



SUBJECT	Proposed New Policy: Workplace Accommodation Policy for UBC Employees (HR13) (“Workplace Accommodation Policy”)
SUBMITTED TO	Employee Relations Committee
MEETING DATE	June 16, 2022
SESSION CLASSIFICATION	Recommended session criteria from Board Meetings Policy: OPEN
REQUEST	For input only - No action requested
LEAD EXECUTIVE	Hubert Lai, Q.C., University Counsel
SUPPORTED BY	Marcia Buchholz, Vice-President Human Resources Karen Choi, Legal Counsel

PRIOR SUBMISSIONS

The subject matter of this submission has not previously been considered by the Employee Relations Committee.

EXECUTIVE SUMMARY

In conjunction with the launch of the Centre for Workplace Accessibility and the Workplace Accommodation Fund earlier this year, the Vice-President Human Resources initiated discussions on the development of a policy on workplace accommodation. In April 2022, the Office of the University Counsel convened a Policy Development Committee for this purpose. The members of the Policy Development Committee are listed in Supplemental Materials 1.

The President has designated the Vice-President Human Resources as the Responsible Executive for the proposed Workplace Accommodation Policy and the Policy Development Committee recommends that it be assigned to the Employee Relations Committee as the Responsible Board Committee.

The proposed Workplace Accommodation Policy underscores UBC’s commitment to creating a welcoming and inclusive workplace which supports the full participation and engagement of all UBC employees. The purposes of the Workplace Accommodation Policy are to outline UBC’s responsibilities under the British Columbia *Human Rights Code* and to establish the UBC processes for requesting, assessing, implementing, and managing accommodations for employees. The proposed policy is set out in Appendix 1.

Key elements to the proposed policy are as follows:

- 1. Coordination for Student Employees:** The overarching goal is to provide the easiest pathway for student employees to access accommodations. Currently, the Board and Senate [Disability Accommodation Policy](#) (LR7) provides that where a person is both a student and employee of UBC, that policy only applies to those activities that are associated with the person's status as a student and not to accommodations related to their employment at UBC. A corresponding provision has been inserted into the proposed policy. However, a singular coordinated approach may be more streamlined and desirable. During the community engagement period, the Policy Development Committee will contact the Centre for Accessibility (for UBC Vancouver students) and the Disability Resource Centre (for UBC Okanagan students) to seek their input. At the time of Board approval of the Workplace Accommodation Policy, the Office of the University Counsel may also seek approval from the Board and Senate to make consequential amendments to the Disability Accommodation Policy to align with the proposed policy, if required.

2. **Statement of Responsibilities:** The proposed policy clearly delineates the responsibilities of UBC and its employees. It also provides general guidance on bargaining agent responsibilities while recognizing that the collective agreements vary and the language in the collective agreement will prevail if there is any inconsistency.
3. **Unit-Level Decision Making with Human Resources Support:** Decisions are made by supervisors within their operational units. The proposed procedures set out the process for an employee to make a request and provides guidance to supervisors in assessing requests and as to when Human Resources should be consulted.
4. **Appeals:** Employees who are subject to a collective agreement have access to the grievance procedures set out in their collective agreements. The proposed procedures set out an appeal mechanism for those employees who disagree with an accommodation decision but are not represented by a bargaining agent.

Subject to any feedback from the Board's Employee Relations Committee, the next step will be to post the proposed Workplace Accommodation Policy on the website of the Office of the University Counsel for public comment by the UBC community. The Policy Development Committee will reconvene after the consultation period to consider the comments received. The Policy Development Committee anticipates that a final recommendation will be submitted to the Board of Governors for approval in December 2022.

APPENDICES

1. Proposed Workplace Accommodation Policy

SUPPLEMENTAL MATERIALS (optional reading for Governors)

1. List of Members of the Policy Development Committee

 <p>The University of British Columbia Board of Governors</p>	<p>Policy No.: HR13</p>
<p>Long Title: Workplace Accommodation Policy for UBC Employees</p>	
<p>Short Title: Workplace Accommodation Policy</p>	

Background & Purposes

UBC is committed to creating a welcoming and inclusive workplace which supports the full participation and engagement of all UBC Employees. The Workplace Accommodation Policy and the Procedures associated with this Policy formally recognize UBC's commitment to promoting equity, diversity, and inclusion, and removing barriers for Employees who require workplace Accommodations.

The purpose of this Policy is to outline UBC's duty to Accommodate Employees under British Columbia's *Human Rights Code* and to establish the UBC processes for requesting, assessing, implementing, and managing Accommodations for Employees.

UBC has a legal duty to provide reasonable Accommodation for Employees where required pursuant to the *Code*, unless doing so would result in undue hardship. Workplace Accommodations are a shared responsibility that require participation and collaboration between UBC, the Employee, and any applicable Bargaining Agent.

1. Scope

- 1.1 This Policy applies to Employees. Where a person is both a Student and Employee of UBC, this Policy only applies to those activities that are associated with the person's employment. In so far as an Accommodation or request for Accommodation relates to an Employee's status as a Student, it will be governed by the joint Board and Senate Disability Accommodation Policy and Senate Policy J-136 – Academic Accommodation for all Students' Religious Observances and for the Cultural Observances of First Nations, Metis and Inuit Students.
- 1.2 This Policy does not apply to requests for modifications to job responsibilities to address a personal preference.
- 1.3 The fact that an Accommodation request is being pursued under this Policy and associated Procedures does not preclude the Employee from pursuing another process, such as filing a complaint under another UBC policy or pursuing remedies available under any applicable Collective Agreement.

2. Definitions

- 2.1 **“Accommodation”** or **“Accommodate”** refers to any modification that reduces or eliminates barriers to Employee participation in the workplace pursuant to the *Code*.
- 2.2 **“Bargaining Agent”** means all trade unions that represent employees of UBC, and the Association of Administrative and Professional Staff.
- 2.3 **“Code”** means the British Columbia *Human Rights Code*.
- 2.4 **“Collective Agreement”** means a written agreement between UBC and a Bargaining Agent providing for terms and conditions of employment, including the *Agreement on Conditions and Terms of Employment* between UBC and the Association of Administrative and Professional Staff.
- 2.5 **“Employee”** means a person who has an employment relationship with UBC and includes a person who is a UBC faculty member, UBC staff member, or a prospective Employee.
- 2.6 **“Protected Grounds”** means the grounds listed in Section 13 of the *Code*, as amended.
- 2.7 **“Student”** means a person who:
- 2.7.1 is registered in credit or non-credit courses offered by UBC; or
 - 2.7.2 has formally applied to UBC as a prospective Student.

3. General Responsibilities

- 3.1 Accommodation is a shared responsibility that requires participation and collaboration between UBC, the Employee, and any applicable Bargaining Agent.

4. Employer Responsibilities

- 4.1 As an employer, UBC has a responsibility to:
- 4.1.1 provide an Accommodation process;
 - 4.1.2 consider and assess all Accommodation requests on an individual and case-by-case basis, and in a reasonably timely and responsive manner;
 - 4.1.3 provide reasonable Accommodation to Employees whose participation in the workforce is impacted by an employment-related barrier connected to a Protected Ground under the *Code*, unless doing so would result in undue hardship;
 - 4.1.4 respect privacy and maintain confidentiality; and
 - 4.1.5 share information only on a need-to-know basis, including as needed to assess and implement a request for Accommodation or to fulfill any legal or statutory obligation.

- 4.2 UBC will carry out the responsibilities set out in section 4 in a manner consistent with the *Code*, the *Freedom of Information and Protection of Privacy Act*, and any other applicable legislation.
- 4.3 The duty to Accommodate does not require UBC to displace another Employee, place Employees in a job that they are not qualified for or cannot safely perform, or provide an Accommodation that would otherwise result in undue hardship.

5. Employee Responsibilities

- 5.1 Employees seeking Accommodations have a responsibility to:
 - 5.1.1 advise of their need for Accommodation in a timely manner;
 - 5.1.2 provide the appropriate documentation and information to assist UBC in implementing Accommodation, as required, in a reasonably timely and responsive manner;
 - 5.1.3 meet any Accommodation-related obligations set out in any applicable Collective Agreement; and
 - 5.1.4 participate in the Accommodation process and work cooperatively with UBC, with the goal of developing and implementing a reasonable Accommodation.
- 5.2 Where consistent with any applicable Collective Agreement, current Employees may engage an applicable Bargaining Agent at any point in the Accommodation process, including initiating the request.

6. Responsibilities of Bargaining Agents

- 6.1 The responsibilities of Bargaining Agents are as set out in the Collective Agreements between each Bargaining Agent and UBC. Generally, the Bargaining Agents have a responsibility to:
 - 6.1.1 help educate their members about matters relating to Accommodations;
 - 6.1.2 encourage their members to identify and communicate the need for an Accommodation;
 - 6.1.3 collaborate with all parties and participate reasonably in the Accommodation process;
 - 6.1.4 support their members in the Accommodation process;
 - 6.1.5 respect privacy and maintain confidentiality; and
 - 6.1.6 meet any Accommodation-related obligations set out in the Collective Agreement.

7. Collective Agreement

- 7.1 Nothing in this Policy or any associated Procedures, Rules or Guidelines is intended to interfere with the Collective Agreements that apply to Employees. If there is any inconsistency between any such documents and any Collective Agreement provision, the Collective Agreement will prevail to the extent of the inconsistency.



PROCEDURES ASSOCIATED WITH THE Workplace Accommodation Policy

Pursuant to the Regulatory Framework Policy, the President may approve Procedures or the amendment or repeal of Procedures. Such approvals must be reported at the next meeting of the UBC Board of Governors or as soon thereafter as practicable.

Capitalized terms used in these Procedures that are not otherwise defined herein shall have the meanings given to such terms in the accompanying Policy, being the Workplace Accommodation Policy.

1. Definitions

- 1.1 **“Responsible Executive”** means the Vice-President, Human Resources or other individual assigned by the President to be responsible for the Workplace Accommodation Policy and these associated Procedures. The Responsible Executive may delegate all or some of the duties under this Policy and associated Procedures but remains responsible for oversight.
- 1.2 **“Short Term Accommodation”** means an Accommodation that lasts less than 4 months and that does not require significant UBC resources, including financial and other resources.
- 1.3 **“Supervisor”** means the individual, such as a head, dean, or manager, who has management authority and responsibility to receive, assess, implement, and manage Accommodation requests.

2. Requesting an Accommodation

- 2.1 Employees may make a request for Accommodation to their Supervisor, to Human Resources, or through their Bargaining Agent, as applicable.
- 2.2 If a request for Accommodation is made to Human Resources, then:
 - 2.2.1 for disability-related Accommodation requests,
 - (a) Employees working at UBC Okanagan should contact the Work Reintegration & Accommodation Program (WRAP); and
 - (b) Employees working at UBC Vancouver should contact Workplace Health Services (WHS).
 - 2.2.2 for all other Accommodation requests, Employees should contact their departmental Human Resources manager or advisor.
- 2.3 All requests should be made in writing and the Employee should provide the appropriate information and documentation to support their request.
- 2.4 In some circumstances, UBC may initiate the Accommodation discussion.

3. Short Term Accommodation

- 3.1 The Supervisor will assess Short Term Accommodation requests.
- 3.2 The Supervisor generally does not need to consult and collaborate with Human Resources for Short Term Accommodation requests. However, as needed, the Supervisor will consult and collaborate with Human Resources to ensure that UBC's operational and legal obligations are met.
- 3.3 Every request will be assessed based on individual circumstances. The Supervisor may determine if the duty to Accommodate exists, and identify and provide a Short Term Accommodation if it is reasonable and does not result in undue hardship. The Supervisor will consult with Human Resources prior to making a decision that no duty to Accommodate exists or that UBC cannot Accommodate the Employee.
- 3.4 The Supervisor will notify the Employee in writing of their decision about the Short Term Accommodation request. Where appropriate, the Supervisor may inform Human Resources about their decision about the Short Term Accommodation request.
- 3.5 If, at any point, an Employee believes that what was implemented as a Short Term Accommodation may exceed four (4) months or requires significant UBC resources, the Employee will provide notice to their Supervisor, to Human Resources, or through their Bargaining Agent, as applicable.
- 3.6 If, at any point, the Supervisor becomes aware that what was implemented as a Short Term Accommodation may exceed four (4) months or requires significant UBC resources, the Supervisor will assess the request in accordance with section 4 of these Procedures.
- 3.7 An Employee may consult with Human Resources regarding a Short Term Accommodation.
- 3.8 At any time, an Employee can provide additional information to their Supervisor, to Human Resources, or through their Bargaining Agent, as applicable, to have the request reassessed.

4. Assessing a Request Other than for Short Term Accommodation

- 4.1 For all Accommodation requests other than Short Term Accommodations, the Supervisor will assess these requests in consultation with Human Resources. Every request will be assessed based on individual circumstances. The Supervisor will request assistance from the Employee, Human Resources, and the Bargaining Agent, as applicable, and ensure it has all necessary information. The Supervisor, in consultation with Human Resources, will determine if there is a duty to Accommodate, and notify the Employee in writing.
- 4.2 Where there is a duty to Accommodate, the Supervisor will collaborate with Human Resources, the Employee, and the Bargaining Agent, as applicable, to identify a reasonable Accommodation.
- 4.3 Human Resources may consult subject matter experts internal or external to UBC to assist with assessing a request for Accommodation.

- 4.4 The Supervisor, in consultation with Human Resources, will deny an Accommodation request in circumstances where:
- 4.4.1 the request is not connected to a Protected Ground under the *Code*;
 - 4.4.2 there is insufficient evidence to support the request;
 - 4.4.3 the Employee failed to cooperate in the Accommodation process, or has refused a reasonable Accommodation proposed by UBC;
 - 4.4.4 if no reasonable Accommodation is identified, or
 - 4.4.5 if the Accommodation would result in undue hardship.
- 4.5 The existence of undue hardship will be assessed on a case-by-case basis. Relevant factors may include, but are not limited to, the following:
- 4.5.1 significant disruption of operations;
 - 4.5.2 health and safety concerns;
 - 4.5.3 substantial interference with the rights or morale of other individuals or groups;
 - 4.5.4 the Accommodation would be disruptive to any applicable Collective Agreement;
 - 4.5.5 the Accommodation would result in lowering material performance standards, or in substantive job requirements not being met;
 - 4.5.6 financial cost of the Accommodation; and
 - 4.5.7 any other relevant factors.
- 4.6 The Supervisor will notify the Employee in writing of the decision about Accommodation.
- 4.7 At any time, an Employee can provide additional information to their Supervisor, to Human Resources, or through their Bargaining Agent, as applicable, to have the request reassessed.

5. Information and Documentation

- 5.1 Disability-related Accommodations, which may include Short Term Accommodations, will be considered where an Employee is experiencing barriers in employment related to physical disability or a mental disability. An Employee who wishes to be considered for a disability-related Accommodation must provide UBC with suitable medical information which establishes the existence of a disability and supports the requirement for Accommodation.
- 5.2 If a disability-related Accommodation is requested or being considered, Human Resources will inform the Employee of the medical information it requires. The medical information required will depend on the individual circumstances and will be determined on a case-by-case basis. The medical information must be sufficient to enable Human Resources to determine the specific Accommodations that are medically required because of the disability. To facilitate this process,

Human Resources may provide the Employee with a form for completion by the Employee's physician and request such other information as may be needed to support the Accommodation.

- 5.3 All other Accommodations (e.g. Accommodations based on family status or religion), which may include Short Term Accommodations, will be considered where an Employee is experiencing barriers in employment related to other Protected Grounds. An Employee who wishes to be considered for such an Accommodation will be required to provide documentation and information to support the need for the Accommodation. The Supervisor will inform the Employee of the supporting information it requires. The information required will depend on the individual circumstances. This information should be limited to the facts relevant to support the Accommodation.
- 5.4 Medical reports and other information received by UBC will be treated as private and confidential. UBC's actions will be governed by the BC *Freedom of Information and Protection of Privacy Act*. This information will only be shared on a need-to-know basis.

6. Implementation of Accommodation and Workplace Accommodation Plan

- 6.1 Where a reasonable Accommodation other than a Short Term Accommodation has been identified, Human Resources will prepare a workplace accommodation plan and will provide copies to the Employee, their Supervisor, and, if appropriate, the Bargaining Agent.
- 6.2 All workplace accommodation plans will include information on the next anticipated review of the Accommodation.
- 6.3 Accommodations and workplace accommodation plans are based on individual circumstances and may be subject to change.
- 6.4 On a regular basis and as needed, the Supervisor, Human Resources, or both, will assess Accommodations, including Short Term Accommodations and workplace accommodation plans.
- 6.5 If the abilities or needs of the Employee change, or conditions of employment change in a manner which may affect an Accommodation, the Employee should notify their Supervisor, Human Resources, or their Bargaining Agent, as applicable.
- 6.6 Employees, Supervisors, Human Resources, and Bargaining Agents, as applicable, are expected to communicate in a timely manner about difficulties or concerns arising from the operation of this Policy and Procedures.
- 6.7 The Supervisor, and Human Resources, as applicable, will document each stage of their involvement in the Accommodation process.

7. Appeal

- 7.1 If an Employee disagrees with an Accommodation decision made under these Procedures and they wish to appeal the decision, then:

- 7.1.1 if they are subject to a Collective Agreement, the Employee must follow the applicable processes in their Collective Agreement and the appeal provisions in these Procedures are not available; or
- 7.1.2 if they are not subject to a Collective Agreement, the Employee must submit their appeal to the Responsible Executive in accordance with the appeal process set out below.
- 7.2 The Responsible Executive will be responsible for all appeals of decisions about Accommodation. The Employee will have the opportunity to provide written submissions to the Responsible Executive, including:
 - 7.2.1 a statement of the Accommodation being requested and any supporting information as to why the Employee believes a reasonable Accommodation is possible; and
 - 7.2.2 a copy of the reasons for the Accommodation decision.
- 7.3 The Responsible Executive may consult and request information from the Supervisor, Human Resources, and any other relevant person at UBC with respect to the Accommodation request.
- 7.4 The Responsible Executive will consider all relevant information and documentation received.
- 7.5 If a reasonable Accommodation is identified, the Responsible Executive will notify the Employee, Supervisor, and Human Resources, in writing.
- 7.6 If the Responsible Executive determines that there is no reasonable Accommodation, it will advise the Employee in writing and provide reasons for this determination

List of Members of the Policy Development Committee
Workplace Accommodation Policy (HR13)

1. Karen Choi, *Legal Counsel (Chair)*
2. Ellen Ferguson, *External Legal Counsel (Secretary)*
3. Kristin Cacchioni, *Interim Executive Director, Human Resources, UBC Okanagan*
4. Adam Charania, *Associate Vice-President, HR Strategic Partnerships and Support Services*
5. Jacqueline Denison, *Acting Director, School of Nursing & Associate Professor of Teaching, UBC Okanagan*
6. Cade Desjarlais, *Director at Large, Student Union of UBC Okanagan*
7. Shannon Dunn, *Director, Business Operations, UBC Okanagan*
8. Aaron Loewen, *Representative, Graduate Student Society of UBC Vancouver*
9. Kelly McIntosh, *Senior Manager, Workplace Health Services*
10. Janet Mee, *Director, Centre for Accessibility*
11. Bernard Momer, *Associate Professor & Associate Dean, Department of Community, Culture and Global Studies, UBC Okanagan*
12. Sally Thorne, *Associate Dean, Faculty Affairs, Faculty of Applied Science*
13. Mike Vizolyi, *Interim Executive Director, Employee & Labour Relations*