

## Student Accommodation Policy

### Frequently Asked Questions for Instructors, Deans, Associate Deans and Department Heads

#### 1. Question: *Why do we have a Student Accommodation Policy?*

*Answer: The University has implemented a Student Accommodation Policy to ensure that the University community is aware of the legal requirement to accommodate students under the Alberta Human Rights Act and to communicate to the University community the process by which the University evaluates requests for accommodation and implements the approved accommodation plan.*

*The Student Accommodation Policy can be found [here](#).*

#### 2. Question: *Why is the University of Calgary obligated to accommodate students?*

*Answer: Like all other postsecondary institutions, the University of Calgary's operations in Alberta are under the jurisdiction of the provincial human rights law. The Alberta Human Rights Act provides that people are entitled to be free from discrimination on a number of protected grounds, which includes the right to have those grounds accommodated by employers and providers of public services (such as universities). The obligation to accommodate is mandatory and not discretionary. The University has a duty to accommodate up to the point of undue hardship.*

#### 3. Question: *When students sign up for a course they know what the expectations are from the beginning. Why are we obliged to give special consideration to them after the fact?*

*Answer: Because that is what the law requires. Human rights legislation is quasi-constitutional which means that other laws and rules are subordinate to it. So if a student signs up for a course and knows prior to registering that the course has an exam scheduled on a holy day, the student is still entitled to register for the course and the University is obligated to accommodate the absence.*

**4. Question: In what circumstances is the University required to accommodate students?**

*Answer: The duty to accommodate is triggered by notice. If a student notifies a University representative (any university employee, instructor, faculty member, etc.) of a request for accommodation and that request is based on a protected ground, the University must explore potential accommodation options and, in most cases, will be required to provide an accommodation.*

*The duty to accommodate applies to ALL services offered by the University including courses, labs, field trips, parking, access to space, athletic services, library services, housing and other any other service generally available to students.*

**5. Question: What are the protected grounds (when are we required to accommodate)?**

*Answer: The applicable protected grounds differ between employers and service providers. With respect to our students, the University is considered a service provider (we provide education, housing, food, parking and other services). The applicable protected grounds are: race, colour, ancestry, place of origin, religious beliefs, gender (including pregnancy and gender identity), physical disability, mental disability, marital status, family status, source of income, and sexual orientation.*

**6. Question: What types of accommodation requests are we likely to see?**

*Answer: While there are a number of protected grounds applicable to service providers, the vast majority of accommodation requests at postsecondary institutions are based on the grounds of disability and religion. Most of these requests will relate to course work or class schedules although the duty to accommodate applies to ALL services offered by the University (including parking, access to space, athletic services, library services, housing and other services).*

**7. Question: What happens if the accommodation requested conflicts with other University rules or policies or with other law?**

*Answer: Human rights law has quasi-constitutional status and will trump most other laws, rules and policies. Accommodations may require an exception to or modification of University rules or policies. The existence of a conflicting law, rule or policy is not a reason to deny an accommodation. An accommodation request may only be denied if the University would suffer undue hardship by implementing the proposed accommodation.*

**8. Question: What happens if the requested accommodation conflicts with another protected ground?**

**Answer: There may be instances where a request for accommodation involves two competing or conflicting grounds (for example religion and gender or sexual orientation). The Alberta Human Rights Act does not prioritize any one ground over another. These situations require a more complicated legal analysis and should be forwarded to Legal Services for advice prior to any response.**

**9. Question: What is meant by “undue hardship”?**

**Answer: The University is obligated to provide reasonable accommodation to the point of “undue hardship”. Undue hardship is a difficult legal standard to meet and some level of hardship is expected. Undue hardship may be met if the University can show that the requested accommodation cannot be met due to financial cost, safety concerns, bona fide educational requirements or substantial interference with the right of other students.**

**The Alberta Human Rights Commission has provided the following guidance with respect to undue hardship:**

**Factors that may amount to undue hardship for a post-secondary institution include:**

**Financial cost that hurts the viability of the service, program or institution**

To be considered an undue hardship, the financial cost of an accommodation must amount to a substantial part of the institution's overall budget. The larger the institution, the less likely it is that the financial cost of accommodation will amount to undue hardship. The financial cost of individual accommodation rarely reaches the point of undue hardship.

**Students cannot meet the requirements for entering or completing a course or program**

The institution will have to demonstrate that the requirements and standards are necessary for entering or completing a course or program and therefore accommodating a student would cause an undue hardship.

**Significant interference with the rights of other students**

The institution will have to demonstrate that the accommodation would result in essential elements of a service or a program not being offered to other students as a result of accommodating an individual or group of students.

**Health and safety concerns for the student being accommodated or for other students or service providers**

The institution will not only have to reliably identify and measure the risks to health and safety, but also determine who bears the risk. Risk that is limited to the person being accommodated often does not amount to an undue hardship, whereas risk to other persons may. Safety and health risks that contravene legally required occupational health and safety and workers' compensation requirements may be considered an undue hardship.

**In most cases there will be a reasonable accommodation available. If you think that a proposed accommodation presents an undue hardship you should raise the issue through**

*the appeal process established in the policy and procedure. The determination of whether the University has met its duty to accommodate to the point of undue hardship should ultimately be reviewed and decided by Legal Services.*

**10. Question: If I receive a request for accommodation and I am unsure of whether an accommodation is appropriate, what should I do?**

*Answer: Accommodation is a legal obligation and the University may be subject to significant penalties for failing to meet this obligation. Should you receive a request that you are unsure how to handle you should seek guidance prior to responding.*

*Accommodation questions may be raised with the relevant dean or department head, the Vice-Provost (Student Experience), Student Accessibility Services (where the request relates to disability) or Legal Services.*

**11. Question: What if I do not personally agree with the accommodation?**

*Answer: The University has a legal obligation to provide reasonable accommodation. This duty is not discretionary and the University's response may not coincide with what you personally feel is reasonable or appropriate. Human Rights Tribunals have been clear on what they consider to be a reasonable accommodation and the University is obligated to comply with the law. While an employee may personally disagree or feel differently, decisions regarding accommodation are those of the University.*

## Accommodation of Disability

**12. Question: What is covered by "disability"?**

*Answer: The Alberta Human Rights Commission defines disability as follows:*

*Physical disability - any degree of physical disability, deformity, malformation or disfigurement that is caused by injury, birth defect or illness. This includes, but is not limited to, epilepsy; paralysis; amputation; lack of physical coordination; visual, hearing and speech impediments; and physical reliance on a guide dog, wheelchair or other remedial appliance or device.*

*Mental disability - any mental disorder, developmental disorder or learning disorder regardless of the cause or duration of the disorder.*

*Disability includes medical conditions that may impact a student's ability to access university services but would not include minor or transitory illnesses such as the common cold or flu. For purposes of accommodation, pregnancy and the complications of pregnancy are covered by "disability".*

*The Alberta Human Rights Commission has provided further information on the Duty to Accommodate Students with Disabilities which can be found [here](#).*

**13. Question: What should I do if a student hands documentation of a disability directly to me?**

**Answer:** As an instructor, you are required to respond to requests from students who provide you with a medical note indicating that there is a medical reason for missing class or failing to meet some course requirement (i.e. missed exam, late assignment). If a student's situation goes beyond transitory or common illness you should refer the student to SAS as they have the expertise to evaluate medical documentation and the authority to request further documentation that specifically identifies the student's disability and any related restrictions.

**14. Question: Who is responsible for evaluating disability accommodation requests?**

**Answer:** Student Accessibility Services (SAS) is the University office responsible for handling all student accommodation requests relating to disability. This office will receive and coordinate student medical information relating to accommodation and will evaluate and determine the appropriate accommodations. The accommodation will be communicated to instructors or departments via a Letter of Accommodation.

*The Procedure for Accommodations for Students with Disabilities can be found [here](#).*

**15. Question: Is a student required to prove they have a disability before they receive an accommodation?**

**Answer:** Students have a duty to provide documentation of their disability and any related restrictions from a medical practitioner. SAS collects and evaluates this medical information. SAS has specialists on staff who assess the medical information and determine the appropriate accommodations. Due to privacy concerns, only SAS should receive confidential medical information relating to accommodation requests.

**16. Question: How would an instructor know if an accommodation provides adequate assistance versus creating an unfair advantage?**

**Answer:** The goal of accommodating those with a disability is to level the playing field in light of the disability and not to create an unfair advantage. A student should still be able to meet the core requirements of a course. Typically an accommodation may alter the format or method of demonstrating that they meet the requirements but should not lessen the requirement or standard. A student will need to show that they can meet the fundamental requirements of a course with the accommodation in place. The accommodation should not give the student a lower academic standard or lessen their obligation to show that they have learned the material.

**17. Question: What should I do if an accommodation recommended by SAS will not work for my particular course?**

**Answer: You should contact SAS to discuss your concerns. There may be alternate ways to accommodate the student.**

**18. Question: Do I have to provide disability related accommodations for students who request them but do not have a Letter of Accommodation from SAS?**

**Answer: You should direct the student to register with SAS. Students who are requesting an accommodation have a duty to provide medical documentation to support their request. SAS is the office authorized to collect and evaluate student medical information relating to accommodation requests.**

**19. Question: Should I extend deadlines or grade students with disabilities differently?**

**Answer: No, not unless extensions or modifications to grading requirements have been included in the Letter of Accommodation. Students with disabilities are expected to meet the same standards as other students and should not be graded differently.**

**20. Question: Are faculty and instructors required to verify or approve the accommodations recommended by SAS?**

**Answer: No. The responsibility for determining what accommodations the student is legally entitled to reside with SAS as the institution's designated authority on issues of student disability and access. While the Letter of Accommodation asks for the instructor's signature, this is used simply to confirm that the instructor has been made aware of the specific accommodations the student is entitled to. Faculty and instructors, as agents of the University, have the legal responsibility to provide the required accommodations once informed of them through the Letter of Accommodation.**

**In the rare instances where an accommodation violates an integral element of the course or where the accommodation otherwise creates an undue hardship, the faculty member or instructor should contact SAS to discuss the issue further. If after discussing the matter with SAS, you feel that the accommodation restricts the student's ability to meet a fundamental course requirement you may appeal the Letter of Accommodation (see paragraphs 4.16-4.20 of the Procedure for Accommodation for Students with Disabilities found [here](#)). Except in rare cases, the accommodation will remain in place while the issue is being adjudicated.**

**21. Question: What should I do if a student approaches me about an accommodation that was not included in the student's Letter of Accommodation from SAS?**

**Answer: Faculty and Instructors should refer students to SAS to evaluate the student's new request. SAS will review the new request along with their disability information to determine if the student is entitled to the requested accommodation.**

**22. Question: I have concerns about the audio recording of my classes as an accommodation. Do I have to allow this?**

**Answer: Audio recording of course lectures/discussions/presentations is a common accommodation in postsecondary settings. All students who are authorized to record classes as an accommodation sign an agreement which limits the use of these recordings. A copy of the signed agreement will be kept on file with SAS. The recordings are for the student's temporary personal academic use and may not be shared or distributed in any manner.**

**The recording of classes has been a concern for some instructors. There have been a number of objections raised including:**

- **Class content is the instructor's intellectual property and they do not have to share it.**
  - **Human Rights Tribunals have ruled on this issue and have held that the need for accommodation trumps any copyright or other intellectual property rights due to the quasi-constitutional status of human rights obligations.**
- **The nature of the discussion is very personal and the privacy of other students is a concern.**
  - **The University's Privacy Office has reviewed this question and has found that student's do not have a right to privacy in this circumstance.**
- **The use of recording will hinder free discussion.**
  - **If there are portions of a class where an Instructor would typically stop all students from making notes, this stipulation may be applied to students with a disability and recording of these portions of a class may be disallowed. If other students are free to take notes, student's with recording as an accommodation must be allowed.**

**If you believe that there are specific reasons unique to your course and not covered above, you are encouraged to raise these issues with SAS directly so the issue can be considered. Except in rare cases, the accommodation will remain in place while the issue is being adjudicated.**

**23. Question: What can I do if I disagree with an accommodation contained in a Letter of Accommodation from SAS?**

**Answer: You should first contact SAS to discuss your concerns. There may be alternative accommodations available. If you feel that the accommodation restricts the student's ability to meet a fundamental course requirement you may appeal the Letter of Accommodation (see paragraphs 4.16-4.20 of the Procedure for Accommodation for**

*Students with Disabilities found [here](#)). Except in rare cases, the accommodation will remain in place while the issue is being adjudicated.*

## Accommodation of Religion

### **24. Question: What is religious accommodation?**

*Answer: Under the Alberta Human Rights Act, individuals are entitled to be free from discrimination on a number of grounds which include religion. This entitlement includes the right to have one's religious practices accommodated by employers and service providers (such as universities). Religious accommodation is the right to have time away from study to practice the tenets of one's religion. Student requests for rescheduling or time off for religious accommodation should be made in writing to the appropriate University official in advance of the holy day.*

### **25. Question: Is there a difference between days of religious and cultural significance? Do we accommodate cultural holidays or celebrations?**

*Answer: Yes. There is a difference and the University's duty to accommodate is limited to religious holy days and religious practices. Chinese New Year would be an example of a culturally-significant holiday that does not have the religious connotations it once did. If a student requests time off for a day of cultural significance it may be appropriate, although not required, to grant the time off.*

### **26. Question: Which religions are accommodated?**

*Answer: All religions are covered. For more information on days of religious significance, you may consult the Interfaith Calendar found [here](#). Please note this calendar is not an exhaustive list of holy days and also includes days of cultural significance. It is provided for information only.*

### **27. Question: Should we respond any differently if the person seeking accommodation related to a religion that is not "mainstream"?**

*Answer: No. All religions are protected equally.*

### **28. Question: The University is a secular organization, why do we have to accommodate religious practices?**

*Answer: Like all other postsecondary institutions, the University is under the jurisdiction of the Alberta Human Rights Act and is required by law to provide religious accommodation. Providing religious accommodation does not indicate that the University has adopted or otherwise undertaken a particular religion or religious practice.*

**29. Question: It is easy to accommodate a religious practice that occurs only a day or two a year; however, the tenets of some religions require practices that are much more frequent. Do we still have to accommodate?**

**Answer: Yes. Members of some religions practice their faith by worshipping during a particular time of day (i.e. after sundown). Therefore, they are required to be away from work and study during these times. During the winter, when sundown occurs earlier it may be more difficult to accommodate this absence, however, accommodation is still a legal requirement that must be met.**

**30. Question: If a student cannot write an exam because it is scheduled on a holy day, what is their entitlement to accommodation?**

**Answer: They are entitled to be absent, without penalty, and perform the work at another time. The accommodation may involve any of the following: writing the exam on another day, a redistribution or reweighting of assignments, or requiring the student to submit another type of assignment in place of the exam. Instructors have the discretion to reschedule the exam or may refer the student(s) to the deferred exam process.**