

<b>Proposed Policy Number and Title:</b> 153 Americans with Disabilities Act (ADA) Grievance Process		
Existing Policy Number and Title: Not applicable		
<b>Approval Process*</b>		
<input checked="" type="checkbox"/> Regular	<input type="checkbox"/> Temporary Emergency	<input type="checkbox"/> Expedited
<input type="checkbox"/> New	<input type="checkbox"/> New	<input type="checkbox"/> New
<input type="checkbox"/> Revision	<input type="checkbox"/> Revision	<input type="checkbox"/> Revision
<input checked="" type="checkbox"/> Deletion	<input type="checkbox"/> Suspension	
	Anticipated Expiration Date:	
*See UVU Policy 101 <i>Policy Governing Policies</i> for process details.		

<b>Draft Number and Date:</b> <u>Stage 4, Regular, Deletion</u>
<b>President's Council Sponsor:</b> <u>Linda Makin/Kyle Reyes</u> Ext. _____
<b>Policy Steward:</b> <u>Alexis Palmer, Irene Whittier</u> Ext. _____

POLICY APPROVAL PROCESS DATES	
<p><b>Policy Drafting and Revision</b> Entrance Date: <u>04/11/2019</u></p> <p><b>University Entities Review</b> Entrance Date: <u>04/11/2019</u> Close Feedback: <u>10/11/2019</u></p> <p><b>University Community Review</b> Entrance Date: <u>11/21/2019</u> Open Feedback: <u>11/21/2019</u> Close Feedback: <u>1/6/2020</u></p> <p><b>Board of Trustees Review</b> Entrance Date: <u>1/16/2020</u> Approval Date: _____</p>	<p style="text-align: center;"><b>POST APPROVAL PROCESS</b></p> <p>Verify:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Policy Number</li> <li><input type="checkbox"/> Section</li> <li><input type="checkbox"/> Title</li> <li><input type="checkbox"/> BOT approval</li> <li><input type="checkbox"/> Approval date</li> <li><input type="checkbox"/> Effective date</li> <li><input type="checkbox"/> Proper format of Policy Manual posting</li> <li><input type="checkbox"/> TOPS Pipeline and Archives update</li> </ul> <p><b>Policy Office personnel who verified and posted this policy to the University Policy Manual</b></p> <p><b>Name:</b> _____</p> <p><b>Date posted and verified:</b> _____</p>

<b>POLICY TITLE</b>	Americans with Disabilities Act (ADA) Grievance Process	<b>Policy Number</b>	153
<b>Section</b>	Governance, Organization, and General Information	<b>Approval Date</b>	March 14, 1994
<b>Subsection</b>	Individual Rights	<b>Effective Date</b>	March 14, 1994
<b>Responsible Office</b>	Office of the Vice President of Student Life		

## 1.0 PURPOSE

## 2.0 REFERENCES

*2.1 Americans with Disabilities Act of 1990*

*2.2 Rehabilitation Act of 1973, Section 504*

## 3.0 DEFINITIONS

## 4.0 POLICY

### 4.1 Policy

~~4.1.1 The President of the University or his or her designee will provide for expeditious and reasonable resolution of grievances related to the *Americans with Disabilities Act of 1990* (ADA), Section 504 of the *Rehabilitation Act of 1973*, or other disability related statutory rights.~~

~~4.1.2 At times, employees, students, or other qualified individuals with disabilities (as defined by P.L. 101-336 the *Americans with Disabilities Act of 1990*) may perceive that their individual rights have been violated with respect to policies or that they have been treated unfairly or in a prejudicial manner. It is the intent of the University to provide such persons with the opportunity to resolve their concerns both quickly and fairly, and with a minimum of disruption to the operation of the University. Whenever possible, it is the intent of the University that such concerns be resolved on an informal basis and solely between the parties concerned. Where such resolution is not possible, the University makes available the following procedure.~~

### 4.2 Procedure

~~4.2.1 **General Rule:** University employees, students, or other qualified individuals with disabilities should resolve their grievances related to the ADA or other disability related statutory rights in a reasonable, informal basis, between the parties directly concerned and in compliance~~

with such laws. The University ADA Coordinator may be informally involved to provide consultation.

**4.2.2 Exception:** Where resolution under the general rule is not possible or suitable, the parties are encouraged to proceed as follows:

1) **Step 1:** Within 60 working days of an alleged incident or action, the aggrieved person will either:

a) Inform the supervisor of the University employee or department directly involved verbally or in writing of his or her complaint, or

b) Inform the ADA Coordinator of the incident in writing, with audio cassette tape, or some other comparable recorded means, and request assistance in resolving the complaint.

c) The individual is encouraged but not required to file the complaint with the supervisor of the employee or department directly involved, but may elect to file with the ADA Coordinator directly. The ADA Coordinator will be available for consultation in all grievance resolution meetings.

2) **Step 2:**

a) The supervisor who receives a complaint has 10 working days to evaluate the complaint and provide redress or reject the complaint either verbally or in writing, using the same manner as when the complaint was issued in Step 1, part "a" above. If the supervisor fails to respond to the complaint within the time limit, or if the response is negative, the grievant may apply to the ADA Coordinator as directed in Step 1, part "b" above.

b) The ADA Coordinator has 10 working days to investigate, discuss, negotiate, arbitrate, counsel, or recommend, using any avenues open to resolve the grievance.

c) The ADA Coordinator's decision will be forwarded in writing or by other appropriate means to the grievant, the department head, the administrator of the department, and the President (for his or her information). The decision of the ADA Coordinator will be binding unless recommended or appealed to a formal ADA Grievance Committee Hearing. The investigation, proceedings, and decisions will be recorded and become a confidential record kept in the possession of the ADA Coordinator for future reference. After the initial investigation, the ADA Coordinator has two options:

Option 1: Resolve the grievance, OR

Option 2: Recommend a formal ADA Grievance. (If the grievance is not determined to be an ADA issue, and if the grievant is a student or employee of the institution, the ADA Coordinator may refer the individual to the Student Equity Officer or the Employee Equity Officer for resolution, if appropriate.) Appropriate accommodations may be invoked by the ADA Coordinator if such accommodations are specifically requested by the grievant in his or her

grievance, and if the accommodations do not exceed authorized budgets or means. When requests for accommodations exceed authorized budgets or means, then the accommodations will require Presidential review.

### **3) *Step 3: ADA Grievance Committee Hearing***

a) ~~Members of the ADA Compliance Task Force will function as the ADA Grievance Committee with the ADA Coordinator as Chair of the committee, and will consist of representatives from the following: Administration, Facilities, Student Support Services, Human Resources, UVUSA, a community advocacy organization for people with disabilities, as well as a student or other individual from the community with a disability.~~

b) ~~After a recommendation from the ADA Coordinator or an appeal from the grievant for a formal ADA Grievance Committee Hearing, the ADA Coordinator has 15 working days to organize the hearing proceedings. The grievant and the involved supervisor or administrator will be informed of the time and place of the hearing. The grievant will be advised of his or her right to have an advisor of his or her own choosing and own expense who may act as counsel.~~

c) ~~At the ADA Grievance Committee Hearing, the committee will attempt to arbitrate the aggrieved issue(s). The hearing shall include an examination of the facts surrounding the issue(s), including testimony by witnesses for either side and other documentary evidence. Witnesses may be examined and cross examined. The proceedings will be recorded on tape to become a confidential record kept in the possession of the ADA Coordinator for future reference.~~

d) ~~The committee will reach a 2/3 majority decision on the issue(s) presented. Should arbitration of the issue(s) fail, i.e., either or both parties are unwilling to resolve or compromise on the issue(s), the ADA Hearing Committee will meet in closed session and reach a majority decision on the issue(s) presented. Within five working days of the date of the hearing, the committee's decision will be forwarded in writing or by other appropriate means to the grievant, the administrator, and the President (for his or her information). The decision of the Hearing Committee will be binding unless appealed to the President by one of the parties.~~

### **4) *Step 4: Presidential Review***

a) ~~If the grievant or the university department wishes to appeal the decision of the ADA Hearing Committee, or if a requested accommodation exceeds otherwise authorized budgets or means, within 10 working days of receipt of the decision, he or she may request that the President review the decision. The President shall have 15 working days to arrive at a final and binding decision and so inform the grievant, the administrator involved, and the ADA Coordinator. Only the President may determine that an accommodation would present an undue burden upon the institution and will provide written documentation of this decision to the Utah State Office of Risk Management for their disposition.~~

b) ~~No employee of the University shall in any way retaliate against any student, other employee, or any other individual who initiates a complaint or grievance under this procedure.~~

## **5.0 PROCEDURES**

<b>POLICY HISTORY</b>		
<b>Date of Last Action</b>	<b>Action Taken</b>	<b>Authorizing Entity</b>