

August 13, 2020

Hon. Monte McNaughton
Minister of Labour, Training and Skills Development
14th Floor,
400 University Avenue
Toronto, Ontario
M7A 1T7

-and-

Hon. Stephen Lecce
Minister of Education
5th Floor
438 University Avenue
Toronto, Ontario
M5G 2K8

Dear Ministers:

We the undersigned Federations write with respect to the recent issuance by the Ministry of Education of the “Guide to Re-Opening Ontario’s Schools.”

Together, we represent more than 190,000 of Ontario’s teachers and education workers who work at elementary schools, secondary schools, and other school board, school authority, private school and education worksites across Ontario. We have a vital interest in the health and safety not just of our members, but of their students and their entire school community as well as the broader community at large.

We are requesting an immediate meeting with the Minister of Labour, representatives of the Ministry of Education and such other government representatives as are necessary, as well as representatives from the Ontario Public School Boards’ Association, the Ontario Catholic School Trustees’ Association, the Association des conseils scolaires des écoles publiques de l’Ontario, the Association franco-ontarienne des conseils scolaires catholiques, the Council of Trustees’ Associations and any other necessary resource persons. We also request that a representative of the Ministry of Labour’s health and safety inspectorate be in attendance, pursuant to section 45 (6) of the *Ontario Occupational Health and Safety Act*, R.S.O. 1990, c.O.1 as amended (“OHS”).

We request that the meeting be held no later than Friday August 21, 2020. Representatives of the signing Federations will be in attendance at that time to engage in discussions to resolve the within matters with the government and the employer representative associations.

The reasons for this meeting are multiple, pressing and urgent.

On July 30, 2020, the Ministry of Education released its “Guide to Re-Opening Schools,” which was last updated on August 10, 2020.

This “Guide” is in fact a Direction issued to school boards which stipulates and legally requires what purport, from the Ministry’s perspective, to be the essential components of the health and safety measures that boards must put in place, in order to re-open schools.

The Ministry's Direction was developed without the proper input or indeed any consultation with the undersigned Federations whose members will be in the "front line" of the school re-openings and who now contemplate a return to work in the face of unprecedented health and safety risks posed by the COVID-19 pandemic.

The Direction does not meet basic and essential health and safety requirements and exposes our members to risks that threaten not just their own health and lives, but also, at a minimum, the health and lives of their students, and their family members. The safety of students cannot be separated from the safety of teachers and education workers in this context.

Ontario is in the midst of a global pandemic where there is no conclusive science on how severely COVID-19 may infect children, the rate at which children may transmit the virus, how the virus presents in children versus adults, its longitudinal consequences for children, or how transmission interacts with indoor environmental factors such as ventilation and air flow. Indeed, these same shortcomings can be said to characterize much of what we know or do not know about adult transmission as well.

Put most simply and fundamentally, the Direction does not take every precaution reasonable in the circumstances to protect teachers and education workers as is required by s. 25(2)(h) of OHSA.

Absent scientific consensus or certainty on significant aspects of COVID-19's biology or epidemiology, Ontario is obliged under s. 25(2)(h) to follow the precautionary principle and implement all reasonable measures necessary to reduce the risk that COVID-19 poses to our members' health and safety in the workplace.

The Ministry's Direction is wholly lacking in this regard. Specifically, it fails to adequately provide health and safety protections as follows:

1. It fails to place adequate limits on class size at the elementary and secondary level across the province, which, if limited to 10–15 per classroom, could be used as a reliable metric to ensure that necessary physical distancing can be implemented in indoor spaces and on buses.
2. It fails to set out minimum measurable standards for ventilation in schools where there is a potentially lethal airborne pathogen; or to address other known ventilation issues in schools, including but not limited to funding and requiring Boards to:
 - a. install and maintain HEPA or better filters in each classroom and throughout the school and other board buildings, and to assess and provide for other filtration and air circulation options as needed;
 - b. upgrade existing heating, ventilation, and air conditioning (HVAC) systems to meet these standards;
 - c. stipulate the air exchange rates e.g. HVAC systems;
 - d. provide for alternative measures for air circulation and filtration in buildings with no HVAC systems, e.g. those which rely on hot water heat;
 - e. provide for alternative measures for air circulation and exchange in buildings with no or inadequate windows that open; and
 - f. assess air flow/circulation in each classroom and throughout the school and board buildings and develop a plan for ensuring optimal air flow and filtration locally, considering how air flow will interact with other preventative measures such as Plexiglas barriers.

3. It fails to develop an appropriate mask policy for children under the age of 10, which for example would require masks for children in an indoor space where the distance of 1 metre cannot be maintained (i.e. hallways, elevators, small office spaces, change-rooms), absent a medical or other exemption.
4. It fails to adopt the concept of cohorting in a manner that is consistent with the research, and particularly by allowing cohorts of up to 100 students at the secondary level, a number which is virtually meaningless with respect to protection from transmission and infection.
5. It fails to provide for adequate screening for students, including those who do not or are medically unable to wear masks.
6. It fails to provide adequate safeguards to the health and safety of students for whom busing is under consideration.

By re-opening schools without appropriate measures in place that appropriately address these critical issues of class size, ventilation, mask policies, cohorting, screening, busing, and others, the Ministry has placed the health and safety of our members, their students and the entire school community in significant and imminent danger.

Pursuant to OHSa, the Federations request that an inspector from the Ministry of Labour conduct an inspection through the requested meeting regarding the Ministry's failure to protect the health and safety of our members and direct implementing province-wide health and safety standards that address the above-noted issues.

The Federations take the position that the Ministry of Education has violated s. 25(2)(h) of OHSa by failing to implement province-wide health and safety measures that take every reasonable precaution necessary to protect the health and safety of our members working in elementary and secondary schools, school authorities and other public educational institutions in Ontario.

The Ministry of Education must comply with s. 25(2)(h) forthwith and prior to September 8, 2020, by amending the Direction to include measures that address the significant deficiencies identified above. Any failure to implement these measures to address the risks set out above contravenes s. 25(2)(h) and creates a serious danger or hazard to the health and safety of our members, who work at secondary and elementary schools, school authorities and other public educational institutions. This failure also creates dangerous conditions in the workplaces of our members, contrary to the Act.

The Crown is a party to central bargaining pursuant to the SBCBA, and, with respect to central terms. It legally participates in negotiating and directing the employment of our members who work in publicly funded educational institutions and facilities across the Province. In controlling the terms and conditions of employment, particularly the health and safety of our members, through issuance of requirements such as the Direction, the Crown is assuming responsibilities for this aspect of their work as our members' employer.

Since the spring of 2020, through the Provincial Working Group on Health and Safety and outside channels, the Federations and their sister unions have attempted to engage the Ministry of Education in meaningful discussion about Ontario's plans to re-open schools in September. Unfortunately, for months the Ministry of Education has avoided any substantive dialogue with

the union representatives on the Working Group about the health and safety directions it intended to issue and subsequently issued as a part of its plan to re-open schools.

The Federations are left with no alternative but to invoke the protections of the *Occupational Health and Safety Act*, pursuant to sections 25, 45 and such other sections as may be implicated in this failure on the part of the government to engage in meaningful discussion and resolution of these pressing health and safety issues.

Because of the urgency and importance of these fundamental issues, the Federations would be prepared to go directly before the Ontario Labour Relations Board before schools are re-opened in September in order to obtain a final determination on whether the Guide complies with the obligations of the government under OHSAA “to take every reasonable precaution” to ensure that schools are a safe workplace for teachers and education workers. Most importantly, a timely and expeditious determination from that body, which is expert in health and safety matters, could provide a final determination of the safety of our schools before our students return to school. Our students deserve no less.

Our representatives may be reached by your office as follows:

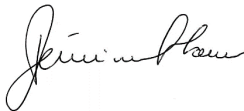
Association des enseignantes et des enseignants franco-ontariens (AEFO)
Pierre Léonard—General Secretary
613-298-0675

Elementary Teachers’ Federation of Ontario (ETFO)
Sharon O’Halloran—General Secretary
416-962-3836

Ontario English Catholic Teachers’ Association (OECTA)
David Church—General Secretary
416-925-2493

Ontario Secondary School Teachers’ Federation (OSSTF/FEESO)
Pierre Côté—General Secretary
416-751-8300

We look forward to hearing from you no later than 5 pm on Monday August 17, 2020.



Rémi Sabourin, President
AEFO



Sam Hammond, President
ETFO



Liz Stuart, President
OECTA



Harvey Bischof, President
OSSTF/FEESO