


<p><b>Name of Policy:</b> <a href="#"><u>Nondiscrimination on the basis of disability-Americans with Disabilities Act compliance</u></a></p> <p><b>Policy Number:</b> 3364-50-03</p> <p><b>Approving Officer:</b> President</p> <p><b>Responsible Agent:</b> Assistant to the President for Institutional Diversity</p> <p><b>Scope:</b> All University of Toledo Campuses</p>	 <p><b>Most recent revision:</b> January 1, 2009</p> <p><b>Original effective date:</b> August 12, 2008</p>
<p><input type="checkbox"/> New policy proposal</p> <p><input type="checkbox"/> Major revision of existing policy</p>	<p><input checked="" type="checkbox"/> Minor/technical revision of existing policy</p> <p><input type="checkbox"/> Reaffirmation of existing policy</p>

(A) Policy statement

Commitment. Since passage of the Rehabilitation Act, The University of Toledo (“the university”) has been committed to eliminating barriers to services, employment and educational opportunities for people with disabilities. Our commitment was renewed with the passage of the Americans with Disabilities Act (“ADA”) in 1990. With the passage of the ADA Amendments Act of 2008 (ADAAA), we restate our goal of providing seamless access. The university does not discriminate on the basis of disability in violation of the ADA, or the Rehabilitation Act in admission or access to, or treatment or employment in, its programs or activities.

(B) Purpose of policy

The purpose of the following policy is not to serve as a comprehensive statement but to provide guidance to the university in committing itself to providing employment, quality health care services and educational opportunities to people with disabilities and complying with the ADA, Section 503 and Section 504 of the Rehabilitation Act of 1973 (“the Rehabilitation Act”) and other applicable federal and state laws and regulations that prohibit discrimination on the basis of disability.

(C) Nondiscrimination.

- (1) Equal opportunity. The university is an equal opportunity educational institution and employer. Because we are committed to providing superior employment and educational opportunities, we will continue to make employment and academic decisions based upon qualifications. However, the policy of the university prohibits unlawful discrimination based upon disability, as defined by the ADA.

- (2) Compliance with the ADA. Furthermore, it is the policy of the university to comply with all the relevant and applicable provisions of the ADA. The university will not discriminate against any qualified employee, applicant, student, or prospective applicant, with respect to any terms, privileges, or conditions of employment or admission due to a person's disability. The university is committed to making reasonable accommodations and/or academic adjustments for all employees, students, or applicants with disabilities, provided that the individual can safely perform the essential duties and assignments inherent to the job or the program curriculum and provided that any accommodations made do not represent an undue hardship to the institution. Academic adjustments, however, shall not alter the fundamental nature of the programs and courses offered by the university.
- (3) Physical access. The university is committed to providing a physical facility that is accessible to individuals with disabilities. The university's goal is to work towards a barrier-free environment and this means that it strives to remove structural barriers in new and existing facilities, as defined in Section 504 of the Rehabilitation Act, to the extent readily achievable. Where such action is not readily achievable, then the university strives to provide reasonable alternatives to promote physical access and ensure program access.
- (4) Employment practices. The university does not limit, segregate, or classify applicants or employees in any manner that adversely affects their opportunities or status because of disability. The university will make reasonable accommodations to the known physical or mental limitations of an otherwise qualified applicant or employee unless the university can demonstrate that the accommodation would pose an undue hardship. The university will review employment practices and policies to ensure that job applicants and employees with documented disabilities are given nondiscriminatory consideration when their job qualifications are assessed.
- (5) Academic practices. The university does not deny admission or educational opportunities, or discriminate in admission, recruitment, or any other academic endeavor on the basis of disability. The deans of each college will charge the department chairs and directors with responsibility to make certain applicable technical standards and or academic policies ensure that students with disabilities are given nondiscriminatory access and opportunities to participate in the academic environment.
- (6) Public and patient care services. The university delivers health care services to its patients and other services to visitors and clients regardless of disability. It is the policy of the university to provide reasonable access to these services in a non-discriminatory manner.
- (7) Association. The university will not exclude or otherwise deny equal goods, services, facilities, privileges, advantages, reasonable accommodations or other

opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

- (8) Education. All current or incoming employees and students will be informed about the ADA policy. Visitors may also access the university's ADA policy online at <http://www.utoledo.edu/policies>.
- (D) Definitions.
- (1) Disability.
    - (a) Under the ADA as amended, in order to qualify as "disabled", an individual must demonstrate that he or she:
      - (i) Has a physical or mental impairment that substantially limits one or more of that person's major life activities;
      - (ii) Has a record of such an impairment; or
      - (iii) Is regarded as having such an impairment.
    - (b) Record of impairment. An individual may have a record of an impairment if she/he meets any part of the definition of "disability" as set forth above. Consequently, one who has previously had a qualified impairment may be protected by the ADA.
    - (c) Regarded as impaired. Individuals may be regarded as having such an impairment even if their impairment does not fall within the definition of "disability" under the ADA. There are three circumstances under which a person may be regarded as having such an impairment:
      - (i) The individual has an impairment which does not substantially limit major life activities but is perceived and treated as if he or she did;
      - (ii) The individual has an impairment that substantially limits major life activities only because of the attitudes or beliefs of other people; or
      - (iii) The individual may not have a covered impairment or any impairment at all but is nonetheless treated as if he or she did.
  - (2) Physical or mental impairment. A qualifying impairment is any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of several body systems or any mental or psychological disorder.
  - (3) Substantial limitation. Determining whether an impairment substantially limits an individual's major life activities requires consideration of:
    - (a) The nature and severity of the impairment, including the active phase of any condition that is episodic or in remission,

- (b) Whether the duration or expected duration of the impairment is more than six months, and
    - (c) The permanent or long term impact of, or resulting from, the impairment on the manner, conditions, and duration in which a person engages in one or more major life activity in comparison to the average person in the general population.
  - (4) Major life activities. Major life activities include, but are not limited to: caring for oneself, performing manual tasks, walking, standing, lifting, seeing, hearing, eating, sleeping, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, and the operation of major bodily functions as defined by the ADA as amended.
  - (5) Qualified individual with a disability. A qualified individual with a disability is an individual who satisfies the requisite skill, experience, and educational requirements of the position or the educational program and one who can perform the essential functions of the job or curriculum with or without reasonable accommodation.
  - (6) Essential functions. Essential functions are those functions that the individual who holds the position or who is in the academic program must be able to perform unaided or with or without reasonable accommodation.
- (E) Compliance organization
- (1) ADA compliance officer. The director for the office of accessibility is appointed to perform the functions and responsibilities of ADA Compliance Officer. The ADA compliance officer is also the individual designated to coordinate efforts to comply with the ADA and Rehabilitation Act. The ADA compliance officer has the authority to assure campus wide adherence to this policy. Each individual unit/department will be fiscally responsible for any accommodations necessary within their unit/department. Responsibilities of the ADA compliance officer include:
    - (a) Monitoring and assisting ADA coordinators in the developing of ADA policies which further the compliance with the Americans with Disabilities Act;
    - (b) Directing education/training for ADA awareness;
    - (c) Forwarding complaints to office of institutional diversity;
    - (d) Serve as the chairperson of the ADA compliance committee;
    - (e) Serve as an ex officio member of the ADA appeals committee.

- (2) ADA Coordinators. ADA Coordinators are:
- (a) Employee ADA Coordinator: Vice President for Human Resources or designee;
  - (b) Faculty ADA Coordinator: Director of Faculty Labor Relations or designee;
  - (c) Student ADA Coordinator; Director, Office of Accessibility (Main) and Director of Academic Enrichment Center (HSC) or designee(s);
  - (d) Public/Patient ADA Coordinator or designee: Coordinator of Patient Relations or designee;
  - (e) Facilities ADA Coordinator or designee: Vice President for Facilities and Construction or designee.

The ADA coordinators have the following responsibilities in their respective areas:

- (a) Ensure compliance by enforcing policies in their respective areas that further compliance with the ADA as amended;
  - (b) Ensure that requests for reasonable accommodations are met in their departments in consultation with the ADA compliance officer;
  - (c) Serve as members of the ADA compliance committee;
  - (d) Report resolutions of requests for accommodation to the ADA compliance officer.
- (3) ADA compliance committee. The ADA compliance committee will consist of the ADA compliance officer (chairperson) and the ADA coordinator. The committee will:
- (a) Review and recommend changes to ADA policies and procedures, if necessary;
  - (b) Work to address compliance issues that arise;
  - (c) Convene with the ADA compliance officer as needed;
  - (d) Serve as members of the ADA appeals committee.
- (4) Complaint Process. The Assistant to the President for Institutional Diversity or designee, will receive and investigate complaints regarding the accommodation process or decisions thereof. See section (K) for complaint process.
- (5) ADA appeals committee

The ADA appeals committee will be chaired by the Associate Vice President for Safety and Health and consist of all ADA coordinators except those involved in the initial complaint.

(F) Physical accessibility

- (1) New and existing facilities. The university will maintain a facilities condition report and an annual capital projects renovation plan. All new construction and renovations to the existing facilities will be designed and built to comply with all current ADA Standards of Accessible Design and Ohio building codes for construction.

(G) Employment environment

- (1) The application process. The university ensures equal opportunity in the application process. Any selection criteria, qualification standards, and employment tests which are used to evaluate applicants are job related for the position in question and shall be consistent with the legitimate business needs of the university. Evaluations of applicants and their qualifications will be conducted in a nondiscriminatory manner.
- (2) Accessible interviews. Applicant interviews will be conducted in accessible rooms and areas. All other parts of the facility that may foreseeably be used by an applicant, e.g., restrooms, will be accessible.
- (3) Application forms. Employment forms and applications will not contain discriminatory language nor ask questions that are designed to elicit information regarding an applicant's disability. However, the university may make specific inquiries regarding the ability of an applicant to perform job related functions.
- (4) Medical/psychological examinations/questions.
  - (a) Applicants. The university may require applicants for certain positions to submit to a medical/psychological examination after an offer of employment is extended, but before employment begins. The university may condition an offer of employment on the results of a medical/psychological examination.
  - (b) Employees. The university may require that incumbent employees submit to medical/psychological examinations to determine the employee's ability to perform job related functions. This might be the case when, for example:
    - (i) The employee is having difficulty performing his or her job effectively;
    - (ii) The employee desires to return to work following time off for an injury or illness related disability;
    - (iii) The university needs to evaluate the employee's request for a specific accommodation;

- (iv) The reason is otherwise job related and consistent with business necessity; or
- (v) The examination is required by law.

The university may also request an employee's voluntary participation in any medical/psychological examinations that are a part of the employee's health program available at the university.

- (c) Confidentiality. Any medical/psychological information obtained as a result of a medical examination required by the university will not be used to impermissibly discriminate against an applicant on the basis of a disability. All medical/psychological information obtained as a result of a medical/psychological examination required by the university will be kept confidential to the extent permissible by law and maintained in a separate medical/psychological file. Medical/psychological information obtained may need to be shared, for example, with supervisors, managers, safety personnel, government officials investigating compliance, Ohio Bureau of Workers' Compensation or used for medical/psychological insurance purposes as permitted by law.
  - (d) Basis for rejection. The university may withdraw an offer of employment or terminate a current employee based upon the results of a medical/psychological inquiry if:
    - (i) the rejection is job-related and consistent with a business necessity;
    - (ii) the applicant poses a direct threat to the health and safety of others; or
    - (iii) no reasonable accommodation and/or adjustments would enable the applicant/employee to perform essential job functions.
  - (5) Job descriptions. Essential functions of the job are tasks that bear a fundamental relationship to the job in question. They are job duties or functions that must be performed. A function may be essential because the reason the job exists is to perform that function. The university reserves the right to determine which functions are necessary to a given job and create written job descriptions accordingly.
  - (6) Human Resources department. The role of the human resources department is to assure that the provisions of this section are implemented through the management of sound policies and procedure.
- (H) Academic environment
- (1) The application process. The university ensures equal opportunity in the application process. Any selection criteria and qualification standards that may be used to evaluate student applicants will relate to the essential elements of the

curriculum. Evaluations of applicants and their qualifications will be conducted in a nondiscriminatory manner.

- (2) Accessible interviews. Applicant interviews will be conducted in accessible rooms and areas. All other parts of the facility that may foreseeably be used by an applicant, e.g., restrooms, shall be accessible to the disabled applicant.
- (3) Application forms. Application forms and other admission documents will not contain discriminatory language nor ask questions that are designed to elicit information regarding an applicant's disability.
- (4) Medical/psychological examinations/questions.
  - (a) Applicants. The university reserves the right to require applicants to submit to a medical/psychological examination after an offer of acceptance to a field of study is extended, but before class actually begins. The university may condition an offer of admission into an academic program on the results of a medical/psychological examination.
  - (b) Current students. The university may require that incumbent students submit to medical/psychological examinations to determine the student's ability to perform curriculum-related functions. This might be the case when:
    - (i) The student is not meeting the fundamental/required objectives of the program;
    - (ii) The student desires to return to school following time off for an injury or illness related disability;
    - (iii) The university needs to evaluate the student's request for a specific accommodation;
    - (iv) The reason is otherwise educationally related and consistent with academic necessity; or
    - (v) The examination is required by law.
  - (c) Confidentiality. Any medical/psychological information obtained as a result of a medical/psychological examination requested by the university will not be used to impermissibly discriminate against an applicant or student on the basis of a disability. All medical/psychological information obtained as a result of a medical/psychological examination required by the university will be kept confidential to the extent permissible by law and maintained in a separate medical/psychological file. Medical/psychological information obtained hereunder may need to be shared, for example, with appropriate faculty members involved in the student's education, safety personnel, government officials investigating ADA compliance, accrediting agencies or other agencies as permitted by

law <http://www.ed.gov/policy/gen/guid/fpco/doc/ferpa-hippa-guidance.pdf>.

- (d) Basis for rejection. The university may withdraw an offer of enrollment/admission or terminate a current student based upon the results of a medical/psychological inquiry if:
  - (i) the rejection is curriculum-related and consistent with academic and non-academic standards including technical standards of the student's program;
  - (ii) the individual poses a direct threat to the health and safety of others;  
or
  - (iii) no reasonable accommodation would enable the individual to perform essential elements of the curriculum.
- (5) Academic standards. The university does not, on the basis of disability, exclude a qualified student with a disability from participation in, deny the benefits of, or otherwise subject the student to discrimination under any academic, research, occupational training, housing, health insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other post secondary education, benefits, or services to which the ADA or Rehabilitation Act (34 CFR 104.43). Academic requirements will be essential to the instruction being pursued by the student or to any directly related licensing requirement. Modifications to academic requirements may be made to ensure that academic requirements do not discriminate on the basis of disability. The university reserves the right to determine what functions are necessary to a given curriculum and create academic standards accordingly.
- (6) College responsibilities. It is the responsibility of each respective college within the university to ensure that this policy is followed. Each program of education will have the essential elements of that program delineated.
- (I) Public and patient care environment
  - (1) The university strives to ensure that all patients, visitors, clients, and other members of the public will have equal opportunity and access, to the services provided by the university.
  - (2) Requests for accommodation should be made directly to the university department within which the individual is receiving the service.
  - (3) The university department will refer the patient or any other individual seeking accommodation to the public/patient ADA coordinator if the accommodation is not readily available within the department. The accommodation procedure delineated in section (J) will then be followed.

- (4) If the request for accommodation is denied, the individual may use the complaint procedure as delineated in section (K). The public/patient ADA coordinator will assist the individual in obtaining the necessary complaint forms.
- (J) Reasonable accommodation and/or adjustments
- (1) Reasonable accommodation and/or adjustments. The university will accommodate qualified individuals so long as the accommodation does not impose an “undue hardship” on the university. A reasonable accommodation and/or adjustment must provide an opportunity for a person with a disability to:
    - (a) achieve the same level of performance; or
    - (b) enjoy benefits or privileges equal to those of a non-disabled person; or
    - (c) perform the essential functions of the position held or desired.
  - (2) Responsibility to notify. The university will make reasonable accommodations to an otherwise qualified individual with a disability. It is the responsibility of the individual with the disability to inform the university that an accommodation is needed. The university will request documentation of the individual’s functional limitations to support a need for an accommodation.
  - (3) Reasonable accommodations identification process.
    - (a) General Process.
      - (i) Employment accommodations. An individual seeking an accommodation to perform the essential functions of a position must submit an accommodation request with disability documentation to the ADA compliance officer to determine eligibility. If the employee is eligible, the ADA compliance officer will contact the human resources designee who will work with the appropriate individuals to implement a reasonable accommodation. If the employee is not satisfied with the accommodation see section (K) for complaint procedure.
      - (ii) Academic Accommodations. A student seeking an academic accommodation to perform the essential elements of the curriculum/course must submit an accommodation request including disability documentation which must adhere to institutional documentation guidelines (<http://www.utoledo.edu/utlc/accessibility>). This information is to be submitted to the Academic Enrichment Center (Health Science Campus) or the Office of Accessibility (Main Campus). Academic accommodations shall not fundamentally alter the course and/or programmatic objectives offered by the university. If eligible, students will be required to obtain a memorandum outlining accommodations to be provided each block/clinical clerkship/semester from either the Academic Enrichment Center on the Health Science Campus or Office of Accessibility on main campus. It is the student’s responsibility to disclose the memorandum to faculty prior to needing said accommodation. Accommodation requests are not retroactive. If

the student is not satisfied with the accommodation, see section (K) for complaint procedure.

(iii) Public accommodation requests. Refer to section (I) for patient/public/visitor requests.

(4) Confidentiality. All medical information obtained under this accommodation procedure shall be subject to the confidentiality provisions of section (G) (4) (c) and section (H) (4) (c).

(K) Complaint procedure.

(1) Notification. If any individual believes that an accommodation was unreasonably denied, the individual may voice an informal complaint to the appropriate ADA Coordinator for resolution. If the individual is dissatisfied with the resolution a formal written complaint may be submitted to the Assistant to the President for Institutional Diversity or designee for resolution. Complaint forms may be obtained in the Office of Institutional Diversity.

Such complaints must be made within a reasonable time, usually within fourteen calendar days of receiving the determination. The university will process complaints made after that time, although an individual's failure to make a complaint within a reasonable time may encumber the university's ability to properly investigate the complaint and may be considered in determining credibility issues which arise during the investigation.

(2) Investigation. The assistant to the president for institutional diversity or designee will initiate an investigation within 14 calendar days of receipt of the complaint of the alleged unreasonable denial of the accommodation request.

(3) Remedial action. If the assistant to the president for institutional diversity determines that an accommodation was unreasonably denied, the complainant will be notified of the corrective action to be taken.

(4) Appeal. The individual filing the complaint may appeal the decision of the assistant to the president for institutional diversity by submitting a written appeal, within fourteen calendar days of receiving the decision, to the chairperson of the appeals committee, associate vice president for safety and health.

(a) The chairperson of the ADA appeals committee will convene the appeals committee to review the complaint and within fourteen calendar days after receiving the complaint, the appeals committee comprised of ADA coordinators will make its recommendation to the appropriate administrator who has administrative authority over the department/area handling the matter.

- (b) The appropriate administrator will review the ADA Appeals Committee recommendation and notify the ADA Compliance Officer of the final determination on the appeal within seven calendar days after receiving the recommendation. The ADA Compliance Officer will notify the complainant of the decision and the appropriate ADA coordinator or designee responsible for implementing the decision. This decision shall be the university's final position on the matter.
- (5) Non-retaliation policy. The university will not retaliate against any individual for filing a complaint and will not knowingly permit retaliation by management employees, faculty, co-workers, or fellow students.
- (6) Confidentiality. All medical information obtained under this accommodation procedure shall be subject to the confidentiality provisions of section (G) (4) (c) and section (H) (4) (c).

<p>Approved by:</p> <p><u>/s/ laj</u> Lloyd A. Jacobs, M.D. President</p> <p><u>June 11, 2009</u> Date</p> <p><i>Review/Revision Completed by:</i> Assistant to the President for Institutional Diversity Office of Legal Affairs ADA Advisory Committee</p>	<p><b>Policies Superseded by This Policy:</b></p> <ul style="list-style-type: none"> <li>• <i>01-061 Nondiscrimination on the basis of disability-Americans with Disabilities Act Compliance (former Health Science Campus policy, review date 07/01/03)</i></li> </ul> <p>Initial effective date: August 12, 2008 Review/Revision Date: January 1, 2009 Next review date: January 1, 2012</p>
--	--