

INTRODUCTION TO THE BARGAINING PROCESS (Insider's Guide to Collective Bargaining, May 2005)

Collective bargaining has its own methods that can appear dense and arcane. Laws, history and customs developed over years of bargaining yield a process with twists peculiar to each field of work, employer, and group of people who have taken the courageous step to unionize for more control and better terms in their working lives.

The advantages of having taken that step are profound and long-lasting. Better pay and benefits for you and your family are the most obvious. The university and our students gain a more stable teaching force.

There is also fairness in solving complaints you might have through grievances brought under the contract, and things as small as access to your personnel file when you need it, or as big as saving your job through a reasoned discipline process.

This year, CFA has embarked on bargaining for the faculty's next contract. That's why the union brings you this "Insider's Guide to Collective Bargaining." The bargaining team of CFA hopes it will serve as a helpful refresher for those of us who have been through it before, and as a quick-start summary for those faculty members who are new to this most basic of union functions.

GETTING STARTED

On April 28, after plenty of fits and starts, negotiations began for a faculty contract that will succeed the one under which we now work. Hence the designation "successor contract" talks.

Two teams of negotiators, one chosen by CFA to represent the faculty, and one chosen by the chancellor for the CSU administration, will meet several times a month.

The process is guided by requirements spelled out in the Higher Education Employer-Employee Relations Act (HEERA) and is overseen by the California Public Employee Relations Board (PERB).

CFA's first steps, taken last fall, were to send CFA leaders to the campuses for bargaining meetings with faculty members, to circulate a survey among the faculty, and to take input from CFA's committees including Affirmative Action and the Lecturers' Council. This gave you, the faculty, the chance to indicate your priorities for the next contract. (It doesn't end there. Throughout the process, you will have the opportunity to discuss and to act in support of our bargaining team.)

CFA's Contract Development & Bargaining Strategy Committee, chaired by George Diehr (Business, CSU San Marcos), compiled the suggestions from the meetings and committees and the data on the more than 2000 returned surveys into an initial list of bargaining proposals to be made by CFA.

PUBLIC NOTICE "SUNSHINE" PROPOSALS

CFA's Board of Directors reviewed and adopted them in the form of "public notice" proposals, also called "sunshine" proposals. The CSU administration also prepared proposals to be adopted by the CSU Board of Trustees.

Usually the Trustees adopt the CSU administration's public notice proposals exactly as they are presented. In a break with that this year, CSU Trustee Bill Hauck made a motion at the Trustees meeting in February to change the proposal on the Faculty Early Retirement Program.

The administration's opening proposal was to shorten FERP to two years from the current five. This is a proposal it has made, and CFA successfully resisted, in previous talks, so that was no surprise. Hauck's motion, however, was to eliminate FERP entirely, and the Trustees did make that change in the proposals they adopted.

ONGOING MEETINGS

Once the public notice proposals were adopted and released to the public, the talks could begin. Still, the CSU administration's representatives were unavailable during March, so after extensive batting around, the talks finally began on April 28

Generally meetings take place on Thursdays and Fridays. Most members of the CFA bargaining team continue to teach, so they must work their commitment to bargaining the contract around their class schedule. The administration's team consists of attorneys and administration officials who may have more flexible time.

TENTATIVE AGREEMENTS

At each meeting one of the parties makes proposals and the other requests clarification. Eventually, the parties make counter-proposals. When they reach an understanding on an issue, they draft specific wording for the contract. That wording is initialed and dubbed a "tentative agreement" or "TA."

Each piecemeal TA must wait until the very end, however, to be finalized. A contract is a whole document and each part can affect other parts. So, settlement always waits until all the tentative agreements are completed.

When all issues are resolved, the contract goes to a ratification vote by CFA members and the CSU Trustees.

There are numerous hurdles along the bargaining way. This time around, the first is the official expiration of the current contract, which will occur on June 30 this year. Both bargaining teams are well aware that they are unlikely to settle the contract by then.

Expiration of the contract, however, is not an immediate worry for faculty. Talks will continue and HEERA requires that the existing contract will remain in effect. In fact, HEERA spells out two more steps the bargaining teams must take even if talks don't reach a settlement, all the while keeping the current contract going.

MEDIATION & FACT-FINDING

If the sides discover they cannot agree on all the proposals before them, HEERA says they must turn to an impartial mediator. Mediation continues until a settlement is reached, or one or the other party convinces the State Mediation Service that mediation is no longer feasible. The Service certifies to PERB that the dispute is eligible for an inquiry known as "fact-finding."

An impartial person is chosen by the parties from a list of names provided by PERB. The "fact-finder" studies the unresolved issues, receives evidence from the parties, and writes a public report. The sides are encouraged to consider the fact-finder's report as a basis for further negotiations.

All of this takes many months. Nevertheless, if all is for naught, and the sides cannot reach a settlement, PERB declares the talks are at impasse and officially bargaining has ended.

IMPOSITION & JOB ACTIONS

At this point, the terms of the old contract would no longer apply and both the administration and CFA would have options. The chancellor could unilaterally impose his team's "last best offer" on terms and working conditions, which would supplant the contract. At this point, the system would operate under procedures outlined in the statutory Education Code.

The faculty would have the option to engage in job actions. Job actions might bring the sides back to the bargaining table with renewed zeal to reach a resolution. That, in fact, is what happened in 1999 when the chancellor attempted to impose a contract that had been voted down by the faculty.

In 2002, the talks nearly reached this ultimate impasse. But faculty had expressed its solidarity through a series of public protests. That created the

needed back-up to enable the bargaining team to pull off an eleventh-hour settlement.

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