Official Policies and Procedures of the Utah State Office of Education and the Utah State Office of Rehabilitation	
Effective/Revision Date: 5/9/2011	**Page:** 1 of 2
Policy Title: ADA and Complaint Procedure	
Purpose: This policy has been written to help employees and supervisors recognize disabilities that may need an accommodation and to provide a complaint procedure.	
Authority Reference: ADA, 42 U.S.C.12201	

POLICY

It is the policy of this agency to provide accommodation to employees who qualify under the Americans with Disabilities Act (ADA). All ADA requests and processes are received by the agency ADA Coordinator (USOR- Stacey Cummings) (USOE-Brian Gough).

Definitions

ADA Coordinator: The person responsible for processing ADA accommodations and for investigating and providing prompt and equitable resolution of complaints filed by qualified individuals with disabilities.

Disability: A physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of impairment, or being regarded as having such an impairment without regard to the beneficial effect of mitigating actions. The definition of "disability" specifically excludes transsexuals, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, other sexual behavior disorders, compulsive gambling, kleptomania, pyromania, and psychoactive substance use disorders resulting from current illegal use of drugs.

Major Life Activities: These are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

PROCEDURES

All ADA requests are received by the agency ADA Coordinator. The Coordinator will provide an interactive process with the employee and ensure compliance with federal ADA laws.

Complaints are to be filed in writing with the ADA Coordinator. Complaints shall include:

1. Individual's name and address
2. Nature and extent of the individual's disability
3. A description of the alleged discriminatory action, and the nature, and date of the alleged

violation.

4. A description of the action and accommodation desired.
5. The signature of the individual or his/her legal representative.

The ADA Coordinator shall be a trained investigator and be able to gather pertinent facts and documentation. The Coordinator shall involve Risk Management and DHRM in the process and progress of cases of substance.

Within 15 working days after receiving the complaint, the ADA Coordinator shall issue a decision in writing outlining what action, if any, shall be taken on the complaint. If the ADA Coordinator is unable to reach a decision within the 15 working-day period, he/she shall notify the complainant in writing explaining why the decision is being delayed and what additional time is needed to reach a decision.

The individual may appeal the decision of the ADA Coordinator by filing an appeal within five working days with the Superintendent or Executive Director of USOR. An appeal authorizes the Superintendent, Executive Director of USOR, or designee to review all information including information classified as private or controlled. The appeal shall describe in sufficient detail why the ADA Coordinator's decision is in error, incomplete or ambiguous, not supported by the evidence, or otherwise improper.

The Superintendent or Executive Director or designee shall review the factual findings of the investigation and the individual's statement regarding the inappropriateness of the ADA Coordinator's decision and arrive at any independent conclusion and recommendation. Additional investigation may be conducted if necessary to clarify questions of fact before arriving at an independent conclusion. Before making any decision to direct an expenditure of funds, the Superintendent or Executive Director shall consult with HR and Risk Management. The decision shall be issued in writing within ten working days after receiving the appeal. If the decision is not reached in ten days, the individual shall be notified in writing to why the decision is being delayed and the additional time needed to reach a decision.

The record of each complaint and appeal and associated records, shall be classified as "protected" as defined under Section 63-2-304, UCA , until the ADA Coordinator, Superintendent, or Executive Director for USOR, issues the decision, at which time any portions of the record that may pertain to the individual's medical condition shall remain classified as "private" as defined under Section 63-2- 302, UCA or "controlled" as defined in Section 63-2-303, UCA. All other information gathered as part of the complaint record shall be classified as "private" information. Only the written decision of the ADA Coordinator, Superintendent, or Executive Director for USOR, shall be classified as "public" information.

This rule does not prohibit or limit the use of remedies available to the individuals under the State Anti-Discrimination Complaint Procedures, Section 67-19-32, UCA; the Federal ADA Complaint Procedures (28 CFR Subpart F, beginning with Part 35.170) 1992 edition; or any other Utah state or federal law that provides equal or greater protection for the rights of individuals with disabilities.