

CALIFORNIA POLYTECHNIC STATE UNIVERSITY, SAN LUIS OBISPO

ACADEMIC SENATE EXECUTIVE COMMITTEE
Minutes - September 23, 1975

- I. The meeting was called to order at 4:00 p.m. by the Chair, Lezlie Labhard, in Ag. Erhart 241. Members and guests introduced themselves and identified their respective department and/or office. Lezlie Labhard discussed briefly the role of the Committee and Chair. She asked the committee to refrain from "picking apart" committee reports, to direct all comments or questions through the Chair, and that she be contacted on Senate business through the senate office (ext. 2070) rather than through her department office.

Members in attendance were: Lezlie Labhard, Barton Olsen, Paul Murphy, Chuck Jennings, Bob Burton, Tony Buffa, Milton Drandell, Bill Krupp, Louis Pippin, Luther Hughes, Nancy Jorgensen, Paul Wolff, Mike Wenzl, Dave Saveker, Joe Weatherby and Hazel Jones.

Member not in attendance: ASI representative.

Guest in attendance: Gerry Ellerbrock.

- II. The minutes of the July 1, 1975 meeting of the Executive Committee were approved.

III. Reports

- A. Statewide Senate - Barton Olsen reported on actions from the latest meetings of the Statewide Academic Senate including:

1. disapproval of a recommendation for a faculty holiday,
2. disapproval of the Draft Report of the Ad Hoc Committee on the Procurement and Retention of a Quality Faculty,
3. disapproval of a recommendation of 3.8% salary increase for faculty and voted 7.1% as a minimum,
4. discussion of the selection and appointment of department heads report.

Paul Murphy reported that a billet system is not at all likely at this point.

- B. State Legislative Action - Barton Olsen reported the signing of Assembly Bill 804-Berman Bill regarding Grievance Procedure. The bill covers all CSUC academic employees, calls for faculty hearing committees, makes hearings public, provides for attorney representation if desired; provides for arbitrators, and excludes the Chancellor and Trustees from hearings. The bill will be implemented January 1, 1976. (Attachment III-B)

Mike Wenzl reported that all bills on collective bargaining were essentially dead. (Attachment III-B1)

- C. Senate Committee Membership - It was M/S/P (Wenzl/Drandell) to approve those additions to Senate Committees as listed in Attachment IV-A of the Agenda.

IV. New Business

- A. Foundation Brochure and Presentation - Lezlie Labhard reported that a Foundation Manual will be in the Senate Office for perusal. Al Amaral will be invited to the first Senate meeting to discuss the Foundation.

Lezlie Labhard also announced the publication of a Foundation brochure which was passed among committee members.

- B. Disabled Students - It was M/S/P (Burton/Saveker) to refer the recommendation from Student Community Services on Disabled Student Awareness to the Student Affairs Committee to report back to the Executive Committee at its next meeting as to its recommended action.

V. Discussion Items

- A. Student Evaluations of Faculty - William Krupp discussed a survey and a recommendation from the School of Engineering and Technology that student evaluations be used "primarily" for improvement of instruction and to exclude any numbers in the evaluation forms.
- B. Ad Hoc Committee Update on Student Evaluation of Faculty - Gerry Ellerbrock reported that a questionnaire will be distributed in October. A copy of this questionnaire will be on file in the senate office. Senators are urged to respond promptly to this questionnaire. She gave a brief update of the research by the Ad Hoc Committee and discussed the objectives of the committee as listed in Attachment V-A.

VI. Announcements

- A. External Degree - Dr. Hazel Jones announced a proposed External Degree program in Criminal Justice to be given by Sacramento State through Cal Poly as a cooperating institution. It was M/S/P (Weatherby/Saveker) that Dr. Jones distribute the proposal to the members of the Executive Committee for their perusal and that the Senate poll by telephone each member for their approval, disapproval and/or comments to be reported to Barton Olsen before October 8, 1975.
- B. Lezlie Labhard reported very briefly on the President's Council meeting and said she would report in more detail at the Senate meeting in October.
- C. Lezlie Labhard reported on the Foundation Board Audit Report and noted that the report was publicly available.
- D. Lezlie Labhard reported the distribution of a Faculty Personnel Handbook from the office of Don Shelton.

- E. Lezlie Labhard reported the President's approval of the Senate committee membership and preamble.
- F. Lezlie Labhard reported on the response by herself, Chuck Jennings, and Joe Weatherby to the Draft Report of the Ad Hoc Committee on the Procurement and Retention of a Quality Faculty noting that not enough time was given for a response from the fall Senate or Executive Committee.

Meeting adjourned at 5:00 p.m.

BRIEF

Information Item

Agenda Item 1
September 3, 1975

COMMITTEE ON FACULTY AND STAFF AFFAIRS

GRIEVANCE PROCEDURES FOR ACADEMIC PERSONNEL

Presentation By

C. Mansel Keene, Vice Chancellor
Faculty and Staff Affairs

Clayton L. Sommers
State University Dean, Faculty Affairs

ACADEMIC SENATE

SEP 8 1975

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Summary

This item contains a discussion of current CSUC academic grievance procedures, proposed academic grievance legislation and related issues. It was scheduled for this special meeting of the Committee after discussion in May and July of AB 804 (Berman) by the Committee on Gifts and Public Affairs.

Attachment A is a related statement by the Academic Senate.

COMMITTEE ON FACULTY AND STAFF AFFAIRS

GRIEVANCE PROCEDURES FOR ACADEMIC PERSONNEL

I. Background for the Current Discussion

In its consideration last May of the official position to be adopted by the Board of Trustees concerning AB 804 (Berman), proposed legislation on grievance procedures for CSUC academic employees, the Committee on Gifts and Public Affairs discussed the need to agendaize the basic issue of academic grievances for early discussion by the Committee on Faculty and Staff Affairs. At that May meeting, a position of opposition to AB 804 was adopted. The bill was considered again by the Committee on Gifts and Public Affairs in July, and any action to amend the Board's position was postponed until the September 23-24 meeting at which time the Committee on Faculty and Staff Affairs could offer counsel to the Board based upon its consideration of the current item.

II. Executive Orders Covering Academic Grievance Procedures

The CSUC has had grievance procedures covering its academic employees since August 1961, when Interim Grievance Procedures were promulgated by then Chancellor Buell Gallagher. The Interim Procedures existed until September 1968, when Chancellor Dumke issued Executive Order No. 56 establishing a set of academic grievance procedures which had been approved previously by the Board of Trustees. Executive Order No. 56 required each campus to establish academic grievance procedures in accordance with general guidelines provided in the Order.

In October 1969, the Chancellor issued Executive Order No. 80 which established Transitional Grievance Procedures for academic personnel and covered academic employees at any campus which had not yet complied with Executive Order No. 56.

Almost one year later, on September 30, 1970, Executive Order No. 112 was issued. It set the basic pattern for a series of Orders (Nos. 150, 173, 176, 180 and the current No. 201) which have followed. That five Orders succeeded No. 112 should not imply that each succeeding one involved numerous substantial changes from its precursor. No. 150, for instance, corrected typographical and grammatical errors in 112 and made one substantive change in the definition of a term used in the Procedures. Likewise, Nos. 173 and 176 involved changes related only to the representation of grievants by third persons at grievance hearings. No. 180 made a substantive change concerning the confidentiality of grievance proceedings and recommendations of grievance committees. It was necessitated basically, however, by enactment of a new section of Title 5, *California Administrative Code* (Section 43750), which authorized the Chancellor to issue and also to revise academic grievance procedures. Section 43750 was adopted by the Board in 1973 to replace a similar section which was later overturned in judicial proceedings. The current Procedures, Executive Order No. 201, effected a substantial change solely in appeals from campus grievance decisions.

III. The Monitoring Committee for Academic Grievance and Disciplinary Procedures

Late in 1970, it was agreed that a committee should be established to monitor the operation of academic grievance and disciplinary action procedures. Early in 1971 it was agreed that such a committee would consist of two campus Presidents, two representatives of the Academic Senate and two members of the Chancellor's staff. Although individuals were appointed to the

Monitoring Committee in 1971, it did not convene until May 1972. From that time until early April 1974, the Committee met approximately 19 times. Early in 1973, two members of the Board of Trustees, Mrs. C. Stewart Ritchie and Mr. Daniel H. Ridder, had joined the Committee in a nonvoting advisory status. Despite its official title, the Committee did not monitor the actual implementation of grievance procedures; it devoted virtually all its attention to developing changes which were mandated either by legislation or by dissatisfaction expressed by faculty and administrators with the procedures as then existed. Over the almost two-year span covered by the Committee's meetings, Executive Order Nos. 150, 173, 176 and 180 were issued. The first of these involved technical amendments to Executive Order No. 112, as indicated above. The last was also of a basically technical nature. But Executive Order Nos. 173 and 176 were issued amidst much disagreement within the Monitoring Committee concerning the central issue underlying the issuance of those two orders, i.e., the right of a grievant to be represented by another person at the campus hearing of his or her grievance. The precise nature of the issue of representation is treated below in the discussion of the current provisions of the grievance procedures and the evolution of some of those provisions (Part IV).

A large part of the Monitoring Committee's attention during late 1973 and early 1974 was devoted to consideration of what was essentially a proposal by the Chancellor's staff representatives of a new set of procedures to substitute for what had been the basic procedural format since 1970. This proposal called for a three-step process, involving: (1) an initial attempt at informal resolution; (2) a fact-finding investigation by a faculty committee followed by a review by the President; and if not resolved at this point (3) arbitration by an American Arbitration Association arbitrator. Many hours were spent in consideration of this proposal, not only by the Monitoring Committee, but also by the Chancellor's Council of Presidents, the Academic Senate and local campus senates, councils and individual faculty members. Chancellor's staff representatives on the Monitoring Committee met with representatives of faculty membership organizations to explain and discuss the proposal. It proved too difficult, despite the efforts of all faculty and administrative representatives involved, to reach a compromise version of the proposal and these efforts foundered in the late spring of 1974. On June 10 of that year, Chancellor Dumke issued Executive Order No. 201, the current procedures, which modified the previous Orders by substituting arbitration of grievance appeals for the Chancellor's own appellate function under Executive Order Nos. 112 through 180.

The Monitoring Committee has not met since April of last year. The Senate representatives on the Committee urged recently that the Committee be reconvened for the purpose of pursuing the actual monitoring of individual grievances, rather than the solely procedural redrafting function assumed from 1972 to 1974. It is anticipated that the Committee will meet in September on a date which may have been set by today's meeting of the Committee on Faculty and Staff Affairs. Serving on the Monitoring Committee will be Jacob P. Frankel and Brage Golding, who replace the earlier presidential representatives, Carl Gatlin and L. Donald Shields. The representatives of the Academic Senate will be Gerald C. Marley, Senate Chairman, and Robert Detweiler, Chairman of the Senate's Faculty Affairs Committee, who replace the earlier senatorial members, Charles C. Adams and Leonard G. Mathy. Representing the Chancellor's staff will be Clayton L. Sommers, State University Dean, Faculty Affairs, and Richard Sensenbrenner, Associate General Counsel, both of whom have served on the Committee since its first convening in 1972. Inasmuch as Trustee Ritchie and former Trustee Ridder normally met with the Monitoring Committee only when their advice and assistance were needed to resolve impasses, the Committee on Faculty and Staff Affairs may determine

not to continue Trustee representation on the Monitoring Committee unless the need for such representation should again arise.

IV. Basic Provisions of Current Academic Grievance Procedures

In order to provide the Committee on Faculty and Staff Affairs with perspective, the basic provisions of Executive Order No. 201 are discussed briefly below. The evolution of each provision is also included where appropriate, together with an indication of the extent to which each provision may be an issue of current controversy. The potential impact of AB 804 on current procedures is also indicated.

A. *Employees Covered*

All full-time academic employees, tenured and probationary, may utilize the procedures. This includes academic closely related employees such as Professional Librarians and Student Affairs Officers. Neither full-time nor part-time temporary academic employees such as Lecturers are covered. The language of the Interim Procedures introduced by then Chancellor Gallagher in 1961, Executive Order No. 56 (1968) and Executive Order No. 80 (1969) was not restrictive in coverage. But from Executive Order No. 112 until the current Executive Order No. 201, coverage has been limited to probationary and tenured academic employees working full time. This limitation has been based upon a staff position that it is to the career-committed cadre of full-time probationary and full-time tenured academic employees that the remedies of grievance procedures should be directed. The Academic Senate adopted a resolution in January of this year urging that the Senate, in conjunction with the Chancellor's Office, develop grievance procedures for temporary faculty. The Senate's action was part of its affirmative-action-related concern with women and minorities who may be employed on a full- or part-time temporary basis.

AB 804 would require the establishment of grievance procedures "for all academic employees, including all temporary employees who have been employed for more than one semester or quarter."

B. *Definition of Grievance*

Executive Order No. 201 defines grievance in the manner first used in Executive Order No. 112 and followed in all subsequent Orders, i.e.:

As used in these Procedures, a "grievance proceeding is a proceeding initiated by an academic employee who claims that he was directly wronged in connection with the rights accruing to his job classification, benefits, working conditions, appointment, reappointment, tenure, promotion, reassignment, or the like."

This definition has been liberally interpreted by Chancellor's staff to include virtually any personnel action affecting an academic employee. With but few exceptions, however, the actions challenged by grievance have always involved reappointment, tenure and promotion. The Gallagher Interim Procedures and Executive Order No. 56 defined

grievance very generally. Executive Order No. 80 used language very similar to the current definition. AB 804 was amended by the author to include the definition quoted above.

C. *Grounds for Grievance*

Executive Order No. 201, similar to Executive Order No. 112 and its successors, provides that a grievance will be for an asserted wrong which "may grow out of an arbitrary action, out of a substantial departure from required procedures when such departure was substantially prejudicial to the grievant, or because substantial evidence favorable to the grievant was ignored." There has been no dispute within the system concerning the appropriateness of these grounds. AB 804 does not address this issue.

D. *Grievance Panel and Grievance Committees*

Each campus must have a grievance panel of "all tenured academic employees of the campus holding the rank of professor or associate professor, holding full-time appointments, and assigned at least two-thirds time to teaching or research, or both." This definition of the panel has existed since Executive Order No. 112. Executive Order No. 80 differed only in that all tenured faculty - not just professor and associated professor - were included. Executive Order No. 56 permitted a grievance committee to be "selected in accordance with procedures approved by a majority vote of the local faculty." The Gallagher Interim Procedures provided for submission of grievances to successive administrative levels and faculty committees. AB 804 would partially reflect Executive Order No. 56 by establishing the grievance panel through campus faculty elections.

Since the issuance of Executive Order No. 80, Librarians and Student Affairs Officers have not been eligible to serve on grievance committees because of the teaching or research assignment requirement noted above. Both types of employees may of course utilize the Procedures for redress of alleged wrongs to them. Representatives of both groups have also urged a change to permit service on grievance committees by Librarians and Student Affairs Officers.

Under current procedures and since Executive Order No. 80, a grievance committee of three members is selected by lot from the grievance panel. AB 804 also provides for selection by lot from the locally elected panel noted above.

E. *Initial Determination*

Since Executive Order No. 56, there has been a provision that the grievance committee must initially determine whether there are sufficient grounds for a hearing of the case. Thus, there has been a screening device involving the same faculty committee which would later hear any case passing the initial determination stage. A negative initial determination terminates a grievance action. The only documentation on which the grievance committee may make this determination includes the notice of grievance and any additional written statement submitted by the grievant. No personnel files or other documents may be examined at this initial stage. This has been considered a weakness by the Monitoring Committee in that a more credible initial determination could be made if

the grievance committee were also permitted to examine the grievant's personnel file and possibly a campus answer to the grievant's allegations.

The apparent intent of the author of AB 804 is to prohibit an initial screening process. Instead, each grievance would automatically go to a faculty hearing committee which would decide the merits of the grievant's allegations after a full hearing.

F. *Grievance Hearings and Representatives*

Executive Order No. 201 provides for two alternative hearings: one conducted by the faculty hearing committee or one conducted by a hearing officer appointed by the nearest Office of Administrative Hearings. If a grievant wishes to be represented by another person (whether attorney or layman) during the hearing, a hearing officer must preside. If no representative is used, the grievance committee may hear the case. This alternative hearing procedure was first provided in Executive Order No. 176, issued May 16, 1973. It was designed to reflect an amendment to the Government Code which permitted an employee to appear himself or through a representative in his employment relations involving grievances with the state. Chancellor's staff had interpreted this provision as not *requiring* systemwide grievance procedures to permit the selection by grievants of representatives who are attorneys admitted to practice before a state or federal court. In Executive Order No. 173, therefore, the grievant could select a lay representative, in which case the campus individuals responsible for the action complained of by the grievant were also entitled to a single lay representative. Executive Order No. 173 was criticized by the Academic Senate and faculty membership organizations as being not only too restrictive in its provisions for representation of a grievant, but also violative of the intent of the Government Code provision referred to earlier. In March 1973, the Office of the Legislative Counsel of California wrote to then Senator John Harner, indicating that in the opinion of that office, the Government Code could not be interpreted so as to permit denial of an attorney representative to an employee in a grievance proceeding. Executive Order No. 176 was issued to provide for representation by an attorney or a lay person, but only in a hearing conducted by a hearing officer. This limitation was included in Executive Order No. 176 on the premise that one admitted to the practice of law could better preside over grievance hearings in which both the grievant and campus respondents might have attorney representatives (under the current procedures as well as under Executive Order No. 176, selection by the grievant of an attorney representative entitles the other individuals involved to similar representation, which has been provided by the Office of the General Counsel). In hearings conducted by a hearing officer rather than a grievance committee, the latter group may not attend the hearing, but later makes recommendations to the President based on the findings of the hearing officer.

The Academic Senate has opposed the current provisions which prevent a grievance committee from conducting or even being present during grievance hearings in which representatives participate, particularly in cases where a non-attorney representative appears for a grievant. The former Chairman of the Senate, in remarks before the Committee on Faculty and Staff Affairs in May 1973, referred to the denial of a hearing or presence by a grievance committee as "over-kill." However, constitutional considerations prevent different types of hearings simply because the grievant's representative is or is not an attorney since the representative may have had the finest of

legal training but not have sought admission to any state or federal bar. Staff also views as unnecessary the presence of the grievance committee during a hearing conducted by a hearing officer because the committee is limited to using the written findings of the hearing officer in making its recommendations to the President for disposition of the grievance.

The issue of representation was first addressed in the Gallagher Interim Procedures in which it was provided that an aggrieved individual might appear himself or be represented by any other person. In Executive Order No. 112 and Executive Order No. 150, the grievant was not entitled to a representative unless the grievant claimed incompetence "on emotional, mental or physical grounds to represent himself" and if the grievance committee agreed unanimously that the grievant needed representation. A representative permitted by that mechanism could not, however, be an attorney admitted to legal practice.

AB 804 mandates a faculty hearing committee and would thus prohibit the current provision for hearing officers. It would permit a grievant to have "a faculty advisor or counsel of his choice" as his/her representative before the faculty hearing committee.

G. *Attendance at Hearings*

Executive Order No. 201 closes grievance hearings to all persons except the hearing officer or grievance committee, as appropriate, the grievant, his or her representative, the appropriate Department Chairman and Dean and the Academic Vice President, the campus representative, the person making an audio tape of the proceedings, witnesses during their testimony and representatives of no more than two faculty organizations or the campus senate or council participating as observers. The issue of attendance at hearings was first addressed in the Gallagher Interim Procedures in which proceedings at each level were to be held in private. Executive Order Nos. 56 and 80 limited attendance in a way similar to the current procedures, and Executive Order No. 112 provided the language used also in the current Order.

AB 804 provides that a hearing would be open to the public at the option of the grievant. It is the position of Chancellor's staff that candor by witnesses, confidentiality and integrity of the hearing process cannot be assured in an open hearing. The current procedures make the "evidence, proceedings, findings and recommendations (but not the final decision of the President) . . . confidential" and proscribe their disclosure by any participant in the hearing except in the event of subsequent related judicial proceedings or public disclosure (breach of confidentiality).

H. *Grievance Committee Recommendations and Presidential Action*

Executive Order No. 201 provides that the grievance committee, after its own hearing or receipt of the hearing officer's findings, as appropriate, will make a written report to the President containing its recommendation for disposition of the case. The President in turn makes the final campus decision under the following injunction:

The decision of the President shall concur with the recommendations of the grievance committee except when those recommendations are not supported

by the findings and conclusions of a hearing officer in the case, or except in rare instances when, in the opinion of the President, compelling reasons exist for a different result. This injunction has existed in each Executive Order promulgating academic grievance procedures since Executive Order No. 56. Controversy over its interpretation has proved to be a major difficulty.

AB 804 provides only that the faculty hearing committee "shall make a recommendation to the president of the state university or college."

I. *Review of Presidential Decisions*

The review process has been a point of great sensitivity since the inception of grievance procedures. In issuing Executive Order No. 201, the Chancellor introduced a procedure whereby a case in which the decision by the President does not concur with the recommendations of the grievance committee may be reviewed and decided by an academically oriented arbitrator appointed by the American Arbitration Association. The Gallagher Interim Procedures included a final review by the Chancellor of a campus grievance action. Executive Order No. 56 provided for a systemwide faculty review panel selected with the approval of the Chairman of the Academic Senate. From this panel the Chancellor appointed a three-member Chancellor's review committee to consider each appeal by a grievant of a presidential decision and to make a final decision from which no further appeal lay. This systemwide review committee procedure was retained in Executive Order No. 80, with two additional methods of selecting each committee from the panel.

In May 1970, the Board of Trustees appointed an Ad Hoc Committee of four campus Presidents, four members of the Academic Senate, three Trustees and two members of the Chancellor's staff to study then existing academic grievance (Executive Order No. 80) and disciplinary (Executive Order No. 81) procedures. With regard to grievances, the Committee was charged to consider the following factors:

- (1) fundamental presumptions underlying then existing procedures;
- (2) final authority in the disposition of grievances;
- (3) accountability and responsibility among faculty and administration;
- (4) definition of a grievance;
- (5) compaction of time allotted to completion of a grievance case;
- (6) screening of grievances prior to setting the substantive procedures in motion;
- (7) conduct of hearings with special consideration of the use and qualification of a hearing officer, representation, etc.;
- (8) appellate review procedures beyond campus action; and
- (9) the extent of uniformity of procedures within that system.

After completing its study, the Ad Hoc Committee approved recommended sets of both grievance and disciplinary procedures by votes of seven to four. The four negative votes were cast by the Academic Senate representatives on the Committee who took the position vis-a-vis the Committee's proposed grievance procedures that final review authority should reside in a faculty panel, not the Chancellor.

The procedures approved by the Ad Hoc Committee majority were issued by the Chancellor in September 1970 as Executive Order No. 112. Review of presidential grievance decisions was placed in the Chancellor. Each request for review was screened by an individual designated by the Chancellor to determine whether one of the following grounds for review existed: arbitrary action by the President in not accepting the campus grievance committee's recommendations; substantially unfair departure from the grievance procedures which affected the President's decision, or substantial evidence favorable to the grievant which was ignored by the President. If initial review of the record by the Chancellor's designee supported at least one of these grounds, a Chancellor's review committee of three persons was convened from a systemwide panel selected with the concurrence of the Chairman of the Academic Senate. After reviewing the record of a grievance, the review committee recommended to the Chancellor either that the President's decision be upheld in whole or in part or that the campus grievance committee's recommendation be adopted in whole or in part. The Chancellor's final decision in a case was to agree with the review committee's recommendations except in rare instances and for compelling reasons. This gave rise to the same difficulty in interpretation alluded to earlier. After the Chancellor's decision, no further review was available within the CSUC system except for a specific provision in Title 5, *California Administrative Code* (Section 43750) under which the Trustees on their own motion may review grievance matters. This reservation of review authority by the Trustees has existed during the entire series of Executive Orders related to grievances.

The review process established by Executive Order No. 112 was retained in Executive Order Nos. 150, 173, 176 and 180. For two and one-half years, the current State University Dean, Faculty Affairs, served as the individual designated by the Chancellor to screen requests for review for the existence of grounds for such review. In discharging that function, the Dean was rigorous in his determination not to "second guess" a campus President regarding the latter's compelling reasons for rejecting a grievance committee's recommendations as long as evidence in the record supported the President's judgment. Of the requests for review, approximately 20-25% proceeded to consideration by a review committee. Although the Chancellor accepted a number of recommendations that presidential decisions be reversed during the period from promulgation of Executive Order No. 112 in 1970 until the current Executive Order No. 201 was issued in June 1974, the record in most cases supported the President's decision where the grievance committee recommended otherwise.

As chief administrative officer of the system, the Chancellor has felt it incumbent upon him to support each President's professional judgments on the merits of grievance cases where evidence in the record supported such judgments. The Presidents, for their part, increasingly have felt that final substantive decisions in grievance cases should not go beyond the campus level. The Academic Senate and faculty membership organizations have, on the other hand, taken the position that there must be a level of review beyond the campus. Given the nature of the Chancellor's role and his desire not to erode the

authority delegated the Presidents by the Board of Trustees, and given the conflicting positions of the Council of Presidents and the Senate and faculty membership organizations, the Chancellor determined early in 1974 that final review authority in grievances should be removed from the Chancellor's Office and placed in an outside agency. With Executive Order No. 201, issued in June of last year, this determination was effected by a transferring of the review authority outlined above in the discussion of Executive Order No. 112 to arbitrators appointed by the American Arbitration Association. Since inception of the arbitration review process, 33 requests for review, involving seven campuses, have been referred by the State University Dean, Faculty Affairs, to the American Arbitration Association. Below is a status breakdown of those reviews:

Campus	No. of AAA Decisions Upholding President's Decision	No. of AAA Decisions Adopting Grievance Committee's Recommendations	AAA Remands to Campus for Further Action	Total
Fresno	1	0	0	1
Long Beach	2	4	0	6
Los Angeles	1	2	0	3
Pomona	0	1	0	1
Sacramento	9	8	1	18
San Luis Obispo	1	2	0	3
San Francisco	1	0	0	1
	<hr/> 15	<hr/> 17	<hr/> 1	<hr/> 33

AB 804 would require essentially the same arbitration process as currently provided under Executive Order No. 201.

V. Final Note

The foregoing discussion has attempted to outline the basic provisions of current academic grievance procedures together with their evaluation in order to provide the Committee on Faculty and Staff Affairs with perspective in this very complex and emotional area. Issues of

continuing sensitivity have been touched on, including (1) whether full- and part-time temporary academic employees should be covered; (2) whether grievants' representatives - lay or attorney - should be limited to appearing before hearing officers rather than faculty grievance committees; (3) whether hearings should be open at the option of one or more parties involved; (4) the appropriateness of initial screening of grievance notices prior to formal hearing; (5) the evaluation of presidential judgment under the provision that he/she agree with grievance committee recommendations except in rare instances and for compelling reasons; and (6) the nature and even the appropriateness of review beyond the campus level. Other issues may be raised during the Committee's consideration of this item inasmuch as an attempt has been made to highlight issues of particular sensitivity, not to be exhaustive of all issues outstanding.

ACADEMIC SENATE STATEMENT ON GRIEVANCE PROCEDURES

The Academic Senate is pleased that the Faculty and Staff Affairs Committee of the Board of Trustees has given the issue of faculty grievance procedures such a prominent place on the agenda for its meeting. Of course, this issue, having been the subject of considerable discussion, debate -- and varying actions by the Board, Chancellor and Senate -- in the last seven years is one of great concern to the Academic Senate and the over 15,000 faculty members it represents.

No constituency of The California State University and Colleges system desires a lasting settlement of this problem more than we. The Senate wholeheartedly endorses the concept that the decision-making process within the system should involve discussion, debate, negotiation and compromise. We believe that an "in-house" agreement is desirable, and would like nothing better than to resolve our differences in this manner. As we are all aware, however, such agreement on the issue of grievance procedures has not been possible up to the present time.

As you also know, the Senate has from time to time supported legislation which addresses California State University and Colleges faculty rights relative to the processing and hearing of faculty grievances -- most recently AB 804, the so-called Berman Bill. Here, obviously, we have encouraged changes from without the system, but not out of faculty preference. This support for action outside our system can and should be interpreted rather as a sign of our dismay and frustration in attempting over the years to agree on basic points through full participation in the decision-making process.

Regrettably, what has developed in the area of grievances is a relationship between faculty and administration marked by disenchantment, resentment and not a little mistrust on both sides. From the time of the issuance of Executive Order 112, those most intimately affected by the procedures have tended to view each other as adversaries. The faculty has seen itself as a victim of unilateral actions, being confronted every half year or so with a new set of procedures arrived at in reaction to a temporary "emergency," a piece of legislation, or to exigencies of the time. The administration has viewed the importunity of the faculty in seeking changes, in some cases by legislative action, as an intrusion into the administrative prerogative. The result is a truly poor atmosphere for "collegial" resolution. We view the present discussion as an opportunity to improve that atmosphere. We believe the serious differences which exist can be settled in an environment of good faith and compromise. This discussion can serve as a first step in that process. There are no more than a handful of points on which there are serious difficulties, and we would propose to address them at this and future meetings. Only through such discussion and mutual agreement can this issue be finally laid to rest.

AB 804 -- The Berman Bill

The current discussion of the grievance procedures by the Faculty and Staff Affairs Committee stems from consideration of AB 804 (Berman) [see Appendix I] by the Gifts and Public Affairs Committee in May. Staff comments in the agenda item stated:

Although this bill contains many features of CSUC's grievance procedures now in effect for all probationary and tenured academic employees, it would impose a number of undesirable changes, including mandating the same exhaustive and expensive procedures for *all* academic employees, elimination of a screening mechanism for grievances, and involvement of counsel in the hearing phase.

It has always been Board of Trustee policy that it is unwise to specifically delineate in statute administrative policy and regulations. To do so is to preempt the Trustees' authority to develop such policies and regulations pursuant to meet and confer sessions with, in the case of grievance procedures, all employee organizations and the presidents. Furthermore, providing for such policies in statute renders them inflexible to modification and revision as necessary and appropriate other than through legislative action.

At that meeting, Senate Chairman Charles Adams reported that the Academic Senate would prefer to have the matter resolved internally but that such had not been possible. The Senate endorsed the Berman Bill at its May meeting.

Executive Order 112

There have been three major changes in the grievance procedures since the Trustees approved the principles developed by the Academic Senate, resulting in the issuance of Executive Order 56 on September 4, 1968. The first of these changes came in a time of political turmoil on the campus. Based on a "finding of an emergency," Executive Order 112 was issued on September 30, 1970. Faculty reaction was uniformly negative and was expressed through campus Senates, faculty membership organizations and the systemwide Academic Senate. Aside from the fact that the new procedure negated procedures which had been jointly developed and mutually agreed to by campus faculty and administration, the following significant changes were unilaterally mandated:

1. Full- and part-time temporary employees were denied access to the procedures and thus removed from coverage by any procedure. This remains the situation today.
2. A grievant could not be represented during the procedure by another person without claiming (and acceptance of the claim by the grievance committee) to be "incompetent on emotional, mental, or physical grounds to represent himself. . . ." This provision has since been set aside by law.
3. The Chancellor's Review Committee, rather than rendering a binding decision in off-campus appeal, became a recommending panel to the Chancellor, who made the final determination. Prior to the Committee's review, an initial screening by the Chancellor's Office was introduced. (There is currently a different procedure for off-campus appeals.)

This last provision was particularly difficult for the faculty to accept. Many viewed it as an overt move on the part of the Chancellor to ensure that he could attain the outcomes of grievances which he desired. After losing a celebrated case at San Jose, and with another — which received even more publicity — in process, Executive Order 112 was issued on September 30, 1970, as an "emergency" provision and applied retroactively to all cases which were in process. This Executive Order was issued under authority delegated to the Chancellor by an addition to Title 5, filed on September 28, 1970, "as an emergency; effective upon filing."

The initial screening by staff in the Office of the Chancellor resulted, in most cases, in denial of access to review by the Chancellor — more than three-fourths of all appeals were blocked at this initial stage. The objective of the screening (for those few which were reviewed) by the Chancellor appeared to be to find a basis for upholding the decision of a president in not agreeing with the (campus) grievance panel. Even in instances in which the Chancellor's Review Committee found for the grievant, the Chancellor usually upheld the decision of the president.

The Harmer Bill

On March 6, 1973, SB 315 (Harmer) became effective. The Bill amended Section 3528 of the Government Code to read:

Employee organizations shall have the right to represent their members in their employment relations, *including grievances*, with the State. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership. Nothing in this section shall prohibit any employee from appearing in his own behalf *or through his chosen representative* in his employment relations *and grievances* with the State.

The Office of General Counsel gave the legal interpretation that since the Bill did not explicitly state a requirement that an attorney may be chosen by a grievant as representative, attorneys may be excluded. In response, Executive Order 173 was issued on March 5, 1973. Based on the legal interpretation cited above, a grievant was permitted to choose a "representative, who is not an attorney admitted to practice law before any state or federal court." The grievance would be heard by a faculty grievance panel - a provision which had appeared in every procedure issued up to that time. There was no substantive change in any part of the existing grievance procedure, except to specify that a grievant could have such representation.

The Academic Senate (and faculty membership organizations) expressed strong opposition to the interpretation by the General Counsel. An opinion by the Office of the Legislative Counsel, issued at the initiative of employee organizations, stated that an attorney could not be excluded from the proceedings if the grievant or any other party wished to retain one as representative. Executive Order 176 was issued on May 16, 1973, in order to comply.

There was more to Executive Order 176, however, than mere accommodation to existing law. It was decided, over the objection of Senate representatives, that in any case in which a grievant chooses a representative - whether an attorney or not - the faculty grievance committee would be excluded from the hearing. Hearings would be held by hearing officers for the purpose of finding facts.

Such an extreme reaction to the effects of the Harmer Bill could only be viewed by faculty as administrative retaliation for having to allow representatives in general and, more specifically, attorneys. While accepting the possibility of a need for a legally trained hearing officer to serve as a "referee" whenever attorneys are present, we fail to understand the repudiation of previously acceptable procedures, which called for hearing by a faculty panel for grievants who are represented by non-attorneys.

Binding Arbitration

In November 1973, the Monitoring Committee considered a staff proposal of a complete revision in the grievance procedures which would, among other things, substitute outside arbitration for the off-campus review by the Chancellor. The Monitoring Committee was unable to reach agreement on a large-scale revision. During March 1974, staff met twice with the presidents in order to work out specific wording for a new draft. In this activity no member of the Senate participated nor was any member of the Senate invited to participate. It was only after a threat to withdraw from further participation on the Monitoring Committee that Senate representatives received a copy of the draft document worked out jointly between the staff and the presidents. The Senate copies were

delivered in midafternoon of the day preceding the next meeting of the Monitoring Committee. Two days later the Executive Committee of the Academic Senate, with the concurrence of the Faculty Affairs Committee, unanimously concluded that the existing draft proposal on grievance procedures as recommended by the Chancellor's staff was unacceptable to the Senate.

The Chancellor arranged a meeting of the Executive Committee of the Academic Senate and the Council of Presidents in May. The Chancellor indicated that he had given up for the time being on any full-scale revision such as had been under consideration, and wanted advice as to ways to revise Executive Order 180 -- especially to remove himself from the appeals review process. The group responded by developing a set of principles in accord with which the entire process of appeals beyond the campus would be replaced by outside arbitration. Two days later the Academic Senate endorsed the principles worked out in that joint meeting but indicated that, even with these changes, the grievance procedures would remain unacceptable to the Senate. The following week, the Council of Presidents declined to approve the principles.

The Chancellor announced, on May 17, that Executive Order 201 was to be issued and that in it the role of the Chancellor in off-campus appeals would be replaced by binding arbitration. All on-campus provisions would remain unchanged. Executive Order 201 was issued on June 10, 1974.

Monitoring Committee on Grievance/Disciplinary Procedures

The Monitoring Committee was established over three and one-half years ago. Though the Committee was established to monitor the application of grievance procedures in order to develop proposals for improvements, the Committee has yet to examine the first case. All of the meetings have been devoted to *revision*.

Our experience with the Committee has left much to be desired. For example, during the spring of 1973, while attempting to adjust the procedures to the requirements of the Harmer Bill, the Committee met twice. The first time the members of staff, the presidents, and Senate representatives (the Trustees could not attend) developed a compromise package and the attorney was instructed to return to the next meeting with the embodiment of that agreement in appropriate language. One of the presidents who had agreed with the faculty representatives in that meeting was subsequently replaced by the Council of Presidents. At the next meeting, with the new member in attendance, all the basic issues had to be considered anew, and the former compromises were rejected. The inability of the Monitoring Committee in the following year to reach agreement on revisions of the grievance procedures has been recounted above.

In April 1974, as a result of the impasses reached within the Monitoring Committee, the Chancellor called for a joint meeting of the Executive Committees of the Council of Presidents and the Academic Senate. The scheduled meeting was cancelled because of an unwillingness on the part of the presidents to participate in "negotiation." Many faculty view the unwillingness of the presidents to sit together voluntarily to discuss issues informally with elected faculty representatives as an example which points to the need for a means to mandate what will become involuntary and formal discussions.

At the joint meeting which was ultimately held, Chancellor Dumke mentioned that the coverage of lecturers and the question of representation should be addressed. That, coupled with the fact that a widespread revision of the grievance procedure had been under discussion by the Monitoring Committee for some time, led Senate leaders to believe that discussions of grievance procedures

would be continuing. Unfortunately, such was not the case. The joint meeting (May 8, 1974) was the last time representatives of the Academic Senate, the presidents, and staff have met jointly to discuss grievance procedures.

During the final period of legislative review of The California State University and Colleges budget, the Chancellor was under intense pressure from Sacramento to make changes in the grievance procedures. On May 17, the Chancellor formally announced his intention to replace final review by the Chancellor with binding arbitration. Once this was accomplished and the budget was secure, there was apparently insufficient motivation for a reconvening of the Monitoring Committee throughout the remainder of 1974.

On April 16, 1975, a full year after the last meeting of the Monitoring Committee, Dr. Adams sent a memo to Vice Chancellor Keene, requesting a meeting of the Monitoring Committee. He cited the fact that the faculty had a reasonable expectation the previous year that further modifications of Executive Order 201 would be developed. Some of the presidents called for a reconsideration of the binding arbitration provision at the Gifts and Public Affairs Committee meeting in May of this year. There is an expectation that the Monitoring Committee will meet in September to begin monitoring the effectiveness of current procedures.

Summary

The foregoing discussion is designed not only to recount the facts of the major changes in the evolution of grievance procedures within our system, but also to give our feelings about not only their substance, but the manner in which they have come about. The fact that we have in the past concluded that legislative action is the only course left open to us is but a reflection of our frustration with "in-house" solutions. We prefer to stay within our system and to settle our differences on a good-faith, collegial basis.

The Academic Senate reiterates its willingness to seek in good faith to reach agreement on a mutually acceptable procedure. We must admit, however, to a genuine scepticism regarding the efficacy of any discussion of revision within the Monitoring Committee. We believe it can serve a useful function in monitoring and have urged that it be reconvened. During the three and one-half years of the existence of the Monitoring Committee, there have been five (5) different Executive Orders which promulgated new grievance procedures. None of the changes which appeared in these various Executive Orders had its origin within the Monitoring Committee. The two major changes which have occurred appear to have resulted from actions in Sacramento.

Neither the Harmer Bill nor the Berman Bill constitutes a set of grievance procedures. Each specifies principles which must be included in any procedure developed internally. Up until the present time such legislative actions have been the only avenues apparent to us to bring about desirable changes in the existing grievance procedures. We do not expect to have our way in all instances, but we do expect a collegial relationship in which faculty and administrative representatives can meet and work cooperatively to seek to reach agreement on matters of educational and professional policy.

Unresolved Issues

There are several major issues which need to be addressed to make the grievance procedures acceptable to the Academic Senate. These include:

1. The access by all part-time and temporary faculty to grievance procedures: Grievance procedures are provided because of the recognition that policies and procedures are

administered by people. The need for checks and balances in decision making as well as the need for review and adjudication of grievances is well recognized. Hence, all full-time tenured and probationary employees have access to a grievance procedure whenever they allege that there has been arbitrary action, a substantial unfair departure from duly established procedure, or the ignoring of substantial favorable evidence. Part-time and temporary faculty, on the other hand, have no internal channel to seek redress of grievances. The denial of access to procedures implies either that arbitrary action, unfair departure from procedures, or the ignoring of favorable evidence do not happen to part-time or temporary faculty, or that these are acceptable practices relative to these faculty.

2. The right of a hearing *before a group of peers* for any grievant, including one who chooses to be represented by another person, whether an attorney or not: In the event there is a demonstrated need for a hearing officer, his/her role should be that of "referee" between representatives. We believe that the faculty panel should sit as a "jury" to determine the facts and make a recommendation.
3. The deletion of the reference to the burden of proof by the grievant in the arbitration phase: The grievant, throughout the campus phase of the grievance, has carried the burden of proof both in regard to the allegations of unfair treatment and in regard to his or her qualifications for any position sought, before the grievance committee or before a hearing officer.

The president's decision is the major issue before the arbitrator. The burden of justifying that decision must lie with the president. In particular, along with the president's authority must go the responsibility for making clear the compelling reasons which have led the president to reject the recommendations of the grievance committee.

Other issues which should be addressed are screening, the need for and role of hearing officers, the double role of the president, the hearing panel pool, open hearings and open files.

We hope that as a result of the present discussion we can and will develop both the will and the mechanism which will enable the development of a grievance procedure which is acceptable to all.

APPENDIX 1

AMENDED IN SENATE AUGUST 7, 1975

AMENDED IN ASSEMBLY MAY 6, 1975

CALIFORNIA LEGISLATURE—1975-76 REGULAR SESSION

ASSEMBLY BILL

No. 804

Introduced by Assemblyman Berman

February 17, 1975

REFERRED TO COMMITTEE ON PUBLIC EMPLOYEES AND RETIREMENT

An act to add Section 24315 to the Education Code, relating to the California State University and Colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 804, as amended, Berman (P.E. & Ret.). CSUC: grievance-disciplinary procedures.

Existing statutes do not address themselves specifically to grievance procedures for academic employees of the Trustees of the California State University and Colleges; however, the trustees, pursuant to their general statutory powers re administering the system and governing employees, have adopted administrative regulations which delegate to the chancellor the duty to prescribe rules of procedure for grievance proceedings for academic personnel. Existing statutes provide grounds and procedures for the dismissal, demotion, and suspension of employees of the trustees, and afford affected employees the right to a hearing by the State Personnel Board.

This bill would require the Trustees of the California State University and Colleges to establish grievance and disciplinary action procedures for academic employees whereby grievances and disciplinary actions shall be heard before a faculty hearing committee which is required to make recommendations to state university and college presidents, each

party to the dispute having specific procedural rights. This bill would provide for arbitration if a state university or college president and faculty committee's decisions are in disagreement.

This bill would specify that in the case of a grievance or disciplinary hearing which is subject to a State Personnel Board hearing, the academic employee shall have a choice of the foregoing procedures or those prescribed by Secs. 24306 to 24309, inclusive, and Sec. 24311.1, Education Code, but that the prescribed grievance procedure is exclusive with respect to grievances not subject to a State Personnel Board hearing.

This bill would define "grievance."

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 24315 is added to the Education
2 Code, to read:

3 24315. The Trustees of the California State University
4 and Colleges shall establish grievance and disciplinary
5 action procedures for all academic employees, including
6 all temporary employees who have been employed for
7 more than one semester or quarter, whereby:

8 (a) Grievances and disciplinary actions shall be heard
9 by a faculty hearing committee composed of full-time
10 faculty members, selected by lot from a panel elected by
11 the campus faculty, which shall make a recommendation
12 to the president of the state university or college.

13 (b) The grievance or disciplinary hearing shall be
14 open to the public at the option of the person aggrieved
15 or the person charged in a disciplinary hearing.

16 (c) Each party to the dispute shall have the right of
17 representation by a faculty advisor or counsel of his
18 choice and to be provided access to a ~~tape~~ complete
19 record of the hearing.

20 (d) If there is disagreement between the faculty
21 hearing committee's decision and the university or
22 college president's decision, the matter shall go before an

The California State University and Colleges
Office of the Chancellor
5670 Wilshire Boulevard
Los Angeles, California 90036

September 2, 1975

To: Members of the Board of Trustees and Presidents

From: *C. Mansel Keene*
C. Mansel Keene, Vice Chancellor
Faculty and Staff Affairs

REC'D

SEP 5 1975

Subject: Collective Bargaining Legislation

ASCSUC

More collective bargaining bills that would be applicable to the public sector were introduced during this session of the Legislature than during any previous session. The major bill was Senate Bill 275 authored by Senator Dills with the principal co-author on the Assembly side, Mr. Berman. That bill was introduced January 23, 1975. It was then and is now an omnibus collective bargaining bill covering public employees in every sector. Amendments to the bill were introduced on March 3 and 13, April 9 and 21 and finally on June 16. The bill had the support of the administration, and the Governor, through his staff and personally, became involved in mediating between the parties at interest for the purpose of achieving a consensus on the provisions of the bill.

The bill was voted out of the Senate Governmental Organization Committee on April 15, 1975. It then went to the Senate Finance Committee where from the outset it was apparent that the bill was in trouble. It was at that point that Assembly Bill 119, which had been introduced by Assemblyman Greene late in December 1974 as a spot bill was again amended to show the author as Assemblyman Dixon, but it remained essentially a spot bill. On May 8, 1975, Assembly Bill 119(Dixon) was amended to be identical to Senate Bill 275. The purpose of this was to have a bill that would be ready to move on the Assembly side in the event Senate Bill 275 was voted down in the Senate Finance Committee.

As previously indicated, the Governor became directly involved in mediating between the parties, and during the week of June 9 he intensified his efforts to bring the parties together in support of Senate Bill 275. The Governor presided over several meetings in the Capitol and over at least one meeting in Los Angeles. Amendments were hammered out and the bill had the support of virtually all the labor groups--with a notable exception of the California School Employees Association--and many

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management organizations including the League of Cities and the organization representing the California Supervisors throughout the State. There were some major management organizations which did not support the bill and they included the CSUC which considered the measure to be inimical to the academic process, the big five school districts as well as most of the other K-14 school districts throughout the State. Further, the City of San Diego remained steadfast in its opposition to Senate Bill 275.

Sometime during the negotiations headed up by the Governor the determination was made to incorporate Senate Bill 275 along with the amendments worked out during the Governor's sessions into Senate Bill 4. Senate Bill 4 had been introduced on December 2, 1974, by Senator Moscone as a spot bill. It was amended on May 7 into a bill which covered all education from kindergarten through higher education. It was again amended on May 20 with the author accepting amendments such as a limited form of public participation in negotiations (sunshine amendment), the right of individuals to opt out of the agency shop provisions for religious reasons (conscience clause), the right of students in higher education to participate in the negotiating process and several other amendments which were in Senate Bill 275. Still, at that juncture, Senate Bill 4 covered only education and no other segment of public employment. On June 17, Senate Bill 4 was again amended and for all practical purposes it became Senate Bill 275 and included the amendments which were hammered out during the negotiating sessions presided over by the Governor. On June 18 and 19 the Senate Finance Committee was scheduled to hear several collective bargaining bills. The principal bill and one then supported by the Governor was Senate Bill 4 which had been amended to show the authors as being Senators Dills, Moscone, Collier and Marks. Several amendments were introduced, some of which carried and some of which failed. The most significant of the amendments was one introduced by Senator Petris which provided for limited student participation in the negotiating process for higher education. The California Federation of Teachers, the United Professors of California, the AFT Council of the University of California and the California Labor Federation spoke against the amendment. The California Labor Federation indicated that if the amendment carried it would withdraw its support from the bill. It carried by a vote of 9-4. Shortly thereafter a motion to put over further consideration until after the summer recess carried. The effect is that the bill remains alive in the Senate Finance Committee and may be heard between January 5 and January 23, 1976. If it is enacted into law, its provisions will not become effective until January 1, 1977.

On June 20 Assembly Bill 119(Dixon) was scheduled to be heard by the Assembly Ways and Means Committee. The California Labor Federation, still objecting to the student amendment which had become a part of the measure, voiced the same objections it had raised on the previous day at the Senate Finance Committee hearings. For that and other reasons consideration of the Dixon measure was put over until after the summer recess. The effect of the fiscal committee's failure to act by the June 20 deadline was precisely the same for Assembly Bill 119 as the Senate Committee's action on Senate Bill 4 had been on the day before.

In the latest series of developments, Assembly Bill 1781(Z'berg), which had been a bill which would have placed the CSUC and the University of California under the provisions of the Meyers-Miliias-Brown Act, was amended into an omnibus collective bargaining bill nearly identical to Senate Bill 4 and Assembly Bill 119. The significant difference between this measure and earlier omnibus bills was that county and municipal employees were not covered by the bill. Further, the bill contained a definition of scope of bargaining for higher education which was quite different from the industrial model and is considered by the CSUC administration to be more appropriate for an institution of higher education. The bill passed out of the Senate Governmental Organization Committee August 15 by a vote of 6-2. It was heard before the Senate Finance Committee on August 26. Several amendments were adopted including the conscience clause. A motion which would have changed the scope of bargaining for higher education so that it would have tracked the industrial model narrowly failed. The bill later died in Committee by a vote of 2-8. There is the possibility, but a low probability, that the bill will be reconsidered during January 1976.

It is not possible to say with certainty why Assembly Bill 1781 failed to clear the Committee. It is known, however, that the Committee members and those testifying in opposition to the bill made reference to the recent policemen's strike in San Francisco and the financial difficulties with which New York City is now burdened. Legislative Analyst A. Alan Post, in his testimony, made reference to the situations in those two cities and suggested that there would surely be additional costs were the bill to become law and that considering those costs, which were not specified, it would probably be in the best interests of the State to continue operating under existing statutes.

In addition, last week Assembly Bill 1584(Dixon) which had cleared the Assembly and the policy committee of the Senate in a form quite different from collective bargaining measures, was amended into an omnibus collective bargaining bill covering all State employees but, in a fashion similar to the provisions of Assembly Bill 1781, omitted from coverage municipal and county employees. The bill was further amended to show the author as Assemblyman Z'berg. It had been scheduled for hearing in the Senate Finance Committee on August 27 but was removed from the calendar. It remains alive in that Committee and may be heard during January 1976.

Finally, Senate Bill 160(Rodda), a collective bargaining bill covering public school employees in the K-14 sector, has cleared the Senate, the policy and fiscal committees of the Assembly and is now awaiting hearing action by the full Assembly. If it passes, there is a strong possibility that the Governor will veto it since he has voiced opposition to the concept of piecemeal collective bargaining bills and prefers an omnibus bill. If the bill does not become law, the prospects for a collective bargaining bill's being enacted next year would as of this moment seem somewhat diminished because of the rising public sentiment against

collective bargaining in the public sector generated by the previously alluded to situations in San Francisco and New York City. On the other hand, if Senate Bill 160 does become law, there would exist a good argument for extending collective bargaining to other employees in the public sector in the interest of equity.

The best assumption at this juncture is that there will not be a collective bargaining bill applicable to the CSUC even in January 1977. That is merely a probability and it would be in the best interests of the system to proceed as though a bill will be enacted by that time. It should be considered that virtually every political prognosticator predicted that a bill would become effective by January 1, 1976. It can be concluded that the CSUC now has additional time with which it can prepare for collective bargaining.

Further, it furnishes the CSUC with a period of time to intensify efforts to open up lines of communication with employees and demonstrate through the implementation of policies that collective bargaining is not the vehicle which will provide them with solutions to what they have identified as problems. That should be the primary goal over the next six to twelve months.

SJB:jhb

OBJECTIVES OF THE AD HOC COMMITTEE ON STUDENT EVALUATION

- a. The conceptual validity of student evaluation as a measure of the quality of instruction (1) in terms of Cal Poly experience and (2) as reported in the literature of higher education; Linden Nelson and Dan Hawthorne.
- b. The ways in which student evaluation might be used to improve instruction; Gerry Ellerbrock
- c. Soliciting the written views of members of the faculty and students of CPSU, SLO, concerning student evaluation;
- d. The cost of the current program of student evaluation of faculty; Keith Stowe
- e. The effect of the evaluation in standards of instruction;
- f. The use of student evaluation in faculty personnel actions is to include: (Stuart Larson)
 - (1) How are student evaluations now used for promotions, grievance procedure, etc. by administration;
 - (2) How is student evaluation perceived by the faculty;
 - (3) What are suggested guidelines for use and misuse of student evaluations.
- g. The effect of student evaluation on faculty morale.
- h. Legality of student evaluations, Mauri Wilks.