

How to Identify Designated Positions

Background

A key goal of ethics laws is to promote fair and merit-based decisions. In order to achieve that goal, certain positions at the University of California are “designated” in our Conflict of Interest Code. An employee in a designated position must publicly disclose his or her personal financial interests in order to avoid the appearance of receiving special perks as a result of his or her status.

However, this does not mean that every employee in the University should be required to disclose personal financial interests. On one hand, the goal of public disclosure is to limit either a perceived or actual improper influence on a decision-maker. On the other hand, it is not necessary for an employee in a purely ministerial position to publicly disclose his or her financial interests.

In order to achieve the goals of ethics laws while avoiding unnecessary intrusion into an employee’s right to privacy, I have outlined the circumstances under which a position should be designated in our Conflict of Interest Code.

Guidelines

The primary consideration as to whether a position should be designated is the following:

Does the position require its holder to make or participate in University decisions that would substantially affect his or her own finances?

A person makes or participates in making a University decision if he or she:

- Negotiates with a governmental entity or private person regarding the decision;
- Advises or makes recommendations to the decision-maker by:
 - Conducting research or an investigation
 - Preparing or presenting a report, analysis, or opinion where the employee must exercise his or her own judgment and the employee is trying to influence the decision;
- Enters into any contract on behalf of the University;
- Obligates or commits the University to any course of action;
- Appoints a person; or
- Votes on a matter.

(2 Cal. Code of Regs. § 18704)

This means that we can rule out positions which should NOT be designated by looking for the following characteristics:

- A position with three or four levels of decision-making above it: Multiple levels of decision-making minimize an individual employee’s influence on a University decision.
- Purely ministerial positions: Employees in such positions are not making or participating in University decisions as described above.