



PR523, Access to School Premises: Revised Procedure

To: Governance and Policy Committee

Date: 10 February, 2021

Report No.: 02-21-4025

Strategic Directions

- Create a Culture for Student and Staff Well-Being
- Build Strong Relationships and Partnerships Within School Communities to Support Student Learning and Well-Being
- Provide Equity of Access to Learning Opportunities for All Students

Recommendation

It is recommended that the revised Trespass to Property Procedure, renamed to the Access to School Premises Procedure (PR523), as presented in this report, be received for information.

Context

In the province of Ontario a principal is granted the authority to limit access to a school premises in 3 distinct ways. Those ways include suspension/expulsion, Education Act sections 306 and 310, Refusal to Admit, Education Act section 265 1(m) and finally through O. Reg. 474/00 Access to School Premises.

Currently, in the TDSB a principal can trespass a person from their school in accordance with TDSB Procedure PR523 (Trespass to Property). This procedure is largely based on the Trespass to Property Act (Ontario 2016).

Procedure 523 has been reviewed, rewritten and renamed (Appendix A). The renaming and revisions to the procedure is to directly align the procedure with O. Reg 474/00 Access to School Premises. The procedure should, at its core, set out who has the legal right and who does not have the legal right to access a schools premise. O. Reg 474/00 does this in detail and this is reflected in the revised procedure. Further, the

procedure should outline when, how and who should be consulted when a site manager, including a school principal, is going to deny access to the premises.

This is not to say that the TDSB would not also rely on the Trespass to Property Act when a decision to deny access to a school premise has been reached. The attached letters (Appendix B), also cite the Trespass to Property Act as further legislative authority for denying access to a school premise.

There is a proposed section related to canines and canine owners that has been added to the procedure. The TDSB is often asked to cite where in policy and procedure we limit access to canines on board properties. This procedure may be a possible place to record and document this information.

It is also important to note that the revised procedure also provides direction to site managers, including school principals, to review, establish, communicate and provide signage for secure access to schools. This includes entry and exit plans, door usage plans and instructions for visitors to the school, including appropriate school signage, a sign in and out process, and name tag wearing for identification purposes.

As well, there are rare occasions when a person should be denied access to all school board sites. The proposed procedure sets out a process for these instances including appropriate documentation for an individual.

Action Plan and Associated Timeline

Subject to the Governance and Policy Committee's receipt, the Procedure will be provided to the Board of Trustees on February 10, 2021 for information.

Resource Implications

The current proposal does not put a strain on existing TDSB resources. The TDSB has supports and resources already in place that will enable the proposed changes to be implemented.

Communications Considerations

The Access to School Premises Procedure (PR583) is posted on the Board's internal and external website and will be communicated through the System Leaders' Bulletin and sent to school Principals and Site Managers for immediate use.

In addition, a communication plan will be developed for Trustees, Senior Team, Principals, Vice-Principals and school communities outlining the above changes and expectations.

Board Policy and Procedure Reference(s)

Caring and Safe Schools (P051)

Board Code of Conduct (PR585)

Refusal to Admit (PR724)

Police-School Board Protocol (PR698)

Appendices

- Appendix A: PR 523, Access to School Premises
- Appendix B: PR 523, Trespass to Property

From

[Jim Spyropoulos](#), Executive Superintendent, Human Rights and Indigenous Education
or [Ted Libera](#) Centrally Assigned Principal, Caring and Safe Schools and Alternative
Programs

Toronto District School Board

Procedure PR523

Title: **Access to School Board Premises**

Adopted: February 29, 2000

Effected: February 29, 2000

Revised: November 2, 2000; **January 10, 2021**

Reviewed: November 2, 2000; **January 10, 2021**

Authorization: Executive Council

1.0 RATIONALE

The Access to School Board Premises Procedure (the “Procedure”) supports the implementation of the Caring and Safe Schools Policy (P031).

Access to school board premises is determined by the premises’ site manager, typically the school Principal. The parameters for access to school board premises are set out in *O. Reg. 474/00, Access to School Premises*, under the *Education Act*.

2.0 OBJECTIVES

To provide guidelines regarding trespass to property at the TDSB

3.0 DEFINITIONS

Board refers to the Toronto District School Board, which is also referred to as “TDSB.”

Board Premises or *Board Property* refers to any TDSB land, premises, location or thing at, upon, in or near which a student learns or an employee works.

Occupier refers to:

(a) a person who is in physical possession of premises, or

(b) a person with responsibility for the control over the condition of the premises, or the activities there carried on, or control over persons allowed to enter the premises, notwithstanding that there is more than one occupier for the same premises

Premises refers to lands and structures, or either of the, and includes:

- (a) water,
- (b) ships and vessels,
- (c) trailer and portable structures designed or used for residence,
- (d) business or shelter,
- (e) trains, railway cars, vehicles and aircraft, except while in operation.

TDSB refers to the Toronto District School Board, which is also referred to as the “Board.”

Service Animal refers to an animal that provides support relating to a student’s disability. Traditionally, service animals have been dogs, and dogs remain the most common species of service animal; however, other species may also provide services to individuals with disabilities. The types of functions performed by service animals are diverse, and may or may not include sensory, medical, therapeutic, and emotional support services.

4.0 RESPONSIBILITY

Executive Superintendent, Human Rights and Indigenous Education

5.0 APPLICATION AND SCOPE

This Procedure applies to all students and employees of the Board. The Procedure also covers, parents/guardians, school council members, visitors, third party service providers, volunteers, permit holders, customers of the Board and other members of organizations while partaking in any activities that occur in Board premises or while engaging in Board related functions.

Schools and school-related activities, such as extra-curricular activities and excursions comprise the learning and working environment, fall within the scope of this Procedure, as do Board offices and facilities (including eating, lounge/changing areas and vehicles used for work purposes or on work property). Conferences, workshops, training sessions and staff functions (e.g., staff parties, retirement celebrations) also fall within the scope of this Procedure.

6.0 PROCEDURES

6.1 School Board Premises

Access to school board premises is determined by the premises’ site manager, typically the school Principal. The parameters for access to school board premises are set out in *O. Reg. 474/00, Access to School Premises*, under the

Education Act. This procedure will assist site managers should they deem it necessary to deny access to school premises to a person(s). The *Trespass to Property Act, R.S.O. 1991*, also provides school site managers to exercise control over persons entering onto their property

6.2 Persons who are legally permitted to be on school board premises

Further to the Access to School Premises regulation, the following persons are permitted to be on school board premises:

1. A person enrolled as a pupil in the premise
2. A parent or guardian of such pupil
3. A person employed or retained by the Board
4. A person who is otherwise on premises for a lawful purpose
5. A person who is invited to attend an event, a class or a meeting on the premises
6. A person who is invited onto school premises for a particular purpose by the Principal, a Vice-Principal or another person authorized by the Board to do so is permitted to be on school board premise

6.3 Access to school board premises

Those persons outlined in section 6.2 will have access to school board premises when the premises are being used for a purpose authorized by the Board. At the start of each school year the Principal and/or Site Managers will:

1. Ensure that they have entry and exit plans that are understood by all members of the school community and reviewed annually,
2. Establish (both elementary and secondary schools and other school board sites), review, and communicate which doors are open, locked, and to be used by whom, during specified times, (please refer to Section 5 of this procedure Guidelines for a Safe Entry Plan), and
3. Ensure that proper signage is in place and visible instructing all visitors to start their visit to the premise at the main office (please refer to the TDSB signage and engraving catalogue to purchase signage).

6.4 Denying access to school board premises for persons who are legally permitted to be on the premises

Under O. Reg 474/00 Access to School Premises, a person is not permitted to remain on premises:

1. if in the judgement of a principal, a vice-principal, site manager or another person authorized by the board to make such a

- determination, his or her presence is detrimental to the safety or well-being of a person on the premises or,
2. if a policy or procedure of the Board requires the person to report their presence on premises in a specified manner and the person fails to do so.

PLEASE NOTE THAT A STUDENT CANNOT BE TRESPASSED, OR ISSUED A WARNING TO TRESPASS TO A PREMISE IN WHICH THEY ARE ENROLLED AS A PUPIL, OR IF THE PUPIL IS ATTENDING A PROGRAM FOR SUSPENDED OR EXPELLED PUPILS THAT IS LOCATED ON THE PREMISES

Should an incident occur involving a person's access to a school board premise the Principal and/or Site Managers will:

1. Conduct an investigation to determine what occurred during the incident,
2. Consult with their Superintendent of Education and their Caring and Safe Schools staff,
3. Determine if the incident requires a follow up with the person(s) involved, and communicate with that person(s) accordingly (i.e. meeting, warning letter (template letter attached as Appendix A),
4. Issue a Trespass to Property Letter (template letter attached as Appendix B), if the Principal deems that the person's presence is detrimental to the safety or well-being of a person on the premises, and
5. Inform Toronto Police Service if appropriate.

6.5 Persons who are not legally permitted to be on school board premises

Under O. Reg 474/00 Access to School Premises, a person is not permitted to remain on school premises:

1. if in the judgement of a principal, a vice-principal, site manager or another person authorized by the board to make such a determination, his or her presence is detrimental to the safety or well-being of a person on the premises (i.e. students from another school),
2. if a policy or procedure of the Board requires the person to report their presence on premises in a specified manner and the person fails to do so.

PLEASE NOTE THAT A STUDENT CANNOT BE TRESPASSED, OR ISSUED A WARNING TO TRESPASS, TO A PREMISE IN WHICH THEY ARE ENROLLED AS A PUPIL, OR IF THE PUPIL IS ATTENDING A PROGRAM FOR SUSPENDED OR EXPELLED PUPILS THAT IS LOCATED ON THE PREMISES

6.6 Denying Access to School Board Premises (persons who are not legally permitted to be on school board premises)

Should an incident occur involving a person's access to school board premises the Principal and/or Site Manager will:

1. Conduct an investigation to determine what occurred during the incident,
2. Consult with their Superintendent of Education and their Caring and Safe Schools staff,
3. Determine if the incident requires a follow up with the person(s) involved, and communicate with that person(s) accordingly (i.e. meeting, warning letter (template letter attached as Appendix A)),
4. Issue a Trespass to Property Letter (template letter attached as Appendix C), if the Principal deems that the person's presence is detrimental to the safety or well-being of a person on the premises; and
5. Inform Toronto Police Service if appropriate.

6.7 Access to School Board Premises

The *Trespass to Property Act, R.S.O. 1991*, provides Board site managers the discretion to exercise control over persons entering onto their property.

6.8 Denying Access to all sites of the School Board

From time to time, it may be prudent for a person to be denied access to all sites of the School Board.

Should an incident occur involving a person's access to all school board premises the Principal and/or Site Manager will:

1. Conduct an investigation to determine what occurred during the incident,
2. Consult with their Superintendent of Education and their Caring and Safe Schools staff,
3. Determine if the incident requires a follow up with the person(s) involved, and communicate with that person(s) accordingly (i.e. meeting, warning letter (template letter attached as Appendix A), and
4. If it is deemed that the person's presence is detrimental to the safety or well-being of a person(s) at all TDSB sites, the Principal and/or Site Manager will consult with Centrally Assigned Principal for Caring and Safe Schools to issue a Trespass to Property Letter (template letter attached as Appendix D).

The Centrally Assigned Principal for Caring and Safe Schools will;

1. Review the circumstances necessitating a Trespass to all TDSB Properties letter,

2. Prepare a trespass letter for all School Board sites (Appendix D) if it is deemed that the person's presence is detrimental to the safety or well-being of a person(s) at all TDSB sites,
3. Review the trespass letter and the circumstances necessitating the letter with the appropriate Associate Director of Education,
4. Upon approval and signature of the appropriate Associate Director of Education, issue the Trespass to all TDSB sites letter, and
5. Inform Toronto Police Service if appropriate.

6.9 Annual Review of Issued Trespass Letters

In all cases the issuance of a trespass letter is not to be taken lightly. An investigation of the incident involving a person's access to school premises, and consultation with the appropriate TDSB staff must occur every time a trespass to property letter is issued. Each trespass letter must be reviewed annually by the Principal and/or Site Manager of the site to which the letter pertains to determine if the circumstances that necessitated the letter still exist.

If a trespass to property letter is to be rescinded a meeting should be occur with the Principal/Site Manager and the person to whom the trespass letter applies, to review access to school premises expectations and to ensure that the incident that necessitated the letter (or a similar incident) does not occur again (please see Appendix E for template letter for rescinding a trespass to property).

6.10 Use of School Board Premises by Canine Dog Owners

The TDSB does not allow canines (dogs) on their properties at any time. As such the expectation is that canines will not be on any TDSB property. The exception to this section will be in accordance with the Student Use of Service Animals in Schools Policy (P096) and the Use of Service Animals by the General Public Procedure (PR604). The use of service animals at the TDSB must be in accordance with both the above named documents as these documents provide directions for the administration of the school and support of service animals in the school environment.

6.11 Guidelines for a Safe Entry Plan

Under the *Education Act, R.S.O. 1990, c. E.2*, Principals and site managers are responsible for safety at their schools/sites. That includes establishing a plan for safe entry to the school/site. While all Board premises are different, all must establish a plan for safe entry.

Elementary schools

Each elementary school will establish, review and communicate the Ministry of Education Safe Welcome Program, which includes the use of secure front door access. While elementary schools will use an electronic system for securing their front doors, it is the Principal of the school who determines its usage,

including the hours the system is operational. It is expected that if you have a secure front door access system front doors and perimeter doors will be locked as appropriate during the school day.

Elementary principals should also consider the following when creating their Safe Entry Plan:

- Times that the secure front door access system will be active
- Doors that will be unlocked for access to the school when the secure front door access system is not in use
- Ability to monitor any unlocked door during the school day
- Childcare/Tenant access to the school (please refer to PR 663, Key and Access Control)
- After hour access i.e. Continuing Education classes, permit usage, etc.

Secondary Schools

Each secondary school will establish, review and communicate which doors are open, locked and to be used by whom during specified times. This plan should be reviewed annually and shared with all members of the school community.

Secondary principals should consider the following when creating their Safe Entry Plan:

- Times that doors will be locked and unlocked
- Ability to monitor any unlocked door(s) during the school day
- Childcare/Tenant access to the school (please refer to PR 663, Key and Access Control)
- After hour access i.e. Continuing Education classes, permit usage, etc.

School Board Sites

Sites other than schools will establish, review and communicate which doors are open, locked and to be used by whom during specified times. This plan should be reviewed annually and shared with all members of their community.

Site managers should consider the following when creating their Safe Entry Plan:

- Times that doors will be locked and unlocked
- Ability to monitor any unlocked door(s) during the school day
- Childcare/Tenant access to the school (please refer to PR 663, Key and Access Control)
- After hour access i.e. Continuing Education classes, permit usage, etc

7.0 EVALUATION

This operational procedure will be reviewed and amended, as required. At a minimum, it will be reviewed every four (4) years after the effective date.

8.0 APPENDICES

- Appendix A: Trespass to Property Warning Letter Template
- Appendix B: Trespass to Property Letter Template - For persons who are legally permitted to be on school premises, e.g. parents/guardians
- Appendix C: Trespass to Property Letter Template - For persons who are not legally permitted to be on school premises
- Appendix D: Trespass to Property Letter Template - For persons who are not legally permitted to be on school premises and being denied access to all school board properties
- Appendix E: Rescinding Trespass to Property Letter Template

9.0 REFERENCE DOCUMENTS

Policies:

- Caring and Safe Schools (P051)
- Student Use of Service Animals in Schools (P096)

Operational Procedures:

- Workplace Harassment Prevention and Human Rights (PR515)

Legislative Acts and Regulations:

- *Education Act*
- *Trespass to Property Act*
- *O. Reg. 474/00, Access to School Premises*

Appendix A

Trespass to Property Warning Letter Template

*Please note that a student cannot be issued a warning to trespass to a school in which they are enrolled, or if the pupil is attending a program for suspended or expelled pupils that is located on the school premises

[insert letterhead]

[insert method of delivery]

[insert name of individual to be warned or individual's parent/guardian if individual is under 18]

[insert address]

Toronto , Ontario

[insert postal code]

Dear [insert name individual to be warned or individual's parent/guardian if individual is under 18]:

Re: [insert incident]

I am writing to state my concerns regarding your [insert incident(s) leading to warning] at [insert address] on [insert date]. [insert details]

Your behavior, as described above, was inappropriate and unacceptable. The Toronto District School Board's *Code of Conduct* sets out standards of behavior for all members of the school community, including [insert name]. The *Code of Conduct* provides [insert text] Conduct, PR585, i.e. "that all members of the school community must treat one another with dignity and respect at all times, and especially when there is a disagreement." The *Code of Conduct* specifically states that [insert text] 4.3 of the Board Code of Conduct, PR585, i.e. "[p]arents play an important role in the education of their children and have a responsibility to support the efforts of school staff in maintaining a safe and respectful learning environment for all students." Further some of the means by which [insert name] fulfill their role include:

- [insert applicable reference from section 4.3 of the Board Code of Conduct, PR585, i.e. showing respect for the Principal and school staff; and

- showing that they are familiar with the Code of Conduct, the Board's Code of Conduct and school rules].

Your behavior on [insert date of incident(s) leading to warning] cannot and will not be condoned by the Toronto District School Board.

Please be advised that a [site manager i.e. principal] may deny a person access to the school premises under the *Education Act*, R.S.O. 1990, c. E.2, and in extreme circumstances may trespass a person pursuant to the *Trespass to Property Act* R.S.O. 1990, c.T.21.

I trust that my expectations are clear.

1.0 Yours truly,

2.0

3.0

[insert name]

[insert title], [insert school/property name]

4.0

cc: [insert name], Superintendent of Education
[insert name], Caring and Safe Schools Administrator

Appendix B

**Trespass to Property Letter Template
For persons who are legally permitted to be on school premises, e.g.
parents/guardians**

1.0 *Please note that a student cannot be issued a trespass to a school in which they are enrolled, or if the pupil is attending a program for suspended or expelled pupils that is located on the school premises

[insert letterhead]

[insert method of delivery]

[insert name of individual to be trespassed or individual's parent/guardian if individual is under 18]

[insert address]

Toronto , Ontario

[insert postal code]

Dear [insert name individual to be trespassed or individual's parent/guardian if individual is under 18]:

Re: [insert school/property name]

This letter is notice to **you/name** that **you/name's** **is/are** prohibited from entering upon the property known as **School name** located at **School Address**.

Under the *Education Act*, R.S.O. 1990, c. E.2, Ontario Regulation 474/00, *Access to School Premises*, authorizes a principal, a vice-principal or another person authorized by the Toronto District School Board to direct a person to leave the school premises where, in the judgment of the principal, vice-principal or other authorized person, the presence of that person is detrimental to the safety or well-being of a person on the premises.

Enter factual details related to issuing the trespass letter.

Your/name's presence on **School name** property has been considered detrimental to the safety and well-being of persons on **School name** premises.

Please be advised that if **you/name** enter(s) upon **school name's** premises the police will be called immediately. Failure to comply with this notice may result in prosecution under the Trespass to Property Act, R.S.O. 1990, c. T.21, and if

convicted a fine of up to \$5,000.00 under the Provincial Offences Act, R.S.O. 1990 c. P.33, and/or a fine of up to \$10,000.00 under the Trespass to Property Act.

Should you/name require access to School name, please contact me by phone at school phone number or in writing and we will discuss the matter. In the event of an emergency, School name staff will contact you/name and you/name will report directly to School name's main office.

Yours Truly,

[insert name]

[insert title], [insert school/property name]

cc: [insert name], Superintendent of Education
[insert name], Caring and Safe Schools Administrator
[insert school/property name] Head Caretaker [if applicable]
Toronto District School Board Security – 15 Oakburn Crescent
Toronto Police Service, [insert division number] Division

Appendix C

Trespass to Property Letter Template
For persons who are not legally permitted to be on school premises

[insert letterhead]

[insert method of delivery]

[insert name of individual to be trespassed or individual's parent/guardian if individual is under 18]

[insert address]

Toronto , Ontario

[insert postal code]

Dear [insert name individual to be trespassed or individual's parent/guardian if individual is under 18]:

Re: [insert school/property name]

This letter is notice to you/name that you/name is/are prohibited from entering upon the property known as School name located at School address.

Under the *Education Act*, R.S.O. 1990, c. E.2, Ontario Regulation 474/00, *Access to School Premises*, authorizes a principal, a vice-principal or another person authorized by the Toronto District School Board to direct a person to leave the school premises where, in the judgment of the principal, vice-principal or other authorized person, the presence of that person is detrimental to the safety or well-being of a person on the premises.

Enter factual details related to issuing the trespass letter.

Your/name's presence on School name property has been considered detrimental to the safety and well-being of persons on School name premises.

Please be advised that if you/name enter(s) upon school name's premises the police will be called immediately. Failure to comply with this notice may result in prosecution under the Trespass to Property Act, R.S.O. 1990, c. T.21, and if convicted a fine of up to \$5,000.00 under the Provincial Offences Act, R.S.O. 1990 c. P.33, and/or a fine of up to \$10,000.00 under the Trespass to Property Act.

Yours Truly,

[insert name]

[insert title], [insert school/property name]

cc: [insert name], Superintendent of Education
[insert name], Caring and Safe Schools Administrator
[insert school/property name] Head Caretaker [if applicable]
Toronto District School Board Security – 15 Oakburn Crescent
Toronto Police Service, [insert division number] Division

Appendix D

Trespass to Property Letter Template
For persons who are not legally permitted to be on school premises and being denied access to all school board properties

[insert letterhead]

[insert method of delivery]

[insert name of individual to be trespassed or individual's parent/guardian if individual is under 18]

[insert address]

Toronto , Ontario

[insert postal code]

Dear [insert name individual to be trespassed or individual's parent/guardian if individual is under 18]:

Re: [insert school/property name]

This letter is notice to you/name that you/name is/are prohibited from entering upon any property owned and/or operated by the Toronto District School Board ("TDSB").

Under the *Education Act*, R.S.O. 1990, c. E.2, Ontario Regulation 474/00, *Access to School Premises*, a person authorized by the Toronto District School Board may direct a person to leave the school premises where, in the judgment of person authorized by the Toronto District School Board, the presence of that person is detrimental to the safety or well-being of a person on the Toronto District School Board premises.

Enter factual details related to issuing the trespass letter.

Your presence on any property owned and/or operated by the TDSB has been considered detrimental to the safety and well-being of persons on all TDSB's premises.

Please be advised that if you/name enter(s) upon TDSB's premises the police will be called immediately. Failure to comply with this notice may result in prosecution under the Trespass to Property Act, R.S.O. 1990, c. T.21, and if convicted a fine of up to \$5,000.00 under the Provincial Offences Act, R.S.O. 1990 c. P.33, and/or a fine of up to \$10,000.00 under the Trespass to Property Act.

Should you require access to TDSB's premises, please contact Name by phone at phone number or in writing at email address to discuss the matter.

Your
Truly

,

[insert name]

Director or Associate Director, TDSB

cc: [insert name], Superintendent of Education
[insert name], Caring and Safe Schools Administrator
[insert school/property name] Head Caretaker [if applicable]
Toronto District School Board Security – 15 Oakburn Crescent
Toronto Police Service, [insert division number] Division

Appendix E

Rescinding Trespass to Property Letter Template

[insert letterhead]

[insert method of delivery]

[insert name of individual to be trespassed or individual's parent/guardian if individual is under 18]

[insert address]

Toronto , Ontario

[insert postal code]

Dear [insert name individual to be trespassed or individual's parent/guardian if individual is under 18]:

Re: Trespass Letter dated [insert date of Trespass Letter]

Please be advised that the Trespass Letter dated [insert date], trespassing [name of individual trespassed to [insert name of school/property] is no longer in effect.

Sincerely,

[insert name]

[insert title], [insert school/property name]

cc: [insert name], Superintendent of Education
[insert name], Caring and Safe Schools Administrator
[insert school/property name] Head Caretaker [if applicable]
Toronto District School Board Security – 15 Oakburn Crescent
Toronto Police Service, [insert division number] Division

Toronto District School Board

Operational Procedure PR.523 SCH

Title: **TRESPASS TO PROPERTY**

Adopted: February 29, 2000

Revised: **November 2, 2000**

Authorization:

1.0 OBJECTIVE

To provide guidelines regarding trespass to property

2.0 DEFINITIONS

2.1. "Occupier" includes:

- (a) a person who is in physical possession of premises, or
- (b) a person with responsibility for the control over the condition of the premises, or the activities there carried on, or control over persons allowed to enter the premises, notwithstanding that there is more than one occupier for the same premises

2.2. "Premises" means lands and structures, or either of the, and includes:

- (a) water,
- (b) ships and vessels,
- (c) trailer and portable structures designed or used for residence,
- (d) business or shelter,
- (e) trains, railway cars, vehicles and aircraft, except while in operation.

3.0 RESPONSIBILITY

Associate Director

4.0 PROCEDURES

Trespass to Property Act

The *Trespass to Property Act*, like the *Education Act*, is a provincial statute. It is another Act that gives educators powers of arrest and detention. It allows educators to exercise control over the persons entering onto their property.

Schools are not public property. The right to use facilities is determined by the *Education Act* and also at the discretion of the local school boards (*Ed. Act, Section 171 (1) par 24*). The person entering onto a school property will have a valid and/or lawful reason to be on that property.

The signs that are posted on the entrances to schools state “that all visitors will first report to the main office”. This kind of signage is one way of telling visitors that they will be lawfully allowed on the property if they comply with this condition. Failure to comply may result in the person being considered a trespasser.

4.1 Trespass offences

- (a) Everyone who is not acting under a right or authority conferred by law and who:
 - (i) without express permission of the occupier, the proof of which lies on the defendant
 - (A) enters onto the premises when entry is prohibited under this Act; or
 - (B) engages in an activity on the premises when the activity is prohibited under this Act; or
 - (C) does not leave the premises immediately after the person is directed to do so by the occupier of the premises or a person authorized by the occupier, is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.00

4.2 Prohibited areas, entry

- (a) Entry on a premises may be prohibited by notice to that effect and entry is prohibited without any notice on a premises:
 - (i) that is enclosed in a manner that indicates that occupier’s intention to keep persons off the premises....

4.3 Method of giving notice

- (a) A notice under this Act, may be given:
 - (i) orally or in writing
 - (ii) by means of signs posted so that a sign is clearly visible in daylight under normal conditions from the approach to each ordinary point of access to the premises to which it applies
- (b) Courts prefer to have the notice given in writing. Notices should be served annually, especially for new students that become habitual trespassers

4.4 Some examples of offences

- (a) A person that enters onto a school property who is not a student at that school and ignores the sign posted at the entrance has committed the offence of “entry when entry is prohibited”. This would also apply to a student who is under suspension, exclusion or expulsion from his/her own school during the suspension period
- (b) If a person is engaging in an activity where a sign is posted prohibiting that activity or a permit has not been granted for that activity, the person is committing an offence under this Act as well. Even where a sign is not posted, once a person is told the activity is prohibited and they continue, they are committing an offence
- (c) In the last section of offences, once the person has been told to leave the property and they refuse, they are again committing an offence under the Act

4.5 Access to school premises: trespass warning letters

As a result of the *Access to School Premises Regulation (O. Reg. 474/00)* which came into force on September 1, 2000, executives' council has approved changes to the Board's two existing trespass warning letters and the addition of a third letter.

The new *Access to School Premises Regulation* which is made under the authority of amendments to the *Education Act*, contained in the *Safe Schools Act, 2000*, specifies who is permitted to be on school premises on any day or at any time. Persons who are on school premises without being authorized by regulation have committed an offence and can be charged under the *Education Act (s. 305)*. Upon conviction, the fine carries a maximum penalty of \$5000.00.

- (a) Form 523A is a letter addressed to persons who are legally permitted to be on school premises, e.g. parents/guardians, pursuant to the *Safe Schools Act, 2000* and more specifically, the *Access to School Premises Regulation*
- (b) Form 523B is a letter intended for all persons not permitted by law to be on the school's premises
- (c) Form 523C effectively prohibits the recipient from being on any property owned or operated by the Toronto District School Board. This letter is designed to be used only in special situations where the intruder is not a person who is permitted by law to be on a school premise and where it is prudent to prohibit the person from being on any school premise

Reference is made in each of the new trespass warning letters to both *the Safe Schools Act, 2000* and to the *Trespass to Property Act*. The provisions in the new regulation are specific to school premises, whereas the *Trespass to Property Act* governs more than just access to schools. Whether a person is charged under the new regulation or the TPA, will depend on the individual circumstances of the case.

5.0 REFERENCE DOCUMENTS

Education Act

Trespass to Property Act

Access to School Premises Regulation

Safe Schools Act, 2000

To access a trespass to property letter please contact your Caring and Safe Schools Administrator.

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