



TEAMSTERS LOCAL 2010

An Affiliate of the International Brotherhood of Teamsters

Jason Rabinowitz

Secretary Treasurer and Principal Officer

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Ms. Loretta van der Pol
Arbitrator, Factfinder and Mediator
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**Re: Trustees of the California State University, Employer, and Teamsters Local 2010,
Union (Factfinding)
PERB Case No. LA-IM-4545-H**

Dear Ms. van der Pol:

Thank you for your draft report. As the Union panelist for this factfinding, I below have made responses to each of the issues on which you have made a recommendation. I ask that these responses be included with your final report.

Article 4. Contracting Out.

While I concur with the Panel Chair's recommendation to reject the University's draconian proposal to expand its right to contract out bargaining unit work, I must dissent from the Chair's rejection of the Union's proposals.

The Union's proposals are twofold. First, the Union seeks to receive notice of change orders on projects that have already contracted out; and second, the Union seeks to include in the notice the University already must provide the Union when the University contemplates contracting out bargaining unit work basic details about the scope and nature of the work.

At the factfinding hearing, the Union made clear that change orders often reveal that the work could have and should have been done by bargaining unit employees. The Union also made clear that the proposal for additional information to be included in contracting-out notices is narrowly drawn to ensure that the Union has adequate information with which to evaluate whether the University has valid grounds, under the existing criteria, for contracting out work. The Chair recommends rejection of these proposals on the grounds that they are "onerous." But the University presented little or nothing to suggest that the additional details sought by the Union's proposal would be burdensome or onerous to include with respect to projects for which the University already gives notice. To the extent the University complained that change orders can be frequent and can on occasion be of a relatively minor character, the University failed to explain why it would be unduly burdensome or onerous to simply provide the Union with a copy of change orders, which on their face would include most of the details the Union's proposal calls for.

Accordingly, I must dissent from the Chair's recommendation to reject the Union's proposals to modify Article 4.

Article 8. Concerted Activities.

The Unions proposal for this Article is designed to (1) protect employees who engage in protected activities that do not interfere with University operations; (2) permit employees to honor the picket line of another union; and (3) permit the Union to call for a sympathy strike to support another union with a primary labor dispute on campus. The Union made clear at factfinding that these are all core principles of the Teamsters Union.

The Chair has recommended that these proposals be dealt with via legislation or litigation. But legislation and litigation are no substitute for negotiations, and the Union is entitled to pursue these proposals at the bargaining table. Especially in the absence of any impending legislative or litigation developments that might address these issues, these issues are appropriately addressed in negotiations.

The University presented nothing in factfinding that should take precedence over the rights of the Unit 6 employees and the Union to engage in concerted activities that do not interfere with University Operations, honor another union's picket line, or strike in support of another union.

I must therefore dissent from the Chair's recommendation to reject the Union's proposals on Article 8.

Article 13. Personnel File.

I dissent from the Chair's recommendation to reject the Union's proposals on Article 13 and to accept the University's proposal.

The University's proposal would expand from three to five years the number of years discipline remains in a personnel file for misconduct that involves "workplace violence, discrimination or harassment." In recommending acceptance of this proposal, the Chair has focused on the University's potential need in litigation to refer to such discipline that is older than three years. Yet the University gave no examples of when it was hamstrung in litigation by the existing three-year language. Moreover, "workplace violence, discrimination or harassment" can cover a vast scope of conduct, including conduct that is quite inconsequential. Extending the length of time a discipline remains in an employee's personnel file for minor infractions is neither fair nor necessary.

On the other hand, the Union's proposal is perfectly fair and reasonable. The Union's proposal would reduce from three years to one year the length of time disciplinary records remain in an employee's personnel file. The current contract language already extends the period of time a disciplinary record remains in the file if the employee repeats the offense. Thus, the Union's proposal would trigger removal of a disciplinary record from the file only where the employee has demonstrated a year of good conduct. That year of good conduct should be sufficient to render the employee eligible for a clean slate.

Article 24. Salary.

I concur in part and dissent in part from the decision of the Panel Chair on salary. The Chair correctly finds that the lack of a salary step system and CSU's failure to provide General Salary Increases in many years has "very adversely impacted employees in this bargaining unit," and concludes that "it should be a high priority for the CSU to move on implementing a complete fix to the structure." I concur with these findings. Nevertheless, the Chair's recommendations on the salary issues reflect undue and unwarranted hesitation to implement the needed "fix" of the conceded deep, long-entrenched wage inequities in Unit 6 during the life of this contract. Therefore, I concur in part and dissent in part from the Chair's recommendations regarding salary, as set forth below.

I concur with the Chair's findings on salary because the Unit 6 salary problems that were brought to light in the compelling and unrebutted testimony of Teamsters Local 2010 Research Analyst Alex Vermie demonstrated serious wage compaction, average wages that have fallen well behind the relevant markets, and average wages that have failed to keep up with the cost of living.

Unit 6 Teamsters are the essential skilled workers who repair and maintain all of the University's systems, and who continued working in person during the worst of COVID-19 pandemic. Yet, as the Union demonstrated, CSU has denied these workers a salary step structure, or any other reliable mechanism to advance through salary ranges, for 28 years. CSU has failed to provide a General Salary Increase (GSI) in seven of the past 16 years, including the first two years of the pandemic.

As a result, and as the Chair correctly finds, the vast majority of workers in the unit are stuck below the median of their ranges, even after decades of service. Further, as the Chair acknowledges, this has caused salary compaction such that "employees in lead and supervisory classes...earn less than the employees supervised." Further, as the Chair states, "CSU's proposal on a step progression system that resets seniority on promotion could continue to cause compaction."

The Union also demonstrated, unrebutted, that the flawed pay structure and lack of adequate pay increases have left Unit 6 workers well behind inflation and the cost of living. From Fiscal Year 2008/09 through 2023/24, Unit 6 GSIs lagged inflation by 6.8% (45.4-38.6%) and lagged the cost of housing by a whopping 95.9% (134.5%-38.6%).

The Union also provided overwhelming and unrebutted evidence that the flawed pay structure and lack of adequate pay increases have left CSU Unit 6 pay significantly behind the relevant market. Unit 6 pay is an average of 28.6% below skilled trades pay at University of California, comparing the same jobs, in the same trades, in the same counties, as of December 2023. UC is the most relevant comparator for CSU wages because as California's other large public University, it is a similar entity, with similar operations and similar job functions in the skilled trades as CSU's Unit 6.

Similarly large gaps are also evident with other comparable California public employers as well. As the Union demonstrated, unrebutted, CSU Unit 6 wages are behind workers in the same trades at these public institutions:

1. Los Angeles City: CSU Unit 6 is an average of 19.9% behind across all titles.
2. San Francisco City: CSU Unit 6 is an average of 36.3% behind across all titles.
3. LA County: CSU Unit 6 is an average of 14.8% behind across all titles.
4. Alameda County: CSU Unit 6 is an average of 38.8% behind across all titles.
5. LA Community College District: CSU Unit 6 is an average of 23.9% behind across all titles.
6. Community College of San Francisco: CSU Unit 6 in an average of 31.1% behind across all titles.

The University entirely failed to rebut the overwhelming evidence, above, that the salaries of its skilled trades workforce are significantly behind the relevant market. CSU did not provide evidence of a single comparable public employer in California that pays skilled workers comparably to or lower than CSU. To the contrary, CSU concedes that it pays significantly less than UC and other comparable public employers in California. Further, CSU offers no justification for this disparity, such as a difference in the skills and work involved, because there is none. CSU simply asks the Panel, the Union, and the Board of Trustees to turn a blind eye to this clear and unacceptable disparity. All should decline to do so.

Instead, the CSU relies entirely on the findings of the Mercer Report, which CSU asserts demonstrates that Unit 6 pay is not significantly behind market. CSU's reliance on the Mercer Report is entirely misplaced. Unlike the salary comparisons presented by the Union, which are directly comparable to CSU Unit 6, the Mercer Report is based upon a national survey of employers that is largely comprised of employers in other areas of the country that do not reflect the market for the work of Unit 6 workers in California. CSU competes for skilled workers in the relevant metropolitan areas in California. CSU does not recruit from, nor does it hire, any appreciable number of workers from other areas of the country. Even if it did, such workers would rightly demand to be compensated in line with the California market, not the market in other areas. CSU asserts that Mercer adjusted its data to account for the geographical disparity in the markets, yet provided no evidence of how this was accomplished or that it was done correctly. To the contrary, the fact that the evidence of the actual comparable employers in California departs greatly from the Mercer findings and shows that CSU is in fact well behind the relevant market, belies CSU's assertion that the Mercer Report accurately adjusted for the geographical differences in market pay.

For these reasons, the Panel should conclude that Unit 6 pay is well below the relevant market.

While the Chair's report correctly recognizes the significant pay problems, and states that CSU should make it a "high priority" to implement a "complete fix" rather than doing it "piecemeal,"

the report inexplicably largely recommends doing just that – putting off to another day the steps that need to be taken to effectively address these problems.

The Union acknowledges and appreciates that the report recommends a 7% overall increase in Year 2 of the Agreement, rather than the 5% proposed by the employer. Of course, this would represent a much-needed improvement in the proposal, which would help it to go further in solving the pay disparities in Unit 6. But in the Union's view, and as the Chair acknowledges, greater increases are needed to resolve the long-standing problems created by CSU's flawed pay structure. Yet the Chair goes on to state that "it might take more than one bargaining cycle" to accomplish this.

The Chair does not explain why Unit 6 workers should wait longer than the three years of this agreement to obtain relief from the long-standing salary inequities they have endured. The only rationale for such a recommendation would be a concern that the University cannot afford the Union's proposals which do far more to address these problems over the course of a three-year contract than do either the University's proposals or the Chair's recommendation for a revision in the University's proposals.

Yet the comprehensive testimony of economist Dr. Howard Bunsis makes it abundantly clear that the University can afford the Union's proposals with revenues from annual operating cash surpluses, without any need to dip into the University's vast reserves. The Chair's report acknowledges this evidence, summarizing as follows:

- "The CSU System is in very strong financial condition. This conclusion is supported by a high level of reserves, and annual operating cash flow surpluses.
- Significantly, this conclusion is supported by the high bond ratings of Moody's (Aa2) and Standard and Poor's (AA-). The bond agencies refer to the liquidity and annual margins to support their ratings
- The largest revenue source, the state appropriation, has increased in recent years and is expected to increase solidly through 2025
- The marginal cost of the Local 2010 proposal over the CSU administration offer can be met by the significant annual operating cash surpluses that CSU has generated for many years. The CSU system has significant reserves, but these reserves will not have to be accessed in order to meet the Local 2010 request; the request can be satisfied by existing annual surpluses."

I would add that Dr. Bunsis also testified that CSU has \$5,205,822,000 in unrestricted net assets as of 2022. Additionally, CSU anticipates increases in state budget allocations of 5.8% in 2024, and 5.0% in 2025, as well as increases in student tuition of 6% per year for the next five years. Therefore, no inability to pay would justify a failure "to move on implementing a complete fix to the structure" that the Chair finds should be "high priority." To the contrary, CSU can well afford to do so.

In addition, while the University has agreed to reinstate a salary-step schedule for Unit 6, its insistence that employees progress through the step schedule (starting in year three of the contract) only upon receipt of a what is effectively a non-reviewable performance rating of satisfactory

largely undermines the very purpose of a salary-step schedule. This condition upon movement up the step schedule retains the discretionary aspect of the current salary structure, the salary structure that has resulted in the many inequities that a salary-step schedule *should* alleviate. Nothing presented during the factfinding suggested a need that progression on the salary-step schedule be discretionary, much less a need that would override the importance of a salary-step structure that guarantees a wage progression that consistently rewards experience.

I further dissent from the Chair's recommendation to remove existing language providing for in-range progressions (IRPs). Rather, the appropriate recommendation would be to accept the Union's proposal to retain that language, while updating the designation from IRP to Additional Step Progression (ASP). The parties painstakingly negotiated existing language to provide a fair and consistent procedure for unit members to receive an additional raise, when justified by factors, set forth in the language, such as equity issues, additional duties, enhanced skills and certifications, etc. When no steps were contained in the contract, this was an inadequate replacement for a proper step system. Now that the parties are negotiating for a step system, it is still necessary to have a procedure for additional increases when justified by the circumstances. The employer acknowledges this but proposes a new procedure that gives management total control over the process, contains no guidelines regarding when such an increase is appropriate, and no recourse for dispute resolution. This is clearly not appropriate. Rather, the parties should retain the language and procedure they have already negotiated and agreed to, and which has functioned well. Therefore, the recommendation should be to adopt the Union's proposed language for ASPs.

For the foregoing reasons, I concur in part and dissent in part from the decision of the Panel Chair on salary. I concur with the Chair's findings that the lack of a salary step system and CSU's failure to provide General Salary Increases in many years has "very adversely impacted employees in this bargaining unit," and that "it should be a high priority for the CSU to move on implementing a complete fix to the structure." However, with the exception of the recommendation that the first year GSI be made retroactive to July 1, 2023 and with the exception of the recommendation to maintain Emergency Pay at the status quo, I must dissent from the Chair's recommendations on Article 24.

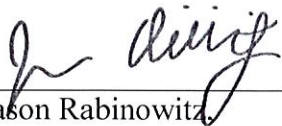
Article 33 (new). Accommodations.

I dissent from the Panel Chair's recommendation to reject the Union's proposal to include the University's disability accommodation policy in the parties' contract. Inserting the policy into the contract would accomplish two goals that the University should appreciate as much as the Union. First, it would provide much more clear and accessible notice of the policy to Unit 6 employees. Second, it would subject disputes arising under the policy to the contractual grievance-arbitration procedure. That employees who believe their disability rights have been violated have a right to file a complaint with the EEOC or the California Office of Civil Rights, or to file a lawsuit, does not detract from the benefit of have the grievance-arbitration procedure available to resolve such disputes. Unlike administrative claims or lawsuits, grievances permit the Union and University to work together early on in the process to seek resolution, and, if necessary, to utilize an arbitration procedure that is for more efficient, both in time and resources, than the alternatives.

Appendix D.2. Job Postings.

I dissent from the Panel Chair's recommendation to reject the Union's modest proposal to amend Section 1 of Appendix D.2. The Union's proposal would simply require the University to give the Union advance notice when it intends to fill a job with a Facilities Maintenance Mechanic. The contract already prohibits the University from using a Facilities Maintenance Mechanic to replace a specific trade's position. The Union's proposal would impose only a minimal, ministerial notice objection on the University, one that would greatly enhance the parties' ability to policy and enforce existing language. The University failed to produce any information during factfinding to suggest that this minimal notice obligation would be burdensome or would result in errors that are not already occurring.

Respectfully submitted,



Jason Rabinowitz

Panel Member for the Union

cc: Andrew Baker, Esq., Beeson, Tayer, & Bodine