

Bill 157

Keeping Our Kids Safe at School Act - Advice to Members

Bill 157 "*Keeping our Kids Safe at School Act*" came into effect on February 1, 2010.

The purpose of this new legislation was to make schools safer by:

1. requiring all school staff to report to principals when they become aware that students may have engaged in incidents for which they could be suspended or expelled;
2. requiring the principal to inform the parents of students harmed as a result of an incident for which a student could be suspended or expelled; and
3. requiring that school staff respond if they observe student behaviour likely to have a negative impact on the school climate. This response is to be carried out in accordance with Ministry and school board policy.

Discretionary Suspensions

A principal must consider whether to suspend a student if he or she believes that the pupil has engaged in any of the following activities while at school, at a school-related activity or in other circumstances where engaging in the activity will have an impact on the school climate:

1. uttering a threat to inflict serious bodily harm on another person;
2. possessing alcohol or illegal drugs;
3. being under the influence of alcohol;
4. swearing at a teacher or at another person in a position of authority;
5. 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;
6. bullying; and
7. any other activity that is an activity for which a principal may suspend a pupil under a policy of the board.

Mandatory Suspensions

A principal must suspend a student if the following activities occur either at school or in other circumstances if the activity has an impact on the school climate:

1. possessing a weapon, including possessing a firearm;
2. using a weapon to cause or to threaten bodily harm to another person;
3. committing physical assault on another person that causes bodily harm requiring treatment by a medical practitioner;
4. committing sexual assault;
5. trafficking in weapons or in illegal drugs;
6. committing robbery; and
7. giving alcohol to a minor.

Boards are required to implement “progressive discipline” approaches to inappropriate student behaviour, and to take into account a variety of mitigating factors when determining whether to suspend or expel students.

When Must School Staff Report to the Principal?

The amendments require all school staff who become aware of this type of inappropriate student activity to notify the principal “as soon as reasonably possible”. School staff are asked to complete a copy of a new form, called the *Safe Schools Incident Reporting Form* on every occasion when a report is made to the principal regarding student misconduct which can lead to suspension or expulsion. Members could potentially face discipline for failure to comply with these new obligations.

This form will be filed on the OSR, but only in certain circumstances. The principal is required to provide an acknowledgement of receipt of a report filed. For your own protection, ETFO is advising members that this acknowledgement of receipt of a report is a crucial document and should be kept in a file folder that each member maintains.

Mandatory Response by School Staff to All Types of Inappropriate Behaviour

School staff are accustomed to intervening in situations involving student misconduct, but these amendments make responding mandatory. A response is now required where an employee of the board observes a pupil “behaving in a way that is likely to have a negative impact on the school climate”. This goes above and beyond a requirement to respond to incidents leading to suspension or expulsion. There are a few things to keep in mind concerning intervention and response to inappropriate conduct.

First, no one is required to compromise his or her own health and safety or the health and safety of others, in responding to inappropriate student conduct. If it is “unsafe” to respond then no response should be attempted. However, the behaviour should be reported to the principal as soon as possible so that the principal can formulate a response.

Usually, in the case of minor incidents, staff response will consist of speaking to the student, naming the inappropriate behaviour, and taking corrective action such as requiring meetings or apologies. But, in more serious cases such as fistfights, suspected possession of weapons or drugs, staff are not required to jeopardize their own or others’ health and safety by intervening. The only “response” required in ETFO’s view is a safe response that does not compromise the person responding or anyone else.

Delegation of Principal’s Responsibility to Teachers

Bill 157 permits the delegation of the principal’s role under this part of the Act to teachers provided the delegation is in writing, and follows Ministry policy. The delegation can only occur in the absence of the vice-principal and principal. Also, the teacher can only be delegated limited authority to receive reports from others during the principal and vice-principal’s absence; and cannot be delegated authority regarding suspension decisions or recommendations regarding the expulsion of students.

A teacher accepting the delegation may be delegated limited authority to contact the parent of a student who has been harmed as a result of activity for which suspension or expulsion must be considered. The information to be shared by the teacher must be limited to the nature of the harm to the student and the nature of the activity that resulted in the harm.

The teacher must not be delegated the authority to discuss the nature of any discipline measures taken in response to the activity.

ETFO has raised concerns about this “delegation power”. Our current collective agreements contain no specific protection for teachers who assume this role. Teachers should also keep in mind that they are not paid to assume this type of managerial responsibility. A teacher is not required to accept this responsibility. It is voluntary.

Training

The Ministry has required all school boards to develop appropriate policies and training for all school staff on this new legislation. Policies must now also address issues of homophobia, gender based violence, sexual harassment, and inappropriate sexual behaviour.

For more information, contact Professional Relations Staff at 416-962-3836 or 1-888-838-3836 at the provincial office.

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