

CFA Bargaining Q & A's

Q1: What are CSU's Guiding Principles in Bargaining with the CFA in this Round of Negotiations?

In general terms, CSU's proposals have two primary goals:

- To provide improved procedural and definitional clarity within the Collective Bargaining Agreement, and
- To support the ability of the CSU to provide high quality instruction to our students. This goal is intrinsic to the mission of the California State University.

Q2: What is meant by "improved procedural and definitional clarity?"

Language in the expired Collective Bargaining Agreement is often vague and subject to interpretation. Certain provisions have been grieved and arbitrated many times. For example, individual contract phrases like "similar assignment" and "careful consideration" in Article 12 have come to have very technical meanings as a result of many years of disputes between the parties. Likewise, many grievances have been filed over the way that temporary work is allocated to temporary faculty unit employees, and over the application of the evaluation procedures in Article 15. To deal with many of these procedural and definitional issues, CSU has proposed language changes that are intended to make the contract more understandable and user friendly.

Q3: Does this mean that CSU is not proposing to substantively change the CBA?

No, procedural and definitional clarity is just one part of what CSU is seeking to achieve. CSU has also made a number of proposals that would substantively change the terms of the expired CBA.

Q4: So what is it that CSU is actually proposing to change in the CBA?

CSU has given CFA proposals on eleven of the forty-one Articles currently in the expired CBA. They are:

Article 6: Union Rights

Article 10: Grievance Procedures

Article 12: Appointment

Article 15: Evaluation

Article 19: Disciplinary Action Procedure

Article 21: Summer Term Employment

Article 29: FERP

Article 31: Salary

Article 35: Outside Employment

Article 38: Layoff

Article 41: Duration

In addition, CSU has proposed a new article on coaches, and has provided CFA with substantive proposals on other Articles opened by the CFA, including Article 26 (fee waiver); Article 27 (sabbatical leaves); and Article 40 (Extension for Credit Employment).

Q5: But what are the substantive issues that it is raising, and how do the University's proposals seek to address these issues?

To answer this question, it is necessary to go through each of CSU's proposals in some detail. All of the actual proposals are available for examination and download at http://www.calstate.edu/LaborRel/Contracts_HTML/bargaining_updates.shtml CSU has posted all of the bargaining proposals in support of its belief that the collective bargaining process should be fully transparent in terms of what both parties are formally proposing at the bargaining table. That way, interested parties can always "see for themselves" what is actually going on at any given point in the process.

Article 6: Union Rights

The CSU provides extensive release time to CFA members under the CBA that allows them to participate in the collective bargaining process. Even following the enactment of Agency Fee (Fair Share), the cost of most of this release time is borne by the CSU (non-reimbursable). Even when the union reimburses the CSU for time, it covers only a portion of the costs. CSU's proposal maintains the union's right to release time for its representatives, but seeks to provide a more equitable distribution of the financial burden for this release time. Under the expired CBA, CSU also pays the salary of the CFA President Lillian Taiz (full-time) and Political Action Chair John Travis (half-time).

Using actual data from 2010/11, CSU has calculated that the cost to the CSU (salary and benefits) of this release time is \$1,810,094. Of this \$1.8 million, CFA only reimburses CSU \$319,911. That leaves the CSU with \$1,490,183 as its share of providing union leave. CFA's income in 09/10 from membership dues and agency fee payments was about \$13.2 million. In addition to paying the full salaries and benefits of

faculty on union leave, CSU also routinely hires additional temporary faculty to “backfill” the assignments that would otherwise have been performed by the released faculty member, and such costs are real costs to the CSU when making such additional assignments.

Q6: So what is CSU actually proposing to change in Article 6?

CSU’s main proposals on Article 6 are to:

- Eliminate the requirement that the CSU pay for the CFA’s President and Political Action Committee Chair.
- Reduce the size of the non-reimbursed leave pools on each campus from six to three WTUs per academic term on semester campuses, and from eight to four WTUs per academic term on quarter campuses. CSU is also proposing to reduce the statewide WTU pool from twenty-four WTUs per semester (or quarter equivalent) to sixteen WTUs.
- Change the reimbursement rate paid by CFA from the current bottom step of the Associate scale to the bottom step of the Full Professor scale (or actual cost if lower).
- **Increase** the amount of reimbursed leave available to the CFA from 14 to 16 full-time positions per year. Historically, CFA has made limited use of this reimbursable leave pool. However, given the proposed reductions in non-reimbursable leave, CSU has proposed to give the CFA the ability to maintain its current number of union leaves by WTU, provided the CFA rather than the CSU bears the primary burden of the costs of such leaves.

Article 10: Grievance Procedures

Many of the changes proposed by the CSU in Article 10 are non-substantive changes designed to improve procedural and definitional clarity. However, CSU has proposed a number of substantive changes to this Article including the following:

- In cases involving retention, promotion, and tenure, CSU has proposed language on the standard of review for an arbitrator that is consistent with the standard of review applied by arbitrators prior to the 2007 Collective Bargaining Agreement. That language had been subject to legal challenge by the CFA, a challenge that was ultimately resolved in the favor of the CSU. The proposed standard allows the arbitrator to correct procedural errors, but does not allow the arbitrator to award tenure except in certain extreme situations.

Article 12: Appointment

CSU has made a number of substantive proposals that would affect temporary faculty, including the basis on which 3-year appointments are made, the calculation of “entitlements”, assignment of temporary work, and the ability of the CSU to make conditional full-time appointments.

Q7: Is CSU proposing to eliminate three-year appointments for temporary faculty?

No.

Q8: What changes is CSU proposing to three-year appointments?

Under CSU's proposal, temporary faculty would retain the right to be considered for a three-year appointment after six or more years of consecutive employment. The decision to issue a three-year appointment would be based on a performance review. CSU's proposal in 15.51 states that *"Performance review procedures for review for an initial three (3) year appointment pursuant to Article 12.9 shall be approved by the President after consideration of the recommendations of appropriate faculty committee(s)."*

The award of a three-year contract represents a significant change in status and employment security for the temporary faculty unit member, including enhanced contractual rights for both the assignment of temporary work under Article 12, and in the layoff provisions under Article 38. The CSU believes that careful attention should be paid to the quality of education that the temporary faculty unit member contributes to the CSU prior to that appointment. CSU's proposal fully recognizes the role of shared governance in this process by making it clear that procedures and criteria originate in the appropriate faculty committee before being sent to the President for his/her approval.

Q9: Is CSU proposing to eliminate unconditional appointments for temporary faculty?

No. CSU is not proposing that campuses lose the ability to make unconditional (or guaranteed) appointments and there will be many instances where an "unconditional" appointment will continue to be entirely appropriate. CSU is proposing that the campus have the discretion to decide whether a full-time temporary appointment should be made on a conditional or unconditional basis. A conditional appointment can be reduced based on budget or enrollment without requiring that the faculty member be laid off.

Q10: On what basis is CSU proposing that the administration be able to make conditional full-time temporary appointments?

This proposal represents a significant change from the current position. CSU's basic rationale is that timebase alone should not be the sole factor in determining whether or not someone is given the significant contractual benefits of an unconditional appointment.

Q11: Is CSU proposing to eliminate temporary faculty "entitlements"?

CSU is proposing modifications to the way that temporary faculty unit employee "entitlements" are established. CSU is proposing that summer work not be included as part of the temporary faculty unit

employee's entitlement base unless the summer term is part of the temporary faculty unit employee's regular academic year appointment. In the expired contract, summer work was only included under limited circumstances.

Q12: Has CSU proposed changes in the assignment of work to temporary faculty?

Yes. CSU has proposed changes in the order that new or additional work is assigned to temporary faculty with CSU appointments. The proposed changes still recognize the contributions of our continuing faculty and in particular give temporary faculty holding three-year appointments significant preference for available work. The CSU proposal also places a priority on meeting the entitlements of temporary faculty who have been reappointed to one-year contracts after working for the CSU in the prior year. However, these proposals are carefully constructed to balance the needs of providing stability for our current temporary faculty with the ability of the campus to assign work to instructors who have the qualifications and skills needed to meet the campus's instructional needs, whether they are currently working for the university as part-time faculty or are new to the CSU.

Q13: Why is CSU proposing to create a new article focusing on coaches?

CSU is proposing a separate Article for coaches because the terms and conditions of employment for coaches are significantly different from other faculty. While many of the provisions are merely consolidations of existing contractual language, CSU has also proposed substantive changes consistent with its proposals for other temporary faculty. Putting all the coach specific provisions in one Article would make it much easier to identify which provisions apply (or do not apply) to coaches.

Article 15: Evaluation

Q14: Is the CSU proposing that all classes have student evaluations?

Under the CSU's proposal the "default" position would be that all classes are evaluated unless the *"President has approved a requirement to evaluate fewer classes after consideration of the recommendations of appropriate faculty committees."* In other words, the decision as to how many classes would be evaluated would ultimately be made through the shared governance process.

Q15: What is CSU proposing regarding on-line student evaluations?

CSU has proposed that campuses wishing to move to electronic student evaluations be allowed to do so. CSU has also proposed that results of evaluations may be stored in electronic format and incorporated by extension into the Personnel Action file *"provided that individuals involved in evaluations and personnel recommendations or decisions are provided secure access for these purposes."* Until now, each campus has had to negotiate separately over the implementation of on-line student evaluations. Rather

than continue these piecemeal negotiations, the CSU believes that the time is right to allow those campuses that wish to do so to move over to an electronic format.

Article 19: Disciplinary Action Procedure

Q16: What is CSU proposing on Discipline?

CSU has made limited proposals on Article 19. The major substantive change is that the CSU has proposed to delete the provision that requires that certain specific disciplinary actions -- dismissal, demotion or suspension without pay for more than 30 days – be automatically held in abeyance until a final decision is reached when the discipline is submitted to arbitration. At the moment, a faculty member continues to receive full pay during the process of any appeal irrespective of the conduct in question and the substantive merit of any appeal. There is no comparable provision in the State Personnel Board process. Under CSU's proposal, the parties may still agree to hold the sanction in abeyance on a case by case basis.

Article 21: Summer Term Employment

Q17: Do the CSU's proposals eliminate state-supported summer?

No, CSU is proposing to limit Article 21 to state supported summer work. When a campus offers a state-supported summer session, the terms of Article 21 will govern appointments. Self-supported summer sessions offered through Extended Education would be dealt with exclusively under Article 40.

Q18: Has the CSU proposed changes to the current rate of pay for state-supported summer work?

No. CSU's proposed changes regarding state-supported summer work are relatively limited. Compensation would continue to be based on the academic year rate of pay. In addition, CSU is not proposing any changes in indirect instruction compensation or probationary and tenured staffing percentages in state-supported summer.

Q19: Does the CSU's proposal maintain the rights of tenured faculty to be offered state-supported summer work first?

Yes. CSU has maintained the prior requirements that probationary and tenured faculty be offered work in state-supported summer terms before temporary work is assigned (up to the percentage specified for the campus).

Q20: Has the CSU proposed changes to the assignment of work to temporary faculty during state-supported summer terms?

The CSU's proposal amends the provisions relating to the way work is assigned to temporary faculty. . While the preferences for 3-year and 1-year temporary faculty who had not had their entitlements met has been retained, the CSU has proposed to delete the requirement that work must then be offered to any other temporary faculty who happened to have taught in the immediately preceding academic year. Under the CSU's proposal, once unmet temporary faculty entitlements have been met, the campus will then be able to appoint any other qualified candidate, including, of course, candidates who taught in the immediately preceding academic year.

Article 26: Fee Waiver

In response to CFA's proposal on fee waiver, CSU has proposed to exclude doctoral programs from the waiver provisions of this article. CSU's rationale is that fee waiver was a benefit negotiated prior to the CSU starting to offer independent doctoral programs. Such programs can be distinguished from other undergraduate and graduate programs by reference both to the level of fees associated with the programs, and limited number of students that the programs are able to serve. Further, as CSU doctoral level education continues to expand in the CSU, there is a potential for the fiscal integrity of these programs to be impacted through the significant level of fees waived under the fee waiver programs, including the faculty fee waiver program. Excluding these levels from the fee waiver program would not, of course, affect the ability of individual faculty members to seek a fee waiver under Article 25 (Professional Development).

Article 27: Sabbaticals

CSU has proposed language in Article 27 to clarify that the President's decision is a *de novo* review during which the President "shall consider" the recommendations of the earlier reviews and any statement under 27.5. The President shall also consider any other campus program needs and/or campus budget implications when making her/his decision.

Article 29: FERP

Q21: What is CSU proposing on FERP; will the FERP Program be eliminated or substantively changed?

No, the CSU has made very limited proposals regarding FERP. The intent behind its primary proposal is that the workload of FERP faculty be determined no differently than that of non-FERP faculty within the

department of the same rank. This proposal is aimed at clarifying the issue following a 2007 arbitration award.

Article 31: Salary

For fiscal years 2010-2011 and 2011-2012 CSU has proposed that salary levels be maintained at current levels. For 2012-13 and 2013-2014 CSU has proposed that either of the parties can elect to re-open salary and benefits by providing notice to the other party.

For 2012-2013, CSU has requested that the legislature fund a 3% compensation pool to be distributed for its represented employee's through the collective bargaining process. While CSU hopes that the legislature will now recognize the clear need for a fully funded compensation pool, there can obviously be no guarantees as to the final outcome of a state budget process that is so inextricably linked to the performance of the wider California economy. Indeed, if recent history has taught us anything, it has been the difficulty of predicting with any degree of certainty the amount of state appropriation that the CSU will actually receive in any given fiscal year. Accordingly, CSU has proposed re-openers for 2012-13 and 2013-14, so that salaries and benefits can be negotiated at a point when CSU's budget has been finalized for the year in dispute.

Article 35: Outside Employment

Q22: What is CSU proposing on outside employment and why?

CSU has proposed that faculty regularly report outside employment. This proposal is consistent with a 2007 report from the Bureau of State Audits. The recommendation of the auditor on faculty dual employment was that

"The university should continue to work with California Faculty Association representatives during the collective bargaining process to strengthen its dual-employment policy by imposing disclosure and approval requirements for faculty. It should also impose similar requirements for other employees, including management personnel. If the university believes it needs a statutory change to facilitate its efforts, it should seek it." (At page 64)

The full audit can be found at <http://www.bsa.ca.gov/pdfs/reports/2007-102.1.pdf>

Article 38: Layoff

Q23: What is CSU proposing on lay-off?

CSU's layoff proposal is once again quite limited, with the main change being a proposal to amend the order of layoff to more closely mirror the proposed changes in CSU's Article 12 proposal. In addition, the CSU has proposed broadening reemployment rights for 3-year appointed temporary faculty to include individuals who have been laid off from a 3-year appointment.

Article 40: Extended Education Employment for Credit

Q24: What is CSU proposing on Article 40?

CSU's first proposal is actually to re-name the Article. In the expired CBA, it is "Extension for Credit Employment" and CSU is proposing to re-name it as "Extended Education for Credit", which CSU believes is a more accurate description of what work is covered under the Article.

Q25: What salary rates are CSU proposing for Article 40 work?

CSU is proposing to maintain the two existing classifications now used for work covered by Article 40. CSU has proposed that Classification Code 2322 be used solely for employment in self-support for credit programs offered through extended education pursuant to Executive Order 1047. This would include courses offered through special session at any time of the year, and would apply to summer sessions offered as self-support. Classification Code 2323 would be used for all self-support extended education for credit employment not governed by EO 1047. These are credit programs offered through Extended Education to non-matriculated students.

Q26: Why is CSU proposing to delete the provision that says that faculty who develop the courses that are offered through extension shall have the right of first preference to teach those courses?

This provision is ambiguous as to what is meant by "develop" a course, and provides no assistance where multiple faculty may legitimately claim to have jointly, or sequentially, developed a particular course now being offered through extended education. There is also no general contractual principle establishing "ownership" of courses offered state-side, either during the regular academic term or in a state-supported summer session. The CSU does not believe that there is any distinguishing aspect in the fact that these courses are offered through extended education for credit. The proposed deletion does not mean that work cannot be offered to these individuals, but it does mean that they would not have a contractual "right" to first preference on any such work.

Q27: What about giving priority in assigning work previously offered as state support courses to 3-year temporary faculty that have not had their "entitlements" met?

CSU is also proposing to delete what was Article 40.21 of the expired CBA. Article 40.3 stipulates that an appointment under Article 40 is “extra work for extra pay” and is, therefore, clearly distinct from a faculty unit employee’s academic year appointment. CSU’s proposal maintains a clear distinction between state-supported academic appointments and appointments through Extended Education, which must be entirely self-supporting. This proposed deletion again does not mean that work cannot be offered to these individuals, but it does mean that they would not have a contractual “right” to first priority on any such work.
