

Bill 157: Reporting and responding to serious incidents in schools

On June 1, 2009, the Ontario government passed Bill 157, the *Education Amendment Act (Keeping Our Kids Safe at School) 2009* which amends Part XIII (Behaviour, Discipline and Safety) of the *Education Act*. The Bill 157 provisions are scheduled to come into force on February 1, 2010. The Legislature's stated objective is to address reporting gaps between teachers, principals and parents about serious student incidents that could lead to suspension or expulsion.

The Bill 157 amendments will make it mandatory for school staff to report violent incidents to the school principal. School principals will be required to notify the parents of students who are victims of serious incidents. The new provisions are the first of their kind in Canada and follow in the wake of a study from the Safe Schools Task Force which investigated gender-based violence, homophobia, and sexual harassment in Ontario schools.

REPORTING TO THE PRINCIPAL

Under Bill 157, employees of school boards will be required to report to the principal, as soon as is reasonably possible, after becoming aware that a student may have engaged in any of the activities listed in subsections 306(1) or 310(1) of Part XIII of the *Education Act*. These activities, listed below, are those that result in a possible suspension or a possible expulsion, respectively.

Subsection 306(1) of the *Education Act* Activities leading to possible suspension

- Uttering a threat to inflict serious bodily harm on another person.
- Possessing alcohol or illegal drugs.
- Being under the influence of alcohol.
- Swearing at a teacher or at another person in a position of authority.
- Committing an act of vandalism that causes extensive damage to school property at the pupil's school or to property located on the premises of the pupil's school.
- Bullying.
- Any other activity that is an activity for which a principal may suspend a pupil under a policy of the board.

Subsection 310(1) of the *Education Act* Activities leading to possible expulsion

- Possessing a weapon, including possessing a firearm.
- Using a weapon to cause or threaten bodily harm to another person.
- Committing physical assault on another person that causes bodily harm requiring treatment by a medical practitioner.
- Committing sexual assault.
- Trafficking in weapons or in illegal drugs.
- Committing robbery.
- Giving alcohol to a minor.
- Any other activity that, under a policy of a board, is an activity for which a principal must suspend a pupil and, therefore in accordance with this Part, conduct an investigation to determine whether to recommend to the board that the pupil be expelled.

NOTICE TO THE PARENT

In addition to ensuring that serious incidents are reported within the schools, Bill 157 also aims to ensure that parents are kept aware of such incidents. Where a principal believes that a student of the school has been harmed as a result of any of the activities listed above, the principal will be required to notify the student's parent or guardian as soon as is reasonably possible. In notifying the parent or guardian, the principal must disclose:

- the nature of the activity that resulted in harm to the pupil;
- the nature of the harm to the pupil; and
- the steps taken to protect the pupil's safety, including the nature of any disciplinary measures taken in response to the activity.

The principal is not, however, permitted to disclose the name or other personal information of the student that engaged in the activity, except to the extent necessary to comply with the above requirements. If the student that suffered the harm is 18 years or older, or is 16 or older and has withdrawn from parental control, the principal requires the student's consent before notifying the parent or guardian. Furthermore, Bill 157 prohibits the principal from notifying the parent or guardian where the principal is of the opinion that such notification may put the student at risk of harm from the parent or guardian.

RESPONDING TO INAPPROPRIATE OR DISRESPECTFUL BEHAVIOUR AMONG STUDENTS

Bill 157 also provides that the Minister of Education may establish policies and guidelines for appropriate responses to inappropriate or disrespectful behaviour. The Minister may also require school boards to develop their own policies and guidelines, which must be consistent with those of the Minister. Under Bill 157, where a school staff member observes behaviour "that is likely to have a negative impact on the school climate" the staff member will be required to respond in accordance with the policies and guidelines established by the board and the Minister.

DELEGATION OF PRINCIPAL'S FUNCTIONS

The Bill 157 amendments will permit a principal to delegate in writing all of his or her powers, duties, and functions, under Part XIII of the *Education Act*, to a vice-principal or teacher. The delegation may be subject to restrictions, limitations and conditions. The amendments will require school boards to establish policies and guidelines relating to such delegations. The policies and guidelines must be consistent with any that may be developed by the Minister of Education. Teachers will be permitted to act under the delegation only if the principal and the vice-principal are absent from the school.

In Our View

To a large extent the Bill 157 amendments codify many of the existing practices currently employed within schools, such as the internal reporting between teachers and principals. The new legislation will however expand the legislated duties of principals. Previously, principals were required to notify parents or guardians following the suspension or expulsion of pupils. Under the Bill 157 amendments, this duty will be expanded to require school principals to also notify the parents or guardians of the victims of incidents that lead to suspension or expulsion.

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