



## **Submission to the Standing Committee on Social Policy on Bill 157, an Act to Amend the Education Act**

### **Introduction**

The Ontario Secondary School Teachers Federation is pleased to present its views on Bill 157, *An Act to amend the Education Act (Keeping Our Kids Safe at School Act)*, to the Standing Committee on Social Policy.

OSSTF/FEESO is a trade union which represents 60,000 members across the province of Ontario. The union works to protect our diverse membership which is represented in 140 bargaining units across the province. OSSTF/FEESO bargaining units represent both English and French members in elementary and secondary school workplaces, private schools, consortia offering support services to school boards and universities.

OSSTF/FEESO has made school safety a priority for many years, developing resources and delivering workshops on Crisis Awareness, Bullying, Students at Risk, School Law, Cyber Bullying, Gender-Based Violence, Homophobia and Harassment to thousands of our members and faculty students. OSSTF/FEESO believes that students can focus on learning when they feel safe and secure at school. We welcome the opportunity to work provincially and especially locally to improve safety for all our students and staff.

We are confining our discussions today to Bill 157 itself but we will have further comments regarding the policies and regulations attached to the Bill. We are participating in the advisory groups - SWAG and TTAC- established by the Provincial Framework Agreements where these types of policies and protocols will also be discussed.

Successive governments have recognized that school safety is an issue and have introduced various forms of legislation and policy to address it.

In 2000, Bill 81, *An Act to Increase Respect and Responsibility, to Set Standards for Safe Learning and Safe teaching in Schools and to Amend the Teaching Profession Act* generated a great deal of concern because the philosophy of the Conservative's Bill was grounded in a "zero tolerance" approach to student discipline and led to a regime of strict discipline on the part of most school boards.

The present government, under the direction of Liz Sandals, convened the Safe Schools Action Team in December 2004 and focused on the development of a comprehensive, coordinated approach to bullying prevention. In November 2005, the team was reengaged by the government to review the safe schools provisions of the Education Act. As a result, Bill 212, the *Education Amendment Act, (Progressive Discipline and School Safety Act), 2007* was passed in June 2007. Its provisions took effect on February 1, 2008 and amended, but did not completely repeal, the "safe school" provisions of Bill 81. The primary change to Bill 212 was changing the focus to progressive discipline and moving away from mandatory suspensions. The Safe Schools Action Team was recalled in February 2008 to focus on gender-based violence homophobia, sexual harassment and inappropriate sexual behavior, and barriers to reporting. Its report, "Shaping a Culture of Respect in our Schools", was released in December 2008 and had ten sections designed to be proactive and preventative. One of the ten sections had a number of recommendations on reporting, which now seems to be the main focus of Bill 157.

### **OSSTF/FEESO concerns:**

OSSTF/FEESO concerns regarding specific sections of Bill 157 are:

**Section 300.1** It is crucial for student discipline to have consistent and strong administration in the school at all times. When too many external meetings take principals and vice principals out of the school, student discipline becomes problematic. Far too often, teachers and support staff are left supervising students who are having difficulty. If the absence of all administrators is absolutely necessary, a pool of recently retired and very experienced administrators should be available to reduce the necessity for the stop-gap appointment of a teacher to "act" in lieu of the proper authority.

In extenuating circumstances, when the delegation of authority to teachers becomes necessary, the delegation must be put in writing, stipulating the duration of the delegation.

**300.2 (2) (a) and (b)** The Principal must provide written confirmation that he/she has received a copy of the report, including the actions taken as a result of the report.

**300.3** The descriptors of when a report should be made to a parent or guardian in this section create significant concerns such that it would be inappropriate to delegate the duty to report to anyone other than the Principal or senior board officials.

**300.4** The intent of this section is completely unclear at this time and causes us great concern because it is dependent on the Minister establishing policies or guidelines to clarify the response required around students' behavior that is having a negative impact on the school climate. There is such a lack of specificity that it is impossible to gauge the impact of this section. Because it is so dependent on guidelines and policy, Bill 157 should be amended by the deletion of Section 300.4.

The following are some of the specific concerns OSSTF/FEESO has identified about Bill 157, and as stated earlier, we anticipate additions to the list as policies and regulations are created:

- **Liability:** reporting and being sued by either party; not reporting and being disciplined; the language that allows an employee not to report if they think someone else has or if they have nothing to add
- **Reprisals:** OSSTF/FEESO would need to ensure there are no reprisals for reporting. For example, a support staff member may be disciplined for being away from his/her job while reporting or intervening – the same could apply to a teacher who left a class to report or intervene

- **Hierarchy of responsibilities:** which responsibility takes precedence? The member's assigned duty- the class or the special needs student or an incident in the hallway?
- **Training** – who has or will be trained in appropriate use of intervention methods? Teachers' and educational professionals' training is in curriculum and other kinds of support services, such as therapy and assessment. They are not trained nor do they have a mandate to intervene with youth violence.
- **Protection:** what kind of support /protection will be available to a member who is injured while intervening?
- **Exemptions:** should any employees of the board be exempt from these requirements? The language in the Bill suggests that some members would have a duty to report but not to intervene. Should all adults in the school community be required to respond to the same degree? In order for educational workers to be exempt from physically intervening in a student conflict, will they have to publicly declare that they have a health issue, are pregnant, etc even if they have no formal medical accommodation for anything else?
- **Identification:** what is the reporting process when there is difficulty in identifying the participants?
- **Interaction between Bill 157 and any other appropriate legislation:** which legislation will take precedence if there is a conflict in the application of the bill?

## **Conclusion:**

No part of Bill 157 should override collective agreement provisions. Several of our teacher bargaining units have strong collective agreement language that limits the use of teachers in charge and their decision making regarding student discipline, including that the discipline must be deferred to an administrator. The number of occasions when teachers can be used for management work has also been negotiated and is quite limited.

Ministry officials have reported to OSSTF/FEESO that Bill 157 only codifies current practices, but in doing so, it may bring our members into potential conflict with their professional colleges, including the College of Teachers.

Clarity, proper training and additional personnel are essential to achieve the ultimate goal described in Bill 157. Direct and meaningful consultation with the stakeholders is essential prior to the implementation of Bill 157. Otherwise, we have serious reservations that Bill 157 will do anything to make schools safer. In fact, Bill 157 will exacerbate the situation and will create more confusion because it is reactive and not proactive. It does not provide for any concrete preventative strategies to make a school safer.

## **OSSTF/FEESO Recommendations on Bill 157**

1. The implementation of Bill 157 should be delayed until a full consultation, policy and guideline development and sufficient training have been completed. In the meantime, our members will continue to use their best professional judgement in dealing with situations as they arise.
2. The Ministry of Education should consult with OSSTF/FEESO and other education stakeholders in the development of policies and guidelines to effectively implement Bill 157 and to address the specific concerns we have outlined above.
3. Bill 157 should not override collective agreement provisions.
4. There should always be an administrator present in the school. If the absence of all administrators is absolutely necessary, a supply administrator should be assigned to the school for the period of the absence.
5. In extenuating circumstances when the delegation of authority to teachers becomes necessary, the delegation must be put in writing, stipulating the duration of the delegation.
6. The Principal must provide written confirmation that he/she has received a copy of the report, including the actions taken as a result of the report.
7. When a report has to be made to a parent or guardian, it should be communicated by an administrator or a senior board official.
8. Bill 157 should be amended by the deletion of Section 300.4.
9. The Ministry of Education should provide funding to the teacher federations to develop a comprehensive training program to support the implementation of Bill 157.