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## Discrimination, Harassment and Duty to Accommodate Policy

<b>Office of Accountability:</b>	Provost and Vice-President (Academic) Vice-President (Finance and Administration)
<b>Office of Administrative Responsibility:</b>	Vice Provost and Dean of Students Vice-Provost & Associate Vice-President, Human Resources
<b>Approver:</b>	Board of Governors (Board Human Resources and Compensation Committee) General Faculties Council (GFC Executive Committee)
<b>Scope:</b>	Compliance with this policy extends to <b>members of the University community</b> as well as third party contractors, visiting speakers and volunteers.

### Overview

As a leading teaching and research institution whose work is local, national, and international, the University of Alberta is responsive to the needs of a diverse student population and workforce, as well as to the urban, rural, francophone, Aboriginal, and multicultural communities in which it does its work. The University is enriched by diversity, and it welcomes and seeks to include many voices, including those that have been under-represented or excluded.

This policy is guided by the following principles:

1. Equity

Equity is about fairness: in access – to education, to employment – and in opportunity to succeed in these domains. As a guiding principle of this policy, equity reflects an understanding that the University of Alberta is an increasingly diverse community and that it will respect and value the differences of its members.

2. Responsibility

Responsibility for achieving a work, study, and living environment free of harassment and discrimination rests with every individual to whom this Policy applies. All members can reasonably expect to pursue their work and studies in a safe and respectful environment. Neither the University nor any associated individual shall practice or condone any discriminatory or harassing conduct that adversely affects the pursuit of work and study or life on campus. Individuals who are aware of acts of discrimination or harassment are encouraged to take appropriate steps to stop the discriminatory or harassing behavior. Advice and assistance may be sought from anyone in a position of authority, such as a supervisor, instructor or administrator. More formal advice and assistance may be sought from the Office of Safe Disclosure and Human Rights (OSDHR), Office of the Student Ombuds (OSO), the Association of Academic Staff University of Alberta (AASUA), the Non-Academic Staff Association (NASA), Human Resource Services (HRS) and Organizational Health and Effectiveness (OHE), the Office of the Dean of Students and Student Accessibility Services (SAS).

3. Academic Freedom

The University of Alberta's motto, *Quaecumque Vera* (whatsoever things are true) declares the University's commitment to academic freedom and freedom of speech. As an institution of higher learning and research, the University is devoted to discovery, debate, difference of opinion, and the careful and public weighing of ideas and actions. Members of the University have the right to pursue the truth in their research and

publications, artistic creations, teaching, learning, service, and public debate. This includes the right to question and criticize the status quo. Academic freedom, however, is not without limits. It is not, for example, a justification or license for discrimination or harassment.

### Purpose

The purpose of this policy is to foster and protect a **respectful environment** for work, study, and living that supports dignity and equity for all members of the University of Alberta. This policy expresses the University's commitment to a work, study, and living environment that is free of **discrimination** and **harassment**, and it ensures that the University of Alberta will meet both its obligations under law and its ethical responsibilities as an institution of higher learning. These legal and ethical responsibilities include the **duty to accommodate** and the provision of opportunities to persons who require **accommodation** based on a **protected ground**.

## POLICY

### 1. DISCRIMINATION OR HARASSMENT

It is the policy of the University of Alberta that acts of discrimination or harassment committed by any individual to whom this policy applies are strictly prohibited. Discrimination and harassment in the work, study and living environment includes, but is not limited to, discrimination and harassment on University of Alberta property, at University-related functions, in the course of work or study assignments outside the University, at work or study-related conferences or training sessions, during work or study-related travel, or by phone, computer, or other electronic means.

Individuals affected by discrimination or harassment will be provided with a process for making and resolving complaints. Complaints relating to sexual violence will be addressed under the *Sexual Violence Policy*. Complaints of discrimination or harassment will be addressed and resolved in a timely manner, whenever possible. When a complaint of discrimination or harassment is established, appropriate action is taken, regardless of the authority or seniority of the offender. Individuals who engage in harassing or discriminatory behaviours may be subject to disciplinary action.

The University has an overriding institutional interest in maintaining an environment free from discrimination and harassment and may therefore itself initiate an investigation, or become a complainant, or continue with a complaint withdrawn by a complainant.

Retaliation or reprisal against a person who has made a complaint, or against witnesses to a complaint, are similarly prohibited. Individuals who engage in retaliation may be subject to disciplinary action.

The University also recognizes the serious nature of allegations of discrimination and harassment that are made in bad faith, and it may take disciplinary action should allegations of discrimination or harassment be shown to be malicious, frivolous, fraudulent, or vexatious. Submitting a complaint in good faith, even when the complaint cannot be established, is not a violation of this policy.

Procedures on reporting and resolving discrimination or harassment complaints are published under this policy.

### 2. DUTY TO ACCOMMODATE

To ~~assist~~ enable members of the University community to make their full contributions, the University of Alberta will take reasonable steps to accommodate individuals who are disadvantaged by employment, tenancy, or educational rules, standards, policies, or practices related to protected grounds to the point of **undue hardship**, or as required by law.

The University is committed to academic excellence. Accommodation neither requires nor implies that the University lower its academic or professional standards. Nor does accommodation relieve students of the

responsibility to demonstrate the essential skills and competencies required by programs, or relieve staff of the responsibility to meet the performance requirements of a position in which they are accommodated.

Accommodation of members of the University community requires the University to take reasonable steps to eliminate discrimination resulting from a rule, practice or barrier that has a negative effect on a person by reason of a protected ground. The University's duty to accommodate is far-reaching. However, the law recognizes that, in certain circumstances, a limitation on individual rights may be reasonable and justifiable if the University can show that the discriminatory practice, standard, decision or rule is a "bona fide requirement" (BFR) or a "bona fide occupational requirement" (BFOR) and/or that accommodation would impose undue hardship on the University.

The University will apply current legal requirements in making such determinations. Currently, to justify a practice, standard, decision or rule as a BFR or BFOR, the University must demonstrate, on a balance of probabilities, that the impugned practice, standard, decision or rule:

- a) was adopted for a rational purpose connected to the performance of the job or the provision of the service;
- b) was adopted in an honest and good faith belief that it was necessary to the fulfillment of the job or service;
- c) is reasonable and necessary to the fulfillment of the job or service.

To show that the practice, standard, decision or rule is reasonable and necessary, the University must demonstrate that accommodation of the employee or student would impose undue hardship on the University.

Procedures on requesting and addressing accommodation issues are published under this policy and include examples of accommodation measures and assessments of undue hardship.

### 3. GENERAL RESPONSIBILITIES

It is a guiding principle of this policy that all members of the University community – including the Board of Governors and General Faculties Council – share responsibility for creating and maintaining a work, study, and living environment that supports the dignity of and equity for all persons, accommodates individuals based on protected grounds and is free of discrimination and harassment. As such, the University recognizes its institutional responsibility to:

- implement effective policy and procedures to address discrimination and harassment and for resolving complaints of discrimination and harassment informally and formally
- where a discrimination or harassment complaint has been established, take appropriate action regardless of the authority or seniority of the offender and consider whether a **remedy** may be offered to the person who experienced discrimination or harassment.
- implement effective policy and procedures to reasonably accommodate members of the University community, when and to the extent required by law
- promote awareness of this policy and its related procedures as well as relevant support services on campus
- maintain a safe, confidential and neutral mechanism for members of the University community to report concerns and/or make inquiries related to this policy
- ensure that requests for accommodation are addressed in accordance with any applicable employment agreements, student policies and this policy and related procedure

Additionally, all senior leaders, including the President, Vice-Presidents, Deans, Directors and Chairs and other officers of the University have administrative responsibility to implement this policy and related procedures and to give effect to the guiding principles of this policy. Specific administrative responsibilities are set out in the procedures published under this policy.

All members of the University community are responsible for understanding discrimination, harassment, and duty to accommodate issues, working towards ensuring respectful work and learning spaces, promoting awareness about these issues and creating work and learning spaces in which members of the University community can raise questions about discrimination and harassment without fear of reprisal.

**DEFINITIONS**

Any definitions listed in the following table apply to this document only with no implied or intended institution-wide use. [[▲Top](#)]

<b>Members of the University Community</b>	<p>All employees, (including but not limited to, academic staff, support staff and administrators), adjunct professors, professors emeriti, lecturers, clinical staff, all students (including undergraduate students and graduate students), members of the Board of Governors and post-doctoral fellows.</p>
<b>Respectful Environment</b>	<p>The respectful environment is characterized by a shared commitment to civility and human dignity. It values and respects academic freedom and it welcomes a diversity of perspectives. It recognizes and rejects activities that are harmful to mutual respect and is committed to educating members of the University about respect in work, study, and living environments. The work, study and living environment extends beyond the University's campuses and properties and includes, but is not limited to, University-related functions, work or study assignments outside the University, work or study-related conferences or training sessions, work or study-related travel, and communication by phone, computer, or other electronic means.</p>
<b>Discrimination</b>	<p>A distinction, whether or not intentional, based on a characteristic or perceived characteristic referenced in the protected grounds that has the effect of imposing on an individual or group of individuals burdens, obligations or disadvantages that are not imposed on others, or of withholding or limiting access to opportunities, benefits and advantages available to other individuals in society.</p>
<b>Harassment</b>	<p>Conduct or comment, either one-time or repeated that:</p> <ul style="list-style-type: none"> <li>a) is demeaning, intimidating, threatening, or abusive; and</li> <li>b) is not trivial or fleeting in nature; and</li> <li>c) causes offence and should have reasonably been expected to offend; and</li> <li>d) serves no legitimate purpose for the work, study or living environment, and</li> <li>e) undermines authority or respect in the work, study or living environment, or impairs work or learning performance, or limits opportunities for advancement or the pursuit of education or research, or creates an intimidating, hostile or offensive work or learning environment.</li> </ul> <p>Harassment includes <u>bullying</u>, which is a form of aggression that may include physical, verbal, or emotional abuse. Bullying poisons the work, study or living environment of the person it targets. It can include persistent, offensive, abusive, intimidating or insulting behavior, abuse of power, and/or unfair sanctions which make the individual feel threatened, humiliated, and/or vulnerable.</p> <p><u>Sexual Harassment</u> may be broadly defined as unwelcome conduct or comment of a sexual nature which detrimentally affects the work, study or living environment or otherwise leads to adverse consequences for the person who is the target of the harassment.</p> <p>It may consist of unwanted sexual attention, sexually oriented remarks or behaviours, or the creation of a negative psychological and emotional environment based on gender, gender identity or sexual orientation. It may be an isolated act or repetitive conduct, but cannot be trifling. A reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance may also constitute sexual harassment.</p>

	<p>The person(s) engaged in harassment need not have the intention to harass; it is the objective assessment of the circumstances that matters. How would a reasonable observer perceive the situation? A complainant need not expressly object to unwelcome conduct or comments, although any clear indication that the behaviour is unwanted will satisfy the test. A complainant's apparent passivity or failure to object overtly to sexual advances does not necessarily signal consent or welcomed behaviour, especially where a power imbalance exists between the individuals.</p> <p><u>Racial Harassment</u> involves unwanted or unwelcome comments, conduct or behavior that humiliates, intimidates, excludes or isolates an individual or group by focusing on their race, ethnicity, origin or religion. Overall, racial harassment undermines self-esteem and is a violation of the dignity and security of the individual or group(s) that it targets.</p>
<b>Duty to Accommodate</b>	<p>The duty to accommodate obligates the University to make reasonable adjustments, to the point of undue hardship or as required by law, to the delivery of services (including teaching and the method of evaluation) and the conditions of employment in order to reduce or eliminate the impact of discriminatory rules, policies, practices, standards, terms of employment, or decisions, which have an adverse impact on an individual or group of individuals based on a characteristic or perceived characteristic referenced in the protected grounds.</p>
<b>Accommodation</b>	<p>Accommodation is the process of making reasonable adjustments to the delivery of services and the conditions of employment in order to alleviate any adverse impacts on persons that result from the application of rules, policies, practices, standards, terms of employment, or decisions, due to a characteristic or perceived characteristic referenced in the protected grounds. Accommodation is a shared responsibility between the University and the individual in need of accommodation, and is assessed on the unique circumstances of each individual. The process requires reasonable accommodation, not instant or perfect accommodation. The recipients of accommodation (e.g. students, faculty and staff) may be required to try different accommodation options. The University is required to provide reasonable accommodation up to the point of undue hardship.</p> <p>Accommodation neither requires nor implies that the University lower its academic or professional standards. Nor does accommodation relieve students of the responsibility to demonstrate the essential skills and competencies required by programs or staff of the responsibility to meet the performance requirements of a position in which they are accommodated.</p>
<b>Bona fide requirement (BFR) / Bona fide occupational requirement (BFOR)</b>	<p>A limitation on individual rights may be reasonable and justifiable if the University can show that a discriminatory practice, standard, decision or rule is a "bona fide requirement" (BFR) or "bona fide occupational requirement" (BFOR). Currently, to establish a BFR or BFOR, the University must demonstrate, on a balance of probabilities, that the impugned practice, standard, decision or rule:</p> <ol style="list-style-type: none"> <li>a) was adopted for a rational purpose connected to the performance of the job or the provision of the service;</li> <li>b) was adopted in an honest and good faith belief that it was necessary to the fulfillment of the job or service;</li> <li>c) is reasonable and necessary to the fulfillment of the job or service.</li> </ol>
<b>Protected Grounds</b>	<p>Discrimination is prohibited based on the following protected grounds:</p> <ol style="list-style-type: none"> <li>a) race</li> <li>b) colour</li> <li>c) ancestry</li> <li>d) place of origin</li> </ol>

	<ul style="list-style-type: none"> <li>e) religious beliefs</li> <li>f) gender, gender identity and gender expression</li> <li>g) physical disability</li> <li>h) mental disability</li> <li>i) marital status</li> <li>j) family status</li> <li>k) source of income</li> <li>l) sexual orientation</li> <li>m) age</li> <li>n) political beliefs;</li> </ul> <p>or any other groups as amended from time to time.</p>
<b>Undue Hardship</b>	<p>The University has a duty to take reasonable steps to accommodate individual needs to the point of undue hardship. Undue hardship occurs when accommodation would create onerous conditions for the University. While undue hardship will be decided in the circumstances of each case, onerous conditions may include, but are not limited to, the following. When the proposed accommodation would:</p> <ul style="list-style-type: none"> <li>a) pose a risk to the safety of others or a substantive risk of personal injury to the person seeking accommodation,</li> <li>b) entail unreasonable financial cost such that a program or service would cease to exist, or otherwise be unreasonable for the University to bear the costs of accommodation,</li> <li>c) effectively lower academic and/or performance standards or result in substantive job requirements being unmet,</li> <li>d) unduly disrupt or interfere with academic staff or collective agreement or cause substantial detrimental effects on other employees,</li> <li>e) result in essential elements of an educational service or program not being offered to other students, or cause a detrimental effect on other students.</li> </ul>
<b>Remedy</b>	<p>The general purposes of a remedy are:</p> <ul style="list-style-type: none"> <li>a) to restore, as closely as possible, to a person whose complaint of discrimination or harassment has been sustained, the position she or he would have been in had the discrimination or harassment not occurred; and</li> <li>b) To prevent further acts of discrimination or harassment.</li> </ul> <p>A remedy will be appropriate to the individual case and severity of the finding of discrimination or harassment. It may include, but is not limited to, an apology, the creation of a policy, a promise or requirement to cease the behaviour, or a transfer.</p>
<b>Complainant</b>	<p>A complainant is a person who alleges s/he has experienced discrimination and/or harassment and initiates a complaint against a member of the University community or other individual covered under this Policy.</p>
<b>Respondent</b>	<p>A respondent is a member of the University community who has been accused of discrimination or harassment by a complainant.</p>

## **RELATED LINKS**

Should a link fail, please contact [uappol@ualberta.ca](mailto:uappol@ualberta.ca). [**▲Top**]

[Administrative and Professional Officer Agreement \(University of Alberta\)](#)

[Alberta Human Rights Act \(Government of Alberta\)](#)

[Code of Student Behaviour \(University of Alberta\)](#)

[Discrimination and Harassment Complaint Guidelines for Students \(University of Alberta\)](#)

[Employment Equity and Human Rights \(Government of Alberta and Canada\)](#)  
[Ethical Conduct and Safe Disclosure Policy \(University of Alberta\)](#)  
[Faculty Agreement \(University of Alberta\)](#)  
[Faculty Service Officer Agreement \(University of Alberta\)](#)  
[Federal Contractors Program \(Government of Canada\)](#)  
[Helping Individuals at Risk Policy \(University of Alberta\)](#)  
[Human Resource Services \(University of Alberta\)](#)  
[Librarian Agreement \(University of Alberta\)](#)  
[Office of the Student Ombuds \(University of Alberta\)](#)  
[NASA Collective Agreement \(University of Alberta\)](#)  
[Office of Safe Disclosure and Human Rights \(University of Alberta\)](#)  
[Postdoctoral Fellows Policy \(University of Alberta\)](#)  
[Sessional Agreement \(University of Alberta\)](#)  
[Student Accessibility Services \(University of Alberta\)](#)  
[University of Alberta Protective Services \(University of Alberta\)](#)

### **PUBLISHED PROCEDURES OF THIS POLICY**

[Duty to Accommodate Procedure](#)  
[Discrimination and Harassment Complaint Procedure](#)