


The California State University
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To: CSU Presidents

From: Jackie R. McClain 
Vice Chancellor
Human Resources

Subject: **Prohibition Against Employment Discrimination based on Gender Identity**

The Fair Employment and Housing Act (FEHA) was recently amended to protect transgendered employees and applicants, who exhibit the appearance or traits not often associated with their sex at birth, from employment discrimination and harassment. Essentially, the term "sex" (previously defined to include pregnancy, childbirth or medical conditions related to pregnancy or childbirth) is broadened to include "gender," which is defined as the employee's actual sex, or the employer's perception of the employee's sex, and includes the employer's perception of the employee's identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the employee's sex at birth. (Government Code §12926). The amendment specifically allows employers to require employees' adherence to reasonable workplace appearance, grooming and dress standards so long as employers allow their employees to appear or dress consistent the employee's own gender identity. (Government Code §12949).

CSU is committed to the legal principles of FEHA. To this extent, all CSU statements prohibiting sex discrimination or harassment, such as those found in the following written policies, shall be interpreted in a manner consistent with the recently amended FEHA:

- Article 26.21 of the collective bargaining agreement with the California Federation of the Union of American Physicians and Dentists
- Article 25 of the collective bargaining agreement with the California State Employees' Association

Distribution:

Vice Presidents, Academic Affairs
Associate Vice Presidents, Faculty Affairs
Human Resources Directors
Equal Employment Opportunity Directors

- Article 16 of the collective bargaining agreement with the California Faculty Association
- Article 21 of the collective bargaining agreement with the Academic Professionals of California
- Article 6 of the collective bargaining agreement with the State Employees' Trades Council
- Article 8 of the collective bargaining agreement with the International Union of Operating Engineers
- Executive Order No. 345 — Prohibition of Sexual Harassment
- Executive Order No. 419 — Systemwide Grievance Procedures — Discrimination Complaints for Employees Not Covered by Existing Regulation
- Executive Order No. 675 — Systemwide Complaint Procedure for Discrimination Complaints for Employees Not Eligible to File a Discrimination Complaint or Grievance Under a Collective Bargaining Agreement
- Executive Order No. 883 — Systemwide Guidelines for Nondiscrimination and Affirmative Action Programs in Employment

Questions regarding the FEHA should be addressed to campus counsel. This HR letter is also available via Human Resources Administration's Web page at: <http://www.calstate.edu/HRAdm/memos.shtml>.

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