



## FAITH AND RELIGIOUS ACCOMMODATIONS

Legal References: *Canadian Charter of Rights and Freedoms (Section 15);  
Ontario Human Rights Code (The Code);  
The Education Act.*

Related References: *Policy 1008 – Equity and Inclusion;  
PPM No. 108, “Opening or Closing Exercises in Public Elementary and  
Secondary Schools”;  
PPM No. 112, “Education about Religion in the Public Elementary and  
Secondary Schools”;  
PPM No. 119, “Developing and Implementing Equity and Inclusive Education  
Policies in Ontario Schools”.  
The Multifaith Information Manual (4<sup>th</sup> edition)- Ontario Multifaith Council  
Policy on Preventing Discrimination based on Creed (2015) – Ontario Human  
Rights Commission (OHRC)*

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### 1. Preamble

- 1.1 The Waterloo Region District School Board (The Board) acknowledges each individual's right to follow or not to follow religious beliefs and practices free from discriminatory or harassing behaviours based on faith or religion. The Board is committed to taking all reasonable steps to provide religious accommodations to staff and to students.
- 1.2 The Board understands that staff and students from diverse faith communities need a safe and respectful environment to succeed academically. The Faith and Religious Accommodation Policy supports academic achievement by eliminating discrimination and harassment related to creed. The policy requires continuous integration and evaluation of new knowledge and innovative approaches. The Board believes that the process of accommodation and partnership with members of its community will help build an environment of mutual respect and understanding.
- 1.3 The Board acknowledges the presence of students and staff without religious affiliations who study and work in the school system. The Board assures these members that religious accommodation guidelines and procedures will not interfere with or compromise their rights and privileges.
- 1.4 It should also be noted that respect for faith diversity is considered to be a shared responsibility. While the Board works to ensure that students and staff are able to observe the tenets of their faith in school environments free from discrimination, it is also the responsibility of the students and community to help the schools by highlighting and providing understanding of the needs of religious and secular communities.

- 1.5 The Board does not support the primacy of one faith, religious or secular belief over another.
- 1.6 For many students and staff in Waterloo Region schools, there are a number of areas where the practice of their religion may result in a request for accommodation on the part of the school and/or Board. These areas may include, but are not limited to:
  - 1.6.1 Observance of major religious holy days and celebrations
  - 1.6.2 Prayer and rituals
  - 1.6.3 Dietary requirements and fasting
  - 1.6.4 Religious attire
  - 1.6.5 Participation in school curriculum, co-curricular and extra-curricular activities

## 2. Definitions

The Ontario Human Rights Commission's (OHRC) Policy on Preventing Discrimination based on Creed states that accommodation "...is considered appropriate if it results in equal opportunity to enjoy the same level of benefits and privileges experienced by others, or if it is proposed or adopted to achieve equal opportunity, and meets the individual's creed-related needs."

The Ontario Human Rights Code (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." The duty arises when a person's religious beliefs conflict with a requirement, qualification or practice. The 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)

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. In determining whether there is undue hardship, section 24(2) of the Code states that reference should be made to the cost of accommodation, outside sources of funding, if any, and health and safety requirements.

- 2.1 Accommodation: The Board defines faith based accommodation as the obligation to meet the diverse needs of individuals or groups when religious beliefs conflict with a Board requirement, qualification or practice in accordance with the *Ontario Human Rights Code* to the point of undue hardship.
- 2.2 Given the breadth of belief systems that have been found to be a creed under the Code organizations should generally accept in good faith that a person practices a creed, unless there is significant reason to believe otherwise, considering the above factors. According to the OHRC, every person has the right to be free from discrimination or harassing behaviour that is based on religion or where the person who is the target of the behaviour does not share the same faith. Atheists and agnostics are also protected under the Code.
- 2.3 Undue Hardship: Organizations covered by the Code have a duty to accommodate to the point of undue hardship. Accommodation need not be provided if it causes undue or excessive hardship. However, some degree of hardship is acceptable. The Code lists only three considerations when assessing whether an accommodation would cause undue hardship:

- Cost
- Outside sources of funding, if any
- Health and safety requirements, if any.

In many cases, it will not be costly to accommodate someone's creed. Accommodation may involve making policies, rules and requirements more flexible. While making these more flexible may involve some administrative inconvenience, inconvenience by itself is not a factor for assessing undue hardship. To rely on an undue hardship defense, an organization will have to show that an accommodation in fact causes undue hardship. It is not up to the person with a creed-related need to prove that the accommodation can be put in place without undue hardship.

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.

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

Organizations and institutions operating in Ontario have a legal duty to take steps to prevent and respond to situations involving competing rights.

In dealing with competing rights claims, the Supreme Court of Canada has confirmed that there is no hierarchy of Charter rights. All have equal status and no right is more important than the others. Related to this is the principle that no right is absolute. Every right is inherently limited by the rights and freedom of others. Therefore, if rights do come into conflict, Charter principles require a "reconciliation" that fully respects the importance of both sets of rights so that each is realized to the greatest extent possible.

(Policy on preventing discrimination based on creed, Ontario Human Rights Commission, September 17, 2015)