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HR 2014-12
HR 2013-11

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To: CSU Presidents, Vice Presidents, HR Officers, AVPs/Deans of Faculty Affairs and Campus Designees Responsible for Outside Employment Disclosure

From: Andrew Jones
Interim Vice Chancellor
Human Resources



Subject: Revised Outside Employment Disclosure Requirements for Management Personnel Plan (MPP) and Executive Employees

Summary

The Outside Employment Disclosure Requirements for MPP and Executive Employees have been revised to include the following:

- Clarify that the policy applies to all MPP and Executive employees (full-time and part-time)
- Clarify that outside employment may not create conflict of commitment and/or conflict of interest
- All MPP and Executive employees are required to submit an Outside Employment Disclosure Form at least annually, even if there is no outside employment to report
- Defines Senior Management as Executive employees and Vice Presidents. This group will be required to submit for review and approval a detailed Outside Employment Disclosure Form
- The Outside Employment Disclosure Form for MPP employees has been revised, and a separate Form has been created for Senior Management employees
- Campuses are required to submit a detailed report on outside employment disclosures of Senior Management employees to the Chancellor's Office annually by **July 31**
- The Board of Trustees shall annually review, provide the opportunity for public discussion, and approve the outside employment endeavors of all Senior Management employees
- The Chancellor's Office Systemwide HR will be responsible for maintaining a public website reporting the outside employment endeavors of Senior Management

Action Items

Develop procedures to manage the disclosure process and communicate the revised requirements to all MPP and Executive employees at the campus.

Update campus Outside Employment Disclosure Forms.

All MPP and Executive employees are required to submit an Outside Employment Disclosure Form at least annually.

Campuses must submit a detailed report on outside employment of Senior Management employees to the Chancellor's Office annually by **July 31**.

Distribution:

CSU Chancellor
Associate Vice Presidents/Deans of Faculty
All Campus Vice Presidents

Human Resources Officers
Employee Relations Designees

Affected Employee Group(s)/Units

All (full-time and part-time) MPP and Executive employees

Definition(s)

Appropriate Administrator: The administrator to whom the MPP or Executive employee directly reports

Conflict of Commitment: In the context of this policy, a conflict of commitment is any outside work that creates a perceived or actual conflict with an employee's ability to perform normal CSU work assignments, maintain satisfactory performance, and meet his/her responsibilities to the CSU

Conflict of Interest: The Political Reform Act prohibits an employee from making, participating in the making, or influencing a governmental decision in which the employee has a financial interest

Executive Employee: Includes the Chancellor, Executive Vice Chancellors, Vice Chancellors, and Presidents

Management Personnel Plan (MPP):

As defined in Title 5 of the California Code of Regulations, Article 2.2, "MPP" refers to employees designated as "management" or "supervisory" under the Higher Education Employer-Employee Relations Act (HEERA). This includes Executive employees

Outside Employment: Any employment not compensated through the CSU payroll, including CSU foundation and CSU auxiliary employment. Unpaid volunteer work does not apply to this policy

Reportable Employment/Income:

Any work for which a W-2 or 1099 is issued. Reportable income can come from a number of sources, including but not limited to one-time speeches/presentations, paid work for profit or non-profit entities, and paid service on a board of directors. Passive income (e.g., payments for services performed in the past, including royalties for writing, copyrighted work, research, and patented materials) is not reportable

Senior Management: For the purposes of this policy, this term shall include Executives (Chancellor, Executive Vice Chancellors, Vice Chancellors, Presidents) and Vice Presidents

Details

Policy Statement

Outside employment activities, while often mutually beneficial to the CSU and the employees themselves, must not conflict with an employee's ability to meet his/her responsibilities to the CSU and at all times act in the best interest of CSU. Therefore, it is the policy of the CSU to provide a transparent system of disclosure, approval, and documentation of outside employment activities performed by CSU MPP and Executive employees to identify any potential conflicts of commitment and/or conflicts of interest. This policy complies with Section 42740 of Title 5, California Code of Regulations and frames the rules and procedures to delineate permissible outside employment activities. Campuses are required to establish procedures to implement this policy requirement.

Background

In response to the California State Auditor (CSA) recommendation on CSU Compensation Practices, the Board of Trustees (BOT) approved the following addition to Title 5 of the California Code of Regulations in January 2013:

§ 42740. Outside Employment – Management and Executive Employees.

Management Personnel Plan and executive employees shall be required to report outside employment for the identification of and to preclude any conflict of commitment. The Chancellor is responsible for implementing this section.

NOTE: Authority cited: Sections 89030 and 89500, Education Code. Reference cited: Section 89030 and 89500, Education Code.

The BOT resolution¹ required the annual disclosure and approval of all outside employment not compensated through the CSU payroll for MPP and Executive employees.

In April 2016, the CSU renewed its commitment to the State Legislature and the public to improve its policy, transparency, and accountability by revising the outside disclosure requirements for MPP and Executive employees. New requirements were also enacted under the Budget Act of 2016, signed into law by Governor Brown in June 2016. This policy update honors CSU's commitment to the Legislature and complies with the Budget Act of 2016. This updated policy goes into effect on January 1, 2017.

Disclosure Reporting Requirements

MPP and Executive employees are individually responsible and held accountable for ensuring that their outside employment activities do not create any actual or perceived conflict of commitment and/or conflict of interest to the CSU. All full-time and part-time MPP (including Executive) employees are expected to monitor and report any and all outside work for which they are being compensated. These employees are required to submit a disclosure form at least annually, even if there is no outside employment to report.

MPP and Executive employees should be given a copy of this policy and will be required to submit a written report of any outside employment at the following times:

- **At the time of hire or appointment** — Prospective MPP and Executive employees must disclose all current outside employment as a precondition of hire.
- **Annually** – All MPP and Executive employees must submit an annual disclosure by **July 15** of each year, reporting on outside employment held the previous calendar year (January 1 through December 31).
- **Within 30 days of accepting outside employment** – Employees must advise their supervisor of the outside employment opportunity within 30 days of accepting any outside employment.
- **Upon Request** – Employees shall provide any requested information within 10 days of an appropriate administrator's request.

The written disclosure statement shall include the nature of outside employment held, time commitment, and expected duration. In addition to providing the information above, members of Senior Management (which consists of Executives and Vice Presidents) are required to disclose details of the outside employment, including the organization name, total compensation received, whether the business has had dealings with the CSU, and whether the employee was involved in making any decisions that affect CSU's dealings with the outside employer. A revised sample disclosure form for MPP employees has been provided in Attachment A. Attachment B contains a separate Outside Employment Disclosure Form that has been created for Senior Management employees. Campuses may use electronic forms to satisfy the reporting requirement.

Campuses should designate an employee responsible for this function and develop procedures to manage the disclosure process for MPP and Executive employees. Campuses are also required to maintain these records in accordance with Section 1.17 of CSU's Records Retention Policy (at least 4 years from the date of the document), which can be found at <http://www.calstate.edu/recordsretention/>.

Determining Conflicts of Commitment

The following is a partial list of possible conflicts of commitment that merit a case-by-case examination of the outside employment activity to determine whether the activity should be managed appropriately, reduced or eliminated. Conflict of commitment may be found if the outside employment activity results in:

- A reduction of the employee's time and energy devoted to CSU activities
- The use of CSU property or other resources without authority (other than de minimus)
- An influence over the way the employee performs his/her CSU responsibilities
- The disclosure of confidential or proprietary information acquired through the performance of CSU duties
- Acting against the CSU's best interest or in conflict with the CSU's mission and goals
- The violation of CSU policies, procedures or practices

¹ Link to Board of Trustees Resolution #RUF01-13-01: <http://www.calstate.edu/BOT/resolutions/jan2013.pdf>

The primary commitment of Executive employees must be to the fulfillment of their regular CSU university responsibilities. As a reminder, Executive employees may serve on up to two corporate boards. Approval from the Chancellor is required prior to accepting service on a corporate board. Notice and approval are not required for service on non-profit boards. These requirements protect the public interest and support reinforcement of this policy.

Determining Conflicts of Interest

No CSU MPP or Executive employee may make, participate in making, or influence a governmental decision in which he/she has a financial interest as defined by the Political Reform Act. A conflict of interest exists if the outside employment creates a financial interest on the part of the employee that precludes the employee from making decisions within the scope of the employee's duties.

Document Review – MPP Employees (excluding Senior Management)

All MPP employees are expected to reduce or eliminate outside employment if any perceived or actual conflicts of commitment or interest are found. Outside employment disclosures should be reviewed for any perceived or actual conflicts of commitment or interest by an appropriate administrator. The appropriate administrator who reviews these forms shall be the person to whom the employee reports.

If the employee's manager or the appropriate administrator determines there is a perceived or actual conflict of commitment and/or conflict of interest in the outside employment activity, and the employee disagrees with this determination, it should be noted on the outside employment disclosure form and escalated to the next level of review. This second and final level of review should be conducted by an independent review committee appointed by the President or Chancellor or his/her designee. The recommendation provided at this level shall be the final determination.

Document Review and Approval – Senior Management Employees

To protect the interests of the public and the CSU, all Senior Management employees are expected to perform outside employment free of any perceived or actual conflicts of commitment or interest. All outside employment disclosures should be reviewed for any perceived or actual conflicts of commitment or interest and approved by the President or his/her designee, and for all Executive employees, by the Chancellor or his/her designee. In addition, the Board of Trustees shall annually review, provide the opportunity for public discussion, and approve the outside employment endeavors of all Senior Management employees.

If the outside employment requires a second level of review for approval, an independent review committee appointed by the Chancellor (or the Board of Trustees for the Chancellor) or his/her designee and the Vice Chancellor of Human Resources, in consultation with the Office of General Counsel, shall review the outside employment disclosure. The recommendation provided at this level shall be the final determination.

Violations of Policy

Noncompliance and violations of this policy will be subject to corrective action, consistent with how the CSU addresses any policy violations² and will depend on the severity of the conduct.

Chancellor's Office and Board of Trustees Review

Campuses are required to submit a summary report (see Attachment D for a template) on outside employment disclosures to the Chancellor's Office annually by **July 31**. Reports should be sent to CSUOutsideEmployment@calstate.edu. Annual reminders will be sent from Systemwide HR. The report shall include the following:

- Percentage of MPP employees with outside employment at the campus
- Disclosure of all outside employment details for Senior Management
- Additional information as requested by the Systemwide HR office

Outside employment disclosure forms are public records and are subject to the California Public Records Act. To increase transparency, protect public interest, and ensure public trust, the CSU will publicly post the outside employment activities of Senior Management employees, which include the Chancellor, Executive Vice Chancellors, Vice Chancellors,

² 5 Cal. Code Reg. §§42722, 42723

Presidents, and Vice Presidents. The Chancellor's Office Systemwide HR will be responsible for maintaining a public website reporting the outside employment endeavors of Senior Management.

Questions regarding this policy should be directed to Systemwide Human Resources at CSUOutsideEmployment@calstate.edu. This document is available on the Human Resources Policies Website at <https://csyou.calstate.edu/Policies/HRPolicies/Forms/Default.aspx>.

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Attachments