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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 4. Rights, Obligations, Prohibitions, and Unfair Labor Practices [3565 - 3572.5]** ( Article 4 added by Stats. 1978, Ch. 744. )

**3565.** Higher education employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations and for the purpose of meeting and conferring. Higher education employees shall also have the right to refuse to join employee organizations or to participate in the activities of these organizations subject to the organizational security provision permissible under this chapter.

(Added by Stats. 1978, Ch. 744.)

**3566.** The Trustees of the California State University shall adopt reasonable rules and regulations for all of the following:

- (a) Registering employee organizations, as defined in Section 3562, and bona fide associations, as defined in Section 1150.
- (b) Determining the status of organizations and associations as employee organizations or bona fide associations.
- (c) Identifying the officers and representatives who officially represent employee organizations and bona fide associations.

(Amended by Stats. 1999, Ch. 971, Sec. 3. Effective January 1, 2000.)

**3567.** Any employee or group of employees may at any time, either individually or through a representative of their own choosing, present grievances to the employer and have such grievances adjusted, without the intervention of the exclusive representative; provided, the adjustment is reached prior to arbitration pursuant to Section 3589, and the adjustment is not inconsistent with the terms of a written memorandum then in effect. The employer shall not agree to resolution of the grievance until the exclusive representative has received a copy of the grievance and the proposed resolution, and has been given the opportunity to file a response.

(Added by Stats. 1978, Ch. 744.)

**3568.** Subject to reasonable regulations, employee organizations shall have the right of access at reasonable times to areas in which employees work, the right to use institutional bulletin boards, mailboxes and other means of communication, and the right to use institutional facilities at reasonable times for the purpose of meetings concerned with the exercise of the rights guaranteed by this act.

(Added by Stats. 1978, Ch. 744.)

**3569.** A reasonable number of representatives of an exclusive representative shall have the right to receive reasonable periods of released or reassigned time without loss of compensation when engaged in meeting and conferring and for the processing of grievances prior to the adoption of the initial memorandum of understanding. When a memorandum of understanding is in effect, released or reassigned time shall be in accordance with the memorandum.

(Added by Stats. 1978, Ch. 744.)

**3569.5.** (a) The state shall allow up to three employee representatives from each employee organization which represents employees of the California State University reasonable time off during working hours without loss of compensation or other benefits, to attend and make oral presentations at meetings of the Trustees of the California State University, or a committee thereof, held during the working hours of the employees, if a matter affecting conditions of employment is scheduled for consideration.

(b) Any employee organization wishing to send employee representatives to make oral presentations at such a meeting shall submit a request to the trustees far enough in advance to permit scheduling of speakers pursuant to rules and regulations of the trustees. Each employee organization shall be limited to not more than three speakers at any meeting.

(c) Only employee representatives who are named in the request submitted to the trustees as employee representatives who will make an oral presentation, and who intend to make an oral presentation, shall be allowed time off as specified in subdivision (a). Other employees may attend meetings by taking vacation time, compensating time off, or time off without pay if the workload permits, when approved by their supervisor.

(d) Nothing in this section shall preclude the trustees from adopting rules and regulations relating to time off for employees not represented by an employee organization to attend meetings.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to this chapter, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

*(Amended by Stats. 1983, Ch. 143, Sec. 179.)*

**3570.** Higher education employers, or such representatives as they may designate, shall engage in meeting and conferring with the employee organization selected as exclusive representative of an appropriate unit on all matters within the scope of representation.

*(Added by Stats. 1978, Ch. 744.)*

**3571.** It shall be unlawful for the higher education employer to do any of the following:

(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter. For purposes of this subdivision, "employee" includes an applicant for employment or reemployment.

(b) Deny to employee organizations rights guaranteed to them by this chapter.

(c) Refuse or fail to engage in meeting and conferring with an exclusive representative.

(d) Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another. However, subject to rules and regulations adopted by the board pursuant to Section 3563, an employer shall not be prohibited from permitting employees to engage in meeting and conferring or consulting during working hours without loss of pay or benefits.

(e) Refuse to participate in good faith in the impasse procedure set forth in Article 9 (commencing with Section 3590).

(f) Consult with any academic, professional, or staff advisory group on any matter within the scope of representation for employees who are represented by an exclusive representative, or for whom an employee organization has filed a request for recognition or certification as an exclusive representative until such time as the request is withdrawn or an election has been held in which "no representative" received a majority of the votes cast. This subdivision is not intended to diminish the prohibition of unfair practices contained in subdivision (d). For the purposes of this subdivision, the term "academic" shall not be deemed to include the academic senates.

*(Amended by Stats. 1989, Ch. 313, Sec. 3.)*

**3571.1.** It shall be unlawful for an employee organization to:

(a) Cause or attempt to cause the higher education employer to violate Section 3571.

(b) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.

(c) Refuse or fail to engage in meeting and conferring with the higher education employer.

(d) Refuse to participate in good faith in the impasse procedure set forth in Article 9 (commencing with Section 3590).

(e) Fail to represent fairly and impartially all the employees in the unit for which it is the exclusive representative.

(f) Require of employees covered by a memorandum of understanding to which it is a party the payment of a fee, as a condition precedent to becoming a member of such organization, in an amount which the board finds excessive or discriminatory under all the circumstances. In making such a finding, the board shall consider, among other relevant factors, the practices and customs of employee organizations in higher education, and the wages currently paid to the employees affected.

(g) Cause, or attempt to cause, an employer to pay or deliver, or agree to pay or deliver, any money or other thing of value, in the nature of an exaction, for services which are not performed or are not to be performed.

*(Added by Stats. 1978, Ch. 744.)*

**3571.3.** The expression of any views, arguments, or opinions, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute, or be evidence of, an unfair labor practice under any provision of this chapter, unless such expression contains a threat of reprisal, force, or promise of benefit; provided, however, that the employer shall not express a preference for one employee organization over another employee organization.

*(Added by Stats. 1978, Ch. 744.)*

**3571.5.** (a) (1) (A) A higher education employer shall provide a procedure for all medical and dental interns and residents, persons in resident physician subspecialty programs accredited by the Accreditation Council for Graduate Medical Education, and other postgraduate medical and dental trainees in programs not accredited by the Accreditation Council for Graduate Medical Education to challenge a termination of employment or a disciplinary action by the higher education employer, as specified in subparagraph (B).

(B) Before exercising a challenge under this section, a higher education employee shall first exhaust any administrative or academic grievance processes that are available to that employee. An administrative or disciplinary action taken by the higher education employer that is based on neither clinical nor academic matters and that is subject to appeal under that employer's procedures may be grieved. The exclusive representative may file a grievance following the result of the higher education employer's formal review.

(2) A challenge by an employee described in paragraph (1) pursuant to this section shall be heard by a panel consisting of a designee of the exclusive representative, a designated representative of the graduate medical education program, and an impartial hearing officer or arbitrator. The panel shall have the power to review the employer's action and provide a full remedy for termination or discipline without just cause. If the employee is represented by an exclusive representative, the impartial hearing officer or arbitrator shall be jointly selected by the higher education employer and exclusive representative.

(3) If there is a memorandum of understanding between a higher education employer and an exclusive representative that provides a procedure for the employee or employee's representative to challenge a termination of employment or a disciplinary action before a neutral decisionmaker, the provisions of the memorandum of understanding providing for that procedure shall control over the requirements of this section.

(b) (1) This section shall not apply to a termination of employment or disciplinary action based on those academic or clinical matters that are excluded from the scope of representation. For purposes of this section, "academic or clinical matters" means those matters that relate to whether the employee has developed the practice-based learning and improvement, patient care and procedural skills, systems-based practice related to medical judgment, and medical knowledge competencies that are necessary to function at the current level of training, advance to the next level of training, or be assessed as eligible for graduation and board certification.

(2) For matters that are submitted to arbitration, an arbitrator shall not have the authority to order a higher education employer to advance an employee or trainee to the next level of training, or attest that an employee or trainee is eligible for graduation or board certification.

(c) For purposes of this section, "disciplinary action" means restriction, suspension, nonrenewal, or termination of employment.

*(Added by Stats. 2021, Ch. 563, Sec. 1. (AB 615) Effective January 1, 2022.)*

**3572.** This section shall apply only to the California State University.

(a) The duty to meet and confer in good faith requires the parties to begin negotiations prior to the adoption of the final budget for the ensuing year sufficiently in advance of the adoption date so that there is adequate time for agreement to be reached, or for the resolution of an impasse. The California State University shall maintain close liaison with the Department of Finance and the Legislature relative to the meeting and conferring on provisions of the written memoranda that have fiscal ramifications. The Governor shall appoint one representative to attend the meeting and conferring, including the impasse procedure, to advise the parties on the views of the Governor on matters that would require an appropriation or legislative action, and the Speaker of the Assembly and the Senate Committee on Rules may each appoint one representative to attend the meeting and conferring to advise the parties on the views of the Legislature on matters that would require an appropriation or legislative action.

(b) No written memoranda reached pursuant to this chapter that require budgetary or curative action by the Legislature or other funding agencies shall be effective unless and until that action has been taken. Following execution of written memoranda of understanding, an appropriate request for financing or budgetary funding for all state-funded employees or for necessary legislation shall be forwarded promptly to the Legislature and the Governor or other funding agencies. When memoranda require legislative action pursuant to this section, if the Legislature or the Governor fail to fully fund the memoranda or to take the requisite curative action, the entire memoranda shall be referred back to the parties for further meeting and conferring unless the parties agree that provisions of the memoranda that are nonbudgetary and do not require funding shall take effect whether or not the funding requests submitted to the Legislature are approved.

**3572.1.** This section shall apply only to the California Maritime Academy.

(a) The duty to engage in meeting and conferring requires the parties to begin meeting and conferring at least 60 days prior to the expiration of memoranda of understanding, or May 1, if earlier, of any year in which a memorandum shall expire, or May 1, if there is no existing memorandum of understanding. The trustees shall maintain close liaison with the Department of Finance and the Legislature relative to the meeting and conferring on provisions of the written memoranda that have fiscal ramifications.

No written memoranda reached pursuant to this chapter that require budgetary or curative action by the Legislature or other funding agencies, including the Federal Maritime Administration, shall be effective unless and until that action has been taken. Following execution of written memoranda of understanding, an appropriate request for financing or budgetary funding for all state-funded employees or for necessary legislation will be forwarded promptly to the Legislature and the Governor or other funding agencies. When memoranda require legislative action pursuant to this section, if the Legislature or the Governor fails fully to fund the memoranda or to take the requisite curative action, the entire memoranda shall be referred back to the parties for further meeting and conferring; provided, however, that the parties may agree that provisions of the memoranda that are nonbudgetary and do not require funding shall take effect whether or not the funding requests submitted to the Legislature are approved.

The Legislature recognizes that the California Maritime Academy's sources of funding are multiple, and approval by the Legislature, and by other public agencies, as to employees funded by those agencies, may be required prior to implementation of increased expenditures resulting from agreements reached in accordance with this chapter.

(b) The Legislature finds that federal funding in support of the California Maritime Academy is essential. The trustees may suspend or modify any provision of a memorandum of understanding that jeopardizes federal funding, but shall provide notice to exclusive representatives of any such suspension or modification and shall meet and confer with the exclusive representative, if requested to do so, to explain the need for, and the effects of, the suspension or modification.

(c) Any memorandum of understanding that is in effect at the time that the employer-employee relations of the California Maritime Academy is transferred from the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1), to the Higher Education Employer-Employee Relations Act (Chapter 12 (commencing with Section 3560) of Division 4 of Title 1), shall remain in effect until the end of the term of the memorandum of understanding, upon extension of the contracts in existence on June 30, 1995, or until superseded by a new memorandum of understanding.

(d) If agreement is reached to extend existing memoranda of understanding covering California Maritime Academy employees beyond the current June 30, 1995, expiration date, then any decisions, agreements, or settlements made by the California State University in the administration of the memoranda of understanding relative to employees of the California Maritime Academy shall not be binding upon, or considered as precedent required to be followed by, the Department of Human Resources.

(e) This section shall become operative on July 1, 1995.

*(Amended by Stats. 2012, Ch. 665, Sec. 40. (SB 1308) Effective January 1, 2013.)*

**3572.3.** (a) This section shall apply only to the University of California.

(b) The duty to engage in meeting and conferring requires the parties to begin meeting and conferring at least 60 days before the expiration of memoranda of understanding, or the May 1, if earlier, of any year in which a memorandum shall expire, or May 1, if there is no existing memorandum. The University of California and the college named in Section 92200 of the Education Code shall maintain close liaison with the Department of Finance and the Legislature relative to the meeting and conferring on provisions of the written memoranda which have fiscal ramifications.

(c) Written memoranda reached pursuant to the provisions of this chapter that require budgetary or curative action by the Legislature or other funding agencies shall not be effective unless and until such an action has been taken. Following execution of written memoranda of understanding, an appropriate request for financing or budgetary funding in the aggregate for all state-funded employees or for necessary legislation will be forwarded promptly to the Legislature and the Governor or other funding agencies. When memoranda require legislative action pursuant to this section, if the Legislature or the Governor fail to fully fund the memoranda or to take the requisite curative action, the entire memoranda shall be referred back to the parties for further meeting and conferring; provided, however, that the parties may agree that provisions of the memoranda that are nonbudgetary and do not require funding shall take effect whether or not the aggregate funding requests submitted to the Legislature are approved. The Legislature recognizes that the University of California's sources of funding are multiple and approval by the Legislature, and by other public agencies, as to employees funded by those agencies, may be required before implementation of increased expenditures resulting from agreements reached in accordance with the provisions of this chapter.

*(Amended by Stats. 2022, Ch. 478, Sec. 52. (AB 1936) Effective January 1, 2023.)*

**3572.5.** (a) Except as provided in subdivision (b), in the case where the following provisions of law are in conflict with a memorandum of understanding, the memorandum of understanding shall be controlling.

(1) Part 13 (commencing with Section 22000) of, and Sections 66609, 89007, 89039, 89500, 89501, 89502, 89503, 89504, 89505, 89505.5, 89506, 89507, 89508, 89510, 89512, 89513, 89514, 89515, 89516, 89517, 89518, 89519, 89520, 89523, 89524, 89527, 89531, 89532, 89533, 89534, 89537, 89541, 89542, 89543, 89544, 89545, 89546, 89550, 89551, 89552, 89553, 89554, 89555, 89556, 89700, and 89701 of, the Education Code.

(2) Sections 825, 825.2, 825.6, 3569.5, 6700, 11020, and 11021, Chapter 2 (commencing with Section 18150) of Part 1 of Division 5 of Title 2, Sections 18200, 19841, 19848, 19850.6, and 19864, Article 4 (commencing with Section 19869) and Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6 of Division 5 of Title 2, and Section 22871.

(3) Sections 395, 395.01, 395.05, 395.1, and 395.3 of the Military and Veterans Code.

(b) (1) Notwithstanding the inclusion in Section 89542.5 of the Education Code, except with respect to paragraph (5) of subdivision (a) of that section, of a provision providing that, if the statute is in conflict with a memorandum of understanding reached pursuant to this chapter, the memorandum of understanding shall be controlling without further legislative action, unless the memorandum of understanding requires the expenditure of funds, that section, except for paragraph (5) of subdivision (a) of that section, provides a minimum level of benefits or rights, and is superseded by a memorandum of understanding only if the relevant terms of the memorandum of understanding provide more than the minimum level of benefits or rights set forth in that section, except for paragraph (5) of subdivision (a) of that section.

(2) This subdivision only applies to a memorandum of understanding entered into on or after January 1, 2002.

*(Amended by Stats. 2004, Ch. 69, Sec. 7. Effective June 24, 2004.)*