

UNIVERSITY OF MANITOBA PROCEDURE

Procedure:	STUDENT ACCESSIBILITY APPEAL
Parent Policy:	Accessibility Policy
Effective Date:	January 1, 2015
Revised Date:	September 1, 2018
Review Date:	September 1, 2028
Approving Body:	Senate
Authority:	<i>The University of Manitoba Act, Section 16(1)</i>
Responsible Executive Officer:	University Secretary
Delegate: (If applicable)	
Contact:	University Secretary
Application:	All Employees and Students

Part I Reason for Procedure

- 1.1 To define the extent to which the University provides a process for:
- (a) students to appeal decisions relating to accommodation of a disability which adversely affect them; and
 - (b) Academic Staff Members to appeal decisions relating to student accommodation of a disability which would undermine Bona Fide Academic Requirements or any essential skills document developed for programs that are subject to external accreditation.
- 1.2 Appeals involving academic consequences related to accommodations, waiver and substitution requests and requests to graduate notwithstanding would not be heard through the Student Accessibility Procedure, but would instead be considered by Faculty/College/School appeal committees, and if not resolved, would be considered by the Senate Committee on Appeals.

Part II Procedural Content

Definitions

- 2.1 All terms defined in the Student Accessibility Procedure shall have the same meaning in this Student Accessibility Appeal Procedure.

Initial Reconsideration by Director of Student Accessibility Services

- 2.2 Students who believe that they have not been treated in accordance with the Student Accessibility Procedure, or who believe they were not reasonably accommodated by the proposed Accommodation, or who believe that the proposed Accommodation may have been different in light of new or previously unavailable information or documentation may first discuss this matter with the Director of Student Accessibility Services (SAS) and request reconsideration. In seeking to resolve any disagreement, the Faculty/School Accessibility Advisory Committee may be consulted by a party.
- 2.3 Academic Staff Members who believe that a proposed accommodation would compromise the defined Bona Fide Academic Requirements or essential skills document in question may request that the Director of SAS reconsider the proposed accommodation. In seeking to resolve any disagreement, the Faculty/School Accommodation Team and/or Accessibility Advisory Committee may be consulted. An Academic Staff Member making the request for reconsideration must make it in writing and be able to demonstrate a substantial, viable and direct connection to the student and the proposed accommodation. In such cases, the student shall be made aware of the request for reconsideration and have the opportunity to provide their position to the Director of SAS before a final determination is made.
- 2.4 Following a request for reconsideration from a student, an Academic Staff Member or both, the Director of SAS shall issue a decision in writing to the student, the Academic Staff Member and the Faculty/School, as appropriate, in a timely manner. The Director of SAS will consider any deadlines which impact the student's progress in their program and will make reasonable efforts to ensure that the timing of the decision does not delay the student's progress in their program. In the event of a conflict of interest on the part of the Director of SAS, the request for initial reconsideration shall be addressed to the Executive Director of Student Support.

Formal Appeal to Senate Committee on Academic Accommodation Appeals

- 2.5 If a student or an Academic Staff Member does not agree with the decision of the Director of SAS regarding a request for reconsideration, they may file a formal appeal to the Senate Committee on Academic Accommodation Appeals. Such an appeal must be filed within ten (10) working days of the date on the

letter of reconsideration, or until such time as the Chair may allow if a written request for extension is made prior to the deadline.

- 2.6 If an Appellant files for an appeal beyond the ten (10) working day period, the Appellant must provide written reasons for the delay. The Chair shall have the discretion to extend the deadline for filing the appeal if it is determined that there are special circumstances which justify or excuse the delay. The Chair's decision is final and not appealable.
- 2.7 The Appellant must submit all documentation that will be relied upon for the appeal and must include the following:
 - (a) A completed and signed Senate Committee on Academic Accommodation Appeals – Appeal Form. The form is available at the Student Advocacy Office, The Office of the University Secretary, and on the University of Manitoba website;
 - (b) A letter to the Chair clearly explaining the grounds for the appeal;
 - (c) A copy of the letter of reconsideration from the Director of SAS;
 - (d) A copy of all the documentation submitted in regard to the request for accommodation and reconsideration;
 - (e) If the Appellant intends to have a lawyer present at the appeal hearing, the name and address of the lawyer shall be provided at the time of filing the appeal.
- 2.8 The remedy sought of the Committee shall not differ from that requested in the reconsideration, unless extraordinary circumstances are presented.
- 2.9 The Appellant shall have the right to be accompanied by a spokesperson. In the event the Appellant is a student, the spokesperson may be an advocate from the Student Advocacy Office, a representative from the University of Manitoba Students' Union, a representative from the Graduate Students' Association, a member of the university community not receiving payment for appearing, a member of the Appellant's immediate family or a lawyer. It is the Appellant's sole responsibility to ensure:
 - (a) that his/her spokesperson is familiar with the Student Accessibility Appeal Procedure, the Accessibility Policy and the Student Accessibility Procedure;
 - (b) the adequacy of his/her representation, if any; and
 - (c) to pay for his/her own lawyer's fees, if any.
- 2.10 Students may appeal a decision when:

Failure of Judgment

- (a) they believe the decision made by the Director of SAS was incorrect in his/her judgment regarding the need for, application of, or implementation of an Accommodation.

Failure of Process

- (b) they believe the decision made by the Director of SAS was incorrect due to a failure on his/her part or the part of SAS to dutifully perform the process of determining eligibility, or determining a reasonable Accommodation.

Failure of Information

- (c) they believe the determination made by the Director of SAS was incorrect due to a lack of information, or documentation. Generally speaking, a failure of information is informally handled by the student providing updated or requested documentation.

2.11 Academic Staff Members may appeal a decision when:

Compromising Academic Standards

- (a) they believe that the decision made by the Director of SAS would undermine Bona Fide Academic Requirements or any essential skills document developed for programs that are subject to external accreditation. The onus is on the Academic Staff Member to establish how the standards or essential skills would be compromised by providing the Accommodation. If a Bona Fide Academic Requirements or an essential skills document has not been developed, no appeals shall be available to Academic Staff Members.

2.12 Academic Staff Members filing appeals under this Procedure must demonstrate a substantial, viable and direct connection to the student and the proposed accommodation.

2.13 The composition of the Senate Committee on Academic Accommodation Appeals shall include:

- (a) Ten (10) members of the academic staff appointed by Senate for a three (3) year term;
- (b) Two (2) students appointed by Senate for a one (1) year term;
- (c) A Chair appointed by the President for a three (3) year term;

- (d) A Vice-Chair elected from and by the academic staff members for a three (3) year term.
- 2.14 Upon receipt of an Appeal, the Senate Committee on Academic Accommodation Appeals will notify the Dean or delegate of the Faculty/School, SAS and the respondent of a hearing date.
- 2.15 Appeals will be heard by a panel of at least four (4) members: two (2) academic staff members, a student and the Chair.
- 2.16 The Committee panel will meet to determine whether there are grounds to hear the appeal and whether the appeal falls within the jurisdiction of the Committee.
- 2.17 The Chair of the panel shall only vote in case of a tie.
- 2.18 If the panel determines that it will hear the appeal, they shall convene a hearing with the appellant, SAS or others as soon as possible to consider submissions from all the parties and Dean, if applicable. If the appellant is an Academic Staff Member, the student shall also be invited to attend the hearing.
- 2.19 The Committee panel may establish rules and procedures for its hearings and meetings. Such procedures must ensure fairness for all parties and facilitate a timely resolution of appeals.
- 2.20 The Committee panel will determine the appropriate accommodation on the basis of the student's disability and the Bona Fide Academic Requirements or essential skills document of the course or program.
- 2.21 The Committee panel will provide written reasons for its decision, which shall be final and binding on all parties.
- 2.22 All matters considered by the Committee shall be strictly confidential.
- 2.23 In the consideration of appeals by the Committee panel, time shall be of the essence. Attention will be paid to any deadlines which impact the student's progress in their program and reasonable efforts will be made to ensure that the decision of the Committee does not delay the student's progress.

Part III Accountability

- 3.1 The Office of Legal Counsel is responsible for advising the University Secretary that a formal review of this Procedure is required.
- 3.2 The University Secretary is responsible for the implementation, administration and review of this Policy and is responsible for the implementation, administration and review of this Procedure.

3.3 All Students and Employees are responsible for complying with this Policy.

Part IV Review

4.1 Governing Document reviews shall be conducted every ten (10) years. The next scheduled review date for this Procedure is September 1, 2028.

4.2 In the interim, these Procedures may be revised or rescinded if:

- (a) the Provost and Vice-President (Academic) deems it necessary; or
- (b) the Procedure is no longer legislatively or statutorily compliant;
- (c) the Parent Policy is revised or repealed.

Part V Effect on Previous Statements

5.1 This Procedure supersedes all of the following:

- (a) all previous Board of Governors/Senate Governing Documents on the subject matter contained herein; and
- (b) all previous Administration Governing Documents on the subject matter contained herein.

Part VI Cross References

6.1 This Procedure should be cross referenced to the following relevant Governing Documents, legislation and/or forms:

- (a) [Accessibility Policy](#)
- (b) [Student Accessibility Procedure](#)
- (c) [Senate Committee on Admission Appeals](#)
- (d) [Senate Committee on Appeals](#)