



PROCEDURE

Title: **RELIGIOUS AND CREED-BASED ACCOMMODATION OF STUDENTS** Procedure No.: **2022a**
Effective Date: **2011 June 28**

Department: Learning Support Services

Reference(s): TVDSB Equity and Inclusive Education Policy #2022
Assessment and Evaluation Policy #5015
Safe Schools Policy #4008
Food and Beverages in Our School Policy and Procedure #9010
The Ontario Human Rights Commission's Policy on Preventing discrimination based on Creed
The Ontario Human Rights Code
Ontario Ministry of Education's *Equity Strategy*
Ontario Human Rights Commission's *Guide to Developing Human Rights Policies and Procedures*
The Education Act, section 21(2) (g)
The Canadian Charter of Rights and Freedoms, Section 15

1.0 Introduction

The Thames Valley District School Board (TVDSB) recognizes and values the diverse religious and creed-based practices observed by members within its communities and is committed to providing a safe, respectful, and equitable environment for all, free from discriminatory or harassing behaviours.

The TVDSB acknowledges an individual's right to follow or not follow religious and/ or spiritual beliefs and practices and is committed to taking all reasonable steps to provide religious and creed-based accommodation to students as aligned with board policy.

Freedom of religion is an individual right and a collective responsibility. As outlined in the Ontario Human Rights Commission's (OHRC) *Policy on preventing discrimination based on Creed* and the *Accommodation of Religious Observances*, the TVDSB commits to working with the communities it serves to foster an inclusive learning environment that promotes acceptance and protects religious freedom. While the TVDSB and its staff will take all reasonable steps to ensure freedom of religion and creed-based practices consistent with *The Ontario Human Rights Code* (the Code), it is expected that students and their families will help the TVDSB to understand their religious needs and will work together to determine accommodations.

1.1 Definitions for Accommodation, Creed and Undue Hardship are found in

Administered By: **Learning Support Services**

Amendment Date(s): 2018 Apr. 24, 2017 Nov. 9

Appendix A.

2.0 Accommodation Guidelines

The purpose of this procedure is to ensure that TVDSB staff, students, parents, and other members of the school community are aware of their rights and responsibilities under the Code with respect to religious and creed-based accommodation of students and their families. It also sets TVDSB procedures for accommodation and the responsibilities of each of the parties within the accommodation process. In accordance with the Ontario Ministry of Education's *Equity Strategy*, the Code and OHRC's *Guide to Developing Human Rights Policies and Procedures*, it is intended that the accommodation process be effective and respectful of the dignity of the person seeking the accommodation.

The TVDSB is committed to providing an environment that is respectful, inclusive, and free of barriers based on creed (religion). Accommodation will be provided in accordance with the principles of dignity, individualization, and inclusion. The TVDSB will work cooperatively, and in a spirit of respect, with partners in the accommodation process including but not limited to local religious and creed-based leaders.

School administrators will endeavour to recognize significant holy days or observances when developing the school calendar of events for the upcoming year (see section 3.0 Accommodation Guidelines). Student handbooks, parent newsletters, and board and school websites should include information about the procedure for requesting an accommodation for religious or creed-based needs. Such information should be easy for staff, students, and parents/ guardians to understand.

Thames Valley District School Board will provide assistance to schools in their work with students and parents/ guardians.

2.1 Accommodation Based on Request

TVDSB school administrators will take all reasonable steps to provide accommodation to students to facilitate their religious or cred-based beliefs and practices. All accommodation requests will be respectfully considered.

If concerns related to beliefs and practices arise in schools, collaboration among the school, student, family, and religious community may be needed in order to develop appropriate accommodation. It is the role of the TVDSB and its staff to ensure equity, respect, and safety for the diverse religious and creed beliefs and practices of students and their families in the school system.

School administrators will ensure a climate of respect for religious and creed-based diversity but should not be placed in the position of monitoring a child's compliance with a religious obligation, or enforcing such practices.

2.2 General Procedures for Religious and Creed-based Accommodation

A parent/ guardian or student (18 years of age or older) must present verbal or written notice specifying the request for religious or creed-based

accommodations, including days on which they will be absent from school. This notice should be made 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 accommodation(s) into consideration.

2.3 Unresolved Requests

The TVDSB will take reasonable and timely steps to address the request for an accommodation.

Students and their families, who feel that their accommodation needs remain unmet, may seek recourse through the appropriate Superintendent of Student Achievement.

3.0 Accommodation Guidelines

For many students there are a number of areas where the practice of their religion and/or creed will result in a request for accommodation on the part of the school and/or the school board. These areas include, but are not limited to the following:

3.1 School Opening and Closing Ceremonies

If a parent/ guardian, adult student or a student who is 16 or 17 years old has withdrawn from parental control objects to all or part of the opening or closing exercises due to religious and/or creed beliefs, the student will be accommodated. This may include the option to not participate and to remain in class or in an agreed upon location through the duration of the exercise.

Ontario Ministry of Education Policy/ Program 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) Period of silence.

4. Parent / Guardian(s) who object to part or all of the exercises may make a request to the principal to have their children exempted. An adult student or a student who is 16 or 17 years old and has withdrawn from parental control, may make a request for such an accommodation directly to the principal.

These requirements will be interpreted in accordance with the Code and the TVDSB.

3.2 **Absence for Holy Days or Creed-Based Observances**

Guidelines for Principals

The TVDSB is committed to affirm and value equally the creed and religious diversity in schools. In accordance with their rights, all students who request to observe a holy day or creed-based observances should be granted this right without having to undergo any unnecessary hardship.

To help schools make appropriate accommodations, a multi-faith calendar, showing significant holy days, will be provided on a yearly basis. The significant holy days provided on the multi-faith calendar is not exhaustive.

The TVDSB will consult with members of different religious and/ or creed-based groups to identify their significant holy days or observances. The TVDSB will make every reasonable effort to acknowledge the different observances of their community when planning system-wide programs and events. To the extent possible, conferences, meetings, workshops, co-curricular activities and exams/ tests, will not be scheduled on significant holy days or creed-based observances.

All students who observe days of significance or holy days in accordance with section 21(2) (g) of the *Education Act* may be excused from attendance. The days listed are qualified for grants and are marked as “G” days in the Register of Daily Attendance. A schedule of recognized G days is available on the TVDSB web site. The list is not exhaustive.

A parent/ guardian (or student, 18 years of age or older) requesting a leave must present verbal or written notice to the principal prior to the absence. Information about absences for holy days or creed-based observances should be shared with teachers in order that accommodations can be made around the absences.

Student agendas, school newsletters, and announcements must include information about the procedures for requesting absences.

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

3.3 **Prayer**

The TVDSB recognizes the significance of prayer in religious and/ or creed-based practice. Schools will accommodate individuals' requirement for daily prayer by providing an appropriate location within the building for students to participate in prayer or for storage of items. This may mean a quiet space in the library, an empty room, or wherever it is mutually satisfactory for the school and for the student requesting the accommodation. An agreement regarding supervision must be made through discussion between the parent/ guardian of the student requesting the accommodation and the school.

3.4 **Smudging**

The TVDSB recognizes that the inclusion of Indigenous cultures and practices in our schools play a powerful role in supporting and engaging Indigenous students and their families, as well as educating all students about Indigenous cultural beliefs and practices. Smudging is a common practice among many Indigenous people, and therefore, it is important for schools to accommodate those who wish to participate in this practice.

Smudging is the burning of sage and other sacred medicines such as sweet grass, cedar, and tobacco and is meant to purify, cleanse, and protect physical, emotional, and spiritual spaces and create harmony and balance.

Review the location of fire alarms and smoke detectors with the custodian. Fire alarms should not be a deterrent for smudging. It is also practice to notify all staff in the building of the smudging in case there are extreme allergies. An agreement regarding supervision must be made through discussion between the parent/ guardian of the student requesting the accommodation and the school.

3.5 **Dietary Restrictions**

Individuals may have dietary restrictions because of religious and creed-based practices. Schools will attend 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.

For example, breakfast and lunch programs in both secondary and elementary schools will consider relevant dietary restrictions in their menu planning. Availability of vegetarian options may be necessary.

Special attention is to be given to dietary needs for overnight outdoor education activities, as well as for field trips that extend over a mealtime period.

3.6 **Fasting**

Fasting is a part of some religious and creed-based practices. If requested, schools will endeavour to provide appropriate space, away from students who are eating, for

individuals who are fasting in religious and creed-based observances. If requested, schools will provide exemptions for students from certain activities, and should make reasonable efforts to provide appropriate accommodations.

3.7 Religious and Creed-Based Dress

“Dress Code” is the appropriate dress policy established by a school. Such policies should take into account common religious and creed needs that may exist.

The TVDSB understands that some religious and creed-based attire, which is a requirement of religious or creed observance, may not conform to a school’s Dress Code. Schools will accommodate students with regards to attire required by a person’s religion or creed. This attire includes but is not limited to:

- Head covers: Yarmulkes, turbans, Rastafarian headdress, hijabs
- Crucifixes, Stars of David, etc.
- Items of ceremonial dress

Special attention must be given to accommodations necessary for a student to participate in physical education, school organized sports, and certain classes.

There are religious communities that require specific items of ceremonial dress which may commonly be perceived as contravening board policies (e.g., 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 B.

3.7.1 Harassment or Bullying Based on Dress

The TVDSB seeks to foster an atmosphere of cultural understanding in order to be proactive in addressing potential harassment about religious and/ or creed-based attire. Schools should be aware that harassment about religious and/ or creed-based attire is one of the most common types of harassment and bullying. The TVDSB and its schools will not tolerate any negative comments directed at, or inappropriate actions taken against, an individual’s religious and/ or creed-based attire and there will be appropriate consequences for individuals who violate this rule.

3.8 Modesty Requirements for Dress in Physical Education Classes

The TVDSB recognizes that some religious and creed-based communities observe strict modesty attire that can be a matter of concern when students are asked to wear the clothing used in physical education activities. Such requirement should be designed taking into account religious and creed-based 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 accommodation. The curriculum expectations should be explained to the family so that it has sufficient information to understand the physical education curriculum and

to select available activities.

3.9 Participation in Curriculum, Classroom Instruction and Assessment

The TVDSB will seek to accommodate students where there is a demonstrated conflict between policy, a specific class or curriculum, and a religious or creed-based requirement or observance. Where academic accommodation is requested, the school should have an informed discussion with the students' parent/ guardian 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 from harassment and discrimination because of their religious and/ or creed-based beliefs and/ or cultural practices. Where these conflict with the school routines and activities or curriculum, the school should consider accommodation. The Board will accommodate religious values and beliefs consistent with the Code, mandated Ministry of Education and TVDSB policies.

In keeping with the Equity and Inclusive Education Policy #2022, the Board is committed to:

- Fairness, equity, and inclusive education as essential principles of the system;
- Implementing an inclusive curriculum through the development and review of resources, instruction, and assessment and evaluation practices, in order to identify and address discriminatory biases so that students may maximize their learning. Through the development and implementation of inclusive curriculum and assessment practices, staff will recognize and support students with diverse backgrounds and differing abilities. (Equity and Inclusive Education Policy #2022, pp. 1-3)

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 TVDSB recommends an informed, common-sense approach to questions of religion/ creed and curriculum. These concerns can be addressed through open discussion between the school, the student, and the family.

4.0 General Procedures for Religious Accommodation

The TVDSB will take all reasonable steps to provide accommodation to students to facilitate their religious and creed-based beliefs and practices. All accommodation requests will be taken seriously. No person will be penalized for making an accommodation request. It is the role of the TVDSB 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.

4.1 Accommodation Based on Request

The school board/ school accepts a person's request for accommodation in good faith (unless there is evidence that the request is not genuine).

4.1.1 Students

Students must present verbal or written notice from their parents/ guardians specifying their accommodation needs unless the student is an adult student or the student is 16 or 17 years old and has withdrawn from parental control. This notice should be made enough in advance (preferably at the beginning of the school year) especially relating to religious observances, including holy days on which they will be absent from school. Advance notice will help to ensure that scheduling of major evaluations, such as tests, assignments or examinations, takes the absence for religious observances into consideration.

4.2 Create a Record

The school will create a record of the request for religious accommodation. Having a record of the request is important to ensure transparency of the process, especially in situations where the request was made verbally. The document can be designed to track the progress of the accommodation process.

4.3 Review Request

School administration will review the request for accommodation based on the guidelines above for the respective accommodation being requested. The school administration will review the request based on the overlapping and mutually reinforcing principles including respect for dignity, individualization, integration and full participation, inclusive design and appropriate accommodation.

The TVDSB will limit requests for information to only what is reasonably necessary to identify the nature and extent of the limitation or restriction, and appropriate accommodation needed.

The TVDSB will take an active role in making sure that the alternative approaches and possible accommodation solutions are investigated, and research various forms of possible accommodation and alternative solutions.

4.4 Consultation with Individual and/ or Parent(s)/ Guardian

School administration engages the individual and/ or parent(s)/ guardian to review the request. If the request requires exemption of the person from participation in daily activities and curriculum, the school administration should

explore with the individual and/ or their parent(s)/ guardian alternative accommodations that would support their inclusion and full participation.

Although the person seeking accommodation has a duty to help secure appropriate accommodation that will help meet their needs, they are not responsible for originating a solution or leading the accommodation process.

4.5 Clarification & Consultation

For consultation or further clarification of questions, administrators and managers should contact the Superintendent responsible for the Equity and Inclusive Education Strategy.

4.6 Undue Hardship Test

Accommodation need not be provided if it causes undue or excessive hardship. However, some degree of hardship is acceptable. In many cases, it will not be costly to accommodate someone's religion or creed.

4.7 Unresolved Request

In the event that a student maintains that their rights under the Board's religious and creed-based accommodation policy have been compromised, then the matter will be referred to the appropriate Superintendent of Student Achievement.

4.8 Appeals Process

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

4.9 Confidentiality

The TVDSB will ensure that information related to accommodation is kept confidential and shared only with people who need the information to put the accommodation in place.

5.0 Legislative and Policy Context

All school boards in Ontario exist within a broader context of law and public policy that protect and defend human rights. At the TVDSB, a number of policies and procedures 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* protects an individual's freedom from

discriminatory or harassing behaviours based on religion and/ or creed. In addition to and consistent with this legislation, *The Education Act*, these regulations and policies govern 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” s27-29, under the heading “Religion in Schools”

PPM No. 119, “Developing and Implementing Equity and Inclusive Education Policies in Ontario Schools”

The TVDSB recognizes, and is committed to, the values of freedom of religion and/ or creed and freedom from discriminatory or harassing behavior based on religion and/ or creed through its human rights policies, equity and inclusive education policy, safe schools policy, and curriculum documents. All of these will be informed by, and interpreted in accordance with, the principles of the Code.

DEFINITIONS

1. Accommodation

The Ontario Human Rights Commission's *Policy on preventing discrimination based on Creed* (2015) 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 preventing discrimination based on Creed*, 2015, p. 54)

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 includes religion in the broadest sense. Creed may also include non-religious belief systems that, like religion, substantially influence a person's identity, worldview and way of life. The Policy provides the following characteristics as relevant when considering if a belief system is a creed. A creed:

- Is sincerely, freely and deeply held
- Is integrally linked to a person's identity, self-definition and fulfillment
- Is a particular and comprehensive, overarching system of belief that governs one's conducts 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 that professes a shared system of belief. (*Policy preventing discrimination based on Creed*, 2015, p. 19-20).

Based on these characteristics, creed includes, but is not necessarily limited to, "religious creed" or "religion". In our society, religion is broadly understood to include a system of faith, worship and belief in a divine power. Personal convictions or beliefs allow an individual to develop a personal connection with the object of their faith. It is important to note, however, that under the policy, religion or creed does not require a

belief in a God or gods or a single supreme being or deity. The characteristics presented in the Code also make it possible to include the spiritual beliefs and practices of Indigenous cultures.

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 preventing discrimination based on Creed*, 2015, p. 21).

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.

Where a determination is made that an accommodation would cause undue hardship, the person requesting accommodation will be given written notice, including the reasons for the decision and the objective evidence relied upon. The person requesting the accommodation shall be informed of his or her recourse through the appropriate Superintendent of Student Achievement, in consultation with the Associate Director, Learning Support Services, according to TVDSB policies and procedures, and under the *Code*.

Appendix B

GUIDELINE FOR KIRPAN ACCOMMODATION

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

1. 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.
2. The principal, in consultation with the parent/ guardian and student, an adult student or a student who is 16 or 17 years old and has withdrawn from parental control will develop appropriate accommodations to allow the student to wear the Kirpan while ensuring the safety of others. These may include the following conditions:
 - i. The Kirpan is six inches or less.
 - ii. The Kirpan will be sufficiently secured with a stitched flap so it is not easily removed from its sheath.
 - iii. The Kirpan will not be worn visibly, but under the student's clothing.
 - iv. There is notification in writing to the principal, where possible, from the Guardwara (place of worship), confirming that the student requesting accommodation is a Khalsa Sikh.
 - v. Discussion about the rules regarding the wearing of a Kirpan must take place in person with all parties present.