



**SAN JOSÉ STATE
UNIVERSITY**

**PD 2007-07
- Revised -**

December 18, 2012

Office of the President

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MEMO TO: Administrative Heads, Chairs, Deans, Directors and
Vice Presidents

FROM: Mohammad H. Qayoumi
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SUBJECT: Presidential Directive PD 2007-07 (**Revised**)
San José State University Discrimination, Harassment and
Retaliation Complaint Procedure for Students and Applicants for
Admission

The purpose of this revised Presidential Directive is to assure that San José State University continues to comply with all Federal and State legislation and California State University policies regarding unlawful discrimination, harassment and retaliation. San José State University is committed to creating an atmosphere in which all students can study free of unlawful discrimination. These revised procedures are developed in compliance with new CSU Executive Order 1074.

This revised directive supersedes all prior complaint procedures for SJSU students and applicants for admission.

PERSONS AND GROUPS HAVING RIGHT TO FILE GRIEVANCES

These procedures provide students and applicants for admission the right to request and receive a fair and impartial investigation of any on-campus perceived discriminatory act by an SJSU employee, fellow student, or student organization, or any on-campus incident that is believed to be harassment or discriminatory on the basis of race, color, national origin, ancestry, citizenship status, veteran status, disability, medical condition, sex, age, sexual orientation, gender identification, religion, marital status and genetic information.

These procedures were adopted to encourage students and applicants for admission to seek redress of perceived discrimination through an SJSU internal process that is readily available, prompt, and meets high standards of fairness. However, no student or applicant for admission is precluded by these procedures from filing a complaint, at any time, with the U.S. Department of Education Office for Civil Rights.

COMPLAINT FILING DEADLINE

A student or applicant for admission may submit a complaint form within 20 Working Days after the end of the academic term (semester/quarter) in which the most recent alleged act of Discrimination, Harassment or Retaliation occurred. If a student or applicant for admission engages in the Informal Resolution Process, the complaint deadline may be extended for a period of up to 20 Working Days, meaning, in this instance, a complaint may be filed up to 40 Working Days after the end of the academic term in which the alleged act occurred.

FILING A COMPLAINT

All student and applicant for admission complaints of discrimination, harassment, or retaliation shall be directed to the Title IX Coordinator in the Human Resources Office for Equal Opportunity (OEO), UPD Building, 3rd Floor for investigation and resolution. This includes allegations of discrimination, harassment, or retaliation by employees or other students against a student. A student or applicant for admission may file a complaint by submitting a completed CSU Student Discrimination/Harassment/Retailiation Complaint Form to the Office for Equal Opportunity, San José State University, One Washington Square, San José, CA 95192-0046. The form is available at <http://www.calstate.edu/eo/EO-1045-Attachment1.pdf>. In lieu of the complaint form, students may submit a written statement in accordance with the requirements of CSU Executive Order 1074. Complaints of discrimination against a member of the University Police Department (UPD) shall be brought to the attention of the Title IX Coordinator in the Office for Equal Opportunity. The OEO will work with UPD to ensure the complaint is fully investigated and resolved in accordance with this Directive. When the Campus has knowledge of an act of discrimination, harassment, or retaliation, the OEO will investigate with or without a formal complaint.

ACKNOWLEDGEMENT OF COMPLAINT

The Title IX Coordinator shall promptly meet with the student or applicant for admission to discuss his or her concern and interim remedies, as appropriate. This meeting will occur whether or not the complaint is being processed or has been found to be deficient in some manner.

INFORMAL RESOLUTION PERIOD

The Title IX Coordinator shall promptly meet with the student to attempt to resolve the complaint informally in a manner that addresses any harm that may have been suffered as a result of the possible discrimination and steps to take to prevent a similar discrimination from recurring.

If the student's concern alleges sexual discrimination, including but not limited to, sexual harassment or sexual violence, the student shall be referred to the Title IX Coordinator. The Informal Resolution process is not appropriate for complaints of sexual discrimination.

When participating in the Informal Resolution Period the complainant will not be required to resolve the problem directly with the accused. The Title IX Coordinator will work to resolve the student's concern quickly and effectively. The Title IX Coordinator will meet with the student, the accused and any witnesses as necessary.

If a resolution is reached through these informal means, it shall be memorialized in writing and signed by the student. The matter shall be considered closed at this point and the student may not file a complaint or appeal about the same incident unless the discrimination, harassment or retaliation continues, or the terms of the informal resolution are violated.

Participation in the Informal Resolution Process is voluntary and the student or the Title IX Coordinator may terminate this process at any time. Termination by the Title IX Coordinator must be communicated in writing to the student and the accused.

LEVEL I INVESTIGATION – CAMPUS LEVEL

Once a complaint has been filed, the Title IX Coordinator will conduct an intake interview with the student within 10 Working Days of receiving the complaint. The Title IX Coordinator will advise the student of investigation process, and inform the student of his or her rights. If the complaint alleges sexual violence, the Title IX Coordinator shall advise the student of his or her right to file a criminal complaint, provide information about available resources, and discuss reasonable and appropriate interim remedies to avoid contact with the accused. The investigation shall be completed no later than 60 Working Days following the intake interview. This timeline may be extended up to an additional 30 Working Days, either by mutual agreement, or when a key person, such as the student, accused, witness, or investigator is unavailable for a legitimate reason.

At the conclusion of the investigation process, the Title IX Coordinator shall prepare an investigative report, summarizing the allegations, investigative process, the Preponderance of Evidence standard, the evidence considered, the findings, and a determination as to whether or not EO 1074 has been violated. The Title IX Coordinator will also notify the student, in writing, of the investigation outcome within 10 Working Days of completing the report. This notification shall include all items in the Investigative Report. If it is determined that EO 1074 was violated, the report will include remedies afforded to the Complainant. If it is determined that EO 1074 was not violated, the complainant will be advised in the notice of his or her right to file an appeal.

RIGHT TO REPRESENTATION

The student and accused may be accompanied by an advisor of his or her choosing to any meeting or interview. The student or accused should identify this person to the Title IX Coordinator in writing. The advisor may not speak on behalf of the student or accused, but may observe and consult with the individual.

RETALIATION PROHIBITED

Retaliation, intimidation, or harassment of any kind 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

Information provided to the OEO will be shared only when necessary for the investigation. Confidentiality cannot be ensured because of the need to fully investigate complaints, however, only information essential to that end will be shared with relevant parties.

MAINTENANCE OF DOCUMENTATION

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

LEVEL II APPEAL REVIEW – OFFICE OF THE CHANCELLOR

If the complainant remains dissatisfied with the Level I Campus Investigation resolution of his or her complaint of discrimination, he or she has the right to a Level II appeal of the matter with the Office of the Chancellor (CO) no later than 10 Working Days after receipt of receipt of the written notice of the Level I campus investigation.

Level II appeals shall be filed in accordance with EO 1074 and shall be addressed to: CSU Office of the Chancellor, Equal Opportunity and Whistleblower Compliance Unit, Systemwide Human Resources, 401 Golden Shore, 2nd Floor, Long Beach, CA 90802.