

AGENDA

COMMITTEE OF THE WHOLE

**Meeting: 9:45 a.m., Wednesday, September 22, 2010
Glenn S. Dumke Auditorium**

Herbert L. Carter, Chair
A. Robert Linscheid, Vice Chair
Roberta Achtenberg
Nicole M. Anderson
Carol R. Chandler
Debra S. Farar
Kenneth Fong
Margaret Fortune
George G. Gowgani
Melinda Guzman
William Hauck
Raymond W. Holdsworth
Linda A. Lang
Peter G. Mehas
Henry Mendoza
Lou Monville
Charles B. Reed, Chancellor
Glen O. Toney
C.C. Yin

Consent Items

Approval of Minutes of Meeting of July 13, 2010

Discussion Items

1. General Counsel's Report, *Information*

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

**Trustees of the California State University
Office of the Chancellor
Glenn S. Dumke Auditorium
401 Golden Shore
Long Beach, California**

July 13, 2010

Members Present

Herbert L. Carter, Chair
Robert Linscheid, Vice Chair
Carol R. Chandler
Debra S. Farar
Kenneth Fong
Margaret Fortune
George G. Gowgani
Melinda Guzman
William Hauck
Raymond W. Holdsworth
Linda A. Lang
Peter G. Mehas
Lou Monville
Charles B. Reed, Chancellor
Glen O. Toney
C.C. Yin

Approval of Minutes

The minutes for the May 2010 meeting were approved as submitted.

Concord Naval Weapons Station Acquisition

Executive Vice Chancellor Benjamin F. Quillian presented the revised item requesting trustee approval to explore the acquisition of a portion (150 acres) of the closed Concord Naval Weapons Station as a site for a future CSU East Bay Concord branch campus. (The revised item corrected a typing error in the resolution.) Recognizing the need for higher education in the Concord area, President Qayoumi has been engaged in discussions with the City of Concord, federal agencies, and the Local Reuse Authority and has submitted an application for use of the land. The long range build out for this branch campus would accommodate 25,000 FTE. The proposed board resolution specifically identifies certain conditions which must be met (by other agencies) in order for CSU to move forward with the acquisition, reflecting lessons learned through experience with hidden costs and unforeseen problems with previous land acquisitions.

This proposed acquisition has the potential to serve public higher education needs into the future without putting CSU at financial risk, therefore any conditions not met will be returned to the board for review and consideration.

President Qayoumi concurred with Dr. Quillian's remarks. He added that Contra Costa County is underserved in that it is the only county in California with a population greater than one million without a four-year public education institution. As a result, while the counties in the general Bay Area demonstrate one of the highest college-going rates in California, Contra Costa County does not share in that demographic. Through discussions occurring over the past four years, President Qayoumi and his executive management team have worked to ensure that CSU will not be responsible for any contamination cleanup of the site either before or after the public conveyance.

Chair Carter thanked Dr. Quillian and President Qayoumi for their remarks. He shared his concerns expressed earlier to staff that any commitment from CSU to expand at this time must be made with appropriate constraints to minimize financial risk. He believes that within the context of the conditions/constraints set forth in the item to acquire land for future needs of the university and state, the acquisition was a good idea as long as the financial responsibilities are mitigated satisfactorily to CSU.

Trustee Yin thanked President Qayoumi and the chancellor for their work over the past four years regarding this acquisition, stating that he thinks it is a great addition for the university. He asked if there was a timetable in place for the project. President Qayoumi responded that he estimated between five to seven years before the property would be turned over to CSU based on previous site acquisitions.

Trustee Hauck concurred with Chair Carter's desire to mitigate risk to CSU in this proposed acquisition. He supported the item in light of the specific contingencies set forth in the resolution to protect CSU.

Chancellor Reed noted that the conveyance of 150 acres versus the initial 400 acres discussed with the Navy was the result of experience with other acquisitions that taught us to be more realistic in growing a branch campus. Experience with California State University, Monterey Bay, California State University, Channel Islands, and California State University, San Bernardino—Palm Desert Campus helped draft the contingencies placed in this item to best protect CSU while it considers future growth and expansion.

Trustee Linscheid asked President Qayoumi if student demand for higher education in the Concord area had been calculated. President Qayoumi equated student demand to participation, stating that if participation rates of Contra Costa County are equivalent to those of Alameda County, then the demand is more than 22,000 students.

Trustee Fortune asked Chancellor Reed to address the financial cost of the acquisition. Chancellor Reed stated that there would be no cost in the conveyance of the property. He further

explained that all of the infrastructure costs for the campus build out would be borne by another agency or municipality and the cleanup of the property would be handled by the Department of the Navy.

Trustee Chandler expressed her strong support for the project, commending President Qayoumi for his hard work and persistence in making the acquisition possible. She added that the site is a great location, more accessible than the current branch campus, and located less than a mile from a BART station.

The committee recommended approval by the board of the proposed resolution (RCOW 07-10-02).

Chair Carter adjourned the meeting.

COMMITTEE OF THE WHOLE

General Counsel's Report

Presentation By

Christine Helwick
General Counsel

Litigation Report

This is the semi-annual report on the status of significant litigation confronting the CSU, and 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) that raises significant public policy issues; (3) brought by or against another public agency; or (4) 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 the 73 currently active litigation files. CSU is the party making the claim in one of those files.

New Cases

Bordessa v. MacDonald, et al.

Contra Costa Superior Court

Lauren Bordessa, a SJSU student, has filed this lawsuit for damages against SJSU lecturer Terry MacDonald and the university, alleging negligence for providing her with an herbal tea (yohimbe) in her sociology class without warning of the side effects for persons taking ADHD medication, and for not adequately investigating the incident or issuing a timely warning about the potential harm of the yohimbe. The case is in the pleading stage.

Californians Aware v. CSU, et al.

Stanislaus County Superior Court

Californians Aware filed this lawsuit to compel the Stanislaus campus and/or the campus Foundation to produce the contract that the Foundation entered into with the Washington Speakers' Bureau for the appearance of Sarah Palin at the campus' 50th anniversary gala. The court ruled that the Foundation is not subject to the Public Records Act, is not the alter ego of the campus, and the fact that campus leaders are on the Foundation Board does not subject the contract to production. The court, however, also ruled on unspecified "evidence" that because the university had "used" the contract in the course of public business, the university must produce the contract. The university immediately requested a copy of the contract from the Foundation and has produced it in response to the court's ruling.

Hayden, et al. v. CSU, et al.

Alameda County Superior Court

Four students filed suit to challenge CSU's decision to offer summer and winter courses on a self-support basis, instead of on a state support basis. They argued that CSU was "supplanting" courses in violation of Education Code section 89708. The court ruled in CSU's favor and dismissed the case.

Steward v. Guseman

San Diego County Superior Court

Noma Steward alleges that Dennis Guseman, an employee of CSU San Marcos, struck her and her husband with his car while they were walking in an intersection. Steward suffered severe injuries and her husband died. Guseman was driving to meet friends for breakfast. Steward contends that he was acting in the course and scope of his employment. The case is in the pleading stage.

Construction Cases

Fassberg Construction Co. v. CSU, et al.

Los Angeles County Superior Court

Fassberg Construction Co., the general contractor retained by the CSUCI Site Authority for the residential and commercial construction of the East Campus Town Center project, sued the Site Authority and the CSU for breach of contract and the value of services provided. Fassberg asserted that the Site Authority improperly terminated Fassberg's contract and that it owes approximately \$5.8 million for work Fassberg performed. Fassberg already unsuccessfully pursued this claim before the CSU Contractors Review Board. The CSU tendered its defense to the Site Authority, which has been accepted. *On April 29, 2010, Fassberg dismissed the action against CSU and the CSUCI Site Authority in exchange for a waiver of its costs.*

NetVersant v. Helix Electric, et al.

San Diego County Superior Court

In 2007, Netversant Solutions, a subcontractor, brought an action against Helix Electric, the general contractor on SDSU's telecommunications infrastructure project. The lawsuit includes claims for the reasonable value of work performed, breach of the subcontract, breach of the implied warranty of the fitness of plans, recovery on the bonds, and declaratory relief. In 2009 Helix cross-complained against CSU for breach of the prime contract and for implied contractual indemnity for any damages arising out of Netversant's claims against Helix. Helix also cross-claimed against Netversant's surety, which provided the performance bond on the subcontract. CSU filed a cross-complaint against Helix, its surety and Netversant. *The case is in the discovery stage. Trial is set for January 7, 2011.*

Employment Cases

Baxter-White v. CSU, et al.

San Diego County Superior Court

Kathryn Baxter-White, a former temporary SDSU student health center accounting technician, sued CSU and three individuals for alleged retaliation under the state whistleblower statute, alleging she was retaliated against for complaining that SDSU incorrectly billed a Medi-Cal program. The lawsuit requests that the court reverse the University's determination that there was no whistleblower retaliation, and allow her to pursue her claim for money damages for breach of contract and violation of the whistleblower statutes. *In May 2010, the court upheld the SDSU determination that there was no retaliation. However, in Runyon (see below), another CSU whistleblower retaliation case, the California Supreme Court held that whistleblower retaliation plaintiffs may proceed with a civil action for damages without having overturned the CSU administrative determination. In June 2010, Plaintiff voluntarily dismissed all causes of action other than those for violation of the Whistleblower Protection Act. CSU filed a motion to dismiss the remaining cause of action because Plaintiff failed to timely file a government claim before filing her lawsuit. The motion will be heard on September 3, 2010. No trial date has been set.*

Brown v. CSU, et al.

Fresno County Superior Court

Auwana Brown, a former Fresno State police officer, settled a sexual harassment lawsuit against the University in 1998. As a part of the settlement, Brown agreed to a future resignation after she vested in the state retirement plan (i.e., by August 31, 2000). After a large verdict in another Fresno State police department case was entered on August 11, 2000, Brown asked to unilaterally rescind her resignation less than two weeks before it was to become effective. The campus denied her request. Brown petitioned the State Personnel Board to reinstate her. The SPB refused, and Brown then petitioned the court to order the SPB to set aside her resignation. The court instead sent the case back to the SPB for further findings. After three years of inactivity, the SPB issued a second decision denying Brown reinstatement. Brown also filed a civil suit for damages. Both cases were consolidated, but her civil suit was stayed while Brown further challenged the SPB's decision.

In November 2008, the court denied Brown's (second) petition to set aside her resignation. Brown claimed in her lawsuit for damages that the term in her settlement agreement that bars her reemployment is in violation of public policy.

CSU filed a challenge to the legal sufficiency of her civil claim. The court imposed a further stay of the proceedings, and ordered Brown to appeal the November 2008 writ decision before any ruling would be made on her claim for damages. The court of appeal denied Brown's request. The trial court then granted CSU's legal challenge to the sufficiency of Brown's remaining

claims, dismissing the case. Brown has filed an appeal of the trial court judgment. *The appeal is in the briefing stage.*

Buffard, et al. v. CSU, et al.

Sacramento County Superior Court

Nicole Buffard, Marjorie Gelus and Kathleen Moore, female faculty members in the Foreign Languages department at CSU Sacramento, claim that their colleague, Wilfrido Corral, who had served as department chair, discriminated, harassed and retaliated against them based on their gender and sexual orientation. They also claim that the University was on notice of Corral's behavior and failed to adequately investigate or correct it. The case is in the discovery phase.

Corral v. CSU, et al.

Sacramento County Superior Court

Wilfrido Corral is a faculty member of Hispanic and "Amerindian" descent at CSU Sacramento and former chair of the Foreign Languages department. He was investigated in 2006 for sexually harassing four students and ultimately reprimanded. The university paid \$15,000 in settlement on the claim of one of the students. Corral now claims that he was subjected to discrimination on the basis of his race, national origin and gender. He also claims that the University did not give him proper notice of the underlying allegations during the investigation. The case is in the discovery phase.

Ohton v. SDSU, et al.

San Diego County Superior Court

David Ohton, a SDSU strength and fitness coach, sued CSU and various individuals for alleged retaliation under the state whistleblower statute, claiming he was retaliated against for statements he made in CSU's investigative audit of alleged improprieties in the SDSU Athletics Department and equipment room. The trial court granted CSU's motion for summary judgment on the ground that Ohton had not sought to reverse the University's administrative determination that there was no retaliation, before filing suit. Ohton appealed. The Court of Appeal reversed and instructed the trial court to give Ohton an opportunity to amend his complaint. Ohton then amended his complaint and added a new petition for writ of mandate to reverse the University's administrative determination. The trial court again ruled in CSU's favor, finding that CSU's process met the requirements of the California Whistleblower Protection Act.

Ohton filed a second lawsuit and writ petition seeking to set aside a later administrative finding that subsequent actions were also not retaliatory for his participation in the 2002-03 audit. The court stayed the second Ohton lawsuit as Ohton appealed the decision in the first.

In January 2010, the Court of Appeals reversed and ordered the trial court to grant's Ohton's petition to overturn CSU's administrative determination. The appellate court found that CSU did not satisfactorily address Ohton's complaint because it incorrectly found that Ohton's allegation

about a coach being drunk was not made in good faith, and because CSU's final determination failed to address whether employees were disciplined or referred for criminal prosecution. *The Supreme Court subsequently held in Runyon (see below), another CSU whistleblower retaliation case, that whistleblower plaintiffs may pursue a civil action without first overturning an administrative determination. This case has therefore been returned to the trial court for a trial on the merits of the underlying claim.*

Runyon v. CSULB, et al.

Los Angeles County Superior Court

L.R. Runyon, a professor in the Finance Department of the College of Business at CSU Long Beach, alleges he was removed from his position as department chair in retaliation for reporting alleged improper activities by the Dean of the College of Business, Luis Calingo. Runyon made various complaints to his supervisors and others that the Dean made inappropriate and wasteful business trips and spent too much time away from campus. The Dean subsequently removed Runyon as chair of the department citing Runyon's failure to meet certain performance objectives. An investigation into Runyon's claims of retaliation concluded that he was removed as department chair for performance reasons and not in retaliation for his complaints about the Dean. In 2006, the court granted CSU's motion for summary judgment. Runyon appealed. In 2008 the Court of Appeal upheld the judgment in CSU's favor. *On May 3, 2010, the California Supreme Court set aside the summary judgment. The Court ruled that the whistleblower must be satisfied with the outcome of an internal administrative process before CSU can argue that the complaint has been "satisfactorily addressed." The case has now been sent back to the trial court for trial on the merits of the underlying claim. A new trial date has not yet been set.*

Verellen v. CSU, et al.

Los Angeles County Superior Court

Paul Verellen, a systemwide HR manager in the Chancellor's Office, was non-retained in March 2008 for performance reasons. In September 2007, immediately after learning informally of his supervisor's dissatisfaction with his performance, Verellen filed a whistleblower complaint that a labor relations consultant was improperly retained by the CSU. After he was formally advised a few days later that he would not receive a merit salary increase because of his performance, he filed a whistleblower retaliation complaint and a complaint of age discrimination. He filed a second retaliation complaint after he was non-retained. His retaliation and age discrimination complaints were investigated and rejected. Verellen then filed a petition for writ of mandate claiming the retaliation investigative outcomes are wrong and requesting reinstatement. He also filed a separate complaint for damages for whistleblower retaliation (under other statutes) and age discrimination. *Following the California Supreme Court's decision in Runyon (see above), Verellen withdrew his writ proceeding and filed an amended damages complaint. The case is in the pleading stage.*

Environmental Cases

City of Hayward v. CSU

Hayward Area Planning Association; Old Highlands Homeowners

Alameda County Superior Court

The City of Hayward filed a CEQA challenge to the 2009 CSUEB Master Plan Environmental Impact Report, claiming, among other things, that the University failed to adequately analyze impacts on public services, including police, fire, and emergency services. The City specifically demands that the University provide funding for additional fire facilities.

The Hayward Area Planning Association and Old Highlands Homeowners Association, two local residential homeowners' associations, filed a second CEQA challenge to the 2009 CSUEB Master Plan EIR, alleging shortcomings in nearly every aspect of the environmental findings, with a particular emphasis on the University's alleged failure to consider bus and other improvements to public transit access to the campus.

The cases are coordinated and hearing is scheduled on both challenges for September 9, 2010.

City of San Diego v. Trustees, et al.

Del Cerro Action Council v. Trustees, et al.

City of San Diego, et al. v. CSU

SDMTS v. CSU, et al.

SANDAG v. CSU, et al.

San Diego County Superior Court

The EIR for the 2005 SDSU Master Plan was challenged in three lawsuits filed by the City of San Diego, Alvarado Hospital and Del Cerro Neighborhood Association, each alleging the EIR did not adequately address necessary mitigation measures. The Alvarado lawsuit was dismissed.

After the Supreme Court's *City of Marina* decision, SDSU prepared a revised 2007 Master Plan EIR that was challenged again by the City of San Diego, the San Diego Metropolitan Transit System and the San Diego Association of Governments. Each alleged that the EIR did not adequately address necessary mitigation measures and that the CSU must fund all mitigation cost, irrespective of Legislative funding. The Del Cerro lawsuit and these three lawsuits have been consolidated.

In February 2010, the court denied the challenges to SDSU's 2007 Master Plan EIR, finding that CSU met all of the requirements of the *City of Marina* decision and CEQA by requesting Legislative funding to cover the cost of local infrastructure improvements. CSU is not required to fund those projects on its own, or to consider other sources of funding for them. The decision also held that the EIR properly considered potential impacts, was supported by substantial evidence, that CSU properly consulted with SANDAG, and that petitioners were barred from

proceeding on the issue of other sources of funding because it was not raised by them in the underlying administrative proceedings.

The City of San Diego, SANDAG and MTS have appealed. Del Cerro agreed to dismiss its lawsuit in exchange for CSU's waiver of its costs.

LandValue 77, et al. v. CSU, et al.

Fresno County Superior Court

LandValue 77, a private business entity in Fresno, filed a CEQA challenge to the Campus Pointe project, together with a claim of conflict of interest involving former Trustee Moctezuma Esparza, whose company will operate a movie theater in the project. In July 2009, the court determined that the environmental impact analysis for Campus Pointe is in full compliance with CEQA, except for additional analysis required on overflow parking and traffic, and certain water and air quality issues. The court also determined that because former Trustee Esparza had a financial interest in a sublease between Maya Cinemas and Kashian Enterprises, the developer on the project, an irresolvable conflict of interest existed when the Board took the vote on the Campus Pointe EIR, and the theater sublease must be voided as a result. LandValue has appealed the trial court's ruling. The appeal has not yet been set for argument.

Personal Injury Cases

Daves v. City of San Bernardino, et al.

San Bernardino County Superior Court

The father and son of decedent, Russell Daves, filed this wrongful death action against CSU, the City and County of San Bernardino and the State. Daves presented as a suspicious person in the hillside of the CSUSB campus at the time of the severe wild land fires of 2007. University police attempted to approach him and Daves fled. The police pursued him and were joined by the San Bernardino Police Department. The decedent was shot and killed after he backed his vehicle in the direction of the officers threatening their lives. CSU has agreed to settle the action for \$5,000 in exchange for a full release. Plaintiffs have settled their claim with the City of San Bernardino for \$10,000. *Because one of the plaintiffs is a minor, the Court must approve the settlement. Plaintiffs' petition for approval is pending.*

Sandford v. Louis, et al.

San Diego County Superior Court

Nicholas Sandford, a member of the 2008 SDSU football team, filed this action against former teammate Louis, CSU, and former head football coach Long for battery, negligent supervision and intentional infliction of emotional distress. The action arises out of an altercation between Sandford and Louis, which culminated in Louis attacking Sandford in a meeting room at the SDSU athletic center. Sandford suffered a concussion, ruptured eardrum and facial injuries. *In March 2010, Louis pled guilty to misdemeanor battery in a separate criminal action. CSU's*

motion to dismiss will be heard October 8 and mediation is scheduled on October 13, 2010. Trial is set for February 10, 2011.

Vega v. State of California, et al.

Santa Clara County Superior Court

Melissa Vega, a freshman SJSU student, fell out of a second floor dormitory window and is now a paraplegic. She had a blood alcohol of .19 at the time of the accident. She has filed this lawsuit alleging that the university's premises were unsafe. She claims that there should have been safety locks on the windows, bunk beds should not have been placed adjacent to a large window, and three students should not have been in a room designed for two. *Parties have agreed to participate in a mediation on November 16, 2010. This case is in the discovery stage.*

Student Cases

Balderramos v. SJSU

Santa Clara County Superior Court

Alfredo Balderramos, a student at SJSU, filed this writ action to overturn a disciplinary sanction imposed during his freshman year after he was found to have made a threat of physical harm towards other students. His writ challenges procedural aspects of the disciplinary process, including whether hearsay testimony can support the imposition of discipline. Balderramos has taken no steps to complete preparation of the administrative record, a prerequisite to having the court hear the case. Balderramos subsequently withdrew from SJSU and is no longer a student. *In April 2010, the case settled as CSU agreed to remove the discipline sanction from the former student's file.*

Donselman, et al. v. CSU

San Francisco County Superior Court

This is a purported class action filed by six students, challenging the July 2009 state university fee, and non-resident tuition increases and the May 2009 Graduate Business Professional fee, which were approved for the Fall term. Plaintiffs' application for a temporary restraining order and a preliminary injunction were denied. The case is in the discovery stage. *The motion for class certification is scheduled for December 3, 2010.*

Every Nation Campus Ministries, etc. v. Reed, et al.

U.S. District Court, San Diego

A group of Christian student organizations and students at the San Diego and Long Beach campuses sued under various legal theories to challenge the constitutionality of the CSU anti-discrimination policy, which refuses recognition of student organizations that discriminate on the basis of religion, sexual orientation or marital status. The plaintiff groups exclude non-Christians, homosexuals and others from joining or becoming officers. They allege that their First Amendment rights of freedom of religion and association trump CSU's anti-discrimination

prohibition, and that they must be recognized and provided full access to University facilities. The court denied plaintiffs' motion for a preliminary injunction, and both sides filed summary judgment motions. In February 2009, the court found CSU's non-discrimination policy constitutional, and granted CSU's summary judgment motion. Plaintiffs appealed. These issues were also raised in several similar suits throughout the nation. *The United States Supreme Court has recently affirmed a judgment upholding a similar University of California policy.*

Martinez, et al. v. Regents of the UC, et al.

Yolo County Superior Court

This is a class action filed by non-resident citizen students against UC, CSU, and the California Community Colleges, challenging the exemption from out-of-state tuition for those, including undocumented immigrants, who meet the three year California high school attendance requirement of AB540. Plaintiffs allege AB540 violates federal immigration laws, the U.S. and California Constitutions, and the Unruh Act. Plaintiffs seek an injunction enjoining enforcement of AB540, a declaration that the statute is unlawful, class-wide tuition restitution, damages, and attorney fees. Defendants collectively filed motions to dismiss, which were granted. Plaintiffs appealed. The appellate court ruled in favor of the plaintiffs, remanding the matter back to the trial court. Defendants petitioned the California Supreme Court and review was granted. *Oral argument has not yet been set.*

Torres v. CSU, et al.

Alameda County Superior Court

Jerri Ann Torres, a CSU East Bay student, alleges she was sexually harassed by a faculty member. The harassment consisted of unwelcomed kissing, touching, and holding, as well as other verbal harassment. The faculty member was separately represented at his own expense. *The matter settled in June 2010 for \$48,500. The faculty member paid \$26,000 and CSU paid \$22,500.*

Other Cases

Kemper v. CSU, et al.

Sacramento County Superior Court

Edward Kemper, a campus visitor, alleges that he encountered architectural barriers on the CSU Sacramento campus, such as an impeded path of travel, lack of access to a performance stage, insufficient handrails, and lack of appropriate ramps, all of which impeded his ability to attend an event and constitute disability discrimination. The case is in the pleading stage. Kemper has sued several other public agencies on similar theories. *A case management conference is set for November 4, 2010.*

SETC-United v. CSU, et al.

San Francisco County Superior Court

The State Employees Trades Council's collective bargaining agreement with CSU expired on June 30, 2008. The Education Code requires that prevailing wages be paid to certain hourly laborers unless a collective bargaining agreement states otherwise. SETC claims that when its collective bargaining agreement expired, its employees should have been paid prevailing wages. Because CSU pays SETC employees on a monthly, not an hourly basis, the Education Code requirement should not apply. The case is in the discovery phase.

Administrative Hearings Report

The outcomes in the following administrative hearings during this reporting period raise significant public policy issues and/or have broad impact on the CSU system.

CFA v. CSU

The California Faculty Association claimed in this unfair labor practice charge before the Public Employee Relations Board that CSU violated HEERA by: (1) not giving the union an opportunity to meet and confer before agreeing to the Governor's request to reduce expenditures by \$31 million in the 2008-09 fiscal year; (2) issuing a false statement that the reduction was mandatory, when it was voluntary; (3) "giving back" funds while refusing to give CFA members salary increases as conditionally promised in the collective bargaining agreement; and (4) issuing a press release that misrepresented the union's position in bargaining. The Administrative Law Judge ruled against CFA on all grounds. The matter was not appealed to the full Public Employee Relations Board.

Kennedy v. CSUN

After Police Officer Richard Kennedy was found to have been at fault in a traffic accident while on patrol, he was restricted to foot and bicycle patrol for six months and directed to retake the defensive driver course. He filed this challenge with the State Personnel Board.

CSU argued that the Board lacked jurisdiction over temporary changes in job duties. Kennedy argued that the action was punitive under the Police Officers' Bill of Rights which entitled him to a hearing. The State Personnel Board ruled in CSU's favor that its jurisdiction is limited to situations set forth in the Education Code. The Board also noted that even if the action were punitive under the Police Officers' Bill of Rights, the details of any administrative appeal are for the employer to determine, and there is no entitlement to hearing before the State Personnel Board.