



TO: Distribution
FROM: Office of the General Counsel
DATE: January 28, 2014
RE: Antitrust Guidelines

**STANFORD LEGAL
OFFICE ADVISORY**

Dear Stanford colleagues,

Q: *Why is it that every academic year we ask you to take a moment to review Stanford's antitrust guidelines?*

A: *Because entities that we may regard as our sister institutions may be viewed instead by antitrust regulators as Stanford's competitors in the markets for students, faculty, research funding, patients, etc. For this reason, we believe that an annual antitrust reminder is particularly critical within universities and academic medical centers.*



It is a fundamental policy of Stanford University, Stanford Hospital and Clinics, Lucile Salter Packard Children's Hospital at Stanford, University Healthcare Alliance and Packard Children's Health Alliance to comply with all applicable laws and governmental regulations. These include the antitrust laws, and it is imperative that the restrictions on conduct imposed by those laws not be violated.

Our office has for more than twenty years circulated antitrust guidelines to be followed in connection with certain types of communications with other colleges, universities and hospitals. Attached is a revised and updated version of those guidelines.

Please distribute a copy of this memorandum to members of your office or staff who are or may be involved in information exchanges, surveys, meetings, or other communications with other universities and hospitals. It is especially important that faculty and staff who participate in communications and meetings with their counterparts from other schools, hospitals and medical foundations (such as the various "Ivy League Plus" groups) be aware of the guidelines and, if appropriate, that they consult with the Legal Office about any communication, survey, agenda item or other aspect of a meeting that raises questions with respect to these guidelines.

Thank you.

ANTITRUST GUIDELINES

FOR STANFORD FACULTY AND STAFF

January 28, 2014

PUBLIC INFORMATION

You should not disclose to other schools, hospitals, medical foundations or medical groups (or organizations of such entities), and should not accept from them, information concerning tuition, fees, financial aid, research costs, charges, rates and salaries unless, to your personal knowledge, that **specific** information is publicly available.

This guideline applies to all forms of communications -- whether oral or written, formal or informal, survey or isolated inquiry.

Salary surveys remain a particularly sensitive area from an antitrust standpoint. They may also raise potential issues regarding the privacy of personnel data.

Communication concerning **prospective** financial information -- planned tuition increases, for instance -- should be limited to information that has been published in *Stanford Report*. A similar approach should be followed with respect to future salary levels, financial aid, charges, rates or research costs. In other words, once salary, tuition or similar financial information for the next year or years has been **publicly announced**, these matters may be communicated to representatives of other institutions. Before such public announcements are made, however, you should not communicate Stanford's plans, projections or estimates.

Similarly, do not inquire of other schools, hospitals, medical foundations or medical groups as to their plans, projections or estimates before they have made this prospective information public, and do not accept such information in written or oral form.

INQUIRIES AND MEETINGS

If you receive an inquiry from an individual at another school, hospital, medical foundation or medical group concerning prospective tuition, fees, financial aid, research costs, charges for medical services, rates, salaries or similar information, please respond that you have been instructed not to participate in any such communication before that information is made public.

If such a topic is raised at a meeting at which you and representatives of another school, hospital, medical foundation or medical group are present, make a similar statement and leave the room -- politely, but in a way that leaves no doubt in the memory of others that you did not participate in the discussion of future financial matters. (One Fortune 500 general counsel somewhat facetiously suggested knocking over a glass of water on the way out!) Do not return until the discussion of prospective financial information is completed.

Assuming other participants have been properly advised, such an inquiry or discussion is not likely to occur, but if it should, please promptly advise the Stanford Legal Office of the incident so that we can take appropriate protective actions.

LEGISLATIVE AND REGULATORY EFFORTS

Of course, it is permissible to engage in certain activities relating to legitimate legislative or regulatory efforts, court cases or certain public panels. The permissibility of these activities is based on court decisions and general developments in antitrust law and involves various technical requirements.

Attorneys in the Legal Office are available to discuss with you whether any of these exceptions to the guidelines might be applicable to your particular circumstances.

SUMMARY

As a general proposition, it is worth remembering that what the relevant antitrust laws prohibit is an **agreement** that restricts competition, such as an agreement among competitors to fix prices. The Department of Justice, however, has also indicated an interest in the **information-sharing practices** of colleges, universities and hospitals -- whether through formal surveys or more informal communications -- concerning matters such as fees, salaries and financial aid (including self-help levels, proposed awards to individual students, etc.). For this reason, Stanford offers protective guidance in this area.

If any of you or your staff members are aware of any current or planned surveys, information exchanges or meetings with other schools, hospitals, medical foundations or medical groups (or organizations of such entities) relating to any of the areas covered by these guidelines, please call the Legal Office so that we may assist you in structuring that activity in a way that is consistent with the guidelines. For example, you may want to add an explicit statement to a survey that only public information is being provided or, if you are attending a meeting with other institutions, you may want to ensure that counsel for the host institution or organization will be present to provide a record that appropriate antitrust protections were taken. There are also certain “safe harbor” approaches that may be used in some circumstances to gather survey information from competitors in a legally appropriate fashion.

Please do not hesitate to call the Legal Office if you have any questions concerning the items discussed in this memorandum.

Debra L. Zumwalt (3-6397)
Thomas W. Fenner (3-8122)
Sarah J. DiBoise (3-0380)