



MEMORANDUM

Date: March 3, 2022
To: Taylor Randall, President
From: Phyllis Vetter, General Counsel and Vice President
Sherrie Hayashi, Title IX Coordinator and Director,
Office of Equal Opportunity & Affirmative Action (OEO/AA)
Copies: Jeff Herring, Chair, Institutional Policy Committee
Christy Porucznik, President, Academic Senate
Subject: Interim Rule 1-012B: *Sexual Misconduct Complaint Process Rule* and
Interim Rule 1-012A: *Discrimination Complaint Process Rule*

Attached are revisions to Interim Rules 1-012A and 1-012B, which delete the following provisions from each rule:

“If any party is a faculty member, a hearing and any appeals shall proceed pursuant to University Policy 6-011, *Functions and Procedures of the Senate Consolidated Hearing Committee*. When conducting hearings involving allegations of discrimination, the CHC shall follow the Hearing Procedure outlined below.” (See Interim Rule 1-012A, Section III.C.2 and Interim Rule 1-012B, Section III.J.2)

“Sanctions or other corrective measures against a faculty member may only be imposed by filing a complaint with the Consolidated Hearing Committee (CHC) pursuant to Policy 6-011, *Functions and Procedures of the Senate Consolidated Hearing Committee*.” (See Interim Rule 1-012A, Section III.B.1.c, and Interim Rule 1-012B, Section III.J.3.q.i.b)

These changes appear on pages 5 and 6 of attached Rule 1-021A and pages 12 and 16 of attached Rule R1-012B.

Removing this language will resolve an inconsistency between these interim rules and the University’s longstanding policy that the University addresses allegations of discrimination or sexual harassment involving a faculty member through the Office of Equal Opportunity’s (OEO/AA) process described in Policy 1-012 and related rules. Specifically, Policy 6-316: *Code of Faculty Rights and Responsibilities* provides that “[n]otwithstanding any contrary provision of this code, violations of this code involving . . . discrimination or sexual harassment shall be governed by and handled in accordance with the provisions of Policy 1-012 consistent with Policy 6-011.” Similarly, Policy 6-011: *Functions and Procedures of the Senate Consolidated Hearing Committee* provides that

“complaints of discrimination brought against faculty, students and staff members are heard through the OEO/AA process.” (Policy 6-011, Section III.A.2.b).

To eliminate these inconsistencies and the resulting potential confusion regarding process, the language in Interim Rules 1-012A and 1-012B that conflicts with Policies 6-316 and Policy 6-011 should be deleted.

Although further changes to federal Title IX regulations may eventually necessitate other revisions to Interim Rules 1-012A and 1-012B, we recommend that you approve these changes to Interim Rules 1-012A and 1-012B effective immediately and maintain the two year review schedule described in the interim rules for the remaining provisions of those rules.

Approved this 16 day of March 2022.



Taylor Randall, President

[Interim] Rule 1-012A: Discrimination Complaint Process Rule

Revision ~~21~~. Effective date: ~~August 14, 2020~~ March 16, 2022

I. Purpose and Scope

The University of Utah (“University”) is committed to providing and fostering an environment that is safe and free from discrimination and harassment. University Policy also prohibits retaliation against individuals for engaging in protected activities, such as filing a discrimination complaint or participating in a discrimination complaint process.

This Rule outlines the process the University will use to resolve complaints of discrimination that do not involve Sexual Misconduct.

II. Definitions

For purposes of Policy 1-012 and its associated Rules and Procedure, including this Rule 1-012A, the definitions of prohibited discrimination and other words and phrases are provided in Rule 1-012.

III. Rule

- A. OEO/AA Investigation. Upon acceptance of a Complaint as described in Rule 1-012(III)(H), the OEO/AA will begin an investigation.
 - 1. Upon acceptance of a Formal Complaint, the OEO/AA will provide written notice:
 - a. to the appropriate University administrator, which may include the supervisor, Chair, Dean, and/or cognizant Vice President with responsibility over the Respondent and any others with a legitimate business need.
 - (i) If the Respondent is a student, the Vice President for Student Affairs and the Office of Dean of Students will also be notified.
 - (ii) If the Respondent is a Vice President, another Vice President will be selected as the cognizant Vice President for purposes of this rule.

- b. to the Complainant and the Respondent providing:
 - (i) the applicable policies and associated rules by which the proceedings will be governed;
 - (ii) sufficient details of the allegations including the identities of the parties involved, the date and location of the alleged incident(s), and the conduct allegedly constituting a violation of University Policy, if known;
 - (iii) a statement that each party will have an equal opportunity to submit and review evidence throughout the investigation;
 - (iv) a statement that the Respondent is presumed not responsible for the alleged conduct until a determination is made at the conclusion of the grievance process;
 - (v) a statement informing the Complainant and Respondent that they may have one advisor of their choice, who may be, but is not required to be, an attorney and one Support Person of their choice; and
 - (vi) that Rule 1-012(III)(D)(10) prohibits knowingly making false statements or knowingly submitting false statements during the grievance process.

- 2. If, during the course of the investigation, allegations arise about the Complainant or Respondent that were not included in the initial notice, the OEO/AA will provide notice of the additional allegations and provide the Respondent with an opportunity to respond.

- 3. The Respondent shall be afforded a full opportunity to respond to the allegations contained in the Complaint. Failure to respond or participate in an interview by the Respondent or a witness will not prevent the completion of the investigation.

- 4. The OEO/AA will not draw an inference about the determination of responsibility based solely on a party's or witness' decision not to participate in the investigative or hearing process; however, evidence for review will be limited to that provided by parties and witnesses who participate in the investigation.

5. The OEO/AA shall interview the Complainant, the Respondent, and may interview any other person with relevant information. The OEO/AA will objectively review all relevant information, including that which is submitted by the parties.
6. The Complainant and the Respondent may each be accompanied at any meetings or interviews with the OEO/AA by one advisor who may be, but does not have to be, an attorney. During the investigation, the advisor may only advise the Complainant or Respondent and may not actively participate. Any advisor is at the Complainant or Respondent's own expense.
7. The Complainant and the Respondent may each be accompanied at any meetings or interviews by one Support Person. The Support Person's role is to provide support to the Complainant or Respondent and cannot speak on behalf of the party.
8. At the conclusion of the investigation, the OEO/AA shall issue the draft of its investigative report ("OEO Draft") simultaneously to the parties and their advisors, if any, in an electronic or hard copy format. The OEO Draft shall include:
 - a. a summary of the relevant evidence;
 - b. an analysis of whether the evidence, evaluated under a Preponderance of the Evidence standard, supports a finding that discrimination occurred; and
 - c. any mitigating or aggravating factors.
9. To protect the privacy of witnesses and all parties involved, and pursuant to Family Educational Rights and Privacy Act (FERPA) and other state and federal privacy laws, names and other personally identifiable information may be redacted from the copies of the OEO Draft Report and the OEO Report that are provided to the Complainant and Respondent.
10. Both parties shall have ten (10) calendar days after receipt of the OEO Draft Report to submit written comments and any additional documents and/or evidence to the OEO/AA. If information from either party raises new issues or allegations, the OEO/AA may conduct additional investigation.

11. At the conclusion of the OEO/AA's investigation, the OEO/AA shall issue a final investigative report ("OEO Report") simultaneously to the parties and their advisors, if any, in an electronic or hard copy format. The OEO Report shall include:
 - a. a summary of the relevant evidence;
 - b. an analysis of whether the evidence, evaluated under a Preponderance of the Evidence standard, supports a finding that discrimination occurred; and
 - c. any mitigating or aggravating factors.

B. University Disciplinary Action.

1. The OEO/AA shall also provide a copy of the OEO Report to the appropriate University administrator, which may include the supervisor, Chair, Dean, and cognizant Vice President with responsibility over the Respondent. Upon receipt of an OEO Report that includes a finding that a violation of University non-discrimination Policy occurred, the appropriate University administrator will determine disciplinary sanction or other corrective measures as follows:
 - a. If the Respondent is a student, the Dean of Students will determine the disciplinary sanction or other corrective measure. Sanctions in discrimination cases are not subject to Policy 6-400, *Code of Student Rights and Responsibilities ("Student Code")* and may only be reviewed and/or appealed under Policy 1-012 and its associated Rules including this Rule. Possible sanctions include, but are not limited to: fines, restitution, warning, withholding diploma, organizational sanction, permanent no-contact directives, educational training, referrals to counseling or behavioral coaching, limitations, restrictions, or exclusion from campus or campus programs or activities, notation on the student's transcript consistent with the Family Educational Rights and Privacy Act, suspension from one semester to five years, dismissal from the University, or revocation of certificate or degree.
 - b. If the Respondent is a staff member, the appropriate University administrator with supervisory responsibility over the Respondent, in consultation with Human Resources, will determine the disciplinary sanction or

other corrective measure. Sanctions in discrimination cases are not subject to Policy 5-203, *Staff Employee Grievance Procedures*, and may only be reviewed and/or under Policy 1-012 and its associated Rules including this Rule. Possible sanctions include, but are not limited, to: verbal counseling or warning, extension of probationary period, reassignment, transfer, limitations, restrictions, or exclusion from campus or campus programs or activities, reduction in pay, written warning, final written warning, suspension without pay, demotion, and termination.

- c. If the Respondent is a faculty member, the appropriate University administrator, such as the faculty member's Department Chair or Dean, in consultation with the cognizant Vice President, will determine the disciplinary sanction or other corrective measure. ~~Sanctions or other corrective measures against a faculty member may only be imposed by filing a complaint with the Consolidated Hearing Committee (CHC) pursuant to Policy 6-011, Function and Procedures of the Senate Consolidated Hearing Committee.~~ Possible sanctions include, but are not limited, to: verbal counseling or warning, limitations, restrictions, or exclusion from campus or campus programs or activities, written reprimand, suspension without pay and dismissal (termination).
- d. If the Respondent is a vendor/contractor/visitor/patient, possible sanctions or other corrective measures include limitations, restrictions, or exclusion from all or part(s) of campus or campus programs or activities and/or ending business relationships with vendors and contractors.

- 2. **Request for Hearing.** The Complainant and/or the Respondent may request a hearing on the finding contained in the OEO Report and/or the sanctions by submitting a request in writing to the OEO/AA within five (5) calendar days of receipt of the OEO Report or notice of sanctions, whichever occurs last. Failure to file a timely written request for a hearing shall constitute a waiver of the right to a hearing and a waiver of any appeal rights. If there is no request for a hearing, the OEO Report and any sanctions shall become the Final Result.

C. Hearing Process.

1. Hearings (or initial reviews where appropriate) should take place as soon as practicable but should be no less than fifteen (15) and no more than forty (40) calendar days from the issuance of the OEO Report. Although the OEO/AA Hearing Coordinator may endeavor to find a hearing date that will be convenient for all the parties involved, the Hearing Coordinator and Committee Chair have the final authority for determining the date of the hearing.
- ~~2. If any party is a faculty member, a hearing and any appeals shall proceed pursuant to University Policy 6-011, *Function and Procedures of the Senate Consolidated Hearing Committee*. When conducting hearings involving allegations of discrimination, the CHC shall follow the Hearing Procedure outlined below.~~
3. **General Provisions for Hearings.**
 - a. A Hearing Coordinator may facilitate the work of the Committee. Hearing Coordinator responsibilities include:
 - (i) serve as the Secretary to the Committee;
 - (ii) notify the Complainant, the Respondent, the Committee, and the OEO/AA of the date and time of the hearing;
 - (iii) notify the Complainant and the Respondent of the names of the Committee members and any witnesses requested by the Complainant, the Respondent, or the Committee;
 - (iv) notify persons requested by the Committee, Complainant, and/or Respondent to testify at the hearing of the time and place of the hearing.
 - (v) distribute the Hearing Procedure and any documentary evidence to the Complainant and the Respondent;
 - (vi) make appropriate technological arrangements;
 - (vii) arrange for an electronic recording of the hearing; and
 - (viii) provide other reasonable support services at the Committee's request.
 - b. OEO/AA responsibilities include:

- (i) provide the Committee with a copy OEO Report, the attachments (including a copy of the complaint), and a list of the material witnesses identified in the OEO Report; and
 - (ii) provide other reasonable investigatory and support services at the Committee's request.
- c. Appropriate Sanctioning Administrator responsibilities include:
 - (i) provide the Committee with the proposed sanction, disciplinary action, or other corrective measures.
- d. **Closed Hearing.** Hearings shall be closed to the public.
- e. **Advisor.** The Complainant and the Respondent may each be accompanied at the hearing by one advisor of their choice, who may be an attorney and who may participate in the hearing as provided in this Hearing Process.
- f. **Support Person.** The Complainant and Respondent may each be accompanied at the hearing by one Support Person of their choice, who may attend but not participate in the hearing.
- g. **Witnesses.** The Committee, the Complainant, and the Respondent may request the appearance of witnesses at the hearing. It is the responsibility of the party or the Committee calling a particular witness to encourage that witness to attend the hearing.
- h. **Documentary Evidence.** The Complainant and the Respondent may submit documentary evidence for consideration by the Committee. The Committee may also request additional documentary evidence.
- i. **Rules of Evidence.** The Committee shall not be bound by strict rules of legal evidence or procedure and may consider any evidence it deems relevant.
- j. **Privacy.** Committee Chairs and other Committee members are prohibited from discussing any matter

related to the hearing with the parties or the witnesses, or with others before or after the hearing. Violation of privacy may result in dismissal from the Committee and/or other corrective action.

- k. **Electronic Hearings.** Hearings shall be conducted remotely through electronic means, instead of in-person, when at all possible. These remote hearings shall include audio and video capabilities which will allow for parties to simultaneously see, hear, and interact with the Committee, witnesses, and each other in real-time as if physically present in the same location.
- l. **Recording of Hearings.** The hearing, except for deliberations, shall be recorded and a copy in electronic format shall be made available to either party upon request at the requesting party's expense.
- m. **Failure of Party to Participate.** Failure of the party who requested the hearing to attend the hearing, without prior notification and good cause, shall constitute a waiver of the right to a hearing, and a waiver of any appeal rights. In such cases, the OEO Report and any proposed sanctions shall become final and binding. If the party who did not request the hearing fails to attend, the Hearing Committee may proceed with the hearing and take testimony and evidence and reach a decision on the basis of that testimony and evidence.
- n. **Disruptive Behavior.** The Committee has authority to exclude from the hearing any party, advisor, or other participant whose behavior the Committee finds disruptive after providing a warning.
- o. **Time Allocation.** Each party shall have up to forty-five (45) minutes for personal and/or opening statements, presentation of evidence and questioning of witnesses, and concluding remarks. The Committee Chair shall have discretion to grant extensions of time when necessary.
- p. **Role of Office of General Counsel.** The Office of General Counsel may provide a staff attorney to be present at hearings in order to provide guidance to

the Committee on substantive law and procedural matters.

- q. **Sanctions and Remedies.** At the conclusion of the hearing, the Committee shall determine the appropriate sanctions and remedies. The Committee will ensure that any sanctions and remedies are appropriate to end the prohibited conduct, to prevent further violation of policy and remedy the effects of any violation.
 - (i) The Committee will review the proposed sanction submitted by the appropriate administrator and may call that individual as a witness during the hearing to speak to the reasoning supporting the recommendation when making their decision. In determining the reasonableness of the sanction, the Committee shall consider the severity, persistence or pervasiveness of the misconduct; the egregiousness of the misconduct, the impact of the misconduct on the Complainant; the impact or implications of the misconduct on the University community, prior misconduct by the Respondent, including the Respondent's relevant prior disciplinary history; whether the Respondent has accepted responsibility for the misconduct; the maintenance of a safe, nondiscriminatory and respectful working and learning environment; and any other mitigating, aggravating or compelling factors.
 - (ii) **Remedies.** At the conclusion of the hearing, the Committee shall make a determination regarding any appropriate remedies for the Complainant, including but not limited to: reinstatement, transfer or reassignment of employees, Supportive Measures, implementing changes in programs and activities, providing training, or other remedies designed to restore equal access to University Programs or Activities. The Director is responsible for effective implementation of any remedies.

4. **Hearing Committee.**

- a. The OEO/AA shall create a standing pool of committee members to hear the evidence and determine whether the evidence, evaluated under a Preponderance of the Evidence standard, supports a finding that a violation of Policy 1-012 occurred and if so, whether the sanctions are reasonable in light of the circumstances. The pool of eligible Committee members includes the following:
 - (i) staff employees of the University nominated by the Chief Human Resources Officer and/or Staff Council and appointed by the University President and/or designee, and who will serve for a three-year term.
 - (ii) students (graduate and/or undergraduate) nominated pursuant to procedures of Associated Students of the University of Utah (ASUU) and/or the Office of the Dean of Students and appointed by the University President or designee, who will serve a one-year term; and
 - (iii) faculty members from the Consolidated Hearing Committee pool.

- b. The Committee shall be composed of a three-person panel selected from the pool of eligible Committee members.
 - (i) The panel will consist of the Committee Chair, and one Committee member of the same status as the Complainant (student, staff, or faculty), and one Committee member of the same status as the Respondent (student, staff, or faculty), subject to the following exceptions: In the interest of prompt resolution, a Committee may be convened without student representation during school breaks or other time periods that present student scheduling difficulties. No more than one student will serve on a Committee.
 - (ii) The Committee Chair will be selected from the pool of eligible committee members who have

previously served on a Committee and will receive specific training relevant to their duties as Chair.

- c. A Committee member may be disqualified due to bias, conflict of interest, or for other good cause. Alternates will be appointed as needed.
 - (i) In order to provide an objective and fair hearing, each Committee shall take precautions against real or apparent conflicts of interest on the part of Committee members. Committee members shall recuse themselves in any case in which they have a personal bias or conflict of interest that would preclude their making a fair and objective decision and shall avoid any individual communication with a party.
 - (ii) If there is a challenge to the participation of any Committee member, the remaining Committee members shall hear that dispute and make a final decision about the participation of that member in the hearing.

5. **Initial Committee Review.**

- a. In cases where the OEO/AA finds no violation of policy occurred, the Committee shall determine whether a hearing should be held based on a review of the written request for a hearing, the OEO Report, and the attachments to the report (including the complaint). The Committee may determine that it is unnecessary to hold a hearing based on the following factors:
 - (i) insufficient evidence to support a claim of discrimination; or
 - (ii) the issue is no longer relevant or is moot.
- b. The Committee will issue its decision whether to hold a hearing within five (5) calendar days of the initial review. The Committee will inform the Hearing Coordinator, who will notify the parties concurrently in writing. If the Committee determines that a hearing will not be held, either party may appeal the decision

to deny a hearing within ten (10) calendar days by submitting a written request to the cognizant Vice President. The decision of the Vice President is final.

- c. The OEO/AA will inform the appropriate University administrator, which may include the supervisor, Chair, Dean, and/or cognizant Vice President with responsibility over the Respondent, of the decision to hold or deny a hearing. If the Respondent is a student, the Vice President for Student Affairs and the Office of Dean of Students will also be notified.

6. Pre-Hearing.

- a. At least fifteen (15) calendar days before the hearing, the Hearing Coordinator shall notify the Complainant and Respondent in writing, in either an electronic or hard copy format, of:
 - (i) the date, time, location, participants, and purpose of the hearing;
 - (ii) the name the Chair and the Committee members;
 - (iii) the names of all witnesses that the Committee intends to call;
 - (iv) any additional documentary evidence that was not included in the OEO Report that the Committee is requesting; and
 - (v) of the applicable policies and associated rules and guidelines by which the proceedings will be governed.

- b. At least ten (10) calendar days before the hearing, the Complainant and the Respondent must notify the Hearing Coordinator in writing:
 - (i) of any request that a Committee member be disqualified based on bias or conflict of interest;
 - (ii) the name and contact information of their selected advisor, if any;
 - (iii) the name and contact information of their selected Support Person, if any;
 - (iv) a list of any witnesses they wish to speak on their behalf as well as contact information for each witness;

- (v) any additional documentary evidence to be submitted to the Committee, including information the Committee has requested from the parties; and
 - (vi) any other requests for accommodations, including technological accommodations. The request will be reviewed by Committee Chair and at the Chair's request, the Hearing Coordinator will make any appropriate accommodations.
- c. At least five (5) calendar days before the hearing, the Hearing Coordinator shall notify the Complainant and Respondent in writing, in electronic or hard copy format:
- (i) of the names of all witnesses requested;
 - (ii) provide copies of all evidence that has not already been provided; and
 - (iii) of any accommodations, including technological accommodations that will be made at the hearing based upon the request of a party.

7. Hearing Process.

- a. The OEO Consultant who conducted the investigation may be present at the hearing and available for questioning.
- b. The Complainant and the Respondent shall each have an opportunity to make a personal statement. The statement may describe the events that are the subject of the Complaint, the personal impact of the alleged conduct, the relief sought, and any other relevant information. In addition to the personal statements by the parties, each party's advisor shall have the opportunity to make an opening statement.
- c. The Committee, Complainant, and the Respondent shall have the opportunity to call witnesses.
- d. The Committee may ask questions of the OEO Consultant, the Complainant, the Respondent, and any witness. The time of Committee questions and answers shall not count against either party's time.

- e. The Committee must permit each party (or their advisor) to ask the OEO Consultant, the Complainant, the Respondent, any witnesses, and any others providing testimony, all relevant questions and follow-up questions, including questions challenging credibility. The questioning of any person providing testimony (including the parties, witnesses, and the OEO Consultant) shall be conducted directly, orally and in real time and must be directed through the Committee Chair (not directly).
- f. The parties may also present other evidence. If a party presents documentary evidence at the hearing that was not previously provided to the other party and or the Committee prior to the hearing, the Committee Chair shall make a determination as to whether to admit such evidence.
- g. Following the presentation of evidence, the Committee will then ask the appropriate administrator (in cases where the Respondent is a student, a representative from the Office of the Dean of Students; in cases where the Respondent is a staff employee, a representative from the Human Resources department and/or the Respondent's manager; and, in cases where the Respondent is a faculty member, a representative from the Office for Faculty and/or the Respondent's Chair/Dean) to speak to the proposed sanction or corrective measures.
- h. The Committee will conclude the hearing by providing an opportunity for the parties to make concluding remarks. The Chair will then adjourn the hearing and begin Committee deliberations.
- i. Committee deliberations and voting shall be closed sessions from which all other persons are excluded, except, at the Committee's request, an advising attorney from the Office of General Counsel. The advising attorney may remain present for deliberations but shall have no vote. The Committee in its discretion may take votes openly or by secret written ballot. A majority vote by the members of the Committee who attended the hearing shall be required for decisions. The Committee Chair shall be

entitled to vote on all questions. The OEO/AA, including the Director, shall not participate in the Committee's deliberations and shall have no vote.

D. Post-Hearing.

1. Within ten (10) calendar days after the conclusion of the hearing, the Committee shall provide its written determination ("Committee Report") simultaneously to the parties, their advisors, if any, and the OEO/AA. The Committee Report shall include:
 - a. a determination of whether the evidence, evaluated under a Preponderance of the Evidence standard, supports a finding that a violation of University Non-discrimination Policy occurred; if so,
 - b. a determination of whether the sanctions are reasonable in light of the circumstances; and,
 - c. the procedures and permissible bases for the parties to appeal.

E. Appeals.

1. The appealing party (whether student, staff, or faculty) must articulate the applicable bases for their appeal, which must include at least one of the following:
 - a. a procedural irregularity that affected the outcome of the matter;
 - b. new evidence that was not reasonably available at the time the determination was made that could affect the outcome of the matter;
 - c. the investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; and
 - d. the findings regarding responsibility and or the disciplinary sanction or corrective measure are arbitrary and capricious.
2. If a party files an appeal:
 - a. The Hearing Coordinator must notify the other party in writing that an appeal has been filed.

- b. Appeal procedures must be applied equally to both parties.
- c. Each party may provide a written statement in support of, or challenging, the decision within five (5) days of the notice that an appeal has been filed.

3. **Appeal to the Vice President or their designee.**

- a. In cases where the either party is not a faculty member, the Complainant and the Respondent may each appeal the decision of the Hearing Committee to the cognizant Vice President or their designee by submitting a request in writing to the Hearing Coordinator within five (5) calendar days of notice of the Hearing Committee's decision. Failure to file a timely written request for appeal shall constitute a waiver of the right to an appeal under this section. If there is no timely written request for an appeal, the Hearing Committee's decision shall become the final and binding decision of the University ("Final Result").
- b. The Vice President or their designee shall have available for review all relevant documentation, including the Committee Report, any other materials presented to the Committee, the statements of the parties supporting or opposing the appeal, and if requested by the Vice President or their designee, a recording of the proceedings. The Vice President or their designee may not base a decision on information not presented at the hearing unless the nature of that information is fairly communicated to the parties and a reasonable opportunity to respond is given. The Vice President or their designee may seek advice from neutral advisors.
- c. The Vice President or their designee will issue a final and binding decision ("Final Result") in writing within ten (10) calendar days of the written request for appeal. The written decision will describe the result of the appeal and the rationale for the result. For good cause, the Vice President or their designee may extend the ten-day period. The Vice President or designee shall simultaneously notify the parties, their advisors, if any, and the supervisor, Dean, Chair, and any other cognizant University representatives of the Final Result.

4. **Appeal to the President or their designee.**

- a. In cases where either party is a faculty member, the Complainant and the Respondent may each appeal the decision of the Hearing Committee to the President or their designee instead of the Vice President, by submitting a request in writing to the Hearing Coordinator within five (5) calendar days of notice of the Hearing Committee's decision. Failure to file a timely written request for appeal shall constitute a waiver of the right to an appeal under this section. If there is no timely written request for an appeal, the Hearing Committee's decision shall become the final and binding decision of the University ("Final Result").
- b. On appeal, the President or their designee shall have available for review all relevant documentation, including the Committee Report, any other materials presented to the Committee, and if requested by the President, an audio recording of the proceedings. The President may not base a decision on information not presented at the hearing unless the nature of that information is fairly communicated to the parties and a reasonable opportunity to respond is given. The President may seek advice from neutral advisors.
- c. The President or their designee will issue a final and binding decision ("Final Result") in writing within ten (10) calendar days of the written request for appeal. For good cause, the President or their designee may extend the ten-day period. The Hearing Coordinator shall concurrently notify the Complainant, the Respondent, and the supervisor, Dean, Chair, and any other cognizant University representatives of the Final Result.

[Note: Parts IV- of this Regulation (and all other University Regulations) are Regulations Resource Information – the contents of which are not approved by the Academic Senate or Board of Trustees, and are to be updated from time to time as determined appropriate by the cognizant Policy Officer and the Institutional Policy Committee, as per [Policy 1-001](#) and [Rule 1-001](#).]

IV. **References**

20 U.S.C. § 1092(f)

20 U.S.C. § 1681 *et seq.*
29 U.S.C. § 794 *et seq.*
42 U.S.C. § 2000d *et seq.*
42 U.S.C. § 2000e *et seq.*
42 U.S.C. § 6101 *et seq.*
42 U.S.C. § 12112
42 U.S.C. § 12132
42 U.S.C. § 18116
34 C.F.R. § 668.46 Institutional Security Policies and Crime Statistics
Utah Code Ann. § 76-5-106.5 Stalking—Definitions—Injunction—Penalties
Utah Code Ann. § 76-5-402 to -405 Sexual Offenses
Utah Code Ann. § 76-5-406 Sexual offense against the victim without consent of victim—Circumstances
Utah Code Ann. § 76-5b Sexual Exploitation Act
Utah Code Ann. § 76-9-702.7 Voyeurism offenses—Penalties
Utah Code Ann. § 77-36-1 Definitions
Utah Code Ann. § 78B-7-402 Definitions
Utah Board of Higher Education (*formerly* Board of Regents) Policy No. R256: Student Disciplinary Processes
Utah Board of Higher Education (*formerly* Board of Regents) Policy No. R831: Minimum Requirements for Non-Faculty Staff Employment Grievances Policy
Utah Board of Higher Education (*formerly* Board of Regents) Policy No. R841: Minimum Requirements for Disciplinary Sanctions and Termination of Staff Personnel
Policy 1-004: Violence in the Workplace and Academic Environment
Policy 1-011: Campus Security
Rule 1-012: Discrimination Complaint Rule
Rule 1-012A: Discrimination Complaint Process Rule
Rule 1-012B: Sexual Misconduct Complaint Process Rule
Policy 1-020: Required Professional Boundaries in Relationships

Policy 5-106: Equal Opportunity and Nondiscrimination Employment

Policy 5-107: Consensual Relationships

Policy 5-117: Americans with Disabilities Act (ADA) Policy

Policy 5-203: Staff Employee Grievances

Policy 6-011: Senate Consolidated Hearing Committee

Policy 6-316: Code of Faculty Rights and Responsibilities

Policy 6-400: Code of Student Rights and Responsibilities

V. **Contacts:**

The designated contact officials for this Policy are:

A. **Policy Owner (primary contact person for questions and advice):
Office of Equal Opportunity and Affirmative Action**

B. **Policy Officer: Vice President and General Counsel**

These officials are designated by the University President or delegee, with assistance of the Institutional Policy Committee, to have the following roles and authority, as provided in University Rule 1-001

"A "Policy Officer" will be assigned by the President for each University Policy, and will typically be someone at the executive level of the University (i.e., the President and ~~his/her~~ Cabinet Officers). The assigned Policy Officer is authorized to allow exceptions to the Policy in appropriate cases. "

"The Policy Officer will identify an "Owner" for each Policy. The Policy Owner is an expert on the Policy topic who may respond to questions about, and provide interpretation of the Policy; and will typically be someone reporting to an executive level position (as defined above), but may be any other person to whom the President or a Vice President has delegated such authority for a specified area of University operations. The Owner has primary responsibility for maintaining the relevant portions of the Regulations Library. [and] bears the responsibility for determining which reference materials are helpful in understanding the meaning and requirements of particular Policies... ." University Rule 1-001-III-B & E

VI. **History: [reserved]**

Renumbering: Not Applicable.

Revision History:

A. Current version

[Interim Rule Revision 2](#)

~~[Legislative History for Interim Revisions 2](#) -- This Interim Rule Revision 1 was put into effect on August 13, 2020, by University President Ruth Watkins, after consultation with the Academic Senate Executive Committee July 13, 2020, and presentation to and approval of the Executive Committee of the Board of Trustees August 17, 2020. It was subsequently presented for the Information and Recommendations of the Academic Senate, August 31, 2020. It was enacted as an Interim revision (in accord with Policy 1-001) in order to comply with recently changed federal regulations. It will remain in effect until a permanent version is adopted, which is anticipated to occur by August 14, 2022 after review by appropriate internal University groups.~~

Editorial revisions to current version: None

B. Earlier Versions.

1. [Revision 1](#)

a) [Legislative History for Revision 1](#)

2. Interim Rule Revision 1 was put into effect on August 13, 2020, by University President Ruth Watkins, after consultation with the Academic Senate Executive Committee July 13, 2020, and presentation to and approval of the Executive Committee of the Board of Trustees August 17, 2020. It was subsequently presented for the Information and Recommendations of the Academic Senate, August 31, 2020. It was enacted as an Interim revision (in accord with Policy 1-001) in order to comply with recently changed federal regulations. It will remain in effect until a permanent version is adopted, which is anticipated to occur by August 14, 2022 after review by appropriate internal University groups.

~~2.3. Revision 0. Approved by the Academic Senate: January 9, 2017. Approved by the Board of Trustees: February 14, 2017, with the designated effective date of February 14, 2017.~~

~~Legislative history of Revision 0.~~