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Date: November 23, 2015

**TO: MEMBERS, GOVERNANCE COMMITTEE**

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

**V. EXECUTIVE SUMMARY:**

Compliance reporting includes: New legislation passed related to privacy and corporate governance, approval for revisions to the Incompatible Activities Corporate Policy, and a summary of reported ethics and privacy related issues.

**VI. ANALYSIS:** The following summarizes compliance related activity for the period and is in alignment with the Compliance Model<sup>1</sup>:

**Clear Written Standards of Conduct, Policies & Procedures**

[Request for approval – Incompatible Activities EC&F 2.3 policy revision](#). This policy supports the Code of Conduct. The policy has been revised to incorporate Close Personal Relationships policy (EC&F 2.8) in support of our efforts to streamline State Fund’s policy portfolio and to clarify that engagement in certain activities does not affect an employee’s rights under collective bargaining agreements.

[New Legislation – AB 553 \(Daly\)](#). The Corporate Governance Disclosure Act immediately amends the Insurance Code adding sections 936.1 et seq. AB 553 requires Insurance Groups to annually submit a Corporate Governance Annual Disclosure (CGAD) to the Insurance Commissioner summarizing their corporate governance framework. The CGAD and collateral material will be considered confidential and exempt from the California Public Records Act. The first CGAD is due by June 30, 2016.

[Operational impact](#) – Annual reporting with certification required. Reports submitted after July 1 are subject to late fees.

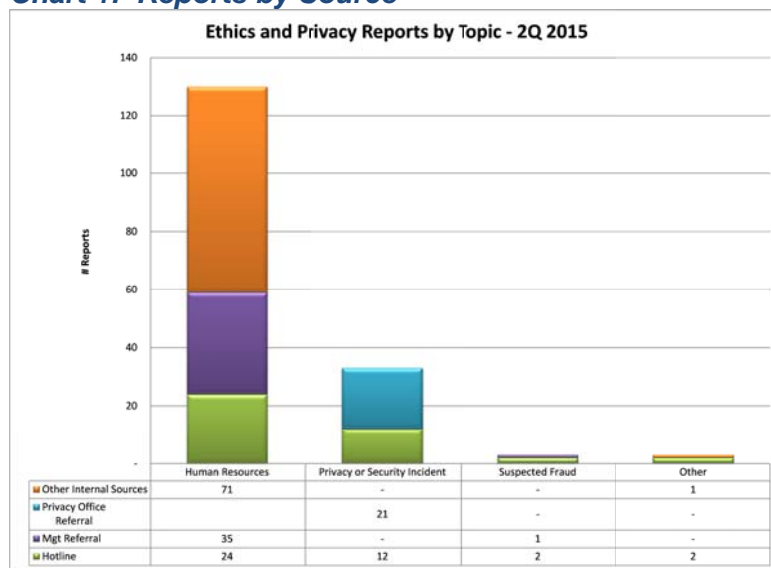
<sup>1</sup> All Governance reports are grounded in State Fund’s Compliance Framework – resource USSG Ch. 8 Part B2.1(b)

**New Legislation** – SB 570 (Jackson). Amends Cal. Civil Code §§ 1798.29 (for agencies) and 1798.82 (for businesses) of the California Data Breach statute. The legislation expands the definition of personal information<sup>2</sup> to include data collected through an Automated License Plate Recognition system, adds a definition for “encrypted”, and requires notifications to contain specified titles and specified section headings.

**Operational impact** – Adds title and section headings to the notification<sup>3</sup> State Fund must issue when there is, or there is a reasonable belief that, a breach of a security system resulted in unauthorized disclosure of computerized and unencrypted personal information.

**Consistent monitoring, evaluation & reporting**  
**3Q 2015 Ethics & Privacy Reported Issues**

**Chart 1: Reports by Source**



In 3Q there was a significant uptick in internal referrals other than management, including concerns raised through AskHR and Corporate HR Investigations, accounting for more 42% of the referrals. HR related concerns continue to make-up the largest share of referrals, representing three quarters of the concerns raised (Performance 38%; EEO/Conflicts of Interest 23%; Inappropriate Behavior 20%).

**Appendix:**

1. Discussion Document – Summary of Proposed Changes – Revision to Incompatible Activities Corporate Policy EC&F 2.2
2. Draft Incompatible Activities Corporate Policy

<sup>2</sup> Cal. Civil Code §§ 1798.29(g) and 1798.82(h)

<sup>3</sup> Notification title: “Notice of Data Breach”; Section headings: “What Happened”, “What Information Was Involved”, “What We Are Doing”, “What You Can Do”, and “For More Information”.



**DISCUSSION DOCUMENT FOR GOVERNANCE COMMITTEE**

Summary of Proposed Changes to  
 State Compensation Insurance Fund  
 Revised Incompatible Activities Corporate Policy EC&F 2.2

Adopted: February 14, 2013  
 [Proposed] Revisions To Be Approved:  
 Governance Committee: December 10, 2015  
 Board of Directors: December 10, 2015

*The following summarizes the proposed revisions to the Incompatible Activities Policy to be adopted by State Fund's Board of Directors as the revised Incompatible Activities Policy EC&F 2.2 and retirement of the Close Personal Relationships Policy EC&F 2.8. Section and paragraph references are to the numbered sections in the Complaint Reporting and Anti-Retaliation Policy.*

<b><u>Paragraph Number</u></b>	<b><u>Summary of Proposed Changes</u></b>
<b>Section 2.2.3 – Employment Action Influence</b>	<p>Added section:</p> <p>State Fund Workforce members shall not be assigned to, or act in, a position where they can directly or indirectly influence the terms and conditions of employment for any individual with whom they have a close personal relationship.</p> <p>State Fund Workforce members must notify their Program Manager or equivalent if a close personal relation applies for a position under their responsibility or influence.</p> <p>Employment will not be precluded solely due to a close personal relationship, provided the State Fund Workforce member meets and fulfills the appropriate appointment standards. The basic criteria for employment actions will be appropriate qualifications and performance according to the <u>merit principle</u>.</p>
<b>Section 2.3.5 – Engaging in Business Transactions Involving Financial Interest in Another Entity</b>	<p>Added section to incorporate Close Personal Relationships policy language.</p> <p>State Fund Workforce members must notify their Program Manager or equivalent if their State Fund position involves transactions with, or referrals to, entities and persons with whom they have a personal and/or <u>financial interest</u>, including:</p>

	<ol style="list-style-type: none"> <li>1. An employee of an <u>interested party</u>.</li> <li>2. Any individual acting on behalf of an interested party, including the <u>family members</u> of the interested party or an employee of the interested party.</li> </ol>
<b>Section 2.4 – Appeals</b>	<p>Changed titles of first and second level appeals personnel based on program re-organization.</p> <p>Employees may appeal the application of the Incompatible Activities Statement to them by written appeal directed to the <u>Corporate HR Program Manager</u>. If the employee is dissatisfied with the decision, a final written appeal may be made to the <u>Executive Vice President &amp; Chief Administrative Officer</u>.</p>
<b>Section 3.1 – Related Laws &amp; Regulations</b>	<p>Added statutes based on policy consolidation</p> <p>Title VII of the Civil Rights Act of 1964  Civil Rights Act of 1991  Cal. Government Code:  § <u>12900</u>, California Fair Employment and Housing Act  §§ <u>12925-12928</u>, Definitions  §§ <u>12940-12951</u>, Unlawful Practices  §§ <u>19230-19237</u>, Hiring of Disabled Persons  §§ <u>19400-19406</u>, Upward Mobility  §§ <u>19790-19799</u>. State Civil Service Equal Employment Opportunity Program  Cal. Labor Code, § <u>139.32</u>, Division of Workers’ Compensation  Cal. Code of Regulations, <u>Title 2</u>,  § <u>7287.6</u>, Particular Employment Practices. Terms, Conditions and Privileges of Employment  § <u>7291.1</u>, Sex Discrimination. Terms, Conditions and Privileges of Employment</p> <p><u>U.S. Code Title 17 (“Copyright Act”)</u></p>
<b>Section 6 – Definitions</b>	<p>Added based on policy consolidation</p>
	<p><b><u>Family Member</u></b> – Spouse; domestic partner; co-habitant; parent; sibling; biological, adopted, or foster child or stepchild; legal ward; grandparent; grandchild; blood or adopted <u>relative</u> such as cousin, aunt, uncle, niece, or nephew; in-laws such as parents, siblings, grandparents, grandchild, blood or adopted relatives; or corresponding relatives of the employee’s partner; other persons for whom the employee is legally responsible; and anyone who stood in loco parentis (acting in place of a parent and assuming the parent’s rights, duties, and responsibilities) to the employee as a child.</p>

	<p><b><u>Financial Interest</u></b> – Any type of ownership, interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between the interested party or a close personal relation of the interested party and an entity in which State Fund receives, has contracted for, or is pursuing a contract for services.</p> <p><b><u>Interested Party</u></b> – A participant to a financial transaction including, but not limited to, a State Fund Workforce member, a claimant, a policy holder, a provider of medical services or products, a claimant’s attorney-at-law or law firm, a representative or agent of an interested party, copy and document reproduction services, interpreter services, and transportation services.</p> <p><b><u>Merit Principle</u></b> – Employment decisions will be made solely on a person’s ability to perform.</p> <p><b><u>Relative</u></b> – A relationship between individuals associated by blood, adoption, marriage, domestic partnership, membership in the same household or persons with whom employees have an intimate relationship.</p>
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	<h2>CORPORATE POLICY</h2>	Number: <b>EC&amp;F 2.2</b> Owner: <b>Corporate Human Resources</b> Type: <b>Ethics, Compliance &amp; Fraud</b> Effective Date: <b>01-2016</b> Last Revision Date: <b>03-2013</b>
Title <b>INCOMPATIBLE ACTIVITIES STATEMENT &amp; POLICY</b>		

### SECTION 1 – PURPOSE

California Government Code § 19990 prohibits state employees from engaging in activities that are incompatible with their civil service positions. The purpose of this policy is to guide members of the [State Fund Workforce](#) in the identification of situations that are, or could be, activities which are incompatible with employment at State Fund.

### SECTION 2 – POLICY STATEMENTS

#### 2.1 Incompatible Activities by California Law for All State Fund Officers or Employees

A state officer or employee shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a State Fund officer or employee.

Pursuant to California Government Code §19990, the following activities are incompatible with State Fund employment:

- a. Using the prestige or influence of the State or State Fund for the officer's or employee's private gain or advantage or the private gain of another.
- b. Using State Fund time, facilities, equipment, or supplies for private gain or advantage.
- c. Using, or having access to, [confidential information](#) available by virtue of State Fund employment for private gain or advantage or providing confidential information to persons to whom issuance of this information has not been authorized. (Releasing [proprietary/trade secret](#) information or [intellectual property](#) is also a violation of State Fund Corporate Policy. In addition to violating the terms of this Policy, failure to comply with this restriction may subject a person to disciplinary, civil, and/or criminal action.)
- d. Receiving or accepting money or any other consideration from anyone other than the State for the performance of his or her duties as a State Fund officer or employee.
- e. Performance of an act in other than his or her capacity as a State Fund officer or employee knowing that the act may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by the officer or employee.
- f. Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with State Fund or whose activities are regulated or controlled by State Fund under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in his or her

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official duties or was intended as a reward for any official actions performed by the officer or employee.

g. Subject to any other laws, rules, or regulations as pertain thereto, not devoting his or her full time, attention, and efforts to his or her State Fund office or employment during his or her hours of duty as a State Fund officer or employee.

## **2.2 Incompatible Activities Specific to State Fund Employment**

State Fund has determined that in addition to the Incompatible Activities established by law, the following activities are specifically incompatible with employment at State Fund:

### **2.2.1 Unauthorized Use of State Fund Resources & Equipment**

Unauthorized use of State Fund resources and equipment, including but not limited to time, intellectual property, office equipment, e-mail, internet access, computer applications, and other communication devices to perform activities other than State Fund business.

Minimal or incidental use is permitted to the extent allowed by policy or collective bargaining agreement (see [State Fund Systems User Information Notice](#)), or law.

### **2.2.2 Provision of Goods & Services to State Fund for Personal Gain**

State Fund employees are prohibited from acting as a seller or marketer of services to State Fund, either directly or indirectly.

### **2.2.3 Employment Action Influence**

State Fund Workforce members shall not be assigned to, or act in, a position where they can directly or indirectly influence the terms and conditions of employment for any individual with whom they have a close personal relationship.

State Fund Workforce members must notify their Program Manager or equivalent if a close personal relation applies for a position under their responsibility or influence.

Employment will not be precluded solely due to a close personal relationship, provided the State Fund Workforce member meets and fulfills the appropriate appointment standards.

The basic criteria for employment actions will be appropriate qualifications and performance according to the [merit principle](#).

## **2.3 Activities Which Are Incompatible Without Review and Written Approval**

The activities described in sections 2.3.1 through 2.3.5 are incompatible for members of the State Fund Workforce unless an individual's participation or involvement in such activities has been reviewed and authorized in writing in advance by [Corporate Human Resources \(HR\)](#). Any approval by [Corporate HR](#) to engage in such activities is limited to the specific activity identified in the approval.

### **2.3.1 Engaging in Workers' Compensation Insurance Work for Other Entities**

Performing work related to workers' compensation insurance for any entity other than State Fund. Work may include accounting, auditing, bookkeeping, claims adjusting, systems analysis, legal, sales, marketing, or occupational safety and health consulting activities.

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### **2.3.2 Engaging in Inappropriate Work Activities for Another Entity**

Engaging in activities in any capacity for entities other than State Fund where the State Fund officer or employee could influence State Fund's receipt of policyholder premium or other services.

### **2.3.3 Engaging in Litigation Activity for or With Another Entity**

Counseling, advising, or assisting any party in the preparation, presentation, or defense of litigation adverse to the business interests of State Fund.

### **2.3.4 Engaging in Activities Adverse to State Fund's Business Interests**

Engaging in activities which are contrary to the business interests of State Fund. This paragraph does not affect employees' rights under collective bargaining agreements.

### **2.3.5 Engaging in Business Transactions Involving Financial Interest in Another Entity**

State Fund Workforce members must notify their Program Manager or equivalent if their State Fund position involves transactions with, or referrals to, entities and persons with whom they have a personal and/or financial interest, including:

1. An employee of an interested party.
2. Any individual acting on behalf of an interested party, including the family members of the interested party or an employee of the interested party.

## **2.4 Appeals**

Employees may appeal the application of the Incompatible Activities Statement to them by written appeal directed to the [Corporate HR Program Manager](#). If the employee is dissatisfied with the decision, a final written appeal may be made to the [Executive Vice President & Chief Administrative Officer](#).

In the event that a collective bargaining agreement specifies a different appeals process regarding applicability or waiver of the Incompatible Activities Statement with respect to outside employment, the collective bargaining agreement will control.

## **SECTION 3 – APPLICABILITY, SCOPE, & BASIS**

This policy applies to all members of the State Fund Workforce. All State Fund Workforce members must maintain the highest standards of professional and personal integrity. Suspected violations of this policy shall be reported promptly to the [Corporate HR Program Manager](#).

If provisions of this section are in conflict with provisions of a memorandum of understanding, the memorandum controls.

### **NOTICE**

All members of the State Fund Workforce are required to electronically certify that they have read and understand this Policy as part of State Fund's [Code of Conduct](#) acknowledgement process. Failure to complete your obligation will result in referral for disciplinary action up to and including termination



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### 3.1 Related Laws and Regulations

\*\*\*Complete text of the California statutes and the Business and Professions Code listed below can be accessed through: <http://www.leginfo.ca.gov/calaw.html>

\*\*\*Complete text of the California regulations listed below can be accessed through: <http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome>

- Cal. Code of Regulations Title 2, [§ 599.870](#), Incompatible Activities Statements
- Cal. Code of Regulations Title 2, [§ 547.59](#), Definition of a Personal Services Contract
- Cal. Government Code § [19990](#), Incompatible Activity
- Cal. Government Code § [19572](#), Disciplinary Proceedings
- Cal. Government Code § [8314](#), Unauthorized Use of Public Resources
- Cal. Insurance Code § [750](#), Unlawful Referrals
- Cal. Labor Code § [3219](#), Workers' Compensation and Insurance General Provisions
- Cal. Labor Code § [3820](#), Workers' Compensation Misrepresentation
- Cal. Civil Code § [3426.1](#), Uniform Trade Secrets Act
- Title VII of the Civil Rights Act of 1964
- Civil Rights Act of 1991
- Cal. Government Code:
  - § [12900](#), California Fair Employment and Housing Act
  - §§ [12925-12928](#), Definitions
  - §§ [12940-12951](#), Unlawful Practices
  - §§ [19230-19237](#), Hiring of Disabled Persons
  - §§ [19400-19406](#), Upward Mobility
  - §§ [19790-19799](#), State Civil Service Equal Employment Opportunity Program
- Cal. Labor Code, § [139.32](#), Division of Workers' Compensation
- Cal. Code of Regulations, [Title 2](#),
  - [§ 7287.6](#), Particular Employment Practices. Terms, Conditions and Privileges of Employment
  - [§ 7291.1](#), Sex Discrimination. Terms, Conditions and Privileges of Employment

[U.S. Code Title 17 \("Copyright Act"\)](#)

### SECTION 4 – AUTHORITY

The Executive Vice President & Chief Administrative Officer is responsible for policy assurance and oversight. The Corporate HR Program Manager as policy owner is responsible for compliance with, updates to, and enterprise monitoring of this Corporate Policy.

### SECTION 5 – RELATED CORPORATE POLICIES

- [EC&F 2.0](#) Privacy & Confidentiality
- [EC&F 2.1](#) Complaint Reporting and Anti-Retaliation
- [EC&F 2.3](#) Business Ethics
- [EC&F 2.4](#) Statement of Economic Interests (Form 700) & Financial Disclosures
- [EC&F 2.7](#) Non-Business Use of State Fund Facilities
- [HR 4.1](#) Equal Employment Opportunity
- [HR 4.3](#) Sexual Harassment

### SECTION 6 – DEFINITIONS

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**Code of Conduct** – The *Code of Conduct* communicates State Fund’s values of honesty and integrity, standards for doing business, and ground rules for ethical behavior.

**Confidential** – Information restricted to use by defined groups of State Fund employees and safeguarded from unauthorized access and improper use.

**Family Member** – Spouse; domestic partner; co-habitant; parent; sibling; biological, adopted, or foster child or stepchild; legal ward; grandparent; grandchild; blood or adopted relative such as cousin, aunt, uncle, niece, or nephew; in-laws such as parents, siblings, grandparents, grandchild, blood or adopted relatives; or corresponding relatives of the employee's partner; other persons for whom the employee is legally responsible; and anyone who stood in loco parentis (acting in place of a parent and assuming the parent’s rights, duties, and responsibilities) to the employee as a child.

**Financial Interest** – Any type of ownership, interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between the interested party or a close personal relation of the interested party and an entity in which State Fund receives, has contracted for, or is pursuing a contract for services.

**Intellectual Property** – Ownership of original work and the manner in which the work is presented or expressed such that it could be protected by copyright, patent, or trademark.

**Interested Party** – A participant to a financial transaction including, but not limited to, a State Fund Workforce member, a claimant, a policy holder, a provider of medical services or products, a claimant’s attorney-at-law or law firm, a representative or agent of an interested party, copy and document reproduction services, interpreter services, and transportation services.

**Merit Principle** – Employment decisions will be made solely on a person’s ability to perform.

**Proprietary/Trade Secret** – Information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

1. Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and
2. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

**Relative** – A relationship between individuals associated by blood, adoption, marriage, domestic partnership, membership in the same household or persons with whom employees have an intimate relationship.

**State Fund Workforce** – The term 'State Fund Workforce' is used herein solely for purposes of describing a collective group of people who work at State Fund, including Board members, officers, employees, and non-employees. No employer-employee or agency relationship is intended or created by the use of the term. The use of the term has no impact on State Fund’s relationships with consultants or independent contractors.



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**SECTION 7 – HELP & ADVICE**

For help and advice regarding this Corporate Policy, contact the [Corporate Human Resources Program](#) via [AskHR](#)

**SECTION 8 – REVIEW HISTORY**

Review Date	Action Date	Action	Section(s) Revised	Effective Date
5/13/2011		Revised based on changes in functional assignments; added Code of Conduct definition; form changes	2.3; 2.4; 3; 4; 6.1; 6.3; 7	05/2011
4/5/2012	4/5/2012	Annual Review	No content changes.	
02/28/2013	02/28/2013	Annual Review; Workforce and compliance notice	2.3, 3, 6	03/2013
09/28/2015	11/04/2015	Biennial and compliance review	Add 2.2.3 and 2.3.5 Revised 3.1, 4, 5, 6	01/2016

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