

**XAVIER UNIVERSITY**

**Access and Accommodations**

**For Persons with Disabilities**

**Effective:** 12/08/2014

**Last Updated:** 11/12/2018

**Responsible University Office:** Institutional Diversity & Inclusion

**Responsible Executive:** Chief Diversity and Inclusion Officer

**Scope:** Campus Community

**A. REASON FOR POLICY**

The University is committed to promoting and providing an accessible, safe, open, environment conducive for living, learning and working for our students, faculty, staff and guests. The Americans with Disabilities Act of 1990 (ADA) and Americans With Disabilities Act Amendments of 2008 (Amendments Act) and Section 504 of the Rehabilitation Act of 1973 as Amended in 2008 (Section 504) are federal laws applicable to private universities in the United States that set forth certain expectations and requirements for promoting accessibility to facilities, education, employment and experiences at the University.

Federal legislation requires the University to have clear and well communicated anti-discrimination policies as well as processes in place through which students, faculty, staff and guests may resolve grievances with the University.

The purpose of this Policy is to provide guidance to the University Community about certain duties, rights and responsibilities they may have in connection with ADA, the Amendments Act and Section 504.

**B. POLICY**

Xavier University is committed to achieving compliance with the applicable requirements of the ADA, the Amendments Act and Section 504. This policy is intended to inform and guide members of the University Community concerning duties, rights and responsibilities they or Xavier may have with regard to these laws.

This policy will be reviewed and revised no less than annually to take into account changes in applicable law, feedback from annual University department reviews and reports, guidance from the Chief Diversity and Inclusion Officer, reporting from the Affirmative Action Officer, and developments in best practices.

**C. PROCEDURES**

1. **CAMPUS RESOURCES**

Xavier University provides accessibility and accommodation resources for students, faculty, staff, and visitors through several different offices. Any request for accommodations should be made to the relevant resource set forth below. Information and assistance can be obtained by contacting:

* 1. The Office of Disability Services for Student Academic Accommodations and Tutoring at (513) 745-3280.

<http://www.xavier.edu/lac/student-disability-services.cfm>

* 1. The Office of Residence Life for Student Housing at (513) 745-3203.

<http://www.xavier.edu/residence-life/>

* 1. The Office of Human Resources for Employment Accommodations at
	(513) -745-3638. <http://www.xavier.edu/hr/>
	2. The Office of Physical Plant for Facilities access at (513) 745-3151 or Campus Police at the non-emergency number (513) 745-2000.

<http://www.xavier.edu/plant/index.cfm>

<http://www.xavier.edu/police/>

* 1. The Office of the Associate Provost for Student Affairs for Student Activities, at (513) 745-3202. <http://www.xavier.edu/studentaffairs/>
	2. Overnight guests should contact the office hosting their group.
	3. Non-student campus tenants should call the Office of Physical Plant at (513) 745-3151 or Campus Police as directed in their Lease Agreement.

<http://www.xavier.edu/plant/index.cfm>

<http://www.xavier.edu/police/>

* 1. Campus visitors may contact the Affirmative Action Officer located in the Office of Human Resources at (513) 745-3638 or Campus Police at (513) 745-2000.

<http://www.xavier.edu/hr/>

<http://www.xavier.edu/police/>

* 1. Individuals with food allergies may contact Auxiliary Services at (513) 745-4281 to be connected with Xavier Dining.

<http://www.xavier.edu/auxiliary-services/xavier-dining.cfm>

* 1. Xavier University maintains a confidential anonymous hotline that enables persons to relay concerns or complaints involving the matters covered in this Policy. The hotline is open 24 hours a day and can be contacted by calling 1-855-481-6238 or by following this link to the “Make Report” areas of the website. <https://secure.ethicspoint.com/domain/media/en/gui/34090/index.html>
1. **LAWS, NOTICES, GRIEVANCES, REMEDIES & DOCUMENTS:**

The following items will be addressed in order below:

1. Laws and Related University Policies
2. Posting of Notices & Effective Communication
3. Departmental Policies & Procedures
4. ADA/504 Grievance Process
	1. Designated Officer
	2. Informal Process
	3. Formal Process
	4. Appeal Process
5. Outside Remedies
6. Documentation
7. Document Retention
8. **Laws and Related University Policies**
	1. **ADA:** The Americans with Disabilities Act of 1990 and The Americans with Disabilities Amendments Act of 2008 (Amendments Act) are referred to collectively from this point forward in the Policy as “The Americans with Disabilities Act of 1990” or “ADA”.

The ADA prohibits discrimination solely on the basis of disability in employment, public services, and accommodations. The person must be otherwise qualified for the program, service, or job.

The ADA and Section 504 of the Rehabilitation Act of 1973 as Amended hold that an individual with a disability is defined as a person who: (1) has a physical or mental impairment that substantially limits one or more life activities; or (2) has a record of such impairment; or (3) is regarded as having such impairment. Major life activities include but are not limited to walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks.

The ADA details administrative requirements, grievance procedures, and the consequences for non-compliance related to both services and employment. The ADA also requires provision of reasonable and effective accommodation for eligible students across educational activities and settings.

“Reasonable and effective” may not always mean “best” accommodations. The University is permitted to consider the content of academic programs, undue administrative burden and undue financial burden in the accommodation assessment process. The University may provide a reasonable and effective accommodation.

* 1. **Section 504: Section 504 of the Rehabilitation Act of 1973 As Amended 2008 (hereinafter “Section 504”)**

In 2008, Section 504 of The Rehabilitation Act of 1973 was amended through a conforming amendment to ADA through which Congress intended to align the definition of disability between the two federal laws (set forth in Section II, A. a) of this Policy).

Section 504 prohibits discrimination on the basis of disability in programs, public and private, that receive federal financial assistance.

* 1. **Confidentiality**

All Xavier employees have an obligation to maintain confidentiality regarding disability-related information about students, staff, applicants for employment or admission, and members of the public. Accordingly, information may be exchanged between employees only when necessary to facilitate the provision of accommodations or resolution of grievances.

While employees may not ask individuals to identify as having a disability, they can and should offer resource information as a general practice.  Once an individual has disclosed a disability to an employee, that employee is free to discuss the disability further with the individual in a confidential setting to facilitate appropriate access for the individual.

1. **Academic Advising**

Employees who engage in academic advising/counseling for students should offer all students they advise/counsel information about the academic support resources available in the Office of Disability Services.

1. **Retaliation**

Retaliation is expressly prohibited by both the ADA and Section 504 and is expressly prohibited for members of the University Community and by this Policy:

Neither the University nor any person acting on its behalf shall discriminate against any individual because that individual has requested an accommodation or opposed any unlawful act or practice (under ADA or Section 504), or because that individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing (under ADA or Section 504).

Neither the University nor any person acting on its behalf shall coerce, intimidate, threaten, retaliate against, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by the ADA or Section 504.

1. **Related University Policies and Procedures**
	* 1. Xavier University Harassment Position Statement on Harassment

Xavier is committed to eliminating barriers that impede learning and research development and to establishing and maintaining diverse human relationships essential to living harmoniously in a global society. Xavier is creating and implementing educational and development initiatives through the discovery and transmission of knowledge in order to establish and maintain diverse human relationships essential to living harmoniously in a global society. Therefore, it is essential that members of the University Community function effectively and justly when exposed to ideas, beliefs, values, personal characteristics, and cultures different from their own. Incidents of harassment jeopardize the proper functioning of the Xavier Community and therefore the University takes all claims of harassment seriously.

* + 1. Xavier University Harassment Code and Accountability Procedures (“HCAP”) governs Harassment:

<http://www.xavier.edu/titleix/HarassmentCodeandAccountabilityProcedures.pdf>

* + 1. Xavier University Equal Employment Opportunity Statement (“EEO”)

Xavier University is committed to providing equal employment opportunity for all employees and applicants in compliance with applicable laws. No personnel decisions concerning any term or condition of employment shall be unlawfully based upon race, color, religion, sex, sexual orientation, gender identity, national origin, age, marital status, veteran status, disability and any other protected class protected by law.

<http://www.xavier.edu/hr/documents/official-policies-procedures-manual/2.03%20Equal%20Employment%20Opportunity.pdf>

* + 1. Xavier University Student Handbook (“Handbook”)

Governs student conduct.

<http://www.xavier.edu/student-integrity/documents/studenthandbook.pdf>

* + 1. Xavier University Title IX Procedures (“Title IX”) governs
		discrimination and harassment based upon sex.

<http://www.xavier.edu/titleix/documents/1XavierGender-BasedSexualMisconductReportingSupportOptions.pdf>

* + 1. Xavier University Office of Disability Services (“Disability Services”)

Assists students with academic accommodations.

<http://www.xavier.edu/lac/Services-Provided.cfm>

1. **Posting of Notices (and Effective Communications)**
2. Wherever Notice is required to be posted pursuant to ADA and Section 504, such notice shall be posted in print and made available in alternative formats that render it accessible.
3. Upon request, the University will provide reasonable aids and services leading to effective communication for qualified persons with disabilities.
4. **Office/Departmental Policies and Procedures**
5. Offices and Departments will maintain written policies and procedures related to academic accommodations, employment, facilities, services and/or other accommodations provided for qualified persons with disabilities in compliance with this Policy. This may be accomplished by policies specific to such Office or Department where warranted or desired or by adherence to generally applicable policies such as those at the Office of Disability Services (relative to educational matters) or Human Resources (relative to employment matters), for example. Any Office or Department relying on generally applicable policies shall document that fact.
6. An annual review of policies and procedures will be conducted to:
	1. Ensure ongoing compliance with ADA and Section 504;
	2. Identify policy gaps;
	3. Update written policies and procedures to reflect current practices;
	4. Assess the effectiveness of existing policies and procedures;
	5. Recommend and implement corrective actions; and,
	6. Develop new policies and procedures as necessary to remain in compliance.
7. Annual review findings should be reported to the ADA Coordinator.
8. The University’s Affirmative Action Officer or designee shall provide a report at least annually to the President’s Cabinet about ADA/504 grievance and resolution activities on campus in a manner compliant with all privacy laws.
9. **ADA/504 Grievance Process**
10. **Purpose of the Process**
	1. Xavier’s internal ADA/504 Grievance Process is designed to address grievances that arise in connection with disability access and accommodation in the campus community in a timely manner once the complaining party has exhausted the resources outlined in section C. I., of this Policy. The University generally views sixty (60) days from the time of the filing of a grievance with the Affirmative Action Officer to the time of final resolution as a reasonable time frame for resolving ADA/504 matters.
	2. Time limits: All time limits in this policy are intended to assist in resolving matters as promptly as is reasonable under the circumstances. Any time frame requirements can be expanded or contracted by the Affirmative Action Officer (or deputy) due to a number of factors including but not limited the complexity of the matter, the availability of witnesses or evidence, or the time in the school year when the investigation takes place. Extensions may also be made upon written agreement of all parties.
	3. Individuals always have the right to bypass the University’s ADA/504 Grievance Process in whole or in part, at their sole discretion, by complaining directly to state and/or federal agencies which are fully described in Section II, E. of this Policy. Individuals also have the right to file suit in federal court to have their complaints heard.
	4. Grievances regarding harassment are governed by the HCAP and the Student Handbook. (As noted in Section II, A. (f) of this Policy); Grievances of harassment based on sex are governed by the Title IX Process (as noted in Section. II. A. (f), of this Policy). In the event a grievance contains more than one type of harassment/discrimination, the Affirmative Action Officer (or deputy) will engage in consultation with the appropriate parties to ensure the grievant is best served in a timely manner and the University remains in compliance with all applicable laws. In the event a Title IX issue is present, the Title IX Coordinator will work closely with the Affirmative Action Officer and the grievant to ensure the grievant is fully aware of his/her Title IX rights and options.
	5. The ADA/504 Grievance Process provides both formal and informal paths for resolution of grievances. A grievant has full discretion to initiate either the Informal Process or the Formal Process by filing a written grievance with the Affirmative Action Officer.
	6. Grievance: For purposes of this policy, grievance shall mean any complaint related to accessibility for persons with disabilities.
11. **Designated Officer**
	1. The University’s Affirmative Action Officer shall receive and investigate grievances brought forth concerning ADA and Section 504.
	2. The Affirmative Action Officer may designate deputies to assist in the investigation, reporting and resolution of grievances in a timely manner.
	3. The Affirmative Action Officer (or deputy) will investigate grievances in a timely manner (generally within fifteen (15) business days) of receipt of a written grievance and,
	4. Issue a written report upon conclusion of the ADA/504 Grievance Process in the Informal Process and upon conclusion of the Investigation in the Formal Process, as applicable. The report may be provided in an alternate format to the parties upon request.
12. **Informal Process**
	1. This process is designed to achieve resolution to a grievance through discussion and agreement. It is not designed to make findings as to violations of University Policy or governing law.
	2. A grievance is made by contacting the Affirmative Action Officer (or deputy).
	3. A grievance should be in writing and contain information about the alleged discrimination such as name, address, phone number of person making the grievance and location, date, and description of the problem. Alternative means of filing grievances, such as personal interviews or tape recording, will be made available for persons with disabilities upon request.

* 1. The Affirmative Action Officer (or deputy) will meet with grievant, review all grievance options and explain the various deadlines within the ADA/504 Grievance Process.
	2. The Affirmative Action Officer (or deputy) will be available to consult with the grievant about methods to articulate the basis of the grievance.

The Affirmative Action Officer (or deputy) will inquire further by gathering information from appropriate parties. Generally, the University views a reasonable time to complete this step as fifteen (15) business days following receipt of the written complaint.

* 1. The Affirmative Action Officer (or deputy) will collaborate with the appropriate members of the University Community to clarify policies and procedures, enhance communications and understanding, and facilitate a timely resolution but in no case more than sixty (60) days after the filing of the Grievance unless all parties agree, in writing, to extend the time period.
	2. The Affirmative Action Officer (or deputy) will follow up to ensure the resolution has been implemented as agreed and in a timely and satisfactory manner.
	3. In the event a grievant does not believe his/her grievance has been satisfactorily resolved through the Informal Process, he/she may utilize the Formal Process.
1. **Formal Process**
	1. This process is designed to achieve resolution of a grievance through a formal investigation and hearing.
		1. Although the Formal Process is a viable next step in the event that the Informal Process does not produce a satisfactory resolution, utilization of the Formal Process is not contingent upon participation in the Informal Process.
		2. A grievant may choose to utilize the Formal Process and completely bypass the Informal Process at his/her sole discretion.
	2. This process will be used to determine whether a violation of policy has occurred;
	3. In the event a violation has occurred, this process will be the vehicle through which consequences are implemented and/or corrective actions are issued;
	4. This process may also address prevention of recurrence of the problem if necessary.
	5. A grievance is made by contacting the Affirmative Action Officer (or deputy).
	6. A grievance should be in writing and contain information about the alleged discrimination such as name, address, phone number of person making the grievance and location, date, and description of the matter. Alternative means of filing grievances, such as personal interviews or tape recording, may be made available for persons with disabilities upon request.
	7. The Affirmative Action Officer (or deputy) will interview the grievant and may interview any other parties necessary and appropriate for his/her thorough investigation of the grievance. He/she may request and review documents and inspect facilities in conjunction with his/her investigation and must observe all applicable privacy laws.
	8. The Affirmative Action Officer or its deputy will report his/her findings in writing to the hearing officer as defined in section ix, below, and to the grievant 3 business days prior to the hearing.
	9. Hearings shall take place within fifteen (15) business days of the completion of the Affirmative Action Officer’s Investigation and Report or as soon thereafter as the University is open for business in cases where the grievant is an employee or member of the public; if the grievant is a student, the deadline shall be fifteen (15) business days from the completion of the Affirmative Action Officer’s Investigation and Report or as reasonably practical after the academic session resumes. Additional extensions of time to conduct hearings are permissible upon written agreement of all parties.
		1. Student Grievance Hearings

Student grievances regarding academic or non-academic access and accommodation will be heard by the Associate Provost for Student Affairs or his/her designee.

* + 1. Employee Grievance Hearings

Employment access and accommodation grievances will be heard by the Administrative Vice President of the University or his/her designee.

* + 1. Public Grievance Hearings

Grievances lodged by members of the public (to include campus visitors who are not academically engaged with the University) about facilities, events and services shall be heard by the Administrative Vice President of the University or his/her designee.

* 1. The appropriate hearing officer (or designee) shall hear and resolve the grievance. He/she may interview appropriate parties at his/her discretion and/or make his/her determination from the written records related to the grievance.
	2. The applicable hearing officer (or designee) shall issue a written decision in a timely manner, not to exceed ten (10) business days from the hearing date unless extenuating circumstances dictate further delay.
	3. The decision shall be issued directly to the grievant and to the University via the Affirmative Action Officer.
1. **Appeal Process**
	1. This process enables parties to Appeal decisions rendered in the Formal Process.
	2. Appeals are resolved by the President of the University (or the President’s designee) and are the final recourse in the Internal ADA/504 Grievance Process.
	3. To submit an Appeal, the grievant must provide written notification to the assigned Hearing Officer (or deputy) or the Affirmative Action Officer (or deputy) within three (3) business days of grievant’s receipt of the Hearing Officer’s decision.
	4. The Hearing Officer and/or the Affirmative Action Officer (or deputy) will submit the Appeal to the President (or President’s designee) no later than ten (10) business days following receipt of the Appeal.
	5. The President or the President’s designee may conduct a review as he/she deems appropriate for the issue at hand and then rule on the Appeal and issue a written finding no later than ten (10) business days from receipt of the Appeal. The written finding shall be issued directly to the grievant, and to the University in care of the Affirmative Action Officer (or deputy).
	6. The Affirmative Action Officer (or deputy) shall maintain all official documentation of the grievance including the Appeal and final resolution.
2. **External Remedies**
	1. Individuals are not required to utilize this ADA/504 Grievance Process or any other internal remedies before pursuing remedies through state and federal agencies.
	2. These agencies are:

**DOE-OCR Cleveland Office
Office for Civil Rights**U.S. Department of Education
1350 Euclid Avenue, Suite 325
Cleveland, OH 44115-1812
Telephone: 216-522-4970
FAX: 216-522-2573; TDD: 800-877-8339
Email: OCR.Cleveland@ed.gov

**U.S. Department of Justice**

950 Pennsylvania Avenue, NW

Civil Rights Division

Disability Rights Section – 1425 NYAV

Washington, D.C. 20530

Phone: 1-800-514-0301

TTY: 1-800-514-0383

Fax: 202 307-1197

Email: ADA.complaint@usdoj.gov

**Ohio Civil Rights Commission**
Norman Gibson, Regional Director
7162 Reading Road, Suite 606
Cincinnati, OH 45237
Phone: (513) 351-2541
Fax: (513) 351-2616
TTY: (614) 752-2391

**Equal Employment Opportunity Office**

John W. Peck Federal Office Building

550 Main Street, 10th Floor

Cincinnati, OH 45202

Phone: 1-800-669-4000

Fax: 513-684-2361

TTY: 1-800-669-6820

info@eeoc.gov

1. **Documentation**
2. The Office of Institutional Diversity and Inclusion shall serve as the central repository for the Access & Accommodations for Persons with Disabilities Policy retention.
3. Upon the creation, of Access & Accommodations for Persons with Disabilities policies, Departments and Offices shall provide a current copy the same to the Office of Institutional Diversity and Inclusion.
4. Upon completion of their annual review/assessment of Access & Accommodations for Persons with Disabilities policies, Departments and Office shall provide a copy of their current year’s policy(s) to the Office of Institutional Diversity and Inclusion. (If, after completing the annual review/assessment, the current policy(s) remain in effect unchanged, Departments and Offices should still provide documentation that a review was undertaken along with a copy of the current policy.)
5. The primary University contact for compliance documentation for this Policy is the ADA Coordinator, Tracey DuEst, Associate Director of Institutional Diversity and Inclusion who can be reached at: duestt@xavier.edu 513-745-3114.
6. The Affirmative Action Officer shall serve as the University’s primary designated recipient for all complaints and shall provide a copy to the ADA Coordinator.
7. **Document Retention**
8. Departments and Offices shall maintain records of existing Access & Accommodations for Person with Disabilities policies including creation, and revision dates and versions for a period of seven (7) years.
9. All records from the ADA/504 Grievance Process including but not limited to grievances, reports, notes and interviews as well as hearing and appeal decisions should be maintained for seven (7) years.



**POLICY APPROVAL FORM**

**Policy Name**: **Access and Accommodations for Persons with Disabilities**

**Owner:** Chief Diversity & Inclusion Officer

**Information**: This policy provides guidance for the campus community about applicable laws regarding access and accommodations for persons with disabilities. As required by law, this policy establishes an internal grievance process and advises individuals about internal as well as external resources for grievance resolution. The policy connects individuals to related campus resources and establishes protocols for posting notices, reporting about grievance activities and maintaining documentation in compliance with applicable law. The policy will be reviewed annually. Ownership and maintenance of this policy remains a matter of discussion among the Senior Executive Team at this time. It will go into effect immediately upon completion of consultation/ shared governance processes, cabinet approval and resolution of ownership.

**Consultation with appropriate University employees and groups:**

**Required Approvals:**

Department Head:

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Signature Date

Provost:

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Signature Date

Staff Advisory Committee:

Signature Date

Faculty Committee Chairperson:

Signature Date

General Counsel:

Signature Date