



SOUTHERN UTAH UNIVERSITY
Policies and Procedures

Policy # 11.11
Date Approved: 11/09/06
Date Amended: 12/04/13
Reviewed w/no Changes:
Office of Responsibility: VP SS
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SUBJECT: DISABILITY-RELATED GRIEVANCES

I. **PURPOSE:** This policy provides a framework for promptly and equitably resolving concerns, complaints and grievances that are lodged by students with disabilities against the University and its employees. It also provides a forum for faculty to express their concerns about the application of accommodations within their courses.

II. **REFERENCES**

Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131-12134; Title 34 CFR Part 104

Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 704; Title 28 CFR Part 35, § 35.107

Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g

Utah Government Records Access and Management Act (GRAMA), UCA 63-2-101

SUU Policies and Procedures, 6.22, Faculty Due Process

SUU Policies and Procedures, 8.3.5, Termination of Non-Academic Staff Employees and Disciplinary Sanctions

SUU Policies and Procedures, 11.2, Student Conduct Code

SUU Policies and Procedures, 11.9, Accommodations for Students with Disabilities

III. **DEFINITIONS**

A. **Disability:** A physical or mental impairment that substantially limits one or more major life activities for a period of time exceeding six (6) months.

B. **Reasonable Accommodation:** The term "reasonable accommodation" may include (1) making existing facilities readily accessible to and usable by individuals with disabilities; and (2) acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, course materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities. The term 'accommodation' is inclusive of academic adjustments and auxiliary aids.



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- C. **ADA/Section 504 Coordinator:** These duties are divided among three officers at Southern Utah University: (1) Dean of Students, (2) Director of Human Resources, and (3) Director of Construction Services, Space Planning, and Maintenance.
- D. **Essential Academic Requirements:** May include (1) learning outcomes or objectives, (2) professional competencies or standards, (3) performance expectations and (4) the assignments, activities or assessments that are developed to teach or evaluate students' attainment or mastery of the requirements as part of a degree, program or course.
- E. **Fundamental Alteration:** Occurs when a proposed or recommended accommodation invalidates, negates or impedes an essential academic requirement of a degree, program or course.
- F. **Discrimination:** Differential treatment that denies opportunities or privileges to others because of their actual or perceived disability which also interferes with their ability to participate in or derive the benefits from the experiences and activities of University life.

IV. GENERAL POLICY STATEMENT

The Americans with Disabilities Act of 1990 (ADA) mandates that no qualified individual with a disability, as defined by the ADA, by reason of such disability, shall be excluded from participation in or be denied the benefits of services, programs or activities of this institution, or be subjected to discrimination by this University including discrimination in employment matters.

V. SUBMITTING COMPLAINTS OR GRIEVANCES

- A. The complaint shall be written and submitted to the Dean of Students, unless the complaint is about the Dean of Students. In such a case, the complaint should be submitted to the Director of Human Resources.
- B. Complaints should include the following information:
 - 1. Name, address, telephone number, and email address of the individual filing the complaint (complainant),
 - 2. A detailed description of the alleged discrimination that explains what happened,



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3. If available, the names and contact information for individuals who may have witnessed the discrimination,
 4. An explanation of the desired outcome or resolution of the complaint.
- C. To assure prompt and effective resolution, complaints or grievances should be submitted within twenty (20) school days after the alleged discrimination. Students may still submit complaints or grievances after twenty (20) days but it may limit or delay the University's efforts to resolve or rectify the alleged discrimination.
- D. Instructors may also submit complaints to the Dean of Students if they have a reasonable belief that:
1. A student is abusing an approved accommodation,
 2. The application of an accommodation has unduly burdened them.

Instructor-initiated complaints should include the same information contained in V-B of this policy.

VI. INVESTIGATION

- A. The Dean of Students will investigate the claims included in the complaint or grievance. Investigations will be conducted to the extent necessary to assure all relevant facts are determined and documented. The submission of the complaint will be considered as authorization by the complainant to allow review of all information, including information that may be classified as private, confidential or controlled.
- B. The Dean of Students will conduct his/her investigation in a prompt and timely manner. The investigation should not exceed twenty (20) school days, unless the complexity of the complaint requires additional time. If additional time is needed, the Dean of Students will notify the complainant in writing explaining the need for more time.
- C. At the completion of the investigation, the Dean of Students will compile a written report that documents any relevant facts or observations and submit the report, along with the complaint, to the Chairperson of the Disability Grievance Committee.

VII. RESOLUTION BY DISABILITY GRIEVANCE COMMITTEE



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- A. The Disability Grievance Committee (herein after referred to as “the Committee”) will be comprised of the following:
1. Chairperson jointly appointed by the Provost and Vice President for Student Services,
 2. A representative from Counseling and Psychological Services (CAPS),
 3. An *ad hoc* faculty or staff member knowledgeable about the nature of the complaint (e.g. if the complaint raises an issue of employment discrimination, a member of the Human Resources staff may be invited to serve)
- B. The Committee will consider the complaint and investigative report and confer with the Dean of Students to ensure they have sufficient information and knowledge to evaluate the complaint. As the Committee contemplates possible actions to resolve the complaint, they may seek advice from University administrators and Legal Counsel.
- C. The chairperson will provide a written recommendation for resolving the complaint and the basis for the recommendation to the Dean of Students for his or her action. A copy of the recommendation will be given to the complainant.
- D. If the Committee recommends disciplinary proceedings, the Dean of Students will forward the recommendation, investigative report, and complaint to the appropriate administrators listed below:
1. Student disciplinary matters will be referred to the Assistant Dean of Students for adjudication according to *SUU Policy # 11.2 – Student Conduct Code*
 2. Non-Academic Staff employee disciplinary matters will be forwarded to the Director of Human Resources for subsequent action consistent with *SUU Policy # 8.3.5 – Termination of Non-Academic Staff Employees and Disciplinary Sanctions*
 3. Faculty disciplinary matters will be forwarded to the Provost for subsequent action consistent with *SUU Policy # 6.22 – Faculty Due Process*
- E. If the Committee is unable to issue a recommendation, the chairperson will provide written notice to the Dean of Students and the complainant.
- F. The Disability Grievance Committee also maintains appellate authority for decisions rendered by the Accommodation Review Committee. The chairperson for the Disability Grievance Committee may receive appeals from the Coordinator of Services for Students with Disabilities in the event a student appeals the decision of the Accommodation Review Committee.



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VIII. APPEALING RECOMMENDATIONS OF THE DISABILITY GRIEVANCE COMMITTEE

- A. The complainant may appeal the recommendation of the Disability Grievance Committee with ten (10) school days after receiving the written recommendation from the chairperson or Dean of Students.
- B. The appeal should be submitted, in writing, to the Vice President for Student Services.
- C. The appeal should describe, in sufficient detail, why the Disability Grievance Committee's recommendation was in error, incomplete or ambiguous, was not supported by evidence, or was otherwise improper.
- D. The Vice President for Student Services will review the complaint, investigative report, recommendation and appeal to arrive at decision regarding the appeal. Additional investigation may be conducted, if necessary, to clarify questions of fact.
- E. The Vice President's decision should be issued within ten (10) school days of receiving the appeal unless the complexity of the appeal would require additional time. In such cases, the complainant will be notified in writing. Any delay in rendering a decision should not exceed twenty (20) school days.
- F. The complainant will be notified in writing of the Vice President's decision which will be final.

IX. CLASSIFICATION OF RECORDS

The record of each complaint and appeal and all written records produced or received as part of such actions shall be classified as protected and defined under Section 63-2-304 of the Utah Code, until the Disability Grievance Committee or the Vice President for Student Services issues the decision at which time any portions of the record which may pertain to the individual's medical condition(s) shall remain classified as private as defined under Section 63-2-301 or controlled as defined in Section 63-2-303. All other information gathered as part of the complaint record shall be classified as private information. Only the Disability Grievance Committee's recommendation, unless otherwise legally protected, will be public, with the identity of the Complainant to remain confidential.



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X. RELATIONSHIP TO OTHER LAWS AND POLICIES

This policy does not prohibit nor limit the use of remedies available to individuals under the State Anti-Discrimination Complaint Procedures Section (67-19-32), the Federal ADA Complaint Procedures (28 CFR Part 35.170, 1992 edition), the Federal Rehabilitation Act Procedures (34 CFR Part 104.61) or any other Utah State or Federal law that provides equal or greater protection for the rights of individuals with disabilities.

This policy is intended to work in harmony with SUU Policies 6.22, 8.3.5 and 11.2. In the event that the aggrieved conduct has application to a grievance involving other issues, the findings and conclusions reached under this policy will be conclusive on the disability issue, and may advise and be relied upon in resolving other issues as they are addressed under these other grievance policies.