



# FULLER

THEOLOGICAL SEMINARY

## STUDENT DISABILITY POLICY AND GRIEVANCE PROCEDURE

### **Effective Date**

September 20, 2021

### **Supersedes**

Policy Against Unlawful Discrimination and Complaint Resolution Procedures: Sexual Harassment, Unlawful Discrimination, Unlawful Harassment, Sexual Misconduct, Retaliation

### **Issuing Authority**

Diversity Council and Academic Council

### **Responsible Office**

Office of Student Concerns

### **Related Policies**

Academic Review Committee (ARC): Guidelines for Determining Fundamental Alteration of a Course/Program

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I. **Introduction**

Fuller Theological Seminary (“Seminary”) is committed to ensuring the full participation of all qualified students with disabilities in its courses and programs. The Seminary regards students with disabilities as valued members of our community and the diverse body of God’s people. In its commitment to remove barriers and work toward universal access to all courses, programs, and activities, it is the policy of the Seminary not to discriminate based on disability and to ensure students reasonable and necessary accommodations to ensure that access.

II. **Applicable Federal Law**

The Seminary issues this policy (the “Policy”) to comply with Section 504 of the Rehabilitation Act of 1973 (“Section 504”). The U.S. Department of Health and Human Services regulations implementing Section 504 states as follows:

No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Additionally, it is against the law for Institutions of Higher Education to retaliate against anyone who files a grievance (complaint) or cooperates in the investigation of a grievance.

Section 504 and accompanying regulations may be examined by contacting the Director of Access Services or the Title IX and Discrimination Officer for Students/Executive Director of Student Concerns (“Discrimination Officer”), (contact information below).

III. **Procedures**

The Seminary has adopted the following internal procedures (“Procedures”) to provide for prompt and equitable resolution of complaints alleging discrimination on the basis of disability or a denial of equal access in the form of appropriate accommodations, modifications, auxiliary aids, or access to a program or activity as described in Section 504.

The Procedures apply to students with disabilities and cover the following cases:

- A. Disagreements regarding disability status, requested service, academic accommodations or auxiliary aids, or modification of a seminary/course practice or requirement;

- B. Inaccessibility of a program or activity; and/or
- C. Discrimination under any program or activity.

**Students may also choose to file a complaint with the [U.S. Department of Education Office for Civil Rights \(OCR\)](#). Per OCR guidelines, complaints lodged with the OCR must ordinarily be filed within 180 days of the last act of discrimination.**

### **How to Report/Grievance Procedure**

Students may file a grievance through an informal and/or formal process. Attempts to resolve an issue using the informal resolution process may be made before filing a formal grievance; however, it is not required to use the informal process nor is it always the most appropriate action. If the informal process is used, a formal resolution may instead be requested at any time until a decision is issued in the informal process. To initiate a formal or informal process, students should contact either of the following, as applicable:

#### **A. Contact Information**

##### **Director of Access Services and Academic Support**

Office location: David Hubbard Library , 3rd Floor,  
130 N. Oakland Ave, Pasadena, CA 91101  
Mailing address: 135 N. Oakland Ave., Pasadena, CA 91182  
Phone: 626-584-5431  
Email: [access@fuller.edu](mailto:access@fuller.edu)

##### **Discrimination Officer for Students**

Executive Director of Student Concerns and Section 504 Coordinator  
Office location: Kreyssler Hall (Catalyst), 2nd Floor,  
130 N. Oakland, Pasadena, CA 91101  
Mailing address: 135 N. Oakland Ave., Pasadena, CA 91182  
Phone: 626-584-5678  
Email: [discrimination@fuller.edu](mailto:discrimination@fuller.edu)

#### **B. Optional Informal Resolution Process**

1. Students are encouraged to discuss the matter in person, via video conference, on the phone, or in writing with the Director of Access Services or the Discrimination Officer to explore what an informal resolution might involve according to the specifics of the situation.

2. Students should report a grievance to the Director of Access Services or the Discrimination Officer no more than 30 calendar days after the alleged incident occurred by informing the Director of Access Services or the Discrimination Officer, either in writing or verbally, that he/she wants to initiate an informal resolution process. If the Director of Access Services is involved in the concern(s), the matter may be discussed with the Discrimination Officer. If the Discrimination Officer is also involved, the matter may be discussed directly with the Chief Academic Officer (see contact information below).
3. The applicable Seminary employee above who received the request for an informal resolution, or their designee, will review the complaint for timeliness and appropriateness for this informal grievance procedure and provide the complainant with written notice acknowledging its receipt.
4. If timely and appropriate, a process to resolve the informal complaint will be initiated. This may include obtaining information from appropriate parties within the Seminary or from an outside expert, as needed, with the goal of finding an agreed-upon resolution.
5. At the conclusion of an informal resolution, the Director of Access Services, Discrimination Officer, or Chief Academic Officer, as applicable, will summarize the resolution in writing. The written summary will be provided to the complainant and shall also be provided, where appropriate, to any Seminary official whose authority will be needed to carry out the agreed-upon resolution. A copy of the written summary will also be kept in the student's Access Services file.

### C. Formal Grievance Procedure

#### 1. When to File Grievance

Grievances should typically be filed no more than 30 calendar days after the alleged incident occurred, or before an informal resolution is finalized. This time limitation exists to ensure that instances of alleged discrimination can be meaningfully resolved in a timely manner.

#### 2. What to File

A grievance must be written (email, document, or letter) and include the following:

- a. The complainant's name, G-number, address, e-mail address, and phone number.

- b. A clear statement of the request or concern, identifying the type of complaint and the reasons for which the complaint is based. Please select one or more of the following statements:
  - i. Disagreements regarding disability status, requested service, accommodation, or modification of a Seminary/course practice or requirement
  - ii. Inaccessibility of a program or activity
  - iii. Discrimination under any program or activity.
- c. The date the alleged incident occurred.
- d. The names of all Seminary community members involved in the alleged incident.
- e. A description of what efforts, if any, have been made to resolve the issue informally.
- f. A statement of the remedy requested.

### 3. Where to File Grievance

The grievance should be filed with the Discrimination Officer.

If the complaint is about the conduct of the Discrimination Officer, he/she will refer the grievance to the Director of Compliance & Risk Management, or an individual may contact the Director of Compliance & Risk Management at [compliance@fuller.edu](mailto:compliance@fuller.edu), who will determine the appropriate next steps for investigation and resolution on a case-by-case basis. This may include using an investigator(s) from outside the Seminary.

### 4. Notice of Receipt

Upon receipt, the Discrimination Officer or their designee will review the complaint for timeliness and appropriateness for this grievance procedure and provide the complainant with written notice acknowledging its receipt.

### 5. Investigation

The Discrimination Officer or their designee shall promptly initiate a thorough and impartial investigation. This may include using an outside investigator(s), if deemed warranted by the Discrimination Officer or their designee. In undertaking the investigation, the Discrimination Officer, their designee, or outside investigator(s) may interview, consult with, and/or request a written response to the issues raised in the grievance from any individual key stakeholder believed to have relevant information, including faculty, staff, and students. Key stakeholders are persons knowledgeable

about the academic area, any related licensing requirements, any applicable accreditation for the course, the student's disability, and accommodation methods. The investigation should not be limited exclusively to individuals from the department that provides the course or program.

The Discrimination Officer or their designee will convene 3-5 members of the Academic Review Committee or an equivalent group ("ARC") (see #6 below) and, if appropriate, an outside expert, and will present the investigative report to the convened ARC members and outside expert, if applicable, for their review. The investigative report may include information including relevant documentation, recordings or summaries of interviews, and witness statements.

#### 6. Academic Review Committee ("ARC")

The Academic Review Committee (ARC) will likely be a standing committee that upholds and interprets institutional policy regarding student dismissals and grievances. The ARC will likely consist of two faculty members from each school, two academic advisors, two student representatives, and one representative of Teaching and Learning. Additional members may be added on an ad-hoc basis as needed. This body exists to ensure decisions about grievances, discrimination, and accommodations are made consistently and fairly, regardless from where in the seminary they emerge. This body may also be utilized to centralize the student dismissal process.

After a grievance is filed, the Discrimination Officer or designee will assign 3-5 ARC members to be convened, as deemed appropriate, and will notify the complainant of the names of the ARC members. Within **2 calendar days** of receipt of this information, the complainant may question the inclusion of an ARC member based on a conflict of interest by submitting the reasons for the conflict of interest, in writing, to the Discrimination Officer. The Discrimination Officer or designee may excuse a committee member if, upon review, the claims of a conflict of interest are substantiated. Members will also remove themselves from the committee if they believe they have a conflict of interest.

After all pertinent information has been presented to the convened members of the ARC, the members will hold a discussion and determine by majority vote if there is a preponderance of evidence to substantiate the grievance. When appropriate, the ARC will also apply the following standards:

- a. **Would the accommodation result in a fundamental alteration of the program or an essential academic requirement;**
- b. **Would the accommodation impose undue financial or administrative hardship on the institution?**

In assessing whether an accommodation would result in a fundamental alteration of a program or an essential academic requirement, the ARC will follow the guidelines set forth in a Seminary procedural document, entitled "Guidelines for Determining Fundamental Alteration of a Course or Program."

If needed, members of the ARC will consult with the Discrimination Officer or designee, and/or an outside expert, when reviewing the investigative report so as to be knowledgeable concerning disability issues and the legal mandates of state and federal disability statutes.

If there is a preponderance of evidence substantiating the grievance, the convened ARC members will then decide on the appropriate resolution for the grievance. Such resolutions will be decided on a case-by-case basis and may include, but will not be limited to, approval and/or administration of a particular accommodation, remediation to address previously available opportunities, and/or facilitation of communications between the complainant and the person(s) against whom the grievance is filed.

## 7. Findings and Notification

Upon completion of the decision-making process, the convened ARC members will submit their decision and findings in writing to the Discrimination Officer or designee. The Discrimination Officer or designee will then prepare and submit a final written report containing a summary of the investigation, the written findings of the ARC, determination of whether a policy violation occurred, and a proposed disposition to the student. The final written findings will also be provided to the Director of Access Services, and, if applicable, to the party against whom the grievance is directed. A copy of this report will be kept in the student's Access Services file. This report will be expected within **45 calendar days** of the filing of the formal grievance. The deadline may be extended by the Discrimination Officer or their designee for good cause. The Discrimination Officer will notify the complainant promptly if there is a need to extend the deadline. The final report (or excerpts) shall also be provided, where appropriate, to any Seminary official whose authority will be needed to carry out the proposed remediation or to determine whether any personnel action is appropriate.

## Appeal

The complainant or the party against whom the grievance is directed may appeal to the Chief Academic Officer (“CAO”) after completing the formal grievance procedure described above. The CAO has the discretion to designate an appropriate officer to review the appeal. If, however, the original grievance was filed against the Chief Academic Officer, or the CAO oversaw the investigation of the informal or formal grievance, any appeal must be filed directly with the Director of Compliance & Risk Management at [compliance@fuller.edu](mailto:compliance@fuller.edu).

### A. When to File Appeal

Appeals must be filed within **14 calendar days** of receipt of the final decision of the formal grievance.

### B. What to File

The written appeal must be in writing and specify reasons for appeal that are not based on disagreement or general dissatisfaction with the standards, policies, and procedures of Access Services themselves. Specifically, the grounds to appeal must include one or more of the following criteria:

1. There is new information of a substantive nature: new, significant, and relevant information regarding the matter becomes available that could not have been discovered by the student at the time of the deliberation. Information is not considered new if the student voluntarily withheld the information at the time the ARC deliberated regarding those decisions.
2. There was a significant procedural error: the specified procedural error or error in interpretation of policies may have substantial effect on the process.

### C. Where to File Appeal

The appeal shall be filed with the Chief Academic Officer, unless otherwise indicated above under Appeal:

**Chief Academic Officer**

Mailing address: 135 N. Oakland Ave, Pasadena, CA 91182

Email: [cao@fuller.edu](mailto:cao@fuller.edu)

Phone: 626-584-5359

#### D. Appeal Review

The role of the CAO or designee as appeal officer is limited. Appeals are not intended to be a full hearing of the grievance and are confined to a review of the grounds stated above. The findings contained in the final report are presumed to have been decided reasonably and appropriately. The person appealing carries the burden of proof to demonstrate that either the alleged error, or the proposed new evidence, would significantly impact the outcome of the grievance process.

If there is a preponderance of evidence (more likely than not) substantiating the appeal, the CAO or designee will then decide on the appropriate resolution for the appeal. The CAO's written decision will be expected within 15 business days of receipt, though the deadline may be extended by the CAO or designee for good cause. If the CAO or designee determines the new information is not substantive and there has been no significant procedural error, the original decision will be upheld. The decision of the CAO or designee is final, and will promptly be communicated to the affected parties, the Director of Access Services, and the Discrimination Officer.

#### IV. Resources for Assistance

Students may wish to seek personal assistance in dealing with issues related to their grievance procedure. The seminary has identified the following employees who are currently located on the Pasadena Campus, but who are able to coordinate service with any seminary student, no matter their location:

##### **Fuller Psychological & Family Services**

Office location: School of Psychology building, 2nd floor

180 North Oakland Avenue, Pasadena, CA 91101

Phone: 626-584-5555

Webpage: [www.fuller.edu/fpfs](http://www.fuller.edu/fpfs)

##### **Seminary Chaplains**

Office location: Kreyssler Hall (Catalyst), 3rd Floor

130 North Oakland Avenue, Pasadena, CA 91101

Email: [chaplains@fuller.edu](mailto:chaplains@fuller.edu)

## V. **Other Related Matters**

### **Privacy and Confidentiality**

The Seminary is committed to protecting the privacy of all individuals involved in the investigation and resolution of reports under this Policy. With respect to any report under this Policy, the Seminary will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to make an informed decision. The Discrimination Officer will maintain the files and records of the Seminary relating to formal grievances, as applicable.

### **Urgent Matters**

Whenever the application of any of the time deadlines or procedures set forth in this grievance procedure creates a problem due to the nature of the complaint, the Discrimination Officer or designee, at the request of the complainant, will determine whether an appropriate expedited procedure is possible.

### **Requests for Accommodation During an Informal or Formal Grievance Process**

Anyone involved in an informal or formal grievance process who needs an accommodation for any part of the grievance procedure is encouraged to request an accommodation. Requests for accommodation should be submitted in writing with as much advance notice as possible to the Discrimination Officer or Director of Access Services, as applicable.

### **Continuation of Process**

Upon receipt of written complaint as outlined under the Formal Grievance Procedure above, the Discrimination Officer or designee at his/her sole discretion may proceed with investigation and resolution of the complaint, even if the individual submitting the complaint is subsequently unwilling to proceed as a participant in the complaint resolution process.