



Policy Title:

## Workplace Accommodation Policy

University Classification & Policy Number:

A-001

Approval Body:

University Administration

Responsible Designate:

The Associate Vice-President, Human Resources is responsible for the development, administration, and review of this Policy.

Established:

02/1/2016

Revised:

04/13/2021

Editorial Revisions:

Not applicable

Scheduled Review:

2021

### 1.0 Policy Purpose

The University of Winnipeg is committed to creating and maintaining an inclusive and non-discriminatory workplace and learning environment for employees, potential employees and volunteers.

An inclusive workplace and learning environment for employees presumes an environment where differences are accepted, recognized and integrated into current structures, planning and decision making. An inclusive environment values diversity and difference and is based on mutual respect, dignity for all, and full and equitable opportunity and participation in working and learning at the University.

### 2.0 Definitions

The following definitions apply to terms as they are used in this Policy:

**2.01 Duty to Accommodate:** an employer's obligation to modify and adapt working conditions to meet the special needs of an individual or group that are based on a Protected Characteristic under the Respectful Working and Learning Environment Policy and The Human Rights Code (Manitoba).

**2.02 Protected Characteristics:** the following characteristics protected under The Human Rights Code (Manitoba): ancestry, including colour and perceived race; nationality or national origin; ethnic background or origin; religion or creed or religious belief, religious association or activity; age; sex, including pregnancy; gender identity; sexual orientation; marital and family status; source of income; political belief; physical or mental disability; or social disadvantage.

**2.03 Reasonable Accommodation:** the process of introducing measures that will address needs based on one or more of the Protected Characteristics of the individual or the group and that do not cause Undue Hardship for the University.

**2.04 Supervisor:** a person who has charge of a workplace or authority over a worker. In the case of the university this would include but not be limited to: Department Chair, Director, Manager or

supervisor responsible and which includes faculty in charge of classroom or laboratory settings, or in a situation in which they have employees in any capacity reporting to them.

**2.05 Undue Hardship:** the limit of an employer's obligation to accommodate a special need and will occur when the actions required to accommodate that need would be undue or unreasonable in the circumstances.

### 3.0 Scope

**3.01** This policy and the related procedures apply to all potential and current employees and volunteers.

### 4.0 Policy Elements

#### 4.01 Principles of the Policy

**4.01.01** The accommodation process will respect the dignity and the privacy of the person seeking accommodation and so, to the extent possible, will seek to avoid drawing undue attention to the identified need.

**4.01.02** Substantial and meaningful measures to implement Reasonable Accommodation solutions will be tailored to individual or group Protected Characteristics.

**4.01.03** In the accommodation process, each situation will be considered using objective data.

**4.02 Procedures:** Accommodation is a multi-party process in which each party has a responsibility to cooperate. As such all members of the university community have a role to play in creating and maintaining an inclusive and non-discriminatory workplace and learning environment.

**4.02.01 Responsibilities of the Employer:** To satisfy its obligations in an accommodation process, the employer shall:

- engage in an adequate process and take sufficient measures to accommodate to the point of undue hardship;
- be proactive by building accommodation options into new structures and systems;
- inform employees who are in supervisory and recruitment roles of their responsibilities to engage in employment accommodations;
- provide training to employees in supervisory and recruitment roles as soon as is reasonably practicable after they assume those duties and following any changes to the employer's measures, policies, and practices concerning accessible employment. The training will cover best practices in accommodation including how to interact with, and make employment accessible to, persons disabled by barriers, including those who use an assistive device or require the assistance of a support person or service animal; The Human Rights Code (Manitoba) and The Accessibility for Manitobans Act and Employment Standard regulation; and
- encourage employees to utilize Human Resources and the Human Rights and Diversity Office for advice and guidance.

When a request is made for accommodation, the request shall be taken seriously and considered in a timely and respectful manner.

Where the information provided by the employee is not sufficient to determine an Reasonable Accommodation, the University may, at its discretion and at its own cost, obtain additional information from a regulated health professional or other practitioner in the area of disability-related workplace accommodations to assess the

employee's specific workplace restrictions or modification requirements, including information regarding how long the accommodation may be necessary, where it determines this to be relevant to the assessment.

**4.02.02 Disclosing and Initiating an Individual Accommodation:** Employees are not required to disclose or discuss their disability unless they require accommodation. Generally, employees are only obligated to discuss their requirements with those that need to know. This could include a supervisor, a union representative or a Human Resources Consultant.

However, where based on an employee's behaviour or performance, an employer has reason to question whether the employee may have addiction or mental health conditions that are impacting performance, the employer has a duty to inquire and may be required to take steps to offer the employee Reasonable Accommodation.

More specifically, the employer shall:

- Determine if the request for accommodation is based on a protected characteristic.
- Review supporting medical or other information and determine if clarification or further support for request is necessary.
- Listen to and consider the needs of the employee seeking accommodation and their suggestions for accommodation.
- Document the request for accommodation and the process of assessing the request and communications with employee.
- Obtain consent from the employee to request further relevant medical or other information if required.
- Determine to what extent the employee can perform existing job duties and identify essential duties that fall within employee's restrictions.
- Consider modifications to existing job duties including "re-bundling" duties, or other positions.
- Share information that is being considered with the employee to seek their input, keeping the employee reasonably updated as to the accommodation process.
- Allow the employee to obtain the assistance of a union representative or a person knowledgeable in the area of disability-related workplace accommodations.
- Ensure that both the employee and possible accommodations are assessed on an individual basis.
- Communicate in writing the details of the individualized accommodation plan including any accessible formats and communication supports to be used in providing information to the employee, any workplace emergency response information, any other Reasonable Accommodation measures required, the timing for providing the accommodation, and the arrangement for follow-up.
- Monitor the individualized accommodation plan.
- Review and update (if required) an employee's individualized accommodation plan when:
  - the employee has their annual performance review;
  - the employee's workspace is modified or relocated;
  - the employee's responsibilities have changed;
  - the employer is aware there are any other changes that impact the accommodation required;
  - the employee has requested a review; or
  - the accommodation plan (or parts of it) is no longer needed.
- Provide a copy of the individualized accommodation plan to the employee in an accessible format upon request.

- Ensure the employee's personal information and personal health information is appropriately protected at all times including by keeping the information in a locked cabinet and/or in a secure online location, only sharing information on an as-needed basis or with the permission of the employee, and complying with the University's Privacy Policy and associated legislation.
- If the request for accommodation is denied, provide written reasons for denying the request.

The employer may deny an employee's request for an individualized accommodation plan in the following circumstances:

- The employee is able to carry out most of their duties without an accommodation;
- An independent regulated health professional(s) does not support the employee's self-assessed requirement of a workplace accommodation; or
- The employer's research shows that the accommodation request would cause Undue Hardship (e.g., by creating safety risks to other employees or an unsustainable financial burden).

**4.02.03 Responsibilities of the Employee:** Those seeking an individual accommodation have roles and responsibilities to play in the process:

- Employees should advise their employer of their need for an accommodation in a timely manner. In the event that an accommodation is required for a disability, including when the employee returns to work after a disability-related absence, the affected employee shall contact Human Resources directly.
- The request for accommodation must be based on evidence from a medical or other professional explaining the impact of a disability or other protected characteristic on the employee's ability to perform his/her regular duties.
- Make suggestions for solutions (such as: a specific adaptive software or hardware device)
- Co-operate with the employer by providing relevant information including medical or other workplace accommodation reports required to assist in the assessment of the accommodation request, participating in an evaluation if requested by the employer to determine what Reasonable Accommodation is required, and assist in providing reasonable suggestions as to measures that would meet the accommodation needs.
- Comply with and perform their work in accordance with the accommodation plan and provide feedback to the employer as to how the plan is being fulfilled.
- Employees seeking accommodation are required to participate and cooperate in accommodation efforts on an ongoing basis including communicating with the employer if modifications to the accommodation plan are required or if accommodation is no longer required.
- Employees must be prepared to accept reasonable solutions.

**4.02.04 Responsibilities of Unions:** In keeping with the multi-party nature of the accommodation process, unions representing University of Winnipeg employees have an obligation to cooperate with and assist in accommodating the specific needs of their members. When seeking an accommodation, members may or may not choose to involve their unions.

**4.02.05 Appeal Process:** An employee who is dissatisfied with a decision made by the University in response to an accommodation request may have rights to contest the

decision by grievance procedures set out in an applicable collective agreement or, where there is no such agreement, by filing a complaint with the Senior Administrator responsible for the department or other administrative unit where they are employed, e.g. Vice-President, Associate Vice-President. Additionally, complaint procedures are provided for under the Respectful Working and Learning Environment Policy and The Human Rights Code (Manitoba).

**4.03 Review:** This policy shall be reviewed in conjunction with the Procedures review at least once every five years.

## **5.0 Relevant Legislation**

- The Accessibility for Manitobans Act
- Human Rights Code (Manitoba)

## **6.0 Related Policies, Procedures and Institutional Documents**

- Accessibility Policy
- Privacy Policy
- Respectful Working and Learning Environment Policy