

# Privacy Laws Affecting California State University Channel Islands Employees

*Managers are requested to use this summary as a training tool to help employees understand the importance of maintaining confidentiality in their everyday work lives. You are requested to sit down with your employees and review this information; we encourage you to provide a copy to each employee who handles or may handle confidential information, allow them to take a few minutes to read the entire summary, and the sign the access and compliance form provided.*

*Violations of these statutes have their respective ramifications and may also lead to disciplinary action as provided in Education Code, Section 89535.*

*Please contact the CSU Channel Islands Human Resources Department with any questions regarding this document and attached form.*

## **Computer Crime**

It is a crime to "intentionally access...any computer system or computer network for the purpose of devising or executing any scheme or artifice; to defraud or extort or obtain money, property or services with false or fraudulent intent, representations, or premises; or to maliciously access, alter, delete, damage, or destroy, any computer system, computer network, computer program or data." Cal. Penal Code 502. (Smith, 1992, 1994)

Publishing a Personal Identification Number (PIN), password, access code, debt card number, or bank account number is a crime. Penal Code 484j. (Smith, 1992, 1994)

## **California Penal Code Section 502**

"502. Computer crimes: Status as felonies:

(b) Any person who intentionally accesses or causes to be accessed any computer system or computer network for the purpose of (1) devising or executing any scheme or artifice to defraud or extort or (2) obtaining money, property, or services with false or fraudulent intent, representations, or promises shall be guilty of a public offense.

(c) Any person who maliciously accesses, alters, deletes, damages or destroys any computer system, computer network, computer program, or data shall be guilty of a public offense.

(d) Any person who violates the provisions of subdivision (b) or (c) is guilty of a felony and is punishable by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both such fine and imprisonment, or by a fine not exceeding two thousand five hundred dollars

(\$2,500), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment."

## ***Privacy Rights Of Students In Education Records***

The federal Family Educational Rights and Privacy Act (FERPA) of 1974 (20 U.S.C. 1232g) and regulations adopted thereunder (34 C.F.R. 99) protect the privacy of students concerning their education records maintained by the campus. Specifically, the statute and regulations govern access to student education records maintained by the campus, and the release of such records. In brief, FERPA provides access for parents of students under the age of 18 and students over the age of 18 years (or attending a postsecondary institution) to "education records" directly related to the student, and a hearing opportunity to challenge such records on the grounds they are inaccurate, misleading or otherwise inappropriate. The right to a hearing under FERPA does not include any right to challenge the propriety of a course grade as determined and assigned by an instructor. FERPA entitles parents/students to education records, within a reasonable period of time, but in no case later than 45 days after a request for the documents is made. Generally, FERPA requires a student's written consent to release the student's personally identifiable data to third persons. The University has adopted a set of policies and procedures to ensure compliance with FERPA. Copies of these policies and procedures may be obtained at the Judicial Affairs Office. Among the types of information included in the campus statement of policies and procedures are: 1) the types of student records and the information contained therein; 2) the official responsible for the maintenance of each type of records; 3) the location of access lists which indicate persons requesting or receiving information from the record; 4) policies for reviewing and expunging records; 5) the access rights of students; 6) the procedures for challenging the content of student records; 7) the cost which will be charged for reproducing copies of records, and 8) the right of the student to file a complaint with the Department of Education. An office and review board has been established by the Department to investigate and adjudicate violations and complaints. The office designated for this purpose is: The Family Education Rights and Privacy Act Office (FERPA), U.S. Department of Education, 33 "C" Street, Room 4511, Washington, D.C. 20202.

The campus is authorized under FERPA and California State University Executive Order No. 382 to release students' "directory information." FERPA defines "directory information" as "information contained in an education record that would generally not be considered harmful or an invasion of privacy if disclosed," including, but not limited to, the student's name, address, telephone listing, e-mail address, place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, photograph, degrees and awards received, and the most recent previous educational agency or institution attended by the student. The above-designated information is subject to release by the campus at any time unless the campus has received prior written objection from the student specifying information the student requests not be released. Written objections should be sent to the Director, Judicial Affairs.

The campus is authorized to provide access to student records to campus officials and employees who have legitimate educational interests in such access. These persons are those who have responsibilities in connection with the campus' academic, administrative or service functions and who have reason for using student records connected with their campus or other related academic responsibilities.

## ***California Information Practices Act***

California's Information Practices Act, which is similar to those in other states, was enacted in 1977 to protect individuals' privacy rights in "personal information" contained in state agency records, which the Legislature declared to be a personal and fundamental right protected. "Personal information" protected by the Act is defined as any information maintained by a state agency that identifies or describes an individual including, but not limited to, name, Social Security Number, physical description, home address, home telephone number, education, financial matters, medical or employment history, and statements made by or attributed to the individual. State agencies may disclose personal information to third parties only in limited circumstances specified in the Act, including pursuant to a written release from the person to whom the information pertains.

Individuals have the right to inquire and be notified about whatever personal information a state agency maintains concerning them. Individuals may request an agency to amend personal information concerning them and, if the request is denied, the individual may request a review of that decision by the head of the agency or his/her designee.

## **Information Practices Act Of 1977**

A state agency is obligated to maintain only that personal information which is relevant and necessary to accomplish its purpose, or required or authorized by state or federal law. A state employee's home address and home telephone number are exempt from disclosure with specific exceptions. The following Information regarding state employees may be released without violating the Act: a) name, b) employing agency and name of unit, c) work location, d) classification, e) job description, duties and responsibilities, f) gross salary rate, g) date appointed/separated, h) time base, e.g., full time, part time, I) tenure, e.g., permanent, probationary, and j) cost to the state for training, travel, attendance at conferences, etc. Generally, performance evaluations are not open to public inspection.

The intentional violation of any provision of the Act or any rules or regulations adopted thereunder, by an officer of employee of any agency shall constitute a cause for discipline, including termination of employment.

“Any person who willfully requests or obtains any record containing personal or confidential information from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than five thousand dollars (\$5,000), or imprisoned not more than one year, or both.”

## ***California Public Records Act***

The purpose underlying the California Public Records Act is to promote “access to information concerning the conduct of the people’s business [which is] a fundamental and necessary right of every person in this state.” Public records subject to disclosure are defined to include “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.”

Library records are exempt from disclosure. Cal. Govt. Code 6254(j).

"Personnel, medical or similar files" may be withheld if disclosure "would constitute an unwarranted invasion of personal privacy." (68 Ops. AG 73 (1985))

California Government Code section 6254 lists categories of documents exempt from disclosure under the Act.

The California Public Records Act (Govt. Code §§ 6250 - 6276.48) is designed to give the public access to information in possession of public agencies: "public records are open to inspection at all times during the office hours of the...agency and every person has a right to inspect any public record, except as...provided, [and to receive] an exact copy [of] an identifiable record" unless impracticable. (§ 6253). Specific exceptions to disclosure are listed in sections 6253.5-6253.7, 6254, 6254.1-6254.21, 6255, 6267 and 6276; to ensure maximum access, they are read narrowly. The agency always bears the burden of justifying nondisclosure, and "any reasonably segregatable portion... shall be provided...after deletion of the portions which are exempt." (§ 6253(a))

"Records" includes all forms of communication related to public business "regardless of physical form or characteristics, including any writing, picture, sound, or symbol, whether paper, fiber, magnetic, or other media." (§ 6252(e)) Electronic records are included, but software may be exempt. (§§ 6253.9(a),(g), 6254.9(a),(d))

Please contact Art Flores at x8423, should you receive such a request from the public.

**CALIFORNIA STATE UNIVERSITY CHANNEL ISLANDS  
COMMON MANAGEMENT SYSTEM ACCESS AND  
COMPLIANCE FORM**

**CI EMPLOYEE:**

I certify that I have received training regarding the state and federal laws and University policies that govern access to and use of information contained in employee, applicant, and student records, including data that is accessible through all components of the CMS and other databases implemented on the campus.

I understand that I am being granted access to this information and data based on my agreement to comply with the following terms and conditions: I will comply with the state and federal laws and University policies that govern access to and use of information contained in employee, applicant, and student records, including data that is accessible through the CMS and other databases implemented on the campus. My right to access information and/or data is strictly limited to the specific information and data that is relevant and necessary for me to perform my job-related duties. I am prohibited from accessing information or data that is not relevant and necessary for me to perform my job-related duties. I will be a responsible user of information and data, whether it relates to my own unit or another unit. I will store information and data that I obtain under secure conditions. I will maintain the privacy and confidentiality of the information and data that I obtain. I will make every reasonable effort to interpret the information and data I obtain in an accurate and professional manner. Before sharing information or data with others, electronically otherwise, I will ensure that the recipient is authorized to receive that information or data and understands his/her responsibilities as a user. I will sign off on any CMS and other databases implemented on the campus when I am not actively using it. I will keep my password(s) to myself, and will not disclose them to others unless my immediate supervisor authorizes such disclosure in writing. I will store and secure confidential and sensitive information, data, reports, etc. in a manner that will maintain their confidentiality when I am not actively using them. I will dispose of confidential reports in a manner that will preserve their confidentiality when I have finished using them.

I certify that I have read this Access and Compliance Form, I understand it, and I agree to comply with its terms and conditions.

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date

**CALIFORNIA STATE UNIVERSITY CHANNEL ISLANDS  
COMMON MANAGEMENT SYSTEM ACCESS AND  
COMPLIANCE FORM**

**CI MPP ADMINISTRATOR:**

My signature below certifies that \_\_\_\_\_,  
an employee under my supervision, requires access to confidential data in the CMS (Common Management System) and other database systems implemented at CI because such data is relevant and necessary in the ordinary course of performing his/her job duties as a  
\_\_\_\_\_ (job title) in the  
\_\_\_\_\_ (Department) at California State University Channel Islands. I understand my obligation to provide training to this employee to ensure that he/she understands the state and federal laws and University policies that govern access to and use of information contained in employee, applicant, and student records, including data that is accessible through CMS.

Name (please print)	Signature
Job Title	Date

**CI Vice President of Administration & Finance:**

Ysabel Trinidad Reviewed / Approved	Date
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