

## RELIGIOUS ACCOMMODATION GUIDELINE

The Algonquin and Lakeshore Catholic District School Board is committed to the values of freedom of religion and freedom from discriminatory or harassing behaviours based on religion and will take all reasonable steps to provide religious accommodations within the legal rights afforded to the Catholic school system. Such accommodations will be provided to staff, students and their families.

### INTRODUCTION

The Algonquin and Lakeshore Catholic District School Board (the Board) believes in the dignity of all people and their equality as children of God. The Board recognizes the importance of freedom of religion and strives to recognize, value and honour the many customs, traditions and beliefs that make up the Catholic community.

Freedom of religion is an individual right and a collective responsibility. The Board commits to work with the community it serves to foster an inclusive learning environment that promotes acceptance and protects individuals from discrimination and harassment on the basis of their religion.

In accordance with the Catholic Church's teachings, it is the policy of the Board to provide, in all its operations, an educational environment which promotes and supports diversity within its Catholic community as well as the equal attainment of life opportunities for all students, staff, parents and other members of that community.

### 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 procedure 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 Canadian Charter of Rights and Freedoms (Section 15) protects freedom of religion. The *Ontario Human Rights Code* (the *Code*) protects an individual's freedom from discriminatory or harassing behaviours based on religion. In addition to and consistent with this legislation, The Education Act, its Regulations and policies govern Equity and Inclusion in Schools: 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". The Board and its staff are committed to the elimination of discrimination as outlined in this Federal and Provincial legislation in a manner which is consistent with the exercise of its denominational rights under section 93 of the *Constitution Act, 1982* and as recognized in section 19 of the *Code*.

The Board recognizes, and is committed to, the values of freedom of religion and freedom from discriminatory or harassing behaviour based on religion through its human rights policy, equity and inclusive education policy, the safe schools policy and curriculum documents. All of these will be informed by, and interpreted in accordance with, the principles of *the Code*.

This Policy reflects the Board's fidelity to Canadian law protecting freedom of religion in accordance with the Catholic Church's teachings.

## II. DEFINITIONS

### 1. Accommodation

The Ontario Human Rights Commission's Policy on preventing discrimination based on Creed (2015) describes "accommodation" as a legal duty corresponding to the right for all individuals to be free from discrimination based on creed.

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." Organizations have a legal "duty to accommodate" people's beliefs and practices where these are: (a) in conflict with a requirement, qualification or practice; (b) sincerely held; (c) connected to a creed. The *Code* focuses on the needs of the individual. Accommodation may modify a rule or make an exception to all or part of it for the person requesting accommodation.

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.

### 2. Creed

Creed is interpreted by the Ontario Human Rights Commission's 1996 Policy on preventing discrimination based on Creed (2015) as including religion in the broadest sense. Creed may also include non-religious belief systems that, like religion, substantially influence a person's identity, worldview and way of life.

The *Code* does not define creed. The Policy provides the following characteristics as relevant when considering if a belief system is a creed. A creed:

- (a) Is sincerely, freely and deeply held
- (b) Is integrally linked to a person's identity, self-definition and fulfillment
- (c) Is a particular and comprehensive, overarching system of belief that governs one's conduct and practice
- (d) Addresses ultimate questions of human existence, including ideas about life, purpose, death, and the existence or non-existence of a Creator and / or a higher or different order of existence
- (e) Has some 'nexus' or connection to an organization or community that professes a shared system of belief.

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.

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. Under the policy, religion or creed does not require a belief in a god or gods or a single supreme deity, thereby protecting atheists and agnostics. The characteristics presented in the *Code* also make it possible to include the spiritual beliefs and practices of Indigenous cultures.

This policy does not extend to practices and observances that incite hatred or violence against other individuals or groups, or that contravene international human rights standards or the Criminal Code of Canada.

### **3. Undue Hardship**

Accommodation will be provided to the point of undue hardship. The Code prescribes three considerations in assessing whether an accommodation would cause undue hardship: an assessment of costs, outside sources of funding, and health and safety requirements. The determination of undue hardship is dependent on the facts of each individual situation and circumstances (case by case). For more information about the evidence needed to prove undue hardship, see *Policy on preventing discrimination based on Creed*, p.p. 69-71.

The determination that an accommodation will create undue hardship, which carries with it significant liability for the Board, should be made only with the approval of the appropriate Supervisory Officer or where appropriate 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 accommodation seeker shall be informed of his or her recourse under the Board's Equity and Inclusive Education Policy and Anti-Discrimination Policy and Procedure, and under the Code.

## **III. ACCOMMODATION GUIDELINES**

The purpose of this guideline is to ensure that all Board staff, students, parents, guardians, caregivers, and other members of the school community are aware of their rights and responsibilities under the Code with respect to religious accommodation. It also sets out the Board's procedures for accommodation and the responsibilities of each of the parties to 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 accommodation seekers. The Board is committed to providing an environment that is inclusive and that is 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.

### **1. Accommodation Based on Request**

The Board will take all reasonable steps to provide accommodation to individuals with religious and creed-based. The Board will base its decision to accommodate by applying the Code's criteria of undue hardship with the Board's ability to fulfill its duties under Board policies and the Education Act. 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 and staff are not responsible to enforce such practices, e.g. wearing a head covering.

### **2. General Procedures for Religious Accommodation**

#### **a. 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 procedure in conjunction with Board procedures and practices.

**b. Students**

Students must present verbal or written notice from their parents/guardians/caregivers specifying their accommodation needs relating to religious observances, 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 religious observances into consideration. Student handbooks and parent/guardian/caregiver newsletters should include information about the procedure to follow to request an accommodation for religious observances and/or holy days. Such procedures shall be easy for staff, students and parents/guardians/caregivers to understand.

At the beginning of each school year (September), a letter will be provided to all students and their parents and/or guardians, informing them of the school’s legal duty for the accommodation of religious and creed-based practices. The letter will provide a list that describes general categories of religious accommodation protected under the *Code*.

**3. Unresolved Requests**

Despite the Board’s commitment to accommodate, an individual may feel that discrimination based on religion/creed has occurred. The Board will, through its human rights procedures, take reasonable and timely steps to address the unresolved issues raised by the affected person which could include dispute resolution mechanism.

Employees:

In the event that, after an employee’s consultation with the school administration and the appropriate Superintendent of School Effectiveness, unresolved issues remain, then the matter will be referred to the Superintendent of Human Resources.

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 School Effectiveness.

For consultation or further clarification of questions, administrators and managers should contact the Director’s Office.

**4. Areas of Accommodation**

For many students and staff of the Board, there are a number of areas where the practice of their religion will result in a request for accommodation on the part of the school and/or the Board.

Accommodation may include, but is not limited to the following:

- i. School opening and closing exercises;
- ii. Leave of Absence for Religious Holy Days and Celebrations;
- iii. Prayer/Meditation
- iv. Dietary requirements;
- v. Fasting;
- vi. Religious dress;

- vii. Modesty requirements in physical education;
- viii. Photos and identification;
- ix. Symbols; and
- x. Participation in daily activities and curriculum.

#### IV. GENERAL GUIDELINES AND PROCEDURES

This guideline will consider each (of the above stated) area of accommodation in turn.

##### 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/caregiver 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 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/caregivers who object to part or all of the exercises may apply to the Principal to have their children exempted. Students who are adults may also exercise such a right. These requirements will be interpreted in accordance with the *Code* and the Board will consider other requests for accommodation as may be made.

##### 2. Absence for Religious Holy Days

The Board affirms and values the faith diversity in our Catholic secondary schools. Section 21(2)(g) of the Education Act provides that a person is excused from work or school attendance in observance of a “holy day by the church or religious denomination to which he/she belongs.” This requirement will be interpreted in accordance with the *Code*. All staff and students who observe religious holidays in accordance with section 21(2) (g) of the Education Act may be excused from attendance, subject to the particular request for religious leave process.

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. To the extent possible, conferences, meetings, workshops, co-curricular activities and exams/tests, will not be scheduled on these significant faith days:

**Examples of Significant Holy Days:**

|                                 |  |
|---------------------------------|--|
| <b><i>Baha'j</i></b>            | Ridvan   |
| <b><i>Buddhist</i></b>          | Lunar New Year/Chinese                                       |
| <b><i>Western Christian</i></b> | Good Friday  |
| <b><i>Eastern Christian</i></b> | Christmas<br>Holy Friday                                     |
| <b><i>Hindu</i></b>             | Diwali   |
| <b><i>Jewish</i></b>            | Rosh Hashanah (2 days)<br>Yom Kippur<br>Passover (first day) |
| <b><i>Muslim</i></b>            | Eid-ul-Fitr<br>Eid-ul-Adha                                   |
| <b><i>Sikh</i></b>              | Baisakhi   |

(A multi-faith calendar will help schools make appropriate accommodations.)

**3. Prayer**

The Board recognizes the significance of prayer, meditation, or quiet reflective times in religious practice. Board schools will take appropriate steps to accommodate individuals' requirement for this practice by providing an appropriate space for students and staff. This may mean a quiet space in the learning commons, 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. Adult presence should be for supervision purposes only.

**4. Dietary Restrictions**

The Board is sensitive to the different dietary requirements of various religious/creed practices. 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 requirements in their menu planning. Availability of vegetarian options is recommended as a form of inclusive design. Special attention needs to be given to overnight outdoor education activities, as well as field trips that extend over a mealtime period.

**5. Fasting**

The Board will take appropriate steps to provide accommodation for fasting. For example, Board schools may provide appropriate space, other than cafeterias or lunchrooms, for individuals who are fasting. The Board recognizes that students who are fasting may need exemptions from certain physical education classes and Board schools should make reasonable efforts to provide appropriate accommodations.

**6. Religious Dress**

“Dress Code” is the appropriate dress policy established by a school, including a school uniform. Such policies should be designed inclusively, taking into account needs related to religious dress. The Board recognizes that certain individuals may require attire as a requirement of religious/creed observance and may require modification to their school dress code. 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 (including a team event), 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. Where possible, these should be incorporated into Board policies as part of an inclusive design process. 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 one of the most common types of harassment and bullying. The Board and its schools will not tolerate any teasing 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 students who are Khalsa Sikhs. For specific guidelines on the accommodation of students who are Khalsa Sikhs wishing to carry a Kirpan, please see Appendix “II.”

#### **7. Modesty Requirements for Dress in Physical Education Classes**

The Board recognizes that some individuals observe strict modesty attire in respect of their religion or creed. This can become a matter of concern when students are asked to wear the clothing used in physical education activities. Such policies should be designed inclusively, taking into account common religious needs that may exist. If a family has concerns that cannot be addressed through inclusive design, the school should discuss the modesty requirements with them, and, taking into consideration the Ministry of Education’s mandated expectations in the physical education curriculum, provide reasonable accommodation

The curriculum requirements should be explained to the family so that the family has sufficient information to understand the physical education curriculum and to select available curriculum alternatives.

#### **8. Participation in Daily Activities and Curriculum**

The Board will take the necessary steps to accommodate students where there is a demonstrated conflict between a specific class or curriculum and a religious/creed requirement or observance.

Where academic accommodation is requested, the school should have an informed discussion with

the student's parents/guardians/caregivers 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 religion or creed practices. Where these conflict with the school routines, activities or curriculum, the school should make a determination of appropriate accommodation. 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, common-sense approach to cases of participation in daily activities and curriculum. Requests for this accommodation should be approached with an open discussion between the teacher/administrator, the student and his/her family/guardian/caregiver focusing on alternatives to exemption from class time, encouraging the student to be included.

#### **IV. LIMITATIONS TO RELIGIOUS ACCOMMODATION**

The Board is committed to preventing and eradicating within its school community discrimination and harassment based on enumerated 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 creed-based practices and observances. The right to freedom of religion/creed, however, 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.

The Board, at all times, will seek to accommodate an individual's right to freedom of religion/creed in a manner that not only respects the individual's beliefs but the principles of the Catholic Church concerning the worship space in Catholic schools, a distinction needs to be made between baptized non-Catholics, and non-baptized members of other faith traditions. The Directory for the Application of Principles and Norms on Ecumenism (published in 1993 by the Pontifical Council for the Promotions of Christian Unity) addresses the issue of Catholic schools and accommodation of baptized non-Catholic students and staff in paragraph #141:

*"In Catholic schools and institutions, every effort should be made to respect the faith and conscience of students or teachers who belong to other Churches or ecclesial Communities. In accordance with their own approved statutes, the authorities of these schools and institutions should take care that clergy of other Communities have every facility for giving spiritual and sacramental ministration to their own faithful who attend such schools or institutions. "*

The Board may limit practices or behaviour in its schools that may put public safety, health, or the human rights and freedoms of others at risk. As well, the Board may limit practices or behaviours in its schools that are in violation of other Board procedures. These decisions will be made in accordance with the principles of the *Code*.

#### **Legal References:**

*Education Act*

*Ontario Human Rights Code*

*Ontario Occupational Health & Safety Act*

*Ministry of Education PPM No 108: Opening or Closing Exercises in Public Elementary and Secondary Schools*

Administrative Procedures: EQUITY AND INCLUSIVE EDUCATION ADMINISTRATIVE

PROCEDURES A-2018-02-3

EQUITY AND INCLUSIVE EDUCATION POLICY STATEMENT A-2018-02-3

APPENDIX 1

*Ministry of Education PPM No. 119: Developing and Implementing Equity and Inclusive Education Policies in Ontario Schools*

*Ontario Human Rights Commission - Policy on preventing discrimination based on Creed*

*Human Rights Commission - Policy and Guidelines on Disability and the Duty to Accommodate*

### **ADDITIONAL RESOURCES**

Canadian Multifaith Federation (207-3570 Victoria Park Avenue, North York, Ontario M2H 3S2)

Phone: 416-422-1490 Fax: 416-422-4359 Email: [omcsrc@omc.ca](mailto:omcsrc@omc.ca)

[www.cmfsrc.ca](http://www.cmfsrc.ca)

[www.omc.ca](http://www.omc.ca)

Interfaith Calendar

[www.interfaithcalendar.org](http://www.interfaithcalendar.org)

### **Print Resources**

Shared Solutions, MOE 2007

The Multifaith Information Manual (4th edition), Ontario Multifaith Council 2003-2010