

CALIFORNIA STATE UNIVERSITY, FRESNO FOUNDATION

Policy No. 2002

Code of Conduct

This policy is applicable to the following auxiliary corporations:

- Agricultural Foundation
- Association
- Associated Students, Inc.
- Athletic Corporation
- Foundation
- Programs for Children

REVISION RECORD

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Responsible Position(s):



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PURPOSE

The purpose of this Code of Conduct (hereinafter "Code") is to guide the conduct of those acting for/on behalf of the California State University, Fresno Foundation (hereinafter "Foundation"), which guidance will enhance the Foundation's performance in assisting the University in the attainment of its educational mission.

STATEMENT OF POLICY

Specifically, this Code applies to all board members, officers, representatives, committees, affiliates of the Foundation, and employees acting for/on behalf thereof (hereinafter collectively referred to as "staff"), whether full-time, part-time, or casual appointees.

REGULATIONS

1. **Respect for the Law**

Staff, in common with all citizens, have an obligation to observe all applicable federal, state, and local laws, regulations, ordinances, and authoritative orders, and are required to conduct themselves accordingly.

2. **Respect for Persons**

The Foundation seeks to create an environment where all persons are treated equitably and with respect, where persons' rights are respected and where staff are encouraged and their achievements given due recognition.

Respect for persons extends to the manner in which the individuals comprising the staff deal with one another, with employees of the university, with students, as well as members of the community. The Foundation regards a staff member's personal behavior towards and interaction with others as a vital part of the duties of their position. A collegial working environment is particularly encouraged.

3. **Courtesy and Responsiveness**

Staff are expected to be responsive, courteous and prompt in dealing with others, whether with other staff, employees of the university, students, or members of the community.

4. **Obligations of Staff Supervising Other Staff**

Individuals who supervise other staff members have special responsibilities to treat their staff members fairly and to afford them equality of opportunity, to maintain open and honest communication with them and to ensure that their staff members understand performance standards expected of them. Evaluations of staff performance must be undertaken against these standards objectively and without bias.

5. Making Fair Decisions

When making a decision, taking action of a discretionary nature or resolving a grievance, which may adversely affect a person's rights, liberties, interests or legitimate expectations, the principles of procedural fairness must be applied. Specifically, persons affected must have the opportunity to respond to allegations or assertions made and to have a decision made without bias. Decisions must be based on considerations relevant to the matter at hand. Decisions may be accepted more readily if reasons are given.

6. Staff Must Not Unfairly Discriminate

Staff must treat other persons equitably, irrespective of gender, sexual orientation, race, disability, medical condition, cultural background, religion, marital status, age, or political conviction.

7. Harassment Unacceptable

Staff must not engage in conduct, which amounts to or may be perceived as sexual, racial, or gender-based harassment. Staff must not behave towards other persons in a manner, which may reasonably be perceived as intimidating, overbearing or unreasonable.

8. Avoidance of Conflicts of Interest

- A. Staff must avoid conflicts between their personal financial interests and their staff responsibilities. In this regard, staff must refrain from participating in making decisions affecting personal financial interests, as well as in decisions affecting a spouse, relative, or one with whom the staff member has a close personal relationship.
- B. Education Code Standards. Foundation board members are held to strict Education Code financial interest standards relating to contracts or other transactions *entered into by the board* between the Foundation and a board member. The following transactions are *impermissible*:
- Any board transaction, other than an employment contract, directly between the Foundation and a board member.
 - Any board transaction between the Foundation and a partnership or unincorporated association in which a board member is a partner, owner, or holder, directly or indirectly, of a proprietorship interest.
 - Any board transaction between the Foundation and a for-profit corporation in which the board member is the owner or holder, directly or indirectly, of 5% or more of the outstanding common stock.

The following transactions are permissible IF the financial interest is disclosed or known to the board and noted in the minutes AND the board thereafter authorizes, approves, or ratifies the transaction in good faith by a vote sufficient for the purpose without counting the financially interested member(s)' vote(s) AND the transaction is just and reasonable as to the Foundation at the time it is authorized or approved:

- Board transactions between the Foundation and a for-profit corporation in which a board member is the owner or holder, directly or indirectly, of less than 5% of the outstanding common stock.
- Board transactions between the Foundation and a for-profit corporation on whose governing body a board member serves as a director and is the owner or holder, directly or indirectly, of less than 5% of the outstanding common stock.
- Board transactions between the Foundation and a nonprofit corporation on whose governing body a board member serves as a director.

C. Corporations Code Standards. For Foundation transactions not involving board action, board members must stay within Corporations Code "self-dealing" rules and be alert to material financial interests.

Generally, permissible transactions of this type are:

- Setting compensation for directors;
- Transactions that are part of the Foundation's public or charitable purpose and that the corporation approves in good faith and without unjustified favoritism, even if one or more directors or their families benefit as part of a class of persons intended to benefit from the program; and
- Transactions of which the interested director has no actual knowledge and which do not exceed the lesser of 1% of the gross receipts of the Foundation for the preceding fiscal year, or \$100,000.

Otherwise, if a Foundation transaction involves a material financial interest of a board member, then the transaction shall be subject to authorization or approval by the board. Such authorization or approval shall be in accordance with the following standards, based upon whether the transaction has been consummated or not:

1. If prior to the consummation of the transaction the following occurs –
 - a. The Attorney General approves the transaction, or
 - b. The board takes the following action after reasonable investigation of the material facts of the transaction and the interested board member's interest in the transaction:
 - Determines that the corporation entered into the transaction for its own benefit;

- Determines that the corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances;
- Determines that the transaction was fair and reasonable as to the corporation at the time the corporation entered into the transaction; **and**
- Authorizes or approves the transaction by a good faith vote of a majority of the directors then in office, without counting the vote of interested director(s).

2. If after the consummation of the transaction, the following occurs:

- a. The Attorney General approves the transaction, or
- b. The board takes the following action after reasonable investigation of the material facts of the transaction and the interested board member's interest in the transaction:
 - Determines that a committee or person authorized by the board approved the transaction in a manner consistent with the standards set forth in section 8(C)(1)(b) above;
 - Determines that it was not reasonably practicable to obtain board approval prior to entering into the transaction; **and**
 - Ratifies the transaction at its next meeting by a vote of the majority of the directors then in office without counting the vote of the interested director(s).

D. Foundation board and Staff have an absolute duty to disclose actual or potential conflicts of interest and all material facts related thereto, and shall disclose at least annually in writing any interests that could give rise to a potential conflict of interest under written procedures approved by the board.

E. It is unlawful for a board member to utilize any Foundation information, not a matter of public record, received by reason of board membership, for personal pecuniary gain, regardless of whether or not the person is a board member when the gain is realized.

Staff members are prohibited from using nonpublic Foundation information obtained in the course of staff duties, for personal pecuniary gain, regardless of whether at the time the gain is realized the person is a staff member.

9. Receipt of Gifts

Staff must not ask for or encourage the giving of any form of gift or benefit in connection with the performance of their duties. Receipt of gifts can be perceived as an inducement to act in a particular way, thus creating a real or apparent conflict of interest. However, a staff member may, of course, give or accept an occasional gift of nominal value, which is offered in accordance with social or cultural practice.

10. External Activities and Public Comment

Staff are free to engage in party-political, professional, interest group and charitable activity, provided that participation does not give rise to a conflict of interest or impede the performance of a staff member's duties. Where a staff member comments publicly in connection with party political or interest group activities, it must be made clear that such comment is made on behalf of the political party or association which they represent, and not in their capacity as members of staff of the Foundation.

Public comment by staff in their capacity as private citizens is certainly permitted. In making private comment (including electronic means such as electronic mail), every effort must be made to ensure that the opinions expressed are not represented as an official view of the Foundation.

11. Diligence

- A. The Foundation aims to achieve the highest standards in the conduct of its business, which ultimately serves to advance the educational interests of the University. All staff contribute to the achievement of this aim when they carry out their duties honestly and to the best of their ability. In this regard, staff is expected to carry out their duties in a professional, responsible, impartial and conscientious manner, and to be accountable for their official conduct and decisions.
- B. Staff members should endeavor to maintain and enhance their skills and expertise and keep up to date the knowledge associated with their particular field or area of work. High standards of performance are expected. Staff must not allow outside work to interfere with the performance of their Foundation duties.
- C. Staff must exercise due care in undertaking their activities, particularly where others will rely on advice or information offered. Staff have a duty to take reasonable care to avoid causing harm (including physical harm) to anyone. Thus, staff must actively promote safe working practices and environments for everyone using Foundation facilities. In this connection, staff must ensure that the personal use of alcohol or other drugs does not affect work performance or the safety and well-being of others.
- D. Fraud, corrupt conduct or malfeasance is contrary to law and is to the detriment of the Foundation, as well as ultimately to the University. Staff are therefore required to report genuinely-suspected or known fraud or corrupt conduct in accordance with section 13 hereof.
- E. Appropriate measures to ensure proper internal control with respect to Foundation assets must be observed at all times. Staff members must not be assigned job duties or allowed to engage in conduct that may compromise the maintenance of proper internal control.

12. Economy and Efficiency

Staff has a responsibility to ensure that the Foundation's resources are managed effectively. In this regard, material, financial and computerized resources should

only be used for Foundation purposes. Though staff members may occasionally need to use Foundation resources for personal reasons, such as personal telephone calls, such usage must be kept to a minimum, and must not result in additional expense to the Foundation. Additionally, equipment, materials and facilities must be treated with appropriate care and secured against theft and misuse in order to ensure that the maximum level of resources are available to discharge the Foundation's functions.

13. Violations of the Code

- A. Subject to sections (B) and (C) below, actual or suspected violations of this Code by any Foundation staff member¹ shall be reported to the Executive Director of the Foundation ("Executive Director"), or to the Auxiliary Services Human Resources Manager. If the report is made to the Auxiliary Services Human Resources Manager, he/she shall promptly inform the Executive Director of the report. The Executive Director and/or the Auxiliary Services Human Resources Manager shall then, in his or her discretion, conduct a reasonable investigation of the facts of the alleged or suspected violation(s), or appoint other competent staff who is not alleged to be involved in the violation, to conduct the same. Findings of all investigations not conducted by the Executive Director shall be reported to the Executive Director for consideration thereof and resolution of the matter. If the Executive Director, Auxiliary Services Human Resources Manager, or anyone else acting on behalf of the Foundation wishes to receive assistance in conducting such investigation from any employees of the California State University, Fresno Association ("the Association") who are contracted to the Foundation to perform financial or administrative services, such assistance may only be utilized after first consulting with the Executive Director of the Association. The Executive Director shall have the authority to either dismiss a staff member found to have violated this Code, or discipline said staff member in a manner, which the Executive Director, in his or her discretion, deems appropriate. If the staff member alleged to have violated this Code is the Executive Director, the allegation of the violation shall be made either to the Chair of the Foundation Governance Committee, or to the Auxiliary Services Human Resources Manager, who shall promptly report the allegation to the Chair of the Foundation Governance Committee. Investigation and resolution of such matter shall be made in accordance with the process specified in section (B) below. No staff member who is alleged to be involved in the violation shall take part in the investigation or resolution of such alleged violation.
- B. Notwithstanding the foregoing, actual or suspected violations of this Code by a member of the Board of Governors or any committee or sub-committee thereof shall be reported to the Chair of the Governance Committee, who shall undertake an investigation of the allegation. Thereafter, the Governance Committee shall

¹ Any allegation of impropriety against an Association employee contracted to the Foundation to perform financial and/or administrative services shall be directed to the Executive Director of the Association, in which case the investigation and resolution shall be in accordance with the Association's Code of Conduct.

either dismiss the matter or make recommendations to the Board of Governors for resolution of the allegation.

- C. Reports of, investigations of, and resolutions of allegations of fiscal misconduct shall be administered exclusively in accordance with the *University Procedures for Investigating Suspected Employee Fiscal Misconduct*.

14. Whistleblower Policy

- A. Staff may report any violation of the Code in accordance with section 13 hereof. The Foundation encourages all Staff to so report all occurrences that in good faith are reasonably believed to be violations of this Code. Any Staff making such a report shall be deemed to be a "Whistleblower". It is the intent of this provision that Staff making such good faith reports (pursuant to section 13 hereof) of suspected fiscal misconduct, violations of law, or other violations of this Code shall be made to feel safe from retaliation, and shall be protected from retaliatory action as follows:

1. The Foundation will use its best efforts to conduct a thorough investigation of actual or suspected violations of the Code that are reported by Whistleblowers. In this regard, the Foundation will attempt to keep its discussions and actions confidential to the greatest extent possible. In the course of its investigation, the Foundation may find it necessary to share information with others on a "need to know" basis. In all such circumstances, however, the Foundation will use its best efforts to protect a Whistleblower against retaliation.
2. In recognition of the Foundation's intention to protect Whistleblowers from retaliation, it is the policy of the Foundation that Staff shall not intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce a Whistleblower (including but not limited to, threats of physical harm, loss of job, punitive work assignments, or impact on salary or wages) in retaliation for a Whistleblower reporting the actual or suspected violation. Specifically, neither the Foundation, nor any person acting on behalf of the Foundation shall retaliate against an employee for:
 - A. disclosing information, or because it is believed that the employee disclosed or may disclose information, to a government or law enforcement agency, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, or for providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties;
 - B. refusing to participate in an activity that would result in a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation; or

- C. having exercised his or her rights under sections (A) or (B) above in any former employment.
3. Whistleblowers who believe they have been retaliated against may file a written complaint in accordance with section 13 hereof. A reasonably believed or proven complaint of retaliation shall result in the protection of the Whistleblower. A proven complaint of retaliation shall result in a proper remedy for the Whistleblower, and the initiation of disciplinary action, up to and including dismissal, against the retaliating person.
 4. Though anonymous reports of violations of the Code may be more difficult for the Foundation to effectively investigate (as the Foundation would be unable to have access to the Whistleblower), nothing in this section 14 is intended to prohibit or discourage the anonymous reporting of actual or suspected violations of the Code by a Whistleblower. In such circumstances, the Foundation will use its best efforts to conduct a thorough investigation of the reported matter, and take appropriate actions based on its findings.