August 9, 1991

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 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 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.
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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 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 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 EEO/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 remains 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 complaint 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 EEO/AA for just cause, provided all concerned parties are given adequate notice of the extension.

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