

Academ

 NIAGARA UNIVERSITY	<i>Responsible Office or Department:</i>	Academic Affairs
	<i>Effective Date:</i>	11/22/2024
Grievance Policy for Students, Employees, and Visitors with Disabilities – New York and Ontario		

PURPOSE:

In compliance with the ADA, NYS Human Rights Law, the Accessibility for Ontarians with Disabilities Act, and the Ontario Human Rights Code, it is Niagara University’s policy to ensure that no qualified student with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination by any university program or activity. Students, employees, and visitors who believe they have not received appropriate support and/or have been treated in a discriminatory manner due to their disability, may file a complaint or grievance.

The University is committed to ensuring that all members of our community demonstrate respect, fairness, and kindness in their interactions with one another in order to build and sustain healthy relationships that are free from harassment and discrimination, and to ensure that all individuals receive support and/or accommodations where appropriate.

SCOPE:

This policy should be used by students, employees, and visitors following the steps below to ensure a clear, prompt, and fair procedure for resolving complaints under the purview of this policy. An action or decision may be grieved pursuant to this Policy if it involves a misapplication or misinterpretation of University policy or procedure, or a violation of state, provincial or federal law or regulation. Students, employees, and visitors needing further guidance as to what constitutes basis for a grievance should consult the ADA Coordinator.

Excluded from the scope of this Policy are:

- a. Complaints directly related to academic integrity, grade appeal, Student Code of Conduct, Student-Athlete Code of Conduct, Title IX Grievance Policy or the Non-discrimination Policy and Grievance Procedures, and matters controlled by NUSGA bylaws, where applicable, or any other policies that may be applicable, are exempt from this Policy and should be resolved via the procedures in the relevant policies and controlling documents;
- b. Students concerned that a disrespectful or unfair act was based in part or wholly on the basis of discrimination based on race, color, gender, sexual orientation, military status, disability, predisposing genetic characteristics, marital status, or other status, should consult the Title IX Coordinator before taking any action under this policy;

c. Complaints brought against faculty members under this process are handled in accordance with the provisions outlined in the most recent Collective Bargaining Agreement and Board of Trustees' Policy on Termination of Faculty and Emeritus Status;

d. This is an educational process for people working in an academic community to work towards common ground. The University encourages any person perceived to have been wronged to avail themselves of any resource they need. However, allegations of criminal or civil liability, which often have implications beyond the University; claims based on purchases or contracts; and claims against a University employee on matters that are unrelated to the employee's job or role at the University may result in a referral to appropriate legal channels, without resolution and without completion of all steps outlined in this policy.

e. As noted below, this Policy does not prohibit an Individual from also filing claims in other forums to the extent permitted by federal/national, state, provincial, or local law or by applicable accrediting agencies.

TERMS AND DEFINITIONS:

1. Calendar Day: Any day of the week, including weekends and holidays. The University need not be open and operating in the accrual of calendar days.
2. The term "Individual", as used in this policy, is used interchangeably with "Individual with a disability."

MAIN PROVISIONS:

The Americans with Disabilities Act of 1990, as amended in 2008, Section 504 of the Rehabilitation Act of 1963, the New York State Human Rights Law, the Accessibility for Ontarians with Disabilities Act, and the Ontario Human Rights Code are anti-discrimination laws that mandate equal access to university programs, services, and activities for individuals with disabilities. Niagara University is committed to delivering its programs, services, and activities equitably and efficiently to all members of its community. Niagara University is also committed to removing existing barriers, whether physical, programmatic, or attitudinal, and to ensuring that new barriers to programs, services, and activities are not erected.

OTHER POLICIES:

If the complaint or issue of concern implicates the Title IX Grievance Policy or the Non-Discrimination Policy and Grievance Procedures, as judged by the Title IX Coordinator, then that policy shall preempt this Grievance Policy and govern the process to address the complaint/concern. In that case, the Title IX Coordinator shall consult the ADA Coordinator and/or General Counsel as appropriate to ensure compliance with disability-related statutes. Likewise, where a complaint or concern is brought to the Title IX Coordinator, but is deemed to fall outside of Title IX jurisdiction, the complaint/concern may be referred to the ADA Coordinator where an issue of disability is germane to the complaint/concern.

PROCEDURES:

Individuals with a disability must first seek informal resolution of any concern they may have as set forth below. After making a good-faith effort to exhaust informal resolution channels, the individual may seek formal resolution as set forth below.

Individuals may elect to have a person in their jurisdiction present with them at all stages of the proceedings. The individual also retains the right to have said person make written submissions on their behalf.

Informal Resolution:

Individuals seeking to resolve an access or discrimination concern shall first discuss the concern(s) with the University personnel listed below (“Intake Officer”) in an effort to resolve concern(s) through a conversation designed to understand the concern(s) and issues involved. These University personnel shall work in conjunction with each other to collaboratively resolve complaints that call for mutual review and input.

Students: Coordinator, Accessibility Services

716.286.8072 / accessibilityservices@niagara.edu

Employees: Human Resources

716.286.8690 / hro@niagara.edu

Visitors/Other: ADA Coordinator

716.286.8755 / dmcman@niagara.edu

If good-faith discussions fail to resolve the Individual’s concern(s), the Individual may seek formal resolution as set forth below. If the Individual expresses the desire to pursue formal resolution, then the Intake Officer shall determine whether additional discussion is appropriate (i.e., that good-faith efforts to discuss and resolve the concern(s) have been exhausted). If the Individual disagrees with such a determination, they may seek a determination of exhaustion from the University’s General Counsel. If and when exhaustion has been achieved, the Individual may seek formal resolution as set forth below. Once exhausted, the Intake Officer shall provide a brief written synopsis of the issue (i.e., the Individual’s identified concern and/or their requested relief, and the Intake Officer’s reason for denying such requested relief (or inability to address such concern) and any supporting rationale.

Formal Resolution:

If informal resolution efforts do not satisfactorily address the Individual’s concerns (i.e., informal resolution efforts have been exhausted), or if the grievance arises out of a final decision made by the Intake Officer, the Individual may file a formal grievance using the relevant procedure listed below.

Alternative means of filing complaints, such as personal interviews or audio recordings of the complaint, shall be made available for persons with a disability upon request. Responses from the University must be communicated in a format that is accessible to the complainant (e.g., large print, braille, or audio recording etc.).

1. Complaint:

A complaint of disability discrimination or failure to accommodate should be submitted in writing by the complainant and/or their designee to the University personnel listed below (Hearing Officers) as soon as possible, but no later than 35 calendar days after the alleged violation or failure to accommodate was first reported by the complainant to the University. Complaints should contain information about the alleged discrimination or failure to accommodate, including the name, address, and phone number of the complainant; and the location, date, and description of the alleged discrimination or failure to accommodate, including names of people involved, and any related documentation, and a description of efforts to resolve the matter informally.

Students/Employees: Title IX Coordinator or designee

O'Shea Hall B27

PO Box 2034, Niagara University, NY 14109-2034

716-286-8324 / odei@niagara.edu

Employees/Visitors: ADA Coordinator or designee

Physical Plan, Office 101B-A

PO Box 2033, Niagara University, NY, 14109-2033

716.286.2755 / dmcmann@niagara.edu

Complaints shall be maintained for four years by the above-listed University personnel or designee ("Hearing Officers"), who must also provide a copy to the General Counsel.

2. Meeting:

The Hearing Officer shall meet (including zoom or phone) with the complainant to discuss the complaint and possible resolution within 14 calendar days of receipt of the complaint. The Hearing Officer may refer the complaint back to the informal resolution process if they deem it appropriate (i.e., because additional issues need to be discussed and/or exhaustion was not achieved).

3. Response:

The Hearing Officer will issue a response to the complainant within 14 calendar days of the meeting, explaining the position of the University and offering options for substantive resolution of the complaint. The response must be in a format accessible to the complainant, using any necessary accommodations such as large print, braille, or audio recording. Accordingly, the maximum length of time that may elapse between submission of a written complaint and a written decision by the Hearing Officer is 28 days.

4. Appeal:

The complainant may appeal the response within 14 calendar days of receipt of the response if they believe the response does not satisfactorily resolve the complaint. Appeals must be submitted in writing to the University's General Counsel:

General Counsel

O'Shea Hall, Room B11

Niagara University NY 14109

716.286.8319 / generalcounsel@niagara.edu

The General Counsel will forward the appeal to an Appeal Board composed of University personnel who possess a background of knowledge of or experience, representing both jurisdictions, with individuals with disabilities (excluding any person involved in the complainant's matter). The Appeal Board shall be appointed by the ADA Coordinator annually on or about June 1.

The Appeal Board shall, within 21 calendar days after the receipt of the appeal, schedule and conduct a meeting with the complainant and other individuals involved in the grievance.

5. Final Resolution:

Within 14 calendar days from the completion of the meeting(s) with the complainant, the Appeal Board shall issue a written response (or an accessible format) to the complainant. This is the final institutional level of appeal.

6. Retention:

Written complaints, appeals, and responses shall be retained by Niagara University for no less than three (3) years from the date of each document's issuance.

External Review:

In addition to internal remedies, Individuals have the right to pursue external remedies or review. The right to prompt and equitable resolution of a grievance shall not be impaired by the

Individual's pursuit of other legal remedies such as filing a complaint with the Office of Civil Rights, the Accessibility for Ontarians with Disabilities Act, or the Ontario Human Rights Code. Although individuals have the right to pursue legal remedies through external channels, Individuals are encouraged to first utilize the University's internal mechanisms to resolve issues. If an internal process has been started, then the Complainant must inform the University's General Counsel of any such external complaint and provide a copy of such complaint if written.

ADDITIONAL INFORMATION:

None

POLICY HISTORY:

- Originated: 4/1/2010
- Current Effective Date: 11/22/2024
- Next Review Date: **11/22/2027**
- Revision/Renewal Log:
 - ADA Coordinator contact details updated – 4/30/2025
 - Revised 08/23/2024 for compliance
 - Replaced Disability Grievance Policy and Procedure, April 2010