



SUBJECT POLICY 73 (ACADEMIC ACCOMMODATION FOR STUDENTS WITH DISABILITIES)

MEETING DATE JUNE 14, 2018

Forwarded to the Board of Governors on the Recommendation of the President

APPROVED FOR SUBMISSION

Santa J. Ono, President and Vice-Chancellor

FOR INFORMATION

Report Date May 15, 2018

Presented By Hubert Lai, Q.C., University Counsel

EXECUTIVE SUMMARY

The proposed amendments are intended to modernize the Policy and ensure a more effective and accountable process for accommodating students with disabilities at the University, by clarifying the scope of the Policy, outlining the responsibilities for those key members of the University involved in the accommodation process, providing guidance on the principles that apply when determining if an accommodation should be made, and establishing streamlined procedures that are consistent across both the Vancouver and Okanagan campuses.

INSTITUTIONAL STRATEGIC PRIORITIES SUPPORTED

- Learning
- Research
- Innovation
- Engagement (Internal / External)
- International

or Operational

DESCRIPTION & RATIONALE

Policy #73, Academic Accommodation for Students with Disabilities, was created in 1999 and has not subsequently been revised. Since then, certain parts of the Policy have become outdated, including the name of the administrative office designated with the primary responsibility for accommodating students with disabilities on the Vancouver campus, and the need for further guidance within the Policy for determining when accommodations are to be made has become apparent.

The Policy was originally intended to apply only to accommodations for students with disabilities of an academic nature, yet there are also non-academic accommodations provided to students with disabilities that are coordinated through the same offices at the University (i.e. Access & Diversity for UBC Vancouver and the Disability Resource Centre for UBC Okanagan), the guidance for which is well placed in this Policy. The Policy itself also did not contain a

procedures section or any substantive guidance surrounding implementation of reasonable accommodations for students with disabilities.

The proposed amendments are intended to provide additional guidance for students, faculty and staff in terms of the process by which accommodations for students with disabilities are made at the University, clearly setting out the responsibilities of the key University members involved in the process of accommodation, expanding upon and clarifying the scope of the Policy, defining key terms used, outlining the key principles to be considered when determining and implementing accommodations, ensuring that the current practices for providing accommodation are reflected and more consistent between the two campuses, and establishing refined processes where a student or instructor disagrees with a recommended accommodation.

Responsible Executive: The responsible executive for this Policy, Vice-President Students, has not changed.

Title: As Access & Diversity (UBC Vancouver) and the Disability Resource Centre (UBC Okanagan) currently coordinate both academic and non-academic accommodations for students with disabilities, the word "Academic" was removed so that it is clear that the policy applies beyond academic considerations. As the accommodation of University faculty or staff with disabilities is a process that is coordinated by managers in consultation with the Human Resources department, the limitation of application of this Policy to students remains unchanged.

Background and Purposes: This part was formerly left blank, but now explains the purpose of accommodation in the learning environment, the University's responsibility under the BC *Human Rights Code* and its commitment to providing accommodation to promote human rights, equity and diversity, which is emphasized as being a shared responsibility amongst all members of the University community. It also touches on the principles of Universal Instructional Design, a modernized approach that can minimize the need for students with disabilities to make specific requests for accommodation.

Part 1 (Scope): Former part 1 (General) has been removed as that content is now predominantly covered in the Background and Purposes, section 3.1 and section 4.2. A new Part 1 (Scope) was added to distinguish accommodations made in the employment context, clarifying that this Policy does not apply to students who are requesting accommodations relating to their employment at the University and directing such accommodation requests to the student's manager. This part also addresses accommodations sought by students for "Temporary Health Issues" (now a defined term), which differ to disabilities and for which students are to follow the academic concessions process set out in Senate Regulation on Academic Concession in the University's academic calendars.

Part 2 (Definitions): The defined terms have been expanded to clarify the different offices at the UBC and Okanagan campuses who are primarily responsible for assisting with accommodation requests, to modify the definition for Accommodation (including no longer being limited to academic considerations), and to include definitions for the Administrative Head of Unit, Instructors and Temporary Health Issues which, among other things, clarify the scope of the Policy and identify those persons at the University that have responsibilities in the accommodation process.

Part 3 (Responsibilities of the University towards Students with Disabilities): This part has been updated to reflect the current practices across the two campuses by among other things, removing reference to the Disability Liaison Person, which is not currently a recognized function. It also outlines in sections 3.2 to 3.5 how the University will carry out these responsibilities.

Part 4 (Responsibilities of Students with Disabilities): This part has been amended so that those responsibilities or statements that contain more detailed information are now included in the procedures section of the Policy. Section 4.2 has also been added from the former General part of the Policy to make it clear that providing accommodation to a student does not remove the need for evaluation and the student is still responsible for meeting the essential requirements of a given course, program or activity.

Procedures: Part 1 (Distinguishing Disabilities from Temporary Health Issues): As academic concessions are often confused with academic accommodations, a new part was added to the Policy to distinguish accommodations for students with disabilities, which falls within the Policy, to accommodations for students with temporary health issues, which are referred to as "concessions" and involve a different process that is set out in the Senate Regulation on Academic Concession in the University's academic calendars. Students and instructors or relevant units are urged to consult Access & Diversity or the Disability Resource Centre when in doubt about whether a student has a disability or a temporary health issue.

Procedures: Part 2 (Process for Creating Accommodation): Former part 6 of the Policy (Process for Reaching Accommodation) has been renamed slightly, moved to this part of the new Procedures section of the Policy, and expanded significantly to lay out the process for creating accommodation, step by step. Some of the additional provisions in this part have been adapted from the former "Responsibilities of Students" part of the Policy, which make the process clearer for readers of the Policy. There is also now further guidance as to how reasonable and appropriate accommodations will be made and what factors are considered, examples of the types of academic and non-academic accommodations (section 2.4, which also includes a reference to Access & Diversity and the Disability Resource Centre's role in determining a disability-related need for academic concessions for students), and the responsible instructor or unit's role in implementation of the accommodation is now expressly mentioned. There is also a focus on Access & Diversity and the Disability Resource Centre's review and determination of accommodations being in consultation with the student.

The process for resolving disagreements that instructors may have with recommended accommodations is now incorporated into new sections 3.3 to 3.5 of the Procedures (as explained below).

Procedures: Part 3 (Limits to Accommodation: Undue Hardship and Essential Requirements): As the University has a duty to accommodate students with disabilities to the point of undue hardship, this new part has been added to the Procedures section of the Policy to explain that "undue hardship" is interpreted by case law and what constitutes undue hardship varies based on, and is to be considered in the context of, the circumstances of each individual case. Factors that may be considered a determination of undue hardship are listed under section 3.1 as including when an accommodation could reasonably be expected to result in:

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1. a substantial risk to health and safety;
 2. failure of the student to meet an essential requirement of a course, program or activity; or
 3. financial or logistical challenges that would have a significant impact on the viability of a course, program or activity.

It is important that the limitations to the responsibility to provide reasonable accommodation to students with disabilities is set out in the Policy as an instructor might refuse to provide an accommodation recommended by Access & Diversity or the Disability Resource Centre on the grounds it constitutes undue hardship, and in particular, that providing such accommodation will result in an essential requirement of their course, program or activity being unmet. Section 3.2 of the Procedures sets out the key principles that apply when determining whether a task or requirement of a course, program or activity is an essential requirement. These have been established by case law primarily in the employment context, referred to as bona fide occupational requirements, and have been adapted to those essential requirements of a course, program or activity in a public post-secondary institutional setting.

Section 3.3 emphasizes that an instructor has a duty to make accommodations for a student that they have been notified of, subject to undue hardship. Sections 3.3 to 3.6 also set out an informal process for resolving an instructor's concerns where the instructor or other University employee believes that the accommodation determined by Access & Diversity or the Disability Resource Centre will result in an essential requirement of their course, program or activity being unmet, or will otherwise incur undue hardship. The first stage in this process is to work cooperatively with Access & Diversity or the Disability Resource Centre to determine whether undue hardship would exist. If the matter is still not resolved, it can be referred to the Registrar or their delegate (in the case of academic accommodations) or to the administrative head of unit or their delegate (in the case of non-academic accommodations), who will promptly consider the request in consultation with the Dean (for academic accommodations only), Access & Diversity or the Disability Resource Centre, the instructor, the other University employee and/or the Office of the University Counsel, as appropriate. The decision of such decision-maker is final. Pending resolution of the matter, Access & Diversity or the Disability Resource Centre's recommended accommodation is to be implemented.

Access & Diversity and the Disability Resource Centre have committed to supplying further information and materials on their websites that would provide further guidance to persons wanting to better understand the concepts of undue hardship and essential requirements under Part 3 of the Procedures.

Procedures: Part 4 (Documentation): Former Part 5 (Documentation) of the Policy has been updated to reflect that it is specifically Access & Diversity or the Disability Resource Centre that will be reviewing the documentation for disabilities where accommodation requests have been made. Section 4.1 clarifies that the University is not *required* to provide or assume costs for diagnostic services, and also states that Access & Diversity or the Disability Resource Centre will provide reasonable assistance to students in providing the appropriate documentation.

The additional language in section 4.4 is intended to provide reassurance to

students that information released by Access & Diversity or the Disability Resource Centre about the nature of a disability is only disclosed to relevant instructors or other relevant University employees on a "need-to-know" basis, in order for such persons to perform their duties under the Policy. The former reference to destroying personal documentation retained by Access & Diversity or the Disability Resource Centre after 5 years has been removed as this practice is not currently feasible for all electronic data. It should also be noted that this requirement is not required because these units are already covered by records retention requirements under the Records Management Policy #117.

Former sections 5.5.1 and 5.5.2 have been combined into new section 4.5 to streamline the documentation requirements for students whose condition is stable and the language distinguishing between new or returning students has now been removed as the documentation requirements only differ if the student's condition is stable or if there has been a change in their functional abilities. Also, the ability to provide students with accommodation in exceptional circumstances where no documentation for the disability is available, has been modified slightly to provide clarity that such limited accommodation is at the sole discretion of Access & Diversity or the Disability Resource Centre.

Procedures: Part 5 (Student Appeals): Former Part 7 of the Policy (Appeals) was removed and replaced with a new Part 5 of the Procedures that provides for students appealing academic accommodations. The former appeals section of the Policy provided for a Disability Accommodation Appeal Committee consisting of nine members appointed for up to three years, with appeals being heard by three of the members. However, in the limited times there has been an appeal under this Policy, the involvement of such a committee has been a very slow and inefficient process, which leaves the student without resolution for a potentially detrimental period of time. It is also challenging to put in place a committee with the expertise that is needed to review such a decision.

There are now two stages of University review processes for Students who are dissatisfied with an accommodation decision. Students are encouraged to first contact Access & Diversity or the Disability Resource Centre with their concerns regarding an accommodation as soon as possible (but no later than 14 days after receiving their letter of accommodation). This provides an informal internal resolution process whereby another advisor or the director of Access & Diversity or the Disability Resource Centre will review the student's concerns in consultation with other University staff and departments, and make a decision based on advice from the Office of the University Counsel.

If the result of the informal resolution process outlined in section 5.1 is not resolved to the satisfaction of the student, there is a second streamlined and efficient process whereby students can appeal to the Director of Investigations, or her delegate who would have the appropriate expertise (i.e. well-versed in Human Rights law), to review the accommodation decision and supporting documentation provided, and make a decision as to whether to vary the accommodation determination of Access & Diversity or the Disability Resource Centre within a very short timeframe (i.e. 10 days). This new process allows for prompt resolution for the student.

It is also made clear in this section of the Policy that pending such appeal decisions, the accommodation determination of Access & Diversity or the Disability Resource Centre will be implemented (similar language is included for

an appeal by instructors or other employees in section 3.6).

The student is still free to pursue other avenues outside of the Policy, including filing a discrimination claim under UBC Policy #3 (Discrimination and Harassment) or a complaint with the B.C. Human Rights Tribunal.

BENEFITS
Learning, Research,
Financial, Sustainability
& Reputational

These amendments will bring the Policy into alignment with the University's existing practices, creating a more consistent process across the two campuses and establishing key principles that will guide the extent to which the University's responsibility for providing accommodations for students with disabilities is to be made. This better reinforces the University's commitment to its moral and legal duty to accommodate.

CONSULTATION
Relevant Units, Internal
& External
Constituencies

The University Counsel constituted a Policy Review Committee to consider and advise on the proposed new Policy. The Committee is comprised of the following members:

- Paul Hancock, Legal Counsel, Information and Privacy (Chair)
- Winsome Glover, Associate, Richards Buell Sutton LLP (Secretary)
- Janet Mee, Director, Access & Diversity
- Eldon Graham, Disabled Students Association
- Max Holmes, Vice-President Academic & University Affairs, Alma Mater Society
- Shirley Nakata, Ombudsperson for Students
- Susanne Goodison, Director, Arts Academic Advising Services
- Simon Bates, Senior Advisor, Teaching and Learning Academic Director, Centre for Teaching, Learning and Technology
- Earllene Roberts, Manager, Disability Resource Centre - UBC Okanagan
- Tanya Forneris, Associate Director, School of Health and Exercise Sciences - UBC Okanagan
- Rachele Hole - Associate Professor, School of Social Work - UBC Okanagan

The proposed amendments are unanimously recommended by the members of the Committee.

As during the review of this Policy it became apparent that the Senates should be involved in this Policy due to the academic impact of accommodations for students with disabilities, it was determined that this Policy should be a joint Senate and Board policy. Accordingly, this Policy is also being submitted to the Vancouver Senate Academic Policy Committee and the Okanagan Academic Policy Committee simultaneously.

Subject to any input from the Vancouver Senate Academic Policy Committee, the Okanagan Academic Policy Committee and the Board, community consultation will be undertaken. This will include publication on the website of the Office of the University Counsel with a call for comments from the broader UBC community, as well as broadcast e-mails via "Heads Up" to heads of academic units, administrative units, student governments, and unions/employee associations from the Okanagan and Vancouver campuses. All input from the broader UBC community will be considered by the Committee in formulating its final proposal for amendments to the Policy.

One of the issues that will be highlighted for specific consideration through the community consultation period is the mechanism for instructors or other

University employees seeking review of an academic accommodation decision to determine whether undue hardship would be incurred, to ensure that this review process is timely and allows for a decision to be made by an individual at the University with the expertise and through the appropriate consultation, without causing unnecessary delays or trauma to the parties affected by such decision.


Additional Materials

A copy of the current policy is available at:
<https://universitycounsel.ubc.ca/files/2010/08/policy73.pdf>.

Copies of the following additional materials are attached:

1. a clean copy of proposed Policy #73

Previous Report Date	N/A
Decision	None. This is an information item only.
Action / Follow Up	Subject to any feedback from the Vancouver Senate Academic Policy Committee, the Okanagan Academic Policy Committee and the Board of Governors, the next step will be to post the proposed amendment of Policy #73 on UBC’s website for public comment by the University community. The Policy Review Committee will be asked to consider any comments received. If necessary, revisions may be made before a recommendation is then submitted to the Board and the Senates to approve the proposed amendment of Policy #73.

 <p>The University of British Columbia Board of Governors Okanagan Senate Vancouver Senate</p>	Policy No.: 73	Approval Date: May 1999 Last Revision:
	Responsible Executive: Vice-President, Students	
Title: <p style="text-align: center;">Accommodation for Students with Disabilities (Joint Senate and Board Policy)</p>		
Background & Purposes: <p>The purpose of this Policy is to outline the principles, responsibilities and processes for the provision of Accommodation for Students with Disabilities.</p> <p>The purpose of Accommodation is to create an accessible learning environment that enables all Students to meet the essential requirements of the University's courses, programs and activities. The University is committed to providing Accommodation to promote human rights, equity and diversity, and to comply with its duty under the British Columbia <i>Human Rights Code</i> to make its services and facilities available in a manner that does not discriminate. Students will be Accommodated in a way that respects their dignity, privacy and autonomy. Once Accommodated, Students are responsible for following Accommodation procedures in order to meet the essential requirements of their course, program or activity.</p> <p>Access & Diversity on the Vancouver campus and the Disability Resource Centre on the Okanagan campus are the offices that are designated to assist the University in integrating Students with Disabilities into all aspects of University life and are responsible for assisting Students and their Instructors with Accommodation. Providing Accommodation to Students with Disabilities is a shared responsibility amongst all members of the University community.</p> <p>The University recognizes the benefits of the application of Universal Instructional Design principles to the built and learning environments at the University. These principles are a comprehensive approach to classroom interaction and evaluation and include flexibility of delivery systems and evaluation methods, maximizing learning for Students with different abilities and learning preferences while minimizing the need for Students to make specific requests for Accommodation.</p>		

1. Scope

- 1.1. This Policy applies to Students with Disabilities. Where a person is both a Student and employee of the University, this Policy only applies to those activities that are associated with the person's status as a Student. Students should

consult with their manager insofar as their request for Accommodation relates to their employment at the University.

- 1.2. This Policy does not apply to Students who experience Temporary Health Issues. Students experiencing Temporary Health Issues should seek an academic concession following the processes under the Senate Regulation on Academic Concession set out in the University's Academic Calendars.
- 1.3. This Policy also applies to University staff and faculty with respect to their shared responsibility to Accommodate Students with a Disability.

2. **Definitions**

- 2.1. "**A&D/DRC**" means, in the case of UBC Vancouver Students, the office of Access & Diversity and in the case of UBC Okanagan Students, the Disability Resource Centre.
- 2.2. "**Accommodation**" or "**Accommodate**" refers to any modification that reduces or eliminates barriers to participation arising when Students with Disabilities interact with the University's facilities or its teaching, learning and assessment methods and materials.
- 2.3. "**Administrative Head of Unit**" is any one of the following, as the context requires: Director of a service unit, Head of an academic department; Director of a centre, institute or school; Principal of a college; Dean; Associate Vice-President; University Librarian; Registrar; Vice-President; Deputy Vice-Chancellor & Principal; or President.
- 2.4. Person(s) with a "**Disability**" or "**Disabilities**" means persons who:
 - 2.4.1 have a significant and persistent mobility, sensory, learning, or other physical or mental health impairment;
 - 2.4.2 experience functional restrictions or limitations of their ability to perform the range of life's activities; and
 - 2.4.3 may experience attitudinal and/or environmental barriers that hamper their full and self-directed participation in University activities.
- 2.5. Reference to "**Instructors**" in this Policy shall mean, as the context requires, the instructor of record for the particular course or the Head for the particular program for which the Student is seeking Accommodation, and for graduate Students who are enrolled in a thesis or dissertation, the graduate Student's supervisor for these activities for which the Student is seeking Accommodation.

- 2.6. **"Student"** means a person who:
 - 2.7.1 is registered in credit or non-credit courses offered by the University; or
 - 2.7.2 has formally applied to the University as a prospective Student.
- 2.7. **"Temporary Health Issues"** are temporary medical impairments or injuries that are unrelated to a Disability and are likely to be substantially resolved in less than one term.

3. **Responsibilities of the University towards Students with Disabilities**

- 3.1. The University has a responsibility to:
 - 3.1.1 provide an inclusive and welcoming environment for Students with Disabilities;
 - 3.1.2 ensure that eligible Students are not denied admission on the basis of their Disability;
 - 3.1.3 make its facilities, courses or programs accessible to Students with Disabilities;
 - 3.1.4 provide reasonable Accommodation to Students with Disabilities to the point of undue hardship;
 - 3.1.5 provide advice and guidance for Students with Disabilities about the Accommodation process;
 - 3.1.6 provide information on its academic calendar and website regarding the Accommodation process; and
 - 3.1.7 ensure that faculty and staff are provided relevant information about University policies and procedures associated with providing Accommodation to Students with Disabilities and are familiar with broader accessibility issues.
- 3.2. The University will carry out the responsibilities set out in section 3.1 in a manner consistent with the *Human Rights Code* (BC) and other applicable legislation.
- 3.3. A&D/DRC is the office at the University that is primarily responsible for carrying out the responsibilities set out in section 3.1. Instructors and other University employees are responsible for assisting A&D/DRC to carry out its mandate.
- 3.4. A&D/DRC is responsible for determining Accommodations for Students with Disabilities. A&D/DRC is also responsible for determining a Disability-related need for academic concessions for Students.
- 3.5. Instructors and other University employees are responsible for implementing these Accommodations with the advice and support of A&D/DRC. A&D/DRC is responsible for implementing Accommodations that cannot reasonably be provided at a program level.

4. **Responsibilities of Students with Disabilities**

- 4.1. Students with a Disability seeking Accommodations for their Disability have a responsibility to:
 - 4.1.1 contact A&D/DRC about any requested Accommodation in a timely manner (as set out in the Procedures) to allow for arrangement of Accommodation;
 - 4.1.2 provide the appropriate documentation of their Disability to A&D/DRC;
 - 4.1.3 notify A&D/DRC of any changes to their Accommodation requirements;
 - 4.1.4 comply with instructions and procedures for developing and implementing the Accommodation; and
 - 4.1.5 at the beginning of each term or otherwise at the earliest available opportunity, provide the letter of Accommodation received from A&D/DRC to the Instructors or unit from whom they are seeking Accommodation, who will coordinate implementation of the Accommodation at the course or program level, and to other University employees, as appropriate.
- 4.2. While providing Accommodation enables Students with a Disability to have an alternative means of meeting essential requirements of the course, program or activity, fulfilling essential requirements remain the Students' responsibility. Providing Accommodation shall not lower the academic standards of the University, and shall not remove the need for evaluation or assessment and the need to meet essential requirements.

PROCEDURES

Approved:

Pursuant to Policy #1: Administration of Policies, "Procedures may be amended by the President, provided the new procedures conform to the approved policy. Such amendments are reported at the next meeting of the Board of Governors." Note: the most recent procedures may be reviewed at: <http://universitycounsel.ubc.ca/policies/index/>.

1. Distinguishing Disabilities from Temporary Health Issues

- 1.1. A&D/DRC's responsibility to provide Accommodation under this Policy applies only to Students with Disabilities, not Temporary Health Issues. Temporary Health Issues involve a different process and are addressed as "academic concession" under the Senate Regulation on Academic Concession set out in the University's Academic Calendars.
- 1.2. Where there is doubt about whether a Student has a Temporary Health Issue or a Disability, Students, their Instructors or other relevant University employees should consult with A&D/DRC. Such consultation is especially important where a Student's Temporary Health Issue has persisted for more than one term.

2. Process for Creating Accommodation

- 2.1. Students requesting Accommodation are responsible to register with A&D/DRC and to provide appropriate documentation as set out in section 4 of the Procedures. Students are encouraged to make contact with A&D/DRC as soon as reasonably possible to ensure it has sufficient time to properly review Accommodation requests and to coordinate any necessary arrangements.
- 2.2. All requests for exam and other test Accommodations (e.g., extended time, alternative location, etc.) must be received by A&D/DRC at least 7 days prior to the scheduled date for mid-term examinations/tests and 7 days prior to the start of formal examination periods. Students are advised to make such Accommodation requests to A&D/DRC Accommodations as soon as possible to avoid delays in service.
- 2.3. In consultation with the Student, A&D/DRC will review the documentation provided by the Student seeking Accommodation, identify necessary academic adjustments, auxiliary aids, and/or services, and determine the Accommodations that are reasonable and appropriate. Accommodations will be made on an individual basis, taking an intersectional and holistic view of both the individual and the environment, based on factors such as the functional impact of the Disability and the Student's field of study.
- 2.4. A&D/DRC may determine the following types of Accommodations:
 - 2.4.1 academic Accommodations (e.g. exam-related Accommodations, captioning and sign interpreting, and course materials in alternate formats);

2.4.1.1. A&D/DRC is also responsible for determining a Disability-related need for academic concessions for Students, but if a specific academic concession is to be granted by a faculty or school, this, including the process for appealing such a decision for academic concession, will be governed by the Senate Regulation on Academic Concession set out in the Academic Calendars; and

2.4.2 non-academic Accommodations (e.g. Accommodations for housing, parking or recreational activities).

2.5. A&D/DRC will prepare a letter of Accommodation which details the specific Accommodation A&D/DRC has determined, and explains how to implement that Accommodation.

2.6. At the beginning of each term or otherwise at the earliest available opportunity, Students are expected to provide the letter of Accommodation given to them by A&D/DRC to each Instructor or unit from whom they are seeking Accommodation, in order for the Student to be able to benefit from the recommended Accommodation. The Instructor or unit is responsible for implementing the recommended Accommodation and providing all relevant information regarding the Accommodation to the members of the course or program teaching team. A&D/DRC is responsible for coordinating the support services to be provided for the approved Accommodation where those services cannot reasonably be provided at the program level.

3. Limits to Accommodation: Undue Hardship and Essential Requirements

3.1. The University's duty to Accommodate Students with Disabilities is limited to providing reasonable Accommodation without incurring undue hardship, as that term has been interpreted under BC law. What constitutes undue hardship varies based on, and must be considered in the context of, the circumstances of each individual case. Undue hardship exists when an Accommodation could reasonably be expected to result in:

3.1.1 a substantial risk to health or safety;

3.1.2. failure of the Student to meet an essential requirement of a course, program or activity; or

3.1.3 financial or logistical challenges that would have a significant impact on the viability of a course, program or activity.

3.2. For the purposes of this Policy, essential requirement(s) are the tasks or requirements of a course, program or activity that must be acquired or demonstrated in order for a Student to successfully meet the objectives of the course, program or activity, that cannot be altered without compromising the fundamental nature of the course, program or activity. Identifying essential requirements is critical in determining appropriate Accommodations. The following factors will determine whether or not a task or requirement of a course, program or activity is an essential requirement:

3.2.1. the task or requirement of a course, program or activity is rationally connected to the ability to complete the course, program or activity;

- 3.2.2. the task or requirement of a course, program or activity was included in an honest and good faith belief that it was necessary to the fulfillment of that course, program or activity objective; and
 - 3.2.3. the task or requirement of a course, program or activity is reasonably necessary to complete the course, program or activity. This includes a requirement to demonstrate that it is impossible to provide an Accommodation without undue hardship.
- 3.3. Instructors or other University employees who have been notified of an Accommodation for a Student in their course, program or activity have a duty to make such Accommodations, subject to undue hardship. If the Instructor or other University employee believes that the Accommodations determined by A&D/DRC will result in an essential requirement of their course, program or activity being unmet or will otherwise incur undue hardship, they must contact A&D/DRC to discuss their concerns, and work cooperatively to determine whether undue hardship would arise if the Accommodation were implemented.
- 3.4. If the Instructor or other University employee cannot reach agreement with the A&D/DRC on the matter, any of them may refer the matter to the following decision-maker or their delegate in the applicable faculty or administrative unit:
 - 3.4.2. for academic Accommodations, the Registrar; and
 - 3.4.3. for non-academic Accommodations, the Administrative Head of Unit.
- 3.5. The decision-maker referenced in section 3.4 will promptly consider the request in consultation with:
 - 3.5.1 for academic Accommodations: the Dean;
 - 3.5.2 for both academic and non-academic Accommodations: A&D/DRC, the relevant Instructor or other University employee, and/or the Office of the University Counsel, as appropriate.
- 3.6. The decision of this decision-maker as to whether an Accommodation would incur undue hardship is final, and A&D/DRC will amend its Accommodation determination if required to comply with this decision. Pending this final decision, the Instructor or other University employee will be required to implement the Accommodation determination of A&D/DRC.

4. Documentation

- 4.1. Documentation acceptable to A&D/DRC must be obtained from medical doctors, registered psychologists or other health professionals who are appropriately certified and/or licensed to practice their professions and have specific training, expertise, and experience in the diagnosis of the particular Disability for which Accommodation is being requested. A&D/DRC will provide reasonable assistance to Students to obtain such documentation. The University is not required to provide or assume the costs of diagnostic services.

- 4.2. Documentation submitted should outline the nature of the Disability, along with a detailed explanation of the functional impact of the Disability. A diagnosis alone is not sufficient to support a request for an Accommodation.
- 4.3. Documentation must be current. For Students who have a stable condition, usually no more than 3 years must have elapsed between the time of the assessment and the date of the initial request for Accommodation.
- 4.4. All medical information obtained by A&D/DRC will be treated as confidential. When releasing information about the nature of the Disability to Instructors or other relevant University employees, its likely impact in an academic setting and recommended Accommodations, A&D/DRC's actions will be governed by the *Freedom of Information and Protection of Privacy Act (BC)*. This information is disclosed to such persons on a "need-to-know" basis in order for them to perform their duties under the terms of this Policy.
- 4.5. When a Student's functional abilities have shown significant change since the documentation was submitted (i.e. either an improvement or deterioration of status has taken place or is expected to take place) or when the Student's Accommodation requests have changed significantly over the course of their studies, new or updated information may be requested by A&D/DRC. The University is not required to provide or assume the cost of diagnostic services.
- 4.6. In exceptional circumstances, at the sole discretion of A&D/DRC, a Student may be provided Accommodation on a limited basis without documentation.

5. Student Appeals

- 5.1 Where a Student disagrees with an Accommodation decision, he or she should advise A&D/DRC of the Student's concerns as soon as possible but in no event later than 14 calendar days of receiving the letter of Accommodation from A&D/DRC. The Accommodation decision will be reviewed by an A&D/DRC Accessibility Advisor, Manager or Director who was not involved in the original Accommodation decision. This individual will make a timely decision about whether to vary the Accommodation, and will provide the Student with reasons for such decision in writing, after:
 - 5.1.1. conducting a review of all relevant documentation;
 - 5.1.2. consulting with the appropriate Instructors, Administrative Heads of Unit, or other University employees as required; and
 - 5.1.3. seeking advice from the Office of the University Counsel.
- 5.2 If the resolution process outlined in section 5.1 above is not resolved to the Student's satisfaction, the Student may, as soon as possible but in no event later than 14 calendar days after being notified of the individual's decision, appeal to the Director of

Investigations or their delegate with the appropriate expertise, to review the Accommodation determination of A&D/DRC. Such an appeal is to be made in writing, by submitting to the Director of Investigations or their delegate, a request for appeal setting out:

- 5.2.1. the Accommodation being requested by the Student;
- 5.2.2. the original Accommodation determination of A&D/DRC;
- 5.2.3. the decision made pursuant to section 5.1 of these Procedures; and
- 5.2.4. all documents or other information relevant to review of the Accommodation determination of A&D/DRC that the Student has received (including a copy of the letter of Accommodation detailing the specific Accommodation A&D/DRC determined).

5.3 The Director of Investigations or their delegate will:

- 5.3.1. review the Accommodation being requested by the Student, the Accommodation determination of A&D/DRC, the decision made pursuant to section 5.1 of these Procedures, and all other relevant documents or information that were provided with the request for appeal;
- 5.3.2. request information from A&D/DRC and the relevant Instructor or other University employees, as appropriate; and
- 5.3.3. make a decision about whether to vary the Accommodation determination of A&D/DRC within 10 calendar days of receipt of the written request for appeal. The Director of Investigations or their delegate will communicate their decision and reasons as to the appropriate Accommodation for the Student, in writing, to each of the Student, the Instructor or other unit from whom the Student is seeking accommodation, and A&D/DRC.

5.4 A&D/DRC will amend its Accommodation determination, if required, to comply with the decisions made pursuant to sections 5.1 or 5.3 of these Procedures. Pending such decisions, the relevant Instructor or other University employee will be required to implement the Accommodation determination of A&D/DRC.

5.5 Where a Student wishes an Accommodation decision or any part thereof to be investigated on the grounds of discrimination, they must initiate such a complaint and follow the processes relating to matters of discrimination under Policy #3 (*Discrimination and Harassment*).

5.6 The Student may have recourse to other processes within the University, such as Senate appeals.

5.7 The Student may also have recourse to processes outside of the University, such as filing a complaint with the B.C. Human Rights Tribunal.