

*University of California
and
Santa Cruz Faculty Association*

Memorandum of Understanding

1998-1999

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I. RECOGNITIONS

- A. The Regents of the University of California (hereinafter simply "the administration") recognizes the Santa Cruz Faculty Association (hereinafter simply "the Association") as the exclusive representative of those members of the Santa Cruz Division of the Academic Senate included within the unit certified by the Public Employment Relations Board in Case No. SF-PC-1041 for purposes of meeting and conferring as specified by the Higher Education Employer-Employee Relations Act and for purposes of consultation under Sections 3562(q) (4) and 3579 (e) of the HEERA.
- B. The administration and the Association acknowledge that during the meeting and conferring which resulted in this Memorandum of Understanding, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter within the scope of representation as it applies at the divisional level.
- C. The administration and the Association shall each designate to the other the representatives to meet and confer, or to consult, as specified in Section A and to take any other action provided for in this Memorandum of Understanding.

II. MEETING AND CONFERRING

A. Association Proposals

- 1. If the Association seeks a change in any term or condition of employment within the scope of representation at the divisional level, the Association shall serve written notice on the administration specifying the subject matter and specific nature of the desired change.
- 2. Within fifteen (15) working days after receipt of such notice, the administration will meet with the Association at a mutually convenient time and place for the purpose of meeting and conferring concerning the proposed change. If the parties reach agreement effecting a change in a term or condition of employment which is within the scope of representation at the divisional level, that agreement including its duration shall be reduced to writing, signed by the parties and shall become a part of this Memorandum of Understanding. In no event, however, shall the duration of the agreement extend beyond the expiration date of the Memorandum of Understanding of which it becomes a part.

If after forty-five (45) working days from the opening of the meeting and conferring, no agreement has been reached, the meeting and conferring shall be terminated and the administration shall have no further obligation with respect to meeting and conferring on the subject of the proposed change except as provided for in Section II.B. of the Memorandum of Understanding.

3. Neither party may invoke the statutory impasse procedure or any alternative impasse procedure in order to resolve any impasse in the meeting and conferring under this Section II.A.
4. Once the Association has proposed a change in a term or condition of employment and meeting and conferring has occurred, regardless of the outcome, the administration shall have no obligation to meet and confer concerning any change proposed by the Association in that term or condition of employment for at least one year from the date on which the meeting and conferring is concluded or the termination of this Memorandum of Understanding, whichever is earlier.

B. Administration Proposals

1. If the administration proposes a change in any term or condition of employment within the scope of representation at the divisional level, it shall give to the Association notice of the proposed change and specify a date (not earlier than thirty (30) calendar days during the Fall, Winter and Spring term of instruction or forty-five (45) calendar days at other times) by which the Association must notify the administration that it wishes to meet and confer prior to its being effected. The administration shall make every reasonable effort to insure that its representatives are aware of the notification obligation contained in this section.
2. If the Association has failed to notify the administration that it wishes to engage in meeting and conferring on the change within the time specified, the administration may effect the proposed change without any further obligation to meet and confer with the Association on the matter for a period of at least one year after the change has become effective or the termination of the Memorandum of Understanding, whichever is earlier.
3. Should the Association believe that the administration has effected a change in a term or condition of employment within the scope of representation at the divisional level of which the Association has not been notified, the Association may request that the change be rescinded and that meeting and conferring take place on the change. Such a request must be

within the time limits as specified in Paragraph II.B.1. beginning with the date on which the Association should reasonably have been aware of such change.

If the administration agrees that a change within the scope of representation at the divisional level has been made, the change shall be rescinded, if feasible, if the Association so requests, and the parties shall meet and confer.

If the administration does not agree that a change has been made within the scope of representation at the divisional level the dispute shall be resolved as provided in Article VI., i.e. by arbitration if a question as to whether there has been a change or proper notice, by PERB if the question is as to scope as provided for in Section 3563(b) of HEERA.

If the administration chooses not to take a position on the scope issue, the change shall be rescinded, if feasible, if the Association so requests, and there will be no meeting and conferring until the scope issue is resolved as provided in Article VI., i.e. by PERB as provided for by Section 3563(b) of the HEERA.

It is the intention of the parties that rescission of a change shall occur only when the administration concurs that the conditions justifying rescission are met. A decision by the administration that the rescinding of the change is not feasible shall be cognizable under the grievance procedure (Article VI).

4. If, after forty-five (45) calendar days from the date on which the meeting and conferring commenced, no agreement has been reached, either party or both parties jointly may invoke the statutory impasse procedures. By mutual agreement, the impasse procedures may be invoked prior to the end of the forty-five (45) calendar day period. If, within fifteen (15) calendar days of the conclusion of the impasse procedure no agreement has been reached the administration may implement the proposed change in the term or condition of employment which has been the subject of the meeting and conferring.
5. Any agreement representing a change in a term or condition of employment which is reached as a result either of direct negotiations or of the impasse procedures shall, including the duration of the agreement, be reduced to writing and, subject to appropriate ratification, become a part of this Memorandum of Understanding. In no event, however, shall the

duration of the agreement extend beyond the expiration date of the Memorandum of Understanding of which it becomes a part.

C. By mutual agreement of the parties, (a) the requirement of this section that such agreement be appended to this Memorandum of Understanding may be waived, and (b) the parties may provide in such agreement for enforcement through means other than the grievance procedure contained in the Memorandum of Understanding.

D. Any of the time limits contained in this article may be modified by consent of the parties.

III. CONSULTATION

This Memorandum of Understanding shall not abrogate or otherwise alter the consultation rights and obligations as provided for in Sections 3562(q)(4) and 3579(e) of the HEERA. The parties will jointly develop procedures to implement these consultation rights and obligations.

IV. STRIKES

During the term of this Memorandum of Understanding, the Association will not instigate, engage in, or support in any way any strike, work stoppage, concerted slowdown or other concerted refusal to perform work or provide service at the customary level, over any matters within the scope of representation and/or consultation as provided by Section 3562(q)(4) and Section 3579(e) of the HEERA. If any such strike, work stoppage, concerted slowdown or other concerted refusal to perform services should occur, the Association agrees to make all reasonable efforts to discourage and bring an end to such activity.

V. SEVERABILITY

In the event that any part of this Memorandum of Understanding is held to be illegal, invalid, void or unenforceable by any court of competent jurisdiction, all of the remaining conditions and provisions of this Memorandum of Understanding which are not rendered meaningless, inoperable or ambiguous shall remain in full force and effect during the term of this Memorandum of Understanding.

VI. GRIEVANCE PROCEDURES

A grievance under this procedure is an action by the administration which the Association alleges is a violation, misapplication or misinterpretation of the terms of this Memorandum of Understanding or of any addenda to this Memorandum of

Understanding which are explicitly made a part thereof except that disputes arising under Article III, Consultation, of this Memorandum of Understanding shall not be cognizable under this grievance procedure. Disputes, disagreements, or controversies concerning the scope of representation at the divisional level shall not be cognizable under the grievance procedure, but shall be resolved by the Public Employment Relations Board as provided for in Section 3563(b) of the HEERA.

A. Standing to Bring a Grievance

A grievance under this procedure may be brought only by the Association. The Association shall designate to the administration those individuals who are authorized to certify grievances filed by and on behalf of the Association.

B. Procedure

If the Association believes that the administration has committed an action which constitutes a violation, misapplication or misinterpretation of this Memorandum of Understanding or of its addenda, the Association may submit to the administration, within thirty (30) calendar days of the alleged violation, misapplication, or misinterpretation, a written grievance which shall include the following information:

1. The nature of the alleged violation, misinterpretation or misapplication and the provision or provisions of this Memorandum of Understanding allegedly violated;
2. The date or dates on which the alleged violation occurred or the date on which the Association became aware of the alleged violation;
3. The identification of the employee, employees, or class of employees who were adversely affected by the alleged violation;
4. The remedy sought;
5. The date as of which the Association seeks to make any remedy or award effective.

C. Informal Resolution

Every effort will be made to effect an informal resolution of the grievance. Representatives of the administration as may be appropriate will meet with the representatives of the Association in an effort to resolve the complaint.

D. Step I

If the Association is not satisfied with the outcome of the informal discussions, it may give notice to the administration that the grievance be advanced to the formal step not less than fifteen (15) calendar days and not more than forty-five (45) calendar days from the date of the original submission. The administration's representative will investigate the grievance, meet with the representatives of the Association and take whatever additional steps he or she deems necessary and appropriate in the investigation of the grievance. Within fifteen (15) working days of the receipt of the grievance, under this paragraph, the administration will submit to the Association a written response to the grievance.

If the Association is satisfied with the written response, it will so advise the administration which will effect any remedies which may be provided for in the response.

If the Association is not satisfied with the written response to the grievance, it may within twenty (20) working days of the receipt of the answer move the grievance to arbitration. The time limits provided for in this grievance procedure may be extended by mutual agreement of the parties.

E. Arbitration

If the Association is not satisfied with the Step I response, it may move the grievance to arbitration before an arbitration panel composed of a representative designated by the Association, a representative designated by the administration and a mutually acceptable neutral third party selected either by the consent of the representatives of the parties or through the selection procedures of the American Arbitration Association. The arbitration panel will hear the grievance and will provide an answer within thirty (30) calendar days of the conclusion of the hearings. However, it is the intention of the parties that the answer be provided as expeditiously as possible. The panel will make findings of fact as to whether in its judgment the alleged violation did occur and if it so finds, will fashion a remedy. The decision of the majority of the arbitration panel as to whether a violation of the Memorandum of Understanding has occurred and, if so what the remedy shall be is final. If there is no majority decision, the decision of the neutral arbitrator shall be determinative and final. Each party shall be responsible for any costs incurred by its representative on the grievance panel. The costs and necessary expenses of the neutral third party shall be shared equally by the parties.

VII. TERM OF THIS MEMORANDUM

The moratorium period for this Memorandum of Understanding will conclude on June 30, 1999 or after the date a statewide exclusive representative has been selected under the provisions of Section 3579(e) of the HEERA, whichever occurs first.

This agreement is subject to the ratification procedure of the majority representative and concurrence by the higher education employer, the latter as provided by Section 3562(d) of the Act.

VIII. SIGNATURES

FOR THE ASSOCIATION:

Michael Warren
Chair

FOR THE ADMINISTRATION:

Linda G. Listmann
Labor Relations Manager

The foregoing agreement between the Santa Cruz Faculty Association (SCFA) and The Regents of the University of California having been duly approved by both parties is hereby executed by the undersigned authorized representatives of each party, to be effective July 1, 1998.

SANTA CRUZ FACULTY ASSOCIATION

Michael Warren
Chair

Date

UNIVERSITY OF CALIFORNIA AT SANTA CRUZ

Julia E. Armstrong-Zwart
Assistant Academic Vice Chancellor
Faculty Relations

Date

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

Lubbe Levin
Associate Vice President
Human Resources

Date

APPROVED AS TO FORM:

Susan M. Thomas
University Counsel

Date