



ONTARIO PUBLIC  
SCHOOL BOARDS'  
ASSOCIATION

**Leading Education's Advocates**

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May 3, 2019

To: The Honourable Lisa Thompson, Minister of Education

RE: Consultation on Draft PPM: School Board Policies on Service Animals

Thank you for the opportunity to consult on the Draft Policy/Program Memoranda (PPM) for School Board Policies on Service Animals. OPSBA and its member boards are committed to providing accommodations and modifications for students, where necessary, to provide meaningful access to education. OPSBA supports the development of a Ministry of Education PPM, to provide a consistent guideline on which to create a service animal school board policy. This will help to clarify roles and responsibilities and ultimately provide greater awareness, understanding and predictability for families.

The input to the draft PPM was gathered through consulting with school board staff with expertise in this area and trustees who are responsible for approving school board policy. As always, if there are any questions on this input, OPSBA staff would be available to respond and/or provide any additional support as required.

An implementation date of September 1, 2020, is recommended. The process to develop a new board policy and associated procedures, or revising an existing policy, takes time and must follow established school board protocols on consultations with education partners and communities. Doing this in an authentic way requires the time to listen and respond to feedback. During this interim period school boards would still be obligated to comply with the PPM and would be responding to any requests in this regard.

The precedent-setting decision regarding the Waterloo Catholic District School Board provides a sound basis from which to build a PPM and it is recommended that this important tribunal decision be included as a valuable reference within the body of the PPM as well as a listed resource. It clearly delineates the obligation of a school board to ensure that a student has meaningful access to educational services and that through "timely and thorough investigative measures" gathers evidence to determine whether a student requires a particular accommodation to realize their education potential. This may or may not require the use of a service animal and it is important for parents and school boards to be open to a variety of different ways in which student needs can be met. "The Human Rights Tribunal of Ontario (HRTO) confirmed that these decisions should be

made on an individual case-by-case basis, grounded in evidence specific to the disability-related needs of each student.” School board staff, with expertise in this area, are in the best position to provide this evidence.

The draft PPM currently implies that not permitting a service animal request risks not meeting the needs of a particular student. This is misleading and too directive for a PPM. The draft PPM needs to be more explicit regarding the fact that there are multiple ways in which school board staff can meet the needs of a student, as is highlighted in the Waterloo HRTO decision. Having a glossary of terms such as disability, accredited health professional, scope of practice, provincially recognized certification and training, related legislation/HRTO decision, etc., would be helpful in creating a common language base and a common understanding when exploring options with families.

The draft PPM seems to place an over-reliance on the Human Rights Code relative to other legislation such as the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA) and its Customer Service Standard. With so many repetitive legislative references, there appears to be a blurring of the lines, which could lead to confusion. The draft PPM does not differentiate between animals that provide specific services (e.g. blind/low vision, hearing and other issues linked to a specific disability), as covered by the AODA, and animals that provide “comfort.” Using the generalized term “service animal” in the PPM is misleading to the reader. The PPM implies that the legislation obligates boards under the Code or AODA when in fact a service animal that is not a formal “guide dog” as per AODA is not an obligation, but rather a potential accommodation for a student.

As summarized by Shibley Righton LLP (Issue #1, Sept 2017), the HRTO recently provided clarity with respect to a school board’s obligation to permit service animals in schools in Ontario. The following elements should be highlighted in the PPM.

“The HRTO confirmed that the general public does not have access to schools and therefore, the obligation relating to service animals under the *Accessibility for Ontarians with Disabilities Act 2005* does not apply. In other words, unlike malls and restaurants, schools are not obligated to ensure that a student is permitted to enter a school with their service dog.

The Tribunal accepted that the school board was accommodating the applicant at school with other supports and strategies to assist with his disability-related needs and the applicant was accessing educational services in a meaningful way.

Third, the decision confirms that a school board has the right to undertake its own process to determine whether a service animal is a necessary accommodation for a student in order to access a meaningful education. It was also important that the school board was timely in all of the steps taken in response to the service dog application and in addition, that there were prompt and continuous communications between the school administration and the student’s parents.”

Omitting this language and specific reference to the HRTO decision, which provides guidance to school boards, ignores the precedent set by the decision. As such, boards might be put in precarious positions by such a PPM.

In addition to animals trained and certified through recognized training/certification programs, school boards have received other types of requests for a variety of different animals to

accompany a child/youth, including a snake, rat, gerbil, hamster, rooster, ferret, squirrel, etc. The draft PPM is vague on the point of what type of service animal should be considered beyond a dog. A family pet was never what this policy was intended to permit, yet the language in the draft PPM is not specific and leaves school boards in an awkward position with families. The easy access to online certificates has exacerbated this problem.

There must be greater reference to the expectation of acceptable training and certification programs for service animals, which are primarily service dogs. Our member boards are seeking consistency in service dog certification and mandatory training as well as a commitment to ongoing maintenance training. This requirement would facilitate the process and lead to a better and safer experience for the student, classmates, school staff and families.

In addition, although a recommendation from a registered health professional is an essential element, their scope of practice does not extend into what it looks like within a classroom context. The most appropriate accommodation in an academic setting is the purview of educators and is outside the scope of practice of health care professionals. This distinction matters, otherwise parents come into schools with the expectation that a doctor's note is prescriptive. Instead, a doctor's note should be used in a collaborative way to determine the best accommodation for the student to engage in meaningful ways in the education setting.

Mandatory training for the service animal is one component, however for the safety and well-being of everyone the student needs to be specifically trained as the handler and must be able to support all the needs of the service animal. The ability of the student to be the handler should be a key factor in the decision-making process and this needs to be embedded within the draft PPM to provide a common starting point for families and school boards. School boards do not have staff available for such a purpose. This can lead to unrealistic expectations, which need to be addressed very early in the process.

As a publicly funded school system, we must consider the competing rights for students and staff who have fears of service animals, cultural sensitivities, or physical and medical realities of their own. A right to a positive learning and working environment must be available to all. The Principal has the authority under the *Education Act* to make decisions in the school's best interest. Competing rights are a reality and must be considered as a key factor when decisions are being made. These points should be explicitly included in the PPM.

It is common practice for a service animal accommodation to be included in the student's Ontario Student Record and identified in the Individual Education Plan (IEP). IEPs are reviewed, at least, on an annual basis. As a result, the accommodation for a service animal would also be reviewed annually to ensure that the accommodation is still appropriate for the student to be able to meaningfully access education. This allows for any change in circumstance or for an adjustment to an existing accommodation to be addressed in a timely manner.

In addition to these key points, attached please find tracked suggested changes and comments for consideration in revisions to the PPM (Appendix A) and a suggested set of roles and responsibilities for supporting service animals in schools (Appendix B). Thank you for this opportunity to provide input to this important process. Please do not hesitate to contact OPSBA should you require any clarification to the feedback.

Sincerely,

A handwritten signature in black ink that reads "Cathy Abraham". The signature is written in a cursive, flowing style.

Cathy Abraham  
President  
Ontario Public School Boards' Association

*The Ontario Public School Boards' Association represents public district school boards and public school authorities across Ontario, which together serve more than 1.3 million public elementary and secondary students. The Association advocates on behalf of the best interests and needs of the public school system in Ontario. OPSBA is seen as the credible voice of public education in Ontario and is routinely called on by the provincial government for input and advice on legislation and the impact of government policy directions.*

CC: Nancy Naylor, DM

Martyn Beckett, Acting Assistant Deputy Minister, Student Achievement Division

Shirley Kendrick, Assistant Deputy Minister, Student Support and Field Services Division

Claudine Munroe, Director, Special Education/Success for All Branch