

Summary of Disability Affinity Group Concerns on the Draft UBC Workplace Accommodations Policy

This letter serves to summarize feedback from the Disability Affinity Group (DAG) on the UBC Workplace Accommodations Draft Policy.

The DAG called for creation of an Accommodations policy in 2021 and requested to be included in its creation, which was denied. The DAG leadership team requested to sit on the review Committee for the current draft policy, which was again denied. This led to members of DAG being forced to work under ableist, constrained, disorganized and rushed conditions to read, review, dissect and debate the draft policy, then compile formal presentations the Committee outlining both our personal views and the views of the DAG at large. The inaccessibility of this drafting and feedback process has been an excellent metaphor for how unacceptable this draft policy is. However, the DAG is keen to provide generic criticism as well as line-by-line feedback, below.

In general, the draft policy outlines an inefficient, harmful, ableist, outdated power structure that increases workload for disabled employees at a time when they are least resourced and are at their most vulnerable both personally and professionally. The draft policy upholds colonialist and patriarchal systems that UBC claims to be against. The draft policy medicalizes, pathologizes and patronizes disabled people, entrenching the barriers and inaccessibility they currently experience in the workplace. The purpose of an Accommodations policy at an institution that markets itself as an innovator in promoting equity, diversity and inclusivity should be to support and collaborate with the employee. No policy can be created without input from the group(s) it directly targets and impacts.

The Draft Accommodations Policy perpetuates harmful and problematic portrayals of disabled people

One of the main criticisms the DAG has of the draft policy is that it functions within the outdated medical model of disability, instead of the more progressive social model of disability. How disability is perceived is important; it impacts how disabled people are perceived, the expectations that others have about disabled people and how they interact with disabled people. Medicalized language perpetuates a pathological view of disability as attributed to 'problematic bodies' rather than a combination of embodied attributes and social and environmental arrangements.

- **Recommendation:** The emphasis on the need to accommodate disabled bodies should be replaced with language about accessibility that promotes inclusion for all in a non-adversarial way.
- **Recommendation:** Remove or minimize the need for disabled employees to provide confidential medical documentation – other equity seeking groups are not required to provide proof that they hold the identities that they claim or have an expert validate their identities. The policy must recognize that disability is not a medical condition – it is a social and political identity. As such, it is the policy and its process which is dis-abling in creating the category of disabled employees with medically problematic bodies in need of management.
- **Recommendation:** Develop a new approach to accommodations in which the process is collaborative, respectful, and positive outcome oriented. Such an approach places the employee and HR in a collaborative endeavour to establish a work environment that is inclusive and enables the employee to work to their fullest capacity and ability.

Summary of Disability Affinity Group Concerns on the Draft UBC Workplace Accommodations Policy

- **Recommendation:** Reframe the concept of accommodations. Rather than presenting accommodations as special treatment to be granted to individuals, consider them to be necessary changes to the work environment to facilitate effective operations.
 - Note: Such accommodations are extremely common and often provided without question or thought to non-equity-owed groups/individuals. For example: UBC provides statistical analysis software to statisticians/researchers – it is possible to conduct statistical analyses without specialised software, but researchers are able to do their jobs far more efficiently and effectively with it. Consequently, UBC makes this software available to facilitate effective operations. This is no different to providing screen reader software to a person requiring it to effectively complete the requirements of their jobs, yet one is offered freely, and the other requires a cumbersome accommodations process to access.

The Draft Accommodations Policy does not align with the University's image as a leader and innovator in equity, diversity, and inclusivity

The current draft states that UBC's objective is to establish an accommodations process that offers only what is mandated by the BC Human Rights Code. This strongly implies that UBC will only do the minimum required to avoid human rights claims against the university. This does not reflect UBC's ideals or aspirations towards becoming a leader in inclusivity.

- **Recommendation:** Reframe the objectives of the policy to "UBC is committed to creating a welcoming and inclusive workplace. UBC recognises that current systems and infrastructure may present obstacles to inclusion and is committed to working with employees to remove obstacles to inclusion, where possible, and provide supportive and appropriate accommodations that facilitate the success, full participation, and engagement of all employees."
- **Recommendation:** Re-focus the document away from the requirements of the BC Human Rights Code and towards providing the most appropriate, inclusive, and most supportive work environment possible. UBC benefits from having employees that are working to their highest capacity, and as such, will benefit from supporting an inclusive work environment. If it is necessary to reference relevant legislation, do so in an appendix, and include all relevant legislation (Human Rights Code and Privacy legislation, at least).

The processes outlined in the Draft Accommodations Policy are unclear, vague or incomplete

The current draft includes no internal appeals process, resorting only to the highly adversarial and onerous grievance processes utilised by collective bargaining units, or an arbitrary process decided by an individual who is unlikely to have the necessary expertise to appropriately arbitrate such a process. The draft policy does not properly define vague terms including "reasonable accommodation", "physical disability", "timely manner".

- **Recommendation:** Establish an appeal process in which experts in the specific context of each situation are invited to collaborate with the employee and HR to establish appropriate accommodations. The selection of those experts should be collaborative, with the employee having the ability to request different/additional experts.

Summary of Disability Affinity Group Concerns on the Draft UBC Workplace Accommodations Policy

- Employees should have multiple avenues to pursue grievances, including but not limited to the grievance processes outlined in the collective agreements.
- Recommendation: define these vague terms with input from the disabled community to ensure ableist and archaic definitions are not used
 - Ensure definitions of “physical disability” are not limited to “mobility impairment” or “wheelchair user”
- Recommendation: ensure timelines support the employee seeking accommodations; allow for flexibility from the employee while requiring expedient response and processing times by the university. Include specific language on how long an employee can expect to wait before their request is processed
- Recommendation: create and outline a clear process for how employees go about requesting accommodations. A flowchart, form, letter templates for clinicians, or a unit/person on campus that can support the employee through the process is needed.

The Draft Accommodations Policy perpetuates harmful power imbalances

The current draft perpetuates an adversarial, harmful approach to accommodations in which a person seeking an accommodation is presented as a supplicant, while HR and supervisors are presented as evaluating, permitting, and denying requests for accommodation. Supervisors are primarily responsible for decision-making around accommodations, but there is no formal guidance outlined in the policy, nor resources for supervisors to access to help them make decisions. Graduate student employees are in a particularly perilous situation, as the employment supervisors who oversee their accommodations are also often involved in their progression as students. It should not be left to individuals in positions of power and authority to assess what is a reasonable accommodation or undue hardship. Doing so justifies unequal treatment, both between those who experience disability and those who do not, and between different disabled people seeking accommodations.

- **Recommendation:** Formalize a set of guidelines in which supervisors must operate under, to ensure consistency across the university. Allow employees to choose the level at which their supervisor is involved in the decision-making process. Allow employees to work with the unit of their choice on campus: their supervisor, HR, or the Centre for Workplace Accommodations. Outline the role of these units on campus guiding supervisors in how to best support employees.
- **Recommendation:** Restructure the wording of the policy to empower the employee, not the supervisor
- **Recommendation:** Do not require the employee to “prove” their disability with documentation from a medical expert. Include clear wording that permits continuation of previous accommodations automatically. Do not allow a new supervisor to re-examine previous accommodations.
- **Recommendation:** Outline alternatives to grievance procedures set out in the collective agreements – a 3rd party assessment within UBC (such as the Centre for Workplace Accommodations, Equity and Inclusion Office, ombudsperson, etc.)

Summary of Disability Affinity Group Concerns on the Draft UBC Workplace Accommodations Policy

Line-by-line feedback on the current draft policy

The DAG is calling for a new draft policy to be written, with the inclusion of disabled voices and a more accessible feedback process. The above sections outline the specific areas which are most in need of revision, and the below sections provide line-by-line feedback of the current draft to clearly outline the ableist and harmful language. Note, this is a result of a collaborative effort of the entire DAG community; Kathryn Douglas-Campbell has anonymized commentary; purple text denotes additions, strikethrough text denotes omissions

June 17, 2022

POLICY CONSULTATION – PROPOSED WORKPLACE ACCOMMODATION

POLICY (HR13)

The UBC community is invited to comment on a proposal to create a workplace accommodation policy for UBC employees to be known as the "[Workplace Accommodation Policy](#)" (the "Proposed Policy").

The Proposed Policy underscores UBC's commitment to creating a welcoming and inclusive workplace which supports the full participation and engagement of all UBC employees. Its purposes are:

- a) to outline UBC's responsibilities under the British Columbia *Human Rights Code*;
 - b) to document UBC processes for requesting, assessing, implementing, and managing accommodations; and
 - c) to identify the roles and shared responsibilities of UBC, the employee, and any applicable bargaining agent throughout the accommodation process.
- Key elements to the Proposed Policy are as follows:

- **Applicability to Student Employees:** The Proposed Policy applies to student employees. The Disability Accommodation Policy (LR7) excludes requests for accommodations related to a student's employment at UBC. The Policy Development Committee would welcome input from the UBC community on the preferred pathway to meet the needs of student employees.
- **Statement of Responsibilities:** The Proposed Policy sets out the responsibilities of UBC and its employees. It also provides general guidance on expectations for bargaining agents while recognizing that collective agreements vary and the language in the collective agreement will prevail if there is any inconsistency. In addition to individual responsibilities, all parties share responsibility for participation and collaboration throughout the accommodation process.
- **Unit-Level Decision Making with Human Resources Support:** Decisions are made by supervisors within their operational units. The

Commented [A1]: While this is obviously the legal framework under which we have to work, we very much hope that this is not the standard to which UBC aspires - doing the bare necessity to avoid a lawsuit is not sufficient to be considered a leader in accessibility, diversity, equity, or inclusion.

Commented [A2]: This system is problematic in that it creates an environment in which access to accommodations is not equitably applied throughout all departments. Accommodations become subject to the whims and preferences of a supervisor. This should never be the case.

If an employee would like their supervisor to work with them to create appropriate accommodations, that should be their choice. If, however, the employee would prefer to work solely with HR, that should also be possible. Specifics on how this would work are included in the comments throughout this document.

Summary of Disability Affinity Group Concerns on the Draft UBC Workplace Accommodations Policy

proposed procedures set out the process for an employee to make a request and provides guidance to supervisors in assessing requests and as to when Human Resources should be consulted. As with the current process, decision makers are empowered to approve accommodation requests. However, a notable change to the existing process is that supervisors will need to consult with Human Resources prior to deciding **not** to approve an accommodation request.

- **Appeals:** Employees who are unhappy with an accommodation decision and represented by a bargaining agent have access to the grievance procedures set out in their collective agreements. The proposed procedures provide an appeal mechanism for those employees who are not represented by a bargaining agent.

Commented [A3]: This is also not appropriate - the grievance procedures of the various collective bargaining are often onerous and can create or aggravate tensions within a workplace. There should be a process that one can go through that is non-adversarial, collaborative, and informed by significant expertise (both lived and professional), and not subject to the preferences or budgetary limitations of a given unit/department/supervisor, etc.

The Proposed Policy is now being published and all members of UBC's community are encouraged to provide their comments. Please submit feedback to the Office of the University Counsel at university.counsel@ubc.ca by **October 2, 2022**.

For further information about the Proposed Policy, please see the information package that was provided to the Board of Governors at https://bog3.sites.olt.ubc.ca/files/2022/06/3_2022.06_Proposed-Workplace-Accommodation-Policy-HR13.pdf

Grievance procedures through the collective bargaining units should remain an option, but should not be the only option.

- 1) Decisions should not be made by departments/supervisors - they should be made collaboratively with appropriate experts and then accommodation requirements should be provided to the relevant units along with the funding and logistics support to enable them.
- 2) Appealing such an accommodation decision should have multiple possible avenues, including an appeal mechanism within the accommodations policy, through the collective bargaining units, and through an ombudsperson.

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

Background & Purposes

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

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

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

1. Scope

1.1 This Policy applies to Employees. Where a person is both a Student and Employee of UBC, this Policy only applies to those activities that are associated with the person's employment. In so far as an Accommodation or request for Accommodation relates to an Employee's status as a Student, it will be governed by the joint Board and Senate Disability Accommodation Policy and Senate Policy J-136 – Academic Accommodation for all Students' Religious Observances and for the Cultural Observances of First Nations, Metis and Inuit Students.

1.2 This Policy does not apply to requests for modifications to job responsibilities to address a personal preference.

Commented [A4]: We find the inclusion of this line unnecessary, and somewhat offensive, and imbued with ableist innuendos

1.3 The fact that an Accommodation request is being pursued under this Policy and associated Procedures does not preclude the Employee from pursuing another process, such as filing a complaint under another UBC policy or pursuing remedies available under any applicable Collective Agreement.

2. Definitions

Summary of Disability Affinity Group Concerns on the Draft UBC Workplace Accommodations Policy

2.1 “**Accommodation**” or “**Accommodate**” refers to any modification that reduces or eliminates barriers to Employee participation in the workplace pursuant to the *Code*.

2.2 “**Bargaining Agent**” means all trade unions that represent employees of UBC, and the Association of Administrative and Professional Staff.

2.3 “**Code**” means the British Columbia *Human Rights Code*.

2.4

“**Collective Agreement**” means a written agreement between UBC and a Bargaining Agent providing for terms and conditions of employment, including the *Agreement on Conditions and Terms of Employment* between UBC and the Association of Administrative and Professional Staff.

2.5 “**Employee**” means a person who has an employment relationship with UBC and includes a person who is a UBC faculty member, UBC staff member, or a prospective Employee.

2.6 “**Protected Grounds**” means the grounds listed in Section 13 of the *Code*, as amended.

2.7 “**Student**” means a person who:

2.7.1 is registered in credit or non-credit courses offered by UBC; or

2.7.2 has formally applied to UBC as a prospective Student.

3. General Responsibilities

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

4. Employer Responsibilities

- 4.1 As an employer, UBC has a responsibility to:
- 4.1.1 provide an Accommodation process; including specialists with both lived experience and professional expertise in providing accommodations.
 - 4.1.2 collaborate with those seeking accommodations on a case-by-case basis, consider and assess all Accommodation requests on an individual and case-by-case basis, and in a reasonably timely and responsive manner;
 - 4.1.3 provide reasonable Accommodations to Employees whose participation in the workforce is impacted by an employment-related barriers connected to a Protected Ground under the Code, unless doing so would result in undue hardship;
 - 4.1.4 respect privacy and maintain confidentiality; and
 - 4.1.5 share information only when explicitly approved by the person requesting the accommodation. Every time information is shared, the person seeking the accommodation must first consent to the content that is shared, the individuals who will have access to that information, and the manner in which it is shared. on a need-to-know basis, including as needed to assess and implement a request for Accommodation or to fulfill any legal or statutory obligation.
 - 4.1.6 participate in the Accommodation process and work cooperatively with the person seeking an accommodation, with the goal of developing and implementing a reasonable Accommodation.
- 4.2 UBC will carry out the responsibilities set out in section 4 in a manner consistent with the Code, the Freedom of Information and Protection of Privacy Act, and any other applicable legislation.
- 4.3 The duty to Accommodate does not require UBC to displace another Employee, place Employees in a job that they are not qualified for or cannot safely perform, or provide an Accommodation that would otherwise result in undue hardship.

Commented [A5]: The preamble states that managers/supervisors have a significant role to play in the accommodations process. That in itself is highly problematic and requires significant discussion. Regardless, the manager/supervisor responsibilities are not laid out in this document.

The structure of this document (Employer responsibilities, Employee responsibilities, etc.) establishes an almost adversarial approach to the accommodations process. This is ineffective and harmful. This should be a collaborative process between UBC and its employees, and this document should reflect that approach. To accomplish this, it will be necessary to start from scratch to develop an accommodations process that is not defined and restricted by existing harmful practices.

Commented [A6]: Please define 'timely and responsive'. This is vague.

Commented [A7]: Please define vague terms.

Commented [A8]: Why is it necessary to restrict the accommodations process in this way? If UBC is committed to genuine inclusivity and equity, surely necessary accommodations should not be restricted to those connected to a protected ground under the code?

Commented [A9]: Please define vague terms.

Commented [A10]: Please define exactly what this means.

Commented [A11]: This requires further elaboration, including the specific sections of the act that apply in this instance.

Section 27, subsection 2 also requires that a public body must ensure that an "individual from whom it collects personal information is told the contact information of an officer or employee of the public body who can answer the individual's questions about the collection." This should be outlined in the policy, as well as on any documentation provided to individuals who are required to provide personal information. In addition, the policy should outline a way in which that information can be removed from records/access by individuals who are not authorized to see, or who no longer need access to that information.

Commented [A12]: This text is concerning in that it implies that somehow these are the expectations of disabled employees or those seeking accommodations. It establishes, within the policy, the prejudice that disabled employees are seeking special privileges, or are less qualified than their colleagues. It also

Commented [A13]: Please define 'undue hardship'. This is too vague and open to arbitrary definitions.

5. Employee Responsibilities

5.1

Employees seeking Accommodations have a responsibility to:

- 5.1.1 ~~advise of their need for Accommodation in a timely manner;~~
- 5.1.2 provide the appropriate documentation and information to assist UBC in implementing Accommodation, as agreed upon collaboratively. Documentation requests will be determined on a case-by-case basis, in collaboration between UBC and the person seeking the accommodation. Any charges associated with acquiring requested documentation will be paid for by UBC. Employees will be fairly compensated for their time spent to acquire such documentation. required, in a reasonably timely and responsive manner;
- 5.1.3 ~~meet any Accommodation-related obligations set out in any applicable Collective Agreement; and~~
- 5.1.4 participate in the Accommodation process and work in collaboration ~~cooperatively~~ with UBC, with the goal of developing and implementing a reasonable Accommodation.

5.2 Where consistent with any applicable Collective Agreement, current Employees may engage an applicable Bargaining Agent at any point in the Accommodation process, including initiating the request.

6. Responsibilities of Bargaining Agents

6.1 The responsibilities of Bargaining Agents are as set out in the Collective Agreements between each Bargaining Agent and UBC. Generally, the Bargaining Agents have a responsibility to:

- 6.1.1 help educate their members about matters relating to Accommodations;

Commented [A14]: Remove this. Employees can request an accommodation at a time of their choosing - they are not obligated to request an accommodation on a schedule that UBC determines to be 'timely'.

If there is a deadline by which an accommodation needs to be in place, in that situation, the person seeking the accommodation would need to provide sufficient lead time to make implementation possible. The policy should outline what that lead time is.

Along similar lines, the policy should outline the timeline involved in getting an accommodation. Obviously this is subject to outside influences, like the time it takes to get outside documentation, but there should be a clear timeline for UBC to meet once all documentation has been received.

Commented [A15]: This needs to be defined. What documentation is required for specific types of accommodations? What accommodations can be accessed without documentation? Can accommodations be accessed based on common sense? (eg: if I use a wheelchair and you can see that I use a wheelchair, can I get a wheelchair accessible office, bathroom, etc. without the need for a doctor to tell you that I use a wheelchair?)

In addition, any documentation requested by UBC should be paid for by UBC.

Also specify who can provide documentation. While the standard line is to have a GP provide documentation, in many cases they are not the best caregiver to do so (sometimes an occupational therapist, physical therapist, etc. are better able to provide that information - for example).

Commented [A16]: Again, please define vague terms. Who determines what is or is not 'reasonable'?

Summary of Disability Affinity Group Concerns on the Draft UBC Workplace Accommodations Policy

- 6.1.2 encourage their members to identify and communicate the need for an Accommodation;
- 6.1.3 collaborate with all parties and participate reasonably in the Accommodation process;
- 6.1.4 support their members in the Accommodation process;
- 6.1.5 respect privacy and maintain confidentiality; and
- 6.1.6 meet any Accommodation-related obligations set out in the Collective Agreement.

7. Collective Agreement

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

PROCEDURES ASSOCIATED WITH THE Workplace Accommodation Policy

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

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

1. Definitions

1.1 “**Responsible Executive**” means the Vice-President, Human Resources or other individual assigned by the President to be responsible for the Workplace Accommodation Policy and these associated Procedures. The Responsible Executive may delegate all or some of the duties under this Policy and associated Procedures but remains responsible for oversight.

1.2 “**Short Term Accommodation**” means an Accommodation that lasts less than 4 months and that does not require significant UBC resources, including financial and other resources.

1.3 “**Supervisor**” means the individual, such as a head, dean, or manager, who has management authority and responsibility to receive, assess, implement, and manage Accommodation requests.

2. Requesting an Accommodation

2.1 Employees may make a request for Accommodation to their Supervisor, to Human Resources, or through their Bargaining Agent, as applicable.

2.2 If a request for Accommodation is made to Human Resources, then:

2.2.1 for disability-related Accommodation requests,

- (a) Employees working at UBC Okanagan should contact the Work Reintegration & Accommodation Program (WRAP); and
- (b) Employees working at UBC Vancouver should contact Workplace Health Services (WHS).

2.2.2 for all other Accommodation requests, Employees should contact their departmental Human Resources manager or advisor.

Commented [A17]: Please add a definition for long term accommodation and permanent accommodation. Excluding those definitions implies that UBC will not accommodate anybody for longer than 4 months, which is discriminatory against anybody requiring long term or permanent accommodations.

Commented [A18]: Recommendation: Create a list of common accommodations that can be granted. This is not intended as a comprehensive list, but rather a guide to help employees and those they choose to work with devise the most appropriate accommodations for them.

Establish a way of documenting precedents for accommodations (de-identified). For example: Accommodations provided in teaching roles have, in the past, included: (list of examples, like extra TA support, remote teaching, classrooms without stairs, ergonomic chairs in lecture halls, etc.) In research/office based roles: (list of examples, like: specialized software, reduced hours, remote work, changes to lighting, ergonomic desk/chair/keyboard, etc. Accessible office, quiet office, etc.) Department level accessibility changes could include: private space for prayer, breastfeeding, to administer medications, etc. Changes to conference room chairs (armless chairs, more ergonomically supportive, etc.); wheelchair accessible building/washroom/conference room/break room, etc. Gender inclusive/neutral bathrooms/changerooms. etc. And so on. This should recognize that not all accommodations only apply to individuals - many serve to improve accessibility for multiple people.

Commented [A19]: What about the centre for workplace accessibility? This policy should outline exactly how and to whom such a request can and should be made.

2.3 All requests should be made in writing and the Employee should provide the appropriate information and documentation to support their request.

Commented [A20]: This is vague. Include specifics about what should be involved, the reasons for those requests, etc.
Create a form, a template, a person trained in disability justice to guide the employee, a website, or something similar.

2.4 In some circumstances, UBC may initiate the Accommodation discussion.

Commented [A21]: In what circumstances? Exactly how or why would this come up?

3. Short Term Accommodation

3.1 The Supervisor will assess Short Term Accommodation requests.

Commented [A22]: Most supervisors are not qualified to assess accommodation requests on the basis of disability. Nor do they necessarily have access to funds or expertise to support such requests. While in some circumstances, this may be adequate, in many it is not.

~~3.2 The Supervisor generally does not need to consult and collaborate with Human Resources for Short Term Accommodation requests. However, as needed, the Supervisor will consult and collaborate with Human Resources to ensure that UBC's operational and legal obligations are met.~~

Ideally, accommodations should not be dependent on the whim of a supervisor.

~~3.3~~

nowhere in this section does the person seeking the accommodation have any agency or participation in the process.

~~Every request will be assessed based on individual circumstances. The Supervisor may determine if the duty to Accommodate exists, and identify and provide a Short Term Accommodation if it is reasonable and does not result in undue hardship. The Supervisor will consult with Human Resources prior to making a decision that no duty to Accommodate exists or that UBC cannot Accommodate the Employee.~~

Commented [A23]: Recommend creating an entirely new procedure

~~3.4 The Supervisor will notify the Employee in writing of their decision about the Short Term Accommodation request. Where appropriate, the Supervisor may inform Human Resources about their decision about the Short Term Accommodation request.~~

3.5 If, at any point, an Employee believes that what was implemented as a Short Term Accommodation may exceed four (4) months or requires significant UBC resources, the Employee will provide notice to their Supervisor, to Human Resources, or through their Bargaining Agent, as applicable.

3.6 If, at any point, the Supervisor becomes aware that what was implemented as a Short Term Accommodation may exceed four (4) months or requires significant UBC resources, the Supervisor will assess the request in accordance with section 4 of these Procedures.

3.7 An Employee may consult with Human Resources regarding a Short Term Accommodation.

3.8 At any time, an Employee can provide additional information to their Supervisor, to Human Resources, or through their Bargaining Agent, as applicable, to have the request reassessed.

4. Assessing a Request Other than for Short Term Accommodation

4.1 For **long term and permanent** ~~all Accommodation requests other than Short Term Accommodations~~, accommodations will be established collaboratively between the employee and a representative of Workplace Health or Human Resources. Funding to support these accommodations will be provided through the Workplace Accommodation Fund and will not be the responsibility of an individual department or unit. ~~the Supervisor will assess these requests in consultation with Human Resources. Every request will be assessed based on individual circumstances. The Supervisor will request assistance from the Employee, Human Resources, and the Bargaining Agent, as applicable, and ensure it has all necessary information. The Supervisor, in consultation with Human Resources, will determine if there is a duty to Accommodate, and notify the Employee in writing.~~

4.2 ~~Where there is a duty to Accommodate, The Employee and Human Resources/the Supervisor/3rd party will collaborate (depending on the employee's preference) the Supervisor will collaborate with Human Resources, the Employee, and the Bargaining Agent, as applicable, to identify a reasonable Accommodation~~

4.3 Human Resources may consult subject matter experts internal or external to UBC **regarding a to assist with assessing a request for Accommodation, only with express consent and participation of the Employee.**

4.4 ~~The Supervisor, in consultation with Human Resources, will deny an Accommodation request in circumstances where:~~

4.4.1 ~~the request is not connected to a Protected Ground under the Code;~~

4.4.2 ~~there is insufficient evidence to support the request;~~

Commented [A24]: This language is also problematic.

An accommodations process should be collaborative. It should be a process of employees and appropriate individuals working together to determine the best ways to ensure success in the work place.

Commented [A25]: Current policy does not establish protocols for departments/units/faculties to improve accessibility. Numerous departments want to provide more accessible experiences to their staff and students, but are currently unable to do so within current university constraints. This policy should also include a structure and funding model to support departments, faculties, and units who want/need to make systemic changes to improve accessibility. This should be a process that can be initiated by the department, by employees within/working with the department, or by the university administration.

Commented [A26]: Please name these as long term and permanent accommodations. Creating them as 'other' marginalizes people requiring permanent accommodations.

Commented [A27]: Ideally, there should also be a designated department who will provide guidance and training to relevant departments, supervisors, etc. to facilitate appropriate, respectful, and non-ableist management strategies.

Summary of Disability Affinity Group Concerns on the Draft UBC Workplace Accommodations Policy

4.4.3 ~~the Employee failed to cooperate in the Accommodation process, or has refused a reasonable Accommodation proposed by UBC;~~

4.4.4 ~~_____~~

~~if no reasonable Accommodation is identified, or~~

4.4.5 ~~if the Accommodation would result in undue hardship.~~

4.5 ~~The existence of undue hardship will be assessed on a case by case basis. Relevant factors may include, but are not limited to, the following:~~

4.5.1 ~~significant disruption of operations;~~

4.5.2 ~~health and safety concerns;~~

4.5.3 ~~substantial interference with the rights or morale of other individuals or groups;~~

4.5.4 ~~the Accommodation would be disruptive to any applicable Collective Agreement;~~

4.5.5 ~~the Accommodation would result in lowering material performance standards, or in substantive job requirements not being met;~~

4.5.6 ~~financial cost of the Accommodation; and~~

4.5.7 ~~any other relevant factors.~~

4.6 The Supervisor, HR or a third party will notify the Employee in writing of the decision about Accommodation.

Commented [A28]: Again, this establishes an adversarial approach to the accommodation policy. This section should be framed along these lines:

Human Resources and the Employee will do everything in their power to collaboratively establish accommodations that suit the needs of the employee and enable them to meet their job requirements without enduring undue hardship.

Commented [A29]: Please define how this is determined and by whom. Please note, determinations made by HR or supervisors are not sufficient, as they are highly unlikely to be recognized experts in these specific health and safety concerns.

In the event that there is disagreement between what the Employee determines is safe and what UBC

Commented [A30]: In the case of conflicting rights, it is necessary to reconcile those rights rather than give preference to one or the other. This statement prioritizes the right of one individual/group over another (in this case, any other right is prioritized over that of the person seeking accommodations).

In such a case, the university should work with the

Commented [A31]: Once again, this is a situation in which the balance of needs should be considered. Broadly speaking, the duty to accommodate prevails over private arrangements such as collective agreements, however, there may be situations in which is necessary to work with the Union/Collective Bargaining Unit to balance the respective needs.

Commented [A32]: In such a case, the accommodation would be inappropriate. The objective of any accommodation is to make it possible for individuals to fully participate in the workplace and meet the requirements of their job without enduring undue hardship.

Once again, however, it is necessary to create an

Commented [A33]: Again, this requires far more definition. While in some cases, financial costs can be considered an undue hardship, the Canadian Human Rights Commission notes that this varies widely based on the size of the employer. Given the size of UBC, these costs would need to be significant in order to meet such a threshold.

Commented [A34]: The impact of most of the details in this section is to imply that the rights or preferences of any other group or individual is more important and more valuable than that of an employee seeking an accommodation. This is neither acceptable, nor is it supported by the human rights code.

Once again, this illustrates the need for a complete re

4.7 At any time, an Employee can provide additional information to their Supervisor, to Human Resources, or through their Bargaining Agent, as applicable, to have the request reassessed.

Commented [A35]: Any appeal process should not go through the same individuals/groups at the university that denied the accommodation in the first place. There should be a mechanism for appeals that goes outside of HR, supervisors, etc.

5. Information and Documentation

5.1 Disability-related Accommodations, which may include Short Term, Long Term, or Permanent Accommodations, will be considered when where an Employee is experiencing barriers in employment related to physical disability or a mental disability. An Employee who wishes to be considered for a disability-related Accommodation must provide UBC with suitable medical information which establishes the existence of a disability and supports the requirement for Accommodation.

Commented [A36]: This requires revision. UBC's extensive documentation requirements put an unnecessary burden on both disabled employees and the medical profession, when in many cases, such documentation is simply not necessary to demonstrate the need for an accommodation.

5.2 If a disability-related Accommodation is requested or being considered, the Employee and a representative of Human Resources with appropriate expertise, including both lived and professional expertise, will discuss and mutually agree upon what documentation is necessary and appropriate. Human Resources will provide detailed information about why specific information is being requested, how it will be used, who will have access to it, and how the Employee can restrict and control access to their personal information. Not all cases will require medical documentation. Any request for documentation will include a request for recommended accommodations from the medical professional. Those recommendations will be used by both the Employee and Human Resources to guide the process of collaboratively determining what accommodations are possible. Human Resources will inform the Employee of the medical information it requires. The medical information required will depend on the individual circumstances and will be determined on a case-by-case basis. The medical information must be sufficient to enable Human Resources to determine the specific Accommodations that are medically required because of the disability. To facilitate this process,

The need for documentation should be determined with a more nuanced perspective.

Any documentation requests should be paid for by UBC, including providing paid time off to obtain such documentation.

Requirements for which medical professionals can provide such documentation need to be broadened to include people like occupational therapists, physiotherapists, and kinesiologists, many of whom are more familiar with an individual's needs than their GP or specialists.

The content of the documentation should be individually tailored to the specific situation. UBC should not ask for any more information than is absolutely necessary for this specific context. For example, a person in a research position doing work at a computer should not have to provide information on how much weight they can lift.

Any documentation requested from medical professionals should include a section for recommended accommodations. This will make it more likely that the accommodations provided will meet the specific needs of the employee in question.

Human Resources may provide the Employee with a form for completion by the Employee's physician and request such other information as may be needed to support the Accommodation. The employee is entitled to edit this form in collaboration with Human Resources to ensure that it suits their unique needs. UBC will pay any costs associated with the completion of any requested documentation, in addition to offering paid time off for the Employee to attend any necessary medical appointments.

5.3

All other Accommodations (e.g. Accommodations based on family status or religion), which may include Short Term Accommodations, will be considered where an Employee is experiencing barriers in employment related to other Protected Grounds. An Employee who wishes to be

considered for such an Accommodation will be required to provide documentation and information to support the need for the Accommodation. The Supervisor will inform the Employee of the supporting information it requires. The information required will depend on the individual circumstances. This information should be limited to the facts relevant to support the Accommodation.

5.4 Medical reports and other information received by UBC will be treated as private and confidential. UBC's actions will be governed by the BC *Freedom of Information and Protection of Privacy Act*. No documentation or information about a person's accommodation, medical leave, or related information will be shared without the express consent of the Employee. Any communication about the Employee, related to the accommodation process, will include the Employee. Storage of medical information and details of the accommodation will be restricted, with access only provided to the Employee and those individuals they have designated. The Employee may withdraw their consent for access to their information at any time. UBC will provide the Employee with details on how their information is stored, shared, and managed, including ensuring that the Employee can monitor their information and access to it at any time. UBC will also provide a mechanism for the destruction of such information at the Employee's request, including after a person leaves employment at UBC. ~~This information will only be shared on a need-to-know basis.~~

6. Implementation of Accommodation and Workplace Accommodation Plan

6.1 Where a reasonable Accommodation other than a Short Term Accommodation has been identified, Human Resources will collaborate with the Employee to prepare a workplace accommodation plan. The plan will be provided to only those individuals who are required to have access to it, and only with the explicit consent of the Employee. Such individuals may include and will provide copies to the Employee, their the Supervisor, and, if appropriate, the Bargaining Agent.

6.2 All workplace accommodation plans will include information on the next anticipated review of the Accommodation.

6.3 Accommodations and workplace accommodation plans are based on individual circumstances and may be subject to change.

6.4 On a regular basis and as needed, the Supervisor, Human Resources, or both, will assess Accommodations, including Short Term Accommodations and workplace accommodation plans.

Commented [A37]: This section should also include options for recourse should personal information be shared without the consent of the Employee.

In addition, in the event that an employee has their information shared without their consent, UBC should implement concrete protections for that employee against retaliation. These should also protect those in precarious employment positions, including contract and grant funded employees. (In other words, a grant funded employee who has had their medical information shared without their consent, cannot simply find that the funding for their position has, without warning, disappeared by their next contract renewal date. Such a situation should be viewed as likely retaliation/discrimination and investigated by an impartial expert.)

Commented [A38]: Nowhere in this document is there provision made for interim accommodations to be implemented rapidly while the process of collaborating to define more long term accommodations is underway. The processes outlined in this policy - as it is, or in any new system to be developed - is often time consuming, taking weeks or even months to reach a point at which it is ready for implementation. During that time, an Employee seeking accommodations should be offered interim support to ensure they can perform their job effectively while the accommodations process is underway.

Commented [A39]: Please define the difference between a reasonable accommodation and a short term accommodation.

Please specify that accommodations may include short term, long term, and permanent accommodations.

Commented [A40]: In a collaborative accommodation process, ongoing review should continue to be collaborative.

In the case of permanent/long term accommodations, the Employee and HR should determine whether regular reviews are necessary or appropriate. In many cases, it may be sufficient to put the accommodation in place, continue to collaborate until it works the way it should, and then only revisit if there is a change necessary.

Commented [A41]: The conditions under which such changes can be made should be specified.

For example, changes in circumstances for the Employee may require a revision to the accommodation (including promotions, moving offices, etc.). However, a change in supervisors' or colleagues' preferences should, as a general rule, not warrant any change to accommodations.

Commented [A42]: This has been covered in the 'collaborative, ongoing review' process outlined above.

Summary of Disability Affinity Group Concerns on the Draft UBC Workplace Accommodations Policy

6.5 If the abilities or needs of the Employee change, or conditions of employment change in a manner which may affect an Accommodation, the Employee should notify their Supervisor, Human Resources, or their Bargaining Agent, as applicable.

6.6 Employees, Supervisors, Human Resources, and Bargaining Agents, as applicable, are expected to communicate in a timely manner about difficulties or concerns arising from the operation of this Policy and Procedures.

6.7 The Supervisor, and Human Resources, and any other parties requested, by the Employee, to be involved, including the Supervisor, as applicable, will document each stage of their involvement in the Accommodation process.

Commented [A43]: A clear process should be developed to address difficulties. At present, Employees communicate the problems, however, in some cases, there is no effective strategy or plan to address them. Discrimination, micro-aggressions, violations of accommodations plans, etc. are often either ignored or have no clear avenue to address them. Part of developing this policy should include ways to address and resolve such issues.

7. Appeal

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

7.1.1 if they are subject to a Collective Agreement, the Employee must follow the applicable processes in their Collective Agreement and the appeal provisions in these Procedures are not available; or

7.1.2 if they are not subject to a Collective Agreement, the Employee must submit their appeal to the Responsible Executive in accordance with the appeal process set out below.

Commented [A44]: Recommendation: UBC establish an appeal process within the policy utilizing appropriate, independent experts (experts being defined as having both lived and professional expertise). Appeals processes through collective agreements are often adversarial in nature and may not be suited to every circumstance. Employees should have the option of which route they choose to take for any appeal process, and have the ability to change at any time.

The appeal process as outlined below is insufficient. The Responsible Executive is highly unlikely to have the relevant expertise to respond appropriately to every appeal, particularly given the highly diverse population of employees who seek accommodations. Without that expertise, the Responsible Executive is not qualified to 'evaluate' accommodation requests.

Additionally, the Responsible Executive has obligations and priorities that may constitute a conflict of interest in such situations, and be unable to provide an impartial perspective.

7.2

The Responsible Executive will be responsible for all appeals of decisions about Accommodation. The Employee will have the opportunity to provide written submissions to the Responsible Executive, including:

Commented [A45]: Employees should have the choice of which appeal process they go through.

7.2.1 a statement of the Accommodation being requested and any supporting information as to why the Employee believes a reasonable Accommodation is possible; and

7.2.2 a copy of the reasons for the Accommodation decision.

Summary of Disability Affinity Group Concerns on the Draft UBC Workplace Accommodations Policy

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~~7.3 The Responsible Executive may consult and request information from the Supervisor, Human Resources, and any other relevant person at UBC with respect to the Accommodation request.~~

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~~7.4 The Responsible Executive will consider all relevant information and documentation received.~~

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~~7.5 If a reasonable Accommodation is identified, the Responsible Executive will notify the Employee, Supervisor, and Human Resources, in writing.~~

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~~7.6 If the Responsible Executive determines that there is no reasonable Accommodation, it will advise the Employee in writing and provide reasons for this determination~~

Additional Notes