

## Religious Accommodation Procedure

### RATIONALE:

Hamilton-Wentworth District School Board acknowledges each individual's right to follow or not to follow religious beliefs and practices, free from discriminatory or harassing behaviours and is committed to taking reasonable steps to provide religious accommodations to staff and to students. Hamilton-Wentworth District School Board recognizes and values the religious diversity within its community and is committed to providing a safe, respectful and equitable environment for all, free from all forms of discriminatory or harassing behaviours based on religion.

Freedom of religion is an individual right and a collective responsibility. The Board commits to working with the community 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 reasonable steps to ensure freedom from discrimination because of creed, as is consistent with the *Ontario Human Rights Code* and the *Canadian Charter of Rights and Freedoms*, 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.

The role of the school can be summarized as follows:

- The school may sponsor the study of religion, but may not sponsor the practice of religion.
- The school may expose students to all religious views, but may not impose any particular view.
- The school's approach to religion is one of teaching not one of indoctrination.
- The function of the school is to educate about all religions, not to convert to any one religion.
- The school's approach is academic, not devotional.
- The school should study what all people believe, but should not teach a student what to believe.
- The school should strive for student awareness of all religions, but should not press for student acceptance of any one religion.
- The school should seek to inform the student about various beliefs, but should not seek to conform him or her to any one belief.

### TERMINOLOGY:

*Creed:* Creed is interpreted by the Ontario Human Rights Commission's (OHRC) 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.

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 Ontario Human Rights Code.

## Religious Accommodation Procedure

This Procedure 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. 5).

*Discrimination:* Discrimination on the basis of creed includes any distinction, exclusion, restriction, or preference based on religion or belief whose purpose or effect is the nullification of human rights and fundamental freedoms on an equal basis or the impairment of said rights and freedoms (Policy on Creed and the Accommodation of Religious Observances, Ontario Human Rights Commission, October 20, 1996).

Harassment because of creed is a form of discrimination. Such harassment involves conduct or comments concerning religious beliefs or practices which are known or ought to be known to be offensive. Even a single incident of such behaviour may constitute harassment and may create a poisoned environment where it is serious enough.

Discrimination can be direct or indirect.

Direct discrimination includes any action which unlawfully differentiates between persons because of their membership in a protected group. Direct discrimination is absolutely prohibited unless the Ontario Human Rights Code provides a specific exception which permits the discrimination. It should be noted that whether there was an intention to discriminate is irrelevant in the case of direct discrimination. However, not every distinction is discrimination.

Indirect discrimination may be constructive or the result of an adverse effect. Indirect discrimination is less apparent than direct discrimination. It is a disadvantage or adverse impact which may result from the uniform application of a requirement, factor or rule.

Adverse effect discrimination encompasses action which is not on its face discriminatory, but which has the effect of adversely affecting a group identified by a prohibited ground of discrimination. Sometimes the action taken is directed towards a legitimate objective. If so, the discrimination may be allowed to continue so long as reasonable efforts have been made to accommodate the adversely affected group, having regard to needs of both the person obliged to accommodate and the group being accommodated. Again, there may be specific statutory exceptions which permit adverse effect discrimination.

Pursuant to section 11(1) of the Code, constructive discrimination occurs when a requirement, qualification, or factor that is neutral on its face results in the exclusion, restriction, or preference of a group of persons who are identified by a prohibited ground of discrimination under the code.

## Religious Accommodation Procedure

Due to this adverse impact, such requirements, qualifications or other factors are said to result in constructive discrimination.

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

The Ontario Human Rights 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. The Ontario Human Rights Code imposes a duty to accommodate based on the needs of the group of which the person making the request is a member. 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*)

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 Ontario Human Rights Code. The duty to accommodate is assessed utilizing a reasonableness standard.

Accommodation, if required, will be provided unless the needs of the person cannot be accommodated without undue hardship. In determining whether there is undue hardship, section 24(2) of the Ontario Human Rights Code provides that reference should be made to an assessment of the cost of accommodation, outside sources of funding, and health and safety requirements. The Courts have recognized that additional factors may also be considered when assessing undue hardship.

### PROCEDURES:

#### 1.0 General Accommodation Guidelines:

##### Accommodation Based on Request

- 1.1 The Board is committed to providing an environment that is inclusive and free of barriers based on creed (religion). The principles of dignity, individual situation and inclusion will be considered when determining reasonable accommodation requirements. The Board will work cooperatively, and in a spirit of respect, with all partners in the accommodation process.

## Religious Accommodation Procedure

The Board will take reasonable steps to provide accommodation to individual members of a religious group to facilitate their religious beliefs and practices. All accommodation requests will be taken seriously. No person will be penalized for making an accommodation request. The Board will base its decision to accommodate by applying the *Ontario Human Rights Code's* criteria of undue hardship, applicable Board policies, the Education Act and other relevant statutory requirements.

### Unresolved Requests

- 1.2 Despite the Board's commitment to consider reasonable accommodation, an individual may feel that discrimination based on religion has occurred which has not been resolved at the school level. The Board will take reasonable and timely steps to address any and all such unresolved issues raised by the affected person which could include a dispute resolution mechanism. This may include the appropriate supervisory officer, school administrator, school and system staff. As part of the dispute resolution process, the affected individual may choose to bring an advocate for support. Faith group representatives from the HWDSB Inter-faith Advisory Committee may also be consulted where appropriate understanding privacy considerations must be respected.

### 2.0 Responsibilities for 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 as well as other staff in the school system.

#### Staff

- 2.1 The person requesting accommodation should advise administration prior to the school year, to the extent possible. If not feasible, the person should make the request as early as possible.

When concerns related to beliefs and practices arise in schools, collaboration among school, student, family, and religious community is needed in order to develop appropriate accommodation.

However, school administrators do not monitor a child's compliance with a religious obligation, and/or enforce such practices, e.g. performing daily prayers or wearing a head covering is not the responsibility of the school or the Board.

## Religious Accommodation Procedure

### Students

- 2.2 Students who are under 18 and have not withdrawn from parental control must present written notice from their parents/guardians specifying their accommodation needs relating to religious observances, including any 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.

### 3.0 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. These areas include, but are not limited to, the following:

- 3.1 School Opening and Closing exercises
- 3.2 Leave of Absence for Religious Holy Days
- 3.3 Prayer
- 3.4 Dietary Requirements
- 3.5 Fasting
- 3.6 Religious Dress
- 3.7 Modesty Requirements in Physical Education Classes
- 3.8 Participation in Daily Activities and Curriculum

Each of the above-stated areas of accommodation will be considered in turn:

#### School Opening and Closing exercises

- 3.1 Pursuant to PPM No. 108, if a student or parent/guardian objects to all or part of the opening or closing exercises due to religious beliefs, that student will be exempted and given the option not to participate and either remain in class or in an agreed upon location through the duration of the exercise.

PPM 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:

## Religious Accommodation Procedure

- 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 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 *Ontario Human Rights Code* and the Board will consider other requests for accommodation as may be made.

### Leave of Absence for Religious Holy Days

- 3.2 HWDSB is committed to affirming and valuing equally, the faith diversity in our schools. Section 21(2) (g) of the Education Act provides that a person is excused from 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 *Ontario Human Rights Code*.

Absences requested for religious observances are assessed under this Procedure, the *Ontario Human Rights Code* and the appropriate collective agreement.

All staff and students who observe religious holidays in accordance with section 21(2) (g) of the Education Act may be excused from school attendance, subject to provisions in the appropriate collective agreements (for staff). The Board will encourage members of different faith-based 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 community when planning programs and events, such as Board-wide tests and examinations. If practical, conferences, meetings, workshops, co-curricular activities and exams/tests, will not be scheduled on these faith days:

#### (Examples of) Faith Days:

<b><i>Baha'i</i></b>	Ridván
<b><i>Buddhist</i></b>	Lunar New Year/Chinese New Year
<b><i>Western Christian</i></b>	Good Friday
<b><i>Eastern Christian</i></b>	Christmas
<b><i>Hindu</i></b>	Diwali
<b><i>Jewish</i></b>	Rosh Hashanah (2 days)
<b><i>Muslim</i></b>	Eid-ul-Fitr
<b><i>Sikh</i></b>	Baisakhi

(A multi-faith calendar will be provided on a yearly basis to help schools make appropriate accommodations.)

## Religious Accommodation Procedure

- **Guidelines for Administrators and Managers When Considering Requests for Holy Day Absences**

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 prior to the school year, to the extent possible, and leave should be granted in accordance with the terms of the appropriate collective agreement and as may be required under the *Ontario Human Rights Code*.

Students who are under 18 and have not withdrawn from parental control requesting a leave should give written notice from their parent/guardian to the school prior to the school year, to the extent possible. Such procedures should be easy to understand and follow

Student agendas, school newsletters and announcements should include information about the procedures for requesting leaves.

All staff members acting on behalf of/representing the Board on other organizations, which in partnership with the Board are planning events or activities that involve students and/or staff of Board schools, have the responsibility to bring this procedure to the attention of these organizations.

Administrators and managers should contact the appropriate Superintendent of Education for consultation or further clarification.

- **Guidelines for Administrators and Managers in Addressing Unresolved Requests**

- a) Employee

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

- b) Students

In the event that a student maintains that his or her rights under the Board's Equity Policy Procedure for the Provision of Religious Accommodation in HWDSB Schools have been compromised, the matter will then be referred to the appropriate Superintendent of Education.

## Religious Accommodation Procedure

### Prayer

- 3.3 The significance of prayer in religious practice is recognized. Board 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. 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 but is not limited to late school arrival, early school leaving or seasonal adjustment. Adult presence should be for supervision purposes only.

### Dietary Requirements

- 3.4 Different dietary requirements of various religious groups are acknowledged. 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 meal time period.

Parents/students should also have a means to identify dietary requirements in writing.

### Fasting

- 3.5 Religious periods of fasting is acknowledged. 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.

### Religious Dress

- 3.6 A "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.

## Religious Accommodation Procedure

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. Board schools will reasonably accommodate students with regard to religious attire as may be required by law. 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:

- Headcovers: Yarmulkes, turbans, Rastafarian headdress and hijabs
- Crucifixes, Stars of David, crosses 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. 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, or any other form of bullying related to an individual's religious attire. There will be appropriate consequences for individuals who violate this rule.

### **Modesty Requirements in Physical Education Classes**

- 3.7 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. 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 taking into consideration the Ministry of Education's mandated expectations in the physical education curriculum. 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.

## Religious Accommodation Procedure

### Participation in Daily Activities and Curriculum

- 3.8 HWDSB will 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 or the student if he/she is an adult, 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 and cultural practices. Where such practices conflict with the school routines and activities or curriculum, the school should consider accommodation. It cannot, however, accommodate religious values and beliefs which clearly conflict with mandated Ministry of Education and Board policies.

It is important to note that where an individual requests an accommodation related to the curriculum, the accommodation applies only 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 that are related to specific curriculum (Ontario Secondary Schools, Grades 9-12, Program and Diploma Requirements).

In general, the Board recommends an informed, reasonable approach to questions of religion and curriculum. An open discussion between the teacher, the student and his/her family can hopefully resolve questions.

### 4.0 Limitations to Religious Accommodations

- 4.1 The Board is committed to preventing discrimination and harassment based on enumerated grounds set out in the *Ontario Human Rights Code* within its school community. This includes discrimination on the basis of creed. The Board supports freedom of religion and an individual's right to manifest his/her religious beliefs and observances.
- 4.2 The right to freedom of religion, however, is not absolute. Decisions will be made in accordance with the principles of the *Ontario Human Rights Code*. The Board will limit any practices or 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 Ministry of Education and other Board policies.

## Religious Accommodation Procedure

### **5.0 Communication to Parents Regarding Religious Accommodation**

- 5.1 Oral and written communication including student handbooks and parent newsletters should include information about the procedure to follow to request an accommodation for religious observances and/or holy days. Such procedures should be easy for staff, students and parents to understand.
- 5.2 Communications to parents should be made available in various formats and languages.
- 5.3 Corporate Communications will post this Procedure on the Board's website for public access.

### **6.0 Professional Development**

- 6.1 The Board will provide staff development opportunities and resources in the area of religious accommodation for trustees and all employee groups.
- 6.2 Schools and Service Departments will identify staff development needs to enable those responsible for implementation of the Procedure to provide support as appropriate.

### **7.0 Monitor and Review**

- 7.1 Feedback will be gathered with all stakeholder groups as deemed appropriate.