School Board Update

School Board Update – Anti-Bullying Legislation Tabled in Ontario Legislature

Date: December 9, 2011

Last week, both the Ontario government and the Progressive Conservatives tabled legislation to put in place measures to combat the problem of bullying in schools. The government's version, Bill 13 (the *Accepting Schools Act, 2011*), and the Progressive Conservatives' version, Bill 14 (the *Anti-Bullying Act, 2011*), have the same broad goals but have established some different steps for achieving these goals.

The final form of this anti-bullying legislation, if passed, would amend the *Education Act* to require the Minister of Education and school boards to take a proactive approach to combat bullying in its various forms.

The following are some of the key aspects of each Bill.

Bill 13 – *Accepting Schools Act, 2011*

- Adds a definition of the word "bullying" to the *Education Act*. "Bullying" would mean repeated and aggressive behaviour by a pupil (defined to include any physical, verbal, electronic written or other means) where:
    a. the behaviour is intended by the pupil to cause, or the pupil ought to know that the behaviour would be likely to cause, harm, fear or distress to another individual, including psychological harm or harm to the individual's reputation; 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, race, disability or the receipt of special education.
- Requires school boards to develop policies and a multi-year plan that promotes a positive school climate that is inclusive and accepting of all pupils and which promotes the prevention of bullying.
- Specifically requires school boards to use surveys to collect information from its pupils concerning the school climate and bullying at least once every two years.
- Introduces a purpose provision in the Behaviour, Discipline and Safety part of the *Education Act* that includes encouraging a positive school climate and preventing "inappropriate behaviour, including bullying, sexual assault, gender-based violence and incidents based on homophobia."
- Proclaims the third week in November as "Bullying Awareness and Prevention Week."
- Requires school boards to create policies with respect to the discipline of students who engage in bullying as well as the implementation of bullying prevention measures, including early intervention measures.
- Requires every board to support pupils who want to establish and lead,
    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.

The final provision of this section of the Bill has already been the subject of debate and reports in the media.

- Requires principals to suspend students, with the possibility of expulsion, when they engage in bullying if they have

been previously suspended for bullying and their continued presence in the school creates an unacceptable risk for another person.

Bill 14 – *Anti-Bullying Act, 2011*

- Includes a number of provisions that are similar to those in Bill 13.
- Adds a definition of the word “bullying” to the *Education Act* that is generally similar to the definition in Bill 13, but also specifically addresses and defines “cyber-bullying”.
- Requires the Minister’s annual report to include statistics on bullying and to document steps taken to address bullying.
- Requires the Minister to create a model bullying prevention plan and requires each school board to create a bullying prevention plan. This prevention plan would include procedures for reporting incidents of bullying and the protection of students who have been bullied, as well as a range of disciplinary actions for bullying.
- Requires school boards to provide instruction on bullying prevention to all students.
- Requires principals to report to the school board at least at the end of every school year on bullying in the school.
- In contrast to Bill 13, does not specifically require school boards to support pupils who wish to establish and lead organizations such as gay-straight alliances.

Under a majority government, a government Bill receives priority in the House over private member Bills; generally, government Bills pass, whereas private member Bills do not. In the current minority situation, it remains to be seen whether Bill 13, as introduced, will pass, or whether it will be modified to garner the support of the House.

Once the final form of the legislation is passed, school boards will be faced with significantly increased responsibilities to ensure a safe school environment for all individuals. Hicks Morley will continue to monitor the progress of the Bills and will update you accordingly.

Should you have any questions regarding these Bills, please feel free to contact your regular Hicks Morley lawyer.

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