

AZUSA PACIFIC UNIVERSITY

Americans With Disabilities Act of 1990 & Disability Grievance Policy for Students

I. Policy Against Disability-Related Discrimination

In compliance with state and federal laws and regulations, including the Americans with Disabilities Act of 1990 (“ADA”) and Section 504 of the Rehabilitation Act of 1973 (“Section 504”), including implementing regulations, Azusa Pacific University (“APU” or the “University”) does not discriminate on the basis of disability and is committed to providing equal educational opportunities for disabled students who qualify. The University prohibits conduct that denigrates or shows hostility or aversion toward an individual based upon his or her disability or perceived disability, including conduct that is oral, physical, written, graphic, or visual. Such conduct includes but is not limited to objectionable epithets, demeaning depictions or treatment and threatened or actual abuse or harm related to an individual’s disability. This nondiscrimination policy covers all qualified students with respect to admission, access, operation of university programs and activities, and employment. APU will take all reasonable steps to prevent occurrence and reoccurrence of discrimination on the basis of disability and to correct any discriminatory effects on students and others, if appropriate. No student shall be retaliated against for using this or any other grievance procedure to address any disability-related grievances.

II. Administration of This Grievance Procedure; Compliance Officers

Graduate and undergraduate students have the right to use this grievance procedure to resolve claims that they have been subjected to unlawful harassment or discrimination on the basis of disability, or have been denied access to services or accommodations required by law.

If any student has a claim of discrimination based on harassment related to a claimed disability, where the alleged harassment is committed by another APU student or other APU students, the aggrieved student should follow the Harassment Reporting Procedures outlined in section 3.0 of the Student Standards of Conduct. In all other cases, unless otherwise provided herein, this grievance procedure, rather than other general APU grievance procedures (including the Graduate Student Grievance and Appeal Procedures and the Undergraduate Grievance Policies) shall govern any disability-related grievances. Questions of which grievance procedure to apply will be decided by the appropriate Section 504 compliance officer.

For grievances initiated by students, the executive director of human resources is the university’s Section 504 compliance officer charged with administering this grievance procedure as well as ensuring compliance with applicable laws. The executive director of human resources can be reached by telephone (626-815-4526).

The Learning Enrichment Center (“LEC”) is the office designated for the evaluation of disability documentation and academic accommodations for APU undergraduate and graduate students. The LEC is located at 901 E. Alostia Avenue, Azusa, California 91702 can be reached by telephone (626-815-3849; TDD: 626-815-3873), by facsimile (626-

815-3859), or by email (nashur@apu.edu).

III. Informal Resolution

Prior to initiating the formal complaint procedure set forth below in Part IV, the student must first pursue the following informal procedures. The source of the alleged discrimination dictates the informal procedures that the student must pursue:

- A. If the issue concerns a claim of discrimination based on the denial of a requested accommodation by the LEC (procedures for requesting an accommodation from the LEC are available in the Graduate Catalog and the Undergraduate Catalog), the student must promptly make an appointment to meet with the LEC director. The LEC director will meet with the student, review the matter, and promptly issue a written decision and provide a copy of the written decision to the student. If the LEC director's decision is adverse to the student, the LEC director will inform the student of the student's right to file a formal complaint.
- B. If the issue concerns other claims of disability-related discrimination (including, as examples, harassment, lack of accessibility, unequal treatment, or non-LEC denials of accommodations), where the claim is against an APU department, faculty, or staff member or a third party, the student must make best efforts to utilize the informal procedures provided in the Initial Grievance and Appeal Procedures section of the Graduate Student Grievance and Appeal Procedure (for graduate students), and in the Undergraduate Grievance Policy (for undergraduate students). In addition, the student is encouraged to raise the issue with the LEC. Although the LEC is not responsible for providing accommodations for out-of-classroom activities that are not related to achieving a degree or credits for a degree, the director or associate director for the LEC is available to serve as a resource for informally resolving disability-related grievances. The student is encouraged also to report any claims of harassment by university employees to APU's Office of Human Resources, by calling 626-815-4526.

IV. Formal Grievance Process

If the informal procedures in Part III above do not resolve the issue to the satisfaction of the student, the student may file a formal complaint in the following manner:

- A. Complaints must be filed as soon as possible, but in no event later than 10 calendar days after the end of the term in which the claimed discrimination occurred.
- B. A complaint must be in writing and include the following:
 1. The student's name, address, email address, phone number, and claimed disability;
 2. The names of any other persons involved, including, if known, those who committed the alleged discrimination;
 3. A clear statement of the claimed discrimination based on a disability, including, at a minimum, what occurred, the date(s) it occurred, where it occurred, who was present;

4. A description of what efforts have been made to resolve the issue informally;
 5. A statement of the desired outcome; and
 6. Any other information the student wishes to provide, including statements of any witnesses to the alleged discrimination and any other supporting documentation.
- C. The complaint is to be filed by delivering it to the appropriate Section 504 compliance officer, as designated in Part II above. If the student alleges that the appropriate Section 504 compliance officer is the party that allegedly committed the claimed discrimination, the student shall file the complaint with the student's vice provost (e.g., if an undergraduate student alleges that the executive director of human resources discriminated against that student, then the student shall file the complaint by delivering it to the Office of the Vice Provost for Undergraduate Programs; if a graduate student alleges that the executive director of human resources discriminated against that student, then the student shall file the complaint by delivering it to the Office of the Vice Provost for Graduate Programs).
- D. Upon receipt of the complaint, the Section 504 compliance officer will review the complaint for timeliness and compliance with this grievance procedure, and provide the aggrieved student with written notice acknowledging its receipt.
- E. After reviewing the complaint, the Section 504 compliance officer will promptly refer the complaint to an appropriate grievance officer or, in the Section 504 compliance officer's discretion, to a panel of three appropriate grievance officers, who will conduct the initial investigation. An "appropriate" grievance officer is any faculty or staff member who generally is knowledgeable about disability issues and the legal mandates of state and federal disability statutes, *and* who had no involvement in the discrimination alleged in the complaint at issue. The Section 504 compliance officer promptly will disclose the identity of the chosen grievance officer(s) to the student and the party against whom the complaint is directed. If any party believes any grievance officer is not suited to perform the investigation because of the party's prior interactions with the grievance officer, the party must notify the Section 504 compliance officer in writing within five calendar days of such disclosure.
- F. In undertaking the investigation, the grievance officer or grievance panel may interview, consult with, and/or request a written response to the issues raised in the complaint, from any individual believed by the grievance officer or grievance panel to have relevant information, including faculty, staff, and students. Before the grievance officer or grievance panel concludes the investigation and makes a recommendation, the student shall have the opportunity, if he or she desires, to be heard orally and informally to present witnesses and other relevant information to the grievance officer or grievance panel. During any such hearing, any party against whom the complaint is directed shall have the right to be present, and also to present witnesses informally and any other relevant information. The hearing is not intended to mimic official court or other legal proceedings; the grievance officer has the authority to conduct the hearing in any organized and reasonable

manner, and may question any party or witness and allow any party to question any other party or witness.

- G. The student and the party against whom the complaint is directed each have the right to have a representative. The party shall indicate whether he or she is to be assisted by a representative and, if so, the name of that representative. For purposes of this procedure, an attorney is not an appropriate representative.
- H. Upon completion of the investigation, the grievance officer or grievance panel will prepare and transmit to the referring Section 504 compliance officer, the student, and to the party against whom the complaint is directed, an initial report and recommendation, which shall contain a summary of the investigation, written findings, any written materials submitted by the student or any other party, and a proposed disposition with proposed remedies (if appropriate). This transmission will be expected within 30 calendar days of the filing of the formal complaint.
- I. Within 15 calendar days of receipt of the grievance officer's or grievance panel's initial report and recommendation, the Section 504 compliance officer will issue a final report adopting, rejecting, or adopting with modifications the grievance officer's or grievance panel's initial report and recommendation. No party may submit additional materials to the Section 504 compliance officer unless specifically requested by the Section 504 compliance officer. In issuing the final report, the Section 504 compliance officer shall take reasonable steps to ensure consistency with final reports previously issued under this policy.
- J. The final report issued by the Section 504 compliance officer shall be distributed in writing to the student, the party against whom the complaint is directed, and shall be put into effect promptly. The final report may also be provided, where appropriate, to any University officer whose authority will be needed to carry out the remedies or to determine whether any personnel action is appropriate.
- K. The initial report and recommendation and the final report shall be kept confidential by the student and the party against whom the complaint is directed, and may not be disclosed without the written consent of the issuer of the report.
- L. The student or any party against whom the grievance or the proposed disposition is directed may appeal. The appeal to the provost (as set forth below) will not suspend the implementation of the final report, except in those circumstances where the provost decides that good cause exists making the suspension of implementation appropriate.

V. Remedies

Possible remedies under this grievance procedure include corrective steps, actions to reverse the effects of discrimination or to end harassment, and measures to provide a reasonable accommodation. A copy of the Section 504 compliance officer's report may, where appropriate, be sent to appropriate University officer(s) to determine whether any personnel action should be pursued.

VI. Appeal

Within 10 calendar days of the issuance of the final report, the student or the party

against whom the complaint is directed may appeal the final report to the provost.

An appeal is taken by filing a written request for review with the Office of the Provost, which is located in the Ronald Building at 901 E. Alosta Avenue, Azusa, California 91702, and can be reached by telephone (626-812-3087) or by e-mail (provost@apu.edu).

The written request for review must specify the particular basis for the appeal, and must be made on grounds other than general dissatisfaction with the initial decision. The appeal may raise only issues raised in the complaint or alleged errors in the conduct of the grievance procedure itself, and not new issues.

The provost usually will be limited to the following considerations:

- A. Were the proper facts and criteria brought to bear on the decision? Were improper or extraneous facts or criteria brought to bear that substantially affected the decision to the detriment of the appellant?
- B. Were there any procedural irregularities that substantially affected the outcome of the matter to the detriment of the appellant?
- C. Given the proper facts, criteria, and procedures, was the decision a reasonable one?

A copy of the provost's written decision will be expected within 30 calendar days of the filing of the appeal and shall be sent to the student, the party against whom the complaint is directed, the Section 504 compliance officer who issued the final report, and, if appropriate, to the university officer(s) whose authority will be needed to carry out the disposition. The decision of the provost on the appeal is final.

The provost's written decision shall be kept confidential by the student and the party against whom the complaint is directed, and may not be disclosed without the written consent of the Provost.

VII. Deadlines

Whenever the application of any of the time deadlines or procedures set forth in this grievance procedure creates a problem due to the nature of the complaint, the urgency of the matter, or the proximity of the upcoming event, the Section 504 compliance officer will, at the request of the student, determine whether an appropriate expedited procedure can be fashioned.

Any deadline imposed in this policy may be extended by the Section 504 compliance officer for good cause, which may include breaks in the traditional academic calendar (summers and the year-end holidays).