UTAH VALLEY UNIVERSITY
Policies and Procedures

POLICY TITLE	Staff Grievance	**Policy Number**	335
Section	People and Culture	**Approval Date**	June 21, 2024
Subsection	Conditions of Employment	**Effective Date**	June 21, 2024
Responsible Office	Office of the Vice President of People and Culture	**Last Review**	June 21, 2024

1.0 PURPOSE

1.1 The purpose of this policy is to provide a fair and equitable process for eligible full-time staff employees to grieve formal performance measures, including written warnings, final written warnings, probation, reduction in pay, suspension, demotion, and termination.

2.0 REFERENCES

2.1 *Government Records Access and Management Act (GRAMA)*, Utah Code Ann. § 63G-2-101 (2008)

2.2 *Utah Protection of Public Employees Act*, Utah Code Ann. § 67-21-3.7 (1985)

2.3 Utah Board of Higher Education Policy R831 *Minimum Requirements for Non-Faculty Staff Employee Grievance Policy*

2.4 UVU Policy 162 *Title IX Sexual Harassment*

2.5 UVU Policy 165 *Discrimination and Harassment*

2.6 UVU Policy 331 *Performance Evaluation for Staff Employees*

2.7 UVU Policy 371 *Performance Management and Development for Full-Time Staff Employees*

3.0 DEFINITIONS

3.1 Clear and convincing evidence: Clear and convincing evidence is an intermediate standard that requires more than a preponderance of evidence but does not require proof beyond a reasonable doubt. It requires the existence of facts that make a conclusion very highly probable.

3.2 Confirmation of termination: Document that confirms a staff employee's employment with the University is or will be terminated. The supervisor provides this document to the staff

employee after the staff employee has responded in a timely manner to a notice of intent to terminate document or the time period for response in a notice of intent to terminate has lapsed.

3.3 Formal performance measure: An action imposed on a staff employee pursuant to UVU Policy 371 *Performance Management and Development for Full-Time Staff Employees*. Formal performance measures include written warning, final written warning, probation, reduction in pay, suspension, demotion, and termination.

3.4 Full-time employee: An employee hired into a position where the University reasonably believes that they will work at least 130 hours per month (30 hours per week) in 12 months.

3.5 Grievance: The act of appealing a formal performance measure.

3.6 Informal performance measure: A supervisor may provide or give a performance measure that may include positive reinforcement, verbal coaching, training, performance reminders, or performance improvement plans (PIPs).

3.7 Performance measure: Specific management activities and actions intended to develop, promote, recognize, or reinforce desired behaviors and performance. These activities also include sanctions up to and including dismissal from employment or other remedies used to deter unacceptable performance.

3.8 Probationary period: The period of initial employment that provides the employee and the University the opportunity to assess the employee's ability to perform the required duties and fulfill the position's responsibilities.

3.9 Substantial evidence: Relevant evidence that a reasonable person might accept as adequate to support a conclusion. Substantial evidence is less than preponderance of evidence (i.e., not necessarily "more likely than not").

4.0 POLICY

4.1 Scope of Policy

4.1.1 This policy applies only to full-time staff employees who have completed their probationary periods. This policy does not apply to any part-time employee or to part-time or full-time faculty (tenured, tenure-track, not on tenure track, adjunct) or executives.

4.1.2 This policy applies to grievances of formal performance measures under UVU Policy 371 *Performance Management and Development for Full-Time Staff Employees*.

4.1.3 This policy does not apply if any other policy applying to staff contains its own grievance or appeal procedures. In those cases, the other policy's grievance or appeal procedures apply. For example, this policy does not apply to any complaints, grievances, or appeals alleging or related

to protected class discrimination, sexual misconduct, equal opportunity, or any other issues addressed by UVU Policy 162 *Title IX Sexual Harassment* or UVU Policy 165 *Discrimination and Harassment*. Staff may grieve or appeal these claims only under UVU Policy 162 or UVU Policy 165. Moreover, this policy does not apply to appeals of performance evaluations addressed by UVU Policy 331 *Performance Evaluation for Staff Employees*.

4.1.4 Staff may not grieve some workplace issues under this policy. These issues include but are not limited to informal performance measures, termination during the probationary period, wages and salaries, classification actions, reassignment of job duties and responsibilities, verbal warnings, and day-to-day directives and assignments to staff. Staff may not grieve a reduction in force or reorganization unless they allege that appropriate UVU procedures have been violated.

4.2 Policy Statement

4.2.1 The University is committed to fair and equitable treatment of eligible employees who wish to grieve formal performance measures. Full-time staff employees who have completed their probationary periods may grieve the following issues: (1) whether the events supporting the formal performance measure actually happened; (2) whether the determination of a policy violation is correct; or (3) whether the formal performance measure is appropriate and proportional.

4.2.2 The staff employee grieving the formal performance measure bears the burden of proof by clear and convincing evidence. Clear and convincing evidence is an intermediate standard that requires more than a preponderance of evidence but does not require proof beyond a reasonable doubt. It requires the existence of facts that make a conclusion highly probable.

4.2.3 At any stage of the grievance process, either party may request an informal mediation to resolve a formal performance measure. Mediation will only occur if both parties willingly agree to participate. Mediation is a free service offered to all staff employees. If resolution is not reached through mediation, the grievant may withdraw the grievance or engage in the grievance process as outlined in this policy.

4.2.4 UVU's Vice President of People and Culture or designee is responsible for coordinating staff grievances in accordance with this policy.

4.2.5 If a staff employee receives a decision at any step of the grievance process and does not ask for further review of the grievance within the specified time limit, the staff employee's grievance will be closed and deemed waived with no option to appeal.

4.2.6 A proposed resolution of a grievance that involves an exception to a university policy requires review by the Office of General Counsel and approval of the Vice President of People and Culture and the supervising vice president (or the President if the grievance is based on an action by a vice president).

4.2.7 Reasonable time off with pay during scheduled working hours shall be provided to the staff employee who has a right to the staff employee grievance procedures, the staff employee's representative, or any witnesses called to testify, for time spent participating in proceedings leading to resolution of the complaint.

4.2.8 Time spent by the said staff employee or representative in such activities outside scheduled working hours is non-compensable. Neither time off with pay nor compensation is provided for time or money spent in preparation for such proceedings. The grievance panel may use resources available to obtain the appearance of necessary witnesses.

4.2.9 All testimony given at a grievance hearing before a panel for grievances of demotion or termination must be given under oath.

4.2.8 No member of the university community may retaliate against any staff employee for initiating the grievance process in good faith or for honestly participating in the grievance process as a witness, grievance panel member, or otherwise.

5.0 PROCEDURES

5.1 Grievances Other Than Termination

5.1.1 Grievances of formal performance measures other than termination proceed according to the following process.

5.1.2 Informal Resolution—Discussion between Staff Employee and Supervisor

5.1.2.1 Staff employees who wish to pursue a grievance shall initially attempt to informally resolve the grievance with their immediate supervisor or decision maker. People and Culture will assist both parties in the informal resolution.

5.1.2.2 To initiate the informal resolution process, the grievant must send a written grievance explaining their concerns to their immediate supervisor and the Vice President of People and Culture or designee within five working days of the notification of the formal performance measure.

5.1.2.3 The supervisor shall respond to the grievant and the Vice President of People and Culture or designee in writing within five working days of receiving the written grievance.

5.1.2.4 If the grievant believes the matter cannot be prudently discussed or resolved with the immediate supervisor through an informal resolution, the grievant may appeal the formal performance measure under 5.1.3 within five working days of formal performance measure.

5.1.3 Formal Resolution—Review by Appropriate Vice President

5.1.3.1 *Informal Resolution Appeal:* A grievant may appeal the informal resolution by submitting the written appeal to the Vice President who oversees the grievant and the Vice President of People and Culture or their designee within five (5) working days of receiving the informal resolution decision.

5.1.3.2 *No Supervisor Response to Informal Resolution Notice:* If the supervisor did not respond to the grievant in the Informal Resolution, the grievant may appeal to Formal Resolution by submitting an appeal to the Vice President who oversees the grievant and the Vice President of People and Culture or their designee within five (5) working days after the supervisor's response deadline expired.

5.1.3.3 *No Informal Resolution Process*: If the grievant skipped Informal Resolution, they may appeal the formal performance measure by submitting a written appeal to the Vice President who oversees the grievant and the Vice President of People and Culture or their designee within five (5) working days of receiving the formal performance measure.

5.1.3.4 The vice president or designee who oversees the grievant must meet with the grievant as part of the vice president's review of the appeal. The vice president will reach a decision on the appeal in accordance with the standards in sections 4.2.1 and 4.2.2 and issue a written decision to the grievant within 10 working days of receiving the appeal. If the grievant reports directly to the vice president, or if the vice president has a conflict of interest as determined by the Vice President of People and Culture or designee in consultation with the Office of General Counsel, the President will decide the appeal.

5.1.3.5 The grievant has the right to be accompanied by a person of their choice during the appeal.

5.1.3.6 The grievant may waive the option to meet with the vice president or designee in writing.

5.1.3.7 The decision of the vice president (or, as outlined in 5.1.3.2, the President) shall be final and binding and is not appealable.

5.2 Grievance of Termination

5.2.1 Within five (5) working days after the grievant's supervisor sends or provides a *Confirmation of Termination* document to the grievant, the grievant may request a termination grievance hearing before a grievance panel in writing to the Vice President of People and Culture or designee. The written request for a grievance hearing must state the ground(s) for the request (based on one or more of the scopes of grievance set forth in section 4.2.1) and provide the reasons supporting the ground(s).

5.2.2 Selection and Training of Grievance Panel

5.2.2.1 If a staff employee requests a termination grievance hearing, the Vice President of People and Culture or designee shall promptly convene a three-member grievance panel.

5.2.2.2 Each panel member must be in good standing with the University, must not be employed in the same vice president's reporting structure as the grievant, must not be a supervisor of the grievant, and must not have any conflicts of interest relating to the grievant or any allegation in the grievance.

5.2.2.3 The Vice President of People and Culture or designee will inform the parties (the grievant and the responding supervisor/decision maker) of the chosen panel members and give each party the option to provide any objections to the panel members based on bias or conflict of interest within five (5) working days. In consultation with the Office of General Counsel, the Vice President of People and Culture or designee will review and decide on any conflict of interest or bias objections raised by the parties.

5.2.2.4 The Vice President of People and Culture or designee shall arrange for the selected panel members to attend a training on these procedures provided by the Office of General Counsel.

5.2.2.5 The panel shall choose a panel chair, considering availability and panel experience. The name of the selected grievance panel chair shall be communicated by the panel members to the Vice President of People and Culture or designee, and the parties. The panel shall consult with an attorney assigned by the Office of General Counsel to advise the review panel regarding legal, procedural, policy, and other questions as needed during the review process. Parties may request remote video conferencing so they 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 designee at least ten (10) working days before the hearing, and the Vice President of People and Culture or designee shall make the appropriate arrangements. The Vice President of People and Culture or designee may conduct a pre-hearing conference to formulate or simplify the issues, obtain admissions of fact and documents that will avoid unnecessary proof, arrange for the exchange of proposed exhibits, outline expectations for the hearing, or agree to other matters that may expedite the orderly conduct of the hearing.

5.2.3 Preparing for Hearing

5.2.3.1 The Vice President of People and Culture or designee will conduct a hearing within twenty (20) working days of confirming the panel and panel chair, unless the schedules of the parties or panel members require that the hearing be scheduled on a later date.

5.2.3.2 The Vice President of People and Culture or designee will provide to the parties and panel (1) the written request for hearing by the grievant; (2) the supervisor or decision maker(s)' written responses (if any); and (3) material documents related to the decision(s) being grieved.

5.2.3.3 The hearing is an opportunity for the parties to address the grievance panel about the issues being grieved. Each party will have the opportunity to be heard and to respond to any questions from the panel as the panel applies sections 4.2.1 and 4.2.2 to the grievance.

5.2.3.4 At least ten (10) working days before the hearing date, the grievant and the supervisor/decision maker shall provide the Vice President of People and Culture or designee the following materials:

1) A *Statement Document* of no more than five pages that addresses the grievant's issues, concerns, and proposed solutions framed in terms of the scope of the grievance in section 4.2.1 and the standard of proof in section 4.2.2. The *Statement Document(s)* shall be provided in electronic format.

2) A complete list of all proposed witnesses that each party will call to testify (in person or via video communication) at the hearing and a brief description of the testimony and/or information such witnesses may provide. The witness list shall be provided in an electronic format.

3) Copies of all documents, exhibits, reports, and any other information (collectively referred to hereinafter as "exhibits") in support of the parties' respective positions on the issues and proposed solution. All exhibits shall be provided in an electronic format to the extent possible.

4) Notice of whether the party will bring a support person to the hearing, the email address and phone number of the support person, and whether the support person is an attorney. UVU employees that have a conflict of interest may not serve as support persons.

5.2.3.5 The Vice President of People and Culture or designee will provide the information listed in 5.2.3.4 to the parties and the panel.

5.2.4 Conducting the Hearing

5.2.4.1 If the grievant fails to appear at the hearing at the specified time and place without good cause, the grievance will be deemed abandoned and therefore closed. In the event the supervisor or decision maker fails to appear at the hearing at the specified time and place without good cause, the panel will still hear the grievance.

5.2.4.2 The Vice President of People and Culture or designee shall record the hearing, except for deliberations. The Vice President of People and Culture or designee shall provide a copy of the recording to either party upon request at the requesting party's expense.

5.2.4.3 The panel chair will conduct the hearing and regulate the introduction of evidence for the panel's consideration in accordance with section 5.2.3.1.

5.2.4.4 The review panel shall not be bound by strict rules of legal evidence or procedure and may consider any evidence it deems relevant to its determination. The review panel chair shall

determine the appropriateness and relevancy of any information and questions submitted and may exclude evidence deemed to be outside the scope of review, irrelevant, or duplicative. The panel may exclude evidence that was available to a party but not provided during the investigation.

5.2.4.5 The panel chair will open the hearing by naming the parties and shall state, in a neutral manner, the nature of the actions taken thus far in the grievance process. The panel chair may also remind the panel and parties of this policy and procedures. All participants at the hearing should be identified at the beginning of the hearing.

5.2.4.6 Each party has up to 120 minutes to present their portion of the case (testimony of the party and that party's witnesses and questioning of the other party's witnesses). Questioning by the panel is not included in this 120-minute time limit. The panel chair or designee will keep track of the amount of time each party takes to present their portion of the case.

5.2.4.7 If a party has brought a support person, either the party or the support person should present the opening statement, testimony, and closing statement. For example, the party could present the opening statement while the support person questions the witnesses and presents the closing statement, but the witnesses may not be questioned by both the party and that party's support person. After issuing a warning, the panel chair has authority to exclude from the hearing any party, support person, or other participant whose behavior the panel finds unduly disruptive.

5.2.4.8 The order of the hearing shall be as follows:

1) Opening statement by grievant

2) Opening statement by responding supervisor/decision maker

3) Testimony of the grievant, including presentation of exhibits

4) Testimony of grievant's witnesses, including any exhibits

5) Testimony of the supervisor/decision maker, including presentation of exhibits

6) Testimony of the supervisor/decision maker's witnesses, including any exhibits

7) Closing statement by grievant

8) Closing statement by supervisor/decision maker

5.2.4.9 The grievant's opening statement should briefly summarize the nature of the grievance and requested remedy. The supervisor/decision maker's opening statement should briefly summarize their response to the grievant's concerns and requested remedy. There should be no

cross examination during the opening statements. In most cases, a five-minute opening statement will suffice, though the panel chair may adjust as appropriate.

5.2.4.10 Each party may testify and offer relevant evidence (i.e., exhibits) to all parties and panel members in support of their positions. At any time, the grievance panel members may ask questions of either party. At the end of a party's testimony, the other party shall have the opportunity to ask any questions regarding the testimony and exhibits, limited to the scope of testimony provided by the party.

5.2.4.11 In addition to their own testimony and submission of exhibits, each party may call witnesses, who shall not be allowed in the hearing room until called to testify. Each witness shall provide their own information and testimony to the panel and may be questioned and cross-examined by the panel at any time. At the end of each witness's testimony, the other party and panel members shall have the opportunity to ask any questions of the witness regarding the witness's testimony, limited to the scope of testimony provided by the witness.

5.2.4.12 At the conclusion of a party's presentation, the panel chair will call for any final questions from the other party or panel member regarding the presentation.

5.2.4.13 The closing statements of both parties should summarize their positions and set forth proposed remedies. In most cases, a 15-minute closing statement will suffice, though the panel chair may adjust as appropriate.

5.2.5 Panel Deliberations and Decision

5.2.5.1 The grievance panel members are prohibited from discussing any matter related to the hearing with the parties, witnesses, and/or others before or after the hearing. Violation of this prohibition by panel members may result in dismissal from the panel and/or other performance measures.

5.2.5.2 Panel deliberations and voting shall occur in closed sessions from which all other persons (except for legal counsel from the Office of General Counsel) are excluded. A majority vote by the members of the grievance panel who attended the hearing shall be required for recommendations. The Vice President of People and Culture or designee shall not participate in the panel's deliberations.

5.2.6 The grievance panel shall determine whether the grievant has shown by clear and convincing evidence the basis for the grievance stated in section 4.2.1. The panel will make findings and recommendation(s) regarding whether and how to uphold or modify the termination decision and regarding any other relevant issues to remedy a substantiated grievance.

5.2.7 The panel chair will report the panel's findings and recommendation(s) in writing to the Vice President of People and Culture or designee and appropriate vice president (or, if the supervisor/decision maker is a vice president, to the President), with copies also emailed to the

grievant and the supervisor/decision maker, within five (5) working days after conclusion of the hearing.

5.2.8 Within five working days of the panel chair emailing the recommendation letter, the grievant and the supervisor/decision maker may each email a letter no more than five pages to the appropriate vice president (or the President) (with copies to the Vice President of People and Culture or designee and the other party) responding to the panel recommendations addressing any of the following:

1) The standards in Sections 4.2.1 and 4.2.2 of this policy as applied to the present grievance and the remedy that the party is requesting

2) Alleged procedural errors during the grievance process that substantially altered the panel's recommendation, and the remedy that the party is requesting (such as a new grievance hearing); deviation from the timelines in this policy or other arguments of delay in the process do not meet this standard

3) New relevant evidence that did not become available until after the grievance hearing that would have substantially altered the panel's recommendation, and the remedy that the party is requesting (such as a new grievance hearing)

5.2.9 Within 15 working days of receiving the panel's written report, the appropriate vice president (or the President) will review the documents that were submitted to the panel, the panel's recommendation letter, and the written submissions under section 5.2.8 of this policy.

5.2.10 The vice president (or the President) will issue a written decision to the grievant, supervisor/decision maker, the grievant's and supervisor/decision maker's respective counsel, and the Vice President of People and Culture or designee.

5.2.10.1 The vice president's (or the President's) written decision will affirm, reverse, or modify the termination being grieved.

5.2.10.2 If a vice president is the grievant or has a conflict of interest, the President will receive the panel's written report and render the written decision.

5.2.10.3 In cases where both the vice president and the President have a conflict of interest, the written decision will be made by an appropriate person designated by the Vice President of People and Culture or designee in consultation with the Office of General Counsel.

5.2.10.4 The Office of General Counsel shall assign an attorney who did not serve as counsel to the panel or previously advise the supervisor/decision maker on the grievance to provide legal counsel to the vice president (or the President).

5.2.11 The final decision of the vice president, President, or other designated person (as outlined in 5.2.10) is final and binding; the grievance is considered closed with no additional internal appeals available to the grievant.

POLICY HISTORY		
Date of Last Formal Review: June 21, 2024		
Due Date of Next Review: June 21, 2029		
Date of Last Action	**Action Taken**	**Authorizing Entity**
October 25, 2018	Temporary Emergency policy approved.	UVU Board of Trustees
June 18, 2019	Regular policy approved.	UVU Board of Trustees
August 14, 2020	Nonsubstantive change to sections 2.3 and 4.1.3: Title of Policy 162 updated from *Sexual Misconduct* to *Title IX Sexual Harassment.*	UVU Policy Office
January 4, 2024	Non-substantive changes to remove "Human Resources" and replace with "People and Culture" or "Vice President of People and Culture" when appropriate	UVU Policy Office
June 21, 2024	Revision approved through regular policy process.	UVU Board of Trustees
May 6, 2025	Updated name of Policy 165	UVU Policy Office
November 11, 2026	Updated reference number in 5.2.9	UVU Policy Office

*More information on the formal review can be found in Policy 101 section 4.7.3.