

## DUTY TO ACCOMMODATE STUDENTS WITH DISABILITIES POLICY

This document is the parent policy for any college or divisional procedures. Questions regarding this policy are to be directed to the identified Policy Administrator.

<b>Functional Category:</b>	Academic
<b>Approval Date:</b>	March 16, 2020
<b>Effective Date:</b>	March 16, 2020
<b>Policy Owner:</b>	Vice President, Teaching and Learning
<b>Policy Administrator:</b>	Director, Customer Care

### Objective:

NorQuest College (the college) values diversity and inclusion and offers its students relevant and accessible education. NorQuest seeks to provide accommodation(s) to students with experience of disability as a moral and ethical best practice, while at the same time acknowledging the provision of accommodation(s) as a legal requirement set out by the **Alberta Human Rights Act**. NorQuest College seeks to create a space for students to develop and practice (to the best of their individual abilities) independence within their studies, ownership over their goals and abilities, and positive self-advocacy.

Approved accommodation(s) provided to students with diagnosed disabilities will not require the college to lower academic or non-academic standards. Students receiving accommodation(s) are expected to develop the essential skills and competencies expected of all students in their program of study, as defined by the curriculum.

It is the responsibility of the college community to strive toward the moral and ethical best practices of the Duty to Accommodate while upholding the policies legal requirements, as set out by the **Alberta Human Rights Act**.

This policy aligns with the **Alberta Human Rights Commission's** document *Duty to Accommodate Students with Disabilities in Post-Secondary Educational Institutions* as a guide for best practices in providing accommodation(s) to students with experience of disability.

Authority to establish this procedure is derived from the [NorQuest College Board of Governor's Policy No. 5](#), which delegates authority to the President and CEO to establish policies and procedures for the college's management and operation.

### Policy:

NorQuest College community members have a shared responsibility in the accommodation process. The college provides accommodation(s) to students with disabilities within all NorQuest College activities and events. This includes but is not limited to: college events such as graduation; in-class teaching and learning; work integrated learning opportunities in which NorQuest students are engaging with employers and the community. In situations of work integrated learning, NorQuest College remains accountable for upholding the college's duty to accommodate during the student's workplace experience (in so far as the approved accommodation(s) does not impact essential requirements, as defined by this policy).

Students' approved accommodation(s) are decided based on the review of the documentation provided by the student and the student's first-person experience of their individual functional impacts. Approved accommodation(s) are provided on a case-by-case basis – there are no

global accommodation(s) provided to all students with experience of disability.

### **Student Rights:**

In addition to the student [rights](#) outlined by the college, students with an experience of disability have the right to:

- 1) Receive reasonable interim accommodation(s) for a three-month period based on initial intake assessments in the absence of medical documentation.
- 2) Receive reasonable accommodation(s), guided by recommendations from an external professional assessment of the student as well as the student's first-person experience of their individual functional impacts.
- 3) The opportunity to discuss adjustments to the accommodation plan with a member of Disability Services.
- 4) To be provided with service (including accommodations) within the college that supports independence, dignity, integration, and equality of opportunity.
- 5) A respectful, fair and timely process to reach accommodation decisions.
- 6) A respectful, fair and timely process to resolve disagreements regarding accommodation(s) decisions – through meeting with management in Wellness and Accessibility – or appeal accommodation(s) decisions – through the Office of Student Judicial Affairs (OSJA)
- 7) To seek guidance and advice from the OSJA if the student believes their rights (as outlined by the **Alberta Human Rights Commission**) have been violated.

### **Student Responsibilities**

In addition to the student [responsibilities](#) outlined by the college, NorQuest College students with an experience of disability have the responsibility to:

#### *Plan before asking for accommodation by:*

- 1) Review college policy for accommodating students with experience of disabilities.
- 2) At the earliest point possible, decide whether to disclose having a disability that requires accommodation(s) – it is strongly recommended that students discuss accommodation(s) with a disability specialist at least three-months prior to starting their program of study.
- 3) Develop a set of options to accommodate individual disabilities and functional impacts. This may include examples of accommodations the student has used or attempted in the past. The accommodation(s) provided by the college may differ from the ones suggested. This will be determined in discussion with a disability specialist.
- 4) Be prepared to support a request for accommodation(s) with reasonable evidence, for example, a psychological educational evaluation or documentation from a medical professional.

### Make a request

- 1) Make an appointment to meet with Disability Services at least three-months prior to starting your program of study. Depending on the complexity of the accommodation(s), it may take several months to ensure that a student is properly accommodated.
- 2) Provide Disability Services with the required medical documentation to support the provision of the best accommodation solutions.
- 3) If receiving temporary accommodation(s), follow through with the requirements (as outlined in the intake meeting with Disability Services) to ensure that accommodations become permanent.
- 4) Share information about individual accommodations with classroom instructors. Disclosure of disability information is not required, but students should provide their instructor with information about individual accommodation(s).

### **Employee Rights**

Employees of the college supporting students with an experience of disability have the right to:

- 1) Access information, education and support in relation to the implementation of the NorQuest College *Duty to Accommodate Students with Disabilities Policy* and associated procedures.
- 2) As matches the scope of the employee's role, determine course content and methods of instruction and evaluation that support multiple means of expressing the knowledge taught, engaging students, and assessing student knowledge.
- 3) As matches the scope of the employee's role, develop Bona Fide Academic Requirements (BFARs), to ensure that the academic integrity and standards of the course are not compromised and that established entry-to-practice competencies and requirements for professional disciplines are not compromised. (BFARs must take into consideration the **Alberta Human Rights Act** and must be defensible through the test set out by the Supreme Court of Canada – see definition of *Essential Requirements* and *Reasonable and Justified* for the three-part test).
- 4) As matches the scope of the employee's role, evaluate student work, performance and competencies related to the course content and relevant academic standard, including failing any student who has not passed or satisfied the course requirements – regardless of disability.
- 5) Discuss any particular accommodation(s) with management in Wellness and Accessibility if, in the college community member's opinion, the accommodation compromises the integrity of the academic standard set out by the college.

### **Employee Responsibilities**

#### Prepare, plan, and train for accommodation

- 1) College employees should ensure that they have a working knowledge of the duty to accommodate policy and associated procedures as it pertains to their unique role within the college.
- 2) Review policies, procedures, and processes (as well as rules and standards) developed in the past to ensure they meet the Supreme Court of Canada test for determining if the policy, procedure, or process (rule or standard) is reasonable and justified (see definition

of *Reasonable and Justified* below for Supreme Court of Canada test).

- 3) Ensure that the development of new policies, procedures, and processes (as well as rules and standards) adhere to the Supreme Court of Canada three-part test to ensure the new policy, procedure, or process (rule or standard) is reasonable and justified (see definition of *Reasonable and Justified* below for Supreme Court of Canada test).

#### Respond to request for accommodation

- 1) Once a request for accommodation(s) is received, the college has a duty to accommodate the student to the point of undue hardship (see definition of *Undue Hardship* below). The student must meet with Disability Services as soon as possible to set-up accommodations and provide documentation.

#### Implement accommodations

- 1) The College must take a flexible approach to implementing support to students with experience of disability. A broad range of accommodation possibilities must be considered.

### **Wellness & Accessibility (and College accommodation providers) Rights:**

Wellness & Accessibility (and College accommodation providers, including Disability Services) have the right to:

- 1) Defer students the equivalent of one 16-week academic term in order to ensure that appropriate accommodation(s) can be arranged.
  - Based on capacity and enrollment of the student's chosen academic program, some academic programs may place students on a waitlist that extends beyond a 16-week academic term.
- 2) Request that students update psychological educational assessment documentation based on discussion with a disability specialist during the intake process. Psychological educational assessments should be no more than 5 years old, unless the assessment was completed after the age of 18.
- 3) Establish whether the provision of an accommodation meets the threshold of undue hardship. To be considered undue hardship, accommodation(s) would have to meet one of the following factors:
  - **Financial cost that hurts the viability of the service, program, or institution**
    - To be considered an undue hardship, the financial cost of accommodation(s) must amount to a substantial part of the institution's overall budget as determined by the Director of Customer Care, the Vice President of Teaching and Learning, or the Vice President or Customer Experience.
  - **Students cannot meet the requirements for entering or completing a program**

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

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

- The college will have to demonstrate that the accommodation(s) 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, service providers, or employer-partners and their employees.**

- The college must reliably identify and measure the risks to health and safety, as well as determine who bears the risk. Risk that is limited to the person being accommodated often does not amount to an undue hardship. Safety and health risks that contravene legally required occupational health and safety and workers' compensation requirements may be considered an undue hardship.

Wellness & Accessibility is not bound to implement all accommodation suggestions or recommendations made by third parties – including psychological educational assessments, or other professional medical documents.

**Wellness & Accessibility (and College accommodation providers) Responsibilities:**

*Prepare and plan for accommodations*

- 1) Support students in a way that takes into account the student's independence, ownership, and positive self-advocacy.
- 2) Develop and share an organization-wide accommodation policy  
Ensure that there is a person responsible for administering disability policy and associated procedures who has an expert knowledge of policy, issues related to accommodation, and psychological educational assessment.
- 3) Consider the student's first-person experience of their individual functional impacts, in addition to the evidence from professionals that indicates accommodation(s) are required (information about previous educational accommodation(s) may also be considered if available, but is not necessary to the process). From these pieces of information, a student's accommodation plan will be created.
- 4) As needed, engage in a consultative process with college community members, students, accommodation providers, external professionals, and colleagues within Wellness & Accessibility in order to determine the scope and implementation of the accommodation(s) provided.
- 5) On specific occasions, students with non-disability related functional impacts may be provided with accommodation(s) at the discretion of Wellness & Accessibility.

Train and update for accommodation

- 1) Provide opportunities for employees at the College to obtain a working knowledge of the accommodation policy and associated procedures.
- 2) Respond to inquiries regarding policies, procedures, and processes developed in the past to encourage alignment with the Supreme Court of Canada test for reasonable and justified (see definition of *Reasonable and Justified* below for the Supreme Court of Canada test).
- 3) Provide consultation on the Supreme Court of Canada test to support its use in the development of new policies, procedures, and processes.

Develop the accommodation plan

- 1) Disability Services will take a flexible approach in considering and developing accommodation options. This will include consideration of a broad range of possibilities.
- 2) Disability Services will take into account how a student has been accommodated in the past. While past accommodation(s) will be taken into consideration, accommodation(s) provided to the student at NorQuest may not match students' previous accommodations.
- 3) Disability Services will work with the student to develop a plan for their accommodation(s). All reasonable accommodations must:
  - Be based on documented individual disability needs
  - Allow the most integrated experience possible for the student being accommodated, as well as other students in the classroom and the instructor
  - Not compromise the essential requirements of a course or program
  - Not pose a threat to personal or public safety
  - Be workable and sensible
- 4) As required, Disability Services will involve other members of the college community (ex. instructors, and program chairs) in the creation of an accommodation plan as necessary.
- 5) In some circumstances, the provision of accommodation(s) may provide advantage for the accommodated student and thereby negatively affect the assessment of the student's ability to independently demonstrate an essential requirement. In these situations, it may be reasonable and justified to deny an accommodation request. Such denials are made on a case-by-case basis. Wellness & Accessibility must take a lead role in assessing whether a process or practice resulting in a barrier is reasonable and justified. The following three-part test (set out by the Supreme Court of Canada) will be used in determining whether a barrier is reasonable and justified:
  - **Is the process or practice rationally connected to its objective?**
    - What is the purpose of the process or practice – safety, efficiency, other?
    - Is the process or practice a logical way to meet that purpose?

- **Did the post-secondary institution adopt the process or practice with an honest and good faith belief that the policy was necessary to accomplish its service-related purpose?**
  - What were the circumstances surrounding the adoption of the process or practice?
  - When was the process or practice created, by whom, and why?
  - What other considerations were included in the development of the process or practice?
  
- **Is the process or practice reasonably necessary for the post-secondary institution to accomplish its purpose?**
  - Is the process or practice based on facts or unsupported assumptions?
  - Does the process or practice treat some groups of students more harshly than others?
  - Has the process or practice been designed to minimize its discriminatory effect?
  - Has the post-secondary institution considered alternatives?
  - Would accommodation amount to undue hardship?
  
- 6) On occasion, some accommodations provided during a students' in-class study may not be available to the student during practicum, clinical, or work integrated experience.

Review and revise the accommodation plan

- 1) Disability Services and College employees administering accommodation(s) (in coordination with the student receiving accommodation(s)) will review and revise the accommodation plan as required.

Student complaints and requests

Wellness and Accessibility has the responsibility to:

- 1) Provide guidance to a student if they have a request regarding perceived barriers present within the upholding of a NorQuest College policy, procedure, or process
- 2) Provide guidance to a student regarding the process if they have a complaint about a college community member
- 3) Follow Office of Student Judicial Affairs processes in working with college community members, as outlined in the *Student Judicial Affairs Policy*

**Definitions:**

**Academic Integrity:** commitment to five fundamental values: honesty, trustworthiness, fairness, respect, and responsibility.

Academic integrity is honest and responsible scholarship. Students and instructors are expected to submit original work and give credit to other peoples' ideas. Maintaining academic integrity involves:

- Creating and expressing your own ideas in course work



- Acknowledging all sources of information
- Completing assignments independently or acknowledging collaboration
- Accurately reporting results when conducting research or with respect to labs
- Honesty during examinations – completion of exams independently and in accordance with the provided exam rules

**Accommodation(s) for students with experience of disabilities:** accommodations are intended to remove barriers related to the functional impacts of a student. Administering accommodations is a shared responsibility between the student and the institution and arriving at an accommodation(s) is a consultative process. Accommodations may include (but are not limited to): exam writing accommodations; some form of assistive technology; permission to record lectures; advanced copies of course material; academic coaching; sign language interpreter; instructional assistant working with student 1-on-1 in the classroom.

Accommodation(s) for students with experience of disability has three limitations: academic integrity; reasonable and justified; undue hardship.

**Accommodation Plan:** the plan developed by Disability Services (in consultation with the individual student with experience of disability) to meet the student's specific academic needs. The Accommodation Plan will include:

- Students accommodation status (permanent or temporary)
  - If temporary, an accommodation end date will be included
- Types of approved accommodations the student has been provided with

**Approved Accommodation:** the process through which all students are provided with the necessary individualized skills and tools to support independence, dignity, integration, and equality of opportunity in order to provide equal access to learning and information. Approved accommodations are those provided to a student by a disability specialist, and based on student medical documentation and the student's first-person experience of their individual functional impacts.

**Barrier:** anything physical, architectural, technological or attitudinal; anything that is based on information or communications; anything that is the result of a policy or a practice – that hinders the full and equal participation in society of persons with an impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment or a functional impact.

**College Community:** any student, faculty, administrative or staff member of the college, member of the public serving in a recognized capacity for the college, guardian of an underage student acting on behalf of the student in the college community, any employer-partner providing students with work place experience opportunities, and employee of an agency contracted by the college.

**Disability:** any impairment, including (but not limited to) physical, mental, intellectual, cognitive, learning, communication, or sensory, whether permanent, temporary, or episodic in nature that, in interaction with a barrier, hinders a person's full and equal participation in the education and learning process.



**Duty to Accommodate students with experience of disabilities:** refers to the requirement under Section 5 of the Canadian Human Rights Act and Section 4 of the Alberta Human Rights Act that prohibits discrimination regarding goods, services, accommodation, and facilities. As a result, educational institutions are required to make arrangements, adjustments, and alterations in the educational environment to ensure that it does not have a discriminatory effect on a student because of student’s disability. The duty to accommodate students with disabilities is part of the college’s larger duty not to discriminate.

**Essential Requirements:** essential requirements include both bona fide occupational requirements and bona fide educational/academic requirements. Essential requirements include, but are not limited to, the knowledge and skills that must be acquired and demonstrated in order for a student to successfully meet the learning outcomes of the course, program, or workplace experience.

**Functional Impact:** the ways in which a disability will affect an individual’s access to activities, such as learning. Functional impacts are used to identify reasonable accommodation(s) for students with experience of disability.

**Reasonable Accommodation for students with experience of disability:** refers to the requirement of the college to provide accommodation up to the point of undue hardship. The college is required to provide accommodation that overcomes a barrier to education but are not required to choose the most expensive or comprehensive level of accommodation.

**Reasonable and Justifiable:** a process or practice that creates a barrier to the educational environment that, any attempt to accommodate will result in an undue hardship for the college may be considered reasonable and justifiable. Denial of an accommodation may also be reasonable and justifiable if the process or practice being accommodated for is an essential requirement.

**Undue Hardship:** the point to which the college must provide accommodation(s). The standard for undue hardship is very high, and in most situations, the college is required to provide some form of accommodation that overcomes the educational barrier.

**Related NorQuest College Information:**

- [Freedom of Information and Protection of Privacy \(FOIP\) Act Policy](#)
- [Respectful Workplace and Learning Environment Policy](#)
- [Sexual Violence Policy](#)
- [Student Judicial Affairs Policy](#)
- [Universal Design Policy](#)

**Related External Information:**

- [Alberta Human Rights Act](#), Section 4
- [Canadian Human Rights Act](#), Section 5
- [Citizenship and Multiculturalism Act](#)

**Next Review Date:**

April 2024

**Revision History:**

April 2013: new (replaces Standard Practice 3.12 – Duty to Accommodate)  
August 2013: update for document links and branding  
May 2015: reviewed as per Policy and Procedure Framework: no change  
August 2019: Compliance Office template & reorganization update  
January 2020: reviewed as per Policy and Procedure Framework: changes and updates to align with current disability standards and practices and the changing college culture. The newly created Accessible Canada Act was considered in this revising. Changed from a procedure to a policy, Duty to Accommodate Students with Disabilities Procedure retired.