

Policy 5-211: University Independent Personnel Boards and Procedures for Complaints Under the Utah Protection of Public Employees Act.

Revision 0.

I. Purpose and Scope

- A. Purpose: The primary purpose of this Policy is to establish the types of independent personnel boards and related procedures by which the University implements the Utah Protection of Public Employees Act for filing and administrative review of certain types of complaints from University employees. The University is committed to operating in a responsible manner and in compliance with legal requirements, and further, wishes to foster an environment where employees are empowered to raise concerns.
- B. Scope: This Policy applies to all University of Utah employees and all academic and administrative units of the University, including the University of Utah Hospitals and Clinics.

II. Definitions

- A. The Utah Protection of Public Employees Act (“UPPEA”) is [Utah Code Section 67-21-1](#), *et seq.*, as amended.
- B. The following definitions of terms as defined in Policy 5-001 –Employee Definitions, apply for purposes of this Policy:
 - 1. Employee- An individual who meets both of the following qualifications:
 - a. Receives compensation for work or services in which the University has the right (whether or not it exercised the right) to supervise and control the manner of performance as well as the result of the work or service and
 - b. Receives compensation which has been appropriated from funds controlled by the University regardless of the source of the funds, the duties of the position, the amount of the compensation paid, or the percent of time worked.

2. Employees include: Administrative Officers, Faculty or Faculty Members, Non-Faculty Academic Employees, Staff or Staff Member, At-will, Benefits Eligible and Non-Benefits Eligible, Full-time and Part-time, Per Diem or PRN, Probationary, Salaried Exempt, Hourly Non-Exempt, Temporary, Time and/or Fund Limited.

III. Policy

A. Independent Personnel Boards for staff or faculty employees.

Whereas the UPPEA provides that a “state institution of higher education shall adopt a policy to establish an independent personnel board to hear and take action on a complaint alleging adverse action”, and because the University has for other purposes previously established separate dispute hearing bodies and hearing procedures for various disputes involving either staff employees or faculty employees, the University’s independent personnel boards for purposes of the UPPEA are comprised of the following personnel:

1. For a concern brought by a staff member against a staff member (a staff-involved case), the independent personnel board will be comprised of individuals from the Staff Hearing Committee Pool. (See Hearing Procedures in [Policy 5-203](#))
2. For concerns brought by a faculty member or against a faculty member (a faculty-involved case), the independent personnel board will be comprised of individuals from the Senate Consolidated Hearing Committee. (See Policies [6-002](#) and [6-011](#))
3. The independent personnel board will not include any individual who is in the same department as the complaining party, is a supervisor of the complaining party, or has a known conflict of interest in relation to the complaining party or an allegation made in the complaint.

B. Complaint filing.

1. A complaint alleging a violation of the UPPEA must be filed within 180 days after the occurrence of the alleged violation and must be filed with the Director of Employee Relations. This time limit does not extend the time for

- any appeal or request for a hearing made pursuant to other University Regulation, including but not limited to Policy [5-203](#) , [6-002](#) or [6-011](#).
2. A complaint filed under this Policy should be filed in good faith and include specific information relevant to the concern, including: date, time, location of alleged occurrence of violation of the UPPEA, individual(s) involved and/or responsible, the nature of the complaint, and desired remedy.
- C. Hearing and Final Decision Procedures
1. Except as otherwise described below, a complaint alleging a violation of the UPPEA and which warrants a hearing will follow hearing procedures associated with University Policy 5-203, "*Staff Employee Grievances.*"
 - a. When a complaint is filed by a staff employee and/or about a staff employee (a staff-involved case) the independent personnel board will consist of three (3) members of the Staff Hearing Committee pool, unless the hearing under this Policy is combined with another type of hearing that requires a greater number of committee members.
 - b. When a complaint is filed by a faculty employee or about a faculty employee (a faculty-involved case) the independent personnel board will consist of three (3) members of the Senate Consolidated Hearing Committee pool, unless the hearing under this Policy is combined with another type of hearing that requires a greater number of committee members (in which case the greater number shall apply). The selection procedures for board members shall be in accord with Policy [6-011](#).
 2. The independent personnel board shall, at the conclusion of a hearing, prepare a report and recommendation concerning the complaint.
 - a. For a staff-involved case the report and recommendation will be forwarded to the appropriate cognizant Vice President (or a designee) for review and final decision.
 - b. For a faculty-involved case the report and recommendation will be forwarded to the cognizant Sr. Vice President (or a designee) for review and final decision.

3. A final decision maker who receives a recommendation pursuant to this Policy shall render a decision within seven (7) days after the day on which the final decision maker receives the recommendation.
4. For a staff-involved case, the final decision described in this Policy constitutes the final decision regarding any employee grievance under Policy 5-203.
5. For a faculty-involved case, nothing in this Policy prohibits the Senate Consolidated Hearing Committee from combining the hearing under this Policy with any other type of hearing or procedure under Policy 6-011. If another type of hearing under Policy 6-011 is combined with a hearing under this Policy, the procedures and appeals processes will be governed by Policy 6-011.
6. For either a staff-involved or a faculty-involved case under this Policy, in accord with the UPPEA (and as these terms are defined in the UPPEA) the University must establish by “*substantial evidence*” that any “*adverse action*” against the complaining employee was justified by reasons unrelated to the employee’s good faith actions under the UPPEA.

[Note: Parts IV-VII 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. Rules, Procedures, Guidelines, Forms and other Related Resources

[reserved]

V. References

Policy 5-100 Employee Definitions

Procedure 5-203 Staff Employee Appeal Hearings

Policy 6-011 Senate Consolidated Hearing Committee

Utah Protection of Public Employees Act--[Utah Code Section 67-21-1](#), *et seq.*,

VI. **Contacts**

The designated contact officials for this Policy are:

Policy Owner (primary contact person for questions and advice):

Senior Human Resources Director for Employee Relations (tel. 801-581-5469)

Policy Officer: Chief Human Resources Officer

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.

VII. **History**

Current version: Revision 0. Enacted as an Interim Policy by University President, July 1, 2019 with effective date July 1, 2019.

Presented for Information and Recommendations of the Academic Senate August 26, 2019.

Approved by the Board of Trustees September 10, 2019.

[Legislative History](#) for Revision 0.