Student Discipline under the *Code* and Equity Strategy

**Ontario Human Rights Commission
Evadne Macedo**

(with input from Joy Reiter and Gary Pieters, Toronto District School Board)

Workshop overview

◆ **Human rights system, OHRC & *Code***

◆ **History of OHRC Systemic Initiatives**

◆ **Equity Strategy & school board initiatives**

◆ **2009 OHRC Consultation**

◆ **Principles of discipline**

◆ **Thinking about the future**

◆ **Discussion questions**

Human rights system

- **Ontario's new human rights system started on June 2008**
- **The new system consists of three pillars**
  - **The Human Rights Tribunal of Ontario**
  - **The Human Rights Legal Support Centre**
  - **The Ontario Human Rights Commission**

Roles in new system

- **Human Rights Tribunal of Ontario**
  - receives and makes decisions on human rights applications
- **Human Rights Legal Support Centre**
  - services to claimants
  - helps them file human rights applications

The OHRC

◆ **Advance human rights policy and promote understanding of and compliance with the *Code***

◆ **Public education, consultation & policy**

◆ **Public interest inquiries and litigation**

◆ **Advice and strategic partnerships**

- **Police sector**
- **Housing sector**
- **Education sector**

Human Rights Code

- **15 grounds (incl. disability)**
- **In employment and services:**
  - **Harassment (sex; race/creed)**
  - **Accommodation (staff, students; disability, family status)**
  - **Systemic discrimination (race, gender)**
- **See *Human Rights at Work***

OHRC & education

– *Guidelines on Accessible Education* (2004)

– Racial Profiling Inquiry (2003)

– *Racism Policy* (2005)

– Safe schools settlements (2007)

– Community consultation (2009)

– Systemic work in education (ongoing)

– Materials available at www.ohrc.on.ca

7

Ontario Human Rights Commission
Commission ontarienne des droits de la personne

Human Rights and Student Discipline
OESC & Min. Ed. Symposium – January 27, 2011
"Deepening the Understanding … Widening the Response"

Safe school complaints

- Need to address systemic disadvantage and disproportionate impacts based on race and gender
- Consider mitigating factors before suspension and expulsions (and exclusion? Not mentioned, but why not?)
- Data collection to identify issues and support action
- See www.ohrc.on.ca

Equity Strategy

◆ **Discipline must be inclusive and equitable**

◆ **Consider how Code links to Equity Strategy:**

◆ (1) **Board policies, guidelines & practices**

◆ **(2) Leadership**

◆ **(3) School-community relationships**

◆ **(4) Curriculum & assessment**

◆ **(5) Religious accommodation guidelines**

◆ **(6) School climate & anti-discrimination**

◆ **(7) Professional learning**

◆ **(8) Accountability and transparency**

OHRC role

– **Support to Ontario's Equity and Inclusive Education Strategy**
  - **Ministry of Education**
  - **Ontario Education Services Corporation (represents all boards)**
  - **Regional networks of school boards**
  - **TDSB**
– **Other uses of OHRC mandate**

The *Code* and the Equity Strategy

- **The Ministry's Equity Strategy overlaps with the *Code***
- **OHRC's key points:**
  - *Code* **has primacy over** *Education Act*
  - **Strategy can help boards address systemic concerns (including regarding discipline)**
  - **Inequities in discipline contribute to achievement gap**

Anti-discrimination approach

◆ **Foundation for development of discipline policies and procedures**

◆ **Human rights strategies set the tone for all other work in school boards (including discipline)**

◆ *Code* **principles apply to all staff involved in discipline and students are protected under the** *Code*

◆ **Human rights mitigating factors to be interpreted broadly and applied consistently before discipline**

What is the context?

◆ **Recent history of "zero tolerance" – the words may be gone, but to what extent does the approach remain?**

◆ **Over-reliance (?) on suspensions & expulsions**

◆ **Discipline as "punishment" rather than a tool to correct behaviour and teach new skills in school**

◆ **Resource concerns and challenges**

◆ **Positive momentum & progress**

Community consultation

◆ **Some improvements noted … BUT concerns raised about:**

– **Exclusions & segregated placements**

– **Lack of timely, effective accommodation**

– **Mitigating factors & disciplinary policies not applied consistently**

– **Concerns about children in care, police interactions**

– **Disproportionate impacts on racialized students & students with disabilities**

Human Rights and Student Discipline

OESC & Min. Ed. Symposium – January 27, 2011

"Deepening the Understanding … Widening the Response"

Key principles of discipline

◆ **Be consistent with dignity and self-respect**

◆ **Ensure integration and full participation of each student in the school community**

◆ **Apply mitigating factors (unspoken in Code AND those in Education Act / regs)**

◆ **Address historical disadvantage & prevent systemic discrimination (collect data)**

◆ **Proactively comply rather than expel/suspend and litigate**

◆ **Accommodation must precede discipline**

Proactive barrier removal

- *Code* requires barrier removal AND
- Equity Strategy says: "… during its cyclical process of reviewing and revising its policies, a board is expected to take steps to align all its policies and procedures (e.g., on safe schools, student discipline, staff hiring) with its equity and inclusive education policy." (p. 34)
- Link to Achievement Gap Task Force

Data collection

◆ **Yes, do it -- OHRC resource, *Count Me In*!**

◆ **Could help a board identify issues:**

– **By school or *C*ode ground**

– **By type of discipline (consider suspensions, expulsions, exclusions and transfers)**

– **By length of discipline (days or weeks)**

– **By impact on continued education (who is dropping out because of repeat suspensions?)**

– **Other information to address the problem**

Looking ahead

◆ **Shared goals, different perspectives**

◆ **Training & education**

◆ **Policy review and revision**

◆ **Data collection**

◆ **Assess links to the achievement gap**

◆ **Proactive measures to keep safe schools but ensure equity and inclusion (even in discipline)**

◆ **Litigation or alternate dispute resolution**

Future – Boards

◆ **Remember primacy of *Code* (high standard that applies to everything)**

◆ **Collect data to find problems & solutions**

◆ **Revise discipline policies and procedures to address systemic discrimination**

◆ **Take an inclusive design approach – under Equity Strategy & *Code***

◆ **Collaborate with parents/students**

◆ **Bring *Code* into board policy rather than using board policy to keep the Code out**

Future -- Community

◆ **Recognize progress & opportunity – the discourse is different now**

◆ **Accept responsibility for student behaviour and legitimate discipline**

◆ **Work with school staff in meeting student needs (meetings, consents etc.)**

◆ **Hold board accountable … but be flexible**

◆ **Work with school board to use Equity Strategy &** *Code* **as tools to address achievement gap**

Human Rights and Student Discipline

OESC & Min. Ed. Symposium – January 27, 2011

"Deepening the Understanding … Widening the Response"

OHRC next steps

- **Proactive advice to education sector**
- **Training program on human rights for networks of school boards (including discipline)**
- **E-learning for teachers**
- **Materials to guide a human rights review of organizational policies**
- **Inquiries & other systemic initiatives**
- ***Policy on Human Rights and Student Discipline* (we need your insights!)**

OHRC resources

◆ **Download OHRC documents at:**
www.ohrc.on.ca

- *Guidelines on Developing Human Rights Policies and Procedures*
- *Guidelines on Accessible Education*
- *Policy on Racism and Racial Discrimination*
- *Human Rights at Work*
- *Count Me In!*
- *Coming: Policy on Human Rights and Student Discipline*

Ontario Human Rights Commission
Commission ontarienne des droits de la personne

Human Rights and Student Discipline
OESC & Min. Ed. Symposium – January 27, 2011

"Deepening the Understanding … Widening the Response"

Discussion questions

- ◆ **From your perspective, what are the human rights issues in student discipline?**

- ◆ **How can we collaborate to make TDSB schools safe and inclusive for all students (including when disciplinary issues arise)?**

- ◆ **What can you tell us to help the OHRC:**

  - – **Finalize the OHRC's *Policy on Human Rights and Student Discipline***

  - – **Help Ontario school boards, including the TDSB, to identify and address systemic human rights concerns relating to student discipline**

Human Rights and Student Discipline

OESC & Min. Ed. Symposium – January 27, 2011

"Deepening the Understanding … Widening the Response"