Bargaining For the Future At Cal State

by Terry Jones

The 1998-99 academic year witnessed a bitter labor dispute between the administration of the California State University and the California Faculty Association, the union representing the university's more than 20,000 faculty and academic professionals.

This dispute was local, and disputes like this—bitter and otherwise—between universities and their faculty unions are not uncommon. Still, a look beneath the surface of this particular set of negotiations may be instructive for unionized faculties elsewhere.

Our Cal State University story is about power, politics, and change and how these dynamics relate to a fundamental question: What role should faculty and faculty unions play in determining the nature of change in the university?

This question lurked beneath the surface of the contract negotiations between the California Faculty Association and the California State University system like a dead elephant below an elegantly arranged dinning table.

Never acknowledged directly, the question nonetheless influenced attitudes and behaviors as both sides turned the bargaining process into a struggle for power beyond the bargaining table.

Each side brought serious issues to the table: fairness for nontenure track faculty, the question of whether department chairs should be in or out of the bargaining unit, early retirement, workload, and, certainly, salary.

But the main point of contention, as the negotiations continued and then bogged down, was over how the negotiated salary increase would be distributed: what role if any, the faculty would have in such a decision, and how much power campus presidents would have in determining faculty salaries.

A merit pay system, proposed by the university as part of an overall salary increase, was, from the

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beginning, the central issue for CFA, for a number of reasons.

First, the CFA membership felt merit pay was divisive, taking money that should go to across-the-board increases for an already underpaid faculty and using it to fund a "star" system.

Second, in CFA's view, the merit pay system proposed by the university would give campus presidents "the power of the purse strings" and weaken the traditional faculty role in retention, tenure, and promotion decisions, what faculty called the already existing "merit" pay system.

Finally, some CFA leaders felt a merit pay system agreed to by the union in a prior negotiations was an emblem of union weakness. These leaders believed a strong stand and a militant fight against a merit pay system would restore the members faith in CFA and help the union recruit new members.

First, some background. In the 1995 contract negotiations, the CFA reluctantly agreed to a university-proposed merit scheme called, Performance Salary Step Increases (PSSIs)—quickly dubbed the "pissies" by the faculty.

Many faculty felt the application and evaluation process for PSSIs was demeaning, divisive, and took valuable time away from interaction with students and other work of the faculty. There was also a strong sentiment that a select few were being rewarded off the backs of the rest of the faculty who were already 11.4 percent behind in pay to faculty in comparable institutions across the nation.

Equally egregious to many was the absence of any due process–binding appeals process–for those denied a PSSI merit increase.

During the three years the PSSI plan was in place, even administrators began to find fault in the program. It was too time consuming, many felt, and generated increased hostility between faculty and administrators.

When, after its divisive three-year run, the PSSI system was finally ended in August 1998, administrators and faculty alike recognized that the PSSI system was a failed experiment.

But CSU bounced back with a new merit pay plan for the 1998 contract negotiations. The trustees and the system's new chancellor, Charles Reed, proposed that 40 percent of newly negotiated compensation dollars be committed to merit pay.

This, university officials declared, was a bottom-line position for them. They argued that the university needed to reward faculty for outstanding service and that a

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merit pay system was the best way to accomplish this goal.

A merit pay system, added Chancellor Reed, would also help convince legislators to make more money available for faculty compensation.

Throughout the bargaining process, the university argued at the negotiating table, on campuses, and in the press that their offer was fair—and would be accepted by rank-and-file faculty because the plan would close the faculty salary lag in four years.

In the final stages of negotiations, the CSU proposal included a 2.5 percent general salary increase, a 1.5 percent salary step increase for those not at the top step, and another $16 million, about 2 percent, for a merit pay program linked to annual faculty reports, with presidents retaining final authority.

The union analysis, while agreeing that the total amount of dollars in the proposal amounted to a substantial increase, did not agree that the plan would close the salary gap in anything close to four years.

Nonetheless, university officials proclaimed confidently that not to accept such an offer demonstrated that union leadership was out of touch with rank-and-file faculty.

In actual fact, CSU faculty were leery of the offer. For one thing, the faculty had already experienced the dismal PSSI plan. For another, a shift in how faculty are compensated, no matter how small the shift, concerns faculty.

In the CSU, peer review by faculty weighs heavily in the retention, tenure, and promotion of faculty, thereby influencing the compensation increases faculty receive. CFA argued that the proposed merit pay plan would diminish the importance of the existing retention, tenure, and promotion system, and, in the end, weaken tenure itself.

Allowing administrators more discretion in faculty salary decisions, CFA maintained, was part of a thinly disguised attempt by the chancellor and the trustees to weaken shared governance and increase administrative power.

In making these arguments, CFA was shaping the labor dispute as a battle over faculty rights, shared governance, tenure, and due process, tying the local dispute to a larger and more significant national political battle in higher education.

As the struggle for a contract moved forward, more and more of the faculty, rank-and file-members and nonmembers alike, bought into the CFA's analysis that there were larger questions at issue.

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The negotiations became, in truth, a battle for the hearts and minds of the faculty. CFA began meetings and mobilizations on the system's 22 campuses throughout the state, enlisting the support of academic senates, students, and unions representing other campus workers, among others.

The leadership of the statewide academic senate and the leadership of local campus senates played a major role in the power equation. Neither group was officially involved in collective bargaining, but the senates did give advice, provide information, and, at times, apply pressure on the CSU and the CFA to bargain in a more forthright manner.

Both the CSU administration and the CFA leadership were constantly vying for the favor and support of both the statewide academic senate and the local senates and, through them, the support of the rank-and-file faculty. But, in this outreach, the university blundered.

Charles Reed–who had come into office with great fanfare but with little time for the traditional honeymoon usually afforded new leadership–had become chancellor of CSU just as CFA was entering this bargaining campaign.

Reed obviously wanted to establish himself, show that he could manage the huge CSU system—and the most important part of the system, the faculty. But he immediately committed a number of public relations mistakes that turned significant numbers of faculty leaders against him.

For example, in one of his many ill-fated speeches Reed referred to CSU faculty as "work horses" in comparison to University of California faculty, whom he called "show horses." The comparison was meant as a compliment to the effort of CSU faculty, but many faculty members felt offended.

Reed also talked about faculty work habits in another speech. What the faculty heard was Reed complaining about faculty working short days and shorter weeks. His actual words were not so damning, but the faculty response was severe and led to him issuing an apology.

Reed's biggest blunder with the faculty was his insistence on continually attempting to justify merit pay on the premise that there was "deadwood" in the system. He so wanted the merit pay system in place that he didn't recognize that faculty considered his public rhetoric condescending and insulting. The more he talked, the more he irritated the faculty.

Reed and his trustees repeatedly angered faculty by claiming that the old salary system was ineffective and rewarded "anyone with a pulse."

Reed and his administration eventually discovered that it was a

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mistake to try to create change in the academy on the assumption that faculty behavior created the need for change. The faculty rejected Reed's call for change because they believed they were being held up as scapegoats.

What surfaced in this power struggle — one that eventually involved every element of the university community, as well as the state legislature and the governor — was a belief that the contest went far beyond the specific issue of merit pay.

Faculty — union members and non-members alike — began to believe they were involved in a battle over the shaping of the future of the university and the future relationship of faculty to administration.

In the end, the inflammatory statements and actions of Chancellor Reed significantly alienated many of the CSU faculty. Little did he know that his comments would create momentum in support of CFA when negotiations stalemated.

Reed's behavior led to a vote of no confidence against him by 20 of the 22 campus senates and a resolution of rebuke by the statewide academic senate.

In addition, the statewide academic senate passed a resolution of non-cooperation with the Cornerstones project (a plan for teaching and learning in the CSU) until the CSU administration bargained a contract with the CFA.

But these events did not tip the scales. Faculty throughout the system were tired of the relentless struggle for a contract. Then, in February 1998, CSU made a final offer that was supported by a factfinder's report.

Ultimately, faced with the threat of having a contract imposed on them, CFA negotiators reached a tentative agreement on a contract that contained a reasonable salary increase but also contained the proposed merit pay plan, which many in the CFA leadership were vehemently opposed to but others considered inevitable.

Adding to the complexity of the situation: The leadership of the California Faculty Association, in addition to disagreeing about the merit pay plan, was badly split over philosophy, tactics, and control of the organization.

The end result? The CFA Board of Directors sent the tentative agreement to the membership for a vote without any recommendation from the CFA leadership. CFA faculty then rejected the proposed agreement by a 55 to 47 percent margin.

On March 17, 1999, after the rejection of the tentative agreement, Chancellor Reed, claiming he had no alternative, imposed a contract on the faculty of the CSU. He

CFA organized demonstrations against the contract imposition on campuses throughout the system.

did this, he claimed, because the existing contract had expired, there was no progress being made in bargaining, and because the faculty would get a deserved pay increases if he imposed the contract.

On March 26, delegates to the CFA annual delegate assembly, angered over Reed's decision to impose "terms and conditions of employment" on the faculty, voted in a new union leadership. Under-this leadership, CFA vowed to unite in a system-wide effort to resist the contract imposition.

Once again, Reed misjudged the political landscape. His contract imposition—the first in the history of bargaining between CFA and its faculty—had angered both CFA leaders and those faculty who had been sitting on the sidelines as observers.

CFA-organized demonstrations against the contract imposition were met with enthusiasm from faculty on campuses throughout the system. Faculty and support staff on most campuses organized demonstrations to follow Reed wherever he went, questioning his behavior and calling for a fair contract.

With the level of faculty anger now higher than it had ever been in almost 20 years of labor relations between the CFA and the CSU, the CFA-organized rank-and-file actions, support from the academic senates, and a powerful state senator introducing a bill in support of the faculty that would limit the amount of funds CSU could allocate to merit pay in next year's budget, the noose tightened around the necks of Reed and the CSU administration.

The contract imposition, meanwhile, did not accomplish a major piece of what the administration had intended. Originally, the administration declared it couldn't settle the contract on CFA's terms because CFA wanted a binding appeals process on merit pay.

What CSU failed to note was a provision in the California Education Code that authorized appeals.

By imposing terms and conditions to avoid an appeals process for merit pay denials, the administration actually activated one. This was a major blunder on the part of the CSU administration.

One other factor helped to shift the balance in CFA's favor: an election that gave the more union-friendly Democrats a majority in both houses and a Democratic governor for the first time in 16 years.

All of these developments, taken together, softened the resistance of the CSU administration, leading them to rethink the wisdom of a contract imposition and come back to the bargaining table.

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With CFA agitation increasing on the campuses, escalating discontent among non-union faculty members, the threat of budget control language, and an appeals process staring him in the face, Chancellor Reed signaled to the newly elected CFA president that he would like to meet to "see what it would take to do a deal."

On May 5, 1999, the parties reached a written tentative agreement. This time the leadership of CFA sent the agreement to the membership with a recommendation that it be accepted. The result: Faculty ratified the agreement by a 90 percent margin.

Union leaders supported the agreement because it contained more money for general salary increases, and the merit pay system, while still alive, would at least have an appeals process.

The merit pay component of the salary increase was less than the 40 percent the administration wanted and more than the 20 percent CFA wanted. The chancellor also "sweetened" the deal by providing additional paid release time for CFA local chapter presidents for the 1999-2,000 academic year.

In the end, both sides claimed victory. On the critical issue of an appeals process, the new agreement calls for a CFA-favored binding appeals process in which faculty committees would hear appeals.

The CSU administration is also comfortable with this arrangement, because appeals don't go to a third party and only 5 percent of the pool of money set aside for merit is subject to appeal, giving administrators final say on 95 percent of merit pay funds.

As I write this, the first round of merit pay applications are in and CFA is rallying its forces throughout the system to remind the administration that it expects the merit pay process to take place with a minimum of administrative interference.

The next few months will show whether CFA has been successful in building a stronger union. Only an aware and active faculty, with strong CFA leadership, can now ensure the merit pay awards will be administered fairly.

Also looming on the near horizon is an agency fee law long sought by CFA. This would require all faculty employed by CSU to either join CFA or pay the equivalent of the union's dues.

Now, with one eye on contract enforcement, CFA leaders must turn their other eye to monitoring the reaction of faculty and administration to the implementation of the fee arrangement, which has stirred quite a controversy on campuses throughout the system.

Most importantly, the union

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and its leadership also must turn its attention to healing the wounds of a divided union. There is much work to be done to open the doors to the union for all who want to participate. Faculty of color, especially African American faculty, are almost totally nonexistent in leadership roles in the union.

The union leadership also appears to be insensitive to key issues of importance to minorities such as affirmative action and support for ethnic studies programs.

On the positive side, there appears now to be a new found respect on the part of the CSU administration for the faculty and the union.

This is no reason to gloat, but it is an opportunity to come together and begin to tackle the serious problems facing California State University and its faculty and staff as we approach the 21st Century.

During the hostilities between the CSU and CFA, the issue that arose as the most important is the one that ultimately still needs to be addressed: How can administration and faculty best work jointly to deal with issues of substance in the academy?

Are there ways to deal with issues of faculty competence without making faculty feel that tenure is under attack? Can there be administrative-faculty cooperation on containing costs? Can there be approaches to managing relations between administration and faculty that are not adversarial?

Technology, politics, demographics, and economics are all interacting to swirl the winds of change around the way we do business in higher education.

These swirling winds, coupled with the politics of higher education, and increased competition for the public dollar all come together to create a culture of tension.

Uncertainty, fear, and ignorance are working to constrain the rational formulation of sound educational policy and partnerships between the very groups who should be joined at the hip to create more effective strategies for maintaining, refining, and expanding quality higher education.

We can and must do better. ■.