

The California State University  
Office of the Chancellor  
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**Date:** October 15, 2002

**Code:** HR 2002-26

**To:** CSU Presidents

**From:** Jackie R. McClain  
Vice Chancellor  
Human Resources



**Subject:** Secondhand Smoking Policy

At its September meeting, the Board of Trustees adopted a resolution (RCOW 09-02-01), which revised Title 5, California Code of Regulations, adding Section 42356, "Smoking on Campus." The resolution and board item are attached for reference. The Education Code grants trustees authority to regulate CSU buildings and grounds including authority to regulate smoking on campus grounds. This Title 5 change delegates authority to presidents and the chancellor to adopt rules regarding regulation of secondhand smoking to all individuals, including members of the public. Notice of the rule must be posted at or near the principal entrance of each campus. Willful violation of the campus rule would be a misdemeanor under Education Code section 89031.

At the September meeting, the Board of Trustees also adopted a resolution (RCOW 09-02-02) requiring the presidents and the chancellor to consider the views of students and employees as appropriate in adopting rules concerning smoking on campus. That resolution is also attached.

If you have any questions, please contact Human Resources at 562-951-4411 or contact your campus counsel. This policy memorandum is available on Human Resources Administration's web site at: <http://www.calstate.edu/HRAdm/memos.shtml>.

JRMCC/cr

Attachments

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**Distribution:**

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## COMMITTEE OF THE WHOLE

### Revision of Title 5, California Code of Regulations, Adding Section 42356 “Smoking on Campus” (RCOW 09-02-01)

**RESOLVED**, By the Board of Trustees of the California State University, acting under the authority prescribed herein and pursuant to Section 89030.1 of the Education Code, that the board hereby adopts Section 42356 of Article 9, Subchapter 5, Chapter 1, Division 5 of Title 5 of the California Code of Regulations as follows:

#### **§42356. Smoking on Campus.**

The president of each campus and the Chancellor for the headquarters office may adopt rules regulating smoking on the campuses and property of the California State University. The regulation shall seek to mitigate exposure to secondhand smoke. Notice shall be posted at or near the principal entrances of each campus or property calling attention to the existence of the rules.

NOTE: Authority cited: Section 89030 and 89031, Education Code. Reference: Section 89031, Education Code; Sections 19994.30 et seq., Government Code.

And, be it further

**RESOLVED**, That the Board of Trustees has determined that the adoption of the proposed section will not impose a cost or savings on any state agency; will not impose a cost or savings on any local agency or school district that is required to be reimbursed under Section 17561 of the Government Code; will not result in any nondiscretionary cost or savings to local agencies; will not result in any cost or savings in federal funding to the state; and will not impose a mandate on local agencies or school districts.

And, be it further

**RESOLVED**, That the Board of Trustees delegates to the Chancellor of the California State University authority to further adopt, amend, or repeal this revision if further adoption, amendment or repeal is required and is nonsubstantial or solely grammatical in nature, or sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action.

### Student and Employee Participation in Adopting Rules Concerning Smoking on Campus (RCOW 09-02-02)

**RESOLVED**, by the Board of Trustees of the California State University that the presidents and the chancellor shall consider the views of students and employees as appropriate in adopting rules concerning smoking on campus.

## COMMITTEE OF THE WHOLE

### **Revision of Title 5, California Code of Regulations, Adding Section 42356 “Smoking on Campus”**

#### **Presentation By**

Jackie R. McClain  
Vice Chancellor  
Human Resources

#### **Summary**

This item recommends adding Section 42356 to Article 9, Subchapter 5, Chapter 1, Division 5 of Title 5 of the California Code of Regulations. Section 42356 would delegate authority to campus presidents and the chancellor to adopt rules regulating smoking on campuses and properties of the California State University. The purpose of the regulations would be to mitigate exposure to secondhand smoke in the California State University. Notice of smoking regulations would be posted at principal entrances to the California State University campuses and other properties.

#### **Background**

California Government Code sections 19994.31 and 19994.32 provide in part as follows:

Commencing January 1, 1994, no state employee or member of the public shall smoke any tobacco product inside a state-owned and state-occupied or a state-leased and state-occupied building, or, in an outdoor area within five feet of a main exit or entrance to such a building, or in a passenger vehicle, as defined by Section 465 of the Vehicle Code, owned by the state. (19994.31)

Except as specified in Section 19994.31, a state employee or other person may smoke in any outdoor area of a state-owned and state-occupied or a state-leased and state-occupied building unless otherwise prohibited by state law and a sign describing the prohibition is posted by the state agency or other appropriate entity. (19994.32)

At the present time, there is no other state law prohibiting smoking outside of state buildings. Education Code section 89031 grants the trustees authority to establish rules and regulations for the government and maintenance of the buildings and grounds of the CSU, which would include rules about smoking in or around state buildings. The trustees have prohibited smoking inside of

campus buildings (Executive Order No. 599). They have not established any rules or regulations governing smoking on campus grounds.

At the May 15 Board of Trustees' plenary session, a student group representing a statewide effort identified as C.O.U.G.H. (Campuses Organized and United for Good Health) spoke of the dangers of secondhand smoke and asked the Board of Trustees to delegate authority to the presidents to prohibit smoking on campus grounds at least 20 feet from buildings, systemwide. In response, a trustee request was made that the matter be discussed at the July board meeting. Accordingly, the board discussed the matter at the July meeting and recommended that the board delegate authority to campus presidents to regulate secondhand smoking on campus grounds. The Committee directed staff to prepare the necessary notice and action item to amend Title 5 at this meeting.

The proposed section would delegate authority to presidents and the Chancellor to regulate secondhand smoke at their campuses and headquarters building. A delegation of authority would permit the adoption of rules that are more responsive to local conditions. It would provide for the posting at principal entrances of notice of the existence of smoking restrictions. This notice would comply with the requirement of "a sign describing the prohibitions ... posted by the state agency" (Gov't Code § 19994.32). Under authority granted in Education Code section 89031, every person who violates or attempts to violate the rules would be guilty of a misdemeanor.

### **Proposed Revision**

In light of the well established health risks associated with exposure to secondhand smoke and the desire of the CSU to provide an environment for learning that is as free of health hazards as possible, the following resolution is recommended for adoption:

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And, be it further

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