

Bill 168 Protects Educational Personnel from Violence and Harassment in the Workplace

Bill 168 came into effect on June 15, 2010 providing better health and safety protections in your workplace because of the amendments to the *Occupational Health and Safety Act* (OHSA). The revised Act requires school boards to take a variety of measures designed to protect you from violence and harassment in the workplace, whether this violence and harassment originates from students, parents, co-workers, or other members of the school community, or domestic violence which follows you into the workplace.

Bill 168 Provisions

While the changes brought about by Bill 168 are many, in the education context there are several key changes:

- employers must conduct “risk assessments” regarding the risk of violence in the workplace. Violence is defined to mean physical violence or threats and attempts of physical violence, whether or not the actions are intentional;
- these “risk assessments” must be provided to Joint Health and Safety Committees (JHSC);
- records must be kept about people with a history of violence (this includes students) and information about this danger must be provided to workers who could be expected to encounter the person in the course of his/her work, and the risk of workplace violence is likely to expose the worker to physical injury;
- new harassment policies must be put in place, and the employer is required to have a program which demonstrates how a worker will report such incidents, and how the incident will be investigated. Workers must be informed and instructed on these elements. Harassment includes bullying and other forms of personal intimidation;
- workplace violence policies and programs must be put in place and employers must develop programs to implement the policy and program. This must involve implementing measures to assess and control risks; how to summon immediate assistance and how to report violent incidents and how they will be addressed;
- school boards are obligated to consider domestic violence and to take every reasonable precaution in the workplace to protect workers against this when there is a risk of injury in the workplace.

Disclosure of Information about Persons with Violent History

School boards are now required to provide information, including personal information, to a worker about a person with a history of violent behaviour. This applies to students with a violent history. This disclosure requirement will be triggered if the worker could be expected to encounter the person in the course of his/her work, and the risk of workplace violence is likely to expose the worker to physical injury. School boards are not permitted to disclose more than is reasonably necessary to protect the worker from physical injury.

From ETFO's perspective, worker safety takes priority. There are no clear rules yet about how this type of sensitive information will be disclosed, but it is clear that it must be disclosed.

The Right to Refuse Unsafe Work

Section 43 of the *OHS*A grants workers the right to refuse unsafe work. Bill 168 amends this provision by adding that workers may refuse to work, or do particular work, "where workplace violence is likely to endanger himself or herself". However, teachers may only exercise this work refusal if their students are not in jeopardy. This means that students cannot be left unsupervised, and alternative supervision should be arranged in the case of a work refusal.

Summary and Checklist

Bill 168 provides you with important new rights, and recognition that you have the right to be protected from harassment and violence.

Checklist for ensuring compliance by your school board:

- ✓ Is your board conducting risk assessments?
- ✓ Is the JHSC involved in these? Ask to be involved.
- ✓ Do the assessments look at all aspects of the school not only the physical layout (i.e., checking to see whether the environment fosters or seeks to eliminate physical violence).
- ✓ Once the assessments are completed, is the JHSC provided with a copy?
- ✓ Is your board documenting students with a violent history?
- ✓ How is this material being shared with the JHSC?
- ✓ How are staff being advised about exposure to violent individuals including students?
- ✓ Has the board prepared new harassment policies?
- ✓ does the new harassment policy make it clear that it applies to every type of harassment including bullying?
- ✓ Has the board prepared new anti-violence policies?
- ✓ Does the new anti-violence policy make clear how these incidents will be reported and addressed?
- ✓ Has the local Federation been consulted on these?
- ✓ What training will be provided on these new policies?
- ✓ What efforts is the board taking to protect employees from domestic violence?
- ✓ Is there a violence coordinator or someone in charge of all the new programs at the board who will be responsible for these policies?
- ✓ How is the local encouraging those who have experienced domestic violence to come forward and report such situations so that a safety plan can be developed?
- ✓ Are safety plans being prepared for workers exposed to violent students, parents, or other members of the community?

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

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