

# Inequitable Policies Guiding the Ontario Publicly Funded Schools

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## Abstract

*The Ontario Ministry of Education Memorandum 119 outlines the requirements of all Ontario publicly funded school boards in developing their Equity and Inclusion Policies. While Ontario school boards maintain the right to create and uphold their own individual rules and policies, Catholic school boards in particular have abused the Religious Freedom outlined in the Canadian Charter of Rights and Freedoms as a loophole in avoiding their duty to uphold fair and equitable policies. The ineffectiveness and reach of the Ministry of Education's provision for the vast differences in Equity and Inclusion Policies of publicly funded Catholic school boards in Ontario. This paper carries out a cross examination of the Equity and Inclusion Policies of four Publicly Funded School Boards in the Greater Toronto Area.*

## 1. Introduction

As a teacher in an Ontario Publicly funded Catholic school, and as a former teacher in an Ontario publicly funded public school, I am privy to the unique experiences of my students, their families, and the community to which they belong. As a former graduate of an Ontario Publicly funded Catholic school, I was exposed to the good and the bad, structurally, and inherently inferred within the school system itself. I have seen first hand how a properly implemented system of inclusion can truly benefit students, and allow for student growth and development. But I have also witnessed the unfortunate effects of not upholding equity and inclusion standards, those of which are basic human rights. As a teacher, I see students every year, who come into my classroom with a plethora of unique lived experiences, and unique family lives at home. Each student comes into my class, and is given a fresh new start each day with opportunities to learn and grow and become the best human they can be. But each student cannot be treated the same, because no two students in my class are the same as each other. I believe this basic act of acknowledging each student's unique learning backgrounds and capabilities should be the foundation of each school board's policies for equity and inclusion. If this was the case, then students would never fear being singled out, or left behind. This research is important

because schools are not yet designed to keep students safe. They are designed to ensure the people who sit on the board are happy first, then the parents, then the students.

At the commencement of this project, the goal was to create a comprehensive analysis of many board policies as possible. Evidently this task proved to be larger than possible for an article or paper. Therefore, this paper in particular focuses on a sample group of Greater Toronto Area Publicly Funded School boards, combining Catholic and Public.

In this paper, an analysis is carried out in a cross examination of the largest school board in Ontario, the Toronto District School Board (TDSB) policy, with the Halton Catholic District School Board (HCDSB), the Peel District School Board (PDSB), and the Dufferin Peel Catholic District School Board (DPCDSB). This paper will analyze the four policies, both independently and in relation to each other. This paper strives to argue that the four school boards' failures to adequately provide policies to protect their students ultimately violates the Canadian Charter of Rights and Freedoms[1], the very Charter that religious schools so often use to defend their actions.

## 2. Case Study: Pride Flag

In 2021, the HCDSB Board of Trustees voted against flying the PRIDE flag for the month of June, despite efforts by students and parents. "Burlington Trustee Brenda Agnew moved a motion to direct Board staff to ensure the flag was flown during Pride month in June at all schools and the Board's headquarters". This was very quickly debated and shot down, sparking outrage amongst community and staff members [2]. Fast forward to January 2022, the debate was resparked, but this time with an alternative outcome. The board would finally issue that all schools and board offices will fly the PRIDE flag during the month of June [3]. This past Pride Month was the first pride month where all HCDSB buildings flew the Pride flag for the entire month of June. And while this may be a small win, this points to a further question for the education community. What systematic barriers are in place that prevent Queer students from receiving equitable

education? We have flown the flag, but now what? What is our next step? How do we transfer control and power back into the hands of queer students?

### 3. The Settler Contract

In Carole Pateman and Charles Mills joint work titled *Contract and Domination*, they maintain that it is “necessary to move beyond contract if there is to be a free social order” [4]. In order to protect students from inequities, we must first eliminate current contracts and replace them with revised and rewritten ones. I caution myself here, from falling into the trap of throwing a bandaid at a problem, as I will soon argue most boards currently do.

In *their book*, Pateman and Mills identify that “If you have any two individuals together, they will both act in self-interest; there will always be a contract” [4]. So, the conversation then begs the question: Why introduce a contract at all? Why not find terms for free argument to talk? [4]. The answer lies in the fact that contracts hold a valuable commercial place. Further, they briefly dissect contractarianism versus contractualism. Whereby in contractarianism morality is conventionalist constrained and socially coordinated by self-interest, and in contractualism morality is an objective set of others regarding rules and the contract is a device of representation for understanding what the rules are [4]. This begs the question of where Pateman and Mills would place various equity and inclusion policies on the pendulum that swings from self-interest to overall good of society.

### 4. Toronto District School Board (TDSB)

For the cross examination of the TDSB Guidelines for the Accommodation of Transgender and Gender Non-Conforming Students and Staff [5], [11]. I will first explore the TDSB policy, and then I will cross examine it with other notable (and less notable) policies I explored. Some themes emerged when reviewing the TDSB Guidelines: firstly, the onus of outing, secondly the promise of protection and thirdly the role of the educator. The TDSB guidelines, while seemingly comprehensive, very clearly leave the onus of outing oneself in some way, to the individual in need of accommodation. An accommodation request, in a variety of formats, “may come directly from the student or the student's legal guardian(s)” [5]. While the guidelines indicate that verbal requests are permitted, the guidelines also advise the request to be put “in writing for purposes of clarity and to help protect both parties in case of questions regarding the original request” [5]. What I find interesting is this added note that accommodation requests are generally specific requests as it pertains to a student. I interpret this to

mean there is no specific or ‘flat rate’ of protection or accommodation the schools can guarantee for their students and staff.

Within the guidelines we see this ‘bandaid’ promise of protection for students. The guidelines identify that transgender or gender nonconforming individuals have the right to be who they are, a right to openly express gender identity without fear of unwanted consequences, and a right to be treated with dignity and respect [5]. The guidelines further states that “schools should never disclose a student’s gender nonconformity or transgender status to the student’s parent(s)/guardian(s)/caregiver(s) without the student’s explicit prior consent” [5]. From a teacher’s perspective, I am interested in this third theme that arises in the policy, which is that of the role of the educator. Both the TDSB policy and the Provincial legislation requires “school board leaders to ensure staff are educated in, gender diversity, advocacy and anti-transphobia education, in challenging gender stereotypes, and in using gender neutral and inclusive language”[5]. I am personally curious how this looks. In HCDSB, staff have not received any training or education in gender diversity, advocacy, and anti-transphobia education. We received mandatory anti-discrimination training last year, that we completed online asynchronously, on our own time. However, this training focused primarily on racial discrimination, and did not even dip its toes into issues facing the queer community.

### 5. Halton Catholic District School Board (HCDSB)

Where the TDSB Policy [5] at least identifies students and their needs, the HCDSB Policy [6] on Equity and Inclusive Education falls exceptionally short. The HCDSB policy provides a blanket equity statement that they say encompasses issues of race, color, ethnicity, gender, etc. However, nowhere within the policy does it actually discuss the students facing these issues, nor does it provide statements explaining the steps to be taken or the basic promises they will make. It is evident that the TDSB is taking more steps than HCDSB and DPCDSB [7] to take the onus off of families and students, as it encourages “staff to privately ask transgender or gender nonconforming students at the beginning of the school year how they want to be addressed in correspondence to the home or at meetings with the student’s parent(s)/ guardian(s)/ caregiver(s)” [5]. This act of discussing and asking permission of students is a step in the right direction. This is a step I wish was present in the policies of DPCDSB [7], and HCDSB [6]:

**2. SHARED AND COMMITTED LEADERSHIP****THE BOARD WILL:**

- Identify and appoint a contact person to liaise with the Ministry and other Boards to share challenges, promising practices and resources.
- Provide extensive and ongoing education and training for students, administrators, teachers (including guidance counsellors), support staff and trustees in implementing equity and inclusive education and leadership initiatives.
- Establish selection criteria for leadership positions that prioritize demonstrated commitment, knowledge and skills related to equity and inclusive education implementation and inclusive leadership, and consistent with proactive Code compliance.

**OUR SCHOOLS WILL:**

- Create a local school and individual Equity and Inclusive Education Team.
- Promote equity minded student leadership related to issues of social justice.
- Develop initiatives such as a Student Leadership Conference in Equity with student facilitators representing diverse voices and experiences under supervision of appropriate staff.

HCDSB is committed to providing an educational environment that is respectful of the human rights of staff, students and families. HCDSB recognizes the need for building a culture of respect for human rights by establishing and reviewing human rights policies and procedures, consistent with the Ontario Human Rights Code and consistent with the exercise of HCDSB's denominational rights as outlined in section 93 of the Constitution Act, 1982.

Before diving into the HCDSB policy, it is crucial to acknowledge that The Ontario Human Rights Code [8], which provides for equal rights and opportunities, and freedom from discrimination, recognizes the dignity and worth of every person in Ontario, in employment, housing, facilities and services, contracts, and membership in unions, trade or professional associations. Gender identity and gender expression are explicitly protected under the Ontario Human Rights Code. This includes transsexual, transgender and intersex persons, crossdressers, and other people whose gender identity or expression is, or is seen to be, different from their birth-identified sex. This is important to take a moment to take in, and fully understand, because school boards do not (or should not) have absolute autonomy. Schools are created to educate the future of society and to aid them in their growth. Helping young people grow, means seeing them for who they are, and meeting them where they are, and helping them achieve their goals.

## **6. Dufferin Peel Catholic District School Board (DPCDSB)**

Having discussed the TDSB's Guidelines for the Accommodation of Transgender and Gender Non-Conforming Students and Staff in relation to the HCDSB Policy on Equity and Inclusive Education, I will now look to the DPCDSB Policy on Equity and Inclusive Education. I will also attempt to analyze this policy through a more personal lense, having attended both elementary and secondary schooling in DPCDSB. Even more of a let down than HCDSB, the DPCDSB Policy is a one page document with five generic and blanket statements. The two I will focus on are: 1. All people are created equal, in the image of God, each with inimitable characteristics deserving of dignity, and two 2. Any form of discrimination, injustice, or oppression is incompatible with Catholic moral principles, and is a violation of the Ontario Human Rights Code, as

amended, (hereinafter referred to as the Code) and DPCDSB policies.

Much like the HCDSB policy, the DPCDSB policy starts off by introducing its morals, stating that each staff and student was made in the 'image of god'. This statement in and of itself is a beautiful and wonderful statement, a very holistic statement. However, following this blanket statement, neither the policy outlines any steps or any procedures to tackle inequalities that staff or students face. In section 2 of the HCDSB Policy [6] we are given a half-attempt at laying out expectations, as it states that the board will provide extensive and ongoing training. However, what does this mean? What type of training? How much training? Who will be trained? Who will be required to be trained? Section 2 of the DPCDSB Policy simply states that any form of discrimination is a violation of the Ontario Human Rights Code. This statement left me baffled. I actually had to read this twice to make sure I was not missing anything in that statement. The policy essentially indicates that any human rights violated are violations of the Ontario human rights code. In case one does not know this, it covers that basis, but for everyone else who did already know this, we are left with a feeling of 'now what?'

Having discussed both HCDSB and DPCDSB, one might find themselves considering that the TDSB Policy is exceptionally better, therefore, the TDSB is on the right track. But as a society, there needs to be an awareness of how low the bar is set. Just because a board has done the bare minimum, and just policy has any steps at all doesn't mean it is flawless and it does not mean there is no room for improvement. This points to another problem in society (perhaps one for another discussion) which is our praise or happiness over bare minimum. Just because a board has taken zero steps in the last 20 years, we should not 'just be grateful' for the one step they do decide to take. This points to a 'settling' that occurs in social change, whereby we are so grateful for the slightest change that we end up no better than we were before. So, all three boards have an equity policy- now what? If a child is a bully, and is constantly kicking and hitting other children at recess, we as educators know that many steps need to be taken for the situation to be rectified. The child in question needs to thoroughly understand their actions, or they will continue; the child in question needs to make amends for their actions, whether that be by apology, or losing time at recess; and the children being bullied need to feel safe again on their free play time. However, it appears that society is settling for a minimal success criterion; the bar is exceptionally low. Alternatively, what if the boards are the 'child' in this situation who is being forced to say sorry to the other kid at recess. But none of the four boards fully understand the depth of the issues being discussed nor do they fully understand

the effect it has on the other students; they surely have not made enough amends to allow for their students to feel safe to play at recess.

## 7. Peel District School Board (PDSB)

The individual board analysis concludes with the Peel District School Board (PDSB) because of the extensive list documents boasted on their board site. The two documents that will be explored are the Peel District School Board Religious Accommodation and Policy 54 Equity and Inclusive Education, with a featured reference of Policy 62 Flag Raising. PDSB's Religious Accommodation states that [5], [9]:

Students and staff of any faith background can request religious accommodation. Accommodation will be provided on a case by case basis, in the context of a public school board, and cannot replicate the experience or environment that an individual has in the home or a place of worship. The Board is required to accommodate based on personal faith practice, not in comparison with other faiths. Religious Accommodation is not fixed, it is a process that is fluid and ongoing. Accommodation of religious beliefs and practices are best met through meaningful conversation and respectful relationships.

Coming from the perspective of a teacher in a Catholic school, this presents eerily very similarly to the Catholic accommodation clause which permits parents from removing their children from the classroom when they are learning about subject matter to which they don't approve. If the school board is becoming more inclusive towards queer students but parents can remove their children from the inclusive environment, does that not take away from the child's rights? As a teacher, I have had parents use this right to accommodation to remove their children from health lessons, from sex ed lessons, and most recently from "any discussions involving Pride month". In my own practice, I had a parent ask for a set schedule of when I did my reading aloud during Pride Month, so they could remove their child from being exposed to queer language. What message does it send a student when they are pulled out of a class because the knowledge, they would learn to enable critical thinking violates their parents' opinions? They learn that their parents' opinions are most important, and while I do not disagree that parents' opinions are important, they are not more important than their own children's ability to develop their own autonomy and critical thinking. The rest of this policy goes on to discuss at length the ways in which students of various religions will be accommodated with regards to prayer, holidays, and special needs. All of which are necessary and important. However when reading this document, terms such as Full Withdrawal Request pose a red flag.

Compared to the right age document on religious accommodation, PDSB's Equity Policy [10], is a whopping 3.5 pages. Which upon first glance, leads the reader to wonder how in depth this policy can actually go. Policy 54 acts as a blanket statement affirming the board's commitment to student

learning by ensuring everyone is treated fairly according to the Charter of Rights and Freedoms. Amongst the Areas of Focus include the intended prescription of the policy, as illustrated through [4].

### Board Structures, Policies, Procedures, Programs, Guidelines and Practices

The Board commits that all Board structures, policies, procedures, programs, guidelines, and practices will inclusively support students, staff members, trustees and families in all communities. The Board aims to do so by incorporating the principles of anti-oppression, equity and inclusion into the development and regular review of structures, policies, procedures, programs, guidelines, and practices (consistent with the principles of the Ontario Human Rights Code). This area of focus establishes the framework for policy development and implementation in all the other areas of focus below.

The policy goes on to discuss the dynamic commitment to leadership that requires teamwork from school staff, students, and the community. While the policy checks the boxes in regard to providing a legal document that commits to equity, it is fair to go any further. It fails to outline, analyze, or prescribe solutions to the very problematic and inequitable atmosphere that surrounds education.

Following the discussion on PDSB's Policy 54 and PDSB's Religious Accommodation Policy, consider the PDSB's Policy 62 on Flag Raising. Policy 62 indicates that The Pride flag and the Indigenous flag will be raised at all Peel District School Board schools and sites in the month of June. This paper does not wish to argue or dispute this fact, rather the inquiry lies in the contrasting points between Policy 62 and the Religious Accommodation Policy. Where does the line draw between accommodations to the point of removal and respect for human dignity? If a parent chooses to remove their child from any environment in which they are exposed to the Pride Flag or Pride stories or Pride information, what happens during the entire month of Pride when the flag flies? I would argue that the language surrounding Full Withdrawal needs to be more specific than the simple statement that currently sits. The current parameters simply ask if the withdrawal request impacts any of the human rights protected under the Ontario Human Rights Code. One could argue that removing the child does not violate the Ontario Human Rights Code. However, I would argue that it not only violates the rights of the student being removed but also the rights of all the other students in the school by not ensuring that the student being withdrawn is receiving adequate education and training to treat their classmates with care and respect.

## 8. The Domination Contract

Before delving into an analysis of the Charter in relation to the board's policies, consider the Domination Contract discussed in Chapter 3 of Pateman and Mills book. Pateman and Mills discuss that "the history of gender and racial subordination requires a rethinking of how we do political theory, that it cannot be a matter of some minor, large

cosmetic changes – a few ‘she’s’ sprinkled in where there were previously ‘he’s’”. When considering the rewriting and revaluation of board equity and inclusion policies, we need to be mindful of what that actually looks like. Pateman and Mills identify that a complaint of Feminist and Critical Race theorists is that “egalitarianism has been denied to women and non-whites both in theory and practice” [1], [10], [11]. If policy makers and curriculum designers are to create Equity and Inclusion policies that actually serve the students and their communities, what does that look like? How do we create a policy that actually benefits the members of the community it is designed to serve?

## 9. Charter Analysis

It is arguable that the current climate of education is a mixing pot of poorly placed band aid fixes for a plethora of societal needs and concerns. I would also argue that much of the published board policies are simply mixed bags of neutral jargon designed to placate society with big words and idealized headings. They truly lack any sense of equitable practices or protection for students (whether queer or straight). It is more than evident that we need to demand more: more from our admin, more from our schools, more from our board, and honestly more from our Ministry of Education. It is quite baffling that each school board, all publicly funded, has such autonomy over policies of this nature. Catholic schools seem to hold tight onto the Section 2 Religious Freedoms granted to them in their Charter Rights. However, the first section of the Canadian Charter of Rights and Freedoms very explicitly states the Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. While this section is a general framework for justifying limits on rights and freedoms guaranteed in the Charter, it literally and legally states that religious freedoms can be limited if justifiably so for a democratic and free society. There is nothing about omitting out queer communities that say ‘democratic’ or ‘free’; it does the complete opposite. That being said, section 1 is engaged only after a finding has been made that a right or freedom has been limited. The onus of proof under section 1 is on the person seeking to justify the limit. This means that the next steps to challenging the lack of policies and challenging the unfair or empty policies, fall to us. I argue that we need to demand more.

## 10. Conclusion

As an educator, and as a student of education academia, I would like to completely dismantle the

particularly divisive language and policies that currently dictate how our students are treated. I would like to go further than board policies. I would like to completely tackle the actual Ministry of Education’s language in their curriculum. I believe the Ontario Health and Physical Education Curriculum is inherently flawed in its ability to prepare students for life outside of school. The 2015 health and physical education curriculum was the first positive and progressive step that the Ontario education system has taken. However, when the Ford government repealed the curriculum update, they not only stripped students of a necessary education, but they also put up roadblocks that disproportionately held back certain groups of students over others. Following this repeal, I have many questions regarding the future outcome of the Health and Physical Education (HPE) curriculum. How will the HPE curriculum look in the upcoming years? Is it possible to ensure an adequate HPE curriculum across all boards and schools? The Ontario Government’s failure to provide an adequate health education disproportionately underserves pockets of society. Young queer students are not provided with vital resources to take care of their own bodies, such as education on sexual readiness, consent, abstinence, and protection. Students with non-heterosexual orientations are not seeing necessary support groups or resources available to them in their schools. And many students with disabilities may find themselves excluded from the conversation altogether.

## 11. References

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