



SS-S99-4

At its meeting on April 5, 1999, the Academic Senate approved without dissent the following Sense of the Senate Resolution presented by Annette Nellen for the Executive Committee.

**SENSE OF THE SENATE RESOLUTION
ON RESPONSE TO THE IMPOSITION OF TERMS AND CONDITIONS OF EMPLOYMENT
BY CHANCELLOR REED AND THE CSU BOARD OF TRUSTEES**

WHEREAS, On March 17, 1999, Chancellor Reed and the CSU Board of Trustees imposed a set of terms and conditions of employment upon faculty as the result of the inability of CFA and CSU to reach a negotiated agreement.

WHEREAS, The requests outlined in SS-F98-1 (attached), including adoption of a plan to close the salary gap and to reach agreement quickly on a new and fair merit pay plan, that was transmitted to the Chancellor, the CSU trustees, and CFA in December 1998, were not acknowledged.

WHEREAS, To maintain collegiality and professionalism and to work toward attaining the salary and other goals set out in SS-F98-1, the faculty must now focus attention and efforts on what we can do, rather than what we cannot undo.

WHEREAS, Implementation of the imposed terms and conditions of employment may require faculty (including Department Chairs) to evaluate the applications of colleagues with whom they are in direct competition for Faculty Merit Increases (FMIs), and such a requirement would be a conflict of interest under the terms of the SJSU Statement of Professional Responsibility (S93-12).

WHEREAS, The Senate has previously encouraged the SJSU administration to award Performance Salary Step Increases (PSSIs) with a presumption of a maximum of fairness and egalitarianism (SS-F95-3, approved November 20, 1995).

RESOLVED: In light of the Senate's support for CFA as the faculty's representative in the bargaining process and the apparent lack of consideration given to the requests made in SS-F98-1 (attached), we encourage faculty to make the following notation on their activity reports required to be submitted under the imposed Faculty Merit Increase (FMI) program:

"Submission of this report does not represent endorsement of the terms of the March 17, 1999 imposition."

RESOLVED: That, we recognize that collegial respect among faculty members requires faculty members to make their own individual decisions about how to respond to the terms of the imposition and we call upon faculty to respect the responses of their colleagues.

RESOLVED: We urge President Caret, Provost Bain, and the college deans to continue to consider the spirit of SS-F95-3 on awarding of PSSIs and to award FMIs in equal amounts among faculty who are "recommended" for an FMI, with only faculty who are "highly recommended" receiving an additional amount and that such amount be equal to others in that category.

RESOLVED: We urge the CSU to state that the current imposition expires once the campus presidents complete the current FMI process in July 1999 and we strongly encourage both the CFA and the CSU to resume bargaining efforts now so that a negotiated contract can be completed by Fall 1999.

RESOLVED: That the Executive Committee of the Senate is instructed to form a special committee of the Senate. This committee will be charged with (a) deriving plans to improve upon the Senate's past communication efforts of mailing resolutions to CFA, the Statewide Academic Senate, the Trustees, and the Chancellor; (b) to make recommendations to the Executive Committee on how the Senate can improve upon its work with respect to communications with faculty and administration; and (c) analyzing the Tentative Agreement that was voted down by CFA in February 1999 and the current imposition in order to prepare a report of suggestions for improvement (such analysis should also consider the Merit Pay Task Force report of the Statewide Academic Senate). The special committee will make its first report to the Executive Committee at a meeting to be called prior to the start of the Fall 1999 semester. Senators interested and available to serve on the committee should let the Senate Office know by April 12, 1999.

RESOLVED: That this resolution, including the attached statement sanctioned by the Academic Senate entitled Senate Advice Regarding Conflicts of Interest and Evaluation of FMI Awards, be distributed to all department chairs (or equivalent unit head) with instruction that they make it available to all faculty members.

RESOLVED: That this resolution be forwarded to the college deans, the CFA (both the SJSU and statewide leaders); each member of the CSU Board of Trustees; Chancellor Reed; and the Statewide Academic Senate.

Senate Advice Regarding Conflicts of Interest and Evaluation for FMI Awards

April 5, 1999

Background and Analysis

Unlike the previous PSSI system, the imposed system of Faculty Merit Increases (FMIs) requires that all faculty be candidates for merit awards every year through the submission of annual reports. This unfortunately includes those faculty who will serve on FMI evaluation committees and Department Chairs who must also make qualitative and possibly quantitative judgments about who should be recommended for the awards. In this way, the imposed system has created a situation in which faculty who are applicants for the awards will be evaluating and making recommendations about the merits of their competition.

San José State University has a clear policy that prohibits faculty from engaging in activities that constitute professional conflicts of interest. The statement on Academic Freedom and Professional Responsibility (S93-12) reads, in part, that "Faculty members have a (similar) expectation that their professional and academic evaluations and supervision are free from the self interest of their peers." It further states that "a faculty member ought to avoid actual conflicts of interest as well as the appearance of such conflicts whenever possible."

The imposed FMI system fails to meet either of these standards. All faculty evaluators who are in competition with those they are evaluating do have, by definition, personal interests in the outcome that would compromise the disinterested performance of their duties. Even if they can in good conscience set aside their personal interests, as we assume most would, they cannot avoid the appearance of a conflict. This could lead, in turn, to a destruction of collegiality if those who were denied awards, particularly due to negative recommendations from faculty evaluators saw that those who evaluated them had received awards.

Depending upon the nature of the FMI system imposed by the SJSU Administration, it may not be possible for evaluators to serve without creating a conflict of interest. Because this policy was not available at April 5, 1999, an evaluation of it could not be made. However, the Senate is prepared to offer the following general guidance to faculty based upon underlying principles of the existing policy on conflicts of interest.

Recommendation

Prior to forming any faculty review committees, the Senate encourages all faculty (including Department Chairs) within each college to meet to discuss both the Administration's FMI policy and the conflict of interest policy contained in the SJSU Policy on Academic Freedom and Professional Responsibility (S93-12). These discussions should consider all alternatives that could preserve objective and disinterested evaluations of colleagues by assuring that faculty neither evaluate themselves nor colleagues who are competitors for the same pool of FMI funds.