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Bill 16

An Act to amend various Acts with respect to racial equity

Co-sponsors:

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Private Members' Bill

1st Reading August 30, 2022

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

Various Acts are amended with respect to racial equity. Here are some of the highlights.

A number of amendments are made to the *Education Act*. New subsection 10.1 (3) of the Act is amended to require the Minister to direct a board to develop its anti-racism accountability report if in the opinion of the Minister there is indication that the board's new teacher induction program does not include anti-racism and racial equity training. Subsection 170 (1) of the Act is amended by adding anti-racism related responsibilities to the duties of boards. New subsection 212 (1.1) provides for fines for persons who disrupt or attempt to disrupt proceedings of a school or class through the use of racist language or activities. New section 277.28.1 provides that performance appraisals shall include competencies related to a teacher's anti-racism awareness and efforts to promote racial equity. New subsection 301 (7.1.1) requires the Minister to establish policies and guidelines with respect to promoting racial equity in schools. New section 303.4 requires boards to establish and implement racial equity plans.

Amendments to the *Higher Education Quality Council of Ontario Act, 2005* include new subsections 2 (5.1) to (5.3) which provide that at least one member of the Council shall be a person who has expertise in racial equity in the post-education sector and that all members must have a proven commitment to racial equity or take anti-racism training. Section 6 of the Act is amended to add racial equity-related requirements to the functions of the Council.

The *Ministry of Training, Colleges and Universities Act* is amended to add a new section 17.1 which sets out anti-racism and racial equity requirements that apply to every college of applied arts and technology and every university that receives ongoing operating funds from the government for the purposes of post-secondary education.

Subsection 18 (1) of the *Ontario College of Teachers Act, 1996* is amended by adding a requirement that a person successfully completes any prescribed examinations and training in anti-racism in order to be issued a certificate of qualification and registration. Amendments are also made to the regulation-making authority of the Lieutenant Governor in Council.

Amendments to the *Ontario Colleges of Applied Arts and Technology Act, 2002* include adding anti-racist education and training to the education and training related activities a college may undertake in carrying out its objects. New section 5.1 sets out that each college or subsidiary of a college shall develop and implement an anti-racism policy. Amendments are also made to the Act to provide that at least one member of the board of governors and one member of the board of directors of the Council shall have expertise in racial equity in the post-education sector and that all members must have a proven commitment to racial equity or take anti-racism training.

The *Anti-Racism Act, 2017* is amended to add "anti-Asian racism" to the examples of types of systemic racism referred to in the Act.

An Act to amend various Acts with respect to racial equity

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

EDUCATION ACT

1 Subsection 1 (1) of the *Education Act* is amended by adding the following definitions:

“anti-racism” means the policy of opposing racism including anti-Indigenous racism, anti-Black racism, anti-Asian racism, antisemitism and Islamophobia; (“lutte contre le racisme”)

“racism” means the use of socially constructed ideas of race to justify or support, whether consciously or subconsciously, the notion that one race is superior to another; (“racisme”)

2 Section 10.1 of the Act is amended by adding the following subsection:

Same, anti-racism training

(3) If, in the opinion of the Minister, a report submitted under subsection (1) indicates that the board’s new teacher induction program does not include anti-racism and racial equity training, as referred to in paragraph 3.1 of subsection 268 (2), the Minister shall inform the board of that fact and shall direct the board to further develop its anti-racism accountability program and resubmit the report within a time frame specified by the Minister.

3 (1) Subsection 169.1 (1) of the Act is amended by adding the following clause:

(a.3) address racism and promote racial equity;

(2) Subsection 169.1 (2.1) of the Act is amended by striking out “clauses (1) (a.1) and (a.2)” and substituting “clauses (1) (a.1) to (a.3)”.

(3) Subsection 169.1 (3) of the Act is amended by striking out “allocation of resources” and substituting “allocation of resources, including the allocation of resources to address racism,”.

4 Subsection 170 (1) of the Act is amended by adding the following paragraphs:

professional development programs, anti-racism

7.3 establish and provide annual professional development programs to educate teachers and other staff of the board about promoting racial equity and developing the necessary tools to address racism;

programs, interventions and other supports, anti-racism

7.4 provide programs, interventions or other supports for students, teachers and staff who have been targeted by racism, witnessed incidents of racism or engaged in racist behaviours, and the programs, interventions and other supports may be provided by social workers, psychologists or other professionals who have training in similar fields, as determined by the board;

anti-racism protocol

7.5 establish a protocol for recognizing, acknowledging, tracking, measuring, investigating and responding to incidents of racism reported by students, teachers, staff, parents or the school community;

5 Section 212 of the Act is amended by adding the following subsection:

Racist disturbances

(1.1) Every person who disrupts or attempts to disrupt the proceedings of a school or class through the use of racist language or by engaging in racist activities is guilty of an offence and on conviction is liable to a fine of not more than \$200.

6 Subsection 264 (1) of the Act is amended by adding the following clause:

anti-racism

(c.1) to advance racial equity;

7 Subsection 265 (1) of the Act is amended by adding the following clause:

anti-racism

(b.1) to advance racial equity;

8 Subsection 268 (2) of the Act is amended by adding the following paragraph:

3.1 Anti-racism and racial equity training for new teachers.

9 Section 277.14 of the Act is amended by adding the following clause:

(a.1) to ensure that pupils receive the benefit of an education system that is safe and promotes respect and racial equity;

10 The Act is amended by adding the following section:**Anti-racism competency**

277.28.1 Despite anything in a regulation made under this Act, a performance appraisal of a teacher shall include competencies related to a teacher's anti-racism awareness and the teacher's efforts to promote racial equity.

11 Section 287.2 of the Act is amended by adding the following clause:

(a.1) to ensure that pupils receive the benefit of an education system that is safe and promotes respect and racial equity;

12 Section 300.0.1 of the Act is amended by adding the following paragraph:

7. To create schools in Ontario that promote racial equity.

13 (1) Subsection 301 (2) of the Act is amended by adding the following paragraph:

8. To promote racial equity and anti-racism and to prevent racism.

(2) Subclause 301 (6) (a) (i) of the Act is amended by adding "racism," after "bullying,".**(3) Section 301 of the Act is amended by adding the following subsection:****Same, promoting racial equity**

(7.1.1) The Minister shall establish policies and guidelines with respect to promoting racial equity in schools, which must include policies and guidelines respecting,

- (a) training for all teachers and other staff;
- (b) resources to support pupils, teachers and staff who have been targeted by racism;
- (c) strategies to support pupils, teachers and staff who witness incidents of racism;
- (d) resources to support pupils, teachers and staff who have engaged in racist behaviours;
- (e) procedures that allow pupils, teachers and staff to report incidents of racism safely and in a way that minimizes the possibility of reprisal;
- (f) procedures that allow parents and guardians and other persons to report incidents of racism;
- (g) the use of disciplinary measures within the framework described in clause (6) (a) in response to racism;
- (h) procedures for responding appropriately and in a timely manner to racism; and
- (i) matters to be addressed in prevention of racist behaviours and intervention plans established by boards under section 303.4.

(4) Subsection 301 (7.2) of the Act is amended by striking out "The Minister may establish" at the beginning and substituting "The Minister shall establish".**14 The Act is amended by adding the following section:****Board's racial equity plan**

303.4 (1) Every board shall establish a racial equity plan for the schools of the board and require its schools to implement the plan.

Contents of plan

(2) The racial equity plan shall address any matter specified in the policies or guidelines made under clause 301 (7.1.1) (i).

Consultation

(3) When establishing the racial equity plan, a board shall solicit the views of the pupils, teachers and staff of the board, the volunteers working in the schools, the parents and guardians of the pupils, school councils and the public.

Communication of plans, board

(4) A board shall make its racial equity plan available to the public by posting it on the board’s website or, if the board does not have a website, in another manner that the board considers appropriate.

Same, principal

(5) A principal of a school shall make the board’s racial equity plan available to the public by posting it on the school’s website or, if the school does not have a website, in another manner that the principal considers appropriate.

Review of plan

(6) A board shall review its racial equity plan every three years and shall solicit the views of those listed in subsection (3) in its review.

15 Subsection 306 (1) of the Act is amended by adding the following paragraph:

6.1 Engaging in behaviours or using language that is racist.

HIGHER EDUCATION QUALITY COUNCIL OF ONTARIO ACT, 2005

16 Section 1 of the *Higher Education Quality Council of Ontario Act, 2005* is amended by adding the following definitions:

“anti-racism” means the policy of opposing racism including anti-Indigenous racism, anti-Black racism, anti-Asian racism, antisemitism and Islamophobia; (“lutte contre le racisme”)

“racism” means the use of socially constructed ideas of race to justify or support, whether consciously or subconsciously, the notion that one race is superior to another. (“racisme”)

17 Section 2 of the Act is amended by adding the following subsections:

Racial equity representative

(5.1) At least one member of the Council shall be a person who has expertise in racial equity in the post-secondary education sector.

Commitment to racial equity

(5.2) If the Minister learns, upon conducting an investigation or otherwise, that a member of the Council does not have a proven commitment to racial equity in the post-secondary education sector, the Minister shall require that member to take anti-racism training within the following six months.

Same

(5.3) The anti-racism training referred to in subsection (5.2) shall be training developed by experts in the anti-racism education community.

18 Section 5 of the Act is amended by adding the following subsection:

Anti-racism object

(2) It is also an object of the Council to assist the Minister in ensuring that the post-secondary education sector promotes racial equity and works to combat racism.

19 (1) Section 6 of the Act is amended by adding the following clauses:

- (a.1) to develop and implement a racial equity strategy for the post-secondary education sector that includes anti-racism professional development opportunities for anyone involved in the post-secondary education sector and any other prescribed programs or information;
- (a.2) to evaluate the strategy referred to in clause (a.1), report to the Minister on the results of the evaluation and make the report available to the public;

(2) Clause 6 (c) of the Act is amended by adding the following subclause:

- (i.1) on racial equity in the post-secondary education sector,

20 Subsection 8 (3) of the Act is repealed and the following substituted:

Same

(3) The Council shall include in the annual report,

- (a) data collected within the post-secondary education sector that documents racism, anti-racist initiatives and steps taken towards racial equity within that sector; and
- (b) such additional content in the annual report as the Minister may require.

21 Clauses 9 (1) (c) and (d) of the Act are repealed and the following substituted:

- (c) prescribing objects, including racial equity objects, of the Council in addition to the objects described in section 5;
- (d) prescribing functions, including racial equity functions, of the Council in addition to the functions set out in section 6;

MINISTRY OF TRAINING, COLLEGES AND UNIVERSITIES ACT

22 The *Ministry of Training, Colleges and Universities Act* is amended by adding the following section:

Anti-racism

Definitions

17.1 (1) In this section,

“anti-racism” means the policy of opposing racism including anti-Indigenous racism, anti-Black racism, anti-Asian racism, antisemitism and Islamophobia; (“lutte contre le racisme”)

“racism” means the use of socially constructed ideas of race to justify or support, whether consciously or subconsciously, the notion that one race is superior to another. (“racisme”)

Application

(2) This section applies to every college of applied arts and technology and to every university that receives regular and ongoing operating funds from the government for the purposes of post-secondary education.

Anti-racism policy

- (3) Every college or university described in subsection (2) shall have an anti-racism policy that,
- (a) addresses racism involving students enrolled at or faculty or staff of the college or university;
 - (b) sets out the process for how the college or university will respond to and address incidents and complaints of racism involving students enrolled at or faculty or staff of the college or university, and includes the elements specified in the regulations relating to the process;
 - (c) addresses any other topics and includes any other elements required by the regulations; and
 - (d) otherwise complies with the requirements set out in the regulations.

Student, faculty and staff input

(4) A college or university described in subsection (2) shall ensure that student, faculty and staff input is incorporated, in accordance with any regulations, in the development of its anti-racism policy and every time the policy is reviewed or amended.

Review

(5) Every college or university described in subsection (2) shall review its anti-racism policy at least once every three years and amend it as appropriate.

Implementation of policy and other measures

- (6) Every college or university described in subsection (2) shall,
- (a) implement its anti-racism policy in accordance with the regulations; and
 - (b) implement any other measure or do any other thing it is required to do under the regulations relating to racism involving students enrolled at or faculty or staff of the college or university.

Information for Minister

(7) Every college or university described in subsection (2) shall collect from its students, faculty, staff and other persons, and provide to the Minister, such data and other information relating to the following as may be requested by the Minister, in the manner and form directed by the Minister:

1. The number of times supports, services, complaints, resolutions and accommodation relating to racism are requested, made and obtained by students enrolled at or faculty or staff of the college or university, and information about the supports, services, complaints, resolutions and accommodation.
2. Any anti-racism initiatives and programs established by the college or university to promote awareness of the supports and services available to students, faculty and staff.
3. The number of incidents and complaints of racism reported by students, faculty and staff and information about such incidents and complaints, including how the incidents and complaints were addressed or resolved.
4. The implementation and effectiveness of the policy.

Annual report to board of governors

(8) Every college or university described in subsection (2) shall provide its board of governors with an annual report setting out, in respect of the preceding year, the information described in paragraphs 1 to 4 of subsection (7).

Personal information

(9) A college or university shall take reasonable steps to ensure that information provided to the Minister pursuant to subsection (7) or to its board of governors pursuant to subsection (8) does not disclose personal information within the meaning of section 38 of the *Freedom of Information and Protection of Privacy Act*.

Survey

(10) Every three years, the Minister shall conduct or direct a college or university described in subsection (2) to conduct or participate in, a survey of students, faculty, staff and any other persons as identified by the Minister, relating to the effectiveness of the college's or university's anti-racism policy, to the incidence of racism at the college or university and to any other matter mentioned in paragraphs 1 to 4 of subsection (7).

Same

(11) A college or university that is directed by the Minister to conduct a survey described in subsection (10) shall disclose the results of the survey to the Minister and the public.

Regulations

(12) The Lieutenant Governor in Council may make regulations relating to addressing racism, anti-racism and racial equity involving students enrolled at or faculty or staff of colleges and universities described in subsection (2), and governing anti-racism policies required under this section, and without limiting the generality of this power, may make regulations,

- (a) governing processes that shall be followed and persons who shall be consulted in the development and approval of anti-racism policies, and in their review and amendment, and governing how student, faculty and staff input shall be provided and considered in such development, review and amendment;
- (b) governing topics that shall be addressed or elements that shall be included in anti-racism policies;
- (c) governing the provision of training to faculty, staff, students and other persons about anti-racism policies;
- (d) respecting the publication of anti-racism policies and the promotion of awareness of the policies;
- (e) requiring that appropriate supports, services and accommodation relating to racism be provided to students, faculty and staff affected by racism, and governing such supports, services and accommodation and their provision;
- (f) governing any other matter that the Lieutenant Governor in Council determines is necessary or advisable relating to racism involving students, including,
 - (i) governing all matters relating to anti-racism policies and their implementation, and
 - (ii) governing other measures that colleges and universities shall implement, or other things that colleges and universities shall do, to address racism involving students, faculty and staff.

ONTARIO COLLEGE OF TEACHERS ACT, 1996

23 Subsection 18 (1) of the *Ontario College of Teachers Act, 1996* is amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following clause:

- (d) successfully completes any prescribed examinations and training in anti-racism that are required for the issuance of the certificate.

24 Subsection 42 (1) of the Act is amended by adding the following clause:

- (c.0.0.2) respecting examinations and training that relate to anti-racism for the purposes of clause 18 (1) (d), including but not limited to the development, form, content, administration and provision of such examinations and training, any exemptions from such examinations and training and any other matters the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of such examinations and training;

ONTARIO COLLEGES OF APPLIED ARTS AND TECHNOLOGY ACT, 2002

25 Section 1 of the *Ontario Colleges of Applied Arts and Technology Act, 2002* is amended by adding the following definitions:

“anti-racism” means the policy of opposing racism including anti-Indigenous racism, anti-Black racism, anti-Asian racism, antisemitism and Islamophobia; (“lutte contre le racisme”)

“racism” means the use of socially constructed ideas of race to justify or support, whether consciously or subconsciously, the notion that one race is superior to another. (“racisme”)

26 Subsection 2 (3) of the Act is amended by striking out “and” at the end of clause (e), by adding “and” at the end of clause (f) and by adding the following clause:

(g) anti-racist education and training.

27 Section 3 of the Act is amended by adding the following subsections:

Racial equity representative

(2) At least one member of the board shall be a person who has expertise in racial equity in the education sector.

Commitment to racial equity

(3) If the Minister learns, upon conducting an investigation or otherwise, that a member of the board does not have a proven commitment to racial equity in the education sector, the Minister shall require that member to take anti-racism training within the following six months.

Same

(4) The anti-racism training referred to in subsection (3) shall be training developed by experts in the anti-racism education community.

28 Subsection 5 (2) of the Act is amended by striking out “and” at the end of clause (c), by adding “and” at the end of clause (d) and by adding the following clause:

(e) complaints of racism made against the college.

29 The Act is amended by adding the following section:

Anti-racism policy

5.1 (1) Every college or subsidiary of a college shall develop and implement an anti-racism policy that aims at addressing racism at the college or subsidiary.

Same

(2) The anti-racism policy shall be developed and reviewed with input from students, faculty and staff of the college or subsidiary.

Review

(3) Every three years, a college or subsidiary shall review its anti-racism policy and provide a report on the effectiveness of the policy to the Minister.

30 Section 7.1 of the Act is amended by adding the following subsections:

Racial equity representative

(10.1) At least one member of the board of directors shall be a person who has expertise in racial equity in the education sector.

Commitment to racial equity

(10.2) If the Minister learns, upon conducting an investigation or otherwise, that a member of the board of directors does not have a proven commitment to racial equity in the education sector, the Minister shall require that member to take anti-racism training within the following six months.

Same

(10.3) The anti-racism training referred to in subsection (10.2) shall be training developed by experts in the anti-racism education community.

31 Subsection 8 (1) of the Act is amended by adding the following clause:

(i) relating to addressing racism, anti-racism and racial equity.

ANTI-RACISM ACT, 2017

32 The Preamble to the *Anti-Racism Act, 2017* is amended by adding “anti-Asian racism” after “anti-Black racism”.

33 Subsection 1 (1) of the Act is amended by adding the following definitions:

“anti-racism” means the policy of opposing racism including anti-Indigenous racism, anti-Black racism, anti-Asian racism, antisemitism and Islamophobia; (“lutte contre le racisme”)

“racism” means the use of socially constructed ideas of race to justify or support, whether consciously or subconsciously, the notion that one race is superior to another; (“racisme”)

34 Subsection 2 (4) of the Act is amended by adding “anti-Asian racism” after “anti-Black racism”.

35 (1) Subsection 4 (3) of the Act is amended by striking out “Black and Jewish” and substituting “Black, Asian and Jewish”.

(2) Subsection 4 (5) of the Act is amended by adding “anti-Asian racism” after “anti-Black racism”.

36 Subsection 5 (2) of the Act is amended by striking out “Black and Jewish” and substituting “Black, Asian and Jewish”.

37 Subsection 6 (5) of the Act is amended by striking out “Lieutenant Governor in Council” and substituting “Minister”.

COMMENCEMENT AND SHORT TITLE

Commencement

38 This Act comes into force on the day it receives Royal Assent.

Short title

39 The short title of this Act is the *Racial Equity in the Education System Act, 2022*.