

Proposed content for an OHRC policy on the discriminatory display of names, words and images

OHRC engages the public to develop a new policy on the discriminatory display of names, words and images¹

TORONTO – The Ontario Human Rights Commission (OHRC) is developing a new policy statement on the discriminatory display of names, words and images, and **wants to hear** from the public about this quickly-evolving issue.

Indigenous peoples and racialized communities, among other groups, are calling for the removal of statues of historic figures who are perceived as colonizers, slave owners, or who advanced racist policies. Similar calls are being made to rename roads, schools, government buildings and other institutions named for the same reasons. Affected groups have described these displays as symbols of oppression, cultural genocide and intergenerational trauma.

These concerns are not new. For some time now, the OHRC has heard about the display of derogatory names, words and images, such as:

- The name of a street, building or landmark
- The name, logo or mascot of a group or organization
- Commemorative days, events, statues and plaques.

In 2018, the OHRC helped **settle** the case of *Gallant v Mississauga*, requiring that city to remove from its sports facilities all Indigenous-themed mascots, symbols, names and images related to non-Indigenous sports organizations. The OHRC then **wrote** to municipalities across Ontario to promote broader compliance with the settlement. In 2020, the OHRC commented on the issue of renaming “Colonization Road” in Fort Frances, and the potential implications under the Ontario *Human Rights Code* (*Code*). Human rights law has found that images and words that degrade people because of their ancestry, race, colour or ethnic origin may create a poisoned environment, amount to a denial of service, and violate the *Code*. To clarify the scope of people’s rights and responsibilities, the OHRC is developing a policy statement that focuses on service providers’ legal obligations to prevent and address discrimination against Indigenous peoples, racialized communities and potentially other *Code*-protected groups in situations that involve the display of derogatory names, words and images.

“What’s in a name? Often, everything,” said OHRC Chief Commissioner Patricia DeGuire.

“We continue to hear about communities disturbed by the name of a street, a sports

¹ Source: http://www.ohrc.on.ca/en/news_centre/ohrc-engages-public-develop-new-policy-discriminatory-display-names-words-and-images

team, a building or a monument. This policy statement is being designed to help foster better understanding of the human rights issues involved, and to prompt communities to work together in a respectful way to overcome these issues.”

The **proposed content** for this policy statement is available online. All Ontarians are invited to provide their input by completing an online **survey** or writing to surveys@ohrc.on.ca by **October 22, 2021**.

Scope

The purpose of the policy statement on the discriminatory display of names, words and images is to:

- Recognize the enduring impact of colonialism on Indigenous peoples and Ontario’s historical links to slavery by promoting awareness about the negative impacts the discriminatory display of names and images has on individuals and groups
- Promote understanding and compliance with legal obligations under the *Code*, including the duty to respond, investigate and resolve allegations of discrimination
- Set out a human rights-based analysis and procedure framework for dealing with issues in the community and before tribunals and courts
- Encourage municipalities and other obligated organizations to develop their own policies through community input
- Help avoid situations that may lead to discrimination or a poisoned environment.

The policy would apply to:

- Organizations that provide services within the meaning of section 1 of the *Human Rights Code* (the *Code*), including provincial and municipal governments, public- and private-sector organizations
- Discriminatory situations under sections 1 and 13(1) of the *Code* involving the display of words and images, including names, terms, descriptions, depictions, symbols and other markers used for, but not limited to: street and road names; geographic areas, landmarks, buildings and outdoor facilities; commemorative statues, plaques and days; sports teams and their mascots; events; or other similar uses
- Names and images that might involve current or historic persons known for their discriminatory views and actions
- Derogatory terms and images that might represent or be linked with discriminatory views and actions
- Names, terms and images that might also represent or negatively appropriate the culture of groups such as Indigenous peoples or racialized communities protected by grounds of the *Code*.

The policy would not take any position:

- For or against the use of a specific name or image in a particular situation
- To interfere with freedom of expression of opinion such as the use of words or images in news media opinion editorials.

Human rights principles

- Duty to prevent and maintain a non-discriminatory environment, to be aware of a poisoned environment, and to take steps to respond to discrimination
- Duty to make sure that rules, requirements, policies, procedures, practices and related decisions do not negatively affect *Code*-protected groups
- Duty to respond reasonably and adequately to claims of discrimination, investigate allegations, and resolve situations when discrimination is found
- Discriminatory treatment or impact includes harassment and a poisoned environment
- Important to consider the social and historical context around discrimination claims, and the reality and experiences of people affected.

Proposed policy positions

- Service providers must make sure that the words and images they display do not result in denial of service, harassment or a poisoned environment for individuals and groups identified by a prohibited ground of discrimination
- Service providers have a legal duty to respond to and investigate complaints of discrimination involving the display of words and images within their service environments
- Service providers must take steps to learn about the circumstances of the complaint. They must consider the surrounding social and historical context, and examine what negative impact the words or images have on individuals and groups identified by a *Code* ground
- Service providers have a legal obligation to remedy situations where the display of words or images is found to have a discriminatory impact
- In some cases, it may be necessary to revisit long-standing norms and change certain names, descriptions or images
- In other cases, affected individuals and groups may not necessarily want derogatory names, words or images removed or changed, and may instead want other actions to promote awareness of historical rights violations
- Training and public awareness may be necessary to help address misinformation, prejudice and other barriers that contribute to tension and conflict

- Service providers may need to get professional guidance to help understand the surrounding context and negative impacts
- A collaborative approach may be needed to help promote social inclusion of affected groups, and bring communities together to find the best solutions.

OHRC Survey Content

1. **Your experience with discriminatory display of names, words and images** - Do you have concerns about a situation where groups are calling for a name or image to be removed or changed because it may be discriminatory?

If you do, describe the situation in the text box below. Consider:

- Who is affected? How is it negatively affecting you, or another person or group?
- Is there a process to review and resolve the issues? Does it include any formal policies and procedures?
- What is the current status? Is there an outcome?

2. **Scope of the policy statement**

The purpose of the policy statement on the discriminatory display of names, words and images will be to:

- Recognize the enduring impact of colonialism on Indigenous peoples and Ontario's historical links to slavery by promoting awareness about the negative impacts the discriminatory display of names and images has on individuals and groups
- Promote understanding and compliance with legal obligations under the Code, including the duty to respond, investigate and resolve allegations of discrimination
- Set out a human rights-based analysis and procedure framework for dealing with issues in the community and before tribunals and courts
- Encourage municipalities and other obligated organizations to develop their own policies through community input
- Help avoid situations that may lead to discrimination or a poisoned environment

The policy statement will apply to:

- Organizations that provide services within the meaning of section 1 of the Code, including provincial and municipal governments, public- and private-sector organizations
- Discriminatory situations under sections 1 and 13(1) of the Code involving the display of words and images, including names, terms, descriptions, depictions, symbols and other markers used for, but not limited to: street and road names; geographic areas, landmarks, buildings and outdoor facilities; commemorative statues, plaques and days; sports teams and their mascots; events; and other similar uses
- Names and images that might involve current or historic persons known for their discriminatory views and actions
- Derogatory terms and images that might represent or be linked with discriminatory views and actions
- Names, terms and images that might also represent or negatively appropriate the culture of groups such as Indigenous peoples or racialized communities.

The policy statement will not take any position:

- For or against the use of a specific name or image in a particular situation
- To interfere with freedom of expression of opinion, such as the use of words or images in news media opinion editorials.

Provide your comments on the proposed **scope** of the policy statement in the text box below, including any recommendations.

3. Human rights principles

The OHRC proposes this content for to include the following **human rights principles** in the policy statement on service providers' legal obligations under the *Code* to prevent and address discrimination involving the discriminatory display of names, words and images:

- Duty to prevent and maintain a non-discriminatory environment, to be aware of a poisoned environment, and to take steps to respond to discrimination
- Duty to make sure that rules, requirements, policies, procedures, practices and related decisions do not negatively affect *Code*-protected groups

- Duty to respond reasonably and adequately to claims of discrimination, investigate allegations, and resolve situations when discrimination is found
- Discriminatory treatment or impact includes harassment and a poisoned environment
- Important to consider the social and historical context around discrimination claims, and the reality and experiences of the people affected.

Provide your comments on the proposed **human rights principles** of the policy statement in the text box below, including any recommendations.

4. Policy positions - The OHRC proposes to take the following **positions** in the policy statement on the discriminatory display of discriminatory names, words and images:

- Service providers must make sure the words and images they display do not result in denial of service, harassment or a poisoned environment for individuals and groups identified by a prohibited ground of discrimination
- Service providers have a legal duty to respond to and investigate complaints of discrimination involving the display of words and images within their service environments
- Service providers must take meaningful steps to engage with affected community members to learn about the circumstances of the complaint. They must consider the social and historical context, and examine what negative impact the words or images have on individuals and groups identified by a Code ground
- Service providers have a legal obligation to remedy situations where the display of words or images is found to have a discriminatory impact
- In some cases, it may be necessary to revisit long-standing norms and change names, descriptions or images
- In other cases, affected individuals and groups may not necessarily want derogatory names, words or images removed or changed, and may instead want other actions to promote awareness of historical rights violations
- Training and public awareness may be necessary to help address misinformation, prejudice and other barriers that contribute to tension and conflict
- Service providers may need to get professional guidance to help understand the surrounding context and negative impacts
- A collaborative approach may be needed to help promote social inclusion of affected groups and bring communities together to find the best solutions.

Provide your comments on the proposed **policy positions** of the policy statement in the text box below, including any recommendations

5. **Other comments** - Do you have any other comments on the OHRC's proposal to develop a policy statement on the discriminatory display of names, words and images?