

ACADEMIC SENATE
of
THE CALIFORNIA STATE UNIVERSITY

AS-2537-01/FA
May 10-11, 2001

Support for SB 1212 (Romero): Higher education labor
relations: memorandum of understanding

- RESOLVED: That the Academic Senate of the California State University (CSU) endorse the principle that faculty in the CSU should have the strongest possible protection of their due process rights in order to preserve their intellectual and academic freedom in the classroom and in their teaching and scholarly, and creative work; and be it further
- RESOLVED: That the Academic Senate CSU remind all members of the CSU community that the American Association of University Professors (AAUP) has long since articulated due process principles that have set a standard for faculty in American colleges and universities; and be it further
- RESOLVED: That the Academic Senate CSU recognize that the protections spelled out in Section 89542.5 of the Education Code provide only a baseline with respect to due process rights, one that should not be eroded but should, in fact, be strengthened as a result of collective bargaining; and be it further
- RESOLVED: That the Academic Senate find unacceptable any effort to effect a *tradeoff* between a strong due process system and other needs and requirements of faculty; and be it further
- RESOLVED: That the Academic Senate CSU, believing that strong due process protections lie at the heart of academic freedom and the health of the academy, urge that members of the CSU community make every effort to realize the goal stated in the Higher Education Employer-Employee Relations Act (HEERA) of "harmonious and cooperative labor relations"; and be it further
- RESOLVED: That the Academic Senate CSU note that presently unsettled points in discussions of due process rights of faculty are amenable to resolution in good-faith discussions; and be it further

RESOLVED: That the Academic Senate CSU support SB 1212 (Romero), whose intent is to protect due process rights of CSU faculty; and be it further

RESOLVED: That the Academic Senate CSU send copies of this resolution to the Chancellor, Board of Trustees, California Faculty Association (CFA), campus senates, and members of the California legislature.

RATIONALE: In its initial proposals for the current contract bargaining, CSU has argued that faculty due process rights, including arbitration, should be at the least reduced, and at worst eliminated. Proposed legislation would contain that effort, requiring that "existing law relative to grievance and disciplinary action procedures in the CSU may not be superseded by a memorandum of understanding (MOU) unless the MOU provides more than the minimum level of benefits or rights provided by that law."

APPROVED – May 10-11, 2001

SENATE BILL

No. 1212

Introduced by Senator Romero

March 19, 2001

An act to amend Section 3572.5 of the Government Code, relating to higher education labor relations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1212, as introduced, Romero. Higher education labor relations: memorandum of understanding.

Existing law relating to higher education labor relations provides that, in the case where various specified statutes conflict with a memorandum of understanding, the memorandum of understanding shall be controlling.

This bill would, instead, provide that, with respect to a memorandum of understanding entered into on or after January 1, 2002, a prescribed statutory provision provides a minimum level of benefits or rights and shall be superseded by a memorandum of understanding only if the relevant terms of the memorandum of understanding provide more than the minimum level of benefits or rights provided by that statute.

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 3572.5 of the Government Code is
- 2 amended to read:
- 3 3572.5. ~~In~~ (a) *Except as provided in subdivision (b), in the*
- 4 *case where the following provisions of law are in conflict with a*
- 5 *memorandum of understanding, the memorandum of*
- 6 *understanding shall be controlling.*

1 (a)–

2 (1) Part 13 (commencing with Section 22000) of ~~Division 1 of~~
3 ~~Title 1 of,~~ and Sections 66609, 89007, 89039, 89500, 89501,
4 89502, 89503, 89504, 89505, 89505.5, 89506, 89507, 89508,
5 ~~89509,~~ 89510, 89512, 89513, 89514, 89515, 89516, 89517,
6 89518, 89519, 89520, 89523, 89524, 89527, 89531, 89532,
7 89533, 89534, 89537, 89541, 89542, ~~89542.5,~~ 89543, 89544,
8 89545, 89546, 89550, 89551, 89552, 89553, 89554, 89555,
9 89556, 89700, and 89701 of, the Education Code.

10 (b)–

11 (2) Sections 825, 825.2, 825.6, 3569.5, 6700, 11020, and
12 11021 of, Chapter 4 2 (commencing with Section 18150) of Part
13 1 of Division 5 of Title 2 of, Sections 18200, 19841, 19848,
14 19850.6, ~~and 19864,~~ ~~and 19875~~ of, Article 4 (commencing with
15 Section 19869) and Article 5 (commencing with Section 19878)
16 of Chapter 2.5 of Part 2.6 of Division 5 of Title 2 of, and Section
17 22825.1 of, the Government Code.

18 (c)–

19 (3) Sections 395, 395.01, 395.05, 395.1, and 395.3 of the
20 Military and Veterans Code.

21 (b) (1) *Notwithstanding the inclusion, in Section 89542.5 of*
22 *the Education Code, except with respect to subdivision (e) of that*
23 *section, of a provision providing that, if the statute is in conflict*
24 *with a memorandum of understanding reached pursuant to this*
25 *chapter, the memorandum of understanding shall be controlling*
26 *without further legislative action unless the memorandum of*
27 *understanding requires the expenditure of funds, that section,*
28 *except for subdivision (e) of that section, provides a minimum level*
29 *of benefits or rights, and is superseded by a memorandum of*
30 *understanding only if the relevant terms of the memorandum of*
31 *understanding provide more than the minimum level of benefits or*
32 *rights set forth in that section, except for subdivision (e) of that*
33 *section.*

34 (2) *This subdivision only applies to a memorandum of*
35 *understanding entered into on or after January 1, 2002.*

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