



Office of the President

One Washington Square • San Jose, California 95192-0002 • 408/924-1100

PD 91-08

August 23, 1991

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

The distribution of Presidential Directive 91-08 includes all those employees who have supervisory responsibilities. Since there is no comprehensive mailing list of all supervisors, we must rely on you to distribute copies of the Directive to all "supervisory" personnel in your area.

Please call 4-1177 if you have any questions.

Thank you for your help.

A handwritten signature in black ink, appearing to read 'D. Buerger', with a long horizontal flourish extending to the right.

Daniel R. Buerger
Executive Assistant to the President

DRB:ms



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August 16, 1991

PLEASE DISTRIBUTE

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

FROM: Gail Fullerton, President

SUBJECT: **Presidential Directive 91-08**

**Sexual Harassment and Special
Responsibilities of Supervisory and
Management Personnel Having Knowledge of
Potential Sexual Harassment Situation**

In recent years, employers and campuses have increasingly been held liable for damages in cases involving the issue of sexual harassment of employees and students. Litigation of even one sexual harassment case on our campus could potentially result in significant shrinking of our already limited budget funds. For this reason and because SJSU has a genuine commitment to providing all its students and employees with a comfortable and safe environment for learning and working, I am issuing this memo to clarify for all SJSU supervisory personnel the kind of conduct that is defined as sexual harassment and the responsibilities of all supervisory personnel when they have any knowledge that sexual harassment may be taking place within the campus community.

SEXUAL HARASSMENT:

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;

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-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.

SUPERVISORY PERSONNEL RESPONSIBILITIES:

The courts have held that an employer/campus is responsible for acts of sexual harassment in the work place when any of its supervisory employees knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action. In order for the University to meet this duty of taking immediate and appropriate corrective action, it is necessary that all SJSU supervisory employees understand that they have the following responsibilities when they have any knowledge or belief that sexual harassment might be taking place within our campus community:

1. All supervisory employees have the responsibility immediately to refer any student or employee who they know or believe to be experiencing sexual harassment to the Director of Equal Employment Opportunity/Affirmative Action (EEO/AA) by providing the location of her office (ADM 112) and telephone extension (4-1115). Any allegations or evidence of sexual harassment will then be investigated by the Director of EEO/AA pursuant to PD 91-03 (Students/Applicants for Admission Discrimination Complaint Procedure), PD 91-07 (Employees/Applicants for Employment Discrimination Complaint Procedure) or any applicable union agreement grievance procedure.
2. All supervisory employees have the responsibility to listen closely to any employee or student who comes to them with any evidence of sexual harassment, but then they have the responsibility immediately to refer the matter to the Director of EEO/AA and to refrain from investigating in any manner the alleged sexual harassment. Only the Director EEO/AA has

been authorized by the SJSU President to investigate complaints of sexual harassment.

3. All supervisory employees who have personal knowledge or belief of sexual harassment taking place within the campus community have the responsibility to contact immediately the Director of EEOIAA.

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4. All supervisory employees who have knowledge or belief of any sexual harassment taking place within the campus community via a student or employee complaint or personally gathered evidence have the responsibility to keep such information confidential with the exception of immediately relating the information to the Director of EEO/AA or, in the event of her absence, the President of the SJSU.

**THE FAILURE OF SUPERVISORY EMPLOYEES TO CARRY
OUT THESE RESPONSIBILITIES MAY BE SUBJECT TO
APPROPRIATE DISCIPLINARY ACTION.**

**QUESTIONS REGARDING THE IMPLEMENTATION OF CAMPUS
POLICIES, OR COMPLAINTS OF DISCRIMINATION SHOULD BE
DIRECTED TO THE OFFICE OF EQUAL EMPLOYMENT
OPPORTUNITY AND AFFIRMATIVE ACTION (4-1115).**