Proposed Policy Number and Title: 165 Discrimination, Harassment, and Affirmative Action

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*See UVU Policy #101 Policy Governing Policies for process details.

Draft Number and Date: Board of Trustees, November 29, 2012

President’s Council Sponsor: Ian Wilson, Cory Duckworth

Policy Steward: Mark Wiesenberg

POLICY APPROVAL PROCESS DATES

**Policy Drafting and Revision**
- Entrance Date: 08/23/2013

**University Entities Review**
- Entrance Date: 08/23/2012

**University Community Review**
- Entrance Date: 10/18/2012
- Open Feedback: 10/18/2012
- Close Feedback: 11/18/2012

**Board of Trustees Review**
- Entrance Date: 11/29/2012
- Approval Date: MM/DD/YYYY

**POST APPROVAL PROCESS**

Verify:
- □ Policy Number
- □ Section
- □ Title
- □ BOT approval
- □ Approval date
- □ Effective date
- □ Proper format of Policy Manual posting
- □ TOPS Pipeline and Archives update

Policy Office personnel who verified and posted this policy to the University Policy Manual

Name: ____________________________

Date posted and verified: MM/DD/YYYY
### 1.0 PURPOSE

1.1 To provide a workplace, educational environment, programs, and activities free from discrimination, harassment, and retaliation in accordance with federal and state law and University core values. This policy applies to all trustees, administrators, faculty, staff, students, volunteers, visitors, or others associated with the operation of Utah Valley University.

### 2.0 REFERENCES

2.1 UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance*

2.2 UVU Policy 156 *Grievances*

### 3.0 DEFINITIONS

3.1 **Discrimination:** Unfair or unequal treatment of persons on the basis of inclusion or perceived inclusion in a protected status.

3.2 **Equity officer:** An individual appointed to oversee the application and adherence of the federal and state laws relating to civil rights of individuals.

3.3 **Harassment:** Any unwelcomed physical or verbal conduct toward a person based on a protected status that interferes with the individual’s work or academic performance, or creates an intimidating, hostile, or offensive work or learning environment.

3.4 **Protected statuses:** Race, color, religion, national origin, sex/gender, sexual orientation, age, disability, veteran/military status, pregnancy-related condition, genetic information, or otherwise as provided by state or federal law.

3.5 **Retaliation:** To seek revenge, reprisal, or injury to an individual who has exercised the right to file a complaint or report, or participate in any investigation, proceeding, or hearing relating to prohibited discrimination, harassment, or other types of complaints.

3.6 **Sexual harassment:** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, or participation in a university activity;

2) Submission to or rejection of such conduct by an individual is used as the basis for or a factor in decisions affecting that individual's employment, education, or participation in a university activity; or

3) Such conduct has the purpose or effect of unreasonably interfering with an individual's employment or educational performance or creating an intimidating, hostile, or offensive environment for that individual's employment, education, or participation in a university activity.

### 4.0 POLICY

**4.1** Utah Valley University prohibits any form of: (a) discrimination based on a protected status, (b) harassment, including sexual harassment, toward any individual or group, or (c) retaliation. Violations of this policy will be met with appropriate disciplinary action, up to and including dismissal and removal from the University.

**4.2** Utah Valley University affirmatively endeavors to provide equal opportunity consistent with the law in all recruitment, admissions, and employment-related activities, procedures, and decisions.

### 5.0 PROCEDURES

**5.1** Administrators, faculty, and staff exercising recruitment, admissions, and employment-related management responsibilities are required to take vigorous and appropriate action to ensure that all university practices and decisions for which they are responsible are made without prohibited discrimination, harassment, retaliation, or prejudicial treatment.

**5.2** All employment-related practices and decisions shall be instituted and administered in a fair and equitable manner, using only legally valid job-related criteria and standards, including but not limited to experience, training, education, skills, and potential for successful job performance.

**5.3** Human Resources has the responsibility to write, implement, monitor, and update the University’s affirmative action program in compliance with law. Human Resources shall provide an annual program report of these activities to President’s Council.

**5.4** An Employee Equity Officer will be designated by the President of the University to assist faculty, staff, applicants, and students in seeking resolution of complaints under this policy directed against employees.

**5.5** A Student Equity Officer will be designated by the President of the University to assist students, staff, and faculty in seeking resolution of complaints under this policy directed against students.

**5.6** Those seeking redress for violations of this policy shall institute the procedures outlined in UVU Policy 156 *Grievances.*

### POLICY HISTORY

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November 29, 2012
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Printed On:
November 29, 2012
Utah Valley University
Policies and Procedures

Title: Equal Employment, Education Opportunity, and Affirmative Action
Number: 301
Section: Human Resources
Approval Date: Jun 18, 1992
Subsection: Hiring Practices
Effective Date: Jun 18, 1992

I. Policy

POLICY

A. Utah Valley University shall recruit, employ, retain, promote and make all employment decisions on the basis of an individual's qualifications and ability to perform in his/her respective position without regard to race, color, religion, age, sex, national origin, pregnancy-related condition, disability, or status as a disabled veteran or veteran of the Vietnam era, unless such is a bona fide occupational qualification. Neither discrimination nor harassment will be permitted in any area, activity, or instructional program of the institution.

B. Affirmative action shall be taken and additional efforts shall be made to identify areas where underutilization of women and members of minority groups occurs at the institution and appropriate action will be initiated in employment procedures and practices.

C. Supervisors, administrators, and other personnel of the institution shall make decisions on faculty and staff employment matters, with final approval as required.

II. Procedures

PROCEDURE

A. All institution employees, applicants for employment, students, and applicants for admission shall be maintained and operated on a non-discriminatory basis.

B. It is the responsibility of designated officers of the institution to make decisions on faculty/staff employment matters and the admission and retention of students in accordance with the policies, procedures, and affirmative action goals established by the institution, with final approval as required by the Board of Trustees.
I. Policy

Discrimination shall not be tolerated against any student or applicant for admission because of race, color, religion, age, sex, national origin, pregnancy related condition, disability, status as a disabled veteran or veteran of the Vietnam era. Such discrimination or harassment will not be tolerated in any program or instructional area of the institution.

A. Compliance with Title IX

Title IX, Educational Amendment of 1972

Utah Valley University complies with federal regulations which state in part that "...no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance."

B. Grievances

When students believe that their equal opportunity or civil rights have been violated, the institution shall provide them with the opportunity to resolve their concerns both quickly and fairly and with a minimum of disruption to the operation of the institution.

Copies of the official grievance procedure are published annually in various institution publications, are posted in various locations on campus, and are available from the appropriate institution equity officers (See Policy E 6.2, Student Rights and Responsibilities Code).

II. Procedures

A. Purpose

The primary purpose of this procedure is to provide a remedy through which to seek redress for alleged acts of discrimination or harassment on the basis of race, color, religion, age, sex, national origin, pregnancy related condition, disability, or veteran status. This grievance procedure is not applicable in situations for which other appeal and adjudication procedures are provided in State laws or in which the institution is without authority to act.

B. Stages of Redress

1. The grievant must present the grievance in written form to the Student Equity Officer within 14 days (two calendar weeks) of the violation. The Student Equity Officer has seven days (one calendar week) from receipt of the written grievance in which to investigate and respond.
2. If not satisfied with the response of the Student Equity Officer, the grievant may appeal within 14 days (two calendar weeks) of receipt of the response of the Officer, to the Campus Appeals Board.

3. Response by the Campus Appeals Board must be given within 14 days (two calendar weeks) from receipt of the written grievance appeal.

4. If the grievant is not satisfied with the response of the Campus Appeals Board, an appeal may be made within 14 days (two calendar weeks) from the receipt of the Board’s response, to the President of the institution.

5. Response by the President must be within 7 days (one calendar week) from receipt of the written appeal.

C. Hearings and Decisions

At each of the levels noted above, the grievant shall be given the opportunity to be present and to be heard. Due process shall be accorded to all parties involved in the grievance, such as written notice of hearing dates and charge, right to counsel, right to present witnesses, right to cross examine and to present written statements. However, formal rules of evidence and trial procedure required in a court of law will not be applicable to such hearings. Decisions by the Campus Appeals Board shall be by a majority of the members present at the meeting. If the hearing goes before the President, it must be accompanied by all documentation related to the prior hearings. The President’s decision is final.

D. Withdrawal

A grievance may be withdrawn by the grievant at any level without prejudice or record.

E. Reprisals

No reprisal of any kind shall be taken by or against any party or legitimate participant in the grievance procedure by reason of such participation.

F. Confidentiality

Appropriate confidentiality will be observed in all grievance procedures.

G. Informal Resolution of Grievance

Nothing contained herein shall be construed so as to limit in any way the ability of the grievant and the institution to resolve any grievance, mutually and informally.

Printed On: November 29, 2012
Executive Summary: Policy # 165 Discrimination, Harassment, and Affirmative Action

Sponsor: Ian Wilson and Cory Duckworth

Steward: Mark Wiesenber

Issues/Concerns (including fiscal impact):

We wish to create a single policy to address discrimination, harassment, and affirmative action as a clear and concise statement of prohibition against discrimination and harassment and of support for affirmative action.

Action(s) Requested

Policy 165 will be a new policy. It will contain updated and revised content from these existing policies:

Policy 161 Title IX Compliance

Policy 301 Equal Employment, Education Opportunity, and Affirmative Action

When Policy 165 is approved for inclusion in the Policy Manual, Policies 161 and 301 would then be deleted.