

**LP 5.28****Effective:**
5/3/2022**Revised:****Policy Owner:**
Board of Trustees**Policy Administrator:**
Human Resources**Affected Parties:**
Employees**Table of Contents:**

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Americans with Disabilities Act (ADA)

THE LANGUAGE USED IN THE LANDER POLICY FOR ADMINISTRATION AND STAFF DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND LANDER UNIVERSITY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. LANDER RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT. LANDER UNIVERSITY'S OFFICE OF HUMAN RESOURCES HAS THE AUTHORITY TO INTERPRET THE UNIVERSITY'S HUMAN RESOURCES POLICIES.

1 Summary

Any Lander University students, staff, faculty, community members, patrons, or visitors who believe that they have been subjected to discrimination on the basis of disability or have been denied access or accommodations required by law shall have the right to invoke this Grievance Procedure.

2 Policy Statement

2.1 Lander University is committed to ensuring that all persons learn and work in an educational, work, and living environment free from discriminatory harassment, treatment, or services. This policy provides a procedure for reporting and investigating any complaints from Lander University students, staff, faculty, community members, patrons, or visitors containing an allegation of discrimination or of a denial of access or accommodations required by law.

2.2 It is the policy of Lander University to provide students, staff, faculty, university community members, patrons, and visitors with a prompt and equitable method of resolving complaints alleging any action or inaction prohibited by U.S. Department of Education regulations implementing Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and the Americans with Disabilities Act Amendments Act (ADAAA) of 2008.

- 2.3 The Americans with Disabilities Act states, in part, that “an individual with a disability” is a person who has a physical or mental impairment that substantially limits one or more “major life activities,” has a record of such an impairment, or is regarded as having such an impairment. Any individual (student, staff, faculty, community member, patron, or campus visitor) who believes that they have been discriminated against on the basis of a disability under Section 504 of the Rehabilitation Act or the Americans with Disabilities Act should follow the procedures described below.

3 Scope of Grievance Procedures

- 3.1 Any university students, staff, faculty, community members, patrons, or visitors who believe they have been subjected to discrimination on the basis of disability or have been denied access or accommodations required by law shall have the right to invoke this Grievance Procedure.

In general, this Grievance Procedure is designed to address the following types of allegations:

- 3.1.1 Disagreements or denials regarding requested services, accommodations, or modifications to university practices or requirements;
- 3.1.2 Lack of access to a university program or activity;
- 3.1.3 Harassment or discrimination on the basis of a disability; and
- 3.1.4 Any other violations of the ADA and/or Section 504.

4 Procedures

- 4.1 A formal complaint involving a disability-related grievance covered by this policy shall be filed within 60 days of the alleged instance of discrimination.
- 4.2 The university may extend this time frame in its sole discretion when a delay results from circumstances beyond the complainant’s control. Circumstances beyond the individual’s control may include, but are not limited to, a situation in which:
 - 4.2.1 A complainant could not reasonably be expected to know the act was discriminatory within 60 days of the alleged discrimination and the complaint was filed within 60 days after the complainant became aware of the alleged discrimination;
 - 4.2.2 A complainant was unable to file a complaint as a result of an incapacitating illness or other incapacitating circumstance during the 60-day period, and the complaint was filed within 60 days of the date on which the period of incapacitation ended; or

- 4.2.3 Unique circumstances generated by Lander University's action adversely affected the complainant.
- 4.3 Prompt reporting enables the university to more effectively gather information related to the grievance, determine whether a violation of policy has occurred, provide an appropriate remedy and/or accommodation, and/or take appropriate disciplinary action. All complaints will be reviewed to determine whether they were submitted in a timely manner and/or whether they contain all required information.
- 4.4 Individuals shall be provided with the opportunity to supplement complaints.
- 4.5 The university reserves the right to redirect a complaint to the proper grievance procedure or to any other appropriate review procedure and will notify the complainant of any such redirection.
- 4.6 The written complaint shall include the following:
 - 4.6.1 A description of the incident and any relevant facts, including dates, timeframes, location, and names of witnesses, if applicable;
 - 4.6.2 The name and contact information of the individual initiating the complaint.

In addition, it is recommended that the complainant also include the following in the written complaint:

- 4.6.3 A summary of the steps the complainant has already taken in an attempt to resolve the problem, including the names of persons contacted, if applicable;
 - 4.6.4 A statement of the requested resolution; and
 - 4.6.5 Any supporting documentation.
- 4.7 Informal Grievance Procedure
 - 4.7.1 Individuals are encouraged, but not required, to first attempt to resolve their grievance informally by selecting any one or more of the following options, with notification given orally or in writing:
 - 4.7.1.1 Present their concern to the instructor, department head (including non-academic departments), and/or dean, providing notification of the incident that resulted in the grievance. The complainant should explain the nature of the problem. The instructor or department head will address the grievance within 10 days; or

- 4.7.1.2 Present their concern to Disability Services, or
- 4.7.1.3 Present their concern to the Office of Human Resources;
- 4.7.2 An individual who files an informal complaint will be notified in writing that they may file a formal complaint at any time.
- 4.7.3 Should an individual submit a complaint through any method other than by notifying Disability Services, the individual or office receiving the complaint shall immediately notify the Director of Disability Services.
- 4.7.4 In the informal grievance procedure, a grievance will be addressed within 10 business days. However, the time may be extended if a complaint associated with the grievance is presented at a time when the university is officially closed per the university's academic calendar, or depending on the complexity of the investigation and the number of parties involved. In the event that the process exceeds 10 business days, the investigator will notify the complainant of the need for additional time and the expected timeframe, and will make best efforts to complete the process in this new timeframe. If additional time is needed, the complainant will be reminded of their right to convert the process to a formal grievance.
- 4.7.5 Grievances will be treated as confidentially as possible. However, Disability Services may share information in the grievance process with other university officials when necessary to investigate, prevent, or remedy any prohibited conduct. If a complainant requests that a grievance remain confidential, the investigator will inform the complainant that the university's ability to investigate and respond to the grievance may be limited. However, even if the complainant insists on confidentiality in the informal process, the university reserves the right to take appropriate action, while maintaining the complainant's confidentiality, based on the seriousness of the grievance.

4.8 Timelines

Time limitations do not include official university holidays or other closures during the regular academic year. The term "days" refers to days when university offices are open.

4.9 OCR Complaint

- 4.9.1 Although individuals are encouraged to attempt to resolve grievances pertaining to disabilities by using this grievance procedure, they have the right to file a complaint directly with the U.S. Department of Education, Office for Civil Rights (OCR).
- 4.9.2 Individuals should be aware that they have 180 days from the last alleged act of discrimination to file with OCR, or within 60 days after the conclusion of the university's grievance process.

U.S. Department of Education Office for Civil Rights
D.C. Enforcement Office 400 Maryland Avenue, SW
Washington, D.C. 20202-1475
Telephone: 1-202-453-6020
Fax: 202-453-6021
TDD: 877-521-2172
Email: ocrdc@ed.gov

Disability Services
Lander University
Genesis Hall
Wellness Center
864-388-8531 (phone)
Sam Abney
Director, Disability Services

4.10 Retaliation

The university prohibits retaliation against any individual for filing a complaint under this process or against any other individual participating in the investigation of a grievance. Any such retaliation is against state and federal laws and Lander University policy. Retaliation may result in disciplinary action up to and including termination. Any individual who has participated in the grievance process in support of the complainant may file a complaint under these grievance procedures with the university's EEO Investigator if they believe that they have been retaliated against.

4.11 Confidentiality

Confidentiality shall be maintained by each person involved in the informal or formal investigation or resolution of a grievance under this policy. Any disclosures regarding the individual or the investigation shall be limited to the minimum necessary to accomplish the investigation or address the grievance.

5 Policy Revision History

- Prepared by Human Resources on 10/20/2020.
- Prepared for board review by Policy Coordinator on 10/23/2020.
- First external review by Board Policy Committee Chair on 10/30/2020.
- Reformatted with new outline template and submitted to Human Resources and General Counsel for review by Policy Coordinator on 2/15/2022.
- Edited and approved by General Counsel on 3/2/2022.
- Reviewed by Board of Trustees Policy Committee on 4/16/2022.
- Lander University Board of Trustees review: 5/3/2022.