



Proposed amendments to Bill 157 – Education Act. Submitted May 4, 2009

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, as soon as reasonably possible, report to the principal of the school about the matter.

LABC recommends changing the wording from “as soon as reasonably possible” to “within 24 hours.” LABC also recommends changing the word “shall” to “must”. This wording should be changed throughout the entire document including amendments. “Must” implies consequences for not following through. “Shall” has too much discretion. If the board employee does not report the incident even though policy, legislation, and procedures say they must, it is our position that the legislation should reflect consequences for failing to perform up to standards.

Same

(2) Subsection (1) does not require an employee to report to a principal about a matter if the employee,

(a) knows that a report has already been made to the principal about the matter;
and

(b) has no reason to believe that his or her report would provide the principal with useful additional information.

LABC recommends Subsection 2 (a and b) be removed. The rationale being each staff has different schedules making communication difficult at best; we feel it is in the best interest of the students if all incidents are reported. There would be no possible way of guaranteeing that the information wouldn't be useful or that the principal was already aware. This seems like an "off the hook clause". If a teacher doesn't report to the Principal they could declare, "I thought he/she was already aware" or "I didn't believe that I had any additional information."

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 the parent or guardian of the pupil.

LABC recommends changing the wording from "as soon as reasonably possible" to "within 24 hours." LABC also recommends changing the word "shall" to "must". This wording should be changed throughout the entire document including amendments. "Must" implies consequences for not following through. "Shall" has too much discretion. If the board employee does not report the incident even though policy, legislation, and procedures say they must, it is our position that the legislation should reflect consequences for failing to perform up to standards.

LABC recommends that the Police are contacted in any serious incident. Bullying is actually Criminal Harassment and must be treated as such. It is our position that a clear understanding of the difference between conflict and bullying be clearly understood by all and that actual bullying be added to the list of serious incidents which are to be reported to the police.

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.

LABC recommends that parents of 18 year olds, where the child is still in the primary control and care of his parents, have the right to know. It is still the parents' tax dollars that are supporting their child's education.

LABC recommends that b) be amended to reflect "in the case where a 16 or 17 year old child has withdrawn from parental control, the guardian or trustee of child must be notified".

If the board employee does not report the incident even though policy, legislation, and procedures say they must, it is our position that the legislation should reflect consequences for failing to perform up to standards.

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.

LABC would like clarification of the following points: What guidelines would be followed to determine if a pupil was at risk? It is difficult for Principals to know the names or circumstances of the majority of their students. Most students would request that their parents not be contacted. We believe a Social Worker would be the best to determine the child's risk factors. We strongly support the inclusion of a Social Worker in our schools. The SW could also facilitate the anonymous reporting procedure that so many of our students have requested.

Same

(4) When notifying a parent or guardian of a pupil under this section, 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; and

(c) the steps taken to protect the pupil's safety, including the nature of any disciplinary measures taken in response to the activity.

LABC strongly supports this section. Victims and parents are pleased to note that the consequences for the offence will be available information to them.

LABC strongly supports mandating attendance to the "alternative programs" established to provide intervention for students heading in the wrong direction. The introduction of non-academic supports in one-day suspensions will prevent youth from accumulating longer suspensions in the future. These programs have been mandatorily established and the students who are suspended should be mandated to attend. During correspondence with the Minister's office on this matter, we were advised that mandated programs were not successful. LABC believes if 40 hours of community service at the Secondary School level can be mandated in order to

receive your diploma, attendance at these programs, both elementary and secondary, must be mandated in order to successfully complete your diploma. The reintegration plan for the suspended youth must contain a plan for ensuring the safety of the victim. If the safety of the victim is not considered prior to the reintegration, the legislation should reflect consequences for failing to protect the victim.

Same

(5) When notifying a parent or guardian under this section, 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).

LABC strongly supports this section. Parents never required the name of the aggressor. Their children relayed that information to them.

Intervention by board employees

300.4 (1) If the Minister has established policies or guidelines under subsection 301 (5.4), 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 intervene in accordance with those policies and guidelines and in accordance with any policies and guidelines established by the board under subsection 302 (3.1).

LABC supports inclusion of wording to reflect the victim. Who is watching out for the students impacted by abuse? Do we need legislation to compel teachers to report a child crying all alone on the playground? If so, mandate them to note impacted pupils, report it to the Principal and begin the process of wrapping services and support around them. Each bullying incident should be treated like an insurance claim. A file needs to be started with consistent entries noting steps taken to resolve the issue. If the board employee does not intervene even though policy, legislation, and procedures say they must, it is our position that the

legislation should reflect consequences for failing to perform up to standards.

Exception

(2) Subsection (1) does not apply in circumstances set out in a regulation made under clause

Exception

(2) Subsection (1) does not apply in circumstances set out in a regulation made under clause 316 (1) (c).

2. Section 301 of the Act is amended by adding the following subsections:

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.

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.

LABC recommends changing the wording from “as soon as reasonably possible” to “within 24 hours.” LABC also recommends changing the word “shall” to “must”. This wording should be changed throughout the entire document including amendments. “Must” implies consequences for not following through. “Shall” has too much discretion.

Non-board employees should also be charged with watching out for the victim and reporting their concerns. Parent’s often hear the phrase, “we can’t consequence what we didn’t witness”. Look for the impacted child and start the process anyway.

LABC seeks clarification on the following point: Is the parent who reports their concerns considered a non-board employee? What recourse is there when a report to administration of their school is not documented, not followed through on, and/or is dealt with in a manner not meeting legislative standards. Our parents report that when they deal with their administration, they are made to feel like they are the problem. Even with the training our administration has participated in, our parents report comments such as; boys will be boys, your child needs to grow a thicker skin, your child is an evocative victim, what do you want me to do about it, or, my hands are tied. Who does the parent go to when their first line of defense lets them down in this manner? Our experience has shown that the boards do not intervene as they don't micro manage their principals, and that the Ministry does not intervene as they don't micro manage their boards. Legislation must include consequences and a final place for the buck to stop.

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
- (c) providing services to a person who provides goods or services to the board.

Same, governing intervention by board employees

(5.4) The Minister may establish policies and guidelines with respect to intervention under section 300.4 by employees of a board, including but not limited to policies and guidelines with respect to the kinds of intervention that are appropriate.

LABC recommends changing the wording to reflect “must” not “may”.

3. (1) Section 302 of the Act is amended by adding the following subsection:

Board policies and guidelines

Delegation by principals

(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.

(2) Section 302 of the Act is amended by adding the following subsection:

Same, governing intervention by board employees

(3.1) A board may establish policies and guidelines with respect to intervention under section 300.4 by employees of a board, including but not limited to policies and guidelines with respect to the kinds of intervention 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.

LABC recommends changing the wording to reflect “must” not “may”. These policies must include consequences for failing to perform up to standards.

4. Subsection 316 (1) of the Act is amended by adding the following clause:

(c) setting out circumstances in which employees are not required to intervene under section 300.4.

Commencement

5. This Act comes into force on February 1, 2010.

LABC recommends this act come into force September 2009.

LABC in reviewing Bill 212, Bill 157 and the Education Act have noted that all efforts are focused on assisting the aggressor to remain in their home school and obtain a successful education while the victim is not mentioned. Many of our parents report that they were encouraged to seek education elsewhere. Why must the victim relocate? What about removing the aggressor from the school? If all efforts at curbing the aggressors' behaviour fail, a special program (such as the programs already mandated) should be recommended. LABC has reason to believe that a great deal of the school enrollment decline is linked to parents removing their children from the public system in their efforts to keep them safe.

LABC notes that all efforts to date focus on student-on-student behaviour and do not reflect the fact that our parents report inappropriate sexual, bullying, and discriminatory behaviour by staff at their schools. In 2004, the McGuinty government based on Justice Sydney Robin's report tasked the Safe Schools Action Team to look at this issue of sexual misconduct in Ontario Schools. When can our parents expect this report? There are continuous hearings at the Ontario College of Teachers re: inappropriate behaviour on the part of teachers. This is not all about student/student. Our kids need to know they have someplace to turn when it is their "teacher" who is harassing them, sexually or otherwise. We teach our kids to turn to their teachers, but how do they trust anyone, when that trust is the one being violated.

Short title

6. The short title of this Act is the Education Amendment Act (Keeping Our Kids Safe at School), 2009.

EXPLANATORY NOTE

The Bill amends Part XIII (Behaviour, Discipline and Safety) of the Education Act as follows:

Section 1 of the Bill adds sections 300.1 to 300.4 to the Part. Section 300.1 permits the principal of a school to delegate his or her powers, duties and functions under the Part. Section 300.2 requires board employees who become aware that a pupil may have engaged in an activity listed in subsection 306 (1) or 310 (1) of the Act to report on the matter to the principal. Subsection 300.3 (1) requires a principal who believes that a pupil has been harmed as a result of an activity listed in subsection 306 (1) or 310 (1) of the Act to notify the parent or guardian of the pupil. Subsections 300.3 (2) and (3) set out exceptions to this requirement. Subsection 300.3 (4) and (5) set out what the principal shall and shall not disclose when notifying a parent or guardian under the section. Section 300.4 requires board employees who observe a pupil behaving in a way that is likely to have a negative impact on the school climate to intervene in accordance with policies and guidelines established under sections 301 and 302.

Section 2 of the Bill adds subsections (5.1) to (5.4) to section 301 of the Act. Subsection (5.1) permits the Minister to establish policies and guidelines governing delegation by principals under section 300.1. Subsections (5.2) and (5.3) permit the Minister to establish policies and guidelines requiring certain individuals who are not board employees but who come into contact with pupils of a board on a regular basis to report to the principal if they become aware that a pupil may have engaged in an activity listed in subsection 306 (1) or 310 (1) of the Act. Subsection (5.4) permits the Minister to establish policies and guidelines respecting intervention by board employees under section 300.4 of the Act.

Section 3 of the Bill adds subsections (0.1) and (3.1) to section 302 of the Act. Subsection (0.1) requires boards to establish policies and guidelines governing delegation by principals under section 300.1. Subsection (3.1) permits boards to establish policies and guidelines respecting intervention by board employees under section 300.4 of the Act. In each case, board policies and guidelines must be consistent with policies and guidelines established by the Minister under section 301 and must address such matters and include such requirements as the Minister may specify.

Section 4 of the Bill adds clause (c) to subsection 316 (1) of the Act, authorizing the Minister to make regulations setting out circumstances in which employees are not required to intervene under section 300.4.

Section 5 of the Bill provides that it comes into force on February 1, 2010.