



REPORT TO

## STUDENT ACHIEVEMENT AND WELL BEING, CATHOLIC EDUCATION AND HUMAN RESOURCES COMMITTEE

### S.S.09 CODE OF CONDUCT POLICY, DENOMINATIONAL RIGHTS, AND PROHIBITED GROUNDS OF DISCRIMINATION REPORT

*FOR YOU SAY, 'MY CONDUCT IS PURE, AND I AM CLEAN IN GOD'S SIGHT.'*  
JOB 11:4

Created, Draft	First Tabling	Review
November 6, 2019	November 7, 2019	<a href="#">Click here to enter a date.</a>
M. Caccamo, Superintendent of Nurturing our Catholic Community, Safe Schools and Continuing Education L. Di Marco, Superintendent of Curriculum Leadership, Innovation and Academic ICT R. McGuckin, Director of Education		
<b>RECOMMENDATION REPORT</b>		

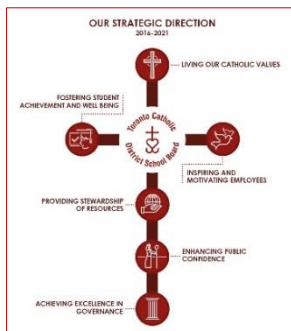
**Vision:**

*At Toronto Catholic we transform the world through witness, faith, innovation and action.*

**Mission:**

*The Toronto Catholic District School Board is an inclusive learning community uniting home, parish and school and rooted in the love of Christ.*

*We educate students to grow in grace and knowledge to lead lives of faith, hope and charity.*



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Chief Financial Officer

## A. EXECUTIVE SUMMARY

This report will provide the Board with an update on recent discussions between the Archdiocese of Toronto (the Archdiocese), represented by legal counsel, and the TCDSB, represented by legal counsel and the Director of Education, pertaining to efforts to revise TCDSB policy S.S. 09 Code of Conduct. This is considered an urgent matter as the date by which the Ministry of Education expects school boards to amend their local Codes of Conduct is November 4, 2019.

The draft policy is presently before the Catholic Education and Living Our Catholic Values Subcommittee (the Subcommittee), and has been the subject of research, debate, delegations, a legal opinion, and public interest.

The central theme deals with whether the TCDSB must include the prohibited grounds of discrimination, as enumerated in the Ontario Human Rights Code and reinforced by the Ministry of Education's Policy/Program Memorandum 128 (PPM 128).

The core question being considered is whether the TCDSB is exempt from including the following prohibited grounds of discrimination from its Code of Conduct based on denominational rights and Church teachings: *gender identity, gender expression, family status, and marital status*.

Staff have reviewed the various documents placed before the Subcommittee, have listened to the delegations, reviewed PPM 128, have read the letter from the Human Rights Tribunal Commissioner on September 17, 2019.

Staff have further reviewed proposed language provided by representatives of the Archdiocese on the Subcommittee, and have engaged legal counsel of the Archdiocese on acceptable language. The Archdiocese will accept all prohibited grounds of discrimination as enumerated in the Ontario Human Rights Code, consistent with PPM 128, providing the policy contains language recommended by the Archdiocese which contextualizes that this policy will be interpreted through the lens of the Catholic faith as articulated by the teachings of the Church and protected in legislation.

The revised and proposed policy reflecting the new language is found in **Appendix A**.

*Staff recommend that S.S. 09 Code of Conduct policy, as amended on November 4, 2019 arising from dialogue between the TCDSB and Archdiocese of Toronto, be referred back to the Governance and Policy Committee on November 12, 2019.*

*The cumulative staff time required to prepare this report was 16 hours*

## **B. PURPOSE**

1. This report is before the Board as it is deemed to be an urgent, time-sensitive matter. It contains information pertaining new language reviewed by the Archdiocese and TCDSB staff that can inform Board policy S.S. 09 Code of Conduct.

## **C. BACKGROUND**

1. **March 19, 2019** – At Governance and Policy Committee, policy S.S.09 Code of Conduct was referred to the Catholic Education and Living Our Catholic Values Subcommittee.
2. **March 26, 2019** – At the Catholic Education and Living Our Catholic Values Subcommittee, the Code of Conduct policy was deferred until the next Subcommittee meeting, scheduled for April 30, 2019.
3. **April 30, 2019** - At the Catholic Education and Living Our Catholic Values Subcommittee, a delegation was received on this matter. Trustees moved a motion that referred the policy to staff for an infusion of our Roman Catholic denominational rights and Section 29 of the Charter, and that the Policy then return to the Catholic Education and Living our Catholic Values Subcommittee.
4. **May 21, 2019** – At the Catholic Education and Living Our Catholic Values Subcommittee, the meeting was dissolved as it did not have the required membership present with which to continue the meeting.
5. **May 28, 2019** – At the Student Achievement and Well-Being, Catholic Education and Human Resources Committee, delegations were received on this matter and referred to the Subcommittee.

6. **June 11, 2019** – At the Catholic Education and Living Our Catholic Values Subcommittee, a delegation on this matter was received. Trustees deferred the Code of Conduct and all related matters to the next Subcommittee meeting.
7. **August 29, 2019** - At the Catholic Education and Living Our Catholic Values Subcommittee, delegations on this matter were received.
8. **September 5, 2019** - At the Student Achievement and Well-Being, Catholic Education and Human Resources Committee, the Subcommittee's Minutes from the April 30 meeting were approved. It was recommended that the Code of Conduct be referred to staff to stipulate our Roman Catholic denominational rights and Section 29 of the Charter and that the Policy then return to the Catholic Education and Living our Catholic Values Subcommittee.
9. **September 25, 2019** – At the Catholic Education and Living Our Catholic Values Subcommittee, all previous items related to the Code of Conduct were referred to the next Subcommittee meeting of October 30, 2019. Delegations were received on the matter of the Code of Conduct.
10. **October 2, 2019** - At the Student Achievement and Well-Being, Catholic Education and Human Resources Committee, the Minutes from the August 29 meeting of the Subcommittee were tabled. A delegation on the Code of Conduct was received and referred to staff.
11. **October 25, 2019** – Discussions between TCDSB's General Legal Counsel and legal counsel from the Archdiocese began regarding the inclusion in the Code of Conduct policy of the enumerated grounds prohibiting discrimination in the 4 disputed areas: gender identity; gender expression, family status; marital status.
12. **October 30, 2019** – At the Catholic Education and Living Our Catholic Values Subcommittee, multiple delegations were received and referred to staff.
13. **November 1, 2019** – The Director reviewed the proposed language sent by the Archdiocese and adopted it into policy format.

14. **November 4, 2019** – The Archdiocese communicated that it had no objection to the manner in which the Policy and Guidelines were revised to include the contextual language proposed by the Archdiocese and the mandatory inclusion of the prohibited grounds of discrimination in the Ontario Human Rights Code, and reinforced by the Ministry of Education’s PPM 128.
15. **November 5, 2019** – Trustees were advised that the Archdiocese accepted the use all terms identified in the Human Rights Code in the Code of Conduct policy contingent on the use of language that contextualizes the policy through the lens of Catholic denominational rights and teachings.

Trustees were advised that a report about the Code of Conduct, denominational rights and prohibited grounds of discrimination would be presented at the Student Achievement and Well-Being, Catholic Education and Human Resources Committee on November 7, 2019.

#### **D. EVIDENCE/RESEARCH/ANALYSIS**

1. At the Catholic Education and Living Our Catholic Values Subcommittee, a number of documents were provided to inform about the Roman Catholic Church’s teachings about gender and sexuality:
  - a. Vatican Paper 2019: 'Male and Female He Created Them". Towards a Path of Dialogue on the Issue of Gender Theory in Education
  - b. Gender-Ideology: Select-Teaching-Resources
  - c. Speaking the Truth in Love: Pastoral Guidelines for Educators Concerning Students Experiencing Gender Incongruence
  - d. The Human Person, Love and Sexuality: Education Commission of the Assembly of Catholic Bishops of Ontario
2. The Subcommittee also reviewed a letter from Renu Mandhane, Ontario Human Rights Chief Commissioner, regarding Including Gender Identity, Gender Expression, Family Status and Marital Status in the Toronto Catholic District School Board's Code of Conduct Policy
3. Staff reviewed some identified resources related to the themes within the Code of Conduct:
  - a. The Catechism of the Catholic Church. # 364, 1699-1715, 2297, 2333, 2393

- b. Pope St. John Paul II, Letter to Families {1994}, #6 and #19
- c. Pope Benedict XVI, Encyclical letter, Deus Caritas Est. 2005, 5
- d. Pope Benedict – Address to the German Bundestag {September 22, 2011}
- e. Pope Benedict - Address to the Roman Curia {December 21, 2012}
- f. Compendium of the Social Doctrine of the Church, #224
- g. Pontifical Council for the Family, #8 [2000]
- h. Congregation for the Doctrine of the Faith, Letter on the Collaboration of Men and Women in the Church and in the World (2004), #2
- i. Pope Francis, Address to the Bishops of Puerto Rico [June 8, 2015]
- j. Male and Female He Created Them, Vatican Office of the Congregation for Catholic Education, 2019
- k. Ontario Catholic School Graduate Expectations, Institute for Catholic Education (ICE), 2019
- l. Pastoral Guidelines to Assist Students of Same-Sex Attraction, Assembly of Catholic Bishops of Ontario, 2004
- m. Pastoral Guidelines to Assist Students of Same-Sex Attraction: A Parent's Guide, Assembly of Catholic Bishops of Ontario, 2004
- n. Pastoral Ministry to Young People with Same-Sex Attraction, Episcopal Commission for Doctrine, Canadian Conference of Catholic Bishops, June 2011 p. 1-2
- o. Message of Pope Francis for the 48th World Communications Day, June 1, 2014
- p. Ontario Education Act section 169.1 (Ministry amended PPM 128, the Provincial Code of Conduct and School Board Codes of Conduct, August 2019)
- q. TCDSB Pastoral Plan: Rooted in Christ – we Belong, we Believe, we Become, TCDSB, 2018-2021
- r. TCDSB Equity Action Plan 2018-2021
- s. Our Catholic Schools 2006-2007 - A Discussion of Ontario's Catholic Schools and Their Future
- t. Respecting Difference Resource for Catholic School Boards: Clarifications to Support Implementation in Catholic Schools. Ontario Catholic School Trustee Association, 2012

- u. Respecting Difference: A Resource for Catholic Schools in the Province of Ontario - Regarding the Establishment and Running of Activities or Organizations Promoting Equity and Respect for All Students, Ontario Catholic School Trustee Association, January 2012
  - v. Toward a Policy of Care. Josephine Lombardi, Ph.D. January 2019
4. There were twenty-three (23) delegations on the topic of including prohibited grounds of discrimination within the Board’s Code of Conduct policy that were received at Board, at the Student Achievement and Well-Being, Catholic Education and Human Resources Committee, and at the Catholic Education and Living Our Catholic Values Subcommittee.
  5. Language provided by the Archdiocese through its representatives on the Catholic Education and Living Our Catholic Values Subcommittee, as well as from its legal counsel, has been integrated into both the Policy and the accompanying Guidelines.

<b>PROPOSED ARCHDIOCESE LANGUAGE</b>	<b>POLICY INTEGRATION</b>
<p><i>Add specific references to protections of denominational rights afforded to Catholic school boards:</i></p> <ul style="list-style-type: none"> <li>• <b>Education Act Part Sections 1, 169.1, 301</b></li> <li>• <b>Ontario Human Rights Code, Sections 1 and 19</b></li> </ul>	<p>This language is presented in the Cross Reference section of the policy document.</p>
<p><i>A positive school climate exists when all members of the school community “<b>respect and treat others fairly at all times regardless of personal characteristics of any kind. All members of school communities and Board worksites will value and respect the teachings of the Catholic Church, including the teaching that all people are created in the image and likeness of God and have infinite dignity and worth.</b>”</i></p>	<p>This language is presented in the policy statement within the policy document.</p>
<p><b>This policy is interpreted through the lens of the Catholic faith as articulated by the teachings of the Church, having due regard for the following:</b></p> <ul style="list-style-type: none"> <li>• <b>Teachings of the Catholic Church, as expressed through various documents of the Universal Church, the Bishops of Canada,</b></li> </ul>	<p>This language is presented in the policy guidelines (Appendix A) in the preamble.</p>

<p><b>the Bishops of Ontario, and the Archdiocese of Toronto.</b></p> <ul style="list-style-type: none"> <li>• <b>Education Act, Sections 1 (4); 169.1; 301</b></li> <li>• <b>Program Policy memorandum (PPM) 128 Provincial Code of Conduct and School Board Codes of Conducts, August 29, 2019.</b></li> <li>• <b>Ontario Human Rights Code, Sections 1; 19</b></li> </ul>	
<p style="text-align: center;"><u>Code of Conduct Guidelines</u> <i>Respect, Civility, and Responsible Citizenship</i></p> <p><b>The following requirements do not adversely affect any right or privilege guaranteed under the Constitution Act 1867; the Canadian Charter of Rights and Freedoms, or the Ontario Human Rights Code.</b></p>	<p>This language is presented in the policy guidelines (Appendix A) in the section: Purpose of the Code of Conduct: Standards of Behaviour-Respect, Civility and Responsible Citizenship.</p> <p>The statement precedes the reference to the Ontario Human Rights Code prohibited grounds of discrimination</p>

6. Language mandated by the Ontario Human Rights Code and reinforced by the Ministry of Education’s Policy/Program Memorandum 128 have been added to S.S.09 Code of Conduct policy and Guidelines:

<b>MANDATED ONTARIO HUMAN RIGHTS LANGUAGE</b>	<b>POLICY/GUIDELINES LANGUAGE</b>
<p>All members of the school community must:</p> <ul style="list-style-type: none"> <li>• <b>Respect and treat others fairly, regardless of, for example, race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability</b></li> </ul>	<p>This language is presented in the Policy Guidelines (Appendix A) in the section: Purpose of the Code of Conduct: Standards of Behaviour-Respect, Civility and Responsible Citizenship.</p>



7. S.S. 09 Code of Conduct policy has been further revised to reflect the requirements of school boards to enforce a cell phone ban, except for certain conditions. The language below has been added to the Guidelines in the section: Purpose of the Code of Conduct: Standards of Behaviour-Respect, Civility and Responsible Citizenship. All members of the school community must:
- respect the need of others to work in an environment that is conducive to learning and teaching; *including by ensuring that personal mobile devices are only used during instructional time for the educational and other permitted purposes outlined on page 1 of Policy/Program Memorandum No. 128 dated August 29, 2019.*

## **E. STAFF RECOMMENDATION**

That S.S. 09 Code of Conduct policy, as amended on November 4, 2019 arising from dialogue between the TCDSB and the Archdiocese of Toronto, be referred back to the Governance and Policy Committee on November 12, 2019.