

POLICIES AND PROCEDURES FOR ADDRESSING HARASSMENT

Introduction

In January 2005 the California State University (CSU) broadened the scope of what was once the CSU's sexual harassment policy to one that prohibits unlawful harassment based on *any* statutory category protected by the Fair Employment and Housing Act (FEHA).

California State University, Fresno (hereinafter referred to as the University) has adopted the CSU policy statement in Executive Order 927. Consistent with FEHA, Executive Order 927 protects employees, applicants, and independent contractors from unlawful harassment. The prohibition against harassment of students is established by each campus and is not covered by this systemwide policy. The University policy regarding students is found in Section II below.

The University strives to provide a place of both work and study free of harassment, intimidation, or exploitation. Consistent with Federal and California State law and policy, California State University, Fresno is firmly committed to maintaining a learning and working environment that is characterized by integrity and ethical behavior on the part of its students and employees. Harassment is prohibited by law and CSU system policy, and is contrary to the educational mission and behavioral expectations of the university. It damages the careers, educational experience and well-being of students, faculty, and staff; undermines the respect students and the community have for the University; and tarnishes the reputation of the University as an institution of higher learning. Harassment is a form of discriminatory behavior which will not be permitted or condoned, and constitutes unprofessional conduct. Where harassment is found to have occurred, the University will act to stop the harassment, act to prevent its recurrence, remedy the effects of the harassment, and discipline those responsible.

The policies below supersede all prior campus policies addressing sexual harassment, harassment, discrimination, and retaliation. Campus policies and procedures for filing a complaint are provided for:

Employees in Section I,
Students in Section II, and
Applicants and independent contractors in Section III.

Additional information is provided in Section IV pertaining specifically to questions that typically arise related to sexual harassment. Procedures for handling complaints filed on campus are addressed in Section V. Additional resources and training information is contained in Section VI.

Section I. Employees

A. Policy

The applicable policy for employees is Executive Order 927, or a superseding policy if applicable. EO 927 is available as Appendix A or on the web at: <http://www.calstate.edu/EO/EO-927.html>

Procedures for filing complaints are found in executive Order 928 (or superseding policy, if applicable) for employees not covered by a collective bargaining unit. This document is available at: <http://www.calstate.edu/EO/EO-928.html>.

Employees who are covered by a collective bargaining agreement (CBA) should refer to the appropriate CBA, available on-line at: http://www.calstate.edu/LaborRel/Contracts_HTML/current_cba.shtml

B. Procedures for filing a complaint

1. Informal resolution of problems

The University is interested in resolving problems at the lowest level. This is most likely accomplished when problems are reported early. The University recognizes that any employee may be approached by coworkers, students seeking advice in difficult circumstances, or third parties on behalf of someone else. These individuals may be seeking information and not necessarily wanting to file a complaint. If the individual wants to keep the matter confidential, the individual raising the concern should be reminded of the on-campus confidential resources the University provides: the Employee Assistance and Wellness office for employees and the Psychological Services office in the Student Health Center for students.

For faculty and staff:
Employee Assistance and Wellness
Lab School 185
559-278-4357

For students:
Psychological Services Office
Student Health Center
559-278-2734

Staff in these two offices are trained to advise potential complainants on conflict resolution skills, the complaint process and how they might proceed. They can also teach coping skills. These services are provided by licensed counselors and certified consultants in a strictly confidential manner. In situations where the individual wants to keep the matter confidential or is seeking information to help with the decision about whether or not to file a complaint, the individual raising the concern is reminded that once the matter is reported to a campus manager, the university cannot guarantee confidentiality.

2. The complaint form

The complaint form is available at: <http://www.calstate.edu/eo/eo-928.doc>.

This form may be used by those employees not represented by a collective bargaining agreement as well as those employees whose CBA has incorporated the CSU systemwide complaint procedures for such purposes.

3. Filing a complaint

If the individual is not concerned with confidentiality, he or she may wish to consult with the dean, associate dean, or director closest to the academic or work area. All of these managers are trained to respond to complaints of harassment. Students, faculty, staff, managers, or other members of the campus community who believe they have been subjected to behavior that they consider harassment should report the behavior immediately either orally or in writing.

A list of those who can respond to concerns or complaints is provided in Appendix B.

Employees represented by a collective bargaining agreement should refer to the appropriate articles of their agreement for instructions on how to file a complaint.¹ In addition, the chief stewards of Units, 1, 2, 3, 4, 5, 6, 7, 8, 9, and 11 may be consulted in those cases where the collective bargaining agreement provides a process for addressing complaints of harassment.

Employees not eligible to file a discrimination complaint or grievance under a collective bargaining agreement (i.e. managers and confidential employees) have recourse through Executive Order No. 928. “Systemwide Complaint Procedure for Discrimination, Harassment and Retaliation complaints for Employees Not Eligible to File a Complaint or Grievance Under a Collective Bargaining Agreement or Whose Collective Bargaining Agreement Incorporates CSU Systemwide Complaint Procedures – Executive Order No. 928.”²

Anyone may file a complaint with the Director of Human Resources by contacting 559-278-2364, or by delivering or sending (via mail or fax) a copy of the complaint form or written statement to:

Ms. Janice Parten
 Director, Human Resources
 Joyal Administration Building, Room 148
 5150 North Maple Avenue, M/S JA 41
 California State University, Fresno
 Fresno, CA 93740-8020
 FAX: 559-278-7795

Cases involving campus administrators will be referred to the appropriate Vice President, the President, or the Chancellor’s Office. In cases alleging harassment by an administrator, if the allegation is against the Director of Human Resources, it should be filed with the Vice President for Administration. If the allegation is against the President, it should be filed with the Vice Chancellor for Human Resources. These offices can be reached as follows:

Dr. John D. Welty
 President
 California State University, Fresno
 Thomas Administration Building, Room 103
 5150 North Maple Avenue, M/S TA 48
 Fresno, CA 93720
 559-278-2324

Ms. Gail Brooks
 Vice Chancellor for Human Resources
 The California State University
 401 Golden Shore Blvd.
 Long Beach, California 90802
 562-951-4400

Ms. Cynthia Teniente-Matson
 Vice President for Administration
 Thomas Administration Building, Room 121
 5150 North Maple Avenue, M/S TA 52
 California State University, Fresno
 Fresno, CA 93720
 559-278-2083

¹ Collective bargaining agreements are available on the CSU website.
http://www.calstate.edu/LaborRel/Contracts_HTML/contracts.shtml

² This document is available at the following Web address: <http://www.calstate.edu/eo/EO-928.html>

A complaint of harassment should be received by the university within one (1) year of the time that the alleged event(s) occurred, or within the time frame set forth in the appropriate collective bargaining agreement in the case of some employees. Complainants should understand that as time passes, assessment becomes more difficult. The facts and memories fade and witnesses become unavailable. However, it is understood by the university that the stress and fear that individuals who are subjected to harassment may experience often complicate the decision to make a complaint. Therefore, the university may review a complaint whenever it is brought forward if the circumstances warrant it. This provision is not intended to extend the statute of limitations that is provided by law.

Section II. Students

A. Policy

The California State University, Fresno is committed to maintaining a work and learning environment where every student is treated with dignity and respect. The University will not tolerate unlawful harassment based on race, color, religion, national origin, ancestry, age, sex, sexual orientation, marital status, physical disability, mental disability, or medical condition.

Individuals covered within the scope of this policy who believe they have been subjected to harassment should promptly report it to the campus administrators designated to receive harassment complaints.

The University will respond to all harassment complaints brought to its attention in a timely and appropriate manner. If the complaints have merit, the University will promptly take actions to prevent recurrence and remedy the effects of the harassment. Students who engage in harassment may be subject to discipline up to and including discharge (if employed by the university) and/or expulsion. In determining whether the conduct at issue violates this policy, the totality of the circumstances shall be considered.

To prevent harassment, it is critical that individuals not be deterred from reporting it. The University will not retaliate, nor will it tolerate retaliation.

B. Definitions

Harassment

Harassment occurs when unwelcome conduct is engaged in because of the individual's race, color, religion, national origin, ancestry, age, sex, sexual orientation, marital status, physical disability, mental disability, or medical condition and:

- (1) Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's evaluation, grade, academic progress, educational status, or employment;
- (2) Submission to or rejection of such conduct by an individual is used as the basis or threatened to be used as the basis for a grade, evaluation, academic progress, employment or other assessment or educational activity affecting an individual; or
- (3) Such conduct is so severe or pervasive that its effect, whether or not intended, is a learning or work environment that could be considered by a reasonable person in the shoes of the individual, and is in fact considered by the individual, as intimidating, hostile, or offensive.

Harassment can be written (in print or electronically), verbal, visual, or physical. Examples of harassment include:

- Written communication, such as sending inappropriate jokes or comments in print or by e-mail;
- Verbal communications, such as making graphic or degrading comments about an individual and/or his or her body or personal characteristics, or using epithets, derogatory comments or slurs;
- Physical acts, such as unwanted touching, physical interference, or even assault;
- Visual acts or displays, such as derogatory cartoons, drawings, or posters, or inappropriate gestures;
- Making unwelcome sexual advances or propositions, or offering academic progress or employment benefits or giving preferential treatment in exchange for sexual favors;
- Making or threatening reprisals after a negative response to unwelcome conduct.

“Sex” includes, but is not limited to: the victim’s actual sex; the harasser’s perception of the victim’s sex; the harasser’s perception of the victim’s identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with victim’s sex at birth; and pregnancy; childbirth; or medical conditions related to pregnancy or childbirth.

Sexual harassment is prohibited whether perpetrated by a CSU student, employee, non-employee, or non-student. Where the CSU employee who engages in unlawful sexual harassment is an instructor, advisor, supervisor or manager, the conduct is especially invidious. Harassment may be perpetuated by someone who is of the same sex as the victim. The person who complains of sexual harassment may be the victim toward whom the harassing conduct was directed or a third party who witnessed the harassing conduct.

Disability

A person with a “disability” is a person who:

- Has a physical or mental impairment which limits one or more major life activities; or
- Has a record of such an impairment; or
- Is regarded as having such an impairment.

Medical condition

“Medical condition” means:

- A health impairment related to a diagnosis of cancer or a record or history of cancer; or
- A genetic characteristic that is known to cause a disease or disorder, or to statistically increase the risk of developing a disease or disorder, but currently is not manifested in any symptoms of the disease or disorder.

C. Procedures for filing a complaint

1. Informal resolution of problems

The University is interested in resolving problems at the lowest level. This is most likely accomplished when problems are reported early. The University recognizes that any student may be approached by another student seeking advice in difficult circumstances, or by third parties on behalf of someone else. These individuals may be seeking information and not necessarily wanting to file a complaint. If the individual wants to keep the matter confidential, the individual raising the concern should be reminded of the on-campus confidential resources the University provides for students in the office of Psychological Services in the Student Health Center (559-278-2734).

Staff in the Student Health Center are trained to advise potential complainants on conflict resolution skills, the complaint process and how they might proceed. They can also teach coping skills. These services are provided by licensed counselors and certified consultants in a strictly confidential manner. In situations where the individual wants to keep the matter confidential or is seeking information to help with the decision about whether or not to file a complaint, the individual raising the concern is reminded that once the matter is reported to a campus manager, the university cannot guarantee confidentiality.

2. The complaint form

The complaint form is available at: <http://www.calstate.edu/eo/eo-928.doc>. A copy is attached in Appendix B.

3. Filing a complaint

If the individual is not concerned with confidentiality, he or she may wish to consult with the dean, associate dean, or director closest to the academic or work area. All of these managers are trained to respond to complaints of harassment. Students who believe they have been subjected to behavior that they consider harassment should report the behavior immediately either orally or in writing.

A list of those who can respond to concerns or complaints is provided in Appendix B.

Students may contact the Office of Human Resources or the Office of the Assistant Vice President for Student Affairs and Dean of Students:

Assistant Vice President for Student Affairs
and Dean of Students
Dr. Carolyn Coon
Joyal Administration Building, Room 262
5150 North Maple Avenue, M/S JA 67
Fresno, California 93740
FAX: (559) 278-7786
Phone: (559) 278-2541

Director of Human Resources
Ms. Janice Parten
Joyal Administration Building, Room 148
5150 North Maple Avenue, M/S JA 41
Fresno, California 93740-8020
FAX: (559) 278-7795
Phone: (559) 278-2364

Staff in either office can explain the resources available to students. Alternatively, students may contact the dean or associate dean of their school or college. Additional information is available in the University Catalog.

Cases involving campus administrators will be referred to the appropriate Vice President, the President, or the Chancellor's Office. In cases alleging harassment by an administrator, if the allegation is against the Director of Human Resources, it should be filed with the Vice President for Administration. If the allegation is against the President, it should be filed with the Vice Chancellor for Human Resources. These offices can be reached as follows:

Dr. John D. Welty
President
California State University, Fresno
Thomas Administration Building, Room 103
5150 North Maple Avenue, M/S TA 48
Fresno, CA 93720
559-278-2324

Ms. Gail Brooks
Vice Chancellor for Human Resources
The California State University
401 Golden Shore Blvd.
Long Beach, California 90802
562-951-4400

Ms. Cynthia Teniente-Matson
Vice President for Administration
Thomas Administration Building Room 121
5150 North Maple Avenue M/S TA 52
California State University, Fresno
Fresno, CA 93720
559-278-2083

A complaint of harassment should be received by the university within one (1) year of the time that the alleged event(s) occurred, or within the time frame set forth in the appropriate collective bargaining agreement in the case of some employees. Complainants should understand that as time passes, assessment becomes more difficult. The facts and memories fade and witnesses become unavailable. However, it is understood by the University that the stress and fear that individuals who are subjected to harassment may experience often complicate the decision to make a complaint. Therefore, the University may review a complaint whenever it is brought forward if the circumstances warrant it. This provision is not intended to extend the statute of limitations that is provided by law.

Section III. Applicants and Independent Contractors

A. Policy

The applicable policy for applicants and independent contractors is Executive Order 927, available on the web at: <http://www.calstate.edu/EO/EO-927.html>.

B. Procedures for filing a complaint

1. Informal resolution of problems

The University is interested in resolving problems at the lowest level. This is most likely accomplished when problems are reported early. In situations where the individual wants to keep the matter confidential or is seeking information to help with the decision about whether or not to file a complaint, the individual raising the concern is reminded that once the matter is reported to a campus manager, the university cannot guarantee confidentiality.

2. The complaint form

The complaint form is available at: <http://www.calstate.edu/eo/eo-928.doc>. A copy is attached in Appendix C.

3. Filing a complaint

If the individual is not concerned with confidentiality, he or she may wish to consult with the manager closest to the academic or work area. All of these managers are trained to respond to complaints of harassment. If you believe you have been subjected to behavior that you consider harassment, you should report the behavior immediately either orally or in writing.

A list of those who can respond to concerns or complaints is provided in Appendix B.

Anyone may file a complaint with the Director of Human Resources by contacting 559-278-2364, or by delivering or sending (via mail or fax) a copy of the complaint form³ or written statement to:

Ms. Janice Parten
Director, Human Resources
Joyal Administration Building, Room 148
5150 North Maple Avenue, M/S JA 41
California State University, Fresno
Fresno, CA 93740-8020
FAX: 559-278-7795

³ A copy is attached and it is available online at <http://www.csufresno.edu/humres/Forms/Harassment.Discrim.Complaint.form.pdf>

Cases involving campus administrators will be referred to the appropriate Vice President, the President, or the Chancellor's Office. In cases alleging harassment by an administrator, if the allegation is against the Director of Human Resources, it should be filed with the Vice President for Administration. If the allegation is against the President, it should be filed with the Vice Chancellor for Human Resources. These offices can be reached as follows:

Dr. John D. Welty
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 Fresno, CA 93720
 559-278-2324

Ms. Gail Brooks
 Interim Vice Chancellor for Human Resources
 The California State University
 401 Golden Shore Blvd.
 Long Beach, California 90802
 562-951-4400

Ms. Cynthia Teniente-Matson
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 Thomas Administration Building Room 121
 5150 North Maple Avenue M/S TA 52
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Section IV. Additional information regarding sexual harassment

A. Confidentiality

The University recognizes the importance of confidentiality and will respect the privacy of those reporting or accused of harassment by keeping the matter confidential to the extent possible. However, the University cannot guarantee confidentiality. Confidentiality cannot be maintained when the University is required by law to disclose information or when non-disclosure may harm the rights of others. The psychotherapist-patient privilege ordinarily protects these communications, but this protection may not be recognized in federal court.

B. Types of sexual harassment

Two distinct categories of sexual harassment claims are generally recognized:

“Quid Pro Quo” sexual harassment occurs when submission to sexual conduct is made either an explicit or implicit condition of employment or admission, financial aid, academic evaluation or any other identifiable educational benefit, and submission to or rejection of such conduct by an individual is used as the basis for employment decisions or decisions concerning admission, financial aid, academic evaluation or any other educational decision(s) affecting such individual.

“Hostile Environment” sexual harassment exists when a pattern of severe or pervasive unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature occurs, where such conduct has the purpose or effect of unreasonably interfering with a reasonable individual’s work or educational performance or creating an intimidating hostile or offensive working or learning environment.

While any one of the above mentioned types of behavior may constitute sexual harassment in an aggravated situation, “Hostile Environment” sexual harassment usually requires a continuous, severe, and pervasive pattern of behavior that encompasses more than one incident of the examples identified above. Although one incident might not constitute sexual harassment, it may nevertheless be unprofessional and inappropriate conduct in the workplace for which the University may take personnel action (reprimand or disciplinary action).

C. Academic freedom and freedom of speech

It is recognized that legitimate political, social, educational, religious, or artistic expression is protected by the First Amendment. Speech or expressive conduct deemed to be sexual harassment may not be protected by the First Amendment. For a definition of academic freedom see the AAUP 1940 Statement of Principles on Academic Freedom and Tenure, and the University Statement of Academic Freedom (APM 103). Generally, to be protected in an instructional setting, speech or conduct must be intended to advance the learning process. The law does not protect students from all discomfort.

D. Consensual relations

The University normally has no interest in the private or romantic relationships between individuals. However, when these relationships involve individuals in unequal positions (e.g. professor-student, supervisor-subordinate, advisor-advisee, mentor-mentee), there are risks. Such relationships can present potential or apparent conflicts of interest, and they can damage the integrity of the professional supervisory relationship. Relationships can degenerate, objectivity may be sacrificed, and others in the work or learning environment may perceive favoritism or feel intimidated by the relationship. For these reasons, the University requires those in a position of authority (i.e. faculty and supervisors) to report such relationship to their department chair, dean, committee chair, or manager as appropriate. Once notified, that person will make arrangements to avoid real or potential conflicts of interest.

Additional policies that apply include the University policy on nepotism (<http://www.csufresno.edu/aps/apm/303.pdf>), and the University policy on faculty and student consensual relations (<http://www.csufresno.edu/aps/apm/346.pdf>).

Section V: Procedures for Handling Complaints Filed on Campus

A. Requirement to respond

Once the University is made aware of a harassment charge, it is legally required to respond by taking reasonably necessary steps (subject to applicable collective bargaining agreements) to eliminate and deter any harassment conduct even if the complainant decides at some point not to pursue the matter.

B. Responsibilities of managers and supervisors

Managers (i.e. those covered by the Management Personnel Plan) and supervisors⁴, including department chairs, are required to report in writing all harassment complaints to the Director of Human Resources. The report must be made within a reasonable period of time which is usually five (5) University business days of becoming aware of the allegation. Once an individual discloses information to a manager or supervisor, including a department chair, he or she will be considered to have filed a complaint with the University. Bargaining unit employees in supervisory positions are required to notify their managers of allegations of harassment as soon as they become aware of them.

C. Process for reviewing complaints

1. Lowest level of resolution

Efforts will be made to resolve complaints at the lowest possible level. This may be accomplished by working with the manager or department chair closest to the individuals involved with the matter. The Director of Human Resources, the Associate Vice President for Academic Personnel, the Assistant Vice President for Student Affairs and Dean of Students, or their designees, will work with those in the department to resolve the problems. In the interest of enhancing a positive learning and working environment, the University wishes to resolve problems as soon as possible when they arise. Notifying a manager or supervisor early on may help reduce the need for more formal intervention later. Discussing a problem with a manager or supervisor does not necessarily lead to personnel action or documentation being placed in a personnel file.

2. Administrative review or investigation

The Director of Human Resources, in consultation with the appropriate campus administrator(s), and others, may determine that 1) an administrative review and/or 2) an investigation by an external investigator are needed. Such review(s) and/or investigation(s) may be conducted by staff in Human Resources, the CSU Office of General Counsel, or others with experience and the authority to conduct such reviews or investigations.

3. Written notification and time frame

If it is determined that an administrative review and/or investigation is needed, the person filing the complaint (complainant) and the person against whom the complaint is filed (the respondent) will be notified in writing by the Director of Human Resources. A copy of these procedures will be supplied to each party. A prompt and equitable resolution of harassment complaints is to be sought. There shall be a resolution of a complaint (if resolution is possible) within a reasonable period of time which is usually forty-five (45) university business days of the filing of the complaint. Occasionally, the time limit will need

⁴ Supervisor is defined as any individual with the authority “to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if...the exercise of that authority... requires the use of independent judgment.” (Cal Government Code Section 12926 (r))

to be extended if individuals necessary for interview are unavailable, e.g., during academic recesses. In this case, the investigator will inform the complainant and respondent in writing of the need to extend the time period.

4. Notification of conclusion of administrative review or investigation

The complainant and the respondent shall be notified separately in writing of the conclusion of an administrative review or investigation and of the findings as appropriate to each party respectively. The notification shall indicate if the findings are being referred to the appropriate vice president for further action.⁵

5. President's decision

The President or designee will be notified of the findings of administrative reviews and investigations. The President or designee will review the findings within a reasonable period of time, usually fifteen (15) University business days. The President, or designee, may seek additional information as necessary during this time.

6. Special requirements when a complaint is filed against a faculty member

When a complaint is filed against a faculty member, the Director of Human Resources will consult with the Provost, or designee. Depending on the nature of the problem reported, the Provost or academic personnel officer may intervene and work with the manager and/or department chair closest to the employee(s) to resolve the matter. If it is determined that an administrative review or investigation is necessary, it will normally be coordinated by Human Resources. At the conclusion of that review or investigation, the findings will be referred to the Provost for appropriate action.

7. Special requirements when the complaint is filed against a student

When a complaint is filed against a student, Human Resources will refer the case to the Assistant Vice President for Judicial Affairs. The Assistant Vice President for Judicial Affairs is responsible for disciplinary decisions regarding students and subsequent appeal processes if applicable. The actions of the University will be governed by CSU Executive Order No. 970 which is consistent with Title 5 of the California Code of Regulations, section 41301, which governs student discipline at the California State University. [1]⁶ Specifically, a student may be disciplined for engaging in any "Unacceptable Student Behaviors" as noted in California Code of Regulations, Section 41301(b) including conduct occurring on University property and/or involving a member of the University community.

The term "University property" means: (a) real or other property in the possession or under the control of, the Board of Trustees of the CSU; and (b) all campus facilities whether utilized by the University or a campus auxiliary organization.

The term "member of the University community" is defined as meaning CSU Trustees, employees, students, and University guests who are on University property or at a University-related activity.

8. Employee's Right to request reconsideration

Within ten (10) University business days of receipt of the notification of findings, either the complainant or the respondent may request reconsideration in writing from the President based on newly discovered material information not previously presented and which with reasonable diligence could not have been presented during the original investigation. The appeal shall summarize the newly discovered information upon which the complainant or respondent feels the appeal should be granted.

⁵ In cases where the complaint is substantiated, the complainant will be informed that appropriate corrective actions will be taken. However, due to the personnel rights of the respondent as prescribed by law, the complainant will not be informed as to the nature of the corrective action.

⁶ [1] Title 5, California Code of Regulations, Section 41301. CSU Executive Order No. 970 is available at the following Web site: <http://www.calstate.edu/eo/EO-970.html>

The President will acknowledge receipt of the appeal within a reasonable period of time which is usually five (5) University business days and will, within a reasonable period of time which is usually twenty (20) University business days, provide a written decision to the appellant. The President's decision is the final University decision.

9. Employee's right of appeal

A respondent covered by a collective bargaining agreement may appeal a personnel action (reprimand or disciplinary action) under the policies and procedures of the appropriate collective bargaining agreement. Other employees should contact Human Resources for procedures for requesting reconsideration of personnel actions.

10. Retaliation

It is a violation of federal and state law, and of University policy, for anyone to retaliate against a person or persons who files a complaint or who cooperates in the investigation of a complaint. University employees found to have retaliated against individuals involved in the complaint process are subject to personnel and disciplinary action. Additionally, retaliation for objecting to potentially sexually harassing behavior is strictly prohibited.

11. Record retention

Records related to complaints are kept in the Office of the Director of Human Resources, separate from personnel files. Complaints filed against an employee normally will be kept for a period of five years after the separation of the employee from the University.

Section VI. Training and Resources

A proactive program will be maintained to educate the campus community about harassment, the University's policies against it, and what recourse a complainant has to address the situation. This will be achieved through a variety of means, such as:

- Reminders about the harassment policy and procedures posted electronically at the beginning of the academic year;
- Announcements to employees of information available on-line;
- Distribution of appropriate printed material to employees and students with definitions and contact information;
- Information in the *General Catalogue*;
- Information distributed in new employee and new student orientation; and
- Training for employees in compliance with applicable laws.

On campus help is available through the following offices:

- | | | |
|--------------|-----------------------------------|--------------|
| • Students: | Health and Psychological Services | 559-278-2734 |
| • Employees: | Employee Assistance and Wellness | 559-278-4357 |
| • Everyone: | Campus Police Department | 559-278-2132 |
| | Women's Resource Center | 559-278-4435 |

Off campus help is available from a variety of sources. The following selection is provided to help guide students and employees who may wish to use services external to the campus:

- The State government entity charged with investigating harassment and other forms of workplace discrimination

Department of Fair Employment and Housing
 1320 E. Shaw Avenue, Suite 150
 Fresno, CA 93710
 559-244-4760 or 800-884-1684 TDD 800-700-2320

- The Federal government entity charged with investigating complaints of discrimination

Workplace complaints:
Equal Employment Opportunity Commission
 1265 West Shaw Avenue, Suite 103
 Fresno, CA 93711
 559-487-5793 or 800-669-4000 TTY: 800-669-6820

Student complaints:
U.S. Department of Education
Office of Civil Rights
 50 Old Federal Building, 50 United Nations Plaza, Room 239
 San Francisco, CA 94102
 415-556-4275

Title IX laws address sexual harassment between students. A student who believes he or she has been harassed by another student may also file a complaint with the U.S. Department of Education, Office of Civil Rights. The address for the San Francisco office is:

Office for Civil Rights
U.S. Department of Education
Old Federal Building
50 United Nations Plaza, Room 239
San Francisco, CA 94102-4987

- Local rape counseling referral services through:
Rape Counseling Services
1060 Fulton Mall, Fresno, CA 93721
559-497-2900 or 24-hour hotline: 559-222-RAPE [7273]
- Local legal referral services:
Attorney's Information and Referral Services
1221 Van Ness Ave, Suite 300, Fresno, CA 93721-1720
559-264-0137
- Local mental health counseling referral services:
Therapist Referral Network
1-800-THERAPIST
- Local assistance managing the court system:
Victim-Witness Service Center
2220 Tulare Street, Suite 1126
Fresno, CA 93721
559-488-3425

Recommended by the Academic Senate 2-26-07

Approved by the President 08-25-06

Revised by the Academic Senate 8-26-06

Approved by the President 1-25-08

Appendix A – 1 of 7



BAKERSFIELD

January 6, 2005

CHANNEL ISLANDS

CHICO

MEMORANDUM

DOMINGUEZ HILLS

TO: CSU Presidents

FRESNO

FROM: Charles B. Reed
Chancellor

FULLERTON

SUBJECT: Systemwide Policy Prohibiting Harassment in Employment and
Retaliation for Reporting Harassment or Participation in a
Harassment Investigation - Executive Order No. 927

HAYWARD

HUMBOLDT

In response to recent legal and legislative developments in the area of anti-harassment laws, the attached Executive Order 927 replaces Executive Order 345. Executive Order 927 broadens the scope of what was once the CSU's sexual harassment policy to one that prohibits unlawful harassment based on any statutory category protected by the Fair Employment and Housing Act.

LONG BEACH

LOS ANGELES

MARITIME ACADEMY

Consistent with the Fair Employment and Housing Act, Executive Order 927 protects employees, applicants, and independent contractors from unlawful harassment. The prohibition against harassment of students is established by each campus and is not covered by this systemwide policy.

MONTEREY BAY

NORTHRIDGE

Executive Order 927 reemphasizes the importance of training the CSU community on anti-harassment and anti-retaliation policies and procedures in order to prevent and correct harassment.

POMONA

If you have questions regarding this executive order, please call Employee Relations at (562) 951-4425.

SACRAMENTO

SAN BERNARDINO

In accordance with CSU policy, the campus president has the responsibility for implementing Executive Order 927 and for maintaining the campus repository and index for all executive orders.

SAN DIEGO

SAN FRANCISCO

CBR/eb

SAN JOSE

Attachment

SAN LUIS OBISPO

cc: Executive Staff, Office of the Chancellor
Associate Vice Presidents, Faculty Affairs
Human Resources Directors
Equal Employment Opportunity Directors

SAN MARCOS

SONOMA

STANISLAUS

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Executive Order No. 927

THE CALIFORNIA STATE UNIVERSITY
Office of the Chancellor
401 Golden Shore
Long Beach, California 90802-4210
(562) 951-4425

Executive Order: 927
Effective Date: January 6, 2005
Supersedes: Executive Order No. 345
Title: Systemwide Policy Prohibiting Harassment in Employment and Retaliation for Reporting Harassment or Participation in a Harassment Investigation

A. Policy

The California State University (CSU) is committed to maintaining a work environment where every employee, applicant, and independent contractor is treated with dignity and respect. CSU will not tolerate unlawful harassment based on race, color, religion, national origin, ancestry, age, sex, sexual orientation, marital status, veteran status (as defined by the Vietnam-Era Veterans' Readjustment Assistance Act of 1974, as amended), physical disability, mental disability, or medical condition.

Individuals covered within the scope of this executive order who believe they have been subjected to harassment should promptly report it to the campus administrators designated to receive harassment complaints.

CSU will respond to all harassment complaints brought to its attention in a timely and appropriate manner. If the complaints have merit, CSU will promptly take actions to prevent recurrence and remedy the effects of the harassment. Persons who engage in harassment may be subject to discipline up to and including discharge. In determining whether the conduct at issue violates this policy, the totality of the circumstances shall be considered.

To prevent harassment, it is critical that individuals not be deterred from reporting it. CSU will not retaliate, nor will it tolerate retaliation.

B. Application

This systemwide policy prohibits: 1) harassment of any employee, applicant, or independent contractor; and 2) retaliation against such an individual for reporting conduct the individual reasonably and in good

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faith believes is harassment or participating in any investigation of harassment.

C. Definitions**Harassment**

Harassment occurs when unwelcome conduct is engaged in because of a protected status of an individual, which include race, color, religion, national origin, ancestry, age, sex, sexual orientation, marital status, veteran status, physical disability, mental disability, or medical condition, and:

- (1) Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- (2) Submission to or rejection of such conduct by an individual is used as the basis or threatened to be used as the basis for employment or assessments affecting an individual; or
- (3) Such conduct is so severe or pervasive that its effect, whether or not intended, is a work environment that could be considered by a reasonable person in the shoes of the individual, and is in fact considered by the individual, as intimidating, hostile or offensive.

Harassment can be written (in print or electronically), verbal, visual, or physical. Examples of harassment include:

- Written communications, such as sending inappropriate jokes or comments in print or by e-mail;
- Verbal communications, such as making graphic or degrading comments about an individual and/or his or her body or personal characteristics, or using epithets, derogatory comments or slurs;
- Physical acts, such as unwanted touching, physical interference, or even assault;
- Visual acts or displays, such as derogatory cartoons, drawings, or posters, or inappropriate gestures.
- Making unwelcome sexual advances or propositions, or offering employment benefits or giving preferential treatment in exchange for sexual favors;

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- Making or threatening reprisals after a negative response to unwelcome conduct

“Sex” includes, but is not limited to: the victim’s actual sex; the harasser’s perception of the victim’s sex; the harasser’s perception of the victim’s identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with victim’s sex at birth; and pregnancy; childbirth; or medical conditions related to pregnancy or childbirth.

Sexual harassment is prohibited whether perpetrated by a CSU employee or a non-employee. Where the CSU employee who engages in unlawful sexual harassment is a supervisor or manager, the conduct is especially invidious. Sexual harassment may be perpetrated by someone who is of the same sex as the victim. The person who complains of sexual harassment may be the victim toward whom the harassing conduct was directed or a third party who witnessed the harassing conduct.

Employee

“Employee” includes any full- or part-time CSU employee, whether permanent, tenured, probationary, temporary, intermittent, casual employment, or Management Personnel Plan employee.

Applicant

“Applicant” refers to an individual who has completed the application process for a specific, available position at a CSU campus or at the Chancellor’s Office.

Independent contractor

“Independent contractor” refers to “a person providing services pursuant to a contract.” As defined by the Fair Employment and Housing Act, “a person providing services pursuant to a contract” is a person who meets all of the following criteria:

- The person has the right to control the performance of the contract for services and discretion as to the manner of performance.
- The person is customarily engaged in an independently established business.
- The person has control over the time and place the work is performed, supplies the tools and instruments used in the

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work, and performs work that requires a particular skill not ordinarily used in the course of the employer's work.

Disability

A person with a "disability" is a person who:

- Has a physical or mental impairment which limits one or more major life activities; or
- Has a record of such an impairment; or
- Is regarded as having such an impairment.

Medical condition

"Medical condition" means:

- A health impairment related to a diagnosis of cancer or a record or history of cancer; or
- A genetic characteristic that is known to cause a disease or disorder, or to statistically increase the risk of developing a disease or disorder, but currently is not manifested in any symptoms of the disease or disorder.

D. Policy Implementation

The chancellor and the presidents, or their designees, shall be responsible for implementing this systemwide policy at each campus. This includes, but is not limited to, publicizing the policy, conducting training, and establishing an administrative structure consistent with this executive order that facilitates the prevention and elimination of unlawful harassment.

Training & Internal Communication

To prevent harassment and encourage the reporting of harassment, training shall be provided by each campus to all employees upon their initial arrival at the campus. Such training shall explain, but not be limited to: what constitutes harassment under applicable law; the rights and responsibilities of each individual relating to workplace harassment; the protection against retaliation for individuals who report harassment or participate in an investigation; the internal complaint procedures for filing, investigating and resolving a harassment complaint; and the option and method for filing a harassment complaint with external government agencies such as the Department of Fair Employment and Housing

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(DFEH) and the Equal Employment Opportunity Commission (EEOC). After training has been given to employees upon their first arrival at the campus, training shall be provided, when necessary, to refresh and update employees' knowledge of harassment and retaliation laws.

Recent amendments to FEHA include additional training requirements for supervisory employees, who generally must receive at least two hours of interactive sexual harassment training within six months of assignment to a supervisory position, and continued training every two years.

Each campus should ensure that the requisite training is provided and maintain documentation of the provided training.

Each campus shall distribute a copy of the following documents to all employees upon their first arrival at the campus. It is recommended that this information be made accessible for reference to current employees annually.

- The DFEH pamphlet "Discrimination and Harassment in Employment are Prohibited by Law" [DFEH-162 (04/04)];
- This executive order, or a superseding document, if applicable;
- Executive Order 883, or a superseding document, if applicable; and
- Executive Order 675, or a superseding document, if applicable.

Each campus shall obtain the poster on discrimination in employment from the DFEH, or create an equivalent document, and shall post such poster/document in prominent and accessible locations on campus.

The chancellor and the presidents, or their designees, shall designate the individuals responsible for receiving and investigating complaints of harassment on their respective campuses. Once selected, each campus shall publicize the job titles, phone numbers and addresses of these individuals. Their job titles, rather than names, should be publicized so as to eliminate confusion when there is a staffing change. Training shall be provided to these individuals, as needed, to update their knowledge and skills.

Complaint Processing

Complaints of harassment are processed in the same manner as complaints of discrimination. The type of internal complaint procedure that is

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available to each person for filing a discrimination complaint will vary depending upon two factors: (1) the employment status of the person, and (2) the applicable collective bargaining agreement. To direct a person who has a harassment complaint to the appropriate complaint procedure, the campus should first determine whether the person is an employee, applicant, or independent contractor. If the person is an employee, the campus should next determine if the employee is covered by a collective bargaining agreement.

Employees Covered by a CBA


Employees who are covered by a collective bargaining agreement that provides a procedure for filing discrimination or harassment complaints shall be directed to the relevant provision in the respective labor contract. Where the collective bargaining agreement does not provide a procedure for filing discrimination or harassment complaints or, where the collective bargaining agreement does not provide for the type of discrimination or harassment claim the employee articulates (e.g., co-worker harassment), the employee shall be directed to Executive Order 675, or a superseding executive order, if applicable.

Employees Not Covered by CBA

Employees who do not belong to a collective bargaining unit (e.g., MPP and Confidential) shall be directed to utilize Executive Order 675, or a superseding executive order, if applicable.

Applicants & Independent Contractors

There is currently no systemwide discrimination or harassment complaint procedure for applicants or independent contractors. Yet, their harassment complaints must be investigated and appropriate actions taken pursuant to this executive order and in accordance with state and federal nondiscrimination laws. Consequently, each campus shall provide for these investigations by having in place a complaint procedure to handle harassment complaints from applicants and independent contractors. Such a procedure shall designate several persons to whom a report of harassment can be made.


 Charles B. Reed, Chancellor

January 6, 2005

Appendix B Managers Who Can Assist with Filing Complaints

Manager	Campus Office	Phone
College of Arts and Humanities		
Dean: Dr. Vida Samiian	Music 186	278-3056
Associate Dean: Dr. Jose Diaz	Music 179	278-3056
College of Agricultural Sciences and Technology		
Dean: Dr. Charles Boyer	Agricultural Sciences 102	278-2061
Associate Dean: Dr. Sandra Witte	Agricultural Sciences 102	278-2061
Craig School of Business		
Dean: Dr. Doug Hensler	Peters Business Bldg. 282	278-2482
Associate Dean: Dr. Robert Harper	Peters Business Bldg. 282	278-2482
Kremen School of Education		
Dean: Dr. Paul Beare	Education 210	278-0210
Associate Dean: Dr. Colleen Torgerson	Education 205	278-0205
College of Engineering		
Dean: Dr. Michael Jenkins	Engineering East 124	278-2500
Assoc Dean, Interim: Dr. Ram Nunna	Engineering East 124	278-2500
College of Health and Human Services		
Dean: Dr. Benjamin Cuellar	McLane Hall 178	278-4004
Associate Dean: Dr. Andy Hoff	McLane Hall 178	278-4004
College of Social Sciences		
Dean: Dr. Luz Gonzalez	Social Science 108	278-3013
Associate Dean: Dr. Steven Walker	Social Science 108	278-3013
College of Science and Math		
Dean, Interim: Dr. Karen Carey	Science 2, 301	278-3936
Assoc Dean, Interim: Dr. Fraka Harmsen		
Academic Personnel		
Assoc VP for Academic Personnel: Ms. Janette Redd-Williams	Thomas Administration 118	278-3027
Library		
Dean: Mr. Peter McDonald	Library 3213	278-2403
Associate Dean: Mr. David Tyckoson	Library 3213	278-5678

In addition, any manager with the title of "Director" of a specific program may be approached in situations involving allegations of harassment. These individuals are listed on the campus organizational charts available at: <http://www.csufresno.edu/CSUF/organizational/main.html>. Their contact information is available through the campus directory at: <http://www.csufresno.edu/CSUF/directories/>

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California State University, Fresno

Complaint Form for Filing a Complaint of Harassment or Discrimination

Completion of this form is not required to formally initiate a complaint; however completing this form will assist the review process. When completed please return this form to the office of the Director of Human Resources, Room 148, Joyal Administration Building. You will be contacted as soon as possible for a confidential interview to discuss the complaint.

1. Today's Date: _____
2. Your name: _____
3. Date of Birth: _____
4. Signature: _____
5. Status: Student- Faculty - Staff - Manager -
Applicant - Independent Contractor-
6. Department: _____
7. Contact Information:
Home Address: _____
Office Phone: _____ Home Phone: _____
Cell or pager: _____ Email: _____
8. Person(s) against whom complaint is being made: _____
Status: Student- Faculty - Staff - Manager - Don't know-
9. Allegations. Include dates and locations. Use additional sheets as necessary:

10. Has anyone been notified of this incident? If so, who and when: _____

11. Are there any other witnesses to the incident(s)? If so, who? _____

Revised: September 2006

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California State University Fresno Procedures for Filing a Complaint of **Harassment or Discrimination**

The policy¹ of California State University Fresno is to provide equal employment, education, housing and services without regard to race, color, religion, gender, marital status, pregnancy, national origin, age (over 40), disability, veteran's status or sexual orientation. The University does not tolerate acts of discrimination or harassment. Faculty, staff, managers, students, applicants or independent contractors who feel they have been subjected to acts of harassment or discrimination should refer to the appropriate section of the campus policy on harassment and discrimination for complete procedures for filing a complaint. These procedures are available to all employees regardless of probationary or permanent status, or time base. Employees under collective bargaining agreements which provide procedures for addressing harassment or discrimination complaints (e.g. CSUEU and APC) are required to use those procedures. The collective bargaining agreements are available on-line at: http://www.calstate.edu/LaborRel/Contracts_HTML/current_cba.shtml
The campus procedures are briefly summarized below.

Where to file a complaint

Complaints may be filed with the Director of Human Resources, Ms. Janice A. Parten. Her office is located in Joyal 148 and she can be reached by campus mail (mail stop #JA41), or phone (559-278-2364).

Complaints may also be reported to any manager on campus (i.e. Management Personnel Plan employees) who shall promptly forward the complaint to the Director of Human Resources in a timely manner.

Completing a complaint form

To facilitate the review process, complainants are strongly encouraged to complete the form on the reverse side of this page. This will provide us with information that is useful to responding as quickly as possible to the complaint.

The process for responding to complaints

The Director of Human Resources will undertake fact-finding to determine how best to proceed in consultation with the appropriate administrator(s). The possible courses of action include mediation or, at the most formal level, an administrative investigation with the potential for disciplinary action. An attempt will be made to resolve complaints of harassment or discrimination and related problems at the lowest possible level. Our goal, whenever appropriate, will be to help those involved identify effective and mutually acceptable solutions to problems so that a more formal process will not be necessary.

The Human Resources office serves as the fact finder for all complaints involving faculty, staff and managers. Cases involving students may be referred to the Vice President for Student Affairs depending on the circumstances. Cases involving faculty are referred to the office of Academic Personnel once the fact finding is completed.

¹ The policy, "Equal Employment and Educational Opportunity Policy," is available upon request from the office of Human Resources or on the Human Resources Web site at <http://www.csufresno.edu/humres/> and click on "Employment Related Policies and Procedures."