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**Official Report  
of Debates  
(Hansard)**

**Tuesday 12 May 2009**

**Journal  
des débats  
(Hansard)**

**Mardi 12 mai 2009**

**Standing Committee on  
Social Policy**

Education Amendment Act  
(Keeping Our Kids Safe  
at School), 2009

**Comité permanent de  
la politique sociale**

Loi de 2009 modifiant  
la Loi sur l'éducation  
(sécurité de nos enfants  
à l'école)

Chair: Shafiq Qadri  
Clerk: Katch Koch

Président : Shafiq Qadri  
Greffier : Katch Koch

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
SOCIAL POLICY**

**COMITÉ PERMANENT DE  
LA POLITIQUE SOCIALE**

Tuesday 12 May 2009

Mardi 12 mai 2009

*The committee met at 1541 in committee room 1.*

**EDUCATION AMENDMENT ACT  
(KEEPING OUR KIDS SAFE  
AT SCHOOL), 2009**

**LOI DE 2009 MODIFIANT  
LA LOI SUR L'ÉDUCATION  
(SÉCURITÉ DE NOS ENFANTS  
À L'ÉCOLE)**

Consideration of Bill 157, An Act to amend the Education Act / Projet de loi 157, Loi modifiant la Loi sur l'éducation.

**The Chair (Mr. Shafiq Qaadri):** Colleagues, ladies and gentlemen, I welcome you to clause-by-clause consideration of Bill 157, An Act to amend the Education Act. If there's no further business before the committee, we'll invite amendment number 1, by the NDP. Mr. Marchese.

**Mr. Rosario Marchese:** I move that section 300.1 of the Education Act, as set out in section 1 of the bill, be amended by adding the following subsections:

"Same

"(5) A delegation under this section shall be in accordance with any collective agreements in effect at the time of the delegation.

"Same

"(6) A delegation under this section shall be made from a list of employees who have volunteered for delegation.

"Same

"(7) If one or both of the requirements set out in subsections (5) and (6) cannot be met, the delegation shall be made from a list of experienced administrators that the board creates for the purpose."

Mr. Chair, we think this is a very proactive amendment that is useful, based on what we heard. We also hear from many teachers that a lot of principals are outside of the classroom far too often, sometimes more than they should be, and I think we need to worry about their absences from the classroom. These amendments help to deal with that. So (5), in terms of the argument we want to make, is that we would actually prefer the schools never be left without an administrator. That's the logic under which we're operating in terms of why we're proposing that section.

Many collective agreements have articles dealing with the concept of a teacher in charge, in terms of coverage of classes and planning and preparation time, and we feel that any proposed legislation must respect these agreements.

In terms of the reasoning we put to the delegation on "This section shall be made from a list of employees who have volunteered for delegation," this would ensure that the position is filled by employees who feel they have the experience required. We feel that this amendment will greatly improve the probability of success should such delegation of responsibility be required.

The reasoning for "(7) If one or both of the requirements set out in subsections (5) and (6) cannot be met, the delegation shall be made from a list of experienced administrators that the board creates for the purpose": The argument is that meetings for administrators should take place as much as possible outside of school hours, not during the school day. We understand that sometimes there have to be meetings during the school day, but if it does happen, it should be infrequent. The argument we make is that if a supply teacher can be provided to replace an absent teacher, then a supply administrator can be provided to replace an absent principal or vice-principal. So the board should create a supply list made up of retired principals and vice-principals whom you can call upon if and when a principal is required to be in a meeting that's in the day, that you then create such a list for administrators who have that experience to fill in.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Marchese. Any further comments?

**Mrs. Liz Sandals:** Yes, thank you. First off, I would like to say that within the delegation subsection we have—or will have when we finish amending, I would hope—authority to do regulations and policy so that we can flesh out a lot of detail around this in the policy sections.

Secondly, I'm not aware that anything we're doing would in fact override any collective agreement, because the delegation powers, as currently constituted, I don't think say anything about collective agreements per se.

But most importantly, we really have to be cognizant, when we're amending the Education Act, that we have to create a law that will work in any school in Ontario. Let me give you a scenario which in my experience is not unusual. You have a small elementary school in a rural community. Maybe you've got 50 or 60 kids. You've got

a principal who is part-time. Maybe part of the time they are formally being the principal and the rest of the time they're being the librarian and the special-education resource withdrawal teacher, but they're normally in the school most of the time. And then you get some day at recess when some little kiddie gets hurt, and you call emergency services, and the volunteer fire department comes, and eventually the ambulance gets there. In the meantime, the principal has been trying to track down mom and dad, because it may be 45 minutes or an hour to the hospital. What you find is that dad's off in the bush in a logging camp or something, and nobody can track down mom. So the principal at that point is left with a decision, and that decision should quite rightly be in the best interests of the child. You can't dispatch some little kid off all alone in the ambulance; somebody needs to go. But somebody needs to stay with the other kids and teach the classes. So at that point the principal is likely to say, "I'm going to have to go with the kid," and point to the most experienced teacher in the school and say, "You carry on. I've got to go."

At that point, whether or not somebody has, under a collective agreement, volunteered to do this is, quite frankly, not the thing that's top of mind. Certainly a supply list of retired principals—although you might have one who's willing to step in, given advanced notice, they're not available to step in in an emergency. Principals, although you might have one who's willing to step in given advanced notice, are not available to step in in an emergency. Principals really need the flexibility to respond to the situation as it occurs. If we fix the scheme that is set out here in legislative language—because there's nothing that says, "Except in the case of an emergency situation." It just says that this is the way it unfolds. Unfortunately, because of that, this might work in urban situations when you've got advanced planning, but it isn't going to work in a lot of situations when you've got an emergency.

**The Chair (Mr. Shafiq Qadri):** Mr. Marchese.

**Mr. Rosario Marchese:** I don't agree with Ms. Sandals. I understand the case she makes, but she failed to make reference to (6), where we say, "A delegation under this section shall be made from a list of employees who have volunteered for delegation." You've got two scenarios: one, where you have a list of teachers, experienced ones, who are willing to be delegated; and then you've got the other, subsection (7), which also says that you've got a list of administrators you can call upon. You either have one or the other, so if you have both of those two sections that I referred to, you should be safe in being able to delegate from a list that you already have and/or calling an administrator. This is a generalized kind of plan, an approach that isn't just for a community in Toronto. I think it fits all communities across Ontario.

**The Chair (Mr. Shafiq Qadri):** Are there any further comments, questions, rebuttals, cross-examinations? Ms. Sandals.

**Mrs. Liz Sandals:** I guess simply that in Mr. Marchese's remarks, he's assuming that there will be volunteers, and

given that you may have a situation where you've only got two or three teachers, I can't guarantee there would be volunteers. If there are no volunteers currently on the list, you would be less—in having to refer to (7), which is untenable in an emergency situation.

**Mr. Rosario Marchese:** On a recorded vote, just in case we lose sight of that.

#### Ayes

Marchese, Savoline, Shurman.

#### Nays

Craitor, Dhillon, Jaczek, Ramal, Sandals.

**The Chair (Mr. Shafiq Qadri):** I declare NDP motion 1 defeated.

Government motion two, Ms. Sandals.

**Mrs. Liz Sandals:** I move that subsection 300.2(2) of the act, as set out in section 1 of the bill, be struck out.

If I could just explain that, the sections we're deleting refer to the situation where an employee is reporting some sort of unacceptable behaviour to the principal. The current bill exempts an employee from reporting that to the principal if the employee knows that a report has already been made to the principal about the matter and has no reason to believe that his or her report would provide the principal with useful additional information.

We heard at committee hearings from the unions that they were uncomfortable with determining how they would know whether somebody else had made a report, and whether or not they actually had additional information. We heard from principals and supervisory officers that they would rather hear the report from everyone and sort out what was most useful. We listened to what was said at the hearings. We were trying to be helpful. It seems that this is not helpful, so we're suggesting that we delete those exemptions. So the effect of this deletion will be that every employee is required to report the information to the principal.

**The Chair (Mr. Shafiq Qadri):** Mr. Marchese.

**Mr. Rosario Marchese:** I just want to say that we did have a number of people talk about this, particularly CUPE, and it wasn't that they were uncomfortable, it was that they said on every incident they would have to fill out a whole lot of paperwork for everything that happened, because there was no way to make sure that (a) or (b) of that section would properly reflect them or properly protect them. They would have to write down everything that happened, and it seemed unreasonable; rather than make the unions uncomfortable, it was an unreasonable request. I just want to say that here is an instance where government sometimes listens to delegations and they remove a section. In this particular section, I want to compliment the government, because they listened and they did well by striking it out.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Marchese. Ms. Savoline.

**Mrs. Joyce Savoline:** I guess this is going to be a love-in, because we do appreciate the government bringing this amendment forward. The students should be our focus in all of this, and I think what this does is not allow us to assume anything in regard to the safety of a student. So regardless of an employee reporting, it shouldn't matter how many employees report or whether they think it's something that should be reportable. That free flow of information to the ultimate authority in that school, which is the principal, I think is what this allows. So I appreciate the government striking this part.

**The Chair (Mr. Shafiq Qaadri):** Any further comments? Seeing none, I'll proceed to the vote. Those in favour of government motion 2? With none opposed, motion 2 is carried.

We are now waiting for a photocopy of a hot-off-the-press, fresh amendment to be proposed by the PC side by Mr. Shurman.

*Interjection.*

**The Chair (Mr. Shafiq Qaadri):** We'll have a five-minute recess for the administration to happen.

*The committee recessed from 1554 to 1556.*

**The Chair (Mr. Shafiq Qaadri):** I now invite Mr. Shurman to present amendment 2.1 from the PC side.

**Mr. Peter Shurman:** I move that section 300.3 of the act, as set out in section 1 of the bill, be amended by adding the following subsections:

"Same

"(3.1) The principal shall not form the opinion referred to in subsection (3) without consulting with one or more of the following:

"1. The director of education;

"2. The local police department;

"3. The appropriate children's aid society."

If we go back to the hearings, this is about the issue of a principal having absolute power, or some other power, to report back to parents. It particularly referred to parents where there was some kind of record of which the principal was aware that harm might come to the child by reporting to the parent.

Our caucus is very strong on the fact that the power resting with the principal should not be absolute, because there are plenty of recorded examples of principals who are abusive. In one case, we heard about a principal who was a convicted sex offender. So we want a duty on the part of the principal, where there is a question, to have to consult with one or more of the named authorities.

**The Chair (Mr. Shafiq Qaadri):** Comments? Mr. Marchese, and then Ms. Sandals.

**Mr. Rosario Marchese:** I'll go after Ms. Sandals.

**The Chair (Mr. Shafiq Qaadri):** Ms. Sandals.

**Mrs. Liz Sandals:** I've lost track of where we've already got the regulatory authority, but we will be putting forth regulations and policies that give principals direction in terms of needing to consult. I'm very loath to tie the principal down to having to consult with the director of education, which will become clear in my comments on the next PC amendment, so I'm not going to walk through all of that now.

If I were going to have my druthers, it would probably be the supervisory officer for the school that the principal should be consulting with. But I believe that the best place to put that is in the policy guidelines around how to handle this.

**The Chair (Mr. Shafiq Qaadri):** Mr. Marchese, and then Ms. Savoline.

**Mr. Rosario Marchese:** I was actually going to propose a friendly amendment to add "superintendent," because it's very difficult to talk to the director on almost anything.

I know this is a very serious issue, but I think that even the ability to talk to a superintendent gives enough oversight that you're covered in terms of what you want to achieve. I don't think you should be consulting all these people all the time, but if you have "superintendent," it allows the principal to be—I'm not sure Ms. Sandals is listening; I'd rather wait.

**Mr. Peter Shurman:** It's not going to matter.

**Mr. Rosario Marchese:** I was actually going to propose that we add "superintendent" to that list as a friendly amendment.

**Mrs. Liz Sandals:** If I may, I would still prefer to see that in the policy guidelines. I think we're making up direction that is quite significant on the spot.

**Mr. Rosario Marchese:** I've got it. So you'll be opposing it?

**Mrs. Liz Sandals:** I would rather see this go in policy guidelines.

**Mr. Rosario Marchese:** If I can recommend a friendly amendment, do you accept the addition of "superintendent"?

**Mr. Peter Shurman:** I absolutely accept it.

**Mr. Rosario Marchese:** That would be my amendment to the motion, Mr. Chair.

**The Chair (Mr. Shafiq Qaadri):** I will now ask the committee to vote on the amendment to the amendment.

**Mr. Rosario Marchese:** A recorded vote.

**The Chair (Mr. Shafiq Qaadri):** Before we do so, Mr. Marchese, could you specifically tell us—

**Mr. Rosario Marchese:** Yes.

"(3.1) The principal shall not form the opinion referred to in subsection (3) without consulting with one or more of the following:

"(1) Superintendent

"(2) The director of education

"(3) The local police department

"(4) The appropriate the children's aid society."

I am adding "superintendent" to that list.

**The Chair (Mr. Shafiq Qaadri):** To be clear, (1) is "Superintendent." I presume all members can follow that.

**Mr. Rosario Marchese:** A recorded vote, Mr. Chair.

**The Chair (Mr. Shafiq Qaadri):** All those in favour of the amendment to the amendment?

**Ayes**

Marchese, Savoline, Shurman.

**The Chair (Mr. Shafiq Qaadri):** All those opposed? Carried.

**Mrs. Liz Sandals:** And now the main motion.

**The Chair (Mr. Shafiq Qaadri):** Yes, but we have Ms. Savoline.

**Mrs. Joyce Savoline:** I would hope we could support this, and I understand what Ms. Sandals is saying: that there is yet process to continue. But when we were here last week, we clearly heard from the parents that this is about accountability and how we inject that accountability. I think they need to see it in the bill, and I think it needs to be in the bill so that the message goes forward to those people forming the policies and regulations that are going to expand—that's what policies and regulations are; they're an expansion of the intent of what is written in the bill. I would hope we could include this, especially since Ms. Sandals is saying that this kind of thing will be rolled into policies and regulations.

Let's not leave it to chance. Let's let those who have already suffered and those who may be on the verge of having to deal with these horrible, horrible issues in their lives see that we're here and we're serious about clearing up a process that has been somewhat vague. I just don't see the harm in seeing it in the bill, and showing and proving that accountability up front, so that the writers of the policies and regulations can then go off and have a clear direction from this committee. That's our job here: to give direction to those writers about what they're supposed to be writing about.

**The Chair (Mr. Shafiq Qaadri):** Are there any further comments?

**Mr. Rosario Marchese:** Recorded vote.

**The Chair (Mr. Shafiq Qaadri):** To be clear, we're now voting on PC amendment 2.1, as amended.

#### Ayes

Marchese, Savoline, Shurman.

#### Nays

Craitor, Dhillon, Jaczek, Ramal, Sandals.

**The Chair (Mr. Shafiq Qaadri):** I declare 2.1 defeated.

**Mrs. Liz Sandals:** Chair, people keep coming and trying to give me procedural information while I'm trying to follow—

**The Chair (Mr. Shafiq Qaadri):** You should feel very privileged, Ms. Sandals.

**Mrs. Liz Sandals:** If there is a need to sort out procedure, I wonder if we could take a five-minute recess, instead of me trying to listen to two conversations at once.

**The Chair (Mr. Shafiq Qaadri):** Would the committee be willing to break for five minutes for procedural issues?

You have your recess, Ms. Sandals.

**Mrs. Liz Sandals:** Thank you.

*The committee recessed from 1604 to 1606.*

**The Chair (Mr. Shafiq Qaadri):** The committee will reconvene. I believe we are now going to invite Ms. Savoline to present PC motion 3.

**Mrs. Joyce Savoline:** I move that section 1 of the bill be amended by adding the following sections to the act:

“Other notice

“300.3.1 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 chair of the board;

“(b) the director of education of the board;

“(c) the appropriate police department; and

“(d) if the activity is sexual in nature, the appropriate children's aid society.”

Once again, this speaks to the accountability portion that we're trying to establish in Bill 157, and we feel that these things need to be clearly stated in the bill in order for that to happen and then, as it moves through its process, so that there's clear direction to the writers of regulation and policy.

**The Chair (Mr. Shafiq Qaadri):** Further commentary? Mr. Marchese and then Ms. Sandals, or the reverse.

**Mr. Rosario Marchese:** Go ahead.

**Mrs. Liz Sandals:** Just to be clear, we're dealing with this separated?

**Mrs. Joyce Savoline:** I can do them all at the same time.

**Mrs. Liz Sandals:** Well, I don't care. I just need to know.

**Mr. Rosario Marchese:** Sorry, “separated” meaning? Did you just stop? Joyce, you just read a portion of it? It's the whole motion. You've got to read the whole thing.

**Mrs. Joyce Savoline:** Okay. I'm still back in my municipal life where we would do it a section at a time so that—

**Mr. Rosario Marchese:** No. It's one motion.

**Mrs. Liz Sandals:** That's why I'm confused.

**Mrs. Joyce Savoline:** Thank you, Ms. Sandals.

“Safety plan

“300.3.2(1) 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, develop a written safety plan for the harmed pupil and implement the plan.

“Same

“(2) When developing a safety plan for a pupil, the principal shall consult with teachers who in the principal's opinion are likely to have insight into what would constitute a helpful and appropriate plan for the pupil.

“Same

“(3) Except where subsection 300.3(3) applies, when developing a safety plan for a pupil, the principal shall also consult with the parent or guardian of the pupil.

“Documentation by principal

“300.3.3 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 maintain written documentation,

“(a) describing the activity and the harm;

“(b) describing the actions taken in response to the activity and the harm; and

“(c) setting out the reasons for the actions taken in response to the activity and the harm.”

I need direction. I have something to add to that line. Can I add it now?

**Ms. Mariam Leitman:** You’re adding it as a closing flush after clause (c).

**Mrs. Joyce Savoline:** Thank you.

“And shall file the documentation with the director of education.”

It needs to be in two places for accountability.

“Offence

“300.3.4(1) A person who fails to comply with section 300.3, 300.3.1, 300.3.2 or 300.3.3 is guilty of an offence.

“Same

“(2) A person convicted of an offence under subsection (1) is liable to a fine of not more than \$1,000.”

**The Chair (Mr. Shafiq Qadri):** Are there any comments? Ms. Sandals.

**Mrs. Liz Sandals:** When we look at 300.3.1, just to note that the requirement that’s being proposed for the principal here is essentially around all offences that could lead to either suspension or expulsion. For example, under 300.3.1, we would now be notifying the appropriate police department in every instance of bullying. That is not the intention of the school board police protocol or the existing PPM 120. The intent of both of those, which I would note have been negotiated with the police, is that the police should be notified when there is criminal activity—that’s basically the intent of those sections—not that the police should be notified whenever you’ve got an instance of things which are non-criminal such as bullying. So I would suggest very respectfully that this is overkill in terms of notifying the police.

It’s also purely impractical, and I’d like to give a bit of data here if I may, Chair. This was for the 2006-07 school year. The total number of students who were suspended and expelled in Thames Valley was 5,388 students. This is in a board of about 72,000 students. Now, there are 194 school days, so that means every day there would be approximately 25 to 30 calls to the director of education, about three to four calls every hour.

If you look at the Peel District School Board, which is a board with about 148,000 students, in the same year they suspended or expelled 7,004 students. That would be somewhere between 35 and 40 calls per day to the director of education—four to five calls each and every hour, if we assume that these incidents are going to happen between 8:30 in the morning and 4:30 in the afternoon.

The Toronto District School Board has about 244,000 students, give or take a few thousand. In that year, they suspended or expelled 10,070 students, which would give

us about 50 to 55 calls per day to the director or about six to seven calls per hour, and I would note that this isn’t just to the director. This is to the police. Quite frankly, I suspect that the Toronto police department would go absolutely ballistic and tell us that they’re not showing up for anything when what we really want the police to do is to show up for things that truly matter.

So, when you look at the volume of the calls that would be required by this particular section, it’s just unreasonable. The chair would be receiving the same volume of calls, and the chair, by the Conservatives’ own rewriting of the Education Act, is expected to be a part-time position. So I’m not sure when this part-time chair is even going to be around to receive all these calls that are going to come in on a daily basis.

Plus, because the board is the appeal mechanism for a suspension, if you are appealing a suspension, then the board is the quasi-judicial body which hears the appeal, and if you have an expulsion, the board is the quasi-judicial body which hears the expulsion hearing, the last thing in the world you want is that that body should be notified of the details of each and every offence from the point of view of one side of the story, i.e., the principal’s before it even happens.

The bottom line here is that this is just totally impractical.

In terms of the safety plan, there are some circumstances in which it’s an excellent idea to have a safety plan, not necessarily in each and every one of these instances, because as you can tell from the numbers I’ve just quoted, we’re now making thousands of safety plans, but what we will do is put the requirement for safety plans into policy so that you can pick and choose the ones where it actually matters. Similarly with documentation—well, not similarly. Quite frankly, principals normally document these things anyway. Again, that can be required in policy; it doesn’t need to be in legislation.

In particular, the bit that you just added at the end about filing the documentation with the director of education is actually not where it should be filed. It should be filed, if it’s going to be filed, in the Ontario student record, which is the official record of a student, not in the director’s office, because the OSR is the common point where everyone goes to access information about students.

Finally, there’s the issue that if you fail to comply with all of the above, anybody would be guilty of an offence of not more than \$1,000. I understand that what you’re trying to do here is make people accountable, and quite frankly we have no problem with making people accountable, but I would suggest to you that the accountability mechanism through the Ontario College of Teachers is in fact a very accountable mechanism already.

## 1620

The most recent data that we could get from the Ontario College of Teachers indicates that in 2005, 86 teachers of the college—and that would include teachers and principals; it should be “members of the college”—were found guilty of professional misconduct; in 2006,

95 members were found guilty of professional misconduct; and in 2007, 108 were found guilty of professional misconduct. That would be a total of 289 members.

The definition of “professional misconduct”: Professional misconduct can fall under many categories, some of which include physical, sexual, verbal, psychological or emotional abuse of a student; failure to maintain the standards of the profession; failure to comply with the Ontario College of Teachers Act, regulations or bylaws, or the Education Act and its regulations; there’s actually one here which is failure to comply with the reporting requirements under family and children’s services law; and the signing or issuing of false and misleading documents. So if I can shorten that for the purposes of what we’re looking at here, professional misconduct may result if a member fails to follow the Education Act and its regulations. Of course, what we are doing here is putting a number of the reporting requirements into the Education Act, which means that they now could be the subject of a complaint and that the complaint may be lodged by a member of the public.

In comparison, the Child and Family Services Act and the reporting requirements there—we don’t have any data for that, but I think any of us who have been following education for the last number of years would be aware that while there may have been one or two high-profile cases in which someone has been charged, though not necessarily convicted, under a similar provincial offence regime, that rarely happens. So I would suggest to you that the accountability mechanism that is automatically invoked when you put something into the Education Act is, from the point of view of a member of the College of Teachers, in fact the much more serious accountability mechanism, because it’s the one that we actually know is being used routinely and is working. So we think that that’s where the appropriate accountability mechanism should be.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Mr. Marchese.

**Mr. Rosario Marchese:** Ms. Savoline, if I thought the Liberals, through Ms. Sandals, would support an amendment and that it would work, rather than putting “the chair of the board,” “the director of education,” and “the appropriate police department,” because that’s a whole long list, I would have put “superintendent” in there and replaced the other three—and kept (d), “if the activity is sexual in nature.” So I would have kept those two, but I don’t think they’re going to support that either.

I just want to make the argument that I think this is a very useful amendment, and based on what I heard at the hearings, particularly the issues connected to sexual harm and sexual violence of young kids on other young kids—that for me was a very important revelation. I must admit I was really furious when I heard some of the stories, and I felt these amendments would help to deal with that. So we weren’t talking about violence of teachers against students; we’re talking about violence of students against other students. That’s what we heard in private from three parents, and from another parent who wasn’t in

private but it was the same story: It was sexual harm, sexual abuse of young people against other young people. The way they were dealt with was inadequate and unbelievably harmful to the students, because we didn’t do an adequate job—at least, the principals didn’t do an adequate job of dealing with it.

So I thought, developing a written safety plan for the harmed pupil seemed good, seemed reasonable to me. Then, on page 2: “maintain written documentation ... describing the activity and the harm ... the actions taken in response ... setting out the reasons for the actions taken.” I know it’s paperwork, but some of this stuff is serious. I know that we shouldn’t be dealing with all issues of bullying. I don’t think that’s what you meant, because that would be silly. It really would, because some stuff doesn’t merit a whole written report. Your amendment doesn’t necessarily get at that, and I don’t think you’ve intended it for that, but I really do believe that you meant it to deal with those very serious issues of sexual abuse and also serious, serious issues of bullying that might cause harm.

In this respect I thought the amendment was a useful one, of having a written safety plan and a written documentation. So I’m going to support your amendment, even though I feel I would have changed it to include “superintendent” rather than the other three. But I’m not sure that that would make any difference to the Liberal caucus members who are here.

**The Chair (Mr. Shafiq Qaadri):** Ms. Savoline.

**Mrs. Joyce Savoline:** I thank Ms. Sandals for all the statistics, but I think it was an attempt to trivialize what I’m trying to do here and what our PC caucus is trying to do, and that’s inject some accountability into what is not happening now. Quite frankly, nobody in their right mind would expect a principal to do all this stuff on a one-off in a playground. That is just not at all what is being proposed here.

“Notify” doesn’t mean a phone call. How many phone calls? Fifty phone calls to a director of education or to the board chair? Nobody’s talking about phone calls. “Notify” can be a process that’s developed that is a notification to these other people that the principal is on the job. What we heard about in those four instances, plus what the London coalition told us about, was that there are some principals who try to avoid dealing with these very urgent, critical, violent issues—babies on babies, for goodness’ sake—within our schools for whatever reason. These kids are not getting the help that they need because it’s not being addressed in a timely way. But if that information is being shared around, then I think the actions will be far different, because you know what? That’s human nature. If somebody’s going to find out about it, sometimes we just act a little differently. I think that that’s all these were intending to do.

So to give me all these numbers, which are good statistics, to trivialize what this amendment was doing, just disappoints me.

**The Chair (Mr. Shafiq Qaadri):** Ms. Sandals.

**Mrs. Liz Sandals:** I think if you were to talk to people who have taken cases of sexual abuse and teachers who

have sexually abused students, or if you were to talk about other cases that have gone to the college of teachers, where teachers have lost their licences permanently—any of the parties to those cases would hardly describe them as trivial.

**The Chair (Mr. Shafiq Qadri):** Are there any further comments? Seeing none, we'll proceed to consider PC motion 3. Those in favour of PC motion 3? Those opposed to PC motion 3? I declare PC motion 3 to have been defeated.

I understand, with your permission, Ms. Sandals, that government motion 4 will be stood down?

**Mrs. Liz Sandals:** We'll do it after 5 and 6.

**The Chair (Mr. Shafiq Qadri):** Given that, we will vote on section 1, as amended, later. I now invite you to present government motion 5.

**Mrs. Liz Sandals:** I move that subsection 301(5.4) of the act, as set out in section 2 of the bill, be struck out and the following substituted:

“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).

“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).

“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.”

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Just in summary, because it's hard to read this absent the bill, it expands the policy-making authority for the minister from what is currently in the bill. It adds policy- and guideline-making authority with respect to reporting to principals so that we can give more information in a policy. The teachers raised the issue of requiring a feedback loop to staff who have reported, and this would be the appropriate place to mention that.

It adds policy- and guideline-making authority with respect to supporting victims when a principal does not contact the parent of a victim, the thought being here that if the parent has not been contacted because of concern about further harm, then there should be an onus on the principal and the superintendent to look as to what other supports might be made available to the victim.

The one that I stood down, which I'll speak to later, is changing the language slightly in what's currently the intervention requirement, but there will be a policy-making authority there as well.

**The Chair (Mr. Shafiq Qadri):** Any further comments? Ms. Savoline.

**Mrs. Joyce Savoline:** My comment would be that I move an amendment that changes all the “mays” to “wills”; that “The minister will establish policies and guidelines.” What are we waiting for? Why would we delay any of this from happening? We need to move on this now, and refusing to take action now, when we have this perfect vehicle to do it—

**Mr. Rosario Marchese:** “Shall.”

**Mrs. Joyce Savoline:** “Shall.” Sorry. We're dealing with a bill that's going to turn into an act, and why would we not send that message out right from the get-go? Do it now and spare these families this uncertainty of what might or might not happen through the policy and regulation process. Show them that there is the will on the part of this government to make these changes.

**The Chair (Mr. Shafiq Qadri):** Ms. Sandals, then Mr. Marchese.

**Mrs. Liz Sandals:** I would just comment that in my understanding of legislative drafting, these clauses are establishing the authority of the minister to do this. The usual legislative drafting of this is “may,” because what you're doing is establishing authority.

**The Chair (Mr. Shafiq Qadri):** Fair enough. Mr. Marchese, and then we'll proceed to vote on the amendment to the amendment.

**Mr. Rosario Marchese:** I really am pleased that the government has removed the language of intervention—and all the amendments that are made by the government to eliminate the wording “intervention by teachers and other staff.” I'm pleased that they listened to that. I made a strong case against the legal implications of teachers having to intervene. There was a duty to intervene, and it didn't matter what it was; they had to intervene. I thought that was wrong, and I thought that had serious implications on teachers and other staff and other people involved in the system. So I'm glad that the government has listened to that and made those appropriate changes.

I'm speaking now so that I won't have to speak on every other amendment that's made in the next few moments.

Also, I understand that “The minister may establish” is the procedure, but I don't know why we couldn't say, legally—maybe Ms. Leitman might want to tell us why. I think that if we had language that says “The minister shall establish policies,” that would be clearer. I'm not sure why we couldn't say that.

**Ms. Mariam Leitman:** It is the case that it's our legislative convention—and it's followed virtually universally in Ontario law—that when we give authority, whether it's law-making authority or policy-making authority, we say “may.” Whether we would use the words “may,” “will” or “shall” has nothing to do with timing. “May,” “will” and “shall”—none of them say anything about timing. We tend to use “may” for authority; for legislative power and authority, or policy and guideline authority and power that's very similar to legislative authority, because you can't in general, in law, force a law-maker to make a law. You can't mandate that someone exercise a discretion.

**Mr. Rosario Marchese:** Yes, but “The minister may establish policies” versus “shall establish policies and guidelines”—I don’t know how that deals with issues of discretion. Either way, they will still have to use their discretion.

**Ms. Mariam Leitman:** That’s right. Either way, they have to use their discretion, because—

**Mr. Rosario Marchese:** So we would prefer the wording “shall.”

**Ms. Mariam Leitman:** Yes, I understand. I was speaking, first of all, to the timing that Ms. Savoline raised—“shall,” “may”; no difference.

In terms of what you’re looking at, absolutely, we want the minister to do this. “May” and “shall,” in law, have no difference because you can’t go to a court and say, “Make the minister use his discretion.”

**Mr. Rosario Marchese:** No, except this is regulation. The bill, by cabinet, says that regulations will happen, or may happen. So we’re not directing the minister. We’re directing that regulations do in fact get written.

**Ms. Mariam Leitman:** Actually, again, almost universally there’s maybe a 0.001% exception. Regulation-making authority is “may,” not “shall.”

**Mr. Rosario Marchese:** I understand that that’s the language, and we’ve often debated and argued this, and we often say, “Why don’t we just push the language of ‘shall’?” It usually gets defeated by governments, and I understand, whether it’s tradition or otherwise. I prefer the word “shall” myself.

Okay. I don’t know whether Ms. Savoline wants to move that amendment or not.

**Mrs. Joyce Savoline:** I will move the amendment, and if there really is no difference, then why don’t we just use the word “shall”?

**The Chair (Mr. Shafiq Qaadri):** All right. So, to summarize, we have now, to government motion 5, presented by Ms. Sandals, an amendment to the amendment, incorporating the word “shall” to replace the word “may.” Is that correct? Thank you.

**Mrs. Joyce Savoline:** Recorded vote.

**The Chair (Mr. Shafiq Qaadri):** So we will now have a recorded vote on that amendment to the amendment, introducing the word “shall” in the place of the word “may” for government amendment 5, originally proposed by Ms. Sandals.

Those in favour of said procedure?

#### Ayes

Marchese, Savoline, Shurman.

#### Nays

Craitor, Dhillon, Jaczek, Ramal, Sandals.

**The Chair (Mr. Shafiq Qaadri):** Defeated.

Are there any further comments with reference to government motion 5? Seeing none, I’ll proceed to the vote.

**Mrs. Liz Sandals:** Recorded vote.

**The Chair (Mr. Shafiq Qaadri):** Recorded vote. Those in favour of government motion 5?

#### Ayes

Craitor, Dhillon, Jaczek, Marchese, Ramal, Sandals, Savoline, Shurman.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Passed. Shall section 2, as amended, carry? Carried. Government motion 6, Ms. Sandals.

**Mrs. Liz Sandals:** I move that subsection 302(3.1) of the act, as set out in subsection 3(2) of the bill, be struck out and the following substituted:

“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.

“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.

“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.”

The purpose of this is to give the minister the authority to order school boards to have local policy at the school board level which mirrors the policies that we just talked about in the previous amendment at the provincial level.

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**Mr. Rosario Marchese:** And it removes the word “intervention.”

**Mrs. Liz Sandals:** And it removes the word—which I will talk about when we get to the next amendment.

**The Chair (Mr. Shafiq Qaadri):** Any further comments on government motion 6? Ms. Savoline.

**Mrs. Joyce Savoline:** Yes. I guess I’m having an issue with the word “if.” “If” leaves a lot to chance. So I would move that the word “if” be removed and that the

statement read clearly, “The minister will require a board to establish policies and guidelines.”

**The Chair (Mr. Shafiq Qaadri):** Thank you. We have another amendment to the amendment, proposed by Ms. Savoline, to government motion 6, introducing the word, as she’s just said, with “shall” replacing “if.” Is the committee ready to proceed with the vote on that?

**Ms. Mariam Leitman:** You can’t just replace “if” with “shall” and end up with a grammatical sentence. I think you’d have to say—

**Mrs. Joyce Savoline:** I didn’t; I took out the word “if.” I didn’t replace it; I went ahead with the rest of the sentence, saying, “The minister will require a board to establish policies and guidelines.” I’m sorry; remove “If required to do so by the minister.”

**Ms. Mariam Leitman:** And then replace it with “The minister shall require a board to”—

**Mrs. Joyce Savoline:** —“establish policies and guidelines,” and it carries through after that. Take the ambiguity out. Give the people the accountability that they were looking for.

**The Chair (Mr. Shafiq Qaadri):** Ms. Leitman, do you want to summarize that for the committee?

**Ms. Mariam Leitman:** Sure. I believe the motion to amend the motion is to strike out the words, “If required to do so by the minister, a board shall” in each of (3.1), (3.2) and (3.3) and replace it with, “The minister shall require a board to.”

**The Chair (Mr. Shafiq Qaadri):** Is that correct?

**Mrs. Joyce Savoline:** Yes.

**The Chair (Mr. Shafiq Qaadri):** We’ll now proceed to a recorded vote on that amendment to the amendment.

### Ayes

Marchese, Savoline, Shurman.

### Nays

Craitor, Dhillon, Jaczek, Ramal, Sandals.

**The Chair (Mr. Shafiq Qaadri):** Defeated, the amendment to the amendment of government motion 6.

Are we now ready to proceed to the vote on government motion 6?

**Mr. Vic Dhillon:** Was a recorded vote asked for?

**The Chair (Mr. Shafiq Qaadri):** Yes, a recorded vote was asked for. That’s, in fact, why it was done. Those in favour—

**Mrs. Liz Sandals:** And now a recorded vote on this one?

**The Chair (Mr. Shafiq Qaadri):** It’s up to you.

**Mrs. Liz Sandals:** Yes.

**The Chair (Mr. Shafiq Qaadri):** The government motion, on a recorded vote.

### Ayes

Craitor, Dhillon, Jaczek, Ramal, Sandals.

### Nays

Savoline, Shurman.

**The Chair (Mr. Shafiq Qaadri):** Government motion 6 is carried.

Shall section 3, as amended, carry? Carried.

We’ll now return to section 1, government motion 4, previously stood down: Ms. Sandals.

**Mrs. Liz Sandals:** I move that subsection 300.4(1) of the act, as set out in section 1 of the bill, be struck out and the following substituted:

“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).”

The main point here is that we have replaced the word “intervene” with the word “respond” in not just this amendment but in all the other companion policy-making authorities. The reason for that was, we wanted to clarify that we don’t expect employees to, for example, physically intervene in dangerous situations where they would be putting themselves at risk. What we will do is, in the policy-making authority that was just set out, clarify what the expectations are. For example, if we’re talking about homophobic harassment or verbal sexual harassment, in those sorts of instances we would require that there be simple interventions, such as, “We do not use such language in this school; would you please try that over again?” But when it comes to inserting yourself in the middle of a knife fight, we don’t expect employees to do that. That’s the purpose of having the policy-making authority: so that we can sort out what responses are appropriate in what situations, understanding that it isn’t strictly always intervening and getting yourself in the middle.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Sandals. We’re still on government motion 4. Any further comments, questions? Those in favour of government motion 4? Those opposed? Government motion 4 carries.

Shall section 1, as amended, carry? Carried.

Government motion 7: Ms. Sandals.

**Mrs. Liz Sandals:** I move that clause 316(1)(c) of the act, as set out in section 4 of the bill, be struck out and the following substituted:

“(c) governing actions to be taken by a principal who does not notify a parent or guardian of the pupil because of the circumstances described in subsection 300.3(3);

“(d) setting out circumstances in which employees are not required to respond under section 300.4.”

In the first of those clauses, clause (c), we’re expanding the regulatory authority so that we can set out more clearly, if a principal does not notify the parents, what it is that the principal is actually required to do. We can set that out in regulation. The (d) part of it is simply

taking something that was already in the bill and, once again, replacing the word “intervene” with “respond.”

**The Chair (Mr. Shafiq Qadri):** Thank you, Ms. Sandals. Any further comments on government motion 7? Seeing none, we’ll proceed to the vote. Those in favour of government motion 7? Those opposed? Government motion 7 is carried.

Shall section 4, as amended, carry? Carried.

With the committee’s permission, we’ll consider, en bloc, sections 5 and 6 since we’ve not received any

amendments to date. Those in favour of sections 5 and 6? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 157, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

Is there any further business before this committee? No. Committee adjourned.

*The committee adjourned at 1640.*







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