

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.