allotted for questioning, or argument, or on the number of witnesses in order to facilitate a fair and efficient resolution of the dispute. The Hearing Panel also may determine whether any evidence or argument offered is relevant to the dispute, and may exclude irrelevant evidence. The rules of evidence which guide courts of law shall not be binding at the hearing, but may be consulted by the Hearing Panel in its discretion.

C. The Hearing Panel may, if it so desires, proceed independently to secure the presentation of evidence at the hearing, and it may request the parties to produce evidence on specific issues the panel deems significant. The Hearing Panel also may call its own witnesses, if it chooses, and may question witnesses called by the parties.

D. Parties on either side may elect to have their positions and evidence presented in whole or in part by the legal counsel or they may elect to have legal counsel available to them only for consultation. The Hearing Panel shall facilitate full examination of the evidence, including the cross-examination of witnesses where appropriate.

E. A verbatim record of the proceedings shall be kept and a full transcript shall be made available to the Hearing Panel at its option. The cost of the reporter and the transcript shall be paid by the university. The complainant has a right to review the transcript.

F. The Hearing Panel, may, at its discretion, adjourn the hearing to permit the parties to obtain further evidence, or for other legitimate reasons.

G. The Hearing Panel may request written briefs from the parties, either before the hearing or upon its completion.

4. Decision of the Hearing Panel:

After the conclusion of the hearing, the Hearing Panel shall consider the evidence and the written submissions of the parties. The Hearing Panel then shall prepare findings of fact and a decision regarding the merits of the dispute, and a recommendation of the action, if any, that should be taken by the Provost.

At the same time, a copy of the final report from the committee shall be provided to each of the parties.

5. Decision of the Provost:

Within 30 business days after receipt of the report, the Provost shall, in writing, either affirm or modify the report or refer it back to the committee with objections. The Provost's response shall be provided to each of the parties and the chair of the committee. Failure to act within the 30-day time period shall constitute an affirmation of the committee's decision. If the report is referred back, the committee shall reconsider the case and, taking into account the objections or suggestions of the Provost, the committee then shall resubmit the report, with any modifications, to the Provost, who may affirm, modify, or reject it.

6. Decision of the President:

The President will be the final appeal body. The President's decision shall be final and conclusive. A copy of the President's decision will be given to the parties and to the chair of the Faculty Ethics Committee.

Adopted:

**ACADEMIC SENATE
OF
CALIFORNIA POLYTECHNIC STATE UNIVERSITY
San Luis Obispo, California**

**AS- -98/
RESOLUTION ON
CREDIT BY EXAMINATION POLICY**

- WHEREAS, Current Cal Poly policy allows a regularly enrolled student to petition for credit by examination in courses in which he or she is qualified through previous education or experience and for which credit has not otherwise been given; and
- WHEREAS, Current Cal Poly policy is less specific than policies common at other CSU campuses, leading to undesirable outcomes such as entire minors being administered through credit by examination and the use of credit by examination to "fix" late enrollment problems; be it therefore
- RESOLVED: That the number of units a student may take through credit by examination be limited to 16 units; and be it further
- RESOLVED: That grades for a course taken through Credit by Examination be submitted no later than the end of the fourth week of the quarter with the grade being posted for that quarter.

Proposed by the Academic Senate
Instruction Committee
October 12, 1998

1 In the Matter of an Impasse
 2 - between -
 3 CALIFORNIA STATE UNIVERSITY,
 4 Public Employer,
 5 - and -
 6 CALIFORNIA FACULTY ASSOCIATION,
 7 Exclusive Representative.
 8 California Public Employment Relations
 9 Board Impasse No. LA-IM-2844.

FACTFINDING REPORT &
 RECOMMENDATIONS

REPORT ISSUED
 JANUARY 14, 1999

10 FACTFINDING PANEL:

11 Impartial Chairman: R. DOUGLAS COLLINS, Arbitrator
 12 Post Office Box 4399
 13 West Hills, California 91308-4399
 14 Association Member: GAIL HOLMES, Director of Representation
 15 California Faculty Association
 16 400 Capitol Mall, Suite 1950
 17 Sacramento, California 95841
 18 Employer Member: SAMUEL A. STRAFACI, Senior Director Human Resources
 19 California State University
 20 Office of the Chancellor
 400 Golden Shore
 Long Beach, California 90802-4275

20 BACKGROUND AND PROCEDURAL HISTORY

21 In accordance with §3593 of the Higher Education Employee-Employer Relations Act
 22 (Division 4, Chapter 12, California Government Code), an impasse was declared in the
 23 negotiations between the CALIFORNIA FACULTY ASSOCIATION ("Association" or "CFA")
 24 and the CALIFORNIA STATE UNIVERSITY ("University" or "CSU") over the terms of a
 25 successor to their 1995-1998 collective bargaining agreement ("Agreement"). The parties jointly
 26 selected R. DOUGLAS COLLINS as the neutral chairman of the factfinding panel. The
 27 Association named GAIL HOLMES and the University designated SAMUEL A. STRAFACI as
 28 members of the panel. Both parties waived the time limits for the factfinding process.

1 The evidentiary hearing was held December 9 and December 11, 1998, at the
2 University's offices in Long Beach, California. Each party was afforded a full and adequate
3 opportunity to present documentary evidence, testimony, and argument on each of the issues at
4 impasse. On December 22, 1998, and January 8, 1999, the factfinding panel met in executive
5 session at the Association's offices in Los Angeles, California, to discuss the evidence and
6 arguments in support of the parties' positions on each of the issues. The Chairman also discussed
7 the issues with the partisan panel members during individual and conference telephone calls.
8 The Chairman then prepared a draft of this decision, which was provided to the other panel
9 members for their comment. Any concurring or dissenting opinions submitted by the partisan
10 members of the factfinding panel are attached to the final report.

11 *RECOMMENDATIONS*

12 *ARTICLE 12. APPOINTMENT*

13 It is recommended that the parties amend the Agreement to provide two-year
14 appointments, or longer appointments at the discretion of the campus president, to lecturers
15 with six years of continuous satisfactory service. It is further recommended that the parties adopt
16 the following changes to Article 12, provision 12.9:

17 12.9 Upon completion of twenty-four (24) academic units on a semester
18 campus, or the quarter equivalent on a quarter campus, in the same
19 department or equivalent unit during consecutive academic years without
20 a break in service, temporary employees may request consideration for
21 shall receive step movement on the salary schedule in a salary increase
22 equivalent to the percentage of the negotiated SSI, provided that they
23 meet the requirements of Article 31, only during years when the parties
24 have agreed to provide Service-based Salary Step Increases pursuant to
25 Article 31 of this Agreement.

26 It is also recommended that the parties add the following new provision to Article 12:

27 A lecturer who receives a new appointment may be placed on the salary
28 schedule above the maximum Service Salary Increase rate within his or her
then-current salary range.

29 ///

30 ///

31 ///

1 *ARTICLE 14. PROMOTION*

2 It is recommended that the parties adopt the following language regarding the period of
3 service required prior to promotion:

4 14.3 The Promotion of a tenured faculty unit employee shall normally be
5 considered eligible for promotion effective the beginning of the sixth (6th)
6 year after appointment to his/her current academic rank/classification. In
7 such cases, the performance review for promotion shall take place during
8 the year preceding the effective date of the promotion, he/she has (a) been
9 granted four (4) MSAs under the salary schedule in effect prior to the
10 effective date of this Agreement, eight (8) Service Salary Step Increases
11 under the revised salary schedule, or a combination of both which does not
12 exceed the total of eight (8) Service Salary Step Increases on the revised
13 salary schedule, (b) has served four (4) years in the same
14 rank/classification, or (c) has reached the maximum salary for a given
15 rank/classification, consistent with provision 14.10 of this Article. This
16 provision shall not apply if the faculty unit employee requests in writing
17 that he/she not be considered.

18 14.4 In some circumstances, a faculty unit employee may, upon application and
19 with a positive recommendation from his/her department or equivalent
20 unit, be considered for promotion to professor, librarian equivalent, or
21 SSP-AR level III, prior to having satisfied the service requirements of
22 provision 14.3 above, been granted the MSA/SSI maximum identified in
23 provision 14.3 above, or prior to the equivalent four (4) years of service.

17 *ARTICLE 15. EVALUATION*

18 It is recommended that the parties amend Article 15 regarding the mandatory separate
19 level of review for department chairs as follows:

20 15.19 Periodic evaluation procedures shall be approved by the President after
21 consideration of recommendations from the appropriate faculty
22 committee(s). Such procedures shall, for tenure-track faculty unit
23 employees who teach, include, but not be limited to, student evaluations
24 of teaching performance, peer reviews and administrative reviews.
25 Department chairs ~~may~~ shall make separate recommendations as a part of
26 the periodic evaluation process. ~~If such a separate recommendation is to be~~
27 ~~made the chair and~~ shall not participate as a member of the department
28 peer review committee.

29 15.27 Periodic evaluations shall be conducted by the peer review committee of
30 the department or equivalent unit, the department chair, and the
31 appropriate administrator. There shall be consideration of student

1 evaluations of teaching performance, when teaching duties have been
2 assigned and student evaluations are available.

3 15.29 For the purpose of maintaining and improving a tenured faculty unit
4 employee's effectiveness, tenured faculty unit employees shall be subject to
5 periodic performance evaluations at intervals of no greater than five (5)
6 years. Such periodic evaluations shall be conducted by a peer review
7 committee of the department or equivalent unit, the department chair,
8 and the appropriate administrator. For those with teaching
9 responsibilities, consideration shall include student evaluations of teaching
10 performance.

11 15.33 A Performance Review shall consist of a minimum of the following
12 reviews:

- 13 a. evaluations of teaching performance, if the faculty unit employee
14 teaches;
15 b. peer reviews; and
16 c. department chair reviews; and
17 d. administrative reviews.

18 15.34 a. Performance Review procedures shall be approved by the President
19 after consideration of the recommendations of appropriate faculty
20 committee(s).

- 21 b. Department chairs shall ~~may~~ make separate recommendations, and
22 they shall not participate as a member of the peer review committee.
23 Such recommendations shall be forwarded to subsequent levels of
24 review. ~~If the chair makes a separate recommendation, he/she shall not~~
25 ~~participate as a member of the peer committee.~~

26 *ARTICLE 20. WORKLOAD*

27 It is recommended that the following definition of the academic work year be adopted:

28 20.4 ~~An academic~~ The work year of an academic year employee shall not
exceed one hundred eighty (180) workdays or days in lieu thereof. This
provision shall not preclude the establishment of an academic year
calendar equaling less than one hundred eighty (180) days. The campus
academic calendar shall establish workdays of academic year employees.

It is further recommended that the parties agree to delete the obsolete side letter #21 but
retain side letter #20.

1 In addition, it is recommended that the parties change provision 20.8 regarding leaves
2 with and without pay as follows:

3 20.8 A faculty employee who is assigned temporary substitute duty of a short
4 duration, which shall normally be up to ~~twenty (20) days eighteen (18)~~
5 ~~class hours~~, shall be compensated at the faculty substitute rate. Temporary
6 substitute assignments of a longer duration, which shall normally be
7 greater than ~~twenty (20) days eighteen (18) class hours~~, shall be
8 compensated by an appropriate workload reduction as soon as practicable
9 or, if the employee is not employed in the next academic term, the
10 employee shall be appropriately compensated upon separation for the class
11 hours taught. For compelling reasons, a faculty employee may decline such
an assignment. Nothing in this provision shall preclude faculty employees
from making informal voluntary substitute arrangements of short duration
with a university colleague, subject to the approval of the department
chair. The department chairperson shall be consulted in advance about
such arrangements.

12 *ARTICLE 22. LEAVES WITHOUT PAY, & ARTICLE 23. LEAVES WITH PAY*

13 It is recommended that the parties amend Articles 22 and 23 as follows:

14 22.1 A full-time faculty unit employee or less than full-time tenured faculty
15 unit employee shall be eligible for a leave of absence without pay in
16 accordance with this Article. A less than full-time temporary faculty unit
17 employee may also be granted a leave of absence of short duration, not to
18 exceed ~~fifteen (15) consecutive working days per term~~ one semester or one
19 quarter.

20 23.1 Upon request to the President, a faculty unit employee shall be granted a
21 ~~two (2) one (1) day leave of absence with pay for each death in the~~
22 immediate family of a significantly close relative. Upon request to the
23 President, the faculty unit employee shall be granted ~~three (3) two (2)~~
24 consecutive days leave of absence with pay if the death in the immediate
25 family of a significantly close relative requires that a faculty unit employee
26 travel over five hundred (500) miles from his/her home.

27 23.3 The term "immediate family" "~~significantly close relative~~" shall refer to
28 close relatives or persons residing in the immediate household of the
faculty unit employee, except domestic employees or roomers, as used in
this Article The term "close relative" shall only mean a spouse and the
faculty unit employee's or his/her spouse's mother, father, grandmother,
grandfather, grandchild, son, son-in-law, daughter, daughter-in-law,
brother, sister, or step child/parent, relative living in the immediate
household of the faculty unit employee.

1 23.4 A bargaining unit employee ~~on a~~ shall be entitled to paid maternity/
2 paternity leave ~~for the reasons specified in provision 22.9 pursuant to~~
3 ~~Article 22 of this Agreement. Bargaining unit employees shall be entitled~~
4 ~~to up limited to a maximum of twenty (20) ten (10) days of such paid~~
5 ~~leave, which shall commence maternity/paternity leave of absence with~~
6 ~~pay for the period commencing with the arrival of a new child. Such leave~~
7 ~~shall be charged only for workdays in such a period of time and may be~~
8 ~~used for reason of the birth of a child of the employee or the placement of~~
9 ~~a child with an employee in connection with the adoption or foster care of~~
10 ~~the child by the employee.~~

11 *ARTICLE 25. PROFESSIONAL DEVELOPMENT*

12 It is recommended that the parties agree to add the following provision to the existing
13 language of Article 25:

14 CSU and CFA shall establish additional professional development
15 opportunities for all bargaining-unit members, including but not limited
16 to those listed in provision 25.1, for the purpose of enhancing
17 instructional effectiveness. A pool of \$7.22 million shall be established
18 which shall be available for this purpose until June 30, 2001.

19 *ARTICLE 27. SABBATICAL LEAVES*

20 It is recommended that the parties agree to modify Article 27 to make counselors eligible
21 for sabbatical leaves.

22 *ARTICLE 29. FACULTY EARLY RETIREMENT PROGRAM (FERP)*

23 It is recommended that the parties agree to modify Article 29 to provide that the
24 duration of participation in FERP for unit members entering the program in 1999-2000 shall be
25 four years and for those entering in 2000-2001 or 2001-2002 shall be three years. It is further
26 recommended that the parties modify Article 29 as follows:

27 29.14 Participants may be granted a leave without pay from the period of
28 employment under FERP in accordance with Article 22 of this
Agreement. A participant shall be granted one (1) leave of absence
without pay for personal illness for all or part of the period of employment
within one (1) fiscal or academic year in FERP. Such leaves shall not
affect future participation in FERP.

29.20 The following provisions of this Agreement shall not apply to participants
in FERP:

1 Article 14, Promotion
2 Article 22, Leaves of Absence Without Pay
3 Article 24, Sick Leave, 24.1, 24.3, 24.4
4 Article 27, Sabbatical Leaves
5 Article 28, Difference in Pay Leave
6 Article 32, Benefits, 32.1

7 **ARTICLE 31. SALARY**

8 *For Fiscal Year 1998-1999, it is recommended that the parties agree to the following*
9 salary increases:

- 10 1. A general salary increase for 1998-1999 of 3 percent effective October 1, 1998;
- 11 2. A merit-salary pool of \$16.2 million excluding the cost of associated benefits;
- 12 3. A bargaining unit member eligible for a service-salary increase shall be deemed to
13 have received such an increase if he or she receives a merit salary increase in
14 1998-1999. If a bargaining unit member who is eligible for a service-salary increase in
15 1998-1999 receives a merit increase for that year, said merit increase shall be a
16 minimum of 2.4 percent. The administration shall advise departments and
17 appropriate administrators of the faculty members who are eligible for service-salary
18 increases prior to the beginning of the faculty merit review process. Nothing in this
19 provision shall require the University to award a merit increase to any individual unit
20 member for 1998-1999.

21 *For Fiscal Year 1999-2000, it is recommended, contingent upon funding by the State of*
22 California of the full amount of the University's October 1998 General Fund request, that the
23 parties agree to the following salary increases:

- 24 1. A general salary increase for 1999-2000 of 3.6 percent effective July 1, 1999;
- 25 2. A merit-salary pool of \$20.5 million excluding the cost of associated benefits;
- 26 3. A bargaining unit member eligible for a service-salary increase shall be deemed to
27 have received such an increase if he or she receives a merit salary increase in
28 1999-2000. If a bargaining unit member who is eligible for a service-salary increase in
1999-2000 receives a merit increase for that year, said merit increase shall be a

1 minimum of 2.4 percent. The administration shall advise departments and
2 appropriate administrators of the faculty members who are eligible for service-salary
3 increases prior to the beginning of the faculty merit review process. Nothing in this
4 provision shall require the University to award a merit increase to any individual unit
5 member for 1999-2000.

6 *For Fiscal Year 2000-2001*, it is recommended that the parties agree to reopen
7 negotiations on salary and fringe benefits in accordance with Article 39 of the Agreement,
8 subject to the following additional requirements:

- 9 1. Forty (40) percent of the total settlement cost shall be set aside for the faculty merit
10 salary program;
- 11 2. A bargaining unit member eligible for a service-salary increase shall be deemed to
12 have received such an increase if he or she receives a merit salary increase in
13 2000-2001. If a bargaining unit member who is eligible for a service-salary increase in
14 2000-2001 receives a merit increase for that year, said merit increase shall be a
15 minimum of 2.4 percent. The administration shall advise departments and
16 appropriate administrators of the faculty members who are eligible for service-salary
17 increases prior to the beginning of the faculty merit review process. Nothing in this
18 provision shall require the University to award a merit increase to any individual unit
19 member for 2000-2001.

20 *Merit Pay Program & Appeals:* It is recommended that the parties agree to modify the
21 merit pay program to incorporate the steps outlined below.

22 *Faculty Activity Reports:* The parties shall jointly develop a Faculty Activity
23 Report Form which shall be completed by unit members and submitted
24 for review in the steps set forth below.

25 *Merit Pay Criteria:* The parties shall develop criteria to be considered in
26 the award of merit pay increases. The parties may consider input from the
27 Statewide Academic Senate regarding proposed criteria.

28 *Merit Pay Distribution:* A preliminary budget for merit pay increases shall
be established for each college or school on a pro rata basis.
Recommendations for merit pay increases shall not exceed that amount.

1 *Step 1. Departmental Committee Recommendations.* A committee shall be
2 established within each academic department at each campus to consider
3 and recommend merit pay increases for qualified bargaining unit members
4 assigned to that department. Where there are insufficient persons to serve
5 on a departmental committee, the department shall select persons from a
6 related academic discipline for that purpose. The committee may
7 recommend that an individual faculty member receive a merit increase of
8 any amount up to 10 percent of that person's base pay; recommended
9 increases shall not be limited to the 2.4 percent increment between salary
10 steps. A departmental committee shall not consider a merit pay increase
11 for the chair of said department.

12 *Step 2. Departmental Chair's Review.* The recommendations of the
13 Departmental Committee shall be reviewed by the chair of said
14 department, who may concur or disagree with any such recommendation.
15 The chair of the department may change the amount of the increase
16 recommended by the committee for any faculty member. In addition, the
17 chair may recommend a merit pay increase for any bargaining unit
18 member assigned to said department for whom the committee did not
19 recommend an increase. The department chair may recommend that an
20 individual faculty member receive a merit increase of any amount up to 10
21 percent of that person's base pay; recommended increases shall not be
22 limited to the 2.4 percent increment between salary steps. A departmental
23 chair shall not make any recommendation regarding his or her own merit
24 pay increase.

25 *Step 3. Dean's Review.* The recommendations of the departmental
26 committee and of the chair of the department shall be reviewed by the
27 academic dean in charge of said department, who may concur or disagree
28 with any such recommendation. In addition, the dean shall consider the
appropriate merit pay increase for departmental chairs within his or her
department. The dean may change the amount of the increase
recommended by the committee or by the department chair for any faculty
member. In addition, the dean may recommend a merit pay increase for
any bargaining unit member assigned to said department for whom
neither the committee nor the chair recommend an increase. The dean
may recommend that an individual faculty member receive a merit
increase of any amount up to 10 percent of that person's base pay;
recommended increases shall not be limited to the 2.4 percent increment
between salary steps.

Step 4. Appeal Process. A merit pay appeals committee consisting of five
faculty members and five administrators shall be established at each
campus. Any faculty member may appeal to said committee a dean's
negative recommendation for a merit increase only if the faculty member
was recommended for a merit increase by a departmental committee or by

1 a department chair. A faculty member may also appeal a dean's
2 recommendation for a merit pay increase that is less than that
3 recommended by the departmental committee or by the department chair.
4 Departmental chairs also may appeal the dean's decision regarding his or
5 her merit-pay increase. Such an appeal shall be considered by a panel of
6 two faculty members and two administrators selected randomly from the
7 members of merit pay appeals committee; the panel shall not include any
8 person from the appellant's department. The panel shall review the
9 documents relevant to the merit pay increase for the faculty member that
10 were relied on or produced by the departmental committee, the
11 department chair, and the dean. Decisions of the panel shall be by
12 majority vote and shall not be subject to review by the committee as a
13 whole. The panel shall issue a written decision when granting an appeal,
14 which shall be advisory to the president; the panel shall deny an appeal
15 without comment.

16 *Step 5. President's Decision.* Positive recommendations from each dean and
17 appeals granted by the merit pay appeals committee shall be submitted to
18 the president of the campus at which the affected faculty member is
19 employed. The president shall not consider merit pay increases for any
20 other faculty member. The president may reject, decrease, or increase any
21 such recommendation or appeal. The president may grant an individual
22 faculty member a merit increase of any amount up to 10 percent of that
23 person's base pay; increases shall not be limited to the 2.4 percent
24 increment between salary steps. The decision of the president shall be final
25 and binding on the University, the Association, and the affected faculty
26 member. Ten (10) percent of the pool available for all merit pay increases
27 shall be reserved to fund any additional increases granted by the president
28 in accordance with this provision. The president may not grant additional
increases that total more than the 10 percent of the pool reserved for that
purpose. Any portion of the pool that is not expended in the above
manner shall be rolled over and added to the pool for merit pay increases
for the following fiscal year.

21 *ARTICLE 38. LAYOFF*

22 It is recommended that the parties modify provision 38.25 as follows:

23 38.25 In lieu of layoff, a tenured faculty unit employee who received a notice of
24 layoff may request a temporary or permanent reassignment to another
25 position on the campus for which he/she is qualified. In lieu of layoff, a
26 probationary faculty unit employee who received a notice of layoff may
27 request a temporary reassignment to another position on the campus for
28 which he/she is qualified. In each case, the faculty unit employee may
request a meeting with his/her appropriate administrator in order to
discuss his/her qualifications for the new position; such request shall not

1 be unreasonably denied. Failure to hold this meeting shall not prohibit the
2 layoff from being implemented. All such requests shall be provided to the
3 recipient department which shall make a recommendation to the
4 President regarding the request. The granting of such a request shall be
5 subject to approval of the President. A tenured or probationary faculty unit
employee shall receive written notice of reassignment. A notice of
temporary reassignment shall indicate the duration of such reassignment.

6 *ARTICLE 39. DURATION*

7 It is recommended that the parties agree to a three-year collective bargaining agreement
8 for the period 1998-2001. It is further recommended that the parties reopen negotiations for
9 2000-2001 on Salary (Article 31) and Benefits (Article 32). In addition, if the scope of
10 bargaining under the Higher Education Employee-Employer Relations Act is expanded, the
11 parties should agree to reopen negotiations on any new mandatory subjects of bargaining.

12 *REMAINING ISSUES:*

13 It is recommended that the parties modify their Agreement as necessary to implement
14 the above changes and their tentative agreements regarding other issues. It is further
15 recommended that they maintain the status quo regarding any matters not discussed above.

16 Respectfully submitted,

17 
18 _____

19 R. DOUGLAS COLLINS, Chairman
Factfinding Panel

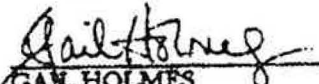
20 Dated: January 14, 1999
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☐ I concur.

☒ I dissent.

☐ Opinion attached.



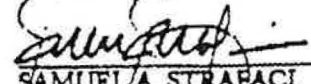
GAIL HOLMES
Association Panel Member

Dated: January 14, 1999

☒ I concur.

☐ I dissent.

☐ Opinion attached.



SAMUEL A. STRAPACI
University Panel Member

Dated: January 14, 1999