CALIFORNIA STATE UNIVERSITY
SAN BERNARDINO

Talent Acquisition

DEPARTMENT OF HUMAN RESOURCES

CSUEU ARTICLE 9.3 CONTRACT PROVISION

If the position (s) you are attempting to fill is covered by the CSUEU collective bargaining contract (units 2, 5, 7, and 9), you must be aware of the following contract language:

"An employee who believes he/she is qualified for a vacant position at a CSU campus or the Chancellor's Office may apply for such position within the specified application period. An employee may submit, along with an application, a statement regarding his/her experience and service within the CSU. Such a statement shall be a part of the employee's application. CSU documents regarding any meritorious service by the employee at the CSU may also be submitted by the employee with an application.

It shall be the policy of the CSU in filling vacant bargaining unit positions to fill such vacancies from among qualified CSUEU-represented employees currently employed at a campus.

This section does not apply to employees who have served in temporary emergency positions for ninety (90) days or less, as described in Section 9.9.

The President may appoint outside applicants when it is determined that such action is necessary to meet the best interest of the campus by obtaining preferred or specialized skills and abilities not available from current employees per the position vacancy announcement."

"CSUEU representated employeees who meet minimum requirements shall be interviewed."

To assist you in understanding the intent of the language above, we have attached guidelines including several that have resulted from system arbitration decisions related to Section 9.3. You are strongly encouraged to define the need for such skills in your job advertisement. Please contact the Human Resources Department if you have questions regarding this information.

If you want to confirm that an applicant holds a current job in a CSUEU bargaining unit, you can contact the Human Resources Department.

CSUEU 9.3 Guidelines

On-campus candidates must be "qualified" to fill the vacancy (Arbitrator Roberts)

- Test is whether candidate is "qualified," not whether candidate "more qualified"
- Does not mean have to train candidate
- Only exception is if specialized skills and abilities were required
    - (Requirement for purposes of affirmative action no longer legal)

Special Skills and Abilities:

- Prudent management will inform candidates of special skill requirement (publish requirement in posting) (Arbitrator Gentile)
- Specialized skill or ability must be justifiable "under the standard imposed by the contract. That standard does not require the University to show that someone without the specialized skill or ability would be unable to perform the job, but it also does not permit the University to hire an outside candidate merely because that person has a background that makes her more "desirable" than an on-campus candidate. Sec. 9.3 requires the University to show that it is "necessary" to "meet the best interests" of the campus by "obtaining specialized skills and abilities," while not permitting it to create an unfounded specialized ability as a subterfuge to avoid giving preference to on-campus applicants. (Arbitrator Bogue)

Definition of "qualified individuals currently employed at a campus" (Arbitrator Calsiter):

- "Employee" is defined by contract as bargaining unit member
- By using word "individual" – intent to have provision apply to larger group "consisting of ' individuals' then employed on 'a campus". Thus, appointment of individuals employed on a campus but who are represented by other bargaining units fulfills requirements of 9.3
    - However, individual on other campuses may not grieve not being considered for positions posted on their campuses unless they have a "9.3" clause in their contracts.

What if more than one on-campus candidate is qualified (Arbitrator Calister):

- "Nothing in the Agreement prevents a selection committee from determining two candidates are "qualified" to fill a job vacancy, and recommending the one they felt best or "more," qualified of the two be hired."