

California State University, Fresno
Gifts to Agency Procedure
(to comply with CSU Coded Memorandum HR 2008-19)

This set of procedures has been developed to provide direction to Fresno State employees who may be recipients of gifts to agency (mostly travel gifts) as defined in CSU Coded Memorandum HR 2009-19. The procedures that follow summarize the process that all university employees must use when a gift of travel is offered.

Background

All university employees are required to comply with the conflict of interest laws that govern the CSU, including the prohibition on participating in or using their position to influence a decision in which they have a personal financial interest. University employees in designated positions are required to annually file a FPPC Form 700 (Statement of Economic Interests).

One type of potential conflict involves offers of gifts by third parties. A gift is any payment that confers a personal benefit on the recipient to the extent that something of equal or greater value is not received, including discounts not offered to the public. Gifts need not be tangible items. An offer **of free or discounted travel can also be a gift**; free travel is always a gift unless it is free for all members of the public.

Gifts to Individuals and Gifts to the University

Generally, gifts of travel are considered gifts to an individual and must be reported by the recipient(s) on the Form 700 if they are in designated positions. However, **in some cases gifts of travel can be considered as a gift to the university** instead and therefore need not be recorded on the employee's Form 700. (See CSU Coded Memorandum HR 2008-19 and FPPC Regulation 18944 et seq.) The regulation contains a number of procedural and reporting requirements.

To be a gift to the university the following criteria must apply:

- The President or designee (Vice President for Administration - VPA) must receive and control the gift and make the determination of which university employees will use the gift. **The donor may identify a purpose of the travel but may not designate by name, title, class or otherwise who will travel or use the gift.**
- The gift must be used for official CSU business.
- The university must report the gift and post it on the campus website within 30 days after its use.
- Travel must be pre-approved in writing by the VPA. (If there is a possibility the VPA may be an appropriate person to use the gift, the request will be forwarded to the President.)

The absence of any one of these requirements results in a gift to the individual. This may result in a reportable gift on Form 700.

Campus Procedure

For a gift of travel to be a gift to the university, the following procedure must be followed:

1. An offer is received for gift of travel by a department on campus.
(If the donor specifies by name, title or otherwise who will use the gift of travel it cannot be considered a gift to the university.)
2. The department who received the offer submits the following documents to the VPA
(If there is possibility that VPA may be an appropriate person to use the gift, the request should be addressed to the President.)
 - i. A **memorandum** stating: the business purpose of the travel, a recommendation of employees who should travel (if applicable) and a statement that the travel is not otherwise a conflict of interest.
 - ii. **Gift to Agency – Travel Request form**
(To allow time for processing, these should be sent at least 5 days before travel occurs.)
3. The VPA reviews the request and determines who will use the gift. If the request meets the criteria, it will be approved as a gift to the university, signed and a copy of the Gift to Agency Travel Request will be returned to the department who submitted the request.
4. After the travel occurs, the department who received the gift must complete the **Form 801** and forward it with a copy of the approved Gift to Agency Travel Request form to the VPA. Note the form must be sent to the VPA within 15 days of the date of travel.
5. The VPA will sign form 801 and send it with the signed Gift to Agency travel request form to the Conflict of Interest Filing Officer.
6. The Conflict of Interest Filing Officer will:
 - i. File the form with the FPPC within 30 days after the use of the gift.
 - ii. Maintain copies of the forms in the Conflict of Interest files.
 - iii. Post on the campus website for a period of four years.

If the VPA determines that the gift cannot be deemed a gift to the university, then the recipient(s) must report the gift of travel on their Form 700 if they are in a designated position and if the fair market value¹ of the gift is less than \$440.² If the fair market value of the gift exceeds \$440, or if along with other gifts given by the same donor in the calendar year the total value would exceed \$440, then the gift cannot be accepted and the travel cannot be taken (unless the university pays for the travel as official university business). Even if the value is under \$440, and even if the recipient

¹ For travel on a commercial aircraft, the value is the actual cost of the ticket. For private air transportation, the value is determined by reference to the fair market value of the normal and usual charter fare or rental charge for a comparable plane of comparable size divided by the number of travelers on board. (See FPPC Regulation 18946.)

² At the time of Coded Memorandum HR 2008-19, the cap was \$390, but as noted, the amount is periodically adjusted for changes in the cost of living. The cap for 2012-13 is \$440.

is not in a designated position, employees should always be aware of actual or potential conflicts of interest. **Failure to obtain advanced written approval as described above results in a gift to the individual. Employees are encouraged to consult with the office of the VPA, Human Resources or Campus Counsel on these issues.**

Additional Information

For additional information, please see CSU HR Memo 2008-19 (<http://www.calstate.edu/HRAdm/pdf2008/HR2008-19.pdf>) and the Conflict of Interest Handbook ([http://www.calstate.edu/gc/OGC Manuals on Legal Issues.shtml](http://www.calstate.edu/gc/OGC_Manuals_on_Legal_Issues.shtml).)