



Your San Marcos CFA Faculty Rights Team and Executive Board asked me to send the below message.

Jackie Teepen
CFA Field Representative
562-715-9475

Dear Colleagues and Friends,

In response to the many questions about CFA's representation of a CSUSM faculty member accused of sexual harassment, we would like to reiterate some general principles about CFA's role as a representative of the faculty. We will not discuss the specifics of any particular case, however, as that would violate our ethical and professional obligations of confidentiality, an obligation that has assisted countless faculty in the past and will continue to do so in the future. A consideration of general principles, on the other hand, will highlight the dangers of subjectivity and arbitrariness when considering cases in isolation.

We take very seriously the principle that sexual harassment is wrong and are fully aware of the historical deficiencies of our justice system to address it. We also believe that whatever reforms we make in our justice system to protect the rights of complainants must not come at the expense of the basic rights of respondents. Everyone deserves equal rights and due process, and this should not be a controversial principle.

Another principle is CFA's legal, ethical, and professional obligation to represent every faculty member who requests it in accordance with the Higher Education Employer-Employee Relations Act (HEERA). It is a prerequisite for our adversarial justice system that each party in a dispute has a right to state their case before a judge, jury, or arbitrator who weighs the relative merits of both sides before making a judgment. CFA members and leaders deeply care about our students, but our part as an organization in this system is to represent faculty.

Students are effectively represented by the University through the Chancellor's Executive Order 1097 and the Title IX Office and not by CFA in disputes between students and faculty. Hence, the Title IX Office is not a neutral arbiter but rather an arm of the CSU, and, moreover, it need only meet the standard of a "preponderance of evidence" in its findings, which is a much lower bar than "beyond a reasonable doubt." If the CSU chooses to settle a case rather than to go through with arbitration, it is likely because the CSU does not believe they can meet this standard of evidence.

CFA has the option to decline to represent a faculty member who wishes to appeal an imposed discipline. However, CFA is subject to oversight by the Public Employee Relations Board (PERB), and it requires that a refusal to provide representation not be "arbitrary, discriminatory, or in bad faith." Choosing not to represent a faculty member in a case in which precedent favors them would clearly be arbitrary, discriminatory, and in bad faith.

Some faculty members—even with CFA representation—have been terminated for sexual harassment, but all cases are kept confidential, and countless other faculty rights cases, in which all would agree that

justice was served, are not made public. Neither the system nor CFA's part in it should be judged solely on the basis of one case, and until we come up with a better system to represent faculty and student rights, it's the best we've got, and we'd all—students as well as faculty—be the worse off for its absence.

Sincerely,

Your CSUSM CFA Chapter Executive Board and Faculty Rights Committee