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To: CSU Presidents

From: Gail E. Brooks
Vice Chancellor
Human Resources



Subject: Conflict of Interest Update – Designated Positions Pending FPPC Approval – Interim Disclosure

Overview

Audience: Conflict of Interest Filing Officers and/or campus designees responsible for Conflict of Interest Form 700 filing

Action Items: Distribute Form 700 to be completed to meet new interim disclosure requirements for consultants and employees in newly designated positions that are pending Fair Political Practices Commission approval or subsequent positions to be added to the campus list of designated positions in the CSU Conflict of Interest Code

Affected Employee Groups/Units: Consultants and employees in newly designated positions that are awaiting approval of the CSU Conflict of Interest Code by the FPPC or positions subsequently created by the campus to be added to the campus list of designated positions in a future update process

Summary

Effective January 1, 2010, the Fair Political Practices Commission will require consultants and employees in newly created positions that make or participate in the making of decisions that may foreseeably have a material effect on any financial interest to file interim disclosure under Title 2, Section 18734. The interim disclosure requirement covers those positions that have not been incorporated into the CSU Conflict of Interest Code pending FPPC approval and any subsequent position created by the campus to be added to the Code in a future update process.

Newly designated employees that were added to the campus' 2007 Conflict of Interest Code update or subsequent positions to be added to the Code are required to complete Form 700 within 30 days of January 1, 2010, the effective date of the interim disclosure regulation. The employee should file under the proposed disclosure categories identified for the designated position. The filing deadline is Monday, February 1, 2010.

Please review the remainder of this policy memorandum for additional information.

Distribution:

Chancellor
All Campus Vice Presidents
AVPs/ Deans, Faculty Affairs
Conflict of Interest Filing Officers
Human Resources Directors

AVPs of Finance
Procurement & Support Services Officers
Business Managers
General Counsel

Background

In August of 2007, the California State University forwarded its updated Conflict of Interest Code to the Fair Political Practices Commission (FPPC) for its review and approval. The CSU code is under review and the FPPC is requiring the CSU to further update the code. Human Resources Management is working with General Counsel and campuses to finalize the 2007 submission in order to complete the review process and receive FPPC approval.

New Filing Requirement – Interim Disclosure

The FPPC is implementing Title 2, Section 18734 which requires:

- a) Interim Disclosure - Consultants and employees in newly created positions that make or participate in the making of decisions that may foreseeably have a material effect on any financial interest shall file interim disclosure
- b) Disclosure Requirements – Persons who fall in the above category shall file under the broadest disclosure category in the agency's Conflict of Interest Code until the agency amends its code to reflect the position. However, the agency may determine that the broadest disclosure is not necessary and set interim disclosure that is more tailored to positions with a limited range of duties. This determination shall include a description of the position's duties, and, based upon that description, a statement of the extent of disclosure requirements.
- c) Public Records – Records pertaining to positions that file under this category are public records and must be retained for the public's inspection in the same manner and location as the agency's Conflict of Interest Code. This includes any written documents that support a limited disclosure category.
- d) Time of Filing – Individuals in positions specified in this regulation shall file an initial statement within 30 days of assuming office and shall continue to file annually in the same manner and location specified in the agency's Conflict of Interest Code.
- e) Annual Statement – Any statement filed under this provision is deemed to satisfy the requirement of Section 87302(b), which requires that an initial or annual statement be filed.
- f) Compliance – Nothing in this regulation shall be construed to exempt any agency from complying with provisions of Section 87306.
- g) Effective Date – This regulation shall be effective January 1, 2010.

For CSU, this requires employees who are in newly designated positions that were on the 2007 Conflict of Interest Code update that is currently under FPPC review, to file Form 700 within 30 days of January 1, 2010. (Designated employee, which includes consultants, is defined in 18219 and a link is provided at the end of this memorandum.)

In addition, as a result of the new regulation, campuses are to review newly created positions subsequent to the 2007 update to identify any new position or consultant that meets the above criteria for interim disclosure.

Campus Action

For newly designated positions on the 2007 COI Updated list, campuses are required to:

- Review its 2007 COI Code updated list of designated positions and identify any new position added to the list.
- Distribute Form 700 for completion to employees in the newly designated positions to meet new interim disclosure requirements.
- Inform employees to complete Form 700 as an "Initial Statement" utilizing the disclosure categories listed for the employee's specified designated position on the updated list of designated positions. The initial date of filing is January 1, 2010.
- Inform employees to return the completed form to the Conflict of Interest Filing Officer within 30 days of January 1, 2010. **Because the 30 day deadline falls on a Saturday, the filing deadline is extended to Monday, February 1, 2010.**

As a reminder, consultants who meet the following criteria must file Form 700:

1. A consultant authorized and hired to make a CSU decision on behalf of the institution.
2. A consultant hired to influence a CSU decision, whose input is not independently reviewed.

3. A consultant hired to work on an ongoing basis for a year or more, in a position that otherwise would be designated and require a CSU employee to file a Form 700.
4. A consultant who provides investment advice.

The above consultants are retained through the procurement process on each campus.

Positions Created Subsequent to the 2007 COI Update

For those positions created subsequent to the 2007 update process and on a prospective basis, the campus must review the new position or a current position that has been modified, to determine if the position meets the requirements for inclusion in the CSU's Conflict of Interest Code. If so, the campus must document its review by following the procedures outlined in the CSU COI update process and:

1. Review the position description to determine if the position should be included in the CSU COI Code.
2. Identify the disclosure categories applicable to the position duties if the position is to be added to the Code.
3. Inform the employee in the newly designated position of the interim filing requirements and provide the employee with Form 700. The employee should complete the form as an "Initial Filing" statement within 30 days of the decision to add the position to the Code.
4. Add the position to the campus list of designated positions during the COI update process, when directed by Human Resources Management.

For reference purposes, Regulations 18734 and 18219 may be found on the FPPC website at:

- Regulation 18734: <http://www.fppc.ca.gov/legal/new-regs/18734.pdf>
- Regulation 18219: <http://www.fppc.ca.gov/legal/new-regs/18219.pdf>

Questions regarding processing instructions may be directed to Human Resources Management at (562) 951-4411. This HR memorandum is also available on the Human Resources Management's Web site at: <http://www.calstate.edu/HRAdm/memos.shtml>.

GEB/pc