September 13, 2020

Dear President Castro, Provost Jiménez-Sandoval, Interim Associate Provost Fu, and Interim Dean of Undergraduate Studies Muscat,

We appreciate you taking time to look into and respond to the concerns of four departments, the CFA Executive Board, and 23 individual signatories of our letters dated to you on September 4th, 2020. The letters were preceded by extensive months-long email communications initiated by faculty as many of us prepared for virtual instruction.

We appreciate recent efforts to communicate to faculty the evolution of new policies with respect to service-learning and internships. However, **our concerns remain unresolved given the responses to date.** That COVID-19 language is still being used in release of liability / hold harmless / promise not to sue waivers that are being required for some students participating in Fresno State internships taken for credit towards their academic programs, whether they are virtual or not, or required for their major or not, remains a major ethical problem. Given our expertise in health and human rights, we anticipate that requiring such forms will cause extensive harm to students and to the university.

Our demands remain and are as follows:

·   **End the requirement that students sign release of liability, hold harmless, assumption of risk, and promise not to sue waivers for “courses required for students’ academic programs”** (per EO 1064).

·   **Advance ethical policies that protect students and public health in internships and all other Fresno State courses.**

Furthermore, we expect the following:

·   Shred any and all of these exploitative waivers collected to date and as templates on clouds and drives and hold void immediately.

·   Officially and immediately notify faculty and staff using clear language with respect to these official and permanent changes to university policy and the fact that paperwork has been and will be shredded. This includes directing faculty to shred any signed waivers from service-learning or internship courses they collected and hold. Individual consultations with administrators and staff are not acceptable with respect to university policies that affect our entire community.

·  Acknowledge that these COVID-19 release of liability waivers are not, in fact, a concern of “some faculty members;” rather, the issue is whether or not the university does or does not want to exploit students, as has been clearly and repeatedly stated in numerous collectively signed letters and emails.

To begin, we see significantly different interpretations of what an “academic program” is. We do not see students’ academic programs as being equivalent to being “required for graduation;” however, this is what is stated in recent communications from Mary Willis, Interim Vice Provost Fu, and Interim Dean of Undergraduate Studies Muscat in the letter addressed to faculty dated September 9, 2020 (attached):

*With regard to the requirement of that waiver, EO 1064 states:*

*“If the internship placement is not required as part of the student’s academic program, the student must complete the liability waiver form (see Executive Order 1051)”.*

*Therefore, with the help of Interim Undergraduate Dean, Dr. Muscat, I have reviewed all the courses that fall under EO 1064. Attached is a list of those courses and whether they are a requirement for graduation. Students in courses that are listed as required for graduation will not be required to complete the “Release of Liability, Promise not to Sue, Assumption of Risk and Agreement to Pay Claims” form. Students in internship courses that are not required for graduation or are an option for a degree requirement are required to complete the “Release of Liability, Promise not to Sue, Assumption of Risk and Agreement to Pay Claims”.*

*To summarize, per the July 31, 2020 CO policy referenced above,*

*1.* ***All students completing internships at the internship site are to complete the COVID-19 Acknowledgement of Risk.***

*2.* ***All students in on-site internship courses that are not required for graduation or are an option for a degree requirement are required to complete the "Release of Liability, Promise not to Sue, Assumption of Risk and Agreement to Pay Claims" form with the updated language provided by the Chancellor's Office.***

This focus on the waiver requirement for internship courses either “**not required for graduation**” or providing an “**option for a degree requirement**” is a problematic rewording of what is stated in EO 1064 and the July 31, 2020 CO policy. We have read both EO 1064 and the July 31 CO policy more times than we would like. This is, indeed, what [EO 1064](https://calstate.policystat.com/policy/6591275/latest/) states verbatim (with **emphasis added**):

*“If the internship placement****is not required as part of the******student’s academic program****, the student must complete the liability waiver form (see Executive Order 1051)”.*

This is what the [July 31, 2020 CO policy](https://calstate.policystat.com/policy/8388232/latest/) states, verbatim (with *emphasis added*):

Students Engaged in For-Credit Experiential Learning

1.     Students enrolled in experiential learning programs *should be given a virtual learning option—to the extent allowed by accrediting and credentialing bodies—in order to complete their course work*. This should include allied health clinical experiences and education programs (student teaching) **if and when** **possible**.

2.     Students who choose to participate in on-site experiential learning programs (not virtual) must receive COVID-19 safety training consistent with federal, state, local and CSU guidance and/or mandates as part of their orientation and prior to participation. If the experiential learning site does not provide this training, the campus shall do so.

*3.*     *Students engaged in on-site experiential learning must sign an acknowledgement (to be prepared by the campus) that they have been informed of and understand the risks to their own health presented by COVID-19.* *This does not require that students sign the attached waiver. Moreover, this acknowledgment of risk does not require that students sign a waiver or release of liability.*

**Nowhere in *either* policy does it distinguish internships that are required *for graduation* from those that do not.** Instead, EO 1064 states that the waiver is for those taking internships “*not required as part of****student’s academic program.****”*

Students take departmentally-run internships across campus as a required part of their *academic programs*. They are part of the breadth we offer students within their academic programs, so that our diverse students have options that work well for them. We all know how important it is for our students to have options when it comes to fulfilling the university’s goal of improving the 4-year graduation rates. Sometimes, this includes internships for credit, which ultimately, we think we can agree, contribute to student success before and after graduation and to the quality of their CSU degrees. Otherwise, why do we even bother offering them?

As you might imagine, managing internship programs within departments takes a tremendous amount of time and effort on the part of the faculty who serve their departments and their students, even before the COVID-19 pandemic hit us. However, our main concern is not the increase in paperwork, but the contents of the paperwork we are being asked to have our students sign to gain credit toward their degree in our departments.

Furthermore, **it remains frustratingly perplexing how it was determined that some departmentally-sanctioned internship courses are understood as*not part of students’ programs*, and thus require waivers, and how other departmentally-sanctioned internship courses are somehow considered “required” and then exempt from these exploitative requirements.**To argue that the executive orders from the Chancellor’s Office are merely being followed in this case is incorrect. This is to the detriment of our students.

For example, in Dr. Saxton’s internship course in the Anthropology department, which is listed as not required and not COVID waiver-exempt on the spreadsheet, students have done a variety of valuable and important work in the community, commonly without pay, but for units that help them achieve their degree and professional goals. ANTH 193 is a course students do take “as a required part of their academic program” (EO 1064) as anthropology students. In Fall 2018, students in Anthropology *and*Child and Family Science (which is listed as required and exempt from the waivers on the spreadsheet) completed similar work. For example, students from both departments have worked with the San Joaquin River Parkway. How does it make sense that one group of students is deemed more of a risk than the other when they’re doing similar work, at the same site, and doing it to achieve their academic program and life goals, for university credits?

Other students in anthropology helped Dr. Chelsey Juarez set up the new Forensic Anthropology lab. Others worked with Dr. John Pryor on excavating a significant mixed prehistoric and historic site near Fish Camp, California, contributing to our knowledge about the lives of California Indian people. Several cohorts of students have worked with Stone Soup to build their Southeast Asian cultural room. Other students helped community members in Chinatown, Fresno organize an artifact collection, which had been at risk of deterioration for some time. Still other students collected data on community ideas for improving food security and access to fresh locally grown produce. Another student worked at the Table Mountain Rancheria cultural resources management lab, serving a significant community partner and donor of Fresno State. Each of these examples and many more advance our students’ professional development and their application of social science knowledge in real world contexts. How can the university suggest that this work is not required when it is essential for our students professional development and personal growth that they accomplish while earning credits towards their academic programs?

These internships and similar experiences in departments throughout the university contribute to our students being able to secure jobs, even in desperate times, and even when the social sciences and arts and humanities are under attack as non-essential. Clearly this belief is not true. Why should students in Child and Family Science, or the sixteen other departments doing similar or identical work done by students in Anthropology and dozens of other departments for internship credit be treated differently with respect to these unethical waivers? Why should any of our students be asked to sign away their, their families’, and their communities’ lives to do a Fresno State internship that is supposed to help them in their lives?

Other CSU campuses agree with our definition of “academic programs” not as “required and not an option toward graduation,” but as the individualized collection of courses students need to earn a degree (see attached). Thus, the spreadsheet Mary Willis sent to us 9/9/2020 compiled with support from Interim Dean of Undergraduate Studies Muscat listing majors that require an “internship” class as part of the major versus those that do not is void of reasoning with respect to EO 1064: *credits taken towards one’s academic program is not the same as a graduation requirement.*

According to this spreadsheet, **over 66% of “official departmental internships courses” at Fresno State are not required towards students’ academic programs**. How could this possibly be true? We as faculty and pedagogues know that students need diverse classes that reflect not only their diversity and diverse interests but diverse and dynamic ways of learning. This is a well-established evidence-based teaching strategy—to afford our students different learning modalities in and outside of the classroom to support their student success.

According to the spreadsheet and statements sent 9/9/2020, **349** Fresno State students are required to sign COVID-19 release of liability waivers this semester as part of official Fresno State classes. This is outrageous. It is unclear if this overrides the university’s 8/31/20 statement eliminating release of liability waivers for virtual internships, as it makes no mention of it (see PDF version of letter for image of this email).

What *is* clear is that Fresno State students signed waivers with COVID-19 language over the summer as part of Fresno State internships; all were from departments that should not have required waivers from students. Also, students from now-exempt internship courses signed waivers with COVID-19 language to begin fall internship hours prior to the university’s 8/31 announcement. Were these signed waivers shredded by the university? Have these students been informed by the university that these signed waivers are voided? If not, why not? It is needed. Why have faculty not yet been told to shred any signed waivers with COVID-19 language they collected from students after being outlandishly told by Fresno State that they were required for *all*service-learning students doing 15 hours of virtual community service-learning volunteerism this semester? How was this even allowed to become policy? It is a travesty that this occurred and is continuing without being adequately addressed.

The university’s current concerning interpretation of EO 1064 will disincentivize student participation in valuable off-campus (virtual or in-person) professional development experiences. This will also jeopardize faculty willingness to develop career preparation coursework for students, given that requiring faculty to make students sign these release of liability / hold harmless / promise not to sue forms with COVID-19 language creates ethical problems and vulnerabilities for them as well, on top of the intensities and workload imbalances of teaching and mentoring in a pandemic and economic down turn.

Furthermore, in requiring some students but not others to sign release of liability / hold harmless / promise not sue waivers for doing essentially the same kinds of experiential learning, you are creating ethical and practical inequalities among our already vulnerable student body. At the recent Fresno State [Celebration of Ethical Leadership Awards](https://www.yourcentralvalley.com/news/cbs47-on-your-side/better-business-bureau-ethics-awards-to-be-televised-for-the-first-time-on-cbs47-eyewitness-news-2/?fbclid=IwAR0fauOHk0uC_cOToYQ5-x0ON6kkhIURsYvIbU7uFVWPtfDkWWrRxEXQthg), both President Castro and Provost Jiménez-Sandoval gave thoughtful remarks about the importance of ethical leadership in our community. Their commentaries emphasized the role of ethics in protecting fundamental requirements for human life, which, in the current moment, includes prioritizing student safety, health, and welfare. Requiring students to sign a COVID-19 release of liability / hold harmless / promise not to sue form to do official Fresno State activities—including internships, service learning, and experiential learning, whether they are virtual or in-person, required for their major or not—violates students’ fundamental rights and our ethical responsibilities as their professors and mentors who are stewarding the next generation of ethical leaders in the Valley.

As we now contend with yet another crisis, the billowing smoke of world record-breaking fires that are threatening the lives of our students and colleagues, we see it fitting that we reconsider how our campus administrators are *choosing* to interpret the internship policy from the Chancellor’s Office. Indeed, per EO 1064, the campus president has the freedom to do just that as decreed by delegation of authority statements.

*The president is delegated the responsibility for the development, implementation and maintenance of the campus student internship policy, and to ensure there is a means for future review of the policy that is updated and communicated to faculty and staff at appropriate intervals.*

We find quite a bit of variance across CSU campuses in this respect, which leads us to conclude that we have the ability to do right by our students and community members. Instead of asking our students to release liability, hold harmless, assume all risk, and promise not to sue the university in the event that they fall ill or die from COVID-19, we should be adding *additional*protections, such as working with community partners to develop virtual internship opportunities until it is safe to resume in-person activities, or purchasing additional insurance to protect students working at on-site internships and other experiential learning activities. As an institution of higher learning, we have a responsibility to our community to make decisions based in solid science. As stated in our original letter, and as experts in human rights and health, we and countless others argue that safe in-person activities will only happen when there is a reliable vaccine and when the rate of new infection rate drops below 5% over a 2-week period. We know we are far from achieving this.

We are pleased that the CSU has made the call to continue virtual instruction at least through Spring 2021. Our responsibility to the community goes beyond this decision and date. We must support public health recommendations through other practices, including mandating internships to be virtual unless this is impossible, as we have done for on-campus instruction. If we fail at this, we contribute to disease burdens in our community. If we fail to protect our students from other harms, we are also perpetuating their already heavy legal, social, and economic disenfranchisement. If we are successful as a university, we again model for the community and the nation what evidence-based public health and good ethical practices look like. If we fail, we are endangering the lives of our students at the same time we purport to serve and show special care towards them as an HSI and as an AANAPISI. Social science and epidemiological data show these are the very communities that are being most impacted by COVID-19. We owe our students far better models of care than release of liability, hold harmless, promise not to sue waivers associated with approved courses that are integral parts of their academic programs, professional development, and growth. Again, the COVID-19 Acknowledgement Form should more than suffice for all students doing in-person, for-credit, official Fresno State coursework and activities.

Thank you for your continued work on behalf of our Fresno State community. Again, we ask that you make these important decisions to steward our community ethically and safely into the future that lies ahead.

Sincerely,

Dvera I. Saxton, Associate Professor, Department of Anthropology

Aimee Rickman, Associate Professor, Department of Child and Family Science