

WE L U S P A C S

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President's Column

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WHY WE DON'T HAVE A NEW MOU

As recently reported, after 18 months of bargaining with the Newsom Administration (represented by CalHR), the CAPS Bargaining Team (CAPS Team) has not yet reached an agreement for a new Memorandum of Understanding (MOU). As your President and the CAPS Team's Chair, I want to share my take on what has happened, why it has happened, and where we will go from here.

To be direct, the CAPS Team and CalHR did not reach a mutual understanding on salaries before the Legislature recessed for the year. A few other important issues also need to be addressed, but the CAPS Team had consensus that we would not agree to a MOU that didn't include appropriate pay increases for State Scientists.

The CAPS Team told CalHR from the outset that Unit 10 State Scientists are not fairly compensated, and fixing the longstanding problem would entail more than the usual salary increases the State doles out in bargaining. The CAPS Team described the longstanding breaks in vertical salary relationships (which compare Unit 10 rank-and-file pay with pay for their supervisors and managers) and horizontal salary relationships (which compare State Scientists' salaries within Unit 10 as well as salaries for other bargaining units who conduct the same or similar work). The CAPS Team also showed that our state wages relative to other government and academic sectors are not competitive.

Beyond the numbers, the CAPS Team explained how inadequate salaries lead to poor employee morale, suppress recruitment, and foster retention issues that damage scientific programs statewide. We shared member letters that detailed these problems and provided powerful presentations by Subject Matter Experts who urged solutions.

And, to the extent possible, we leveraged [social media](#) and [print media](#) to bring larger awareness of our salary concerns and the adverse effects on programs serving Californian's health, our food security, and our state's vast natural resources.

Despite all our efforts, the State was not concerned with pay across Unit 10. The Administration saw no statistical evidence in its numbers of mass hiring or retention issues. (Any data the CAPS Team might offer to the contrary would need to be confirmed by CalHR research for the Administration to deem it valid.) They agreed that a handful of classifications affecting a little more than 110 employees deserve Special Salary Adjustments. They even allowed that maybe more classifications should receive similar consideration, but the State did not have data to reach a decision. (More about that in a moment.)

The State concluded that while CAPS had provided plenty of anecdotal information, the Administration didn't have the current data to support the claims. In the end, the State's General Salary Increase (GSI) offer was so small that it fell short of keeping up with inflation – much less what is required even to begin correcting State Scientists' pay inequities that competitively lag by 30% or more.

So why did this happen?

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CAPS in Your Corner

One of the many benefits CAPS membership provides is access to knowledgeable, experienced labor-relations consultants and attorneys who hold employers accountable to the terms of our MOU and the many laws, regulations, and policies that govern your work and workplace. Here are recent examples of issues handled by CAPS staff:

DENTAL PLAN DISPUTE

A member contacted CAPS because their employer had delayed switching their dental insurance from the State's prepaid FlexElect plan to the Preferred Provider Organization (PPO) plan. The member had been in the prepaid plan from the outset of their state service, a little more than two years ago, when they filled out the paperwork to change plans during Open Enrollment. Their personnel specialist confirmed the paperwork was received and processed.

After trying for months to confirm their new plan enrollment, the member was told they did not qualify for the PPO because the FlexElect form states employees must remain enrolled in that program for three years, not two. CAPS staff filed a grievance on the member's behalf, countering that CAPS' MOU is the controlling document – and it allows members to switch plans after two years, not three. CAPS prevailed, and the member switched to the dental PPO plan.

BILINGUAL PAY

A bilingual member assigned to the State's COVID-19 Contact Tracing Program asked CAPS staff whether the new duty qualified to receive a bilingual pay differential, since the member frequently spoke to contacts using the second language. At the time, CAPS was still bargaining regarding the bilingual differential for Contact Tracing duty. The State agreed to the differential and applied it retroactively to the start of the member's Contact Tracing assignment.

CAPS Member Spotlight CAPS MEMBER FEATURED IN NATIONAL 'STINGLESS BEE' STORY

CBS News recently featured a CAPS member in a national report about a Bay Area child's discovery of a rare insect. The [video](#), which includes several comments from Dr. Martin Hauser, has since gone viral. News outlets, from [the New York Post](#) and [Yahoo! News](#) to the [Science Times](#) and [UK Today News](#), have published accounts following the August 28 broadcast on "CBS Saturday Morning."

The tale begins with Annika Arnout, a 4-year-old Palo Alto girl credited with finding two colonies of Brazilian "stingless bees," a species long thought extinct in the Bay Area.

"Her discovery found its way to California's Department of Food and Agriculture Plant Pest Diagnostics Branch," says CBS reporter Erica Davies, "where Dr. Martin Hauser is a Senior Insect Biosystematist."

From there, Dr. Hauser explains his sleuthing to figure out what type of bee Annika found, its history, and his amazement at its discovery:



"It's like someone telling you they have a kangaroo in their backyard." He then meets Annika, presents her with a book about bugs, and says, "I'm very proud of you, that you discovered these bees."

The CBS video has logged nearly 250,000 hits on YouTube alone.

It's always beneficial to all State Scientists when a CAPS member gains positive media exposure. CAPS congratulates Dr. Hauser for his far-reaching, humanizing, positive representation of his work and, by extension, the service of his colleagues, CDFA, and all CAPS members.

CAPS BOARD OF DIRECTORS ELECTION SET FOR OCTOBER 1-18

CAPS' bi-annual Board of Directors election will run from October 1 to October 18. This year, the CAPS Elections Committee decided to conduct the election entirely online and selected a third-party vendor, [ElectionBuddy](#), to administer the balloting and tabulate the results. Only dues-paying rank-and-file and supervisory CAPS members are eligible to vote.

This year, only rank-and-file members will receive ballots. The reason: Candidates ran uncontested for the Board positions that State [law](#) allows supervisors and managers to elect. CAPS [bylaws](#) consider uncontested candidates "elected by acclamation," so there's no need for balloting. In sum, eight members will assume their Board seats in November as candidates "elected by acclamation."

Meanwhile, nine members are running for the four remaining rank-and-file seats on CAPS' 2021-23 Board of Directors. This map details who is running for which offices and who will automatically assume office in November because they were elected by acclamation.

All CAPS Board members serve two-year terms.

On October 1, ElectionBuddy will email a unique ballot link to members' personal/private email addresses on file with CAPS. That same day, cards will be mailed to members' home addresses, each with a unique QR code that can be scanned to access a personal ballot. ElectionBuddy's software allows each member to vote just once with either the emailed link or the postcard QR code. Balloting closes October 18 at 5 p.m. PST. The results will be released as soon as practicable.

If your personal/private email address has changed or was never given to CAPS, please email the information to elections@capsscscientists.org. To change your postal address to ensure you receive a ballot postcard, please fill out this online form <https://capsscscientists.org/members/update/>.

For more information, please see the CAPS Board of Directors Election [page](#) on CAPS' website.

CAPS 2021 LEGISLATIVE YEAR IN REVIEW, PART 1

Your CAPS membership helps support one of the most experienced legislative advocacy teams in California. Year after year, our talented Capitol representatives promote bills, regulations, and policies that benefit State Scientists and State scientific programs – and they effectively oppose proposals that threaten those interests.

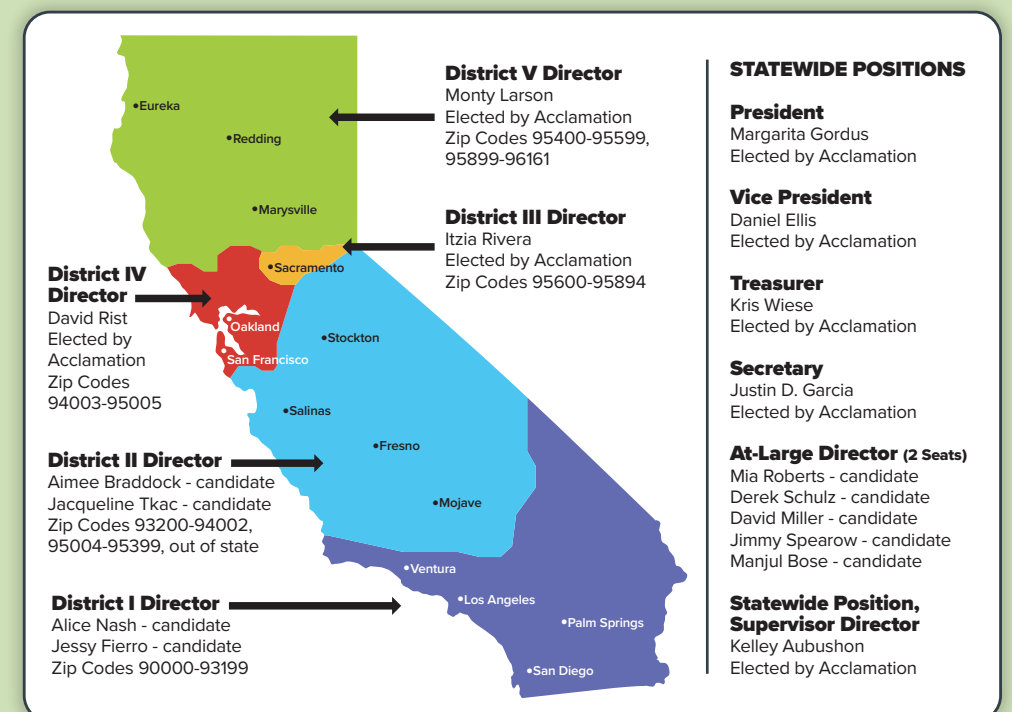
For example, CAPS worked on and supported bill language in [SB 129](#) that substantially increased investments proposed for the California Department of Fish and Wildlife's (CDFW) 2021-22 State Budget. The proposed funding significantly increased staffing and critical resources at CDFW, specifically:

- **\$41.75 million** in one-time funding, as proposed in the January budget.
- **\$64.6 million** for Biodiversity Resilience, including **\$53.75 million** and **31 positions** to do non-fee related California Endangered Species Act (CESA) work and **\$7.85 million** and **8 positions** to assess CDFW lands and infrastructure.
- **\$3.79 million** and **18 permanent** positions to continue supporting the Cutting the [Green Tape Initiative](#).
- Realignment of dedicated Fish and Game Preservation Funds to generate **\$3.86 million** and **19 permanent positions** to carry out permitting under the Streambed Alteration Agreement Program and the CESA Program.
- **\$18.8 million** and **16 positions** to support offshore wind development and terrestrial renewable energy project development as part of the State's proposed

Investments to Accelerate Progress on the State's Clean Energy Goals Budget Change Proposal.

- **\$50.52 million** and **55 term-limited staff** to support drought-related permitting compliance and enforcement and increase drought-related fisheries and wildlife support as part of the Water Resilience and Drought Package.
- **\$36 million** for management of lands in response to fire threats, which will result in **47 limited-term staff** as part of the Wildfire and Forest Resilience Expenditure Plan.
- The **proposed increase in the per-barrel fee on oil by 2 cents with an annual Consumer Price Index adjustment to address the structural deficit in the Oil Spill Prevention and Administration Fund**. These proposed investments to improve environmental review, permitting and protection, and species and habitat conservation, which the State has identified as the most underinvested categories of service.

In the waning days of the budget process, some positions were converted from permanent to one-time, contrary to the Legislature's wishes. CAPS is working with stakeholders and legislators to address this when the Legislature returns in January.



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First, CAPS and CalHR disagreed on the validity of existing statistics. For example, the State doesn't have current, accurate wage or recruitment and retention data because they reference their Total Compensation Report, which erroneously combines classifications into "occupational groups" that include supervisors and managers. The methodology heavily skews the data upward, owing to the large disparities between Unit 10 managerial and rank-and-file salaries.

While the CAPS Team presented our own data in bargaining, the State does not collect statistics that reveal the vacancies, turnover, and poor morale our members experience. Moreover, what data the State does collect is overly broad. For example, CalHR included supervisory wages in salary calculations the State used as a baseline for discussing pay, even though collective bargaining applies only to rank-and-file salaries. CAPS requested much of the data that may have been useful, but the departments that employ State Scientists do not have similar tracking methods. And the data CAPS received didn't capture the intent of the request.

After years of frustration at the bargaining table, the CAPS Team convinced the State last year to use Interest-Based Bargaining (IBB). Before that, CAPS and the State employed "positional bargaining," whereby opponents stake their positions and then argue to win more and lose less. Instead, IBB assumes the parties can forge a partnership built on honest communication to find creative "win-win" solutions through mutual understanding and shared needs.

Despite agreeing to IBB, CalHR unofficially retreated to positional bargaining on salaries very late in negotiations by staking out a position on wages. We responded with creative suggestions, which CalHR said still exceeded the Administration's financial parameters.

Political expediency probably played a role. We bargained for months in the long shadow of the gubernatorial recall. Our deadline to reach a new agreement during the 2021 Legislative Year was just days before the September 14 cutoff date for voters to decide Governor Gavin Newsom's fate. Moreover, a significant pay-equity package for State Scientists – while a relatively small expense compared to others the State incurs – could have opened the Governor to severe political criticism just when he could least tolerate it.

Uncertainty created by the pandemic also gave the Administration political cover to lowball its salary offer. Despite record revenues last year and a record budget of nearly \$200 billion this year, the coronavirus continues to challenge our society and cloud the future. I've observed from my tours of duty in bargaining that governors say they can't afford to compensate State Scientists in bad times fairly, and in good times they declare bad times are around the corner.

So what happens next?

CAPS and CalHR will continue bargaining, but no new Unit 10 MOU can be implemented this calendar year. CAPS members and the Legislature must ratify agreements before they can take effect, but lawmakers are in recess until January.

During our off months, we will certainly focus on bridging the data gap with the State to gather information. We look forward to developing a set of mutually accepted facts for purposes of bargaining.

Meanwhile, the terms of the MOU that expired in June 2020 remain in effect. The pay increase, higher leave caps, and other provisions bargained as part of the side letter that ended the Personal Leave Program (PLP) 2020 remain in effect. After the CAPS election next month, we will assemble a new Bargaining Team to resume bargaining with the State.

I want to thank all the CAPS Team members for devoting countless hours over the last 2 years to fight for this cause. And as always, thanks to every member for supporting CAPS. Although our goal remains elusive, our solidarity endures and gives us a voice. We cannot – and will not – be ignored.

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