DIVISION 9: REPRESENTATION

901.00 SCOPE OF REPRESENTATION

(a) Representation is the means by which the CSUEU makes its resources available in order to ensure a fair and full review of any infringement of CSU employees' rights and to obtain for them the full realization of any and all benefits to which they may be entitled by reason of being a CSU employee.

(b) Representation in court is not automatically afforded but shall be provided only when in those cases determined by the CSUEU Representation Committee determines the matter has to have merit and approves such representation pursuant to 902 (c).

902.00 RIGHTS AND LIMITATIONS

(a) The CSUEU shall provide representation within the limitations set forth in this Policy File, to CSU employees based upon their status as follows:

(1) Association Members and fee payers within a unit for which the CSUEU is the bargaining agent, have the full right to good faith representation in any collective bargaining employment related matter by the CSUEU's Association's designated representative, or legal counsel, without charge therefore;

(2) Members of affiliate organizations have such rights to representation as set forth in their affiliation agreement with the CSUEU Association as permitted by law;

(3) CSU Employees who are not members within a unit for which the CSUEU is the bargaining agent shall be required to pay a reasonable fee for individual representation, outside of the duty of fair representation under HEERA grievance procedure; then

(4) Active CSUEU members who are in units for which the CSUEU is not the bargaining agent shall be entitled to representation to the extent authorized by law.

(b) Representation shall not be provided to members in matters beyond the scope of the CSUEU's Association's duty of to fair representation under HEERA; in matters resulting from events which occurred prior to the date of their application for membership in the CSUEU Association unless required by law.

(c) The CSUEU has the right to make fair and impartial decisions as to the merits of a particular request for representation, including but not limited to decisions to:
Whether to undertake representation;

Whether to discontinue representation at any time;

Whether to recommend that a matter be settled prior to exhaustion of the applicable administrative procedures;

Whether to refuse to continue representation in the event that its recommendation is not satisfactory to the employee;

Whether to seek judicial relief and redress for a particular matter in addition to or in lieu of representation through any or all of the available administrative procedures; and

Whether to discontinue its representation in judicial proceedings at any point prior to their exhaustion.

902.01 Types of Representation

Representation consists of either services or indemnity, or both.

(a) Services consist of advice, counsel and assistance rendered by competent and qualified persons, and may include investigation, negotiation and settlement as well as appearances before administrative, judicial or legislative tribunals. These services will be provided primarily by CSUEU Certified Stewards, then secondarily by Labor Relations Representatives, and finally, when deemed appropriate, by CSEA legal staff.

(b) Indemnity consists of money payment in reimbursement of either a portion or all of actual and necessary representation costs. The CSUEU shall not indemnify anyone for costs or expenses incurred without prior authorization of the Vice President for Finance.

902.02 Requests for Formal Representation

At the time of the request for formal representation, the employee shall be given a form listing the employee’s rights and responsibilities. Continued representation may be contingent upon the employee’s good faith effort to comply with these responsibilities from the inception through the conclusion of the representation process. This statement shall include a statement of the employee’s appeal rights. These forms shall be available at www.csueu.org. (a) CSUEU shall maintain a record of all requests for representation.

903.00 NONMEMBER REPRESENTATION

Nonmember representation is the first priority of the CSUEU. The Nonmember Representation Policy shall be distributed to all Chapters and staff, shall be presented to
any nonmember requesting representation, and shall be available at www.csueu.org.

903.01 Representation for Fee Payers

Representation for fee payers shall be as required by the provisions of HEERA. Fair share fee payers shall only be entitled to representation on grievable matters covered by an MOU entered into between the CSUEU Association and the CSU Board of Trustees and not for any procedures that would fall under Article 8 Complaint Procedure.

904.00 DENIAL OF REPRESENTATION

(a) It is the CSUEU’s general policy to deny representation on the following grounds:

(1) Unapproved Actions: The CSUEU shall not provide representation with respect to disciplinary action arising from unapproved job actions;

(2) Best Interests of the CSUEU Association: The CSUEU shall not provide representation that would conflict with the best interests of the CSUEU Association or require the CSUEU Association or its staff to take a position in any manner inconsistent with established positions or policies of the CSUEU Association;

(3) Conflict of Interest: The CSUEU shall not provide representation services that would result in any conflict of interest for the CSUEU Association staff. Indemnity for representation costs may be authorized if prior approval is obtained from the Vice President for Finance;

(4) Lack of Merit: The CSUEU may deny representation in matters that appear to lack factual or legal merit;

(5) Lack of Cooperation: CSUEU may deny representation if the individual fails to cooperate in the matter; and

(6) Other Representation: The CSUEU may deny representation when it determines that an individual has another representative in the same matter.

(b) Denials of representation shall be communicated, with proof of service, in writing and delivered with proof of service to the employee in a timely manner and which shall not compromise the employee’s right to continuance of his/her case or to appeal.

904.01 Appeals of Denial of Representation

(a) Any member of a bargaining unit represented by the CSUEU or member’s
designee may appeal a decision to deny a request for representation or submission of a matter to mediation or arbitration.

(b) An appeal must be filed within ten (10) days of proof of service of the denial.

(c) The appeal must be in writing stating the reason(s) for the appeal. The appeal shall be addressed to the CSUEU Administrator in care of CSUEU, 1129 10th Street, headquarters office in Sacramento, California 95814.

(d) Upon receipt of the appeal, the Representation Appeals Committee, upon receipt of the appeal shall meet within thirty (30) days to hear the appeal. This time limit may be extended at the request of the appellant. However, for appeals of denial of arbitration or mediation, such meeting shall be held no later than five (5) days prior to the expiration of the arbitration or mediation appeal period in the MOU, if applicable.

(e) The Representation Appeals Committee decision shall be in writing.

(f) Upon reaching a decision on the appealed denial, the Chair of the Representation Appeals Committee shall forward the written decision to the grievant with a copy to the CSUEU Administrator or their designee. If applicable, such decision shall be issued prior to the expiration of the arbitration or mediation appeals period contained in the MOU. If the appeal is sustained by the committee, the CSUEU Administrator or designee shall notify the Union Representative assigned to the matter.

(g) Decisions of the Representation Appeals Committee shall be final. There shall be no further review or appeal of the action taken by the committee.

(h) The Representation Appeals Committee shall maintain accurate records of matters brought before it and submit periodic reports to the CSUEU Board of Directors.

904.03 Attorney-Client Relationship

The CSUEU does not practice law nor solicit matters requiring legal services. It does employee staff attorneys whose services are made available in accordance with representation policy. The CSUEU may authorize representation, but having given such authorization will not thereafter interfere in the attorney-client relationship so established unless authorized by the client.
905.00 ARBITRATION SETTLEMENTS

No arbitration settlement shall be entered into regarding a grievance filed under a Memorandum of Understanding covering CSU employees on an issue that impacts the CSUEU's bargaining unit(s) without the proposed settlement having first been provided in writing to the Chairperson of the Bargaining Unit(s), and any or all agreeing to the terms of the proposed settlement of the arbitrator. Should any Chairperson of affected Bargaining Unit disagree with the terms of the proposed settlement, the proposed settlement shall not be entered into. The Chairperson(s) of the affected Bargaining Unit(s) shall put his/her decision on the matter in writing and submit same to the person proposing the settlement and the grievant(s).

9056.00 STEWARDS

(a) It is the policy of the CSUEU to encourage local representation through a network of qualified job stewards. Chapters shall maintain an active representation program.

(b) Stewards shall work under the guidance of the assigned Labor Relations Representative and the Chief Steward.

(c) Stewards shall be responsible for monthly reporting of active cases and requests for representation to the Labor Relations Representative and the Chief Steward. (CSUDC/23/03/02)

9056.01 Stewards Training and Certification

(a) The CSUEU shall establish a steward training program for basic, advanced, and chief stewardship, with regular updates after changes in the Memorandum of Understanding.

(b) Completion of the training program shall entitle a member to certification as a job steward. Completion shall include:

(1) Attendance during the entire course;

(2) Passing a written examination; and

(3) Affirmative recommendation of the Trainer, Labor Relations Representative, and Chief Steward, in the absence of a Chief Steward the Chapter President can affirm the recommendation.

(c) Recertification of existing stewards shall be required within one year of ratification of a new full contract. Stewards who fail to recertify shall be placed on the inactive steward list. Such stewards are not allowed to provide official CSUEU representation until recertified and shall be so notified. (CSUDC 20/01/1)
9056.02 Chief Stewards

(a) Chief Stewards will complete basic steward training, advanced steward training and, chief steward training and will be certified by the Labor Relations Representative, and Vice President for Representation. (CSUDC/21/01/1).

(b) Duties of Chief Stewards

(1) Call and chair chapter steward committee.

(2) Ensure all grievances are tracked and records maintained utilizing the CSUEU tracking system. (CSUDC/23/03/02)

(3) Chief Stewards shall be responsible for maintaining Maintain a list of certified stewards for their campus, and

(4) Provide providing a monthly report of all active cases on their respective campus to the assigned Labor Relations Representative and Vice President for Representation. (CSUDC/23/03/02)

(5) When appropriate, assign cases to stewards.

(c) CSUEU shall provide to the Chief Steward, monthly reports on the status on all active cases on his/her campus to the Chief Steward, that have been forwarded to the Labor Relations Representative and are either at level III IV or IV V. (CSUDC/23/03/02)

9056.03 Steward Directory

A directory of all certified stewards shall be maintained by the CSUEU.

(a) The directory shall include:

(1) Name and work location;

(2) Work phone number; and

(3) E-mail address.

(b) The directory shall be distributed to all Stewards and Chapter Presidents.

9067.00 STEWARD DISCIPLINE

9067.01 Criteria and procedures for disciplinary action

(a) Stewards may be disciplined for the following causes:
(1) Failure to provide proper representation;

(2) Breach of confidentiality;

(3) Dishonesty; or

(4) Behaving in a manner inconsistent with the goals and objectives of the CSUEU and/or the Association.

(b) If the Chief Steward, Chapter President or Vice President of Representation reasonably believes questions if the performance of a Steward is not satisfactory, he/she may file a complaint with the CSUEU President.

(c) Charges must be specific and any evidence must be submitted in writing at the time of filing. A copy of the entire complaint and the evidence shall be forwarded to the Steward within ten (10) days of the receipt of the complaint.

(d) The President may temporarily place the Steward on suspended status. Such suspension shall be for no longer than the time necessary for the hearing panel to meet and render its decision. The Steward shall be notified in writing of any suspension.

9067.02 Hearing Panel

A Hearing Officer or Panel as appropriate shall be drawn from the CSUEU Hearing Officers Panel Pool, to adjudicate the charges. The President shall appoint one of the members of a panel to be the Chair of the Panel. The CSUEU Administrator shall assign staff support as appropriate. (CSUDC/23/03/02)

9067.03 Procedure

(a) The hearing panel shall meet within fourteen (14) days from the receipt of the complaint to determine the validity of the complaint. The hearing shall be open unless the charged steward a requests for a closed meeting is made by the charged steward so charged. Parties and witnesses shall not be entitled to union leave for these proceedings. (CSUDC/23/03/02)

(b) The hearing officer/panel shall have the authority to grant extensions and continuances. (CSUDC/23/03/020)

(c) The individuals involved in the hearing shall be personally notified in writing at least ten (10) days prior to the hearing. Such notice shall include the date, time, and place of the hearing and a list of charges to be heard. New charges may not be introduced without an additional five (5) days notice to the charged steward so charged. (CSUDC/23/03/02)
(d) The parties to the hearing shall have the right to be represented, to introduce evidence supporting or refuting the charges and cross examine witnesses. Strict rules of evidence are not applicable. (CSUDC/23/03/02)

(e) The charged steward's failure to personally appear after receiving a failure to personally appear in response to the notice of hearing by the steward so charged may be deemed sufficient cause for the disciplinary action upon which the charges are made. (CSUDC/23/03/02)

(f) The hearing officer/panel shall provide a written report to the President no later than ten (10) days after the completion of the hearing. Such report shall include recommendation for action including, but not limited to, the following:

   (1) Rejection of the complaint;

   (2) Corrective action;

   (3) Suspension; or

   (4) Decertification.

The President shall notify the charged steward with the hearing panel's report and his/her right to appeal. Such appeal shall be to the Board of Directors. Appeals must be made in writing and submitted no later than ten (10) days after receipt of the hearing officer/panel's report. The decision of the Board of Directors shall be final.

(g) The Board of Directors shall act on the report no later than its next regularly scheduled meeting. Disciplinary action requires a three quarters (3/4) vote. The Board of Directors must take immediate disposition of the case by motion. (CSUDC/23/03/03)

(g)(h) When there are more than thirty (30) days between the time the hearing officer/panels report is delivered to the President and the convening of the next Board of Directors, the President shall appoint a three (3) member Review Committee, consisting of two (2) members of the Board of Directors and one (1) member-at-large, appointed by the President. Within ten (10) days of their appointment this committee shall review the report of the hearing officer/panel and supporting documentation, to determine whether or not the records supports the summary adoption of the hearing officer/panel report. (CSUDC/23/03/02)

(h) (i) If the Review Committee summarily adopts a hearing officer/panels
recommendation, the adopted action will take immediate effect. The steward shall retain the right of appeal to the full Board of Directors; (CSUDC/32/03/02)

(i) (j) The Board of Directors may adopt, reject, or modify the recommendation of the hearing officer/panel or the action of the Review Committee. In deliberating its action, the council shall restrict its discussion to the report of the hearing officer/panel, procedural matters, and the appropriate disciplinary action to be imposed, if any. The chair shall rule out of order all discussion which attempts to introduce or argue the facts of the issue, whether or not presented at the original hearing; (CSUDC/23/03/02)

(j) (k) If the charged steward believes that any procedural irregularity has prevented a fair and impartial hearing of the charges, the steward may request to make a presentation to the Board of Directors prior to its final action. Such presentation is restricted solely to procedural issues and may not be used to argue the facts of the case; and

(k) (l) Nothing in these procedures is intended to deny a steward any other rights or appeal of grievances available within the CSUEU Association Bylaws. (CSUDC/23/03/02)

9067.04 Actions to be Taken

(a) If appropriate, corrective action shall be progressive, and should shall include:

(2)(1) Mandatory counseling with a letter to confirm the counseling session and to provide assistance, counseling, and/or training as needed.

(3)(2) Written instructions shall be given to the Steward if previous counseling has not corrected the problem(s).

(4)(3) Suspension shall be for a period not to exceed the time necessary to accomplish needed training and/or counseling.

(5)(4) Decertification shall remove all rights of stewardship for a specified period of time.

(6)(5) All decisions of the hearing panel shall be in writing. The hearing panel shall render a decision no later than ten (10) days from the conclusion of the hearing.

9067.05 Appeal

The Steward shall be notified of with the hearing panel’s decision of and his/her right to appeal. Such appeal shall be to the Board of Directors, and shall be final. Appeals must be made in writing and submitted no later than ten (10) days after receipt of the hearing officer/panel’s decision. The decision of the Board of Directors shall be final.
9067.06 Reimbursement of Costs to Steward (CSUDC/23/03/02)

In the event the charges against the steward are not sustained, the CSUEU shall provide reimbursement of reasonable costs to the steward. (CSUDC/23/03/02)