

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
Milwaukee District Office

February 5, 2002

Mr. James McCormick  
Chancellor  
Minnesota State Colleges & Universities  
500 World Trade Center  
30 East 7<sup>th</sup> Street  
St. Paul, MN 55101

Mr. Roy Saigo  
President  
St. Cloud State University  
720 4<sup>th</sup> Avenue South  
St. Cloud, MN 56301

Dear Messrs. McCormick and Saigo:

Enclosed please find a copy of the EEOC's final report outlining the results of our investigation into possible systemic factors present at St. Cloud State University (hereinafter "SCSU") which may have contributed to the filing of various charges of employment discrimination by SCSU employees.

As a specific result of the written request received from the former Chancellor and the current University President, we not only investigated the individual charges of employment discrimination filed with our agency, but also conducted a more extensive review of the entire SCSU campus environment as it relates to Equal Employment Opportunity (EEO) issues. As a result, our overall assessment of the campus climate extended beyond the scope of the various allegations raised in the individual charges of discrimination.

The enclosed report identifies various EEO-related issues of concern which were disclosed during the course of our investigation, together with recommendations for the resolution of those problem areas identified. While these recommendations are strictly advisory in nature, we strongly encourage their serious consideration and implementation. Indeed, the recommendations contained in this report may serve as a preventative guide not only for SCSU but for the entire university system on a state-wide basis.

Finally, let me take this opportunity to personally commend you for the proactive measures which you have already taken to improve the overall quality of the campus environment as it relates to issues involving Equal Employment Opportunity and diversity. We are confident that your continued leadership in this regard will bring positive change to the SCSU community and campus.

I look forward to meeting with you on February 12, 2002 for purposes of further discussing the report's findings and recommendations.

Sincerely,

Chester V. Bailey  
District Director

**INVESTIGATIVE REPORT  
FOR  
MINNESOTA STATE COLLEGES AND UNIVERSITIES  
ST. CLOUD STATE UNIVERSITY**

**Introduction**

At the request of Minnesota State Colleges and Universities' former Chancellor, Morris Anderson, and St. Cloud State University President, Roy Saigo, the Equal Employment Opportunity Commission (hereinafter "EEOC") conducted an investigation of St. Cloud State University (hereinafter "University") to determine whether systemic factors are at work on campus that foster an environment that produces individual complaints of discrimination based on protected class status. This report is the result of that investigation which was conducted in conjunction with the investigation of pending individual charges of discrimination against the University. Although the individual findings with regard to those charges are not included in this Investigative Report, the evidence gathered during their investigation was considered in our overall review of the University.

**Scope of Investigative Review**

The investigative review includes the analysis of all evidence obtained during the course of the investigations of individual charges of discrimination filed with our office. Additionally, the investigative review includes analysis of documents obtained from the Inter-Faculty Organization, documents provided by third party witnesses, and various court documents. The review also includes witness testimony obtained through interviews and affidavits. Specifically, interviews were conducted with 40 current and former faculty members, six administrators, one staff member, two students, and several third party witnesses. Additionally, affidavits were received from 15 current and former faculty members, and six students. Approximately 52 percent of the witnesses providing testimony through interview or affidavit are members of the protected classes involving race or religion raised by the individual charges of discrimination.

**Summary of the Investigative Review**

Overall, the evidence indicates that the University suffers from a severe lack of credibility with regard to diversity issues. Witness testimony supports a conclusion that this lack of credibility is the result of many years of complacency on the part of the University in dealing with diversity concerns. Further, witness testimony supports a conclusion that faculty members, staff and students from divergent backgrounds are similarly affected by these underlying problems. More specifically, a review of the testimony, along with all other evidence obtained during the course of the investigation, reveals the following major issues and concerns prevalent at the University.

1. Faculty members and staff believe that systemic and institutionalized bias, sexism, racism, and anti-Semitism exist at the University.
  - The Jewish Community Relations Council (JCRC) of Minnesota and the Dakotas July 2001 investigation revealed a “strong perception of anti-Semitism on campus.”
  - Witness testimony reveals the perception of ignorance and an acute lack of sensitivity among faculty, students and administrators in regard to religious and cultural differences.
  - Witness testimony reveals the perception of an overriding “White male privilege” on campus. There is the perception that a “good ole boy” network still exists.
  - Faculty members believe the University is a difficult environment for anyone with a perspective outside of mainstream White, Christian thinking.
  - Witnesses believe that these issues extend to, and are exacerbated by, the greater St. Cloud community.
  
2. Evidence and testimony support a conclusion that the Affirmative Action Office at the University is ineffective in its ability to either initiate, investigate or redress employment discrimination complaints.
  - Faculty members do not believe that the University takes employment discrimination complaints seriously. When faculty members do complain to the Affirmative Action Office, they feel they get the run around. Further, they do not believe that anyone is ever reprimanded for engaging in discrimination.
  - While the University has a voluntary mediation program in place for use by the Affirmative Action Office, it is rarely, if ever, used and is often not mentioned as an option to complainants.
  - Faculty members do not believe the current reporting arrangement of the Affirmative Action Office is effective because the Affirmative Action Officer reports to the President. Thus, the Affirmative Action Officer is not perceived as neutral.
  - Faculty members testify that they avoid going to the Affirmative Action Office to complain because they do not believe it would change anything. Witness testimony indicates that the Affirmative Action Officer discourages complaints with comments that the situation will only get worse if a “formal” complaint is filed.
  - Faculty members believe the Affirmative Action Office is poorly staffed and operated. Testimony of witnesses consistently indicates serious concerns with the Affirmative Action Officer’s qualifications and knowledge of employment discrimination laws.

- When faculty members are informed of the outcome of their Affirmative Action Office complaints, they receive little or no explanation regarding the process and analysis. They are given a decision, with no explanation as to the rationale behind it.
3. The manner in which the University responds and reacts to issues raised with the Affirmative Action Office, and through the grievance process, is problematic to faculty members, and often exacerbates the issue at hand.
- Faculty members do not trust the Affirmative Action appeals process. According to the University's Affirmative Action Policy, when a faculty member appeals an affirmative action decision, it is to be reviewed by the President or a designee. Testimony supports that the University is the only member of the Minnesota State Colleges and Universities system at which a designee is always used in place of the President. Testimony indicates that the designee is generally a Dean, who is then put in the uncomfortable position of reviewing another Dean's decision. As a result, we are unaware of any instance where the original decision has been overturned.
  - Faculty members feel the President isolates himself from the campus community by surrounding himself with administrators and "special assistants." This leads them to believe that he is not truly interested in solving the issues at hand. An example of this is the President's above-mentioned appointment of a designee to attend to grievance issues and Affirmative Action appeals at the Presidential level.
  - Faculty members believe the University's administrators engage in retaliation against anyone who speaks out against the status quo, whether it be in regard to EEO policy, general concerns, or union contract issues. The JCRC report states that many of its interviewees also conveyed concern about expressing themselves at the University. Further, witness testimony shows much reluctance amongst the faculty members about raising concerns via the union out of fear of retaliation by the administration for doing so.

### **Recommendations**

The evidence shows that the University has taken some steps to address several of the above concerns, most specifically with regard to the belief that there is systemic racism, sexism, anti-Semitism, and other bias prevalent within the University community. The University states that the following changes have been implemented.

- All incoming students must now take a "Respect and Responsibility" course.
- All administrators and new staff must now take part in a diversity education program, and new and continuing faculty members are now "strongly encouraged" to participate in the diversity education program.

- The University revised its non-discrimination statement to include religion and ethnicity.
- The University now rotates graduation ceremonies between Saturday and Sunday in recognition of different days of worship, and has taken steps to modify University calendars to include significant Jewish holidays, as well as holidays of other faiths, to encourage sensitivity in planning campus events.
- Attempts have been made to recognize religious dietary needs in campus food service.
- The University recently hired another outside diversity consulting group to conduct a large scope “environmental scan” of its campus. In November 2001, this firm, Nichols and Associates, met with 35 focus groups to discuss diversity issues beyond anti-Semitism. The completed report is expected in March 2002.
- Respondent recently hired a new Investigator within the Affirmative Action Office.

All of these actions are relevant to the encouragement of campus-wide awareness with regard to diversity, religion and culture.

However, notwithstanding the changes that have been implemented by the University to date, we make the following recommendations:

1. Develop two task forces to address the problems of bias and perceived bias in the college of Education and the College of Social Services – History Department. Each task force should include administrative and faculty members from the college or department and should be facilitated by a neutral party from outside the college or department. The goal of the task forces should be to create a specific plan of improvement to resolve the problems which will be forwarded to the University President for implementation.
2. Members of the administration and Faculty Association should begin a dialogue, facilitated by a neutral party, to address issues of bias or perceived bias at the University and to develop procedures to resolve the issues. The purpose of this dialogue will be to identify specific problems, and move forward together in addressing these issues. The plan of action resulting from this dialogue should be sent to the University President for implementation.
3. The University should establish policies and procedures regarding the appropriate use of the LIST-SERV system, including disciplinary standards and consequences.
4. The University President and staff should begin a dialogue with St. Cloud Community leaders, and work with these leaders to address the perceptions of a community-wide problem. The Department of Justice’s Community Relations Department could be utilized in this process.

5. As most faculty members interviewed lack confidence in the current structure and processes of the Affirmative Action Office, substantial changes are needed to re-build trust. These changes should, at a minimum, include the following:
  - All Affirmative Action Office employees and potential decision makers should receive training in employment discrimination law and the Complaint Policy/Process of the University.
  - The process used for filing and investigating complaints should be objective, uniform and clearly explained to complainants. There needs to be a clear definition of “informal” complaints and “formal” complaints. Complaints should be investigated by someone other than the Affirmative Action Officer. The complaint investigator should report to someone other than the Affirmative Action Officer at the Vice President level or higher. That person should be responsible for reporting on a quarterly basis to the Chancellor’s Office/Equal Opportunity and Diversity the nature of, any actions taken on, and the disposition of all complaints, both “formal” and “informal.”
  - The complaint policy should include a specified timeframe for completion of an investigation. If completion is not possible by the due date, the complainant should be informed of such. Any additional extensions of the due date should be documented and approved by a designated decision-maker.
  - The results of an investigation should be clearly explained to complainants. A final written report should be provided to complainants following an investigation. This report need not identify interviewed witnesses, but should provide a summary of the steps taken during the course of the investigation, a summary of the evidence found, and an overall analysis of the issues.
  - Disciplinary action should be taken against individuals who are found to have engaged in prohibited discrimination.
  - The Affirmative Action Office should recognize and emphasize the value of its voluntary mediation program, and encourage complainants to take advantage of it. This avenue allows the complainant to be heard, and provides an opportunity for a “win/win” situation.
6. The University should insure that the policies and procedures of the University are enforced consistently and uniformly, otherwise there will be continued perceptions of unequal treatment and/or abuse of power.
7. We recommend that the University President get more involved with the Affirmative Action appeals process and step II grievances and if the President does not get involved, that his designee be at a higher level than the original decision-maker.