



What's New in HR Law

Ontario Proposes Statutory Amendments in the Education Sector in the *Better Schools and Student Outcomes Act, 2023*

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Bottom Line

On April 17, 2023, the Government of Ontario proposed [Bill 98, the *Better Schools and Student Outcomes Act, 2023*](#). If passed, Bill 98 would make significant amendments to several education-related statutes, including the *Education Act*; the *Early Childhood Educators Act, 2007*; and the *Ontario College of Teachers Act, 1996*.

Amendments to the *Education Act*

The proposed amendments to the *Education Act* fall into the following categories: unifying student learning outcomes, effective governance, financial oversight, and accountability to stakeholders.

Unifying Student Learning Outcomes

A key purpose of Bill 98 is to standardize learning goals across the province so that the Ministry of Education (the “Ministry”) will be able to evaluate each school board more effectively.

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In this regard, Bill 98 enables the Minister of Education (the “Minister”) to establish binding policies and guidelines that outline provincial priorities in education. The Ministry of Education has indicated that it is seeking to prioritize reading, writing, and math, and that the Minister will review these priorities every three years. The Minister can also issue guidelines relating to the review and revision of curricula to ensure they are in line with current educational requirements and trends.

The Ministry has indicated a desire to similarly standardize how school boards respond to student mental health. Accordingly, the Minister will also be able to establish binding policies and guidelines regarding mental health and mental health-related learning materials.

Effective Governance

Bill 98 proposes stricter regulation of a school board’s governing entities, such as boards of trustees, directors of education, supervisory officers, and superintendents.

Under Bill 98, the Minister can establish binding policies and guidelines regarding training for trustees, directors of education, supervisory officers, and superintendents. School boards must keep records of completion for these training programs for four years.

Moreover, Bill 98 adds directors of education to the performance assessment provisions that already exist for principals, vice-principals, and supervisory officers under the *Education Act*. The Minister or Lieutenant Governor in Council may make regulations outlining performance criteria for directors of education.

While school boards currently have the option of developing a code of conduct, the proposed amendments to the *Education Act* would make this measure mandatory. The Minister would be able to make regulations prescribing specific requirements for codes of conduct.

The amendments also establish an extensive regime that the Minister can utilize to ensure compliance with a code of conduct. The Minister may create a roster of integrity commissioners who can assess and investigate compliance. Where an integrity commissioner finds a breach of a code of conduct, they may issue a wide variety of sanctions, including:

- censuring the member;
- reducing the member’s honorarium;
- barring the member’s attendance at meetings for up to 90 days;
- barring the member’s seat on any committee for up to 90 days;
- barring the member from becoming Chair or Vice Chair;
- barring the member from exercising any privileges associated with their position; or
- ordering any other reasonable sanction that promotes compliance.

Financial Oversight

Bill 98 grants the Minister significant oversight over a school board’s financial matters and disposition of property.

In particular, the Minister may regulate the finances of school board-controlled entities, including how a school board provides funding to these entities. Bill 98 does not define “school board controlled entity”, but allows the Minister to do so in a regulation.

The Minister may also make regulations regarding the purpose and use of a school board's finances, and investigate a school board's spending. These regulations could limit or explicitly outline how and with whom a school board has financial relations.

The amendments also provide strict guidance regarding the use and disposition of school board property. The Minister may implement regulations that either place limitations or prescribe requirements on the sale, lease, or other disposal of school board-owned property. Among other requirements, school boards would have to provide the Minister with reports on school sites, property of the board, and the board's plans for future use.

Accountability to Stakeholders

Bill 98 also seeks to increase transparency to stakeholders, such as parents, guardians, employees, and supporters. In this regard, Bill 98 would require a school board to:

- publish its multi-year plan on its website;
- take steps to bring the plan to the attention of parents, guardians, employees and supporters;
- report to the Minister on its implementation progress; and
- meet with parents and guardians within the first and last two months of the school year to discuss the plan, including the school board's planned and actual spending.

Where the multi-year plan is deficient or the school board has not succeeded in implementing its goals, the Minister can assign support personnel to work with the board.

In addition, the Minister has the power to publish school board reports and establish binding policies and guidelines requiring boards to communicate with parents and guardians.

Amendments to the Ontario College of Teachers Act, 1996 and Early Childhood Educators Act, 2007

The amendments to the *Ontario College of Teachers Act, 1996* and the *Early Childhood Educators Act, 2007* are substantively the same and primarily address the Complaints and Discipline Committees, which provide oversight for teachers and early childhood educators.

Under the current legislative framework, after the Complaints Committee receives a complaint, it may either refer the matter to the Discipline Committee, or remind, advise, caution or admonish the member. Bill 98 expands the remedial power of the Complaints Committee to order a member to undertake remedial or educational training.

Where a teacher or early childhood educator is convicted of an offence under the *Criminal Code* and a professional complaint against the member relates to the same conduct as the conviction, the complaint may now be referred directly to the Discipline Committee. The Discipline Committee may then decide the matter without a hearing, provided that the conviction cannot be appealed.

In addition, Bill 98 would expand access to therapy and counselling to children who are victims of sexual misconduct by a member. The current legislative framework provides funding for such therapy and counseling only if "in the opinion of the College, the child was, at the time of the alleged [sexual act], a child the member supervised or was responsible for in the course of the member's practice". Bill 98 would remove this condition from the legislation.

Bill 98 also seeks to amend the membership provisions in the *Ontario College of Teachers Act, 1996*. Where a teacher's status is suspended as "Inactive/Non-Practising" for three or more years, the Registrar may revoke the license. A suspended license would not be reinstated without the teacher successfully completing a sexual abuse prevention program.

Lastly, the Ministry has indicated a desire to reduce the processing time for teacher training and certification applications.

Check the Box

Bill 98 may be subject to change as it moves through the legislative process. In this regard, the Government of Ontario has requested feedback regarding Bill 98, which can be submitted by email to education.feedback@ontario.ca before May 16, 2023.

We will continue to monitor the status of Bill 98 as it proceeds through the Legislative Assembly of Ontario and provide updates on further developments.

Need More Information?

For more information regarding the *Better Schools and Student Outcomes Act*, contact Melanie McNaught (mmcnaught@filion.on.ca), Alyssa Johnson (ajohnson@filion.on.ca), or your regular lawyer at the firm.



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