

DRAFT Human Rights Inclusive Design and Accommodation Procedure

Adopted under the Human Rights, Anti-Discrimination and Anti-Racism Policy

1.0 Objective

- 1.1 This procedure is adopted under the Human Rights, Anti-Discrimination and Anti-Racism Policy (“Human Rights Policy”) to implement the duty to accommodate in respect of Human Rights Code related needs, and to support inclusive design.
- 1.2 This procedure shall be read in conjunction with the Human Rights Roles, Responsibilities and Accountability Framework and the Human Rights, Anti-Discrimination and Anti-Racism Procedure adopted under the Human Rights Policy. These documents focus on proactive actions to promote, protect and uphold human rights and to identify, prevent and address all forms of discrimination and racism in the services, employment, and learning and working environments of the Durham District School Board (“District” or “DDSB”), including:
 - a) Intentional efforts to address racism, ableism, homophobia, biphobia, transphobia, faithism and all other forms of discrimination, and classism; and
 - b) Requirements to apply culturally relevant and responsive pedagogy, Universal Design for Learning, inclusive design, differentiated instruction and accessibility principles to all aspects of the District’s work to proactively prevent discriminatory barriers.

The District recognizes that in addition to efforts to address barriers, accommodations are required to address individual identities, strengths, abilities and needs based on Human Rights Code grounds.

- 1.3 The District also recognizes the unique and distinct rights of Indigenous Peoples (for example, related to Two Spirit identities and to freely practice and preserve Indigenous cultural and spiritual practices and traditions). Indigenous Peoples may elect to pursue any right under the Human Rights Policy and this procedure or under the Indigenous Education Policy and procedures, as they may deem appropriate in any given circumstance.
- 1.4 Additional procedures are adopted under the Human Rights Policy to proactively prevent discrimination and to address human rights issues, incidents and complaints.
- 1.5 For students, the purpose of the duty to accommodate is to ensure that all eligible students have meaningful access to education where learning conditions can be adjusted to meet Human Rights Code related needs without undue hardship to the District.
- 1.6 For employees, the purpose of the duty to accommodate is to ensure that persons who are otherwise fit to work are not unfairly excluded from working where working conditions can be adjusted to meet Human Rights Code related needs without undue hardship to the District.

- 1.7 The duty to accommodate under the Ontario Human Rights Code includes both a procedural component (i.e., the factors considered and assessed, the steps taken to respond to an accommodation need, and treating individuals with dignity and respect) and a substantive component (i.e., the appropriateness or reasonableness of the chosen accommodation and, where appropriate, the reasons for not providing accommodation, including evidence of undue hardship).
- 1.8 The District will meet its procedural and substantive duty to accommodate a student's or an employee's Human Rights Code related needs to the point of undue hardship. In so doing, each matter will be assessed on a case-by-case basis in recognition of the unique identity of each person, without relying on biases, assumptions or stereotypes about the person based on ancestry, race, disability, sexual orientation, gender identity, gender expression, creed, any other Human Rights Code ground or combination of grounds, and classism, in accordance with the terms of the Human Rights Policy and this procedure.
- 1.9 The duty to accommodate is informed by three key principles: respect for dignity, individualization and integration and full participation.

2.0 Definitions

- 2.1 This procedure refers to certain terms related to human rights and equity that are defined in Appendix A (Glossary of Terms) of the Human Rights Policy.

3.0 Procedure

- 3.1 This procedure applies to all students, employees and District community members and to all Human Rights Code related grounds (and intersection of grounds) as set out in the Human Rights Policy. This procedure also includes specific inclusive design and accommodation considerations for students and employees based on disability, gender identity, gender expression and creed.
- 3.2 All organizational practices and decision making related to inclusive design and accommodation will comply with this procedure and uphold the strategic direction of the Human Rights Policy.
- 3.3 The successful implementation of this procedure requires ongoing collaboration and engagement with the District's communities. Student, employee and community voice and engagement is critical to help the District inclusively design its services, employment and learning and working environments. The District will engage students, employees and communities on initiatives that affect them ("nothing for/about us without us").
- 3.4 All schools and system departments will review the requirements of this procedure and adjust, remove, or develop new structures, practices, and decision-making processes to align with inclusive design principles and considerations.
- 3.5 As part of the District's efforts to create inclusive and welcoming environments for all community members, the Director of Education and/or designates will provide opportunities for professional development for employees to:

- a) Enhance understanding of the duty to accommodate, including barriers for and inclusive design and accommodation needs based on ancestry, disability, gender identity, gender expression, creed and other Human Rights Code grounds, combination of grounds and classism; and
- b) Address and prevent potential stigma or actions informed by negative/deficit thinking about students or employees who may require accommodation.

Proactively Offering Accommodation

3.6 The District will:

- a) Regularly share information about the availability of human rights accommodations, including the request process, confidentiality provisions and protection from reprisal; and
- b) Provide and support respectful, inclusive and accessible spaces and processes for students, parents/families/guardians and employees to safely identify human rights related barriers and accommodation needs without reprisal.

3.7 The District will communicate its commitment to meeting its legal duty to accommodate and will proactively promote human rights, offer accommodation and request information about potential Human Rights Code related accommodation needs at or during:

- a) For students: registration, admission, orientation, returning student processes, parent/guardian-teacher interviews, etc. and other relevant activities/events involving students, families and communities, and will request information about new or changing needs as appropriate (e.g., field trip permission forms);
- b) For employees: recruitment (e.g., job ads, interviews), onboarding processes and other events/activities involving employees (e.g., training events, conferences, etc.); and
- c) For community members: in communications about District community meetings and events.

This will help the District:

- a) Identify individual accommodation needs; and
- b) Plan and inclusively design services, employment, programs and events and address potential barriers.

Requesting Accommodation

3.8 A student (or their parent/guardian) or employee requesting accommodation should identify their Human Rights Code related needs to the District as soon as possible and provide sufficient documentation as may be required.

3.9 Students (or their parent(s)/guardian(s)) should submit any request for accommodation to their school principal using the attached *Student Accommodation Request Form* [template].

- 3.10 Employees should use the attached *Employee Accommodation Request Form* [template] to submit their request for disability-related accommodation to Abilities Management, Human Resource Services or, for all other accommodation requests, to their manager or supervisor. The manager or supervisor shall consult with Human Resource Services, including to address any potential intersecting needs that may be related to disability.
- 3.11 It is recognized that Human Rights Code related needs (e.g., disability, language barrier) may impact a person's ability to raise accommodation requests and/or to understand the process. As such, accommodation requests may be submitted in any language and may be raised in writing or in other ways without using the prescribed form. Staff who receive the request must document it on a request form.

Duty to Inquire

- 3.12 A student (or their parent/guardian) or employee may not be able to disclose or communicate accommodation needs (for example, due to the nature of a disability, fear of stigmatization or stereotypes, etc.). Where a student or employee is clearly unwell or perceived to have a disability, or where the District is aware or reasonably ought to be aware that a student or employee's behavior, performance or inability to fulfill their duties as a service user or employee may be linked to disability, the District has a duty to inquire about this link before making a decision that may adversely affect the student or employee (e.g., imposing discipline). The responsible staff shall:
- a) Take steps to support them, even if no accommodation request is made;
 - b) Pay special attention to situations that could be linked to mental health issues or addictions;
 - c) Ask the student (or their parent/guardian) or employee if they need support to help them participate in school or work and remind them of the availability of accommodation;
 - a) Provide a meaningful opportunity for the student (or their parent/guardian) or employee to identify a disability or other Human Rights Code ground) related need(s) and request accommodation; and
 - b) Respect dignity and confidentiality, and not pressure a student (or their parent/guardian) or employee to share or disclose information if they do not wish to share or disclose information.
- 3.13 Where a student (or their parent/guardian) or employee does not indicate a disability or other Human Rights Code related need, does not request accommodation or does not participate in the accommodation process, the responsible staff will not make repeated inquiries, and should document steps taken to inquire and to attempt to start the accommodation process.
- 3.14 Where the student (or their parent/guardian) or employee does indicate a disability-related need or requests accommodation, the responsible staff will document it on a request form (or provide the person with an accommodation request form and provide appropriate support as may be required to complete the form) and proceed with the duty to accommodate.

Confidentiality

- 3.15 It is recognized that information shared by students (or their parent/guardian) or employees related to accommodation needs is confidential and sensitive. Therefore, in processing accommodation requests or issues, responsible staff shall:
- a) Limit requests for information to that which is least intrusive and required to support the accommodation process;

- b) Take steps to maximize and protect the privacy of the accommodation requestor's personal information as much as practicable in the circumstance and in accordance with applicable privacy laws;
- c) Maintain the confidentiality of personal information related to accommodation requests and the accommodation process, including the duty to inquire and the duty to accommodate;
- d) Store accommodation information in a secure physical and/or cyber location that only authorized designated personnel can access;
- e) Only share information with others, if necessary, as part of the determination of what, if any, accommodation ought to be provided and/or the implementation of any accommodation; this may include sharing limited and relevant information to help explore potential accommodation options and solutions; and
- f) Only disclose this information with the student (or parent/guardian) or employee's consent, unless required under legal proceedings or as required by law (e.g., proceedings under the Education Act or as part of disclosure obligations related to complaint resolution options).

Roles and Responsibilities in the Accommodation Process

3.16 The accommodation process is a shared responsibility and staff are to cooperatively and respectfully engage with the student (or their parent/guardian) or employees (and union representative, where appropriate) to consider individual needs and, where accommodation is required, to collaboratively explore accommodation options and solutions.

3.17 A student (or their parent/guardian) or employee requesting accommodation must raise accommodation requests in good faith and, to the best of their ability:

- a) Co-operate and provide necessary information to support the accommodation process; this includes, for example, taking part in discussions to explore accommodation options and solutions, providing information about relevant restrictions or limitations, including from medical and health care professionals where necessary, etc.
- b) Meet bona fide education/academic or employment requirements, once accommodation is provided; and
- c) Advise the District of any issues or challenges with the accommodation, or of new/changing accommodation needs as soon as possible.

Note: the student (or their parent/guardian) or employee is not responsible for leading the accommodation process and is only required to discuss their Human Rights Code related needs with those who are directly involved in the accommodation process.

3.18 Responsible District staff are required to:

- a) Accept and respond to accommodation requests in good faith, unless there are objective reasons to question the legitimacy of the request;
- b) Be alert to situations that may trigger the duty to inquire about accommodation needs;
- c) Act promptly to facilitate the accommodation process and implement the accommodation in a timely manner;
- d) Limit requests for information to that which is reasonably related to the nature of the Human Rights Code-related need or limitation and to establish legal responsibilities, assess needs, limitations or restrictions and to make the accommodation;
- e) Consult with internal and external expertise when needed to support the accommodation process;

- f) Communicate regularly with the student (or their parent/guardian) or employee to provide updates on the status of the accommodation, next steps (where appropriate) and accommodation decision;
- g) Cover costs related to the required accommodations, unless the accommodation amounts to undue hardship. Note: Where a student or employee requires assistance for daily living (e.g., assistive device, service animal), the District is generally not required to arrange or pay for it but is required to support the student or employee's access to it in learning and working environments, to the point of undue hardship;
- h) Implement the accommodation solution and, where needed, monitor its ongoing effectiveness; and
- i) Document accommodation requests and actions taken.

3.19 In addition, all DDSB community members must fulfill their responsibilities under the Human Rights Policy and related procedures.

3.20 Where the District may contract out work to a third party to provide a service or an employment function, the District will require that the third party fulfills its obligations under the Human Rights Code, including the duty to accommodate.

Exploring Accommodation Options

3.21 Responsible staff will make every effort to provide appropriate and reasonable accommodation under the Human Rights Code that respects the student or employee's dignity (e.g., identity, integrity, sense of self-worth, empowerment, privacy, confidentiality, autonomy, individuality and self-esteem) and that responds to their individual needs.

3.22 The duty to accommodate applies to needs, restrictions or limitations based on a Human Rights Code ground(s) and not to preferences, expectations or any one type of accommodation.

3.23 The process used to determine the accommodation is important. The process must include the accommodation requestor's input, and the requestor and responsible staff must collaboratively engage in discussions to explore accommodation options.

3.24 To explore accommodation options, responsible staff may also consult with internal resources (e.g., Indigenous Education, Inclusive Student Services, Equity and Inclusive Education, Human Resources, Human Rights and Equity Advisor, General Counsel, etc.).

3.25 Responsible staff may also request additional information about the student or employee's Human Rights Code-related needs, limitations and restrictions to facilitate the accommodation process.

3.26 Depending on individual needs, accommodation options may be seen along a continuum. Where there is more than one option, the most appropriate accommodation is the one that goes no further than the point of undue hardship and that: maximizes the individual's dignity, integration and participation; and is most responsive to the individual's needs and circumstances.

- 3.27 Responsible staff will also consider:
- a) Whether the student can perform the essential duties of the service, or the employee can perform the essential duties of employment with or without accommodation; and
 - b) Unique needs and barriers related to accommodation requests for newcomers, English language learners and children and youth in care.
- 3.28 Where it is not possible to implement the most appropriate accommodation option in a timely way (e.g., where it will take time to implement or when further information or consultation is required), interim next best solutions/options are to be considered, implemented and documented. Creative solutions may be required.
- 3.29 The responsible staff will:
- a) Involve the student (or their parent/guardian) or employee throughout the accommodation process;
 - b) Inform them of the accommodation solution/decision; and
 - c) Implement the most appropriate accommodation under the circumstance; and
 - d) document the decision and steps taken in an accommodation plan.

Accommodation Solutions

- 3.30 Depending on the individual needs and case by case assessments, accommodations may include modifications or adjustments to the physical environment, policies, procedures, standards, processes, rules, decision making practices, support services, service animals, technology and communications (e.g., alternative formats). In addition, accommodations for students may include curriculum, learning plans, assessment or evaluation timelines, methodologies or formats, transportation, etc.
- 3.31 In addition to the individual accommodation outcome, an accommodation request may have systemic implications and may result in new (or changes to existing) policies, procedures, supports, etc., based on (and not limited to) the nature or frequency of accommodation requests, impacts and data trends over time.

Accommodation Plan

- 3.32 The accommodation process and result will be documented in an accommodation plan (template) for each student or employee that requires an accommodation. The accommodation plan shall include:
- a) A statement of relevant functional limitations or needs;
 - b) Supporting documentation (e.g., medical assessment) where appropriate/required;
 - c) Steps taken to fulfill the procedural duty to accommodate, including accommodation options explored, interim accommodations and any timelines, input from the person requesting accommodation, consultations, additional information requested/received and communications with the student/family or guardian or employee;
 - d) The nature of the accommodation provided (e.g., statement of services or support, modification or adjustment, etc.);
 - e) Products or services required (e.g., adaptive technology), including dates ordered, acquired and implemented; and
 - f) Next accommodation review date (to assess if accommodation needs are being met or if adjustments or further accommodations may be required).

For student disability-related accommodations, a completed IEP will satisfy the requirements of this section.

Monitoring Accommodation and New or Changing Accommodation Needs

- 3.33 Once the accommodation has been implemented, responsible staff will monitor to assess if it continues to be appropriate. The accommodation must be reviewed when the student or employee's needs or circumstances change and impact the effectiveness of the accommodation. This includes and is not limited to transition needs (e.g., when a student moves through grades or to another school, educational setting or program; or when an employee changes roles or worksites and notifies their manager/supervisor of new, changing or ongoing accommodation needs). A review may also be required when a student (or their parent/guardian) or employee raises a concern about the accommodation. The accommodation review date in the accommodation plan is designed to facilitate ongoing reviews.
- 3.34 An individual may have new or changing accommodation needs (or may have previously not felt comfortable discussing their needs) or may require accommodation that was not previously disclosed or requested. The duty to accommodate is dynamic and responsive to changes in the student or employee's needs. Adjustments or new needs will be accommodated to the point of undue hardship so that the accommodation continues to meet the individual's needs.

Undue Hardship

- 3.35 Undue hardship is the legal test which sets the parameters as to the extent an organization must accommodate Human Rights Code related needs to support a student's meaningful access to education or an employee's access to work. It is a very high standard.
- 3.36 In assessing whether it would cause undue hardship to accommodate a student or employee's Human Rights Code related needs, only three factors can be considered:
- a) Costs;
 - b) Outside sources of funding; and
 - c) Health and safety requirements where health and safety risks cannot be adequately mitigated or reduced.
- 3.37 To amount to undue hardship, costs must be:
- a) Quantifiable;
 - b) Shown to be related to the accommodation and not offset through outside sources of funding; and
 - c) So substantial that they would alter the essential nature of the organization, or so significant that it would substantially alter its viability.
- 3.38 Costs are considered from an organizational perspective rather than from a school or departmental perspective. Where possible, steps are to be taken to recover the costs of accommodation through grants, subsidies, other outside sources of funding and cost sharing options. A student or employee seeking accommodation is also expected to avail themselves of any available outside sources of funding to help cover expenses related to their own accommodation.

- 3.39 In assessing whether health and safety risk amounts to undue hardship, all possible steps must first be considered to assess the nature and scope of the risk(s) and to mitigate or reduce the risk associated with providing the accommodation.
- 3.40 Where the only person at risk is the individual requesting the accommodation, in some cases it may be appropriate to proceed with the accommodation to achieve a result that promotes their dignity, integration and full participation.
- 3.41 In some situations, a student's or an employee's disability-related behaviour may pose health and safety concerns that affect the individual or other people in the learning or working environment, including students and employees. It is not discriminatory to respond to behaviours where the behaviours cause health and safety risks such that immediate intervention or other actions may be required to prevent or reduce risks and harm. Any such measures shall be regularly reviewed, on an individual, case by case basis, to determine when they may be adjusted with appropriate accommodations and supports as may be required.
- 3.42 In assessing whether a student's or an employee's behavior may result in undue hardship based on health and safety risks, consideration must be given to all relevant factors including whether and how the behaviour is connected to the disability and whether any current or planned accommodation is appropriate, including consideration of whether accommodation needs may have changed.

Undue Hardship Decision

- 3.43 Where a principal is of the view that a requested accommodation for a student would result in undue hardship, the principal shall contact their superintendent who will engage an interdisciplinary team which may include, as appropriate, Indigenous Education, Equity and Inclusive Education, Inclusive Student Services, Human Resource Services and the General Counsel.
- 3.44 Where a manager/supervisor believes that a requested accommodation for an employee would result in undue hardship, the manager shall engage and consult with their superintendent or senior manager and Human Resource Services. Where Abilities Management is handling an employee's disability-related accommodation request, Abilities Management will engage and consult the superintendent or senior manager and the Superintendent of Human Resource Services.

- 3.45 The interdisciplinary team (for students) or Human Resource Services team (for employees) shall undertake a review of all available relevant information and shall request any further information necessary to process the accommodation request before making a decision. The team will also consider organizational accommodation patterns and potential organizational learning needs and professional development.
- 3.46 If undue hardship has not been reached, appropriate accommodation will be implemented and documented in the accommodation plan.
- 3.47 Where a decision is made that undue hardship has been reached, the reasons for the decision shall be documented and a clear and concise summary of the reasons for the decision shall be provided to the requester. The decision will also be reported to the appropriate Associate Director. Interim or next best solutions must still be explored and implemented to the point of undue hardship.

Other Limits to the Duty to Accommodate

- 3.48 The duty to accommodate is not absolute and is not unlimited. The District will have met its duties as to accommodation where:
- a) Notwithstanding that appropriate accommodations have been provided or explored, the employee is unable to fulfill the essential employment related duties or requirements or the student is unable to have meaningful access to educational services;
 - b) The person requesting accommodation does not participate in or provide necessary information to support the accommodation process or to take part in developing potential solutions; and/or
 - c) The accommodation requested is outside of the District's mandate for services or employment (i.e., the District is not required to develop or provide a service outside of its legislated mandate).
- 3.49 The duty to accommodate does not require exempting a person from performing the essential duties of the job. The duty to accommodate does not require an employer to fundamentally change the working conditions of employees, assign the essential duties of an employee with a disability to other employees or change the essential duties and requirements of a position. Accommodation may include job restructuring, job bundling, reassignment to open positions, or retraining for alternative positions if that would not constitute undue hardship for the employer. Consideration should be given to available posts that would allow the employee to maximize skills and abilities.
- 3.50 The duty to accommodate does not require the District to exempt a student or employee from meeting essential bona fide educational/academic or employment requirements. When considering if a rule, standard, requirement or factor is bona fide or necessary, consideration is to be given to whether:
- a) It was adopted for a purpose rationally connected to function being performed (i.e., taking part in the educational service or essential duties of employment);
 - b) It was adopted in good faith, in the belief that it is necessary to fulfill the purpose or goal; and
 - c) It is reasonably necessary to accomplish its purpose or goal and that it is impossible to accommodate the student or employee without undue hardship.

Right to Pursue Other Avenues

- 3.51 This procedure does not replace or duplicate other resolution processes identified in other District policies, regulations, procedures, or guidelines (e.g., Accommodation Review Committee or the Identification, Placement and Review Committee) or those established by law.
- 3.52 This procedure in no way affects students/families' or employees' ability to exercise their rights under other processes established through legislation or collective agreements (e.g., filing an application to the Human Rights Tribunal of Ontario, filing a grievance, etc.).

Protection from Reprisal

- 3.53 The District recognizes that students, families/parents/guardians, employees and community members may not feel comfortable or safe disclosing identity-based needs, requesting accommodation or raising issues or complaints because they fear that they will be subject to stigmatization, discrimination or reprisal.
- 3.54 No student (or their parent/guardian) or employee will be penalized, threatened, negatively treated or be subject to reprisal for asserting their rights under the Human Rights Code or this procedure, including:
- a) Requesting information about human rights and accommodation;
 - b) Requesting an accommodation;
 - c) Raising concerns about the accommodation process or outcome;
 - d) Filing a human rights related complaint, grievance, application to the Human Rights Tribunal of Ontario or raising a complaint to another external body; and/or
 - e) Providing information related to an issue or complaint (or participating as a party or witness in) a complaint or issue resolution process.
- 3.55 Persons who are found to have reprised against students, parents/families/guardian or employees are subject to corrective and disciplinary action, up to and including dismissal as outlined in the Code of Conduct and the Human Rights Policy, the Student/Family Human Rights Issue, Incident and Complaint Resolution Procedure [*working title*] and the Complaints Procedure – Workplace Harassment Prevention, Workplace Sexual Harassment Prevention and Safe and Respectful Workplace procedure [*working title*].

Specific Inclusive Design and Accommodation Considerations

- 3.56 In addition to the general framework outlined above, implementation of the Board's Human Rights Policy will engage some specific Human Rights Code related needs/accommodations that require guidance to navigate. This procedure provides guidance with respect to:
- Disability;
 - Gender identity and gender expression; and
 - Creed/religion.

Disability

- 3.57 The District recognizes:
- a) The broad and evolving definition of disability under the Human Rights Code and case law;

- b) Unique barriers for students and employees with mental health disabilities, addictions and disabilities that may be “invisible”, episodic, temporary and/or permanent; and
- c) Individuals may experience disability-related barriers differently (in other words, not everyone with the same type of disability may have the same accommodation needs).

The District also recognizes that ableism and stigmatization, misinformation and negative biases, assumptions and stereotypes may prevent students and employees with disabilities from disclosing disability related needs, requesting accommodation and/or seeking medical treatment (and that this may in turn trigger, exacerbate or create new disability related needs).

3.58 The District recognizes unique considerations for students and employees with disabilities (and intersecting identities) that may affect them in District learning and working environments, including and not limited to:

- a) Communication and information about the right to accommodation, the accommodation process and options to raise concerns and complaints about accommodations;
- b) Training for employees on ableism, disability-related issues and the duty to accommodate;
- c) Accessibility barriers (attitudinal, physical, architectural, information/communication, technological) and policies and procedures that may not consider disability related needs;
- d) Access to classroom and employment resources and supports to assist students and employees with disabilities;
- e) Wait lists and other barriers to accessing appropriate and timely medical assessments in some communities and/or based on the nature of the disability (e.g., access to specialist services or culturally responsive services in some areas, which may affect the ability to access treatment or to obtain and provide medical documentation to support accommodation requests);
- f) Side effects associated with treatment (e.g., medication for their disability, or accommodating symptoms of withdrawal) that may result in new or changing accommodation needs and adjustments to accommodation plans; and
- g) Intersecting discrimination based on disability and another Human Rights Code protected ground(s) (e.g., another type of disability, ancestry, race, sexual orientation, gender identity, gender expression, creed, etc.) and socioeconomic status, which may affect accommodation needs, plans and access to treatment/services, etc.

3.59 The District recognizes that ableism and forms of intersecting discrimination may also lead to actions informed by negative perceptions and deficit ideologies about (or additional barriers for) students or employees with disabilities, including related to:

- a) Strengths, abilities and talents;
- b) Functional limitations (e.g., low expectations for people with certain types of disabilities, or not taking accommodation needs seriously for people who may have “non-evident” or less understood forms of disability); and
- c) Disability related behaviours that can lead to inappropriate placements, over scrutiny, unnecessary response escalation and disproportionate disciplinary outcomes (e.g., suspensions); this includes:
 - Behaviours that are deemed to be “unusual” without considering the nature of the disability or the disability related accommodation needs (or that may be the results of inappropriate accommodations and supports); and
 - Assumptions that a student or employee has an increased risk of engaging in aggressive or violent behaviours, without considering disability related needs, accommodation supports required and objective evidence.

Medical Information for Disability Related Accommodation

- 3.60 In situations where a student may not have a formal assessment or documentation, responsible staff will consider other available information to facilitate consideration of any accommodation issues. This information may include how the individual identifies their own needs, history of formally identified needs, disability or accommodations, third party reports and screening tools.
- 3.61 Where disability related needs are unclear, responsible staff may request additional medical information, in addition to disability related needs, where objectively necessary to assess accommodation. This may include information about the nature of the illness or condition (e.g., if it is a learning, mental health or physical disability, without requiring a medical diagnosis); and/or an independent medical examination or assessment. However, a student or employee is not required to attend an independent medical examination or assessment but not doing so may frustrate, delay or limit the accommodation process.
- 3.62 For disability related accommodations, a diagnosis is not required. However, in some cases there may be an overlap in the description of needs and an actual diagnosis. In very limited and complex cases, requisite information may include a diagnosis to appropriately support the accommodation process.

Classroom Placements for Students with Disabilities

- 3.63 In addition to the principles and requirements set out in this procedure, decisions about the most appropriate classroom placement for students with disabilities shall take into consideration other relevant factors including:
- a) Student and parent/guardian input;
 - b) The student's preferred learning style, academic performance and the nature of the supports required;
 - c) Proximity to home;
 - d) Opportunities to interact with other students;
 - e) Potential health and safety issues, where applicable; and
 - f) The best interests of the student, including making decisions that:
 - Are not discriminatory;
 - Are not based on biases, stereotypes, stigmatization and assumptions;
 - Prevent and do not perpetuate harm; and
 - Support the student's meaningful access to education.
- 3.64 Where it is determined that a placement decision outside of the regular classroom is the most appropriate accommodation, every reasonable effort should be made to meaningfully integrate and include the student in school programs and activities including but not limited to some time in classes with school peer groups, lunch, recess, gym, school trips, and events, to the point of undue hardship.

Gender Identity and Gender Expression

- 3.65 The District recognizes the unique needs and experiences of, barriers for and negative biases, stereotypes and assumptions about Two Spirit, trans, transitioning, and other non-binary, gender non-confirming and gender expansive and intersex students, parents/guardians, employees and community members.

Note: Members of 2SLGBTQI communities may use different terminology to reflect individual expressions of gender and gender identity that may not be reflected by the 2SLGBTQI acronym. For the purpose of this procedure, “trans” is used as an umbrella term to includes diverse gender identities and expressions, unless otherwise noted.

- 3.66 People who identify as trans:

- a) May not feel safe disclosing their gender identity;
- b) May be vulnerable and subjected to transphobic discrimination, bullying and violence (for example, trans youth are vulnerable to harassment and bullying from peers, and trans employees are vulnerable to unwelcoming or unsafe work environments);
- c) Are often negatively affected by cisgenderism/cisnormativity and cissexism in their learning and working environments; and
- d) May not have readily available access to resources or support or feel safe raising concerns or complaints, including a lack of awareness and understanding by other students, employees, parents/guardians/families (including, in some cases, a student’s own parent/guardians/family) and community members.

These concerns may be compounded for trans people who also identify as a member of another group(s) or community(ies) that is also discriminated against, marginalized or minoritized because of ancestry, race, disability, sexual orientation, creed/faith and other Human Rights Code protected grounds.

- 3.67 Trans students and employees may have individualized, specific and evolving needs related to safety and dignity, having their gender identity and expression (and other intersecting Human Rights Code grounds) recognized, and accommodations (where required). These needs might include:

- a) The recognition and use of their chosen name and pronouns that correspond to their lived gender identity;
- b) Respecting and protecting privacy and confidentiality, including treating any information indicating trans identity as confidential;
- c) Access to safe and inclusive:
 - Washrooms and change rooms/facilities;
 - Activities, programs and events (including ones that are typically gender segregated, such as physical education classes, extracurricular activities, competitive sports and other events); and
 - Resources, support and role models; and
- d) Inclusive and anti-discriminatory environments and interactions that respect and support gender identity and expression, including but not limited to:
 - Curriculum, teaching practices, school/classroom environments, language, learning materials and academic and other resources that positively reflect and affirm trans and gender non-conforming identities; and
 - Learning and working environments; and
- e) Unique needs of students and employees who may be transitioning at school or work.

- 3.68 Trans students and employees are encouraged to be who they are and to express their lived or felt gender identity in District learning and working environments. Trans students may also choose to indicate their gender identity, chosen name and pronouns verbally or in writing at any time, including on registration/returning student information forms. For employees, this includes new employee information/onboarding processes and forms.
- 3.69 Self-identification is sufficient for trans students and employees to be addressed by their chosen name and pronouns and to be recognized according to their gender identity (e.g., access to washrooms, services that correspond with their lived gender, etc.).
- 3.70 Where a trans student or employee seeks additional accommodations to support their gender identity or gender expression (and any other Human Rights Code related needs) students (or their parents/guardians) may advise the teacher, principal or other trusted District employee (e.g., guidance counsellor) and/or complete the attached form; employees may advise their supervisor/manager and/or complete the attached form.
- 3.71 Trans students and employees are not required to provide any “proof” of their gender identity, (and trans students or employees may or may not choose to legally change their names and update gender markers on official identity documents). For some accommodation requests, the District may require additional information to support the accommodation process.

Privacy and Confidentiality

- 3.72 It is recognized that trans students and employees may not be open or “out” about their identity to their family or to other District community members.
- 3.73 Subject to record keeping and disclosure requirements in the OSR Guidelines and other legislation, students have a right to privacy, and schools must keep a trans student’s trans status confidential. Subject to record keeping requirements and processes described below, staff shall maintain privacy and confidentiality of trans students and will not disclose a student’s gender identity to the student’s parent/family/guardian, employees or other students without the student’s explicit prior consent and unless the student requests it.
- 3.74 As a best practice, and to support safe options for students, school staff that are advised by the student that the student is or may be trans will:
- a) Honour and respect the student’s self-identified trans identity;
 - b) Ask the student how staff should refer to them (student’s chosen name, legal name or deadname and pronouns) in District learning environments including in calls, correspondence and meetings with the student’s parent/family/guardian;
 - c) Discuss with the student any additional school or District staff who may need to know the student’s gender identity (e.g., the principal/vice principal and other employees who may interact with the student in District learning environments such as other teachers, guidance counsellors, child and youth workers, social workers, supply teachers, team or activity coaches, etc.) to support safety and any accommodations, and to prevent misgendering or outing a trans student to others, including when other staff may need to contact the student’s parent/family/guardian;
 - d) Ask the student about any other safety concerns they may have and supports they may need; and
 - e) Request that the student inform staff if their needs or safety concerns change.

- 3.75 Wherever possible, the District will also make best efforts to protect privacy and confidentiality in virtual/online learning environments (e.g., screen names, names or pronouns used in the virtual environment, etc.) based on the student's preferences and safety needs.
- 3.76 The District will maintain privacy and confidentiality and will not disclose an employee's trans identity to other employees or District community members without the employee's explicit prior consent, unless the employee requests it.

Names and Pronouns

- 3.77 Trans students and employees have the right to:
- a) Be addressed (verbally and in writing) by their chosen name and pronouns corresponding to their gender identity; this applies regardless of the age of the student and whether they have parent/guardian consent or support, and subject to any safety concerns a student may have; and
 - b) Have their chosen name/pronouns (including pronouns other than the masculine or feminine, such as "they", "ze", "hir") reflected in school and employment documents and records.

School staff will pay special attention to use the student's chosen name and pronouns on printed reports/documents that are provided to the student, unless the student requests otherwise.

- 3.78 Misgendering (i.e., intentionally or persistently refusing to acknowledge a student's or employee's chosen name, pronoun or gender identity) causes harm, is unacceptable and discriminatory and will not be condoned.

Changing School Records and Documents

- 3.79 The District recognizes that discrepancies on official documents can create significant barriers and risks for trans people. The District will develop and maintain student and employee records, electronic records, databases and/or administrative documents that reflect lived identities and chosen names for trans students, parents/guardian and employees.
- 3.80 Some databases and electronic records are created or maintained provincially. The District will advocate for changes to databases that the District does not maintain and/or develop internal business procedures and local solutions so that records and documents reflect trans students' or employees' lived gender, chosen name, pronouns and gender markers as much as possible.
- 3.81 The District will accommodate a trans person's request to have records and documents reflect their chosen name and pronouns and will:
- a) Update a legal name change (i.e., the District will change a student's or employee's official records to reflect a legal name or gender marker upon receipt of documentation that their legal name or gender marker has changed); and/or
 - b) Recognize a name that differs from their legal name in records and documents, wherever possible, provided that in no case shall a trans employees' name differ from the name the person uses with any professional college or regulatory body.

The process to change a name or gender marker in records and databases will be respectful, non-intrusive, and will not be based on whether a trans person has had a medical procedure(s) to support their lived gender.

3.82 The student's chosen name and gender marker should be used in all school related electronic administrative systems and databases, unless the student requests otherwise. Where it may take time to implement technical changes to databases, school staff may need to make manual changes to documents to reflect the student's chosen name and pronouns.

Parent/Guardian Consent

3.83 The District recognizes that some parents/guardians may not be aware or may not agree with or support their child's gender identity or the child's use of a chosen name, pronouns and gender marker that correspond with their lived gender/gender identity. The District has legal obligations to uphold the rights of the child and will honour, affirm, recognize and respect the student's self-identified gender identity in District services and learning environments.

3.84 Where a student indicates that their parent/guardian is not aware of or does not support the student's trans identity, school staff will consider the student's age and level of understanding of potential impacts and safety risks to the student on an individualized, case-by-case basis. School staff will discuss these risks (and any options to mitigate them) with the student, so the student is aware of and understands the potential risks and implications. Where there is a concern about the potential capacity of the student to understand these impacts and make decisions about them, school staff shall consult with their Superintendent who may engage the Board's General Counsel.

3.85 Where appropriate, school staff may also refer the student to District or community resources for additional support.

3.86 Where the student has indicated a safety concern about disclosing their gender identity to their parent/guardian, responsible staff will respect the student's wishes around communications, report cards, etc. that might "out" them to their parent/guardian. School staff will ask the student before including their chosen name and pronouns on report cards, transcripts, yearbooks, activity/sports lists, awards, etc. or in communications and documents that are sent to parents/guardians/families.

Consent for District Clinical Services

3.87 Students under the age of 16 require parent/guardian consent to access District clinical services (e.g., psychological services, etc.). The consent form is part of a clinical record, and it generally must match the student's legal name. Where a trans student wishes to access District clinical services and their name does not match the name on their legal documents, or where the parent/guardian may not consent to using the student's chosen name, the District's clinical service provider will work with the student or their parent/guardian in a way that addresses capacity issues, medical consent requirements, respects the student's dignity, and best addresses the student's safety and well-being concerns in the circumstances.

Washroom and Change Rooms/Facilities

3.88 Trans students and employees have the right to:

- a) Access and use washroom and change rooms/facilities that align with their self-identified lived gender identity;
- b) Request access to additional options that uphold safety, dignity, privacy and confidentiality (for example, trans students and employees can request access to private spaces/rooms to enhance privacy and address safety concerns); and

- c) Not be discriminated against or harassed for accessing washrooms and change rooms/facilities that align with their self-identified lived gender identity.

- 3.89 Trans students and employees may use one or both gendered washrooms or a private single stall or universal washroom. Where possible, schools will provide an easily accessible all-gender single stall washroom for use by any trans person (and people who do not identify as trans) who may wish to have increased privacy. Trans students and employees may choose which washroom or change room to use. They must not be required to use a universal/all gender washroom or a separate washroom or change room because others express discomfort or transphobic attitudes.
- 3.90 Alternative arrangements requested for change rooms/spaces will be facilitated in a way that best meets the student's or employee's specific needs and safety concerns, respects privacy and confidentiality and is acceptable to the student or employee. This may include (and is not limited to):
- a) The use of a private area within a public area (e.g., a bathroom stall with a door; an area separated by a curtain);
 - b) A separate changing schedule (e.g., using the change room before or after other students) or access to a nearby space or private area (e.g., a vacant office or close washroom);
 - c) Access to the change room corresponding to a student's assigned sex at birth; and/or
 - d) Satisfaction of a physical education requirement by independent study outside of gym class.
- 3.91 For future buildings and renovations, the District will include universally inclusive spaces and options that enhance privacy and safety for trans students, employees and community members (e.g., gender inclusive/universal washrooms, privacy stalls in change rooms, universal single user-gender inclusive washrooms with showers and change spaces/rooms). Providing gender-inclusive single-user washrooms or gender-inclusive multi-stall washrooms also increases privacy and accessibility for everyone.

Gender Segregated Classes and Activities

- 3.92 The District promotes the inclusive design of classes, events and activities (e.g., extracurricular activities, sports teams/competitive sports and other activities or events) that include all identities and expressions of gender. Trans students have the right to take part in gender segregated physical education and other classes and activities in accordance with their lived gender identity.
- 3.93 Activities that may involve travel and overnight gender segregated housing/sleeping accommodations will be assessed on an individualized, case by case basis and will prioritize student dignity, respect, well-being and safety.
- 3.94 Staff will be attentive to and will address potential discrimination, bullying or harassment by other students, staff and other people at all events including those that are taking place at or hosted by other Districts or organizations.

Gender Inclusive and Trans Positive Environments

- 3.95 The District recognizes the importance of creating learning and working environments that respect and include diverse gender identities. The District will (among other things):
- a) Encourage the use of gender inclusive:

- Pronouns in school and work settings (for example, using “they”, “them” as gender-inclusive singular pronouns) and using non-gendered language; and
 - Classes and activities
- b) Encourage all students and employees from all gender identities to identify their pronouns, with careful attention to safety needs (and to recognize that in different circumstances and for various reasons, some trans students and employees may not be comfortable identifying their pronouns);
 - c) Develop and offer inclusive gender markers and choices (instead of binary options) and the ability to self-identify on appropriate forms and databases; this may include reviewing and modifying forms, electronic databases, IT systems and other relevant information processes to recognize a person’s chosen name, gender identity and gender markers;
 - d) Promote anti-homophobic, anti-biphobic and anti-transphobic education through pedagogies, curriculum, learning materials, resources and classroom/school environments that:
 - Consider, reflect and affirm trans and gender non-conforming identities;
 - Challenge and do not perpetuate gender stereotypes, cisnormativity/cisgenderism, cissexism, transphobia, biases, assumptions, stigma and inaccurate information;
 - Integrate trans-positive content; and
 - Include resources and supports for student well-being that reflect the unique barriers for and needs of trans students;
 - e) Implement gender inclusive and flexible policies, procedures and practices that do not adversely affect trans people or create barriers for trans students to access education and trans employees to access employment without discrimination (for example, dress codes that are inclusive of diverse gender identities and gender expression);
 - f) Gender inclusive (or private options within) washrooms, change rooms/facilities and other spaces;
 - g) Be attentive and sensitive to potential discrimination and harassment against trans people in District learning and working environments, and take appropriate action to address it (see Student/Family Human Rights Issues, Incidents and Complaints Resolution Procedure and Complaints Procedure - Workplace Harassment, Workplace Sexual Harassment and Safe and Respectful Workplace [*working titles*])
 - h) Take steps to invite employment applications from trans and gender non-conforming people to help diversify the District’s workforce; and
 - i) Support affinity groups and spaces for trans and gender non-conforming students and employees.

Transitioning at School and Work

3.96 The District recognizes that transitioning:

- a) Means different things to different people and may evolve over time;
- b) Can be a very difficult and stressful for some trans students and employees; they may experience or be subjected to heightened stress, anxiety, bullying, discrimination and physical and emotional health and safety risks; and
- c) Can sometimes (but not always) involve medical surgeries and other procedures to support a person’s gender identity; a person may or may not have surgery(ies) for many personal reasons, and a surgery is not in and of itself a goal or purpose of transitioning. Medical information related to transitioning that is communicated to the District will be treated confidentially.

- 3.97 In addition, people who are transitioning may not have support from their friends, parents/guardians, families, colleagues, communities and other people as they transition.
- 3.98 The District recognizes the important role it plays in creating welcoming schools and workplaces to support transitioning students and employees. All employees will treat students and staff with dignity and respect and will support transitioning students and employees.
- 3.99 Students and employees who are transitioning may have additional needs and require accommodations to safely, respectfully and confidentially transition in District learning and working environments, including (but not limited to):
- a) If, how, when and what information to share with others and to communicate about their transition;
 - b) Time away for potential medical procedures or other activities to support their transition (where applicable); and
 - c) Temporary accommodations during or pending their transition, where requested (e.g., flexible use of chosen names and pronouns, access to private washroom and change rooms/spaces, awaiting formal changes to identity documents to update databases, etc.).
- 3.100 The District's [Supporting Our Transgender Students](#) and [Supporting Trans Students in Our Schools](#) documents provide further information for students transitioning in District learning environments, including collaboratively developing an individualized transition plan.
- 3.101 Employees who identify as trans or who are transitioning can contact their manager/supervisor, federation/association (where applicable) or Human Resource Services to request accommodation or to discuss their transition-related needs. The above principles will apply with respect to the use of chosen names/pronouns, access to washrooms and other gendered spaces in District working environments and updating employment documents as may be required.
- 3.102 For employees who are transitioning, the District will work collaboratively with the employee and with their federation/association (where applicable) to address accommodation needs and concerns and to develop an individualized transition plan before their planned transition date. The transition plan will include and consider (among other things):
- a) If, how, when and what information to share and communicate with other employees and students (where applicable), including chosen names and pronouns;
 - b) Time away for potential medical procedures or other activities to support their transition (where applicable);
 - c) Changes to employee identification and documents (security and access badges, name plates, email and phone directories, contact lists and distribution lists, how names appear on student report cards, etc.); some employment forms (e.g., benefits forms and tax forms) may require that names and gender markers match official identity documents or legal name change documents; and
 - d) Establishing a supportive environment and network, including potential gender awareness training (note: the District is responsible for providing the training, not the person transitioning).

- 3.103 Some employees who are transitioning may want to discuss options for working in a different department or location, for safety or other reasons. The District will explore these options where feasible to support a successful transition.
- 3.104 The Workplace Harassment Prevention, Workplace Sexual Harassment Prevention and Safe and Respectful Workplace Policy [*working title*] and related complaints procedure sets out additional requirements to support inclusive and respectful working environments for all employees, and to address discrimination in the workplace.

Creed/Religion

- 3.105 The District recognizes that creed may influence and be an important part of a person's identity, worldview and way of life, and the rights of student, employees and District community members to freely hold and observe their creed beliefs.
- 3.106 The District also recognizes community members may experience creed-based discrimination, faithism and hate in various ways, including:
- a) Faithism and creed-based biases, stereotypes, assumptions, stigmatization and barriers can have an adverse effect or can exclude people belonging to (or are perceived to belong to) communities of belief including (and not limited to) Indigenous peoples, people who identify as Jewish, Muslim, Sikh, Hindu, Buddhist, members of minoritized faith groups and people who belong to newer or lesser-known creed communities;
 - b) Discriminatory and derogatory creed-based slurs and actions including and not limited to antisemitism, Islamophobia and anti-Sikhism;
 - c) Distinctive forms of stereotyping and discrimination, where creed-based discrimination intersects with discrimination based on (among other things):
 - Race-related Human Rights Code grounds (for example, ancestry, colour, race, ethnic origin, citizenship, ancestry, place of origin) where religious differences are linked to racial differences, ethnicity and forms of faithism, racism and xenophobia;
 - Sex/gender, including creed and gender discrimination and stereotyping (e.g., creed-based dress/modesty requirements, assumptions about women/girls who wear a niqab or hijab);
 - Sexual orientation, gender identity, gender expression where creed beliefs may limit or violate the rights of members of 2SLGBTQI communities; and
 - Disability and race where individuals may be subjected to increased scrutiny, surveillance or assumptions about health and safety risks when addressing disability-related accommodation needs because the person identifies as (or is perceived to be) a member of a certain faith group;
 - d) Discrimination against people who practice religion (anti-religious discrimination); and
 - e) Discrimination against people who are agnostic, atheist or do not follow a creed.

3.107 The District also recognizes that structures, policies, procedures and practices may adversely affect students and employees because of creed. To trigger the duty to accommodate, a policy, procedure, rule, requirement, standard or organizational practice in the District must:

- a) Have an adverse effect;
- b) On a student or employee's sincerely held belief;
- c) That is connected to creed.

3.108 The District recognizes that creed:

- a) Is not defined in the Human Rights Code and understandings of creed have evolved over time;
- b) Includes the spiritual beliefs and practices of Indigenous peoples/cultures;
- c) Means different things to different people;
- d) Is generally recognized by courts and tribunals as religious beliefs, practices and other belief systems; a creed:
 - Is sincerely, freely and deeply held;
 - Is integrally linked to a person's identity, self definition and fulfilment;
 - Is a comprehensive, overarching system of belief that influences or governs a person'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; and
 - Has a "nexus" or connection to an organization or community that professes a shared system of belief;
- e) May not be connected to formal organized religions and does not require a belief in a God, gods or a single supreme being or deity;
- f) Shares some characteristics with religion; for example, a creed may:
 - Require or be expressed through group-based activities and institutions;
 - Take many and varied forms; and
 - Is subjectively based and rooted in sincerely held beliefs;
- g) Does not require written tenets, doctrine or articles of faith; in addition, members of a faith groups may not practice all aspects of their faith (or practice them in the same ways) and there may be differences within the same faith group;
- h) Can include newer or lesser known religions (assessed on a case-by-case basis based on the criteria set out above); and
- i) Does not include every belief, opinion, expression, practice, matter of conscience, political belief or conviction.

3.109 Under the Human Rights Code, creed also includes protection from discrimination for atheists, agnostics and other people who do not follow or practice a creed.

Sincerely Held Belief

3.110 "Sincerely held belief" means honesty of belief (for example, consistency of a person's current practice with asserted belief) where the belief must be based on creed. The focus is on the person's sincerely held personal or subjective understanding of their creed. The person does not need to show that the belief, practice or observance is:

- a) An essential or obligatory element of their creed;
- b) Required or recognized as valid by religious officials or creed teachings;
- c) Recognized by others of the same creed (including religious officials); or
- d) Consistent with the beliefs, practices or observances of others of the same faith.

3.111 The District recognizes that creed and sincerely held beliefs may change over time and:

- a) Inconsistent adherence to a creed practice in the past or present may not mean that a belief is not sincere;
- b) Strength of belief is not the same as sincerity of belief;
- c) Some people may more intensely practice their creed beliefs during certain days/times of significance without this in any way diminishing the sincerity of the belief;
- d) Not all religious or creed traditions require an exclusive commitment; and
- e) Individuals may follow more than one religious or spiritual tradition, and this does not indicate inconsistency or insincerity of belief.

3.112 Students or employees may request creed-related accommodations for (and not limited to):

- a) Indigenous spirituality/spiritual practices;
- b) Faith days (holidays, leaves, ritual observances), scheduling and spaces for smudging or prayers;
- c) Opening exercises;
- d) Food practices and restrictions (including fasting);
- e) Dress codes, including modesty requirements and health and safety rules and standards;
- f) Displaying creed-based symbols;
- g) Photo and biometric identification;
- h) Exemptions from curriculum and activities; and
- i) Recruitment, hiring and employment practices.

3.113 As set out in this procedure, the District will:

- a) Foster and maintain environments where students, families/guardians and employees of all (and no) religious, faith or creed backgrounds feel welcome and respected in District learning and working environments;
- b) Consider the significant diversity of beliefs and practices within and among creed groups when inclusively designing for or accommodating creed beliefs;
- c) Accept requests for accommodation in good faith unless the District has legitimate reason to believe otherwise;
- d) Meet its procedural and substantive duty to accommodate creed-based needs for students to access education and for employees to access employees, to the point of undue hardship (and subject to the limits to accommodation and bona fide educational and employment requirements) and
- e) Address competing rights where required.

3.114 It is recognized that asking for information about a person's creed beliefs, practices and related accommodation needs has implications for their privacy and dignity. However, the District must have enough information to assess the duty to accommodate. This may require:

- a) Information about current beliefs and practices at the time of the accommodation request;
- b) Sensitive inquiries into creed beliefs and practices to help assess creed needs and potential accommodation options; these inquiries into the sincerity of person's beliefs should be as limited as possible and least intrusive of the person's privacy to establish that the belief is in good faith and "neither fictitious nor capricious and that it is not an artifice";
- c) Objective information and analysis to establish that a person's sincerely held belief or practice requiring accommodation is connected to a creed. While it is inappropriate to require expert opinions to show that a practice or belief is mandatory, required or that it is

sincerely held, a person seeking accommodation may choose to refer the District to (or provide information from) a religious authority figure or expert to support their accommodation request; and

- d) Objective information and analysis to show how the ability to practice the sincerely held creed belief is adversely affected by a policy, standard, rule, qualification or practice in District services, employment or learning and working environments. This may require information about the nature of the belief or practice to establish an adverse impact and to clarify any resulting accommodation needs.

- 3.115 The District recognizes that it is inappropriate to assess if a person's beliefs or practices are reasonable or correct when responding to a request for accommodation, unless there is an objective basis to question the legitimacy of the request or where there are reasonable grounds to believe that it may promote or incite hatred or violence or contravene criminal law.
- 3.116 There is no general right not to be exposed to views and beliefs that contradict or differ from one's own.

Faith Days and Prayer Observances and Spaces

- 3.117 The District recognizes that the standard work week and statutory holiday calendar in Ontario and the District's education or employment schedules (e.g., school day, hours of work), break times and holidays may adversely affect different faith groups who may have creed beliefs related to engaging in specific acts of worship, observance and celebration at certain times of the day, week or year. This includes situations where prayer observances conflict with regular daily routines or hours of school or work.
- 3.118 District students and employees may request accommodation for time away from school or work to observe or participate in creed-based religious and spiritual observances, including but not limited to religious or creed based: holidays, Sabbath observances, pilgrimages, rites of passage, mourning and bereavement rituals, hunting/harvesting practices, prayers, etc.
- 3.119 The District will accommodate creed-based requests for time off from work to observe creed-based practices to the point of undue hardship.
- 3.120 Subject to (but not limited by) collective agreement provisions (where applicable), terms and conditions of employment and Employment Standards Act provisions, the District will offer options (e.g., special/compassionate leave, scheduling changes, use of lieu time where available, etc.) to prevent potential loss of wages or benefits to accommodate a creed-related absence from work. Under the Human Rights Code, there is no automatic entitlement to paid days off.
- 3.121 The District has a resource calendar that sets out a list of common religious holidays and observances of diverse creed groups that may require accommodation. The calendar can be used to proactively and inclusively plan exams, trips, conferences, events and significant meetings so that they do not fall on dates where students or employees may not be able to participate for creed-related reasons. However, the exclusion or inclusion of anything on the calendar should not be used as a basis to deny any accommodation request.
- 3.122 It is recognized that some people may need to observe short periods of prayer at set times of the day, and that for some religions, the time for prayer may change with the seasons or lunar calendar. They may be accommodated by:
 - a) Providing an appropriate space/location within District buildings for prayer (for example, a

- designated multi-faith room, a quiet space in the library or an empty room, or wherever it is mutually satisfactory for the student or employee);
- b) Availability of or access to a private washroom space for washing before prayers;
 - c) Not requiring participation in school activities during obligatory prayer observances;
 - d) For students: allowing flexible late school arrival or early school departure; and
 - e) For employees: using flexible or modified scheduling options (e.g., break/lunch schedules, hours of work or staggered hours, subject to but not necessarily limited by collective agreements, terms and conditions of employment, and Employment Standards Act requirements), to the point of undue hardship. Short breaks or insignificant amounts of time required for prayer observances should not result in loss of pay and should not be placed under more scrutiny than any other short work break.

Opening Exercises

- 3.123 Students and employees may wish to not participate in school opening exercises (i.e, the playing/singing the national anthem) in District learning and working environments (e.g., to start the school day, at sporting or other events and at Board and other meetings). A student, parent/guardian, employee or community member may opt out of opening exercises. They will not be required to participate and may choose to stay in the room/area or wait in another location during opening exercises.

Dietary Requirements

- 3.124 Food services and options for students, employees and community members in District learning and working environments where food is available or served should be inclusive of and responsive to creed-based dietary needs and restrictions. This includes and is not limited to:
- a) Cafeteria menus and snacks;
 - b) Catering or food provided for special occasions, meetings and community events;
 - c) Breakfast and lunch programs; and
 - d) Field trips that extend over a meal period, overnight trips and outdoor education activities.
- 3.125 Student or employee individual sincerely held creed-related food restrictions will be accommodated to the point of undue hardship. In doing so, responsible staff should not rely on generalizations about creed based dietary restrictions and should provide food options that are of comparable nutritional value to that offered to other people.
- 3.126 People responsible for cooking, handling and serving food must take special care to:
- a) Keep vegetarian and non-vegetarian foods separate, with separate serving utensils;
 - b) Label all food items with a list of ingredients; for packaged foods, kosher or halal certification markings should be visible on the packaging; and
 - c) Adjust snacks, pizza days, fun fairs, meal programs and community events to reflect dietary needs and restrictions.

Fasting

- 3.127 Students and employees may observe creed related practices to fast or abstain from food for set periods of time which may vary based on an individual's beliefs and practices. These practices may coincide with other religious observances that, together with fasting, may be physically and mentally demanding and could affect a person's ability to perform at school or work or to comply with a rule or schedule.
- 3.128 Creed practices related to fasting will be accommodated to the point of undue hardship which may include:
- a) Where appropriate, the provision of space outside of cafeterias or lunchrooms for students who are fasting, and avoiding food related events (including pizza days) when students or employees may be fasting;
 - b) Providing flexible, alternative or less strenuous options or exemptions from classes or activities that require physical exertion or where dehydration could be an issue;
 - c) Considering intersecting needs (e.g., where disability needs may arise during a period of fasting); and
 - d) Wherever possible, scheduling exams during times when most students are not fasting or adjusting or deferring an individual's exam time or date.

Dress Requirements, Including Modesty and Health and Safety Concerns

- 3.129 Students and employees may observe their creed beliefs through religious attire, including but not limited to wearing crucifixes, Stars of David, head coverings for men/boys and women/girls, modesty in attire/dress, or ceremonial dress. This may affect dress requirements for physical education classes, activities and sports events or may be perceived as contriving safety policies. Religious attire also makes students or employees' creed-based beliefs "visible" and may make them more vulnerable to discrimination and harassment.
- 3.130 The District will meet its duty to accommodate students' and employees' creed-related dress needs to the point of undue hardship, including in respect of:
- a) Students who do not wear shorts or T-shirts to class for creed related reasons (they may wear other safe and comfortable clothing);
 - b) Students who cannot dress for physical education in front of others in the change room for religious reasons (they may change in a stall within the change room, or in another location or at another time to maximize privacy); and
 - c) Students who may need swimwear options to take part in swim class (they may wear another style of swimwear that meets the pool facility's safety requirements).
- 3.131 It is recognized that certain clothing or gear may conflict with religious dress/attire but that there may be bona fide requirements for clothing or gear for health or safety reasons (e.g., safety goggles for students in certain programs/classes, or for employees who may be handling hazardous materials, etc.). The District will explore any accommodation needs to the point of undue hardship.
- 3.132 A kirpan is an article of faith and the District will accommodate the wearing of a ceremonial kirpan to the point of undue hardship.

Displaying Religious or Creed-Based Symbols

- 3.133 It is recognized that students and employees may express a creed belief by displaying or wearing a religious symbol in District learning and working environments.
- 3.134 The District will not organizationally privilege or disadvantage one creed over another and will:
- a) Maintain environments free from religious or creed-based pressure;
 - b) Promote equality through universal design and equal recognition and inclusion of diverse creed symbols;
 - c) Consider if a display or symbol has a significant negative impact (e.g., exclusion, discrimination against others or creed pressure) or creates or contributes to a poisoned working or learning environment for students, parents/guardians, employees or District community members, including where the symbol may promote hate or incite violence; Note: symbols that promote hate or incite violence are not permitted; and
 - d) Accommodate individual creed beliefs and practices to the point of undue hardship, subject to the limits of creed-based accommodation.

Photographs and Biometric Information

- 3.135 It is recognized that students or employees may hold creed beliefs about not being photographed, wear face or head coverings as part of their expression of creed beliefs, and/or may not show their face in photographs. In considering any accommodation issues, responsible staff should consider if a requirement for a photograph is bona fide and if the purpose of the photograph can be achieved in other ways.

Exemptions from Curriculum and Activities

- 3.136 It is recognized that there may be some situations where students or parents/guardians may request to be exempted from curriculum, activities or resources/materials where they believe that the content of curriculum, learning activity or resources/materials may infringe on creed-based rights and freedom of religion.
- 3.137 There is no broad right not to be exposed to views and beliefs that contradict or differ from one's own, including school curriculum that may conflict with creed related beliefs and practices. The DDSB is a publicly funded school board, and the District meets provincial curriculum requirements, expectations and standards. This includes teaching students about, affirming and supporting the expression of diverse identities (including those related to ancestry, race, disability, sexual orientation, gender identity, gender expression, creed and all Human Rights Code protected grounds) and challenging all forms for discrimination and racism.
- 3.138 A student (or their parent/guardian) may raise a concern that curriculum content or a resource, material or activity interferes with a creed-based practice or objectively infringes on freedom of religion and may and request an exemption. In such a case, staff will discuss possible individual solutions with a focus on meeting curriculum requirements, preserving dignity and privacy and promoting integration and full participation. Appropriate substitution, exemption or withdrawal from the curriculum, activity or resource through a differentiated instructional model, may also be considered but may be limited due to undue hardship or a bona fide requirement.

Limits to the Duty to Accommodate Creed-Related Requests

3.139 Human rights protections for creed do not extend to creed practices and observances that are hateful or incite hatred or violence against other individuals or groups, or that contravene criminal law. The duty to accommodate creed beliefs and practices may also be limited where the creed right interferes with the human rights of others or announces an intention to discriminate under section 13 of the Human Rights Code in District services, employment and learning and working environments.

Creed and Competing Rights

3.140 The District recognizes that:

- a) Creed rights can be part of competing rights scenarios, conflicts and claims that are connected to sex/gender, sexual orientation, gender identity and expression and disability rights;
- b) The protection of religious beliefs may be broader than the protection of conduct motivated by those beliefs (in other words, that acting on beliefs may have more of an adverse or harmful impact on the rights of others than holding these beliefs);
- c) Assessing and addressing competing rights will not be based on stereotypes and assumptions about groups and beliefs and will consider:
 - Evidence of an actual adverse impact on the rights of others that is not based on speculation or hypothetical views of how recognizing a creed right or granting a creed accommodation might affect others;
 - The difference between the freedom to hold beliefs versus conduct based on those beliefs; and
 - The extent of the interference with each set of rights (is it a significant interference with a right, or one that is trivial and insubstantial? Is each right affected at its core (a fundamental aspect of the right) or its periphery?); and
- d) When considering potential options for balancing rights, the District will:
 - Apply section 3.143; and
 - Consider underlying constitutional values and broader societal interests and harms, including respect for human dignity, commitment to social justice and equality, accommodating a wide variety of beliefs, addressing negative stereotyping of groups that are marginalized and minoritized, gender equality and protecting the best interests of the child/student.

Inclusive Design

3.141 The District will:

- a) Support welcoming, inclusive and equitable learning and working environments that reflect the multicultural and multi-faith identities of the school community it serves, including people with no creed; this includes maintaining environments that are free of creed-related pressure or compulsion;
- b) Engage students, parents/guardians and employees to identify creed related barriers and needs;
- c) Design inclusively to identify, prevent and address barriers and to support diverse creed-based needs; this includes and is not limited to:
 - Developing or changing service, operational and employment policies, programs, procedures, standards and requirements to reflect the needs of diverse creed communities;

- The design, construction and renovation of facilities to include spaces and design elements to accommodate diverse creed related needs; and
 - Identifying and addressing existing creed related barriers in:
 - Learning, services, classrooms, schools and extracurricular activities; and
 - Employment and employment related spaces and activities;
- d) Provide a range of accommodation options to maximize students' and employees' participation in programming, activities and learning;
- e) Address and correct all forms of faithism and creed-based discrimination and harassment based on all Human Rights Code grounds and intersections of grounds in District learning and working environments; and
- f) Address potential competing rights.

3.142 The District's *Accommodating Creed in Schools: An Inclusive Design Approach* guide provides additional information on supporting inclusive environments and addressing creed related accommodation needs.

3.143 The Human Rights Policy and related procedures set out expectations for creating inclusive and respectful environments for District members from all faith backgrounds.

Accommodating other Human Rights Code Related Needs

3.144 The District recognizes that some District community members may require accommodation based on family status, pregnancy, language and other Human Rights Code related needs to support a student's equitable access to education and an employee's equitable access to employment. Students and employees can request accommodations using the attached form. The District will work with community members on an individualized case by case basis to identify and address barriers and to accommodate Human Rights Code related needs, to the point of undue hardship, using the processes set out in this procedure.

Accessibility and Accommodation in Employment

3.145 The District recognizes that in addition to requirements set out in this procedure, barriers to inclusion and accessibility issues also affect general recruitment and employment practices and processes. The District is committed to meeting Human Rights Code and Accessibility for Ontarians with Disabilities Act (AODA) requirements and obligations in all aspects of:

- a) Assessing staffing needs, creating job descriptions, planning and conducting outreach strategies and developing job postings;
- b) Recruitment, selection, onboarding, orientation and retention processes, initiatives and strategies;
- c) Coaching, mentoring, leadership and professional development opportunities, projects and assignments;
- d) Employee relations processes, issues and considerations;
- e) Advice and support to managers and supervisors who are engaging in courageous conversations with employees and addressing employee issues;
- f) Performance evaluations/appraisals and performance management and improvement plans;
- g) Transfers and promotions;
- h) Succession planning;
- i) Corrective and disciplinary processes;
- j) Exits and termination of employment;
- k) Human resources tools and supports for managers/supervisors;
- l) Training and professional development for human resources staff; and

- m) All other human resource administration and staffing decisions and functions.

This includes using workforce and student census data to inform decision making.

3.146 The District will:

- a) Adhere to the Equitable Recruitment policy, procedure and guideline to support and implement fair, consistent and transparent hiring procedures and practices to attract, recruit and retain a qualified and diverse work force;
- b) Include its commitment the Human Rights Code, AODA and inclusive design in all job postings, including the duty to accommodate;
- c) Inquire about accommodation needs when candidates are invited to participate in recruitment selection processes and interviews;
- d) Provide recruitment, assessment and selection materials in accessible formats upon request;
- e) Notify successful candidates about District's policies and procedures to support Indigenous rights, human rights, anti-discrimination, equity and inclusion and the availability of accommodation;
- f) Inquire about accommodation needs upon hire;
- g) Provide employees with information and training about rights, responsibilities and legal obligations under the Human Rights Code and AODA, including the availability of accommodation;
- h) Accommodate employees' Human Rights Code related needs to the point of undue hardship; and
- i) Support safe and respectful return to work processes for employees who may be on leave due to illness, injury or other Human Rights Code related reasons.

Competing Rights

3.147 The District recognizes that in a complex and diverse service and employment organization, a request for accommodation may affect the legal right of another person in the learning or working environment, or that rights may come into conflict with one another. The District:

- a) Recognizes that no rights are absolute and there is no hierarchy of human rights;
- b) Respects the importance of all sets of rights; and
- c) Will collaboratively explore options and solutions to address conflicting and competing rights and to maximize rights for everyone.

3.148 If a student or employee's Human Rights Code related needs conflict with the rights or Human Rights Code related needs of another student or employee, the District will consider each situation on a case-by-case basis using the OHRC's framework and steps set out in its Policy on Competing Rights, including (but not limited to):

- a) Assessing the needs of both parties;
- b) Considering potential accommodation needs, options and combinations of solutions that may resolve the potential competing rights; and
- c) Consulting with internal resources/expertise (Indigenous Education, Equity and Inclusive Education, Inclusive Student Services, Mental Health and Well-Being, Positive School Climates, Human Rights and Equity Advisor, Human Resources, General Counsel, etc.), other areas impacted and/or external expertise as appropriate.

Concerns with the Accommodation Process

3.149 The Student/Family Human Rights Issue, Incident and Complaint Resolution Process [*working title*] and the Complaints Procedure – Workplace Harassment, Workplace Sexual Harassment and Safe and Respectful Workplace [*working title*] outline the processes for raising and resolving issues or complaints related to the accommodation process.

Accommodating Parents/Guardians and Other Community Members

3.150 Parents/guardians, community members and visitors may require human rights accommodation when:

- a) Accessing District learning or working environments, including District schools, offices and meetings;
- b) Participating in District-hosted events, committees and meetings;
- c) Supporting a student's meaningful access to education or an employee's meaningful access to employment; and
- d) Communicating and interacting with District employees for all other District educational service or employment related reasons.

3.151 Parents/guardians, community members and visitors should:

- a) Make their human rights accommodation needs known to the District in advance (e.g., by submitting the attached accommodation request form); and
- b) Collaboratively engage in the accommodation process outlined in this procedure so that the District can facilitate appropriate accommodation.

Organizational Trends Analysis

3.152 The Director of Education and designates will collect and analyze accommodation data in accordance with Human Rights Policy, related procedures and accountability framework to monitor organizational accommodation trends and accessibility issues. Where appropriate, this data may be used to inform:

- a) Professional development planning;
- b) Revisions to relevant procedures and practices; and
- c) Special initiatives, programs strategies, plans or actions to address unique and intersecting inclusive design barriers that affect students and employees based on ancestry, race, disability, sexual orientation, gender identity, gender expression, creed/religion, and any other Human Rights Code related ground or combination of grounds. The District will engage and co-create any such programs with communities the District serves and those who are most affected by the program.

Communications and Information Sharing

3.153 The Director and designates will communicate about and publicly post this procedure in accordance with the requirements of the Human Rights Policy, procedures and accountability framework.

Review Process

- 3.154 The Director of Education and designates will review and update this procedure as required and at least every five years. To support the review process, the review will include:
- a) Data (for example, School Climate and Well-Being survey data, Student Census/Identity survey, Workforce Census data, complaints data, accommodations data, etc.); and
 - b) Wide consultation with students, employees, parents/guardians, School Community Councils and community partners.
- 3.155 The District will follow the DDSB Policy Consultation process and will communicate consultation meetings and methods (e.g., surveys, focus group meetings and or formal meetings) with all stakeholders.
- 3.156 The District will share the consultation results with all stakeholders.

4.0 Reference Documents

4.1 Policies

- Indigenous Education
- Human Rights Policy
- Consultative Process
- Equity and Inclusive Education
- Equitable Recruitment
- Positive School Climates
- Workplace Harassment Prevention, Workplace Sexual Harassment Prevention and Safe and Respectful Workplace

4.2 Procedures

- Classroom Practices: Teaching and Learning
- Human Rights, Anti-Discrimination and Anti-Racism Procedure
- Human Rights Roles, Responsibilities and Accountability Framework
- Equity and Inclusive Education
- Equitable Recruitment
- Positive School Climates
- Complaints Procedure - Workplace Harassment Prevention, Workplace Sexual Harassment Prevention and Safe and Respectful Workplace

4.3 Other Documents

- Universal Declaration of Human Rights
- United Nations Declaration on the Rights of Indigenous Peoples
- United Nations Convention on the Rights of the Child, Rights of Persons with Disabilities, Yogyakarta Principles and other United Nations documents and instruments
- Charter of Rights and Freedoms
- Ontario Human Rights Code
- Anti-Racism Act
- Accessibility for Ontarians with Disabilities Act
- Occupational Health and Safety Act
- Education Act
- Ontario Human Rights Commission's policies, guidelines, reports and resources

- Anti-Racism Directorate's Anti-Racism Policy, Anti-Racism Strategy and Data Standards for the Identification and Monitoring of Systemic Racism
- Ministry of Education strategies, plans, and policy and procedures memoranda
- DDSB's Guide for Transitioning Gender Identity and Expression
- DDSB's Guidelines and Procedures for the Accommodation of Creed in Schools: An Inclusive Approach

Appendix:

[NOTE: Forms and templates referenced in procedure to be added to final draft package and will be based on consultation feedback]

Effective Date

YYYY-MM-DD

Amended

YYYY-MM-DD