



RELIGIOUS AND FAITH-BASED ACCOMMODATION OF STUDENTS

INTRODUCTION

District School Board Ontario North East (the Board) recognizes and values the diverse religions and faiths observed by members within its communities and is committed to providing a safe, respectful and equitable environment for all, free from all forms of discriminatory or harassing behaviours.

District School Board Ontario North East acknowledges each individual's right to follow or not follow religious and/or spiritual beliefs and practices and is committed to taking all reasonable steps to provide religious and faith-based accommodation to students as outlined within board policy.

Freedom of religion is an individual right and a collective responsibility. As outlined in the Ontario Human Rights Commission's Policy on Creed and the Accommodation of Religious Observances, the Board commits to work with the communities it serves to foster an inclusive learning environment that promotes acceptance and protects religious freedom for all individuals. While the Board and its staff will take all reasonable steps to ensure freedom of religion and religious practices consistent with *The Ontario Human Rights Code* (the *Code*), it is expected that students and their families will help the Board to understand their religious needs and will work with the Board and its schools to determine appropriate and reasonable accommodations.

I. LEGISLATIVE AND POLICY CONTEXT

All school boards exist within a broader context of law and public policy that protect and defend human rights. At the Board, a number of policy statements have been developed that reinforce both federal and provincial legislation, and also help ensure that the freedoms they set out are protected within the school system. The following policy statements and legislation are referenced throughout the Religious and Faith-Based Accommodation of Students:

- *The Canadian Charter of Rights and Freedoms* (Section 15)
- *The Ontario Human Rights Code*
- Ontario Human Rights Commission's *Guidelines on Developing Human Rights Policies and Procedures*
- Ontario Human Rights Commission's Policy on Creed and the Accommodation of Religious Observances
- Ontario Ministry of Education's *Equity Strategy*
- *The Education Act*, section 21 (2)(g)
- PPM No 108, "Opening or Closing Exercises in Public Elementary and Secondary Schools"
- R.R.O. 1990, Regulation 298, "Operation of School-General" s 27-29, under the heading "Religion in Schools"
- PPM No. 119, "Developing and Implementing Equity and Inclusive Education Policies in Ontario Schools"

II. DEFINITIONS

1. Accommodation

The Ontario Human Rights Commission's Policy on Creed and the Accommodation of Religious Observances define "accommodation" as a duty corresponding to the right to be free from discrimination:

The Code provides the right to be free from discrimination, and there is a general corresponding duty to protect the right: the "duty to accommodate." The duty arises when a person's religious beliefs conflict with a requirement, qualification or practice. Accommodation may modify a rule or make an exception to all or part of it for the person requesting accommodation.

(Policy on Creed and the Accommodation of Religious Observances, Ontario Human Rights Commission, October 20, 1996, pg. 5)

2. Creed

Creed is interpreted by the Ontario Human Rights Commission's 1996 Policy on Creed and the Accommodation of Religious Observances as "religious creed" or "religion." It is defined as a professed system and confession of faith, including both beliefs and observances of worship.

The existence of religious beliefs and practices are both necessary and sufficient to the meaning of creed, if the beliefs and practices are sincerely held and/or observed. Religion is broadly accepted by the OHRC to include, for example, a non-deistic body of faith such as the spiritual faiths and/or practices of Aboriginal Cultures.

According to the Ontario Human Rights Commission, every person has the right to be free from discrimination or harassing behaviour that is based on religion or which arises because the person who is the target of the behaviour does not share the same faith. Atheists and agnostics are also protected under the *Code*.

Creed does not include secular, moral, or ethical beliefs or political convictions. This policy does not extend to religions that incite hatred or violence against other individuals or groups, or to practices and observances that purport to have a religious basis, but which contravene international human rights standards or criminal law (Policy on Creed and the Accommodation of Religious Observances, Ontario Human Rights Commission, October 20, 1996, pg. 2).

3. Undue Hardship

Accommodation will be provided to the point of undue hardship, as defined by the OHRC (for example, in the *Policy and Guidelines on Disability and the Duty to Accommodate*). A determination regarding undue hardship will be based on an assessment of costs, outside sources of funding, and health and safety. It will be based on objective evidence. For more information about the evidence needed to prove undue hardship, see *Human Rights at Work*, p. 133-134 and Appendix E.

A determination that an accommodation will create undue hardship carries with it significant liability for the Board. It should be made only with the approval of the Board of Trustees.

Where a determination is made that an accommodation would create undue hardship, the person requesting accommodation will be given written notice, including the reasons for the decision and the objective evidence relied upon. The person requesting the accommodation shall be informed of his or her recourse under the Board's Equity and Inclusive Education Policy and under the Ontario *Human Rights Code*.

Where a determination has been made that an accommodation would cause undue hardship, the Board will proceed to implement the next best requested accommodation short of undue hardship, or will consider phasing in the requested accommodation.

III. ACCOMMODATION GUIDELINES

The purpose of this guideline is to ensure that all Board staff, students, parents and other members of the school community are aware of their rights and responsibilities under the *Code* with respect to religious accommodation of students and their families. It also sets out the Board's procedures for accommodation and the responsibilities of each of the parties within the accommodation process. In accordance with the *Equity Strategy*, the *Code* and OHRC's *Guidelines on Developing Human Rights Policies and Procedures*, it is intended that the accommodation process, as well as the accommodation itself, be effective and respectful of the dignity of the person seeking the accommodation.

The Board is committed to providing an environment that is respectful, inclusive and free of barriers based on creed (religion). Accommodation will be provided in accordance with the principles of dignity, individualization, and inclusion. The Board will work cooperatively, and in a spirit of respect, with all partners in the accommodation process.

School administrators will endeavour to recognize significant holy days or observances when developing the school calendar of events for the upcoming year. The Board website (Parent and Student Resources tab) will include information about the procedure for requesting an accommodation for religious or faith-based needs. Such information should be easy for staff, students, and parents to understand.

District School Board Ontario North East will provide assistance to schools in their work with students and their families.

1. Accommodation Based on Request

The Board's school administrators will take all reasonable steps to provide accommodation to students and staff to facilitate their religious or faith-based beliefs and practices. All accommodation requests will be considered respectfully.

If concerns related to beliefs and practices arise in schools, collaboration among the school, student, family, and religious community may be needed in order to develop appropriate accommodation. It is the role of the Board and its staff to ensure equity and respect for the diverse religious beliefs and practices of students and their families and other staff in the school system.

School administrators will ensure a climate of respect for religious and spiritual diversity but should not be placed in the position of monitoring a child's compliance with a religious obligation, and enforcing such practices.

2. General Procedures for Religious and Faith-based Accommodation

Staff

The person requesting accommodation should advise the administration at the beginning of the school year, to the extent possible. If September notice is not feasible, the person should make the request as early as possible.

The absence of employees due to religious observances should be granted as determined by this policy and the appropriate collective agreement.

Students

A parent/guardian or student (18 years of age or older) must present verbal or written notice specifying the request for religious or faith-based accommodation, including holy days on which they will be absent from school. This notice should be made enough in advance (preferably at the beginning of each school year) to ensure that scheduling of major evaluations, such as tests, assignments or examinations, takes the accommodations into consideration.

3. Unresolved Requests

The Board will take reasonable and timely steps to address the request for an accommodation. Students and their families who feel that their accommodation needs remain unmet, may seek recourse through the appropriate Superintendent of Schools.

IV. GENERAL GUIDELINES AND PROCEDURES

AREAS OF ACCOMMODATION

For many students and staff of the Board, there are a number of areas where the practice of their religion or faith will result in a request for accommodation on the part of the school and/or the Board. These areas include, but are not limited to the following:

1. School Opening and Closing Ceremonies

Pursuant to the Ontario Ministry of Education Policy/Program Memorandum No. 108 ("Memorandum No. 108"), if a student or parent/guardian objects to all or part of the opening or closing exercises due to religious beliefs, the student will be accommodated. This may include the option to not participate and to remain in class or in an agreed upon location through the duration of the exercise.

Memorandum No. 108 states the following:

1. All public elementary and secondary schools in Ontario must be opened or closed each day with the national anthem. "God Save the Queen" may be included.
2. The inclusion of any content beyond "O Canada" in opening or closing exercises is to be optional for public school boards.
3. Where public school boards resolve to include, in the opening or closing exercises in their schools, anything in addition to the content set out in item 1 above, it must be composed of either or both of the following:
 - a. One or more readings that impart social, moral, or spiritual values and that are representative of our multicultural society. Readings may be chosen from both scriptural writings, including prayers, and secular writings;
 - b. A period of silence.
4. Parents/guardians who object to part or all of the exercises may make a request to the principal to have their child(ren) exempted. Students who are 18 years of age or older may make a request for such an accommodation directly to the principal.

2. Absence for Religious Holy Days

The Board is committed to affirm and value equally the faith diversity in our schools.

All students who observe religious holy days in accordance with the *Education Act* section 21(2) (g) may be excused from school attendance. A schedule of recognized "G" days is available upon request.

Guidelines for Administrators

In accordance with their rights, all staff and students who request to observe a religious holy day should be allowed this right without having to undergo any unnecessary hardship.

Staff requesting a leave should advise the school administration at, or as close as possible to, the beginning of the school year and leave should be granted in accordance with the terms of the appropriate collective agreement.

A parent/guardian (or student, 18 years of age or older) requesting a leave must present verbal or written notice to the principal prior to the absence. Information about absences for holy days should be shared with teachers so that accommodations for assignments and assessments can be made around these absences.

Unresolved Requests

a. Employee

In the event that, after an employee's consultation with the school administration and the Superintendent of Schools, unresolved issues remain, then the matter will be referred to the Senior Manager of Human Resources.

b. Students

In the event that a student maintains that his or her rights under the Board's religious accommodation policy have been compromised, then the matter will be referred to the appropriate Superintendent of Schools.

3. Prayer

The Board recognizes the significance of prayer in religious practice. Schools will make reasonable efforts to accommodate individuals' requirement for daily prayer by providing an appropriate location within the building for students and staff to participate in prayer, or for storage of items. This may mean a quiet space in the library, an empty room, or wherever it is mutually satisfactory for the school and the student or staff member requesting the accommodation. Particular accommodation for prayer may include late school arrival, early school leaving or seasonal adjustment. An agreement regarding supervision must be made through discussion between the parent/guardian of the student requesting the accommodation and the school.

4. Smudging

District School Board Ontario North East recognizes that the inclusion of First Nation, Métis, and Inuit cultures and practices in our schools play a powerful role in supporting and engaging students and their families, as well as educating all students about Indigenous cultural beliefs and practices. Smudging is a common practice among many people, and therefore, whenever possible, it is important for schools to accommodate students and/or visiting Elders or cultural teachers who wish to conduct this healing practice.

Smudging is the burning of tobacco and other sacred medicines such as sweet grass, cedar, and sage and is meant to purify, cleanse, and protect physical, emotional, and spiritual spaces and create harmony and balance.

Generally, only a small amount of medicine is burned, which does not affect alarms. Review the location of fire alarms and smoke detectors with the custodian. It is also practice to notify all staff in the building of the smudging in case there are extreme allergies. In some cases, it may not be practical for the smudging to take place inside and accommodations should be made to find a suitable and mutually agreeable alternate location.

An agreement regarding supervision must be made through discussion between the parent/guardian of the student requesting the accommodation and the school.

5. Dietary Restrictions

The Board is sensitive to the different dietary restrictions of various religious groups. Such sensitivity includes attending to issues related to the menus provided by catering companies, snacks in elementary schools, and food provided within schools, at school-sponsored activities and community events.

Breakfast and lunch programs in both secondary and elementary schools will consider relevant dietary restrictions in their menu planning. Availability of vegetarian options is recommended as a form of inclusive design.

Special attention needs to be given to dietary needs for overnight outdoor education activities, as well as field trips that extend over a mealtime period.

6. Fasting

The Board is sensitive to religious periods of fasting. Based on particular requests, schools will endeavour to provide appropriate space, away from students who are eating, for individuals who are fasting in religious observance. Schools must recognize that students who are fasting may need exemptions from certain physical activities and should make reasonable efforts to provide appropriate accommodations.

7. Religious Dress

“Dress Code” is the appropriate dress policy established by a school, and may include a school uniform. Such policies should be designed inclusively, taking into account common religious needs that may exist.

The Board recognizes that there are certain religious communities that require specific items of ceremonial dress. The Board understands that some religious attire, which is a requirement of religious observance, may not conform to a school’s Dress Code. Schools will reasonably accommodate students with regard to religious attire. Religious attire is not cultural dress; it is a requirement of religious observation.

Religious attire that should be reasonably accommodated in Board schools includes, but is not limited to:

- Head covers: Yarmulkes, turbans, Rastafarian headdress, hijabs
- Crucifixes, Stars of David, etc.
- Items of ceremonial dress

Where uniforms are worn, administrators may ask the student to wear religious attire in the same colour as the uniform (e.g. the head scarves for females); however, there may be religious requirements of colour that cannot be modified.

Special attention must be given to accommodations necessary for a student to participate in physical education and school organized sports.

The Board seeks to foster an atmosphere of cultural understanding in order to be proactive in addressing potential harassment about religious attire. Schools should be aware that harassment about religious attire is a common type of harassment and bullying. The Board and its schools will not tolerate any negative comments directed at, or inappropriate actions taken against, an individual’s religious attire and there will be appropriate consequences for individuals who violate this rule.

There are religious communities that require specific items of ceremonial dress which may be commonly perceived as contravening Board policies, for example the use of the Kirpan by Khalsa Sikh students. For specific guidelines on the accommodation of Khalsa Sikh students wishing to carry a Kirpan, please see Schedule “A.”

8. Modesty Requirements for Dress in Physical Education Classes

The Board recognizes that some religious communities observe strict modesty attire in respect of their religion. This can become a matter of concern when students are asked to wear the clothing used in physical education activities. School dress code policies should take into account common religious needs that may exist as well as safety requirements for students.

If a family has concerns that remain unaddressed, the school should discuss the modesty requirements with them and provide reasonable accommodations, taking into consideration the Ministry of Education’s mandated expectations (OPHEA Safety Guidelines) in the physical education curriculum. The physical education curriculum should be respectfully explained to the family in order to provide sufficient information for informed discussion.

9. Participation in Daily Activities and Curriculum

The Board will seek to reasonably accommodate students where there is a demonstrated conflict between policy, a specific class or curriculum and a religious requirement or observance. Where academic accommodation is requested, the school should have an informed discussion with the student's parent(s)/guardian(s) to understand the nature and extent of the conflict.

The school should make it clear during the discussion that its role is to protect students and staff from harassment and discrimination because of their religious and/or spiritual beliefs and/or cultural practices. Where these conflict with the school routines and activities or curriculum, the school should consider accommodation. It cannot, however, accommodate religious values and beliefs that clearly conflict with mandated Ministry of Education and Board policies.

It is important to note that when an individual requests an accommodation related to the curriculum, the accommodation applies to the individual in question and not to the whole class or to classroom practices in general.

The Ministry of Education recommends substitutions when there are exemptions requested related to specific curriculum (Ontario Secondary Schools, Grades 9-12, Program and Diploma Requirements).

In general, the Board recommends an informed, collaborative approach to questions of religion and curriculum. These concerns can be addressed through open discussion between the school, the student and the family.

V. LIMITATIONS TO RELIGIOUS ACCOMMODATION

The Board is committed to preventing and/or eliminating discrimination and harassment within its school community based on grounds set out in the *Code*, including creed. The Board supports freedom of religion and an individual's right to manifest his/her religious beliefs and observances. The right to freedom of religion, however, is not absolute.

The Board will not condone behaviour in its schools which may put public safety, health, or the human rights and freedoms of others at risk. As well, the Board will limit practices or behaviours in its schools that are in violation of other Board policies. These decisions will be made in accordance with the principles of the *Code*.

SCHEDULE A

GUIDELINE FOR KIRPAN ACCOMMODATION

A Kirpan is a ceremonial sword that must be worn by all baptised Khalsa Sikhs. The Board seeks to accommodate Khalsa Sikhs who wear a kirpan under the following conditions as follows:

- At the beginning of the school year or upon registration, the student and parents/guardians must report to their respective school administration that they are Khalsa Sikhs and wear the five articles of faith, including a Kirpan.
- The principal, in consultation with the student and his/her parents/guardians will develop appropriate accommodations to allow the student to wear the Kirpan while ensuring the safety of others. These may include the following conditions
 - The Kirpan is six inches or less in length.
 - The Kirpan will be sufficiently secured with a stitched flap so it is not easily removed from its sheath.
 - The Kirpan will not be worn visibly, but under the wearer's clothing.
 - There is notification in writing to the principal by the parents/guardians and student and, where possible, from the Gurdwara (place of worship), confirming that the student requesting accommodation is a Khalsa Sikh.
 - Students under the age of eighteen must be accompanied by parents/guardians when discussing the rules regarding the wearing of a Kirpan.