

| | |
|---------------------|---|
| SUBJECT | REPEAL OF POLICY 65 (RELIGIOUS HOLIDAYS) |
| MEETING DATE | APRIL 2, 2019 |

Forwarded on the Recommendation of the President

APPROVED FOR SUBMISSION



for Santa J. Ono, President and Vice-Chancellor

FOR INFORMATION

| | |
|--------------------|----------------|
| Report Date | March 12, 2019 |
|--------------------|----------------|

Presented By Hubert Lai, Q.C., University Counsel
Andrew Parr, Interim Vice-President Students

EXECUTIVE SUMMARY

The Policy Review Committee proposes repeal of Policy 65 (Religious Holidays) and is requesting feedback from the Board of Governors on the proposed repeal. Academic accommodations for students' observance of religious holidays falls within Senate's jurisdiction, and will be addressed by the development of a Senate Policy. Faculty and staff's observance of religious holidays is already addressed through Policy 3 (Discrimination and Harassment) and UBC's legal obligation to comply with the *Human Rights Code* and collective agreements. Further guidance and administrative details (e.g., for responding to requests for accommodations for religious holidays) may be provided in various forms of communication from the Equity & Inclusion Office and Human Resources (e.g., periodic human resources memoranda to administrators, FAQs, guidelines, consultation or assistance).

Attachments

1. A copy of the current policy.
2. A working draft of the language for a proposed Senate policy for academic accommodations for students' religious holidays and for cultural ceremonies for Indigenous students of Canada.

STRATEGIC CORE AREAS SUPPORTED

People and Places Research Excellence Transformative Learning Local / Global Engagement

DESCRIPTION & RATIONALE Policy 65 (Religious Holidays) was created in 1994 to articulate the basis on which students and members of faculty and staff could observe the holy days of their religion, and has never been amended.

Although it is not stated within Policy 65, UBC's legal responsibility to accommodate observance of religious holidays by students, faculty and staff arises from UBC's obligation under the *Human Rights Code* not to discriminate on the basis of various protected grounds, including religion. This obligation applies to UBC as both an employer and as a provider of services and facilities.

Subsequent to the establishment of Policy 65, UBC created Policy 3 (Discrimination and Harassment), which sets out UBC's commitment to maintain and respect human rights and prevent discrimination on all of the grounds prohibited by the B.C. Human Rights Code, including religion, rendering significant parts of Policy 65 redundant.

In addition to Policy 3 and Policy 65, UBC addresses its commitment and obligation to accommodate observance of religious holidays through the Senate Policy on Academic Concessions in both the UBC Okanagan and UBC Vancouver Calendars, and information available on the website of the Equity & Inclusion Office (the "EIO").

The Committee recommends that the redundancies created by these overlapping documents be rationalized on the following basis:

- a. UBC already has a legal obligation to comply with the *Human Rights Code* so as not to discriminate against individuals on the basis of religion (with a concomitant duty to accommodate on such grounds). Policy 3 will continue to set out UBC's commitment to non-discrimination and internal processes for addressing any concerns about discrimination.
- b. Academic accommodations for students will be provided as in the manner set out under a new Senate policy that will mesh with the existing Senate Policy on Academic Concessions, which is being developed with a view to being approved by the Senates in the spring of 2019.
- c. For faculty and staff:
 - i. adapted language that provides guidance as to the relevant factors to be taken into consideration in accommodation requests from Policy #65 (section 1.2 of the Procedures) is recommended to be incorporated into Policy #3 in the section that addresses resolution of discrimination concerns so as to obviate the need to make a discrimination complaint; and
 - ii. there is existing language in collective agreements applicable to UBC Vancouver and UBC Okanagan that include "no discrimination" clauses, the obligation to comply with the *Human Rights Code* and/or UBC Policy #3.
- d. Policy 3 and the Senate policy will be supported by information regarding religious accommodations for students, faculty and staff (i.e. further administrative details or guidance) on the websites of Human Resources and the EIO. This is expected to include guidelines or FAQs and periodic memoranda from Human Resources to all administrative heads of unit ("AHOUs") reminding them of UBC's commitment to religious inclusion and directing them to the key documents and other resource information for religious accommodations.
- e. Policy 65 will be repealed.

By taking the foregoing measures, the Committee's view is that there will be no lessening of UBC's commitment and obligations as to religious holidays.

The Committee recognized that academic accommodations for students' observance of religious holidays (and potentially broader religious observances) fall within Senate jurisdiction as engaging matters of academic governance. As such, UBC's measures to accommodate students in this regard is appropriately addressed by the Senate through Senate policy. This will avoid the risk that either the Board or the Senates will be acting in areas beyond their jurisdiction. The Committee includes two Senators who serve as the Chairs of the Vancouver and the Okanagan Senate Academic Policy Committees. They both support the Committee's recommendation and have moved forward with the development of a Senate policy for academic accommodations for students' observance of religious holidays (and potentially broader religious observances) for review by their respective Senate Academic Policy Committees. The Chairs have shared a working draft of the language for this Senate policy, a copy of which is attached to this docket. The draft Senate policy provides more detail and guidance than Policy #65 currently provides. (This working draft is subject to change as it moves through the Senates' development and consultation process.)

This overall approach will ensure that religious accommodations are provided in a manner that is consistent with accommodations that are provided in relation to other protected grounds. It will reduce any conflict, confusion, and redundancy between documents. Last, but not least, the use of websites and other informational channels will keep changing information out of policies that are not intended to be changed frequently and allow the policies to function as regulatory instruments. Websites and other information channels can be readily updated from time to time to reflect changes in the law and provide reminders to AHOUs. As well, they provide the flexibility to address questions frequently asked by the UBC community about religious accommodations.

The Committee shared its recommendation to incorporate language into Policy 3 regarding the relevant factors to be taken into consideration in accommodations requests (which would otherwise disappear upon the repeal of Policy 65) with the Policy 3 review committee. Policy 3 provides guidance as to where assistance, information and advice may be obtained regarding discrimination matters and, thereby, accommodating religious holidays, with the EIO responsible for providing education to students, faculty and staff, and other UBC offices on the prevention and remediation of discrimination. The Policy 3 review committee accepted that recommendation and incorporated the recommended language into the proposed revisions to Policy 3 that went to the Board for information in December 2018, was the subject of community consultation over the winter, and is coming forward to the Board of Governors for approval in April of 2019. The proposed revised section 3.3 of the Policy 3 Procedures reads:

"3.3 As part of this consultation process, the Equity & Inclusion Office may work with the relevant Administrative Head of Unit to resolve the concern informally. In doing so, this office should take into considerations all relevant factors, such as risks to health or safety, financial or logistical challenges, disruption of any collective agreements, and impact upon ability to deliver or meet requirements of the relevant course, program, or activity."

As a final note, the Committee recognizes that, beyond the accommodation requirements of Policy 3, the Senate policy, the collective agreements, and the *Human Rights Code*, there may be a broad range of other measures that UBC may wish to implement to promote religious inclusion through a range of other initiatives. The Associate Vice President, Equity & Inclusion has established a working group through the Vice Presidential Strategic Implementation Committee for Equity and Diversity (VPSICED) to explore such measures, such as accommodations for death rites/ritual, prayer time and dress code, the provision of additional multi-faith rooms or prayer spaces and of foot-washing facilities, and the creation of a speaker series or other vehicles for promoting intercultural and religious understanding and to undertake due diligence and cost assessment. Establishment of this working group was approved at the last VPSICED meeting and a number of people have been invited to participate, with membership of the working group expected to be confirmed by mid-March. VPSICED is also able to assist Human Resources in developing further content and/or other resources to be issued by Human Resources, as discussed above.

| | |
|---|--|
| <p>BENEFITS Learning, Research, Financial, Sustainability & Reputational</p> | <p>The repeal of Policy 65 will avoid the risk that either the Board or the Senates will be acting in areas beyond their jurisdiction and it will ensure that religious accommodations are provided in a manner that is consistent with accommodations that are provided in relation to other protected grounds. In addition, the recommended approach will reduce any conflict, confusion, and redundancy between documents and will keep changing information on websites and other communication channels that are best suited for information dissemination and out of policies that are intended to function as regulatory instruments rather than information channels that require frequent changes to remain current. These means of communication will also bring awareness to and allow for flexible ways of educating, the individuals and units involved in making and responding to religious accommodation requests.</p> |
|---|--|

| | |
|---|-------------|
| <p>RISKS Financial, Operational & Reputational</p> | <p>None</p> |
|---|-------------|

| | |
|--|--|
| <p>SCHEDULE Implementation Timeline</p> | <p>Subject to any feedback from the Board of Governors, the next step will be to post the proposed repeal of Policy 65 on UBC's website for public comment by the University community. The Policy Review Committee will be asked to consider any comments received. After reviewing all comments, the Policy Review Committee will submit a final recommendation to the Board of Governors for approval at the Board of Governors' June 2019 meeting.</p> |
|--|--|

| | |
|---|---|
| <p>CONSULTATION Relevant Units, Internal & External Constituencies</p> | <p>The Office of the University Counsel constituted a Policy Review Committee, comprised of the following members, to consider and advise on the review of the Policy:</p> <ul style="list-style-type: none"> · Winsome Glover, Associate, Richards Buell Sutton LLP (Chair), succeeding Karen Choi, Legal Counsel following the first committee meeting · Mark Hulstein, Legal Counsel (Secretary) |
|---|---|

- Kristin Cacchioni, Senior Manager, Faculty and Employee Relations - UBC Okanagan
- Jan Cioe, Associate Professor, Department of Psychology, Irving K. Barber School of Arts and Sciences - UBC Okanagan
- Sylvie Desjardins, Acting Associate Dean, Faculty and Academic Planning; Associate Professor, Department of Mathematics - UBC Okanagan
- Shannon Dunn, Director, Business Operations, AVP Finance and Operations - UBC Okanagan
- Paul Harrison, Associate Professor, Department of Botany, Faculty of Science - UBC Vancouver
- Hesham Soliman - Student/Postdoctoral fellow (Faculty of Medicine) - UBC Vancouver
- Shaera Islam, Student - UBC Okanagan
- Michelle Suderman, Director, International Student Development - UBC Vancouver
- Leah Terai, Senior Manager, Faculty Relations - UBC Vancouver
- Tracy Wideman, Organizational Diversity Strategist, Student Diversity Initiative, Equity & Inclusion Office - UBC Vancouver

The Policy Review Committee unanimously supports the recommendations set out in this docket.

The Interim Vice-President, Students, the Vice-President, Human Resources, the Provost and Vice-President Academic, and the University Counsel also support these recommendations.

Previous Report Date N/A

Decision None. This is an information item only.

Action / Follow Up Subject to any feedback from the People, Community & International Committee, the next step will be to post a call for comments from the UBC community on the proposed repeal of Policy #65 on the website of the Office of the University Counsel. The usual notifications to student groups, union leadership, and UBC unit heads will also be sent out by the Office of the University Counsel. The Policy Review Committee will consider any comments received. After reviewing the community's input, the Policy Review Committee will submit a final recommendation to the Board of Governors for approval.

| | | |
|--|---|--|
|  The University of British Columbia Board of Governors | Policy No.: 65 | Approval Date: May 1994 Last Revision: |
| | Responsible Executive: Vice-President, Students | |
| Title: <p style="text-align: center;">Religious Holidays</p> | | |
| Background & Purposes: To enable students and members of faculty and staff to observe the holy days of their religions. | | |

1. General

- 1.1. In constructing the academic calendar, UBC takes into account legal statutory holidays, days “in lieu” where appropriate, and days which it has agreed through collective bargaining to grant statutory holidays to members of faculty and staff, in determining days on which the University is closed or classes cancelled.
- 1.2. Recognizing the religious diversity of the UBC community, UBC permits students who are scheduled to attend classes or write examinations on holy days of their religions to notify their instructors in advance of the holy day of their wish to observe it by absenting themselves from class or examination. Instructors provide opportunity for such students to make up work or examinations missed without penalty.
- 1.3. UBC permits members of faculty and staff who are scheduled to work on holy days of their religions to notify their administrative heads of unit in advance of the holy days of their religion of their wish to observe it by absenting themselves from work. Administrative heads of unit make efforts to accommodate such requests.

PROCEDURES

Approved: May 1994

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 and are incorporated in the next publication of the UBC Policy and Procedure Handbook."

1. General

- 1.1. Students are required to give two weeks' notice of their intention to absent themselves under the terms of this policy. They shall notify the instructor of each course or, where this cannot be done, the Head or Director of the unit concerned.
- 1.2. Administrative heads of unit, in trying to accommodate a request take into consideration financial costs, disruption of any collective agreement, work interruption, employee morale and, where safety is an issue, the magnitude of the risk and the identity of those who bear it. For administrative staff, normally such requests are met by granting a day off without pay, or a vacation day, or the opportunity to make up the time.
- 1.3. Because the difficulties in re-scheduling work vary by unit, each unit will establish a reasonable requirement for advance notice by members of faculty and staff.

2. Detailed Procedure

- 2.1. The Registrar's Office will distribute a multi-faith calendar to each administrative head of unit annually.

DRAFT LANGUAGE from Paul Harrison Feb. 27/19**Academic Accommodation for Students' Religious Holidays and for Cultural Ceremonies for Indigenous Students of Canada**

The University of British Columbia values respect for the diversity of people within its community and the religious and Indigenous cultural traditions that guide their individual lives. UBC provides reasonable and appropriate accommodation for students who are absent from classes (including lectures, discussions, tutorials, laboratories, clinical placements, etc.) and scheduled examinations in order to participate in observances of religious or Indigenous cultural significance. Documentation from faith leaders is not required to support requests for accommodation. The University provides a [Calendar of Religious Days and Days of Significance](#) and an [Interfaith Calendar](#) is also available, but UBC accepts that sincerely held beliefs by members of the same religious or cultural group may lead to different observance practices and so not all days when a student might request accommodation will necessarily be listed.

Observance may restrict participation in course activities, including:

- absence from class in which work is produced for a grade
- absence from scheduled exams
- absence from a scheduled placement
- following specific dress codes
- temporary absence from class for daily prayers, fasting or breaking a fast during class
- other required activities outlined in the course syllabus.

Means of accommodating an absence that results in the student missing a learning assessment that contributes toward the course grade include, but are not limited to:

- setting an alternative date for in-term or final examinations or other in-class assessments that are missed,
- providing an alternative assignment for satisfying the course requirement, and
- re-calculating the evaluation scheme to eliminate the component that has been missed.

No accommodation will jeopardize the academic integrity of the curriculum, the academic standards of courses and programs, or the safety of the student or others. In determining the form of accommodation, instructors should be aware that the act of writing a test or essay in class or in formal exam conditions is a valuable learning experience and so should ensure that if the missed assessment is not rescheduled, students are able to see the assessment questions and learn from the instructor the kinds of answers that were expected. Students should know that some course activities such as group presentations and laboratories may be impossible to reschedule and so alternative means of achieving the learning outcomes may have to be assigned.

Students are expected to incorporate the deadlines for submission of course work such as essays, reports, and homework/problem sets into their schedules without requesting accommodation. Students also are expected to explore options for fulfilling their religious or cultural obligations that avoid a conflict with a class or exam. If alternatives are not available, then students should seek accommodation as follows.

Requests for accommodation must be made in person or in writing to the course instructor or, in multi-section courses, to the course coordinator. In cases where a satisfactory arrangement between the student and course instructor/coordinator cannot be made, or if the student is uncomfortable approaching the instructor to request accommodation, the student should contact the advising office of their home Faculty or School or the Equity & Inclusion office for assistance in communicating with the course instructor or the academic head of the unit offering the course.

Requests for accommodation for examinations scheduled in a formal examination period should be made well in advance and normally no later than 21 days prior to the start of the examination period. Requests for accommodation during the term should be made well in advance and normally no later than 14 days prior to the date when the observance will affect course work. If the observance occurs within 14 days of the start of a term, the student shall contact the course instructor/coordinator at the earliest opportunity to request accommodation. Failure to make a timely request may result in a denial of the request. The instructor/coordinator will process requests expeditiously to avoid an academic disadvantage to the student.

If a course instructor and a student are unable to agree on the form of accommodation, the request will be referred to the academic head of the unit offering the course or program to determine the appropriate form of accommodation.