

The following Motions and Documents were considered by the GFC Executive Committee at its March 5, 2012 meeting:

Agenda Title: **Discrimination, Harassment and Duty to Accommodate Policy Suite (in UAPPOL)**

APPROVED MOTION: THAT the GFC Executive Committee recommend to General Faculties Council the proposed Discrimination, Harassment and Duty to Accommodate Policy Suite, as submitted by the Office of the Vice- President (Finance and Administration) and as set forth in Attachments 1, 2, 3, and 4 (as amended), and the (proposed) concurrent rescission of GFC Policy Manual Section 44 (Discrimination and Harassment Policy and Procedures and the University of Alberta Reasonable Accommodation Policy), all to take effect upon final approval.

Final Recommended Amended Item: 4

Agenda Title: **Rescission of GFC Policy Manual Section 67 – Intersession and Off-Campus Credit Programs**

APPROVED MOTION: THAT the GFC Executive Committee approve, under delegated authority from General Faculties Council, the rescission of Section 67 of the GFC Policy Manual – Intersession and Off-Campus Credit Programs – as submitted by the Office of the Registrar, to take effect upon final approval.

Final Item: 5

Agenda Title: **Faculty of Native Studies Council Composition Amendments**

APPROVED MOTION: THAT the GFC Executive Committee approve, under delegated authority from General Faculties Council, a proposal to revised the composition of the Faculty of Native Studies Council, as submitted by the Faculty of Native Studies and as set forth in Attachment 1, to take effect upon final approval.

Final Item: 6

Agenda Title: **University Encryption Procedure (in UAPPOL)**

APPROVED MOTION: THAT the GFC Executive Committee recommend to General Faculties Council the proposed University Encryption Procedure (in UAPPOL), as submitted by the Office of the Provost and Vice-President (Academic) and as set forth in Attachment 1, to take effect upon final approval.

Final Recommended Item: 7

Agenda Title: **Appointment of Professor Elisabeth Le as Vice-Chair of the GFC Facilities Development Committee (FDC)**

APPROVED MOTION: THAT the GFC Executive Committee appoint, under delegated authority from General Faculties Council, Professor Elisabeth Le to the position of Vice-Chair of the GFC Facilities Development Committee (FDC) for a term beginning immediately (upon approval) and ending June 30, 2013.

Final Item: 8

Agenda Title: **Draft Agenda for the March 19, 2012 Meeting of General Faculties Council (GFC)**

APPROVED MOTION: THAT the GFC Executive Committee approve, under delegated authority from General Faculties Council, the draft Agenda, as amended, for the March 19, 2012 meeting of General Faculties Council (GFC).

OUTLINE OF ISSUE

Agenda Title: **Discrimination, Harassment and Duty to Accommodate Policy Suite (in UAPPOL)**

Motion: THAT the GFC Executive Committee recommend to General Faculties Council the proposed Discrimination, Harassment and Duty to Accommodate Policy Suite, as submitted by the Office of the Vice-President (Finance and Administration) and as set forth in Attachments 1, 2, 3, and 4 (as amended), and the (proposed) concurrent rescission of GFC Policy Manual Section 44 (Discrimination and Harassment Policy and Procedures and the University of Alberta Reasonable Accommodation Policy), all to take effect upon final approval.

Item

Action Requested	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Recommendation <input type="checkbox"/> Discussion/Advice <input type="checkbox"/> Information
Proposed by	Vice-President (Finance and Administration)
Presenters	Phyllis Clark, Vice-President (Finance and Administration); Patricia Clements, Chair, GFC 44 Working Group and Former Dean, Faculty of Arts; Margaret-Ann Armour, Associate Dean (Diversity), Faculty of Science; Sandra Kereliuk, Senior Administrative Officer, Office of the Vice-President (Facilities and Operations); and Wade King, Advisor, Office of Safe Disclosure and Human Rights
Subject	Discrimination, Harassment and Duty to Accommodate Policy Suite (in UAPPOL)

Details

Responsibility	Provost and Vice-President (Academic) and Vice-President (Finance and Administration)
The Purpose of the Proposal is (please be specific)	To recommend to GFC approval of the proposed Discrimination, Harassment and Duty to Accommodate Policy Suite and to receive for information the related documents.
The Impact of the Proposal is	To rescind and replace GFC Policy Manual Section 44 (Discrimination and Harassment Policy and Procedures and the University of Alberta Reasonable Accommodation Policy) with the newly-proposed Discrimination, Harassment and Duty to Accommodate Policy and Procedures. In the original policy, the Reasonable Accommodation policy was treated as a distinct policy because it was “added on” to the Discrimination and Harassment Policy. These provisions have been updated and folded into the Discrimination and Harassment Policy.
Replaces/Revises (eg, policies, resolutions)	GFC Policy Manual Section 44—Discrimination and Harassment Policy and Procedures and the University of Alberta Reasonable Accommodation Policy. To access this existing policy suite on line, go to: http://www.uofaweb.ualberta.ca/gfcpolicymanual/ .
Timeline/Implementation Date	If approved, the revised Policy Suite will be implemented on May 11, 2012 (ie, upon final approval by the Board of Governors).
Estimated Cost	N/A
Sources of Funding	N/A
Notes	Issues – Background: The policy suite will be taken through the governance process (both General Faculties Council and Board approval are required). Major changes to the policy include:

	<ol style="list-style-type: none"> 1. Clarity. The policy: <ol style="list-style-type: none"> a. clearly outlines discrimination, harassment, and duty to accommodate b. outlines responsibilities in this area of all members of the University community; and c. provides information on offices and resources provided by the University. 2. Definitions. The definitions have been revised, clarified, and made consistent with current language used by most agreements and recognized by law. The definition for harassment has been expanded to include bullying, sexual harassment, and racial harassment. Additional definitions have also been included for “respectful environment”, “informal resolution,” and “formal resolution”. 3. Language. First, the language has been revised to ensure compliance with the law. For example, the original policy distinguished between “direct discrimination” and “indirect.” That distinction no longer exists in law. Second, language was used, as much as possible, that was readily comprehensible to the University community, educational, and concise. 4. Procedures. Separate procedures for staff and students have been drafted and include information on both informal and formal resolutions (as appropriate). (The formal procedures are set out in the faculty and staff agreements and the Code of Student Behaviour.) 5. A proposed Letter of Understanding (LoU) on cross-jurisdictional complaints (involving NASA (Non-Academic Staff Association) and AASUA (Association of Academic Staff – University of Alberta) members) has been drafted by representatives of NASA, AASUA, and central administration. Work is proceeding to formally sign off on this LoU. If this occurs, this process will be recommended by NASA and AASUA to its members as a way of working to deal with complaints. 6. Organizational Updates – The Office of Safe Disclosure and Human Rights has been added as the initial point of contact for advice, concerns, and assistance.
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Alignment/Compliance

Alignment with Guiding Documents	<i>Dare to Discover, Dare to Deliver</i> , 2011 Comprehensive Institutional Plan (CIP)
Compliance with Legislation, Policy and/or Procedure Relevant to the Proposal (please <u>quote</u> legislation and include identifying section numbers)	<ol style="list-style-type: none"> 1. Post-Secondary Learning Act (PSLA): Alberta's <i>Post-Secondary Learning Act (PSLA)</i> gives the Board of Governors the authority to “develop, manage and operate, alone or in co-operation with any person or organization, programs, services and facilities for the educational or cultural advancement of the people of Alberta” (Section 60(1)). Further, the Board of Governors “must consider the recommendations of the general faculties council, if any, on matters of academic import prior to providing for [...] any other activities the board considers necessary or advantageous” (Section 19(e)). 2. Post-Secondary Learning Act (PSLA): The <i>PSLA</i> gives General

Faculties Council (GFC) responsibility, subject to the authority of the Board of Governors, over academic affairs (Section 26(1)) and over student affairs (Section 31), including authority concerning "student discipline." The *PSLA* also provides that GFC may make recommendations to the Board of Governors on a building program and related matters (Section 26(1) (o)). Section 18(1) of the *PSLA* give the Board of Governors the authority to make any bylaws "appropriate for the management, government and control of the university buildings and land." Section 19 of the *Act* requires that the Board "consider the recommendations of the general faculties council, if any, on matters of academic import prior to providing for (a) the support and maintenance of the university, (b) the betterment of existing buildings, (c) the construction of any new buildings the board considers necessary for the purposes of the university [and] (d) the furnishing and equipping of the existing and newly erected buildings [.] [...]" Section 67(1) of the *Act* governs the terms under which university land may be leased.

3. GFC Facilities Development Committee (FDC) Terms of Reference – Section 3. Mandate of the Committee: "[...]"

2. Delegation of Authority

Notwithstanding anything to the contrary in the terms of reference above, the Board of Governors and General Faculties Council have delegated to the Facilities Development Committee the following powers and authority:

A. Facilities

1. To approve proposed General Space Programmes (Programs) for academic units.
2. (i) To approve proposals concerning the design and use of all new facilities and the repurposing of existing facilities and to routinely report these decisions for information to the Board of Governors.
(ii) In considering such proposals, GFC FDC may provide advice, upon request, to the Provost and Vice-President (Academic), Vice-President (Facilities and Operations), and/or the University Architect (or their respective delegates) on the siting of such facilities. (GFC SEP 29 2003)

B. Other Matters

The Chair of FDC will bring forward to FDC items where the Office of the Provost and Vice-President (Academic) and/or the Office of the Vice-President (Facilities and Operations), in consultation with other units or officers of the University, is seeking the advice of the Committee."

4. UAPPOL Space Management Policy and Space Management Procedure: The respective roles of GFC FDC and the Vice-President (Facilities and Operations) with regard to institutional space management are set out in this Board-approved Policy and attendant Procedure. To access this policy suite on line, go to: www.uappol.ualberta.ca .

5. GFC Academic Planning Committee (APC) Terms of Reference:

“3. Mandate of the Committee

The Academic Planning Committee (APC) is GFC's senior committee dealing with academic, financial and planning issues. [...] [T]he President, Provost and Vice-President (Academic) or other Vice-Presidents may refer any matter to APC for consideration or recommendation to GFC. APC is also responsible to GFC for promoting an optimal learning environment for students and excellence in teaching, research, and graduate studies. (GFC 29 SEP 2003)”

6. GFC Campus Law Review Committee (CLRC) Terms of Reference – Section 3. Mandate of the Committee:

“E. Other GFC Regulations

From time to time the Chair of GFC CLRC will bring forward to GFC CLRC items where the Office of the Provost and Vice-President (Academic), in consultation with other units or officers of the University, is seeking the advice of the committee. These matters may include, but are not limited to, rules and regulations, other than discipline codes. (EXEC 02 MAY 2005)”

7. GFC Executive Committee Terms of Reference (Section 3./Mandate of the Committee): “To act as the executive body of General Faculties Council and, in general, carry out the functions delegated to it by General Faculties Council. [...]

5. Agendas of General Faculties Council

GFC has delegated to the Executive Committee the authority to decide which items are placed on a GFC Agenda, and the order in which those agenda items appear on each GFC agenda. [...]

With respect to recommendations from other bodies and other GFC committees, [...] the role of the Executive Committee shall be to examine and debate the substance of reports or recommendations and to decide if an item is ready to be forwarded to the full governing body. The Executive Committee may decide to refer a proposal back to the originating body, to refer the proposal to another body or individual for study or review, or to take other action in order to ready a proposal for consideration by General Faculties Council. When the GFC Executive Committee forwards a proposal to GFC, it shall make a recommendation that GFC endorse; endorse with suggested amendments; not endorse; or forward the proposal with no comment.”

8. Board Human Resources and Compensation Committee (BHRCC) Terms of Reference:

“3. MANDATE OF THE COMMITTEE

Except as provided in paragraph 4 and in the Board's General Committee Terms of Reference, the Committee shall monitor,

	<p>evaluate, advise and make decisions on behalf of the Board with respect to, and the Board delegates to the Committee responsibility and authority for, all policies and procedures affecting staff working conditions at the University and matters for collective bargaining and related service contracts. The Committee shall also consider any other matter delegated to the Committee by the Board.</p> <p>Without limiting the generality of the foregoing the Committee shall: [...]</p> <p>g) review and assess material changes to personnel policies of the University that are outside the regular collective bargaining process and consider trends affecting such policies.”</p>
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Routing (Include meeting dates)

Consultative Route (parties who have seen the proposal and in what capacity)	Refer to Attachment 1— Proposed Discrimination, Harassment and Duty to Accommodate Policy—Consultation Schedule
Approval Route (Governance) (including meeting dates)	GFC Executive Committee (March 5, 2012) – Recommend to General Faculties Council; General Faculties Council (March 19, 2012) – Recommend to the Board Human Resources and Compensation Committee (BHRCC); Board Human Resources and Compensation Committee (BHRCC) (April 24, 2012) – Recommend to Board of Governors; Board of Governors (May 11, 2012) – Final Approval
Final Approver	Board of Governors

Attachments:

Omnibus Attachment 1 (pages 1 – 48): Proposed Discrimination, Harassment and Duty to Accommodate Policy Suite (in UAPPOL) – Comprises Attachments 1 through 9 (Inclusive)

Prepared by: Sandra Kereliuk, Senior Administrative Officer, Office of the Vice-President (Finance and Administration), sandra.kereliuk@ualberta.ca

Go to:	[Overview]	[Purpose]	[POLICY]	[DEFINITIONS]	[RELATED LINKS]
This document is the parent policy for any associated procedures or appendices. Questions regarding this policy should be addressed to the Office of Administrative Responsibility.					

Discrimination, Harassment and Duty to Accommodate Policy

Office of Accountability:	Provost and Vice-President (Academic) Vice-President (Finance and Administration)
Office of Administrative Responsibility:	Vice-Provost and Dean of Students Vice-Provost and Associate Vice-President (Human Resources)
Approver:	Board of Governors (Board Human Resources and Compensation Committee) GFC (GFC Executive Committee)
Scope:	Compliance with University policy extends to all members of the University community.

Overview

As a leading teaching and research institution whose work is local, national, and international, the University of Alberta is responsive to the needs of a diverse student population and workforce, as well as to the urban, rural, francophone, aboriginal, and multicultural communities in which it does its work. The University is enriched by diversity, and it welcomes and seeks to include many voices, including those that have been under-represented or excluded elsewhere.

This policy is guided by the following principles:

1. **Equity**
Equity is about fairness: in access – to education, to employment – and in opportunity to succeed in these domains. As a guiding principle of this policy, equity reflects an understanding that the University of Alberta is an increasingly diverse community and that it will respect and value the differences of its members.
2. **Responsibility**
Responsibility for achieving a work, study, and living environment free of harassment and discrimination falls on every member of the University community. All members can reasonably expect to pursue their work and studies in a safe and respectful environment. Neither the University nor any members of the University community shall practice or condone any discriminatory or harassing conduct that adversely affects the pursuit of work and study or life on campus. Members of the University community who are aware of acts of discrimination or harassment are encouraged to take appropriate steps to stop the discriminatory or harassing behavior. Advice and assistance may be sought from anyone in a position of authority, such as a supervisor, instructor or administrator. More formal advice and assistance may be sought from the Office of Safe Disclosure and Human Rights (OSDHR), Student OmbudService (SOS), the

Association of Academic Staff University of Alberta (AASUA), the Non-Academic Staff Association (NASA), Health Promotion and Worklife Services (HPaWS), the Office of the Dean of Students and Specialized Support and Disability Services (SSDS).

3. Academic Freedom

The University of Alberta's motto, *Quaecumque Vera* (whatsoever things are true) declares the University's commitment to academic freedom and freedom of speech. As an institution of higher learning and research, the University is devoted to discovery, debate, difference of opinion, and the careful and public weighing of ideas and actions. Members of the University have the right to pursue the truth in their research and publications, artistic creations, teaching, learning, service, and public debate. This includes the right to question and criticize the status quo. Academic freedom, however, is not without limits. It is not, for example, a justification or license for discrimination or harassment or for preventing the lawful exercise of free speech.

Purpose

The purpose of this policy is to foster and protect a **respectful environment** for work, study, and living that supports the dignity and equality of all members of the University of Alberta. This policy expresses the University's commitment to a work, study, and living environment that is free of **discrimination** and **harassment**, and it ensures that the University of Alberta will meet both its obligations under law and its ethical responsibilities as an institution of higher learning. These legal and ethical responsibilities include the **duty to accommodate** and the provision of opportunities to persons who require **accommodation** based on a **protected ground**.

POLICY

1. DISCRIMINATION OR HARASSMENT

It is the policy of the University of Alberta that acts of discrimination or harassment committed by any member of the University community are strictly prohibited. For the purposes of this policy, discrimination and harassment in the work, study and living environment includes, but is not limited to: discrimination and harassment on University of Alberta property, at University-related functions, in the course of work-or-study assignments outside the University, at work-or-study-related conferences or training sessions, during work-or-study-related travel, or by phone, computer, or other electronic means.

Retaliation or reprisal against a person who has made a complaint, or against witnesses to a complaint, are similarly prohibited. Individuals who engage in retaliation may be subject to disciplinary action.

Any allegation of discrimination or harassment is a serious concern, and complaints will be addressed and resolved in a timely manner, whenever possible. Individuals who engage in harassing or discriminatory behaviours may be subject to disciplinary action. Individuals who have been adversely affected by harassing or discriminatory behaviours will be provided with an appropriate process for resolving their complaint.

The University also recognizes the serious nature of allegations of discrimination and harassment that are made in bad faith, and it may take disciplinary action should allegations of discrimination or harassment be shown to be malicious, frivolous, fraudulent, or vexatious. Submitting a complaint in good faith, even when the complaint cannot be proven, is not a violation of this policy.

Procedures on reporting and resolving discrimination or harassment complaints are published under this policy.

2. DUTY TO ACCOMMODATE

To assist members of the University to make their full contributions, the University of Alberta will take reasonable steps to accommodate individuals who are disadvantaged by employment, tenancy, or educational rules, standards, policies, or practices related to protected grounds to the point of **undue hardship**, or as required by law.

The University is committed to academic excellence. Accommodation of students with disabilities neither requires nor implies that the University lower its academic standards. Nor does accommodation relieve the student of the responsibility to develop the essential skills and competencies required by programs.

Accommodation of members of the University community requires the University to take appropriate steps to eliminate discrimination resulting from a rule, practice or barrier that has a negative effect on a person with a need for accommodation. The University's duty to accommodate is far-reaching. However, the law recognizes that, in certain circumstances, a limitation on individual rights may be reasonable and justifiable if the University can show that the discriminatory practice, standard, decision or rule is a "bona fide requirement" (BFR) or a "bona fide occupational requirement" (BFOR). To justify a practice, standard, decision or rule as a BFR or BFOR, the University must demonstrate, on a balance of probabilities, that the impugned practice, standard, decision or rule:

- a) was adopted for a rational purpose connected to the performance of the job or the provision of the service;
- b) was adopted in an honest and good faith belief that it was necessary to the fulfillment of the job or service;
- c) is reasonable and necessary to the fulfillment of the job or service.

To show that the practice, standard, decision or rule is reasonable and necessary, the University must demonstrate that accommodation of the employee or student would impose undue hardship on the University.

Procedures on requesting and dealing with accommodation issues are published under this policy and include examples of accommodation measures and assessing undue hardship.

3. RESPONSIBILITIES

While it is a guiding principle of this policy that all members of the University community share responsibility for creating and maintaining a work, study, and living environment free of discrimination and harassment, the University recognizes the following particular responsibilities.

- a. Board of Governors, General Faculties Council and President
Through its Board of Governors, General Faculties Council and President, the University of Alberta is responsible, in particular, for:
 - i. Providing effective policy and procedures on discrimination and harassment, including those for **informal resolution** and **formal resolution**.
 - ii. Providing effective policy and procedures for reasonable accommodation, when and to the extent required by law, to members of the University community.
 - iii. Providing for review of this policy from time to time and as required.

b. The University of Alberta

The University has an overriding interest in maintaining an environment free from discrimination and harassment and may therefore itself initiate an investigation, or become a complainant, or continue with a complaint withdrawn by a complainant. The University of Alberta is responsible for:

- i. Ensuring that accommodation options are investigated in a respectful and timely manner with persons applying for accommodation.
- ii. Ensuring that requests for accommodation are addressed as appropriate pursuant to any applicable negotiated employment agreements, student policies and the terms of this policy.
- iii. Ensuring that when a complaint of discrimination or harassment is upheld, appropriate action is taken, regardless of the authority or seniority of the offender.
- iv. Considering whether a **remedy** may be offered to a member of the University community who has experienced discrimination or harassment.
- v. Ensuring that, through the Office of Safe Disclosure and Human Rights (OSDHR), education about, and information to create awareness of this policy are made available to all members of the University community.
- vi. Ensuring that, through OSDHR, easily accessible information on discrimination, harassment and the duty to accommodate can be found on the University website and that the information clearly outlines issues, describes the process for both **complainant** and **respondent** and for persons requesting accommodation and provides information about relevant support services on campus.
- vii. Ensuring that the University provides information to members of the University community regarding their right to seek accommodation.

c. Vice-Presidents, Deans, Directors and Chairs

Under this policy, Vice-Presidents, Deans, Directors, Department Chairs and other officers of the University have an administrative responsibility to uphold the University's policy on discrimination, harassment, and duty to accommodate. They are responsible within their portfolios for creating, supporting, and maintaining a work environment that is free of discrimination and harassment. This administrative responsibility includes, but is not limited to:

- i. Working to inform themselves and members of the University community for whom they are responsible of the provisions of this Policy and supporting awareness about discrimination, harassment, and duty to accommodate issues.
- ii. Promoting and supporting the educational efforts of the University to make its members aware of discrimination, harassment, and duty to accommodate issues and of their responsibility under this policy.
- iii. Supporting, participating in, and ensuring that within their portfolios, reasonable accommodation is provided when and to the extent required by law. If the need for accommodation is evident, responsibility for providing it may exist even if the person requiring it does not self-identify. Vice-Presidents have specific responsibility for authorizing and providing funds to assess accommodation options and have them implemented.

- iv. Participating in processes aimed at resolving complaints of discrimination and harassment and supporting the determined remedy as appropriate under the agreed-upon terms.
 - v. Ensuring proper collection, retention of and access to accommodation records, which respects the privacy interests of the individual and the University's need for sufficient information to assess and implement accommodations.
- d. Supervisory Staff, Instructors and Students
- Supervisory staff, instructors and students are responsible for:
- i. Recognizing the responsibility of all members of the University community to understand discrimination, harassment, and duty to accommodate issues,
 - ii. Working in partnership towards ensuring respectful work and learning spaces and promoting awareness about issues related to discrimination, harassment, and duty to accommodate.
 - iii. Creating work and learning spaces in which members of the University community can raise questions about discrimination and harassment without fear of reprisal.
- e. Office of Safe Disclosure and Human Rights (OSDHR)
- The University employs a Safe Disclosure and Human Rights Advisor ["the Advisor"]. The Advisor's responsibilities include:
- i. Maintaining a safe, confidential and neutral space where members of the University can report concerns and/or make inquiries related to this Policy.
 - ii. Providing advice and information on policies and procedures relating to discrimination, harassment, and duty to accommodate to complainants, respondents, applicants for accommodation and members of the University community.
 - iii. Providing advice and/or referral services (including, but not limited to AASUA, NASA, Student OmbudService, Sexual Assault Centre, Specialized Support and Disability Services and Health Promotion and Worklife Services {HPaWS}) to any member of the University community who asks for help with a discrimination or harassment problem or with an application for accommodation.
 - iv. Developing and implementing an educational framework focused on preventing discrimination and harassment as well as informing or training members of the University community of the provisions of this Policy. This includes providing guidance on creating a work, study and living environment that is supportive of human rights.
 - v. Monitoring, where possible, resolution processes undertaken to resolve matters that arise under this policy to ensure they are fair and equitable for all, and expressing any concerns to the appropriate Vice-President.
 - vi. Reporting directly to the Associate Vice-President (Audit and Analysis) and submitting an annual report to General Faculties Council and to the Board of Governors.

f. Specialized Support and Disability Services (SSDS)

i. For Students

SSDS, the office responsible for providing specialized support and disability services, is guided by the mandate of the University of Alberta's Policy for Students with Disabilities of "attracting and retaining qualified students with disabilities". The office serves prospective and current students whose permanent disabilities involve conditions affecting mobility, vision, hearing, and physical and mental health. It coordinates the process of accommodating students with disabilities in cooperation with faculties, departments, and appropriate units by:

- i. Evaluating the impact of the disability (based on formal documentation of disability and student information) in the context of meeting academic program requirements on a case by case basis.
- ii. Making recommendations, and coordinating implementation of, reasonable accommodation without compromising academic standards and in keeping with the University's policies and human rights legislation.
- iii. Promoting and advising on universal design and access to all areas of university life in which students with disabilities participate (such as classroom, lab and field experience learning, housing, recreation, electronic instruction and communication and university events).
- iv. Working closely with university Facilities and Operations through the Accessibility Advisory Committee to promote universal design in capital projects.

ii. For Faculty and Staff

SSDS works in close liaison with the Student OmbudService, HPaWS, faculties, departments, and various other administrative units throughout the University to promote an inclusive and accessible teaching, research, and work environment for employees with disabilities and to advance recruitment initiatives consistent with the University's employment equity plan. To that end, the office:

- i. Promotes barrier-free workspaces and inclusive practices that accommodate disability.
- ii. Guides departments/units in understanding equity issues and the accommodation process.
- iii. Recommends specific accommodations which promote the individual's ability to meet work and professional competencies while diminishing impact of disability.
- iv. Facilitates or supports reasonable accommodation efforts and provides support to employees with disabilities and their supervisors and units.
- v. Provides consultation to, or referral of, faculty and staff members who experience difficulty meeting professional or work-related responsibilities due to disability.
- vi. Provides direct services such as communication support for deaf and hard of hearing employees, evaluation, training, and technical support with adaptive technology, access to materials in alternate format, loan of ergonomic furniture and equipment, and adaptive technology and software.
- vii. Working closely with university Facilities and Operations through the Accessibility Advisory Committee to promote universal design in capital projects.

viii. Works closely with the offices that provide human resource services, environmental health and safety services, safe disclosure and human rights services, and specific units in supporting faculty and staff members with disabilities.

g. Additional Resources

A large variety of additional specialized support services, such as the Sexual Assault Centre, the Aboriginal Student Services Centre, Student Legal Services and the Chaplain’s Association, can provide information, counseling, and support to persons involved in issues of discrimination, harassment, and accommodation. For a complete listing, see [Additional Resources \(hyperlink\)](#). Those seeking advice or information as it pertains to University policy are encouraged to contact the Office of Safe Disclosure and Human Rights or the Student OmbudService which can also provide referrals to the support service units.

As part of its commitment to provide a work, study, and living environment free from discrimination and harassment, the University will review from time to time the resources needed to carry out this Policy.

DEFINITIONS

Any definitions listed in the following table apply to this document only with no implied or intended institution-wide use. ▲ Top	
Members of the University Community	All employees, (including but not limited to, academic staff, support staff and administrators), adjunct professors, professors emeriti, lecturers, clinical staff, all students (including undergraduate students and graduate students), and post-doctoral fellows.
Respectful Environment	The respectful environment is characterized by a shared commitment to civility and human dignity. It values and respects academic freedom and it welcomes a diversity of perspectives. It recognizes and rejects activities that are harmful to mutual respect and is committed to educating members of the University about respect in work, study, and living environments. The work, study and living environment extends beyond the University’s campuses and properties and includes, but is not limited to, University-related functions, work or study assignments outside the University, work or study-related conferences or training sessions, work or study-related travel.
Discrimination	A distinction, whether or not intentional, based on a characteristic or perceived characteristic referenced in the Protected Grounds that has the effect of imposing on an individual or group of individuals burdens, obligations or disadvantages that are not imposed on others, or of withholding or limiting access to opportunities, benefits and advantages available to other individuals in society.
Harassment	Conduct or comment, either one-time or repeated that: <ul style="list-style-type: none"> a) is demeaning, intimidating, threatening, or abusive; and b) is not trivial or fleeting in nature; and c) causes offence and should have reasonably been expected to

	<p>offend; and</p> <ul style="list-style-type: none"> d) serves no legitimate purpose for the work, study or living environment, and e) undermines authority or respect in the work, study or living environment, or impairs work or learning performance, or limits opportunities for advancement or the pursuit of education or research, or creates an intimidating, hostile or offensive work or learning environment. <p>Harassment includes <u>bullying</u>, which is a form of aggression that may include physical, verbal, or emotional abuse. Bullying poisons the work, study or living environment of the person it targets. It can include persistent, offensive, abusive, intimidating or insulting behavior, abuse of power, and/or unfair sanctions which make the individual feel threatened, humiliated, and/or vulnerable.</p> <p><u>Sexual Harassment</u> may be broadly defined as unwelcome conduct or comment of a sexual nature which detrimentally affects the work, study or living environment or otherwise leads to adverse consequences for the target of the harassment. It may consist of unwanted sexual attention, sexually oriented remarks or behaviours, or the creation of a negative psychological and emotional environment based on gender, gender identity or sexual orientation. It may be an isolated act or repetitive conduct, but cannot be trifling. A reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance may also constitute sexual harassment.</p> <p>The person(s) engaged in harassment need not have the intention to harass; it is the objective assessment of the circumstances that matters. How would a reasonable observer perceive the situation? A complainant need not expressly object to unwelcome conduct or comments, although any clear indication that the behaviour is unwanted will satisfy the test. A complainant's apparent passivity or failure to object overtly to sexual advances does not necessarily signal consent or welcomed behaviour, especially where a power imbalance exists between the individuals.</p> <p><u>Racial Harassment</u> involves unwanted or unwelcome comments, conduct or behavior that humiliates, intimidates, excludes or isolates an individual or group by focusing on their race, ethnicity, origin or religion. Overall, racial harassment undermines self-esteem and is a violation of the dignity and security of the individual or group(s) that it targets.</p>
<p>Duty to Accommodate</p>	<p>The duty to accommodate obligates the University to make reasonable adjustments, to the point of undue hardship or as required by law, to the delivery of services (including teaching and the method of evaluation) and the conditions of employment in order to reduce or eliminate the impact of discriminatory rules, policies, practices, standards, terms of employment, or decisions, which have an adverse impact on an individual or group of individuals based on a characteristic or perceived characteristic referenced in the Protected Grounds.</p>
<p>Accommodation</p>	<p>Accommodation is the process of making reasonable adjustments to the delivery of services and the conditions of employment in order to reduce or eliminate the impact of discriminatory rules, policies, practices, standards,</p>

	<p>terms of employment, or decisions, which have an adverse impact on an individual or group of individuals based on a characteristic or perceived characteristic referenced in the Protected Grounds. Accommodation is a shared responsibility between the University and the individual in need of accommodation, and is assessed on the unique circumstances of each individual. The process requires reasonable accommodation, not instant or perfect accommodation. The recipients of accommodation (e.g. students, faculty and staff) may be required to try different accommodation options. The University is required to provide reasonable accommodation up to the point of undue hardship.</p> <p>Accommodation of students neither requires nor implies that the University lower its academic standards. Nor does accommodation relieve the student of that student's responsibility to develop the essential skills and competencies required by programs.</p>
<p>Protected Grounds</p>	<p>Discrimination is prohibited based on the following protected grounds:</p> <ul style="list-style-type: none"> a) race b) colour c) ancestry d) place of origin e) religious beliefs f) gender (including pregnancy and gender identity) g) physical disability h) mental disability i) marital status j) family status k) source of income l) sexual orientation m) age n) political beliefs; <p>or any other groups as amended from time to time.</p>
<p>Undue Hardship</p>	<p>The University has a duty to take reasonable steps to accommodate individual needs to the point of undue hardship. Undue hardship occurs when accommodation would create onerous conditions for the University.</p> <p>While undue hardship will be decided in the circumstances of each case, onerous conditions, including but not limited to the following, should be considered:</p> <ul style="list-style-type: none"> a) when there is a risk to the safety of others or a substantive risk of personal injury to the person seeking accommodation. b) when financial cost is such that a program or service would cease to exist due to the financial burden of the accommodation, or other circumstances where it would be unreasonable to expect the University to bear the costs of accommodation. c) When accommodation alternatives would result in lowering performance standards or in substantive job requirements being unmet. d) When the accommodation would be unduly disruptive to an

	<p>academic staff or collective agreement or cause substantial detrimental effect on other employees.</p> <p>e) When an educational accommodation would result in essential elements of a service or a program not being offered to other students, or cause a detrimental effect on other students, as a result of accommodating an individual or a group of students.</p> <p>All students are bound by the Code of Student Behaviour. Accommodation of students neither requires nor implies that the University lower its standards nor does accommodation relieve the student of their responsibility to develop the essential skills and competencies required by programs.</p>
Informal Resolution	<p>Informal resolutions are those that achieve remedies agreeable to complainants and respondents, but do not invoke formal resolution procedures. Informal resolutions involve the relevant parties, and may include coaching, counseling, supporting, mediating, or otherwise facilitating the resolution of the complaint. See procedures linked to this Policy.</p>
Formal Resolution	<p>Formal resolutions are effected through procedures described in the University's academic staff and collective agreements with AASUA and NASA, in the Code of Student Behaviour, in the Postdoctoral Fellows Policy or in the procedures linked to the Discrimination, Harassment and Duty to Accommodate Policy.</p>
Remedy	<p>The general purposes of a remedy are:</p> <p>a) to restore, as closely as possible, to a person whose complaint of discrimination or harassment has been sustained, the position she or he would have been in had the discrimination or harassment not occurred; and</p> <p>b) To prevent further acts of discrimination or harassment.</p> <p>A remedy will be appropriate to the individual case and severity of the finding of discrimination or harassment. It may include, but is not limited to, an apology, the creation of a policy, a promise or requirement to cease the behaviour, or a transfer.</p>
Complainant	<p>A complainant is a person who believes he or she has been a victim of discrimination or harassment and initiates a complaint against a member of the University community.</p>
Respondent	<p>A respondent is a member of the University community who has been accused of discrimination or harassment by a complainant.</p>

RELATED LINKS

Should a link fail, please contact uappol@ualberta.ca. [[▲Top](#)]

Do not delete RELATED LINKS heading or above message. A list of all Procedures and Appendices for this POLICY will be generated here automatically at publication.

NOTE to SK: Provide other links to applicable legislation HERE

[Ethical Conduct and Safe Disclosure Policy](#) (UAPPOL)

[Helping Individuals at Risk Policy](#) (UAPPOL)

[Code of Student Behaviour](#) (University of Alberta)

[Office of Safe Disclosure and Human Rights](#) (University of Alberta)

[Specialized Support and Disability Services](#) (University of Alberta)

[Human Resource Services](#) (University of Alberta)

[University of Alberta Protective Services](#) (University of Alberta)

[Discrimination and Harassment Complaint Guidelines for Students](#) (University of Alberta)

[Administrative and Professional Officer Agreement](#) (University of Alberta)

[Faculty Agreement](#) (University of Alberta)

[Faculty Service Officer Agreement](#) (University of Alberta)

[Librarian Agreement](#) (University of Alberta)

[NASA Collective Agreement](#) (University of Alberta)

[Sessional Agreement](#) (University of Alberta)

[Postdoctoral Fellows Policy](#) (University of Alberta)

[Alberta Human Rights Act](#) (Government of Alberta)

[Employment Equity Act](#) (Government of Canada)

[Federal Contractors Program](#) (Government of Canada)

PUBLISHED PROCEDURES OF THE PARENT POLICY

[Duty to Accommodate Procedure](#) (UAPPOL)

[Discrimination and Harassment – Allegations Against Students Procedure](#) (UAPPOL)

[Discrimination and Harassment – Allegations Against Staff Procedure](#) (UAPPOL)

Further RELATED LINKS are optional. List hyperlinks to further information that the user may need to fully understand this POLICY. This may include links to other documents in UAPPOL, legislation, agreements, or external regulations. Links should only lead to the official publication source for these documents on a site that will always be current and updated (such as the Government of Alberta Queen's Printer site). List links in alphabetical order, indicating title of link and destination, as in the following examples:

Go to:	[Purpose]	[PROCEDURE]	[DEFINITIONS]	[FORMS]	[RELATED LINKS]
<p>This procedure is governed by its parent policy. Questions regarding this procedure should be addressed to the Office of Administrative Responsibility.</p>					

Duty to Accommodate Procedure

Office of Administrative Responsibility:	Vice-Provost and Dean of Students Vice-Provost and Associate Vice President (Human Resources)
Scope:	Compliance with University procedure extends to all members of the University community.

Purpose

Accommodation enables equitable participation in the areas of employment, tenancy, education, and access to other goods and services.

Accommodation should be provided in a manner that respects the dignity of the individual, meets the needs of that particular individual, promotes integration and full participation, and respects confidentiality.

Academic accommodation aims to ensure that members of the University community who would experience discrimination based on any of the protected grounds have reasonably equal access to services provided by post-secondary education. These services include but are not limited to course work, practicum and clinical placements, co-op placements, graduate internships, library services, athletic services, school teams, cafeteria services, parking and transport services, computing services, health services, counseling services and others.

The University is required to provide accommodation up to the point of **undue hardship**.

PROCEDURE

The **duty to accommodate** is an institutional obligation and a shared responsibility between the University and the member of the University community requiring accommodation. Any department or unit may be called upon to implement accommodation and the primary responsibility for considering and effecting an accommodation, up to the point of undue hardship, rests with the department or unit.

At all stages of the process of providing accommodation, timeliness is critical. Requests for accommodation will be considered on a case by case basis, and decisions will be made within a timeframe that is respectful of both individual needs and operational realities. Examples of accommodation measures and assessing undue hardship information can be found in a link at the end of this procedure.

1. THE PERSON REQUIRING ACCOMMODATION IS RESPONSIBLE FOR:
 - a. Reviewing the University's [policy \(hyperlink\)](#) regarding accommodation, and in the case of an employee, the relevant provisions of any applicable collective or academic staff agreement;

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- b. Making his or her needs known to the best of his or her ability, preferably in writing, so that the person responsible for assessing and implementing accommodation may engage in a dialogue about possible accommodations;
- c. Making timely disclosure of the request for accommodation, preferably before adverse consequences are experienced;
- d. Answering questions or providing information about relevant restrictions or limitations, including information from health care professionals, where appropriate, and as needed;
- e. Participating in discussions about possible accommodation solutions;
- f. Cooperating with any experts whose assistance is required to manage the accommodation process;
- g. Meeting agreed upon performance standards once accommodation is provided;
- h. Working with the accommodation provider in an ongoing manner to manage the accommodation process.

2. THE UNIVERSITY IS RESPONSIBLE FOR:

Responding to a request for accommodation in a timely and constructive way. The duty to accommodate is triggered when the individual requiring accommodation makes the request, or in the case of an unreported disability, when the University should reasonably have known that the individual suffered from a disability requiring accommodation.

Once aware that accommodation is, or may be, required, the appropriate University representative is responsible for:

- a. Requesting from the individual in need of accommodation whatever medical or other information is reasonably necessary to assess the need for accommodation and to identify sufficiently that individual's specific needs. Assistance may be requested from offices including but not limited to:
 - i. For student queries – Student OmbudService (SOS) or Specialized Support and Disability Services (SSDS)
 - ii. For academic and support staff queries - Health Promotion and Worklife Services (HPaWS)
 - iii. If unsure, initial queries for members of the University community may be made to – Office of Safe Disclosure and Human Rights (OSDHR).
- b. Considering the specific needs of the individual, in consultation with SSDS, HPaWS and/or OSDHR as appropriate, determine what accommodation (short of undue hardship) can be made in order to allow the individual to continue in employment, studies, research or other activities and to access the facilities and services of the University.
- c. If the accommodation under consideration may impinge upon or conflict with:
 - i. The terms of the staff agreements for APOs, Librarians, Sessional or Other Temporary Staff, Trust/Research Academics, agreements for excluded support staff or the NASA collective agreement, then the Employee Relations unit (in Human Resource Services) should be consulted for advice, assistance or input.
 - ii. The terms of the agreements with postdoctoral fellows, graduate teaching/research assistants, AASUA Faculty, Contract Academic Staff, Teaching or Faculty Service Officers, then the Faculty Relations office (in the Office of the Provost & Vice-President Academic) should be consulted for advice, assistance or input.

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- iii. The qualifications, educational program requirements or performance standards set by the University’s governing bodies, then the Office of the Dean (or delegate) for the Faculty should be consulted for advice, assistance or input.
- d. Doing what is required to provide accommodation to support an individual affected by discrimination, to the extent required by the law. For example, exceptions will be made for certain types of permissible discrimination recognized under the Alberta Human Rights Act such as age and marital status discrimination permitted for pension plans.

3. ALTERNATE AVENUES OF COMPLAINT

If it is determined that other avenues of complaint/appeal may be more appropriate, guidance will be provided to the complainant by SOS, SSDS, HPaWS or OSDHR as to the options available for consideration.

4. DOCUMENT RETENTION

- a. When produced, the University, through the offices of SSDS or HPaWS or the employee’s home department or unit, will retain written records, according to the University’s retention schedule and in accordance with legislation, of the:
 - i. request for accommodation, and the date required,
 - ii. options considered,
 - iii. form of accommodation offered to the affected individual and her or his response, and
 - iv. date the accommodation request was concluded, if applicable.

5. PRIVACY

The University will respect the individual’s dignity and privacy throughout the accommodation process, subject to such reasonable exceptions as are necessary to assess and implement accommodation. Exceptions to privacy may arise when the safety of individuals is at risk or if disclosure is required by law. The University will provide details of the accommodation to those who need to know, and will consult with the individual who has sought accommodation about those disclosures.

6. APPEALS

When efforts to arrange accommodation at the Department or Unit level are unsuccessful, a review may be conducted by the Dean (or delegate) of the relevant Faculty and the offices of administrative responsibility for this policy (see page 1 of this procedure). Seeking such advice as is necessary, they will determine whether accommodation can be made at an institutional level.

If it is determined that other avenues of complaint/appeal would be more appropriate, guidance will be available from the Office of Safe Disclosure and Human Rights or Student OmbudService on any internal or external options.

DEFINITIONS

Any definitions listed in the following table apply to this document only with no implied or intended institution-

wide use. ▲Top	
Members of the University Community	All employees, (including but not limited to, academic staff, support staff and administrators), adjunct professors, professors emeriti, lecturers, clinical staff, all students (including undergraduate students and graduate students) and post-doctoral fellows.
Accommodation	<p>Accommodation is the process of making reasonable adjustments to the delivery of services and the conditions of employment in order to reduce or eliminate the impact of discriminatory rules, policies, practices, standards, terms of employment, or decisions, which have an adverse impact on an individual or group of individuals based on a characteristic or perceived characteristic referenced in the Protected Grounds. Accommodation is a shared responsibility between the University and the individual in need of accommodation, and is assessed on the unique circumstances of each individual. The process requires reasonable accommodation, not instant or perfect accommodation. The recipients of accommodation (e.g. students and staff) may be required to try different accommodation options. The University is required to provide reasonable accommodation up to the point of undue hardship.</p> <p>All students are bound by the Code of Student Behaviour. Accommodation of students neither requires nor implies that the University lower its academic standards. Nor does accommodation relieve the student of that student's responsibility to develop the essential skills and competencies required by programs.</p>
Undue Hardship	<p>The University has a duty to take reasonable steps to accommodate individual needs to the point of undue hardship. Undue hardship occurs when accommodation would create onerous conditions for the University.</p> <p>While undue hardship will be decided in the circumstances of each case, onerous conditions, including but not limited to the following, should be considered:</p> <ol style="list-style-type: none"> a) when there is a risk to the safety of others or a substantive risk of personal injury to the person seeking accommodation. b) when financial cost is such that a program or service would cease to exist due to the financial burden of the accommodation, or other circumstances where it would be unreasonable to expect the University to bear the costs of accommodation. c) When accommodation alternatives would result in lowering performance standards or in substantive job requirements being unmet. d) When the accommodation would be unduly disruptive to an academic staff or collective agreement or cause substantial detrimental effect on other employees. e) When an educational accommodation would result in essential

	<p>elements of a service or a program not being offered to other students, or cause a detrimental effect on other students, as a result of accommodating an individual or a group of students.</p> <p>Accommodation of students neither requires nor implies that the University lower its standards nor does accommodation relieve the student of their responsibility to develop the essential skills and competencies required by programs.</p>
Duty to Accommodate	<p>The duty to accommodate obligates the University to make reasonable adjustments, to the point of undue hardship or as required by law, to the delivery of services (including teaching and the method of evaluation) and the conditions of employment in order to reduce or eliminate the impact of discriminatory rules, policies, practices, standards, terms of employment, or decisions, which have an adverse impact on an individual or group of individuals based on a characteristic or perceived characteristic referenced in the Protected Grounds.</p>
Protected Grounds	<p>Discrimination is prohibited based on the following protected grounds:</p> <ul style="list-style-type: none"> a) race b) colour c) ancestry d) place of origin e) religious beliefs f) gender (including pregnancy and gender identity) g) physical disability h) mental disability i) marital status j) family status k) source of income l) sexual orientation m) age n) political beliefs; <p>or any other groups as amended from time to time.</p>
Discrimination	<p>A distinction, whether or not intentional, based on a characteristic or perceived characteristic referenced in the Protected Grounds that has the effect of imposing on an individual or group of individuals burdens, obligations or disadvantages that are not imposed on others, or of withholding or limiting access to opportunities, benefits and advantages available to other individuals in society.</p>

FORMS

There are no forms for this Procedure. Should a link fail, please contact uappol@ualberta.ca. [\[▲Top\]](#)

VERSION #2 DRAFT DATE: January 17, 2012

PARENT POLICY: [Discrimination, Harassment and Duty to Accommodation Policy](#)

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RELATED LINKS

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PUBLISHED PROCEDURES OF THE PARENT POLICY

[Duty to Accommodate Procedures](#) (UAPPOL)

[Discrimination and Harassment Procedures for Students](#) (UAPPOL)

[Discrimination and Harassment Procedures for Faculty and Staff](#) (UAPPOL)

RESOURCES TO ASSIST WITH APPLICATION

[Examples of Accommodation Measures and Assessing Undue Hardship](#) (University of Alberta)

[Alberta Human Rights Act](#) (Government of Alberta)

[Sample Form – Notification of Need for Accommodation, Clarification of Need and Outcome of Accommodation Request](#) (Canadian Human Rights Commission) *NOTE – Here is the link*
http://www.chrc-ccdp.ca/discrimination/apfa_uppt/page5-eng.aspx

[Reasonable Accommodation Fund](#) (University of Alberta)

[Financial Resources](#) (University of Alberta)

Go to:	[Purpose]	[PROCEDURE]	[DEFINITIONS]	[FORMS]	[RELATED LINKS]
This procedure is governed by its parent policy. Questions regarding this procedure should be addressed to the Office of Administrative Responsibility.					

Discrimination and Harassment – Allegations Against Students Procedure

Office of Administrative Responsibility:	Vice-Provost and Dean of Students
Scope:	Compliance with University procedure extends to all members of the University community.

Purpose

This procedure applies in cases in which a complaint of **discrimination** or **harassment** is brought against a student at the University of Alberta. This procedure also provides guidance for any party involved in such a complaint. The procedure for cases in which a complaint of discrimination or harassment is brought against a faculty or staff member can be found in the Discrimination and Harassment – Allegations Against Staff Procedure.

Informal resolution and **formal resolution** procedures for complaints of discrimination and harassment are described in order to ensure an established process for the management and resolution of complaints.

This procedure is guided by the principles of **natural justice** and by the principles that all parties will act in good faith, that the confidentiality contemplated by the process will be maintained and that no complainant or respondent will coerce another party. Examples of coercive behavior include threats and intimidation.

PROCEDURE

1. INFORMAL RESOLUTION

Informal resolution processes allow the participants a greater measure of control in the process and in the outcomes than is afforded by formal resolution processes. Depending on the nature of a specific case, informal procedures may not be an appropriate option for parties to pursue.

Resolution from an informal process may take many forms but the following aspects of the outcome of the process are consistent:

- a. All parties agree to the resolution;
- b. The resolution is documented in writing; AND
- c. The parties take ownership for the resolution and self-enforce the agreement.

The following list of resources may provide assistance with informal resolution of a discrimination or harassment complaint. Those seeking advice or assistance as it pertains to University policy are encouraged to contact the Office of Safe Disclosure and Human Rights or the Student OmbudService. Parties may contact one or more resource for assistance.

- The Office of Safe Disclosure and Human Rights
- Student OmbudService
- Faculty Relations
- Human Resource Services
- A department Chair or graduate Chair, or other official in a department
- Graduate Student Assistance Program
- University Health Centre
 - Student Counseling Services
 - Sexual Assault Centre
- University of Alberta Protective Services
- Student Success Centre
 - Specialized Support and Disability Services
- International Student Services
- Student Legal Services
- Aboriginal Student Services Centre
- Chaplains' Association

2. FORMAL RESOLUTION

Any party may choose to engage a formal resolution process for a discrimination or harassment complaint at any time without repercussion. Under no circumstances will the lack of willingness to engage in an informal process or failure to reach an informal agreement be held against any party in a formal resolution. A formal resolution process may also be engaged when a resolution reached through an informal process fails.

The Code of Student Behaviour is the formal resolution mechanism for any complaint of discrimination or harassment raised against a student at the University of Alberta whether that complaint is raised by another student or by any member of the University community.

DEFINITIONS

Any definitions listed in the following table apply to this document only with no implied or intended institution-wide use. [[▲Top](#)]

Members of the University Community

All employees, (including but not limited to, academic staff, support staff and administrators), adjunct professors, professors emeriti, lecturers, clinical staff, all students (including undergraduate students and graduate students) and postdoctoral fellows.

<p>Discrimination</p>	<p>A distinction, whether or not intentional, based on a characteristic or perceived characteristic referenced in the Protected Grounds that has the effect of imposing on an individual or group of individuals burdens, obligations or disadvantages that are not imposed on others, or of withholding or limiting access to opportunities, benefits and advantages available to other individuals in society.</p>
<p>Harassment</p>	<p>Conduct or comment, either one-time or repeated that:</p> <ul style="list-style-type: none"> a) is demeaning, intimidating, threatening, or abusive; and b) is not trivial or fleeting in nature; and c) causes offence and should have reasonably been expected to offend; and d) serves no legitimate purpose for the work, study or living environment, and e) undermines authority or respect in the work, study or living environment, or impairs work or learning performance, or limits opportunities for advancement or the pursuit of education or research, or creates an intimidating, hostile or offensive work or learning environment. <p>Harassment includes <u>bullying</u>, which is a form of aggression that may include physical, verbal, or emotional abuse. Bullying poisons the work, study or living environment of the person it targets. It can include persistent, offensive, abusive, intimidating or insulting behavior, abuse of power, and/or unfair sanctions which make the individual feel threatened, humiliated, and/or vulnerable.</p> <p><u>Sexual Harassment</u> may be broadly defined as unwelcome conduct or comment of a sexual nature which detrimentally affects the work, study or living environment or otherwise leads to adverse consequences for the target of the harassment. It may consist of unwanted sexual attention, sexually oriented remarks or behaviours, or the creation of a negative psychological and emotional environment based on gender, gender identity or sexual orientation. It may be an isolated act or repetitive conduct, but cannot be trifling. A reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance may also constitute sexual harassment.</p> <p>The person(s) engaged in harassment need not have the intention to harass; it is the objective assessment of the circumstances that matters. How would a reasonable observer perceive the situation? A complainant need not expressly object to unwelcome conduct or comments, although any clear indication that the behaviour is unwanted will satisfy the test. A complainant's apparent passivity or failure to object overtly to sexual advances does not necessarily signal consent or welcomed behaviour, especially where a power imbalance exists between the individuals.</p> <p><u>Racial Harassment</u> involves unwanted or unwelcome comments, conduct or behavior that humiliates, intimidates, excludes and isolates an individual or</p>

	<p>group by focusing on their race, ethnicity, origin or religion. Overall, racial harassment undermines self-esteem and is a violation of the dignity and security of the individual or group(s) that it targets.</p>
<p>Informal Resolution</p>	<p>Informal resolutions are those that achieve remedies agreeable to complainants, but do not invoke formal resolution procedures. Informal resolutions involve the relevant parties, and may include coaching, counseling, supporting, mediating, or otherwise facilitating the resolution of the complaint.</p>
<p>Formal Resolution</p>	<p>Formal resolutions are effected through procedures described in the disciplinary clauses or grievance procedures of the University’s collective or academic staff agreements with NASA and AASUA, in the Code of Student Behaviour, in the Postdoctoral Fellows Policy or in the procedures linked to the Discrimination, Harassment and Duty to Accommodate Policy.</p>
<p>Natural Justice</p>	<p>The University of Alberta strives to ensure that the principles of natural justice, as summarized below, apply to the adjudication of disputes between persons or organizations. For a full outline of the principles and how they are applied, employees should consult their applicable collective or academic staff agreement and students should consult the Code of Student Behaviour.</p> <p>The following principles of natural justice apply to this policy:</p> <ul style="list-style-type: none"> a) members of the University are entitled to representation by the Association to which they belong (AAS:UA, NASA, GSA, SU) or, in the case of students, by the Student OmbudService, Student Legal Services or other student advisors during any stage of the process; b) respondents have the right to know the identity of the complainant and details of a complaint; c) investigations will normally be completed in a timely manner d) complainants, respondents and witnesses will have protection from reprisals; e) complainants and respondents will have the opportunity to present information in support of their positions and to defend themselves against allegations; and f) complainants and respondents have the right to receive clarification of the investigator’s findings, if needed. <p>Unless otherwise noted in the applicable collective or academic staff agreement or the Code of Student Behaviour, this policy does not confer any rights upon complainants or respondents to examine or cross-examine witnesses.</p>

FORMS

There are no forms for this procedure. Should a link fail, please contact uappol@ualberta.ca. [[▲Top](#)]

RELATED LINKS

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RESOURCES TO ASSIST WITH APPLICATION

[Discrimination and Harassment Complaint Guideline for Students](#) (UAPPOL)

[NASA Collective Agreement](#) (NASA)

[Faculty Agreement](#) (AASUA)

[Administrative and Professional Officer Agreement](#) (AASUA)

[Faculty Service Officer Agreement](#) (AASUA)

[Librarian Agreement](#) (AASUA)

[Sessional Agreement](#) (AASUA)

(NOTE: Need to set up *hyperlinks*)

Go to:	[Purpose]	[PROCEDURE]	[DEFINITIONS]	[FORMS]	[RELATED LINKS]
This procedure is governed by its parent policy. Questions regarding this procedure should be addressed to the Office of Administrative Responsibility.					

Discrimination and Harassment – Allegations Against Staff Procedure

Office of Administrative Responsibility:	Vice-Provost and Dean of Students Vice-Provost and AVP (Human Resources)
Scope:	Compliance with University procedure extends to all members of the University community .

Purpose

This procedure applies in cases in which a complaint of **discrimination** or **harassment** is brought against a faculty or staff member at the University of Alberta. This procedure also provides guidance for any party involved in such a complaint. The procedure for cases in which a complaint of discrimination or harassment is brought against a student can be found in the Discrimination and Harassment – Allegations Against Students Procedure.

Informal resolution and **formal resolution** procedures for complaints of discrimination and harassment are described in order to ensure an established process for the management and resolution of complaints.

Informal resolution and formal resolution procedures will be applied according to the University of Alberta's negotiated investigative, disciplinary, or grievance procedures as contained in its agreements with the Association of Academic Staff at the University of Alberta (AASUA), the Non-Academic Staff Association (NASA), the Code of Student Behaviour and any applicable contracts.

This procedure is guided by the principles of **natural justice** and by the principles that all parties will act in good faith, that the confidentiality contemplated by the process will be maintained and that no complainant or respondent will coerce another party. Examples of coercive behavior include threats and intimidation.

PROCEDURE

1. SUPPORT STAFF COMPLAINTS

- a. Resolution procedures for support staff complaints, where the **complainant** and the **respondent** are both NASA members, are found in [Article 18](#) "Discrimination and Harassment Complaints" ([hyperlink](#)) of the Common Provisions of the NASA Collective Agreement.

2. ACADEMIC STAFF COMPLAINTS

- a. Resolution procedures for academic staff complaints, where the respondent is an AASUA member, are found in [Article 16](#) "Discipline" ([hyperlink](#)) of the AASUA Faculty Agreement, the Administrative and Professional Officer Agreement, the Faculty Service Officer Agreement, the Librarian Agreement, and in [Article 13](#) "Discipline" ([hyperlink](#)) of the Sessional and Other Temporary Staff Agreement, [Article 14](#) of the

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Contract Academic: Teaching Staff Agreement and [Article 16](#) of the Trust/Research Academic Staff Agreement.

3. ACADEMIC AND SUPPORT STAFF COMPLAINTS

- a. When the complainant and the respondent are from different bargaining units, the resolution procedures are found in the [Letter of Understanding \(hyperlink\)](#) between the University of Alberta, the Association of Academic Staff and the Non-Academic Staff Association, on Cross-Jurisdictional Formal and Informal Discrimination and Harassment Complaints.

NOTE: THIS IS CURRENTLY UNDER NEGOTIATION AND WILL BE INCLUDED ONLY IF AGREEMENT IS REACHED.

4. STUDENT COMPLAINTS

- a. When the complainant is a student and the respondent is an AASUA or a NASA member, resolution procedures are found in [Article 16 “Discipline” \(hyperlink\)](#) of the AASUA Faculty Agreement, the Administrative and Professional Officer Agreement, the Faculty Service Officer Agreement, the Librarian Agreement, and in [Article 13 “Discipline” \(hyperlink\)](#) of the Sessional and Other Temporary Staff Agreement, [Article 14](#) of the Contract Academic: Teaching Staff Agreement, [Article 16](#) of the Trust/Research Academic Staff Agreement, and Article 18 “Discrimination and Harassment Complaints” of the NASA Collective Agreement.
- b. When the complainant and respondent are both students, refer to the [Discrimination and Harassment – Allegations Against Students Procedure](#).
- c. When the complainant is an AASUA or NASA member and a student is the respondent, the Code of Student Behaviour will apply.

DEFINITIONS

Any definitions listed in the following table apply to this document only with no implied or intended institution-wide use. ▲ Top	
Members of the University Community	All employees, (including but not limited to, academic staff, support staff and administrators), adjunct professors, professors emeriti, lecturers, clinical staff, all students (including undergraduate students and graduate students) and post-doctoral fellows.
Discrimination	A distinction, whether or not intentional, based on a characteristic or perceived characteristic referenced in the Protected Grounds that has the effect of imposing on an individual or group of individuals burdens, obligations or disadvantages that are not imposed on others, or of withholding or limiting access to opportunities, benefits and advantages available to other individuals in society.

<p>Harassment</p>	<p>Conduct or comment, either one-time or repeated that:</p> <ul style="list-style-type: none"> a) is demeaning, intimidating, threatening, or abusive; and b) is not trivial or fleeting in nature; and c) causes offence and should have reasonably been expected to offend; and d) serves no legitimate purpose for the work, study or living environment, and e) undermines authority or respect in the work, study or living environment, or impairs work or learning performance, or limits opportunities for advancement or the pursuit of education or research, or creates an intimidating, hostile or offensive work or learning environment. <p>Harassment includes <u>bullying</u>, which is a form of aggression that may include physical, verbal, or emotional abuse. Bullying poisons the living, working or studying environment of the person it targets. It can include persistent, offensive, abusive, intimidating or insulting behavior, abuse of power, and/or unfair punitive sanctions which make the individual feel threatened, humiliated, and/or vulnerable.</p> <p><u>Sexual Harassment</u> may be broadly defined as unwelcome conduct or comment of a sexual nature which detrimentally affects the work, study or living environment or otherwise leads to adverse consequences for the target of the harassment. It may consist of unwanted sexual attention, sexually oriented remarks or behaviours, or the creation of a negative psychological and emotional environment based on gender, gender identity or sexual orientation. It may be an isolated act or repetitive conduct, but cannot be trifling. A reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance may also constitute sexual harassment.</p> <p>The person(s) engaged in harassment need not have the intention to harass; it is the objective assessment of the circumstances that matters. How would a reasonable observer perceive the situation? A complainant need not expressly object to unwelcome conduct or comments, although any clear indication that the behaviour is unwanted will satisfy the test. A complainant's apparent passivity or failure to object overtly to sexual advances does not necessarily signal consent or welcomed behaviour, especially where a power imbalance exists between the individuals.</p> <p><u>Racial Harassment</u> involves unwanted or unwelcome comments, conduct or behavior that humiliates, intimidates, excludes and isolates an individual or group by focusing on their race, ethnicity, origin or religion. Overall, racial harassment undermines self-esteem and is a violation of the dignity and security of the individual or group(s) that it targets.</p>
<p>Informal Resolution</p>	<p>Those resolutions that achieve remedies agreeable to respondents and complainants, but do not invoke formal resolution procedures. Informal resolutions involve the relevant parties and many include coaching,</p>

	counseling, supporting, mediating or otherwise facilitating the resolution of the complaint.
Formal Resolution	Resolutions effected through procedures described in the disciplinary clauses or grievance procedures of the University’s academic staff agreements or collective agreement or with AASUA and NASA, in the Code of Student Behaviour, in the Postdoctoral Fellows Policy, or in other procedures linked to the Discrimination, Harassment and Duty to Accommodate Policy.
Natural Justice	<p>The University of Alberta strives to ensure that the principles of natural justice, as summarized below, apply to the adjudication of disputes between persons or organizations. For a full outline of the principles and how they are applied, employees should consult their applicable collective or academic staff agreement and students should consult the Code of Student Behaviour.</p> <p>The principles of natural justice include:</p> <ul style="list-style-type: none"> a) members of the University are entitled to representation by the Association to which they belong (AAS:UA, NASA, GSA, SU) or, in the case of students, by the Student OmbudService, Student Legal Services or other student advisors during any stage of the process; b) respondents have the right to know the identity of the complainant and details of a complaint; c) investigations will normally be completed in a timely manner ; d) complainants, respondents and witnesses will have protection from reprisals; e) complainants and respondents will have the opportunity to present information in support of their positions and to defend themselves against allegations; and f) complainants and respondents have the right to receive clarification of the investigator’s findings, if needed. <p>Unless otherwise noted in the applicable collective or academic staff agreement or the Code of Student Behaviour, this policy does not confer any rights upon complainants or respondents to examine or cross-examine witnesses.</p>
Complainant	<ul style="list-style-type: none"> a. A person who believes they have been a victim of discrimination or harassment and initiates a complaint, or b. The Union or the Employer when making a complaint under Article 18 of the NASA agreement.
Respondent	<ul style="list-style-type: none"> a. A person who has been accused of discrimination or harassment by a complainant, or

VERSION #2 DRAFT DATE: January 17, 2012

PARENT POLICY: [Discrimination, Harassment and Duty to Accommodation Policy](#)

NOTE: This header will be *removed* for UAPPOL publication

	b. The Union or the Employer under Article 18 of the NASA agreement.
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FORMS

There are no forms for this procedure. Should a link fail, please contact uappol@ualberta.ca. [[▲Top](#)]

RELATED LINKS

Should a link fail, please contact uappol@ualberta.ca. [[▲Top](#)]

[NASA Collective Agreement](#) (NASA)

[Faculty Agreement](#) (AASUA)

[Administrative and Professional Officer Agreement](#) (AASUA)

[Faculty Service Officer Agreement](#) (AASUA)

[Librarian Agreement](#) (AASUA)

[Sessional Agreement](#) (AASUA)

(NOTE: Need to set up [hyperlinks](#))

PUBLISHED PROCEDURES OF THE PARENT POLICY

[Duty to Accommodate Procedures](#) (UAPPOL)

[Discrimination and Harassment – Allegations Against Students Procedure](#) (UAPPOL)

[Discrimination and Harassment – Allegations Against Staff Procedure](#) (UAPPOL)

(NOTE: Need to set up [hyperlinks](#))

Examples of Accommodation Measures

There can be no complete list of the type of action the duty to accommodate may require. What is required in any situation will depend on the particular needs of the individual involved, the nature of the work, position, service or facility at issue, what changes are required in order to meet the specific needs of the individual, what changes are reasonably possible as well as the resources of the institution. Nevertheless, some examples of accommodation measures include:

1. Adapting the physical environment to the needs of the individual including the acquisition or modification of premises, equipment or devices or the provision of human support such as qualified readers or interpreters. This may be as simple as using four blocks to raise the height of a desk to accommodate wheelchair access.
2. Modifying the rule or program requirements, for example permitting a physically disabled person who requires the accommodation a reasonable amount of additional time within which to complete a program or course requirement, or making arrangements for a student to make up work or exams missed by reason of religious observance.
3. Modifying job duties to remove non-essential tasks, shifting certain duties to other employees, re-assigning the employee to another available job for which he or she is qualified either temporarily or perhaps permanently.
4. Permitting the use of accrued vacation leave, providing additional unpaid leave or agreeing to the reasonable alteration of work schedules.
5. Changing work schedules so that individuals may participate in the rites associated with their religious faith.
6. Permitting an individual the opportunity to obtain and use equipment, aids or services that the University itself is not required to provide.

Reasonable accommodation does not include:

1. Creating a position that did not previously exist for an employee who is incapable of performing the essential functions of his or her own job or of any other available position. However, an alternate available position that already exists is not creating a new position.
2. Retaining an employee incapable of performing the available work to acceptable levels.
3. Shifting the essential functions of a position to another employee; leaving the affected employee to perform non-essential functions with limited business or productive value to the employer.
4. Providing extensive and costly retraining to enable the employee to perform available work.

5. Modifying educational programs or admission or performance requirements where the integrity of the educational standards of the University or its degrees would be compromised.

Assessing Undue Hardship

The duty to accommodate extends only to the point of undue hardship. Undue hardship has been interpreted to mean undue expense or excessive disruption of or interference with the business or operation. In assessing undue hardship, relevant factors include:

1. Financial costs;
2. Business or institutional convenience/efficiency;
3. Disruption of a collective agreement (however, an employer and union cannot contract out of human rights legislation; the agreement cannot absolve the parties of the duty to accommodate; but it can be relevant in assessing the degree of hardship caused by interference with its terms);
4. Disruption to the public;
5. The effect or impact on the rights, health, safety or morale of others;
6. Interchangeability of the work force or of the facility;
7. Size and resources of the institution; and
8. Health and safety considerations including the nature and magnitude of the risk and the identity of those who bear it.

Discrimination and Harassment Complaint Guidelines for Students

University of Alberta

Informal resolution and formal resolution procedures for complaints of discrimination and harassment are provided to ensure an established process for the management of complaints.

Informal resolution and formal resolution procedures will be applied according to the University of Alberta's negotiated investigative, disciplinary or grievance procedures as contained in its agreements with the Association of Academic Staff (AASUA) the Non-Academic Staff Association (NASA), the Code of Student Behaviour and any applicable contracts.

To assist in understanding these processes, this [Discrimination and Harassment Complaint Guidelines for Students](#) is provided. **If an instance arises where there is a conflict between the guideline and any collective agreement, applicable contract or the Code of Student Behaviour, the collective agreement, applicable contract or Code of Student Behaviour will apply.**

Initial Steps/Preparation

1. If a student believes that he/she has been, or may have been, subject to discrimination or harassment by a staff member or a fellow student at the University, the first step is to record the time, place, nature of the behaviour, and names of all people involved. Keep this record in a safe place. This documentation may be very useful later, and it will also help the student to clarify what happened.
2. If, and only if, the student feels safe doing so, he/she can speak respectfully but directly to the person whose behaviour is affecting him/her. Many issues may be resolved this way, but the student should not feel compelled to attempt this before first seeking advice from a support service.
3. Students are encouraged to discuss their concern with an advisor at the Student OmbudService, the Sexual Assault Centre or the Office of Safe Disclosure and Human Rights (*check the UofA website for location and contact information*). This conversation should help the student to consider:
 - a. whether the matter meets the definition of harassment or discrimination,
 - b. whether the student can or should approach the person directly and how to best broach the topic,
 - c. establish if anyone else should be made aware of the complaint, and
 - d. determine if the matter should be brought forward through the informal or formal resolution process.

A. Informal Resolution Process

1. Complaints seeking an informal resolution should make their complaint in either written or oral form and direct it to the supervisor of the staff member.

- a. For instructional staff, this will be the Chair of the department in which the course is taught.
 - b. For other University employees, the advisor (at the Student OmbudService, the Sexual Assault Centre or the Office of Safe Disclosure and Human Rights) can assist in determining the appropriate recipient of the complaint.
2. Upon receipt of the complaint, the supervisor shall, in consultation with the complainant, determine what options for resolution exist and which should be pursued.
 - a. Resolutions include, but are not limited to:
 - i. Notification of effect/impact of behaviour
 - ii. Mediation
 - iii. Verbal or written reinforcement of behavioural expectations
 - iv. Options for coaching or educational programs
3. Students should note that the University takes seriously complaints of harassment and discrimination and will take steps to endeavor that no penalty, academic or otherwise, results from pursuing a resolution to such an issue. These steps can be discussed with the supervisor. Alternately, the University also recognizes the serious nature of allegations of discrimination and harassment that are made in bad faith and may take disciplinary action should allegations of discrimination or harassment be shown to be malicious, frivolous, fraudulent or vexatious.
4. The respondent will be informed of the nature of the complaint against him/her and the form of resolution sought by the complainant.
5. The supervisor will attempt to ensure that an appropriate resolution occurs within a reasonable timeline.
6. The supervisor will notify the complainant of whether or not the planned resolution was carried out.
7. If the complaint is disputed, the initial complainant may ask that the formal process be initiated.
8. If the complainant is not satisfied with the information resolution, he/she may ask the supervisor or his/her advisor what alternate forms of resolution exist; or begin the formal complaint process.
9. The supervisor may determine that the alleged violation requires a formal complaint, and either the supervisor or his/her unit may act as complainant. In such cases, the supervisor should make this determination with regard to his/her responsibility to create and maintain a safe environment. He/she may also consult with the Office of Safe Disclosure and Human Rights.

B. Formal Resolution Process

1. The student may contact the Student OmbudService or other university support unit for guidance in writing a formal complaint.
2. The written copy of the complaint must be directed to the Intake Officer at the Office of Safe Disclosure and Human Rights.
3. The complaint should include the time, location, nature and a description of the event(s.)

4. The Intake Officer shall:
 - a. determine the applicability of the *Discrimination, Harassment and Duty to Accommodate Policy* and, if the allegation were true, whether it would constitute a violation of this policy,
 - b. determine if the complaint falls within the allowed time period (in exceptional cases the time limit may be waived)¹, and
 - c. review the written complaint to ensure it is documented properly, and assist the complainant to this end as appropriate.
5. When the Intake Officer has determined the complaint is complete as written, he/she will forward the complaint to the Provost or appropriate Vice President.
6. On receipt of the written complaint, the Provost or appropriate Vice President will send a copy to the named respondent. The respondent may submit a written statement in response to the complaint.
7. All written communication with the complainant and/or the respondent shall be sent by double registered mail to each party's last known residential address as provided to the University and, when appropriate, by delivery to the party's departmental address.
8. The Provost or appropriate Vice-President will meet, separately, with the complainant and his/her advisor and the respondent and his/her advisor to determine whether to go forward with the investigation.
9. The Provost or appropriate Vice President may decide to authorize an investigation, to not authorize an investigation or to refer the matter to mediation. The complainant and respondent shall be informed of this decision in writing.
10. If an investigation is authorized, the Provost or appropriate Vice President will designate an investigator.
11. The investigator will investigate the complaint and matters arising from and relating to the complaint (for example, retaliation). The investigator may meet with the complainant, the respondent or other individuals who may have relevant information. (The complainant and respondent have the right to bring an advisor to the meeting.)
12. Upon completion of the investigation, the investigator will submit a report to the Provost or appropriate Vice President. A copy of the report will also be sent to the complainant and to the respondent.
13. Within ten (10) working days of the date that the investigator's report was delivered, the complainant and the respondent may make written responses to the report, to be sent to the Provost or appropriate Vice President.
14. Upon review of the report and any written responses, the Provost or appropriate Vice President will determine if there has been a violation of the *Discrimination, Harassment and Duty to Accommodate Policy*.

¹ A discrimination complaint must be submitted within one year after the alleged contravention occurs. A harassment complaint must be submitted within six months after the alleged conduct or comment occurs. The time period for filing such a complaint may be extended to one year after the alleged conduct or comment occurs, provided the complainant produces compelling evidence, including documentation, demonstrating that he/she was unable to file the complaint within six months (e.g. – medically unable to proceed, death in the immediate family, etc.)

15. If a violation of the policy is found to have occurred, the Provost or appropriate Vice President shall consult records of the staff member to determine if there have been previous violations of a similar nature. Only when considering the appropriate sanction may previous violations be taken into account.
16. The Provost or appropriate Vice President shall authorize appropriate remedy and may impose discipline.
 - a. Options for remedy or discipline include but are not limited to:
 - i. List to be provided by NASA and AASUA
17. The Provost or appropriate Vice President will inform the complainant, respondent, and respondent's supervisor of the decision in writing.

**Proposed Discrimination, Harassment and Duty to Accommodate Policy Suite
Consultation Schedule**

Stakeholder	
	<i>(Feedback Received/Integrated)</i>
AASUA	P Defraeye, Equity Committee Chair, B Renke, R McKown
NASA	G Rajotte, R Eccles, K Collins
Graduate Students Association	T Korassa, H Hogg
Students’ Union	Rory Tighe, B Richardson
General Counsel	B Hamdon, M Strauss
Campus Security	B Mowbray
Dean of Students & Units reporting to Dean of Students	Including HPaWS, SSDS, Student Judicial Affairs, Graduate OmbudService, Student Ombudservice, Sexual Assault Centre
Vice-Provost and AVP (Human Resources) and Units reporting to AVP	Including Employment Equity, Human Resource Consulting, Employee Relations, Staff Learning & Development
Office of the Provost	Faculty Relations (J Spark, M Strong, D Herman), K Brough
SD&HR Advisor & HIAR Advisor	W King and K Fowler
Senior Administrative Officers	K Moore, M Paul, A Smith, V Whiting, G Bianchi
President & Vice-Presidents	Dr I Samarasekera, Dr C Amrhein, Dr L Babiuk, P Clark, D Hickey, D Pozega Osburn
Others	Dr L Gottell, Dr M Smith
Committee Consultation	Strategic Initiatives Group, Executive Planning Committee, Administrative Strategic Council, GFC – APC, FDC, CLRC (Via Email – Deans Council, PACC and GFC-ASC)
Other Universities	Including UBC, U of Calgary, Concordia University, Cornell University, University of Lethbridge, University of Manitoba, Princeton University, University of Saskatchewan, York University, University of Toronto, McGill University

Members of the GFC 44 Working Group

- Dr. Patricia Clements (Chair), Former Dean of Arts
- Dr. Jo-Ann Wallace (Vice-Chair), Professor and Chair, Women’s Studies and Member, AASUA Equity Committee
- Dr. Margaret-Ann Armour, Associate Dean, Diversity, Faculty of Science
- Donna Fong, Research Administrator, Population Research Lab
- Dr. Jennifer Kelly, Associate Professor, Educational Policy Studies
- Brock Richardson (formerly, Ombudsperson, Student OmbudServices)
- Sandra Kereliuk, Senior Administrative Officer, Office of the VP(Finance & Administration)

Note: Michael Phair (University Relations), Dr. Rob Appleford (Arts) and Colleen McMorran (GSA) also served on this committee throughout 2010.



28 November 2011

Sandra Kereliuk
Senior Administrative Officer, Office of the Vice-President (Finance & Administration)
1-3D University Hall
University of Alberta
Edmonton, Alberta T6G 2J9

Dear Ms Kereliuk,

The Association of Academic Staff University of Alberta has prepared the following response to GFC Policy 44, Discrimination, Harassment and Duty to Accommodate Policy, Version 1, drafted 11 October 2011 (herein referred to as the "Proposed Policy") and the accompanying Procedures.

1. **Editorial change:** Proposed Policy, pg 1, OVERVIEW, Section 2 RESPONSIBILITY: line 5, change "discriminating" to "discriminatory" to make usage consistent with rest of document ("discriminating" has meaning of "discerning", "judicious", "perceptive", obviously not what is intended here).

2. **Addition:** Proposed Policy, pg 1, OVERVIEW, Section 2 RESPONSIBILITY: last line, after "take appropriate steps to stop the discriminatory or harassing behavior [sic]" add the steps that the University expects bystanders (those "who are aware . . .") to take to stop discriminatory or harassing behaviour.

Comment: Like the University's current Policy, the Proposed Policy indicates that "[m]embers of the university community who are aware of acts of discrimination or harassment are expected to take appropriate steps to stop the discriminatory or harassing behaviour". However, whereas under the current Policy, individuals who are aware of acts of discrimination or harassment may act as complainants, under the Proposed Policy only the University or the individuals subject to acts of discrimination or harassment may issue a complaint. Given that individuals have a responsibility to help stop discriminatory or harassing behaviour but cannot access the complaint procedures in the Policy Suite, it is not clear what steps the University believes to be appropriate to stop discriminatory or harassing behaviour.

The AASUA recommends that the Proposed Policy be revised in regard to the responsibilities of supervisory staff, instructors and students to indicate what kinds of steps can be taken to fulfill their responsibility to stop discriminatory or harassing behaviour that they are aware of (this would involve expanding Proposed Policy, Section 3, sub-section c). For example, individuals

1

aware of harassing or discriminatory behaviour could be directed to report such conduct to a specific person at the University, such as the Safe Disclosure and Human Rights Advisor (referred to in Proposed Policy, Section 3, sub-section d). The concern of the AASUA arising from the Proposed Policy is that (non-management) supervisory staff, instructors and students who are aware of harassing or discriminatory behaviour, but are unsure what steps to take about it and do nothing, could potentially be subject to discipline for failing to comply with the Proposed Policy. In the alternative, the last sentence of this section of the Proposed Policy could be revised to indicate that non-management “[m]embers of the university community who are aware of acts of discrimination or harassment are encouraged [vice “expected”] to take appropriate steps . . .” but would not be subjected to discipline pursuant to the Proposed Policy for failure to do so.

3. **Wording change:** Proposed Policy, pg 2, OVERVIEW, Section 3 Academic Freedom: the wording of this section addresses teaching, research, artistic creations, and public debate, but omits any reference to Service; Article 2 of the Faculty Agreement contains a different definition of Academic Freedom (“The parties to this agreement subscribe to the principles of academic freedom, that is, the right to examine, to question, to teach, to learn, to investigate, to speculate, to comment, to criticize without deference to prescribed doctrine. Academic freedom does not confer legal immunity; nor does it diminish the obligation of members to meet their responsibilities to the University as set out in Article 7 (University responsibilities)”); the AASUA recommends that the Proposed Policy defer to the definition in the Faculty Agreement.

Comment: The AASUA expresses concern over reports from our members of what appear to be increasingly frequent statements by University officers that omit Service from the key responsibilities of the professoriate; as per 7.02.1(c) of the Faculty Agreement, Service is identified as one of the three areas of responsibility for faculty members.

4. Proposed Policy, pg 2, POLICY, Section 1 DISCRIMINATION OR HARASSMENT:
- a. **Editorial change:** in the title, change “OR” to “AND”, this section addresses both subjects;
 - b. **Editorial change:** second para, first line, change “reprisals” to “reprisal”, when speaking in generality (rather than a set of discrete actions) “reprisal” is singular;
 - c. **Wording change:** second para, first line, delete “in good faith”; given that the determination of whether a complaint was or was not made in good faith rests with the University and given that as per the fourth para of this section, the University has the authority to pursue disciplinary action in such a case if deemed appropriate, “retaliation or reprisal” against a complainant or witness should not be permitted under any circumstances.
 - d. **Addition:** second para, second line, add new sentence: “Individuals who engage in retaliation may be subject to disciplinary action.” This addition is to give the prohibition “teeth” and make it consistent with similar statements regarding the possible consequences to those engaging in harassment and discrimination (in the third para) and bad faith complaints (in the fourth para).

5. **Needs a significant re-write:** Proposed Policy, pgs 2-3, POLICY, Section 2 DUTY TO ACCOMMODATE (N.B., these comments also address the definitions of Accommodation on pg 9 and Undue hardship on pg 10, and the accompanying Duty to Accommodate Procedure).

- a. **Issues in the Proposed Policy affecting members who require accommodation.**
Due to the complexity of the interrelationship of the policy on pgs 2-3 and the definitions on pgs 9-10, all of these matters will be dealt with together. The general policy statement contained at pgs 2-3 of the Proposed Policy sets out the *Meiron* test but without placing any emphasis on the need to conduct an individual assessment of the accommodation needs of an employee or student. This omission is corrected in the definition of Accommodation on pg 9 of the document where the Policy states: "Accommodation is a shared responsibility between the University and the individual in need of accommodation, and is assessed on the unique circumstances of each individual." However, that statement makes no mention of the role of the Association (or the union) as being equal partners in the accommodation process, along with the employee and University. The AASUA believes that the statement should be amended to read: "[a]ccommodation is a shared responsibility among the University, the individual in need of accommodation, and the organization and/or trade union representing the individual . . ."

In addition, the definition of Undue Hardship on pg 10 appears to be legally inaccurate. The factors that may be considered in assessing whether the proposed accommodation would constitute undue hardship have been stated in the *Meiron* case and subsequent Supreme Court cases as including the following:

- financial cost of the possible method of accommodation;
- relative interchangeability of the workforce and facilities;
- prospect of substantial interference with the rights of other employees.

The factors are to be applied "with common sense and flexibility in the context of the factual situation presented in each case." *Chambly*, [1994] 2 S.C.R. 525 at p. 546. Other factors would be appropriate for education-based accommodations.

The AASUA would be reluctant to agree that the factors set out in the definition of Undue Hardship on pg 10 of the Proposed Policy would constitute "undue hardship." For instance, the Proposed Policy refers to "when accommodation alternatives would result in lowering performance standards or in substantive job requirements being unmet" as an example of "onerous conditions." Taken literally, this would mean that any period of illness and/or disability leave could result in a non-discriminatory termination because the faculty member would be unable to meet the substantive job requirements, i.e. teach, do research and attend to faculty service work. The "undue hardship" test requires more balancing of the needs of the individual against the needs of the organization and other employees and/or students. The AASUA would be reluctant to agree to more in the definition of "undue hardship" than what has been set out by the Supreme Court in the above decisions. We are also not aware of any Supreme Court decision that uses the term "onerous condition" in describing "undue hardship."

- b. Issues in the Accommodation Procedure affecting members who require accommodation. In the AASUA's view, the Accommodation Procedure needs some additional, detailed work. For instance, it doesn't address the following:
- the role of the Association as an equal partner in arriving at accommodation decisions;
 - the privacy concerns of the member in disclosing information concerning a disability;
 - the selection of experts for an assessment of disability and related accommodation needs;
 - details of the obligations on members to meet performance standards once the accommodation is provided;
 - detailed appeal provisions including the right to file grievances and/or human rights complaints if the University fails in its obligations to accommodate a member;
 - the chain of command related to requests for disclosure (i.e. can the member go directly to HPAWS without seeking out his or her chair or dean?); and
 - inter-bargaining unit accommodation issues (i.e. dropping into another bargaining unit).

It is relevant to note that other large public sector employers have entered into extensive agreements with their unions over the process and procedures used to accommodate disabled employees in the workplace. One example is the City of Edmonton's "Duty to Accommodate Framework Agreement." While the University setting has different characteristics and needs than a municipal setting, it may be useful to consider the general approach to the accommodation issues taken by this employer. The Civic Unions and the City of Edmonton engaged Andy Sims to assist in developing the Accommodation Framework; a copy of the "Duty to Accommodate Framework Agreement" between the City of Edmonton and multiple other parties is attached in this regard.

6. **Wording change:** Proposed Policy, pg 4, POLICY, Section 3 RESPONSIBILITIES, sub-section "a", sub-sub-section viii, line 2, after "create awareness of this policy" change "are made available to" to "provided to"; employers have a responsibility to be proactive in providing all employees with education and awareness in regard to these policies.

7. **Addition:** pg 4, Proposed Policy, POLICY, Section 3 RESPONSIBILITIES, sub-section "b", line 5, after "free of discrimination and harassment" add "Any officer of the University with special administrative responsibility to uphold this policy who is aware of harassment or discrimination and fails to take appropriate steps to stop the discriminatory or harassing behaviour may be subject to disciplinary action."

Comment: These management-level officers of the University not only have "special administrative responsibility" but they have the authority to act and therefore need to be held accountable for failure to exercise that authority.

8. Proposed Policy, pgs 7-10, DEFINITIONS (note that these definitions also appear, usually in identical form, in the Procedures accompanying the Proposed Policy, therefore these comments also apply to the definitions within those Procedures):

- a. **Wording changes:** Members of the University Community (pg 7): unless the term “lecturer” is being used here to refer to some grouping other than the CAST employees on long-term contracts who are employed under that title (who are academic staff), it should either be removed or qualified (e.g., “guest lecturer” or “visiting lecturer”); there are also categories that are variously called “visiting professors” or “visiting scholars” who should be included in the list; “post-doctoral fellows” are not students and should not be inside the parentheses, while the two categories of students (i.e., undergraduate students and graduate students) do not capture all the student types who are subject to the Code of Student Behaviour and this policy.

Comment: The Code of Student Behaviour defines a student as “a person who is or has been registered as a Student at the University whether or not for credit and includes current Undergraduate and Graduate Students, former Students, and graduates who have received a Degree, diploma or certificate from the University” and indicates that “This Code applies to all conduct by a Student or by Students that has a real and substantial link to the University, University Activities, the University Community, or University-related Functions, whether or not the conduct occurred on or in relation to University property.” These definitions from the Code of Student Behaviour should be incorporated into the Proposed Policy to ensure consistency between the Proposed Policy and the Code.

- b. **Needs a significant re-write:** Respectful Environment (pg 7): recommend that the Proposed Policy be revised to include a definition of the term “work, study, and living environment,” in addition to the term “Respectful Environment,” with particular attention to the scope of the Proposed Policy’s application beyond the University’s physical campus to both community settings and cyberspace.

Comment: Both the Proposed Policy and the University’s current Discrimination and Harassment Policy focus on achieving a “work, study and living environment” free of harassment and discrimination. However, this term is not defined in either the current Policy or the Proposed Policy, although the current Policy does indicate that:

...discrimination and harassment in the work, study and living environment includes, but is not limited to: discrimination and harassment at the University of Alberta, at University-related functions, in the course of work or study assignments outside the University, at work or study-related conferences or training sessions, during work or study-related travel, or over the telephone or computer. (44.4 Application)

While the Proposed Policy does define the term “Respectful Environment,” the focus of this definition is directed to a commitment to civility and human dignity, and welcoming a diversity of perspectives. The current text in the Proposed Policy does not make clear the scope or circumstances under which the Proposed Policy would apply, and does not indicate that it would apply beyond the University’s physical campus. For both staff and students the University is no

longer defined by the physical campus and the application of this Proposed Policy to the external physical environments of community learning and community engagement needs to be clearly articulated. Further, in community settings Members of the University Community will find themselves interacting with persons who are not subject to the Proposed Policy; the interface of the Proposed Policy with the relevant Federal and/or Provincial Human Rights Acts in such settings should be identified so that Members of the University Community are aware of their responsibilities under the Proposed Policy as well as the means available for them to seek recourse when they believe that they have been subjected to discrimination or harassment by persons not subject to this Policy. In addition, many complaints regarding inappropriate behaviour at universities now focus on online communications. For example, in *Pridgen v University of Calgary*, 2010 ABQB 644, the Court of Queen's Bench dealt with an application for judicial review arising from a decision to put students on probation for criticizing a staff member on Facebook. If the University intends to apply the policy to cyberspace, it should be made clear in the Proposed Policy.

- c. **Deletion:** Harassment (pg 7): recommend that section (d) “serves no legitimate purpose for the work, study or living environment, and” be deleted; the existence of this section implies that, based on giving a claim of “legitimate purpose” equal status with all other sections of the definition, the University believes it is permissible for a person to behave in a manner which “is demeaning, intimidating, threatening, or abusive; . . . is not trivial or fleeting in nature; . . . causes offence or should have reasonably been expected to offend; and . . . undermines authority or respect . . . limits opportunities . . . or creates an intimidating, hostile or offensive work or learning environment.”

Comment: The normative principle in matters of harassment is “impact, not intent”, and a good faith belief by the respondent that he or she was acting with “legitimate purpose” may be used as a mitigating factor in determining the appropriate severity of discipline but it does not negate the other sections in defining whether the behaviour was harassment.

- d. **Addition:** Harassment (pg 7): recommend that the definition of harassment be expanded to include (1) reference to the Protected Grounds, and (2) separate sections that specifically describe racial and religious harassment; it is the considered opinion of the AASUA that these are aspects of harassment that are of great significance in an institution like the University of Alberta that is committed to operating on an international plane, with greatly increasing numbers of academic staff and students coming from other cultures and religious traditions.

Comment: Even though the Proposed Policy's current definition of harassment appears to be very inclusive, insofar that it is not specifically limited to application on the basis of the Protected Grounds, it would be beneficial to include a reference (or cross-reference) to the other Protected Grounds to ensure that members of the University community are aware that harassment on the basis of any of the protected grounds is prohibited. The current definition of harassment only refers to one specific sub-type of harassment – sexual harassment. Even though the definition of harassment is not limited to Protected Grounds, its definition should include reference to the Protected Grounds, including racial harassment and religious harassment. Like sexual harassment, these types of

harassment are recognized by the Alberta Human Rights Commission. Literature produced by the Commission notes that racial and religious harassment includes “[d]erogatory comments, taunts, threats, jokes, teasing or jeering about race, colour, national or ethnic origins, or about adornments and rituals associated with cultural or religious beliefs” (see “Harassment as a form of discrimination”, accessed 16 Nov 11, online:

<http://www.albertahumanrights.ab.ca/publications/bulletins_sheets_booklets/sheets/hr_and_employment/harassment.asp>). Similarly, the Ontario Human Rights Commission notes that “[r]acial harassment is a form of discrimination. It includes comments, jokes, name-calling, display of pictures or behaviour that insults you, offends you or puts you down because of your race and other related grounds.” The Commission goes on to note that racial harassment may be premised on race, colour, ancestry, where the individual was born, where the individual lived before moving to Ontario, religious beliefs, ethnic background, citizenship, or language (see “RACISM & RACIAL DISCRIMINATION: Your Rights and Responsibilities,” accessed 16 Nov 11, online: <<http://www.ohrc.on.ca/en/issues/racism>>).

- e. **Needs a significant re-write:** Accommodation (pg 8): As noted in section 5 above, the definition of Accommodation used in the Proposed Policy excludes the staff associations/unions and is therefore unacceptable.
- f. **Addition:** Protected Grounds (pg 8): the definition of Protected Grounds” should be restated to read: “Discrimination and harassment are prohibited based on the following protected grounds: . . .”; for commentary see section d above.
- g. **Needs a significant re-write:** Malicious, Frivolous, Fraudulent or Vexatious (pg 8): recommend that the Proposed Policy be revised to (1) make the ramifications of malicious, frivolous, fraudulent or vexatious allegations clearer, and (2) specifically assign responsibility to the Board of Governors and University President for remedies for individuals subjected to malicious or fraudulent allegations.

Comment: The Proposed Policy indicates that individuals who make malicious, or frivolous, or fraudulent, or vexatious allegations of harassment or discrimination may be subject to disciplinary action. However, neither the Staff Procedure nor the Students Procedure refer to disciplinary processes being utilized for anything other than proper allegations of harassment or discrimination. If the same processes would apply to the complainant in the event an allegation is found to be malicious, frivolous, fraudulent, or vexatious, the Staff and Students Procedures should say as much. On another note, the current Policy indicates that the Board of Governors and the University President are responsible for ensuring that a remedy is provided for individuals who suffer a loss due to fraudulent or malicious allegations. The Staff Procedure accompanying the Proposed Policy, on the other hand, does not include remedies for individuals who are subjected to such allegations, and only allows remedies for individuals who have experienced discrimination or harassment (see item 3.a.vii. of the Proposed Policy).

- h. **Needs a significant re-write:** Undue Hardship (pg 9): As noted in section 5 above, the definition of Undue hardship used in the Proposed Policy is deemed to be an incorrect interpretation of the law and therefore unacceptable.

- i. **Needs a significant re-write: Informal Resolution (pg 9):** recommend replacing the term “Informal Resolution” with “Alternative Dispute Resolution” wherever it appears. Further, the definition of Informal Resolution assumes support by procedures regarding informal resolution, but no detailed procedures have been provided. The AASUA also recommends adoption of a set of detailed but “user-friendly” guidelines for Members of the University Community who wish to make use of ADR, whether in dealing with harassment or in the general resolution of workplace conflict; a sample set of guidelines derived from those used by the Canadian federal government are attached.

Comment: The term “informal resolution” is not truly appropriate as some methods, such as mediation, are actually quite formal, although not involving investigation or discipline; the term currently used is Alternative Dispute Resolution (ADR), which is also the term used in the AASUA collective agreements.

- j. **Needs a significant re-write: Remedy (pgs 9-10):** recommend revise the definition of “Remedy” in the Proposed Policy to include other types of remedies that could be used to make members of the community who have suffered discrimination and/or harassment whole. While the current definition indicates that remedies that may be ordered “include, but are not limited to, an apology, the creation of a policy, a promise or requirement to cease the behaviour, or a transfer,” these remedies may be insufficient for Members of the University Community who suffer harassment or discrimination. The AASUA also recommends including further remedies specific to the employment context, including damages, lost wages, and an opportunity for advancement. Further, the AASUA finds that the remedy provisions of the Proposed Policy are ambiguous. Whereas the current Policy indicates that the Board of Governors and President are responsible for “[e]nsuring that [an] appropriate remedy is provided for identified members of the University community who have suffered [a] loss because of discrimination or harassment, or who have suffered [a] loss due to fraudulent or malicious allegations,” the Proposed Policy does not appear to ensure an appropriate remedy. Rather, under the Proposed Policy it appears that the Board of Governors and the President of the University only must consider whether a remedy may be offered to a victim of harassment and/or discrimination (see item 3.a.vii. of the Proposed Policy).

The remedial provisions raise another concern as the Proposed Policy does not set out the mechanisms for ensuring compliance **by the University** with the non-discrimination requirements as set out in the *Alberta Human Rights Act*. The Proposed Policy may be misleading, in some sense, by leading members to believe that they only have access to the procedures set out in the Policy for dealing with allegations of discrimination, rather than pursuing such rights under either the *Human Rights Act* or the collective bargaining agreement. In the remedies section, then, it would be appropriate to refer to the individual’s right to complain to the Alberta Human Rights Commission and/or request the assistance of their Association in filing a grievance with respect to discriminatory conduct. For instance, racial harassment resulting in a poisoned work environment may be the subject of a grievance against the University or a human rights complaint for failing to ensure the employee is provided with a work environment free of discrimination. While the employee would be required to

raise the issue with the proper administrative personnel, if no action is taken, then they would have an option to pursue a human rights complaint and/or a grievance.

9. **Needs a significant re-write:** Staff Procedures and Student Procedures: recommend that the concept of “informal resolution” within both the Staff Procedures and the Student Procedures be replaced by “Alternative Dispute Resolution”, expanded to incorporate guidelines as discussed in section 8.i. above.

10. **Needs a significant re-write:** Staff Procedures and Student Procedures: recommend that the Staff Procedures and the Student Procedures be revised so as not to limit the principles of natural justice, specifically by changing the wording of the definition of Natural Justice to indicate that the principles of natural justice applicable to the Proposed Policy include the six principles currently set out in the definition. Such a change in wording would ensure that the principles of natural justice that may be utilized at a hearing regarding discrimination or harassment would not necessarily be limited to the six principles listed in the procedure. By leaving the matter open, there may be more flexibility at the Investigatory stage of a discrimination complaint to request a more thorough assessment of a complainant’s evidence.

Comment: The current Policy indicates that the Board of Governors and President are responsible for “[e]nsuring that complainant(s) and respondent(s) are treated fairly and that due process is followed.” However, the Staff Procedures and Student Procedures related to the Proposed Policy both limit the principles of natural justice that are applicable to discrimination and harassment complaints (see 44.6, item 2.). In both the Staff Procedures and the Student Procedures, the definition of Natural Justice indicates that six principles are deemed to be applicable to the Proposed Policy. The AASUA takes issue with the concept that natural justice can be limited to these six principles. In specific regard to discipline in the context of professors and Universities, the Supreme Court of Canada held in *Kane v University of British Columbia*, 1980 CarswellBC 1, that the requirements of natural justice are not always the same, depending on the circumstances of the case, the nature of the inquiry, rules under which the tribunal is acting, and the subject matter being dealt with. Essentially, the Court found that the rules of natural justice cannot be abrogated without statutory authority (para 30).

Sincerely,



Brygeda Renke
Barrister & Solicitor
Executive Director
Association of Academic Staff University of Alberta

Cc: Ian McLaren, President, AASUA

1-3 University Hall
Edmonton, Alberta, Canada T6G 2J9
Tel: 780.492.2657
Fax: 780.492.1439
www.ualberta.ca/vpfinance

January 17, 2012

Ms. Brygeda Renke
Barrister and Solicitor
Executive Director
Association of Academic Staff University of Alberta
1600 College Plaza
8215 – 112 Street
Edmonton, AB T6G 2C8

Dear Brygeda,

Thank you for your letter of 28 November 2011 in which you provided the AASUA response to the redraft of GFC 44, Discrimination, Harassment and Duty to Accommodate policy and procedures.

We have reviewed your comments and appreciate the helpful feedback. I attach a copy of the draft policy with the changes we have made to the documents, using track changes. Please note that in addition to the changes made in response to your letter, additional changes were made as a result of feedback from other constituencies. They also appear in this draft. In summary, the responses to your comments are:

1. Agree – change made.
2. Agree. We have added *“Advice and assistance may be sought from anyone in a position of authority, such as a supervisor, instructor or administrator. More formal advice and assistance may be sought from the Office of Safe Disclosure and Human Rights, the AASUA, NASA or the Office of the Dean of Students (including SSDS, Student OmbudService and HPaWS).”*

Further, we changed the word “expected” to *“encouraged”*

We did not include additional information on the steps to be taken to fulfill their responsibility as this is not the purpose of the policy

3. Agree. The section now reads *“...teaching, learning, service and public debate.”*
4. a. Disagree – we do not want this to read as “both”. It is an “either/or both”.
b. Agree.
c. Agree.
d. Agree.
5. You raise several points here and we have broken them down to discuss each item.

First, we agree that accommodation is a shared responsibility between the University and the individual in need of accommodation and is assessed on the unique circumstances of each individual. That is currently expressed in the definition of Accommodation. We are satisfied that it currently seems to fit within the definition where other aspects of Accommodation are explained.

Second, you suggest that the AASUA and NASA are "equal partners in the accommodation process, along with the employee and University." We do not consider that accurate. An employee may choose to keep his/her disability and/or accommodation requirements private, declining to disclose them to the AASUA/union. The employee may engage in a dialogue to define appropriate accommodation without using the services of the AASUA/union. The service provider/employer is the legal entity with the primary legal obligation to provide accommodation, not the AASUA or NASA. The duty to accommodate is owed to the employee, not the AASUA/union. In some circumstances, the AASUA/union may be required to engage in the accommodation process and to facilitate accommodation (for example by accommodating minor changes to rights under an academic staff/collective agreement), but those circumstances are limited. Therefore, we would not consider the AASUA and NASA "equal partners" in the accommodation process. There is a role, but only in limited circumstances.

Further, we do not believe it appropriate that the University may or should define the AASUA's role in a University policy. The Policy regulates the rights and obligations of individuals under the University's authority (i.e. employees, students, volunteers, guests with certain privileges, etc.). The AASUA (and NASA) are independent of the University. The roles of the AASUA and NASA are defined by the academic staff agreements, the NASA collective agreement, MOUs, memoranda of agreement, and by legislation, not University Policy. To the extent that you request an acknowledgement about your role in the accommodation process, that is established by principles of Association Recognition under the academic staff agreements and the PSLA, not University Policy.

Third, you state that the definition of Undue Hardship is "legally inaccurate" and that the definition should identify the legal factors that may be considered in assessing whether the proposed accommodation would constitute undue hardship. Our legal counsel disagrees. You apparently seek an analytical framework for assessing whether undue hardship exists in each case but our counsel does not read the "definition" of Undue Hardship in the way that you do. However, you raise a good point in that the University should provide illustrations of the types of circumstances that would typically constitute undue hardship, so that the reader will have some practical sense of where the line is drawn. We believe this would be more descriptive and helpful to someone trying to understand undue hardship but do not see a reason for not including both the descriptive and the legal even though the legal criteria for undue hardship are notoriously vague and difficult for a layperson to apply. We have therefore added a reference in the document, and provided a direct link to "Examples of Accommodation Measures and Assessing Undue Hardship". The first section provides illustrations of acceptable and unacceptable accommodation measures and the second section address the legal factors in the way you suggest. A copy of that document is also attached to this letter.

We agree that the definition of Undue Hardship is not a statement of relevant legal principles. However, it does not need to be. Policy does not alter the University's legal obligations nor reduce the University's obligation to utilize the proper legal factors. However, as an instrument of education and guidance for the University community, we feel that examples were more illustrative than principles, which can be quite vague to the reader.

Fourth, you ask about the use of the term "onerous conditions" in describing undue hardship. However, that term is used by the Alberta Human Rights Commission in its Interpretive Bulletin on the Duty to Accommodate and we are not troubled by the use of that term. (In its bulletin, the Commission writes "*Undue hardship occurs if accommodation would create onerous conditions for an employer or service provider.....*")

Fifth, you note that you are not comfortable with the illustration of Undue Hardship that reads: "when accommodation alternatives would result in lowering performance standards or in substantive job requirements being unmet". You suggest that taken literally, this would mean that any period of illness and/or disability leave could result in a non-discriminatory termination because the faculty member would be unable to meet the substantive job requirements. We do not agree. Sick leave and disability leave are substantive rights under the academic staff agreements. They cannot be abrogated or restricted by Policy.

As a final comment, and one that Dr. Armour noted during our meeting with you on December 15, 2011, we interpret your remarks to suggest that we provide comprehensive, legalistic definitions. We wish to emphasize that it was our goal to try to construct policy language that was readily comprehensible to the University community and reasonably concise. In other words, we want to have a layperson's document rather than a legal treatise. We remain committed to this goal.

b. You raise several concerns about the Accommodation Procedure, suggesting that detailed work is required. Again, this is an issue about the level of detail we wish to have within the Procedure. The Association refers to a Framework Agreement adopted by the City of Edmonton and the Civic Unions. That level of detail is not commonly found in the University's UAPPOL Policies and Procedures. Further, some of the suggested topics appear to be matters for negotiation with the Association or NASA, rather than a statement of existing procedure. We have commented on your point about the role of the AASUA as an "equal partner". You also raise privacy concerns, but the Procedure already contains a general statement about privacy. The remainder of the points refer to issues engaging a lot of detail and possibly negotiation that would vary or clarify existing practice. This is beyond the scope of the policy, and we would recommend that you instead engage Faculty Relations and Employee Relations in these matters.

6. Disagree – we will make available, promote and educate but cannot guarantee that every member of the university community has this information. Resources will be provided but this is a shared responsibility.
7. Disagree – we believe your proposed addition would essentially be an invitation to anyone on or off campus to make an Article 16 complaint against an administrator for failing to provide adequate accommodation or for not taking steps the complainant perceives as adequate to prevent a poisoned work environment, harassment or discrimination and thus would heighten the risk of frivolous or abusive complaints under Article 16 about the legitimate exercise of management authority.
8. a. Agree that post-doctoral fellows are not students. We have made this change. We are comfortable with the use of undergraduate and graduate student to define students.

b. Regarding cyberspace, we disagree as we believe that would be restrictive. Harassment is harassment regardless of the form it takes. Technology is changing so quickly that we do not wish to try to define that area. However, regarding the application beyond the physical campus, we agree and have made the change to incorporate the language you suggest into the definition of Respectful Environment.

c. Disagree – “.serves no legitimate work purpose” is a useful argument against a supervisor who may try to use that as an excuse for discrimination or harassment. We respectfully note that the five elements in the proposed definition come from Article 18 of the NASA Agreement, with only a minor modification to include the study and living environments in addition to the workplace.

d. Regarding expanding the definition of harassment to include Protected Grounds, we disagree. Harassment based on a Protected Ground is included within the scope of discrimination. Linking harassment to Protected Grounds is therefore redundant. Further, it has the risk of suggesting that harassment only exists if it is linked to a protected ground, which is incorrect. Harassment may arise with or without the involvement of a protected ground.

Regarding including the definition of race and religion. We have agreed to include a definition on racial discrimination although we are aware that this may invite criticism about the exclusion of others. The language of the policy and protected grounds already make plain that racial and religious discrimination, including harassment, are prohibited but there is not agreement within the Working Group on this point so we have agreed to add it and then listen to the feedback during our governance consultation process.

Finally, we note that the reference to "sexual harassment" was included because it is viewed as the most pervasive form of harassment/discrimination, and because the meaning of "sexual harassment" often escapes people's understanding. For example, some people do not understand that sexual harassment engages gender identity and sexual orientation, or that it is based on both the subjective perception of the victim and the objective views of the reasonable observer. We in fact rethought our definition of sexual harassment and have revised it to what we believe is a more complete and accurate definition.

“Sexual harassment may be broadly defined as unwelcome conduct or comment of a sexual nature which detrimentally affects the work, study or living environment or otherwise leads to adverse consequences for the target of the harassment. It may consist of unwanted sexual attention, sexually oriented remarks or behaviours, or the creation of a negative psychological and emotional environment based on gender, gender identity or sexual orientation. It may be an isolated act or repetitive conduct, but cannot be trifling. A reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance may also constitute sexual harassment.

The person(s) engaged in harassment need not have the intention to harass; it is the objective assessment of the circumstances that matters. How would a reasonable observer perceive the situation? A complainant need not expressly object to unwelcome conduct or comments, although any clear indication that the behaviour is unwanted will satisfy the test. A complainant's apparent passivity or failure to object overtly to sexual advances does not necessarily signal consent or welcomed behaviour, especially where a power imbalance exists between the individuals.”

e. Disagree – as noted earlier in this letter.

f. Disagree - your proposed insertion would create the erroneous impression that harassment must be linked to a Protected Ground. The Protected Grounds only apply to discrimination. Harassment based on a Protected Ground is already captured within the scope of discrimination.

g. Disagree – It is not possible to list all remedies as they are specific to each case.

h. Disagree – we have addressed this earlier in the letter.

i. Disagree - "Informal resolution" is the language of the NASA agreement. In addition, the term "informal resolution" more accurately describes the examples listed in the definition (which include "coaching, counseling, supporting"), some of which are not generally equated with ADR. ADR is commonly equated with intervention by a third party neutral such as a mediator.

As I discussed with you at our meeting on January 9, 2012, we are unable to accept your recommendation of the adoption of ADR guidelines as that does not correspond with the staff agreement. We instead ensure that the procedures refer complaints about employees to the appropriate collective or academic staff agreement process. Any "guidelines" would really be an interpretation of the process under the applicable collective or staff agreement. Such guidelines are best negotiated in the context of the applicable agreement with the applicable association/union, rather than trying to create a generic or universal set of guidelines under a UAPPOL Procedure.

j. Disagree – this is a broad, overarching policy, not one that speaks only to AASUA. Additionally, there is nothing in this policy that does not suggest compliance with the Alberta Human Rights Act. We note that we will be providing a hot link directly to this Act in the “Related Links” section of this policy.

9. Disagree – for reasons noted earlier in this letter.

10. We agree that the current language makes it seem that the six principles are exhaustive when they are not, in all situations. We have made a change to delete “as summarized below” and added “the principles of natural justice include..” to keep the educational nature of this section while also allowing for the flexibility contemplated in administrative law.

I hope this provides you with complete feedback on your comments. As always, we are happy to receive any further comments you might have on these drafts before they begin the formal governance approval process. You provided us with some very good advice and we appreciate that. Thank you for your assistance and cooperation.

Finally, we appreciate the continued efforts by AASUA to work toward resolution on the proposed agreement for Cross-Jurisdictional Formal and Informal Discrimination and Harassment Complaints. We also hope that the “Common Clauses” committee will be another way of helping to move toward informal resolution.

Sincerely,



Sandra Kereliuk
Senior Administrative Officer
Office of the Vice-President (Finance & Administration)

cc: Dr. Patricia Clements, Chair, GFC 44 Working Group
Dr. Margaret-Ann Armour, Member, GFC 44 Working Group and Member, AASUA Equity Committee
Dr. Ian McLaren, President, AASUA

OUTLINE OF ISSUE

Agenda Title: **Rescission of GFC Policy Manual Section 67 – Intersession and Off-Campus Credit Programs**

Motion: THAT the GFC Executive Committee approve, under delegated authority from General Faculties Council, the rescission of Section 67 of the GFC Policy Manual – Intersession and Off-Campus Credit Programs – as submitted by the Office of the Registrar, to take effect upon final approval.

Item

Action Requested	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Recommendation <input type="checkbox"/> Discussion/Advice <input type="checkbox"/> Information
Proposed by	Office of the Registrar
Presenters	Ada Schmude, Associate Registrar and Director of Enrolment Services; Susan Main, Programs Manager, Special Sessions
Subject	GFC Policy Manual Section 67 – Intersession and Off-Campus Credit Programs

Details

Responsibility	Provost and Vice-President (Academic)
The Purpose of the Proposal is (please be specific)	To rescind Section 67 of the GFC Policy Manual (Intersession and Off-Campus Credit Programs).
The Impact of the Proposal is	<p>The rescission of Section 67 of the GFC Policy Manual (Intersession and Off-Campus Credit Programs).</p> <p>There is no significant impact. In reviewing GFC Policy Manual Section 67 for possible transition to UAPPOL, the Office of the Registrar determined the information in Section 67 to be either outdated, located somewhere else in policy, and/or too generic from which to create meaningful policy statements.</p> <p>Note that rescission of Section 67 does not preclude the possibility of developing new policy and/or procedure on Intersession at some point in the future (although there are no current plans to do so).</p>
Replaces/Revises (eg, policies, resolutions)	Section 67 of the <i>GFC Policy Manual</i>
Timeline/Implementation Date	To take effect upon approval.
Estimated Cost	N/A
Sources of Funding	N/A
Notes	N/A

Alignment/Compliance

Alignment with Guiding Documents	<i>Dare to Discover</i> Values: To provide an intellectually superior educational environment; integrity, fairness, and principles of ethical conduct built on the foundation of academic freedom, open inquiry, and the pursuit of truth.
Compliance with Legislation, Policy and/or Procedure Relevant to the Proposal (please <u>quote</u> legislation and include identifying section numbers)	<p>1. Post-Secondary Learning Act (PSLA): The <i>PSLA</i> gives GFC responsibility, subject to the approval of the Board of Governors, over “academic affairs” (26(1)).</p> <p>2. UAPPOL: The Policy Development Framework states that “[n]ewly developed or revised policy will...not overlap or contradict other policy[.]”</p>

	3. GFC Executive Committee's Terms of Reference (Mandate): "Matters which are routine in carrying out the policies approved by General Faculties Council are delegated to the Executive Committee." (3.2. Routine Matters)
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Routing (Include meeting dates)

Consultative Route (parties who have seen the proposal and in what capacity)	UAPPOL Working Group (August 9, 2011); Human Resource Services, Faculty Relations (August 18, 2011); Vice-Provosts' Meeting (VPM) (December 19, 2011); Association of Academic Staff – University of Alberta (AASUA) (January 19, 2012)
Approval Route (Governance) (including meeting dates)	GFC Executive Committee (March 5, 2012) – for final approval
Final Approver	GFC Executive Committee

Attachments (each to be numbered 1 - <>):

Attachment 1 (pages 1 – 3): Section by Section Notes on GFC Policy Manual Section 67

Prepared by: Carrie Holstead, Policy Development and Issues Advisor, Office of the Registrar,
carrie.holstead@ualberta.ca

Section by Section Notes on GFC Policy Manual Section 67

Current Text (For Rescission)	Notes
<p>Note from the University Secretariat: The <i>Post-Secondary Learning Act</i> gives General Faculties Council (GFC) responsibility, subject to the authority of the Board of Governors, over "timetables for examinations and for lectures and other instruction" (section 26(1)(d)). Section 26(1)(j) gives GFC the responsibility, subject to the authority of the Board of Governors, to "determine the date for the beginning and end of lectures in the university and also the beginning and end of each university term." GFC has thus enacted policies concerning the Intersession and Off-Campus Credit Programs, as set out below.</p> <p>The complete wording of the section(s) of the <i>Post-Secondary Learning Act</i>, as referred to above, and any other related sections, should be checked in any instance where formal jurisdiction or delegation needs to be determined</p>	<p>Restates legislation found in the <i>Post-Secondary Learning Act</i>.</p>
<p>67.1 Principles The University of Alberta endorses the following Institutional and Program Principles for Special Sessions.</p> <p><i>67.1.1 Institutional Principles</i> The University:</p> <ul style="list-style-type: none"> a. offers credit programs and courses through the Intersession and the Off-Campus Credit Program as integral parts of its academic offerings. b. recognizes the value of part-time credit study toward the fulfilment of degree requirements through the programs and courses offered in Special Sessions. c. reaffirms its commitment to the provision of off-campus educational opportunities through the Off-Campus Credit Program. d. cooperates with other post-secondary institutions to coordinate the delivery of credit programs and courses. <p><i>67.1.2 Program Principles</i> I. Intersession Note: Use of the word "programs" in this Section refers to the academic degree programs and courses offered in Special Sessions by the Faculties of the University.</p> <p>The Special Sessions Office:</p> <ul style="list-style-type: none"> a. facilitates and maintains programs designed to meet the Institutional Principles. b. facilitates and maintains programs designed to achieve the objectives of both liberal and specialized professional education. c. provides to the maximum extent possible balanced programs by offering: 	<p>Statements are very broad; suggest that they are too broad to be of notable value enshrined in a policy and are not useful as a starting point for a revised policy (67.1)...</p>

<p>i. curriculum germane to core degree programs; ii. course offerings coordinated with the Winter Session; iii. instruction at both the undergraduate and graduate level; iv. curriculum attentive to the needs of continuing professional education; v. courses not always justified by enrollment alone.</p> <p>II. Off-Campus Credit Program The Special Sessions Office:</p> <p>a. facilitates and maintains programs designed to meet the Institutional Principles.</p> <p>b. facilitates the development of off-campus transitional programs, including those cooperatively undertaken with other University departments and other post-secondary institutions.</p> <p>c. schedules individual courses based on community needs.</p>	
<p>67.2 Intersession The Intersession has the following characteristics:</p> <p>1. a six-week Spring Term commencing in early May and a six-week Summer Term commencing in early July.</p> <p>2. all courses normally will be scheduled for six weeks in Spring Term or Summer Term; in some instances, three-week courses, or courses scheduled over other periods of time as academically justified, may be preferable and these can be scheduled with the approval of the Dean of the Faculty offering the course.</p>	<p>67.2 found in UAPPOL Academic Schedule Procedure; no need to repeat.</p>
<p>67.3 Course Loads <i>67.3.1 Student</i> The student course load normally does not exceed the equivalent of six units of course weight per term; exceptions may be made at the discretion of the student's Faculty.</p> <p><i>67.3.2 Instructor</i> The instructor course load normally does not exceed the equivalent of six units of course weight per term; exceptions to this require approval of the Dean of the Faculty offering the course.</p>	<p>67.3.1 is published in each Faculty section of the Calendar.</p> <p>67.3.2 Does not belong in policy on Intersession. Consulted with HR, should be removed.</p>
<p>67.4 Examinations <i>67.4.1 Intersession Examinations</i> Final examinations normally are written in accordance with the examination schedule produced by the Special Sessions Office; exceptions to this require approval of the Special Sessions Office.</p> <p><i>67.4.2 Off-Campus Credit Program Examinations</i> Final examinations normally are held during the last regularly scheduled period of instruction for the course; exceptions to this require approval of the Special Sessions Office.</p>	<p>67.4 information is currently (and more accurately) housed in the University Calendar Section 23.5 (Examinations).</p>

67.5 Pre-Session Study

A Department may require pre-session study for a given course. (GFC 25 SEP 1989)

Also see EXAMINATIONS, Section 52.

Also see TRIMESTER, Section 115.

Managed through departments and the registration process (for example, pre-requisites). Not a policy statement.

OUTLINE OF ISSUE

Agenda Title: **Faculty of Native Studies Council Composition Amendments**

Motion: THAT the GFC Executive Committee approve, under delegated authority from General Faculties Council, a proposal to revised the composition of the Faculty of Native Studies Council, as submitted by the Faculty of Native Studies and as set forth in Attachment 1, to take effect upon final approval.

Item

Action Requested	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Recommendation <input type="checkbox"/> Discussion/Advice <input type="checkbox"/> Information
Proposed by	Faculty of Native Studies
Presenter	Interim Dean Nathalie Kermoal, Faculty of Native Studies
Subject	Faculty of Native Studies Council Membership Amendments

Details

Responsibility	Provost and Vice-President (Academic)
The Purpose of the Proposal is (please be specific)	To include a graduate student and other faculty members into the regular membership of the Faculty Council composition. To update the wording to reflect the change from a School to a Faculty.
The Impact of the Proposal is	A change in the Faculty of Native Studies Council membership and to reflect the change from a School to a Faculty.
Replaces/Revises (eg, policies, resolutions)	Adds to the current composition of the Faculty Council and to reflect the change from a School to a Faculty.
Timeline/Implementation Date	Upon final approval.
Estimated Cost	N/A
Sources of Funding	N/A
Notes	N/A

Alignment/Compliance

Alignment with Guiding Documents	<i>Dare to Discover</i> and <i>Dare to Deliver</i>
Compliance with Legislation, Policy and/or Procedure Relevant to the Proposal (please <u>quote</u> legislation and include identifying section numbers)	<p>1. General Faculties Council Section 55.1: “2. All Faculty Councils must include graduate students (the exact numbers to be determined by each Faculty Council). (GFC 28 MAY 2001)</p> <p>Note: The phrase ‘student representation (undergraduate and graduate, where appropriate)’ takes into account Faculties which have only graduate students, and Faculties which have both graduate and undergraduate students. (EXEC 17 FEB 1985)”</p> <p>2. Post-Secondary Learning Act (PSLA):</p> <p>“Faculty and School Councils</p> <p>Faculty councils</p> <p>28 (1) Each faculty of a university must have a faculty council. (2) A faculty council, [...] shall consist of [...] (e) any other persons who are appointed to the faculty council by the general faculties council on the recommendation of the faculty council.”</p> <p>3. GFC Executive Committee Terms of Reference/3. Mandate of</p>

	<p>the Committee:</p> <p>“8. Faculty Councils</p> <p>a. Appointments to Faculty Councils:</p> <p>The Executive Committee of General Faculties Council shall be authorized to make appointments to Faculty Councils on their recommendations.”</p>
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Routing (Include meeting dates)

Consultative Route (parties who have seen the proposal and in what capacity)	Faculty of Native Studies Council (May 13, 2011 and October 28, 2011)
Approval Route (Governance) (including meeting dates)	Faculty of Native Studies Council (May 13, 2011 and October 28, 2011) – for recommendation; GFC Executive Committee (March 5, 2012) – for final approval
Final Approver	GFC Executive Committee

Attachments:

- Attachment 1 (page 1): Proposed Changes to the Composition of the Faculty of Natives Studies Council

Prepared by: Lana Sinclair, Executive Assistant, Office of the Dean, Faculty of Native Studies,
lane.sinclair@ualberta.ca

55.5.18 Council of the Faculty of Native Studies

GFC authorized the Faculty to have a Council of not less than 20 members (in addition to three ex officio members). (EXEC 31 MAY 2004) (EXEC 11 SEP 2006)

Ex Officio

Dean

President

Registrar

(EXEC 08 SEP 2003)

All academic staff in Category A1.0* including those academic staff whose primary appointment falls in another Faculty but is also a member of the Faculty of Native Studies and A2.1 [Full-Time Temporary] of the Faculty of Native Studies (EXEC 11 SEP 2006)

Additional Members

Six academic staff in Category A1.0* nominated from other faculties that reflect a range of disciplines and perspectives affected by the Faculty School. (EXEC 08 SEP 2003)

Six members of the Aboriginal community at large (nominations received from aboriginal organizations). (EXEC 08 SEP 2003)

Six students, including three from the Aboriginal Student Council (ASC) and three from the Native Studies Students Association (NSSA) (nominations received from the students group).(EXEC 08 SEP 2003)

One non-academic staff member (Category B1.0) from the Faculty of Native Studies.

One member of the Native Studies Alumni Association (NSAA) selected by the NSAA Executive. (EXEC 30 AUG 1999) (EXEC 08 SEP 2003)

One sessional staff representative in Category A2.0. (EXEC 08 SEP 2003)

Faculty of Native Studies' Academic Advisor (EXEC 11 JAN 2010)

One graduate student from the Faculty of Native Studies. In the event there are no Faculty of Native Studies graduate students, the NS/Interdisciplinary graduate students will choose a representative.

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OUTLINE OF ISSUE

Agenda Title: **University Encryption Procedure (in UAPPOL)**

Motion: THAT the GFC Executive Committee recommend to General Faculties Council the proposed University Encryption Procedure (in UAPPOL), as submitted by the Office of the Provost and Vice-President (Academic) and as set forth in Attachment 1, to take effect upon final approval.

Item

Action Requested	<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Recommendation <input type="checkbox"/> Discussion/Advice <input type="checkbox"/> Information
Proposed by	Provost and Vice-President (Academic) and the Vice-Provost and Associate Vice-President (Information Technology)
Presenters	Jonathan Schaeffer, Vice-Provost and Associate Vice-President (Information Technology); Gordie Mah, Information Technology Security Officer, Office of the Provost and Vice-President (Academic); and Kathleen Brough, Portfolio Initiatives Manager, Office of the Provost and Vice-President (Academic)
Subject	Encryption Procedure

Details

Responsibility	Provost and Vice-President (Academic)
The Purpose of the Proposal is (please be specific)	This procedure provides the institutional standard for encryption of mobile devices that store the University's sensitive information.
The Impact of the Proposal is	To fill and mitigate against a current gap and exposure within the University by creating and deploying a University-wide encryption standard that is needed to fulfill our responsibility to adequately safeguard University information.
Replaces/Revises (eg, policies, resolutions)	None – this procedure will be new in scope and mandate. It has as its parent policy the Information Technology (IT) Use and Management Policy.
Timeline/Implementation Date	Upon final approval by the Board of Governors.
Estimated Cost	None.
Sources of Funding	None.
Notes	N/A

Alignment/Compliance

Alignment with Guiding Documents	University of Alberta Comprehensive Institutional Plan; University of Alberta Information Technology Plan and Vision
Compliance with Legislation, Policy and/or Procedure Relevant to the Proposal (please quote legislation and include identifying section numbers)	<p>UAPPOL, Freedom of Information and Protection of Privacy (FOIPP) Act, Health Information Act (HIA), Alberta Office of the Auditor General, and the Alberta Office of the Information and Privacy Commissioner.</p> <p>1. Post-Secondary Learning Act (PSLA): The <i>PSLA</i> gives GFC responsibility, subject to the authority of the Board of Governors, over academic affairs (Section 26(1)) and provides that GFC may make recommendations to the Board of Governors on a number of matters including the budget, academic planning, and related matters (Section 26(1)(o)).</p> <p>Furthermore, the <i>Act</i> gives GFC responsibility, subject to the Board's authority, over student affairs (Section 31), including authority concerning student discipline.</p>

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The complete wording of the section(s) of the *PSLA*, as referred to above, and any other related sections, should be checked in any instance where formal jurisdiction or delegation needs to be determined.

2. **PSLA:** The *PSLA* further states –

“General powers and duties

[Section] **60(1)** The board of a public post-secondary institution shall (a) manage and operate the public post-secondary institution in accordance with its mandate[.] [...]”

Delegation of powers

[Section] **62** A board may delegate in writing to any person any power, duty or function conferred or imposed on it by this Act, except the power to make bylaws.”

3. **GFC Executive Committee Terms of Reference/3. Mandate of the Committee:** “To act as the executive body of General Faculties Council and, in general, carry out the functions delegated to it by General Faculties Council.”

4. **GFC Executive Committee Terms of Reference/3. Mandate of the Committee:** The GFC Executive Committee may act on behalf of GFC in considering proposals it deems to be urgent or routine in nature (Sections 3.1 and 3.2).

5. **GFC Executive Committee Terms of Reference/3. Mandate of the Committee:**

“5. Agendas of General Faculties Council

GFC has delegated to the Executive Committee the authority to decide which items are placed on a GFC Agenda, and the order in which those agenda items appear on each GFC agenda.

When ordering items, the GFC Executive Committee will be mindful of any matters that are of particular concern to students during March and April so that the student leaders who bring those items forward are able to address these items at GFC before their terms end. (EXEC 06 NOV 2006)

With respect to recommendations from other bodies [ie, bodies other than the GFC Academic Planning Committee] and other GFC committees, [...] the role of the Executive Committee shall be to examine and debate the substance of reports or recommendations and to decide if an item is ready to be forwarded to the full governing body. The Executive Committee may decide to refer a proposal back to the originating body, to refer the proposal to another body or individual for study or review, or to take other action in order to ready a proposal for consideration by General Faculties Council. When the GFC Executive Committee forwards a proposal to GFC, it shall make a recommendation that GFC endorse; endorse with suggested amendments; not endorse; or forward the proposal with no comment. (GFC 30 JUN 1992)”

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	<p>6. <u>Audit Committee Terms of Reference, Sections 3 (d) (i) c. d. and f., Sections 3 (h) (i):</u></p> <p>“Except as provided in Section 4 hereof and in the Board's General Committee Terms of Reference, the Committee shall monitor, evaluate and make decisions on behalf of the Board with respect to all auditing, financial reporting and internal control functions relating to the University. Risk Management [...]</p> <p>(d) inquire of the senior administrative officers (Administration) of the University (including the University Auditor) and the external auditor about significant risks or exposures and assess the steps Administration has taken to minimize such risk to the University and more specifically;</p> <p style="padding-left: 40px;">i) Given that it is the responsibility of the Board, in consultation with management, to identify the principal risks facing the University, determine the University's tolerance for risk and approve risk management policies, the Committee shall focus on financial risk and gain reasonable assurance that financial risk is being effectively managed or controlled by: [...]</p> <p style="padding-left: 80px;">c. reviewing with Administration the University's policies and any proposed changes thereto for managing those significant financial risks;</p> <p style="padding-left: 80px;">d. reviewing with Administration its plans, processes and programs to manage and control such risks; [...]</p> <p style="padding-left: 80px;">f. considering whether the University has adequate disaster recovery and business continuity plans and processes in place. [...]</p> <p>(h) consider and review with the external auditor and the University Auditor: [...]</p> <p style="padding-left: 40px;">(i) the adequacy of the University's controls including computerized information system controls and security[.][...]</p> <p><u>Section 4 (d)</u></p> <p>The general delegation of authority by the Board to the Committee shall be limited as set out in this paragraph. Notwithstanding the general delegation of authority to the Committee as set out in Section 3, the Committee shall bring to the Board for final approval or information: [...]</p> <p>(d) the review and approval of decisions with respect to information from the Auditor General or the University Auditor on controls or related matters the Chair of the Committee or the Committee may consider prudent or necessary[.][...]</p>
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Routing (Include meeting dates)

Consultative Route (parties who have seen the proposal and in what capacity)	Faculty of Science; Faculty of Medicine and Dentistry; Association of Academic Staff – University of Alberta (AASUA); Vice-Provosts' Meetings (VPM); Strategic Initiatives Group (SIG); and Executive Planning Committee (EPC)
Approval Route (Governance) (including meeting dates)	GFC Executive Committee (March 5, 2012) – for recommendation; General Faculties Council (March 19, 2012) – for recommendation;

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	Board Audit Committee (April 23, 2012) – for recommendation; Board of Governors (May 11, 2012) – for final approval
Final Approver	Board of Governors

Attachments (each to be numbered 1 - <>):

1. Attachment 1 (pages 1 – 3): Proposed Encryption Procedure (For Approval)
2. Attachment 2 (pages 1 – 3): Encryption Misconceptions Realities (For Information)
3. Attachment 3 (page 1): Encryption 101 (For Information)

Prepared by: Gordie Mah, Information Technology Security Officer, Office of the Provost and Vice-President (Academic); gordie@ualberta.ca

Note: This is the final version of this document for approval. This is not a draft.

DRAFT

DEVELOPMENT LEAD: Gordie Mah

VERSION #3 DRAFT DATE: 2012/02/16

PARENT POLICY: Information Technology Security Policy

NOTE: This header will be removed for UAPPOL publication

Go to:	[Purpose]	[PROCEDURE]	[DEFINITIONS]	[FORMS]	[RELATED LINKS]
This procedure is governed by its parent policy. Questions regarding this procedure should be addressed to the Office of Administrative Responsibility.					

Encryption Procedure

Office of Administrative Responsibility:	Vice-Provost and Associate Vice-President (Information Technology)
Approver:	Provost and Vice-President (Academic) Vice-President (Finance and Administration)
Scope:	Compliance with University procedure extends to all members of the University community.

Overview

University **sensitive information** stored on a **mobile computing device** is at risk for unauthorized access and disclosure if appropriate security measures are not implemented to protect the device against loss or theft.

The best way to protect University sensitive information is to not store it on a mobile computing device; however, it is recognized that storage of University sensitive information on a mobile computing device may be necessary in certain situations. In these cases, **encryption** provides protection against unauthorized access and disclosure.

Encryption must be used in concert with other security measures to maximize protection of **information technology resources** and of University sensitive information. The Office of the Vice-Provost and Associate Vice-President (Information Technology) has provided a Mobile Computing Security website that contains further information about other security measures.

Purpose

The purpose of this procedure is to describe requirements for encryption of a mobile computing device in order to minimize the risk of unauthorized access and disclosure of University sensitive information.

PROCEDURE

RESPONSIBILITIES

Members of the University community are responsible for protecting University sensitive information, whether accessed from University-owned information technology resources or from personal, external or other resources.

All University mobile computing devices must be encrypted and protected in accordance with standards developed by the Office of the Vice-Provost and Associate Vice-President (Information Technology). These standards can be found on the Mobile Computing Security Website.

Any personal, external or non-University computing device (mobile, desktop or other) that is used to store University sensitive information must be encrypted and protected in accordance with standards developed by the Office of the Vice-Provost and Associate Vice-President (Information Technology). These standards can be found on the Mobile Computing Security Website.

DEVELOPMENT LEAD: Gordie Mah

VERSION #3 DRAFT DATE: 2012/02/16

PARENT POLICY: Information Technology Security Policy

NOTE: This header will be removed for UAPPOL publication

Academic Information and Communication Technologies (AICT) and local **system administrators** will provide assistance to members of the University community to ensure that a mobile computing device is encrypted according to the standards developed by the Office of the Vice-Provost and Associate Vice-President (Information Technology). These standards can be found on the Mobile Computing Security Website.

ADDITIONAL REQUIREMENTS

1. Mobile computing devices must run a current, fully patched and modern operating system at all times.
2. Mobile computing devices must be configured to ask for a password after any period of inactivity, including after resuming from suspend/standby/sleep/hibernate status and on start-up of the device.

Please see the University's Mobile Computing Security website for information on other recommended controls for safeguarding against the risks from mobile computing.

NON-COMPLIANCE

Non-compliance with this procedure constitutes misconduct and may be handled under the applicable collective agreements, University policy or law.

DEFINITIONS

Any definitions listed in the following table apply to this document only with no implied or intended institution-wide use. [[▲Top](#)]

Sensitive Information	<p>Definition of "sensitive" or "confidential" information (from the University of Alberta Information Access and Privacy Office):</p> <p>Sensitive or confidential information refers to all information that has been collected or compiled in the conduct of operating the programs and services of the University and may include, but is not limited to:</p> <ul style="list-style-type: none"> • Personal information about an individual as defined in the Alberta Freedom of Information and Protection of Privacy Act; • Health information as defined in the Alberta Health Information Act; • Confidential business information of third parties; • Confidential information collected or compiled in the process of hiring or evaluating employees of the University; • Information collected or compiled in the process of law enforcement investigations; • Advice, proposals or recommendations, consultations or deliberations of the governing and administrative authorities of the University; • Information, the disclosure of which would harm the economic interests of the University; • Any information to which legal privilege including client-solicitor privilege may apply.
Mobile Computing Device	<p>A mobile computing device refers to a portable self-contained electronic device that has data processing, transmitting and/or storage capabilities. Mobile computing devices include, but are not limited to, personal digital assistants, palm tops, smart phones, hand-held/laptop computers, portable external hard drives, tablets and memory sticks.</p>

DEVELOPMENT LEAD: Gordie Mah

VERSION #3 DRAFT DATE: 2012/02/16

PARENT POLICY: Information Technology Security Policy

NOTE: This header will be removed for UAPPOL publication

<p>Encryption</p>	<p>Encryption is a method of protecting data by converting it to a format that is unreadable. Only those authorized can make a particular set of encrypted data readable again through decryption. Encryption is used to protect and uphold data confidentiality and integrity.</p>
<p>Information Technology Resources</p>	<p>Information technology resources refer to all hardware, software, and supporting infrastructure owned by, or under the Custodianship of, the University that is used to create, retrieve, manipulate, transfer and/or store electronic information. This includes (but is not limited to), central and non-centrally supported computers, file systems attached to these computers, operating systems running on these computers, software packages supported by these operating systems, wired and wireless networks, telecommunication and hand-held devices, data stored on or in transit on the above, as well as electronic identities used to identify and authenticate the users of the aforementioned resources.</p>
<p>Members of the University Community</p>	<p>University staff, faculty, students and other holders of a valid CCID.</p>
<p>System Administrator</p>	<p>System administrator refers to the person or persons responsible for configuring, installing, maintaining, and supporting information technology resources for a faculty, department, or unit. A system administrator of an information technology resource may also be a user of that resource.</p>

FORMS

There are no forms for this procedure. [\[▲Top\]](#)

RELATED LINKS

Should a link fail, please contact uappol@ualberta.ca. [\[▲Top\]](#)

[Code of Student Behaviour](#) (University of Alberta)

[Information Technology Use and Management Policy](#) (UAPPOL)

[Access to Information and Protection of Privacy Policy](#) (UAPPOL)

[Mobile Computing Security](#) (University of Alberta)

From the University Blog, Colloquy @UAlberta:

<http://www.ualbertablog.ca/2012/01/encryption-myths-and-realities.html>

WEDNESDAY, JANUARY 18, 2012

Encryption myths and realities

University of Alberta faculty, staff, and post-docs are required to encrypt their mobile devices used for university business. This mandate allows us to be compliant with Government of Alberta directives from the Auditor General and the Privacy Commissioner. Phase one—encryption of laptops—has begun. Later phases include encryption of data on phones, tablet computers, and memory sticks.

Many people think that their laptops are secure because they are password protected. Unfortunately, if your laptop gets stolen, a password is not an impediment for someone who wants to read your data. You must go one step further – encrypt the data. Encryption is a one-time activity, is easy to do, and does not harm the performance of your computer. If a thief tries to read your encrypted data, all s/he will see is garbled information.

Since many members of the University of Alberta community do not use encryption, there may be some misperception and apprehension about using this technology. Gordie Mah, the university's Information Technology Security Officer, has prepared a set of common misconceptions and realities about encryption. Hopefully reading the following text will answer many of the questions being asked.

Common misconceptions about the university's Laptop Encryption Initiative

Misconception:

Encryption slows down laptops and impairs computing performance and processing.

Reality:

After the initial process of encrypting the laptop hard drive is complete, the impact to your laptop performance is negligible with no noticeable impairment.

Misconception:

Enabling and configuring encryption is complex and requires significant resources, time, costs, and effort.

Reality:

As the university recommends the encryption tools already built-in and included with your laptop's operating system (for Windows and Mac), the configuration steps are straightforward. The encryption tools are free. In most cases the unit's IT support will enable the encryption. The actual steps do not require much time, and you can still work on your laptop while the initial encryption of your hard drive is processing.

Misconception:

Encryption requires extra actions and more time to log on/off and use the laptop.

Reality:

Encryption on your laptop is transparent to you. You log on to the laptop using a login ID, just as you did before. You will not experience any changes in using your laptop.

Misconception:

Laptop loss and theft does not occur on campus and this is unlikely to happen to me.

Reality:

The university has several lost and stolen laptops every year and global research reveals that there's a one in ten chance you will lose or have your laptop stolen this year.

Misconception:

I am not bound by any legislation requiring me to adequately safeguard information on my laptop.

Reality:

The Alberta Office of the Information and Privacy Commissioner, Office of the Auditor General, and information management legislation such as FOIP, do require information custodians to adequately protect personally identifying information. The privacy commissioner and auditor general specifically mandate laptop encryption for custodians of personal and sensitive information.

Misconception:

The university hastily conceived the laptop encryption initiative and mandate and does not consider the needs of faculty and staff.

Reality:

The laptop initiative took more than a year and a half to design in order to ensure the solution meets legislative, best practice, privacy/security, and business needs. The project team consulted other universities, conducted thorough testing, conferred with legislative bodies, worked with university stakeholders, and sought a transparent solution.

Misconception:

Laptop encryption is all I need to adequately safeguard university information

Reality:

Encryption is only one among a number of other controls and best practices that together can adequately safeguard university information.

Misconception:

I do not have to log in to my encrypted laptop when requested to by customs agents or law enforcement.

Reality:

Cooperating with and logging in for customs agents and law enforcement is highly recommended. These agents can detain you and your laptop and escalate their directive for failure to comply in this case.

For more information, please visit the [Mobile Device Security website](#) and read the [Mobile Device Security Best Practices document](#).

Thank you,
Jonathan Schaeffer
Vice-Provost and AVP Information Technology

Mobile Computing Security Website:
<http://www.vpit.ualberta.ca/encryption/>

Mobile Device Security Best Practices:
<http://www.vpit.ualberta.ca/encryption/docs/Mobile-Device-Security-Best-Practices-Dec-15-2011.pdf>

Encryption 101



Password protection is necessary, but on its own does not adequately safeguard data on your laptop. Think of password protection as a lock on your front door. Attackers can break a window or enter your house through other means. The "information" inside your house is still readable.



Data stored/saved on your laptop without encryption is readable to anyone who gains physical access to your laptop (even if it is password protected).



Laptop encryption renders your data unreadable, while your machine is powered off, and prevents unauthorized disclosure – even to someone who gains physical access to your laptop.

OUTLINE OF ISSUE

Agenda Title: **Appointment of Professor Elisabeth Le as Vice-Chair of the GFC Facilities Development Committee (FDC)**

Motion: THAT the GFC Executive Committee appoint, under delegated authority from General Faculties Council, Professor Elisabeth Le to the position of Vice-Chair of the GFC Facilities Development Committee (FDC) for a term beginning immediately (upon approval) and ending June 30, 2013.

Item

Action Requested	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Recommendation <input type="checkbox"/> Discussion/Advice <input type="checkbox"/> Information
Proposed by	Colleen Skidmore, Chair, GFC Facilities Development Committee (FDC), and Vice-Provost and Associate Vice-President (Academic)
Presenter	Colleen Skidmore, Chair, GFC Facilities Development Committee (FDC), and Vice-Provost and Associate Vice-President (Academic)
Subject	Appointment of the Vice-Chair of the GFC Facilities Development Committee (FDC)

Details

Responsibility	Provost and Vice-President (Academic)
The Purpose of the Proposal is (please be specific)	To appoint the Vice-Chair of GFC FDC.
The Impact of the Proposal is	See 'Purpose'.
Replaces/Revises (eg, policies, resolutions)	N/A
Timeline/Implementation Date	Immediately (upon final approval).
Estimated Cost	N/A
Sources of Funding	N/A
Notes	<p>Professor Elisabeth Le (Faculty of Arts) has served as a GFC-elected faculty member on GFC FDC since July 1, 2010, with her current term concluding on June 30, 2013; and has agreed to serve as Vice-Chair (if appointed) until the end of her term on this committee.</p> <p>Professor Le has a successful history of service on University legislative bodies, having served, as well, as an elected faculty member (July 1, 2005 through June 30, 2011) and as Chair (July 1, 2010 through June 30, 2011).on the GFC University Teaching Awards Committee (UTAC).</p> <p>If appointed as Vice-Chair of GFC FDC, Professor Le will bring strong continuity and effective leadership experience to the committee; and lead effectively, when called upon, in the role of Acting Chair.</p>

Alignment/Compliance

Alignment with Guiding Documents	<i>Dare to Discover</i> – Transformative Organization and Support: “7. Promote administrative effectiveness and good governance by improving communication among units, enhancing collaboration, implementing transformative ideas, and revising organizational structures.”
Compliance with Legislation, Policy and/or Procedure Relevant to the Proposal	1. Post-Secondary Learning Act (PSLA): The PSLA gives GFC responsibility, subject to the authority of the Board of Governors, over academic affairs (Section 26(1)).

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(please quote legislation and include identifying section numbers)	2. GFC Facilities Development Committee Terms of Reference/Section 2. (Composition of the Committee): “[Note Regarding the Vice-Chair] – The Vice-Chair will be appointed by the GFC Executive Committee from among the faculty members on FDC.”
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Routing (Include meeting dates)

Consultative Route (parties who have seen the proposal and in what capacity)	University Governance; GFC Facilities and Development Committee (November 24, 2011)
Approval Route (Governance) (including meeting dates)	GFC Executive Committee (March 5, 2012) – for final approval
Final Approver	GFC Executive Committee

Attachments (none)

Prepared by: Ann Hodgson, Committee Coordinator to GFC Facilities Development Committee,
ann.hodgson@ualberta.ca