

Conflict of Interest

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A. Overview

All University officers and employees are expected to act with integrity and good judgment with those individuals and entities doing business or seeking to do business with the University.

It is the policy of the University of California that its officers and employees shall comply with the provisions of State and Federal law governing the acceptance of gifts and gratuities. All University employees must disqualify themselves from participating in decisions in which they have a personal economic interest. The primary legislative document governing conflict of interest and related issues is the State of California Political Reform Act of 1974 (the Act).

In addition to compliance with the requirements of law, University officers and employees must avoid the appearance of favoritism in all of their dealings on behalf of the University. Employees must comply with the requirements set out in UC Business and Finance Bulletin [G-39](#) - Conflict of Interest Policy and Compendium of Specialized University Policies, Guidelines, and Regulations Related to Conflict of Interest.

All University officers and employees are expected to act with integrity and good judgment and to recognize that the acceptance of personal gifts from those doing business or seeking to do business with the University, even when lawful, may give rise to legitimate concerns about favoritism depending on the circumstances. If a University officer or employee has any question regarding the propriety of a gift, disclosure of the gift or proposed gift, they should ask a supervisor or other appropriate University official for a determination of the proper course of action.

If there is any doubt of the supervisor, employee or other party as to the proper course of action with regard to any conflict of issue action, they must contact the Conflict of Interest Coordinator for clarification on the issue.

The University Conflict of Interest Code (see section I below, to access a copy) is revised annually and submitted to the Fair Political Practices Commission for approval. The Commission is the state body that administers, interprets and enforces the California Political Reform Act.

The University's approved Code has the force of law and any violation of the Code by a designated employee is deemed a violation of the Political Reform Act.

The State of California Political Reform Act places the responsibility upon the individual to be familiar with the requirements of the Act and with the University of California Conflict of Interest Code adopted in compliance with the Act. Violation of the Act subjects the individual, not the University, to administrative, civil, and criminal penalties. If you have any questions about the Act or the necessity of disqualifying yourself from participating in the making of the decision about your activities, you should contact the Conflict of Interest Coordinator at the campus.

B. Acceptance of Gifts and Gratuities by University Employees

University of California officers and employees shall comply with the provisions of State and Federal law governing the acceptance of gifts and gratuities.

All University officers and employees are expected to act with integrity and good judgment and to recognize that the acceptance of personal gifts from those doing business or seeking to do business with the University, even when lawful, may give rise to legitimate concerns about favoritism depending on the circumstances. If a University officer or employee has any question regarding the propriety of a gift, disclosure of the gift or proposed gift, they should ask a supervisor or the Conflict of Interest Coordinator (see section I below for UCB coordinator), for a determination of the proper course of action.

Designated officials (see section D below for definition of designated official) are prohibited from accepting gifts of more than \$360 from a single source in a calendar year, if the gift must be reported on their Statement of Economic Interests Form 700, in accordance with their disclosure categories. Note that there are several exemptions on what is defined as a gift. The exemptions can be found in the gift policy and guidelines at <http://www.ucop.edu/ucophome/coordrev/policy/1-24-01att.pdf>. There is an outright prohibition on honoraria if the designated official must report it on their Statement of Economic Interest Form 700.

Employees who are not designated officials are not prohibited from receiving gifts of more than \$360 but **must disqualify themselves from making, participating in the making of, or influencing University decisions that would have a material financial effect on the source.** They are not subject to any disclosure requirements to place this disqualification on file.

If an employee should have disqualified themselves, but does participate in any way, in a decision that has a material financial effect on the donor, the University will take appropriate personnel action, which may include counseling, legal action and dismissal, depending on the facts of the case.

For further information on acceptance of gifts and gratuities see

- 1) UC Policy and Guidelines regarding acceptance of gifts and gratuities at <http://www.ucop.edu/ucophome/coordrev/policy/1-24-01att.pdf>

This document describes gift definitions, examples, exemptions and other related information.

- 2) State of California fact sheet on Limitations and Restrictions on Gifts, Honoraria, Travel and Loans at <http://www.fppc.ca.gov/index.html?id=31>.

This document summarizes the major provisions of the Political Reform Act concerning gifts, honoraria, travel and loans.

C. Doing Business or Seeking to do Business with the University (Purchasing, Sale of Equipment, Independent Consultants)

The State of California Political Reform Act of 1974 prohibits University employees from participating in University decisions when personal financial interests may be affected by those decisions. You must not make a decision or attempt to influence a decision if you have an economic interest in the entity doing business with the University. As such, the Political Reform Act requires that all University employees, including inventors, disqualify themselves from participating in or attempting to influence business decisions if they have a personal economic interest in the business entity. The Act provides administrative, civil, and criminal penalties for violation.

See section G below for definition of “Economic Interests”

Employees doing business with the University:

- 1) Purchasing of Goods and Services for the University

The University has specific limitations and requirements covering acquisitions of goods or services by the University, including independent consultant services, when the transaction involves an employee-vendor relationship, not an employer-employee relationship. The latter is governed by appropriate personnel rules.

Separation of Interests - It is the policy of the University to separate an employee's University and private interests, and to safeguard the University and its employees against charges of favoritism in acquisition of goods and services.

Conflict of Interest - The State of California Political Reform Act prohibits an employee from making or participating in the making of a decision if there exists a financial conflict of interest. Requirements governing such decision-making are set forth in the University's Conflict of Interest Code; this document can be found at <http://www.ucop.edu/ogc/coi/coitoc.html>. The code shall be observed in purchases of goods and services by the University.

Determination - No purchase, lease of goods, or contract for services shall be made from any employee or near relative (husband, wife, mother, father, daughter, son, sister, brother, in-laws and step-relatives in the same relationships) who has an employee-vendor relationship unless there has been a specific determination by the Materiel

Manager or designee that the goods or services are not available either from commercial sources or from the University's own facilities.

Along with internal University administrative disciplinary actions, the State has levied penalties against individuals who do not comply with this provision, monetary penalties can be assessed up to \$5,000 and four times the contract value.

Further information on this issue can be reviewed in BUS 43 - Part 7 see <http://www.ucop.edu/ucophome/policies/bfb/bus43p7.pdf>.

2) Personal Purchases and Use of University Facilities and Equipment

University credit purchasing power and facilities shall not be used to purchase goods and services for individuals or for non-University activities. For further information see BUS 43-Part 3, Section X.

University facilities may be used only for University-related purposes or in furtherance of such purposes. University employees may not use University materiel or property in the care and custody of the University for personal purposes, except with the approval of the Chancellor, or as appropriate, the Senior Vice President – Business and Finance or the Vice President – Agriculture and Natural Resources. See BUS-29, Section N.

3) Sale of Excess Material / Equipment to University Employees - The University has specific limitations and requirements covering sales to employees and their near relatives of excess materials / equipment.

- a. No one employed in a Materiel Management department, or a near relative of such employee, may buy excess material directly from the University.
- b. No one employed in a department originating excess material, or a near relative of such employee, may buy any excess material originating in that department directly from the University.
- c. The principal driver of a University-owned motor vehicle, or a near relative of such employee, may not buy such motor vehicle directly from the University.
- d. Near relative is defined as husband, wife, mother, father, daughter, son, sister, brother, and step-relatives and in-laws in the same relationships.

Exceptions to these provisions must be approved by the Chancellor.

Further information on this topic can be reviewed in BUS 38 see <http://www.ucop.edu/ucophome/policies/bfb/bus38.html>.

4) Independent Consultants

A University employee or a near relative of an employee (as defined in Business and Finance Bulletin BUS-43) may only be retained as an independent contractor after a specific determination is made by Materiel Management that the services to be provided

by the employee-vendor are not available from other commercial sources. In addition, the work to be performed cannot be the same, or similar to, the employee's assigned or implied University duties. If an employee-vendor relationship exists, the reporting requirements of BUS-43 shall be followed.

Proposals from independent consultants shall include the name and University position of any officer, faculty member or other employee of the University who holds a position of director, officer, partner, trustee, manager or employee in the consultant organization. Selection of the independent consultant shall be made on the basis of demonstrated qualifications, resources, experience, and needs of the University, and on cost to the University. Any officer or employee participating in the decision to engage the consultant must adhere to the disqualification requirements for financial conflict of interest of the State of California Political Reform Act of 1974 (See Section A).

The Policy on Employee-Vendor Relationships and Business and Finance Bulletins 34 and 77 should be consulted to determine the extent to which the University has control over certain aspects of the work or the work product of the consultant.

D. University Officers and Employee Disclosure Requirements

- 1) The California Political Reform Act of 1974 requires certain state and local government officials to:
 - a. Publicly disclose their private economic interests on an official Statement of Economic Interests (Form 700).

This form must be completed on an annual basis for the 12-month period ending December 31 and filed with the Conflict of Interest Office at the Office of President, by April 2 of the following year. In addition a designated official must file a Form 700 within 30 days of assuming office or within 30 days of leaving office. Exceptions of assuming office statements occur if the person assumed office between October 1 and December 31, and they filed an assuming office statement. They are not required to file a statement until April 2 of the following year for the period from assuming office through December 31. For example, if you assumed office on November 1, 2000, you must file an assuming office statement within 30 days of assuming office. You are not required to file an annual statement until April 1, 2002. The annual statement will cover the day after you assumed office through December 31, 2001. It is the responsibility of the individual to follow these regulations. Failure to meet these requirements can result in the individual being fined by the State for late filing.

When a designated official leaves one designated position and assumes another designated position at the University, they do not need to file a leaving office or an assuming office statement. They continue to file annual statements.

All personnel who assume duties in an interim or acting capacity must file assuming office statements as soon as they begin service in the interim or acting position. There are no exceptions to this requirement. They must also file a leaving office statement unless permanently appointed to the position; it is not necessary to file a second assuming office statement if so appointed.

- b. Disqualify themselves from participating in decisions in which they have a personal financial interest.

A conflict of interest code lists the position titles of those employees or officials (designated position) in an organization who are required to provide personal financial information, assigns disclosure categories to these positions, and indicates the types of economic interest which must be reported, such as investments, interests in real estate, or sources of income or gifts.

For a list of who those individuals are at UC Berkeley see [Designated Officials at UCB with Indicated Required Disclosure Categories](#).

- c. Principal Investigators must disclose their financial interests in the sponsor. They must complete an official Principal Investigator's Statement of Economic Interests (Form 730U), if the research project is funded from a non-governmental source. See section E below.
- 2) The University of California Policy on Outside Professional Activities established by the President on July 1, 1995 requires certain university officials and designated staff as defined in the policy to disclose Outside Professional Activities. The disclosure is made on an annual basis. The call for the request is made in the fall, for the prior 12 month reporting period of July to June.

See section F below for more details on this University policy.

E. Research, Inventions, Patents and Licensing

Research

State of California law requires disclosure by the Principal Investigator of financial interest in the sponsor if the proposal is for a research project to be funded by a non-governmental source. The disclosure form (Principal Investigator's Statement of Economic Interests Form 730-U) should accompany the proposal and Proposal Review Form to the Sponsored Projects Office.

When a principal investigator discloses a financial interest, the campus review board must determine whether the contract, grant, or gift can be accepted.

See <http://www.rac.berkeley.edu/coi.html> for more information on this issue, and disclosure requirements for proposals to National Science Foundation and U.S. Public Health Service, including National Institutes of Health.

Inventions, Patents and Licensing

[G-39](#) contains specific guidance on inventions, patents and licensing. For further information see Section VII in the table of contents by subject of [G-39](#).

F. Outside Professional Activities for Officers and Designated Staff

Participation in outside professional activities shall not interfere with the performance of University duties in accordance with the University of California Policy on Outside Professional Activities for University Officers and Designated Staff, established by the President on July 1, 1995.

Applicability

All Senior Management Group employees who participate in outside professional activities, including officers of the university are subject to this policy.

Senior Management Group employees include, the Chancellor, Vice Chancellors, Assistant Vice Chancellors, Chief of Police and Deans of the University

Definition of outside activities

Outside professional activities include, but are not limited to, service on state or national commissions, government agencies and boards, committees or advisory groups to other universities, organizations established to further the interests of higher education, not for profit organization, and service on corporate boards of directors.

Approval Authority

The immediate supervisor of a senior management employee is responsible for approving participation in outside professional activities in advance and in writing. The supervisor must keep this authorization on file.

Honoraria and Travel Reimbursement

Receipt of honoraria and travel reimbursement for expenses incurred in performing outside professional activities shall be in accordance with existing University policies and procedures, including, but not limited to:

- a. Personnel Policies for Senior Managers II-30J – Restrictions on other payments for services
<http://www.ucop.edu/ucophome/coordrev/policy/9-11-00.html>.
- b. Business and Finance Bulletin BUS-34 - Outside Contractors
<http://www.ucop.edu/ucophome/policies/bfb/bus34.html>.
- c. Business and Finance Bulletin G-28 -. Travel
<http://www.ucop.edu/ucophome/policies/bfb/g28.html>.
- d. Accounting manual D-271.35 - Honoraria
<http://www.ucop.edu/ucophome/policies/acctman/d-371-35.pdf>.

- e. Policy and guidelines regarding Acceptance of Gifts and Gratuities under California's Political Reform Act. See section B above.

Compensated Outside Professional Activities

Accrued Vacation shall be used when a senior management employee participates in compensated outside professional activities during the regular work week.

Corporate Board Service

For the reporting period July 1 through June 30 of each year, senior management members of staff must report to the Office of the President information relating to compensated and uncompensated participation on corporate boards.

G. Economic Interest

The following are deemed to be economic interests from which conflicts of interest can arise

Business investment

You have an economic interest in a business entity in which, you, your spouse, your dependent children or anyone acting on your behalf has invested \$2,000 or more.

Business employment or management

You have an economic interest in a business entity for which you are a director, officer, partner, trustee, employee or hold any position of management.

Real property

You have an economic interest in real property in which you, your spouse, your dependent children or anybody acting on your behalf has invested \$2,000 or more, and also in certain leasehold interests.

Sources of Income

You have a economic interest in anyone, whether an individual or organization, from whom you received (or by whom you have been promised) \$500 or more in income within 12 months prior to the decision about which you are concerned. Keep in mind that you have community property interest in your spouse's income, a person who your spouse receives income from may also be a source of conflict to you. Also if you, your spouse or your dependent children own 10% or more of a business, you are considered to be receiving "pass through" income from the business clients. In other words the business's clients may be considered sources of income to you.

Gifts

You have an economic interest in any entity, individual or organization if you have been given gifts, which total \$360, or more within a 12-month period to the decision about which you are concerned.

Personal financial effect

You have personal financial effect on your personal expenses, income, assets or liabilities, as well as those of your immediate family (spouse, dependent children). If these expenses, income,

assets, liabilities go up or down by more than \$250 or more in a 12 month period, as result of the decision about which you are concerned.

H. Personnel Related Activities

[G-39](#) contains specific guidance on personnel related conflict of interest issues. These issues include:

- i) Employment of near relatives
- ii) Conflicts between University assigned functions, other interests and obligations
- iii) Additional compensation for services as a faculty consultant and
- iv) Other personnel related conflict of interest issues.

For further information see Section V in the table of contents by subject of [G-39](#).

I. References

UC Business and Finance Bulletin G-39

<http://www.ucop.edu/ucophome/policies/bfb/g39.html>

This UC web site details information on UC's Conflict of Interest Policy and Compendium of Specialized University Policies, Guidelines, and Regulations Related to Conflict of Interest.

Conflict of Interest Code

<http://www.ucop.edu/ogc/coi/coitoc.html>.

Document maintained by the University of California Office of the President, General Counsel.

University of California Policy and Guidelines Regarding Acceptance of Gifts and Gratuities by Employees under California's Political Reform Act

<http://www.ucop.edu/ucophome/coordrev/policy/1-24-01att.pdf>.

The document at this UC web site describes gift definitions, examples, exemptions & other related information regarding acceptance of gifts and gratuities by employees under California's Political Reform Act.

Limitations and Other Restrictions on Gifts, Honoraria, Travel, and Loans

<http://www.fppc.ca.gov/index.html?id=31>

The document at this site summarizes the major provisions of the Political Reform Act concerning gifts, honoraria, travel and loans.

California State Fair Political Practices Commission Web Site

<http://www.fppc.ca.gov/>

This is the web site of the California State Fair Political Practices Commission. This gives guidance & interpretations on various aspects of Conflict of Interest & the State of California Political Reform Act.

New Hires at UC Berkeley

Your department's human resource representative will give you a copy of UC Berkeley's cover letter and the University of California booklet "Political Reform Act Disqualification Requirements." Please read this booklet thoroughly. To review further information on the Political Reform Act, refer to the following section.

Overview of Public Officials Obligations under the Political Reform Acts - Conflict of Interest Rules

<http://www.fppc.ca.gov/index.html?id=6>

This web site gives you information on the State of California Political Reform Act - conflict of interest rules. Using non technical terms this web site is aimed at giving you a basic understanding of your obligations & guides you to more detailed resources.

UC Business and Finance Bulletin G-42

<http://www.ucop.edu/ucophome/policies/bfb/g42.pdf>

This UC web site provides guidance on UC's policies with regards to how gifts can be presented to non-employees on behalf of the University. It details under what circumstance gifts can be given without a conflict of interest arising.

UC Berkeley Conflict of Interest Coordinator

The UC Berkeley Conflict of Interest Coordinator is Barbara VanCleave Smith, Director of Controls and Accountability. She can be contacted at mbvsmith@berkeley.edu

Form 700 - Statement of Economic Interests

<http://www.ucop.edu/ogc/coi/instruct.html>

This University of California Office of the President web site has instructions for Conflict of Interest Filing and a pdf version of Form 700 - Statement of Economic Interests.