



California State University

CEQA HANDBOOK

TABLE OF CONTENTS

Chapter 1 What Is the California Environmental Quality Act (CEQA) and When Does CEQA Compliance Start? 1

Chapter 2 What Are the Initial Decisions I Have to Make?9

Chapter 3 Exempt Projects.....19

Chapter 4 The Initial Study27

Chapter 5 Negative Declaration/Mitigated Negative Declaration.....35

Chapter 6 What are the Types of EIRs?.....45

Chapter 7 The Contents of an EIR49

Chapter 8 When Do I Prepare a Subsequent EIR/MND?.....67

Chapter 9 How to Process an EIR.....71

Chapter 10 Mitigation Measures81

Chapter 11 Mitigation Monitoring and Reporting Program.....87

Chapter 12 Findings of Fact and Statement of Overriding Considerations.....91

Chapter 13 Legal Challenges and the Administrative Record95

Chapter 14 Public-Private Partnership Projects99

Chapter 15 Climate Action Plans103

Chapter 16 CSU Process105

Chapter 17 Links to CEQA Guidelines, Forms, and Websites111

Appendix A Example Finding of Consistency

Appendix B Statement of Overriding Considerations Template

ACRONYMS AND ABBREVIATIONS

This Handbook uses many acronyms and abbreviations for CEQA terms and terms internal to

AB	Assembly Bill
Campus Master Plan Program EIR	Campus Master Plan process, a program-level EIR
CEQA	California Environmental Quality Act
CPDC	Office of the Chancellor, Capital Planning, Design, and Construction
CSU	California State University
EIR	Environmental Impact Report
GHG	Greenhouse Gas
Guidelines	Guidelines to the Campus Master Plan
MMP	Mitigation Monitoring Program
MMRP	Mitigation Monitoring and Reporting Program
MND	Mitigated Negative Declaration
ND	Negative Declaration
NEPA	National Environmental Policy Act
NOA	Notice of Availability
NOC	Notice of Completion
NOD	Notice of Determination
NOE	Notice of Exemption
NOI	Notice of Intent to Adopt
NOP	Notice of Preparation
OPR	State Office of Planning and Research
PDFs	Project design features
PPPs	Public-private partnerships
SOC	Statement of Overriding Considerations
VMT	vehicle miles travelled

KEY TERMS

CEQA: California Environmental Quality Act

Discretionary Approval: CEQA applies in situations where a public agency requires the use of judgment or deliberation in deciding whether to approve or disapprove a project. A project subject to such judgment or deliberation is called a “discretionary project.” (CEQA Guidelines Section 15357)

Project: Under CEQA, a project is the whole of an action which has the potential to result in significant physical change in the environment, directly or ultimately. (CEQA Guidelines Section 15378)

Project Description: Describes the basic characteristics of the project including location, need for the project, project objectives, technical and environmental characteristics, project size and design, project phasing and required permits. The level of detail provided in the project description varies according to the type of environmental document prepared. (CEQA Guidelines Section 15124)

Lead Agency: The public agency which has the principal responsibility for carrying out or approving a project. The Lead Agency decides whether an Environmental Impact Report or Negative Declaration is required for a project, and causes the appropriate document to be prepared. (CEQA Guidelines Section 15367)

Responsible Agency: A public agency which proposed to carry out or approve a project for which the Lead Agency has prepared an EIR or a Negative Declaration. (CEQA Guidelines Section 15381)

Trustee Agency: Under CEQA, a Trustee agency is a state agency that has jurisdiction by law over natural resources affected by a project which are held in trust for the people of the State of California. The four Trustee agencies are: California Department of Fish and Game, State Lands Commission, California Department of Parks and Recreation and the University of California (Natural Reserve System). (CEQA Guidelines Section 15386)

Statutory Exemption: Exemptions from CEQA granted by the Legislature. (CEQA Guidelines Sections 15260-15285)

Categorical Exemption: Classes of projects which have been determined by the Secretary for Resources not to have a significant effect on the environment and which are therefore exempt from the provisions of CEQA, unless exceptions to the exemption apply. (CEQA Guidelines Section 15317-15333)

Initial Study: A preliminary analysis (usually utilizing Appendix G of the CEQA Guidelines) prepared by the Lead Agency to determine whether an EIR or a Negative Declaration must be prepared or to identify the significant environmental effects to be analyzed in an EIR. (CEQA Guidelines Section 15063)

Negative Declaration: A written statement prepared by the Lead Agency that briefly describes the reasons that a project, not exempt from CEQA, will not have a significant effect on the environment and therefore does not require the preparation of an EIR. (CEQA Guidelines Section 15371)

Environmental Impact Report (EIR): An informational document which describes and analyzes prepared the significant environmental effects of a project and discusses ways to minimize or avoid the significant effects. (CEQA Guidelines Sections 15080-15097)

Program Environmental Impact Report: An EIR prepared on a series of actions that can be characterized as one large project, such as for a Campus Master Plan. A program EIR generally establishes a framework for tiered or project-level environmental documents that are prepared in accordance with the overall program. (CEQA Guidelines Section 15168(a))

Substantial Evidence: Substantial evidence means enough relevant information (facts and/or data) and reasonable inferences and assumptions predicated on facts and/or data, or expert opinion supported by facts and/or data that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. It does not include argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate information, or input regarding social or economic impacts which do not contribute to and are not caused by physical impacts on the environment. (CEQA Guidelines Section 15384)

Fair Argument: An assertion, based on substantial evidence in the record, that a project may have a significant effect on the environment. The fair argument standard is used by courts in reviewing the appropriateness of a ND vs. an EIR. Courts have held that a Negative Declaration is inappropriate if it can be “fairly argued,” based on substantial evidence in the record, that the project may cause a significant environmental impact. (CEQA Guidelines Section 15384)

Findings: Findings required by CEQA are the conclusions made regarding the significance of a project in light of its environmental impacts. (CEQA Guidelines Section 15091)

Addendum: A document prepared subsequent to certification of an EIR or Negative Declaration to address minor technical changes or additions but which would not result in any new or more significant impacts. An Addendum does not need to be circulated for public review. (CEQA Guidelines Section 15164)

Administrative Record (known as the Record of Proceedings under CEQA): The compilation of a detailed list of documents and records showing the record of proceedings relating to the environmental action or proceeding including, but not limited to, all project application materials, all reports and related documents, transcripts or minutes of the proceedings, notices, comments, decisional documents, and environmental review documents that provide a record of the environmental review required by CEQA related to the project. (See Cal. Public Resources Code Section 21167.6 for a complete list of materials that are part of the administrative record.)

Notice of Exemption: A notice filed by the campus after it has decided to carry out or approve a project and has determined that the project is exempt from CEQA (CEQA Guidelines Section 15374).

Notice of Preparation: A notice sent out by the campus to notify responsible, trustee, and other agencies indicating that the lead agency plans to prepare an EIR for a project. The notice serves to solicit input about the scope and content of environmental information to be included in the EIR. (CEQA Guidelines Section 15375)

Notice of Determination: A notice filed by a public agency with the State Clearinghouse after it approves or determines to carry out a project which is subject to the requirements of CEQA. The filing of the NOD starts the statute of limitations period. (See CEQA Guidelines Section 15373)

Thresholds of Significance: Criteria used in the determination of the significance of environmental impacts. (CEQA Guidelines Section 15064.7)

Significant Effect: Under CEQA, a significant effect on the environment means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. (CEQA Guidelines Section 15382)

Statement of Overriding Considerations: A statement indicating that even though a project would result in one or more unavoidable adverse impacts, specific economic, social, technological or other stated benefits outweigh the unavoidable adverse effects of the project. (CEQA Guidelines Section 15093)

Statute of Limitations: The time period within which a lawsuit may be filed or other legal action to challenge a CEQA document and approval. (CEQA Guidelines Section 15112)

Supplemental Environmental Impact Report: An EIR prepared for projects in which only minor changes or additions would be necessary to make the previous EIR adequate for the project as revised. A Supplement to an EIR may be circulated by itself without recirculating the previous Draft or Final EIR, but the Supplement must receive the same circulation and review as the previous EIR. (CEQA Guidelines Section 15163)

Subsequent Environmental Impact Report: An EIR prepared for projects that change substantially due to new information, a changed project description, or changed circumstances within which the project would take place. Generally, new information requiring a subsequent EIR would pertain to significant effects that were not previously analyzed. A subsequent EIR must receive the same circulation and review as the previous EIR. (See CEQA Guidelines Section 15162)

Tiering: Use of a Program EIR to clear a subsequent, specific project. General information from the Program EIR is summarized or incorporated by reference so that the tiered EIR can focus on project/site-specific issues. (CEQA Guidelines Section 15385)



CHAPTER 1

What Is the California Environmental Quality Act (CEQA) and When Does CEQA Compliance Start?

PURPOSE OF HANDBOOK

The purpose of this Handbook is to serve as a hands-on guide to conducting environmental review of projects undertaken by the California State University (CSU) campuses. This Handbook will help you determine whether the California Environmental Quality Act (CEQA) applies to the project you are undertaking, and if so, what type of environmental document is appropriate for the project under consideration. This Handbook also lays out a step-by-step process to ensure compliance for implementing CEQA.

PURPOSE OF CEQA

In 1970, the California Legislature adopted CEQA, which requires public agencies to disclose environmental impacts of their projects to decision makers and the public, and to avoid or mitigate such impacts when feasible. All public agencies, including the CSU, are required to comply with CEQA.

The laws and rules governing the CEQA process are contained in the CEQA statute (Public Resources Code Section 21000 and following), the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 and following), published court decisions interpreting CEQA, and lead agency adopted CEQA procedures. CEQA Guidelines Section 15002 expresses the basic purposes of CEQA. The primary purpose of CEQA is to maintain a high-quality environment.

CEQA Guidelines Section 15002. Basic Purposes

The basic purposes of CEQA are to:

1. Inform governmental decision makers and the public about the potential significant environmental effects of proposed activities;
2. Identify the ways that environmental damage can be avoided or significantly reduced;
3. Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible; and
4. Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.

The CEQA Guidelines lay out the General Responsibilities of public agencies in Section 15021, Duty to Minimize Environmental Damage and Balance Competing Public Objectives.

CEQA Guidelines 15021. Duty to Minimize Environmental Damage and Balance Competing Public Objectives

CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible, and establishes the following requirements in this regard.

1. In regulating public or private activities, agencies are required to give major consideration to preventing environmental damage.
2. A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.
 - a. In deciding whether changes in a project are feasible, an agency may consider specific economic, environmental, legal, social, and technological factors.
 - b. The duty to prevent or minimize environmental damage is implemented through the findings required by Section 15091.
 - c. CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian. An agency shall prepare a statement of overriding considerations, as described in Section 15093, to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment and such impacts cannot be reduced to less-than-significant levels with feasible mitigation.

WHEN DOES THE CEQA PROCESS START?

The CEQA process starts when a project is contemplated. When there is enough information about the proposed activity to answer questions about whether it is a project under CEQA, and to frame the scope of the environmental analysis, the CEQA process must begin. Chapter 2, *What Are the Initial Decisions I Have to Make?*, describes the initial considerations that should be made at the start of the process.

The final CEQA documents must be completed *before* there is a commitment to the project by decision makers. Thus, the CEQA process needs to start early enough so that the entire process, as applicable to each of the following CSU Board of Trustee approvals, can be completed *prior* to:

- The approval of a Campus Master Plan revision
- The approval of schematics plans
- The approval of commitments for the use of real property, such as a development agreement, property purchase agreement, or ground lease

Please consult with the Chancellor’s Office on CEQA compliance associated with the acquisition of a land.

Remember: *The first steps of the CEQA process can begin before many details of the project have been developed.*

As stated in CEQA Guidelines Section 15004,

Choosing the precise time for CEQA compliance involves a balancing of competing factors. EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment.

COMMUNITY OUTREACH AND AGENCY COORDINATION

Since a successful CEQA process is also framed by relations with your city/local jurisdiction and nearby communities, start communicating early about potential major projects, including those along a campus boundary or projects that could be of interest to your city or nearby community.

Early consultation with local jurisdictions may also need to take into account whether such jurisdictions may be Responsible Agencies. However, please note that any written materials provided must be reviewed by the Chancellor’s Office prior to release to local jurisdictions.

Organization of Public Meetings

As emphasized in Section 15201 of the CEQA Guidelines, public participation is an essential component of the CEQA process. There are various types of meetings that can be incorporated into the process – some are optional and some are required. For instance, EIR scoping meetings are required for projects of statewide, areawide, or regional significance (as defined in CEQA Guidelines Section 15082(c)(1)). A scoping meeting also may be required for projects that could affect highways or other facilities under Caltrans’ jurisdiction. For all other projects, scoping meetings are optional. Scoping meetings are advisory meetings intended to obtain input on the scope and content of an EIR. However, CSU retains the authority to determine the final scope and methodology to be used as supported by substantial evidence.

Project managers also may choose to hold public meetings in advance of the CEQA process, to gather early input on project design concerns. When you decide to hold a public outreach meeting or meetings on a Campus Master Plan or specific capital project, consider the following during planning.

Location. Would it be better to hold the meeting on campus near the site of the proposed project or would it be better to hold it closer to an affected community? For example, if the main interest in the community concerns traffic on off-campus roadways, it may be better to hold the meeting closer to the affected community.

Attendees. If the intent is to provide information to residents, business owners, and other community members, the meeting should be open to the public.

Format. For a public outreach meeting, the intent is to provide information about the project to the community. A workshop-style meeting, in which CSU staff or consultants provide information and answer questions about the proposed project, is an effective format for a public outreach meeting because it allows community members to voice their opinions. It is important to be clear that while it is unlikely that you will be deciding whether or not to proceed with a project based solely on input from the community, elements of the project design may be influenced by comments and issues raised by the community. It is also important to be clear on the goal(s) of the meeting.

Content. Based on the purpose of the meeting, the content should be designed narrowly to address only the objectives of the meeting. If the purpose of the meeting is to provide information regarding the project, the meeting should include items such as the following, to the extent this information is available at the early stage:

- Project site location
- Project site access
- Proposed project schedule
- Project purpose (provide student housing to reduce housing issues in the community, for example)
- Project elements, to the extent known, such as types of uses, sizes of buildings, etc.

A community outreach meeting is intended to reduce anxiety in the community regarding the unknowns of a project and instill a sense of inclusion in the process. Therefore, it is best to hold the community outreach meeting in the early planning stage of a project and before a detailed project design has been completed.

CSU SOVEREIGNTY AS A STATE AGENCY

CSU is a State agency and, therefore, is not subject to the application of local ordinances, regulations, policies, and rules, including zoning and land use regulations, development regulations, inclusionary housing and affordable housing regulations, subdivision regulations, development impact fees, facilities benefit fee

assessments, parkland dedication and improvement requirements, and other regulations, rules, fees, taxes, and exactions that might be imposed by a local agency in connection with the regulation of land use and development.

The CSU is the State of California acting in its higher education capacity and is not subject to local (city or county) regulations, ordinances, taxes, assessments, fees, plan checking, building permits, or inspection requirements. When the State engages in such sovereign activities as the construction and maintenance of its buildings, it is not subject to local regulations unless the Constitution says it is or the Legislature has consented to such regulation. (*Hall v. City of Taft* (1956) 47 Cal. 2d 177, 183.) Unless a State statute requires or authorizes it, the State, including the CSU, is exempt from such local regulations and requirements.

Whether the CSU enjoys immunity in a particular case will always depend on whether the project is sufficiently related to the governmental purposes of the CSU (e.g., construction and maintenance of its buildings and housing facilities) and the nature of the activity being regulated. (*See City of Malibu v. Santa Monica Mts. Conservancy* (2002) 98 Cal. App. 4th 1379, 1383; *Bame v. City of Del Mar* (2001) 86 Cal. App. 4th 1346, 1358; *Regents of University of California v. City of Santa Monica* (1978) 77 Cal. App. 3d 130, 136-137; *Board of Trustees v. City of Los Angeles* (1975) 49 Cal. App. 3d 45, 49-50.) Such immunity may also be transferred to a lessee if the activity to be regulated is in furtherance of the CSU's governmental purposes. (*See Bame*, 86 Cal. App. 4th at 1358; *Board of Trustees*, 49 Cal. App. 4th at 48-49; 57 Ops. Cal. Atty. Gen. 124 (1974); 68 Ops. Cal. Att. Gen. 114 (1985).)

There are some limited circumstances when the State/CSU will pay for services rendered to the State/CSU, (e.g., the CSU pays for water and sewer hookup fees and fees to pay for water used and sewage treated). The CSU is also authorized to pay capital facilities fees for infrastructure built by publicly owned utilities under certain circumstances. (Cal. Gov. Code § 54999 *et seq.*)

PRACTICE TIP

Since each project has its own unique circumstances, consult early with the Chancellor's Office and the Office of General Counsel.

CSU AS CEQA LEAD AGENCY

CEQA defines a Lead Agency as the public agency which has principal responsibility for carrying out or approving a project which may have a significant effect upon the environment. (Public Resources Code Section 20167.) CEQA Guidelines Section 15367 adds that the Lead Agency for a project is responsible for determining whether an EIR or negative declaration will be required for the project, and causing the document

to be prepared if it is determined to be required. CEQA Guidelines Section 15051 further provides that, where more than one public agency may be involved in a project, the Lead Agency is the public agency which will carry out the project, even if the project is located within the jurisdiction of another public agency. Thus, in accordance with the CEQA Guidelines, CSU will be the Lead Agency for any project which it will carry out and approve, even if the project is located within the jurisdiction of another public agency.

In accordance with CEQA Guidelines Section 15381, in any project for which CSU is the Lead Agency, another public agency with discretionary approval authority over any portion of the project, would be considered a Responsible Agency.

Typical situations where the CSU is the Lead Agency and another public agency is the Responsible Agency can include:

- Projects where off-campus improvements are required for the project, and those improvements require the approval of another agency, such as an encroachment permit from Caltrans or a city or county; and
- Projects where another type of permit, such as a take permit from the California Department of Fish and Wildlife, is required in order for the project to proceed.

RECOMMENDED PROCEDURES FOR PROJECT MANAGEMENT

Managing the CEQA process should be incorporated into management of the overall project. An environmental consultant will be retained for preparation of an environmental document if one is determined to be required, as described in Chapters 2 through 8. It is recommended that CEQA consultants with a master enabling agreement with CSU be selected to prepare CEQA documents. Close coordination should be maintained between the campus and the consultant team to ensure that the overall project schedule can be met. Environmental document preparers should be involved in the process early—they can help ensure that the project is designed to provide the information necessary for the environmental analysis, and may even be able to help the project design respond to and avoid impacts on environmental issues that have been identified early on. They can also help develop Campus Master Plan policies to ensure that environmental protection is integrated into the Plan.

A **kick-off meeting** with the environmental document preparers may occur at the time work on a Campus Master Plan commences or when a project feasibility study has been completed. Involvement of the environmental document preparers in project team calls or meetings even before the CEQA process has officially begun may also be useful in providing the benefits described above.

Once the determination has been made that an environmental document is required, and the scope of work for the environmental document preparers has been approved, regular phone conferences with the consultant team and the internal project team should occur. Generally, such meetings will need to occur more frequently at the beginning of the process and when the environmental document is in the final stages of completion, and less frequently in the middle stages of the process. Depending on the schedule of the project, monthly, weekly, or biweekly calls may be appropriate.

Regardless of the format and timing of check-in meetings, regular and clear communication between all project team members is of the utmost importance in keeping a project moving on time and on budget. In particular, all internal decisions made regarding changes to project components and/or timing should be communicated to outside consultants as soon as possible so that changes can be readily incorporated into the environmental analysis, and changes in the timeline for deliverables can be anticipated.



CHAPTER 2

What Are the Initial Decisions I Have to Make?

WHAT ARE THE INITIAL DECISIONS I HAVE TO MAKE?

Since CEQA does not apply to every activity undertaken by the University, the first step you need to take is to determine whether the activity under consideration constitutes a “project” that is subject to CEQA review.

➤ **Step 1. Is the activity a “project” or not?**

CEQA compliance is required for any University action that is considered a “project.” A project is defined in CEQA Guidelines Section 15378 as “the whole of an action that has the potential to result in a direct physical

change or in a reasonably foreseeable indirect physical change in the environment.” Only discretionary actions are considered projects.

If the activity under consideration is not a project, CEQA does not apply. The repair of a parking lot or routine facility maintenance/tenant improvements with no increase in capacity are examples of activities that would typically not constitute a project under CEQA.

Campus actions that require discretionary approvals either by the Trustees or by the campus are considered projects and are subject to CEQA compliance. A discretionary approval means that the exercise of judgment or deliberation is used when the public agency decides to approve or disapprove a particular activity, as distinguished from situations in which the public agency merely has to determine “whether there has been conformity with applicable statutes, ordinances, regulations, or other fixed standards.” A key question is whether subjective judgment is applied to the determination of whether to approve a project and whether the decision-maker has the power to apply mitigation to avoid environmental impacts. If there is subjective judgment or the power to mitigate, the decision is discretionary. (CEQA Guidelines Section 15357.)

Projects may range from a small action such as a demolition of a single facility or the installation of new street lights at the campus perimeter, to large projects such as a new student housing complex, an update of a Campus Master Plan, or a new Climate Action Plan. Minor and Major Campus Master Plan Revisions are considered to be projects under CEQA.

➤ **Step 2. If the activity is a project under CEQA, what are my choices?**

Once you have determined that the proposed activity is a project, the next step is to find out whether the project is exempt from CEQA.

Option 1: Project Is Exempt

There are two types of exemptions from CEQA: statutory (created by law) and categorical (established through the State CEQA Guidelines). Whether an exemption relieves CSU from the need to prepare a CEQA document (i.e., a Negative Declaration [ND], Mitigated Negative Declaration [MND], or Environmental Impact Report [EIR]) depends on whether a project conforms to the requirements for a particular statutory or categorical exemption. Statutory exemptions are limited only by the provisions of the statute on which they are based. Some are quite broad; others are narrowly applicable. Categorical exemptions are limited by the provisions of the specific class of exemption, and by the exceptions described under CEQA Guidelines Section 15300.2.

If you conclude that a statutory or categorical exemption is appropriate, you will need to prepare and file a Notice of Exemption (NOE) with the State Clearinghouse. Note that it is important to document that the

selected exemption describes the type of project being proposed and, in the case of a categorical exemption, that none of the exceptions described in CEQA Guidelines Section 15300.2 apply. Chapter 3, *Exempt Projects*, provides further detail on choosing and processing the correct exemption for your project. For those projects that are potentially controversial, it may be beneficial to prepare supporting environmental documents. In such cases, the campus should consult with the Chancellor's Office before proceeding. See Chapter 3 for additional information.

Option 2: Project Not Exempt

If no exemption applies or if an exception disqualifies use of a categorical exemption, then you can conclude that the project requires review pursuant to CEQA, which leads to the next question:

➤ Step 3. What type of environmental document is needed?

The type of environmental document needed depends upon two key issues: (1) whether the project has already been addressed in a prior CEQA document, and (2) if no prior CEQA document applies, whether the project may result in significant environmental effects. Under the first scenario, the determination must be made as to whether and to what extent the prior document has adequately analyzed the impact of the project. Substantial evidence in the record, as defined in greater detail below, should support this decision. If the project's impacts have been adequately analyzed in a prior document such that no further environmental review is necessary, a Finding of Consistency would be made.

Under the second scenario, a determination should be made, based on the fair argument standard, as to whether a project may result in a significant impact. Under this standard, if there is a fair argument, based on substantial evidence in the Administrative Record that a particular project may have a significant adverse effect on the environment, an EIR will be prepared. Alternatively, if no fair argument of a significant impact can be made, a ND or MND can be prepared. See Chapter 13, *Legal Challenges and the Administrative Record*, for a detailed discussion of the importance and contents of a detailed Administrative Record.

Figure 1 below identifies the typical choices for environmental documentation.

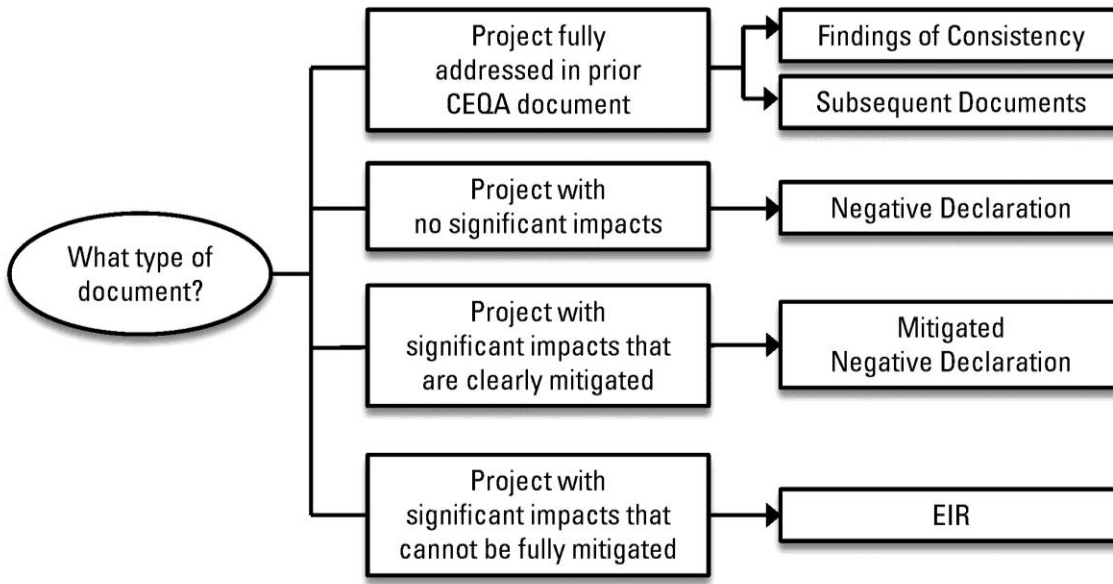


Figure 1. Choices for Environmental Documents

Findings of Consistency are addressed below in this chapter. Chapters 4 through 9 address subsequent documents, NDs and MNDs, and EIRs.

SUBSTANTIAL EVIDENCE

As defined in CEQA Guidelines Section 15384, substantial evidence consists of “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.” Simply stated, “substantial evidence” is the relevant information used to support a conclusion. **Substantial evidence IS** facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. **Substantial evidence IS NOT** argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly erroneous or inaccurate.

WAS THIS PROJECT ADDRESSED IN THE CAMPUS MASTER PLAN EIR?

Each CSU campus is required to prepare a Campus Master Plan. As part of the Campus Master Plan process, a program-level EIR (Campus Master Plan Program EIR) has typically been certified for each University campus. You should investigate whether the activity was addressed in the Campus Master Plan Program EIR once it has been determined that the activity is a project, and is not statutorily or categorically exempt. If the activity is addressed in the Campus Master Plan Program EIR, then it may be possible to “tier” from the Campus Master Plan Program EIR to simplify the CEQA process while ensuring thorough review of project impacts. Chapter 7, *The Contents of an EIR*, provides a detailed discussion on how to determine whether and the extent to which a project may be covered by the Campus Master Plan Program EIR. Figure 2 summarizes the options available for tiering from the Campus Master Plan Program EIR.

Your investigation should focus on the extent to which the activity is different from what has been discussed and analyzed in the Campus Master Plan Program EIR. After reviewing the activity, there are five potential outcomes:

- **Making a Finding of Consistency.** This finds that the activity is adequately analyzed in the Campus Master Plan Program EIR and no revisions are needed.
- **Adoption of an Addendum.** This is used when the activity is slightly different from what was analyzed in the Campus Master Plan Program EIR, but not so different that there would be a new or substantially more severe impact not disclosed in that EIR.
- **Preparation of a Subsequent MND.** This is used when the activity would result in one or more new significant impacts or substantially more severe impacts that can be mitigated to a less-than-significant level.
- **Preparation of a Supplemental EIR.** This is used when the activity would result in a few new significant impacts or substantially more severe impacts that cannot be mitigated to a less-than-significant level.
- **Preparation of a Subsequent EIR.** This is used when the activity would result in several new significant impacts or substantially more severe impacts that cannot be mitigated to a less-than-significant level, and the activity would involve major changes to the analysis in the Campus Master Plan Program EIR.

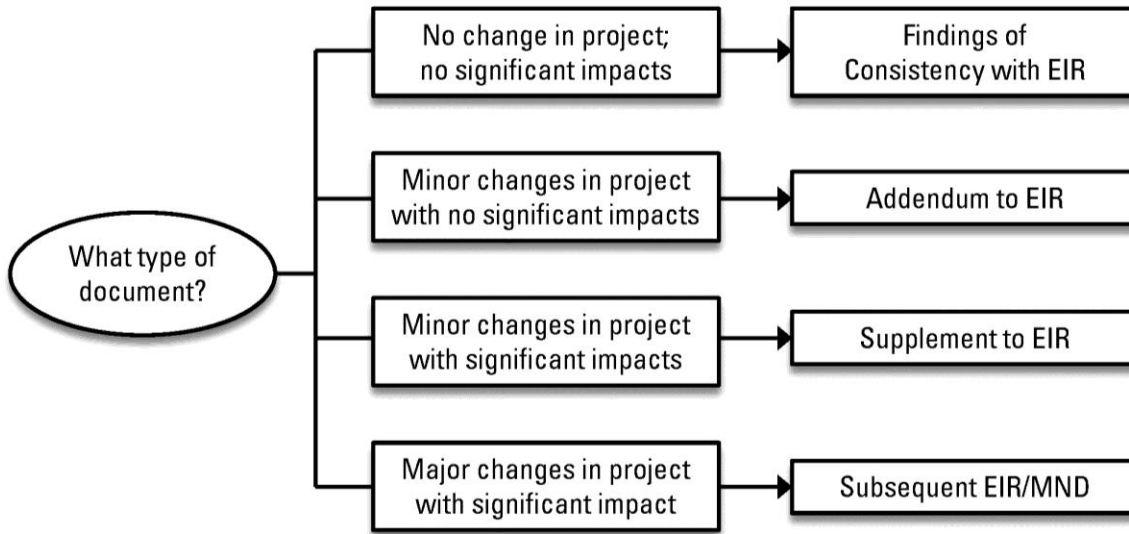


Figure 2. Tiering from the Campus Master Plan EIR

When a Program EIR has been certified for a Campus Master Plan, that Program EIR can be applied to later activities that are “within the scope” of the Program EIR. However, additional CEQA review for a project within the scope of the Campus Master Plan Program EIR is necessary if there is substantial evidence in the record as determined by CSU that one or more of the following conditions set forth in (CEQA Guidelines Section 15162(a) applies):

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the ND was adopted, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR or ND;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;

- c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Determining whether the activity is within the scope of the Campus Master Plan Program EIR is crucial if the subsequent analysis is to be limited to new or more severe impacts. If the activity is not within the scope, than a standard Initial Study must be prepared.

What is “within the scope?” CEQA Guidelines Section 15168(c)(2) states, in part:

Whether a later activity is within the scope of a program EIR is a factual question that the lead agency determines based on substantial evidence in the record. Factors that an agency may consider in making that determination include, but are not limited to, consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the program EIR.

FINDINGS OF CONSISTENCY WITH CAMPUS MASTER PLAN PROGRAM EIR

A Finding of Consistency is used when the activity is found to have been adequately analyzed in the Campus Master Plan Program EIR. The Finding of Consistency determines and documents that no new environmental analysis is required and that the activity’s CEQA obligation is met by the Campus Master Plan Program EIR. By adopting the Finding of Consistency, the campus will be able to move a project forward without the need to conduct additional environmental analysis of potential impacts.

This determination is to be based on the substantial evidence standard (i.e., the determination will be upheld in court when supported by substantial evidence in the record). The Finding of Consistency is adopted at the same time that the action is approved. The Finding of Consistency is adopted only when no subsequent CEQA document of any kind is necessary.

As determined by the Chancellor’s Office, a Finding of Consistency document may be prepared which explains the reasons for determining that:

- The action is within the scope of the Campus Master Plan examined in the Program EIR, and
- None of the conditions described in CEQA Guidelines Section 15162(a) apply, nor is an Addendum necessary.

The Finding of Consistency document will describe why the action is within the scope of the Campus Master Plan Program EIR. This will include the following conclusions about the action:

- It is within the site covered by the Campus Master Plan and the related Program EIR.
- It is consistent with the Campus Master Plan, including land use and density and intensity of development.
- It will utilize infrastructure described in the Campus Master Plan Program EIR.
- It is reflected in the Campus Master Plan Program EIR's analysis of impacts.

The Finding of Consistency document should include, at minimum:

- A brief description of the action;
- The name of the Campus Master Plan Program EIR that applies to the action;
- The significant effects identified in the Campus Master Plan Program EIR, including both those identified as significant and unavoidable, and those that are less than significant with mitigation;
- The mitigation measures in the Campus Master Plan Program EIR that apply to the action;
- A discussion of why the action is within the scope of the Campus Master Plan Program EIR; and
- A discussion of why the action is adequately analyzed in the Campus Master Plan Program EIR.

The Finding of Consistency must be supported by factual analysis and data. The Finding of Consistency must cite any references, including the initial study, relied upon to support its conclusions. The CSU reviews and approves the findings to ensure that they are sufficiently comprehensive and detailed.

To make the decision as to whether a Finding of Consistency is appropriate, you need to consider carefully whether the Campus Master Plan Program EIR is sufficiently specific and has enough detail to cover your project. If the EIR is written in very general terms, such that a project-level impact assessment is not possible for a given activity, and/or there are new considerations that indicate that a new or more severe impact would result, the Finding of Consistency is not an appropriate option. The CSU is responsible for determining whether a Negative Declaration (or Mitigated Negative Declaration), an Addendum, Subsequent or Supplemental EIR is necessary because a more detailed analysis is needed or changes that have occurred since the Campus Master Plan Program EIR was certified. See Chapter 8 for more about subsequent documents.

The Finding of Consistency will be included, or referenced, in the decision document. If a Finding of Consistency document is prepared, it is not circulated for public review, so no public notice or mailing of the document is required. However, the draft Finding of Consistency document should be provided to Office of the Chancellor, Capital Planning,

Practice Tip:

Always consult with the Chancellor's Office in the early stages of project development on a Finding of Consistency.

Design, and Construction (CPDC) well in advance of the submittal of the draft agenda item for the Trustees meeting. Appendix A of this Handbook includes an example of Finding of Consistency documentation.

WHAT IF I AM NOT CERTAIN ABOUT THE TYPE OF DOCUMENT NEEDED?

The purpose of this Handbook is to guide you through the CSU CEQA process. The Handbook does not, however, substitute for CEQA itself. Other sources you may need to consult for more information regarding the different types of CEQA documents include:

- The State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, beginning with Section 15000
- The California Environmental Quality Act, Public Resources Code, Division 13. Environmental Quality, beginning with Section 21000

The State CEQA Guidelines provide a good road map for determining the type of CEQA document to prepare. However, note that when there is a conflict between the CEQA statute and the CEQA Guidelines, the statute rules. The CEQA Guidelines are updated on an irregular schedule (about every two years). As a result, the CEQA Guidelines do not always reflect either current statute or settled case law. The most recent comprehensive update to the Guidelines occurred in December 2018. This update incorporated important case law.

When determining which CEQA document to prepare for your project, start with a preliminary review of a proposed action to determine:

1. Whether the proposed action is indeed a project
2. Whether it is exempt from CEQA
3. Whether the project has been addressed fully in the Campus Master Plan Program EIR
4. Whether new environmental documentation is required

Then consult with the Chancellor's Office and Office of General Counsel (with assistance from your on-call CEQA consultant) to confirm the type of CEQA document that is necessary. When in doubt about questions 3 and 4, an Initial Study or subsequent document checklist should be prepared to assist in this determination (see Chapter 4, *The Initial Study*).

IMPLICATIONS OF CAMPUS MASTER PLAN MAP APPROVAL

Campus Master Plan maps which depict the name and location of major buildings and facilities are approved by CSU. Often, Campus Master Plan Guidelines are prepared which provide the background information and guidelines relating to such areas as building design and landscaping. Such guidelines are for information purposes only. Please refer to Chapter 16 for details.

HORIZON YEAR OF CAMPUS MASTER PLANS

Often, a horizon year between 10 and 15 years is identified for proposed Campus Master Plans.



CHAPTER 3

Exempt Projects

The first step in analyzing a project is to determine whether it is exempt from further CEQA review. If you determine that a project is exempt, your CEQA compliance will be limited to preparing and filing an NOE.

WHAT IS AN EXEMPT PROJECT?

CEQA identifies a number of projects that generally are exempt from in-depth analysis. There are two types of exemptions: statutory exemptions and categorical exemptions.

Statutory Exemptions

Statutory exemptions are granted by the State Legislature and are narrowly defined in CEQA and the CEQA Guidelines. For some statutory exemptions, the rules and restrictions are quite complex.

The list of statutory exemptions is contained in CEQA Guidelines, Article 18 (beginning with Section 15260). Take note that exemptions are added, deleted, and modified by the Legislature from time to time. Examples of statutory exemptions that may be applicable to University projects are listed below. It is important to remember that a statutory exemption needs to be an *exact fit* with the proposed project. Following are examples of statutory exemptions that may apply to CSU projects.

- **Emergency projects** to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed in areas in which the Governor has declared a State of Emergency, and repairs necessary to maintain essential services, actions necessary to prevent or mitigate an emergency, and emergency seismic upgrade work.
- **Rooftop photovoltaic solar projects** and their associated equipment (with a restriction that the associated equipment occupies no more than 500 square feet of ground surface).
- **Feasibility and planning studies**, unless the study is adopted as a plan that will be legally binding on later activities. Adoption of such plans is *not* exempt from CEQA.

Statutory exemptions provide an “escape” from EIR or ND requirements, even though the exempted project might result in environmental consequences (*Western Municipal Water District of Riverside County v. Superior Court of San Bernardino County* (1986) 187 Cal. App. 3d 1104; *Elk County Water District v. Department of Forestry and Fire Protection* (1997) Cal.App.4th 1; and *CREED-21 v. City of San Diego* (2015) 234 Cal.App.4th 488.) This is in contrast to categorical exemptions, discussed below, which are disallowed if the project has the potential to result in an environmental impact due to unusual circumstances.

Categorical Exemptions

Certain categories or classes of projects are exempt because they have been found to result in no significant effects on the environment. Categorically exempt projects do not require preparation of environmental documents; although, in some instances such documents are recommended. If you can determine that a project fits within the criteria, and you wish to maintain a record of that decision, you can use a categorical exemption. As described in greater detail below, there are exceptions to the use of exemptions that account for circumstances that are “unusual.”

The list of categorical exemptions is contained in CEQA Guidelines, Article 19 (beginning with Section 15301). Examples of categorical exemptions that may be applicable to CSU projects are listed below.

- Class 1:** **Existing Facilities** (operation, repair, maintenance, permitting, leasing, licensing, or minor alteration)
- Class 2:** **Replacement or Reconstruction** (same location, same purpose, and same capacity, except for school replacement or reconstruction to provide earthquake-resistant structures that does not increase the capacity by more than 50%)
- Class 3:** **New Construction or Conversion of Small Structures** (only small structures)
- Class 4:** **Minor Alterations to Land** (that do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes)
- Class 6:** **Information Collection** (that does not result in a serious or major disturbance to an environmental resource)
- Class 9:** **Inspections** (to check for performance of an operation, or quality, health, or safety of a project)
- Class 10:** **Loans** (but not for new construction)
- Class 11:** **Accessory Structures** (minor structures accessory to existing facilities)
- Class 12:** **Surplus Government Property Sales** (but not acquisition)
- Class 14:** **Minor Additions to Schools** (within existing campus, without increasing original capacity by more than 25% or ten classrooms, whichever is less)
- Class 16:** **Transfer of Ownership of Land to Create Parks** (with specific restrictions)
- Class 17:** **Open Space Contracts or Easements** (but not cancellation of contracts or easements)
- Class 18:** **Designation of Wilderness Area** (under California Wilderness System)
- Class 19:** **Annexations of Existing Facilities and Lots for Exempt Facilities** (only for very specific types of annexations)
- Class 20:** **Changes in Organizations of Local Agencies** (but not including changes in geographical area where powers are exercised)
- Class 21:** **Enforcement Actions by Regulatory Agencies** (only specific actions)

- Class 22:** **Educational or Training Programs** (involving no physical changes)
- Class 23:** **Normal Operations of Facilities for Public Gatherings** (with specific restrictions)
- Class 24:** **Regulations of Working Conditions** (including employee wages, work hours, and working conditions)
- Class 25:** **Transfers of Ownership of Interest in Land to Preserve Existing Natural Conditions and Historical Resources** (in order to preserve open space, habitat or historical resources)
- Class 26:** **Acquisition of Housing for Housing Assistance Programs** (must be existing housing or previously permitted)
- Class 27:** **Leasing New Facilities** (with restrictions)
- Class 29:** **Co-Generation Projects at Existing Facilities** (50 megawatts or less and must meet specified conditions)
- Class 30:** **Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances** (costing \$1 million or less and other restrictions)
- Class 31:** **Historical Resource Restoration/Rehabilitation** (consistent with the Secretary of the Interior's Standards)
- Class 32:** **In-Fill Development** (must meet specific conditions)
- Class 33:** **Small Habitat Restoration Projects**

***Remember:** If the project potentially could have a significant effect on the environment due to unusual circumstances, using a categorical exemption is inappropriate. A categorical exemption also should not be used if there is any question or uncertainty as to whether a particular exemption applies.*

HOW DO I DETERMINE THAT A PROJECT IS EXEMPT?

After you have defined the project, carefully compare it to the list of statutory and categorical exemptions contained in CEQA Guidelines, Articles 18 and 19. Note that exemptions are added, deleted, and modified from time to time.

For statutory exemptions, make sure the project is an *appropriate fit* with the action described in the statutory exemption.

For categorical exemptions, make sure that the project fits into the category and is consistent with any conditions, restrictions, limitations, or qualifications within the CEQA Guidelines. Consult with the Chancellor's Office on the appropriateness of using a categorical exemption for specific projects.

Always ask these questions before proceeding with a categorical exemption:

1. Do any of the following exceptions apply?
 - a. The project may result in damage to scenic resources within an official State scenic highway designated.
 - b. The project is located on a site included on any list of hazardous waste and substance facilities and sites, and with public drinking wells with organic contaminants (i.e., Cortese List or other lists compiled pursuant to Section 65962.5 of the Government Code).
 - c. The project may cause a substantial adverse change in the significance of an historic resource.
 - d. There is a reasonable possibility of a significant effect on the environment due to unusual circumstances.
 - e. Significant cumulative impacts from projects of the same type in the same place will result.
 - f. The project could significantly affect a particularly sensitive environment.
 - g. The project could affect native trees or trees identified by the campus as protected trees.

An NOE should only be used in cases where the exemption clearly applies.

On the other hand, if the project clearly is exempt and no "unusual circumstances" are present, you should use the exemption. The intent of CEQA is not to generate endless paperwork, and you should use the tools available to you to facilitate the best decision-making process.

Also, remember that you can use more than one class of exemption for your project. For example, a project may qualify under Class 1 (existing facilities) and Class 11 (accessory structures) exemptions.

EXCEPTIONS DUE TO UNUSUAL CIRCUMSTANCES

As noted above, one of the exceptions to exemptions applies when there is a reasonable possibility of a significant effect on the environment due to unusual circumstances. If there is a reasonable possibility that an activity will have a significant effect on the environment due to unusual circumstances, that activity may not be found to be categorically exempt under CEQA. This exception applies only when *both* unusual circumstances *and* a significant impact as a result of those unusual circumstances are demonstrated. Unusual circumstances may be found on the basis of a feature or condition that distinguishes the project from others in the exempt class, such as its size or location.

The California Supreme Court's 2015 *Berkeley Hillside Preservation v. City of Berkeley* decision (60 Cal.4th 1086) established the following two-part test to determine whether this exception applies to a project:

1. Are there unusual circumstances?
 - The lead agency determines this based on substantial evidence.
 - The lead agency has the discretion to consider conditions in the vicinity of the proposed project as a measure of whether unusual circumstances apply to the proposed project.
2. Is there potential for a significant impact?
 - If the agency finds that unusual circumstances are present, it must then consider whether those circumstances would result in a significant impact.
 - A "fair argument" must be presented that the project may result in a significant impact from those unusual circumstances.

WHEN IS AN MND THE MORE APPROPRIATE OPTION THAN AN EXEMPTION?

As discussed above, a CE is only appropriate when the project fits within the applicable criteria of one of the Categorical Exemptions and none of the exceptions to the exemption apply. Conversely, an MND (or an EIR) is required when the project does not fit within an exemption, or an exception to the exemption applies. For example, a project that fits within the criteria for a CE may nonetheless result in the need for an MND (or an EIR) if it has a potential to cause an environmental impact due to unusual circumstances. In this circumstance, mitigation is developed and imposed as part of the MND or EIR to reduce the impact to less than significant.

HOW DO I PREPARE DOCUMENTATION FOR THE EXEMPTION?

Document in detail how the project fits within the class of exemption and why none of the exceptions apply. When you determine that the project clearly is exempt, you will need to prepare an NOE and file that NOE with the State Clearinghouse.

The State Office of Planning and Research (OPR) has prepared a standard NOE form, which may change from time to time. A link is provided in Chapter 17, *Links to CEQA Guidelines, Forms, and Websites*, to the forms available on the OPR website, including the NOE form. Include the following information in the NOE.

Project Title	Give the project an appropriate title if it does not have one.
Project Location – Specific	Describe the location of the project, including the city, campus, and on-campus location. It is often helpful to list the nearest cross streets and address.
Project Location – County	List the county in which the University campus is located.
Description of Nature, Purpose, and Beneficiaries of Project	Provide a brief project description, including project objectives, physical parameters, any phasing, and construction characteristics. The project description need not be exhaustive, just detailed enough to convey the general nature of the project.
Name of Person or Agency Carrying Out Project	Indicate the University campus name here.
Type of Exemption	<p>Check the appropriate exemption type.</p> <ul style="list-style-type: none"> ▪ If the project is an emergency project within an area designated as within a State of Emergency by the governor, put a check next to “Declared Emergency.” ▪ If the project is an emergency project not within an area designated as within a State of Emergency by the governor, put a check next to “Emergency Project.” Also, list the CEQA Guidelines subsection letter where the form asks for the “state subsection letter.” ▪ For categorical exemptions, put a check and list the appropriate class/classes and CEQA Guidelines Section(s) number(s).
Reasons Why the Project Is Exempt	Explain why the project is exempt. Include a description of any information necessary for the exemption to be applicable. For example, if the project involves repairing a historic building according to Secretary of the Interior Standards, state this and explain how the project will be undertaken to comply with the Class 31 categorical exemption.
Contact Person	List the contact person’s name, along with a telephone number (including area code and extension).
Signature Line	Sign the exemption, and print your title underneath.

WHEN AND HOW DO I FILE THE NOE?

The NOE is filed after the project is approved. As soon as the project is approved, file the NOE with the OPR State Clearinghouse to start the 35-day statute of limitations for a legal challenge. It is recommended that the NOE be filed no later than 5 working days after project approval. For projects approved at a Board of Trustees meeting, the Chancellor's Office will file the NOE. For projects approved by delegation, the campus is to file the NOE.

If no NOE is filed and no other environmental documentation will be prepared, potential litigants have 180 days from either (1) the decision to carry out the project, or (2) the date the project commenced (if no formal decision was made) to file a lawsuit.

To file the NOE, send two copies with two self-addressed and stamped envelopes to OPR for filing by a method that provides delivery confirmation. If you have a time constraint, you can request that OPR accept an e-mailed notice (scan the signed NOE and attached to the email) or a faxed notice for filing. If you do fax the notice, make sure to send two hard copies with a cover letter explaining when you faxed the notice to OPR. As always, make copies of all documents for CSU records.

Upon receipt, OPR will date the notice and return one copy to you in the envelope provided. After completion of the 35-day statute of limitations for legal challenge, OPR will date the second copy and return it to you in the envelope provided.



CHAPTER 4

The Initial Study

WHAT IS AN INITIAL STUDY AND WHAT WILL IT TELL ME?

The Initial Study serves as a primary tool to determine if:

- A project could have a potential impact on the environment;
- The impact could be significant; and
- The impact can be reduced to a less-than-significant level by changing the project plans or adopting mitigation measures to avoid or minimize project impacts.

Based on this initial determination, you can decide what type of CEQA document to prepare: an ND, an MND, or an EIR. An Initial Study can also be used to support a Finding of Consistency document with an approved

Campus Master Plan Program EIR. As a Finding of Consistency is a limited tool for CEQA compliance, see Chapter 2, *What Are the Initial Decisions I Have to Make?*, for a separate discussion.

If you are certain that a project will require an EIR, an Initial Study will help to focus the EIR analysis on significant impacts, and dismiss from further analysis (in the EIR) those effects that are not significant.

Remember: *The Initial Study also serves as a first step in establishing a CEQA record for the project. It demonstrates that the University has examined the project's potential environmental impacts on a systemic basis.*

HOW DO I PREPARE AN INITIAL STUDY?

Complete Initial Study Checklist

Prepare an Initial Study using the current Environmental Checklist Form provided on the OPR website (provided in Chapter 17, *Links to CEQA Guidelines, Forms, and Websites*).

Consult with Other Agencies

In preparing the Initial Study, consider whether your project could affect resources under the jurisdiction of other State or local agencies. If so, early consultation is recommended to identify potential significant impacts, to scope out technical studies that may be needed. For example, for biological resources, you may consider consulting with the California Department of Fish and Wildlife. State OPR maintains a list of agencies and their responsibilities that you can use to help identify the appropriate agencies for consultations. Please consult with the Chancellor's Office prior to consulting with such agencies.

While the consultation can be informal, be careful to document by date and name the comments provided to you by all representatives of public agencies. When officials speak of impacts, take note of whether they are talking about hypothetical/potential impacts or known actual impacts. This is particularly important when consulting with agencies that often raise hypothetical area-wide concerns that may not apply to your specific project or its location. Any written materials to be provided shall be reviewed by the Chancellor's Office prior to release to other State or local agencies.

CONTENTS OF AN INITIAL STUDY

An Initial Study consists of:

- A description of the project, including its specific location
- An identification of the project's environmental setting
- An identification of environmental effects
- A discussion of ways to mitigate any significant environmental impacts identified
- An examination of whether the project is consistent with the existing Campus Master Plan
- The name of the person or persons who prepared or participated in the Initial Study
- An identification of data sources, including any technical studies prepared for the project, previous EIRs, or other documents, if any, used in the evaluation of environmental impacts and the conclusions reached in the Initial Study

Project Description

A good project description is important. In writing the description, consider:

- Project objectives and purpose
- Each individual project component (including demolition, construction, and operation)
- Major design features
- Operational characteristics
- Anticipated timeframe for completion
- A list of permits and/or approvals from other public agencies (if any)
- Other relevant information

List design features of the project that avoid or minimize potentially significant impacts. Such design features can act as built-in mitigation, so that fewer mitigation measures are needed. For example, the use of cut-off or focused lighting could prevent light and glare impact on adjoining sensitive biological resources or nearby homes; or, the inclusion of landscaping with dense trees, berms, or walls could prevent a visual or noise impact on adjoining sensitive uses by providing adequate buffering. Refer to Chapter 7, *The Contents of an EIR*, for further discussion on how to prepare a good project description.

Practice Tip:

The best project description is written in clear, non-technical language. Include maps showing the project location and regional setting, exhibits of project plans, design features, and any other illustrations that help the reader clearly understand the project.

Surrounding Land Uses and Setting

The setting is a brief description of land uses and physical features in the area surrounding the project. Including photographs and maps in the description is often helpful.

Environmental Evaluation

As noted above, the Initial Study Checklist, sometimes referred to as the Environmental Checklist Form or the CEQA Checklist, should be used in evaluating potential impacts.

The Checklist has four parts:

- General project information
- A list of environmental factors that may potentially be affected by the project
- A determination of project impacts
- An evaluation of the environmental impacts in 21 categories of environmental factors

General Project Information

The first part of the Checklist pertains to information about the project. To make sure this information is complete, be sure to do the following:

- State the project name.
- List the Board of Trustees of the California State University as the Lead Agency.
- List the name of the campus, and the name and phone number of the contact person on campus.
- Indicate the Campus Master Plan designation for a project on campus. Only indicate the local general plan and zoning designation for a project which is not on CSU property.
- Name the project applicant or sponsor, which is the campus where the project is located.

List any other responsible agencies from which approval is required. Remember that CSU is a State agency and, therefore, is not subject to the application of local ordinances, regulations, policies, and rules, including zoning and land use regulations, development regulations, inclusionary housing and affordable housing regulations, subdivision regulations, development impact fees, facilities benefit fee assessments, parkland dedication and improvement requirements, and other regulations, rules, fees, taxes, and exactions that might be imposed by a local agency in connection with the regulation of land use and development.

Environmental Factors Potentially Affected

The second part of the Checklist is the section on environmental factors potentially affected. This section summarizes the conclusions of the analysis in the actual Checklist of the Initial Study. For the environmental issues you plan to discuss in an EIR, check the appropriate box. Make sure to double check that you have not missed any topics here that are discussed in the environmental impacts section.

Consider holding a public scoping meeting for a large project or series of projects before you complete the Checklist on a project for which you will be preparing an EIR. The scoping meeting can help focus the EIR. As noted above, early consultation with other State or local agencies can also help to define the scope of the environmental analysis.

Remember: *Initial Studies for NDs cannot indicate that any potentially significant impacts would occur. In comparison, an Initial Study prepared for a MND can indicate a potentially significant impact as long as project revisions or mitigation measures have been incorporated that reduce the impacts to less than significant.*

Determination

The third part of the Checklist is the determination. Check the appropriate box to indicate which type of environmental document you are going to use.

Practice Tip:

Always double check to make sure that you have signed and dated this page.

Evaluation of Environmental Impacts

The fourth and most important part of the Checklist is the evaluation of environmental impacts section. This final section includes a series of questions, for which you can reply in the following four ways:

- No impact.
- Less-than-significant impact.
- Less-than-significant impact with mitigation incorporated.
- Potentially significant impact.

CSU and its CEQA consultants will need to check the appropriate box and explain the conclusion for each answer. Make sure that answers are clearly supported by fact-based narrative, technical studies, and all other sources of information.

It is not intended that each answer in the Checklist be supported by detailed studies or discussion, but rather that there be sufficient information in the Initial Study to allow a reasonable determination of effect and significance. For example, if the project is in an urban area, then little explanation about effects on farmland or forest land will be needed unless the campus specializes in agriculture in urban areas.

Remember: *The determination of whether an impact is significant calls for careful judgment, based to the extent possible on established thresholds of significance and factual and scientific data. Use of established thresholds is among the most common and successful means of determining significance. See Chapter 7, The Contents of an EIR, for further discussion of thresholds of significance. CEQA is concerned with the project's impacts on the environment. As a general rule, CEQA is not concerned with the environment's impacts on the project unless the project would exacerbate an existing hazard.*

If you know you will ultimately prepare an EIR, for instance, less detail can be included for those topics that will be carried forward for full analysis. For example, if you plan to discuss the effects of your project in regard to criteria pollutants and greenhouse gas (GHG) emissions in an EIR, an exhaustive discussion in the Initial Study Checklist is not needed. Simply state that the impacts are potentially significant and will be evaluated in the EIR. On the other hand, if you plan to prepare a ND you need to include the full analysis of criteria pollutants and GHG in the Initial Study. If you plan to prepare a MND with potentially significant biological resource impacts, you may need to include an extensive discussion of the setting, thresholds of significance, impacts, mitigation measures, and level of significance after mitigation, similar to an EIR.

The California State University Transportation Impact Study Manual provides direction on the evaluation of potential transportation impacts for CEQA documents.

Practice Tips:

The amount and type of detail you include in answering Checklist questions will depend on the type of document you ultimately will prepare.

Make sure to show your work and explain your conclusions. This includes citing all reference documents and technical studies in the Initial Study. You may also cite or reference the University adopted standards to support conclusions.

IS A NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION POSSIBLE?

When the analysis in the Initial Study indicates that the project could not have a significant impact, an ND may be the proper document. This means that all entries in the Checklist are checked as either “no impact” or “less-than-significant impact” and are supported by fact-based explanations.

When the analysis in the Initial Study indicates that the project’s significant impacts are clearly reduced to less-than-significant levels, either through project revisions or mitigation measures, an MND may be the proper document. This means that entries are checked as “less-than-significant impact with mitigation incorporated” and are supported by the identified, clearly listed mitigation measures.

Thus, even if an ND or MND may be the proper document, the campus should consult with CPDC and the Office of General Counsel if there is a high level of community interest or controversy associated with any aspect of the project.

Practice Tips:

- The last section of the Initial Study (Mandatory Findings of Significance) refers to a variety of topics, including the project’s contribution to cumulative impacts. For NDs and MNDs, make sure that you can fully substantiate a conclusion of no significant cumulative impact.
- Cite, and if feasible, attach to the Initial Study, any technical report and other materials on which conclusions regarding significance are based. Have on file and available to the public all technical reports and data on which you rely.
- Make sure that the Initial Study is internally consistent.

Remember: *The decision to prepare a ND or MND is judged according to a “fair argument” standard. This standard means that if a fair argument is presented that a project may have a significant impact, an EIR must be prepared even though other substantial evidence in the record supports a determination that the project would not have a significant impact.*

IS AN EIR NECESSARY?

An EIR is necessary when either or both of the following are true:

- One or more entries on the CEQA Checklist are checked “potentially significant impact” and not all identified impacts would be reduced to less than significant with project revisions or mitigation measures.
- A “fair argument” can be made that the project might have a significant impact.

When in doubt, always prepare an EIR. An EIR provides a stronger Administrative Record and is reviewed based on a more deferential standard of review than an ND or MND in legal proceedings.

When consultants prepare an Initial Study, or any document on behalf of the University, campus staff oversees, reviews, and directs the consultants' work. Decisions about what type of document to prepare, the significance of impacts, appropriate mitigation, and the potential for the project to elicit community interest or scrutiny, are made by CSU. Consult with the Chancellor's Office and the Office of General Counsel for advice on these issues early in the process.

Practice Tip:

When preparing an Initial Study as the first step towards preparation of an EIR, try to dismiss environmental issues from further review in the EIR that clearly will be less than significant. For those issues you dismiss, concentrate on fully explaining all "no impact" or "less-than-significant impact" determinations because they are more important at this point than "potentially significant impacts," which will be analyzed in the EIR.



CHAPTER 5

Negative Declaration/ Mitigated Negative Declaration

WHAT IS A NEGATIVE DECLARATION/MITIGATED NEGATIVE DECLARATION?

A Negative Declaration (ND) is a written statement making a finding that a project would not have a significant impact on the environment, and thus the preparation of an EIR is not required. A Mitigated Negative Declaration (MND) is a written statement making a finding that the project would not have a significant impact because either project revisions or mitigation measures will avoid or minimize the impacts to a point where clearly no significant impact could occur. The statement could also include a list of mitigation measures. Examples of each are provided below.

NEGATIVE DECLARATION

California State University (*name*) (*Title*) Project

Lead Agency: The Board of Trustees of the California State University

Mailing Address: California State University [name]
Campus address

Project Proponent: California State University [name]
Campus Name and Contact Person

Project Location: CSU (name) campus, County of [name]

Description of Project: (simple description)

Finding: The Board of Trustees of the California State University has determined that the proposed project will not result in a significant adverse effect on the environment.

Supporting Documentation: The documentation supporting this determination is discussed in the attached Initial Study prepared for this project.

MITIGATED NEGATIVE DECLARATION

California State University (name) (Title) Project

Lead Agency: The Board of Trustees of the California State University

Mailing Address: California State University [name]
Campus address

Project Proponent: California State University [name]
Campus Name and Contact Person

Project Location: CSU (name) campus, County of [name]

Description of Project: (simple description)

Finding: The Board of Trustees of the California State University has determined that that with incorporation of project revisions and/or the identified mitigation measures the proposed project will not result in a significant adverse effect on the environment.

(You can also include the list of mitigation measures, as shown below) These measures include:

1. (measure from Initial Study)
2. (measure from Initial Study), etc.

Supporting Documentation: The documentation supporting this determination is discussed in the attached Initial Study prepared for this project.

The analysis in the Initial Study provides substantiation, or factual evidence, for the finding made in the ND or MND.

Subsequent NDs and MNDs are tools that you can use to show that, despite changes to a project or environmental conditions, no new or increased significant impacts will occur beyond those already analyzed in the previous CEQA document, or to identify additional mitigation measures to ensure less-than-significant impacts.

These tools are used most frequently for subsequent projects that were not identified in detail in a Program EIR, for projects that were identified but have changed since preparation of a Program EIR, and for projects which were identified in a Program EIR but whose environmental conditions have since changed.

However, an ND/MND or an Addendum can also be prepared for projects that were previously evaluated in a project-specific EIR. An Addendum to an ND/MND may also be an option for projects that were previously evaluated in NDs/MNDs.

CONTENTS OF NEGATIVE DECLARATION/MITIGATED NEGATIVE DECLARATION

An ND/MND includes the following elements:

1. CSU cover. Make sure to include the Board of Trustees of the California State University on the cover (as the lead agency). Your campus is always listed as the project applicant.
2. ND/MND (see examples on the preceding pages).
3. Initial Study Checklist.

Practice Tip:

For the environmental analysis in the Initial Study Checklist, as always, show your work and explain your conclusions. This includes showing calculations for air pollutant and GHG emissions, water use, wastewater discharge, etc. Also make sure to cite all your references thoroughly.

For subsequent NDs/MNDs, you need to include additional information in the Initial Study, as in the following example.

“The purpose of the evaluation of the project’s potential environmental impacts is to determine whether the project could result in new significant impacts not identified in the (name) EIR, or a substantial increase in the impacts previously identified in the EIR. Where the project would result in a significant unavoidable impact that was already identified in the EIR, no additional environmental evaluation is needed or required and the “No New Impact” box is checked in the Environmental Checklist. Where the project would result in a significant impact that was already identified in the previous EIR and where mitigation identified in the EIR will still be implemented as part of the project, no additional environmental evaluation is needed or required, and the “No New Impact” box is checked in the Environmental Checklist. The Checklist issues not evaluated in the EIR are evaluated herein.”

Additionally, for subsequent NDs/MNDs, you should change the headings of the Initial Study Checklist, as in the following example:

		Less-Than- Significant New or Increased Impact with Mitigation Incorporated	Less-Than- Significant New or Increased Impact	No New or Increased Impact
Issues:	Potentially Significant New or Increased Impact			

HOW DO I PROCESS A NEGATIVE DECLARATION/MITIGATED NEGATIVE DECLARATION?

The ND/MND is circulated for public review and comment. The review period is 30 days, although a longer time period may be established if appropriate. There are two primary steps involved in processing an ND/MND:

1. Prepare and publish a Notice of Intent to Adopt (NOI) for an ND or MND.
2. Post the ND or MND on your campus’ website. The document needs to be posted on the website at the same time the NOI is filed.

WHAT IS THE NOTICE OF INTENT?

The NOI is a public notice that:

- Informs public agencies and the general public that an ND or MND is completed and available for review.
- Provides each involved agency and the general public an opportunity to comment on the ND or MND.

What Does the NOI Contain?

The NOI contains a statement that the Board of Trustees of the California State University (as the Lead Agency) has prepared a draft ND or MND. The NOI must contain:

- Brief project description.
- Project location.
- Public review period dates.
- Web address where the ND/MND is posted.
- Addresses for the campus and public library where the document can be inspected.

- Information about public meeting (if you intend to hold one).
- Statement that “the project site is not designated as a hazardous waste facility or disposal site as defined under Government Code Section 65962.5.”

How Do I Send the NOI and to Whom?

Send the NOI by a method that provides delivery confirmation (U.S. Postal Service Certified Mail or other method that provides proof of delivery, UPS, FedEx, etc.). This is an important part of your compliance record.

- Send 15 copies of the ND or MND document to OPR (State Office of Planning Research) for distribution to State agencies. Make sure to check “Negative Declaration” on the OPR transmittal form.
- Post the ND or MND on your campus website.
- Place two copies of the NOI and ND or MND in a campus library and one copy in a public library.
- Send the NOI with one copy of the ND or MND document to those on your distribution list, which must include all organizations and individuals who have previously requested such notice in writing, responsible agencies, trustee agencies, the county clerk, and may also include (CEQA Guidelines Section 15072(a-b):
 - Planning Department/other appropriate department of each city/local jurisdiction adjoining the campus project, and the county within which the project is located.
 - Other local agencies that the campus is aware of that may be affected by your project (including local water districts if your project is large or involves new supplies).
 - Local organizations and persons who expressed interest or would likely be interested in the project. This includes local historic and environmental preservation groups, neighboring homeowners associations, and other similar groups.

Note that for projects of statewide, regional, or areawide significance, the NOI shall also be provided to transportation planning agencies and public agencies that have transportation facilities within their jurisdiction that could be affected by the project. (CEQA Guidelines Section 15072(e).) Each campus needs to keep an up-to-date distribution list for noticing and circulating environmental documents.

How Do I Post an NOI?

There are three ways to provide notice of the NOI:

Option 1: The easiest and most effective way is to publish the NOI in a local newspaper of general circulation in the area affected by the project. This is the preferred option. If this is done, you do not need to utilize the

other methods. Make sure that the date of publication coincides with the date that OPR started the review period for your project.

Option 2: If you choose not to publish the NOI in the newspaper due to timing or other constraints, you can post the NOI on and off the site. Use your judgment as to where to post and remember that the more you post, the better the public outreach.

Option 3: The most time consuming and difficult way to post the NOI is to mail it to property owners adjacent to the project site. This method need only be used if the project includes hazardous waste facilities, or if the project is particularly controversial.

Is a Public Meeting on an ND or MND Required?

CEQA does not mandate public meetings for an ND or MND. However, for projects that could generate community interest, scrutiny, or controversy, it is recommended that a public meeting be held.

If a meeting is planned:

- Make sure to include the time and place of the meeting in the NOI and indicate whom to contact about the public meeting.
- If you decide to hold a meeting after issuing the NOI, it is recommended to send an additional notice at least 10 days before the meeting date using your distribution list and including the same State agencies to which OPR sent your document (call OPR and ask to whom they sent your document). Also, publish the notice in a local newspaper of general circulation in the area affected by the project.

The meeting has a single purpose: to receive and record comments from the public on the ND/MND. Best practices for holding a public meeting include the following:

- Start the meeting with a brief introduction stating that this is an opportunity for everyone to be heard.
- If needed, limit the time for each speaker, but be flexible.
- Make a transcript or summary of the meeting (or tape record it) so that nothing is missed; ask the speakers to sign-in their names and addresses, but do not insist on it if the speaker declines to do so (members of the public cannot be compelled to identify themselves when participating in such hearings).
- Collect any letters or petitions from the speakers.
- Remain neutral throughout. This is not a public debate about the merits of the project. Clarify information about the project description or CEQA in general. It is not intended to answer project specific questions.

RESPONSES TO COMMENTS – WHAT IS REQUIRED?

CEQA requires that decision makers *consider* comments received during the public review period before adopting the ND or MND. There is no requirement in CEQA to *respond* in writing to public comments on the proposed ND/MND (in contrast to comments on an EIR, which must be addressed in writing). However, it is good practice to respond to such comments in writing be provided as it demonstrates in the record that the comments were considered, and also provides the campus with an opportunity to provide additional substantial evidence in support of the analysis presented in the ND or MND. It is good practice for recipients to receive the response 10 days prior to project approval and thus encouraged. In the transmittal, make sure to also include the date, time, and place of the Trustees meetings and obtain a record of delivery confirmation.

Practice Tip:

Considering **late comments** builds a stronger Administrative Record, even though CEQA does not explicitly require consideration of such comments after the close of the comment period. The ability to respond will depend upon when the late comments are received.

In dealing with comments, the first step is to carefully consider all comments (including oral comments, if a public meeting was held) to determine if the comments:

- Raise important new issues.
- Bring forward important new information.
- Bring forward new mitigation measures that could or should have been included to mitigate impacts.

If the comments raise important new issues, consider whether substantial changes to the analysis will be needed and recirculation of the ND/MND required, as discussed in the following section.

Remember: *Be sure to address comments that argue that an EIR should have been prepared for the project, or that additional alternatives should be considered, particularly an alternative to locate the project somewhere else.*

WHEN MUST I RECIRCULATE?

You have a choice to either recirculate an ND/MND or prepare an EIR when either:

1. The project has substantially changed since the ND was circulated for public review, or
2. The comments received during public review raised new and important environmental issues. In this case, it is almost always necessary to do an EIR.

Refer to Section 15073.5 of the CEQA Guidelines for further information about recirculation.

WHAT GOES INTO A FINAL NEGATIVE DECLARATION/MITIGATED NEGATIVE DECLARATION?

A final document should include:

- The ND or MND with changes made after considering comments received.
- The Initial Study with changes made after considering comments received (show the changes clearly, such as with shading for new text and strikeout for removed text).
- A transcript or summary of any public meetings if available.
- A copy of any written comments received.
- A written response to each comment (if you are responding to comments in writing).

Practice Tip:

Remember to post the Final ND/MD on the campus' website no later than 10 days *prior* to the Board of Trustees meeting. It is good practice to post the documents 12 days prior to the Board of Trustees meeting if possible. Also, keep 3 copies at the campus office.

WHAT MATERIALS ARE FORWARDED TO THE CHANCELLOR'S OFFICE FOR THE BOARD OF TRUSTEES AGENDA ITEM?

The following shall be submitted to the Chancellor's Office by the due dates identified in the annual letter to the Chief Administrators/Business Officers from the Chancellor's Office:

- Agenda item brief which includes the web address for the Final ND/MND
- A PDF of the Final ND/MND document
- PPT for the Board of Trustees meeting and Q/A

Approximately two weeks later, the following shall be submitted to the Chancellor's Office:

- Mitigation Monitoring Program (MMP) (for a MND)
- 2 hard copies of the ND/MND

Remember: Leave yourself sufficient lead time to prepare and submit the agenda item brief before the Trustees meeting. You can use agenda item briefs prepared for other University projects as examples. These are posted on the internet as agenda items prior to each Board of Trustees meeting.

FILING OF THE NOTICE OF DETERMINATION

The Chancellor's Office will file a Notice of Determination (NOD) with OPR within 5 working days of the project approval for those projects approved by the Board of Trustees. If the project is approved through delegation, the campus files the NOD. This starts the 30-day statute of limitations for a legal challenge regarding adequacy of ND/MND.



CHAPTER 6

What are the Types of EIRs?

WHEN DO I PREPARE A PROJECT EIR?

If a project is not exempt from CEQA, or if a Finding of Consistency, an ND, or an MND is not appropriate for your project, an EIR will be required. CEQA provides for several types of EIRs, depending upon the project proposed and whether prior environmental review has occurred. EIR types include a Project EIR, a Program EIR, a Subsequent EIR, a Supplement to an EIR, a Master EIR, and an Addendum to an EIR. Because Master EIRs are not commonly used, and would not likely be the appropriate document for a CSU project, they are not discussed further here.

CEQA encourages the preparation of joint CEQA and National Environmental Policy Act (NEPA) documents where a project requires compliance with both laws. Where a project has federal funding, or requires a permit

or entitlement from a federal agency, the project would be subject to NEPA. CEQA Guidelines Sections 15220 through 15229 apply to such situations.

WHEN DO I PREPARE A PROJECT EIR?

Project EIRs are the most common types of EIRs across lead agencies in California, although a good Campus Master Plan Program EIR can eliminate the need for many such documents for campus projects when individual projects can be analyzed within the Program EIR at an adequate level of detail. Project EIRs are used for individual projects or activities not covered by the Campus Master Plan Program EIR or for projects that may have significant effects not discussed in the Campus Master Plan Program EIR and for which tiering from the Program EIR would not be appropriate. CEQA Guidelines Section 15161 discusses specific requirements for a Project EIR.

The level of detail in a Project EIR should be sufficient to cover all of the actions for project approval and all of the elements of the proposed project. However, as stated in CEQA Guidelines Section 15146, the level of specificity required in an EIR depends on the project. To the extent that information is known about the project, that information should be presented in the EIR and used in the analysis. If information is not known, then the EIR must base the analysis on what is known. To the extent that the project design changes following the approval of the project and the EIR, assessment of whether subsequent environmental analysis is required would be made under CEQA Guidelines Section 15162.

Although a Project EIR provides greater protection in legal proceedings than an ND or MND due to the differing standards of judicial review, it need not be used if a fair argument cannot be made that significant impacts will result. However, as noted previously, a high level of community interest or potential for controversy could lead to a conclusion that an EIR should be prepared. When in doubt, consult with the Chancellor's Office and the Office of General Counsel.

WHEN DO I PREPARE A PROGRAM EIR?

As noted above, a well-prepared Campus Master Plan Program EIR reduces the need for future environmental documentation for projects consistent with the Campus Master Plan. A Program EIR can be prepared for a plan such as a Campus Master Plan as well as for any series of actions that can be linked together logically, such as Major Campus Master Plan Revisions or a series of activities such as construction of several student housing facilities on and/or off campus over a period of years.

The Benefits of Program EIRs

The benefits of a Program EIR are:

- Later activities (i.e., subsequent projects) can be examined in light of the Program EIR; if these later activities are consistent with the program assessed in the Program EIR (such as a Campus Master Plan), then the level of documentation required under CEQA can be substantially reduced as described in Chapter 2, *What Are the Initial Decisions I Have to Make?*.
- A Program EIR allows you to analyze the broad environmental effects of the program or series of projects, especially in cases in which there is not much detail about subsequent future developments.
- A Program EIR also allows you to disclose the cumulative effects of long-term campus development and limit the need for future cumulative impact analysis for subsequent future projects.
- A Program EIR can remain valid for many years, and should be your primary tool to process projects under the Campus Master Plan. There are specific requirements for Program EIRs, which are discussed in CEQA Guidelines Section 15168.

Remember: *The project description in your Campus Master Plan Program EIR should be flexible to maximize the possibility that the EIR will continue to be valid if the Campus Master Plan or individual projects change within the timeframe of the Campus Master Plan, which typically extends 10 to 15 years into the future. The project description should be flexible while still containing as much detail as possible for near-term projects that are anticipated within the next 5 years. For projects that will occur later in the future, include basic detail with a focus on larger parameters that can accommodate potential future changes.*

Combining Program and Project Level Analysis

In preparing a Program EIR, there may an opportunity to cover specific projects that are proposed in the near term in the Program EIR. It is quite common for a Program EIR to contain project-level analysis for one or more specific projects that would fall within the program but about which a project-level of information is available. Preparing a combined Program/Project EIR can make the process more efficient in several ways, including streamlining the cumulative impacts analysis for projects (as the Program EIR will contain this analysis), reducing costs by preparing a single document rather than a series of documents, combining multiple required public comment processes into one, and reducing the risk of potential litigation.

This page intentionally left blank



CHAPTER 7

The Contents of an EIR

CEQA Guidelines Section 15120 to 15132 prescribe the contents of an EIR. Remember, though, that an EIR document includes a number of distinct components arising from the CEQA process, such as an Initial Study, a Notice of Preparation (NOP), a Draft EIR, and a Final EIR. You need to ensure that each of these components is prepared thoroughly. Always remember to show your work, explain your conclusions, and cite your sources. Speculation and unsubstantiated statements should be avoided. The document should be consistent both internally (between sections) and with campus EIRs prepared for other projects. The EIR should not discuss socioeconomic or fiscal issues unless those could clearly result in *physical* effects on the environment.

NOTICE OF PREPARATION OF AN EIR

Once the decision has been made to prepare an EIR, a Notice of Preparation (NOP) of the EIR should be prepared and sent to OPR. The NOP is intended to launch the “scoping” period for the EIR, during which other public agencies and members of the public have an opportunity to weigh in regarding the scope of the analysis that will be contained in the EIR. Per CEQA Guidelines Section 15082, the NOP must provide Responsible Agencies, Trustee Agencies, and OPR with sufficient information about the project and its potential environmental impacts. Chapter 9, *How to Process an EIR*, discusses the requirements for preparing and distributing the NOP.

Practice Tip:

When writing the EIR or overseeing its preparation, keep in mind that the EIR should be written in an objective, clear, and concise manner understandable to the general public. The EIR also must include sufficient detail and technical analysis for the Board of Trustees of the California State University to make an informed decision. However, overly technical information from resource studies should not be included in the chapters of the EIR. It is better to summarize the analysis found in a technical study in the EIR itself and then include the technical study in the appendices to the document, allowing more technical readers to access the information without confusing the lay reader. Ultimately, a good EIR is a balance: it should contain enough information to allow good decision-making, but not so much as to make decisions slow and difficult.

WHAT IS THE CONTENT OF A DRAFT EIR?

The term “Draft EIR” confuses some people not familiar with CEQA. The Draft EIR is the document that includes the analysis and conclusions of the EIR preparers, reviewed and verified by the CSU staff, and released to public agencies, organizations, and general public for review before decision-making by the Board of Trustees of the California State University. Generally, one of two Administrative Drafts of the EIR are generated and reviewed internally prior to preparation and public release of the Draft EIR.

Keep the following things in mind while preparing your Draft EIR:

- Every situation is unique; format the EIR to match your specific project.
- There are numerous ways to present the information. Each issue need not have its own chapter. You can combine the discussion of several issues as appropriate.
- It is important to present required information in a logical manner.
- It is most important to make a good faith effort to fully disclose information.

The following section lays out the contents of a Draft EIR.

Cover

This is a hard cover for your document. The cover should identify the type of EIR, that it is a Draft EIR, the name of the project, your campus name, and the date (month and year).

Cover Page

This page follows the hard cover. It should identify the project title, the type of EIR, the State Clearinghouse (OPR) number, the Board of Trustees of the California State University (as the lead agency), the campus name/address, and the project contact person (with phone number, email address, and physical address).

Table of Contents or Index

The table of contents includes at least a list of chapters or sections and their respective page numbers. A list of Appendices should be included here. A list of tables, figures, and other graphics can be especially helpful. Acronyms and/or definitions also can be explained here. You may also include an index at the end of the document.

Summary

The summary, sometimes called the executive summary, includes: (1) a brief description of the project; (2) any special disclosure requirements (such as for the Campus Master Plan Program EIR); (3) each significant effect with mitigation measures; (4) alternatives to the proposed project (including the identification of the environmentally superior alternative), and (5) areas of controversy and any issues to be resolved identified through the Notice of Preparation (NOP) process.

You should include a table or matrix listing significant effects, mitigation measures, and level of impact after mitigation. Also include a brief paragraph explaining that a Mitigation Monitoring and Reporting Program will be prepared as a separate document that will be available for public inspection at the campus office prior to the Trustee's decision on the project.

The summary is both a chapter in the Draft EIR and a stand-alone document that is filed with OPR at the beginning of the public comment period.

Introduction

The introduction describes the CEQA process and provides a brief road map of the EIR. For example, you should summarize the NOP process, include the Initial Study in an appendix, and provide a list of issues identified during the scoping period. You may want to include the comments received during scoping in an appendix. You should disclose the planned review period for the Draft EIR, and explain what the process is for commenting. The process for the Final EIR should be explained, as should the decision-making process for the Trustees. If you are tiering off other EIRs (such as the Campus Master Plan Program EIR), disclose this information in the Introduction, and, as appropriate, incorporate these documents by reference.

Project Description

The project description is a very important part of the Draft EIR. It introduces the project, including its objectives, size, type, and location. Maps and diagrams need to be included to describe the project and its location. The project description needs to portray the “whole of the action.” This means you should include not just a description of the completed project, but also a description of the construction process, any off-site changes required for implementation of the project (e.g., utility upgrades, relocation of uses off site), phasing of the project, and any other factors required for the project that may result in impacts on the environment. All components of the project that are proposed and to be considered as part of the analysis need to be included, including project design features (e.g., solar roof panels). It is not appropriate to divide the project into a number of related smaller projects addressed in separate documents.

The more detail that is included in the project description and analyzed in the EIR, the better the chance that future implementation of the project can be processed on the basis of a Finding of Consistency rather than a subsequent document. Where there are specific actions contemplated as part of the Campus Master Plan, these should be described and analyzed in the EIR so that it will be clear that the resultant Final EIR has disclosed the effects of those actions. Subsequent documents are discussed in Chapter 8.

Remember: *The project description is critical to the EIR process. Make sure to describe the project in its totality, including all reasonably foreseeable phases of the project to avoid “piecemealing” (i.e., breaking a larger project up into smaller pieces to avoid the discussion of impacts).*

The required components of the project description include the following (CEQA Guidelines Section 15124):

- Project location
- Statement of project objectives
- Description of project characteristics

- Statement of intended uses of the EIR
- List of all agency decisions subject to CEQA

Following is a more detailed accounting of what to include in description of these components.

Project Objectives

One of the most important components of the project description is the description of project objectives. You want the project objectives to be as specific as possible, but not so specific as to become constraining. At the same time, the objectives should represent University and campus-wide goals.

Remember: *Project objectives are very important in discussing alternatives to the project and in identifying the reasons for rejecting any of the EIR alternatives. An alternative's inability to meet some of the project objectives could be one of the reasons for selecting the project rather than that alternative.*

The type of project will in part determine the specificity of your project objectives. For example, the objectives of a Campus Master Plan or major revisions to a Campus Master Plan will be much more general than those of an individual facility project.

Project Characteristics

Make sure to describe the project as fully and completely as possible. Include all known, anticipated, estimated, projected, or otherwise reasonably usable information about the project in this section. This includes:

- Near-term projects (anticipated within the next 5 years). Include size, height, mass/bulk, design elements, and if available, schematic design elements.
- Maximum reasonable envelope of potential project development described as fully and completely as possible (including all potential components, design features, and other physical characteristics) for a long-term and/or concept project.
- Operational characteristics, including function, capacity, type of operations, hours of operations, etc.

Practice Tip:

Provide as much detail as possible in the EIR project description. This will limit the potential for challenges to the EIR on the adequacy of project description and limit the need for additional review in the future.

Project Construction

A description of construction (including grading, demolition, or relocation of existing structures, if any, and construction phasing) should be included, to the extent this information is known or can be estimated. The approximate timing of the construction is also required. If any special construction methods are needed, they should be identified, including large-scale grading, use of large cranes or other construction equipment, the need for drilling or pile-driving, and other not-standard construction methods. If the project involves substantial amount of debris or excess soil due to demolition and grading, include information about the methods and location of disposal sites, whether the demolition materials would include hazardous materials disposal, and assumed haul routes. If the project involves substantial amount of fill or construction materials, describe where the fill would come from, assumed hauls routes, and construction staging areas for materials on- or off-site. Information regarding project construction is important for the analysis of construction related impacts in the EIR.

Project Approvals and Permits

List any discretionary actions by the University that are or may be required for the project to the extent they are known.

EIR IMPACT ANALYSIS CONTENT

Your EIR impact analysis sections should contain the following elements:

- Environmental Setting
- Impact Criteria
- Environmental Impact
- Mitigation Measures
- Level of Impact after Mitigation

You need to analyze impacts for each environmental issue area identified for analysis through the Initial Study/NOP and scoping project. An issue you screened out in the Initial Study may need to be reintroduced because of comments from an agency, organization, or the general public suggesting that that issue does present potential for significant impacts.

Environmental Setting

CEQA requires a discussion of the environmental setting (also called existing conditions, existing environment, or baseline) as it exists at the time the NOP was issued. This should include a discussion of relevant adopted federal and State laws and regulations, and regional and local plans and policies. This information should be included in each section of the EIR describing the environmental setting with respect to the specific environmental issue area discussed in that section (aesthetics, air quality, biological resources, etc.).

Significance Criteria

The significance criteria are the standards by which you measure the significance of an impact (sometimes called thresholds of significance). These criteria should be as precise as possible. Whenever possible, the standards should be quantitative and clearly identify the “triggers” that would indicate a significant impact, such as for noise levels or for water quality standards.

The starting point in establishing the significance criteria must be a review of applicable CSU materials, including the *CSU Transportation Impact Study Manual*. From there, the EIR preparer should review and incorporate the applicable criteria provided in Appendix G of the CEQA Guidelines. Note that CSU is not subject to significance criteria established by local cities and counties.

Practice Tip:

For transportation analyses and criteria, use the *CSU Transportation Impact Study Manual* and *Transportation Demand Management Manual*.

If you are unsure about which criteria to use, first check the OPR website and look up the current Technical Advisories and Publications. You may also consult with other agencies that specialize in that environmental area. For example, the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service can be consulted about criteria for specific biological resources. The State Office of Historic Preservation can assist with thresholds for historic resources. As noted above, CSU is not subject to the significance criteria established by other agencies, so consultation with other agencies would be advisory and would not obligate the use of any particular criteria.

Using regulatory standards as significant criteria can create a predictable starting point for the analysis, and allows EIR preparers to rely on the expertise of other regulatory bodies, without foreclosing consideration of possible project-specific effects. If you opt to use regulatory requirements as significance criteria, make sure to explain how application of the standard indicates a less-than-significant impact.

Criteria of significance are often dependent on the project location. For example, use your local air quality management/air pollution control district's thresholds to evaluate the emissions from the project's construction and operation. If the project's emissions would be below the threshold amounts, the impact would typically be considered to be less than significant. If the emissions would be at or above the threshold amounts, then the impact would be considered to be significant.

Remember: *The determination of whether an impact is significant calls for careful judgment, and should be based to the extent possible on established thresholds of significance and factual and scientific data. Use of established thresholds is among the most common and successful means of determining significance.*

GHG Thresholds

CEQA Guidelines Section 15064.4 contains pertinent provisions addressing the significance of impacts from GHG emissions. Section 15064.4 identifies several factors that “should” be considered by lead agencies when rendering significance determinations.

Relatedly, some air districts have issued guidance or adopted thresholds pertaining to the analysis of GHG emissions. If your air district has issued guidance or adopted thresholds, the air district's relevant source materials should be referenced and reviewed for potential applicability. If your air district has not issued guidance or adopted thresholds, use other approaches supported by substantial evidence and consistent with the parameters of CEQA Guidelines Section 15064.4 to determine the significance of your project's GHG emissions.

Environmental Impact

This discussion is the “substance” of the EIR. Information on the project impacts can be organized in many ways depending upon the project's specific circumstances. For example, transportation issues may entail multiple sub-issues, such as transportation, pedestrians, and transit impacts. Each sub-issue can be organized with its own setting, significance criteria, impact, mitigation measures, and level of impact after mitigation, or the EIR can address the setting for all transportation issues, then move on to significance criteria, impacts, etc. Just make sure that the discussion is logical and easy to follow and is internally consistent.

Once impact significance criteria have been developed, you can begin identifying potential impacts. Remember to maintain an objective tone, and cite your sources. Always show your work and explain your conclusions, and follow the following best practices:

- Quantify impacts whenever possible and make sure to tie your impacts back to your criteria.

- Always explain how you arrive at a determination of significance for each impact, even if the explanation seems simple. Do not simply say that an impact would or would not be significant.
- Move logically through the analysis, beginning with how the project would change the existing conditions and ending with a conclusion as to whether or not the change (i.e., an impact) would be significant. Don't begin with phrases like "...the impact would be less than significant because..."
- Make sure impacts are not underestimated. If it is discovered later that additional impacts would occur, you may need to re-start your CEQA process.
- Avoid speculation, especially if there are no established standards for an impact. If an issue is too speculative to analyze, simply disclose what is known about it, state that the issue is too speculative, and move on, citing State CEQA Guidelines Section 15145 regarding speculation. Consult with the Chancellor's Office before taking this approach.
- Use tables, maps, and other graphics to emphasize the most important points in the discussion in the text. These tools are especially well-suited for summarizing and explaining highly technical information. Headings, columns, and other textual aids can make the EIR easy to read as well.
- Always remember to discuss construction effects, either issue by issue or all together in one section devoted to construction. Construction impacts typically involve traffic, air quality, water quality, and noise problems. Construction effects vary with the setting, however. For example, construction next to houses, classrooms, or concert halls is quite different from construction next to an industrial park. Construction noise can be a problem for birds during the breeding season. Moving large amounts of dirt or hazardous materials (such as asbestos, old boilers, etc.) can cause effects along the haul route and at the dump site. Make sure that effects resulting from construction activity are fully disclosed.
- Make sure to discuss indirect effects, either issue by issue or in its own section.

Practice Tip:

Beware of a "worst case" impact analysis. Keep in mind that the analysis of a "worst case" scenario for project impacts is not legally required, and may be inappropriate for your project. Consultants may use "worst case" scenarios, which may result in significant overestimation of potential effects. Exercise judgment in overseeing the consultant's work and determining the level of analysis appropriate for a specific project. It is the reasonably probable and realistic development scenarios that need to be analyzed in the EIR rather than the theoretical "worst case" scenarios.

Mitigation Measures

Once impacts have been identified, you need to develop mitigation measures. These measures need to be precise and measurable. For example, a mitigation measure to restore sensitive habitat should specify when

and where the mitigation will occur, how it will be implemented (or set a performance standard that must be met), and when it will end. Remember to discuss briefly any impacts that could arise from the mitigation measures themselves. Chapter 10, *Mitigation Measures*, addresses mitigation measures in depth.

Level of Impact after Mitigation

Impacts that can be mitigated are referred to as “less-than-significant impacts.” Impacts that cannot be mitigated fully or at all, or for which mitigation cannot be ensured, are called “significant and unavoidable impacts.” It may be necessary to include analysis of the effectiveness of mitigation to make this determination, such as for traffic or noise impacts.

Alternatives to the Project

Alternatives are very important, especially for projects of high public interest. The alternatives discussion needs to examine feasible alternatives that can reduce or eliminate one or more of the project’s significant impacts on the physical environment, including developing the project at alternative locations, where appropriate. An exhaustive list of alternatives is not required and it is not necessary to analyze impacts that would not reduce significant impacts of the project. CEQA Guidelines Section 15126.6 provides a discussion of the consideration of alternatives to the proposed project. This includes a discussion of the “rule of reason” for selecting the range of alternatives, and a definition of feasibility. Select alternatives that are feasible, reasonable, and can achieve major project objectives

Selecting alternatives is a difficult task. Few alternatives may be feasible and reasonable while also capable of achieving major project objectives and reducing impacts. Thus, the decision is about which feasible alternatives reduce impacts the most and achieve the project objectives best. Make sure not to use artificial alternatives that clearly cannot achieve any of the project objectives and result in much greater impacts than the project. In rare instances, there are no feasible alternatives to the project. In such cases, explain clearly why no such alternatives exist, and provide examples of alternatives that are typically considered (such as a smaller project, different plan or facility, alternate locations) with a clear explanation of why those are not applicable to the project.

CEQA requires a discussion of alternative locations, if reasonable. An alternative location for a University development usually will not be a reasonable alternative because most campuses are confined to their present locations. However, it may be appropriate to analyze an alternative location for small facility projects on campus.

If an alternative location was previously analyzed in the Campus Master Plan EIR or other prior EIRs, you may not need to re-analyze it in a subsequent EIR. You can cite the analysis in the prior EIR.

Include a brief discussion of any alternatives considered but rejected, and why they are rejected. Make sure that the reasoning here is sound, especially if the EIR does not discuss alternative locations or rejects alternatives identified in public input.

The EIR must include analysis of the No Project Alternative, which means what would reasonably be expected to occur in the absence of the project given existing plans and policies. For example, for a Campus Master Plan Program EIR, the No Project Alternative is the continuation of the current Campus Master Plan. For Project EIRs, you may discuss a No Project Alternative that considers alternate uses or facilities on the project site under the Campus Master Plan. Another No Project Alternative that briefly discusses what would happen if the current land use continues (i.e., no change in existing conditions) should also be noted.

The analysis of alternatives should be a comparative analysis – identifying how the impacts of the alternative would compare to the impacts of the project. The analysis need not be as detailed as the analysis for the project and should focus on the relative reduction in impacts. However, remember that alternatives involve trade-offs and it is perfectly legitimate to have alternatives that result in some increased impacts, different impacts, or impacts that are similar to those of the project. For example, traffic impacts of a project could be avoided at an alternative location, but impacts on plants or animals at that alternative location could be greater.

A comparison of the alternatives is required, including identification of the “environmentally superior alternative” other than the No Project Alternative. Whenever possible, use a matrix or a table to compare impacts of the project to impacts of the alternatives.

Cumulative and Long-Term Effects

A cumulative impact is an impact created as a result of the combination of the proposed project together with other projects causing related impacts. The EIR must discuss cumulative impacts when they are significant and when the project’s incremental contribution to a significant cumulative impact is cumulatively considerable. A project’s impact is cumulatively considerable if the incremental effects of the project are significant “when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects” (14 Cal Code Regs Section 15065(a)(3)). If a project does not make some contribution to a cumulative environmental effect, the cumulative effect cannot be characterized as a cumulative effect of the project. As such, the EIR should not discuss impacts which do not result in part from the proposed project. CEQA Guidelines Section 15130 includes a definition of cumulative impacts, as well as a discussion of the approach to analyzing such impacts.

Projects causing related impacts can include master-planned projects, ancillary and off-campus projects, and projects that have been approved in the area, where such projects together with the proposed project will produce an impact.

There are three ways to analyze cumulative impacts. The **list approach** is based on a list of past, present, and foreseeable future projects. The list approach is generally preferable for individual facility projects to be constructed in the short term, where other project in the areas can easily be identified. The **plan build-out approach** considers projected changes from implementation of plans over the long term. Generally, use plan buildout approach for long-term projects, such as the Campus Master Plan. A **hybrid approach** can also be used that includes known projects in the near future plus a plan buildout for the long term.

If a list approach is used, a list of related projects will need to be compiled. Planning departments for cities or counties near the campus are the best places to begin researching your list. Also, there may be adopted plans and programs (such as regional growth management plans, air quality plans, Campus Climate Change Plan, habitat preservation plans, transportation plans, waste management plans, water quality management plans, and other plans) that address a cumulative problem. Other sources might include Caltrans, city or county traffic departments, local clearinghouses (such as metropolitan planning organizations like the Southern California Association of Governments or the Association of Bay Area Governments), and other recent EIRs.

Remember: *Not all nearby projects may apply to your analysis—pick only the ones that could contribute to potential cumulative impacts of your project. Take care not to miss projects known to the public or to exclude projects that clearly will have some related effects. There is no requirement that a project must already be approved or have an environmental document to be included on the list. You will need to make assumptions about the likely impacts of projects that are known, but do not yet have analyses. Be sure to include these assumptions in your discussion.*

If you use a plan approach, you will need to discuss cumulative impacts in more general terms. Usually, this type of discussion centers on long-term development according to the Campus Master Plan, or to city/county general plans for projects that affect adjoining jurisdictions or are on non-University land, as appropriate. For such projects, the best places to do the research are city and county planning departments. It will be helpful to look at EIRs for these plans as well, such as a recent General Plan EIR for a city near your campus.

Remember: *If a cumulative impact has been identified, mitigation to offset that impact needs to be developed if possible. Keep in mind that you are only required to mitigate the project's contribution to a cumulative problem, not solve the cumulative problem entirely. Remember to make sure that the mitigation is feasible and can be ensured.*

Irreversible and Growth-Inducing Effects

CEQA requires a discussion of significant irreversible changes and growth-inducing impacts. Discussion of these topics can be included either in the cumulative impact section or in separate sections. Consult recent EIRs prepared for other campuses regarding these topics. Briefly, significant irreversible changes refer to effects that would be difficult or impossible to reverse, such as conversion of farmland, development over important mineral resources, or demolition of a historic structure. Commitment of non-renewable resources refers to use of building materials, energy, and other physical resources in ways that clearly would impact the supply of these resources (this includes the use of energy, electricity, gas, fossil fuels, etc.). Growth-inducing effects refer to the indirect impacts of a project, especially infrastructure extension into undeveloped areas that may facilitate further growth, or the provision of substantial employment that may generate further growth in a local area or the region.

Issues of No Significant Effect

The EIR should identify environmental issues for which the project would not result in significant effects. This may be done in an Initial Study (provided in an appendix to the EIR), in the Executive Summary, in the Introduction, or in its own section.

Persons and Agencies Consulted

Persons and agencies consulted during preparation of the EIR must be listed.

References

All references utilized in the EIR must be listed. You can do this either in a separate section in the EIR listing the references (a bibliography) or in footnotes as they are used in text of the EIR.

Preparers of the EIR

The Board of Trustees of the California State University is listed as the Lead Agency. The campus staff and contact person must be identified. All consultants and/or other agencies participating in the EIR preparation should be identified. Include telephone and e-mail addresses for each person listed.

Appendices

The Appendices should include the NOP, the Initial Study, comments received on the NOP/Initial Study, important technical studies, worksheets showing calculations, and any other relevant information. Note that

you can request that reviewers contact you for any information not included in the appendices (this request is usually stated in the Introduction section).

If several technical studies were prepared for the EIR, a separately bound Technical Appendix document is recommended.

WHAT GOES INTO THE FINAL EIR?

After circulation of the Draft EIR and the public comment period, a Final EIR that responds to comments received from public agencies and the general public is prepared. The best way to prepare a Final EIR is to prepare a complete new final document. The Final EIR includes the Draft EIR text as revised in response to comments received, and a new section (Responses to Comments on Draft EIR) that contains the comment letters and University responses to those comments. The Final EIR must contain at least the following:

- The Draft EIR with revisions in response to comments received shown clearly (such as with highlighted or underlined new text and strikeout for removed text).
- A list of persons, organizations, and public agencies commenting on the Draft EIR.
- All comments received on the Draft EIR, either verbatim or in summary.
- University responses to all comments.
- A transcript or summary of any public meetings (if available) and responses to comments made at those meetings.

Remember: The written responses to comments submitted by a public agency during the public review period of the Draft EIR are required to be provided to the commenting public agency at least 10 days prior to the Trustees' certification action on the EIR.

- It is good practice for private parties commenting on the EIR to receive the response 10 days prior to project approval and is thus encouraged. Board meetings, where EIR certification occurs, take place over two consecutive days and the agenda is released ten days in advance of the meetings. Include a link to the Board Agenda in the transmittal of the response to comments which identifies the committee meetings where the project and EIR will be reviewed as well as the full Board meeting.
- The campus may wish to consider obtaining a record of delivery confirmation.

RESPONSES TO COMMENTS – WHAT IS REQUIRED?

As noted in CEQA Guidelines Section 15088, a lead agency is required to prepare written responses to all comments received during the noticed comment period for an EIR and any extensions that may be granted. The lead agency is not required to respond to late comments, although it is recommended that all late comments be reviewed and that those late comments raising substantive issues also be responded to in writing. The ability to respond will depend upon when late comments are received.

Keep in mind the following points when responding to comments:

- CEQA is concerned with the physical environment, not opinions or speculations. Respond to all environmental issues raised in the comments. Do not respond to comments made regarding non-environmental issues, except to acknowledge the comment. For example, if a comment indicates that the person does not like a project, acknowledge the commenter’s opposition to the project and indicate that the comment does not refer to environmental issues.
- If a commenter raises a valid point about environmental issues, EIR methodology, or conclusions, be sure to respond fully. For example, if the commenter points out that there is an error in the Draft EIR, respond as to whether the error exists, and if there is an error, correct the error and explain the implications of that error to the analysis in the EIR, if any.
- Respond to all environmental concerns raised.
- Responses should be neutral in tone and as objective as possible. One of the best ways to do this is to respond to the *comment* not the *commenter*. Start your response saying “The comment states ...” rather than “The commenter did not understand...” Respond to each comment as if it raises a valid concern (even if the comment stands for an agenda or non-environmental interest). Keep in mind that many commenters took a lot of time to read the EIR and prepare their comments, they expect a reply, and, in many cases, they will appreciate the University’s efforts to address their concerns.

Practice Tip:

Don’t rationalize significant environmental effects of the project. The role of the EIR is to only disclose those effects and identify feasible mitigation to reduce the effects.

Do leave yourself plenty of time to prepare responses to comments. In some cases, voluminous comment letters are submitted, often by attorneys, with the intent to overwhelm the process and cause unnecessary delay. In such cases, you may choose to group comments by common issues, and prepare a series of comprehensive responses to each of the common issues. It is always best to include each individual comment and respond with “see Global Response #xx” rather than leave it up to interpretation where the response is. Be careful when using comprehensive responses that the response fully addresses all the nuances of the individual comments.

FINDINGS OF FACT

Because Findings of Fact could be nearly as important a part of the Administrative Record as the EIR in the event of legal proceedings, always be sure to prepare well-developed Findings of Fact (see Chapter 12, *Findings of Fact and Statement of Overriding Considerations*). When developing Findings of Fact:

- Write the EIR with Findings of Fact in mind. The best way is to format the EIR in a way that the information can be directly imported into the Findings of Fact.
- Make sure that the project objectives are clearly identified in the EIR so that they can be used in the Findings of Fact about feasibility/infeasibility of alternatives and in the Statement of Overriding Considerations.
- Make sure that the EIR includes all information necessary to support the Findings of Fact.
- Utilize the Statement of Overriding Considerations template included in Appendix B.

WHEN MUST AN EIR BE RECIRCULATED?

In certain instances, listed below, new information requires that a Revised Draft EIR be prepared and circulated again for public review. Recirculation is not required, however, when that new information only clarifies, amplifies, or makes insignificant modifications to the previous Draft EIR. A Draft EIR must be recirculated when:

- The project has substantially changed since the Draft EIR was circulated for public review, or
- The existing conditions/environmental setting has materially and substantially changed since the Draft EIR was circulated for public review, or
- The comments received during the public review are identified by CSU as addressing new and important environmental issues, or
- The previous Draft EIR was so inadequate that meaningful review and comment were precluded.

Remember: Consult with the Chancellor's Office and the Office of General Counsel as to whether these conditions exist. The decision not to recirculate when significant new information comes to light must be supported by substantial evidence in the project's record, such as in the responses to comments, agenda item brief and/or Findings of Fact. Revised Draft EIRs are not uncommon; pursue this option if appropriate. A Revised Draft EIR provides strong Administrative Record for potential judicial review.

Sometimes, only a few sections of a Draft EIR need to be revised. In this case, you can recirculate only those sections and limit reviewer comments to just those sections. If you choose to recirculate only portions of the Draft EIR, take care that these new portions are consistent with the rest of the EIR. You should discuss this issue in a cover letter or in an Introduction section to the recirculated portions of the Draft EIR.

Usually, a Draft EIR is revised and recirculated after the review period for the Draft EIR has run its course. In this case, one set of comment letters will be received on the original Draft EIR, and one set will be received on the Revised Draft EIR. The following options are available to limit the amount of work necessary to prepare responses to those comments:

- When a Draft EIR is revised substantially and the entire Draft EIR is recirculated, you do not need to respond to comments received on the previous Draft EIR. Consider sending copies of the Revised Draft EIR to everyone who commented on the prior document. Indicate in a cover letter and in the Introduction or Summary section that the Revised Draft EIR supersedes the previous Draft EIR; that the Revised Draft EIR was prepared, in part, in response to comments received on the previous Draft EIR; that comment letters submitted on the previous Draft EIR will not be responded to; and that reviewers must submit new comments on the Revised Draft EIR to receive responses.
- If you are recirculating only portions of the Draft EIR, you are to respond only to new comments on the revised sections. However, any and all comments received up until the Board of Trustees takes action on the project are part of the Administrative Record and, therefore, all comments raising substantive issues, whether on the revised sections or not, should be responded to in writing. It can be indicated in a cover letter and in the Introduction or Summary section of the Revised Draft EIR that any comments on the revised sections should be limited to those sections only, and that all previous comments regarding other sections that are not revised and recirculated will be responded to. Be careful, however; many comments discuss more than one topic, some of which may be recirculated and some which have not. When in doubt, respond to the comment.

Practice Tip:

A Revised Draft EIR requires the same noticing as a regular Draft EIR, except that a new NOP or Initial Study does not need to be prepared. Remember to include a summary of the changes made between the Revised Draft EIR and the previous Draft EIR.

JUDICIAL REVIEW

The scope of judicial review is generally limited to the sufficiency of an EIR as an information disclosure document for decision makers and the public. Judicial review of an EIR is often based on the following general standards:

- Good faith and objective effort at full disclosure.
- Rule of reason to assess compliance (absolute perfection is not required).
- Inclusion of all required contents in the EIR based on substantial evidence.

Judicial review of EIRs generally relates to the adequacy of the EIR with respect to the adequacy of the analyses and supporting data (substantial evidence) presented in the document. The following elements are frequent subjects of litigation:

- Project description.
- Alternatives analysis.
- Cumulative impacts analysis.
- Baseline used in analyzing project impacts, particularly traffic impacts.
- Mitigation measures, particularly deferral of mitigation and responsibility for implementing mitigation measures.

Thus, it is important to show your work and explain your conclusions every step of the way.



CHAPTER 8

When Do I Prepare a Subsequent EIR/MND?

WHEN DO I PREPARE A SUPPLEMENT TO AN EIR/MND?

The provisions for supplemental/subsequent CEQA documents, including subsequent MNDs and addenda, are found in CEQA Guidelines Sections 15162–15164. When an action that is within the scope of a Campus Master Plan Program EIR does not qualify for a Finding of Consistency, it must be analyzed in some form of subsequent or supplemental CEQA document or addendum.

When there is a previously prepared Campus Master Plan Program EIR and a new activity within the scope of the Campus Master Plan is proposed, CEQA’s focus is on what is new about the proposed activity. To what

extent are changes needed to augment the analyses in that Program EIR? For example, would there be a new impact or a substantially more severe impact that wasn't disclosed in the Campus Master Plan Program EIR?

As noted in Chapter 2, CEQA Guidelines Section 15162 limits the need to prepare a subsequent or supplemental CEQA document to situations where the action would result in new or substantially more severe significant impacts not disclosed in the Campus Master Plan Program EIR. Specifically, a subsequent or supplemental CEQA document is required if any of the following situations exist:

1. Substantial changes are proposed in the project which will require major revisions of the Program EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the Program EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Program EIR was certified as complete, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the Program EIR.
 - b. Significant effects previously examined will be substantially more severe than shown in the Program EIR.
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative.
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the Program EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The subsequent or supplemental CEQA document is focused on the newly proposed action. It upgrades the Campus Master Plan Program EIR as needed to disclose the new or more severe impacts that could result from the action. It does not re-open the analyses in the Campus Master Plan Program EIR that are not related to the new or more severe impact implicated in the action.

The distinction between a supplemental and a subsequent EIR is subtle. The content of the EIR and its adequacy in addressing the impacts identified under the CEQA Guidelines Section 15162 findings is more important than its name.

- A supplemental EIR is usually prepared when there are only a few new or more severe impacts that must be addressed in that EIR. The supplemental EIR focuses on providing new analyses of those impacts, as they relate to the later action.
- A subsequent EIR is usually prepared when there are a substantial number of new or more severe impacts that must be addressed in that EIR. A subsequent EIR typically provides more new analyses of impacts than would a supplemental EIR.

A subsequent MND can be prepared when the identified new or more severe significant impacts can be reduced by project revisions or mitigated below a level of significance by feasible and enforceable mitigation measures. The subsequent MND will focus on those impacts. It is prepared in the same manner and has the same review period as a standard MND.

WHEN DO I PREPARE AN ADDENDUM TO AN EIR/MND?

An Addendum is authorized under CEQA Guidelines Section 15164 when “only minor technical changes or additions are necessary” to the Campus Master Plan Program EIR in order to describe the action, and none of the criteria listed in Section 15162 exist. The Addendum will describe the minor changes and include a checklist and related analysis demonstrating that the Section 15162 criteria are absent.

Because an Addendum is used for only minor changes and no new or more severe significant impacts are implicated, no public review is necessary. The Addendum will be considered by decision makers along with the Campus Master Plan Program EIR. If the action is approved, it is recommended that a Notice of Determination be filed within 5 working days.

PROCESS FOR PREPARING SUBSEQUENT DOCUMENTS

The University must examine the action as it relates to the Campus Master Plan Program EIR to determine whether any of the conditions described in CEQA Guidelines Section 15162 exist. After determining that the action is within the scope of the Campus Master Plan Program EIR, the University should prepare a checklist to help document its evaluation of the action. The following headings should be used in the checklist:

- New Significant Impact
- Substantially More Severe Significant Impact

- Less-than-Significant Impact with Additional Mitigation

No Impact The following table summarizes when various types of subsequent documents may be appropriate.

Subsequent CEQA Documents

Certified Campus Master Plan Program EIR			
Extent of Changes	New or More Severe Significant Impact?	New Mitigation Necessary?	Type of Finding and/or Subsequent Document
None	No	No	Finding Of Consistency and use Program EIR
Minor	No	No	Addendum
Some	No, with mitigation	Yes	Mitigated Negative Declaration
Some	Yes	Yes	Supplemental EIR
Numerous	Yes	Yes	Subsequent EIR



CHAPTER 9

How to Process an EIR

WHAT ARE THE STEPS IN THE EIR PROCESS?

This chapter addresses the steps involved in the processing of an EIR. This includes Program and Project EIRs, as well as supplemental review documents, including subsequent and supplemental EIRs. The process for Addendums to EIRs is also discussed below.

The EIR process involves four major steps:

1. Determining the scope of analysis in an EIR through an NOP
2. Preparation of the Public Draft EIR (The required contents of an EIR is discussed in Chapter 7, The Contents of an EIR)
3. Soliciting comments on the Draft EIR through a Notice of Completion (NOC) and Notice of Availability (NOA)
4. Providing commenting agencies and others with responses to their comments on the Draft EIR

For subsequent and supplemental EIRs, the same procedural requirements apply as do for the original EIR. The same NOA and NOC requirements (as described below) apply, for instance. While the Guidelines are silent on whether an NOP is required for subsequent or supplemental EIRs, reissuance of the NOP (as described below) is recommended.

BEGIN WITH NOP/NOC

After the Initial Study is completed, the NOP of an EIR should be prepared and distributed. Note that preparation of an Initial Study is not required if it is known that an EIR will be required. However, as discussed in Chapter 4, *The Initial Study*, preparation of an Initial Study is both recommended and standard practice, as it will help to focus the EIR analysis on significant impacts, and dismiss from further analysis (in the EIR) those effects that are not significant.

It is recommended that an NOC form accompany the NOP for accurate indexing in the CEQAnet database maintained by the State Clearinghouse (OPR).

What Is the NOP?

The NOP is a public notice that informs government agencies and the general public that an EIR will be prepared, and provides them with an opportunity to identify environmental issues that need to be addressed in the Draft EIR. CEQA requires that public agencies responding to the NOP identify only environmental issues that are within that agency's area of responsibility, if any.

Any comments received in response to the NOP should be considered in determining the scope of the EIR analysis, including alternatives to be analyzed. Work may begin on the Draft EIR prior to the receipt of responses to the NOP. However, the EIR may need to be revised or expanded to address comments received. As discussed in Chapter 1, a scoping meeting may be held during this period to provide project information and receive comments. Consult with the Chancellor's Office regarding whether a scoping meeting is required or recommended.

What Does an NOP Contain?

The NOP must contain:

- A brief and specific description of the project.
- A description of the project location.

- Probable environmental impacts of the project (this is usually accomplished by attaching the Initial Study to the NOP).
- The date, time, and place of a public scoping meeting, if one is held.
- The address where the Initial Study (if not attached to the NOP), and its reference documents, are available for review.
- The address of the website where the Initial Study is posted.
- The name of a campus contact person and address where the responses are to be sent.
- The deadline for submitting responses.

Use the NOP form provided on the OPR website (see Chapter 17, Links to *CEQA Guidelines, Forms, and Websites*).

When Is the NOP Distributed?

The NOP should be mailed as soon as possible after the determination to prepare an EIR is made.

How Do I Send It and to Whom?

Distributing the NOP involves:

1. Sending the NOP to the State Clearinghouse (OPR) for distribution to State agencies.
2. Sending the NOP to local agencies, organizations, and other interested parties.
3. Providing the general public with an opportunity to review the NOP and Initial Study by posting the Initial Study and NOP on your campus' website.

Each is addressed separately below.

State Clearinghouse (OPR)

You need to send one copy of the NOP form (as noted above, an NOP form is available at OPR's website) along with 15 copies of the Initial Study and an NOC form (also available at OPR's website) to the State Clearinghouse. Fill out the two-page NOC form, check the box identified as NOP on the first page, and provide dates for the start and end of the 30-day public review period, and other information on the second page.

Send the documents by a method (US Postal Service Certified Mail or other method that provides proof of delivery, UPS, FedEx, etc.) that provides proof of delivery.

Local Agencies, Organizations, and Other Interested Parties

You need to send one copy of the NOP with the Initial Study attached to each local agency that may be affected by the project, as well as to other interested organizations and parties on the project distribution list. Each campus should maintain an up-to-date distribution list of such agencies and parties, which at a minimum, should include:

- Planning department and other appropriate departments (such as public works, fire, police, etc.) of each adjoining city and county.
- Other local agencies that may be affected, including utility providers such as local water districts, sanitation districts, solid waste management agencies, etc.
- Local organizations that have expressed interest or would likely be interested in the project. This includes local historic preservation groups, environmental groups, neighboring homeowner associations, and other similar groups (as appropriate for each specific project).
- Organizations and persons who have previously requested to be notified about University projects.

All documents must be sent by a method (US Postal Service, UPS, FedEx, etc.) that provides proof of delivery.

Remember: *The NOP must be sent to the local water provider for the Campus Master Plan, Campus Master Plan updates and major revisions, and projects that require provision of substantial additional water.*

General Public

You should consider providing the general public with an opportunity to comment on the scope of the Draft EIR. This generally means making the Initial Study document available to the public.

To fulfill this requirement:

- Post the Initial Study on your campus' website.
- Put at least one copy of the NOP with the Initial Study attached in local libraries (in the circulation section).
- Put two copies of the NOP with the Initial Study attached in the campus library.

How Long Is the NOP Review Period?

The NOP review period is 30 days from receipt of Notice. This means that within 30 days after receiving the NOP, each agency must provide the Lead Agency with specific detail about the scope and content of the environmental information related to the agency's area of statutory responsibility.

Is a Public Scoping Meeting Required?

While CEQA does not mandate a public meeting, a scoping meeting is usually held for major projects (such as a Campus Master Plan, a comprehensive Campus Master Plan revision) and/or projects that may create community interest or controversy that may affect adjacent cities/counties, projects that involve significant biological or historical resources, or projects that otherwise generate a substantial community interest.

Practice Tip:

If a scoping meeting is held, make sure that the meeting is scheduled at about the mid-point of the 30-day review period, so that the public has enough time to review the NOP/Initial Study prior to the meeting.

What Do I Do with Responses to the NOP?

If a public agency does not respond, you can presume that the agency has no further issues beyond those already addressed in the Initial Study. If an agency does respond, evaluate the response to determine whether issues are raised that need to be included in the EIR. Review all other responses to see if any new issues not discussed in the Initial Study are raised and need to be discussed in the EIR. As noted above in the discussion of project alternatives, scoping comments can also provide information as to what alternatives to the proposed project agencies or members of the public would like to see analyzed in the EIR.

PREPARE DRAFT EIR AND FILE NOC/NOA

The NOC must be filed with OPR as soon as the Draft EIR is completed. At the same time, a NOA of the Draft EIR must also be given to all organizations and individuals who have previously requested such notice. Notice must be filed for posting with the County Clerk of the county in which the project is to be located. (Public Resources Code §21092.3) Notice will also be given by at least one of the following procedures.

- Publication at least one time by the public agency in a newspaper of general circulation in the area affected by the proposed project. This is the preferred option.
- Posting of notices by the public agency on and off the site in the area where the project is to be located.
- Direct mailing to the owners and occupants of property contiguous to the parcel or parcels on which the project is located. Owners of such property shall be identified as shown on the latest equalized assessment roll.

In addition, post the Draft EIR on your campus' website. The link to the website will be included in the public notice.

What Does the NOC/NOA Contain?

The NOC/NOA must contain:

- **Description of the project.** Provide the name, size, function, and other major design features of the project, along with its and operational characteristics.
- **Location of the project.** Describe the project's location on campus. If possible, include a street address or the closest cross streets; if applicable, name the city and county in which the project is located.
- **Significant environmental effects of the project.** List significant and unavoidable impacts first (these are the impacts that cannot be completely mitigated), followed by a list of potentially significant impacts that can be mitigated to a less-than-significant level.
- **Public review period.** List the dates of the public review period, and provide the name, address, fax number, and e-mail address of a contact person to whom responses should be sent.
- **Public meeting.** If a public meeting is to be held to receive comments, provide the date, time, and place for the meeting. If no firm date is available yet, state that the date and location of the meeting will be published in the local press. Provide the name and contact information for a contact person to call for information.
- **Where to find the Draft EIR.** Provide the address of the website where the Draft EIR is posted. Also provide the addresses of the campus office and campus and public libraries where the Draft EIR can be viewed (as applicable).
- **Reference documents.** Provide the address where the reference documents used in the Draft EIR are available for review (i.e., campus office).
- **Hazardous sites listing.** Indicate whether the project site is listed on any list of hazardous waste sites prepared pursuant to Government Code Section 65962.5.

Use the NOC/NOA form provided on the OPR's website (see Chapter 17, *Links to CEQA Guidelines, Forms, and Websites*).

WHAT DO I DO AFTER THE NOC/NOA HAS BEEN DISTRIBUTED?

After distribution of the NOC/NOA, the public review period commences. During this period, agencies and members of the public have the opportunity to review and comment on the Draft EIR.

How Long Is the Public Review Period for the Draft EIR?

The public review period is typically 45 days. In some instances, a shortened review of 30 days from OPR can be requested but you will have to contact each reviewing agency and secure its agreement to do so. CPDC should be consulted prior to pursuing a 30-day review period.

Is a Public Meeting on the Draft EIR Required?

While not required, in most circumstances it is recommended that a public meeting on the Draft EIR be held. Make sure that meeting is scheduled about halfway through the 45-day review period, to provide enough time for people to review the Draft EIR prior to the meeting.

What Do I Do for a Public Meeting?

The meeting has a single purpose: to receive and record comments from the public.

For public meetings:

- Include the same State agencies to which OPR sent your document (call OPR and ask to whom they sent your document). Also, publish the notice in a local newspaper of general circulation in the area affected by the project.
 - Start the meeting with a brief introduction stating that this is an opportunity for everyone to be heard. Emphasize that the purpose of the meeting is to receive comments on the Draft EIR, and explain that written responses will be prepared to address everyone's comments.
 - If needed, limit the time for each speaker, but be flexible.
 - Make a transcript or summary of the meeting or record it (after alerting attendees that the meeting is being recorded) to ensure nothing is missed. Ask the speakers to write down their names and addresses, but do not insist on it if a speaker declines to do so.
 - Collect any letters or petitions from the speakers.
-
- Practice Tips:**
- Make sure to include the time and place of the meeting in the NOC/NOA, or at least indicate who may be contacted about the public meeting.
 - If you change the time or place of the meeting after issuing the NOC/NOA, send an additional notice using your distribution list at least 10 days before the meeting date.

- Remain neutral throughout. This is not a public debate about the merits of the project. Do not try to answer comments, except to clarify information about the project description or CEQA in general. As needed, remind the audience that the meeting focuses only on the Draft EIR.
- As described in Chapter 1, a workshop-style meeting, in which CSU staff or contractors/consultants provide information and answer questions about the proposed project, is an effective format for a public outreach meeting because it allows community members to voice their opinions.

FINISH WITH RESPONSES TO COMMENTS AND FINAL EIR

The next step is to prepare and send out responses to comments received on the Draft EIR, and to process the Final EIR.

Responding to Comments on the Draft EIR

You need to prepare a written response to each comment received on the Draft EIR, including comments received at the public meeting. These responses are part of the Final EIR. Responses may take the form of a revision to the Draft EIR, or may be included in a separate section of the Final EIR.

Responses to comments on the Draft EIR must:

- Provide a detailed explanation supporting CSU's position on any disputed issues.
- Make a good faith effort to provide reasoned responses, not unsupported conclusory statements.

Practice Tip:

Pay special attention to timely comments suggesting a new mitigation measure, alternative, or new significant impact which are not necessary. These may trigger the need to revise and recirculate the EIR before it can be certified.

Remember: *The responses to comments provide an important opportunity to provide additional substantial evidence in support of the analyses and conclusions presented in the Draft EIR.*

CEQA requires that any public agency that commented on the Draft EIR receive responses to the comments no later than 10 days prior to the decision on the project. While not required by CEQA, also consider sending the responses to non-public agencies, organizations, and groups that commented on the Draft EIR, because: (1) it complements the University's "town and gown" relations with the community and (2) the University can provide the court with evidence that a full effort was made to keep the public involved throughout the process.

- Responses to each public agency should be sent out at least 12 days in advance of the Board of Trustees meeting at which the EIR is scheduled for consideration. This is because the responses to comments must be received by the commenting agencies at least 10 days prior to the Trustees meeting. If the EIR was revised in response to the comments, make sure to send a copy of the Final EIR that shows those revisions. In the transmittal letter, indicate where in the Final EIR the responses are included and provide the address of the website where the Final EIR is posted.
- When sending out the responses and/or the Final EIR, include a dates and place of the Board of Trustees meeting on the project in the transmittal letter—**this is a legal requirement**. Board meetings take place over two consecutive days and the agenda is released ten days in advance of the meetings. Include a link to the Board Agenda in the transmittal of the response to comments which identifies the committee meetings where the project and EIR will be reviewed as well as the full Board meeting.
- Make sure to have a proof of delivery for all responses/Final EIRs that were sent out.

Remember: *Even though late comments do not require responses under CEQA, it is strongly recommended that written responses to all substantive comments be prepared in the event of potential judicial review. However, the ability to respond will depend upon when the late comments are received.*

Consult with CPDC and the Office of General Counsel when comments are received after the comment period.

WHAT DO I DO WITH THE FINAL EIR?

In addition to sending out the Final EIR as part of the responses to comments mail-out, you need to:

- Post the Final EIR on your campus' website at least 10 days prior to the Board of Trustees meeting. It is good practice to post the documents 12 days prior to the Board of Trustees meeting if possible.
- Send one copy to the city or county affected by the project if they commented on the EIR.
- Keep three copies at the campus office.

WHAT ITEMS ARE SUBMITTED FOR THE BOARD AGENDA ITEM?

The following shall be submitted to the Chancellor's Office by the due dates identified in the annual letter to the Chief Administrators/Business Officers from the Chancellor's Office:

- Agenda item brief which includes the proposed web address for the Final EIR.
- A PDF of the Final EIR document.
- PPT for the Board of Trustees meeting and Q/A

Approximately two weeks later, the following shall be submitted to the Chancellor's Office:

- Mitigation Monitoring and Reporting Program (MMRP).
- 2 hard copies of the Final EIR
- Findings of Fact
- Statement of Overriding Considerations

Remember: Leave yourself sufficient lead time to prepare and submit the agenda item brief before the Trustees meeting. You can use agenda item briefs prepared for other University projects as examples. These are posted on the internet as agenda items prior to each Board of Trustees meeting.

FILING OF NOD

If the Trustees approve the project, the Chancellor's Office will file the NOD with OPR for Final EIRs. This starts the 30-day statute of limitations for legal challenge.

HOW DO I PROCESS AN ADDENDUM TO AN EIR?

Unlike other types of EIRs, an Addendum need not be circulated for public review and does not require an NOP, NOC, or NOA. To process an Addendum, the document must be prepared and sent to the Chancellor's Office well in advance of submittal of the agenda brief prior to the Trustees meeting.

If you decide, following consultation with the Chancellor's Office, to circulate an Addendum for public review, follow the steps outlined beginning at the Draft EIR stage, since no Initial Study/NOP is needed for the Addendum.

Remember: Consult with the Chancellor's Office and the Office of General Counsel as soon as possible when the preparation of an Addendum is under consideration.

An NOD will be filed for all Addendums. The Agenda item will include the web address for the Addendum.



CHAPTER 10

Mitigation Measures

HOW DO I DEVELOP MITIGATION MEASURES?

Mitigation measures must be related to and address the significant impacts caused by the project. You need to identify mitigation measures only for significant impacts. Even if impacts would be significant and unavoidable you still must identify any and all feasible mitigation measures. You do not need to mitigate impacts that are less than significant. CEQA Guidelines Section 15126.4 defines mitigation measures and discusses the criteria for their development.

Mitigation measures need to achieve at least one of the following objectives:

- Avoid the significant impact entirely by limiting the magnitude of the project or its components, or by changing the project's features

- Minimize the significant impact to the extent feasible by limiting the magnitude of the project or its components, or by changing the project's features
- Rectify the significant impact by repairing, rehabilitating, or restoring the impacted environment
- Reduce or eliminate the significant impact over time through preservation or maintenance of the environment during the life of the project
- Compensate for the significant impact by replacing or providing substitute resources/environments, particularly through participation in existing programs for such resources/environments

In general, mitigation measures need to be:

- Based on a performance standard by which the success of the mitigation can be determined (i.e., what the mitigation measure will achieve at the end).
- Feasible.
- Specific.
- Fully enforceable by the University, or another agency, as appropriate.

If a mitigation measure itself has a secondary impact on the environment, you need to briefly analyze that secondary impact in the EIR or MND. Very rarely, you may find that the secondary environmental impacts may make a mitigation measure counterproductive in terms of lowering the original impact.

The CEQA document needs to clearly identify feasible mitigation measures.

Coordinate with the Chancellor's Office on mitigation measures related to off-site infrastructure.

AVOIDANCE/MINIMIZATION MEASURES IN PROJECT DESCRIPTION

If a project includes within its project scope features or construction techniques that minimize environmental impacts, those features can be incorporated into the project description as project design features (PDFs). Examples of PDFs include, but are not limited to, installation of solar panels, implementation of energy efficient design standards, or a site design that creates or maintains open space.

While both PDFs and mitigation measures lessen environmental impacts, a PDF is incorporated into the project as a built-in feature and analyzed as part of the project in the environmental analysis. Typically, PDFs are on-site features or techniques that avoid or minimize an impact.

It is important to properly identify an avoidance or minimization technique as either a PDF or a mitigation measure. For example, solar panels to be installed on a new campus building as part of the project is a

representative example of a PDF that would assist in GHG emissions reductions, whereas the purchase of carbon offset credits illustrates a typical GHG mitigation measure. At times, it will be difficult to distinguish the two, although it is recommended that caution be exercised when the distinction between the two is not clear; in such cases, the feature should be identified as a mitigation measure. See *Lotus v. Department of Transportation* (Jan. 30, 2014) 223 Cal.App.4th 645.

HOW TO WRITE MITIGATION MEASURES

Mitigation measures must be related to the project impacts and proportional to the level of impact. As such, mitigation measures should only address a project's significant impact, should address the actual impact itself (and not an unrelated issue), and should be only the amount necessary to reduce the project's contribution to the impact to a less-than-significant level.

Write mitigation measures as clearly as possible to answer the "5 Ws":

- **Why.** State the specific objective of the mitigation measure at the beginning of the measure and why you are including it. This can be in the form of a declarative sentence or two.
- **What.** Explain the specifics of the mitigation measure and how it will be designed and implemented.
 - Describe the action steps associated with the measure and its implementation.
 - You can provide flexibility in mitigation measures when you are not sure how successful one mitigation measure will be by providing a range of measures that will meet performance standard(s). The performance standard(s) should ideally be connected to your significance threshold(s) for the subject impacts. You have to be fully committed to doing one or more of those measures and to meeting the performance standard(s). Using a range of mitigation measures can provide flexibility in implementation.
 - Mitigation measures should be precise, measurable and supported by data describing the basis for the measure.
 - Describe the timing, sequence, and duration the mitigation measure will be in effect (particularly important for measures dealing with biological resources).
- **Where.** Identify the specific location the mitigation measure will be applied.
- **When.** Indicate when the measure will be implemented (before, during or after construction, during operation, on-going, during specific times, etc.) and the sequence of implementation, if multiple steps are involved.

Mitigation Measures DOs and DON'Ts:

- **Do** answer the “5 Ws”!
- **Do** ensure measures through other programs are viable. If you include mitigation to be implemented through any type of a program, the program should already exist and be funded. If it does not, it’s not mitigation.
- **Do** limit mitigation to feasible measures only. Make sure that you can actually implement the mitigation proposed. If you cannot, it’s not mitigation.
- **Do** review your mitigation measures for consistency with one another. Make sure that mitigation measures do not conflict with each other.
- **Do** tie your mitigation to specific significance criteria and thresholds.
- **Limit** using measures that end with “to the greatest extent possible,” “to the extent feasible,” etc. Such language basically makes the mitigation measure non-enforceable and non-measurable.
- **Don’t** use measures that begin with “consider,” “encourage,” “work toward,” “cooperate,” etc., unless followed by a specific performance standard which the mitigation is designed to achieve. Considering, encouraging, etc., is not a mitigation.
- **Don’t** use measures that only consist of studying something such as doing a survey or an investigation. A study is only effective as mitigation if it is tied to actually taking action to avoid, reduce, or compensate for an environmental impact.
- **Limit** using measures that consist of obtaining a conditional permit. Conditional permits, including aquatic resource permits and endangered species permits, can still allow for significant impacts to occur, and are no guarantee of reducing an impact to a less-than-significant impact.
- **Don’t** use existing regulations and requirements as mitigation measures. If compliance with these regulations and requirements will result in a less-than-significant impact, just state so in the analysis and indicate that therefore no additional mitigation is required beyond such compliance.
- **Limit** using voluntary language. Mitigation is mandatory. Use “shall” and not “should.” The only allowable use of voluntary language is if a range of mitigation measures is tied to fixed performance standard(s) in which case the language should be something like: “The Department shall select and implement from the list below adequate measures to meet the established performance standard(s)...”

Beware of “Deferred Mitigation”

Mitigation measures **cannot** defer to future studies, consultations, or future undefined time. Such measures are called “deferred mitigation” and are easy points for legal challenge. In some situations it is not known whether there will be an impact without doing additional surveys or studies, especially for large and long term projects or programs for which a Program EIR is prepared. To avoid improper “deferred mitigation” you must clearly

identify what you will do if any future studies identify that there could be an impact. Alternatively, if such information is not yet available, you need to incorporate performance standards or criteria into the measure to ensure that the strategies ultimately selected in fact will reduce the impact as reported in the CEQA document.

For example, there may be cases where you are unsure whether an endangered species is present on your site, and you cannot ascertain its presence now. The mitigation measure requires a survey for that species to be conducted. That mitigation measure must include an explanation what you will do if you find the species, for example:

- If the survey indicates that the species are present, the following measure(s) will be implemented: [list measure(s) such as habitat replacement, relocation, avoidance during the breeding season, etc.]

Remember: *If some doubt exists as to whether a mitigation measure will fully mitigate the impact, it is good practice to indicate that the impact will remain significant and unavoidable even with the incorporation of mitigation.*

Additional References

With the passage of Senate Bill 743, CEQA documents will now be required to analyze traffic impacts based on vehicle miles travelled (VMT) instead of measures of traffic congestion (like Level of Service). CSU has updated its Transportation Study Impact Manual per Senate Bill 743 and the manual provides guidance on potential mitigation approaches for addressing significant VMT impacts.

This page intentionally left blank



CHAPTER 11

Mitigation Monitoring and Reporting Program

WHEN DO I NEED TO PREPARE MITIGATION MONITORING AND REPORTING PROGRAM?

When an MND or an EIR is prepared for a project, it is necessary to prepare a Mitigation Monitoring and Reporting Program (MMRP). The program is prepared after all mitigation measures have been reviewed and finalized.

WHAT NEEDS TO BE INCLUDED IN THE MITIGATION MONITORING AND REPORTING PROGRAM?

At a minimum, the following information needs to be included in the MMRP:

- A list of mitigation measures from the Final EIR or MND
- When each measure will be monitored (for example, prior to construction, during construction, during operation, on-going, at the time when..., etc.)
- When compliance is achieved

Remember: *Mitigation measures must be complete and self-contained. The MMRP is not a part of the mitigation measure.*

WHAT FORM DOES THE MITIGATION MONITORING AND REPORTING PROGRAM TAKE?

The format of the MMRP needs to suit the project. Straightforward and simple MMRPs work best. For Campus Master Plans, Campus Master Plan updates or revisions, and other long-term programs, the MMRP could include more general, programmatic mitigation measures. Keep in mind that these measures still need to be detailed enough to apply to subsequent projects. For an individual facility or improvement, the program will include detailed site-specific measures.

WHO IS RESPONSIBLE FOR MONITORING?

Under delegation of authority, the campus has the responsibility to ensure that implementation of the mitigation measures occurs in accordance with the program.

For the mitigation of construction-related impacts (e.g., watering the site during grading, monitoring noise levels from construction equipment, using low-emission paint materials, covering haul trucks, etc.), the contractor generally is responsible for implementing on-the-ground measures under the supervision of campus staff. Such specific mitigation measures requirements should be written into the contract documents.

IS THE MITIGATION MONITORING AND REPORTING PROGRAM INCLUDED IN THE EIR?

No. The MMRP is a separate document that becomes part of Administrative Record for the project, and must be adopted by the Trustees as part of the project approval action. The MMRP is included as a web link in the agenda item submitted for the Trustees meeting.

CAN A MITIGATION MONITORING AND REPORTING PROGRAM BE CHANGED AFTER IT HAS BEEN ADOPTED?

It is difficult to change the MMRP after it has been adopted because CEQA requires decision makers to hold a public hearing on changes to the program. Also, it is very important to develop mitigation measures from the start with an MMRP in mind. Using a range of mitigation measures and measures based on performance standards often provides enough flexibility to avoid the need for substituting mitigation measures at a later date (see Chapter 10, *Mitigation Measures*).

This page intentionally left blank



CHAPTER 12

Findings of Fact and Statement of Overriding Considerations

IS IT NECESSARY TO PREPARE FINDINGS OF FACT?

Yes, Findings of Fact must be prepared for a project for which a Final EIR was prepared, whether or not the project is approved.

WHAT ARE FINDINGS OF FACT?

Findings of Fact are a written statement that explains to the public (including the community and any groups that may oppose the project) why the Trustees are making a decision to approve a project that has significant impacts on the environment.

Findings are extremely important. They support the Trustees' decisions, show how the decision promotes public interest, and are an essential element of defense if the decision is challenged in court. Findings provide

evidence that the Trustees have taken care in making a decision by showing how they have addressed each significant impact and alternative in the Final EIR.

WHAT MUST BE INCLUDED IN THE FINDINGS?

The Findings document must contain one or more of the following findings for each significant impact identified in the Final EIR:

1. Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the Final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the Finding. Such changes have been adopted by such other agency, or can and should be adopted by such other agency. (The public agency must be identified by name.)
3. Specific economic, social, legal, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

For each Finding, remember:

- Establish a clear, well-organized explanation of the rationale for each finding that can be easily followed.
- Provide facts to support the finding based on information in the Final EIR.
- Describe alternatives examined in the Final EIR and explain why they are infeasible. This includes not meeting objectives of the project identified in the Final EIR.

In these findings, “changes or alterations” are typically mitigation measures contained in the Final EIR.

WHEN IS A STATEMENT OF OVERRIDING CONSIDERATIONS (SOC) NECESSARY?

A Statement of Overriding Considerations (SOC) is required for any Trustee action to approve a project with unavoidable significant impacts. This means that an SOC is required for any project for which the Final EIR identified impacts which cannot be reduced to a less-than-significant level.

WHAT MUST BE INCLUDED IN THE SOC?

The SOC must include a summary of the unavoidable impacts and a list of specific education, economic, legal, social benefits, etc., of the project that outweigh its significant environmental impact. The benefits may reflect the objectives of the project listed in the Final EIR. Appendix B includes an example of an SOC.

ARE FINDINGS OF FACT AND SOC PART OF THE FINAL EIR?

No. Findings of Fact and the SOC are separate from the Final EIR. They are a record of decision on the project, and are part of the whole record for the project (called the Administrative Record).

The SOC should be mentioned in the Notice of Determination.

DO THE FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS GO TO THE TRUSTEES?

Yes. The Trustees need to adopt the Findings and the Statement of Overriding Considerations.

Practice Tips:

- Use Findings prepared for other CSU projects as examples. A template for Findings/Statement of Overriding Considerations is included in the Appendix B of this handbook.
- Prepare the Final EIR with information written in a manner that allows text to be directly imported into the Findings document.
- Make sure that the project objectives are clearly identified in the Final EIR so that they can be used in

This page intentionally left blank



CHAPTER 13

Legal Challenges and the Administrative Record

WHAT IF THERE IS A POTENTIAL FOR LEGAL CHALLENGE FOR THE PROJECT?

For projects that elicit a high level of interest and controversy, legal challenges may be a possibility. The best strategy is to anticipate this and prepare for it.

WHAT STEPS CAN I TAKE TO PREPARE FOR LEGAL CHALLENGE?

There are strategies you can use to minimize the potential for legal challenge and to enhance the CSU's position. These strategies include:

1. When considering CEQA compliance, a careful, informed and cautious approach should be taken when selecting the type of document to be prepared for all projects, particularly projects of high interest and controversy. In all cases, ensure good practice in the environmental review process and not just the legal minimum.
2. Hold scoping meetings for city and local agencies, and the public and consider their suggestions as appropriate.
3. Be sure to pay attention to comments received during the scoping process, and tailor the CEQA analysis accordingly and as legally appropriate.
4. Write the CEQA document with the audience in mind (i.e., the Trustees, the public, and city and local agencies).
5. Consider analyzing project alternatives suggested by city and local jurisdictions, agencies, and the public, to show good faith effort that consideration was given to their feasibility.
6. Support all conclusions with substantial evidence.
7. Respond to comments in good faith, even comments that are only vaguely related to the project.

Practice Tips:

- Always communicate with city and local agencies well in advance of the project to build and continue cooperative relations throughout the CEQA process. Consult with the Chancellor's Office and the Office of General Counsel prior to providing any written materials to city and local agencies.
- Pay attention to comments received from local agencies and members of the public throughout the EIR process, and use the responses to comments process as an opportunity to provide further evidence in support of the analyses and conclusions presented in the CEQA document.

THE ADMINISTRATIVE RECORD

The Administrative Record is of *primary importance* in the outcome of a potential legal challenge, as it will be the foundation for any litigation brought against the agency over its CEQA determination or the adequacy of its CEQA document. As such, it is important to build a detailed, well-organized Administrative Record.

Practice Tip:

For high-profile projects, coordinate with the Chancellor's Office and the Office of General Counsel early in the development of the project.

The CEQA document is just one of the components of this entire record. Other elements of the Administrative Record include:

- All project material, including plans
- Project item reports and any staff reports, memoranda, or similar reports provided to the Trustees
- Meeting minutes
- Records from public hearings
- All CEQA public notices
- Public Draft and Final CEQA document with written comments and responses to these comments
- Findings of Fact and Statement of Overriding Considerations (if your CEQA document is an EIR)
- All other documents related to the CSU decision-making process, including reference materials and studies developed by or for the lead agency

Remember: *Findings of Fact are a substantive component of your Administrative Record. See Chapter 12, Findings of Fact and Statement of Overriding Considerations, about preparing a substantive Findings of Fact document.*

This page intentionally left blank



CHAPTER 14

Public-Private Partnership Projects

WHAT ARE THE PUBLIC-PRIVATE PARTNERSHIP PROJECTS?

Generally, public-private partnerships (PPPs) are projects that involve partnerships and long term contractual relationships that use or develop CSU real property, or property to be acquired by CSU, to further the educational mission of the campus through the acquisition of physical assets, income, and/or educationally related opportunities for students and faculty.

Often, these projects involve third-party development contracts working through a ground lease with an approved CSU auxiliary organization, or in other cases, these projects involve contractual relationships with auxiliaries, private entities, or other public agencies, possibly through ground leases. In addition, some projects

may involve development on private property which will be affiliated with the campus and involve affiliation agreements with the campus or its auxiliaries.

WHAT IS THE DEVELOPMENT PROCESS FOR PUBLIC-PRIVATE PARTNERSHIP PROJECTS?

Generally, PPP projects are developed in three phases, which are described as follows:

Phase I: The Concept Phase

This is the initial stage where the campus presents the concept and related information, which is then discussed and reviewed by the CSU. The concept is presented to the Trustees to authorize the Chancellor for the campus to enter into negotiations for agreements to facilitate development of CSU property.

- Note, however, that these actions shall not create any binding contractual obligations with respect to the development, which commit the campus and CSU to a particular course of action.

Phase II: Development of Project Scope and Due Diligence

This stage involves numerous activities, including the finalization of the project scope, selection and continuing negotiations with the development team, submittal of preliminary plans, appraisal and due diligence report, and other information for CSU's review by the campus. The initiation of CEQA compliance documents (e.g., ND/NMD or EIR) by the campus also occurs in this stage.

- Note, however, that these actions shall not create any binding contractual obligations with respect to the project which commits the campus and CSU to a particular course of action.

Phase III: Trustees' Actions on the Project

This phase occurs after: (1) all terms and conditions have been negotiated by the campus, finalized in appropriate legal documents and reviewed, analyzed, and approved by the CSU, (2) final CEQA documentation has been completed, and (3) all information, including any Campus Master Plan revision, Self-Support Capital Outlay Program amendment, and development agreement (financial plan/ground lease) submitted by the campus has been reviewed by CSU.

Following all reviews, the Board of Trustees will take action on the projects. Again, these actions, which include actions on the CEQA compliance documentation, must occur prior to any commitments for the use of property by the campus.

WHEN DOES CEQA PROCESS FOR A PPP PROJECT START?

The CEQA compliance process begins in Phase 2 - Development of Project Scope and Due Diligence.

Remember: *Begin this process as early as possible to ensure that there is enough time to complete the CEQA document and process (including filing any required notices, holding public meetings during public review period(s), transmitting responses to comments, and posting a final CEQA document on the campus' website, etc.) prior to the Trustees' meeting to take action on the project.*

WHEN MUST THE CEQA PROCESS BE COMPLETED?

The CEQA process must be completed prior to Phase 3 – Trustees Action on the Project.

This means that a CEQA document such as a Final ND/MND must be completed and adopted or an EIR must be completed and certified by the Trustees prior to making any commitments for the use of property, and prior to executing a development agreement.

Practice Tip:

The PPP project process requires early and continuing involvement of the Chancellor's Office. Make sure that this involvement is factored into your project timeline to allow you to successfully

Remember: *Final CEQA documentation needs to be provided to the Chancellor's Office early enough to allow sufficient time for review and possible revision prior to submittal to the Board of Trustees.*

This page intentionally left blank



CHAPTER 15

Climate Action Plans

WHAT IS A CLIMATE ACTION PLAN?

A Climate Action Plan is a plan to reduce GHG emissions at a particular campus. A Climate Action Plan provides one avenue, but not the only avenue, for universities to demonstrate leadership in addressing climate change and taking concrete steps in pursuit of climate neutrality. The adoption of a Climate Action Plan is neither required by CEQA nor any other State law.

Climate Action Plans can, but are not required to, form a foundation for the tiering and streamlining of subsequent environmental analysis pursuant to CEQA Guidelines Section 15183.5. In order to permit subsequent tiering and streamlining, Section 15183.5(b) requires that a Climate Action Plan:

1. Quantify GHG emissions, both existing and projected over a specified time period, resulting from activities within a defined geographic area.
2. Establish a level, based on substantial evidence, below which the contribution to GHG emissions from activities covered by the plan would not be cumulatively considerable.
3. Identify and analyze the GHG emissions resulting from specific actions or categories of actions anticipated within the geographic area.
4. Specify measures or a group of measures, including performance standards that substantial evidence demonstrates would collectively achieve the specified emissions level if implemented on a project-by-project basis.
5. Establish a mechanism to monitor the plan's progress toward achieving the level and to require amendment if the plan is not achieving specified levels.
6. Be adopted in a public process following environmental review.

After a qualified Climate Action Plan is adopted (including CEQA compliance documents), later CEQA documents for projects consistent with the plan can address GHG impacts by analyzing the project's consistency with the applicable requirements in the plan itself. This analysis of consistency can be qualitative in nature, and quantification of GHG emissions of the consistent project is not necessarily required. The tiering of CEQA documents from a qualified Climate Action Plan using a consistency analysis without quantification of GHG emissions has been upheld by recent case law.¹

¹ *Mission Bay Alliance v. Office of Community Investment and Infrastructure* (2016) 6 Cal.App.5th 160, 198-203.



CHAPTER 16

CSU Process

CAMPUS MASTER PLAN APPROVAL AND RELATED GUIDELINES

A major revision to a Campus Master Plan is required to be submitted to the CSU Board of Trustees (along with CEQA compliance documentation) for approval. The Board will specifically approve the proposed major Master Plan revision as depicted on a one-page Campus Master Plan reflecting campus boundaries, existing and proposed facilities, and the Campus Master Plan enrollment along with attached legend identifying all existing and proposed facilities. The existing one-page Campus Master Plan is also provided in the Board Agenda Item for information purposes.

To the extent a campus also elects to prepare a companion planning document in addition to the Campus Master Plan as described above, such a planning document should be titled and referred to as Guidelines to the

Campus Master Plan (Guidelines). The Guidelines may include, among other things, campus historical detail; additional project description information, including tabular data and graphics; project objectives and features; and sustainability, landscape, design and other guidelines.

To the extent the Guidelines are also prepared, it is important to understand that such Guidelines are not approved; and, thus, are not regulatory in nature. As a result, the Guidelines should be framed as the name suggests — guidelines to assist the campus in framing the project and its related planning process.

Notwithstanding their non-binding nature, the Guidelines may be a useful resource in preparing an environmental impact report (EIR) for the Campus Master Plan, including topics such as project objectives, project characteristics, and existing environmental setting.

Importantly, if the Guidelines include Campus Master Plan features that will be made a part of the project, all such features that are relied on to support the environmental impacts analysis are to be included in the EIR either as project design features (PDFs) or mitigation measures. For example, if the Guidelines include solar building panels that the campus determines will be installed as part of the project (i.e., mandatory rather than aspirational), and the environmental analysis will rely on such panels as part of the analysis of greenhouse gas emissions (GHG) for example, the EIR must include the panels as project design features, described either within the EIR Project Description or GHG section. Furthermore, because the panels are relied upon as part of the environmental analysis in reaching a significance determination, they must be made binding; and, therefore, should be included in the mitigation monitoring and reporting program prepared as part of the CEQA process.

PROJECT SCHEDULES

The length of a project schedule will depend largely on the complexity of the project and the type of CEQA document being prepared. The schedule should be developed in consultation with internal staff and CEQA consultants, including technical staff conducting required surveys and preparing technical reports. As described below, time should also be factored into the schedule for Chancellor's Office review of deliverables. Time should also be included in the schedule to accommodate legally required review periods, such as the public review of the Draft EIR.

CHANCELLOR’S OFFICE INVOLVEMENT IN KICK-OFF MEETING/PROCESS AND REVIEW OF KEY ASPECTS OF EIR SCOPE OF WORK

Early consultation with the Chancellor’s Office, including the Office of General Counsel, is strongly recommended for projects that could have significant impacts on the environment or may be controversial. In particular, for complex and/or controversial projects, consultation with the Chancellor’s Office is recommended at the project initiation stage when the project scope is in development and the CEQA approach is being defined. For such projects, Chancellor’s Office participation in internal kick-off meetings and community outreach efforts should be requested. Early and consistent involvement of the Office of General Counsel is also strongly encouraged.

CHANCELLOR’S OFFICE REVIEW OF DELIVERABLES

As noted in Chapter 1, *What is the California Environmental Quality Act (CEQA) and When Does Compliance with CEQA Start?*, because each project has its own unique set of circumstances, it is important to consult early with the Chancellor’s Office. Initial deliverables, such as EIR project descriptions, should be developed in consultation with the Chancellor’s Office and should be provided to the Chancellor’s Office for review and comment. Early internal drafts of CEQA documents should also be reviewed in order to ensure that the approach to the analysis is legally sound and that a consistent approach to similar issues can be developed. This is especially important for controversial projects. Public draft documents, including responses to public and agency comments should also be provided to the Chancellor’s Office for review and comment. Initial schedules should be developed to allow for such review and for associated document revisions.

PEER REVIEW

For more complex or controversial projects, peer review of CEQA documents is sometimes appropriate. Peer review is typically provided by another CEQA consultant or by an outside CEQA attorney. The timeline for peer review should also be incorporated into project schedules as applicable. If a CEQA attorney is preferred, consult with the Office of General Counsel. Attorneys providing legal advice to the CSU and its campuses may only be retained and managed by the Office of General Counsel.

GUIDANCE REGARDING SPECIFIC TOPICS OF ANALYSIS

Greenhouse Gas Emissions (GHG) Emissions

For discussion of GHG Thresholds, please see Chapter 7 (The Contents of an EIR) above.

If the project is located on a campus with a Climate Action Plan that qualifies for CEQA tiering and streamlining, pursuant to CEQA Guidelines Section 15183.5 (please see Chapter 15 (Climate Action Plan) above, through the project's planning horizon, then the Climate Action Plan should be used to evaluate the project's GHG emissions impact. The project should be analyzed for consistency with all relevant, applicable required actions in the Climate Action Plan in the form of a consistency analysis table. The consistency analysis can be qualitative. If the project is fully consistent with the Climate Action Plan, then the CEQA document for the project can conclude that its GHG emissions are less than significant. GHG emissions for a Climate Action Plan-consistent project need not be quantified (see Chapter 15).

If the project is not consistent with the Climate Action Plan in terms of the planning horizon, the level of campus buildout, or the implementation of Climate Action Plan GHG reduction strategies, then the project cannot tier from the Climate Action Plan and a project-specific analysis must be prepared including the following components:

- Inventory of existing GHG emissions at the project site, if any;
- Estimation of construction GHG emissions;
- Estimation of operational GHG emissions with the project at buildout/full occupancy;
- Evaluation of project GHG emissions relative to one or more appropriate significance thresholds.
- Determination of significance of GHG emissions impacts (see CEQA Guidelines Section 15064.4);
- Identification of feasible GHG mitigation measures (see CEQA Guidelines Section 15126.4(c)); and
- Determination of significance of GHG emissions impacts after mitigation.

Emissions that should be estimated include the following:

- **Short-term emissions from project construction.** Project-level construction-related GHG emissions should be quantified using the CalEEMod emissions model or other appropriate modeling platform. The analysis should be based on project-specific construction inputs, to the extent known. If such information is not available, appropriate default assumptions should be used.
- **Long-term emissions from project operation.** Traffic data from the transportation and circulation analysis (e.g., trip generation rates, vehicle miles traveled) should be input into CalEEMod, the latest applicable version of EMFAC or other appropriate modeling platform to estimate GHG emissions from mobile sources. GHG emissions associated with operational area sources (i.e., landscaping and space

heating), energy consumption (electricity and natural gas), water consumption (including treatment and distribution), wastewater, and solid waste should also be quantified using CalEEMod or other appropriate modeling platform. If project-specific data are not available, the analysis should rely on appropriate default values.

In addition to estimating GHG emissions, as discussed in Chapter 7 and CEQA Guidelines Section 15064.4, the CEQA document should analyze consistency with applicable plans, regulations and policies for the reduction of GHG emissions. The campus should coordinate with its qualified environmental consultant(s) to ensure that the appropriate framework of plans, regulations, and policies is considered in the analysis. Reference also should be made to guidance documents published by agencies and entities including OPR, CAPCOA, AEP, and others.

Lighting (which thresholds to use)

It is recommended that Campus Master Plan documents include reference to established lighting standards or include standards developed during the planning process. Compliance with such standards can then avoid or minimize lighting and glare impacts associated with future specific projects. Development of campus wide outdoor lighting standards is recommended to ensure that: direct lighting is shielded from residential areas, sensitive biological habitat, and other light-sensitive receptors; lighting is directed to/at specific locations for illumination; spillover of non-essential lighting and stray light is minimized; and low intensity lamps are used except where high intensity lamps are required. Mitigation measures specific to particular projects can also be included in Project EIRs.

Assembly Bill 52 Compliance

Assembly Bill (AB) 52 (Chapter 532, Statutes of 2014) establishes new formal requirements for consultation with California Native American tribes as part of the CEQA process. This process must take place prior to the release of an Environmental Impact Report or Notice of Negative Declaration/Mitigated Negative Declaration published on or after July 1, 2015. The legislative intent of AB 52 is to consider tribal cultural resources in the CEQA analysis, including “the tribal cultural values in addition to the scientific and archaeological values when determining impacts and mitigation.” AB 52 created requirements for lead agencies as delineated below.

- Prior to the release of a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report for a project, the lead agency (e.g., CSU) shall begin consultation with a California Native American tribe if the tribe has filed a written request with the lead agency requesting formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe. If this occurs, the lead agency is required to provide notice of a proposed project to the requesting tribe within 14

days of determining that an application for a project is complete or after a public agency decides to undertake a project.

- If the tribe requests consultation, the lead agency must initiate consultation within 30 days of receiving the request.
- Consultation concludes when the parties agree to measures that mitigate or avoid a significant effect on a tribal cultural resource, or a party concludes that a mutual agreement cannot be reached.

This information provided above identifies some of the major elements of AB 52. It is important that a careful review of AB 52 should take place by the campus and its consultants to be aware of all of the requirements of this legislation.

Historic Resources

Built historical resources can be addressed in the Programmatic EIR following one of the two approaches:

1. **Comprehensive Inventory:** The Programmatic EIR would include a detailed inventory of properties within the campus that are 50 years or older and have the potential to be historical resources under CEQA. The inventory would include buildings, structures, landscapes and districts. This approach would allow for the preparation of a detailed impact analysis in the Programmatic EIR to assess impacts to known resources and serve as a tool in developing and reviewing future projects. This approach would be the most costly up front and would have a shelf life of approximately 5 years, but would minimize the need for subsequent technical studies and analysis of individual projects following and tiered off the Programmatic EIR. This approach is most appropriate for the identification of district and landscape resources, which may transcend individual project boundaries and are best understood as campus or district-wide resources.
2. **Phased approach:** The Programmatic EIR would summarize any previously identified resources and state that future evaluations would be required to establish an accurate baseline of historical resources in order to complete project-level impact analyses. The historical resources impact analysis in the EIR would establish the potential for impacts and outline the process for conducting future evaluations to determine if historical resources are present where individual projects are proposed. This approach defers much of the analysis and cost to the project-level and would be the most useful in cases where the Campus Master Plan does not establish individual projects in detail. This approach may require that individual projects look beyond their area of impact to ensure that district and landscape resources are properly identified, since these resources may transcend individual project boundaries. Another option would be to conduct a detailed analysis for buildings with potential historic resources which are projected to be demolished or substantially renovated in the next 5 to 7 years.



CHAPTER 17

Links to CEQA Guidelines, Forms, and Websites

CEQA and CEQA Guidelines:

<https://csyou.calstate.edu/Divisions-Orgs/bus-fin/cpdc/luper/Pages/default.aspx>

OPR Technical Advisories: <http://opr.ca.gov/ceqa/technical-advisories.html>

State Clearinghouse Forms (Initial Study, Notices, etc.):

<http://opr.ca.gov/clearinghouse/ceqa/document-submission.html>

To check if your document was posted by the State Clearinghouse: <http://www.ceqanet.ca.gov/QueryForm.asp>

CEQA Case Law:

- <http://resources.ca.gov/ceqa/cases/>
- <https://ceqaportal.org/ceqa.cfm>
- www.law.ucdavis.edu/centers

California Legislative Information: <http://www.leginfo.ca.gov/>

To perform your own research on legislation, the Committee recommends the Legislature’s Official Legislative Information website. It’s the fastest way to view legislative bills, bill analyses, voting records, legislative history, and signing and veto messages.

California State Legislature: <http://www.legislature.ca.gov>

The California State Legislature’s website has information on legislators, committees, calendars, and schedules, as well as general information related to the legislative process.

Legislative Analyst’s Office: <http://www.lao.ca.gov>

The Legislative Analyst’s Office provides independent, nonpartisan analysis, research, and advice to the Legislature on fiscal and policy issues. Their website provides convenient summaries of current and past ballot measures.

California Natural Resources Agency: <http://resources.ca.gov/ceqa/>

APPENDIX A

Example Finding of Consistency

Finding of Consistency

Project Title: Minor Campus Master Plan revision for the California State University, (Campus Name). The proposed Master Plan revision is comprised of the reconfiguration of academic buildings #____. The Campus Master Plan/EIR was approved by the Board of Trustees in (Month/Year).

Project Location - Specific: Campus Name

Project Location – City and County: City of _____, County of _____

Description of Nature, Purpose, and Beneficiaries of the Project: The adopted Campus Master Plan for (Campus Name) includes two proposed academic buildings (see Buildings #__and #__). The proposed change in the Campus Master Plan includes reconfiguration of these two buildings into one building. In the adopted Campus Master Plan, the two buildings were proposed to comprise a total of approximately _____ gross square feet. The reconfiguration of the two buildings into one results in a single building comprising approximately _____ gross square feet. This reconfiguration results in a building with less square footage, located in the same general campus location.

The above-described Minor Master Plan elements do not involve an environmentally sensitive area, nor do they change or expand the proposed uses, increase capacity, or change the general campus location.

Name of Public Agency Approving the Project: The Board of Trustees of the California State University.

Name of Persons or Agency Carrying Out the Project: (Campus Name), _____, Director of Planning, Design and Construction.

The Minor Master Plan elements identified above are within the scope of the adopted Campus Master Plan, which was the subject of an environmental evaluation in the Board-certified Campus Master Plan Program Environmental Impact Report (EIR). The certified EIR was completed in accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. Further, the certified EIR remains pertinent and continues to have strong informational value, despite these minor building reconfiguration changes. The above-described building reconfigurations also have been evaluated under CEQA to determine whether such changes in the project, circumstances, or information would trigger the need for any supplemental environmental documentation based on new or substantially more severe significant environmental impacts. After a thorough factual evaluation, (Campus Name) has determined that no further supplemental environmental review is required because:

- (1) The Minor Master Plan building reconfiguration elements do not propose substantial changes to the original project, which would require major revisions to the previously-certified EIR due to the involvement of new or substantially more severe significant impacts;
- (2) The Minor Master Plan building reconfiguration elements will not involve substantial changes with respect to the circumstances under which the original project was undertaken, which would require major revisions to the previously-certified EIR due to the involvement of new or substantially more severe significant impacts; and
- (3) No substantially important new information requiring new analysis of significant effects, mitigation, or alternatives is known that would require major revisions to the previously-certified EIR due to the Minor Master Plan building reconfiguration elements.

The Board of Trustees of the California State University finds that no further environmental documentation is required because all potentially significant effects (a) have been analyzed adequately in the previously-certified EIR pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to the previously-certified EIR. Therefore, in accordance with CEQA and the CEQA Guidelines (Section 15168(c)(2)), the Minor Master Plan building reconfiguration elements are within the scope of the previously-certified EIR; that EIR continues to be pertinent with considerable information value; and such building reconfigurations do not give rise to any new or substantially more severe significant effects, nor do they require any new mitigation measures or alternatives. Accordingly, no new environmental document is required.

APPENDIX B

Statement of Overriding Considerations Template

CSU DRAFT TEMPLATE
STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological or other benefits of the project against its unavoidable environmental risks when determining whether to approve a project. If the specific economic, legal, social, technological or other benefits of the project outweigh the unavoidable adverse environmental effects, those effects may be considered "acceptable." (Cal. Code Regs., tit. 14, § 15093, subdivision (a).) CEQA requires the agency to state, in writing, the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened. Those reasons must be based on substantial evidence in the Final EIR or elsewhere in the administrative record. (Cal. Code Regs., tit. 14, § 15093, subdivision (b).)

In accordance with the requirements of CEQA and the State CEQA Guidelines, the Board of Trustees finds that the mitigation measures identified in the Final EIR and the Mitigation Monitoring and Reporting Program, when implemented, will avoid or substantially lessen many of the significant effects identified in the Final EIR for the [Insert Project Name]. However, certain significant impacts of the [Insert Project Name] are unavoidable even after incorporation of all feasible mitigation measures. These significant unavoidable impacts are [List the significant and unavoidable environmental impact categories]. The Final EIR provides detailed information regarding these impacts. (See **Section .0**, Findings On Significant Unavoidable Adverse Impacts Of The Project.)

The Board of Trustees finds that all feasible mitigation measures identified in the Final EIR within the purview of the California State University will be implemented with the [Insert Project Name], and that the remaining significant unavoidable effects are outweighed and are found to be acceptable due to the following specific overriding economic, legal, social, technological, or other benefits based upon the facts set forth above, the Final EIR, and the record, as follows:

- (a) CSU has identified the need to serve the higher education needs of the historically under-represented populations and cultures of the State of California, and, the [Insert Project Name] will enable [Insert Campus Name] to meet projected increases in student demand for higher education by providing [Insert Relevant Project Components].
- (b) The Project will provide [List the beneficial project features specific to the subject project].

- (c) The Project will foster economic growth, create jobs, and attract new private businesses to the surrounding area, thereby enhancing the existing relationship between CSU and the local community.
- (d) The Project will replace existing facilities, which are currently in various states of disrepair and blight, to address capacity needs and design goals for the campus, as well as replace existing structures to enhance visual appeal and longevity.
- (e) The Project will replace existing, aged structures with highly energy and water efficient structures that achieve a LEED Silver rating.
- (f) The Project will improve overall campus design, architectural character, accessibility, image, and identity by creating a high-intensity, mixed-use development designed to accommodate both campus and community uses.
- (g) The Project is a dense, infill development that furthers smart growth principles by avoiding sprawl, connecting to existing infrastructure, and locating compatible uses in close proximity to one another.
- (h) The Project will help CSU accommodate the demand for campus-sponsored, affordable student housing options in close proximity to the campus.
- (i) The Project is the result of extensive input from both the campus and surrounding communities, and responds to concerns and desires to maintain a high-quality public university in the region while accommodating local community needs.
- (j) The Project will contribute to a reduction in commuter trips and vehicle miles traveled in the area of the campus.
- (k) The Project will contribute to a reduction in vehicular air pollutant emissions and greenhouse gases in the region.
- (l) The Project supports students, faculty, and staff with appropriate teaching, research, and administrative facilities.

- (m) The Project supports the creation and maintenance of residential and non-residential learning communities on the campus, including the accommodation of smaller learning communities within a variety of campus spaces such as [Insert names of facilities].
- (n) The Project supports the creation of a range of student learning/research/incubator type spaces through public-private and public-public partnerships.
- (o) The Project makes efficient use of developable campus land and preserves a balance between developed areas and open space.
- (p) The Project provides appropriate facilities for student interaction, student learning, passive recreation, and informal and organized recreation.
- (q) The Project provides a comprehensive approach to sustainability, and maintains CSU's stewardship of campus landscape and natural resources.
- (r) The Project conserves natural resources while creating and fostering an environmentally, socially, and economically sustainable physical and operational campus.
- (s) The Project creates and fosters campus facilities that efficiently utilize University human, natural, and financial resources.
- (t) The Project creates a more sustainable and resilient campus.
- (u) The Project enhances the aesthetics and visual character of the campus.
- (v) The Project improves campus pedestrian and bicycle connections and circulation.

Considering all the factors, the Board of Trustees finds that there are specific economic, legal, social, technological, and other considerations associated with the Project that serve to override and outweigh the Project's significant unavoidable effects and, thus, the adverse effects are considered acceptable.