

The Coalition for Parental Rights in Education

**Bill 13 – *An Act to Amend the Education Act with respect to
bullying and other matters (Accepting Schools Act)***

Submissions to the Standing Committee on Social Policy

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SUBMISSIONS

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Executive Summary

The Coalition for Parental Rights in Education (“CPRE”) believes that no child should be bullied, for any reason. While the CPRE acknowledges that children are most often bullied due to body image, school grades, cultural background and language, and that rates of bullying incidences are decreasing, it continues to support and endorse measures that seek to reduce bullying of all forms both in and outside of schools. The CPRE also believes that parents have the duty and responsibility of passing their faith on to their children as well as teaching their children ethics and morality from a perspective that is consistent with their sincerely held religious beliefs.

While the CPRE supports the stated intentions of Bill 13, the CPRE is concerned that certain sections of Bill 13 will violate the freedom of religion, conscience and expression of students, parents, and teachers. The purpose of these submissions is to assist the Standing Committee in producing a version of Bill 13 that more fully advances the goal of preventing bullying incidences in Ontario schools while reducing the likelihood that the province will face years of expensive taxpayer funded litigation over Bill 13.

The recommendations for the Committee by the CPRE are summarized as follows:

Preamble

This section singles out one group of children. The CPRE believes that any form of bullying is reprehensible and holds that legislating preferential concern for one group over another is problematic in practice, policy and law. Such preferential treatment violates section 15 of the *Charter* and potentially violates sections 2(a) and 2(b) of the *Charter*. By simply removing the words “including LGBTTIQ (lesbian, gay, bisexual, transgendered, transsexual, two-spirited, intersexed, queer and questioning) people”, the special status and priority protection of one group over others would be eliminated, thereby making Bill 13 equally protective of all groups and individuals and therefore more inclusive. Additionally, the words “for all other reasons, including, but not limited to, body image, physical appearance or school grades” should be added to the preamble.

Section 1: Definition of “Bullying”

The subjective nature of the definition is problematic because any type of behaviour could fit this definition. Another difficulty is the question of who will be the subjective arbiter of whether or not the behaviour is bullying. The definition of “bullying” as described at section 2(1) of *Bill 14* accomplishes the goal of setting a clear and intelligible definition of “bullying”, without the difficulties associated with the wording in Bill 13.

Section 2: Equity Policies

This section is redundant and gives the Minister of Education authority to require and direct the school board to implement changes to their respective equity policies. Effective equity policies are specifically tailored to the unique and distinct make-up of the students of each school. The development of the equity policy must remain the responsibility of the individual school boards who possess the facts and knowledge required to properly address the issues faced by the student body of their respective districts.

With Ontario's separate school system, consideration must be given to the denominational rights of Catholic school boards. Ontario students have a legal right to a taxpayer-funded education that is either non-religious or Catholic, but not the right to insist that Catholic schools and policies become non-religious or non-Catholic.

By removing section 2, this learned Committee would accomplish the goal of ensuring that each school board maintains an equity policy, while ensuring that the school boards have the ability to develop an equity policy which is designed to address the issues faced by their respective student bodies. It will also preserve the religious autonomy of Catholic school boards, respecting their denominational rights as enshrined in the *Constitution Act, 1867*.

Sections 7(1) and 7(2): Third Party Use of Schools

Many faith-based groups, political organizations and churches rely on the use of rented school facilities. Bill 13 has the potential of preventing faith-based groups, political organizations and churches from continuing to use rented school facilities.

Sections 7(1) and 7(2) of Bill 13 violate section 15 of the *Charter* and violate the freedom of religion of these faith-based groups and churches, as well as their freedom of assembly guaranteed by section 2(a) and 2(c) of the *Charter*. By removing these sections, the Bill's constitutionality is preserved, and the purpose of the Bill is not compromised.

Section 9: Board Endorsed Student Clubs

This section singles out four types of activities or organizations, but fails to address many other potential activities or organizations which could and would be beneficial. Section 9 fails to consider the existence of other occurrences of bullying, which happen statistically at a much higher frequency than bullying on the basis of the characteristics set out in section 9 of Bill 13.

By mandating gay-straight alliances in all schools, this section violates the freedom of religion, conscience, association and expression rights of many students and parents. It is also a clear infringement of the constitutionally guaranteed denominational rights of Catholic school boards. Any interference with the denominational rights of Catholic school boards would be in clear violation of section 93(1) of the 1867 *Constitution*, sections 257.52(1)(a) and 257.52(2)(a) of the

Education Act, and section 29 of the *Charter*. Section 9 should either be removed or amended to include all other groups who are bullied at a higher frequency.

Private Schools

Bill 13 makes no direct reference to private schools. There remains some uncertainty on Bill 13's application to private schools. The Committee can alleviate any concerns or ambiguity by simply specifying, in the preamble, that Bill 13 is not intended to affect the ability of private schools to determine their operations, management or curricula.

Conclusion

The CPRE believes in equality and respect for all individuals. In that respect, it repeats and reiterates its belief that no child should ever be subject to any type of bullying. To maintain equality and respect for all, we must, as a society, be cognizant of the fact that differences do exist. Ontario schools are populated with children who differ in faith, race, culture, sex, age, physical appearance and many other respects.

Bill 13, in its current form, creates distinct priority groups, granting them special status and protection and does so at the peril and detriment of others. To achieve truly accepting schools, Bill 13 must:

- be more inclusive;
- recognize the many ways in which Ontario students differ;
- respect and affirm freedom of religion and conscience of parents, students and teachers, as well as parental rights in education, equal treatment under the law and Catholic denominational rights; and,
- *promote* tolerance and understanding rather than *compel* it.

The CPRE submits that by making the proposed amendments, Bill 13 will accomplish its stated goal of preventing bullying towards all students in Ontario schools, while still respecting and affirming their fundamental freedoms to freedom of religion, conscience, expression, opinion, thought and assembly. It will also do so while respecting the *Charter*, the *Education Act* and the *1867 Constitution*.

1. Position of the Coalition for Parental Rights in Education

1. The Coalition for Parental Rights in Education (“CPRE”) is composed of the following organizations and associations:
 - a. Campaign Life Catholics
 - b. The League of Canadian Reformed School Societies
 - c. Parents as First Educators
 - d. Public Education Advocates for Christian Equality
 - e. Association for Reformed Political Action.¹
2. The CPRE represents Evangelical, Reformed Christian, Protestant and Roman Catholic organizations and associations. Members of the CPRE hold a number of beliefs in common. Two primary beliefs are that Christian parents have the duty to, and responsibility of, passing their faith on to their children as well as teaching their children ethics and morality from a perspective that is consistent with their sincerely held religious beliefs².
3. Members of the CPRE, all of whom are of the Christian faith tradition, believe that in order to enjoy, practice and express their religious, conscience and parental rights, they must ensure the education of their children is consistent with their beliefs.
4. The CPRE believes that no child should be bullied, for any reason. Indeed, the Bible condemns such behaviour³.
5. While the CPRE acknowledges that children are most often bullied due to body image, school grades, cultural background and language, and that rates of bullying incidences are decreasing, it continues to support and endorse measures which seek to reduce bullying of all forms both in and outside of schools⁴.
6. The government of Ontario has introduced *Bill 13 – An Act to Amend the Education Act with respect to bullying and other matters (Accepting Schools Act)* (“Bill 13”), which seeks to prevent bullying in Ontario elementary and secondary schools. It seeks to accomplish this goal by making a number of amendments to the *Education Act*.

¹ A brief description of each organization or association within the Coalition for Parental Rights in Education is found at **Schedule “A”**.

² Jeremiah 31:33: “This is the covenant I will make with the people of Israel after that time,” declares the LORD. “I will put my law in their minds and write it on their hearts. I will be their God, and they will be my people.” (NIV) (see also Mathew 28:19-20, John 14:15, Romans 2:13, Ephesians 6:4 and 1 John 2:3-6) (**Tab 1**).

³ Matthew 5:11: “Blessed are you when people insult you, persecute you and falsely say all kinds of evil against you because of me.” (NIV) (see also Isaiah 41:11-13, Matthew 5:43-48, Romans2:1, Ephesians 4:29, 1 John 2:9-11 and 1 John 3:15) (**Tab 2**).

⁴ The Evangelical Fellowship of Canada, *By the Numbers: Rates and Risk Factors for Bullying*, April 2012 [*By the Numbers*] (**Tab 3**).

7. While the CPRE supports such an endeavour, it is concerned that certain sections of Bill 13 will violate the freedom of religion, conscience and expression of students, parents, and teachers.
8. The purpose of these submissions is to assist this learned Committee in producing a version of Bill 13 which advances the goal of preventing bullying incidences in Ontario schools while reducing the likelihood that the province will face years of expensive taxpayer funded litigation over Bill 13.

2. Analysis and Recommended Amendments

A. Preamble

9. The CPRE applauds the government of Ontario for recognizing, at the second paragraph of the preamble, that “The people of Ontario and the Legislative Assembly [...] Believe that all students should feel safe at school and deserve a positive school climate that is inclusive and accepting, regardless of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability.” This language communicates to Ontarians that the government recognizes that children face bullying behaviours for various reasons.

The Concern

10. The fifth and sixth paragraphs of the preamble to Bill 13 read as follows:

The people of Ontario and the Legislative Assembly [...] Believe that students need to be equipped with the knowledge, skills, attitude and values to engage the world and others critically, which means developing a critical consciousness that allows them to take action on making their schools and communities more equitable and inclusive for all people, including LGBTTIQ (lesbian, gay, bisexual, transgendered, transsexual, two-spirited, intersexed, queer and questioning) people;

Recognize that a whole-school approach is required, and that everyone — government, educators, school staff, parents, students and the wider community — has a role to play in creating a positive school climate and preventing inappropriate behaviour, such as bullying, sexual assault, gender-based violence and incidents based on homophobia;

11. These sections single out one group of children, those who identify as members of the LGBTTIQ community. As stated above, the CPRE believes that any form of bullying is

reprehensible, it holds that the province legislating preferential concern for one group over another is problematic in practice, policy and law.

12. Similarly, the sixth paragraph of the preamble states that everyone has a role to play in preventing “incidents based on homophobia”. The term “homophobia” is also used at articles 4 and 7(2) of Bill 13.

The Relevant Law

13. The preamble to any statute is a valid indicator of the legislative intent animating the statute. Canadian Courts have long held that the preamble to a statute may provide clues as to legislative intent⁵.
14. The *Canadian Charter of Rights and Freedoms* (the “*Charter*”) grants equal treatment and protection to every individual under the law⁶.
15. In their current form, these sections of the preamble to Bill 13 give special status and priority treatment to the LGBTTIQ community. They also omit a number of other groups who face bullying, including groups who are statistically more often exposed to bullying⁷. If Bill 13 was directed solely at the amelioration of conditions to the LGBTTIQ community, then it could be saved by section 15(2), but Bill 13 is directed at all Ontario schools and all Ontario students. As such it cannot, without violating section 15 of the *Charter*, grant special treatment to one group over another.
16. In *R. v. Kapp*⁸, the Supreme Court of Canada refined the test for determining a ground of discrimination protected by section 15(1) of the *Charter*. The test is set out as follows:

- (1) Does the law create a distinction based on an enumerated or analogous ground?
- (2) Does the distinction create a disadvantage by perpetuating prejudice or stereotyping?⁹

⁵ *M. v. H.*, [1999] 2 S.C.R. 3, at para. 185 (TAB 4) and *R. v. Dyck*, [2008] ONCA 309 at para. 41(Tab 5).

⁶ Section 15 of the *Charter* reads:

“15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.” (See Tab 6)

⁷ See *By the Numbers*, *supra*, which demonstrates that according to the Toronto District School Board, the five most common reasons for being bullied are (1) Body Image, (2) Grades or Marks, (3) Cultural Background, (4) Language, and (5) Gender (Tab 3).

⁸ *R. v. Kapp* [2008] 2 SCR 483 [*Kapp*] (Tab 7).

⁹ *Kapp*, *supra*, at para. 17 (Tab 7).

17. In considering this section of the preamble to Bill 13, the priority status and special protection afforded to the LGBTTIQ community creates a clear distinction based on the enumerated ground of religion. Similarly, the distinction creates a disadvantage by perpetuating prejudice or stereotyping, namely, that a student is bullying by holding and voicing religious, philosophical, moral, spiritual, social or political beliefs or opinions which conflict with certain behaviours or activities of the LGBTTIQ community.
18. Additionally, sections 2(a) and 2(b) of the *Charter* grant every individual the freedom of conscience and religion as well as thought, belief, opinion and expression¹⁰. By providing special status and priority protection to one group over another, and in considering the potential implications of such, the preamble to Bill 13 also has the potential of violating the freedom of religion and conscience as well as the freedom of thought, belief, opinion and expression of students, parents and teachers.
19. If a student is disciplined for stating their sincerely held religious belief that sex should be between a husband and wife or that marriage should be between a man and a woman, such discipline would be a clear violation of that student's section 2(a) and 2(b) *Charter* rights¹¹.
20. In *R. v. Zundel*¹², the Supreme Court stated: "the guarantee of freedom of expression serves to protect the right of the minority to express its views, however unpopular it may be¹³".
21. With the broad protection of freedom of expression, there is no doubt that such a restriction would be condemned by the Courts. Similarly, freedom of religion and conscience are vigorously protected by the *Charter*. In *R. v. Big M Drug Mart Ltd.*¹⁴, the leading case on freedom of religion, the Supreme Court of Canada stated:

A truly free society is one which can accommodate a wide variety of beliefs, diversity of tastes and pursuits, customs and codes of conduct. A free society is one which aims at equality with respect to the enjoyment of fundamental freedoms and I say this without any reliance upon s. 15 of the *Charter*. Freedom must surely be

¹⁰ Sections 2(a) and 2(b) of the *Charter* read as follows:

"2. Everyone has the following fundamental freedoms:

(a) freedom of conscience and religion;

(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;" (see **Tab 6**)

¹¹ For example, in *Owens v. Saskatchewan Human Rights Commission* [2006] SKCA 41, the Court of Appeal for Saskatchewan dealt with the case of a man who posted Bible passages opposed to same-sex unions in a local newspaper and was subsequently found guilty of violating the "hate speech" provisions of the *Saskatchewan Human Rights Code*. The Court of Appeal for Saskatchewan overturned the decision, determining that the Bible passages were not "hate speech" as they spoke of behaviour, not individuals (**Tab 8**).

¹² *R. v. Zundel* [1992] 2 S.C.R. 731 [*Zundel*] (**Tab 9**).

¹³ *Zundel, supra*, at para. 22 (**Tab 9**).

¹⁴ *R. v. Big M Drug Mart Ltd.*, [1985] 1 S.C.R. 295 [*Big M*] (**Tab 10**).

founded in respect for the inherent dignity and the inviolable rights of the human person. The essence of the concept of freedom of religion is the right to entertain such religious beliefs as a person chooses, the right to declare religious beliefs openly and without fear of hindrance or reprisal, and the right to manifest religious belief by worship and practice or by teaching and dissemination. [...] Freedom means that [...] no one is to be forced to act in a way contrary to his beliefs or his conscience. With the Charter, it has become the right of every Canadian to work out for himself or herself what his or her religious obligations, if any, should be [Emphasis added]¹⁵.

22. Any law impeding the ability to hold, voice or manifest sincerely held religious beliefs is therefore a direct violation of section 2(a) of the *Charter*. In fact, the Supreme Court of Canada has stated that both the purpose and the effect of legislation can render it constitutionally invalid. On this point, the Supreme Court of Canada stated:

In my view, both purpose and effect are relevant in determining constitutionality; either an unconstitutional purpose or an unconstitutional effect can invalidate legislation. All legislation is animated by an object the legislature intends to achieve. This object is realized through the impact produced by the operation and application of the legislation. Purpose and effect respectively in the sense of the legislation's object and its ultimate impact are clearly linked, if not indivisible. Intended and actual effects have often been looked to for guidance in assessing the legislation's object and thus, its validity [Emphasis added].¹⁶

23. Challenging the creation of a special category of individuals or the omission of others in the preamble to a piece of legislation on the basis of its unconstitutionality is not novel. The Supreme Court of Canada has dealt with such cases by either striking down the relevant sections of legislation or reading-in the omitted groups¹⁷.

The Proposed Amendment

24. The CPRE submits that this learned Committee can correct the distinction created by the wording used in the preamble leading to *Charter* violations without difficulty. By simply removing the words “including LGBTTIQ (lesbian, gay, bisexual, transgendered, transsexual, two-spirited, intersexed, queer and questioning) people”, the special status and priority protection of one group over others would be eliminated, thereby making Bill 13 equally protective of all groups and individuals and therefore more inclusive. In fact, “sex”

¹⁵ *Big M.*, *supra*, at para 94 (Tab 10).

¹⁶ *Big M.*, *supra*, at para. 81 (Tab 10).

¹⁷ For example, *Vriend v. Alberta*, [1998] 1 S.C.R. 493 [*Vriend*] (Tab 11).

and “sexual orientation” are already listed as areas of concern for bullying in the second paragraph of the preamble.

25. Additionally, the CPRE submits that the words “for all other reasons, including, but not limited to, body image, physical appearance or school grades” be added to the end of the second paragraph of the preamble. Doing so will ensure that Bill 13 captures the predominant occurrences of bullying¹⁸.
26. To date, no Canadian Court has developed a definition of the term “homophobia” and no legislature has defined the term in law. Indeed, it remains a highly controversial term. As such, this learned Committee should remove all occurrences of the word “homophobia” as it has not yet been judiciously or legislatively considered and as such has different meanings for different people and in different contexts.

B. Section 1: Definition of “Bullying”

27. Section 1 of Bill 13 reads as follows:

1. (1) Subsection 1 (1) of the *Education Act* is amended by adding the following definition:

“bullying” means repeated and aggressive behaviour by a pupil 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; (“intimidation”)

(2) Section 1 of the Act is amended by adding the following subsection:

Bullying

28. (1.0.0.1) For the purposes of the definition of “bullying” in subsection (1), behaviour includes the use of any physical, verbal, electronic, written or other means.

¹⁸ See, *By the Numbers, supra* (Tab 3).

The Concern

29. Of concern is the definition of “bullying” itself. Specifically, the terms “would be likely to cause”, “the pupil ought to know” “where there is a real and perceived power imbalance” and describing “bullying” as “aggressive behaviour”.
30. The wording “**would be likely to cause**” removes intent as a requisite for an act to be considered bullying, making it purely subjective. Because of the subjective nature of these words, any type of behaviour could fit into this definition. Another difficulty is the question of who will be the subjective arbiter of whether or not the behaviour “would be likely to cause” harm or whether “the pupil ought to know that the behaviour would be likely to cause” harm, fear or distress.
31. Legal principles within Bill 13’s definition of “bullying” borrow from criminal legislation. For example, criminal responsibility requires linked causation between an act and harm. In the rare instances of criminal jurisprudence where this language can be found, (i.e: murder, reckless endangerment), there must always be an “objective foreseeability” of risk which must be proved. The difficulty with this wording is that children vary wildly in their ability to foresee or understand the consequences, intentional or unintentional, of their words or actions.
32. Of greater concern is the use of the words “**the pupil ought to know**”. Again, children vary greatly in their level of development, understanding and maturity. What each child “ought to know” will therefore vary. With such language, the government places an onerous burden on teachers and school officials to assess what children “ought to know”. This wording forces the imposition of an adult’s sense of understanding and reasonableness upon children, which the CPRE submits is not appropriate.
33. Again, Bill 13’s definition includes legal concepts from Canadian criminal law. This notion of “ought to know” is referred to as the *mens rea*. In order to be convicted of a crime, it must be proven that an individual had the intention of committing the crime or causing the harm. For example, the *Criminal Code*’s section on criminal harassment requires that the aggressor knowingly or recklessly harasses another¹⁹.

¹⁹ Section 264(1) of the *Criminal Code* reads as follows:

“264(1) No person shall, without lawful authority and knowing that another person is harassed or recklessly as to whether the other is harassed, engage in conduct referred to in subsection (2) that causes that other person reasonable, in all circumstances, to fear for their safety or the safety of anyone known to them” (see **Tab 12**).

34. In contrast, Parliament and the Courts have recognized that youth must be held to a different standard than adults. For example, the *Youth Criminal Justice Act* states that its purpose and principles are, among others, that the criminal justice system for youth must be separate from that of adults, accountability of youth must be proportionate, a young person's needs and level of development must be considered when determining any discipline and, discipline must respect gender, ethnic, cultural and linguistic differences²⁰. For these reasons, the *Youth Criminal Justice Act* has been carefully crafted to reflect children's development differences.
35. Effectively then, Bill 13 imposes a higher burden on children with respect to bullying than the *Criminal Code* does on adults with respect to criminal harassment. Such application is not consistent with the principles that undergird legislation applicable to children, such as the *Youth Criminal Justice Act*, nor the principles of fundamental justice.
36. The use of the words “**real or perceived power imbalance**” is also problematic. First, what defines a “power imbalance”? Is an honour student in a power position over a student who struggles academically? Is a tall and muscular student in a power position over a short and thin student? Who is in the power position if a short and thin honour student bullies a tall and muscular student who struggles academically? Such vague and subjective language does not lead to a clear interpretation.
37. Additionally, who must perceive the power imbalance? Must the power imbalance be from the perspective of the child being bullied, the child who is bullying or an adult observer? Are school officials now burdened with monitoring every student interaction in order to attempt to assess various and evolving “power imbalances” in order to assess bullying behaviours in compliance with the definition of “bullying” that Bill 13 provides? Such vague and subjective wording creates an impossible burden and analysis.
38. Finally, describing “bullying” as “aggressive behaviour” fails to include the concept of passive bullying, such as shunning²¹, which remains a problem.

The Proposed Amendment

39. In attempting to construct a proposed amendment to this section, the CPRE turns to the definition of “bullying” as described at section 2(1) of *Bill 14 – Anti-Bullying Act, 2012*²² which is also before this learned Committee and reads as follows:

²⁰ *Youth Criminal Justice Act*, section 3(1) (Tab 13).

²¹ See, *By the Numbers*, *supra* (See Tab 3).

“bullying” means the severe or repeated use by one or more pupils of a written, verbal, electronic or other form of expression, a physical act or gesture or any combination of them if it is directed at another pupil and if it has the effect of or is reasonably intended to have the effect of,

- (a) causing physical or emotional harm to the other pupil or damage to the other pupil’s property,
- (b) placing the other pupil in reasonable fear of harm to himself or herself or damage to his or her property,
- (c) creating a hostile environment at school for the other pupil,
- (d) infringing on the legal rights of the other pupil at school, or
- (e) materially and substantially disrupting the education process or the orderly operation of a school; (“intimidation”)

40. The CPRE submits that this proposed amendment to the definition of “bullying” accomplishes the goal of setting a clear and intelligible definition of “bullying”, without the difficulties associated with the wording of Bill 13.

C. Section 2: Equity Policies

41. Section 2 of Bill 13 reads as follows:

2. (1) Paragraph 29.1 of subsection 8 (1) of the Act is repealed and the following substituted:

equity and inclusive education

29.1 require boards to develop and implement an equity and inclusive education policy, and, if required by the Minister, submit the policy to the Minister and implement changes to the policy as directed by the Minister;

(2) Subsection 8 (1) of the Act is amended by adding the following paragraph:

surveys under s. 169.1 (2.1)

42. 31. establish policies and guidelines respecting the surveys referred to in subsection 169.1 (2.1);

²² Bill 14: Anti-Bullying Act, 2012 (now Bill 80) (Tab 14).

The Concern

43. This section requires the development and implementation of an Equity and Inclusive Education policy by every school board. The CPRE appreciates the value in having an equity policy. The concern however, is that this section is redundant and gives the Minister of Education authority to require and direct the school board to implement changes to their respective equity policies.
44. All school boards in Ontario are already required to develop and implement equity policies²³. Each school board in Ontario services a different region of the Province and in many cases has a distinct make-up of students. For an equity policy to be effective, it must be specifically tailored to the unique and distinct make-up of the students of each school.
45. The development of the equity policy must remain the responsibility of the individual school boards who possess the facts and knowledge required to properly address the issues faced by the student body of their respective districts. Undoubtedly, the school boards, in consultation with parents and teachers, are in the best position to gauge, assess and determine the needs of their students.
46. Additionally, with Ontario's separate school system, consideration must be given to the denominational rights of Catholic school boards. To impose government-dictated equity policies on Catholic school boards, particularly when certain elements of those equity policies conflict with sincerely held Catholic beliefs, teachings and doctrine, is to completely disregard the religious integrity and autonomy of Catholic school boards. Ontario students have a legal right to a taxpayer-funded education that is either non-religious or Catholic, but not the right to insist that Catholic schools and policies become non-religious or non-Catholic.
47. Finally, given the multicultural and multi-faith make-up of Ontario, it is inevitable that certain elements of those equity policies (such as curriculum and school activities) will conflict with the religious, moral, social, spiritual, ethnic, cultural or political beliefs, values and traditions of certain students, parents, and staff. In such cases, parents, as the primary

²³ See Ontario Ministry of Education's *Policy/Program Memorandum No. 145 – Progressive Discipline and Promoting Positive Student Behaviour* which requires schools to have policies on disciplining students which reflect *PPM No. 119 (Tab 15)*; *Policy/Program Memorandum No. 119 – Developing and implementing equity and inclusive education policies in Ontario schools* which requires school boards to develop and implement equity policies (**Tab 16**); and *Policy/Program Memorandum No. 144 - Bullying Prevention and Intervention* which requires school boards to develop and implement anti-bullying policies which reflect the equity policy (see **Tab 17**).

educators and primary authority of their children²⁴, must have their beliefs, values and traditions accommodated.

The Proposed Amendment

48. The CPRE submits that section 2 of Bill 13 should be removed as it is redundant in that *Policy/Program Memorandum No. 119* and *Policy/Program Memorandum No. 144* already require school boards to develop and implement such policies.
49. This amendment would accomplish the goal of ensuring that each school board maintains an equity policy, while ensuring that the school boards have the ability to develop an equity policy which is specifically tailored to address the issues faced by their respective student bodies. It will also preserve the religious autonomy of Catholic school boards, respecting their denominational rights as enshrined in the *Constitution Act, 1867* (“the 1867 Constitution”)²⁵ as well as the freedom of religion, conscience and expression of students, parents and teachers within Catholic school boards.
50. Finally, such an amendment will ensure that students, parents or teachers whose religious, moral, social, spiritual, ethnic, cultural or political beliefs, values and traditions conflict with certain elements of the equity policy developed by their school board are accommodated.

D. Sections 7(1) and 7(2): Third Party Use of Schools

51. Sections 7(1) and 7(2) of Bill 13 read as follows:

7. (1) Subsection 301 (2) of the Act is amended by adding the following paragraph:

7. To prevent bullying in schools.

(2) Section 301 of the Act is amended by adding the following subsection:

Agreements with third parties re use of schools

(3.1) If a board enters into an agreement with another person or entity, other than a board, respecting the use of a school operated by the board, the board shall include

²⁴ *R. v. Audet* [1996] 2 S.C.R. 171, at para 41 states:

“In my view, no evidence is required to prove that teachers play a key role in our society that places them in a direct position of trust and authority towards their students. Parents delegate their parental authority to teachers and entrust them with the responsibility of instilling in their children a large part of the store of learning they will acquire during their development.” (Tab 18).

²⁵ *Constitution Act, 1867*, 30 & 31 Vict, c 3 [*Constitution, 1867*] (Tab 19).

in the agreement a requirement that the person or entity follow standards that are consistent with the code of conduct.

The Concern

52. The concern with this section stems from the fact that many faith-based groups, political organizations and churches rely on the use of rented school facilities as meeting places to study, discuss, pray and worship.
53. By requiring all persons or entities to follow standards that are consistent with *the Provincial Code of Conduct*, Bill 13 has the potential of preventing faith-based groups, political organizations and churches from continuing to use rented school facilities.

The Violation

54. Because of the special status conferred upon the LGBTTIQ community as well as the addition of “preventing bullying” to the purposes of the *Provincial Code of Conduct* in section 7(1), and the current wording used to define “bullying” in Bill 13, faith-based organizations or houses of worship will no longer be permitted to use rented school facilities to meet for prayer, study and worship if Bill 13 is strictly interpreted²⁶.
55. Because certain faith-based groups or churches may be barred from using rented school facilities on the basis of their religious beliefs on human sexuality and marriage, while other religions will be permitted to use rented school facilities on the same basis, sections 7(1) and 7(2) of Bill 13 create differential treatment by law based on the enumerated ground of religion.

The Relevant Law

56. As previously discussed, by creating a distinction based on religion which prejudices one group, sections 7(1) and 7(2) of Bill 13 violate section 15 of the *Charter* which guarantees equal treatment under the law. As such, it could not survive a *Charter* challenge.

²⁶ Religions, including but not limited to the following, traditionally hold the view that sexual relations are to be between a husband and wife and that marriage is between one man and one woman:

Catholicism; Protestantism; Islam; Judaism; the Bahá’i Faith; the Church of Jesus Christ of Latter-day Saints; Jainism; Sikhism and Zoroastrianism.

On the other hand, some religions traditionally support same-sex relations or are silent on the issue. These include, but are not limited to: Hinduism; Buddhism; Confucianism; Taoism; Paganism; Satanism; Unitarian Universalism and Wicca.

57. Additionally, this section violates the freedom of religion of these faith-based groups and churches as protected by section 2(a) of the *Charter*, as well as their freedom of assembly guaranteed by section 2(c) of the *Charter*.²⁷
58. Finally, as previously discussed, it is not only the purpose of the legislation which could give rise to a *Charter* violation, but also the effect²⁸. The CPRE submits that the effect of adding “prevention of bullying” to the *Provincial Code of Conduct* and the requirement that third-party users of rented school facilities adhere to the *Provincial Code of Conduct* will give rise to violations of sections 2(a), 2(c) and 15 of the *Charter*.

The Proposed Amendment

59. The CPRE submits that the only way this Committee can correct the inequality created by these sections is by removing them. They do not serve to reduce or eliminate bullying in Ontario schools as they deal solely with private affairs occurring after school hours. As such, removing these sections from Bill 13 will in no way detract from its purpose of preventing bullying in Ontario schools.
60. Legislators may rest assured that any third party groups engaging in hate speech or unlawful discrimination will see their behaviours captured by existing *Criminal Code* and *Ontario Human Rights Code* provisions.²⁹

E. Section 9: Board Endorsed Student Clubs

61. Section 9 of Bill 13 reads as follows:

9. The Act is amended by adding the following section:

Board support for certain pupil activities and organizations

303.1 Every board shall support pupils who want to establish and lead,

- (a) activities or organizations that promote gender equity;
- (b) activities or organizations that promote anti-racism;

²⁷ Section 2(c) of the *Charter* reads as follows :

2. Everyone has the following fundamental freedoms:
(c) freedom of peaceful assembly; (see **Tab 6**).

²⁸ See *Big M*, *supra*, (**Tab 10**).

²⁹ Sections 318 and 319 of the *Criminal Code* criminalize hate propaganda and public incitement of hatred (see **Tab 12**).

(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 Concern

62. The CPRE has two concerns with this section. The first is that it singles out four types of activities or organizations, but fails to address many other potential activities or organizations which could and would be beneficial.
63. Section 9 of Bill 13 creates four distinct classes of groups or individuals: (1) those of different genders; (2) those of different races; (3) those with disabilities; and (4) those of different sexual orientations or gender identities.
64. While the CPRE believes that these groups are worthy and deserving of protection from bullying, section 9 of Bill 13 fails to address other groups who are also worthy and deserving of such protection.
65. Specifically, section 9 fails to consider the existence of other occurrences of bullying, which happen statistically at a much higher frequency than bullying on the basis of the characteristics set out in section 9 of Bill 13. These other occurrences of bullying include, but are not limited to:
- a. Body Image
 - b. Grades or Marks
 - c. Cultural Background
 - d. Language
 - e. Gender
 - f. Religion
 - g. Social Status
 - h. Economic Status or Income
 - i. Political Affiliation or Belief³⁰

³⁰ *By the Numbers, supra* (Tab 3).

66. Secondly, by mandating gay-straight alliances in all schools, this section clearly violates the freedom of religion, conscience, association and expression rights of many Catholic students and parents. It is also a clear infringement of the constitutionally guaranteed denominational rights of Catholic school boards.

The Relevant Law: Limited and Specific Groups

67. As discussed above, the *Charter* grants equal treatment and protection under the law for all individuals.

68. Section 9 of Bill 13 requires school boards to support pupils who want to establish activities or organizations dealing with gender equality, race equality, respect for the disabled and respect for different sexual orientations.

69. By specifically requiring school boards to support these types of activities, while omitting others, Bill 13 creates a distinction based on enumerated and analogous grounds (as well as other grounds not yet recognized as analogous) which creates a disadvantage to other groups by perpetuating prejudice or stereotyping. As such, the CPRE submits that section 9 of Bill 13 directly violates section 15 of the *Charter*. Therefore, it would not survive a *Charter* challenge on those grounds³¹.

The Relevant Law: Gay-Straight Alliances

70. In Ontario, denominational education rights were provided by law in 1867 and are protected by section 93(1) *1867 Constitution*³².

71. The denominational rights of schools has been further enshrined in the *Education Act* at sections 257.52(1)(a) and 257.52(2)(a)³³.

72. Additionally, the *Charter* provides, at section 29, that:

³¹ See *Vriend, supra* (Tab 11).

³² Section 93(1) of the *1867 Constitution* states:

“93. In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:”.

(1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union: (Tab 19).

³³ Sections 257(52)(1)(a) and 257(52)(2)(a) of the *Education Act* read as follows:

”257.52 (1) Nothing in this Division or Division C.1 authorizes the Minister to interfere with or control,
(a) the denominational aspects of a Roman Catholic board; [...]

(2) The powers under this Division and Division C.1 shall be exercised in a manner that is consistent with,
(a) the denominational aspects of a Roman Catholic board;” (see Tab 20).

29. Nothing in this Charter abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of Canada in respect of denominational, separate or dissentient schools³⁴.

73. Any interference with the denominational rights of Catholic school boards then, would be in clear violation of section 93(1) of the 1867 *Constitution*, sections 257.52(1)(a) and 257.52(2)(a) of the *Education Act*, and section 29 of the *Charter*.

The Catholic Position

74. The Roman Catholic Church holds, among others, the following views on sexuality:

- Sex is a gift from God to husband and wife³⁵;
- Sex must be open to fertility³⁶; and,
- Sexual relations are to be had between a husband and wife³⁷.

75. For the Catholic faith, the education of children must reflect God's creation and be done "in the faith"³⁸. In this regard, education within the Catholic faith belongs to the Church³⁹.

76. Because of the Catholic beliefs on sexuality and the Catholic obligation relating to education, any law, program or directive compelling Catholic school boards to deviate from Catholic teaching on certain issues would violate their denominational rights. The Roman Catholic Church has been clear on the teaching of sexuality in Catholic schools, as stated by Joseph Cardinal Ratzinger, Prefect (as he then was):

We encourage the Bishops, then, to provide pastoral care in full accord with the teaching of the Church for homosexual persons of their dioceses. No authentic pastoral programme will include organizations in which homosexual persons associate with each other without clearly stating that homosexual activity is immoral. A truly pastoral approach will appreciate the need for homosexual persons to avoid the near occasions of sin.⁴⁰

³⁴ *Charter, supra*, at s. 29 (see **Tab 6**).

³⁵ *Catechism*, 1604 (see **Tab 21**).

³⁶ *Catechism*, 1643 (see **Tab 21**).

³⁷ *Catechism*, 2357 and 2391 (**Tab 21**).

³⁸ *Catechism*, 2205, 2221 and 2226, among others (**Tab 21**).

³⁹ *The Christian Education of Youth, Encyclical of Pope Pius XI*, December 31, 1929, at para. 15, which reads:

"15. And first of all education belongs preeminently to the Church, by reason of a double title in the supernatural order, conferred exclusively upon her by God Himself; absolutely superior therefore to any other title in the natural order." (**Tab 22**).

⁴⁰ The Congregation for the Doctrine of the Faith, *Letter to the Bishops of the Catholic Church on the Pastoral Care of Homosexual Persons* (1986), Joseph Cardinal Ratzinger, Prefect (**Tab 23**).

77. It is clear then, that the mandatory nature of gay-straight alliances in Catholic schools violates their denominational rights as well as their freedom of religion and conscience.
78. Given section 93(1) of the *1867 Constitution's* and sections 257.52(1)(a) and 257.52(2)(a) of the *Education Act's* protection of denominational rights, any state interference with the autonomy, management or control of Catholic school boards would be struck down by the Courts. In fact, several Supreme Court of Canada decisions have made such declarations.⁴¹

The Proposed Amendment

79. The CPRE proposes two possible amendments.
80. A first possible amendment would be to remove the words "including organizations with the name gay-straight alliance or another name" from section 9 of Bill 13 and expand it to include an obligation on school boards to support pupils seeking to establish activities and organizations seeking to promote equality for, as well as understanding and respect of individuals or groups who differ in any way, including:
- a. Body Image
 - b. Grades or Marks
 - c. Cultural Background
 - d. Language
 - e. Gender
 - f. Religion
 - g. Social Status
 - h. Economic Status or Income
 - i. Political Affiliation or Belief
81. In this respect, the CPRE supports and endorses the Ontario Catholic School Trustees Association's recent resource entitled "Respecting Difference"⁴², which advocates the formation of anti-bullying clubs over single-issue clubs.
82. A second possible amendment would be to simply remove section 9 from Bill 13. While the CPRE supports the involvement of school boards in the promotion of equity and understanding, other sections of Bill 13, such as section 3, already require school boards to promote an inclusive and accepting school environment and the prevention of bullying.

⁴¹ See: *A.G. (Que.) v. Greater Hull School Board*, [1984] 2 S.C.R. 575 at para. 26, (Tab 24) and *Greater Montreal Protestant School Board v. Quebec (Attorney General)*, [1989] 1 S.C.R. 377 (considering separate Protestant school boards) (Tab 25).

⁴² Ontario Catholic School Trustees Association, *Respecting Difference: A Resource for Catholic Schools in the Province of Ontario Regarding the Establishment and Running of Activities or Organizations Promoting Equity and Respect for All Students*, January 25, 2012 (Tab 26).

83. By accepting either of these proposed amendments, the goal of bullying prevention would be improved by ensuring the protection and support of all individuals and groups who face bullying as well as protecting denominational rights of Catholic school boards.

F. Private Schools

84. Bill 13 makes no direct reference to private schools.

The Concern

85. The sections of the *Education Act* that Bill 13 amends do not specifically or directly deal with private schools, but it is unclear on whether or not, and to what extent, Bill 13 will affect the operation and management of private schools in Ontario.

86. Bill 13 uses terms such as “school”, “school board”, “board”, “pupil”, “teacher” and “principal”. Each of these terms are defined in the *Education Act* in a manner which excludes private schools from their application. In that respect, it would appear as though the legislature did not intend for Bill 13 to affect private schools in Ontario. There remains, however, some uncertainty on Bill 13’s application to private schools.

The Proposed Amendment

87. The CPRE submit that this learned Committee can alleviate any concerns or ambiguity caused by the wording used in Bill 13 by simply specifying, in the preamble, that Bill 13 is not intended to affect the ability of private schools to determine their operations, management or curricula. Specifically, the CPRE proposes that the following words be added to the end of the preamble:

“In no way intend on affecting the ability of private schools to determine and direct the management, operation and curricula of their schools.”

Conclusion

88. The CPRE believes in equality and respect for all individuals. In that respect, it repeats and reiterates its belief that no child should ever be subjected to any type of bullying.

89. To maintain equality and respect for all, we must, as a society, be cognizant of the fact that differences do exist. Ontario schools are populated with children who differ in faith, race, culture, sex, age, physical appearance and many other respects.

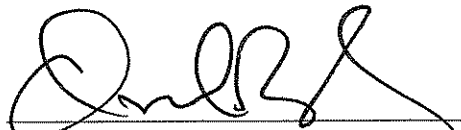
90. Bill 13, in its current form, creates distinct priority groups, granting them special status and protection and does so at the peril and detriment of others. To achieve truly accepting schools, Bill 13 must:

- be more inclusive;
- recognize the many ways in which Ontario students differ;
- respect and affirm freedom of religion and conscience, parental rights in education, equal treatment under the law and denominational rights; and,
- *promote* tolerance and understanding rather than *compel* it.

91. The CPRE submits that by making the proposed amendments, Bill 13 will accomplish its stated goal of preventing bullying towards all students in Ontario schools, while still respecting and affirming their fundamental freedoms to freedom of religion, conscience, expression, opinion, thought and assembly. It will also do so while respecting the *Charter*, the *Education Act* and the *1867 Constitution*.

92. For ease of reference, a version of Bill 13, with the proposed amendments is included and follows at Schedule "B".

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS, 22nd DAY OF MAY, 2012.



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Schedule "A"

Campaign Life Catholics

Campaign Life Catholics is a national non-profit organization that promotes and defends Catholic teaching relating to issues of pro-life, family values and religious freedom.

The League of Canadian Reformed School Societies

The **League of Canadian Reformed School Societies** uses God's infallible Word, as confessed in the Three Forms of Unity and professed in the Canadian Reformed Churches, as the basis of their organization.

The League of Canadian Reformed School Societies is a service organization dedicated to benefit its member school societies by providing organizational, administrative, and educational resource assistance. It publishes, and distributes mutually beneficial educational curricula, studies, and reports. The League promotes teaching as a career as well as the professional development of teachers and school administrators.

League member schools are located in Attercliffe, Brampton, Burlington, Chatham, Flamborough, Fergus, Guelph, Hamilton, Komoka, London, Orangeville, Ottawa, Owen Sound, Smithville, and Toronto. These schools have an enrolment of approximately 3000 students.

Parents as First Educators

The role of Parents as First Educators (P.A.F.E.) is to ensure that Ontario Catholic boards are responsible to Catholic voters. P.A.F.E. reports in their newsletter on whether the boards provide transparency, accountability, and fidelity to the Catholic faith. This means that P.A.F.E. monitors whether boards are: open with their information, held to account for their actions, and faithful to the teachings of the Magisterium (the popes in concert with Church councils).

Public Education Advocates for Christian Equality

P.E.A.C.E. was initially formed at the encouragement of 106 faith organizations representing 16 different denominations in the Hamilton area. P.E.A.C.E. exists to:

- **inform families of the sensitive curriculum** existing in publicly funded education,
- inform about alternative education settings that more effectively help the child to connect their cultural and spiritual understandings,
- **provide families with effective tools and strategies** that may be used to assist them to communicate a family's traditional principles, seek respect, acceptance and understanding, so they will be informed about sensitive curriculum,
- work with parents and school boards to seek relevant, respectful, and realistic accommodations.

P.E.A.C.E. communication forms have been used in school boards around the province. Local P.E.A.C.E. organizations exist in Hamilton, Sudbury, Ottawa, and North Bay. Expressions of interest in forming P.E.A.C.E. groups have been recently received from Kitchener-Waterloo, Sarnia, London, Windsor, and Toronto.

The Association for Reformed Political Action (ARPA) Canada

The mission of the Association for Reformed Political Action (ARPA) Canada is to educate, equip, and encourage Christians from Reformed churches to *political action* and to shine the light of God's Word to Canada's municipal, provincial, and federal governments. Believing in Biblical principles about social and political issues must translate into living these principles out, even amidst a secular nation that may disagree with these principles.

ARPA Canada has become the primary means through which many Reformed Christians engage in social and political action in their communities, provinces, and nation. ARPA Canada currently directs its mission to the following seven church denominations, composed of approximately 145 Canadian congregations:

- Canadian Reformed Churches
- United Reformed Churches
- Free Reformed Churches
- Heritage Reformed Churches
- Netherlands Reformed Congregations
- Reformed Presbyterian Churches
- L'Église Réformée du Québec (The Reformed Church of Québec)

The majority of ARPAs constituents live in Ontario: approximately 32,000 individuals in 75 Reformed congregations in Ontario share ARPA's vision and confessional basis. In addition to these individuals, numerous Evangelical and Roman Catholic Christians make use of our resources, events, and activities. ARPA Canada has quickly grown to become one of the most active Christian political advocacy organizations in the country. Of the 21 local ARPA chapters that ARPA Canada coordinates, nine are located across Ontario. They are made up of volunteers from a wide variety of age-groups, socio-economic, denominational and political backgrounds.

ARPA Canada has made submissions to the provincial and federal governments on issues such as early childhood education, euthanasia, abortion, budget recommendations, and education policy.

Schedule "B"



1ST SESSION, 40TH LEGISLATURE, ONTARIO
60 ELIZABETH II, 2011

1^{re} SESSION, 40^e LÉGISLATURE, ONTARIO
60 ELIZABETH II, 2011

Bill 13

Projet de loi 13

**An Act to amend
the Education Act
with respect to bullying
and other matters**

**Loi modifiant
la Loi sur l'éducation
en ce qui a trait à l'intimidation
et à d'autres questions**

The Hon. L. Broten
Minister of Education

L'honorable L. Broten
Ministre de l'Éducation

Government Bill

Projet de loi du gouvernement

1st Reading November 30, 2011
2nd Reading
3rd Reading
Royal Assent

1^{re} lecture 30 novembre 2011
2^e lecture
3^e lecture
Sanction royale

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EXPLANATORY NOTE

The Bill amends the *Education Act*. The principal amendments made by the Bill include the following:

1. Subsection 1 (1) of the Act is amended to include a definition of "bullying".
2. Section 169.1 of the Act requires boards to have policies that promote certain goals. This section is amended to include the following goals: promoting a positive school climate that is inclusive and accepting of all pupils and promoting the prevention of bullying. Boards are required to use surveys to monitor and evaluate the effectiveness of the boards' policies relating to these new goals.
3. A new section 300.0.1 sets out the purposes of Part XIII of the Act (Behaviour, Discipline and Safety).
4. A new section 300.0.2 proclaims the third week in November as Bullying Awareness and Prevention Week.
5. Subsection 301 (2) of the Act, which sets out the purposes of the provincial code of conduct, is amended to include preventing bullying in schools. A new subsection 301 (3.1) requires boards that enter into an agreement with another person or entity respecting the use of a school operated by the board to require the person or entity to follow standards that are consistent with the provincial code of conduct. Subsection 301 (6), which authorizes the Minister to make policies and guidelines with respect to disciplining pupils, is amended to set out a list of matters that this power includes. A new subsection 301 (7.1) authorizes the Minister to make policies and guidelines with respect to bullying prevention and intervention in schools and sets out a list of matters that this power includes.
6. Subsection 302 (2) of the Act, which authorizes boards to establish policies and guidelines with respect to disciplining pupils, is amended to require boards to establish policies and guidelines that address the matters set out in subsection 301 (6). The new subsection 302 (3.4) requires boards to establish policies and guidelines with respect to bullying prevention and intervention in schools that address the matters set out in subsection 301 (7.1).
7. A new section 303.1 requires boards to support pupils who want to establish and lead activities or organizations that promote gender equity, anti-racism, the awareness and understanding of, and respect for, people with disabilities or the awareness and understanding of, and respect for, people of all sexual orientations and gender identities.
8. Subsection 310 (1) of the Act, which sets out the circumstances in which a pupil must be suspended and considered for possible expulsion, is amended to include certain circumstances relating to bullying and to activities that are motivated by bias, prejudice or hate.

NOTE EXPLICATIVE

Le projet de loi modifie la *Loi sur l'éducation*. Les principales modifications sont les suivantes :

1. Le paragraphe 1 (1) de la Loi est modifié pour y définir le terme « intimidation ».
2. L'article 169.1 de la Loi oblige les conseils à adopter des politiques visant à promouvoir certains objectifs. Cet article est modifié de façon à inclure les objectifs suivants : promouvoir un climat scolaire positif qui soit inclusif et où tous les élèves se sentent acceptés et promouvoir la prévention de l'intimidation. Les conseils sont tenus d'utiliser des sondages pour surveiller et évaluer l'efficacité de leurs politiques en ce qui a trait à ces nouveaux objectifs.
3. Le nouvel article 300.0.1 énonce les objets de la partie XIII de la Loi (Comportement, mesures disciplinaires et sécurité).
4. Le nouvel article 300.0.2 proclame la troisième semaine de novembre Semaine de la sensibilisation à l'intimidation et de la prévention.
5. Le paragraphe 301 (2) de la Loi, qui énonce les objets du code de conduite provincial, est modifié de façon à inclure la prévention de l'intimidation dans les écoles. Le nouveau paragraphe 301 (3.1) oblige les conseils qui concluent une entente avec une autre personne ou entité pour l'utilisation d'une école qui relève d'eux à exiger que la personne ou l'entité respecte des normes qui sont compatibles avec le code de conduite provincial. Le paragraphe 301 (6), qui autorise le ministre à établir des politiques et des lignes directrices relatives aux mesures disciplinaires qui peuvent être imposées aux élèves, est modifié de façon à énoncer une liste des questions qui peuvent être traitées dans ce cadre de ce pouvoir. Le nouveau paragraphe 301 (7.1) autorise le ministre à établir des politiques et des lignes directrices relatives à la prévention et à l'intervention en matière d'intimidation dans les écoles et énonce une liste des questions qui peuvent y être traitées.
6. Le paragraphe 302 (2) de la Loi, qui autorise les conseils à établir des politiques et des lignes directrices relatives aux mesures disciplinaires qui peuvent être imposées aux élèves, est modifié de façon à obliger les conseils à établir des politiques et des lignes directrices qui traitent des questions énoncées au paragraphe 301 (6). Le nouveau paragraphe 302 (3.4) oblige les conseils à établir des politiques et des lignes directrices relatives à la prévention et à l'intervention en matière d'intimidation dans les écoles qui traitent des questions énoncées au paragraphe 301 (7.1).
7. Le nouvel article 303.1 oblige les conseils à appuyer les élèves qui désirent mettre sur pied et diriger des activités ou des organisations qui encouragent l'équité entre les sexes, la lutte contre le racisme de même que la sensibilisation aux personnes handicapées et aux personnes de toutes orientations et identités sexuelles, la compréhension de leur situation et le respect à leur égard.
8. Le paragraphe 310 (1) de la Loi, qui énonce les circonstances dans lesquelles un élève doit être suspendu et peut-être renvoyé, est modifié de façon à inclure certaines circonstances ayant trait à l'intimidation et à des activités motivées par des préjugés ou de la haine.

Bill 13

2011

**An Act to amend
the Education Act
with respect to bullying
and other matters**

Note: This Act amends the *Education Act*. For the legislative history of the Act, see the Table of Consolidated Public Statutes – Detailed Legislative History at www.e-Laws.gov.on.ca.

Preamble

The people of Ontario and the Legislative Assembly:

Believe that education plays a critical role in preparing young people to grow up as productive, contributing and constructive citizens in the diverse society of Ontario;

Believe that all students should feel safe at school and deserve a positive school climate that is inclusive and accepting, regardless of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability;

Believe that a healthy, safe and inclusive learning environment where all students feel accepted is a necessary condition for student success;

Understand that students cannot be expected to reach their full potential in an environment where they feel insecure or intimidated;

Projet de loi 13

2011

**Loi modifiant
la Loi sur l'éducation
en ce qui a trait à l'intimidation
et à d'autres questions**

Remarque : La présente loi modifie la Loi sur l'éducation, dont l'historique législatif figure à la page pertinente de l'Historique législatif détaillé des lois d'intérêt public codifiées sur le site www.lois-en-ligne.gouv.on.ca.

Préambule

La population de l'Ontario et l'Assemblée législative :

croient que l'éducation joue un rôle primordial pour préparer les jeunes à devenir des citoyens productifs qui contribuent à l'édification de la société diverse que constitue l'Ontario;

croient que tous les élèves devraient se sentir en sécurité à l'école et qu'ils ont droit à un climat scolaire positif qui soit inclusif et où ils se sentent acceptés, sans égard à la race, à l'ascendance, au lieu d'origine, à la couleur, à l'origine ethnique, à la citoyenneté, à la croyance, au sexe, à l'orientation sexuelle, à l'âge, à l'état matrimonial, à l'état familial ou au handicap;

croient qu'un milieu d'apprentissage sain, sécuritaire et inclusif dans lequel tous les élèves se sentent acceptés est une condition nécessaire à la réussite scolaire;

comprennent qu'on ne peut s'attendre à ce que les élèves atteignent leur plein potentiel dans un milieu où ils ne se sentent pas en sécurité ou à l'abri de l'intimidation;

Believe that students need to be equipped with the knowledge, skills, attitude and values to engage the world and others critically, which means developing a critical consciousness that allows them to take action on making their schools and communities more equitable and inclusive for all people, including ~~LGBTTIQ (lesbian, gay, bisexual, transgendered, transsexual, two-spirited, intersexed, queer and questioning) people;~~

Recognize that a whole-school approach is required, and that everyone — government, educators, school staff, parents, students and the wider community — has a role to play in creating a positive school climate and preventing inappropriate behaviour, such as bullying, sexual assault, gender-based violence and incidents based on homophobia;

Acknowledge that there is a need for stronger action to create a safe and inclusive environment in all schools, and to support all students, including both students who are impacted by and students who have engaged in inappropriate behavior, to assist them in developing healthy relationships, making good choices, continuing their learning and achieving success.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. (1) Subsection 1 (1) of the Education Act is amended by adding the following definition:

~~“bullying” means repeated and aggressive behaviour by a pupil where,~~

~~(a) the behaviour is intended by the pupil to cause, or the pupil ought to~~

croient que les élèves doivent être munis des connaissances, compétences, attitudes et valeurs nécessaires pour appréhender le monde et les autres de façon critique, ce qui signifie acquérir une conscience critique qui leur permet d’agir afin de rendre leurs écoles et leurs collectivités plus équitables et inclusives pour tous, y compris les personnes ~~LGBTTIQ (lesbiennes, gaies, bisexuelles, transgenres, transsexuelles, bispirituelles, intersexuées, queer et en questionnement);~~

reconnaissent qu’une approche globale à l’échelle de l’école est requise et que tous — le gouvernement, les éducateurs, le personnel des écoles, les parents, les élèves et la communauté en son entier — ont un rôle à jouer dans l’instauration d’un climat scolaire positif et dans la prévention de comportements inappropriés tels que l’intimidation, l’agression sexuelle, la violence sexiste et les incidents fondés sur l’homophobie;

reconnaissent que des mesures plus vigoureuses sont indispensables pour créer un milieu sécuritaire et inclusif dans toutes les écoles et soutenir tous les élèves, aussi bien ceux qui sont touchés par des comportements inappropriés que ceux qui se livrent à de tels comportements, afin de les aider à établir des relations saines, à faire de bons choix, à poursuivre leur apprentissage et à réussir.

Pour ces motifs, Sa Majesté, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, édicte :

1. (1) Le paragraphe 1 (1) de la Loi sur l’éducation est modifié par adjonction de la définition suivante :

~~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; ("intimidation")~~

"bullying" means the severe or repeated use by one or more pupils of a written, verbal, electronic or other form of expression, a physical act or gesture or any combination of them if it is directed at another pupil and if it has the effect of or is reasonably intended to have the effect of.

- (a) causing physical or emotional harm to the other pupil or damage to the other pupil's property,
- (b) placing the other pupil in reasonable fear of harm to himself or herself or damage to his or her property,
- (c) creating a hostile environment at school for the other pupil,
- (d) infringing on the legal rights of the

«intimidation» Comportement répété et agressif d'un élève envers une autre personne qui, à la fois :

- a) ~~a pour but de lui causer un préjudice, de la peur ou de la détresse ou dont l'élève devrait savoir qu'il aura vraisemblablement cet effet, y compris un préjudice psychologique ou un préjudice à la réputation;~~
- b) ~~se produit dans un contexte de déséquilibre de pouvoirs, réel ou perçu, entre l'élève et l'autre personne, selon des facteurs tels que la taille, la force, l'âge, l'intelligence, le pouvoir des pairs, la situation économique, le statut social, la religion, l'origine ethnique, l'orientation sexuelle, la situation familiale, le sexe, la race, le handicap ou des besoins particuliers.~~
(«bullying»)

«intimidation» Emploi répété ou grave, par un ou plusieurs élèves, d'un commentaire, que ce soit de façon verbale, par écrit, par des moyens électroniques ou par tout autre moyen, d'un acte physique ou d'un geste ou de toute combinaison de ces éléments, qui s'adresse à un autre élève et qui a ou dont on peut raisonnablement s'attendre à ce qu'il ait l'un ou l'autre des effets suivants :

- a) causer des maux physiques ou affectifs à l'autre élève ou endommager les biens de celui-ci;
- b) produire chez l'autre élève une crainte raisonnable de préjudice à son endroit ou de dommage à ses biens;
- c) créer un milieu hostile à l'école pour l'autre élève;
- d) porter atteinte aux droits reconnus par la loi de l'autre élève à l'école;

other pupil at school, or
(e) materially and substantially disrupting the education process or the orderly operation of a school:
("intimidation")

(2) Section 1 of the Act is amended by adding the following subsection:

Bullying

(1.0.0.1) For the purposes of the definition of "bullying" in subsection (1), behaviour includes the use of any physical, verbal, electronic, written or other means.

2. (1) Paragraph 29.1 of subsection 8 (1) of the Act is repealed and the following substituted:

equity and inclusive education

29.1 require boards to develop and implement an equity and inclusive education policy which contains a policy to accommodate the religious, moral, social, spiritual, ethnic, cultural or political beliefs, values and traditions of parents, students and teachers; and, if required by the Minister, ~~submit the policy to the Minister and implement changes to the policy as directed by the Minister;~~

e) perturber de façon importante et substantielle le déroulement de l'enseignement ou le fonctionnement ordonné d'une école. («bullying»)

(2) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

Intimidation

(1.0.0.1) On entend en outre par comportement, pour l'application de la définition de «intimidation» au paragraphe (1), le recours à des moyens physiques, verbaux, électroniques, écrits ou autres.

2. (1) La disposition 29.1 du paragraphe 8 (1) de la Loi est abrogée et remplacée par ce qui suit :

équité et éducation inclusive

29.1 exiger des conseils qu'ils élaborent et mettent en oeuvre une politique d'équité et d'éducation inclusive qui contient une politique pour accommoder les croyances, valeurs et traditions religieuses, morales, sociales, spirituelles, ethniques, culturelles ou politiques de tous parents, étudiants ou enseignants et, si le ministre l'exige, qu'ils lui soumettent cette politique et y apportent les modifications qu'il ordonne;

(2) Le paragraphe 8 (1) de la Loi est modifié par adjonction de la disposition suivante :

sondages visés au par. 169.1 (2.1)

31. établir des politiques et des lignes directrices concernant les sondages visés au paragraphe 169.1 (2.1);

(2) Subsection 8 (1) of the Act is amended by adding the following paragraph:

surveys under s. 169.1 (2.1)

31. establish policies and guidelines respecting the surveys referred to in subsection 169.1 (2.1);

3. (1) Subsection 169.1 (1) of the Act is amended by adding the following clauses:

(a.1) promote a positive school climate that is inclusive and accepting of all pupils, including pupils of any race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability;

(a.2) promote the prevention of bullying;

(2) Section 169.1 of the Act is amended by adding the following subsections:

School climate surveys

(2.1) In fulfilling its duties under clause (1) (e) with respect to the effectiveness of policies developed by the board to promote the goals referred to in clauses (1) (a.1) and (a.2), every board shall use surveys to collect information from its pupils at least once every two years in accordance with any policies and guidelines made under paragraph 31 of subsection 8 (1).

Same

(2.2) In collecting information from pupils under subsection (2.1), a board shall not collect any name or any identifying

3. (1) Le paragraphe 169.1 (1) de la Loi est modifié par adjonction des alinéas suivants :

a.1) promouvoir un climat scolaire positif qui soit inclusif et où tous les élèves se sentent acceptés, sans égard à la race, à l'ascendance, au lieu d'origine, à la couleur, à l'origine ethnique, à la citoyenneté, à la croyance, au sexe, à l'orientation sexuelle, à l'âge, à l'état matrimonial, à l'état familial ou au handicap;

a.2) promouvoir la prévention de l'intimidation;

(2) L'article 169.1 de la Loi est modifié par adjonction des paragraphes suivants :

Sondages sur le climat scolaire

(2.1) Pour s'acquitter des fonctions que lui attribue l'alinéa (1) e) quant à l'efficacité des politiques qu'il élabore pour promouvoir les objectifs visés aux alinéas (1) a.1) et a.2), chaque conseil doit effectuer des sondages pour recueillir des renseignements auprès de ses élèves, au moins une fois tous les deux ans, conformément aux politiques et aux lignes directrices établies en vertu de la disposition 31 du paragraphe 8 (1).

Idem

(2.2) Lorsqu'il recueille des renseignements auprès des élèves en

number, symbol or other particular assigned to a pupil.

4. The Act is amended by adding the following section:

Purpose

300.0.1 The purposes of this Part include the following:

1. To create schools in Ontario that are safe, inclusive and accepting of all pupils.
2. To encourage a positive school climate and prevent inappropriate behaviour, including bullying, sexual assault, gender-based violence and incidents based on homophobia.
3. To address inappropriate pupil behaviour and promote early intervention.
4. To provide support to pupils who are impacted by inappropriate behaviour of other pupils.
5. To establish disciplinary approaches that promote positive behaviour and use measures that include appropriate consequences and supports for pupils to address inappropriate behaviour.
6. To provide pupils with a safe learning environment.

5. The Act is amended by adding the following section:

Bullying Awareness and Prevention Week

application du paragraphe (2.1), le conseil ne doit pas recueillir de nom ni de numéro d'identification, de symbole ou d'autre signe individuel attribué à un élève.

4. La Loi est modifiée par adjonction de l'article suivant :

Objet

300.0.1 La présente partie a notamment pour objet ce qui suit :

1. Créer en Ontario des écoles sécuritaires et inclusives où tous les élèves se sentent acceptés.
2. Favoriser un climat scolaire positif et prévenir les comportements inappropriés, notamment l'intimidation, l'agression sexuelle, la violence sexiste et les incidents fondés sur l'homophobie.
3. Traiter des comportements inappropriés chez les élèves et promouvoir l'intervention précoce.
4. Fournir un soutien aux élèves qui sont touchés par les comportements inappropriés d'autres élèves.
5. Mettre en place une démarche disciplinaire qui favorise des comportements positifs et qui emploie des mesures — notamment des conséquences et des soutiens appropriés pour les élèves — pour réagir aux comportements inappropriés.
6. Fournir aux élèves un milieu d'apprentissage sécuritaire.

5. La Loi est modifiée par adjonction de l'article suivant :

Semaine de la sensibilisation à l'intimidation et de la prévention

300.0.2 (1) The week beginning on the third Sunday in November in each year is proclaimed as Bullying Awareness and Prevention Week.

Same, purpose

(2) The purpose of subsection (1) is to promote awareness and understanding of bullying and its consequences in the school community.

6. (1) Section 300.2 of the Act is amended by striking out "as soon as reasonably possible".

(2) Section 300.2 of the Act is amended by adding the following subsection:

Same

(2) An employee shall report to the principal as soon as reasonably possible or, if a different time period is specified by the policies or guidelines, within that time period.

7. (1) Subsection 301 (2) of the Act is amended by adding the following paragraph:

~~7. To prevent bullying in schools.~~

~~(2) Section 301 of the Act is amended by adding the following subsection:~~

~~Agreements with third parties re use of schools~~

~~(3.1) If a board enters into an agreement with another person or entity, other than a board, respecting the use of a school~~

300.0.2 (1) La semaine qui commence le troisième dimanche de novembre de chaque année est proclamée Semaine de la sensibilisation à l'intimidation et de la prévention.

Idem : objet

(2) Le paragraphe (1) a pour objet de promouvoir la sensibilisation à l'intimidation et à ses conséquences au sein de la communauté scolaire ainsi que la compréhension de ces réalités.

6. (1) L'article 300.2 de la Loi est modifié par suppression de «dès qu'il est raisonnablement possible de le faire» à la fin de l'article.

(2) L'article 300.2 de la Loi est modifié par adjonction du paragraphe suivant :

Idem

(2) L'employé fait rapport au directeur d'école dès qu'il est raisonnablement possible de le faire ou dans l'autre délai que précisent les politiques ou les lignes directrices, le cas échéant.

~~7. (1) Le paragraphe 301 (2) de la Loi est modifié par adjonction de la disposition suivante :~~

~~7. Prévenir l'intimidation dans les écoles.~~

~~(2) L'article 301 de la Loi est modifié par adjonction du paragraphe suivant :~~

~~Ententes avec des tiers pour l'utilisation des écoles~~

~~(3.1) Le conseil qui conclut une entente avec une autre personne ou entité, à l'exclusion d'un conseil, pour l'utilisation d'une école qui relève de lui y inclut une~~

operated by the board, the board shall include in the agreement a requirement that the person or entity follow standards that are consistent with the code of conduct.

(3) Subsection 301 (6) of the Act is repealed and the following substituted:

Same, governing discipline

(6) The Minister may establish policies and guidelines with respect to disciplining pupils, including policies and guidelines respecting,

- (a) the use of disciplinary measures within a framework that,
- (i) identifies pupil behaviours that are inappropriate and that, without excluding less serious behaviour, include bullying, sexual assault, gender-based violence and incidents based on homophobia,
 - (ii) provides for appropriate consequences for pupils who engage in inappropriate behaviour,
 - (iii) provides for progressively more serious consequences for repeated or more serious inappropriate behaviour,
 - (iv) provides support for pupils who are impacted by inappropriate behaviour, and for pupils who engage in inappropriate behaviour, to assist them in developing healthy relationships, making good choices, continuing their learning and achieving success,
 - (v) provides for prevention strategies, and
 - (vi) provides for early and ongoing

~~exigence voulant que la personne ou l'entité respecte des normes qui sont compatibles avec le code de conduite.~~

(3) Le paragraphe 301 (6) de la Loi est abrogé et remplacé par ce qui suit :

Idem : mesures disciplinaires

(6) Le ministre peut établir des politiques et des lignes directrices relatives aux mesures disciplinaires qui peuvent être imposées aux élèves, notamment des politiques et des lignes directrices traitant de ce qui suit :

- a) l'utilisation de mesures disciplinaires s'inscrivant dans un cadre qui :
- (i) définit les comportements d'élèves qui sont inappropriés, notamment — sans exclure des comportements moins graves — l'intimidation, l'agression sexuelle, la violence sexiste et les incidents fondés sur l'homophobie,
 - (ii) prévoit des conséquences appropriées pour les élèves qui se livrent à des comportements inappropriés,
 - (iii) prévoit des conséquences progressivement plus sévères pour des comportements inappropriés répétés ou plus graves,
 - (iv) fournit un soutien aussi bien aux élèves qui sont touchés par des comportements inappropriés qu'à ceux qui se livrent à de tels comportements afin de les aider à établir des relations saines, à faire de bons choix, à

intervention strategies;

(b) opportunities for all pupils, their parents and guardians, and all teachers and other staff members in a school to increase their understanding and awareness of inappropriate pupil behaviour;

(c) opportunities for all teachers and other staff members in a school to increase their ability to respond to inappropriate pupil behaviour;

(d) training for all teachers and other staff;

(e) procedures for responding appropriately and in a timely manner to inappropriate behaviour;

(f) resources to support pupils who are impacted by inappropriate behaviour;

(g) resources to support pupils who have engaged in inappropriate behaviour;

(h) a process that parents or guardians of pupils described in clause (f) or (g) can follow if they have concerns about the support provided to their child.

(4) Section 301 of the Act is amended by adding the following subsections:

Same, bullying

(7.1) The Minister may establish policies and guidelines with respect to bullying prevention and intervention in schools, including policies and guidelines respecting,

(a) training for all teachers and other staff;

(b) resources to support pupils who are impacted by bullying;

poursuivre leur apprentissage et à réussir,

(v) prévoit des stratégies de prévention,

(vi) prévoit des stratégies d'intervention précoce et continue;

b) des occasions, pour tous les élèves, leurs parents et tuteurs ainsi que tous les enseignants et autres membres du personnel d'une école, d'accroître leur compréhension des comportements inappropriés chez les élèves et leur sensibilisation à ces comportements;

c) des occasions, pour tous les enseignants et autres membres du personnel d'une école, d'accroître leur capacité à réagir aux comportements inappropriés des élèves;

d) la formation de tous les enseignants et autres membres du personnel;

e) des procédures pour réagir de façon appropriée et opportune aux comportements inappropriés;

f) des ressources pour soutenir les élèves touchés par des comportements inappropriés;

g) des ressources pour soutenir les élèves qui se sont livrés à des comportements inappropriés;

h) un processus que les parents ou tuteurs des élèves visés à l'alinéa f) ou g) peuvent suivre s'ils ont des préoccupations quant au soutien fourni à leur enfant.

(4) L'article 301 de la Loi est modifié par adjonction des paragraphes suivants :

Idem : intimidation

(7.1) Le ministre peut établir des politiques et des lignes directrices relatives à la prévention et à l'intervention en matière d'intimidation dans les écoles, notamment .

- (c) the resources provided, as part of programs described in section 312, to pupils who have been suspended or expelled for bullying;
- (d) procedures that allow pupils to report incidents of bullying safely and in a way that minimizes the possibility of reprisal;
- (e) the use of disciplinary measures within the framework described in clause (6) (a) in response to bullying;
- (f) procedures for responding appropriately and in a timely manner to bullying.

Approval and changes, board policies and guidelines

(11) The Minister may require boards to submit any policy or guideline established under section 302 to the Minister and to implement changes to the policy or guideline as directed by the Minister.

8. (1) Subsection 302 (2) of the Act is repealed and the following substituted:

Same, governing discipline

(2) Every board shall establish policies and guidelines with respect to disciplining pupils, and the policies and guidelines must,

des politiques et des lignes directrices traitant de ce qui suit :

- a) la formation de tous les enseignants et autres membres du personnel;
- b) des ressources pour soutenir les élèves touchés par l'intimidation;
- c) les ressources fournies, dans le cadre des programmes visés à l'article 312, aux élèves qui ont été suspendus ou renvoyés pour cause d'intimidation;
- d) des procédures permettant aux élèves de signaler les incidents d'intimidation en toute sécurité et d'une façon qui réduit au minimum les risques de représailles;
- e) l'utilisation de mesures disciplinaires s'inscrivant dans le cadre visé à l'alinéa (6) a) en cas d'intimidation;
- f) des procédures pour réagir de façon appropriée et opportune à l'intimidation.

Approbation et modifications : politiques et lignes directrices des conseils

(11) Le ministre peut exiger des conseils qu'ils lui soumettent toute politique ou ligne directrice établie en application de l'article 302 et y apportent les modifications qu'il ordonne.

8. (1) Le paragraphe 302 (2) de la Loi est abrogé et remplacé par ce qui suit :

Idem : mesures disciplinaires

(2) Chaque conseil établit des politiques et des lignes directrices relatives aux mesures disciplinaires qui peuvent être imposées aux élèves. Ces politiques et lignes directrices doivent :

- (a) be consistent with this Part and with those established by the Minister under section 301;
- (b) address every matter described in clauses 301 (6) (a) to (h); and
- (c) address any other matter and include any other requirement that the Minister may specify.

(2) Section 302 of the Act is amended by adding the following subsection:

Same, governing bullying

(3.4) Every board shall establish policies and guidelines with respect to bullying prevention and intervention in schools, and the policies and guidelines must,

- (a) consistent with those established by the Minister under section 301;
- (b) address every matter described in clauses 301 (7.1) (a) to (f); and
- (c) address any other matter and include any other requirement that the Minister may specify.

9. The Act is amended by adding the following section:

Board support for certain pupil activities and organizations

~~303.1~~ Every board shall 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,~~

- a) être compatibles avec la présente partie et avec celles qu'établit le ministre en vertu de l'article 301;
- b) traiter de toutes les questions visées aux alinéas 301 (6) a) à h);
- c) traiter des autres questions et comporter les autres exigences que précise le ministre.

(2) L'article 302 de la Loi est modifié par adjonction du paragraphe suivant :

Idem : intimidation

(3.4) Chaque conseil établit des politiques et des lignes directrices relatives à la prévention et à l'intervention en matière d'intimidation dans les écoles. Ces politiques et lignes directrices doivent :

- a) être compatibles avec celles qu'établit le ministre en vertu de l'article 301;
- b) traiter de toutes les questions visées aux alinéas 301 (7.1) a) à f);
- c) traiter des autres questions et comporter les autres exigences que précise le ministre.

~~9. La Loi est modifiée par adjonction de l'article suivant :~~

~~Appui du conseil pour certaines activités et organisations d'élèves~~

~~303.1~~ Chaque conseil appuie les élèves qui désirent mettre sur pied et diriger :

- ~~a) des activités ou des organisations qui encouragent l'équité entre les sexes;~~
- ~~b) des activités ou des organisations qui encouragent la lutte contre le racisme;~~
- ~~e) des activités ou des organisations qui encouragent la sensibilisation aux personnes handicapées, la compréhension de leur situation et le respect à leur égard;~~

and respect for, people of all sexual orientations and gender identities, including organizations with the name gay-straight alliance or another name.

10. Subsection 310 (1) of the Act is amended by adding the following paragraphs:

7.1 Bullying, if,

- i. pupil has previously been suspended for engaging in bullying, and
- ii. the pupil's continuing presence in the school creates an unacceptable risk to the safety of another person.

7.2 Any activity listed in subsection 306 (1) that is motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor.

Commencement

11. (1) Subject to subsection (2), this Act comes into force on September 1, 2012.

Same

(2) Section 5 comes into force on the day this Act receives Royal Assent.

Short title

12. The short title of this Act is the Accepting Schools Act, 2011.

~~d) des activités ou des organisations qui encouragent la sensibilisation aux personnes de toutes orientations et identités sexuelles — y compris les organisations portant le nom «alliance gai-hétéro» ou un autre nom —, la compréhension de leur situation et le respect à leur égard.~~

10. Le paragraphe 310 (1) de la Loi est modifié par adjonction des dispositions suivantes :

7.1 Pratiquer l'intimidation, si les circonstances suivantes sont réunies :

- i. l'élève a déjà été suspendu pour avoir pratiqué l'intimidation,
- ii. la présence continue de l'élève dans l'école représente un risque inacceptable pour la sécurité d'une autre personne.

7.2 Se livrer à une autre activité visée au paragraphe 306 (1) qui est motivée par des préjugés ou de la haine fondés sur des facteurs tels que la race, l'origine nationale ou ethnique, la langue, la couleur, la religion, le sexe, l'âge, la déficience mentale ou physique ou l'orientation sexuelle.

Entrée en vigueur

11. (1) Sous réserve du paragraphe (2), la présente loi entre en vigueur le 1^{er} septembre 2012.

Idem

(2) L'article 5 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Titre abrégé

12. Le titre abrégé de la présente loi est Loi de 2011 pour des écoles tolérantes.

The Coalition for Parental Rights in Education
SUBMISSIONS