

SJSU Research Foundation At-Will Employment Policy

Human Resources

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1.0 Purpose

California Labor Code section 2922 creates a presumption of at-will employment in California. Pursuant to the at-will employment presumption, a California employer may terminate an employee for any, or no reason, at any time, and with or without advance notification, absent an agreement requiring cause and/or notice for termination, and absent any statutory or public policy exception to the contrary.

All employment, with the San Jose State University Research Foundation (“Research Foundation”), except as provided in this policy, is at-will consistent with applicable California law.

This policy defines and communicates the Research Foundation’s at-will employment policy to promote clarity and knowledge.

2.0 Responsibility

The senior director of Human Resources or his or her designee, in close collaboration and partnership with all operations and executive management, including the executive director, is primarily and directly responsible to ensure that this policy is clearly communicated and implemented. He or she is also responsible to provide direct oversight to ensure strict compliance and adherence with this policy.

3.0 Scope

This policy applies to all employment and all employees at the Research Foundation, including regular benefited employees and temporary casual employees (including student assistants). The policy applies to all levels of employees, including the executive director.

4.0 Definitions

This table provides definitions for special terms, acronyms, and abbreviations used in this policy.

Term, Acronym, or Abbreviation	Description
At-Will Employment	Describes an employment condition that holds that both an employee and the Research Foundation are free to terminate the employment relationship at any time, with or without cause, and with or without advance notification.

California Labor Code section 2922	Section of California Labor Code that creates what is commonly referred to as a “presumption of at-will employment.” Employment is presumed at-will because the statute provides that employment that does not have a specified term may be terminated “at the will of either party.” This presumption of at-will employment agreement can be rebutted only by an agreement between the employer and employee providing for employment other than at-will.
Offer Letter	A formal offer of employment is always generated by the Research Foundation’s Human Resources professional for benefited employment, and, at the request of the PI, for non-benefited employment as well. The offer letter states the required at-will language.
<i>Research Foundation Employee Handbook</i>	Summarizes policies and benefits primarily for benefited employees. This document also states the Research Foundation’s at-will language.

5.0 Policy

All employment with the Research Foundation is at-will, which means that both the employee and the Research Foundation are free to terminate the employment relationship at any time, with or without cause, and with or without advance notification.

Words or actions by any member of management at any level, including senior management, cannot be interpreted as creating, or as intended to create, an express or implied promise or representation of continued or guaranteed employment for any employee which is inconsistent with the meaning of at-will employment.

Nothing written in the *Research Foundation Employee Handbook* or in any other personnel document, including benefit plan descriptions, creates nor is intended to create, an express or implied promise or representation of continued or guaranteed employment for any employee which is inconsistent with the meaning of at-will employment.

The at-will employment policy and relationship can only be changed or modified by an express written contract entered into by and between the employee and the Research Foundation. This contract must be signed by both the executive director of the Research Foundation and the employee in order to make it binding. That written contract must expressly and directly revise, replace, or amend the at-will employment relationship as to that employee.

In the absence of such a written contract signed by both the executive director and the employee, and which expressly and directly revises, replaces, or amends the at-will employment relationship, the at-will employment policy is the sole and entire agreement that exists between any and all employees and the Research Foundation as to the duration of their employment and the circumstances under which their employment may be terminated.

5.1 Rights of At-Will Employees

While at-will employment can end for any or no articulated reason, at-will employees cannot be terminated for reasons that violate local, state, or federal laws or public policy. In general, at-will employees are protected from terminations due to discrimination,

retaliation, and other reasons that are unlawful or against public policy, as provided by anti-discrimination, anti-harassment, whistleblower, and other local, state and federal laws and policies.

6.0 Related Policy Information

Discrimination, Harassment, and Retaliation Prevention Policy

Equal Employment Opportunity Policy

7.0 Required Forms

This table contains a list of forms and special tools referenced in this document.

Form	Description of Use
Application of Employment	This form is filled out and signed by all applicants for employment. The form states the required at-will employment language.

8.0 References and Related Information

Not applicable.

9.0 Record Retention

All documents and records are maintained in accordance with SJSU Research Foundation *Record Retention* requirements.

Record	Retention
At-Will Employment Policy	This document is effective until further revised or updated. Outdated or revised documents will be maintained in accordance with Research Foundation Record Retention requirements. The Research Foundation will maintain the signed original and electronic copies of the approved policy and all updates and replacements.