

R256, Student Disciplinary Processes¹

R256-1 The following policy² has been codified as Utah Administrative Code R765-256.³

R256-2 References

2.1 Utah Code § 53B-1-402, Establishment of Board – Powers, Duties, and Authority - Reports

2.2 Utah Code § 53B-2-106, Duties and Responsibilities of the President

2.3 Utah Code Title 53B, Chapter 27, Part 6, Student Legal Representation

R765. Higher Education (Utah Board of), Administration.

R765-256. Student Disciplinary Processes.

R765-256.1. Purpose.

The purpose of this rule is to provide minimum standards of due process for the Utah system of higher education institutions' student and student organization disciplinary processes.

R765-256.2. Authority.

Section 53B-27-302 authorizes this rule.

R765.256.3. Definitions.

(1) "Academic dishonesty" means an act of dishonesty relating to a student's academic work or performance.

¹ Adopted July 15, 2016; amended June 6, 2024.

² Technical edits December 10, 2024; March 27, 2025.

³ This administrative rule must also be approved by the Utah Office of Administrative Rules and minor, non-substantive edits to conform with the Utah Administrative Code style guide may be made.

(2) “Accused student” means any student who is enrolled at any institution who has allegedly violated a policy or rule, or a relevant section of a policy or rule, that if violated may result in the student’s suspension of 10 calendar days or more or expulsion from the institution.

(3) “Accused student organization” means any student organization recognized by an institution, that has allegedly violated a policy or rule, or a relevant section of a policy or rule, that if violated may result in the student organization’s suspension or removal of institutional recognition of the student organization.

(4) “Evidence” means information that is inculpatory or exculpatory as the information relates to an accusation against an accused student or accused student organization, including a complaint statement, a third-party witness statement, electronically stored information, a written communication, a post to social media, or demonstrative evidence.

(5) “Full participation” means the opportunity in a student or student organization disciplinary proceeding to make opening and closing statements, examine and cross-examine a witness, introduce relevant evidence, and provide support, guidance, or advice to an accused student, accused student organization, or victim.

(6) “Institution” means an institution of higher education listed in Section 53B-1-102.

(7) “Proceeding” means an adjudicatory hearing, including an appeal, in which evidence is presented to a hearing officer or a hearing panel to determine whether a policy or rule has been violated or is required by a policy or rule, or a relevant section of a policy or rule, that if violated may result in either:

(a) a student’s suspension of 10 calendar days or more or expulsion from the institution; or

(b) a student organization’s suspension or removal of institutional recognition of the student organization.

(8) “Student disciplinary proceeding” means a proceeding initiated by an institution to determine whether an accused student has violated a policy or rule, or a

relevant section of a policy or rule, that if violated may result in a student's suspension of 10 calendar days or more or expulsion from the institution, except that this does not include a proceeding that solely involves a student's academic dishonesty.

(9) "Student organization" means a club or other organization that meets during noninstructional time, is recognized by the institution at which the organization meets, and has a majority of its members who are current students at the institution.

(10) "Student organization disciplinary proceeding" means a proceeding initiated by an institution to determine whether an accused student organization has violated a rule or policy, or a relevant section of a policy or rule, that if violated may result in a student organization's suspension or removal of institutional recognition of the student organization, except that this does not include a proceeding that solely involves a student's academic dishonesty.

(11) "USHE" means Utah system of higher education.

(12) "Victim" means an individual whose rights are allegedly infringed or who is otherwise allegedly harmed by an accused student's or an accused student organization's violation of a policy or rule, or a relevant section of a policy or rule, that if violated may result in either:

(a) the student's suspension of 10 calendar days or more or expulsion from the Institution; or

(b) the student organization's suspension or removal of institutional recognition of the student organization.

R765.256.4. General Provisions for Institution Responsibilities.

(1) Each institution shall:

(a) provide each student and student organization due process, as outlined in this rule;

(b) enact a policy to govern proceedings in which a student has a right to legal representation or a non-attorney advocate in accordance with this rule and state law and

notify a student of their right to bring a cause of action in violation of Section 53B-27-607 to the Attorney General's Office; and

(c) train each adjudicator, hearing officer, and appellate hearing officer on relevant evidence and nonrelevant, probative evidence.

(2) The due process protections outlined in this rule do not apply to academic dishonesty allegations.

(3) In academic dishonesty matters, each institution shall establish a policy and procedure that gives each student notice of institutional action that may impact the student and an opportunity for the student to respond, in accordance with applicable law.

R765.256.5. Student Disciplinary Proceedings.

(1) Each institution shall establish a policy that provides the following minimum standards of due process for each matter where a proceeding is initiated by an institution to determine whether an accused student has violated a policy or rule, or a relevant section of a policy or rule, that if violated may result in the student's suspension of 10 calendar days or more or expulsion from the institution, except that this does not include a proceeding that involves a student's academic dishonesty:

(a) The institution shall provide the accused student and victim written notice of the accused student's and victim's rights under this rule that includes:

(i) notice that the accused student is entitled to a student disciplinary proceeding to contest the charges against the accused student; and

(ii) notice that the accused student is entitled to a presumption of innocence that will remain until either:

(A) the accused student acknowledges responsibility for the alleged violation; or

(B) the institution has established every element of the alleged violation at a student disciplinary proceeding.

(b) The institution shall communicate the notice by any written means that the institution routinely uses for official communications with individual students.

(c) The institution shall establish a policy and procedure to ensure that the institution provides written notice of the accused student's or victim's rights as soon as practicable but no later than seven days before the student disciplinary proceeding that pertains to the accused student or victim, unless exigent circumstances reasonably justify proceeding without providing such notice.

(d) The institution shall ensure that the accused student and victim have access to any material evidence that is in the institution's possession, including both inculpatory and exculpatory evidence, unless the material is subject to a legal privilege, no later than one week before the day the proceeding begins.

(e) The institution shall not rely upon evidence that is the accused student's or victim's personal medical record, mental health record, therapy note, or journal in a proceeding unless the accused student or victim consents to the use of the evidence in the proceeding.

(f) Any evidence presented in a proceeding under this rule is confidential and may not be used as evidence in a subsequent proceeding nor use or disclose it to a third-party for any other purpose other than for the proceeding.

(g) The institution shall not prohibit an accused student or victim from having an advisor and being represented, at the student's expense, by legal representation or a non-attorney advocate at a student disciplinary proceeding that pertains to the accused student or victim.

(h) The institution shall allow the accused student's or victim's advisor to have full participation in the student disciplinary proceeding.

(i) The institution shall allow for the following minimum standards for an accused student's or victim's advisors in a student disciplinary proceeding:

(A) the giving of opening and closing statements;

(B) the examination and cross-examination of witnesses;

(C) the introducing of relevant evidence; and

(D) the providing of support, guidance, or advice to an accused student or victim.

(2) The institution may adopt a policy that requires an advisor to submit questions for an opposing party to the hearing officer.

(3) Each institution may require the accused student and victim to provide advance notice that they will have an advisor attend the student disciplinary proceeding.

(4) The Rules of Civil Procedure and the Rules of Evidence shall not apply to student disciplinary proceedings.

(5) Nothing in this rule shall be construed to provide for formal or informal discovery beyond the exchange of evidence described herein.

(6) Each accused student and victim may waive any rights described herein.

R765.256.6. Student Organization Disciplinary Proceedings.

(1) Each institution shall establish a policy that provides the following minimum standards of due process for each matter where a proceeding is initiated by the institution to determine whether the accused student organization has violated a policy or rule, or a relevant section of a policy or rule, that if violated results in the accused student organization's suspension or removal of institutional recognition of the student organization, except that this does not include a proceeding that solely involves a student organization's academic dishonesty:

(a) The institution shall provide the accused student organization and victim written notice of the accused student organization's and victim's rights under this rule that includes:

(i) notice that the accused student organization is entitled to a student organization disciplinary proceeding to contest the charges against the accused student organization; and

(ii) notice that the accused student organization is entitled to a presumption of innocence that remains until either:

(A) the accused student organization acknowledges responsibility for the alleged violation; or

(B) the institution has established every element of the alleged violation at a student organization disciplinary proceeding.

(b) The institution shall establish a policy and procedure to ensure that the institution provides written notice of the accused student organization or victim's rights as soon as practicable but no later than seven days before a student organization disciplinary proceeding that pertains to the accused student organization or victim, unless exigent circumstances reasonably justify proceeding without providing notice.

(c) The institution shall ensure that an accused student organization and victim have access to all material evidence that is in the institution's possession, including both inculpatory and exculpatory evidence, unless the material is subject to a legal privilege, no later than one week before the day the proceeding begins.

(d) Any evidence presented in a proceeding under this policy is confidential and the institution may not use the evidence in a subsequent proceeding nor use or disclose it to a third-party for any other purpose other than for the proceeding.

(e) The institution shall not prohibit the accused student organization or victim from having an advisor and being represented, at the accused student organization's or victim's expense, by legal representation or a non-attorney advocate at a student organization disciplinary proceeding that pertains to the accused student organization or victim.

(f) The institution shall allow the accused student organization or victim's advisor to have full participation in the student organization disciplinary proceeding.

(g) The institution shall allow for the following minimum standards for an accused student organization or victim's advisors in a student organization disciplinary proceeding:

(i) the giving of opening and closing statements;

(ii) the examination and cross-examination of witnesses;

(iii) the introducing of relevant evidence; and

(iv) the providing of support, guidance, or advice to an accused student organization or victim.

(2) The institution may adopt a policy that requires the advisor to submit questions for an opposing party to the hearing officer.

(3) Each institution may require the accused student organization and victim to provide advance notice that they will have an advisor attend the student organization disciplinary proceeding.

(4) The Rules of Civil Procedure and the Rules of Evidence shall not apply to student disciplinary proceedings.

(5) Nothing in this rule shall be construed to provide for formal or informal discovery beyond the exchange of evidence described herein.

(6) Each accused student organization and victim may waive any rights described herein.

R765.256.7. Conflict of Interest.

(1) Each institution shall conduct a student disciplinary proceeding or student organization disciplinary proceeding in an impartial manner free from conflicts of interests.

(2) An individual may not serve as an investigator or institutional prosecutor and an advocate for an accused student, accused student organization, or victim in the same matter.

(3) Except as provided in Subsection 765-256-7(5), each institution shall prohibit an individual employed by or otherwise representing an institution from acting as an adjudicator, hearing officer, or appellate hearing officer in a student disciplinary proceeding or student organization disciplinary proceeding if the individual has also served in one of the following roles in the same matter:

(a) an advocate or counselor for an alleged victim, accused student, or accused student organization;

(b) an investigator;

(c) an institutional prosecutor; or

(d) an advisor to a person described in Subsections 765-256-7(3)(a), (3)(b), or (3)(c).

(4) Each institution shall not prohibit an accused student or victim from having an advisor and being represented, at the student's expense, by legal representation or a non-attorney advocate at a student disciplinary proceeding that pertains to the accused student or victim.

(5) If an individual employed by the institution or otherwise representing the institution serves as an investigator and an institutional prosecutor for the alleged violation of a policy or rule, the institution shall advise an accused student, accused student organization, or victim before proceeding with the investigation.

(6) Each institution shall allow the accused student, accused student organization, or victim to raise objections to issues that could potentially compromise the impartiality of the proceeding, including any potential conflicts of interest in violation of this rule.

R765.256.8. Standard of Proof and Temporary Suspension.

(1) Each student and student organization is entitled to a presumption of innocence that remains until either the accused student or student organization acknowledges responsibility for the alleged violation or the institution has established every element of the alleged violation at a student disciplinary proceeding or student organization proceeding by a preponderance of the evidence.

(2) Each institution may have a process for temporarily suspending a student or student organization prior to the final outcome of a student or student organization disciplinary proceeding if necessary to protect the campus community or prevent serious disruption of the academic process, provided that the institution is required to

conduct the adjudicatory process following the temporary suspension as expeditiously as possible.

R765.256.9. Institutional Right to Proceed Absent Accused, Victim, or Student or Accused Student Organization Participation.

(1) Each student may decline to participate in any proceeding.

(2) Each institution may proceed with the student or student organization disciplinary proceeding in a timely fashion without the accused student, accused student organization, or victim if they decline to participate.

(3) Each institution may set reasonable deadlines and move forward with processes regardless of whether the accused student, accused student organization, victim, or their respective advisor is able to meet those deadlines.

R765.256.10. Duty to Act in Good Faith.

(1) Each institution shall act in good faith to determine the applicability of this rule based on facts known at the time.

(2) If any institution later becomes aware of additional facts indicating this rule governs, institutions shall act in good faith to meet the requirements of this rule when those facts become known.

R765.256.11. Non-applicability to Law Enforcement Activities.

This rule shall not govern campus law enforcement departments or law enforcement personnel or otherwise replace or amend criminal procedures that govern law enforcement activities.

R765-256.12. Incorporation of Institutions' Policies.

(1) The following institutions have adopted the following policies that are incorporated by reference within this rule, including amendments:

(a) Bridgerland Technical College's:

(i) Policy 553, Title IX and Protection from Sex Discrimination, June 26, 2023;

(ii) Policy 535, Nondiscrimination, Equal Opportunity, and Free Expression, June 24, 2024;

(iii) Policy 608, Student Grievance, June 24, 2024;

(iv) Policy 609, Student Conduct, June 24, 2024;

(v) Policy 616, Academic Progress, June 24, 2024;

(b) Utah State University's:

(i) Policy 305, Discrimination Based on Protected Characteristics, February 10, 2023;

(ii) Student Code Articles V & VIII, April 10, 2009;

(iii) Policy 339: Title IX Sexual Misconduct in an Employment or Education Program or Activity, February 10, 2023;

(iv) Policy 339A: Non-Title IX Sexual Misconduct, February 10, 2023;

(c) Weber State University's PPM 6-22, Student Code, May 16, 2023;

(d) University of Utah's:

(i) Policy 6-400, Student Rights and Responsibilities August 7, 2024;

(ii) Policy 6-410, Student Academic Performance, Academic Conduct, and Professional and Ethical Conduct Sections III.H through N and, as they related to professional misconduct, Sections III O through Q, August 15, 2023;

(iii) University's Rule R1-012A, Non-discrimination Rule, February 13, 2025;

(iv) University Rule R1-012B, Complaint Process Rule, February 13, 2025;

(e) Utah Valley University's:

(i) 162 Title IX Sexual Harassment, April 25, 2024;

(ii) 165 Discrimination and Harassment, April 25, 2024;

- (iii) 541 Student Code of Conduct, January 23, 2025;
- (f) Snow College's Student Rights and Responsibilities, May 31, 2019;
- (g) Southern Utah University's Policy 11.2, Student Code of Conduct, December 13, 2022;
- (h) Salt Lake Community College's Student Sexual Misconduct 3-2.02, February 28, 2023;
- (i) Davis Technical College's:
 - (i) Davis Technical College Student Code of Conduct and Discipline Policy, September 22, 2022;
 - (ii) Davis Technical College Student Grievance Policy and Procedures, May 16, 2024;
- (j) Dixie Technical College's Student Disciplinary Rule, May 16, 2024;
- (k) Mountainland Technical College's Student Grievance 600.608, March 11, 2024;
- (l) Ogden-Weber Technical College's Student Rights and Responsibilities, and Code of Conduct 530.4., February 8, 2024;
- (m) Southwest Technical College's:
 - (i) Student Code of Conduct, May 4, 2023;
 - (ii) Grievance Policy, May 2, 2024;
 - (iii) Harassment, Nondiscrimination and Equal Opportunity, July 21, 2020;
 - (iv) Student Due Process, July 21, 2020;
- (n) Tooele Technical College's:
 - (i) Student Code of Conduct and Discipline, July 31, 2019;

(ii) Student Grievances Policy, July 31, 2019;

(o) Uintah Basin Technical College's Administrative Rule R961, Student Due Process, July 22, 2019.