



SUBJECT: DISABILITY GRIEVANCE PROCEDURES

I. PURPOSE:

To provide procedures for prompt and equitable resolution of complaints filed by persons alleging discrimination in the receipt of services or accommodations due to disabilities.

II. REFERENCES:

Section 504 of the Rehabilitation Act of 1973, Pub.L. 93-112, Pub. L. 93-516, Pub. L. 95-602, and the Pub. L.102-569, 29 U. S. C. 704 et seq., and its implementing regulation, Title 34, CFR Part 104;

Title II of the Americans with Disabilities Act (ADA) 42 U. S. C. 12131-12134 and its implementing regulation, Title 28 CFR Part 35, Section 35.107.

The Utah Government Records Access and Management Act, Utah Code Section 63-2-101, et.seq.

III. POLICY:

A. ADA GRIEVANCE OR COMPLAINT RESOLUTION

The Americans with Disabilities Act 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.

The ADA/504 Coordinator for Southern Utah University has the responsibility for coordinating the investigation of and providing prompt decisions on the equitable resolution of complaints filed by persons alleging discrimination due to disabilities.

B. FILING OF COMPLAINTS

1. An individual shall file the complaint in a timely manner (within 20 working days) to assure prompt, effective assessment and consideration of the facts related to the alleged discrimination.
2. The complaint shall be written and filed directly with the ADA/504 Coordinator.



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3. Each complaint shall:
 - a. Include the name, address, and telephone number and e-mail address (if available) of each individual filing the complaint.
 - b. Describe the alleged discriminatory action in sufficient details to inform the investigator as to the nature of and the date of the alleged violation.
 - c. Identify any witnesses (names and contact information) to the alleged violation.
 - d. Describe the action and accommodation desired to resolve the issue and,
 - e. Be signed by the individual(s).

C. INVESTIGATION OF THE COMPLAINT

1. The ADA/504 Coordinator shall appoint a Disability Grievance Committee consisting of three to five individuals from faculty and staff to conduct an investigation of the complaint. One individual will be selected by the Committee to serve as chair. The University Human Resource Office shall assume responsibility in conducting investigations for complaints from University employees (faculty, staff or student) alleging discrimination under the ADA/Section 504.
2. The Disability Grievance Committee shall assume responsibility in conducting all other investigations in the purpose of this. Investigations will be conducted to the extent necessary to assure all relevant facts are determined and documented.
3. When conducting the investigation, the Disability Grievance Committee may seek assistance from other individuals (e.g. Human Resources, Risk Manager, Budget Officer, University Legal Counsel) in determining what action, if any, shall be taken on the complaint.
4. The filing of a complaint shall be considered as authorization by the complainant to allow review of all information, including information otherwise classified as private or controlled.

D. ISSUANCE OF RECOMMENDATION

1. Within twenty (20) working days after receipt of the complaint, the Disability Grievance Committee shall provide the Coordinator a written recommendation (or other suitable format if requested) regarding the complaint. The Committee shall provide the basis for the recommendation including a finding of facts.



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2. The Coordinator must consult with appropriate University officials before implementing any recommendation which would involve:
 - a. an expenditure of funds
 - b. a facility modification or
 - c. a reclassification or reassignment of a faculty/staff member
3. If the Disability Grievance Committee is unable to reach a decision within the 20 working day period, written notice (or other requested format) will be provided to the complainant explaining the delay and the amount of additional time needed. No delay shall exceed 40 working days except in extreme circumstances.

E. APPEALS

1. The individual may appeal the recommendation of the Disability Grievance Committee within ten (10) working days from the receipt of the ADA/504 Coordinator's decision based thereon.
2. The appeal shall be filed in writing with the ADA/504 Coordinator who shall review the appeal request.
3. The appeal shall describe in sufficient detail why the Disability Grievance Committee's recommendation is in error, incomplete or ambiguous, is not supported by evidence, or is otherwise improper.
4. The ADA/504 Coordinator shall review the findings and the individual's detail regarding the Committee's error and arrive at a conclusion and recommendation having taken the individual's views into account. Additional investigation may be conducted, if necessary, to clarify questions of fact before making any decision.
5. The decision shall be issued within 20 working days after receiving the appeal and shall be in writing (or other accessible format as requested).
6. If the ADA/504 Coordinator is unable to reach a decision within the 20 day working period, the Coordinator shall notify the individual in writing (or other requested format) why the decision is being delayed and the additional amount of time needed to reach a decision. No delay shall go beyond 40 working days except in the most extreme circumstances.



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F. 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 Appeals Committee or the ADA/504 Coordinator 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 ADA/504 Coordinator's decision, unless otherwise legally protected, will be public, with the identity of the Complainant to remain confidential.

G. 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 and 8.4. 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.