

**THE CALIFORNIA STATE UNIVERSITY
Office of the Chancellor
400 Golden Shore
Long Beach, California 90802-4275**

(562) 985-2800

Date: January 21, 1998

To: Presidents

From: June M. Cooper
Senior Vice Chancellor and
Interim Chief of Staff

Subject: **Systemwide Complaint Procedure For Discrimination
Complaints By Employees Not Eligible to File a Discrimination
Complaint or Grievance Under a Collective Bargaining
Agreement**

Supersedes: Executive Order 419, dated July 1, 1983

I am transmitting a copy of Executive Order No. 675 which establishes a systemwide grievance procedure for discrimination complaints by employees not eligible to file a discrimination complaint under a collective bargaining agreement.

In accordance with policy of The California State University, the campus President has the responsibility for implementing Executive Orders where applicable and for maintaining the campus repository and index for all Executive Orders.

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Attachment

Distribution: Chancellor's Office Staff

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Office of the Chancellor
400 Golden Shore
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Executive Order No. 675

Title: Systemwide Complaint Procedure For
Discrimination Complaints for Employees
Not Eligible to File a Discrimination
Complaint or Grievance Under a Collective
Bargaining Agreement

Effective Date: January 19, 1998

Supersedes: Executive Order 419, dated July 1, 1983

This Executive Order is established to fulfill relevant state and federal regulations requiring that employees be provided the opportunity to file complaints which allege a violation of discrimination on the basis of race, religion, color, sex, sexual orientation, age, disability, marital status and/or national origin in violation of CSU Systemwide Policy on Nondiscrimination in Employment.

The Senior Director of Employment Practices in the Office of the Chancellor will be responsible for evaluating compliance with this Order and for providing assistance in the development of campus and systemwide nondiscrimination programs.

I. Introduction

- A. The California State University, through its Chancellor and Presidents, is committed to the equitable and prompt settlement of any complaint of discrimination on the basis of race, religion, color, sex, sexual orientation, age, disability, marital status and/or national origin made by any employee as defined herein. The purpose of this complaint procedure is to provide employees not covered by other procedures with the opportunity to settle matters involving an alleged violation, misapplication or misinterpretation of the CSU policy or relevant federal laws on nondiscrimination by other CSU employees, students or third parties.

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- B. The California State University encourages the equitable and prompt settlement of complaints which may be raised by any employee on a claim of discrimination based on any of the protected categories listed as part of CSU Systemwide Policy on Nondiscrimination in Employment. Should discrimination be found to exist in any employment action within the CSU, all appropriate measures will be undertaken to prevent recurrence and to correct any discriminatory effects on the complainant and others, if appropriate. Furthermore, should findings be made of intentional discrimination on the part of any CSU employee, appropriate disciplinary action shall be taken under the direction of the President, Chancellor or Board of Trustees, as appropriate.

II. Application

This procedure shall apply to all CSU employees, as defined herein, who are not eligible to file a discrimination complaint or grievance under a collective bargaining agreement.

III. Definitions

- A. As used herein, *Employee* refers to a permanent or tenured, probationary, temporary, or Management Personnel Plan employee who submits a complaint within the scope of this executive order.
- B. *Appropriate Administrator* - The term "appropriate administrator" as used herein refers to an administrator serving in a position not represented by a collective bargaining unit and designated as management or supervisory.
- C. *Representative* - the term "representative" as used herein shall be an employee, representative of the appropriate collective bargaining unit, or other individual who may serve as a representative at the complainant's request and who may be present at all levels through Level II.
- D. The terms "respond and file" as used herein refers 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 for response or filing.

IV. Scope

- A. This procedure may be used by an employee who alleges that he or she suffered harm in connection with the rights accruing to his or her job classification, benefits, working conditions, appointment, reappointment, tenure, promotion or reassignment. The employee must also allege that he/she has been harmed by a violation, misapplication, or misinterpretation of a specific term(s) of a CSU policy governing nondiscrimination, or other federal, state or local law or regulation, prohibiting discrimination based on gender, race, national origin, color, sexual orientation, disability, age, religion or marital status.
- B. In order to use this procedure, an employee:
 - 1. Must assert a violation, misapplication or misinterpretation of a CSU policy on nondiscrimination or one of the laws cited above.
 - 2. Must assert an adverse impact from the taking of a final action or the failure to take a final action on the part of the CSU in a timely manner.

V. Informal Level (Optional)

- A. Prior to the filing of a formal complaint under Section VI of these procedures, an individual or individuals may seek the advice and counsel of the campus administrator in charge of campus procedures and policies on nondiscrimination, or the campus administrator designated by the President, in an informal meeting in order to determine the nature of any claim of discriminatory practices and to facilitate an expeditious resolution of the potential complaint. The administrator shall be obligated to investigate the matter if he/she determines an informal settlement is not possible and the circumstances otherwise warrant an investigation. If an investigation is conducted, the parties shall be notified of the disposition of the potential complaint.
- B. An employee shall also have the right to present a potential complaint and to have that potential complaint considered in good faith. The employee and representative, if any, shall discuss the potential complaint with the appropriate administrator no later than thirty-five (35) days after the event giving rise to the potential complaint or no later than thirty-five days (35) after the employee knew or reasonably should have known of the event giving rise to the potential complaint.

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- C. Whenever possible, the parties shall attempt to resolve the potential complaint informally.
- D. A resolution of the potential complaint at the Informal Level shall not be precedent setting.

VI. Level I - Formal

- A. An employee may file a Level I complaint with the President or his or her designee no later than forty-two (42) days after the event giving rise to the complaint or no later than forty-two (42) days after the employee knew or reasonably should have known of the event giving rise to the complaint. In the event that the complainant declines to file a written formal complaint, the President or his or her designee may proceed with a formal investigation in order to fulfill the responsibility of the university to fully investigate and respond to allegations of discrimination.

If the employee chooses to file a formal complaint, he/she shall state on a complaint form provided by the CSU:

1. The term(s) of the CSU systemwide policy or applicable federal or state law or regulation governing nondiscrimination alleged to have been violated.
2. A detailed description of the factual events giving rise to the complaint.
3. The name and classification of the complainant and his/her signature.
4. The name, address and telephone number of the representative, if any.
5. The name and address of the Union, if the representative is acting as an agent of the Union.
6. The date of submission.

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- B. The appropriate administrator, designated by the campus President, shall hold a meeting with the complainant and the complainant's representative, if any, at a mutually acceptable time and location. The appropriate administrator shall respond to the complainant no later than thirty (30) days after the Level I filing.

The complainant shall present at Level I all issues and evidence known, or which could reasonably have been known, related to the complaint. No additional issues may be presented by the complainant after Level I.

VII. Level II

- A. In the event the complaint is not settled at Level I, the complainant may file a Level II complaint with the Office the Chancellor, no later than fourteen (14) days after the Level I response.
- B. Upon request of a complainant, a designated individual in the Office of the Chancellor shall hold a meeting with the complainant. The designated individual in the Office of the Chancellor shall respond to the complainant no later than ninety (90) days after the Level II filing. The Level II response shall be a final decision.

VIII. General Provisions

- A. The California State University, through its Chancellor and Presidents, assures that no retaliatory action or reprisals shall be taken against those person who file complaints of discrimination on the basis of race, religion, color, sex, sexual orientation, age, disability, marital status or national origin. This procedure may be used by an employee claiming retaliation for filing a discrimination complaint pursuant to this order.
- B. CSU employees are required to cooperate with the investigation and be completely honest in answering questions and providing information to the investigator.

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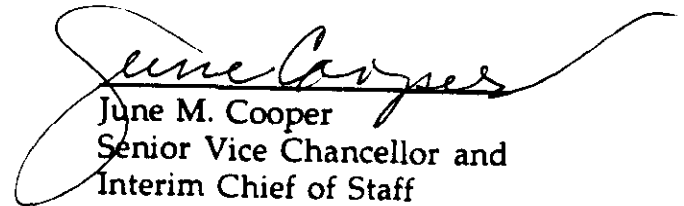
- C. All investigations shall be conducted in an adequate, reliable manner by an impartial investigator. In order to be considered impartial, the investigator shall not be an individual within the administrative control or authority of the person who is alleged to have discriminated.
- D. The complainant shall have the right to identify witnesses and other evidence for consideration in connection with any investigation conducted pursuant to these procedures.
- E. Failure of the complainant to comply with the time limitations of this procedure shall render the complaint null and void and bar any subsequent filing of that complaint. Failure by the appropriate administrator or President to respond in a timely manner under this procedure shall permit the complaint to be filed at the next level.
- F. (1) Time limits set forth herein refer to calendar days. If the last day of a described time limit falls on a weekend or campus holiday, the time limit shall be extended to the next campus working day.

(2) Time limits set forth in this procedure may be extended by mutual agreement. If the complainant or appropriate administrator is on a paid leave of seven (7) days or more, the time limits shall be extended by the length of time the complainant or the appropriate administrator is on leave.
- G. In cases 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 raised by the complaint. This provision does not authorize a complainant access to the personnel files of another without the written consent of that person.

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- H. A complainant may withdraw a complaint at any time. The complainant shall not file any subsequent complaint on the same alleged incident.
- I. The parties, by mutual agreement, may consolidate complaints on similar issues at any level.
- J. Prior to filing a complaint, the potential complainant and representative, if any, shall each be provided with one (1) hour released time for complaint preparation and reasonable time for complaint presentation at the Informal Level.
- K. After the complaint has been filed, a representative and the complainant shall be provided reasonable released time for the purpose of preparation and presentation of the complaint.
- L. Both parties agree that all complaint files shall be confidential. Both parties agree that specific statements made and records used in complaint meetings, as well as settlements achieved, shall be confidential.

Dated: January 19, 1998


June M. Cooper
Senior Vice Chancellor and
Interim Chief of Staff

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Attachment

List all persons allegedly involved in the discrimination:

Please attach any documentation in support of your charge. List all supporting documentation that is attached.

List any potential witnesses to the alleged discrimination.

Provide the name, address and telephone number of your representative, if any. If your representative is acting as an agent of the union, please also provide the name and address of the union.

Signature: _____ Date: _____