

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

E.T.

Applicant

-and-

HAMILTON-WENTWORTH DISTRICT SCHOOL BOARD

Respondent

-and-

**ELEMENTARY TEACHERS' FEDERATION OF ONTARIO and
ATTORNEY GENERAL OF ONTARIO**

Interveners

**FACTUM OF THE INTERVENER,
ATTORNEY GENERAL OF ONTARIO**

ATTORNEY GENERAL OF ONTARIO

Constitutional Law Branch
Civil Law Division
4th Floor, 720 Bay Street
Toronto, ON M7A 2S9

Josh Hunter / Emily Bala

LSUC No.: 49037M / 62458I
Tel: (416) 326-3840 / (416) 326-4473
Fax: (416) 326-4015
Email: joshua.hunter@ontario.ca
/ emily.bala@ontario.ca

Counsel for the Intervener,
the Attorney General of Ontario

TO: The Registrar
Superior Court of Justice
45 Main Street East
Hamilton, ON L8N 2B7

AND TO: **VINCENT DAGENAIS GIBSON s.r.l.**
260 Dalhousie Street, Suite 400
Ottawa, ON K1N 7E4

Albertos Polizogopoulos
Tel: (613) 241-2701 ext. 243
Fax: (613) 241-2599
Email: albertos@vdq.ca

Lawyers for the Applicant

AND TO: **FILION WAKELY THORUP ANGELETTI LLP**
1 King Street West, Suite 1201
Box 57030
Hamilton, ON L2P 4W9

Mark J. Zega / Giovanna Di Sauro
Tel: (905) 526-8904
Fax: (905) 577-0805
Email: mzega@filion.on.ca

Lawyers for the Respondent,
Hamilton-Wentworth District School Board

AND TO: **CAVALLUZZO SHILTON McINTYRE CORNISH LLP**
Barrister & Solicitors
474 Bathurst Street, Suite 300
Toronto, ON M5T 2S6

Kate Hughes
Tel: (416) 964-1115
Fax: (416) 964-5895
Email: khughes@cavalluzzo.com

Lawyers for the Intervener,
Elementary Teachers' Federation of Ontario

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I. OVERVIEW

1. Ontario's public school system is constitutionally required to be open to all eligible pupils, without distinction. The *Education Act*, the *Human Rights Code*, and Ministry of Education policy require school boards to promote a positive school climate that is inclusive and accepting of all pupils, regardless of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identify, gender expression, age, marital status, family status, or disability. The mandatory provincial curriculum is designed to reflect the diversity of Ontario society and to allow all students, with their diverse backgrounds and experiences, to see themselves reflected in the curriculum.

2. The diversity that Ontario's public school system celebrates includes religious diversity. School boards are expected to take appropriate steps to provide religious accommodations for students. Not all requests for religious accommodation, however, can be granted in a non-denominational public school system which values the inclusion and acceptance of all students, whatever their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identify, gender expression, age, marital status, family status, or disability.

3. Unlike requests to exempt students from class at certain times or to make modifications to their clothing to comply with their religious obligations, requests to exempt students from the very portions of the curriculum that promote diversity, inclusivity, and acceptance cannot be granted without the risk of appearing to endorse the non-acceptance of students of other races, sexual

orientations, family backgrounds, gender expressions and gender identities. Permitting students to be exempted from learning about diverse perspectives would impermissibly erode the public school system's ability to provide all students with a positive school climate free from racism, bullying, and discriminatory behaviour and to teach students how to help build a more inclusive and accepting society.

4. Contrary to the Applicant's submissions, it is not an infringement of religious freedom to be exposed to ideas and concepts that contradict your religious beliefs. As the Supreme Court has repeatedly held, learning that others do not necessarily agree with you and dealing with them in a respectful and accepting manner is part and parcel of life in a diverse and inclusive society such as Canada.

5. The Applicant remains free to teach his children his own religious beliefs at home. He remains free to explain to his children why he disagrees with certain aspects of the public school curriculum. If he is unable to reconcile his religious beliefs with his children's participation in a non-denominational, diverse, and accepting public school system, he has the choice to homeschool his children or to enroll them in private religious schools. But having chosen to enroll his children in the public school system, it is not a reasonable accommodation to demand that his children be exempted from hearing the school's statutorily-mandated message of acceptance and diversity.

II. FACTS

6. Ontario accepts the facts as set out by the Respondent, the Hamilton-Wentworth District School Board (the “**Board**”), in its factum, and provides the following additional context.

A. The Respective Roles and Responsibilities of the Ministry and School Boards

7. Public education in Ontario is delivered through a decentralized system of school boards established by the Legislature to govern the provision of elementary and secondary instruction in publicly-funded schools. There are four kinds of district school board in Ontario: English-language public district school boards; English-language separate district school boards; French-language public district school boards; and French-language separate district school boards.¹

8. The *Education Act* sets out a clear division of responsibility between school boards and the Ministry of Education (the “**Ministry**”). School boards are statutory corporations independent from the Ministry. Although the Minister of Education is responsible for the overall administration of the *Education Act*, school boards, not the Ministry, are responsible for the day-to-day delivery of education to students throughout the province, including determining how to reasonably accommodate students’ *Code* and *Charter* rights. Except in the rare circumstances where a school board is placed under Ministry supervision, the

¹ Only public district school boards like the Respondent are at issue in this case. Separate school boards have denominational rights protected by s. 93 of the *Constitution Act, 1867*. In addition to the various kinds of district school board, there are also a handful of historical school authorities in certain, usually remote, areas of the province as well as a small number of provincial and demonstration schools directly operated by the province. School authorities and provincial and demonstration schools need not be addressed for the purposes of this case.

Ministry does not have the authority to direct the operations of a school board or the schools the board operates.

***Education Act*, R.S.O. 1990, c. E.2, ss. 2(3) and 230.5**

9. The Minister's powers over school boards are limited to those set out in the *Education Act* and other legislation and include the power to:

- prescribe the courses of study to be taught;
- issue curriculum guidelines;
- establish policies and guidelines for the roles and responsibilities of board members, principals and other officials;
- select and approve textbooks and other learning materials, and establish procedures for doing so;
- require boards to develop and implement an equity and inclusive education policy; and
- establish a provincial code of conduct governing the behaviour of all persons in schools.

***Education Act*, supra, ss. 8(1)1, 8(1)2, 8(1)3(a), 8(1)3.4, 8(1)4, 8(1)6, 8(1)29.1, and 301**

10. The *Education Act* and its regulations also set out the duties and powers of school boards, principals, and teachers. School boards have the power to provide instruction in courses of study that the Minister has prescribed or approved, developed from curriculum guidelines issued by the Minister. The Minister may also permit school boards to approve their own courses of study. In turn, principals have the duty to supervise the instruction in the school while teachers have the duty to teach diligently and faithfully the classes or subjects assigned to them by the principal.

***Education Act*, supra, ss. 171(1)8 and 264(1)(a)**

R.R.O. 1990, Reg. 298, ss. 11(3)(a) and 20(a), (b), and (f)

11. School boards, not the Ministry, are responsible for ensuring that the manner in which their schools are operated and classes are taught complies with the *Charter* and the *Human Rights Code*. The Ministry is not responsible for *Charter* or *Code* violations committed by school boards.

Canadian Charter of Rights and Freedoms, s. 2(a), Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c. 11 (“Charter”)

Human Rights Code, R.S.O. 1990, c. H.19, s. 1

Moore v. British Columbia (Ministry of Education), 2012 SCC 61 at para. 54, [2012] 3 S.C.R. 360

B. Equity and Inclusivity in Ontario Public Schools

12. Equity, diversity and inclusive education are an essential aspect of Ontario’s public school system. In 2009, the Ministry released its Equity and Inclusive Education Strategy (the “**EIE Strategy**”) as part of its efforts to improve student achievement, reduce achievement gaps, and increase public confidence in the education system. The EIE Strategy defines diversity, equity and inclusive education as follows:

DIVERSITY: The presence of a wide range of human qualities and attributes within a group, organization, or society. The dimensions of diversity include, but are not limited to, ancestry, culture, ethnicity, gender, gender identity, language, physical and intellectual ability, race, religion, sex, sexual orientation, and socio-economic status.

EQUITY A condition or state of fair, inclusive, and respectful treatment of all people. Equity does not mean treating people the same without regard for individual differences.

INCLUSIVE EDUCATION: Education that is based on the principles of acceptance and inclusion of all students. Students see themselves reflected in their curriculum, their physical surroundings, and the broader environment, in which diversity is honoured and all individuals are respected.

The EIE Strategy sets out action items for the Ministry and for school boards to work on, including the need to “incorporate equity and inclusive education principles reflective of Ontario’s diversity in all curriculum and assessment policy documents and all learning resource documents as appropriate,” in order to achieve the vision of an equitable and inclusive education system.

Realizing the Promise of Diversity: Ontario’s Equity and Inclusive Education Strategy (2009) [“EIE Strategy”], Exhibit B to the Affidavit of Gail Belisario sworn November 12, 2012, Vol. I, Tab B

13. In 2012, Ontario enacted the *Accepting Schools Act, 2012* (“Bill 13”), which amended the *Education Act* to add additional requirements to promote diversity and inclusivity. The Preamble to Bill 13 states:

The people of Ontario and the Legislative Assembly:

Believe that education plays a critical role in preparing young people to grow up as productive, contributing and constructive citizens in the diverse society of Ontario;

Believe that ***all students should feel safe at school and deserve a positive school climate that is inclusive and accepting***, regardless of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identify, gender expression, age, marital status, family status or disability;

Believe that ***a healthy, safe and inclusive learning environment where all students feel accepted*** is a necessary condition for student success;

Understand that students cannot be expected to reach their full potential in an environment where they feel insecure or intimidated;

Believe that students need to be equipped with the ***knowledge, skills, attitude and values to engage the world and others critically, which means developing a critical consciousness that allows them to take action on making their schools and communities more equitable and inclusive for all people***, including LGBTTIQ (lesbian, gay, bisexual, transgender, transsexual, two-spirited, intersex, queer and questioning) people;

Recognize that a whole-school approach is required, and that **everyone** – government, educators, school staff, parents, students and the wider community – **has a role to play in creating a positive school climate and preventing inappropriate behaviour**, such as bullying, sexual assault, gender-based violence and incidents based on homophobia, transphobia or biphobia;

Acknowledge that an open and ongoing dialogue among the principal, school staff, parents and students is an important component in creating a positive school climate in which everyone feels safe and respected;

Acknowledge that there is a need for stronger action to create a safe and inclusive environment in all schools, and to support all students, including both students who are impacted by and students who have engaged in inappropriate behavior, to assist them in developing healthy relationships, making good choices, continuing their learning and achieving success.

Accepting Schools Act, 2012, S.O. 2012, c. 5, Preamble [Emphasis added]

14. Around the same time Ontario enacted Bill 13, Manitoba and Québec adopted similar legislation to ensure that their students could also attend school in a safe and accepting environment.

Public Schools Amendment Act (Safe and Inclusive Schools), S.M. 2013, c. 6

An Act to prevent and stop bullying and violence in schools, S.Q. 2012, c. 19

15. The amendments Bill 13 made to the *Education Act* permit the Minister of Education to require school boards to develop and implement an equity and inclusive education policy. Boards are also required to “promote a positive school climate that is inclusive and accepting of all pupils, including pupils of any race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.”

Education Act, supra, ss. 8(1)29.1 and 169.1(1)(a.1)

16. The Ministry periodically issues and updates numbered policy directives (Policy/Program Memoranda, or “PPMs”) to outline the Ministry’s expectations as to how school boards should implement Ministry policies and programs. After Bill 13 was passed, the Ministry updated several PPMs to further encourage school boards to promote the equity and inclusive education Bill 13 envisioned.

17. PPM 119, “Developing and Implementing Equity Inclusive Education Policies in Ontario Schools,” which was initially released in 2009 and updated in 2013, gives direction to school boards on how to review, develop, implement and monitor equity and inclusive education policies. To this end, PPM 119 outlines eight areas of focus that must be included in school board equity and inclusive education policies. One of the focus areas is having an inclusive curriculum and inclusive assessment practices. In particular, to achieve this goal, schools must:

provide students and staff with authentic and relevant opportunities to learn about diverse histories, cultures, and perspectives. Students should be able to see themselves represented in the curriculum, programs and culture of the school.

Other focus areas include having a religious accommodation policy consistent with the *Human Rights Code* and fostering a positive school climate where all members feel “safe, included, welcomed, and accepted.”

PPM 119, “Developing and Implementing Equity and Inclusive Education Policies in Ontario Schools” (April 22, 2013), Ontario’s Record, Tab 3, pp. 344 and 348-49

18. In 2012, the Ministry amended PPM 128, “The Provincial Code of Conduct and School Board Codes of Conduct,” to reflect the requirements of Bill 13.

Among its other requirements, PPM 128 requires all members of the school community, including students and parents, to:

- respect differences in people, their ideas, and their opinions;
- treat one another with dignity and respect at all times, and especially when there is disagreement;
- respect and treat others fairly, regardless of, for example, race, ancestry, place of origin, colour, ethnic origin, citizenship, religion, gender, sexual orientation, age, or disability;
- respect the rights of others; and
- respect the need of others to work in an environment that is conducive to learning and teaching.

School boards are required to develop policies for enforcement of the Code of Conduct, principals are to hold those under their authority accountable for their behaviour, and teachers and other school staff are to demonstrate respect for all members of the school community.

PPM 128, “The Provincial Code of Conduct and School Board Codes of Conduct” (December 5, 2012), Ontario’s Record, Tab 4, pp. 356-358

19. The Ministry also revised PPM No. 144, “Bullying Prevention and Intervention,” to provide direction to school boards on how their existing bullying intervention and prevention policies should be updated. PPM No. 144 again confirms that school boards “are expected to support and maintain a positive school climate in their schools.”

PPM 144, “Bullying Preventing and Intervention” (December 5, 2012), Ontario’s Record, Tab 5, p. 362

20. In 2014, the Ministry updated its Equity and Inclusive Education Guidelines (the “**EIE Guidelines**”). The EIE Guidelines, which were initially released in 2009 along with the EIE Strategy, aim to help school boards move

“beyond tolerance and celebration to inclusivity and respect” in order to help all students reach their full potential. The EIE Guidelines explain that:

Everyone in our publicly funded education system – regardless of background or personal circumstances – must feel engaged and included. Realizing the promise of our diversity is a continuous process grounded in actively respecting and valuing the full range of our differences. Providing a high-quality education for all is a key means of fostering social cohesion, within an inclusive society where diversity is affirmed in a framework of common values that promote the well-being of all citizens.

Equity and Inclusive Education in Ontario Schools: Guidelines for Policy Development and Implementation (2014) [“EIE Guidelines”], Ontario’s Record, Tab 2, pp. 252, 254

21. Consistent with PPM 119, the EIE Guidelines note that the principles of equity and inclusivity need to be reflected throughout the curriculum and learning materials so that students can:

see themselves reflected in the curriculum (e.g., providing information about women’s contributions to science and technology, about Black inventors, about Aboriginal beliefs and practices related to the environment; using texts written by gay/lesbian authors).

EIE Guidelines, supra, Ontario’s Record, Tab 2, p. 270

22. This message from the EIE Guidelines is incorporated throughout the Ontario curriculum and features prominently at the beginning of every curriculum policy document. By way of example, the 2015 Health and Physical Education curriculum states that learning activities and materials must reflect the diversity of society, so that all students can see themselves reflected in the curriculum:

In an environment based on the principles of inclusive education, all students, parents, caregivers, and other members of the school community – regardless of ancestry, culture, ethnicity, sex, physical or intellectual ability, race, religion, gender identity, sexual orientation, socio-economic status, or other factors – are welcomed, included, treated fairly, and respected. Diversity is valued, and all members of the school community feel safe,

comfortable and accepted. Every student is supported and inspired to succeed in a culture of high expectations for learning. In an inclusive education system, all students see themselves reflected in the curriculum, their physical surroundings, and the broader environment, so that they can feel engaged in and empowered by their learning experiences.

...

It is essential that learning activities and materials used to support the curriculum reflect the diversity of Ontario society.

The Ontario Curriculum Grades 1-8: Health & Physical Education (2015) ["HPE Curriculum"], Ontario's Record, Tab 1, p. 69

EIE Guidelines, supra, Ontario's Record, Tab 2, p. 271

III. ISSUES AND LAW

23. The Applicant has challenged the Board's decisions to (1) not provide advance notice of all planned classes, lessons, or activities in his children's classes that might involve any contradiction of his view of Biblical teachings; and (2) not permit him to withdraw his children from such classes, lessons, or activities at his own discretion under both the *Charter* and the *Code*.

24. Ontario intervenes solely on the Applicant's *Charter* challenge but notes that essentially the same analysis applies to his *Code* challenge. In Ontario's submission, the *Charter* challenge raises the following issues:

- a) What is the proper framework for review of the Board's decision?
- b) Did the Board's decisions interfere with the Applicant's *Charter* rights?
- c) If so, was the Board's balancing reasonable?
- d) In the alternative, was the Board's balancing justified under s. 1 of the *Charter*?

A. The Board's Decisions Were Discretionary Decisions that Should Be Reviewed Using the *Doré* Analysis

25. The Applicant challenges the manner in which the Board made the discretionary decision whether to accept his requests for advance notice and the right to withdraw his children from planned lessons, classes, and activities which he believed to be religiously objectionable. He has not challenged any law or rule of general application.

26. Accordingly, this Court should review the Board's decision using the reasonableness analysis set out by the Supreme Court in *Doré*. If the Board, given the nature of its decision and the statutory and factual context, proportionately balanced the Applicant's *Charter* rights with the statutory objective of promoting an accepting, diverse, inclusive school environment and the *Charter* rights of other students, its decision should be found to be reasonable. This analysis is "highly contextual" and the Court should defer to the Board's assessment of how best to balance competing rights so long as its decision "falls within a range of possible, acceptable outcomes."

***Doré v. Barreau du Québec*, 2012 SCC 12 at paras. 47-58, [2012] 1 S.C.R. 395**

27. In conducting the *Doré* analysis, this Court should first determine whether the Board's decision engages the *Charter* by limiting its protections. If such a limitation has occurred, the question becomes whether the Board's balancing was proportionate, i.e., whether the Board has given "effect, as fully as possible, to the *Charter* protections at stake ***given the particular statutory mandate.***" As under the *Oakes* analysis for justifying laws that breach *Charter* rights, the *Doré* analysis is highly contextual and "there may be more than one proportionate

outcome that protects *Charter* values as fully ***as possible in light of the applicable statutory objectives and mandate.***”

***Loyola High School v. Québec (A.G.)*, 2015 SCC 12 at paras. 3, 4, 32, 39, and 41, [2015] 1 S.C.R. 613 [Emphasis added]**

28. Ontario submits that both of the Board’s decisions were reasonable in the circumstances. As the Supreme Court has already held, exposing students in a non-denominational and diverse public school system to ideas that may challenge or even contradict their and their parents’ religious beliefs is not a substantial burden on their religious freedom. Even if this were not the case and the Applicant’s s. 2(a) rights were limited by the Board’s decisions, his requests could not be reasonably accommodated by the Board in light of the statutory objective of creating a safe, accepting and inclusive public school system and the potential impact of granting the Applicant’s requests on the *Charter* and *Code* rights of other students.

B. Being Exposed to Diverse Views in a Public School System Is Not a Substantial Limitation on Religious Freedom

1. The Applicant’s Claim that His Section 2(a) Rights Have Been Infringed

29. The Applicant’s *Charter* challenge is primarily a claim that the Board’s decision not to give him advance notice of and allow him to exempt his children from lessons, classes, and activities infringes his right to freedom of religion under s. 2(a) of the *Charter*. To demonstrate that the Board’s decisions engaged his religious liberty rights, the Applicant must show that the decisions burdened or interfered with his ability to act in accordance with his sincerely-held religious beliefs in more than a trivial or insubstantial way.

***Syndicat Northcrest v. Amselem*, 2004 SCC 47 at paras. 56-59, [2004] 2 S.C.R. 551**

30. It is undisputed that the Applicant sincerely holds his religious beliefs. But he has not demonstrated that the Board's decisions constitute a substantial interference with those sincerely-held beliefs.

31. The Supreme Court has already held that exposing students who choose to attend a non-denominational public school to the fact that modern Canadian society is diverse and inclusive does not constitute a substantial interference with religious freedom even if it requires children to be exposed to concepts that challenge or contradict their or their parents' religious beliefs.

32. In *S.L.*, parents of public school students sought to have their children exempted from the Ethics and Religious Course (“**ERC**”) the provincial government required all schools to provide. The ERC was meant to provide instruction in ethics and to allow students to develop an understanding of different religious traditions. The parents in *S.L.* sincerely believed that they had an obligation to teach Catholicism to their children and asserted that the ERC would expose their children to “a form of relativism, which would interfere with the appellants' ability to pass their faith on to their children” because it presented different beliefs on an equal footing.

***S.L. v. Commission scolaire Des Chênes*, 2012 SCC 7 at paras. 26-38, [2012] 1 S.C.R. 235**

33. The Supreme Court rejected this argument, explaining that it is insufficient to simply assert that a religious right is being infringed. Instead, a claimant must show “objective proof of an interference with the observance of that practice”:

At the stage of establishing an infringement, however, ***it is not enough for a person to say that his or her rights have been infringed.*** The person must prove the infringement on a balance of probabilities. This may of course involve any legal form of proof, but it must nonetheless be based on facts that can be established objectively. ...

It follows that when considering an infringement of freedom of religion, the question is not whether the person sincerely believes that a religious practice or belief exists that has been infringed. ***The subjective part of the analysis is limited to establishing that there is a sincere belief that has a nexus with religion, including the belief in an obligation to conform to a religious practice.*** As with any other right or freedom protected by the *Canadian Charter* and the *Québec Charter*, ***proving the infringement requires an objective analysis of the rules, events or acts that interfere with the exercise of the freedom.*** To decide otherwise would allow persons to conclude themselves that their rights had been infringed and thus to supplant the courts in this role.

Furthermore, the following comment of Wilson J. in *R. v. Jones*, [1986] 2 S.C.R. 284, at pp. 313-14, which Iacobucci J. quoted in *Amselem*, para. 58, bears repeating: s. 2(a) of the *Canadian Charter* “does not require the legislature to refrain from imposing any burdens on the practice of religion.” (emphasis omitted; see also *Edwards Books*). ***“The ultimate protection of any particular Charter right must be measured in relation to other rights and with a view to the underlying context in which the apparent conflict arises (Amselem, at para. 62). No right is absolute.***

S.L., supra at paras. 2 and 23-25 [Emphasis added]

34. Like the Appellant who is concerned that the statutory requirement for school boards to promote a positive school climate that is inclusive and accepting of all pupils is a “value judgment” that is not truly neutral, the claimants in *S.L.* argued that the ERC was not truly neutral and thus sought to undermine their religious beliefs.

S.L., supra at para. 29

35. The Court rejected this argument, holding that achieving absolute religious neutrality is impossible. No right is absolute and “we live in a society of

individuals in which we must always take the rights of others into account.” State religious neutrality “is assured when the state neither favours nor hinders any particular religious belief, that is, when it shows respect for all postures towards religion, including that of having no religious belief whatsoever, while taking into account the competing constitutional rights of the individuals affected.”

***S.L., supra* at paras. 30-31**

36. The Court then went on to find that the actual content of the ERC also did not infringe the claimants’ religious freedom. The Applicant attempts to distinguish *S.L.* on the basis that, in this case, he has led sufficient evidence to establish an infringement of his religious freedom because his beliefs prohibit him from exposing his children to “false teachings.” This assertion is insufficient to distinguish *S.L.* because *S.L.* was not simply a case about a failure to lead the necessary evidence of interference with religious belief. Rather, *S.L.* stands for the principle that requiring students in public school to gain an awareness of Canada’s diverse reality is not a substantial infringement of religious freedom:

Parents are free to pass their personal beliefs on to their children if they so wish. However, the early exposure of children to realities that differ from those in their immediate family environment is a fact of life in society. The suggestion that a variety of religious facts in itself infringes their religious freedom or that of their parents amounts to a rejection of the multicultural reality of Canadian society and ignores the Quebec government’s obligations with regard to public education. Although such exposure can be a source of friction, it does not in itself constitute an infringement of s. 2(a) of the *Canadian Charter* and of s. 3 of the *Quebec Charter*.

***S.L., supra* at para. 40**

37. As the Court held in *Chamberlain*, it is inevitable and healthy that children attending a public school system will encounter messages that contradict or challenge their and their parent’s beliefs:

The cognitive dissonance that results from such encounters is simply a part of living in a diverse society. It is also a part of growing up. Through such experiences, children come to realize that not all of their values are shared by others.

Exposure to some cognitive dissonance is arguably necessary if children are to be taught what tolerance itself involves. As my colleague points out, the demand for tolerance cannot be interpreted as the demand to approve of another person's beliefs or practices. When we ask people to be tolerant of others, we do not ask them to abandon their personal convictions. We merely ask them to respect the rights, values and ways of being of those who may not share those convictions. The belief that others are entitled to equal respect depends, not on the belief that their values are right, but on the belief that they have a claim to equal respect regardless of whether they are right. Learning about tolerance is therefore learning that other people's entitlement to respect from us does not depend on whether their views accord with our own. Children cannot learn this unless they are exposed to views that differ from those they are taught at home.

***Chamberlain v. Surrey School District No. 36*, 2002 SCC 86 at paras. 65-66, [2002] 4 S.C.R. 710**

38. Ontario submits that these passages from *S.L.* and *Chamberlain* are a complete answer to the Applicant's *Charter* challenge. The Applicant argues, however, that his circumstances are more comparable to those in the subsequent case of *Loyola* than to *S.L.* or *Chamberlain*. *Loyola* involved the question of whether a private Catholic high school should have to teach the same ERC curriculum that was at issue in *S.L.* rather than an alternative ethics and religion course taught from a Catholic perspective.

***Loyola, supra* at paras. 33-34**

39. Yet the reason that *Loyola* was distinguishable from *S.L.* was that *Loyola* was a ***private*** Catholic school:

In *S.L.*, this Court held that the imposition of the ERC Program ***in public schools*** did not impose limits on the religious freedom of individual students and parents. This case, however, can be distinguished from *S.L.* because *Loyola* ***is a private religious***

institution created to support the collective practice of Catholicism and the transmission of the Catholic faith. The question is not only how Loyola is required to teach about *other* religions, but also how it is asked to teach about the very faith that animates its character and the comparative relationship between Catholicism and other faiths. The Minister's decision therefore demonstrably interferes with the manner in which the ***members of an institution formed for the very purpose of transmitting Catholicism***, can teach and learn about the Catholic faith. This engages religious freedom protected under s. 2(a) of the *Charter*.

I agree with Loyola that the Minister's decision had a serious impact on religious freedom ***in this context***. To tell a ***Catholic school*** how to explain its faith undermines the liberty of the members of its community who have chosen to give effect to the collective dimension of their religious beliefs by participating in a ***denominational school***.

...

It also interferes with the rights of parents to transmit the Catholic faith to their children, ***not because it requires neutral discussion of other faiths and ethical systems, but because it prevents a Catholic discussion of Catholicism***. This ignores the fact that an essential ingredient of the vitality of a religious community is the ability of its members to pass on their beliefs to their children, ***whether through instruction in the home or participation in communal institutions***.

Loyola, supra at paras. 61-62 and 64 [Emphasis added]

40. The Applicant, however, has not chosen to instruct his children in the home or in a private denominational school even though the *Education Act* gives him the right to do so. As Justices Sopinka and McLachlin both found in their concurring reasons in *Adler*, “parents whose beliefs do not permit them to educate their children in the secular or Roman Catholic school systems are free to educate their children in other schools or at home.”

Education Act, supra, s. 21(2)(a)

Adler v. Ontario, [1996] 3 S.C.R. 609 at 699-700 and 711

41. Instead, the Applicant has chosen to enroll his children in the public school system which must respect the rights of all students, whatever their religious background, family status, sexual orientation, or gender identity or expression. *Loyola* is therefore inapplicable to the Applicant's situation.

42. Furthermore, even in the private denominational school context, the Court found that religious freedom had to "be understood in the context of a secular, multicultural and democratic society with a strong interest in protecting dignity and diversity, promoting equality, and ensuring the vitality of a common belief in human rights." It therefore reaffirmed *S.L.* and held that the state could require private denominational schools to teach the beliefs and ethics of **other** religions from a neutral perspective:

Justice Deschamps' admonition that exposing children to a variety of religious facts does not, in itself, infringe on their parents' religious freedom remains compelling in a denominational school: *S.L.*, at para. 40. I agree with her that in a multicultural society, it is not a breach of anyone's freedom of religion to be required to learn (or teach) about the doctrines and ethics of other world religions in a neutral and respectful way. See *Reference re Same-Sex Marriage*, [2004] 3 S.C.R. 698, at paras. 46 and 48.

Just as students can be required to learn about other religions' doctrines and ethics in a neutral and respectful way without infringing their religious freedom, they can be required to learn that Ontario is an inclusive and accepting society.

***Loyola, supra* at paras. 47 and 71**

43. The Applicant also attempts to compare his circumstances to the claimant in *Saguenay*. *Saguenay* dealt with an individual seeking relief from the state implicitly requiring participation in religious observance by having prayers recited at the commencement of municipal meetings. Public school boards have no

power to impose any religious observance on students and there is no suggestion that they have attempted to do so here.

***Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16, [2015] 2 S.C.R. 3**

2. The Applicant's Claim That Other Charter Rights Have Been Infringed

44. In addition to his argument regarding s. 2(a) of the *Charter*, the Applicant has also argued that the Board's decisions violate his s. 2(b) right to freedom of expression, a purported s. 7 right to raise his children according to his religious beliefs, and his s. 15 right to equality. There is no merit to any of these claims.

45. To establish a violation of freedom of expression, the Applicant would need to show that the Board's decision restricted a protected form of expression; he has not identified any such restriction. Section 7 of the *Charter* is not relevant to this proceeding because the Applicant has not demonstrated that the Board's decision interfered with his life, liberty, or security of the person. Nor is there any evidence to support the Applicant's claim that the Board has denied his requests for religious accommodation "solely because [the Board] disagrees with his sincerely held religious beliefs on marriage and sexuality" in a manner that constitutes substantive discrimination contrary to s. 15 of the *Charter*.

***Ontario (Public Safety and Security) v. Criminal Lawyers' Association*, 2010 SCC 23 at para. 32, [2010] 1 S.C.R. 815**

***Carter v. Canada*, 2015 SCC 5 at para. 55, [2015] 1 S.C.R. 331**

***Kahkewistahaw First Nation v. Taypotat*, 2015 SCC 30, [2015] 2 S.C.R. 548**

C. Even if the Applicant's *Charter* Rights Were Engaged, the Board's Decisions Properly Balanced Them Against Its Statutory Mandate and the Rights of Other Students

46. If any of the Applicant's *Charter* rights were engaged by the Board's decision to refuse his requests for accommodation, the Board was required to balance those *Charter* rights against the constitutional requirement that public schools be open to all eligible pupils, without distinction, the Board's statutory mandate to promote a positive school climate that is inclusive and accepting of all pupils, and the *Charter* and *Code* rights of other students who might be adversely impacted by granting the requested accommodation. Ontario submits that the Board's decision not to grant the Applicant's request to advance notice and the right to remove his children from any planned lesson he feels contravene his religious beliefs was a reasonable and proportionate decision in all the circumstances.

1. Public School Boards are Constitutionally Required to Be Open to All Eligible Pupils, Without Distinction

47. In *Adler*, the Supreme Court held that Ontario's public schools are impliedly included in the Constitution by section 93 of the *Constitution Act, 1867* because protection for denominational school rights for the minority assumes the continued existence of a non-denominational public school system:

What the relevant pre-Confederation legislation did was to equate the rights and privileges of separate schools to those of public schools. The result is that public schools are part and parcel of s. 93's comprehensive code. Accordingly, as I noted above, public schools are impliedly but nonetheless clearly within the terms of the regime set up by s. 93.

...

Thus, when separate school supporters were negotiating the terms of s. 93, they were negotiating against the back-drop of the existing common school system. The hallmark of these common schools was that they were not organized (in the relevant legislation) along denominational lines and were, therefore, ***open to all members of the community without distinction***, (with the exception of those for whom a separate school had been established).

...

This protection exists despite the fact that public school rights are not themselves constitutionally entrenched. It is the province's plenary power to legislate with respect to public schools, ***which are open to all members of society, without distinction***, that is constitutionally entrenched. This is what creates the immunity from *Charter* scrutiny. To paraphrase Wilson J. in *Reference Re Bill 30, supra*, at p. 1198, funding for public school is insulated from *Charter* attack as legislation enacted pursuant to the plenary education power granted to the provincial legislatures as part of the Confederation compromise. If the plenary power is so insulated, then so is the proper exercise of it.

***Adler, supra* at 646-49 [Emphasis added]**

48. In *Bal*, Justice Winkler (as he then was) held that the secular nature of the public school system was incompatible with public school boards operating alternative religious schools. Relying on the Court of Appeal decision in *Adler*, he then found that the inability of public school boards to offer religious instruction and exercises in any of their schools did not infringe the s. 2(a) rights of parents who wished to have publicly-funded religious schools. After the Supreme Court released *Adler*, the Court of Appeal affirmed Justice Winkler's decision. In light of *Adler* and *Bal*, Ontario's public school boards are required to offer only non-denominational programs, classes, and lessons, open to all eligible pupils without distinction.

***Bal v. Ontario (A.G.)* (1994), 121 D.L.R. 4th 96 at 122, 128-130 (S.C.J.) aff'd (1997), 151 D.L.R. 4th 761 at 763-764 (C.A.), leave to appeal to S.C.C. dismissed [1997] S.C.C.A. No. 547**

2. Public School Boards Have a Statutory Mandate to Promote Inclusive Education, a Positive School Climate, and Acceptance of Diversity

49. Bill 13 gave school boards a clear statutory mandate to promote inclusive education, a positive school climate, and acceptance of diversity. Since Bill 13 was passed, the *Education Act* has required every school board to:

- develop and implement an equity and inclusive education policy, and, if required by the Minister, submit the policy to the Minister and implement changes to the policy as directed by the Minister;
- establish and provide annual professional development programs to educate teachers and other staff of the board about bullying prevention and strategies for promoting positive school climates;
- promote a positive school climate that is inclusive and accepting of all pupils, including pupils of any race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability; and
- ensure that their disciplinary policies and bullying prevention and intervention policies are consistent with the Legislature's intention to create schools that are safe, inclusive and accepting of all pupils and to encourage a positive school climate and prevent inappropriate behaviour, including bullying, sexual assault, gender-based violence and incidents based on homophobia, transphobia or biphobia.

***Education Act, supra*, ss. 8(1)29.1, 169.1(a.1), 170(1)7.1, 300.0.1, 301(3.1), 302(2)(a), and 302(3.4)**

50. The legislative history of Bill 13 makes clear the importance of this statutory mandate to ensuring the safety and well-being of Ontario students. As the Minister of Education made clear at Second Reading:

Research tells us that students who feel **welcome, accepted and connected to school** are more likely to succeed academically. Findings about the effects of rejection and bullying on young people are clear and consistent. **Rejection, exclusion and estrangement** are associated with behaviour problems in the classroom, lower interest in school, lower student achievement and higher dropout rates.

...

Mr. Speaker, we believe in a strong education system and we believe that strong education system prepares all young people to become **positive, contributing and respectful citizens in our diverse society**. A **healthy, safe, inclusive learning environment** is a necessary precondition for that and for our students to succeed in school so that they can go on to find meaningful work in the workplace.

...

Mr. Speaker to achieve our education priorities, it is essential that all schools provide a **safe, inclusive environment** in which students can learn, grown and develop. La sécurité dans nos écoles est une condition de base de la réussite des élèves et du rendement scolaire.

...

Building a **positive school climate** requires a **systemic focus** on developing **healthy and respectful relationships** throughout the whole school community, among and between students and adults.

Ontario, Legislative Assembly, Official Reports of Debate (Hansard), 40th Parl., 1st Sess., No. 11 (7 December 2011) at 403-12 [Emphasis added]

51. At the Standing Committee on Social Policy, Mrs. Sandals, then the Parliamentary Assistant to the Minister of Health and Long-Term Care, noted that

it is not only LGBTQ students, but also straight students, who are at risk of experiencing homophobic or transphobic bullying:

...homophobic or transphobic bullying is about perceptions of difference. It isn't necessarily about whether you are gay, whether you are lesbian, whether you are trans, whether you are queer; it's people's perceptions. So in very many cases, it's actually straight kids who happen to be different who can be subject to either transphobia or homophobia.

Ontario, Legislative Assembly, Standing Committee on Social Policy, *Official Report of Debates (Hansard)*, 40th Parl., 1st Sess., No. SP-7 (14 May 2012) at SP-119

52. At Third Reading, the Minister again pointed out how providing a safe, inclusive, accepting environment is of particular importance to LGBTQ students:

As a Ministry, one of the key unrelenting focuses has been on student achievement, and we know that if students don't feel safe at school, they won't do well in school.

...

We know that there are some groups of students who are particularly at risk. A 2011 national climate survey by Egale found that **64% of lesbian, gay, bisexual, transgender or queer students and 61% of students with LGBTQ parents feel unsafe at school**. That's nearly two thirds of LGBTQ students suffering from bullying.

...

Both the government and the third party agreed that it is important to update our description of gender-based discrimination to include transphobia and biphobia. Gender expression and gender identity were also added as factors that should not lead to discrimination, harassment or bullying in our schools. These were important amendments that ensure our legislation is as comprehensive and as inclusive as it should be.

...

Legislation is important, Speaker, but it's not the only thing we're doing to address bullying in Ontario. We all have a role to play, and we need to work together. We need the **whole school and community** involved in helping to make our schools **safe**,

inclusive and accepting, and we will continue to collaborate with all of our partners. We all have a responsibility to work together with parents, teachers, students, school board staff and community agencies ***to make sure that our young people are celebrated for their diversity and not bullied because of it***. Through our commitment, we are creating ***a positive school climate and an education system where everyone feels welcome and safe***. This is the commitment that our students need and are calling for, and it is one that we are willing to make.

Evidence on strategies for bullying prevention has shown us that ***the whole-school approach to students' well-being is the most effective model for reducing bullying and building a positive school climate***. The whole-school approach to positive, healthy behaviour requires using multiple strategies and a unifying purpose to reflect a common set of values. It requires that all partners work together to create a caring and safe environment where policies, procedures, interventions and programs are developed and supported at all levels, including boards, schools, classrooms, students, parents, families and the community.

Ontario, Legislative Assembly, *Official Reports of Debate (Hansard)*, 40th Parl., 1st Sess., No. 60 (4 June 2012) at 2686-90 [Emphasis added]

53. As discussed in greater detail at paragraphs 16 to 22 above, since Bill 13 was enacted, the Ministry has updated PPM 119, “Developing and Implementing Equity Inclusive Education Policies in Ontario Schools”; PPM 128, “The Provincial Code of Conduct and School Board Codes of Conduct”; PPM 144, “Bullying Prevention and Intervention”, and the Ministry’s EIE Guidelines to provide further guidance to school boards on how to carry out their statutory mandate to promote a positive, diverse, and inclusive school environment.

3. Providing the Requested Accommodation Could Have Impaired the Rights of Other Students to Feel Accepted and Included at School

54. As the Board argues, allowing the Applicant to withdraw his children from any planned lesson that might contradict his religious beliefs could result in the Applicant’s children leaving class whenever lessons, activities, or curriculum

resources touched on topics such as diverse religious backgrounds, family status, sexual orientation, gender expression, and gender identity.

55. Permitting the Applicants' children to leave class whenever such topics were discussed could have an adverse impact on the Board's obligations under the *Charter*, the *Human Rights Code*, and the *Education Act* to ensure that all of its other students feel accepted and included at school. Children who were themselves LGBT, who had LGBT parents, family or friends, or who had experienced homophobic or transphobic bullying based on being perceived as LGBT, could feel less valued and accepted if the Applicant's children left the room every time people like them or their families or friends were discussed.

56. The value to children of being able to "see themselves reflected in their curriculum, their physical surroundings, and the broader environment, in which diversity is honoured and all individuals are respected" – one of the principles at the heart of Ontario's EIE Strategy – would be contradicted where children see that other members of the class must be excused from the room to avoid hearing such statements of honour and respect, reflective of Ontario's diverse society.

EIE Strategy, *supra*

57. Permitting the Applicant's children to leave the room every time diversity is discussed in a planned class, lesson, or activity would contradict the provincial code of conduct's requirement that all members of the school community "treat one another with dignity and respect at all times, and especially when there is disagreement" and undermine the Board's message that it is important to accept, welcome, and celebrate diversity (whether or not one agrees with others' beliefs

or personal characteristics) for all the children in the classroom. As the Board's Equity Principal, Gail Belisario, explained:

The message to classmates if E.T.'s request was accepted, is not tolerance but rather that family structures or discussion of sexual orientation will require the withdrawal of a student from the classroom. This cannot be reconciled with the Board's legal obligations with respect to human rights and tolerance.

Affidavit of Gail Belisario, para. 28

PPM No. 128, *supra*

4. The Board Balanced All of These Considerations in a Reasonable and Proportionate Manner

58. Balancing all of these factors against the Applicant's claim that his religious freedom would be infringed if his children were required to attend school and hear messages that contradicted the Applicant's religious beliefs, the Board reasonably decided that it was unable to accommodate the Applicant's requests.

59. Before making that decision, the Board properly made efforts to determine whether there was some other reasonable accommodation that could address the Applicant's concerns. Ms. Belisario and the Principal of the Applicant's children's school, Val Stephens-Brockbank, met with the Applicant to discuss his requests. As Ms. Stephens-Brockbank explained in the meeting:

[T]he object of this meeting we want to make sure that your children feel inclusive as possible in terms of their learning here...

...

So, you know that's what we want to try and look at in terms of hearing from you and hearing from you what your issues and concerns are and see if we can come to some understanding of making them um, feeling inclusive in... in their learning here.

Transcript of meeting between the Applicant, Ms. Belisario, and Ms. Stephens-Brockbank, Exhibit Q to the Affidavit of Gail Belisario, Vol. II, Tab Q, p. 169, lines 12-13 and 15-17

60. Ms. Belisario also identified specific aspects of the curriculum where exemptions would be feasible in an attempt to determine whether these would help to address the Applicant's concerns. When the Applicant remained unsatisfied, Ms. Stephens-Brockbank offered to arrange a further meeting with the superintendent and indicated he could bring a supportive friend along to that meeting. The Applicant, however, never attended that meeting.

Affidavit of Gail Belisario, para. 37

Transcript of meeting between the Applicant, Ms. Belisario, and Ms. Stephens-Brockbank, Exhibit Q to the Affidavit of Gail Belisario, Vol. II, Tab Q, p. 176, lines 3-12 and p. 206, line 9 - p. 208, line 18

61. Taking into account the constitutional requirement for public schools to be non-denominational and open to all eligible pupils, the Board's statutory mandate to promote a positive, inclusive, and accepting school environment, the potential impact of the Applicant's requests on other students, and the broad and nebulous nature of the Applicant's requests, the Board reasonably concluded that permitting the Applicant to keep his children home from school on days when the lessons to which he objected would be taught was not an acceptable solution.

62. Unlike a request to miss an occasional holy day or to leave class for short periods of time to conduct religious observances (much less a request to modify clothing that does not affect the delivery of the curriculum at all), such a request could lead to the Applicant's children missing a substantial portion of the school year given the breadth of the Applicant's religious objections, including in particular the fact that principles of equity and inclusive education are embedded throughout the curriculum the Board is mandated to teach to all of its students. Nor would it be any less harmful to the right of other students to feel accepted

and welcomed if they, as would be likely, learned the reasons why the Applicant's children were not attending school.

63. Similarly, the Board reasonably concluded that the Applicant's request to advance notice of any planned lesson, material or activity that might conflict with his religious beliefs was unmanageable in light of its scope and subjectivity. The Ministry encourages communication between school boards, schools, and parents. However, the Ministry also recognizes that the specific details of these communications are the responsibility of school boards.

64. The Applicant did not identify specific aspects of the curriculum about which he wished to receive advance notice. Instead, he provided a list of broad topics untethered from the curriculum – such as “moral relativism,” “occultic principles and practices,” “environmental worship,” “discussions or portrayals of homosexual/bisexual conduct and relationships and/or transgenderism as natural, healthy,” and “encouraging the acceptance of infanticide or euthanasia.” While some topics on the Applicant's list – such as discussing that different sexual orientations and gender identities are “natural, healthy” – are identifiable in the Ontario curriculum, many – such as “occultic principles and practices” – are not mentioned in the curriculum at all.

PEACE Form submitted by the Applicant, Exhibit M to the Affidavit of Gail Belisario, Vol. II, Tab M

65. In cross-examination, the Applicant further clarified that his concern was not about his children learning facts about these topics, but “value judgments”:

I would like advance notice if the teacher is going to be presenting their subjective opinion as fact. It's the value judgments. Like I said, I think that presenting a value judgment as a fact is intellectually dishonest.

Cross-Examination of E.T., pp. 66-67, q. 278; see also pp. 63-64, qq. 266-67

66. Requiring teachers to determine first whether their planned lessons, activities and materials fall within a list of broad “taboo” topics, and second whether a parent would consider the content of the lesson, activity or material to contain “value judgments” as opposed to strictly facts is an unduly onerous request. It was therefore reasonable for the Board to conclude that this request was too burdensome to undertake, particularly when the Board had also determined that it was not acceptable for the children to be withdrawn from the lessons in issue even if notice were given.

Affidavit of Gail Belisario, para. 30

D. Alternatively, the Board’s Decisions Were Justified Under Section 1 of the *Charter*

67. Ontario submits that the proper approach to reviewing the Board’s decision is the *Doré* reasonableness review outlined above. In the alternative, if this Honourable Court determines that a full s. 1 analysis under the *Oakes* test is the proper approach, Ontario submits that the Board’s decision to refuse the Applicant’s requests is justified in a free and democratic society in light of Ontario’s pressing and substantial purpose of promoting equity, diversity, inclusive education and a positive school climate in public schools.

***Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37 at paras. 39-104, [2009] 2 S.C.R. 567**

68. For all the reasons set out above, the Board’s decision is rationally connected to the Legislature’s pressing and substantial objective of ensuring that public schools are accepting, inclusive, and diverse. Permitting the Applicant’s children to leave the classrooms whenever planned lessons communicate

acceptance of different family backgrounds, sexual orientations, gender identities or gender expression would undermine that Legislative purpose.

69. Any infringement of the Applicant's right to freedom of religion caused by the Board's refusal of his requests for accommodation is minimally impairing. Granting the accommodations the Applicant sought would undermine the Board's statutorily mandated pursuit of an inclusive and diverse school environment where all of the children in the Applicant's children's classes feel welcomed and valued. Alternatives that undermine rather than achieve the Legislature's objectives are not minimally impairing. Similarly, the significant salutary effects of creating a positive school climate for all members of the school community significantly outweigh any deleterious effects to the Applicant, who remains free to pass his religious beliefs on to his children at home or alternatively to enroll his children in a private religious school that is more consistent with his beliefs.

Hutterian Brethren, supra at paras. 54-62

IV. ORDER REQUESTED

70. Ontario requests that the Application be dismissed. As an intervener, Ontario neither seeks nor should pay costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 13TH DAY OF JUNE, 2016.

Josh Hunter

Emily Bala

Counsel for the Intervener,
the Attorney General of Ontario

SCHEDULE A – AUTHORITIES

1. *Moore v. British Columbia (Ministry of Education)*, 2012 SCC 61, [2012] 3 S.C.R. 360
2. *Doré v. Barreau du Québec (Tribunal des professions)*, 2012 SCC 12, [2012] 1 S.C.R. 395
3. *Loyola High School v. Québec (A.G.)*, 2015 SCC 12, [2015] 1 S.C.R. 613
4. *Syndicat Northcrest v. Amselem*, 2004 SCC 47, [2004] 2 S.C.R. 551
5. *S.L. v. Commission scolaire Des Chênes*, 2012 SCC 7, [2012] 1 S.C.R. 235
6. *Chamberlain v. Surrey School District No. 36*, 2002 SCC 86, [2002] 4 S.C.R. 710
7. *Adler v. Ontario*, [1996] 3 S.C.R. 609
8. *Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16, [2015] 2 S.C.R. 3
9. *Ontario (Public Safety and Security) v. Criminal Lawyers' Association*, 2010 SCC 23, [2010] 1 S.C.R. 815
10. *Carter v. Canada*, 2015 SCC 5, [2015] 1 S.C.R. 331
11. *Kahkewistahaw First Nation v. Taypotat*, 2015 SCC 30, [2015] 2 S.C.R. 548
12. *Bal v. Ontario (A.G.)* (1994), 121 D.L.R. (4th) 96 (S.C.J.) aff'd (1997), 151 D.L.R. (4th) 761 (C.A.), leave to appeal to S.C.C. dismissed [1997] S.C.C.A. No. 547
13. *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37, [2009] 2 S.C.R. 567

SCHEDULE B – LEGISLATION

1. *Education Act*, R.S.O. 1990, c. E.2, ss. 2(3), 8(1)1, 8(1)2, 8(1)3(a), 8(1)3.4, 8(1)4, 8(1)6, 8(1)29.1, 21(2)(a), 169.1(1)(a.1), 170(1)7.1, 171(1)8, 230.5, 264(1)(a), 300.0.1, 301, 302(2)(a), and 302(3.4)
2. R.R.O. 1990, Reg. 298, ss. 11(3)(a) and 20(a), (b), and (f)
3. *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, ss. 2(a), 2(b), 7, and 15(1), being Schedule B to the *Canada Act 1982 (UK)*, 1982, c. 11
4. *Human Rights Code*, R.S.O. 1990, c. H.19
5. *Accepting Schools Act, 2012*, S.O. 2012, c. 5
6. *Public Schools Amendment Act (Safe and Inclusive Schools)*, S.M. 2013, c. 6
7. *An Act to prevent and stop bullying and violence in schools*, S.Q. 2012, c. 19

Education Act

R.S.O. 1990, CHAPTER E.2

Consolidation Period: From April 19, 2016 to the [e-Laws currency date](#).

Last amendment: 2016, c. 5, Sched. 8.

Legislative History: 1991, c. 10; 1991, c. 15, s. 36; 1992, c. 15, s. 85-89; 1992, c. 16; 1992, c. 17, s. 1-3; 1992, c. 27, s. 59; 1992, c. 32, s. 9; 1993, c. 11, s. 8-43; 1993, c. 23, s. 67; 1993, c. 26, s. 44, 45; 1993, c. 27, Sched.; 1993, c. 41; 1994, c. 1, s. 22; 1994, c. 17, s. 48; 1994, c. 23, s. 65; 1994, c. 27, s. 45, 108; 1995, c. 4, s. 2; 1996, c. 2, s. 65; 1996, c. 11, s. 29; 1996, c. 12, s. 64; 1996, c. 13; 1996, c. 32, s. 70; 1997, c. 3, s. 2-10; 1997, c. 16, s. 5; 1997, c. 19, s. 33; 1997, c. 22; 1997, c. 27, s. 71; 1997, c. 31, s. 1-142; 1997, c. 32, s. 10; 1997, c. 43, Sched. G, s. 20; 1998, c. 3, s. 34; 1998, c. 14; 1998, c. 33, s. 39-46; 1999, c. 6, s. 20; 1999, c. 9, s. 98-100; 2000, c. 5, s. 11; 2000, c. 11; 2000, c. 12, s. 1-3; 2000, c. 25, s. 45; 2000, c. 26, Sched. C, s. 1; 2001, c. 8, s. 204; 2001, c. 13, s. 16; 2001, c. 14, Sched. A; 2001, c. 17, s. 1; 2001, c. 23, s. 65; 2001, c. 24, s. 1-5; 2002, c. 7, s. 1; 2002, c. 8, Sched. A; 2002, c. 8, Sched. I, s. 8; 2002, c. 17, Sched. C, s. 7-9; 2002, c. 17, Sched. D, s. 36, 37; 2002, c. 17, Sched. F, Table; 2002, c. 18, Sched. G, s. 1-12; 2002, c. 22, s. 57-59; 2003, c. 2, s. 20; 2004, c. 8, s. 46, Table; 2004, c. 31, Sched. 10; 2005, c. 4; 2005, c. 5, s. 21; 2005, c. 21; 2006, c. 2, s. 47; 2006, c. 5, s. 52; 2006, c. 9, Sched. H, s. 6; 2006, c. 10, s. 1-50, 64, 67; 2006, c. 17, s. 251; 2006, c. 21, Sched. F, s. 107, 136 (1); 2006, c. 28; 2006, c. 32, Sched. C, s. 15; 2006, c. 33, Sched. Z.3, s. 8; 2006, c. 34, s. 31; 2006, c. 35, Sched. C, s. 28; 2007, c. 7, Sched. 9; 2007, c. 14; 2008, c. 2; 2008, c. 7, Sched. F; 2008, c. 14, s. 52; 2008, c. 19, Sched. D; 2009, c. 17; 2009, c. 18, Sched. 10; 2009, c. 25; 2009, c. 33, Sched. 2, s. 25; 2009, c. 33, Sched. 6, s. 53; 2009, c. 33, Sched. 8, s. 12; 2009, c. 33, Sched. 13, s. 1; 2009, c. 34, Sched. I, s. 1-21; 2010, c. 10, s. 1-22; 2010, c. 26, Sched. 5; 2011, c. 1, Sched. 3, s. 1; 2011, c. 9, Sched. 10; Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006*; 2012, c. 5; 2012, c. 11, s. 21; CTS 5 SE 13 - 1; 2014, c. 5, s. 47; CTS 6 JN 14 - 1; 2014, c. 11, Sched. 4; 2014, c. 13, Sched. 9, s. 19; 2015, c. 28, Sched. 1, s. 149; 2016, c. 5, Sched. 8.

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(8) Despite any provision of this Act, except subsection (9), or of any other Act, including clause 17 (2) (a) of the *Municipal Elections Act, 1996*, for the purposes of regular elections and by-elections, a person is not qualified to vote for a member of a board for an area unless the person resides in the area on voting day. 1997, c. 31, s. 1 (7); 2002, c. 17, Sched. D, s. 36 (1).

(8.1) REPEALED: 1997, c. 31, s. 1 (7).

Exception

(9) Subsection (8) does not apply to a person who is an owner or tenant of residential property in the area referred to in subsection (8), or who is a spouse of that person. 1997, c. 31, s. 1 (7); 1999, c. 6, s. 20 (3); 2005, c. 5, s. 21 (5).

Entitlement to vote in the area of jurisdiction of a board

(10) For the purposes of sections 50.1, 54, 58.8 and 58.9, a person is entitled to vote in the area of jurisdiction of a board if, on voting day, he or she,

- (a) resides in the area or is a person to whom subsection (9) applies;
- (b) is a Canadian citizen;
- (c) is at least 18 years of age; and
- (d) is not a person referred to in clause 17 (2) (d) of the *Municipal Elections Act, 1996*. 2002, c. 17, Sched. D, s. 36 (2).

Interpretation

(11) For the purposes of subsections (8) and (10),

“resides” has the same meaning as in section 17 of the *Municipal Elections Act, 1996*. 2002, c. 17, Sched. D, s. 36 (3).

Trustee

(12) A member of a board may be referred to as a trustee for any purpose related to this Act. 1997, c. 31, s. 1 (7).

Section Amendments with date in force (d/m/y)

1997 c. 31, s. 1 (1, 5-7) - 1/01/1998; 1997, c. 31, s. 1 (2-4) - 31/08/1998; 1997, c. 3, s. 2 (6, 7) - 24/04/1997; 1997, c. 43, Sched. G, s. 20 (1) - 31/12/1998; 1999, c. 6, s. 20 (1-3) - 1/03/2000

2000, c. 11, s. 1 (1, 2), 21 - 23/06/2000

2001, c. 8, s. 204 - 29/06/2001

2002, c. 17, Sched. D, s. 36 (1-3) - 1/01/2003; 2002, c. 17, Sched. F, Table - 1/01/2003; 2002, c. 18, Sched. G, s. 1 - 1/01/2003

2005, c. 5, s. 21 (1-5) - 9/03/2005

2006, c. 28, s. 1 (1, 2) - 20/12/2006; 2006, c. 32, Sched. C, s. 15 (1) - 1/01/2007

2009, c. 25, s. 2 (1-3) - 15/12/2009

2010, c. 10, s. 1 (1, 2) - 3/06/2010

2011, c. 1, Sched. 3, s. 1 (1) - 30/03/2011; 2011, c. 9, Sched. 10, s. 1 - 12/05/2011

2012, c. 5, s. 1 (1, 2) - 1/09/2012

2014, c. 11, Sched. 4, s. 1 (1, 2) - 29/08/2016

**PART I
MINISTRY OF EDUCATION AND TRAINING**

Ministry continued

2. (1) The ministry of the public service known in English as the Ministry of Education and Training and in French as ministère de l'Éducation et de la Formation is continued. 1997, c. 31, s. 3.

Minister to have charge

(2) The Minister shall preside over and have charge of the Ministry. R.S.O. 1990, c. E.2, s. 2 (2).

Administration

(3) The Minister is responsible for the administration of this Act and the regulations and of such other Acts and the regulations thereunder as may be assigned to the Minister by the Lieutenant Governor in Council. R.S.O. 1990, c. E.2, s. 2 (3).

Delegation of powers and duties

(4) The Minister may in writing authorize the Deputy Minister or any other officer or employee in the Ministry to exercise any power or perform any duty that is granted to or vested in the Minister under this or any other Act. R.S.O. 1990, c. E.2, s. 2 (4).

Limitations

(5) The Minister may in writing limit an authorization made under subsection (4) in such manner as he or she considers advisable. R.S.O. 1990, c. E.2, s. 2 (5).

Application of *Executive Council Act*, s. 6

(6) Section 6 of the *Executive Council Act* does not apply to a deed or contract that is executed under an authorization made under subsection (4). R.S.O. 1990, c. E.2, s. 2 (6).

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 3 - 1/01/1998

Annual report

3. The Minister shall, after the close of each fiscal year, submit to the Lieutenant Governor in Council a report upon the affairs of the Ministry for the immediately preceding fiscal year and shall then lay the report before the Assembly if it is in session or, if not, at the next session. R.S.O. 1990, c. E.2, s. 3.

Additions to enrolment in special cases

4. The Minister may, in respect of a school, require to be included in the enrolment on any date the number of pupils who were absent from school because of any condition considered by the Minister to constitute a special circumstance or an emergency. R.S.O. 1990, c. E.2, s. 4.

Closing of school or class

5. (1) Subject to the approval of the Lieutenant Governor in Council, the Minister may order the closing of a school or any class thereof for a specified period. R.S.O. 1990, c. E.2, s. 5 (1).

Pupils deemed in attendance

(2) Where a school or class is closed for a specified period under subsection (1), the pupils in such school or class shall for all purposes, including the calculation of legislative grants and fees, be deemed to be in attendance. R.S.O. 1990, c. E.2, s. 5 (2); 1997, c. 31, s. 4.

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 4 - 1/01/1998

6. REPEALED: 1997, c. 31, s. 5.

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 5 - 1/01/1998

7. REPEALED: 1997, c. 31, s. 5.

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 5 - 1/01/1998

Powers of Minister

8. (1) The Minister may,

diplomas and certificates

1. name the diplomas and certificates that are to be granted to pupils and prescribe their form and the conditions under which they are to be granted; R.S.O. 1990, c. E.2, s. 8 (1), par. 1.

courses of study

2. prescribe the courses of study that shall be taught and the courses of study that may be taught in the primary, junior, intermediate and senior divisions; R.S.O. 1990, c. E.2, s. 8 (1), par. 2.

courses and areas of study

3. in respect of schools under the jurisdiction of a board,
 - (a) issue curriculum guidelines and require that courses of study be developed therefrom and establish procedures for the approval of courses of study that are not developed from such curriculum guidelines,
 - (b) prescribe areas of study and require that courses of study be grouped thereunder and establish procedures for the approval of alternative areas of study under which courses of study shall be grouped, and
 - (c) approve or permit boards to approve,
 - (i) courses of study that are not developed from such curriculum guidelines, and
 - (ii) alternative areas of study under which courses of study shall be grouped,and authorize such courses of study and areas of study to be used in lieu of or in addition to any prescribed course of study or area of study; R.S.O. 1990, c. E.2, s. 8 (1), par. 3.

junior kindergarten and kindergarten

- 3.0.0.1 issue and require boards to comply with policies and guidelines governing all aspects of the operation of junior kindergarten and kindergarten, including policies and guidelines,
 - i. respecting the schools at which junior kindergarten and kindergarten are required and are not required to be operated,
 - ii. respecting the hours during which and the days on which a board is required and is not required to operate junior kindergarten and kindergarten in one or more schools of the board,
 - iii. respecting curriculum and programs for junior kindergarten and kindergarten,
 - iv. respecting the circumstances in which a board is not required to designate a position in a junior kindergarten or kindergarten class as requiring an early childhood educator or to appoint an early childhood educator to such a position; 2010, c. 10, s. 2 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by the Statutes of Ontario, 2006, chapter 28, subsection 2 (1) by adding the following paragraph:

equivalent learning

- 3.0.1 establish policies, guidelines and standards with respect to equivalent learning and may,
 - i. require that boards develop and offer equivalent learning opportunities to their pupils in accordance with the policies, guidelines or standards,
 - ii. subject to subsection (2), in accordance with criteria set out in the policies, guidelines or standards, designate groups, organizations or entities that are approved to provide equivalent learning to pupils of a board,
 - iii. in accordance with criteria set out in the policies, guidelines or standards, designate programs, courses of study or other activities that are approved for the purposes of equivalent learning; 2006, c. 28, s. 2 (1).

See: 2006, c. 28, ss. 2 (1), 14 (2).

reviews of effectiveness

- 3.1 conduct reviews of classroom practices and the effectiveness of educational programs and require a board or a private school inspected under subsection 16 (7) to participate in the reviews and to provide information to the Minister for that purpose in such form as the Minister may prescribe; 1993, c. 11, s. 10.

tests

- 3.2 assess the academic achievement of pupils attending schools under the jurisdiction of a board and, for the purpose, the Minister may,
 - (a) provide for the administering and marking of tests of academic achievement,
 - (b) require a board to administer tests of academic achievement to its pupils and mark the tests, within the time and in the manner and form specified by the Minister, and

- (c) require a board to report on the results of the tests to the Minister and to the general public within the board's jurisdiction, within the time and in the manner and form specified by the Minister; 1996, c. 11, s. 29 (1).

policies, guidelines: assessment of academic achievement

- 3.3 establish policies and guidelines for the assessment of the academic achievement of pupils attending schools under the jurisdiction of a board and require boards to comply with the policies and guidelines; 1996, c. 11, s. 29 (1).

guidelines: role and responsibilities of board members, officials

- 3.4 establish policies and guidelines respecting the roles and responsibilities of board members, directors of education, supervisory officers, principals, superintendents and other officials; 1997, c. 31, s. 6 (1).

policies and guidelines: policies re pupil representatives

- 3.5 establish policies and guidelines for the development and implementation of board policies dealing with the representation on boards of the interests of pupils and require boards to comply with the policies and guidelines; 1997, c. 31, s. 6 (2).

policies and guidelines: policies re electronic meetings

- 3.6 establish policies and guidelines for the development and implementation of board policies dealing with the use of electronic means for the holding of meetings of a board and meetings of a committee of a board, including a committee of the whole board, and require boards to comply with the policies and guidelines; 2002, c. 18, Sched. G, s. 2.

procedures

4. establish procedures by which and the conditions under which books and other learning materials are selected and approved by the Minister; R.S.O. 1990, c. E.2, s. 8 (1), par. 4.

textbooks and other learning materials

5. purchase and distribute textbooks and other learning materials for use in schools; R.S.O. 1990, c. E.2, s. 8 (1), par. 5.

textbooks, reference books, etc.

6. select and approve for use in schools textbooks, library books, reference books and other learning materials; R.S.O. 1990, c. E.2, s. 8 (1), par. 6.

publication of book lists

7. cause to be published from time to time lists of textbooks, learning materials, reference books and library books, selected and approved by the Minister for use in elementary and secondary schools; R.S.O. 1990, c. E.2, s. 8 (1), par. 7.

daily register

8. prescribe the form of the register of attendance and the manner of its use in recording the daily attendance of pupils of schools, or approve the use of an alternate method of recording such daily attendance, and prescribe the form in which enrolment and attendance data shall be submitted to the Minister; R.S.O. 1990, c. E.2, s. 8 (1), par. 8.

application of *Workplace Safety and Insurance Act, 1997*

9. prescribe the conditions under which and the terms upon which pupils of boards shall be deemed to be workers for the purposes of the insurance plan established under the *Workplace Safety and Insurance Act, 1997*, deem pupils to be workers for those purposes and require a board to reimburse Ontario for payments made by Ontario under the insurance plan in respect of such a pupil; 1997, c. 16, s. 5.

letter of permission

10. grant a letter of permission to a board authorizing the board to employ a person who is not a member of the Ontario College of Teachers to teach in an elementary or secondary school if the Minister is satisfied that no member is available, but a letter of permission shall be effective only for the period, not exceeding one year, that the Minister may specify; 1996, c. 12, s. 64 (2).

letter of permission, early childhood educator position

- 10.1 grant a letter of permission to a board authorizing the board to appoint a person who is not an early childhood educator to a position designated by the board as requiring an early childhood educator if the Minister is satisfied that no early childhood educator is available, but a letter of permission shall be effective only for the period, not exceeding one year, that the Minister may specify; 2010, c. 10, s. 2 (2).

letter of approval

11. grant a temporary letter of approval to a board authorizing the board to appoint or assign, for a period not exceeding one year, a teacher to teach a subject or hold a position where the teacher does not hold the certificate required for teaching the subject; R.S.O. 1990, c. E.2, s. 8 (1), par. 11.

withdraw letter

12. withdraw any letter of permission or temporary letter of approval granted under this Act; R.S.O. 1990, c. E.2, s. 8 (1), par. 12.
13. REPEALED: 2009, c. 33, Sched. 13, s. 1 (1).

accept equivalent qualification

14. accept in lieu of any requirement prescribed for a teacher, designated early childhood educator, head of a department, principal, director of education, supervisor or supervisory officer, or for a candidate for a certificate or for admission to a school, such experience, academic scholarship or professional training as the Minister considers equivalent thereto, and may require such evidence thereof as the Minister considers necessary; R.S.O. 1990, c. E.2, s. 8 (1), par. 14; 2009, c. 33, Sched. 13, s. 1 (2); 2010, c. 10, s. 2 (3).

medical examinations

15. require employees of school boards to submit to medical examinations; R.S.O. 1990, c. E.2, s. 8 (1), par. 15.

courses

16. provide or approve and review courses for teachers, designated early childhood educators, principals, supervisory officers, attendance counsellors and native counsellors and grant certificates in respect of the successful completion of such courses; R.S.O. 1990, c. E.2, s. 8 (1), par. 16; 2010, c. 10, s. 2 (4).

correspondence courses

17. provide for the development, distribution and supervision by the Ministry of correspondence courses; R.S.O. 1990, c. E.2, s. 8 (1), par. 17.

fees re correspondence courses

- 17.1 provide for fees in relation to anything referred to in paragraph 17; 1997, c. 31, s. 6 (3).

scholarships, bursaries

18. provide for, and prescribe the conditions of, the granting of scholarships, bursaries and awards to pupils and the granting of bursaries to teachers and designated early childhood educators; R.S.O. 1990, c. E.2, s. 8 (1), par. 18; 2010, c. 10, s. 2 (5).
19. REPEALED: 2009, c. 33, Sched. 13, s. 1 (3).

provincial schools

20. in respect of schools for the deaf and the blind, determine the number of terms and the dates upon which each term begins and ends; R.S.O. 1990, c. E.2, s. 8 (1), par. 20.

apportion federal grants

21. apportion and pay all sums received for educational purposes from the Government of Canada or any source other than an appropriation by the Legislature, in accordance with the terms of the grant, if any, and otherwise in any manner the Minister considers proper; R.S.O. 1990, c. E.2, s. 8 (1), par. 21.

educational advancement programs, activities and projects and accountable advances

22. make payments out of funds appropriated therefor by the Legislature to a board, an individual, a voluntary association or a corporation without share capital having objects of a charitable or educational nature,
 - (a) to assist or advance programs, activities or projects for students that involve a cultural and educational exchange with other provinces and countries, provincial or interprovincial travel, school twinning and related assistance, leadership training, or summer employment, and
 - (b) to foster and promote educational advancement by means of programs, activities or projects that are provided for visiting educational officials, designed to further the professional development of teachers, designated early childhood educators and supervisory officers including exchange of such personnel, or considered by the Minister to be valuable in advancing a particular area of study,

and, subject to the terms and conditions that are approved for such purpose by the Lieutenant Governor in Council, make an accountable advance to the recipient of a payment under this clause or to an individual, other than an individual employed under Part III of the *Public Service of Ontario Act, 2006*, who conducts or assists in conducting or participates in any such program, activity or project; R.S.O. 1990, c. E.2, s. 8 (1), par. 22; 2006, c. 35, Sched. C, s. 28 (1); 2010, c. 10, s. 2 (6).

agreements concerning learning materials

23. enter into an agreement with any board, person or organization in respect of the development and production of learning materials, and pay all or part of the costs in connection therewith; R.S.O. 1990, c. E.2, s. 8 (1), par. 23.

copyright licence agreements

- 23.1 enter into a licence agreement to permit boards to copy, under the terms of the licence agreement, works protected by copyright, and to,
- (a) extend the rights under the licence agreement to boards, and
 - (b) require boards to comply with the terms of the licence agreement; 1991, c. 10, s. 1 (1).

educational research and grants for promotion of advancement of education

24. initiate educational research and make grants to a board, an individual, a voluntary association or a corporation for educational research programs, activities or projects to promote the advancement of education; R.S.O. 1990, c. E.2, s. 8 (1), par. 24.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by the Statutes of Ontario, 2006, chapter 28, subsection 2 (2) by adding the following paragraph:

agreements concerning equivalent learning

- 24.1 subject to subsection (2), enter into an agreement with one or more groups, organizations or entities respecting the provision of equivalent learning to pupils of one or more boards; 2006, c. 28, s. 2 (2).

See: 2006, c. 28, ss. 2 (2), 14 (2).

discretion to establish French-language programs for English-speaking pupils

25. permit a board to establish for English-speaking pupils programs involving varying degrees of the use of the French language in instruction, provided that programs in which English is the language of instruction are made available to pupils whose parents desire such programs for their children and impose terms and conditions on the permission; R.S.O. 1990, c. E.2, s. 8 (1), par. 25; 2011, c. 1, Sched. 3, s. 1 (2).

discretion to establish French-language programs for English-speaking pupils

- 25.1 permit a board to establish for English-speaking pupils extended day programs involving varying degrees of the use of the French language, provided that extended day programs in which English is used are made available to pupils whose parents desire such programs for their children and impose terms and conditions on the permission; 2010, c. 10, s. 2 (7); 2011, c. 1, Sched. 3, s. 1 (3).

guidelines respecting school closings

26. in respect of schools under the jurisdiction of a board, issue guidelines respecting the closing of schools and require that boards develop policies therefrom with respect to procedures to be followed prior to the closing of a school by decision of the board; R.S.O. 1990, c. E.2, s. 8 (1), par. 26.

26.1, 26.2 REPEALED: 2009, c. 25, s. 3 (1).

guidelines respecting pupil records

27. issue guidelines respecting pupil records and require boards to comply with the guidelines; R.S.O. 1990, c. E.2, s. 8 (1), par. 27; 1991, c. 10, s. 1 (2).

board reports

- 27.1 require a board,
- (a) to prepare any report that the Minister may require,
 - (b) to submit, in the form directed by the Minister, a copy of the report to the Ministry and to such other persons as the Minister may direct, and

- (c) to attach a copy of the report to the financial statements of the board referred to in section 252; 1997, c. 31, s. 6 (4).

same

- 27.2 issue guidelines respecting the form and content of a report referred to in paragraph 27.1; 1997, c. 31, s. 6 (4).

professional activity days

28. establish policies and guidelines respecting criteria and topics for the professional activity days that are required by regulation and require boards to comply with the policies and guidelines; 2009, c. 25, s. 3 (2).
29. REPEALED: 1995, c. 4, s. 2 (1).

equity and inclusive education

- 29.1 require boards to develop and implement an equity and inclusive education policy, and, if required by the Minister, submit the policy to the Minister and implement changes to the policy as directed by the Minister; 2012, c. 5, s. 2 (1).

drug education

- 29.2 establish a drug education policy framework and require boards to develop and implement a policy on drug education in accordance with the framework; 1992, c. 16, s. 2.

nutritional guidelines

- 29.3 establish policies and guidelines with respect to nutritional standards for food and beverages and for any ingredient contained in food and beverages provided on school premises or in connection with a school-related activity; 2008, c. 2, s. 1.

same

- 29.4 require boards to comply with the policies and guidelines established under paragraph 29.3; 2008, c. 2, s. 1.

duties of auditors

30. prescribe the duties to be performed by auditors appointed under section 253; 1997, c. 31, s. 6 (5).

surveys under s. 169.1 (2.1)

31. establish policies and guidelines respecting the surveys referred to in subsection 169.1 (2.1); 2012, c. 5, s. 2 (2).
32. REPEALED: 1997, c. 31, s. 6 (5).

approval of agreements

33. approve the entering into of an agreement by boards under subsection 182 (1); R.S.O. 1990, c. E.2, s. 8 (1), par. 33.
34. REPEALED: 1997, c. 31, s. 6 (5).

education costs outside Ontario

35. make payments towards the cost of elementary or secondary education that a person receives outside Ontario, if the person is outside Ontario for the purpose of receiving insured services within the meaning of the *Health Insurance Act* and the cost of the insured services is paid for in whole or in part by the Ontario Health Insurance Plan. 1993, c. 11, s. 10.
- (2) REPEALED: 1997, c. 31, s. 6 (6).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 8 is amended by the Statutes of Ontario, 2006, chapter 28, subsection 2 (3) by adding the following subsections:

Minister's duties re equivalent learning

(2) In determining whether to approve an organization or entity under paragraph 3.0.1 of subsection (1) to provide equivalent learning and in entering agreements for the provision of equivalent learning under paragraph 24.1 of that subsection, the Minister shall have regard to the need to ensure that a pupil who participates in equivalent learning will not, by so doing, receive educational benefits of a lesser quality than those provided in the traditional education system. 2006, c. 28, s. 2 (3).

Restriction re credits for equivalent learning

(2.1) The Minister may not, in the exercise of his or her authority under subsection (1), authorize any person other than the principal of a school to issue a credit to a pupil for his or her participation in equivalent learning. 2006, c. 28, s. 2 (3).

[. . .]

[. . .]

“guardian”, in addition to having the meaning ascribed in section 1, includes anyone who has received into his or her home a person, other than his or her own child, of compulsory school age and that person resides with him or her or is in his or her care. 2006, c. 28, s. 4.

Section Amendments with date in force (d/m/y)

2006, c. 28, s. 4 - 20/12/2006

Closing of school or class by board

19. (1) A board may close or authorize the closing of a school or class for a temporary period where such closing appears unavoidable because of,

- (a) failure of transportation arrangements; or
- (b) inclement weather, fire, flood, the breakdown of the school heating plant, the failure of an essential utility or a similar emergency. R.S.O. 1990, c. E.2, s. 19.

Same

(2) In case of strike by members of a teachers’ bargaining unit or a lockout of those members, the board may close one or more schools if it is of the opinion that,

- (a) the safety of pupils may be endangered during the strike or lockout;
- (b) the school building or the equipment or supplies in the building may not be adequately protected during the strike or lockout; or
- (c) the strike or lockout will substantially interfere with the operation of the school. 1997, c. 31, s. 10.

Teachers’ salary

(3) A teacher is not entitled to be paid his or her salary for the days on which the school in which he or she is employed is closed under subsection (2). 1997, c. 31, s. 10.

Definition

(4) In this section,

“strike” and “lock-out” have the same meaning as in the *Labour Relations Act, 1995*. 1997, c. 31, s. 10.

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 10 - 1/01/1998

Closing of schools on civic holiday

20. Where the head of the council of a municipality in which a school is situate proclaims a school day as a civic holiday for the municipality, the board may, by resolution, close any of the schools under its jurisdiction on such day. R.S.O. 1990, c. E.2, s. 20.

Compulsory attendance

21. (1) Unless excused under this section,

- (a) every person who attains the age of six years on or before the first school day in September in any year shall attend an elementary or secondary school on every school day from the first school day in September in that year until the person attains the age of 18 years; and
- (b) every person who attains the age of six years after the first school day in September in any year shall attend an elementary or secondary school on every school day from the first school day in September in the next succeeding year until the last school day in June in the year in which the person attains the age of 18 years. 2006, c. 28, s. 5 (1).

Participation in equivalent learning

(1.1) A person shall be considered to be attending school when he or she is participating in equivalent learning if the equivalent learning program, course of study or other activity and the group, organization or entity providing it have been approved under paragraph 3.0.1 of subsection 8 (1). 2006, c. 28, s. 5 (1).

When attendance excused

(2) A person is excused from attendance at school if,

- (a) the person is receiving satisfactory instruction at home or elsewhere;

- (b) the person is unable to attend school by reason of sickness or other unavoidable cause;
- (c) transportation is not provided by a board for the person and there is no school that he or she has a right to attend situated,
 - (i) within 1.6 kilometres from the person's residence measured by the nearest road if he or she has not attained the age of seven years on or before the first school day in September in the year in question, or
 - (ii) within 3.2 kilometres from the person's residence measured by the nearest road if he or she has attained the age of seven years but not the age of 10 years on or before the first school day in September in the year in question, or
 - (iii) within 4.8 kilometres from the person's residence measured by the nearest road if he or she has attained the age of 10 years on or before the first school day in September in the year in question;
- (d) the person has obtained a secondary school graduation diploma or has completed a course that gives equivalent standing;
- (e) the person is absent from school for the purpose of receiving instruction in music and the period of absence does not exceed one-half day in any week;
- (f) the person is suspended, expelled or excluded from attendance at school under any Act or under the regulations;
- (g) the person is absent on a day regarded as a holy day by the church or religious denomination to which he or she belongs; or
- (h) the person is absent or excused as authorized under this Act and the regulations. 2006, c. 28, s. 5 (1).

Blind, deaf or developmental disability

(3) The fact that a person is blind, deaf or has a developmental disability is not of itself an unavoidable cause under clause (2) (b). 2006, c. 28, s. 5 (1).

Person under compulsory age

(4) Where a person under compulsory school age has been enrolled as a pupil in an elementary school, this section applies during the period for which the person is enrolled as if he or she were of compulsory school age. 2006, c. 28, s. 5 (1).

Duty of parent, etc.

(5) The parent or guardian of a person who is required to attend school under this section shall cause the person to attend school as required by this section unless the person is at least 16 years old and has withdrawn from parental control. 2006, c. 28, s. 5 (1).

Separate school supporters

(6) Nothing in this section requires the child of a Roman Catholic separate school supporter to attend a public school or a Protestant separate school, or requires the child of a public school supporter to attend a Roman Catholic separate school. R.S.O. 1990, c. E.2, s. 21 (6).

Persons 16 and over – religious rights

- (7) Nothing in this section requires a person who is at least 16 years old and has withdrawn from parental control to attend,
 - (a) a Roman Catholic separate school, if he or she is qualified under section 36 to be a resident pupil in respect of a secondary school district of a public board; and
 - (b) a public school, if he or she is qualified under section 36 to be a resident pupil in respect of a separate school zone of a separate district school board. 2006, c. 28, s. 5 (2).

Section Amendments with date in force (d/m/y)

2006, c. 28, s. 5 (1, 2) - 20/12/2006

Transition, person who has already left school

21.1 (1) In this section,

“changeover date” means the day subsection 5 (1) of the *Education Amendment Act (Learning to Age 18), 2006* comes into force. 2006, c. 28, s. 6.

Same

[. . .]

2005, c. 5, s. 21 (6) - 9/03/2005

Members of board

165. (1) A Protestant separate school board shall have three members and section 58.7 applies with necessary modifications to the election of members of a Protestant separate school board. 2002, c. 17, Sched. F, Table.

Special case

(2) Despite subsection (1), The Protestant Separate School Board of the Town of Penetanguishene shall be composed of eight members. 2002, c. 17, Sched. F, Table.

Transition, special case

(3) Despite subsection (2), before the first day of July of an election year, the Protestant Separate School Board of the Town of Penetanguishene may, by resolution approved at a meeting of the Protestant separate school supporters, determine that the number of members to be elected shall be decreased to a number not less than three and, at the next following election, that number of members shall be elected. 2009, c. 25, s. 14.

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 1/01/2003

2009, c. 25, s. 14 - 15/12/2009

Corporate name of board

166. The members of every Protestant separate school board are a body corporate under the name of “The Protestant Separate School Board of the” or “Conseil des écoles séparées protestantes de” or both (*inserting the name of the municipality*). R.S.O. 1990, c. E.2, s. 166; 1997, c. 31, s. 76; 2002, c. 17, Sched. F, Table.

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 76 - 1/01/1998

2002, c. 17, Sched. F, Table - 1/01/2003

Powers of board

167. A Protestant separate school board has the same powers as a district school area board. R.S.O. 1990, c. E.2, s. 167.

Attendance rights

167.1 The provisions of Part II respecting attendance rights in relation to a Roman Catholic school authority apply with necessary modifications in relation to a Protestant separate school board. 1997, c. 31, s. 77.

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 77 - 1/01/1998

Discontinuing board

168. A Protestant separate school board is discontinued in the same manner as a Roman Catholic rural separate school board is discontinued and may be re-established in the manner provided in section 158. R.S.O. 1990, c. E.2, s. 168; 1997, c. 31, s. 78.

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 78 - 1/01/1998

Application of other sections

169. Subsections 89 (3) and (4), subsection 90 (2), clause 198 (1) (d) and section 239 apply in respect of Protestant separate schools and Protestant separate school boards. R.S.O. 1990, c. E.2, s. 169; 1997, c. 31, s. 79.

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 79 - 1/01/1998

**PART VI
BOARDS**

DUTIES AND POWERS

Board responsibility for student achievement and effective stewardship of resources

169.1 (1) Every board shall,

- (a) promote student achievement and well-being;
- (a.1) promote a positive school climate that is inclusive and accepting of all pupils, including pupils of any race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability;
- (a.2) promote the prevention of bullying;
- (b) ensure effective stewardship of the board's resources;
- (c) deliver effective and appropriate education programs to its pupils;
- (d) develop and maintain policies and organizational structures that,
 - (i) promote the goals referred to in clauses (a) to (c), and
 - (ii) encourage pupils to pursue their educational goals;
- (e) monitor and evaluate the effectiveness of policies developed by the board under clause (d) in achieving the board's goals and the efficiency of the implementation of those policies;
- (f) develop a multi-year plan aimed at achieving the goals referred to in clauses (a) to (c);
- (g) annually review the plan referred to in clause (f) with the board's director of education or the supervisory officer acting as the board's director of education; and
- (h) monitor and evaluate the performance of the board's director of education, or the supervisory officer acting as the board's director of education, in meeting,
 - (i) his or her duties under this Act or any policy, guideline or regulation made under this Act, including duties under the plan referred to in clause (f), and
 - (ii) any other duties assigned by the board. 2009, c. 25, s. 15; 2012, c. 5, s. 3 (1).

Multi-year plan

(2) A multi-year plan is a plan for three or more school years. 2009, c. 25, s. 15.

School climate surveys

(2.1) In fulfilling its duties under clause (1) (e) with respect to the effectiveness of policies developed by the board to promote the goals referred to in clauses (1) (a.1) and (a.2), every board shall use surveys to collect information from its pupils and staff, and parents and guardians of its pupils at least once every two years in accordance with any policies and guidelines made under paragraph 31 of subsection 8 (1). 2012, c. 5, s. 3 (2).

Same

(2.2) In collecting information under subsection (2.1), a board shall not collect any name or any identifying number, symbol or other particular assigned to a person. 2012, c. 5, s. 3 (2).

Measures in plan

(3) Every board shall ensure that the plan referred to in clause (1) (f) includes measures respecting the allocation of resources to improve student outcomes that fall below the outcomes specified in regulations made under section 11.1. 2009, c. 25, s. 15.

Communication

- (4) Every board shall take steps to,
 - (a) bring the plan referred to in clause (1) (f) to the attention of supporters and employees of the board; and
 - (b) report to supporters and employees of the board about progress in implementing the plan referred to in clause (1) (f). 2009, c. 25, s. 15.

Effective stewardship

- (5) Every board shall,
 - (a) effectively use the resources entrusted to it;

[. . .]

- (b) use the resources entrusted to it for the purposes of delivering effective and appropriate education; and
- (c) manage the resources entrusted to it in a manner that upholds public confidence. 2009, c. 25, s. 15.

Section Amendments with date in force (d/m/y)

2009, c. 25, s. 15 - 15/12/2009

2012, c. 5, s. 3 (1, 2) - 1/09/2012

Duties of boards

170. (1) Every board shall,

appoint treasurer

1. appoint a treasurer who, in the case of a board of not more than five elected members, may be a member of the board; R.S.O. 1990, c. E.2, s. 170 (1), par. 1; 2009, c. 25, s. 16 (1).

security of treasurer

2. take proper security from the treasurer; R.S.O. 1990, c. E.2, s. 170 (1), par. 2; 2009, c. 25, s. 16 (2).

order payment of bills

3. give the necessary orders on the treasurer for payment of all money expended for school purposes and of such other expenses for promoting the interests of the schools under the jurisdiction of the board as may be authorized by this Act or the regulations and by the board; R.S.O. 1990, c. E.2, s. 170 (1), par. 3.

meetings

4. fix the times and places for the meetings of the board and the mode of calling and conducting them, and ensure that a full and correct account of the proceedings thereat is kept; R.S.O. 1990, c. E.2, s. 170 (1), par. 4.

head office

5. establish and maintain a head office and notify the Ministry of its location and address and notify the Ministry of any change in the location or address of the head office within ten days of such change; R.S.O. 1990, c. E.2, s. 170 (1), par. 5.

provide instruction and accommodation

6. provide instruction and adequate accommodation during each school year for the pupils who have a right to attend a school under the jurisdiction of the board; R.S.O. 1990, c. E.2, s. 170 (1), par. 6.

provide education and accommodation

- 6.1 subject to payment of fees charged under section 260.1, provide education and adequate accommodation for pupils enrolled in extended day programs operated by the board; 2010, c. 10, s. 6 (1).

junior kindergartens and kindergartens

- 6.2 subject to paragraph 3.0.0.1 of subsection 8 (1) and paragraph 6.1 of subsection 11 (1), operate full day junior kindergartens and kindergartens on every school day, other than professional activity days, in every elementary school of the board; 2010, c. 10, s. 6 (1).

special education programs and services

7. provide or enter into an agreement with another board to provide in accordance with the regulations special education programs and special education services for its exceptional pupils; 1997, c. 31, s. 80 (1).

professional development programs, bullying and school climate

- 7.1 establish and provide annual professional development programs to educate teachers and other staff of the board about bullying prevention and strategies for promoting positive school climates; 2012, c. 5, s. 4.

programs, interventions and other supports, bullying

- 7.2 provide programs, interventions or other supports for pupils who have been bullied, pupils who have witnessed incidents of bullying and pupils who have engaged in bullying, and the programs, interventions and other supports may be provided by social workers, psychologists or other professionals who have training in similar fields, as determined by the board; 2012, c. 5, s. 5.

[. . .]

[. . .]

170.2.1 REPEALED: 2006, c. 10, s. 11.

Section Amendments with date in force (d/m/y)

2000, c. 11, s. 6 - 23/06/2000

2001, c. 14, Sched. A, s. 4 (1-4) - 1/07/2001

2006, c. 10, s. 11 - 1/06/2006

170.2.2 REPEALED: 2006, c. 10, s. 11.

Section Amendments with date in force (d/m/y)

2000, c. 11, s. 6 - 23/06/2000

2006, c. 10, s. 11 - 1/06/2006

Teachers' assistants, etc.

170.3 The Lieutenant Governor in Council may make regulations governing duties and minimum qualifications of persons who are assigned,

- (a) to assist teachers or to complement instruction by teachers in elementary or secondary schools, except in junior kindergarten or kindergarten;
- (b) to assist teachers and designated early childhood educators or to complement instruction by teachers and the work of designated early childhood educators in junior kindergarten or kindergarten; or
- (c) to assist designated early childhood educators or to complement the work of designated early childhood educators in extended day programs. 2010, c. 10, s. 7.

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 81 - 31/08/1998

2010, c. 10, s. 7 - 3/06/2010

Powers of boards

171. (1) A board may,

committees

1. establish committees composed of members of the board to make recommendations to the board in respect of education, finance, personnel and property; R.S.O. 1990, c. E.2, s. 171 (1), par. 1.

idem

2. establish committees that may include persons who are not members of the board in respect of matters other than those referred to in paragraph 1; R.S.O. 1990, c. E.2, s. 171 (1), par. 2.

appoint employees

3. except as otherwise provided under this Act, appoint and remove such officers and servants and appoint and remove such teachers and designated early childhood educators, as it considers expedient, determine the terms on which such officers, servants, teachers and designated early childhood educators are to be employed, prescribe their duties and fix their salaries, except that in the case of a secretary of a board who is a member of the board, the board may pay only such compensation for his or her services as is approved by the electors at a meeting of the electors; R.S.O. 1990, c. E.2, s. 171 (1), par. 3; 2001, c. 24, s. 3; 2010, c. 10, s. 8 (1).

voluntary assistants

4. permit a principal to assign to a person who volunteers to serve without remuneration such duties in respect of the school as are approved by the board and to terminate such assignment; R.S.O. 1990, c. E.2, s. 171 (1), par. 4.

supervisors, teachers

5. appoint persons to supervise teaching staff and every appointee shall hold the qualifications and perform the duties required under any Act or regulation administered by the Minister; 2010, c. 10, s. 8 (2).

supervisors, designated early childhood educators

- 5.1 appoint persons to supervise persons in positions designated by the board as requiring an early childhood educator and every appointee shall hold the qualifications and perform the duties required under any Act or regulation administered by the Minister; 2010, c. 10, s. 8 (2).

psychiatrist or psychologist

6. appoint one or more,
 - i. psychiatrists who are on the register of specialists in psychiatry of The Royal College of Physicians and Surgeons of Canada or of the College of Physicians and Surgeons of Ontario,
 - ii. psychologists who are legally qualified medical practitioners or are members of the College of Psychologists of Ontario; R.S.O. 1990, c. E.2, s. 171 (1), par. 6; 1997, c. 31, s. 82 (1).

schools and attendance areas

7. determine the number and kind of schools to be established and maintained and the attendance area for each school, and close schools in accordance with policies established by the board from guidelines issued by the Minister; R.S.O. 1990, c. E.2, s. 171 (1), par. 7.

courses of study

8. provide instruction in courses of study that are prescribed or approved by the Minister, developed from curriculum guidelines issued by the Minister or approved by the board where the Minister permits the board to approve courses of study; R.S.O. 1990, c. E.2, s. 171 (1), par. 8.

instruction by electronic or other means

- 8.1 provide instruction in courses of study described in paragraph 8, by electronic or other means, to pupils who are not present in the classroom; 2006, c. 10, s. 12.

computer programming

9. in lieu of purchasing a computer or system of computer programming, enter into an agreement for the use thereof by the board; R.S.O. 1990, c. E.2, s. 171 (1), par. 9.

playgrounds, parks, rinks

10. operate the school ground as a park or playground and rink during the school year or in vacation or both, and provide and maintain such equipment as it considers advisable, and provide such supervision as it considers proper, provided the proper conduct of the school is not interfered with; R.S.O. 1990, c. E.2, s. 171 (1), par. 10.

gymnasiums

11. organize and carry on gymnasium classes in school buildings for pupils or others during the school year or in vacation or both, and provide supervision and training for such classes, provided the proper conduct of the school is not interfered with; R.S.O. 1990, c. E.2, s. 171 (1), par. 11.

milk

12. purchase milk to be consumed by the pupils in the schools under the jurisdiction of the board during school days in accordance with the terms and conditions prescribed by the regulations; R.S.O. 1990, c. E.2, s. 171 (1), par. 12.

provision of supplies, etc.

13. provide school supplies, other than the textbooks that it is required to provide under paragraph 13 of subsection 170 (1), for the use of pupils; R.S.O. 1990, c. E.2, s. 171 (1), par. 13.

libraries

14. establish and maintain school libraries and resource centres; R.S.O. 1990, c. E.2, s. 171 (1), par. 14.
15. REPEALED: 2010, c. 10, s. 8 (3).

signatures mechanically reproduced

16. provide that the signature of the treasurer and of any other person authorized to sign cheques issued by the treasurer may be written or engraved, lithographed, printed or otherwise mechanically reproduced on cheques; R.S.O. 1990, c. E.2, s. 171 (1), par. 16.

membership fees and travelling expenses

[. . .]

(3) Subject to subsection (4), where the commencement or continuance of any proceeding or the enforcement of a court order is prevented under this section,

- (a) the running of any limitation period relating to the proceeding or enforcement is suspended until the Minister gives leave to commence or continue the proceeding or to enforce the court order, as the case may be; and
- (b) the person having the right to commence or continue the proceeding or to enforce the court order shall, immediately after the leave is given, have the same length of time within which to commence or continue the proceeding or enforce the court order, as the case may be, as the person had when the notice was published in *The Ontario Gazette* under clause (1) (a). 2000, c. 11, s. 7.

Same

(4) Subsection (3) does not apply unless application is made to the Minister for leave to commence or continue the proceeding or to enforce the order within the relevant limitation period and the Minister refuses to give the leave. 2000, c. 11, s. 7.

Effect of order

(5) Subsection (2) does not apply in relation to a board that is subject to an order under subsection 230.3 (2) after the Minister, under clause 230.5 (2) (b), makes an order of a type described in clause 257.34 (2) (b) or (i) with respect to the board. 2000, c. 11, s. 7.

Section Amendments with date in force (d/m/y)

2000, c. 11, s. 7 - 23/06/2000

Control exercisable by Minister

230.5 (1) Where the Lieutenant Governor in Council has made an order under subsection 230.3 (2) in respect of a board, the Minister has control and charge over the board generally with respect to any matter in any way affecting the board's affairs. 2000, c. 11, s. 7.

Same

(2) Without limiting the generality of subsection (1), where the Lieutenant Governor in Council has made an order under subsection 230.3 (2) in respect of a board,

- (a) the Minister has control and charge over the exercise and performance by the board of its powers, duties and obligations with respect to all matters, including but not limited to all matters referred to in clauses 257.33 (2) (a) to (i); and
- (b) sections 257.34 to 257.38 apply, with necessary modifications, as if the board were subject to an order under subsection 257.31 (2) or (3). 2000, c. 11, s. 7.

Section Amendments with date in force (d/m/y)

2000, c. 11, s. 7 - 23/06/2000

Exercise of board jurisdiction subject to order

230.6 The powers and duties under this or any other Act of a board that is subject to an order under subsection 230.3 (2) shall only be exercised or performed in accordance with and subject to this Part and any order made or agreement entered into under it. 2000, c. 11, s. 7.

Section Amendments with date in force (d/m/y)

2000, c. 11, s. 7 - 23/06/2000

Exclusive jurisdiction

230.7 (1) Subject to subsections (3) and (4) and subsection 230.17 (3), the Minister has exclusive jurisdiction as to all matters arising under this Part or out of the exercise by the board or any person of any of the powers conferred by this Part, and that jurisdiction is not open to question or review in any proceeding or by any court. 2000, c. 11, s. 7.

Review of orders, etc.

(2) The Minister may at any time review any order, direction or decision made by him or her under this Part and confirm, amend or revoke it. 2000, c. 11, s. 7.

Exclusive jurisdiction

1996, c. 12, s. 64 (11) - 20/05/1997

Membership in College of Early Childhood Educators

262.1 Except as otherwise provided under paragraph 10.1 of subsection 8 (1), no person shall be employed by a board in a position designated by the board as requiring an early childhood educator, and no person shall be employed by a board to perform any duty for which membership in the College of Early Childhood Educators is required under this Act, unless the person is a member of the College. 2010, c. 10, s. 14.

Section Amendments with date in force (d/m/y)

2010, c. 10, s. 14 - 3/06/2010

Termination of contract where welfare of school involved

263. (1) Despite the other provisions of this Part and despite any provision in a collective agreement, if any, when a teacher is employed by a board and a matter arises that in the opinion of the Minister adversely affects the welfare of the school in which the teacher is employed,

- (a) the board or the teacher may, with the consent of the Minister, give the other party thirty days written notice of termination, and the teacher's employment is terminated at the expiration of thirty days from the date the notice is given; or
- (b) the board may, with the consent of the Minister, give the teacher written notice of immediate termination together with one-tenth of the teacher's yearly salary in addition to the amount to which the teacher would otherwise be entitled, and, on doing so, the teacher's employment is terminated. R.S.O. 1990, c. E.2, s. 263; 1997, c. 31, ss. 118, 119.

Same, designated early childhood educators

(2) Despite the other provisions of this Part and despite any provision in a collective agreement, if any, when a designated early childhood educator is employed by a board and a matter arises that in the opinion of the Minister adversely affects the welfare of the school in which the designated early childhood educator is employed,

- (a) the board or the designated early childhood educator may, with the consent of the Minister, give the other party 30 days written notice of termination, and the designated early childhood educator's employment is terminated at the expiration of 30 days from the date the notice is given; or
- (b) the board may, with the consent of the Minister, give the designated early childhood educator written notice of immediate termination together with one-tenth of his or her yearly salary in addition to the amount to which he or she would otherwise be entitled, and, on doing so, his or her employment is terminated. 2010, c. 10, s. 15.

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 118, 119 - 31/08/1998

2010, c. 10, s. 15 - 3/06/2010

DUTIES

Duties of teacher

264. (1) It is the duty of a teacher and a temporary teacher,

teach

- (a) to teach diligently and faithfully the classes or subjects assigned to the teacher by the principal;

learning

- (b) to encourage the pupils in the pursuit of learning;

religion and morals

- (c) to inculcate by precept and example respect for religion and the principles of Judaeo-Christian morality and the highest regard for truth, justice, loyalty, love of country, humanity, benevolence, sobriety, industry, frugality, purity, temperance and all other virtues;

co-operation

- (d) to assist in developing co-operation and co-ordination of effort among the members of the staff of the school;

discipline

- (e) to maintain, under the direction of the principal, proper order and discipline in the teacher's classroom and while on duty in the school and on the school ground;

language of instruction

- (f) in instruction and in all communications with the pupils in regard to discipline and the management of the school,
 - (i) to use the English language, except where it is impractical to do so by reason of the pupil not understanding English, and except in respect of instruction in a language other than English when such other language is being taught as one of the subjects in the course of study, or
 - (ii) to use the French language in schools or classes in which French is the language of instruction except where it is impractical to do so by reason of the pupil not understanding French, and except in respect of instruction in a language other than French when such other language is being taught as one of the subjects in the course of study;

timetable

- (g) to conduct the teacher's class in accordance with a timetable which shall be accessible to pupils and to the principal and supervisory officers;

professional activity days

- (h) to participate in professional activity days as designated by the board under the regulations;

absence from school

- (i) to notify such person as is designated by the board if the teacher is to be absent from school and the reason therefor;

school property

- (j) to deliver the register, the school key and other school property in the teacher's possession to the board on demand, or when the teacher's agreement with the board has expired, or when for any reason the teacher's employment has ceased; and

textbooks

- (k) to use and permit to be used as a textbook in a class that he or she teaches in an elementary or a secondary school,
 - (i) in a subject area for which textbooks are approved by the Minister, only textbooks that are approved by the Minister, and
 - (ii) in all subject areas, only textbooks that are approved by the board;

duties assigned

- (l) to perform all duties assigned in accordance with this Act and the regulations. R.S.O. 1990, c. E.2, s. 264 (1); 2003, c. 2, s. 20 (1).

Sign language

(1.1) Despite clause (1) (f), a teacher or temporary teacher may use American Sign Language or Quebec Sign Language in accordance with the regulations. 1993, c. 11, s. 36.

(1.2) REPEALED: 2001, c. 14, Sched. A, s. 7.

(1.3) REPEALED: 2001, c. 14, Sched. A, s. 7.

Refusal to give up school property

(2) A teacher who refuses, on demand or order of the board that operates the school concerned, to deliver to the board any school property in the teacher's possession forfeits any claim that the teacher may have against the board. R.S.O. 1990, c. E.2, s. 264 (2).

Teachers, conferences

(3) Teachers may organize themselves for the purpose of conducting professional development conferences and seminars. R.S.O. 1990, c. E.2, s. 264 (3).

Section Amendments with date in force (d/m/y)

1993, c. 11, s. 36 - 29/07/1993

2001, c. 14, Sched. A, s. 7 - 1/07/2001

[. . .]

[. . .]

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 128 - 1/01/1998

Reconsideration by Commission

299. (1) Where a school authority does not resolve to implement the recommendation of the Commission within the period of time mentioned in section 297 or 298, as the case requires, the Commission shall reconsider the matter and shall make a written report and recommendation to the Minister in respect of the matter. 1997, c. 31, s. 128.

Order by Minister

(2) The Minister shall consider the report and recommendation of the Commission under subsection (1) and shall make such order to the school authority or the Commission, or both, or take such other action, to deal with the matter as the Minister considers appropriate in the circumstances. 1997, c. 31, s. 128.

Report and recommendation not binding on Minister

(3) The report and recommendation of the Commission are not binding on the Minister, and the Minister is not required to give to any person an opportunity to make submissions or to be heard before making an order under subsection (2). 1997, c. 31, s. 128.

Enforcement of order

(4) An order by the Minister under subsection (2), exclusive of the reasons, if any, therefor may be filed in the Superior Court of Justice. 1997, c. 31, s. 128; 2000, c. 11, s. 21.

Same

(5) An order filed under subsection (4) shall be entered in the same way as a judgment or order of the Superior Court of Justice and is enforceable as an order of that court. 1997, c. 31, s. 128; 2000, c. 11, s. 21.

Service of order

(6) An order by the Minister under subsection (2),

(a) to a school authority is effective according to its terms when a copy is served on the secretary of the school authority; and

(b) to the Commission is effective according to its terms when a copy is served on the chair of the Commission. 1997, c. 31, s. 128.

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 128 - 1/01/1998

2000, c. 11, s. 21 - 23/06/2000

**PART XIII
BEHAVIOUR, DISCIPLINE AND SAFETY**

Interpretation

300. (1) In this Part,

“school premises” means, with respect to a school, the school buildings and premises. 2000, c. 12, s. 3.

Same

(2) In this Part, where reference is made to a regulation or to a matter prescribed by regulation, it means a regulation to be made by the Minister under this Part. 2000, c. 12, s. 3.

Receipt of notice

(3) Where notice is given to a person under this Part, it shall be considered to have been received by the person in accordance with the following rules:

1. If the notice is sent by mail or another method in which an original document is sent, the notice shall be considered to have been received by the person to whom it was sent on the fifth school day after the day on which it was sent.

2. If the notice is sent by fax or another method of electronic transmission, the notice shall be considered to have been received by the person to whom it was sent on the first school day after the day on which it was sent.

Section Amendments with date in force (d/m/y)

2000, c. 12, s. 3 - 1/09/2000

2007, c. 14, s. 1 - 1/02/2008

Purpose

300.0.1 The purposes of this Part include the following:

1. To create schools in Ontario that are safe, inclusive and accepting of all pupils.
2. To encourage a positive school climate and prevent inappropriate behaviour, including bullying, sexual assault, gender-based violence and incidents based on homophobia, transphobia or biphobia.
3. To address inappropriate pupil behaviour and promote early intervention.
4. To provide support to pupils who are impacted by inappropriate behaviour of other pupils.
5. To establish disciplinary approaches that promote positive behaviour and use measures that include appropriate consequences and supports for pupils to address inappropriate behaviour.
6. To provide pupils with a safe learning environment.

Section Amendments with date in force (d/m/y)

2012, c. 5, s. 6 - 1/09/2012

Bullying Awareness and Prevention Week

300.0.2 (1) The week beginning on the third Sunday in November in each year is proclaimed as Bullying Awareness and Prevention Week. 2012, c. 5, s. 7.

Same, purpose

(2) The purpose of subsection (1) is to promote awareness and understanding of bullying and its consequences in the school community.

Section Amendments with date in force (d/m/y)

2012, c. 5, s. 7 - 19/06/2012

Delegation by principals

300.1 (1) A principal of a school may delegate in writing any of his or her powers, duties or functions under this Part to,

- (a) a vice-principal of the school;
- (b) a teacher employed in the school;
- (c) a person appointed by a board under paragraph 5.1 of subsection 171 (1) to supervise persons in positions designated by the board as requiring an early childhood educator; and
- (d) a person appointed by a board under subsection 260 (2) to a position in an extended day program designated by the board as requiring an early childhood educator. 2009, c. 17, s. 1; 2011, c. 9, Sched. 10, s. 12 (1).

Same

(2) A teacher who is not a vice-principal may only act under a delegation under this section if the principal and vice-principal of the school are absent from the school. 2009, c. 17, s. 1.

Same

(2.1) A person described in clause (1) (c) or (d) may only act under a delegation under this section if,

- (a) the principal and vice-principal of the school are absent from the school;
- (b) the delegated power, duty or function is exercised in respect of a pupil enrolled in an extended day program in the school; and
- (c) the delegated power, duty or function is exercised during the time that the extended day program is operated in the school. 2011, c. 9, Sched. 10, s. 12 (2).

Same

(3) A delegation under this section is subject to any restrictions, limitations and conditions set out in the delegation. 2009, c. 17, s. 1.

Same

(4) A delegation under this section shall be in accordance with any policies and guidelines established by the Minister under subsection 301 (5.1) or by the board under subsection 302 (0.1). 2009, c. 17, s. 1.

Section Amendments with date in force (d/m/y)

2009, c. 17, s. 1 - 1/02/2010

2011, c. 9, Sched. 10, s. 12 (1, 2) - 12/05/2011

Reporting to the principal

300.2 (1) An employee of a board who becomes aware that a pupil of a school of the board may have engaged in an activity described in subsection 306 (1) or 310 (1) shall report to the principal of the school about the matter. 2009, c. 17, s. 1; 2012, c. 5, s. 8 (1).

Same

(2) An employee shall report to the principal as soon as reasonably possible or, if a different time period is specified by the policies or guidelines, within that time period. 2012, c. 5, s. 8 (2).

Principal's duty to investigate

(3) A principal shall investigate any matter reported under subsection (1). 2012, c. 5, s. 8 (2).

Informing reporter

(4) After investigating a matter reported under subsection (1), the principal shall communicate the results of the investigation to,

- (a) if the matter was reported by a teacher, that teacher; or
- (b) if the matter was reported by an employee who is not a teacher, that employee unless, in the principal's opinion, it would not be appropriate to do so. 2012, c. 5, s. 8 (2).

Same

(5) The principal shall not disclose more personal information under subsection (4) than is reasonably necessary for the purpose of communicating the results of the investigation. 2012, c. 5, s. 8 (2).

Section Amendments with date in force (d/m/y)

2009, c. 17, s. 1 - 1/02/2010

2012, c. 5, 8 (1) - 1/09/2012

Notice to parent or guardian

300.3 (1) Subject to subsections (2) and (3), if the principal of a school believes that a pupil of the school has been harmed as a result of an activity described in subsection 306 (1) or 310 (1), the principal shall, as soon as reasonably possible, notify,

- (a) the parent or guardian of the pupil who the principal believes has been harmed; and
- (b) the parent or guardian of any pupil of the school who the principal believes has engaged in the activity that resulted in the harm. 2012, c. 5, s. 9 (1).

Same

(2) A principal shall not, without the pupil's consent, notify a parent or guardian of a pupil who is,

- (a) 18 years or older; or
- (b) 16 or 17 years old and has withdrawn from parental control. 2009, c. 17, s. 1.

Same

(3) A principal shall not notify a parent or guardian of a pupil if in the opinion of the principal doing so would put the pupil at risk of harm from a parent or guardian of the pupil, such that the notification is not in the pupil's best interests. 2009, c. 17, s. 1.

Same

(4) When notifying a parent or guardian of a pupil under clause (1) (a), the principal shall disclose,

- (a) the nature of the activity that resulted in harm to the pupil;
- (b) the nature of the harm to the pupil;
- (c) the steps taken to protect the pupil's safety, including the nature of any disciplinary measures taken in response to the activity; and
- (d) the supports that will be provided for the pupil in response to the harm that resulted from the activity. 2012, c. 5, s. 9 (2).

Same

(5) When notifying a parent or guardian of a pupil under clause (1) (a), the principal shall not disclose the name of or any other identifying or personal information about a pupil who engaged in the activity that resulted in the harm, except in so far as is necessary to comply with subsection (4). 2009, c. 17, s. 1; 2012, c. 5, s. 9 (3).

Same

- (6) When notifying a parent or guardian of a pupil under clause (1) (b), the principal shall disclose,
 - (a) the nature of the activity that resulted in harm to the other pupil;
 - (b) the nature of the harm to the other pupil;
 - (c) the nature of any disciplinary measures taken in response to the activity; and
 - (d) the supports that will be provided for the pupil in response to his or her engagement in the activity. 2012, c. 5, s. 9 (4).

Same

(7) When notifying a parent or guardian of a pupil under clause (1) (b), the principal shall not disclose the name of or any other identifying or personal information about a pupil who has been harmed as a result of the activity, except in so far as is necessary to comply with subsection (6). 2012, c. 5, s. 9 (4).

Parent's right to provide comments

(8) When notifying a parent or guardian under this section, the principal shall invite the parent or guardian to have a discussion with the principal about the supports that will be provided for his or her child. 2012, c. 5, s. 9 (4).

Section Amendments with date in force (d/m/y)

2009, c. 17, s. 1 - 1/02/2010

2012, c. 5, s. 9 (1-4) - 1/09/2012

Response by board employees

300.4 (1) If the Minister has established policies or guidelines under subsection 301 (5.6), an employee of a board who observes a pupil of a school of the board behaving in a way that is likely to have a negative impact on the school climate shall respond in accordance with those policies and guidelines and in accordance with any policies and guidelines established by the board under subsection 302 (3.3). 2009, c. 17, s. 1.

Exception

- (2) Subsection (1) does not apply in circumstances set out in a regulation made under clause 316 (1) (d). 2009, c. 17, s. 1.

Section Amendments with date in force (d/m/y)

2009, c. 17, s. 1 - 1/02/2010

Provincial code of conduct

301. (1) The Minister may establish a code of conduct governing the behaviour of all persons in schools. 2000, c. 12, s. 3.

Purposes

- (2) The following are the purposes of the code of conduct:
 1. To ensure that all members of the school community, especially people in positions of authority, are treated with respect and dignity.
 2. To promote responsible citizenship by encouraging appropriate participation in the civic life of the school community.
 3. To maintain an environment where conflict and difference can be addressed in a manner characterized by respect and civility.

4. To encourage the use of non-violent means to resolve conflict.
5. To promote the safety of people in the schools.
6. To discourage the use of alcohol and illegal drugs.
7. To prevent bullying in schools. 2000, c. 12, s. 3; 2012, c. 5, s. 10 (1).

Notice

(3) Every board shall take such steps as the Minister directs to bring the code of conduct to the attention of pupils, parents and guardians of pupils and others who may be present in schools under the jurisdiction of the board. 2000, c. 12, s. 3.

Agreements with third parties re use of schools

(3.1) If a board enters into an agreement with another person or entity, other than a board, respecting the use of a school operated by the board, the board shall include in the agreement a requirement that the person or entity follow standards that are consistent with the code of conduct. 2012, c. 5, s. 10 (2).

Code is policy

(4) The code of conduct is a policy of the Minister. 2000, c. 12, s. 3.

Policies and guidelines governing conduct

(5) The Minister may establish additional policies and guidelines with respect to the conduct of persons in schools. 2000, c. 12, s. 3.

Same, governing delegation by principals

(5.1) The Minister may establish policies and guidelines with respect to delegation by principals, under section 300.1, of their powers, duties or functions under this Part. 2009, c. 17, s. 2.

Same, reporting to principals

(5.2) The Minister may establish policies and guidelines requiring individuals described in subsection (5.3) who become aware that a pupil of a school of a board may have engaged in an activity described in subsection 306 (1) or 310 (1) to report to the principal of the school about the matter, as soon as reasonably possible. 2009, c. 17, s. 2.

Same

(5.3) The individuals referred to in subsection (5.2) are individuals who are not board employees who come into direct contact with pupils of a board on a regular basis in the normal course of,

- (a) providing goods or services to the board;
- (b) carrying out their employment functions as an employee of a person who provides goods or services to the board; or

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is amended by striking out “or” at the end. See: 2011, c. 9, Sched. 10, ss. 13, 14 (2).

- (c) providing services to a person who provides goods or services to the board. 2009, c. 17, s. 2.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (5.3) is amended by adding “or” at the end of clause (c) and by adding the following clause:

- (d) providing programs or services to pupils in a school of the board.

See: 2011, c. 9, Sched. 10, ss. 13, 14 (2).

Same

(5.4) The Minister may establish policies and guidelines with respect to reporting to principals under section 300.2 or under a policy or guideline established under subsection (5.2). 2009, c. 17, s. 2.

Same, support to certain pupils

(5.5) The Minister may establish policies and guidelines with respect to the support to be provided to a pupil when a principal does not notify a parent or guardian of the pupil because of the circumstances described in subsection 300.3 (3). 2009, c. 17, s. 2.

Same, governing responses by board employees

(5.6) The Minister may establish policies and guidelines with respect to responses under section 300.4 by employees of a board, including but not limited to policies and guidelines with respect to the kinds of responses that are appropriate. 2009, c. 17, s. 2.

Same, governing discipline

(6) The Minister shall establish policies and guidelines with respect to disciplining pupils, which must include policies and guidelines respecting,

- (a) the use of disciplinary measures within a framework that,
 - (i) identifies pupil behaviours that are inappropriate and that, without excluding less serious behaviour, include bullying, sexual assault, gender-based violence and incidents based on homophobia, transphobia or biphobia,
 - (ii) provides for appropriate consequences for pupils who engage in inappropriate behaviour,
 - (iii) provides for progressively more serious consequences for repeated or more serious inappropriate behaviour,
 - (iv) provides support for pupils who are impacted by inappropriate behaviour, and for pupils who engage in inappropriate behaviour, to assist them in developing healthy relationships, making good choices, continuing their learning and achieving success,
 - (v) provides for prevention strategies, and
 - (vi) provides for early and ongoing intervention strategies;
- (b) opportunities for all pupils, their parents and guardians, and all teachers and other staff members in a school to increase their understanding and awareness of inappropriate pupil behaviour;
- (c) opportunities for all teachers and other staff members in a school to increase their ability to respond to inappropriate pupil behaviour;
- (d) training for all teachers and other staff;
- (e) procedures for responding appropriately and in a timely manner to inappropriate behaviour;
- (f) resources to support pupils who are impacted by inappropriate behaviour;
- (g) resources to support pupils who have engaged in inappropriate behaviour;
- (h) a process that parents or guardians of pupils described in clause (f) or (g) can follow if they have concerns about the support provided to their child. 2012, c. 5, s. 10 (3).

Same, procedural matters

(6.1) The Minister may establish policies and guidelines with respect to,

- (a) appeals of a decision to suspend a pupil;
- (b) principals' investigations to determine whether to recommend that a pupil be expelled; and
- (c) expulsion hearings. 2007, c. 14, s. 2.

Same, promoting safety

(7) The Minister may establish policies and guidelines to promote the safety of pupils. 2000, c. 12, s. 3.

Same, bullying

(7.1) The Minister shall establish policies and guidelines with respect to bullying prevention and intervention in schools, which must include policies and guidelines respecting,

- (a) training for all teachers and other staff;
- (b) resources to support pupils who have been bullied;
- (c) strategies to support pupils who witness incidents of bullying;
- (d) resources to support pupils who have engaged in bullying;
- (e) procedures that allow pupils to report incidents of bullying safely and in a way that minimizes the possibility of reprisal;
- (f) procedures that allow parents and guardians and other persons to report incidents of bullying;
- (g) the use of disciplinary measures within the framework described in clause (6) (a) in response to bullying;
- (h) procedures for responding appropriately and in a timely manner to bullying;

- (i) matters to be addressed in bullying prevention and intervention plans established by boards under section 303.3. 2012, c. 5, s. 10 (4).

Same, collection of information

(7.2) The Minister may establish policies and guidelines requiring boards to collect specified information relating to behaviour, discipline and safety in schools. 2012, c. 5, s. 10 (4).

Same, s. 314.5 reports

(7.3) The Minister may establish policies and guidelines with respect to the reports required under subsection 314.5 (1), including policies and guidelines respecting the form and content of the reports and the times at which they must be submitted. 2012, c. 5, s. 10 (4).

Different policies, etc.

(8) The Minister may establish different policies and guidelines under this section for different circumstances, for different locations and for different classes of persons. 2000, c. 12, s. 3.

Duty of boards

(9) The Minister may require boards to comply with policies and guidelines established under this section. 2000, c. 12, s. 3.

Not regulations

(10) Policies and guidelines established under this section are not regulations within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2000, c. 12, s. 3; 2006, c. 21, Sched. F, s. 136 (1).

Approval and changes, board policies and guidelines

(11) The Minister may require boards to submit any policy or guideline established under section 302 to the Minister and to implement changes to the policy or guideline as directed by the Minister. 2012, c. 5, s. 10 (4).

Section Amendments with date in force (d/m/y)

2000, c. 12, s. 3 - 1/09/2000

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007

2007, c. 14, s. 2 - 1/02/2008

2009, c. 17, s. 2 - 1/02/2010

2011, c. 9, Sched. 10, s. 13 - not in force

2012, c. 5, s. 10 (1-4) - 1/09/2012

Board policies and guidelines

Delegation by principals

302. (0.1) Every board shall establish policies and guidelines with respect to delegation by principals, under section 300.1, of their powers, duties or functions under this Part and the policies and guidelines must be consistent with the policies and guidelines established by the Minister under section 301, and must address such matters and include such requirements as the Minister may specify. 2009, c. 17, s. 3 (1).

Board's policies and guidelines governing conduct

(1) Every board shall establish policies and guidelines with respect to the conduct of persons in schools within the board's jurisdiction and the policies and guidelines must address such matters and include such requirements as the Minister may specify. 2000, c. 12, s. 3.

Same, governing discipline

(2) Every board shall establish policies and guidelines with respect to disciplining pupils, and the policies and guidelines must,

- (a) be consistent with this Part and with those established by the Minister under section 301;
- (b) address every matter described in clauses 301 (6) (a) to (h); and
- (c) address any other matter and include any other requirement that the Minister may specify. 2012, c. 5, s. 11 (1).

Same, promoting safety

(3) If required to do so by the Minister, a board shall establish policies and guidelines to promote the safety of pupils, and the policies and guidelines must be consistent with those established by the Minister under section 301 and must address such matters and include such requirements as the Minister may specify. 2000, c. 12, s. 3.

Same, reporting to principals

(3.1) If required to do so by the Minister, a board shall establish policies and guidelines with respect to reporting to principals under section 300.2 or under a policy or guideline established under subsection 301 (5.2), and the policies and guidelines must be consistent with those established by the Minister under section 301 and must address such matters and include such requirements as the Minister may specify. 2009, c. 17, s. 3 (2).

Same, support to certain pupils

(3.2) If required to do so by the Minister, a board shall establish policies and guidelines with respect to the support to be provided to a pupil when a principal does not notify a parent or guardian of the pupil because of the circumstances described in subsection 300.3 (3), and the policies and guidelines must be consistent with those established by the Minister under section 301 and must address such matters and include such requirements as the Minister may specify. 2009, c. 17, s. 3 (2).

Same, governing responses by board employees

(3.3) If required to do so by the Minister, a board shall establish policies and guidelines with respect to responses under section 300.4 by employees of a board, including but not limited to policies and guidelines with respect to the kinds of responses that are appropriate, and the policies and guidelines must be consistent with those established by the Minister under section 301, and must address such matters and include such requirements as the Minister may specify. 2009, c. 17, s. 3 (2).

Same, governing bullying

(3.4) Every board shall establish policies and guidelines with respect to bullying prevention and intervention in schools, and the policies and guidelines must,

- (a) be consistent with those established by the Minister under section 301;
- (b) address every matter described in clauses 301 (7.1) (a) to (h); and
- (c) address any other matter and include any other requirement that the Minister may specify. 2012, c. 5, s. 11 (2).

Same, governing access to school premises

(4) A board may establish policies and guidelines governing access to school premises, and the policies and guidelines must be consistent with the regulations made under section 305 and must address such matters and include such requirements as the Minister may specify. 2000, c. 12, s. 3.

Same, governing appropriate dress

(5) If required to do so by the Minister, a board shall establish policies and guidelines respecting appropriate dress for pupils in schools within the board's jurisdiction, and the policies and guidelines must address such matters and include such requirements as the Minister may specify. 2000, c. 12, s. 3.

Same, procedural matters

- (6) A board shall establish policies and guidelines governing,
 - (a) appeals of a decision to suspend a pupil;
 - (b) principals' investigations to determine whether to recommend that a pupil be expelled; and
 - (c) expulsion hearings. 2007, c. 14, s. 3 (1).

Same

(6.1) If the Minister has established policies and guidelines under subsection 301 (6.1), a board's policies and guidelines under subsection (6) must address such matters and include such requirements as specified by the Minister. 2007, c. 14, s. 3 (1).

Different policies, etc.

(7) A board may establish different policies and guidelines under this section for different circumstances, for different locations and for different classes of persons. 2000, c. 12, s. 3.

Role of school councils

(8) When establishing policies and guidelines under this section, a board shall consider the views of school councils with respect to the contents of the policies and guidelines. 2000, c. 12, s. 3.

[. . .]

Education Act

R.R.O. 1990, REGULATION 298 OPERATION OF SCHOOLS — GENERAL

Consolidation Period: From September 1, 2014 to the [e-Laws currency date](#).

Last amendment: O. Reg. 78/14.

This is the English version of a bilingual regulation.

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DEFINITIONS

1. In this Regulation,

“business studies” means the courses prescribed or developed under subsection 8 (1) of the Act and described in,

- (a) the document entitled “Business Studies — The Ontario Curriculum, Grades 9 and 10 — 2006”, available from the Ministry of Education, and
- (b) the document entitled “Business Studies — The Ontario Curriculum, Grades 11 and 12 — 2006”, available from the Ministry of Education; (“enseignement commercial”)

“certificate of qualification and registration” means a general certificate of qualification and registration or a transitional certificate of qualification and registration as defined in subsection 1 (1) of the teachers’ qualifications regulation; (“certificat de qualification et d’inscription”)

“degree” means an acceptable post-secondary degree as defined in subsection 1 (1) of the teachers’ qualifications regulation; (“grade”)

“division” means the primary division, the junior division, the intermediate division or the senior division; (“cycle”)

“French as a second language” includes programs for English speaking pupils in which French is the language of instruction; (“français langue seconde”)

[. . .]

ASSIGNMENT OR APPOINTMENT OF PRINCIPALS AND VICE-PRINCIPALS

- 9.** (1) The principal and vice-principal of a school having an enrolment greater than 125 shall each be,
- (a) a teacher who,
 - (i) holds principal's qualifications under section 21 or subsection 33 (2) of the teachers' qualifications regulation or is deemed to hold principal's qualifications under subsection 40 (3) of that regulation, or
 - (ii) holds a principal's certificate described in subsection 40 (1) or (2) of the teachers' qualifications regulation;
 - (b) in the case of a school in which English is the language of instruction, a teacher who is eligible to teach in such a school under subsection 19 (9) or (10); and
 - (c) in the case of a school established under Part XII of the Act and in which French is the language of instruction, a teacher who is eligible to teach in such a school under subsection 19 (9) or (10). O. Reg. 183/10, s. 2 (1).
- (2) A teacher who holds a principal's certificate described in subsection 40 (1) or (2) of the teachers' qualifications regulation may only be assigned or appointed to be a principal or vice-principal in accordance with the limitations of the certificate. O. Reg. 183/10, s. 2 (1).
- (3) Despite subsection (1), where a teacher who does not hold the qualifications referred to in subsection (1),
- (a) was employed by a board prior to the 1st day of September, 1972 as principal of an elementary school that had an enrolment of 300 or more pupils and is employed by such board as principal of an elementary school on the 8th day of September, 1978;
 - (b) was employed by a board on the 1st day of September, 1978 as vice-principal of an elementary school that had an enrolment on the last school day in April, 1978 of 300 or more pupils; or
 - (c) was employed by a board on the 1st day of September, 1978 as principal or vice-principal of an elementary school that had an enrolment on the last school day in April, 1978 that was greater than 125 and less than 300,
- such teacher may be assigned or appointed as a principal or vice-principal, as the case may be, of any elementary school operated by that board or its successor board. R.R.O. 1990, Reg. 298, s. 9 (3); O. Reg. 183/10, s. 2 (2).
- (4) A board may appoint a person who holds the qualifications required by subsection (1) as a supervising principal to supervise the administration of two or more elementary schools operated by the board and such person shall be subject to the authority of the appropriate supervisory officer. R.R.O. 1990, Reg. 298, s. 9 (4).
- (5) A supervising principal may be principal of only one school. R.R.O. 1990, Reg. 298, s. 9 (5).
- (6) Despite subsection (1), a teacher who, before the 1st day of September, 1970, held the necessary qualifications as principal of a secondary school may be assigned or appointed as a principal or vice-principal of a secondary school. R.R.O. 1990, Reg. 298, s. 9 (6); O. Reg. 183/10, s. 2 (3).
- 10.** REVOKED: O. Reg. 191/04, s. 4.

DUTIES OF PRINCIPALS

- 11.** (1) The principal of a school, subject to the authority of the appropriate supervisory officer, is in charge of,
- (a) the instruction and the discipline of pupils in the school; and
 - (b) the organization and management of the school. R.R.O. 1990, Reg. 298, s. 11 (1).
- (2) Where two or more schools operated by a board jointly occupy or use in common a school building or school grounds, the board shall designate which principal has authority over those parts of the building or grounds that the schools occupy or use in common. R.R.O. 1990, Reg. 298, s. 11 (2).
- (3) In addition to the duties under the Act and those assigned by the board, the principal of a school shall, except where the principal has arranged otherwise under subsection 26 (3),
- (a) supervise the instruction in the school and advise and assist any teacher in co-operation with the teacher in charge of an organizational unit or program;
 - (b) assign duties to vice-principals and to teachers in charge of organizational units or programs;
 - (c) retain on file up-to-date copies of outlines of all courses of study that are taught in the school;
 - (d) upon request, make outlines of courses of study available for examination to a resident pupil of the board and to the parent of the pupil, where the pupil is a minor;
 - (e) provide for the supervision of pupils during the period of time during each school day when the school buildings and playgrounds are open to pupils;
 - (f) provide for the supervision of and the conducting of any school activity authorized by the board;

[. . .]

- (d) a teacher whose certificate of qualification and registration indicates qualifications in technological education in vocational art, instrumental music or vocal music may be assigned or appointed to teach art, instrumental music or vocal music, as the case may be, in general studies in a secondary school. O. Reg. 183/10, s. 6.
- (6) If the curriculum referred to in the definition of “general education” or “technological education” has been or is revised, a teacher may be assigned or appointed to teach the subject described in the revised version if he or she holds a qualification recorded on his or her certificate of qualification and registration that is equivalent to a qualification in the subject. O. Reg. 183/10, s. 6.

TEMPORARY LETTERS OF APPROVAL

19.2 The Minister of Education may grant to a board a temporary letter of approval in respect of a teacher for a period specified in the letter if the director of education or other board official authorized by the board submits to the Minister an application in the form directed by the Minister attesting or certifying that,

- (a) the board finds it necessary to assign or appoint a teacher to teach a subject, teach in a division or hold a position, and the teacher’s certificate of qualification and registration does not indicate the qualifications required under the Act for teaching the subject, teaching in the division or holding the position; and
- (b) the teacher in respect of whom the application is made,
 - (i) holds a certificate of qualification and registration,
 - (ii) is considered competent to teach the subject, teach in the division or hold the position, and
 - (iii) has agreed to the assignment or appointment. O. Reg. 183/10, s. 6.

DUTIES OF TEACHERS

20. In addition to the duties assigned to the teacher under the Act and by the board, a teacher shall,

- (a) be responsible for effective instruction, training and evaluation of the progress of pupils in the subjects assigned to the teacher and for the management of the class or classes, and report to the principal on the progress of pupils on request;
- (b) carry out the supervisory duties and instructional program assigned to the teacher by the principal and supply such information related thereto as the principal may require;
- (c) where the board has appointed teachers under section 14 or 17, co-operate fully with such teachers and with the principal in all matters related to the instruction of pupils;
- (d) unless otherwise assigned by the principal, be present in the classroom or teaching area and ensure that the classroom or teaching area is ready for the reception of pupils at least fifteen minutes before the commencement of classes in the school in the morning and, where applicable, five minutes before the commencement of classes in the school in the afternoon;
- (e) assist the principal in maintaining close co-operation with the community;
- (f) prepare for use in the teacher’s class or classes such teaching plans and outlines as are required by the principal and the appropriate supervisory officer and submit the plans and outlines to the principal or the appropriate supervisory officer, as the case may be, on request;
- (g) ensure that all reasonable safety procedures are carried out in courses and activities for which the teacher is responsible;
- (h) co-operate with the principal and other teachers to establish and maintain consistent disciplinary practices in the school;
- (i) ensure that report cards are fully and properly completed and processed in accordance with the guides known in English as Guide to the Provincial Report Card, Grades 1-8 and Guide to the Provincial Report Card, Grades 9-12, and in French as Guide d’utilisation du bulletin scolaire de l’Ontario de la 1^{ère} à la 8^e année and Guide du bulletin scolaire de l’Ontario de la 9^e à la 12^e année, as the case may be, both available electronically through a link in the document known in English as Ontario School Record (OSR) Guideline, 2000 and in French as Dossier scolaire de l’Ontario: Guide, 2000, online at www.edu.gov.on.ca/eng/document/curricul/osr/osr.html or www.edu.gov.on.ca/fre/document/curricul/osr/osrf.html;
- (j) co-operate and assist in the administration of tests under the *Education Quality and Accountability Office Act, 1996*;
- (k) participate in regular meetings with pupils’ parents or guardians;
- (l) perform duties as assigned by the principal in relation to co-operative placements of pupils; and
- (m) perform duties normally associated with the graduation of pupils. R.R.O. 1990, Reg. 298, s. 20; O. Reg. 95/96, s. 2; O. Reg. 209/03, s. 1.

[. . .]

CONSTITUTION ACT, 1982 ⁽⁸⁰⁾

PART I

CANADIAN CHARTER OF RIGHTS AND FREEDOMS

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

GUARANTEE OF RIGHTS AND FREEDOMS

Rights and freedoms in Canada

1. 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.

FUNDAMENTAL FREEDOMS

Fundamental freedoms

2. Everyone has the following fundamental freedoms:
- (a) freedom of conscience and religion;
 - (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
 - (c) freedom of peaceful assembly; and
 - (d) freedom of association.

(80) Enacted as Schedule B to the *Canada Act 1982, 1982, c. 11 (U.K.)*, which came into force on April 17, 1982. The *Canada Act 1982*, other than Schedules A and B thereto, reads as follows:

An Act to give effect to a request by the Senate and House of Commons of Canada

Whereas Canada has requested and consented to the enactment of an Act of the Parliament of the United Kingdom to give effect to the provisions hereinafter set forth and the Senate and the House of Commons of Canada in Parliament assembled have submitted an address to Her Majesty requesting that Her Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for that purpose.

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. The *Constitution Act, 1982* set out in Schedule B to this Act is hereby enacted for and shall have the force of law in Canada and shall come into force as provided in that Act.
2. No Act of the Parliament of the United Kingdom passed after the *Constitution Act, 1982* comes into force shall extend to Canada as part of its law.
3. So far as it is not contained in Schedule B, the French version of this Act is set out in Schedule A to this Act and has the same authority in Canada as the English version thereof.
4. This Act may be cited as the *Canada Act 1982*.

Constitution Act, 1982

Limitation

- (3) The rights specified in subsection (2) are subject to
- (a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence; and
 - (b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.

Affirmative action programs

(4) Subsections (2) and (3) do not preclude any law, program or activity that has as its object the amelioration in a province of conditions of individuals in that province who are socially or economically disadvantaged if the rate of employment in that province is below the rate of employment in Canada.

LEGAL RIGHTS

Life, liberty and security of person

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Search or seizure

8. Everyone has the right to be secure against unreasonable search or seizure.

Detention or imprisonment

9. Everyone has the right not to be arbitrarily detained or imprisoned.

Arrest or detention

- 10.** Everyone has the right on arrest or detention
- (a) to be informed promptly of the reasons therefor;
 - (b) to retain and instruct counsel without delay and to be informed of that right; and
 - (c) to have the validity of the detention determined by way of *habeas corpus* and to be released if the detention is not lawful.

Proceedings in criminal and penal matters

- 11.** Any person charged with an offence has the right
- (a) to be informed without unreasonable delay of the specific offence;
 - (b) to be tried within a reasonable time;

Constitution Act, 1982

- (c) not to be compelled to be a witness in proceedings against that person in respect of the offence;
- (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
- (e) not to be denied reasonable bail without just cause;
- (f) except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment;
- (g) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations;
- (h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again; and
- (i) if found guilty of the offence and if the punishment for the offence has been varied between the time of commission and the time of sentencing, to the benefit of the lesser punishment.

Treatment or punishment

12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.

Self-crimination

13. A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.

Interpreter

14. A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.

EQUALITY RIGHTS

Equality before and under law and equal protection and benefit of law

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Constitution Act, 1982

Affirmative action programs

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. ⁽⁸⁴⁾

OFFICIAL LANGUAGES OF CANADA

Official languages of Canada

16. (1) English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada.

Official languages of New Brunswick

(2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick.

Advancement of status and use

(3) Nothing in this Charter limits the authority of Parliament or a legislature to advance the equality of status or use of English and French.

English and French linguistic communities in New Brunswick

16.1 (1) The English linguistic community and the French linguistic community in New Brunswick have equality of status and equal rights and privileges, including the right to distinct educational institutions and such distinct cultural institutions as are necessary for the preservation and promotion of those communities.

Role of the legislature and government of New Brunswick

(2) The role of the legislature and government of New Brunswick to preserve and promote the status, rights and privileges referred to in subsection (1) is affirmed. ⁽⁸⁵⁾

⁽⁸⁴⁾ Subsection 32(2) provides that section 15 shall not have effect until three years after section 32 comes into force. Section 32 came into force on April 17, 1982; therefore, section 15 had effect on April 17, 1985.

⁽⁸⁵⁾ Section 16.1 was added by the *Constitution Amendment, 1993 (New Brunswick)* (see SI/93-54).

Human Rights Code

R.S.O. 1990, CHAPTER H.19

Consolidation Period: From January 1, 2016 to the [e-Laws currency date](#).

Last amendment: 2015, c. 7, Sched. 3, s. 17.

Legislative History: 1993, c. 27, Sched.; 1993, c. 35, s. 56; 1994, c. 10, s. 22; 1994, c. 27, s. 65; 1995, c. 4, s. 3; 1997, c. 16, s. 8; 1997, c. 24, s. 212; 1999, c. 6, s. 28; 2001, c. 13, s. 19; 2001, c. 32, s. 27; 2002, c. 18, Sched. C; 2005, c. 5, s. 32; 2005, c. 18, s. 17; 2005, c. 29, s. 1; 2006, c. 19, Sched. B, s. 10; 2006, c. 21, Sched. F, s. 136, 137; 2006, c. 30; 2006, c. 35, Sched. C, s. 54, 132; 2009, c. 33, Sched. 2, s. 35; 2012, c. 7; 2015, c. 7, Sched. 3, s. 17.

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Whereas recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

And Whereas it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law, and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being of the community and the Province;

And Whereas these principles have been confirmed in Ontario by a number of enactments of the Legislature and it is desirable to revise and extend the protection of human rights in Ontario;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I FREEDOM FROM DISCRIMINATION

Services

1. Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability. R.S.O. 1990, c. H.19, s. 1; 1999, c. 6, s. 28 (1); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (1); 2012, c. 7, s. 1.

Section Amendments with date in force (d/m/y)

1999, c. 6, s. 28 (1) - 01/03/2000

2001, c. 32, s. 27 (1) - 07/02/2002

2005, c. 5, s. 32 (1) - 09/03/2005

2012, c. 7, s. 1 - 19/06/2012

Accommodation

2. (1) Every person has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, disability or the receipt of public assistance. R.S.O. 1990, c. H.19, s. 2 (1); 1999, c. 6, s. 28 (2); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (2); 2012, c. 7, s. 2 (1).

Harassment in accommodation

(2) Every person who occupies accommodation has a right to freedom from harassment by the landlord or agent of the landlord or by an occupant of the same building because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, marital status, family status, disability or the receipt of public assistance. R.S.O. 1990, c. H.19, s. 2 (2); 1999, c. 6, s. 28 (3); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (3); 2012, c. 7, s. 2 (2).

Section Amendments with date in force (d/m/y)

1999, c. 6, s. 28 (2, 3) - 01/03/2000

2001, c. 32, s. 27 (1) - 07/02/2002

2005, c. 5, s. 32 (2, 3) - 09/03/2005

2012, c. 7, s. 2 (1, 2) - 19/06/2012

Contracts

3. Every person having legal capacity has a right to contract on equal terms without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability. R.S.O. 1990, c. H.19, s. 3; 1999, c. 6, s. 28 (4); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (4); 2012, c. 7, s. 3.

Section Amendments with date in force (d/m/y)

1999, c. 6, s. 28 (4) - 01/03/2000

[. . .]

CHAPTER 5

An Act to amend the Education Act with respect to bullying and other matters

Assented to June 19, 2012

Preamble

The people of Ontario and the Legislative Assembly:

Believe that education plays a critical role in preparing young people to grow up as productive, contributing and constructive citizens in the diverse society of Ontario;

Believe that all students should feel safe at school and deserve a positive school climate that is inclusive and accepting, regardless of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability;

Believe that a healthy, safe and inclusive learning environment where all students feel accepted is a necessary condition for student success;

Understand that students cannot be expected to reach their full potential in an environment where they feel insecure or intimidated;

Believe that students need to be equipped with the knowledge, skills, attitude and values to engage the world and others critically, which means developing a critical consciousness that allows them to take action on making their schools and communities more equitable and inclusive for all people, including LGBTTIQ (lesbian, gay, bisexual, transgender, transsexual, two-spirited, intersex, queer and questioning) people;

Recognize that a whole-school approach is required, and that everyone — government, educators, school staff, parents, students and the wider community — has a role to play in creating a positive school climate and preventing inappropriate behaviour, such as bullying, sexual assault, gender-based violence and incidents based on homophobia, transphobia or biphobia;

Acknowledge that an open and ongoing dialogue among the principal, school staff, parents and students is an important component in creating a positive school climate in which everyone feels safe and respected;

Acknowledge that there is a need for stronger action to create a safe and inclusive environment in all schools, and to support all students, including both students who are impacted by and students who have engaged in inappropriate behavior, to assist them in developing healthy relationships, making good choices, continuing their learning and achieving success.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. (1) Subsection 1 (1) of the *Education Act* is amended by adding the following definition:

“bullying” means aggressive and typically repeated behaviour by a pupil where,

- (a) the behaviour is intended by the pupil to have the effect of, or the pupil ought to know that the behaviour would be likely to have the effect of,
 - (i) causing harm, fear or distress to another individual, including physical, psychological, social or academic harm, harm to the individual’s reputation or harm to the individual’s property, or
 - (ii) creating a negative environment at a school for another individual, and
- (b) the behaviour occurs in a context where there is a real or perceived power imbalance between the pupil and the individual based on factors such as size, strength, age, intelligence, peer group power, economic status, social status, religion, ethnic origin, sexual orientation, family circumstances, gender, gender identity, gender expression, race, disability or the receipt of special education; (“intimidation”)

(2) Section 1 of the Act is amended by adding the following subsections:

Bullying

(1.0.0.1) For the purposes of the definition of “bullying” in subsection (1), behaviour includes the use of any physical, verbal, electronic, written or other means.

Cyber-bullying

(1.0.0.2) For the purposes of the definition of “bullying” in subsection (1), bullying includes bullying by electronic means (commonly known as cyber-bullying), including,

- (a) creating a web page or a blog in which the creator assumes the identity of another person;
- (b) impersonating another person as the author of content or messages posted on the internet; and
- (c) communicating material electronically to more than one individual or posting material on a website that may be accessed by one or more individuals.

2. (1) Paragraph 29.1 of subsection 8 (1) of the Act is repealed and the following substituted:

equity and inclusive education

29.1 require boards to develop and implement an equity and inclusive education policy, and, if required by the Minister, submit the policy to the Minister and implement changes to the policy as directed by the Minister;

(2) Subsection 8 (1) of the Act is amended by adding the following paragraph:

surveys under s. 169.1 (2.1)

31. establish policies and guidelines respecting the surveys referred to in subsection 169.1 (2.1);

3. (1) Subsection 169.1 (1) of the Act is amended by adding the following clauses:

- (a.1) promote a positive school climate that is inclusive and accepting of all pupils, including pupils of any race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability;
- (a.2) promote the prevention of bullying;

(2) Section 169.1 of the Act is amended by adding the following subsections:

School climate surveys

(2.1) In fulfilling its duties under clause (1) (e) with respect to the effectiveness of policies developed by the board to promote the goals referred to in clauses (1) (a.1) and (a.2), every board shall use surveys to collect information from its pupils and staff, and parents and guardians of its pupils at least once every two years in accordance with any policies and guidelines made under paragraph 31 of subsection 8 (1).

Same

(2.2) In collecting information under subsection (2.1), a board shall not collect any name or any identifying number, symbol or other particular assigned to a person.

4. Subsection 170 (1) of the Act is amended by adding the following paragraph:

professional development programs, bullying and school climate

7.1 establish and provide annual professional development programs to educate teachers and other staff of the board about bullying prevention and strategies for promoting positive school climates;

5. Subsection 170 (1) of the Act is amended by adding the following paragraph:

programs, interventions and other supports, bullying

7.2 provide programs, interventions or other supports for pupils who have been bullied, pupils who have witnessed incidents of bullying and pupils who have engaged in bullying, and the programs, interventions and other supports may be provided by social workers, psychologists or other professionals who have training in similar fields, as determined by the board;

6. The Act is amended by adding the following section:

Purpose

300.0.1 The purposes of this Part include the following:

- 1. To create schools in Ontario that are safe, inclusive and accepting of all pupils.
- 2. To encourage a positive school climate and prevent inappropriate behaviour, including bullying, sexual assault, gender-based violence and incidents based on homophobia, transphobia or biphobia.

3. To address inappropriate pupil behaviour and promote early intervention.
4. To provide support to pupils who are impacted by inappropriate behaviour of other pupils.
5. To establish disciplinary approaches that promote positive behaviour and use measures that include appropriate consequences and supports for pupils to address inappropriate behaviour.
6. To provide pupils with a safe learning environment.

7. The Act is amended by adding the following section:

Bullying Awareness and Prevention Week

300.0.2 (1) The week beginning on the third Sunday in November in each year is proclaimed as Bullying Awareness and Prevention Week.

Same, purpose

(2) The purpose of subsection (1) is to promote awareness and understanding of bullying and its consequences in the school community.

8. (1) Section 300.2 of the Act is amended by striking out “as soon as reasonably possible”.

(2) Section 300.2 of the Act is amended by adding the following subsections:

Same

(2) An employee shall report to the principal as soon as reasonably possible or, if a different time period is specified by the policies or guidelines, within that time period.

Principal’s duty to investigate

(3) A principal shall investigate any matter reported under subsection (1).

Informing reporter

(4) After investigating a matter reported under subsection (1), the principal shall communicate the results of the investigation to,

- (a) if the matter was reported by a teacher, that teacher; or
- (b) if the matter was reported by an employee who is not a teacher, that employee unless, in the principal’s opinion, it would not be appropriate to do so.

Same

(5) The principal shall not disclose more personal information under subsection (4) than is reasonably necessary for the purpose of communicating the results of the investigation.

9. (1) Subsection 300.3 (1) of the Act is repealed and the following substituted:

Notice to parent or guardian

(1) Subject to subsections (2) and (3), if the principal of a school believes that a pupil of the school has been harmed as a result of an activity described in subsection 306 (1) or 310 (1), the principal shall, as soon as reasonably possible, notify,

- (a) the parent or guardian of the pupil who the principal believes has been harmed; and
- (b) the parent or guardian of any pupil of the school who the principal believes has engaged in the activity that resulted in the harm.

(2) Subsection 300.3 (4) of the Act is repealed and the following substituted:

Same

(4) When notifying a parent or guardian of a pupil under clause (1) (a), the principal shall disclose,

- (a) the nature of the activity that resulted in harm to the pupil;
- (b) the nature of the harm to the pupil;
- (c) the steps taken to protect the pupil’s safety, including the nature of any disciplinary measures taken in response to the activity; and
- (d) the supports that will be provided for the pupil in response to the harm that resulted from the activity.

(3) Subsection 300.3 (5) of the Act is amended by striking out “under this section” and substituting “of a pupil under clause (1) (a)”.

(4) Section 300.3 of the Act is amended by adding the following subsections:

Same

- (6) When notifying a parent or guardian of a pupil under clause (1) (b), the principal shall disclose,
- (a) the nature of the activity that resulted in harm to the other pupil;
 - (b) the nature of the harm to the other pupil;
 - (c) the nature of any disciplinary measures taken in response to the activity; and
 - (d) the supports that will be provided for the pupil in response to his or her engagement in the activity.

Same

(7) When notifying a parent or guardian of a pupil under clause (1) (b), the principal shall not disclose the name of or any other identifying or personal information about a pupil who has been harmed as a result of the activity, except in so far as is necessary to comply with subsection (6).

Parent's right to provide comments

(8) When notifying a parent or guardian under this section, the principal shall invite the parent or guardian to have a discussion with the principal about the supports that will be provided for his or her child.

10. (1) Subsection 301 (2) of the Act is amended by adding the following paragraph:

- 7. To prevent bullying in schools.

(2) Section 301 of the Act is amended by adding the following subsection:

Agreements with third parties re use of schools

(3.1) If a board enters into an agreement with another person or entity, other than a board, respecting the use of a school operated by the board, the board shall include in the agreement a requirement that the person or entity follow standards that are consistent with the code of conduct.

(3) Subsection 301 (6) of the Act is repealed and the following substituted:

Same, governing discipline

(6) The Minister shall establish policies and guidelines with respect to disciplining pupils, which must include policies and guidelines respecting,

- (a) the use of disciplinary measures within a framework that,
 - (i) identifies pupil behaviours that are inappropriate and that, without excluding less serious behaviour, include bullying, sexual assault, gender-based violence and incidents based on homophobia, transphobia or biphobia,
 - (ii) provides for appropriate consequences for pupils who engage in inappropriate behaviour,
 - (iii) provides for progressively more serious consequences for repeated or more serious inappropriate behaviour,
 - (iv) provides support for pupils who are impacted by inappropriate behaviour, and for pupils who engage in inappropriate behaviour, to assist them in developing healthy relationships, making good choices, continuing their learning and achieving success,
 - (v) provides for prevention strategies, and
 - (vi) provides for early and ongoing intervention strategies;
 - (b) opportunities for all pupils, their parents and guardians, and all teachers and other staff members in a school to increase their understanding and awareness of inappropriate pupil behaviour;
 - (c) opportunities for all teachers and other staff members in a school to increase their ability to respond to inappropriate pupil behaviour;
 - (d) training for all teachers and other staff;
 - (e) procedures for responding appropriately and in a timely manner to inappropriate behaviour;
 - (f) resources to support pupils who are impacted by inappropriate behaviour;
 - (g) resources to support pupils who have engaged in inappropriate behaviour;
 - (h) a process that parents or guardians of pupils described in clause (f) or (g) can follow if they have concerns about the support provided to their child.
- (4) Section 301 of the Act is amended by adding the following subsections:**

Same, bullying

(7.1) The Minister shall establish policies and guidelines with respect to bullying prevention and intervention in schools, which must include policies and guidelines respecting,

- (a) training for all teachers and other staff;
- (b) resources to support pupils who have been bullied;
- (c) strategies to support pupils who witness incidents of bullying;
- (d) resources to support pupils who have engaged in bullying;
- (e) procedures that allow pupils to report incidents of bullying safely and in a way that minimizes the possibility of reprisal;
- (f) procedures that allow parents and guardians and other persons to report incidents of bullying;
- (g) the use of disciplinary measures within the framework described in clause (6) (a) in response to bullying;
- (h) procedures for responding appropriately and in a timely manner to bullying;
- (i) matters to be addressed in bullying prevention and intervention plans established by boards under section 303.3.

Same, collection of information

(7.2) The Minister may establish policies and guidelines requiring boards to collect specified information relating to behaviour, discipline and safety in schools.

Same, s. 314.5 reports

(7.3) The Minister may establish policies and guidelines with respect to the reports required under subsection 314.5 (1), including policies and guidelines respecting the form and content of the reports and the times at which they must be submitted.

Approval and changes, board policies and guidelines

(11) The Minister may require boards to submit any policy or guideline established under section 302 to the Minister and to implement changes to the policy or guideline as directed by the Minister.

11. (1) Subsection 302 (2) of the Act is repealed and the following substituted:**Same, governing discipline**

(2) Every board shall establish policies and guidelines with respect to disciplining pupils, and the policies and guidelines must,

- (a) be consistent with this Part and with those established by the Minister under section 301;
- (b) address every matter described in clauses 301 (6) (a) to (h); and
- (c) address any other matter and include any other requirement that the Minister may specify.

(2) Section 302 of the Act is amended by adding the following subsection:**Same, governing bullying**

(3.4) Every board shall establish policies and guidelines with respect to bullying prevention and intervention in schools, and the policies and guidelines must,

- (a) be consistent with those established by the Minister under section 301;
- (b) address every matter described in clauses 301 (7.1) (a) to (h); and
- (c) address any other matter and include any other requirement that the Minister may specify.

12. The Act is amended by adding the following section:**Board support for certain pupil activities and organizations**

303.1 (1) Every board shall support pupils who want to establish and lead activities and organizations that promote a safe and inclusive learning environment, the acceptance of and respect for others and the creation of a positive school climate, including,

- (a) activities or organizations that promote gender equity;
- (b) activities or organizations that promote anti-racism;

- (c) activities or organizations that promote the awareness and understanding of, and respect for, people with disabilities; or
- (d) activities or organizations that promote the awareness and understanding of, and respect for, people of all sexual orientations and gender identities, including organizations with the name gay-straight alliance or another name.

Same, gay-straight alliance

(2) For greater certainty, neither the board nor the principal shall refuse to allow a pupil to use the name gay-straight alliance or a similar name for an organization described in clause (1) (d).

Same, interpretation

(3) Nothing in this section shall be interpreted to require a board to support the establishment of an activity or organization in a school unless there is at least one pupil who wants to establish and lead it.

Inclusive and accepting name

(4) The name of an activity or organization described in subsection (1) must be consistent with the promotion of a positive school climate that is inclusive and accepting of all pupils.

Same

(5) A board shall comply with this section in a way that does not adversely affect any right of a pupil guaranteed by the *Canadian Charter of Rights and Freedoms*.

13. The Act is amended by adding the following sections:

Model provincial bullying prevention and intervention plan

303.2 (1) The Minister shall develop a model bullying prevention and intervention plan to assist boards in establishing bullying prevention and intervention plans under section 303.3.

Communication to boards

(2) The Minister shall make the model bullying prevention and intervention plan available to every board.

Board's bullying prevention and intervention plan

303.3 (1) Every board shall establish a bullying prevention and intervention plan for the schools of the board and require its schools to implement the plan.

Contents of plan

(2) The bullying prevention and intervention plan shall address any matter specified in the policies or guidelines made under clause 301 (7.1) (i).

Consultation

(3) When establishing the bullying prevention and intervention plan, a board shall solicit the views of the pupils, teachers and staff of the board, the volunteers working in the schools, the parents and guardians of the pupils, school councils and the public.

Communication of plans, board

(4) A board shall make its bullying prevention and intervention plan available to the public by posting it on the board's website or, if the board does not have a website, in another manner that the board considers appropriate.

Same, principal

(5) A principal of a school shall make the board's bullying prevention and intervention plan available to the public by posting it on the school's website or, if the school does not have a website, in another manner that the principal considers appropriate.

Review of plan

(6) A board shall periodically review its bullying prevention and intervention plan and shall solicit the views of those listed in subsection (3).

14. Subsection 310 (1) of the Act is amended by adding the following paragraphs:

7.1 Bullying, if,

- i. the pupil has previously been suspended for engaging in bullying, and
- ii. the pupil's continuing presence in the school creates an unacceptable risk to the safety of another person.

7.2 Any activity listed in subsection 306 (1) that is motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, gender identity, gender expression, or any other similar factor.

15. The Act is amended by adding the following section:

Reporting re suspensions and expulsions

Board's duty to report

314.5 (1) Every board shall submit annual reports to the Minister, in accordance with the policies or guidelines under subsection 301 (7.3), respecting suspensions and expulsions.

Minister's duty to post information

(2) After receiving the reports required by subsection (1), the Minister shall post on the ministry's website information about the number of reported suspensions and expulsions.

Commencement

16. (1) Subject to subsection (2), this Act comes into force on September 1, 2012.

Same

(2) Section 7 comes into force on the day this Act receives Royal Assent.

Short title

17. The short title of this Act is the *Accepting Schools Act, 2012*.

Français

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CHAPTER 6

THE PUBLIC SCHOOLS AMENDMENT ACT (SAFE AND INCLUSIVE SCHOOLS)

(Assented to September 13, 2013)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

C.C.S.M. c. P250 amended

1 *The Public Schools Act is amended by this Act.*

2 *Subsection 1(1) is amended by adding the following definition:*

"bullying" means bullying as defined in section 1.2;
(« intimidation »)

CHAPITRE 6

LOI MODIFIANT LA LOI SUR LES ÉCOLES PUBLIQUES (MILIEUX SCOLAIRES FAVORISANT LA SÉCURITÉ ET L'INCLUSIVITÉ)

(Date de sanction : 13 septembre 2013)

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative du Manitoba, édicte :

Modification du c. P250 de la C.P.L.M.

1 *La présente loi modifie la Loi sur les écoles publiques.*

2 *Le paragraphe 1(1) est modifié par adjonction, en ordre alphabétique, de la définition suivante :*

« **intimidation** » S'entend au sens de l'article 1.2.
("bullying")

3 *The following is added after section 1.1 and before Part I:*

Interpretation: "bullying"

1.2(1) In this Act, "**bullying**" is behaviour that

(a) is intended to cause, or should be known to cause, fear, intimidation, humiliation, distress or other forms of harm to another person's body, feelings, self-esteem, reputation or property; or

(b) is intended to create, or should be known to create, a negative school environment for another person.

Characteristics and forms

1.2(2) Bullying

(a) characteristically takes place in a context of a real or perceived power imbalance between the people involved and is typically, but need not be, repeated behaviour;

(b) may be direct or indirect; and

(c) may take place

(i) by any form of expression, including written, verbal or physical, or

(ii) by means of any form of electronic communication — also referred to as cyberbullying in section 47.1.2 — including social media, text messaging, instant messaging, websites or e-mail.

When does a person participate in bullying?

1.2(3) A person participates in bullying if he or she directly carries out the bullying behaviour or intentionally assists or encourages the bullying behaviour in any way.

3 *Il est ajouté, après l'article 1.1 et avant la partie I, ce qui suit :*

Sens du terme « intimidation »

1.2(1) Dans la présente loi, le terme « **intimidation** » s'entend des comportements qui ont pour but ou dont l'auteur devrait savoir qu'ils auront pour effet :

a) soit de causer à autrui de la peur, de l'intimidation, de l'humiliation, de la détresse ou tout autre préjudice, qu'il soit d'ordre corporel, émotif ou matériel ou qu'il porte atteinte à l'estime de soi ou à la réputation;

b) soit de créer un milieu négatif pour autrui à l'école.

Caractéristiques et formes

1.2(2) L'intimidation :

a) se produit de manière caractéristique dans un contexte de déséquilibre de pouvoirs, réel ou perçu, entre son auteur et la personne en faisant l'objet, et prend la forme d'un comportement généralement mais non nécessairement répété;

b) peut être directe ou indirecte;

c) peut se faire :

(i) par toute forme d'expression, qu'elle soit écrite, verbale, faciale ou gestuelle,

(ii) par tout moyen de communication électronique, y compris les médias sociaux, la messagerie texte, la messagerie instantanée, les sites Web et le courrier électronique – le type d'intimidation visé au présent sous-alinéa étant aussi appelé cyberintimidation à l'article 47.1.2.

Cadre délimitant la participation à l'intimidation

1.2(3) Participe à un acte d'intimidation la personne qui s'y livre directement ou qui délibérément y prête son assistance ou l'encourage de quelque manière que ce soit.

4(1) *Subsection 41(1) is amended*(a) *by replacing clause (b.2) with the following:*

(b.2) ensure that a written policy is established respecting the appropriate use of

(i) the Internet, including social media, text messaging, instant messaging, websites and e-mail, and

(ii) digital cameras, cell phones — including cell phones equipped with digital cameras — and any other electronic or personal communication devices identified by the board;

(b) *by adding the following after clause (b.3):*

(b.4) establish a written policy concerning respect for human diversity, and ensure that the policy is implemented in each school in the school division or school district;

4(2) *The following is added as subsections 41(1.5) to (1.8):***Appropriate use policy for Internet, etc.****41(1.5)** An appropriate use policy established under clause (1)(b.2) may include provisions that prohibit the accessing, uploading, downloading, sharing or distribution of information or material that the school board has determined to be objectionable or not in keeping with the maintenance of a positive school environment.**Respect for human diversity policy****41(1.6)** A respect for human diversity policy is to

(a) promote and enhance

(i) a safe and inclusive learning environment,

(ii) the acceptance of and respect for others, and

(iii) the creation of a positive school environment; and

4(1) *Le paragraphe 41(1) est modifié :*a) *par substitution, à l'alinéa b.2), de ce qui suit :*

b.2) établir des lignes directrices sur l'utilisation appropriée dans les écoles de ce qui suit :

(i) Internet, y compris les médias sociaux, la messagerie texte, la messagerie instantanée, les sites Web et le courrier électronique,

(ii) les appareils photo numériques, les téléphones cellulaires – y compris ceux munis d'appareils photo numériques – et les autres dispositifs électroniques et dispositifs de communications personnelles qu'elle désigne;

b) *par adjonction, après l'alinéa b.3), de ce qui suit :*

b.4) établir des lignes directrices écrites sur le respect de la diversité humaine et voir à ce que chaque école au sein de la division ou du district scolaire s'y conforme;

4(2) *Les dispositions suivantes sont ajoutées à titre de paragraphes 41(1.5) à (1.8) :***Lignes directrices sur l'utilisation appropriée d'Internet****41(1.5)** Les lignes directrices établies en vertu de l'alinéa (1)b.2) peuvent contenir des dispositions interdisant aux usagers de consulter, de télécharger en amont ou en aval, de communiquer ou de distribuer les informations et les documents que la commission scolaire catégorise comme choquants ou défavorables au maintien d'un milieu scolaire positif.**Lignes directrices sur le respect de la diversité humaine****41(1.6)** Les lignes directrices sur le respect de la diversité humaine :

a) visent à favoriser un milieu d'apprentissage sécuritaire et inclusif, l'acceptation et le respect des autres, ainsi que la création d'un milieu scolaire positif;

(b) address training for teachers and other staff about

(i) bullying prevention, and

(ii) strategies for promoting respect for human diversity and a positive school environment.

Regard for principles of human rights

41(1.7) In preparing its respect for human diversity policy, a school board must have due regard for the principles of *The Human Rights Code*.

Student activities and organizations

41(1.8) A respect for human diversity policy must accommodate pupils who want to establish and lead activities and organizations that

(a) promote

(i) gender equity,

(ii) antiracism,

(iii) the awareness and understanding of, and respect for, people who are disabled by barriers, or

(iv) the awareness and understanding of, and respect for, people of all sexual orientations and gender identities; and

(b) use the name "gay-straight alliance" or any other name that is consistent with the promotion of a positive school environment that is inclusive and accepting of all pupils.

5(1) *Subsection 47.1(2) is amended*

(a) *in subclause (b)(i.1), by striking out "*, including cyber-bullying"; and

b) portent sur la formation destinée aux enseignants et aux autres membres du personnel relativement à la prévention de l'intimidation et aux stratégies visant à favoriser le respect de la diversité humaine et un climat scolaire positif.

Principes en matière de droits de la personne

41(1.7) Dans l'élaboration de leurs lignes directrices sur le respect de la diversité humaine, les commissions scolaires tiennent dûment compte des principes relatifs au *Code des droits de la personne*.

Activités et organisations à l'intention des élèves

41(1.8) Les lignes directrices sur le respect de la diversité humaine contiennent des dispositions visant à appuyer les élèves qui désirent mettre sur pied et diriger des activités ou des organisations qui :

a) promouvoient :

(i) l'équité entre les sexes,

(ii) la lutte contre le racisme,

(iii) la sensibilisation aux personnes handicapées par des barrières, la compréhension de leur situation et le respect à leur égard,

(iv) la sensibilisation aux personnes de toutes orientations et identités sexuelles, la compréhension de leur situation et le respect à leur égard;

b) utilisent le nom « alliance gai-hétéro » ou un autre nom se prêtant à la promotion d'un milieu scolaire positif qui est inclusif et où tous les élèves se sentent acceptés.

5(1) *Le paragraphe 47.1(2) est modifié :*

a) *au sous-alinéa b)(i.1), par suppression de « , y compris la cyberintimidation »;*

(b) *by replacing clause (d) with the following:*

(d) a statement that pupils and staff must adhere to school board policies and the provisions of the code of conduct respecting the appropriate use of

(i) the Internet, including social media, text messaging, instant messaging, websites and e-mail, and

(ii) digital cameras, cell phones and other electronic or personal communication devices identified in the code of conduct or the policies of the school board; and

5(2) *Subsection 47.1(2.1) is repealed.*

6 *Clause 47.1.1(6)(b) is replaced with the following:*

(b) bullying another pupil.

7 *The following is added after section 47.1.1 and before the centred heading that follows it:*

Expanded duty to report cyberbullying

47.1.2(1) A person who is subject to a duty under subsection 47.1.1(1) must, if they become aware that a pupil of a school may have

(a) engaged in cyberbullying; or

(b) been negatively affected by cyberbullying;

report the matter to the principal of the school as soon as reasonably possible.

Application

47.1.2(2) Subsections 47.1.1(2) to (5) apply in respect of a principal who believes that a pupil of the school has been harmed as a result of cyberbullying.

b) par substitution, à l'alinéa d), de ce qui suit :

d) que les élèves et le personnel doivent se conformer aux lignes directrices de la commission scolaire et aux dispositions du code de conduite ayant trait à l'utilisation appropriée :

(i) d'Internet, y compris les médias sociaux, la messagerie texte, la messagerie instantanée, les sites Web et le courrier électronique,

(ii) des appareils photo numériques, des téléphones cellulaires et des autres dispositifs électroniques et dispositifs de communications personnelles qui sont énumérés dans les lignes directrices en cause ou dans le code de conduite;

5(2) *Le paragraphe 47.1(2.1) est abrogé.*

6 *L'alinéa 47.1.1(6)(b) est remplacé par ce qui suit :*

b) de faire subir des actes d'intimidation à un élève.

7 *Il est ajouté, après l'article 47.1.1 et avant l'entête lui succédant, ce qui suit :*

Obligation complémentaire de signalement — cyberintimidation

47.1.2(1) Si elle apprend qu'un élève pourrait s'être livré à de la cyberintimidation ou avoir subi du tort en raison de cyberintimidation, la personne assujettie à des obligations en vertu du paragraphe 47.1.1(1) doit par surcroît signaler la situation au directeur de l'école dès que raisonnablement possible.

Application

47.1.2(2) Les paragraphes 47.1.1(2) à (5) s'appliquent si le directeur de l'école estime que l'élève a subi un préjudice en raison de cyberintimidation.

8 *Subsection 48(4) is amended by striking out "welfare of the school" and substituting "school environment".*

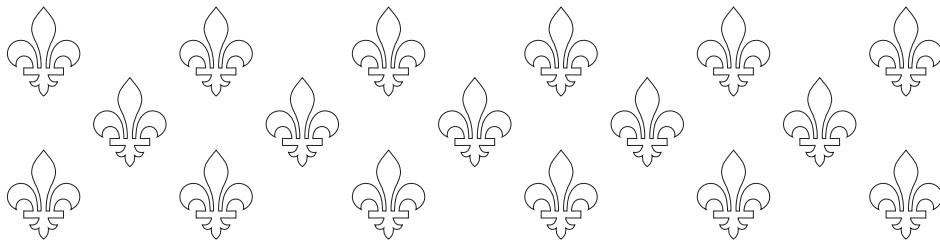
8 *Le paragraphe 48(4) est modifié par substitution, à « l'intérêt scolaire », de « l'intégrité du milieu scolaire ».*

Coming into force

9 *This Act comes into force on a day to be fixed by proclamation.*

Entrée en vigueur

9 *La présente loi entre en vigueur à la date fixée par proclamation.*



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 56
(2012, chapter 19)

An Act to prevent and stop bullying and violence in schools

Introduced 15 February 2012
Passed in principle 5 April 2012
Passed 12 June 2012
Assented to 15 June 2012

Québec Official Publisher
2012

EXPLANATORY NOTES

This Act makes amendments to the Education Act and the Act respecting private education in order to prevent and stop bullying and violence in schools.

The duties and responsibilities of the players concerned are set out, and school boards are put in charge of seeing to it that each of their schools provides a healthy and secure learning environment which allows every student to develop his or her full potential, free from any form of bullying or violence.

Every public and private educational institution will be required to adopt and implement an anti-bullying and anti-violence plan. The plan must include prevention measures to put an end to all forms of bullying and violence and measures to encourage parents to collaborate in preventing and stopping bullying and violence and in creating a healthy and secure learning environment, specify the actions to be taken and the supervisory or support measures to be offered when an act of bullying or violence is observed, determine the disciplinary sanctions applicable to bullying and violence and specify the follow-up to be given to any report or complaint concerning an act of bullying or violence.

Lastly, the Minister is granted the power, in the broad areas of learning established by the Minister, to prescribe activities or content to be integrated into the educational services provided to students.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting private education (R.S.Q., chapter E-9.1);
- Education Act (R.S.Q., chapter I-13.3).

Bill 56

AN ACT TO PREVENT AND STOP BULLYING AND VIOLENCE IN SCHOOLS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

EDUCATION ACT

1. Section 8 of the Education Act (R.S.Q., chapter I-13.3) is repealed.

2. Section 13 of the Act is amended

(1) by inserting the following paragraph after paragraph 1:

“(1.1) the word “**bullying**” means any repeated direct or indirect behaviour, comment, act or gesture, whether deliberate or not, including in cyberspace, which occurs in a context where there is a power imbalance between the persons concerned and which causes distress and injures, hurts, oppresses, intimidates or ostracizes;”;

(2) by adding the following paragraph at the end:

“(3) the word “**violence**” means any intentional demonstration of verbal, written, physical, psychological or sexual force which causes distress and injures, hurts or oppresses a person by attacking their psychological or physical integrity or well-being, or their rights or property.”

3. The Act is amended by inserting the following after section 18:

“DIVISION III

“STUDENTS’ OBLIGATIONS

“**18.1.** Students shall conduct themselves in a civil and respectful manner toward their peers and school board personnel.

They shall contribute to creating a healthy and secure learning environment. To that end, they shall take part in civics and anti-bullying and anti-violence activities held by their school.

“**18.2.** Students shall take good care of the property placed at their disposal and return it when school activities have ended.

If a student fails to take care of or return the property, the school board may claim the value of the property from the student's parents if the student is a minor, or from the student if the student is of full age."

4. The Act is amended by inserting the following sections after section 75:

"75.1. The governing board is responsible for approving the anti-bullying and anti-violence plan, and any updated version of the plan, proposed by the principal.

The main purpose of the plan must be to prevent and stop all forms of bullying and violence targeting a student, a teacher or any other school staff member.

In addition to any elements the Minister may prescribe by regulation, the plan must include

(1) an analysis of the situation prevailing at the school with respect to bullying and violence;

(2) prevention measures to put an end to all forms of bullying and violence, in particular those motivated by racism or homophobia or targeting sexual orientation, sexual identity, a handicap or a physical characteristic;

(3) measures to encourage parents to collaborate in preventing and stopping bullying and violence and in creating a healthy and secure learning environment;

(4) procedures for reporting, or registering a complaint concerning, an act of bullying or violence and, more particularly, procedures for reporting the use of social media or communication technologies for cyberbullying purposes;

(5) the actions to be taken when a student, teacher or other school staff member or any other person observes an act of bullying or violence;

(6) measures to protect the confidentiality of any report or complaint concerning an act of bullying or violence;

(7) supervisory or support measures for any student who is a victim of bullying or violence, for witnesses and for the perpetrator;

(8) specific disciplinary sanctions for acts of bullying or violence, according to their severity or repetitive nature; and

(9) the required follow-up on any report or complaint concerning an act of bullying or violence.

A document explaining the anti-bullying and anti-violence plan must be distributed to the parents. The governing board shall see to it that the wording of the document is clear and accessible.

The anti-bullying and anti-violence plan must be reviewed each year, and updated if necessary.

“75.2. The anti-bullying and anti-violence plan must specify the form and nature of the undertakings to be given by the principal to a student who is a victim of bullying or violence and to his or her parents.

It must also prescribe what action must be taken by the principal to deal with the perpetrator and his or her parents, and specify the form and nature of the undertakings they must give in order to prevent any further act of bullying or violence.

“75.3. Every school staff member shall collaborate in implementing the anti-bullying and anti-violence plan and shall see to it that no student in the school is a victim of bullying or violence.”

5. Section 76 of the Act is amended by replacing the second paragraph by the following paragraphs:

“In addition to the elements the Minister may prescribe by regulation, the rules of conduct must specify

(1) the attitudes and conduct that are required of students at all times;

(2) the behaviours and verbal or other exchanges that are prohibited at all times, including during school transportation, regardless of the means used, including social media; and

(3) the applicable disciplinary sanctions, according to the severity or repetitive nature of the prohibited act.

The rules of conduct and the safety measures must be presented to the students during a civics session held each year by the principal in collaboration with the school staff, and must be sent to the parents at the beginning of each school year.”

6. Section 77 of the Act is amended by replacing the first paragraph by the following paragraph:

“77. The plans, rules and measures provided for in sections 75 to 76 shall be developed in collaboration with the school staff.”

7. The Act is amended by inserting the following section after section 83:

“83.1. Each year, the governing board shall evaluate the results achieved by the school with respect to preventing and dealing with bullying and violence.

A document reporting on the evaluation must be distributed to the parents, the school staff and the Student Ombudsman.”

8. Section 85 of the Act is amended by adding the following paragraph at the end:

“The governing board is also responsible for approving the conditions and procedures proposed by the principal for integrating, into the educational services provided to the students, the activities or content prescribed by the Minister in the broad areas of learning.”

9. Section 96.6 of the Act is amended by inserting the following paragraph after the first paragraph:

“A further purpose of the student committee is to encourage the students to conduct themselves in a civil and respectful manner toward each other and the school staff.”

10. The Act is amended by inserting the following section after section 96.7:

“96.7.1. The principal shall, on the recommendation of the team established under section 96.12, support any group of students wishing to conduct activities conducive to preventing and stopping bullying and violence.”

11. Section 96.12 of the Act is amended by adding the following paragraphs at the end:

“The principal shall see to the implementation of the anti-bullying and anti-violence plan, and shall receive and promptly deal with all reports or complaints concerning bullying or violence.

On receiving a complaint concerning bullying or violence, and after considering the best interest of the students directly involved, the principal shall promptly communicate with their parents to inform them of the measures in the anti-bullying and anti-violence plan. The principal shall also inform them of their right to request assistance from the person specifically designated by the school board for that purpose.

For each complaint received, the principal shall send the director general of the school board a summary report on the nature of the incident and the follow-up measures taken.

The principal shall set up an anti-bullying and anti-violence team and designate a school staff member to coordinate its work as part of his or her regular duties.”

12. Section 96.13 of the Act is amended by inserting the following subparagraph after subparagraph 1.1 of the first paragraph:

“(1.2) coordinate the development, the review and, if necessary, the updating of the anti-bullying and anti-violence plan;”.

13. Section 96.21 of the Act is amended by inserting the following paragraph after the first paragraph:

“The principal shall see to it that all school staff members are informed of the school’s rules of conduct, safety measures and anti-bullying and anti-violence measures, and of the procedure to be followed when an act of bullying or violence is observed.”

14. The Act is amended by inserting the following section after section 96.26:

“96.27. The principal may suspend a student if, in the principal’s opinion, such a disciplinary sanction is necessary to put an end to acts of bullying or violence or to compel the student to comply with the school’s rules of conduct.

When determining the duration of the suspension, the principal shall take into account the student’s best interest, the severity of the incidents, and any previously taken measures.

The principal shall inform the student’s parents of the reasons for the suspension and of the assistance, remedial and reintegration measures imposed on the student.

The principal shall also inform the student’s parents that, in the event of any further act of bullying or violence, on a request by the principal to the council of commissioners under section 242, the student could be enrolled in another school or expelled from the schools of the school board.

The principal shall inform the director general of the school board of the decision to suspend the student.”

15. The Act is amended by inserting the following section after section 210:

“210.1. The school board shall see to it that each of its schools provides a healthy and secure learning environment that allows every student to develop his or her full potential, free from any form of bullying or violence. To that end, it shall support the principals of its schools in their efforts to prevent and stop bullying and violence.”

16. The Act is amended by inserting the following sections after section 214:

“214.1. A school board and each competent authority in respect of a police force in its territory shall enter into an agreement to determine how the officers of that police force will intervene in an emergency and when an act of bullying or violence is reported to them, and to establish a mode of collaboration for prevention and investigation purposes.

The Government may, by regulation, determine the essential elements and the special stipulations that the agreement must include.

In the absence of an agreement between the school board and the competent authority in respect of a police force in the territory of the school board, the Minister and the Minister of Public Security shall jointly determine how the members of the police force will intervene in an emergency and when an act of bullying or violence is reported, and establish a mode of collaboration for prevention and investigation purposes, to stand in lieu of such an agreement.

The director general of the school board shall send a copy of the agreement to the school principals and the Student Ombudsman.

“214.2. A school board shall enter into an agreement with an institution or another body in the health and social services network for the provision of services to students after an act of bullying or violence is reported. It may also enter into an agreement with a community organization operating in its territory. Any agreement under this section must stipulate, among other things, the actions to be taken jointly in such cases.

The director general of the school board shall send a copy of the agreement to the school principals and the Student Ombudsman.”

17. Section 220 of the Act is amended

(1) by inserting the following paragraph after the third paragraph:

“In the report, the school board shall state separately for each school the nature of the complaints reported to the director general of the school board by the principal under section 96.12, the measures taken and the proportion of those measures for which a complaint was filed with the Student Ombudsman.”;

(2) by adding “no later than 31 December each year” at the end of the last paragraph.

18. Section 220.2 of the Act is amended by inserting the following sentences after the first sentence of the fourth paragraph: “The report must separately list complaint referrals concerning acts of bullying or violence. It may include any recommendation the Student Ombudsman considers appropriate with respect to measures required to prevent and stop bullying and violence.”

19. Section 242 of the Act is amended by adding the following paragraphs at the end:

“The school board shall promptly decide on the principal’s request, at the latest within 10 days.

A copy of the decision is sent to the Student Ombudsman if it proves necessary to expel the student in order to put an end to acts of bullying or violence.”

20. Section 297 of the Act is amended by adding the following at the end of the third paragraph: “The contract must require the carrier to adopt measures to prevent and stop any form of bullying or violence during the transportation of students, and to inform the principal of the school concerned of any act of bullying or violence that occurs during transportation. The contract must also require the carrier to make sure, in collaboration with the school board, that the driver completes proper anti-bullying and anti-violence training as soon as possible.”

21. Section 461 of the Act is amended by inserting the following paragraph after the second paragraph:

“The Minister may, in the broad areas of learning established by the Minister, prescribe activities or content to be integrated into the educational services provided to students, and determine exemption conditions.”

ACT RESPECTING PRIVATE EDUCATION

22. Section 9 of the Act respecting private education (R.S.Q., chapter E-9.1) is replaced by the following section:

“9. In this Act,

“bullying” means any repeated direct or indirect behaviour, comment, act or gesture, whether deliberate or not, including in cyberspace, which occurs in a context where there is a power imbalance between the persons concerned and which causes distress and injures, hurts, oppresses, intimidates or ostracizes;

“school year” means the period commencing on 1 July of one year and ending on 30 June of the following year; and

“violence” means any intentional demonstration of verbal, written, physical, psychological or sexual force which causes distress and injures, hurts or oppresses a person by attacking their psychological or physical integrity or well-being, or their rights or property.”

23. Section 32 of the Act is amended by adding the following sentence at the end of the first paragraph: “The same applies with respect to the activities or content the Minister may prescribe in the broad areas of learning.”

24. The Act is amended by inserting the following sections after section 63:

“63.1. An institution providing educational services belonging to the categories listed in paragraphs 1 to 3 of section 1 must provide a healthy and secure learning environment that allows every student to develop his or her full potential, free from any form of bullying or violence. To that end, the institution must adopt an anti-bullying and anti-violence plan.

The main purpose of the plan must be to prevent and stop all forms of bullying and violence targeting a student, a teacher or any other personnel member.

In addition to any elements the Minister may prescribe by regulation, the plan must include

(1) an analysis of the situation prevailing at the institution with respect to bullying and violence;

(2) prevention measures to put an end to all forms of bullying and violence, in particular those motivated by racism or homophobia or targeting sexual orientation, sexual identity, a handicap or a physical characteristic;

(3) measures to encourage parents to collaborate in preventing and stopping bullying and violence and in creating a healthy and secure learning environment;

(4) procedures for reporting, or registering a complaint concerning, an act of bullying or violence and, more particularly, procedures for reporting the use of social media or communication technologies for cyberbullying purposes;

(5) the actions to be taken when a student, teacher or other personnel member or any other person observes an act of bullying or violence;

(6) measures to protect the confidentiality of any report or complaint concerning an act of bullying or violence;

(7) supervisory or support measures for any student who is a victim of bullying or violence, for witnesses and for the perpetrator;

(8) specific disciplinary sanctions for acts of bullying or violence, according to their severity or repetitive nature; and

(9) the required follow-up on any report or complaint concerning an act of bullying or violence.

A document explaining the anti-bullying and anti-violence plan must be distributed to the parents. The institution shall see to it that the wording of the document is clear and accessible.

The anti-bullying and anti-violence plan must be reviewed each year, and updated if necessary.

“63.2. The anti-bullying and anti-violence plan must specify the form and nature of the undertakings to be given by the institution to a student who is a victim of bullying or violence and to his or her parents.

It must also prescribe what action must be taken by the institution to deal with the perpetrator and his or her parents, and specify the form and nature of

the undertakings they must give in order to prevent any further act of bullying or violence.

“63.3. The anti-bullying and anti-violence plan must be accompanied by a document that sets out the rules of conduct and the safety measures applicable in the institution, including the obligation for students to conduct themselves in a civil and respectful manner toward their peers and the institution’s personnel, to contribute to creating a healthy and secure learning environment, and to take part in civics and anti-bullying and anti-violence activities held by the institution.

In addition to the elements the Minister may prescribe by regulation, the rules of conduct must specify

- (1) the attitudes and conduct that are required of students at all times;
- (2) the behaviours and verbal or other exchanges that are prohibited at all times, including during school transportation, regardless of the means used, including social media; and
- (3) the applicable disciplinary sanctions, according to the severity or repetitive nature of the prohibited act.

The rules of conduct and the safety measures must be presented to the students during a civics session held each year by the institution in collaboration with its personnel, and must be sent to the parents at the beginning of each school year.

“63.4. The plan, rules and measures provided for in sections 63.1 and 63.3 are prepared with the participation of the members of the institution’s personnel.

“63.5. The institution shall set up an anti-bullying and anti-violence team and designate, from among the members of its personnel, a person to coordinate its work as part of his or her regular duties.

The institution shall see to it that all the members of its personnel are informed of the institution’s rules of conduct and safety measures and anti-bullying and anti-violence measures and of the procedure to be followed when an act of bullying or violence is observed.

Every personnel member shall collaborate in implementing the anti-bullying and anti-violence plan and shall see to it that no student in the institution is a victim of bullying or violence.

On the occurrence of an act of bullying or violence, and after considering the best interest of the students directly involved, the person designated by the institution specifically for that purpose from among the members of its

management personnel shall promptly communicate with their parents to inform them of the measures in the anti-bullying and anti-violence plan.

“63.6. The institution may suspend a student if, in its opinion, such a disciplinary sanction is necessary to put an end to acts of bullying or violence or to compel the student to comply with the institution’s rules of conduct.

When determining the duration of the suspension, the institution shall take into account the student’s best interest, the severity of the incidents, and any previously taken measures.

The institution shall inform the student’s parents of the reasons for the suspension and of the assistance, remedial and reintegration measures imposed on the student.

“63.7. The institution shall, on the recommendation of the team established under section 63.5, support any group of students wishing to conduct activities conducive to preventing and stopping bullying and violence.

“63.8. Not later than 31 December, the institution shall send the Minister a yearly report which states the nature of the complaints reported to the institution and the measures taken.

“63.9. The institution and each competent authority in respect of a police force in its territory shall enter into an agreement to determine how the officers of that police force will intervene in an emergency and when an act of bullying or violence is reported to them, and to establish a mode of collaboration for prevention and investigation purposes.

The Government may, by regulation, determine the essential elements and the special stipulations that the agreement must include.

In the absence of an agreement between the institution and the competent authority in respect of a police force in the territory of the institution, the Minister and the Minister of Public Security shall jointly determine how the members of the police force will intervene in an emergency and when an act of bullying or violence is reported, and establish a mode of collaboration for prevention and investigation purposes, to stand in lieu of such an agreement.

“63.10. The institution shall enter into an agreement with an institution or another body in the health and social services network for the provision of services to students after an act of bullying or violence is reported. It may also enter into an agreement with a community organization operating in its territory. Any agreement under this section must stipulate, among other things, the actions to be taken jointly in such cases.”

TRANSITIONAL AND FINAL PROVISIONS

25. The agreements described in sections 16 and 24 must be entered into before the date that occurs 12 months after the date of coming into force of the government regulations made under the provisions introduced by those sections.

26. Any agreement entered into before 15 June 2012 for purposes similar to those set out in sections 16 and 24 ceases to apply on the earlier of

(1) the date of its expiration; and

(2) the date that is 12 months after the coming into force of the government regulations made under the provisions introduced by those sections.

27. The first anti-bullying and anti-violence plan and the first rules of conduct and safety measures prepared in accordance with this Act must, in the case of a school, be approved by its governing board and, in the case of a private educational institution, be adopted by the institution at the latest on 31 December 2012.

28. This Act comes into force on 15 June 2012.

E.T.

Applicant

v.

Hamilton-Wentworth District School Board

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceedings commenced at Hamilton

**FACTUM OF THE INTERVENER,
ATTORNEY GENERAL OF
ONTARIO**

ATTORNEY GENERAL OF ONTARIO

Constitutional Law Branch

Civil Law Division

4th Floor, 720 Bay Street

Toronto, ON M7A 2S9

Josh Hunter / Emily Bala

LSUC No. 49037M / 62458I

Tel: (416) 326-3840 / (416) 326-4473

Fax: (416) 326-4015

Email: joshua.hunter@ontario.ca

/ emily.bala@ontario.ca

Emily Bala (LSUC #62458I)

Tel: (416) 326-4473

Email: Emily.Bala@ontario.ca

Fax: (416) 326-4015

Counsel for the Intervener,
the Attorney General of Ontario