



## Student Disability Grievance Process

### I. Introduction

The University of Hawai'i - West O'ahu (UHWO) is committed to making its educational and employment opportunities accessible to qualified individuals with disabilities in accordance with the Americans with Disabilities Act (ADA) <sup>1</sup>, Section 504 of the Rehabilitation Act of 1973 (504) <sup>2</sup>, Chapter 489 of the Hawai'i Revised Statutes, the University of Hawai'i system-wide policy "Equal Employment Opportunity/Affirmative Action" A9.900, and the University of Hawai'i system-wide policy "University Statement of Nondiscrimination and Affirmative Action" E1.202. By providing full access to qualified students and employees with disabilities, UHWO demonstrates its belief that the community will benefit from the skills and talents of these individuals. As an equal opportunity employer, UHWO does not discriminate on the basis of disability in the hiring, promotion, and retention of otherwise qualified faculty and staff.

Students with complaints regarding University of Hawai'i - West Oahu (UHWO) compliance with particular provisions of Section 504 of the Rehabilitation Act of 1973 or the Americans with disabilities Act have the right to file a grievance. The Office of Civil Rights (OCR) within the U.S. Department of Education (ED) protects the rights of students in educational programs or activities that receive financial assistance from ED. Under these laws, ED funded programs and activities must be operated in a manner that insures that people who meet the program's qualifications and eligibility requirements are given equal opportunity to participate, regardless of their race, color, national origin, sex, disability or age. Under the law, UHWO is also required to designate an individual as the ADA/504 Coordinator. The Coordinator ensures compliance with the law and is the main point of contact for external inquires. **The ADA/504 Coordinator is: Tom Hirsbrunner, J.D., Room C-241, ph. 808-689-2935, e-mail: hirsbrun@hawaii.edu.** If a student is not satisfied with the services provided by UHWO, and cannot resolve the issue using this grievance process, the student may file a civil rights suit through the OCR, U.S. Department of Education.

### II. Applicability

The grievance procedure set forth below applies to students of UHWO. It is designed to address disputes concerning:

- A. Disagreements regarding a requested service, an accommodation, or a modification of a UHWO practice or requirement;
- B. Inaccessibility of a program or activity due to disability;

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<sup>1</sup> 42 USC 12101 *et seq.*

<sup>2</sup> 29 USC 701 *et seq.*

C. Harassment or discrimination on the basis of disability;

D. Violation of privacy in the context of disability.

### III. Informal Grievance Resolution

Prior to initiating the formal complaint procedure students are strongly encouraged to first meet with the ADA/504 Coordinator for assistance in resolving the matter informally. The goal is to resolve the issue within ten (10) working days (excluding weekend days) of the alleged denial of accommodations or act of discrimination. The ADA/504 Coordinator will provide the student with a written report in a timely matter with their decision. If a resolution satisfactory to the student can not be achieved in ten working days from the date the student received written notification of UHWO's ADA/504 Coordinator's report, the student may file a formal complaint.

Although students are encouraged to pursue a resolution first through the informal complaint process, it is not mandatory. It should be noted, however, that many issues may be resolved quickly through the use of the informal resolution process.

If the student's complaint involves the ADA/504 Coordinator, the student may seek informal resolution by contacting the Complaint Officer.

UHWO will make every effort to resolve conflict by informal means. Throughout all of these procedures the student should expect to be treated with respect and dignity, receive a timely response, and have the issues handled in a confidential manner. UHWO expects the student to bring up any problems early, give clear and detailed information, follow applicable procedures and be respectful of the people who are involved.

In the event a student believes (i) that he or she has been denied an accommodation or the modification of a College practice or requirement to which he or she is entitled under applicable disability law or (ii) a program or activity has been inaccessible to him/her due to disability or (iii) he/she has been harassed or discriminated against because of a disability or perception of a disability by a college faculty or staff member or (iv) his/her privacy has been violated in the context of his/her disability, the student shall attempt to resolve the matter informally. If the student is unable to resolve the matter through the informal process, a formal complaint may be filed at the option of the student.

### IV. Formal Grievance Resolution

If the informal grievance procedure described above does not yield a successful resolution, or the student chooses not to pursue an informal resolution, the student may file a formal grievance in the following manner:

- A. Formal grievances shall be filed within 180 calendar days of the last incident of alleged discrimination. A student may file a grievance after 180 calendar days of the last incident of alleged discrimination for good cause.
- B. A formal grievance must be in writing and must include all of the following:
- The student's name, address, e-mail address and phone number;
  - The names of individuals, departments and/or programs involved;
  - A detailed description as to which administrative decision (relating to disability) the student disagrees with or believes is discriminatory;
  - A statement as to whether or not the student would like the opportunity to meet with the Grievance Appeal Officer to discuss the issue in person. If the student chooses, the student may write a statement and submit it to the Grievance Appeal Officer to review in place of requesting a meeting.
  - A statement of the remedy requested.
- C. All formal grievances must be filed with the Vice-Chancellor of Student Affairs (VCSA), Rm. C-237, 2nd floor Student Services. Upon receipt of a formal grievance, the VCSA will meet with the student and advise the student of all informal and other resolution options with state and federal agencies. The VCSA will assign a Grievance Appeal Officer and will forward the grievance to the Grievance Appeal Officer for investigation and resolution. Upon receipt of the grievance, the Grievance Appeal Officer will provide the Respondent with written notice that includes a summary of the allegations, a copy of the complaint, complaint procedure, confidentiality statement, non-retaliation policy, and response deadline. If the Respondent is a member of a collective-bargaining unit, the Respondent the notice must also include representation rights.
- D. The Respondent has ten (10) working days from receipt of the notification to respond to the complaint. The Respondent may make a written request for an extension of time to respond of not more than twenty (20) working days for extenuating circumstances.
- E. The Grievance Appeal Officer may determine, before or after an investigation, that the allegations raised in the complaint do not support a claim under this procedure. The Grievance Appeal Officer may close the case, and inform the Parties of the decision in writing. The decision of the Grievance Appeal Officer is UHWO's final decision regarding a student's disability grievance. If the student is dissatisfied with this final decision, the student may file a complaint with the Department of Education, Office for Civil Rights.
- F. The Grievance Appeal Officer shall promptly initiate fact-finding. During fact finding, the Grievance Appeal Officer may interview, consult with and/or request a written response to the issues raised in the complaint from any individual the Grievance Appeal Officer believes to have relevant information, including faculty, staff and students. The student and any person towards whom the complaint might have been directed shall have the right to submit written materials to the Grievance Appeal Officer and suggest names

of any faculty, staff, students or others from whom he/she believes the Grievance Appeal Officer should hear. Grievance Appeal Officer may assign a designee who has been adequately trained to conduct any part of the fact-finding as the Grievance Appeal Officer determines to be appropriate.

- G. The Grievance Appeal Officer uses the following as his/her basis for fact-finding and Standard of Review:
1. Whether more likely than not the administrative decision was appropriate given the circumstances;
  2. Whether more likely than not inaccessibility into a program or activity resulted from a disability;
  3. Whether more likely than not harassment or discrimination occurred as a result of a disability;
  4. Whether more likely than not a privacy violation regarding a disability occurred.
- H. The student and the person whom the complaint has been directed against shall have the right to present personal knowledge and information regarding the issue, either in person or in writing to the Grievance Appeal Officer. Since the matter is administrative and not legal in nature, attorneys are not allowed during meetings with the Grievance Appeal Officer, if one occurs.
- I. Upon completion of the fact finding, the Grievance Appeal Officer will prepare a report of the fact-finding and disposition. He/she shall report his/her decision in writing to the student, person whom the complaint was directed against, and the ADA/504 Coordinator.

Possible decisions under this grievance procedure may include corrective steps, actions to reverse the effects of discrimination or end harassment, and measures to provide a reasonable accommodation or proper ongoing treatment. In addition, if the Grievance Appeal Officer determines that the administrative decision for which the grievance was filed was appropriate, the Grievance Appeal Officer shall report that decision in writing to the student and ADA/504 Coordinator.

The decision of the Grievance Appeal Officer is UHWO's final decision regarding a student's disability grievance. If the student is dissatisfied with this final decision, the student may file a complaint with the Department of Education, Office for Civil Rights.

#### V. Filing a Complaint with the Department of Education, Office for Civil Rights

Any student who remains dissatisfied with UHWO's final decision of an informal and/or formal grievance regarding a disability claim may file a complaint with the Department of Education, Office for Civil Rights.

More information about the Department of Education, Office for Civil Rights complaint process can be found at their website: <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>