



Outside Employment and Consulting Activities

(Non-Faculty Employees)

This policy sets forth guidelines and restrictions for Foundation employees who wish to engage in employment activities paid outside the Foundation payroll system.

- A. Definitions and General Policy
- B. Restrictions
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 - 3. Employment within the CSU System
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A. DEFINITION AND GENERAL POLICY

Outside employment is defined as employment not compensated through Foundation payroll for activities including consulting, part-time and short-term employment, as well as employment with other California State University campuses or auxiliaries. In general, Foundation employees may engage in outside employment activities outside Foundation hours and away from the Foundation subject to the following restrictions:

- a) The outside employment must not interfere with performance of their duties,
- b) The outside employment must not create a real or apparent conflict of interest, and
- c) The outside employment must comply with limitations established by the California State University system.

All outside employment activities must be conducted without the use of Foundation supplies, equipment, or facilities, or the use of privileged, official, or protected information (see Section B.2 below). No portion of time due the Foundation may be devoted to private purposes. Details regarding restrictions that apply to outside employment are discussed below.



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B. RESTRICTIONS ON OUTSIDE EMPLOYMENT

1. INTERFERENCE WITH THE PERFORMANCE OF JOB DUTIES

Outside employment activities must occur outside an employee's work schedule. Foundation employees may not engage in outside employment activities that interfere with their work assignment or the satisfactory performance of their job duties.

2. CONFLICT OF INTEREST

Conflicts of interest are not permitted, regardless of the amount of compensation or time base. The following guidelines are used to determine whether a real or apparent conflict of interest would exist as a result of outside employment. Questions concerning potential conflicts of interest should be referred to the Foundation Director of Human Resources.

- a. *Avoidance of Unfair Competitive Advantage.* An employee's outside employment, consulting, or other business activity outside the Foundation may not influence decisions made at the Foundation in such a way as to give unfair competitive advantage to the outside business organization. (See Section 2c *Privileged Information*).
- b. *Separation of Foundation and Private Interests.* An employee's outside employment, consulting or other outside business activity financially must not affect the Foundation's dealings with an outside business organization in which the employee or a near relative of the employee has a financial interest as defined by SJSU academic senate policy S99-8 Academic Freedom and Professional Responsibility.
- c. *Use of Privileged or Official Information.* The use of privileged or official information for personal financial gain is a type of conflict of interest and is prohibited. Privileged or official information is information that is known to an individual because of his or her connection with the Foundation but is not available to the public. In this connection, the term "privileged information" includes but is not limited to: Medical, Personnel, Salary or Patent Records of Individuals. Individual employees have a right to access their own records except as limited by law. Access to records of other employees is normally limited to legitimate need-to-know situations.
- d. *Protection of Information Not Yet in Public Domain.* A Foundation employee, acting as an independent consultant or as an employee of another organization, may not use information, skills, or knowledge obtained as a result of Foundation employment, that is material or necessary to current or proposed Foundation research or development work and that is proprietary to the Foundation and not yet in the public domain.



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- e. *Noncompetition with Foundation Projects.* An employee's consulting or outside employment activity must not compete with current or proposed Foundation projects.

3. EMPLOYMENT WITHIN THE CALIFORNIA STATE UNIVERSITY SYSTEM

- a. *Outside Employment within the CSU.* Outside employment includes employment within the CSU and/or its auxiliaries that is outside the SJSU Foundation.
- b. *CSU Outside Employment limits.* The CSU establishes reasonable limits on the total amount of employment an individual may have within the California State University system, including its auxiliaries. In accordance with CSU Additional Employment Policy HR 2002-05, a maximum of 125% time-base CSU system-wide is allowed under certain circumstances. When determining the 125% additional employment cap under the CSU Additional Employment Policy, *all CSU employment and all outside CSU foundation and other CSU auxiliary employment are considered together.*

C. PRIOR APPROVAL AND TIME LIMITS

Each campus is responsible for determining the extent of an employee's CSU and/or CSU auxiliary workload prior to appointment to any position. Therefore, in order to monitor and track employment for compliance with the CSU policy, prior approval is required for outside employment within the CSU or its auxiliaries. Approval to engage in any outside employment or consulting either within or outside the CSU or its auxiliaries (with potential for a conflict of interest) is limited to a maximum period of one year from the date of such approval, and must be renewed annually. If the outside business activity is continued beyond one year, the requester must obtain new approval from the cognizant immediate supervisor, college dean, or designee to continue in the outside business activity. Requests for approval of outside employment should be directed to the Foundation Director of Human Resources.

D. INTELLECTUAL PROPERTY

In accordance with SJSU Academic Senate Policy F98-3 Intellectual/Creative Policy, the SJSU Foundation acts as the agent for the University in the administration of patents, licensure and commercialization. Therefore, when outside employment activity involves entering into a contractual agreement containing a claim for intellectual property (invention and patent rights), Foundation management approval is required. The Director of Sponsored Research must review and approve the text pertaining to



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intellectual property for any proposed outside consulting or employment agreement before execution of the agreement by the employee. Questions regarding inventions and patent articles in a proposed consulting agreement should be referred to the Director, Office of Sponsored Programs.

E. DISCLOSURE AND REPORTING REQUIREMENTS

Employees engaged in outside business activity as defined in this policy are required to disclose certain information to the Foundation as certain changes occur. These disclosures are necessary so the outside business activity can be reviewed for continued appropriateness and to satisfy CSU requirements. The following information must be disclosed:

- Changes in the employee's outside employment relationship or assignment.
- An appreciable change in the number of hours involved.
- Notification that the employee is the target of an investigation by a federal or state agency that has as its subject the improper use of information obtained or actions taken for personal gain by the employee in the course of his or her outside employment.

Disclosure and reporting of outside employment activity should be provided in writing to the Foundation Director of Human Resources.