

Thursday, October 13, 2011, 11:30 a.m. Board Room, Administration Office

Present: P. Bartlette (Chairperson), D. Karnes, M. Sefton, Dr. D. Michaels

Regrets: P. Bowslaugh

M. Sefton (entered at 12:40 p.m.) Guest:

1. **CALL TO ORDER:**

The Education Committee Meeting was called to order at 11:30 a.m. by the Chairperson, Trustee Bartlette

2. APPROVAL OF AGENDA

The agenda was approved as circulated.

3. **REVIEW OF MINUTES**

The Committee reviewed the Minutes of September 15, 2011.

4. COMMITTEE GOVERNANCE GOAL ITEMS

A) Board Governance Goal Regarding Equity of Inclusion and Protection of Human Rights for Individual Differences.

Superintendent, Dr. Michaels spoke to the report she had prepared, as directed by the Committee, with respect to a Governance Goals which would focus on the equity of inclusion and protection of the Human Rights of students who identify as lesbian, gay, bisexual, transgender, transsexual, two-spirit, or who are questioning their sexual orientation or gender identity. (Appendix "A") Dr. Michaels confirmed in reviewing this matter she had reviewed the letter and spirit of the Canadian Charter of Rights and Freedoms, the Manitoba Human Rights Code, the Public Schools Act. UN Delegation on the Rights of the Child, the Division policies regarding "Equity"; "Appropriate Educational Programming"; "Harassment"; and "Student Conduct". Lengthy discussions were held regarding the inclusion of all human rights; the current initiatives in the highs school with respect to students who identify as lesbian, gay, bisexual, transgender, transsexual, two-spirit, or who are questioning their sexual orientation or gender identity; the Sexuality Education Resource Centre; the Teen Health Clinic; and whether or not a steering committee to review this matter is required. The Committee agreed that the proposal presented regarding inclusivity for all and not separating any one group from the rest of the population was best way to respect the human rights of all students. Discussions were held regarding possible policy review requirements, in particular the Division's foundational statements with respect to Vision and Mission. Further discussions were held regarding the possibility of meeting with various community stakeholders, at their convenience and choice of location, to discuss the matter further. It was agreed the Committee would recommend the new Governance Goal to the Board of Trustees for approval.

Recommendation:

That the proposed Board of Trustees Goal Regarding Equity of Inclusion and protection of Human Rights for Individual Differences be stated as follows:

- To review current Board Policy 1001 "Foundations and Statements:, to include an emphasis on the human rights of all students to learn and work in school environments that respect, honour, protect, celebrate individual differences and that provide equitable learning opportunities in inclusive settings; and
- To conduct a review of all corresponding Board Policies and Procedures (together with historical and current practices) related to the human rights of all students; and that such a review advise of the changes required to reflect the Board's commitment to the human rights of all students; and
- That such revision and review be conducted in accordance with Board Policy/Procedures 1020 "Consultation".

6. OTHER COMMITTEE GOVERNANCE MATTERS

A) 20122013 Proposed Budget Discussions:

This item was discussed by the Committee at 12:40 p.m. when Trustee Sefton entered the meeting and was asked to participate in discussions regarding the Brandon Schools Instrumental Music Association (BSIMA). In order to recognize and promote equity within the Division, Mr. Sefton proposed the Committee consider bringing forth a budget item which would pay student registration fees in order to participate in the Band Program. It was confirmed the total registration income for the 2010-2011 school year had been \$31,305. The Board would pay the registration fee to the BSIMA in the form of a grant. Further discussions were held regarding the possibility of subsidizing half the rental of instruments, with the belief being that if students were responsible for paying half of the rental, they would take pride in the investment made for that instrument and look after their instrument. It was agreed the first step required would be for the BSIMA to complete their required documentation to reinstate their non-profit corporate status. Once corporate status had been reactivated a contract between BSIMA and the Division would be necessary. It was noted the BSIMA would need to be aware that should the Division pay the registration fees of all Division students participating in the Band Program, then the BSIMA could not charge any additional fees for registration. The Superintendent was directed to provide the Committee with a list of any other co-curricular program which requires the students to pay fees in order to participate.

The Superintendent was asked to provide information on other resources which might be required to meet program needs during budget deliberations. Dr. Michaels confirmed the following program budget needs:

- Additional Social Workers:
- Additional Literacy Materials in the area of adolescent reading;
- Additional Interpreters;
- Continuation of Full Day/Every Day Kindergarten in four more schools;
- Increased AEP Support for students with "normal" intelligence who cannot function in a regular classroom setting;
- Travel Support for high school athletics.

Discussions were also held regarding school fees. Trustee Karnes asked Senior Administration provide information regarding the status of school fees – how much the Division is now paying and if the Division needs to contribute further funds to off-set school fees.

7. BRIEFINGS ON DEVELOPMENTS IN EDUCATION

- Education Indicators in Canada: An International Perspective 2011 was reviewed by the Committee and received as information. It was noted the complete document was available with the Executive Assistant should any Committee member wish to review same in detail.
- Manitoba Education information regarding Assessment and Evaluation was received as information.

8. OPERATIONS INFORMATION

9. NEXT REGULAR MEETING: Thursday, November 10, 2011, 11:30 a.m. to 1:00 p.m., Board Room.

The meeting adjourned at 1:06 p.m.		
Respectfully submitted,		
P. Bartlette, Chair	P. Bowslaugh	
D. Karnes	K. Sumner (Alternate)	_

Appendix A



BRANDON SCHOOL DIVISION

1031 - 6TH STREET BRANDON MB R7A 4K5

Senior Administration Reporting to Education Committee

To: Education Committee

From: Dr. D. M. Michaels, Superintendent/CEO

Date: September 26, 2011

Re: Proposed Board of Trustees Goal Regarding Equity of Inclusion and

Protection of Human Rights for Individual Differences.

For: Discussion and Action.

I. Background Information

- 1) In March, 2011 the Education Committee of the Board of Trustees discussed the matter of students who identify as lesbian, gay, bisexual, transgender, transsexual, two-spirit, or who are questioning their sexual orientation or gender identity. It was agreed that the Brandon Sexuality Education Resource Centre (SERC) be invited to make a presentation to the Education Committee. This presentation was held on June 23, 2011. Arising from this presentation and subsequent discussions, Superintendent, Dr. Michaels was requested to prepare a proposed Governance Goal on the matter; focusing on the equity of inclusion and protection of the Human Rights of these students in our schools.
- 2) In preparing this proposed Governance Goal, Dr. Michaels has reviewed the letter and spirit of the Canadian Charter of Rights and Freedoms, the Manitoba Human Rights Code, the Public Schools Act, UN Delegation on the Rights of the Child, Board Policies 1001.1 "Equity", 4044.4 "Appropriate Educational Programming", 5026 "Harassment", 7004 "Student Conduct". Given that this legislation references the diversity, dignity, and worth of all individuals and that students (and employees) have the right to learn and work in an environment free of harassment and discrimination the proposed Governance Goal focuses on equity, inclusivity, safety, and security for all students, including students who identify as lesbian, gay, transgender, transsexual, two-spirit, or who are questioning their sexual orientation or gender identity.

II. Proposed Goal

This proposed Board of Trustees goal is presented under the governance duty of policy development. Given the scope of the matter Senior Administration advises that Policy 1001 – "Foundation and Commitments" be revised to include a focus specifically on the human rights of all students to learn and work in school environments that respect honour, protect, celebrate individual differences and that provide equitable learning opportunities in inclusive settings. Such policy would emphasize that the Board recognizes that certain groups in our society are treated inequitably because of individual and systemic biases related to sex, gender, sexual orientation, family status, marital status, race, colour, culture, ethnicity, linguistic origin, disability, socio-economic class, age, ancestry, nationality, place of origin, religion, faith. It would state that the Board further recognizes that such inequitable treatment leads to educational, social, and career outcomes that do not reflect accurately the abilities, experiences and contribution of our students and their families. Such inequitable treatment limits students' future success and prevents them from making a full contribution to society.

III. Recommendation

It is recommended that the proposed Board Governance Goal be stated as follows:

"To review current Board Policy 1001 – "Foundations and Statements", to include an emphasis on the human rights of all students to learn and work in school environments that respect, honour, protect, celebrate individual differences and that provide equitable learning opportunities in inclusive settings; and

To conduct a review of all corresponding Board Policies and Procedures (together with historical and current practices) related to the human rights of all students; and that such a review advise of the changes required to reflect the Board's commitment to the human rights of all students; and

That such revision and review be conducted in accordance with Board Policy/Procedures 1020 – "Consultation"."

Respectfully submitted,

Dr. Donna M. Michaels

Superintendent of Schools/CEO

DMM/sb

* Attachments



BRANDON SCHOOL DIVISION POLICY

UNDER REVIEW

POLICY 1001

FOUNDATIONS AND COMMITMENTS

Adopted: Motion 107/96

MISSION STATEMENT

The Brandon School Division strives to enable each student to achieve maximum intellectual, emotional, social and physical growth. We accomplish this through the provision of programs and services which facilitate the development of students as healthy contributing members of society.

To achieve the mission, Brandon School Division:

- Recognizes students as unique individuals requiring a safe and positive learning environment;
- ☑ Supports partnerships with parents, businesses and community;
- Practices responsible management of its financial, human and physical resources; and
- Assumes the responsibility of directing the process by which the educational needs of our students are met.

VISION

To be a centre of educational excellence, built on community partnerships, effective leadership, and exemplary practices.





BRANDON SCHOOL DIVISION POLICY

POLICY 1001.1 EQUITY

Adopted: Motion 36/2010; March 22, 2010

The Board of Trustees believes that education is a fundamental building block to establishing "equity" rights for all students.

The Mission Statement of the Brandon School Division states, "The Brandon School Division strives to enable each student to achieve maximum intellectual, emotional, social and physical growth. We accomplish this through the provision of programs and services which facilitate the development of students as healthy contributing members of society."

Educational "equity" refers most broadly to a condition of fairness with respect to educational opportunities, access, and outcomes for all people. As applied in education, the legal principle of "equity rights" provides that all students have a right to an education that maximizes opportunities to develop their knowledge, skills and attitudes as embedded in the mission statement of the Brandon School Division.

The Board recognizes and accepts its responsibility to provide policy direction and resources to enhance and support quality instruction and learning opportunities that assist schools in closing educational achievement gaps by investing strategically in all students.

To demonstrate its commitment to respectful and equitable education in all Board activities, the Board commits to governance decisions that reflect these principles:

- the provision of appropriate learning opportunities for all students;
- the assessment of the effectiveness of programs and services to help students succeed:
- the identification and removal of systemic barriers to student achievement;
 - the use of data to inform resource allocation decisions;
 - the advocacy for funding and resources to support students in at-risk situations;
 and
- the advocacy for the enactment and protection of student equity rights.





BRANDON SCHOOL DIVISION POLICY

PROCEDURES 1001.1

EQUITY

Adopted: Motion 157/2010; October 25, 2010

In April 2005 the Brandon School Division's strategic planning update conference resulted in four key goals that continue to drive the cultural renewal process in the Division. One of these goals focused on developing schools that are relevant, reflective, and responsive of student needs. Student participants in the update process dubbed it "the school change" goal. In developing the strategic actions for this goal it was determined that a policy/procedures on *Equity* was crucial to the development of our schools in providing quality learning opportunities for <u>all</u> students.

To apply these Equity principles in the regular, systemic, administration of resource allocation, an evidenced-based process of ongoing measurement of student achievement is required. This allows for a feedback-enabled information cycle for both school sites and the School Division. Both current and longitudinal data points are required at regular grade level intervals over a number of school years to facilitate the ongoing monitoring and evaluation of the effectiveness of interventions on student achievement.

The 6 foundational principles of Equity described in the policy statement are detailed in these procedures.



I Appropriate Learning Opportunities

Central to delivering fair and equitable learning opportunities for all students is the close examination and evaluation of the appropriateness of the programs and services, both within the classroom setting and in the broad organizational processes of planning and implementation.

The Division will:

- recognize and support the complex needs of individual school sites with close regard to student achievement and school development planning;
- promote transparent, flexible, fair, and equitable allocation of resources across all learning sites;
- hire and assign staff to promote principles of fair and equitable access to optimize the learning opportunities for all students;
- promote the professional excellence of hired staff (qualifications and credentialing);
- promote hiring practices to reflect the demographic characteristics of the student population;
- support curricular and learning experiences at high standards at each learning site;
- make available an "Enablement Access" provision of ancillary services to provide that all student achievement results are consistent with outcomes of successful regular programming;
- require that Divisional staff development promote principles of fair and equitable access to optimize the learning opportunities for all students (in principal preparation, professional staff development, and support staff development);
- provide transportation services that foster optimal opportunity of access to learning sites for all participating students and staff;
- support environmentally sustainable physical learning environments, supported by appropriate policies; and
- promote and support inclusive learning environments, supported by appropriate policies.

- submit annual School Development Plans which maximize school-based resources, with the goal of optimizing student achievement;
- maintain and develop professional and support staff development which reflect and promote principles of fair and equitable access to learning opportunities for all students;
- provide appropriate staffing which support the uniqueness of each learning site;
- submit School Development Plans which detail goals and actions to promote increased access to quality teaching, learning, and support services. In addition, the plans will reflect principles of fair and equitable access to current curricular and learning experiences for all students;



- ensure fair access for all students to appropriate assessment, programming, and resulting services as well as to appropriate ancillary services;
- allow for appropriate exceptions for the needs of students who require transportation services;
- strive to develop environmentally sustaining physical and learning environments; and
- promote and support inclusive learning environments.



II Effectiveness of Learning

Delivering fair and equitable learning opportunities for all students requires ongoing assessment of the effectiveness of programs and services to help students succeed.

The Division will:

- provide resource allocations according to an equity model which includes the following four variables: student enrolment ratio, school development planning, student achievement results, and innovations requested by school site(s);
- follow up on evaluations for staff, and provide opportunities for growth and improvement as required;
- conduct ongoing program and service evaluations and enact/recommend appropriate changes;
- ensure that appropriate and current policies are in place;
- require ongoing monitoring of student achievement and follow-up;
- provide support in areas directly affecting students' learning in classrooms;
- provide a variety of opportunities for job embedded learning; and
- provide services to promote ease of access, safety, security, civility, and respect in all learning environments.

- engage in benchmark assessment to measure student growth in relation to established student outcomes and Division student achievement standards;
- maintain staff development which reflects the learning requirements of the student population;
- utilize differentiation of teaching and learning strategies in all classrooms;
- ensure that student engagement strategies be an integral component of student differentiation:
- ensure that school-identified priorities are related to student learning and achievement, and which are responsive to the individual needs of the school site;
- provide ease of access for all students; and
- ensure accurate, timely, and informative reporting of student learning to parents.

III Identification and Removal of Systemic Barriers

Delivering fair and equitable learning opportunities for all students requires a close examination and evaluation of the relation of systemic processes to student academic progress.

The Division will:

- engage in ongoing and regular review and critique of school and Divisional supports, guidelines, and policies that determine resource allocation to support student achievement;
- provide for policy review that uses equity principles as a basis for evaluation;
- strive to recruit Aboriginal, French Immersion, and English as an Additional Language (EAL) teachers and support staff;
- require that classroom and support delivery reflect best practices for all students;
- support programs which demonstrate equity principles;
- align staff and Divisional professional development needs;
- develop policy to support continuous enrolment; and
- encourage the flexibility of each school site with regard to a sustainable learning environment.

- engage in ongoing review of school supports, guidelines, and policies that determine resource utilization in support of student achievement;
- ensure regular staff evaluation and feedback;
- require professional development growth plans of all staff;
- complete annual needs assessment of each learning site (school development planning); and
- provide advocacy for both students and parents on an ongoing basis.



IV Utilization of Data

The effective use of data to support an evidence-based approach to measure and evaluate both student achievement and program progress is necessary to ensure the fair and equitable access to learning opportunities for all students.

The Division will:

- provide timely, reliable, and valid student achievement data and analysis for all learning sites which are compared to provincial, national, and international results, when possible;
- provide centralized, longitudinal tracking of student achievement data and trends;
- utilize data variables which are transparent and understandable to ensure that staff allocations, development of curricular and learning experiences, and fair access for all students to appropriate assessment, programming, and services are maintained:
- provide data and research analysis to guide professional and support staff development that support the fair access for all students to appropriate learning experiences; and
- provide data variables which are transparent and understandable to support the fair access for all students to an environmentally sustainable learning environment.

- ensure that school development planning focuses on student achievement trends to promote improved achievement outcomes for all students;
- utilize data variables and analysis to promote staff assignments, and access to curricular and learning experiences that reflect principles of fair and equitable access to learning opportunities for all students;
- utilize data variables and analysis which ensure fair access for all students to appropriate assessment, programming, and resulting services;
- report back to students on assessment results to aid in their growth and learning;
- utilize data variables and analysis when providing professional and support staff development to ensure fair access for all students to appropriate learning experiences;
- utilize data variables and analysis to inform planning for appropriate transportation services; and
- utilize data variables and analysis in planning to support an environmentally sustainable learning environment.



V Funding and Resourcing

Funding and resourcing represent a central and concrete expression of support for student achievement. As such, funding and resourcing of both the Division and school sites must reflect fair and equitable, student-focused principles which optimize achievement.

The Division will:

- use equity focused formulae, where appropriate to support student achievement, based on available student achievement data variables and analysis;
- provide an annual budget review and funding approval process;
- provide access and availability of student access to appropriate learning opportunities;
- target professional development budgets and resources for equitable staff development;
- maintain an ongoing review of student requirements;
- provide for the allocation of available or additional funds on an equity formulae basis; and
- provide for adequate resourcing of physical facilities which reflect environmentally sustainable approaches.

- utilize a transparent funding model that supports School Development Plans in response to student achievement targets;
- ensure that school allocation of staff reflect equity of access to programs, outcomes and student rights;
- ensure the delivery of appropriate learning experiences to meet targeted academic goals;
- ensure that school allocation of professional development opportunities reflect equity of student access to programs, outcomes and student rights; and
- maintain physical facilities which reflect environmentally sustainable approaches.



VI Rights of the Child

Central to a policy on Equity are the rights and responsibilities of the child within the school system. To be fair and equitable to all students, the rights and responsibilities of the child should be clearly articulated and in concert with provincial, national and international legislation, as applicable.

The Division will:

- provide a current, clear statement of student rights and responsibilities within the school system, according to articulated legislation:
- provide for identification of staff qualification and credentials for purposes of hiring and incorporate these into standards of staff performance of duties and responsibilities;
- study, assess, apply, and change practices to focus on the student and student achievement;
- provide for new teacher orientation processes which emphasize student equity principles;
- ensure that all policy development reflects student equity principles;
- maintain a process to ensure the right of appeal for students; and
- provide an ongoing analysis and evaluation of the learning environment with regard to the Rights of the Child.

- ensure each school Code of Conduct communicates student rights and responsibilities:
- ensure that school practices are based on student rights and responsibilities;
- ensure that school based in-services and reviews relate to organizational assessment practices;
- complete ongoing school-based analysis of quality of access to address student rights and responsibilities;
- provide staff development on the rights and responsibilities of the student; and
- complete School Development Plans which reflect the rights and responsibilities of the student.



SELF-INCRIMINATION.

13. A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.

INTERPRETER.

14. A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.

Equality Rights

EQUALITY BEFORE AND UNDER LAW AND EQUAL PROTECTION AND BENEFIT OF LAW / Affirmative action programs.

- 15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.
- (2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Official Languages of Canada

OFFICIAL LANGUAGES OF CANADA / Official languages of New Brunswick / Advancement of status and use.

- 16. (1) English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada.
- (2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick.
- (3) Nothing in this Charter limits the authority of Parliament or a legislature to advance the equality of status or use of English and French.

ENGLISH AND FRENCH LINGUISTIC COMMUNITES IN NEW BRUNSWICK / Role of the legislature and government of New Brunswick.



Whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth,

Whereas the need for such special safeguards has been stated in the <u>Geneval Declaration of the Rights of the Child</u> of 1924, and recognized in the <u>Universal Declaration of Human Rights</u> and in the statutes of specialized agencies and international organizations concerned with the welfare of children,

Whereas mankind owes to the child the best it has to give,

Now therefore,

The General Assembly

Proclaims this Declaration of the Rights of the Child to the end that he may have a happy childhood and enjoy for his own good and for the good of society the rights and freedoms herein set forth, and calls upon parents, upon men and women as individuals, and upon voluntary organizations, local authorities and national Governments to recognize these rights and strive for their observance by legislative and other measures progressively taken in accordance with the following principles:

Principle 1

The child shall enjoy all the rights set forth in this Declaration. Every child, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.

Principle 2

The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.

Principle 3

The child shall be entitled from his birth to a name and a nationality.

Principle 4

The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end, special care and protection shall be provided both to him and to his mother,



Executive director

7(1) One of the officers and employees of the Commission shall be designated as executive director.

Responsibilities of executive director

- 7(2) In addition to discharging his or her other responsibilities under this Code, the executive director shall
 - (a) act as registrar of complaints received by the Commission and ensure that they are disposed of in accordance with this Code;
 - (b) direct the day-to-day activities of the Commission's staff in the investigation and settlement of complaints, the provision of educational programs, and the other responsibilities of the Commission under this Code; and
 - (c) generally carry out, in accordance with the Commission's policies and directives, the administration of this Code.

Adjudication panel

8(1) There is hereby established an adjudication panel consisting of at least five persons appointed by the Lieutenant Governor in Council.

Commission members ineligible

8(2) No member of the Commission shall be appointed to the adjudication panel.

Length of appointment

8(3) Every person appointed to the adjudication panel shall hold membership on the panel for three years from the date of being appointed and thereafter until re-appointed or replaced.

Termination for cause

8(4) No appointment of a member of the adjudication panel shall be terminated except for cause.

Oath of impartiality

8(5) Upon being appointed to the adjudication panel, a member shall make an oath or affirmation in the following form:

"I do solemnly swear (or affirm) that I will faithfully, truly, impartially and to the best of my knowledge, skill and ability, adjudicate complaints under *The Human Rights Code* of Manitoba. So help me God." (Omit last four words where the member affirms.)



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).

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 pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
- (g) gender-determined characteristics or circumstances other than those included in clause (f);
- (h) sexual orientation;
- (i) marital or family status;
- (i) source of income;
- (k) political belief, political association or political activity:
- (I) physical or mental disability or related characteristics or circumstances, including reliance on a dog guide or other animal assistant, a wheelchair, or any other remedial appliance or device.

Systemic discrimination

9(3) In this Code, "discrimination" includes any act or omission that results in discrimination within the meaning of subsection (1), regardless of the form that the act or omission takes and regardless of whether the person responsible for the act or omission intended to discriminate.

Criminal conduct excluded

9(4) For the purpose of dealing with any case of alleged discrimination under this Code, no characteristic referred to in subsection (2) shall be interpreted to extend to any conduct prohibited by the *Criminal Code* of Canada.

No condoning or condemning of beliefs, etc.

9(5) Nothing in this Code shall be interpreted as condoning or condemning any beliefs, values, or lifestyles based upon any characteristic referred to in subsection (2).

Vicarious responsibility

- For the purposes of this Code, where an officer, employee, director or agent of a person contravenes this Code while acting in the course of employment or the scope of actual or apparent authority, the person is also responsible for the contravention unless the person
 - (a) did not consent to the contravention and took all reasonable steps to prevent it; and
 - (b) subsequently took all reasonable steps to mitigate or avoid the effect of the contravention.

Affirmative action, etc. permitted

- Notwithstanding any other provision of this Code, it is not discrimination, a contravention of this Code, or an offence under this Code
 - (a) to make reasonable accommodation for the special needs of an individual or group, if those special needs are based upon any characteristic referred to in subsection 9(2); or
 - (b) to plan, advertise, adopt or implement an affirmative action program or other special program that
 - (i) has as its object the amelioration of conditions of disadvantaged individuals or groups, including those who are disadvantaged because of any characteristic referred to in subsection 9(2), and
 - (ii) achieves or is reasonably likely to achieve that object.

Reasonable accommodation required

For the purpose of interpreting and applying sections 13 to 18, the right to discriminate where bona fide and reasonable cause exists for the discrimination, or where the discrimination is based upon bona fide and reasonable requirements or qualifications, does not extend to the failure to make reasonable accommodation within the meaning of clause 9(1)(d).

Discrimination in service, accommodation, etc.

13(1) No person shall discriminate with respect to any service, accommodation, facility, good, right, licence, benefit, program or privilege available or accessible to the public or to a section of the public, unless bona fide and reasonable cause exists for the discrimination.

Exception for age of majority

13(2) Nothing in subsection (1) prevents the denial or refusal of a service, accommodation, facility, good, right, licence, benefit, program or privilege to a person who has not attained the age of majority if the denial or refusal is required or authorized by a statute in force in Manitoba.

Discrimination in employment

14(1) No person shall discriminate with respect to any aspect of an employment or occupation, unless the discrimination is based upon bona fide and reasonable requirements or qualifications for the employment or occupation.

"Any aspect", etc. defined

- 14(2) In subsection (1), "any aspect of an employment or occupation" includes
 - (a) the opportunity to participate, or continue to participate, in the employment or occupation;
 - (b) the customs, practices and conditions of the employment or occupation;
 - (c) training, advancement or promotion;
 - (d) seniority;
 - (e) any form of remuneration or other compensation received directly or indirectly in respect of the employment or occupation, including salary, commissions, vacation pay, termination wages, bonuses, reasonable value for board, rent, housing and lodging, payments in kind, and employer contributions to pension funds or plans, long-term disability plans and health insurance plans; and
 - (f) any other benefit, term or condition of the employment or occupation.

Employment advertising

14(3) No person shall publish, broadcast, circulate or display, or cause to be published, broadcast, circulated or displayed, any statement, symbol or other representation, written or oral, that indicates directly or indirectly that any characteristic referred to in subsection 9(2) is or may be a limitation, specification or preference for an employment or occupation, unless the limitation, specification or preference is based upon bona fide and reasonable requirements or qualifications for the employment or occupation.

Pre-employment inquiries

- 14(4) No person shall use or circulate any application form for an employment or occupation, or direct any written or oral inquiry to an applicant for an employment or occupation, that
 - (a) expresses directly or indirectly a limitation, specification or preference as to any characteristic referred to in subsection 9(2); or
 - (b) requires the applicant to furnish information concerning any characteristic referred to in subsection 9(2);

unless the limitation, specification or preference or the requirement to furnish the information is based upon bona fide and reasonable requirements or qualifications for the employment or occupation.

Discrimination by employment agencies, etc.

- 14(5) No person who undertakes, with or without compensation, to
 - (a) obtain any other person for an employment or occupation with a third person; or
 - (b) obtain an employment or occupation for any other person; or
 - (c) test, train or evaluate any other person for an employment or occupation; or
 - (d) refer or recommend any other person for an employment or occupation; or
 - (e) refer or recommend any other person for testing, training or evaluation for an employment or occupation;

shall discriminate when doing so, unless the discrimination is based upon bona fide and reasonable requirements or qualifications for the employment or occupation.

Discrimination by organizations, etc.

- 14(6) No trade union, employer, employers' organization, occupational association, professional association or trade association, and no member of any such union, organization or association, shall
 - (a) discriminate in respect of the right to membership or any other aspect of membership in the union, organization or association; or
 - (b) negotiate on behalf of any other person in respect of, or agree on behalf of any other person to, an agreement that discriminates;

unless bona fide and reasonable cause exists for the discrimination.

Employee benefits

14(7) Subject to subsection 21(7.1) of *The Pension Benefits Act*, the Lieutenant Governor in Council may make regulations prescribing distinctions, conditions, requirements or qualifications that, for the purposes of this section, shall be deemed to be bona fide and reasonable in respect of an employee benefit plan, whether provided for by individual contract, collective agreement or otherwise.

Personal services in private residence

14(8) For the purposes of this section, it is a bona fide and reasonable requirement or qualification where, in choosing a person to provide personal services in a private residence, the employer discriminates for the bona fide purpose of fostering or maintaining a desired environment within the residence, if there is otherwise no contravention of this Code in the employment relationship.

"Personal services" defined

14(9) In subsection (8), "personal services" means work of a domestic, custodial, companionship, personal care, child care, or educational nature, or other work within the residence that involves frequent contact or communication with persons who live in the residence.

Exception for age of majority

14(10) Nothing in this section prevents a person from limiting the employment or occupation of a person under the age of majority, or from classifying or referring to a person under the age of majority for an employment or occupation, in accordance with a statute in force in Manitoba that regulates the employment or occupation of persons under the age of majority.

Promotion of beliefs, etc.

14(11) Nothing in this section prohibits the lawful and reasonable disciplining of an employee or person in an occupation who violates the duties, powers or privileges of the employment or occupation by improperly using the employment or occupation as a forum for promoting beliefs or values based upon any characteristic referred to in subsection 9(2).

No reduction of wages, etc.

- 14(12) An employer shall not, in order to comply with this section,
 - (a) terminate the employment or occupation of any person; or
 - (b) reduce the wage level or diminish any other benefit available to any person in an employment or occupation; or
 - (c) change the customs, practices and conditions of an employment or occupation to the detriment of any person;

if the person accepted the employment or occupation, the wage level or other benefit, or the customs, practices and conditions in good faith.

"Employment or occupation" defined

- 14(13) In this section, "employment or occupation" includes
 - (a) work that is actual or potential, full-time or part-time, permanent, seasonal or casual, and paid or unpaid; and
 - (b) work performed for another person under a contract either with the worker or with another person respecting the worker's services.

S.M. 2005, c. 2, s. 36.

Discrimination in contracts

- 15(1) No person shall discriminate with respect to
 - (a) entering into any contract that is offered or held out to the public generally or to a section of the public; or
 - (b) any term or condition of such a contract;

unless bona fide and reasonable cause exists for the discrimination.

Life insurance, etc., contracts

15(2) The Lieutenant Governor in Council may make regulations prescribing distinctions, conditions, requirements or qualifications that, for the purposes of this section, shall be deemed to

be bona fide and reasonable in respect of life insurance, accident and sickness insurance or life annuities, whether provided for by individual contract, collective agreement, or otherwise.

Discrimination in rental of premises

- 16(1) No person shall discriminate with respect to
 - (a) the leasing or other lawful occupancy of, or the opportunity to lease or otherwise lawfully occupy, any residence or commercial premises or any part thereof; or
 - (b) any term or condition of the leasing or other lawful occupancy of any residence or commercial premises or any part thereof;

unless bona fide and reasonable cause exists for the discrimination.

Exception for private residence, etc.

- 16(2) Subsection (1) does not apply to
 - (a) the choice of a boarder or roomer for a private residence by the occupier of the residence; or
 - (b) the choice of a tenant for a unit in a duplex by the owner of the duplex, if the owner occupies the other unit in the duplex.

Discrimination in purchase of real property

- 17 No person shall discriminate with respect to
 - (a) the purchase or other lawful acquisition of, or the opportunity to purchase or otherwise lawfully acquire, any residence, commercial premises, or other real property or interest therein that has been advertised or otherwise publicly represented as being available for purchase or acquisition; or
 - (b) any term or condition of the purchase or other lawful acquisition of any such property or interest;

unless bona fide and reasonable cause exists for the discrimination.

Discriminatory signs and statements

- No person shall publish, broadcast, circulate or publicly display, or cause to be published, broadcast, circulated or publicly displayed, any sign, symbol, notice or statement that
 - (a) discriminates or indicates intention to discriminate in respect of an activity or undertaking to which this Code applies; or
 - (b) incites, advocates or counsels discrimination in respect of an activity or undertaking to which this Code applies;

unless bona fide and reasonable cause exists for the discrimination.

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.

Reprisals

- No person shall deny or threaten to deny any benefit, or cause or threaten to cause any detriment, to any other person on the ground that the other person
 - (a) has filed or may file a complaint under this Code; or

- (b) has laid or may lay an information under this Code; or
- (c) has made or may make a disclosure concerning a possible contravention of this Code; or
- (d) has testified or may testify in a proceeding under this Code; or
- (e) has participated or may participate in any other way in a proceeding under this Code; or
- (f) has complied with, or may comply with, an obligation imposed by this Code; or
- (g) has refused or may refuse to contravene this Code.

PART III

COMPLIANCE PROCEDURES

Advisory opinion

21(1) Any person may request the Commission to determine whether an act or omission or proposed act or omission by that person contravenes this Code and the Commission may, after making such inquiries and investigations as it considers necessary, give the person a written opinion, referred to in this section as an "advisory opinion", in response to the request.

Notice of power to revoke or modify

21(2) Every advisory opinion shall contain notice of the Commission's power to revoke or modify the advisory opinion in accordance with subsection (3).

Revocation or modification

21(3) The Commission may at any time, either on its own initiative or after a request therefor by any person, revoke or modify an advisory opinion, and upon so doing the Commission shall give written notice of the revocation or modification to the person who requested the advisory opinion.

Non-contravention deemed

- 21(4) Where
 - (a) an advisory opinion indicates that an act or omission or proposed act or omission does not contravene this Code; and
 - (b) the facts that the person who requested the advisory opinion supplied to the Commission in support of the request were as accurate and complete as was reasonably possible in all relevant respects;

the person shall, subject to subsections (5) and (6), conclusively be deemed not to be contravening this Code in undertaking the act or omission.

Effect of modification

21(5) Where the Commission modifies an advisory opinion, the person who requested the opinion shall, upon receiving notice of the modification, be entitled to rely upon subsection (4) in respect of a subsequent act or omission to the extent that the modification, or any part of the advisory opinion that has not been modified, indicates that the act or omission does not contravene this Code.

Effect of revocation

21(6) Where the Commission revokes an advisory opinion, the person who requested the opinion shall, upon receiving notice of the revocation, no longer be entitled to rely upon subsection (4) in respect of any subsequent act or omission to which the advisory opinion would have applied.

Public inspection

- 21(7) Subject to such limitations on disclosure as may be otherwise prescribed by law, the Commission shall
 - (a) make available for inspection by any person, during normal office hours, any advisory opinion, including modifications thereof, that it has not revoked; and
 - (b) in the annual report referred to in subsection 6(2), summarize every advisory opinion and every modification or revocation of an advisory opinion that it has given or made during the preceding year.

Complaints

22(1) Any person may file, at an office of the Commission, a complaint alleging that another person has contravened this Code.

Content of code of conduct

- 47.1(2) A school's code of conduct must include
 - (a) a statement that pupils and staff must behave in a respectful manner and comply with the code of conduct;
 - (b) a statement that the following are unacceptable:
 - (i) abusing physically, sexually, or psychologically orally, in writing or otherwise any person,
 - (i.1) bullying, including cyber-bullying,



- (ii) discriminating unreasonably on the basis of any characteristic set out in subsection 9(2) of The Human Rights Code,
- (iii) using, possessing or being under the influence of alcohol or illicit drugs at school;
- (c) a statement that the following will not be tolerated on school sites:
 - (i) gang involvement,
 - (ii) possessing a weapon, as "weapon" is defined in section 2 of the Criminal Code (Canada);
- (d) a statement that pupils and staff must adhere to school policies respecting appropriate use of
 - (i) e-mail and the Internet, including policies that prohibit the accessing, uploading, downloading or distributing of material that the school has determined to be objectionable, and
 - (ii) digital cameras, cell phones, including those cell phones equipped with digital cameras, and other personal communication devices identified in the code of conduct;
- (e) the disciplinary consequences, in as much detail as is reasonably possible, of violating the code of conduct, and the process for appealing disciplinary decisions;

and meet any other requirements prescribed by regulation under The Education Administration Act.