

AGENDA

COMMITTEE OF THE WHOLE

Meeting: 5:05 p.m. Tuesday March 13, 2007
Glenn S. Dumke Auditorium

8:05 a.m. Wednesday, March 14, 2007
Glenn S. Dumke Auditorium

Roberta Achtenberg, Chair
Jeffrey L. Bleich, Vice Chair
Herbert L. Carter
Carol R. Chandler
Moctesuma Esparza
Debra S. Farar
Kenneth Fong
Murray L. Galinson
George G. Gowgani
Melinda Guzman
William Hauck

Raymond W. Holdsworth
Ricardo F. Icaza
Andrew J. LaFlamme
A. Robert Linscheid
Lou Monville
Charles B. Reed, Chancellor
Jennifer Reimer
Craig R. Smith
Glen O. Toney
Kyriakos Tsakopoulos

5:05 p.m. Tuesday March 13, 2007 -Glenn S. Dumke Auditorium

Consent Items

Approval of Minutes of Meeting of January 24, 2006
Approval of Minutes of Meeting of Ad Hoc Committee on International
Programs of December 6, 2006

Discussion Items

1. General Counsel's Report, *Information*

****NOTE**

8:05 a.m. Wednesday, March 14, 2007 - Glenn S. Dumke Auditorium

Consent Items

Approval of Minutes of Meeting of January 24, 2006
Approval of Minutes of Meeting of Ad Hoc Committee on International
Programs of December 6, 2006

Discussion Items

1. General Counsel's Report, *Information*

****NOTE:** Depending on the length of discussion on Tuesday, March 13, 2007, Committee of the Whole items may have to be carried over to Wednesday, March 14, 2007 for consideration.

**MINUTES OF THE MEETING OF
COMMITTEE OF THE WHOLE**

**Trustees of the California State University
Office of the Chancellor
Glenn S. Dumke Conference Center
401 Golden Shore
Long Beach, California**

January 24, 2007

Members Present

Roberta Achtenberg, Chair
Jeffrey L. Bleich, Vice Chair
Herbert L. Carter
Carol R. Chandler
Moctesuma Esparza
Debra S. Farar
Kenneth Fong
Murray L. Galinson
George G. Gowgani
William Hauck
Raymond W. Holdsworth
Andrew J. LaFlamme
A. Robert Linscheid
Lou Monville
Charles B. Reed, Chancellor
Jennifer Reimer
Craig R. Smith
Kyriakos Tsakopoulos

Approval of Minutes

The minutes of November 15, 2006 were approved.

The California State University Quality Improvement Program

Chair Achtenberg asked Richard P. West, Executive Vice Chancellor and Chief Financial Officer, to present the item. Mr. West noted that from time to time, the board is presented with an update on the progress of the CSU Quality Improvement Program (QI Program). He explained the purpose of the program is to promote continuous quality improvement, which is necessary to manage change and provide the high levels of service that students and other constituencies receive from the CSU.

Mr. West then asked Mr. David DeMauro, Vice President, Administration and Finance, CSU, San Bernardino, to continue with presentation of the item. Mr. DeMauro began with an

introduction that provided the history and gradual evolution of the program into the mature program it is today consisting of a wide range of different offerings and services.

Mr. DeMauro introduced three key people involved in the program: David J. Ernst, Assistant Vice Chancellor and Chief Information Officer; Robyn L. Pennington, Director of Business Solutions Services, and Katy Rees, Chair, CSU Quality Improvement Program Planning Committee.

Mr. Ernst, Ms. Pennington, and Ms. Rees, jointly presented a detailed PowerPoint review of the QI Program consisting of information on QI outcomes and goals, campus program results, the program's structure, performance measurement, process improvement, knowledge and information sharing, and customer satisfaction survey administration.

The presenters also introduced and acknowledged the 2006 QI Award winners and noted the next Quality Improvement Symposium was scheduled to be held on February 22, 2007 near in Foster City, CA.

Trustee Hauck asked for a definition of a balanced scorecard framework. Ms. Rees responded it was a method to view an organization from four or five different perspectives to determine how successful it is. She then outlined various examples of how to identify measures that align with those perspectives and track progress.

Mr. DeMauro noted a hard copy of the CSU QI Biennial Report had been provided prior to the committee meeting. A question was asked regarding why only 19 campuses were noted in the report as 'full' program participants. Mr. DeMauro replied that while a few campuses are not fully participating, all campuses are participating in parts of the program. He added it was a major program goal to have all campuses as full participants in the future.

Dr. Charles B. Reed, Chancellor, said the program was an outstanding effort and commended the volunteers and award winners, who not only do their regular jobs, but also go the extra mile to be involved in this program.

Mr. DeMauro concluded saying the collective action of all of the campuses working together has added tremendously to the success of the program as well as the success of all of the services it delivers. He said that after reading the report, he was confident that everyone could be proud of the accomplishments of the campuses and the CSU Quality Improvement Program.

Partnering for Greater Access to Higher Education

Similar to the panel presentation made at the last national annual meeting of the Hispanic Association of Colleges and Universities, a summary of what the President's Council on Underserved Communities (PCUC) has accomplished to date was made to the Board of Trustees. An overview of the current projects underway was provided for information by James M. Rosser, President, California State University, Los Angeles, Philip Garcia, Senior Director, Analytic Studies; Carolina Cardenas, Associate Director, Academic Outreach, Early Assessment Program; and Clara Potes-Fellow, Director, Media Relations. The Board heard a review of ways in which the CSU has moved beyond its existing outreach efforts to create new venues for recruiting under-represented students. A part of the review focused on how new initiatives go directly into the communities to cultivate future college students. Examples included the "Super Sunday" event, where CSU presidents and trustees visited multiple African-American Churches and in Los Angeles and the Bay Area to explain the college entrance requirements, the CSU's Early Assessment Program, and the increasingly popular "How to Get to College" poster. The Board also reviewed how students who do not complete the college preparatory curriculum are not fully prepared to confront the lower-division curriculum. Thus a crucial challenge for the CSU is to promote higher eligibility rates among African Americans, American Indians, Latinos, and other under-represented groups. To be fully successful, CSU must be comprehensive in its efforts to include:

- Promoting a college-going culture
- Providing early assessment of college-going skills
- Encouraging parental involvement, and
- Partnering with community-based organizations

Chair Achtenberg adjourned the meeting.

**MINUTES OF THE MEETING OF THE
AD HOC COMMITTEE ON INTERNATIONAL PROGRAMS**

**Trustees of The California State University
Office of the Chancellor
Glenn S. Dumke Conference Center
401 Golden Shore
Long Beach, California**

December 6, 2006

Members Present

A. Robert Linscheid, Chair
Herbert L. Carter
Murray L. Galinson
Craig R. Smith
Kyriakos Tsakopoulos
Charles B. Reed, Chancellor
Hironao Okahana, California State Student Association

Chair Linscheid convened the meeting.

Trustee Linscheid said the purpose of the meeting was to determine if the CSU has adequate policies governing international education programs.

Trustee Linscheid called upon Chancellor Reed to make a presentation.

Chancellor Reed repeated his comments, given during the meeting of the Committee of the Whole on November 15, 2006, citing the value of international study and the policy framework. Dr. Reed said programs must undergo the same on-campus development as other programs of study; that the program satisfy CSU campus graduation requirements; that a course of study be congruent with campus curriculum; that it be subject to normal campus review; evaluation and improvement policies; and, that safety precautions be followed. He underscored that U.S. Department of State travel advisories are monitored and adhered to and that he has the authority to cancel international programs when circumstances warrant such action. Since being chancellor, he has suspended programs in Israel and in Zimbabwe.

Chancellor Reed stated that the San Diego State University program, with the Eastern Mediterranean University (EMU) in Cyprus, complied with CSU policy and practices and that he would not cancel the program.

Chancellor Reed offered that some current practices could be formalized in a new executive order governing international study programs.

Trustee Tsakopoulos asked that a letter from the Los Angeles Regional Director of the Office of Foreign Missions, dated June 28, 2005, be distributed to the committee. He said the letter states that the U.S. Department of State does not recognize the Turkish Republic of Northern Cyprus.

Chair Linscheid recognized speakers in the audience.

The following spoke in opposition to the San Diego State – EMU program: Andreas D. Mavroyiannis, Peter Flanagan, Brian Smith, Andreas Kyprianides, James Dimitriou, Gabriella Koliass, Vasken Kassakhian, Mihalis Sarris, Georgia Stravopoulos and Demetrious Boutris.

The following spoke in support of the San Diego State – EMU program: Al Sweedler, Mike Mustafoglu, David Saltzman, John Safyurtlu, William Locke, Stacey Sinclair, Ergun Kirlikovali, Leslie Bates, Arzu Kurkoglu, Erol Kaymak, Tulin Mangir, Jacob Asli and Erin Balat.

Chair Linscheid thanked the speakers for their time and thoughts.

Trustee Linscheid asked for consideration of the resolution. The resolution was moved and seconded.

Trustee Tsakopoulos commented that the CSU should retain independent legal counsel to evaluate the legal issues raised by speakers opposed to the program. Trustee Galinson said he did not support retaining independent legal counsel. Trustees Carter and Smith spoke about the educational value of international study.

Trustee Tsakopoulos moved an amendment that the resolution be presented to the Board of Trustees only after independent counsel or the CSU General Counsel had prepared a full review of the legal issues. Chancellor Reed stated that General Counsel Christine Helwick already responded to the issues raised by Mr. Mihalis Sarris at the November 15, 2006 meeting. After receiving a second, the amendment failed.

The main motion on the resolution, as printed in the agenda item of December 6, 2006, was approved.

Trustee Linscheid adjourned the meeting.

COMMITTEE OF THE WHOLE

General Counsel's Report

Presentation By

Christine Helwick
General Counsel

This is the semi-annual report on the status of significant litigation confronting the CSU, which is presented for information. "Significant" for purposes of this report is defined as litigation: (1) with the potential for a systemwide impact on the CSU; (2) which raises public policy issues of significant interest or concern; (3) brought by or against another public agency; or (4) which, for other reasons, has a high profile or is likely to generate widespread publicity. *New information since the date of the last report is printed in italics.*

The cases contained in this report have been selected from 96 currently active litigation files; in *three* of those files, CSU is the party pursuing relief.

New Cases

Beay, et al. v. CSULA, et al. – U.S. District Court, Los Angeles

Several non-students held an unscheduled protest on the CSULA campus, carrying large posters of aborted fetuses. They attracted a crowd, many of whom found the graphic photographs on the posters to be offensive. The campus police ordered the protesters to move their demonstration to a small area directly adjacent to the public safety department building, purportedly in accord with campus free speech policy. Plaintiffs refused and were arrested. The plaintiffs sued for violation of their free speech rights, unreasonable search and seizure, violation of their right to due process, and false arrest. The matter was settled for \$49,750.

CFA v. PERB – Court of Appeal

CFA filed an unfair labor practice charge asserting, among other things, that CSU unilaterally changed its parking practices to bar union employees from using new parking facilities that are limited to students who are paying the higher parking fees. An administrative law judge concluded that parking is within the scope of bargaining and that CSU had committed an unfair labor practice. CSU appealed. The full PERB Board reversed the decision and held that parking location is outside the scope of bargaining, and thus there was no unfair labor practice. CFA has filed this petition challenging this outcome in the court of appeal.

Marketing Information Masters, Inc. v. Board of Trustees – U.S. District Court, San Diego
Plaintiff Marketing Information Masters alleges that SDSU and its employee Robert Rauch violated MIM's copyright by including large portions of its 2003 Pacific Life Holiday Bowl report in SDSU's 2004 Holiday Bowl report. This matter is in the initial pleading stage.

Mendoza v. CSU – Los Angeles County Superior Court
Ramon Mendoza, a CSUN computer analyst in the MPP (management) classification, filed this class action which challenges a systemwide classification of many computer analysts as exempt from wage and hour laws that govern overtime and breaks. Mendoza is the only named plaintiff. He purports to represent all MPP analysts in over 20 analyst classifications. Because CSU is not subject to many of the laws claimed to be violated, CSU is filing a legal challenge to the sufficiency of the complaint, which will be heard on March 23, 2007. The case is in the pleading stage.

Student Advocates, et al. v. CSU, et al. – San Francisco County Superior Court
A minor student, born in this country and therefore a United States citizen, filed this petition for writ of mandate because she was classified as a nonresident for purposes of financial aid, based on her parents' undocumented status. After careful analysis of the language and intent of the Education Code, CSU agreed to settle this claim with a stipulated statement of the law to be submitted to the Court for approval. The parties have prepared the stipulated legal analysis and proposed Consent Decree which are before the Court for signature. The proposed Decree includes a \$1500 refund to the student to replace the financial aid she was denied, a commitment to amend Title 5, and payment to the other side of \$30,000 in attorneys' fees.

Travis v. CSU, et al. – Los Angeles County Superior Court
John Travis, President of the CFA, alleges in this lawsuit that the current Executive Transition Program is an unlawful gift of public funds and an unlawful dual government retirement benefit. Travis seeks to undo the Executive Transition Program in its entirety, and refund the payments made to former executives Peter Smith and David Spence. This case is in the initial pleading stage.

Construction Cases

CH2MHill v. CSU, et al. – San Francisco County Superior Court
Plaintiff is the general contractor on the campus technology infrastructure project. The project was scheduled to be completed in April 2006, but was only 50 percent completed on that date. Plaintiff filed an action to have the court declare that the contract was illegal and invalid and that the plaintiff should be excused from performing. In January 2007, the University terminated the plaintiff from the project. The case is in the early pleading stage.

Employment Cases

Giovannetti v. Trustees, et al. - U.S. District Court, San Francisco

Joseph Giovannetti, a tenured professor in Native American studies, alleges that Humboldt State University subjected him to discriminatory treatment based on his ethnicity as a Native American. He alleges that HSU also retaliated against him for complaining about discrimination by unlawfully removing him as Chair of the Native American Studies Department, refusing to hire additional faculty for the department as promised in an earlier settlement, and canceling some of Plaintiff's courses. Giovannetti and two other complainants had an earlier lawsuit for similar discrimination claims that was settled. On June 12, 2006, the court granted part of CSU's motion for summary judgment and dismissed plaintiff's claims of racial discrimination and racial harassment. Plaintiff's retaliation claim remains. On July 12, 2006, the court granted plaintiff's attorney's request to withdraw from the case and continued the September trial date. *A settlement conference was held on October 25, 2006 and was unsuccessful. In January 2007, plaintiff retained new counsel. Trial is scheduled to begin on March 26, 2007.*

Horsford, et al. v. Shell, et al. - Fresno County Superior Court

Brown v. CSU, et al. - Fresno County Superior Court

Snow v. CSU, Fresno, et al. - Fresno County Superior Court

King v. CSU, et al. - Fresno County Superior Court

Daniel Horsford, Steven King, Richard Snow and three other former campus police officers filed a lawsuit claiming that they were victims of reverse discrimination in the CSU Fresno Police Department while it was under the direction of former police chief Willie Shell, who is black. Summary judgment was entered against three of the police officers. The case was tried in May 2000 against the three remaining plaintiffs, Horsford, King and Snow. The jury returned a verdict of \$4.25 million. The court reduced this verdict to \$1.17 million, which has been paid. *The court also awarded \$3.2 million in attorney fees which has been paid.*

Auwana Brown, also a former employee in the CSU Fresno Police Department, settled a sexual harassment lawsuit against former police chief, Willie Shell in 1998. She is represented by the same attorneys who are representing Horsford, King and Snow. As a part of the settlement, Brown agreed to resign. But after her resignation became effective, and the Horsford verdict came in, she petitioned the State Personnel Board to reinstate her. The State Personnel Board refused, and Brown then asked the Court of Appeal to order the State Personnel Board to set aside her resignation. The court instead sent the case back to the State Personnel Board for further findings. *After three years of inactivity, the State Personnel Board issued a decision denying Brown reinstatement. Her lawsuit, which has been stayed until final resolution of the SPB matter, will now proceed.*

Richard Snow suffered a work-related hip fracture in November 2000 and was deemed disabled in workers' compensation proceedings. His disability retirement became effective in February 2003. Snow filed a new lawsuit shortly thereafter, alleging that the university discriminated

against him because of his disability, failed to accommodate him, and retaliated against him because of the Horsford verdict. *This case is in the discovery stage.*

Steven King filed a new lawsuit also claiming that the university discriminated and retaliated against him because of the Horsford verdict, because he was not appointed lieutenant and/or chief of police in the CSU Fresno Police Department. *This case is set for trial for August 29, 2007.*

Johnson-Klein v. CSU, Fresno, et al. - Fresno County Superior Court

Stacy Johnson-Klein was terminated as CSU Fresno's head women's basketball coach in March 2005 for serious performance issues. In September 2005, she filed this lawsuit against CSU, President Welty, retired Athletic Director Scott Johnson, and Fresno State's athletic corporation for gender discrimination, sexual harassment, Title IX violations, retaliation and wrongful termination. She claims that her supervisors sexually harassed her by making inappropriate comments about her breasts and clothing, and that she was inappropriately touched by one or more of her supervisors. Johnson-Klein alleges that she was terminated in retaliation for complaining about harassment, as well as gender inequities in athletics. This case is in the discovery phase.

Lalehzarian, et al. v. CSU, et al. - Los Angeles County Superior Court

Hamo Lalehzarian, Prakash Mahajan, Masud Mansui, all former faculty members in the College of Engineering and Computer Science at CSU Fresno, filed a wrongful termination case claiming racial and age discrimination. They have a parallel grievance, which has not yet been assigned to arbitration. *This case is in the discovery stage.*

May v. Trustees - Monterey County Superior Court

James May is a former faculty member at CSU Monterey Bay who retired in 2000. He alleged that he was forced to take an early retirement due to continuing mistreatment, race, disability and age discrimination, harassment, retaliation, failure to prevent discrimination, and wrongful termination. In 2002, the jury returned a \$375,000 verdict in favor of May for harassment and retaliation on the basis of race and national origin. The court granted CSU's motion for a new trial. May appealed both the trial court's grant of a new trial and the defense verdict on his discrimination claims. In 2005, the Court of Appeal affirmed the trial court's ruling and the defense verdict. In June 2005, the California Supreme Court granted May's petition for review. The issue of interest to the Supreme Court is the standard for granting a new trial, which is the same issue raised in the Oakland Raiders v. National Football League case. The Court has postponed briefing in the May case pending decision in the Raiders case.

Milutinovich v. CSU, Fresno, et al. - Fresno County Superior Court

Diane Milutinovich, formerly Associate Athletics Director and Senior Women's Administrator at CSU Fresno, was reassigned to be Director of the University Student Union after her position was eliminated in an effort to cut administrative costs through reorganization. Milutinovich's

first lawsuit for wrongful termination was dismissed because she failed to file a government tort claim. She refiled this second action, asserting statutory claims that she was fired because of her alleged efforts to achieve Title IX compliance and in retaliation for her advocacy of gender equity issues in employment and athletics. This case is in the discovery stage. *The University recently terminated Milutinovich for poor performance, and she has amended her complaint to allege wrongful termination and further retaliation. The trial is scheduled for September 10, 2007.*

Ohton v. SDSU, et al. - San Diego County Superior Court

David Ohton, San Diego State University's Athletics Department strength and fitness coach, has sued the CSU and various individuals for alleged retaliation under the state "whistleblower" statute, claiming he was retaliated against for statements he made in the context of the CSU's investigative audit of alleged improprieties in the SDSU Athletics Department and its equipment room. The trial court granted CSU's motion for summary judgment. Ohton appealed. *Oral argument was held on September 15, 2006. In December the Court of Appeal requested further briefing.*

Roth v. CSULA, et al. - Los Angeles County Superior Court

Tamaki et al. v. CSU Auxiliary Services, Inc., et al. – Los Angeles County Superior Court

Instructors employed by CSULA University Auxiliary Services, Inc. in the university's American Culture and Language Program have filed these two actions for recovery of unpaid wages. The first is a lawsuit brought by instructor Howard Roth. He claims that he was paid for some, but not all, classroom preparation time, office hours, photocopying, grading, attending meetings, preparing evaluations, and accompanying students to events and outings. He also sued for age, national origin, gender, and race discrimination and for improper reduction in his work hours which he characterized as "wrongful termination." Roth claimed that his employer was the university, and not the auxiliary. *The Roth matter was settled for \$250,000 after mediation.*

The second lawsuit is a class action lawsuit on behalf of approximately 60 persons. Plaintiffs claim that they were paid for some, but not all, classroom preparation time, office hours, photocopying, grading, attending meetings, preparing evaluations, and accompanying students to events and outings. Following mediation, the Tamaki class action settled for \$650,000.

Runyon v. CSULB, et al. - Los Angeles County Superior Court

L.R. Runyon, a professor in the Finance Department of the College of Business at CSU Long Beach, alleges he was removed from his position as department chair in retaliation for reporting alleged improper activities by the Dean of the College of Business, Luis Calingo. Runyon made various complaints to his supervisors and others that the Dean made inappropriate and wasteful business trips and spent too much time away from campus. The Dean subsequently removed Runyon as chair of the department citing Runyon's failure to meet certain performance objectives. An extensive investigation into Runyon's claims of retaliation concluded that he was removed as department chair for performance reasons and not in retaliation for his complaints

about the Dean. *In September 2006, the court granted CSU's motion for summary judgment and dismissed Runyon's case. Runyon has filed an appeal.*

Villanueva v. CSUMB, et al. - Monterey County Superior Court

Henry Villanueva is a former Associate Vice President at CSU Monterey Bay who was not retained in summer 2003. He alleges that he was let go for recommending the discipline of other employees and for reporting waste of public funds. He also claims that his former subordinates attempted to undermine his efforts to obtain new employment by distributing false and personal information about him. He states claims of wrongful termination in violation of public policy, defamation, violation of the Information Practices Act, and invasion of privacy. *CSU will file a motion to dismiss the entire case that will be heard on April 27, 2006. The court has not yet set a trial date.*

Vivas v. CSU, et al. - Fresno County Superior Court

Lindy Vivas, former head women's volleyball coach at Fresno, filed this lawsuit for discrimination, retaliation and Title IX violations, based on her sexual orientation, gender and marital status, after her employment contract expired and was not renewed in December 2004. Vivas reapplied for the position, and was considered. After evaluating all of the applicants, Ruben Nieves was hired as the new head coach. This case is in the discovery stage.

Wells v. Trustees, et al. - U.S. District Court, San Francisco

Former Humboldt State track coach David Wells complains that his contract was not renewed because he complained about the mishandling of funds in the athletic department and unequal spending on women's athletics. *On October 10, 2006, the matter was settled for a lump sum payment of \$140,000 and three additional years of employment at \$30,000 each year.*

Environmental Cases

Alvarado Hospital Medical Center v. SDSU, et al. - San Diego County Superior Court

City of San Diego v. Trustees, et al. - San Diego County Superior Court

Del Cerro Action Council v. Trustees, et al. - San Diego County Superior Court

The environmental impact report for the SDSU campus Master Plan revision has been challenged in three lawsuits filed by the City of San Diego, the Alvarado Hospital, and the local neighborhood association, each alleging the EIR does not adequately address necessary mitigation measures. These cases have been consolidated. As a result of the City of Marina decision, CSU has decertified its EIR and will prepare a supplemental one. *The court has granted petitioners' request for \$224,788 in attorney fees.*

Carson Harbor Village v CSU --- Los Angeles County Superior Court

Carson Harbor Village, a mobile home community situated across the street from the Dominguez Hills campus, filed two writ petitions alleging that CSU failed to comply with the California

Environmental Quality Act. The first sought to enjoin the construction of the Home Depot Center Hotel and Training Facility on the grounds that CSU improperly submitted a Supplemental Environmental Impact Report instead of a separate Environmental Impact Report. The second sought to enjoin the use of permanent lights at the campus track stadium on the grounds that Carson Harbor Village failed to receive proper notice of the SEIR for that project. On August 17, 2006, the court denied both petitions.

Both decisions have been appealed. A voluntary mediation on February 1, 2007 was not successful. The parties have tentatively scheduled a second mediation for March 9, 2007

City of Marina v. CSUMB, et al. - Monterey County Superior Court

Fort Ord Reuse Authority v. CSUMB, et al. - Monterey County Superior Court

Plaintiffs in these two lawsuits are challenging the adequacy of the final environmental impact report prepared for CSU Monterey Bay's Master Plan. They allege that the City and FORA will suffer unmitigated adverse impacts if the plan is implemented and that the CSU improperly fails to recognize the jurisdiction of FORA over campus development that does not involve education or research. The trial court issued a decision in favor of the City of Marina and FORA. CSU appealed. In 2003, the Court of Appeal reversed the trial court and ruled that CSU is not required to contribute to the cost of local infrastructure improvements, notwithstanding the mitigation requirements of environmental law. FORA filed a petition with the California Supreme Court. On July 31, 2006, the California Supreme Court ruled that the cost of environmental mitigation is voluntary and does not constitute a tax or assessment. CSU must therefore revise its environmental impact report to account for its fair share of environmental impacts caused by its projects. The Court held that CSU has the ultimate discretion to determine the value of its fair share, subject only to an abuse of discretion. The Court also required CSU to seek reimbursement for environmental mitigation costs from the Legislature. *The other side's attorneys' fees request was mediated for an award of \$730,000. The case has been sent back to the trial court for issuance of a writ that complies with the Supreme Court decision. The parties will appear before the trial judge in mid-March, 2007.*

Personal Injury Cases

Costello v. SFSU, et al. - San Francisco County Superior Court

Costello was a Presidential Scholar at San Francisco State University. During the Presidential Scholars Retreat at the Marin Headlands, he fell from a cliff and died. His parents filed this lawsuit to recover damages for wrongful death due to lack of supervision. *The case was settled for \$875,000.*

Eriksson v. CSU, Fresno, et al. - Fresno County Superior Court

Stan and Karan Eriksson are the parents of an equestrian student-athlete at CSU Fresno, who died as a result of massive head injuries suffered when her own horse fell on her, after being

startled by a herd of cows in a pen. At the time of the accident, the student-athlete was on a recreational ride in an agricultural area of the campus. The parents allege that the university negligently failed to supervise and train their daughter, failed to warn her about the presence of the animals, maintained a dangerous condition of property in that the cows were “violent and aggressive,” and failed to provide appropriate emergency medical assistance. On July 17, 2006, CSU prevailed on a motion for summary judgment on the theory of plaintiff’s assumption of the risk. *Plaintiffs have filed an appeal. Briefs are filed. Oral argument has not yet been scheduled.*

Sneath v. CSU, et al. - Santa Clara County Superior Court

Rechelle Sneath was a San Jose State University cheerleader. On January 7, 2004, she suffered major injury and paralysis as a result of being thrown in the air as part of a cheerleading routine. Plaintiff alleges that the University and the coach are responsible for her injuries. The case is in discovery. *A mediation is scheduled for the end of February 2007.*

Student Cases

Alpha Chi v. CSU, Chico, et al. - Butte County Superior Court

Alpha Chi, a local sorority, along with individual members, alumni, and an advisor of the sorority filed this suit, alleging that the Chico campus’ development, implementation, and enforcement of new rules adopted from the Greek System Review Task Force Report violates First Amendment, due process, and equal protection rights. The sorority seeks to regain University recognition, which was withdrawn when the sorority violated the fall 2005 “no recruitment” rule. The plaintiffs also seek an injunction prohibiting enforcement of the new rules, a declaration stating that the rules are unconstitutional, and money damages. Plaintiffs’ motion for preliminary injunction was denied on May 24, 2006. Plaintiffs filed an amended complaint on July 21, 2006. *CSU’s challenge to the legal adequacy of the pleadings was granted and all claims against defendants CSU, Associated Students, Thomas Whitcher, and the individual CSU school officials in their official capacities were dismissed. Plaintiffs attempted to file a third amended complaint without court permission. A motion to strike will be heard in March 2007.*

Erixson v. CSU, Fullerton - U.S. District Court, Santa Ana

Darrell Erixson is a disabled student at CSUF. He claims he was not provided alternative text books in a timely manner under the ADA and that he was denied admission to a graduate program because of his disability. Erixson seeks unspecified monetary damages and injunctive relief. *The case has been settled for \$30,000.*

Every Nation Campus Ministries, etc. v. Reed, et al. - U.S. District Court, San Diego

A group of Christian student organizations and students at the San Diego and Long Beach campuses have sued under various legal theories to challenge the constitutionality of the Trustees’ anti-discrimination policy, which refuses recognition of student organizations that discriminate on the basis of religion, sexual orientation or marital status. The plaintiff groups

exclude homosexuals and others from joining or becoming officers. They allege that their First Amendment rights of freedom of religion and association trump the Trustees' anti-discrimination prohibition, and that they must be recognized and provided full access to university facilities. The court denied plaintiffs' motion for a preliminary injunction, and partially granted CSU's motion to dismiss several claims. Both sides filed summary judgment motions, which were heard July 25, 2006. The court took the matter under submission. *In January 2007, the court issued a ruling stating that it will not rule on this matter until the Ninth Circuit issues a pending decision in a similar case, since that opinion will be dispositive of the issues here.*

Jackson, et al. v. CSU, et al. – San Bernardino County Superior Court & U.S. District Court, Riverside

A group of nine students at CSU San Bernardino seek to represent a class of students who claim that the campus does not provide adequate transportation for disabled students, nor provide timely course materials in a format accessible by students with visual or other disabilities. The students also complain about physical access and testing accommodations. Their claims were initially filed in both state and federal court. The state claim has been dismissed. *The federal case is set for trial on March 27, 2007. A Mandatory Settlement Conference in December 2006 was unsuccessful. A private mediation is scheduled on March 8, 2007.*

Martinez, et al. v. Regents of the University of California, et al. - Yolo County Superior Court

This is a class action filed by non-resident citizen students against UC, CSU, and the California Community Colleges, challenging the exemption from out-of-state tuition for those, including undocumented immigrants, who meet the three year California high school attendance requirement of AB540. Plaintiffs allege AB540 violates federal immigration laws, the U.S. and California Constitutions, and the Unruh Act. Plaintiffs seek an injunction enjoining enforcement of AB540, a declaration that the statute is unlawful, class-wide tuition restitution, damages, and attorney fees. Defendants collectively filed motions to dismiss. *The court granted the motions to dismiss the case in October 2006. Plaintiffs filed an appeal.*

Other Cases

Carreira v. Trustees - Los Angeles County Superior Court

Maria Carreira, a professor in the Department of Romance, German and Russian Languages and Literature filed a lawsuit claiming that she was retaliated against for having previously filed a whistleblower complaint. Although Carreira's whistleblower complaint was intended to be confidential, it was released by faculty members to others in her department and Carreira claims she was then bullied and harassed as a result. The outside investigation concluded that some of her claims had merit, but that she had not suffered any adverse employment consequences. Appropriate action was taken against those found to be at fault. *On December 19, 2006 the court granted a portion of the University's motion challenging the sufficiency of Carreira's complaint, but her claims for whistleblower retaliation, invasion of privacy, defamation and emotional*

distress still remain. A motion for summary judgment has been filed and is scheduled to be heard on May 15, 2007. Trial is set for October 9, 2007.

CSU v. Dynegey, Inc., et al. - San Diego County Superior Court

In October 2005, CSU filed this complaint against producers, marketers, traders, transporters, and distributors of natural gas, for manipulating and fixing their price in violation of state antitrust laws. The case has been consolidated with many others in San Diego County Superior Court asserting the same claims. *On February 5, 2007, CSU filed a first amended complaint against Enserco Energy, Inc. (previously named as a Doe defendant). The case is in the discovery stage.*

CSU v. PERB - Court of Appeal

CSU has filed a petition for writ of mandate against the Public Employment Relations Board seeking an order reversing PERB's decision that would bar CSU from bargaining for limitations on an arbitrator's authority in faculty status arbitrations. *The briefs are filed. The matter is awaiting oral argument.*

LAUSD v. LADWP, et al. - Los Angeles County Superior Court

The Los Angeles Unified School District filed this action against the Los Angeles Department of Water and Power to recover capital facilities fees and to invalidate a new ordinance imposing those fees as a part of a June 2004 water rate increase. The University of California and CSU, which are also subject to these new fees, joined LAUSD and cross-complained against LADWP. California law only permits LADWP to impose new capital facilities fees on educational institutions with consent and after negotiations between the parties. *On February 14, 2007, the parties agreed to settle the case. LADWP will pay the plaintiffs \$2,125,000, subject to necessary board approvals and submission of documentation of qualifying expenses by plaintiffs. CSU will recover approximately \$212,000 as a result of this settlement.*

Mason, et al. v. Klaus, et al. - U.S. District Court, Los Angeles

Keith Mason, Nathan Buchinger and Jason Storms came to the CSU Long Beach campus in November 2004 for a pro-life demonstration. They held signs, passed out flyers and tried to engage passersby in conversations. Plaintiffs failed to comply with the campus time, place and manner restrictions on free speech. Among other things, they failed to register with the campus prior to engaging in their activities. The University Police asked plaintiffs to leave and follow the proper campus procedures. Plaintiffs refused multiple requests from the University Police and were eventually taken into custody and removed from campus. No criminal charges were filed. Plaintiffs allege they were falsely arrested and deprived of their constitutional right to free speech. *On December 2, 2006, a settlement was reached whereby CSU agreed to pay plaintiffs \$20,000 and plaintiffs dismissed their lawsuit.*

Travis v. CSU, et al. - Los Angeles County Superior Court

John Travis, as President of the California Faculty Association, filed a petition for writ of mandate challenging that the appointment of former Chancellor Barry Munitz as Trustee Professor at California State University, Los Angeles violated the Open Meeting Act, and that CSU violated the Public Records Act by not disclosing certain unspecified documents in connection with this appointment. After CSU filed a motion to dismiss, Travis voluntarily dismissed the Public Records Act claim, abandoned his original theory on his Open Meeting Act claim, and amended his petition to state an entirely new theory of Open Meeting Act violation, claiming that Chancellor Reed was not permitted to inform the Board in closed session of Dr. Munitz's return to CSU. *On January 11, 2007, the court denied the petition on the Open Meeting Act claim, finding that CSU lawfully discussed Dr. Munitz's return to employment in a closed session under the "personnel" exemption. CSU is now seeking an award of attorney fees and costs for its efforts in defending this claim.*