

Date: December 8, 2014

To: CSU Presidents

From: Lori Lamb 
Vice Chancellor
Human Resources

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

Colleagues:

This is a friendly reminder to campuses of the policy requirement related to reporting outside employment. Section 42740 of Title 5 to the California Code of Regulations in 2013 requires annual reporting of outside employment in order to identify and address any possible conflict of commitment.

The HR memorandum ([HR 2014-12](#)) that will be distributed to your HR Officers is attached and contains a Frequently Asked Questions (FAQ) document to assist campuses with any inquiries they may have in implementing this process.

Please do not hesitate to contact me if you have any additional questions or concerns.

Warm regards,

Lori

Distribution:

CSU Chancellor
Vice Chancellor, Human Resources
Associate Vice Presidents/Deans of Faculty

All Campus Vice Presidents
Human Resources Officers
Employee Relations Designees

DATE: December 8, 2014

Code: HR 2014-12

Reference: HR 2013-11
HR 2002-05

TO: CSU Presidents, Vice Presidents, HR Officers, AVPs/Deans of Faculty Affairs and campus designees responsible for outside employment disclosure.

SUBJECT: Annual Reminder – Outside Employment Disclosure Requirements for Management Personnel Plan (MPP) and Executive Employees

Summary

This policy letter serves as an annual reminder for campuses to request MPP and Executive employees to complete a written disclosure statement of all outside employment endeavors. Administrators, executives, and management employees should review and implement the contents of this policy.

Action Items(s)

Report any conflict of commitment with outside employment that runs concurrent with CSU employment.

Affected Employee Group(s)/Units

MPP and Executive Employees

Details

Pursuant to Section 42740 of Title 5, California Code of Regulations and [HR 2013-11](#), MPP and Executive employees are required to disclose all outside employment not compensated through the CSU payroll. While this Policy Letter serves as the Chancellor's Office annual reminder to campuses, campuses are responsible for ensuring compliance to this policy based upon their respective campus practices.

Please refer to [HR 2013-11](#) for additional details. A Frequently Asked Questions (FAQ) document has also been provided under Attachment A to assist campuses.

Questions regarding this policy should be directed to Systemwide Human Resources at (562) 951-4411 or your campus department. This document is available on the Human Resources Management's Website at <http://www.calstate.edu/HRAdm/memos.shtml>.

LL/tl

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HR 2014-12: Outside Employment Policy for MPP and Executives FAQs

In response to campus submission of questions relating to the implementation of [HR 2013-11](#), Systemwide HR has compiled the following summary of responses:

1. What are MPP and Executive employees expected to report?

MPP and Executive employees are expected to report outside work for which the employees are being compensated, and such work must result in reportable income. "Reportable income" is any work for which a W-2 or 1099 is issued.

2. When must MPP and Executive employees disclose outside employment?

MPP and Executive employees must disclose outside employment under the following instances:

- Annual disclosure: Campus HR is responsible for sending out an annual reminder to MPP/Executive employees to disclose outside employment,
- Throughout the year and within 30 days of taking outside employment for current employees,
- Throughout the year and upon supervisor/administrator request, employee must disclose outside employment within 10 days of the request, and/or
- As a precondition of employment, prospective MPP and Executive employees must disclose if they have outside employment.

3. What is the reason for the need to report compensatory outside employment to the CSU?

The need to report compensatory outside employment resulted from a California State Auditor (CSA) finding on CSU Compensation Practices and a Board of Trustees Resolution approving the addition to Title 5 of the California Code of Regulations.

4. "In the event that an administrator requests the disclosure of outside employment for a current employee, the written report shall be provided to the administrator within 10 days." What does the "written report" refer to?

The "written report" refers to the Disclosure and Acknowledgement Form.

5. The policy requires newly hired MPP and Executive employees to complete an acknowledgement form as a precondition of employment. What if the prospective MPP/Executive employee does not have outside employment?

The policy requires employees to complete the Disclosure Form only if the employee has outside employment. If the employee does not have outside employment, no further action is required. However, as a reminder, the policy requires campuses to provide a copy of this policy to the prospective employee. We recommend a campus checklist that should indicate the employee was provided a copy of the policy and acknowledgement form upon hire.

6. If an MPP employee works one or two days only on an outside employment engagement, do they have to report it under this policy?

Yes, as stated in the policy, "MPP and Executive employees are expected to report any and all outside work for which the employees are being compensated". Any work that results in reportable income (for which a 1099 or W-2 is issued) must be reported.

7. Does the supervisor have the ability to tell the employee that the outside employment is a conflict and they cannot do the work?

The appropriate administrator has the authority to advise the individual that his/her outside employment endeavors is in conflict with CSU employment, and that the conflict can no longer continue.

If so, can the employee be disciplined or discharged if they continue with the outside employment?

An employee may not be terminated merely for having outside employment. However, the employee may be disciplined or discharged if the employee's CSU work assignments and/or performance are negatively impacted. Please review your campus policy and discuss with your campus counsel to ensure compliance with disciplinary and/or termination procedures.

- 8. Is documentation required to support that the outside employment “interfered with normal work assignments” or affected “satisfactory performance”?**
As with any disciplinary action and/or unfavorable performance review, these situations must be documented appropriately and in the same manner. Campus performance evaluation/assessment procedures should support these actions.
- 9. Attachment A (Outside Employment Disclosure and Acknowledgement Form) requires an administrator to review and sign. Is this “administrator” the employee’s supervisor or HR?**
The “administrator” refers to the administrator to whom the employee directly reports, not HR.
- 10. When administrators sign the Disclosure Form that employees submit, are they actually approving the outside employment?**
No, the administrator’s signature only confirms that the administrator has reviewed the employee’s outside employment.
- 11. What happens if the employee refuses to provide the information?**
The administrator should acknowledge, sign, and indicate on the disclosure form that the employee refused to sign the form. Further action would be required to evaluate the employee on failure to adhere to a policy requirement.
- 12. What happens if the employee has fulltime outside employment (or equivalent)?**
As long as the employee discloses the outside employment, and if there is no interference with CSU work assignments or the employee’s work performance, then there is no conflict.
- 13. What is “too much” outside employment?**
“Too much” outside employment is one that interferes with CSU work assignments and employee performance.
- 14. If the work that is being performed does not conflict with the current work, and the time performing the work is not within working scope or hours of current position, is this still reportable?**
Yes.
- 15. If the employee is not performing work but is receiving passive income (e.g., royalty payments) for service(s) performed in the past, does this need to be disclosed?**
No.
- 16. If the industry in which outside employment is being performed is not public, not in the education industry nor has any affiliation with the CSU, is that still reportable?**
Yes.
- 17. Would working as a consultant (independent contractor) need to be reported if the hours and the time worked does not conflict with current work?**
Yes.
- 18. What constitutes a conflict?**
A conflict, in the context of this policy, means any outside work that conflicts with an employee’s ability to perform normal CSU work assignments or maintain satisfactory performance.
- 19. Where are completed forms filed, in the employee’s personnel file or a separate file?**
Completed forms shall be kept in a separate file and maintained in a fashion that allows Systemwide HR to efficiently access these files in the event of an audit.
- 20. Outside employment is a separate employment relationship, which means the employee likely needs to maintain confidential employment information. Exactly what is expected in the written disclosure by the CSU without delving into the other job itself?**
The Disclosure Form only requires the information about the nature of outside employment held, time commitment, and expected duration. “Nature” in this context can be used to categorize the role or category of employment services being performed (e.g., supervisor, president, manager, consultant).
- 21. Does outside employment include a one-time speech or presentation for which the employee is being compensated?**
Yes, if a 1099 or W-2 is issued for such work.

22. Who is responsible for completing the forms?

It is a policy requirement for MPP and Executive employees to complete their own forms to report their own outside employment for which they are being compensated.

23. What if the employee does not agree with the perception of work conflict?

The appropriate CSU administrator is responsible for determining if a work conflict exists, made in consideration of the employee's CSU work assignments and performance.

24. Will the Chancellor be asking the Presidents to report any outside employment to him or Human Resources Management (HRM) so the review to determine whether the outside employment interferes with their campus position is conducted at the Chancellor's Office level?

This policy applies to all Executive and MPP employees, including the campus presidents. The Chancellor will administer the policy to Presidents.

EN/tl