

SCHOOL TRESPASS POLICY

DM Approval:



Effective Date: December 1, 2017

GENERAL INFORMATION

The *Education Act* requires that the principal of each school shall maintain order in the school, on school grounds, and during activities sponsored or approved for the school. The principal is also responsible for the proper maintenance and care of school property.

Most Yukon schools are multi-use facilities that are used outside of school hours by a variety of community groups for public and private events not associated with the public education system.

PURPOSE

The purpose of this policy is to set out procedures, including an appeal procedure, to guide decision making under the *School Trespass Act*.

DEFINITIONS

'Authorized person' as defined by the *School Trespass Act*, includes a school superintendent, a school principal and vice-principal, as well as teaching staff and maintenance personnel.

'Notice' includes notice by word of mouth, in writing, or by sign bearing the words 'no trespassing' or words of similar effect.

'Premises' includes a school building and any land that is used in connection with that building.

'Trespass' includes entering or remaining without lawful authority on school premises.

POLICY STATEMENT

Notice Not to Trespass

A person shall not attend Yukon school premises if the person has been given notice not to trespass on those premises by an authorized person. The notice will include reasons why the person has been issued a notice not to trespass.

In cases where the notice not to trespass involves a single school, the authorized person will normally be the school principal. Unless immediate action is required, the

authorized person shall consult with the superintendent of schools who is responsible for the school before issuing a notice not to trespass. In cases where the superintendent is the authorized person, he/she shall consult with the Assistant Deputy Minister.

In cases where a notice not to trespass involves multiple schools, the authorized person will normally be either the school superintendent or the Assistant Deputy Minister.

Notices not to trespass will be considered on a case by case basis. The authorized person may issue a partial or individualized notice not to trespass when it is directly warranted by particular circumstances. This includes, but is not limited to, partial bans, bans only during school hours, and bans from certain school facilities. There may also be a duty to accommodate the special needs of persons where those needs arise from a protected ground under the *Human Rights Act*.

The notice not to trespass remains in effect until it is rescinded by the authorized person or by the Deputy Minister of Education. The notice not to trespass will be reconsidered by the authorized person three months after the date it is issued and every three months thereafter during the school year.

An authorized person shall maintain a record of all notices not to trespass that are in effect for a school and all incidents of trespassing.

Enforcement of Notice Not to Trespass

If a person who has been given notice not to trespass enters or remains on the school premises without prior permission from the authorized person, the school may request assistance to have the person removed from the school premises.

Right to Appeal Notice Not to Trespass

Any person who has been given notice not to trespass on school premises may appeal the notice to the Deputy Minister of Education. The Deputy Minister will provide the person with an opportunity to provide reasons for the appeal. These reasons can be provided in writing and/or orally to the Deputy Minister.

The Deputy Minister will issue a decision confirming, modifying, or rescinding the notice not to trespass within 14 days after have been provided with the reasons for the appeal. The Deputy Minister will provide reasons for their decision.

ROLES AND RESPONSIBILITIES

Authorized persons are responsible for issuing notices not to trespass on school premises, with reasons, and for seeking any necessary assistance for enforcing notices not to trespass when required.

The authorized person may inform others of the notice not to trespass, as is required to meet the purposes of the *School Trespass Act*. This may include, but is not limited to, informing the principal, vice-principal, other school staff, students, or other person(s) affected by the decision, in accordance with the requirements of the *Access to Information and Protection of Privacy Act*.

In deciding whether to give a person notice not to trespass on school premises, the authorized person shall ensure that the provisions of the *Student Trespass Act* and the *Human Rights Act* are met.

Department of Education Policy, Planning and Evaluation staff are responsible for providing advice and assistance regarding provisions under the *Student Trespass Act* and this policy.

Persons who have been given notice not to trespass are responsible for not entering or remaining on the school premises without the prior authorization of the authorized person.

The Deputy Minister of Education is responsible for hearing appeals of notices not to trespass on school premises and providing their decision, with reasons.

APPLICATION

This policy applies to all staff of the Department of Education and all other members of school communities.

EXCEPTIONAL CIRCUMSTANCES

In situations where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would result in an unfair or an unintended result, the decision may be based on the individual merits and justice of the situation. Such a decision will be considered for that specific case only and will not be precedent setting.

EFFECTIVE DATE

This policy is effective December 1, 2017.

LEGISLATIVE AND POLICY REFERENCES

Education Act, ss. 18 (1) (b); ss. 169 (d)

School Trespass Act

Human Rights Act, s. 7, s. 10

Access to Information and Protection of Privacy Act, s. 36 (c), (n)

HISTORY

Trespassing Policy, effective 1987; amended by School Trespass Policy, effective December 1, 2017.