



BRANDON UNIVERSITY

This electronic file contains important information about Brandon University policies with which all employees are expected to familiarize themselves.

Please take the time to review each policy. Once completed, sign the Policies Acknowledgement form located at the end of these policies and return it to your supervisor.

This acknowledgement will be retained in your personnel file.

NOTE:

As we update policies, revisions will be found in this electronic file or in the binder centrally located within your department.

Be sure to refer to this electronic file or to the binder from time to time to make sure you are aware of the most current version of the policies.

All policies are also found on www.brandonu.ca

If you require these policies in an alternate format, please advise your supervisor.

 <p>BRANDON UNIVERSITY Founded 1899</p>	<p align="center">Discrimination and Harassment Prevention Policy</p>	<p><i>First Approved:</i> <i>June 24, 2017</i></p>
		<p><i>Updated:</i> <i>March 2019</i></p>
<p><i>Board of Governors Policy</i></p>	<p><i>Approved by Board of Governors</i> <i>Administered by Vice-President, Administration & Finance</i></p>	<p><i>Reviewed:</i></p>

1. Introduction

Brandon University is committed to maintaining a productive and respectful work and learning environment and believes it is the right of all employees and students to work and study in an environment free of discrimination and harassment. To this end, the University will make best efforts to prevent the occurrence of discrimination and harassment through education, training, and early resolution of conflict in the workplace.

In positive terms, all members of the University community should strive to:

- a. respect and value the diversity of people, values and beliefs represented;
- b. preserve the dignity of others in all interactions;
- c. act in a courteous manner at all times;
- d. engage in communication that is solution-focused; and
- e. collaborate with colleagues where appropriate.

When a concern is brought forward, the first step will be for the Diversity and Human Rights Advisor (DHRA) to determine if the issue is best dealt with under the processes outlined in the *Guide to Resolving Conflict at Brandon University* or if it falls under the *Discrimination and Harassment Prevention Policy*.

2. Responsibilities Under this Policy

Brandon University is committed to combatting discrimination and harassment through raising awareness and providing training to employees and students on the *Manitoba Human Rights Code (MHRC)*, the *Workplace Safety and Health Act and Regulations (WSH Act and Regulations)*, and responding to incidents of discrimination and harassment.

Brandon University has a responsibility to prevent acts of discrimination and harassment and to address them when they happen. Even in cases where no report has been filed, the University has a duty, under the *WSH Act and Regulations*, to respond to incidents that appear to be discriminatory or harassing in nature. For example, a University initiated investigation may be necessary in situations where there are repeated concerns about the same individual or where there is evidence of an unhealthy work environment in an area of the University.

Where a member of the University community, especially anyone in a leadership, management or supervisory role, is aware of acts of discrimination or harassment and fails to take action to address the behaviour they may be subject to penalties under this policy or under the *WSH Act and Regulations*.

For detailed information on the roles and responsibilities of particular groups or individuals, see APPENDIX A: ROLES AND RESPONSIBILITIES.

3. Manitoba Legislation and this Policy

At Brandon University the *Discrimination and Harassment Prevention Policy* and related procedures are informed and guided by the *MHRC* and the *WSH Act and Regulations*. These two pieces of legislation apply to and prevail over all provincial legislation (with few exceptions), as well as over University policies and collective agreements. Subject to applicable legislation, all processes in this policy shall be pursued in accordance with the respective collective agreements entered into between the University and its employees and all University Policies and Procedures.

The *MHRC* governs any discrimination or harassment that is based on the “prohibited grounds” listed in the Code. The *WSH Act and Regulations* prohibit both harassment based on the prohibited grounds, and what will be termed here as “Personal Harassment”, and also speaks to what is not considered harassment. The *MHRC* applies to the University as a workplace, a service to the public and a housing provider.

For detailed definitions of Discrimination, Harassment and other pertinent terms, see APPENDIX A: DEFINITIONS

4. Guiding Principles

a) Shared responsibility

Preventing and stopping discriminatory/harassing behaviour at Brandon University requires that all members of the University community work together to behave in a respectful and collegial manner, and to address disrespectful or unproductive behaviour when it happens.

b) Laws of Natural Justice

The implementation of this policy will be conducted based on the laws of natural justice. This means that the respondent has the right to know the allegations against them in full detail, and the right to reply to these allegations. It also means that anyone investigating a concern or complaint must endeavour to remain neutral and avoid allowing any personal bias to influence their decisions. Remedial or punitive actions resulting from the implementation of this policy will be based on evidence, and that evidence will be shared with both the complainant and respondent.

c) Problem solving versus punitive action

The main purpose of the *Discrimination and Harassment Prevention Policy and Procedures* is to assist with resolving issues. While it is recognized that sanctions are sometimes necessary and effective, a process that encourages discussion and a negotiated agreement is preferred where possible.

5. Scope and Application of This Policy

Every member of the Brandon University community has both the right to work and study in an environment that is free from discrimination and harassment, and the responsibility to maintain a discrimination and harassment free environment. This policy applies to all members of the Brandon University community, which includes all employees, students, contractors and suppliers of services, volunteers, visitors, and individuals who are connected to any University initiatives. This policy applies to all members of the University community in their interaction with other members of the University community. The context of the interaction need not be University-related if the parties' primary relationship is through their mutual connection to the University.

Behaviours which constitute discrimination and harassment, which impact the work and/or study environment of a member of the Brandon University community, may be covered by this policy even though they may occur outside the normal working hours, or during off-campus activities such as work, athletic, or academic related travel, campus related social functions, or work or academic assignments or placements. Conduct on social media or communication through electronic means may constitute a breach of this policy.

It is important to note that a harassing or discriminatory act can be unintentional, and still warrant action under this policy. Where the actions of an individual or group have the effect of harassing or discriminating against a member of the University community, whether intended or not, the "reasonable person test" may be used to determine whether they should have known that their actions were unwelcome and would cause harm to the member.

6. Education and Communication

The cornerstone of prevention efforts is education. Brandon University is committed to promoting the principles of diversity and human rights through education and conversation in many forums and formats throughout the community on an ongoing basis. The DHRA will coordinate and deliver a program that raises awareness of:

- a) forms of discrimination, including both direct and systemic discrimination,
- b) the damage that discrimination and harassment cause to both the individual and to the University,
- c) how to prevent discrimination and harassment, and
- d) what to do about discrimination and harassment when they occur.

7. Confidentiality

Brandon University recognizes the importance of confidentiality, and issues brought to the DHRA will be treated as confidential. All information collected as a result of any action under this policy will be managed in accordance with *The Freedom of Information and Protection of Privacy Act (FIPPA)* and *Personal Health Information Protection Act (PHIA)* as applicable.

8. Academic Freedom

Brandon University recognizes that, as an academic and free community, it must uphold its fundamental commitments to academic freedom and freedom of thought, inquiry and expression. Therefore, this policy will not be interpreted, administered or applied to infringe upon these freedoms. These freedoms, however, must be exercised in a responsible manner and are subject to limits prescribed by law, including those related to human rights, and workplace safety and health legislation. Members of the University community, in exercising their academic freedom and freedom of thought, inquiry and expression, shall respect the rights and dignity of others, and not engage in actions that deny equality to, or harass others.

9. Review

As is required by Workplace Safety and Health Legislation, this policy and the associated procedures will be reviewed, at a minimum, every 3 years, with any changes requiring approval by the Board of Governors. In the intervening time periods between these reviews, the procedures may be updated or revised by the DHRA as needed, following consultation with unions and other stakeholders. Changes to both the policy and procedures will be tracked and summarized in an attached document.

10. Related Policies and Procedures

- a. Discrimination and Harassment Prevention Procedures
- b. Guide to Resolving Conflict at Brandon University
- c. Manitoba Human Rights Code, C.C.S.M. c. H175;
- d. Workplace Safety and Health Act and Regulation of Manitoba 217/2006.
- e. Sexualized Violence Prevention Policy
- f. Collective Agreements
- g. Guide to Investigations at Brandon University
- h. Records Management Policy
- i. Freedom of Information and Protection of Privacy Act
- j. Personal Health Information Act

Brandon University

Discrimination and Harassment Prevention Procedures

1. Purpose

The Discrimination and Harassment Prevention Policy and related procedures are based on principles of fairness and due process for all parties involved in any human rights proceeding at Brandon University. These procedures are in place to implement the Discrimination and Harassment Prevention Policy. The University's Discrimination and Harassment Prevention Policy was established to support a climate of mutual respect in the workplace and learning environment so that all members of the University community are free from discrimination and harassment.

These procedures apply to cases of direct and systemic discrimination, discrimination-based harassment and personal harassment. Cases of sexual harassment fall under Brandon University's Sexualized Violence Policy.

2. Recourse Options

This Policy and Procedure does not limit the right of a member of the University community to file a complaint with the Manitoba Human Rights Commission. This Policy and Procedure is not intended to discourage the complainant from exercising any other rights under the law. Members of the University community retain the right to address issues through the grievance process outlined in their respective collective agreement or through other University policies. It is possible to pursue more than one of these options at a time.

3. General

Any party to a complaint has the right to have another individual accompany them to interviews or other meetings required under this procedure. This may include union/association representative, student advocate, elder, friend, relative, or other. Interpretation or translation services will be provided where needed.

Complaints submitted anonymously cannot be used on their own in any disciplinary action against the respondent, though they may prompt further inquiry by the University.

Complaints should be brought forward to the Diversity and Human Rights Advisor (DHRA) at the earliest possible date to prevent further harm and to increase the chance of an early and positive resolution. Complaints should be made within 12 months of the offending

behaviour. Extenuating circumstances may delay the reporting of concerns, so members of the University community are encouraged to contact the DHRA if they wish to file a complaint either within or beyond the 12 month time frame.

Complainants may choose to withdraw their complaint or resolve it through other means at any point in this procedure. Under some circumstances the University may find it necessary to continue with an investigation or to consider other action.

Complaints which are found to be malicious or made in bad faith may, in turn, be treated as harassment under this Policy and Procedure.

4. Consultation

Anyone who believes they have been subject to discrimination and/or harassment, or anyone who receives an inquiry or concern about discrimination and/or harassment from a member of the Brandon University community should consult the *Guide to Resolving Conflict at Brandon University*. This guide contains information to assist determining whether a complaint meets the threshold for discrimination and/or harassment. The DHRA can help members of the University Community in making this determination. Others who may be available to consult on these issues include Human Resources Officers, Student Services Personnel, BUSU, union representatives, direct supervisors, Department Chairs, Deans or Directors.

When a concern has been brought to a member of the University community, they are encouraged to give the complainant a copy of the Discrimination and Harassment Prevention Policy and Procedures (the Policy and Procedures) and assist the complainant in contacting the DHRA.

The DHRA, in consultation with the Chief Human Resources Officer, may recommend engaging an external investigator at any point during this procedure. Potential reasons for engaging an external investigator include, but are not limited to:

- nature or complexity of the case is beyond the expertise of the DHRA.
- the DHRA has a conflict of interest in the case leading to real or perceived bias.
- workload of DHRA would preclude a timely resolution.

5. Confidentiality

Brandon University recognizes the importance of confidentiality, and issues brought to the DHRA will be treated as confidential. All information collected as a result of any action under this policy will be managed in accordance with *The Freedom of Information and Protection of Privacy Act* and *Personal Health Information Protection Act* as applicable.

Confidentiality must be balanced with the University's legal obligations to address discrimination and harassment, so at times information will need to be shared in order to

investigate a matter, to address a risk or threat, or to comply with requests from legal entities. This confidentiality extends to any member of the University community who may be privy to information or who possesses documentation about a complaint or investigation. Breaches of confidentiality may be subject to penalties.

Confidentiality should not be confused with anonymity. Those who bring forward a concern and wish for action to be taken on their concern must be prepared to be identified as the complainant. The University will make every attempt to ensure that there are no reprisals against anyone making a complaint under this policy or participating in an investigation.

The DHRA will provide a summative report of issues dealt with under the *Discrimination and Harassment Prevention Policy and Procedures* to the President on a yearly basis. This report will not include personal information about the complainant, respondent or other parties to an incident or investigation. It will not include other details, such as department or job titles, which could lead to the identification of any of the parties.

6. Complaint/Investigation Process

The University strives to resolve complaints as quickly as possible. A complaint is considered submitted once it is received by the DHRA in writing on the appropriate form and signed by the complainant. The term “investigator” in this section is used to refer to either an internal investigator (normally the DHRA) or an external investigator.

STEP 1: WRITTEN COMPLAINT

Where the consultation indicates that the concern should be dealt with under the Discrimination and Harassment Prevention Policy and Procedures, and the complainant wants the University to take action, they must file a written complaint with the DHRA. The form is available online. The DHRA can provide guidance on what information should be included in the complaint. If the written complaint lacks sufficient detail to determine if it falls under this Policy the investigator may request that the complaint be clarified and resubmitted.

As the university has a responsibility to ensure the work and learning environment are free of discrimination and harassment, there are times when an investigation must be conducted even when no complainant comes forward. In this instance the University will document the alleged discriminatory and/or harassing behaviour so that the respondent is afforded due process and is presented with the allegations prior to being asked to respond.

At the earliest stage of contact with the complainant, the investigator will consider whether there needs to be interim measures put in place to safeguard the physical and psychological safety of all parties. This may involve sharing limited information with supervisors/faculty members or others so that the involved parties may be kept separate or other measures put in place.

The complaint will be addressed through alternate means if the investigator determines that the written complaint:

- seems to fall under the heading of “interpersonal conflict”. The investigator will inform the complainant of this, and will review options for resolving the concern through other means, such as the Guide to Resolving Conflict at Brandon University.

The complaint may not proceed to Step 2 if the investigator determines the written complaint:

- is based on events occurring more than 12 months prior to the complaint being filed. The complaint may either be dismissed as “out of time” or accepted where the delay in reporting is due to extenuating circumstances.
- is trivial, frivolous, malicious, or made in bad faith. The investigator will advise the complainant of this and may recommend that the complaint not be addressed. Malicious or bad faith complaints may be considered personal harassment under this policy and procedure.

The complaint will move forward to Step 2 if the investigator determines that the written complaint:

- seems to fall under the heading of direct or systemic discrimination, discrimination- based harassment or “personal harassment”. The investigator will notify the complainant of this and will proceed to Step 2. At this point, the investigator contacts the respondent to inform them of the complaint and to provide them with a copy of the written complaint.

STEP 2: COMPLAINANT AND RESPONDENT INTERVIEWS

The complainant meets with the investigator at the earliest possible time to go over the details of their complaint, to fill in any missing information and to be advised of the process that will be followed. The investigator will compile a summary of allegations based on the written complaint and the information from this interview to provide to the respondent.

The respondent is normally given up to 10 working days to review the summary of allegations and prepare a response before being interviewed by the investigator. The respondent may choose to prepare a written response to the allegations in order to acknowledge or deny the validity of the allegations in whole or in part, provide additional information as well as information identifying any possible witnesses and/or propose a resolution of the complaint.

Alternatively, the respondent may choose not to participate in all or part of these procedures. In this case these procedures will continue without such input from the respondent.

After interviewing both complainant and respondent, the investigator conducts a complaint review to decide on next steps.

STEP3: COMPLAINT REVIEW The investigator will at this point conduct a review of the complaint and may consult with appropriate external or internal resources in order to determine:

- if there needs to be further investigation;
- the scope of that investigation;
- whether the use of an external investigator is required (if not already implemented);
- if the complaint is malicious or made in bad faith, and should be dismissed;
- if additional interim measures are needed to ensure physical/psychological safety of any party; and
- what “appropriate administrators” will decide on the resolution of the complaint

If the information already gathered is sufficient to determine if the Policy was breached, the investigator prepares a Report of Findings, as described in step 5, and provides it to the appropriate administrators. If additional information is needed, either the investigator continues to step 4.

STEP 4: WITNESS INTERVIEWS AND EVIDENCE GATHERING

Where an investigation is required, the Investigator gathers information as quickly as possible, and either the DHRA or the external investigator contacts both the complainant and respondent regularly to inform them of the progress and expected timelines. An internal investigation will normally be completed within 20 working days, and where an external investigator is engaged the investigation will normally be completed within 40 working days. A quick resolution is of great importance, but the need to be thorough and fair takes precedence, so any timelines given are estimates and may be adjusted depending on the circumstances.

Respondents or other parties to a complaint may choose not to participate in an investigation. In such cases the investigation will proceed without their input.

Under Workplace Safety and Health legislation, the University must ensure that no one is subjected to harassment in the workplace, so at times investigations are required even in the absence of a named complainant.

For more detailed information on the process, please see the *Guide to Investigations at Brandon University*.

STEP 5: REPORT OF FINDINGS

The investigator produces a report outlining the alleged breach(es) of the Policy and the relevant evidence pertaining to each allegation. Using the “balance of

probabilities” standard, the report specifies if there is evidence of a breach for each allegation. Implementation of remedial and disciplinary action falls to the appropriate administrators, as identified in step 3. The investigator will normally submit this report to the appropriate administrators no more than 10 working days after the completion of the investigation.

7. Resolution of Complaint

For respondents who are staff and faculty, the Chief Human Resources Officer will normally be involved in the resolution of the complaint. For respondents who are students, the Dean of Students will normally be involved in the resolution of the complaint. For respondents who are members of PAC, the President will normally be involved in the resolution of the complaint. Where the respondent is a member of PEC, the Chairperson of the Board of Governors of Brandon University will normally be involved in the resolution of the complaint.

After a review of the Report of Findings, the appropriate administrators meet with the complainant to inform them of the results of the investigation. The appropriate administrators also meet with the respondent to inform them of the results of the investigation.

No Breach – No Further Action Required

In some circumstances, beyond informing both complainant and respondent that there was no finding of a breach of this policy and procedure, no further action is required from the University. An example would be when the complaint was made in good faith, but resulted from a misunderstanding which has resolved between the complainant and respondent.

No Breach – Remediation and/or Corrective Action Required

Even where it is determined that this policy has not been breached, the behaviour giving rise to the complaint may be contrary to the University’s commitment to maintaining a productive and respectful work and learning environment, or may be in breach of another policy, a collective agreement or legislation. In such a case, Brandon University may find it necessary to remediation or corrective action to address the behaviour. This may include:

- Verbal feedback from the appropriate supervisor/administrator to the respondent to cease the behaviour.
- An opportunity for the complainant to share the impact of the behaviour with the respondent, either directly or through the appropriate administrator.
- Mediation between the complainant and the respondent.
- Corrective action or discipline appropriate to the circumstances.

Breach – Remediation and/or Corrective Action Required

The University takes corrective action respecting any person in the University community who subjects another to discrimination and/or harassment.

These remedies or penalties are meant to prevent further acts of discrimination and/or harassment, and restore the working and learning environment to a positive, respectful space. The nature and severity of the behaviour determines the level of initial response. Repetition of the behaviour following clear communication that it is unwelcome adds to the severity of the response.

Some possible responses to a finding of discriminatory/harassing behaviour may include those listed in the previous section and/or any of the following:

- A written directive from the appropriate supervisor/administrator to the respondent to cease the behaviour, with information about possible consequences should the behaviour continue.
- Education or personal development for the respondent.
- A planned course of supervision and feedback for the respondent by the appropriate administrator.
- A verbal or written apology from the respondent to the complainant.
- Counselling and/or coaching for the respondent.
- Restricted access to a physical area of the University.
- Restrictions on attendance or participation in specific University activities.
- Removal from residence.
- Banning from campus.
- Suspension for a set period of time for students.
- Suspension with or without pay for a set period of time for employees.
- Expulsion for students.
- Dismissal for employees.
- Cancellation of contract for contractors and suppliers of services.

These actions shall be recorded on the respondent's personnel or student file. Disciplinary action is confidential, and the complainant or other parties to the investigation are not normally informed of the nature of such action.

The University will share as much information about remedial and/or disciplinary as is required to maintain the complainant's ongoing physical or psychological safety, or to reduce the possibility of contact between the parties, while still adhering to its obligations under the law, including FIPPA and/ or PHIA. Where remedial action includes some course of education for the respondent, for example, both the complainant and the respondent will receive notification in writing from the appropriate administrator when they are satisfied that this is complete.

8. Malicious Complaints and Retaliation

Maliciously and deliberately making a false complaint under this policy or any other Brandon University policy will be considered an act of harassment and will be treated as such. An unsubstantiated complaint is not by default a malicious or deliberately false complaint.

Retaliating against someone who has made a complaint in good faith under this policy or any other University policy, against someone who has cooperated in good faith in an investigation under this policy or any other University policy or legislation, will also be treated as harassment.

9. Right to Grievances and Appeals

Both parties involved in an investigation have the right to appeal the decision of the investigator.

a) Union members may grieve decisions or actions under this policy through the processes outlined in their respective collective agreements.

b) Students may appeal decisions or actions under this policy directly to the Vice-President (Academic & Provost).

c) Exempt staff may appeal decisions or actions under this policy directly to the Vice-President (Administration & Finance).

d) Members of the President's Executive Council (PEC) may appeal decisions or actions under this policy directly to the Chair of the Board of Governors.

Timelines for grievances are outlined in the relevant collective agreements. Appeals must be brought forward within 15 working days of being informed of the outcome of the investigation. Appeals must be in writing and must outline the grounds for the appeal.

Some possible grounds for grievance or appeal include, but are not limited to:

- bias on the part of the investigator.
- failure to follow the policy and processes outlined in these procedures.
- new substantive information or evidence not made available previously to the investigator.
- errors made by the investigator which likely affected the outcome of the investigation.
- the level or nature of the corrective action.

APPENDIX A: DEFINITIONS

Protected Characteristics

The Protected Characteristics identified in the Manitoba Human Rights Code apply to complaints of discrimination and/or grounds-based harassment. These characteristics are

- i. ancestry, including colour and perceived race;
- ii. nationality or national origin;
- iii. ethnic background or origin;
- iv. religion or creed, or religious belief, association or activity;
- v. age;
- vi. sex including sex-determined characteristics or circumstances;
- vii. gender identity and gender expression*;
- viii. sexual orientation;
- ix. marital or family status;
- x. source of income;
- xi. political belief, political association or political activity (including union affiliation or activity);
- xii. physical or mental disability or related characteristics or circumstances; and
- xiii. social disadvantage.

Where an individual is mistreated because of a relationship or association with someone identified as belonging to any of the above groups, this also infringes on their right to be free from discrimination and harassment.

*Although gender expression is not explicitly mentioned in the *MHRC*, Brandon University recognizes it as a protected characteristic.

Discrimination: The University adopts the definition of discrimination as per the MHRC. The MHRC defines discrimination as pertaining to the areas of employment, living accommodations and access to services where;

- there is differential treatment of people based on the person's actual or presumed membership in, or association with, some class or group of people, rather than on their personal merit; or
- there is differential treatment of an individual or group on the basis of any protected characteristic; or
- there is failure to make reasonable accommodation for the special needs of any individual or group, if those special needs are based upon any protected characteristic.

Harassment: The University adopts the definitions of harassment from the MHRC and the WSH Act and Regulations.

Grounds Based Harassment: The MHRC defines harassment as

- a course of abusive and unwelcome conduct or comment based on a protected characteristic; or
- a series of objectionable and unwelcome sexual solicitations or advances: or
- a sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or
- a reprisal or threat of reprisal for rejecting a sexual solicitation or advance.

Personal Harassment: The WSH Act and Regulations interprets personal harassment more broadly as:

- objectionable conduct that creates a risk to the health of a worker: or
- severe conduct that adversely affects a worker's psychological or physical well-being

Conduct is considered to be "objectionable" if it is based on any of the protected characteristics from the MHRC. Conduct based on appearance, physical size or weight can also be deemed "objectionable". Conduct is considered "severe" if it could reasonably cause a worker to be humiliated or intimidated, and is repeated, or in the case of a single occurrence, has a lasting, harmful effect on a worker. Conduct refers to written or verbal comment, a physical act or gesture or a display, or any combination of these.

Not Harassment: It is important to note that not every interaction that is perceived as negative in the work or learning environment constitutes harassment. For example, the *WSH Act and Regulations* explicitly states that appropriate use of legitimate authority by a supervisor responsible for functions such as performance appraisals, discipline, and directing the work of others is not considered harassment. By extension, the appropriate use of legitimate authority by faculty in determining grades, identifying and preventing inappropriate classroom behaviour, and recommending discipline is not harassment. Interpersonal conflict or disagreements in the work and/or learning environment are not harassment; for assistance in determining if a situation is conflict or discrimination/harassment please see the *Guide to Conflict Resolution at Brandon University*.

Complainant is a person who discusses a concern and/or makes a complaint (an allegation, whether oral or written) of harassment or discrimination under the policy.

Reasonable Person Test is a standard used to decide if an individual used due care in their words or actions. In other words, should that person reasonably have expected their actions or words would do harm to another.

Respondent is a person against whom a complaint has been made under this policy or is the subject of allegations of harassment or discrimination under the policy.

Balance of Probabilities refers to the standard of proof used in deciding harassment complaints. It requires that the evidence be weighed and the decision be made in favour of the side which is more likely to be true. This is in contrast to the “beyond a reasonable doubt” standard used in criminal matters.

Management Rights are implicit rights of management to determine the institution’s mission, budget, and strategy, and to make operational decisions such as work assignments, direction of employees, and hiring of employees.

Student Advocate is a representative appointed by the Brandon University Students’ Union (BUSU) to assist and support students and at the student’s request to assist in resolving complaints under this policy.

APPENDIX B: ROLES AND RESPONSIBILITIES

a) Responsibilities of All Individuals

Every member of the University community must adhere to University policies and support the aim of the University to create a climate of understanding and respect for the dignity and rights of all. Every member of the University community is expected to respect the rights of academic freedom and freedom of thought, inquiry and expression and also to support the University's efforts to ensure that the working and learning environment is free of discrimination and harassment.

b) Responsibilities of President's Executive Council

The President's Executive Council (PEC) at Brandon University includes the President, Vice Presidents, and the Chief Human Resources Officer. These leaders are ultimately responsible for providing and supporting a work and learning environment which is free from harassment and discrimination. PEC will provide resources for the education of members of the University community, lead by example by carrying out their duties in a respectful manner, and ensure that there are policies and procedures in place for addressing instances of discrimination and harassment.

c) Responsibilities of Managers and Supervisors

Managers and supervisors are those who, by virtue of their position at Brandon University, are responsible for overseeing others in the workplace. Managers and supervisors must monitor the work and learning environment for signs that harassment or discrimination are taking place, and take early action to address any concerns they are aware of, even in the absence of a complaint. Managers and supervisors must ensure that their employees are aware of this policy and related procedures and that they are provided opportunities to participate in education and training related to harassment and discrimination. When complaints have been made and corrective actions recommended to address them, it is the manager's or supervisor's responsibility to ensure these corrective actions are implemented and to monitor the situation. Managers and supervisors are expected to take part in learning opportunities, or to consult with the DHRA, to ensure they are appropriately addressing issues of human rights, discrimination, and harassment.

d) Responsibilities of People in Authority

Even those who do not hold a formal leadership or supervisory role hold authority in certain circumstances, and therefore have a responsibility under this policy. For example, faculty members hold authority over students in a classroom and employees who oversee the activities of volunteers hold authority in that context. People in authority are expected to participate in training to ensure they understand their responsibilities in preventing and addressing incidents of discrimination and harassment. People in authority must also ensure, to the extent practicable, that

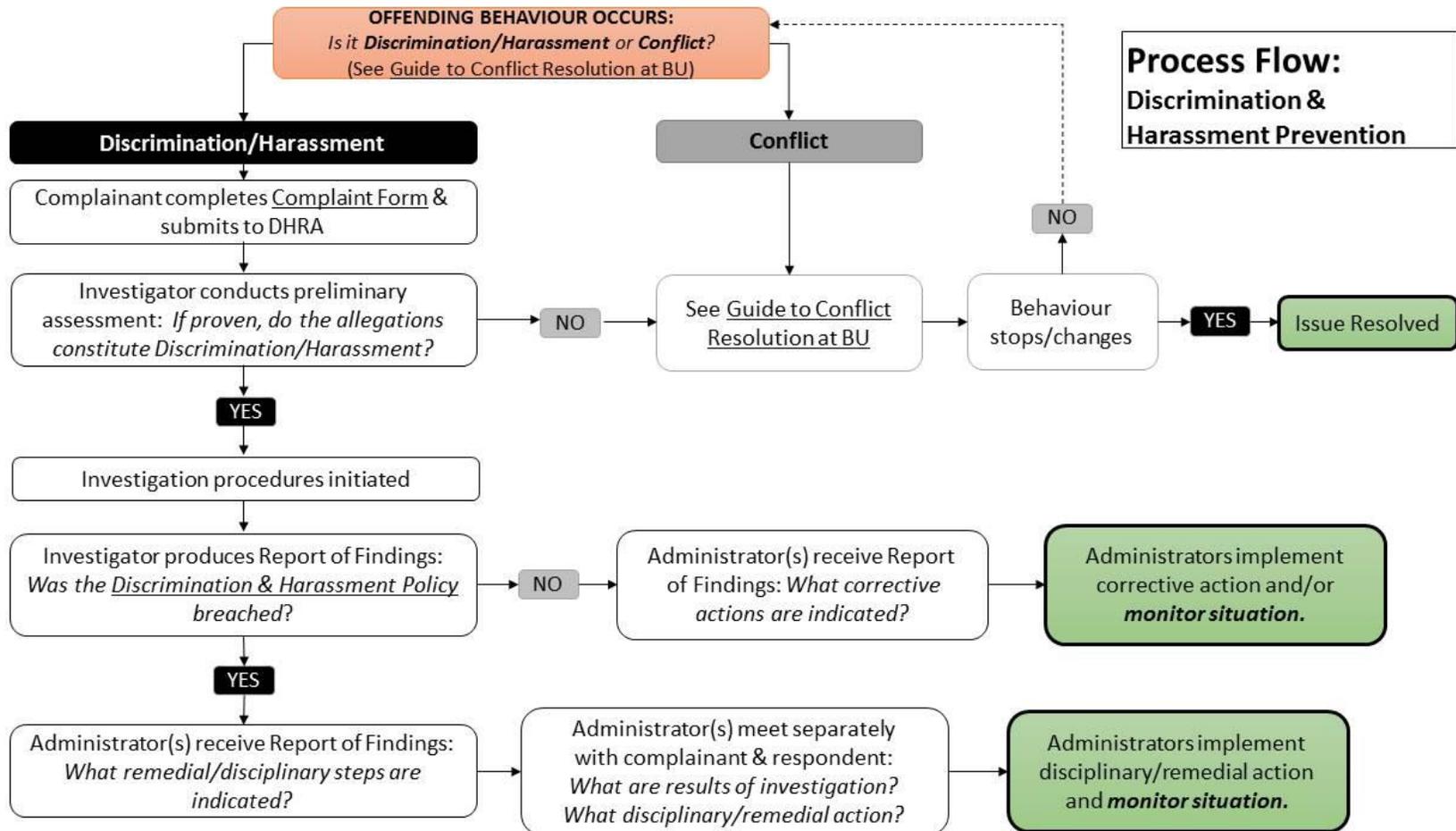
those they oversee are aware of human rights issues and their rights and responsibilities.

e) Responsibilities of the Diversity and Human Rights Advisor (DHRA)

The DHRA is responsible for developing and facilitating education and prevention initiatives around issues of discrimination, harassment, equity, diversity, and human rights. The DHRA provides advice and assistance to all members of the University Community on matters relating to human rights, equity, and diversity. The DHRA may consult, provide guidance for early resolution of issues, provide educational opportunities, facilitate conversations, mediate between parties in conflict, conduct workplace assessments and internal investigations, or coordinate the services of an external facilitator or group in providing any of these services.

This document is available in PDF and Microsoft Word format on the Brandon University website. A printed copy can be obtained from the Diversity and Human Rights Office, Room 333 Clark Hall. Persons involved with the processes outlined in this policy (complainants, witnesses or respondents) may conduct their involvement verbally or with the assistance of an interpreter upon request.

APPENDIX C: Process Flow: Discrimination & Harassment Prevention



 BRANDON UNIVERSITY	Accessibility Policy	First Approved: <i>November 26, 2016</i>
		Updated:
Board of Governors Policy	Approved by <i>Board of Governors</i> Administered by <i>President & Vice-Chancellor</i> <i>through:</i> <i>Vice-President (Administration & Finance), and</i> <i>Vice-President (Academic & Provost)</i>	Reviewed:

This policy shall govern Brandon University as it supports and promotes accessibility for all members of the University community, including those with disabilities.

1.0 Scope

This policy applies to:

- All students (full-time, part-time), all employees (full-time, part-time, casual, contract) volunteers, and visitors to the campus.
- All other persons who provide goods, services or facilities on behalf of the University.

2.0 Policy

2.1 Purpose of Policy

The purpose of this policy is to:

- 2.1.1** Establish Brandon University’s commitment to fostering a diverse, inclusive and accessible learning and working environment.
- 2.1.2** Ensure that Brandon University proactively meets its legal obligations based on the grounds protected by Manitoba provincial human rights law, *The Manitoba Human Rights Code*, and *The Accessibility for Manitobans Act* for all members of the University community, including those with disabilities.
- 2.1.3** Define the approach Brandon University will use to prevent, identify, and remove accessibility barriers.
- 2.1.4** Provide a clear outline of the obligations and responsibilities Brandon University is committed to fulfilling as well as to provide guidance for the implementation of this policy.

2.2 Statement of Intent

Brandon University recognizes the diversity of its students and employees and is committed to providing a learning and working environment in which all members of the University community are treated in a fair and equitable manner while respecting the inherent dignity of all people. It is the responsibility of each member of the Brandon University community, including faculty, staff, and students to play a part in creating an equitable and inclusive environment – in the identification and minimizing of barriers, and in the accommodation processes.

Brandon University is committed to identifying and removing accessibility-related barriers to create an inclusive and accessible environment. *The Accessibility for Manitobans Act (AMA)* mandates that public sector organizations, such as universities, help remove barriers by providing a more encouraging and welcoming environment for all students, faculty, staff and visitors. By promoting inclusion and diversity, Brandon University will also achieve higher levels of accessibility.

2.3 Accessibility Plan

2.3.1 The role of the Accessibility Plan is twofold:

- i. To examine Brandon University's working and learning environments to identify any circumstances where barriers exist; and,
- ii. To recommend the ways to eliminate or provide accommodations for navigating these barriers for students and/or employees within the limits of undue hardship.

2.3.2 Framework for the Accessibility Plan: The Accessibility Plan will examine the accessibility of products, processes, procedures, services, systems, structures and environments in the following areas:

- i. academic services for all students;
- ii. non-academic student support services for all students;
- iii. physical facilities used by or for use by students and/or employees, including individuals with disabilities;
- iv. Human Resources including recruitment of and service support for employees, including those with disabilities;
- v. equipment and adaptive technology for students and employees, including individuals with disabilities;
- vi. publications, communications and information resources for students and employees; and
- vii. awareness issues for students and employees on academic and workplace accommodation.

2.3.3. Content of Accessibility Plan: The Accessibility Plan will include:

- i. a report on the measures the University has taken to identify, prevent and remove barriers that disable people;
- ii. the measures the University intends to take in the period covered by the plan to identify, remove and prevent barriers that disable people;
- iii. the measures in place to ensure that the University assesses the following to determine their effect on the accessibility for persons disabled by barriers:
 - a. any proposed policies, programs, practices and services of the University,
 - b. any proposed enactments or by-laws that will be administered by the University; and
 - c. All other information prescribed for the purpose of the accessibility plan.

3.0 Definitions

3.1 *The Accessibility for Manitobans Act:* Under this legislation, the Government of Manitoba has mandated that public sector organizations, such as universities, help remove barriers by providing a more encouraging and welcoming environment for all students, faculty and staff.

- 3.2 Manitoba Human Rights Code:** provincial legislation which prohibits unreasonable discrimination in areas such as employment, housing, accommodation, the provision of services or contracts, and signs and notices.
- 3.3 Accessibility:** Accessibility means giving people of all abilities opportunities to participate fully in everyday life. Accessibility refers to the ability to access and benefit from a system, service, product or environment.

In achieving accessibility, regard must be had for the following principles:

- 3.3.1 Access:** Persons should have barrier-free access to places, events and other functions that are generally available in the community;
 - 3.3.2 Equality:** Persons should have barrier-free access to those things that will give them equality of opportunity and outcome;
 - 3.3.3 Universal design:** Access should be provided in a manner that does not establish or perpetuate differences based on a person's disability;
 - 3.3.4 Systemic responsibility:** The responsibility to prevent and remove barriers rests with the person or organization that is responsible for establishing or perpetuating the barrier.
- 3.4 Barriers:** are obstacles that limit access and prevent people with disabilities from fully participating in society. Most barriers are not intentional. Barriers usually arise because the needs of people with disabilities are not considered from the beginning. Barriers include, but are not limited to; attitudinal barriers, information or communications barriers, technological barriers, systemic barriers, or physical and architectural barriers.
- 3.5 Disability:** as defined in *The Accessibility for Manitobans Act (AMA)*, disabilities may include, but are not limited to, blindness or visual impairment, deafness or hearing impairment, intellectual or developmental disabilities, mental health issues and chronic illness.
- 3.6 Undue hardship:** Undue hardship is defined as more than minimal hardship and must be based on actual evidence, not assumptions or prejudices. While financial implications tend to be a contributing factor in determining undue hardship, *The Manitoba Human Rights Commission* considers the nature, size and scope of an organization when determining if undue hardship is valid.

4.0 Accountability

The Vice-President (Administration & Finance) and the Vice-President (Academic & Provost) are responsible for the communication, administration and interpretation of this policy. Both are responsible for advising the President and Vice-Chancellor that a formal review of this policy and secondary documents is required.

All members of the University community are responsible for complying with this policy.

5.0 Secondary Documents

The Chief Human Resources Officer and Associate Vice President (Student Services & Enrollment Management) and University Registrar, or designate may approve procedures which are secondary to and comply with this policy.

6.0 Review

- 6.1 Formal review of the policy will be conducted every three (3) years. The next scheduled review date for this policy is January 2020.
- 6.2 In the interim, this policy may be revised or rescinded if the Board of Governors deems necessary or if there are changes within legislation which require such.
- 6.3 If this policy is revised or rescinded, all secondary documents will be reviewed as soon as reasonably possible to ensure that they:
 - 6.3.1 Comply with the revised policy; or
 - 6.3.2 Are in turn rescinded.

7.0 Previous Policies

- 7.1 This policy supersedes all previous Board/Senate policies on the subject matter herein;
and
- 7.2 All previous administration policies on the subject matter contained herein.

8.0 Cross Reference

8.1 Sources

- 8.1.1 Manitoba Human Rights Commission
<http://www.manitobahumanrights.ca/index.html>
- 8.1.2 Manitoba Human Rights Code
<http://web2.gov.mb.ca/laws/statutes/ccsm/h175e.php>
- 8.1.3 The Accessibility for Manitobans Act
http://www.accessibilitymb.ca/pdf/accessibility_for_manitobans_act.pdf
- 8.1.4 Disability Issues Office <http://www.gov.mb.ca/dio/>
- 8.1.5 York University
- 8.1.6 University of Manitoba

8.2 Documents

- 8.2.1 *How to Create Your Accessibility Plan*

 BRANDON UNIVERSITY	Workplace Accommodation Policy	First Approved: <i>November 26, 2016</i>
		Updated:
Board of Governors Policy	Approved by <i>Board of Governors</i> Administered by <i>President & Vice-Chancellor</i> <i>through:</i> <i>Vice-President (Administration & Finance),</i> <i>Vice-President (Academic & Provost) and</i> <i>Chief Human Resources Officer</i>	Reviewed:

This policy shall govern Brandon University as it supports and promotes the employment of persons with disabilities by providing accommodation in employment for those with disabilities.

1.0 Scope

This policy applies to:

- All Brandon University employees, including faculty, staff, student assistants and research assistants, and
- Job applicants to the University who may require employment accommodation through the recruitment, selection and hiring processes.

2.0 Policy

2.1 Purpose of Policy

The purpose of this policy is to establish Brandon University's commitment to providing workplace accommodations for its employees as required, based on the grounds protected by Manitoba's provincial human rights law, *The Manitoba Human Rights Code*.

This policy will provide a clear outline of the obligations and responsibilities Brandon University is committed to fulfilling as well as to provide guidance for the implementation of this policy.

2.2 Statement of Intent

Brandon University recognizes the diversity of its employees and is committed to providing a work environment in which all members of the University community are treated in a fair and equitable manner. The University acknowledges its responsibility to remove barriers for its employees in accordance with *The Accessibility for Manitobans Act*. Under this legislation, the Government of Manitoba has mandated that public sector organizations, such as universities, help remove barriers by providing a more encouraging and welcoming environment for all students, faculty and staff. By promoting inclusion and diversity, Brandon University will also achieve higher levels of accessibility.

3.0 Definitions

- 3.1 *The Accessibility for Manitobans Act:*** Under this legislation, the Government of Manitoba has mandated that public sector organizations, such as universities, help remove barriers by providing a more encouraging and welcoming environment for all students, faculty and staff.
- 3.2 *Manitoba Human Rights Code:*** provincial legislation which prohibits unreasonable discrimination in areas such as employment, housing, accommodation, the provision of services or contracts, and signs and notices.
- 3.3 *Disability:*** as defined in *The Accessibility for Manitobans Act (AMA)*, disabilities may include, but are not limited to, blindness or visual impairment, deafness or hearing impairment, intellectual or developmental disabilities, mental health issues and chronic illness.
- 3.4 *Reasonable accommodation:*** According to *The Manitoba Human Rights Code*, an accommodation is “reasonable” when there is an adequate process has taken place and the effort and measures taken are sufficient.
- 3.5 *Accommodation:*** includes but not limited to, a modification of job duties, technical aids or devices, workstation modifications, employment practice modifications, building and accessibility modifications, communication services, and alternate support services.
- 3.6 *Duty to accommodate:*** The duty to reasonably accommodate is often described in human rights law as “accommodation short of undue hardship”.
- 3.7 *Undue hardship:*** Undue hardship is defined as more than minimal hardship and must be based on actual evidence, not assumptions or prejudices. While financial implications tend to be a contributing factor in determining undue hardship, The Manitoba Human Rights Commission considers the nature, size and scope of an organization when determining if undue hardship is valid.
- 3.8 *Barrier:*** an obstacle or circumstance that inhibits or prevents someone from being able to perform their duties. Barriers can be attitudinal, communication, informational, technological, systemic or physical.
- 3.9 *Discrimination:*** treating someone differently, to their disadvantage and without a valid reason or failing to take steps to accommodate special needs that are based on the characteristics covered under *The Code*.
- 3.10 *Systemic discrimination:*** Systemic discrimination has been defined as “practices or attitudes that have, whether by design or impact, the effect of limiting an individual’s or a group’s right to the opportunities generally available because of attributed rather than actual characteristics.”
- 3.11 *Bona fide occupational requirement:*** establishes a requirement that is necessary for proper or efficient performance of a job.
- 3.12 *Service Animal:*** an animal trained to assist a person with a disability. The assistance performed by a service animal must be directly related to the person’s physical or mental disability. A service animal is not a pet.

4.0 Accountability

The Vice-President (Administration & Finance) is responsible for the communication, administration and interpretation of this policy. The Vice-President (Academic & Provost) supports the communication, administration and interpretation of this policy.

The Vice-President (Administration & Finance) is responsible for advising the President and Vice-Chancellor that a formal review of this policy and secondary documents is required. The Chief Human Resources Officer is a point of contact for reference and advice.

5.0 Secondary Documents

The Chief Human Resources Officer or designate may approve procedures which are secondary to and comply with this policy.

6.0 Review

6.1 Formal review of the policy will be conducted every three (3) years. The next scheduled review date for this policy is January 2020.

6.2 In the interim, this policy may be revised or rescinded if the Board of Governors deems necessary or if there are changes within legislation which require such.

6.3 If this policy is revised or rescinded, all secondary documents will be reviewed as soon as reasonably possible to ensure that they:

6.3.1 Comply with the revised policy; or

6.3.2 Are in turn rescinded.

7.0 Previous Policies

7.1 This policy supersedes all previous Board/Senate policies on the subject matter herein; and

7.2 All previous administration policies on the subject matter contained herein.

8.0 Cross Reference

8.1 Sources

8.1.1 Manitoba Human Rights Commission

<http://www.manitobahumanrights.ca/index.html>

8.1.2 Manitoba Human Rights Code

<http://web2.gov.mb.ca/laws/statutes/ccsm/h175e.php>

8.1.3 The Accessibility for Manitobans Act

http://www.accessibilitymb.ca/pdf/accessibility_for_manitobans_act.pdf

8.1.4 Disability Issues Office <http://www.gov.mb.ca/dio/>

8.1.5 Personal Information Protection and Electronic Documents Act (PIPEDA)

https://www.priv.gc.ca/leg_c/leg_c_p_e.asp

8.1.6 Freedom of Information and Protection of Privacy Act (FIPPA)

http://www.gov.mb.ca/chc/fippa/public_bodies/index.html

8.1.7 Personal Health Information Act (PHIA)

<http://web2.gov.mb.ca/laws/statutes/ccsm/p033-5e.php>

8.1.8 Ryerson University

8.1.9 McMaster University

8.1.10 Carleton University

8.1.11 University of Manitoba

8.2 Documents

- 8.2.1** *Workplace Accommodation Procedure*
- 8.2.2** *Accommodation Request form*
- 8.2.3** *Workplace Accommodation Planning Checklist*
- 8.2.4** *Workplace Accommodation Plan*
- 8.2.5** *Workplace Accommodation Fund Policy*
- 8.2.6** *Workplace Accommodation Fund Procedure*
- 8.2.7** *Workplace Accommodation Fund Guidelines and Application*

 BRANDON UNIVERSITY	<p style="text-align: center;">Workplace Accommodation Procedure</p>	<p>First Approved: November 26, 2016</p>
<p style="text-align: center;">Board of Governors Procedure</p>		<p>Updated:</p>
	<p>Approved by Vice-President (Administration & Finance) and Vice-President (Academic & Provost) Administered by President & Vice-Chancellor <i>through:</i> Vice-President (Administration & Finance), Vice-President (Academic & Provost) and Chief Human Resources Officer</p>	<p>Reviewed:</p>

1.0 Scope

1.1 This procedure applies to all Brandon University employees (faculty and staff) as well as job applicants.

1.2 Employees: Employees have a responsibility when requesting an accommodation to:

- Communicate the request to their immediate supervisor along with the necessary requirements;
- Actively participate in the accommodation process to find reasonable solutions.

1.3 Job Applicants: Job applicants have an obligation to communicate any known accommodation needs to the University and to participate in the accommodation process. Human Resources will work with the selection committee to facilitate a reasonable accommodation during the interview process, such as providing translators or interpreters, offering a wheelchair-accessible interview space, or rescheduling interviews to respect religious observances.

1.4 Supervisors: When Supervisors, including Directors, Deans, Managers and Senior Administrators, are presented with a workplace accommodation request, they have an obligation to:

- Accept the accommodation request in good faith;
- Handle the accommodation request as quickly as possible;
- Manage the process by including the employee and all relevant stakeholders in determining accommodation solutions;
- Document the process including the accommodation request and the appropriate steps taken; and
- Maintain confidentiality and adhere to privacy legislation (PIPEDA, PHIA, FIPPA).

1.5 Unions and Associations: Employee unions and associations are expected to actively participate with and support their members and the University to help find reasonable solutions to workplace accommodation requests.

1.6 Human Resources Office: The Human Resources Office (HRO) will:

- provide advice and guidance to employees and supervisors regarding workplace accommodation procedures;
- aid in the interpretation and application of the workplace accommodation process;
- assist with disability management and return-to-work plans;
- request medical documentation to support the implementation of a reasonable workplace accommodation;
- maintain confidentiality and ensure that accommodation requests are handled in a manner consistent with privacy legislation (PIPEDA, PHIA, FIPPA).

1.7 Diversity and Human Rights Advisor: The Diversity and Human Rights Advisor (DHRA) is available to provide confidential consultation regarding human rights concerns and/or complaints related to workplace accommodations.

2.0 Reason for Procedure

To set out procedures secondary to the *Workplace Accommodation Policy* as Brandon University supports and promotes the employment of persons with disabilities by providing accommodation in employment for those with disabilities.

2.1 Workplace Accommodation Procedure

Brandon University acknowledges its responsibility to its employees to adapt the workplace for reasonable accommodation requests, to the point of undue hardship. Employees have a responsibility to take an active role in the accommodation process. Unions and associations have a responsibility to support the employees and University, and to participate in the implementation of reasonable accommodations.

All parties will respect and preserve confidentiality when dealing with an accommodation request. Where the accommodation process requires the release of confidential information to a third party, that third party will be required to ensure that confidentiality is protected and is used solely for the purpose of implementing the accommodation.

3.0 Procedure(s)

3.1 Reasonable Accommodation: In order to address a workplace accommodation request, it must be determined that the request is reasonable. A reasonable workplace accommodation must meet a 'need', not necessarily a 'want'. Although a reasonable accommodation may not be ideal, the duty to accommodate is described as 'accommodation short of undue hardship'.

3.2 Statement on Undue Hardship: Undue hardship is defined as more than minimal hardship and must be based on actual evidence, not assumptions or prejudices. While financial implications tend to be a contributing factor in determining undue hardship, *The Manitoba Human Rights Commission* considers the nature, size and scope of an organization when determining if undue hardship is valid.

3.3 Return-to-Work Accommodation Protocol: The University understands that employees who are returning to work due to illness or injury may require return-to-work accommodations in order to facilitate the transition to regular work duties. A full Return-to-Work protocol has been created to help manage this transition.

4.0 Process

4.1 Workplace Accommodation Process

The process for a workplace accommodation includes the following:

4.1.1 Step 1: Request a Workplace Accommodation: An employee who requires a workplace accommodation must provide a written accommodation request using the *Accommodation Request form*. This request must include:

- The nature of the workplace accommodation;
- The reasons for which the accommodation is being sought (eg. Disability, Family Status, etc.);
- For cases of disability, supporting medical documentation.

4.1.2 Step 2: Consideration of Accommodation Request: Workplace accommodations may include, but are not limited to:

- Technical aids, including software and hardware;
- Workstation modifications or building modifications;
- Work schedule modifications or adjustments;
- Alternative media formats for communication;
- Restructuring non-essential job duties;
- Alternate supports, such as sign language interpreters, service animals.

Funding for items required to meet the individual's accommodation request are to be processed through the department/unit budget. For an extensive accommodation request which may affect or impact the University, application may be made by the supervisor to Senior Administration to request supplementary budget funds from the University's *Workplace Accommodation Fund (WAF)*.

Workplace accommodations may be declined in rare situations when:

- It causes undue hardship; or

- A bona fide occupational requirement is reasonably necessary to perform the duties of the position.

4.1.3 Step 3: Stakeholders' Involvement: Because a workplace accommodation impacts multiple workplace parties, it must be a collaborative process. This process includes discussion with the employee, union or association representative (if applicable), the employee's supervisor, Human Resources and the attending physician or practitioner (if applicable). A collaborative discussion should occur regarding the employee's needs and the University's operational requirements.

4.1.4 Step 4: Implementation of Accommodation Plan: Once the parties have discussed the workplace accommodation request, a written plan will be prepared to outline the nature of the accommodation. The *Workplace Accommodation Plan (WAP)* will include the University's commitment as well as the employee's commitment to cooperatively implement the accommodation. The plan will include details such as:

- Person(s) responsible;
- Person(s) involved;
- Details of the accommodation plan;
- Timelines for implementing the accommodation;
- Duration of the accommodation;
- Follow-up process to evaluate the accommodation;
- Signatures of workplace parties supporting their commitment to the implementation of the accommodation plan.

Should the accommodation require adjustment, the plan may be revised accordingly. It is a dynamic document intended to support the employee in the workplace.

4.1.5 Step 5: Review, Assessment and Evaluation of Accommodation: The accommodation plan will be reviewed at regular intervals mutually agreed upon by both the employee and the employee's supervisor. The plan will be assessed to determine its effectiveness in meeting the needs of the employee and ensuring the work functions are being satisfied.

When the plan has an end-date, the employee and supervisor will meet to evaluate the plan's effectiveness and to determine if an extension to the accommodation is required.

Accommodation plans will be taken into consideration when employee performance assessments are conducted.

A *Workplace Accommodation Planning Checklist (WAPC)* is available for supervisors to follow to ensure they are following the Workplace Accommodation Process.

5.0 Accountability

5.1 The Chief Human Resources Officer or designate may revise or rescind process as identified in these procedures to:

- comply with the revised policy; or
- adjust process as reasonably necessary.

6.0 Secondary Documents

6.1 Forms

- *Accommodation Request form*
- *Workplace Accommodation Planning Checklist*
- *Workplace Accommodation Fund guidelines and application*
- *Workplace Accommodation Plan*

7.0 Review

7.1 Review of the procedures will be conducted every three (3) years. The next scheduled review date for the procedures is January 2020.

8.0 Cross Reference

8.1 Documents

- *Workplace Accommodation Policy*

 <p>BRANDON UNIVERSITY Founded 1899</p>	<p align="center">Brandon University Sexualized Violence Policy</p>	<p>First Approved: March 25, 2017</p>
		<p>Updated:</p>
<p>Board of Governors Policy</p>	<p>Approved by Board of Governors Administered by Vice-President (Academic & Provost)</p>	<p>Reviewed:</p>

1. Introduction/Preamble

Brandon University does not tolerate sexualized violence in any form. Brandon University is playing an essential role in combatting sexualized violence in our community and society more broadly.

Brandon University is committed to cultivating a productive and respectful environment that ensures the safety and security of all employees, and is working toward preventing sexualized violence in all forms within our University community. The University is ensuring that complainants receive supportive and affirming responses to their disclosures and are given clear, confidential, and survivor-centered options for reporting sexualized violence, while balancing the rights of each respondent to due process and privacy, keeping in mind the safety of the University community as a whole.

We strive to instill a safe, inclusive and respectful University community informed by intersectionality, which recognizes that people’s lives are multi-dimensional and complex yet interconnected, and are therefore made up of different social locations, power relations and experiences. We also recognize that universities are not immune to wider social environments, gender biases, and rape culture, in which dominant ideas, social practices, media images, and societal institutions implicitly or explicitly condone sexual assault by normalizing or trivializing sexualized violence and by blaming individuals for their own abuse.

This commitment is being accomplished through raising awareness, providing education, and working to prevent sexualized violence. Brandon University is supporting these goals through policy, procedure, programming, and various committees made up of staff and students dedicated to responding and preventing sexualized violence.

2. Purpose

The purpose of this policy is to promote a culture of consent and respect, develop awareness and prevention of sexualized violence, reduce the occurrence of sexualized violence, and respond to the needs of the complainants and respondents and all those affected by

sexualized violence.

This Policy also includes an ongoing commitment the safety of the University community and to social change.

3. Scope

This policy applies to all members of the Brandon University community, including our students, staff, faculty, contractors and suppliers of services, volunteers, visitors, and individuals who are connected to any University initiatives. This policy applies to actions, interactions, and behaviours that take place on or off campus including the business of Brandon University or other actions sanctioned by or representing the University including but not limited to athletic events, practical and clinical placements, academic or professional conferences, volunteer activities, and academic or field research work. The context of the interaction need not be University related if the primary relationship is through a mutual connection to the University. This applies to all forms of sexualized violence, including sexual assault, sexual harassment, and all other forms of sexual misconduct, see Section 4, Definitions of this policy.

A violation of this policy may include, but is not limited to electronic communications: social media, text messages, email, etc.

4. Definitions

- a. **Bystanders** are individuals who witness sexualized violence or the conditions that perpetuate violence (rape culture). Bystanders are not directly involved in the situation, but can make a choice to intervene by discouraging, preventing, or interrupting an incident.
- b. **Cisgender** denotes or relates to a person whose self-identity conforms with the gender that corresponds to their assigned sex at birth.
- c. **Complainant** is an individual who has disclosed/reported an experience of sexualized violence. We recognize that it is an individual's choice how they are referred to, and Brandon University will honour that choice. Within this policy, the term complainant is interchangeable with victim and survivor.
- d. **Consent** is the voluntary agreement to engage in a sexual activity and to continue to engage in the activity. An individual's consent can be withdrawn at any time. Consent as it relates to sexual assault is referred to in the *Criminal Code of Canada* s.265(3) and s.273.1.
- e. **Culture of Consent** is a culture that normalizes and condones ongoing and voluntary consent as an integral aspect of healthy sexuality, and the safety and security of a person. A culture of consent disrupts and dismantles rape culture, see Section 6,

Parameters of Consent in this policy.

- f. **Disclosure** is when the complainant tells a member of the University community that they have experienced sexualized violence. A disclosure may not necessarily lead to a formal report.
- g. **Electronic Communication** may include, but is not limited to, email, texting, and forms of social media: Facebook, Instagram, Snapchat, Twitter, etc.
- h. **Initial Contact** is the person to whom the complainant initially discloses the incident of sexualized violence. This person may be a fellow student, colleague, coach, professor and/or student services counsellor, etc.
- i. **Intersectionality** is the interconnected nature of social categorization such as race, class and gender as they apply to a given individual or group, regarded as creating overlapping and interdependent systems of discrimination or disadvantage.
- j. **Rape Culture** is a range of beliefs, attitudes, behaviours, and values that condone, encourage, justify, excuse, and/or perpetuate sexualized violence. Rape culture can be used as an umbrella term to encompass individual, institutional, and systemic normalization and trivialization of sexualized violence, including (but not limited to) rape jokes, victim-blaming, and the lack of criminal convictions and/or other accountability mechanisms for perpetrators of sexualized violence.
- k. **Report** is a formal account of an incident of sexualized violence to the institution for initiating some form of investigation or adjudication on or off campus.
- l. **Respondent** is a person who has been accused of committing (an) incident(s) of sexualized violence.
- m. **Safety Plans** are essential to optimize the safety of victims/survivors of sexualized violence at every stage. Survivors know their own situation the best and are suited to identify where the dangers lie while advocates can assist in the process by offering options for dealing with different situations. Safety plans should include information about potential triggers or dangerous situations, methods to control these risks, and resources that are available to the survivor. Safety plans should consider issues of physical, online/digital, psychological/emotional, and financial safety.
- n. **Sexual Assault** is any form of sexual contact that occurs without ongoing and freely given consent, such as non-consensual touching that is sexual in nature, or forced vaginal or anal penetration. Sexual assault can be committed by an intimate partner, someone known to the victim/survivor, an acquaintance, or stranger. Sexual Assault is outlined in s.271-273 in the *Criminal Code of Canada*.

- o. **Sexual Harassment** is unwanted communications or actions that are sexual in nature, and are offensive, intimidating, or humiliating. It can take many forms, including verbal, written, or visual. Sexual harassment includes unwanted touching, offensive jokes, sexual requests and verbal abuse. Sexual harassment is a type of sex discrimination, and falls under the *Manitoba Human Rights Code, s.19(2)* and *Workplace Safety and Health Act and Regulations*.
- p. **Sexualized Violence** is a spectrum of non-consensual sexual contact and behaviour. Examples include sexual harassment, sexual assault, sexual exploitation, criminal harassment, indecent exposure and voyeurism. Sexualized violence can be perpetrated by anyone – an acquaintance, classmate, professor, family member, colleague, friend or dating partner, intimate partner, or stranger. Sexualized violence can affect anyone, regardless of gender, race, class, dis/ability, citizenship, age, or size.

5. Guiding Principles

- a. **Trauma-Informed Approach** - It is critical that all members of the University community recognize the trauma that victims of sexualized violence can experience, and react to disclosures of sexualized violence in a mindful way so that they do not compound that trauma. This means that anyone coming forward to disclose sexualized violence must be treated with dignity and respect. They must also be informed and empowered to choose what support they require and when.
- b. **Survivor-Centered Approach** - Any time a complainant comes forward to disclose sexualized violence, their needs must be the primary focus. A survivor-centred approach means giving the complainant information about processes and supports, implementing measures to protect both their physical safety and their privacy, and maximizing their ability to choose how to disclose, report, and access support. A survivor-centred approach recognizes that events affect everyone differently and that the lived experience of the complainant cannot be minimized.
- c. **Culture of Consent** - The University fully supports the right of every individual to have autonomy over their own body, and recognizes the legal requirement of asking for and receiving consent before engaging in any kind of sexual activity. A culture of consent requires that the person initiating the activity ask for consent, and that the only valid consent is freely given, not passive, silent, or coerced. Consent can be withdrawn at any time. Any sexual act carried out in the absence of consent is an act of sexualized violence.
- d. **Inclusivity** - Recognizing the gendered nature of sexualized violence is critical to our support of survivors, and in our education and prevention efforts. Sexualized violence is predominantly perpetrated by cisgender men against women. We recognize that

transgender, transsexual, two-spirited, and gender non-conforming individuals are particularly vulnerable to sexualized violence, as are Indigenous women and women of colour, lesbian, gay, bisexual, and queer individuals, and people with disabilities. Everyone who experiences sexualized violence deserves equal respect and treatment at the University, and is equally protected under this policy.

- e. **Safety for All** - The University recognizes the need for safety of anyone who discloses that they have experienced sexualized violence. The responsibility of the University extends also to the safety of other members of the University community, including the respondent, witnesses, and in the larger community in which we operate.
- f. **Prevention through Education** - Members of the University community must share an understanding of the roles and responsibilities of each of us in preventing, recognizing, and responding to acts of sexualized violence. Education and awareness are key to developing this understanding and require an ongoing commitment from the University.
- g. **Due Process** - Anyone investigating a concern or report must remain neutral, and curb any bias in how they proceed and make decisions. Due process also means that the respondent has the right to know the report made against them in full detail and has the right to reply to these reports. Disciplinary decisions made under this policy will be based on evidence, and that evidence will be shared with both the complainant and respondent.

6. Parameters of Consent

The University Community is working to promote a culture of consent as follows:

- a. Consent is active and freely given, not passive, silent, or coerced.
- b. It is the responsibility of the person who wants to engage in physical contact or sexual activity to make sure that they have consent from the other person(s) involved.
- c. Consent to one sexual act does not constitute or imply consent to a different sexual act.
- d. Consent is required regardless of the relationship status or sexual history.
- e. Consent cannot be given by a person who is incapacitated by alcohol or drugs, or who is unconscious or incapable of giving consent due to some other physical or mental incapacity.
- f. Consent cannot be given when the respondent induces the person to engage in the activity by abusing a position of trust, power, or authority.

- g. Consent can be revoked at any time.

7. Confidentiality

Safeguarding confidentiality is central to creating an environment of security and respect, where complainants feel safe to disclose and to seek support and accommodation. Brandon University is committed to securing such an environment. We are committed to keeping all parties informed when there is a situation where confidentiality may be lifted. The following circumstances limit confidentiality:

- a. A person is determined to be at risk of harming themselves.
- b. A person is determined to be at risk of harming others.
- c. A requirement to respond to a court subpoena requires releasing information.
- d. Evidence of the sexualized violence occurs in the public domain (e.g. a video on social media).
- e. There is a child at risk (under the age of 18).

In the following circumstances, information regarding the respondent may be shared without consent:

- a. If circumstances exist that affect anyone's health or safety.
- b. To assist in an investigation or in making the decision to start an investigation.

8. Additional Recourse

Nothing in this Policy or the Procedure is intended to discourage or prevent a member of the University community, including students and employees, from filing a complaint with the Manitoba Human Rights Commission, or from exercising any other legal rights pursuant to any other law.

9. Disclosure Options for Complainants

Brandon University recognizes that the survivor of sexualized violence should choose the person to whom they first disclose their experience.

Disclosure occurs when the complainant tells a member of the University community that they have experienced sexualized violence. A disclosure may not necessarily lead to a formal

report. The complainant can make a disclosure and request that no action be taken.

Individuals may disclose an incident of sexualized violence to people in many different roles within the University community. With the permission of the individual, we encourage all students, staff, and faculty to refer any such disclosures or incidents immediately to the Sexual Violence Education and Prevention Coordinator (SVEPC). Should the SVEPC not be available, there are other resources both on campus and within the community, such as the Student Services Counsellors, Human Resources, and community-based resources.

10. Reporting Options for Complainants

Individuals who have experienced sexualized violence have options when filing a formal report in response to an incident. The SVEPC can assist individuals in understanding each of these options and ensure that they have all the information they require to decide next best steps in their healing. Detailed information on options, as well as what to expect for all parties involved, is available on our sexual violence website. All processes are required to protect the rights of both the complainant and the respondent. Formal reporting options include the following:

- a. **Criminal Option** - a report can be made to a Police Service or local Royal Canadian Mounted Police (RCMP), depending on where the incident occurred, in an effort to pursue criminal charges under the *Criminal Code of Canada*.
- b. **Non-Criminal on-Campus Options** - a report can be made under the following policies and/or processes:
 - i. Brandon University Sexualized Violence Policy
 - ii. Brandon University Respectful Environment Policy (Discrimination and Harassment Policy)
 - iii. Brandon University Student Discipline Process
 - iv. Brandon University Statement of Student Rights and Responsibility Process

11. Commitments and General Principles

Brandon University will not tolerate any retaliation, directly or indirectly, against anyone who discloses or reports sexualized violence, or who participates in a Brandon University process that addresses reports of sexualized violence against a member of the University community. Anyone found in violation of this commitment will be sanctioned in accordance with University policies (the Discrimination and Harassment Policy, Student Rights and Responsibility Process, etc.).

12. Complainant Support

- a. All members of the University community (staff, faculty, and students) can expect to receive support through the appropriate offices if they have experienced sexualized violence. Information in the form of a detailed handout, available on the University's sexual violence webpage, outlines resources that are available on and off campus.
- b. The SVEPC works with individuals in determining their needs for support and/or workplace and academic accommodation, needs and assisting with access to this support and/or accommodation.
- c. Complainants have the right to determine whether and how much they choose to disclose or report about their experience, and to decide if they will initiate a formal report off campus to Police and/or on campus to University Administration.
- d. Complainants will not be required or pressured to make a formal report. In some rare cases, when safety is an issue, the University may be required to take action without the complainant's approval, see Section 7, Confidentiality. If this action becomes necessary, the complainant will be fully informed and will be supported through the entire process.

13. Education and Prevention of Sexualized Violence

Brandon University is committed to ending sexualized violence through a culture of raising awareness and providing training for bystanders. Brandon University is working in partnership with the internal and external community to develop a yearly education strategy, which includes presentations, awareness campaign, workshops, online resources, and other materials.

14. Resources and Support

On Campus (during business hours from 8:30 am to 4:30 pm, Monday to Friday):

Sexual Violence Education and Prevention Coordinator (SVEPC): 204-727-7498

Human Resources: 204-727-7416 or 204-573-0920

Diversity and Human Rights Advisor: 204-727-9785 or 204-573-6085

Student Services: 204-727-9737

Off Campus:

Klinic 24-hour toll-free Sexual Assault Crisis Line: 1-888-292-7565

15. Roles and Responsibilities

The Office of the Vice-President (Academic and Provost) in coordination with the Sexual Assault Advisory Group (SAAG) representing all relevant areas of the University community (including students), are responsible for establishing the procedures to implement this policy.

a. Sexual Assault Advisory Group (SAAG)

SAAG is a standing committee responsible for maintaining and communicating an ongoing commitment to address the issue of sexualized violence on university campuses, receiving and reviewing the SVEPC's annual report, and provide advice on potential amendments to this policy and the procedure.

b. Office of the Vice-President (Academic and Provost)

The office of the Vice-President (Academic and Provost) provides an organizational home for the SVEPC and oversees of the implementation of the Statement of Student Rights and Responsibilities. The Vice-President (Academic and Provost) is responsible for maintaining and communicating an ongoing commitment to address the issue of sexualized violence among the University community.

c. Sexual Violence Education and Prevention Coordinator (SVEPC)

All members of the Brandon University community must inform the SVEPC of any sexual assaults, or allegations of any forms of sexualized violence governed by this policy, that are brought to their attention. Such information may include witnessing or having either knowledge of or a reason to believe that an incident of sexualized violence may have occurred. The SVEPC can be consulted at any point in the process.

The SVEPC oversees the day-to-day operation of this policy as outlined in the office's job description. The SVEPC works with partners and stakeholders on and off campus to develop and deliver awareness, prevention, education, and training programs, and provides guidance to the University community on how best to implement this policy and the procedure.

The SVEPC maintains statistical data on the number and types of disclosures/reports received, investigations conducted, and the outcomes of these investigations. The SVEPC prepares an annual report of the data collected, information on any observed trends, a summary of prevention and awareness programming undertaken, and recommendations for potential amendments to this policy and procedure. The data will not include any information that would identify any community member.

d. Dean of Students

The Dean of Students works in close partnership with the Vice-President (Academic and Provost), SVEPC, Director of Human Resources, and Diversity and Human Rights Advisor on the interpretation and application of this policy. The Dean of Students is responsible for ensuring that the appropriate supports are in place for survivors who are students, through the many units within Student Services: Student Counselling, Academic Advising, the Indigenous People's Centre, the Office of International Activities, and Student Accessibility Services.

e. Director of Human Resources

The Director of Human Resources works in close partnership with the Vice-President (Academic and Provost), SVEPC, Dean of Students, and Diversity and Human Rights Advisor (DHRA) on the interpretation and application of this policy. The Director of Human Resources is responsible for ensuring that appropriate supports are in place for survivors who are employees of the institution, through Human Resources benefits and programs, and the Employee and Family Assistance Program (EFAP). The Director also works with Human Resources consultants, managers, and supervisors to support workplace accommodations required in response to incidents of sexualized violence at Brandon University.

f. Diversity and Human Rights Advisor (DHRA)

The DHRA works in close partnership with the Vice-President (Academic and Provost), SVEPC, Director of Human Resources and Dean of Students on the interpretation and application of this policy. The DHRA brings an awareness that addressing issues of sexualized violence needs to be grounded in an understanding that each person's experience is affected by many factors, including sex, ancestry, race, ethnicity, language, ability, faith, age, socioeconomic status, sexual orientation, and gender identity.

g. All members of the University Community

All members of the University community will participate in education and training programs where appropriate, especially those designed for "first responders". Any member of the University community who receives a disclosure about an incident of sexualized violence will consult with the SVEPC as soon as possible to ensure that there is a coordinated response. If the complainant does not wish to speak to the SVEPC, all members of the University community are expected to report the fact of the disclosure (without identifying details), to the SVEPC for statistical purposes. All members of the University community will respect the privacy of the persons involved and will respect the role of the SVEPC as the lead coordinator of institutional support for the complainant.

h. Faculty and Academic Departments

In addition to the responsibilities outlined in the previous section, Faculty and Academic Departments will cooperate to the extent possible with students or their advocates as they attempt to seek academic accommodation in the face of incidents of sexualized

violence and their aftermath, and will recognize the need for confidentiality in these situations.

16. Maintenance of Statistics

The SVEPC collects and maintains annual statistics of incidents of sexualized violence, both reported and disclosed, for the purpose of any legislated reporting that may become required and for educational purposes. The data will not include any personal information that could identify any person seeking the services. These statistics will be published annually on the University's sexual violence website.

17. Related Policies and Procedures

- a. Respectful Environment Policy (Discrimination and Harassment Policy)
- b. Statement of Student Rights and Responsibility
- c. Criminal Code of Canada, RSC 1985, c C-46
- d. The Human Rights Code, C.C.S.M. c. H175
- e. Workplace Safety and Health Regulations
- f. Manitoba Child and Family Services Act
- g. The Sexual Violence Awareness and Prevention Act, Bill 15

18. Review

This policy will be reviewed one year after its inception by the Office of the Vice-President (Academic and Provost) and every three years thereafter.

 <p>BRANDON UNIVERSITY Founded 1899</p>	<p>Computer Acceptable Use Policy</p>	<p><i>Approved by</i> <i>PAG (President's Advisory Group)</i></p> <p><i>Administered by</i> <i>I.T. Services</i></p>
<p><i>Administrative Policy</i></p>	<p><i>First Approved:</i> <i>January 11, 2006</i></p>	<p><i>Updated:</i></p>

Brandon University (BU) is the sole owner and operator of the BU computer system. Information Technology Services has a responsibility to maintain the system in a manner consistent with the University's mission. BU is committed to providing quality services for all faculty, students, staff, and authorized external users. The following policies have been established to ensure the security and integrity of the University's computing resources and fair and equitable access to those resources by all the members of the University community. Computing resources and networks are intended to support research, education, instruction, and administrative processes. Members of the University community using computing resources should be aware they have access to sensitive data and their computer usage on the University Network could have adverse affects on other computing facilities and users.

Scope

This policy shall apply to all University computing systems and technologies including servers, desktops, laboratory computers, network equipment, hardware, software, data, and devices related to these systems.

Violations of these policies could result in the loss of a portion of or all computing privileges and possible disciplinary action.

Authorized Use

- All faculty, staff, registered students, and authorized external guests supporting University education, research, or outreach activities are entitled access to computing resources.
- Users are allowed to use the facilities for which they are authorized.
- Users are ultimately responsible for the use of their accounts and should keep their passwords secure.
- Users are not permitted to give access by any means to other persons who do not qualify for accounts at Brandon University. Giving free resources to other persons for unauthorized purposes is prohibited.
- With the exception of e-mail access, student accounts will be disabled and removed no sooner than 180 days after the last day of class in the last session the student was registered. E-mail accounts will remain active for those students identified as Brandon University alumni for purposes of forwarding email to their personal off campus email accounts.

- Faculty and staff accounts will be removed when notified of employment termination by the appropriate dean/director. Information Technology Services will notify departments of accounts that have been inactive for at least one year.

Distribution of Resources

- The University is committed to the resources allocated for University related work. The use of the computer facilities for non work related activities that place heavy loads on University resources, cause network congestion, or that severely impact the work of others is prohibited.

Disruptive Activities

- Deliberate attempts to tamper with computing resources are prohibited.
- Any deliberate attempts to disrupt the regular operations of the University's technology resources is prohibited. Deliberate propagation of computer viruses, worms, or Trojan programs intended to disrupt normal University operations, computing resources, networks, hardware, or computer facilities is prohibited.
- Users must not attempt unauthorized access to computing installations outside of Brandon University's facilities.

Commercial Activity

- The University's computing resources are reserved for research, instructional purposes, and the professional activities of its faculty, staff, and students. The use of these systems for personal business or commercial use, such as the posting of commercial web pages and the distribution of unsolicited advertising, is prohibited.
- Users must not use accounts for private consulting or for any form of direct personal financial gain (except for appropriate contract and external accounts).

Property Rights

- Unless their owners explicitly place files in a public domain, files are to be considered private property and may not be copied, or distributed without authorization from the owner.
- Users must respect all copyrights and licenses associated with University computing facilities.
- The onus is on users/owners to familiarize themselves with their responsibilities and limitations under each software license agreement.
- Users must not attempt to:
 - Access and use software belonging to or licensed to other users or to Brandon University without proper authorization to do so;
 - Move or copy programs, or any other forms of software from one computing system to another without proper authorization. This includes personal computers, and personal workstation software; or
 - Distribute, sell, or otherwise make available software when such activity is prohibited by the license agreement for that software.

Privacy

- Users should not attempt to subvert restrictions put in place on their accounts or other accounts.
- Users should not divulge passwords to any other person. Information Technology Services does not require access to users' passwords.
- Users should change passwords for all accounts at regular intervals.
- No person shall attempt to access another user's or University files or databases without specific authorization.
- Attempts to misrepresent or use other mechanisms to access restricted data is prohibited.
- Brandon University's Student Records Policy for access to student information shall prevail in any decision pertaining to the access of student personal information and e-mail addresses. The University will publish all employee e-mail addresses on the University telephone directory unless otherwise notified by the appropriate Dean/Director.
- Users should be aware that their user accounts can and may be accessed by Information Technology Services for the purposes of system maintenance and resource management.
- The e-mail system is screened for messages that contain viruses, worms, Trojans and SPAM e-mail.

Harassment and Fraudulent Behaviour

- The sending of messages or files to another user that interfere with the legitimate work of another user, the transmission and display of abusive or obscene messages, and the sending of messages under an assumed name or modified address with the intent to misidentify the sender or origin of the message is a violation of this policy. Such activity is subject to applicable provincial and federal laws, collective agreement provisions, and University policy.

Freedom of Expression

The free exchange of ideas is central to the educational process and the **Computer Acceptable Use Policy** supports this principle. The exceptions are uses that violate the law, endanger computer resources, or violate the policies articulated in this document.

Acknowledgement of Brandon University Policies

As part of my onboarding with Brandon University, I have received the following policies (please check each box):

- Discrimination and Harassment Policy
- Accessibility Policy
- Workplace Accommodation Policy and Procedures
- Sexualized Violence Policy
- Computer Acceptable Use Policy

This is to confirm that I have reviewed these policies. Should I have questions about any of these policies, I will ask my supervisor or Human Resources for clarification.

(Employee Name – print)

(Employee Signature)

(Date)

This form is available in an alternate format upon request.

Please return this form to Human Resources where it will remain in the employee's personnel file.