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To: Presidents

From: June M. Cooper
Vice Chancellor
Human Resources and Operations

Subject: Board Resolution adopting changes in working conditions for employees in Bargaining Units 2, 5, 7, and 9.

On March 19, 1996, the Collective Bargaining Committee of the Board of Trustees adopted the enclosed resolutions which change certain terms and conditions of employment of employees in Bargaining Units 2, 5, 7, & 9. The measure was necessary when agreement on a new contract could not be reached with the California State Employees' Association after eleven months of negotiations and the exhaustion of HEERA's impasse procedure. I am also enclosing a copy of the CSU press release on this subject, which may assist your staff in answering employee questions regarding the negotiations.

The changes adopted by the Board provide compensation increases, enable the implementation of the new Information Technology series, and bring University policy in compliance with state and federal statutes dealing with Family Care Leave. The resolutions also eliminate a portion of contract provision 9.2 which established a policy of filling vacant positions with campus applicants, and contained requirements of questionable validity under affirmative action laws. Except for changes contained in the Resolution, the law requires that most terms contained in the old CSEA contract, which expired on July 31, 1995, be maintained as CSU policy. The exceptions to this general rule are situations in which old contract provisions conflict with statute, in which case the statutes are now in effect, and where provisions, such as the arbitration procedure and certain union rights, do not continue to exist absent mutual agreement of the parties. We will provide in the near future a more complete accounting of the status of individual provisions of the previous CSEA contract. In the meantime, the following general guidelines are provided for your use.

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Compensation Increases

The Board Resolution provides open salary ranges for all classifications in Bargaining Units 2, 5, 7, and 9. These ranges contain a Service-based Salary Increase Maximum, and a Performance-based Salary Increase Maximum. All employees in these units will receive a General Salary Increase of 1.2% effective April 1, 1996, and eligible employees will also receive a Service-based salary increase of 2%, also effective on April 1, 1996. A technical letter dealing with the specific implementation of these increases will be issued shortly.

The compensation program also includes a $3 million pool for Performance-based salary increases, which will be added to employees’ base salaries. As indicated in the resolution, the procedures for the award of these increases must be determined by each campus President, and because they are awarded in recognition of outstanding performance, should be linked to employees’ performance evaluations. The pool amount reflects the annualized cost of providing these increases, so they must be retroactive to July 1, 1995, and all funds for this program must be spent during the 1995/96 fiscal year. The amount of each campus pool will be contained in a joint memorandum, from Employee Relations and Budget, issued on this date.

Implementation of Information Technology Classifications

The Resolution provides a salary schedule, including skill levels, several definitions, and procedures necessary for the implementation of this new series. Final Classification Standards and a Technical letter dealing with the implementation will be issued in the near future. Campuses will have until November 1996 to implement the new series.

Policy contained in Provision 9.2 Reverts to Education Code

The Resolution also eliminates legally questionable contract language which required the filling of vacancies from among qualified campus applicants, except under certain limited circumstances. It should be noted, however, that Education Code § 89532 is now applicable in the absence of this provision.

Grievance and Arbitration Procedures

Binding arbitration of grievances exists only as a result of an agreement between the CSU and the CSEA. The Agreement with CSEA expired on July 31, 1995. The Union has been notified that the University will not arbitrate cases in which the grievance is based on events which took place after July 31, 1995. In order to be consistent on this issue, all CSEA requests for arbitration will be reviewed on a case-by-case basis by Employee Relations in the Chancellor’s Office.

All grievances and complaints filed prior to the date of the Resolution should be processed in accordance with the procedure in effect at that time. Except as noted above with regard to post-contract arbitrability of grievances, the complaint and
grievance procedures remain unchanged. However, a grievance is defined as an alleged violation of a term of the Agreement, and the Agreement no longer exists. The grievance procedure without an arbitration clause, and with a scope of review limited to allegations of the violation of CSU policies, is indistinguishable from the complaint procedure. Therefore, the complaint procedure is now the appropriate procedure for use by employees alleging a violation of CSU policies. The Union may continue to represent employees, and may itself be the complainant when alleging a violation of union rights as provided in CSU policies.

Union Rights

The Union has been advised that, effective March 15, 1996, the CSU will no longer agree to provide union leave or release time for union business to bargaining unit members, except as required either by the Higher Education Employer-Employee Relations Act, or under continuing CSU policies such as the complaint procedure. For ease of administration, any union leave approved prior to March 15, 1995, may be taken. Payroll dues deduction will remain in effect, and in the absence of a maintenance of membership contract provision, employees may elect to rescind their Union membership at any time. In order to remain in compliance with HEERA, the union rights provided in provisions 5.1 - 5.10 of the expired CSEA contract will remain in effect as CSU policy.

We continue to review provisions of the expired CSEA contract to determine if the application of statutes superseded by the old contract results in changes to status quo policies. We will notify you of any developments as soon as they arise. Should you or your staff have questions regarding any matters related to this Board resolution, please contact Employee Relations at (310) 985-2670.

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Enclosures
CSU TRUSTEES ADOPT STAFF SALARY INCREASES

The contract negotiations between the California State University system and the California State Employees' Association, which began in April 1995 and included mediation and fact-finding as required under the law, concluded today when the CSU Board of Trustees approved salary increases for more than 12,000 CSEA-represented employees whose pay hikes for fiscal year 1995/96 had to await the conclusion of bargaining.

The fact-finding panel, comprised of a neutral chair appointed by the Public Employees Relations Board and a representative for each party, issued a report that included some pay increases retroactive to Nov. 1, 1995, as well as market/equity adjustments for employees in certain classifications. The report and its recommendations were made public on March 18, 1996.

The CSU panel member supported all the recommendations of the report, including the retroactive salary increases, and indicated that these recommendations could serve as a basis for a new contract. The CSEA panel member dissented on several issues, and Union negotiators subsequently indicated that the CSEA would not agree on a contract based upon the panel's findings. As a consequence, the CSU was not legally permitted to unilaterally implement the retroactive pay raises, and other recommendations of the report.

Not wishing to continue to deny pay raises to several thousand of its employees, the CSU board resolution provides salary increases which are consistent with proposals made by the CSU prior to the bargaining impasse. The resolution includes a 1.2% across the board General Salary Increase for all employees and an additional 2% Service-based salary increase for about 6,000 eligible employees. Both are effective on April 1, 1996.

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The salary program also now will include a pool of $3 million to be provided to employees who demonstrate meritorious performance. These performance increases will be added on to employees' base salaries retroactive to July 1, 1995.

"We would certainly have preferred a negotiated agreement, rather than a board resolution, in order to raise the salaries of these employees," said June Cooper, CSU vice chancellor for human resources and operations. "However, once the union refused to accept the compromise on retroactive pay increases recommended in the fact-finding report, we decided that it would not be in the best interest of our employees to allow their increases to be delayed any longer. Once it desired to increase the salaries of CSEA-represented employees, the board was required to implement changes consistent with our pre-impasse proposals, rather than the fact-finding report's recommendations."

The total annualized cost of all the salary increases is approximately 2.5%, or $8.5 million, which is the same amount offered by the CSU, and rejected by CSEA negotiators, in July of 1995. It is also the same percentage increase agreed upon by other CSU unions early in the fiscal year, including the faculty union, permitting their increases to become effective as early as July of 1995.

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