



Durham Catholic District School Board

“The Board”

## Administrative Procedure

Title: <b>Religious Accommodation</b>	Procedure #: <b>AP216-2</b>
Administrative Area: Governance	
Policy Reference: Equity and Inclusive Education (PO216)	
Date Approved: November 22, 2010	
Dates of Amendment:	

### 1.0 Purpose

This Administrative Procedure recognizes that religious accommodation provisions are designed to promote a respectful learning environment for all members of the Durham Catholic District School Board consistent with the exercise of the Board’s denominational rights under section 93 of the Constitution Act, 1867, and as recognized in section 19 of the Ontario Human Rights Code. This administrative procedure identifies the types of accommodations the Board can reasonably provide to students and staff and outlines the conditions under which staff or student’s religious beliefs would be accommodated.

This Administrative Procedure extends to staff members, students and their families while in attendance at school or engaged at other DCDSB events.

### 2.0 Definitions

**Accommodation** – The duty to accommodate is an obligation that arises when requirements, factors, or qualifications, which are imposed in good faith, have an adverse impact on, or provide an unfair preference for, a group of persons based on a protected ground under the Code. The duty to accommodate must be provided to the point of undue hardship. In determining whether there is undue hardship, section 24(2) of the Code provides that reference should be made to the cost of accommodation, outside sources of funding, if any, and health and safety requirements.

**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. 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

## 2.0 **Definitions (cont'd)**

purport to have a religious basis, but which contravene international human rights standards or criminal law (Policy on Creed and Accommodation of Religious Observances, Ontario Human Rights Commission, October 20, 1996, pg.2).

**Dress Code** – Dress Code is the appropriate dress policy established by a school, and may include a school uniform.

**Undue hardship** - under the Ontario Human Rights Code, undue hardship is the measure for any limitations to provision of human rights accommodations. Accommodations need not be provided if it causes undue or excessive hardship. However, some degree of hardship is acceptable. Undue hardship is assessed in terms of overall cost, outside sources of funding (if any) and health and safety factors. Evidence must be objective, real, direct and in the case of cost, quantifiable and so substantial it would alter the essential nature of the enterprise. Other 'bona fide' requirements of an organization, such as legislative requirements may also account for undue hardship factors to consider, as long as the said requirement is adopted in good faith and reasonably meant to fulfil a necessary goal, purpose or function of the organization.

## 3.0 **Procedures**

### 3.1 Accommodation Requests

- 3.1.1 The Board supports freedom of religion and an individual's right to manifest his or her religious beliefs and observances. The right to freedom is not absolute, and religious accommodation in the Board is carried out in the larger context of the Catholic education system and denominational rights of Catholic schools.
- 3.1.2 The Board will, at all times, seek to accommodate an individual's right to freedom of religion in a manner that not only respects the individual's beliefs, but the principles of the Catholic Church.
- 3.1.3 It is understood that all students registered in DCDSB schools acknowledge that the school community proclaims, celebrates and cherishes its Catholic identity and traditions and that staff will teach the curriculum from a Catholic perspective. At the same time, the school is enriched and committed to providing an environment that is inclusive, safe and free of barriers based on religion.
- 3.1.4 In respect of religious accommodation, the Board acknowledges that all students, in accordance with what the Catholic Church offers in its social teachings and reflective practice, are entitled to their rights and responsibilities under the Ontario Human Rights Code.
- 3.1.5 The Board will work cooperatively and take all reasonable steps to provide accommodation to individual requests from students to facilitate his/her religious beliefs and practices.

### 3.0 **Procedures** (cont'd)

3.1.6 Areas of religious accommodation include, but are not limited to:

- 3.1.6.1 school opening and closing exercises;
- 3.1.6.2 leave of absence for religious Holy Days;
- 3.1.6.3 prayer;
- 3.1.6.4 dietary requirements;
- 3.1.6.5 religious dress;
- 3.1.6.6 modesty requirements in physical education; and
- 3.1.6.7 participation in daily activities and curriculum.

3.1.7 When concerns related to beliefs and practices arise in schools, collaboration among school, student, family, and the religious community is 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.

### 3.2 General Procedures for Religious Accommodation Requests

#### 3.2.1 Staff

- 3.2.1.1 The person requesting a religious accommodation should advise their manager/administrator 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.
- 3.2.1.2 The absence of employees due to religious observances should be granted as determined by this procedure and the appropriate collective agreement.

#### 3.2.2 Students

- 3.2.2.1 Students must present verbal or written notice from their parents/guardians specifying their accommodation needs relating to religious observances. Where possible, this notice should be provided at the beginning of the school year or enough in advance to ensure that scheduling of major evaluations, (e.g., tests, assignments or examinations) takes the religious observances into consideration.
- 3.2.2.2 Information should be available to the parent about the procedure to follow to request an accommodation for religious observances and/or holy days.

### 3.0 **Procedures** (cont'd)

#### 3.3 School Opening and Closing Ceremonies

3.3.1 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 exempted and given the option not to participate and to either remain in class or in an agreed upon location for the duration of the exercise.

#### 3.4 Absence for Religious Holy Days

3.4.1 All staff and students who observe religious holidays in accordance with section 21(2) (g) of the Education Act (holy day by the Church or religious denomination to which he/she belongs) may be excused from attendance, subject to the particular request for religious leave process.

3.4.2 The Board will encourage members of diverse groups to identify their religious holy days at the beginning of each school year. The Board will make reasonable efforts to acknowledge the different observances of their Catholic community when planning programs and events, such as Board-wide tests and examinations.

3.4.3 All staff and students who request to observe a religious holy day should be allowed this right without having to undergo any unnecessary hardship.

#### 3.5 Prayer

3.5.1 Should the need arise, the principal, in consultation with the Chaplain (if applicable), will designate an appropriate space within the school other than a chapel for religious celebrations held by other denominations or faith traditions.

3.5.2 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 (e.g., a quiet space in the library, an empty room, or wherever it is mutually satisfactory for the school and the student or staff member). Adult presence should be for supervision purposes only.

### 3.0 **Procedures (cont'd)**

3.5.3 Chapels in Catholic schools are specifically designed and furnished in the Catholic tradition for prayer and liturgy, and are not to be considered multi-faith chapels. The chapel is open to all people for individual silent prayer or meditation, but it is not appropriate for non-Catholic liturgies or group prayer to be held in the chapel. In following the general custom of the Roman Catholic Church, non-Catholics are welcome to join in prayer services and liturgical celebrations of the Catholic Church community, while honouring restrictions, such as sharing Holy Communion.

#### 3.6 Dietary Requirements

3.6.1 The Board is sensitive to the different dietary requirements of various religious groups. Such sensitivity includes attending to issues related to the menus provided by catering companies, breakfast and snack programs, and food provided within schools, at school-sponsored activities, field trips and community events.

3.6.2 The Board is sensitive to religious periods of fasting. Board schools will endeavour to provide appropriate space, other than cafeterias or lunchrooms, for individuals who are fasting in religious observance. The Board recognizes that students who are fasting may need exemptions from certain physical education classes and schools should make reasonable efforts to provide appropriate accommodations.

#### 3.7 Religious Dress

3.7.1 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.

3.7.2 Religious attire is a requirement of religious observation. This does not include cultural dress.

3.7.3 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.

### 3.0 **Procedures (cont'd)**

- 3.7.4 The Board recognizes that some religious communities observe strict modesty attire in respect of their religion. Schools should discuss the modesty requirements with families in order to determine a reasonable accommodation where it impacts physical education classes.
- 3.7.5 The Board seeks to foster an atmosphere of cultural understanding in order to be proactive in addressing potential bullying harassment about religious attire. The Board and its schools will not tolerate any teasing directed at, or inappropriate actions taken against, an individual's religious attire. Such issues will be dealt with as part of the Student Code of Conduct.
- 3.7.6 In some instances, specific items of ceremonial dress may be perceived as contravening Board policies, for example the use of the kirpan by Sikh students. In these situations schools should consult with the Superintendent responsible for Equity and Inclusive Education. For specific guidelines on the accommodation of Sikh students wishing to carry a kirpan, Appendix "A."

#### 3.8 Participation in Daily Activities and Curriculum

- 3.8.1 The Board will seek to reasonably accommodate students where there is a demonstrated conflict between 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 parents/guardians to understand the nature and extent of the conflict and determine in keeping with the denominational rights of the Board, the best way to address the accommodation request.
- 3.8.2 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.
- 3.8.3 Religious Education exemption requests must be made pursuant to all applicable legislation as detailed in our Catholic Curriculum and Education Administrative Procedure (AP517-1).

### 3.0 **Procedures** (cont'd)

#### 3.9 Unresolved Requests

- 3.9.1 When 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 accommodation seeker shall be informed of his or her recourse under the Board's Equity and Inclusive Education Policy and under the Ontario Human Rights Code.
- 3.9.2 Where a determination has been made that an accommodation would cause undue hardship, the Board will proceed to implement the next best accommodation short of undue hardship, or will consider phasing in the requested accommodation.
- 3.9.3 Despite the Board's commitment to accommodate, an individual may feel that discrimination based on religion has occurred. The Board will take reasonable and timely steps to address the unresolved issues raised by the affected person which could include dispute resolution mechanism.
- 3.9.3.1 In the event that, after an employee's consultation with the Superintendent of Education, unresolved issues remain, then the matter will be referred to the Superintendent of Human Resources.
- 3.9.3.2 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 Education.

### 4.0 **Sources**

- Constitution Act, 1982
- Charter of Rights and Freedoms
- PPM 119 – *Developing and Implementing Equity and Inclusive Education Policies in Ontario Schools*
- *Equity and Inclusive Education in Ontario Schools: Guidelines for Policy Development and Implementation, Ontario's Equity and Inclusive Education Strategy and Policy/Program Memorandum No. 119 (2009) "Developing and Implementing Equity and Inclusive Education Policies in Ontario Schools"*
- *Ontario Human Rights Code*
- *Ontario Human Rights Commission – Policy on Creed and the Accommodation of Religious Observances, 1966*
- PPM 108 "Opening or Closing Exercises in Public Elementary and Secondary Schools."

## 5.0 **Related Policies and Administrative Procedures**

- First Nations, Metis and Inuit Education Framework Policy (PO516)
- First Nations, Metis and Inuit Education Framework Administrative Procedure (AP516-1)
- Catholic Curriculum and Education Policy (PO517)
- Catholic Curriculum and Education Administrative Procedure (AP517-1)
- Code of Conduct Policy (PO610)
- Code of Conduct Administrative Procedure (AP610-1)
- Equity and Inclusive Education Policy (PO216)
- Equity and Inclusive Education Administrative Procedure (AP216-1)
- Workplace Harassment and Workplace Sexual Harassment Policy (PO320)
- Workplace Harassment and Workplace Sexual Harassment Administrative Procedure (AP320-1)
- Inclusion Policy (PO804)
- Opening and Closing Exercises Policy (PO417)
- Selection and Reconsideration of Learning Resources Policy and Administrative Procedure (PO508)
- Student Discipline Policy (PO611)
- Student Discipline Administrative Procedure (AP611-1)
- Teacher Recruitment and Hiring Administrative Procedure (AP328-2)
- Community Concern Protocol Policy (PO443)

## APPENDIX "A"

### GUIDELINE FOR KIRPAN ACCOMMODATION

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

- o 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:

- o The Kirpan is six inches or less.
- o The Kirpan will be sufficiently secured with a stitched flap so it is not easily removed from its sheath.
- o The Kirpan will not be worn visibly, but under the wearer's clothing.
- o There is notification in writing to the principal by the parents/guardians and student and, where possible, from the Guardwara (place of worship), confirming that the student requesting accommodation is a Khalsa Sikh.
- o Students under the age of eighteen must be accompanied by parents/guardians when discussing the rules regarding the wearing of a Kirpan.