



Niagara Catholic District School Board

RELIGIOUS ACCOMMODATION POLICY

ADMINISTRATIVE OPERATIONAL PROCEDURES

100 – Board

Policy No 100.10.1

Adopted Date: June 15, 2010

Latest Reviewed/Revised Date: December 17, 2019

All Niagara schools and facilities exist within a broader context of law and public policy that protect and defend human rights.

The *Canadian Charter of Rights and Freedoms* (Section 2(a) and Section 15) guarantees freedom of religion. The Ontario *Human Rights Code (the “Code”)* protects an individual’s freedom from discriminatory or harassing behaviours based on prohibited grounds. Consistent with this legislation is the *Education Act*, its Regulations and policies governing equity and inclusion in schools:

- PPM No. 108, “Opening or Closing Exercises in Public Elementary and Secondary Schools”, released on January 12, 1989;
- R.R.O. 1990, Regulation 298, “Operation of School-General” s 27-29, under the heading “Religion in Schools”; and
- PPM No. 119, “Developing and Implementing Equity and Inclusive Education Policies in Ontario Schools”, released on April 22, 2013.

The Board recognizes, and is committed to, the values of freedom of religion and freedom from discriminatory or harassing behaviour based on prohibited grounds through its 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 Ontario *Human Rights Code*.

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

DEFINITIONS

1. Accommodation

The Ontario Human Rights Commission (“OHRC”) Policy on Preventing Discrimination based on Creed, (“OHRC Policy”) released on September 17, 2015, recognizes a duty to accommodate creed beliefs and practices.

OHRC Policy provides that service providers, such as school boards, have a legal duty to accommodate people’s creed beliefs and practices to the point of undue hardship where they are:

- Adversely affected by a standard, rule or requirement of the organization;
- Sincerely (honestly) held; and
- Connected to a creed.

For creed protections, a person’s creed belief needs only to be sincerely held. The focus is on the person’s sincerely held personal or subjective understanding of their creed. They do not need to show that their belief is an essential or obligatory element of their creed, or that it is recognized by others of the same creed (including religious officials).

Fulfilling the duty to accommodate requires that the most appropriate accommodation be determined and provided short of undue hardship. The most appropriate accommodation is the one that most:

- Respects dignity (including autonomy, comfort and confidentiality);
- Responds to a person's individualized needs; and
- Allows for integration and full participation.

The duty to accommodate is about more than providing the most appropriate accommodation in the circumstances (the substantive component). It is also about engaging in a meaningful, good-faith process to assess needs and find appropriate solutions (the procedural component).

Everyone involved in the accommodation process has a duty to cooperate to the best of their ability. While the Board is ultimately responsible for putting in place solutions and leading the process, persons seeking accommodation must cooperate in the process.

The OHRC's Policy also recognizes that there are limits on rights based on creed, as there are on all grounds protected under the Ontario *Human Rights Code*. Limits can, for example, arise if creed rights interfere with the human rights of others.

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 must be provided to the point of 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 the cost of accommodation, outside sources of funding, if any, and health and safety requirements, if any.

2. Creed

The OHRC states that although the Ontario *Human Rights Code* does not define creed, the courts and tribunals have often referred to religious beliefs and practices. Creed may also include non-religious belief systems that, like religion, substantially influence a person's identity, worldview and way of life. The following characteristics are relevant when considering if a belief system is a creed under the Ontario *Human Rights Code*. A creed:

- Is sincerely, freely and deeply held;
- Is integrally linked to a person's identity, self-definition and fulfilment;
- Is a particular and comprehensive, overarching system of belief that governs one's conduct and practices;
- 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; and
- Has some "nexus" or connection to an organization or community that professes a shared system of belief.

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.

3. Undue Hardship

Accommodation will be provided to the point of undue hardship, set out in the provisions of the Ontario *Human Rights Code*. 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.

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 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.

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.

ACCOMMODATION PROCEDURES

The Accommodation Procedures are established to ensure that all Board staff, students, parents and other members of the school community are aware of their rights and responsibilities under the Ontario *Human Rights 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 and Inclusive Education Strategy, the Ontario *Human Rights 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 prohibited grounds. Accommodation will be provided in accordance with the principles of dignity 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 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, the Board's ability to fulfill its duties under Board policies and the provisions of the *Education Act*.

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. 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. However, school staff will not be placed in the position of monitoring a student's compliance with a religious obligation, and enforcing such practices.

2. General Procedures for Religious Accommodation

2.1 Staff

If a staff member requests a religious accommodation, the staff member is required to advise their immediate supervisor, in writing at the beginning of the school year, to the extent possible. If September notice is not feasible, the staff member 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/terms and conditions/employment contract.

2.2 Students

Students must present written notice from their parents/guardians 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 into consideration the religious observances.

Student handbooks and annual parent newsletters will include information about the procedure to follow to request an accommodation for religious observances and/or holy days.

3. Unresolved Requests

If an individual feels that the request has not been considered despite the Board's commitment to provide accommodation, the individual is to follow the Board's Complaint Resolution Policy (800.3).

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

- School opening and closing exercises;
- Absence for Religious Holy Days;
- Prayer;
- Dietary requirements;
- Fasting;
- Religious dress;
- Modesty requirements in physical education; and
- Participation in daily activities, curriculum and co-curricular activities.

4.1 School Opening and Closing Exercises

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 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 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.

4.2 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 school attendance in observance of a “holy day by the Church or religious denomination to which he or she belongs.”

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. Upon identification, the Board will make reasonable efforts to acknowledge the different observances of its 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 religious holy days.

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 will advise their immediate supervisor at, or as close as possible to, the beginning of the school year and the leave will be granted in accordance with the terms of the appropriate collective agreement/terms and conditions/employment contract.

Students requesting a leave will give written notice from their parent/guardian or adult student to the school at, or as close as possible to, the beginning of the school year. Such procedures should be easy to understand and follow.

Student agendas, annual school newsletters and announcements will 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 will consult with Human Resource Services regarding staff leave as required.

Unresolved Requests

If an individual feels that the request has not been considered despite the Board’s commitment to provide accommodation, the individual is to follow the Board’s Complaint Resolution Policy (800.3).

4.3 Prayer

The Board recognizes the significance of prayer in religious practice. 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 Information Centre, an empty room, or wherever it is mutually satisfactory for the school and the student or staff member requesting the accommodation. Adult presence should be for supervision purposes only.

4.4 Dietary Restrictions

The Board is sensitive to the different dietary restrictions of various religious groups, staff and students. 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 schools will consider relevant dietary restrictions in their menu planning. Availability of vegetarian options is recommended as a form of inclusive design.

Staff will provide special attention to accommodations requested during overnight outdoor education activities, as well as field trips that extend over a mealtime period.

4.5 Fasting

The Board is sensitive to religious periods of fasting. 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 Board schools should make reasonable efforts to provide appropriate accommodations.

4.6 Religious Dress

“Dress Code” is the appropriate dress policy established by the Board. Students are required to comply with the Elementary Standardized Dress Code Policy (302.6.10) or the Dress Code - Secondary Uniform Policy (302.6.6) in all Niagara Catholic schools.

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 Policy or Uniform Policy. Board 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.

Administrators will ask the student to wear religious attire in the same colour as the elementary standardized dress code or secondary uniform however, there may be religious requirements of colour that cannot be modified.

Special attention will 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 one of the most common types of harassment and bullying. In accordance with Board policy, the Board and its schools will not tolerate any harassment or bullying 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. Requirements regarding the accommodation of Khalsa Sikh students who wish to carry a Kirpan are set out at [Appendix A](#).

4.7 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. These Accommodation Guidelines are designed inclusively, taking into account common religious needs that may exist.

If a student and his or her 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 student and his or her family so that it has sufficient information to understand the physical education curriculum and to select available curriculum alternatives.

4.8 Participation in Daily Activities, Curriculum and Co-curricular Activities

The Board will seek to reasonably accommodate students where there is a demonstrated conflict between a specific class, curriculum or co-curricular activity and a religious requirement or observance. Where an academic or co-curricular 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.

The school staff 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 these conflict with the school routines, 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 or co-curricular activity, the accommodation applies to the individual requesting the accommodation.

- The Ministry of Education recommends substitutions when there are exemptions requested related to specific curriculum [Ontario Schools: Kindergarten to Grade 12: Policy and Program Requirements 2016, Ministry of Education- Policy/Program Memorandum No. 162, Exemption from Instruction related to the Human Development and Sexual Health Expectations in The Ontario Curriculum: Health and Physical Education, Grades 1-8, 2019.](#)

In general, the Board recommends an informed, common-sense approach to questions of religion and curriculum and co-curricular activities. Hopefully, these questions can be solved by an open discussion between the teacher, the student and the student's family.

LIMITATIONS TO RELIGIOUS ACCOMMODATION

1. The Board supports freedom of religion and an individual's right to manifest the individual's religious beliefs and observances. The right to freedom of religion, 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.
2. The Board, at all times, will 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. Following the general custom of the Church, non-Catholics are welcome to join in prayer services and liturgical celebrations of the Catholic Church community excluding some restrictions such as sharing in Holy Communion.
3. All chapels in Niagara Catholic schools are specifically designed and furnished for prayer and liturgy within the Catholic tradition and are not to be considered multi-faith chapels. Chapels are open to all people for individual silent prayer or meditation. Non-Catholic liturgies or group prayers will not be held in any chapel.
4. For students requesting a prayer space, school administrators are to designate an appropriate space or classroom, other than the chapel, for religious celebrations celebrated by other Christian denominations or faith traditions. Such requests will be made to the Principal, who, in discussion with

the Family of Schools Superintendent and in consultation with the local Ordinary, will make the final decision.

Adopted Date:	June 15, 2010
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REQUIREMENTS FOR KIRPAN ACCOMMODATION

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

- The five articles of faith worn by Khalsa Sikhs are the Kachera, Kara, Kanga, Kesh and Kirpan. 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 their 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:

- 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.
- The Kirpan is six inches or less.
- 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.
- Students under the age of eighteen must be accompanied by parents/guardians when discussing the rules regarding the wearing of a Kirpan.