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April 4, 2017

TO: Chairpersons and Directors of Education
- All Catholic District School Boards

FROM: Patrick J. Daly, President

SUBJECT: **Policy Statement from the Ontario Human Rights Commission on Religious Accommodation in Schools**

The Ontario Human Rights Commission has sent the attached policy statement on religious accommodation in schools to all Trustee Associations with the request that the statement be distributed to member boards.

This memo and the attached policy statement are provided for your information.

Attachment



Related e-Learning

- [Duty to Accommodate](#)
- [Working Together: The Code and the AODA](#)
- [Example 6- Charter right v. Charter right: Niqab case](#)

Related Resources

- [10. Specific cases](#)
- [3. Issues unique to creed accommodation](#)
- [Creed and the duty to accommodate: A checklist for accommodation providers](#)
- [Specific cases](#)

Related News

- [Updated creed policy gives guidance on protecting rights](#)
- [Policy statement on religious accommodation in schools](#)
- [Supreme Court of Canada reaffirms Commission position on religious rights of Khalsa Sikhs to wear ceremonial kirpans](#)
- [Creed accommodation involving cross-sex contact](#)

Policy statement on religious accommodation in schools

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Education providers are responsible for many things, including delivering a curriculum, managing the various other aspects of educational services, ensuring student safety, fostering pluralistic environments that respect human rights, and managing tension and conflict as they arise in the school setting. Schools ought to be a place for healthy discussions about acceptance and where a diversity of views can co-exist. Educators should communicate messages about difference in a fair and respectful manner and be sensitive to the views of everyone protected by the Ontario *Human Rights Code*. Students, staff and parents should realize that they cannot reasonably expect their own views and beliefs to be respected if they are not willing to respect the views and beliefs of others.

The Ontario *Human Rights Code* (*Code*) has always recognized the importance of protecting religious freedom. Under the *Code*, organizations, including education providers, have a duty to maintain environments free from discrimination and harassment based on creed. Education providers are responsible for accommodating creed-related needs to the point of *undue* 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; and/or
- Health and safety requirements, if any.

No other factors can be properly considered. For example, business inconvenience, employee morale, third-party preferences, *etc.* are not valid factors in assessing whether an accommodation causes undue hardship.

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

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

In 2015, the Ontario Human Rights Commission (OHRC) published its *Policy on preventing discrimination based on creed* (Creed Policy). The Creed Policy is the OHRC's official interpretation of what the rights and responsibilities set out in the *Code* mean as they relate to the ground of creed. The OHRC's policies set standards for how organizations should act to ensure compliance with the *Code*. They are frequently cited and applied by the Human Rights Tribunal of Ontario and other legal decision-makers.

The OHRC's Creed Policy provides practical examples of how the creed-based protections under the *Code* operate in everyday life. For example, it looks at how the duty to accommodate applies in situations where a person is adversely affected and prevented from observing a creed belief as a result of an organizational rule, practice, standard or requirement. In such situations, an education provider has a duty to accommodate the observance short of undue hardship.

The duty to accommodate creed beliefs extends to situations where prayer observances conflict with regular daily routines or school hours. Our policy provides the following example:

Example: A school board advises school administrators to accommodate students and staff who need to observe time-specific prayers, including when these occur during class time. Teachers are advised to keep in mind such prayer observances when scheduling exams, tests, class outings and overnight trips. Sample accommodations include designating private areas or a room for prayer observances; permitting use of a private washroom, or, if not possible, identifying a washroom within the school for washing before prayers; not requiring participation in school activities during obligatory congregational prayer observances; and allowing students and staff enough preparation time to observe Sabbath, especially during days when the sun sets early.

Religious and creed observances sometimes take communal forms. An education provider may consider offering on-site space to observe congregational forms of worship, as an inclusive design approach, where people require accommodation during normal school hours to fulfill congregational worship needs.

Example: A high school permits the use of a designated private space to accommodate the weekly Friday congregational prayer observances of its large Muslim student population.

An inclusive design approach that accommodates the needs of the group is generally preferred to removing barriers after they become apparent, or making "one-off" accommodations. This is because it enables accessibility and inclusivity from the start, proactively meets the needs of many people, and minimizes the need for people to ask for individual accommodations.

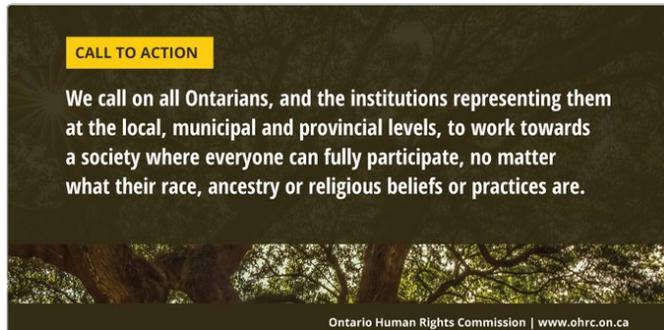
Occasionally, different creed adherents or persons with other human rights-related needs may have competing demands for spaces designated for creed observances. In these cases, the OHRC recommends that organizations apply the OHRC's framework for reconciling competing rights set out in its 2012 *Policy on competing human rights*.

When accommodating or inclusively designing to meet the "needs of the group," education providers must:

- Make clear to all involved or affected that this is not an organizationally sponsored activity or endorsement of a particular creed, but rather a way of meeting individuals' religious accommodation needs
- Be aware of how the participation of persons in positions of power or authority may be received, avoiding exerting indirect pressure, or appearing partisan
- Be as inclusive as possible in developing and providing the accommodation, by consulting with as many directly affected parties as possible, and being attentive to internal group dynamics and differences in accommodation needs
- Treat members of all creed groups requiring accommodation equally, including minorities within creed groups, neither privileging nor disadvantaging, endorsing nor condoning any one over another
- Maintain an environment that is free of pressure or compulsion in matters of religion and belief
- Not interfere in, or become entangled in, what are purely religious or creed matters.

The OHRC will continue to use the full breadth of its mandate to ensure that Ontario is a place where everyone is valued and treated with equal dignity and respect. We call on all Ontarians, and the institutions representing them at the local, municipal and provincial levels, to work towards this vision of a society where everyone can fully participate, no matter what their race, ancestry or religious beliefs or practices.

For more information, see the OHRC's *Policy on preventing discrimination based on creed* (2015) and its *Policy on competing human rights* (2012).



A screenshot of a Twitter post. The profile picture is the OHRC logo. The name is "The OHRC" and the handle is "@OntHumanRights". There is a "Follow" button. The tweet text says: "CALL TO ACTION: Share our Policy statement on religious accommodation in schools and educate your network: bit.ly/2nDm30L". Below the text, it says "2:09 PM - 31 Mar 2017 · Canada". At the bottom, there are icons for "Like" (0), "Tweet", and "Share".

