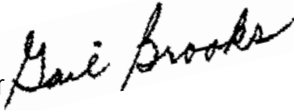


Date: December 24, 2008

Code: HR 2008-26

To: CSU Presidents

From: Gail E. Brooks
Vice Chancellor
Human Resources



Subject: New Procedures and Title 5 Regulations Regarding MPP Athletic Coach Employment

Overview

Audience: CSU Presidents, HR Officers, AVPs/Deans of Faculty Affairs and Athletic Directors

Action Items: Obtain approval from Vice Chancellor, Human Resources for supplemental compensation for MPP athletic coaches and note recent Title 5 changes affecting MPP athletic coaches.

Affected Employee Groups/Units: CSU Management Personnel Plan (MPP) Coaches

Summary

In response to recent internal audit findings, this policy clarifies general employment provisions for MPP athletic coaches, provides information regarding recent Title 5 changes affecting MPP athletic personnel, outlines new appointment approval procedures for certain MPP coaches, and provides clarification on conflicts of interest.

General Employment Provisions under Title 5

The MPP, set forth in Title 5, Article 2.2, is an integrated personnel system addressing employment rights, benefits and conditions for employees designated as "management" or "supervisory" under the Higher Education Employer Employee Relations Act (HEERA)¹. MPP coaches are subject to the terms and conditions of the MPP.

In September 2008, the Board of Trustees approved an amendment to §42723 of the MPP which allows an exception to the "at will" employment status of MPP athletic personnel (MPP coaches). As such, MPP coaches may be appointed for a definite term. However, the appointment must be made in writing and the appointment/employment documents must include a beginning date, an expiration date, and a statement that the appointment may be terminated by the appointing authority based on terms set forth in the appointment

¹ Defined in Government Code §3562(k) and §3580.3, respectively.

Distribution:

CSU Chancellor
Executive Vice Chancellor
Vice Chancellors
Vice Presidents (all campus vice presidents)
General Counsel

Associate Vice Presidents/Deans of Faculty Affairs
Human Resources Officers
Athletic Directors
Conflict of Interest Filing Officers

document. This differs from traditional "at will" and temporary MPP employment as, in this case, the campus is obligated to employ the individual for a specified duration of time unless conditions that are defined in the appointment document that permit earlier termination are met.²

- Title 5 changes are provided in Attachment A. Changes are underlined.
- Related MPP employment policies and resources can be found on the Web at:
<http://www.calstate.edu/HRAdm/Policies/mpp.shtml>

Salary and Benefits Programs

MPP coaches are eligible for the standard salary and benefit programs provided to all MPP employees. Links for detailed information on these programs are provided below. When a campus president considers providing a MPP coach with a type of compensation, a benefit or a perquisite that is not part of the standard MPP pay and benefits program, approval must be obtained via the MPP Supplemental Compensation policy (see summary below).

- MPP salary programs can be found on the web at:
<http://www.calstate.edu/HRAdm/SalaryProgram/MPP/index.shtml>
- MPP benefit programs can be found on the web at:
<http://www.calstate.edu/Benefits/compare.benefits.shtml>

Revision to MPP Supplemental Compensation Policy: New Approval Procedures of Supplement Compensation for MPP Coaches

Existing policy for MPP supplementation compensation is modified for MPP athletic coaches as follows:

- In the event a campus president or designee would like to provide a MPP coach a form of compensation, a benefit, or a perquisite that is not a part of the standard MPP pay and benefit package (e.g. car or housing allowance, team performance bonus, supplemental pay), campus presidents are now required to obtain written approval from the vice chancellor of human resources which previously only required consultation with vice chancellor of human resources as appropriate.
- All requests for MPP athletic coach supplemental compensation must follow the procedures outlined in the MPP Supplemental Compensation policy as noted below:
 - a. The request must be submitted for approval in writing to the vice chancellor of human resources.
 - b. The name, title administrative grade level and current annual salary of the employee to receive the supplemental compensation.
 - c. The reason for the proposed supplemental compensation and the benefit to the CSU.
 - d. The source of funds for the supplemental compensation with indication of appropriate approvals (of the foundation board of directors, granting agency, etc.) The compensation, benefit or perquisite must be paid from a non-General Fund source.
- For ease of administration, the MPP Supplemental Compensation policy provides an approval request form for this purpose. The form can be found on the web at:
http://www.calstate.edu/HRAdm/SalaryProgram/MPP/MPP_SuppCompForm.dot

² Campuses often refer to these appointment documents as "contracts." However, all CSU employees are legally employed pursuant to statute and not contract and the term "contract" should not be used.

- For more information, refer to the MPP Supplemental Compensation policy on the Web at: <http://www.calstate.edu/HRAdm/Policies/mpp.shtml> (under Supplemental Compensation)

New MPP Coach “Definite Term” Appointment Procedures

As a result of the recent internal audit of athletics administration, new approval procedures for MPP coach appointments are now implemented. Effective immediately, the president must submit a written request for approval to the vice chancellor of human resources for a MPP coach who is **appointed for a definite term**, as defined in Title 5. If the appointment for definite term includes supplemental compensation, approval for both the appointment for definite term and supplemental compensation can simultaneously be submitted for approval. Presidents do not need to obtain retroactive approval for current MPP coaches who are appointed for a definite term. However, when these appointments/terms expire, approval from the vice chancellor of human resources is required.

Note: Campus presidents continue to have the delegated authority to appoint MPP coaches who are employed on an “at will” basis, as defined in Title 5, or on a standard temporary basis (e.g., position funding ends at a specified time) and receive the standard MPP pay and benefit package provided to all MPP employees. Notification to or approval by the vice chancellor of human resources is not required.

Clarification on Conflicts of Interests

CSU MPP coaches, like all CSU employees, are required to comply with the conflict of interest laws that govern the CSU. The purpose of these laws is to prohibit public employees from personally benefitting at the expense of the public interest. While the Political Reform Act of 1974 (Gov’t Code § 81000 *et seq.*) is often regarded as the principal conflict of interest law, and is the authority for CSU Conflict of Interest code, there are a number of other conflict restrictions with which CSU employees, including coaches, should be familiar. All CSU coaches, including those in the MPP, are legally required to understand and comply with the Conflict of Interest laws that govern the CSU including but not limited to the Political Reform Act of 1974, CSU’s Conflict of Interest Code, and the Public Contract Code. These laws are summarized in the Office of General Counsel’s Conflict of Interest manual which can be found on the Web at: http://www.calstate.edu/gc/OGC_Manuals_on_Legal_Issues.shtml.

As a reminder, the following important aspects of these laws are noted below:

- Pursuant to the Political Reform Act of 1974, coaches with a financial interest in any vendor (e.g., athletic equipment vendor) may not participate in a CSU contract for exclusive use of that vendor’s product. CSU coaches, like all CSU employees, are prohibited from participating in or using their position to influence a decision, such as a contract with an athletic equipment vendor, when the coach has a personal financial interest in the decision. A personal financial interest includes material financial effect on the employee and/or a member of his/her immediate family. Refer to the Conflict of Interest manual referenced above for more information.
- Pursuant to the Public Contract Code, CSU employees, including coaches, may not engage in any employment activity for which the employee receives compensation through or by a CSU contract for compensation which is sponsored or funded by the CSU or by a CSU contract. An exception applies to those with teaching or research responsibilities or those acting within the course and scope of their employment. Refer to the Conflict of Interest manual referenced above for more information.
- If the Athletics Director or coach needs clarification on conflict of interest, incompatible activities, or public contract code restrictions, the question should be directed to the campus Conflict of Interest Officer or the campus attorney.
- More information on CSU Conflict of Interest policies can be found on the Web at: <http://www.calstate.edu/HRAdm/Policies/coi.shtml>.

Additional Questions

Systemwide Human Resources is preparing a FAQ document to supplement this policy to provide any needed clarification. Campus human resources may direct related questions to Evelyn Nazario, Senior Director of Compensation, at enazario@calstate.edu. Campus questions will be consolidated into a comprehensive FAQ document and distributed in the near future.

Questions also may be directed to Human Resources Administration at (562)951-4411. Questions regarding conflict of interests may be directed to Human Resources Administration or your campus counsel.

Attachment

GB/en

Title 5, California Code of Regulations
Division 5 – Board of Trustees of the California State Universities
Chapter 1 – California State University
Subchapter 7 – Employees
Article 2.2 – Management Personnel Plan

§ 42723. Employment Status

(a) A Management Personnel Plan employee serves at the pleasure of the campus President or the Chancellor, as appropriate. A Management Personnel Plan employee shall not serve a probationary period and shall not receive permanent status.

(b) Athletic personnel who are appointed to positions in the Management Personnel Plan may be given appointments for a definite term. Any such appointment must be in writing and contain the initial date of appointment, the date on which the appointment expires, and a statement that the appointment may be terminated by the appointing authority at any time on terms set forth in the appointment document.

~~(b)~~ (c) A Management Personnel Plan employee who had permanent status in a class prior to January 1, 1984 shall retain permanent status in the class despite inclusion as a Management Personnel Plan employee. A Management Personnel Plan employee who prior to January 1, 1984 was serving a probationary period may be awarded permanent status by the appointing power upon the successful conclusion of the probationary period. Upon acquisition of permanent status such an employee shall retain permanent status in the same manner as an employee who has permanent status prior to January 1, 1984.

~~(c)~~ (d) A Management Personnel Plan employee who retains permanent status under subdivision ~~(b)~~ (c) and who is placed in or promoted to a position under the Management Personnel Plan shall retain retreat rights as described in this subdivision ~~(c)~~ (d) to the former class in which permanent status is held. Should the appointing power terminate the Management Personnel Plan employee's service in a Management Personnel Plan position, the employee shall have the right to return to the former class in which permanent status is held at the salary last received in the permanent class.

~~(d)~~ (e) Except in the case of layoff, the President or Chancellor, as appropriate, shall give a Management Personnel Plan employee, with the exception of athletic personnel appointed to definite terms under (b) above, notice of termination at least three months prior to the employee's separation date or shall give a Management Personnel Plan employee, with the exception of athletic personnel appointed to definite terms under (b) above, corresponding salary in lieu of notice.

Note: Authority cited: Sections 89030 et seq., and 89500, Education Code.
Reference: Sections 89030 et seq., and 89500, Education Code.