August 9, 1991

PLEASE DISTRIBUTE

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

FROM: Gail Fullerton, President

SUBJECT: Presidential Directive 91-03:

SAN JOSE STATE UNIVERSITY DISCRIMINATION COMPLAINT PROCEDURE FOR STUDENTS AND APPLICANTS FOR ADMISSION

Note: This directive supersedes all prior discrimination complaint procedures for SJSU students, including procedures 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 students and applicants for admission 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 students and applicants for admission to seek redress of perceived discrimination through an internal process that is readily available, prompt and meets high standards of fairness. However, no student or applicant 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 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.
PRESIDENTIAL DIRECTIVE 91-03
SJSU DISCRIMINATION COMPLAINT PROCEDURE FOR STUDENTS AND
APPLICANTS FOR ADMISSION (cont)
PAGE TWO

FILING A COMPLAINT
A student or applicant for admission 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 student or applicant for admission who has filed a complaint within ten (10) days after receipt of the 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 student or applicant for admission 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 student or applicant for admission that the complaint has been investigated and that any finding of possible discrimination has been appropriately remedied.
PRESIDENTIAL DIRECTIVE 91-03
SJSU DISCRIMINATION COMPLAINT PROCEDURE FOR
STUDENTS AND APPLICANTS FOR ADMISSION (cont)
PAGE THREE

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 San Jose State University within ten (10)
days of receipt of notice from the Director EEO/AA that the
complaint has been investigated and any possible discrimina-
tion has been addressed with an appropriate remedy.

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

RIGHT TO REPRESENTATION
Any complainant who has filed a complaint with the
Director EEO/AA may be represented by another person at any
stage of this complaint process, provided that he or she
gives the Director EEO/AA written notice of their designated
representative.

EXTENSIONS IN PROCEDURAL DEADLINES
Reasonable extension of any time limit in these
procedures will be granted by the Director EEO/AA for just
cause, provided all concerned parties are given adequate
notice of the extension.

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
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 EEO/AA for three (3)
years from the date of resolution of the complaint. Such
documentation shall be maintained on a confidential basis.