

## **POLICY ON INCOMPATIBLE ACTIVITIES AND CONFLICTS OF INTEREST**

This policy is intended to provide guidelines related to activities which may be deemed inconsistent, incompatible, in conflict with, or inimical to employment as a faculty member at California State University, Fresno.

### **I. GENERAL POLICY**

Acceptance of a full-time faculty position with California State University, Fresno implies the faculty member accepts the responsibilities of such a position as both a faculty member and as an employee of the State of California. Consistent with Article 20 of the Collective Bargaining Agreement, the responsibilities of a faculty member include teaching classes as scheduled, maintaining a schedule of office hours, attending scheduled meetings, involvement in research and/or related professional efforts appropriate to professional development, and service in a productive and collaborative manner with colleagues and other faculty to carry out the objectives of the university. In keeping with his/her employment, a faculty member has an obligation to conduct his/her activities in a manner such that their responsibilities to the State, and to the university and its students are not impaired.

The university expects that each faculty member will devote attention essential to meet the responsibilities of a faculty appointment. Faculty members are defined as exempt employees under the federal Fair Labor Standards Act of 1938 and do not work a fixed work week. Consistent with the traditions of the academy and the practices of the university, the only fixed "hours of duty" for a faculty member with an academic year appointment are normally those hours when the faculty member is scheduled to teach, to hold an office hour, to attend a meeting or perform other scheduled activities. The university also has the right to call a faculty member to campus when the individual is needed for university business during the period of active employment.

Section 19990 of the California Government Code provides that "A state officer or employee shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee." Each faculty member should be alert to and avoid any activity which is inconsistent, incompatible, in conflict with or inimical to his/her responsibilities.

Section 19990 specifies activities and enterprises deemed by the State of California to be inconsistent, incompatible, in conflict with, or inimical to state employment. Activities and enterprises deemed to fall in these categories shall include, but not be limited to, all of the following:

- (a) Using the prestige or influence of the state or the university for private gain or advantage or the private gain of another.
- (b) Using state time, facilities, equipment, or supplies for private gain or advantage or for any purpose other than the performance of official university business.

- (c) Performance for compensation other than state salary of any service for any person or public or private agency if such person or agency performs any action which is subject to review, recommendation, or approval by the employee or any of his/her subordinates.
- (d) Performance for compensation other than state salary at any time of any service which his/her duties require him/her to render.
- (e) Acceptance of any obligation on the part of any faculty member which would prevent him/her from performing the responsibilities for which he/she is employed, or the acceptance of any responsibilities which would be in conflict with the purposes of the university.
- (f) Engaging in any activity which is contrary to a policy of the Trustees of the California State University or otherwise inimical to the welfare of the CSU or its institutions including the willful violation of any law, the willful violation of any regulation of the Board of Trustees or any directive of the Chancellor respecting his/her employment or the performance of his/her duties.
- (g) Subject to any other laws, rules, or regulations as pertain thereto, not devoting his or her full time attention, and efforts to his or her responsibilities as a faculty member.

## **II. OUTSIDE ACTIVITIES**

1. The university recognizes that the capacity and productivity of individual faculty members varies across a wide spectrum. Such capacities militate against across-the-board regulations concerning outside activities. While the university will not prescribe any form of outside employment, it does have an interest in any form of outside activity which may have an adverse effect on the performance of an individual full-time faculty member.
2. Consistent with state law and Article 35 of the Collective Bargaining Agreement, outside employment shall not conflict with normal work assignments or satisfactory performance of all the responsibilities of a faculty member. The university may, upon written request, require a faculty member to provide a written statement of the amount and approximate distribution of time devoted to continuous outside employment during the academic term to which he/she has been appointed. Such requests may be made when the appropriate administrator has determined that such information is necessary to ascertain compliance with provision Article 35.1 of the Collective Bargaining Agreement.
3. There is no limit to the amount of income a faculty member may make in outside employment.

4. In all private business agreements, especially consulting agreements, the client must be informed in writing that the faculty member is acting as a private person and that the university is not in any way a party to the agreement.
5. No official university stationery or forms shall be used in connection with outside employment nor shall the name, the seal, or the logo of the university be used in advertising.
6. No university facilities or other state resources may be used in any non-university work except as provided in contracts or other agreements approved by appropriate officers of the university.
7. "Resources" is broadly defined to include staff, office space, facilities, all forms of campus mail, equipment, supplies, stationery or forms.

### **III. ADDITIONAL EMPLOYMENT**

1. Consistent with Article 36 of the Collective Bargaining Agreement, additional employment refers to (1) any employment compensated by CSU, (2) funded by the general fund or (3) nongeneral funds including CSU auxiliaries, that is in addition to the primary or normal employment of a faculty member.
2. A faculty member is limited in CSU employment to the equivalent of one (1) full-time position in his/her primary or normal employment. An "overage" of 25% of a full-time position shall be allowed if the overage employment: (a) consists of employment of a substantially different nature from his/her primary or normal employment; (b) is funded from non-General Fund sources; or (c) is the result of the accrual of part-time employment on more than one campus.
3. The "25% overage" is calculated as a percentage of full-time workload or, when appropriate, full-time time base. The total additional employment of a faculty member shall not exceed a total of twenty-five percent (25%) overage.
4. If a faculty member holds more than one appointment, primary or normal employment of the faculty member shall refer to an appointment of more than a fifty percent (50%) time base. If no appointment is greater than a fifty percent (50%) time base, the normal employment shall refer to the appointment deemed normal by CSU.
5. A faculty member shall inform the President, at the time of appointment, of any appointments elsewhere in CSU.
6. The applicable time period for twelve (12) month faculty member shall be the calendar year, exclusive of the faculty member's earned vacation periods.
7. The applicable time period for ten (10) month or academic year faculty members shall be the academic year exclusive of time periods between academic years, time periods between academic terms, and the vacation periods of a faculty unit employee.

#### **IV. USE OF STATE RESOURCES FOR PERSONAL BENEFIT <sup>1</sup>**

State resources are provided to each faculty member in order to achieve the educational objectives of the university and to assist the faculty member in the performance of his/her responsibilities as a teacher, scholar, and colleague. The use of these resources for private/business gain or advantage is prohibited. "Resources" is broadly defined to include staff, office space, facilities, all forms of campus mail, equipment, supplies, stationery or forms.

#### **V. POLITICAL ACTIVITIES <sup>2</sup>**

As private citizens, faculty members may enjoy and exercise all the political rights guaranteed by the Constitution and laws of the United States and the State of California. The Attorney General has reaffirmed a previous opinion that "the right to engage in politics is a privilege of citizenship which should not be denied state employees in the absence of express or necessarily implied statutory prohibition, or unless the particular activity is harmful to state government. No political activity should be engaged in on state time."

Employees of The California State University are subject to provisions of law relating to elections and political activities applicable to all state employees and are included within the provisions of the California Government Code. State and university employees in the conduct of official business should remain neutral towards candidates or ballot measures. The use of state resources to promote a political organization and/or a candidate, advocate on behalf of a ballot measure, or to solicit political contributions is prohibited. "Resources" is broadly defined to include staff, office space, facilities, all forms of campus mail, equipment, supplies, stationery or forms.

Faculty members who have discussions of candidates or ballot measures in class should take great care to see that the representative views of all students are expressed. The distribution of material in exclusive support of a particular political party, candidate or ballot measure during a class session is prohibited.

#### **VI. POLITICAL REFORM ACT OF 1974**

The Political Reform Act of 1974 was enacted by the people of the State of California by an initiative which is intended to prevent conflicts of interest by requiring public officials with decision-making authority to disclose financial interests which could foreseeably cause conflicts. A list of designated positions and disclosure categories has been established by The California State University. Designated university officials are

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<sup>1</sup> Article 6 of the Unit 3 Collective Bargaining Agreement provides the California Faculty Association with access to faculty mailboxes, including electronic mail, for the purposes of communication to faculty unit employees.

<sup>2</sup> This section is addressing the political rights and responsibilities of employees. Nothing in this section shall be construed to limit the right of the California Faculty Association as the exclusive bargaining agent to express its positions on political issues as part of its communication to faculty unit employees.

required to file annual financial disclosure statements and to disqualify themselves from making, participating in, or attempting to influence any governmental decision which will affect their financial interests.<sup>3</sup> The Director of Human Resources has been designated as the filing officer on campus and further information may be obtained from that office.

## VII. CONFLICTS OF INTEREST

1. Each faculty member should be alert to and avoid actual or apparent conflicts of interest. Potential conflicts or apparent conflicts of interest should be handled in a professional manner. A faculty member is therefore obligated to identify a potential or apparent conflict of interest through his/her department chair, dean, or committee chair and excuse him/herself from an evaluative or decision-making role when a conflict presents itself or to make arrangements with the university through the department chair, dean or committee chair to provide for proper handling of an acknowledged conflict of interest.
2. Conflicts of interest include, but are not limited to the following,
  - (a) Relationships as defined in the campus Policy on Nepotism,
  - (b) Relationships as defined in the campus Policy on Faculty Student Consensual Relations,
  - (c) Relationships created by outside business/financial arrangements with other University employees whom the individual supervises or evaluates,
  - (d) Relationships created by outside business/financial arrangements with private or public agencies, or private businesses which do business with the University,
  - (e) Requirements of financial disclosure as outlined in the campus Interim Procedures for Conflict of Interest Policy on Principal Investigators

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<sup>3</sup> The list of designated university officials who are required to file annual financial disclosure statements is appended as Appendix A.

References: CBA Articles 6, 20, 35, 36

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Approved by the Academic Senate  
 Approved by the President  
 Amended

March 1980  
 May 1980  
 January 1998

**APPENDIX A**  
**LIST OF POSITIONS**  
**REQUIRED TO COMPLETE**  
**ANNUAL FINANCIAL DISCLOSURE STATEMENTS**

Assistant Vice President  
Associate Dean  
Associate Director, AIC  
Associate Director, Customer Service, CCMS  
Associate Director, ITS  
Associate Provost  
Associate Vice President  
Budget Officer  
Buyer II  
Buyer III  
Buyer Trainee  
Dean  
Director, Accounting Services  
Director of Athletics  
Director, Facilities Planning  
Director, Financial Aid  
Director, Human Resources  
Director, Grants and Research  
Director, Procurement & Support Services  
Director, Public Safety  
Director, Student Life and Development  
Director, University Health and Counseling Services  
Director, Utility Management  
Executive Director, Auxiliary Services  
President  
Property Clerk  
Provost  
Vice President  
University Controller