DALHOUSIE UNIVERSITY	*Policy Sponsor:* President	*Approval Date:* September 15, 2004
Employee Accommodation Policy	*Responsible Unit:* Human Resources	*Amendments:* *January 11, 2008* *September 15, 2020* *July 13, 2021*

A. Background & Purpose

The University is committed to providing a workplace that supports the full participation and engagement of all members of the University community. This Policy forms part of a broader, ongoing commitment to create an inclusive University community, and acknowledges that, through dialogue, the University can better understand the nature and extent of campus barriers to accessibility and inclusion.

The purpose of this Policy is to affirm that Dalhousie University, will make efforts to provide accommodations, up to the point of undue hardship, for faculty and staff experiencing a barrier due to characteristics protected by human rights legislation, and to establish a framework for managing requests by faculty and staff for accommodation in an appropriate and timely manner.

B. Application

This Policy applies to the working environments of faculty or staff at, on behalf of, in connection with, or under the auspices of the University.

Proactive measures and programs aimed at correcting historic disadvantage in employment for equity-seeking groups, including those that fall under the Employment Equity Policy, do not form part of this Policy.

C. Definitions

In this Policy:

a. “Accommodation” means a temporary, one-off, or ongoing modification to an Employee’s regular duties, working environment and/or workload to

reduce or eliminate barriers to their ability to perform their job duties and participate in the workplace due to a Protected Characteristic.

b. "Administrative Head" means:

- for a Vice-President or Provost, the President;
- for Dean, the Provost and Vice-President Academic; ○
- for a Chair, Head or academic Director, the Dean of that Faculty; ○
- for an Assistant-Vice President, or equivalent, of an administrative or other non-teaching unit, the Vice-President responsible for that unit;
- for an employee who is a faculty member, the Dean of that Faculty; and;
- for an employee who occupies a non-faculty position, the administrative Director or equivalent of the unit in which the employee works.

c. "(dis)Ability" means mental or physical disability, as defined in applicable human rights legislation.

d. "Employee" means all individuals employed by Dalhousie as staff or through a University academic appointment.

e. "Parties" means all of the university actors who share in the responsibility to assess, determine, and support accommodations. This includes Administrative Heads, unions, administrative offices of the University, employees seeking accommodations and their colleagues.

f. "Protected Characteristic" means one of the protected characteristics as set out in section 5 of the Nova Scotia *Human Rights Act* or section 2.1 of the New Brunswick *Human Rights Code*, as applicable. A list of the Protected Characteristics are attached to this Policy as Appendix A and B, respectively, and will be updated from time to time if and as legislation is amended.

D. Policy

1. The University is committed to ensuring that Employees who experience barriers in their work environments due to a characteristic protected under human rights legislation are reasonably accommodated up to the point of undue hardship.

2. Employees are encouraged to seek an Accommodation where they believe that they are experiencing a barrier in their work environment due to a characteristic protected under human rights legislation, which may be reduced or eliminated through reasonable accommodation.

3. Each request for an Accommodation must be determined on a case-by-case basis.

4. All parties share in the responsibility for compliance in good faith with this Policy.

5. The University, through the Parties, will work to ensure that approved Accommodations are implemented in a manner that supports the Employee's dignity, focuses on their ability to be fully successful in the workplace and protects their right to privacy.

6. All information relating to a request for Accommodation, including supporting documentation, will be treated as strictly confidential, and will not be disclosed to other persons without the consent of the Employee requesting the Accommodation, except to the extent that such disclosure is necessary to determine what, if any, Accommodation is required, for the effective implementation of the Accommodation or appeal of the decision made in response to the request for the Accommodation. Without limiting the above, an Employee's medical information will be received and managed only by designated individuals within Human Resources.

7. Decisions made by the University in response to a request for an Accommodation may be challenged by an Employee through:

    a. a complaint under the University Statement on Prohibited Discrimination; or
    b. a grievance, complaint or appeal under no-discrimination clauses in applicable collective agreements, employee handbooks or employee contracts, where such clauses exist.

8. Employees continue to have the right to seek assistance from the applicable provincial human rights commission even when actions are being taken under this Policy.

E. Administrative Structure

1. Authority: The Policy and Procedures fall under the authority of the President.

2. Administrative Heads: Administrative Heads are responsible for ensuring the University's duty to accommodate is met in accordance with the Accommodation Policy. This includes responsibility to make and to implement decisions in response to requests for an Accommodation.

3. Human Resources: The Department of Human Resources is responsible for:

a. the day to day administration of this Policy consistently across the University;
b. advising Employees and Administrative Heads on their responsibilities under the Policy;
c. receipt and responsible stewardship of confidential Employee information including medical information;
d. acting as the primary resource for Employees and their Administrative Heads in relation to Accommodations; and
e. promoting an inclusive University environment free from discrimination.

4. Human Rights and Equity Services: Human Rights and Equity Services is responsible for:
    a. acting as a confidential advisor to employees and Administrative Heads who require assistance navigating the Accommodation process;
    b. collaborating with and advising Parties on complex files, and
    c. promoting an inclusive University environment free from discrimination, including administering the University's Statement on Prohibited Discrimination.

5. Employees: Employees are responsible for:
    a. participating fully in all matters pertaining to their own Accommodations according to this Policy; and
    b. promoting an accessible and inclusive University environment free from discrimination, including supporting their co-workers' accessibility needs.

6. Unions: An employee's union is responsible for:
    a. Engaging as an active party towards facilitating a reasonable accommodation by working jointly with the employee and the employer. The university will not exclude a union from the process where the employee has requested their participation.

7. Guidelines and Protocols: Guidelines and Protocols published by Human Resources will support the Policy and Procedures and facilitate the administration of the Policy.

8. Reporting: Human Resources will deliver an annual report to the Vice-Provost Equity and Inclusion and representatives from Dalhousie employee groups which will include anonymized data regarding:
    a. Number and nature of accommodation requests;
    b. Academic or administrative affiliation of the requesting employees;
    c. Summary of accommodations provided;
    d. Number and summary of appeals, complaints and grievances in relation to Accommodation decisions; and

e. Summary of trends reflected in the data that may influence University programming

9. Policy Review: This Policy will be reviewed every five years or earlier as required.

F. Procedures

1. Request for an Accommodation:
    a. To ensure that Accommodation needs are effectively met, Employees are responsible for communicating their need for an Accommodation at the earliest possible opportunity and to participate fully in the process. Employees represented by Unions are encouraged to seek representation as early in the process as possible.

    b. A request for an Accommodation must be made in writing to the Employee's Administrative Head. An Employee may also choose to consult with Human Resources, their Union (if applicable) or Human Rights & Equity Services in relation to a request for an Accommodation. A request for an Accommodation will:

        - identify the protected characteristic involved,
        - explain why the Employee requires an Accommodation,
        - describe the specific Accommodation being requested, and
        - suggest how the Accommodation can be achieved.

        A request for an Accommodation submitted to an Administrative Head should not include medical information, including diagnosis.

    c. The University recognizes that in situations where university representatives are aware, or reasonably ought to be aware, that there may be a relationship between a protected characteristic and someone's job performance, there may be a duty on the part of the university to inquire into that possible relationship before making a decision that would affect the person adversely. This includes providing a meaningful opportunity to the employee to request an Accommodation.

2. Preliminary Assessment and Information Gathering:

    a. A request for an Accommodation will be considered by both the Administrative Head and Human Resources, who will together decide what, if any, Accommodation will be provided.

b. Upon receiving a request for an Accommodation, the Administrative Head shall forward a copy of the request to Human Resources. Human Resources will notify the applicant that their request can be copied to their Union, if applicable.

c. The Administrative Head and Human Resources will determine whether the request arises in relation to one of the protected characteristics under human rights legislation. Before concluding that the request does not arise in relation to one of the protected characteristics under human rights legislation, Human Rights and Equity Services shall be consulted.

d. Where a request for an Accommodation requires supporting documentation to establish a need for an Accommodation and/or to assist in identifying the most appropriate means of accommodating the Employee, Human Resources will:

    i. engage with the Employee directly to determine what, if any, documentation will be relevant to the request for the Accommodation; ii. work with the Employee to request and obtain required information from health professionals, and upon receipt of that information, hold it in a secure manner, and

    ii. inform the Administrative Head of the Employee's functional limitations and will only share the least amount of personal information possible with the Administrative Head.

e. Where the Administrative Head or Human Resources, as applicable, requires additional information to support a request for an Accommodation, Employees will make best efforts to provide that information. The University may be unable to process an Accommodation request in the absence of required supporting information.

f. Where the Accommodation requested is a leave of absence due to (dis)Ability (or illness), the University Guidelines on Health Leave Administration for Faculty and Staff will also be engaged.

3. <u>Consultation and Decision Upon Reasonable Accommodation:</u>

a. If the Administrative Head and Human Resources determine that the Employee is experiencing a barrier in their work environment and that barrier is connected to a Protected Characteristic, the Administrative Head and Human Resources will determine what Accommodation will be provided.

b. In assessing whether an Accommodation can be made without imposing undue hardship upon the University, all relevant factors will be considered. Such factors include, but are not limited to, the following:

   i. Accommodation sought by the Employee;
   ii. Linkage – whether the Employee's proposed Accommodation will have the practical effect of eliminating or reducing the identified barrier;
   iii. Safety – whether the proposed Accommodation would pose a safety risk to other individuals or to the Employee seeking the Accommodation;
   iv. Financial Cost – whether the costs (estimated out-of-pocket expenses to put the Accommodation in place together with any long-term costs to sustain the proposed Accommodation) would be prohibitive;
   v. Size and Nature of the Operation – whether the proposed Accommodation would be disruptive to the Employee's unit or University activities generally, considering the number of Employees and the nature and inter-relationship of faculty or staff positions and the functions that they serve;
   vi. Interchangeability of the Workforce and Facilities – whether the workforce or facility would be adaptable enough to be able to implement the proposed Accommodation;
   vii. Provisions of a Collective Agreement – whether the proposed Accommodation would significantly interfere with the rights of other employees under the Collective Agreement;
   viii. Impact on Other Employees; and
   ix. Other Possible Accommodations.

c. Having regard to the relevant factors, including those outlined in 3b. above, and following consultation with the Employee making the request and any other relevant Parties, the Administrative Head and Human Resources will determine what, if any, Accommodation will be provided. They will then determine how the Accommodation will be implemented.

d. Notwithstanding c. above and the Employee's inclusion in the search for an Accommodation an Employee is entitled a reasonable Accommodation if not their preferred Accommodation.

e. Before reaching a decision that an Accommodation request will be denied as it imposes undue hardship upon the University, Human Rights and Equity Services shall be consulted.

4. Notification of Decision: The Administrative Head will communicate the decision, with reasons, in writing to the Employee requesting the Accommodation. Human Resources will notify the applicant that their request can be copied to their Union, if applicable. Where an Accommodation is granted, the notification will specify the Accommodation to be provided and will include details around the implementation of the Accommodation, the duration of the Accommodation, and the frequency of review of the Accommodation.

5. Implementation of an Accommodation: The Parties engaged in providing an Accommodation under this Policy will cooperate fully and in good faith to implement the agreed upon Accommodation.

6. Change in Circumstances: Accommodations will be reviewed from time to time to determine whether any adjustments are necessary. If the Employee's circumstances change in a way that may affect any aspect of an Accommodation, they will promptly notify their Administrative Head. The Employee will also respond to all inquiries for information related to an Accommodation within 10 calendar days.

7. Objection to and Appeal of Decision: Where an Employee disagrees with an Accommodation decision, they should attempt to resolve the matter through discussions with the Administrative Head. If the matter remains unresolved the member may initiate:

    a. a complaint under the University Statement on Prohibited Discrimination; or
    b. a grievance, complaint or appeal under no-discrimination clauses in applicable collective agreements, employee handbooks or employee contracts, where such clauses exist.

Appendix A: Protected Characteristics under the Nova Scotia *Human Rights Act*, RSNS 1989, c 214

- age;
- race;
- colour;
- religion;
- creed;
- sex;
- sexual orientation;
- gender identity;
- gender expression;
- physical disability or mental disability;
- an irrational fear of contracting an illness or disease;
- ethnic, national or aboriginal origin;
- family status;
- marital status;
- source of income;
- political belief, affiliation or activity;
- that individual's association with another individual or class of individuals having characteristics referred to above

For clarity, "physical disability or mental disability" means an actual or perceived:

- loss or abnormality of psychological, physiological or anatomical structure or function,
- restriction or lack of ability to perform an activity,
- physical disability, infirmity, malformation or disfigurement, including, but not limited to, epilepsy and any degree of paralysis, amputation, lack of physical coordination, deafness, hardness of hearing or hearing impediment, blindness or visual impediment, speech impairment or impediment or reliance on a hearing-ear dog, a guide dog, a wheelchair or a remedial appliance or device,
- learning disability or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
- condition of being mentally impaired,
- mental disorder, or
- dependency on drugs or alcohol;

Appendix B: Protected Characteristics under the New Brunswick *Human Rights Code*, RSNB 2011, c 171

- race,
- colour,
- national origin,
- ancestry,
- place of origin,
- creed or religion,
- age,
- physical disability,
- mental disability,
- marital status,
- family status,
- sex,
- sexual orientation,
- gender identity or expression,
- social condition, and • political belief or activity.

For clarity:

"mental disability" includes:

- an intellectual or developmental disability,
- a learning disability, or dysfunction in one or more of the mental processes involved in the comprehension or use of symbols or spoken language, and
- a mental disorder.

"physical disability" means any degree of disability, infirmity, malformation or disfigurement of a physical nature resulting from bodily injury, illness or birth defect and includes, but is not limited to, a disability resulting from any degree of paralysis or from diabetes mellitus, epilepsy, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or on a wheelchair, cane, crutch or other remedial device or appliance.