

# Policy 5-210: Discrimination and Sexual Harassment Complaint Policy

## I. Purpose

To provide a guiding policy by which individuals may pursue discrimination and sexual harassment complaints at the University of Utah.

## II. References

[Policy 5-106 \(/human-resources/5-106.php\)](/human-resources/5-106.php), Equal Opportunity and Nondiscrimination Employment

[Policy 5-107 \(/human-resources/5-107.php\)](/human-resources/5-107.php), Sexual Harassment and Consensual Relationships

[Policy 5-117 \(/human-resources/5-117.php\)](/human-resources/5-117.php), Americans with Disabilities Act (ADA) Policy

[Policy 6-400 \(/academics/6-400.php\)](/academics/6-400.php), Code of Student Rights and Responsibilities

[Policy 6-316 Sections 4 and 5 \(/academics/6-316.php\)](/academics/6-316.php), Code of Faculty Rights and Responsibilities

[Policy 6-002 Section 10 \(/academics/6-002.php\)](/academics/6-002.php), Consolidated Hearing Committee for Faculty Disputes

Board of Regents [Policy No. R831 \(http://higheredutah.org/sbr/policy/pdf/R831.pdf\)](http://higheredutah.org/sbr/policy/pdf/R831.pdf)

[Rule 5-210A \(/human-resources/rules/rule\\_5-210A.pdf\)](/human-resources/rules/rule_5-210A.pdf), Discrimination and Sexual Harassment Complaint Procedures

[Policy 1-012 \(/general/1-012.php\)](/general/1-012.php), Sexual Assault Prevention and Response

## III. Confidentiality and Non-Retaliation

The privacy of all parties involved in a complaint investigation shall be strictly respected insofar as it does not interfere with the University's legal obligation to investigate allegations of misconduct, to take corrective action, or as otherwise provided by law. Failure by a participant in the process to comply with the mandates of this section, may result in disciplinary action.

Individuals shall not be subjected to retaliation for initiating or participating in this process. The non-retaliation provisions of [Policy 5-106 \(/human-resources/5-106.php\)](/human-resources/5-106.php) are incorporated herein.

#### IV. Duties to Notify

- A. Any University representative who is contacted by an individual with a sexual harassment or discrimination issue shall advise that individual of the OEO/AA and the availability of University complaint Procedures as contained herein.
- B. Once informed of an issue related to sexual harassment or discrimination, the supervisor, chair, dean or other representative of the University shall immediately inform the OEO/AA.

#### V. Complaint, Investigation and Appeals

##### A. Filing a Complaint

A written, signed complaint alleging discrimination or sexual harassment may be filed with the OEO/AA:

1. by any individual who believes s/he has been subjected to discrimination or sexual harassment in violation of Policy and Procedures [5-106 \(/human-resources/5-106.php\)](/human-resources/5-106.php), [5-107 \(/human-resources/5-107.php\)](/human-resources/5-107.php), [5-117 \(/human-resources/5-117.php\)](/human-resources/5-117.php), [6-400, Section I.E \(/academics/6-400.php\)](/academics/6-400.php) or [6-316 Section 4 \(/academics/6-316.php\)](/academics/6-316.php); or
2. by an administrator acting on behalf of the University alleging a violation of University discrimination/sexual harassment/ADA policy.

##### B. Relationship to Other University Proceedings

All University discrimination and sexual harassment complaints must be resolved under this policy. If allegations of discrimination or sexual harassment are raised in proceedings under another established University complaint or grievance Procedure, the University administrators or faculty involved shall immediately notify the OEO/AA and shall refer the sexual harassment or discrimination complaint to the OEO/AA. During an OEO/AA investigation, all other related proceedings shall be stayed, unless the referring committee obtains approval from the director of the OEO/AA to proceed with specified tasks which are clearly separate and distinguishable from those tasks or factual bases arising pursuant to the sexual harassment or discrimination complaint.

In cases where allegations of discrimination or sexual harassment are raised in a proceeding that could culminate in a hearing before the CHC, an EO Investigator will conduct an investigation, issue a report to the CHC, and serve in an advisory role when the CHC process continues.

##### C. Dismissal of a Complaint

A complaint that fails to state a claim of discrimination or sexual harassment, or is not timely (filed within 120 calendar days of the last alleged discriminatory act), may be dismissed by the director of the OEO/AA after an initial review. A complaint that is not timely may be accepted by the director if circumstances warrant.

#### D. Opportunity to Respond

The responding party shall be afforded a full opportunity to respond to the allegations.

#### E. Investigation, Response and Appeal Rights

The OEO/AA shall endeavor to complete its investigation as expeditiously as possible.

Reasonable time away from regular work duties during scheduled working hours shall be provided, with pay, to the parties, their representatives, or any witnesses called to testify, for time spent participating in the complaint resolution process. Time spent outside scheduled working hours is non-compensable; non-exempt employees will be compensated for time spent in case-related meetings.

At the conclusion of its investigation, the OEO/AA shall provide a summary of its initial findings of fact and conclusions to the complaining party, the responding party and others as appropriate, as well as notice of right to request a hearing. Both parties to the complaint will be afforded the opportunity to respond to the investigative summary and to request a hearing.

If there is no request for a formal hearing, a copy of the investigative report shall be made available to the cognizant Vice-President, and the initial findings of the OEO/AA shall become the University's final decision on the matter.

#### F. Request for Hearing

If a hearing is requested by either party and the complaint has not been previously withdrawn, dismissed, settled or otherwise resolved, the matter may proceed to a hearing committee.

In cases where the OEO/AA found no violation of policy or no sanction was recommended as a result of the OEO/AA investigation, the hearing committee shall make an initial determination as to whether the matter warrants a hearing. If the committee declines to hold a hearing, either party may appeal that decision to the President.

#### G. Hearing by Committee

If a hearing is held, the Committee shall submit its findings, conclusions and recommendations to the cognizant Vice President for a determination.

Both parties may be accompanied and counseled by an advisor of their choice who may be an attorney, and who may participate in the hearing as described in the applicable Procedure.

#### H. Vice Presidential Determination and Appeal

The cognizant Vice President shall provide to the parties concerned notice of her/his final determination, as well as the right to request a Presidential review.

If the President of the University is the named respondent, the Vice Presidential determination will be made by an appropriate person designated by the Vice-President for Human Resources in consultation with the General Counsel.

#### I. Presidential Determination

If Presidential review is requested, the President shall issue a final decision to the parties.

In cases where the President is a respondent or otherwise involved in the decision being reviewed, the final decision will be made by an appropriate person designated by the Vice-President for Human Resources in consultation with the General Counsel.

### VI. Annual Report

The OEO/AA shall issue an annual report to the President summarizing the nature and types of complaints filed pursuant to this policy, the identity of the parties by category (faculty, staff, student, participant) and the ultimate disposition of the complaints. The names and identities of the parties shall not be released. The annual report shall be made available to the University community.

### VII. Changes to Procedures

Any substantive change to the Procedures associated with this policy shall be made with the approval of the President's Cabinet, the Executive Committee of the Academic Senate and the Executive Committee of UUSAC.

### VIII. Contact

Policy Owner: Questions about this Policy and any related Rules, Procedures and Guidelines should be directed to the [Director of Equal Opportunity/Affirmative Action \(/info/index.php#5\)](#).

Policy Officer: Only the [Vice President for Human Resources \(/info/index.php#5\)](#) or his/her designee has the authority to grant exceptions to this Policy.

### IX. History

Current version - Rev.10

Approved by Board of Trustees 2/13/2006

[Interim Rule 5-210 \(/human-resources/rules/rule\\_5-210.php\)](/human-resources/rules/rule_5-210.php) was added 9/30/2009 to comply with the Clery Act (Federal Regulation) and was later replaced with [Policy 1-012 \(/general/1-012.php\)](/general/1-012.php).

1. See President's [Memo \(/human-resources/appendices\\_5/President%20MemoR5-120.pdf\)](/human-resources/appendices_5/President%20MemoR5-120.pdf) for more information.

---

Approved: Board of Trustees 2/13/2006

OUTDATED