<u>INTERNAL</u>
HUMAN RESOURCE MANAGEMENT POLICIES AND PROCEDURES

Revised March 2007

ARTICLE I - GENERAL PROVISIONS AND ADMINISTRATION

Section 1-1 Utah State Board of Education Authority

UCA 53A-1-302(2)
"The Board may appoint other employees as necessary for the proper administration and supervision of the public school system. The compensation and duties of these other employees shall be established by the Board and paid from money appropriated for that purpose."

Authority to make policy, establish rules and regulations, set standards, and evaluate the problems and progress of the public school system is conferred upon the State Board of Education (USBE) by the State Constitution and by statutory provisions. It is well settled that the Board may make and enforce reasonable policies, rules and regulations, and standards, particularly as these relate to employing state staff and to defining their responsibilities in the Utah State Office of Education (USOE) and the Utah State Office of Rehabilitation (USOR). The Board has the express power conferred or implied by law to enable it to carry out its functions. While the Board does not have authority to make policy in contravention of higher law, most policies, rules and regulations, and standards adopted by the Board have the effect of law.

Section 1-2 Utah State Board of Education Human Resource Management Policies and Procedures

USOE Internal Human Resource Management Policies and Procedures are both supplemental and additional to the State of Utah Department of Human Resource Management (DHRM) Rules. These policies and procedures are intended to supplement them and facilitate the internal operations of USOE and USOR.

USOE Internal Human Resource Management Policies and Procedures may be modified at any time the Administration deems appropriate. Utah State Board of Education employees are encouraged to make suggestions or recommendations for any changes or modifications to their appropriate administrator. Policies and procedures will be reviewed annually for appropriate modification. Employees are encouraged to go to the Human Resource Director or Human Resource Section staff to discuss any human resource matter or concern.

Section 1-3 Fair Employment Practices Policy

USOE is an equal opportunity employer. Discrimination on the basis of sex, disability, race, color, national origin, religion, age, or any other condition protected by various state and federal laws in regards to program accessibility or any aspect of employment will not be tolerated. USOE provides reasonable accommodations to the known disabilities of otherwise qualified applicants and employees. No individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the USOE.

Equal opportunity employment and educational opportunity are priorities of the USBE Furthermore, it is the policy of the Board that all programs, institutions, schools, and school districts that come under the direction or general control and supervision of the Board shall adopt similar policies to comply with state and federal laws and equal opportunity employment practices.

Section 1-4 Bulletin Board Posting Policy

All State property owned or leased are regulated by Administrative Rule R23-19-10, which covers "solicitation" activity i.e., advertisement, promotions, sale or transfer of products, or services for commercial gain. It prohibits distribution or posting of handbills, leaflets, circulars, advertising or other printed material.

The following materials are permissible on the designated bulletin board:

A. State sponsored activities.

B. Charitable campaign, blood drives, United Way, food bank, Sub for Santa.

C. Announcements required by law.

D. Employee's sale of small craft items during break and lunch in employee lounge area.

E. Employee sale of personal items, i.e., cars, house, wedding announcements.

Personal businesses such as Amway, Tupperware or other commercial items are prohibited.

ARTICLE II - FILLING VACANT POSITIONS

Section 2-1 Purpose

The purpose of this section is to establish the procedures for the recruitment and selection of personnel employed by the USOE. Sections 2-2 through 2-13 apply to those positions covered by the Utah Career Service System. Sections 2-14 through 2-16 discuss procedures for filling schedule A positions. Both are designed to render the best-qualified person who can most effectively fill a vacancy.

Section 2-2 Policy Statement

In accordance with the Department of Human Resource Management Official Rules and Regulations, and in the spirit of fair employment practices, the procedure for filling USOE career service positions shall be as follows:

A. A determination will first be made by the USOE administration as to whether the vacant position is to be filled or abolished.

B. If the determination is to fill the position, it is necessary to complete the Position Authorization Request (P-2) with a Utah Job Match (UJM) job analysis form (section 2-3) to obtain permission to fill the position from the State Superintendent or the Executive Director of the State Office of Rehabilitation. Approved P-2s must be forwarded to the USOE Human Resource Section after being reviewed by accounting personnel and administrative personnel in order for recruitment to begin. (Section 2-12 for total documentation required.)

C. Agency administration may decide to promote a current employee temporarily to fill a vacant career service position. Department of Human Resource Management Rules must be followed if a temporary promotion is implemented. Authorized vacant positions may also be filled by reassigning of employees where agency administration determines that it would be in the best interest of the agency or where business necessity requires the transfer of employees from one position to another. Department of Human Resource Management Rules will also be followed in these circumstances.

Section 2-3 Job Analysis

A thorough job analysis must be completed for all job openings by the subject matter expert. The essential and marginal job functions as called for by the Americans with Disabilities Act and the required knowledge, skills, and abilities will be determined for the position to be filled. The minimum education, experience, knowledge, and skills taken from the Position Description that are necessary to meet the job requirements and any special qualifications and recruiting preferences will also be stated. Documentation will be maintained by the Human Resource Section showing that any preferences stated are linked to essential job functions. Any physical requirements noted in the analysis must be related to performance of the essential job functions. Special or unusual requirements (e.g., ability to speak and read a second language) will indicate the level of competency required. The need for such a requirement will be evidenced by the essential job functions.

Section 2-4 Internal Recruitment within USOE/USOR Only

A. The job announcement will be developed from the job analysis and will contain a job summary; a statement of the salary range and starting range for the job or salary at which an applicant may be hired; and the education, experience, knowledge, and skills required for appointment at a specific pay level as well as any preference statements. The announcement will also include whether the position is permanent, temporary, and full- or part-time and will indicate what certificates, licenses, transcripts, reference letters, or other documents are to be submitted with the resume. The announcement will also contain information about the office address, telephone number, and TDD number where information on the vacancy, including reasonable accommodation in the application process, may be obtained.

B. The job announcement will state the closing date. Employees wishing to apply for internal jobs must apply on line at www.statejobs.utah.gov.

C. All jobs open for promotion, transfer, or career mobility shall be posted for a minimum of five working days. Posting shall not be required if the appointment involves movement of an employee under filling a higher class or if it involves an internal agency transfer or career mobility of an employee from one position to another having the same or lower salary range. All announcements and other circulars having to do with employment practices will indicate that the Utah State Board of Education is an equal opportunity/ADA employer.

Section 2-5 Public Recruitment and Recruitment Across State Agencies

A. All applicants must apply on-line at www.statejobs.utah.gov. When the Position Authorization Request (P-2) and UJM (Job Analysis) forms are received in the Human

Resource Section other additional recruitment methods may be used, i.e. ads may be placed in newspapers, professional journals, or in any other appropriate media or publication.

B. Announcements and ads may indicate the appropriate human resource staff to contact regarding interest in the particular position. Hiring lists of qualified and available applicants shall be developed based on job-related criteria. Required search criteria must be related to the performance of essential job functions identified in the job analysis.

Section 2-6 Applicant Screening

In considering resumes, evaluations of the applicants' education, experience, knowledge, skill requirements, and any other stated qualifications for the job will be performed as part of the screening process based on merit without regard to race, color, religion, national origin, sex, age, or disability. The Human Resource Section staff and subject matter experts as required will conduct initial screening of resumes. For internal recruitments within the USOE/USOR, verification of transcripts and licenses or certificates will be required. For public recruitments and recruitments across state agencies, transcripts and licenses or certificates may be required prior to interviewing in order to verify that applicants meet the minimum qualifications as required on the job analysis questionnaire.

Section 2-7 Screening and Interview Committees

A. For professional-level positions, a screening committee consisting of at least one subject matter expert plus a Human Resource Section representative will be convened to review resumes for authorized vacant career service positions. If three or fewer resumes are received for a particular job, a screening committee will not be required, but one may be convened at the request of the hiring official.

B. The committee will be established for the specific purpose of screening the best-qualified applicants for each position vacancy. The procedure will consist of an evaluation of experience and training, including transcripts or other information submitted by the applicant, and an investigation of qualifications. HR or the committee may contact the candidate for clarification of qualifications.

C. The Interview Committee members may be selected from internal staff; other governmental agencies and institutions; women's, disability, and minority groups; professional associations; or the community at large. Diversity and gender balance should be considered when the committee is selected. The committee will be established for the specific purpose of selecting the best-qualified candidate for the position.

D. It shall be the responsibility of the hiring official to assemble the members of the interview committee for orientation. Committee members will be given a briefing kit containing a copy of "Instructions For Committee Members" and "EEO/ADA Interviewing Guide," position announcement, job description, the resume and other background material for each candidate. To rate each candidate there will also be a rating sheet of pre-selected questions and hoped-for answers based on essential job functions for each applicant.

E. Before interviewing applicants, all members shall meet and have access to the resumes and any other suitable material or information supplied by the applicants. Such documents will, however, remain the property of and be returned to the State Board of Education, Human Resource Section.

F. Interviews with applicants will be scheduled at least three days in advance. Interview committee members must be present during the interviewing of all applicants. The interview committee must have at least three members including the HR representative. Typically, committees consist of five total members. (Be sensitive not to overwhelm the candidate with too large of a committee.)

G. The role of the interview committee is advisory. The committee will review resumes and interview applicants using the pre-selected list of questions. Based on composite ratings of all committee members, a recommendation will be made to the appropriate administrator on all acceptable candidates. The top three applicants will be listed in random order or rank order as determined by the committee.

H. These names, as well as the ranking of any candidates and any other information discussed during the interview process, must be kept in strict confidence by the committee, even after it has been dissolved.

Section 2-8 Selection

A. Standards and criteria used in screening applicants and selecting them for employment will be documented, reasonably explicit, and clearly related to the knowledge, skills, abilities, and essential job functions of the position for which resumes are requested.

B. The appropriate administrator will take the list of the top-ranked or unranked candidates from the interview committee and will rank them according to his/her preference. Second hiring interviews may be conducted at the discretion of the appropriate administrator. Candidate names (along with supporting documentation, resumes, recommended employment date, salary range, and salary) will be forwarded to the appropriate administrator. The final selection of the applicant will be made by the appropriate Superintendent, Executive Director, the State Board, or a designated representative.

C. Should the administration totally reject the recommendations of the interview committee, each committee member will be formally notified of the reasons for rejecting the recommendations. Reasons for rejecting the recommendations of the screening committee will be limited to:

1. Improper procedures on the part of the screening committee in interviewing, questioning, or selecting applicants for recommendation.

2. Improper review or prescreening of applications that had the effect of preventing the interview committee from considering applicants with education, experience, and skills qualifications comparable to those referred to the committee for interviews.

3. A change in circumstances making it impossible or unwise at the time to hire and pay a person to fill the position for which the applicants had applied.

4. Other unusual circumstances which cause the Superintendent of Public Instruction or Office of Rehabilitation Executive Director, in the exercise of his or her best judgment, to believe that the good of the Department requires such rejection.

D. When the recommendations of a interview committee have been rejected, the State Superintendent of Public Instruction or Office of Rehabilitation Executive Director will determine whether and under what circumstances the position will be re-advertised. The Human Resource Section will make appropriate notification to external applicants.

E. The Human Resource Section will notify all interviewed, external applicants by letter or e-mail when a position has been filled.

F. To complete the hiring process, the hiring agency must initiate the C-12 form to HR before applicant arrives. All C-12s must have the signatures of the State Superintendent/Executive Director of USOR or designee, Accounting Officer, and Human Resource in order to process payroll changes.

Section 2-9 Procedures for All Hiring Interviews

The following procedure is intended to be a guide for proper interviewing for all hiring interviews, including screening committees, second hiring interviews, and support staff interviews.

A. Notify the applicants in advance of the date, time, and place of the hiring interview. Applicants should receive at least three days' prior notice. Exceptions may be granted if all applicants are contacted and agree to an earlier interview time.

B. Develop a standard set of questions to be asked, including hoped-for responses that give standardization and structure to the interview. Questions will be limited to essential job functions as determined by the pre-recruitment job analysis. The Human Resource Section staff must review questions and hoped-for responses before interviewing. (Marginal job function may be disclosed to applicants only as an information item and only after the final interview questions are concluded and rated.) (Applicants will not be asked or rated on their ability to perform marginal job functions.) All questions must be specifically related to the knowledge, skills, and abilities required to perform the essential job functions or related to a bona fide occupational qualification (BFOQ). The EEO/ADA interview-questioning guide must be followed.

C. When requested, reasonable accommodation must be made for the known disabilities of otherwise qualified applicants. Hiring officials aware of such needs should contact the Human Resource Section for assistance.

D. When HR is not directly involved in the interview, interview results, including selection criteria and reference checking must be recorded by the hiring official and forwarded to the Human Resource Section. All applicants are to be notified of the interview results. HR will notify interviewed candidates for external recruitments by letter or e-mail. Sections will notify candidates for internal recruitments.

E. All information obtained about individuals in this process must be kept strictly confidential. Applicants may be told how many people applied, how many were interviewed, and the name of the person selected. It is not recommended to give specific reasons for not being selected. State only that the person selected was judged to be the best qualified applicant.

Section 2-10 Reference Checking and Information Release

A. Reference checking must be done by the hiring official on the top ranked candidate being considered, after the first interview. When references are unsatisfactory, the next ranked candidate's references will be checked. Reference checks from former/past supervisors or others with knowledge of past employment must have been completed on all new hires prior to making a job offer. Results must be documented and forwarded to the Human Resource Section. This includes results of phone calls as well as written responses from past employers. If a previous employer refuses to provide information, the refusal must be documented. It is recommended that references, job performance verified by past supervisors, criminal convictions, gaps in employment, and declining salary history be checked.

Verification of a valid driver's license, moving violations, and accidents must be done if driving a car is an essential function of the job. Verification of a valid driver's license is required if the employee will be operating the agency's or his/her own vehicle on agency business. BCI checks must be done on all USOR applicants. Profile testing will be done on USOR counselor positions and DDS examiners.

Questions from the Pre-Employment Reference Checking Guide must be used when checking references.

B. When reference checks are requested of USOE/USOR staff regarding a current or former employee, DHRM Rule 477-2-7 must be followed. Only the 20 items that are public information can be released with a written request. Additional information may only be released with a signed reference and liability release form.

Section 2-11 Commitment to Fair Employment Practices

A. The Human Resource Section will ensure that any staff members involved in the reviewing, prescreening, screening, interviewing, and/or selection process shall be knowledgeable of Fair Employment Practices and committed to achieving them. Any staff member involved in the reviewing, prescreening, screening, interviewing, and/or selection process that, in his/her role or decision, exercises any bias, prejudice, or discrimination because of race, color, religion, national origin, sex, age, or disability may be subject to disciplinary action.

B. Care will be exercised to ensure that no element of nepotism or conflict of interest enters into any step of the reviewing, prescreening, screening, interviewing, or selection process.

Section 2-12 Establishing a New Position

A. The following must be submitted to the Human Resource Section:

1. A completed P-2 form.

2. A UJM Position Analysis Form for the new position.

3. A written justification for the new position.

4. An organizational chart.

B. Human Resource Section staff will process the forms, establish the position through State DHRM, and notify the hiring official of approval. Recruitment will then begin as specified on the P-2.

Section 2-13 Appointment

A. Offers of employment cannot be made without the approval of the Superintendent, the Executive Director of Rehabilitation, and coordinated through the Human Resource section. **HR requires an offer of employment and a written response before the candidate may begin employment.** All appointments shall be placed on a salary step in the DHRM-approved salary range for the job class. Typically, offers of employment will be made at the minimum of the salary range to avoid pay inequities. Hiring officials may request approval from the Human Resource Section to make offers beyond the first step through midpoint of the approved salary range. Only the Superintendent of Public Instruction and the Executive Director of Rehabilitation may approve offers above the minimum of the salary range for the job class. **No salary offers may be made without the approval of the Human Resource Section.**

B. **Procedure.** The hiring official contacts the Human Resource Director with the appointee's name and recommended pay rate. Generally, the new hire will start on the first step of the range to avoid creating inequities. If the recommended pay rate is above the first step of the range, it must be accompanied by written justification for the advanced rate. Although previous direct education and experience may be considered, the justification shall ensure that the requested pay rate will not compromise pay equity and fairness. <u>Equity for pay purposes is defined as the same standard of fairness consistently applied to individuals with the same job classification and comparable duties within the same division within the State Office of Education or Rehabilitation</u>. The Human Resource Director will review the recommendation and forward it to the Superintendent or Executive Director of Rehabilitation for consideration.

Section 2-14 Part-Time and Time-Limited (AF, AJ, AL and AR) Non-merit Service Positions

Time-limited employees may be hired from any source provided that minimum education and skill requirements are met. Before recruitment, a request by the hiring official to establish a temporary position, including a position control number (PCN), must be received and processed by the Human Resource Section. However, if the hiring official feels that at some future date he/she may want to convert an AL employee to career service status, then recruitment must be done as in Section 2-5 to Section 2-11 through the competitive recruiting system. All part-time and time-limited employees are hired "at will" and must sign a contract outlining conditions of their employment and stating that they have no property rights to a career service position. The contract must be on file in the Human Resource Section. AF appointments are part-time medical/professional appointments for non-merit employees. AF

employees are not eligible to receive benefits. AR positions make statewide decisions and receive benefits. AL appointments are for time-limited projects of a maximum of two years or the duration of the projects with time-limited funding. Only those AL employees receiving benefits will be eligible for merit step increases. AJ appointments are for noncareer employees compensated for their services on a temporary basis who are hired for a period of less than nine consecutive months (1560 hrs.) or who are employed less than one-half time. AJ employees are not eligible to receive benefits.

Section 2-15 Temporary Payroll Positions

Employees for temporary payroll positions may be hired from any source. Form P-2 is submitted to the Utah State Board of Education Human Resource Section. The signature of the Superintendent/Executive Director of the USOR is not required. The hiring official may hire from any source, or Human Resource Section staff may request direct referrals of applicants from Workforce Services or a temporary help agency. Half time or more employment on the temporary payroll is limited to 1560 hours per calendar year, after which the employee must be terminated from employment.

Section 2-16 Exempt-AD Positions

A. The purpose of this section is to establish procedures for the recruitment and selection of top administrative and other exempt-Schedule AD positions employed by the Utah State Board of Education.

1. The Chief Executive Officer of the Utah State Board of Education will be responsible for making the final selection of applicants for all exempt-AD positions. He/she may use any process deemed appropriate to select employees for exempt positions.

2. Employees who are appointed to positions that are exempt from the Career Service System serve "at will" and at the pleasure of the Chief Executive Officer of the Board, do not acquire career service status, and may be terminated at any time for any reason other than age, race, sex, religion, national origin, or disability, except where these are bona fide occupational qualifications. “At will” contracts must be signed and placed in the employee personnel file.

B. The following positions are exempt from the Career Service System:

State Superintendent of Public Instruction (AS)
Deputy Superintendent of Public Instruction (AD)
Associate Superintendent of Public Instruction (AD)
Executive Director, Utah State Office of Rehabilitation (AS)
Rehabilitation Division Director (AD)
Rehabilitation Program Administration (AD)

Educational Director, Curriculum and Instruction (AR)
Educational Director, Career and Technical Education (AD)
Educational Director, Charter Schools (AR)
Educational Director, Special Education (AR)
Educational Director, School Finance and Statistics (AD)
Educational Director, Government and Legislative Relations (AD)
Educational Director, Title I Programs (AR)

Educational Director, Assessment and Accountability (AR)
Educational Director, Educator Quality Services (AR)
Education Coordinator for Electronic High School (AD)
Performance Auditor (AK)
Director, Public Relations (AD)
Administrative Assistant II, Exempt (AK)
Administrative Assistant, USOE (AD)
Administrative Assistant, USOR (AD)
Internal Accounting Director, Education (AD)
Human Resource Director (AS)
Information Technology Director (AD)
Director, Governor's Committee for Employment of People With Disabilities (AD)

Section 2-17 New Employee Orientation

All new employees must attend a new employee orientation within five working days of hire date, or as soon as possible following their hire date.

Section 2-18 Security Identification Cards

Employee security identification cards shall be given to appropriate staff as determined by the Utah State Board of Education Administration. The Human Resource Section shall coordinate the distribution and control of all agency security identification cards.

Section 2-19 Exit Interview

All terminating employees shall be scheduled for an exit interview prior to the employee's last working day. If the employee leaves before this is accomplished, all necessary forms shall be mailed to him/her via certified mail.

ARTICLE III - CLASSIFICATION AND SCHEDULE DETERMINATION

Section 3-1 Positions Requiring Licensing

A. Utah State Office of Education Administration will determine which positions require licensing and the type of license or endorsement required, subject to Board approval. This information will be part of the official position description only when required for that specific job title.

B. Licensed employees of the State Board of Education are exempt from the Department of Human Resource Management Position Classification Pay Plans as reflected in UCA 67-19-12, (2)(d). However, DHRM rules and USOE compensation policies will be followed for licensed employees, except in the following cases:

1. **Pay Plans.** Licensed employees will be paid on the licensed pay plan approved by the State Board of Education. Licensed pay plans will provide an adjustment for

employees obtaining an educational doctorate degree. Adjustment for a doctorate will be in addition to any other adjustments for which the employee is eligible.

2. **Salary Surveys.** Salary surveys for licensed employees will be conducted under the auspices of the Utah State Board of Education HR Director.

3. **Promotions.** Promotions for licensed employees will be to the same step on the new range up to a maximum of four steps, or promotion to the minimum step of the new range, whichever is greater. Promotions from longevity will be consistent with state policy.

Section 3-2 Classification or Reclassification

A. Job classification will be based on the duties and responsibilities required for the specific position. Classification reviews may be conducted by the Human Resource Section as part of a scheduled study or at the request of the section or division supervisor if there are significant changes in the job duties or responsibilities. Human Resources shall determine the effective date of the classification. The effective date shall not be retroactive but shall correspond to the beginning of the closest payroll period following the review of the position.

B. All requests for a classification review shall include a letter of justification from the division director indicating the significant changes that have occurred in the duties of the position and why the current job description is not a good match for the assigned duties and responsibilities, as well as a Utah Job Match Position Analysis form (UJM) and an updated organization chart.

C. The attainment of a master's or doctorate degree will not in and of itself justify a higher salary range.

D. Longevity, time in grade, or volume of work will not in and of itself justify a higher salary range.

E. An employee may only grieve a formal classification decision regarding the employee’s own position. A career service employee or an agency who grieves a classification decision must complete the job classification grievance form. The form must be received within 10 working days as outlined in DHRM Rule 477-3-5.

ARTICLE IV - COMPENSATION AND BENEFITS

Section 4-1 Voluntary Early Retirement Incentive Policy

A. Any **full-time** employee of the Utah State Board of Education who (1) has attained at least five consecutive years of service with the agency and (2) meets the eligibility requirements for participation in the State Retirement System may apply for voluntary early retirement benefits in accordance with the following provisions:

1. Stipends

   Employees will receive a stipend of 7.6 percent of their annual salary per year for five consecutive years or until the employee becomes eligible to receive unreduced social security benefits, whichever occurs first. As an additional supplement, each employee will receive a lump sum cash out of sick leave computed as follows: 25 percent of accumulated unused sick leave, plus an additional 5 percent of accumulated unused sick leave for each year up to five years, or until the employee becomes eligible to receive unreduced social security benefits, whichever occurs first.

Eligible sick leave days and stipends will be paid on the basis of the employee's rate of pay on the last day worked.

Sick leave cash out will be paid with the employee's last paycheck.

Part-time employees may be approved for prorated stipends.

2. Post-Retirement Health and Life Insurance

   Employees who retire early under the incentive program will continue to be enrolled in the Employee Dental Program and the State's Group Medical and Life Insurance programs until the employee becomes eligible for unreduced social security benefits or for the five consecutive years following retirement, whichever occurs first. The portion of premiums required to be paid by the retiree at the time of retirement will continue to be the responsibility of the retiree and are subject to changes directed by the Legislature. The life insurance benefit is the basic amount provided by the state and does not include any supplemental insurance carried by the employee. Medical and dental benefits will be paid according to the policy in effect at the time of retirement.

After the agency has maintained such insurance coverage for five years, the retired employee may elect to continue coverage until eligible for Medicare benefits by converting to the individual plan offered and paying the required premiums.

B. The following employees are not eligible for participation in the early retirement program.

1. Any employee who has received a written notice of suspension or termination.

2. Any employee who has previously retired under the provisions of the Utah Retirement System (URS).

C. In order to be eligible for early retirement, an employee must:

1. Have a minimum of five consecutive years of service with the State Office of Education or State Office of Rehabilitation (full-time equivalent).

2. Obtain from the Human Resource Section, complete, and sign the official "Application for Early Retirement" form (P-5). (It is recommended that at the time the employee obtains Form P-5, he/she request that the Human Resource Section prepare a tentative payout computation.)

3. The Human Resource Director shall complete the "Human Resource Section Use Only" section on the Form P-5, sign the form, and submit it to the Deputy Superintendent or Office of Rehabilitation Executive Director for final approval and authorization of payment.

4. No verbal communications or letters of intent will be accepted as application for participation in this early retirement program. Without completion of the Form P-5 (Application for Early Retirement) and each of the above steps, no employee shall qualify for or receive any of the benefits provided through this program.

D. Employees may arrange payment of their stipend in either July or January.

E. Benefits of this early retirement incentive program provided by the Utah State Board of Education are independent of the Utah State Retirement System.

Benefits of this early retirement incentive program are not intended to be combined or coordinated with the early retirement provisions outlined in Utah Code 67-19-14. For purposes of determining the early retirement stipend, the number of years before the retiree becomes eligible to receive unreduced social security benefits as of the official last day of work shall be used. Annual leave days for which an employee receives pay following the last day worked shall not be considered in determining retirement benefits.

F. Should the retired employee die prior to receiving all set entitled stipends, the remaining unpaid stipends shall be paid to surviving heirs as established by law.

Section 4-2 Honoring Retirees

A. Employees who retire from the State Board of Education may be honored by being presented with a certificate of appreciation by the State Board of Education or its designee.

B. In addition, retirees may receive a gift valued at a maximum amount of $200.

Section 4-3 Employee Service Awards

Service under this policy is for Utah State Board of Education employees, and only continuous service with the Utah State Board of Education can be considered in calculating years of service. If a terminated employee returns within 12 months, leave is reinstated and service shall be considered uninterrupted.

10 years of service	$100
15 years of service	$150
20 years of service	$200
25 years of service	$250
30 years of service	$300

Section 4-4 Incentive/Bonus Award Policy

A. Purpose

In cooperation with the Department of Human Resource Management Rules and Regulations, R477-6-5 Bonus/Incentive Awards, the Utah State Board of Education desires to recognize both individual and team accomplishments through incentive awards.

The aim of the Utah State Board of Education/Rehabilitation is to recognize and reward employees for exceptional or high performance in such areas as office efficiency, special projects, team projects, cost savings, dollar savings, productivity improvement, achievements, leadership, initiatives beyond standard expectations, and other worthy acts as determined by the administration.

B. Standards

1. All nominations or awards are subject to available funding.

2. Individual as well as team or group efforts should be recognized.

3. One of the above-mentioned areas or categories must be used to evaluate eligibility.

4. Awards may consist of certificates, letters of commendation, administrative leave, etc. Awards may not include cash equivalents such as gift certificates or tickets for admissions. Non-cash awards shall not exceed a value of $50 per occurrence and $200 per fiscal year.

5. Any Board of Education employee may recommend in writing any other employee or group of employees for an award. The recommendation must include the reasons for the award, the type of award, and specific details of the award, and be submitted to the employee's supervisor for submission to the appropriate administrative officer. The appropriate administrative staff, as defined by the Associate Superintendent or USOR Division Director, shall then evaluate the recommendations. The Associate Superintendent/Division Director shall then present the recommendation to the Superintendent's Executive Committee or the Office of Rehabilitation Executive Director for approval. If a monetary award is to be given, the C-12 form must be processed for payment.

6. Administrative leave of up to 8 hours will be approved by the Educational Director the Office of Education, and will be approved by the Executive Director for Office of Rehabilitation. Any leave given beyond 8 hours will have written approval by the Associate Superintendent of USOE, and by the Executive Director for USOR.

7. All awards shall be timely.

8. The amount of the award shall be determined by the Superintendent’s Executive Committee or the Office of Rehabilitation Executive Director after considering the recommendation of appropriate administrative staff, but it shall not exceed $4,000. Individual incentive awards shall not exceed $8,000 for each fiscal year.

9. A copy of the documentation and approved award shall be maintained in the employee's personnel file.

10. Fair employment principles shall be adhered to in the awarding of all bonuses and other awards.

11. No more than one award shall be given to any one employee by the Utah State Board of Education for the same act or accomplishment, except that the State Superintendent of Public Instruction or Office of Rehabilitation Executive Director may recommend, when appropriate, further awards and may also recommend to the Department of Human Resource Management further awards by the Governor.

Section 4-5 Performance Incentives

The Superintendent of Public Instruction and the Executive Director of the Utah State Office of Rehabilitation, at their discretion, may approve performance incentives through a designed plan to enhance or improve agency effectiveness and productivity. All requests for a performance incentives plan shall be in writing and include information on the target job or job class, expected outcomes, and budget impact. Plan may change from year to year and continuation will be based on available funds each fiscal year.

Section 4-6 Special Salary Adjustments for Certificated Rehabilitation Employees

A. ***Background.*** *The Rehabilitation Act as amended (PL 102-560 1992) requires each state to set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel within the state agency are appropriately and adequately trained, including:*

1. The establishment and maintenance of standards that is consistent with any national or state-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation.

2. To the extent that such standards are not based on the highest requirements in the state applicable to a specific profession or discipline, the steps the state is taking require the retraining or hiring of personnel within the designated state unit that meet appropriate professional requirements in the state [Ref PL 102-569, Sec 101(a)(7)(B)].

B. ***Intent.*** *The State Office of Rehabilitation desires all rehabilitation counselors, vocational evaluators, and supervisors to become Certified Rehabilitation Counselors (CRC) or Certified Vocational Evaluators (CVE). Preference will be given in hiring applicants who either hold or will be able to obtain certification within two years of employment. Current employees will be encouraged to obtain certification, will receive educational assistance, and will be given an incentive to obtain certification.*

C. ***Policy Application.*** *This policy applies to rehabilitation counselors, vocational evaluators, and supervisors in the Division of Rehabilitation Services, Division of Services for the Visually Handicapped, and USOR Administration.*

D. ***Appointment.*** *New employees, who hold the CRC as a counselor, or CVE as an evaluator, will receive two steps on the appropriate salary range.*

E. ***Salary Step Adjustment.*** *Current employees who obtain the CRC or CVE will receive a one-time, two-step salary adjustment within the salary range, up to the maximum of the salary range.*

F. ***Top of the Salary Range or in Longevity****. If the employee who obtains the CRC or CVE is at the top step of the salary range or in longevity, the employee shall receive a one-time, lump-sum payment equal to 5.5 percent of the employee's annual salary.*

G. ***Loss of Certification.*** *Any salary adjustment received pursuant to paragraphs D, E, or F will be rescinded if at any time the employee no longer holds the certification.*

Section 4-7 Special Salary Adjustments for Foreign Language or Signing Skills

A. ***Policy Application.*** *This policy applies to new employees hired into a position specifically requiring foreign language or signing skills as stated in the position announcement.*

B. ***Appointment.*** *New employees hired into a position specifically requiring foreign language or signing skills that can demonstrate the required foreign language or signing skills will be given an extra step in the salary range.*

Section 4-8 Special Salary Adjustments for Interpreter for the Deaf II

A. ***Background.*** *Currently, there are three levels of certification for interpreters for the deaf. Intermediate Certification is required for entry into an Interpreter for the Deaf position.*

B. ***Intent.*** *The State Office of Rehabilitation desires all Interpreters for the Deaf employees to become Master Certified Interpreters. Preference in hiring will be given to applicants who hold Master Certification. Current employees will be encouraged to obtain Master Certification and will be given an incentive to obtain Level III Certification.*

C. ***Loss of Certification.*** *Any salary adjustment received pursuant to paragraphs D, E, or F will be rescinded if at any time the employee no longer holds the Master Certification.*

Section 4-9 Performance Management

A. **All supervisors are responsible for ensuring that each employee completes a Performance Plan during the first week of employment and send a copy to the Human Resource Section to be included in the employee's personnel file. The UJM must be updated whenever job duties change to ensure accuracy and consistency with tasks identified on the performance plan.**

B. Performance objectives, standards, and evaluation shall be articulated for each employee in the performance plan. The employee and supervisor must sign performance plans. Signing the form denotes only that the employee has read the form and not that he/she is in agreement. Failure to sign shall constitute insubordination and subject the employee to discipline.

C. **Each employee's performance shall be evaluated at least once every three months during probation, at the end of probation, and each year thereafter or as needed. The**

Performance Plan and Evaluation is a tool to maintain and improve performance and constant feedback on performance is encouraged.

D. Approved department formats shall be used for performance plans and performance evaluations.

E. Timing of performance evaluations identified in DHRM Rule R477-10-1.shall be followed except for employees of the divisions of Rehabilitation Services, Disability Determination Services, and Services for the Blind and Visually Impaired. These divisions will use October 1 as the date for ratings and October 31 as the date to update performance plans.

Section 4-10 Administrative Salary Increase

A. Employees in positions requiring a six-month probationary period who are hired at the first step of their range and who complete the probationary period with a standard performance rating may receive an Administrative Salary Increase (ASI) to the next step of their range. The rating for employees completing probation should not exceed successful performance. The Superintendent of Public Instruction or Executive Director may authorize probationary increases to those hired above the first step of their range and may, at their discretion, authorize additional steps after successful completion of the probationary period.

B. Employees in positions requiring a probationary period of greater than six months who are hired at the first step of their range may receive a one-step ASI six months (180) days from their date of hire provided they are performing satisfactory work. Employees receiving this increase shall not be recognized as completing their probationary period and will not receive career service status until they complete their entire probationary period

C. Eligible part-time probationary employees who work half-time or more per pay period and were hired at the first step of their salary range may receive an ASI of one salary step when they have completed the full-time equivalent of six months.

D. Typically, employees hired above the first step of their salary range are not eligible for a probationary increase. However, the Superintendent or the Executive Director of Rehabilitation may authorize those hired above the first step to receive an ASI provided their performance is at successful.

Procedure The requesting section completes a USOE Form C-12, Employment Change, for an ASI and forwards it with a copy of the completed performance evaluation to the Human Resource Section. A comment should be made in the remarks section of the C-12 that the ASI is for a probationary increase.

Section 4-11 Promotions

A. When promotions are approved by the administration, they shall be within the guidelines authorized by the Department of Human Resource Management. An employee promoted or reclassified to a job with a salary range exceeding the employee's current salary range maximum by one salary step shall receive a salary increase of a minimum of one salary step and a maximum of four salary steps. An employee who is promoted or reclassified to a job with a salary range exceeding the employee's current salary range maximum by two or more

salary steps shall receive a salary increase of a minimum of two salary steps and a maximum of four salary steps.

B. Probationary employees must serve a new probationary period starting with the date they are promoted or transferred to another position that is significantly different from the current position. A probationary employee transferring to a like position of equal or lower salary range will not be required to start a new probationary period. (DHRM 477.5.2(5))

Section 4-12 Other Administrative Salary Increases (ASI's)

The Superintendent and the Executive Director of Rehabilitation may approve ASI's for special conditions, problems, equity issues, or other unique situations or considerations. The requesting section shall complete a USOE Form C-12, Employment Change, and a letter of justification to the superintendent or Executive Director of Rehabilitation, as appropriate, stating the reason for the request. Care must be taken to ensure that the requested ASI does not create inequities within the same job class by individuals doing equal work in the same division.

Section 4-13 Voluntary Job Change to Lower Maximum Salary Range

An employee who voluntarily requests a job change to a position with a maximum salary range one to four steps lower than their current salary range maximum, shall receive a salary decrease of two steps. For each additional four steps lower the new salary range maximum is, the employee shall receive an additional two-step decrease. If the appropriate salary decrease is still above the maximum of the lower range requested, the employee shall be placed on the maximum step of the lower range. The employee will also be required to make his/her request in writing and to sign a waiver relinquishing all rights to grievance or appeal pertaining to this action**.**

Section 4-14 Under filling Positions

Under filling of positions shall be used only in those instances that meet the following conditions:

A. Movement from one level in a series to a higher level in the same series is based on the assignment of higher-level duties and on job experience.

B. There must be discernible and documented differences in job content and complexity between levels in career ladders that can be justified through the state's job evaluation plan.

C. No position shall be under filled for a period longer than one year per range level.

D. Immediate supervisors must inform employees of the following:

1. The purpose of the under fill.

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2. The expectation of the supervisor as to how the employee can advance within the series.

3. An employee who is not advanced must be informed of the reasons why and what he/she must do in the future to advance to the next level.

4. **Immediate supervisors are responsible for tracking employee eligibility to be advanced and for initiating action for promotion.**

Section 4-15 Sick Leave Assistance Policy

A. Purpose

The purpose of the Sick Leave Assistance Policy is to provide needed sick leave to qualifying USOE and USOR employees. The program is intended to aid employees who have had a serious accident or illness, including pregnancy; requiring extended absence from work and whose leave benefits have been or will be exhausted. This policy is not intended to underwrite abusive use of sick leave. The Sick Leave Assistance Program will be composed of annual leave, excess leave, or converted sick leave hours donated by employees.

1. Only employees eligible for leave benefits will be eligible to receive donations under the program. The maximum number of Sick Leave Assistance hours that may be used by an employee is 1,044 hours per accident or illness.

2. Any USOE or USOR employee eligible for annual leave benefits may donate to the Sick Leave Assistance Program. Employees will be limited in the amount of hours they may donate to the extent of their accrued annual leave, excess, or converted sick hours.

3. Hours donated to the Sick Leave Assistance Program may not be used until all other forms of useable leave are exhausted and, when applicable, disability benefits are not yet available.

4. Sick Leave Assistance hours may not be used at the same time as Workers' Compensation salary benefits.

5. Sick Leave Assistance is only available to employees.

6. Sick Leave Assistance is only available to employees of other departments if approved by mutual agreement of both department heads and Human Resource offices. Employees who donate to employees in other departments under this paragraph are subject to those department policies and procedures.

B. Procedures

1. An eligible employee who has had a serious accident or serious illness and whose leave benefits have been or will be exhausted submits a written request for Sick Leave Assistance hours to the Human Resource Director. The request includes the employee's name, the date leave benefits will be exhausted, the date the employee's absence began, an estimate of how many days of work will be missed, and a statement from the employee’s doctor regarding the health condition, its severity, and the prognosis. An information release signed by the employee authorizing release of the medical information should be included if the doctor's statement is not included. The employee's supervisor may submit the written request if the employee is not able to do so.

2. The Human Resource Director reviews and approves or disapproves the request. If approved, notification will include the number of hours approved.

3. Human Resource Section staff notifies department employees of the need for donated hours, giving the name of the individual and the number of hour’s needed but no medical information. There is to be no solicitation for donated leave by the affected employee or any other employee. Solicitation shall be limited to notification from the Human Resource Section.

Employees wishing to voluntarily donate annual leave must notify HR and the employee's supervisor in writing or by email. The employee must indicate the hours donated and to whom.

Return to Work and Temporary Transitional Duty Policy

Employees who are off work due to a work-related injury or illness shall be returned to work at the earliest possible date. If an employee is unable to return full time to the original duties but could return part time or to light duty tasks, an effort should be made to accommodate the employee for a transitional period.

Return to work should be coordinated with the Human Resource Section to ensure compliance with the ADA and other regulations.

Section 4-16 Family and Medical Leave

Employees are eligible for Family and Medical Leave as specified in DHRM Rule R477-7. FMLA forms are available on the HR webpage. FMLA can be used for a birth or adoption of a child, placement of a foster child, a serious health condition of the employee, or care of a spouse, dependent child, or parent with a serious medical condition. To qualify, the employee must have worked at least 1,250 hours in the previous calendar year and have been employed by the state for at least one year.

Section 4-17 Productivity Step Adjustment

Agency management may, at its discretion, reward employees who are willing to assume an additional workload created when a position is eliminated for at least one year with a salary increase of up to four salary steps. A proposal for a productivity step adjustment may be made either by employees or management. A productivity step increase plan must receive prior approval from the Human Resource Director and either the State Superintendent or the Executive Director of USOR. A plan should include the following elements:

A. An agreement must be reached by management and all affected employees.

B. A written plan must be developed identifying the position(s) to be abolished and details about how the workload will be distributed.

C. Once an employee agrees to the plan, he/she may not grieve the action.

D. The FTE position must be abolished for a minimum of one year.

E. Participating employees must assume additional, substantial duties above a normal full workload.

F. Duties from one abolished FTE may be distributed among five employees with up to a two-step increase for each employee or among ten employees with a one-step increase for each employee.

G. Employees at the top of their pay range or in longevity may be given a one-time, lump-sum bonus award equal to 2.75 percent of their base salary.

Section 4-18 Employee Assistance Program

A. **Purpose.** The most valuable resource of our agency is its employees. An Employee Assistance Program has been established to assist employees of the USOE and USOR who are experiencing personal problems that are severe enough to hamper their work performance.

B. **Referrals.** The EAP program is self-referral. Services may include assessment, counseling, guidance, referral, and follow-up. Employees are encouraged to take advantage of these services. To self-refer employees may contact Associated Behavior Consultants, Inc., 2040 east Murray Holladay Road, Suite 211, Holladay, Utah 84117. (801) 272-5083. This service is for employees only and employees are limited to six free sessions in a year.

Mandatory Referrals. As part of a corrective action or disciplinary process, a supervisor may require an employee to participate in the EAP program. The supervisor should contact HR to review the suggested action. The supervisor must then discuss and document the performance problems and the required referral to the EAP with the employee. The employee will be asked to sign an information release form in order for the supervisor and contract coordinator to monitor the employee's participation and progress. The referral to the EAP is not in and of itself a disciplinary action. Involvement with the EAP will not protect an employee from negative personnel action. The supervisor should complete Form EAP-2 and distribute as specified. Mandatory referrals must allow the employee to meet with the EAP staff on agency time.

An employee who has previously received counseling through the EAP shall not be eligible for further sessions until one year from the date of the last EAP-approved counseling session.

Strict confidentiality will be maintained regarding both nonmandatory and mandatory referrals.

ARTICLE V - EMPLOYEE TRAINING AND DEVELOPMENT

Section 5-1 Staff Development Policy

A. It is the policy of the State Board of Education to create an organizational environment that encourages empowerment and to provide or support development activities that will strengthen professional and personal competencies and build the sensitivity, effectiveness, and efficiency of staff in specific current and future job functions.

B. Human resource development shall be available to all employees without regard to sex, age, race, color, disability, national origin, or religion.

C. All managers, supervisors, and employees must participate in training on mandatory topics such as unlawful harassment, defensive driving, prevention of workplace violence, and others as designated.

Section 5-2 Educational Leave

A. Statement of Philosophy

1. Many organizations, particularly those that employ professional people, have as an integral part of their employee benefit structure some form of leave to encourage and obtain competency and skill renewal. The rationale is that if staff members are permitted and even encouraged to get away from their daily routines for an extended period of time to study, teach, write, do research, or have a related work experience in a different work setting, their enthusiasm, competency, and morale will be improved. Thus, such leave is viewed as a wise investment of institutional and organizational resources.

   This policy applies to all staff members at all step levels and job classifications that are eligible to receive benefits.

2. Employees are allowed to receive remuneration from an outside source while on educational leave and at the same time draw salary from the State Board of Education to the extent that remuneration from two sources does not exceed 100 percent of the employee's regular salary.

3. Educational leave is not viewed as an irrevocable entitlement but as an avenue to benefit the agency and the employee through employee renewal. Any employee may be refused such leave without recourse, except as provided in this policy.

B. Definition of Terms

1. **Educational Leave.** This is a plan to provide staff with an opportunity for professional development through a leave of absence, with compensation, following a designated number of consecutive years of service. Such leave does not include military leave, leave without pay, sick leave, or annual leave.

2. **Employee of the Utah State Board of Education.** A person regularly employed by the Utah State Board of Education for one-half time or more who is eligible for employee benefits under the Policy on Educational Leave.

C. Policy Statement

1. **Purpose.** Those who are granted educational leave must use that time studying for advanced degrees, taking postdoctoral study, or engaging in other programs and activities that provide mutual benefit for the leave holder and the State Board of Education. Time spent is to be used to enrich the person in knowledge, skills, and attitudes. A Form P-4, Application for Educational Leave, and a written Plan for Educational Leave must be approved before leave can be granted. The plan must outline the required activity for the additional education and the benefit of the education to the agency.

2. **Eligibility.** All who are classified by definition, as employees of the Utah State Board of Education are eligible to participate in the educational leave program. As previously noted, an employee does not have irrevocable entitlement to educational leave. Such a leave is granted for the primary benefit of the employer, who retains the right to deny requests for leave by an eligible employee, particularly if restricted by Federal Grantors.

3. **Options.** The following options are available to employees of the State Board of Education.

a. After completion of three consecutive years of service with the Utah State Board of Education, an employee shall be eligible for educational leave of six weeks at full pay. An additional two weeks of leave for each additional year of service may be accumulated for a maximum of one full year.

b. An employee of the State Board of Education may request the option of one year of educational leave, which may be granted after six or more consecutive years of service as an employee of the Utah State Board of Education. Salary payments to individuals under this option will be calculated on the basis of the salary for the year in which the leave is requested and will provide 60 percent of the annual salary. However, if an appropriate application for educational leave under this option is denied because the workload of the applicant is critical to the agency in the year for which leave is requested in the judgment of the Division Administrator, Office of Rehabilitation Executive Director, and State Superintendent, and the employee applies for and is granted educational leave in subsequent years of consecutive service, the percentage of salary paid during the leave period shall be increased 10 percent each year to a maximum of 100 percent of the employee's salary.

Time spent as an intern, as a contract staff member, or on leave without pay shall not accrue to years of service in determining eligibility for the leave program. Terminated employment with the State Board of Education shall invalidate any accumulated potential leave time.

4. **Approvals.** An active and current record of all personnel eligible for this leave program shall be kept by the Human Resource Section. Any person who is eligible for leave may apply through appropriate channels. The completed Form P-4 requires approval signatures in the following sequence: employee's supervisor, Coordinator/Division Director, USOE or USOR Human Resource Official, and Agency Administrator (Office of Education Superintendent, Deputy or Associate Superintendent, or Office of Rehabilitation Executive Director). The appropriate Division Administrator or Office of Rehabilitation Executive Director has the responsibility to grant approval or disapproval of leave requests and shall report all such action to the State Superintendent and to the Human Resource Section. Each Division Administrator shall fully understand the provisions of this policy and administer it uniformly and equitably.

5. **Appeals.** Any employee of the Utah State Board of Education denied approval of the initial request for leave by the appropriate Division Administrator or Office of Rehabilitation Executive Director may appeal such denial to the State Superintendent, whose decision shall be final.

6. Conditions of Leave

a. Leave may be approved for any period of time up to full eligibility.

b. All applicants must have a successful record of performance as shown on a performance plan evaluation form executed within one year preceding the date of the initial request for leave.

c. Workload must permit absence from regular duty.

d. Employees who are approved for educational leave may receive compensation from both the State Office of Education and an outside source. However, that compensation

cannot exceed 100 percent of their salary for the period of the leave. The following options are available:

(1) An employee may continue to receive salary from the agency and accept compensation from another source totaling not more than 100 percent of the agency salary.

(2) An employee may receive compensation from an outside source and forfeit compensation from the agency.

(3) An employee may have an outside source deposit the employee's compensation up to 100 percent of the regular salary into agency funds and receive the same amount from the agency.

e. In the event that granting a leave of absence will require greater cost than a division budget will accommodate, the employee shall make application for the leave in sufficient time to permit the additional money needed to be included in the appropriations request of the agency.

Scholarships, training stipends, or other types of reimbursement for expenses shall be construed as compensation. If they exceed 100 percent of the employee's regular salary, the excess amount shall be deposited with the agency. The Division Administrator must approve all payments from outside sources and the option selected by the employee.

At the conclusion of the leave period, each employee shall certify in writing that any outside compensation received has not exceeded 100 percent of the agency compensation for the period of the leave or that any outside compensation in excess of 100 percent of agency compensation has been deposited with the state.

f. An employee may participate in either educational leave or educational assistance described below, but may not participate in both programs at the same time.

7. Report. A brief written report of the leave and its usefulness to the agency must be submitted to the appropriate Division Administrator at the conclusion of the leave. A copy of the request for leave, the leave plan, and all supporting documents, including a report of the leave and its benefit to the employer and the certification on outside salary required in 6.f. above, shall be filed in the employee's personnel file in the USOE or USOR Human Resource Section.

8. **Return to Employment.** An employee of the State Board of Education granted educational leave must sign an agreement (Form P-4) to return to the agency for double the length of time of the leave upon completion of the leave. The leave agreement shall include a provision binding the recipient to reimburse the agency in full for all compensation paid during the leave period if the employee voluntarily terminates employment with the agency or another agency of Utah State government within 12 months of completing educational work.

9. The agency shall not allocate equipment, materials, and other resources except the time and respective compensation to employees on educational leave to assist them in accomplishing leave purposes, except when explicitly incorporated in the approved plan.

Section 5-3 Educational Assistance

Educational assistance may be granted to employees to increase their knowledge and thereby improve their efficiency and competency in the performance of their duties. The training sought should have relevance to the employee's current position or be of a nature that will enhance agency effectiveness.

A. All arrangements shall be on an approved written basis prior to registration or initiation of training. Employees must submit the following:

1. Form USOE-87 10/94: Request for Educational Assistance. This form must be completed in full, listing courses, justification, adjusted work schedule if applicable, and approval signatures in the following sequence: employee's supervisor, Coordinator/Division Director, Agency Administrator (Office of Education Superintendent, Deputy or Associate Superintendent, or Office of Rehabilitation Executive Director), and USOE/USOR Human Resource official.

2. USOE 87a 10/04: Educational Assistance Contract. This form must be completed and signed in the following sequence: employee, employee's supervisor, and Agency Administrator (Office of Education Superintendent, Deputy or Associate Superintendent, or Office of Rehabilitation Executive Director) and USOE/USOR Human Resource official.

3. If coursework is required by the division, the employee's supervisor must submit a memo stating that the coursework is required.

B. Upon notification of contract approval, the employee shall register for coursework, paying the tuition personally.

C. Following course completion, the employee shall obtain a tuition payment receipt and submit it with the final grade report, approved copy of USOE 87a , a copy of USBE-87, and a FI 48 03/2002 to the appropriate division designee for reimbursement. Registration for course work prior to an agency- approved contract will not guarantee approval.

D. The Utah State Board of Education may pay up to one-half of the cost of the tuition, subject to available finances, of an approved job-related course taken on the employee's own initiative when it is completed. Full tuition reimbursement will be paid in advance for courses taken at the direction of the department. Educational assistance shall not exceed $5,250 per employee in any one calendar year unless approved in advance by an agency administrator.

E. The employee must be diligent in the pursuit of the course agreed to in the arrangements. Failure to do so may result in the cancellation of the contract.

F. No payment will be made by the Utah State Board of Education except on documented proof of acceptable grades and completion of the course or courses. An acceptable grade is defined as a "C" or better, "passing" on a pass/fail system, or "2.0" on a four-point grading system. Documentation must include an official copy of grades and the tuition payment receipt.

G. The employee must agree in advance to remain employed by the state for at least one year after the completion of the course(s). In the event that the employee voluntarily terminates prior to one year after the completion of the course(s), he/she must repay the financial assistance that was received in the year immediately preceding termination.

H. Limitations

1. To be eligible under this policy, an employee must have completed six months of employment and have on file a current annual performance plan.

2. When it is necessary to take classes during working hours, the employee may:

   a. Take annual leave for the time missed, or

   b. Adjust working hours, yet work the regular number of working hours per week.

The Office of Rehabilitation Executive Director, Deputy Superintendent, Associate Superintendent, or Division Director must review and approve all modified schedule arrangements. Any modified schedule must accompany each educational assistance request.

3. Course(s) must be related to the employee's assigned job and duties as determined by the requesting employee's division director.

4. Agency management shall be responsible for determining the taxable/nontaxable status of educational assistance reimbursements based on current legislation.

5. Mileage reimbursement for travel to classes taken on the employee's own initiative is not allowed. Mileage reimbursement for classes taken at the agency's request or direction may be granted.

6. Reimbursement rates at private institutions will be estimated according to the comparable rate at public state education institutions, unless a specific course at a private institution is required by the agency and not available at a public institution.

7. Cost for college credit available from in-service workshops is not eligible for reimbursement from the educational assistance program.

ARTICLE VI - WORKING CONDITIONS

Section 6-1 Work Hours

A. The standard workday shall be a minimum of eight hours plus the uncompensated time taken for lunch (one-half or one hour). For example: 8 a.m. to 4:30 p.m. would include eight hours working plus a one-half-hour lunch; 8 a.m. to 5 p.m. would include eight hours plus a one-hour lunch.

B. The official business hours of the agency are from 8 a.m. to 5 p.m. A minimum one-half-hour lunch and two 15-minute breaks are authorized for each full workday. All personnel are expected to observe those hours, except that division administrators may approve different hours for their respective staff members, on an individual basis, provided services of the agency are not thereby limited. Staff members not at the office during the above hours are expected to leave information as to where they may be located with their respective division administrator, supervisor, or the lead secretary of the division or unit.

C. **Breaks.** A 15-minute compensated break may be authorized for each full four hours worked. Break time shall not be accumulated or adjusted to increase the uncompensated lunch break or shorten the workday. Breaks are not an entitlement and may be adjusted at agency discretion.

D. Employees who are non-exempt from the Fair Labor Standards Act as identified by the Department of Human Resource Management are not to work before, beyond, or outside their normal hours or are not to work overtime unless prior authorization is received. A record of all time worked is to be kept.

E. Regular workdays may be shifted by supervision within the workweek; however, employees are to be given reasonable notice of a change in their regular work schedule.

F. Employees' work schedule will be maintained by the operating unit. A copy will be forwarded to the personnel file and be made available for inspection by the Utah State Department of Human Resource Management.

Section 6-2 Flexible and Alternative Work Schedules

A. Employees, with administrative approval, may be allowed to work flexible schedules in accordance with DHRM Rule R477-8-2.

B. The supervisor must approve flexible schedules and changes in advance, and a signed copy of the approved schedule must be submitted to the Human Resource Section.

C. The standard work schedule is 8 hours per day, 5 days per week. Where practical, an alternative work schedule for an employee may be adopted at the sole discretion of the supervisor, manager, or designee, providing that the hours from 8 a.m. to 5 p.m., Monday through Friday, are adequately staffed where services are required. Alternative work schedules cannot be a detriment to the agency. Any negative impact on customers, productivity, staff, or supervision will negate the alternative work schedule. Non-exempt employees must work 40 hours every week.

D. **Holidays.** Eight hours are allowed for holidays. A maximum of 88 hours of holiday leave will be allowed each calendar year. For example, if an employee's regular day off falls on a holiday, the holiday leave will be granted on another equivalent workday in the same workweek.

E. The work schedule for the employee will be constant until his/her supervisor changes it. Work schedules are left to the discretion of management.

   a. **Overtime.** Time worked in excess of 40 hours per week for an FLSA non-exempt employee.

   b. **Holidays.** Paid leave, with the exception of sick leave, may be used to make up the difference of an eight-hour holiday and a ten-hour workday. If no leave except sick leave is available, the employee must be docked the difference in the time. Employees may work the additional time to make up the difference in the same workweek as the holiday with the approval from the employee's supervisor; however, this remains the responsibility of the employee.

Section 6-3 Telecommuting

Telecommuting is a privilege and a management option that may be made available to some employees when a mutually beneficial situation exists for the state, the agency, and the employee. Telecommuting contracts may be terminated at any time at the discretion of the agency.

A. Policies

1. Supervisors are responsible for designating those positions within their sections that are suitable for telecommuting and deciding which employees may have the option of telecommuting.

2. Every employee involved in telecommuting must complete and agree to a telecommuting contract and follow USOE procedures before beginning telecommuting. The supervisor, employee, and Human Resource Director retain copies of contracts.

3. Telecommuting participants may not have responsibility for providing care of other persons, including children, during telecommuting hours unless they take leave.

4. The employee's work schedule will not change due to participation in the telecommuting. No overtime or additional hours shall accrue without prior consent from the supervisor. The immediate supervisor must clear changes in work schedules before the changes are implemented.

5. A designated, safe workspace shall be maintained by the telecommuting participant at the alternate work site. Workers' Compensation liability will be limited to this workspace and will not apply to other areas of the home. The Utah State Office of Education retains the right to make on-site inspections of this work area to ensure that safe work conditions exist. The supervisor will prearrange such visits.

6. The employee agrees to notify the supervisor immediately of any accident or injury that occurs at the alternate work site and to complete any required forms.

7. The USOE will not be responsible for any costs associated with using the telecommuter's home as an alternate work site. This includes the costs of long-distance calls that normally would have been local calls to or from the office.

8. Additional costs incurred by the USOE to enable employees to telecommute should not exceed $50 per month. These costs include such items as other USOE staff or outside personnel contacting the telecommuter, the cost of increased licenses for software, the cost of using USOE calling cards for long-distance calls that would formerly have been part of the USOE direct dial phone bill, etc.

9. The telecommuting participant agrees to provide reports, as required by the supervisor, to help evaluate performance.

10. The telecommuting participant agrees to protect USOE/USOR records from unauthorized disclosure or damage. All work should be done via a VPN connection inside the network and sensitive data should not be copied outside the network to any machine or peripheral device.

11. The telecommuter is responsible for establishing and maintaining regular communication with the office.

B. Hardware and Software

1. The USOE will not be liable for damages to personal or real property while employees are working at approved alternate work sites.

2. Any equipment, hardware, or software provided by the USOE/USOR remains the property of the USOE/USOR and will be returned to the USOE/USOR at the conclusion of the telecommuting agreement, upon the employee's termination or retirement, or upon the supervisor's request.

3. All in-office security measures apply to telecommuters such as locking machine when stepping away, protecting passwords, securing sensitive hard-copy information, etc.

4. For additional information, please refer to 'Telecommuting' in the **USOE Network Standards and Connection Policy** which states that "USOE employees may telecommute with management approval. Telecommuters must use a USOE owned computer. If the telecommuter desires to connect to the **USOE domain** through the Internet and **VPN**, they must secure their own Internet connection ".

Section 6-4 Employee Trip Reduction Incentives

The agency may provide incentives to employees to encourage use of mass transit. Incentives for UTA bus/light rail riders shall be limited to l/2 the stated UTA/TRAX fare. Incentives for UTA-sponsored vanpools shall not exceed the value of l/2 the cost of a Premium UTA Pass.

Section 6-5 Overtime

A. Any overtime worked must generally have the written authorization of the supervisor prior to the work being performed. Supervisory authorization must guarantee that there are sufficient funds in the budget to compensate for overtime worked. Overtime worked shall be recorded on the employee's time sheet.

B. Generally, the USOE/USOR will follow DHRM overtime rules. The uniform overtime year established pursuant to R477-8-6 is the year ending with pay period 26. All comp time accrued by FLSA-exempt employees will lapse each year at the end of pay period 26. Licensed employees will not receive compensation for comp time under the 80-hour "pay down" rule.

C. All hours taken as compensatory time off shall be approved in advance by the supervisor. A maximum of 80 hours of comp time may be accrued.

Section 6-6 Time Reporting

A. Employees are required to complete the electronic biweekly time sheet reporting the hours worked on the days actually worked. All leave and overtime must be recorded on the biweekly time sheet.

B. If the supervisor is in agreement with the hours reported by the employee, the supervisor should approve the time sheet and send it to payroll.

C. The supervisor should not change the time sheet after the employee has submitted it.

D. If a supervisor disagrees with the time sheet submitted by an employee, the supervisor should ask the employee to correct the time sheet and re-send for supervisor approval.

E. Once corrected, the supervisor should approve and send the time sheet to payroll.

F. In the event the employee refuses to change the time sheet or is not available to make the change, the supervisor should send a written memo to the employee explaining the disagreement and indicating the actual hours that will be authorized. If necessary, the supervisor should complete a separate time sheet showing the corrected hours. A copy of the memo with the employee's time sheet and any additional information prepared by the supervisor should be sent to payroll for processing with a copy to the Human Resource Section to be placed in the employee's personnel file.

G. If a supervisor determines later, after a time sheet has been processed, that the hours reported were incorrect, the supervisor should prepare a leave correction form and a memo to the employee explaining what was incorrect and indicating that this information will be sent to payroll to correct the hours reported. A copy of the memo and the leave correction form should be sent to payroll for processing with a copy to the Human Resource Section for the employee's personnel file.

Section 6-7 Employee Exercise Policy

Through the Healthy Utah Program, employees are encouraged to develop and maintain healthy lifestyles. At the discretion of the supervisor, employees may be granted up to one-and-one-half hours each workweek for exercising with the following conditions:

A. Participating employees must engage in physical activities that are prescribed in the Health Department's "Physical Fitness Awards Program."

B. No more than one-half hour (30 minutes) up to three days each workweek will be allowed.

C. Time taken must occur between 11:00 a.m. and 2:00 p.m.

D. The exercise time is to be taken in conjunction with lunch time (time to exercise, shower, and eat). Supervisors must approve employees’ schedules.

E. Exercise time is not cumulative. Time not used one day cannot be carried to the next day.

F. Supervisors may revoke the exercise time allowed employees if it is abused, used for purposes other than exercising, or based on workload coverage

Section 6-8 Healthy Utah

The agency may allow up to 3 hours of administrative leave for employees to attend Healthy Utah functions, such as testing sessions, wellness seminars, and personal health sessions. Any time beyond 3 hours in a fiscal year will be deducted from the employee’s own personal leave time.

Section 6-9 Indoor Clean Air Policy

In compliance with the Utah Indoor Clean Air Act and for the comfort and health of our employees, the State Board of Education has designated that the Utah State Office of Education Administration Building be a smoke-free building with **no** designated smoking areas. Smoking will not be permitted in any areas of the Utah State Office of Education Administration Building, including lavatories. Smoke or exhaust fumes originating outside of the building must not be allowed to drift inside the building (25 feet from outside doors).

Section 6-10 Return to Work and Temporary Transitional Duty Policy

Employees who are off work due to work-related injury or illness shall be returned to work at the earliest possible date. If an employee is unable to return full time to the original duties but could return part time or to light duty tasks, an effort should be made to accommodate the employee for a transitional period.

Return to work should be coordinated with the Human Resource Section to ensure compliance with the ADA and other regulations.

ARTICLE VII - EMPLOYEE CONDUCT

Section 7-1 Conformance to Rules and Policies

Employees must adhere to USOR and USOE policies and Department of Human Resource Management (DHRM) rules. Furthermore, employees are expected to treat coworkers, supervisors, and customers with courtesy and respect.

Section 7-2 Ethics

All employees, Board members, and others who are affiliated with the State Office, are subject to all provisions of the Utah Public Officers and Employees Ethics Act, Section 67-16, U.C.A. 1953. Furthermore, employees shall represent themselves and this agency in a manner that avoids impairment of the employee's professional effectiveness. Any deceit, cheating or other acts of impropriety detrimental to the agency in the opinion of the employee's immediate supervisor or administration, may result in immediate employment action.

Section 7-3 Outside Employment

DHRM rules on outside employment apply (R477.9.2). Employees are required to notify their supervisor in writing of any outside employment so the supervisor can determine whether the outside employment presents a conflict of interest, or the appearance of a conflict of interest.

Section 7-4 Use of State Office Equipment and Computers

A. Use of State Office equipment, any state owned equipment and resources used for private gain or advantage is strictly prohibited. Incidental use of office equipment for personal reasons is allowed if:

    1. Such use is conducted on the employee's own time.

    2. Use is approved by the employee's supervisor.

    3. Costs for copies, long-distance calls, etc., are reimbursed to the office.

B. Usage of state-owned computer equipment is limited to the scope outlined in the State of Utah Information Technology Resources Acceptable Use Policy. Specifically prohibited uses are:

    1. The view, transmitting, retrieving, saving, or printing of any electronic files, which may be deemed as sexually explicit, whether visual or textual.

2. Distributing “junk” such as chain letters, advertisements or unauthorized solicitations.

3. Any use of computers for religious or political lobbying, such as using e-mail to circulate religious or political solicitations or advertisements.

Section 7-5 Disclosure of Confidential Information

Employees are prohibited from disclosing any confidential information, which they may obtain in the course of their duties, to any person who does not have the right to receive the information. This also applies to unauthorized access to computer files or software or providing access to others by disclosing access codes or passwords. Law prohibits use of information gained by virtue of USOE employment for personal gain.

Section 7-6 Ownership of In-House Developed Products

Absent a signed and approved agreement to the contrary, any and all products, materials, resources, programs, or software developed by those affiliated in any capacity with USOE with state resources or on state time are owned exclusively by USOE. Any right(s) of ownership for materials or programs developed by state employees on personal time may be negotiated in advance with USOE.

Section 7-7 Driving for State Business

A. **General Requirements.** State vehicles may be used only for state business. Use of state vehicles for commuting or other personal uses is prohibited. All employees and volunteers who drive a state vehicle or their own vehicle for state business must meet the following requirements. The employee or volunteer must:

   1. Possess a current, valid driver's license.

   2. Comply with all driving laws, ordinances, or regulations.

   3. Drive within the limits or restrictions of his/her individual license.

   4. Participate in the state-approved defensive driving training course at least once every three years.

B. Only employees, clients, or approved volunteers may be transported in state-owned vehicles. Only the Superintendent of Public Instruction or the Executive Director of the USOR may approve exceptions to this rule.

C. **Use of Drugs and Alcohol.** Employees are prohibited from driving a state vehicle or a private vehicle for state business when under the influence of alcohol, illegal drugs, or any prescription or over-the-counter drug that renders the employee incapable of safely driving the vehicle.

D. **Revoked Driver's Licenses.** An employee whose driver license is revoked must notify his/her supervisor of this action immediately. The employee must not be allowed to drive until a current, valid driver's license is restored and the employee completes the defensive driver-training course.

E. **Required Driving.** Employees who work in positions that require driving as an essential job function must complete the prescribed safe driver-training course every three years.

F. **Problem Drivers.** Corrective or disciplinary action (including possible termination of employment) is required for employees who work in positions that require driving when one or more of the following occurs:

1. The employee's driver's license is revoked.

2. The employee is convicted of reckless driving or of driving under the influence of alcohol.

3. The employee is involved in an at-fault accident while driving on USOE business.

4. The employee exhibits a poor driving record that suggests that the employee is likely to have an accident while driving on state business.

Section 7-8 Mileage Reimbursement Policy

In order to comply with IRS regulations and state travel regulation (for lodging) reimbursable mileage will be calculated as mileage over and above the employee's normal commute mileage. **Employees are not paid to travel to and from work.**

4. Take the entire amount of business and commute mileage during the day and subtract the round- trip commute mileage. The net remaining mileage is the reimbursable mileage to be claimed on the Form C-6 or DF-55.

5. Supervisors are responsible for approving mileage reports. Internal accounting will only question those amounts which appear to be excessive. This policy becomes effective April 1, 2006. With this change, mileage reimbursement forms must include the employee's normal ROUND TRIP commute mileage. This may be calculated by using the USOE/USOR official mileage chart or by an actual odometer reading.

Section 7-9 Discrimination by Workplace Harassment

A. Harassment on the basis of race, color, religion, gender, national origin, age, or disability is prohibited.

B. Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of:

1. The individual's race, color, religion, gender, national origin, age, or disability.

2. The individual's relatives, friends, or associates.

C. Harassment has the purpose or effect of:

1. Creating a hostile or intimidating work environment.

2. Interfering with an individual's work performance.

3. Affecting an individual's employment opportunities.

D. Harassment includes:

1. Epithets, slurs, negative stereotyping, or threatening, intimidating, or hostile acts.

2. Written or graphic material that denigrates or shows hostility or aversion toward an individual or group that is displayed or circulated in the workplace.

E. Complaint Procedure

1. Whenever discriminatory harassment is experienced or observed, a complaint should be made to the employee's immediate supervisor. The supervisor should investigate the complaint and take the necessary action to eliminate any harassment.

2. At the option of the employee, complaints may also be made to the employee's second-level supervisor, the Associate Superintendent, the Deputy Superintendent, the USOR Executive Director, the State Superintendent, or the Human Resource Staff/Rep. The individual receiving the complaint should involve the appropriate parties in investigating the complaint and eliminating any harassment.

3. A complaint may also be made to the Equal Employment Opportunity Commission through the Utah Labor Anti-Discrimination Division.

F. **Time Lines.** Complaints should be made as soon as possible but not later than 180 days after the alleged discriminatory harassment.

ARTICLE VIII-WORKPLACE VIOLENCE

Section 8-1 Workplace Violence

A. Definitions

1. Workplace violence is defined as any act of physical, verbal, or written aggression against an individual in the workplace. If done with the purpose of intimidation or threat, workplace violence may also include the destruction or abuse of property. Workplace violence is further defined as any violent act, situation, or incident perpetrated by an individual that:

   a. Threatens any person's safety on the job.

   b. Negatively affects any employee's physical, emotional or psychological well-being.

   c. Intentionally causes damage to state property, or to an employee's property while at work.

2. Workplace is defined as agency offices, facilities, work sites, vehicles or places where agency work is being conducted.

B. Policy

1. It is the policy of the Utah State Board of Education to not tolerate any act of violence in the workplace. The Board will not tolerate violence perpetrated by any of its employees against

any employee or client while in offices, facilities, work sites, vehicles or places where agency work is being conducted.

2. Any employee who threatens, harasses, or abuses any person at the workplace or from the workplace will be subjected to corrective or disciplinary action pursuant to DHRM Rule R477-10-2 or R477-11.

C. Reporting

1. Reporting acts of violence is the responsibility of all employees. Anyone victimized by acts of violence in the workplace or any employee seeing or having knowledge of the commission of an act of violence should report it to his/her immediate supervisor, division or section leader, the Superintendent's Office, or the Human Resource Office.

2. It is the responsibility of the official receiving a report of acts of violence in the workplace to take immediate steps to see to it that the actions cease or to seek assistance from management.

D. Training

1. All employees will receive training on the recognition and prevention of workplace violence.

2. The agency Human Resource Office will provide this training and maintain records of training completion.

Section 8-2 Domestic Violence Prevention Guidelines

Definitions

1. **Domestic violence:** A pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse, perpetrated by one person against a cohabitant, with the goal of establishing and maintaining power and control over the victim.

2. **Abuser:** An adult who perpetrates a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse against a cohabitant, with the goal of establishing and maintaining power and control over the victim.

3. **Victim:** The cohabitant against whom an abuser directs his/her coercive and violent acts.

4. **Cohabitant:** An emancipated person pursuant to 15-2-1 Utah Code Ann. or a person who is 16 years of age or older who:

   a. Is or was a spouse of the other party;

   b. Is or was living as if a spouse of the other party;

   c. Is related by blood or marriage to the other party;

   d. Has one or more children in common with the other party; or

   e. Resides or has resided in the same residence as the other party.

This does not include the relationship of a minor child to his/her parents (natural, adoptive or step) or the relationship of minor siblings to each other.

5. **Domestic violence service provider:** An agency or a staff member of an agency that primarily or exclusively provides comprehensive services to victims of domestic violence, including residential programs, and/or provides non-residential services to victims of domestic violence.

B. Policy

1. It is the policy of the Utah State Board of Education to not tolerate any form of domestic violence. The Utah State Office of Education (USOE) and the Utah State Office of Rehabilitation (USOR) will use prevention, early intervention, and awareness strategies as a first line of defense in order to avoid or minimize the occurrence and effects of domestic violence in the workplace.

2. The USOE/USOR will offer assistance to victims of domestic violence.

3. The USOE/USOR will discipline workplace perpetrators of domestic violence in accordance with DHRM rules as well as offer assistance to perpetrators with the goal of prevention of future acts of domestic violence.

4. The USOE/USOR will not tolerate acts of domestic violence that include harassment of any employee or client while in any of its offices, facilities, work sites, vehicles, or while conducting state business. This includes, but is not limited to, any violent, aggressive or threatening behavior (physical or verbal) that results in physical injury or emotional distress, or otherwise places a person's safety or productivity at risk.

5. Any employee, who threatens, stalks, harasses, or abuses someone at the workplace or from the workplace using any state resources such as state time, workplace telephones, fax machines, mail, e-mail, or other means will be subject to disciplinary action pursuant to DHRM rule R477-11.

6. The USOE/USOR will uphold valid orders of the court, including orders of protection.

C. Procedures Regarding Assistance for Victims

1. Any employee who identifies himself or herself as a victim of domestic violence or stalking is to be treated with sensitivity and confidentiality by all employees.

2. An employee who is or may be the victim of domestic violence or stalking and who needs assistance in this regard shall be encouraged to contact his/her supervisor, the Human Resource Office, or the Employee Assistance Program (EAP) administrator so that appropriate measures may be taken regarding safety, security, and, if requested, referral for assistance.

3. An employee who declares himself or herself to be a victim of domestic violence may request maximum flexibility to arrange his/her work schedule in order to prevent lost wages when he/she needs to be absent from work for medical care, counseling, court proceedings, legal consultation, or relocation as a result of being a victim of domestic violence.

D. Procedures Regarding Assistance for Perpetrators of Domestic Violence

1. Employees identified as perpetrators of domestic violence are encouraged to request agency assistance either through their supervisor, the Human Resource Office, or the Employee Assistance Program (EAP) administrator.

2. The USOE/USOR will make a reasonable effort to grant leave time, with or without pay, or adjust the employee's work schedule for the purpose of allowing an employee to arrange for voluntarily attending an approved perpetrator treatment program.

E. Training

1. All managers and supervisors are to receive training on prevention and appropriate responses to domestic violence in the workplace.

2. The Human Resource Office will provide the required training and maintain records on training completed.

ARTICLE IX - USOE/USOR ADA COMPLAINT PROCEDURE RULE

Section 9-1 ADA Complaint Procedure

A. Definitions

1. **ADA.** The Americans with Disabilities Act (ADA), 42 U.S.C. 12201, provides that no qualified individual with a disability, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to employment discrimination by this or any such entity.

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

3. **The ADA State Coordinating Committee.** That committee with representatives designated by the directors of the following agencies:

   a. Office of Planning and Budget.

   b. Department of Human Resource Management.

   c. Division of Risk Management.

   d. Division of Facilities Construction Management.

   e. Office of the Attorney General.

4. **Disability.** A physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of an impairment, or being regarded as having such an impairment. 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.

5. **Major life activities.** These are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

6. **Individual with a disability (hereafter individual).** A person who has a disability that limits one of his/her major life activities and who meets the essential eligibility requirement for the receipt of services or the participation in programs or activities provided by a public entity or who would otherwise be an eligible applicant for vacant state positions as well as those who are employees of the state.

7. **Public entity.** This is any department, agency, independent commission or board, or any other instrumentality of the State of Utah.

8. **Superintendent.** This is the State Superintendent of Public Instruction.

9. **Executive Director**. This is the Executive Director of the Utah State Office of Rehabilitation.

10. **USOE**. This is the Utah State Office of Education

11. **USOR**.. This is the Utah State Office of Rehabilitation.

B. Authority and Purpose

1. This rule is authorized pursuant to 28 CFR 35.107, 1992 edition, which adopts, defines, and publishes complaint procedures providing for prompt and equitable resolution of complaints filed in accordance with Title I and II of the Americans with Disabilities Act, 28 CFR 35, 1992 edition.

2. The purpose of this rule is to establish a USOE/USOR procedure for filing complaints under the federal ADA law, provide an appeals procedure for complaints under the federal ADA law, and provide for an appropriate classification of complaints and appeals.

C. Filing of Complaints

1. The complaint shall be filed in a timely manner (not later than 180 days from the date of the alleged act of discrimination) to ensure prompt, effective assessment and consideration of the facts.

2. The complaint shall be filed with the USOE/USOR ADA Coordinator in writing or in another accessible format suitable to the individual.

3. Each complaint shall:

   a. Include the individual's name and address.

   b. Include the nature and extent of the individual's disability.

   c. Describe the USOE/USOR alleged discriminatory action in sufficient detail to inform the public entity of the nature and date of the alleged violation.

   d. Describe the action and accommodation desired.

e. Be signed by the individual or by his/her legal representative.

4. Complaints filed on behalf of classes or third parties shall describe or identify by name, if possible, the alleged victim(s) of discrimination.

D. Investigation of Complaints

1. The ADA Coordinator shall conduct an investigation of each complaint received. The investigation shall be conducted to the extent necessary to ensure all relevant facts are determined and documented. This may include gathering all information listed in Section C-3 of this rule if it is not made available by the individual.

2. When conducting the investigation, the ADA Coordinator may seek assistance from the USOE/USOR legal, human resource, and budget staff in determining which action, if any, shall be taken on the complaint. Before making any decision that would involve an expenditure of funds that is not absorbable within the USOE/USOR budget and would require appropriation authority, facility modifications, reclassification, or reallocation in grade, the ADA Coordinator shall consult with the ADA State Coordinating Committee.

E. Issuance of Decision

1. Within 15 working days after receiving the complaint, the ADA Coordinator shall issue a decision in writing (or in another acceptable, suitable format) outlining what action, if any, shall be taken on the complaint.

2. If the ADA Coordinator is unable to reach a decision within the 15-working-day period, he/she shall notify the individual with a disability in writing (or in another acceptable, suitable format) explaining why the decision is being delayed and what additional time is needed to reach a decision.

F. Appeals

1. The individual may appeal the decision of the ADA Coordinator by filing an appeal within five working days from the receipt of the decision.

2. The appeal shall be filed in writing, or in another acceptable format, with the Superintendent or Executive Director for USOR.

3. The filing of an appeal shall be considered as authorization by the individual to allow review of all information, including information classified as private or controlled, by the Superintendent, Executive Director for USOR, or designee.

4. 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.

5. The Superintendent or Executive Director for USOR 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 investigations may be conducted if necessary to clarify questions of fact before arriving at an independent conclusion. Before making any decision that would involve the Superintendent or Executive Director for USOR to direct an expenditure of funds that is not

absorbable and would require appropriation authority, facility modifications, reclassification, or reallocation in grade, he/she shall also consult with the State ADA Coordinating Committee.

6. The decision shall be issued within ten working days after receiving the appeal and shall be in writing or in another accessible, suitable format for the individual.

7. If the Superintendent or Executive Director for USOR is unable to reach a decision within the ten-working-day period, he/she shall notify the individual in writing or in another acceptable, suitable format why the decision is being delayed and the additional time needed to reach a decision.

G. **Classification of Records.** The record of each complaint and appeal, and all written records produced or received as part of such actions, shall be classified as "protected" as defined under Section 63-2-304, U.C.A. 1953, 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, U.C.A. 1953, or "controlled" as defined in Section 63-2-303, U.C.A. 1953. 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.

H. **Relationship to Other Laws.** 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, U.C.A. 1953; 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.

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