



Administrative Procedures Memorandum

#: APC038
Religious Accommodation Guideline
(supplement to the WCDSB Equity and Inclusive Education Policy)

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MEMO TO: All staff

FROM: Director of Education

PURPOSE

As disciples of Christ, the Waterloo Catholic District School Board educates and nurtures hope in all learners to realise their full potential to transform God's world. We envision our Catholic Schools as the heart of community where each person experiences success and there is a place for all.

To ensure our vision, the Waterloo 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.

REFERENCES

PPM 119: Developing and Implementing EIE Policies in Ontario Schools (2009)
PPM No 108: Opening or Closing Exercises in Public Elementary and Secondary Schools
R.R.O. 1990, Regulation 298: Operation of School-General s27-29 Religion in Schools
Ontario Human Rights Code
Equity and Inclusive Education Strategy (Ministry of Education, 2009)
Mission and Vision (WCDSB, 2010)
APO026: Education Partnerships (WCDSB, 2010)
APC037: Equity and Inclusive Education Policy

COMMENTS AND GUIDELINES

INTRODUCTION

The Waterloo Catholic District School WCDSB (WCDSB) believes in the dignity of all people and their

equality as children of God. The WCDSB 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 WCDSB 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 WCDSB 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 WCDSB, 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) guarantees freedom of religion. The *Ontario Human Rights Code* (The Code) protects an individual's freedom from discriminatory or harassing behaviours based on religion. 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",

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 WCDSB 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 *Ontario Human Rights Code* ("the Code").

The WCDSB 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 WCDSB'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 Creed and the Accommodation of Religious

Observances defines “accommodation” as a duty corresponding to the right to be free from discrimination.

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)

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 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 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 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. 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.

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 (Policy on Creed and the Accommodation of Religious Observances, Ontario Human Rights Commission, October 20, 1996, pg. 2).

3. Undue Hardship

Accommodation will be provided to the point of undue hardship, as defined by the OHRC (for example in the *Policy and Guidelines on Disability and the Duty to Accommodate*). 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. For more information about the evidence needed to prove undue hardship, see *Human Rights at Work*, p. 133-134 and Appendix E.

A determination that an accommodation will create undue hardship carries with it significant liability for the WCDSB. It should be made only with the approval of the appropriate Supervisory Officer or, where appropriate, the WCDSB 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 WCDSB’s Equity and Inclusive Education Policy and 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 WCDSB will proceed to implement the next best accommodation short of undue hardship, or will consider phasing in the requested accommodation.

III. ACCOMMODATION GUIDELINES

The purpose of this guideline is to ensure that all WCDSB staff, students, parents 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 WCDSB'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 WCDSB 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 WCDSB will work cooperatively, and in a spirit of respect, with all partners in the accommodation process.

1. Accommodation Based on Request

The WCDSB will ensure all reasonable steps are taken 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 WCDSB will base its decision to accommodate by applying the Code's criteria of undue hardship, the board's ability to fulfill its duties under WCDSB policies and 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 WCDSB 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 administrators should not be placed in the position of monitoring a child's compliance with a religious obligation, and enforcing such practices, e.g. wearing a head covering is not the responsibility of the school or the WCDSB.

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 policy and the appropriate collective agreement.

b. Students

Students must present verbal or written notice from their parents/guardians, unless they are 18 years of age or older or are 16 and have withdrawn from parental consent, 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 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 to understand.

3. Unresolved Requests

Despite the WCDSB's commitment to accommodate, an individual may feel that discrimination based on religion has occurred. The WCDSB will take reasonable and timely steps to address the unresolved issues raised by the affected person which could include dispute resolution mechanism.

4. Areas of Accommodation

For many students and staff of the WCDSB, 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 WCDSB. These areas include, but are not limited to the following:

- i. School opening and closing exercises;
- ii. Leave of Absence for Religious Holy Days;
- iii. Prayer;
- iv. Dietary requirements;
- v. Fasting;
- vi. Religious dress;
- vii. Modesty requirements in physical education; and
- viii. Participation in daily activities and curriculum.

IV. GENERAL GUIDELINES AND PROCEDURES

This policy 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 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. These requirements will be interpreted in accordance with the *Code* and the WCDSB will consider other requests for accommodation as may be made.

2. Absence for Religious Holy Days

The WCDSB 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/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 WCDSB will encourage members of diverse groups to identify their religious holy days at the beginning of each school year. The WCDSB 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:	
<i>Baha’j</i>	Ridvan
<i>Buddhist</i>	Lunar New Year/Chinese
<i>Eastern Christian</i>	Christmas Holy Friday
<i>Hindu</i>	Diwali
<i>Jewish</i>	Rosh Hashanah (2 days) Yom Kippur Passover (first day)
<i>Muslim</i>	Eid-ul-Fitr Eid-ul-Adha
<i>Sikh</i>	Baisakhi

WCDSB staffs are encouraged to refer to a multi-faith calendar in order to make appropriate accommodations.

Guidelines for Administrators

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 at, or as close as possible to, the beginning of the school year and leave should be granted in accordance with the terms of the appropriate collective agreement.

Students requesting a leave should give verbal or written notice from their parent/guardian 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, school newsletters and announcements should include information about the procedures for requesting leaves.

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

For consultation or further clarification of questions, administrators and managers should contact the Religion, Family Life, and Equity Consultant for the WCDSB: Jonathan Wright (jonathan.wright@wcdsb.ca).

Unresolved Requests

a. Employee

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

b. Students

In the event that a student maintains that his or her rights under the WCDSB's religious accommodation policy have been compromised, then the matter will be referred to the appropriate Superintendent of Education.

3. Prayer

The WCDSB recognizes the significance of prayer in religious practice. WCDSB 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. Adult presence should be for supervision purposes only.

4. Dietary Restrictions

The WCDSB is sensitive to the different dietary restrictions of various religious groups. 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 restrictions 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 WCDSB is sensitive to religious periods of fasting. WCDSB schools will endeavour to provide appropriate space, other than cafeterias or lunchrooms, for individuals who are fasting in religious observance. The WCDSB recognizes that students who are fasting may need exemptions from certain physical education classes and WCDSB schools should make reasonable efforts to provide appropriate accommodations.

6. Religious Dress

“Dress Code” is the appropriate dress policy established by a school, and may include a school uniform.

The WCDSB recognizes that there are certain religious communities that require specific items of ceremonial dress. The WCDSB understands that some religious attire, which is a requirement of religious observance, may not conform to a school’s Dress Code. WCDSB 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 WCDSB schools includes, but is not limited to:

- o Head covers: yarmulke, turban, Rastafarian headdress, hijab;
- o Crucifixes, Stars of David;
- o 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. 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 WCDSB policies as part of an inclusive design process.

The WCDSB 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 WCDSB 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 WCDSB policies, for example the use of the Kirpan by Khalsa Sikh students. For specific guidelines on the accommodation of Khalsa Sikh students wishing to carry a Kirpan, please see Appendix “A.”

7. Modesty Requirements for Dress in Physical Education Classes

The WCDSB 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, 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 it has sufficient information to understand the physical education curriculum and to select available curriculum alternatives.

8. Participation in Daily Activities and Curriculum

The WCDSB will seek to 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 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 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 WCDSB policies.

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 WCDSB recommends an informed, common-sense approach to questions of religion and curriculum. Hopefully, these questions can be solved by an open discussion between the teacher, the student and his/her family.

IV. LIMITATIONS TO RELIGIOUS ACCOMMODATION

The WCDSB supports freedom of religion and an individual's right to manifest his/her religious beliefs and observances. The right to freedom of religion, however, is not absolute and religious accommodation in the WCDSB is carried out in the larger context of the Catholic education system and denominational rights of Catholic schools.

The WCDSB, 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.

As for chapels in Catholic schools, they are specifically designed and furnished for prayer and liturgy within the Catholic tradition and are not to be considered multi-faith chapels. Following the general custom of the Church, non-Catholics are welcome to join in prayer services and liturgical celebrations

of the Catholic Church community (keeping in mind some restrictions such as sharing in Holy Communion). Such a chapel is open to all people for individual silent prayer or meditation. However, it is not appropriate that non-Catholic liturgies or group prayers be held in this setting.

It is therefore recommended that school administrators designate another appropriate space or classroom, other than the chapel, for religious celebrations celebrated by other Christian denominations or faith traditions. The WCDSB will consult with the Bishop of the Diocese of Hamilton on such accommodations.

REVIEW PROCESS

This Administrative Procedure Memorandum will be reviewed by the conclusion of the academic year 2010-2011 and every three years thereafter unless otherwise required by legislative changes.

APPENDIX “A” GUIDELINE FOR KIRPAN ACCOMMODATION

A Kirpan is a ceremonial sword that must be worn by all baptised Khalsa Sikhs. The WCDSB seeks to accommodate Khalsa Sikhs who wear a Kirpan under the following conditions as follows:

- o 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 his/her 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:

- o The Kirpan is six inches or less.
- o The Kirpan will be sufficiently secured with a stitched flap so it is not easily removed from its sheath.
- o The Kirpan will not be worn visibly, but under the wearer's clothing.
- o 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.
- o Students under the age of eighteen must be accompanied by parents/guardians when discussing the rules regarding the wearing of a Kirpan.