

THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR



BAKERSFIELD

May 23, 2018

CHANNEL ISLANDS

CHICO

DOMINGUEZ HILLS

EAST BAY

FRESNO

FULLERTON

HUMBOLDT

LONG BEACH

LOS ANGELES

MARITIME ACADEMY

MONTEREY BAY

NORTHRIDGE

POMONA

SACRAMENTO

SAN BERNARDINO

SAN DIEGO

SAN FRANCISCO

SAN JOSÉ

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS

M E M O R A N D U M

TO: CSU Presidents

FROM: Timothy P. White
Chancellor

SUBJECT: The California State University Board of Trustees Policy on
Disability Support and Accommodations – Executive Order 1111

Attached is a copy of Executive Order 1111 relating to disability support and accommodations, which supersedes Executive Order 926.

In accordance with policy of the California State University, the campus president has the responsibility for implementing executive orders where applicable and for maintaining the campus repository and index for all executive orders.

Questions should be addressed to the appropriate division within the Office of the Chancellor as specified in the appropriate section of this executive order.

TPW/LH/tl

Attachment

- c: CSU Office of the Chancellor Leadership
Provosts and Vice Presidents, Academic Affairs
Vice Presidents, Administration and Finance
Vice Presidents, Student Affairs
Chief Information Officer/Technology Officers
Human Resources Officers
Associate Vice Presidents, Faculty Affairs
Discrimination, Harassment, Retaliation Administrators
Disability Leave Coordinators
Directors of Services to Students with Disabilities
Executive Facilities Officers

**THE CALIFORNIA STATE UNIVERSITY
Office of the Chancellor
401 Golden Shore
Long Beach, California 90802-4210
(562) 951-4400**

Executive Order: 1111

Effective Date: May 23, 2018

Supersedes: Executive Order 926

Title: The California State University Board of Trustees Policy on Disability Support and Accommodations

I. Policy Statement

The California State University (CSU) is committed to providing a diverse and supportive academic and work environment that facilitates learning, teaching, working and conducting research for all students, employees and visitors. It is CSU policy to ensure that individuals with disabilities shall have equal access to and the opportunity to participate in CSU programs, activities and services.

The CSU will provide access, support and accommodation to individuals with disabilities in compliance with the California Fair Employment and Housing Act (FEHA), Government Code Section 12920 *et seq.*, the Americans with Disabilities Act of 1990, as amended, (ADA) 42 U.S.C. 12101 *et seq.*, and Sections 504 and 508 of the Rehabilitation Act of 1973, 29 U.S.C. Section 701 *et seq.*

This policy applies to all CSU campuses and to the Office of the Chancellor. It applies, but is not limited to, academic programs and services, student services, human resources services, information resources and technologies, procurement of goods and services, and capital planning, design, and construction. Auxiliaries who operate on the university's campuses are required to comply with this executive order.

II. Policy Compliance and Monitoring

A. The Chancellor's Office maintains CSU systemwide policies and procedures that allow applicants for employment, employees, students, volunteers, independent contractors, vendors, and other members of the public to file complaints through CSU Executive Orders 1096 and 1097 Revised and successors for discrimination, harassment and retaliation based on a protected status, including disability. Campuses are required to ensure that such policies and procedures are posted on appropriate websites and that information regarding these policies and procedures are accessible and available to all students, employees, and visitors.

- B.** Each campus shall designate an employee to coordinate compliance with the ADA and this executive order. Campuses shall provide the contact information for this employee on campus websites.
- C.** Each campus and the Chancellor's Office shall provide funding, resources, and training to members of its campus community to ensure compliance with this executive order. CSU campuses and the Chancellor's Office may consult with Systemwide Professional Development in the Human Resources Division of the Chancellor's Office for assistance in locating available resources and tools that will meet campus-specific needs.
- D.** Each campus and the Chancellor's Office shall consult with the Office of General Counsel when issues arise regarding compliance with laws, regulations, and policy concerning disability support and accommodation.

III. Physical Access

The CSU will ensure that individuals with disabilities have access to CSU programs, services and activities required by FEHA, the ADA and Sections 504 and 508 of the Rehabilitation Act of 1973.

- A.** The Board of Trustees of the CSU is granted full authority and responsibility for the development, construction, and improvement of buildings and facilities on CSU campuses (California Education Code §66606).
- B.** New CSU construction is required to be designed and constructed in compliance with the accessibility standards described within the California Building Standards Code (Code) and the federal ADA guidelines. CSU shall obtain certification of design plans for major capital construction projects from the California Department of General Services, Division of the State Architect (DSA), or as otherwise may be specified by statute. For minor capital projects CSU shall review for and ensure the design plans conform to access compliance code. The CSU shall ensure that construction projects are built according to CSU approved design plans.
- C.** Major capital projects shall be reviewed by a Certified Access Specialist (CASp), and findings shall be resolved prior to project close out and filing of the Notice of Completion (for each respective project).
- D.** Each campus shall assess existing architectural/physical barriers and conditions at variance with current California Code to identify steps to ensure program accessibility to individuals with disabilities. Each campus and the Chancellor's Office shall prioritize the removal of physical barriers to access. Physical barrier removal may be funded through the capital outlay program for building renovations, minor capital projects, and building demolition, and from campus reserves.

- E. The CSU is not required to make structural changes or remove current architectural/physical barriers as long as access to all programs, activities and services is provided in compliance with applicable state and federal law.
- F. Pursuant to California Education Code § 67301(c), each campus and the Chancellor's Office shall conduct biennial audits of parking spaces to determine whether spaces designated for use by individuals with disabilities comply with state building code requirements. California Code of Regulations, Title 24, Part 2, Volume 1 (California Building Code).

Following each biennial audit, each campus shall submit a parking audit report, which documents the audit findings and any actions taken as a result of the audit, to Systemwide Capital Planning, Design, and Construction. Each campus and the Chancellor's Office shall retain a copy of the parking audit report until the next audit is completed.

IV. Information Resources and Technology Access

The CSU is required to make electronic and information technology accessible to all students, employees and the general public, including those individuals with disabilities. "Accessible" means a person with a disability is afforded the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and equally integrated manner, with substantially equivalent ease of use.

- A. Information and Communication Technology access applies to all CSU programs, services, and activities provided to all students, staff, faculty, and the general public. This encompasses all technology products used to deliver academic programs and services, student services, information technology services, and auxiliary programs and services. Technology access for all students, staff, faculty, and the general public must provide comparable functionality, affordability, and timeliness.
- B. The Academic and Student Affairs Division of the Chancellor's Office, in consultation with the Office of General Counsel and campus stakeholder groups, shall issue and update compliance procedures in the form of Coded Memoranda.

The Coded Memoranda will address planning and implementation procedures, and will include reporting requirements that will measure the access to electronic and information technology by individuals with disabilities.

- C. Ensuring accessibility is a shared responsibility and requires a coordinated, ongoing campus wide and systemwide effort to ensure its success. Toward that end:
 1. Each campus president and the chancellor are responsible for the establishment and implementation of accessible electronic information and technology programs that have adequate administrative support and necessary resources to achieve the goals of the Accessible Technology Initiative (ATI).

2. Each campus president and the chancellor will appoint an Executive Sponsor to manage the ATI implementation at their institution.
3. The ATI Executive Sponsor shall be responsible for convening a campus ATI Steering Committee to ensure compliance with procedures in Coded Memoranda issued by the Academic and Student Affairs Division of the Chancellor's Office.
4. The CSU campuses and the Office of the Chancellor shall strive towards implementing Universal Design concepts and strategies which will reduce the need for, and costs associated with, individual accommodations for inaccessible technology products.
5. The CSU Office of the Chancellor has established the ATI to plan and support the implementation of universal access to Information and Communication Technology.

V. Disability Support and Accommodation for Students

The CSU is required to provide accommodations and support services to students with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973 (Section 504) and the ADA. In addition, Section 504 and the ADA prohibits the University from discriminating against a person who has a disability which substantially limits one or more major life activity or is regarded as having such an impairment.

- A. The Academic and Student Affairs Division of the Chancellor's Office, in consultation with the Systemwide Advisory Committee for Services to Students with Disabilities, shall develop and maintain procedures to accommodate students with disabilities. These procedures shall be provided to students and prospective students and posted on the CSU Chancellor's Office website and on the website of each CSU campus.
- B. The CSU is required to conduct an interactive process with a student with a disability to assess the functional impact of a person's disability and to identify reasonable accommodation(s) so the student has the opportunity to participate in University programs and activities in ways that are equal to that afforded others. While the CSU is not required to provide an accommodation requested by the student, the CSU must allow the student the same benefits and opportunity to reach the level of achievement provided to others. Further, the CSU may not charge the student for the cost of providing any reasonable accommodation, regardless of whether the program is state or self-supported.
- C. The CSU has the right to maintain admission, academic, and conduct standards. A reasonable accommodation cannot result in a fundamental alteration to an academic program, course or activity.

- D.** Each campus is required to develop and maintain a written procedure by which a student with a disability may appeal a CSU determination to deny a specifically requested modification or accommodation. Each campus shall post the procedure for this appeal on the website of the office providing services to students with disabilities and shall ensure that this procedure is accessible to students with disabilities. It is recommended that campuses consult with CSU legal counsel in connection with student appeals.
- E.** Each campus shall maintain an office to provide specialized support and services to students with disabilities and a website to provide students with disabilities with information regarding available resources and accommodations as well as the procedure by which students may obtain these resources and accommodations.
- F.** Disability support services may include reasonable academic modifications and physical accommodations for students with disabilities.
- G.** Students with verified disabilities may receive a parking fee waiver based on financial need. The Student Financial Aid Department shall evaluate and certify a student's financial need meets the requirement for a parking fee waiver.

VI. Disability Support and Accommodation in Employment

In accordance with the Americans with Disabilities Act (ADA) and the Fair Employment and Housing Act (FEHA), the CSU shall provide reasonable accommodations to employees with disabilities and to applicants with disabilities, unless doing so would impose an undue hardship on the University's operations.

- A.** Each campus and the Chancellor's Office shall maintain, and post on its Human Resources website, a written procedure by which applicants for employment and employees with disabilities may request and receive reasonable accommodations to allow them to apply for vacant positions and/or perform their job duties. This document should include a description of the interactive process.
- B.** Each campus and the Chancellor's Office shall engage in a timely, good faith, interactive process with employees or applicants with disabilities to determine effective reasonable accommodations, if any, in response to a request for a reasonable accommodation.
- C.** Each campus and the Chancellor's Office shall maintain the confidentiality of an employee's request for reasonable accommodation of a disability. Documentation of the employee's request for disability accommodation, medical verification, the interactive process and any associated procedures shall not be maintained in the employee's personnel file but in a separate, distinct and secure location.

VII. Disability Support and Accommodation in Contracting

Any public solicitation process developed by a campus or the Chancellor's Office shall be compliant with regulations and guidelines issued pursuant to ADA and California

Government Code § 11135, and shall not deny individuals with disabilities the opportunity to participate in the competition for the award of a contract.

VIII. Definitions

- A. Accessible:** means a person with a disability is afforded the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and equally integrated manner, with substantially equivalent ease of use.
- B. Accessible Technology Initiative (ATI):** CSU's ongoing commitment to make information technology resources and services accessible to all CSU students, faculty, staff and the general public regardless of disability.
- C. Disability:**
For employees and students, as defined in California Government Code § 12926 and California Education Code § 66260.5 means:
 - 1. Having a physical or mental condition that limits a major life activity.
“Limits” means making the achievement of a major life activity difficult.
“Limits” is determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity. A “major life activity” is broadly construed and includes physical, mental, and social activities (such as walking, talking, seeing, hearing) and working; or
 - 2. Having a known history of a qualifying impairment; or
 - 3. Being regarded or treated as having or having had a qualifying impairment; or
 - 4. Being regarded or treated as having or having had such an impairment that has not presently disabling effects but may become a qualifying impairment in the future.
- D. Discrimination:** an adverse action taken against an employee, third party or student by the CSU, a CSU employee or a student, because of a protected status.
- E. Essential Functions:** means the fundamental job duties of the employment position the individual with a disability holds or desires. “Essential functions” does not include the marginal functions of the position. A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:
 - 1. The function may be essential because the reason the position exists is to perform that function,
 - 2. The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed, and/or
 - 3. The function may be highly specialized, so that the incumbent in the position is hired based on expertise or the ability to perform a particular function.

F. Individual with a disability: refers to:

1. Any person who has a physical or mental impairment that limits one or more of the major life activities of such individual,
2. Any person who has a record of such impairment, or
3. Any person who is regarded as having such impairment.

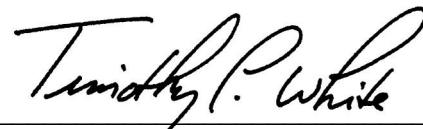
G. Information and Communication Technology: this term encompasses electronic information and technology that includes, but is not limited to, the internet and intranet websites, web applications including mobile, content delivered in digital form, electronic books and electronic book reading systems, search engines and databases, learning management systems, classroom technology and multimedia, personal response systems ("clickers"), and office equipment such as classroom podiums, copiers and fax machines. It also includes any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, creation, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. This term includes telecommunications products (such as telephones), information kiosks, Automated Teller Machines (ATMs) transaction machines, computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

H. Interactive process:

For employees: a requirement under the ADA and FEHA for employers and employees to communicate to identify the limitations resulting from an employee's disability and potential reasonable accommodations that could overcome those limitations.

For students: collaborative process between the student and the university to determine reasonable accommodations that provide equitable opportunity for the student to participate in, while not fundamentally altering the CSU's courses, programs, services, and activities.

I. Reasonable accommodation: a modification or adjustment to a job, the work environment, academic program, existing facilities, or the way things usually are done that enables a qualified individual with a disability to enjoy an equal employment where the individual may continue performing the essential functions of the job or academic opportunity to continue to complete assignments and participate fully in course work.



Timothy P. White, Chancellor

Dated: May 23, 2018

Resources

The following policies, contracts, executive orders, and manual define the mandates and support the intent of Executive Order 1111.

Academic Programs, Services and Activities

- *Policy for the Provision of Accommodations and Support Services to Students with Disabilities* (CSU Coded Memorandum AA 2014-08):
<http://www.calstate.edu/AcadAff/codedMemos/AA-2014-08.pdf>
- *2005-2006 Campus Support for the CSU Center for Alternative Media* (CSU Coded Memorandum AA 2005-51): <http://www.calstate.edu/AcadAff/codedMemos/AA-2005-51.pdf>
- *Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Students and Systemwide Procedure for Addressing Such Complaints by Students* (Executive Order 1097 Revised October 5, 2016): <http://www.calstate.edu/eo/EO-1097-rev-10-5-16.html>

Human Resources

- *Systemwide Guidelines for Affirmative Action Programs in Employment* (Executive Order 1088): <http://calstate.edu/eo/EO-1088.html>
- *Procedures in collective bargaining agreements available for each bargaining unit:* <http://www.calstate.edu/hr/employee-relations/bargaining-agreements/>
- *Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Employees and Third Parties and Systemwide Procedure for Addressing Such Complaints by Employees and Third Parties* (Executive Order 1096 Revised October 5, 2016):
<http://www.calstate.edu/eo/EO-1096-rev-10-5-16.html>
- *Compliance Training:* <https://csyou.calstate.edu/divisions-orgs/hr/spd/compliance-training/Pages/default.aspx>

Information Resources and Technologies

- *Information technology resources as governed by California state law:*
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=11135
- *Accessible Technology Initiative (ATI) website:*
<http://teachingcommons.cdl.edu/access/index.html>

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Appendix

- *Accessible Technology Initiative: Amendment to AA-2013-03* (Coded Memorandum AA-2015-22): <http://www.calstate.edu/acadaff/codedmemos/aa-2015-22.pdf>
- *Accessible Technology Initiative* (Coded Memorandum AA-2013-03):
<http://www.calstate.edu/AcadAff/codedmemos/AA-2013-03.html>
- *Section 5228.00 Accessibility of Public Solicitations and Acquisition of Electronic and Information Technology (E&IT) Goods and Services* (Effective 9/25/2016):
<https://csyou.calstate.edu/Policies/icsuam/FinalPDF/Section%205000%20PDF/Section5000.pdf>
- *Information and Technical Assistance on the Americans with Disabilities Act (ADA)*:
<https://www.ada.gov/access-technology/>

Physical Access

- *State University Administrative Manual (SUAM)*: www.calstate.edu/CPDC/SUAM

Contracts and Procurement

- *Non-Discrimination Policy* (Section 5220 of the Integrated CSU Administrative Manual)
<https://csyou.calstate.edu/Policies/icsuam/FinalPDF/Section%205000%20PDF/5220-00.pdf>