

NIPISSING-PARRY SOUND CATHOLIC DISTRICT SCHOOL BOARD

TRESPASS TO PROPERTY AND ACCESS TO SCHOOL PREMISES

AS 29.0
Section O
June 2014

PREAMBLE

For the protection of students, staff and visitors, it shall be necessary to monitor access to the Board's premises.

Access to School Premises

School administrators are often faced with the difficult task of having to remove individuals from the school premises. First and foremost, however, unless there is imminent danger, a trespasser on school property must first be asked to leave peacefully.

Where a person does not have a lawful reason for being on school property and/or poses a threat to school safety, there are a number of ways for a school principal to protect the safety of others in the school. Provisions of the *Education Act* permit a school principal to direct persons prohibited by regulation to be there on a specific day or time. Under subsection 305(3), a person shall not enter or remain on school premises if he or she is prohibited under a board policy from being there. Section 305(5) provides that every person who contravenes subsection (2) is guilty of an offence.

On September 1, 2000, the *Access to School Premises Regulation* came into force. Section 2(1) of the regulation permits the following persons to be on school premises:

1. A person enrolled as a pupil in the school.
2. A parent or guardian of such a pupil.
3. A person employed or retained by the board.
4. A person who is otherwise on the premises for a lawful purpose.

It is important to note, however, that these individuals do not have unfettered access to all areas of the school premises and are not guaranteed automatic access. Subsection 3(1) of the Regulation provides that a person is not permitted to remain on school premises if, in the judgment of the principal or vice-principal, his or her presence is detrimental to the safety or well-being of a person on the premises. Subsection 3(2) of the Regulation provides that a person is not permitted to remain on school premises if a school board policy requires that person to report his or her presence and the person fails to do so.

It should be noted that under O. Reg. 471/07, subsections (1) and (2) do **not** apply to a pupil enrolled in the school or to a pupil attending a program for suspended or expelled pupils that is located on the school premises.

By virtue of the provisions of the *Education Act*, no person other than those set out in the regulation are permitted to remain on school property. Every person who contravenes this provision is guilty of an offence and, pursuant to the *Provincial Offences Act*, is subject to a fine of not more than \$5,000.

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Trespass to Property

It should also be noted that the Ontario *Trespass to Property Act* also applies to school premises and permits a school principal to take action in order to meet his or her duty under the *Education Act*. School boards are expressly recognized as “occupiers” under the *Trespass to Property Act*, having all the rights and duties of an occupier with respect to school premises.

Trespassing is an offence under the Act and can result in a fine of up to \$2,000. Actions which constitute an offence under the *Trespass to Property Act* include:

- entering the premises when entry is prohibited under the Act;
- engaging in an activity on the premises when the activity is prohibited under the Act; or
- failing to leave the premises immediately after being so directed by the occupier or a person authorized by the occupier of the premises.

Notice Should be in Writing

It is advised that notice under the *Education Act* or the *Trespass to Property Act* should be given in writing. The notice should indicate that the individual’s presence on school property has been considered detrimental to the safety and well-being of persons on the school premises. Further, the notice should provide that failure to comply with the request may result in prosecution under either the *Education Act* and the *Access to School Premises* regulation or the *Trespass to Property Act*.

The letter should be copied to the proper board official as well as the local police so that no confusion arises as to whether notice was provided to the individual names in the visitors’ book. Each school should ensure that signs stating “Please begin your visit to our school by attending the office” are posted at the entrances to the school. In addition, unknown visitors should be required to produce proper identification upon request.

Role of the Principal

If a principal or his or her designate becomes aware of a person who has entered the premises is prohibited, or is engaging in a prohibited activity, or fails to leave the premises immediately after being directed to do so, he or she may:

- if possible, confront the trespasser and verbally request that the trespasser leave and not return;
- ask the trespasser to identify himself or herself and give the reason for his or her presence on school property;

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- where appropriate, send a letter of caution to the trespasser regarding a possible trespass notice and/or notice of denial of access; and
- send the trespasser a written notice, by registered mail, with a copy sent to the proper board official and the police.

Once a trespasser has been warned, if the school official becomes aware of the return of that person, the official should contact the police immediately and then monitor the situation pending the arrival of the police. In the event that there is an element of danger with respect to a trespass situation, the police should be contacted immediately in accordance with the Police/School Board Protocol (*refer to Section K*).

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- if possible, confront the trespasser and verbally request that the trespasser leave and not return;
- ask the trespasser to identify himself or herself and give the reason for his or her presence on school property;
- where appropriate, send a letter of caution to the trespasser regarding a possible trespass notice and/or notice of denial of access; and
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Once a trespasser has been warned, if the school official becomes aware of the return of that person, the official should contact the police immediately and then monitor the situation pending the arrival of the police. In the event that there is an element of danger with respect to a trespass situation, the police should be contacted immediately in accordance with the Police/School Board Protocol (*refer to Section K*).

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TRESPASS LETTER

DELIVERED BY HAND or REGISTERED MAIL

Insert Date

Insert Name of Recipient
Insert Recipient's Address

Dear **[Insert Recipient's Name]**

Re: [Insert Name and Address of the School]

This letter is notice to you that you are prohibited from entering upon the property known as **[Insert Name and Address of the School]**.

Failure to comply with this direction may result in a prosecution under the *Trespass to Property Act*.

The *Trespass to Property Act* provides that trespass is an offence which is punishable on conviction with a fine of not more than \$2,000.00. Furthermore, the court has the authority to award damages suffered by the Nipissing-Parry Sound Catholic District School Board, caused during the commission of an offence.

Please note that under the provisions of the *Education Act*, the principal has a duty to maintain proper order and discipline in the school. In my judgment, your presence on school property is detrimental to the physical or well-being of a person or persons on school premises. In this regard, you are directed not to return to **[Insert Name of School]**.

The reasons for this trespass notice are:

This trespass notice will be reviewed on **[Insert Date]**.

If you require access to **[Insert Name of School]**, please contact me by phone at **[Insert Phone Number of School]** and we will discuss the matter.

In the event of an emergency, school staff will contact you. In these circumstances, you will report directly to the school office.

Sincerely

[Insert Principal's Name/Designate]
[Insert Title]

c. Police Service
Superintendent of Education

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DENIAL OF ACCESS LETTER

DELIVERED BY HAND or REGISTERED MALL

[Insert Date]

**[Insert Name of Recipient]
[Insert Recipient's Address]**

Dear **[Insert Recipient's Name]**

Re: [Insert Name and Address of the School]

This letter is notice to you that you are denied access to school property known as **[Insert Name and address of the School]**.

The *Education Act* and the *Access to School Premises Regulation* (O. Reg. 474/00) authorize a principal, a vice-principal or another person authorized by the 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. In my judgment, your presence on school is detrimental to the safety and well-being of a person or persons on the school premises. In this regard, you are directed not to return to **[Insert Name of School]**.

Failure to comply with this direction may result in a prosecution under the *Education Act* and a possible fine to you of up to \$5,000.00.

The reasons for this denial of access are:

This denial of access notice will be reviewed on **[Insert Date]**.

If you require access to **[Insert Name of School]**, please contact me by phone at **[Insert Phone Number of School]** and we will discuss the matter.

Sincerely

**[Insert Principal's Name/Designate]
[Insert Title]**

c. Police Service
Superintendent of Education