WHEREAS, There is a lack of accountability for the administration of sexual harassment prevention programs and the implementation of the campus policy on sexual harassment; and

WHEREAS, There is a lack of professional training programs for advisers (defined in the Sexual Harassment Policy) and management employees; and

WHEREAS, There is a lack of educational programs for faculty, staff, and students; and

WHEREAS, Prevention through education is the best tool for the elimination of sexual harassment; therefore, be it

RESOLVED: That the Affirmative Action Officer (AAO) should be responsible for all campus policies and programs dealing with sexual harassment. Specifically, the AAO is responsible for:

(a) the effective and timely implementation of the Sexual Harassment Policy (AB 88-5)

(b) the development and implementation of training and education programs dealing with the prevention of sexual harassment; and, be it further

RESOLVED: That the AAO, in consultation with the Executive Committee of the Academic Senate, should select a Training Development Team of three qualified employees to develop educational programs for faculty, staff, and students and training programs for Sexual Harassment Advisers and management employees.

The AAO should meet regularly with the Training Development Team in order to monitor their progress and coordinate their efforts with the Personnel Office, Academic Affairs Division, and Student Affairs Division. Members of the Team should be compensated (through assigned time) for their work; and, be it further

Adopted: May 29, 1990

ACADEMIC SENATE
OF
CALIFORNIA POLYTECHNIC STATE UNIVERSITY
San Luis Obispo, California

AS-344-90/PPC
RESOLUTION ON
SEXUAL HARASSMENT POLICY IMPLEMENTATION
That the Sexual Harassment Advisers should meet once a month during the academic year and should elect a chair. The chair, in consultation with the AAO, should set the agenda for the monthly meetings. The general purpose of these meetings should be continuing education for the Advisers and sharing of ideas and experiences related to advising; and, be it further

That every fall, commencing no later than fall 1991, the Training Development Team sponsor educational programs for faculty, staff, and students, sensitizing them to behavior that constitutes sexual harassment; and, be it further

That every fall, the AAO should send the list of Advisers (along with their campus phone numbers and addresses) to all students and campus employees. The AAO should emphasize that a complainant is free to meet with any Adviser.

Proposed By: The Academic Senate Personnel Policies Committee
May 15, 1990
Revised May 15, 1990
To: James L. Murphy, Chair
   Academic Senate

From: Warren J. Baker
   President

Subject: AS-344-90/PPC

I share the interest of the Academic Senate in promoting training programs to prevent sexual harassment. Enclosed is a copy of the brochure entitled "Sexual Harassment--Break the Pattern," which will be distributed to faculty, staff and students during Fall Conference Week. A similar brochure was distributed to all employees Spring Quarter 1990. In addition, posters (copies enclosed) of two different designs will also be distributed throughout campus. In developing these materials, the Personnel Office consulted the Status of Women Committee and Personnel Policies Committee of the Academic Senate, along with the Sexual Harassment Advisors. You may also recall that Jan Duffy conducted a sexual harassment workshop Winter Quarter 1990 for management, academic department heads/chairs, the Sexual Harassment Advisors, the Personnel Policies Committee and Status of Women Committee. Professional trainers have also met with the Sexual Harassment Advisors. While continuous efforts are needed, the above illustrations do demonstrate that the University is implementing educational programs on preventing sexual harassment.

Although many aspects of the resolution (AS-334-90/PPC) dealing with training have merit, I am reluctant to approve it as worded for a number of reasons. As you know, we are in the process of recruiting for an Affirmative Action Director who will probably begin employment during the latter part of Fall Quarter. I concur that the new Director should be assigned the responsibility to develop training programs to prevent discrimination, including sexual harassment, with the cooperation and resources of other offices of the University. The specifics of the training program will need to be developed in concert with other responsible groups and officers of the University. The Sexual Harassment Advisors have taken a responsible and active role in developing training programs, and I expect that the Affirmative Action Director will consult with them and other interested groups as training programs are developed. In view of diminishing resources, I am reluctant to approve release time for members of a training development team.
I believe it is important to keep in mind that under our Sexual Harassment Policy, all faculty, staff and administrators are held accountable for preventing sexual harassment. As such, implementation of the Sexual Harassment Policy is a shared responsibility, and should not be limited to the Affirmative Action Director. Also, the policy is quite clear that investigations of allegations by students of sexual harassment will be conducted by the Office of the Vice President for Student Affairs, and allegations by employees will be investigated by the Personnel Office.

I do believe continuing dialogue on this subject is helpful, and it is my intention to continue to involve the Academic Senate in addressing sexual harassment.
In December 1984 a special campuswide committee was formed to review the University's Sexual Harassment Policy then embodied in AB 81-3, the Chancellor's Executive Order on Sexual Harassment and other appropriate documents and to make recommendations on formulation of a comprehensive campus policy and procedures statement. The committee submitted its report and recommendations in November 1985. After an opportunity for review and comment by the Academic Senate, the Deans' Council, program managers and the Associated Students, a new Interim Sexual Harassment Policy was promulgated in May of 1986.

In the Spring of 1988, the Academic Senate recommended modifications in the policy. Although the basic policy intent remains in place, I have approved most of the recommended language changes suggested by the Academic Senate.

With these revisions, I am formally promulgating the University's Sexual Harassment Policy as Administrative Bulletin 88-5. This administrative bulletin supersedes AB 81-3 issued in 1981 and the Interim Sexual Harassment Policy distributed in May of 1986.

NOTE: This Administrative Bulletin should be filed in the Appendix of the Campus Administrative Manual and appropriate entries made in the CAM Index and Administrative Bulletins List. AB 81-3 is now superseded and should be deleted from the manual with appropriate entries made in the Index and Administrative Bulletins List.
SEXUAL HARASSMENT POLICY

California Polytechnic State University, San Luis Obispo, is committed to creating and maintaining an environment in which faculty, staff, and students work together in an atmosphere of mutual respect and unconstrained academic interchange. In the University environment, all faculty, staff, and students are entitled to be treated on the basis of their qualifications, competence, and accomplishments without regard to gender. Individuals are entitled to benefit from University programs and activities without being discriminated against on the basis of their sex.

Sexual harassment includes, but is not limited to, making unwanted sexual advances and requests for sexual favors where either (1) submission to or tolerance of such conduct is made an explicit or implicit term or condition of appointment, employment, admission, or academic evaluation; (2) submission to or rejection of such conduct by an individual is used as a basis for a personnel decision or an academic evaluation affecting an individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work or academic performance or creating an intimidating, hostile, offensive, or otherwise adverse working or academic environment, or adversely affecting any employee or student.

The Chancellor's Executive Order No. 345 requires each campus of the California State University to maintain a working and learning environment free from sexual harassment for its students, and employees, and those who apply for student or employee status.

Sexual harassment is not simply inappropriate behavior, it is illegal.

Discrimination on the basis of sex is prohibited by State and Federal law. ¹

Sexual harassment violates University policy, seriously threatens the academic environment, and is contrary to law. Program Managers and Department Heads/Chairs are responsible for taking appropriate steps to disseminate this policy statement to students and employees. All faculty, staff, and administrators will be held accountable for compliance with this policy [based on case law]. ¹

The policy of the campus is to eliminate and prevent sexual harassment and to provide prompt and equitable relief to the extent possible when such activity is reported or observed.

¹Title VII of the Civil Rights Act of 1964 (as amended); Title IX of the Education Amendments of 1972; Government Code Section 12940; and Education Code Section 200 et.seq.
Because of the wide range of acts that constitute sexual harassment, appropriate remedies will vary considerably depending on the case. In some cases the situation may be dealt with informally and without formal disciplinary action. In other cases a disciplinary action is clearly called for. The University may independently investigate a matter and initiate appropriate action, including discipline based on an informal complaint and without a formal complaint. The remedy will take into account the severity of the actions alleged as well as the responsibility of the parties involved. The University may pursue remedies such as an apology; removal of an individual from the environment; an educational program; reprimand; or disciplinary action which could result in dismissal, demotion, or suspension without pay. Remedies for substantiated allegations of sexual harassment will be determined by the University.

The University will also determine appropriate sanctions, including discipline, in situations where malicious and/or false allegations of sexual harassment are confirmed.

I. PURPOSE AND SCOPE

The purposes of this policy are to:

- implement Executive Order 345 and comply with other governmental regulations prohibiting sexual harassment;
- promote a positive working and learning environment on campus;
- provide Cal Poly faculty, staff and students with a specific procedure and policy to address sexual harassment;
- provide due process for all parties involved.

This policy applies to cases of alleged sexual harassment brought by, or on behalf of an applicant, student or employee against an employee or student of the University. Utilization of these procedures does not preclude initiation of complaints with the Fair Employment and Housing Commission or the Equal Employment Opportunity Commission.

II. DEFINITIONS

A. Sexual Harassment

In accordance with the Chancellor's Executive Order No. 345, "sexual harassment" includes such behavior as sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature directed towards an employee, student, or applicant when one or more of the following circumstances are present:

-- Submission to or toleration of the conduct by an individual is an explicit or implicit term or condition of appointment, employment, admission or academic evaluation;

-- Submission to or rejection of such conduct is used as a basis for a personnel decision or an academic evaluation affecting an individual;
The conduct has the purpose or effect of interfering with an employee's work performance, or creating an intimidating, hostile, offensive or otherwise adverse working environment;

The conduct has the purpose or effect of interfering with a student's academic performance, creating an intimidating, hostile, offensive or otherwise adverse learning environment, or adversely affecting any student.

In determining whether conduct constitutes sexual harassment the circumstances surrounding the conduct should be considered.

B. Advisor

"Advisor" means an employee(s) designated by a Program Manager to receive informal complaints; to help complainants evaluate their informal complaints; to inform them of campus policies, procedures and resources; and to attempt informal resolution if desired. The role of the Advisor is one of mediator between parties rather than the complainant's advocate. The complainant may seek an advocate from other sources.

For instructional areas, it is suggested that Program Managers appoint tenured employees as Advisors. For other areas, it is suggested that Program Managers appoint permanent employees as Advisors. The Dean of Student Affairs should appoint two Advisors.

C. Complainant

"Complainant" means a Cal Poly student or employee, or an applicant for student or employee status, who files a complaint under this Policy.

D. Program Manager

"Program Manager" means positions designated by the President, normally at dean/division head level or above.

E. Respondent

"Respondent" means the student or employee of Cal Poly alleged to have engaged in sexual harassment.

F. Sexual Harassment Investigator

Note: Investigations should be conducted by a male-female team whenever possible.

1. For complaints filed by students, the Sexual Harassment Investigator is the Associate Dean of Student Affairs responsible for Title IX compliance, or designee.
2. For complaints filed by employees, the Sexual Harassment Investigator is the Director of Personnel and Employee-Relations, or designee.

G. Student

"Student" means a person enrolled as a student, or an applicant for student status at Cal Poly at the time the alleged act of sexual harassment occurred. For the purpose of this Policy, Extended Education students are included.

H. Authorized Representative

"Authorized Representative" means anyone designated in writing by the Complainant.

I. Applicant

"Applicant" means a person who is applying for either student or employee status.

J. Day

A "day" means a working day to reflect the employment status of the individual involved. For students, "day" means any day in which classes are normally scheduled, excluding weekends and academic holidays.

III. EXAMPLES OF SEXUAL HARASSMENT

The issue of appropriate and inappropriate relationships between students and faculty, or between staff and supervisors is very complex. Some members of the University hold positions of authority that involve the legitimate exercise of power over others, and it is their responsibility to be sensitive to that power so as to avoid actions that are abusive or unprofessional. Faculty and supervisors in particular, in their relationships with students and supervisees, need to be aware of potential abuses of power and the possible compromise of their evaluative capacity. Because there is an inherent power difference in these relationships, the potential exists for the less powerful person to perceive a coercive element in suggestions regarding activities outside those appropriate to the professional relationship.

Faculty should be aware that anytime they pursue a sexual social relationship with a student, they risk a claim of sexual harassment.

In like manner, managers and supervisors should realize that whenever they pursue a sexual social relationship with a subordinate, they risk a claim of sexual harassment. It is the responsibility of faculty and supervisors to behave in such a manner that their words or actions cannot reasonably be perceived as being sexually harassing.
The following examples are intended to be illustrative and educational rather than exhaustive.

-- A senior colleague or supervisor directly or indirectly offers to influence a personnel decision (i.e., appointment, reappointment, promotion, tenure, permanency) in return for sexual favors, and/or suggests action against the employee for refusal;

-- A peer review committee member offers to support a candidate's endeavors in return for sexual attention;

-- An employee, in the presence of another employee of the opposite sex, makes repeated offensive comments of a sexual nature;

-- An instructor offers a better grade, extra help, or academic opportunity in return for sexual favors, and/or threatens action against the student for refusal;

-- A person supervising a student's job or academic assignment makes repeated sexual comments that interfere with work or the learning experience;

-- An advisor or counselor asks offensive questions of a sexual nature inappropriate to the topic at hand;

-- An unwelcomed touch of a sexual nature from a staff or faculty employee.

IV. CONFIDENTIALITY

All findings taken under this Policy and all reports filed shall be confidential, to the extent permitted by law. Every effort will be made to preserve confidentiality.

V. INFORMAL RESOLUTION PROCEDURE

A Employee Complainants

1. Complainants who are employees covered by collective bargaining agreements which have specific informal complaint procedures in addition to grievance procedures are required to utilize these complaint procedures. (Currently, the following employee agreements have informal complaint procedures: Unit 2, Health Care Support; Unit 5, Operations Support Services; Unit 7, Clerical/Administrative Support Services; and Unit 9, Technical Support Services.)

2. Complainants who are employees that are (a) not covered by collective bargaining agreements, or (b) covered by a collective bargaining agreement which does not contain an informal complaint procedure in addition to grievance procedures, must utilize Executive Order 419.

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B. Student or Applicant Complainants

Complainants who are students or applicants for either student or employee status are encouraged to attempt informal resolution of complaints of sexual harassment by utilizing procedures described in this document. However, Complainants are not required to attempt an informal resolution before filing a formal written complaint. The deadline for filing a formal written complaint is sixty (60) days from the alleged incident of harassment.

In seeking informal resolution, a Complainant may obtain assistance from any of the designated Advisors. The Sexual Harassment Investigators shall maintain and distribute the list of Advisors, upon request.

Advisors will be available to discuss the complaint with the Complainant, inform the Complainant of the informal and formal procedures available for seeking resolution of the complaint, advise the Complainant of applicable deadlines, provide the Complainant with a list of other campus resources available and provide assistance in preparing or resolving complaints of sexual harassment. The role of the Advisor is one of mediation between parties rather than the Complainant's advocate.

C. Confidentiality of Informal Complaints

The identity of the Complainant and the details of the informal complaint shall be received in confidence by the Advisor, where no records shall be kept except the date the complaint was filed. The Advisor shall advise the Title IX Coordinator in the Dean of Students' Office of the general nature and the date of the complaint without identifying any of the parties involved.

D. Informal Procedures for Student or Applicant Complainants

1. After consulting with an Advisor, a Complainant may, but need not, attempt to resolve the complaint directly with the person alleged to have engaged in the sexual harassment.

2. If the Complainant is unsuccessful in the attempt to gain an acceptable remedy or does not wish to make direct contact with the person alleged to have committed the harassment, the Complainant may, but need not, attempt to resolve the complaint with the Respondent's Department Head/Chair who is required to notify the Program Manager within three (3) working days of any sexual harassment complaint. If the Program Manager is the person alleged to have engaged in the sexual harassment, the Complainant may, but need not, attempt to resolve the complaint with the Director of Personnel and Employee Relations.
3. If the Complainant is unsuccessful in the attempt to gain an acceptable remedy or does not wish to pursue steps 1 or 2 above, a Complainant may bring the complaint directly to the attention of the Sexual Harassment Investigator who shall counsel the Complainant about any additional attempt that might be made to resolve the matter before filing a written complaint.

VI. FORMAL RESOLUTION PROCEDURES

A. Employee Complainant

1. Complainants who are employees covered by collective bargaining agreements which have specific formal complaint procedures in addition to grievance procedures are required to utilize these complaint procedures. (Currently, the following employee agreements have formal complaint procedures: Unit 2, Health Care Support; Unit 5, Operations Support Services; Unit 7, Clerical/Administrative Support Services; and Unit 9, Technical Support Services.)

2. Complainants who are employees that are (a) not covered by collective bargaining agreements, or (b) covered by a collective bargaining agreement which does not contain an formal complaint procedure in addition to grievance procedures, must utilize Executive Order 419.

B. Student and Applicant Complainants

1. Filing a Formal Complaint

Student and applicant Complainants should utilize the following procedure. Formal complaints shall be filed by a Complainant or his or her authorized representative with the appropriate Sexual Harassment Investigator. A formal complaint shall be in writing and must include:

   a. The name(s), address(es) and telephone number(s) of the Complainant(s) filing the complaint, and his or her Representative(s), if any.

   b. The name(s) of the Respondent(s), University title or classification, and department.

   c. A specific statement of the acts or practices alleged to constitute sexual harassment, including the dates on which and the locations in which such acts and practices are alleged to have occurred.

   d. The remedy requested by the complainant.

   e. The date the formal complaint was filed with the Sexual Harassment Investigator.
2. Review of Filed Complaint

   a. On receipt of a formal complaint, the Sexual Harassment Investigator shall immediately provide a copy to the Respondent and, within ten (10) days, review the complaint to determine whether it meets the requirements covered under this policy. The matter shall be investigated unless the complaint fails to establish a prima facie case as determined by the Sexual Harassment Investigator.

   b. A prima facie case is established when the Complainant presents information which, if unrebutted, would be sufficient to support a finding of sexual harassment affecting a complainant and injury resulting therefrom. Frivolous or otherwise groundless accusations without supporting evidence upon which a finding in the Complainant's favor might be reached do not constitute a prima facie case.

   c. If there are deficiencies in the complaint, the Sexual Harassment Investigator shall inform the person who filed the complaint of those deficiencies in writing and provide the opportunity to amend the complaint. If the Complainant fails to remedy the deficiencies, or if the amended complaint is not filed within ten (10) days, the Sexual Harassment Investigator will dismiss the complaint and inform the Complainant of the reasons.

   d. The Complainant may appeal such dismissal to the Vice President for Academic Affairs by filing a notice of appeal including a statement of the grounds for dismissal made by the Sexual Harassment Investigator within ten (10) days.

   e. The Vice President for Academic Affairs shall decide the appeal within twenty (20) days and shall either affirm the dismissal or shall direct the Sexual Harassment Investigator to proceed with processing the complaint.

3. Administrative Reviews

   a. Once it is determined to process the complaint, the Sexual Harassment Investigator shall within ten (10) days provide copies of the complaint to the Respondent's Program Manager and Department Head/Chair. The Respondent will be notified of the decision to proceed with the investigation.

   b. The Respondent shall file with the Sexual Harassment Investigator a response to the complaint within ten (10) days of receiving notice.
c. The Sexual Harassment Investigator or designee shall be responsible for conducting an administrative review of the case. The Sexual Harassment Investigator should endeavor to complete the investigation within thirty (30) days; extensions to continue an investigation beyond thirty (30) days must be approved by the President or designee. After a thorough investigation of the case, the Sexual Harassment Investigator shall provide a preliminary report to the Complainant and Respondent. Both parties shall have ten (10) days to submit any written response to the preliminary report.

d. After the Sexual Harassment Investigator has considered the responses of the Complainant and Respondent to the preliminary report, he/she shall submit a final report to the President which shall include a recommended remedy with copies of the final report to the Complainant and the Respondent.

e. After reviewing the report, the President shall send a written response to the Complainant and Respondent, with copies to Respondent's Program Manager and Department Head/Chair, and the Sexual Harassment Investigator. Normally this shall be done no later than twenty (20) days from receipt of the final report from the Sexual Harassment Investigator. If the President does not dismiss the case, then a copy of the written complaint and the President's decision will be sent to the State University Dean, Affirmative Action, pursuant to CSU policy. If the decision is to invoke disciplinary action, then the appropriate disciplinary action procedure shall be followed.

(1) If the Respondent is a faculty unit employee, then the Disciplinary Action Procedure contained in the Unit 3 collective bargaining agreement will be followed.

(2) If the Respondent is a nonacademic employee, the discipline will be handled according to statutory State Personnel Board procedures.

(3) If the Respondent is a student, the Student Disciplinary Procedures will be followed.
VII. RETALIATION PROHIBITED

No Respondent or other University personnel shall retaliate against or threaten to retaliate against any Complainant, or other person who has made an allegation of sexual harassment. Nor shall any person operating under the jurisdiction of this Policy, attempt to or actually intimidate, threaten, coerce, or discriminate against any person for the purpose of preventing that person from exercising any rights protected by this Policy or from participating in any step of the complaint resolution process under this Policy. In situations where retaliation is alleged, the Sexual Harassment Investigator will investigate and recommend to the President appropriate sanctions.

APPROVED ___________________________ DATE: ____________
Warren J. Baker, President 9-2-88