



REPORT TO

REGULAR BOARD

## REPORT ON APPLICATION OF TRESPASS POLICY

*But the gift is not like the trespass. For if the many died by the trespass of the one man, how much more did God's grace and the gift that came by the grace of the one man, Jesus Christ, overflow to the many! Romans 5:15*

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### INFORMATION REPORT

#### 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 rooted in the love of Christ. We educate students to grow in grace and knowledge and to lead lives of faith, hope and charity*



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## A. EXECUTIVE SUMMARY

In September 2014 the Board of Trustees passed a revised Trespass Policy S.S. 14. Regulation 474 of the *Education Act* in collaboration with the *Trespass to Property Act*, authorizes principals to ensure the safety of their school community and authorizes the principal to respond to those individuals who are perceived to pose a threat to the safety of any member of the school community. The Trespass Policy is tightly connected to the Access to Schools Policy S.S. 04.

## B. PURPOSE

At the Nov 5<sup>th</sup>, 2014 meeting of the Student Achievement, trustees directed staff to explore “*what can be done to support our school communities and staff and that staff bring back the Policy on Protocol and Trespass Orders as part of the report coming back*” and “*that the report that comes back as a result of the delegations, there be a draft policy outlining protocol for issuing trespass notice and an appeal process.*”

## C. BACKGROUND

1. Ontario Regulation 474/00 of the *Education Act* (the “Act”) governs access to schools and outlines those who have rights of access, those actions which can subsequently compromise or prevent an individual’s access and the recourse that principals are given under the Act. Section 3(1) of that Regulation provides:  
  
**3. (1)** A person is not permitted to remain on school premises if his or her presence is detrimental to the safety or well-being of a person on the premises, **in the judgment of the principal**, a vice-principal or another person authorized by the board to make such a determination.
2. Regulation 298/11.(1) of the Education Act also outlines the duties of a principal, which include organization and management of the school, and supervision of pupils reg. 298/11.(3)(e) of *The Act*. Principals have been vested with the responsibility of ensure the safe operation of their schools and the safety of all who learn and work in this same environment.
3. In September 2014, the TCDSB Board of trustees approved a revised Trespass Policy SS. 14. The policy ensures that a positive, safe and

inclusive and accepting school climate is maintained in situations where an individual may be trespassing on school property. Failure on the part of a principal to take all reasonable steps to protect the safety of individuals on Board premises may result in the Board being held liable for any harm that might come to the individual. TCDSB Trespass Policy SS. 14 cross-references Regulation 474/00 of *The Education Act*, (Access to Schools) and the *Trespass to Property Act* as the foundations for the policy.

4. A “*Cease and Desist*” letter signed by the principal is also an option within a progressive process, that could be used in advance of a Trespass Notice being issued. The “Cease and Desist” letter clearly communicates the school and board’s position regarding consequences if the undesired behaviour continues. If there is a perceived element of danger with respect to a trespass situation, the police shall be contacted.
5. In issuing a Trespass Notice, principals consult with their Superintendent. Superintendents engage in regular communication with Trustees, and shall inform their local trustee of any school where a Trespass notice has been issued.
6. Other relevant policies that impact on a situation where the principal is dealing with a problematic individual, include H.M. 37 – Workplace Violence and H. M. 14 – Harassment and Discrimination.
7. In addition to the Education Act, school board employees are also subject to Ministry of Labour legislation, under Bill 168 and the *Occupational Health and Safety Act*, which offers protection from workplace violence. Under *the Act*, an employer can appeal an order but a parent cannot appeal Ministry of Labour ruling.

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

1. Principals are called upon daily to make judgement calls for their community. They have been empowered to be the principal of a TCDSB school because their professional judgement has been deemed to be sound. They are further guided by the policies of the TCDSB and provincial legislation.

2. Principals are called upon to provide a safe learning environment and do on occasion issue progressive discipline to their students. On occasion, principals are also called upon to issue Trespass notices, so as to ensure safety of their community. Trespass notices are but one mechanism available to Principals, but one that they require the confidence to call upon, should they determine that it is appropriate to ensure the safety of their community.
3. Principals work with their superintendent to ensure their decisions are based on sound professional judgment and prudent principles.
4. If an individual wishes to appeal or discuss a Trespass Notice, the individual should contact the school superintendent, who is always readily available to provide a second opinion and advise the principal. If a stakeholder were not satisfied with the response of the school superintendent, the cause could be brought to the attention of the Director of Education. These steps are also consistent with Policy A. 33 *Guidelines for Trustees, Parents and Staff in Addressing School Related Concerns*. Legally however, the ultimate decision-maker with respect to the issuing and rescinding of a trespass notice is exclusively the legal purview of the principal, pursuant to Ontario Regulation 474/00, Section 3(1). The Board of Trustees is not vested with the responsibility of hearing trespass appeals.
5. A review of eight Catholic Boards comparable to Toronto Catholic reveals that an appeal of trespass notices is not contemplated, outside of a consultation with the school superintendent. Boards that were reviewed were York Catholic, Dufferin Peel Catholic, Durham Catholic, Ottawa Catholic, London Catholic, Halton Catholic, Simcoe Muskoka Catholic and Windsor Catholic. All vest the responsibility of a trespass notice with the principal, per *the Education Act*.

## **E. METRICS AND ACCOUNTABILITY**

1. The Safe Schools department can include in its annual report the number of Trespass notices that were issued.

## **F. CONCLUDING STATEMENT**

This report is for the consideration of the Board.