




Office of the President • One Washington Square • San Jose, California 95192-0002 • 408/277-3456

June 26, 1985

PD 85-03

TO: All SJSU administrators and employees

FROM: Gail Fullerton
President 

SUBJECT: PD 85-03: IMPLEMENTATION OF E.O. 345 "PROHIBITION OF SEXUAL HARASSMENT"

This presidential directive supersedes all earlier statements from my office or others on campus dealing with sexual harassment. Executive Order 345 is the California State University system policy regarding sexual harassment. This directive establishes procedures for implementation of Executive Order 345, "Prohibition of Sexual Harassment", at San Jose State University.

I. EXECUTIVE ORDER 345 PROVISIONS

A) Statement of Policy

EO 345 states that:

It is the policy of The California State University and Colleges that each campus and the Office of the Chancellor maintain a working and learning environment free from sexual harassment of its students, employees and those who apply for student or employee status. All students and employees should be aware that The California State University and Colleges is concerned and will take action to eliminate sexual harassment. Sexual harassment is conduct subject to disciplinary action. (emphasis added)

B) Definition:

Sexual harassment is defined by EO 345 as follows:

Sexual harassment includes such behavior as sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature directed towards an employee, student, or applicant when one or more of the following circumstances are present:

- Submission to or toleration of the conduct is an explicit or implicit term or condition of appointment, employment, admission or academic evaluation;

- Submission to or rejection of such conduct is used as a basis for a personnel decision or an academic evaluation affecting an individual;
- The conduct has the purpose or effect of interfering with an employee's work performance, or creating an intimidating, hostile, offensive or otherwise adverse working environment;
- The conduct has the purpose or effect of interfering with a student's academic performance, creating an intimidating, hostile, offensive or otherwise adverse learning environment, or adversely affecting any student.

In determining whether conduct constitutes sexual harassment, the circumstances surrounding the conduct should be considered.

C) EO 345 Implementation

EO 345 implementation provisions are as follows:

The President. . .shall designate those responsible for receiving complaints of sexual harassment. Once selected, the names and titles of those persons shall be publicized.

Established California State University and Colleges disciplinary, grievance or other complaint procedures, as appropriate, will serve as the mechanism for resolving complaints of sexual harassment.

Efforts should be made to publicize such procedures and their application to sexual harassment complaints.

II. SAN JOSE STATE UNIVERSITY PROCEDURES TO IMPLEMENT EO 345

A) Names and titles of persons responsible for receiving complaints of sexual harassment:

The SJSU Ombudsman. At present, this is Mr. St. Saffold

Associate Dean for Faculty Affairs. At present, this is Dr. Selma Burkom

Students, members of the faculty and members of the staff, and managers of San Jose State University may go to either of these persons to lodge a complaint of sexual harassment against an employee of San Jose State University.

B) Procedures:

1) Responsibilities of the Ombudsman and the Associate Dean for Faculty Affairs for investigating complaints of sexual harassment.

Whether the person filing the complaint is a student enrolled at San Jose State University or an employee of this University, the procedure to be used by the SJSU Ombudsman or the Associate Dean for Faculty Affairs is as follows:

a) Initial Interview:

On receiving a complaint of sexual harassment, the Ombudsman or Associate Dean of Faculty Affairs will:

- Explain the procedure to the complainant.
- Make clear that, although the University cannot assure the complainant anonymity (i.e., no acknowledgement of name or identity), we will seek to maintain confidentiality (identification only to those with a need to know) unless a hearing is held.
- Request that the complainant sign a complaint form specifying the alleged harassing behavior and the action requested of the University.
- Describe to the complainant the range of options for resolving the alleged problem.

b) Fact Finding:

When a complaint of sexual harassment has been filed, it becomes the responsibility of the Ombudsman or Associate Dean for Faculty Affairs to enter into fact finding in a manner that will both protect the complainant and the alleged harasser.

In gathering pertinent information regarding the allegation, the Ombudsman or Associate Dean for Faculty Affairs will:

- Interview persons who might have knowledge germane to the complaint.
- Inform all those interviewed that the matter is to be treated with the utmost confidentiality.

c) Action at the conclusion of fact finding:

After gathering pertinent information relating to the specific allegation of sexual harassment, the Ombudsman or Associate Dean for Faculty Affairs will:

° Communicate the findings to the President, the Academic Vice President, the Executive Vice President, or the Dean of Student Services, so that the appropriate administrator can determine whether corrective action or sanction is warranted and, if so, can initiate appropriate procedures.

° After communicating with the appropriate administrator, inform the complainant whether or not the findings substantiate the allegation.

° If the findings have substantiated the complaint, indicate to the complainant that a corrective action or sanction has been initiated by the appropriate administrator.

° Explain what role the complainant may have if there is a disciplinary proceeding.

° Indicate to the complainant, when the findings have substantiated the complaint, that any recurrence of the harassing behavior should be promptly reported.

2) Corrective Actions and Sanctions.

a) For members of bargaining units.

When, in the judgment of the appropriate administrator (President, Academic Vice President, Executive Vice President, or Dean of Student Services, depending on the reporting line of the alleged harasser), there is a substantiated complaint of sexual harassment against an employee belonging to a bargaining unit, a corrective action or sanction described in the applicable Memorandum of Understanding will be initiated.

b) Procedures for managers.

When, in the judgment of the appropriate administrator (President, Academic Vice President, Executive Vice President, or Dean of Student Services, depending on the reporting line of the alleged harasser), there is a substantiated complaint of sexual harassment against a manager, the appropriate administrator will:

- Meet with the alleged harasser to discuss the allegations.
- Determine which of the following sanctions is warranted by the magnitude of the substantiated complaint:

An oral reprimand

A written reprimand

Suspension without pay

Reassignment

Dismissal

- If the manager has retreat rights into a position in a bargaining unit, when reassigned to that position the manager shall be entitled to all of the protections guaranteed members of that bargaining unit.

3) Grievance Procedures:

If the complainant is not satisfied with the University resolution of the complaint, there are grievance procedures available:

a) If the person dissatisfied with the resolution of his or her complaint of sexual harassment is an employee of San Jose State University, the appropriate procedure for filing a grievance relating to EO 345 is EO 419. Although some Memoranda of Understanding contain complaint (not grievance) procedures that may be appropriate for seeking further redress, managers, supervisors, confidential employees, and members of Unit 3, Faculty must use the procedures stipulated in EO 419.

b) If the person dissatisfied with the resolution of his or her complaint of sexual harassment is a student, the appropriate procedure for filing a grievance relating to EO 345 is the San Jose State University Student Grievance process.

GF:lvh

cc: Chancellor W.A. Reynolds