

SPARTAN DAILY



SERVING SAN JOSE STATE UNIVERSITY SINCE 1934



Local artists stroll through Japantown
See full story on page 3



Coach Brennan advocates for tailgate return
See full story on page 8

WEEKLY WEATHER WIRE

TUES 81 63 chance of showers	WED 75 59 mostly sunny	THURS 73 55 sunny	FRI 79 56 sunny
------------------------------------	------------------------------	-------------------------	-----------------------

Information from weather.gov

SEXUAL HARASSMENT

Documents suggest investigation failed to follow up on prior claims

Emails and documents obtained by the Spartan Daily reveal San Jose State University's failure to properly follow up and report sexual harassment allegations dating back to 2014.



INFORMATION GATHERED BY SARAH KLIEVES | INFOGRAPHIC BY NICOLE CHUNG

BY SARAH KLIEVES & KRISTIN LAM
Photo Editor & Executive Editor

During a 2015 investigation, San Jose State University administrators failed to follow up on previous sexual harassment allegations against a professor.

A university investigation was launched in 2015 after sexual harassment allegations were filed against counseling education professor Lewis Aptekar.

Documents obtained by the Spartan Daily suggest SJSU administrators did not report sexual harassment allegations made against Aptekar in 2014, prior to a 2015 university investigation of similar charges that found him guilty.

At issue is California State University Executive Order 1097. Article I states "Any Employee who knows or has reason to know of allegations or acts that violate this policy shall promptly inform the DHR [Discrimination, Harassment, Retaliation] Administrator or Title IX Coordinator."

During the 2015 investigation, counseling education professor Jason Laker served as the adviser to the student who filed a sexual harassment complaint against Aptekar. The Deputy Title IX Investigator at the time, Debra Griffith, headed the investigation.

In a letter addressed to Laker regarding Griffith's investigation that was dated Oct. 28, 2015, Associate Vice President of Human Resources Beth Pugliese stated, "Human resources had not received any formal or informal complaints regarding Dr. [Lewis] Aptekar prior to this incident."

In June 2016, Laker learned of complaints made against Aptekar in 2014. Laker then reached out to Santa Clara County Deputy District Attorney John Chase. As a result, Chase's office launched a separate investigation into the matter in August 2016.

In a letter addressed to Laker on Sept. 14, 2016, Chase determined that "the terms

'informal complaint' and 'formal complaint' apparently have specific meanings and they do not include an anonymous complaint."

"Thus the statements of these administrators as reported in the investigation report, while misleading to outside readers, were not false in the language apparently used in HR at San Jose State University," Chase added.

When contacted for comment, Chase said he was "not at liberty to publicly discuss our criminal investigations, particularly when they

CSU EO 1097 states, "These Employees are required to disclose all information including the names of the Parties, even where the person has requested anonymity."

Despite the students requesting anonymity, Bruck still reported their complaints and names to the Title IX office, and SJSU had an obligation to investigate per CSU policies.

"I revealed the most vital fact already," Bruck said in an email to the Spartan Daily. "That is all I have to say to the press."

raised concerns among other SJSU officials.

"True or false, why weren't the charges a part of the 2015 case?" said Chair of the University Professional Standards Committee Kenneth Peter. "Who dropped the ball so that the 2014 complaints were not considered when the 2015 case was adjudicated? That is something I don't know and I presume there is an explanation for."

Due to her position, Senior Director of Academic Employee Relations and Deputy Title IX Coordinator Joanne Wright and her colleague Pugliese, along with their counterparts in HR, were included in emails that notified them about complaints made against Aptekar.

The original 2014 email chain from Bruck was forwarded to Wright and Pugliese on Aug. 2, 2016. Pugliese claimed in an Aug. 4, 2016 email to Wright that this was "all news to [her]."

Wright and Pugliese have not responded to numerous requests for comment.

Griffith claimed in an email sent on July 29, 2016 that she "contacted [witnesses] repeatedly" during her 2015 investigation. Some witnesses to the 2014 complaints did not respond, however, and were never interviewed.

Griffith, now the Associate Vice President for Transition and Retention Services, refused to comment about the investigation.

Last month, Media Relations Director Pat Harris said in a statement, "The earlier, 2014 case came to light after the inquiry into the 2015 allegations. The professor [Aptekar] was placed on paid administrative leave during an extensive, months-long inquiry that included multiple interviews and a careful examination of relevant records. Ultimately, those allegations were not substantiated."

Laker brought the 2014 allegations to the public's attention via The Mercury News in September 2016. He felt university administrators did not do their due diligence

"True or false, why weren't the charges a part of the 2015 case? Who dropped the ball so that the 2014 complaints were not considered when the 2015 case was adjudicated? That is something I don't know and I presume there is an explanation for."

Kenneth Peter

Chair of the University Professional Standards Committee

lead to no charges being filed."

SJSU's 2015 investigation into allegations made against Aptekar revealed that previous complaints had been filed with the Title IX office by David Bruck in 2014. Bruck, an electrical engineering and computer engineering professor, was Associate Dean of Graduate Studies and Research at the time.

According to an email Bruck sent to Julie Paisant, Director of Equal Opportunity and Deputy Title IX Coordinator, two students told Bruck about "some sexually charged encounters with Dr. Lewis Aptekar."

In the same email on Aug. 12, 2014, Bruck stated to Paisant, "Neither are happy about this being reported, and both wish to remain anonymous."

Paisant has not responded to the Spartan Daily's numerous requests for comment.

Article III of Executive Order 1097 further states, "The DHR Administrator or Title IX Coordinator shall promptly investigate the Complaint or assign this task to another Investigator on a case-by-case basis. If assigned to another Investigator, the DHR Administrator or Title IX Coordinator shall monitor, supervise, and oversee all such delegated tasks ... including reviewing all investigation draft reports before they are final to ensure that the investigation was sufficient, appropriate, impartial, and in compliance with this Executive Order."

The reported lack of follow-up on the 2014 claims during Griffith's 2015 investigation has

INVESTIGATION

Continued from page 1

in investigating numerous student complaints against Aptekar.

Elaine Chin and Mary McVey were both former deans of the College of Education.

Laker said he believes if Chin and McVey tell an investigator that there have been no formal or informal complaints, and are aware of prior incidents, then they are knowingly withholding information.

“That, to me, is being willfully misleading,” Laker said. “Any reasonable person would say that if they knew of these other things, then to say it that way [formal or informal

complaints], I have questions. Who told you to phrase it that way?”

Chin referred the Spartan Daily to her lawyer, Deputy Attorney General Jodi Cleesattle, for comment.

On Chin’s behalf, Cleesattle stated, “When Dr. Chin was asked by the investigator whether there had been any prior complaints of harassment filed against Prof. Aptekar, she answered truthfully that she was not aware of any. Dr. Chin did not learn about the prior complaints until sometime after she was interviewed by the investigator.”

McVey did not respond to requests for comment. The legal counsel for McVey and the university, Sarju Naran of Hoge Fenton Jones & Appel law firm, stated that they have no comment upon receiving the Spartan Daily’s requests.

After numerous requests for comment, Harris said in an email on Monday, “I am writing to respond to Spartan Daily inquiries to Andy Feinstein, Debra Griffith, Michael Kimbarow, Julie Paisant, Beth Pugliese and Joanne Wright. Thank you for your inquiries. We are unable to comment given the confidentiality of the Title IX process and pending litigation.”

As a result of his actions, Laker felt that the university was retaliating against him. He filed a lawsuit in March 2017 with the County of Santa Clara against SJSU for retaliation and defamation.

Court documents state, “He [Laker] brought this lawsuit on March 15, 2017 to protect his reputation and to bring an end to ongoing workplace intimidation through misuse of investigatory process

and deliberate retaliation through defamatory publications.”

The document continues to state that the university’s retaliation is “in violation of the California Fair Employment and Housing Act.”

On July 12, 2017, Judge Theodore Zayner’s stipulation and order sided with Laker. SJSU has filed an appeal of that ruling. Litigation is still ongoing due to delays in the discovery process.

Managing Editor Isabelle Tham contributed to this article.

Follow Sarah and Kristin on Twitter |
@sarah_klieves and @kristinslam