THE STATE LOYALTY OATH

Labor & Employee Relations
July XX, 2011
Contents

▪ What is the State Loyalty Oath?
▪ Why is the oath required?
▪ Historical Perspective
▪ Additional Information
▪ Answers to Frequently Asked Questions (FAQs)
What is the State Loyalty Oath?

- Requires members of the Legislature, public officers and employees, executive, legislative, and judicial\(^1\) (collectively “public employees”), to make a declaration of loyalty to the government of the State of California and of the United States of America.

- This declaration is required as a condition of public office or employment.

\(^1\)As defined
Why is a loyalty oath required?

- Required by law, both in the California Government Code and in the California State Constitution
- Affirms intent by public employees to support and defend the California and U.S. Constitutions
- Affirms intent by public employees regarding their conduct in their official capacity
HISTORICAL PERSPECTIVE

- Over the years - as a result of interpretative case law and legislation - California Codes, Statutes and the California State Constitution have been amended, changing the terms and scope of the State of California loyalty oath
Additional Information

- The terms “support and defend” as used in the State of California oath **do not** require a promise to bear arms.
- The oath requirement only applies to U.S. citizens – consistent with Government Code Section 3101, aliens legally employed in California are not required to sign the State of California oath.
Additional Information

- Prospective employees may not edit or write their own oaths
  - In *Smith v. County Engineer of San Diego County*, 266 Cal.App.2d 645, 656 (1968), the court ruled that the public employer “properly refused to accept the oath encumbered and comprised by appellant’s injection of an unauthorized potential qualification of its meaning and clarity.”
  - In March 2008, the California Attorney General advised the CSU that the oath may not be altered or interlineated.
Additional Information

- Objections to the oath on religious grounds must be examined on a case-by-case basis
  - Consistent with recent interpretative case law and regulatory opinions, the public agency employer must “examine on a case-by-case basis any religious objections to the loyalty oath”\(^1\) and act consistently with federal and state laws

- If prospective employees have objections to signing the oath, campuses should consult Human Resources (HR) or Academic Personnel Office for guidance.

\(^1\)Equal Employment Opportunity Commission January 2004 guidance letter
FAQs

▪ Is a new CSU employee asked to sign the loyalty oath when s/he first reports to work?
  – Yes

▪ Why is a new CSU employee asked to sign the loyalty oath when s/he first reports to work?
  – As previously referenced, it is a legally mandated requirement found in the Government Code and State of California Constitution.
FAQs (Cont’d.)

▪ What is the oath that employees will be asked to sign?

  "I, ______, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. “
FAQs (Cont’d.)

- What if a prospective employee has an objection?
  - The individual should contact the HR or Academic Personnel department at his or her campus to discuss the nature of the objection, and the objection will be reviewed and seriously considered.
FAQs (Cont’d.)

- Can the employee add or cross out parts of the oath before signing it?
  - No, changes to the words of the oath are not legally permitted. The language employees are being asked to sign has been challenged in court and was found to be constitutional.
FAQs (Cont’d.)

▪ Does signing the oath mean an employee must engage in violence?
  – No. Courts have found that the oath does not require a person to bear arms or engage in violence, and a pacifist may take the oath.

▪ What if the employee has a religious conflict with the oath?
  – CSU does not discriminate on the basis of religion. Concerns of this kind should be brought forward to HR or Academic Personnel for review and discussion. As stated above, all objections will be reviewed and seriously considered.