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GOVERNMENT CODE - GOV

TITLE 1. GENERAL [100 - 7931.000] (Title 1 enacted by Stats. 1943, Ch. 134.)

DIVISION 4. PUBLIC OFFICERS AND EMPLOYEES [1000 - 3599.84] (Division 4 enacted by Stats. 1943, Ch. 134.)

CHAPTER 12. Higher Education Employer-Employee Relations [3560 - 3599] (Chapter 12 added by Stats. 1978, Ch. 744.)

ARTICLE 1. General Provisions [3560 - 3562.2] (Article 1 added by Stats. 1978, Ch. 744.)

3560. The Legislature hereby finds and declares that:

(a) The people of the State of California have a fundamental interest in the development of harmonious and cooperative labor relations between the public institutions of higher education and their employees.

(b) All other employees of the public school systems in the state have been granted the opportunity for collective bargaining through the adoption of Chapter 10.3 (commencing with Section 3512) and Chapter 10.7 (commencing with Section 3540), and it would be advantageous and desirable to expand the jurisdiction of the board created thereunder to cover the employees of the University of California, the college named in Section 92200 of the Education Code, and the California State University. These institutions of higher education have their own organizational characteristics.

(c) The people of the State of California have established a system of higher education under the Constitution of the State of California with the intention of providing an academic community with full freedom of inquiry and insulation from political influence in the administration thereof. In so doing, the people have caused to be created the Regents of the University of California to govern the University of California, the Board of Directors of the college named in Section 92200 of the Education Code to govern the college named in Section 92200 of the Education Code, an affiliate of the University of California, and the Trustees of the California State University to govern the California State University.

(d) The people and the aforementioned higher education employers each have a fundamental interest in the preservation and promotion of the responsibilities granted by the people of the State of California. Harmonious relations between each higher education employer and its employees are necessary to that endeavor.

(e) It is the purpose of this chapter to provide the means by which relations between each higher education employer and its employees may assure that the responsibilities and authorities granted to the separate institutions under the Constitution and by statute are carried out in an atmosphere which permits the fullest participation by employees in the determination of conditions of employment which affect them. It is the intent of this chapter to accomplish this purpose by providing a uniform basis for recognizing the right of the employees of these systems to full freedom of association, self-organization, and designation of representatives of their own choosing for the purpose of representation in their employment relationships with their employers and to select one of these organizations as their exclusive representative for the purpose of meeting and conferring.

(Amended by Stats. 2022, Ch. 478, Sec. 49. (AB 1936) Effective January 1, 2023.)

3561. (a) It is the further purpose of this chapter to provide orderly and clearly defined procedures for meeting and conferring and the resolution of impasses, and to define and prohibit certain practices that are inimical to the public interest.

(b) The Legislature recognizes that joint decisionmaking and consultation between administration and faculty or academic employees is the long-accepted manner of governing institutions of higher learning and is essential to the performance of the educational missions of these institutions, and declares that it is the purpose of this chapter to both preserve and encourage that process. This chapter shall not be construed to restrict, limit, or prohibit the full exercise of the functions of the faculty in any shared governance mechanisms or practices, including the Academic Senate of the University of California and the divisions thereof, the Academic Senates of the California State University, and other faculty councils, with respect to policies on academic and professional matters affecting the California State University, the University of California, or the college named in Section 92200 of the Education Code. The principle of peer review of appointment, promotion, retention, and tenure for academic employees shall be preserved.

(c) It is the policy of the State of California to encourage the pursuit of excellence in teaching, research, and learning through the free exchange of ideas among the faculty, students, and staff of the University of California, the college named in Section 92200 of the Education Code, and the California State University. All parties subject to this chapter shall respect and endeavor to preserve academic freedom in the University of California, the college named in Section 92200 of the Education Code, and the California State University.

(Amended by Stats. 2022, Ch. 478, Sec. 50. (AB 1936) Effective January 1, 2023.)

3562. As used in this chapter:

(a) "Arbitration" means a method of resolving a rights dispute under which the parties to a controversy must accept the award of a third party.

(b) "Board" means the Public Employment Relations Board established pursuant to Section 3513.

(c) "Certified organization" means an employee organization that has been certified by the board as the exclusive representative of the employees in an appropriate unit after a proceeding under Article 5 (commencing with Section 3573).

(d) "Confidential employee" means any employee who is required to develop or present management positions with respect to meeting and conferring or whose duties normally require access to confidential information which contributes significantly to the development of those management positions.

(e) "Employee" or "higher education employee" means any employee, including student employees whose employment is contingent on their status as students, of the Regents of the University of California, the Board of Directors of the college named in Section 92200 of the Education Code, or the Trustees of the California State University. However, managerial and confidential employees and employees whose principal place of employment is outside the State of California at a worksite with 100 or fewer employees shall be excluded from coverage under this chapter.

(f) (1) "Employee organization" means any organization of any kind in which higher education employees participate and that exists for the purpose, in whole or in part, of dealing with higher education employers concerning grievances, labor disputes, wages, hours, and other terms and conditions of employment of employees. An organization that represents one or more employees whose principal worksite is located outside the State of California is an employee organization only if it has filed with the board and with the employer a statement agreeing, in consideration of obtaining the benefits of status as an employee organization pursuant to this chapter, to submit to the jurisdiction of the board. The board shall promulgate the form of the statement.

(2) "Employee organization" shall also include any person that an employee organization authorizes to act on its behalf. An academic senate, or other similar academic bodies, or divisions thereof, shall not be considered employee organizations for the purposes of this chapter.

(g) "Employer" or "higher education employer" means the Regents of the University of California in the case of the University of California, the Board of Directors of the college named in Section 92200 of the Education Code in the case of the college named in Section 92200 of the Education Code, and the Trustees of the California State University in the case of the California State University, including any person acting as an agent of an employer.

(h) "Employer representative" means any person or persons authorized to act on behalf of the employer.

(i) "Exclusive representative" means any recognized or certified employee organization or person it authorizes to act on its behalf.

(j) "Impasse" means that the parties have reached a point in meeting and conferring at which their differences in positions are such that further meetings would be futile.

(k) "Managerial employee" means any employee having significant responsibilities for formulating or administering policies and programs. No employee or group of employees shall be deemed to be managerial employees solely because the employee or group of employees participates in decisions with respect to courses, curriculum, personnel, and other matters of educational policy. A department chair or head of a similar academic unit or program who performs the foregoing duties primarily on behalf of the members of the academic unit or program shall not be deemed a managerial employee solely because of those duties.

(l) "Mediation" means the efforts of a third person, or persons, functioning as intermediaries, to assist the parties in reaching a voluntary resolution to an impasse.

(m) "Meet and confer" means the performance of the mutual obligation of the higher education employer and the exclusive representative of its employees to meet at reasonable times and to confer in good faith with respect to matters within the scope of representation and to endeavor to reach agreement on matters within the scope of representation. The process shall include adequate time for the resolution of impasses. If agreement is reached between representatives of the higher education employer and the exclusive representative, they shall jointly prepare a written memorandum of the understanding, which shall be presented to the higher education employer for concurrence. However, these obligations shall not compel either party to agree to any proposal or require the making of a concession.

(n) "Person" means one or more individuals, organizations, associations, corporations, boards, committees, commissions, agencies, or their representatives.

(o) "Professional employee" means:

(1) Any employee engaged in work: (A) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (B) involving the consistent exercise of discretion and judgment in its performance; (C) of a character so that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and (D) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes.

(2) Any employee who: (A) has completed the courses of specialized intellectual instruction and study described in subparagraph (D) of paragraph (1), and (B) is performing related work under the supervision of a professional person to qualify themselves to become a professional employee as defined in paragraph (1).

(p) "Recognized organization" means an employee organization that has been recognized by an employer as the exclusive representative of the employees in an appropriate unit pursuant to Article 5 (commencing with Section 3573).

(q) (1) For purposes of the University of California only, "scope of representation" means, and is limited to, wages, hours of employment, and other terms and conditions of employment. The scope of representation shall not include any of the following:

(A) Consideration of the merits, necessity, or organization of any service, activity, or program established by law or resolution of the regents or the directors, except for the terms and conditions of employment of employees who may be affected thereby.

(B) The amount of any fees that are not a term or condition of employment.

(C) Admission requirements for students, conditions for the award of certificates and degrees to students, which include what is required for students to achieve satisfactory progress toward their degrees, and the content and supervision of courses, curricula, and research programs, as those terms are intended by the standing orders of the regents or the directors.

(D) Procedures and policies to be used for the appointment, promotion, and tenure of members of the academic senate, the procedures to be used for the evaluation of the members of the academic senate, and the procedures for processing grievances of members of the academic senate. The exclusive representative of members of the academic senate shall have the right to consult and be consulted on matters excluded from the scope of representation pursuant to this subparagraph. If the academic senate determines that any matter in this subparagraph should be within the scope of representation, or if any matter in this subparagraph is withdrawn from the responsibility of the academic senate, the matter shall be within the scope of representation.

(2) All matters not within the scope of representation are reserved to the employer and may not be subject to meeting and conferring, provided that nothing herein may be construed to limit the right of the employer to consult with any employees or employee organization on any matter outside the scope of representation.

(r) (1) For purposes of the California State University only, "scope of representation" means, and is limited to, wages, hours of employment, and other terms and conditions of employment. The scope of representation shall not include:

(A) Consideration of the merits, necessity, or organization of any service, activity, or program established by statute or regulations adopted by the trustees, except for the terms and conditions of employment of employees who may be affected thereby.

(B) The amount of any student fees that are not a term or condition of employment.

(C) Admission requirements for students, conditions for the award of certificates and degrees to students, and the content and conduct of courses, curricula, and research programs.

(D) Criteria and standards to be used for the appointment, promotion, evaluation, and tenure of academic employees, which shall be the joint responsibility of the academic senate and the trustees. The exclusive representative shall have the right to consult and be consulted on matters excluded from the scope of representation pursuant to this subparagraph. If the trustees withdraw any matter in this subparagraph from the responsibility of the academic senate, the matter shall be within the scope of representation.

(E) The amount of rental rates for housing charged to California State University employees.

(2) All matters not within the scope of representation are reserved to the employer, and may not be subject to meeting and conferring, provided that nothing herein may be construed to limit the right of the employer to consult with any employees or

employee organization on any matter outside the scope of representation.

(Amended by Stats. 2022, Ch. 478, Sec. 51. (AB 1936) Effective January 1, 2023.)

3562.1. The California State University may meet and confer with the employee organization selected as the exclusive representative of appropriate units at the university on the establishment of flexible benefit plans. Any agreement between the university and an employee organization which requires the expenditure of funds for a flexible benefit program is not subject to legislative approval if funds otherwise appropriated to the California State University for employee compensation are sufficient to finance the flexible benefit plan.

(Added by Stats. 1991, Ch. 433, Sec. 1.)

3562.2. Notwithstanding subdivision (r) of Section 3562, for purposes of the California State University only, "scope of representation" also means any retirement benefits available to a state member under Part 3 (commencing with Section 20000) of Title 2.

(Amended by Stats. 2001, Ch. 793, Sec. 1. Effective January 1, 2002.)