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Safe and Caring Schools

Respect for Human Diversity Policies

A Support Document for
Manitoba School Divisions and Funded Independent Schools
in Developing Human Diversity Policies

Part of Manitoba's Anti-bullying Action Plan

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This resource is available on the Manitoba Education and Advanced Learning website at <www.edu.gov.mb.ca/k12/safe_schools/index.html>.

Disponible en français.

Available in alternate formats upon request.

Contents

Introduction	1
Background	2
Legislative Context	2
Policy Context	3
Diversity, Human Rights, and Safe Schools Policies	4
Development of a Respect for Human Diversity Policy	6
Legislative Requirements	7
Sample Policy Components and Language	7
Appendices:	
Appendix A: Relevant Legislation	11
Appendix B: Respect for Human Diversity Policy Development Checklist	17
Appendix C: Sample Definitions	19
Appendix D: Sample Policy Content	21
Appendix E: Frequently Asked Questions	25
Appendix F: Possible Guidelines and Procedures for Starting or Accommodating a Student Club or Activity	27
References	29

Introduction

Manitobans are all too familiar with recent stories of bullying happening not only in schools, but also in social media and through the Internet. For many students, bullying experiences have made their schools fearful and unwelcoming places. Tragically, some of these stories are linked to youth suicide. This has heightened awareness and prompted action to stop bullying in schools and communities and to ensure every student in Manitoba feels safe and respected in school, on the school bus, on the sports field, and in the community.

To achieve this goal, the right tools and information are needed. One such tool is a diversity policy, which research shows to be a contributing factor in creating safer and more inclusive schools. *Respect for Human Diversity Policies: A Support Document for Manitoba School Divisions and Funded Independent Schools in Developing Human Diversity Policies—Part of Manitoba’s Anti-bullying Action Plan* is intended to provide information to assist school divisions and funded independent schools to comply with new legislation and to develop a **respect for human diversity policy**, or to revise existing policy, as a tool toward ensuring all Manitoba students experience safe and inclusive schools.

It is important to emphasize that *The Public Schools Amendment Act (Safe and Inclusive Schools)* that passed in 2013 included amendments that addressed bullying prevention and human diversity more broadly than before. As a result of those amendments, *The Public Schools Act* now applies more explicitly to the protected qualities within Manitoba’s *Human Rights Code*, including gender, race, disability, sexual orientation, and gender identity. It requires more than tolerance and acceptance; it calls for action.

It is not sufficient under this legislation to remain silent on the issues of bullying prevention and respect for human diversity, no matter how sensitive some of these issues may be. Manitoba Education and Advanced Learning will monitor the impact of this legislation and maintain communication with school boards and funded independent schools regarding their actions to **promote, enhance, educate about, and accommodate** respect for human diversity.

In addition to this support document, the department has also committed to do the following:

- Conduct workshops on human diversity policy development for school board trustees, senior school division administrators, and representatives from funded independent schools.
- Make new resources available on the Manitoba Education and Advanced Learning website to help teachers, parents, and students recognize and respond to bullying.

Background

Addressing personal safety in schools is not new in Manitoba. In 2001, the government established Safe Schools Manitoba (SSM) with funding from Manitoba Education and Manitoba Justice to provide consultation related to issues of safety in schools. In 2004, it became provincial law that schools ensure safe and caring environments for all students. *The Safe Schools Charter* requires all Manitoba schools to keep their safety policies appropriate and current with the assistance of a Safe Schools Advisory Committee, and each school is required to have a code of conduct for pupils and staff and an emergency response plan (ERP).

In 2008, further amendments to *The Public Schools Act*, resulting from Bill 24, *The Public Schools Amendment Act (Cyber-Bullying and Use of Electronic Devices)*, broadened the definition of bullying to include bullying using technology and the Internet.

In 2011, *The Public Schools Amendment Act (Reporting Bullying and Other Harm)* amended the Act to require adults in schools to report unacceptable student conduct.

Bill 18, *The Public Schools Amendment Act (Safe and Inclusive Schools)*, was introduced on December 4, 2012, when the Minister of Education announced the development of an anti-bullying action plan designed to further protect students and create safe inclusive school environments. Bill 18 was proclaimed on October 10, 2013.

Legislative Context

The Public Schools Amendment Act (Safe and Inclusive Schools) made changes to the Act in the areas of bullying, cyberbullying, and respect for human diversity. These changes require school divisions and funded independent schools to have a written policy, or policies, concerning **respect for human diversity** in place by **June 30, 2014**.

The Public Schools Act now

- defines bullying, recognizing that bullying can take a variety of forms, including cyberbullying
- expands requirements for school employees, or those in charge of pupils during school-approved activities, to report cyberbullying to the principal
- requires school divisions and funded independent schools to ensure their policies about the appropriate use of the Internet include social media, text messaging, and instant messaging
- requires schools to become more inclusive, requiring each school division and funded independent school to establish a respect for human diversity policy to promote the respect and acceptance of others in a **safe, caring and inclusive school environment**. The policy must accommodate any student activity or group that promotes an inclusive school environment. This includes student activities and organizations that use the name “gay-straight alliance.” (See Appendix F: Possible Guidelines and Procedures for Starting or Accommodating a Student Club or Activity.)

What is a Gay-Straight Alliance?

Gay-Straight Alliances (GSAs) are official student clubs with LGBTQ (lesbian, gay, bisexual, transgender, two-spirit, queer, and questioning) and heterosexual student membership and typically two teachers who serve as faculty advisors. Students in a school with a GSA know that they have at least one or two adults they can talk to about LGBTQ issues. The purpose of GSAs is to provide a much-needed safe space in which LGBTQ students and allies can work together on making their schools more welcoming of sexual and gender minority students. Some GSAs go by other names such as Human Rights Clubs or Social Justice Clubs in order to signal an openness to non-LGBTQ membership (though of course, some of these are not GSAs and might not address homophobia). (Taylor et al. 80)

Some organizations and schools prefer the term *positive space groups (PSGs)* as the term gay may not fully capture the diversity of LGBTQ people and allies (e. g., The Ontario Positive Space Teachers' Association).

A new **provincial code of conduct** has been developed and sets out a range of appropriate disciplinary consequences that all schools will be required to follow. It provides schools with more tools to address bullying and cyberbullying in a clear and consistent way. The *Provincial Code of Conduct: Appropriate Interventions and Disciplinary Consequences* is posted on the departmental website at <www.edu.gov.mb.ca/k12/safe_schools/charter.html>. Codes of conduct for every school must be consistent with the *Provincial Code of Conduct* no later than June 30, 2014.

Links:

- The Public Schools Act
<http://web2.gov.mb.ca/laws/statutes/ccsm/p250e.php>
- The Safe Schools Charter (Various Acts Amended)
<https://web2.gov.mb.ca/laws/statutes/2004/c02404e.php>
- The Public Schools Amendment Act (Cyber-Bullying and Use of Electronic Devices) <http://web2.gov.mb.ca/laws/statutes/2008/c02508e.php>
- The Public Schools Amendment Act (Safe and Inclusive Schools), Bill 18
<http://web2.gov.mb.ca/bills/40-2/b018e.php>

For easy reference, Appendix A: Relevant Legislation includes excerpts from *The Public Schools Amendment Act (Safe and Inclusive Schools)*, *The Public Schools Act*, and *The Human Rights Code*.

Policy Context

Manitoba schools reflect the rich human diversity of our province. The last few decades have seen a rather significant change in the composition of Canada's and Manitoba's peoples and families. It is important to consider how diversity is reflected in our communities today and in the near future.

One of the overarching goals of the Department of Education and Advanced Learning is "to ensure that education practices and policy in Manitoba are guided by the principle of inclusion" (Manitoba Education and Advanced Learning). Achieving this goal requires schools to go beyond teaching these values and behaviours; they need to model them.

Schools that respect human diversity respond to the differences among the members of school communities in positive ways that benefit all learners and their families. A respect for human diversity policy is a valuable tool for those responsible for ensuring safe and inclusive school environments in Manitoba's schools.

What is human diversity?

Diversity encompasses all the ways in which human beings are both similar and different. It means understanding and accepting the uniqueness of individuals, as well as respecting their differences. Diversity may include, but is not limited to, gender identity, sexual orientation, age, ethnic origin, ancestry, culture, socio-economic status, religion, family status, mental and physical disability. (Winnipeg School Division)

Some differences, such as physical features, race, gender, age, and some disabilities, may be more "visible." Others may be less visible, such as the following:

- intelligence or ability
- learning preferences
- culture
- ancestry or place of birth
- first language or mother tongue
- religion or spirituality
- sexual orientation
- socio-economic background or status

Diversity, Human Rights, and Safe Schools Policies

Manitoba's 2004 *Safe Schools Charter* requires school divisions to develop codes of conduct that align with the requirements and spirit of the Manitoba *Human Rights Code*. The goals of the Charter are to reduce incidence of bullying and to ensure Manitoba students know bullying or abusing someone physically, sexually, or psychologically—orally, in writing, or otherwise, for any reason—is unacceptable.

Both *The Human Rights Code* and the *Canadian Charter of Rights and Freedoms* provide fundamental human rights and protections.

The Human Rights Code prohibits unreasonable discrimination based on the following 13 protected characteristics:

- ancestry
- nationality or national origin
- ethnic background or origin
- religion or creed, religious belief, religious association, and religious activity
- age
- sex, including gender-determined characteristics, such as pregnancy
- gender identity
- sexual orientation
- marital or family status
- source of income
- political belief, political association, or political activity
- physical or mental disability
- social disadvantage

Some students are more vulnerable to bullying, prejudice, and discrimination because of their characteristics or others' perceptions of their characteristics, such as

- special needs—including physical, intellectual, and/or emotional challenges
- ethnic, cultural, religious, or racial minority
- sexual orientation or gender identity that is less common—self-identified or perceived as lesbian, gay, bisexual, transgendered, two-spirited, third gender, queer, and so on (LGBTQQ)
- physical features that attract attention
- medical/mental health condition
- being an introvert, anxious, or submissive
- being a high achiever
- simply being new in the school

Schools are responsible for ensuring that the services they provide protect the rights of students and families who may have one or more of the protected characteristics identified in the Code. As providers of educational services, school divisions and schools are expected to comply with *The Human Rights Code* and the *Canadian Charter of Rights and Freedoms*.

Development of a Respect for Human Diversity Policy

Respect for diversity nurtures fair and equal participation, interdependence, and appreciation for the contributions of all. When students learn about human rights and respecting differences, it is expected they will be less likely to act inappropriately towards each other.

Research indicates that educational policies in general and diversity policies specifically play an important role in promoting positive practices and change in schools. Defined processes and procedures move ideas to implementation. Diversity policies help to

- develop a common understanding and vision for schools and the community
- establish priorities and facilitate the development of divisional and school plans and strategies for improvement
- guide the provision of professional learning opportunities for all staff

Policy development and implementation is a collaborative process. The department recognizes that school boards across the province vary in both composition and governance models, and these differences influence their policy development processes. Some school boards

- operate under a policy governance model, which may delegate the development of board policy to senior school division administration
- have an operational model of governance wherein board members take a “hands on” role in the development of board policy
- develop policy through committees
- have requirements to consult with employee groups on policy that may affect them
- have specific processes for legislated policy development

Policy provides explanation around intent, clarifying what is supposed to happen or change. It needs to be robust and comprehensive so those charged with implementation can draw meaning from it. School divisions operating under a policy governance model may find much of the explanation is included in administrative procedures or regulations rather than board policy.

Regardless of governance structure or practices, given the sensitive nature of some of the requirements of *The Public Schools Amendment Act (Safe and Inclusive Schools)*, school divisions are strongly encouraged to engage best practices in policy development and **consult** with their communities and stakeholders.

Consultation engages community and creates the opportunity for buy-in by raising awareness that can build community and stakeholder support for the development and effective implementation of policy. Consultation also provides the opportunity for school divisions to communicate their legal responsibilities regarding all pupils.

Legislative Requirements

Respect for human diversity policies are required to

- **promote and enhance**
 - a safe and inclusive learning environment
 - the acceptance of and respect for others
 - the creation of a positive school environment
- address **training** for teachers and other staff about
 - bullying prevention
 - strategies for promoting respect for human diversity and a positive school environment
- have due regard for the **principles** of *The Human Rights Code*
- **accommodate** pupils who want to establish and lead activities and organizations that are consistent with *The Human Rights Code* and that can include
 - promoting gender equity
 - promoting anti-racism
 - promoting awareness and understanding of, and respect for, people with disabilities
 - promoting awareness and understanding of, and respect for, people of all sexual orientations and gender identities
 - using the name “gay-straight alliance” or any other name consistent with the promotion of a positive school environment that is inclusive and accepting of all students

Whether school boards develop a general “umbrella” policy or a more detailed approach, which also serves as an educational document, the legislative requirements listed above must be met.

Appendix B: Respect for Human Diversity Policy Development Checklist provides a checklist that may help identify policy gaps and determine what changes, if any, are needed to meet the new legislative requirements.

Sample Policy Components and Language

In considering how best to address the **legislated requirements** for a respect for human diversity policy, school boards and/or divisions may include components such as guiding principles, definitions, policy statements, roles and responsibilities, dealing with discrimination, and review and evaluation in their policies and/or administrative procedures.

The following sample policy components and terminology are provided for consideration.

- I. **Guiding principles** are beliefs or assertions that influence the content and tone of a policy.

School divisions may wish to

- make an overarching statement proclaiming the rights of all children to a safe, caring, and inclusive school environment
- expand on principles inherent in *The Public Schools Amendment Act (Safe and Inclusive Schools)*, such as safety, inclusion, diversity, equity and student voice
- refer to principles already adopted in the division
- cite *The Human Rights Code* or *Canadian Charter of Rights and Freedoms*

- II. **Definitions** alleviate ambiguity and provide clarity of intent. It is recommended that a school division’s respect for human diversity policy clearly define human diversity in a way that is consistent with the legislation.

It may also be helpful to appropriately define the terms associated with accommodating student activities and organizations, such as *gender equality, sexual orientation, gender identity, and gay-straight alliance*.

Appendix C: Sample Definitions provides sample definitions from *The Public Schools Act*, the Manitoba Human Rights Commission, Manitoba Education and Advanced Learning, Winnipeg School Division, Egale Canada, and the Public Health Agency of Canada.

- III. **Policy Statements** are used to articulate key policy expectations or policy commitments.

In the case of respect for human diversity policies, brief or detailed statements may

- proclaim respect for human diversity
- outline division expectations regarding training for teachers and other staff
- clarify specifics around the accommodation of student-led activities and organizations, and in particular the use of the name “gay-straight alliance”

Sample language to consider in the development of policy statements is included in Appendix D: Sample Policy Content.

- IV. **Roles and Responsibilities** articulate who does what. Effective policy development, implementation, and review and evaluation are shared responsibilities of government, school boards, school divisions, staff, principals, teachers/other staff, students, and parents. An overview of roles and responsibilities follows, and sample terminology is offered for consideration in Appendix D.

School boards establish policies aligned with the legislation and *school divisions* play a leading role in overall policy implementation, promoting respect for human diversity and communicating policy expectations to staff, students, parents, and communities.

Principals play a leadership role at the school level in promoting safety and acceptance to ensure a safe and inclusive school environment.

Teachers and *other staff* model inclusiveness and respect for human diversity and play a key role in communicating expectations of respecting human diversity policy to students and reinforcing those expectations.

Student voice and student actions are vital in creating positive change in schools. *Students* have responsibility to monitor their own interactions and conduct in ways that are respectful and ensure a safe and inclusive school environment, particularly toward those previously identified as being at higher risk for bullying or discrimination.

Parents and *guardians* play an important role in their children's understanding and respect for of human diversity. Parents have a responsibility to encourage their children to conduct themselves in ways that contribute to a safe and inclusive school environment.

Community members and *volunteers* also play an important role in setting the climate of the school community.

V. **Dealing with Discrimination**

Bullying and cyberbullying are often the result of perceived differences, or discrimination, about race, sexual orientation, gender, socio-economic class, and so on. All bullying incidents in school and during school activities, and all incidents of cyberbullying, must be reported to the principal. Timely and appropriate responses reassure students, school staff, parents, and families that issues of discrimination are taken seriously and appropriate consequences for unacceptable conduct are in place.

Some school divisions may include details in their policy about how they assess incidents of discrimination and their responses to them based on the severity and nature of the incident. Circumstances will dictate the requirement for parental communication and involvement, which may vary from a telephone conversation to a formal conference and possibly the development of a behavioural contract.

Depending on the nature of an incident of discrimination, the authority to address it will vary. If the incident originates with a student or students, the school or division code of conduct will apply. If the incident involves school or school division staff, or complaints from the public, then division policy will apply.

VI. **Policy Review and Evaluation (Monitoring and Reporting)**

The respecting human diversity policy should include provisions to assess and monitor implementation and identify what data will be collected to inform future policy refinements and assess the impact of the policy.

Data collection areas could include information on

- teacher and other staff participation in training and professional development
- reports of unacceptable conduct, bullying/cyberbullying, discrimination or harassment regarding issues of human diversity
- student-led activities or organizations established, including “gay-straight alliances”

Appendix A: Relevant Legislation

This appendix includes excerpts from *The Public Schools Amendment Act (Safe and Inclusive Schools)*, *The Public Schools Act*, and *The Human Rights Code*.

I. *The Public Schools Amendment Act (Safe and Inclusive Schools), Bill 18*

Explanatory Note

This Bill amends *The Public Schools Act* in the areas of bullying and respect for human diversity.

The Bill defines bullying. The definition recognizes that bullying can take a variety of forms, including cyberbullying. A school employee, or a person in charge of pupils during school-approved activities, must make a report to the principal if they think a pupil has engaged in, or is negatively affected by, cyberbullying.

School boards must expand their policies about the appropriate use of the Internet to include social media, text messaging and instant messaging.

The Bill also requires each school board to establish a respect for human diversity policy. The policy is to promote the acceptance of and respect for others in a safe, caring and inclusive school environment. The policy must accommodate student activity that promotes the school environment as being inclusive of all pupils, including student activities and organizations that use the name “gay-straight alliance.”

II. *The Public Schools Act*

from Part III, Powers and Duties of School Boards and Employees of School Divisions and School Districts

Duties of School Boards

Certain duties of school boards

41(1) Every school board shall:

- (b.4) establish a written policy concerning respect for human diversity, and ensure that the policy is implemented in each school in the school division or school district;

Respect for human diversity policy

41(1.6) A respect for human diversity policy is to

- (a) promote and enhance
 - (i) a safe and inclusive learning environment,
 - (ii) the acceptance of and respect for others, and
 - (iii) the creation of a positive school environment; and
- (b) address training for teachers and other staff about
 - (i) bullying prevention, and
 - (ii) strategies for promoting respect for human diversity and a positive school environment.

Regard for principles of human rights

41(1.7) In preparing its respect for human diversity policy, a school board must have due regard for the principles of *The Human Rights Code*.

Student activities and organizations

41(1.8) A respect for human diversity policy must accommodate pupils who want to establish and lead activities and organizations that

- (a) promote
 - (i) gender equity,
 - (ii) antiracism,
 - (iii) the awareness and understanding of, and respect for, people who are disabled by barriers, or
 - (iv) the awareness and understanding of, and respect for, people of all sexual orientations and gender identities; and
- (b) use the name “gay-straight alliance” or any other name that is consistent with the promotion of a positive school environment that is inclusive and accepting of all pupils.

III. *The Human Rights Code*

(Assented to July 17, 1987)

WHEREAS Manitobans recognize the individual worth and dignity of every member of the human family, and this principle underlies the *Universal Declaration of Human Rights*, the *Canadian Charter of Rights and Freedoms*, and other solemn undertakings, international and domestic, that Canadians honour;

AND WHEREAS Manitobans recognize that

- (a) implicit in the above principle is the right of all individuals to be treated in all matters solely on the basis of their personal merits, and to be accorded equality of opportunity with all other individuals;

- (b) to protect this right it is necessary to restrict unreasonable discrimination against individuals, including discrimination based on stereotypes or generalizations about groups with whom they are or are thought to be associated, and to ensure that reasonable accommodation is made for those with special needs;
- (c) in view of the fact that past discrimination against certain groups has resulted in serious disadvantage to members of those groups, and therefore it is important to provide for affirmative action programs and other special programs designed to overcome this historic disadvantage;
- (d) much discrimination is rooted in ignorance and education is essential to its eradication, and therefore it is important that human rights educational programs assist Manitobans to understand all their fundamental rights and freedoms, as well as their corresponding duties and responsibilities to others; and
- (e) these various protections for the human rights of Manitobans are of such fundamental importance that they merit paramount status over all other laws of the province;

* * *

The Human Rights Code - PART II

PROHIBITED CONDUCT AND SPECIAL PROGRAMS

“Discrimination” defined

9(1) In this Code, “discrimination” means

- (a) differential treatment of an individual on the basis of the individual’s actual or presumed membership in or association with some class or group of persons, rather than on the basis of personal merit; or
- (b) differential treatment of an individual or group on the basis of any characteristic referred to in subsection (2); or
- (c) differential treatment of an individual or group on the basis of the individual’s or group’s actual or presumed association with another individual or group whose identity or membership is determined by any characteristic referred to in subsection (2); or
- (d) failure to make reasonable accommodation for the special needs of any individual or group, if those special needs are based upon any characteristic referred to in subsection (2).

Interpretation

9(1.1) In this Code, “discrimination” includes any act or omission that results in discrimination within the meaning of subsection (1), regardless of

- (a) the form of the act or omission; and
- (b) whether the person responsible for the act or omission intended to discriminate.

Applicable characteristics

9(2) The applicable characteristics for the purposes of clauses (1)(b) to (d) are

- (a) ancestry, including colour and perceived race;
- (b) nationality or national origin;
- (c) ethnic background or origin;
- (d) religion or creed, or religious belief, religious association or religious activity;
- (e) age;
- (f) sex, including sex-determined characteristics or circumstances, such as pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
- (g) gender identity;
- (h) sexual orientation;
- (i) marital or family status;
- (j) source of income;
- (k) political belief, political association or political activity;
- (l) physical or mental disability or related characteristics or circumstances, including reliance on a service animal, a wheelchair, or any other remedial appliance or device;
- (m) social disadvantage.

* * *

Harassment

19(1) No person who is responsible for an activity or undertaking to which this Code applies shall

- (a) harass any person who is participating in the activity or undertaking; or
- (b) knowingly permit, or fail to take reasonable steps to terminate, harassment of one person who is participating in the activity or undertaking by another person who is participating in the activity or undertaking.

“Harassment” defined

19(2) In this section, “harassment” means

- (a) a course of abusive and unwelcome conduct or comment undertaken or made on the basis of any characteristic referred to in subsection 9(2); or
- (b) a series of objectionable and unwelcome sexual solicitations or advances; or
- (c) a sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or
- (d) a reprisal or threat of reprisal for rejecting a sexual solicitation or advance.

Appendix B:

Respect for Human Diversity Policy Development Checklist

Policy Requirements	<input type="checkbox"/> / <input type="checkbox"/>	Comments/Plan to Address
To meet the requirements of legislation a respect for human diversity policy must		
(a) promote and enhance		
(i) a safe and inclusive learning environment,		
(ii) the acceptance of and respect for others, and		
(iii) the creation of a positive school environment; and		
(b) address training for teachers and other staff about		
(i) bullying prevention, and		
(ii) strategies for promoting respect for human diversity and a positive school environment.		
To meet the requirements of legislation a respect for human diversity policy must have due regard for the principles of <i>The Human Rights Code</i> .		
To meet the requirements of legislation a respect for human diversity policy must accommodate students who want to establish and lead activities and organizations that		
(a) promote:		
(i) gender equity,		
(ii) anti-racism,		
(iii) the awareness and understanding of, and respect for, people who are disabled by barriers, or		
(iv) the awareness and understanding of, and respect for, people of all sexual orientations and gender identities; and		
(b) use the name "gay-straight alliance" or any other name that is consistent with the promotion of a positive school environment that is inclusive and accepting of all pupils.		
Policies in my school division/school		
■ may need review and amendment to comply with legislation		
■ could be combined into a new policy to comply with legislation		
■ may need removal to comply with legislation		

Appendix C: Sample Definitions

Appendix C: Sample Definitions provides sample definitions adapted from *The Public Schools Act (PSA)*, the Manitoba Human Rights Commission (MHRC), Manitoba Education and Advanced Learning, Winnipeg School Division (WSD), Egale Canada, and the Public Health Agency of Canada (PHAC).

Bullying is behaviour that is intended to cause fear, intimidation, humiliation, distress, or other forms of harm to another person's feelings, self-esteem, body, or reputation, or is intended to create a negative school environment for another person.

Bullying takes place in a context of a real or perceived power imbalance between the people involved and is typically, but need not be, repeated behaviour.

It may be direct (face to face) or indirect (through others), and it may take place through any form of expression—including written, verbal, or physical—or by means of any form of electronic communication (referred to as cyberbullying), including social media, text messaging, instant messaging, websites, or email. (PSA, sections 1.2(1) and 1.2(2))

Discrimination is treating a person or group differently, to their disadvantage and without reasonable cause, on the basis of a protected characteristic, such as ancestry, age or disability.

Failure to reasonably accommodate a special need that is based on a protected characteristic, such as disability or religion, is also discriminatory. Harassment based on a protected characteristic, such as sexual orientation, and sexual harassment is prohibited as well.

The Code prohibits unreasonable discrimination in all aspects of employment, in housing, in the provision of services or contracts, and in signs and notices. In determining whether discrimination has taken place, it is the effect and not the intention that is important.

In addition, the Manitoba Human Rights Commission accepts complaints alleging discrimination against people because they belong to other disadvantaged groups not mentioned in the Code. For example, the Commission accepts complaints alleging discrimination on the basis of criminal record or because of disadvantaged social condition. (MHRC, Home page and "Fact Sheet: Discrimination is prohibited")

Diversity encompasses all the ways in which human beings are both similar and different. It means understanding and accepting the uniqueness of individuals, as well as respecting their differences. Diversity may include, but is not limited to, gender identity, sexual orientation; age; ethnic origin; ancestry, culture; socio-economic status; religion; family status; mental and physical disability. (WSD)

Equity refers to the provision of equitable opportunity, equitable access to programming, services, and resources critical to the achievement of outcomes for all students and the staff who serve them. Equity and equality are not necessarily synonymous, as equity can be achieved through unequal means. (WSD)

Gender identity refers to a person's internal sense or feeling of being male or female, which may or may not be the same as one's biological sex. (PHAC, *Q & A: Gender Identity 1*)

Harassment is any behaviour that degrades, demeans, humiliates, or embarrasses a person, and that a reasonable person should have known would be unwelcome. It includes actions (e.g., touching, pushing), comments (e.g., jokes, name-calling) or displays (e.g., posters, cartoons). Harassment can also take place electronically (e.g., text messages, email or screen savers). The Code refers to harassment as a course of abusive and unwelcome conduct or comment made on the basis of any protected characteristic. (MHRC, "What is Harassment?")

Prejudice is a preconceived negative opinion and/or hostile belief about an individual or group formed beforehand or without knowledge often on the basis of stereotypes. (MHRC, *Teacher's Kit 3*)

Reasonable accommodation is the school's obligation to address the special needs of students where these needs stem from the protected characteristics specified in *The Human Rights Code* of Manitoba and affect the individual's ability to access educational/school services or facilities; the measures to accommodate special needs will be reasonable and required unless they cause undue hardship due to cost, risk to safety, impact on others, or other factors. (Manitoba Education)

Sexual orientation is the term used to describe an individual's sexual, psychological and emotional feelings of attraction towards another person. (PHAC, *Q & A: Sexual Orientation 1*)

Stereotypes are a simplified or fixed belief (often exaggerated) that people have about what members of a group are like, without allowing for individual differences. (MHRC, *Teacher's Kit 3*)

Transgender refers to a person whose gender identity, outward appearance, expression and/or anatomy does not fit into conventional expectations of male or female. Often used as an umbrella term to represent a wide range of non-conforming gender identities and behaviours. (Taylor et al. 13)

Undue hardship refers to an accommodation that has become so difficult, it becomes unreasonable. Some factors that determine whether reasonable accommodation to the point of undue hardship has been made include financial costs, health and safety concerns, impact on other employees and service users, and the impact on other protected rights. (MHRC, "Reasonable Accommodation")

Appendix D: Sample Policy Content

In recognition that school boards and school divisions have existing formats for policy and administrative procedures, the sample policy content in this Appendix D is **offered simply as sample language for consideration**.

I. Guiding Principles

_____ *Board/Division/School recognizes that the underlying principle of human rights is the recognition of the individual worth and dignity of every person. The Manitoba Human Rights Code prohibits unreasonable discrimination based on the following thirteen protected characteristics:*

- *ancestry*
- *nationality or national origin*
- *ethnic background or origin*
- *religion or creed, religious belief, religious association, and religious activity*
- *age*
- *sex, including gender-determined characteristics, such as pregnancy*
- *gender identity*
- *sexual orientation*
- *marital or family status*
- *source of income*
- *political belief, political association, or political activity*
- *physical or mental disability*
- *social disadvantage*

The Division/School is committed to the following guiding principles toward ensuring safe and inclusive school environments:

- *clear and consistent communication—promoting understanding of human diversity, individual rights, social justice, bullying, and discrimination*
- *shared responsibility—whereby all involved are knowledgeable about the issues surrounding human diversity and are prepared to respond appropriately to inquiries and incidents*

- *relationship building—by respecting the right of all individuals to have their own beliefs provided their actions do not harm or negatively impact the rights of individuals who may not share those beliefs*
- *sustainability—ongoing monitoring, evaluation, and improvement*

II. Definitions

Human diversity encompasses all the ways in which human beings are both similar and different. It means understanding and accepting the uniqueness of individuals, as well as respecting their differences. Diversity may include, but is not limited to, gender identity, sexual orientation, age, ethnic origin, ancestry, culture, socio-economic status, religion, family status, and mental and physical disability. (Winnipeg School Division)

(**Appendix B** includes a listing of additional definitions school boards or divisions may choose to include in their policies or administrative procedures.)

III. Policy Statements

All members of the school community have the right to learn and work in a safe and inclusive school environment that respects human diversity.

Teachers and other staff will be provided opportunities for training and professional learning that increases their capacity to teach and support students on issues regarding bullying prevention and human diversity, including areas of sexual orientation and gender identity.

Student-established and student-led activities and organizations that promote areas of human diversity, including gay-straight alliances, will be run consistent with and in compliance with school division/school policies, and will be open to all students who wish to participate in an appropriate manner.

IV. Roles and Responsibilities

- *School boards—are responsible for establishing a respect for human diversity policy, in consultation with its communities and stakeholders, which complies with the legislation. The board is also responsible to ensure regular policy review.*
- *School divisions—will, under the leadership of the superintendent, implement board policy and may establish administrative procedures or regulations on human diversity practices within a school division. Divisions play a leading role in overall policy implementation, promoting respect for human diversity and communicating policy expectations to staff, students, parents, and community. This includes enhancing divisional materials and resources, and providing training and professional learning for teachers and other staff in areas of bullying prevention and human diversity. Divisions set standards for student conduct and develop procedures and protocols for addressing unacceptable conduct or discrimination. Divisions also determine what reporting and collection of data will be undertaken.*

- *Principals—play a leadership role at the school level in promoting safety and acceptance and in ensuring a safe and inclusive school environment. Principals communicate and reinforce expectations of the respecting human diversity policy to teachers and school staff and encourage their participation in professional learning and training on bullying prevention, human diversity and related topics. Principals hold those who disrespect human diversity accountable by following established processes and protocols and maintain appropriate records at the school level.*
- *Teachers and other staff—model inclusiveness and respect for human diversity and play a key role in communicating and reinforcing expectations of the respecting human diversity policy to students. They support students on issues of human diversity and empower them to treat each other with dignity and acceptance. Under the legislation teachers and school staffs have an expanded duty to report matters of cyberbullying to the principal, whether it is believed to be happening at school or outside of regular school hours. Participation in professional development and training is essential in ensuring teachers and school staffs have the tools and knowledge they need to deal appropriately and effectively with sensitive student issues regarding bullying prevention and human diversity.*
- *Students—have responsibility to monitor their own interactions and conduct in ways that are respectful and ensure a safe and inclusive school environment, particularly toward those previously identified as being at higher risk for bullying or discrimination.*
- *Parents and guardians—play an important role in their children’s understanding and respect for human diversity. Parents have responsibility to encourage their children to conduct themselves in ways that contribute to a safe and inclusive school environment.*
- *School community members and groups—are diverse and the contributions they make to schools are valued and encouraged; they are to be provided with equitable opportunities for contributing to policy development and working with staff and with each other for the benefit of all students. (Toronto District School Board)*

V. Dealing with Discrimination

Incidents of discrimination will be responded to under the appropriate authority. If an incident originates with a student or students, the school division/school Code of Conduct will apply. Complaints from the public will be responded to according to _____ policy.

VI. Policy Review and Evaluation

The _____ School Division/School will identify and collect relevant data and monitor implementation to inform future policy refinements and evaluate the impact of this respect for human diversity policy. The policy will be reviewed in accordance with the existing policy review cycle.

Appendix E: Frequently Asked Questions

- Q.** If students in a school request to establish a GSA by that name or an equivalent, can the school refuse claiming the needs of the students are already accommodated under existing organizations such as anti-bullying or other social justice groups?
- A.** No, the legislation clearly states that requests from students to establish and lead GSAs or other organizations promoting gender equity, anti-racism, and awareness of/respect for people with disabilities and people of all sexual orientations or gender identities must be accommodated.
- While broad social justice groups can play an important role in creating safe and inclusive schools, it is important to recognize that some historically marginalized groups may benefit from a group that addresses their specific needs and contexts. Having a broad social justice group should not preclude student-led Aboriginal culture clubs, anti-racism groups, or GSAs operating in a school. These student-led groups should be seen as complementing each other, rather than competing with each other.
- Q.** Can a school refuse to establish a student-requested GSA because of the dominant religious beliefs or cultural values expressed by some members of the school community?
- A.** All Manitoba public and funded-independent schools are required to comply with *The Public Schools Act*. The religious or cultural beliefs of members of a particular religious group or community do not supersede the right of students to establish a GSA, which is intended to make schools safer and more inclusive for LGBTQ and ally pupils and families. Manitobans are free to belong to a particular religion or creed, hold religious beliefs, and participate in religious associations and religious activities. They have the right to enrol their children in independent schools to access a learning milieu that reflects the tenets of their faith. However, regardless of a religious perspective or belief with respect to diversity of sexual orientation and gender identity and expression, a school may not act in ways that discriminate in a manner prohibited by *The Human Rights Code* of Manitoba (the Code) against others based on their sexual orientation or any other form or combination of protected characteristics.

- Q.** Do First Nations schools need to establish respect for human diversity policies?
- A.** *The Public Schools Act* applies to public and funded independent schools only. In the case of school divisions having an educational agreement with First Nations, these schools are not considered public schools. However, those schools could be encouraged to adopt the policies of the school division with whom they have an agreement, in which case the requirements of *The Public Schools Amendment Act (Safe and Inclusive Schools)* would apply.
- Q.** Would a group of students that wants to form a religiously based student-led group need to be accommodated?
- A.** The Code includes religion or creed, religious belief, religious association, and religious activity as one of the protected characteristics. The recent amendments to *The Public Schools Act* include specific reference to *The Human Rights Code*, so students wanting to form a religiously based student-led group would be accorded equality of opportunity to do so. Students should be allowed to form after-school clubs or have activities based on religion, as long as membership is voluntarily open to any student in the school and the activities of the group are conducted in a safe and inclusive manner. The club should be used as a vehicle to discuss issues that have an impact on the members as students.

It is important to recognize that such groups are like any other club that is available at a school except they have a religious connection. Therefore, they should be treated the same as any other student-initiated club in the school such as a GSA, chess club, astronomy club, or judo club. School divisions may consider establishing policies and procedures for student-led groups or clubs, to assist them to function appropriately.

Appendix F:

Possible Guidelines and Procedures for Starting or Accommodating a Student Club or Activity

To assist staff and students in instituting clubs or activities to 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 with 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.
- To start 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, and rationale for the club or activity, 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 school 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 person(s) 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, and 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.

Following are links to two examples of policies from other jurisdictions:

- 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
- Surrey School District: <https://www.surreyschools.ca/ParentServices/ParentInfoBrochures/Documents/Extra-curricActivities-English.pdf>

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- . *The Public Schools Act*. C.C.S.M. cP250. Winnipeg, MB: Queen's Printer—Statutory Publications, 1987. Available online at <<http://web2.gov.mb.ca/laws/statutes/ccsm/p250e.php>>.
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- Manitoba Human Rights Commission. Home page. <www.manitobahumanrights.ca> (13 Jan. 2014).
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