

<b>Topic:</b>	<b>Religious and Creed Accommodations</b>
<b>Effective:</b>	<b>September 2017</b>
<b>Cross Reference:</b>	<b>Ontario Human Rights Code; Ontario Human Rights Code Policies -- Competing Rights; Preventing Discrimination Based on Creed; and Preventing Discrimination Because of Gender Identify and Gender Expression (Ontario Human Rights Commission); “The Shadow of the Law: Key Legal Principles for Competing Rights Claims” – Ontario Human Rights Commission; Occupational Health &amp; Safety Act and Regulations; Ministry of Education Equity and Inclusive Education Strategy; Policy/Program Memorandum No. 108: Opening or Closing Exercises in Public Elementary and Secondary Schools; Policy/Program Memorandum No. 119: Developing and Implementing Equity and Inclusive Education Policies in Ontario Schools; HDSB Equity and Inclusive Education Policy; HDSB Employment Equity Policy</b>
<b>Revision Date:</b>	<b>January 2018</b>
<b>Review Date:</b>	<b>January 2020</b>
<b>Responsibility:</b>	<b>Superintendent of Education</b>

**DEFINITIONS:****Accommodation**

The Ontario Human Rights Commission’s *Policy on preventing discrimination based on Creed (p. 4)* states that employers, service providers, unions and housing providers have a legal duty to accommodate people’s beliefs and practices to the point of undue hardship where these are:

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

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.

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
- Allows for integration and full participation

**Creed (Religion)**

Under the *Ontario Human Rights Code*, creed includes, but is not necessarily limited to “religious creed” or “religion”. 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 self-definition and spiritual fulfillment;
- is a particular, comprehensive and 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;
- has some "nexus" or connection to an organization or community that professes a shared system of belief.

Religion is typical of the kinds of beliefs and practices that are protected under the *Ontario Human Rights Code* ground of creed.

To be recognized as a religion or creed under the Ontario Human Rights Code, a belief in God or gods or a single supreme being or deity is not required. Religion or creed includes the spiritual beliefs and practices of Indigenous cultures.

Not every belief, opinion, expression, practice or matter of conscience is a creed under the *Ontario Human Rights Code*. The Ontario Human Rights Code does not include a ground for political belief or conviction.

Atheists and agnostics are also protected under the *Ontario Human Rights Code* ground of creed.

## **Undue Hardship**

Accommodation will be provided to the point of undue hardship, as defined by the *Ontario Human Rights Commission*. 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.

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 Administrative Procedure, Anti-Discrimination Policy and Procedure, and under the *Ontario Human Rights Code*.

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

## **INTENDED PURPOSE:**

The Halton District School Board recognizes and values the religious and creed based diversity within its community and is committed to providing a safe, respectful and equitable learning and working environment, free from all forms of discriminatory or harassing behaviours based on religion or creed. The Religious and Creed based Accommodation Administrative Procedure supports the Ontario Human Rights Code and the Canadian Charter of Rights and Freedoms. The Halton District School Board intends to uphold the principles embodied by the Charter and the Human Rights Code, and is committed to not allow practices which infringe on the rights protected by the Charter and Code.

Freedom of religion and creed is an individual right which the board, as a public institution must not infringe. There is diversity within religious and creed groups and individuals have varying levels of observance. The Board appreciates the value this diversity, and will make efforts to facilitate opportunities to engage in community consultation. While the Board and its staff will take all reasonable steps to ensure freedom of religious and creed based practices consistent with the Ontario Human Rights Code, it is expected that students and their families, and HDSB employees will help the Board to understand their religious or creed based needs and will work with the Board and its schools to determine appropriate and reasonable accommodations.

People's experiences of discrimination based on creed often intersect with discrimination based on other Ontario Human Rights Code grounds, such as race, ethnic origin, citizenship, ancestry, place of origin and sex. This includes Indigenous peoples in Ontario who face barriers practicing religious and spiritual traditions.

## **Legislative and Policy Context**

All school boards exist within a broader context of law and public policy that protect and defend human rights. At the Board, a number of policy statements have been developed that reinforce both federal and provincial legislation, and also help ensure that the freedoms they set out are protected within the school system.

The *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 and creed. In addition to and consistent with this legislation, *The Education Act*, its regulations and policies govern equity and inclusion in schools.

The Board recognizes, and is committed to, the values of freedom of religion and creed and freedom from discriminatory or harassing behaviour based on religion or creed through its human rights policies including: HDSB Equity and Inclusive Education Policy; HDSB Employment Equity Policy; HDSB Harassment and Discrimination Policy, HDSB Safe and Inclusive 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*.

## **General guidelines for religious and creed based accommodation**

The purpose of this administrative procedure is to set out the responsibilities of each of the parties to the accommodation process. In accordance with the Ontario Ministry of Education's *Equity and Inclusive Education Strategy*, the *Ontario Human Rights Code*, the Ontario Human Rights Commission's *Policy on preventing discrimination based on Creed*, and Ontario Human Rights Code's *Guidelines on Developing Human Rights Policies and Procedures*, it is intended that the religious and creed based accommodation process, as well as the religious and creed based accommodation itself, be effective and respectful of the dignity of accommodation seekers.

## **Areas of Accommodation**

The Board is committed to providing a learning and working environment that is inclusive and will take all reasonable steps to accommodate creed-based beliefs. Religious and creed based accommodations 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 (e.g. creed based holidays, leaves and other ritual observances; dietary requirements and food restrictions; and, prayer /meditation). The HDSB has the duty to balance competing rights under the Code, taking into account individual circumstances.

Students, families and employees are requested to submit a request in September, or as early as possible in the school year, in writing or in person using the appropriate forms (Appendix A and B).

Procedures for requesting an accommodation for religious and creed based reasons will be made available on the HDSB Board websites, and upon request the Board shall provide accessible formats.

The duty to accommodate religious or creed based requests involves both:

- 1) the provision of a reasonable accommodation, qualified by the responsibility to take all circumstances into account, including any other rights (substantive), and
- 2) engaging in a meaningful, good-faith process to assess needs and find appropriate solutions (procedural).

All religious and creed accommodation requests will be taken seriously. No person will be penalized for making an accommodation request in good faith.

School administrators, and corporate supervisors in consultation with Human Resources, will make a decision with respect to the request for accommodation by applying the *Ontario Human Rights Code's* criteria of undue hardship with the Board's ability to fulfill its duties under Board policies and the Education Act. The System Principal and/or Superintendent of Equity and Inclusive Education are available for support and guidance.

It is the role of the Board and its employees to demonstrate respect for the diverse religious and creed beliefs and inclusive practices of employees, students and their families.

## **Specific Guidelines for religious and creed based accommodation**

The Ontario Ministry of Education directs school boards to consider possible accommodations, on an individual case by case basis.

The requests for accommodation should be specific and include details of the area of the Board practice about which the request is being made. Emphasis will be placed by administrators and supervisors on understanding the situation, context and practices that guide the request and the process of regular reviews of the accommodation, and learning impacts on students. The specific context of the request being made should be included on Appendix A – *Parent/Guardian or Student Religious and Creed Based Accommodation Request Form*, or the Appendix B – *Employee Religious and Creed Based Accommodation Request Form*.

Discussion between families, school and board employees about religious and creed based accommodations should be entered into with a sense of mutual respect, building trust and understanding.

## **Procedures for religious and creed based accommodation requests**

### ***Employees***

If possible, the employee requesting accommodation should advise the supervisor at the beginning of the school year, using Appendix B – *Employee Religious and Creed Based Accommodation Request Form*. If September notice is not feasible, the person should make the request as early as possible.

Upon receiving the request, school administrator/ corporate supervisor and the employee will arrange to meet to discuss and understand the specific accommodations requested. The Ontario Ministry of Education directs school boards to consider possible accommodations on an individual case by case basis.

**Please note:** Employee requests for use of their days for religious observance continue to be sent to Human Resources via the absence form on myHDSB.ca using the code for religious day and emailed to their employee group administrator.

The absence of employees due to religious and creed based observances will be determined by Human Resources department members on a case by case basis, taking into account the provisions of the collective agreement.

### ***Students***

Students and/or parents/guardians must present verbal or written notice specifying their accommodation requests relating to religious or creed observances. School administrators will ask for the requests to be outlined in detail using Appendix A – *Parent/Guardian or Student Religious and Creed Based Accommodation Request Form*. Requests can include absence for observance of holy days. Giving notification in advance, preferably at the beginning of each school year, will assist with the scheduling of major evaluations, such as tests, assignment due dates or examinations, taking the religious and creed observances into consideration.

Upon receiving the request, school administrators and parent/guardian and/or student will arrange to meet to discuss and understand the specific accommodations requested. The Ontario Ministry of Education directs school boards to consider possible accommodations on an individual case by case basis.

School administrators and school staff shall not be placed in the position of monitoring a child's compliance with a religious or creed based obligation, and enforcing such practices (e.g., performing daily prayers or wearing a head covering is not the responsibility of the school or the Board).

### ***Unresolved Requests***

Notwithstanding the Board's commitment to accommodate, an individual may feel that discrimination based on faith has occurred. The Board will, through its human rights policies, take reasonable and timely steps to address the unresolved issues raised by the affected person, which could include a dispute resolution mechanism. Parents/guardians can refer to the *HDSB Administrative Procedure for [Dealing with Public Concerns](#)*. Staff can consult with their Supervisor/Manager, Human Resources Department, or Union/Federation representative for support.

### **Limitations to Faith Accommodation**

The Board supports freedom of religion and an individual's right to manifest their faith beliefs and observances. The right to freedom of religion, however, is not absolute.

Human rights protections, and the *HDSB Administrative Procedure for Religious and Creed Based Accommodations* does not extend to practices and observations that are hateful, or incite hatred or violence against other individuals or groups, or contravene international human rights standards or criminal law.

The Board will not engage in 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 other Board policies. These decisions will be made in accordance with the principles of the *Ontario Human Rights Code*.

The HDSB cannot accommodate religious and creed based values and beliefs that clearly conflict with the human rights of others as prescribed in the *Ontario Human Rights Code*. Where the learning in the classroom or school program promotes inclusion on any of the protected grounds in the *Ontario Human Rights Code*, the HDSB will not provide religious, creed based or any other accommodation.

**Appendix A****Parent/Guardian or Student Religious and Creed Based Accommodation Request Form**

The Halton District School Board values diversity and inclusion. It has policies and procedures to accommodate the diverse religious needs of students in schools. This form provides a mechanism by which parents/guardians can request a particular accommodation, which the Board will receive and consider on a case-by-case basis. This form should be completed by parents/guardians and/or students over the age of 18.

Please complete the form at the start of the school year or as soon after as possible.

The completed form should be submitted to **the school office**.

Name of person submitting: \_\_\_\_\_ (first) \_\_\_\_\_ (last)

Contact Information: Tel: \_\_\_\_\_ Email: \_\_\_\_\_

Date of submission: \_\_\_\_\_ (Day/Month/Year)

I am:  Student  Parent  Guardian

**Name of student(s) and grade(s) for whom request is being submitted:**

Name	Grade	School Name

**Select all accommodation areas that apply:**

**Religious Practice   Curriculum Expectations**

- Co-curricular activity       Classroom Learning  
 Clothing                               Field Trip  
 Prayer                                       Other \_\_\_\_\_  
 Diet  
 Absence/Leave  
 Other \_\_\_\_\_

**Religious Practice Accommodation:** Describe the religious or creed based accommodation request(s) for each student on the form:

\_\_\_\_\_

**Curriculum Expectations Accommodation:**

Subject / Course \_\_\_\_\_ Grade \_\_\_\_\_ Unit \_\_\_\_\_

Please state your specific religious or creed based concerns connected to the curriculum:

\_\_\_\_\_

**Please submit this form to the school office staff. The school will contact you to follow up on your request.**

Municipal Freedom of Information and Protection of Privacy Act: Personal information on this form is collected under the legal authority of the Education Act, R.S.O. 1990, c.E-2, and regulations as amended. This information will be used for administrative purposes for providing religious accommodation for the student. Questions regarding this collection should be directed to the Records Manager at the Halton District School Board, [2050 Guelph Line, Burlington, Ontario, L7P 5A8](mailto:2050.Guelph.Line@halton.ca). Tel: [905-335-3663](tel:905-335-3663)

Appendix B

Employee Religious and Creed Based Accommodation Request Form

The Halton District School Board values diversity and inclusion. It has policies and procedures to accommodate the diverse religious and creed based needs of members of the organization. This form provides a mechanism by which employees can request a particular accommodation to their supervisor, which the Board will receive and consider on a case-by-case basis. This form should be completed by the employee making the request.

Please complete the form at the start of the school year or as soon after as possible.

The completed form should be submitted to the employee's supervisor.

Name of person submitting (print): \_\_\_\_\_ (first) \_\_\_\_\_ (last)

Contact Information: Tel: \_\_\_\_\_ Email: \_\_\_\_\_

Date of submission: \_\_\_\_\_ (Day/Month/Year)

School or work location: \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_

Select all accommodation areas that apply:

- Clothing
- Prayer
- Diet
- Absence/Leave
- Other \_\_\_\_\_

Describe the religious or creed based accommodation request(s):  
\_\_\_\_\_  
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Submit this form to your supervisor.

Municipal Freedom of Information and Protection of Privacy Act: Personal information on this form is collected under the legal authority of the Education Act, R.S.O. 1990, c.E-2, and regulations as amended. This information will be used for administrative purposes for providing religious accommodation. Questions regarding this collection should be directed to the Records Manager at the Halton District School Board, [2050 Guelph Line, Burlington, Ontario, L7P 5A8](#). Tel: [905-335-3663](#)