

SUPERCEDED BY HR 2015-05

THE CALIFORNIA STATE UNIVERSITY

Office of the Chancellor

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Date: August 30, 2005

Code: HR 2005-38

To: CSU Presidents

From: Jackie R. McClain
Vice Chancellor
Human Resources



Supersedes: FSR 85-08 and
FSR 86-05, Sup.1 & 2

Subject: **Conflict of Interest Update – Principal Investigators**

We are pleased to reissue a consolidated Conflict of Interest policy for Principal Investigators, a designated position in the California State University's (CSU) Conflict of Interest Code. The policy provides information on the following topics:

- Legal Reference
- Definition of Principal Investigator
- Role of the Fair Political Practices Commission
- Filing Requirement
- Disclosure
- Violations
- Independent Substantive Review
- Roles and Responsibilities
- Composition and Functions of the Independent Review Committee
- Report
- Ethics Training Requirement
- Appendix A - Form 700-U
- Appendix B - List of Exempt Nongovernmental Entities
- Appendix C - Executive Order 890

A Principal Investigator is required to report financial interests on a Form 700-U ("Statement of Economic Interests for Principal Investigators") if he or she has principal responsibility for a research project funded or supported, in whole or in part, by a contract or grant (or other funds earmarked by the donor for a specific project or for a specific researcher) from a nongovernmental entity. Disclosure of financial interests indicative of a conflict of interest may result in disqualification of the Principal Investigator from participation in financial decisions in connection with the grant or contract. However, disqualification may not be required in connection with any decision if an "independent review committee" established

Distribution:

Vice Presidents, Academic Affairs
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Human Resources Directors
General Counsel
Conflict of Interest Officers
Director, SOSS

within the campus reviews the decision substantively. The use of an Independent Review Committee (IRC) was approved by the Fair Political Practices Commission (FPPC) and introduced in 1986 as CSU policy. Additional information regarding the IRC is contained in the attached policy.

Recently, the Fair Political Practices Commission amended Title 2 regulations eliminating the requirement for Principal Investigators to file a project completion statement within 90 days after project completion and revised the Form 700-U to reflect this change. **Please note that the CSU continues to require its Principal Investigators to complete the project completion statement as part of the CSU Conflict of Interest Code.** As a result, on the revised Form 700-U, CSU Principal Investigators will be required to manually add project completion information to the form. A modified Form 700-U is provided in the attachment for campus use.

Principal Investigators are exempt from disclosing financial information for research projects funded by specified nongovernmental entities. Effective July 2005, the FPPC has incorporated into Title 2, Section 18755 an updated list of sponsors of research exempted from the nongovernmental entity financial disclosure requirement. This updated list may be found in Appendix B. **Please note: Principal Investigators are required to file financial statements for any nongovernmental entity NOT on the approved FPPC list.**

Questions regarding Principal Investigators should be directed to Pamela Chapin at (562) 951-4414 or Felice Bakre at (562) 951-4410. This document is also available on the Human Resources Administration's Web page at: <http://www.calstate.edu/HRAAdm/memos.shtml>.

JRMcC/fb

Attachment

THE CALIFORNIA STATE UNIVERSITY



**CONFLICT OF INTEREST POLICY
FOR
PRINCIPAL INVESTIGATORS**

The California State University
Conflict of Interest Policy
For
Principal Investigators

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- Appendix C Executive Order 890

SECTION 1 - INTRODUCTION

1.1 Legal Reference

The principal conflict of interest law in California is the Political Reform Act of 1974 (Government Code Section 81000 et seq.). The Political Reform Act of 1974 contains a general prohibition against conflicts of interest, as well as provisions for the adoption of a conflict of interest code by the California State University (CSU). It prevails over any other conflict of interest law to the contrary (Government Code Section 81013).

In addition to the general prohibition of the Political Reform Act that applies to all CSU employees, the Act also requires CSU to develop its own Conflict of Interest Code, which applies to specifically designated CSU positions and requires employees in those designated positions to disclose certain kinds of personal economic interest on a designated form. CSU's Conflict of Interest regulations are referenced in Title 5, Section 43810. The terms of Title 2, California Code of Regulations, Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the Appendix in which officials and employees are designated and disclosure categories are set forth, are incorporated by reference and constitute the Conflict of Interest Code of the California State University.

The Board of Trustees took action on January 23, 1985, to adopt an amendment to the California State University Conflict of Interest Code, consistent with California Code of Regulations, Title 2, Section 18705(b), which requires disclosure of financial interests in connection with a decision made by a person at an institution of higher education with the principal responsibility for a research project, if it is to be funded or supported, in whole or in part, by a contract or grant from a nongovernmental entity.

Executive Order 890, issued January 7, 2004, provides information relating to all Sponsored Programs applied for, awarded to and/or administered by any campus of the California State University, the Office of the Chancellor, or any Auxiliary.

1.2 Principal Investigator Defined

Employees with principal responsibility for a research project funded or supported, in whole or in part, by a contract or grant (or other funds earmarked by the donor for a specific research project or for a specific researcher) from a nongovernmental entity, shall be designated employees subject to the disclosure and disqualification requirements of the CSU Conflict of Interest Code. Disqualification shall not be required in connection with any decision if the decision is substantively reviewed by an independent committee established within the State University. (See Section 3.)

1.3 The Fair Political Practices Commission

The Fair Political Practices Commission (FPPC) administers and interprets the Political Reform Act and educates the public and public officials on the requirements of the Act. It provides written and oral advice to public agencies and officials; conducts seminars and training sessions; develops

forms, manuals and instructions; and receives and files statements of economic interests from many state and local officials. The FPPC investigates alleged violations of the Political Reform Act, imposes penalties when appropriate, and assists state and local agencies in developing and enforcing conflict of interest codes.

1.4 Filing Requirement

Unlike business position financial disclosures, which occur when the incumbent enters or leaves the position, as well as the annual April 1 filing, financial disclosure by Principal Investigators must take place whenever the faculty member applies for a nongovernmental contract or grant. Thus, the first safeguard concerning a Principal Investigator's conflict of interest disclosure is that no nongovernmental contract or grant may proceed without the Principal Investigator filing a financial statement. CSU Principal Investigators are required to file the following Statements, as appropriate:

1. Initial Statement – The initial statement must be submitted to the Conflict of Interest Filing Officer before final acceptance of a contract, grant, or gift. The statement shall include reportable investments in and positions with the sponsor as of the date of the offer of funding, and income and gifts received from the sponsor within the 12 months prior to the date of the offer.
2. Interim Statement – A statement must be filed within 30 days after funding is renewed and shall disclose reportable investments, income and business positions held or received during the period between the date the initial statement was filed and the date the funding for the project was renewed.
3. Project Completion Statement – A statement must be filed within 90 days after the gift funds are exhausted, or the research project is completed pursuant to CSU policy.

Form 700-U (“Statement of Economic Interests for Principal Investigators”) should be used to meet the above filing requirements. Because CSU has a broader filing requirement than required by current Title 2 regulations, the Project Completion date must manually be added to the form and the Statement completed within 90 days after the gift funds are exhausted, or the research project is completed. Please note that Principal Investigators do not file “Annual” Statements.

1.5 Disclosure

The CSU Conflict of Interest Code assigns a disclosure category (or multiple categories) to each specifically designated position. The disclosure categories identify the kinds of personal economic interests which the employee must disclose in a public document. Principal Investigators are subject to filing under Disclosure Category “16” of Exhibit “B” of the CSU Conflict of Interest Code, described as follows:

All investments in, income from, and business positions in, any private, nongovernmental entity which will be providing funds, or, in the case of a project completion statement, has provided funds, to support, in whole or in part, the research project for which the filer is the principal investigator. (The required disclosure shall be made on Form 700-U.)

Persons with the principal responsibility for a research project must disclose their economic interests in any nongovernmental entity that funds or supports that research project.

Contracts and grants from federal, state, municipal, county and some nonprofit foundation sources are excluded from disclosure requirements, as are decisions made in connection with teaching decisions, including the selection of books and other educational materials, and in connection with decisions to pursue personally a course of academic study or research.

1.6 Violations

Failure to file the required Statement of Economic Interests, or failure to report a financial interest may subject a Principal Investigator to civil liability, including fines, as well as CSU discipline.

SECTION 2 – BASIC PROVISIONS

As public employees, CSU employees are public officials subject not only to the laws and regulations on incompatible activities, but to numerous laws, regulations and court decisions related to conflict of interest, ethics and use of public information for personal gain. This document provides a summary, not an exhaustive list. Additional laws, regulations and court decisions may circumscribe activities of CSU employees.

Employees in designated positions, including Principal Investigators, shall not make, participate in making, or in any way attempt to use her/his designated position to influence the making of any governmental decision which foreseeably will have a material financial effect on:

1. Any business entity in which the designated employee has a direct or indirect investment or interest worth two thousand dollars (\$2,000) or more;
2. Any real property in which the designated employee has a direct or indirect interest worth two thousand dollars (\$2,000) or more;
3. Any source of income, other than gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided to, received by or promised to the designated employee within twelve (12) months prior to the time when the decision is made; or
4. Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management.
5. Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

2.1 Independent Substantive Review

To ensure that the principles essential to research are followed rather than conflicting with personal material gains, the following guidelines are provided:

1. Principal Investigators shall disclose whether or not they have a financial interest in the sponsor of a proposed research project when funding in whole or in part is through a contract or grant from a nongovernmental entity.
2. Principal Investigators shall disclose whether or not they have a financial interest in the donor of a gift when the gift is from a nongovernmental entity and is earmarked by the donor for a specific Principal Investigator or for a specific research project.
3. Disclosure statements must be filed (a) before final acceptance of such a contract or grant, or gift; (b) within 30 days after funding for such a contract or grant is renewed; and (c) within 90 days after expiration in the case of a contract or after the funds have been completely expended in the case of a gift.
4. Disclosure is required for persons with principal responsibility for research projects funded in any part by a contract or grant from a nongovernmental entity, including non profit organizations, if they are not on the FPPC's approved list. (See Appendix B.)
5. When disclosure indicates that a financial interest exists, an independent substantive review of the disclosure statement and research project (by an Independent Review Committee (IRC)) shall take place with appropriate documentation before a contract, grant, or gift is accepted. (The composition and function of an Independent Review Committee is discussed in Section 3.)
6. Department chairs shall disqualify themselves from approving a research proposal for a project to be funded in whole or in part by a nongovernmental entity in which they have a financial interest.
7. Failure by a Principal Investigator to make the required disclosure or by a department chair to disqualify himself or herself may result in a State enforcement proceeding as well as University sanctions.
8. If the financial disclosure by the Principal Investigator indicates that he/she had no financial interest in the granting or contracting concern, then the research does not require the review of the independent review committee.

2.2 Roles and Responsibilities

The following responsibilities related to Conflict of Interest are identified for various participants and should be distributed by the Campus for the benefit of the parties involved.

- **President**

Takes responsibility for campus compliance with The California State University policy on disclosure of financial interest in private/nongovernmental sponsors and with the State of California Political Reform Act.

Designates or appoints a review committee which is advisory to the President, or designee, to undertake the independent substantive review as described above.

Assures that appropriate administrative support and technical conflict of interest advice is available to the review committee, Principal Investigators and others as needed; that application (initial) and project renewal (interim) and project completion financial disclosure statements are filed within prescribed deadlines; that such statements are complete, legible and consistent; that independent substantive review of potential conflicts of interest is completed before deciding whether to accept a contract or grant sponsored in whole or in part by a nongovernmental individual or entity, or a gift earmarked for a specific researcher or a specific research project; that copies of disclosure statements, the review committee's recommendations, and the written decisions resulting from the independent review process are provided to the Campus Conflict of Interest Filing Officer and are available on campus to the public upon request; and that department chairs are notified of the requirement to disqualify themselves from approving research proposals being funded by a sponsor in which they have a financial interest.

- **Academic Vice President**

Provides guidance on the independent substantive review of a disclosed financial interest in the sponsor of research funded through a restricted gift or a contract or a grant with a nongovernmental entity. Provides liaison with the Academic Senate.

- **Administrative Vice President**

Develops procedural guidelines to be followed in: (a) the submittal and review of nongovernmental contract or grant research applications to assure filing of the initial financial disclosure statements prior to disposition of the research application; (b) the review of gifts earmarked by a donor for a specific researcher or for a specific research project to assure filing of the financial disclosure statement prior to acceptance of the gift; (c) the filing of a project interim statement within 30 days after the renewal of funding of the research project; and (d) the filing of a project completion statement within 90 days after the expiration of the research project or the exhaustion of the gift funds pursuant to CSU policy.

Provides liaison with campus contract and grants offices, and gifts and development offices.

- **Vice Presidents - Associate Vice Presidents/Deans of Faculty**

Develops policies and guidelines, and provides technical advice regarding financial disclosure and conflicts of interest, including the Political Reform Act.

Provides reproducible copies of necessary forms and instructions to the campus.

Receives and maintains for public access copies of Principal Investigators initial, interim, and project completion financial disclosure statements, copies of recommendations by the campus review committee, and copies of the president's or designee's decisions regarding specific research projects. (The Campus Conflict of Interest Filing Officer may also perform this activity.)

■ **Principal Investigators**

Principal Investigators must complete initial and/or interim disclosure statements, as appropriate, (1) whenever they make application for or renewal of a contract or grant with a nongovernmental entity, or (2) whenever a gift is specified by a donor for him or her or for a specific research project for which he or she is responsible. The disclosure must be made on a “Principal Investigator’s Statement of Economic Interests” (Form 700–U) before the proposed gift is accepted or application is made for the nongovernmental funded research contract or grant and within 30 days after funding renewal of the research project. **Pursuant to CSU policy, a project completion statement must be filed within 90 days after the expiration of the research project or the exhaustion of the gift funds.**

SECTION 3 – INDEPENDENT REVIEW COMMITTEE (IRC)

3.1 Composition and Function of the Independent Review Committee

Presidents are responsible for ensuring a procedure is in place for independent substantive review including the designation or establishment of a committee to conduct the review and criteria for the conduct of the review by such a committee.

The Independent Review Committee:

1. Shall have at least three individuals:
 - A. a faculty or staff person as appropriate from another department or occupational area;
 - B. an administrator; and
 - C. a member at large.
2. Should be composed of members who are responsible, conscientious persons with impeccable credibility and well versed in the contract process of the institution.
3. Should have adequate faculty standing, administrative authority and access to subject matter expertise.
4. May consult with administrators, faculty and others involved in the research review process and the academic discipline in question.
5. May also consult with Principal Investigators and department chairs in order to gain information and seek modification to research projects, if that is necessary.
6. Shall maintain records of its deliberations, which shall be made available to the public upon request. An outline for the Committee's report is provided below.

Criteria for review of a decision by a Principal Investigator shall be based on and adhere strictly to California Code of Regulations, Title 2, Section 18700 et seq. and any amendments duly adopted by the Fair Political Practices Commission, along with the List of Disclosure Categories for designated positions on each campus. The campus criteria, based on Trustee policy, systemwide

Human Resources guidelines and the appropriate Codes, shall be developed and distributed to Principal Investigators prior to the review by any Independent Review Committee.

On the basis of the review, the Committee will recommend to the President, or designee, whether funding for the research project should be accepted and, if so, whether any conditions are needed.

3.2 Report

The report of the Independent Review Committee (IRC) shall follow the outline below:

1. Principal Investigator:
2. Name of Project:
3. Period of Performance:
4. Reviewed at the IRC meeting of:
5. Funds Awarded:
6. Documents reviewed by IRC:
7. Nature of Financial Interest:
8. Recapitulation of IRC review:
 - A. Is the research appropriate to the University?
 - B. Are the teaching and research environments open?
 - C. Is there freedom to publish and disseminate the results of this project?
 - D. Is the use of the University facilities appropriate?

SECTION 4 – ETHICS TRAINING REQUIREMENT

The California State University developed a comprehensive Ethics Regulations and Conflict of Interest Code Training Program, which provides employee training on CSU ethics statutes and regulations that govern CSU official conduct. The training program must be offered to all employees in designated positions who, as a result of the CSU Conflict of Interest Code, are required to file a Statement of Economic Interests (Form 700-U for Principal Investigators) in accordance with Article 3 of Chapter 7 (commencing with Section 87100) of Title 9 of the Government Code. Subsequently, AB 1969 added Education Code section 89700.7 requiring designated employees receive ethics training effective January 1, 2005. The CSU mandated training program meets this statutory requirement.

Principal Investigators must complete the ethics training within six months of receiving the grant. Subsequent training is required at least once during each consecutive period of two calendar years that the grant is in place.

For additional information regarding the CSU Ethics Training Policy, please refer to HR 2004-15.

Instructions for Completing Form 700-U

CALIFORNIA
FORM **700-U**

Who Files Form 700-U?

This form must be filed by all persons employed by UC or CSU who have principal responsibility for a research project if the project is to be funded or supported, in whole or in part, by a contract or grant (or other funds earmarked by the donor for a specific research project or for a specific researcher) from a nongovernmental entity.

Research funding by certain nonprofit entities will not trigger disclosure on the Form 700-U. For a list of these exempt nonprofits, refer to <http://www.ucop.edu/research/exempt.html>.

When reporting activity for the year 2005, filers must report investments and interests in real property held by, and sources of income to, registered domestic partners. In most cases this will apply to assuming or leaving office statements.

What is an Investment?

"Investment" means any financial interest in a business entity in which you, your spouse or registered domestic partner, or your dependent children have a direct, indirect, or beneficial interest totaling \$2,000 or more. Reportable investments include stocks, bonds, warrants, and options, including those held in margin or brokerage accounts. (See Gov. Code section 82034.)

What is Income?

"Income" means a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and any community property interest in income of a spouse or registered domestic partner. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual, spouse, or registered domestic partner owns directly, indirectly, or beneficially, a 10% interest or greater. Income includes your gross income and your community property interest in your spouse's or registered domestic partner's gross income totaling \$500 or more. Gross income is the total amount of income before deducting expenses, losses, or taxes. (See Gov. Code section 82030.)

What is a Loan?

Loans received or outstanding are reportable if they total \$500 or more from a single lender. Your community property interest in loans received by your spouse or registered domestic partner also must be reported. (See Gov. Code section 82030(a).)

What is a Gift?

A gift is anything of value for which you have not provided equal or greater consideration to the donor. A gift is reportable if its fair market value is \$50 or more. In addition, multiple gifts totaling \$50 or more received from a reportable source must be reported.

It is the acceptance of a gift, not the ultimate use to which it is put, that imposes your reporting obligation. Therefore you must report a gift even if you never used it or if you gave it away to another person.

If the exact amount of a gift is not known, you must make a good faith estimate of the item's fair market value. Listing the value of a gift as "over \$50" or "value unknown" is not adequate disclosure.

Commonly reportable gifts include:

- Tickets/passes to sporting or entertainment events
- Tickets/passes to amusement parks
- Parking passes
- Food, beverages, and accommodations, including that provided in direct connection with your attendance at a convention, conference, meeting, social event, meal, or like gathering, where you did not give a speech, participate in a panel or seminar, or provide a similar service
- Rebates/discounts not made in the regular course of business to members of the public without regard to official status
- Wedding gifts
- An honorarium. You may report an honorarium as income rather than as a gift if you provided services of equal or greater value than the payment received.
- Transportation and lodging
- Forgiveness of a loan received by you

(See Gov. Code section 82028.)

Instructions for Completing Form 700-U (continued)

CALIFORNIA
FORM **700-U**

What is a Travel Payment?

Travel payments include advances and reimbursements for travel and related expenses, including lodging and meals.

- Travel payments are **gifts** if you did not provide services which were equal to or greater in value than the payments received. You must disclose gifts totaling \$50 or more from a single source during the period covered by the statement. Gifts of travel are reportable without regard to where the donor is located.

When reporting travel payments which are gifts, you must provide a description of the gift and the date(s) received.

- Travel payments are **income** if you provided services which were equal to or greater in value than the payments received. You must disclose income totaling \$500 or more from a single source during the period covered by the statement. The filer has the burden of proving the payments are income rather than gifts.

When reporting travel payments as income, you must describe the services you provided in exchange for the payment. You are not required to disclose the date(s) for travel payments which are income.

Gifts of travel may be subject to a \$360 gift limit. In addition, certain travel payments are reportable gifts, but are not subject to the gift limit. See the FPPC fact sheet entitled Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans, which can be obtained from the FPPC at www.fppc.ca.gov.

You are not required to disclose:

- Travel payments received from any state, local, or federal government agency for which you provided services equal or greater in value than the payments received
- Travel payments received from your employer in the normal course of your employment
- Payments or reimbursements for transportation within California in connection with an event at which you gave a speech, participated in a panel or seminar, or performed a similar service

- Food, beverages, and necessary accommodations received directly in connection with an event held inside or outside California at which you gave a speech, participated in a panel, or provided a similar service (note that payments for transportation outside of California are reportable)
- A travel payment which was received from a nonprofit entity exempt from taxation under IRS Code section 501(c)(3) for which you provided equal or greater consideration

Check the box to indicate if the payment was a gift or income, report the amount, and disclose the date(s) if applicable.

Violations

Failure to file the required Statement of Economic Interests or failure to report a financial interest may subject a principal investigator to civil liability, including fines, as well as University discipline. (Government Code sections 81000-91014)

Privacy Information Notice

Information requested on all FPPC forms is used by the FPPC to administer and enforce the Political Reform Act (Government Code sections 81000-91014 and California Code of Regulations sections 18109-18997). All information required by these forms is mandated by the Political Reform Act. Failure to provide all of the information required by the Act is a violation subject to administrative, criminal or civil prosecution. All reports and statements provided are public records open for public inspection and reproduction.

If you have any questions regarding this Privacy Notice or how to access your personal information, please contact the FPPC at:

Manager, Filing Officer Programs
428 J Street, Suite 620
Sacramento, CA 95814
(916) 322-5660



STATEMENT OF ECONOMIC INTERESTS FOR PRINCIPAL INVESTIGATORS

Date Received Campus Use Only

Campus: _____

ID No: _____

Please type or print in ink

Form with fields: NAME (LAST), (FIRST), (MIDDLE), TELEPHONE NUMBER, ACADEMIC UNIT OR DEPARTMENT, MAIL CODE, E-MAIL ADDRESS, TITLE OF RESEARCH PROJECT

1. Information Regarding Funding Entity: (Use a separate Form 700-U for each funding entity.) Name of Entity: Address of Entity: Principal Business of Entity: Amount of Funding: \$ Estimated Actual

2. Type of Statement (Check at least one box) Initial (for new funding) Date of initial funding: Interim (for renewed funding) Funding was renewed on: Completion statement. Project ended

3. Filer Information A. Are you a director, officer, partner, trustee, consultant, employee, or do you hold a position of management in the entity listed in Part 1? B. Do you, your spouse or registered domestic partner, or your dependent children have an investment of \$2,000 or more in the entity listed in Part 1 above? C. Have you received income of \$500 or more from the entity listed in Part 1 within the last 12 months?

3. Filer Information - Cont. D. Have you received loans from the entity in Part 1 for which the balance exceeded \$500 in the past 12 months? E. Have you received gifts from the entity listed in Part 1 within the last 12 months valued at \$50 or more? F. Has the entity in Part 1 paid you for your travel?

4. Verification I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Date Signed Signature

The Form 700-U is for university use only. This statement is a public record under Gov. Code section 81008(a).

**SPONSORS OF RESEARCH EXEMPTED FROM THE NONGOVERNMENTAL ENTITY
FINANCIAL DISCLOSURE REQUIREMENT**

These research sponsors are approved by the Fair Political Practices Commission for exemption from the nongovernmental entity financial disclosure requirement. Principal investigators are not required to complete Form 700-U financial disclosure statements for research that is sponsored by these organizations.

Alzheimer's Disease & Related Disorders Association
American Academy of Dermatology
American Academy of Pediatrics
American Association for the Advancement of Science
American Association for State & Local History
American Association of Colleges of Pharmacy
American Association of Obstetricians & Gynecologists
American Association of Retired Persons
American Cancer Society
American Chemical Society
American College of Obstetricians & Gynecologists
American College of Radiology
American Committee for the Weizmann Institute of Science
American Council of Learned Societies
American Diabetes Association
American Foundation for Pharmaceutical Education
American Fund for Dental Education, Inc.
American Gastroenterologic Association
American Health Assistance Foundation
American Heart Association
American Kidney Fund
American Library Association
American Liver Foundation
American Lung Association
American Lupus Society, The
American Nurses Foundation
American Parkinson Disease Association
American Philological Association
American Philosophical Society
American Red Cross
Amyotrophic Lateral Sclerosis Society of America
Arthritis Foundation
Asthma & Allergy Foundation of America

Bush Foundation, The

California Association for Neurologically Handicapped Children
California Division of the American Cancer Society
California Heart Association

California Lung Association
Cargill Foundation
Carnegie Corporation of New York
Carnegie Foundation for the Advancement of Teaching
Cerebral Palsy Foundation
Chicago Community Trust, The
Childs Memorial Fund, The Jane Coffin
Christian Children's Fund
Clark Foundation, The Edna McConnell
Columbia Foundation
Commonwealth Fund, The
Cooley's Anemia Foundation
Council on Library Resources
Culpeper Foundation, Inc., Charles E.
Cystic Fibrosis Foundation

Deafness Research Foundation, The
Donner Foundation, William H.
Dover Fund, Inc.
Dreyfus Foundation, Inc., The Camille & Henry
Dreyfus Foundation, The Max & Victoria
Dysautonomia Foundation

Earhart Foundation
Easter Seal Research Foundation
Epilepsy Foundation of America
Eye Research Institute of Retina Foundation

Fight for Sight
Ford Foundation, The
Foundation for Child Development
Fuller Fund, The Anna

German Marshall Fund of the U.S.
Giannini Foundation
Grant Foundation, The William T.
Guggenheim Foundation, H.F.
Guggenheim Memorial Foundation, John Simon

Haas Fund, The Walter & Elise
Hartford Foundation, John A.
Haynes Foundation, The John Randolph & Dora
Hearst Foundation, William R.
Hewlett Foundation, The William & Flora

Institute for Educational Affairs
International Research & Exchanges Board

Japan Foundation
Johnson Foundation, The Robert Wood

Juvenile Diabetes Foundation

Kade Foundation, Inc., The Max
Kaiser Family Foundation, The Henry J.
Keck Foundation, William M.
Kellogg Foundation, W.K.
Klingenstein Fund, The Esther & Joseph
Knights Templar Eye Foundation
Kresge Foundation, The
Kunstadter Family Foundation, The Albert

Leakey Foundation, The L.S.B.
Leukemia Society
Levi Strauss Foundation
Lilly Endowment, Inc.
Luce Foundation, Inc., The Henry
Lupus Foundation of America

MacArthur Foundation, John D. & Catherine T.
McKnight Foundation, The
March of Dimes
Markle Foundation, The John & Mary R.
Mellon Foundation, The Andrew W.
Mott Foundation, Charles Stewart
Muscular Dystrophy Association
Myasthenia Gravis Foundation

National Academy of Sciences
National Collegiate Athletic Association
National Council of Teachers of English
National Foundation for Ileitis & Colitis
National Foundation for Infectious Diseases
National Fund for Medical Education
National Geographic Society
National Head Injury Foundation
National Hemophilia Foundation
National Kidney Foundation
National Leukemia Association
National Migraine Foundation
National Multiple Sclerosis Society
National Research Council
National Retinitis Pigmentosa Foundation
National Society to Prevent Blindness
National Sudden Infant Death Syndrome Foundation
National Tuberos Sclerosis Association
Northern California Society to Prevent Blindness
Noyes Foundation, Inc., Jessie Smith

Organization for Tropical Studies

Packard Foundation, The David & Lucille
Paralyzed Veterans of America
Pardee Foundation, Elsa U.
Peierls Foundation, Inc., The
Picker Foundation, James
Population Council
Presiding Bishop's Fund for World Relief
Project HOPE

Research Corporation
Research to Prevent Blindness
Resources for the Future, Inc.
Retirement Research Foundation
Richardson Foundation, Smith
Rippel Foundation, Fannie E.
Rockefeller Brothers Fund
Rockefeller Foundation
Rosenberg Foundation
Rubin Foundation, Inc., Samuel
Runyon-Walter Winchell Cancer Fund, Damon

Sage Foundation, Russell
San Francisco Foundation
Scaife Foundation, Inc., Sara
Schiff Foundation
Scottish Rite Schizophrenia Research Program
Sherman Foundation, Nate H.
Skaggs Foundation, L.J. & Mary C.
Skin Cancer Foundation
Sloan Foundation, Alfred P.
Social Science Research Council
Spencer Foundation, The

Teagle Foundation
Tinker Foundation, Inc., The
Treadwell Foundation, Nora Eccles

United Cerebral Palsy
United Scleroderma Research Foundation
U.S. Olympic Committee

Webb Foundation, Del E.
Weingart Foundation
Wenner-Gren Foundation for Anthropological Research, Inc.
Whitehall Foundation
Whitney Foundation, the Helen Hay
Wood Charitable Trust, W.P.
Woods Hole Oceanographic Institution

Zellerbach Family Fund

THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR



January 7, 2004

BAKERSFIELD

CHANNEL ISLANDS

CHICO

DOMINGUEZ HILLS

FRESNO

FULLERTON

HAYWARD

HUMBOLDT

LONG BEACH

LOS ANGELES

MARITIME ACADEMY

MONTEREY BAY

NORTHRIDGE

POMONA

SACRAMENTO

SAN BERNARDINO

SAN DIEGO

SAN FRANCISCO

SAN JOSE

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS

MEMORANDUM

TO: CSU Presidents

FROM: Charles B. Reed
Chancellor

Charles B. Reed

SUBJECT: Administration of Grants and Contracts
in Support of Sponsored Programs - Executive Order No. 890

Attached is a copy of Executive Order 890 relating to all Sponsored Programs applied for, awarded to and/or administered by any campus of the California State University, the Office of the Chancellor, or any Auxiliary.

Presidents are requested to submit a reply to me no later than July 1, 2004, indicating the campus has completed preparation of their written policy and is in compliance with the policy directives for administration of sponsored programs in accordance with this executive order.

In accordance with policy of the California State University, the campus president has the responsibility for implementing executive orders where applicable and for maintaining the campus repository and index for all executive orders.

If you have questions regarding this executive order, please call Contract Services and Procurement at (562) 951-4590.

CR:pd

Attachment

cc: Vice Presidents, Academic/Provosts
Chief Administrative Business Officers
Foundation Directors
Executive Staff, Office of the Chancellor

Executive Order No. 890

THE CALIFORNIA STATE UNIVERSITY
Office of the Chancellor
401 Golden Shore
Long Beach, California 90802-4210
(562) 951-4590

Executive Order No.: 890

Title: Administration of Grants and Contracts in Support of Sponsored Programs

Effective Date: January 7, 2004

Supersedes: Executive Order No. 168

This executive order is issued under the authority of Section 2 of Chapter III of the Standing Order of the Board of Trustees with reference to Division 8 (commencing with Section 89000), Part 55, Chapter 7, Article 1 of the Education Code and Subchapter 6 (commencing with Section 42000) of Chapter 1 of Title 5 of the California Code of Regulations and related policies adopted by the Board of Trustees. It applies to all Sponsored Programs applied for, awarded to and/or administered by any campus of the California State University, the Office of the Chancellor, or any Auxiliary.

Article 1. Definitions

- 1.1. "Auxiliary" means an Auxiliary Organization as defined in Executive Order No. 698.
- 1.2. "Contract" means an agreement between the University or Auxiliary and a Sponsor to provide an economic benefit, generally in the form of services, for compensation. The agreement is binding and creates a *quid pro quo* relationship between the parties.
- 1.3. "Grant" means a financial contribution to a Recipient to carry out an approved project or activity. A Grant generally anticipates no substantial programmatic involvement of the Sponsor with the Recipient during performance of the project or activity, but Sponsors usually request an accounting of the use of funds and of results of the project or activity. The University or Auxiliary may commit resources or services as a condition of the Grant.
- 1.4. "Principal Investigator" means the individual (whether referred to in the Contract or Grant as a Principal Investigator, Project Director or other similar

Executive Order No. 890

term) designated by the Sponsored Program Administrator to be responsible for ensuring compliance with the academic, scientific, technical, financial and administrative aspects and for day-to-day management of the Sponsored Program.

- 1.5. **“Recipient”** means the University or Auxiliary awarded a Contract or Grant. The Recipient is the University or Auxiliary, as the case may be, even if a particular component is designated in the award document, and shall not be an individual, department or other constituent unit.
- 1.6. **“Sponsor”** means the party paying for the services or other economic benefit under a Contract or providing the financial contribution for a project or activity under a Grant.
- 1.7. **“Sponsored Program(s)”** means all work performed under Grants or Contracts funded by non-CSU funding sources (including non-CSU- funded Contracts and Grants that are subsequently subcontracted to another campus).
- 1.8. **“Sponsored Program(s) Administrator”** means the entity (University or Auxiliary) designated by the Recipient to administer the Sponsored Program.
- 1.9. **“Sponsored Program Records”** include, but are not limited to, accepted proposals and applications; Contracts or Grant agreements; program reports and data; correspondence; budgets and supporting financial documentation; supporting human resources documentation; and other records relating to receipt, review, award, evaluation, status and monitoring of the Sponsored Program.
- 1.10. **“Sponsored Program Work Product”** means any work created in the performance of a Sponsored Program. Unless the Contract or Grant states otherwise, Sponsored Program Work product does not include journal articles, lectures, images, books or other works that are subject to copyright protection and have been created through independent academic effort and based on the findings of the Sponsored Program.
- 1.11. **“University”** means one of the campuses of the California State University or the Office of the Chancellor.

Article 2. General

Sponsored Programs provide significant benefit to the California State University (CSU) and further its educational mission by facilitating research, workshops, conferences, institutes and other projects that enrich the scholarly endeavors of faculty and students and enhance the services provided by the University to California communities. This executive order sets policy to be followed by each campus and any Auxiliary administering Sponsored Programs to ensure that the University or Auxiliary maximizes the benefits of Sponsored Programs and supports faculty, students, and administrators in effectively securing and carrying out Sponsored Programs.

2.1. President's Responsibility

The president of each campus is responsible for the educational effectiveness, academic excellence, and general welfare of the campus over which s/he presides. The president shall require that the University and the Auxiliary operate in conformity with applicable law and the policies of the CSU and the campus when proposing and administering Sponsored Programs. Sound management and administration of Sponsored Programs requires coordination among organizationally separate units and individuals on the campus, and therefore the campus president should identify for each area of policy the campus official responsible for implementing that area of the policy.

2.2. Written Policy

Each campus shall establish a written policy on the management of Sponsored Programs that incorporates the components outlined in this executive order and that is consistent with policies relating to risk management, environmental health and safety, conflicts of interest, research misconduct and other applicable CSU and campus policies. In the event that a given Contract or Grant contains terms and conditions that are not in conflict with but are more restrictive than those provided in the campus policy, the more restrictive terms and conditions of the Contract or Grant shall prevail.

Article 3. Sponsored Program Administration**3.1 Proposal Submission, Review, and Approval**

- 3.1.1. Pre-Award Review and Approval of Proposal Submission.** Proposals for Sponsored Programs shall not be submitted to the Sponsor without prior written approval of the president of the University or the president's University designee and of the chief financial officer of the University or the chief financial officer's University designee.
- 3.1.2. Pre-Acceptance Approvals.** Awards of Contracts or Grants shall not be accepted without prior written approval by appropriate officials of the University and Auxiliary responsible for the following areas, if applicable: (a) academic/programmatic; (b) fiscal, (c) health and safety; (d) human and animal subject research; (e) space; (f) major technical resources and equipment; and (g) risk management.
- 3.1.3. Notice.** The campus policy shall provide for notice to all personnel responsible for the preparation of proposals and applications for Sponsored Programs that, if awarded, the Recipient of the Contract or Grant shall be the University or Auxiliary and not an individual, department, or other constituent unit.

3.1.4. Amendment of Contract or Grant. The campus policy shall specify the approvals necessary to amend a Contract or Grant.

3.2 Performance of Grants and Contracts

3.2.1. Administration of Sponsored Programs. Prior to acceptance, the Recipient shall designate either the University or an Auxiliary to administer the Contract or Grant. This entity shall be the Sponsored Program Administrator. The Sponsored Program Administrator is legally responsible and accountable to the Sponsor for the use of the funds provided and the performance of the Sponsored Program.

3.2.2. Master Agreement between University and Auxiliary for Administration of Sponsored Programs. The University and the Auxiliary shall enter into a master agreement setting forth the roles and responsibilities of each party with regard to the administration of Sponsored Programs by an Auxiliary. The Auxiliary shall agree, among other things, to:

- a. Indemnify, defend and save harmless the University from all loss, damage or liability that may be suffered or incurred by the University caused by, arising out of, or in any way connected with the administration of Sponsored Programs by the Auxiliary; and
- b. Carry adequate insurance in accordance with CSU policy (see Executive Order No. 849).

3.2.3. Implementation Plan. The Sponsored Program Administrator shall prepare an implementation plan for each Contract or Grant that shall include, but not be limited to, the following, if not already specified in the Contract or Grant or master agreement:

- a. Identification of the Principal Investigator and staffing needs for the Sponsored Program;
- b. Identification of the funds and resources available, the projected budget, and other fiscal administrative requirements; and
- c. Identification of the person or entity responsible for security, ownership, custody and retention of the Sponsored Program Work Product and Records after completion of the Sponsored Program.

3.3 Human Resources Policy

3.3.1. Principal Investigator(s). Each campus shall include in its policy the minimum qualifications and normal responsibilities of Principal Investigator(s) for Sponsored Programs beyond those imposed by the Sponsor. The qualifications of a Principal Investigator shall include, but not be limited to, employment by the University or Auxiliary. Campus policy may establish criteria for limited exceptions for the appointment of

Executive Order No. 890

Principal Investigators who are not employees of the University or Auxiliary, but who are officially affiliated with the University, such as individuals with emeritus status or visiting professors or researchers. The campus policy shall include provisions for reassigning the responsibilities of the Principal Investigator(s) in case of the incumbent Principal Investigator's resignation, incapacitation, or failure or refusal to perform the duties adequately. The campus policy shall also address the distribution of responsibilities among Principal Investigators for multi-institutional Sponsored Programs.

- 3.3.2. Employer.** The Sponsored Program Administrator shall be the employer of the Principal Investigator and other employees with regard to work performed in furtherance of each Sponsored Program. The Sponsored Program Administrator shall be responsible for the assignment, evaluation, and termination of Sponsored Program employees and for other employer obligations associated with the performance and payment under the Sponsored Program, all in accordance with campus policy for the administration of Contracts and Grants. This applies regardless of whether the employee is being paid directly by the University or Auxiliary or whether the University is being reimbursed by the Auxiliary for agreeing to reassign an employee from selected University duties in order to work on the Contract or Grant.
- 3.3.3. Additional Employment.** Each campus shall develop a process for monitoring employment, including additional employment through Contracts and Grants, and shall comply with the limits established by the CSU Additional Employment Policy. (See <http://www.calstate.edu/HRAdm/policies.shtml>.)
- 3.3.4. Misconduct.** Each campus policy shall provide for a procedure for processing complaints of research misconduct or other employee misconduct in connection with Sponsored Programs. Employees working on Sponsored Programs who are also CSU employees shall remain subject to consequences for unprofessional behavior, failure or refusal to perform duties adequately, or other misconduct within the administration of the Sponsored Program and to the University's discipline system.
- 3.3.5. Conflict of Interest.** Each campus shall maintain a policy that complies with conflict of interest requirements of the law and applicable CSU, Sponsored Program Administrator and Sponsor policies and shall alert Principal Investigators to these requirements. (See <http://www.calstate.edu/HRAdm/policies.shtml>.)
- 3.3.6. Nepotism.** Each campus shall maintain a policy regarding nepotism in the administration of Sponsored Programs that is consistent with CSU policy. (See <http://www.calstate.edu/HRAdm/policies.shtml>.)

3.4. Academic Policy

- 3.4.1. Conduct of Research.** Each campus shall identify specific University official(s), in the case of Sponsored Programs requiring scholarly research, who are to be responsible for assisting the Sponsored Program Administrator by providing oversight of the conduct of research and ensuring progress toward fulfillment of Contract or Grant requirements.
- 3.4.2. Human Subjects Research.** Each campus shall establish a policy for the protection of the rights and welfare of human subjects in research in which the institution is engaged. The institution is engaged when its employees, students, or other individuals performing institutionally designated activities or exercising institutionally delegated authority or responsibility (i) intervene or interact with living people for research purposes or (ii) obtain individually identifiable private information for research purposes. (See 45 CFR 46.102(d),(f) and <http://ohrp.osophs.dhhs.gov/humansubjects/assurance/engage.htm>.) The campus policy shall be adopted and reviewed periodically for consistency with applicable laws and regulations, including but not limited to, Title 45, Code of Federal Regulations, Part 46. Campuses conducting research funded by the Department of Health and Human Services must have a Federal wide Assurance approved by the office of Human Research Protections. When establishing or revising the campus policy, the campus should review the policy guidance provided by the Office for Human Research Protections of the United States Department of Health and Human Services and the accreditation standards of the Association for the Accreditation of Human Research Protection Programs. The campus president or designee is authorized to take appropriate action to implement regulations required by funding and regulatory agencies for the protection of human subjects in research. Each campus shall maintain one or more Institutional Review Boards, appointed by the president or designee, to ensure adequate review of research protocols involving human subjects and the University shall be responsible for ensuring that these protocols are followed. The campus policy shall incorporate provisions for adequate training of research personnel and for multi-institutional Sponsored Programs.
- 3.4.3. Animal Subjects Research.** Each campus shall establish policy for the procurement, housing, care, and use of live non-human vertebrate animals in Sponsored Program research, in instruction and research by employees of the University or Auxiliary in the regular course of their employment, in research by students in satisfaction of University requirements, and in research or instruction using any University property or facility. These campus policies and procedures shall provide for adequate training for research personnel and shall be consistent with the *Guide for the Care and Use of Laboratory Animals* (Institute for Laboratory Animal Research, Commission on Life Sciences, National Research Council), requirements of the United States Department of Agriculture and regulations

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implementing the Animal Welfare Act as amended, other applicable laws and regulations, and, as appropriate, provisions of the United States Public Health Service Policy on Humane Care and Use of Laboratory Animals. The campus president or designee is authorized to take appropriate action to implement regulations required by funding and regulatory agencies on the care and use of animals in research and instruction. Each campus where research or instruction using live non-human vertebrate animals is conducted shall maintain an Institutional Animal Care and Use Committee, appointed by the president or designee, to ensure adequate review of animal facilities, procedures, and research and teaching protocols, and the University shall be responsible for ensuring that these protocols are followed. In connection with the adoption of its policy, the campus is advised to review the United States Government Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Research, and Training.

3.5. Fiscal Administration

Each campus shall establish necessary controls to ensure sound fiscal management of Sponsored Programs, regardless of whether the University or Auxiliary is responsible for Sponsored Program administration. It is the responsibility of the Principal Investigator and the Sponsored Program Administrator to adhere to the fiscal terms and conditions of the Contract or Grant and to comply with University and Auxiliary policies and procedures.

3.5.1. Budget. The Sponsored Program Administrator shall be responsible for final certification of project budgets and budget change review procedures. The Principal Investigator for a Contract or Grant shall be responsible for executing the project in conformance with the approved budget. Disbursements shall not be processed on any account unless both parties have executed a Contract or unless all approvals have been obtained and the Grant has been accepted. In cases when the Sponsor allows the institution to incur pre-award costs, and the Sponsored Program Administrator has a policy in place to allow pre-award spending, then disbursements may be made prior to receipt of the award document, in accordance with the Sponsor and Sponsored Program Administrator guidelines.

3.5.2. Account Management. The Sponsored Program Administrator is responsible for the timely establishment of accounts in accordance with the terms and conditions of the Contract or Grant. Procedures shall be in place to define and document approval authority; maintain proper accounting and control of all cash receipts from Contract or Grant billings; review and approve all expenditures for compliance with the Contract or Grant; and ensure completion of accurate and timely reporting for each Contract or Grant. The Principal Investigator is responsible for ensuring

that all expenditures are made in compliance with the approved budget, the Contract or Grant and the Sponsored Program Administrator's policies. The Sponsored Program Administrator's chief financial officer or appropriate designee must authorize payments involving personal expenditures by the Principal Investigator. The Sponsored Program Administrator must certify that funding is available prior to issuance of any personnel action forms.

- 3.5.3. Fiscal Reporting.** The Sponsored Program Administrator shall ensure that all fiscal reports (including final reports) and billings are prepared and submitted, on a timely basis, to Sponsors in accordance with the terms and conditions of the Contract or Grant.
- 3.5.4. Cost Recovery.** All appropriate indirect and direct costs shall be recovered for Sponsored Programs in accordance with CSU policy, University and Auxiliary policies and/or other funding agency requirements.
- 3.5.5. Cost Sharing.** In some cases, the University may share or match costs associated with a Sponsored Program instead of recovering indirect and direct costs. When there is cost sharing or matching in connection with a Sponsored Program, the Sponsored Program Administrator, in conjunction with the Principal Investigator, must document actual costs shared or matching contributions in a manner consistent with the campus cost allocation plans, Sponsor requirements, and in the case of federal Contracts or Grants requirements as stated in OMB Circular A-110.

3.6. Sponsored Program Work Product and Records.

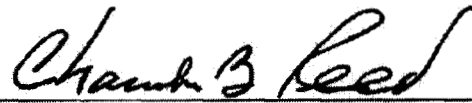
- 3.6.1. Work Product and Records Policy.** Each campus shall develop a policy regarding the security, ownership and retention of Sponsored Program Work Products and Sponsored Program Records. This policy must be compatible with University and CSU policy pertaining to intellectual property. Any Contract or Grant that provides for ownership or license of Work Product or Sponsored Program Records to any person or entity other than the University, shall provide the University with a free-of-cost, nonexclusive license to use the Sponsored Program Work Product and the right to access and use Sponsored Program Records for purposes consistent with the educational mission of the University.
- 3.6.2. Records Retention.** Retention of Sponsored Program Records refers to the storage, preservation or disposal of records once the Sponsored Program is complete. Each campus's policy for Sponsored Program record retention shall comply with applicable law and University and Auxiliary policy, and shall establish a schedule that specifies a) the period of time to retain Sponsored Program records after the Sponsored Program

Executive Order No. 890

has been completed; b) disposal of records no longer needed; c) the preservation of records of historical value; and (d) procedures for complying with the Sponsor's record retention requirements.

Article 4. System Office Role/Responsibility

- 4.1. **Legal Advice.** Legal advice concerning Contract or Grant administration that might affect the CSU or the University must be coordinated through the CSU Office of General Counsel.
- 4.2. **System Office.** The offices of Academic Affairs, Business and Finance, and Human Resources in the Office of the Chancellor shall each be responsible for their respective policy functions in the maintenance and support of the requirements of this executive order.



Charles B. Reed, Chancellor

Dated: January 7, 2004