



Black Legal Action Centre

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Statement of the Black Legal Action Centre on Education in Ontario and the Peel District School Board Review

April 21, 2020

The Black Legal Action Centre (BLAC) was incorporated in 2017. BLAC's mandate is to combat individual and systemic anti-Black racism across Ontario through individual legal representation, community development and outreach, law reform and test case litigation, as well as public legal education. BLAC has a legal intake line that enables us to receive calls from Black people across Ontario who are facing legal issues related to anti-Black racism.

Since BLAC opened its doors to the public in March of 2019, we have been besieged by clients with cases that are related to anti-Black racism in education including:

- agencies that are trying to help the diverse Black communities they serve;
- parents who are desperate to try to stop the very real harm¹ being done to their children through hyper-surveillance, disproportionate disciplinary actions, criminalization and exclusion;
- college and university students who face the same discriminatory barriers and issues related to hyper-surveillance, exclusion and criminalization;
- parents who, while trying to ensure the physical and emotional safety of their children in the educational system, are criminalized themselves – through trespass orders; and
- Black teachers who are traumatized as a result of not only dealing with anti-Black racism in their employment, but are also subject to reprisal for trying to advocate for themselves and the Black children in their care.

BLAC's work over the past year has confirmed for us that **educational institutions continue to be spaces for the perpetuation of horrendous anti-Black racism**. Like others in our community who have worked on these issues for years, we also understand that reports, investigations into or reviews of the school system or boards, whether they be related to the Ministry of Education or individual boards, whether they are conducted by progressive or conservative political parties in power, have made no difference in the lives of Black students, parents and caregivers, teachers and communities across Ontario. We believe that such **reports will continue to be ineffectual in achieving change and that unless and until there is real political will and accountability in the education system, Black students, parents and teachers will continue to be traumatized, excluded and criminalized – to the significant detriment of not only Black communities, but also our education system and society as a whole.**

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Peel District School Board Review

On November 7, 2019, the Minister of Education announced a formal Review of the Peel District School Board (“Peel Review”).² The Peel Review was initiated in response to *public* allegations of anti-Black racism within the school board, at senior levels in the administration, and by Trustees. The mandate of the Peel Review, was to:

...provide observations and recommendations to the Minister and the board related to the performance of the board inappropriately dealing with issues that have arisen, including, but not limited to: issues of human rights, equity, and racism, specifically anti-Black racism; human resources practices; leadership and issues of governance; and trustee conduct.³

The primary findings of the Peel Review revealed significant dysfunction amongst the Trustees and senior leadership in the board, atrocious disparities related to suspensions and expulsions of Black children, as well as the fact that Black students are disproportionately streamed into applied level and locally developed courses (lower level courses). The primary post-secondary destination for students in academic courses is University, for applied courses it is College and for locally developed courses it is apprenticeships or directly to the workplace.⁴ For the Black community, preclusion from degree programs has a direct impact on future earnings, and therefore, exacerbates a cycle of poverty.⁵

With respect to suspensions and expulsions, the Peel Review revealed that Black children comprise 10.2% of the secondary school population, but comprise 22.5% of those receiving suspensions – being excluded from school. Black children in grades nine and ten comprise 10.1% of the student population, however, they comprise just 7.7% of students enrolled in academic level courses, 21.7% of students in applied level courses and 25.4% of students enrolled in locally developed courses.⁶

The Peel Review concluded with 27 recommendations related to Governance and Leadership, Equity and Human Rights, Anti-Black Racism, Human Resources and Organizational Alignment. Among the recommendations related to anti-Black racism were:

- a public apology for the mishandling by the board of a discriminatory incident at a particular school;⁷
- a strategy and action plan for enrolment and achievement outcomes;
- a learning plan for senior staff on equity, human rights, and anti-Black racism;
- the development of an anti-racism policy, a requirement that the guidance system be evaluated;
- improved communications with parents regarding placement of their children; and
- a diversity audit.

They also included:

- a de-streaming pilot project;
- the cessation of suspensions and expulsions from Junior Kindergarten by 2021, and by 2022 for grades one to three; and
- the elimination of racial disparity in suspensions and expulsions by 2021.

The concrete recommendations related to data on suspensions, expulsions and streaming in the Peel Review are laudable. However, BLAC's concern is that these disparities are not just very problematic within the Peel District School Board. They are present and have a devastating impact on Black children across Ontario, and indeed, all of Canada. This was confirmed in 2017 by the United Nations Working Group of Experts on People of African Descent, after its mission to Canada. In its final report, it harshly criticized the Canadian Government for the disparity faced by Black students in the education system:

The Working Group was concerned to learn about anti-Black racism and the lack of social inclusion in the education system in Canada. African Canadian students have disproportionately low educational attainment, high dropout rates, suspensions and expulsions and they are more likely than other children to be streamed into general and basic-level academic programmes, instead of advanced-level programmes. Race-based stereotypes about African Canadian students' scholastic ability have had a devastating impact. The three primary concerns expressed were differential treatment, lack of Black and African-Canadian history and culture in the curriculum and the absence of Black teachers. The quality of education received and the outcome of their educational experiences affects the employment and income potential of African Canadians.⁸

Concerns

Over the past several decades, there have been numerous reports on the deficiencies in Ontario's education system related to equity (inequity) and/or racism, and specifically, anti-Black racism and its devastating impact on Black students. These include:

- The *Stephen Lewis Report* (1992);⁹
- The amendment to the *Education Act* (1993);¹⁰
- The *Antiracism and Ethnocultural Equity in School Boards Guidelines for Policy Development and Implementation* (1993);¹¹
- *The Review of the Roots of Youth Violence* (2008);¹²
- The Ministry of Education's *Equity and Inclusive Education Strategy* (2009 and 2014);¹³
- The *We Rise Together Peel District School Board Action Plan to Support Black Male Students* (October 2016);¹⁴

- *Towards Race Equity in Education: The Schooling of Black Students in the Greater Toronto Area* (2017);¹⁵
- The Review of the York Region District School Board (2017);¹⁶ and
- The *We Rise Together Report Prepared for the Peel District School Board* (2019).¹⁷

Of significant concern to BLAC, is the fact that despite all of these recommendations, substantive change or equity for Black children in the education system in Ontario is elusive.

It is BLAC's belief that the hundreds of policies, strategic plans, report cards, governance models, and legislation implemented by the education ministry will not alone change outcomes in respect of education. While this is tremendously damaging to children in the educational context, it is also true in the context of housing, employment, child welfare, the prison system, the criminal justice system, and the healthcare system. Black people, remain "mostly stuck at the bottom of every marker, along with Indigenous people."¹⁸ The education system has contributed significantly to this fact.

The damage to Black children is not just related to the suspensions, expulsions, and streaming – **these are symptoms of a far greater problem**. Fundamentally, and at the root of the issues that Black children, parents, caregivers and communities face, is a **negation of Black humanity**. What is clear to us at BLAC, and within our community, is that the stereotypes intricately linked to our dehumanization as Black people endure and are manifested in the lives of Black people in Ontario (and Canada) today.¹⁹ This dehumanization is accompanied by damaging *interpersonal* interactions (microaggressions) that cannot be quantified in the same way that disparity in disciplinary measures can be – but are equally damaging, and constant.

We at BLAC hear from people every day who are precluded from full participation in society because of the attribution of characteristics that are directly related to Blackness – what we call anti-Black racism, including:

- the perception that a Black child who misbehaves in class is menacing or threatening and needs to be excluded from school – rather than being thought of as simply a *child* misbehaving;
- the perception that a parent who advocates for fairness is a threat and deserving of a trespass order – rather than a parent distraught by seeing their child upset or harmed in any way and trying to get help that is not forthcoming;
- the perception that a Black teacher who demands to be considered for a promotion (after being passed over multiple times) is aggressive and toxic in the workplace – rather than a person advocating for equal opportunity in the workplace; and
- the perception that a group of young Black boys are threatening *to armed and trained police officers* and worthy of arrest – rather than just a group of young boys hanging out together and having fun.

In these examples, it is “blackness” itself that precludes the attribution of humanity and results in detrimental treatment.²⁰ It is BLAC’s position that the Minister of Education must ensure that there is accountability for **these** types of damaging behaviours, in addition to correcting the disparities in suspensions, expulsions and streaming.

The acknowledgement of anti-Black racism, however, is only the beginning of a process that must include the acceptance that **the counterpart to anti-Black racism is the system of white supremacy within which anti-Black racism operates**. Cheryl Matias and Robin DiAngelo describe this phenomenon – this power dynamic – as follows:

... while the system of White supremacy has shaped Western political thought for hundreds of years, it is never named nor identified as a system at all. In this way, White supremacy is rendered invisible while other political systems are identified and studied. Much of its power is drawn from its invisibility.²¹

Over the past thirty years, in all of the reports noted above, the term “white supremacy” has never appeared, and yet, its acknowledgement as a structure is a critical part of effectively dealing with the inequality that Black people live with daily. There is nothing in the reports on the educational system in Ontario that acknowledges **that the entire system is operating within the context of this power dynamic, which is “historic, traditional and normalized...”**²²

As Walcott and Abdillahi point out, there is an “unseen commitment to white supremacist logics means that even those claiming a commitment to change unconsciously act out of a negation to blackness and Black people.”²³

BLAC is cognizant of the fact that using the term “white supremacy” is disquieting, and no doubt troubling, to many – that it evokes uncomfortable feelings of being labeled ‘racist’:

Most white people take great umbrage to the term[s] being used broadly...White supremacy in this context does not refer to individual white people and to their individual intentions or actions but to an overarching economic, political and social system...popular consciousness solely associates *white supremacy* with ... radical groups. This reductive definition obscures the larger reality of the system at work and prevents us from addressing this system.²⁴

As historian Ibram X. Kendi notes, it is imperative that these descriptive terms not be turned into “unusable slurs”, as this does nothing but freeze us all into inaction.²⁵ Further, that those who position themselves as liberal, choose not to protect what is their ‘moral reputation’, rather than recognize or change their participation in a system of inequity. This *power structure* operates independently of the “good intentions of individual actors.”²⁶ To this end,

One either allows racial inequities to persevere, as a racist, or confronts racial inequities, as an antiracist. There is no in-between safe space of “not racist.” The

claim of “not racist” neutrality is a mask for racism...and the only way to undo racism is to constantly identify and describe it – and then dismantle it.²⁷

BLAC believes that there must be constant and active recognition that this ‘invisible system’ of white supremacy and negation of Black humanity undergirds and ensures the inequality in the system. It serves only to maintain and support white (and other) privilege and results in Black people continually being stuck at the bottom of every marker.²⁸ Within the context of education, should this system remain in place, our children and communities will continue to be irreparably damaged.

Conclusion

Imagine the Ministry of Education mandating a review of a school board on the impact of gender, or LGBTQ2S+, or disability discrimination in a school and appointing no women to the gender review panel, no people from the LGBTQ2S+ to the panel reviewing LGBTQ2S+ discrimination, or no persons with disabilities to the panel reviewing disability discrimination? It seems unimaginable, and yet, this is how the review of the Peel District School Board began. The Minister did not think it necessary to appoint any Black people to review issues related to anti-Black racism. It was not until very public pressure that a Black person was added to the panel.

Further, imagine a situation where the leadership of an organization, put in place to deal with particular issues failed to do so,²⁹ necessitating external reviewers, and is then again tasked with the responsibility of fixing the problems it failed to fix in the first place? Unimaginable? BLAC agrees. However, this is what the Minister deems the appropriate course to remedy the issues related to governance and anti-Black racism at the Peel District School Board.

The provincial government has said that the documented discrimination will “not be tolerated”. Further, that it wants to “deliver transformational change.”³⁰ This idea of transformational change was also identified by the current Peel Director of Education in August of 2019 when he stated that equity “mustn’t be seen as a trend in education; it must be seen as transformative and necessary.”³¹ BLAC is asking, what has he done to effect this transformational change? In BLAC’s opinion, he has not demonstrated any interest in or ability to effect any meaningful change for Black students, parents, caregivers or teachers.

The impact of inequity, exclusion and criminalization of Black children in school results in irreparable damage to our children, and devastating intergenerational damage to the Black community. The damage to children who face multiple grounds of discrimination (racism, as well as discrimination on religious, disability and/or LGBTQ2S+ grounds, among others) is compounded, as their very identities result in an accumulation of disadvantage at an age where they have insufficient resources to even attempt to combat such injustice.

The general recommendations related to anti-Black racism, human rights and equity from the Peel Review must be implemented in a transparent and meaningful way with genuine involvement from the Black community. To this end, we call on the Ministry to report publicly on progress made every three months, from the release date of the Peel Review. We also call on the Ministry to ensure that suspensions and expulsions from Junior Kindergarten to Grade 6 (six) stop *immediately*. Lastly, BLAC calls on the Minister to direct that policing has no place in the Peel’s schools.

It is essential that the Minister of Education put in place **mandatory** procedures to deal with the significant anti-Black racism at the Peel District School Board. Indeed, it is essential that the Minister put in place **mandatory** procedures to deal with anti-Black racism across Ontario. This is particularly so given the fact that over the course of thirty years, and over the past two years at the Peel District School Board, *recommendations* have resulted in little or no change in the situation that Black students, teachers, parents and caregivers find themselves in at the Peel Board.³²

BLAC reminds our community that we are available to provide legal services to those who face discrimination related to anti-Black racism. We encourage you to contact us for assistance. In the interim, we are exploring alternative legal ways to challenge this inequity.

¹ Maynard, R. (2017). *Policing Black Lives: State violence in Canada from slavery to present*. (Halifax, NS: Fernwood Publishing), at p. 217. Robyn Maynard has affirmed through her research that “the feelings of exclusion and pain cause emotional harm and limit Black students’ ability to thrive in the public education setting.”

² Herbert, S., Chadha, E., and Richard, S., *A Review of the Peel District School Board* (February 28, 2020). Available at: <http://www.edu.gov.on.ca/eng/new/review-peel-district-school-board-report-en.pdf>.

³ See: <http://www.peelschools.org/media/newsreleases/Pages/Article.aspx?art-id=2669>

⁴ See: Tips for Parents: High School Courses and Choices at shorturl.at/azLQ5, which states: “The type of courses students take in grades 9 and 10 (academic or applied) affect their choices in grades 11 and 12; and those choices affect students’ post-secondary options.” See also, Course Selection Academic, Applied or Locally Developed? at shorturl.at/dptD4; and Understanding Types of Courses and Credits at <https://www.ocsb.ca/course-types/> for further information regarding course types.

⁵ It is evident that a student who takes locally developed courses and enters directly into the workplace will have fewer prospects for high employment earnings than a student who enters University after high school.

⁶ *Peel Review*, *supra* note 2, at 13.

⁷ McCrimmon Middle School.

⁸ *Report of the Working Group of Experts on People of African Descent on its mission to Canada, Human Rights Council, Thirty-sixth session 11-29 September 2017, A/HRC/36/60/Add.1*, at para. 55. Available at: <https://undocs.org/A/HRC/36/60/Add.1>. [UN Report]. (hereinafter “*Report of the Working Group*”)

⁹ Lewis, S. *Stephen Lewis report on Race Relations in Ontario*. (Toronto: Government of Ontario, 1992).

¹⁰ Ontario. Royal Commission on Learning. *For the Love of Learning: Report of the Royal Commission on Learning*. 4 vols. (Toronto: Queen's Printer for Ontario, 1994).

¹¹ Ontario, Ministry of Education. *Antiracism and Ethnocultural Equity in School Boards Guidelines for Policy Development and Implementation* (Toronto, 1993).

¹² McMurtry, R., & Curling, A. (2008). *The Review of the Roots of Youth Violence: Volume 1*. (Toronto: Government of Ontario).

¹³ Ministry of Education. *Realizing the Promise of Diversity Ontario’s Equity and Inclusive Education Strategy*. (Toronto, 2009) and Ministry of Education. *Equity And Inclusive Education In Ontario Schools Guidelines For Policy Development And Implementation* (Toronto, 2014).

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- ¹⁴ Peel District School Board. (October 2016). *We Rise Together: The Peel District School Board Action Plan to Support Black Male Students*. Available at: <http://www.werisetgether.ca/Documents/Report%20and%20Action%20Plan.pdf>.
- ¹⁵ James, C. & Turner, T. (2017). *Towards Race Equity in Education: The Schooling of Black Students in the Greater Toronto Area*. (Toronto: York University). This Report was prepared independently of government, but it provides a critical understanding of the disparity in education in the Toronto District School Board.
- ¹⁶ Case, P. and Herbert, S. *Review of the York Region District School Board*. (Toronto: 2017).
- ¹⁷ James, C. (March 11, 2019) *We Rise Together. Report Prepared for Peel District School Board*. Available at: <http://www.peelschools.org/Documents/We%20Rise%20Together%20Action%20Plan%20FINAL.pdf>.
- ¹⁸ Walcott, R. & Abdillahi I. (2019) *BlackLife: Post BLM and the Struggle for Freedom*. (Winnipeg: ARP Books), at p. 72.
- ¹⁹ Maynard, *supra* note 1 at p.11.
- ²⁰ Kendi, Ibram X. (2019). Kindle ed. *How to be an Antiracist*. (New York: One World) at p. 72. In an historical or different context, Ibrahm X. Kendi rightly points out that “Africans were nearly always cast as violent criminals, not **people** reacting to enslavers’ regular brutality, or pressing for the most basic human desire: freedom. [emphasis added]
- ²¹ Matias, C. and DiAngelo. R. (2013). Beyond the face of race: Emo-cognitive explorations of white neurosis and racial cray-cray. *Educational Foundations* 27(3–4): 3– 20 at p. 5.
- ²² DiAngelo, R. (2019). *White Fragility: why it’s so hard for white people to talk about racism*. (Boston: Beacon Press) at p. 22.
- ²³ Walcott, R. and Abdillahi I., *supra* note 18 at p. 94.
- ²⁴ DiAngelo, R., *supra* note 22 at p.28.
- ²⁵ Kendi, I. *supra* note 20 at p. 9
- ²⁶ DiAngelo, R., *supra* note 22 at p. 21.
- ²⁷ Kendi, I. *supra* note 20 at p. 9
- ²⁸ Walcott, R. and Abdillahi I., *supra* note 18 at p. 71.
- ²⁹ See shorturl.at/vkQR6. In August of 2017, new leadership at the Peel District School Board committed to implementing initiatives to “address the needs of Black students after surveys revealed many felt excluded, subject to suspicion and harsher discipline, and that they faced lower expectations for careers and university and were streamed into courses below their abilities...the board presented a plan starting with mandatory bias and anti-racism training for all staff... It also pledged to revise curriculum to include the history and experiences of Black Canadians throughout, and to create mentoring programs aimed at getting more Black students involved in taking on leadership roles.”
- ³⁰ See: <https://news.ontario.ca/edu/en/2020/03/new-ministerial-directions-to-drive-change-and-combat-discrimination-in-peel.html>.
- ³¹ See <http://www.peelschools.org/aboutus/directorsmessage/Documents/Peter%20Joshua%20speech%20-%20Starting%20Point%202019.pdf> from the speaking notes of Director Peter Joshua.
- ³² *Report of the Working Group*, *supra* note 8 at pp. 53, 74. “The cumulative impact of anti-Black racism and discrimination faced by African Canadians in the enjoyment of their rights to education, health, housing and employment, among other economic, social and cultural rights, has had serious consequences for their overall well-being...the Working Group is deeply concerned by the structural racism that lies at the core of many Canadian institutions and the systemic anti-Black racism that continues to have a negative impact on the human rights situation of African Canadians.”