



***FREQUENTLY ASKED QUESTIONS
ABOUT IMPASSE, MEDIATION & POTENTIAL
STRIKES***

***Updated:
APRIL 24, 2018***

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Impasse

Why are we at impasse?

We are at impasse because the parties have reached a point where they are no longer making progress and future negotiations would be futile. We are disappointed it came to this, but YFA has been negotiating since 2015 over a collective bargaining agreement (CBA) that expired in 2016 and is not willing to accept an unfair proposal on compensation, class size, and workload.

For more background information, please review your negotiation updates from Sarah Curl as well as the weekly *The More You Know* newsletters from Jim Sahlman.

How does impasse work?

Impasse is a process under the California public bargaining law that requires the parties to participate in mediation and then fact-finding. If the parties are unable to reach agreement during either stage of this process, the District may impose its “last, best, and final offer” (LBFO) and faculty may engage in economic activity, including a strike.

YFA is excited for mediation. Mediation allows a neutral party to assist the parties in reaching agreement. If mediation is not successful (the mediator has no coercive power), the parties next go to fact-finding. The fact-finding process allows the Union and the District to each present their respective proposals, and the economic bases for the proposal, to a neutral fact-finder.

Mediation lasts as long as the mediator believes the parties are making progress. There will be at least one full-day mediation session. If the mediator believes that significant momentum is happening, he could have both negotiating teams stay longer and work late into the night to reach an agreement or schedule additional sessions, as long as the parties are making progress.

What are the anticipated legal costs to YFA at various stages of impasse?

These depend on a variety of factors including how many mediation sessions there are and whether the parties proceed to fact-finding. Larry Scheg, the YFA Treasurer, gave a report at the YFA Rep Council meeting on April 18, 2018 when the YFA budget was approved for 2018-2019. YFA is in good shape, financially. Consequently, the YFA does not currently see a need to increase dues for any increased expenses related to impasse.

Mediation

Will YFA keep us informed during mediation?

To the fullest extent possible. The Public Employment Relations Board (PERB) rules prohibit sharing or disclosing any discussions or proposals from mediation, but we will continue to keep you posted on any changes in the status of negotiations and as otherwise allowed.

Can the District come to mediation with a new offer?

Yes, either side can make new offers or “supposals” during mediation, as it is a process to explore all reasonable ideas. Offers, however, are not binding, and if mediation is not successful the District’s LBFO remains the same as from before mediation, its February 23, 2018, proposal.

If we reach an agreement during mediation, does the process end there?

Yes, subject to ratification by faculty and Board approval. Any tentative agreement would follow the same process as during other negotiations. As stated in the YFA bylaws, the Rep Council would review any agreement resulting from mediation and would need to authorize sending it out for a faculty vote. YFA would schedule a General Faculty Meeting to review the agreement from mediation and then we would follow the same procedures for ratifying the agreement via Survey Monkey. Likewise, the Board of Trustees would have to formally approve the agreement from mediation at a Board meeting.

If we cannot reach an agreement during mediation, do we go to fact-finding?

Yes. If the parties are unable to reach agreement, the mediator will certify the parties for fact-finding. Then, either party may ask PERB to appoint a fact-finder.

Fact-Finding

What is involved with fact-finding?

Fact-finding involves a hearing and presentation to a neutral fact-finder. The fact-finder will evaluate the parties' presentations and proposals based on specific criteria.

The Educational Employment Relations Act (EERA) sets out specific criteria for the fact-finder and these criteria strongly support YFA's proposal, including: (1) the financial strength of the District; (2) comparison of YCCD faculty wages with other employees performing similar services in comparable communities; (3) the consumer price index for goods and services, commonly known as the cost of living; and (4) the overall compensation presently received by the employees, including medical and hospitalization benefits.

Accordingly, the fact-finder will take into consideration the District's current and projected surplus, the cohort agreement, cost of living since, and the Union's increased burden for health benefits, among other factors.

What happens after fact-finding?

At the end of fact-finding, the fact-finder will draft a report for the parties, laying out his or her recommendation. The parties are then obligated to meet to discuss the draft report. At that time, if the District still refuses to accept YFA's proposal, faculty will have the right to strike and the District may impose its February 23 LBFO on faculty.

Such a decision to strike must be done with the utmost gravity but given the District's complete refusal to consider any salary increase based on the cohort agreement, as well as the District's requirement that any increase is linked to larger class sizes and unfair workloads for faculty, it will soon be a discussion which we cannot avoid.

Strike

Will YFA and faculty need to strike?

We don't know yet. The necessity of a strike depends upon the outcome of the impasse proceedings. Any potential strike would have to be authorized by a vote of the YFA membership and would come at the end of the impasse proceedings, if an agreement is not reached. While we do not want to strike, the District may leave us with no viable alternative if it insists on imposing its LBFO.

Can YFA start planning for a strike, whether we do it or not?

Yes, it is important to plan for all possible outcomes from mediation and fact-finding.

Would YFA put a strike to a vote of the faculty?

Yes. All YFA members would be given an opportunity to vote via Survey Monkey. YFA would not call for a strike unless a majority of faculty vote in favor of a strike and authorize the YFA to act.

Once membership has authorized a strike, the decision of when the strike would begin is with the Executive Board. The Executive Board will make its decision based on a number of factors. It is likely you will have several days between the decision to call a strike and the day it commences.

Which faculty should strike (and which should not)?

All faculty should strike. Retaliation against any faculty member (regardless of tenure, probationary, or adjunct status) is unlawful and will not be tolerated.

Can I be fired because I participate in a strike?

Absolutely not. It is illegal for the District or any administrators to fire, reprimand, or otherwise take any adverse or discriminatory action against faculty for participating in a lawful strike or any other union activity. YFA has zero tolerance for any such retaliation and will take legal action as necessary in the unlikely event that any such retaliation was to take place. District retaliation against any faculty is unlawful, including probationary and adjunct faculty.

If I cross the picket line, can the district force me to do anything other than my regular duties?

Yes. Anyone who crosses the picket line and reports to work as a strike breaker is subject to whatever assignment the District decides. You would not be permitted to teach classes outside of your faculty service area (FSA), but you should not expect to do your normal work.

Can instructors use sick days or personal days to fulfill obligations to students for activities?

No, a strike is a work stoppage and strikers will not be paid during that time. Going on field trips would be the same as crossing a picket line. Do not be surprised if the District chooses to stop all extra curricula activities during a strike.

Do we make-up work days we missed during the strike?

Making up the days missed while being on strike is a bargaining issue. You should not count on being able to make up the days, but we will certainly fight hard for them in the final settlement.

In the event of a strike, are we still responsible for grades?

You are responsible for assignments you have given and graded *before* the strike begins. After the strike begins, you have no responsibility for grading. While on strike faculty **may not** “partially” perform work duties, such as only doing grades, as they may be considered an impermissible work slowdown.

What happens to my health insurance and sick leave during a strike?

The District cannot cancel your fringe benefits in the event of a strike. COBRA, a federal law, prohibits the District from cancelling benefits without a 30-day notice. If an attempt is made to cut off benefits, YFA legal counsel would take prompt action. No Board has ever succeeded in cutting off benefits and very few even threaten to do so. Some Boards pass a strike resolution threatening to cut off benefits, but any change to the way benefits are currently paid is negotiable and would represent a unilateral change in working conditions.

Faculty are not allowed to use sick leave *for* the strike. Faculty may only use sick leave for an illness or injury on the same terms as normally allowed. If you are already on sick/medical leave before the strike begins, you could remain on that leave for the intended duration, after which you would be on strike.

What happens to my salary?

You will not be paid for any days you strike. Last month, YFA encouraged faculty to begin saving a month’s worth of salary.

What is the impact of a strike on my retirement?

A strike is not considered a break in service. Faculty who are STRS members could lose a small amount of their retirement benefit for participating, since it could impact total years of service, as some faculty, such as those without overload, may not obtain an entire “year of service” for the year in which any strike might be held.

Under Article 3.2 of the CBA, a 1.0 “FTE” assignment is a faculty member working 155 compressed obligation days. It is YFA’s understanding that in case of a strike a faculty member could instead meet this complete service year through non-strike days plus extra service that would have otherwise been

considered overload (in the absence of a strike). The service also could be made up if the service days are added back later in the academic calendar.

Your defined-benefit retirement is a formula of the number of service years multiplied by the highest three consecutive years of service (or highest year of service if you have 25 or more years of service) and an age factor percentage. So, *even if* you lost a few days of service credit, and were unable to make it up through overload or extending the academic year, the total impact would be minimal:

As an example:

26 (years of service)

x 2% (age factor at 60)

x \$100,000 (highest year of service salary)

\$52,000 (annual retirement income) or \$4,333.33 (monthly retirement income)

*If you were to strike for **five days**, a week, it would look like this:*

25.9677 (years of service reduced by five days of a 155-day work year)

x 2% (age factor at 60)

x \$100,000 (highest year of service salary)

\$51,935 (annual retirement income) or \$4,327 (monthly retirement income)

Remember that if the District were to impose its LBFO on the faculty, that could result in a significant earnings loss that would have a much bigger impact on your retirement than a strike would.

How long would a strike last?

It is very unlikely that a strike would last long, both because of the determination of our faculty and because the students and community would be very active in getting the parties to settle on terms fair to faculty. The prospect of hundreds of faculty members walking off the job, even for a few days, would be a strong incentive for the District to resolve these negotiations fairly for faculty.

What is the YFA's commitment to faculty?

As mentioned, it would be illegal for the District to retaliate against any faculty member for participating in a strike or engaging in any union activity. YFA will vigorously police this and defend any faculty member who is unlawfully targeted, disciplined, or dismissed because of exercising his/her legal right to strike.

Questions

Who can I call if I still have questions?

You can call the YFA office at (209) 575-6699.