

# California State Auditor

B U R E A U O F S T A T E A U D I T S

## **Investigative Report:**

**Conflicts of Interest, Acceptance of Prohibited Gifts, Improper Establishment of a Program, and Improper Deposit and Use of Funds at California State University, Dominguez Hills**



April 1998  
Report I960143

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# CALIFORNIA STATE AUDITOR

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KURT R. SJOBERG  
STATE AUDITOR

MARIANNE P. EVASHENK  
CHIEF DEPUTY STATE AUDITOR

April 21, 1998

Investigative Report I960143

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

Pursuant to the Reporting of Improper Governmental Activities Act, the Bureau of State Audits presents its investigative report concerning California State University, Dominguez Hills (CSUDH). This report concludes that two officials, official A and official B, husband and wife, at CSUDH, had apparent conflicts of interest. In addition, official B improperly accepted gifts and failed to disclose them. Official A also imprudently signed a contract on behalf of CSUDH without obtaining the proper approvals and despite provisions in the contract that were in violation of state law. Moreover, official A improperly deposited \$186,000 into a nonstate account even though state law required that the funds be deposited in a state account. Finally, official A improperly allowed more than \$18,000 to be used for food, entertainment, and other questionable expenses.

Respectfully submitted,

A handwritten signature in black ink that reads "Kurt R. Sjoberg". The signature is written in a cursive style.

KURT R. SJOBERG  
State Auditor

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BUREAU OF STATE AUDITS

660 J Street, Suite 300, Sacramento, California 95814 Telephone: (916) 445-0255 Fax: (916) 327-0019

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# Summary

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## *Results in Brief*

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We received an allegation under the Reporting of Improper Governmental Activities Act (act) that two officials, official A and official B, husband and wife, at California State University, Dominguez Hills (CSUDH), violated state conflict-of-interest laws. According to the complaint, official A also imprudently signed an agreement to establish a degree program in Israel. In addition, he improperly deposited funds from self-supporting programs into a nonstate account under his control. Further, he improperly authorized expenditures from nonstate accounts under his control to pay for food and entertainment for himself, staff, and faculty.

We investigated and substantiated these allegations. Specifically, based on the evidence we reviewed, we concluded the following:

- Because of their assigned positions and responsibilities at CSUDH, officials A and B had apparent conflicts of interest when they signed contracts that benefited official B.
- Evidence also suggests that official A had a conflict of interest when he approved the use of state funds under his control to hire employees to work for official B.
- Official B improperly accepted gifts totaling \$3,979 from organizations and subsequently participated in making contracts with those organizations. Moreover, she failed to disclose these gifts.
- Official A imprudently signed a contract on behalf of CSUDH without obtaining the proper approvals and despite provisions in the contract that were in violation of state law.
- Official A improperly deposited \$186,000 into a nonstate account even though state law required that these funds be deposited in a state account.

- Official A improperly allowed more than \$18,000 to be used for food, entertainment, and other questionable expenses.

### ***Agency Response***

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Official A resigned his administrative position effective March 31, 1998, and official B resigned her administrative position effective April 1, 1998. Because the CSUDH president assigned officials A and B to their respective areas of responsibility and because he was aware of some of their activities regarding the contracts, we submitted our report to the chancellor of California State University (CSU). CSU believes that the improper activities we reported resulted from poor judgment and questionable business practices at the Dominguez Hills campus. Although CSU believes the activities created an appearance of impropriety, CSU does not believe the two officials violated the law. Nevertheless, CSU has taken action to strengthen controls over salary payments, expense reimbursements, and the deposit of state funds.

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# *Introduction*

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The Bureau of State Audits administers the Reporting of Improper Governmental Activities Act (act), which is contained in Section 8547 et seq. of the California Government Code. The act defines an improper governmental activity as any activity by a state agency or employee during official duties that violates any state or federal law or regulation; is economically wasteful; or involves gross misconduct, incompetence, or inefficiency.



To enable state employees and the public to report improper governmental activities, the state auditor maintains a toll-free whistleblower hotline at (800) 952-5665. The Bureau of State Audits receives and investigates these complaints.

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## ***Allegation***

Two officials of California State University, Dominguez Hills (CSUDH), violated conflict-of-interest laws because they benefited from contracts they signed on behalf of CSUDH. In addition, the first official, official A, imprudently signed a flawed agreement to establish a degree program in Israel. He also improperly deposited funds into a nonstate account under his control even though, according to state law, the funds should have been deposited into a state account. Finally, official A improperly allowed funds from accounts under his control to be used for the personal benefit of other faculty members, his staff, and himself.

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## ***Background***

In August 1990, the president of CSUDH appointed official A as an administrator of the CSUDH School of Management (SOM). In January 1995, official A gained the additional responsibility of leading the CSUDH University Advancement Office. To generate resources and internationalize the SOM and CSUDH, official A was responsible for overseeing efforts in promoting partnerships with organizations in other countries.

In January 1994, the CSUDH president established the Center for Policy Research and Evaluation (center) as part of CSUDH, under the direction of official B, who at the time was a faculty member at the CSUDH School of Health. The center is a research resource for CSUDH and the public. According to the CSUDH president, funds from external projects developed by official B would support the center. However, the president expected that official B's salary would come from state funds as well as external projects. Beginning July 1996, while official B was serving as an administrator of the center, the CSUDH vice president for academic affairs appointed her as an administrator of the School of Health on a three-quarter time basis. The remaining one-quarter time was for her teaching responsibilities.

### ***Scope and Methodology***

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To investigate the allegations, we reviewed the CSUDH foundation (foundation) accounts under the control of officials A and B. The foundation is a nonprofit auxiliary that supports CSUDH educational programs. Among its many functions, the foundation provides financial management services for CSUDH discretionary accounts and self-supporting programs.

We also reviewed contracts entered into by officials A and B to determine if the officials had conflicts of interest. Further, we reviewed the officials' annual statements of economic interests to determine if they disclosed any gifts.

Further, we reviewed payroll information from CSUDH as well as the foundation. Moreover, we interviewed the president, the officials, and other CSUDH employees. Finally, we consulted with the Fair Political Practices Commission and our attorney.



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# Chapter 1

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## *Two Officials Had Apparent Conflicts of Interest*

### *Chapter Summary*

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The California State University, Dominguez Hills (CSUDH), president did not perceive any conflict of interest when he appointed official B as administrator of the Center for Policy Research and Evaluation (center) because she did not report to her spouse, official A. However, because of their respective appointments and responsibilities at CSUDH, we believe officials A and B had conflicts of interest. Specifically, official A signed three contracts between CSUDH and clients in Singapore and South Africa that benefited his spouse. Further benefiting his spouse, official A approved hiring employees with state funds from divisions under his responsibility to work for the center under official B's direction. Official B also had conflicts of interest when, as an administrator of the center, she entered into agreements with other CSUDH and outside entities that benefited herself.

### *Official A Signed Contracts That Benefited His Wife*

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*Government officials owe paramount loyalty to the public interest.*  
—◆—

Conflict-of-interest laws are grounded on the notion that government officials owe paramount loyalty to the public interest.<sup>1</sup> The objective of these laws is to limit the possibility of any personal influence that might bear on an official's decision. In addition, case law and common law also prohibit conflicts of interest on the part of government officials.

As part of his effort to generate resources for the CSUDH School of Management (SOM) and CSUDH, in early 1995, official A signed a contract, along with the CSUDH president and vice president, for more than \$100,000 with a client in Singapore. The contract required official B's center to assist in establishing a program to prepare junior college graduates to transfer to CSUDH or other American universities. In April 1995, official A also signed two contracts for more than \$576,000 with a joint venture in South Africa. No other


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<sup>1</sup> For a more detailed description of the specific prohibitions contained in law, see the Appendix.

CSUDH officials signed along with official A on these contracts. Again, official A engaged his wife's center to provide consulting and academic services to develop bachelor and master degree programs in business administration for a university in South Africa. Although these contracts generated revenue for CSUDH and the CSUDH foundation (foundation), these CSUDH clients benefit from a prestigious affiliation with California State University (CSU). The CSUDH president did not perceive any conflict of interest on the part of official A because he believed that official A's and official B's jobs were complementary. However, we believe official A's involvement in the contracts created a conflict of interest because all of these contracts financially benefited official A's spouse, official B.

### ***Contract With the Client in Singapore***

In winter 1994, officials A and B traveled to Singapore to develop a partnership with a private high school. In early 1995, official A, together with the CSUDH president and the vice president for academic affairs, signed a contract with the school to assist in establishing a junior college program to enable the students to transfer to upper-division programs at CSUDH. Under the guidance of the vice president for academic affairs, the center would coordinate all CSUDH academic activities, maintain student evaluation information, regularly review program faculty, maintain academic credit records, and regularly evaluate the program. Official A would coordinate all partnership activities, especially financial matters.

  
*Under the contract signed by official A, his spouse's center would receive \$70,000.*

The school in Singapore contracted to pay CSUDH a development cost of \$100,000 in addition to an annual fee of \$1,000 per student. Of the \$100,000, the center would receive \$70,000, while the CSUDH academic affairs office, the SOM, and the CSUDH University Advancement Office (advancement office) would each receive \$10,000. In early 1995, the school paid the \$100,000. In accordance with the terms of the contract, official A directed that \$70,000 be deposited into the center's nonstate foundation account.<sup>2</sup>

Official B set up the center's nonstate account at the foundation in November 1994. Even though her supervisor, the vice president for academic affairs, approved the account, official B is the only person authorized to make disbursements from it. In effect, she has full control of this account. From

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<sup>2</sup> Contrary to the terms of the contract, which specified that the remaining funds be paid to CSUDH units, official A directed that approximately \$30,000 be deposited into another nonstate account that he controls.

July 1995 through June 1997, in addition to her state salaries for positions held on the faculty and in administration, official B authorized \$58,350 in salary payments to herself from the account. We discuss these payments in more detail later in this report. Because official B obviously benefited financially from the contract with the school in Singapore, her husband, official A, also benefited. Based on this, we believe he violated the conflict-of-interest law.

### ***Contracts With Clients in South Africa***

Officials A and B also traveled to Johannesburg, South Africa, in 1995 to develop a partnership with a joint venture between a university and a private enterprise there. During the trip, official A signed contracts with the joint venture to assist in developing bachelor and master degree programs in business administration for the university. Official A later reported to the CSUDH president that program evaluation services for the contracts would be conducted by the center, whereas the rest of the services would be provided by the SOM. According to the contracts, the university would provide the majority of the lectures and award master and bachelor degrees in business administration in association with CSUDH, whose assistance and cooperation would be acknowledged on the degree certificate.

  
*The contracts official A signed with the joint venture in South Africa were expected to financially benefit his wife.*

For CSUDH's services related to the master degree, the joint venture agreed to pay over \$496,000. For CSUDH's services related to the bachelor degree, the joint venture agreed to pay CSUDH \$80,000 to evaluate its degree curriculum and all course material. According to official A, as of October 1997, the master degree program was under reexamination since the rate of exchange of South Africa's currency made the economic viability of the program questionable. He further stated that the bachelor degree program was progressing, but slower than anticipated.

Even though the center has not provided any services on the contracts, nor has the joint venture paid any money to CSUDH for the center's services, the contracts official A signed with the joint venture in South Africa were expected to benefit his wife financially. Thus, official A again had conflicts of interest.

### ***Official A Paid Center Employees With State Funds for His Wife's Benefit***

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*Officials A and B misrepresented personnel data to charge two CSUDH offices \$21,700 for unrelated work, benefiting official B's center.*  
—◆—

Official A had conflicts of interest when he approved hiring six employees with state funds from divisions he oversaw to work for official B's center. Specifically, from 1994 to 1997, official A approved hiring six employees who worked for official B at the center. Officials A and B misrepresented information on various personnel documents to charge the advancement office and the SOM more than \$21,700 for these employees' salaries from 1994 to 1997, even though much of the work they performed was not related to either the advancement office or the SOM.

Since the center was created in January 1994, official B developed a number of projects to fund its operation. She deposited revenues generated from these projects into the center's nonstate account. From 1994 to 1997, the center had paid some student employees' salaries from this account; however, during this same time period, the SOM and the advancement office also paid more than \$21,700 in salaries for center employees.<sup>3</sup> Table 1 shows the payment details and the parties who approved hiring the employees.

Presumably, center employees who were paid with state funds from the SOM and the advancement office should only work on projects related to those two entities. In February 1994, official A requested the center to perform an alumni survey for the SOM and stated that the project was not to exceed \$10,000. In June 1995, he also requested the center to conduct a marketing survey for CSUDH, funded by the CSU Chancellor's Office (chancellor's office) through the advancement office. The project was not to exceed \$30,000. Official A stated that the center would be compensated for these projects through the recovery of the cost for the actual personnel, materials, and equipment utilized to perform the projects.

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<sup>3</sup> The SOM and the advancement office also paid approximately \$11,800 in salaries to four other student employees who worked at the center. However, we were unable to contact three of these employees to determine the nature of the work they performed. The remaining employee could not remember the projects she worked on while at the center. Therefore, we could not determine if these salary payments were improper.

**Table 1**

***Center Employees Paid With State Funds***

<b>Employee</b>	<b>Amount Paid</b>	<b>Year</b>	<b>Unit Paying</b>	<b>Approving Parties</b>
A	\$ 2,289.25	1994	School of Management	Official A and his secretary
B	3,896.00	1995	School of Management	Official A
C	3,763.15	1995 and 1996	University Advancement Office	Officials A and B
D	846.80	1996	University Advancement Office	Officials A and B
E	6,321.92	1996	University Advancement Office	Officials A and B
F	4,592.20	1996 and 1997	University Advancement Office	Officials A and B
<b>Total</b>	<b>\$21,709.32</b>			

However, the employees did not just work on the two projects for the SOM and the advancement office; they also worked on other projects that generated revenues for the center and thus, for official B. In fact, employee A does not recall working on any SOM projects. Employee B worked on other revenue-generating projects, including the Singapore contract, during May and June 1995, while employee C worked on a variety of center projects, including two revenue-generating projects. Employee D worked on a conference (for which official B was a program chairperson) and a center project funded in part by the Kaiser Foundation. Employees E and F worked on a variety of center projects unrelated to the SOM or the advancement office. Therefore, it appears official A had conflicts of interest when he approved hiring these employees to work for official B.

***Official B Entered Into Agreements Benefiting Herself***


It also appears that Official B had conflicts of interest when she entered into agreements in which she held a financial interest. These agreements included contracts, subcontracts, or grants

awarded to the center. Under the California Government Code, Section 1090, all of these agreements are considered contracts. Specifically, from November 1994 to July 1997, official B entered into ten agreements worth more than \$298,000 with other CSUDH departments or outside entities.<sup>4</sup> Of the ten projects official B obtained for the center, four—worth \$88,400—were with the School of Health, where she served as a faculty member and administrator.

As mentioned earlier in this report, official B established a nonstate account with the foundation. State regulations require that funds from foundation accounts be used for purposes consistent with CSU policies. In addition, since CSUDH is a public trust, it must spend its foundation funds prudently and in the best interests of CSU's goals.



*Official B made trips to Aruba, Acapulco, Israel, Athens, Paris, and Amsterdam to attend conferences, explore partnerships, and gather research materials.*



Even though the vice president for academic affairs approved the account, official B is the only person authorized to make disbursements from it, giving her full control of its funds. From February 1995 through June 1997, official B deposited over \$254,000 from the ten projects into this account, representing over 90 percent of all moneys in that account during that time period. Official B used this money for trips to Aruba, Acapulco, Israel, Athens, Paris, and Amsterdam to attend conferences, explore partnerships, and gather research materials on behalf of the center. In addition, she paid the operating expenses of the center, such as wages, supplies, and equipment. As of July 1997, the account had a balance of approximately \$144,000.

However, from July 1995 through July 1997, official B authorized a total of \$58,350 in salary payments to herself from this nonstate account, thereby circumventing CSUDH's payroll system. Of the \$58,350, official B authorized \$41,850 in salary payments to herself for her work on three projects: the Pacific Pipeline Community Needs Assessment, the Compton Community Needs Assessment, and the marketing survey for the Don Bosco Technical Institute. The remaining \$16,500 was for her work as the center's administrator.

Although the CSUDH president expected that official B's duties as the center's administrator would be compensated through her state salary and externally funded projects, he did not know that she paid herself from the center's account. The president said, however, as a faculty member, official B was able to receive additional payment for services consistent with the

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<sup>4</sup>In addition to these ten projects, official B also entered into other agreements with CSUDH departments or outside entities and did not deposit funds from these agreements into the center's account. However, in these cases, she did not authorize any salary payments to herself.

Over a two-year period,  
official B authorized a  
total of \$58,350 in  
payments to herself.

collective bargaining agreement. In fact, the memorandum of understanding with the faculty's collective bargaining unit allows for compensation by CSU campuses from the State's General Fund, or other outside funds, for employment beyond the primary faculty appointment. The additional compensation, referred to as "overage," is limited to no more than 25 percent of a full-time position. The memorandum does not apply to administrators. No limit is placed on compensation earned by faculty on a ten-month time base during the summer or other breaks in the academic year.

We believe that official B's payments to herself are not allowed under this section of the memorandum of understanding for the following reasons:

- First, official B was already paid by the State for her work as the center's administrator from 1995 through June 1996.
- Second, beginning in July 1996, official B was a three-quarter time, 12-month administrator and only a quarter-time, 10-month faculty member. Consequently, we do not believe that official B's primary employment was as a faculty member.
- Third, official B made these payments to herself from a nonstate account at the foundation; they were not made by CSUDH. Consequently, payments from the foundation would not meet the memorandum of understanding's criteria for "overage" payments. Even though official B's supervisor, the vice president for academic affairs, signed off on most of the payroll documents that allowed official B to pay herself, official B was the only person who could authorize these salary payments. By paying herself from this account, she circumvented controls that could have ensured that her compensation was in accordance with CSU's policies.

Table 2 shows compensation paid to official B from 1995 through June 1997. In addition to salary payments from the center account, official B received her full-time salary as a faculty member and an administrator at the School of Health, as well as other income from the foundation for other projects she procured as a faculty member. Because official B did not control the payments from other foundation accounts, they did not create a conflict of interest.

**Table 2**

***Salary Payments Official B  
Received From 1995 Through June 1997***

<b>Year</b>	<b>State Salary</b>	<b>Payments From Center</b>	<b>Payments From Other Projects</b>	<b>Total</b>
1995	\$56,600	\$17,500	\$11,260	\$85,360
1996 <sup>a</sup>	70,880	24,350	500	95,730
Through June 1997	42,030	16,500	500	59,030

<sup>a</sup>Official B became an administrator at the School of Health in July 1996.

As the only individual controlling the center and its nonstate account, official B obviously had a financial interest in the projects she obtained for the center. Additionally, her financial interest creates a conflict of interest when she negotiates and enters into agreements to provide services for the center's clients.



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# Chapter 2

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## *It Appears That Official B Also Violated the Political Reform Act*

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### *Chapter Summary*

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Official B appears to have violated the Political Reform Act of 1974 when she accepted prohibited gifts and participated in agreements in which she had a financial interest. Specifically, official B participated in making contract decisions with the school in Singapore after accepting prohibited gifts of airfare and lodging valued at \$2,174. In addition, official B participated in making two contracts with the joint venture in South Africa after receiving airfare and lodging worth \$1,805. Official B also failed to disclose these gifts on her statement of economic interests.

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### *The Political Reform Act of 1974*

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The Political Reform Act of 1974 states that no public official shall participate in making, or in any way attempt to use an official position to influence, a government decision in which that public official knows or has reason to know he or she has a financial interest. State law also prohibits state employees from accepting gifts of more than \$250 from any single source in any calendar year if that individual should report it on a statement of economic interests.

—◆—  
*Official B was prohibited from accepting gifts of more than \$250 from any single source in any calendar year. Gifts include travel expenses.*  
—◆—

According to state law, certain employees who are identified by their hiring authority as “designated employees” are required to disclose in their statements of economic interests the name and address of each source of income aggregating \$250 or more in value, or \$50 or more in value if the income was a gift. State law defines income as any payment received, including any gift of food or beverages, reimbursement for expenses, per diem, etc. Likewise, California State University’s (CSU) conflict-of-interest policies require a principal investigator to disclose a direct or indirect financial interest in a nongovernmental research sponsor for a contract or grant of \$250 or more. According to these policies, a principal investigator is any employee with primary responsibility for a research project supported, in whole or in part, by a contract or grant from a nongovernmental entity.

Although official A entered into contracts with clients in Singapore and South Africa on behalf of California State University, Dominguez Hills (CSUDH), CSU has not designated him as an employee who must report financial interests in these types of contracts. However, because official B serves as a principal investigator on a number of CSUDH projects, she is a designated employee and must submit statements of economic interests.

### ***Trips to Singapore and South Africa***

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As mentioned earlier in this report, in 1994 officials A and B traveled to Singapore to develop a partnership with a private high school. According to the school's parent company, official B visited Singapore to finalize arrangements for the Center for Policy Research and Evaluation (center) to assist the school with a two-year college degree program in Singapore. Official A was there to negotiate the partnership between CSUDH and the school.

The State paid for official A's airfare and per diem for the trip. However, the school's parent company told us that it paid approximately \$1,150 for official B's airfare and \$2,047 for a room at the Four Seasons Hotel for both officials A and B. Thus, official B's share of the hotel charges would be half of the \$2,047, or \$1,024. In total, official B accepted \$2,174 in airfare and lodging.

◆  
*For official B's airfare and lodging, one company paid \$2,174 for a trip to Singapore in 1994 and another company paid \$1,805 for a trip to South Africa in 1995.*


In 1995, officials A and B also traveled to Johannesburg, South Africa, to develop a partnership with a joint venture there. According to the joint venture, it paid for all the officials' travel expenses, including approximately \$1,273 each for airfare and \$1,064 for a room at the Carlton Hotel in Johannesburg. Thus, official B's half of the hotel charges would be \$532. Even though the joint venture also paid for some of the officials' meals during the trip, we could not determine their value. In total, official B received \$1,805 in travel and lodging.

During the trip, official A signed the contracts with the joint venture, discussed earlier. According to official B, she was there at the invitation of the private enterprise to assess its programs as part of another contract she has with the enterprise. In addition, she stated that she participated in the discussions with the private enterprise to establish partnerships and advise them on international evaluation issues.


As stated earlier, official A was not required to disclose the gifts he received. However, although official B was required to do so, she failed to report them on her annual statements of economic interests. Moreover, since official B participated in making decisions related to the contracts, she had apparent conflicts of interest.

CSUDH's president approved these trips to Singapore and South Africa. If CSUDH had paid for all of the expenses and obtained reimbursement from the businesses, the reimbursements would not have been considered gifts under the Political Reform Act of 1974.

The CSUDH president knew that CSU's clients paid for some of the officials' expenses. However, he said that he has neither the responsibility nor authority to review statements of economic interests.



*The CSUDH president said he has neither the responsibility nor authority to review officials' statements of economic interests.*



In fact, statements of economic interests are public documents. Moreover, they can, and should, be an important management tool. By reviewing statements of economic interests, state managers can ensure they are not assigning employees responsibilities that create conflicts of interest and ethical dilemmas. Further, one of the purposes of the Political Reform Act of 1974 is to ensure that public officials disclose assets and income which may be materially affected by their official actions, and that they are disqualified from participating in such actions to prevent conflicts of interests.

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# Chapter 3

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## ***Official A Imprudently Signed an Agreement That Contained Provisions Violating State Law***

### ***Chapter Summary***

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Official A imprudently signed an agreement in February 1996 with an entrepreneur in Israel to establish a branch in that country to offer a bachelor's degree in business administration. Specifically, official A violated the California State University (CSU) chancellor's executive order when he signed the agreement without submitting it for legal review and without advising the chancellor's office of the program. In addition, the agreement violated state law because it stipulated program revenues would be deposited into the California State University, Dominguez Hills (CSUDH) foundation instead of the state treasury.

### ***Restrictions on International Programs***

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State law requires revenues from extension programs, special sessions, and other self-supporting instructional programs to be deposited in the state treasury and credited to the Continuing Education Revenue Fund (CERF). Further, the CSU Chancellor's Executive Order Number 448 states that the campus president shall ensure all sponsored out-of-state and international programs are established and managed in accordance with state laws, the laws of the location in which the program is offered, the policies of the Board of Trustees, and all pertinent directives issued by the CSU chancellor.

The same executive order also requires the campus president to establish procedures for the evaluation, review, and approval of all aspects of these external programs, including academics; contracts; faculty; and fiscal, legal, and logistical arrangements. The president must file this information with the dean of extended education in the chancellor's office at least 60 days prior to the initiation of the program, and must routinely advise the dean on the status of the program.

In addition, the executive order states that contracts must be reviewed and approved by the Office of General Counsel (university counsel) in the chancellor's office. Further, it requires that the campus president appoint a program director.



### ***Official A's Efforts To Establish a Degree Program in Israel***

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In 1995, after a trip to Israel with his wife, official A sent draft proposals for collaborative agreements to two entrepreneurs. One agreement would establish a CSUDH business administration degree program in Hod-Hasharon and the other would establish a similar program in Nazareth, Israel.

In late 1995, one entrepreneur visited official A at CSUDH to discuss the program in Hod-Hasharon. Subsequent to this visit, official A discussed the proposal with the CSUDH's accreditation representative, president, and the School of Management (SOM) corporate board. In December 1995, the Council for Higher Education in Israel (council) stated that its approval was required for opening a branch of a postsecondary foreign institution there.

On February 12, 1996, official A, designated as a campus representative by the CSUDH president, signed an agreement with the entrepreneur to establish the branch in Hod-Hasharon. However, official A signed the agreement without advising the chancellor's office of the proposed program and without submitting it to the university counsel in the chancellor's office for review and approval.

  
*Official A signed an agreement to establish a degree program in Israel without advising the chancellor or submitting it to the university counsel.*  


Furthermore, the agreement specified that yearly tuition and fees of \$5,000 per student would be paid to the CSUDH foundation, rather than to the CERF, as required by state law. The agreement also stipulated that the entrepreneur would receive 30 percent of the revenues generated by tuition and fees for support services.

The parties also agreed to potentially expand the program in the future to include additional degree programs. Both understood that the agreement was subject to the approval of the council in Israel and the accrediting commission for senior colleges and universities of the Western Association of Schools and Colleges (WASC).

The agreement stipulated that the program must attract at least 150 new students each year to remain economically viable. It further stipulated that all CSUDH activities for the program would be coordinated by the dean of the SOM or his designee.

### ***Official A's Efforts To Obtain Approval for the Degree Program***

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In May 1996, official A submitted a proposal to offer a bachelor's degree in business administration in Hod-Hasharon to the accrediting commission of the WASC for approval. The proposal submitted did not include the agreement he had already signed on behalf of CSUDH with the entrepreneur in Israel. Instead, the proposal contained an unsigned, modified version of the agreement. Because of a number of significant concerns with the proposal, the committee deferred taking any action.

After official A consulted with a local private attorney, his supervisor—the vice president for academic affairs—submitted a revised draft agreement to CSU's university counsel. We could find no evidence that the university counsel was aware that official A had already signed a contract for the program.

—◆—  
*Official A attempted to obtain approvals after the fact and without disclosing he had already signed a contract.*  
—◆—

In July 1996, a lawyer from the university counsel stated that the draft agreement he reviewed failed to incorporate the laws and policies applicable to CSU and, as a result, did not adequately protect CSU's interests. The university counsel noted the extreme complexity of the project, expressed his disappointment that his office was not asked to review the project earlier, and cautioned CSUDH to comply with laws and policies to protect its interests. He also suggested that an Israeli counsel review the agreement to determine what Israeli laws may affect the project.

The CSUDH's SOM and academic affairs office, incorporating the university counsel's suggestions, revised the proposal and resubmitted it to the WASC in November 1996. Again, CSUDH did not submit the same agreement official A already signed with the entrepreneur. In December 1996, the WASC approved the revised proposal.

In late 1996, the entrepreneur and official A each submitted an application to the council in Israel for permission to operate a CSUDH branch in Israel. In early 1997, CSUDH also submitted a program proposal to the council. As of October 1997, the council had not yet approved the program.

We believe that the WASC, the university counsel, and the private attorney, who each reviewed a different version of the agreement, were not aware that official A had already signed an agreement with the entrepreneur. We asked the CSUDH president why it did not submit the signed contract to the university counsel or the WASC. He did not answer our question, but said that he reviewed the proposed program

and identified multiple problems with the program, including economic unfeasibility. One month after we met with the president on this issue, official A rescinded the contract. The president told us that all efforts in connection with the program have ceased.



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# Chapter 4

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## *Improper Use of State Funds*

### *Chapter Summary*

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Official A improperly deposited \$186,000 in student fees into a nonstate account in violation of state law. In addition, he improperly authorized the use of more than \$18,000 in funds deposited in nonstate accounts to pay for food, entertainment, and other questionable expenses.

### *Official A Improperly Deposited State Funds Into a Nonstate Account Under His Control*

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Official A improperly deposited \$186,000 in student fees from self-supporting instructional programs into a nonstate account he controls, in violation of the law. Although he transferred approximately \$104,000 to the extended education division's Continuing Education Revenue Fund (CERF) account, he also used the revenues to pay for his international business trips and meals.

—◆—  
*Although state law required official A to deposit the revenues in a state account, he deposited \$186,000 in a nonstate account under his control.*  
—◆—

As stated earlier, state law and California State University (CSU) policy require revenues from self-supporting instructional programs to be deposited in the state treasury, credited to the CERF, and used solely for the support and development of these same instructional programs. Beginning in 1992, official A developed several special self-supporting MBA programs through the School of Management (SOM), including an accelerated on-site program at Hyundai Motor America, an instructional television program for Hughes Corporation employees, and a program on public television.

Despite requirements to use California State University, Dominguez Hills' (CSUDH) CERF account, in September 1992, official A set up a nonstate account to receive student fees for these programs. The official was the sole signer on the account, and from August 1993 to October 1995, he deposited more than \$186,000 of student fees into the account. Of this amount, approximately \$104,000 was transferred to the extended education division's CERF account for its services. The funds were transferred before our investigation began and without our intervention.

Official A also used funds from this account to pay \$13,700 for three international business trips authorized by the CSUDH president. In July 1996, official A and his wife traveled to Athens to attend an Academy of Business Administration conference. Afterward, they traveled to Tel Aviv and Paris for partnership negotiations. In December 1996, they went to Acapulco for another Academy of Business Administration conference, and in June 1997, they went to Israel and Amsterdam to explore partnerships and collect research materials. Although these trips were authorized, these funds were intended to support self-supporting instructional programs, not unrelated business travel.

Further, official A used funds from this account to pay for some of his lunches with CSUDH employees and visitors. He also transferred \$15,000 from this account to another nonstate account under his control, which paid for other lunches.

***Official A Improperly  
Authorized Funds for  
Food and Entertainment***

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—◆—  
*Official A spent more than \$18,600 for lunches with other CSUDH employees, staff parties, faculty meeting refreshments, and flowers for employees.*

Official A improperly authorized funds deposited in nonstate, CSUDH foundation (foundation) accounts under his control to pay for various expenses he and his staff incurred. From June 1993 through April 1997, official A improperly authorized the payment of more than \$18,600 for food, entertainment, and other questionable expenses. Specifically, he improperly authorized \$6,600 for lunches he had with other CSUDH employees, \$5,500 on employee entertainment and parties, \$4,500 for refreshments and food during staff and faculty meetings, \$1,000 for lunches his staff had with other CSUDH employees, and \$1,000 on flowers he sent to various staff members.



The California Constitution prohibits gifts of public funds. In determining whether an appropriation of public funds is to be considered a gift, the primary question is whether funds are to be used for public or private purpose. State law also prohibits a state employee from using the prestige or influence of the State for private gain. Consequently, state funds should not be spent for personal purposes.

State regulations require that foundation accounts be used for purposes consistent with CSU policies. In addition, CSUDH is a public trust with a responsibility to spend its foundation funds prudently and in the best interests of CSUDH's goals.

Further, state law requires that the CSUDH president ensure all foundation expenditures are in accordance with policies of the Board of Trustees.

State regulations specifically prohibit state employees from claiming meal expenses where business is incidental to the meal or attendance is primarily for public relations. In addition, these regulations prohibit payment of meal expenses incurred within 25 miles of an employee's headquarters. The CSU policy on business-related meals states that in order to claim reimbursement, the circumstances surrounding the meal must be beyond the control of the employee and it must be impractical to complete the business during normal work hours. It further states that the intent of the policy is to allow reimbursement of employees for meal expenses in the limited number of instances where they are required to incur such expenses in connection with the conduct of official university business.

From June 1993 through April 1997, official A improperly authorized or claimed approximately \$6,600 in lunches he had with other CSUDH employees. Specifically, official A authorized or claimed \$5,100 on 146 lunches with his staff from the SOM and the CSUDH University Advancement Office (advancement office), including lunches with his secretaries and clerical assistants who processed the reimbursement claim forms. The remaining \$1,500 was spent on 48 lunches with other CSUDH staff, including the president. Official A also spent approximately \$1,000 on flowers he sent to various staff members.

  
*Of the 146 occasions that official A paid for lunch with members of his staff, 122 were routinely with five individuals.*  


Official A usually conducted these lunches in two restaurants just minutes away from the campus. Of the 146 occasions that the official had lunch with his staff from the SOM and the advancement office, 122 of them were routinely with five staff members. Even though some lunches presumably were conducted to discuss business, two individuals who regularly attended these lunches stated that the lunches were not necessary since not much business was discussed. These individuals stated that official A would ask them to pay for the lunches and then submit a reimbursement claim. Official A generally approved these claims. In a few instances, another official approved the claims.

We also found that on four separate occasions, official A improperly authorized or claimed two different lunches on the same day. For example, on August 16, 1995, official A claimed that he had lunch with an SOM faculty member. However, official A also authorized a reimbursement claim

submitted by a subordinate for a lunch he had with the subordinate and other CSUDH staff on the same day. We did not determine the reasons for these discrepancies.

—◆—  
*Official A authorized \$700 for a graduation party for his assistant when she received a bachelor's degree and she herself authorized \$100 to celebrate her master's degree.*  
—◆—

In addition to using funds for staff lunches, official A authorized over \$11,000 for food, entertainment, and other inappropriate expenses. Of this amount, approximately \$5,500 was spent on entertainment expenses for staff members (e.g., holiday, farewell, and graduation parties). For example, official A authorized more than \$700 for a graduation reception for his assistant when she received a bachelor's degree and she herself authorized more than \$100 for a celebration when she received her master's degree.

Official A also authorized \$4,500 for refreshments and food during faculty and staff meetings and \$1,000 in lunches his staff had with other CSUDH employees. Over \$400 alone was for lunches official A's assistant had with other CSUDH staff.

Prior to July 1995, the foundation accounted for a majority of the improper or questionable expenses for food and entertainment simply as withdrawals. However, since July 1995, the foundation accounted for a majority of these improper or questionable expenses as public relations expenditures. However, these expenses cannot promote goodwill for CSUDH since the only people to benefit from them were CSUDH staff.

We conducted this investigation under the authority vested in the California State Auditor by Section 8547 of the California Government Code and in compliance with applicable investigative and auditing standards. We limited our review to those areas specified in the scope of the report.

Respectfully submitted,



KURT R. SJOBERG  
State Auditor

Date: April 21, 1998

Investigative Staff: Ann K. Campbell, Director, CFE  
Stephen Cho, CFE, CGFM

Audit Staff: David C. Hawkes, CPA  
Harvey L. Hunter Jr., CPA  
Robert W. Langhi

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# *Conclusion*

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**T**wo officials at California State University, Dominguez Hills (CSUDH), had conflicts of interest because of their respective positions and responsibilities. Official A had a conflict of interest when he signed contracts with clients in Singapore and South Africa that benefited his spouse, official B. He also had a conflict of interest when he approved the hiring of several employees with state funds from divisions he oversaw to work for his spouse. Official B also had a conflict of interest when she entered into agreements from which she personally benefited. Moreover, she circumvented CSUDH's controls over compensation by paying herself out of a nonstate, CSUDH foundation account.

In addition, official B accepted prohibited gifts from clients in Singapore and South Africa and later participated in making the contracts with them. She also failed to disclose these improper gifts.

Official A also imprudently signed an agreement to establish a degree program in Israel. Further, he improperly deposited revenues from self-supporting programs into a nonstate account that he controls. Finally, he improperly claimed and authorized funds from nonstate accounts that he controls to pay for food and entertainment for himself, his administrative staff, and other faculty.

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# Appendix

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## State Laws

This appendix provides more detailed descriptions of state laws governing employee conduct and prohibiting the improper governmental activities detailed in this report.

### ***Conflicts of Interest Restrictions***

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The California Government Code, Section 1090, prohibits state officials from possessing financial interest in any state contract made by them in an official capacity. Prohibited financial interests are not limited to express agreements for benefits and need not be proven by direct evidence. Rather, forbidden interests extend to expectations of benefit by express or implied agreement and may be inferred from the circumstances.

The meaning of a contract “made” by a state official encompasses preliminary discussions, negotiations, compromises, reasoning, and planning. The code section exists to strike not only at actual impropriety, but also at appearances of impropriety. It also discourages deliberate dishonesty. The fact that a contract is fair and untainted by fraud is irrelevant.

Further, the courts have determined that conflict-of-interest laws are concerned with any interest, other than perhaps remote or minimal interest, preventing state officials from exercising absolute loyalty and undivided allegiance to the best interest of the State. The fact that the interest might be small or indirect is immaterial so long as it deprives the State of an official’s overriding fidelity and places the official in a compromising situation where, in exercise of official judgment or discretion, the official may be influenced by personal considerations rather than public good.

In addition, case law has shown that public employees may be in violation of this statute, whether or not they actually participated personally in the execution of the questioned contract, if it is established that they had the opportunity to and did influence execution directly or indirectly to promote their personal interests. Also, the court has stated that, however devious and winding the trail may be that connects a state official with the prohibited contract, if it can be followed and connection made, a conflict of interest is established.

Further, Section 1097 of the California Government Code states that every state official who willfully violates such laws is punishable by a fine of not more than \$1,000 or by imprisonment. That official is forever disqualified from holding any office in this State.

In addition to specific statutory prohibitions, common law doctrines against conflicts of interest exist. Common law is a body of law made by decisions of the California Supreme Court and the California Appellate Courts. Both the courts and the attorney general have found conflicts of interest by public officials to violate both common law and statutory prohibitions. For example, common law doctrines state that a public officer is bound to exercise the powers conferred on the officer with disinterested skill, zeal, and diligence and primarily for the benefit of the public. Further, another judicial interpretation of common law doctrine is that public officers are obligated to discharge their responsibilities with integrity and fidelity. According to the attorney general, where no conflict is found in statutory prohibitions, special situations could still constitute a conflict under the long-standing common law doctrine.

### ***The Political Reform Act of 1974***

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Section 87100 of the California Government Code, part of the Political Reform Act of 1974, states that no public official shall make, participate in making, or in any way attempt to use an official position to influence a government decision in which that public official knows or has reason to know he or she has a financial interest. The official would have a financial interest if the decision will have a material financial effect on the official, his family, or any source of income or gift totaling \$250 or more provided or promised to the official within 12 months prior to when the decision is made.<sup>5</sup> Participation in decision-making includes negotiations, advice by way of research, investigations, or preparation of reports or analyses for the decision maker.

According to state law, to avoid financial interest based upon the acceptance of a gift exceeding the prohibited amount, the recipient must return the gift or reimburse the donor within 30 days of acceptance. The return or reimbursement must occur before the official makes the government decision.

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<sup>5</sup>The gift limit of \$250 is adjusted biennially by the Fair Political Practices Commission. The limit was \$270 for calendar years 1993 and 1994, and \$280 for calendar years 1995 and 1996.



For the purposes of the Political Reform Act of 1974, Section 82030 of the California Government Code defines income as any payment received, including any gift of food or beverages, reimbursement for expenses, per diem, etc. Section 82028 of the same code defines a gift as any payment or other benefit provided to a public official for which the official did not provide any goods or services of equal or greater value. In addition, Section 89503(c) of the same code states that no board or commission members, or designated employee of a state or local agency, shall accept gifts from any single source of more than \$250 in any calendar year if that individual would be required to report it on a statement of economic interests.

According to state law, designated employees are required to disclose in their statements of economic interests the name and address of each source of income aggregating \$250 or more in value, or \$50 or more in value if the income was a gift.

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# *Agency Response*

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**B**ecause the president of California State University, Dominguez Hills (CSUDH), assigned officials A and B to their respective areas of responsibility and because he was aware of some of their activities regarding the contracts, we submitted our report to the chancellor of California State University (CSU) for corrective action. CSU believes that the improper activities we reported resulted from poor judgment and questionable business practices. Although CSU believes the activities created an appearance of impropriety, CSU does not believe the two officials violated the law.

Specifically, while CSU believes that the contracts for programs in Singapore and South Africa benefited CSUDH and the Center for Policy Research and Evaluation (center), CSU believes that better judgment could have avoided the appearance of impropriety. However, CSU does not believe that official B benefited financially from the contracts.

Similarly, while CSU agrees that better records should have been maintained to ensure that appropriate sources of funds were used to compensate employees of the center, CSU does not believe that official A using state funds under his control to pay salaries of center employees benefited official B.

Although CSU believes it was inappropriate for the companies in Singapore and South Africa to pay directly for official B's accommodations and to reimburse her for her airfare, she was traveling on CSUDH business. As a result, CSU believes that the payments were essentially reimbursements for expenses incurred and not gifts.

In addition, CSU believes that it is the responsibility of individual employees to report their economic interests and disqualify themselves from decisions in which they have such interests. CSU does not believe that managers have the responsibility of reviewing statements of economic interest filed by their subordinates.

Moreover, while CSU agrees that CSUDH foundation funds should only be used to reimburse expenses that serve the interests of CSUDH, it does not agree that the foundation must adhere to state and CSU policies regarding expense reimbursements. CSU contends that in creating the statutory

authority for the creation of such foundations, the Legislature acknowledged that their fundamental purpose was to allow flexibility in providing services that are consistent with CSU's mission, but cannot be paid for under state regulations, using state funds.

Nevertheless, CSU and CSUDH have taken the following corrective actions:

- The chancellor's office has directed a review of all foundation accounts to ensure that the foundation makes payments to CSUDH employees only with appropriate authorization.
- CSU will review and formalize policies to ensure that employees are compensated from appropriate funding sources.
- CSU has also directed CSUDH to coordinate its policies and procedures with those of its foundation to ensure that faculty are appropriately compensated. In addition, CSUDH and its foundation will improve controls over expenditures of grant and contract funds.
- CSUDH will revise policies to ensure that expense reimbursements for CSUDH business will be processed through CSUDH.
- CSU took action in 1995 to ensure that all campuses deposit all revenues from self-supporting academic programs into the Continuing Education Reserve Fund.
- CSUDH will review foundation policies to ensure that all expense reimbursements are kept at a reasonable level and include only expenses necessary to serve the interests of CSUDH.

Furthermore, official A resigned his administrative position effective March 31, 1998, and official B resigned her administrative position effective April 1, 1998.

cc: Members of the Legislature  
Office of the Lieutenant Governor  
Attorney General  
State Controller  
Legislative Analyst  
Assembly Office of Research  
Senate Office of Research  
Assembly Majority/Minority Consultants  
Senate Majority/Minority Consultants  
Capitol Press Corps