

2020-21 Board of Trustees Planning Retreat

Monday, August 10, 2020 | 10:00 AM to 5:00 PM

This meeting will be held virtually. Members of the public who wish to attend may meet at the anchor location:

Miller Administration Building, Lampros Board Room - 319

3850 Dixon Parkway, Ogden, UT 84408

Please note that face coverings and social distancing will be required

AGENDA

1. **Welcome & Introductions (10:00 a.m.)** *Kearston Cutrubus, Vice Chair*
2. **Approval of Minutes (10:05 a.m.)** *Nolan Karras, Chair*
 - a. [May 20, 2020 Board Meeting](#)
 - b. [June 2, 2020 Executive Committee Meeting](#)
3. **Required Annual Trustee Trainings (10:10 a.m.)**
 - a. [Open Meetings Act / Video](#) *Morris Haggerty, Assistant AG*
[Conflict of Interest](#), Ethics and [Fiduciary Duties](#)
Rich Hill and Stephanie Hollist, General Counsel
4. **Action Items (10:40 a.m.)**
 - a. [Trustee By-law Changes](#)
 - b. [Committees and College Liaison Assignments](#)
 - c. PPM 3-32 Discrimination, Harassment, and Sexual Misconduct (including Title IX)
[\[Redline Version / Clean Version\]](#) [Current Chart](#) – [Chart w/Proposed Revisions](#)
 - d. Approval of Dean for the Lindquist College of Arts & Humanities
5. **Northern Utah Collaborative Ecosystem (11:00 a.m.)**
Brigadier General C. McCauley von Hoffman
6. **Information Updates (11:45 a.m.)**
 - a. [Committee Charter Revisions](#)
 - b. [2020-21 Trustee Meeting Schedule and Event Calendar](#)
 - c. August 29 Commencement Update
 - d. [Leadership Staffing Update](#)

BREAK (12:30 p.m. to 1:00 p.m.)

7. **Utah System of Higher Education Updates (1:00 p.m.)** *Commissioner Dave Woolstenhulme*
Deputy Commissioner Geoff Landward
 - a. [Institutional Roles & Missions](#)
 - b. **Proposed Utah Board of Higher Education, Board of Trustees, and Administrative Officer** [Responsibilities and Authorities](#)

8. **University Updates (2:00 p.m.)**
 - a. **Fall Semester Plans**
 - i. *Academics*
 - ii. *Student Support and Activities*
 - iii. *Staffing*
 - iv. *Campus Events*
 - v. *Athletics*
 - b. [Financial Update](#) - CARES I-V
 - c. **Diversity, Equity, and Inclusion**
 - d. **University Strategic Planning**

BREAK (3:15 p.m. to 3:30 p.m)

9. **Speed Intros and Selection of 2020-21 Trustee Meeting Discussion Topics (3:30 p.m.)**
 - a. **Student Affairs and Services COVID-19 Responses**
 - b. **Basic Needs Network (Food, Shelter, Clothing, Mental Health)**
 - c. **Peer Mentoring Program**
 - d. **Financial Literacy/Money Management Center**
 - e. **Leveraging Places of Belonging: Student Affairs Facilities**
 - f. **Title IX Updates (Affirmative Action/Equal Opportunity and Athletics)**
 - g. **2021 Northwest Commissioner Accreditation Review**
 - h. **Addressing Skill Gaps for Jobs of the Future**
 - i. **Strategic Enrollment Plan**
 - j. **Employability - Internships and Working on Campus**
 - k. **Development Campaign**
 - l. **Marketing Campaign**
 - m. **Other**

10. Discussion, Follow-up, and Questions

11. Adjourn (5:00 PM)

Minutes
Weber State University Board of Trustees
May 20, 2020 – 9:30 am
WSU Ogden Campus
Online Forum – Zoom Meeting

Trustee Members:

Mr. Nolan Karras (Chair)
Ms. Kearston Cutrubus (Vice Chair)
Mr. Bret Alexander
Mr. Ben Ferney
Ms. Karla Bergeson
Mr. Marty Carpenter
Mr. Clint Costley
Ms. Amanda Covington
Mr. Don Salazar
Ms. Louenda Downs
Ms. Karen Fairbanks

Excused:

Weber State University Representatives:

Dr. Brad Mortensen, President
Dr. Norm Tarbox, Vice President for Administrative Affairs
Dr. Ravi Krovi, Provost
Dr. Brett Perozzi, Vice President for Student Affairs
Dr. Bret Ellis, Vice President for Information Technology
Dr. Betsy Mennell, Vice President for University Advancement
Ms. Adrienne Andrews, Assistant Vice President of Diversity & Chief Diversity Officer
Mr. Rich Hill, General Counsel
Ms. Stephanie Hollist, Deputy General Counsel
Ms. Amy Huntington, Chair, SAC / Program Director, Wildcat Scholars
Dr. Ed Hahn, Proxy for Chair, Faculty Senate / Associate Professor and Head of Collections,
Stewart Library
Mr. John Kowalewski, Executive Director, Marketing and Communications

Ms. Sherri Cox, Secretary to the Board

Mr. Steven Richardson, Director of Strategic Initiatives

Mr. Luke Jenkins, Vice-chair, SAC / Senior Network Engineer

Dr. Wendy Holliday, Dean of the Library

Dr. Carl Porter, Executive Director, Academic Support Centers and Programs

Dr. Prasanna Reddy, Director, Learning Support and Supplemental Instruction

Dr. Stephanie Wolfe, Associate Professor/Political Science

Mr. Bryce Barker, Director of Internal Audit

Mr. Mark Ashby, IT Support Professional II

Ms. Jesselie Anderson, Regent, Utah State Board of Regents

Public Attendees:

Ms. Betty Sawyer

Mr. Jeremy Shinoda

Press:

No members of the press were present

Welcome	I. The meeting of the Board of Trustees convened at 9:30 a.m. via Zoom digital platform.
	II. Chair, Mr. Nolan Karras welcomed those in attendance.
Recognition of Outgoing & Installation of Incoming Trustee/ WSUSA President	III. Mr. Bret Alexander, outgoing Trustee and WSUSA President, was awarded (virtually) a presidential citation plaque for service as a Board of Trustee, and given a few moments to speak. Mr. Ben Ferney, incoming Trustee and WSUSA President, was then sworn in and installed as a new Trustee by Board of Trustees secretary, Ms. Sherri Cox.
Approval of Meeting Minutes (April 15, 2020)	IV. Upon a motion from Ms. Amanda Covington, with a second by Ms. Louenda Downs, the Board of Trustees unanimously approved the meeting minutes from April 15, 2020.
2020-21 Proposed Meeting Schedule	V. A proposed 2020-21 meeting schedule for the Board of Trustees was presented and discussed.
ACTION	Upon a motion to approve the 2020-21 Board of Trustees meeting schedule by Ms. Louenda Downs, with a second by Mr. Marty Carpenter, the motion passed unanimously.
Presentation: (Dr. Carl Porter and Dr. Prasanna Reddy)	VI. Dr. Carl Porter, Executive Director, Academic Support Centers and Programs, and Dr. Prasanna Reddy, Director, Learning Support and Supplemental Instruction, gave a Learning Support presentation on “Academic Support – Focus: Tutoring and Supplemental Instruction.” Their report included the number of students using tutoring sessions and the benefits they experience. The Tutoring Center’s rapid response to COVID-19 went into full swing on Monday, March 16, 2020, before courses started. Tutors took training courses to learn how to coach students dealing with stress during this trying time. Over 2000 student contacts occurred in five weeks. Faculty and student responses in the end of semester surveys were positive with 96% checked as excellent by faculty and 91% marked excellent by students.
Faculty Presentation: (Dr. Stephanie Wolfe)	VII. A faculty presentation from SBS on “International Studies at Weber State” was given by Dr. Stephanie Wolfe, Associate Professor/Political Science. Dr. Wolfe’s report included an International Studies minor, which was transformed from an older program, a report on the Rwanda program, including study abroad and internships since 2014. Future plans are in place to increase student engagement with the International Studies minor and programs.

Faculty Presentation: Dr. Wendy Holliday)	VIII. A faculty presentation from the Stewart Library on “Stewart Library and Equitable Access” was given by Dr. Wendy Holliday, Dean of the Library. Dr. Holliday’s report included lessons learned from COVID-19 and the barriers that were created by closure of the library. Technology and internet access are of paramount importance to students as well as affordable course materials. A checkout program was implemented for laptops and Chromebooks. 114 were checked out to students. 20 Wi-Fi hotspots were developed. Course materials were made available via scanned copies or course reserves.
COVID-19 Update (President Brad Mortensen)	IX. President Brad Mortensen gave an update to the Board of Trustees on COVID-19 at the university. Highlights included: <ol style="list-style-type: none"> 1. The future of how colleges will function is uncertain at this time. 2. The plan for the university is to move to yellow level June 1, 2020. 3. USHE guidelines are being developed this week. We have been asked to form a template plan for our university. 4. An announcement to campus has not gone out yet for how we will handle fall semester. It should go out mid-June. 5. The faculty and staff surveys show that not everyone is on the same page with how they feel about things with COVID-19. 6. President Mortensen issued a reminder that it is important to remember our mission to students. <p>President Mortensen also discussed upcoming items and indicated that by-laws should be reviewed during the summer months. Suggestions should be sent to him or Stephanie Hollist for review at the August 10, 2020 meeting.</p>
By-law Review Timeframe	
WSUSA Report (Mr. Ben Ferney)	X. Mr. Ben Ferney, WSUSA President, gave a report on the following: 1- WSUSA is virtually engaging students through the summer months. 2- “Ask a Wildcat” will be held each Monday. 3- Wildcat Wednesday will take place to promote WSU pride. 4- WSUSA is trying to provide relief to students in need and is also working with student mental health resources.
Written Reports (President, Alumni Assoc., SAC)	XI. Written reports were acknowledged and included in the packet for reference. Reports came from the President, Alumni Association and Staff Advisory Council.

Events Calendar for FY21	XII. An events calendar with important dates for FY21 was included in the agenda packet for reference.
Personnel & Academic Policy Committee	XIII. Ms. Karla Bergeson, chair of the Personnel and Academic Policy Committee, reported on the following action items for business:
Interim Dean – Lindquist College of Arts & Humanities ACTION	<ol style="list-style-type: none"> 1. The Telitha E. Lindquist College of Arts & Humanities dean search is currently taking place. Dr. Amanda Sowerby has been proposed as interim dean. <p>Upon a motion to appoint Dr. Amanda Sowerby as interim dean for the Telitha E. Lindquist College of Arts & Humanities, made by Ms. Karla Bergeson, with a second by Ms. Kearston Cutrubus, the motion passed unanimously.</p>
PPM Changes (8-11, 11-1, 3-26)	<ol style="list-style-type: none"> 2. Dr. Ravi Krovi proposed PPM 8-11, 11-1, and 3-26 Changes: <ol style="list-style-type: none"> a. PPM 8-11, Evaluation of Faculty Members, gives clarification for faculty evaluations. b. PPM 11-1, Graduate Programs, provides more flexibility to academic programs. c. PPM 3-26, Leave Related to Birth, Adoption, and Foster Care Placement, modifies staff benefits to allow up to four weeks of leave. The changes provide more equity with the faculty policy that is in place.
ACTION	On a motion to approve PPM 8-11, 11-1, and 3-26 Changes by Ms. Karla Bergeson, with a second by Ms. Louenda Downs, the motion was approved unanimously by the Board of Trustees.
New Programs	<ol style="list-style-type: none"> 3. Provost Ravi Krovi proposed four new programs to the Board of Trustees: <ol style="list-style-type: none"> a. AA in English b. AAS, AS, and AA in Digital Media c. BS in Environmental Science d. Masters of Social Work
ACTION	On a motion to approve the four new programs by Ms. Kearston Cutrubus, with a second by Mr. Clint Costley, the motion was approved unanimously by the Board of Trustees.
Emphasis Name Change	<ol style="list-style-type: none"> 4. Provost Krovi discussed an Emphasis Name Change: Radiologic Sciences Advanced (BS) Cardiovascular-Interventional Technology Emphasis

	(CIT).
Program Discontinuance	5. Provost Krovi discussed the following Program Discontinuance: Health Administrative Services (BS): Health Services Administration Emphasis, Long-Term Care Administration Emphasis, and Health Information Management Family Emphasis.
ACTION	On a motion to approve the Emphasis Name Change, as well as the Program Discontinuance, by Ms. Louenda Downs, with a second by Ms. Kearston Cutrbus, the motion was approved unanimously by the Board of Trustees
Program Review	6. Provost Krovi proposed approval of a Program Review: <ul style="list-style-type: none"> a. Electrical And Computer Engineering
ACTION	On a motion to approve the Program Review by Ms. Louenda Downs, with a second by Ms. Kearston Cutrbus, the motion was approved unanimously by the Board of Trustees.
Consent Calendar	XIV. The Board of Trustees had the opportunity to review the following Consent Calendar item which was brought before the Board of Trustees for approval: <ul style="list-style-type: none"> 1. Personnel Report – April, 2020
ACTION	On a motion to approve the Consent Calendar by Ms. Karla Bergeson, with a second by Mr. Don Salazar, the motion was approved unanimously by the Board of Trustees.
Business Committee Report Financial Updates	XV. Ms. Karen Fairbanks brought the following report before the Board of Trustees concerning the Business Committee: <ul style="list-style-type: none"> 1. Vice President Norm Tarbox was asked to give a financial update and shared the following information: <ul style="list-style-type: none"> a. Progress on the construction of the Noorda building may be delayed as the legislature considers withholding previously approved funding due to the economic impact of the pandemic. b. The intersection at Davis Campus may be on hold from legislature funding delays, also due to the pandemic.
Action Items	2. Vice President Tarbox reported on the following action items:

- a. Base Budget FY21
- b. Lindquist Property Sale

ACTION

On a motion to approve the FY21 Base Budget, and the Lindquist Property Sale by Ms. Karen Fairbanks, with a second by Mr. Marty Carpenter, the motion was approved unanimously by the Board of Trustees.

Consent Calendar

XVI. The Board of Trustees had the opportunity to review Consent Calendar items, including the following, which were brought before the Board of Trustees for approval:

- 1. Financial Report March, 2020
- 2. Monthly Investment Report March, 2020
- 3. Retirement Committee Updated

ACTION

On a motion to approve the Consent Calendar, by Ms. Karen Fairbanks, with a second by Mr. Clint Costley, the Board of Trustees unanimously approved the motion.

Adjourn to
Closed Meeting

XVII. Upon a motion to move to a closed meeting by Mr. Don Salazar, and in accordance with Utah Code Section § 52-4-205 (1) (a), to discuss strategy regarding pending or reasonably imminent litigation, and since the Board would not be taking official action during or after the closed meeting, Mr. Salazar also made the motion to adjourn the Board at the end of the closed meeting. With a second by Mr. Clint Costley, the Board of Trustees unanimously approved the motion.

Mr. Nolan Karras, Mr. Clint Costley, Mr. Marty Carpenter, Mr. Ben Ferney, Ms. Karen Fairbanks, Ms. Kearston Cutrubus, Ms. Karla Bergeson, Mr. Don Salazar, and Ms. Louenda Downs were in attendance. The open meeting ended and the Board of Trustees moved to an electronic closed meeting.

Meeting
Adjourned

XVIII. With no further items, the Full Board meeting ended upon completion of the closed meeting.

Minutes
Weber State University
Board of Trustees Executive Committee Meeting
June 2, 2020 – 2:00 p.m.
Via Online and Phone

Executive Committee Members:

Mr. Nolan Karras (Chair)
Ms. Kearston Cutrbus (Vice Chair)
Ms. Karen Fairbanks

Other Trustees:

Ms. Karla Bergeson
Mr. Ben Ferney
Mr. Clint Costley

Weber State University Representatives:

Dr. Brad Mortensen, President
Dr. Ravi Krovi, Provost
Ms. Sherri Cox, Secretary
Mr. Rich Hill, General Counsel
Ms. Stephanie Hollist, Deputy General Counsel

Press:

No members of the press were present

Welcome	<p>I. The Board of Trustees Executive Committee meeting convened at 2:00 a.m.</p> <p>II. Chair, Mr. Nolan Karras, welcomed those in attendance for the Executive Committee Meeting. The Executive Committee consists of Mr. Nolan Karras, Ms. Kearston Cutrubus, and Ms. Karen Fairbanks.</p>
Adjourn to Closed Meeting	<p>III. Upon a motion to move to a closed meeting by Ms. Kearston Cutrubus, and in accordance with Utah Code Section § 52-4-205 (1) (a), to hold a discussion of the character, professional competence, or physical or mental health of an individual, with a second by Ms. Karen Fairbanks, the motion was unanimously approved.</p>
ACTION	<p>On a motion to move into open session made by Ms. Karen Fairbanks, with a second by Ms. Kearston Cutrubus, the Board of Trustees Executive Committee approved the motion unanimously.</p>
Approval of Special Leave	<p>I. President Brad Mortensen proposed special leave for Professor Scott Senjo pending review by the university.</p>
ACTION	<p>On a motion to approve special leave for Dr. Senjo by Ms. Karen Fairbanks, with a second by Ms. Kearston Cutrubus, the Board of Trustees Executive Committee approved the motion unanimously.</p>
Meeting Adjourned	<p>With no further items, a motion to adjourn the meeting was made by Ms. Kearston Cutrubus, with a second by Ms. Karen Fairbanks, the Board of Trustees Executive Committee unanimously approved the motion.</p>

DRAFT

1 **OPEN AND PUBLIC MEETINGS ACT AMENDMENTS**

2 2020 FIFTH SPECIAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Val K. Potter**

5 Senate Sponsor: Wayne A. Harper

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of the Open and Public Meetings Act in relation to an
10 anchor location for an electronic meeting.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ modifies notice provisions relating to electronic meetings held without an anchor
14 location;

15 ▶ enacts requirements relating to the public's ability to view or hear, and make
16 comments during, the open portion of an electronic meeting held without an anchor
17 location; and

18 ▶ permits a public body to hold an electronic meeting without an anchor location if
19 the chair of the public body:

20 • makes a written determination, supported by stated facts, that conducting the
21 meeting with an anchor location presents a substantial risk to the health and
22 safety of those who may be present at the anchor location; and

23 • complies with certain public notice requirements.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 This bill provides a special effective date.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 [52-4-202](#), as last amended by Laws of Utah 2016, Chapter 77

31 [52-4-207](#), as last amended by Laws of Utah 2011, Chapter 31

32

33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **52-4-202** is amended to read:

35 **52-4-202. Public notice of meetings -- Emergency meetings.**

36 (1) (a) (i) A public body shall give not less than 24 hours' public notice of each
37 meeting.

38 (ii) A specified body shall give not less than 24 hours' public notice of each meeting
39 that the specified body holds on the capitol hill complex.

40 (b) The public notice required under Subsection (1)(a) shall include the meeting:

41 (i) agenda;

42 (ii) date;

43 (iii) time; and

44 (iv) place.

45 (2) (a) In addition to the requirements under Subsection (1), a public body which holds
46 regular meetings that are scheduled in advance over the course of a year shall give public
47 notice at least once each year of its annual meeting schedule as provided in this section.

48 (b) The public notice under Subsection (2)(a) shall specify the date, time, and place of
49 the scheduled meetings.

50 (3) (a) A public body or specified body satisfies a requirement for public notice by:

51 (i) posting written notice:

52 (A) except for an electronic meeting held without an anchor location under Subsection
53 [52-4-207\(4\)](#), at the principal office of the public body or specified body, or if no principal
54 office exists, at the building where the meeting is to be held; and

55 (B) on the Utah Public Notice Website created under Section [63F-1-701](#); and

56 (ii) providing notice to:

57 (A) at least one newspaper of general circulation within the geographic jurisdiction of

58 the public body; or

59 (B) a local media correspondent.

60 (b) A public body or specified body is in compliance with the provisions of Subsection
61 (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions
62 of Subsection 63F-1-701(4)(d).

63 (c) A public body whose limited resources make compliance with Subsection
64 (3)(a)(i)(B) difficult may request the Division of Archives and Records Service, created in
65 Section 63A-12-101, to provide technical assistance to help the public body in its effort to
66 comply.

67 (4) A public body and a specified body are encouraged to develop and use additional
68 electronic means to provide notice of their meetings under Subsection (3).

69 (5) (a) The notice requirement of Subsection (1) may be disregarded if:

70 (i) because of unforeseen circumstances it is necessary for a public body or specified
71 body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

72 (ii) the public body or specified body gives the best notice practicable of:

73 (A) the time and place of the emergency meeting; and

74 (B) the topics to be considered at the emergency meeting.

75 (b) An emergency meeting of a public body may not be held unless:

76 (i) an attempt has been made to notify all the members of the public body; and

77 (ii) a majority of the members of the public body approve the meeting.

78 (6) (a) A public notice that is required to include an agenda under Subsection (1) shall
79 provide reasonable specificity to notify the public as to the topics to be considered at the
80 meeting. Each topic shall be listed under an agenda item on the meeting agenda.

81 (b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding
82 member of the public body, a topic raised by the public may be discussed during an open
83 meeting, even if the topic raised by the public was not included in the agenda or advance public
84 notice for the meeting.

85 (c) Except as provided in Subsection (5), relating to emergency meetings, a public

86 body may not take final action on a topic in an open meeting unless the topic is:

87 (i) listed under an agenda item as required by Subsection (6)(a); and

88 (ii) included with the advance public notice required by this section.

89 (7) Except as provided in this section, this chapter does not apply to a specified body.

90 Section 2. Section **52-4-207** is amended to read:

91 **52-4-207. Electronic meetings -- Authorization -- Requirements.**

92 (1) Except as otherwise provided for a charter school in Section **52-4-209**, a public
93 body may convene and conduct an electronic meeting in accordance with this section.

94 (2) (a) A public body may not hold an electronic meeting unless the public body has
95 adopted a resolution, rule, or ordinance governing the use of electronic meetings.

96 (b) The resolution, rule, or ordinance may:

97 (i) prohibit or limit electronic meetings based on budget, public policy, or logistical
98 considerations;

99 (ii) require a quorum of the public body to:

100 (A) be present at a single anchor location for the meeting; and

101 (B) vote to approve establishment of an electronic meeting in order to include other
102 members of the public body through an electronic connection;

103 (iii) require a request for an electronic meeting to be made by a member of a public
104 body up to three days prior to the meeting to allow for arrangements to be made for the
105 electronic meeting;

106 (iv) restrict the number of separate connections for members of the public body that are
107 allowed for an electronic meeting based on available equipment capability; or

108 (v) establish other procedures, limitations, or conditions governing electronic meetings
109 not in conflict with this section.

110 (3) A public body that convenes or conducts an electronic meeting shall:

111 (a) give public notice of the meeting:

112 (i) in accordance with Section **52-4-202**; and

113 (ii) except for an electronic meeting held without an anchor location under Subsection

114 (4), post written notice at the anchor location;

115 (b) in addition to giving public notice required by Subsection (3)(a), provide:

116 (i) notice of the electronic meeting to the members of the public body at least 24 hours
117 before the meeting so that they may participate in and be counted as present for all purposes,
118 including the determination that a quorum is present; and

119 (ii) a description of how the members will be connected to the electronic meeting;

120 (c) except for an electronic meeting held without an anchor location under Subsection
121 (4), establish one or more anchor locations for the public meeting, at least one of which is in
122 the building and political subdivision where the public body would normally meet if they were
123 not holding an electronic meeting;

124 (d) (i) provide space and facilities at the anchor location so that interested persons and
125 the public may attend and monitor the open portions of the meeting; or

126 (ii) for an electronic meeting held without an anchor location under Subsection (4),
127 provide means by which the public may hear, or view and hear, the open portions of the
128 meeting; and

129 (e) if comments from the public will be accepted during the electronic meeting[~~;~~];

130 (i) provide space and facilities at the anchor location so that interested persons and the
131 public may attend, monitor, and participate in the open portions of the meeting[~~;~~]; or

132 (ii) for an electronic meeting held without an anchor location under Subsection (4),
133 provide means by which members of the public may provide comments by electronic means to
134 the public body.

135 (4) A public body may convene and conduct an electronic meeting without an anchor
136 location if the chair of the public body:

137 (a) makes a written determination that conducting the meeting with an anchor location
138 presents a substantial risk to the health and safety of those who may be present at the anchor
139 location;

140 (b) states in the written determination described in Subsection (4)(a) the facts upon
141 which the determination is based;

142 (c) includes in the public notice for the meeting, and reads at the beginning of the
143 meeting, the information described in Subsections (4)(a) and (b); and

144 (d) includes in the public notice information on how a member of the public may view
145 or make a comment at the meeting.

146 (5) A written determination described in Subsections (4)(a) and (b) expires 30 days
147 after the day on which the chair of the public body makes the determination.

148 [~~4~~] (6) Compliance with the provisions of this section by a public body constitutes
149 full and complete compliance by the public body with the corresponding provisions of Sections
150 52-4-201 and 52-4-202.

151 Section 3. **Effective date.**

152 If approved by two-thirds of all the members elected to each house, this bill takes effect
153 upon approval by the governor, or the day following the constitutional time limit of Utah
154 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
155 the date of veto override.

Conflict of Interest/Board of Trustees

No. 3-36a	Rev. 5-6-14	Date 9-1-94
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I. PURPOSE

A. To establish a procedure for declaring conflicts of interest for members of the Weber State University Board of Trustees.

B. To provide guidelines consistent with the Utah Public Officers' and Employees' Ethics Act without exempting covered individuals from coverage under the provisions of the Act.

C. To insure Board of Trustee decisions are made solely on the basis of a desire to promote the best interests of Weber State University and to further the public good.

II. REFERENCES

Utah Code Ann. §§ 63G-6a-2401, et seq., Utah Procurement Code, Unlawful Conduct and Penalties

Utah Code Ann. §§ 67-16-1 et seq. Utah Public Officers' and Employees' Ethics Act

Utah Code Ann. § 76-8-105, Receiving or Soliciting a Bribe By a Public Servant

III. DEFINITIONS

A. "Trustee" means a member of the Weber State University Board of Trustees.

B. "Substantial interest" means the ownership, either legally or equitably, by a Trustee, a Trustee's spouse or a Trustee's minor children, of at least 5% of the outstanding capital stock of a corporation or a 5% interest in any other business entity. "Substantial interest" also means personal, family-related or business relationships that could be construed to affect Board members' responsibilities.

C. "Improper disclosure" means disclosure of confidential information to any person who does not have both the right and the need to receive the information.

D. "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated or transferred to any person or business entity by anyone other than the government employer for or in consideration of personal services, materials, property or any other thing whatsoever.

IV. POLICY

A. Compliance with Utah Statutes: Trustees must comply with all state laws, with particular attention to those that govern conflicts of interest and their service as public officials as noted in the references of this policy.

Specifically, Trustees shall not:

1. Engage in improper disclosure of confidential information gained as members of the Board of Trustees.
2. Use or attempt to use their official positions to further substantially their personal economic interest or to secure special privileges or exemptions for themselves or others.
3. Allow other employment or interests to impair their independence of judgment in the performance of their duties as Board members.
4. Allow other employment or interests to interfere with the ethical performance of their duties.
5. Accept compensation from any source if such acceptance tends to influence their official duties.

B. Duty to Recuse Oneself on a Matter Involving a Substantial Interest: Trustees shall recuse themselves from participating in discussion, voting or being physically present during Board business when a matter involves any business entity as to which they are officers, directors, or employees or in which they have a substantial interest.

C. Duty to Submit Disclosure Statement

1. Trustees who are officers, directors, or employees or who have a substantial interest in any business entity that is or may be involved in any transaction with the University, or which could be construed to potentially affect their independence and unbiased judgment relating to their duties as Board members, shall disclose such facts in a sworn disclosure statement as set forth in this policy before participating in their official capacities with respect to any such transactions, and annually thereafter.
2. Trustees shall not receive or agree to receive compensation for assisting any person or business entity in any transaction involving the University without first disclosing such facts in a sworn, written disclosure as set forth in this policy.

D. Consultation. Trustees may ask for consultation with the University Legal Counsel, Executive Committee, the president, or the Board of Trustees if they are uncertain as to the appropriateness of listing a particular relationship on the Conflict of Interest form.

E. Procedures for Submitting Disclosure Statement

1. What to Submit: The disclosure statement must be made in writing and under oath. The disclosure statement shall be in a form adopted for this purpose that is consistent with this policy

and the law.

2. When to Submit:

a. For disclosure statements required by Section IV.C.1., the disclosure statement must be submitted before the Trustee participates in his or her official capacity with respect to such transactions within thirty (30) days of the adoption of this policy and annually thereafter. The Trustee shall submit another disclosure statement whenever his or her position or interest in the business entity changes significantly.

b. For disclosure statements required by Section IV.C.2., the disclosure statement must be submitted within ten (10) days after the date of any agreement between the Trustee and the person or business entity being assisted or within ten (10) days of the receipt of compensation, whichever is earlier.

3. Where to Submit: The disclosure statement must be completed and submitted to the Board Secretary. The Board Secretary shall then file the disclosure statement with the following offices as appropriate:

a. the President's Office

b. the Utah State Attorney General's Office; and

c. the agency head of the agency with which the transaction is being conducted if the disclosure is required by Section IV.C.2.h

F. Review of Statements: The submitted disclosure statements will be reviewed by the Conflict of Interest Committee, which includes the Board of Trustees Chair, Vice Chair, and two other Trustees as selected by the Chair and the Vice Chair as part of the determination of Board of Trustees assignments. The disclosure statements of the Board of Trustees Chair and Vice Chair will be reviewed by the other Trustees on the Conflict of Interest Committee.

G. Public Document: The disclosure is public information and shall be available for examination by the public.

H. Records of Proceedings

a. Minutes: The minutes of the Board of Trustees and all committees with board delegated powers shall contain the names of those Trustees who abstain from participation in their official capacities in transactions involving business entities where they have a position or own a substantial interest and have not filed a disclosure statement as required by the Conflict of Interest Policy. These minutes, however, are not required to record the names of those Trustees who have filed disclosure statements or any information contained in those disclosure statements.

FIDUCIARY DUTIES OF UNIVERSITY TRUSTEES

Introduction

A. What is a Fiduciary?

1. A fiduciary is a person who holds a special position of trust and confidence in connection with performance certain duties on behalf of another person or organization.
2. Based upon expectation of trust
3. Expectation of trust is basis of fiduciary duties

B. What are the Legal Sources of Fiduciary Duties?

1. Higher Education Act
 - a. Board of Trustees
 - b. Appointed by Governor
 - c. Acts on behalf of University
 - d. Performs certain duties, responsibilities and functions
 - e. Delegated authority from State of Utah and State Board of Regents
2. Oath of office
 - a. Discharge duties with
 - b. Fidelity
 1. Fealty (Allegiance)
 2. Loyalty
3. Common Law of Trusts
 - a Duty of Loyalty
 - b Duty of Care (Prudence)

C. To Whom are Fiduciary Duties Owed?

The Two Fiduciary Duties

A. The Duty of Loyalty

1. Faithfulness or Allegiance to Institution
2. Elements
 - a. Good Faith
 1. Honesty in belief or purpose
 2. Faithfulness in performing one's duty or obligation
 3. Observance of reasonable standards of fair dealing
 4. Absence of intent to defraud or to seek unconscionable advantage
 - b. Independent Judgment
 - c. Best Interest of Institution

B. The Duty of Care

1. Serious Attention

2. Elements

- a. Reasonable care – that degree of diligence care, and skill which ordinarily prudent person would reasonably exercise under similar circumstances (Prudence)
- b. Informed Decisions – reliable information and advice
- c. Confidentiality.

Core Principles for Effective Board Conduct in Fulfilling Fiduciary's Duties¹

A. Fulfill the Fiduciary Duty of Care By:

- Acting at all times in good faith and with the appropriate diligence, care, and skill required under the circumstances.
- Acting in a manner reasonably believed to be in the best interests of the institution
- Actively attending and participating in all board and committee meetings, reading and evaluating the materials presented, and asking questions about unexplained results and unfamiliar issues
- Retiring from board service (or declining nominations) if one is no longer able to satisfy the time, effort, and attendance expectations for the institution's governing body members
- Relying when appropriate on experts who serve the board by evaluating complex matters, while questioning their reports when their advice is inconsistent with expectations.

B. Fulfill the Fiduciary Duty of Loyalty By:

- Faithfully pursuing the interests of the college or University and its charitable or public purposes rather than one's own interests or the interests of another person or organization.
- Actively disclosing existing or potential financial conflicts of interest and dual interests, and recusing oneself from board discussions and votes on transactions or policy matters, in accordance with the institution's conflict-of-interest policy.
- Maintaining complete confidentiality about any matters presented to the governing board at all times, unless otherwise directed by the board and subject to state transparency laws applicable to public institutions.

¹ AGB Board of Directors Statement on Fiduciary Duties of Governing Board Members (2015)

- Retaining the governing board's independence from external and internal stake holders in the conduct of its oversight and policy responsibilities.

Liability Concerns

A. Business Judgment Rule

1. Legal Presumption – Rational Decisions
 - a. Good Faith
 - b. Informed Basis
 - c. Scope of Authority
 - d. Best Interest of Institution
2. Shields Trustees from Liability for Undesirable Outcomes

B. Utah Government Immunity Act

1. Immunity from Liability
 - a. Acts or omissions occurring during
 1. Performance of one's duties
 2. Within the scope of employment or
 3. Under color of authority
 - b. Exception – act or failure to act through fraud or willful misconduct
2. Safe Harbor
 - a. Honesty
 - b. Good Faith
 - c. Sobriety

WSU BOARD OF TRUSTEES

BYLAWS

ARTICLE I PURPOSE

The Higher Education Act of 1969 created the Weber State University Board of Trustees (“Board”) as an integral part of the Utah System of Higher Education. The purpose of the Board is to carry out certain duties and powers as authorized under Utah Code, Title 53B, ~~State-Utah~~ System of Higher Education and as delegated by the ~~State-Utah~~ Board of ~~Regents~~Higher Education, in order to fulfill the mission and goals of Weber State University.

ARTICLE II MEMBERSHIP

- A. Number and Appointment. The Board consists of ten persons. Eight are appointed by the Governor with Senate consent. The ninth is the president of the institution’s Alumni Association. The tenth is the president of the institution’s student body organization.
- B. Term of Service. The eight appointed members serve for four-year terms, four expiring on June 30 of each odd-numbered year. Representatives of the Alumni Association and the student body serve for the term of their representative offices. Regardless of the termination date of the term of office, all members shall continue to hold office until their successors have been appointed and qualified.
- C. Resignation or Removal. Board members may resign at any time. The governor may remove an appointed member for cause. The governor shall consult with the president of the Senate before removing any member.
- D. Vacancies. Appointments made in filling a vacancy occurring before the expiration of the term shall be made for the remainder of the unexpired term.
- E. Oath of Office. Each member shall take the official oath of office prior to assuming office, which shall be filed with the Division of Archives and Records Services.
- F. Per Diem and Expenses. Board members may receive per diem and travel expenses in accordance with state law and ~~State-Utah~~ Board of ~~Regents~~Higher Education (“Board of ~~Regents~~Higher Education”) policy.

**ARTICLE III
FUNCTIONS AND RESPONSIBILITIES**

- A. Role of the Board. The Board may act on behalf of the University in performing duties, responsibilities, and functions as specifically authorized by state law and delegated by the Board of Regents Higher Education.
1. The Board is granted statutory responsibilities as outlined in Utah Code, Title 53B, State Utah System of Higher Education, particularly in Utah Code. Ann § 53B-2-103.
 2. Apart from statutory responsibilities, the Board of Regents Higher Education has delegated certain responsibilities as established in rules outlining the roles and relationships between institutional presidents and boards of trustees, particularly in Board of Regents' Higher Education Rule-policy R220.
 3. University policy may further outline specific roles and responsibilities assigned to the Board.
- B. Board Manual. The Secretary to the Board will make available to the Board members a manual outlining the applicable provisions of law or regulations setting forth the powers, responsibilities, and authority of the Board. The manual shall include any rules approved by the Board, any committee charters approved by the Board, the Board conflicts of interest policy, and other materials the Board deems appropriate to include. The manual will be revised as necessary to reflect current provisions.
- C. Conflicts of Interest. As provided in the Board conflicts of interest policy, each Board member is required to complete annually a disclosure statement identifying financial interests that could present a conflict of interest in the discharge of their duties, as described therein and as required by Board of Regent Higher Education policy and law.

**ARTICLE IV
MEETINGS**

- A. Regular and Special Meetings. The Board shall meet at least seven times per year according to schedule, or at such intervals as set by the chair or majority of the Board. Special meetings may be called by the chair or by four of the Board members acting jointly. Meetings of the Board will conform with the requirements of applicable state law.
- B. Notice and Agenda. Notice of the time and place of regular meetings and an agenda of business to be acted on at such meetings shall be distributed to each Board member at least one week prior to the meeting. Public notice will be provided as required by applicable law.

- C. Quorum and Voting. Six members of the Board shall constitute a quorum. Board action may be taken by majority vote only when a quorum is present. Each Board member shall have one vote. Proxy or absentee voting is not permitted at regular or special meetings of the Board. In the event there are insufficient members present to constitute a quorum, those present may, nevertheless, proceed to hold a meeting for the purpose of scheduling the next meeting, receiving reports from standing committees or others, or conducting other business not requiring formal action. Alternatively, if a quorum is not present, the members are authorized to proceed with the meeting, as permitted by law or policy, but any action taken must be ratified by a quorum in a subsequent meeting before it becomes an act of the Board.
- D. Rules. Rules shall be designated by the Board to be used in the conduct of business of the Board.
- E. Telephone or Electronic Meetings. Subject to applicable law, the Board may convene an electronic meeting or Board members may participate in a meeting of the Board by telephone or electronic means. All Board members participating in the meeting must be able to hear each other. Participation in a meeting by such means shall constitute presence in person at the meeting. Members of the public are not entitled to participate in Board meetings by telephone or electronic means, but may attend the meeting at the anchor location designated by the Board. A telephone or electronic meeting may be held without an anchor location only under circumstances allowed by applicable law.
- F. Executive Session. The Board may meet in Executive Sessions, which may be closed to the public as permitted by applicable law.

**ARTICLE V
OFFICERS AND THEIR DUTIES**

- A. Composition and Term. The officers of the Board shall be a chair, a vice chair, and a secretary. The chair and the vice chair shall be elected by majority vote on odd-numbered years at the first Board meeting of the fiscal year. The term for the chair and vice chair shall be two years or until the individual ceases to be a members of the Board, whichever occurs first. However, regardless of the termination date of the term of office, the chair or vice chair shall continue in office until a successor is elected and qualified.
- B. Elections. The chair and vice chair shall be elected pursuant to the following procedures, which may be supplemented by additional rules created by the Board:
 - 1. No later than at the last regular meeting of the Board held prior to the election, the incumbent chair shall appoint a nomination committee consisting of members of the Board, the President, and members the President’s advisory council. The President and the President’s advisory council will be given opportunity to provide input on Board leadership.

2. The nomination committee shall prepare a recommendation for the office of chair and vice chair to be submitted to the Board for the meeting at which the election shall occur.
 3. The incumbent chair shall ask the Board if there are additional nominations for these offices.
 4. When the nomination process is complete, the incumbent chair shall call for a vote for the new chair.
 5. The new chair shall then preside and call for a vote for the office of vice chair, and the voting will proceed as it did for the chair.
- C. Removal. The chair or vice chair elected by the Board may be removed, either with or without cause, by the vote of a majority of the Board whenever, in the Board's judgment, the best interests of the University would be served thereby.
- D. Interim Elections. Should a vacancy in the office of chair or vice chair occur before the normal end of the individual's term of office, the Board will hold an interim election using the format described in Article V.B. above either at the next regular meeting or at a special meeting. Individuals elected at an interim elections shall hold office for the balance of the incumbent's two-year terms of office.
- E. Secretary Appointment. The secretary shall be a nonmember of the Board and shall be appointed by the Board, as needed, upon recommendation of the President.
- F. Chair Duties. The chair of the Board shall:
1. Call and preside at all Board meetings (except as provided in Article IV.A.);
 2. Sign all diplomas issued by authority of the Board unless the Board of ~~Regents-Higher Education shall direct~~ otherwise;
 3. Appoint all committees of the Board with exception of the Executive Committee;
 4. Be an ex-officio member of all such committees with voting rights on all such committees;
 5. Make official announcements of all Board actions that relate to the Board itself.
- G. Vice Chair Duties. The vice chair shall perform all of the duties of the chair in the absence of or upon delegation by the latter.
- H. Secretary Duties. The secretary shall keep a record of all meetings of the Board and all Board resolutions, shall compile the Board manual and provide the manual to incoming Board members, and shall perform such other services as determined by the Board.

ARTICLE VI COMMITTEES OF THE BOARD

A. Creation and General Procedure. There shall be five major standing committees of the Board. In addition, the chair may appoint such ad hoc or special committees as may be deemed necessary to facilitate the business of the Board. The Board may create a charter for each committee, outlining more specifically the expectations and rules of governance of the committee, subject to applicable law or rule. With the exception of the Executive Committee, all committees are advisory only. Membership of committees must include the number of Board members specified herein, but may also include other individuals who are not members of the Board, but who have information, expertise, or experience that would be valuable to the committee. Except as otherwise specifically identified herein, all committees of the Board shall operate as follows:

1. Chairs and members of all committees will be ~~designated~~approved by the Board and serve at the pleasure of the Board, unless membership is otherwise designated by law, Board of Higher Education policy, or University policy.
2. Meetings of all committees of the Board may be held upon the call of the chair of the committee, the chair of the Board, or at the request of the President.
3. Notice of the time and place of every committee meeting and of the business to be acted upon shall be given to the members of the committee and the President by the person calling such meeting.

B. Standing Committees.

1. Audit Committee:

Makeup of this Committee shall be consistent with Board of ~~Regent's-Higher Education's Rule~~-R565, Audit Committees. The Audit Committee shall assist the Board to comply with any responsibilities the Board has regarding institutional oversight and internal controls, as directed by Board of ~~Regent's-Higher Education's~~ rule and consistent with the Committee's charter and/or directives from the Board.

2. Business Committee:

The Business Committee shall consist of a minimum of three Board members, one of which shall be appointed chair. This Committee shall assist the Board to comply with any responsibilities the Board has regarding oversight of business and financial operations of the institution, consistent with the Committee's charter and/or directives from the Board.

3. Executive Committee:

- a. The Executive Committee shall be composed of three Board members, the chair, vice chair, and the chair of the Business Committee, unless that person is also the chair or vice chair of the Board, in which case the third person shall be the chair of the Audit Committee.
- b. The chair and vice chair of the Board shall serve as the chair and vice chair of the Executive Committee, respectively.
- c. All three members must be present to take action.
- ~~e.d.~~ In the event a member of the Executive Committee is unable to attend a meeting, the President may appoint a replacement.
- ~~d.e.~~ Meetings of the Executive Committee may be called on sufficient notice as its chair or its vice chair may deem proper, or as required by applicable law. The President must be notified in advance of the calling of any meeting of the Executive Committee.
- ~~e.f.~~ Between meetings of the Board, the Executive Committee may exercise the Board's full powers as to the ordinary business of the institution. The Executive Committee may act on non-routine matters only under extraordinary and emergency circumstances.
- ~~f.g.~~ All actions of the Executive Committee shall be reported and recorded in the minutes of the Board meeting following such action.
- ~~g.h.~~ While any member of the Board may attend Executive Meetings, only members of the committee may vote.

4. Honorary Degree and Commencement Speaker Committee:

Three members of the ~~committee~~ Board shall form a part of the Weber State University Honorary Degree and Commencement Speaker Committee and shall function in conformance with PPM 2-9 (or any successor policy) of the Weber State University Policy and Procedures Manual. The committee will be chaired by a member of the Board.

5. Personnel and Academic Policy Committee:

The Personnel and Academic Policy Committee shall consist of a minimum of three Board members, one of whom shall be appointed chair. This committee shall assist the Board to comply with any responsibilities the Board has regarding oversight of personnel matters and academic policy of the institution, consistent with the committee's charter and/or directives from the Board.

**ARTICLE VII
AMENDMENTS**

- A. These bylaws may be amended at any Board meeting by a majority vote, provided that a copy of the proposed amendment shall be given in writing to each Board member at least one week before action on the amendment is taken. The Board shall use reasonable efforts to review

these bylaws on even numbered years at the first meeting of the fiscal year, or as the Board otherwise deems necessary.

- B. These bylaws are subject to applicable provisions of applicable law and Board of Regents Higher Education rules. To the extent of any inconsistency between these bylaws and such law or rule, or in the event applicable law or rule is later amended to become inconsistent with these bylaws, these bylaws shall be deemed amended accordingly.
- C. Technical or inadvertent departures from these bylaws shall not necessarily constitute violation or negate action taken by the Board. However, upon discovery, the Board shall review the departure from the bylaws and take steps to correct or ratify the inconsistency.

Approved by the Board ~~June 28, 2018~~ August 10, 2020.

**Weber State University
Board of Trustees
Committee Assignments
2020-21**

Committee/Assignment	Trustee Members
Standing Committees (VI.B.)	
Audit Committee	Don Salazar, Chair Louenda Downs Nolan Karras
Business	Karen Fairbanks, Chair Marty Carpenter Clint Costley Amanda Covington Nolan Karras
Executive Committee	Nolan Karras, Chair Kearston Cutruba Karen Fairbanks
Honorary Degree	Louenda Downs, Chair Clint Costley Nolan Karras
Personnel and Academic Policy	Karla Bergeson, Chair Kearston Cutruba Louenda Downs Ben Ferney Don Salazar
Other Special/Ad-hoc Committees (VI.A.)	
Athletic Board	Marty Carpenter
Community Relations	Marty Carpenter, Chair Clint Costley Amanda Covington Kearston Cutruba Karen Fairbanks
Investment Committee	Nolan Karras Karla Bergeson
Nomination Committee	Don Salazar, Chair Ben Ferney
Technical Colleges	Amanda Covington (Davis Tech) Kearston Cutruba (Ogden-Weber Tech)
University Planning Council	Karla Bergeson Louenda Downs
Research Foundation	Karen Fairbanks, Chair

**Weber State University
Board of Trustees
Academic College Liaison Assignments
2020-21**

College	Trustee Assignment
Lindquist College of Arts & Humanities	Marty Carpenter Ben Ferney
Goddard School of Business & Economics	Amanda Covington Don Salazar
College of Engineering, Applied Science, & Technology	Clint Costley
Moyes College of Education	Louenda Downs
Dumke College of Health Professions	Karla Bergeson
Stewart Library	Nolan Karras
College of Science	Karen Fairbanks
College of Social & Behavioral Sciences	Kearston Cutrbus



WEBER STATE UNIVERSITY

PPM 3-32, Discrimination, Harassment, and Sexual Misconduct (including Title IX)

Responsible Office: AA/EO Office

1.0 PURPOSE AND SCOPE

Weber State University is committed to providing an environment free from harassment and other forms of individual or institutional discrimination based upon “protected classifications,” as defined below. Such an environment is a necessary part of a healthy learning and working atmosphere. This will be accomplished through preventative educational and training efforts, support for those impacted by discrimination and harassment, effective policy enforcement and remedial activities.

Discrimination and harassment are prohibited by numerous federal and state laws and regulations; ~~including, but not limited to the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, the Clery Act, 20 U.S.C. § 1092(f), the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Pregnancy Discrimination Act, the Age Discrimination Act of 1975, the Equal Employment of Veterans Act, the Genetic Information Non-Discrimination Act of 2008, the Immigration and Nationality Act, the Lilly Ledbetter Fair Pay Act of 2009, Uniformed Services Employment and Reemployment Rights Act (USERRA), the Equal Pay Act of 1963, the Veterans Readjustment Benefits Act, the Utah Fair Housing Act, Nursing Mothers in the Workplace and the Utah Anti-Discrimination Act. Utah State Board of Regents’ policy R256, Student Disciplinary Processes, protects students’ due process rights.~~ It is the policy of the University to enforce these ~~Sexual assault, sexual exploitation, dating violence, domestic violence, and stalking are forms of sexual harassment prohibited by this policy. It is the policy of the University to enforce these laws,~~ among its students, employees, and others, as further described herein. When violations of this policy occur, appropriate ~~disciplinary action may be imposed~~ actions will be taken.

Any member of the University community who is being, or who has been subjected to discrimination or harassment or improperly denied an accommodation, as defined in this policy, may use the complaint procedures described herein.

The Affirmative Action/Equal Opportunity Office is designated to oversee and carry out the responsibilities of this policy as outlined herein. The AA/EO Office acts under the supervision of the Executive Director of that office, who is also the Title IX Coordinator and the ADA Coordinator under PPM 3-34. The AA/EO Office shall provide all notices required by law, and make contact information for this office easily and widely available, including names or titles, office addresses, electronic mail addresses, and telephone numbers.

This policy and the procedures for addressing complaints of discrimination and harassment, apply to all University programs and activities. This includes those conducted off-campus and to all off-campus conduct that has on-campus effects, as more specifically outlined herein.

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This policy shall not be construed to restrict constitutionally protected expression, as allowed by law, even though such expression may be unpleasant or even hateful. Constitutionally protected speech and traditional notions of academic freedom are valued in higher education. These ideals help to create the stimulating and challenging learning environment which should characterize higher education. In the spirit of a true university environment, individuals are encouraged to invite, rather than inhibit, discourse on ideas.

In order to protect free speech and academic freedom of faculty, students, and other members of the University community, this policy shall not apply to expression that is protected from regulation by the U.S. Constitution, the Utah Constitution or falls within traditional boundaries of academic freedom set forth in PPM 9-1. This includes, but is not limited to, faculty members' good faith selection of subject matter and methodology, the content of academic discussions, and protected expression in publications and public forums.

I-This exemption shall not apply to harmful or offensive personal attacks substantially based on a person's protected classifications that violate this policy. The University retains the right to apply restrictions consistent with the Constitution and principles of forum analysis to regulate under this policy.

2.0 REFERENCES

PPM 3-2, Employee Definitions

PPM 3-10, Termination of Employment (Non-Faculty)

PPM 3-31, Staff Employee Grievances (with provision for certain hourly employees)

PPM 3-33, Discipline (Non-Teaching Personnel)

PPM 3-34, Americans with Disabilities Act & Section 504 Request for Accommodations

PPM 3-67, Violence Prevention

PPM 5-36a, Safety, Response, and Reporting Policy (Clery)

PPM 6-22, Student Code

PPMs 9-1 through 9-8, Faculty Rights and Responsibilities

PPMs 9-9 through 9-18, Academic Due Process

H- _____

2.1 PPM 3-2, Employee Definitions

2.2 PPM 3-10, Termination of Employment (Non-Faculty)

2.3 PPM 3-31, Staff Employee Grievances (with provision for certain hourly employees)

2.4 PPM 3-31a, Due Process for Staff Members in the Case of Student Grievances

- 2.5 PPM 3-31b, Probationary Exempt & Non-Exempt Employee Grievances
- 2.6 PPM 3-31c, Hourly Employee Grievances
- 2.7 PPM 3-32a, Amorous or Sexual Relations
- 2.8 PPM 3-33, Discipline (Non-Teaching Personnel)
- 2.9 PPM 3-34, Americans with Disabilities Act & Section 504 Request for Accommodations
- 2.10 PPM 3-67, Violence Prevention
- 2.11 PPM 5-36a, Safety, Response, and Reporting Policy (Clery)
- 2.12 PPM 6-22, Student Code
- 2.13 PPMs 9-1 through 9-8, Faculty Rights and Responsibilities
- 2.14 PPMs 9-9 through 9-18, Academic Due Process

3.0 DEFINITIONS

A. Actual

Complainant-

~~The person or persons who have been most directly and negatively impacted by claimed discrimination or harassment. This person may or may not also be the Complainant.~~

B. Affirmative Action/Equal Opportunity Office (AA/EO Office)

~~The office responsible for responding to claims of discrimination and harassment, as defined by this policy. (Contact information for this office shall be easily and widely available, including on the homepage for the AA/EO Office.)~~

C. Appropriate Administrator

~~The administrator at the vice presidential level, or their designee, with direct line responsibility over the college, department, office, agency or other operational unit of the University with supervisory authority over the - An individual or individuals who are accused of discrimination or harassment.~~

D. Complainant

3.1 ~~A person who files an informal or formal complaint that there has been a violation of this policy.~~

Consent - Affirmative and freely given permission to engage in sexual activity. A person can affirm consent, or lack of consent, through words or conduct. Consent can be withdrawn at any time, irrespective of the consent which may have been given previously. Silence or absence of resistance does not, necessarily, imply consent. A complainant has not consented when the complainant is under the age they can legally consent; unconscious; unaware that the act is occurring; physically unable to resist; overcome by force, violence, concealment or surprise; ~~of discrimination or harassment.~~

E. Confidential Employees

~~All employees of the Counseling & Psychological Services Center, Women's Center, Student Health Center, and employees of the WSU Police Department, to the extent they receive reports of Clery crimes from these offices and the complainant has requested nondisclosure of those offices. These individuals do not have reporting requirements as "responsible employees" for purposes of this policy and Title IX only. These individuals may be considered Campus Security Authorities and have other reporting requirements for purposes of the Clery Act and PPM 5-36a. Employees who have a legal privilege also do not have reporting requirements under this policy.~~

F. Consent

3.2 ~~Consent is affirmative and freely given permission to engage in sexual activity. A person can affirm consent, or lack of consent, through words or conduct. Consent can be withdrawn at any time, irrespective of the consent which may have been given previously. Silence or absence of resistance does not, necessarily, imply consent. A complainant has not consented when the complainant is under the age they can legally consent; unconscious; unaware that the act is occurring; physically unable to resist; overcome by force, violence, concealment or surprise; lacks the understanding to make rational decisions or engage in responsible actions due to alcohol or other drugs, or because the complainant is temporarily or permanently impaired by a disability.-~~

Being intoxicated or incapacitated does not diminish one's responsibility to obtain consent and will not be an excuse for sexual harassment and misconduct.

The University adopts other circumstances identified in Utah law as standards for determining consent as in Utah Code Ann. §76-5-406. Being intoxicated or incapacitated does not diminish one's responsibility to obtain consent and will not be an excuse for sexual harassment and misconduct.-

~~The University adopts other circumstances identified in Utah law as standards for determining consent as in Utah Code Ann. §76-5-406.- However, criminal prosecution of offenses is subject only to standards in applicable law.-~~

The University considers unconsented conduct as unwelcome conduct although consent, alone, does not, necessarily indicate that conduct was welcomed.

G. Disability

~~A physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment.~~

H. Disability Coordinator (or ADA/504 Coordinator)

~~The Weber State employee given the overall responsibility to supervise, and ensure accessibility and accommodations for individuals with disabilities in accordance with state and federal non-discrimination laws related to disability.
(<http://www.weber.edu/nondiscriminationandaccessibility>)~~

I.

Discrimination

3.3 - Conduct which denies or limits ~~persons'~~ a person's opportunities or adversely affects a term or condition of employment or participation in University programs, services, or activities based on ~~their~~ a person's protected classification(s), except as permitted by law and as further outlined in this policy.

J.

Discriminatory Harassment

~~" - Unwelcome conduct"~~ that is based on protected classifications (as defined, below) that is based on "protected classifications" (as defined, below). Sexual harassment is defined, in detail, below.

K. Employee

See PPM 3-2 II. B.

L. Executive Director

The Executive Director of Affirmative Action/Equal Opportunity ("AA/EO").

M. Gender Identity/Expression

~~Self image or full-time gender appearance, behavior or expression, whether or not that gender identity, self image, or full-time appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth.~~

N. Hostile Environment

~~Discriminatory harassment which creates a hostile work or learning environment. A hostile environment exists when conduct is so severe, persistent or pervasive, as determined by analyzing the totality of the circumstances, that it denies or limits a student's person's ability to participate in or benefit from the University's programs or activities or the conduct has the purpose or effect of unreasonably interferes with an employee's work performance or creates an intimidating, or offensive work environment. Both subjective and objective factors shall be considered when evaluating whether a hostile environment exists.~~

O. Individual with a Disability

~~Any person who has a physical impairment (including, but not limited to a physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting a body systems such as neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine) or mental impairment (a mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities) that substantially limits~~

~~one or more major life activities (functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.), has a record of such an impairment, or is regarded as having such an impairment (whether or not the impairment limits or is perceived to limit a major life activity).~~

~~P. Pervasive Conduct~~

~~Conduct of an unwelcome nature that occurs so frequently it would be taken by a reasonable person to deny or limit a student's ability to participate in or benefit from the University's program or~~ unreasonably interfere ~~interfering~~ with an employee's work performance or creates an intimidating, or offensive work environment. Both subjective and objective factors shall be considered when evaluating whether a hostile environment exists.

~~Q. Protected Classifications~~

~~Race, color, national origin, pregnancy, and pregnancy-related conditions such as childbirth, false pregnancy, miscarriage, abortion, or related conditions, (including recovery), genetics, disability, religion, sex, sexual orientation, gender identity/expression, veteran, active military status, age (over 40 in employment discrimination), and other classifications protected by law.~~

~~R. Respondent~~

~~A. Conduct is considered unwelcome if the person against whom an informal or formal complaint of discrimination or harassment is filed.~~

~~S. Responsible Employees~~

~~All employees, as defined by PPM 3-2 II. B., except "confidential employees," as defined above, are "responsible employees" for purposes of mandatory reporting, as described below.~~

~~T. Responsible Supervisor~~

~~Any supervisor, or their designee, with line authority over the respondent, who receives a complaint alleging non-compliance with this policy. Responsible Supervisors include department chairs, managers, supervisors, deans, vice presidents or directors at did not request or invite it and considered the departmental level or higher, or other appointed administrators or members of the faculty.~~

~~U. Retaliation~~

~~Any form of sanction or adverse action (including intimidation, threats, coercion, or discrimination) against a person because that person has engaged in activities protected by this policy or state or federal nondiscrimination laws, such as filing a complaint or participating in an investigation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from engaging in activities protected by this policy or state or federal nondiscrimination laws.~~

~~Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the reporting party's statement with consideration of the length and type of relationship and the frequency of interaction with the persons involved in the relationship. It includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.~~

- ~~- 2.~~
- ~~- Dating violence~~

~~Domestic Violence~~

- ~~- A felony or misdemeanor crime of violence committed against a complainant by: (i) a current or former spouse or intimate partner; (ii) a person with whom the complainant shares a child in common; (iii) a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner; (iv) a person similarly situated to a spouse of the complainant under applicable domestic or family violence laws; or (v) any other person against an adult or youth victim whom the complainant is protected under applicable domestic and family violence laws.~~

- ~~- Stalking~~
- ~~3. Incest~~

~~Sexual intercourse between persons who are related to each other within the degrees wherein sexual intercourse is prohibited by law.~~

~~4. Fondling~~

~~The touching of the private body parts of another person for the purpose of sexual gratification and without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because their temporary or permanent mental incapacity.~~

~~5. Rape~~

~~The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without consent of the complainant.~~

~~6. Sexual Assault~~

~~Rape, fondling, incest, or statutory rape, as defined herein.~~

- ~~- 7. Sexual Exploitation exploitation;~~
~~When a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.~~

Examples of sexual exploitation include, but are not limited to:

- a. Invasion of sexual privacy;
- b. Prostituting another person or other sex trafficking;
- c. Non-consensual video or audio-recording of sexual activity;
- d. Allowing others to hide to watch consensual sex;
- e. Voyeurism;
- f. Knowingly transmitting an STD or HIV to another person;
- g. Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- h. Sexually-based bullying;
- i. Non-consensual removal of a condom or other form of birth/disease control by a sex partner, sabotage to a condom or other form of birth/disease control by a sex partner without the other's knowledge or consent, or false representation of the use of a condom or other form of birth/disease control.

8.—

[PPM 5-36a defines sexual assault, dating violence, domestic violence, and stalking and includes further information about Clery crimes and reporting.]

3.4.2 Title IX Sexual Harassment - 1) Any instance of quid pro quo harassment by a school's employee; 2) any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; and 3) any instance of sexual assault, dating violence, domestic violence, or stalking (see PPM 5-36a for definitions). Title IX sexual harassment may only occur when a student or employee is participating or attempting to participate in the University's education program or activity that occurs in the United States. (Note that Title IX Sexual Harassment complaints are distinct and encompass only a subset of sexual harassment prohibited by this policy.)

3.5 Formal Complaint - A document alleging a violation of this policy in which the complainant requests an investigation under this policy. The complaint must be signed by the complainant or the Executive Director.

3.6 Preponderance of Evidence - The evidentiary standard used during a sexual misconduct investigation/review to determine if the allegations occurred and if a policy violation has occurred. Preponderance of evidence means it is more likely than not, or more than 50 percent in favor, that the misconduct occurred as alleged.

3.7 Protected Classifications - Race, color, national origin, pregnancy, and pregnancy-related conditions such as childbirth, false pregnancy, miscarriage, abortion, or related conditions, (including recovery), genetics, disability (see PPM 3-34), religion, sex, sexual orientation, gender identity/expression, veteran, active military status, age (over 40 in employment discrimination), and other classifications protected by law.

3.8 Report - Information alleging a possible violation of this policy that comes to the attention of the AA/EO Office.

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3.9 Respondent - A person who is alleged to have violated this policy.

3.10 Responsible Administrator - The administrator at the vice presidential level, or their designee, with direct line responsibility over the college, department, office, agency or other operational unit of the University with supervisory authority over the individual or individuals who are accused of discrimination or harassment. For students, the responsible administrator is the Dean of Students. For individuals who are not faculty, students, or staff, the Vice President for Administrative Services shall take the role of responsible administrator.

3.11 Retaliation - An action, performed directly or through others, that is aimed to dissuade a reasonable person from engaging in a protected activity or is done in retribution for engaging in a protected activity. Action in response to a protected activity is not retaliatory unless (i) it has a materially adverse effect on the working, academic, or other University-related environment of an individual; and (ii) it would not have occurred in the absence of (but for) the protected activity. Examples of protected activities include: reporting (internally or externally) a complaint of sexual harassment in good faith; assisting others in making such a report; or honestly participating as an investigator, witness, decision maker; or otherwise assisting in an investigation or proceeding related to suspected sexual harassment.

Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their own safety or the safety of a third person, or to suffer substantial emotional distress. A "course of conduct" means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the complainant. This definition of stalking is also the definition under Utah criminal law. (Utah Code Ann. §76-5-106.)

9. Statutory Rape

Sexual intercourse with a person who is under the statutory age of consent.

[See, also, PPM 5-36a for more information about Clery crimes and reporting, as well as for information about state law definition of such crimes.]

X. Sexual Orientation

A person's enduring physical, romantic, and/or emotional attraction to members of the same and/or opposite sex, including heterosexual, homosexual, or bisexual orientations.

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programs & classes; participation in co-curricular activities; access to University housing; eligibility for financial aid and student employment and all other aspects of the student program shall all be administered in a nondiscriminatory manner.

~~C.~~

~~**4.3 Other Discrimination Prohibited:** Illegal discrimination against persons, other than students or employees, who are participating or attempting to participate in, or are receiving or are applying for the benefits of, any program, service or activity conducted under the sponsorship or auspices of the University, including but not limited to spectators, visitors, and volunteers based on protected classifications is prohibited.-~~

~~D.~~

~~**4.4 Discriminatory Harassment Prohibited:** No person may engage in illegal conduct that creates a hostile environment, as defined herein, for employees, students or others on the basis of their protected classifications. This includes behavior occurring off-campus that creates a hostile environment on campus or in University activities.-~~

~~E. Prevention of Discriminatory Harassment Encouraged: Members of the University community, and especially faculty, supervisors and other University officials, should strive to prevent illegal discriminatory harassment. When discriminatory harassment that is neither severe nor pervasive occurs, efforts should be undertaken to prevent the creation of a hostile work or learning environment even before it may be appropriate to impose disciplinary sanctions on those engaging in the harassment, as described in Paragraph D, above. Non-disciplinary remedial measures such as education and training, mediation, voluntary transfers or reassignments, etc., that may help to avoid the creation of hostile environment should be considered.~~

~~F. Mandatory Reporting of Violations of This Policy: All “responsible employees,” as defined above, who know or suspect that this policy is being violated must report such violations, as specified below. All others, including, but not limited to students, are strongly encouraged to report known or suspected violations of this policy. (See IV. Management Provisions)~~

~~G. Cooperation Implementing Interim Measures Required: Faculty and staff shall cooperate with the AA/EO Office, Human Resources, Disability Services and the Safe@Weber Survivor Advocate to provide interim measures or accommodations under IV.C.9 below.~~

~~H. Safety Concerns Referred to the STAR Team: In situations involving safety concerns, the AA/EO Office will refer the situation to the Strategic Threat Assessment and Response (STAR) Team for evaluation, in accordance with PPM 3-67.~~

~~**4.5 Title IX Sexual Harassment Prohibited.** Title IX Sexual Harassment of any persons participating, or attempting to participate, in any University program or activity is prohibited.~~

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4.6 Noninterference with Investigations Under This Policy: University employees and students are prohibited from interfering with and are strongly encouraged to cooperate with investigations of violations of this policy.

J.

4.7 False Complaints and Testimony Prohibited: University employees, students, and others shall not file false claims or provide false information during an investigation of a complaint under this policy. Charging an individual in good faith with a code of conduct violation for making a bad faith, materially false statement in the course of a grievance proceeding under this policy does not constitute retaliation.

K.

4.8 Retaliation Prohibited: No employee or student shall ~~retaliate~~engage in retaliation. Any retaliatory threat or act of violence against any person because they have participated in activities protected by this policy or state a victim or federal law, including, but not limited to, inquiring about one's rights witnesses of sexual violence is a third degree felony under this policy, being a party to a complaint under this policy, serving as a witness in an investigation of a complaint under this policy, serving as an investigator or mediator in a civil rights investigation of a complaint under this policy, supporting a complainant, respondent, or witness who has participated in activities protected under this policy, or opposing any practice prohibited by this policy or state or federal law. Utah Code Ann. 53B-28-304 and may be subject to criminal prosecution. Retaliation should be reported immediately to the AA/EO Office.

L.

5.0 REASONABLE ACCOMMODATIONS

5.1 Reasonable Accommodation of Disabilities Required: Faculty and staff will not illegally discriminate in admissions to the University or specific programs, or enrollment in courses based on disability. Faculty and staff will provide accommodations, academic adjustments, auxiliary aids, and services for persons with disabilities, as required by PPM 3-34 and state and federal law. Procedures for requesting accommodation for disabilities and resolving disputes regarding such requests are set forth under PPM 3-34.

M.

5.2 Reasonable Accommodation of Religious Beliefs Required: Faculty and staff shall reasonably accommodate religious and other deeply held beliefs, as required by law and University policy. ~~Unresolved disputes regarding religious accommodations may be grieved through the procedures set out in Section V., below.~~

N.

5.3 Reasonable Accommodation of Pregnancy Required: Faculty and staff will reasonably accommodate students and employees who are pregnant, in accordance with the law. ~~Students' absences due to medical conditions relating to pregnancy will~~

be excused for as long as deemed medically necessary by a student's doctor and students will be given a reasonable opportunity to make up missed work.

6.0 ~~Q. Sanctions for Violations of This Policy:~~ **REPORTING AND CONFIDENTIALITY**

~~**Responsible Employees** and students found to have violated. All employees, with the exception of confidential employees, who know that this policy, is being violated must immediately report to the AA/EO Office such violations including discriminating, creating a hostile environment, interfering with approved reasonable accommodations, providing false information or engaging in retaliation, may face disciplinary action up to and including termination, eviction, expulsion or being trespassed. Imposition of such discipline may not occur unless the respondent has been afforded due process, in accordance with University policies, as described below.~~

IV. MANAGEMENT PROVISIONS

A. Applicability

~~1. that is known, such as names of individuals involved, facts, dates, times, and locations of suspected policy violations. In order to protect free speech and academic freedom of faculty, students and other members help prevent violations of the University community, this policy shall not apply to expression that is protected by the U.S. Constitution, the Utah Constitution or falls within traditional boundaries of academic freedom set forth in PPM 9-1. This includes, but is not limited to, faculty members' good faith selection of subject matter and methodology, the content of academic discussions, and protected expression in publications and public forums. This exemption shall not apply to harmful or offensive personal attacks substantially based on a person's protected classifications which violate, anyone who suspects this policy. The University retains the right to apply restrictions consistent with constitutional principles of forum analysis to regulate use of University property.~~

~~2. This policy and the procedures for addressing complaints of discrimination and harassment, apply to all University programs and activities; including those conducted off-campus and to all off-campus conduct that has on-campus effects.~~

~~3. Any member of the University community who is being, or who has been subjected to discrimination or harassment, including improper denials of accommodations, as defined in this policy, may use the complaint procedures described herein. Questions regarding discrimination or harassment may be directed to the AA/EO Office.~~

~~4. All "responsible employees," as defined above, are required to immediately report to the AA/EO Office the names of the complainant(s), respondent(s) and others who were involved, as well as relevant facts, including the date, time, and location of suspected violations of this policy, unless they are "confidential employees," as defined above.~~

~~5. Confidential employees do not have a duty to report information about alleged violations of this policy to the AA/EO Office (or others) when permission has not been given from the person who disclosed that information, subject to the limitations required by law. Confidential employees~~

should inform such individuals of this policy, options available under Section IV.B, resources for counseling, medical, and academic support, and what retaliation and safety protections may be available.

6. Exceptions to the reporting requirements described herein may be made in limited instances where disclosure ~~violated~~ is made during academic programs or awareness, prevention, or support programs where disclosure is not necessarily intended by the individual to constitute a report to the University for purposes of this policy. A request for an exception for such program must be made to the Title IX Coordinator prior to the program. The Title IX Coordinator may grant an exception, but may put conditions on such grant.

7. All persons who are not “confidential employees” as defined above, are ~~strongly~~ encouraged to report ~~known or suspected discrimination, including harassment~~ violations of this policy, or similar conduct, even if the individual does not believe it has reached the level of discriminatory harassment. Non-disciplinary remedial measures such as education and training, mediation, voluntary transfers or reassignments, etc., that may help to avoid the creation of hostile environment should be considered. ~~creating a hostile environment, such as unwelcome sexual conduct that is not, yet, severe or pervasive. This will assist in preventing such conduct from creating a hostile learning or work environment.~~

8. Complaints should be reported as soon as possible after the event(s) which gives rise to the complaint. Complaints should be filed within six months of the most recent alleged act which violates the policy. Where the interests of justice require, however, this time limit may be waived by the Executive Director. Regardless of whether a complaint is accepted and investigated, supportive services may be provided to the parties.

B. Options for Complainants

~~1. Complainants may utilize one or more of the following options:~~

~~a. Seek to resolve issues directly with the individual(s) alleged to have discriminated or harassed.~~

~~1.1 b. Seek to resolve issues through a Responsible Supervisor.~~

~~c. Seek to resolve issues through the Faculty Ombud.~~

~~d. Consult with the AA/EO Office to pursue informal resolution through mediation/conciliation.~~

~~1.1 e. File a formal complaint with the AA/EO Office.~~

~~1.1 f. Pursue criminal charges through the police.~~

~~1.1 g. Initiate outside legal action through external sources, including the Utah Anti-discrimination and Labor Division or the appropriate federal enforcement agency such as the Equal Employment Opportunity Commission or the Office for Civil Rights in the Department of Education. It is recommended that where time allows (before applicable statutes of limitations have expired) grievance procedures within the University be utilized.~~

2. Although consideration shall be given to the complainant's preferences in the investigation process, the Executive Director may initiate an independent investigation into alleged discrimination or harassment, which need not be based on the complainant's preference. If the actual complainant elects not to pursue a matter under this policy, the Executive Director may appoint a designee, to pursue the matter in the actual complainant's stead. The designee then becomes the complainant. The actual complainant shall be permitted to provide input to the complainant, including whether the complainant appeals a decision under the grievance process. Factors discussed in IV.C.3., below, shall be considered.

~~1.1~~ 3. If an investigation reveals evidence of criminal conduct, the Executive Director shall determine whether the matter must be referred to the appropriate law enforcement agency. Where a referral is discretionary, the Executive Director will generally refer the matter, but an exception may be made in deference to the wishes of the actual complainant. Factors discussed in IV.C.3., below, shall be considered. ~~In all cases, reporting will take place as required by law. The University may proceed with an investigation, even in cases involving referrals to law enforcement.~~

4. The Executive Director and others designated by the institution may provide direction and assistance to those involved in a discrimination complaint.

C. Protection of the Parties

1. The confidentiality of complainants and investigations shall be treated with discretion to protect the privacy of those involved, except as required by law and as described herein.

~~6.1~~ 2. ~~A (potential) complainant may request confidentiality or anonymity, and may choose not to submit a complaint at all.~~ Individuals who desire to make a report of suspected violation of this policy, but who are concerned about their identifying information being shared with others, should make those concerns known prior to reporting to a University employee. Employees responsible for reporting such information should alert individuals of their reporting responsibilities as soon as possible. Reporting employees should communicate the ~~desires of the reporter~~ reporter's desire regarding confidentiality to the AA/EO Office.

~~6.2~~ **Confidential Employees.** All employees of the Counseling & Psychological Services Center, Women's Center, Student Health Center, and employees of the WSU Police Department, are confidential employees. These individuals do not have reporting requirements for purposes of this policy and Title IX, unless the reporter gives written consent for these individuals to disclose information. These individuals may have other legally mandated reporting requirements, such as for purposes of fulfilling Clery Act requirements (see PPM 5-36a), where there is imminent danger, or the victim is a minor or vulnerable adult. Employees who have a legal privilege also do not have reporting requirements under this policy. ~~3-~~ Confidential employees should inform such individuals of this policy, options available under Section 7.0, resources for supportive measures, counseling, medical, and academic support, and what retaliation and safety protections may be available.

6.3 Other Exceptions. Exceptions to the reporting requirements described herein may be made in circumstances where disclosure was made during academic programs or awareness, prevention, or support programs and disclosure was not intended by the individual to constitute a report to the University for purposes of this policy.

6.4 Confidentiality upon Reporting to the AA/EO Office.

6.4.1 Information shall be treated with discretion to protect the privacy of those involved, except as required by law and as described herein.

6.4.2 Supportive measures will be kept confidential to the extent that maintaining such confidentiality would not impair the University’s ability to provide the supportive measures.

A (potential) complainant may request confidentiality or anonymity, and may choose not to submit a complaint at all. The University will attempt to cooperate with requests for confidentiality, if possible. In so doing, the ~~Executive Director~~ AA/EO Office, will evaluate any such request in the context of the University’s goal to provide a safe and nondiscriminatory environment for all members of the University community. The factors that may be considered include the seriousness of the alleged discrimination or harassment, the age of the complainant, whether there have been other complaints or reports of discrimination or harassment against the respondent, and the rights of the respondent to receive information about the complainant and the allegations if a formal ~~proceeding~~ complaint, with sanctions may result.

6.4.3 4. (Potential)The AA/EO Office shall inform potential complainants ~~shall be informed~~ that their requests or their refusals to disclose names, pursue an investigation, or file a formal complaint may limit the University’s ability to investigate and to respond to complaints. Regardless, the AA/EO Office shall offer to provide supportive measures and strive to stop prohibited ongoing violations of this policy, take steps to prevent their recurrence and address any effects on campus and in the context of any University programs and activities.

7.0 OPTIONS FOR COMPLAINANTS

Complainants may utilize one or more of the following options:

7.1 Seek to resolve issues directly with the individual(s) alleged to have violated this policy.

7.2 Seek to resolve issues through a Responsible Supervisor.

7.3 Seek to resolve issues through the Faculty Omsbud.

7.4 Consult with the AA/EO Office to discuss the options available through this and other policies, including provision of supportive measures.

7.5 Explore options for informal resolution.

7.6 File a formal complaint with the AA/EO Office.

7.7 Pursue criminal charges through the police.

7.8 Initiate outside legal action through external sources, including the Utah Antidiscrimination and Labor Division or the appropriate federal enforcement agency such as the Equal Employment Opportunity Commission or the Office for Civil Rights in the Department of Education. It is recommended that where time allows (before applicable statutes of limitations have expired) grievance procedures within the University be utilized.

~~5. Regardless, the AA/EO Office shall strive to stop prohibited discrimination, including harassment, eliminate any hostile environment, take steps to prevent the recurrence of the discrimination, and address any effects on campus or in the context of any University programs and activities.~~

~~6. The parties may discuss investigations with others under this policy in order to obtain and present evidence or otherwise to defend their interests. They may seek appropriate counsel on or off campus, including, but not limited to legal or psychological counseling. The intentional disparagement of a complainant, respondent or witness, however, during the pendency of an investigation, with the purpose or effect of intimidating witnesses or parties from the enforcement of this policy may constitute retaliation or other violations of this policy.~~

~~7. The parties shall not be required to meet with or confront each other regarding the complaint during the investigation.~~

~~8. Neither the parties nor their representatives shall contact each other during the investigation regarding allegations of discrimination unless such contact is with the permission of the party being contacted and is arranged by either the Responsible Supervisor handling the complaint or the AA/EO Office.~~

~~9. Interim Measures and Accommodations.~~

~~a. The University will take steps to ensure that during the University's investigation (and any criminal investigation), adjudication, and appeals process, interim measures and accommodations are taken or provided to protect and support the parties and minimize the likelihood of retaliation. Interim measures and accommodations can be requested by contacting the AA/EO Office.~~

~~b. The University will provide written notification about options for, available assistance with, and the procedure to request interim measures and accommodations. Such interim measures and accommodations will be provided as reasonably available, regardless of whether the complainant chooses to report to police.~~

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e. The University will take steps to ensure, where possible, and as supported by the available information, that such interim measures and accommodations minimize the burden on all parties and equitably distribute between the parties any burdens that cannot be eliminated. Where parties are students, every effort should be made to avoid depriving them of their education. All parties should be consulted throughout the investigation to ensure that interim measures continue to be necessary and effective based on their evolving needs.

i.—

8.0 SUPPORTIVE MEASURES

8.1 Description. Supportive measures are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to provide equal access to educational or employment-related opportunities, protect safety, or deter violations of this policy.

8.1.1 Examples of possible ~~interim~~ supportive measures and accommodations for all parties that may be available include, but are not limited to: medical and mental health services, including counseling; issuing no-contact directives; providing assistance with transportation such as shuttle service, cab voucher, or parking arrangements; assistance identifying an advocate to help secure additional resources or assistance including off-campus and community advocacy, support and services; or providing an escort while on campus.

ii.— Interim

8.1.2 Supportive measures for employees may include, but are not limited to, temporarily reassigning work schedules or assignments, or placing employees on non-disciplinary leave with pay.

iii.— Interim

8.1.3 Supportive measures for students may include, but are not limited to: reassigning student housing or dining locations; providing assistance in finding alternative housing; transferring to another section of a lecture or laboratory; rescheduling class assignments or test schedules; providing opportunities to make up missed academic work; accessing academic support (e.g., tutoring); preserving eligibility for academic, athletic or other scholarships, financial aid, internships, study abroad or foreign student visas; arranging for incompletes; or allowing students to retake or withdraw from courses without penalty, to the extent academically feasible.

d.

8.2 Provision of Supportive Measures. During all stages of the process, the AA/EO Office will take steps to coordinate supportive measures to protect and support the parties and minimize the likelihood of retaliation. Supportive measures can be requested by contacting the AA/EO Office. The University will provide written notification about options for, available assistance with, and the procedure to request supportive measures. Such supportive measures and accommodations will be provided as reasonably available, regardless of whether the complainant chooses to report to police. The AA/EO Office should consult with the parties throughout the investigation to assess whether supportive measures continue to be necessary and effective based on

their evolving needs. Where parties are students, every effort should be made to avoid depriving them of their education.

8.3 Cooperation Required. Faculty and staff shall cooperate with the AA/EO Office, Human Resources, Disability Services and the Safe@Weber Survivor Advocate to provide supportive measures.

8.4 Other Services. The University will provide written notification to students and employees about existing counseling, health, mental health, ~~victim~~ survivor advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for ~~victim~~ survivors, both within the ~~institution~~ University and in the community.

~~10. All parties and witnesses may have advisors present during interviews. Advisors may be, but do not have to be attorneys. Generally advisors are not permitted to participate during the investigative process, but may advise the party.~~

9.0 INITIAL REPORTS AND FORMAL COMPLAINTS

Reporting Violations. ~~Any restrictions on the advisors' ability to speak or otherwise participate will be applied equally to all parties. In instances where it is foreseeable that a sanction of expulsion or suspension for ten days or more may be applied against a student, the respondent shall be notified of these rights prior to being interviewed about allegations of misconduct.~~

~~11. The University shall avoid conflicts of interest (real or reasonably perceived) by those investigating and adjudicating complaints.~~

~~12. Because sexual assaults may occur in circumstances where individuals may have engaged in minor violations of the University codes of conduct, including usage of alcohol or drugs, individuals may fear reporting because they might be charged with violations of conduct codes. In order to encourage reporting, when sexual misconduct is reported in circumstances where University codes of conduct have been violated, WSU will provide amnesty from institutional disciplinary actions, except under circumstances where such violations would normally result in suspension, eviction, expulsion, or termination.~~

D. Records

~~1. Records of all illegal discrimination or harassment complaints shall be maintained and stored for a minimum of ten years in the AA/EO Office.~~

~~1.1 — 2. All information contained in the complaint file is governed by the Family Educational Rights and Privacy Act where student education records are involved and classified as "Protected" with a secondary classification as "Private" under the Government Records Access and Management Act for all other records. Notwithstanding anything herein, disclosure will be only as permitted by law and University policy.~~

V. PROCEDURE

A. Initial Report

9.1 ~~1.~~ Any person who believes they have experienced discrimination or harassment, or who has knowledge of such conduct impacting other students, employees or others, is encouraged, and in some instances is required, (see Section 6.0), to report that conduct directly to the AA/EO Office ~~or to a Responsible Supervisor, as further described above.~~

2. Filing reports of discrimination, harassment, or retaliation

a. Informal complaints

9.2 **Timeframes for Reporting.** Reports of violations of this policy should be made as soon as possible after the event(s) which gives rise to the violation. Formal complaints of violations of this policy should be filed within six months of the most recent alleged act which violates the policy. Where the interests of justice require, however, the AA/EO Office may waive this time limit. Regardless of whether a formal complaint is accepted and investigated, supportive measures will be offered to the parties.

9.3 **Manner of Making a Report.** Reports of violations of this policy may be either written or oral. ~~Complainants may request anonymity or confidentiality for informal~~

Manner of Making a Formal Complaint. ~~Formal complaints, as described above.~~

9.4 ~~b.~~ may be filed in person, by mail, or by electronic mail. Formal complaints and responses must be written, signed, and sworn as true and accurate. ~~A~~ formal complaint (or complaint summary) should include, at a minimum, the identities of the parties involved, the specific section(s) of the University's policy(ies) allegedly violated, the conduct allegedly constituting the potential violation(s), and the date(s) and location(s) of the alleged violations, a description of witnesses who have knowledge that is relevant to the complaint, other relevant evidence of which the parties are aware, the harm the complainant alleges resulted from the conduct, and the remedial action(s) sought by the complainant. ~~A~~

e:

9.5 **Confidentiality.** Complainants may request anonymity or confidentiality for informal complaints, as described above.

9.6 **Notice and Options.** Upon receipt of a report or formal complaint, the AA/EO Office shall provide the complainant written notice of this policy, explain supportive measures and the options available to them.

9.7 **Initiation of Formal Complaint.** Although consideration shall be given to the complainant's preferences in the complaint investigation process, the AA/EO Office may initiate a formal complaint and an independent investigation into alleged violations of this policy. This does not need to be based on the complainant's preference, if the AA/EO Office determines that doing so is not clearly unreasonable in light of the known circumstances. If the complainant elects not to file a formal

complaint under this policy, the AA/EO Office may sign a formal complaint or may appoint a designee to pursue the matter in the complainant's stead. The complainant shall be permitted to provide input, including whether the complainant appeals a decision under the grievance process. The AA/EO Office shall consider factors discussed in Section 6.4.3. When the AA/EO Office signs a formal complaint, the AA/EO Office is not a complainant or otherwise a party under this policy and must remain free of bias or conflict of interest with respect to any party. In this situation, the complainant is treated as a party, though they continue to have a right not to participate.

9.8 Referrals to Law Enforcement. If a report, formal complaint, or an investigation reveals evidence of criminal conduct, the AA/EO Office shall determine whether the matter must be referred to the appropriate law enforcement agency. Where a referral is discretionary, the AA/EO Office will generally refer the matter, but an exception may be made in deference to the wishes of the complainant. The AA/EO Office shall consider factors discussed in Section 6.4.3. In all cases, reporting will take place as required by law. The University may proceed with an investigation, even in cases involving referrals to law enforcement.

9.9 Neutral Assistance. The AA/EO Office and others designated by the University may provide impartial assistance to those involved in a discrimination complaint.

9.10 Consolidation of Formal Complaints. The AA/EO Office may consolidate formal complaints against more than one respondent, or by more than one complainant against one or more respondents, or cross-complaints by one party against the other party, where the allegations arise out of the same facts or circumstances. Where there are multiple respondents, written summaries of those portions of the complaint that bear on that respondent may be substituted.

~~3. When the initial report is directed to a Responsible Supervisor of the respondent:~~

~~a. If the complaint is informal, the Responsible Supervisor may either attempt to resolve it directly with the parties through informal means or refer it to the AA/EO Office.~~

~~b. If the Responsible Supervisor handles the complaint informally, immediately after interviewing the complainant, the Responsible Supervisor must consult with the AA/EO Office regarding recommended procedures.~~

~~c. If a tentative resolution is reached through informal means to the satisfaction of the parties, the Responsible Supervisor shall inform the AA/EO Office of the terms of the agreement. The Executive Director will review the adequacy of the agreement based on law, policy and institutional practice to determine if the resolution will adequately end the discrimination or harassment; eliminate any hostile environment; prevent its recurrence, and remedy the discriminatory effects on the complainant(s) and others as appropriate.~~

~~d. If the Responsible Supervisor fails to resolve the complaint within 10 working days of its receipt, they shall refer the complaint to the AA/EO Office.~~

~~e. If the Executive Director determines that the agreement reached by the parties is inadequate, then the AA/EO Office shall contact the Responsible Supervisor and attempt to assist the Responsible Supervisor and the parties to reach an agreement that is adequate. If the AA/EO Office fails in that effort, the complainant may elect to pursue a formal complaint with the AA/EO Office.~~

~~4. If the initial complaint of a violation of this policy is received by any University employee other than a Responsible Supervisor, the person contacted shall immediately refer the complaint to the AA/EO Office.~~

~~5. If the initial complaint is directed to the AA/EO Office, or if an unresolved complaint is referred to the AA/EO Office:~~

~~a. The AA/EO Office shall determine whether all parties agree to attempt to resolve the complaint through informal procedures.~~

~~b. If the parties voluntarily agree to pursue an informal resolution, the AA/EO Office shall attempt to facilitate a resolution of the conflict that is agreeable to all parties, as described below.~~

~~i. The AA/EO Office shall be required only to conduct such fact-finding as is necessary and useful to: end any discrimination and harassment, resolve the conflict, protect the interests of the parties, eliminate a hostile environment, remedy the effects of such an environment and prevent reoccurrence.~~

~~ii. The parties will be notified of their right to end the informal process at any time and initiate a formal investigation.~~

~~iii. Mediation~~

~~**9.11 Amnesty for Reporting Sexual Violence.** Because sexual violence may occur in circumstances where individuals may have engaged in violations of the University codes of conduct regarding usage of alcohol or drugs, individuals may fear reporting because they might be charged with violations of conduct codes. In order to encourage reporting, the University will not sanction an individual who makes a good faith report regarding sexual violence, as defined in Utah Code Ann. §53B-28-302, that was directed at them or another person for a violation related to the use of drugs or alcohol that is discovered because of the report.~~

~~**9.12 Interim Safety Measures.** If a matter comes to the attention of the AA/EO Office that raises concerns about safety or risk of individuals or the campus, the AA/EO Office may, if appropriate in their professional judgment, refer the matter to law enforcement and/or the responsible administrator, who may consult with the Strategic Threat Assessment Team (see PPM 3-67). An individualized safety and risk assessment should be undertaken, as deemed appropriate, to determine whether there is an immediate threat to the physical health or safety of any individual or the campus arising from the allegations, and appropriate actions that may be taken, including removal from campus. Title IX regulations and all other appropriate University policies shall be followed where interim actions are taken against an individual. Notice and an opportunity to challenge the decision shall be provided to the individual,~~

consistent with PPM 3-33, Discipline (Staff Employees), PPM 6-22, Student Code, and Section 9, Academic Freedom, Rights, Responsibilities and Due Process, and PPM 3-67, Violence Prevention, as applicable.

10.0 INFORMAL RESOLUTION

10.1 When is Informal Resolution Appropriate. Informal resolution is encouraged to resolve concerns at the earliest stage possible with the cooperation of all parties involved. Participation in the informal resolution process is voluntary; the AA/EO Office shall not compel either party to engage in informal resolution. Informal resolution may be appropriate for responding to anonymous reports and/or third-party reports. Informal resolution may be inappropriate when one or both of the parties are reluctant to participate in good faith. Informal resolution will not be used in situations where safety concerns are present, where alleged conduct was so traumatic that there is a risk of further psychological harm, or where a power differential between the parties makes ~~mediation~~informal resolution otherwise inappropriate.

B. Formal Complaint Investigation

1.

10.2 Voluntary Agreement. The AA/EO Office shall determine whether all parties agree to attempt to resolve the complaint through informal resolution. If the parties voluntarily agree to pursue an informal resolution, the AA/EO Office shall attempt to facilitate a resolution of the conflict that is agreeable to all parties.

10.3 Title IX Informal Resolution. In order to commence an informal resolution for allegations that would amount to a Title IX Sexual Harassment complaint, a formal complaint must be filed and the allegations shared with the respondent. The AA/EO Office shall provide the parties written notice of the requirements of the informal resolution process, possible consequences, and records that will be maintained or could be shared. The parties must provide written consent to continue with the informal resolution process. Informal resolution is not appropriate where an employee is alleged to have committed Title IX Sexual Harassment against a student.

10.4 Fact-finding for Informal Resolution. The AA/EO Office may conduct fact-finding that is necessary and useful to: end any discrimination and harassment; resolve the conflict; protect the interests of the parties; eliminate a hostile environment; remedy the effects of such an environment and prevent reoccurrence.

10.5 Ending Informal Resolution. The AA/EO Office will notify parties of their right to end the resolution informal process at any time prior to agreeing to a resolution and

may initiate a formal investigation. The AA/EO Office will document conciliated agreements to resolve formal complaints in writing with all parties signing and receiving copies.

11.0 FORMAL COMPLAINT INVESTIGATION

11.1 Dismissal

11.1.1 Dismissal non-Title IX complaints. If the complainant wishes to file a formal complaint, the AA/EO Office shall determine whether the complaint includes allegations, which, if true, would constitute a violation of this policy, and whether the complaint is timely, and is neither frivolous nor without merit. If so, the AA/EO Office shall promptly initiate an investigation as described below. If not, the AA/EO Office will not proceed with an investigation, but ~~will~~may attempt to resolve the underlying complaint.

11.1.2 Dismissal of Title IX complaints. The Executive Director must review any complaint of sexual harassment to determine whether, if true as alleged, it would constitute a violation of Title IX and adjudicate it accordingly. The Executive Director must apply the standards for dismissal, required or permissive, as outlined in 34 CFR §106.45 (3) and document any such decisions made. This decision does not preclude the University from moving forward with a complaint on grounds of other violations of this or other University policy.

11.1.3 Appeals. The AA/EO Office must promptly send the parties simultaneous written notice of the dismissal and reason(s) for dismissal. Parties may appeal decisions of dismissal in Section 11.1.1 to the responsible administrator, who in the case of faculty respondents, shall conduct the decision in accordance with PPM 9-11. Parties may appeal decisions of dismissal described in Section 11.1.2. ~~An~~ as outlined in Appendix A.

11.2 Investigator. The AA/EO Office shall conduct an investigation or appoint an investigator. The investigation shall be conducted by an individual, who is free of actual or reasonably perceived conflicts of interest and biases or bias for or against any party shall conduct the investigation. complainants or respondents, generally or individually. The investigator shall disclose their role as a neutral investigator for the ~~institution~~University, as distinguished from an advocate for any of the parties involved. The investigation shall be conducted by an individual trained to analyze and document the available evidence to support reliable decisions, objectively evaluate the credibility of parties and witnesses, synthesize all available evidence—

including both inculpatory and exculpatory evidence—and take into account the unique and complex circumstances of each case. The University reserves the right to engage an outside investigator to conduct an investigation.

3.

11.3 Extent of Investigation. The investigator shall determine the extent of a formal investigation shall be determined by the AA/EO Office, but shall include, at the discretion of the AA/EO Office investigator, potential violations of other policies and procedures that arise out of the same facts that are alleged in the complaint of violations of this policy and may make recommendations regarding those potential violations as well. - If at any point during the investigation, the investigator determines a need to investigate allegations not included in the formal complaint, the investigator must provide notice of the additional allegations to the parties, if known.

4.

11.4 Title IX Investigation – The burden of proof and the burden of gathering the evidence sufficient to reach a determination rests on the University and not on the parties.

11.4.1 The University shall not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains the party's voluntary, written consent to do so for a grievance process under this policy.

11.5 Notice of Investigation. The AA/EO Office shall promptly and effectively inform all parties of the initiation of an investigation and their rights and responsibilities during the investigation, including:

a. providing a copy of the formal complaint and this policy. For respondents, this shall occur prior to interviewing individuals about allegations of misconduct. This notice shall include:

11.5.1 the presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process;

11.5.2 the right to have an advisor throughout the process who may, but need not be, an attorney, and the right to postpone for a reasonable time, an initial interview until arrangements for an advisor can be made;

b.

11.5.3 the right to expect the University to gather sufficient evidence to reach a fair, impartial determination as to whether a policy violation has occurred; and
e. e.

11.5.4 the duty not to obstruct the investigation;-
d.

11.5.5 the right to participate or not participate in the investigation, and notice that the investigation may proceed without the participation of any party to the complaint;-
e. or may be dismissed; ~~the timeframes involved, including any deadlines;~~
f. ~~the right to present witnesses and other evidence; and~~
g. ~~the right to pursue criminal charges independent of the investigation.~~

11.5.6 ~~the timeframes involved, including any deadlines;~~ This shall be done by providing

11.5.7 ~~the right to each respondent a copy~~ present witnesses and other inculpatory and exculpatory evidence, including fact and expert witnesses; and

11.5.8 ~~the right to pursue criminal charges independent~~ of either the written complaint, or, where the investigation.

Where there are multiple respondents, ~~a~~ the AA/EO Office shall provide each respondent a written summary of those portions of a complaint to each respondent that bear on that respondent.

5.

11.6 Law Enforcement Impact on Investigation. Where criminal charges are involved, the AA/EO Office will maintain regular contact with law enforcement to determine when it may begin its investigation. The AA/EO Office will promptly begin its investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process, or sooner if the AA/EO Office determines that the evidence gathering process will be lengthy or delayed, or where it is otherwise in the best interest of the University. The AA/EO Office will not delay its investigation until the ultimate outcome of the criminal investigation ~~- is completed.~~

6.

11.7 Prior Sexual Conduct. Investigators or others shall not question the complainant about, or otherwise seek evidence, regarding the complainant's sexual predisposition or prior sexual conduct with anyone other than the respondent(s).

11.8 Notice to Responsible Administrator. The AA/EO Office shall inform the ~~Appropriate Administrator~~ responsible administrator that an investigation has been initiated in ~~her or his~~ their area of responsibility.

~~7.~~
11.9 Standard of Review. The preponderance of the evidence standard will be used for investigating all alleged discrimination and harassment complaints and when making findings related to the allegations.

~~8. An~~

11.10 Notice of Meetings. The investigator will provide to a party whose participation is expected or invited, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate. The investigator will not require the parties to meet with or confront each other regarding the complaint during the investigation.

11.11 Role of Advisors in Investigation. Generally advisors are not permitted to participate during the investigative process, but may advise the party. If an advisor is disruptive even after warning, the investigator may exclude them from meetings. Any restrictions on the advisors' ability to speak or otherwise participate will be applied equally to all parties.

11.12 Timeframes for Investigations. Investigations, including the ~~opportunity~~ opportunities for the parties to supplement the investigation report, as described below, and the ~~decision~~ decisions of the ~~Appropriate Administrator~~ responsible administrator, shall be completed as promptly as practicable; ~~but in any event, within forty five calendar days of the filing of the complaint,~~ unless a longer period of time is reasonably required, to provide a thorough and equitable investigation. Reasonable causes for delay include, but are not limited to, temporary delays to avoid interfering with police investigations, the unavailability of key witnesses, the discovery of new evidence requiring further investigation, need for accommodations or language assistance, or ongoing conciliation efforts. The AA/EO Office shall regularly keep the parties informed of the progress of the investigation throughout its duration.

~~9.~~

11.13 Communications of the Parties. The University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. This section notwithstanding:

11.13.1 Retaliation is prohibited. Attempts to alter or prevent a witness' or party's testimony are forms of prohibited retaliation.

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11.13.2 Parties may be directed to cease communications with one another (i.e., a “no contact order”).

11.13.3 Parties’ communications remain subject to state laws protecting against defamation and tortious invasions of privacy, such as intrusion upon seclusion, publication of private facts, and false light claims.

11.14 Investigation Report. At the conclusion of the investigation, the AA/EO Office shall make available to all parties (including the ~~actual~~ complainant, if ~~she or he is~~ they are not a party to the complaint or the next of kin where the ~~actual~~ complainant is deceased) a written report. The report shall include a review of the complaint, response, a summary of the relevant exculpatory and inculpatory evidence determined from the investigation, findings, conclusions, and recommendations. ~~The conclusions~~ Conclusions shall indicate whether there is reasonable cause to believe that a violation of policy occurred. If the complaint presented more than a single allegation of misconduct, a decision shall be reached separately as to each allegation of misconduct. The AA/EO Office shall include recommendations regarding sanctions and remedies, where appropriate, that are reasonably calculated to stop the discrimination or harassment, eliminate any hostile environment, remedy the effects of discrimination and prevent its recurrence. Sanctions for the most serious violations may include suspension, eviction, expulsion, or termination or trespass. Remedies may include, but are not limited to, the ~~interim~~ supportive measures/~~accommodations~~ described above. –

10.

11.14.1 Title IX Sexual Harassment complaint investigative reports. Investigative reports of Title IX Sexual Harassment complaints may include non-binding findings, but not conclusions or recommendations. Those elements will be determined only through live hearings, as described below. The investigator will provide the parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including all inculpatory or exculpatory evidence, whether or not relied upon in reaching findings, in order to respond and/or prepare for the hearing.

11.15 Response to Investigative Report. The parties shall then have ten ~~working~~ calendar days to provide to the ~~AA/EO Office~~ investigator their written responses to the investigation report. These responses can take issue with the evidence considered, offer additional evidence, take issue with the conclusion(s) of the investigation and/or object to any recommended sanctions or other remedies. At the end of that ten-day period, the ~~Executive Director~~ investigator shall finalize the report and file the report and any written responses received from the parties with the Appropriate Administrator. ~~The responsible administrator (or the appropriate hearing committee~~

~~chair in Title IX cases) unless the AA/EO Office may investigate~~investigates further based on the responses of the parties.

~~11. Conciliated agreements to resolve formal complaints shall be documented in writing with all parties signing and receiving copies.~~

~~C. Remedial Actions, Sanctions and Appeals~~

~~1. The Appropriate Administrator~~

12.0 REMEDIAL ACTIONS, SANCTIONS, AND APPEALS

12.1 Responsible Administrator Review (non-Title IX). For all complaints except Title IX Sexual Harassment complaints, the responsible administrator shall review the investigation report and any submissions by the parties and determine within ten working days whether to close the complaint, investigate further, attempt informal resolution between the parties, or impose disciplinary sanction(s). ~~That The~~ responsible administrator will communicate that decision ~~will be communicated~~ in writing to the parties at the same time. All other steps in this Section 12.0 shall be followed.

~~2.~~

12.2 Review and Decision-Making Process for Title IX Complaints. If a complaint is a Title IX Sexual Harassment complaint, ~~the Appropriate Administrator,~~University will create processes consistent with Title IX and 34 CFR §106, which shall be attached in Appendix A. Where a complaint contains both Title IX Sexual Harassment complaints and complaints of other violation of policy, the responsible administrator and the AA/EO Office shall determine whether it is appropriate to consolidate processes, in which case processes for Title IX complaint adjudication shall be followed.

12.3 Cross-jurisdiction. Under other circumstances that could otherwise result in multiple hearings, each of which would involve adjudicating complaints arising from the same occurrence(s), these various hearings may be consolidated into one hearing. The responsible administrator shall determine the necessity for such consolidation and the composition of the hearing committee, which shall be consistent with Section 12.5, to the extent practicable.

12.4 Violations of Policy and Sanctions. If the responsible administrator (or hearing committee in Title IX cases), based on a preponderance of the evidence, finds that this policy was violated, the ~~Appropriate Administrator~~responsible administrator shall implement steps necessary to eliminate the discrimination, including a hostile environment, if necessary, prevent its recurrence, and to remediate the effects of the discrimination or harassment. The responsible administrator (or hearing committee in

Title IX cases) may impose disciplinary sanctions as may be appropriate to deter such conduct in the future. Possible sanctions are stated in PPM 6-22, PPM 3-33, PPM 9-14 or PPM 3-67.

~~3. The Appropriate Administrator may impose disciplinary sanctions as may be appropriate to deter such conduct in the future.~~

12.5 Appeal Process (non-Title IX). ~~These proceedings shall include all appropriate due~~ process rights, as provided by the following policies. These policies also indicate the rights of all parties to appeal all decisions regarding the findings of the investigation and/or whether appropriate disciplinary sanctions have been recommended. ~~Possible sanctions are stated in PPM 6-22, PPM 3-33, PPM 9-14 or PPM 3-67.~~ Complainants and ~~Respondents~~ respondents who wish to appeal decisions made by the ~~Appropriate Administrator~~ responsible administrator must follow the procedures that govern the right of the ~~Respondents~~ respondents.

~~a.~~

12.5.1 ~~Respondents who are non-faculty employees are entitled to due process as set~~ out in PPM 3-31. Completion of actions taken by the ~~appropriate~~ responsible administrator will be considered as replacing steps one and two of PPM 3-31.-

~~b.~~

12.5.2 ~~Respondents who are faculty are entitled to due process as set out in PPMs 9-~~ 9 to 9-14.- ~~Completion of the investigative procedures of this policy may, at the discretion of the provost, constitute completion of a preliminary investigation as outlined in PPM 9-11.~~

~~c.~~

12.5.3 ~~Respondents who are students are entitled to due process as set out in PPM 6-~~ 22.- ~~Completion of the investigative procedures of this policy constitute completion of informal resolution procedures outlined in that policy, unless all parties and the Dean of Students agree to use the informal level resolution procedures.-~~

~~d.~~

12.5.4 ~~Respondents who are neither students nor employees may ask for a review of~~ such decision by submitting a request with a concise statement of facts and reasons for review to the Vice President for Administrative Affairs within five days of notification of the action.

~~e.~~

13.0 TRAINING

In cases involving allegations of sexual harassment or sexual misconduct, hearing committee members those involved in handling such reports and complaints, including, but not limited to the AA/EO Office, investigator, decision-maker, and any person who facilitates an informal resolution,

shall receive training ~~on those issues. This training will include, but not be limited to domestic violence, dating violence, sexual assault, and stalking, and~~ to hearing processes that protect the safety of victims and promote accountability while avoiding approaches that apply sex stereotypes or generalizations. ~~When a student is the complainant, a student may only be a member on those issues. This training will include, but not be limited to~~ 1) definitions of such a hearing committee if agreed upon by all parties.—

~~f. Under circumstances which could otherwise result in multiple hearings, each sexual harassment, domestic violence, dating violence, sexual assault, and stalking, 2) jurisdiction, 3) due process, 4) fairness 5) relevance, 6) application of which would involve adjudicating complaints arising from the same occurrence(s), these various hearings may be consolidated into one hearing. The line supervisor most proximate to all complaining and responding parties shall determine the necessity for such consolidation and the composition~~ rape shield protections, 7) evidentiary burdens, 8) how to conduct their part of the hearing panel.—

~~g. The complainant(s) (process, including creating investigative reports and/or written decisions, or using technology at a live hearing, if applicable; and the actual complainant, if different from the complainant) shall be informed, in writing, 9) how to serve impartially, including avoiding prejudgment, conflicts of the outcome and the corrective and remedial actions to be taken. Notice should be provided to all parties at the same time. interest, or bias. Training materials will be posted on the AA/EO Office website.~~

E. Complaint

14.0 POST COMPLAINT REVIEW

Post-Process Review

14.1 ~~1.~~ Within 90 days following the resolution of a complaint or the imposition of sanctions resulting from a complaint, the AA/EO Office shall conduct an informal review as necessary to determine if the hostile environment or discrimination has been eliminated.

~~2.~~

14.2 ~~Closure if No Further Concerns.~~ If the review indicates that the hostile environment or discrimination has been eliminated, the AA/EO Office shall terminate the matter ~~shall be terminated and close the case file closed.~~

~~3.~~

14.3 ~~Further Action.~~ If the follow-up review indicates that the hostile environment or discrimination has not been eliminated, the ~~case~~ AA/EO Office shall ~~be referred refer the case~~ back to the ~~Appropriate Administrator~~ responsible administrator for consideration of additional action(s), including possible disciplinary action against violators and their supervisors who knew that the resolution was not being followed, or who knew that the unacceptable behavior continued to occur, and failed to take corrective action(s).

15.0 RECORDS

15.1 Classification of Records. All information contained in the complaint file is governed by the Family Educational Rights and Privacy Act where student education records are involved and classified as "Protected" with a secondary classification as "Private" under the Government Records Access and Management Act for all other records. Notwithstanding anything herein, disclosure will be only as permitted by law and University policy.

15.2 Maintenance of Records. The following records shall be maintained and stored for a minimum of seven years in the AA/EO Office, including the following:

15.2.1 Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required by this policy, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the University's education program or activity;

15.2.2 Any appeal and the result;

15.2.3 Any informal resolution and the result; and

15.2.4 All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

For each report of Title IX Sexual Harassment to the AA/EO Office, the AA/EO Office must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the AA/EO Office must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's education program or activity. If the University does not provide a complainant with supportive measures, then the AA/EO Office must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the University in the future from providing additional explanations or detailing additional measures taken.

<u>Revision History</u>
<u>Creation Date: 8-17-77</u>
<u>Amended: 9-13-18, [insert new date]</u>

Appendix A

HEARINGS AND APPEALS FOR TITLE IX SEXUAL HARASSMENT COMPLAINTS

The following govern hearing and appeals for Title IX Sexual Harassment complaints under PPM 3-32.

1.0 HEARING

- 1.1 The final investigative report and written responses from the parties under PPM 3-32, Section 11.15 shall be forwarded to the chair of the appropriate hearing committee, which shall be based on the status of the respondent as follows:
- 1.1.1 Where the respondent is a non-faculty employee, the chair shall be the chair of the Personnel Relations Committee, as established in PPM 3-31.
- 1.1.2 Where the respondent is a faculty employee, the chair shall be the chair of the Faculty Board of Review, as established in PPM 1-13.
- 1.1.3 Where the respondent is a student, the chair shall be the chair of the Student Code Review Committee, as established under PPM 6-22.
- 1.2 A hearing chair may delegate any procedural duties and decision-making with regard to admission of evidence to the hearing officer, an individual appointed by the AA/EO Office, who cannot be the same person as the investigator. The hearing officer does not vote as a member of the hearing committee.
- 1.3 The chair shall schedule a live hearing to be held within a reasonable period of time, no later than 45 calendar days after receipt of the final investigative report by the chair, with exceptions made by the chair of the hearing committee for good cause.
- 1.4 The chair of the appropriate committee described in Section 1.1 shall choose the members of the hearing committee to hear the live hearing. This may be a three member panel (including the chair) composed of members of the appropriate committee described in Section 1.1. In the event a respondent is a faculty member, the hearing committee shall be the Faculty Board of Review, with members and attendance of the hearing committee as described in PPM 9-12, III.B.
- 1.5 The chair shall issue to the parties and the parties' advisors a notice containing the dates, deadlines, and/or requirements appropriate for the orderly administration of the

hearing as determined by the chair. The notice must contain a statement informing the parties that upon the request of either party, the University must provide for a live hearing where the parties are located in separate rooms with technology enabling the hearing committee and the parties to simultaneously see and hear the party or witnesses answering questions. The notice must also contain the names of the members of the hearing committee.

1.6 Pre-hearing Conference and Required Disclosures

1.6.1 At least ten working days before the hearing date, a pre-hearing conference shall be held, time frames excepted upon good cause shown by any of the participating parties. The purpose of the pre-hearing conference is to facilitate and expedite the formal hearing process. The following people should be in attendance: the chair of the hearing committee, the hearing officer, the parties, advisors or representatives of the parties, where the hearing committee is the Faculty Board of Review, the administrative officer described in PPM 9-9. Others may attend upon approval of the chair.

1.6.2 Challenges to the composition of the hearing committee may be made at the pre-hearing conference. The chair shall rule on any such challenges. In the event the challenge is against the chair, the decision shall be made by the responsible administrator, unless the respondent is a faculty member, in which case the decision shall be made by the Executive Committee of the Faculty Senate.

1.6.3 The institution, complainant, and respondent must provide each other a list of witnesses and documents or other evidence that they will be presenting at the hearing.

1.6.4 Such disclosure shall include the identity of any person who may be used at the hearing to present expert opinion evidence. Unless otherwise stipulated, this disclosure shall be accompanied by a written report prepared and signed by the witness or party. The report shall contain the subject matter on which the expert is expected to testify; the substance of the facts and opinions to which the expert is expected to testify; a summary of the grounds for each opinion; and the expert's qualifications as a witness. The party seeking to present the testimony of an expert witness shall certify that the individual providing the expert testimony is qualified to offer the opinions. The chair may exclude expert testimony that is not relevant.

1.7 Advisors

- 1.7.1 Parties may be accompanied to the hearing by the advisor, who may be, but is not required to be, an attorney.
- 1.7.2 The chair will not limit the choice or presence of a party's advisor, but may limit an advisor's participation if the advisor becomes unreasonably disruptive to the proceedings.
- 1.7.3 If an attorney appears on behalf of a party, notice served on the attorney is considered notice to the party.
- 1.7.4 Advisors may participate in the hearing through asking the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
- 1.7.5 Questioning of parties and witnesses, including cross-examination, at the live hearing must be conducted directly, orally, and in real time by a party's advisor and never by a party personally.
- 1.7.6 If a party does not have an advisor present at the live hearing, the University must provide a person to ask questions of the parties and witnesses on the party's behalf. This individual is someone of the University's choice, with no fee or charge to that party. That individual's only role is to ask questions on behalf of the party of the other party or witnesses. The party may direct all questions to be asked by the University appointed individual and appropriate recesses may be taken to facilitate coordination. Requests by a party for this University appointed individual should be made at or before the pre-hearing conference, except for good cause.
- 1.8 The AA/EO Office is not a party to the hearing, but it shall be the AA/EO Office, not the parties, that bears the burden of producing evidence through the investigative report to the hearing committee. The AA/EO Office must remain objective and impartial throughout the grievance process, including impartially presenting the investigative report to the hearing committee for determination.
- 1.9 All Title IX hearings are closed hearings. Attendance is limited to the hearing officer, hearing committee, parties, advisors, the administrative officer (in accordance with PPM 9-12), and administrative or security individuals needed to facilitate the meeting. Witnesses may attend as called. Others may attend upon approval by the chair. This may include a support person for each party, upon request.

1.10 The standard of proof for determining responsibility is a preponderance of the evidence.

1.11 The chair shall regulate the course of the hearing to allow the hearing committee to obtain full disclosure of relevant facts and to afford all parties (or their advisors) reasonable opportunity to present their positions, including the opportunity to make opening and closing statements. The chair shall conduct the procedural elements of the hearing and make determinations regarding admissibility and relevance of evidence.

1.11.1 On the chair's own motion or upon objection by a party's advisor, the chair:

1.11.1.1 May exclude evidence that is irrelevant or unduly repetitious.

1.11.1.2 Shall exclude irrelevant questions directed to a party or witness. Before a party or witness answers a cross-examination or other question, the chair must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

1.11.1.3 Shall exclude evidence privileged in the courts of Utah, unless the privilege at issue is specifically waived by the parties.

1.11.1.4 Shall exclude questions or evidence about the complainant(s)' sexual predisposition or prior sexual behavior as not relevant unless 1) questions or evidence of the complainant(s)' prior sexual behavior are offered to prove that someone other than respondent(s) committed the conduct alleged by complainant(s), or 2) questions or evidence concern specific incidents of the complainant(s)' prior sexual behavior with respect to respondent(s) and are offered to prove consent.

1.11.1.5 May receive documentary evidence in the form of a copy or excerpt if the copy or excerpt contains all pertinent portions of the original document.

1.11.2 The hearing committee may ask relevant questions of parties and witnesses. Additional relevant evidence may be requested by the hearing committee.

1.11.3 The chair shall afford the parties' advisors the opportunity to ask questions of witnesses or parties. If a party or witness does not submit to cross-examination at the hearing, the hearing committee must not rely on any statement of that party or witness in reaching a determination regarding responsibility and cannot draw an inference about the determination regarding responsibility based solely on a party's or witness' absence from the hearing or refusal to answer cross-examination or other questions.

1.11.4 The chair shall ensure the hearing is recorded and provide a copy or transcript of the hearing to the parties for inspection and review.

1.11.5 Nothing in this section precludes the chair from taking appropriate measures necessary to preserve the integrity of the hearing.

1.12 Written Determination. After the close of the hearing, the members of the committee and the chair will deliberate. The hearing officer may participate to assist with questions of procedure or evidence, as deemed appropriate by the hearing committee. Such deliberations are confidential. Upon reaching a decision based on majority vote, the hearing committee will make a determination regarding responsibility and sanctions or remedies, as applicable.

1.12.1 The chair will create the written determination of the hearing committee within ten calendar days after the hearing concludes (extensions allowed based on good cause). The written determination must include:

1.12.1.1 Identification of the allegations potentially constituting Title IX Sexual Harassment as defined in this policy.

1.12.1.2 A description of the procedural steps taken from the receipt of the formal complaint through the determination including any notifications to the parties, interviews with the parties and witnesses, site visits, methods used to gather other evidence, and hearings held.

1.12.1.3 Findings of fact supporting the determination.

1.12.1.4 Conclusions regarding the application of University policy to the facts.

1.12.1.5 A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, and disciplinary sanctions the University imposes on the respondent, and whether the University shall provide remedies designed to restore and preserve equal access to the University's education program and activity to the complainant.

1.12.1.6 The University's procedures and permissible bases for the complainant and respondent to appeal.

1.12.2 The chair shall provide the written determination to the AA/EO Office, the responsible administrator, the parties and the parties' advisors simultaneously.

1.12.3 The determination regarding responsibility and sanctions becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

2.0 APPEALS

2.1 Either party may appeal a decision regarding responsibility or from the dismissal of any portion of a formal complaint. A party may appeal for any of the following reasons:

2.1.1 A procedural irregularity that affected the outcome of the hearing.

2.1.2 New evidence that was not reasonably available at the time of the decision or dismissal.

2.1.3 The Executive Director, the investigator, the Title IX hearing officer, or a member of the hearing committee had a conflict of interest or bias that affected the outcome.

2.2 The appeal must be made to the following appeal decision-maker within ten calendar days after the chair issues the decision:

2.2.1 Where the respondent is a faculty or staff member, the appeal must be directed in writing to the president.

2.2.2 Where the respondent is a student, the appeal must be directed in writing to the University Due Process officer.

2.3 Upon receiving an appeal, the appeal decision-maker must notify the other party within five working days.

2.4 The appeal decision-maker must be free of conflict of interest or bias for or against complainants or respondents generally or individually. Appeal decision-makers must be trained in accordance with PPM 3-32, Section 13.0.

2.5 The parties may submit a written statement to the appeal decision-maker supporting or challenging the decision of the hearing committee. The appeal decision-maker must receive any written statements within five calendar days of the appeal decision-maker sending the notice to the parties.

2.6 The appeal decision-maker will review all reports, evidence, recordings, and the written statements, and make a decision.

2.7 The appeal decision-maker's written report may:

2.7.1 affirm the hearing committee's decision;

2.7.2 offer a substitute action consistent with the applicable sanctioning policy provided the hearing committee is agreeable;

2.7.3 recommend reconsideration by the hearing committee; or

2.7.4 remand the decision to the hearing committee for a specific purpose; and

2.7.5 not alter a recommendation that no disciplinary action should be imposed.

2.8 The appeal committee will simultaneously issue a report to both parties, the responsible administrator, and the Executive Director detailing the decision and the rationale for the decision. The appeal decision-maker's decision is final, except in cases of tenured faculty, where the decision of the president is a recommendation to the Board of Trustees, consistent with University policy.

Forma

Forma



WEBER STATE
UNIVERSITY

PPM 3-32, Discrimination, Harassment, and Sexual Misconduct (including Title IX)

Responsible Office: AA/EO Office

1.0 PURPOSE AND SCOPE

Weber State University is committed to providing an environment free from harassment and other forms of individual or institutional discrimination based upon “protected classifications,” as defined below. Such an environment is a necessary part of a healthy learning and working atmosphere. This will be accomplished through preventative educational and training efforts, support for those impacted by discrimination and harassment, effective policy enforcement and remedial activities.

Discrimination and harassment are prohibited by numerous federal and state laws and regulations. It is the policy of the University to enforce these among its students, employees, and others, as further described herein. When violations of this policy occur, appropriate actions will be taken.

Any member of the University community who is being, or who has been subjected to discrimination or harassment or improperly denied an accommodation, as defined in this policy, may use the complaint procedures described herein.

The Affirmative Action/Equal Opportunity Office is designated to oversee and carry out the responsibilities of this policy as outlined herein. The AA/EO Office acts under the supervision of the Executive Director of that office, who is also the Title IX Coordinator and the ADA Coordinator under PPM 3-34. The AA/EO Office shall provide all notices required by law, and make contact information for this office easily and widely available, including names or titles, office addresses, electronic mail addresses, and telephone numbers.

This policy and the procedures for addressing complaints of discrimination and harassment, apply to all University programs and activities. This includes those conducted off-campus and to all off-campus conduct that has on-campus effects, as more specifically outlined herein.

This policy shall not be construed to restrict constitutionally protected expression, as allowed by law, even though such expression may be unpleasant or even hateful. Constitutionally protected speech and traditional notions of academic freedom are valued in higher education. These ideals help to create the stimulating and challenging learning environment which should characterize higher education. In the spirit of a true university environment, individuals are encouraged to invite, rather than inhibit, discourse on ideas.

In order to protect free speech and academic freedom of faculty, students, and other members of the University community, this policy shall not apply to expression that is protected from regulation by the U.S. Constitution, the Utah Constitution or falls within traditional boundaries of academic

freedom set forth in PPM 9-1. This includes, but is not limited to, faculty members' good faith selection of subject matter and methodology, the content of academic discussions, and protected expression in publications and public forums. This exemption shall not apply to harmful or offensive personal attacks substantially based on a person's protected classifications that violate this policy. The University retains the right to apply restrictions consistent with the Constitution and principles of forum analysis to regulate under this policy.

2.0 REFERENCES

- 2.1 PPM 3-2, Employee Definitions
- 2.2 PPM 3-10, Termination of Employment (Non-Faculty)
- 2.3 PPM 3-31, Staff Employee Grievances (with provision for certain hourly employees)
- 2.4 PPM 3-31a, Due Process for Staff Members in the Case of Student Grievances
- 2.5 PPM 3-31b, Probationary Exempt & Non-Exempt Employee Grievances
- 2.6 PPM 3-31c, Hourly Employee Grievances
- 2.7 PPM 3-32a, Amorous or Sexual Relations
- 2.8 PPM 3-33, Discipline (Non-Teaching Personnel)
- 2.9 PPM 3-34, Americans with Disabilities Act & Section 504 Request for Accommodations
- 2.10 PPM 3-67, Violence Prevention
- 2.11 PPM 5-36a, Safety, Response, and Reporting Policy (Clery)
- 2.12 PPM 6-22, Student Code
- 2.13 PPMs 9-1 through 9-8, Faculty Rights and Responsibilities
- 2.14 PPMs 9-9 through 9-18, Academic Due Process

3.0 DEFINITIONS

- 3.1 **Complainant** - An individual who files an informal or formal complaint that there has been a violation of this policy.
- 3.2 **Consent** - Affirmative and freely given permission to engage in sexual activity. A person can affirm consent, or lack of consent, through words or conduct. Consent can be withdrawn at any time, irrespective of the consent which may have been given previously. Silence or absence of resistance does not, necessarily, imply consent. A complainant has not consented when the complainant is under the age they can legally consent; unconscious; unaware that the act is occurring; physically unable to resist; overcome by force, violence, concealment or surprise; or lacks the understanding to make rational decisions or engage in responsible actions due to alcohol or other drugs, or because the complainant is temporarily or permanently impaired by a disability.

Being intoxicated or incapacitated does not diminish one's responsibility to obtain consent and will not be an excuse for sexual harassment and misconduct.

The University adopts other circumstances identified in Utah law as standards for determining consent as in Utah Code Ann. §76-5-406. However, criminal prosecution of offenses is subject only to standards in applicable law.

The University considers unconsented conduct as unwelcome conduct although consent, alone, does not necessarily indicate that conduct was welcomed.

3.3 Discrimination - Conduct which denies or limits a person's opportunities or adversely affects a term or condition of employment or participation in University programs, services, or activities based on a person's protected classification(s), except as permitted by law and as further outlined in this policy.

3.4 Discriminatory Harassment - Unwelcome conduct that is based on protected classifications (as defined, below) that creates a hostile work or learning environment. A hostile environment exists when conduct is so severe, persistent or pervasive, as determined by analyzing the totality of the circumstances, that it denies or limits a person's ability to participate in or benefit from the University's programs or activities or the conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creates an intimidating, or offensive work environment. Both subjective and objective factors shall be considered when evaluating whether a hostile environment exists. Conduct is considered unwelcome if the person did not request or invite it and considered the conduct to be undesirable or offensive.

3.4.1 Sexual Harassment - Sexual harassment and misconduct are types of discriminatory harassment, as defined above, that refer to a variety of behaviors that include these two common elements:

- The behaviors are unwelcome, and
- The behaviors are either: 1) of a nature that is related to sex or gender, gender identity or expression, or sexual orientation, and/or 2) they are directed at a person because of their actual or perceived sex or gender, gender identity or expression, or sexual orientation.

This policy prohibits all sexually harassing conduct, whether or not it is criminal, if such conduct occurs on University property or while one is engaged in University activities, when the results of such conduct create a hostile work or learning environment in University courses, activities or employment. This policy also requires redressing a hostile environment that occurs on campus even if it relates to off-campus activities, when the results of such conduct create a hostile work or learning environment in University courses, activities or employment.

Sexual misconduct that may constitute sexual harassment includes, but is not limited to:

- Sexual assault
- Dating violence
- Domestic violence
- Stalking
- Sexual exploitation:

When a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage

anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.

Examples of sexual exploitation include, but are not limited to:

- a. Invasion of sexual privacy;
- b. Prostituting another person or other sex trafficking;
- c. Non-consensual video or audio-recording of sexual activity;
- d. Allowing others to hide to watch consensual sex;
- e. Voyeurism;
- f. Knowingly transmitting an STD or HIV to another person;
- g. Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- h. Sexually-based bullying;
- i. Non-consensual removal of a condom or other form of birth/disease control by a sex partner, sabotage to a condom or other form of birth/disease control by a sex partner without the other's knowledge or consent, or false representation of the use of a condom or other form of birth/disease control.

[PPM 5-36a defines sexual assault, dating violence, domestic violence, and stalking and includes further information about Clery crimes and reporting.]

3.4.2 Title IX Sexual Harassment - 1) Any instance of quid pro quo harassment by a school's employee; 2) any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; and 3) any instance of sexual assault, dating violence, domestic violence, or stalking (see PPM 5-36a for definitions). Title IX sexual harassment may only occur when a student or employee is participating or attempting to participate in the University's education program or activity that occurs in the United States. (Note that Title IX Sexual Harassment complaints are distinct and encompass only a subset of sexual harassment prohibited by this policy.)

- 3.5 Formal Complaint** - A document alleging a violation of this policy in which the complainant requests an investigation under this policy. The complaint must be signed by the complainant or the Executive Director.
- 3.6 Preponderance of Evidence** - The evidentiary standard used during a sexual misconduct investigation/review to determine if the allegations occurred and if a policy violation has occurred. Preponderance of evidence means it is more likely than not, or more than 50 percent in favor, that the misconduct occurred as alleged.
- 3.7 Protected Classifications** - Race, color, national origin, pregnancy, and pregnancy-related conditions such as childbirth, false pregnancy, miscarriage, abortion, or related conditions, (including recovery), genetics, disability (see PPM 3-34), religion, sex, sexual orientation, gender identity/expression, veteran, active military status, age (over 40 in employment discrimination), and other classifications protected by law.

- 3.8 Report** - Information alleging a possible violation of this policy that comes to the attention of the AA/EO Office.
- 3.9 Respondent** - A person who is alleged to have violated this policy.
- 3.10 Responsible Administrator** - The administrator at the vice presidential level, or their designee, with direct line responsibility over the college, department, office, agency or other operational unit of the University with supervisory authority over the individual or individuals who are accused of discrimination or harassment. For students, the responsible administrator is the Dean of Students. For individuals who are not faculty, students, or staff, the Vice President for Administrative Services shall take the role of responsible administrator.
- 3.11 Retaliation** - An action, performed directly or through others, that is aimed to dissuade a reasonable person from engaging in a protected activity or is done in retribution for engaging in a protected activity. Action in response to a protected activity is not retaliatory unless (i) it has a materially adverse effect on the working, academic, or other University-related environment of an individual; and (ii) it would not have occurred in the absence of (but for) the protected activity. Examples of protected activities include: reporting (internally or externally) a complaint of sexual harassment in good faith; assisting others in making such a report; or honestly participating as an investigator, witness, decision maker; or otherwise assisting in an investigation or proceeding related to suspected sexual harassment.
- 3.12 Title IX Coordinator** - The employee given the overall responsibility to supervise compliance with Title IX. Other Deputy Title IX Coordinators may be appointed, as needed.

4.0 PROHIBITIONS

- 4.1 Employment Discrimination Prohibited.** Illegal employment discrimination based on protected classifications is prohibited. The University will publicize that it is an Equal Opportunity/Affirmative Action employer. Recruitment of personnel shall frequently use off-campus recruiting sources to encourage applications from under-represented groups. Procedures for selection shall be based on job-related criteria including education, skills, experience and affirmative action requirements. Promotions, compensation, evaluations, access to facilities, discipline and terminations and all other aspects of University employment shall be administered in a nondiscriminatory manner.
- 4.2 Student Discrimination Prohibited.** Illegal student discrimination based on protected classifications is prohibited. The University will publicize that it is an Equal Educational Opportunity institution. Student recruitment; admissions to programs & classes; participation in co-curricular activities; access to University housing;

eligibility for financial aid and student employment and all other aspects of the student program shall all be administered in a nondiscriminatory manner.

- 4.3 Other Discrimination Prohibited.** Illegal discrimination against persons, other than students or employees, who are participating or attempting to participate in, or are receiving or are applying for the benefits of, any program, service or activity conducted under the sponsorship or auspices of the University, including but not limited to spectators, visitors, and volunteers based on protected classifications is prohibited.
- 4.4 Discriminatory Harassment Prohibited.** No person may engage in conduct that creates a hostile environment, as defined herein, for employees, students or others on the basis of their protected classifications. This includes behavior occurring off-campus that creates a hostile environment on campus or in University activities.
- 4.5 Title IX Sexual Harassment Prohibited.** Title IX Sexual Harassment of any persons participating, or attempting to participate, in any University program or activity is prohibited.
- 4.6 Noninterference with Investigations.** University employees and students are prohibited from interfering with and are strongly encouraged to cooperate with investigations of violations of this policy.
- 4.7 False Complaints and Testimony Prohibited.** University employees, students, and others shall not file false claims or provide false information during an investigation of a complaint under this policy. Charging an individual in good faith with a code of conduct violation for making a bad faith, materially false statement in the course of a grievance proceeding under this policy does not constitute retaliation.
- 4.8 Retaliation Prohibited.** No employee or student shall engage in retaliation. Any retaliatory threat or act of violence against a victim or witnesses of sexual violence is a third degree felony under Utah Code Ann. 53B-28-304 and may be subject to criminal prosecution. Retaliation should be reported immediately to the AA/EO Office.

5.0 REASONABLE ACCOMMODATIONS

- 5.1 Reasonable Accommodation of Disabilities Required.** Faculty and staff will not illegally discriminate in admissions to the University or specific programs, or enrollment in courses based on disability. Faculty and staff will provide accommodations, academic adjustments, auxiliary aids, and services for persons with disabilities, as required by PPM 3-34 and state and federal law. Procedures for

requesting accommodation for disabilities and resolving disputes regarding such requests are set forth under PPM 3-34.

5.2 Reasonable Accommodation of Religious Beliefs Required. Faculty and staff shall reasonably accommodate religious and other deeply held beliefs, as required by law and University policy.

5.3 Reasonable Accommodation of Pregnancy Required. Faculty and staff will reasonably accommodate students and employees who are pregnant, in accordance with the law. Students' absences due to medical conditions relating to pregnancy will be excused for as long as deemed medically necessary by a student's doctor and students will be given a reasonable opportunity to make up missed work.

6.0 REPORTING AND CONFIDENTIALITY

6.1 Responsible Employees. All employees, with the exception of confidential employees, who know that this policy is being violated must immediately report to the AA/EO Office such violations including information that is known, such as names of individuals involved, facts, dates, times, and locations of suspected policy violations. In order to help prevent violations of this policy, anyone who suspects this policy is being violated is strongly encouraged to report suspected violations of this policy, or similar conduct, even if the individual does not believe it has reached the level of discriminatory harassment. Non-disciplinary remedial measures such as education and training, mediation, voluntary transfers or reassignments, etc., that may help to avoid the creation of hostile environment should be considered. Individuals who desire to make a report of suspected violation of this policy, but who are concerned about their identifying information being shared with others, should make those concerns known prior to reporting to a University employee. Employees responsible for reporting such information should alert individuals of their reporting responsibilities as soon as possible. Reporting employees should communicate the reporter's desire regarding confidentiality to the AA/EO Office.

6.2 Confidential Employees. All employees of the Counseling & Psychological Services Center, Women's Center, Student Health Center, and employees of the WSU Police Department, are confidential employees. These individuals do not have reporting requirements for purposes of this policy and Title IX, unless the reporter gives written consent for these individuals to disclose information. These individuals may have other legally mandated reporting requirements, such as for purposes of fulfilling Clery Act requirements (see PPM 5-36a), where there is imminent danger, or the victim is a minor or vulnerable adult. Employees who have a legal privilege also do not have reporting requirements under this policy. Confidential employees should inform such individuals of this policy, options available under Section 7.0, resources for supportive measures, counseling, medical, and academic support, and what retaliation and safety protections may be available.

6.3 Other Exceptions. Exceptions to the reporting requirements described herein may be made in circumstances where disclosure was made during academic programs or awareness, prevention, or support programs and disclosure was not intended by the individual to constitute a report to the University for purposes of this policy.

6.4 Confidentiality upon Reporting to the AA/EO Office.

6.4.1 Information shall be treated with discretion to protect the privacy of those involved, except as required by law and as described herein.

6.4.2 Supportive measures will be kept confidential to the extent that maintaining such confidentiality would not impair the University's ability to provide the supportive measures.

6.4.3 A (potential) complainant may request confidentiality or anonymity, and may choose not to submit a complaint at all. The University will attempt to cooperate with requests for confidentiality, if possible. In so doing, the AA/EO Office will evaluate any such request in the context of the University's goal to provide a safe and nondiscriminatory environment for all members of the University community. The factors that may be considered include the seriousness of the alleged discrimination or harassment, the age of the complainant, whether there have been other complaints or reports of discrimination or harassment against the respondent, and the rights of the respondent to receive information about the complainant and the allegations if a formal complaint with sanctions may result. The AA/EO Office shall inform potential complainants that their requests or their refusals to disclose names, pursue an investigation, or file a formal complaint may limit the University's ability to investigate and to respond to complaints. Regardless, the AA/EO Office shall offer to provide supportive measures and strive to stop prohibited ongoing violations of this policy, take steps to prevent their recurrence and address any effects on campus and in the context of any University programs and activities.

7.0 OPTIONS FOR COMPLAINANTS

Complainants may utilize one or more of the following options:

7.1 Seek to resolve issues directly with the individual(s) alleged to have violated this policy.

7.2 Seek to resolve issues through a Responsible Supervisor.

7.3 Seek to resolve issues through the Faculty Omsbud.

7.4 Consult with the AA/EO Office to discuss the options available through this and other policies, including provision of supportive measures.

- 7.5 Explore options for informal resolution.
- 7.6 File a formal complaint with the AA/EO Office.
- 7.7 Pursue criminal charges through the police.
- 7.8 Initiate outside legal action through external sources, including the Utah Antidiscrimination and Labor Division or the appropriate federal enforcement agency such as the Equal Employment Opportunity Commission or the Office for Civil Rights in the Department of Education. It is recommended that where time allows (before applicable statutes of limitations have expired) grievance procedures within the University be utilized.

8.0 **SUPPORTIVE MEASURES**

- 8.1 **Description.** Supportive measures are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to provide equal access to educational or employment-related opportunities, protect safety, or deter violations of this policy.
 - 8.1.1 Examples of possible supportive measures for all parties that may be available include, but are not limited to: medical and mental health services, including counseling; issuing no-contact directives; providing assistance with transportation such as shuttle service, cab voucher, or parking arrangements; assistance identifying an advocate to help secure additional resources or assistance including off-campus and community advocacy, support and services; or providing an escort while on campus.
 - 8.1.2 Supportive measures for employees may include, but are not limited to, temporarily reassigning work schedules or assignments, or placing employees on non-disciplinary leave with pay.
 - 8.1.3 Supportive measures for students may include, but are not limited to: reassigning student housing or dining locations; providing assistance in finding alternative housing; transferring to another section of a lecture or laboratory; rescheduling class assignments or test schedules; providing opportunities to make up missed academic work; accessing academic support (e.g., tutoring); preserving eligibility for academic, athletic or other scholarships, financial aid, internships, study abroad or foreign student visas; arranging for incompletes; or allowing students to retake or withdraw from courses without penalty, to the extent academically feasible.
- 8.2 **Provision of Supportive Measures.** During all stages of the process, the AA/EO Office will take steps to coordinate supportive measures to protect and support the parties and minimize the likelihood of retaliation. Supportive measures can be requested by contacting the AA/EO Office. The University will provide written notification about options for, available assistance with, and the procedure to request

supportive measures. Such supportive measures and accommodations will be provided as reasonably available, regardless of whether the complainant chooses to report to police. The AA/EO Office should consult with the parties throughout the investigation to assess whether supportive measures continue to be necessary and effective based on their evolving needs. Where parties are students, every effort should be made to avoid depriving them of their education.

8.3 Cooperation Required. Faculty and staff shall cooperate with the AA/EO Office, Human Resources, Disability Services and the Safe@Weber Survivor Advocate to provide supportive measures.

8.4 Other Services. The University will provide written notification to students and employees about existing counseling, health, mental health, survivor advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for survivors, both within the University and in the community.

9.0 INITIAL REPORTS AND FORMAL COMPLAINTS

9.1 Reporting Violations. Any person who believes they have experienced discrimination or harassment, or who has knowledge of such conduct impacting other students, employees or others, is encouraged, and in some instances is required (see Section 6.0), to report that conduct directly to the AA/EO Office.

9.2 Timeframes for Reporting. Reports of violations of this policy should be made as soon as possible after the event(s) which gives rise to the violation. Formal complaints of violations of this policy should be filed within six months of the most recent alleged act which violates the policy. Where the interests of justice require, however, the AA/EO Office may waive this time limit. Regardless of whether a formal complaint is accepted and investigated, supportive measures will be offered to the parties.

9.3 Manner of Making a Report. Reports of violations of this policy may be either written or oral.

9.4 Manner of Making a Formal Complaint. Formal complaints may be filed in person, by mail, or by electronic mail. Formal complaints and responses must be written, signed, and sworn as true and accurate. A formal complaint (or complaint summary) should include, at a minimum, the identities of the parties involved, the specific section(s) of the University's policy(ies) allegedly violated, the conduct allegedly constituting the potential violation(s), and the date(s) and location(s) of the alleged violations, a description of witnesses who have knowledge that is relevant to the complaint, other relevant evidence of which the parties are aware, the harm the complainant alleges resulted from the conduct, and the remedial action(s) sought by the complainant.

9.5 Confidentiality. Complainants may request anonymity or confidentiality for informal complaints, as described above.

- 9.6 Notice and Options.** Upon receipt of a report or formal complaint, the AA/EO Office shall provide the complainant written notice of this policy, explain supportive measures and the options available to them.
- 9.7 Initiation of Formal Complaint.** Although consideration shall be given to the complainant's preferences in the complaint investigation process, the AA/EO Office may initiate a formal complaint and an independent investigation into alleged violations of this policy. This does not need to be based on the complainant's preference, if the AA/EO Office determines that doing so is not clearly unreasonable in light of the known circumstances. If the complainant elects not to file a formal complaint under this policy, the AA/EO Office may sign a formal complaint or may appoint a designee to pursue the matter in the complainant's stead. The complainant shall be permitted to provide input, including whether the complainant appeals a decision under the grievance process. The AA/EO Office shall consider factors discussed in Section 6.4.3. When the AA/EO Office signs a formal complaint, the AA/EO Office is not a complainant or otherwise a party under this policy and must remain free of bias or conflict of interest with respect to any party. In this situation, the complainant is treated as a party, though they continue to have a right not to participate.
- 9.8 Referrals to Law Enforcement.** If a report, formal complaint, or an investigation reveals evidence of criminal conduct, the AA/EO Office shall determine whether the matter must be referred to the appropriate law enforcement agency. Where a referral is discretionary, the AA/EO Office will generally refer the matter, but an exception may be made in deference to the wishes of the complainant. The AA/EO Office shall consider factors discussed in Section 6.4.3. In all cases, reporting will take place as required by law. The University may proceed with an investigation, even in cases involving referrals to law enforcement.
- 9.9 Neutral Assistance.** The AA/EO Office and others designated by the University may provide impartial assistance to those involved in a discrimination complaint.
- 9.10 Consolidation of Formal Complaints.** The AA/EO Office may consolidate formal complaints against more than one respondent, or by more than one complainant against one or more respondents, or cross-complaints by one party against the other party, where the allegations arise out of the same facts or circumstances. Where there are multiple respondents, written summaries of those portions of the complaint that bear on that respondent may be substituted.
- 9.11 Amnesty for Reporting Sexual Violence.** Because sexual violence may occur in circumstances where individuals may have engaged in violations of the University codes of conduct regarding usage of alcohol or drugs, individuals may fear reporting because they might be charged with violations of conduct codes. In order to encourage reporting, the University will not sanction an individual who makes a good faith report regarding sexual violence, as defined in Utah Code Ann. §53B-28-302, that was directed at them or another person for a violation related to the use of drugs or alcohol that is discovered because of the report.

9.12 Interim Safety Measures. If a matter comes to the attention of the AA/EO Office that raises concerns about safety or risk of individuals or the campus, the AA/EO Office may, if appropriate in their professional judgment, refer the matter to law enforcement and/or the responsible administrator, who may consult with the Strategic Threat Assessment Team (see PPM 3-67). An individualized safety and risk assessment should be undertaken, as deemed appropriate, to determine whether there is an immediate threat to the physical health or safety of any individual or the campus arising from the allegations, and appropriate actions that may be taken, including removal from campus. Title IX regulations and all other appropriate University policies shall be followed where interim actions are taken against an individual. Notice and an opportunity to challenge the decision shall be provided to the individual, consistent with PPM 3-33, Discipline (Staff Employees), PPM 6-22, Student Code, and Section 9, Academic Freedom, Rights, Responsibilities and Due Process, and PPM 3-67, Violence Prevention, as applicable.

10.0 INFORMAL RESOLUTION

10.1 When is Informal Resolution Appropriate. Informal resolution is encouraged to resolve concerns at the earliest stage possible with the cooperation of all parties involved. Participation in the informal resolution process is voluntary; the AA/EO Office shall not compel either party to engage in informal resolution. Informal resolution may be appropriate for responding to anonymous reports and/or third-party reports. Informal resolution may be inappropriate when one or both of the parties are reluctant to participate in good faith. Informal resolution will not be used in situations where safety concerns are present, where alleged conduct was so traumatic that there is a risk of further psychological harm, or where a power differential between the parties makes informal resolution otherwise inappropriate.

10.2 Voluntary Agreement. The AA/EO Office shall determine whether all parties agree to attempt to resolve the complaint through informal resolution. If the parties voluntarily agree to pursue an informal resolution, the AA/EO Office shall attempt to facilitate a resolution of the conflict that is agreeable to all parties.

10.3 Title IX Informal Resolution. In order to commence an informal resolution for allegations that would amount to a Title IX Sexual Harassment complaint, a formal complaint must be filed and the allegations shared with the respondent. The AA/EO Office shall provide the parties written notice of the requirements of the informal resolution process, possible consequences, and records that will be maintained or could be shared. The parties must provide written consent to continue with the informal resolution process. Informal resolution is not appropriate where an employee is alleged to have committed Title IX Sexual Harassment against a student.

10.4 Fact-finding for Informal Resolution. The AA/EO Office may conduct fact-finding that is necessary and useful to: end any discrimination and harassment; resolve the conflict; protect the interests of the parties; eliminate a hostile environment; remedy the effects of such an environment and prevent reoccurrence.

10.5 Ending Informal Resolution. The AA/EO Office will notify parties of their right to end the resolution informal process at any time prior to agreeing to a resolution and may initiate a formal investigation. The AA/EO Office will document conciliated agreements to resolve formal complaints in writing with all parties signing and receiving copies.

11.0 FORMAL COMPLAINT INVESTIGATION

11.1 Dismissal

11.1.1 Dismissal non-Title IX complaints. If the complainant wishes to file a formal complaint, the AA/EO Office shall determine whether the complaint includes allegations, which, if true, would constitute a violation of this policy, and whether the complaint is timely, and is neither frivolous nor without merit. If so, the AA/EO Office shall promptly initiate an investigation as described below. If not, the AA/EO Office will not proceed with an investigation, but may attempt to resolve the underlying complaint.

11.1.2 Dismissal of Title IX complaints. The Executive Director must review any complaint of sexual harassment to determine whether, if true as alleged, it would constitute a violation of Title IX and adjudicate it accordingly. The Executive Director must apply the standards for dismissal, required or permissive, as outlined in 34 CFR §106.45 (3) and document any such decisions made. This decision does not preclude the University from moving forward with a complaint on grounds of other violations of this or other University policy.

11.1.3 Appeals. The AA/EO Office must promptly send the parties simultaneous written notice of the dismissal and reason(s) for dismissal. Parties may appeal decisions of dismissal in Section 11.1.1 to the responsible administrator, who in the case of faculty respondents, shall conduct the decision in accordance with PPM 9-11. Parties may appeal decisions of dismissal described in Section 11.1.2 as outlined in Appendix A.

11.2 Investigator. The AA/EO Office shall conduct an investigation or appoint an investigator. The investigation shall be conducted by an individual who is free of

conflict of interest or bias for or against complainants or respondents, generally or individually. The investigator shall disclose their role as a neutral investigator for the University, as distinguished from an advocate for any of the parties involved. The investigation shall be conducted by an individual trained to analyze and document the available evidence to support reliable decisions, objectively evaluate the credibility of parties and witnesses, synthesize all available evidence—including both inculpatory and exculpatory evidence—and take into account the unique and complex circumstances of each case. The University reserves the right to engage an outside investigator to conduct an investigation.

11.3 Extent of Investigation. The investigator shall determine the extent of a formal investigation, but shall include, at the discretion of the investigator, potential violations of other policies and procedures that arise out of the same facts that are alleged in the complaint of violations of this policy and may make recommendations regarding those potential violations as well. If at any point during the investigation, the investigator determines a need to investigate allegations not included in the formal complaint, the investigator must provide notice of the additional allegations to the parties, if known.

11.4 Title IX Investigation – The burden of proof and the burden of gathering the evidence sufficient to reach a determination rests on the University and not on the parties.

11.4.1 The University shall not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains the party's voluntary, written consent to do so for a grievance process under this policy.

11.5 Notice of Investigation. The AA/EO Office shall promptly and effectively inform all parties of the initiation of an investigation and their rights and responsibilities during the investigation, including providing a copy of the formal complaint and this policy. For respondents, this shall occur prior to interviewing individuals about allegations of misconduct. This notice shall include:

11.5.1 the presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process;

- 11.5.2 the right to have an advisor throughout the process who may, but need not be, an attorney, and the right to postpone for a reasonable time, an initial interview until arrangements for an advisor can be made;
- 11.5.3 the right to expect the University to gather sufficient evidence to reach a fair, impartial determination as to whether a policy violation has occurred; and
- 11.5.4 the duty not to obstruct the investigation;
- 11.5.5 the right to participate or not participate in the investigation, and notice that the investigation may proceed without the participation of any party to the complaint; or may be dismissed;
- 11.5.6 the timeframes involved, including any deadlines;
- 11.5.7 the right to present witnesses and other inculpatory and exculpatory evidence, including fact and expert witnesses; and
- 11.5.8 the right to pursue criminal charges independent of the investigation.

Where there are multiple respondents, the AA/EO Office shall provide each respondent a written summary of those portions of a complaint to each respondent that bear on that respondent.

- 11.6 **Law Enforcement Impact on Investigation.** Where criminal charges are involved, the AA/EO Office will maintain regular contact with law enforcement to determine when it may begin its investigation. The AA/EO Office will promptly begin its investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process, or sooner if the AA/EO Office determines that the evidence gathering process will be lengthy or delayed, or where it is otherwise in the best interest of the University. The AA/EO Office will not delay its investigation until the ultimate outcome of the criminal investigation is completed.
- 11.7 **Prior Sexual Conduct.** Investigators or others shall not question the complainant about, or otherwise seek evidence, regarding the complainant's sexual predisposition or prior sexual conduct with anyone other than the respondent(s).
- 11.8 **Notice to Responsible Administrator.** The AA/EO Office shall inform the responsible administrator that an investigation has been initiated in their area of responsibility.

- 11.9 Standard of Review.** The preponderance of the evidence standard will be used for investigating all alleged discrimination and harassment complaints and when making findings related to the allegations.
- 11.10 Notice of Meetings.** The investigator will provide to a party whose participation is expected or invited, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate. The investigator will not require the parties to meet with or confront each other regarding the complaint during the investigation.
- 11.11 Role of Advisors in Investigation.** Generally advisors are not permitted to participate during the investigative process, but may advise the party. If an advisor is disruptive even after warning, the investigator may exclude them from meetings. Any restrictions on the advisors' ability to speak or otherwise participate will be applied equally to all parties.
- 11.12 Timeframes for Investigations.** Investigations, including the opportunities for the parties to supplement the investigation report, as described below, and the decisions of the responsible administrator, shall be completed as promptly as practicable, unless a longer period of time is reasonably required, to provide a thorough and equitable investigation. Reasonable causes for delay include, but are not limited to, temporary delays to avoid interfering with police investigations, the unavailability of key witnesses, the discovery of new evidence requiring further investigation, need for accommodations or language assistance, or ongoing conciliation efforts. The AA/EO Office shall regularly keep the parties informed of the progress of the investigation throughout its duration.
- 11.13 Communications of the Parties.** The University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. This section notwithstanding:
- 11.13.1** Retaliation is prohibited. Attempts to alter or prevent a witness' or party's testimony are forms of prohibited retaliation.
 - 11.13.2** Parties may be directed to cease communications with one another (i.e., a "no contact order").
 - 11.13.3** Parties' communications remain subject to state laws protecting against defamation and tortious invasions of privacy, such as intrusion upon seclusion, publication of private facts, and false light claims.

11.14 Investigation Report. At the conclusion of the investigation, the AA/EO Office shall make available to all parties (including the complainant, if they are not a party to the complaint or the next of kin where the complainant is deceased) a written report. The report shall include a review of the complaint, response, a summary of the relevant exculpatory and inculpatory evidence determined from the investigation, findings, conclusions, and recommendations. Conclusions shall indicate whether there is reasonable cause to believe that a violation of policy occurred. If the complaint presented more than a single allegation of misconduct, a decision shall be reached separately as to each allegation of misconduct. The AA/EO Office shall include recommendations regarding sanctions and remedies, where appropriate, that are reasonably calculated to stop the discrimination or harassment, eliminate any hostile environment, remedy the effects of discrimination and prevent its recurrence. Sanctions for the most serious violations may include suspension, eviction, expulsion, or termination or trespass. Remedies may include, but are not limited to, the supportive measures described above.

11.14.1 Title IX Sexual Harassment complaint investigative reports. Investigative reports of Title IX Sexual Harassment complaints may include non-binding findings, but not conclusions or recommendations. Those elements will be determined only through live hearings, as described below. The investigator will provide the parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including all inculpatory or exculpatory evidence, whether or not relied upon in reaching findings, in order to respond and/or prepare for the hearing.

11.15 Response to Investigative Report. The parties shall then have ten calendar days to provide to the investigator their written responses to the investigation report. These responses can take issue with the evidence considered, offer additional evidence, take issue with the conclusion(s) of the investigation and/or object to any recommended sanctions or other remedies. At the end of that ten-day period, the investigator shall finalize the report and file the report and any written responses received from the parties with the responsible administrator (or the appropriate hearing committee chair in Title IX cases) unless the AA/EO Office investigates further based on the responses of the parties.

12.0 REMEDIAL ACTIONS, SANCTIONS, AND APPEALS

12.1 Responsible Administrator Review (non-Title IX). For all complaints except Title IX Sexual Harassment complaints, the responsible administrator shall review the investigation report and any submissions by the parties and determine within ten

working days whether to close the complaint, investigate further, attempt informal resolution between the parties, or impose disciplinary sanction(s). The responsible administrator will communicate that decision in writing to the parties at the same time. All other steps in this Section 12.0 shall be followed.

- 12.2 Review and Decision-Making Process for Title IX Complaints.** If a complaint is a Title IX Sexual Harassment complaint, the University will create processes consistent with Title IX and 34 CFR §106, which shall be attached in Appendix A. Where a complaint contains both Title IX Sexual Harassment complaints and complaints of other violation of policy, the responsible administrator and the AA/EO Office shall determine whether it is appropriate to consolidate processes, in which case processes for Title IX complaint adjudication shall be followed.
- 12.3 Cross-jurisdiction.** Under other circumstances that could otherwise result in multiple hearings, each of which would involve adjudicating complaints arising from the same occurrence(s), these various hearings may be consolidated into one hearing. The responsible administrator shall determine the necessity for such consolidation and the composition of the hearing committee, which shall be consistent with Section 12.5, to the extent practicable.
- 12.4 Violations of Policy and Sanctions.** If the responsible administrator (or hearing committee in Title IX cases), based on a preponderance of the evidence, finds that this policy was violated, the responsible administrator shall implement steps necessary to eliminate the discrimination, including a hostile environment, if necessary, prevent its recurrence, and to remediate the effects of the discrimination or harassment. The responsible administrator (or hearing committee in Title IX cases) may impose disciplinary sanctions as may be appropriate to deter such conduct in the future. Possible sanctions are stated in PPM 6-22, PPM 3-33, PPM 9-14 or PPM 3-67.
- 12.5 Appeal Process (non-Title IX).** These proceedings shall include all appropriate process rights, as provided by the following policies. These policies also indicate the rights of all parties to appeal all decisions regarding the findings of the investigation and/or whether appropriate disciplinary sanctions have been recommended. Complainants and respondents who wish to appeal decisions made by the responsible administrator must follow the procedures that govern the right of the respondents.
- 12.5.1** Respondents who are non-faculty employees are entitled to due process as set out in PPM 3-31. Completion of actions taken by the responsible administrator will be considered as replacing steps one and two of PPM 3-31.

- 12.5.2** Respondents who are faculty are entitled to due process as set out in PPMs 9-9 to 9-14. Completion of the investigative procedures of this policy may, at the discretion of the provost, constitute completion of a preliminary investigation as outlined in PPM 9-11.
- 12.5.3** Respondents who are students are entitled to due process as set out in PPM 6-22. Completion of the investigative procedures of this policy constitute completion of informal resolution procedures outlined in that policy, unless all parties and the Dean of Students agree to use the informal level resolution procedures.
- 12.5.4** Respondents who are neither students nor employees may ask for a review of such decision by submitting a request with a concise statement of facts and reasons for review to the Vice President for Administrative Affairs within five days of notification of the action.

13.0 TRAINING

In cases involving allegations of sexual harassment or sexual misconduct, those involved in handling such reports and complaints, including, but not limited to the AA/EO Office, investigator, decision-maker, and any person who facilitates an informal resolution, shall receive training to hearing processes that protect the safety of victims and promote accountability while avoiding approaches that apply sex stereotypes or generalizations on those issues. This training will include, but not be limited to 1) definitions of sexual harassment, domestic violence, dating violence, sexual assault, and stalking, 2) jurisdiction, 3) due process, 4) fairness 5) relevance, 6) application of rape shield protections, 7) evidentiary burdens, 8) how to conduct their part of the process, including creating investigative reports and/or written decisions, or using technology at a live hearing, if applicable; and 9) how to serve impartially, including avoiding prejudgment, conflicts of interest, or bias. Training materials will be posted on the AA/EO Office website.

14.0 POST COMPLAINT REVIEW

- 14.1 Post-Process Review.** Within 90 days following the resolution of a complaint or the imposition of sanctions resulting from a complaint, the AA/EO Office shall conduct an informal review as necessary to determine if the hostile environment or discrimination has been eliminated.
- 14.2 Closure if No Further Concerns.** If the review indicates that the hostile environment or discrimination has been eliminated, the AA/EO Office shall terminate the matter and close the case file.

14.3 Further Action. If the follow-up review indicates that the hostile environment or discrimination has not been eliminated, the AA/EO Office shall refer the case back to the responsible administrator for consideration of additional action(s), including possible disciplinary action against violators and their supervisors who knew that the resolution was not being followed, or who knew that the unacceptable behavior continued to occur, and failed to take corrective action(s).

15.0 RECORDS

15.1 Classification of Records. All information contained in the complaint file is governed by the Family Educational Rights and Privacy Act where student education records are involved and classified as "Protected" with a secondary classification as "Private" under the Government Records Access and Management Act for all other records. Notwithstanding anything herein, disclosure will be only as permitted by law and University policy.

15.2 Maintenance of Records. The following records shall be maintained and stored for a minimum of seven years in the AA/EO Office, including the following:

15.2.1 Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required by this policy, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the University's education program or activity;

15.2.2 Any appeal and the result;

15.2.3 Any informal resolution and the result; and

15.2.4 All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

For each report of Title IX Sexual Harassment to the AA/EO Office, the AA/EO Office must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the AA/EO Office must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's education program or activity. If the University does not provide a complainant with supportive measures, then the AA/EO Office must document the reasons why such a

response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the University in the future from providing additional explanations or detailing additional measures taken.

Revision History
Creation Date: 8-17-77
Amended: 9-13-18, [insert new date]

DRAFT

Appendix A

HEARINGS AND APPEALS FOR TITLE IX SEXUAL HARASSMENT COMPLAINTS

The following govern hearing and appeals for Title IX Sexual Harassment complaints under PPM 3-32.

1.0 HEARING

- 1.1 The final investigative report and written responses from the parties under PPM 3-32, Section 11.15 shall be forwarded to the chair of the appropriate hearing committee, which shall be based on the status of the respondent as follows:
 - 1.1.1 Where the respondent is a non-faculty employee, the chair shall be the chair of the Personnel Relations Committee, as established in PPM 3-31.
 - 1.1.2 Where the respondent is a faculty employee, the chair shall be the chair of the Faculty Board of Review, as established in PPM 1-13.
 - 1.1.3 Where the respondent is a student, the chair shall be the chair of the Student Code Review Committee, as established under PPM 6-22.
- 1.2 A hearing chair may delegate any procedural duties and decision-making with regard to admission of evidence to the hearing officer, an individual appointed by the AA/EO Office, who cannot be the same person as the investigator. The hearing officer does not vote as a member of the hearing committee.
- 1.3 The chair shall schedule a live hearing to be held within a reasonable period of time, no later than 45 calendar days after receipt of the final investigative report by the chair, with exceptions made by the chair of the hearing committee for good cause.
- 1.4 The chair of the appropriate committee described in Section 1.1 shall choose the members of the hearing committee to hear the live hearing. This may be a three member panel (including the chair) composed of members of the appropriate committee described in Section 1.1. In the event a respondent is a faculty member, the hearing committee shall be the Faculty Board of Review, with members and attendance of the hearing committee as described in PPM 9-12, III.B.
- 1.5 The chair shall issue to the parties and the parties' advisors a notice containing the dates, deadlines, and/or requirements appropriate for the orderly administration of the

hearing as determined by the chair. The notice must contain a statement informing the parties that upon the request of either party, the University must provide for a live hearing where the parties are located in separate rooms with technology enabling the hearing committee and the parties to simultaneously see and hear the party or witnesses answering questions. The notice must also contain the names of the members of the hearing committee.

1.6 Pre-hearing Conference and Required Disclosures

- 1.6.1** At least ten working days before the hearing date, a pre-hearing conference shall be held, time frames excepted upon good cause shown by any of the participating parties. The purpose of the pre-hearing conference is to facilitate and expedite the formal hearing process. The following people should be in attendance: the chair of the hearing committee, the hearing officer, the parties, advisors or representatives of the parties, where the hearing committee is the Faculty Board of Review, the administrative officer described in PPM 9-9. Others may attend upon approval of the chair.
- 1.6.2** Challenges to the composition of the hearing committee may be made at the pre-hearing conference. The chair shall rule on any such challenges. In the event the challenge is against the chair, the decision shall be made by the responsible administrator, unless the respondent is a faculty member, in which case the decision shall be made by the Executive Committee of the Faculty Senate.
- 1.6.3** The institution, complainant, and respondent must provide each other a list of witnesses and documents or other evidence that they will be presenting at the hearing.
- 1.6.4** Such disclosure shall include the identity of any person who may be used at the hearing to present expert opinion evidence. Unless otherwise stipulated, this disclosure shall be accompanied by a written report prepared and signed by the witness or party. The report shall contain the subject matter on which the expert is expected to testify; the substance of the facts and opinions to which the expert is expected to testify; a summary of the grounds for each opinion; and the expert's qualifications as a witness. The party seeking to present the testimony of an expert witness shall certify that the individual providing the expert testimony is qualified to offer the opinions. The chair may exclude expert testimony that is not relevant.

1.7 Advisors

- 1.7.1** Parties may be accompanied to the hearing by the advisor, who may be, but is not required to be, an attorney.
- 1.7.2** The chair will not limit the choice or presence of a party's advisor, but may limit an advisor's participation if the advisor becomes unreasonably disruptive to the proceedings.
- 1.7.3** If an attorney appears on behalf of a party, notice served on the attorney is considered notice to the party.
- 1.7.4** Advisors may participate in the hearing through asking the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
- 1.7.5** Questioning of parties and witnesses, including cross-examination, at the live hearing must be conducted directly, orally, and in real time by a party's advisor and never by a party personally.
- 1.7.6** If a party does not have an advisor present at the live hearing, the University must provide a person to ask questions of the parties and witnesses on the party's behalf. This individual is someone of the University's choice, with no fee or charge to that party. That individual's only role is to ask questions on behalf of the party of the other party or witnesses. The party may direct all questions to be asked by the University appointed individual and appropriate recesses may be taken to facilitate coordination. Requests by a party for this University appointed individual should be made at or before the pre-hearing conference, except for good cause.
- 1.8** The AA/EO Office is not a party to the hearing, but it shall be the AA/EO Office, not the parties, that bears the burden of producing evidence through the investigative report to the hearing committee. The AA/EO Office must remain objective and impartial throughout the grievance process, including impartially presenting the investigative report to the hearing committee for determination.
- 1.9** All Title IX hearings are closed hearings. Attendance is limited to the hearing officer, hearing committee, parties, advisors, the administrative officer (in accordance with PPM 9-12), and administrative or security individuals needed to facilitate the meeting. Witnesses may attend as called. Others may attend upon approval by the chair. This may include a support person for each party, upon request.

- 1.10** The standard of proof for determining responsibility is a preponderance of the evidence.
- 1.11** The chair shall regulate the course of the hearing to allow the hearing committee to obtain full disclosure of relevant facts and to afford all parties (or their advisors) reasonable opportunity to present their positions, including the opportunity to make opening and closing statements. The chair shall conduct the procedural elements of the hearing and make determinations regarding admissibility and relevance of evidence.
- 1.11.1** On the chair's own motion or upon objection by a party's advisor, the chair:
- 1.11.1.1** May exclude evidence that is irrelevant or unduly repetitious.
 - 1.11.1.2** Shall exclude irrelevant questions directed to a party or witness. Before a party or witness answers a cross-examination or other question, the chair must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
 - 1.11.1.3** Shall exclude evidence privileged in the courts of Utah, unless the privilege at issue is specifically waived by the parties.
 - 1.11.1.4** Shall exclude questions or evidence about the complainant(s)' sexual predisposition or prior sexual behavior as not relevant unless 1) questions or evidence of the complainant(s)' prior sexual behavior are offered to prove that someone other than respondent(s) committed the conduct alleged by complainant(s), or 2) questions or evidence concern specific incidents of the complainant(s)' prior sexual behavior with respect to respondent(s) and are offered to prove consent.
 - 1.11.1.5** May receive documentary evidence in the form of a copy or excerpt if the copy or excerpt contains all pertinent portions of the original document.
- 1.11.2** The hearing committee may ask relevant questions of parties and witnesses. Additional relevant evidence may be requested by the hearing committee.
- 1.11.3** The chair shall afford the parties' advisors the opportunity to ask questions of witnesses or parties. If a party or witness does not submit to cross-examination at the hearing, the hearing committee must not rely on any statement of that party or witness in reaching a determination regarding responsibility and cannot draw an inference about the determination regarding responsibility based solely on a party's or witness' absence from the hearing or refusal to answer cross-examination or other questions.

- 1.11.4** The chair shall ensure the hearing is recorded and provide a copy or transcript of the hearing to the parties for inspection and review.
- 1.11.5** Nothing in this section precludes the chair from taking appropriate measures necessary to preserve the integrity of the hearing.
- 1.12** Written Determination. After the close of the hearing, the members of the committee and the chair will deliberate. The hearing officer may participate to assist with questions of procedure or evidence, as deemed appropriate by the hearing committee. Such deliberations are confidential. Upon reaching a decision based on majority vote, the hearing committee will make a determination regarding responsibility and sanctions or remedies, as applicable.
 - 1.12.1** The chair will create the written determination of the hearing committee within ten calendar days after the hearing concludes (extensions allowed based on good cause). The written determination must include:
 - 1.12.1.1** Identification of the allegations potentially constituting Title IX Sexual Harassment as defined in this policy.
 - 1.12.1.2** A description of the procedural steps taken from the receipt of the formal complaint through the determination including any notifications to the parties, interviews with the parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
 - 1.12.1.3** Findings of fact supporting the determination.
 - 1.12.1.4** Conclusions regarding the application of University policy to the facts.
 - 1.12.1.5** A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, and disciplinary sanctions the University imposes on the respondent, and whether the University shall provide remedies designed to restore and preserve equal access to the University's education program and activity to the complainant.
 - 1.12.1.6** The University's procedures and permissible bases for the complainant and respondent to appeal.
 - 1.12.2** The chair shall provide the written determination to the AA/EO Office, the responsible administrator, the parties and the parties' advisors simultaneously.

- 1.12.3** The determination regarding responsibility and sanctions becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

2.0 APPEALS

- 2.1** Either party may appeal a decision regarding responsibility or from the dismissal of any portion of a formal complaint. A party may appeal for any of the following reasons:
 - 2.1.1** A procedural irregularity that affected the outcome of the hearing.
 - 2.1.2** New evidence that was not reasonably available at the time of the decision or dismissal.
 - 2.1.3** The Executive Director, the investigator, the Title IX hearing officer, or a member of the hearing committee had a conflict of interest or bias that affected the outcome.
- 2.2** The appeal must be made to the following appeal decision-maker within ten calendar days after the chair issues the decision:
 - 2.2.1** Where the respondent is a faculty or staff member, the appeal must be directed in writing to the president.
 - 2.2.2** Where the respondent is a student, the appeal must be directed in writing to the University Due Process officer.
- 2.3** Upon receiving an appeal, the appeal decision-maker must notify the other party within five working days.
- 2.4** The appeal decision-maker must be free of conflict of interest or bias for or against complainants or respondents generally or individually. Appeal decision-makers must be trained in accordance with PPM 3-32, Section 13.0.
- 2.5** The parties may submit a written statement to the appeal decision-maker supporting or challenging the decision of the hearing committee. The appeal decision-maker must receive any written statements within five calendar days of the appeal decision-maker sending the notice to the parties.

- 2.6** The appeal decision-maker will review all reports, evidence, recordings, and the written statements, and make a decision.
- 2.7** The appeal decision-maker's written report may:
- 2.7.1** affirm the hearing committee's decision;
 - 2.7.2** offer a substitute action consistent with the applicable sanctioning policy provided the hearing committee is agreeable;
 - 2.7.3** recommend reconsideration by the hearing committee; or
 - 2.7.4** remand the decision to the hearing committee for a specific purpose; and
 - 2.7.5** not alter a recommendation that no disciplinary action should be imposed.
- 2.8** The appeal committee will simultaneously issue a report to both parties, the responsible administrator, and the Executive Director detailing the decision and the rationale for the decision. The appeal decision-maker's decision is final, except in cases of tenured faculty, where the decision of the president is a recommendation to the Board of Trustees, consistent with University policy.

Summary only, see [PPM 3-32](#) for specific

Discrimination, Harassment, Sexual Misconduct Process (PPM 3-32) - Current

Interim Accommodations

Interim accommodations may be provided to the parties at any time throughout the process, as needed and reasonably available.

A complaint is brought to AA/EO within 6 mo of event. The time may be waived only in interests of justice. A complainant may ask for informal or formal process:

Informal Process

The AA/EO office investigates to the extent necessary to resolve the matter. Voluntary for both parties. May include mediation/conciliation, depending on the circumstances. The informal process may resolve the matter through restorative justice, an agreement, or other means to help the parties move forward. Either party may change to the formal process at any time. A Responsible Supervisor may also facilitate an informal process, in consultation with AA/EO.

Formal Process

The complainant files a written, signed complaint detailing the allegations against the respondent.

The AA/EO Office notifies the respondent of the complaint, their rights, and the opportunity to respond.

The AA/EO conducts an investigation. Both parties can provide evidence and witnesses. The AA/EO determines whether it was more likely than not that there was a violation of University policy (preponderance standard).

AA/EO creates a report with findings and a decision about violation of University policy. Each party is given a copy of the report and 10 working days to provide a written response to the report.

The report and responses are given to the Appropriate Administrator (Vice President of the area where the respondent is staff; Provost where the respondent is faculty; Dean of Students where the respondent is a student.)

If the Appropriate Administrative finds there was a violation of policy, the Appropriate Administrator implements appropriate steps to eliminate discrimination, prevent reoccurrence, and the remediate effects. The Appropriate Administrator may close the complaint, investigate further, attempt informal resolution, or impose disciplinary sanctions.

Either party may appeal through the following processes:

For staff: Appeal of Appropriate Administrator decision goes to a hearing before the Personnel Relations Committee.
(PPM 3-31 - Actions under PPM 3-32 satisfy through Step 2)

For students: Appeal to the Student Code Review Committee. (PPM 6-22, <https://weber.edu/complaint/discrimination-harassment.html>; Actions under PPM 3-32 satisfies informal Level 1)

For faculty: Completion of investigative procedures of 3-32 may, at the discretion of the provost, constitute completion of preliminary investigation in 9-11. Parties may ask for hearing before Faculty Board of Review- PPM 9-12.

For staff respondents: Appeal to the President.

For student respondents: Appeal to the University Due Process officer.

For faculty respondents: Appeal to President. Dismissal of tenured faculty approved by Board of Trustees.

The AA/EO will conduct an informal review 90 days after resolution or sanctioning, as necessary.

Summary only, see [PPM 3-32](#) for specific information.

Discrimination, Harassment, Sexual Misconduct Process Title IX - Proposed

Supportive Measures

Supportive measures may be provided to the parties at any time throughout the process, as needed and reasonably available.

A complaint is brought to AA/EO within 6 mo of event. The time may be waived only in interests of justice. A complainant may ask for informal or formal process:

Informal Process

The AA/EO office investigates to the extent necessary to resolve the matter. Must be formal complaint first and parties must agree in writing. May include mediation/conciliation, depending on the circumstances. The informal process may resolve the matter through restorative justice, an agreement, or other means to help the parties move forward. Either party may change to the formal process at any time. Not available when student against faculty/staff.

Formal Process

The complainant or AA/EO files a written, signed complaint detailing the allegations against the respondent.

The AA/EO Office notifies the respondent of the complaint, their rights, and the opportunity to respond.

The AA/EO conducts an investigation. Both parties can provide evidence and witnesses.

AA/EO creates a report summarizing the evidence. Each party is given a copy of the report and 10 working days to provide a written response to the report.

The report and responses are given to the chair of the appropriate hearing committee (and the Title IX Hearing Officer, if utilized). A live Title IX hearing is conducted. Evidence and witnesses reviewed (questions asked of committee/advisors). Committee or a panel makes decisions of whether it was more likely than not that policy was violated (preponderance standard) and appropriate sanctions.

For staff respondents: Hearing committee and chair constituted from the Personnel Relations Committee created under PPM 3-31.

For student respondents: Hearing committee and chair constituted from the Student Code Review Committee created under PPM 6-22.

For faculty respondents: Hearing committee and chair constituted from the Faculty Board of Review created under PPM 1-13.

Either party may appeal through the following processes, based on limited grounds. Appeal decision-maker depends on the status of the respondent.

For staff respondents: Appeal to the president.

For student respondents: Appeal to the University Due Process officer.

For faculty respondents: Appeal to president. Dismissal of tenured faculty approved by Board of Trustees.

The AA/EO will conduct an informal review 90 days after resolution or sanctioning, as necessary.

Charter for
Business Committee of
WSU Board of Trustees
~~September 13,~~
~~2018~~[insert new date]

1. The purpose of the Business Committee is to assist the Board of Trustees in fulfilling its oversight responsibilities of the University in matters of business, finance, operations and athletics. This Committee is advisory only to the Board of Trustees and does not take action on behalf of the Board of Trustees.
2. This Committee will consist of at least ~~three~~³ trustees with a quorum consisting of a majority of the trustees that are on this Committee.
3. Members of this Committee, including the Committee chair, will be appointed by the chair of the Board of Trustees and approved by the Board of Trustees. ~~They and~~ will serve until replaced or until their term as trustee ends.
4. This Committee will typically meet just prior to each regularly scheduled Board of Trustees ~~m~~Meeting, and on other occasions as needed.
5. This Committee will operate and review items in a manner agreed to by this Committee.
6. Items reviewed by ~~this~~ Committee may be placed ~~routine items~~ on a consent calendar for approval by the Board of Trustees only where this Committee deems the matter to be routine, materials regarding the matter have been provided to the Board of Trustees, and it is anticipated that the matter will not require debate or discussion.
7. Items, including ~~the following regular items~~ will be ~~taken reviewed to~~ by this Committee and reported to the Board of Trustees for action as needed and/or required by law, Board of Higher Education policy, or University policy:

Review Items

- Approval of Policy Related to Business, ~~Activities~~ Finance, Operations, Athletics
- Annual Auxiliary Reports
- Annual Operating Budget
- Annual Surplus Property Report
- Annual Vehicle Fleet Report
- Appointment of Investment Advisor
- Appointment of Public Treasurer
- Banking Services Arrangements
- Campus Master Plan Changes

- Capital Projects as Authorized by Board of Higher Education Policy
- Changes to Tuition and General Fees
- Contract Approval (certain types/amounts)
- Discretionary Funds Reports
- Institutional Budget Requests to the Legislature
- Institutional Debt Policy
- Institutional Facility Requests to the Legislature
- Institutional Residence Budget Items
- Monthly Financial Reports
- Monthly Investment Reports
- Money Management Report
- Quarterly Athletic Reports
- Quarterly Construction Reports
- Quarterly Investment Reports
- Parking Regulations
- Property Transactions (Including Leases) as Authorized by Regent Board of Higher Education Policy
- Reports regarding Bad-debt
- Significant Benefit Package Changes
- Student Athletic Eligibility Requirements
- ~~- Annual Vehicle Fleet Report~~
- ~~- Monthly Investment Reports~~
- ~~- Annual Surplus Property Report~~
- Recommendation to Board of Trustees
- ~~- Approval of Policy Related to Business Activities~~
- ~~- Quarterly Construction Reports~~
- ~~- Quarterly Athletic Reports~~
- ~~- Property Transactions (Including Leases) as Authorized by Regent Policy~~
- ~~- Annual Operating Budget~~
- ~~- Institutional Residence Budget~~
- ~~- Annual Auxiliary Reports~~
- ~~- Discretionary Funds Reports~~
- ~~- Quarterly Investment Reports~~
- ~~- Money Management Report~~
- ~~- Institutional Budget Requests to the Legislature~~
- ~~- Institutional Facility Requests to the Legislature~~
- ~~- Changes to Tuition and General Fees~~
- ~~- Campus Master Plan Changes~~

8. ~~The following non-regular items will be taken to the Committee as needed and/or required by policy.~~

- Recommendation to the Board of Trustees
- ~~- Banking Services Arrangements~~

- ~~Institutional Debt Policy~~
- ~~Appointment of Public Treasurer~~
- ~~Appointment of Investment Advisor~~
- ~~Student Athletic Eligibility Requirements~~
- ~~Significant Benefit Package Changes~~
- ~~Parking Regulations~~
- ~~Other Items as determined by the Board of Trustees~~

8. Other items that are not required to be approved by the Board of Trustees by applicable law or policy may be reviewed by this Committee and brought to the Board of Trustees as information items, as deemed appropriate by this Committee.

8.9. This Committee will use reasonable efforts to review and update this charter on a periodic basis, as necessary, and report any proposed revisions to the Board of Trustees.

DRAFT

Charter for
Personnel and Academic Policy Committee of
WSU Board of Trustees

~~September 13, 2018~~ [insert new date]

1. The purpose of the Personnel and Academic Policy Committee is to assist the Board of Trustees in fulfilling its oversight responsibilities of the University in matters of personnel and academic ~~planning~~ policy. This Committee is advisory only to the Board of Trustees and does not take official action on behalf of the Board of Trustees.
2. ~~This~~ Committee will consist of at least ~~three~~ 3 trustees with a quorum consisting of a majority of the trustees that are on ~~this~~ the Committee.
3. Members of ~~this~~ the Committee, including the ~~committee~~ Committee chair, will be appointed by the chair of the Board of Trustees and approved by the Board of Trustees. ~~They and~~ will serve until replaced or until their term as trustee ends.
4. ~~This~~ The Committee will typically meet just prior to each regularly scheduled Board of Trustees ~~Meeting, and on other occasions as needed.~~
5. ~~This~~ The Committee will operate and review items in a manner agreed to by ~~the this~~ the Committee.
- ~~5.6.~~ Items reviewed by ~~this~~ the Committee may be placed ~~routine items~~ on a consent calendar for approval by the Board of Trustees only where this Committee deems the matter to be routine, materials regarding the matter have been provided to the Board of Trustees, and it is anticipated that the matter will not require debate or discussion.
- ~~6.7.~~ Items, including ~~the following regular items~~ will be ~~taken to reviewed by this~~ and reported to the Board of Trustees for action as needed and/or required by law, Board of Higher Education policy, or University policy:

Review Items

- Approval of Policy Related to Personnel and Academic matters
- Changes in Curriculum and Programs
- Dean and Vice President Appointments
- Department Chair Appointments
- Early Retirement Requests
- Emeriti Approval
- Faculty Tenure, Promotion, and Termination Recommendations
- Personnel Reports
- Program Reviews
- Sabbatical and Other Leave Requests

Recommendation to Board of Trustees

~~Approval of Policy Related to Personnel and Academic matters~~

~~Sabbatical and Other Leave Requests~~

~~Dean and Vice President Appointments~~

~~Program Name Changes and Program Transfers~~

~~Program Discontinuations~~

~~New Program Approvals Within Existing Mission~~

~~Program Reviews~~

~~Tenure and Promotion Recommendations~~

~~Emeriti Approval~~

~~Minors & Emphases~~

~~Course Buy-outs~~

The following non-regular items will be taken to the Committee as needed and/or required by policy.

Recommendation to the Board of Trustees

~~Academic Master Plans~~

~~Overtime Pay Policies~~

~~Admission Requirements~~

~~Termination of Faculty~~

8. Other items that are not required to be approved by the Board of Trustees by applicable law, Board of Higher Education policy, or University policy may be reviewed by this Committee and brought to the Board of Trustees as information items, as deemed appropriate by this Committee.
9. This Committee will use reasonable efforts to review and update this charter on a periodic basis, as necessary, and report any proposed revisions to the Board of Trustees.

Charter for
Audit Committee of
WSU Board of Trustees

~~September 13,~~
~~2018~~[insert new date]

1. The purpose of the Audit Committee is to assist the Board of Trustees in fulfilling its oversight responsibilities of the University in certain financial matters and institutional audit activity. This Committee is advisory only to the Board of Trustees and does not take official action on behalf of the Board of Trustees.

2. The Committee will operate as outlined in Board of Regents Policy R-565, including the following activities;~~and shall provide advice and recommendations to the Board of Trustees regarding institutional oversight and internal controls.~~
 - oversee the internal audit activities within the institution;
 - confer with external auditors, legal counsel, and others as necessary;
 - assist in resolving disagreements between institutional representatives and external auditors;
 - access any and all data, information, records, and personnel to fulfill its purpose and responsibilities;
 - conduct or authorize investigations into any matters considered necessary to achieve its purpose; and
 - consult with University representatives, the Board of Trustees, and the Board of Higher Education Audit Subcommittee concerning the adequacy of the institution's internal audit activities, staffing levels, and internal controls.

- ~~2.3.~~This Committee meets at least three times per year, and on other occasions as needed.

- ~~3.4.~~This Committee will operate and review items in a manner agreed to by ~~this~~ Committee.

5. Items, including the following, The following items will be reviewed by this Committee and taken to the Committee and reported to the Board of Trustees for action as needed and/or required by law, Board of Higher Education policy, or University policy. Other items may also be reviewed by this Committee, as determined by the Board of Trustees.

Review Items

~~Internal Audit Reports~~

~~Internal Audit's Proposed Annual Audit Schedule~~

- Board of Trustees Audit Committee Reports or Minutes
- Internal Audit Charter

Information Items

- ~~- External Audit Reports~~
- ~~- Board of Trustees Audit Committee~~
- ~~Annual Report~~
- ~~- EthicsPoint and other Anonymous Reports~~
- ~~- University Legal Counsel Updates~~
- ~~- Information Technology Security Updates~~

6. Other items that are not required to be approved by the Board of Trustees by applicable law, Board of Higher Education policy, or University policy may be reviewed by this Committee and brought to the Board of Trustees as information items, as deemed appropriate by this Committee.

- Annual Report
- External Audit Reports
- EthicsPoint and other Anonymous Reports
- Information Technology Security Updates
- Internal Audit's Proposed Annual Audit Schedule
- Internal Audit Reports

- Annual Report
- ~~- EthicsPoint and other Anonymous Reports~~
- ~~- University Legal Counsel Updates~~
- ~~- Information Technology Security Updates~~

4.7. A summary of the items discussed during the Audit Committee meeting will be presented to the Business Committee at their next scheduled meeting.

8. Reports or minutes of this Committee must be provided to the Board of Trustees at least three times per year and to the Board of Higher Education annually.

5.9. This Committee will use reasonable efforts to review and update this charter on a periodic basis, as necessary, and report any proposed revisions to the Board of Trustees.

Charter for
Community Relations Committee of
WSU Board of Trustees
~~September 13, 2018~~ [insert new date]

1. The purpose of this Committee is to: 1) assist the institution in communicating with the community, 2) assist the institution with its fundraising efforts, 3) assist the institution with its ongoing public relations efforts, 4) assist with other assignments as determined by the Board of Trustees. This Committee is advisory only to the Board of Trustees and does not take official action on behalf of the Board of Trustees.
 2. This Committee will consist of at least four trustees, with a quorum consisting of a majority of the trustees that are on this Committee.
 3. Members of the Committee, including the Committee chair, will be appointed by the chair of the Board of Trustees and approved by the Board of Trustees. They and will serve until replaced or until their term as trustee ends.
 4. This Committee will typically meet at least two times per year ~~and more as needed~~, usually on the morning of a regularly scheduled Board of Trustees mMeeting, and on other occasions as needed.
 5. This Committee will operate and review items in a manner agreed to by this Committee.
- ~~5-6.~~ Items reviewed by this Committee may be placed on a consent calendar for approval by the Board of Trustees only where this Committee deems the matter to be routine, materials regarding the matter have been provided to the Board of Trustees, and it is anticipated that the matter will not require debate or discussion. The Committee may place routine items on a consent calendar.
- ~~6-7.~~ Items, including the following, regular items will be reviewed by taken to this Committee and reported to the Board of Trustees for action as needed and/or required by law, Board of Higher Education policy, or University policy:

Review Items

- Annual and Mid-year Development Report
- Annual and Mid-year Economic Development Report
- Annual and Mid-year Marketing Report
- Annual and Mid-year Alumni Engagement Report

- Annual Community Relations Report
- Annual Legislative Relations Report

~~Additional non-regular items and reports may be taken to the Committee as needed.~~

8. Other items that are not required to be approved by the Board of Trustees by applicable law, Board of Higher Education policy, or University policy may be reviewed by this Committee and brought to the Board of Trustees as information items, as deemed appropriate by this Committee.

9. This Committee will use reasonable efforts to review and update this charter on a periodic basis, as necessary, and report any proposed revisions to the Board of Trustees.

~~7. In fulfilling its responsibilities, the Committee will receive information, plan, organize and execute activities as collectively agreed upon by the group.~~

Charter for
Executive Committee of
WSU Board of Trustees

~~September 13,~~
~~2018~~[insert new date]

1. The purpose of the Executive Committee is to act on behalf of the Board of Trustees in emergency matters and as specifically ~~specified~~ identified by Board of Trustee Bylaws. This Committee may take any action as allowed by law, including review of matters that are normally reviewed by another Committee.
2. ~~The~~is Committee will meet as necessary.
3. ~~This~~is Committee will operate and review items in a manner agreed to by the Committee.

Charter for the
Honorary Degree and Commencement Speaker Committee of
WSU Board of Trustees

~~September 13, 2018~~[insert new date]

1. The Honorary Degree and Commencement Speaker Committee specifically assists the Board of Trustees to fulfill one of the five statutory trustee responsibilities outlined in Utah Code Ann. ~~Setated~~ 53B-2-103(2), which is “to select recipients of honorary degrees.” This Committee is advisory only to the Board of Trustees and does not take official action on behalf of the Board of Trustees.
2. Committee membership, policies, and procedures are specified in WSU-University PPM 2-9.
3. ~~This~~ Thise Committee will consist of at least three ~~Tt~~ Trustees, as well as the following: four faculty members including the chair of the Honorary Degree Committee of the Faculty Senate, three students, two alumni, one University Advancement representative, the provost, and the president.
4. Trustee members of thise Committee, including thise Committee chair, will be appointed by the chair of the Board of Trustees and approved by the Board of Trustees. ~~They and~~ will serve until replaced or until their term as a trustee ends.
5. Thise Committee will typically meet once per year during Fall Semester, and on other occasions as needed~~may meet more as needed.~~
6. Theis Committee will call for and receive nominations, review nominations, and then vote for and prioritize finalists for honorary degree recipients and commencement speakers.
7. The president will submit the recommendations to the Board of Trustees at their regular meeting in December.
8. In fulfilling its responsibilities, thise Committee will receive information, plan, organize and execute activities as collectively agreed upon by the group.

Charter for
Conflict of Interest Committee
WSU Board of Trustees
September 4, 2019

1. The purpose of the Conflict of Interest Committee is to assist the Board of Trustees in reviewing disclosure forms as required under PPM 3-36a, Conflict of Interest/Board of Trustees.
2. The Committee's structure and responsibilities are outlined in PPM 3-36a, Conflict of Interest/Board of Trustees.
3. The Committee will meet as needed. The Committee will operate in a manner agreed to by the Committee, consistent with PPM 3-36a, Conflict of Interest/Board of Trustees.

2020-21 Trustee Meeting Schedule and Event Calendar

Weber State University Board of Trustees Meeting and Event Schedule 2020-2021

Event	Day	Date	Time	Location	Room
Board of Trustees Retreat	Mon	August 10, 2020	10:00 AM	Zoom Platform	
Spring 2020 Commencement	Sat	August 29, 2020	8:00 PM	Stewart Stadium / Zoom Webinar	
Board of Trustees Meeting	Tues	September 15, 2020	9:30 AM	Zoom Platform	
Fall NAC Meeting	Thur	October 9, 2020	8:30 AM	Zoom Platform	
Board of Trustees Meeting	Wed	October 21, 2020	9:30 AM	TBD	
UBHE Retreat (Chair /Vice Chair)	Th/Fri	October 29-30, 2020	TBD	TBD	
Board of Trustees Meeting	Tue	November 17, 2020	9:30 AM	Ogden Campus - Miller Administration	319
Winter Commencement	Fri	December 11, 2020	8:00 AM	Ogden Campus - Dee Events Center	
Board of Trustees Meeting	Tues	January 19, 2021	9:30 AM	Ogden Campus - Miller Administration	319
Board of Trustees Meeting	Tues	March 16, 2021	9:30 AM	Ogden Campus - Miller Administration	319
Board of Trustees Meeting	Wed	April 21, 2021	9:30 AM	Ogden Campus - Miller Administration	319
Spring NAC Meeting	Fri	April 16, 2021	8:30 AM	Ogden Campus - Alumni Center	Garden Room
Spring Commencement	Th-Fri	April 29-30, 2021	All Day	Ogden Campus - Various Buildings	TBD
Board of Trustees Meeting	Wed	May 19, 2021	9:30 AM	*Davis Campus - Building D3	201

Weber State University Ogden Campus Address: 3850 Dixon Parkway, Ogden, UT 84404

*Weber State University Davis Campus Address: 2750 University Park Blvd., Layton, UT 84041

d. Leadership Staffing Update



Leadership Staffing Update August 10, 2020

Highlights = New to position since July 1, 2019; interim; or transitioning

President's Office

- Brad Mortensen, President
- Sherri Cox, Executive Assistant
- Adrienne Andrews, Chief Diversity Officer and Assistant Vice President of Diversity
- Steven Richardson, Director of Strategic Initiatives
- Rich Hill, General Counsel
- Barry Gomberg, Executive Director of Affirmative Action and Equal Opportunity
- Bryce Barker, Executive Director of Internal Audit

Academic Affairs

- Ravi Krovi, Provost and Vice President for Academic Affairs
- Aubrey Lord, Administrative Associate
- Eric Amsel, Associate Provost: Academic Program & Assessment
- Brenda Marsteller Kowalewski, Associate Provost: High Impact Programs & Faculty Development
- Bruce Bowen, Associate Provost for Enrollment Services
- Betty Kusnierz, Academic Finance and Administration
- TBD, Assistant Vice President of Regional Partnerships
- TBD, Dean - Lindquist College of Arts & Humanities
- Matthew Mouritsen, Dean - Goddard School of Business & Economics
- Kristen Hadley, Dean - Moyes College of Education
- David Ferro, Dean - College of Engineering, Applied Science & Technology
- Yasmen Simonian, Dean - Dumke College of Health Professions
- Andrea Easter-Pilcher, Dean - College of Science
- Julie Rich, Interim Dean - College of Social & Behavioral Sciences
- Wendy Holliday, Dean - Stewart Library
- Brian Stecklein, Interim Dean - Online Learning and Professional Education
- Yimin Wang, Senior International Officer (Dual Report to Student Affairs)
- James Taylor, Director - Office of Sponsored Projects
- Julie Snowball, Director - Career & Technical Education

Administrative Services

- Norm Tarbox, Vice President
- Anita Preece, Administrative Associate
- Mark Halverson, Associate Vice President - Facilities & Campus Planning

- Jessica Oyler, Assistant Vice President - Human Resources
- Steve Nabor, Senior Associate Vice President - Financial Services and Chief Financial Officer
- Dane LeBlanc, Director of Public Safety
- Tim Crompton, Director of Intercollegiate Athletics

Information Technology

- Bret Ellis, Vice President and Chief Information Officer
- Linda Bender, Administrative Associate
- David Fernelius, Associate Director of Infrastructure Services & Interim Senior Manager for Database Services
- Shelly L. Belflower, Director - Academic Technology Services and IT Business Services
- Peter Waite, Director - Application Development Services
- Florian Stellet, Manager of Information Security

Student Affairs

- Brett Perozzi, Vice President
- Jennifer Brustad, Administrative Associate
- Jeff Hurst, Associate Vice President for Student Affairs/Dean of Students
- Enrique Romo, Assistant Vice President for Student Affairs - Access & Diversity
- Carl Porter, Executive Director - Academic Support
- Daniel Kilcrease, Executive Director - Auxiliary Services
- Kelly Simerick, Director of Strategic Initiatives/Assistant to the Vice President
- Yimin Wang, Senior International Officer (Dual Report to Academic Affairs)

University Advancement

- Betsy Mennell, Vice President
- Helen Fink, Administrative Associate
- Nancy Collinwood, Executive Director of Alumni Relations
- John Kowalewski, Executive Director of Marketing & Communications
- Carol Ruden, Executive Director of Advancement Services
- TBD, Executive Director of Development
- TBD, Executive Director of Government Relations & the Walker Institute (Joint Report to Social & Behavioral Sciences)
- Guy Letendre, Director of Economic Development
- Becky Thompson, Event Coordinator

INSTITUTIONAL ROLES AND MISSIONS

One of the Utah Board of Higher Education’s core responsibilities is to “establish, approve, and oversee each institution’s mission and role.” The Legislature establishes basic categories of roles, and the Board expands and clarifies those roles through policy. The statutory and expanded policy roles are listed below, along with statutory definitions, each institution’s mission, assigned service regions, and institutional partners.

Statutory Definitions

53B-1-101.5

Academic education means an educational program that is offered by a degree-granting institution. Academic education does not include technical education.

Career and technical education means an educational program that is designed to meet industry needs, leads to a certificate or a degree, and may qualify for funding under the Carl D. Perkins Strengthening Career and Technical Education for the 21st Century Act.

Degree-granting institution of higher education or degree-granting institution means an institution of higher education described in [53B-1-102\(1\)\(a\)](#) as follows:

- The University of Utah
- Utah State University
- Weber State University
- Southern Utah University
- Snow College
- Dixie State University
- Utah Valley University
- Salt Lake Community College

Technical college means an institution of higher education [53B-1-102\(1\)\(b\)](#) as follows:

- Bridgerland Technical College
- Davis Technical College
- Dixie Technical College
- Mountainland Technical College
- Ogden-Weber Technical College
- Southwest Technical College
- Tooele Technical College
- Uintah Basin Technical College

Technical education means career and technical education that leads to an institutional certificate or is short-term training. Technical education does not include general education.

Roles and Missions

RESEARCH UNIVERSITY

Statutory Role ([53B-16-101](#)): Provide undergraduate, graduate, and research programs.

Policy Role (R312): A research university's role is to provide undergraduate, graduate and research programs and to discover, create, and transmit knowledge through academic programs at the undergraduate, graduate, and professional levels with an emphasis on teaching, research, and outreach. Articulation agreements allow students to seamlessly transfer within the system. The research institutions contribute to the quality of life and economic development at the local, state, and national levels. Many research efforts generate grants and contracts that also expand economic development. Research Universities have a responsibility to provide access to students from all parts of the state.

University of Utah

Mission (R312): The University of Utah fosters student success by preparing students from diverse backgrounds for lives of impact as leaders and citizens. We generate and share new knowledge, discoveries, and innovations, and we engage local and global communities to promote education, health, and quality of life. These contributions, in addition to responsible stewardship of our intellectual, physical, and financial resources, ensure the long-term success and viability of the institution.

Service Region (R315): Salt Lake County, Summit County (Park City Only)

Utah State University

Mission (R312): The mission of Utah State University is to be one of the nation's premier student-centered land grant and space grant universities by fostering the principle that academics come first; by cultivating diversity of thought and culture; and by serving the public through learning, discovery, and engagement. Utah State University delivers associate's, bachelor's, master's and doctorate degrees throughout its state-wide system as well as credit and non-credit technical education in the Southeastern region of the state. The institution also has a robust non-credit continuing education program.

Service Region (R315): Cache, Rich, Box Elder, Duchesne, Uintah, Daggett, Tooele, Carbon, Emery, Grand, San Juan.

Technical College Partners (53B-2a-112): Bridgerland Technical College, Tooele Technical College, Uintah Basin Technical College

REGIONAL UNIVERSITY

Statutory Role (53B-16-101): Provide career and technical education, undergraduate associate and baccalaureate degrees, and select master's degree programs to fill regional demands.

Policy Role (R312): The regional university's role is to provide open-access academic and career and technical education, undergraduate associate and baccalaureate programs and select graduate degree programs to fill regional or state workforce demands. Career and Technical Education (CTE) programs are designed to meet workforce needs, lead to a certificate or degree, and include general education coursework. Articulation agreements allow students to transfer

seamlessly from institutions offering Technical Education to CTE and academic pathways. Regional universities emphasize teaching, scholarly, and creative achievements that complement pedagogy, learning, and community service. The institution is a leading contributor to the quality of life and economic development at the local and state levels. Student success is supported through developmental programs and services associated with a comprehensive community college.

Weber State University

Mission (R312): Weber State University provides associate, baccalaureate and master degree programs in liberal arts, sciences, technical and professional fields. Encouraging freedom of expression and valuing diversity, the university provides excellent educational experiences for students through extensive personal contact among faculty, staff and students in and out of the classroom. Through academic programs, research, artistic expression, public service and community-based learning, the university serves as an educational, cultural and economic leader for the region.

Service Region (R315): Weber, Morgan, Davis

Technical College Partners (53B-2a-112): Davis Technical College, Ogden-Weber Technical College

Southern Utah University

Mission (R312): Southern Utah University is a dynamic teaching and learning community that engages students in experiential education leading to personal growth, civic responsibility, and professional excellence.

Service Region (R315): Iron, Garfield, Beaver

Technical College Partners (53B-2a-112): Southwest Technical College

Utah Valley University

Mission (R312): Utah Valley University is an integrated university and community college that educates every student for success in work and life through excellence in engaged teaching, services, and scholarship.

Service Region (R315): Utah, Wasatch, Summit (Concurrent Enrollment only within Park City)

Technical College Partners (53B-2a-112): Mountainland Technical College

Dixie State University

Mission (R312): Dixie State University is a public comprehensive university dedicated to rigorous learning and the enrichment of the professional and personal lives of its students and community by providing opportunities that engage the unique Southern Utah environment and resources.

Service Region (R315): Washington, Kane

Technical College Partners ([53B-2a-112](#)): Dixie Technical College

COMPREHENSIVE COMMUNITY COLLEGE

Statutory Role ([53B-16-101](#)): Provide associate programs.

Policy Role ([R312](#)): The comprehensive community college's role is to provide affordable and open enrollment to community members, ensuring equitable access to higher education. Community colleges focus on teaching and applied learning environments, transmitting knowledge and skills which prepare students to enter the workforce or transfer seamlessly to stackable degree programs. Comprehensive community colleges provide education through:

- Academic and career and technical education culminating in certificates and associate degrees
- Developmental education
- Strong student services to support all functions

The institution emphasizes teaching, training, scholarly, professional, and creative achievement, and community service and contributes to the quality of life and economic development of the community and the state.

Snow College

Mission ([R312](#)): Snow College continues a tradition of excellence, encourages a culture of innovation, and cultivates an atmosphere of engagement to advance students in the achievement of their educational goals.

Service Region ([R315](#)): Sanpete, Sevier, Wayne, Piute, Millard, Juab

Salt Lake Community College

Mission ([R312](#)): Salt Lake Community College is your community college. We engage and support students in educational pathways leading to successful transfer and meaningful employment.

Service Region ([R315](#)): Salt Lake for certificate, applied associate and associate degrees

DEGREE-GRANTING INSTITUTION WITH A TECHNICAL COLLEGE ROLE

Salt Lake Community College

Statutory Role ([53B-16-209](#)): Provide technical education with an emphasis primarily on open-entry, open-exit programs at low cost to adult students and no tuition cost to secondary students that will result in appropriate licensing, certification, or other evidence of completion of training, and qualification for specific employment, with an emphasis on high demand, high wage, and high skill jobs in business and industry.

Secondary Service Region: Salt Lake

Snow College

Statutory Role (53B-16-205): Provide, through the Snow College Richfield Campus, for open-entry, open-exit competency-based technical education programs, at a low cost tuition rate for adults and at no tuition cost to secondary students, that emphasize short-term job training or retraining for immediate placement in the job market.

Secondary Service Region: Juab School District, Millard School District, Tintic School District, North Sanpete School District, South Sanpete School District, Wayne School District, Piute School District, and Sevier School District

Utah State University

Statutory Role (53B-16-207): Provide for open-entry, open-exit competency-based technical education programs, at a low-cost tuition rate for adults and at no tuition cost to secondary students, that emphasize short-term job training or retraining for immediate placement in the job market

Secondary Service Region: For Utah State University Eastern, the Carbon School District and the Emery School District; for Utah State University Blanding, the San Juan School District; and for Utah State University Moab, the Grand School District.

DRAFT

TECHNICAL COLLEGE

Statutory Role (53B-16-101): Provide technical education.

Policy Role: Technical colleges meet the needs of Utah’s employers for technically skilled workers and promote local and statewide economic development by providing market-driven technical education to secondary and post-secondary students. Programs lead to institutional certificates and industry credentials, where applicable, but do not include general education. Technical colleges deliver competency-based instruction, allowing students to progress quickly and affordably with recognition of prior education, skill, and experience. Articulation agreements are in place with secondary education partners to reduce the duplication of course work for students. Pathway agreements with post-secondary college and university partners also provide opportunities for students to progress in their education.

Only technical colleges or statutorily authorized institutions may provide technical education without authorization from the Board.

Bridgerland Technical College

Mission: The mission of the Bridgerland Technical College is to deliver competency-based, employer-guided career and technical education to both secondary and post-secondary

students through traditional and technology-enhanced methodologies. This hands-on technical education provides occupational education, skills training, and workforce development to support the educational and economic development of the Bear River Region.

Secondary Service Region ([53B-2a-105](#)): Box Elder, Cache, Logan, Rich

Regional Degree-granting Partner ([53B-2a-112](#)): Utah State University

Davis Technical College

Mission: We are a trusted learning community embracing technical education to promote student development and economic growth.

Secondary Service Region ([53B-2a-105](#)): Davis, Morgan

Regional Degree-granting Partner ([53B-2a-112](#)): Weber State University

Dixie Technical College

Mission: For students who want to improve their lives by improving their employability, Dixie Tech provides current, relevant industry-driven training in a professional and demanding environment, Dixie Tech certificates, and nationally recognized certifications or licensure, indicating competence and work readiness to potential employers.

Secondary Service Region ([53B-2a-105](#)): Washington

Regional Degree-granting Partner ([53B-2a-112](#)): Dixie State University

Mountainland Technical College

Mission: To enhance the employability of individuals through market-driven career and technical education.

Secondary Service Region ([53B-2a-105](#)): Alpine, Nebo, Provo, South Summit, North Summit, Wasatch, Park City

Regional Post-Secondary Partner ([53B-2a-112](#)): Utah Valley University

Ogden-Weber Technical College

Mission: We build a prosperous community by creating a technically-skilled workforce one student at a time.

Secondary Service Region ([53B-2a-105](#)): Ogden, Weber

Regional Degree-granting Partner ([53B-2a-112](#)): Weber State University

Southwest Technical College

Mission: Southwest Technical College provides education and job skill training through individualized competency-based programs in response to the needs of students, employers and the communities we serve.

Secondary Service Region ([53B-2a-105](#)): Beaver, Garfield, Iron, Kane

Regional Post-Secondary Partner ([53B-2a-112](#)): Southern Utah University

Tooele Technical College

Mission: The Tooele Technical College provides rewarding, competency-based, affordable, and accessible career preparation for youth and adults to meet the needs of Utah employers.

Secondary Service Region ([53B-2a-105](#)): Tooele

Regional Degree-granting Partner ([53B-2a-112](#)): Utah State University

Uintah Basin Technical College

Mission: Uintah Basin Technical College provides technical education and training for secondary and adult students, to fulfill labor market needs, and promote economic development in the Uintah Basin.

Secondary Service Region ([53B-2a-105](#)): Daggett, Duchesne, Uintah

Regional Degree-granting Partner ([53B-2a-112](#)): Utah State University

DRAFT



SUMMARY: Responsibilities and Authority of USHE Governing and Administrative Officers

The Utah System of Higher Education comprises 16 institutions, all with unique missions, but who are also working towards common goals and a unified vision. To ensure the system is efficient, effective, and delivers world-class instruction and research, the Board of Higher Education and institutional boards of trustees must align responsibility and authority. The Board of Higher Education has established the following responsibilities and authorities for the Board, the boards of trustees, presidents, and the commissioner.

BOARDS OF TRUSTEES & THE BOARD OF HIGHER EDUCATION			
Statutory Guidance	Responsibilities	AUTHORITY	
		Delegated to Institutional Board of Trustees	Board of Higher Education
Guidance and support for the institution president	Appointment of a President	Trustee chair serves as search committee co-chair; executive committee participates in finalist interviews, consults with the Board on appointments. Trustees may conduct first phase of a search and submit finalists to the Board of Higher Education if authorized.	Board chair appoints a board member to serve as search committee co-chair; search committee submits three-five finalists. The Board appoints president from among the finalists who serves at the pleasure of the Board. Board sets and adjusts presidential salaries by policy
	Evaluation of Presidents	On behalf of the Board of Higher Education, trustees chair and R&R team annually evaluate president's performance based on factors including progress towards institutional strategic plan and statewide performance metrics and goals. R&R team and trustee chair reports findings and recommendations to the Board of Higher Education.	Board sets evaluation criteria and procedures. Board takes appropriate action based on presidential performance and recommendations, using identified benchmarks. Board conducts comprehensive evaluation every four years or if otherwise needed.
The institution's responsibility for contributing to progress toward achieving system-wide goals	Institutional Master Planning, Strategic Planning and Goals	Trustees approve a strategic plan for the institution that is aligned with: state attainment goals, workforce needs, and the	Board sets and assesses system-wide performance on statewide goals and system performance metrics.

		<p>institution of higher education's role, mission, and distinctiveness.</p> <p>Trustees set performance metrics in consultation with the Board of Higher Education</p> <p>Trustees monitor the institution's progress toward achieving the strategic plan and report to the Board of Higher Education institutional progress.</p> <p>Trustees approve institutional master plan and associated changes. The trustees submit master plans and changes to the Commissioner's office.</p>	<p>Board requires institutions to provide a five-year financial plan, which the Board must approve.</p> <p>Institutions provide ongoing financial reporting.</p>
<p>Effective Administration—In general, the Board of Higher Education will establish general parameters and reporting requirements and delegate day-to-day oversight to trustees and presidents.</p>	<p>Institutional Policies/System Policies</p>	<p>Trustees may approve institutional policies needed for the effective administration of the institution, ensuring they maintain parameters set by the Board of Higher Education</p>	<p>The Board of Higher Education may approve system-wide policies.</p>
	<p>Tuition and Fees</p>	<p>Institutions present tuition and fee needs to trustees; trustees are responsible to verify data supporting requests for increases in tuition or fees.</p> <p>Trustees, based on their assessment of the institution's request and underlying data, recommend tuition and fees increases to the Board.</p>	<p>Board establishes criteria trustees will use in evaluating tuition and fee requests.</p> <p>Board sets criteria and process trustees follow to conduct due diligence for tuition and fee requests</p> <p>Board assesses whether the trustees have properly assessed the institution's request.</p> <p>Board reviews and may approve trustees' recommendations.</p>
	<p>Budget and Finance Oversight</p>	<p>Trustees establish and oversee internal accounting and operating controls, monitor use of discretionary funds, establish institutional debt policy, and oversee all auxiliary enterprises</p>	<p>Board sets system parameters in policy and requires necessary reporting on budget and finance. The Board may intervene if institutions exceed parameters or policy.</p>
	<p>Facilities</p>	<p>Trustees may approve construction projects for new facilities less than \$500,000 and remodels or improvements of existing facilities less than \$3,500,000</p> <p>Trustees may approve property acquisition or disposal less than \$500,000</p>	<p>Board sets system parameters in policy and requires necessary reporting on facilities.</p>

		Trustees may approve capital Leases of less than \$100,000 a year (\$250,000 a year for the U of U) U of U trustees may approve all U of U Hospital/Health Sciences capital projects Trustees review and may approve requests to submit to the Board for all other capital facilities.	
	Audit	Trustees form the institution’s internal audit committee, sets internal audit priorities, review internal audits and report audit findings at least annually to the Board of Higher Education.	Board audit committee identifies areas of risk within the system and prioritizes system audits accordingly.
	Academic Programs	Trustees may approve new programs that fit in the institutions mission and role and meet Board of Higher Education criteria	Board of Higher Education establishes institutional missions and roles and criteria for new programming such as workforce demand. Institutions report all new programs to the Board
	Technical Education Programs	Trustees over technical colleges or institutions with a technical college role may approve technical education programs that meet Board of Higher Education criteria	Board of Higher Education establishes institutional missions and roles and criteria for new programming such as workforce demand. Institutions report all new programs to the Board
	Academic Degree Approval	Trustee review, consider and may approve new institutional degree requests (certificates, associate, bachelors, masters and doctoral), minors and emphases added to approved programs that conform to the institution’s role and mission.	The Board of education may consider and approve new degree requests (certificates, associate, bachelors, masters, and doctoral) minors, and emphases added to approved programs that fall outside of the institution’s role and mission.
	Research and Training Grants	Trustees may approve research and training grant funding on behalf of the Board of Higher Education	Institutions report grants annually to the Board. Institutions report highlights most impactful research.
	Community Relations/Advancement	Trustees facilitate communication between the institution and the community; assist in planning, implementing, and executing fund raising and development projects; and perpetuate and strengthen alumni and community identification with the institution’s tradition and goals	
	Honorary Degrees	Trustees may select recipients for honorary degrees or recognitions	

INSTITUTIONAL PRESIDENTS

ROLE	AUTHORITY
Leadership	<p>An institution of higher education president develops and implements the institution’s vision, mission and goals, and manages progress toward achieving institutional aims.</p> <p>The president of each institution of higher education may exercise grants of power and authority to ensure the effective and efficient administration and operation of the institution of higher education.</p> <p>The president also guides the contributions of their institution to the vision, mission and goals of the Utah system of higher education.</p> <p>The president is responsible to lead as part of a larger alliance of institutions whose presidents share a central mission to provide world-class, affordable higher education within the system of higher education. Presidents collaborate with and support each other, the commissioner and the Board for the benefit of all students and Utah.</p>
External Relations	<p>The president serves as the representative of their institution with key stakeholder communities, including but not limited to :</p> <ul style="list-style-type: none"> • Alumni • Private, Foundation and Corporate Donors • State and Federal Legislators and Other Governmental Leaders • Community Members and Non-Profit Partners • Employers, Industry • K-12 Education <p>The president is responsible for effective, high integrity stewardship of both relationships with and resources from external stakeholders.</p>
Faculty and Staff	<p>Except as provided by the Board, the president may:</p> <ul style="list-style-type: none"> • Appoint a secretary, a treasurer, administrative officers, deans, faculty members, and other professional personnel, prescribe their duties, and determine their salaries • Appoint support personnel, prescribe their duties, and determine their salaries from the institution of higher education's position classification plan • Where applicable, provide for the constitution, government, and organization of the faculty and administration, and enact implementing rules, including the establishment of a prescribed of tenure • Enact rules for administration and operation of the institution which are consistent with the prescribed role established by the board, rules enacted by the board, or the laws of the state <p>The president may exercise powers relating to the institution’s employees, including but not limited to:</p> <ul style="list-style-type: none"> • Furloughs

	<ul style="list-style-type: none"> • Reductions in force • Benefit adjustments • Program reductions or discontinuance • Early retirement incentives that provide cost savings to the institution of higher education • Other measures that may provide cost savings to the institution of higher education
Strategic Planning/Master Planning	<p>Presidents develop and execute strategic plans that lead to their institutions achieving institutional and system-wide goals and performance metrics.</p> <p>Presidents develop and maintain an institutional master plans and five-year financial plans associated with the master plans. As part of the master planning process, presidents identify needed capital improvements or new facilities and submit requests and planning to the trustees for approval.</p>
Finance and Budget	<p>The president establishes priorities for fiscal resources in a manner that help the institution achieve institutional goals and objectives and system-wide goals and performance measures.</p> <p>The president oversees the institution’s fiscal health, including setting budgetary priorities and requiring efficient and effective use of resources.</p>
Student Success	<p>The president establishes goals and initiatives that encourage student success and well-being, including areas of retention, graduation rates, affordability, safety and mental health, career and academic counseling, and workforce attachment.</p> <p>The president prioritizes, fosters and celebrates a vibrant, challenging and positive learning environment for the institution’s students.</p>

COMMISSIONER OF HIGHER EDUCATION	
ROLE	AUTHORITY
Leadership	<p>The Commissioner develops and implements the system’s vision, mission and goals, and manages progress toward achieving system aims.</p> <p>The Commissioner shall:</p> <ul style="list-style-type: none"> • Develop system strategic plan • Ensure that the policies, programs align with the strategic and are properly executed • Furnish information about the Utah system of higher education and make recommendations regarding that information to the Board • Provide state-level leadership in any activity affecting an institution of higher education • Perform other duties assigned by the board in carrying out the board's duties and responsibilities. • Develop and provide comprehensive training for Board members and trustees
Coordination and Support for Presidents	<p>The Commissioner serves as chair of the council of presidents, the duties of which include coordinating of meeting agendas and Council recommendations to the Board, and facilitating communication and collaboration among the presidents.</p>

	<p>The Commissioner facilitates comprehensive performance evaluations on behalf of the Board.</p> <p>The Commissioner may provide leadership, advice and consultation as may be sought by institutional Presidents or directed by the Board.</p>
Audit	<p>The Commissioner is empowered to require information and reports from the institutions.</p> <p>The Commissioner has the authority, after giving due notice to the president, to assign his or her staff to audit records of institutions or otherwise verify data. Such audits shall be in response to Board instructions or to verify compliance with Board policy or applicable law. The Board audit committee shall prioritize the Commissioner's audits.</p>
System Policy	<p>The Commissioner develops policy that addresses statewide issues impacting the system for the Board to consider and adopt.</p> <p>The Commissioner shall be responsible for interpreting Board policy. The president of any institution may appeal the Commissioner's interpretation of policy to the Board.</p>
Communication	<p>The Commissioner:</p> <ul style="list-style-type: none"> • Supports the work of individual presidents and serves as a liaison between presidents and the Board. • Directs continuous communication between the colleges and universities, the Board, and the Office of the Commissioner, related to problems and issues of common interest to the Utah System of Higher Education • Establishes and maintains positive, productive relationships with the Board, the institutional presidents, the boards of trustees, and the legislative and executive branches of state government <p>The Commissioner is authorized to advocate on behalf of the Board before the Governor and his or her staff, the Legislature, and other officials and governmental entities.</p>
System Budget and Finance	<p>The Commissioner, in collaboration with the presidents, develops a unified budget request for the system and presents budget priorities for the Board to consider and adopt.</p>

WSU Financial Update - August 10, 2020

FY20 Closeout

- No Tax Fund cuts or tuition shortfalls
- All Bond covenants complied and debt position is unchanged
- Reserves set-aside for FY21 COVID fall-out
- CARES Act requirements dramatically affecting auxiliaries

FY21 Tee-Up and Expectations

- Currently Fall enrollment is down roughly 2% year-over-year
- Ongoing Tax Funds budget cut of 2.5%
- Plans are being finalized for approximately \$5 million in ongoing budget cuts
- Budget cutting tools to be used include a Voluntary Separation Incentive Program (VSIP)
- Auxiliaries and Athletics will continue to struggle
- Concerns about Student Fees

CARES ACT Funding

- Part 1 - Direct Aid to Students (\$5.9m)
- Part 2 - Assists institutions in changing their instructional delivery (\$5.9m)
- Part 3 - Provided by UETN for Technology/Instructional Equipment (\$6.4m)
- Part 4 - Cobbled-together emergency funding to deal with shortfalls (\$1m)
- Part 5 - Potential state-flow-through funding for instruction/training programs
- The challenge is to intelligently spend...as quickly as possible.