

From: Jones, Andrew
Sent: Wednesday, October 24, 2018 9:35 AM
To: 'Sorrells, Kathryn' <kathryn.sorrells@csun.edu>
Subject: Follow-up on legal questions regarding EO 1100

Dear Professor Sorrells:

I write in response to your email dated October 8, 2018. I remember our exchange during the campus meeting, and I appreciate the chance to provide some further background. Your inquiry about the Chancellor's authority to issue an executive order concerning CSU General Education requirements poses two groups of questions, to which I will respond in reverse order.

1. *"Where exactly is it stated that executive orders issued by the Chancellor emanate from Title 5? What is the exact language in the ed code that you are using to justify/authorize the implementation of EO 1100R?"*

The Chancellor's authority to issue executive orders derives from the Education Code, which is also the source of the Board of Trustees' authority to govern the CSU. This is explained in more detail below.

The California legislature intends that CSU's governing board, the Board of Trustees, have broad, sweeping powers over the management, administration, and control of the CSU campuses. (Cal. Educ. Code § 66606.) The Education Code specifically directs the Trustees to adopt rules and regulations governing the CSU. (Cal. Educ. Code § 89030.) The Education Code also states that the authority given to the Trustees is to be "liberally construed in order that the purposes of the Donahoe Higher Education Act . . . may be effectuated." (*Id.*)

The Trustees implement the legislature's charge by enacting provisions in Title 5 of the California Code of Regulations; enacting policies and resolutions; and issuing Standing Orders (https://www.calstate.edu/bot/documents/standing_orders.pdf) that vest in the Chancellor (and others) broad authority to act in the best interests of the Trustees and the CSU system.

The Chancellor exercises his authority through the issuance of executive orders, consistent with Trustee policy and law. When the Chancellor issues an executive order in an area of responsibility delegated to him by the Trustees, the executive order effectively constitutes a directive from the Trustees. Executive Orders from the Chancellor typically delegate responsibility for implementation to the campus president.

- 2) *Can you explain how "procedures" are the same as "structure"? How is setting structure of GE across all CSU campuses a procedure?*

The Chancellor has broad delegated authority over matters concerning general education requirements and the extent of that authority does not turn on a narrow interpretation of the term "procedures." In 1980, the Trustees created the framework for the General Education Breadth Requirements through the establishment of five subject areas (now also known as Areas A-E). (Title 5 § 40405.1.) These original General Education provisions are in Title 5 (not

the Education Code), and because they were enacted by the Board of Trustees, the Trustees may delegate the authority to make changes in those provisions. The Trustees have done so, and have given this authority to the Chancellor, both by enacting Section 40405.4 of Title 5, and also by delegating relevant authority to the Chancellor in the Board's Standing Orders.

In Section 40405.4 of Title 5, the Trustees authorized the Chancellor to “establish procedures to implement the [General Education] objectives and requirements ... including periodic review of the extent to which the objectives and requirements are met.” In addition to the authority granted by the Trustees in Title 5, the Board's Standing Orders vest the Chancellor with the “authority and responsibility to take whatever actions are necessary, consistent with Trustee policy and applicable law, for the appropriate functioning of the institution, which includes . . . establishment and oversight of all academic programs.”

CSU Chancellors have used these combined delegations to make various changes to the General Education requirements over time. In fact, after the framework for the General Education Breadth Requirements was codified in Title 5 in 1980, CSU Chancellors have made clarifications and adjustments to the requirements through six executive orders (EO 338 (effective 11/80); EO 595 (effective 1/93); EO 1033 (effective 6/2008); EO 1065 (effective 09/2011); EO 1100 (effective 02/2015) and EO 1100R (effective 08/2017)). None of the executive orders (including EO 1100R) changed the basic framework of five categories, which have been in place since 1980. The revisions reflected in the current executive order (1100R) were driven by the need to provide clarity, equity, and clear paths to completion in support of Graduation Initiative 2025, the CSU's initiative to increase graduation rates for all CSU students while eliminating equity gaps.

I hope this addresses your questions about the Chancellor's use of executive orders to exercise his duties and responsibilities as the chief executive officer of the CSU system. I appreciate this opportunity to add to the comments I made during our recent conversation on the CSUN campus.

Best regards –

Andy Jones

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