

# **POLICY MANUAL**

## **GENERAL**

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### **Number 1000**

**Subject: Statutes That Define the University**

**Effective Date: January 24, 1997**

**Previous USU Policy #: 101**

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### **1000.1 ACCREDITED LAND-GRANT UNIVERSITY**

Utah State University of Agriculture and Applied Science (hereafter University) is a land-grant university. The University campus is located in Logan, Utah; other educational centers are found throughout Utah and the world. The University is fully accredited by the Northwest Association of Schools and Colleges, and it appears on the approved lists of other member agencies and organizations of the National Commission on Accreditation. The University is governed by the State Board of Regents (hereafter Regents), the Institutional Board of Trustees (hereafter Trustees), and the President of the University (hereafter President).

### **1000.2 STATUTES FOUNDING THE UNIVERSITY**

The following sections comprise a brief synopsis of national and state statutes that helped to found and to expand the University. The intent of these sections is to convey the sense of the legal foundations that underpin the University's existence and outline its mission, not to provide a collectively exhaustive description of every law that may impact upon it. Faculty or others who require the exact language found in these statutes are referred to the original sources.

#### **2.1 Introduction**

Authorization to establish land-grant colleges or universities dates from the enactment of the Morrill Act by the Congress of the United States. The Morrill Act provided for grants of federal land to aid in the establishment of at least one college in each state to serve all the people. Creation of Utah State University as Utah's land-grant institution of higher education was authorized by the Utah Territorial Legislature's passage of the Lund Act. The University's distinctive legal status has been further defined and enlarged by provisions of Utah's constitution and by congressional and state legislation.

Some of the congressional acts, the state legislative acts, and the provisions of the Constitution of the State of Utah responsible for the establishment, definition, and growth of Utah State University follow.

## **2.2 Acts of the U.S. Congress**

(1) The Morrill Act, passed by Congress July 2, 1862, donated public lands to the several states and territories "to establish colleges to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislature of the states may prescribe, and to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life." (12 *Stat.* 503)

(2) The Congressional Act of July 23, 1866, amended the Morrill Act, extending the time for the establishment of land-grant colleges. (14 *Stat.* 208)

(3) The Hatch Act, passed by Congress March 2, 1887, authorized and appropriated funds for the establishment of agricultural experiment stations in connection with the agricultural colleges in each state and territory. (24 *Stat.* 440)

(4) The Morrill Act, as amended August 30, 1890, supplemented the grants of lands with cash appropriations. (26 *Stat.* 417)

(5) The Enabling Act, passed by Congress July 16, 1894, authorized establishment of a state government in Utah, the Constitution of the State of Utah, and the grant of land for the use of an agricultural college. (28 *Stat.* 107)

(6) The Smith-Lever Act passed by Congress May 8, 1914, provided for cooperative extension work between the land-grant colleges in the several states and the United States Department of Agriculture (38 *Stat.* 372)

(7) The Smith-Lever Act, as revised by Congress June 26, 1953, consolidated the Capper-Ketchum, Bankhead-Jones, Clark-McNary and other acts providing funds for cooperative extension work. (67 *Stat.* 83)

(8) The Hatch Act, as revised by Congress August 11, 1955, consolidated the Adams, Purnell, and other acts providing funds and directives for research work at the experiment stations in the several states. (69 *Stat.* 671)

(9) The Congressional Act of October 10, 1962, provided funds for forestry research programs, including the production, protection, and utilization of the nation's forest resources and related rangelands. (76 *Stat.* 806)

(10) The Congressional Act of July 17, 1964, established water research centers to promote a more adequate national program of water research. (78 *Stat.* 329)

## **2.3 Acts of the Utah Legislature**

(1) The Lund Act concurrently provided for appropriations for the establishment of the Agricultural College of Utah, and for an Agricultural Experiment Station, at a place in Cache County to be designated by the Board of Trustees. (1 *Com. Laws* 1888, p. 663; *Constitution of Utah* Article X, establishes a system of higher education)

(2) The State Legislative Act of March 6, 1915, authorized the Board of Trustees to enter into cooperative contracts with the United States Department of Agriculture, county or city officers, private and public organizations, and provided funds for cooperative extension work. (*Utah Code Annotated* 1953, 53-32-31) This act was later repealed and has been replaced by Utah Code Annotated, 53H-4-314 which establishes an agricultural experiment station and places it at Utah State University.

## **2.4 Utah Constitution**

The Constitution of the State of Utah, adopted November 5, 1895, and amended in 1986 specifies that: (1) the state legislature is to establish and maintain a uniform system of public schools--Article X, 1; (2) the public school system include all public universities and colleges --Article X, 2; (3) all rights, immunities, franchises and endowments originally established or recognized by the constitution for any public university or college are confirmed--Article X, 4; (4) the proceeds from the sale of lands reserved by Acts of Congress for the establishment or benefit of the state's universities and colleges shall constitute permanent funds to be used for the purposes for which the funds were established. Any income from the funds shall be used exclusively for the support and maintenance of the respective universities and colleges-Article X, 7.

## **1000.3 STATUTES EXPANDING THE UNIVERSITY**

### **3.1 Corporate Powers**

The [University] may have and use a corporate seal and may, subject to Section 53H-4-314 [making the State Board of Regents the successor to, and vested with, all the powers and authority relating to all properties, real and personal, tangible and intangible, and to the control and management of the property which was held by the governing board of each institution prior to the creation of the board], take, hold, lease, sell, and convey real and personal property as the interest of the institution requires. [The University] is vested with all property, franchises, and endowments, and is subject to, all contracts, obligations, and liabilities of its respective predecessor. (*Utah Code Annotated*, 53H-4-314 )

### **3.2 Agricultural Experiment Stations**

(1) Experiment stations.

There is established an agricultural experiment station in connection with Utah State University. The station conducts research as provided by state and federal laws governing the establishment and maintenance of agricultural experiment stations. (*Utah Code Annotated*, 53H-4-314 )

(2) Purchase and equipment.

Utah State University is in charge of the experiment station, and shall purchase or lease suitable lands, erect necessary buildings, provide needed equipment and appoint officers and assistants to conduct and issue reports on the research conducted at the station. (*Utah Code Annotated*, 53H-4-314 )

(3) Cooperative agreements.

The University may enter into cooperative agreements with government entities, organizations, corporations, institutions, and individuals to carry out the provisions governing agricultural experiment stations. (*Utah Code Annotated*, 53H-4-314 )

(4) Substations.

The University may establish and maintain substations in conducting the research provided for in Section 53H-4-314. The University may discontinue the existence of a substation. If a substation is created by legislative enactment, the University is under no obligation to maintain the substation beyond the time for which special appropriations are made by the legislature. (*Utah Code Annotated*, 53H-4-314 )

(5) Federal aid.

The governor may apply to the Secretary of the Treasury to obtain any appropriation made by Congress relating to the federal laws [referred to in the following section]. Whenever the University and the agricultural experiment station shall be entitled to any money under these acts or similar acts, the University shall execute and file with the Secretary of the Treasury an agreement to expend the money received for the sole and exclusive purpose expressed in such act and in the manner therein directed, and to maintain a farm of at least 25 acres in connection with the Utah State University. The University shall also comply with all conditions expressed in the acts. (*Utah Code Annotated*, 53H-4-315)

(6) Acceptance of various Acts of Congress.

The State of Utah reaffirms its acceptance of the grants of money and property authorized by the following Acts of Congress: (1) the Morrill Act, approved July 2, 1862; (2) an Act of Congress passed March 2, 1887, entitled, "An act to establish agricultural experiment stations in connection with the colleges established in the several states under the provisions of an act approved July 2, 1862, and all acts supplementary to that act"; (3) an Act of Congress entitled, "An act to provide for increased annual appropriation for agricultural experiment stations and regulating the expenditure thereof," approved March 16, 1906; (4) the Purnell Act, approved February 24, 1925; (5) "the Smith-Lever Act to aid in the development of the extension work in connection with the agricultural colleges," approved May 8, 1914; (6) "The Capper-Ketchum Act, providing for further

support of agricultural extension work as conducted by the agricultural colleges," approved May 22, 1928. (*Utah Code Annotated*, 53H-4-315)

(7) State guarantee of federal funds.

The state guarantees all moneys so received under Section 53H-4-315 against loss or misapplication. (*Utah Code Annotated*, 53H-4-315)

### **3.3 Extension Service**

(1) Extension service.

There is established at Utah State University an agricultural extension service as provided in the federal Smith-Lever and Capper-Ketchum Acts and other federal laws. (*Utah Code Annotated*, 53H-4-315)

(2) Cooperative contracts for expenses.

The University may enter into cooperative contracts with the United States Department of Agriculture, county or city officers, private and public organizations, corporations and individuals, to share the expense of establishing and maintaining an agricultural extension service. The county legislative body of each county may provide sufficient funds to insure that the agricultural extension service functions properly in their respective counties. (*Utah Code Annotated*, 53H-4-314)

### **3.4 Area Education Centers**

Utah State University shall operate and administer area education centers located at or near Roosevelt and Moab. (*Utah Code Annotated*, 53H-4-303)

## **1000.4 STATE STATUTES WITH APPLICATION TO THE UNIVERSITY COMMUNITY**

The following language reflects aspects of state statutes that apply to the conduct of business in the University community. It is important to note that the language excerpted from these statutes is neither exact nor complete. Rather, the excerpted language is meant to convey the general meaning of the several statutes which follow. Faculty or others who require the exact language found in these acts are referred to the *Utah Code Annotated*.

### **4.1 Open and Public Meetings**

The legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. (*Utah Code Annotated* 1994, Supp. 52-4)

(1) Exceptions.

Every meeting is open to the public unless closed by a two-thirds vote of the members of the body proposing to close the meeting. The vote to close the meeting must be taken at an open meeting for which notice is given and at which a quorum is present. No closed meeting is allowed except as to matters exempted. No ordinance, resolution, rule, regulation, contract, or appointment shall be approved at a closed meeting. The reason or reasons for holding a closed meeting and the vote, either for or against the proposition to hold such a meeting, cast by each member by name shall be entered on the minutes of the meeting.

A closed meeting may be held for any of the following reasons: (a) discussion of the character, professional competence, or physical or mental health of an individual; (b) strategy sessions with respect to collective bargaining, litigation, or purchase, leases, exchange of real property; (c) discussion regarding the disposition of security personnel or devices; and (d) investigative proceedings regarding allegations of criminal misconduct.

Nothing in this act shall apply to a chance meeting or a social meeting. No chance meeting or social meeting shall be used to circumvent this act.

This act shall not prohibit the removal of any person who willfully disrupts a meeting to the extent that orderly conduct is seriously compromised.

Those in attendance at a closed meeting must sign a statement indicating that the sole purpose of the meeting was for one of the stated exemptions.

(2) Public notice of meetings.

Each public body shall give not less than 24 hours' public notice of the agenda, date, time, and place of each of its meetings.

(3) Minutes of open meetings.

Written minutes shall be kept of all open meetings. Such minutes shall include: (a) the date, time, and place of the meeting; (b) the names of the members present and absent; (c) the substance of all matters proposed, discussed, or decided, and a record, by individual member, of votes taken; (d) the names of all citizens who appeared and the substance in brief of their testimony; and (e) any other information that any member requests be entered in the minutes.

(4) Minutes of closed meetings.

Written minutes shall be kept of all closed meetings. Such minutes shall include: (a) the date, time, and place of the meeting; (b) the names of members present and absent; (c) the

names of all others present except where such disclosure would infringe on the confidence necessary to fulfill the original purpose of closing the meeting.

(5) Minutes as public records.

Minutes are public records and shall be available within a reasonable time after the meeting.

#### **4.2 Employee Personnel Files (see policy 331, Personnel Files)**

Public employees in the state have the right to examine and make copies of documents in their own personnel files. (*Utah Code Annotated* 1994, 67-18). Upon receipt of a written request from an employee to examine such employee's personnel file, the employer shall produce the file for inspection and copying. The cost of copying shall be paid by the employee.

(1) Exception of confidential documents.

The right to examine and copy documents in an employee's personnel file is subject to access provisions as provided in state statutes.

(2) The Government Records Access and Management Act (GRAMA).

GRAMA has been enacted to assure the public's right of access to information concerning the conduct of the public's business and the right of privacy in relation to personal data gathered by governmental entities. It has particular importance to University staff in its classification, disclosure, appeals, and personnel file amendment provisions. (*Utah Code Annotated* 1994, 52-3-1)

#### **4.3 Nepotism (see policy 392, Employment of Relatives)**

It is unlawful for any person holding any position the compensation for which is paid out of public funds to employ, appoint, or vote for the appointment of his or her father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law in or to any position or employment when the salary, wages, pay, or compensation of such appointee is to be paid out of any public funds. It is unlawful for such appointee to accept or to retain such employment when his or her initial appointment thereto was made in contravention of the foregoing sentence by a person within the degrees of consanguinity or affinity therein specified having the direct power of employment or appointment to such position, or be a board or group of which such person is a member. (*Utah Code Annotated* 1994, 52-3-1).