

AGENDA

COMMITTEE OF THE WHOLE

Meeting: 10:00 a.m., Wednesday, March 17, 1999
Auditorium

William Hauck, Chairman
Joan Otomo-Corgel, Vice Chairman
William D. Campbell
Ronald L. Cedillos
Martha C. Fallgatter
Bob Foster
Harold Goldwhite
Laurence K. Gould, Jr.
Eric C. Mitchell
Ralph R. Pesqueira
Frederick W. Pierce, IV
Ali C. Razi
Charles B. Reed, Chancellor
Michael D. Stennis
Anthony M. Vitti
Stanley T. Wang

Consent Items

Approval of Minutes of Meeting of September 16, 1998

Discussion Items

1. Litigation Report No. 9, *Information*

**MINUTES OF MEETING OF
COMMITTEE OF THE WHOLE**

**Trustees of The California State University
Glenn S. Dumke Conference Center
400 Golden Shore
Long Beach, California**

September 16, 1998

Members Present

Joan Otomo-Corgel, Vice Chair
William D. Campbell
Jim Considine
Martha C. Fallgatter
Harold Goldwhite
Laurence K. Gould, Jr.
James H. Gray
Eric C. Mitchell
Maridel Moulton
Ralph E. Pesqueira
Alice S. Petrossian
Ali C. Razi
Charles B. Reed, Chancellor, ex officio
Michael D. Stennis
Anthony M. Vitti
Stanley T. Wang

Members Absent

William Hauck, Chair
Ronald L. Cedillos

Chancellor's Office Staff

June M. Cooper, Senior Vice Chancellor and Interim Chief of Staff
David S. Spence, Executive Vice Chancellor
Richard P. West, Senior Vice Chancellor, Business and Finance
Christine Helwick, General Counsel
Samuel A. Strafaci, Interim Senior Director, Human Resources

In the absence of Chair Hauck, Trustee Otomo-Corgel, vice chair, called the meeting to order at 10:10 a.m.

Consent Agenda

Vice Chair Otomo-Corgel reported that the minutes, Agenda Item 1, Litigation Report No. 8, and Agenda Item 2, Appointment of Member to the California State University Headquarters Building Commission, were consent items. She asked if any committee member desired to take any matter off the consent agenda. Hearing no requests she stated that the minutes of July 14, 1998, and the following items were adopted:

Litigation Report No. 8

The information item presented the biannual report on the status of significant litigation confronting the CSU which (1) has the potential for a systemwide impact; (2) is brought by or against another public agency; or (3) has a high profile or is likely to generate widespread publicity. The cases contained in the report were selected from over 268 active litigation files involving the CSU.

Appointment of Member to the California State University Headquarters Building Commission

This item recommends the appointment of Mr. James Algie as a commissioner to the CSU Headquarters Building Commission for a term ending September 30, 2002.

Mr. Algie has served on the commission since October 1994. His understanding of the authority's activities and his strong financial skills have been an asset to the commission.

The committee recommended approval of the proposed resolution (RCOW 09-98-04).

Discussion Agenda**Conveyance of the Camarillo State Hospital to the California State University**

Richard P. West, senior vice chancellor, business and finance, asked J. Handel Evans, president, California State University, Channel Islands, to present the item.

President Evans introduced a series of slides highlighting the progression of events leading to the final request for conveyance of the site and formal acceptance by the Board of Trustees. President Evans concluded his presentation by reviewing the conditions for acceptance set forth by the board and outlining how all of those conditions have now been met.

Trustee Jim Considine said he wished to thank all of the people from Ventura County who were present to show their support. Trustee Campbell then acknowledged Trustee Considine for all of his hard work and determination in making this project a reality.

Trustee Vitti echoed his appreciation of Trustee Considine's contributions. However, he cautioned that the battle has just begun from a financial standpoint. He stressed the importance of everyone's continued support since there will undoubtedly be some difficult times ahead.

Vice Chair Otomo-Corgel introduced Senator Jack O'Connell who expressed his continuing support for the development of the campus. Senator O'Connell said this was a monumental day not only for Ventura County but for the state of California as well. He thanked Chancellor Reed for all of his efforts and said the addition of the twenty-third campus of the California State University was a historic and remarkable event and one that he was proud to be a part of.

Vice Chair Otomo-Corgel announced that several community leaders wished to share their comments and support. Some of their comments are reflected below.

Mr. Frank Schillo, chairman of the Ventura County Board of Supervisors, said this was the first day of a new era for Ventura County. He said the Board of Supervisors was excited about the increased opportunity for a better educated community and the future possibilities of enhanced business expansion and improved job development in the surrounding area. He thanked Senator O'Connell and President Evans for their hard work and support throughout the process. He concluded by saying that the Ventura County Board of Supervisors will continue to offer their cooperation to the university.

Ms. Charlotte Kraven, mayor of the city of Camarillo, said that the entire City Council supports the formation of the university at the state hospital site and encourages acceptance of the resolution. She thanked President Evans and his staff for addressing every one of their concerns along the way.

Mr. Mike Salida of the Ventura County Taxpayers Association reiterated that the project has broad based community support. He thanked the board, President Evans, and Chancellor Reed for their openness to community involvement and input.

Mr. Allen Jacobs, vice president, Board of Trustees of the Ventura County Community College District, said that the Ventura County Community College District was committed to ensuring the success of the university and making this collaborative effort a model for California's postsecondary schools.

The committee recommended approval of the proposed resolution (RCOW 09-98-05).

Vice Chair Otomo-Corgel welcomed CSU Channel Islands as the twenty-third campus of the California State University.

Adjournment

The meeting adjourned at 10:43 a.m.

BRIEF

Information Item

Agenda Item 1
March 16-17, 1999

COMMITTEE OF THE WHOLE

Litigation Report No. 9

Presentation By

Christine Helwick
General Counsel

Summary

This is the biannual report on the status of significant litigation confronting the CSU, which is presented for information. "Significant" for purposes of this report is defined as litigation: (1) with the potential for a systemwide impact on the CSU; (2) brought by or against another public agency; or (3) which, for other reasons, has a high profile or is likely to generate widespread publicity. *New information since the date of the last report is printed in italics.*

The cases contained in this report have been selected from over 297 active litigation files currently pending which involve the CSU.

ITEM

2

Agenda Item 1

March 16-17, 1999

COMMITTEE OF THE WHOLE

Litigation Report No. 9

New Cases

Board of Trustees v. TCI Cablevision of California, Inc. - Alameda County Superior Court
CSU Hayward has a lease agreement with TCI, a cable television company, whereby TCI agrees to pay a monthly rent and to provide dedicated channels for the campus' educational programming in exchange for TCI's placing a broadcast satellite dish on a campus rooftop. Despite attempted negotiations over many months, TCI has refused to provide the agreed television coverage or suggest any other solution for this dispute. This lawsuit seeks a court order for the agreed television coverage or alternatively an award of damages.

City of Marina v. CSU, et al. - Monterey County Superior Court
Fort Ord Reuse Authority v. CSU, et al. - Monterey County Superior Court
Plaintiffs in these two lawsuits are challenging the adequacy of the final environmental impact report prepared for CSUMB's Physical Master Plan. They allege that the City and FORA will suffer unmitigated adverse impacts if the Plan is implemented and that the CSU improperly fails to recognize the jurisdiction of FORA over campus development that does not involve education or research. These cases are both in the early pleading stage.

DFEH v. San Francisco State University - San Francisco Superior Court
The Department of Fair Employment and Housing (DFEH) is pursuing this action on behalf of Mark Skowronek, who was not hired into a piano tuner position in the College of Creative Arts at SFSU. The complaint alleges that an unqualified female was hired which constitutes sex discrimination. The case is in the discovery phase.

Hilson, et al. v. CSU, Sacramento, et al. - Sacramento County Superior Court
William Hilson was attending a football game at Hornet Field Stadium when a plank gave way and he fell 20 feet to the ground. He suffered multiple fractured vertebrae and ribs, and had to be placed in a full body cast for over two months. His son, who witnessed the fall, and his wife have joined Hilson in the claim for damages. The case is in the pleading phase. The parties are exploring the possibility of mediation.

Rhonda Kuykendall et al. v. San Diego State University et al. - San Diego County Superior Court
Three former employees of the SDSU Foundation claim to have been the victims of sexual harassment, discrimination, and wrongful termination by the Foundation, SDSU and Prof. Lawrence Alfred, a biology professor and Assistant Dean. Dr. Alfred has been disciplined for the conduct giving rise to the complaints. He is not being represented by the CSU, but has been afforded a defense by the Foundation's insurance carrier.

CSU has filed a motion, scheduled to be heard on March 3, 1999, to dismiss the claims against SDSU on legal grounds. All parties have agreed to submit the claims to mediation.

Rios v. Trustees, et al. – Santa Clara County Superior Court

Bartz v. Trustees – Santa Clara County Superior Court

Lidia La Garda Rios, Director of the Office of Equal Opportunity at San Jose State University, was disappointed by a change in her reporting relationship as a result of organizational changes, and her failure to achieve certain high level positions in the department of Human Relations. She claims in this lawsuit to have been the victim of race, national origin and sex discrimination, a hostile work environment, sexual harassment and retaliation. The case is in the early pleading stage.

Steve Bartz, Director of Employee Relations at San Jose State University, was also disappointed when he was not appointed Associate Vice President for Human Resources, one of the positions to which Rios at one time aspired. The position was filled by a male Hispanic candidate, which Bartz claims in his lawsuit to have been reverse discrimination. This case is also in the early pleading stage, although some discovery has commenced.

Smith et al. V. State of California – San Diego County Superior Court

Plaintiffs are a former Cal Poly San Luis Obispo student and her mother. The student suffered a massive stroke, and the lawsuit claims that it was a consequence of her use of birth control pills prescribed by the student Health Center. She is now mentally and physically incapacitated. Plaintiffs claim professional malpractice. The CSU has not yet been properly served with the lawsuit.

Construction Cases

Monterey Mechanical Co. v. Pete Wilson, et al.- United States District Court, Sacramento

Monterey Mechanical Company was the low bidder on a major utilities upgrade project at California Polytechnic State University, San Luis Obispo, but was disqualified for failure to comply with the minority, women, disabled veterans provisions of the California Public Contracts Code. It filed suit claiming the statute creates an unconstitutional exclusive preference. It also requested issuance of a preliminary injunction which would have prohibited CSU from awarding the contract to the successful bidder and required that the award be made to Monterey Mechanical. That motion was denied. Cal Poly awarded the contract to the next lowest bidder which complied with the statute. Monterey Mechanical appealed. The appellate court reversed the lower court decision, ruling the statute, at least partially, unconstitutional. The appellate court then requested briefs as to whether arguments should be reheard by the full appellate court panel. Ultimately, the case was rejected by a majority of the panel, and sent back to the trial court for further proceedings.

On August 24, 1998, the CSU argued on a motion to dismiss that it should not be held liable as a matter of law under one of plaintiff's theories because the court's decision overturning the Public Contracts Code could not reasonably have been foreseen. The Court dismissed that part of the case, but on procedural grounds, and *granted the plaintiff another opportunity to amend. On October 26, 1998, the CSU renewed its motion to dismiss a part of the amended complaint, which was granted. The CSU then filed a motion for summary judgment on the remaining claims. Before that motion was heard, the case was settled for \$100,000. The CSU contributed \$87,500 to the total settlement amount, which is less than CSU's probable exposure to an award of attorneys' fees for plaintiff's successful challenge of the Public Contracts Code.*

Employment Cases

Ali v. California State University, Northridge, et al. - United States District Court - Los Angeles & Los Angeles County Superior Court

Amir Ali, a former campus architect with responsibility to oversee earthquake repairs at CSUN, filed two lawsuits claiming that the campus misused FEMA funds. His federal action alleges violation of the False Claims Act. It is in the discovery phase. His state court action was dismissed for failure to exhaust administrative remedies.

Brown v. California State University - Fresno County Superior Court

Horsford, et al. v. California State University - Fresno County Superior Court

Auwana Brown, a former employee in the CSU Fresno police department, filed a lawsuit claiming to have been sexually harassed by the former Chief of Police, Willie Shell. Daniel Horsford and five other employees or former employees in the CSU Fresno police department filed a separate lawsuit claiming that a variety of actions in the CSU Fresno police department while Shell was Chief constituted reverse discrimination. The plaintiffs in the second action are white, Hispanic and Asian; Shell is black. Plaintiffs in both lawsuits are represented by the same attorney. Shell resigned his employment at CSU Fresno before either lawsuit was filed, and pled no contest to felony charges of misconduct while he was Chief of Police at CSU Bakersfield before coming to Fresno. *Brown was settled in December 1998 for \$275,000. The findings of an internal investigation were that Shell had engaged in some improper conduct with Ms. Brown. These findings are, however, unrelated to the factual basis of the claims in Horsford. That case is now scheduled for trial on September 13, 1999.*

California State Employees' Association, CSU Division, SEIU Local 1000, AFL-CIO v. Public Employment Relations Board - California Court of Appeal, 2d Appellate District

CSEA, the exclusive bargaining representative for units 2, 5, 7 and 9 of the California State University, filed a petition for writ of review requesting the California Court of Appeal to overturn a decision of the Public Employment Relations Board (PERB). The challenged decision determined that CSU had not committed an unfair labor practice when it suspended Merit Salary Adjustments in 1992 before completion of PERB-administered impasse procedures. On December 17, 1996, the Court of Appeal reversed the PERB decision, ruling that it was improper for the CSU unilaterally to change the terms of the collective bargaining agreement before any impasse was declared, and that the CSU had no special statutory protection which permitted it to do so. The Court returned the case to PERB for an order which restores the salary adjustments, with interest, to all affected employees from the date of contract expiration until the successor agreement was negotiated (a one year period). Payments to employees have been made. The only remaining is the eligibility of CSUN interpreters for payment under their unique compensation plan. *The hearing on this issue has been recessed while the parties explore a negotiated settlement.*

Chapman v. Board of Trustees - San Diego County Superior Court

Hill v. Trustees, et al. - Los Angeles County Superior Court

Marvin Chapman and nine other present and former SDSU temporary employees sought a writ of mandate to reclassify them to permanent status. Crystal Hill, a former temporary CSUN employee, also sought a writ of mandate to reclassify her and other similarly situated persons to permanent status. Both claimants are members of CSEA and contended that they attained permanent status by

virtue of the Education Code provisions which took effect, either because collective bargaining was at impasse, or because one collective bargaining agreement had expired and no new agreement was yet in place.

The court denied the petition in each of these cases; *the time for filing appeals has now expired.*

Equal Employment Opportunity Commission v. Humboldt State University, et al. - United States District Court, San Francisco

The EEOC filed this lawsuit against the CSU and the CFA, alleging that not continuing teaching entitlements after age 70 for faculty members in the Faculty Early Retirement Program (FERP), and allocation of FERP benefits based on age, are violations of the Age Discrimination in Employment Act. At the time the faculty members whose interests are impacted elected to enroll in FERP and accept its benefits, mandatory age 70 retirement was permissible in higher education. It was therefore mutually anticipated that the FERP entitlements for these faculty members would cease at age 70 and that was incorporated into FERP. The law has since changed and as a consequence, the EEOC now argues that the teaching benefits of the impacted faculty must be extended for life. The terms of FERP currently provide for a maximum of five years in the program without respect to age.

Although CSU faculty received the totality of benefits they anticipated when entering FERP, the CSU nonetheless faced a considerable exposure in this case because of the change in the law, the language of the Age Discrimination in Employment Act, and the large numbers of faculty throughout the system who might have been entitled to enhanced benefits, including a return to their teaching positions. Efforts to settle culminated in an agreement to resolve the case upon payment to the EEOC of \$90,000. Final settlement documents are now being prepared.

Tillinghast v. Humboldt State University, et al. - United States District Court, San Francisco & Sacramento County Superior Court

Professor Tillinghast brought this action in Federal Court after he forfeited an offer for a lectureship in the religion department at Humboldt State University because he would not sign the loyalty oath required of all state employees by the California Constitution. He alleged that the oath interfered with his religious beliefs in violation of the Religious Freedom Restoration Act. Professor Tillinghast subsequently filed a separate lawsuit in State court on these same issues.

On June 25, 1997, the United States Supreme Court invalidated the Religious Freedom Restoration Act on constitutional grounds. CSU then filed a motion for summary judgment in the Federal action, which was granted on September 4, 1997. Professor Tillinghast has not pressed his state court claim.

Student Cases

Bailey-Shimizu v. Brotherton, et al. - United States District Court, Los Angeles

Pamelalee Bailey-Shimizu, a disabled Native American student at CSU San Bernardino filed this action alleging various civil rights violations because negative comments were made about her attire at a mock counseling session, which included various symbols of her political and religious affiliation. She earlier pursued an unsuccessful student grievance of this claim and now is suing several University employees, including the President.

The case is in the discovery phase.

California National Organization for Women, et al. v. Board of Trustees -

San Francisco County Superior Court

Plaintiffs in this case claimed that CSU was in violation of the law because proportionally fewer female students were participating in NCAA sports than male students. In 1993, a Consent Decree was signed which requires each campus within the CSU to achieve gender equity in athletics by the 1998-99 academic year. According to the *fourth* report prepared to monitor progress on the requirements of the Consent Decree, 56% of the NCAA-eligible undergraduates in the CSU are women and 44% are men; 48% of the intercollegiate athletic participants are women and 52% are men. This reflects an additional 4% increase in the overall participation rate for women since the date of the last report and an 11% total increase since these reports began. The ratios vary from campus to campus. *Five campuses* (Pomona, Humboldt, *Hayward, Los Angeles, and Sonoma*) have achieved the compliance which will be required of all CSU campuses with intercollegiate sports programs *by next year*.

Campos, et. al. v. San Francisco State University, et. al. - United States District Court, San Francisco

Elizabeth Campos, a disabled San Francisco State student, and STARS, an unincorporated association of 20 other disabled students at SFSU, filed this action alleging various civil rights violations and a denial of educational opportunity based on the alleged existence of multiple, although unspecified, architectural barriers throughout the campus. The plaintiffs sought to represent a class of disabled CSU students. The California Faculty Association is also named as a plaintiff in the action claiming injury on behalf of disabled SFSU faculty. The CFA, however, expressly did not seek certification of any class. The plaintiffs are collectively represented by Disability Rights Advocates, an organization which has gained some publicity in the past for pursuing similar litigation against other organizations involving these issues.

The case is in discovery stage. *A class of mobility disabled and/or visually impaired students who have been denied access to university programs, services and/or activities due to the existence of physical barriers has been certified. Trial is set for October 18, 1999.*

Doe, et al. v. Regents, et al. - San Francisco County Superior Court

This is a class action challenging the legal validity of the higher education components of Proposition 187. The case was filed against CSU, the University of California and the California Community Colleges. A preliminary injunction was entered on February 8, 1995, barring implementation of the new law before trial. On November 21, 1997, the court issued a tentative decision dismissing this lawsuit because of the unconstitutionality ruling in the companion federal court action described below, which rendered moot any need to reach the issues in the state court suit. The court has now stayed all further proceedings in this suit pending outcome of all appeals in the companion federal suit.

Gregorio T., et al. v. Wilson, et al. - United States District Court, Los Angeles

This is one of several class actions filed in the Los Angeles Federal District Court challenging Proposition 187. The cases were consolidated before Judge Mariana Pfaelzer, who ruled in November of 1995, among other things, that the reporting requirements of the higher education components of Proposition 187 are unconstitutional. On November 14, 1997, Judge Pfaelzer ruled the balance of the claims preempted by the Personal Responsibility and Work Opportunity (Welfare Reform) Act. Final judgment was entered in March of 1998. The state (not including the CSU or UC) has filed an appeal. Plaintiffs have filed a motion for an award of their attorneys' fees.

Hollander v Munitz, et al. - Sonoma County Superior Court

Lynne Hollander, the widow of 1960s Free Speech activist Mario Savio, sought unsuccessfully in this lawsuit to halt a Sonoma State campus referendum on a proposed student fee increase. The complaint alleged unfair election practices and noncompliance with Trustee policy. A limited temporary restraining order was entered before the election; the court refused to halt the election but stayed implementation of the results pending a subsequent hearing. The referendum was thereafter defeated. Hence, a fee increase is not currently planned for the Sonoma campus, and the parties stipulated that the issue in the subsequently scheduled hearing had become moot. The plaintiff's counsel has nonetheless refused to dismiss this case and indicated his intent to amend the complaint to challenge fee election procedures systemwide.

Landers v. Board of Trustees - Los Angeles County Superior Court

J. Christopher Landers, a fine arts student at California State University Northridge, filed this lawsuit after the campus blocked access to his webpage on the CSUN computer, because it denounced State Senator Cathie Wright and advocated the candidacy of John Birke. The campus concluded that this constituted an impermissible use of State resources for a partisan political purpose.

Landers' application for a temporary restraining order to prohibit the campus from interfering with his freedom of expression was denied. The campus policy on computer use was thereafter amended to clarify that computer use is restricted to university business, including uses associated with the academic programs of the University. Before a different judge, Landers was nonetheless successful in gaining a preliminary injunction against any campus policy which limits the use of the computer for political purposes. The court reasoned that having once created a limited public forum, campus policy cannot thereafter restrict political use.

Both parties filed motions for summary judgment. The CSU's motion was granted and judgment was entered on September 27, 1997. *The case is on appeal.*

Martinez v. State of California, et al. - Sacramento County Superior Court

Karen Martinez, an applicant for the Executive Fellowship Program jointly managed by the Center for California Studies at CSU Sacramento and the Governor's Office, contends in this lawsuit that her selection as an alternate, rather than a finalist, was a product of age discrimination. She bases her claim on a comment made by a representative from the Governor's Office during a committee meeting, which was disclosed to her by one of the CSU members of the committee. The University is being jointly defended with the Governor's Office by the Attorney General. On October 24, 1997, the CSU's motion for summary judgment was granted. *On January 11, 1999, the appellate court affirmed this judgment and ordered CSU to be paid its costs on appeal.*

Muenzberg v. Barnes, et al. - United States District Court, Sacramento

Darrin Muenzberg, a former California Maritime Academy student, claims various civil rights violations because he was allegedly "singled out" and retaliated against for supporting a fellow student who filed a race discrimination complaint against then-Vice President for Student Services, Stephen Barnes. (Barnes has since left the Academy and filed his own lawsuit against the CSU). The retaliation included, among other things, being subjected to an unauthorized drug test. Barnes is being provided a separate defense at CSU expense pursuant to a reservation of the right to disclaim responsibility for his conduct.

The case is in the discovery stage. Trial is set for October 18, 1999.

8

Whole

Agenda Item 1

March 16-17, 1999

Neal, et al. v. Board of Trustees of the CSU, et al. - United States District Court, Fresno

Members of the CSU Bakersfield wrestling team, both men and women, filed this lawsuit to enjoin the elimination of wrestling, or the placement of any cap on the male membership of the team, in order to comply with the Consent Decree in the Cal NOW litigation described above. The plaintiffs argue that both the Consent Decree and the federal regulations implementing Title IX are discriminatory.

In December of 1997, the court ruled that achieving proportionality in male and female participation in athletics is not a "safe harbor" against claims of (reverse) discrimination. The opinion acknowledges its inconsistency with five federal appellate opinions which have considered this same issue. It follows instead a lone Louisiana district court opinion. The court has not foreclosed the CSU from justifying its actions with respect to the Bakersfield wrestling team, but has determined that achieving proportionality is not, by itself, a sufficient justification

The court also issued a temporary restraining order reinstating seven male wrestlers who had been cut from the team pending a preliminary injunction hearing. That matter was heard in March of 1998, and the court took under submission the question of whether CSU should be forbidden from further limiting the wrestling squad size. The court has not yet rendered a further opinion. *Discovery continues, and the case has been set for trial on September 28, 1999.*

Other Cases

California State Employees Association, Local 1000, SEIU, AFL-CIO, CLC v. Trustees – Sacramento County Superior Court

CSEA filed this petition seeking to compel CSU to pay half of the costs for printing and distribution of the 1993-95 collective bargaining agreement. CSU had refused to pay because the document printed by CSEA contained self-promoting materials and its logo, in addition to the contract. At a hearing on July 31, 1998, the court denied CSEA's petition because it had not grieved the matter and therefore failed to exhaust its administrative remedies before filing suit. *CSEA did not appeal, and the matter is now closed.*

Casmalia Resources Site Steering Committee v. State of California, et al. - Los Angeles County Superior Court

Plaintiff, Casmalia Resources Site Steering Committee, is an association of large corporations and other affiliates which have disposed of toxic substances at a now inactive waste treatment, storage and disposal facility in northern Santa Barbara County. Pursuant to a Consent Decree entered into with the Environmental Protection Agency, Casmalia has paid considerable sums to clean-up that site and is now seeking reimbursement from the State on the theory that the State had a duty under a number of statutes to monitor the site, and to pay for the clean-up of wastes it contributed to the site. The CSU is named as a defendant in this lawsuit along with 30 other agencies of the State which purportedly disposed of toxic wastes at this facility. The Attorney General is representing the CSU in this litigation without charge *and has determined that there is no insurance that covers these claims. This case was suspended in January 1999 by a demand from the EPA to approximately 800 entities which used this site, including the State. That demand is under evaluation. Reaching agreement with the EPA would resolve this case. The possibility of state funds being made available to cover this exposure is also being explored.*

Native American Heritage Commission, et al. v. Board of Trustees - Los Angeles County Superior Court

In this action the Native American Heritage Commission and 29 individuals claimed that a 22-acre site on the CSU Long Beach campus should not be developed because it is the location of the ancient Native American village of Puvungna and the only public land suitable as a customary place of worship for certain Native American religions. In April 1995, the CSU's motion for summary judgment was granted. Plaintiffs appealed. In December 1996, the California Court of Appeal overturned the trial court opinion, ruling that because it is a part of the State, the CSU lacks standing to challenge the constitutionality of the statute which permitted the plaintiffs to file this suit. The CSU's petition to the California Supreme Court was denied. The parties are engaged in settlement discussions. *Plaintiffs' counsel has not responded to a CSU proposal for over six months. The trial court has not resumed its jurisdiction over the remaining claim.*

Smart v. Flores, et al.- San Luis Obispo County Superior Court

Plaintiffs are the parents of a Cal Poly student who has been missing since May 1996. The student was last seen returning from an off-campus party with defendant Flores, also a student. Various law enforcement agencies, including the Cal Poly Public Safety Department, have been actively involved in the investigation of this situation, treating it as a potential homicide. The case has generated much press interest and the attention of various elected officials.

Plaintiffs' initial theories against Cal Poly were an alleged negligent police investigation and inadequate lighting, security devices and security personnel. After three attempts at pleading a legally viable claim, the court dismissed this case. Plaintiffs filed an appeal of the court's dismissal, *but prior to filing their appellate brief voluntarily dismissed their lawsuit.* At the plaintiffs' urging, the Governor last year signed "The Kristen Smart Security Act of 1998" which requires all institutions of higher education in the State to enter into written mutual aid agreement with local law enforcement agencies to investigate violent crimes committed on college and university campuses.