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STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD

UNFAIR PRACTICE CHARGE

DO NOT WRITE IN THIS SPACE: Case No:

Date Filed: 03/13/2023

INSTRUCTIONS: File the original and one copy of this charge form in the appropriate PERB regional office (see PERB Regulation 32075), with proof of service attached to each copy. Proper filing includes concurrent service and proof of service of the charge as required by PERB Regulation 32615(c). All forms are available from the regional offices or PERB's website at www.perb.ca.gov. If more space is needed for any item on this form, attach additional sheets and number items.

IS THIS AN AMENDED CHARGE? YES If so, Case No _____ NO

1. CHARGING PARTY: EMPLOYEE EMPLOYEE ORGANIZATION EMPLOYER PUBLIC¹

a. Full name: Teamsters Local 2010

b. Mailing Address: 7730 Pardee Lane, Suite 2010, Oakland, CA 94612

c. Telephone number: (510) 845-2221

d. Name and title of agent to contact: Susan K. Garea, Attorney E-mail Address: sgarea@beesontayer.com
Telephone number: (510) 625-9700 Fax No.:

e. Bargaining Unit(s) involved:

2. CHARGE FILED AGAINST: (mark one only) EMPLOYEE ORGANIZATION EMPLOYER

a. Full name: California State University

b. Mailing Address: 401 Golden Shore, 4th Floor Long Beach, CA 90802

c. Telephone number: (562) 951-4500

d. Name and title of agent to contact: G. Andrew Jones, General Counsel E-mail Address: gajones@calstate.edu
Telephone number: Fax No.:

3. NAME OF EMPLOYER (Complete this section only if the charge is filed against an employee organization.)

a. Full name:
b. Mailing address:

4. APPOINTING POWER: (Complete this section only if the employer is the State of California. See Gov. Code, § 18524.)

a. Full name:
b. Mailing Address:
c. Agent:

5. GRIEVANCE PROCEDURE

¹An affected member of the public may only file a charge relating to an alleged public notice violation, pursuant to Government Code section 3523, 3547, 3547.5, or 3595, or Public Utilities Code section 99569

Are the parties covered by an agreement containing a grievance procedure which ends in binding arbitration?

Yes No Unknown

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6. STATEMENT OF CHARGE

a. The charging party hereby alleges that the above-named respondent is under the jurisdiction of: (check one)

- Educational Employment Relations Act (EERA) (Gov. Code, § 3540 et seq.)
- Ralph C. Dills Act (Gov. Code, § 3512 et seq.)
- Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code, § 3560 et seq.)
- Meyers-Milias-Brown Act (MMBA) (Gov. Code, § 3500 et seq.)
- Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) (Pub. Utilities Code, § 99560 et seq.)
- One of the following Public Utilities Code Transit District Acts: San Francisco Bay Area Rapid Transit District Act (SFBART Act) (Pub. Util. Code, § 28848 et seq.), Orange County Transit District Act (OCTDA) (Pub. Util. Code, § 40000 et seq.), Sacramento Regional Transit District Act (Sac RTD Act) (Pub. Util. Code, § 102398 et seq.), Santa Clara VTA, (Pub. Util. Code, § 100300 et seq.), and Santa Cruz Metro (Pub. Util. Code., § 98160 et seq.)
- Trial Court Employment Protection and Governance Act (Trial Court Act) (Article 3; Gov. Code, § 71630 – 71639.5)
- Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Gov. Code, § 71800 et seq.)

b. The specific Government or Public Utilities Code section(s) or PERB regulation section(s) alleged to have been violated is/are:

c. For MMBA, Trial Court Act and Court Interpreter Act cases, if applicable, the specific local rule(s) alleged to have been violated is/are (***a copy of the applicable local rule(s) MUST be attached to the charge:***)

d. Provide a clear and concise statement of the conduct alleged to constitute an unfair practice including, where known, the time and place of each instance of respondent's conduct, and the name and capacity of each person involved. This must be a statement of the facts that support your claim and *not conclusions of law*. A statement of the remedy sought must also be provided. (*Use and attach additional sheets of paper if necessary.*)

DECLARATION

I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief. (A Declaration will be included in the e-mail you receive from PERB once you have completed this screen. The person filing this Unfair Practice Charge is required to return a properly filled out and signed original Declaration to PERB pursuant to PERB Regulations 32140 and 32135.)

Susan K. Garea
(Type or Print Name)

/s/ Susan K. Garea
(Signature)

03/13/2023
Date



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UNFAIR PRACTICE CHARGE

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IS THIS AN AMENDED CHARGE?

YES

If so, Case No.

NO

1. CHARGING PARTY:

EMPLOYEE

EMPLOYEE ORGANIZATION

EMPLOYER

PUBLIC¹

a. Full name:

b. Mailing address:

c. Telephone number:

d. Name and title of
person filing charge:

Telephone number:

E-mail Address:

Fax No.:

e. Bargaining unit(s)
involved:

2. CHARGE FILED AGAINST: (mark one only)

EMPLOYEE ORGANIZATION

EMPLOYER

a. Full name:

b. Mailing address:

c. Telephone number:

d. Name and title of
agent to contact:

Telephone number:

E-mail Address:

Fax No.:

3. NAME OF EMPLOYER (Complete this section only if the charge is filed against an employee organization.)

a. Full name:

b. Mailing address:

4. APPOINTING POWER: (Complete this section only if the employer is the State of California. See Gov. Code, § 18524.)

a. Full name:

b. Mailing address:

c. Agent:

¹ An affected member of the public may only file a charge relating to an alleged public notice violation, pursuant to Government Code section 3523, 3547, 3547.5, or 3595, or Public Utilities Code section 99569.

5. GRIEVANCE PROCEDURE

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Are the parties covered by an agreement containing a grievance procedure which ends in binding arbitration?

Yes _____ No _____

6. STATEMENT OF CHARGE

- a. The charging party hereby alleges that the above-named respondent is under the jurisdiction of: (check one)
 - Educational Employment Relations Act (EERA) (Gov. Code, § 3540 et seq.)
 - Ralph C. Dills Act (Gov. Code, § 3512 et seq.)
 - Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code, § 3560 et seq.)
 - Meyers-Milias-Brown Act (MMBA) (Gov. Code, § 3500 et seq.)
 - A Covered Public Utilities Code Transit Employer (BART (Pub. Util. Code, § 28848 et seq.), Orange County Transportation Authority (Pub. Util. Code, § 40000 et seq.), and supervisory employees of the Los Angeles County Metropolitan Transportation Authority (Pub. Util. Code, § 99560 et seq.))
 - Trial Court Employment Protection and Governance Act (Trial Court Act) (Article 3; Gov. Code, § 71630 – 71639.5)
 - Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Gov. Code, § 71800 et seq.)
- b. The specific Government or Public Utilities Code section(s) or PERB regulation section(s) alleged to have been violated is/are: _____
- c. For MMBA, Trial Court Act and Court Interpreter Act cases, if applicable, the specific local rule(s) alleged to have been violated is/are **(a copy of the applicable local rule(s) MUST be attached to the charge):** _____
- d. Provide a clear and concise statement of the conduct alleged to constitute an unfair practice including, where known, the time and place of each instance of respondent's conduct, and the name and capacity of each person involved. This must be a statement of the facts that support your claim and *not conclusions of law*. A statement of the remedy sought must also be provided. *(Use and attach additional sheets of paper if necessary.)*

DECLARATION

I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief and that this declaration was executed on _____ (Date)

at _____ (City and State)

(Type or Print Name)

(Signature)

Title, if any: _____

Mailing address: _____

Telephone Number: _____ E-Mail Address: _____

ATTACHMENT 6(d)
TO
UNFAIR PRACTICE CHARGE

Introduction

The Charging Party, Teamsters Local 2010, brings this charge against the Respondent, the Trustees of the California State University (“CSU”), on the grounds that the Respondent has refused to bargain with the Charging Party and engaged in bad faith bargaining regarding wages. CSU has delayed bargaining over this key issue, failed to submit a coherent proposal, and failed to explain its single incoherent proposal on this issue.

Parties

1. At all times relevant herein, Teamsters Local 2010 (the “Union”) is and has been an employee organization within the meaning of the Higher Education Employer-Employee Relations Act (“HEERA,” Gov. Code § 3560 et. seq.). (Cal. Gov. Code § 3562(f).)
2. At all times relevant herein, the Trustees of the California State University (the “University” or “CSU”) is and has been an employer within the meaning of HEERA. (Cal. Gov. Code § 3562(h).)

Statement of Facts

3. The Union is the exclusive representative of a bargaining unit of skilled trades workers throughout the CSU system (“Unit 6”).
4. The Union and the University are parties to a Collective Bargaining Agreement (“CBA”), governing terms and conditions of employment for employees in Unit 6, that expired on June 30, 2022. The parties are currently engaged in successor negotiations.
5. The Union’s chief negotiator is Union Secretary-Treasurer Jason Rabinowitz. The University is represented at the bargaining table by eight or more negotiators, including experienced labor negotiators Joseph Jelincic and Steve James, and attorney Stefanie Gusha.
6. Beginning soon after the Teamsters were certified as the bargaining representative for Unit 6, in 2018, the Union has raised concerns with CSU, with increasing urgency, regarding the University’s problematic and inequitable pay practices. Most notably, the Union has raised issues with the fact that CSU is the only California state employer that does not provide salary step increases to employees, resulting in non-faculty staff being paid well below market rates. Other Unions representing CSU non-faculty staff have raised this issue with similar urgency.
7. During bargaining in late 2019 and early 2020, the Teamsters provided a detailed written proposal for implementation of a step structure, making it clear that this issue was the Union’s top priority. University negotiators acknowledged the problem and promised to

bring a counter-proposal for a step structure in or around March 2020. However, due to the COVID pandemic and the resulting crisis affecting the CSU and the state as a whole, the University did not present such a proposal. Due to the pandemic, the parties ended up extending the contract for two years, without addressing steps, or any other substantive issues. Nevertheless, the Union made clear that implementation of a step system would continue to be its top priority when negotiations continued.

8. In response to CSU's problematic pay practices, the California Legislature commissioned a salary study, as part of the Budget Act of 2021, which was conducted and completed by the Mercer firm. The study and its resulting report showed significant wage compression between new hires and senior nonfaculty staff, nonfaculty salaries lagging 12% behind the market average, and that 80% of employees and their managers favored a return to a predictable, equitable step system. The Report recommended the implementation of a nine-step salary scale spread over 15 years.
9. After the issuance of the Mercer Report, the California Legislature passed SB 410. The bill called for implementation of a step structure at CSU consistent with the findings and recommendations of the Mercer study. On or about September 28, 2022, Governor Newsom returned SB 410 to the Senate without his signature, citing budgeting concerns, and his preference that the issue of steps be resolved at the bargaining table. In his message to the Senate, the Governor directed the CSU Board of Trustees and Interim Chancellor "to work collaboratively and creatively with their labor organizations" to achieve the twin goals of "raising wages and creating salary equity for nonfaculty staff." Gov. Newsom's Senate Message is attached hereto as **Exhibit A**.
10. On January 17, 2023, on the first day of negotiations between the Teamsters and the CSU for a successor agreement, the Union submitted a detailed written proposal to the University, including a nine-step, 15-year salary scale for Unit 6 employees. This proposal includes a 5% increase at each step for represented nonfaculty employees, which is consistent with the findings and recommendations of the salary study authorized and completed for represented California State University nonfaculty staff employees that was developed pursuant to subdivision (k) of Provision 2.5 of Schedule (1) of Item 6610-001-0001 of Section 2.00 of the Budget Act of 2021 (Chapters 69 and 240 of the Statutes of 2021). A true and correct copy of the proposed Side Letter of Agreement is attached hereto as **Exhibit B**. CSU did not provide a response to the Union's proposal on January 17, 2023.
11. At a bargaining session held on February 23, 2023, the University issued its initial response to the Union via a PowerPoint presentation. A total of one slide referenced a proposed step progression. This slide lacked proposed contract language and was devoid of relevant details. Under the title "Alternative Structure within Compact Allocation," the slide's total contents are found in four bullet points: (1) "23 steps"; (2) "2 percent increases between steps"; (3) "Initial placement is closest step above current salary"; and (4) "Future step progression not automatic". A true and correct copy of this slide is attached hereto as **Exhibit C**.
12. The Union asked questions to understand the meaning of the proposal and CSU could not answer the Union's questions. The CSU either could not explain, or provided shifting and unclear responses, to basic questions such as: what years CSU was proposing the step

increases would be provided; eligibility requirements for step increases; whether the proposal contemplated General Salary Increases or other additional increases; what would be the actual pay ranges and pay for each step for each covered classification; and what happens when an employee reaches the top of their range.

13. The Union protested that the University's proposal was entirely inadequate, and was so unclear and incomplete that the Union was unable to respond to it. The Union asserted that the University's failure to provide a coherent, written proposal on the key issue before the parties, five weeks after the Union provided its comprehensive written proposal, six months after the Governor directed the CSU to bargain the issue of steps with the Unions, and five years after the Union began raising the issue urgently in bargaining, was inconsistent with the employer's duty to bargain in good faith.
14. The Union insisted that CSU provide a coherent written proposal, to include proposed contract language, and to state clearly what the University proposed to accomplish regarding steps. The Union insisted that the University provide such a proposal by the following day, February 24, 2023, when the parties had their next scheduled day of negotiations. The CSU negotiators said that they would be unable to do so, but failed to provide an explanation as to why the numerous experienced negotiators and attorneys on the CSU team could not create an adequate proposal. The University failed at all times to appropriately address any of the requested clarifications and make an actual proposal regarding the topic.

Argument

15. HEERA requires that “[h]igher education employers, or such representatives as they may designate, shall engage in meeting and conferring with the employee organization selected as exclusive representative of an appropriate unit on all matters within the scope of representation.” (Cal. Gov. Code § 3570.)
16. HEERA also makes it unlawful for a higher education employer to “[r]efuse or fail to engage in meeting and conferring with an exclusive representative.” (Cal. Gov. Code § 3571(c).)
17. HEERA defines “meet and confer” as “the performance of the mutual obligation of the higher education employer and the exclusive representative of its employees to meet at reasonable times and to confer in good faith with respect to matters within the scope of representation and to endeavor to reach agreement on matters within the scope of representation.” (Cal. Gov. Code § 3562(m).)
18. The obligation to bargain in good faith means a subjective attitude which requires a genuine desire to reach agreement. Examples of indicia of bad faith include: (1) a party's failure to act on the other side's proposals or to offer counterproposals; (2) efforts to renege on previously agreed-upon ground rules; (3) insistence on extraneous conditions, such as unions' withdrawal of grievances and unfair practice charges prior to beginning salary negotiations; (4) dilatory conduct in scheduling and attending negotiation sessions; (5) attempts to modify previously settled issues; (6) premature declaration of impasse; (7) “piecemeal” or “fragmented” bargaining that arbitrarily limits the range of possible compromises by declaring certain mandatory subjects of bargaining off limits until complete agreement is reached on all other subjects; and (8) separate, contemporaneous unfair labor

practices at or away from the bargaining table. PERB has rejected a categorical rule that one indicium of bad faith is insufficient to establish bad faith as inconsistent with the “totality of the circumstances” test. (*City of San Jose* (2013) PERB Dec. No. 2341-M.)

19. An outright refusal to bargain on a matter within the scope of representation is a *per se* violation of the duty to bargain in good faith. (*Region 2 Court Interpreter Employment Relations Committee, et al.* (2020) PERB Dec. No. 2701-I, p. 37, citing *County of San Luis Obispo* (2015) PERB Dec. No. 2427-M.) Wages are a mandatory subject of bargaining.
20. The University responded to the Union’s proffer of a detailed proposed wage increase by presenting a single PowerPoint slide at the bargaining table with language so vague that there is no offer contained therein which the Union could reasonably accept. This presentation occurred more than a month after the Union made its good-faith, salary-step offer. Moreover, the University had already been on notice since September 28, 2022 when the Governor directed the University to implement wage increases and equity for Union nonfaculty using salary steps.
21. The University has refused to provide clarification for the four incomplete sentences on its slide. In addition to having five months since the Governor’s admonition, and five weeks since receiving the Union’s proposed side letter, the University could also have clarified its position when both sides returned to the bargaining table on February 24, the day after the PowerPoint was presented. The Union demanded such clarification immediately after the PowerPoint presentation. The University opted to let the bargaining window pass without providing clarification, without justification.
22. If the University had the intent to bargain, their negotiators would have come to the table with a proposal the Union would be in a legal position to accept, either on February 23, 2023, or February 24, 2023. The Union’s proposed side letter was a formal proposal that contained clear, organized, and plainly interpretable contract language that was in keeping with the state legislature’s findings. The University’s bare-bones PowerPoint slide cannot be taken as a serious response to the Union’s proposed side letter.
23. The University has sent its negotiators to the bargaining table without an intent to bargain; unnecessarily delayed in providing a counterproposal; made no movement over the span of nearly six months; and failed to provide an adequate explanation for this delay or its inability to provide a reasonable counterproposal. These are all indicia of bad-faith bargaining, and suggest that the University is engaged in surface bargaining without any genuine intent to reach an agreement. This is an unfair labor practice.

Remedy

Wherefore, the Charging Party requests that the University be ordered to:

1. Cease and desist violating its duty to bargain in good faith;
2. Engage in good-faith bargaining with the Union regarding wages and benefits;
3. Post a notice informing all members of Unit 6 of the University’s unlawful conduct,

describing its actions to remedy the unlawful conduct, and assuring them that the University will comply with its HEERA obligations in the future;

4. Make the Union whole, including compensating the Union for any costs for the cost of bringing the instant charge; and
5. Comply with any other remedy that PERB deems just and proper.

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Exhibit A



OFFICE OF THE GOVERNOR

SEP 28 2022

To the Members of the California State Senate:

I am returning Senate Bill 410 without my signature.

This bill establishes a nine-step merit salary system for all represented California State University (CSU) nonfaculty staff employees with each employee to be placed in the salary step based on their existing years as a represented nonfaculty staff employee in the CSU. The bill also requires that language that effectuates the bill's provisions shall automatically be incorporated into any pertinent memorandum of understanding or collective bargaining agreement entered into, or renewed, by the CSU on or after January 1, 2023. Additionally, the bill requires the CSU to fund the proposed salary increases within existing resources.

Raising wages and creating salary equity for nonfaculty staff at our nation's largest and most diverse public university system is a goal that the CSU should strive to achieve, especially as these aims can positively impact recruitment and retention. This bill, however, creates cost pressures of \$287 million in the first year and rises to more than \$850 million in ongoing General Fund cost pressures not specifically accounted for in the State or CSU budget plans. Unless significant additional resources are added to the system, it would require that resources be redirected away from other purposes, likely including student success efforts.

Earlier this year, my Administration and the CSU agreed to a Compact that includes a commitment to significant multi-year investments in the CSU. It is my expectation that CSU leadership can both meet the commitments of the Compact and transition to a steps model for nonfaculty staff. I expect the CSU



Board of Trustees and Interim Chancellor to work collaboratively and creatively with their labor organizations to resolve these issues at the bargaining table.

For these reasons, I cannot sign this bill.

Sincerely,

Gavin Newsom

A handwritten signature in black ink, appearing to be "Gavin Newsom", is written over the printed name. The signature is stylized and somewhat illegible due to overlapping lines and a horizontal line drawn through it.

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Exhibit B

APPENDIX D-6

SIDE LETTER OF AGREEMENT

Implementation of Steps

1. CSU and Teamsters Local 2010 agree that the University shall implement a nine-step salary system for Unit 6 members that runs for 15 years, consistent with the findings and recommendations of the salary study authorized and completed for represented California State University nonfaculty staff employees that was developed pursuant to subprovision (k) of Provision 2.5 of Schedule (1) of Item 6610-001-0001 of Section 2.00 of the Budget Act of 2021 (Chapters 69 and 240 of the Statutes of 2021).
2. The nine-step salary system to be implemented pursuant to this section shall provide for annual step increases as follows:

| Step | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|-----------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| Year | 0 | 1 | 2 | 3 | 5 | 7 | 9 | 12 | 15 |
| Increase | - | 5% | 5% | 5% | 5% | 5% | 5% | 5% | 5% |

3. The first step of each salary range implemented under this section shall be equal to or greater than the lowest pay rate in the existing pay range.
4. Under the nine-step salary system established pursuant to this section, each unit employee shall initially be placed on the step based on their existing years of employment as a represented California State University nonfaculty staff employee, or the step closest to but not lower than the employee’s existing pay rate, whichever is greater.
5. Effective July 1 of each calendar year, each unit employee shall receive a step increase, if applicable based on their years of employment as a represented California State University nonfaculty staff employee, in accordance with the above salary step system.
6. Such step increases shall be additional to General Salary Increases, and any other increases provided under the Collective Bargaining Agreement, University policy, or applicable law.
7. An employee who does not receive a step increase because they are at or above the top step, shall receive, in lieu of the step increase, a non-base-building lump-sum payment of 5% of annual salary.

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Exhibit C

Alternative Structure within Compact Allocation

- 23 steps
- 2 percent increases between steps
- Initial placement is closest step above current salary
- Future step progression not automatic

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of _____,
State of _____. I am over the age of 18 years. The name and address of my
Residence or business is _____

On _____, I served the _____
(Date) (Description of document(s))

_____ in Case No. _____
(Description of document(s) continued) PERB Case No., if known)

on the parties listed below by (check the applicable method(s)):

placing a true copy thereof enclosed in a sealed envelope for collection and
delivery by the United States Postal Service or private delivery service following
ordinary business practices with postage or other costs prepaid;

personal delivery;

electronic service - I served a copy of the above-listed document(s) by
transmitting via electronic mail (e-mail) or via e-PERB to the electronic service
address(es) listed below on the date indicated. *(May be used only if the party
being served has filed and served a notice consenting to electronic service or has
electronically filed a document with the Board. See PERB Regulation 32140(b).)*

(Include here the name, address and/or e-mail address of the Respondent and/or any other parties served.)

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct and that this declaration was executed on _____,
(Date)
at _____
(City) (State)

(Type or print name)

(Signature)