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Parent Policy: [Discrimination, Harassment and Duty to Accommodate Policy](#)

Duty to Accommodate Procedure

Office of Administrative Responsibility:	Vice-Provost and Dean of Students Associate Vice-President, Human Resources, Health, Safety and Environment
Approver:	Provost and Vice-President (Academic)
Scope:	Compliance with this policy extends to members of the University of Alberta community as well as third party contractors, visiting speakers and volunteers.

Overview

The *Alberta Human Rights Act* prohibits discriminatory conduct against, or effects on, individuals in connection with a characteristic that falls within a **protected ground**, in certain **protected areas**.

The protected grounds under the *Alberta Human Rights Act* are race, colour, ancestry, place of origin, religious beliefs, gender, gender identity, gender expression, age, physical disability, mental disability, marital status, family status, source of income and sexual orientation. The university's policy also lists political belief as a protected ground. The protected areas under the *Alberta Human Rights Act* are publications/displays, employment, equal pay, tenancy and access to goods, services, accommodations and facilities customarily available to members of the public.

Members of the university community, who would experience discrimination because of a characteristic that falls within a protected ground, have the right to be reasonably accommodated.

The provision of reasonable accommodations gives effect to the inherent dignity of each individual and enables individuals to equitably participate in those protected areas, including services related to post-secondary education. Some of these services include, but are not

limited to, participation in or access to course work, practicum and clinical placements, co-op placements, employment, graduate internships, library services, athletic services, school teams, cafeteria services, parking and transport services, computing services, health services, counseling services and others.

The university is required to provide reasonable accommodation up to the point of undue hardship, except in cases where 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). Examples of accommodation measures and assessing undue hardship information can be found in a link at the end of this procedure.

Purpose

The purpose of this procedure is to outline:

- The general responsibilities that various university units have to fulfill the **duty to accommodate**.
- The process to request and implement reasonable accommodations and the more specific responsibilities that each party has in the search for reasonable accommodations.
- The appeal process in the event there is an alleged failure to reasonably accommodate a member of the university community.
- Information related to privacy and document use and retention.

Procedure

General Responsibilities

The **duty to accommodate** is an institutional obligation and a shared responsibility between the university and the member of the university community requiring accommodation. Any department or unit may be called upon to implement accommodation and the primary responsibility for considering and effecting an accommodation, up to the point of undue hardship, rests with the department/unit. However, it is recommended that the department/unit work with the Office of the Dean of Students, Office of Safe Disclosure and Human Rights, Human Resources, Health, Safety and Environment (HRHSE), Faculty Relations, Office of General Counsel and, where the case involves students with physical or mental disabilities, the Academic Success Centre.

The following parties have additional responsibilities for supporting the duty to accommodate at the university:

President, Vice-Presidents, Deans, Directors and Chairs are responsible for:

- Working to inform themselves and members of the university community for whom they are responsible of the provisions of this policy and procedure and supporting awareness about duty to accommodate issues.
- Supporting, participating in and ensuring that within their portfolios, reasonable accommodation is provided. If the need for accommodation is evident, responsibility for providing it may exist even if the person requiring it does not self-identify. Vice-Presidents have specific responsibility for authorizing and providing funds to assess accommodation options and having them implemented.
- Ensuring proper collection, retention of and access to accommodation records, which respects the privacy interests of the individual and the university's need for sufficient information to assess and implement accommodations.

The Office of Safe Disclosure and Human Rights (OSDHR) is responsible for:

- Providing advice and information on policies and procedures relating to the duty to accommodate-complainants, respondents, those requesting accommodation and members of the university community.
- Providing advice and/or referral services to any member of the university community who asks for help in relation to a request for accommodation, including, but not limited to: the Association of Academic Staff University of Alberta (AASUA); the Non-Academic Staff Association (NASA); the Post-Doctoral Fellows Association (PDFA); the Graduate Students' Association (GSA); the Office of the Student Ombuds (OSO); the Office of the Dean of Students (DoS); and Human Resources, Health, Safety and Environment (HRHSE).
- Developing and implementing an educational framework focused on informing or training members of the university community about this procedure. This includes providing guidance on creating a work, study and living environment that is supportive of human rights.
- Monitoring, where possible, resolution processes undertaken to resolve matters that arise under this procedure to ensure they are fair and equitable for all, and expressing any concerns to the appropriate Vice- President.
- Reporting directly to the Office of the Provost and Vice-President (Academic) and submitting an annual report to the General Faculties Council and to the Board of

Governors.

The Academic Success Centre (ASC) has primary responsibility for providing specialized support and accessibility services, is guided by the mandate of the university's *Policy for Students with Disabilities* of "attracting and retaining qualified students with disabilities." The ASC serves prospective and current students whose disabilities affect mobility, vision, hearing and physical and mental health. It coordinates the process of accommodating students with disabilities due to physical or mental health in cooperation with faculties, departments and appropriate units by:

- Evaluating the impact of barriers in the environment and of the disability (based on formal documentation of disability and student information) in the context of meeting academic program requirements on a case by case basis.
- Recommending and coordinating the implementation of reasonable accommodations while maintaining academic standards.
- Promoting and advising on universal design and access to all areas of university life in which students with disabilities participate (such as classroom, lab and field experience learning, housing, recreation, electronic instruction and communication and university events).
- Working closely with university Facilities & Operations through the Accessibility Advisory Committee to promote universal design in capital projects.
- Guiding departments/units in understanding equity issues and the accommodation process to mitigate accessibility barriers for students with disabilities.
- Working closely with the offices that provide services to students, environmental health and safety services, safe disclosure and human rights services and specific units in supporting students with disabilities.

Human Resources, Health, Safety and Environment (HRHSE) has primary responsibility for disability management and accommodation due to physical or mental disability for faculty and staff. HRHSE works in close liaison with faculties, departments and other administrative units to promote an inclusive and accessible teaching, research and work environment for employees with disabilities and to advance recruitment initiatives consistent with the university's employment equity plan. To that end, HRHSE:

- Promotes barrier-free workspaces and inclusive practices that accommodate disability.
- Recommends and facilitates specific accommodations which promote the individual's ability to meet work and professional competencies.
- Facilitates reasonable accommodation efforts and provides support to employees with

disabilities and their supervisors and units.

- Provides consultation to, or referral of, faculty and staff members who experience difficulty meeting professional or work-related responsibilities due to disability.
- Provides advice and assistance to staff members and departments regarding adaptive technology and software, communication support for deaf and hard of hearing employees, ergonomic furniture and equipment and administers the university's Reasonable Accommodation Fund.
- Works closely with University Facilities & Operations through the Accessibility Advisory Committee to promote universal design in capital projects.

A large variety of additional specialized support services can provide information, counseling and support to persons involved in issues of discrimination, harassment and accommodation. Those seeking advice or information as it pertains to university policy are encouraged to contact the Office of Safe Disclosure and Human Rights (OSDHR) or the Office of the Student Ombuds (OSO), which can also provide referrals to the support service units.

Accommodation Process

At all stages of the accommodation process, responses should be timely and constructive. Requests for accommodation will be considered on a case by case basis and decisions will be made within a timeframe that is respectful of both individual needs and operational realities.

Both the person seeking accommodation and the university have rights and responsibilities in the accommodation process. These are generally outlined below.

1. The person requesting accommodation is responsible for:

- a. Reviewing the university's policy regarding accommodation, and in the case of an employee, the relevant provisions of any applicable collective agreement or other employment agreement.
- b. Making their needs known to the best of their ability, preferably in writing, so that the person responsible for assessing and implementing the accommodation may engage in a dialogue about possible accommodations.
- c. Making timely disclosure of the request for accommodation, preferably before adverse consequences are experienced.
- d. Answering questions or providing information about relevant restrictions or limitations, including information from health care professionals, where appropriate, and as needed.
- e. Participating in discussions about possible accommodation solutions.
- f. Cooperating with any experts whose assistance is required to manage the accommodation process.

- g. Meeting agreed upon performance standards once accommodation is provided.
- h. Working with the accommodation provider in an ongoing manner to manage the accommodation process.
- i. If the individual is a student, making application for provincial and federal grants to defray the cost of accommodation.

2. The university is primarily responsible for:

The duty to accommodate is triggered when an individual requests accommodation. A **duty to inquire** with a person as to whether they require accommodation arises where the circumstances reasonably suggest that a person may have a disability requiring accommodation.

Once a request for accommodation has been made, either directly or through an inquiry, the appropriate university representative is responsible for:

- a. Requesting from the individual in need of accommodation whatever medical or other information is reasonably necessary to assess the need for accommodation and to sufficiently identify that individual's specific needs. Assistance may be requested from offices including but not limited to:
 - i. The OSO or the ASC for student requests.
 - ii. HRHSE for academic, support staff and other employee requests.
 - iii. The OSDHR, if unsure of the appropriate body to address the query.
- b. Considering the specific needs of the individual, in consultation with the ASC, HRHSE and/or the OSDHR as appropriate, determine what accommodation (short of undue hardship) can be made in order to remove barriers to allow the individual to continue in employment, studies, research or other activities and to access the facilities and services of the university.
- c. If the accommodation under consideration may impinge upon or conflict with:
 - i. The terms of the collective agreements for Administrative and Professional Officers, Librarians, Sessional or Other Temporary Staff, Trust/Research Academics, agreements for excluded support staff or the NASA collective agreement, then HRHSE should be consulted for advice, assistance or input.
 - ii. The terms of the collective agreements with postdoctoral fellows, graduate teaching/research assistants, AASUA faculty, Contract Academic Staff, Teaching or Faculty Service Officers, then the Faculty Relations Office (in the Office of the Provost & Vice-President Academic) should be consulted for advice, assistance or input.

- iii. The academic or employment qualifications, educational program requirements or performance standards set by the university's governing bodies, then the Office of the Dean (or delegate) for the faculty should be consulted for advice, assistance or input.
- iv. Doing what is required to provide accommodation to support an individual affected by discrimination, to the extent required by the law. For example, exceptions will be made for certain types of permissible discrimination recognized under the *Alberta Human Rights Act* such as age and marital status discrimination permitted for pension plans.

3. Appeals

When efforts to arrange accommodation for students or staff at the department or unit level are unsuccessful, a review may be conducted by the Dean (or delegate) of the relevant faculty or equivalent authority within an administrative department and by the offices of administrative responsibility for this policy (see page 1 of this procedure). Seeking such advice as is necessary, they will determine whether reasonable accommodation can be made at an institutional level.

If it is determined that other avenues of complaint/appeal would be more appropriate, guidance will be available from the OSDHR or the OSO on any internal or external options.

4. Privacy

The university will respect the individual's dignity and privacy throughout the accommodation process, subject to such reasonable exceptions as are necessary to assess and implement accommodation. The university will provide details of the accommodation to those who need to know, and will notify the individual who has sought accommodation about those disclosures. Exceptions to privacy may arise when the safety of individuals is at risk or if use or disclosure is required or authorized by law.- In all cases, the university's collection, use and disclosure of personal information gathered in the accommodation process will comply with the *Freedom of Information and Protection of Privacy Act*.

5. Document Retention

- a. When produced, the university, through the offices of the ASC or HRHSE or the employee's home department or unit, will retain written records produced in the accommodation process according to the university's retention schedule and any applicable legislation, of the:
 - i. Request for accommodation and the date the request was made

- ii. Options considered
- iii. Form of accommodation offered to the affected individual, if any, and their response
- iv. Date the accommodation request was concluded, if applicable

Where, as here, the university uses an individual’s personal information to make a decision that directly affects that person, the Freedom of Information and Protection of Privacy Act requires the university to retain the personal information for at least one year.

Definitions

Any definitions listed in the following table apply to this document only with no implied or intended institution-wide use.		[▲Top]
Members of the University Community	All employees, (including but not limited to, academic staff, support staff, excluded staff and postdoctoral fellows), adjunct professors, professors emeriti, lecturers, clinical staff, all students (including undergraduate students and graduate students), visitors, contractors and members of the Board of Governors.	
Accommodation	<p>Accommodation is the process of making reasonable adjustments to the delivery of services and the conditions of employment in order to reduce or eliminate the impact of discriminatory rules, policies, practices, standards, 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. 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 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</p>	

	<p>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>
<p>Undue Hardship</p>	<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.</p> <p>While undue hardship will be decided in the circumstances of each case, onerous conditions, including but not limited to the following, should be considered:</p> <ul style="list-style-type: none"> a) When there is a risk to the safety of others or a substantive risk of personal injury to the person seeking accommodation. b) When financial cost is such that a program or service would cease to exist due to the financial burden of the accommodation, or other circumstances where it would be unreasonable to expect the university to bear the costs of accommodation. c) When accommodation alternatives would result in lowering performance standards or in substantive job requirements being unmet. d) When the accommodation would be unduly disruptive to an academic staff or collective agreement or cause substantial detrimental effect on other employees. e) When an educational accommodation would result in essential elements of a service or a program not being offered to other students, or cause a detrimental effect on

	<p>other students, as a result of accommodating an individual or a group of students.</p>
<p>Bona fide requirement (BFR) / Bona fide occupational requirement (BFOR)</p>	<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). To justify such a determination, the university must demonstrate, on a balance of probabilities, that the impugned practice, standard, decision or rule:</p> <ul style="list-style-type: none"> 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.
<p>Duty to Accommodate</p>	<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>

<p>Protected Grounds</p>	<p>Discrimination is prohibited based on the following protected grounds:</p> <ul style="list-style-type: none"> a) Race b) Colour c) Ancestry d) Place of origin e) Religious beliefs f) Gender, gender expression and gender identity g) Physical disability h) Mental disability i) Marital status j) Family status k) Source of income l) Sexual orientation m) Age n) Political beliefs o) or any other groups as amended from time to time.
<p>Protected Areas</p>	<p>Discrimination is prohibited in the following protected areas:</p> <ul style="list-style-type: none"> a) Employment b) Publications/notices c) Tenancy d) Access to goods and services e) Access to accommodations or facilities customarily available to members of the public
<p>Discrimination</p>	<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>

Related links

- [Alberta Human Rights Act \(Government of Alberta\)](#)
- [Sample Form – Notification of Need for Accommodation, Clarification of Need and Outcome of Accommodation Request \(Canadian Human Rights Commission\)](#)

- [Reasonable Accommodation Fund \(University of Alberta\)](#)
- [Alberta Human Rights Commission Interpretive Bulletin on Duty to Accommodate](#)
- [Alberta Human Rights Commission Interpretive Bulletin on Duty to Accommodate Students with Disabilities in Post- Secondary Educational Institutions \(Alberta Human Rights Commission\)](#)

If any of the links are broken, please contact uappol@ualberta.ca

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