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Date: August 18, 2017

TO: MEMBERS, GOVERNANCE COMMITTEE

I. AGENDA ITEM # AND TITLE :	Open Agenda Item 4 – Governance, Compliance and Privacy Update
II. NAME AND PROGRAM:	Governance, Compliance & Privacy
III. ACTIVITY:	<input checked="" type="checkbox"/> Informational <input type="checkbox"/> Request for Direction <input checked="" type="checkbox"/> Action Proposed <input type="checkbox"/> Exploratory
IV. JUSTIFICATION:	<input checked="" type="checkbox"/> Standard/Required Item <input type="checkbox"/> Board Request – New Item <input type="checkbox"/> New Topic from Staff

V. EXECUTIVE SUMMARY:

GCP requests approval for:

- Revisions to: Privacy & Confidentiality Corporate Policy
- Change to the Code of Conduct content review cycle

Compliance reporting includes:

- 2017 CGAD Report
- 2017 Whistleblower Protection Notification
- Biennial Supplier Diversity Survey
- Hotline reporting

VI. ANALYSIS: The following summarizes compliance related activity for the period and is in alignment with State Fund’s Compliance Framework¹:

Clear Written Standards of Conduct, Policies & Procedures

A. Request for Approval – Revisions to Policy Supporting the Code of Conduct - EC&F 2.0 Privacy & Confidentiality

Material² policy changes include:

(1) Access to personal information State Fund maintains; (2) Protection of personal information; and (3) Changes to the definition of personal information to conform to the definitions found in the California Civil Code and California Insurance Code³.

¹ All Governance reports are grounded in State Fund’s Compliance Framework – resource USSG Ch. 8 Part B2.1(b)

² A material policy change is one affecting either or both of (i) an aspect of the policy impacting State Fund’s authority, or (ii) the duties, rights, or responsibilities of Workforce members.

³ Cal. Civil Code §§ 1798.3(a) & 1798.80 and Cal. Insurance Code § 791.02(s).

B. Request for Approval – Code of Conduct Content Review Cycle

Approval requested to adopt bi-annual content review of the Code of Conduct.

State Fund's maturity level for the Code of Conduct and policy functions now exceeds the Corporate Executive Board's (CEB) peer benchmarking report. The CEB recommends Code content review bi-annually for organizational and regulatory purposes. Periodic messaging and compliance training would continue on an annual basis⁴.

Effective Training, Communication, and Awareness

C. Update - 2017 Compliance Training Update

At the request of Human Resources, Everyone Drives Great Experiences (EDGE) has been added to the compliance training package. EDGE is an organization-wide initiative supporting a customer-centered culture with the courage and conviction to *Do the Right Thing* and help others.

Consistent Monitoring, Evaluation & Reporting

D. 2017 Corporate Governance Annual Disclosure (CGAD)

The confidential CGAD provides information about governance activities at State Fund. State Fund submitted its annual CGAD report, attested by the CEO and General Counsel/Corporate Secretary, to the California Department of Insurance on May 17, 2017⁵. Reports are due annually by June 1.

E. 2017 Biennial Insurer Supplier Diversity Survey

California admitted insurers with premiums in California of \$100 million or more must report biennially to the Department of Insurance about their efforts to obtain services from diverse suppliers. Insurer surveys are public information. State Fund submitted its *Supplier Diversity Survey* to the Department of Insurance on June 30, 2017 as required.⁶ State Fund's diverse spend was 9.5% during the reporting period, spread amongst 44 unique suppliers.

F. California Whistleblower Protection Act Annual Notification

Whistleblower protection under California law⁷ extends to all persons, regardless of reporting venue.

The annual Whistleblower communication and brochure about the State Auditor's Whistleblower Program was sent by email to all employees on July 5, 2017⁸. 2017 whistleblower posters are displayed in State Fund locations where other employee notices are maintained. Attestation of distribution was sent to the State Auditor on July 6, 2017.

The covering communication included a statement about State Fund's continuing commitment to ethics and transparency by maintaining our own Ethics and Privacy Hotline operated by an independent third party.

⁴ U.S. Sentencing Commission. 2016 Guidelines Manual Ch. 8 §8B2.1(b)(4)(A)).

⁵ Corporate Governance Annual Disclosure pursuant to Cal. Insurance Code §§ 936.1 et seq.

⁶ A California Diverse Supplier is any minority or women owned business enterprise with a headquarters address in California, or a disabled veteran business enterprise⁶ (Cal. Insurance Code §§ 927.1(b); 927.2 (a)(2)(C)).

⁷ Cal. Labor Code §1102.5

⁸ Cal. Gov't Code §§ 8548.2 and 8548.3

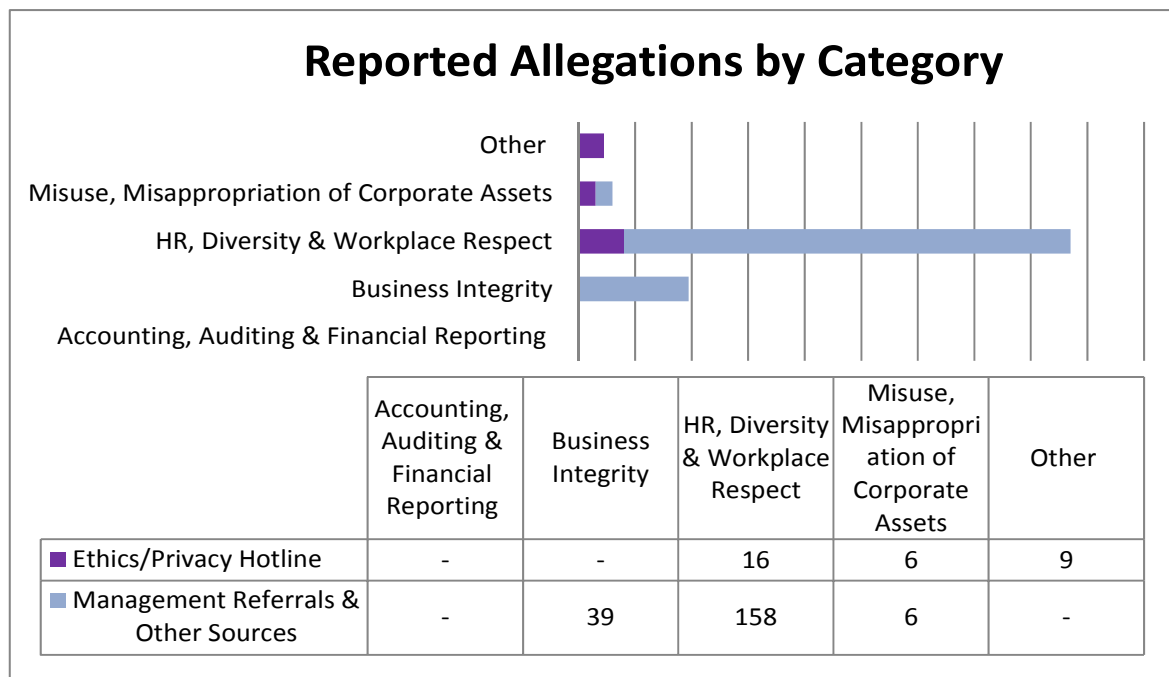
G. Ethics and Privacy Reported Issues

In April, a message about State Fund’s hotline as a safe zone was published to the organization. Accompanying the message was a brief four question survey about reporting concerns; 769 employees (18%)⁹ responded to the survey. The survey asked four questions that survey participants rated all four questions higher than 70% for strongly agree or agree: reporting Code of Conduct (Code) violations (87%), experience no retaliation from reporting - Termination (87%) – Lost opportunities (79%), and violators would be disciplined (71%).

Hotline and internal reporting remained steady at 119 in Q1 and 125 in Q2 2017. Hotline reports numbered 39 for the first half of the year.

Human Resources (HR) related issues continue to be the most reportable category (72%, 174/242) in first half of 2017. Time and behavior represent 81% of HR related issues in this period.

Chart 1: Allegations by Category



Appendix:

- I: Report Allegation Category Definitions**
- II: Discussion Document - Summary of Proposed Material Changes – Privacy and Confidentiality**
- III: Privacy and Confidentiality Corporate Policy**

⁹ Survey recipients represent 18% of the organization (769/4300)

I. Report Allegation Categories and Definitions

Accounting, Auditing, and Financial Reporting: Forgery, Accounting and Financial Control

Business Integrity: Falsifying Records, Privacy and Data Security Incidents, Theft, Compliance and Regulatory Matters, Information Security, Vendor Relations, Claims, Policy, Legal, and Other Business Practices

HR, Diversity and Work Place Respect: Attendance, Code of Conduct Violation, Conflict of Interest, Equal Employment Opportunity-Discrimination, Retaliation and Sexual Harassment, Favoritism, Inappropriate/ Offensive Behavior, Hiring Practices, Performance

Misuse, Misappropriation of Corporate Assets: Fraud, Misuse/ Abuse of Time or Resources

Other: Types of misconduct that fails to fall into the above categories such as Safety, Assault or Environmental Protection Compliance.



DISCUSSION DOCUMENT FOR GOVERNANCE COMMITTEE
To be approved during Governance Open session Agenda item

Summary of Proposed Material Changes to
State Compensation Insurance Fund
Revised EC&F 2.0 Privacy & Confidentiality Corporate Policy

<u>Paragraph Number</u>	<u>Summary of Proposed Material Changes</u>
Section #2.1.2 & # 2.1.3 Consent and Choice & Access	Added: State Fund: <ul style="list-style-type: none">• Provides a way for employees, policyholders and injured workers to modify or correct personal information that State Fund keeps about them.
Section #2.1.4 Data Integrity and Security Measures	Changed: Safeguards Private/confidential information shall be protected by safeguards which reasonably restrict access, destruction, use, modifications or disclosure of data. To: State Fund: <ul style="list-style-type: none">• Requires its Workforce members to protect personal information by methods that restrict access, destruction, use, modifications or disclosure.
Section #2.2 State Fund Workforce Responsibilities	Added: State Fund Workforce Responsibilities Each State Fund Workforce member must: <ul style="list-style-type: none">• Limit the use of personal or confidential information to business needs.• Report as soon as possible the suspected unauthorized disclosure of personal or confidential information.
Section #2.6 Privacy Shield	<i>Created a Privacy Shield Statement to meet business obligations.</i> Added: State Fund aligns its practices with the data protection principles of the EU-U.S. Privacy Shield Framework when consistent with State Fund business needs and operations.
Section #4 Authority	Added: State Fund's Privacy Office has the authority to: <ul style="list-style-type: none">• Notify affected persons as necessary.
Section #6 Definitions	<i>Replaced the term Private Information with Personal Information and aligned with the definitions provided in the Cal Civil Code and Cal Ins. Code.</i>

	<h1>CORPORATE POLICY</h1>	Number: EC&F 2.0 Owner: Governance, Compliance & Privacy Type: Ethics, Compliance & Fraud Effective Date: TBD 2017 Last Revision Date: 03/2013
Title PRIVACY & CONFIDENTIALITY		

SECTION 1 – PURPOSE

- To fulfill State Fund’s legal duty to protect the privacy rights of our Workforce members, policyholders, injured workers, and third parties.
- To establish the framework for authorized collection, access, use, and sharing of personal or confidential information.

SECTION 2 – POLICY STATEMENTS

In its normal business operations, State Fund accesses, creates, and collects personal and confidential information about policyholders, injured workers, and third parties.

As an employer and contractor, State Fund also collects and keeps personal and confidential information about its Workforce.

2.1 Information Practices

State Fund’s business operations follow the Federal Trade Commission’s [Fair Information Practices Principles](#) when it applies.

2.1.1 Notice and Awareness

State Fund:

- Workforce members are responsible for understanding:
 - [Laws](#) and [policies](#) that define personal/confidential information.
 - Disclosure standards applicable to the information for which they have access to and use.
- Requires a clearly defined purpose when personal information is collected.

2.1.2 Consent and Choice

State Fund:

- Requires its Workforce members to use personal information only for the specific purpose collected.
- Requires consent from data owners when personal information is used for purposes other than when the information was originally collected.

2.1.3 Access

State Fund:

- Requires its Workforce members to access, view, and disclose personal information State Fund possesses only as permitted by law or policy and as necessary to perform their job duties.
- Provides a way for employees, policyholders and injured workers to modify or correct personal information that State Fund keeps about them.

Policy EC&F 2.0	Title Privacy & Confidentiality	Effective TBD 2017
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2.1.4 Data Integrity and Security Measures

State Fund:

- Requires its Workforce members to protect personal information by methods that restrict access, destruction, use, modifications or disclosure.
- Discloses personal information to its Workforce only as needed to perform business or meet its legal obligations.
- Does not disclose, sell, trade or otherwise transfer customer or third-party personal information to others for commercial purposes.
- May disclose personal information when the law requires.

2.2 State Fund Workforce Responsibilities

Each [State Fund Workforce](#) member must:

- Limit the use of personal or confidential information to business needs.
- Report as soon as possible the suspected unauthorized disclosure of personal or confidential information.
- Electronically certify that they have read and understand this Policy when they acknowledge State Fund's Code of Conduct.

2.2.1 Reporting Privacy/Confidentiality Incidents

Report suspected unauthorized access, use, or disclosure of personal and confidential information through the Privacy Hotline 24/7 by toll-free phone at **866-294-1742**, or online, or directly to PrivacyOffice@scif.com. Anonymous reporting is available.

2.3 No Expectation of Privacy for State Fund Property and Information Systems

State Fund:

- Controls or owns records created, stored or transmitted with its Information Systems, unless contract or law provides otherwise.
- Has the right to:
 - Access
 - Review
 - Inventory
 - Monitor and
 - Use

records, property, and information stored, generated or communicated through its Information Systems or at its locations without notice to Members as federal and state law allows.

2.3.1 Information stored

State Fund Workforce members cannot expect personal privacy for information stored or transmitted on or through State Fund Information Systems or stored at property owned by State Fund.

2.4 Use of Anonymized or Aggregated Information

State Fund:

- May use information about Workforce members, policyholders, injured workers, or third parties for statistical research or reporting purposes.
- Publicly disclosed results or reports shall exclude personal information.

Policy EC&F 2.0	Title Privacy & Confidentiality	Effective TBD 2017
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2.5 Investigation Cooperation

State Fund:

- Cooperates with law enforcement agencies investigating suspected illegal use of State Fund resources.
- May release information to law enforcement agencies without notice to customers or third parties as allowed by law or valid legal order.
- Reports any activity it reasonably believes fraudulent or otherwise illegal to law enforcement agencies along with relevant private/confidential information.

2.6 Privacy Shield Statement

State Fund aligns its practices with the data protection principles of the [EU-U.S. Privacy Shield Framework](#) when consistent with State Fund business needs and operations.

SECTION 3 – APPLICABILITY, SCOPE, & BASIS

The policy applies to all members of the State Fund Workforce.

3.1 Related Laws and Regulations

Complete text of the California statutes is available at: <http://leginfo.legislature.ca.gov/>.

Complete text of the California regulations listed below is available at:

<http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome>

Cal. Bus. & Professions Code, §§ 22575-22579, Online Privacy Protection Act of 2003;

Cal. Civil Code, §§1798 et seq., Information Practices Act of 1977

Cal. Financial Code, §§ 4050, et seq., California Financial Information Privacy Act

Cal. Government Code, §§ 6250 et seq., California Public Records Act

Cal. Insurance Code, §§ 791 et seq., Insurance Information and Privacy Protection Act

Cal. Code of Regulations, Title 10, §§ 2689 et seq., California Privacy Regulations

SECTION 4 – AUTHORITY

The Chief of Internal Affairs is responsible for policy assurance and oversight. The Governance, Compliance & Privacy Program Manager is the policy owner responsible for complying with, updating, and enterprise monitoring of this Corporate Policy.

State Fund's Privacy Office has the authority to:

- Respond to privacy concerns, questions, and complaints from all sources.
- Develop, coordinate, and maintain State Fund's Privacy Incident Response Plan.
- Notify affected persons as necessary.
- Develop and deploy programs to prevent and detect privacy incidents.
- Monitor handling of personal information by State Fund business units.

SECTION 5 – RELATED CORPORATE POLICIES

[EC&F 2.1](#) Complaint Reporting and Anti-Retaliation

[EC&F 2.5](#) Intellectual Property

[GOV 1.4](#) Records and Information Management

[IT 6.1](#) Information Security

Policy EC&F 2.0	Title Privacy & Confidentiality	Effective TBD 2017
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SECTION 6 – DEFINITIONS

Confidential Information – Information about State Fund, a State Fund Workforce member, State Fund policyholder or Injured worker, or a third party that is not generally known or is otherwise legally protected.

Fair Information Practices Principles – Principles adopted at the national level guiding the collection, use, and safeguarding of personal information.

Information System – An organized collection, storage, processing, and presentation system of data and other knowledge for decision-making, reporting, and planning and evaluating programs. It can be either manual or computerized, or a combination of both.

Personal Information – Information that can be used alone or with reference to another source to identify, contact, or locate an individual. Personal information does not include publicly available information lawfully made available to the general public from federal, state, or local government records.

Personal Information includes, but is not limited to:

For any individual - Information, which alone (e.g. no reference to another source is needed), or in combination with an individual's name if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual.

o **Examples under California law:**

Includes without limitation: An individual's name, signature, social security number, physical characteristics or description, address, telephone number, passport number, driver's license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, debit card number, or any other financial information, medical information, or health insurance information.

For Policyholders: Any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit information or any other personal characteristics.

EU-U.S. Privacy Shield Framework- The framework based on Privacy Principles issued by the U.S. Department of Commerce in conjunction with the European Commission (EU) to foster, promote, and develop international commerce.

Property – Objects, devices, information, or material found in State Fund information systems or at its locations. Locations include:

- Buildings owned, occupied, leased or rented by State Fund
- Desks, filing cabinets, and other physical storage equipment
- State Fund-owned or -issued vehicles

Devices – Devices include: computer equipment, telephones, voice mail, fax machines, wireless devices, cell phones, copiers, scanners, Global Positioning System (GPS) trackers, and any other similar means of communication technology currently in use. Information formats include: oral; electronic; telephonic; magnetic; video; audio; or paper.

Policy EC&F 2.0	Title Privacy & Confidentiality	Effective TBD 2017
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State Fund Workforce – The term 'State Fund Workforce' is used herein solely for purposes of describing a collective group of people working at State Fund, including Board members, officers, employees, and non-employees. No employer-employee or agency relationship is intended or created by using the term. Using the term has no impact on State Fund's relationships with consultants or independent contractors.

Valid Legal Order – A court-issued order or one that has other legal force.

SECTION 7 – HELP & ADVICE

For help and advice regarding this Corporate Policy, privacy and security issues or Privacy & Confidentiality procedures, contact the Governance Department's Privacy Office at PrivacyOffice@scif.com or toll-free during business hours at **1-888-724-3237**.

SECTION 8 – REVIEW HISTORY

Review Date	Action Date	Action	Section(s) Revised	Effective Date
05/06/2011	05/06/2011	Final QA –dept. change	New	05/2011
04/30/2012	04/30/2012	Annual Review. Added 2.2.1 <i>Private Information Collection & Use</i> ; 2.2.6 <i>Safeguards</i> ; In 2.3.2 added “stored or transmitted on or through State Fund Information Systems” Moved section 2.4 <i>State Fund PrivacyOffice</i> to section 4 - <i>Authority</i>	2.2.1; 2.2.6; 2.3.2; 4	07/2012
02/28/2013	02/28/2013	Annual review: alignment with Fair Information Practices Principles; compliance notice revision	2 and 6	03/2013
04/11/2017	06/20/2017	Annual Review: Added additional Fair Information Practices Principles, updated definitions of personal information to align with Civil and Insurance Codes.	2 and 5	TBD 2017