

Dixie State University Policy

251 Competition with Private Enterprise and Unfair Competition Grievance



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I. Purpose

- 1.1 To conform to the Utah State Board of Regents Policy R555 regarding competition with private enterprise.
- 1.2 To set forth the procedures for adjudicating complaints by private businesses relating to claims of unfair competition under Board of Regents Policy R555.

II. Scope

- 2.1 This policy applies to all University business enterprises or other support activities that provide specific services to the campus community.
- 2.2 Private enterprise entities that operate service or auxiliary units on campus under contract are subject to this policy.

III. Definitions

- 3.1 ***Campus Community***: as used in this policy, refers to prospective students, students, faculty, staff, alumni, and campus guests of Dixie State University.
- 3.2 ***Educationally-related Services***: those non-academic auxiliary services that are reasonably related to the educational needs of the campus community, e.g., campus store(s), campus dining facilities, student-housing, etc.
- 3.3 ***Hearing Committee***: an ad hoc, three-person committee appointed by the Vice President of Administrative Affairs and comprised of two university officers and a representative from the private sector.

- 3.4 *Institutional Services*: University facilities, goods, and services.
- 3.5 *Non-academic Self-support Services*: services and/or programs that are complementary to an institution's teaching, research, and public service functions and are funded through the program's own activities or by charging a fee directly related to the costs of providing the goods or services.

IV. Policy

- 4.1 Dixie State University shall provide educationally related services to the campus community so long as such services are provided in accordance with the requirements of Board of Regents Rule R555.
- 4.2 The university will advertise institutional services to the campus community or share information with the general public via webpage, the internet, social media, and email.
- 4.3 Services to persons other than members of the campus community shall not be provided unless:
 - 4.3.1 The service offers a substantial educational or research experience for registered students and faculty;
 - 4.3.2 The service fulfills the institution's public service mission;
 - 4.3.3 The service is incidental to the ordinary and authorized function of a campus community, i.e., occasional sales by bookstore, food service, etc., to campus visitors;
 - 4.3.4 The service consists of recreational, cultural, and athletic events; health services and medical treatment; public service radio and TV broadcasting; events of functions which have as their principal purposes the improvement of relations between the institutions and the general public; and sales of contributed services, if related to fund raising activities;
 - 4.3.5 The equivalent service is not available in the local area; or
 - 4.3.6 The service has been specifically authorized by the State Board of Regents.
- 4.4 *Grievance Review Procedures*: In the event that the provision of a good or service by Dixie State University is perceived to be in competition with a privately-owned business, that business shall be provided the opportunity for

a hearing of such a complaint (See Section IV Procedures).

V. References

- 5.1 DSU Policy 250: Auxiliary Services Operation
- 5.2 State Board of Regents Policy R550, Auxiliary Enterprises Operation and Accountability
- 5.3 State Board of Regents Policy R555, Providing Facilities, Goods, and Services in Competition with Private Enterprise

VI. Procedures

- 6.1 Complaints of unfair competition should be submitted in writing to the University's Vice President of Administrative Affairs (VP) who is the first point of contact when requesting a hearing. The complaint should identify the Institutional Service in question and provide the basis for believing that the service has unfairly competed with private businesses.
- 6.2 Within twenty (20) business days of receiving the complaint, the VP shall determine if the complaint articulates a violation that is covered by Regents Policy R555. If so, the VP shall refer the complaint to the Hearing Committee and notify the Department Director in charge of the Institutional Service in question. If not, the complaint will be dismissed and the complainant will be informed in writing that the complaint fails to articulate a violation of Policy R555.
- 6.3 Within five (5) business days of receipt of notice of the complaint, the Department Director in charge of the Institutional Service in question will submit to the Hearing Committee a response to the complaint.
- 6.4 Hearings shall occur within a reasonable time after referral of the complaint to the Hearing Committee. Written notice of the date and time of the Hearing will be provided to the parties at least seven (7) business days before the hearing.
- 6.5 The Complainant and the Respondent (or designee) may attend the hearing and present their positions to the Hearing Committee. Each party may be accompanied by an advisor (including legal counsel) who will be permitted to attend, but not directly participate, in the proceedings. Any party intending to bring legal counsel as their advisor shall notify the Hearing Committee and the opposing party of this decision at least three (3) business days before the hearing.

- 6.6 The Hearing Committee shall determine the length of the hearing and the procedures to be followed in the hearing.
- 6.7 Any documentation that the parties would like the Hearing Committee to consider should be presented to the Committee and to the opposing party at least three (3) business days before the hearing.
- 6.8 As a general rule, the Hearing Committee will not hear evidence from party witnesses. If parties wish the Committee to consider witness testimony, the names of the proposed witnesses and a brief description of their testimony will be submitted to the Committee and to the opposing party at least three (3) business days before the hearing. The Committee shall have the discretion to grant or deny the request to submit witness testimony.
- 6.9 The Hearing Committee is not bound by strict rules of legal evidence or procedure and may consider any evidence it deems relevant.
- 6.10 University legal counsel may serve as a resource to the Hearing Committee deliberations and voting shall occur in closed session after the presentations of the parties.
- 6.11 Hearings shall be closed to the public. Hearing Committee deliberations and voting shall occur in closed session after the presentation of the parties.
- 6.12 The Hearing Committee shall determine by majority vote, and by a preponderance of evidence, whether the Institutional Service offered by the University violates Policy R555.
- 6.13 Within five (5) business days of the hearing, the Committee shall provide a written report of its decision to the VP and the parties.
- 6.14 Either party may submit a written appeal of the Committee decision (and/or the VP's decision to not refer a matter to a Hearing Committee) to the University's Board of Trustees. The appeal shall be submitted to the Board and to the opposing party within five (5) business days of receipt of the Committee (or VP) decision.
- 6.15 The other party to the appeal may submit a response to the Board within three (3) business days of receipt of the appeal.
- 6.16 The appeal will be considered by the Board in its next regular meeting, so long as the time for adding new matters to the Board agenda has not passed. Otherwise, the appeal will be added to the next regularly scheduled Board

meeting.

- 6.17 As a general rule, the Board will not hear oral argument on the appeal but will consider the written decision of the Hearing Committee, the written appeal and the written response to the appeal in making its decision. The Board may, in its discretion, determine to hear oral argument on the appeal.
- 6.18 Board deliberations and voting shall occur in the open meeting of the Board. The majority vote of the Board members shall determine the matter on appeal. The decision of the Board shall be the final decision on the matter.

VII. Addenda

Policy Owner: Vice President Administrative Affairs
Policy Steward: Executive Director Auxiliary Services

History:

Approved 09/27/2019

Revised 0/0/00