

FACTFINDING REPORT AND RECOMMENDATIONS

In the Matter of Factfinding)
involving)
)
The California State University)
Employer,) PERB IMPASSE
) NO. LA-IM-3386-H
)
and)
)
United Auto Workers)
Union)

Re: Unit 11 (Academic Student Employees) Fee Waiver Benefit

Concurring Opinion of The California State University

The California State University concurs, without exception, with the Factfinding Report and Recommendations of neutral Factfinding Panel member Arbitrator Walter Daugherty.

With respect to the UAW dissenting opinion, the CSU finds that the UAW's arguments are based upon (1) false assertions of fact, (2) irrelevant issues, and (3) baseless accusations of improprieties by the CSU.

The single issue in this Factfinding proceeding is what, if any, new fee waiver benefit, should be provided in FY 2006/07 by the CSU to Unit 11 Academic Student Employees represented by the UAW. The neutral member of the Factfinding Panel recommended that no fee waiver benefit be implemented. The UAW dissent's main argument is based upon the erroneous and irrelevant assertion that the CSU failed to disclose to the Fact-finding panel that it spent \$4,283,100 less on Unit 11 salaries than it budgeted for Unit 11 salaries in Fiscal Year [FY] 2005/06.

This assertion is false for several reasons. The CSU does not specifically "budget" for Unit 11 salaries, or any other individual staff bargaining unit

salaries. The CSU's annual budget request to the Governor only contains an estimated cost for aggregate increases in overall staff salaries and their associated benefits costs. The annual State Budget Bill's appropriation to the CSU does not itemize a specific budgeted amount for Unit 11 salaries.

The CSU Budget Office calculates estimated Bargaining Unit compensation bases and compensation pool amounts only for the purpose of internal guidance to its collective bargaining representatives. These estimates are sometimes shared with bargaining unit representatives during the collective bargaining process to facilitate the bargaining process and do not represent promises by the CSU to actually expend the estimated amounts. Many intervening variables, such as staff growth or shrinkage, unexpected liabilities or savings, etc. may cause actual expenditures for a particular bargaining unit to be more or less than originally estimated.

Furthermore, the estimated costs for FY 2005/06 Unit 11 salaries and the actual amounts expended on Unit 11 salaries are irrelevant to the FY 2006/007 fee waiver benefit in dispute in this proceeding. Neither the CSU nor the UAW presented any evidence to the Panel concerning Unit 11 salaries for FY 2005/06. Moreover, the negotiations in the reopener bargaining did not include the FY 2005/06 time period. [The parties' agreement specifically provided that no new fee waiver benefit would be provided during FY 2005/06.]

The amounts the CSU Budget Office estimated during FY 2004/05 for the FY 05/06 Unit 11 compensation base and compensation pool have nothing to do with the issue of the fee waiver benefit for FY 2006/07. The CSU's position in this proceeding, sustained by neutral Factfinding Panel member Walter Daugherty, was that the fee waiver benefit sought by the Union represented an unacceptably large percentage increase [42%] of the compensation base for FY 2006/07.

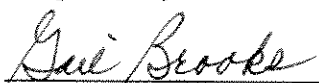
The UAW's dissent does not directly or indirectly challenge that finding by the neutral Factfinding Panel member. Instead, the UAW asserts that the CSU misrepresented the Unit 11 compensation base for FY 2006/07 as \$34.8 million. While it is true that the compensation base was mistakenly presented by the CSU as \$34.8 million, the net impact of such inaccurate representation would have had no bearing on the outcome of the Report. Had the accurate lower amount of the compensation base been presented to the Factfinding Panel by the CSU, the projected percentage cost increase of the fee waiver benefit sought by the UAW would have been even larger and less acceptable to the CSU, as well as the neutral Fact-finder.

Finally, the UAW's dissent falsely assumes the CSU had the unilateral obligation to present evidence to the Panel concerning what had been budgeted and spent for FY 2005/06. The dissent implies the CSU's panel member and advocate were legally or ethically required to present such evidence.

On the contrary, there was no obligation on the part of the CSU advocate or the CSU's Panel member to present evidence to the Panel of the CSU's internal estimates of the Unit 11 compensation base or compensation pool for FY 05/06. As stated above, those estimates and amounts are and were irrelevant to the issue of the parties' dispute over a potential FY 06/07 Fee Waiver benefit. Although the CSU did discover after the Factfinding hearing that it had erroneously communicated the amount of the FY 06/07 Unit 11 compensation base estimate, the CSU immediately corrected this error by immediately notifying the UAW. During the parties' discussions of the Factfinding Report, the UAW had accurate information concerning the FY 06/07 estimated Unit 11 compensation base and compensation pool.

The UAW's claims of alleged misrepresentation by the CSU are without foundation and are no basis for undermining the well-founded recommendation of the neutral Factfinding Panel member.

Respectfully Submitted,



Gail Brooks

Successor CSU Factfinding Panel Member

Dated: May 3, 2007
Long Beach, California