

### 2.2.3 Response to Comments and Recirculation (if required)

#### Negative Declaration or Mitigated Negative Declaration Comments

##### Steps for Responding to Comments

- Evaluate all comments received on the proposed Negative Declaration or Mitigated Negative Declaration to determine whether there is substantial disagreement about the potential significance of impacts.

The campus must consider any written comments submitted on the proposed Negative Declaration or Mitigated Negative Declaration. If issues are raised concerning potentially significant impacts, the campus must clarify whether impacts can be mitigated or whether an EIR should be prepared to analyze the project more thoroughly. If it can be “fairly argued” that the project could result in potentially significant environmental impacts, an EIR should be prepared (*CEQA Guidelines, Section 15064(g)*) [http://ceres.ca.gov/topic/env\\_law/ceqa/guidelines/art5.html](http://ceres.ca.gov/topic/env_law/ceqa/guidelines/art5.html)). Potential impacts must be analyzed and appropriate mitigation measures structured before the Negative Declaration or Mitigated Negative Declaration is filed with the Office of Planning and Research (OPR).

- If issues are raised concerning potentially significant impacts, demonstrate in a revised Negative Declaration or Mitigated Negative Declaration and/or staff memo that impacts can be adequately mitigated to reduce impacts to less than significant levels.

The lead agency must:

- Consider all comments on the proposed Negative Declaration or Mitigated Negative Declaration.
- Include all comments in the final Negative Declaration or Mitigated Negative Declaration.
- Summarize the comments in the Regents’ item.
- Make the comments part of the Administrative Record.

The CEQA Statutes and CEQA Guidelines do not provide guidance on responding to comments on the Negative Declaration or Mitigated Negative Declaration. The Office of the President recommends, however, that the campus revise the proposed Negative Declaration or Mitigated Negative Declaration in response to substantive comments relating to environmental issues. The campus may choose to send responses directly to commentors, although it is not required to do so.

*CEQA Statutes Section 21080(f)* [http://ceres.ca.gov/ceqa/stat/chap2\\_6.html](http://ceres.ca.gov/ceqa/stat/chap2_6.html) generally provides that mitigation measures may be replaced with equivalent or more effective measures, following a public hearing, without requiring that the Mitigated Negative Declaration be recirculated. Additional criteria for recirculation are found in the *CEQA Guidelines Section 15073.5* [http://ceres.ca.gov/topic/env\\_law/ceqa/guidelines/art6.html](http://ceres.ca.gov/topic/env_law/ceqa/guidelines/art6.html).

## Recirculation of Negative Declaration or Mitigated Negative Declaration

A lead agency is required to recirculate a Negative Declaration or Mitigated Negative Declaration when the document must be substantially revised after the public notice of its availability, but prior to being adopted. “Substantial revision” is defined in *CEQA Guidelines Section 15073.5*

[http://ceres.ca.gov/topic/env\\_law/ceqa/guidelines/art6.html](http://ceres.ca.gov/topic/env_law/ceqa/guidelines/art6.html).

- A new, avoidable significant effect is identified and new mitigation measures or project revisions must be added to reduce the effect to insignificance, or
- The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance (sic) and new measures or revisions are required.

Recirculation is ***not*** required if:

- Mitigation measures are replaced with equivalent or more effective measures per *CEQA Guidelines Section 15074.1* [http://ceres.ca.gov/topic/env\\_law/ceqa/guidelines/art6.html](http://ceres.ca.gov/topic/env_law/ceqa/guidelines/art6.html).
- New project revisions are added in response to written or verbal comments on the project’s effects identified in the proposed negative declaration which are not new avoidable significant effects.
- Mitigation measures or conditions of approval are added which are not required by CEQA, do not create new significant environmental effects, and are not necessary to mitigate an avoidable significant effect.
- New information is added which merely clarifies, amplifies, or makes insignificant changes to the Negative Declaration or Mitigated Negative Declaration.