

# 5

## SECTION 5B

### Case Scenarios

*Adapted from: Durham District School Board, Guidelines and procedures for the Accommodation of Religious Requirements, Practices, and Observances*

The case scenarios presented in this section are intended to describe the application and implementation of the concepts and principles presented in this guide. While the guide emphasizes the importance of first requesting additional information from students, their parents/guardians, and their respective faith communities, case scenarios presented may help in the accommodation, decision-making, and problem-solving process.

It is important to recognize that the scenarios presented cannot take into consideration everything that school administrators might or should include in their decision making relating to the granting of accommodations and curricular exemptions, which are requested on an individual case-by-case basis.

It must also be noted that the considerations emphasized in each of the case scenarios are the requirements of Manitoba Education and Advanced Learning regarding curricular expectations for the learners in the subject content areas, and the degree to which learning outcomes for students in specific subject areas are affected.

#### **Preliminary Considerations for Curriculum Accommodation Requests**

- Has the parent/guardian submitted the request in writing?
- Has the classroom teacher referred the request to the school administration, when the learner's/family's request has been made directly to him/her?
- Has there been a meeting with the school administration and the parents/guardians to discuss and clarify the specific times, content, and context to which the request for accommodation applies (e.g., from what curriculum outcomes and/or teaching/learning strategies is it necessary to provide alternatives or exempt the learner)?
- Does the request for accommodation conflict with any other divisional, school, or department policies (e.g., Safe Schools, Human Rights, Human Diversity, Equity, and school excursions)?
- To what degree are learning outcomes for students in specific subject areas affected (e.g., what specific Department of Education and Advanced Learning curriculum outcomes for the learner may be compromised)? If any outcomes are affected, has the school administration effectively communicated these changes to learning outcomes to the parents/guardians (e.g., what will appear/not appear on a learner's report card)?

## Case Scenario 1: Smudging in Classrooms and Schools

### Description

A recently hired coordinator of a First Nations, Métis, and Inuit (FNMI) education program has proposed the creation of a FNMI student cultural studies centre at one of the schools in the division. The program is intended for students from various schools for Elder-led workshops, cultural events, and sharing circles throughout the year, during the school day, and after school. The coordinator has informed the principal of the school that smudging will be regularly performed as part of the centre's activities and events, and asks for the principal's approval.

The principal, although supportive of the establishment of the centre, informs the coordinator that smudging cannot take place in space allocated for the centre or indoors in any part of the school because of concerns about fire hazards and smoke alarms, staff and student health, and divisional and school scent-, fragrance-, and smoke-free policies. The principal is, however, prepared to allow smudging to take place in the school yard.

The school division has respect for diversity and anti-discrimination policies, as well as an Aboriginal Education action plan; however, they do not address smudging in schools or Aboriginal cultural and spiritual practices.

The coordinator responds by indicating that smudging is an essential element of Aboriginal ceremonies and cultural practices and appeals for changes in policies and other accommodations which would allow smudging to occur and indicates that it would not be appropriate to be forced outside to smudge.

#### Note

Manitoba Education and Advanced Learning released *Smudging Protocol and Guidelines (2014)*, which is available at <[www.edu.gov.mb.ca/aed/publications/pdf/smudging\\_guidelines.pdf](http://www.edu.gov.mb.ca/aed/publications/pdf/smudging_guidelines.pdf)>. Please see page 6 of the document for guidelines.

### Considerations

This case is problematic from several perspectives and reflects misinterpretations or misinformation.

#### SAFETY AND HEALTH WITH POLICIES

*Is there any aspect of the accommodation request that conflicts with the division's or government's Health and Safety laws, policies, or regulations such as scent-, fragrance-, smoke-free policies?*

## Smoke-Free Spaces

No. With respect to the use of smoke in traditional FNMI cultural or spiritual ceremonies, Manitoba's *The Non-Smokers Health Protection Act* exempts from restrictions otherwise placed on the use of tobacco, the smoking of tobacco or holding lighted tobacco by FNMI persons for traditional FNMI cultural or spiritual purposes.

Other legislative requirements such as those for ventilation also exempt smudging for traditional FNMI cultural or spiritual purposes. In most situations, smudging protocols and procedures can be put in place that will allow smudging to occur safely and respectfully. Fire and smoke alarms may be managed by facilities managers for occasional smudging events or specific designated areas may be established that are appropriately ventilated and allow for frequent or ongoing smudging.

## Allergies and Scent-Free Policies

No. In this case, the accommodation appears to contravene the division's policy. While some students or staff may have allergies to scents or smoke, smudging should be exempt from scent-free policies and these should not be a barrier to smudging in school. As long as appropriate protocols and communication systems are in place and specific, well marked designated places in the school are identified and used, students or members of the school community with allergies may be accommodated. Many schools and post-secondary institutions have developed policies, protocols, and procedures which minimize or eliminate potential concerns or issues related to scent and smoke allergies.

## CURRICULAR OUTCOMES

*Do any aspects of the request for accommodation exceed the areas of religious accommodation as identified in this guide or as a result of department policies or regulations?*

No. FNMI perspectives and inclusion are an important part of Manitoba's K-12 curriculum and the commitment to honour and welcome diversity. The inclusion of FNMI cultures and practices in schools plays a powerful role in supporting and engaging FNMI students and their families. As well, it is important that we educate all students about FNMI cultural beliefs and practices. Smudging is a common and important aspect of many FNMI cultures; therefore, whenever possible, it is important for schools to accommodate FNMI students, and/or visiting Elders or cultural teachers who wish to smudge as part of their teachings or ceremonies.

## UNDUE HARDSHIP

*Does any aspect of the request for accommodation cause undue hardship for the division/school?*

No. In most cases, smudging in schools may be accommodated with little or no cost. In addition, schools can locate designated areas of the school for this purpose in such a way that they minimize costs related to the installation of additional ventilation in the space or other physical changes that may be required.

## Resolution

It is important to recognize that school communities are made up of a wide and diverse population. In facilitating smudging ceremonies, the school should balance the rights and needs of all. To this end, Manitoba Education and Advanced Learning has created guidelines for smudging in schools to help ensure that these traditional smudging practices are honoured and supported while attending to the needs of those who may experience scent/smoke allergies. These guidelines draw on the successful experiences of some school divisions and post-secondary institutions, which have developed policies, protocols, and procedures. Some examples follow.

- St. James School Division: IMDE Smudging Practices in Schools.pdf: <<http://polmanual.sjsd.net/polmanualpdf/Section%20I%20-%20Instruction/IMDE%20Smudging%20Practices%20in%20Schools.pdf>>, IMDE-E-1 Smudging Location.pdf: <<http://polmanual.sjsd.net/polmanualpdf/Section%20I%20-%20Instruction/IMDE-E-1%20Smudging%20Location.pdf>>, IMDE-E-2 Smudging Parent Permission Form.pdf: <<http://polmanual.sjsd.net/polmanualpdf/Section%20I%20-%20Instruction/IMDE-E-2%20Smudging%20Parent%20Permission%20Form.pdf>>, and IMDE-R Smudging Practices.pdf: <<http://polmanual.sjsd.net/polmanualpdf/Section%20I%20-%20Instruction/IMDE-R%20Smudging%20Practices.pdf>>.
- Smoke Free Spaces Policy, Parklands SD: <[http://parklandtransport.ca/Documents/AP\\_162\\_Smoke\\_Free\\_Spaces.pdf](http://parklandtransport.ca/Documents/AP_162_Smoke_Free_Spaces.pdf)>
- Edmonton Public Schools Aboriginal Education Policy: <[www.epsb.ca/ourdistrict/policy/h/haa-ar/](http://www.epsb.ca/ourdistrict/policy/h/haa-ar/)>
- University of Manitoba Clean Air Policy: <[http://umanitoba.ca/admin/governance/governing\\_documents/staff/688.html](http://umanitoba.ca/admin/governance/governing_documents/staff/688.html)>
- University of Winnipeg, Ceremonial Use of Sacred Medicines: <[www.uwinnipeg.ca/index/cms-file-system-action/pdfs/admin/policies/ceremonial\\_use\\_of\\_sacred\\_medicines\\_090913.pdf](http://www.uwinnipeg.ca/index/cms-file-system-action/pdfs/admin/policies/ceremonial_use_of_sacred_medicines_090913.pdf)>
- Cambrian College, Traditional Aboriginal Activities on Campus: <[www.cambriancollege.ca/AboriginalStudents/Documents/TraditionalAboriginalActivitiesonCampus2008.pdf](http://www.cambriancollege.ca/AboriginalStudents/Documents/TraditionalAboriginalActivitiesonCampus2008.pdf)>

## Case Scenario 2: Accommodation for Modesty Requirements in Physical Education

### Description

A Grade 11 student and her parents have requested that she be allowed to wear a hijab and long skirts or dresses in physical education classes and when participating in school sports teams to meet their interpretation of Muslim modesty requirements. They inform the school that wearing sport or sweat pants, and long-sleeved sport tops does not meet their modesty requirements. They have also requested that, for modesty purposes, when she participates in physical activities inside the school or on the school's sports fields, that she participate in female-only classes or teams.

### Considerations

#### GENDER EQUITY

*Does the accommodation requested conflict with the Division's policies concerning Gender Equity and Human Diversity?*

Partly. While the physical education classes and most intramural and school sports are gender specific, some teams are co-educational. These teams will continue to function and the student will need to choose whether or not to participate in these teams.

#### SAFETY

*Does any aspect of the request for accommodation prevent the student from achieving curricular outcomes as identified by the department's curriculum framework for Senior Physical Education and Health courses?*

Yes. The Manitoba Education and Advanced Learning safety guidelines for physical education activities identifies the types of clothing students can and cannot wear to guarantee their safety. The request may conflict with the Department's guidelines as the wearing of a hijab and long skirts or dresses may pose a safety concern in certain situations or sports (e.g., swimming, gymnastics, and so on). As such, there would be some activities in which this student would be unable to participate and alternatives would be provided.



Figure 5.2: Student playing a drum

## CURRICULAR OUTCOMES

*Do any aspects of the request for accommodation exceed the areas of religious accommodation as identified in this guide or as a result of department policies or regulations?*

No. The Guide identifies that beliefs and practices pertaining to modesty requirements and Islamic attire/dress are to be accommodated, including the wearing of the hijab. (See section on Islam.)

## UNDUE HARDSHIP

*Does any aspect of the request for accommodation cause undue hardship for the division/school?*

No.

## Resolution

The request should not be fully granted because it conflicts with some aspects of the safety policies set forth by Manitoba Education and Advanced Learning as well as the school's policy on gender equity.

The school administrator may suggest that the student purchase a sports hijab that would eliminate or minimize safety concerns with respect to the hijab. If the classes are gender specific and males are not present in the gym or facility, Muslim modesty requirements allow the students to exercise without a hijab.

The administrator should also advise the parent/guardian that the wearing of long skirts or dresses would limit the activities in which the student could participate safely and that alternative activities in such situations would be needed.

## Case Scenario 3: Accommodating an After-School Christian Youth Club

### Description

A not-for-profit Christian youth organization that has been active in Canada for many years operates youth programming that seeks to help young people attain their full life potential. This Christian youth organization works with churches, governments, schools, and other youth serving agencies to meet the needs of teenagers. The organization operates clubs that provide culturally relevant programs for teenagers that are run by trained staff and/or volunteers, and draw on Christian ethics and teachings to inform their programming.

The organization had been involved in a Christian youth club (CYC) that was formed and operated as an after school program in a Winnipeg area high school. The youth club operated at this school for several years without any incident or problems; however, the school division underwent a reorganization process that resulted in that school site being reassigned and the students from that site were merged with students at another school site.

Two teachers that had volunteered their time and been involved in the CYC asked their school administrators to be allowed to continue to offer the club at the new school site the following fall. They were told by the school principal that they could 'grandfather' the club and its programs at the new school site.

However, in September, at the start of the new school year, when the two student populations had been merged, and just before the CYC was to hold its first meeting, the two teachers received an email from the school administration informing them that they would not be allowed to participate. The teachers canceled the meeting and informed students that the club would not operate until further notice.

Subsequently, the teachers asked the school principal to reconsider the decision and allow the CYC to operate at the school based on their prior assurances that they could 'grandfather' the club. The principal of the school considered their appeal and, after checking with the superintendent, gave permission to operate the club at the school "as long as they kept things quiet and did not advertise their activities."



Figure 5.3: The Christian Fish or Ichthys was a secret symbol of early Christianity.

The teachers proceeded to open and offer programming; however, they found the no advertising rule a challenge in identifying interested students, communicating with club members, and providing information about meeting dates and special events. When they did meet, the club drew students of diverse backgrounds and religions.

In spite of the difficulties, the CYC was able to function and was progressing well; nevertheless, this soon changed at the end of the second year of operating in the new school. At that point, some club members with ties to a nearby church were advised by a person there to ignore the no advertising rule. The individual encouraged the student club members to put up public displays and publicize events. The teachers involved in the CYC club advised the students not to do so as it would contravene the direction the school administration had established. The conflict culminated with some students acting independently and putting up posters in the school advertising a non-CYC event that was being sponsored by the nearby church.

During the church-sponsored event, a movie was shown that related to suicide; however, the coordinators of the event failed to provide adequate support or debrief following the viewing. Some parents learned of the event and complained to the school principal. As a result, the school principal decided that the CYC club would no longer be allowed to operate in the school unless certain conditions were met. They were informed that for the CYC to reopen



Figure 5.4: Diverse group of students

- they needed to have a petition signed by 60 or more students who were prepared to pledge their support for the club
- the petition would need to be renewed each school year
- school staff would not be allowed to participate
- adult leaders/supervisors had to be found in the community

As a result of the school division's decision, the CYC ceased to operate in the school and the nearby church began to offer a youth program at the church.



## Considerations

This case is problematic from several perspectives and reflects misinterpretations or incorrect application of current policies and procedures.

### SAFETY AND CONFLICTS WITH POLICIES

*Is an after-school religiously based club deemed to fall under the department's policies on religious observances or instruction?*

No. Students should be allowed to form after-school clubs or have activities based on religion as long as the membership is open to any student in the school and there is no attempt to convert students. The club should be used as a vehicle to discuss issues that impact on the members as students.

It is important to recognize that the CYC, although having a religious connection, is like any other club that is offered at a school. It should, therefore, be treated the same as any other student-initiated club in the school such as a gay-straight alliance, a chess club, an astronomy club, a judo club, and so forth.

This case study provides evidence of why it is important for school divisions and schools to have clear guidelines and procedures for starting a school-sanctioned student club or activity.

### Example of Possible Guidelines and Procedures for Starting a Student Club or Activity

To assist staff and students in instituting clubs or activities that promote respect for human diversity within their school, guidelines and procedures such as the following might be considered and implemented.

- The club or activity has to be consistent and comply with school board and school policies.
- All such clubs and activities should be open to all students who wish to participate in an appropriate manner.
- When starting a school club or activity, clear and consistent procedures should be followed. The following are examples of such procedures.
  - A written proposal from one or more students who wish to establish a student club or to organize a specific activity should be submitted to school administration for review and consideration. The nature and purpose of the club or activity should be clearly identified, along with other supporting information such as an assessment of the school climate, possible obstacles to and rationales for the club or activity, the frequency of meetings, how the meetings will be advertised, a mission statement, and proposed group rules and/or guidelines.

- The proposal should be reviewed by school administration, in consultation with other appropriate school staff members such as guidance counsellors, social workers, or other resource personnel, to ascertain
  - the purpose and goals of the activity or club
  - the requirements for supervision, school space, and other resources
  - that the proposal is consistent with school and division principles
- School administration should ensure that all approved clubs or activities are adequately supervised and supported. This would include the designation of specific staff as faculty advisor(s) or faculty supervisor(s) and, in the case of ongoing clubs, the designation of an appropriate and safe meeting place within the school premises.
- All students involved in a club or activity must agree to respect the personal privacy of student participants. Student participants may be restricted on the use of personal electronic devices during meetings, and on posting personal information on social media sites or disclosure of personal information in any other manner. Consequences for failing to comply with established rules or guidelines should be clearly identified. These could include the suspension of the group as a whole, or of one or more individual group members.
- The faculty advisor(s)/supervisor(s) must be present at all club meetings and/or activities.
- Agendas/activities for each club meeting should be planned in advance so that club members can come to the meetings prepared to participate.
- If a matter arises that requires the involvement and/or intervention of outside agencies (such as CFS or law enforcement) those services should be sought at the earliest opportunity.

If such guidelines and procedures had been in place at the divisional and school level in the case study under discussion, they would have provided teachers, students, and administrators involved in the CYC with guidance in starting such a club at the new school.

Examples of school division policies from

- Hamilton-Wentworth District School Board, Faith Club And Prayer Activities: <[www.hwdsb.on.ca/wp-content/uploads/2012/05/Faith-Club-And-Prayer-Activities.pdf](http://www.hwdsb.on.ca/wp-content/uploads/2012/05/Faith-Club-And-Prayer-Activities.pdf)>
- Surrey School District: <<https://www.surreyschools.ca/ParentServices/ParentInfoBrochures/Documents/Extra-curricActivities-English.pdf>>

*Should the CYC members have been held accountable or responsible for the non-school sponsored activity held at the nearby church?*

No. A second problem with this scenario is that students choosing to advertise a non-CYC event being sponsored by the nearby church should not have any impact on the CYC. As it was not a school-sponsored event and the students who put up the posters did so without school authorization, parents calling the school to complain about the event should have been advised to contact the church that sponsored the event. Nevertheless, it is important that schools ensure that a formal process for approving the posting of public materials on the school site is established, that information on the approval process is communicated, and that the administration monitors compliance with the process and removes unauthorized materials in a timely fashion.

*Because the CYC is a Christian club, should the activities of the club be subject to the Public Schools Act of Manitoba requirements concerning religious exercises and observances?*

No. The requirements that the school administration set out for the CYC to continue to operate apply to school-based religious exercises and observances. Although, the CYC has a religious affiliation, it is not dedicated to prayer and religious observances nor is it dedicated to instruction of religion. In addition, the club operated outside of the regular school day and students attended on a voluntary basis. Therefore, the requirements for school-based religious exercises and instruction as set out in The Public School Act do not apply in this case.

*Can teachers be compelled to supervise or not participate in student initiated or led clubs and activities?*

No. Teacher participation in student initiated or led clubs and activities that occur outside of the regular school day and school program is voluntary. Staff should not be compelled to supervise a before or after school activity. Designating a specific staff person to supervise such a club should only be done if the staff person agrees to act in that capacity. Equally important is that staff should not be prevented from voluntarily participating in such clubs or activities if they so choose.

## Case Scenario 4: Accommodation for Religious Beliefs/Values with Respect to the Music Curriculum



Figure 5.5: Music notes

Music is an essential aspect of many religious and spiritual events and rituals from around the world and within many faith traditions; however, some religious groups of Christian, Islamic, and other faiths have an uncomfortable relationship with music whether it is singing and/or the use of musical instruments. For example, several important personalities in the Reformation and early Anabaptist movement were against all forms of music. In some contemporary Anabaptist communities such as the Hutterites and Amish, while songs and singing are an important element of their religious practice, church music is unaccompanied by any form of musical instrument. Generally, the Amish do not play musical instruments. In some Hutterian communities, instruments are fully accepted for home and recreational use while in others, they are forbidden.

With respect to Jehovah Witnesses, students do not participate in any kind of music and art instruction in connection with religious or patriotic holidays.

### Description

A Grade 2 Muslim student's parents have requested that their child be exempted from music class and be provided with another art education alternative. Listening to or playing musical instruments is *haram*—forbidden (see the Islam backgrounder on pages on Music and Islam). The parents presented the teacher with a letter from their *imam* indicating that from a Muslim perspective

- The music normally used for 'entertainment purposes' is forbidden.
- Studying instrumental music is not allowed.
- Studying vocal music (i.e., without use of instruments) is permissible.
- Studying music appreciation is not allowed since it involves listening to the forbidden music.

Previously, the parents were very supportive of their daughter's full participation in the music class and all aspects of the curriculum; however, now that they had been presented with this interpretation from their imam, they want their daughter to be accommodated or offered a suitable arts education alternative.

Currently, this particular school is not able to offer another arts education option for the student due to staffing limitations.

### Considerations

#### SAFETY

*Is there any aspect of the accommodation request that conflicts with safety, excursions, etc.?*

No.

### CURRICULAR OUTCOMES

*Do any aspects of the request for accommodation exceed the areas of religious accommodation as identified in this guide?*

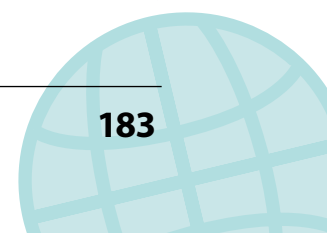
Yes. Arts Education (Dance, Drama, Music, and Visual Arts) in Manitoba schools is mandatory from Grades 1 to 8. The number and choice of

arts subject areas offered in a school will depend upon local context. Recommended time allotments are 10% of instructional time in Grades 1 to 6 and 8% of instructional time in Grades 7 and 8.

*Does any aspect of the request for accommodation prevent the student from achieving curricular outcomes as identified by Manitoba Education and Advanced Learning’s curriculum framework for the early years arts/music?*

Yes. The exemption of the student from listening to music, and studying or playing any musical instrument affects the assessment and evaluation of the student in terms of the department’s music curriculum framework for early years arts/music. The following are the general learning outcomes for music:

<b>General Learning Outcomes for Music</b>				
Music Language and Performance Skills	Students develop skills for making music individually and as part of an ensemble.	Students develop skills for making music through aural, written, and visual music systems.	Students demonstrate understanding of and facility with rhythm, melody, texture, and harmony in a variety of musical contexts.	Students demonstrate understanding of expression, timbre, and form in a variety of musical contexts.
Creative Expression in Music	Students generate and use ideas from a variety of sources for creating music.	Students develop ideas in music, creatively integrating music elements, techniques, and compositional tools.	Students interpret, perform, and share their own and others’ music.	
Understanding Music in Context	Students experience and develop awareness of music from various times, places, social groups, and cultures.	Students experience and develop awareness of a variety of music genres, styles, and traditions.	Students demonstrate understanding of the roles, purposes, and meanings of music in the lives of individuals and in communities.	
Valuing Musical Experience	Students demonstrate interest, curiosity, and engagement while making and experiencing music in a variety of contexts.	Students analyze their own and others’ musical excerpts, works, and performances.	Students form personal responses to and construct meaning from their own and others’ music.	Students assess their learning in performing, creating, and experiencing music.



## UNDUE HARDSHIP

*Does any aspect of the request for accommodation cause undue hardship for the division/school?*

Yes. If the student were exempted from the music program, the school would need to provide an alternative arts program (dance, drama, or visual arts) for the student and assign a teacher to develop and supervise the student. Because of the age of the student, a student-led project or course is not feasible.

## Resolution

The school dealt sensitively with parental concerns while, at the same time, reinforcing the fact that the arts are a mandatory part of the provincial curriculum.

While the school was willing to consider the parents'/student's request to have the student participate in another arts genre (fine arts, visual arts, or drama), in this situation this was not possible because such alternatives were not offered at the school and it would be a hardship to provide an alternative.

The school and the parents, with the assistance of a local Muslim educational and service agency, were able to reach an agreement on accommodations that would be provided in the music classroom and that would allow the student to continue to attend the music program. The accommodations included allowing the student to participate in rhythm-focused music alternatives such as singing, clapping hands, and snapping fingers, which are permissible and yet would allow the student to demonstrate rhythm and meet the performance and creative expression learning outcomes requirements of the curriculum. As well, the teacher would select music and songs that were inclusive, reflected diverse cultures, and reinforced positive values.

The school documented the steps taken to respond to the parental and/or student requests for accommodation and exemptions. (See the [Reasonable Accommodation of Religious Beliefs—Checklist](#)).

Furthermore, the school reassured the parents that their children would not be asked to join in with songs that contradict Islamic belief (e.g., Christmas carols or hymns) or perform music that could be considered inappropriate. In addition, in order to allay worries, the parents were invited to sit in on a typical music lesson.

## Case Scenario 5: Accommodation for Attendance at *Salat Aljum'a* Friday Congregational Prayers Held During Noon or Instructional Time

### Description



Figure 5.6: Boys praying

A group of teachers who routinely tracks student attendance in accordance with Manitoba's [Everybody in School Every Day](#) initiative noticed that a number of male high school students were regularly missing classes or arriving late every Friday afternoon. When confronted by the teachers regarding their behaviour, the students informed them that they were missing all or part of the first afternoon classes in order to attend the weekly *Salat Aljum'a* (Muslim congregational prayer service held on Fridays) conducted at the nearby mosque. *Salat Aljum'a* is obligatory for every Muslim male, who has reached the age of puberty.

The students requested that they be excused or allowed to be absent with the school's permission for part of the afternoon to attend the congregational prayers at the nearby mosque. Alternatively, they proposed that the school provide a space for the Friday prayers and permit an *imam* to come to the school and lead the prayer service.

### Considerations

#### SAFETY AND CONFLICTS WITH POLICIES

*Is there any aspect of the accommodation request that conflicts with the division's or department's policies regarding equity, human rights, safety, excursions, attendance, and so forth?*

Yes. Students unexplained absences from school, or late arrival, contravenes the division's attendance policy, which considers an unexplained absence as an act of truancy. To be considered as an explained absence, the absence must be for unavoidable causes and be supported by a written note or telephone call from a parent or guardian, or if the student is 18 or older, a note or telephone call from the student.

The students' alternative request for the congregational prayer to be held at the school and led by an imam may be considered a form of religious exercise and the parents and guardians of the students would need to follow the policies and requirements for religious exercises in schools as provided earlier in this document.

## CURRICULAR OUTCOMES

*Do any aspects of the request for accommodation exceed the areas of religious accommodation as identified in this guide or as a result of the department policies or regulations?*

No. As indicated in the Islam Fact Sheet, Friday is the holy day of the week for Muslims and it is encouraged for men and optional for women to offer the early afternoon prayer, *Juma'ah*, in congregation. During Friday lunchtime, Muslims are required to take a break from their work, or other activities they may be involved in, and go to the mosque or prayer hall to offer the noon prayer. Because the prayer time is dependent on the sun's position, *Salat Aljum'a* may fall during the noon period or after 1 o'clock in the afternoon. The congregational prayer is led by an *imam*.

The guide identifies that beliefs and practices pertaining to Friday's congregational prayer are to be accommodated. Students should be allowed to attend Friday afternoon prayer services. Where possible, if students are praying in a nearby mosque, they should be allowed a reasonable amount of time for travel and the prayer.

*Does any aspect of the request for accommodation prevent the student from achieving curricular outcomes as identified by the Manitoba Education and Advanced Learning curriculum framework for senior years courses?*

Yes. The students will be missing class time on a regular basis; however, since teachers will know in advance which classes will be missed, they may explore ways to allow students to compensate for missed classroom time (assigning homework, after school homework clubs, and other strategies).

## UNDUE HARDSHIP

*Does any aspect of the request for accommodation cause undue hardship for the division/school?*

No.



## Resolution

Due to the conflicts with the Department's and division's attendance policies and religious exercises policies, the students' request for accommodation to be excused from the school for the weekly *Salat Aljum'a* may be fully granted as long as the three following conditions are met:

- Parents/guardians formally request an accommodation for their child's absence from school, for purposes of attending the weekly *Salat Aljum'a* prayers.
- For reporting to Manitoba Education and Advanced Learning, the explained absences may be recorded as 'Religious Holiday' or as 'Other: Religious Observance'.
- The students commit to being responsible for all curricular work that has been completed during their absence.

The alternative accommodation of holding *Salat Aljum'a* prayers in school, led by an imam may only be allowed if the parents follow the requirements and procedures for religious exercises to be held in schools as set out in *The Public Schools Act*. It should be noted that when religious exercises are to be held on a teaching day, according to Manitoba's policies and regulations, they shall be no longer than ten minutes in duration and are not to be held during regular instructional time. Therefore, religious exercises would need to be held either prior to the start of the school day or during noon recess.

However, if the mosque is far way or there is a concern with the time required to attend the Friday prayers away from the school, an alternative would be for the school to provide an appropriate space that would allow the students to gather in the school and allow them about 15 minutes to perform the Friday prayer without leaving the school.

## Case Scenario 6: Accommodation for the Wearing of Religious Symbols

### Description

A Grade 10 male Sikh student has requested to wear a *kirpan* to school. A *kirpan* is a ceremonial sword, the wearing of which is a religious requirement of baptized Khalsa Sikhs. The school has a zero tolerance policy on students bringing weapons to school.



Figure 5.7: A Kirpan

### Considerations

#### SAFETY

*Is there any aspect of the accommodation request that conflicts with the division's or department's policies regarding equity, human rights, safety, excursions, and so on?*

No. Although the school has a zero tolerance policy on students bringing weapons to school, the *kirpan* is ceremonial and not to be used as a weapon by the wearer. The *kirpan* is not to be removed from its sheath and presents little risk to the wearer or other students or staff in the school. The courts have pointed out that there has never been a documented case in a school in Canada where a *kirpan* has been used as a weapon. Furthermore, there are a variety of objects in schools that could be used as a weapon in a violent incident such as compasses, pencils, and baseball bats. Not every object that could be potentially used as a weapon is banned from schools.\*

#### CURRICULAR OUTCOMES

*Do any aspects of the request for accommodation exceed the areas of religious accommodation as identified in this guide or as a result of department policies or regulations?*

No. The guide identifies that beliefs and practices pertaining to the wearing of a *kirpan* by baptized Khalsa Sikh are to be accommodated.

\* Multani v. Commission scolaire Marguerite-Bourgeoys. Supreme Court of Canada. (2006). Retrieved from the Department of Justice Canada website at <<http://scc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/en/item/15/index.do?r=AAAAAQAHbXVsdGFuaQAAAAAAAAAE>>.

*Does any aspect of the request for accommodation prevent the student from achieving curricular outcomes as identified by the Department of Education and Advanced Learning's curriculum framework for Senior Physical Education and Health courses?*

No.

### UNDUE HARDSHIP

*Does any aspect of the request for accommodation cause undue hardship for the division/school?*

No.

## Resolution

The student's request should be granted. Based on a Supreme Court of Canada decision, schools are to accommodate Khalsa Sikh students and staff who wear a *kirpan* under the following conditions:

- At the beginning of the school year or upon registration, the student and parents/ guardians must report to the school administration that they are Khalsa Sikhs and wear the five articles of faith.
- The principal, in consultation with the student and his/her parents/ guardians will develop appropriate accommodations to allow the student to wear the *kirpan* while ensuring the safety of others. These may include the following conditions:
  - The *kirpan* is small (six to seven inches).
  - The *kirpan* will be sufficiently secured to render removal difficult.
  - The *kirpan* should not be worn visibly, but under the wearer's clothing.
  - There is notification in writing to the principal by parents/guardians, the student and, where possible, the gurdwara (place of worship), confirming that the student requesting accommodation is a Khalsa Sikh.
  - Students under 18 must be accompanied by parents/guardians when discussing the rules regarding the wearing of the *kirpan*.

For an example of a school policy concerning *kirpans*, see *Toronto Catholic District School Board Policy on Religious Accommodation, Appendix A*, available at [www.tcdsb.org/Board/EIE/Pages/Religious-Accommodation.aspx](http://www.tcdsb.org/Board/EIE/Pages/Religious-Accommodation.aspx).

## Case Scenario 7: Accommodation for Gender Segregation

### Description

The parents of a Grade 7 female student have requested that their daughter attend kindergarten class alongside her younger brother, and continue to advance in the grades according to the brother's pace and progress. The family has recently immigrated to Manitoba. All family members did not speak English, and the girl herself had never been part of a formal educational system. Moreover, based on their traditional way of life the parents were opposed to placing their daughter in an age-appropriate class that involved learning with students of the opposite sex. If accommodation is not met, the parents are inclined to keep the girl at home.



Figure 5.8: Brother and sister

### Considerations

#### SAFETY

*Is there any aspect of the accommodation request that conflicts with the division's or department's policies regarding equity, human rights, safety, excursions, and so on?*

Yes. The request contravenes Manitoba Education and Advanced Learning's policy on inclusion, gender equity, and appropriate education.

#### CURRICULAR OUTCOMES

*Do any aspects of the request for accommodation exceed the areas of religious accommodation as identified in this guide or as a result of department policies or regulations?*

Yes. This guide identifies areas of accommodation in terms of prayer, holy days, dietary restrictions, Islamic dress, some curricular requirements and activities, as well as matters involving members of the opposite sex; however, this request exceeds the scope of the identified accommodation.

*Does any aspect of the request for accommodation prevent the student from achieving curricular outcomes as identified by the department's curriculum framework for middle school courses?*

Yes: The Manitoba Education and Advanced Learning appropriate education guidelines require that "A school board must ensure that, as far as reasonably practicable, appropriate educational programming is available to a pupil in a regular class of his or her peers."\* Therefore, students should attend school at grade and skill appropriate classes. Attending a lower grade level would mean compromising the girl's ability to meet the curricular outcomes for her age.

## UNDUE HARDSHIP

*Does any aspect of the request for accommodation cause undue hardship for the division/school?*

Yes. The school was extremely sensitive, supportive, and accommodating in allowing the student a smooth transition into the Manitoba school system. The student had acquired the basic skills that allowed her to join the appropriate grade level for her age. The school suggested to the parents and the child that she could sit at the back of the class so as to be further away from students of the opposite sex. By law, the school could not fully accommodate the parents' request.

## Resolution

The parents' request should not be fully granted because it conflicts with some aspects of the Manitoba Public School Act and the Education Administration Act. The administrator should also advise the parents that they are legally obligated to have their child attend a public, independent, or home school.

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\* Appropriate Educational Programming Regulation at <<http://web2.gov.mb.ca/laws/regs/annual/2005/155.pdf>>.

## Case Scenario 8: Accommodation for the Teaching of Evolution in the Science Curriculum

### Description

A parent met with their child's teacher and requested an accommodation for their child with respect to Grade 6 Science based on religious beliefs. Specifically, the parent requested that the child be exempt from taking the Grade 6 Science

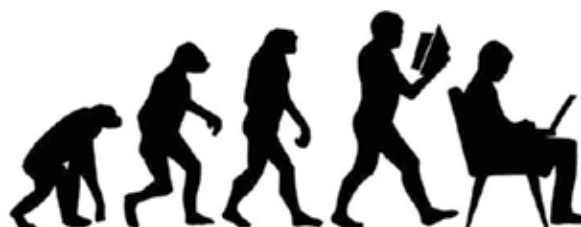


Figure 5.9: Evolution?

unit on the diversity of living things and be provided with an alternative unit based on the creation stories and beliefs of First Nations peoples. The parent objected to the unit because it draws on the theory of evolution and this theory conflicts with their belief that the world has come to be because of a divine Creator.

### Considerations

#### BACKGROUND

The theory of evolution, per se, is not explicitly addressed in the formal, compulsory Manitoba Kindergarten to Grade 10 science curriculum. The science curriculum does, however, use the more age-appropriate and accessible terminology of “change over time” and “adaptations, similarities, and differences” among related organisms. The concept of evolutionary change is addressed in Manitoba science in the Grade 6 Diversity of Living Things cluster. As indicated, the Manitoba science curriculum does not explicitly require the teaching of the theory of evolution, its tenets, its origins, nor the work of Sir Charles Darwin and his contemporaries. It is, however, possible that “origins stories” and anthropological theories related to the origin of the human species could be addressed in the learning experiences in Manitoba Grade 8 Social Studies in Cluster 1: Understanding Societies Past and Present.

While Darwinian evolutionary theory is not explicitly prescribed or taught in the mandatory science curriculum from Kindergarten to Grade 10 in Manitoba, the theory of evolution does figure prominently in the optional/elective Grade 12 Biology 40S curriculum. In this course, the theory of evolution holds a significant position as the “guiding theoretical framework” to explain the origins of life on Earth. Consequently, it involves extensive treatment of the theory.

Grade 12 Biology 40S, by virtue of being an elective course, does not specifically require accommodations for students for whom the theory of evolution conflicts with their beliefs regarding the origin of life on Earth and its species diversity. It is conceivable that issues related to spiritual and/or religious views in terms of the origins of species will surface in the biology classroom. If so, such instances provide an opportunity for students to familiarize themselves with the limitations of scientific explanations, the heavy reliance upon falsifiability (which all theories in science must be subject to), and the recognition that ways in which the Universe is known are not exclusively scientific. What is important to recognize is that cultural proficiency with respect to the nature and culture of modern science is as important to the teaching of science in an authentic way as is sensitivity to systems of belief which are not contained within the scientific worldview.

### CURRICULAR OUTCOMES

*Do any aspects of a request for accommodation (e.g., opting out of a science class) prevent the student from achieving curricular outcomes as identified by the Manitoba Education and Advanced Learning's curriculum frameworks for K-10 Science?*

Yes. The Grade 6 Diversity of Living Things unit includes students “comparing and contrasting adaptations of common” vertebrate and invertebrate organisms to “identify, based on evidence gathered by paleontologists, similarities and differences in animals living today and those that lived in the past”, and to “identify and describe contributions of scientists and naturalists who have increased our understanding of the diversity of living things...” These specific learning outcomes can only be addressed scientifically by an appeal to the theory of evolution and, more specifically, the concepts of homologous body structures, and the emergence of new species from pre-existing ones. Concepts such as this cannot be accommodated by an appeal to supernatural forces or a Creator through the lens of science.

### UNDUE HARDSHIP

*Does any aspect of the request for accommodation cause undue hardship for the division/school?*

No.

## Resolution

In Manitoba, the Department's position on teaching science, and other disciplines/subjects, has consistently asked teachers to be balanced and ethical in dealing with potentially controversial events or topics in the classroom. A fundamental aspect of science learning and teaching (at all grades, but particularly in the Senior Years) is the consideration of controversial issues including those that involve ethics, principles, beliefs, and values. Teachers are not asked to avoid controversial issues, as discussion and debate concerning ethical questions serve to motivate students and make learning more personally meaningful.

Nevertheless, students are encouraged to appreciate that science provides the background for informed personal and social decisions and that, as informed decision makers, they may have an impact on society and the world. Some students and parents may express concerns because the perspectives of science conflict with personal systems of belief. These individuals have a right to expect that science and the public education system will respect those beliefs, although this does not preclude such issues from arising in the classroom. Teachers of science explain that science is a particular way of learning about the universe and our place in it and that, in certain instances, other explanations have been put forth as explanations, but not all are scientific.

The parent, after two meetings with the classroom teacher and the principal and taking the points that preceded on the nature of the science curriculum in Manitoba, agreed to withdraw the request for accommodation on the condition that the teacher would

- Ensure students recognize that the theory of evolution neither accepts nor rejects the existence of a Creator—it offers an exclusively scientific explanation of the evidence for the origins of life on Earth and the past, present, and probable future of living species.
- Include and explore with students alternative socio-religious/spiritual explanations for the origins of the universe and species, such as First Nations Creationism, Intelligent Design, and other forms of creationism, and clearly differentiate these alternatives from the Western scientific traditions which underpin the science curriculum.
- Students would have the opportunity to share their own diverse beliefs and understandings about the origins of the universe and humanity in a respectful and inclusive manner.