



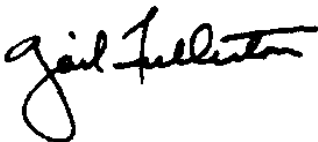
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August 9, 1991

PD 91-07

PLEASE DISTRIBUTE

TO: Vice Presidents, Associate Vice Presidents, Deans, Directors,
Department Chairs

FROM: Gail Fullerton, President 

SUBJECT: Presidential Directive 91-07

**SAN JOSE STATE UNIVERSITY DISCRIMINATION
COMPLAINT PROCEDURES FOR EMPLOYEES AND
APPLICANTS FOR EMPLOYMENT WHO ARE NOT REQUIRED
TO FILE A DISCRIMINATION COMPLAINT OR GRIEVANCE UNDER
A SEPARATE PROCEDURE PROVIDED FOR IN A UNION
AGREEMENT**

Note: This directive supersedes all prior discrimination complaint procedures for SJSU employees, including procedure for complaints of sexual harassment.

PURPOSE:

It is the purpose of this Presidential Directive to assure that San Jose State University (SJSU) continues to comply with all Federal and State Legislation and California State University policies regarding unlawful discrimination. San Jose State University is committed to creating an atmosphere in which all persons and groups can work and study free of unlawful discrimination.

PERSONS AND GROUPS HAVING RIGHT TO FILE GRIEVANCES:

In accordance with the equal opportunity and affirmative action policies of SJSU, these procedures provide employees and applicants for employment with an opportunity to request and receive a fair and Impartial review of any act(s) by an SJSU employee, student, or organization which is believed to be discriminatory on the basis of race, color, national origin, disability, sex (including sexual harassment), age (over 40), sexual preference, religion, or marital status.

These procedures were adopted to encourage employees and applicants for employment to seek redress of perceived discrimination through an internal process that is readily available, prompt and meets high standards of fairness. However, no employee or applicant for employment is precluded by these procedures from filing a complaint, at any time, with the appropriate Federal or State office.

COMPLAINT FILING DEADLINE:

An employee or applicant for employment may fill out and submit a complaint form within 180 days after he or she knows or could be expected to have known that an action of discrimination has taken place.

FILING A COMPLAINT

An employee or applicant for employment can file a complaint by submitting a written statement to the Equal Employment Opportunity and Affirmative Action Office, located at San Jose State University, One Washington square, Administration 112, San Jose, CA 95192.

ACKNOWLEDGEMENT OF COMPLAINT:

The Director EEO/AA shall contact the employee or applicant for employment who has filed a complaint within ten (10) days after receipt of complaint and will notify the complainant whether the complaint is being processed or has been found to be deficient in some manner.

INFORMAL RESOLUTION PERIOD:

Upon acknowledgement by the Director EEO/AA that a complaint is being processed, the Director EEO/AA will have thirty (30) days to attempt to resolve the complaint informally in a manner that addresses any harm that may have been suffered as a result of possible discrimination and prevents similar possible discrimination from reoccurring.

FORMAL INVESTIGATION:

If the complaint is not resolved during the Informal Resolution Period, the Director EEO/AA will conduct a thorough, impartial investigation that meets basic procedural standards of fairness and justice. This investigation will take a maximum of sixty (60) days and will conclude with issuance by the Director EEO/AA of a report delineating: 1) the allegations which were investigated; 2) the evidence gathered and findings based on a preponderance of the evidence standard of proof; and 3) a determination as to whether reasonable cause exists to believe that discrimination has occurred.

The Director EEO/AA will promptly present the investigative report to the appropriate Vice President(s) of the campus with authority to act on the report and provide the

Employee or applicant for employment with an appropriate remedy for any possible discrimination suffered. The appropriate Vice President(s) of the campus will have ten (10) days to act on the report of the Director EEO/AA. The Director EEO/AA will be responsible for promptly notifying the employee or applicant for employment that the complaint has been investigated and that any finding of possible discrimination has been appropriately remedied.

APPEAL TO PRESIDENT

If the complainant remains dissatisfied with the resolution of his or her complaint of discrimination, the complainant has the right to appeal the matter in writing to the President of SJSU within ten (10) days of receipt of notice from the Director EEO/AA that the complaint has been Investigated and any possible discrimination has been addressed with an appropriate remedy.

The President will have twenty-one (21) days to act on the appeal. The Director EED/AA will be responsible for promptly notifying the employee or applicant for employment that the appeal has been considered and that any finding of possible discrimination has been appropriately remedied.

FINAL APPEAL TO OFFICE OF THE CHANCELLOR

If the complainant rains dissatisfied with the resolution of his or her complaint of discrimination after appeal to the President of SJSU, the complainant may file a final appeal, within fourteen (14) days after receipt of the SJSU President's response, with the Office of the Chancellor located at 400 Golden Shore, Long Beach, CA 90802.

Upon request of a complainant, a designated individual in the Office of the Chancellor shall hold a meeting with the complainant. The designated individual in the Office of the Chancellor shall respond to the complaint no later than twenty-one (21) days after the filing of this final appeal.

RIGHT TO REPRESENTATION

Any complainant who has filed a complaint with the Director of Equal Employment Opportunity and Affirmative Action may be represented by another person at any stage of this ca plaint process, provided that he or she gives the Director of Equal Employment Opportunity and Affirmative Action written notice of their designated representative.

EXTENSIONS IN PROCEDURAL DEADLINES

All time limits set forth herein refer to calendar days. Reasonable extension of any time limit in these procedures will be granted by the Director EED/AA for just cause, provided all concerned parties are given adequate notice of the extension.

RETALIATION PROHIBITED

Retaliation, intimidation or harassment by an employee or agent of SJSU against a person or group seeking redress under these grievance procedures in an investigation or

otherwise participating in any proceeding under this Presidential Directive is prohibited and shall be regarded as separate and distinct discrimination that may be grieved.

CONFIDENTIALITY

Every effort will be made by SJSU to protect the confidentiality of all participants in the processing of a grievance. Disclosure of information will be limited to the persons necessary to the investigation, mediation and resolution of a grievance.

MAINTENANCE OF DOCUMENTATION

Documentation gathered and produced in final form by SJSU officials as a part of the processing of complaint shall be maintained by the Director of EED/AA for three (3) years from the date of resolution of the complaint. Such documentation shall be maintained on a confidential basis.