

POLICIES AND PROCEDURES FOR ADDRESSING DISCRIMINATION, HARASSMENT, AND RETALIATION

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 (Appendix A). Consistent with FEHA, Executive Order 927 protects employees, applicants, and independent contractors from unlawful harassment. In Executive Order 928 (Appendix B), the CSU clarified procedures for employees who are not eligible to file a discrimination, harassment, or retaliation complaint or grievance under a collective bargaining agreement or whose collective bargaining agreement incorporates CSU systemwide complaint procedures for such purposes¹. Finally, in Executive Order 1045 (Appendix C), the CSU adopted a system-wide policy providing students and applicants for admission a procedure for filing complaints of discrimination, harassment and retaliation against the CSU and/or CSU employees

The following guidelines and procedures are intended to implement Executive Orders 927, 928, and 1045 on the campus and within the jurisdiction of the University.

The University strives to provide a place of both work and study free of discrimination, harassment, retaliation, 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. Discrimination, harassment, and retaliation 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 discrimination, harassment, or retaliation is found to have occurred, the University will act to stop the such misconduct, act to prevent its recurrence, 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 and Student Applicants in Section II, and
Job 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.

¹ "Retaliation" means adverse action against an individual protected under these guidelines that is taken by a University employee because the individual has or was believed to have reported or opposed conduct which the individual reasonably and in good faith believed was or is discrimination, harassment, or retaliation or because the individual participated in an investigation or proceeding alleging discrimination, harassment, or retaliation.

Communication of Procedures

This document and Executive Orders 927, 928 and 1045 shall be made readily available to all students, applicants for admission, and to all CSU employees, utilizing multiple media of communication, including student orientations, student catalogs, new employee orientations, campus websites, and the offices of Student Affairs, Student Judicial Affairs, and Human Resources.

Section I. Employees

A. Policy

The applicable policy for employees is Executive Orders 927 and 928, or a superseding policy if applicable. EO 927 is available as Appendix A or on the web at: <http://www.calstate.edu/EO/EO-AA927.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 in Appendix B and 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 faculty or staff member 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, Lab School 185 (559-278-4357). Staff in this office 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.

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 also 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 discrimination, harassment, or retaliation. Students, faculty, staff, managers, or other members of the campus community who believe they have been subjected to behavior that they consider discrimination, harassment, or retaliation 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 D.

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Employees represented by a collective bargaining agreement should refer to the appropriate articles of their agreement for instructions on how to file a complaint.² In addition, the chief stewards/faculty rights representative 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 Orders 927 and 928, "Systemwide Complaint Procedure for Discrimination Complaints by Employees Not Eligible to File a Discrimination Complaint or Grievance Under a Collective Bargaining Agreement."

Complaints may be submitted as follows³:

An employee with a complaint against a staff member or manager 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 161
5150 North Maple Avenue M/S JA 41
California State University, Fresno
Fresno, CA 93740
FAX: 559-278-7795

An employee with a complaint against a faculty member may file a complaint with the Associate Vice President for Academic Personnel by contacting 559-278-3027, or by delivering or sending (via mail or fax) a copy of the complaint form or written statement to:

Ms. Janette Redd Williams
Associate Vice President for Academic Personnel
California State University, Fresno
Haak Center, 4th Floor
5200 N. Barton M/S ML55
Fresno, CA 93740
FAX: 559-278-8190

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
Haak Center, 4th Floor
5200 N. Barton M/S ML52
Fresno, CA 93740

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

² Collective bargaining agreements are available on the CSU website.
http://www.calstate.edu/LaborRel/Contracts_HTML/contracts.shtml

³ Any investigation, review or assessment of the complaint shall be conducted by representatives of reviewing departments consistent with the rules established by the President in his directive of September, 2009.

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559-278-2324

Ms. Cynthia Teniente-Matson
Vice President for Administration
California State University, Fresno
Haak Center, 4th Floor
5200 N. Barton M/S ML52
Fresno, CA 93740
559-278-2083

Dr. William A. Covino
Provost and Vice President for Academic Affairs
California State University, Fresno
Haak Center, 4th Floor
5200 N. Barton M/S ML54
Fresno, CA 93740
559-278-2636

Dr. Paul Oliaro
Vice President for Student Affairs
California State University, Fresno
Joyal Administration
5150 N. Maple Ave. M/S JA67
Fresno, CA 93740
559-278-2541

Dr. Peter Smits
Vice President for University Advancement
California State University, Fresno
Haak Center, 4th Floor
5200 N. Barton M/S ML118
Fresno, CA 93740
559-278-6050

Thomas Boeh
Director of Athletics
California State University, Fresno
1510 E. Shaw Ave., Ste. 103 M/S NG27
Fresno, CA 93710
559-244-5641

A complaint of discrimination, harassment or retaliation 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 because memories fade and witnesses become unavailable. However, it is understood by the university that the stress and fear that individuals who are subjected to discrimination, harassment, or retaliation may experience often complicate the decision to make a complaint. Therefore the university will review all complaints whenever they are brought forward. This provision is not intended to extend the statute of limitations that is provided by law. The investigatory and appeal procedures are set forth in Executive Order 928, Sections VI, VII, and VIII (Appendix B).

Section II. Students and Student Applicants

A. Policy

California State University, Fresno is committed to maintaining a work and learning environment where every student is treated with dignity and respect. Consistent with Executive Order 1045, the University will not tolerate unlawful discrimination or harassment (based on race, color, religion, national origin, ancestry, age, sex, sexual orientation, marital status, physical disability, mental disability, or medical condition) or retaliation by the University or a University employee. A student complaint against another student is not subject to this policy; rather, such a matter is handled by the Office of the Vice President for Student Affairs under the applicable student misconduct code. Students who engage in discrimination, harassment, or retaliation 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 the student misconduct code, the totality of the circumstances shall be considered.

This policy and the procedures set forth herein do not apply to an individual taking courses through Continuing/Extended Education, unless the student is concurrently enrolled at the University and taking courses that lead to the pursuit of a CSU degree. Similarly, an individual participating in a program administered by a University auxiliary organization must use that organization's policies and procedures

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to file discrimination complaints, rather than this policy. If the University receives these types of complaints, the campus shall promptly acknowledge receipt of the complaints in writing and refer the complaints to the appropriate auxiliary organization or Continuing/Extended Education administrator.

The University will respond in a timely and appropriate manner to all discrimination, harassment, and retaliation complaints brought to its attention. If the complaints have merit, the University will promptly take action to prevent recurrence and remedy the effects of such misconduct.

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

B. Definitions

For the purpose of this policy, the following definitions apply:

- A. **Academic Affairs** means the division at the Chancellor's Office that is responsible for gathering, reviewing and evaluating information on the admission criteria of a campus academic program.
- B. **Accused** means the University and/or a University employee against whom an allegation of discrimination, harassment or retaliation has been made.
- C. **Applicant for Admission (or Applicant)** means an individual who has applied for admission to an undergraduate, graduate, or credential program at the University that leads to the pursuit of a CSU degree.
- D. **Age** has the same meaning as defined in California Government Code Section 12926(b) and refers to the chronological age of any individual who has reached his or her fortieth (40th) birthday.
- E. **University** means California State University, Fresno.
- F. **Chancellor's Office (CO) Designee** means the person tasked with reviewing and responding to a student's/applicant for admission's appeal at Formal Level II.
- G. **Complaint** means a written communication that complies with Executive Order 1045, alleging discrimination, harassment or retaliation against the University and/or a University employee.
- H. **Complainant** means an individual who is eligible to, and does, file a complaint to report discrimination, harassment or retaliation as defined by this policy.
- I. **Day** means a work day. Work days are defined as Monday through Friday, excluding all official holidays or campus closures at the campus where the complaint originated.
- J. **Disability** means mental or physical disability as defined in California Education Code Section 66260.5.
- K. **Discrimination** means a discriminatory act against a student/applicant on a basis prohibited by California Education Code Sections 66250 et seq. and/or this executive order.
- L. **Discriminatory Act** means an act that meets the legal elements of a discrimination claim.
- M. **Employee**, as defined in Title 5 of the California Code of Regulations, means a person legally holding a position in and employed by the University (e.g., Administrators, Faculty, Staff, and Student Employees).
- N. **Gender**, as defined in California Education Code Section 66260.7, means sex, and includes a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.
 - o **Sex** has the same meaning as defined in California Government Code Section 12926(p), which includes, but is not limited to, pregnancy, childbirth or medical condition related to pregnancy or childbirth.
- O. **Harassment** means unwelcome conduct that is engaged in because of the protected status of a student or an applicant, and:
 - 1. Submission to such conduct is made either an explicit or implicit term or condition of admission or academic evaluation;

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2. Submission to or rejection of such conduct is used as the basis or threatened to be used as the basis for an academic assessment affecting the student or applicant; or
 3. Such conduct is so severe or pervasive that its effect, whether or not intended, is an educational environment that could be considered by a reasonable person, in the shoes of the student/ applicant, and is in fact considered by the student/applicant, intimidating, hostile or offensive.
- P. **Investigator** means the person tasked by a campus with investigating a complaint of discrimination, harassment, or retaliation at the University. An investigator may be a Management Personnel Plan employee or an external consultant.
- Q. **Nationality**, as defined in California Education Code Section 66261.5, includes citizenship, country of origin, and national origin.
- R. **Preponderance of the Evidence** means the greater weight of the evidence; i.e., that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side.
- S. **Protected Status** means any basis listed or defined in California Education Code Sections 66250 et seq.
- T. **Race** or ethnicity, as defined in California Education Code Section 66261.7, includes ancestry, color, ethnic group identification, and ethnic background.
- U. **Religion**, as defined in California Education Code Section 66262, includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.
- V. **Retaliation** means adverse action that is taken by a CSU employee because a student or an applicant has or is believed to have:
- o Reported or opposed conduct which the student or applicant reasonably and in good faith believes is discrimination/harassment/ retaliation; or
 - o Participated in a discrimination/harassment/retaliation investigation/ proceeding.
- W. **Sexual Orientation**, as defined in California Education Code Section 66262.7, means heterosexuality, homosexuality, or bisexuality.
- X. **Student** means an individual who has been admitted to an undergraduate, graduate, or credential program at the University that leads to the pursuit of a CSU degree.

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.

2. The complaint form

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

3. Filing a complaint

If the individual is not concerned with confidentiality, he or she may also 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.

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

Students seeking to file a complaint should contact the Dean of Students at the Office of the Vice President for Student Affairs⁴:

Dr. Carolyn Coon
Dean of Students
Office of the Vice President for Student Affairs
Joyal Administration Building, Room 262
5150 North Maple Avenue M/S JA 67
Fresno, California 93740
FAX: (559) 278-7276
Phone: (559) 278-2541

Alternatively, students may contact the dean or associate dean of their school or college. Staff in either office can explain the resources available to students. 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
Haak Center, 4th Floor
5200 N. Barton M/S ML52
Fresno, CA 93740
559-278-2324

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

Ms. Cynthia Teniente-Matson
Vice President for Administration
California State University, Fresno
Haak Center, 4th Floor
5200 N. Barton M/S ML52
Fresno, CA 93740
559-278-2083

Dr. William A. Covino
Provost and Vice President for Academic Affairs
California State University, Fresno
Haak Center, 4th Floor
5200 N. Barton M/S ML54
Fresno, CA 93740
559-278-2636

Dr. Paul Oliaro
Vice President for Student Affairs
California State University, Fresno
Joyal Administration
5150 N. Maple Ave. M/S JA67
Fresno, CA 93740
559-278-2541

Dr. Peter Smits
Vice President for University Advancement
California State University, Fresno
Haak Center, 4th Floor
5200 N. Barton M/S ML118
Fresno, CA 93740
559-278-6050

Thomas Boeh
Director of Athletics

⁴ Any investigation, review or assessment of the complaint shall be conducted by representatives of reviewing departments consistent with the rules established by the President in his directive of September, 2009.

California State University, Fresno
1510 E. Shaw Ave., Ste. 103 M/S NG27
Fresno, CA 93710
559-244-5641

A complaint of discrimination, harassment, or retaliation should be received by the university within twenty work days after the end of the end of the academic term (semester/quarter) in which the most recently alleged discriminatory / harassing/retaliatory act occurred. Complainants should understand that as time passes, assessment becomes more difficult because 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 will review all complaints whenever they are brought forward. This provision is not intended to extend the statute of limitations that is provided by law. The investigatory and appeal procedures are set forth in Executive Order 1045, Sections VI, VII, and VIII (Appendix C).

Section III. Harassment of Job Applicants and Independent Contractors

A. Policy

The applicable harassment policy for applicants and independent contractors is Executive Orders 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 E.

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 D.

An individual with a complaint against a staff member or manager 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:

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Ms. Janice Parten
Director, Human Resources
Joyal Administration Building Room 161
5150 North Maple Avenue M/S JA 41
California State University, Fresno
Fresno, CA 93740
FAX: 559-278-7795

An individual with a complaint against a faculty member may file a complaint with the Associate Vice President for Academic Personnel by contacting 559-278-3027, or by delivering or sending (via mail or fax) a copy of the complaint form or written statement to:

Ms. Janette Redd Williams
Associate Vice President for Academic Personnel
California State University, Fresno
Haak Center, 4th Floor
5200 N. Barton M/S ML55
Fresno, CA 93740
FAX: 559-278-8190

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
Haak Center, 4th Floor
5200 N. Barton M/S ML52
Fresno, CA 93740
559-278-2324

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

Ms. Cynthia Teniente-Matson
Vice President for Administration
California State University, Fresno
Haak Center, 4th Floor
5200 N. Barton M/S ML52
Fresno, CA 93740
559-278-2083

Dr. William A. Covino
Provost and Vice President for Academic Affairs
California State University, Fresno
Haak Center, 4th Floor
5200 N. Barton M/S ML54
Fresno, CA 93740
559-278-2636

Dr. Paul Oliaro
Vice President for Student Affairs
California State University, Fresno
Joyal Administration
5150 N. Maple Ave. M/S JA67
Fresno, CA 93740
559-278-2541

Dr. Peter Smits
Vice President for University Advancement
California State University, Fresno
Haak Center, 4th Floor
5200 N. Barton M/S ML118
Fresno, CA 93740
559-278-6050

Thomas Boeh
Director of Athletics
California State University, Fresno

1510 E. Shaw Ave., Ste. 103 M/S NG27
Fresno, CA 93710
559-244-5641

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 will review all complaints whenever they are brought forward. This provision is not intended to extend the statute of limitations that is provided by law. Investigation procedures are set forth in Executive Order 927, Section D (Appendix A).

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, 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 discrimination, harassment, or retaliation charge, it is legally required to respond by taking reasonably necessary steps (subject to applicable collective bargaining agreements) to eliminate and deter any such misconduct 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 supervisors⁵, including department chairs, are required to report in writing all discrimination, harassment, and retaliation complaints to the Director of Human Resources, except complaints by faculty members, which are reported to the Associate Vice President for Academic Personnel, and complaints by students, which are reported to the Dean of Students. 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 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

⁵ 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 Code Section 12926 (r))

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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, the Associate Vice President for Academic Personnel, or the Dean of Students, in consultation with the appropriate Vice President(s) or Athletics Director, and others, may determine that 1) an administrative review, and/or 2) an investigation by an external investigator is needed. Such review(s) and/or investigation(s) may be conducted by staff in Human Resources, by the Associate Vice President for Academic Personnel, the Dean of Students 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 administrator responsible for processing the complaint. A copy of these procedures will be supplied to each party. A prompt and equitable resolution of discrimination, harassment, or retaliation 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 for employees and for students no later than twenty (20) work days after the end of the academic term in which the most recently alleged discriminatory/harassing/retaliatory act occurred. Occasionally, the time limit will need 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.⁶

5. President's decision - The President will be notified of the findings of administrative reviews and investigations. The President 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 - 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 the Associate Vice President for Academic Personnel. 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, the matter will be referred to the Dean of Students. The Dean and/or the Vice President for Student 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. 628 which is consistent with that portion of Title 5 that addresses student discipline at California State University.⁷ Specifically, "any student on a campus may be expelled, suspended, placed on probation or given a lesser sanction for...the following causes which must be campus related:

⁶ 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.

⁷ California Code of Regulations, Title 5, Chapter 1, Subchapter 4, Article 2, Sections 41301 and 41304. CSU Executive Order No. 628 is available at the following Web site: <http://www.calstate.edu/EO/EO-628.pdf>

***Policies and Procedures Addressing Discrimination,
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California State University, Fresno
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-
- (e) physical abuse, on or off campus property, of the person or property of any member of the campus community or of members of his or her family or the threat of such abuse;
 - (k) abusive behavior directed toward, or hazing of, a member of the campus community.”

As used above, the term “member of the campus community” is defined as meaning CSU Trustees, academic, non-academic and administrative personnel, students and other persons while such other persons are on campus property or at a campus function. The term “campus property” includes:

- (a) real or other property in the possession of, or under the control of, the Board of Trustees of the CSU, and
- (b) all campus feeding, retail or residence facilities whether operated by a campus or by a campus auxiliary organization.

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.

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 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, the Associate Vice President for Academic Personnel, and the Dean of Students, as applicable, 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

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- 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 |
| • Stud/Athletes | Avante Services | 559-261-9050 |
| • Employees: | Employee Assistance and Wellness | 559-278-4357 |
| • Everyone: | Campus Police Department | 559-278-8400 |
| | 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
2300 Tulare Street, Suite 215
Fresno, CA 93721
559-487-5793 or 800-669-4000 TTY: 800-669-6820

Student complaints:

U.S. Department of Education
Office of Civil Rights
50 Beale Street, Suite 7200
San Francisco, CA 94105
Tel.: (415) 486-5555 Fax: (415) 486-5570

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:

- *U.S. Department of Education*
Office of Civil Rights
50 Beale Street, Suite 7200
San Francisco, CA 94105
Tel.: (415) 486-5555 Fax: (415) 486-5570
- 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]

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- 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 and Approved by the President 07-06-2010

**Policies and Procedures Addressing Discrimination,
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THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR

BAKERSFIELD

January 6, 2005

CHANNEL ISLANDS

CHICO

MEMORANDUM

DOMINGUEZ HILLS

TO: CSU Presidents

FRESNO

FROM: Charles B. Reed
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

SACRAMENTO

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

SAN BERNARDINO

SAN DIEGO

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 FRANCISCO

SAN JOSE

CBR/eb

SAN LUIS OBISPO

Attachment

SAN MARCOS

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

SONOMA

STANISLAUS

***Policies and Procedures Addressing Discrimination,
Harassment, and Retaliation***

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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

***Policies and Procedures Addressing Discrimination,
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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

***Policies and Procedures Addressing Discrimination,
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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

***Policies and Procedures Addressing Discrimination,
Harassment, and Retaliation***

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Appendix B

THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR



BAKERSFIELD

January 6, 2005

CHANNEL ISLANDS

CHICO

MEMORANDUM

DOMINGUEZ HILLS

TO: CSU Presidents

FRESNO

FROM: Charles B. Reed
Chancellor

FULLERTON

SUBJECT: 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 Procedure - Executive Order No. 928

HAYWARD

HUMBOLDT

LONG BEACH

LOS ANGELES

Attached is a copy of Executive Order 928, which supersedes Executive Order 675. Executive Order 928 provides the procedures for filing and processing discrimination, harassment and retaliation complaints for employees who are not eligible to file a complaint or grievance under a collective bargaining agreement or whose collective bargaining agreement incorporates CSU systemwide complaint procedure for such purposes. This executive order provides guidelines for handling discrimination, harassment and retaliation claims that are either not formalized in a written complaint or not filed timely.

MARITIME ACADEMY

MONTEREY BAY

NORTHRIDGE

POMONA

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

SACRAMENTO

SAN BERNARDINO

In accordance with the policy of the California State University, the campus president has the responsibility for implementing Executive Order 928 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

***Policies and Procedures Addressing Discrimination,
Harassment, and Retaliation***

California State University, Fresno
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Executive Order No. 928

I. Introduction

- A. The California State University (CSU), through its chancellor and presidents, is committed to the equitable and prompt response to any allegation of discrimination, harassment or retaliation made by an employee.
- B. Should discrimination, harassment or retaliation be found to exist in any employment action within CSU, all appropriate measures shall be taken to prevent recurrence and to remedy any effects on the claimant/complainant and others, if appropriate. Furthermore, should findings be made of discrimination, harassment or retaliation on the part of any CSU employee, appropriate action, including possible disciplinary action against the perpetrator, shall be taken under the direction of the president or chancellor, as applicable.

II. Application

This procedure shall apply to CSU employees, as defined below, who are not eligible to file a discrimination, harassment or retaliation complaint or grievance under a collective bargaining agreement or whose collective bargaining agreement incorporates CSU systemwide complaint procedure for such purposes.

III. Definitions

- A. "Employee" includes any full- or part-time CSU employee, whether permanent, tenured, probationary, temporary, intermittent, casual employment, or Management Personnel Plan employee.
- B. "Claimant" refers to an employee who has made a discrimination, harassment or retaliation claim under Section V of this executive order.
- C. "Complainant" refers to an employee who is eligible to file, and has filed, a written formal discrimination, harassment or retaliation complaint under Section VI of this executive order.
- D. "Complaint" refers to a written formal allegation filed by a complainant under Section VI of this executive order.
- E. "Representative" refers to a union representative from the claimant or complainant's collective bargaining unit, or another individual who may serve as a representative of an employee entitled to such representation under the provisions of this executive order.
- F. The terms "Respond" and "File" refer to personal delivery or deposit in the U.S. Mail, certified with return receipt requested. If personal delivery is used, the calendar date of delivery shall establish the date of response or filing. If certified mail delivery is used, the postmark shall establish the date of response or filing.

***Policies and Procedures Addressing Discrimination,
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Executive Order No. 928

IV. Scope

- A. In order to use this procedure, a CSU employee must assert:
 - 1. A violation of CSU's systemwide policies against discrimination, harassment or retaliation; and
 - 2. The specific harm resulting from the alleged violation.

V. Informal Level (Optional)

- A. Prior to or instead of filing a written formal complaint under Section VI of this executive order, an employee (claimant) may seek to meet with the campus administrator responsible for administering CSU nondiscrimination, anti-harassment and non-retaliation policies, or a campus administrator designated by the president (or chancellor, if the employee works at the Chancellor's Office), to determine the nature of any discrimination/harassment/retaliation claim and to explore a resolution of the claim. Such claimant must be given information on how to file a formal complaint during this meeting.
- B. The claimant should request this meeting no later than twenty days after the event giving rise to the claim or no later than twenty days after the claimant knew or reasonably should have known of the event giving rise to the claim. The claimant and campus administrator should meet as soon thereafter as possible, but no later than fourteen days after the claimant has requested the meeting.
- C. The employee may have a representative present during the discussion of the claim with the campus administrator.
- D. Whenever possible, the campus administrator shall attempt to resolve the claim at the Informal Level. A resolution at the Informal Level shall be documented.
- E. The campus administrator may decide an informal resolution is inappropriate and/or that the circumstances described by the claimant warrant investigation. The campus administrator should invite the claimant to file a formal written complaint pursuant to Section VI of this executive order if the campus administrator concludes that an investigation is warranted.
- F. If the claimant decides to file a formal written complaint, the investigation shall be conducted pursuant to Sections VI and VIII of this executive order.
- G. If the campus administrator concludes that an investigation is warranted but the claimant declines to file a formal written complaint at this time, the investigation shall nevertheless be conducted.

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- H. Each campus shall have in place a procedure for investigating discrimination, harassment and retaliation claims described in section V(G). The procedure is to be consistent with Section VIII of this executive order.
 - I. The campus administrator shall respond to the claimant no later than sixty days after the meeting pursuant to Sections V(A) and V(B) is held, unless an extension of the timeline has been obtained pursuant to Section VIII(F) of this executive order.
 - J. Generally, the response should include a summary of the allegations, a description of the investigative process, the standard used to determine whether a violation of policy occurred, the evidence considered and a determination of whether the allegations were substantiated.
 - K. The response shall inform the claimant of his/her option for filing a written formal complaint under Section VI of this executive order, if he/she disagrees with the finding of the investigation, and the timeline for doing so.
- VI. Level I – Formal
- A. An employee may enter the Formal Level procedure in one of three ways:
 1. By filing a written formal complaint that was not preceded by an Informal Level investigation;
 2. By filing a written formal complaint at the invitation of the campus administrator who, having discussed the allegations with the employee at the Informal Level, determined that an investigation is warranted; or
 3. In response to the results of an Informal Level investigation with which the employee disagrees.

In the first two instances, an employee may file a written formal Level I complaint with the president (or chancellor, if the employee works at the Chancellor's Office) no later than:

- Thirty days after the event giving rise to the complaint; or
- Thirty days after the employee knew or reasonably should have known of the event giving rise to the complaint.

In the third instance, an employee may file a written formal Level I complaint with the president (or chancellor, if the employee works at the Chancellor's Office) no later than ten days after the Informal Level response.

***Policies and Procedures Addressing Discrimination,
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California State University, Fresno

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- B. If the employee chooses to file a written formal complaint, he/she shall either complete the complaint form provided by the CSU (attached) or submit a signed statement containing all of the information below:
1. The terms of the CSU systemwide policies against discrimination, harassment or retaliation alleged to have been violated and, if applicable, the reasons why the investigation conducted under the Informal Level procedure did not resolve the issue.
 2. The specific harm resulting from the violation.
 3. A detailed description of the factual events giving rise to the complaint.
 4. The complainant's name, address, home and work phone numbers, job title, and classification.
 5. The name, address and telephone number of the representative, if any.
 6. The date the complaint was filed.
 7. The complainant's signature.
- C. If the allegations contained in the complaint have not previously been evaluated to determine whether an investigation is warranted, the campus administrator responsible for administering the CSU nondiscrimination, anti-harassment and non-retaliation policies, or the campus administrator designated by the president (or the chancellor, if the employee works at the Chancellor's Office) shall do so.
- D. If an investigation is deemed not warranted, the campus administrator shall respond to the complainant in a timely manner, explaining why no investigation is conducted.
- E. If an investigation is deemed warranted, the investigator shall hold a meeting with the complainant and the complainant's representative, if any, at a mutually acceptable time and location.
- F. The complainant shall inform the investigator of all issues and evidence known, or which could reasonably be known, to the complainant that are related to the complaint. If an investigation had been conducted at the Informal Level, the complainant shall discuss the complainant's specific disagreements with such findings and the relevant reasons and evidence. The complainant may present no additional issues after Level I.
- G. The investigator shall carefully review the issues raised by the complainant and conduct an investigation pursuant to Sections VI and VIII of this executive order. Where an Informal Level investigation had already been conducted, the Level I

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investigation should be limited in scope to the complainant's specific disagreements with the findings at the Informal Level.

- H. The campus administrator shall respond to the complainant no later than sixty days after the Level I filing, unless an extension of the timeline has been obtained pursuant to Section VIII(F) of this executive order.
- I. Generally, the Level I response should include a summary of the allegations, a description of the investigative process, the standard used to determine whether a violation of policy occurred, the evidence considered and a determination of whether the allegations were substantiated.

VII. Level II – Formal

- A. The complainant may file a Level II complaint with the Office of the Chancellor no later than ten days after the Level I response if the complainant is not satisfied with the outcome at Level I.
- B. The request for a Level II review shall be in writing and shall detail the specific disagreements with the Level I response.
- C. The investigator shall meet with the complainant to discuss the complainant's disagreements with the Level I response. The investigator shall carefully review the issues raised by the complainant and conduct an investigation pursuant to Sections VII and VIII of this executive order. The investigation should be limited in scope to the complainant's specific disagreements with the findings at Level I.
- D. The University shall respond to the complainant no later than ninety days after the Level II filing, unless an extension of the timeline has been obtained pursuant to Section VIII(F) of this executive order.
- E. Generally, the Level II response should include a summary of the allegations, a description of the investigative process, the standard used to determine whether a violation of policy occurred, the evidence considered and a determination of whether the allegations were substantiated. The Level II response shall be the final decision.

VIII. General Provisions

- A. The person who conducts an investigation under this executive order may be the campus administrator in charge of administering CSU policies on nondiscrimination, anti-harassment and non-retaliation or someone else designated by the president/chancellor, provided that he/she shall be an MPP employee or an external consultant, who is not within the administrative control or authority of the person alleged to have discriminated, harassed or retaliated, and was not involved in the investigation at the lower level(s), if any. All

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investigations under this executive order shall be conducted in a reliable and impartial manner.

- B. CSU employees are required to cooperate with the investigation, be forthright and honest, and keep confidential the existence and details of the investigation.
- C. The investigation shall include, at a minimum, formal interviews with the claimant/complainant and the person alleged to have discriminated or harassed (i.e., the respondent).
- D. Both the claimant/complainant and the respondent shall have the right to identify witnesses and other evidence for consideration in connection with the investigation; however, the investigator may decide which witnesses are relevant to the investigation.
- E. The claimant/complainant may have a representative present during his/her meeting with the campus administrator and/or the investigator to discuss the discrimination or harassment claim/complaint. Where the respondent is a CSU employee and the allegations are such that, if true, they could reasonably subject the respondent to discipline, then the respondent shall be permitted to have a representative accompany him/her to the interview.
- F.
 - (1) Time limits set forth herein refer to working days, which are Monday through Friday, excluding all officially recognized University holidays or closure of the campus where the claim/complaint originated.
 - (2) If the claimant/complainant, the respondent, the witnesses, the campus administrator, the investigator, or the Chancellor's Office designee is on an approved leave of three days or more, the time limits shall be extended by the length of time the individual is absent.
 - (3) Time limits set forth herein may also be extended by mutual agreement. If the University requests a time extension in order to conduct an effective investigation and the claimant/complainant does not agree, the University will issue a response within the timeline of this executive order based on the information available at that time. The investigation shall continue until the University is satisfied its duty to respond appropriately to allegations of discrimination, harassment or retaliation has been discharged, provided the investigation is completed no later than one hundred twenty days after the meeting is held between the claimant and the campus administrator or between the complainant and the individual designated to respond, as applicable.
- G. CSU is not obligated under this executive order to investigate a complaint not timely filed under its provisions. An untimely filed complaint may not be re-filed. Notwithstanding the foregoing, CSU shall investigate the underlying

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allegations in an untimely filed discrimination, harassment or retaliation complaint if CSU determines the circumstances warrant investigation. The investigation conducted in such a circumstance does not resurrect the employee's complaint or permit a subsequent filing of that complaint. The response issued at the conclusion of the investigation will note that the complaint was untimely filed. The investigation shall be conducted under the Informal Level procedure of this executive order.

- H. A complainant may withdraw a complaint at any time. The complainant shall not be entitled to file any subsequent complaint on the same alleged incident under the Formal Level procedure of this executive order. Although the complainant is barred from filing subsequent complaints on the same incident, the underlying allegations of a withdrawn discrimination, harassment or retaliation complaint shall be investigated if CSU determines the circumstances warrant investigation. The investigation conducted in such a circumstance does not resurrect the employee's complaint or permit a subsequent filing of that complaint. The response issued at the conclusion of the investigation will note that the complaint was withdrawn. The investigation shall be conducted under the Informal Level procedure of this executive order.
- I. If, after an investigation has been conducted, the president/chancellor concludes it is reasonably likely that CSU policy against discrimination, harassment or retaliation was violated, he/she will take prompt and appropriate measures to remedy any damage done by the violation and to prevent any further violations.
- J. Failure by the University to respond timely shall permit the complaint to be filed at the next level.
- K. By mutual agreement, the complainant and the University may consolidate complaints on similar issues at any level.
- L. Taking into account campus operational needs, CSU shall provide the claimant and representative, if any, one hour release time for preparation of the claim and reasonable time for presenting the claim at the Informal Level upon their request.
- M. Taking into account campus operational needs, CSU shall provide the complainant and a representative, if any, reasonable release time for preparing and presenting the complaint upon their request.
- N. Where it is necessary for the complainant or his/her representative to have access to specific information for the purpose of investigating a complaint, the complainant or his/her representative shall make a written request for such information to the appropriate administrator. The complainant or his/her representative shall have access to information within the policies and procedures and laws governing confidentiality and privacy that are relevant to any issue

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raised in the complaint. This provision does not authorize a complainant access to the personnel files of another without the written consent of that person.



Charles B. Reed, Chancellor

Dated: January 6, 2005

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Appendix C

MEMORANDUM

***Policies and Procedures Addressing Discrimination,
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California State University, Fresno
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TO: CSU Presidents

Revised July, 2010 based on EO 927, EO 928, and EO 1045

FROM: Charles B. Reed
Chancellor

SUBJECT: Systemwide *Policy* Prohibiting Discrimination, Harassment, and
Retaliation Against Students and Applicants for Admission
AND
Systemwide *Procedure* for Handling Discrimination, Harassment and
Retaliation Complaints by Students and Applicants for Admission
Against the CSU and/or CSU Employees - Executive Order No. 1045

Attached is a copy of Executive Order No. 1045. This executive order is established pursuant to the California Equity in Higher Education Act, Education Code Sections 66250 et seq., among other applicable state and federal laws.

This executive order sets forth the systemwide policy prohibiting discrimination, harassment and retaliation against California State University (CSU) students and applicants for admission; and it also provides students and applicants for admission a systemwide procedure for filing complaints of discrimination, harassment and retaliation against the CSU and/or CSU employees.

Student/applicant for admission complaints filed on or after the effective date of this executive order shall be processed in accordance with the policy and procedures outlined herein. Student/applicant for admission complaints filed before the effective date of this executive order shall be handled in accordance with respective CSU campus policies and procedures.

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

To maintain an environment free from discrimination, harassment and retaliation, this executive order shall be made available to all CSU employees, students and applicants for admission as a student.

If you have questions regarding this executive order, please contact Rosalinda Velasco, Equal Opportunity & Whistleblower Compliance Unit, Systemwide Human Resources, at 562.951.4655 or rvelasco@calstate.edu.

Executive Order 1045

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

Executive Order: 1045

Effective Date: March 1, 2010

Supersedes: No Prior Executive Order

Title: Systemwide *Policy* Prohibiting Discrimination, Harassment, and Retaliation Against Students and Applicants for Admission
AND
Systemwide *Procedure* for Handling Discrimination, Harassment and Retaliation Complaints by Students and Applicants for Admission Against the CSU and/or CSU Employees - Executive Order No. 1045

Definitions

Article I Definitions

For the purpose of this executive order, the following definitions apply:

- A. **Academic Affairs** means the division at the Chancellor's Office that is responsible for gathering, reviewing and evaluating information on the admission criteria of a campus academic program.
- B. **Accused** means the CSU and/or a CSU employee against whom an allegation of discrimination, harassment or retaliation has been made.
- C. **Applicant for Admission (or Applicant)** means an individual who has applied for admission to an undergraduate, graduate, or credential program at a CSU campus that leads to the pursuit of a CSU degree.
- D. **Age** has the same meaning as defined in California Government Code Section 12926(b) and refers to the chronological age of any individual who has reached his or her fortieth (40th) birthday.
- E. **California State University (CSU)** means the 23 campus system of the California State University, including the Office of the Chancellor (CO).
- F. **Campus (or University)** means any of the 23 campuses of the California State University.

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- G. **Chancellor's Office (CO) Designee** means the person tasked with reviewing and responding to a student's/applicant for admission's appeal at Formal Level II.
- H. **Complaint** means a written communication that complies with Article VI, Section C, of this executive order, alleging discrimination, harassment or retaliation against the CSU and/or a CSU employee.
- I. **Complainant** means an individual who is eligible to, and does, file a complaint to report discrimination, harassment or retaliation as defined by this executive order.
- J. **Day** means a work day. Work days are defined as Monday through Friday, excluding all official holidays or campus closures at the campus where the complaint originated.
- K. **Disability** means mental or physical disability as defined in California Education Code Section 66260.5.
- L. **Discrimination** means a discriminatory act against a student/applicant on a basis prohibited by California Education Code Sections 66250 et seq. and/or this executive order.
- M. **Discriminatory Act** means an act that meets the legal elements of a discrimination claim.
- N. **Employee**, as defined in Title 5 of the California Code of Regulations, means a person legally holding a position in and employed by the California State University (e.g., Administrators, Faculty, Staff, and Student Employees).
- O. **Gender**, as defined in California Education Code Section 66260.7, means sex, and includes a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.
 - o **Sex** has the same meaning as defined in California Government Code Section 12926(p), which includes, but is not limited to, pregnancy, childbirth or medical condition related to pregnancy or childbirth.
- P. **Harassment** means unwelcome conduct that is engaged in because of the protected status of a student or an applicant, and:
 - 1. Submission to such conduct is made either an explicit or implicit term or condition of admission or academic evaluation;
 - 2. Submission to or rejection of such conduct is used as the basis or threatened to be used as the basis for an academic assessment affecting the student or applicant; or
 - 3. Such conduct is so severe or pervasive that its effect, whether or not intended, is an educational environment that could be considered by a reasonable person, in the shoes of the student/ applicant, and is in fact considered by the student/applicant, intimidating, hostile or offensive.
- Q. **Investigator** means the person tasked by a campus with investigating a complaint of discrimination, harassment, or retaliation at Formal Level I. An investigator may be a Management Personnel Plan employee or an external consultant.
- R. **Management Personnel Plan Employee**, as defined in Title 5 of the California Code of Regulations, means an employee who has been designated as "management" or "supervisory" in accordance with the provisions of the Higher Education Employer-Employee Relations Act.
- S. **Nationality**, as defined in California Education Code Section 66261.5, includes citizenship, country of origin, and national origin.
- T. **Preponderance of the Evidence** means the greater weight of the evidence; i.e., that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side.
- U. **Protected Status** means any basis listed or defined in California Education Code Sections 66250 et seq.

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- V. **Race** or ethnicity, as defined in California Education Code Section 66261.7, includes ancestry, color, ethnic group identification, and ethnic background.
- W. **Religion**, as defined in California Education Code Section 66262, includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.
- X. **Retaliation** means adverse action that is taken by a CSU employee because a student or an applicant has or is believed to have:
 - o Reported or opposed conduct which the student or applicant reasonably and in good faith believes is discrimination/harassment/ retaliation; or
 - o Participated in a discrimination/harassment/retaliation investigation/proceeding.
- Y. **Sexual Orientation**, as defined in California Education Code Section 66262.7, means heterosexuality, homosexuality, or bisexuality.
- Z. **Student** means an individual who has been admitted to an undergraduate, graduate, or credential program at a CSU campus that leads to the pursuit of a CSU degree.

Systemwide Policy Prohibiting Discrimination, Harassment, and Retaliation Against Students and Applicants for Admission

Article II Statement of Policy

The California State University (CSU), through its chancellor and presidents, is committed to creating an atmosphere in which all students have the right to participate fully in CSU programs and activities free from unlawful discrimination, harassment and retaliation.

This policy is established in compliance with the California Equity in Higher Education Act, California Education Code Sections 66250 et seq., among other applicable state and federal laws. It is the policy of the CSU that no student or applicant for admission as a student shall, on the basis of disability, gender, nationality, race or ethnicity, religion, sexual orientation, or age, be unlawfully excluded from participation in or be denied the benefits of any CSU program or activity. Nor shall a student or applicant for admission as a student be otherwise subjected to unlawful discrimination, harassment, or retaliation for exercising his/her rights under this executive order.

Employees and students who violate this policy may be subject to discipline. If discipline of a CSU employee is appropriate under this policy, it shall be administered in a manner consistent with applicable collective bargaining agreements, CSU policies, and provisions of California Education Code Sections 89535 et seq. Discipline of a student shall be administered in accordance with Section 41301 of Title 5, California Code of Regulations.

Article III Implementation and Communication of the Policy

Each campus president shall designate a Management Personnel Plan employee who shall be responsible for the implementation of, and compliance with, this policy.

This executive order shall be made readily available to all students, applicants for admission, and to all CSU employees, utilizing multiple media of communication, including student orientations, student catalogs, new employee orientations, campus websites, and the offices of Equity and Diversity, Student Affairs, Student Judicial Affairs, and Human Resources.

Complaint Process

Article IV Complaints Regarding Violations of the Policy

A. Complaints That Are Not Against the CSU and/or CSU Employees

Discrimination, harassment and retaliation complaints against students, visitors, vendors or independent contractors who are not CSU employees shall be filed under campus procedures, not under the procedures in this executive order.

Discrimination complaints against students shall be filed at each respective campus per Executive Order 1043, Student Conduct Procedures. Complaints received from students against students shall be referred to the campus designated Student Conduct Administrator for the appropriate governance.

Grade appeals without a discrimination issue shall be filed under campus procedures, per Executive Order 1037, Grading Symbols, Minimum Standards Governing the Assignment of Grades, Policies on the Repetition of Courses, Policies on Academic Renewal, and Grade Appeals.

B. Complaints Against the CSU and/or CSU Employees

This executive order provides students and applicants for admission a procedure to address unlawful discrimination, harassment and retaliation by the CSU and/or CSU employees. The procedure is delineated in Articles V, VI, VII and VIII of this executive order.

Each campus shall designate specific employees to receive complaints filed against the CSU

and/or CSU employees under this executive order.

C. Who May File Complaints

Only students in, or applicants for admission to, an undergraduate, graduate, or credential program at a CSU campus that leads to the pursuit of a CSU degree, may use Articles V, VI, VII and VIII to raise complaints of discrimination, harassment or retaliation against the CSU and/or CSU employees under this executive order.

Student employees, whose discrimination complaints arise out of their employment, shall file their complaints under Executive Order 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 Procedure, not under this executive order.

This policy and the procedures set forth herein do not apply to an individual taking courses through Continuing/Extended Education, unless the student is concurrently enrolled at a CSU campus and taking courses that lead to the pursuit of a CSU degree. Similarly, an individual participating in a program administered by a CSU auxiliary organization must use that organization's policies and procedures to file discrimination complaints, rather than this executive order. If the campus receives these types of complaints, the campus shall promptly acknowledge receipt of the complaints in writing and refer the complaints to the appropriate auxiliary organization or Continuing/Extended Education administrator.

**Systemwide Procedure for Handling Discrimination, Harassment and Retaliation
Complaints by Students and Applicants for Admission Against the CSU and/or CSU
Employees**

**Article V Complaints Against the CSU and/or CSU Employees - Informal Resolution -
Campus Level**

Students/applicants who believe they are or may have been victims of discrimination, harassment or retaliation by the CSU and/or a CSU employee may request that the Informal Resolution process be initiated prior to/or instead of filing a formal complaint.

Upon receipt of a student's/applicant's informal concern(s), the person who received the

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concern shall contact the campus designated Management Personnel Plan employee responsible for implementation of and compliance with this executive order at the campus and provide that individual with the student's/applicant's contact information.

During the Informal Resolution process, the University will attempt to resolve the student's/applicant's concern(s) quickly and effectively. The designated Management Personnel Plan employee will meet with the student/applicant, the accused, and any other person(s) or witness(es) determined to be necessary for a resolution of the matter, to review the allegations and any responses. Informal Resolution may take the form of a negotiated resolution facilitated by the Management Personnel Plan employee designated by the campus.

At any time during the Informal Resolution process, the student/applicant, may elect to terminate the process and proceed with Article VI of this executive order.

Both the student/applicant and the accused will be expected to keep the details of the informal resolution process confidential until the process is concluded.

If resolution is reached by these informal means, a record of the resolution will be memorialized in a written document and signed by the student/applicant. Such document will be maintained in accordance with applicable campus recordkeeping policies. The matter will be considered closed and the student/applicant will be precluded from subsequently filing a formal complaint or appeal on the same incident under this executive order.

If resolution is not reached by these informal means, the student/applicant will be informed about how to file a formal complaint pursuant to Article VI of this executive order.

The University may determine that circumstances warrant initiating an investigation even if a formal complaint is not filed and independent of the intent or wishes of the student/applicant. This does not impose a duty on the University to conduct an investigation any time informal resolution is sought. The investigation conducted by the campus in such a circumstance shall not be subject to Article VI of this executive order.

**Article VI Complaints Against the CSU and/or CSU Employees - Formal Level I -
Campus Level**

A. Filing a complaint. The student/applicant shall file a written complaint with a University

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employee designated to receive discrimination/harassment/retaliation complaints from students/applicants. The date of receipt shall establish the complaint filing date. The person who received the complaint shall contact the campus designated Management Personnel Plan employee who is responsible for implementation of, and compliance with, this executive order at the campus, and shall provide that individual with the student's/applicant's contact information and a copy of the complaint.

B. Timeline for filing a complaint. To be timely, the student/applicant must file a complaint no later than **twenty (20)** work days after the end of the academic term (semester/quarter) in which the most recently alleged discriminatory/ harassing/retaliatory act occurred.

C. Requirements of a Complaint. The student/applicant should complete the attached "CSU Student/Applicant for Admission Discrimination/Harassment/Retaliation Complaint Form" or, in the alternative, the student/applicant shall submit a written signed statement containing the following information:

1. The full name, address and telephone number(s) of the student/applicant;
2. The name of the accused employee(s) of the CSU and their position(s), if known;
3. The student's/applicant's protected status that is the alleged basis for the complained of discriminatory, harassing or retaliatory act;
4. A clear, concise written statement of the facts that constitute the alleged discriminatory, harassing or retaliatory act(s), including pertinent date(s) and sufficient information to identify any individuals who may provide information (e.g., potential witnesses) during the course of the investigation conducted under these procedures;
5. A statement by the student/applicant verifying that the information supporting the allegations are true and accurate to the best of his/her knowledge;
6. The term and year of the student's last active academic status or the term and year the applicant sought admission to the University;
7. The full name, address and telephone number of the student's/applicant's advisor, if any;
8. Specific harm resulting from the alleged violation;
9. Specific remedy sought;
10. The student's/applicant's signature; and
11. The date of complaint submission.

D. Intake interview. An interview with the student/applicant shall occur as soon as possible, but no later than **ten (10)** work days after the student/applicant has submitted a formal complaint. Students/applicants must make themselves available for this meeting. The meeting will serve to:

1. Acquaint the student/applicant with the investigation procedure and timelines, if not already done.

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2. Inform the student/applicant of his/her rights (including having an advisor), if not already done.
3. Request the student/applicant to complete and sign a formal complaint form, if not already done.
4. Conduct the initial intake interview.

E. **Advisor.** The student/applicant may elect to have an advisor accompany him/her to any meeting(s) and/or interview(s) with the University regarding the complaint. The advisor may be an attorney. The advisor's role in such meetings and/or interviews is limited to observing and consulting with the student/applicant.

F. **Notice Regarding Complaint.** Only those persons with a legitimate need to know will be apprised of the filing of and disposition of a complaint. Those persons may include, but are not necessarily limited to, appropriate organizational unit administrators (Deans, Chairs, Department Heads, Directors, Vice Presidents, and University Counsel) who must be involved to ensure that retaliatory action does not occur during or after the investigative process, and/or to effectuate corrective actions.

G. **Investigation Procedure and Report of Findings of Fact and Conclusions.** Upon inquiry or during the course of an investigation, the student/applicant shall be advised of the status of the investigation. The investigation shall be completed no later than **sixty (60)** work days after the intake interview, unless the timeline has been extended pursuant to Article VIII, Section E or F of this executive order. The timeline for the investigation shall not be extended pursuant to Article VIII, Section E or F for a period longer than an additional **thirty (30)** work days from the original due date. Within the investigation period stated above, the investigator will make findings of fact and conclusions regarding the allegations which he/she shall reduce to an investigative report. The preponderance-of-the evidence is the applicable standard for demonstrating facts in the investigation. In order to establish a fact, the investigator must find that its existence is more probable than its non existence: i.e., that it is more likely than not to exist. The investigative report should include a summary of the allegations, a description of the investigative process, the preponderance of the evidence standard used to determine whether a violation of policy occurred, the evidence considered and a determination of whether the allegations were found to be substantiated. The investigative report is then provided to the campus designated Management Personnel Plan employee responsible for implementing the executive order at the campus.

H. **Notice of Finding.** If the Management Personnel Plan employee is the same person who

investigated the complaint, he/she shall provide the student/applicant with notification of the outcome of the campus investigation within **ten (10)** work days of completing the report. Otherwise, within **ten (10)** work days of receiving the investigative report from the investigator, the campus designated Management Personnel Plan employee responsible for implementing the executive order at the campus shall review the report and notify the student/applicant in writing of the outcome of the campus investigation. The notification should include a summary of the allegations, a description of the investigative process, the preponderance of the evidence standard used to determine whether a violation of policy occurred, the evidence considered and a determination of whether the allegations were found to be substantiated. The notification shall inform the student/applicant of his/her option to file an appeal under Article VII of this executive order.

In addition to the above notification, a separate notification shall be provided to the accused(s), indicating whether or not the allegations at Formal Level I were substantiated and, if not, informing the accused(s) of the complainant's right to file an appeal.

**Article VII Complaints Against the CSU and/or CSU Employees - Formal Level II -
Appeal to Office of the Chancellor (CO)**

A. Timing for Appeal to CO. If the student/applicant is not satisfied with the decision made at Formal Level I, he/she may file a Formal Level II Appeal with the Office of the Chancellor no later than **ten (10)** work days after the receipt of the Formal Level I decision.

Formal Level II Appeals shall be addressed to: Office of the Chancellor, Equal Employment Opportunity & Whistleblower Compliance Unit, Systemwide Human Resources, 401 Golden Shore 4th Floor, Long Beach, CA 90802.

B. Appeal Request. The appeal shall be in writing and shall detail the specific disagreements with the Formal Level I response. The issues raised on appeal shall be limited to those issues raised during the Formal Level I process.

C. CO Review. The CO designee (and Academic Affairs, where admission criteria are at issue) shall carefully review the issues raised on appeal and issue a response pursuant to this executive order. The review shall be limited in scope to the student's/applicant's specific disagreements with the Formal Level I response.

D. **CO Response.** The CO designee shall respond to the student/applicant no later than **sixty (60)** work days after receipt of the Formal Level II filing, unless the timeline has been extended pursuant to Article VIII, Section E or F of this executive order. Generally, the response should include a summary of the issues raised on appeal, a description of the review process, the preponderance of the evidence standard used to determine whether a violation of policy occurred, the evidence considered and a final decision.

A separate notification shall be provided to the accused(s), indicating whether or not the allegations at Formal Level II were substantiated.

E. **Closure.** The CSU review of the complaint filed by a student/applicant under this executive order shall end following a final decision by the CO designee.

Article VIII General Provisions for Investigations of Complaints Against the CSU and/or CSU Employees

A. The person who conducts an investigation under this executive order at Formal Level I may be the campus designated Management Personnel Plan employee responsible for implementing the executive order or another Management Personnel Plan employee or an external consultant, provided the investigator is not within the administrative control or authority of the accused. All investigations/reviews under this executive order shall be conducted impartially and in good faith.

B. Students/applicants and CSU employees are required to cooperate with the investigation/review, including but not limited to attending meetings, being forthright and honest during the process, and keeping confidential the existence and details of the investigation/review. If a complainant and/or accused refuses to cooperate, the CSU may draw all reasonable inferences and conclusions on the basis of all available evidence and conclude the investigation/review.

C. A student/applicant must proceed with a complaint in good faith. A student/applicant who knowingly and intentionally files a false complaint, abuses this policy, or files a malicious or frivolous complaint may be subject to discipline. Discipline shall be taken in accordance with Section 41301, Title 5, California Code of Regulations. Such disciplinary action shall not be deemed to be retaliation under this executive order.

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D. Both the student/applicant and the accused shall have the right to identify witnesses and other evidence for consideration; however, the CSU shall decide which witnesses and evidence are relevant and significant to the issues raised.

E. If the student/applicant, the accused, a witness, the campus investigator/CO designee, or other necessary person involved in the complaint process is unavailable because of any reason deemed to be legitimate by the campus investigator/CO designee, the timelines in this executive order will be automatically adjusted according to the period of absence. The student/applicant will receive written notification of the period of extension.

F. Timelines set forth herein may also be extended by mutual agreement. If the student/applicant does not agree or does not respond to the CSU's request for a timeline extension, the CSU will respond to the complaint/appeal within the timelines set forth in this executive order. In that event, the response will be interim in nature as it will be based upon the information available at the time. The interim response will note that the investigation/review is continuing until the CSU is satisfied its duty to respond appropriately to the allegation(s) has been discharged. The interim response should include a summary of the allegations, a description of the investigative/review process, and should also provide the student/applicant with an anticipated date of completion of the investigation/review, whereupon the final response will be issued.

G. When submitting a complaint or issuing a Level I or II response, personal delivery or certified mail shall be used. If personal delivery is used, a signature acknowledging the calendar date of delivery shall be obtained which will establish the date of filing or response. If certified mail delivery is used, the postmark shall establish the date of response or filing.

H. The CSU is not obligated under this executive order to investigate a complaint not timely filed under its provisions. Regardless, the CSU may investigate the underlying allegations of any discrimination/harassment/retaliation complaint against the CSU and/or a CSU employee if it determines the circumstances warrant investigation. Also, if the circumstances warrant, the CSU may waive the time limits and choose to process the complaint under the complaint process set forth herein.

I. The CSU is committed to academic freedom assuring that all persons may exercise rights of free expression, speech and assembly; however, those rights do not allow any form of unlawful discrimination, harassment or retaliation. More detailed information about academic

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freedom may be found on the American Association of University Professors website
(<http://www.aaup.org/AAUP/issues/AF>).

Attachments:

[CSU Student/Applicant for Admission Discrimination/Harassment/Retaliation Complaint Form](#)
(.pdf)

and

[CSU Student/Applicant for Admission Discrimination/Harassment/Retaliation Complaint
Timeline](#) (.pdf)

Charles B. Reed Chancellor

Dated: January 27, 2010

**Appendix D
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			

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Dean:	Dr. Robert Harper	Peters Business Bldg. 282	278-2482
Assoc. Dean:	Dr. Lynnette Zelezny	Peters Business Bldg. 282	278-2482

Kremen School of Education

Dean:	Dr. Paul Beare	Education 210	278-0210
Associate Dean:	Dr. James Marshall	Education 205	278-0205

College of Engineering

Dean:	Dr. Michael Jenkins	Engineering East 124	278-2500
Associate Dean,:	Dr. Ram Nunna	Engineering East 124	278-2500

College of Health and Human Services

Dean:	Dr. Andrew Hoff	McLane Hall 178	278-4004
Associate Dean:	Dr. Jody Hironaka-Juteau	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:	Dr. Andrew Rogerson	Science 2, 301	278-3936
Associate Dean:	Dr. Fraka Harmsen		

Academic Personnel

Assoc V P for
Academic Personnel: Ms. Janette
Redd-Williams Thomas Administration 118 278-8191

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/>

Updated 07-30-08

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Appendix E – 1 of 2

***Policies and Procedures Addressing Discrimination,
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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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Revised July, 2010 based on EO 927, EO 928, and EO 1045

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."