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Discrimination, Harassment and Duty to Accommodate Policy

Office of Accountability:	Provost and Vice-President (Academic) Vice-President (University Services, Operations and Finance)
Office of Administrative Responsibility:	Vice Provost and Dean of Students Associate Vice-President, Human Resources, Health, Safety and Environment
Approver:	Board of Governors (Board Human Resources and Compensation Committee) General Faculties Council (GFC Executive Committee)
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

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 faculty, staff and student population, as well as to the urban, rural, francophone, Indigenous 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:

- **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 is an increasingly diverse community and that it will respect and value the differences of its members.

- **Responsibility**

Responsibility for achieving a work, study and living environment free of harassment and discrimination rests with every individual. All university community members and visitors can reasonably expect to pursue their work, studies and recreational activities 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, study or life on campus. Individuals who are aware of acts of discrimination or harassment must 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), the Office of the Student Ombuds (OSO), the Association of Academic Staff University of Alberta (AASUA), the Non-Academic Staff Association (NASA), Human Resources, Health, Safety and Environment (HRHSE), Faculty Relations (FR) or the Office of the Dean of Students (DoS).

- **Academic Freedom**

The university'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. These freedoms, however, are not without limits. They are not, for example, a justification or license for discrimination or harassment.

Purpose

The purpose of this policy is to:

- Foster and protect a **respectful work, study and living environment** that is free of **discrimination** and **harassment**.
- Support dignity and equity for all members of the university.
- Ensure that the university meets 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**.

General Responsibilities

The university recognizes its institutional responsibility to:

- a) Provide and implement effective policy and procedures to address discrimination and harassment.
- b) Ensure that requests for accommodation are reasonably addressed in accordance with any applicable employment agreements, student policies, this policy and related procedures.
- c) Reasonably accommodate members of the university.
- d) Promote awareness and understanding of this policy and its related procedures as well as relevant support services on campus.
- e) Resolve complaints of discrimination and harassment either formally or informally, where a formal complaint substantiates discrimination or harassment, take **corrective action** regardless of the authority or seniority of the offender.
- f) Maintain a safe, confidential and neutral disclosure process for members of the university community to report concerns and/or make inquiries related to this policy. Any member of the university community who discloses having experienced harassment or discrimination will have access to support and will be protected from retaliation as a result of their disclosure.
- g) Ensure the safety of the environment by various means, including the imposition of **corrective action**.

Policy

The university makes a distinction between a **disclosure** and a **formal complaint**. Individuals affected by discrimination or harassment will be provided with a process for making a disclosure and/or filing a formal complaint. Complaints relating to sexual violence will be addressed under the *Sexual and Gender-Based Violence Policy*. However, sexual harassment and gender-based harassment are still forms of discrimination.

The university has an institutional interest and legal responsibility in maintaining an environment free from discrimination and harassment. Therefore after becoming aware of a disclosure or complaint, the university itself might initiate an investigation or become a **complainant**, or by continuing with a complaint withdrawn by a complainant.

Formal complaints of discrimination or harassment will be addressed and resolved regardless of the authority or seniority of the **respondent**. Individuals who engage in harassing or discriminatory behaviours may be subject to corrective action.

Where the university has jurisdiction, formal complaints will be addressed under the applicable policies, procedures or collective agreements including, but not limited to: the *Student Conduct Policy*; the *Sexual and Gender-Based Violence Policy*; collective agreements with the Non-Academic Staff Association (NASA); the Association of Academic Staff University of Alberta (AASUA); the Post-Doctoral Fellows Association (PDFA); the Graduate Students' Association (GSA); or other applicable employment agreement or handbooks.

A disclosure may be made by any member of the university who would like to disclose concerns regarding, but not limited to, accommodation, discrimination and/or harassment.

Disclosures may be made to:

- The Office of Safe Disclosure and Human Rights (OSDHR)
- The Office of the Provost and Vice-President (Academic)
- The Office of the Dean of Students
- Human Resources, Health, Safety and Environment - the Director of HR Service Partnerships

A disclosure does not initiate a complaint, investigation or resolution process. Refer to the *Discrimination, Harassment and Duty to Accommodate Procedure(s)* for further information on the disclosure procedure.

1. Discrimination or Harassment

It is the policy of the university 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 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.

The university is committed to eliminate or, where reasonably possible, control **hazards** arising from discrimination or harassment.

Upon receipt of a formal complaint of discrimination or harassment the university is committed to:

- a) Investigating reported incidents of discrimination or harassment in an objective and timely manner, taking into account the circumstances and the stated timelines provided in the applicable formal complaint process whenever possible.
- b) Taking necessary corrective action.

- c) Not disclosing the circumstances related to an incident or names of the complainant, the respondent, or any witnesses, except:
 - i) Where necessary to investigate the incident and take corrective action
 - ii) To inform involved parties of investigation results and any corrective actions to be taken
 - iii) As required or authorized by law

This policy is not intended to discourage any person from exercising their rights pursuant to any other law (e.g. appropriate law enforcement agency, union grievance, etc.) including the Alberta Human Rights Act.

Individuals affected by discrimination or harassment will be provided with a process for making and resolving complaints. Procedures on reporting and resolving discrimination or harassment complaints are published under this policy. Individuals who engage in harassing or discriminatory behaviours will be subject to corrective action. Upon resolution of a formal complaint university employees may be subject to disciplinary action up to and including termination.

Complaints relating to sexual violence will be addressed under the Sexual Violence Policy.

Training related to the specific context of harassment (including violence) prevention will be provided to all university employees and will be included as a requirement for all new employee hires.

Policy and procedure reviews for the specific context of harassment (including violence) prevention will be performed following the resolution of an incident resulting in a formal complaint, upon a recommendation from the Joint Health and Safety Committee or every three years, whichever is earliest.

Any reviews of this policy and specific harassment (including violence) prevention procedures will be conducted in consultation with the Joint Health and Safety Committee and other stakeholders, as necessary.

2. Duty to Accommodate

To enable members of the university community to make their full contributions, the university 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 does not require nor imply that the university lower its academic or professional standards. Accommodation also does not 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 their position or 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.

Each case needs to be assessed on a case by case basis and should be undertaken in consultation with appropriate offices such as the Office of the Dean of Students; Human Resources, Health, Safety and Environment; the Office of Safe Disclosure and Human Rights, Accessibility Resources or the Office of General Counsel.

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, this policy and related procedure.

Additionally, all senior leaders, including the President, Vice-Presidents, Vice-Provosts, College Deans, 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 retaliation.

4. Statement Against Retaliation

Retaliation against any person involved in a disclosure or a formal complaint (e.g. complainant, witnesses and/or other person) of discrimination or harassment is prohibited. Where it has jurisdiction, the university will investigate all reports of retaliation in accordance with the appropriate complaints processes. Individuals who engage in retaliation will be subject to formal discipline.

5. Bad Faith Complaints

The university recognizes the serious nature of disclosures or formal complaints made under this policy and may take formal disciplinary action where allegations of discrimination or harassment are shown to be malicious, fraudulent and/or vexatious. A disclosure or formal complaint made in good faith is not a violation of this policy even if it is not proven in a complaint process.

6. Disclosures and Privacy, Confidentiality

Privacy and confidentiality are essential for creating an environment where those who have experienced harassment or discrimination feel safe in disclosing their experience and seeking support or corrective action. The privacy and confidentiality will be protected to the extent possible. However, it is important to note that there may be limits to the university’s ability to do so, when:

- a) There is a likely risk of imminent and serious harm to self or others
- b) There is a legal proceeding involving the university
- c) Reporting or action is required or authorized by law

Definitions

Any definitions listed in the following table apply to this document only with no implied or intended institution-wide use.	
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.
Respectful Environment	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.
Discrimination	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>Harassment</p>	<p>A single or repeated incident of objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows or ought to reasonably know will or would cause offence or humiliation to a worker or adversely affects the worker’s health and safety, and includes:</p> <ul style="list-style-type: none"> a) Conduct, comment, bullying or action because of race, religious beliefs, colour, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, gender, gender identity, gender expression and sexual orientation b) A sexual solicitation or advance <p>but excludes any reasonable conduct of an employer or supervisor in respect of the management of workers or a work site.</p> <p><i>Harassment</i> includes bullying, 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><i>Sexual harassment</i> 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>
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	<p><i>Racial harassment</i> 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>
<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>Accommodation</p>	<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.</p> <p>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. 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>

<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).</p> <p>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> <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>Protected Grounds</p>	<p>Discrimination is prohibited based on the following protected grounds:</p> <ul style="list-style-type: none"> a) Race b) Color c) Ancestry d) Place of origin e) Religious beliefs f) Gender, gender identity and gender expression 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>Corrective Action</p>	<p>Corrective action includes, but is not limited to, interim measures, modifications, and/or formal discipline for faculty, staff or students, up to and including termination or expulsion, respectively (as it related to students, it would follow the <i>Student Conduct Policy</i>).</p>

<p>Interim Measures</p>	<p>Non-disciplinary conditions that the university may impose on a person alleged to have discriminated against or harassed another person. Such conditions may be imposed in response to a disclosure or complaint. The purposes of interim measures are to ensure the safety of the person who disclosed and/or of the university's learning and working environments, to discourage or prevent retaliation, prevent further discrimination or harassment and/or preserve the university's ability to conduct a thorough investigation. Interim measures are not considered sanctions under any university formal complaint or discipline process.</p> <p>Examples of interim measures may include, but are not limited to, no contact requirement, limited access to specified areas, letter of expectation or counseling, environmental or unit reviews, training, re-training or improvements to training programs, alternate work or study arrangements, increased monitoring and supervision and/or improvements to policies and/or procedures.</p>
<p>Modifications</p>	<p>Adjustments the university may be able to make at the request of a person who has made a disclosure or complaint about discrimination or harassment. The modifications may relate to their academic program, employment, university residence or recreational or other programs.</p> <p>Examples may include, but are not limited to, extensions on assignments, exam deferrals, change in class schedule, switching supervisor or labs or change in work assignment, location, schedule or reporting structure.</p>
<p>Disclose/Disclosure</p>	<p>A verbal or written report or account by any person to a member of the university community indicating that they have experienced discrimination, harassment or failure to accommodate.</p> <p>A disclosure does not initiate a formal complaint or an investigation or resolution process.</p>
<p>Formal Complaint</p>	<p>A written report or statement alleging discrimination, harassment or failure to accommodate made to a university official under a formal university process for the purpose of initiating an investigation and resolution process.</p>

Complainant	A complainant is a person who believes they or another person have experienced discrimination, harassment and initiates a complaint against a member of the university community or other individual covered under this policy.
Respondent	A respondent is a member of the university community alleged to have discriminated against or harassed the complainant.
Undue Hardship	<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 circumstances.</p> <p>When the proposed accommodation would:</p> <ul style="list-style-type: none"> a) Pose a risk to the safety of others or a substantive risk of personal injury to the person seeking accommodation. 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. c) Effectively lower academic and/or performance standards or result in substantive job requirements being unmet. d) Unduly disrupt or interfere with academic staff or collective agreement or cause substantial detrimental effects on other employees. 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.
Remedy	<p>The general purposes of a remedy are:</p> <ul style="list-style-type: none"> a) To restore, as closely as possible, to a person whose complaint of discrimination or harassment has been sustained, the position they would have been in had the discrimination or harassment not occurred. b) To prevent further acts of discrimination or harassment. <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>

Hazard	A situation, condition or thing that may be dangerous to health and safety.
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Published Procedures of This Policy

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

Related Links

- [Ethical Conduct and Safe Disclosure Policy](#)
- [Helping Individuals at Risk Policy](#)
- [Student Conduct Policy](#)

- [AASUA Collective Agreement \(University of Alberta\)](#)
- [Academic Success Centre \(University of Alberta\)](#)
- [Alberta Human Rights Act \(Government of Alberta\)](#)
- [Employment Equity and Human Rights \(Government of Alberta and Canada\)](#)
- [Federal Contractors Program \(Government of Canada\)](#)
- [Human Resources, Health, Safety and Environment \(University of Alberta\)](#)
- [Management and Professional Staff \(Excluded\) - Handbook of Terms and Conditions](#)
- [NASA Collective Agreement \(University of Alberta\) \(Parts A, B, C\)](#)
- [Office of Safe Disclosure and Human Rights \(University of Alberta\)](#)
- [Office of the Student Ombuds \(University of Alberta\)](#)
- [University of Alberta Protective Services \(University of Alberta\)](#)

For questions surrounding policy document interpretation or implementation, please contact the Office of Administrative Responsibility.

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