

COMMENT ON

**Proposed Data Standards for the Identification and Monitoring of Systemic Racism (Anti-Racism Data Standards), as well as potential regulation to authorize or require public sector organizations to collect specified personal information using the proposed Anti-Racism Data Standards to identify and combat systemic racism and advance racial equity**

By

**THE COLOUR OF POVERTY/COLOUR OF CHANGE  
CHINESE AND SOUTHEAST ASIAN LEGAL CLINIC  
ONTARIO COUNCIL OF AGENCIES SERVING IMMIGRANTS  
SOUTH ASIAN LEGAL CLINIC OF ONTARIO**

**March 2018**

**Colour of Poverty/Colour of Change (COP-COC)** is a campaign made up of individuals and organizations working to build community-based capacity to address the growing racialization of poverty and the resulting experience of increased levels of social exclusion and marginalization of racialized communities (both First Peoples and peoples of colour) across Ontario. COP-COC works to build concrete strategies, develop tools, and build community-based capacity through which individuals, groups and organizations work together to address the growing structural ethno-racial inequalities across Canada.

We commend the Government of Ontario on its commitment to addressing systemic racism in the province through the launching of the Anti-Racism Directorate, the creation of the Anti-Racism Strategy, and the passing of the *Anti-Racism Act, 2017* (the '*Act*'). We also support the work that the Government has done so far in drafting Data Standards for the Identification and Monitoring of Systemic Racism under the authority of the *Act* to better identify, measure and analyze racial and other intersectional disparities among different communities.

It is in that context that we are greatly alarmed by the continuing legislated exclusion of the health sector from the data collection regulations – an issue that COP-COC has repeatedly raised to the Minister Responsible for Anti-Racism, staff at the Anti-Racism Directorate (ARD), the Standing Committee on General Government, and the Premier herself. This continuing exclusion of the health sector impoverishes both the ability of the Directorate to tackle serious racial inequities in health outcomes for Ontarians and the effectiveness of the proposed Data Standards.

Under section 6(7) of the *Act*, any public sector organization that is a health information custodian as defined in the *Personal Health Information Protection Act, 2004* is explicitly excluded from the data collection regulations, including the draft Data Standards currently being proposed. Section 3 of *PHIPA* defines what a health information custodian is. The definition is very broad and covers most of the major institutions involved in providing healthcare in the province including all hospitals, community health centres, and many other government funded

agencies that collect health information under *PHIPA*, all of whom are exempted from the requirement to collect data under the *Act*.

As noted by the Association of Ontario Health Centres (AOHC), such an explicit exclusion of the health sector will have serious ramifications and is inconsistent with the very principles of conducting equity informed population needs-based planning in order to advance health equity. Many large organizations in the Ontario healthcare sector have already been collecting race-based data for years, such as certain hospitals, community health centres and LHINs. As such, there is no reason why other health agencies cannot follow suit.

One rationale previously offered for the exclusion of the health sector from legislated data collection was that reconciling the race-based data collection framework with the *PHIPA* was complicated and there was not enough time to do it given the timeframe for passing Bill 114. However, it has been over 9 months since Royal Assent was given to the *Anti-Racism Act*, 2017 and nothing has since been done to amend the *Act* to include the health sector in data collection provision. Time is of the essence.

In addition, during their presentation to the United Nations Committee on the Elimination of Racial Discrimination (CERD), representatives of the ARD advised the UN body that the Ontario Government would be removing the exemption of the health sector from data collection requirement. The CERD meeting took place almost 7 months ago from August 14-15, 2017. In its Concluding Observations, CERD made the following recommendation based in part on the presentation by the representatives of the ARD:

**10. The Committee recommends that the State party develop and launch a new National Action Plan Against Racism, in compliance with its obligations under the World Conference Against Racism, through meaningful consultations process with civil society organizations, including ethnic minorities and Indigenous Peoples, which includes implementing legislation, dedicated resources, targets, and adequate monitoring and reporting mechanisms, using good practices mentioned in Ontario's anti-racism strategy of 2017. The Committee requests information in its next periodic report on the implementation and impact of Ontario's anti-racism strategy, and other such strategies in the State party.**

Continuing to exempt the Ministry of Health from the data collection requirement undermines the overall effectiveness of the anti-racism strategy. It also flies in the face of the explicit promise made by the ARD before the UN and calls into question the real commitment of the Ontario Government to addressing systemic racism.

We therefore recommend that section 6(7) of the *Anti-Racism Act* be removed so that all public sector health agencies will be subject to the same data collection requirements as all other public sector organizations in Ontario. This amendment is absolutely critical to the effectiveness of the proposed Data Standards and the mandate of achieving health equity in Ontario.

## **APPENDIX A**

### **COP-COC Steering Committee Members**

Access Alliance Multicultural Health & Community Services  
African Canadian Legal Clinic  
Canadian Arab Federation  
Chinese Canadian National Council Toronto Chapter  
Council of Agencies Serving South Asians  
Hispanic Development Council  
Karuna Community Services  
Mennonite New Life Centre of Toronto  
Chinese and Southeast Asian Legal Clinic  
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OCASI - Ontario Council of Agencies Serving Immigrants  
La Passerelle – I.D.E.  
South Asian Legal Clinic of Ontario  
Thorncliffe Neighbourhood Office  
Professor Grace-Edward Galabuzi (Ryerson University)