

**San José State University
One Washington Square
San Jose, CA 95192**

SS-F24-1, Sense of the Senate Resolution, Concerning the Interim CSU Time, Place and Manner (TPM) Policy and Connected Chancellor’s Directive, the Process of Its Creation and the Implications of the Policy for Campus Operations and Freedom of Expression for Faculty, Student, Staff, and Unions on the SJSU Campus

Whereas, prior to Fall 2024, the CSU had a time, place and manner (TPM) policy in place statewide and in application on CSU campuses including SJSU, and

Whereas, prior to Fall 2024, SJSU was following its TPM policy with regards to use of public and private areas on campus for public gatherings,¹ and

Whereas, the CSU Chancellor created an interim TPM policy in response to the State Budget Act of 2024 (SB108) as well as the Public Postsecondary Education: Equity in Higher Education Act (SB1287)² without full input from individual CSU campuses or their administration, faculty, staff, students, labor groups, and other affected parties,³ and

Whereas, a policy with this amount of importance for campus life would normally involve extensive collaboration from affected parties, informally and through established formal channels in the CSU Board of Trustees, the Academic Senate of the CSU (ASCSU),⁴ the Cal State Student Association (CSAA), unions,⁵ and others; and

Whereas, the CSU Chancellor immediately implemented this policy at the start of the Fall 2024 semester with little opportunity for SJSU to prepare for the policy’s changes, aside from quickly

¹. See <https://bit.ly/3YNwX6r> for the SJSU President’s Directive of January 1, 2024 with the past TPM policy. We would like to note here that the SJSU Administration acted to help faculty understand the older policy; interim AVP and Dean of Students Dawn Lee met with College Deans and Department Chairs in May 2024 to discuss it.

². SB1287 requires the CSU Board of Trustees to implement new TPM measures and “to submit a report, on or before January 2, 2025, and annually thereafter, to the Legislature on the implementation and administration of the bill.” See https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB1287.

³. Please see Footnotes 3 and 4 for resolutions and statements from the ASCSU and the California Faculty Association.

⁴. ASCSU Chair Elizabeth Boyd received a draft of the interim TPM on August 6, 2024 for feedback, which was then sent to the ASCSU Executive Committee on August 7th. The ASCSU Executive Committee was given six days to respond. The Chancellor issued the policy on August 15, 2024. See the ASCSU Resolution on the Interim TPM Policy for more information: <https://bit.ly/4fqFlif>

⁵. See CFA statement: <http://bit.ly/3C2s2Xg>

designating spaces as “public”, “limited” and “private” in an addendum,⁶ but with no opportunity to discuss the impacts on faculty, students, staff and others in conducting classes, labs, concerts, or other public gatherings; and

Whereas, this TPM policy could affect SJSU faculty members in terms of pedagogy, as they may have problems conducting class activities in areas of the SJSU campus due to the limitations of this interim policy,⁷ and/or may feel unable to discuss particular topics in class, which could be a potential violation of academic freedom; and

Whereas, this interim TPM policy could have a chilling effect on student organizations⁸ with respect to gathering, conducting activities, and/or using their rights of free speech on the SJSU campus, and

Whereas, the interim TPM policy may violate the rights of labor unions and related groups on the SJSU campus to organize their respective work units and conduct related activities, which may be in violation of the collective bargaining agreements (CBAs) between the CSU and these organizations,⁹ and

⁶. The interim TPM policy is here (<https://calstate.policystat.com/policy/16412929/latest/>) and the SJSU Addendum, which delineates the public, limited and private spaces on our campus, is here:<https://bit.ly/3YNwWzp> The Addendum was issued on August 16, 2024, just days before classes for the 2024-25 academic year. Note that almost all classroom spaces are now “limited.” Access hours to these environments are Monday-Saturday until 10:30 p.m. While it is true that few students are in the buildings after this time, the ability to conduct research in labs, use the practice rooms in the Music building, conduct informal study meetings and attend events in these buildings could be affected. This policy was created to limit access in order to prevent encampments and the taking over of buildings and other campus environments, but did not adequately consider that there might be legitimate reasons for students to be in limited environments after the designated hours.

⁷. While the Addendum does allow “academic” activities in the limited environments (covering most of the classrooms on campus), events which might cross the line over regular class and discussion, such as bringing in speakers, may not be covered if they are considered an “event.” The lack of clear language supporting free expression under “academic” activities also does not help faculty who may now feel that their ability to express views in class could be scrutinized. This policy was created primarily with security in mind – not protecting freedom of expression. See the AAUP statement on new TPM policies across the U.S. at <https://bit.ly/4fqOHuR>.

⁸. Please see the TPM Policy and SJSU Addendum, both documents linked under Footnote 3. The provisions for limiting or cancelling events due to sound amplification, disruption, blocking traffic or access to buildings are vague and could allow decisions on the part of campus police to close down a student event preemptively, even if formally approved beforehand. The spontaneous event policy in the TPM also may restrict freedom of expression, if students now feel they cannot gather without prior approval.

⁹. While it was understood between the Chancellor’s Office, the CFA and other unions on this campus that the TPM would not be imposed on union activities until a meet-and-confer process was completed, the Chancellor’s Directive states that the interim TPM does now apply to

Whereas, the interim TPM policy and the events surrounding its creation and implementation seem to reflect an unwillingness of the CSU Chancellor to uphold the norms and practices of shared governance in the CSU between administration, faculty, staff and students.

The Academic Senate of SJSU is **Resolved**:

1) While the Senate understands that a new state law forced the Chancellor to rush the implementation of a flawed interim TPM policy, the process failed to live up to the democratic tradition of shared governance principles because it excluded many of the affected parties (particularly faculty, staff and students) from its creation. However, there is now an opportunity to shape and implement a TPM policy at SJSU that encourages protections for free speech and expression while making the campus safe and avoiding undue disruption to the university's educational mission;

2) That the shaping and implementation of any TPM policy at SJSU must be done in a manner that protects academic freedom and student activities, and keeps the SJSU campus open as much as possible for the business of student learning.

Further, Academic Senate of SJSU is **Resolved** that:

3) The process of creating any future TPM policy must be a collaborative process that includes all parties affected by the policy, including but not limited to: individual campus administrators, faculty, staff, and students. The ASCSU and other official organizations representing these parties should be a part of the process of drafting and revising any TPM policy at all stages of the process, in the spirit of shared governance.

4) The shaping and implementation of any TPM policy must be done in a way that protects the rights of free speech and expression under the First Amendment in a campus environment, which includes academic freedom, assigned student activities, and activities of student organizations and groups. This must be balanced with the needs of security on campus. As much of the campus as possible should be open to the business of student learning.

5) Any TPM policy must not interfere with federal and state laws guaranteeing the rights of unions to organize and conduct activities in the workplace.

6) That the SJSU Senate distribute this resolution to the CSU Chancellor, CSU Board of Trustees, Academic Senate of the CSU, CSU campus senate chairs, and California Faculty Association (CFA).

“represented persons.” Because of this situation, CFA has filed a Public Employees Relations Board (PERB) charge alleging infringement of labor rights.