

Major Issues in Bargaining with the CSU

The way in which the CSU pays and classifies employees - compensation, reclassification, in-range progression, market salary adjustments, merit salary increases, bonuses, stipends, etc. - has been problematic for many years. Throw in staffing and workload issues, as well as salary compaction and recruitment and retention problems and you have a toxic mix of difficult-to-solve problems. The most significant problem, and the one you hear within the first fifteen minutes of any conversation with a staff employee on any campus, is the lack of movement through open salary ranges.

Movement through the Salary Ranges

Prior to the enactment of the *Higher Education Employer-Employee Relations Act (HEERA)* in 1979, which established collective bargaining in the CSU, it was the practice to pay Merit Salary Adjustments (MSAs) to CSU employees. MSAs were paid to eligible employees continuously from 1945 until 1982, when the first collective bargaining agreement between CSEA and CSU became effective.

From 1921 through 1961, employees of state teachers' colleges (which later became known as the California State University) were managed by the Division of State Colleges of the State Department of Education. Employees of the State Government were placed under civil service by a Constitutional amendment in 1934. Employees of the state colleges were exempted from civil service.

In 1945, the Merit Salary Adjustment (MSA) system was created by statute (*GC 18854*, which was changed to *GC 19832* in 1981.) Even though state college employees were exempted from civil service in 1934, their pay increases mirrored those provided to state civil service employees. *Education Code Section 20373* provided that the duties and salaries of state college employees were to be fixed by the Director of Education, subject to the approval of the State Board of Education. MSAs were paid to employees of the state colleges in the same manner as they were paid to state civil service employees.

In 1953, *Education Code Section 20373* was amended so that the State Personnel Board was empowered to establish and adjust the salaries of state college employees "in the same manner and following the same procedures as in the establishment and adjustment of state civil service salaries." Therefore, *Government Code Section 18854*, which authorized MSAs for civil service employees, was now applicable to state college employees. This statute remained applicable to state college employees until the enactment of the *Donahoe Higher Education Act*.

The *Donahoe Higher Education Act of 1960* transferred the management, administration, and control of state college employees from the State Department of Education and the Director of Education to the Trustees of the State Colleges, effective July 1, 1961. In 1963, the CSU wrote the University and Colleges Administrative Manual, known as "UCAM". UCAM Sections 6233.08 and 6233.13.02 authorized the payment of MSAs to CSU employees.

The Board of Trustees authorized the payment of MSAs to eligible employees continuously from 1961 through 1982, when the first collective bargaining agreement between CSEA and CSU became effective. From July 1982 to April 1994, MSAs were paid to California State University employees pursuant to the terms and conditions of various collective bargaining agreements.

In the late 1980s, Governor Deukmejian stopped funding step increases. For a few years, the CSU continued to pay for MSAs out of campus budgets. Then, in FY 1988-89, the CSU unilaterally suspended MSAs. CSEA filed a state-wide grievance, which went to arbitration. We lost that case because language in the contract at the time specified *that funds be specifically appropriated for MSAs by the state legislature*. Recognizing that flaw in our contract, CSEA made sure that the language changed in the 1989-92 contract. MSAs continued until June 1992, when the CSU yet again unilaterally suspended MSAs. This time, CSEA filed an unfair labor practice charge. After many years of hearings and court appeals, the CSU was eventually ordered to pay over 4,000 employees. The cost to the CSU was over \$20 million and was the largest back pay case in the history of the Public Employees Relations Board.

In 1995 bargaining, CSU proposed that MSAs be eliminated and replaced with discretionary performance pay. CSEA refused to dismantle the fifty-year old salary step program and the parties declared impasse. After exhausting the statutory impasse procedures of mediation and fact-finding, for the first time in the history of CSU collective bargaining, the CSU imposed terms and conditions on employees. Effective April 1, 1996, the CSU unilaterally took away steps and created open salary ranges. In addition, management was given the sole discretion to give or not to give performance pay to CSEA-represented employees.

Over the next few years, CSEA documented the abuses and the rampant discrimination and favoritism that is inherent in performance-based pay systems. We documented the fact that employees in bargaining units 5 and 2 rarely received performance pay. We documented that an employee who was honored by a university president as “employee of the year” did not receive performance pay, but someone who had been suspended did. In 1999 bargaining, CSEA and CSU agreed to form a labor management committee to deal with the horrendous consequences of performance pay. The LMC, which was facilitated by the Federal Mediation and Conciliation Services (FMCS) met for one year and in 2000 bargaining, CSEA and CSU agreed to eliminate both Performance-Based Pay (PBSIs) and Service-Based Pay (SBSIs) and replace them with a Merit Salary Increase (MSI) Program. This was a major step forward, especially in the Information Technology (IT) series, since the artificial SBSI max barrier was eliminated. All classifications now had minimum and maximum salary rates. The MSI program called for all employees rated at the same level of performance on the same campus to receive exactly the same percentage increase. No longer would there be arbitrary and capricious merit increases. We also agreed that no employee’s overall performance rating would be changed after it had been presented to the employee for signature. However, due to relatively low compensation pools, funds for the MSI program dried up. There wasn’t even enough compensation dollars going to GSI to keep up with inflation.

For many years, CSU employees wrote letters and emails, signed petitions and participated in rallies in support of adequate pay raises and the restoration of a salary step program. In 2004 bargaining, CSEA and CSU agreed to restore language in our contract for a Service Salary Increase (SSI) program. There were no funds associated with SSI in 2004/05, but at least the structure was put in place. In September 2005, the CSU agreed to union demands to fund Service Salary Increases (SSIs) for FY 2005/06. The 2% SSI was short of the 5% that CSUEU was seeking, and the agreement calls for SSIs to be paid out of the overall compensation pool, but at least the CSU agreed to a mechanism that moves employees through their salary ranges. CSUEU will continue to fight for separate funding for SSIs, the removal of the artificial SSI max barrier, and a larger SSI percentage increase.

Market Equity Increases

Both CSU and CSUEU acknowledge that many of the hundreds of job classifications that the union represents lag the outside market and, that as a result, campuses experience recruitment and retention problems on a regular basis. The CSU has stated publically that staff and faculty salaries lag the market by 0% to 49%. However, they have never shared any reports or data with us that show such disparities. Nor have they provided us with any plan - written or verbal - that explains how they intend to close the salary gap within five years, which is a pledge they have made at several meetings of the CSU Board of Trustees. Moreover, the CSU has repeatedly failed to request the necessary funding for market equity increases from the Governor's budget. Just this year, the California Faculty Association (CFA) and the CSUEU collaborated on an effort to augment the CSU budget by \$75 million. This would have provided an overall increase of three percent above the so-called compact negotiated between the Governor and the Chancellor. When the CSU finally signed on to the CFA/CSUEU proposal, it was too late in the budget process to persuade all of the necessary parties of its importance. The budget augmentation failed to get out of the budget conference committee.

There are numerous salary surveys available that show double-digit salary lags between the CSU and competing agencies. One that is used very often is the annual salary survey produced by the State Department of Personnel Administration (DPA). The latest DPA survey shows that numerous CSU salaries lag the public sector market by 11 to 36%. There are many classifications, especially in healthcare, that lag the private sector market as well. When you combine this with the fact that inflation has eroded our salaries again, it is even more problematic. For example, data shows that over the past ten years, CSU salaries have fallen 19% behind the national average wage increase provided by the social security administration.

Compensation Pool Problems

For at least ten years, the CSU has insisted that funding for market equity increases, service salary increases, merit salary increases, and improvements in benefit programs come from the same inadequate pot of money known as the "compensation pool." To fund any of these programs, money has to be taken away from the general salary increase provided to all employees. Given the fact that the so-called "compensation pool" hasn't even kept up with inflation, there clearly isn't enough money in the pool to adequately fund any of these salary programs. In state civil service, funds for MSAs come from salary savings. The CSU doesn't even acknowledge there is such a thing as salary savings!

Last, but not at all least, is the failure of the CSU to comply with one of the basic principals of HEERA. Government Code section 3572 provides, in part, that:

The duty to meet and confer in good faith requires the parties to begin negotiations prior to the adoption of the final budget for the ensuing year sufficiently in advance of the adoption date so that there is adequate time for agreement to be reached, or for the resolution of an impasse.

No written memoranda reached pursuant to the provisions of this chapter which require budgetary or curative action by the Legislature or other funding agencies shall be effective unless and until such an action has been taken. Following execution of written memoranda of understanding, an appropriate request for financing or

budgetary funding for all state-funded employees or for necessary legislation will be forwarded promptly to the Legislature and the Governor or other funding agencies. When memoranda require legislative action pursuant to this section, if the Legislature or the Governor fail to fully fund the memoranda or to take the requisite curative action, the entire memoranda shall be referred back to the parties for further meeting and conferring; provided, however, that the parties may agree that provisions of the memoranda which are nonbudgetary and do not require funding shall take effect whether or not the funding requests submitted to the Legislature are approved.

For at least fifteen years, the CSU has failed to negotiate a contract prior to the adoption of the final budget for the ensuing year. The CSU's practice has been to wait until after the adoption of a final state budget to even seriously engage in discussions over compensation for an ensuing year.

In-range progression

After salary step increases were unilaterally taken away, the parties negotiated another way to move employees through open salary ranges. In-range progression (IRP) was intended to provide salary increases to employees who were assigned new duties, had enhanced skills, or obtained additional degrees or certificates. IRPs were also intended to address "equity, retention and/or other salary related criteria determined to be of value to the University by the President, the President's designee or appropriate administrator, such as employee performance." And, we recently added contract language allowing IRPs to be granted in recognition of new lead work or new project coordination functions given to an employee. It was envisioned that campus funds would be used for this program. However, as a result of inadequate funding and competing budget priorities, relatively few employees have ever received in-range progressions. Approximately ten percent of the employees we represent have received them over the past five years. The CSU has suggested that compensation pool dollars be used to augment campus funds for IRPs. However, as we stated above, the pool is far too small to adequately general salary increases, let alone IRPs.

Workload

Workload has emerged as one of the biggest problems facing staff employees represented by CSUEU. Between FY 1985/86 and FY 2004/05, the number of students in the CSU system increased by twenty-five percent. The number of faculty members increased by eighteen percent. The number of management employees increased by a staggering sixty-five percent. But, the number of staff represented by the CSU Employees Union increased by only three percent!

Workload was one of the major topics discussed by two CSU-CSUEU labor-management committees - one dealing with custodians and laborers in BU 5, and the other dealing with IT employees in BU 9. Both LMCs were facilitated by the FMCS. Both issued reports which addressed workload. Both listed recommendations dealing with ways to alleviate workload. Unfortunately, the CSU has failed to implement any of the Information Technology LMCs recommendations and only a handful of campuses have implemented a small number of Custodial LMC recommendations.