Commission Releases Policy Statement On Religious Accommodation In Schools

June 26, 2017

Commission has already published a Policy on Religious Accommodation as part of its statutory mandate to provide guidance to the judicial interpretation of the Ontario *Human Rights Code*.

On March 31, 2017, the Ontario Human Rights Commission (the "Commission") released a Policy Statement on Religious Accommodation in Schools (the "Policy Statement") on its website. The Commission had already published a Policy on Religious Accommodation (the "Creed Policy") as part of its statutory mandate to provide guidance to the judicial interpretation of the Ontario *Human Rights Code* (the "Code"). The Creed Policy was last updated on September 17, 2015.

The new Policy Statement is the Commission's specific guidance for accommodating religious observances in the school setting. The Commission highlights the importance of schools as a place for healthy discussions about acceptance, as well the educator's role in fostering pluralistic environments that respect human rights.

Educators have a legal obligation under the Code to maintain a school climate that is free from harassment and discrimination. Accommodation is appropriate where it respects a person's dignity, responds to a person's individualized needs, and allows for integration and full participation. Where a student is prevented from observing a religious belief because of a rule or standard, educators have an obligation to accommodate the observance to the point of undue hardship.

The Commission reminds us that assessing undue hardship includes only three factors: cost; outside sources of funding; and health and safety requirements. It does not include other factors such as third-party preferences. Thus, the preference of anyone who is categorically opposed to any religious practices in schools is not a factor in deciding undue hardship under th *Code*.

Providing Muslim students with a space for Friday prayers is an appropriate accommodation. There is minimal cost or interference with health and safety at the school. Students would otherwise be forced to choose between complying with attendance rules and their religious practice.

As the Commission notes in the Policy Statement, educators should make it clear that accommodating religious practices is not a sponsored activity or an endorsement of any particular religion, but a means of accommodating religious needs. The school environment should remain free of pressure or compulsion in matters of religion.

The Commission ends the Policy Statement by calling on all Ontarians to work towards a vision of society where everyone can fully participate, no matter what their race, ancestry or religious beliefs or practices.

Although the Policy Statement does not mention what prompted the Commission to release a policy statement on the specific issue of religious accommodation in schools, its release coincided with a highly-publicized dispute about Muslim prayers in schools of the Peel District School Board (the "Board").

In March 2017, the media reported extensively on protests against Friday prayers by Muslim students at the Board.[1] The Board had accommodated student prayer requirements for years; however, a recent policy change at the Board allowing students to write their own prayers, (rather than choose from a pre-approved bank of written prayers); may have raised the profile of the issue of religious accommodation.[2]

The media reported disruptive behaviour at various Board meetings, including an incident where pages were torn from a Qur'an, and another where participants shouted about Shariah law and Islamic indoctrination of children. Online protest activities included a petition calling accommodation too expensive and amounting to unsolicited exposure to religion.[3]

The Chair of the Board, as well as a local Mayor and the Minister of Education and Minister of Children and Youth Services, all spoke out publicly: condemning the protests as Islamophobic, and confirming the Board's full compliance with its religious accommodation obligations under the Code.

On March 22, 2017, the Board released a document titled "Key Facts" on religious accommodation in an effort to respond to the misinformation about religious accommodation. The Chair, Janet McDougald, made a strong statement against the anti-Muslim nature of the protests, which were not opposition to religion in public schools, but opposition to the practices of Islam. The Chair stated:

We are appalled by the anti-Muslim rhetoric and prejudice we have seen on social media, read in emails, and heard first-hand at our board meetings. It has caused some of our students to feel unsafe, to feel targeted. We must not allow hatred toward any faith group to flourish. We will not stand for that. It is not consistent with our board values, with our role as trustees, or for us as Canadians.[4]

The Minister of Education, Mitzie Hunter, told reporters that "…there's just no tolerance for discrimination of any sort…We don't tolerate issues of racism and Islamophobia."[5] The Mayor of Brampton, Linda Jeffrey, published a news release stating her support for the accommodation of Friday prayer, stating that "(l)etting Muslim students pray for 20 minutes in an empty space with the supervision of volunteer staff does not cause any financial hardship." She condemned the "misinformation, fear mongering, and outright falsehoods being spread by some."[6]

Given that the Policy Statement was released within days of these public comments from the Chair of the Board, the Mayor and several cabinet Ministers, it is reasonable to view it as the Commission's comment on the matter. The Commission condemned the type of religious intolerance directed at the Board, and confirmed that the Board acted lawfully and appropriately in accommodating the prayer requirements of its students.

[1] See for example Peter Goffin, "Brampton mayor condemns 'hateful' campaign against Muslim prayer in Peel schools,"*The Toronto Star* (13 March 2017)

[2] Kate McGillivray, "Pages torn from Qur'an at Peel school board meeting over prayer issue," *CBC News* (23 March 2017)

[3]*Ibid*.

[4] Peel District School Board, News Release, "Peel board takes on religious accommodation misinformation with Key Facts," (22 March 2017)

[5] Kristin Rushowy, "Muslim prayers in schools get provincial endorsement following intense meeting,"*The Toronto Star* (23 March 2017)

[6] Office of the Mayor (Brampton), Media Release, "Mayor Jeffrey Supports Religious Accommodation at Peel District School Board," (9 March 2017)

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