

Classification Number	<i>To be completed by the Policy Office</i>
Framework Category	Legal, Compliance and Governance
Approving Authority	Board of Governors
Policy Owner	University Secretary and General Counsel
Approval Date	DRAFT FOR CONSULTATION
Review Date	
Supersedes	

## ACCOMMODATION POLICY

### PURPOSE

1. The purpose of this Policy is to:
  - Establish the University’s commitment to working towards a barrier-free and inclusive campus environment; and,
  - Demonstrate compliance with the obligations and responsibilities, required of the University under its Respectful Campus Policy and by the *Ontario Human Rights Code* (“*the Code*”), the *Accessibility for Ontarians with Disabilities Act (AODA)*, and the *Workplace Safety and Insurance Act*.

### DEFINITIONS

2. **“Accommodation Measures”** are adaptations or adjustments that may be required to enable full participation. Accommodation Measures may include, but are not limited to:
  - Human support services such as sign language interpreters, readers, etc.
  - Technical aids and assistive devices
  - Workstation and/or office modifications
  - Flexible or alternative work/assignment schedules
  - Temporary re-assignments

**“Barriers”** include attitudes (stereotypes or prejudices), designs, policies, practices and rules that prevent full participation of individuals or groups on the basis of a protected Ground when applied in the same way to everyone without accommodation.

**“Creed”** is not defined in the Code, but courts and tribunals often refer to creed as religious beliefs and/or practices. As creed is not clearly defined, the following characteristics have been relied on when considering whether a belief system is a creed under the Code:

  - It is sincerely, freely, and deeply held
  - Is integrally linked to a person’s identity, self-definition, and fulfilment
  - Is a particular and comprehensive, overarching system of belief that governs one’s conduct and practices
  - Addresses ultimate questions of human existence, including ideas about life, purpose, death, and the existence or non-existence of a creator and/or a higher or different order of existence
  - Has some nexus/connection to an organization or community that professes a shared system of belief.

**“Disability”** means:

- any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device;
- a condition of mental impairment or a development disability;
- a learning disability, or dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;
- a mental disorder; or
- an injury or disability for which benefits were claimed or received under the insurance plan established under the *Workplace Safety and Insurance Act*.

**“Duty to Accommodate”** refers to the obligation to eliminate the disadvantage, to the point of undue hardship, caused by barriers that exclude individuals or groups protected under the Code from participating in all aspects of their employment, use of facilities or their receipt of services from the University. Failure to meet the Duty to Accommodate is a form of discrimination.

**“Family Status”** is defined as the status of being in a parent-child relationship, and includes any relationship that is equivalent to the care, responsibilities and commitment of a parent to a child. An adult child who is responsible for the care of a parent (e.g., providing elder care) is also in a relationship that is included in the definition of family status. In order to trigger a Family Status accommodation, the child/parent must be under the supervision or control of the University Member, there must be an essential need or legal obligation that flows from the relationship and the impact must create real disadvantages to the parental-child relationship and the responsibilities that flow from it (i.e. it is not trivial, insubstantial or merely a negative impact).

**“Gender Identity & Gender Expression”** Gender Identity is the gender that people identify with or how they perceive themselves, which may be different from their birth-assigned sex. Gender identity is linked to a sense of self, the sense of being woman, man, both, neither or anywhere along the gender spectrum (non-binary). Gender Expression is the way people communicate or express their gender identity publicly; often through behaviour and physical appearance, e.g., dressing, the length and style of hair, or by emphasizing, de-emphasizing or changing physical characteristics. Chosen names and preferred pronouns are also ways in which people express gender. Gender Identity and Gender Expression are completely separate from sexual orientation. Accommodations on the ground of gender identity or gender expression may be sought relating to:

- Pronouns
- Name and Gender title changes
- Transitioning
- Gender affirming surgery
- Washroom Access
- Locker Room/Change Facilities

**“Interim Accommodations”** are temporary Accommodation Measures that are implemented on a good-faith basis while an accommodation request is under review and are typically reserved for complex cases that may require more time or specialist input to determine whether Accommodation is required and to identify/choose appropriate long-term Accommodation Measures.

**"Person(s) of Authority"** includes any person who has charge of a workplace, authority over another Employee or authority in the administration of education or provision of services. Anyone who supervises an Employee at Ontario Tech University is a Person of Authority. For the purposes of this policy, Faculty members, and Faculty Leadership (e.g. Deans, Associates Deans, etc.) are also considered Persons of Authority vis-à-vis their relationship to students.

**"Protected Ground(s)"** are the grounds contained in the Ontario Human Rights Code under which individuals are protected against discrimination and harassment. All University Members are protected under the following Grounds: “race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, Record of Offences, marital status, family status or disability.” Employees are additionally protected under the ground “record of offences.”

**“Sex (Including Pregnancy and Breastfeeding)”** The Code does not specifically define the ground of “sex,” but it is considered to be related to a person’s biological sex, male or female. The Code makes it against the law to discriminate against someone or to harass them because of sex, including pregnancy and breastfeeding. Pregnancy includes the process from conception up to the period following childbirth. Special needs and circumstances that may be experienced as a result of pregnancy are also included within the definition of pregnancy. Special needs can relate to circumstances arising from:

- miscarriage or stillbirth
- abortion
- conditions which result directly or indirectly from an abortion/miscarriage or stillbirth
- fertility treatments/ other interventions to get pregnant
- medical complications resulting from pregnancy
- recovery from childbirth
- breastfeeding
- postpartum depression

**“Undue Hardship”** as defined in the Code prescribes three considerations in assessing whether an accommodation could cause undue hardship: Cost; Outside Sources of Funding; and Health and Safety Considerations. Additional information is available on the Ontario Human Rights Commission website (URL: [www.ohrc.on.ca](http://www.ohrc.on.ca)).

**“University Member”** means any individual who:

- is employed by the University or holds an appointment with the University, including paid, unpaid and/or honorific appointments (**“Employee”**);

- is registered as a student, in accordance with the academic regulations of the University (**“Student”**); and/or,
- Is otherwise subject to University policies by virtue of the requirements of a specific policy (e.g. Booking and Use of University Space) and/or the terms of an agreement or contract.

## **SCOPE AND AUTHORITY**

3. The University Secretary and General Counsel is the Policy Owner. The Policy Owner is responsible for overseeing the implementation, administration, interpretation and application of this Policy.
4. This Policy applies to all University Members in all aspects of their engagement with the University.
5. This Policy does not override or diminish the rights provided to Employees under applicable Collective Agreements. Collective Agreements will supersede this Policy to the extent there is a conflict.

## **POLICY**

6. Ontario Tech University is committed to promoting an environment where everyone has an equal opportunity to contribute to their fullest potential and where all are treated with sensitivity, fairness and respect. The university recognizes its duty to accommodate to the point of undue hardship and commits itself to an accommodation process that reflects the principles of dignity, privacy, inclusion and individualization.
7. Ontario Tech University is committed to fully exploring all reasonable requests for accommodation in good faith, and to providing reasonable accommodation where evidence supports the need for accommodation unless the accommodation would alter a bona fide occupational or academic requirement and/or undue hardship can be demonstrated.
8. Ontario Tech University may consider on a case-by-case basis whether Interim Accommodations can be implemented while the formal review of accommodation requests is in progress.
9. Where there are multiple ways to provide accommodation without incurring Undue Hardship, the University reserves the right to accommodate in the manner most consistent with the University’s operational and academic requirements.

### **10. The Duty to Accommodate: General Principles**

In order to meet the needs of individuals affected, the University’s approach to providing accommodations will be based on the following principles:

- a) **Individualization:** designing accommodation to meet the specific circumstances of each Employee, job applicant and Student. Accommodation is assessed and delivered on an individual basis for persons who make their needs known. Each request must be considered individually in order to assess appropriate accommodation.

b) **Dignity:** Requests for accommodation must be dealt with in a respectful and timely manner so individuals can fully participate in all aspects of employment, use of facilities and receipt of services.

c) **Privacy:** individuals must be accommodated in ways that respect their right to privacy. Information relating to specific requests for accommodation will be treated as confidential and will only be used for the purpose of assessing and implementing accommodation options and solutions. The consideration of accommodation requests and the search for reasonable accommodation measures will involve the person requiring the accommodation and a Person of Authority. Consultations with third parties with specialized expertise in the development of the accommodation plan may also be required (e.g. the Human Rights Office, Student Accessibility Services and Human Resources).

e) **Inclusion:** intentional design helps ensure programs, policies, practices, facilities, services, communications and systems are designed and administered to foster the full integration of diverse individuals and groups protected under the Code. The proactive review of existing policies, rules, practices and procedures to identify and eliminate barriers to access and inclusion can also promote a more inclusive campus. Intentional design and systemic assessments minimize the need for individual assessments/accommodations.

## 11. Making a Request for Accommodation

Although accommodation requests are most commonly made on the grounds of Disability, Family Status, Creed, Sex (more specifically related to pregnancy and breast-feeding) and Gender Identity & Gender Expression, requests for accommodation can be made based upon any Protected Ground.

It is typically the responsibility of the University Member to make their Protected Ground-related needs known. The University has procedures for [Students](#) and [Employees](#) related to making disability-related accommodation requests. For accommodation requests related to all other Protected Grounds, speak to a relevant Person of Authority (e.g. your supervisor or manager, your Professor, a Dean, etc.)

## 12. Receiving a Request for Accommodation

Disability-related accommodation requests from Students are to be received by Student Accessibility Services and Human Resources receives similar requests from Employees. in cases involving disability accommodation, written accommodation plans will be developed in accordance with the requirements of the Accessibility for Ontarians with Disabilities Act.

For all other accommodation requests, Persons of Authority are tasked with receiving and responding to requests for accommodation. When in receipt of a request for accommodation, Persons of Authority are encouraged to consult with the Human Rights Office for advice and assistance.

## 13. Advice and Assistance

Any University Member may book a confidential consultation meeting with The Human Rights Office for additional information related to this policy instrument or for advice related to their specific circumstances.

#### **14. Dispute Resolution**

The University also has Dispute Resolution procedures to handle allegations of discrimination. University Members who have concerns about the manner in which their request for accommodation has been handled should consult the Respectful Campus Policy and related procedures.

### **ROLES AND RESPONSIBILITIES**

#### **15. All University Members**

1. Are responsible for familiarizing themselves with this Policy
2. Will build and maintain positive and productive relationships and demonstrate Respect in their interactions; and,
3. Will engage the accommodation process in good-faith and in a cooperative manner, which includes making their needs known in a timely fashion, providing additional information about their individualized needs when requested and being open to all reasonable Accommodation Measures.

#### **16. Persons of Authority**

1. Are responsible for ensuring University Members under their authority are aware of this Policy and its associated procedures;
2. Will respond to requests for Accommodation in good faith, in accordance with related Ontario Tech University policies and procedures, and in consultation with relevant stakeholders;
3. Will handle requests for accommodation on the ground of "Disability" consistent with applicable procedures for Students and Employees;
4. Will process requests for accommodation related to all other Protected Grounds pursuant to requirements under this policy, ensuring the University meets its Duty to Accommodate up to the point of undue hardship; and,
5. Will cooperate with relevant stakeholders in the process of identifying and implementing reasonable Accommodation Measures.

#### **17. Human Rights Office**

1. Is responsible for the interpretation and administrative direction of this policy and its associated policies and procedures to ensure their compliance with regulatory requirements;
2. Will assist University Members to understand their rights and obligations under this policy and provide advice and direction; and,
3. Will assist Persons of Authority to assess requests for accommodation and explore reasonable Accommodation Measures.

#### **18. Human Resources**

1. Is responsible for administering the “Procedures for Accommodating Employees and Job Applicants with Disabilities;” and,
2. Will assist Persons of Authority to implement Accommodation Measures in the workplace.

**19. Student Life**

1. Is responsible for administering the “Procedures for Academic Accommodation for Students with Disabilities;” and,
2. Will assist Persons of Authority to implement Accommodation Measures for students.

**MONITORING AND REVIEW**

- 20.** This Policy will be reviewed as necessary and at least every three years. The University Secretary and General Counsel, or successor thereof, is responsible to monitor and review this Policy.

**RELEVANT LEGISLATION**

- 21.** Human Rights Code, R.S.O. 1990, c. H.19  
Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005  
Workplace Safety and Insurance Act

**RELATED POLICIES, PROCEDURES & DOCUMENTS**

- 22.** Accessibility Policy  
Procedures for Accommodating Employees and Job Applicants with Disabilities  
Procedures for Academic Accommodation for Students with Disabilities  
Respectful Campus Policy