UTAH VALLEY UNIVERSITY
Policies and Procedures

POLICY TITLE	Whistleblower Anti-Retaliation	**Policy Number**	168
Section	Governance, Organization, and General Information	**Approval Date**	April 23, 2026
Subsection	Individual Rights	**Effective Date**	April 23, 2026
Responsible Office	Office of the Vice President of People and Culture	**Last Review**	April 23, 2026

1.0 PURPOSE

1.1 The purpose of this policy is to implement the requirements of the *Utah Protection of Public Employees Act (UPPEA)* and to establish UVU's procedures for addressing complaints of whistleblower retaliation filed by UVU employees who have acted as whistleblowers and subsequently faced retaliation.

2.0 REFERENCES

2.1 *Reporting of Governmental Waste or Violations of Law*, Utah Code § 67-21-3 (2022)

2.2 *Utah Protection of Public Employees Act (UPPEA),* Utah Code § 67-21-1 et seq.

2.3 *Utah Public Officers' and Employees' Ethics Act,* Utah Code § 67-16-1 et seq. (1989)

2.4 Utah Board of Higher Education Policy R254 *Secure Area Hearing Rooms*

2.5 UVU Policy 152 *Accommodations for Individuals with Disabilities*

2.6 UVU Policy 162 *Title IX Sexual Harassment*

2.7 UVU Policy 165 *Discrimination and Harassment*

3.0 DEFINITIONS

3.1 Abuse of authority: An arbitrary or capricious exercise of power that (a) adversely impacts the employment rights of another or (b) leads to personal gain for the individual exerting the authority or for someone else.

3.2 Aggravating information: A fact or situation that increases the degree of liability or culpability.

3.3 Complainant: An employee who alleges they are a whistleblower under UPPEA and have been subject to a retaliatory action because they are a whistleblower.

3.4 Complaint: A filed, written report alleging a retaliatory action prohibited by this policy and Utah Code § 67-21-3.

3.5 Conflict of interest: When a university employee's professional judgment or performance is biased or compromised by the employee's non-university activities, interests, or relationships. Examples of conflicts may include competing time commitments, financial interests, or positions in outside organizations that could cause unsatisfactory performance or bias in the employee's university responsibilities.

3.6 Employee: A person who performs a service for wages or other remuneration under a contract of hire, written or oral, and express or implied for UVU.

3.7 Failure to promote: A circumstance in which an employee is not advanced to a higher position or job role despite meeting the necessary qualifications, skills, or performance criteria required for promotion.

3.8 Final decision maker: The employee who is the respondent's supervisor, if possible, and who makes a final decision on whether the complainant was subject to retaliatory action in violation of UPPEA.

3.9 Good faith: When an employee acts with (a) subjective good faith and (b) the objective good faith of a reasonable employee.

3.10 Gross mismanagement: Action or failure to act by a person, with respect to a person's responsibility, that causes significant harm or risk of harm to the mission of UVU or the public entity that employs or is managed or controlled by the person.

3.11 Improper conduct: Any suspected or actual activity that an employee reasonably believes to be (a) a waste or misuse of public funds, property, or workforce; (b) a violation or suspected violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or any recognized entity of the United States; (c) gross mismanagement; (d) abuse of authority; or, (e) unethical conduct.

3.12 Mitigating information: A fact or situation that does not justify or excuse a wrongful act or offense but reduces the degree of culpability or responsibility for a charge.

3.13 Objective good faith: A standard of conduct or behavior that is reasonable and in accordance with commonly accepted norms, standards, or expectations, regardless of an individual's subjective beliefs or intentions.

3.14 Preponderance of the evidence: It is more likely than not, or more than 50 percent in favor, that the act in question occurred. In other words, in light of the evidence and the law, it is believed that each element of a claim or counterclaim is more likely true than not.

3.15 Protected activity: One or more of the following activities in which an employee is engaged:

1) Communicating in good faith an act of improper conduct either directly or through another person authorized to act on behalf of the employee;

2) Participating in or providing information in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review held by the public body;

3) Objecting to or refusing to carry out a directive that the employee reasonably believes violates a federal, state, or local law or regulation adopted under the authority of the laws of this state, a political subdivision of this state, or the United States.

3.16 Respondent: An individual alleged to have taken retaliatory action against a whistleblower because the whistleblower engaged in a protected activity.

3.17 Retaliatory action: Any of the following actions taken against an employee because they are a whistleblower:

a) Dismissal;

b) Compensation reduction;

c) Failure to increase employee's compensation by an amount that the employee is otherwise entitled to or was promised;

d) Failure to promote if the employee would have otherwise been promoted;

e) Complaints against the employee to a person that licenses the employee to practice a profession or perform other types of work; or

f) Threats to take any of the listed retaliatory actions.

3.18 Subjective good faith: A state of mind or belief in which an individual genuinely holds a sincere and honest belief or intention in their actions, decisions, or statements.

3.19 Substantial evidence: Relevant evidence that a reasonable person might accept as adequate to support a conclusion. Substantial evidence is less than a preponderance of evidence.

3.20 Unethical conduct: Conduct that violates a provision of Utah Code Title 67, Chapter 16, *Utah Public Officers' and Employees' Ethics Act*.

3.21 Whistleblower: An employee who engages in a protected activity.

4.0 POLICY

4.1 Policy Statement

4.1.1 No person may take retaliatory action against a UVU employee because the employee engaged, in good faith, in a protected activity.

4.1.2 UVU encourages lawful whistleblowing in accordance with state and federal law. To seek redress, a UVU employee who believes they have been subjected to retaliatory action for engaging in a protected activity as a whistleblower must file a complaint under this policy.

4.1.3 For this policy to apply, the employee must be (1) a whistleblower and (2) subject to a retaliatory action.

4.1.4 This policy applies to all UVU employees, as defined in section 3.6.

4.1.5 This policy does not apply to types of retaliation that are separately defined and prohibited in other UVU policies, including Policy 162 *Title IX Sexual Harassment* and Policy 165 *Discrimination and Harassment*.

4.1.6 A whistleblower is required to act in good faith. Any employee who knowingly makes a false accusation may be subject to fines not to exceed $5,000 or disciplinary action up to and including termination of employment in accordance with UVU policy.

4.1.7 An employee is presumed to have communicated in good faith if the employee gives written notice or otherwise formally communicates the improper conduct to

4.1.7.1 A person in authority over the person alleged to have engaged in the improper conduct;

4.1.7.2 The Utah Attorney General's office;

4.1.7.3 Law enforcement, if the conduct is criminal in nature;

4.1.7.4 The Utah Board of Higher Education or a member of the Utah Board of Higher Education;

4.1.7.5 The Commissioner of the Utah Higher Education System;

4.1.7.6 The President of UVU; or

4.1.7.7 The entity who conducts audits of UVU.

4.1.8 Any presumption of good faith may be rebutted if the employee knew, or reasonably should have known, that their report of improper conduct is malicious, false, or frivolous**.**

4.1.9 The parties, witnesses, or others involved in the claim made under this policy may request reasonable accommodation under the *Americans with Disabilities Act* (see Policy 152).

4.2 Reservation Of Rights

4.2.1 No UVU policy is a contract.

4.3 Notice Requirements

4.3.1 People and Culture must provide employees with a copy of the *Utah Protection of Public Employees Act (UPPEA)* statute upon hire, upon request by the employee, and when the employee submits a complaint under this policy. People and Culture is also responsible for posting notices and using other appropriate means to keep employees informed of their protections and obligations under the UPPEA.

5.0 PROCEDURES

5.1 Procedure for Filing a Whistleblower Retaliation Complaint

5.1.1 The complainant must file their written complaint alleging retaliatory action prohibited by this policy and Utah Code § 67-21-3 with the Vice President of People and Culture or their designee or through the Report Concerns webpage online at https://www.uvu.edu/audit/concerns/ within 30 calendar days of the retaliatory action. Complaints submitted more than 30 days after the retaliatory action may be dismissed.

5.1.2 The complainant must include all relevant information available to them that supports the allegations they raised in the complaint including the date, time, and location of the alleged Retaliatory Action, the individual(s) involved and/or responsible, the nature of the complaint, and the desired remedy.

5.1.3 Details regarding complaints under this policy are shared on a need-to-know basis and will be treated as confidential to the extent permitted by law and at the discretion of UVU.

5.2 Complaint Resolution

5.2.1 Upon receipt of a complaint filed with the allotted time, the Vice President of People and Culture or their designee shall, within five business days, select a three-member independent personnel board (which is referred to as “the Board” for the rest of this policy). The Board is responsible for reviewing complaints submitted under this policy. The Board shall not have any member (a) who is in the same department as the complainant, (b) who is a supervisor of the

complainant, or (c) who has a conflict of interest in relation to the complainant or the respondent or an allegation made in the complaint.

5.2.2 The Board shall consist of a combination of faculty and staff. To the extent practicable, the Board shall also include one People and Culture representative and one staff or faculty member experienced in investigations. The Board shall also select a chairperson.

5.2.3 Upon selection of the Board, the Vice President of People and Culture or their designee must provide notice to the complainant and the respondent (collectively, the "parties") that a complaint has been received in accordance with this policy. This notice must include the names and identities of the individuals selected for the Board and must include copies of this policy, the *Utah Protection of Public Employees Act*, and the complaint.

5.2.4 Within five calendar days of receiving notification of the names of the Board members, the complainant and respondent may each request in writing to the Vice President of People and Culture or their designee that a Board member be disqualified based on bias or conflict of interest, providing the reasons for this request. If bias or conflict of interest is confirmed by the Vice President of People and Culture or their designee, after consultation with an attorney assigned by the Office of General Counsel, then the Vice President of People and Culture or their designee shall select a new Board member and notify the parties. Failure to submit a timely objection will be construed as a waiver of such right.

5.2.5 The parties shall submit relevant documents (including those maintained by UVU) to the Vice President of People and Culture or their designee. The Vice President of People and Culture or their designee will forward the complaint and any collected documentation to the Board for review.

5.2.6 Parties must be treated respectfully and given a prompt and equitable resolution of the complaint.

5.2.7 The University will not restrict the ability of either party to discuss the allegations under investigation, gather and present relevant evidence, or seek support from trusted confidants, family, or mental health or legal professionals.

5.2.8 Parties and witnesses must not retaliate against any person for making a complaint under this policy or otherwise participating in this policy's processes.

5.2.9 UVU shall bear the burden to prove by substantial evidence that UVU's action was justified by reasons unrelated to the complainant's good faith actions under Utah Code Section 67-21-3. In most cases, the respondent will be an agent of UVU.

5.2.10 If the complaint does not plausibly establish that the complainant (1) was in fact a whistleblower, (2) acted in good faith, or (3) suffered a retaliatory action, then any party or UVU may challenge the claim in a written submission to the Board prior to the commencement of the

hearing. If the Board finds by substantial evidence that the complainant has not stated a plausible claim, the Board may dismiss the complaint without a hearing. The dismissal decision is final and not appealable.

5.2.11 If the Vice President of People and Culture or their designee determines an investigation is necessary and feasible, the Vice President of People and Culture or their designee may conduct a thorough, reliable, and impartial internal administrative investigation by interviewing witnesses, collecting documentary evidence, and preparing a written report of findings. The University reserves the right to engage an outside investigator to conduct the investigation if it is determined that there is a conflict of interest or other compelling reason to do so.

5.2.12 The Vice President of People and Culture or their designee shall assign the investigator(s), except in cases where the Vice President of People and Culture or their designee or others involved in the investigation have a conflict of interest. When such conflicts of interest arise, the Vice President of People and Culture or their designee shall select a neutral internal or external impartial investigator(s) to conduct the investigation.

5.3 Investigation Procedures

5.3.1 If an investigation is conducted, parties shall have the opportunity to offer information, present evidence, and identify witnesses.

5.3.2 The Vice President of People and Culture or their designee or investigator shall provide timely notice of meetings to the parties where their presence is necessary.

5.3.3 Parties and administrators with a need to know the status of any proceedings shall receive regular updates.

5.3.4 Parties and witnesses are expected to cooperate with and participate in the University's investigation in good faith. If either party fails to cooperate or participate in good faith, the investigator(s) may make recommended findings without that party's response.

5.3.5 Upon conclusion of the investigation, the investigator(s) shall prepare an investigative report that contains a statement of the allegations, the positions/responses of each party, a summary of relevant evidence and material witnesses that the investigator(s) relied on, and factual findings. Investigators may make a recommendation based on the following factors:

5.3.5.1 Whether the complainant was in fact a good faith whistleblower;

5.3.5.2 Whether the complainant was subject to retaliatory action;

5.3.5.3 Whether the respondent has established with substantial evidence that their actions were justified by reasons unrelated to the complainant's good faith report of improper conduct or engagement in a protected activity; and

5.3.5.4 Whether the respondent took a retaliatory action in violation of this policy.

5.3.6 When the investigator completes the investigation, the investigator will provide their report to the Vice President of People and Culture or their designee and to the Board as promptly as possible. Though the University strives to resolve all cases in a prompt and timely manner, the timeline for such a case may be affected by breaks in the academic calendar, availability of the parties and witnesses (including due to leaves of absence), scope of the investigation, and unforeseen or exigent circumstances.

5.4 Preliminary Hearing Matters

5.4.1 Along with the written notification of hearing date, the Vice President of People and Culture or their designee shall provide copies of the investigation report and evidence to the Board, complainant, and respondent.

5.4.2 UVU may establish a secure hearing room space and may screen for firearms and other dangerous weapons in accordance with Utah Board of Higher Education Policy R254 *Secure Area Hearing Rooms.*

5.4.3 Parties may request remote video conferencing, so the parties do not have to be present in the same room at the same time during the hearing. Such requests must be made in writing to the Vice President of People and Culture or their designee at least 10 business days before the hearing, and the Vice President of People and Culture or their designee shall make the appropriate arrangements.

5.4.4 Each party may be accompanied at the hearing by a support person/advisor of their choice, who may be, but is not required to be, an attorney and who may participate in the hearing as provided in these procedures. Parties must notify the Vice President of People and Culture or their designee of their selected support person/advisor at least 10 business days before the hearing. If the parties do not provide this notice within the allotted time, the support person/advisor may attend but shall not participate in the hearing.

5.4.5 The Board and parties may each request the appearance of witnesses at the hearing. At least five business days before the hearing date, parties must submit to the Vice President of People and Culture or their designee, their (1) list of witnesses, including names and contact information; (2) list or copy of documentary evidence they would like to have reviewed; and (3) explanations of how each item is relevant to the Board's determination. The Vice President of People and Culture or their designee shall forward these lists to the Board.

5.4.6 At least five business days before the hearing, an attorney from the Office of General Counsel or designee, who represents the University during the hearing, may also submit a document to the Board and parties addressing the basis for review, relevant evidence and witnesses, and other issues applicable to the hearing. The Board may consider only relevant witnesses and other evidence cited in the Office of General Counsel document to the Board.

5.4.7 It is the responsibility of the party calling a particular witness to invite that witness to attend the hearing. Witnesses who are UVU employees and who are requested to appear have a duty to do so.

5.4.8 The Board that receives a complaint shall hear the matter, resolve the complaint, and act within the later of (a) 30 calendar days after the day on which the complainant files the complaint; or (b) a longer period of time, not to exceed 30 additional calendar days, if the complainant and the Board mutually agree on the longer time period.

5.5 The Board's Hearing Procedures

5.5.1 If either party fails to attend the hearing without good cause and prior notice to the Vice President of People and Culture or their designee, the Board may proceed with the hearing. Neither party is required to participate in the hearing for it to proceed. The University reserves the right to modify hearing procedures to protect the safety of all parties involved.

5.5.2 The Board chair shall record the hearing, except for deliberations, and shall give the recording to the Vice President of People and Culture or their designee. A copy of the recording shall be made available to either party upon request at the requesting party's expense. A digital copy's expense would not exceed the portable storage medium's cost. Parties are not permitted to record interviews and other meetings preceding and following the hearing.

5.5.3 The Board should begin the hearing with a review of the investigation report, if applicable.

5.5.4 During the hearing, the parties may address information in the investigation report, any supplemental statements or new evidence unavailable during the investigation submitted by the parties, and any written impact or mitigation statements. Each party will have the opportunity to be heard, identify witnesses for the Board's consideration, and respond to any questions from the Board.

5.5.5 Each party shall have an opportunity to make a personal statement relevant to the Board's determination, which should include the basis for the complaint, the personal impact of the alleged retaliatory action, the relief sought, and any mitigating or aggravating information. In addition to the personal statements by the parties, each party's support person/advisor and the Office of General Counsel attorney or designee representing the University shall have the opportunity to make an opening statement.

5.5.6 The Board shall have the first opportunity to question the investigator(s), any witness, and either party called to testify. Following the Board, the parties may ask questions. The attorney from the Office of General Counsel or designee representing the University may also question the same persons. Only the person to whom a question is directed may answer (e.g., a support person/advisor shall not be permitted to answer the Board's questions on a party's behalf).

5.5.7 The Board's questions should be relevant to the scope of review.

5.5.8 During questioning, the parties, support persons/advisors, and Board chair/members shall all treat persons with respect. After issuing a warning, the Board has authority to exclude from the hearing any party, support persons/advisors, or other participant whose behavior the Board finds substantially disruptive.

5.5.9 The Board shall not be bound by strict rules of legal evidence or procedure and may consider any evidence it deems relevant to its determination. The Board chair shall determine the appropriateness and relevancy of any information and questions submitted and may exclude evidence or witnesses deemed to be outside the scope of review, irrelevant, or duplicative. The Board is permitted to exclude evidence that was available to a party but not provided before the hearing or during the investigation.

5.5.10 The Office of General Counsel shall provide an attorney to be present at hearings to provide guidance to the Board on this policy, substantive law, and procedural matters. An attorney from the Office of General Counsel may also participate in hearings on behalf of UVU.

5.5.11 Each party and the attorney from the Office of General Counsel or designee shall have up to a total of 90 minutes for personal and/or opening statements, questioning witnesses, presenting evidence, and concluding remarks.

5.5.12 The Board chair and other Board members are prohibited from discussing any matter related to the hearing with the parties, witnesses, and/or others (except the assigned Office of General Counsel attorney or designee) before or after the hearing. Any violation of confidentiality may result in dismissal from the Board and/or other corrective or disciplinary action.

5.5.13 The Board voting shall be closed sessions from which all other persons are excluded, except, at the Board's request, an advising attorney from the Office of General Counsel. A majority vote by the members of the Board who attended the hearing shall be required for recommendations. The Board chair shall be entitled to vote on all questions. The Vice President of People and Culture or their designee shall not participate in the Board's deliberations. The advising attorney may remain present for Board deliberations but shall have no vote.

5.5.14 The Board shall issue a written recommendation with corresponding facts and reasoning addressing, at a minimum, the following points:

5.5.14.1 Whether the complainant was in fact a good faith whistleblower;

5.5.14.2 Whether the complainant was subject to retaliatory action;

5.5.14.3 Whether the respondent has established with substantial evidence, that their actions were justified by reasons unrelated to the complainant's good faith report of improper conduct or engagement in a protected activity;

5.5.14.4 Whether the respondent took a retaliatory action in violation of this policy; and

5.5.14.5 Proposed remedies for the complainant for any violations of this policy, if any.

5.5.15 If the Board finds that there has been retaliatory action in violation of this policy, the Board may recommend any of the following remedies:

5.5.15.1 Reinstatement of the complainant at the same level as before the retaliatory action;

5.5.15.2 Payment of back wages;

5.5.15.3 Full reinstatement of fringe benefits;

5.5.15.4 Full reinstatement of seniority rights; or

5.5.15.5 A pay raise that results in the complainant receiving the pay that they would have received if they had been promoted if the retaliatory action includes a failure to promote.

5.5.16 A respondent found in violation of this policy may be subject to disciplinary action, up to and including termination of employment.

5.5.17 The Board will issue its written recommendations to the final decision maker with a copy to the complainant and respondent within 30 calendar days of the complainant filing the complaint with UVU, unless the complainant and the Board have mutually agreed to a longer period of time not to exceed an additional 30 calendar days.

5.5.18 When possible, the final decision maker shall be the respondent's supervisor. If the respondent's supervisor participated as a member of the Board, allegedly participated in the retaliatory action, or has a conflict of interest, the next level supervisor or that person's appropriate designee shall become the final decision maker.

5.5.19 The final decision maker shall issue a written final decision within seven calendar days of receiving the Board's recommendations: (a) adopting the recommendations of the Board (in whole or in part); (b) rejecting or amending the recommendations of the Board (in whole or in part) and/or making such other findings and conclusions as necessary; and (c) issue the appropriate sanction(s) or remedy(ies).

5.5.20 The final decision maker shall send the written decision to, or make it available for review for, the complainant, respondent, and all similar UVU officials who the final decision maker deems necessary to effectuate the decision. The decision is final and is not appealable.

POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity
June 25, 2020	New policy approved as a temporary emergency.	UVU Board of Trustees
June 24, 2021	Revised policy approved as a regular policy.	UVU Board of Trustees
November 29, 2022	Revisions approved through compliance change process.	UVU President's Council UVU Board of Trustees
September 28, 2023	Revised policy approved as a regular policy.	UVU Board of Trustees
April 23, 2026	Compliance change made due to 2026 legislation.	UVU President's Council
June 25, 2026	Compliance change ratified.	UVU Board of Trustees
September 22, 2026	Non-substantive change: Change "EthicsPoint" to "Report Concerns webpage"	UVU Policy Office