

S89-15 NON-DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AFFIRMATIVE ACTION FOR FACULTY

Legislative History:

At its meeting of May 8, 1989, the Academic Senate approved the following Policy Recommendation presented by Phyllis Connolly for the Professional Standards Committee. By this policy, F 86-6 and S 80-8 are rescinded.

ACTION BY THE UNIVERSITY PRESIDENT:

"Approved and Accepted as University Policy. Effective as replacement for F 86-6 and S 80-8 at the beginning of the 1989-90 academic year". Signed: Gail Fullerton, May 22, 1989.

NON-DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION POLICY AND PROCEDURES FOR FACULTY

S 89-15

I. Statement of Intent

A. Recognizing that academic excellence and the principles of Affirmative Action are congruent, the University affirms its commitment to the active recruitment of a diverse, multi-racial faculty of men and women. Such a faculty enriches the intellectual climate of the University; corrects historic patterns of underutilization of female and minority talent; and is appropriate to its ethnically diverse student body. In order to build a diverse faculty and to comply with the statutes* that collectively embody the concepts of equal opportunity and affirmative action, San Jose State University commits itself to these tenets:

1. **Non-Discrimination:** There shall be resolute and unambiguous action to eliminate discrimination on the basis of race, color, religion, national origin, sex, sexual preference, marital status, pregnancy, age, disability or veteran's status.

2. **Equal Employment Opportunity:** No individual shall be denied consideration in any of the conditions

of employment because of race, color, religion, national origin, age, sex, handicap, veteran's status, or sexual preference.

3. Affirmative Action: There shall be affirmative recruitment of a diverse faculty with special concern for members of minority groups, women, the disabled and veterans.**

B. These principles shall govern all faculty employment policies and practices.

C. Each administrator and academic department or equivalent unit shall be responsible for enacting the non-discrimination and affirmative action procedures enumerated in this document.

II. Policy Provisions

A. Extensive Recruitment

Each department has the positive obligation to ensure that all recruitment of persons to probationary and temporary positions shall be appropriately far-reaching. It is the responsibility of each department to recruit women and minority faculty. Expanded search networks and recruitment methods designed especially to locate women and minority persons shall supplement traditional recruitment efforts.

B. Equity in Appointment, Retention, Tenure and Promotion

This policy requires that standards of appointment and advancement be reasonable in relation to the requirements of the position in question. Departments and the appropriate administrators shall ensure that appropriate standards are applied in appointment, retention, tenure and promotion considerations to make certain that no one is denied fair treatment on the basis of race, color, religion, national origin, sex, sexual preference, marital status, pregnancy, age, disability or veteran's status.

C. Guidelines - Underutilization

An employee utilization analysis shall be conducted annually under the direction of the University Equal Employment Opportunity and Affirmative Action (EEO/AA) Director on the basis of reliable and comprehensive availability data. The Director shall make a finding of underutilization whenever fewer minorities or women are employed in an employment unit than would reasonably be expected according to their availability. When a determination of underutilization has been made, the Director, in consultation with the department, the Dean, and the Associate Academic Vice President/Faculty Affairs (AAVP/FA), shall establish guidelines for remedy which are realistic in terms of the number of position vacancies expected and the number of qualified applicants available in the relevant job market. These guidelines will be considered when requests for probationary positions are made.

Departments in which underutilization has been found shall conduct a thorough and aggressive affirmative action search to recruit women and minority faculty.

D. Policy on Nepotism

There shall be no blanket prohibition against the employment of close relatives. No one, however, may serve in capacities where he/she is required to make decisions on the personnel status of any close relative. Close relative is herein defined as husband-wife, father-mother, son-daughter, brother-sister, step relative, in-laws, or domestic partner.

E. Policy on Pregnancy and Childbirth

No university employee shall be penalized in employment because of required time away from work on account of childbearing or incapacities during the course of a pregnancy. An employee should not be required to take a leave of absence at a predetermined time prior to the anticipated delivery date so long as the employee is capable of performing her required tasks.

F. Policy on Tenure Quotas

The University shall not adopt any tenure quota policy that obstructs the implementation of this Affirmative Action Policy.

G. Policy of Special Conditions

The University shall not use in any aspect of its processes for selection, retention, tenure or promotion such factors as age, prior health problems, veteran status, sexual preference, or disabilities not relevant to job performance.

H. Policy on Appointment and Review of Administrative Officers

The EEO/AA Director or his/her designee shall serve as an ex officio non-voting member on all search committees for the selection of senior administrative officers, including School Deans, Associate Academic Vice Presidents, Vice Presidents and Directors. Evaluation of effectiveness in non-discrimination, equal opportunity, and affirmative action shall be included in the review of senior administrative officers.

III. The University EEO/AA Director

A. In cooperation with the Office of the Academic Vice President (AVP), the EEO/AA Director shall assist the University's efforts to find and attract women, minority persons, disabled persons, and disabled

veterans and veterans of the Vietnam era to the campus in academic positions, and to ensure that all persons are treated in employment without regard to race, color, religion, national origin, sex, sexual preference, marital status, pregnancy, age, disability or veteran's status. The EEO/AA Director shall be available for liaison between various parts of the university community in matters of recruitment, hiring, retention, tenure and promotion.

B. The Director shall provide the necessary statistical analyses for the determination of underutilization, and consult with affected departments and appropriate administrators in establishing realistic guidelines for remedy. In addition, the Director shall advise departments concerning effective nontraditional recruitment strategies and provide assistance in recruitment efforts. At the request of the AVP, the Director shall sit, in an advisory capacity, on search committees in departments in which findings of serious underutilization have been made.

C. At the closing date for receipt of applications, the Director shall review available applicant pool data for all probationary and full-time temporary positions. If minorities and/or women are underrepresented in the pool, the Director shall consult with the Dean and the MVP/FA, who may recommend to the AVP that the search be extended.

D. The Director shall review appointment papers for all probationary and full-time temporary positions for compliance with the EEO/AA policy and procedures, and shall consult with the AAVP/FA and the appropriate School Dean when evidence of non-compliance exists.

E. The Director shall notify the appropriate administrators and conduct confidential investigations when complaints of employment discrimination or noncompliance with EEO/AA policy and procedures are received. At the conclusion of such investigations, the Director shall report the findings to the President and the AVP.

IV. The Academic Senate and the Affirmative Action Committee

A. The Academic Senate shall receive from the President an annual report regarding the status and effectiveness of the University's Affirmative Action Program, and shall make such recommendations for changes in policy or procedure as it may find to be necessary or desirable.

B. An Affirmative Action Committee shall be established as an operating committee of the Senate. It shall be composed of the AAVP/FA, the campus Title IX Coordinator and the University EEO/AA Director ex officio, one faculty member from each school, students and support staff. Members of the committee should clearly understand their obligation to provide strong and positive support to the University's Affirmative Action Program.

1. The Affirmative Action Committee shall evaluate the effectiveness of the University's Affirmative Action Program and recommend such changes in policy or procedure as may be appropriate. To this end, the committee may review the President's annual Affirmative Action Report, examine (except for

personnel files) such other records as may be necessary, and consult with deans, department chairs, faculty organizations, and members of the faculty. However, the jurisdiction of the committee shall not extend to particular personnel decisions.

2. The Affirmative Action Committee shall periodically review existing appointment, retention, tenure and promotion policies and procedures to ascertain whether they are in accord with this Affirmative Action Policy, and shall make recommendations as appropriate to the Senate through the Professional Standards Committee.

3. The Affirmative Action Committee shall consult with members of the faculty concerning possible improvements in the administration of this Affirmative Action Policy, and advise the AVP of problems and difficulties in its administration.

V. Affirmative Action Procedures for the Academic Program

A. Responsibility of the Academic Departments

1. Each department or equivalent unit shall assume primary responsibility for effective recruitment, appointment, retention, tenure and promotion of members of the faculty in accordance with this policy.

2. Each department shall cooperate with the University EEO/AA Director in conducting the utilization analysis required by Affirmative Action, and shall supply as needed a description of any factors in the market place (e.g., availability of specialists, competition from private industry and other institutions, limitations of recruitment resources, geographical limitations) that are pertinent for that analysis. If a finding of underutilization is made, each department shall give similar cooperation in the establishment of reasonable guidelines for remedy, and shall make every effort to comply.

3. Each department has the positive obligation to examine its recruitment procedures, and revise them as necessary, to ensure their conformity with this Affirmative Action Policy. These written procedures shall contain a detailed description of the means and sources (professional organization, federal and state bureaus, individual colleges and universities, private industry, etc.) through which prospective faculty members will be recruited. In addition, the procedures shall contain a description of the method and rationale to be used in determining the specific recruitment needs of the department.

4. The Chair of each department shall maintain an applicant file of persons available for faculty positions. This "employment pool" shall be kept current, include current part-time and full-time temporary faculty, and shall be used in making probationary and temporary appointments. In addition, a nationwide affirmative action search shall be conducted for all full-time appointments, probationary and temporary. In cases in which full-time temporary positions are to be maintained as temporary beyond three years, new national affirmative action searches are required. For all other appointments, the recruitment search shall be as extensive as possible; the employment pool shall be renewed at least once

every two years.

5. After the description for a vacant full-time position has been approved by the AAVP/FA, the Department Chair shall contact the EEO/AA Director for suggestions of non-traditional sources for advertising and recruiting.
6. In recommending a faculty appointment, the recruitment committee chair shall describe the affirmative action search employed in the recruitment process and explain the reasons for the selection of the person recommended.
7. Each department shall maintain adequate records of its recruitment efforts so that the EEO/AA Director has access to a detailed file if it is necessary to investigate a complaint or prepare reports.
8. Departments shall make every effort to include women and minority persons on all personnel committees and may go outside the department to do so.
9. In accordance with RTP policy, RTP committees shall recognize activities related to minorities and women that are appropriate to a candidate's academic assignment.

B. Responsibilities of School Deans

1. The School Dean provides leadership and is responsible for implementation of the affirmative action policy within the school. The Dean shall review departmental utilization data when he/she evaluates Appendix A of the "Five Year Plan for Faculty Recruiting" in the program planning process and in subsequent annual requests. If underutilization has been found, the Dean shall work with the department to develop appropriate recruitment strategies before he/she recommends approval of five year plans or annual requests.
2. The School Dean shall examine department recruitment records and shall approve and forward only those recommendations for all faculty appointments that are in accord with university affirmative action policies and procedures. In the case of probationary faculty appointments, recruitment records shall be examined prior to candidate interviews.

C. Responsibilities of the Associate Academic Vice Presidents

1. The AAVP/FA, in coordination with the Associate Academic Vice President/Educational Planning and Resources, the Associate Academic Vice President/Undergraduate Studies and the Associate Academic Vice President/ Graduate Studies and Research shall advise the Academic Vice President on the allocation and reallocation of resources to schools and departments so as to support this Affirmative Action Policy.
2. The AAVP/FA, in consultation with the EEO/AA Director, shall review all probationary and full-time

temporary faculty appointment recommendations for compliance with the University Affirmative Action Policy and Procedures.

3. The AAVP/FA shall act, in consultation with the EEO/AA Director, to develop new strategies for recruiting women and minorities.

4. The AAVP/FA shall consult with the EEO/AA Director, the department, and the School Deans to establish guidelines for remedy when a determination of underutilization has been made.

5. The AAVP/FA shall consult with the EEO/AA Director and the appropriate School Deans if the Director's review of appointment papers reveals any evidence of non-compliance with policy and procedures.

6. The AAVP/FA shall act in concert with the Department Chair, the School Dean, and the Director of the EEO/AA Office to resolve alleged complaints of discrimination or non-compliance of the policy and procedures.

7. The AAVP/FA shall compile and maintain a faculty roster, organized by departments within schools, showing for each faculty member the social security number, name, rank, date of hire, date of current rank, salary level, fraction of time employed, tenure status, sex, and ethnic classification. Copies shall be provided to the University EEO/AA Director as soon as possible after the beginning of each semester.

D. Responsibilities of the Director of Institutional Research

The Director of Institutional Research shall cooperate with the University EEO/AA Director in providing technical assistance for statistical analyses and reports of employment data as may be required.

E. Responsibilities of the Academic Vice President

The AVP shall be responsible for the supervision and implementation of the Affirmative Action Program in his or her area, including those specific functions delegated in this document to subordinate administrators. To the extent available resources permit, the AVP shall allocate or re-allocate faculty and staff positions as well as other resources to schools, departments, offices and programs so as to support this Affirmative Action Policy. The AVP shall also take final administrative action on the following matters: 1) informing departments, offices and programs of their compliance or non-compliance with this Affirmative Action Policy; 2) ruling on complaints and procedures; 3) imposing sanctions to enforce compliance with affirmative action policies and procedures; 4) granting exceptions to compliance with affirmative action procedures under truly rare and unusual circumstances.

F. Responsibility of the President

The President shall hold the ultimate responsibility for the success of the EEO/AA Plan.

VI. By this policy, UP F 86-6 and UP S 80-8 are rescinded.

*San Jose State University's non-discrimination, equal opportunity, and affirmative action program has been developed in compliance with Title VII of the Civil Rights Act of 1964, as amended; Title IX of the Education Act of 1972, as amended; The Age Discrimination Acts of 1967, 1975, and 1978; The Rehabilitation Act of 1973; The Equal Pay Act of 1963; The Vietnam Era Veteran's Readjustment Act of 1974; U.S. Presidential Executive Orders 11246 and 11375, as amended; California State University Executive Orders 340 and 345.

**For purposes of this Affirmative Action Policy, targeted minority groups are those protected classes recognized by State and Federal law. As of May 8, 1989, the targeted groups are: African-Americans, Mexican-Americans, Puerto Ricans and other Hispanic Americans, Asian-Americans/Pacific-Islanders, American Indians/Alaskan Natives. By amendment to earlier Executive Orders, Executive Order 11375 added women. Section 503 of the Rehabilitation Act of 1973 covers disabled persons. Section 402 of the Vietnam Era Veteran Readjustment Assistance Act of 1974 covers disabled veterans and veterans of the Vietnam War.