

GRIEVANCE/COMPLAINT FORM



CSU Case Number:

CSUEU Case Number:

Campus: All campuses of the California State University and the Chancellor's Office Unit: 2, 5, 7, 9

Grievant/Complainant

[x] Union on behalf of: All affected bargaining unit employees who performed work during the pandemic emergency.

First Name: Brian Last Name: Young
Classification: Union Representative Department:
Mailing Address: 120 K Street Sacramento, CA 95814
Email Address: byoung@csueu.org
Phone: 619-540-2732 Fax:

Indicate preferred response: [ ] U.S. Mail/Personal Delivery [x] Email [ ] Fax

Appropriate Administrator: Campus Presidents and Chancellor

Representative

First Name: Brian Last Name: Young
Mailing Address: 120 K Street Sacramento, CA 95814
Email Address: byoung@csueu.org
Phone: 619-540-2732 Fax:

Indicate preferred response: [ ] U.S. Mail/Personal Delivery [x] Email [ ] Fax

Filing Information

Informal Discussion Date: Informal Response Date:

[x] Informal Discussion Waived [x] Request elevation to Level 3

Level I (Formal)

Level II (President)

Level III (Chancellor)

Filing Date: Meeting Date: Response Date:
Filing Date: Meeting Date: Response Date:
Filing Date: March 16, 2020
Meeting Date:
Response Date:

Extensions:

[x] Grievance Specific contract sections: Articles 17, 18, 20, 21, 23 and any other applicable article
[ ] Complaint - Campus Policy Specific campus policy or work rule:

GRIEVANCE/COMPLAINT FORM

CSU Case Number:

CSUEU Case Number:



---

**Complaint – System Policy**    **Specific system policy:**

**Description of the problem**

**(Include who was involved, dates, and other relevant information)**

Beginning on or about March 2, 2020 and by March 13, 2020, the campuses of the California State University and the Chancellors’ Office were in a state of emergency. Each campus president and the Chancellor declared their campuses (which term shall apply herein to the Chancellor’s Office as well) to be in emergencies because of the threat of COVID-19 novel coronavirus contagion. Those executives partially closed their campuses by terminating in-person classes and transitioning instruction to online classes. This step partially evacuated campuses by releasing students and instructional faculty.

Bargaining unit employees from 2, 5, 7, and 9 remain on the campuses during the emergency. They perform emergency work which includes but is not limited to transition on instruction to online classes, cleaning contaminated areas, preparing medical centers for testing and care of specially-infected people, transfer of administrative services to remote telecommuting, and other special duties.

Employees remain in hazardous situations which risk their health and safety. Campuses, as places where large numbers of people have and continue to congregate pose an increased risk of COVID-19 contagion as declared by government and health authorities. The release of students and instructional faculty was based on the increased hazard of remaining on the campuses. The duties that employees continue to perform, such as but not limited to health care, cleaning of potentially contaminated areas, and repeated personal transactions with students and the public, involve a worsening health and safety situation in the workplace.

In addition, the nature of the COVID-19 contagion poses an additional health and safety risk for employees who are in “at-risk” categories as defined by government and health authorities (including those over age 60 or with underlying health conditions). Employees who have “at-risk” members of their household are also in danger of communicating COVID-19 infection to those family members.

In some cases, employees are assigned emergency duties without formal reassignment. They are not informed in advance of those duties and in some cases those duties fall outside their normal classification. Some reassignments involve changes of shift on shorter notice than provided in the union contract. Some reassignments require additional training and protective equipment that is not provided.

CSU campuses have established emergency plans, including business continuity plans, which involve bargaining unit employee wages, hours, and terms and conditions of employment. These plans were not shared with the Union. The Union has requested but not received copies of these plans. The Union has requested liaison arrangements for labor-management communication during emergencies

## GRIEVANCE/COMPLAINT FORM

CSU Case Number:

CSUEU Case Number:



---

but no liaisons have been established. The Union has requested lists of essential employee roles in an emergency and designated employees but these have not been provided.

In addition, CSU has modified campus policies on telecommuting, including ad hoc implementation of telecommuting programs for departments, individuals, and campuses. Telecommuting has become mandatory for some employees and departments.

These actions were widespread changes in negotiated provisions of the union contract and policies and in some cases are violations of the terms of the union contract on a planned group basis. The employer did not negotiate with the Union modifications or waivers of the union contract or other changes in wages, hours, and terms and conditions of employment.

### **How were the contract provisions or policies violated:**

#### Article 4 – Effect of Agreement

*4.1 This Agreement constitutes the entire Agreement of the Trustees and the Union, arrived at as the result of meeting and conferring. The terms and conditions may be altered, changed, added to, deleted from, or modified only through the voluntary and mutual consent of the parties in an expressed written amendment to the Agreement. This Agreement supersedes all previous Agreements, understandings, and prior practices related to matters included within this Agreement. In the absence of any specific provisions in this Agreement, all CSU practices and procedures are at the discretion of the Employer.*

*The CSU shall provide notification to the Union of proposed changes in written systemwide and/or campuswide policies affecting wages, hours and conditions of employment during the term of this Agreement. Such notice shall be given at least thirty (30) days prior to the implementation of changes in such policies. Upon written request of the Union, the parties shall meet and confer regarding the impact of such changes within thirty (30) days of the union's request to meet and confer, unless the parties mutually agree to extend the time.*

*Written campuswide policies shall be made available for review by employees. However, this provision shall not be interpreted as conferring a right to reopen any provision of this Agreement.*

**The CSU has modified terms of the Agreement and written policies without meeting and conferring with the Union.**

#### Article 17 – Assignment/Reassignment

*17.4 If a position description is to be altered, the employee shall be provided with a copy of the altered position description at least seven (7) days prior to its effective date. The position description shall reflect the employee's responsibilities and duties assigned by the Appropriate Administrator and shall be consistent with the classification standard assigned to the employee's position.*

GRIEVANCE/COMPLAINT FORM

CSU Case Number:

CSUEU Case Number:



---

17.11 The President may temporarily assign an employee to a position in a higher or lateral classification or temporarily reclassify an employee for the performance of duties in a higher classification. The President may temporarily effect an in-class progression for the performance of duties at a higher skill level in the same or a different position. Such a temporary assignment or temporary in-class progression may be for up to six (6) months, and shall be consistent with this Article and/or Article 22, Professional Development. Such an assignment may be extended beyond six (6) months, but for not longer than another twelve (12) months, by mutual agreement of the President and the employee. An employee shall be provided with written notice of such a temporary assignment of duties of another classification or temporary in-class progression at least seven (7) days prior to the effective date.

17.12 An employee shall begin to receive the appropriate compensation of the higher classification or skill level from the effective date specified on the written assignment for the performance of duties to a higher classification or skill level.

17.13 An employee serving in a temporary assignment of duties of another classification or temporary in-class progression shall be provided with a letter of verification of such service. A copy of such a verification letter shall be placed in the personnel file of the employee.

**Employees were reassigned without proper notice, verification, and compensation.**

Article 18 – Hours of Work

18.2 The Appropriate Administrator shall determine the work schedule for an employee. An employee shall be provided with notification of a permanent work schedule change or a summer work schedule at least twenty-one (21) days prior to the effective date of the work schedule change. The Appropriate Administrator shall give consideration to employee seniority.

18.7 For exempt classifications, there are no fixed, minimum or maximum hours in a workday or workweek.

18.26 If a campus determines that telecommuting, as defined in Article 2, is in its best interest, then a written telecommuting policy shall be developed. The provisions of this policy shall include, but not be limited to, the following: eligibility for both position and employee selection, consideration of an employee's years of service on campus, a work place hazards assessment, responsibility for equipment assignment, usage and maintenance, and business related costs.

*Telecommuting is only feasible for those job duties that can be performed away from the campus.*

*Participation in telecommuting is voluntary and at the discretion of the Appropriate Administrator. Participation shall be based on a written agreement between the employee and Appropriate Administrator. The written agreement shall contain the work schedule, performance expectations and*

## GRIEVANCE/COMPLAINT FORM

CSU Case Number:

CSUEU Case Number:



---

*duration of the assignment. All telecommuting work schedules require prior Appropriate Administrator approval. Hours of work shall be consistent with the operational needs of the organization and other Article 18 provisions. If an employee's request for telecommuting is denied, the Appropriate Administrator shall, at the employee's request, provide a written explanation of the reasons for the denial.*

**Employees have had changes in shifts without proper notice. Written telecommuting policies have been modified without notice. Telecommuting has taken place without a written telecommuting policy. Telecommuting has been imposed on an involuntary basis.**

### Article 20 - Salary

*20.37 When the President has declared a state of emergency at a campus, in exchange for the performance of emergency work by bargaining unit employees outside of their normal assignment, and at a time when those employees would, subject to the approval of the University, otherwise have been able to use administrative leave, the following emergency pay will be provided.*

*Non-exempt personnel required to return to or remain at work shall receive emergency pay of an additional one-half (½) hour for each hour worked up to forty (40) hours per week. Hours worked in addition to forty (40) hours per week shall be paid at time and one-half (the inclusion of the phrase "an additional" is for the purpose of clarification only).*

*An exempt employee who is required to work on a day or days declared as a state of emergency at a campus, who would otherwise have been able to use administrative leave, shall receive equivalent informal time off at such time(s) as agreed upon by the employee and the Appropriate Administrator.*

**Bargaining unit employees are performing emergency work without compensation.**

### Article 21 – Benefits

*21.35 The CSU recognizes the importance of child care, elder care, and disabled dependent care needs to bargaining unit employees. Employees may participate in childcare programs in accordance with existing campus and systemwide policies. At an employee's request, the employee may participate in a flex-time program, upon verification of their dependent care needs. The Appropriate Administrator shall give consideration to an employee's child care, elder care, and disabled dependent care needs when an involuntary work schedule change is to be made. The decision of the Appropriate Administrator regarding voluntary and involuntary work schedule changes, including participation in flex-time programs, made pursuant to this provision, shall be final and shall not be subject to Article 7, Grievance Procedure.*

**The CSU is not recognizing the importance of child care, elder care, and disabled dependent care needs. Employees are not being provided appropriate schedules and leave for care.**

## GRIEVANCE/COMPLAINT FORM

CSU Case Number:

CSUEU Case Number:



---

### Article 23 – Health and Safety

*23.1 The CSU recognizes the importance of procedures and policies for the protection of health and safety of employees and shall endeavor to maintain such conditions conducive to the health and safety of the employees.*

*23.2 In the event of earthquake, other natural disasters, or a state of emergency declared by a President, the CSU shall endeavor to take necessary health and safety measures as required. At an appropriate time, the CSU agrees to meet with the Union to review such measures taken during an earthquake or other natural disaster.*

*23.3 Safety equipment and protective safety clothing shall be provided and maintained, when it is deemed necessary by the President to maintain safe and healthful conditions. Such equipment and clothing shall include, but shall not be limited to, safety glasses, ear plugs or other ear coverings, lab coats, smocks, particulate masks, respirators, and steel-toed boots and other protective footwear.*

*23.7 When an employee in good faith believes that the employee is being required to work under unhealthy or unsafe conditions or without adequate safety equipment and clothing, the employee shall notify the Appropriate Administrator. The Appropriate Administrator shall investigate as soon as possible the alleged unhealthy or unsafe conditions, notify the Environmental Health and Safety Officer where appropriate, and shall immediately communicate with the employee as to the results of such an investigation and, if deemed necessary, the steps that shall be taken to correct the condition.*

*If the unhealthy or unsafe condition is an imminent hazard, as defined by CAL/OSHA, in which there is a reasonable certainty that a hazardous condition could be expected to cause death or serious physical harm, the Appropriate Administrator shall respond as soon as possible. CSUEU/CSU Collective Bargaining Agreement January 31, 2018 – June 30, 2020 Article 23*

*23.8 An employee may request a temporary reassignment when the employee believes in good faith that their present assignment presents a clear danger to their health and safety. The Appropriate Administrator shall promptly respond to such a request. Such a request shall not be unreasonably denied during the preliminary aspect of any investigation. If such an unsafe or unhealthy condition is found during such an investigation, the temporary reassignment shall continue until a remedy is implemented. If, after the remedy is implemented, the employee still believes the unsafe or unhealthy condition exists, the employee may contact the Environmental Health and Safety Officer. The Environmental Health and Safety Officer shall respond to the employee as soon as possible.*

*23.11 Upon the Union's written request, the Employer shall furnish within the requirement of the law all relevant and necessary health and safety documents in its possession. Where available, other similar information, such as an Injury and Illness Prevention Program, shall be provided to the Union or an employee, upon written request and within the requirements of the law.*

GRIEVANCE/COMPLAINT FORM

CSU Case Number:

CSUEU Case Number:



---

**CSU has not maintained conditions conducive to the health and safety of employees. CSU has not met with the Union to review necessary health and safety measures. Appropriate training and equipment has not been provided for special hazard duties. Employees have not been provided alternate assignments to alleviate health and safety concerns. CSU has not furnished all relevant and necessary health and safety documents in its possession.**

**Remedy**

1. Notify employees that they are performing emergency work during the pandemic.
2. Compensate employees who perform emergency work (including but not limited to preparations for health care during contagion, cleaning areas of possible contagion, and providing continuity of services during the emergency on campus or remotely).
3. Provide for compassionate leave for dependent care related to the emergency by measures which include but are not limited to automatic approval of dependent care absence requests, permission to use accumulated leave of all types, use of catastrophic leave or grant of administrative time off.
4. Creation of a catastrophic leave bank which includes donations of vacation, sick leave, and CTO, or other leave which may be provided by law, and which may go into deficit during the emergency to allow all eligible employees to use catastrophic leave without fear of loss of income.
5. Provide employees with the right of refusal for a shift change if the change would adversely impact dependent care.
6. Authorize health and safety reassignments, including telecommuting, for any employee who requests such a reassignment or for whom there is a reasonable concern for the employee's health and safety.
7. Closure of any campus in circumstances where pandemic conditions create an imminent hazard to health and safety of employees and grant of administrative time off for bargaining unit employees sent home.
8. Immediately provide emergency plans, including but not limited to business continuity plans, to the Union and arrange for regular and frequent liaison contact between the Emergency Operations Center and the Union and if possible, between the Office of the President and the Union.

Signature: 

Date: March 16, 2020